

TOWN OF KIRKWOOD WORK SESSION

April 30, 2019

Present: Supervisor Gordon Kniffen
Councilman Robert Weingartner
Councilman Lewis Grubham
Councilman William Diffendorf, Jr.

Absent: Councilwoman Linda Yonchuk

Also Present: Robert McKertich, Attorney
Gayle Diffendorf, Town Clerk
John A. Finch Jr., Commissioner of Public Works
Marchie Diffendorf, Planning Bd. Chairman
Duane Travis, ZBA Chairman
Chad Moran, Code Enforcement Officer

**1 Discussion – Request from Teamster’s Union Representative to add
Brian Kinney and Alan Glover to the Teamsters Union. (GEK)**

Held. Bob Firmstone, the Teamster’s Union representative, was unable to attend this meeting.

**2. Request for Change in Zoning – Lester Siedel – 50 Francis Street –
PUD Residential to PUD Commercial.**

Lester Siedel provided packets regarding properties zoned PUD on Colesville Road and Francis Street. In regard to his property at 50 Francis Street, Mr. Siedel said our intentions, in the beginning, were to build an office with the storage mall. The Zoning Board said we couldn’t do that because it was a multi-use. So then the option was to split the property so it wouldn’t be multi-use. The office has been built but they said we couldn’t do it because you have to have 8 acres. That 8 acres was for the whole PUD area, not just my property. I looked at different parcels on Colesville Road where it’s zoned PUD and you can see in your packets by going to 202 Colesville Road, it’s zoned commercial and in the picture there is a house on the property and there’s like a body shop with it. There is a storage mall up above Don’s. Farther down there is Gillete’s building that was a garage. On Francis Street, Roger Batzel has a garage on 1.1 acres. They let him put a garage in when they zoned it PUD. I would like to get my property changed so that everything is commercial, the house that’s there is under residential. It’s the only house that’s residential on that whole side. There are apartments next to us, multi-family commercial, Batzel’s and the dentist’s office is commercial. Across the street there is a house in the front and a building in the back that is used for storage. I would like this approved so we can do something like that here. My plan is to eventually take the house down. If they put this all commercial we’ll sub-divide the property right now and then there will be two tax parcels. Councilman Grubham noted a concern that there would be two businesses on one property, the office and the storage mall. Mr. Siedel said the office is for the storage mall. Councilman Grubham said if you were to split the property so you can put the

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storage mall where the house is, that would probably work. Mr. Siedel said my ultimate goal is to split the property so we could have the storage mall. The storage mall and the office would be on one property and the house would be by itself. Councilman Grubham said we would have to get the house down because you would have a non-conforming use on that piece of property if we change it to B-1. In regard to Mr. Siedel's reference to the situation on Colesville Road, Councilman Grubham said that's a whole different deal and we're re-doing a lot of our zoning right now and one of the proposals will be that that PUD disappear. We have several PUDs and most of them are going to be gone, with the one on Main Street and yours being the only ones left. Mr. Siedel said my ultimate goal is to knock that house down. Someone is renting the house now and when they eventually leave I plan on tearing it down. If the whole thing is made commercial, we would tear it down within a year. So then the only thing going on that property would be the storage mall and the office. I think we have enough room there so if the first one does well we can put another storage mall in there. The current storage mall is 100' x 20'. Supervisor Kniffen said we will send this to the Planning Board for their recommendation.

Marchie Diffendorf, Chairman of the Planning Board, said we can't create a non-conforming use so we can't legally change that to commercial when there is a house on it and I don't think the property is big enough to separate it. You would have two non-conforming lots then. Mr. Siedel said I think there is enough room for that. There is 51 feet of frontage along the road. The house across the street sits on a tenth of an acre and they have the garage down back. Councilman Grubham said a lot of that went in before zoning. Mr. Diffendorf said 80 feet is required for a lot. In my opinion if you remove the house we can change the zoning to B-1 because the lot is already there, but there can't be a house on it, and a lot with less than 80 feet frontage cannot be created. Mr. Siedel said he doesn't know if the dentist's office has 80 feet. Mr. Diffendorf said that might be grandfathered in from years ago and in regard to Colesville Road, that was made a PUD even though there was residential up there. Councilman Grubham added that things that were there before the zoning went in are grandfathered in. The house is the problem, if the house goes then there's no longer a problem and I think we could make it work. Mr. Diffendorf said this process will probably take two to three months so maybe you could wait and tear the house down. Mr. Siedel said my goal was to get that one storage mall up by the end of the year. Mr. Siedel's associate said I would have to reconfigure that mall in regard to frontage requirements. Mr. Diffendorf said both lots would have to be 80 feet if you were to divide the property. Addressing the Town Board, Mr. Diffendorf said you're asking the Planning Board to look at something there that we can't do. Mr. McKertich said we could still go through the process by referring it to the Planning Board and they issue a report saying the request is seeking to create a lot that's non-conforming, which can't be done and that is the conclusion that would come back to the Town Board and the Town Board would then vote in accordance with that report. If that's the case it seems a bit of a waste of time and you may be better off reconfiguring your proposal so that it meets the area requirements. Mr. Siedel said so that's the option, if we tear the house down you'll change the zoning. Mr. Diffendorf said it stands a lot better chance and there's a zero chance the other way. I can't speak for the

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Planning Board but it probably would pass. Mr. Siedel said we're going to try to reconfigure that lot, keep the house, and go a different way with the storage malls. Mr. McKertich said you will have to withdraw this application and submit a new one.

3. Todd Grubham - Request to address the Town Board.

Hold.

4. Request from James R. Smith, Budget Director, to attend the 19th Annual Town Finance Schools in Ellicottville, NY, May 16-17, 2019 at a cost of \$200.00 for the registration fee only.

Resolution.

5. Discussion – Amending the Town of Kirkwood Benefit Plan – Health insurance into retirement – MRRP rules apply at age 65. (GEK)

Hold.

6. Resolution hiring Terry Everett as Laborer to work in the Parks Department effective May 15, 2019 for 90 days at a rate of pay of \$12.82 per hour. (JAF)

Resolution.

7. Discussion – Pricing for Crack Sealing – Bell School Area. (JAF)

Mr. Finch said he received three quotes to crack seal nine roads in the Bell School area and the low quote was from Vestal Asphalt at \$5,372.50. They will come in and seal all the cracks that are starting to form to help prevent more cracks from forming. This will be paid for with CHIPS money. We've never done much crack sealing but other towns have done it and it's done on Route 11 and definitely helps prolong the life of the road. This is a lump sum price for a one-day project. I have confirmed that all nine roads will be done since their quote was over \$1,000 less than the other contractors. Resolution.

8. Discussion – Main Sewer Station Stairs – Resolution authorizing advertising for Sealed Bids for the purchase and installation of Stair Work at the Main Sewer Station, with bids returnable to the Town Clerk's Office on May 28, 2019 at 3:00 PM, to be publically opened and read at the May 28, 2019 6:00 PM Work Session. (JAF)

Mr. Finch said I would like to go out to bid for the stair work with the bids to be returned on May 28th at 3 PM and opened at our May 28th work session. The design has been revised by our Engineer since the original design was not going to work. We are going for both standard

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metal and stainless steel to see what the price difference is to see which way we want to go. Resolution.

9. Discussion – Crack Sealing and Sealcoating at the Town Hall and Crack Sealing at the Highway Garage. (JAF)

Mr. Finch said I got a price to crack seal and seal coat the Town Hall parking lot and the employees parking area at the highway garage. The low bidder was B&G at \$3,300. This includes re-striping all the parking slots. Councilman Grubham said I'm fine with the crack sealing but not with painting the blacktop. What's that going to get us? Mr. Finch said it gives you more life out of the blacktop. It conditions it, keeps it from cracking more and makes it look a lot nicer. Councilman Grubham said his experience has been that it does absolutely nothing for your pavement other than make it look better, but crack sealing needs to be done. Mr. Finch said we decided not to seal the area at the highway garage because it gets tracked with mud. The money to pay for this will come out of general fund, buildings. I'm not sure how much money is left in that line but I'll check on it. The crack sealing for the highway garage is \$375. In regard to sealing, Mr. Finch said we typically do it every other year. Councilman Diffendorf said I agree that crack sealing is fine but not the painting. Mr. Finch said there is 725 feet of cracks and it's basically \$1 a foot and re-striping and layout is included. Resolution to crack seal and re-stripe. Councilman Diffendorf added that the striping between the front parking lot and grass needs to be wider for safety reasons. It's currently only about two feet and it's supposed to be a walkway. Everyone that parks there should be aware of that so that people are not walking behind vehicles.

10. Discussion – City Line Booster Station Maintenance Work. (JAF)

Mr. Finch reported that the station needs some additional repairs. He said there are a lot of leaks that have been going on for quite a while. We're still waiting on the pump to come in so I'd like to get some of the maintenance done now. Evans, W2O and Jones Specialty Services Group provided quotes and Jones submitted the low price at \$12,400. Alan Glover said this is for inside work only. There are problems outside the building also with leaks. Mr. Finch said the money would have to come out of water reserves. Resolution.

11. Summer Schedule:

Resolution combining the June 25, 2019 Work Session and the July 2, 2019 Town Board Meeting into one night to be held July 9, 2018.

Resolution combining the July 30, 2019 Work Session and the August 6, 2019 Town Board Meeting into one night to be held August 6, 2019.

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Resolution combining the August 27, 2019 Work Session and the September 3, 2019 Town Board Meeting into one night to be held September 3, 2019.

3 Resolutions.

12. Resolution **cancelling the November 5, 2019 Town Board Meeting due to Election Day and rescheduling for Monday, November 4, 2019.**

Resolution.

13. Resolution **cancelling the December 31, 2019 Work Session due to New Year's Eve and rescheduling for December 26, 2019.**

Resolution.

14. Resolution **scheduling a Special Town Board Meeting for December 26, 2019, after the Work Session, for the purpose of auditing year end bills and any other business that may come before the Board.**

Resolution.

15. Discussion – **DEC Letter.** (RHM/JAF)

Mr. McKertich stated that we received a petition from DEC imposing a fine on the Town for an alleged reporting violation. I just received this today and we need to prepare a response as to whether we want to fight it or settle it. Discussion to be held during Executive Session following this meeting.

16. Discussion – **Amend the Town of Kirkwood Records Management Procedures and Policy Manual – Remove Advisory Board wording.**

Since there has not been an Advisory Board in many years, reference to it will be removed from the policy. Resolution.

17. **Audit of Claims.**

Hydrant Repairs.

Councilman Diffendorf said to Mr. Finch, I'm disappointed that a hydrant got hit on S. Woodhill and Barlow Road, and again we had to bring in a private contractor. I've been asking and asking you to have your people do this work. Why not? Mr. Finch said when it becomes an insurance issue, we leave it up to a contractor to do it, because the insurance company pays for it and it doesn't come out of our pocket. We don't have to worry about billing the insurance company for our workers and we were busy getting Fox Hollow ready to be prepped for the road project. We were using our machinery up there. Councilman Diffendorf said you can't be busy every time and if it's an insurance claim its money paid to us. I don't know when we've

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replaced a hydrant without a private contractor involved. We have a water department with two people and we need to be doing this type of work. We got the little excavator to do that type of work and in my opinion we've got to do it. Mr. Finch said we had three water breaks last year that we fixed ourselves. We're trying to get a road ready and don't have time to break away with our equipment to come down and fix a hydrant. We're not in the business to make money, we're here to get our job done. If I have an insurance adjustment I'm going to call a contractor in to do the work because I know that I have other stuff that needs to be done and can't waste time on something an insurance company will reimburse us for. The insurance company reimbursed us 100 percent. We didn't turn in the time for our guy being there because typically he would be there anyway. Supervisor Kniffen said I agree with Councilman Diffendorf but I also understand there are times when it's just not possible. There will be times when we can't respond to an emergency because of other things going on but whenever possible it should be our policy to use our own resources. Councilman Weingartner said I feel it's all right if the insurance company is going to pay the contractor 100 percent to come in and do it and John is busy doing something else. Supervisor Kniffen questioned why we wouldn't avoid those situations because more claims affect our premiums. Mr. Finch said it is not our insurance that covers it, the insurance company of the person that hits the hydrant pays for it.

Fox Hollow Road.

Councilman Grubham questioned the status of this project. He said we had a problem last year and were hit with the high price of oil and oil is high right now, and questioned if we have enough money to do it. Mr. Finch said we will be paving that the middle of May. We had enough money to do two roads but I'm only doing one because of that fact. I want to make sure I have enough money and we don't go over. We don't want to wait to see if the price goes down since our yard is full of sand and stone ready to go.

Executive Session.

Councilman Diffendorf moved to adopt resolution to adjourn this meeting to conduct an Executive Session pursuant to Section 105 paragraph d of the Public Officers Law to discuss proposed, pending or current litigation. Councilman Grubham seconded. All voted in favor. MOTION CARRIED.