

KIRTLAND CITY COUNCIL MINUTES

July 2, 2012

The meeting of Kirtland City Council was called to order at 7:08 p.m. by Council President R. Robert Umholtz. Mr. Webbe led the prayer which followed the Pledge of Allegiance. The members of Council present were: William Catania, David Kirek, Timothy Powell, Matthew Schulz, Robert Skrbis, R. Robert Umholtz and Donald Webbe.

Administrative personnel present were: Mayor Mark A. Tyler, Law Director Daniel Richards, Finance Director Keith Martinet, Service Administrator Carm Catania and Police Chief Wayne Baumgart.

PRESENTATION BY REPRESENTATIVE RON YOUNG:

Ohio House of Representatives – District 61

Representative Ron Young stated his appreciation for the opportunity to address Council. He stated that currently he is not the representative for Kirtland, but that he is running for State Representative for District 61, which will include Kirtland, as a result of re-districting. Rep. Young spoke briefly concerning budget issues, noting that he will push for more funding for local governments. He noted that Ohio has gone from having a higher rate of unemployment than the Federal rate to a significantly lower rate of unemployment than the Federal rate. He noted that Ohio's S&P rating has been upgraded from negative to stable, and that CNBC has upgraded Ohio's business-friendly ranking from 37 to 24, which is the largest increase in the nation. Rep. Young stated that through the efforts of Jobs Ohio, many businesses that were ready to leave Ohio have stayed in Ohio, noting that more than 2,000 jobs have been retained in Lake County and over 70,000 jobs have been retained throughout the state. Rep. Young stated that he is hopeful that the local government funding situation can be rectified, and that he looks forward to working with Kirtland next year.

Council President Umholtz thanked Representative Young for attending the meeting and addressing Council.

PUBLIC HEARING – TAX BUDGET FOR FISCAL YEAR 2013:

Council President Umholtz opened the public hearing in this regard. Finance Director Keith Martinet advised that, pursuant to State law, the City of Kirtland is required to hold a public hearing regarding the 2013 tax budget that is submitted to the County. Mr. Martinet stated that the purpose of the tax budget is to demonstrate to the County Auditor the City's need for the funds that have been voted on by the citizens. Mr. Martinet noted that a copy of the budget has been available for review in the Finance Director's Office; he noted further that the public hearing has been duly advertised as required. There were no comments or questions from City Council or the public, and the public hearing was concluded with the consent of Council.

PUBLIC HEARING – AT&T MOBILITY:

Proposed New Wireless Communication Facility at 9140 Chillicothe Road

Council President Umholtz opened the public hearing in this regard. John Sindyla, Agent for AT&T, stated that the proposed 190 ft. monopole tower will be constructed in a 35' x 25' fenced area secluded by trees. He advised that this facility will provide coverage to the downtown Kirtland area and will provide almost \$600,000 to the school district over the next 25 years. Mr. Sindyla stated that the tower is designed to accommodate four future carriers, which will also generate similar amounts of money for the school district.

PUBLIC HEARING – AT&T MOBILITY (continued):

Law Director Richards stated that since AT&T Mobility is the applicant and will be the recipient of the permit, if issued, the principal listed on the bond must be AT&T Mobility to avoid any potential problem relative to the assurance of the bond.

With regard to those needing to access the tower, Councilman Schulz inquired whether the tower would be accessed during school hours. Mr. Sindyla stated that the initial construction would take approximately one month to one-and-one-half months. He stated that after construction, the technician will visit the site once each month to fine tune the equipment, noting that this sometimes occurs during the night because that is the down time. Mr. Sindyla advised that AT&T will be required to notify the school before the site is accessed.

There were no further comments or questions from City Council or the public, and the public hearing was concluded with the consent of Council.

MINUTES OF THE JUNE 18, 2012 WORK SESSION:

Mr. Webbe moved to waive the reading of the Minutes, with the second by Mr. Catania. The motion of Council passed by unanimous vote. Mr. Webbe moved to adopt the Minutes, with the second by Mr. Catania. **ROLL CALL: MOTION CARRIED 7/0 (VOTING YEA: CATANIA, KIREK, POWELL, SCHULZ, SKRBIS, UMHOLTZ AND WEBBE. VOTING NAY: NONE).**

MINUTES OF THE JUNE 18, 2012 COUNCIL MEETING:

Mr. Kirek moved to waive the reading of the Minutes, with the second by Mr. Schulz. The motion of Council passed by unanimous vote. Mr. Kirek moved to adopt the Minutes, with the second by Mr. Schulz. **ROLL CALL: MOTION CARRIED 7/0 (VOTING YEA: CATANIA, KIREK, POWELL, SCHULZ, SKRBIS, UMHOLTZ AND WEBBE. VOTING NAY: NONE).**

DEPARTMENT REPORTS:

Police Chief Wayne Baumgart advised that the monthly report for Police and Fire has been distributed; he noted that on the last page, the number of thefts should be corrected from four to three.

Council President Umholtz publicly thanked the Police Department and emergency services for the attention that was given to his wife last week.

Service Administrator Carm Catania advised that it is anticipated that work involving the turn lanes at Lakeland Community College will begin within the next two to three weeks.

Councilman Skrbis stated that he received an e-mail from a resident on Wisner Road regarding the condition of the road. Mr. Catania stated that some patching work should begin in the next couple of weeks, noting that Wisner Road is one of the areas that needs to be done.

Councilman Schulz inquired whether Tibbetts Road is completed. Mr. Catania stated that more pipe will be installed in a couple areas.

Councilman Powell inquired whether there has been any response to recent letters sent to property owners in his ward regarding various issues. Mr. Catania noted that one issue regarding lawn upkeep has been addressed, and another resident has until the end of this week to address it. With regard to the fort-type structure in the ditch, Mr. Catania stated that it has been removed, noting that the parents were very cooperative.

DEPARTMENT REPORTS (continued):

Councilman Kirek noted that there were also a couple issues in his ward. Mr. Catania noted that the lot on Forestdale has been taken care of; the lot on Glenstone has not been cleaned up yet.

Referring to a house on Route 6, Councilman Powell noted that it has been an issue for years and was at one time condemned by the Health Department, although the house is no longer considered condemned. Mr. Powell stated that the neighbors have been complaining for years, noting that the grass is almost waist high and there is concern about rodents. Mayor Tyler advised that the City is aware of this and is looking into alternative means to handle the matter.

Responding to Councilman Schulz with regard to the shopping center property (in front of Dollar General), Mr. Catania stated that he met on-site with an owner of U.S.A. Management regarding finishing the gap in the sidewalk; he noted that the sidewalk should be completed by the end of the month.

Finance Director Keith Martinet requested a meeting of the City's Board of Tax Review (Council President, Finance Committee Chair and the Mayor). It was agreed that the Board of Tax Review will meet following the conclusion of the next regular Council meeting on Monday, July 9, 2012.

Mr. Martinet advised that the State Auditors will be coming to City Hall within the next couple of weeks.

Mr. Martinet stated that there is legislation on tonight's agenda to amend the public fund depositories, noting that First Merit Bank is being added. Noting that most of the City's funds are with Charter One, Mr. Martinet advised that Charter One is pulling out of government banking, and the funds will be moved to First Merit Bank. He requested that Council waive the three readings for this legislation.

Law Director Daniel Richards gave no formal report and no questions were asked of him.

MAYOR'S REPORT/ANNOUNCEMENTS:

Mayor Tyler advised that he and Service Administrator Catania met with the State Auditors on June 27, noting that a task force is being created with regard to capital equipment sharing in Lake County; and following that meeting, he met with Finance Director Martinet and Service Administrator Catania in this regard.

With regard to the proposed Development Assistance Agreement with the Church of Jesus Christ of Latter-Day Saints, Mayor Tyler stated that on June 28 he discussed the agreement with Law Director Richards and City Engineer Kiefer. The Mayor noted that a representative from the Church is present at tonight's meeting.

Mayor Tyler stated that the State Route 306 project (at the entrance to Lakeland Community College) will begin in approximately two weeks.

The Mayor noted that he intends to present legislation for next week's agenda to proceed with the Route 6 drainage project.

STANDING COMMITTEE REPORTS:

None.

CORRESPONDENCE:

None.

PUBLIC COMMENTS ON MATTERS NOT ON THE AGENDA:

None.

OLD BUSINESS:

**RESOLUTION NO. 12-R-33
(Mayor Tyler)**

- (Second Reading) - A RESOLUTION PURSUANT TO SECTIONS 5705.19 AND 5705.191 OF THE OHIO REVISED CODE SUBMITTING TO THE ELECTORS OF THE CITY OF KIRTLAND A QUESTION OF PROVIDING FOR AN ADDITIONAL LEVY OF TWO (2) MILLS, IN EXCESS OF THE TEN MILL LIMITATION, FOR FIVE (5) YEARS FOR THE PURPOSE OF GENERAL CONSTRUCTION, RECONSTRUCTION, RESURFACING AND REPAIR OF STREETS, ROADS AND BRIDGES, AND DECLARING AN EMERGENCY.

Read by title only and placed on Second Reading.

**RESOLUTION NO. 12-R-34
(Mayor Tyler)**

- (Second Reading) - A RESOLUTION ADOPTING A TAX BUDGET FOR FISCAL YEAR 2013.

Read by title only and placed on Second Reading.

**RESOLUTION NO. 12-R-35
(Council President Umholtz)**

- (Second Reading) - A RESOLUTION ACCEPTING THE APPLICATION OF AT&T MOBILITY FOR A NEW WIRELESS COMMUNICATION FACILITY AT 9140 CHILLICOTHE ROAD, KIRTLAND, OHIO.

Read by title only and placed on Second Reading. Noting that the Law Director stated concerns about the principal to be named on the bond, Councilman Powell inquired how this should be addressed by Council. A brief discussion ensued. Upon request of the Law Director, Mr. Sindyla (agent for AT&T) agreed to provide the City with written communication indicating that AT&T Mobility, as the permittee, will be identified as principal on the bond; and that such communication shall be provided before passage of the Resolution by Council.

Council President Umholtz advised that Third Reading of the Resolution will be on Monday, July 9, but that the Resolution will be tabled if acceptable documentation is not received by that date; he further advised that Council will then be on recess until August 20, 2012.

Mr. Sindyla stated that he will provide the requested documentation to the Law Director.

OLD BUSINESS (continued):**RESOLUTION NO. 12-R-36**
(Mayor Tyler)

- (Second Reading) - **A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A DEVELOPMENT ASSISTANCE AGREEMENT WITH THE CORPORATION OF THE PRESIDING BISHOP OF THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS FOR DESIGN AND CONSTRUCTION OF A SEWER EXTENSION, AND DECLARING AN EMERGENCY.**

Read by title only. Councilman Webbe stated that he read the revised agreement, but he still has concerns. Mr. Webbe stated that it is his opinion that Council should not adopt this Resolution until it is determined where the sewer line will be placed. Mayor Tyler advised that there are three options available: obtaining an easement, placing it in the right-of-way, or placing the pipe across the street. The Mayor noted that the location will not be determined until after the agreement is approved and further engineering and discussion with the property owners takes place. Mayor Tyler noted that for the State Route 306 sewer project, the easements were not all in place before the City entered into an agreement with the County.

Mr. Webbe stated that he is concerned that unforeseen issues will arise if the property owners do not agree to grant easements. Noting that it would be helpful to know where the sewer line will be placed, Councilman Powell stated that according to the revised agreement, it appears that the City is not held responsible for any of the cost.

Councilman Skrbis stated that it is his understanding that any exposure to financial risk that the City may have had has been eliminated by the revised agreement. Mr. Skrbis stated that he agrees that the City needs to be protected from any risk, and he inquired if there is any risk. Council President Umholtz inquired whether there are any negative consequences of the three options. Service Administrator Catania replied that this is not an unusual situation, noting that the first phase of the project is to enter into the agreement and perform the detail engineering. Mr. Catania stated that once the detail engineering is started, then the test holes will be dug and the easements will be obtained, noting that it was the same situation with the Route 306 sewer project. He stated that in the interim, if the easements cannot be agreed upon, then there are other options; if the options become too expensive for the Church to proceed with the project, then the project stops and the City is held harmless. Mr. Catania noted that the sewer line will need to cross Route 306 at some point.

Councilman Schulz stated that one risk could be "headline" risk, and he inquired about the project's disruption to the City. Mr. Catania stated that once the project begins, it will take approximately six to eight weeks to complete. He noted that there will be some disruption to traffic, but that the work will be in the right-of-way or beyond. Responding to Mr. Schulz, Mayor Tyler stated that the sidewalk project in that area is totally independent of this project.

Responding to an inquiry from Mr. Webbe, Mayor Tyler stated that this resolution would be presented to Council at this point regardless of whether this was a City project or a project funded by the Church of Latter-Day Saints, and a lot of the detail questions would be answered down the road.

Tom Rice of the Church of Jesus Christ of Latter-Day Saints stated that he is confident that the Church does not want to cause any of the residents involved any undue concern now or in the future. He noted that in meetings with Mr. Kiefer and CT Consultants, there was considerable discussion about this very issue of obtaining the easements.

Mr. Richards stated that it is his understanding that the main purpose is to provide sewer for the Latter-Day Saints Church and that they are willing to pay for complete installation; there may be some ancillary or peripheral benefit to some homeowners, and the homeowners will not be assessed.

OLD BUSINESS – RESOLUTION NO. 12-R-36 (continued):

In further discussion, Mr. Webbe stated that without knowing where the sewer line will be placed, he still has concerns for the property owners.

Councilman Powell inquired whether the Church has had any conversations with the property owners. Mr. Rice advised that it is his understanding that CT Consultants will pursue the easements.

Service Administrator Catania noted that the legislation is for design and construction, and that part of the design process on this project is acquiring the easements. Mr. Catania noted that CT Consultants will not approach the property owners until the City enters into the agreement with the Church.

Councilman Schulz inquired about the possibility of amending the resolution so that it covers the design only, with a separate resolution later for the construction. Councilman Skrbis noted that the Church would not likely enter into an agreement and incur costs for design for a project that might not be approved.

Mr. Powell moved to take a short recess, with the second by Mr. Webbe. The motion passed by unanimous vote. The time was 8:15 p.m.

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Mr. Kirek moved to reconvene the meeting, with the second by Mr. Powell. The motion passed by unanimous vote, and the meeting reconvened at 8:19 p.m.

There was discussion concerning the revised agreement. Noting that Section 6.3 has been revised, Law Director Richards noted that Council should consider amending the legislation to reflect the revised agreement.

Mr. Skrbis moved to amend Resolution No. 12-R-36 to reflect the revised agreement, specifically Section 6.3, which reads in its entirety: "The Church agrees to indemnify and hold the City free and completely harmless from the costs associated with the design, construction and permitting of the improvements to be constructed under this Agreement, so long as the improvements, when installed are accepted by Lake County Department of Utilities, as properly functioning and operating. The foregoing indemnity will only include the actual, out-of-pocket costs incurred under this project and bid in accordance with the terms and conditions of this Agreement, up to, but not to exceed, \$270,000.00, or such greater amount as has been approved by the Church, in its sole discretion." Mr. Kirek provided the second to the motion to amend.

ROLL CALL: MOTION CARRIED 7/0 (VOTING YEA: CATANIA, KIREK, POWELL, SCHULZ, SKRBIS, UMHOLTZ AND WEBBE. VOTING NAY: NONE).

The legislation was placed on Second Reading.

NEW BUSINESS:

ORDINANCE NO. 12-O-37
(Mayor Tyler)

- **AN ORDINANCE AMENDING ORDINANCE NO. 11-O-60 DESIGNATING FINANCIAL INSTITUTIONS AS PUBLIC DEPOSITORIES, AND DECLARING AN EMERGENCY.**

Read by title only. Mr. Webbe moved to waive the three readings, with the second by Mr. Skrbis. **ROLL CALL: MOTION CARRIED 7/0 (VOTING YEA: CATANIA, KIREK, POWELL, SCHULZ, SKRBIS, UMHOLTZ AND WEBBE. VOTING NAY: NONE).** Mr. Webbe moved to declare an emergency and adopt, with the second by Mr. Skrbis. **ROLL CALL: ADOPTED 7/0 (VOTING YEA: CATANIA, KIREK, POWELL, SCHULZ, SKRBIS, UMHOLTZ AND WEBBE. VOTING NAY: NONE).**

NEW BUSINESS (continued):

ORDINANCE NO. 12-O-38
(Mayor Tyler)

- **AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT WITH THE OHIO PATROLMEN'S BENEVOLENT ASSOCIATION, AND DECLARING AN EMERGENCY.**

Read by title only. Mayor Tyler requested that Council adopt this legislation before summer recess, either tonight or at next week's meeting. The legislation was placed on First Reading.

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CONTINUING CONCERNS:

None.

COUNCIL COMMENTS:

Councilman Webbe inquired whether Council needs to authorize the City Engineer to approve new house permits during Council's recess. Mayor Tyler noted that this will be addressed at next week's meeting.

Councilman Skrbis inquired whether Resolution No. 12-R-36 will revert to Second Reading at the next meeting due to the amendment; and, if so, Council should be prepared to waive the third reading. Law Director Richards stated that he will look into this.

PUBLIC COMMENTS:

None.

ADJOURNMENT:

Mr. Kirek moved to adjourn, with the second by Mr. Schulz. The motion of Council passed by unanimous vote and the meeting adjourned at 8:25 p.m.

President of Council

Clerk of Council