

KIRTLAND CITY COUNCIL MINUTES

February 20, 2013

The meeting of Kirtland City Council was called to order at 7:00 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, 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, City Engineer Philip Kiefer, Service Administrator Carm Catania, Police Chief Wayne Baumgart and Fire Chief Anthony Hutton.

MINUTES OF THE JANUARY 16, 2013 COMBINED MEETING:

Mr. Catania moved to waive the reading of the Minutes, with the second by Mr. Skrbis. The motion of Council passed by unanimous vote. Mr. Catania moved to adopt the Minutes, with the second by Mr. Skrbis. **ROLL CALL: MOTION CARRIED 6/0 (VOTING YEA: CATANIA, POWELL, SCHULZ, SKRBIS, UMHOLTZ AND WEBBE. VOTING NAY: NONE).**

MINUTES OF THE FEBRUARY 4, 2013 WORK SESSION:

Mr. Schulz moved to waive the reading of the Minutes, with the second by Mr. Catania. The motion of Council passed by unanimous vote. Mr. Schulz moved to adopt the Minutes, with the second by Mr. Catania. **ROLL CALL: MOTION CARRIED 5/0/1 (VOTING YEA: CATANIA, POWELL, SCHULZ, SKRBIS AND WEBBE. VOTING NAY: NONE. ABSTAINING: UMHOLTZ).**

MINUTES OF THE FEBRUARY 4, 2013 COUNCIL MEETING:

Mr. Skrbis moved to waive the reading of the Minutes, with the second by Mr. Webbe. The motion of Council passed by unanimous vote. Mr. Skrbis moved to adopt the Minutes, with the second by Mr. Webbe. **ROLL CALL: MOTION CARRIED 6/0 (VOTING YEA: CATANIA, POWELL, SCHULZ, SKRBIS, UMHOLTZ AND WEBBE. VOTING NAY: NONE).**

DEPARTMENT REPORTS:

Fire Chief Anthony Hutton did not present a formal report and no questions were asked of him.

Police Chief Wayne Baumgart gave no formal report and no questions were asked of him.

Service Administrator Carm Catania did not present a formal report. Councilman Powell inquired about the status of a recent request made by two ladies from Old South Church with regard to a historic sign for South Kirtland Cemetery. Mr. Catania stated that he will follow up with Larry Spence in this regard.

City Engineer Philip Kiefer did not present a formal report and no questions were asked of him.

Finance Director Keith Martinet formally thanked Julie Loxterman and Michelle Hauser for their work in putting the 2013 budget together; and he stated his appreciation for Mayor Tyler's accommodation of his busy schedule as they worked together on the budget.

Law Director Daniel Richards did not present a formal report and no questions were asked of him.

MAYOR'S REPORT/ANNOUNCEMENTS:

Mayor Tyler stated that he is happy to have Mr. Kirek back on Council.

Mayor Tyler noted that the Fire Department has been busy over the last few days, noting that there were a couple of small fires recently at the nursing home. He noted that the Police Department is keeping the City as one of the safest cities in northeast Ohio, and the Service Department is doing a good job keeping the roads clear.

The Mayor thanked Finance Director Martinet for his work on the budget, noting that the process began last October. He noted that he will present the budget to Council at the Finance Committee meeting following tonight's regular Council meeting.

STANDING COMMITTEE REPORTS:

Councilman Tim Powell noted that he wanted to make Council aware of two recent issues before the Planning and Zoning Commission. He stated that one issue was Mr. Vieth's proposed accessory building on Chillicothe Road, noting that there was some concern by neighboring residents because Mr. Vieth owns a gun shop. Mr. Powell stated that the building is for Mr. Vieth's personal use only and that approval was granted by the Commission. Mr. Powell noted that the building size is permitted for that property.

With regard to the second issue, Mr. Powell advised that the Holden Arboretum is proposing fencing in 250 acres with a 10 foot deer fence, noting that electrified mats would be placed in the roadway to eliminate the need for gates. He noted that the snow plows would be able to plow over the mats.

Service Administrator/Zoning Inspector Catania noted that the Arboretum is proposing a pedestrian gate off the roadway, and they will take precautions to keep people from walking in the street. Mr. Catania noted that the Arboretum may reduce the size of the area that will be fenced.

Responding to Councilman Webbe and referring to a recent matter involving a deer fence on Kirtland-Chardon Road, Mr. Catania advised that an agricultural fence in the front yard must be approved by the Planning and Zoning Commission.

Mr. Catania advised that the Holden Arboretum is proposing to place the fence on the east and west sides of Sperry Road, noting that it would cross Sperry Road twice.

Discussion ensued in this regard. Mr. Catania read Zoning Ordinance Section 1290.03(f), which provides that unless otherwise permitted by the Planning and Zoning Commission pursuant to subsection (g), an agricultural fence shall be permitted only in the side and rear yard of the premises, actually devoted to agricultural pursuits, and must be maintained not less than six inches from the common property line with an adjacent lot, and shall not exceed six feet in height. Mr. Catania also read Section 1290.02(a) which states that an agricultural fence means any of the permitted fences used to contain livestock and protect agricultural or nursery products. He noted that examples of permitted agricultural fences listed in this section include post and rail fence, woven wire fence and electric fence.

It was noted that the matter has been tabled by the Planning and Zoning Commission. Upon further discussion, Council President Umholtz requested that the Clerk advise Council members when this is expected to be taken off the table and addressed by the Planning and Zoning Commission, so that any Council members who have an interest in expressing their concerns will be able to attend.

CORRESPONDENCE:

None.

PUBLIC COMMENTS ON MATTERS NOT ON THE AGENDA:

None.

OLD BUSINESS:

- ORDINANCE NO. 13-O-7** - (Second Reading) - AN ORDINANCE AMENDING SECTIONS 1422.01 AND 1422.02 OF THE CODIFIED ORDINANCES OF THE CITY OF KIRTLAND, RELATING TO ADOPTION OF THE 2013 RESIDENTIAL CODE OF OHIO.
(Mayor Tyler)

Read by title only and placed on Second Reading.

- ORDINANCE NO. 13-O-8** - (Second Reading) - AN ORDINANCE AMENDING SECTIONS 1424.01 AND 1424.02 OF THE CODIFIED ORDINANCES OF THE CITY OF KIRTLAND, RELATING TO ADOPTION OF THE 2011 OHIO BUILDING CODE, THE 2011 OHIO MECHANICAL CODE, THE 2011 OHIO PLUMBING CODE AND THE 2011 NATIONAL ELECTRICAL CODE.
(Mayor Tyler)

Read by title only and placed on Second Reading. Councilman Powell noted that Section 1422.01, adopting the Residential Code, refers to demolition; he inquired about a couple homes that have become eyesores. Mayor Tyler noted that two homes previously discussed are candidates for Lake County Land Bank and would be handled independently.

NEW BUSINESS:

- RESOLUTION NO. 13-R-9** - A RESOLUTION ADOPTING THE RECOMMENDATION OF THE PUBLIC UTILITIES COMMISSION OF THE CITY OF KIRTLAND RELATING TO SEWER CONNECTION FOR PROPERTY LOCATED AT 8944 KIRTLAND-CHARDON ROAD AND IDENTIFIED AS PARCEL NO. 20-A-016-C-00-002-0, AND DECLARING AN EMERGENCY.
(Mayor Tyler)

Read by title only. Mayor Tyler advised that this is the second property west of Eagle on Kirtland-Chardon Road; he noted that a gentleman recently purchased the property and would like to build his home and connect to the package plant.

City Engineer Kiefer provided some background information, noting that this parcel, along with two other parcels, was previously owned by Mrs. Rimes; she was paying sewer charges only on the other two parcels, and she had advised that this vacant parcel would never tie into the treatment plant. Mr. Kiefer stated that sewer charges incurred to other properties in capital improvement fees when the plant was upgraded in 1988 (per EPA requirements) were not charged to this parcel. Mr. Kiefer noted that the other vacant parcel incurred charges for the treatment plant; it has been sold and built upon, and the property owner is paying sewer charges.

NEW BUSINESS – RESOLUTION NO. 13-R-9 (continued):

Mr. Kiefer stated that the property located at 8944 Kirtland-Chardon Road is considered as not part of the subdivision served by the treatment plant, so the property owner needs the Public Utilities Commission to allow the connection to the treatment plant. Mr. Kiefer advised that the recommendation is that the property be allowed to connect, and that capital improvement charges must be paid by the property owner, in an amount equal to that paid by the other property owners, plus the \$1,000 tap-in fee. Mr. Kiefer stated that if the connection to the treatment plant is not allowed, then the property owner would likely not be able to build on the property; he noted that the Health Department would probably not allow a septic system since there is sewer at the road.

Council President Umholtz noted that when the current owner purchased the property, it was not disclosed to him that this property did not have approval to connect to the treatment plant.

Responding to Councilman Schulz, Mr. Kiefer advised that the recommended capital improvement charge is the same amount that was assessed to the other property owners in 1988, and it was billed on a quarterly basis over 20 years. Mr. Kiefer stated that it is his recommendation that the money from the capital improvement charge be used to reduce some of the infiltration that is getting into the sewers, in order to provide capacity for this additional flow.

Mr. Umholtz noted that the Public Utilities Commission is recommending this as an emergency because the property owner has already made construction plans and was moving forward with permits when he found out about this issue.

Mr. Webbe moved to waive the three readings, with the second by Mr. Skrbis. **ROLL CALL: MOTION CARRIED 6/0 (VOTING YEA: CATANIA, POWELL, SCHULZ, SKRBIS, UMHOLTZ AND WEBBE. VOTING NAY: NONE).** Mr. Webbe moved to declare an emergency and adopt, with the second by Mr. Powell. **ROLL CALL: ADOPTED 6/0 (VOTING YEA: CATANIA, POWELL, SCHULZ, SKRBIS, UMHOLTZ AND WEBBE. VOTING NAY: NONE).**

ORDINANCE NO. 13-O-10 - **AN ORDINANCE SETTING THE APPROPRIATION FOR THE YEAR 2013.**
(Mayor Tyler)

Read by title only and placed on First Reading.

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CONTINUING CONCERNS:

None.

COUNCIL COMMENTS:

With regard to the Council page on the City website, Councilman Schulz requested that Council members return the information form by the next Council meeting so that the project can move forward.

PUBLIC COMMENTS:

None.

ADJOURNMENT:

Mr. Powell moved to adjourn, with the second by Mr. Catania. The motion of Council passed by unanimous vote and the meeting adjourned at 7:34 p.m.

President of Council

Clerk of Council