

KIRTLAND CITY COUNCIL MINUTES

SPECIAL MEETING

September 22, 2014

The special meeting of Kirtland City Council was called to order at 7:05 p.m. by Council President R. Robert Umholtz. Mr. Schulz led the prayer which followed the Pledge of Allegiance. The members of Council present were: William Catania, Douglas Davidson, David Kirek, Timothy Powell, Matthew Schulz, Robert Skrbis and R. Robert Umholtz.

Administrative personnel present were: Mayor Mark A. Tyler, Law Director Daniel Richards, City Engineer Philip Kiefer and Service Administrator Carm Catania.

NEW BUSINESS:

RESOLUTION NO. 14-R-55
(Mayor Tyler)

- **A RESOLUTION AUTHORIZING THE CITY LAW DIRECTOR TO FILE A PETITION TO RECEIVE PROPERTY THROUGH FORFEITURE IN THE CITY OF KIRTLAND, OHIO, AND DECLARING AN EMERGENCY.**

Read by title only. Mr. Kirek moved to waive the three readings, with the second by Mr. Catania. Responding to questions from Councilman Davidson, City Engineer Kiefer stated that there is nothing specific in the comprehensive plan relating to this property. He advised that if the City declines the property, the Kirtland Schools and the Lake County Land Bank would have the opportunity to acquire it; and if not acquired by any of these, then the property would go to the State. With regard to the potential use of the property, Mr. Kiefer stated that there is a drainage problem in that area, noting that there is a pipe going through that property, and the pipe should be larger. He noted that if the City owns the property, the pipe can be replaced; otherwise the City would have to get an easement.

Councilman Powell inquired whether the City would need to have any studies done before doing any drainage work on the property. Mr. Kiefer noted that no studies would be needed; he stated that the work would be in the upland portion of the lot. Mr. Powell inquired about the cost to acquire the property. Mr. Kiefer stated that it is his understanding that the City would need to pay the court costs. Mayor Tyler stated that any cost would be nominal; he noted that the County has been unable to sell it, and the City has a limited time to act. The Mayor noted that the City Engineer reviewed this and recommended that it is in the City's best interest to pursue acquisition of this property. Mayor Tyler noted that he has discussed this matter with the Finance Director, and if it is found that the costs are unreasonable, then the City will not proceed. Council President Umholtz noted that sometimes court costs can be considerable.

Mr. Umholtz inquired if the property is unbuildable. Mr. Kiefer advised that it would be extremely expensive to build on the property, and variances would likely be required for setbacks; it would likely require a very expensive sewage treatment system. Mr. Umholtz inquired about the reason for the emergency legislation and the special meeting. Mr. Kiefer advised that the County gave ten days for the City, the Kirtland Schools and the Lake County Land Bank to respond.

Responding to Councilman Schulz, Mr. Kiefer advised that the property is 0.55 acres in area. Mr. Schulz stated that he would be in favor of the acquisition if the City can obtain an easement and then split the property between the two adjoining properties (if the property owners are willing to accept the property) so it is not taken out of the tax base and it does not become a maintenance issue for the City. Councilman Skrbis noted that there is no structure on the property that would need to be maintained.

Responding to Councilman Powell regarding the history of the lot, Mr. Kiefer stated that Mr. DiFinì owned five non-conforming parcels, and he put four lots together into two conforming lots (which have houses), and this was the fifth parcel. Mr. Umholtz inquired why the City did not require the property owner to combine this non-conforming parcel into one of the new conforming lots. Mr. Kiefer stated that, as the owner, Mr. DiFinì had the capability of combining the lots; no approval from the City is needed to combine lots.

Service Administrator Catania stated that the City piped the ditches in front of the two homes ten years ago, but the pipe had to be removed because of flooding on the two lots due to the size of the pipe that is on this parcel. Mr. Catania stated that it would be advantageous to the neighboring residents for the City to increase the size of that pipe. Mr. Catania stated that even if the court costs are a couple thousand dollars, it would cost the City more to get an easement if someone else takes the property.

Responding to Council President Umholtz, Law Director Richards advised that the City can create an easement after acquiring the property, and then transfer the property to someone else subject to terms incorporated into the transaction, including the easement. Mr. Richards stated that costs involved would include the cost of having the City Engineer prepare a description of the easement and the cost of filing the easement with the County. Mr. Richards stated that there is a window of ten days, which will expire on September 25; if the City does not act on this, and the Kirtland Schools and the Lake County Land Reutilization Corp. do not respond, the property will be forfeited to the State of Ohio. Mr. Richards stated that if the Lake County Land Reutilization Corp. wishes to acquire the property, then it can dispose of the property as it chooses, including transferring it to the City.

Mr. Umholtz inquired if the City Engineer could provide a rough estimate of the engineering costs. Mr. Kiefer stated that if he does not need to send out a surveyor, which should not be necessary, the cost would be one dollar.

Mr. Davidson stated that it would be beneficial to acquire the property, establish an easement, and then work to get the property back into the tax base; Mr. Umholtz concurred. Responding to an inquiry from Mr. Powell, Mr. Richards advised that Council cannot pass the Resolution with conditions; Council must either accept or not accept the property – if it is accepted, title will be transferred to the City.

Mr. Skrbis stated his agreement that the City should not retain property that is not needed, but he noted that the loss of taxes would be minimal if the City is unable to get the property back into the tax base. He stated that the current taxes on this lot are \$800, which will decrease if the lot is split between the two adjoining properties.

Voting began on the motion to waive the three readings. **ROLL CALL: MOTION CARRIED 7/0 (VOTING YEA: KIREK, POWELL, SCHULZ, SKRBIS, UMHOLTZ, CATANIA AND DAVIDSON. VOTING NAY: NONE).** Councilman Powell inquired about the court costs that may be involved in acquiring the property. Law Director Richards stated he does not anticipate there will be court costs, noting that there was nothing in the record that was sent to the City. He noted that the Clerk of Courts will not require a fee to file the petition.

In further discussion, it was noted that if the property were to be auctioned, the purchaser would likely have to pay the back taxes.

Mr. Kirek moved to declare an emergency and adopt, with the second by Mr. Catania. **ROLL CALL: ADOPTED 7/0 (VOTING YEA: KIREK, POWELL, SCHULZ, SKRBIS, UMHOLTZ, CATANIA AND DAVIDSON. VOTING NAY: NONE).**

ADJOURNMENT:

Mr. Catania moved to adjourn, with the second by Mr. Powell. The motion of Council passed by unanimous vote and the meeting adjourned at 7:29 p.m.

President of Council

Clerk of Council