

KIRTLAND CITY COUNCIL MINUTES

October 20, 2014

The meeting of Kirtland City Council was called to order at 7:03 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, Finance Director Keith Martinet, City Engineer Philip Kiefer and Police Chief Wayne Baumgart.

Lake County Land Reutilization Corp.

John Rogers, Executive Director

Re: Ordinance No. 14-O-56

Mr. Rogers addressed Council with regard to the proposed Memorandum of Understanding (MOU) with the Lake County Land Reutilization Corp. (the Land Bank) that is currently before Council. He noted that the purpose of the MOU is to eliminate problems between communities and the Land Bank and to provide communities with protocols established by the Land Bank in the event they acquire property. Mr. Rogers provided background information concerning the process of a property forfeiture. He stated that the Land Bank will evaluate the property and may decide to petition for acquisition, noting that if the city also petitions for acquisition, the Land Bank will defer to the city.

With regard to the property on Euclid-Chardon Road that has been petitioned for acquisition by both the City and the Land Bank, Mr. Rogers stated that Mr. Richards has asked that the Land Bank not withdraw its petition until he has had an opportunity to speak to Council tonight. Mr. Rogers stated that, under the statute, if a community acquires a property as a result of foreclosure, there are no taxes that accrue going forward, but any taxes that exist at the time of title transfer remain in effect. He noted that, according to law, the city is supposed to try to dispose of the property over a 15 year period and the tax delinquency is paid out of the sale of the property. However, if the Land Bank acquires the property, the title is clear; he noted that this is one of the tools that the State built into the law to assist land banks with economic development. He noted that often the taxes that are due exceed the value of the home.

Mr. Rogers stated that the Land Bank ultimately strives to make the properties productive and generating taxes.

Mr. Rogers stated that if the Land Bank acquires a property, and the city requests acquisition from the Land Bank within ten days, the Land Bank will convey the property to the city by quit-claim deed, but the city will be responsible for any costs related to title examination.

Mr. Rogers discussed the recent grant for demolition of abandoned, dilapidated houses, noting that many communities benefitted. He advised that the Land Bank can acquire property through a number of ways, and then the Land Bank will decide whether the house will be rehabilitated, maintained or demolished, or if they will dispose of the property. He noted that the Land Bank has a Board of Directors, and they have approved the policies of the Land Bank.

Responding to an inquiry from Council President Umholtz with regard to delinquent taxes on a property, Mr. Rogers noted that a request can be submitted to the taxing entities to waive the taxes.

Councilman Davidson inquired about the leasing of houses once they are acquired by the Land Bank. Mr. Rogers stated that the goal is to ultimately turn the property into productive property, although there may be instances where the best use of the property is to remain in its natural state. Mr. Rogers stated that the Land Bank could lease a home that they acquire.

Lake County Land Reutilization Corp. (continued):

Councilman Davidson inquired about adjacent communities that are participating with Memorandums of Understanding. Mr. Rogers stated that Wickliffe has participated, and legislation is on third reading in Willowick; he noted that all communities in Lake County have been provided with the MOU. Mr. Rogers suggested to the Law Directors and Mayors of the communities that they present it to the Council to have an ordinance or resolution passed.

In the event of rehabilitation of properties, Councilman Schulz inquired if the work is done by private companies and if there is a vetting schedule for the private companies. Mr. Rogers stated that the intent is to use licensed and bonded contractors; he noted that the demolition program was put out for bidding.

Council President Umholtz thanked Mr. Rogers for attending the Council meeting in this regard.

Rolling Thunder Veterans Organization

Presentation by Lewis Ballard

Mr. Ballard thanked the Mayor and Council for the opportunity to speak tonight. Mr. Ballard stated that he is a Rolling Thunder active member and a Viet Nam veteran. He stated that he is here on behalf of Kirtland residents Eileen and Rachel D'Ercole, who lost a son and a brother, Allen James Knop, to the Iraq war in 2005; and Rolling Thunder would like to honor him.

Mr. Ballard stated that while many members of Rolling Thunder ride motorcycles and many members are veterans, neither is required for membership. He stated that the major function of Rolling Thunder is to publicize the POW/MIA issue to educate the public that American prisoners of war were left behind after all previous wars, and to help correct the past and protect future veterans from being left behind should they become prisoners of war and missing in action. Mr. Ballard stated that Rolling Thunder is also committed to helping American veterans of all wars.

Mr. Ballard noted that they are here tonight to make a formal request on behalf of the D'Ercole family that Raccoon Hill Drive be dedicated to a fallen soldier. He stated that Rolling Thunder will purchase the sign that they are asking to have mounted, and the only burden on the community would be to have the city maintenance crew mount the sign. Mr. Ballard stated that it would be ideal to have the sign mounted at the intersection of U. S. Route 6 (Grand Army of the Republic Highway). Mr. Ballard noted that it does not change the street mapping; it is merely a memorial. Mr. Ballard stated that they would also request that once the sign is made, a small presentation be made at a Council meeting. Mr. Ballard stated that this is a program of Rolling Thunder National; he noted that Rolling Thunder has 99 chapters throughout the United States. He stated that they are a non-profit charitable organization.

Councilman Davidson stated appreciation for Allen James Knop's service to the country. He suggested that this be incorporated with the Kirtland Memorial.

Mr. Ballard introduced Winston Bailey, president of the organization. Mr. Bailey distributed flyers providing information regarding the Rolling Thunder organization. Mr. Bailey stated that there are seven chapters of Rolling Thunder in Ohio (they are with Chapter 1), noting that the program for the street sign memorial was kicked off in New York. He noted that it would be a memorial sign on top of the street sign. Mr. Bailey thanked Council for their time and consideration.

Council President Umholtz thanked Mr. Ballard and Mr. Bailey for their service, and he thanked Mrs. D'Ercole for her son's sacrifice.

Responding to questions from Council members, Mr. Ballard stated that there would not likely be more than one memorial sign in one location. He stated that the sign would be placed in one direction at the intersection.

Rolling Thunder Veterans Organization (continued):

There was brief discussion regarding the location of the memorial sign. Mrs. D'Ercole stated that when she was asked where she would like a sign placed, she requested Route 6, because it is Soldiers' Highway, and because her son is buried at All Souls Cemetery. Noting that there is a Standing Committee for Public Relations, Council President Umholtz requested that the Committee meet soon to help determine the best location for the memorial sign.

MINUTES OF THE OCTOBER 6, 2014 WORK SESSION:

Mr. Kirek moved to waive the reading of the minutes, with the second by Mr. Powell. The motion of Council passed by unanimous vote. Mr. Kirek moved to adopt the Minutes, with the second by Mr. Powell. **ROLL CALL: MOTION CARRIED 6/0/1 (VOTING YEA: POWELL, SCHULZ, SKRBIS, UMHOLTZ, DAVIDSON AND KIREK. VOTING NAY: NONE. ABSTAINING: CATANIA).**

MINUTES OF THE OCTOBER 6, 2014 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 6/0/1 (VOTING YEA: POWELL, SCHULZ, SKRBIS, UMHOLTZ, DAVIDSON AND KIREK. VOTING NAY: NONE. ABSTAINING: CATANIA).**

DEPARTMENT REPORTS:

Police Chief Wayne Baumgart did not present a formal report for Police and Fire and no questions were asked of him.

City Engineer Philip Kiefer gave no formal report and no questions were asked of him.

Finance Director Keith Martinet gave no formal report and no questions were asked of him.

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

MAYOR'S REPORT/ANNOUNCEMENTS:

Mayor Tyler noted that Police Chief Baumgart completed his FBI National Academy Ohio Fall retrainer; he offered congratulations to Chief Baumgart.

Mayor Tyler advised that last week Fire Chief Hutton attended several meetings regarding Ebola precautions; he noted that the Fire Chief took the lead for Lake County.

The Mayor noted that a letter of thanks to the Service Department was received for the road crew's help to residents.

Mayor Tyler stated that the annual "shred day" was a success, noting that it is a nice benefit to the residents.

The Mayor noted that there was a nice turnout at the Senior Center for the Halloween party for the seniors and their grandchildren.

MAYOR'S REPORT/ANNOUNCEMENTS (continued):

Mayor Tyler advised Council that emergency legislation will be placed on the next agenda for renewal of the Notice of Intent for coverage under Ohio EPA Small MS4 NPDES General Permit. Responding to Councilman Powell, City Engineer Kiefer advised that the renewal of the Notice of Intent relates to the stormwater program that began in 2003 and is renewed every five years. Mr. Kiefer stated that for the current renewal, the City must reapply and give notification that the City will still be covered under the permit and also identify who will be responsible to implement the program. Mr. Kiefer stated that this is being done as a co-applicant with Lake County Stormwater Department; he noted that Lake County Stormwater will do most of the work. Mr. Kiefer advised that when this program began in 2003, three ordinances were adopted: Erosion and Sediment Control, Stormwater Management and Illicit Discharge. Mr. Kiefer noted that as a result of the program, detention basins are incorporated into the new subdivisions. Mr. Kiefer stated that Lake County Soil & Water administers the erosion and sediment control, the Health Department administers the illicit discharge; he noted that Lake County Soil & Water and the Health Department also take care of public education and public involvement.

Councilman Powell stated that he has had a number of complaints in his neighborhood about the considerable cost increase to the residents from Time Warner. Mr. Powell noted that Time Warner raises the rates to the current rate when a customer's two-year contract expires, without providing notification to the customer. Mr. Powell suggested that a Time Warner representative be requested to attend a meeting for a public forum. Councilman Catania inquired if there is a contract between the City and Time Warner, and the terms of the contract. Noting that the City does not set the rates, Mayor Tyler stated that a Time Warner representative could be invited to a meeting. Upon discussion, Council President Umholtz requested that the Mayor contact a representative from Time Warner and request their attendance at a meeting at the beginning of next year.

STANDING COMMITTEE REPORTS:

With regard to the two new ordinances relating to structure height requirements, Councilman Powell stated that he will speak to those under New Business.

CORRESPONDENCE:

Council President Umholtz reported on the following:

1. From the Ohio Division of Liquor Control, the notice of request for a transfer of a C1, C2 permit from B&B Enterprises of Kirtland LLC, dba Kirtland's Market, to Mac's Convenience Stores LLC, dba Circle K Store 5700 (at 8232 Euclid Chardon Road). Upon discussion, no action was taken by Council to request a hearing in this regard.

PUBLIC COMMENTS ON MATTERS NOT ON THE AGENDA:

Sterling Coleman, 7636 Markell Road, thanked the Service Department and the City for the wonderful job that was done striping Markell Road. With regard to Council's discussion about cable costs, Mr. Coleman stated that he has Dish, and they also raise the rates when the contract expires; he noted that he switches between Dish and Direct TV in order to get a better rate at the end of his contract.

OLD BUSINESS:**RESOLUTION NO. 14-R-53**
(Mayor Tyler)

- (Third Reading) - A RESOLUTION TO AUTHORIZE AND APPROVE TRANSFER OF FUNDS FROM THE GENERAL FUND #100; SAID FUNDS TO BE TRANSFERRED BY OR BEFORE NOVEMBER 30, 2014 TO GENERAL OBLIGATION BOND FUND #600; IN THE AMOUNTS AND FOR THE PURPOSES SPECIFIED.

Read by title only. Mr. Kirek moved to adopt, with the second by Mr. Schulz. ROLL CALL: ADOPTED 7/0 (VOTING YEA: POWELL, SCHULZ, SKRBIS, UMHOLTZ, CATANIA, DAVIDSON AND KIREK. VOTING NAY: NONE).

RESOLUTION NO. 14-R-54
(Mayor Tyler)

- (Third Reading) - A RESOLUTION DEDICATING THE STREET IN THE ROCKING HORSE FARMS SUBDIVISION, PHASE IV, WHICH PLAT WAS PREVIOUSLY ACCEPTED FOR RECORD PURPOSES ONLY.

Read by title only. Mr. Kirek moved to adopt, with the second by Mr. Schulz. ROLL CALL: ADOPTED 7/0 (VOTING YEA: POWELL, SCHULZ, SKRBIS, UMHOLTZ, CATANIA, DAVIDSON AND KIREK. VOTING NAY: NONE).

ORDINANCE NO. 14-O-56
(Mayor Tyler)

- (Second Reading) - AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH THE LAKE COUNTY LAND REUTILIZATION CORPORATION RELATING TO VACANT, ABANDONED, TAX-FORECLOSED OR OTHER REAL PROPERTY.

Read by title only. Councilman Powell inquired if there would be a conflict between the City and the Land Bank with regard to acquisition of property if the City does not agree to the Memorandum of Understanding. Law Director Richards commented that the point of land reutilization is to take land that has become unproductive, a blight, and not contributing taxes, and convert the land so that it can be revitalized and utilized to a purposeful use and generate a positive benefit to the community as a whole and the adjoining property owners as well. Mr. Richards stated that over a period of time, the State Legislature has made changes in the law, as recently as September of this year, relating to the reclamation of land and land reutilization procedures. Noting that he is still researching the matter, Mr. Richards stated that as it presently stands, communities secure transfer of land as a result of forfeiture - the property owners have abandoned the property and taxes are not paid, the land incurs liens and is foreclosed on by the County. As a result, cities themselves have developed land reutilization programs; however in many counties, cities have not developed those programs, so counties have been authorized to create a land reutilization corporation (a land bank) and can take property under the land reutilization statutes.

Mr. Richards cited ORC 5722, which contains provisions by which land reutilization is accomplished by either the county or political subdivisions, such as the schools or the City. ORC 5723 relates to political entities that have not decided to invest in the time or legislation to create their own distinct land reutilization program; those communities have access to land by forfeiture, but the difference seems to be that when either the county land reutilization corporation, or a political subdivision that has enacted legislation to create a land reutilization program, acquires the land, it is acquired free and clear of any and all taxes. On the other hand, when a city that does not have a land reutilization program acquires property through

OLD BUSINESS - ORDINANCE NO. 14-O-56 (continued):

forfeiture, the liens for taxes and assessments remain attached to the real estate; if the City sells the property, those liens as they existed at the time of forfeiture would have to be taken out of any sales proceeds generated. If the City dedicates the land to public use, it has the right to apply to the county or state for tax exemption and eliminate that condition. Mr. Richards stated that he does not see any harm in the MOU; he noted that the benefit is that the land bank has the authority to obtain the property free and clear of taxations or liens; if it then chose to transfer the property to the city, then the city would receive the property in a tax free status. Mr. Richards stated that he believes there is a benefit to be considered to have the potential for achieving that same result by the MOU with the County. Mr. Richards stated that he will try to follow up his comments with a memorandum.

Council President Umholtz requested that the Clerk of Council schedule a work session before the next Council meeting so the Law Director can address any further questions that Council may have in this regard.

The legislation was placed on Second Reading.

NEW BUSINESS:**RESOLUTION NO. 14-R-57
(Mayor Tyler)**

- **A RESOLUTION TO AUTHORIZE AND APPROVE TRANSFER OF FUNDS FROM THE GENERAL FUND #100; TEMPLEVIEW SEWER PROJECT #300; SAID FUNDS TO BE TRANSFERRED BY OR BEFORE DECEMBER 31, 2014 TO GENERAL OBLIGATION BOND FUND #600; IN THE AMOUNTS AND FOR THE PURPOSES SPECIFIED.**

Read by title only and placed on First Reading.

**ORDINANCE NO. 14-O-58
(Council President Umholtz)**

- **AN ORDINANCE AMENDING SECTION 1262.04(a) OF THE CODIFIED ORDINANCES OF THE CITY OF KIRTLAND, RELATING TO HEIGHT OF MAIN OR AUXILIARY BUILDINGS OR STRUCTURES.**

Read by title only. Noting that he is speaking to Ordinance 14-O-58 and Ordinance 14-O-59, Councilman Powell stated that both are a solution to an issue that was discovered when the Holden Arboretum proposed the tower and walkway. He noted that the Planning and Zoning Commission recognized that these structures exceeded considerably the height limit restrictions, and it had to be determined if the tower was a structure or a building. Mr. Powell noted that the proposed amendments clean up the zoning code and create parity between both of these sections. He noted that the Law Director and City Engineer provided direction to the Commission to clarify the language. The legislation was placed on First Reading.

**ORDINANCE NO. 14-O-59
(Council President Umholtz)**

- **AN ORDINANCE AMENDING SECTION 1268.07(c) OF THE CODIFIED ORDINANCES OF THE CITY OF KIRTLAND, RELATING TO HEIGHT OF NON-RESIDENTIAL AUXILIARY BUILDINGS OR ACCESSORY STRUCTURES IN RESIDENTIAL DISTRICTS.**

Read by title only and placed on First Reading.

* * * * *

CONTINUING CONCERNS:

None.

COUNCIL COMMENTS:

Councilman Skrbis noted that Council received a memo from the Planning and Zoning Commission regarding regulations for trash cans in residential districts. Mr. Skrbis stated that he appreciates the reply from Planning and Zoning, noting that he will speak to Carm Catania with regard to addressing a specific situation.

Councilman Davidson encouraged Council members to attend the School Board meeting on October 21 at 7:00 p.m., with regard to the road levy.

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 8:20 p.m.

President of Council

Clerk of Council