

KIRTLAND CITY COUNCIL MINUTES

October 19, 2015

The meeting of Kirtland City Council was called to order at 7:04 p.m. by Council President Pro Tempore Timothy Powell. The meeting began with the Pledge of Allegiance followed by Mr. Schulz leading the prayer. The members of Council present were: William Catania, Douglas Davidson, David Kirek, Timothy Powell, Matthew Schulz and Robert Skrbis. Absent: R. Robert Umholtz.

Administrative personnel present were: Mayor Mark A. Tyler, Law Director Daniel F. Richards, Finance Director Keith Martinet, City Engineer Philip Kiefer, Police Chief Wayne Baumgart and Fire Chief Anthony Hutton. Absent: Service Administrator Carm Catania.

MINUTES OF THE OCTOBER 5, 2015 WORK SESSION:

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

MINUTES OF THE OCTOBER 5, 2015 COUNCIL MEETING:

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, as presented, with the second by Mr. Kirek. **ROLL CALL: MOTION CARRIED 6/0 (VOTING YEA: DAVIDSON, KIREK, POWELL, SCHULZ, SKRBIS AND CATANIA. VOTING NAY: NONE.)**

DEPARTMENT REPORTS:

Fire Chief Anthony Hutton no formal report but open to any questions. No questions were asked of Chief Hutton.

Police Chief Wayne Baumgart Chief Baumgart stated that the two new police vehicles are in service as of last week.

Mr. Davidson extended a word of appreciation to the Kirtland Police Department for their handling of Sunday's hit and run accident at Lake Farm Park. The person who caused the accident had an outstanding arrest warrant and fled the scene on foot. The Police searched and cleared a resident's home giving them peace of mind.

Mr. Skrbis received an email from Val Mendelson of Prelog Lane regarding frequent sightings of coyotes. The resident would like to know the best course of action. Chief Baumgart replied for residents to not feed these animals but there is not much else that can be done about the wildlife. Chief Baumgart mentioned trappers but this would be at a cost to the residents or the City. Chief Baumgart also wanted it known that the Dog Warden does not handle wildlife issues.

Service Administrator Carm Catania was not present at this meeting.

DEPARTMENT REPORTS (continued):

City Engineer Philip Kiefer gave no formal report. Mr. Kiefer stated he spoke with the Lake County Sanitary Engineer regarding legislation 15-R-55. Mr. Kiefer handed out copies of the consolidated MOU between the City of Kirtland and the Board of Lake County Commissioners which will be referenced during the old business portion of the meeting concerning resolution 15-R-55.

Finance Director Keith Martinet gave no formal report, however, he did mention that tax revenues were down -\$67,000 for the month of October which brings the City down \$47,000 for the year to date. Mr. Schulz inquired what assumption can be made as to why revenues are down. Mr. Martinet stated he just got the figures today and has not had time to study them, but will look in to it.

Mr. Martinet asked that Council look at revenue enhancement options after the election and he offered to assist.

Law Director Daniel Richards did not present a formal report. Mr. Richards suggested to Council that ordinance 15-O-56, regarding Municipal Income Tax, be removed from the table & permanently dismissed from the agenda for the reason that it is entirely replaced by ordinance 15-O-60.

Mr. Richards asked, with respect to resolution of the MOU between the City of Kirtland and the Board of Lake County Commissioners, the resolution makes a referral and restatement and adoption of all prior amendments to the MOU. The idea is to clean it up and consolidate everything into one. Mr. Schulz confirmed the MOU Mr. Kiefer handed out at the beginning of the meeting was the consolidated version, Mr. Kiefer confirmed this to be correct.

In regards to Canine Meadows, Mr. Richards advised that the Commissioners hired HZW to perform a statistical analysis and he requested a copy of the report from their attorney. Once the report is received it will be shared with Council. Mr. Skrbis requested a work session be scheduled prior to the next Council meeting to discuss. Council President Pro Tempore Powell confirmed with Council to have a work session at 6:30 p.m. on 11/4/15 for the purpose of the dog park issue - all agreed.

MAYOR'S REPORT/ANNOUNCEMENTS:

Mayor Tyler summarized the council agenda as follows:

- 15-R-55 - Council will Amend
- 15-O-56 - Remove permanently
- 15-R-57 - Waive the three readings and pass as an emergency so it can be submitted by 10/30/15.
- 15-R-58 - Waive the three readings and pass as an emergency so it can be submitted by 10/30/15.
- 15-O-60 - Place on for first reading

Mayor Tyler informed Council that Dave Hartt will be making a presentation at the next Planning and Zoning meeting on 11/10/15 at 7:00 p.m. The presentation will include a status update on the economic development study. Mayor cordially invited Council to attend.

Mr. Skrbis stated he was contacted by a few residents. He requested the Mayor discuss the following issues with the Service Administrator:

- Sue Vernon who lives on Christinia Dr. inquired about patching on Billings.
- Val Mendelson sent an inquiry concerning whether or not Prelog will be patched this year.
- Joe Varko on Kirtland Lakes sent Mr. Skrbis pictures showing puddling/laking on the street in front of his residence. Mayor Tyler asked Mr. Skrbis to forward him the email and pictures to which Mr. Skrbis agreed.

MAYOR'S REPORT/ANNOUNCEMENTS (continued):

- Tony Constantino of Kirtland Lakes - Mr. Skrbis stated he did a drive by in Kirtland Lakes and noticed most of the paving is a little bit lower than the driveways in preparation of the second coat. However, he stated there are a couple of driveways including Tony Constantino's in which it looked like it might be a challenge when the second coat comes in.
- Mr. Skrbis also received an email from the Rosaro's - he noted they were present and may speak during public comments regarding some follow-up issues.

Mr. Schulz stated he received an inquiry whether the City ever had a fall cleanup like the one in the spring. Mayor Tyler responded that the City usually does not have a fall cleanup unless there was a big storm. Mayor Tyler offered to discuss further with Mr. Schulz after the meeting.

Mr. Schulz also inquired if there will be any striping on the streets this year. Mayor Tyler responded there is no plan to stripe this year due to budgetary constraints.

Mr. Schulz inquired if there was a discrepancy in dates between the recreation park environmental study in the Council office, dated August 2014, and the report that was emailed to him, dated August 2015. Mr. Kiefer responded that the 2014 report was sent to the Corps of Engineers for preliminary determination and they wanted additional studies with a more detailed layout. Therefore, the emailed report was an updated version of the 2014 report.

STANDING COMMITTEE REPORTS:

Police and Fire Safety Committee Report: Mr. Catania reported the committee, including Mr. Kirek, Mr. Schulz and himself, met last week to discuss a dog ordinance for the City. He stated the Law Director will draw up an amendment to the ordinance. Upon completion of this, the committee will go over it and then present it to Council. Mr. Powell noted that a few days after the committee met there was a story on the news regarding an ordinance passing in Avon Lake. Mr. Richards stated he has a copy of the Avon Lake ordinance and he will review it to determine if any of it can be used by the City of Kirtland. Mr. Richards will send a copy of the Avon Lake ordinance to Chief Baumgart for review.

Mr. Skrbis requested the Recreation Committee meet shortly after the election. He has been in contact with the Kiwanis and Baseball League who have given funds for the new recreation park. He would like to review next steps and provide a report to these groups.

CORRESPONDENCE:

Aqua Ohio customer notice regarding System Improvement Charge that will appear on customers invoices starting in October, 2015. The purpose of SIC charge is to assist water and sewer companies fund the replacement and rehabilitation of infrastructure including aging mains and plant that are crucial to service reliability and water quality.

PUBLIC COMMENTS ON MATTERS NOT ON THE AGENDA:

Dana Dennis, 9237 Woods Way Dr., stated he is concerned over vehicles driving at high rates of speed on Kirtland Chardon Road. He asks that everyone please do the speed limit when driving down this road.

PUBLIC COMMENTS ON MATTERS NOT ON THE AGENDA(continued):

Bob Leak, 10950 Lakebrook, stated he read an article in the newspaper that the roads are finished in Kirtland Lakes and he would like to confirm that the top coat will be done next year. He also mentioned there is significant puddling in areas and he is concerned this will cause damage to the road before next year. He requested the City Engineer evaluate before winter to solve this issue. Mr. Kiefer stated he spoke to the Service Administrator and they will investigate where the water is coming from. Council President Pro Tempore Powell confirmed Kirtland Lakes is scheduled for a top coat next year. A discussion ensued regarding top coating roads and the process. Mr. Skrbis inquired to Mr. Kiefer if it is possible that the road is becoming more waving and if it is seeping what could happen to the road going through the winter. Mr. Kiefer stated it could affect the asphalt and the first step is finding out where the water is coming from. Freezing and dangerous road conditions are a concern as well. Mr. Schulz inquired if new under drain was put in. Mr. Kiefer responded that they were on the low portion but he is not sure how far up they went. The depth was reported to be about 6-8 inches. Discussion ensued regarding top coat on roads.

Sharon Rosaro, 10945 Lakebrook, directed a comment to Mr. Schulz that when the seeding was done some of the heavy equipment left tread marks in the current asphalt which leads her to believe it is not entirely stable. Mr. Schulz stated he will check it out to become more aware of the situation. Responding to Ms. Rosaro, Mayor Tyler confirmed the road will be finished next year.

Joseph Smolic, 7295 Ledgewood Drive, stated he is concerned that the City is in the first year of the 5 year plan and already having issues. Mr. Skrbis stated that things are unknown at the beginning of a project. Mr. Smolic inquired if core samples of roads will be taken in the future. Mr. Schulz responded that on a short resurfacing the chances are no. In the future he would like to have the developer do this so the City has geological surveys on record. More discussion ensued regarding the top coat on Lakebrook and if it is better to do this before winter.

Sterling Coleman, 7636 Markell Rd. stated his residence has been losing power for the last several weeks and most recently over the last several nights for about 15 minutes each. Chief Hutton advised that he also lost power in his neighborhood. Chief Hutton stated there have been transformer fires in Mentor around Midland Road and they have been having constant problems and are working with CEI. He believes the issue is now taken care of.

OLD BUSINESS:

RESOLUTION NO. 15-R-55
(Mayor Tyler)

- **(Second Reading) A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO THE FOURTH AMENDMENT TO THE MEMORANDUM OF UNDERSTANDING WITH THE LAKE COUNTY BOARD OF COMMISSIONERS AND THE LAKE COUNTY DEPARTMENT OF UTILITIES, AND DECLARING AN EMERGENCY.**

Read by title only. Mr. Richards recommended this resolution be amended to read "a resolution authorizing the Mayor to enter into a restatement, amendment and adoption of all prior amendments to the memorandum of understanding with the Lake County Board of Commissioners and the Lake County Department of Utilities, and declaring an emergency" which would mean that it would be presented to City Council at the next meeting and Council could consider it and in order to accommodate the request from the City Engineer, by waiving the three readings and passing as an emergency at that time. Mr. Skrbis moved to amend as stated, with the second by Mr. Schulz. **ROLL CALL: MOTION CARRIED 6/0 (VOTING YEA: DAVIDSON, KIREK, POWELL, SCHULZ, SKRBIS, AND CATANIA. VOTING NAY: NONE).**

OLD BUSINESS(continued):

ORDINANCE NO. 15-O-56 - **(Second Reading) AN ORDINANCE TO AMEND CHAPTER 882 OF THE CODIFIED ORDINANCES OF THE CITY OF KIRTLAND REGARDING MUNICIPAL INCOME TAX.**
(Mayor Tyler)

Read by title only. Law Director requested Council remove it from the table and permanently dismiss it from the agenda due to the fact it has been entirely replaced by ordinance 15-O-60. Mr. Davidson moved to remove from the agenda and permanently dismiss 15-O-56, with a second by Mr. Skrbis. **ROLL CALL: MOTION CARRIED 6/0 (VOTING YEA: DAVIDSON, KIREK, POWELL, SCHULZ, SKRBIS, AND CATANIA. VOTING NAY: NONE).**

RESOLUTION NO. 15-R-57 - **(Second Reading) A RESOLUTION AUTHORIZING THE CITY OF KIRTLAND, OHIO TO PREPARE AND SUBMIT AN APPLICATION TO PARTICIPATE IN THE OHIO PUBLIC WORKS COMMISSION STATE CAPITAL IMPROVEMENT AND/OR LOCAL TRANSPORTATION IMPROVEMENT PROGRAM(S) AND TO EXECUTE CONTRACTS AS REQUIRED FOR THE EAGLE ROAD SAFETY IMPROVEMENTS PROJECT, AND DECLARING AN EMERGENCY.**
(Mayor Tyler)

Read by title only. Mr. Kirek moved to waive the three readings with the second by Mr. Schulz. **ROLL CALL: MOTION CARRIED 6/0 (VOTING YEA: DAVIDSON, KIREK, POWELL, SCHULZ, SKRBIS, AND CATANIA. VOTING NAY: NONE).** Mr. Kirek moved to declare an emergency and adopt, with the second by Mr. Schulz. **ROLL CALL: ADOPTED 6/0 (VOTING YEA: DAVIDSON, KIREK, POWELL, SCHULZ, SKRBIS, AND CATANIA. VOTING NAY: NONE).**

RESOLUTION NO. 15-R-58 - **(Second Reading) A RESOLUTION AUTHORIZING THE CITY OF KIRTLAND, OHIO TO PREPARE AND SUBMIT AN APPLICATION TO PARTICIPATE IN THE OHIO PUBLIC WORKS COMMISSION STATE CAPITAL IMPROVEMENT AND/OR LOCAL TRANSPORTATION IMPROVEMENT PROGRAM(S) AND TO EXECUTE CONTRACTS AS REQUIRED FOR THE S.R. 306 SLOPE STABILIZATION PROJECT, AND DECLARING AN EMERGENCY.**
(Mayor Tyler)

Read by title only. Mr. Kirek moved to waive the three readings with the second by Mr. Davidson. **ROLL CALL: MOTION CARRIED 6/0 (VOTING YEA: DAVIDSON, KIREK, POWELL, SCHULZ, SKRBIS, AND CATANIA. VOTING NAY: NONE).** Mr. Kirek moved to declare an emergency and adopt, with the second by Mr. Schulz. **ROLL CALL: ADOPTED 6/0 (VOTING YEA: DAVIDSON, KIREK, POWELL, SCHULZ, SKRBIS, AND CATANIA. VOTING NAY: NONE).**

NEW BUSINESS:

ORDINANCE NO. 15-O-60
(Mayor Tyler)

- **AN ORDINANCE CREATING CHAPTER 883 OF THE CODIFIED ORDINANCES OF THE CITY OF KIRTLAND REGARDING MUNICIPAL INCOME TAX EFFECTIVE FROM AND AFTER JANUARY 1, 2016, AND CONTINUING IN FULL FORCE CHAPTER 882 OF THE CODIFIED ORDINANCES FOR TAX YEARS BEGINNING ON OR BEFORE DECEMBER 31, 2015.**

Read by title only and place on first reading. Mr. Kirek led discussion regarding Section 883.02 Definitions, section (d) on page 4 of the ordinance relating to income of tax-exempt tangible, intangible property or tax-exempt activities. Mr. Kirek interprets this to mean anything that is competing with the private sector shouldn't be taxable. Mr. Martinet stated the language in the ordinance is the same that is in the internal revenue code for 501c. Mr. Kirek made reference to Section 883.23 Rental and Leasing Property, section (A) on page 46 of the ordinance relating to property owners of real property must provide the City with a written report providing the names, addresses and phone number of each tenant known to occupy such property. Mr. Kirek brought up Section 883.21 Board of Tax Review, section (A) on page 44 of the ordinance whereas three members need to be appointed to the Board of Tax Review; two members shall be appointed by Council and one member appointed by the Mayor for two year terms. Presently the Board is made up of two Councilmen and the Mayor. Mr. Martinet suggested the board be appointed at the organizational meeting. The Board of Tax Review reports to the Finance Director. Mr. Martinet will give his interpretations at the next meeting.

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CONTINUING CONCERNS:

None.

COUNCIL COMMENTS:

Mr. Davidson advised that Jim Naughton, former Mayor of Kirtland, passed away. A service will be held on November 7, 2015 at 2:00 p.m. at the Elementary School followed by an internment at the South Cemetery.

Mr. Schultz stated that his son and Boy Scout Troop #286 are selling popcorn. If anyone is interested please speak to him.

PUBLIC COMMENTS:

None.

ADJOURNMENT:

Mr. Kirek moved to adjourn, with the second by Mr. Powell. The motion of Council passed by unanimous vote and the meeting adjourned at 8:12 p.m.

President of Council

Clerk of Council