

KIRTLAND CITY COUNCIL MINUTES

October 3, 2016

The meeting of Kirtland City Council was called to order at 7:15 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: Kevin Eilerman, David Kirek, Kevin Potter, Matthew Schulz, Robert Skrbis, Joseph Smolic and R. Robert Umholtz.

Administrative personnel present were: Mayor Douglas E. Davidson, Law Director Daniel F. Richards, Finance Director Keith Martinet, City Engineer Philip Kiefer and Police Chief Wayne Baumgart. Fire Captain Douglas Bode was present in the absence of Fire Chief Anthony Hutton.

PUBLIC HEARING

Ordinance No. 16-O-39 – Update to Stormwater Ordinances

Council President Umholtz opened the public hearing in this regard. There were no questions or comments from the public or Council members, and Mr. Umholtz closed the public hearing.

MINUTES OF THE SEPTEMBER 19, 2016 WORK SESSION:

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, as presented, with the second by Mr. Schulz. **ROLL CALL: MOTION CARRIED 6/0/1 (VOTING YEA: SCHULZ, SKRBIS, SMOLIC, UMHOLTZ, KIREK AND POTTER. VOTING NAY: NONE. ABSTAINING: EILERMAN).**

MINUTES OF THE SEPTEMBER 19, 2016 COUNCIL MEETING:

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

DEPARTMENT REPORTS:

Fire Captain Douglas Bode did not present a formal report and no questions were asked of him.

Police Chief Wayne Baumgart stated that in a joint effort with OSP in Chardon, two of their troopers worked with two Kirtland officers on a DUI task force for approximately three hours; he noted that the Mayor received a copy of the report.

Chief Baumgart noted that he received a nice letter from a lady in Canada who has a website featuring different recipes using chocolate (chocolatimeresipes.com), and she incorporates inspirational stories with her recipes. Chief Baumgart noted that she used JD as an inspiration for her recipe for oatmeal chocolate chip squares.

City Engineer Philip Kiefer stated that his monthly report for September has been distributed.

DEPARTMENT REPORTS (continued):

Finance Director Keith Martinet advised that the State audit is complete; it is available on the State of Ohio website and will be posted on the City website. Mr. Martinet noted that Council members can contact him if they would like a copy.

Mr. Martinet stated that the bond refinance took longer than anticipated; he noted that Huntington will provide the refinancing at 2.38 percent, which will save the City \$164,000 over the next ten years (present value to today's dollar will be \$135,000 savings).

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

MAYOR'S REPORT/ANNOUNCEMENTS:

Mayor Davidson advised that the road striping on Route 306 has been delayed due to the weather; it is expected to be done as soon as weather permits. He advised that more drainage design is needed on Eagle Road West.

Mayor Davidson advised that the plow truck is finished; he invited Council members to stop at the Service Department to see the truck. He stated that the cost to refurbish the truck, including a new stainless steel bed and a new cab, was \$62,000; the cost of a new truck is \$170,000.

The Mayor stated that the Finance Department received the highest marks from the State Auditor; he congratulated Keith Martinet, Julie Loxterman, Chris Speece and the Department Heads.

Noting that a cell tower behind City Hall was mentioned in the last meeting minutes, Councilman Eilerman inquired about the status. Mayor Davidson stated that an inquiry was made to the City, and that he spoke with Council, the Planning and Zoning Commission Chairman and the Board of Zoning Appeals Chairman in this regard. He noted that he will check with the Law Director and the Clerk of Council to determine if the tower can be placed on private property if it cannot be placed on public property.

Responding to Councilman Potter, Mayor Davidson stated that the roads are a priority and the work on the sidewalk was done during a period of planning with Willoughby Hills for Worrell Road. Mayor Davidson stated that the goal is to extend the sidewalk to Charlesderry to improve accessibility to that neighborhood, noting that it is dependent upon the funds available this year. The Mayor noted that in future years, depending on the budget, he would like to extend the sidewalk on the other side of the street to Barristers Court and eventually to Pinehurst. Councilman Smolic inquired about the estimated cost for the sidewalk. Mayor Davidson stated that the invoice was \$2,000 for the concrete. The Mayor stated that the City did not need to rent any equipment and the work is being done internally, noting that Scott Martz and Duane Martz have done excellent work on the concrete.

Noting that the goal is to close as many projects as possible by the end of the year, Mayor Davidson stated that the City is waiting on funding from Lake County Stormwater Management to finish the lower drainage system on the park property behind the school.

Responding to Councilman Smolic, Mayor Davidson advised that Phase I (chip and seal base) on Worrell Road will be done by a contractor hired by Willoughby Hills; Kirtland's Service Department will do the top with hot mix asphalt. He stated that Kirtland is providing the work as an in-kind contribution, along with some cash, noting that it will be done this season. Mr. Smolic inquired if the entire length of the road will be done. Mr. Kiefer noted that Kirtland will defer to Willoughby Hills since they are in charge of the project.

STANDING COMMITTEE REPORTS:

Councilman Smolic, Chairman of the Police and Fire Standing Committee, stated that he contacted the Law Director regarding some issues with cats following a complaint this week. Mr. Richards stated that the issue with cats deals primarily with regulations pertaining to feral cats, and another issue regarding potentially restricting the number of pets per household. Mr. Richards stated that the Law Department is studying this additional issue before the dog ordinance is put before Council; he noted that the dog ordinance is within the animal code for the City and he would prefer that all amendments be done at one time.

Mr. Richards stated that consideration is being given to modifying the current proposal to compromise from a breed specific ban to registration with the Police Department, defining the animals by breed so they can be traced and to establish financial responsibility for the animals. He noted that information has been obtained from various other communities, which can be included in the ordinance amendment.

Mr. Richards stated that Councilman Smolic has been working diligently on this matter, noting that there have been several modifications over the past year.

CORRESPONDENCE:

Council President Umholtz reported on the following:

1. Registration information for the Ohio Municipal League 2016 annual conference to be held in Columbus, October 26 through October 28. Mr. Umholtz noted that a registration form and agenda is included; however, there is a limited budget for training, and the budgeted funds were utilized this year for new Council member training. Mr. Umholtz noted that if any Council members are interested in attending, it would be at their own expense unless additional funds are made available. Mr. Umholtz noted that there is a one-hour workshop on October 27 regarding animal control issues, including bees, chickens, feral cats and dogs.

PUBLIC COMMENTS ON MATTERS NOT ON THE AGENDA:

Ed Szanyi, 7251 Shadowbrook, stated concerns about commercial activity at 10208 Hobart Road, which is residential property. Mr. Szanyi stated that the property was purchased in March 2015 by Gerald and Gail Ribelli; he noted that they have another property which he assumes is where they live. Mr. Szanyi stated that there are two limited liability corporations that are using the address of 10208 Hobart Road as their address, one of which is a land management service and another is an asphalt paving, sealcoating and repair company. He noted that there is a third one, known as "Students Sealing" using that address. Mr. Szanyi stated that medium duty trucks and equipment trailers are housed in the front yard at 10208 Hobart Road; he noted that a snow plow has been parked there since spring, and he has seen stacks of packaged material and empty wooden pallets in the front yard 50 ft. from the edge of the road. Council President Umholtz advised that this information needs to be provided to the Zoning Inspector, noting that he will inspect the property for any violations.

With regard to the use of the address by the limited liability corporations, Law Director Richards advised that it is not uncommon for people to utilize their home address for the documents relating to incorporation of a business, but it does not establish the premises as a non-conforming use. He noted that evidence is needed regarding what is being done on the property, and the normal course of action is to refer the matter to the Zoning Inspector, who will conduct an investigation and make a report; if the Zoning Inspector concludes that there is an infraction, he will either take direct action or refer it to the Law Department or the Police Department to take action. Mr. Richards stated that any information, including photographic evidence, should be provided to the Zoning Inspector.

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

Council President Umholtz stated that this will be referred to the Zoning Inspector, who will report back to Council.

Walter Tornstrom, 8735 Palomino Trail, stated that his neighbor asked him to get involved regarding a similar situation on his street; he noted that he has spoken to the Mayor. Mr. Tornstrom stated that a neighbor has two long vans that he uses for his business, along with a dump truck, trailer and an unused vehicle parked in the front. He stated that a snow plow blade is parked at the end of the driveway, along with a pick-up truck, beyond what he is using for his own business. Mr. Tornstrom stated that this was brought to the previous Mayor's attention three years ago, and a follow-up letter was sent to the current Mayor. Mr. Tornstrom stated that the City's prosecutor has indicated that the ordinance can be enforced.

Mayor Davidson stated that he and Mr. Catania received the letter from Mr. Tornstrom; Mr. Catania investigated the matter and found that it did not pass the threshold to send a notice of violation or send it to the prosecutor.

Mr. Tornstrom stated that the ordinance states that construction equipment is to be stored behind a fence or barrier or to be enclosed, but the neighbor's equipment is in the front yard.

Council President Umholtz noted that there must be credible evidence observed by the Zoning Inspector in order to proceed with a citation and prosecution. Mr. Umholtz stated that Council will request that the Zoning Inspector look into this situation, and if there is a violation, then a citation will be issued.

Joe Tucceri, 10363 Wilbert Drive, stated that he has concerns about water drainage on his property, noting that he has asked the Mayor and City Engineer to have the house at 10317 Wilbert surveyed. He stated that the property is higher than it should be, noting that they built a pond in their back yard so the water runoff from the front yards would fill up their pond. Mr. Tucceri stated that when it storms, the water comes very fast and fills his yard and runs across the street; the water covers his neighbor's driveway. He stated that he was told that Mr. Kiefer walked the property; he noted that it needs to be cleaned up.

Mr. Kiefer stated that he walked the stream during the summer from Booth Road to Crary Lane. Mr. Kiefer stated that there is a lot of overgrowth that presents minor restrictions to the water, but there is no major blockage. Mr. Kiefer stated that the stream overgrowth should be cleared out, and the City will need to decide who will be responsible to clear it out; he noted that it is all private property, but the stream is a flood plain. Mr. Kiefer stated that he will prepare a report, with his photographs and recommendations. Mr. Kiefer noted that when he walked the stream, Mr. Tucceri's detention basin was dry, except for the channel that runs through the bottom.

Noting that he invited Mr. Tucceri to attend tonight's meeting, Mayor Davidson stated that he and the City Engineer would like to meet with him following the Council meeting, and he invited Mr. Tucceri's Councilman to join them. The Mayor stated that these are complex stormwater issues, noting that the City is working to find a solution.

Gary Baur, 8596 Palomino Trail, stated that the cul-de-sac in front of his house was left in place when the street was extended. He stated that the snow plows keep taking out the curb, and the curb that was recently put in looks worse than it did without the curb. Mr. Baur stated that he believes the City should put the curb back in correctly, with a curb machine. Mayor Davidson stated that he has looked at the cul-de-sac on Palomino; he noted that it was critical to Mr. Baur that it be fixed with asphalt. The Mayor stated that the plows do tear up the asphalt curbing, and he noted that something stronger than asphalt will be needed to resolve this.

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

Mayor Davidson noted that a couple weeks ago, Mr. Catania sent out a crew to fix the curb while he was on vacation; he noted that the back half of the curb is good, but the front half of the curb looks poor. The Mayor noted that he has asked Mr. Catania to go back and take care of this, noting that it may be necessary to change materials because it is a difficult spot for the plows.

Mr. Baur noted that he and the neighbors spent thousands of dollars this year on landscaping for the cul-de-sac, so it is upsetting to see the curb looking so bad.

OLD BUSINESS:

RESOLUTION NO. 16-R-38 - **(Second 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, 2016 TO GENERAL OBLIGATION BOND FUND #600; IN THE AMOUNTS AND FOR THE PURPOSES SPECIFIED.**
(Mayor Davidson)

Read by title only and placed on Second Reading.

ORDINANCE NO. 16-O-39 - **(Second Reading) - AN ORDINANCE TO UPDATE THE STORMWATER ORDINANCES OF THE CITY OF KIRTLAND PURSUANT TO RENEWAL OF THE OHIO EPA MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) PERMIT.**
(Council President Umholtz)

Read by title only. City Engineer Kiefer recommended that some changes be made to Exhibits "A" and "B". He noted that every instance that refers to "community engineer" or "City of Kirtland engineer" should be changed to "Kirtland City Engineer" for consistency in the ordinances. Mr. Kiefer also recommended the following changes in Exhibit "A": On page 22, subparagraph (i) should be corrected to (j); on page 23, subparagraph (j) should be corrected to (k); and at the top of page 26, in paragraph B. referring to the second violation, the language should be corrected to read that the Mayor, rather than the Kirtland Public Service Administrator, may issue a Stop Work Order. Mr. Eilerman moved to amend Exhibits "A" and "B" of Ordinance No. 16-O-39 as recommended by the City Engineer. Mr. Skrbis provided the second. **ROLL CALL: MOTION CARRIED 7/0 (VOTING YEA: SCHULZ, SKRBIS, SMOLIC, UMHOLTZ, EILERMAN, KIREK AND POTTER. VOTING NAY: NONE).** The legislation was placed on Second Reading.

NEW BUSINESS:

None.

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CONTINUING CONCERNS:

None.

COUNCIL COMMENTS:

Councilman Skrbis noted that he will stay after the Council meeting to meet with Mr. Tucceri, along with the Mayor and the City Engineer. Mr. Skrbis noted that he is aware that the curb is taken out by the snow plows; he stated that he will try to help as Mr. Baur's Councilman. Mr. Skrbis thanked the residents for coming to the meeting and expressing their concerns, noting that Council has to follow proper procedures, which would include investigation by the Zoning Inspector when necessary. Noting that these issues are in his ward, Mr. Skrbis stated that he will help in any way possible.

PUBLIC COMMENTS:

None.

ADJOURNMENT:

Mr. Kirek moved to adjourn, with the second by Mr. Eilerman. The motion of Council passed by unanimous vote and the meeting adjourned at 8:08 p.m.

President of Council

Clerk of Council