

## KIRTLAND CITY COUNCIL MINUTES

October 17, 2016

The meeting of Kirtland City Council was called to order at 7:00 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, Service Administrator Carm Catania and Fire Chief Anthony Hutton. Police Sergeant Jamey Fisher was present in the absence of Police Chief Wayne Baumgart.

### MINUTES OF THE OCTOBER 3, 2016 WORK SESSION:

Mr. Eilerman moved to waive the reading of the minutes, with the second by Mr. Smolic. The motion of Council passed by unanimous vote. Mr. Eilerman moved to adopt the Minutes, as presented, with the second by Mr. Smolic. **ROLL CALL: MOTION CARRIED 7/0 (VOTING YEA: SCHULZ, SKRBIS, SMOLIC, UMHOLTZ, EILERMAN, KIREK AND POTTER. VOTING NAY: NONE).**

### MINUTES OF THE OCTOBER 3, 2016 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, as presented, with the second by Mr. Schulz. **ROLL CALL: MOTION CARRIED 7/0 (VOTING YEA: SCHULZ, SKRBIS, SMOLIC, UMHOLTZ, EILERMAN, KIREK AND POTTER. VOTING NAY: NONE).**

### DEPARTMENT REPORTS:

**Fire Chief Anthony Hutton** did not present a formal report. On behalf of his family and his daughter, Chief Hutton thanked Council, the Mayor, the Administration and the City as a whole for all of the support his family has received following his daughter's accident. He noted that his daughter is making progress every day.

**Police Sergeant Jamey Fisher** did not present a formal report and no questions were asked of him.

**Service Administrator Carm Catania** did not present a formal report. Councilman Smolic inquired about the status of Worrell Road. Mr. Catania stated that the Service Department is doing the berms now; he noted that Willoughby Hills is helping with the landscaping and hopes to do the striping this week. Mr. Smolic stated that he drove down Worrell this morning, noting that the Service Department did a very good job.

Councilman Schulz thanked Mr. Catania for having the striping done on Route 306.

**City Engineer Philip Kiefer** did not present a formal report. Mr. Kiefer noted that Kim Lawson of Chagrin River Watershed Partners is present at tonight's meeting to help answer any questions from Council regarding the updates to the stormwater ordinances.

**DEPARTMENT REPORTS (continued):**

Referring to discussion at the last meeting regarding the stormwater ordinance updates, Mr. Smolic stated that it was mentioned that the regulations pertain more to the quality of the water runoff than the quantity; he inquired if there is a benchmark that must be reached regarding the quality. Noting that the recommendations address both quality and quantity, Ms. Lawson stated that the City of Kirtland belongs to Lake County Stormwater Management Department, and Lake County Stormwater is required to address the total maximum daily loads for the Chagrin River Watershed, meeting certain water quality requirements as a whole. She noted that Kirtland will have to report its activities to Lake County Stormwater Management Department regarding how the City is helping to address particular pollutants. Ms. Lawson noted that by adopting these codes, not only is the City meeting its construction general permit and MS4 permit, it is also helping to meet the reduction in pollutants.

Councilman Smolic inquired if the City will have to meet a certain improvement in the quality of the water. Mr. Kiefer stated that for now, the EPA is assuming that if the City implements these best management practices, the water quality will be improved; he noted that there are no specific numbers that must be met unless future testing of the Chagrin River does not provide improvements that satisfy the EPA. Mr. Kiefer stated that the main issue is the temperature requirement because the East Branch and its tributaries are cold water habitats.

**Finance Director Keith Martinet** advised that he prepared the September financial statements and that they will be distributed this week. Mr. Martinet stated that work is beginning on the 2017 budget.

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

**MAYOR'S REPORT/ANNOUNCEMENTS:**

Mayor Davidson stated that there have been incidents in the last several weeks of people selling merchandise at the corner of Route 6 and Route 306, noting that it was handled by the Police Department. The Mayor noted that permission was not given by the property owner, and he was not aware if they had a vendor's license.

Mayor Davidson stated that additional engineering is needed on Eagle Road West for the drainage; he noted that the drainage work was deeper than first anticipated. The Mayor noted that the road paving will be done next year.

The Mayor advised that the Service Department crew will be working on extending the sidewalk to Charlesderry Road, noting that it will be an advantage for the neighborhood to connect to the sidewalk. He noted that he spoke with some of the residents of the neighborhood and they are excited about having access to the sidewalk.

With regard to the repairs being done on the bridge (on Route 306) by ODOT and their contractors, Mayor Davidson stated his appreciation to Councilman Schulz for the help he has provided tuning up the contractor's signage. Responding to Councilman Eilerman, Mayor Davidson stated that it is his understanding that two lanes will be open at night and one lane will be open during the day while they finish up the work. Noting that a number of cars diverted to Markell Road, Mayor Davidson stated that Waite Hill police were present in that area last night to make sure that motorists are adhering to the speed limit.

Mayor Davidson stated that he will follow up with the City Engineer regarding the slough on the right-hand side of the hill on Route 306.

**MAYOR'S REPORT/ANNOUNCEMENTS (continued):**

Councilman Schulz stated that prior to tonight's meeting, he sent a text to the ODOT construction engineer regarding the banging on the joint armor. Mr. Schulz stated that the last time he checked the traffic at that section of Route 306, which was probably a couple years ago, there were 13,000 to 14,000 cars per day moving north through Kirtland to reach the interstate. Mr. Schulz stated that ODOT detours traffic from a state route to another state route, but local traffic will find its way through the city street grid.

Councilman Smolic inquired about road repairs going into the fall season. Mayor Davidson stated that by the end of this year, he will provide a summary of the work accomplished on this year's plan; and the expectations for next year's plan will probably be available in March or April of next year.

**STANDING COMMITTEE REPORTS:**

Councilman Smolic, Chairman of the Police and Fire Standing Committee, stated that Mr. Richards and Mr. Laudato from the Law Department are working on the final draft of the dog ordinance.

**CORRESPONDENCE:**

None.

**PUBLIC COMMENTS ON MATTERS NOT ON THE AGENDA:**

**Sterling Coleman, 7636 Markell Road**, stated that he would like to formally withdraw any negative thoughts he may have had about the stormwater runoff fee that is added to his property taxes; he noted that his son is building a house in Florida and there is an environmental impact fee assessment of \$9,100 along with the building permit.

**OLD BUSINESS:**

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

Read by title only. Mr. Kirek moved to adopt, with the second by Mr. Eilerman. **ROLL CALL: ADOPTED 7/0 (VOTING YEA: SCHULZ, SKRBIS, SMOLIC, UMHOLTZ, EILERMAN, KIREK AND POTTER. VOTING NAY: NONE).**

**ORDINANCE NO. 16-O-39** - **(Third 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. Mr. Eilerman moved to adopt, with the second by Mr. Potter. **ROLL CALL: ADOPTED 6/1 (VOTING YEA: SKRBIS, SMOLIC, UMHOLTZ, EILERMAN, KIREK AND POTTER. VOTING NAY: SCHULZ).**

**NEW BUSINESS:****RESOLUTION NO. 16-R-40**  
**(Mayor Davidson)**

- **A RESOLUTION TO AUTHORIZE AND APPROVE TRANSFER OF FUNDS FROM THE GENERAL FUND #100; TEMPLEVIEW SEWER PROJECT #503; SAID FUNDS TO BE TRANSFERRED BY OR BEFORE DECEMBER 31, 2016 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. 16-O-41**  
**(Mayor Davidson)**

- **AN ORDINANCE ADOPTING A MORATORIUM ON APPLICATIONS FOR, AND THE GRANTING OF, ZONING CERTIFICATES AND/OR OCCUPANCY PERMITS FOR ANY BUILDING, STRUCTURE, USE OR CHANGE OF USE THAT WOULD ENABLE THE CULTIVATION, PROCESSING, DISTRIBUTION OR SALE OF MEDICAL MARIJUANA FOR A PERIOD NOT TO EXCEED SIX MONTHS IN ORDER TO ALLOW THE CITY TO REVIEW APPLICABLE STATE AND LOCAL LAWS, TO PLAN FOR REGULATIONS RELATING TO SUCH USES, AND DECLARING AN EMERGENCY.**

Read by title only. Councilman Schulz inquired if other cities across Ohio have been adopting this type of legislation. Law Director Richards advised that this is the result of an amendment passed by the legislature and signed by the governor. Mr. Richards advised that it became effective in September, and communities across the state are reviewing this matter and deciding whether to pass a moratorium or prohibit it altogether. Mr. Richards stated that under the Federal law, controlled substances are illegal, regardless of whether the State passes legislation allowing the growing, harvesting, processing and distribution of marijuana for medical purposes. He stated that even if there are tightly restricted regulations and a pharmacy board making determinations as to appropriateness of issuance of licenses, the Federal law still stands in place. Mr. Richards noted that Council can pass the moratorium, and then pass the prohibition legislation or legislation regulating this use at a later date. Mr. Richards noted that if the City adopts legislation to prohibit cultivating, processing and distributing medical marijuana, legislation could be passed in the future regulating this use if the City so desires.

Noting that the State amendment became effective on September 8, Councilman Eilerman inquired about the consequences if an application were to be submitted now. Mr. Richards stated that it is important that Council act soon to either pass a moratorium or pass legislation of prohibition to prevent an applicant from claiming to be vested in an interest and having a right to go forward. Mr. Richards stated that although he does not believe an applicant would have any vested interest or right, he does not believe it would be wise to have to litigate that issue.

There was discussion regarding the length of time for the moratorium. Mr. Richards noted that six months does not provide much time for the Planning and Zoning Commission to fully research the issue and make a recommendation. Responding to Councilman Schulz regarding the possibility of extending the moratorium, Mr. Richards advised that the State law allows for the six-month moratorium and he is not comfortable with attempting to extend it. He noted that the State law allows the cities to prohibit it altogether. Responding to Councilman Eilerman, Mr. Richards stated that the six-month moratorium would begin when Council passes legislation adopting a moratorium.

**NEW BUSINESS – ORDINANCE NO. 16-O-41 (continued):**

Noting that Kirtland has a lot of open land and a couple farms, Councilman Smolic inquired if the prohibition would also cover cultivation. Mr. Richards advised that it would prohibit cultivation, processing and distribution.

Following discussion, Council President Umholtz requested that Council waive the three readings, declare an emergency and adopt the moratorium legislation; then have the first reading on the legislation prohibiting this use, noting that after three readings it can be adopted, defeated or tabled.

Mr. Eilerman moved to waive the three readings, with the second by Mr. Skrbis. **ROLL CALL: MOTION CARRIED 7/0 (VOTING YEA: SCHULZ, SKRBIS, SMOLIC, UMHOLTZ, EILERMAN, KIREK AND POTTER. VOTING NAY: NONE).** Mr. Schulz moved to declare an emergency and adopt, with the second by Mr. Eilerman. **ROLL CALL: ADOPTED 7/0 (VOTING YEA: SCHULZ, SKRBIS, SMOLIC, UMHOLTZ, EILERMAN, KIREK AND POTTER. VOTING NAY: NONE).**

**ORDINANCE NO. 16-O-42** - **AN ORDINANCE AMENDING CHAPTER 624 OF THE  
(Mayor Davidson) CODIFIED ORDINANCES BY ENACTING SECTIONS  
624.17 AND 624.18 PROHIBITING THE ESTABLISHMENT  
AND OPERATION OF MEDICAL MARIJUANA  
DISPENSARIES, THE INDOOR AND OUTDOOR  
CULTIVATION OF MEDICAL MARIJUANA, AND THE  
DELIVERY OF MARIJUANA, AND DECLARING AN  
EMERGENCY.**

Read by title only and placed on First Reading.

\* \* \* \* \*

**CONTINUING CONCERNS:**

None.

**COUNCIL COMMENTS:**

Councilman Skrbis noted that he attended the informal "Coffee with Council" gathering on Saturday, and he requested that Councilman Potter provide an update. Councilman Potter stated that it is held once a month, noting that there were 6 to 8 residents in attendance on Saturday. Mr. Potter noted that the residents had questions about the roads, and the residents complimented the Mayor for the work that was done in front of City Hall. Mr. Potter invited Council members and the Administration to attend any of the monthly gatherings. Councilman Skrbis stated that Mr. DaVinci, who has a real estate office in Kirtland, also attended on Saturday; he noted that there was a lively discussion regarding the former Wood Manor furniture store property.

**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 7:35 p.m.

---

President of Council

---

Clerk of Council