

KIRTLAND CITY COUNCIL MINUTES

November 21, 2016

The meeting of Kirtland City Council was called to order at 7:11 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, Police Chief Wayne Baumgart and Fire Chief Anthony Hutton.

MINUTES OF THE NOVEMBER 9, 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 7/0 (VOTING YEA: SKRBIS, SMOLIC, UMHOLTZ, EILERMAN, KIREK, POTTER AND SCHULZ. VOTING NAY: NONE).**

MINUTES OF THE NOVEMBER 9, 2016 COUNCIL MEETING:

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

DEPARTMENT REPORTS:

Fire Chief Anthony Hutton did not present a formal report and no questions were asked of him.

Police Chief Wayne Baumgart advised that although there was a recent pedestrian accident, he is proud of the City and the City Departments for receiving the AAA Platinum Award again this year. The Chief publicly thanked his assistant, Cindy Gabor, for putting the report together.

Service Administrator Carm Catania did not present a formal report. Councilman Skrbis thanked Mr. Catania for his follow-up regarding the septic issue on Billings Road.

Councilman Potter inquired if the patching is done for the season. Mr. Catania stated that the Department is still working on patching and trying to finish up before the snow falls.

City Engineer Philip Kiefer did not present a formal report. Mr. Kiefer stated his appreciation to Council for passing the Erosion and Sediment Control Ordinance at the last meeting. Mr. Kiefer noted that today he received a draft Memorandum of Understanding with the Lake County Soil & Water Conservation District, who will administer that ordinance. He noted that the EPA wants some changes, and there will be legislation in that regard before the end of the year.

Councilman Smolic inquired if the City Engineer anticipates any changes in the EPA as a result of the presidential election. Mr. Kiefer stated that there may be some easing up of regulations.

DEPARTMENT REPORTS (continued):

Finance Director Keith Martinet advised that he prepared, posted and distributed the October financial statements. Mr. Martinet stated that he is working on the final amended appropriation for 2016, which will be provided to Council at the second meeting in December; he noted that Council will need to waive the three readings. Mr. Martinet advised that the temporary appropriation is on tonight's agenda, noting that this legislation can receive three readings.

Mr. Martinet stated that he is working with the Mayor on the budget; the plan is to submit the budget to Council in early 2017.

Councilman Eilerman thanked Mr. Martinet for his patience in explaining the appropriation process.

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

MAYOR'S REPORT/ANNOUNCEMENTS:

Mayor Davidson noted that an hour-long work session was held before the regular meeting with regard to the recent pedestrian/vehicle accident on Route 306. The Mayor noted that he has some comments in this regard but will reserve them until the end of the meeting.

With regard to the sidewalk project, Councilman Potter inquired if a cost figure is available yet. Mayor Davidson advised that Mr. Martinet has requested that Mr. Catania and Julie Loxterman put those figures together, noting that it should be available by the first meeting in December. Mr. Potter stated that Mr. Catania and the Service Department are doing a great job on the project; he noted that a few residents have asked him about the cost.

Noting that there was some discussion previously about a possible cell phone tower, Councilman Potter stated that it may be a good time to look into this, since the City will be incurring some additional costs relating to the crosswalk study and potential crosswalks. Mayor Davidson stated that he received a verbal inquiry with regard to the interest in installing a cell tower in the location of the Police Department's current antenna behind the building; he noted that the height would be multiples of the existing antenna tower and the revenue generated would be minimal. The Mayor noted that it is an aesthetic question of whether it is worth the minimal revenue. He noted that he will advise Council if a formal application is received.

Council President Umholtz noted that the City can regulate, but not prohibit, cell towers; he noted that the ordinance adopted relating to cell towers provides that they are to be placed on public property where the public would gain the benefit. Mr. Umholtz stated that if the City rejects a cell tower and does not permit it to be located on public property, it can be placed in a neighborhood where it will create more of a concern for neighbors than it would in the downtown area. Mr. Umholtz suggested that the interested party be contacted and advised that the City has not ruled out the possibility and request a formal proposal if they are interested in pursuing it. Mayor Davidson stated that he will contact them to revisit the issue and request a formal proposal.

Noting that there was discussion at the last Council meeting regarding the Ohio Open Checkbook, Councilman Smolic inquired about the total cost involved and inquired if the City is looking to participate in the next few years. Finance Director Martinet advised that he has looked into this, and the City's software is not compatible with the Ohio Open Checkbook; he noted that the City owns the software so there is no current cost to the City. Mr. Martinet stated that the software that is compatible with the Ohio Open Checkbook would cost the City \$30,000, plus the cost involved to have someone re-enter the City's data into their software; he noted that the Finance Department employees are part-time. Mr. Martinet advised that the monthly financial statements and the annual budget are posted on the City website.

MAYOR'S REPORT/ANNOUNCEMENTS (continued):

Noting that there were some Crestwood Drive residents at the last Council meeting, Councilman Smolic inquired if the streets that were not addressed this year will "roll over" to next year. Mayor Davidson advised that those streets will be included for next year; he noted that the asphalt plants are not yet closed and the Service Administrator has indicated that additional patching will still be done this year.

STANDING COMMITTEE REPORTS:

Councilman Smolic, Chairman of the Police and Fire Standing Committee, stated that Mr. Richards forwarded the final draft of the dog ordinance. Mr. Richards noted that there were some highlighted sections in the latest draft, noting that he believes this ordinance is appropriate in terms of due process and in keeping with many other communities that have similar regulations. It was noted that the Standing Committee is ready to present this ordinance to City Council.

CORRESPONDENCE:

None.

PUBLIC COMMENTS ON MATTERS NOT ON THE AGENDA:

Service Administrator Catania thanked Councilman Smolic for the call today; he noted that there were no problems with the lift station, but it was a malfunction with the alarm at the Rockwood treatment plant and the electrician will be coming out to take care of it.

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

- (Third Reading) - 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. Mr. Kirek moved to adopt, with the second by Mr. Skrbis. ROLL CALL: ADOPTED 7/0 (VOTING YEA: SKRBIS, SMOLIC, UMHOLTZ, EILERMAN, KIREK, POTTER AND SCHULZ. VOTING NAY: NONE).

**ORDINANCE NO. 16-O-42
(Mayor Davidson)**

- (Third Reading) - AN ORDINANCE AMENDING CHAPTER 624 OF THE 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.

OLD BUSINESS – ORDINANCE NO. 16-O-42 (continued):

Read by title only. Mr. Eilerman moved to adopt and declare an emergency, with the second by Mr. Skrbis. In discussion, Mr. Potter stated that he brought up his concerns in the work session, noting that without more information or more diligence on his part, he is hesitant to vote for this Ordinance tonight. Mr. Skrbis noted that if someone were to present a good plan to the City, Council has the ability to repeal this ordinance; he noted that the City can still be open-minded to something that is presented. **ROLL CALL: ADOPTED 5/2 (VOTING YEA: SKRBIS, UMHOLTZ, EILERMAN, KIREK AND SCHULZ. VOTING NAY: SMOLIC AND POTTER).**

NEW BUSINESS:

RESOLUTION NO. 16-R-44 - **A RESOLUTION CONFIRMING THE REAPPOINTMENT OF MICHAEL T. DENK TO THE PLANNING AND ZONING COMMISSION, AND DECLARING AN EMERGENCY.**
(Mayor Davidson)

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

RESOLUTION NO. 16-R-45 - **A RESOLUTION CONFIRMING THE REAPPOINTMENT OF SUZANNE M. GRAZIA TO THE BOARD OF ZONING APPEALS, AND DECLARING AN EMERGENCY.**
(Mayor Davidson)

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

RESOLUTION NO. 16-R-46 - **A RESOLUTION CONFIRMING THE REAPPOINTMENT OF WENDY C. HUTTON TO THE VOLUNTEER FIRE FIGHTERS' DEPENDENTS BOARD, AND DECLARING AN EMERGENCY.**
(Mayor Davidson)

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

RESOLUTION NO. 16-R-47 - **A RESOLUTION CONFIRMING THE APPOINTMENT OF NICHOLAS ANGIE TO THE VOLUNTEER FIRE FIGHTERS' DEPENDENTS BOARD, AND DECLARING AN EMERGENCY.**
(Mayor Davidson)

Read by title only. Responding to Councilman Skrbis, Chief Hutton advised that Mr. Angie is replacing Dr. Porter for the term commencing on January 1, 2017. Mr. Schulz moved to waive the three readings, with the second by Mr. Eilerman. **ROLL CALL: MOTION CARRIED 7/0 (VOTING YEA: SKRBIS, SMOLIC, UMHOLTZ, EILERMAN, KIREK, POTTER AND SCHULZ. VOTING NAY: NONE).** Mr. Eilerman moved

NEW BUSINESS – RESOLUTION NO. 16-R-47 (continued):

to declare an emergency and adopt, with the second by Mr. Smolic. **ROLL CALL: ADOPTED 7/0 (VOTING YEA: SKRBIS, SMOLIC, UMHOLTZ, EILERMAN, KIREK, POTTER AND SCHULZ. VOTING NAY: NONE).**

ORDINANCE NO. 16-O-48 - **AN ORDINANCE PROVIDING TEMPORARY APPROPRIATIONS FOR THE THREE MONTH PERIOD ENDING MARCH 31, 2017.**
(Mayor Davidson)

Read by title only and placed on First Reading.

ORDINANCE NO. 16-O-49 - **AN ORDINANCE DESIGNATING FINANCIAL INSTITUTIONS AS PUBLIC DEPOSITORIES.**
(Mayor Davidson)

Read by title only and placed on First Reading.

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CONTINUING CONCERNS:

None.

COUNCIL COMMENTS:

Councilman Potter thanked the members of the School Board, Superintendent Bill Wade, Mr. VanArnhem, Mr. Meyer and PTA President Shannon Green for attending the meeting to discuss the incident that occurred last week and the best way to prevent future incidents.

Mayor Davidson stated that the first step in the process is a warrant study, noting that there was a consensus in the work session to conduct the study through CT Consultants. The Mayor stated that the warrant study will illustrate the gaps between traffic and the underlying facts for the types of apparatus that would be placed. Mayor Davidson stated that at the conclusion of the warrant study, the City Council and Administration will work with the School Board to improve safety in the downtown corridor.

Noting that City Engineer Kiefer is familiar with the plans the City developed for the historic downtown district, Council President Umholtz requested that, if possible, plans for future development be taken into account in conducting the warrant study, as well as where to place crosswalks and what types, if recommended.

Mayor Davidson stated that the City is fortunate to have Matt Schulz on Council, noting that he is a District 12 Engineer. The Mayor noted that he has spoken with Councilman Schulz and Superintendent Wade, along with most of the people in the audience, and he appreciates everyone working together in a civil fashion to address this issue correctly.

PUBLIC COMMENTS:

Rich Lowery, 7917 Gildersleeve Drive, stated that the tragic accident that occurred never should have happened, and he is concerned about what will happen now, noting that he has two children. Mr. Lowery stated that excluding Councilman Smolic, Councilman Eilerman, Councilman Potter and the Mayor, because they are new to this administration, the Council was well aware of the potential problem with no crossing, and unfortunately nothing was done about it. He stated that this problem has been before Council for the last five years, and he believes there was money allocated to do a traffic study. Mr. Lowery stated that he knows something will be done now, but it is too late; this should have been addressed five years ago. Council President Umholtz thanked Mr. Lowery for his comments, noting that the concerns were discussed in the work session.

Jodie Kocevar, 7951 Eagle Road, stated that her son just started attending Kirtland Elementary school, and he was there to witness the incident, which was very traumatizing. Ms. Kocevar stated that she called ODOT and was informed that no safety test is necessary to proceed with putting up an informal crosswalk, although she understands that the City plans to have a study done. She stated that ODOT advised her they will fund 80 percent of the project. She stated that she believes the City has a right and a responsibility to put up a crosswalk without delay. Ms. Kocevar stated that as a resident of Kirtland, she would like to see a crosswalk with an adult crossing guard in front of the school and one behind the school. She noted that there are many methods of crosswalks with lights, signs and signals, but using an adult crossing guard is a tried and true method and that cars will stop for a crossing guard. She referred to the crosswalk in downtown Willoughby, with yellow flashing lights, noting that traffic does not always stop. Ms. Kocevar stated that she believes it is important to do something sooner rather than later. She inquired about the possibility of having volunteers to cross the children, noting that she has been approached by other parents interested in volunteering.

Council President Umholtz noted that Ms. Kocevar brings up several good points, many of which were discussed in the work session. He noted that the Mayor of Willoughby has indicated that he believes the crosswalk with yellow flashing lights is dangerous. Police Chief Baumgart stated that crossing guards need to be trained, because they take on liability; he noted that AAA offers training. Ms. Kocevar stated that she will follow up with the Police Chief to coordinate this effort.

Kiki Vjdar, 10259 Kimberly Drive, stated that she is the person who called 911 to report the accident. She stated that she is appalled that the City did not have a police car sitting there the following morning to try to make drivers slow down.

Mayor Davidson stressed the importance of engineering, education and enforcement, noting that Superintendent Wade has been working on educating the students. With regard to engineering, Mayor Davidson stated that a warrant study will be done in a timely fashion; he noted that the study precedes the plan, even a conceptual plan. The Mayor stated that there will be enhanced enforcement, noting that it is incumbent upon all the residents to drive the speed limit and to avoid distractions while driving. He advised that the City will move forward with the warrant study.

Councilman Potter stated that residents are concerned about what will be done in the short-term for the immediate safety of pedestrians trying to cross the road, and he is hopeful that something can be done to address those concerns.

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 7:55 p.m.

President of Council

Clerk of Council