

KIRTLAND CITY COUNCIL MINUTES

April 17, 2017

The meeting of Kirtland City Council was called to order at 7:15 p.m. by Council President Pro Tempore Robert Skrbis. 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 and Joseph Smolic. Absent: R. Robert Umholtz.

Administrative personnel present were: Mayor Douglas E. Davidson, Law Director Daniel Richards, Finance Director Keith Martinet, City Engineer Philip Kiefer, Service Administrator Carm Catania, Fire Chief Anthony Hutton and Police Chief Wayne Baumgart.

MINUTES OF THE APRIL 3, 2017 WORK SESSION:

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

MINUTES OF THE APRIL 3, 2017 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 6/0 (VOTING YEA: POTTER, SCHULZ, SKRBIS, SMOLIC, EILERMAN AND KIREK. VOTING NAY: NONE).**

DEPARTMENT REPORTS:

Fire Chief Anthony Hutton did not present a formal report. Responding to Councilman Smolic, Chief Hutton noted that there was a fire over the weekend at Mike's Auto Salvage; it was accidental in nature and started in the fuel storage area. The Chief noted that no fuel was spilled and the river was not contaminated. Chief Hutton noted that mutual aid was provided.

Police Chief Wayne Baumgart did not present a formal report.

Chief Baumgart introduced Anthony Germano, noting that he will be sworn in tonight as a new part-time police officer. Chief Baumgart asked him to come forward with his family. Mayor Davidson administered the Oath of Office to Police Officer Anthony Germano. Mr. Germano was joined by his parents and his brother, and he introduced his grandparents and his uncle, along with other officers that graduated with him from the police academy. He received the applause and congratulations of all those present. Chief Baumgart stated that Officer Germano has begun his training and is under the tutelage of Officer Michael Valenti.

Councilman Skrbis mentioned that Kirtland has been ranked the 20th safest city in the State of Ohio.

Service Administrator Carm Catania did not present a formal report. Councilman Potter stated that the resident at 7762 Fairview called because her brush did not get picked up. Mr. Catania advised that the Service Department will take care of it.

DEPARTMENT REPORTS (continued):

Councilman Schulz inquired if an extension of the completion date is anticipated because of the additional work required in the Raccoon Hill culvert project. Mr. Catania advised that the contractor will provide a formal submittal to the City Engineer in this regard.

Councilman Potter stated that he received a call from a resident with regard to preparation of the baseball fields. Mr. Catania stated that it has been very wet, noting that until the second week of April, the school takes care of the fields; he noted that the City does not begin work on the fields until approximately April 15. Chief Hutton stated that the school takes care of the fields for varsity and junior varsity, noting that the kids do a lot of the work themselves. Chief Hutton stated that Larry Spence will provide additional dirt if it is needed; he noted that the City will drag the fields. Chief Hutton stated that, as a baseball coach and a parent, he believes that the City needs to put some money into the infields because they need to be improved.

City Engineer Philip Kiefer did not present a formal report and no questions were asked of him.

Finance Director Keith Martinet advised that he distributed a summary relating to the notes and bonds, noting that there is legislation on the agenda for First Reading. Mr. Martinet advised that he signed the Fiscal Officer's Certificates for the bond anticipation notes and presented them to the Clerk of Council prior to tonight's Council meeting.

Mr. Martinet advised that the State Auditor began work last week; he noted that this is not a full audit, which is done every two years. He noted that the Auditor's work should be completed by the end of May.

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 the National Council for Home Safety and Security ranked Kirtland as No. 20 in the State of Ohio. The Mayor noted that this is outstanding, and he credited the residents, along with the deterrent provided by the Police Department in their follow-up and reputation. The Mayor stated his appreciation to the Police Chief and the Police Department.

Mayor Davidson stated that the scoreboards at the soccer field, the football practice field, and the varsity baseball and varsity softball field have been installed, inspected and permitted as a result of a combination of efforts from the Baseball League, the Service Department, the Kirtland Boosters, BK Electric, Trivisonno Electric, Ron Fenstermaker, Mr. Camino, and particularly Tom Neibecker of the Booster organization.

Councilman Smolic inquired about the time frame for the road plan. Mr. Catania stated that the Service Department will be working on the drainage work on Eagle Road for approximately one month; the road work will take approximately a week to a week and a half once they start paving. Noting that the schedule depends on the weather and on manpower, Mr. Catania stated that Arborhurst and Singlefoot will be done mid-summer; Wrenwood and Martin will be paved on a day that he can pull a couple guys from Eagle Road. With regard to Lakebrook and Woodlake, Mr. Catania stated that there is some prep work to be done on Woodlake; he noted that this neighborhood will take a couple weeks to complete. Mr. Catania stated that he believes the road plan work will be done before September or October.

Councilman Skrbis stated that on Saturday, at the coffee with Council, a question came up regarding the continual sale of items on the front lawn of a private house that is on commercial property. Mr. Skrbis inquired if this would be an exterior maintenance code issue. Noting that he is familiar with the property in question, Mr. Catania stated that he will discuss this with the Law Director and the Planning and Zoning Commission.

STANDING COMMITTEE REPORTS:

Referring to the animal ordinance, Law Director Richards advised that the amendments proposed by the Police and Fire Standing Committee have been provided to Council; he noted that if Council is so inclined a motion can be made to amend the ordinance draft in accordance with the proposed amendments. He noted that the proposed amendments in the summary provided to Council have been incorporated into the draft ordinance. Mr. Richards advised that once it is amended, the legislation will automatically revert to Second Reading, and if Council wishes to pass the ordinance tonight, the three reading requirement will need to be waived; otherwise the legislation can be amended tonight and proceed to Third Reading at the next meeting. Councilman Smolic, as Chairman of the Police and Fire Standing Committee, recommended that the legislation be amended tonight and proceed to Third Reading at the next meeting.

As Chairman of the Planning and Zoning Standing Committee, Councilman Eilerman stated that the Committee met following the last Council meeting, and another meeting will be held following the May 3 Council meeting, primarily to discuss the next steps for the Community Reinvestment Area.

CORRESPONDENCE:

None.

PUBLIC COMMENTS ON MATTERS NOT ON THE AGENDA:

Scott Haymer, 8110 Forestdale Drive, stated that he has additional questions regarding the skeet shooting, and he inquired about the purpose of the General Fund. Finance Director Martinet advised that the General Fund is the unscripted fund used for the City's expenses. Mayor Davidson noted that the State Auditor has the City at fiscal caution due to the lack of general funds in the City's coffers; he noted that Kirtland is the lowest in Lake County for carry-over funds. He noted that this should be kept in mind in any discussion about additional legal expenses.

Mr. Haymer inquired if the Mayor is allowed to spend up to \$25,000 without Council's approval. Mayor Davidson stated that the threshold is set by Ordinance, noting that there are budgetary constraints. Finance Director Martinet advised that although funds below the threshold can be spent by the Mayor, all spending is restricted by the appropriation passed by Council.

Mr. Haymer inquired if the Kirtland Country Club issue is a city issue legally. Councilman Skrbis stated that whether or not it is a legal City issue would need to be referred to the Law Director. Mr. Skrbis stated that the issue affects a lot of the residents and encompasses a great deal of the conversation during work sessions and Council meetings. Mr. Skrbis stated that Council is trying to make sure that they exhaust all resources. Councilman Kirek stated that in his opinion, the skeet shooting is a nuisance.

Mr. Haymer asked if Kirtland is going to seek legal counsel or if the residents have to do it on their own. Councilman Skrbis advised that it has not yet been decided; he noted that the costs have to be assessed. Mr. Skrbis stated that Council has not yet determined a course of action since the Court ruling was made.

Mr. Richards stated that the City, if it so chooses, has the power to retain independent counsel in this regard. With regard to the enforcement of a nuisance, Mr. Richards advised that the City does not cover the costs for individual private property owners to bring litigation. With regard to whether the City itself has the right to bring legal action to abate a nuisance in this case, Mr. Richards stated that this would be the subject matter for outside counsel to determine.

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

Mr. Haymer stated that he was advised that they have only two years to respond; he noted that the permit was issued in July 2015, so they have limited time. Mr. Richards stated that this is an ongoing, continuing course of action, and the doctrine of laches does not apply in this case because it is yet to happen in the future. Mr. Richards noted that there were indications that the Country Club would provide modifications to the property to reduce the amount of sound; he noted that he does not know whether this will happen or how it would affect the sound.

Mr. Haymer inquired when the City will have enough information to respond as to whether outside legal counsel will be retained. Councilman Skrbis referred this question to the Mayor, noting that he is not sure that Council can give a specific time that such a decision would be reached. Mayor Davidson stated that he is influenced by and respects Council and the desire to satisfy the citizens. The Mayor stated that he is also, with the assistance of the Finance Director and the Department Heads, responsible for the budget. The Mayor noted that the City of Willoughby spent tens of thousands of dollars hiring multiple attorneys to take this matter to Court, and it failed; he noted that the likelihood of the City of Kirtland spending tens of thousands of dollars and taking this matter to Court is low because it is difficult for a city to enforce laws outside of its own municipality. Mayor Davidson stated that he spoke with an experienced local practicing attorney regarding a verbal estimate of the cost and the likelihood of success of a legal action. The Mayor noted that after discussion and after reading the brief from the Court, the attorney advised that conservatively the cost would be \$10,000 to \$15,000 for a very small firm, and \$50,000 for a larger firm; and the likelihood of success is very, very low. The Mayor stated that he will continue discussion with Council, and if directed by Council, he will gather estimates to determine how much money the City would like to spend on the effort.

Councilman Skrbis stated that in summary, the decision is not necessarily to hire legal counsel to challenge the decision, but to obtain a legal opinion on whether it would make sense to challenge it. Mr. Skrbis noted that Council will continue to discuss this matter in upcoming work sessions.

David Sickles, Willoughby resident, requested that Council postpone the second reading of the animal ordinance because it is still listed as tabled. He stated that the people that were going to come tonight didn't come because they were told if it was listed as tabled it wasn't on the agenda. Councilman Skrbis advised that if the Ordinance is removed from the table, it does not mean that it is adopted; he stated that if there are people that want to be present, they should attend the next Council meeting.

OLD BUSINESS:

ORDINANCE NO. 16-O-60 - **(Tabled) – AN ORDINANCE AMENDING CHAPTER 618 OF THE CODIFIED ORDINANCES OF THE CITY OF KIRTLAND, RELATING TO ANIMALS.**
(Mayor Davidson)

Mr. Eilerman moved to remove the legislation from the table, with the second by Mr. Potter. **ROLL CALL: MOTION CARRIED 6/0 (VOTING YEA: POTTER, SCHULZ, SKRBIS, SMOLIC, EILERMAN AND KIREK. VOTING NAY: NONE).** The legislation was read by title only. Mr. Schulz moved to amend the Ordinance to incorporate the modifications proposed by the Police and Fire Standing Committee. Mr. Eilerman provided the second. **ROLL CALL: MOTION CARRIED 6/0 (VOTING YEA: POTTER, SCHULZ, SKRBIS, SMOLIC, EILERMAN AND KIREK. VOTING NAY: NONE).** Following the amendment, the legislation reverted to Second Reading.

OLD BUSINESS (continued):

- RESOLUTION NO. 17-R-6** - (Third Reading) - A RESOLUTION TO AUTHORIZE AND APPROVE TRANSFER OF FUNDS FROM THE GENERAL FUND #100; CAPITAL PROJECT FUND #300; SAID FUNDS TO BE TRANSFERRED BY OR BEFORE MAY 31, 2017 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. Potter. **ROLL CALL: ADOPTED 6/0 (VOTING YEA: POTTER, SCHULZ, SKRBIS, SMOLIC, EILERMAN AND KIREK. VOTING NAY: NONE).**

- RESOLUTION NO. 17-R-7** - (Second Reading) - A RESOLUTION ADOPTING THE UPDATED LAKE COUNTY MULTI-JURISDICTIONAL HAZARD MITIGATION PLAN, AND DECLARING AN EMERGENCY.
(Mayor Davidson)

Read by title only and placed on Second Reading.

- RESOLUTION NO. 17-R-10** - (Second Reading) - A RESOLUTION TO AUTHORIZE AND APPROVE TRANSFER OF FUNDS FROM THE GENERAL FUND #100; GENERAL OBLIGATION BOND FUND #600; SAID FUNDS TO BE TRANSFERRED BY OR BEFORE JUNE 15, 2017 TO GENERAL OBLIGATION BOND FUND #600; GENERAL FUND #100; IN THE AMOUNTS AND FOR THE PURPOSES SPECIFIED.
(Mayor Davidson)

Read by title only. Finance Director Martinet advised that he provided Council with a revised Exhibit "A", correcting the typographical error noted at the last meeting. Mr. Schulz moved to amend the Resolution to incorporate the revised Exhibit "A", as corrected and provided by the Finance Director. Mr. Smolic provided the second. **ROLL CALL: MOTION CARRIED 6/0 (VOTING YEA: POTTER, SCHULZ, SKRBIS, SMOLIC, EILERMAN AND KIREK. VOTING NAY: NONE).** The legislation was placed on Second Reading.

NEW BUSINESS:

- ORDINANCE NO. 17-O-12** - AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF \$2,040,000 OF NOTES, IN ANTICIPATION OF THE ISSUANCE OF BONDS, FOR THE PURPOSE OF RETIRING, TOGETHER WITH OTHER FUNDS AVAILABLE TO THE CITY, THE CITY'S OUTSTANDING VARIOUS PURPOSE NOTES, SERIES 2016, DATED JUNE 22, 2016, AND DECLARING AN EMERGENCY.
(Mayor Davidson)

Read by title only and placed on First Reading.

NEW BUSINESS (continued):

- ORDINANCE NO. 17-O-13** - AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF \$400,000 OF NOTES, IN ANTICIPATION OF THE ISSUANCE OF BONDS, FOR THE PURPOSE OF PAYING COSTS OF ACQUIRING A FIRE ENGINE, TOGETHER WITH RELATED APPARATUS AND EQUIPMENT, FOR USE BY THE CITY'S FIRE DEPARTMENT, AND DECLARING AN EMERGENCY.
(Mayor Davidson)

Read by title only and placed on First Reading.

- ORDINANCE NO. 17-O-14** - AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF \$100,000 OF NOTES, IN ANTICIPATION OF THE ISSUANCE OF BONDS, FOR THE PURPOSE OF PAYING COSTS OF IMPROVING THE ROOF OF, AND RENOVATING AND OTHERWISE IMPROVING THE CITY HALL BUILDING, AND DECLARING AN EMERGENCY.
(Mayor Davidson)

Read by title only and placed on First Reading.

- RESOLUTION NO. 17-R-15** - 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 JUNE 30, 2017 TO GENERAL OBLIGATION BOND FUND #600; IN THE AMOUNTS AND FOR THE PURPOSES SPECIFIED.
(Mayor Davidson)

Read by title only and placed on First Reading.

- RESOLUTION NO. 17-R-16** - A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH THE OHIO DEPARTMENT OF TRANSPORTATION FOR THE PURCHASE OF SODIUM CHLORIDE (ROCK SALT), AND DECLARING AN EMERGENCY.
(Mayor Davidson)

Read by title only. Mr. Eilerman moved to waive the three readings, with the second by Mr. Kirek. Councilman Smolic inquired how many tons of road salt are being purchased and how many tons were used this past year. Mr. Catania advised that the City used approximately 3000 to 3200 tons this past year, noting that typically 3500 tons are used per season; he advised that 3500 tons are being requested in this Resolution. **ROLL CALL: MOTION CARRIED 5/0/1 (VOTING YEA: POTTER, SKRBIS, SMOLIC, EILERMAN AND KIREK. VOTING NAY: NONE. ABSTAINING: SCHULZ).**

Mr. Kirek moved to declare an emergency and adopt, with the second by Mr. Potter. **ROLL CALL: ADOPTED 5/0/1 (VOTING YEA: POTTER, SKRBIS, SMOLIC, EILERMAN AND KIREK. VOTING NAY: NONE. ABSTAINING: SCHULZ).**

NEW BUSINESS (continued):

RESOLUTION NO. 17-R-17
(Mayor Davidson)

- **A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT WITH TIMPERIO ROOFING FOR ROOF REPLACEMENT AT KIRTLAND FIRE STATION NO. 1, AND DECLARING AN EMERGENCY.**

Read by title only. Mr. Schulz moved to waive the three readings, with the second by Mr. Kirek. **ROLL CALL: MOTION CARRIED 6/0 (VOTING YEA: POTTER, SCHULZ, SKRBIS, SMOLIC, EILERMAN AND KIREK. 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: POTTER, SCHULZ, SKRBIS, SMOLIC, EILERMAN AND KIREK. VOTING NAY: NONE).**

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CONTINUING CONCERNS:

None.

COUNCIL COMMENTS:

None.

PUBLIC COMMENTS:

Bonnie Budziak, 8045 Forestdale Drive thanked the Council members, the Mayor and the Chiefs for the support they have shown with regard to the skeet shooting, noting that she was at a lot of meetings, and saw a lot of them there. Mrs. Budziak requested that those efforts by the City be continued, noting that skeet shooting was a problem when her father was on City Council. She stated that this year has been nice, because it has been quiet.

ADJOURNMENT:

Mr. Eilerman moved to adjourn, with the second by Mr. Kirek. The motion of Council passed by unanimous vote and the meeting adjourned at 8:07 p.m.

President of Council

Clerk of Council