

## KIRTLAND CITY COUNCIL MINUTES

May 3, 2017

The meeting of Kirtland City Council was called to order at 7:10 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 Richards, City Engineer Philip Kiefer, Service Administrator Carm Catania and Police Chief Wayne Baumgart. Police Lieutenant Lance Nosse was also present, and Fire Captain Dale Grinstead was present in the absence of Fire Chief Anthony Hutton.

### MINUTES OF THE APRIL 17, 2017 WORK SESSION:

Mr. Eilerman moved to amend the minutes to correct the "City of Chardon" reference to "Chardon Township" in the last paragraph on page 1. Mr. Skrbis provided the second. **ROLL CALL: MOTION CARRIED 6/0/1 (VOTING YEA: SCHULZ, SKRBIS, SMOLIC, EILERMAN, KIREK AND POTTER. VOTING NAY: NONE. ABSTAINING: UMHOLTZ).** 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 amended, with the second by Mr. Skrbis. **ROLL CALL: MOTION CARRIED 6/0/1 (VOTING YEA: SCHULZ, SKRBIS, SMOLIC, EILERMAN, KIREK AND POTTER. VOTING NAY: NONE. ABSTAINING: UMHOLTZ).**

### MINUTES OF THE APRIL 17, 2017 COUNCIL MEETING:

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 6/0/1 (VOTING YEA: SCHULZ, SKRBIS, SMOLIC, EILERMAN, KIREK AND POTTER. VOTING NAY: NONE. ABSTAINING: UMHOLTZ).**

### DEPARTMENT REPORTS:

**Fire Captain Dale Grinstead** did not present a formal report. Responding to Councilman Potter with regard to the recent fire at Mike's Auto Salvage, Captain Grinstead noted that he has not seen a report yet; he noted that to the best of his knowledge the facility is operating again.

**Police Chief Wayne Baumgart** did not present a formal report. Councilman Smolic inquired about a traffic accident on Route 6 today near the Willoughby Hills border. Chief Baumgart stated that a vehicle went left of center; there were no injuries.

Councilman Potter inquired about the raccoons that were submitted to the Health Department for testing. Chief Baumgart advised that the animals were not infected.

Councilman Kirek inquired if there have been any reports of gunshots being fired on Thorne Avenue. Chief Baumgart stated that he is not aware of any calls being received.

**DEPARTMENT REPORTS (continued):**

**Service Administrator Carm Catania** did not present a formal report. Councilman Smolic noted that at the last meeting there was discussion about a change order on the north side of Raccoon Hill, which was additional cost. Mr. Smolic inquired if there will be additional cost for the headwall on the south side. Mr. Catania advised that there used to be a headwall on the south side of the road, but it was discovered that it is no longer there. Noting that a structure will be installed, Mr. Catania stated that it is a change order for the south side in the amount of \$53,000. Mr. Catania stated that it was a design build project, noting that the north side was bid. Mr. Catania advised that the cost of the project is covered by Stormwater Management. There was discussion regarding the project and the bids received.

Councilman Potter thanked Mr. Catania for having the brush picked up at the house on Fairview. Mr. Potter inquired about a property on Fairidge with damage from snow plowing; Mr. Catania stated that he is aware of this and that it will be addressed once there is topsoil available.

Responding to Councilman Smolic, Mr. Catania advised that the drainage work on Eagle Road will stop at the driveway of Divine Word Church, noting that the other side will be done if there are funds available once the project is completely finished.

**City Engineer Philip Kiefer** advised that his monthly report for April has been distributed. With regard to the Route 306 slope stabilization south of Eisenhower, Councilman Schulz noted that he has recently become aware of a process known as jet grouting; he stated that he would like to discuss this with Mr. Kiefer to see if this might be a possibility.

**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 he received some questions from Superintendent Bill Wade and others with regard to the crosswalk. The Mayor stated that ODOT has not yet made their selections, noting that he is hopeful that Kirtland's project will be selected.

With regard to the park access road, Mayor Davidson stated that he followed up with Jim Gills, Lake County Engineer, who was very responsive. The Mayor noted that the project is with Larson Design Group, and they are working with Tim Miller of Lake County Stormwater Management. He stated that the project was sent back for redesign, noting that there is a chance this could be done this year.

Mayor Davidson stated that he has the pleasure of presenting a proclamation to Mr. Larry Spence, who has been an employee of the City for 33 years. The Mayor requested that Mr. Spence come forward with his son and his granddaughter. Mayor Davidson read the proclamation in its entirety and presented it to Mr. Spence. Mr. Spence expressed his gratitude, noting that it has been a privilege to serve the City of Kirtland. Mr. Spence stated that he has enjoyed meeting with the many families that are descendants of Kirtland residents from one or two hundred years ago. He stated his appreciation in working with the Council members and Department Heads, and he thanked Mr. Catania for his support throughout the years. Mr. Spence received the applause and best wishes of all those present.

Councilman Potter inquired about the progress of the CRA. Mayor Davidson stated that the work on the legislation will be referred to the Finance Committee (Council as a Whole). The Mayor noted that some of the items to be reviewed include the timing, the scope of the geography, whether changes are needed to residential or commercial zoning, and education and coordination to inform and work with those impacted.

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

The Mayor stated that there is a lot of work to be done before the legislation can be adopted and sent to the State for approval, noting that the survey is the first step. Responding to Mr. Potter regarding a time frame, Mayor Davidson stated that his objective is to have this accomplished during this legislative year. There was discussion concerning the process to get the CRA in place.

Councilman Skrbis inquired about a time frame for determining whether the City will engage outside counsel with regard to the skeet shooting. Mayor Davidson stated that he followed up on Council's intent in this matter, and that he would like to discuss this with Council in executive session.

**STANDING COMMITTEE REPORTS:**

Councilman Eilerman stated that the Planning and Zoning Standing Committee will meet this evening following the regular Council meeting.

**CORRESPONDENCE:**

Council President Umholtz noted that the "Cities and Villages" publication from the Ohio Municipal League will no longer be mailed to Council members individually. Noting that only one copy will be provided for Council, Mr. Umholtz advised that he will leave this copy with the Clerk of Council. It was noted that the publication is available on the Ohio Municipal League's website.

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

**Ellen Chamberlin, 8106 Eagle Road,** addressed Council with regard to the work being done on Eagle Road, noting that there was discussion a couple years ago about a culvert at Divine Word Church. Mrs. Chamberlin inquired about the impact on the culvert from the work on the other side of the street. She also inquired why the power company is allowed to clear cut the banks. Mr. Catania advised that for quite some time the power company has been keeping the power lines clear; he noted that the City has no control over the work because it is mandated by the federal government. Mrs. Chamberlin inquired if the property owners are responsible for shoring up that bank. Mayor Davidson noted that Wendy Zele of First Energy may be able to follow up on this, noting that his assistant, Helen Petersburg, has her contact information. Mr. Catania stated that he would be happy to meet with Mrs. Chamberlin and/or Ms. Zele in this regard.

With regard to the culvert, Mr. Catania stated that the work will have no impact on the culvert that is at the base of the hill. He noted that the culvert was replaced several years ago. Responding to Mrs. Chamberlin about a problem a couple years ago, Mr. Catania advised that the problem with the back-up and the road flooding was caused by debris in the pipe, which the City had cleaned out. Mrs. Chamberlin stated that she hopes the City will continue to monitor the culvert. Mr. Catania noted that she can contact him at the Service Department anytime she has concerns.

**Thomas Ross, 9656 Kirtland-Chardon Road,** inquired about getting his ditch dug out, noting that he has contacted the Service Department and was told he could be put on a list; he noted that he also contacted his Councilman. He noted that the ditch is overflowing. Mr. Catania advised that he will come out and look at the ditch.

**OLD BUSINESS:****ORDINANCE NO. 16-O-60**  
**(Mayor Davidson)****- (Third Reading) - AN ORDINANCE AMENDING  
CHAPTER 618 OF THE CODIFIED ORDINANCES OF THE  
CITY OF KIRTLAND, RELATING TO ANIMALS.**

Read by title only. Mr. Schulz moved to adopt, with the second by Mr. Eilerman.

**David Sickles, Willoughby resident**, thanked Council for all of their work on the ordinance. Mr. Sickles inquired about the lack of a restriction on the amount of hours that a dog can be chained outside and the lack of a restriction for chaining a dog outside during inclement weather. Referencing Section 618.06(a)(2), Mr. Sickles noted that a shrub can be considered a dog shelter according to this section, which he does not believe is an adequate shelter. Mr. Umholtz noted that this section refers to the earth's contour, tree development or vegetation providing shelter from excessive direct sunlight.

With regard to the time period that an animal is tethered, Mayor Davidson stated that this matter was discussed, and it was questioned who would realistically measure the time on the restraint. The Mayor noted that in this legislation Council has strengthened the penalties for abuse of animals and protected the residents, noting that this ordinance is a tremendous improvement.

Mr. Sickles noted that some cities restrict the hours and do not allow a dog to be tethered all night. Mr. Umholtz advised that this was discussed; he noted that during the summer it would be more comfortable for the dog to be outside during the night than during the heat of the day. Mr. Umholtz stated that restricting the hours creates a monitoring issue and an issue of proof. Mr. Sickles stated that many people have cameras that are time and date stamped. Mr. Umholtz noted that if there is an extreme situation, neighbors need to call the police to have it documented, and the police can instruct them how to gather evidence.

Mr. Umholtz stated that he believes the proposed ordinance is very reasonable, noting that penalties have been increased for people who are truly abusing animals. Mr. Umholtz noted that there was a lot of time and discussion put into this ordinance, noting that he believes the ordinance addresses all of the concerns that were raised at the various meetings. Mr. Umholtz stated that it was determined that there is not a feral cat problem in Kirtland and that the nuisance ordinance sufficiently covers any potential problem in the future.

Mr. Sickles inquired if it would be possible to develop a flyer that the police can provide when they are called for a problem with feral cats. He noted that the flyer could list the resources in the area. Mr. Umholtz suggested that he talk to the Police Chief to see if he feels it would be useful in providing public service information. Mr. Umholtz thanked Mr. Sickles for his concern and for attending the many meetings in this regard. Mr. Sickles stated that he appreciates the work that has been done on the ordinance.

Councilman Schulz thanked Councilman Smolic for heading up the committee and taking a lot of time with the committee and with the residents; he noted that Mr. Smolic did a lot of homework on the matter and educated Council. Councilman Smolic thanked Council President Umholtz for his work on the ordinance and his legal expertise, and he thanked the public for all of their input. Mr. Umholtz stated that the work on the ordinance was a collective effort, noting that Council took all of the concerns into consideration. Mr. Umholtz thanked Mr. Smolic for the time he spent on this ordinance.

Voting began on the motion to adopt. **ROLL CALL: ADOPTED 7/0 (VOTING YEA: SCHULZ, SKRBIS, SMOLIC, UMHOLTZ, EILERMAN, KIREK AND POTTER. VOTING NAY: NONE).**

**OLD BUSINESS (continued):**

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

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

- RESOLUTION NO. 17-R-10** - (Third Reading) - A RESOLUTION TO AUTHORIZE AND  
(Mayor Davidson) 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.

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

- ORDINANCE NO. 17-O-12** - (Second Reading) - AN ORDINANCE PROVIDING FOR  
(Mayor Davidson) 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.

Read by title only and placed on Second Reading.

- ORDINANCE NO. 17-O-13** - (Second Reading) - AN ORDINANCE PROVIDING FOR  
(Mayor Davidson) 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.

Read by title only and placed on Second Reading.

- ORDINANCE NO. 17-O-14** - (Second Reading) - AN ORDINANCE PROVIDING FOR  
(Mayor Davidson) 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.

Read by title only and placed on Second Reading.

**OLD BUSINESS (continued)**

**RESOLUTION NO. 17-R-15**  
**(Mayor Davidson)**

- (Second 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 JUNE 30, 2017 TO GENERAL OBLIGATION BOND FUND #600; IN THE AMOUNTS AND FOR THE PURPOSES SPECIFIED.

Read by title only and placed on Second Reading.

**NEW BUSINESS:**

None.

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**CONTINUING CONCERNS:**

Mayor Davidson stated that he would like to meet with Council in executive session following the regular business of tonight's meeting.

**COUNCIL COMMENTS:**

Councilman Eilerman advised that he received an e-mail regarding flowers for the City, noting that he will have an update for Council at the next meeting.

Councilman Potter advised that "Coffee with Council" will be held on May 13 at 9:00 a.m.

Councilman Smolic thanked Law Director Richards, Police Chief Baumgart, Fire Chief Hutton, Mayor Davidson, Lieutenant Nosse and Assistant Law Director Laudato for attending numerous meetings relating to the animal ordinance.

**PUBLIC COMMENTS:**

**David Sickles, Willoughby resident** inquired how long it takes before the new animal ordinance will go into effect. Mr. Umholtz advised that it will be effective in 30 days, once the Mayor signs the legislation.

**ADJOURN INTO EXECUTIVE SESSION:**

Mr. Skrbis moved to adjourn into executive session to confer with legal counsel regarding matters of potential legal action, pursuant to Article I, Section 7(c) of the City Charter. Mr. Eilerman provided the second. **ROLL CALL: MOTION CARRIED 7/0 (VOTING YEA: SCHULZ, SKRBIS, SMOLIC, UMHOLTZ, EILERMAN, KIREK AND POTTER. VOTING NAY: NONE).** The time was 8:10 p.m.

**RETURN TO REGULAR SESSION:**

Mr. Eilerman moved to adjourn the executive session, with the second by Mr. Kirek. The motion passed and the executive session adjourned upon unanimous vote at 8:58 p.m. Mr. Skrbis moved to reconvene the regular session, with the second by Mr. Potter. The motion passed upon unanimous vote and the regular session reconvened.

**ADJOURNMENT:**

Mr. Kirek moved to adjourn, with the second by Mr. Skrbis. The motion of Council passed by unanimous vote and the meeting adjourned at 8:59 p.m.

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President of Council

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Clerk of Council