

KIRTLAND CITY COUNCIL MINUTES

August 21, 2017

The meeting of Kirtland City Council was called to order at 7:02 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, Finance Director Keith Martinet, City Engineer Philip Kiefer, Service Administrator Carm Catania, Police Chief Lance Nosse and Fire Chief Anthony Hutton.

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Council President Umholtz requested that Council rules be suspended to proceed to a presentation recognizing Mrs. Roelle. Mr. Schulz so moved, with the second by Mr. Skrbis. **ROLL CALL: MOTION CARRIED 7/0 (VOTING YEA: UMHOLTZ, EILERMAN, KIREK, POTTER, SCHULZ, SKRBIS AND SMOLIC. VOTING NAY: NONE).**

Mayor Davidson noted that Denise Roelle takes care of the Zoning Office and she is also the Clerk of Council; he noted that she is indispensable for the Planning and Zoning and Board of Zoning Appeals meetings, and he commended her for her efforts. The Mayor stated that the City has an opportunity through NOPEC to recognize her at tonight's meeting. Tony Ramos, the Community Outreach Manager for NOPEC, noted that in 2016 they recognized executive assistants of mayors in the communities they serve, and in 2017 they are recognizing Council Clerks in the communities they serve. He presented Mrs. Roelle with a gift and a Certificate of Recognition for her efforts in the City. Mrs. Roelle received the applause and congratulations of those present and expressed her appreciation for the recognition.

Mr. Ramos noted that Council members will receive a "save the date" card for their general assembly meeting to be held in November. He encouraged attendance at the meeting, noting that they will be announcing three new programs, one of which will be an \$18 million grant program offered to their communities and a customer give-back program.

ADJOURN INTO EXECUTIVE SESSION:

Mr. Eilerman moved to adjourn into executive session to discuss potential legal proceedings, pursuant to Article I, Section 7(c) of the City Charter. Mr. Schulz provided the second. **ROLL CALL: MOTION CARRIED 7/0 (VOTING YEA: UMHOLTZ, EILERMAN, KIREK, POTTER, SCHULZ, SKRBIS AND SMOLIC. VOTING NAY: NONE).** The time was 7:08 p.m.

RETURN TO REGULAR SESSION:

The executive session adjourned and the regular session reconvened at 7:23 p.m.

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MINUTES OF THE JULY 10, 2017 COUNCIL MEETING:

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

MINUTES OF THE JULY 10, 2017 FINANCE COMMITTEE MEETING:

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

DEPARTMENT REPORTS:

Fire Chief Anthony Hutton advised that the monthly report has been distributed.

Police Chief Lance Nosse advised that the monthly report has been distributed. Councilman Schulz inquired if there is a reason that the traffic stops increased considerably in July. Chief Nosse noted that the busiest month was April with 270 stops, with the months following averaging 220 to 230 stops; he noted that in July school is out and there are more people out enjoying the weather.

Service Administrator Carm Catania did not present a formal report. Councilman Potter thanked Mr. Catania for addressing the two drainage concerns on Gildersleeve and Eisenhower, noting that the residents were very appreciative. Mr. Potter inquired about a ditch that has been enclosed and runs through the development (on Eisenhower). Mr. Catania stated that it was enclosed over ten years ago. He stated that the City lowered the pipe that runs under Eisenhower to the river, noting that prior to that there was flooding in the entire neighborhood and over the roads. With regard to the recent issue, Mr. Catania stated that as a result of the debris coming down the hillside, it started plugging the driveway culverts. He noted that it would help if the catch basin was cleaned off regularly.

Councilman Smolic stated that the City did a nice job finishing up in Kirtland Lakes. Mr. Smolic inquired what road will be addressed next. Mr. Catania stated that he will discuss this with the Mayor.

Councilman Eilerman inquired about the probability of Pinehurst and Woodcroft being addressed this year. Mr. Catania stated that at a minimum, he would like to patch the potholes and fix the section near the stop sign so the road will be safe for winter.

City Engineer Philip Kiefer advised that his monthly report for July has been distributed. Referring to the Route 306 slope issue south of Kirtland Road, Councilman Schulz stated that there is a possibility that Kirtland may be eligible for geological site management funding for soil restoration.

Councilman Skrbis inquired if there is an estimated timeline for the completion of the Raccoon Hill project. Mr. Catania advised that the pipe work is complete; but the contractor needs four to five days in a row of dry weather to complete the landscape work.

Finance Director Keith Martinet advised that he has prepared, posted and distributed the financial statements through July. Answering Councilman Potter, Mr. Martinet stated that City income tax is coming in a little ahead, and the last of the property taxes are coming in; he noted that revenues are similar to last year.

MAYOR'S REPORT/ANNOUNCEMENTS:

Mayor Davidson stated that the gazebo activities have been tremendous; there have been two concerts and a movie, and he commended the Friends of the Library.

Mayor Davidson advised that notification was received from the Ohio Department of Transportation that Kirtland would not receive funding for the crosswalk. He noted that there were \$6 million in requests, with \$1.7 million to award. The Mayor stated that the data portion of the warrant study is done, noting that two sites were recommended for the crosswalk. He stated that the next step is the engineering estimate and looking for money in the 2018 budget. Mayor Davidson stated that he does not believe a crosswalk without a stop light would be safe. He noted that grant applications are available through NOACA and that the City will be looking into this.

Noting that Marvin Bahr recently retired from the Board of Zoning Appeals, Mayor Davidson stated that there is legislation on tonight's agenda appointing Ted Clutter to fill that vacancy. The Mayor noted that Mr. Clutter is a valued member of the community and he looks forward to his work on the Board of Zoning Appeals, subject to Council's approval of the legislation.

With school starting, Councilman Potter inquired whether there will be a larger police presence in the mornings. The Mayor stated that he will be counting on Chief Nosse to address this and to communicate with the school, noting that keeping the students safe is a priority.

Councilman Smolic inquired whether painting the yellow crosswalk lines, without a stop light, would provide some benefit in the interim and put the responsibility on the driver rather than the pedestrian. Mayor Davidson stated that the Law Director would need to address the liability question. Chief Nosse stated that it would give a false sense of security to the pedestrians crossing the road, and he does not believe a small step will help the situation.

Rose Mladi, 9871 Applewood Drive, inquired about the location of the new crosswalk. Mayor Davidson advised that the study proposed two locations and eliminated one location by the Community of Christ Church because it is too close to where vehicles crest on the hill. He noted that one proposed location is at approximately the mid-point of the high school parking lot, crossing to 9165 Chillicothe; the second location is closer to the library. The Mayor stated that after talking to the Engineer, he believes that the most convenient place for the students to cross is across from 9165 Chillicothe.

Councilman Potter inquired about the cost of the crosswalk. Mayor Davidson stated that it would be in the range of \$50,000 to \$100,000 for hardware and installation, noting that the engineering estimate is needed for the 2018 budget.

STANDING COMMITTEE REPORTS:

None.

CORRESPONDENCE:

Council President Umholtz reported on the following:

1. Correspondence dated July 7, 2017 from the Division of Liquor Control advising that all permits to sell alcoholic beverages will expire on October 1, 2017, and every permit holder must file a renewal application to maintain permit privileges.

PUBLIC COMMENTS ON MATTERS NOT ON THE AGENDA:

Bridget Welter, 10396 Wilbert Drive, addressed Council with regard to the seniors' request for pickleball courts. She stated that she was before Council previously and was advised that an outdoor pickleball court cannot be constructed at this time because of the lack of funding in the budget. Ms. Welter stated that there is a lot of interest in this sport, noting that there will be a senior citizen levy on the ballot this fall. She stated that pickleball provides a health benefit to senior citizens in the form of exercise. She inquired if there is any opportunity for the seniors to play at Lakeland Community College. Mayor Davidson stated that he corresponded with Lakeland Community College, but they do not have facilities for pickleball courts, and if they were to accommodate it, it would be during the summer and not during their regular session. The Mayor recommended that the seniors maximize the use in the surrounding communities, in the same way that use of the swimming pools is shared. Council President Umholtz stated that the concern is the cost of installing pickleball courts, at a time when there is not enough funding to pave roads. Mr. Umholtz requested that the Mayor ask the Recreation and Senior Coordinator to look into developing a cooperative agreement with neighboring communities. Mayor Davidson stated that he will contact the Recreation and Senior Coordinator, noting that people are often members of multiple senior centers. The Mayor noted that sharing of the facilities is beneficial for all taxpayers. He noted that replacing the broken pavement in front of the Community Center is currently a greater priority.

Debbie Gifford, 38600 Berkshire Hills Drive, Willoughby Hills, stated that out of the 40 members at Kirtland, a lot of those members stay at Kirtland; they sign in to give the Kirtland Senior Center the credit. She stated that many go to other communities to play because Kirtland cannot supply the courts, and they pay to join the other senior centers also.

Council President Umholtz thanked the members for attending the meeting, noting that there is unfortunately not a solution financially at this time.

Rose Mlatsi, 9871 Applewood Drive, inquired if there is an individual, such as a Councilman, that represents this type of issue and can represent them with regard to their request for pickleball courts. Council President Umholtz advised that Council represents the citizens collectively, and the residents entrust Council to make responsible decisions for the betterment of the entire community. Noting that there are minimal funds available, Mr. Umholtz stated that Council and the Mayor have to work within the parameters of the available funds. Mr. Umholtz stated that he will refer this matter to the Recreation Standing Committee to work with those who would like to see more facilities made available for pickleball. Councilman Skrbis, Chairman of the Recreation Standing Committee, stated that the committee can look into solutions, noting that it comes down to funding.

Scott Haymer, 8110 Forestdale Drive, requested an update on the skeet shooting issue. Council President Umholtz advised that the Mayor and Council requested a legal opinion from outside counsel; the legal opinion has been received. Mr. Umholtz stated that from a legal perspective it appears that Kirtland Country Club is within its legal rights, and any action that the City of Kirtland would attempt to take at this point would be very costly and the chance of success would be very minimal. Mr. Umholtz stated that this does not mean that the City is giving up and ignoring the situation, noting that the Mayor is looking into other more diplomatic channels that can be pursued.

Mayor Davidson advised that the City hired outside counsel to review the case and the likelihood of success of the case. The Mayor noted that the legal opinion supported what the City had been told informally, that it would be a very expensive case to litigate and the chance of success would be low. The Mayor noted that the opinion of the outside counsel was less optimistic than the informal opinion the City received previously. The Mayor stated that the City will not spend money on additional attorneys for legal proceedings, but the City will discuss this with the leadership of the Country Club and work through informal channels for mitigation.

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

Mr. Haymer inquired if he can get a copy of the legal opinion. Council President Umholtz stated that he would prefer that Mr. Richards answer this inquiry, because it involves the issue of potential litigation; he noted that he will contact Mr. Richards. For clarification, Councilman Skrbis stated that matters that are discussed in executive session have to remain in that session for legal reasons, and that is the reason the inquiry needs to be referred to the Law Department.

Brianna Aldrich, 10521 Hobart Road, stated that it was brought to her attention that there will be discussion regarding commercial parking in residential areas; she inquired when that discussion will be held. Mayor Davidson advised that the City received complaints about commercial vehicle parking in residential areas, and it was requested that the Planning and Zoning Commission review this matter. The Mayor noted that a draft ordinance was prepared, and the Planning and Zoning Commission held a public hearing on August 14. Mayor Davidson noted that the proposed ordinance will likely be reviewed by a Standing Committee of Council, and another public hearing will be held by Council once the Committee completes their review. It was noted that the legal notice for the public hearing will be published in the News-Herald, and the agenda indicating the three readings of the ordinance and the public hearing will be posted on the City's website.

Arzella Melnyk, 10506 Hobart Road, stated that she read in the July 3, 2017 minutes that a resident addressed Council about a situation involving the Police Department; the resident felt that ICE should not be contacted if it is determined that the illegal alien does not have a criminal record. Ms. Melnyk noted, however, if they are here illegally, they have broken the law. She noted that it was also suggested that the group HOLA could be contacted to help the City develop their policy with the Police Department. Ms. Melnyk stated that it has been reported that HOLA is a non-profit organization that advocates for the aliens. Ms. Melnyk stated that she does not want Kirtland to become a sanctuary for illegal aliens, but if a policy is put in place providing that the Police Department will no longer contact ICE, Kirtland will be labeled a sanctuary. Ms. Melnyk stated that Senator Jordan has introduced legislation (Senate Bill 162) to cut funding for Ohio cities and there is a companion bill in the House that is being introduced by Representative Keller (House Bill 179). Ms. Melnyk stated that before a decision is made regarding a policy for the Police Department, the City should consider whether it should take a chance on losing any of its funding just to protect those who choose to break the laws.

OLD BUSINESS:

ORDINANCE NO. 17-O-25
(Mayor Davidson)

- (Tabled) - AN ORDINANCE IMPLEMENTING SECTIONS 3735.65 THROUGH 3735.70 OF THE OHIO REVISED CODE, ESTABLISHING AND DESCRIBING THE BOUNDARIES OF THE NORTH ROUTE 306 CORRIDOR COMMUNITY REINVESTMENT AREA IN THE CITY OF KIRTLAND, OHIO, DESIGNATING A HOUSING OFFICER TO ADMINISTER THE PROGRAM AND CREATING A COMMUNITY REINVESTMENT HOUSING COUNCIL AND A TAX INCENTIVE REVIEW COUNCIL.

Council President Umholtz noted that there was discussion during the work session regarding whether Council would like to remove this Ordinance from the table in order to move forward, and there was also some concern expressed that additional discussion should be held through a Standing Committee. Mr. Umholtz stated that it appears that the majority of Council would like additional discussion, and he asked that this matter be referred to the appropriate Standing Committee and that a meeting be scheduled no later than this coming Monday so that Council can proceed at the September 6 meeting to remove this from the table and hold a public hearing where residents and interested parties can discuss the proposed ordinance.

OLD BUSINESS – ORDINANCE NO. 17-O-25 (continued):

Upon the suggestion of the Mayor, Council President Umholtz assigned this matter to the Finance Committee (Council as a Whole), and it was agreed that a meeting be scheduled for Monday, August 28, 2017 at 7:00 p.m. The legislation remains tabled.

ORDINANCE NO. 17-O-26 - (Tabled) - AN ORDINANCE IMPLEMENTING SECTIONS 3735.65 THROUGH 3735.70 OF THE OHIO REVISED CODE, ESTABLISHING AND DESCRIBING THE BOUNDARIES OF THE SOUTH ROUTE 6 CORRIDOR COMMUNITY REINVESTMENT AREA IN THE CITY OF KIRTLAND, OHIO, DESIGNATING A HOUSING OFFICER TO ADMINISTER THE PROGRAM AND CREATING A COMMUNITY REINVESTMENT HOUSING COUNCIL AND A TAX INCENTIVE REVIEW COUNCIL.
(Mayor Davidson)

Council President Umholtz also assigned this Ordinance to the Finance Committee (Council as a Whole) for review at the meeting scheduled for August 28, 2017. The legislation remains tabled.

NEW BUSINESS:

RESOLUTION NO. 17-R-29 - A RESOLUTION CONFIRMING THE APPOINTMENT OF THEODORE W. CLUTTER TO THE BOARD OF ZONING APPEALS TO FILL THE UNEXPIRED TERM OF F. MARVIN BAHR, AND DECLARING AN EMERGENCY.
(Mayor Davidson)

Read by title only. Mr. Skrbis moved to waive the three readings, with the second by Mr. Eilerman. **ROLL CALL: MOTION CARRIED 7/0 (VOTING YEA: UMHOLTZ, EILERMAN, KIREK, POTTER, SCHULZ, SKRBIS AND SMOLIC. VOTING NAY: NONE).** Mr. Eilerman moved to declare an emergency and adopt, with the second by Mr. Smolic. **ROLL CALL: ADOPTED 7/0 (VOTING YEA: UMHOLTZ, EILERMAN, KIREK, POTTER, SCHULZ, SKRBIS AND SMOLIC. VOTING NAY: NONE).** Mr. Clutter was in the audience and received the applause of all those present.

RESOLUTION NO. 17-R-30 - A RESOLUTION AUTHORIZING THE MAYOR TO PURCHASE ONE (1) NEW 2017 FORD F-250 4WD PICK-UP TRUCK FOR USE BY THE SERVICE DEPARTMENT, AND DECLARING AN EMERGENCY.
(Mayor Davidson)

Read by title only. Mr. Eilerman moved to waive the three readings, with the second by Mr. Kirek. Responding to an inquiry from Councilman Potter, Mr. Catania stated that the truck that is being replaced is a 2005 and is in disrepair; he noted that it is used for various errands for City Hall, the Police Department and the Community Center and it is not safe to be driven far. Mr. Catania stated that it is also used for plowing City Hall, the Community Center and the cemeteries, along with side streets during large storms. Councilman Schulz inquired if the City is planning to purchase the vehicle after the five-year lease. Mr. Catania stated that the vehicle will be purchased; he noted that the reason for the emergency is to receive the 2017 pricing. **ROLL CALL: MOTION CARRIED 7/0 (VOTING YEA: UMHOLTZ, EILERMAN, KIREK, POTTER, SCHULZ, SKRBIS AND SMOLIC. 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: UMHOLTZ, EILERMAN, KIREK, POTTER, SCHULZ, SKRBIS AND SMOLIC. VOTING NAY: NONE).**

CONTINUING CONCERNS:

None.

COUNCIL COMMENTS:

Councilman Kirek stated his appreciation for the fruit basket following his hospitalization.

Mayor Davidson stated that he received a request for information from Councilman Smolic on Friday, noting that he, Mr. Martinet, Mr. Catania and Ron Erxleben of the Service Department collected the information. Mayor Davidson noted that because of the number of items covered in the work session, there was not enough time to discuss this, but he advised that he has a packet of information for each Council member, along with a copy of the Charter, which has not been distributed previously. The Mayor thanked Councilman Smolic for sending his inquiry in an e-mail so the information could be put together and provided to him and the other Council members; he noted that he is available to discuss the contracts entered into by the City.

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 8:16 p.m.

President of Council

Clerk of Council