

KIRTLAND CITY COUNCIL MINUTES

July 13, 2020

The meeting of Kirtland City Council was called to order at 7:01 p.m. by Council President Pro Tempore Jeffrey Ruple. Due to the current state of emergency regarding COVID-19, the meeting was held virtually via Zoom. Mr. Schulz led the prayer which followed the Pledge of Allegiance. The members of Council present were: Scott Haymer, John Lesnick, Jeffrey Ruple, Matthew Schulz, Joseph Smolic and Kelly Wolfe. Richard Lowery arrived later in the meeting.

Administrative personnel present were: Mayor Kevin Potter, Law Director Matthew Lallo, Assistant Finance Director Louis Slapnick, City Engineer Douglas Courtney, Service Director Joseph Fornaro, Police Chief Lance Nosse, Fire Chief Anthony Hutton and Economic Development Manager Monica Drake.

DEPARTMENT REPORTS:

Fire Chief Anthony Hutton advised that he received a COVID update from Health Commissioner Ron Graham today, and there has been a significant spike in cases in Lake County. He noted there was one new case in Kirtland last week. Noting that Lake County is at Level Two, Chief Hutton stated it looks like the County is getting closer to a Level Three ranking; the Health Commissioner is asking that everyone follow the guidelines.

Chief Hutton stated the Kirtland Hills fire agreement is on tonight's agenda, and he would be happy to answer any questions in this regard. He advised that he and Chief Nosse have been working with Willoughby, and the dispatch transition is moving forward.

With regard to COVID, Councilman Lesnick inquired if the Chief has any numbers on hospitalizations and deaths. Chief Hutton stated there have been seven hospitalizations and seven deaths in Lake County since July 1, which is a significant spike recently. He noted there are approximately 220,000 residents in Lake County.

Police Chief Lance Nosse noted that the process has begun with regard to the dispatch transition to Willoughby. He stated that yesterday's parade for the seniors went very well, and the officers and the Fire Department did a great job. He stated he received a lot of positive feedback, and he congratulated all the 2020 seniors.

Chief Nosse stated the Department is still investigating some burglaries and thefts.

Councilman Lesnick inquired if there is a date scheduled for completion of the dispatch transition to Willoughby. Chief Nosse stated the PSAP needs to be disassembled and moved to Willoughby, and there will be some training in Willoughby, which will take a few weeks. He stated it should be complete by mid to late August, September 1 at the latest.

City Engineer Douglas Courtney advised that, with regard to the 2019 drainage projects, there is some touch-up work to be done on Fox Hill; he talked to the contractor (Tim Meyer of Badger) this morning, who indicated they might be out tomorrow. Work on Tibbetts is expected to begin the middle of this week; the contractor will confirm the start date after another job is finished today.

With regard to the Route 6 culvert (west of Sperry), Mr. Courtney advised that the Service Department will address that issue.

Regarding the old town sewers, Mr. Courtney advised that a conference call was held today with the EPA; the City is close to reaching an agreement on the timeline for findings and orders.

DEPARTMENT REPORTS (continued):

Mr. Courtney stated he and Mr. Fornaro have been working on road maintenance and repair plans, including a maintenance program for 2020 through 2023, and a repair program for 2020 through 2022. He noted they will be adding to those lists to extend to future years as assessments on the streets are done. For 2020, they are still looking at Springer and Emerald Glen with respect to contractor work.

Mr. Courtney stated there is no update on the Recreation Park at this time. He advised that the construction on Riverwood Way by Aqua Ohio is complete and the water main has been installed. Notices were sent to residents advising that final seeding will be done in the fall.

Answering Councilman Schulz regarding the road maintenance and repair plans, Mr. Courtney stated that as he and Mr. Fornaro get more involved in assessing the streets, the date range will expand.

Service Director Joseph Fornaro advised that for the road repair plan, the range is currently two years, noting that it is a living document and some streets will get bumped to the following years. He stated they will be into 2023 and possibly 2024, depending on the funding.

Mr. Fornaro stated the Department continues to crack-seal. He noted they had some storm damage they had to fix over the weekend. Overall, there were not many flooding issues; Saxton was taken care of with the jetting that was done. A catch basin was added to Eagle Road to help with that flooding issue.

He advised that Ribelli will be starting on the Locust area tomorrow; they anticipate three days to get that work done, weather permitting.

Councilman Schulz thanked Mr. Fornaro for looking at the tree branch and the sign that was knocked over. He stated he received a call Friday regarding the power outages at the south end of the City, noting that his power went out five times on Friday; he believes this will have to be looked into more closely, possibly by conference call with First Energy, so there can be better reliability. Mr. Fornaro stated he has put in a call to Wendy, the City's representative at First Energy, and noted that he will be looking into this matter.

Councilman Smolic inquired about the location of the storm damage. Mr. Fornaro stated it was on Route 306, north of the Service Department garage. He stated a branch came down and looked to be on the edge of the road; crews were called in to take care of it due to the winds.

Mr. Smolic inquired about the location of the added catch basin on Eagle Road. Mr. Fornaro stated it was on Eagle West, and the basin added is just west of the church driveway. He noted that was the location where the runoff was washing the gravel into the street; there was no gravel in the street following the rain over the weekend.

Councilwoman Wolfe thanked Mr. Fornaro for meeting her at the Matko residence. Mr. Fornaro said some improvement should be seen there this week; the crews have some ideas to address the situation.

With regard to the power outages, Councilman Lesnick stated it was his understanding that a Utilities Standing Committee meeting would be scheduled in this regard, noting that people have complained and the situation seems to be getting worse. Mr. Schulz stated he can schedule a meeting following a telephone conference with First Energy.

Councilman Ruple inquired about the status of the drainage issue on Woodlake. Mr. Fornaro stated the project has not yet been bid, noting that he does not yet have a timeline. He noted it will be grouped with other projects.

DEPARTMENT REPORTS (continued):

Economic Development Manager Monica Drake reported that she communicated with Planning and Zoning Standing Committee Chairman Ruple regarding the possibility of considering businesses with retail components but are currently required to be in Limited Industrial areas to be permitted to operate. She noted it was recommended to look at using a conditional use permit in the retail area, noting this has been shared with the Law Director along with a request to develop an ordinance.

She advised that a local business owner shared that a northeast Ohio company, with which she is affiliated, has developed degradable plastic bags, which is a great invention since plastic bags are now being used rather than the reusable bags; and she will be sharing additional information regarding environmentally friendly plastics. Ms. Drake stated she will pass on that information once she receives it.

Ms. Drake stated that, based on the COVID situation this fall, there were some brainstorming ideas for supporting Kirtland businesses, with a possible wine and chocolate walk event. If the situation does not permit this to occur this year, it can be developed for next spring or fall. She stated the purpose is to highlight Kirtland businesses and showcase what they have to offer.

Assistant Finance Director Louis Slapnick advised that the June end-of-month financials have been distributed and he is available for questions on that report. He stated work continues on the new system, and it is coming along well.

Law Director Matthew Lallo stated that with regard to the zoning mentioned by Ms. Drake, the only issue he can foresee is that it would change the zoning classification. He stated he will research this further, but at this time he believes it would require a referendum vote.

Mr. Lallo stated legislation is on the agenda for the final development plan for the project just south of the Police Station (Cocca property). Also on the agenda is the agreement with the Kirtland Hills Fire Department; Chief Hutton was able to work with their Chief to develop a good timeline and schedule going forward. Another item on the agenda relates to the Kirtland Public Library and the Kirtland Youth Soccer League. He noted the Soccer League has approached the City in the past about trying to use the property behind the Library to develop it into a soccer field for the Youth Soccer League. He advised this is an agreement between the City, the Library and the Youth Soccer League.

Councilman Ruple inquired if the items of new business require approval at tonight's meeting. Mr. Lallo stated that with regard to the development at 9327 Chillicothe, the owners cannot move forward until City Council approves it. With regard to the agreement with Kirtland Hills, Mr. Lallo stated that Chief Hutton and the Village of Kirtland Hills asked that it be approved as soon as possible. Mr. Lallo stated that in order for the Soccer League to move forward for a potential fall season on the fields, the Soccer League may want that agreement in place sooner rather than later. Mr. Lallo stated there is no pressing need to get these items of legislation passed, but it is being requested out of convenience.

Councilman Smolic inquired about the length of the current contract with Kirtland Hills. Mr. Lallo replied that it was for five years. Mr. Smolic inquired about the increase. Mr. Lallo stated that Chief Hutton's goal is for this to be in equivalence of the pay for one of the part-time employees at the Fire Station that covers the Village of Kirtland Hills. Mr. Lallo stated that Chief Hutton looked at the past rates for the staff when this agreement began, noting that the rates have increased but their payments have not. Mr. Lallo stated there would be an increase every other year for the first five years.

Mr. Smolic inquired who will maintain the soccer field, and whether any leveling of the field will be done. Mayor Potter stated some work will be done up front, bringing in topsoil to remove some of the potholes, but the hill will remain.

MAYOR'S REPORT/ANNOUNCEMENTS:

Mayor Potter publicly thanked Jackie Woolnough and Susie Shafer for bringing the project forward for the soccer fields. He also thanked Mr. Fornaro and Jane Carle of the Kirtland Public Library for their involvement.

Mayor Potter thanked the Police and Fire Departments for their efforts in the parade for the graduating seniors. He congratulated all the seniors.

The Mayor thanked the employees of the Police, Fire and Service Departments for bearing with the extreme heat that has been experienced lately.

Mayor Potter stated a productive conversation was had today with the Ohio EPA relative to the Findings and Orders, and the ultimate timeline and scope of those Orders. He stated that the next meeting with the EPA will incorporate some of the potential funding mechanisms through the Ohio EPA Water Pollution Control Loan Funding program.

With regard to the road maintenance and development program, Mayor Potter stated he is hopeful that Councilman Smolic can schedule a couple Service Department Standing Committee meetings in the near future. For the first meeting, the Mayor suggested that Mr. Courtney and Mr. Fornaro can open the dialogue as it relates to the current status of the roads, and further discuss a maintenance plan for the next few years. He stated the ultimate objective is to come up with a road program and road plan that the residents can trust going forward.

Mayor Potter stated he would like Mr. Smolic to schedule a second meeting, to have the Road Paving Task Force summarize their analysis relating to the road report, and to discuss current conditions and what would be entailed in building a future road program for the City of Kirtland, including how the Task Force can assist the City in the next few years as that program is launched.

Mayor Potter noted that July 15 is the tax deadline, noting that residents should file their taxes, including local taxes, if they have not done so already.

With regard to the Service Department Standing Committee meetings, Mayor Potter stated he believes it would be beneficial if the group can meet in person at City Hall. Since there is limited space for residents and outside participants due to the need to social distance, he noted that the Council Chambers doors can be left open to provide seating 6 ft. apart, including seats in the City Hall lobby. Noting that the background noise would make it difficult to also hold the meeting on Zoom, he suggested that the meeting could be live streamed on Facebook so the community can watch the meeting. Mr. Lallo stated he sees no issues with holding the meeting in this manner, as long as planning is in place to maintain 6 ft. social distancing due to COVID-19. He noted that the City needs to provide special notice for the Committee meeting, with 24 hours' notice, providing the location and including the information relating to the live streaming of the meeting. Mr. Lallo stated that the law does not require the City to permit the public's input in Standing Committee meetings, which is why Facebook live would be permissible.

Councilman Ruple inquired if Mr. Lallo has been involved in the meetings with the Ohio EPA regarding the sewers. Mr. Lallo confirmed that he has been present for those meetings. Mr. Ruple inquired about communicating information from these meetings to Council at Large and Mrs. Wolfe as Council for Ward 1. Mayor Potter suggested that Mrs. Wolfe and he work together to develop a message to the residents. Mr. Lallo stressed the importance of making sure the funding is in order. Discussion ensued regarding the timeline, funding and providing information to the community.

STANDING COMMITTEE REPORTS:

Upon agreement of the Committee members, Councilman Smolic stated that a Service Department Standing Committee meeting will be scheduled for July 21, 2020, at 6:30 p.m., with Mr. Fornaro and Mr. Courtney present.

Additionally, a Service Department Standing Committee meeting was tentatively scheduled for July 29, to meet with the Road Paving Task Force. It was noted both Committee meetings will be held in person at City Hall and live streamed on Facebook.

CORRESPONDENCE:

None.

PUBLIC COMMENTS ON MATTERS NOT ON THE AGENDA:

None.

OLD BUSINESS:

PUBLIC COMMENTS ON AGENDA ITEMS OF OLD BUSINESS:

None.

ORDINANCE NO. 20-O-33 - (Third Reading) - AN ORDINANCE PROVIDING FOR THE SUBMISSION TO THE ELECTORATE OF THE CITY OF KIRTLAND, OHIO, A PROPOSAL TO AMEND THE CHARTER OF SAID CITY BY AMENDING ARTICLE VII – CHARTER AMENDMENTS, SECTION 2 – CHARTER REVIEW COMMITTEE, AND DECLARING AN EMERGENCY.
(Council President Lowery)

The legislation was read by title only. Law Director Lallo advised that for this ordinance and the two following, the Charter states that Council shall place these on the ballot; therefore it is Council's obligation and duty to vote to place these on the ballot. Mr. Schulz moved to declare an emergency and adopt, with the second by Mr. Smolic. **ROLL CALL: ADOPTED 6/0 (VOTING YEA: HAYMER, LESNICK, RUPLE, SCHULZ, SMOLIC AND WOLFE. VOTING NAY: NONE).**

ORDINANCE NO. 20-O-34 - (Third Reading) - AN ORDINANCE PROVIDING FOR THE SUBMISSION TO THE ELECTORATE OF THE CITY OF KIRTLAND, OHIO, A PROPOSAL TO AMEND THE CHARTER OF SAID CITY BY AMENDING ARTICLE II-A – APPOINTED ADMINISTRATIVE OFFICERS AND DEPARTMENTS, SECTIONS 2, 3, 4, AND 5, AND DECLARING AN EMERGENCY.
(Council President Lowery)

The legislation was read by title only. Mr. Lesnick moved to declare an emergency and adopt, with the second by Mrs. Wolfe. **ROLL CALL: ADOPTED 6/0 (VOTING YEA: HAYMER, LESNICK, RUPLE, SCHULZ, SMOLIC AND WOLFE. VOTING NAY: NONE).**

OLD BUSINESS (continued):**ORDINANCE NO. 20-O-35**
(Council President Lowery)

- **(Third Reading) - AN ORDINANCE PROVIDING FOR THE SUBMISSION TO THE ELECTORATE OF THE CITY OF KIRTLAND, OHIO, A PROPOSAL TO AMEND THE CHARTER OF SAID CITY BY REPEALING ARTICLE V – INITIATIVE, REFERENDUM AND RECALL, SECTION 5 – MANDATORY ZONING REFERENDUM AND AMENDING ARTICLE I – THE COUNCIL, SECTION 8 – POWERS AND DUTIES, AND DECLARING AN EMERGENCY.**

The legislation was read by title only. Mr. Schulz moved to declare an emergency and adopt, with the second by Mrs. Wolfe. **ROLL CALL: ADOPTED 6/0 (VOTING YEA: HAYMER, LESNICK, RUPLE, SCHULZ, SMOLIC AND WOLFE. VOTING NAY: NONE).**

NEW BUSINESS:**PUBLIC COMMENTS ON AGENDA ITEMS OF NEW BUSINESS:**

Katarina Cocca-Fulton, 8299 Mayfield Road, Chesterland, Ohio, spoke regarding Resolution 20-R-38; she expressed appreciation to the Planning and Zoning Commission, who held a special meeting to accommodate the summer recess schedule of Council so the development could be on Council's meeting agenda before the recess. She stated they are seeking approval of the final plan as an emergency, noting that usually this type of request does not have to go before both Council and Planning and Zoning, but it does in this case because of the location.

RESOLUTION NO. 20-R-38
(Council President Lowery)

- **A RESOLUTION APPROVING THE FINAL DEVELOPMENT PLAN FOR 9327 CHILLICOTHE ROAD AS APPROVED BY THE PLANNING AND ZONING COMMISSION, AND DECLARING AN EMERGENCY.**

The legislation was read by title only. Councilman Schulz requested confirmation that the access drive is a private drive that the owner will be responsible for maintaining the pavement and drainage features. Ms. Cocca-Fulton advised that is correct. Mr. Schulz inquired if there will be dumpsters or individual garbage service. Ms. Cocca-Fulton stated they are planning for each resident to have individual garbage service. Mr. Schulz stated that due to the scale of the drawing, he was unable to see the right-of-way line along Route 306 and he questioned the structure on the southernmost wet detention basin, whether it is in the right-of-way and whether it will be approved by permit. He noted there is a sanitary sewer easement there and questioned the property rights and what the City may be responsible for in the future. Mr. Courtney advised it is the emergency overflow, and it is not within the public right-of-way but it is within the sanitary easement. Mr. Courtney stated he does not believe it will interfere with maintaining the sanitary sewer in that easement.

Mr. Schulz stated it appears these are approximately 11 feet deep; he inquired if there would be any type of decorative guardrail and if there is anything in the code that requires protection from vehicular traffic. Mrs. Cocca-Fulton stated she would defer to the engineer, but noted that it does meet the requirements and the distance was approved by the architect, the engineer and the Planning and Zoning Commission.

Mr. Schulz inquired if there is aeration with any type of fountain in the detention basins. Mr. Courtney stated he does not believe so, noting they are wet detention basins, 4 to 1 side slopes; and the normal water level in the bottom of the basin will be 4 feet.

NEW BUSINESS – RESOLUTION NO. 20-R-38 (continued):

With regard to the structures on the Route 306 side of the ponds, Councilman Lesnick inquired how much they stick out of the ground. Mr. Courtney replied they are ground level.

Responding to an inquiry from Mayor Potter regarding the reference to ages 55 and older in the Planning and Zoning Commission's preliminary approval, Mr. Lallo stated it was part of the conditional use permit that was approved. He noted that the preliminary and final development plan are separate. Answering Council President Lowery, Mr. Lallo stated the conditional use permit runs with the land, and no matter who owns the property, that restriction is still in place. He stated if there is an issue in the future, the City can revoke the permit and initiate litigation against the property owner if the conditions are not being followed.

Responding to an inquiry from Councilman Schulz, Ms. Cocca-Fulton stated there will be lighting along the private drive, and each individual unit will have their own utilities, with the possible exception of water. She stated that the common area will not be charged to the individual units.

Councilman Lesnick inquired if there is a process for the senior housing designation or if more approvals are required by the City. Mr. Lallo stated there should be nothing further that requires the City's input.

Councilman Ruple inquired if a permit has already been obtained on a Federal level. Ms. Cocca-Fulton replied that it has not. Mr. Lallo confirmed it will be needed before an occupancy permit is issued. Mr. Ruple inquired if there is a limit on the number of people allowed to live in each unit. Mr. Lallo stated it is based on the size and the rooms according to code.

Mrs. Wolfe moved to waive the three readings, with the second by Mr. Smolic. **ROLL CALL: MOTION CARRIED 7/0 (VOTING YEA: HAYMER, LESNICK, LOWERY, RUPLE, SCHULZ, SMOLIC AND WOLFE. VOTING NAY: NONE).** Mrs. Wolfe moved to declare an emergency and adopt, with the second by Mr. Lesnick. **ROLL CALL: ADOPTED 7/0 (VOTING YEA: HAYMER, LESNICK, LOWERY, RUPLE, SCHULZ, SMOLIC AND WOLFE. VOTING NAY: NONE).**

Ms. Cocca-Fulton expressed her appreciation, noting they are happy to be able to invest in Kirtland.

RESOLUTION NO. 20-R-39
(Mayor Potter)

- **A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN ADDENDUM TO THE AMENDED AGREEMENT TO PROVIDE FIRE PROTECTION AND EMERGENCY MEDICAL SERVICES WITH THE VILLAGE OF KIRTLAND HILLS, AND DECLARING AN EMERGENCY.**

The legislation was read by title only. Noting that this is an extension of the current agreement, and in consideration of the Council recess, Mr. Lesnick moved to waive the three readings. Mr. Lowery provided the second. **ROLL CALL: MOTION CARRIED 7/0 (VOTING YEA: HAYMER, LESNICK, LOWERY, RUPLE, SCHULZ, SMOLIC AND WOLFE. VOTING NAY: NONE).** Mr. Smolic commended Chief Hutton for getting this agreement done, noting that the City looks forward to serving Kirtland Hills for the next five years. Mr. Lesnick moved to declare an emergency and adopt, with the second by Mr. Smolic. **ROLL CALL: ADOPTED 7/0 (VOTING YEA: HAYMER, LESNICK, LOWERY, RUPLE, SCHULZ, SMOLIC AND WOLFE. VOTING NAY: NONE).**

Chief Hutton thanked Chief Hendricks of Kirtland Hills, Mayor Potter and Mayor Turben. He thanked Mr. Lallo for putting this together, noting it will secure long term funding for five years, and it can continue for another five years. He stated that it will help secure funding for the third position at Station No. 1 as discussed. He stated if it continues for ten years, over the term of the contract it will offset the cost of capital equipment, including one engine, two ambulances and three to four utility vehicles. He noted it provides good service to Kirtland Hills, and he thanked Council for passing this tonight.

NEW BUSINESS (continued):

RESOLUTION NO. 20-R-40
(Mayor Potter)

- **A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A COOPERATION AGREEMENT WITH THE KIRTLAND PUBLIC LIBRARY AND KIRTLAND YOUTH SOCCER LEAGUE FOR THE ESTABLISHMENT AND MAINTENANCE OF SOCCER FIELDS AT 9267 CHILLICOTHE ROAD, AND DECLARING AN EMERGENCY.**

The legislation was read by title only. Responding to Councilman Lesnick, Mayor Potter stated that the City will take care of getting the field prepped and ready to start playing soccer, hopefully this fall. He noted that the Service Department will cut down the back field. He stated that approximately ten yards of dirt will be used to fill in the holes and plant grass seed. The Mayor noted that the City will cut the field only; the Library will continue to maintain the rest of their property, including the hillside. Mayor Potter thanked Susie Shafer and Jackie Woolnough for their willingness to offer the League’s assistance to help get this done; he noted they have done a great job expanding the League over the last few years. Mr. Lesnick stated he just wanted to confirm that it is a minor amount of work, and it provides the extra fields needed by the Soccer League. Mayor Potter noted it would not have been possible without Jane Carle and the Library Board offering the land and their assistance; he stated it is a great collaborative effort for the City.

Councilman Schulz requested clarification of the language in Section III, paragraph F, which states “This clause shall survive termination of this agreement.” Mr. Lallo confirmed that it relates to damage to the field only, not to the parking lot.

Mr. Lesnick moved to waive the three readings, with the second by Mr. Lowery. **ROLL CALL: MOTION CARRIED 7/0 (VOTING YEA: HAYMER, LESNICK, LOWERY, RUPLE, SCHULZ, SMOLIC AND WOLFE. VOTING NAY: NONE).** Answering Mr. Ruple, Mr. Lallo stated the City has proof of insurance coverage. Mr. Schulz inquired if the City will be moving any bleachers there. Mayor Potter stated the hillside will serve as bleachers for now. Mr. Lowery noted that people carry chairs, so it should not be an issue. Mr. Lesnick moved to declare an emergency and adopt, with the second by Mr. Lowery. **ROLL CALL: ADOPTED 7/0 (VOTING YEA: HAYMER, LESNICK, LOWERY, RUPLE, SCHULZ, SMOLIC AND WOLFE. VOTING NAY: NONE).**

* * * * *

COUNCIL COMMENTS:

Councilman Schulz apologized for the computer issue at the last meeting transferring from the computer to his phone.

Mr. Schulz thanked Dispatch for notary service they provided on Saturday. Mr. Schulz inquired if any other staff members are notaries that would be available at a moment’s notice. Chief Nosse advised that three officers and the clerk are notaries; he noted the clerk is available during the day. The Chief stated he plans to have all the sergeants become notaries. Mr. Lallo stated he is also available as a notary.

CONTINUING CONCERNS:

Council President Pro Tempore Ruple noted that this is an opportunity for the public to address Council about any continuing concerns. There were no comments or questions from the public.

ADJOURNMENT:

Mr. Lesnick moved to adjourn, with the second by Mr. Smolic. The motion of Council passed by unanimous vote and the meeting adjourned at 8:22 p.m.

President of Council

Clerk of Council