

## KIRTLAND CITY COUNCIL MINUTES

March 6, 2023

The meeting of Kirtland City Council was called to order at 7:00 p.m. by Council President Jeffrey Ruple. Mr. Schulz led the prayer which followed the Pledge of Allegiance. The members of Council present were: Ronald Fenstermaker, Scott Haymer, Jeffrey Ruple, Matthew Schulz, Joseph Smolic and Eric Ziegler. Absent: Richard Lowery.

Administrative personnel present were: Mayor Kevin Potter, Law Director Matthew Lallo, Finance Director Louis Slapnicker, City Engineer Douglas Courtney, Service Director Joseph Fornaro, Police Chief Brian McCallister, Fire Chief Anthony Hutton and Senior Center Coordinator Teresa Szary.

### PUBLIC HEARING

Comprehensive Plan Update 2032

Council President Ruple opened the public hearing for comments. There were no public comments or questions, and the public hearing was closed by Council President Ruple.

### MINUTES OF THE FEBRUARY 22, 2023 FINANCE COMMITTEE MEETING:

Mr. Smolic moved to waive the reading of the minutes, with the second by Mr. Schulz. The motion of Council passed by unanimous vote. Mr. Smolic moved to approve the minutes, as presented, with the second by Mr. Schulz. Mr. Schulz requested that the financial documents provided by Mr. Slapnicker be attached to the minutes. **ROLL CALL: MOTION CARRIED 6/0 (VOTING YEA: RUPLE, SCHULZ, SMOLIC, ZIEGLER, FENSTERMAKER AND HAYMER. VOTING NAY: NONE).**

### MINUTES OF THE FEBRUARY 22, 2023 COUNCIL MEETING:

Mr. Fenstermaker moved to waive the reading of the minutes, with the second by Mr. Smolic. The motion of Council passed by unanimous vote. Mr. Fenstermaker moved to approve the minutes, as presented, with the second by Mr. Smolic. **ROLL CALL: MOTION CARRIED 6/0 (VOTING YEA: RUPLE, SCHULZ, SMOLIC, ZIEGLER, FENSTERMAKER AND HAYMER. VOTING NAY: NONE).**

### DEPARTMENT REPORTS:

**Fire Chief Anthony Hutton** advised that he and the Police Chief and Service Director have been receiving email correspondence regarding the telephone pole at 9165 Chillicothe Road. A couple weeks ago there was a car accident that sheared the pole across from the high school. Residents have been questioning whether it is safe and what was done to the pole. Chief Hutton explained they have been working with First Energy, and a supervisor came out today and reassured him that everything is safe. He noted it is a secondary line going to businesses; it is not a primary line. The supervisor said they would try to get a crew out this week to strengthen and stabilize the pole and take down the tape. Chief Hutton said the tape is blocking the sidewalk. He said it will be repaired as soon as possible, noting that the business owners have been notified.

**Police Chief Brian McCallister** reported his Department has been discussing with the Kirtland Schools the possibility of bringing the DARE Program back, and the Schools have accepted the program. The Police Department submitted an application for Officer Julia DeWolf, and she was accepted into the DARE program which will commence in September. This will bring the program back into the schools in 2024.

**DEPARTMENT REPORTS (continued):**

Chief McCallister advised that the Police Department is considering beginning a Prom Promise program this year at the School. This is an event related to alcohol and drug use; the kids perform tests with "drunk" vision goggles. There are obstacles that the students will have to maneuver, and it shows the students that drinking does have consequences and it does cause impairment.

Chief McCallister reported the Police Department is approximately halfway through the Lexipol policy project. He said he believes he has vetted and amended approximately 76 policies up to this point.

Last week Chief Hutton and Chief McCallister met with representatives from Lakeland Community College and began discussions for the Wonderstruck event that is scheduled for July 8th and 9th this year. This year will be a mixed event, with the potential to be a very busy time for the City.

Chief McCallister advised that the Police Department was able to arrange a schedule with the Willoughby Police Department for use of their gun range. Officers will be able to go practice with their firearms at least once a month during work time, so as not to incur overtime costs. Responding to Councilman Schulz, Chief McCallister said Willoughby will not be charging a fee at this time for use of their range.

**Service Director Joseph Fornaro** reported for 2022 there were 33 burials in the cemetery, up a little bit from the previous year. Kirtland has had 28 snow events this season, with the first snowfall on October 19, 2022. Last season there were 38 snow events, with the Service crew out 16 times in February. This season the Service Department was also out 16 times in February, with the most recent being last week. Last season the Service Department was out three times in March. The crews have been taking advantage of the non-inclement weather by ditching just under 3900 feet and performing line-of-sight clearing on main roads.

Mr. Fornaro advised that an EPA inspection was done at the Rockwood and Shenandoah package plants for permits that are renewed every five years. The Hickory Hill package plant on Eagle Road was inspected last year.

With the help of the American Legion, there was a flagpole delivered last week for the Recreation Park, which will be installed when the weather turns warmer.

Mr. Fornaro announced that Spring brush pickup will begin April 3rd with Ward 1, followed by Ward 2 on April 10th, Ward 3 on April 17th, and Ward 4 on April 24th.

Mr. Fornaro advised that three pre-construction meetings have been held, relating to Fox Hill drainage, water line replacement on Kirtland Chardon, and the Old Town sewers.

Responding to Councilman Haymer, Mr. Fornaro said the flagpole will be installed between Fields 4 and 5.

Council President Ruple asked if there has been anything done on updating the PCR rating portion of the road plan, to which Mr. Fornaro said it has been included in this year's budget. Mr. Fornaro confirmed that the road plan spreadsheet will be updated once the assessment of the streets is complete.

Responding to Councilman Fenstermaker, Mr. Courtney said they are currently updating the 10-year plan, and once the PCRs have been updated there will be another update available.

Answering Councilman Fenstermaker, Mr. Fornaro said the drinking fountain at the Recreation Park will be replaced. He advised that the plan is to move all of the plaques scattered throughout the park into one location with the flagpole. The goal is to create a nicer area, which will hopefully be an Eagle Scout project in the future.

**DEPARTMENT REPORTS (continued):**

Mr. Fenstermaker explained that several years ago during a tournament the water fountain blew. Since the water shutoff was at the school, he bought supplies to cap the water fountain. He requested that the shutoff be improved when a new fountain is installed.

**City Engineer Douglas Courtney** advised that the Commissioners awarded the construction contract for the Old Town sewer improvements on February 23rd. A pre-construction meeting was held on March 2nd which he and Mr. Fornaro attended. The County plans to extend a notice to proceed to the contractor on March 13th, which will begin the clock on the contract duration, which is 120 days. As of today, the contractor has not provided a detailed schedule so a specific start date is unknown. Once that has been received it will be shared with Council.

Regarding stormwater projects, Mr. Courtney reported that a pre-construction meeting was held on March 2nd regarding the Fox Hill drainage improvements. The project is expected to begin the week of April 3rd, weather permitting, and should take two to three weeks. The City plans to distribute notices to the residents in the next week or two.

Mr. Courtney advised that Aqua plans to replace approximately 1500 feet of eight-inch water main on the south side of Kirtland Chardon Road, across the front of Lake Metroparks property at 8668 Kirtland Chardon Road. They were flagging utilities today, so there will be activity on that project soon. Councilman Schulz asked how long this project has been scheduled, as he has been told water lines are having supply chain issues. Mr. Courtney responded that the plans for this project were received in January, and the contractor does have the materials.

**Finance Director Louis Slapnicker** reported that the second Finance Committee meeting on the budget was held this evening. There were quite a few topics discussed, one of which was debt issuance. Mr. Slapnicker said the City will go out to market next month, but the current rate at market is between 3.65% and 3.75%. He noted this could change within the next month.

Mr. Slapnicker noted that Ordinance 23-O-13 on tonight's agenda is a request to create Fund 215 related to the firefighter grant that was received. Noting that Council authorization is needed to establish the fund, Mr. Slapnicker requested the ordinance be passed this evening.

**Law Director Matthew Lallo** advised that there was a complete rewrite of the solar zoning code. The changes are set for a public hearing at the Planning and Zoning Commission meeting next week. If everything goes according to plan, the changes should be on Council's agenda in the next few meetings.

With regard to citations, Mr. Lallo said while he was at court last week the bailiff informed him that Kirtland recently had the most new cases in a week. While there has been an uptick, Mr. Lallo gives credit to the Police Department for doing their job well.

Mr. Lallo asked that Council move into executive session toward the end of the Council meeting to consider the sale of municipal property.

Mr. Lallo advised that the City received favorable news last week regarding Mr. Nosse's case against the City and all officials (both individually and in their official capacity), along with the OPBA and their attorney (both individually and in their official capacity). The City's attorney filed a comprehensive motion to dismiss the case with the Federal court, at which point Mr. Nosse's attorney tried to amend the complaint. The City's attorney challenged the amendment, and the judge dismissed the case in its entirety. Mr. Lallo went on to say he was pleased by the dismissal, as it is rare to receive a dismissal so early in a case.

**DEPARTMENT REPORTS (continued):**

Mr. Lallo reviewed the timeline of the case, noting that the employment side of the case has been completed and there are no more appeals pending as it relates to the administrative proceeding. Concerning the Federal case, which was just dismissed by the Federal Judge, there are still appellate rights relating to the case, but Mr. Lallo is confident that the judicial decision will be affirmed and upheld, and there will hopefully be some finality to the situation.

**MAYOR'S REPORT/ANNOUNCEMENTS:**

Mayor Potter reminded everyone present that the Shamrock Shuffle Shenanigans will take place at City Hall on Sunday, March 26, 2023 at 10:00 a.m. There will be a 5k race, followed by music and a Kiwanis-sponsored beer garden.

Mayor Potter said that Jim Gibbs of Fairsite Technologies is in attendance to discuss and answer questions concerning Resolution 23-R-14, the fiber internet proposal that is on the agenda tonight. He noted that Ordinance 23-O-15 on the agenda is a proposal for a one-year extension for Eddy Eckart's services as Economic Development Coordinator.

Jim Gibbs of Fairsite Technologies spoke regarding Resolution 23-R-14, explaining this is the formal process to advertise for proposals for internet service to be run throughout the city. Although there are two internet service providers in town, only Spectrum is considered a broadband provider and therefore seen as the only option. Mr. Gibbs said it will be difficult to get access to any rural funding, because Kirtland is close enough to the outer-ring suburbs that the City may not be eligible. He noted that all public funding options will be explored.

Mr. Gibbs explained the proposed resolution was pieced together through his experience and sources from other cities, to find a company that is willing and able to build the infrastructure, has the assets to do so, and will build a good technology that will last a number of decades and offer future upgrades. Mr. Gibbs also will be looking for what services will be provided to users and whether or not said company will be able to provide additional services such as video or affordable care bandwidth for lower income households. Mr. Gibbs added they have tried to be as comprehensive as possible in the proposed RFP.

Mr. Gibbs also mentioned he expects there will be some type of cost-sharing agreements between a provider and the City. However, the proposal approaches the project with the expectation that the City will not own any of the actual network and will not be responsible for the upkeep of the system.

Answering Councilman Schulz, Mr. Gibbs said he has had experience with this process but has not yet been through the build stage. Mr. Gibbs has done advertising for a feasibility study, which is done for much larger and dense cities. He went on to say Kirtland is lucky to have good partnerships with fellow cities in the area.

Mr. Schulz asked what type of response is expected. Mr. Gibbs stated he is expecting between 3 and 10 respondents and is hopeful at least one will be a large national player. He noted there is need for a good data and technology offering in the city.

**STANDING COMMITTEE REPORTS:**

Council President Ruple noted there was a Utilities Standing Committee meeting before tonight's Council meeting. Councilman Haymer explained that some amendments are needed to the way the ordinance is written, to bring it up to code.

**STANDING COMMITTEE REPORTS (continued):**

Councilman Smolic noted that the Service Department Standing Committee met to review the budget and some of the roads that are being considered for projects this year, along with needed maintenance.

A Finance Committee/work session meeting was scheduled for 6:30 p.m. on March 20.

**CORRESPONDENCE:**

None.

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

None.

**OLD BUSINESS:**

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

None.

**ORDINANCE NO. 23-O-10** - **(Second Reading) - AN ORDINANCE SETTING THE APPROPRIATION FOR THE YEAR 2023.**  
**(Mayor Potter)**

The legislation was read by title only and placed on Second Reading.

**RESOLUTION NO. 23-R-11** - **(Second Reading) - A RESOLUTION AUTHORIZING TRANSFERS OF FUNDS, AND DECLARING AN EMERGENCY.**  
**(Mayor Potter)**

The legislation was read by title only and placed on Second Reading.

**ORDINANCE NO. 23-O-12** - **(Second Reading) - AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF \$3,102,000 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 2022, DATED APRIL 20, 2022, AND DECLARING AN EMERGENCY.**  
**(Mayor Potter)**

The legislation was read by title only and placed on Second Reading.

**NEW BUSINESS:**

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

None.

**NEW BUSINESS (continued):**

**ORDINANCE NO. 23-O-13**  
**(Mayor Potter)**

- **AN ORDINANCE CREATING FUND 215 TO PROPERLY ACCOUNT FOR THE RECEIPT OF GRANT FUNDING RELATING TO OHIO'S FIRST RESPONDER RECRUITMENT, RETENTION, AND RESILIENCE PROGRAM, AND DECLARING AN EMERGENCY.**

The legislation was read by title only. Mr. Smolic moved to waive the three readings, with the second by Mr. Fenstermaker. **ROLL CALL: MOTION CARRIED 6/0 (VOTING YEA: RUPLE, SCHULZ, SMOLIC, ZIEGLER, FENSTERMAKER AND HAYMER. VOTING NAY: NONE).** Mr. Smolic moved to declare an emergency and adopt, with the second by Mr. Schulz. **ROLL CALL: ADOPTED 6/0 (VOTING YEA: RUPLE, SCHULZ, SMOLIC, ZIEGLER, FENSTERMAKER AND HAYMER. VOTING NAY: NONE).**

**RESOLUTION NO. 23-R-14**  
**(Mayor Potter)**

- **A RESOLUTION AUTHORIZING THE MAYOR, THROUGH THE CITY'S IT CONSULTANT, TO SOLICIT A REQUEST FOR PROPOSAL FOR THE BUILDING AND OPERATING OF CITYWIDE FIBER INTERNET TO THE CITY OF KIRTLAND, AND DECLARING AN EMERGENCY.**

The legislation was read by title only and placed on First Reading.

**ORDINANCE NO. 23-O-15**  
**(Mayor Potter)**

- **AN ORDINANCE EXTENDING THE AGREEMENT FOR ECONOMIC DEVELOPMENT CONSULTING SERVICES BETWEEN EDWARD J. ECKART OF E SQUARED STRATEGIES LLC AND THE CITY OF KIRTLAND, AND DECLARING AN EMERGENCY.**

The legislation was read by title only and placed on First Reading.

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**COUNCIL COMMENTS:**

Council President Ruple reminded Council members there is a deadline coming up on May 15 for filing the Ohio Ethics Commission Financial Disclosure Statement.

**CONTINUING CONCERNS:**

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

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Mr. Smolic moved to convene an executive session to consider the sale of municipal property, pursuant to Article I, Section 7(b) of the City Charter. Mr. Ziegler provided the second. **ROLL CALL: MOTION CARRIED 6/0 (VOTING YEA: RUPLE, SCHULZ, SMOLIC, ZIEGLER, FENSTERMAKER AND HAYMER. VOTING NAY: NONE).** The time was 7:39 p.m.

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Upon adjournment of the executive session, the regular session of Council reconvened at 8:19 p.m.

**ADJOURNMENT:**

Mr. Smolic moved to adjourn, with the second by Mr. Ziegler. The motion of Council passed by unanimous vote and the meeting adjourned at 8:20 p.m.

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President of Council

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Clerk of Council