

## KIRTLAND CITY COUNCIL MINUTES

August 21, 2023

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

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

### MINUTES OF THE JULY 5, 2023 WORK SESSION:

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

### MINUTES OF THE JULY 5, 2023 COUNCIL MEETING:

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

### MINUTES OF THE JULY 10, 2023 FINANCE COMMITTEE MEETING:

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

### MINUTES OF THE JULY 10, 2023 COUNCIL MEETING:

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

### MINUTES OF THE AUGUST 2, 2023 SPECIAL COUNCIL MEETING:

Mr. Lowery moved to waive the reading of the minutes, with the second by Mr. Fenstermaker. The motion of Council passed by unanimous vote. Mr. Lowery moved to approve the Minutes, as presented, with the second by Mr. Fenstermaker. **ROLL CALL: MOTION CARRIED 5/0/1 (VOTING YEA: FENSTERMAKER, HAYMER, LOWERY, SMOLIC AND ZIEGLER. VOTING NAY: NONE. ABSTAINING: SCHULZ).**

### DEPARTMENT REPORTS:

**Fire Chief Anthony Hutton** advised that the July report was sent out today. The Department has been very busy this summer helping with a lot of special events.

**DEPARTMENT REPORTS (continued):**

Austin Hajduk and Jasmine Pierce, two of the part-timers, passed the paramedic test and are currently functioning as paramedics. Three additional part-time firefighters were added over the summer; the Department is working to get the part-time numbers back to where they were pre-pandemic.

The Department received two ARPA grants recently. One is for retention bonuses and the other will be for premium pay. They are able to bring a lot of the Federal funds back to Kirtland and to the firefighters. Those grants are specific for Fire and EMS.

Answering Councilman Schulz, Chief Hutton said the first grant is the original ARPA grant for the retention bonuses and the second is through the Ohio Board of Budget Management, and that will be for premium pay. In order to receive that grant, employees had to stay from the beginning of 2021 through the present and will be given monthly premium pay. There is no cost to the City for the two grants.

Answering Councilman Fenstermaker regarding the dollar amount of the grants, Chief Hutton stated the first grant is approximately \$60,000 and the second grant is \$20,000.

Responding to Council President Smolic, Chief Hutton said he will work with Mr. Slapnicker and the Mayor regarding receiving the grant money, noting that the funds will probably be received this year but he is not sure if they will be paid out this year.

Mayor Potter noted that Police Chief McCallister sent his report to Council and advised that Council members can email him if there are any questions.

**Service Director Joseph Fornaro** thanked his team for doing a great job all summer keeping up with all the things they do, including keeping up with the grass mowing, crack sealing, patching, watering the flowers, football, soccer, baseball, band, roadside mowing and line-of-sight, driveway pipes and ditch enclosures.

Last week the pre-construction meeting with Specialized Construction was held relating to the road program. This week will be busy with the solid waste bid opening on Tuesday, and the Rockwood basin bid opening is also this week. The Community Center outdoor bathrooms will be advertised this week and the bid opening will be scheduled for September 6.

Councilman Fenstermaker thanked Mr. Fornaro for watering the flowers, noting that he saw him every Sunday at 6 a.m. while driving by.

Answering Council President Smolic, Mr. Fornaro confirmed there have been no major issues relating to the recent rains.

**City Engineer Douglas Courtney** reported that a pre-construction meeting with Specialized Construction was held last week. Work should start Monday, August 28, on Blueberry Hill. Contracts with Cole Burton have been executed. They are awaiting their schedule so that a pre-construction meeting can be set up.

Phase 1 of the Old Town sewer project passed the County inspection and testing. The County is working on finalizing the quantities and preparing a final change order for that project. After the final change order is executed the County Commissioners will pass legislation accepting the maintenance contract for the project, in essence transferring the sewer over to the County from the contractor. Once that legislation is passed the County will begin accepting permit applications for tie-ins, which should be sometime in September. Mr. Courtney will check with the County to see who will send letters to the residents. When that has occurred, people can start submitting for permits.

Resolution 23-R-56 is legislation that OPWC needs for IRS purposes to process payments to Chivers Construction. Mr. Courtney requested that the legislation be passed tonight.

**DEPARTMENT REPORTS (continued):**

With regard to the ODOT bridge projects, ODOT received bids for the 306 bridge over the East Branch of the Chagrin River. The apparent low bidder is J D Williamson Construction of Talmadge. There were some alternate bid items the City requested to be put into that contract relating to coatings on the parapet walls and coatings on the railings. Council passed legislation in 2022, setting a limit of \$25,000 on those particular items. The alternate bid items came in at \$67,000, so they have been declined.

With regard to stormwater projects, the Rockwood area stormwater basin bid opening is on Thursday at 1:00 p.m. The engineer's estimate for that project is \$80,145.

With regard to the Parkwood area drainage improvements, budget estimates are being prepared for drainage improvements on Crestwood and for the replacement of a culvert on Route 6 at 8122 Euclid Chardon Road, which has been identified as an undersized culvert. They are going to look at getting it replaced.

Mr. Courtney advised that budget estimates will be done for three other culverts - one on Quail Circle, one on Pheasant Lane and the third on Euclid Chardon Road just east of Lake Farmpark.

Councilman Haymer noted that a resident who lives off Euclid Chardon Road and owns two houses on Maple has not received a letter for anything. Mr. Courtney requested that Mr. Haymer send him the addresses on Maple and he will follow up on that.

Councilman Lowery asked if there is a timeframe or a deadline for the permit applications for the tie-ins. Mr. Courtney stated that based on the findings and orders with the EPA, the drop-dead date for tie-ins to be complete is mid-September of 2025. Answering Mr. Lowery, Mr. Courtney confirmed that the residents will be informed about the deadline.

**Finance Director Louis Slapnicker** reported that the end of month financials for June have been distributed and posted on the website. The 2022 financial audit is progressing and near completion. He thanked everyone for sending in the questionnaires.

With regard to the amended appropriation on tonight's agenda, Mr. Slapnicker advised there is an increase in appropriations of \$191,000; there are three changes. The excavator that was previously purchased from road levy funds has been sold, and the proceeds will be deposited into the road levy fund and be reappropriated for road improvements. The other two changes were for a \$60,000 fire vehicle and an additional \$60,000 toward a new excavator.

Mr. Slapnicker advised that the Finance Department has submitted for the second quarter firefighter new hire grant. It is expected that those funds will be received in the next week or two.

Councilman Schulz asked if the City properties had been evaluated for insurance purposes. Mr. Slapnicker stated it has not taken place yet, noting that he reached out to them once it was budgeted, and they are extremely backlogged. They don't know if they will be able to get out this year based on their schedule.

**Law Director Matthew Lallo** stated that aside from what was discussed during the work session and the pending legislation he had nothing else to add. No questions were asked of him.

**Senior Center Coordinator Teresa Szary** thanked everyone for their help with the summer concert series in partnership with the Friends of the Public Library. She thanked Chief Hutton, Chief McCallister, Mr. Fornaro, Mayor Potter and Councilman Smolic for all of the cooking and cleaning up. The residents very much appreciated everyone's efforts, and it was another successful year even with some weather challenges.

**DEPARTMENT REPORTS (continued):**

Ms. Szary said it has been a good summer at the Senior Center. The pickleball courts have been full all summer even on hot days. Mr. Fornaro and his team keep those courts up very well and the seniors are very appreciative.

Noting that the annual senior summer camp begins next week, Ms. Szary said everyone is welcome to check it out online at [kirtlandcommunity.com](http://kirtlandcommunity.com). She noted that at the next meeting there will be an official invite to Council and Department Heads for the September clam bake.

Councilman Haymer asked if he missed the chair volleyball and pickleball tournaments with Council. Ms. Szary stated they have not had that recently, but Council members are always welcome to join them for chair volleyball and pickleball.

Council President Smolic thanked Chief Hutton and Chief McCallister for barbecuing at all four of the concert events this year.

**MAYOR'S REPORT/ANNOUNCEMENTS:**

Mayor Potter stated he hoped everyone had a good summer, noting that it is good to be back in Council Chambers. He thanked Mr. Fornaro and Mr. Courtney for their hard work in getting the road work lined up.

With regard to the gazebo concert events, the Mayor thanked Ms. Szary, Fire, Police, Mr. Fornaro and Council members that helped set up and cook. He also thanked Jane Carle and the Friends of the Library for doing a great job scheduling these concerts, bringing great talent, and getting the events underway. They are a lot of fun and he knows the community appreciates them.

Mayor Potter stated that the excavator was sold, and he thanked Mr. Fornaro for listing it on GovDeals. The excavator was purchased in 2015 under the road levy. It was sold for \$71,000; that money will go back into the road fund for this year and will be used for road repairs. The City will be doing Blueberry Hill, Crestwood from the cul-de-sac up to Oakwood and Foxwood Trail. With the Resolution for Specialized Construction, the City will be able to coordinate base repairs on Regency Woods to Cardinal, Hobart, Crary and Far Bar, Hillcrest and Highland.

Mayor Potter thanked Jim Gibbs of Fairsite Technologies for designing, developing and putting out the RFP for fiber. The City received three interesting proposals from Lit Communities, AT&T and Ohio Gig. The Mayor requested that Councilman Haymer work with Mr. Gibbs, Mr. Fornaro and him to schedule a Utilities Committee meeting.

Mayor Potter thanked Ms. Szary, Ms. Speece, Mr. Lallo, the Police and Fire Chiefs, and Mr. Fornaro for their help over the last couple years in creating the citywide policies. They were delivered to the Department Heads and the employees last week. It was a herculean effort to institute and implement these policies.

Councilman Ziegler asked if there are any updates from Marous and a timeline for another meeting. Mayor Potter stated there are no updates at this time.

With respect to the city-wide policies, Councilman Schulz asked if the Commission has met regarding the records retention policy. Mayor Potter stated that is a separate ordinance that has been on the books for a long time. He said that Commission has not yet met; a secretary and a community member must be appointed. He noted that he has someone in mind and needs to have a conversation with them. The Commission consists of the Mayor, Finance Director, Law Director and a citizen.

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

Council President Smolic thanked the Mayor, Mr. Fornaro and Mr. Courtney for the base repairs going into the contract.

**STANDING COMMITTEE REPORTS:**

None.

**CORRESPONDENCE:**

None.

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

None.

**OLD BUSINESS:**

None.

**NEW BUSINESS:**

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

**Sterling Coleman, 7636 Markell Road**, stated there is an engine brake issue on the agenda. He is looking for assurance that it doesn't compromise the ability of a vehicle to stop by not being able to use its brake. He said his vehicle, a truck, has an engine brake, but it is completely muffled. It makes no sound, and he doesn't know when it's in operation. Mr. Coleman asked if he was going to have to disable it or if it was going to be illegal to use it. Mr. Coleman stated he believes it has to do with some sound level. Council President Smolic stated he believes the Ordinance is a result of noise complaints. Mr. Lallo stated if there is an emergency or it is needed to stop the vehicle, that is an exception to this Ordinance. If there are exigent circumstances of an emergent situation, then that person is permitted to utilize the Jake brake.

**RESOLUTION NO. 23-R-56**  
**(Mayor Potter)**

- **A RESOLUTION DECLARING THE OFFICIAL INTENT AND REASONABLE EXPECTATION OF THE CITY OF KIRTLAND ON BEHALF OF THE STATE OF OHIO (THE BORROWER) TO REIMBURSE ITS FUND FOR THE OLD TOWN SEWER IMPROVEMENTS PHASE 1, CG04Y WITH THE PROCEEDS OF TAX EXEMPT DEBT OF THE STATE OF OHIO, AND DECLARING AN EMERGENCY.**

The legislation was read by title only. Mr. Ziegler moved to waive the three readings, with the second by Mr. Lowery. **ROLL CALL: MOTION CARRIED 6/0 (VOTING YEA: FENSTERMAKER, HAYMER, LOWERY, SCHULZ, SMOLIC AND ZIEGLER. VOTING NAY: NONE).** Mr. Ziegler moved to declare an emergency and adopt, with the second by Mr. Lowery. Mr. Schulz asked about the reference to Appendix A in another document and if it needed to be attached to the ordinance. Mr. Lallo stated it was the project agreement which is not a part of the ordinance; it is just referenced and does not need to be included. **ROLL CALL: ADOPTED 6/0 (VOTING YEA: FENSTERMAKER, HAYMER, LOWERY, SCHULZ, SMOLIC AND ZIEGLER. VOTING NAY: NONE).**

**NEW BUSINESS (continued):**

**RESOLUTION NO. 23-R-57** - **A RESOLUTION ACCEPTING THE BID OF PAT FLOWERS INC. FOR THE STRIPING OF LONG LINES AND PAVEMENT MARKINGS ON THE CITY OF KIRTLAND'S ROADS, AND DECLARING AN EMERGENCY.**  
(Mayor Potter)

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

**ORDINANCE NO. 23-O-58** - **AN ORDINANCE ADOPTING SECTIONS 401.125 AND 432.44 OF THE CODIFIED ORDINANCES OF THE CITY OF KIRTLAND REGARDING THE PROHIBITION OF ENGINE BRAKES WITHIN THE CITY, AND DECLARING AN EMERGENCY.**  
(Mayor Potter)

The legislation was read by title only. Mr. Ziegler moved to amend Section II of the Resolution to modify 432.44 to insert an additional sentence after the last one to include the language: "All safety forces operating a motor vehicle with a Jake brake are exempted from this ordinance." Mr. Lowery provided the second. **ROLL CALL: MOTION CARRIED 6/0 (VOTING YEA: FENSTERMAKER, HAYMER, LOWERY, SCHULZ, SMOLIC AND ZIEGLER. VOTING NAY: NONE).** The legislation was placed on First Reading.

**RESOLUTION NO. 23-R-59** - **A RESOLUTION AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE TO ENTER INTO AN AGREEMENT WITH SPECIALIZED CONSTRUCTION, INC. TO PAVE VARIOUS ROADS IN THE CITY PER ITS 2023 PAVEMENT REHABILITATION PROJECT, AND DECLARING AN EMERGENCY.**  
(Mayor Potter)

The legislation was read by title only. Mr. Fenstermaker moved to waive the three readings, with the second by Mr. Ziegler. **ROLL CALL: MOTION CARRIED 5/0/1 (VOTING YEA: FENSTERMAKER, HAYMER, LOWERY, SMOLIC AND ZIEGLER. VOTING NAY: NONE. ABSTAINING: SCHULZ).** Mr. Lowery moved to declare an emergency and adopt, with the second by Mr. Ziegler. **ROLL CALL: ADOPTED 5/0/1 (VOTING YEA: FENSTERMAKER, HAYMER, LOWERY, SMOLIC AND ZIEGLER. VOTING NAY: NONE. ABSTAINING: SCHULZ).**

**ORDINANCE NO. 23-O-60** - **AN ORDINANCE AMENDING ORDINANCE NO. 23-O-49 RELATING TO THE APPROPRIATION FOR THE YEAR 2023.**  
(Mayor Potter)

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

**COUNCIL COMMENTS:**

Council President Smolic said it is good to see everyone back after summer recess.

**CONTINUING CONCERNS:**

This is an opportunity for the public to address Council about any continuing concerns.

**Kveodosia Faber, 8807 Kirtland Road,** asked if they were going to start the bridge repair by her house next year. Mayor Potter responded that it will be started next year.

Council President Smolic asked about a start and end date for the bridge project. Mr. Courtney said they just opened bids and do not have the contractor's schedule yet.

**ADJOURNMENT:**

Mr. Lowery moved to adjourn, with the second by Mr. Schulz. The motion of Council passed by unanimous vote and the meeting adjourned at 7:34 p.m.

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President of Council

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Clerk of Council