

KIRTLAND CITY COUNCIL MINUTES

November 16, 2009

The meeting of Kirtland City Council was called to order at 7:07 p.m. by Council President R. Robert Umholtz. Councilman Webbe led the prayer which followed the Pledge of Allegiance. The members of Council present were: Royal Brettrager, Douglas Davidson, David Kirek, Timothy Powell, Robert Skrbis, R. Robert Umholtz and Donald Webbe.

Administrative personnel present were: Mayor Mark A. Tyler, Assistant Law Director Michael Germano, Finance Director Keith Martinet, City Engineer Philip Kiefer, Service Administrator Carm Catania and Police Chief Wayne Baumgart. Fire Captain Frank Ponzani was present in the absence of Fire Chief Hutton.

MINUTES OF THE NOVEMBER 4, 2009 COUNCIL MEETING:

Mr. Kirek moved to waive the reading of the Minutes, with the second by Mr. Davidson. The motion of Council passed by unanimous vote. Mr. Kirek moved to adopt the Minutes, with the second by Mr. Davidson. **ROLL CALL: MOTION CARRIED 7/0 (VOTING YEA: KIREK, POWELL, SKRBIS, UMHOLTZ, WEBBE, BRETTRAGER AND DAVIDSON. VOTING NAY: NONE).**

MINUTES OF THE NOVEMBER 9, 2009 SPECIAL MEETING:

Mr. Davidson moved to waive the reading of the Minutes, with the second by Mr. Kirek. The motion of Council passed by unanimous vote. Mr. Kirek moved to adopt the Minutes, with the second by Mr. Davidson. **ROLL CALL: MOTION CARRIED 7/0 (VOTING YEA: KIREK, POWELL, SKRBIS, UMHOLTZ, WEBBE, BRETTRAGER AND DAVIDSON. VOTING NAY: NONE).**

DEPARTMENT REPORTS:

Fire Captain Frank Ponzani gave no formal report and no questions were asked of him.

Police Chief Wayne Baumgart did not present a formal report and no questions were asked of him.

Service Administrator Carm Catania did not present a formal report. Responding to Councilman Skrbis regarding a resident in Rocking Horse Farms who owns live chickens, Mr. Catania advised that, as long as there are no issues with the Health Department, agricultural use, including raising of farm animals, is permitted on any property in the City according to the Zoning Ordinance.

Councilman Powell inquired about the status of recent issues concerning construction of a house at the corner of Hobart Road and Raccoon Hill. Mr. Catania advised that the construction is now complete.

Responding to Councilman Powell regarding a Rockwood Drive property owner's shed encroaching on the neighboring property, Mr. Catania advised that a permit was issued and the shed has been moved.

City Engineer Philip Kiefer did not give a formal report. Referring to a recent Engineering Report, Councilman Powell inquired about drainage issues at properties on Ledgewood Drive. Mr. Kiefer stated that there is a pipe on the south side of the street that may be able to handle some of the water, but it needs to be televised. Mr. Powell suggested that these issues be revisited, especially since there is new legislation relating to the flood plain; he stated that he believes the City should come up with solutions to address some of these drainage issues.

DEPARTMENT REPORTS (continued):

Finance Director Keith Martinet advised that he is working on the amended appropriation, noting that it will not be placed on Council's agenda until the December 21, 2009 meeting, to ensure that all changes are included. Mr. Martinet stated that legislation for delinquent sewer charges will also be delayed until the December 21, 2009 meeting to allow additional time for payment of the delinquent balances; he noted that certified letters will be sent to the delinquent parties.

Mr. Martinet advised that work has begun with regard to the 2010 budget.

Assistant Law Director Michael Germano did not present a formal report and no questions were asked of him.

MAYOR'S REPORT/ANNOUNCEMENTS:

Mayor Mark Tyler advised that he performed a wedding on Friday evening, November 6, in the gazebo.

Mayor Tyler stated that he attended a NOACA meeting on November 13, 2009, noting that a presentation was given with regard to the upcoming census. The Mayor noted that some residents have received an extensive survey, and that all residents will receive a questionnaire in the spring.

With regard to upcoming events, Mayor Tyler advised that the Kirtland ecumenical Thanksgiving service will be held on November 24 at the Kirtland Temple at 7:00 p.m.; there will be a lighting ceremony on November 27 at the Historic Village.

The Mayor stated that "Breakfast with Santa" will be held on December 5 at the Community Center, noting that all Council members are welcome to attend.

Mayor Tyler reminded Council that the swearing-in ceremony will be held on Tuesday, December 1, 2009 at 7:00 p.m. in Council Chambers. The Mayor wished all of Council and their families a Happy Thanksgiving, and he thanked Council for working together with the Administration.

STANDING COMMITTEE REPORTS:

None.

CORRESPONDENCE:

Council President Umholtz reported on the following:

1. Letter dated November 3, 2009 from Louis S. Kreider of Aqua Ohio with regard to their request for a rate increase. Council President Umholtz stated that he will leave the letter with the Clerk of Council in the event Council members have any questions, noting that Mr. Kreider has provided his contact information.

PUBLIC COMMENTS ON MATTERS NOT ON THE AGENDA:

Matthew Schulz inquired about the open guard rail on Route 306 (on the hill). Mr. Catania advised that it was removed by the contractor, but that he does not have information on the time frame. Mr. Catania noted that cones have been placed in front of the area that is open.

OLD BUSINESS:

RESOLUTION NO. 09-R-47
(Mayor Tyler)

- (Third Reading) - A RESOLUTION TO AUTHORIZE AND APPROVE TRANSFER OF FUNDS FROM THE GENERAL FUND #100; WASTE WATER PLANT #500; WASTE WATER PLANT #501; WASTE WATER PLANT #502; SAID FUNDS TO BE TRANSFERRED TO GENERAL OBLIGATION BOND FUND #600; IN THE AMOUNTS AND FOR THE PURPOSES SPECIFIED AND DECLARING AN EMERGENCY.

Read by title only. Mr. Webbe moved to declare an emergency and adopt, with the second by Mr. Davidson. **ROLL CALL: ADOPTED 7/0 (VOTING YEA: KIREK, POWELL, SKRBIS, UMHOLTZ, WEBBE, BRETTRAGER AND DAVIDSON. VOTING NAY: NONE).**

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At the request of Council President Umholtz, Mr. Kirek moved to suspend Council Rules in order to proceed to New Business and consider Resolution No. 09-R-52 out of sequence. Mr. Powell provided the second. **ROLL CALL: MOTION CARRIED 7/0 (VOTING YEA: KIREK, POWELL, SKRBIS, UMHOLTZ, WEBBE, BRETTRAGER AND DAVIDSON. VOTING NAY: NONE).**

NEW BUSINESS:

RESOLUTION NO. 09-R-52
(Council President Umholtz)

- A RESOLUTION REPEALING RESOLUTION NO. 05-R-47 RELATIVE TO COMPENSATION PAID TO COUNCIL MEMBERS, AND DECLARING AN EMERGENCY.

Read by title only. Mr. Davidson moved to waive the three readings, with the second by Mr. Skrbis. **ROLL CALL: MOTION CARRIED 7/0 (VOTING YEA: KIREK, POWELL, SKRBIS, UMHOLTZ, WEBBE, BRETTRAGER AND DAVIDSON. VOTING NAY: NONE).** Mr. Skrbis moved to declare an emergency and adopt, with the second by Mr. Kirek. **ROLL CALL: ADOPTED 7/0 (VOTING YEA: KIREK, POWELL, SKRBIS, UMHOLTZ, WEBBE, BRETTRAGER AND DAVIDSON. VOTING NAY: NONE).**

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RETURN TO OLD BUSINESS:

RESOLUTION NO. 09-R-51
(Council President Umholtz)

- (Second Reading) - A RESOLUTION REPEALING RESOLUTION NO. 05-R-47 AND INCREASING THE COMPENSATION PAID TO THE MEMBERS OF COUNCIL, AND DECLARING AN EMERGENCY.

Read by title only. Mr. Webbe moved to amend the resolution as follows: Amend the title by removing the reference to repealing Resolution No. 05-R-47, so that the title shall read **“A RESOLUTION INCREASING THE COMPENSATION PAID TO THE MEMBERS OF COUNCIL, AND DECLARING AN EMERGENCY”**; Section I relating to repealing Resolution No. 05-R-47 shall be eliminated. Mr. Kirek provided the second.

OLD BUSINESS - RESOLUTION NO. 09-R-51 (continued):

ROLL CALL: MOTION CARRIED 7/0 (VOTING YEA: KIREK, POWELL, SKRBIS, UMHOLTZ, WEBBE, BRETTRAGER AND DAVIDSON. VOTING NAY: NONE).

Mr. Webbe moved to waive the three readings, with the second by Mr. Davidson. **ROLL CALL: MOTION CARRIED 7/0 (VOTING YEA: KIREK, POWELL, SKRBIS, UMHOLTZ, WEBBE, BRETTRAGER AND DAVIDSON. VOTING NAY: NONE).** Mr. Webbe moved to declare an emergency and adopt as amended, with the second by Mr. Kirek. **ROLL CALL: ADOPTED 5/2 (VOTING YEA: KIREK, POWELL, UMHOLTZ, WEBBE AND DAVIDSON. VOTING NAY: SKRBIS AND BRETTRAGER.)**

NEW BUSINESS:

RESOLUTION NO. 09-R-53 - **A RESOLUTION TO AUTHORIZE AND APPROVE TRANSFER OF FUNDS FROM THE GENERAL FUND #100; SAID FUNDS TO BE TRANSFERRED TO GENERAL OBLIGATION BOND FUND #600; IN THE AMOUNTS AND FOR THE PURPOSES SPECIFIED AND DECLARING AN EMERGENCY.**
(Mayor Tyler)

Read by title only and placed on First Reading.

ORDINANCE NO. 09-O-54 - **AN ORDINANCE PROVIDING TEMPORARY APPROPRIATIONS FOR THE THREE MONTH PERIOD ENDING MARCH 31, 2010.**
(Mayor Tyler)

Read by title only and placed on First Reading.

ORDINANCE NO. 09-O-55 - **AN ORDINANCE AMENDING CHAPTER 1446 OF THE CODIFIED ORDINANCES OF THE CITY OF KIRTLAND, RELATING TO FLOOD DAMAGE REDUCTION.**
(Council President Umholtz)

Read by title only. City Engineer Kiefer advised that the flood plain ordinance needs to be revised to the new standards in order to remain in the flood insurance program. Mr. Kiefer noted that the City must recognize the new digital maps as the official flood plain maps. With regard to changes in the ordinance, Mr. Kiefer advised that the proposed ordinance provides that the basement must be two feet higher than the flood plain when building a house, rather than the current ordinance requirement of one foot higher than the basement. Mr. Kiefer stated further that the proposed ordinance requires excavation of similar volume if an area of the flood plain is filled in.

Councilman Davidson requested that the City Engineer provide documentation regarding the changes from the existing ordinance to the proposed ordinance.

The Ordinance was placed on First Reading.

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CONTINUING CONCERNS:

None.

COUNCIL COMMENTS:

Councilman Brettrager expressed his appreciation to the Mayor, Council and Administrative Staff for the opportunity to work together for the past four years.

Councilman Davidson expressed his gratitude to Councilman Brettrager and wished him the best for his term of office on the Kirtland School Board.

PUBLIC COMMENTS:

None.

ADJOURNMENT:

Mr. Kirek moved to adjourn, with the second by Mr. Skrbis. The motion of Council passed by unanimous vote. The time was 7:34 p.m.

President of Council

Clerk of Council