

KIRTLAND CITY COUNCIL MINUTES

April 19, 2010

The meeting of Kirtland City Council was called to order at 7:08 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: Douglas Davidson, David Kirek, Timothy Powell, Matthew Schulz, Robert Skrbis, R. Robert Umholtz and Donald Webbe.

Administrative personnel present were: Mayor Mark A. Tyler, Law Director Daniel Richards, Finance Director Keith Martinet, City Engineer Philip Kiefer and Service Administrator Carm Catania. Police Sergeant Ronald Andolsek was present in the absence of Police Chief Wayne Baumgart, and Fire Captain Dale Grinstead was present in the absence of Fire Chief Anthony Hutton.

CHARTER REVIEW COMMITTEE

Presentation by F. Marvin Bahr, Committee Chairman

Mr. Bahr reported on the status of the review of the City Charter, noting that the Committee will likely complete its review at its meeting this Wednesday. Noting that input was solicited and received, Mr. Bahr advised that the Planning and Zoning Commission had no recommendations for changes; the Civil Service Commission recommended minor changes, such as gender neutral references and corrections for consistency in the Charter. With regard to Council's input, Mr. Bahr noted that the Committee proposed eliminating the reference to the time of the organizational meeting and allowing for a Council recess in August. Regarding the sections relating to removal, Mr. Bahr stated that the Committee believes that 10 days notice is adequate for a public hearing, and no change is recommended. Mr. Bahr advised that no changes are proposed with regard to the section pertaining to Council sending matters back to the Planning and Zoning Commission if Council chooses to amend the recommendation of the Commission.

Mr. Bahr advised that, for clarification, verbiage changes are proposed to state that members of Council and the Mayor shall not have any financial interest in any contract; and that new language is proposed to clarify the section relating to the effective date of ordinances and resolutions. He also noted that references to a "journal" are proposed to be corrected to "minutes."

Mr. Bahr stated that the Committee recommends eliminating the Board of Cemetery Trustees, noting that all duties and responsibilities for the cemeteries would fall under the jurisdiction of the Director of Public Service. Mr. Bahr noted that if the Charter amendment is approved, Council will need to amend any ordinances relating to responsibilities of the Board of Cemetery Trustees.

With regard to the section relating to the Charter Review Committee, Mr. Bahr noted that the Committee recommends that the Mayor appoint the members, with the approval of City Council; and that additional language be included to provide for a public hearing before the Committee presents the proposed Charter amendments to City Council.

Mr. Bahr stated that the Committee proposes a new section allowing Council to make non-substantive corrections to the Charter, by unanimous vote of the Council members. Mr. Bahr noted that this would include such corrections as gender references, grammatical corrections and paragraph numbering, as long as it does not change the intent.

Noting that he has been a member of the Board of Zoning Appeals for 38 years, Mr. Bahr addressed the proposed amendment to the Charter providing that the Mayor may appoint one alternate member to the Board. Mr. Bahr stated that the intent is to give the Mayor the opportunity to name an alternate if a regular member will be unavailable for a period of time due to illness, injury or some other reason. Mr. Bahr advised that three affirmative votes are required for a variance to be granted, which puts the applicant at a

CHARTER REVIEW COMMITTEE (continued):

disadvantage if only three or four members are present. Noting that it hasn't been as much of a problem recently, Mr. Bahr stated that it has been an issue in past years.

Addressing Council's noted concerns about an alternate member not having sufficient background information and familiarity with the Zoning Code, Mr. Bahr noted that the Zoning Inspector outlines the situation when an appeal is submitted. He stated that the alternate member would be provided with a copy of the ordinances. With regard to precedent and familiarity with past appeals, Mr. Bahr noted that each appeal stands on its own merit and is not based on decisions from past appeals. He advised that for each case, the Board must determine whether there is a hardship or practical difficulty. Mr. Bahr noted that the alternate could be a past member of the Board of Zoning Appeals or the Planning and Zoning Commission.

Mr. Bahr advised that the Charter Review Committee plans to schedule a public hearing on the proposed amendments. He inquired about the possibility of holding the public hearing at the May 17, 2010 Council meeting, noting that it would be beneficial to have City Council and the Department Heads present for the public hearing. Council members were in agreement with holding the public hearing at the May 17, 2010 Council meeting.

Brief discussion ensued regarding the proposed language allowing Council to make non-substantive corrections to the Charter. Noting that it would require unanimous approval from Council, Mr. Bahr stated that a correction would not go forward if one Council member finds it questionable. Mr. Richards noted that this would apply to misspellings, typographical errors and the like; nothing of substance could be changed by Council.

With regard to the proposed amendment allowing the appointment of an alternate member to the Board of Zoning Appeals, Mr. Bahr stated that he believes such a provision would benefit the Kirtland residents in providing a fair and timely resolution to an appeal. Noting that a vacancy on the Board may take a couple months to fill, Mr. Bahr stated that the alternate could be appointed to fill that vacancy.

There was discussion regarding the proposed amendment, and Councilman Webbe suggested that Council revisit this issue, citing Mr. Bahr's many years of experience on the Board of Zoning Appeals. Councilman Skrbis concurred that there may be good reason to provide an alternate.

Mr. Bahr thanked Council for the opportunity to speak with them, noting that he hoped to alleviate the concerns expressed by Council. Mr. Bahr stated that all of the proposed amendments will be explained at the public hearing, and public input will be considered. He advised that the Committee will make its final decision concerning the Charter amendments at a meeting following the public hearing, noting that it should be finalized by the end of May and presented to Council.

Further discussion ensued with regard to the proposed amendment allowing for an alternate Board of Zoning Appeals member. Council President Umholtz inquired how many other cities have provisions for alternate members. Noting that the Committee obtained Charters from seven different communities, Mr. Bahr stated that these can be checked. Mr. Bahr noted that recent articles in the News-Herald and the Plain Dealer discussed the benefits of alternate members for Boards of Zoning Appeals. Councilman Davidson suggested the addition of another regular member to the Board. Upon completion of discussion, Council President Umholtz advised that Council will discuss this further and respond to the Charter Review Committee after the next Council meeting.

Council President Umholtz thanked Mr. Bahr for attending and presenting the proposed amendments to Council.

MINUTES OF THE APRIL 5, 2010 WORK SESSION:

Mr. Webbe moved to waive the reading of the Minutes, with the second by Mr. Schulz. The motion of Council passed by unanimous vote. Mr. Webbe moved to adopt the Minutes, with the second by Mr. Schulz. **ROLL CALL: MOTION CARRIED 5/0/2 (VOTING YEA: SKRBIS, UMHOLTZ, WEBBE, POWELL AND SCHULZ. VOTING NAY: NONE. ABSTAINING: DAVIDSON AND KIREK).**

MINUTES OF THE APRIL 5, 2010 COUNCIL MEETING:

Mr. Webbe moved to waive the reading of the Minutes, with the second by Mr. Schulz. The motion of Council passed by unanimous vote. Mr. Webbe moved to adopt the Minutes, with the second by Mr. Schulz. **ROLL CALL: MOTION CARRIED 5/0/2 (VOTING YEA: SKRBIS, UMHOLTZ, WEBBE, POWELL AND SCHULZ. VOTING NAY: NONE. ABSTAINING: DAVIDSON AND KIREK).**

DEPARTMENT REPORTS:

Fire Captain Dale Grinstead did not present a formal report and no questions were asked of him.

Police Sergeant Ronald Andolsek did not give a formal report. Responding to Councilman Powell regarding the amendment to the legislation to purchase the police cruiser, Sgt. Andolsek confirmed that the vehicle to be purchased locally is the same vehicle that would be obtained through the State bid vendor.

Service Administrator Carm Catania did not present a formal report. Councilman Powell inquired about availability of a list indicating street priority for repair, noting that it would be helpful in addressing calls from residents. Mr. Catania advised that a list can be compiled after he and the Mayor check the condition of the roads throughout the City. Mr. Catania noted that, with the current budget, there will be no resurfacing done, but that he will provide a priority list for repairs.

City Engineer Philip Kiefer advised that Dominion will begin work this week at Maple Street and Route 306 to relocate the gas line for the sewer project. Responding to Councilman Schulz, Mr. Kiefer advised that Dominion has not advised of any anticipated outages as a result of the gas line installation.

Finance Director Keith Martinet requested a meeting of the City's Board of Tax Review. It was agreed that the Board of Tax Review will meet following the conclusion of the next regular Council meeting on Wednesday, May 5, 2010.

Law Director Daniel Richards did not present a formal report and no questions were asked of him.

MAYOR'S REPORT/ANNOUNCEMENTS:

Mayor Mark Tyler reminded Council that the next meeting will be held on Wednesday, May 5, rather than on the usual first Monday, due to set-up in Council Chambers for the primary election on Tuesday, May 4.

The Mayor thanked Mr. Bahr, Mr. Wiese and Mr. Gore of the Charter Review Committee for attending tonight's meeting, noting that the public hearing will be held at the May 17, 2010 Council meeting.

Mayor Tyler noted that a Girl Scout Troop recently visited him at City Hall, and that as a project they will be developing a brochure for new residents.

The Mayor stated that the monthly ministers' luncheon meeting was held at City Hall this past Wednesday, noting that it was well attended.

MAYOR’S REPORT/ANNOUNCEMENTS (continued):

Mayor Tyler requested that Council amend Resolution No. 10-R-18 to purchase the new cruiser locally; and he requested that Council waive the three readings.

STANDING COMMITTEE REPORTS:

None.

CORRESPONDENCE:

None.

PUBLIC COMMENTS ON MATTERS NOT ON THE AGENDA:

None.

OLD BUSINESS:

RESOLUTION NO. 10-R-11
(Mayor Tyler)

- (Third Reading) - 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.

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

NEW BUSINESS:

RESOLUTION NO. 10-R-14
(Mayor Tyler)

- A RESOLUTION ACCEPTING THE BID OF ARMS TRUCKING COMPANY FOR ROAD MATERIALS, AND DECLARING AN EMERGENCY.

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

RESOLUTION NO. 10-R-15
(Mayor Tyler)

- A RESOLUTION ACCEPTING THE BID OF ONTARIO STONE CORPORATION FOR ROAD MATERIALS, AND DECLARING AN EMERGENCY.

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

NEW BUSINESS (continued):

RESOLUTION NO. 10-R-16
(Mayor Tyler)

- **A RESOLUTION ACCEPTING THE BID OF OSBORNE CONCRETE & STONE COMPANY FOR ROAD MATERIALS, AND DECLARING AN EMERGENCY.**

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

RESOLUTION NO. 10-R-17
(Mayor Tyler)

- **A RESOLUTION TO AUTHORIZE AND APPROVE TRANSFER OF FUNDS FROM THE GENERAL FUND #100; SAID FUNDS TO BE TRANSFERRED BY OR BEFORE JUNE 30, 2010 TO GENERAL OBLIGATION BOND FUND #600; IN THE AMOUNTS AND FOR THE PURPOSES SPECIFIED.**

Read by title only and placed on First Reading.

RESOLUTION NO. 10-R-18
(Mayor Tyler)

- **A RESOLUTION AUTHORIZING THE MAYOR TO PURCHASE ONE (1) NEW 2010 FORD CROWN VICTORIA POLICE INTERCEPTOR FOR USE BY THE POLICE DEPARTMENT, AND DECLARING AN EMERGENCY.**

Read by title only. Mr. Webbe moved to amend the resolution to purchase the vehicle from Marshall Superstore, rather than from the State bid vendor, State Wide Ford. Mr. Schulz provided the second. **ROLL CALL: MOTION CARRIED 7/0 (VOTING YEA: SKRBIS, UMHOLTZ, WEBBE, DAVIDSON, KIREK, POWELL AND SCHULZ. VOTING NAY: NONE).**

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

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CONTINUING CONCERNS:

None.

COUNCIL COMMENTS:

Councilman Powell noted that Jim Dwyer of Sugarhouse Hill Court attended the last Council meeting and inquired about updating the street sign. Service Administrator Catania stated that he spoke with Mr. Dwyer. Mr. Catania advised that the City purchased the signs for the Historic Town Center District. For signs outside of the Historic Town Center District, Mr. Catania stated that the Homeowners' Associations have purchased the new signs; the City has provided the brackets and posts, and the Service Department has installed the signs. Mr. Catania advised that Mr. Dwyer will address this with the Homeowners' Association members.

Councilman Davidson inquired about the issue raised by Mr. Coleman, with regard to the sign on Route 306 at Markell Road. Mr. Catania advised that the sign will be moved further from the road; he noted that the Church will take care of this in a couple weeks.

Councilman Skrbis advised that he will be unavailable for the May 5, 2010 Council meeting.

PUBLIC COMMENTS:

None.

ADJOURNMENT:

Mr. Kirek moved to adjourn, with the second by Mr. Webbe. The motion of Council passed by unanimous vote. The time was 7:57 p.m.

President of Council

Clerk of Council