

KIRTLAND CITY COUNCIL MINUTES

June 15, 2009

The meeting of Kirtland City Council was called to order at 7:12 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, Law Director Daniel Richards, Finance Director Keith Martinet, City Engineer Philip Kiefer and Police Chief Wayne Baumgart. Fire Captain Douglas Bode was present in the absence of Fire Chief Anthony Hutton.

MINUTES OF THE JUNE 1, 2009 COUNCIL MEETING:

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

MINUTES OF THE JUNE 1, 2009 FINANCE COMMITTEE 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: SKRBIS, UMHOLTZ, WEBBE, BRETTRAGER, DAVIDSON, KIREK AND POWELL. VOTING NAY: NONE).**

DEPARTMENT REPORTS:

Fire Captain Douglas Bode 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.

City Engineer Philip Kiefer advised that the formal report for May has been distributed.

Finance Director Keith Martinet advised that prior to the Council meeting, he signed and presented to the Clerk of Council the Fiscal Officer's Certificates for all of the bond anticipation notes that are on tonight's agenda.

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

MAYOR'S REPORT/ANNOUNCEMENTS:

Mayor Mark Tyler reported that on Friday, June 3, the third graders from Kirtland Elementary School visited City Hall for Government Day. The Mayor noted that the Police Department, Fire Department, Service Department, Recreation and Administration were involved during the visit and presentation.

Mayor Tyler advised that the Police and Fire Departments responded immediately to the recent fire at Zeppes Pizzeria. The Mayor commended Captain Bode and the firefighters, noting that the structure was saved. Mayor Tyler advised that the fire is under investigation.

MAYOR'S REPORT/ANNOUNCEMENTS (continued):

Mayor Tyler stated that the Safety Town program began today at the Community Center, noting that 52 children are enrolled.

The Mayor noted that the Strawberry Festival will be held this week, Thursday (June 18) through Sunday (June 21) on the Kirtland Schools campus.

Mayor Tyler advised that he attended the NOACA Board meeting on Friday morning presented by the Tenth Annual NOACA Summit, noting that the presentation and panel discussion focused on infrastructure needs in economic perilous times. The Mayor noted that the keynote speaker was Senator Voinovich.

STANDING COMMITTEE REPORTS:

Councilman Powell, as Chairman of the Planning and Zoning Standing Committee, noted that Council has received a proposed fence ordinance recommended by the Planning and Zoning Commission. Councilman Powell requested that Council members review the draft for discussion. It was agreed that a work session be held at 6:30 p.m. on July 6, 2009, preceding the next regular Council meeting, to discuss the proposed fence ordinance.

CORRESPONDENCE:

None.

PUBLIC COMMENTS ON MATTERS NOT ON THE AGENDA:

Councilman Davidson advised that a few Ward 1 residents are present to address Council with a specific concern. Mr. Davidson introduced Alan Clough, Judy McAndrew and Carl Sheppard.

Judy McAndrew, 7755 Joseph Street, expressed her concerns about her neighbor who is conducting a commercial business next door to her house, including car repair, towing, and purchase and resale of used cars. Ms. McAndrew stated that she has pictures, noting that cars are parked all along the street or on the front lawn when the driveway fills up with cars. Ms. McAndrew stated that she believes it is an unhealthy environment due to the fumes. She stated that her neighbor built a 2500 square ft. garage addition onto his home and has been using it on an ongoing basis for commercial purposes. Council President Umholtz requested that the Law Director meet with the Zoning Inspector to discuss this matter.

Doug Wardell, 7736 Joseph Street, stated that he has already approached Councilman Davidson with regard to the commercial use of the neighbor's Joseph street property. Mr. Wardell stated that he was under the impression that the property owner had already been cited. Mr. Davidson stated that he spoke with Mr. Catania concerning this matter, and that a certified letter was mailed to the property owner with regard to the use of the property. Mr. Davidson noted that the property owner needs to acknowledge that it is a business, and an appropriate location needs to be found for the business.

Law Director Richards advised that there are two methods of enforcing this type of law – one is civil, which would involve filing an action for an injunction to abate the violation; the other method of enforcement is criminal, which would require the prosecution to prove the violation beyond a reasonable doubt. Mr. Richards stressed that good evidence is required, including photographic, video and eyewitness testimony, for a criminal action or a civil action.

PUBLIC COMMENTS ON MATTERS NOT ON THE AGENDA (continued):

Ms. McAndrew stated that this business use has been ongoing for four years, and it is escalating and becoming much more obvious. Responding to Chief Baumgart, she advised that the property address is 7763 Joseph Street.

Carl Sheppard, 7732 Joseph Street, stated that the business use of the property is not low profile; it is escalating and the tow truck and car traffic onto the property is continual and flagrant. Mr. Sheppard stated his concerns about the business use on a residential street. Mr. Sheppard stated that there are laws prohibiting the commercial use of this property.

Alan Clough, 7774 Fairview Avenue, stated that he lives across the street from the subject property. He stated that the commercial use of the property is annoying to the other residents, noting that cars utilizing the business are parked in the driveway and on the street. Mr. Clough stated that he tries to keep his property well maintained, and he stated his concerns about the use of the property and the impact on the other residents.

Council President Umholtz thanked the residents for attending and bringing this matter to Council’s attention. Noting that a certified letter has been sent to the property owner, Mr. Umholtz advised that the Law Director will discuss this matter with the Zoning Inspector to determine the next course of action.

OLD BUSINESS:

None.

NEW BUSINESS:

RESOLUTION NO. 09-R-24
(Mayor Tyler)

- **A RESOLUTION TO AUTHORIZE AND APPROVE TRANSFER OF FUNDS FROM THE GENERAL FUND #100; MAJOR CAPITAL EQUIPMENT #229; TEMPLEVIEW PROJECT #300; GENERAL OBLIGATION BOND FUND #600; SAID FUNDS TO BE TRANSFERRED TO GENERAL OBLIGATION BOND FUND #600; U.S. ROUTE 6 RESURFACING #907; LAKELAND & 306 SIGNALS #908; LAKELAND & 306 TURN LANES #909; GENERAL FUND #100; IN THE AMOUNTS AND FOR THE PURPOSES SPECIFIED, AND DECLARING AN EMERGENCY.**

Read by title only and placed on First Reading.

ORDINANCE NO. 09-O-25
(Mayor Tyler)

- **AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF \$640,000 OF NOTES, IN ANTICIPATION OF THE ISSUANCE OF BONDS, TO PAY COSTS OF ENGINEERING AND DESIGN SERVICES RELATED TO THE CONSTRUCTION OF IMPROVEMENTS TO THE MUNICIPAL SANITARY SEWERAGE SYSTEM BEING UNDERTAKEN IN COOPERATION WITH LAKE COUNTY, AND DECLARING AN EMERGENCY.**

NEW BUSINESS – ORDINANCE NO. 09-O-25 (continued):

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

ORDINANCE NO. 09-O-26
(Mayor Tyler)

- **AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF \$400,000 OF NOTES, IN ANTICIPATION OF THE ISSUANCE OF BONDS, TO PAY COSTS OF IMPROVING THE INTERSECTION OF CHILLICOTHE ROAD (SR 306) AND CHARDON ROAD (US 6) BY WIDENING, GRADING, DRAINING, CURBING, PAVING, CONSTRUCTING TURN LANES, STORM SEWERS AND STORM WATER FACILITIES AND INSTALLING SIGNAGE AND TRAFFIC SIGNALIZATION, AND DECLARING AN EMERGENCY.**

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

ORDINANCE NO. 09-O-27
(Mayor Tyler)

- **AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF \$160,000 OF NOTES, IN ANTICIPATION OF THE ISSUANCE OF BONDS, TO PAY COSTS OF IMPROVING THE INTERSECTION OF CHARDON ROAD (US 6) AND SPERRY ROAD BY GRADING, DRAINING, PAVING, CONSTRUCTING STORM SEWERS AND STORM WATER FACILITIES AND INSTALLING SIGNAGE, AND DECLARING AN EMERGENCY.**

Read by title only. Mr. Skrbis moved to waive the three readings, with the second by Mr. Brettrager. **ROLL CALL: MOTION CARRIED 6/1 (VOTING YEA: SKRBIS, UMHOLTZ, WEBBE, BRETTRAGER, DAVIDSON AND KIREK. VOTING NAY: POWELL).** Mr. Skrbis moved to declare an emergency and adopt, with the second by Mr. Webbe. **ROLL CALL: ADOPTED 6/1 (VOTING YEA: SKRBIS, UMHOLTZ, WEBBE, BRETTRAGER, DAVIDSON AND KIREK. VOTING NAY: POWELL).**

NEW BUSINESS (continued):

ORDINANCE NO. 09-O-28
(Mayor Tyler)

- **AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF \$150,000 OF NOTES, IN ANTICIPATION OF THE ISSUANCE OF BONDS, TO PAY COSTS OF ACQUIRING MOTOR VEHICLES, EQUIPMENT AND APPARATUS FOR USE BY THE CITY'S FIRE AND SERVICE DEPARTMENTS, AND DECLARING AN EMERGENCY.**

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

ORDINANCE NO. 09-O-29
(Mayor Tyler)

- **AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF \$125,000 OF NOTES, IN ANTICIPATION OF THE ISSUANCE OF BONDS, TO PAY COSTS OF ACQUIRING MOTOR VEHICLES, INCLUDING RELATED EQUIPMENT AND APPARATUS, FOR USE BY THE CITY'S SERVICE DEPARTMENT, AND DECLARING AN EMERGENCY.**

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

ORDINANCE NO. 09-O-30
(Mayor Tyler)

- **AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF \$105,000 OF NOTES, IN ANTICIPATION OF THE ISSUANCE OF BONDS, TO PAY COSTS OF IMPROVING THE MUNICIPAL SANITARY SEWERAGE SYSTEM BY CONSTRUCTING SANITARY SEWERS, AND DECLARING AN EMERGENCY.**

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

NEW BUSINESS (continued):**ORDINANCE NO. 09-O-31**
(Mayor Tyler)

- AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF \$75,000 OF NOTES, IN ANTICIPATION OF THE ISSUANCE OF BONDS, TO PAY COSTS OF IMPROVING CHILLICOTHE ROAD (SR 306) BY WIDENING, GRADING, DRAINING, CURBING, PAVING, CONSTRUCTING TURN LANES, STORM SEWERS AND STORM WATER FACILITIES AND INSTALLING SIGNAGE AND TRAFFIC SIGNALIZATION, AND DECLARING AN EMERGENCY.

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

ORDINANCE NO. 09-O-32
(Mayor Tyler)

- AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF \$390,000 OF NOTES, IN ANTICIPATION OF THE ISSUANCE OF BONDS, TO PAY A PORTION OF THE COSTS OF IMPROVING, IN COOPERATION WITH THE OHIO DEPARTMENT OF TRANSPORTATION, CHARDON ROAD (US 6) BY RESURFACING, 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, BRETTRAGER, DAVIDSON, KIREK AND POWELL. VOTING NAY: NONE).** Mr. Powell moved to declare an emergency and adopt, with the second by Mr. Kirek. **ROLL CALL: ADOPTED 7/0 (VOTING YEA: SKRBIS, UMHOLTZ, WEBBE, BRETTRAGER, DAVIDSON, KIREK AND POWELL. VOTING NAY: NONE).**

ORDINANCE NO. 09-O-33
(Mayor Tyler)

- AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF \$180,000 OF NOTES, IN ANTICIPATION OF THE ISSUANCE OF BONDS, TO PAY A PORTION OF THE COSTS OF IMPROVING CHILLICOTHE ROAD (SR 306) AT LAKELAND COMMUNITY COLLEGE BY RECONSTRUCTING AND IMPROVING TURN LANES IN COOPERATION WITH THE CITY OF WILLOUGHBY, AND DECLARING AN EMERGENCY.

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

NEW BUSINESS (continued):**ORDINANCE NO. 09-O-34**
(Mayor Tyler)

- AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF \$165,000 OF NOTES, IN ANTICIPATION OF THE ISSUANCE OF BONDS, TO PAY COSTS OF ACQUIRING AN AMBULANCE, INCLUDING RELATED EQUIPMENT AND APPARATUS, AND DECLARING AN EMERGENCY.

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

ORDINANCE NO. 09-O-35
(Mayor Tyler)

- AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF \$90,000 OF NOTES, IN ANTICIPATION OF THE ISSUANCE OF BONDS, TO PAY A PORTION OF THE COSTS OF IMPROVING, IN COOPERATION WITH THE OHIO DEPARTMENT OF TRANSPORTATION AND THE CITIES OF MENTOR AND WILLOUGHBY, CHILLICOTHE ROAD (SR 306) AT LAKELAND COMMUNITY COLLEGE BY INSTALLING TRAFFIC SIGNALIZATION, AND DECLARING AN EMERGENCY.

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

Mayor Tyler thanked Council for adopting the bond legislation at tonight's meeting, noting that Mr. Martinet worked with the bond counsel in the preparation of the legislation. The Mayor noted that by adopting the legislation tonight, the City will have additional time and should be able to obtain more favorable rates.

RESOLUTION NO. 09-R-36
(Mayor Tyler)

- A RESOLUTION ADOPTING A TAX BUDGET FOR FISCAL YEAR 2010.

Read by title only and placed on First Reading.

ORDINANCE NO. 09-O-37
(Council President Umholtz)

- AN ORDINANCE AMENDING CHAPTER 1290 OF THE CODIFIED ORDINANCES OF THE CITY OF KIRTLAND, RELATING TO FENCES.

Read by title only. Councilman Powell noted that a work session has been scheduled for 6:30 p.m. before the next Council meeting to discuss this proposed ordinance. The legislation was placed on First Reading.

NEW BUSINESS (continued):

RESOLUTION NO. 09-R-38
(Mayor Tyler)

- **A RESOLUTION TO PERMIT DOMINION EAST OHIO GAS, A PUBLIC UTILITY, TO CONSTRUCT A COMPRESSOR STATION AT 8720 EUCLID-CHARDON ROAD, IN THE CITY OF KIRTLAND, OHIO AND DECLARING AN EMERGENCY.**

Read by title only and placed on First Reading.

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CONTINUING CONCERNS:

None.

COUNCIL COMMENTS:

Councilman Brettrager stated that nearly 100 children signed up for Junior Olympics this past weekend; he commended Jenna Hull on a job well done.

Councilman Davidson stated that he spoke with Mr. Catania with regard to parking issues at the Recreation Park. Mr. Davidson noted that a net is going to be installed for fly balls, so that parking spaces can be provided next to one of the fields. Mr. Davidson expressed appreciation to the residents for helping to move this issue forward.

PUBLIC COMMENTS:

None.

ADJOURNMENT:

Mr. Powell moved to adjourn, with the second by Mr. Kirek. The motion of Council passed by unanimous vote. The time was 7:50 p.m.

President of Council

Clerk of Council