

KIRTLAND CITY COUNCIL MINUTES

July 12, 2010

The meeting of Kirtland City Council was called to order at 7:16 p.m. by Council President R. Robert Umholtz. Mr. 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, Service Administrator Carm Catania, Police Chief Wayne Baumgart and Fire Chief Anthony Hutton.

CONTINUATION OF PUBLIC HEARING – PROPOSED ZONING TEXT AND MAP AMENDMENTS:

Council President Umholtz opened the public hearing in this regard, continued from the July 7, 2010 Council meeting.

Rosemary Paulin, 10441 Chillicothe Road, stated that she has concerns relative to expansion of the commercial zoning to the six-acre lot that abuts her property on Route 306. Mrs. Paulin questioned whether her neighbors are aware of the potential zoning change; and she stated concern about the effect that such a change would have on her property value. Noting that her family has resided on the property since 1953, she stated that she has worked hard to maintain the value of the home and property. Mrs. Paulin inquired about the buffer zone, and stated that she is uncomfortable about a zoning change without knowing what will happen on the lot abutting her property. She stated that she is concerned about how such a change would affect her personally and financially, and how it would affect the area.

Council President Umholtz stated that the property referenced by Ms. Paulin is owned by Mr. Shahinian and is identified as Permanent Parcel No. 20-A-029-A-00-032-0, noting that her property is directly north of this parcel. Mr. Umholtz stated that this particular parcel is not included in the proposed zoning map amendment, but that at last week's public hearing Mr. Shahinian requested that it be included.

Councilman Skrbis noted that two members of the Planning and Zoning Commission are present in the audience, and he requested that they address the proposed zoning map amendment.

Mike Denk, 8769 Quail Circle, stated that he is the current Chairman of the Planning and Zoning Commission. Mr. Denk stated that, in order to maximize the buffer against the residential property on Route 306 and the residential back yards on Locust Drive, the Commission did not include this six-acre parcel as part of the rezoning. Mr. Denk noted that the Commission has attempted to match the zoning on both sides of the street and to maintain as much buffer as possible. Mr. Denk advised that the zoning code would provide a larger buffer for commercial property abutting a residential district. Referring to proposed Section 1277.07 relating to Retail Business Districts, Mr. Denk advised that the proposed side yard setback adjoining a residential district is 25 ft., as opposed to 15 ft. if it adjoins a non-residential district. He advised that the proposed rear yard setback adjoining a residential district is 50 ft., as opposed to 30 ft. if it adjoins a non-residential district.

Responding to Councilman Skrbis concerning a description of the RB zoning, Mr. Denk stated that it is a retail business district, and he read the permitted uses listed in proposed Section 1277.03. Mr. Denk confirmed that use of the property would be similar to existing business use of the small strip center, such as the floral shop.

PUBLIC HEARING – PROPOSED ZONING TEXT AND MAP AMENDMENTS (continued):

Kevin Eilerman, 8066 Pinehurst Drive, Planning and Zoning Commission member, stated that a dentist office would be one example of a permitted office use; a florist shop would be one example of a permitted retail use. Responding to Councilman Skrbis, Mr. Eilerman stated that a proposed use would need to be reviewed and approved by the EPA and/or the Lake County Health Department, noting that there would be limitations due to the lack of sewers.

Jeffrey Mills, 8215 Tulip Lane, Chagrin Falls, Ohio, stated that he is requesting that his entire 23 acres of property be rezoned for business use. Mr. Mills stated that he has a wetlands study and a septic feasibility study. He noted that the current proposal, which does not include the entire acreage, will make it difficult to develop because sufficient land is needed for a septic system in the absence of sewers. Mr. Mills stated that the wetlands study shows that there will be no problem with a buffer zone because the creek and the wetlands will provide a buffer. He noted that the property is surrounded by Route 306, Route 6, the cemetery, the creek and wetlands, which protects the residential properties on every side.

John Shahinian, 8818 Pheasant Lane, stated that with regard to his six-acre parcel, he does not want to adversely affect Ms. Paulin; he stated that the entire six acres does not need to be rezoned, noting that it can be split.

Rosemary Paulin stated that the drainage is one of her major concerns, noting that her property is very wet and that water flows onto her property from the adjoining six-acre parcel. Ms. Paulin stated that she does not believe a 25 ft. buffer zone would be adequate.

There were no further public comments or questions, and the public hearing was concluded with the consent of Council.

DEPARTMENT REPORTS:

Fire Chief Anthony Hutton did not present a formal report and no questions were asked of him.

Service Administrator Carm Catania gave no formal report and no questions were asked of him.

City Engineer Philip Kiefer did not present a formal report and no questions were asked of him.

Finance Director Keith Martinet advised that the bond anticipation notes have preliminarily been purchased by two investors, noting that the City received a good rate.

Mr. Martinet advised that the Auditors completed their field work and should issue their report by September 1, 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 advised that legislation regarding the admissions tax, the auction of guns, and the Community Center rental agreement should be on the agenda after Council returns from recess.

STANDING COMMITTEE REPORTS:

None.

CORRESPONDENCE:

Council President Umholtz reported on the following:

1. Notice from Clerk of Council regarding permits for new houses during Council's recess. Mr. Webbe moved to grant authorization to City Engineer Philip Kiefer to issue zoning permits during Council's summer recess for new residences in subdivisions not yet approved for maintenance. Mr. Kirek provided the second. **ROLL CALL: MOTION CARRIED 7/0 (VOTING YEA: DAVIDSON, KIREK, POWELL, SCHULZ, SKRBIS, UMHOLTZ AND WEBBE. VOTING NAY: NONE).**

PUBLIC COMMENTS ON MATTERS NOT ON THE AGENDA:

Valorie Wolcott-Mendelson, 9106 Prelog Lane, inquired about the plans and timelines with regard to the projects at the intersection of Route 6 and Sperry Road and at the intersection of Prelog Lane and Sperry Road. Service Administrator Catania advised that the project at the intersection of Prelog Lane and Sperry Road is complete. He noted that the City regraded Mr. Swindell's front yard and removed approximately three feet from the hump by the road, resulting in significantly increased sight distance. With regard to the intersection of Route 6 and Sperry Road, Mr. Catania advised that there have been discussions regarding engineering. He stated that additional work that was not originally planned will be done on Sperry Road, south of Route 6, to provide a more level area at the stop sign. Mr. Catania stated that issues regarding safety of the workers and temporary traffic control are also being addressed. He noted that additional governmental forms must be completed. Mr. Catania stated that the traffic patterns and engineering should be completed soon, and then a timeline should be available. Ms. Wolcott-Mendelson stated that it would be helpful for the residents to receive some feedback from the City.

OLD BUSINESS:

ORDINANCE NO. 10-O-35
(Council President Umholtz)

- (Tabled) - **AN ORDINANCE REPEALING CODIFIED ORDINANCE CHAPTERS 1266, 1268, 1270, 1271, 1272, 1274, 1276, 1277 AND 1284; ENACTING CODIFIED ORDINANCE CHAPTERS 1263, 1268, 1270, 1273, 1275, 1277 AND 1279; AND AMENDING THE ZONING MAP OF THE CITY OF KIRTLAND.**

Mr. Webbe moved to remove the legislation from the table, with the second by Mr. Kirek. **ROLL CALL: MOTION CARRIED 7/0 (VOTING YEA: DAVIDSON, KIREK, POWELL, SCHULZ, SKRBIS, UMHOLTZ AND WEBBE. VOTING NAY: NONE).**

The legislation was read by title only. Council President Umholtz noted that prior to the tabling of this ordinance, a request was made by Jeffrey Mills, on behalf of his brother and himself as property owners, to include their entire property in the proposed Retail Business zoning, by extending the zoning to include the entirety of Parcel No. 20-A-028-0-00-039-0 and Parcel No. 20-A-028-0-00-023-0. Mr. Umholtz noted that a request was also made by Mr. Shahinian to include his parcel known as 20-A-029-A-00-032-0 in the proposed Retail Business zoning.

Council President Umholtz noted that, at the last Council meeting, Planning Consultant Crandall indicated that the balance of the property owned by Jeffrey and Edwin Mills, not included in the proposed amendment, is mostly unbuildable and provides a sufficient buffer for the residential neighbors. Mr. Umholtz noted that including the entire property in the proposed Retail Business zoning would also provide for the potential construction of a package plant, which would be necessary at this time for development of the property.

OLD BUSINESS – ORDINANCE NO. 10-O-35 (continued):

With regard to Mr. Shahinian's additional six-acre parcel, Mr. Umholtz stated that there remains a great deal of concern regarding buffering for the neighbors and the impact that rezoning would have on the neighbors. As suggested by Mr. Shahinian, Mr. Umholtz noted that the Planning and Zoning Commission could consider splitting the property and placing an amendment on the ballot at a later time. Mr. Umholtz advised that Council must pass this legislation tonight in order to place the zoning amendment on the ballot. He noted that Council would need to review this further due to concern about the impact to neighboring properties. Mayor Tyler advised that these requests were given serious consideration and discussed at length in the work session.

Councilman Skrbis commented positively on the manner in which the requests were presented to Council. Council President Umholtz thanked Mr. Mills and Mr. Shahinian for attending the meetings and presenting their proposals to Council.

Council President Umholtz stated that he would entertain a motion to amend Ordinance No. 10-O-35 to include in the proposed amendment to the zoning map of the City of Kirtland, the entire property on the northwest corner of the intersection of Euclid-Chardon Road and Chillicothe Road owned by the Mills family and known as Parcel No. 20-A-028-0-00-039-0 and Parcel No. 20-A-028-0-00-023-0, to be designated as Retail Business. Mr. Davidson so moved, and Mr. Kirek seconded. **ROLL CALL: MOTION CARRIED 7/0 (VOTING YEA: DAVIDSON, KIREK, POWELL, SCHULZ, SKRBIS, UMHOLTZ AND WEBBE. VOTING NAY: NONE).** As a result of the amendment, the legislation reverts to Second Reading.

Mr. Webbe moved to waive the three readings, with the second by Mr. Davidson. **ROLL CALL: MOTION CARRIED 7/0 (VOTING YEA: DAVIDSON, KIREK, POWELL, SCHULZ, SKRBIS, UMHOLTZ AND WEBBE. VOTING NAY: NONE).** Mr. Webbe moved to adopt the legislation, as amended. Mr. Powell provided the second. **ROLL CALL: ADOPTED 7/0 (VOTING YEA: DAVIDSON, KIREK, POWELL, SCHULZ, SKRBIS, UMHOLTZ AND WEBBE. VOTING NAY: NONE).**

RESOLUTION NO. 10-R-36
(Council President Umholtz)

- (Tabled) - **A RESOLUTION PROVIDING FOR THE SUBMISSION TO THE ELECTORS OF THE CITY OF KIRTLAND, THE QUESTION OF THE APPROVAL OR DISAPPROVAL OF AN ORDINANCE REPEALING CODIFIED ORDINANCE CHAPTERS 1266, 1268, 1270, 1271, 1272, 1274, 1276, 1277 AND 1284; ENACTING CODIFIED ORDINANCE CHAPTERS 1263, 1268, 1270, 1273, 1275, 1277 AND 1279; AND AMENDING THE ZONING MAP OF THE CITY OF KIRTLAND, AS ADOPTED BY THE CITY COUNCIL PURSUANT TO ORDINANCE NO. 10-O-35, AND DECLARING AN EMERGENCY.**

Mr. Skrbis moved to remove the legislation from the table, with the second by Mr. Davidson. **ROLL CALL: MOTION CARRIED 7/0 (VOTING YEA: DAVIDSON, KIREK, POWELL, SCHULZ, SKRBIS, UMHOLTZ AND WEBBE. VOTING NAY: NONE).**

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

OLD BUSINESS (continued):

RESOLUTION NO. 10-R-39
(Mayor Tyler)

- (Third Reading) - A RESOLUTION PURSUANT TO SECTION 5705.19(h) OF THE OHIO REVISED CODE SUBMITTING TO THE ELECTORS OF THE CITY A QUESTION OF PROVIDING FOR A RENEWAL OF THE CURRENT LEVY OF 0.85 MILL FOR FIVE YEARS FOR COMMUNITY SENIOR CITIZEN AND RECREATIONAL FACILITIES AND PROGRAMS, OUTSIDE THE TEN MILL LIMITATION, AND DECLARING AN EMERGENCY.

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

NEW BUSINESS:

RESOLUTION NO. 10-R-40
(Mayor Tyler)

- A RESOLUTION ACCEPTING THE BID OF JAMIESON RICCA COMPANY FOR THE PARTIAL WINDOW REPLACEMENT FOR KIRTLAND COMMUNITY CENTER, AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT WITH JAMIESON RICCA COMPANY, 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: DAVIDSON, KIREK, POWELL, SCHULZ, SKRBIS, UMHOLTZ AND WEBBE. 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: DAVIDSON, KIREK, POWELL, SCHULZ, SKRBIS, UMHOLTZ AND WEBBE. VOTING NAY: NONE).**

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CONTINUING CONCERNS:

None.

COUNCIL COMMENTS:

Noting that he was absent from Council Chambers during the Department reports, Police Chief Baumgart advised that in May he celebrated his tenth year with the City of Kirtland. Chief Baumgart advised that he is now a representative life member of the Cuyahoga County Chiefs Association. He stated further that he is also now the Secretary and Treasurer for the Ohio FBI National Academy Associates. Council President Umholtz offered his congratulations on behalf of Council, and Chief Baumgart received the applause of all those present.

Referring to a vehicle that was broken into on Christina Drive, Councilman Davidson inquired whether any of the items have been recovered. Chief Baumgart stated that none of the stolen items have yet been recovered.

Noting that Council has worked through some issues in the past two weeks, Councilman Skrbis commended all those involved for working together in this regard.

PUBLIC COMMENTS:

None.

ADJOURNMENT:

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

President of Council

Clerk of Council