

## KIRTLAND CITY COUNCIL MINUTES

July 9, 2018

The meeting of Kirtland City Council was called to order at 7:12 p.m. by Council President Kevin Potter. Mr. Schulz led the prayer which followed the Pledge of Allegiance. The members of Council present were: David Kirek, John Lesnick, Kevin Potter, Matthew Schulz, Robert Skrbis and Joseph Smolic. Absent: Richard Lowery.

Administrative personnel present were: Law Director Daniel Richards, Finance Director Keith Martinet, City Engineer Philip Kiefer, Service Administrator Carm Catania, Police Chief Lance Nosse and Fire Chief Anthony Hutton.

### MINUTES OF THE JULY 2, 2018 WORK SESSION:

Mr. Kirek moved to waive the reading of the minutes, with the second by Mr. Lesnick. The motion of Council passed by unanimous vote. Mr. Kirek moved to approve the Minutes, as presented, with the second by Mr. Lesnick. **ROLL CALL: MOTION CARRIED 5/0/1 (VOTING YEA: KIREK, LESNICK, POTTER, SKRBIS AND SMOLIC. VOTING NAY: NONE. ABSTAINING: SCHULZ).**

### MINUTES OF THE JULY 2, 2018 COUNCIL MEETING:

Mr. Kirek moved to waive the reading of the minutes, with the second by Mr. Smolic. The motion of Council passed by unanimous vote. Mr. Kirek moved to approve the Minutes, as presented, with the second by Mr. Smolic. **ROLL CALL: MOTION CARRIED 5/0/1 (VOTING YEA: KIREK, LESNICK, POTTER, SKRBIS AND SMOLIC. VOTING NAY: NONE. ABSTAINING: SCHULZ).**

### DEPARTMENT REPORTS:

**Fire Chief Anthony Hutton** advised that extensive repairs were needed on two of the fire engines, noting that they are 2002 vehicles. He noted that it is difficult to get parts for those trucks, so it is more expensive whenever there is a breakdown. Chief Hutton stated that on July 18 he will travel to South Dakota for the final inspection on the new Rosenbauer engine, noting that it should be delivered in approximately one month.

Chief Hutton stated that it has been very busy the past 12 hours for all of the western Lake County Fire Departments, noting that they responded to three working structure fires – two in Eastlake and one in Wickliffe – along with responding to a call at the mall in Mentor.

Council President Potter inquired about the cost of the repairs to the fire engines. Chief Hutton responded that they are approaching \$20,000 in repairs this year. Chief Hutton advised that the new engine will replace the yellow engine, and the two 2002 engines will be rotated, which will extend the life on them.

Councilman Lesnick inquired about avoiding a future situation of having two trucks of the same age. Chief Hutton stated that in 2002 there were two engines that were failing at the same time, and both needed to be replaced. He stated that they now purchase an ambulance every five years, rotating them to be front line for ten years and reserve for five years. He stated that they will be in a good position now with the fire engines, noting that they will be able to extend the life of the two 2002 engines and should need only one in five or six years. Responding to Councilman Smolic, Chief Hutton stated that both miles and hours contribute to the wear on the engines.

**DEPARTMENT REPORTS (continued):**

Responding to Councilman Schulz regarding delivery of the new engine, Chief Hutton stated that in the past they were shipped on a flatbed.

**Police Chief Lance Nosse** did not present a formal report. Councilman Lesnick inquired how long the Police Department has been monitoring the cameras in the schools. Chief Nosse responded that it was implemented within the last six to seven months. Chief Nosse stated that the Police Department is able to respond to incidents before a call is made, noting that they can monitor everything inside and outside the building. Chief Nosse stated that he brought this up with the School Safety Planning Committee approximately a year ago; he noted that the school installed their cameras and the Police Department connected to their system. Responding to Mr. Potter, Chief Nosse stated that the Police Department does not charge the schools for monitoring the cameras. Chief Hutton noted that the school's alarm systems used to be monitored by a private alarm company, but the Fire Department worked with the schools and now monitors the burglar and fire alarms free of charge; the school paid for the installation of the equipment. Chief Nosse noted that it would be helpful to have a larger monitor in the Police Department to monitor those cameras. He noted that the resolution of the cameras is phenomenal.

**Service Administrator Carm Catania** did not present a formal report. Mr. Lesnick inquired about the drainage work on Route 306. Mr. Catania stated that the Department is not currently working on the drainage, noting that they are starting work on Arborhurst. Mr. Catania noted that the culvert repair near Chapin Forest was taken care of over the weekend. Answering Mr. Lesnick with regard to the drainage work, Mr. Catania stated that even with good weather the Department would have been hard pressed to install the 3000 feet of pipe before the start of resurfacing work on Route 306. Mr. Catania stated that approximately 800 to 900 feet of pipe has been installed.

Mr. Lesnick noted that at the last meeting Mr. Catania mentioned that he has a list of roads that will be patched. Mr. Catania stated that he will send that list to Council.

Responding to Mr. Potter, Mr. Catania stated that he received the quotes he needed for Arborhurst, noting that the Service Department removed the top layer of asphalt and the concrete removal is being contracted at a cost of approximately \$8.62 per square yard, which is inexpensive. He noted that it was estimated at approximately 2000 square yards for Singlefoot and 2200 square yards for Arborhurst. There was discussion regarding the work to be done on these streets.

Mr. Lesnick stated that the curbs are damaged on Courtney Lane. Mr. Catania stated that he will look at them, noting that he has a list of those types of repairs that need to be done.

With regard to the culvert repair on Route 306, Mr. Smolic inquired if it is going to be paved or patched over the repaired area. Mr. Kiefer stated that 9 to 12 inches of asphalt will be put down, and then the top three inches will be ground off when the road is resurfaced. Mr. Smolic inquired about settling after that type of project. Mr. Schulz noted that it would not be desirable to have a dip there after the road is done. Mr. Catania stated that the existing asphalt was 18 to 21 inches thick over the culvert. Answering Mr. Schulz, Mr. Kiefer stated that they put in 72 inch reinforced concrete pipe.

**City Engineer Philip Kiefer** did not present a formal report. Mr. Kiefer stated that the culvert across Route 306 has been replaced, noting that asphalt needs to be put down.

Mr. Lesnick inquired about the sinkhole on Fox Hill. Mr. Kiefer stated that contracts may not get many bids this time of year, so he plans to hold off getting a quote until later in the year when more contractors are looking for work. He noted that the best time to bid it out would be January when contractors begin scheduling work for the year. Mr. Lesnick inquired if there will be a wetlands walkover. Mr. Kiefer stated that Fox Hill runs down to Sandy Brook, the creek that runs through Penitentiary Glen; he noted that he will request input from Chagrin River Watershed Partners.

**DEPARTMENT REPORTS (continued):**

Mr. Smolic stated that there was discussion two years ago about getting bids out earlier, and he inquired if the City's current process is a hindrance. Mr. Martinet stated that the capital projects are reviewed in November, noting that money can be allocated in the temporary appropriation toward capital projects.

Mr. Lesnick requested that the City Engineer add the Fox Hill sinkhole to his monthly report.

Mr. Smolic noted that at the last Service Department Standing Committee meeting, there was discussion about contracting roads out, and he inquired about the cost range for engineering to prepare for bid. Mr. Kiefer stated that the engineering costs are approximately \$6,000 to \$7,000 for preparation of the spec book, along with 7.6 percent of the construction cost.

Mr. Potter inquired if the design build method for putting something to bid lessens the engineering costs. Mr. Kiefer stated that the contractor comes up with the design, which can be accepted or modified. Mr. Kiefer stated that there would still be design cost, but it would be paid to the contractor. Mr. Schulz stated that the design build is typically used on larger scale projects to have the contractor bear the risk of the design. Mr. Schulz explained how the process works. Discussion ensued in this regard.

**Finance Director Keith Martinet** advised that the Auditors are getting close to wrapping up their work; they anticipate having the field work done by July 20 and the statements should be out in August.

Mr. Potter reminded the Finance Director about running the numbers for different financing mechanisms for road projects.

**Law Director Daniel Richards** advised that a letter will be sent to Russellhurst Drive Extension property owners to determine whether they want to go forward with the easement and communicate that information to Dominion.

With regard to the small cell legislation recently enacted by the State, Mr. Richards stated that he will discuss with Mr. Kiefer and Mr. Catania possible modifications to the ordinances concerning right-of-way regulations.

**MAYOR'S REPORT/ANNOUNCEMENTS:**

None.

**STANDING COMMITTEE REPORTS:**

Mr. Lesnick noted that a Utilities Standing Committee meeting was held this evening prior to the Council meeting to discuss the new septic rules for 2020 and the EPA changes.

Mr. Lesnick stated that another Utilities Standing Committee meeting has tentatively been scheduled for August 20 to discuss the proposed alternative energy ordinance, noting that he hopes to get some input from industry experts.

**CORRESPONDENCE:**

None.

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

None.

**OLD BUSINESS:**

**ORDINANCE NO. 17-O-36** - **(Third Reading) - AN ORDINANCE AMENDING SECTION 1268.04(d) OF THE CODIFIED ORDINANCES OF THE CITY OF KIRTLAND, RELATING TO OFF-STREET PARKING IN RESIDENTIAL DISTRICTS.**  
**(Council President Umholtz)**

Mr. Lesnick moved to adopt as amended, with the second by Mr. Kirek. Council President Potter commended the Law Director, Mr. Lowery, Mr. Lesnick, Mr. Smolic, the Planning and Zoning Commission members, the Police Chief and the residents, noting that there was a great deal of input resulting in a good ordinance. Mr. Potter noted that it provides some regulations desired by the residents, while not restricting a resident's ability to earn a living but stay within the parameters of the code. Mr. Schulz stated that he is happy that this ordinance cleans up the language in the code so that it is definable, discernable and enforceable. **ROLL CALL: ADOPTED 6/0 (VOTING YEA: KIREK, LESNICK, POTTER, SCHULZ, SKRBIS AND SMOLIC. VOTING NAY: NONE).**

**Pam Klann, 7856 Russellhurst Drive,** thanked Council for their work on the Ordinance. Mr. Potter thanked her for keeping in contact with Council throughout this process.

**ORDINANCE NO. 18-O-18** - **(Tabled) - AN ORDINANCE AMENDING CHAPTER 236 OF THE CODIFIED ORDINANCES OF THE CITY OF KIRTLAND, BY ADDING SECTION 236.12 RELATING TO THE PROVISION OF AN ANNUAL ROAD PLAN, AND DECLARING AN EMERGENCY.**  
**(Council President Potter)**

Mr. Schulz moved to remove this Ordinance from the table, with the second by Mr. Lesnick. **ROLL CALL: MOTION CARRIED 6/0 (VOTING YEA: KIREK, LESNICK, POTTER, SCHULZ, SKRBIS AND SMOLIC. VOTING NAY: NONE).**

Mr. Lesnick distributed a proposed amended "Exhibit A", noting that there are changes to paragraph (d) and paragraph (e) is added. Mr. Lesnick moved to amend the Ordinance by amending Exhibit A, as submitted to Council. Mr. Smolic provided the second. **ROLL CALL: MOTION CARRIED 6/0 (VOTING YEA: KIREK, LESNICK, POTTER, SCHULZ, SKRBIS AND SMOLIC. VOTING NAY: NONE).** It was noted that as a result of the amendment, the legislation reverts to Second Reading.

Mr. Schulz noted that two typographical errors need to be corrected - in paragraph (c)(3) "constructed" should be "reconstructed" and in paragraph (c)(5) the language "that that" should be corrected to "that". The Clerk was instructed to correct those typographical errors.

Referring to amended paragraph (e), Mr. Schulz inquired about the language requiring at least two alternate estimates. Mr. Lesnick stated that there was discussion at the last meeting about comparative bids, noting that it could be from third parties or estimating programs.

**OLD BUSINESS (continued):**

**ORDINANCE NO. 18-O-31** - **(Tabled) - AN ORDINANCE ADOPTING CHAPTER 1468 OF THE CODIFIED ORDINANCES OF THE CITY OF KIRTLAND RELATING TO ALTERNATIVE ENERGY.**  
**(Council President Potter)**

The legislation remains tabled. Mr. Lesnick noted that a Standing Committee meeting is tentatively scheduled for August 20 to discuss this ordinance. Mr. Lesnick stated that he would like to get something on the City’s website and in the Chronicle to solicit opinions from industry experts regarding this legislation.

**RESOLUTION NO. 18-R-33** - **(Third Reading) - A RESOLUTION ADOPTING A TAX BUDGET FOR FISCAL YEAR 2019.**  
**(Mayor Davidson)**

Read by title only. Mr. Kirek moved to adopt, with the second by Mr. Lesnick. **ROLL CALL: ADOPTED 6/0 (VOTING YEA: KIREK, LESNICK, POTTER, SCHULZ, SKRBIS AND SMOLIC. VOTING NAY: NONE).**

**NEW BUSINESS:**

None.

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**CONTINUING CONCERNS:**

Councilman Skrbis inquired if Council needed to address Resolution No. 18-R-36 on the last meeting agenda following the defeat of Resolution No. 18-R-35. Mr. Richards advised that Resolution No. 18-R-36 (submitting to the electorate) could not remain on the agenda, because it became void as a result of the action taken by Council on Resolution No. 18-R-35 (resolution of necessity).

**COUNCIL COMMENTS:**

Councilman Schulz stated that if any help is needed in the understanding of small cell matters, he has a good working relationship with the State Utilities Coordinator in Columbus. Mr. Richards stated that the City’s concern is the regulation of the right-of-way. Mr. Lesnick noted that the Ohio Municipal League held an informative public meeting in this regard, but it was on the same night as a Council meeting. Mr. Potter noted that they may have information available.

Councilman Smolic stated that the Mayor inaccurately noted at the July 2 meeting, as reflected in the minutes, that “although the Police Department was funded, the City did not fund their entire request, including the capital request of the PSAP.” Mr. Smolic stated that the PSAP was fully funded in the budget in March of this year (2018) by Council. He noted that Council, on June 4, 2018 by a vote of 6-0, also passed Ordinance No. 18-O-25, which funds the PSAP system and reads “An Ordinance providing for the issuance and sale of \$150,000 of notes, in anticipation of the issuance of bonds, for the purpose of paying costs of acquiring equipment and related software for the City’s Police and Fire Department 9-1-1 emergency communications system, and declaring an emergency.”

**PUBLIC COMMENTS:**

**Betsy Phillips, 9148 Timothy Lane,** stated that when she wrote the legislation currently on the books for cell towers, the Federal Telecommunications Act of 1986 prevented the City from making any of its decisions based on any health concerns, and she inquired if that is still a Federal regulation as it relates to the 5G technology. She stated that it would be good to know if the Council or zoning has any say locally as the new technology moves forward, because there is a lot of concern about its effect on peoples' health. Mr. Richards stated that the FCC prohibits local governments from obstructing the issuance of permits based upon potential electromagnetic waves emanating from a cell tower. Mr. Richards stated that the argument that small cell will be placed on poles much closer in proximity to residential uses is not scientific evidence that it is harmful. Mr. Richards stated that the penalties can be severe financially to a community that does not comply with the FCC.

Ms. Phillips stated that the City needs to be prepared to answer questions from the public and advise whether the City has any say in the matter and whether it can question the safety and effect on peoples' health. Mr. Richards stated that it would appear that this has been taken into consideration by the governmental agencies that adopted the legislation.

Mr. Lesnick stated that there is a separate procedure for this technology, but to his knowledge a municipal corporation cannot prohibit it.

**Barb Ducca, 8850 Eagle Road,** stated that she has concern about the possibility of eliminating the dispatchers. She stated that she is happy that currently there is monitoring by the Police Department. She stated that she supports keeping the dispatchers, noting that it is good for the community and for officer safety. Council President Potter advised that Council is exploring all opportunities among every department. Mr. Potter thanked her for attending the meeting and providing her input.

**Pam Klann, 7856 Russellhurst Drive,** inquired if Council will be working on providing more information on the website. Mr. Potter stated that Council has been discussing this and is working toward that goal. Mr. Skrbis stated that there is a phone conference scheduled with the current web designer at the end of this month to look at ways to improve communication through the website. Ms. Klann thanked Council for their hard work on the parking ordinance. Mr. Potter thanked her for keeping the community involved.

**ADJOURNMENT:**

Mr. Lesnick moved to adjourn, with the second by Mr. Smolic. The motion of Council passed by unanimous vote and the meeting adjourned at 8:33 p.m.

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President of Council

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Clerk of Council