

## KIRTLAND CITY COUNCIL MINUTES

February 1, 2016

The meeting of Kirtland City Council was called to order at 7:07 p.m. by Council President R. Robert Umholtz. Mr. Schulz led the prayer which followed the Pledge of Allegiance. The members of Council present were: Kevin Eilerman, David Kirek, Kevin Potter, Matthew Schulz, Robert Skrbis, Joseph Smolic and R. Robert Umholtz.

Administrative personnel present were: Mayor Douglas E. Davidson, Law Director Daniel F. Richards, Finance Director Keith Martinet, City Engineer Philip Kiefer, Service Administrator Carm Catania and Fire Chief Anthony Hutton. Police Sergeant Lance Nosse was present in the absence of Police Chief Wayne Baumgart.

### Presentation by Fifth Grade Students - Kirtland Schools

Re: Gazebo at Kirtland Elementary School

Fifth-grade teacher Bob Lasecki introduced himself and advised that the students are working on project based learning. Mr. Lasecki stated that the presentation was created by the students; he noted that this will be the fourth presentation they have given. The students introduced themselves, and each participated in giving the presentation. The presentation explained project based learning, along with the purpose and timeline of the project, and it was noted that donations for the project will be accepted. The project is for a structure on the side area of the school to provide a gathering place for the school and community.

Mr. Lasecki noted that project based learning provides the students with an opportunity for real world decision making and problem solving. Mr. Lasecki stated that the project has grown from a gazebo concept to a pavilion, to be located just outside of the recess door; it can be used for the school, such as for recess and the latchkey program, and also for the community. Mr. Lasecki noted that a 3D printer was obtained through a STEM grant; he presented a prototype of the pavilion that the students designed and printed on the 3D printer. Mr. Lasecki stated that there is a fundraising group, noting that they designed a t-shirt to sell; he noted that this also provides the students with real life skills.

Responding to Councilman Skrbis, the students stated that the total project cost is \$10,000; they noted that the donations of labor are included in that figure. With the donations that have already been received, Mr. Lasecki stated that a little more than half of the money has been raised. Responding to Council President Umholtz, Mr. Lasecki advised that the building dimensions will be no greater than 20' x 40'.

### Kirtland Schools - Permanent Improvement Levy

Steve Barrett, Superintendent of Schools

Mr. Barrett spoke briefly about the benefits of project based learning, noting that it provides more learning flexibility for the students.

Mr. Barrett distributed a fact sheet to Council members and the Administration, noting that the permanent improvement levy is on the March 15 ballot. He stated that this levy has been on the books since 1976, and it is used for buses and vans, textbooks, musical instruments, computers and servers, roof repairs, paving of driveways and parking lots, masonry repairs, installation of safety cameras, and furniture. Mr. Barrett noted that the levy provided funds for the recent sewer connection and a new fuel tank installation. He stated that the levy enables them to keep the building maintained to avoid costly future repairs. Mr. Barrett stated that he appreciates the support that Council has given for levies over the years.

Mr. Barrett thanked Service Administrator Catania for his help with various issues, noting that there is good partnership between the City and the schools.

**Kirtland Schools - Permanent Improvement Levy (continued)**

Mr. Skrbis made a motion to endorse the Kirtland Schools Permanent Improvement Levy Renewal, which is on the March 15, 2016 ballot. Mr. Kirek provided the second. **ROLL CALL: MOTION CARRIED 7/0 (VOTING YEA: POTTER, SCHULZ, SKRBIS, SMOLIC, UMHOLTZ, EILERMAN AND KIREK. VOTING NAY: NONE).** Mr. Barrett thanked Council for their support.

Mr. Barrett introduced Kirtland Elementary School Principal Chad VanArnhem, noting that it is his second year with the school. He noted that Mr. VanArnhem has brought a lot of new ideas to the district. Mr. VanArnhem stated that he is also a Kirtland resident; he noted that he appreciates the relationship between the schools and the City.

**MINUTES OF THE JANUARY 20, 2016 COUNCIL MEETING:**

Mr. Kirek moved to waive the reading of the minutes, with the second by Mr. Schulz. The motion of Council passed by unanimous vote. Mr. Kirek moved to adopt the Minutes, as presented, with the second by Mr. Schulz. **ROLL CALL: MOTION CARRIED 7/0 (VOTING YEA: POTTER, SCHULZ, SKRBIS, SMOLIC, UMHOLTZ, EILERMAN AND KIREK. VOTING NAY: NONE).**

**DEPARTMENT REPORTS:**

**Fire Chief Anthony Hutton** advised that the monthly report has been distributed.

**Police Sergeant Lance Nosse** stated that the formal report has been distributed.

**Service Administrator Carm Catania** advised that the Service Department is taking advantage of the good weather to catch up on some ditching and cleaning.

Councilman Schulz thanked Mr. Catania for the centerline patching that was done on Route 306, south of Route 6.

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

**Finance Director Keith Martinet** stated his thanks to Julie Loxterman, Helen Petersburg, the Department Heads and all others involved in putting the budget together, noting that it was prepared earlier this year.

**Law Director Daniel Richards** stated that he has submitted to Council for consideration by committee the working draft of the Ordinance relating to dog regulations, which is a modification of the existing Ordinance. Council President Umholtz requested that Councilman Smolic, as Chairman of the Safety (Police and Fire) Standing Committee, schedule a meeting to review the Ordinance draft. Mr. Richards noted that anyone who has questions or comments before the Committee meets should forward them to him or to the Council Clerk.

**MAYOR'S REPORT/ANNOUNCEMENTS:**

Mayor Davidson advised that following tonight's regular meeting, a meeting will be held with Martin Road residents; he noted that the Service Administrator and City Engineer will be in attendance.

The Mayor advised that he and one Council member will be meeting on Thursday with Lake County Port Authority to discuss economic development.

Mayor Davidson advised that the primary election will be held at the Civic Center and the Community Center on Tuesday, March 15.

**MAYOR'S REPORT/ANNOUNCEMENTS (continued):**

Mayor Davidson advised that a meeting was held last week with Elm Street property owners regarding a drainage project that will be underway soon.

Mayor Davidson advised that he had two meetings with the President of the Kirtland Country Club, who said they have heard the comments and issues that the residents have had with regard to the skeet shooting; and they are going to perform additional testing. The Mayor stated that in the meantime his office will continue to compile names and addresses and complaints as they are brought to the City's attention; he noted that these will be shared with the Country Club again and with the City of Willoughby. Noting that the Willoughby Planning Commission dictates the conditional use permit, the Mayor stated that the most productive measure would be to send a letter to the Planning Commission; the permit expires at the end of March if it is not renewed.

Responding to Councilman Eilerman, Mayor Davidson stated that residents can call his office to add their names to the list and to obtain information regarding the dates and location of the Willoughby Planning Commission meetings.

Mayor Davidson stated that Keith Martinet, Julie Loxterman, Helen Petersburg and Chris Speece were involved in assembling the budget books, which have been distributed to Council. The Mayor requested that detailed questions be forwarded to Ms. Petersburg, who will compile them. The Mayor noted that the boards are on display for Council's inspection and that a presentation will be made at a later meeting.

**STANDING COMMITTEE REPORTS:**

None.

**CORRESPONDENCE:**

Council President Umholtz reported on the following:

1. Correspondence from Ohio Municipal League regarding training for new Council members. Mr. Umholtz noted that the Clerk of Council has the information if the new members wish to attend.

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

**Kayla Sullivan, 8770 Eagle Road,** stated that she has an issue where her grass line meets the street. She stated that Aqua Ohio damaged the grass when they did work for other properties tying in; she noted that they were contacted multiple times, and with Mr. Kirek's help, Aqua Ohio came out and fixed the grass in the fall. She stated that in the last couple weeks, the City snow plow dug up all the grass that had been replaced. Service Administrator Catania advised that the Service Department will take care of replacing the grass in the spring.

**Jerry Cirino, 8651 Kirtland-Chardon Road,** introduced himself to Council, noting that he is running for Lake County Commissioner in the March primary election. Mr. Cirino stated that he will leave some informational material for Council and the Administration; he stated that he and his family have lived in Kirtland for almost 20 years and he enjoys living here and all of the services that the City provides. He stated that he has a new vision for the role of the Lake County Commissioners, noting that he has information on his Facebook page. Mr. Cirino stated that he would appreciate Council's support on the March 15 ballot.

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

**John Lesnick, 9235 Regency Woods Drive,** stated that his latest bill from Time Warner increased by approximately 50 percent, and he was told by some of the other competitors that the City has a long-term relationship with Adelphia/Time Warner that does not allow any other competition; he inquired if that is true. Councilman Potter stated that he spoke with Councilman Kirek about this, and they have both agreed to look into this. Council President Umholtz stated that Time Warner purchased the cable service, and another competitor would have to lay their own cable. Mr. Umholtz noted that some residents have switched to satellite television.

Mr. Richards noted that special counsel was retained in the past to look into this; he noted that special counsel can be contacted to look into this further. Mr. Richards noted that there are a number of different applicable laws and regulations, which have a tendency to change without much advance notice.

Noting that he can choose his gas company and electric company, Mr. Lesnick stated that anybody should be able to use those lines; he noted concern about a lack of competition. Mayor Davidson stated that at the time the City negotiated to have the entire city wired, noting that he does not believe the cable company wanted to wire the extremities of the City. The Mayor questioned whether another company would install cable, since everything is going wireless; he noted that the best alternative is satellite.

Councilman Skrbis stated that he had an increase of 30 percent in his last bill; he suggested that a visit to the store should result in a reduction in the bill. Mr. Lesnick stated that he visited the store but received no reduction in his bill.

Councilman Potter inquired whether there is a contract with Time Warner, and if so, whether the City is still under that contract. Mayor Davidson stated that he will look into the contract and provide further information at the next meeting. Council President Umholtz requested that the Law Director look into the City's options in this regard.

**Scott Haymer, 8110 Forestdale Drive,** inquired how the skeet shooting issue will be handled. Mayor Davidson advised that the responsible government entity is the Willoughby Planning Commission. Mayor Davidson noted that he spoke with the president of the Kirtland Country Club with regard to being a good neighbor; the Mayor stated that he suggested some modifications, such as a change in the gauge of the guns or the direction of the shooting. Mayor Davidson stated that the Country Club committed to doing more testing; he noted that HzW is a reputable firm. The Mayor noted that he advised the Country Club president that even if the test results indicate the sound is below a specific threshold, it is still impacting people's lives because they can hear it inside their homes. Mayor Davidson stated that he invited a representative of the Country Club to attend a meeting of Council to address questions.

Councilman Potter stated that the Willoughby Planning Commission has scheduled meetings on the second and fourth Thursdays of the month in the lower level of Willoughby City Hall; he suggested that residents may want to attend an upcoming meeting, noting that he also plans to attend a meeting.

Councilman Skrbis noted that this is a temporary activity, noting that the permit will expire at the end of March unless it is renewed.

Mayor Davidson stated that his purpose in making a list of residents with complaints and concerns about the noise is to share this information with the Kirtland Country Club and the City of Willoughby.

**Robert Bishop, 7678 Joseph Street,** stated his frustration with the skeet shooting and inquired if the City of Kirtland Law Director can file a cease and desist order with the City of Willoughby.

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

Law Director Richards advised that filing a cease and desist order would not be the appropriate action at this point, noting that the Mayor has established contact with the City of Willoughby. Mr. Richards referred to a section in Kirtland's ordinances relating to use of firearms, noting that it requires the City to file a complaint against an individual, not a cease and desist order against the City of Willoughby. Mr. Richards noted that proceeding against individuals involved in causing the disturbance requires criminal prosecution proving beyond a reasonable doubt that the offense has been committed; he stated that it is outside of Kirtland's jurisdiction and he does not recommend sending Kirtland police there to arrest someone without looking further into the matter. Mr. Richards stated that the Mayor is in the process of addressing this situation in a reasonable manner.

Mr. Richards stated that if a number of residents attend the Willoughby Planning Commission meeting and express their complaints, there will probably be relief much sooner than if the City of Kirtland takes legal action against the Kirtland Country Club or the members of the Kirtland Country Club. Mr. Richards noted that it is important to establish that there is noise that is not harmful to hearing, but they are impulsive sounds, repeated with such a degree of regularity that they cause annoyance and disturbance to a reasonable person.

Councilman Eilerman confirmed that the Willoughby Planning Commission meets on the second and fourth Thursdays of every month. Councilman Potter and Councilman Eilerman stated that they are willing to attend the next meeting with the Kirtland residents.

Noting that legal action is always an option, Council President Umholtz stated that it is not always the best option. Mr. Umholtz stated that the Mayor has undertaken an approach, with the backing of Council, that before legal action is considered, including cease and desist or restraining orders, the Mayor is talking to the manager of the Country Club and to Mayor Anderson, and he has made his concerns known on behalf of the City of Kirtland to see if reason can prevail before any drastic measures are taken. Noting that he can also hear the shooting inside his home, Mr. Umholtz stated that Council shares the residents' concerns and encourages the residents to contact the Willoughby Planning Commission or Willoughby Council members.

**OLD BUSINESS:**

None.

**NEW BUSINESS:**

**RESOLUTION NO. 16-R-4**  
(Mayor Davidson)

- **A RESOLUTION CONFIRMING THE APPOINTMENT OF MAYOR DOUGLAS E. DAVIDSON AS DELEGATE AND FINANCE DIRECTOR KEITH W. MARTINET AS ALTERNATE TO THE REGIONAL INCOME TAX AGENCY REGIONAL COUNCIL OF GOVERNMENTS, AND DECLARING AN EMERGENCY.**

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

**NEW BUSINESS (continued):**

**RESOLUTION NO. 16-R-5** - **A RESOLUTION APPOINTING FINANCE DIRECTOR KEITH W. MARTINET AS TAX ADMINISTRATOR FOR THE CITY OF KIRTLAND, AND DECLARING AN EMERGENCY.**  
(Mayor Davidson)

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

**ORDINANCE NO. 16-O-6** - **AN ORDINANCE AMENDING CODIFIED ORDINANCE SECTION 266.01 RELATING TO THE BOARD OF TAX REVIEW, AND DECLARING AN EMERGENCY.**  
(Mayor Davidson)

Read by title only. Mr. Eilerman moved to amend Section I to correct the enacted date of Resolution No. 74-O-103 to read August 26, 1974. Mr. Schulz provided the second. **ROLL CALL: MOTION CARRIED 7/0 (VOTING YEA: POTTER, SCHULZ, SKRBIS, SMOLIC, UMHOLTZ, EILERMAN AND KIREK. VOTING NAY: NONE).** Mr. Kirek moved to waive the three readings, with the second by Mr. Schulz. **ROLL CALL: MOTION CARRIED 7/0 (VOTING YEA: POTTER, SCHULZ, SKRBIS, SMOLIC, UMHOLTZ, EILERMAN AND KIREK. VOTING NAY: NONE).** Mr. Kirek moved to declare an emergency and adopt as amended, with the second by Mr. Eilerman. **ROLL CALL: ADOPTED 7/0 (VOTING YEA: POTTER, SCHULZ, SKRBIS, SMOLIC, UMHOLTZ, EILERMAN AND KIREK. VOTING NAY: NONE).**

**RESOLUTION NO. 16-R-7** - **A RESOLUTION APPOINTING \_\_\_\_\_ AS A MEMBER OF THE KIRTLAND BOARD OF TAX REVIEW, AND DECLARING AN EMERGENCY.**  
(Council as a Whole)

With regard to this and the next Resolution, Council President Umholtz stated that Council must appoint two individuals to serve on the Kirtland Board of Tax Review. For Resolution No. 16-R-7, Mr. Skrbis moved to nominate Susan Matticoli, with the second by Mr. Potter. There were no further nominations made by Council and the nominations were closed. **ROLL CALL: MOTION CARRIED 7/0 (VOTING YEA: POTTER, SCHULZ, SKRBIS, SMOLIC, UMHOLTZ, EILERMAN AND KIREK. VOTING NAY: NONE).**

The legislation was read by title only. Mr. Kirek moved to waive the three readings, with the second by Mr. Schulz. **ROLL CALL: MOTION CARRIED 7/0 (VOTING YEA: POTTER, SCHULZ, SKRBIS, SMOLIC, UMHOLTZ, EILERMAN AND KIREK. VOTING NAY: NONE).** Mr. Schulz moved to declare an emergency and adopt the legislation appointing Susan Matticoli as a member of the Kirtland Board of Tax Review, with the second by Mr. Skrbis. **ROLL CALL: ADOPTED 7/0 (VOTING YEA: POTTER, SCHULZ, SKRBIS, SMOLIC, UMHOLTZ, EILERMAN AND KIREK. VOTING NAY: NONE).**

**RESOLUTION NO. 16-R-8** - **A RESOLUTION APPOINTING \_\_\_\_\_ AS A MEMBER OF THE KIRTLAND BOARD OF TAX REVIEW, AND DECLARING AN EMERGENCY.**  
(Council as a Whole)

Mr. Kirek moved to nominate Dana Dennis, with the second by Mr. Potter. There were no further nominations made by Council and the nominations were closed. **ROLL CALL: MOTION CARRIED 7/0 (VOTING YEA: POTTER, SCHULZ, SKRBIS, SMOLIC, UMHOLTZ, EILERMAN AND KIREK. VOTING NAY: NONE).**

**NEW BUSINESS - RESOLUTION NO. 16-R-8 (continued):**

The legislation was read by title only. Mr. Kirek moved to waive the three readings, with the second by Mr. Schulz. **ROLL CALL: MOTION CARRIED 7/0 (VOTING YEA: POTTER, SCHULZ, SKRBIS, SMOLIC, UMHOLTZ, EILERMAN AND KIREK. VOTING NAY: NONE).** Mr. Kirek moved to declare an emergency and adopt the legislation appointing Dana Dennis as a member of the Kirtland Board of Tax Review, with the second by Mr. Skrbis. **ROLL CALL: ADOPTED 7/0 (VOTING YEA: POTTER, SCHULZ, SKRBIS, SMOLIC, UMHOLTZ, EILERMAN AND KIREK. VOTING NAY: NONE).**

**ORDINANCE NO. 16-O-9** - **AN ORDINANCE SETTING THE APPROPRIATION FOR (Mayor Davidson) THE YEAR 2016.**

Read by title only and placed on First Reading.

**ORDINANCE NO. 16-O-10** - **AN ORDINANCE AUTHORIZING THE MAYOR TO (Mayor Davidson) PURCHASE ONE (1) NEW POWER COT AND LOAD SYSTEM FOR USE BY THE FIRE DEPARTMENT, AND DECLARING AN EMERGENCY.**

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

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**CONTINUING CONCERNS:**

None.

**COUNCIL COMMENTS:**

Councilman Potter thanked Mr. Cirino for attending the Council meeting, noting that he has known Mr. Cirino for a long time. Noting that he is not making a political endorsement, Mr. Potter stated that Mr. Cirino is an upstanding citizen and member of the Kirtland community; he is a family man with 9 children and 28 grandchildren, and he has been married to his wife, Donna, for 42 years.

Councilman Eilerman stated that two weeks ago Saturday he met with the Kirtland Garden Club and Elder Howarth of the LDS Church. Mr. Eilerman stated that the Garden Club has a lot of good ideas they would like to implement for beautification of the City. He noted that one of the action items includes locating the old pots. Noting that the Garden Club may be looking for funding, Mr. Eilerman advised that he shared with them the grant opportunity with the Lake and Geauga Realtors' Association. Mr. Eilerman stated that he will continue dialogue with the Garden Club and share information with Council.

**PUBLIC COMMENTS:**

None.

**ADJOURNMENT:**

Mr. Kirek moved to adjourn, with the second by Mr. Eilerman. The motion of Council passed by unanimous vote and the meeting adjourned at 8:17 p.m.

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President of Council

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Clerk of Council