

## **KIRTLAND CITY COUNCIL MINUTES**

**December 19, 2016**

The meeting of Kirtland City Council was called to order at 7:10 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, Kevin Potter, Matthew Schulz, Robert Skrbis, Joseph Smolic and R. Robert Umholtz. Absent: David Kirek.

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, Police Chief Wayne Baumgart and Fire Chief Anthony Hutton.

### **MINUTES OF THE DECEMBER 5, 2016 COUNCIL MEETING:**

Mr. Schulz moved to waive the reading of the minutes, with the second by Mr. Potter. The motion of Council passed by unanimous vote. Mr. Schulz moved to adopt the Minutes, as presented, with the second by Mr. Potter. **ROLL CALL: MOTION CARRIED 6/0 (VOTING YEA: SMOLIC, UMHOLTZ, EILERMAN, POTTER, SCHULZ AND SKRBIS. VOTING NAY: NONE).**

### **DEPARTMENT REPORTS:**

**Fire Chief Anthony Hutton** did not present a formal report; he wished everyone a Merry Christmas and a Happy New Year.

**Police Chief Wayne Baumgart** gave no formal report; he wished a Merry Christmas and Happy New Year to all.

Councilman Potter thanked the Police Chief, Fire Chief and Service Administrator for all of the work their departments have been doing in the recent extreme weather conditions.

**Service Administrator Carm Catania** reviewed the standard procedures of the Service Department with regard to snow plowing. He noted that the Department splits into two shifts during the winter, with six drivers during the day and five at night; and the city is split into five different sections. Mr. Catania stated that the priority is the main roads, which are addressed first; then the collector streets are done, and then the side streets. He noted that the Department also clears the driveways at the Police and Fire Stations, City Hall, and other City properties. Mr. Catania stated that during a snowstorm, Dispatch keeps in constant contact with the plow drivers, and in the event there is an emergency, the driver on that route or the closest driver responds to make sure the emergency vehicles can access the street; he noted that they will plow the driveway if necessary for the ambulance. Mr. Catania stated that the hills, curves and intersections are salted. He noted that, for environmental and budgetary reasons, they do not salt most of the flat areas.

Mr. Catania stated that the Department has seven large plow trucks and four one-ton trucks that are used for the parking lots and on side roads. He noted that the road grader and other heavy equipment is also used for cleaning up and widening, and cleaning out aprons. Mr. Catania noted that the sidewalks are eventually done. He noted that the Service Department did receive some complaints, but there were many nice compliments from the public.

**DEPARTMENT REPORTS (continued):**

Chief Baumgart noted that the streets are always clearer in Kirtland than in the surrounding communities, even after Kirtland received 34 inches of snow during the recent snowstorm.

Noting that he works in Geauga County, Council President Umholtz stated that several of his staff members live in Lake County and Cuyahoga County, and they have all commented on the big improvement in the road conditions when they reach the Kirtland line while driving home during a snowstorm. Mr. Umholtz thanked Mr. Catania for explaining the process, noting that he and his crew do an incredible job.

Councilman Eilerman stated his appreciation for the Department taking care of the roads first, and then coming back to take care of the sidewalks. He noted that he was impressed that they did not dump snow all over his freshly plowed driveway.

Noting that the school system uses technology to communicate to the public, Councilman Schulz inquired if the City has ever looked into some type of emergency broadcast method regarding road conditions. Mayor Davidson stated that he will look into this with the Chiefs, noting that it may need to be reviewed by the Police and Fire Standing Committee.

Councilman Skrbis inquired if the routes have remained the same over the years. Mr. Catania confirmed that the routes have remained the same; he noted that there has been consideration to adding a route, but it could not be filled with the night shift. Responding to Mr. Skrbis, Mr. Catania advised that he can provide a copy of the route map to Council. Noting that he suggested in the past that the Chronicle highlight some of the Police Department or Fire Department staff, Mr. Skrbis stated that it would provide a personal touch to highlight the snow plow drivers and their routes.

Councilman Schulz advised that ODOT has an app known as "OHGO", noting that it is responsive to the changing road conditions. He noted that features include traffic alerts and viewing the real-time traffic cameras.

Responding to Councilman Smolic, Mr. Catania advised that the salt storage bin holds 4500 tons, noting that it is currently about half full.

**City Engineer Philip Kiefer** did not present a formal report. Councilman Potter inquired about oversight of the Raccoon Hill project and the design-build process. Mr. Kiefer stated that for a design-build project, he provides certain parameters that must be met, and the contractor draws up a plan for his approval. Mr. Kiefer stated that the Service Department will provide oversight of the project, noting that it is more efficient and less expensive for the City to oversee it. Councilman Smolic inquired if the City received a response from Lake County Stormwater Management with regard to funding the project; Mr. Kiefer confirmed that Lake County Stormwater will fund the project. Mr. Catania stated that any cost to the City will be minimal.

Other than the chip and seal, Councilman Smolic inquired if a contractor has been used for any projects this year. Mayor Davidson advised that a contractor was used for Elm Street.

Councilman Smolic inquired about the bidding process. Mr. Kiefer advised that nine bid packages went out, and four bids were received. Mr. Catania noted that the bids ranged from \$98,000 to \$160,000, and the two lowest bids were very similar. Mr. Kiefer noted that in the design-build, the contractor chooses the type and depth of the pipe, and whether they would bore under Raccoon Hill or clean out the existing culvert and slide a new pipe inside. Mr. Kiefer stated that the contractor provides a record of their experience. Mr. Smolic inquired about the contractor's responsibility if there are future issues. Mr. Kiefer stated that there is a two-year guarantee; he noted that one-year is standard, but most of the projects through CT Consultants have been increased to two years.

**DEPARTMENT REPORTS (continued):**

**Finance Director Keith Martinet** advised that he prepared the November financial statements. Mr. Martinet noted that he will speak on a few of the agenda items as they are addressed.

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

**MAYOR'S REPORT/ANNOUNCEMENTS:**

With regard to the storm response, Mayor Davidson stated that on December 8, while performing in a mutual aid capacity, the Fire Department personnel and equipment participated in the recovery and transport of 21 individuals from a weather related multi-vehicle traffic accident on Interstate 90; the series of crashes involved over 50 vehicles and shut down the highway for 14 hours. The Mayor stated that while his crews were transporting and recovering victims, Chief Hutton conducted coordination of a triage for emergency responders at the receiving hospitality facility.

Mayor Davidson stated that Fox 8 reported that Kirtland received 32.8 inches of snow over a two-day period beginning on Thursday, December 8 and ending on December 10. The Mayor noted that the Service Department maintained continuous plowing on their routes and the City's facilities through Saturday, including the Service Administrator plowing and employing the City's road grader with a 14-foot blade to widen roads where needed. The Mayor noted that of the seven large trucks in the fleet, six are in working condition and one is parked; he noted that last year the City had five working trucks and two parked. The Mayor noted that Kirtland Dispatch kept the non-emergency line humming and communicated with residents on conditions; he noted that the Police Department and Dispatch responded to 108 calls during this time period.

Mayor Davidson stated that he shared with Council President Umholtz a letter of interest from Strategis Wireless regarding a proposed cell tower structure. He noted that the monopole tower would be in the range of 150 to 190 feet in height, with a fenced footprint of approximately 50 ft. x 50 ft. in the location of the current police antenna behind City Hall. The Mayor stated that the expected lease from the structure would be \$1500 per month, with a potential 10 percent increase over each term of a 30-year lease. He noted that there is an opportunity to put the City's antennas and equipment onto the tower. Noting that he spoke with a number of individuals on the topic, the Mayor stated that his thinking has evolved from concern over the aesthetics to the revenue benefit to the City. The Mayor requested that if Council would like him to proceed that it be formalized with a vote. He noted that he would ask to incorporate a public hearing and he will continue with negotiations.

The Mayor noted that on Saturday, December 10, the initial budget work sessions were held with Department Heads; and on Monday, December 12, the capital budget session was held. He noted that there were some solid income tax returns, and the City is in the third year of three percent labor cost increases. The Mayor noted that there are a lot of challenges for maintenance facilities, particularly the roofs at the Fire Department and City Hall, and there are some capital equipment needs.

Noting that he read through Ordinance No. 16-O-60 relating to animals, Mayor Davidson thanked the Police and Fire Standing Committee and Law Director Richards for their input. He noted that the ordinance in its definitions, proportionality of penalties, insurance requirements, local determinations by the Police Chief or his designee on the initial determination of a dog's classification, and the ability to act locally is good work, and he looks forward to its approval after Council reviews it and makes any necessary changes.

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

Mayor Davidson thanked Council for their input and output for the City this year; he stated appreciation of Council's insight on the issues and commitment to represent the residents. He thanked Council for taking the time to talk through difficult issues as they arise, and he thanked the Department Heads and City employees for their contributions and efforts. The Mayor noted that he collected a large file of pictures, which he will put into a slideshow.

Mayor Davidson stated that he received a letter from ODOT advising that funds can be spent in 2017 for some of the work on Route 306, but the paving cannot proceed until 2018.

In response to the Mayor's request for a show of support, Council President Umholtz requested that all Council members in favor of the Mayor pursuing negotiations relating to a cell tower contract signify with an "aye" vote, and all opposed signify with a "nay" vote. The vote resulted: Ayes – Smolic, Umholtz, Potter, Schulz and Skrbis; Nays – Eilerman. Mr. Umholtz noted that a majority of Council is in favor of the Mayor pursuing negotiations.

Councilman Smolic inquired about the proposed location and height of the cell tower, and whether there is an advantage of having the City's equipment at a greater height. Mayor Davidson stated that the tower would be a monopole installation, and it would be 150 to 190 feet in height, noting that at 200 feet it would have to be lighted. The Mayor noted that Verizon will use the tower, but they are not necessarily the company that would install the tower. Noting that Mentor and Willoughby Hills have recently negotiated similar contracts, the Mayor stated that there is not an opportunity to offset the costs for Verizon cell phones for the City. He noted that an increase is built in at the end of each term. Mayor Davidson stated that he is not aware of any additional benefit of the City's equipment being placed on the new tower. The Mayor stated that when negotiations are complete, there will be a document available for review by Council and input from the public.

Chief Hutton noted that the majority of the equipment for radio communication is on the County and statewide towers, and it is through the 800 system.

Councilman Potter inquired if the letter from ODOT provided a reason for delaying the paving until 2018. Mayor Davidson advised that he will share the letter with Council.

**STANDING COMMITTEE REPORTS:**

Councilman Smolic, Chairman of the Police and Fire Standing Committee, stated that the legislation pertaining to the dog ordinance is on Council's agenda. Law Director Richards noted that there are some typographical errors to be corrected.

Councilman Potter, Chairman of the Public Relations Standing Committee, advised that a committee meeting was held prior to tonight's regular Council meeting, noting that there was discussion regarding use of social media for communication, including emergency notifications to the public. Mr. Potter noted that he provided some handouts to the committee and will pass those along to all of Council. Mr. Potter stated that the committee also discussed the utilization of the Kirtland Chronicle. Noting that there is currently money in the budget for the quarterly newsletter, Mr. Potter stated that the committee discussed using the Chronicle in place of a newsletter. Mayor Davidson stated that he has received a quote from John Karlovec of the Kirtland Chronicle for utilizing the Chronicle in this capacity and reducing the City's mailings.

**CORRESPONDENCE:**

None.

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

**Sterling Coleman, 7636 Markell Road,** noted that he has spent several years building a car, and that Time magazine has published some of his comments and mentioned Kirtland, Ohio.

**OLD BUSINESS:**

**ORDINANCE NO. 16-O-48** - (Third Reading) - AN ORDINANCE PROVIDING  
(Mayor Davidson) TEMPORARY APPROPRIATIONS FOR THE THREE  
MONTH PERIOD ENDING MARCH 31, 2017.

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

**ORDINANCE NO. 16-O-49** - (Third Reading) - AN ORDINANCE DESIGNATING  
(Mayor Davidson) FINANCIAL INSTITUTIONS AS PUBLIC DEPOSITORIES.

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

**RESOLUTION NO. 16-R-55** - (Second Reading) - A RESOLUTION ACCEPTING THE  
(Mayor Davidson) BID OF BADGER TRANSFER, LLC, FOR THE RACCOON  
HILL DRIVE CULVERT CAPACITY RESTORATION  
PROJECT, AUTHORIZING THE MAYOR TO ENTER INTO  
A CONTRACT WITH BADGER TRANSFER, LLC, AND  
DECLARING AN EMERGENCY.

Read by title only and placed on Second Reading.

**NEW BUSINESS:**

**RESOLUTION NO. 16-R-56** - A RESOLUTION ESTABLISHING STANDING  
(Council President Umholtz) COMMITTEES OF COUNCIL, 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 6/0 (VOTING YEA: SMOLIC, UMHOLTZ, EILERMAN, POTTER, SCHULZ AND SKRBIS. VOTING NAY: NONE).** Mr. Skrbis moved to declare an emergency and adopt, with the second by Mr. Eilerman. **ROLL CALL: ADOPTED 6/0 (VOTING YEA: SMOLIC, UMHOLTZ, EILERMAN, POTTER, SCHULZ AND SKRBIS. VOTING NAY: NONE).**

**ORDINANCE NO. 16-O-57** - AN ORDINANCE AMENDING ORDINANCE NO. 16-O-9  
(Mayor Davidson) RELATING TO THE APPROPRIATION FOR THE YEAR  
2016.

Read by title only. Mr. Skrbis moved to waive the three readings, with the second by Mr. Eilerman. **ROLL CALL: MOTION CARRIED 6/0 (VOTING YEA: SMOLIC, UMHOLTZ, EILERMAN, POTTER, SCHULZ AND SKRBIS. VOTING NAY: NONE).** Mr. Schulz moved to adopt, with the second by Mr. Potter. **ROLL CALL: ADOPTED 6/0 (VOTING YEA: SMOLIC, UMHOLTZ, EILERMAN, POTTER, SCHULZ AND SKRBIS. VOTING NAY: NONE).**

**NEW BUSINESS (continued):****ORDINANCE NO. 16-O-58  
(Mayor Davidson)**

- **AN ORDINANCE LEVYING LIENS FOR DELINQUENT SANITARY SEWER CHARGES, AND DECLARING AN EMERGENCY.**

Read by title only. Noting that certified letters are mailed to the property owners with delinquent charges, Finance Director Martinet advised that one of the accounts was paid in full this week by the property owner after the legislation was prepared and distributed; therefore, the legislation needs to be amended to remove Mr. and Mrs. Delis from the list of delinquent charges. Mr. Skrbis moved to amend the legislation to remove Mr. and Mrs. Delis, 10600 Hickory Hill Court, from the Ordinance. Mr. Eilerman provided the second. **ROLL CALL: MOTION CARRIED 6/0 (VOTING YEA: SMOLIC, UMHOLTZ, EILERMAN, POTTER, SCHULZ AND SKRBIS. VOTING NAY: NONE).**

Mr. Skrbis moved to waive the three readings, with the second by Mr. Schulz. **ROLL CALL: MOTION CARRIED 6/0 (VOTING YEA: SMOLIC, UMHOLTZ, EILERMAN, POTTER, SCHULZ AND SKRBIS. VOTING NAY: NONE).** Mr. Skrbis moved to declare an emergency and adopt the legislation as amended, with the second by Mr. Eilerman. Mr. Schulz inquired about the last person listed, noting that the amount due is double that of the others. Mr. Martinet advised that the charge is for a two-family residence. **ROLL CALL: ADOPTED 6/0 (VOTING YEA: SMOLIC, UMHOLTZ, EILERMAN, POTTER, SCHULZ AND SKRBIS. VOTING NAY: NONE).**

**RESOLUTION NO. 16-R-59  
(Mayor Davidson)**

- **A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A MUTUAL AGREEMENT FOR TECHNICAL ASSISTANCE WITH THE LAKE COUNTY SOIL & WATER CONSERVATION DISTRICT, AND DECLARING AN EMERGENCY.**

Read by title only. Councilman Schulz inquired about the need for an emergency. City Engineer Kiefer advised that this is the last item that must be done by December 22, when the permit must go into effect. Mr. Potter moved to waive the three readings, with the second by Mr. Eilerman. **ROLL CALL: MOTION CARRIED 5/1 (VOTING YEA: SMOLIC, UMHOLTZ, EILERMAN, POTTER AND SKRBIS. VOTING NAY: SCHULZ).** Mr. Eilerman moved to declare an emergency and adopt, with the second by Mr. Potter. **ROLL CALL: ADOPTED 5/1 (VOTING YEA: SMOLIC, UMHOLTZ, EILERMAN, POTTER AND SKRBIS. VOTING NAY: SCHULZ).**

**ORDINANCE NO. 16-O-60  
(Mayor Davidson)**

- **AN ORDINANCE AMENDING CHAPTER 618 OF THE CODIFIED ORDINANCES OF THE CITY OF KIRTLAND, RELATING TO ANIMALS.**

Read by title only. Council President Umholtz stated that he would like to increase the penalty in Section 618.04(b) relating to poisoning animals to be commensurate with the penalty stated in Section 618.03(b) relating to killing or injuring animals. Mr. Umholtz noted that the penalty in Section 618.03 for killing or injuring animals is a misdemeanor of the second degree, which is punishable by up to 90 days in jail and up to \$750 in fines; but the penalty in Section 618.04 for poisoning animals is a misdemeanor of the fourth degree, which is punishable by up to 30 days in jail and up to \$250 in fines. Mr. Umholtz stated his opinion that poisoning an animal causes more suffering and creates more of a chance that other animals or humans could be harmed; he noted that this section refers to intentionally placing poisoned food.

Mr. Umholtz moved to amend Section 618.04(b) from a misdemeanor of the fourth degree to a misdemeanor of the second degree so that the penalty will be commensurate with the penalty stated in Section 618.03(b). Mr. Potter provided the second. **ROLL CALL: MOTION CARRIED 6/0 (VOTING YEA: SMOLIC, UMHOLTZ, EILERMAN, POTTER, SCHULZ AND SKRBIS. VOTING NAY: NONE).**

**NEW BUSINESS – ORDINANCE NO. 16-O-60 (continued):**

The legislation was placed on First Reading.

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**CONTINUING CONCERNS:**

None.

**COUNCIL COMMENTS:**

Councilman Skrbis stated that he will probably be absent for the January 4 Council meeting. Mr. Skrbis thanked everyone for a great year of service, noting that it is an honor and a pleasure to serve with everyone; he wished everyone a happy and safe holiday.

Council President Umholtz wished everyone a Merry Christmas and a Happy New Year, and he thanked the Mayor for the pictures of Council. Noting that he is starting his 24<sup>th</sup> year on Council, Mr. Umholtz stated that he has had the privilege of serving with people he considers to be extended family.

**PUBLIC COMMENTS:**

**Dave Sickles, 4965 Highland, Willoughby**, addressed Council with regard to the dog ordinance. He stated that he appreciates all of the hard work that has been done on the ordinance. He noted that he is grateful that this is not breed specific legislation. Referring to Section 618.23(a)(1)(iv) at the top of page 22, Mr. Sickles stated concern about restraining a dog on a six-foot tether, noting that a lot of communities are passing laws against chaining dogs, or they are putting time limits on chaining dogs. He stated his opinion that chaining a dog will make it more dangerous, similar to putting a wild animal in a cage. He requested that Council take a look at that section. Councilman Skrbis stated that he will look at this more closely, but he believes this pertains to when the dog is off the owner's premises.

**ADJOURNMENT:**

Mr. Schulz moved to adjourn, with the second by Mr. Potter. The motion of Council passed by unanimous vote and the meeting adjourned at 8:21 p.m.

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President of Council

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Clerk of Council