

KIRTLAND CITY COUNCIL MINUTES

March 20, 2017

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, David Kirek, Kevin Potter, Matthew Schulz, Joseph Smolic and R. Robert Umholtz. Absent: Robert Skrbis.

Administrative personnel present were: Mayor Douglas E. Davidson, Law Director Daniel Richards, Finance Director Keith Martinet, Service Administrator Carm Catania, City Engineer Philip Kiefer, Police Chief Wayne Baumgart and Fire Chief Anthony Hutton.

MINUTES OF THE MARCH 6, 2017 COUNCIL MEETING:

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

DEPARTMENT REPORTS:

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

Police Chief Wayne Baumgart did not present a formal report. Responding to Councilman Potter, Chief Baumgart advised that there has been no notification from the Lake County Health Department indicating that the raccoon submitted for study was found to be rabid.

With regard to the fire at the Willoughby Board of Education building, Councilman Smolic inquired if the building was a total loss. Fire Chief Hutton advised that he heard they may be able to rebuild a portion of the building. Chief Hutton noted that Kirtland firefighters were on the scene from 12:30 a.m. until 9:30 a.m.

Service Administrator Carm Catania did not present a formal report and no questions were asked of him.

City Engineer Philip Kiefer did not present a formal report. Councilman Smolic inquired when the contractor will begin the drainage work on Raccoon Hill. Mr. Kiefer advised that the work has started.

Councilman Schulz noted that he sent an e-mail to the Mayor today regarding a possible zoning infraction on Crary Lane; he requested that Mr. Catania contact him in this regard.

Finance Director Keith Martinet did not present a formal report. He thanked Council for passing the budget at the last meeting, noting that it will be put into the software for preparation of financial statements.

Law Director Daniel Richards did not present a formal report. Referring to the Court's decision regarding the Kirtland Country Club, Councilman Potter inquired about possible discussion of the matter. Mr. Richards advised that he has not yet reviewed the Journal Entry and Decision in detail. Mr. Richards stated that he is reluctant to express a legal opinion due to a potential conflict of interest issue; he noted that he would defer to other counsel. Mr. Richards noted that he can discuss this further with Council in executive session.

DEPARTMENT REPORTS (continued):

Council President Umholtz stated that he would like to request an executive session to discuss legal options in this regard. Noting that there may be residents in attendance who would like to speak on this issue, Mr. Umholtz stated that those residents will be heard, but Council members should refrain from making any statements until options can be discussed during executive session. Mr. Umholtz noted that Mr. Richards' law firm represents both Kirtland and Willoughby, resulting in a potential conflict of interest.

MAYOR'S REPORT/ANNOUNCEMENTS:

Mayor Davidson noted that he gave his statements during the work session. The Mayor noted that he would also request an executive session at the end of the Council meeting to discuss a possible real property transaction.

Councilman Smolic thanked the Mayor for the update on the roads during the work session; he inquired if the information will be made available in the newsletter and the Kirtland Chronicle. Mayor Davidson stated that he wanted to have another discussion with Council before publication, which is the reason it was not already published. The Mayor noted that the spirited discussions about the roads are really discussions about economics and operations of the City. The Mayor noted that Mr. Catania prepared a list that fulfills the objectives with the funding that is currently available.

STANDING COMMITTEE REPORTS:

With regard to the amendments to Chapter 618 relating to animals, Councilman Smolic stated that the final changes to the language should be complete and ready for submission to Council by the next meeting.

Councilman Eilerman advised that a brief meeting of the Planning and Zoning Standing Committee will be held following the next regular Council meeting to approve the minutes of the last meeting held in 2015.

CORRESPONDENCE:

None.

PUBLIC COMMENTS ON MATTERS NOT ON THE AGENDA:

Scott Haymer, 8110 Forestdale Drive, stated his disappointment in the City and the Law Director for not making the residents aware of the hearing relating to the Kirtland Country Club. He stated that although his or any other residents' presence at the hearing would not likely have made a difference in the outcome, it would have been nice to have known about it. Mayor Davidson advised that the City of Kirtland did not receive notice of this hearing beforehand. Council President Umholtz advised that, in any court case, only the parties to the case receive notice.

Responding to Mr. Haymer regarding the conflict of interest on the part of the Law Director, Council President Umholtz advised that one of Mr. Richards' partners is the Willoughby Law Director, and the same firm cannot represent both Kirtland's interest and Willoughby's interest in this matter; Mr. Umholtz noted that the City of Willoughby retained private outside counsel for representation in this matter. Mr. Umholtz noted that he is requesting an executive session this evening so Council can discuss some parameters with the Law Director, but Mr. Richards cannot represent Kirtland in this matter.

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

Mr. Richards advised that only the parties to litigation are notified of a hearing. Mr. Richards stated that the litigation was an appeal of the decision made by the Willoughby Planning Commission; it was filed by Kirtland Country Club in the Common Pleas Court. Mr. Richards stated that, to his knowledge, nobody in the City of Kirtland filed a request to be a participant in the hearing before the Common Pleas Court.

OLD BUSINESS:

ORDINANCE NO. 16-O-60 - **(Tabled) – AN ORDINANCE AMENDING CHAPTER 618 OF THE CODIFIED ORDINANCES OF THE CITY OF KIRTLAND, RELATING TO ANIMALS.**
(Mayor Davidson)

The legislation remains tabled. Mr. Umholtz noted that he and Mr. Smolic will meet with the Law Director to clean up some of the language in the proposed ordinance, based on discussion at the last Police and Fire Standing Committee meeting.

NEW BUSINESS:

RESOLUTION NO. 17-R-6 - **A RESOLUTION TO AUTHORIZE AND APPROVE TRANSFER OF FUNDS FROM THE GENERAL FUND #100; CAPITAL PROJECT FUND #300; SAID FUNDS TO BE TRANSFERRED BY OR BEFORE MAY 31, 2017 TO GENERAL OBLIGATION BOND FUND #600; IN THE AMOUNTS AND FOR THE PURPOSES SPECIFIED.**
(Mayor Davidson)

Read by title only and placed on First Reading.

* * * * *

CONTINUING CONCERNS:

None.

COUNCIL COMMENTS:

Councilman Potter stated that he should have done a better job in following up on the proceedings relating to the Kirtland Country Club, so that the residents would have been notified.

Councilman Schulz inquired when Council would see the updated fee schedule. Mr. Richards stated that he is working on legislation that will list all fees in one section of the code; he noted that a working draft will be submitted to Council for review once he finalizes some of the language. Mayor Davidson stated that he appreciates all the work that has been done to organize the fees in one area of the code. Mr. Schulz inquired if Council will see current fees and proposed fees. Mr. Richards advised that the working draft reflects current fees and that new fees can be proposed once Council has an opportunity to discuss the draft; he noted that the cost to the city to process the applications will need to be considered to determine any changes in the fees.

PUBLIC COMMENTS:

None.

ADJOURN INTO EXECUTIVE SESSION:

Mr. Kirek moved to adjourn into executive session to discuss acquisition or sale of land, pursuant to Article I, Section 7(b) of the City Charter; and to confer with the Law Director regarding matters of potential legal action, pursuant to Article I, Section 7(c) of the City Charter. Mr. Eilerman provided the second. **ROLL CALL: MOTION CARRIED 6/0 (VOTING YEA: KIREK, POTTER, SCHULZ, SMOLIC, UMHOLTZ AND EILERMAN. VOTING NAY: NONE).** The time was 7:33 p.m.

Mr. Eilerman moved to convene the executive session, with the second by Mr. Potter. The motion passed by unanimous vote, and the executive session convened at 7:50 p.m.

RETURN TO REGULAR SESSION:

Mr. Schulz moved to adjourn the executive session, with the second by Mr. Eilerman. The motion passed and the executive session adjourned upon unanimous vote at 8:50 p.m.. Immediately thereafter, Mr. Smolic moved to reconvene the regular session, with the second by Mr. Kirek. The motion passed upon unanimous vote and the regular session reconvened.

ADJOURNMENT:

Mr. Eilerman moved to adjourn, with the second by Mr. Smolic. The motion of Council passed by unanimous vote and the meeting adjourned at 8:51 p.m.

President of Council

Clerk of Council