

KIRTLAND CITY COUNCIL MINUTES

November 16, 2020

The meeting of Kirtland City Council was called to order at 7:03 p.m. by Council President Richard Lowery. Due to the current state of emergency regarding COVID-19, the meeting was held virtually via Zoom. Mr. Schulz led the prayer which followed the Pledge of Allegiance. The members of Council present were: Scott Haymer, John Lesnick, Richard Lowery, Jeffrey Ruple, Matthew Schulz, Joseph Smolic and Kelly Wolfe.

Administrative personnel present were: Mayor Kevin Potter, Law Director Matthew Lallo, Assistant Finance Director Louis Slapnicker, City Engineer Christopher Courtney, Service Director Joseph Fornaro, Economic Development Manager Monica Drake, Police Chief Lance Nosse and Fire Chief Anthony Hutton.

MINUTES OF THE NOVEMBER 4, 2020 WORK SESSION:

Mr. Smolic moved to waive the reading of the minutes, with the second by Mr. Ruple. The motion of Council passed by unanimous vote. Mr. Smolic moved to approve the Minutes, as presented, with the second by Mr. Ruple. **ROLL CALL: MOTION CARRIED 6/0/1 (VOTING YEA: SCHULZ, SMOLIC, WOLFE, LESNICK, LOWERY AND RUPLE. VOTING NAY: NONE. ABSTAINING: HAYMER).**

MINUTES OF THE NOVEMBER 4, 2020 COUNCIL MEETING:

Mr. Lesnick moved to waive the reading of the minutes, with the second by Mr. Smolic. The motion of Council passed by unanimous vote. Mr. Lesnick moved to approve the Minutes, as presented, with the second by Mr. Smolic. **ROLL CALL: MOTION CARRIED 6/0/1 (VOTING YEA: SCHULZ, SMOLIC, WOLFE, LESNICK, LOWERY AND RUPLE. VOTING NAY: NONE. ABSTAINING: HAYMER).**

DEPARTMENT REPORTS:

Fire Chief Anthony Hutton advised the October report has been distributed. Call volumes were high, with 62 EMS transports. Due to the recent wind storm the Fire Department responded to 24 calls for either trees or wires down in Kirtland and Kirtland Hills. The Service Department, along with Mr. Fornaro, and the Police Department also responded.

COVID totals are rising, the numbers in Kirtland almost doubling since the last Council meeting. Hospitalizations are up, EMS transports are up. The Department is doing everything possible to keep everyone as safe as possible. Within the last week the rapid test has been made available to Police and Fire Departments, which gives results within an hour of the visit. This allows emergency personnel to get back to work much sooner than previous testing.

The Police and Fire Departments escorted the girls' soccer team back, and Chief Hutton congratulated the girls on their accomplishment.

All three fire engines are now back in service, including Engine 1915 that had the water tank problem. Chief Hutton mentioned the city's new mechanic, Steve Voigt, worked very hard his first week on the job making sure the Fire Department vehicles stayed on the road.

The COVID ambulance is on schedule and expected to arrive in early December.

DEPARTMENT REPORTS (continued):

Councilman Lesnick asked if hospitalizations are up in general, or specifically for COVID, to which Chief Hutton said the hospitalizations for COVID are up dramatically. Council President Lowery noted the number of non-COVID admissions are also rising; when these numbers are combined the percentage of fill rates are elevating quickly. Chief Hutton said he has heard some hospitals are considering placing two COVID-positive patients per room, and last Thursday Lake Health went on diversion because they could not take any more patients. Despite this, everyone seems to be handling the situation very well.

Councilman Schulz asked if the EPA was called in for the chemical spill mentioned in the report. Chief Hutton said the Fire Department was able to handle the situation as it was a diesel spill and they are trained for those situations.

Councilman Schulz then asked about any help available to residents concerning sump pumps and generators. Chief Hutton said the Department does everything they can do for the residents during those times and has loaned out equipment.

Councilman Smolic asked if the Fire Department responds for wires down, or if another company has to handle those situations. Chief Hutton explained all wires down calls are investigated. A crew is sent out to tape off the area, and hot sticks are used to check if the wires are energized. At that point the situation is transferred to First Energy. If no wires are involved and a tree is down, the Fire Department carries chainsaws in their vehicles and will clear and cut trees. If there are wires entangled in the trees, First Energy is called in first, and once given the all clear the Fire Department and Service Department will clear the area.

Police Chief Lance Nosse advised the monthly report has been delayed due to several people having to take time off due to illness.

Employees found a person under some leaves in back of City Hall earlier this morning, in need of serious attention; the individual was transported to the hospital to get some much needed assistance. Chief Nosse thanked the Fire Department, Sergeant Valenti, and Officer Phillips.

“No Shave November” is going well and raising quite a bit of money. Residents have reached out and made donations to the Thanksgiving food drive. The Department is working with churches, other organizations, and the Area Service Council to help those in need.

Service Director Joseph Fornaro reported the crews are doing a great job with the fall brush cleanup. As a result of the windstorm, the Department plans to continue with the cleanup, weather permitting.

Mr. Fornaro stated that with the help of the new mechanic, the Department is completing its winter prep for the upcoming season.

Responding to Councilman Lesnick, Mr. Fornaro said residents should use the website to notify the Service Department of needed work, such as patching, or they can call his extension.

Answering Councilman Smolic concerning asphalt, Mr. Fornaro said those projects are based on weather. The weather typically holds out until Thanksgiving.

Councilman Schulz advised that due to the windstorm there has been a delay in the representative from First Energy being available to speak at the Council meeting, and it will be rescheduled. Mr. Fornaro stated he will follow up with the representative.

DEPARTMENT REPORTS (continued):

City Engineer Christopher Courtney advised that a comprehensive engineering report was submitted for the November 4 meeting; he noted there are three brief updates. Regarding the Wisner Road bank stabilization project and the damage that occurred after the rain event on October 20 and 21, the preferred mitigation option selected is estimated at \$61,642.

To update the 2020 Street Rehabilitation Program, work on Emerald Glen has been completed, and Ronyak has signed off on the final quantities. Total work completed was \$59,487.26. This is \$686 under the awarded amount of \$60,173.

The Ohio Public Works Commission has given a preliminary rating of 2 to the Old Town Sewer Project. This rating will help the City's request for a \$250,000 grant and a \$150,000 zero interest loan on the \$800,000 Phase I portion of the project. This would leave \$400,000 as the local share, in addition to the 20-year zero interest loan repayment.

Assistant Finance Director Louis Slapnicker advised the October end-of-month reports are reconciled, but have not yet been distributed due to finalizing some COVID reporting. September reports will be available at the Finance Committee meeting, along with updated October numbers.

Mr. Slapnicker advised that the third dividend from the Bureau of Worker's Compensation will be received in mid-December.

There are two items on the agenda for the Finance Department, and Mr. Slapnicker requested they be approved tonight. The first item, Resolution No. 20-R-60, relates to how property taxes come in for the following year. Finance requests an advance on the property taxes due to the City, and the first advance is received in February. The second item is the amended appropriations. As previously discussed in the work session, there has been an increase of \$32,500 which is a net effect of \$5,000 reduction in SCMR as a result of the reduction in gasoline taxes received. The increase in the General Fund for dispatch healthcare is a result of the transition taking place a few months after the analysis was done. In addition to that, there is some salt funding in the General Fund; this is a result of the reduction in the SCMR.

Law Director Matthew Lallo addressed two items of legislation on the agenda relating to the payment of accrued sick time upon an employee's retirement. Mr. Lallo explained there have been discussions regarding employee payouts relating to non-bargaining units. There was confusion amongst staff as it relates to two different provisions that may seem confusing or misleading. This has been an ongoing conversation throughout the last eight to nine months.

Mr. Lallo explained that Ordinance Section 254.06 addresses sick time, and Ordinance Section 254.13 addresses retirement. Rather than have both provisions say the same thing, which is how it stands right now, the new legislation (Ordinance No. 20-O-63) will reword the retirement section, amending Section 254.13(d). That puts in the provision that employees who have been employed with the City for 10 years or more, and retire in good standing, can receive a payment for 1/4 of their accrued time, with a maximum of 480 hours. The second piece of legislation (Ordinance No. 20-O-64) cleans up Section 254.06(j), and it references the new ordinance Section 254.13. Mr. Lallo stated that both pieces of legislation can receive three readings.

Economic Development Manager Monica Drake said she provided information to Mayor Potter and Ms. Petersburg regarding commercial properties currently for lease or for sale in Kirtland. This information is updated monthly, and Ms. Drake said she would be happy to e-mail this information to Council members upon request.

DEPARTMENT REPORTS (continued):

Ms. Drake advised that Lake County Planning Department provides to each City 12 hours of free planning each year. If the City wants to take advantage of this, now would be the time to combine this year's allotted hours with those allotted for year 2021.

Ms. Drake spoke with the broker who is selling the Endura Building on Route 6, and she was informed the sale is proceeding and they're going through due diligence. There is still no information available on the buyer. Ms. Drake advised the broker that the buyer would need to contact Zoning when they are ready to move in and they will be provided with the appropriate process for getting an occupancy permit and any fire inspection that needs to be done.

Ms. Drake will be attending a three-day virtual conference beginning tomorrow that is being put on by the American Planning Association and the Ohio Economic Development Association.

MAYOR'S REPORT/ANNOUNCEMENTS:

Mayor Potter congratulated all the Kirtland fall sports teams, with a special congratulations to the high school girls' soccer team on winning the state championship Friday. He wished good luck to the Kirtland Hornets Football Team as they compete for another state championship on Saturday.

Mayor Potter thanked all the residents for coming out tonight, stating the past few days have been filled with tremendous and thoughtful dialog with residents and City Council members alike.

Referring to Ordinance No. 20-O-65 on tonight's agenda, Mayor Potter said the ordinance was borne out of a need to fund a road program and determination to have a 2021 and beyond road rehabilitation program to satisfy the residents. Mayor Potter stated he hopes tonight will begin a conversation with the community concerning whether this is the right proposal. In the past few days residents, friends, and Council members have clearly stated that a tax increase of this nature should be put before the voters. Though this proposal did include a component of that, it was not intended to begin that way. He also recognized that the economic uncertainty of a pandemic calls for hitting the pause button. Mayor Potter stated he is asking Council to withdraw the legislation this evening. After conversations with Council members Ruple and Schulz, Mayor Potter stated he would like to engage the community and encourage collaboration with residents on funding the road program.

Councilman Schulz thanked Mayor Potter for the recent conversation concerning many issues, including the plan to fix the roads in the community. Mr. Schulz said there has been a lot of work put into the plan, and he looks forward to working on a funding plan in the future.

Council President Lowery thanked Mayor Potter for listening to the community and Council members on this delicate subject. He went on to say he believes collaborating with the community on funding ideas will promote goodwill.

Councilman Lesnick echoed Mr. Schulz's comments regarding all those who worked so hard on the program that has been proposed. No one expected the budget for the project to be such a large amount, but he looks forward to working with both Council and residents to come up with a way to accomplish this goal.

Councilwoman Wolfe thanked Mayor Potter for his decision to request withdrawal of the legislation, as she has received several pieces of correspondence from residents sharing their concerns.

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Council President Lowery stated that he would entertain a motion to suspend the Rules of Council for the purpose of modifying the Council agenda. Mr. Schulz so moved, and Mr. Lesnick provided the second. **ROLL CALL: MOTION CARRIED 7/0 (VOTING YEA: SCHULZ, SMOLIC, WOLFE, HAYMER, LESNICK, LOWERY AND RUPLE. VOTING NAY: NONE).**

Council President Lowery then stated, per the Mayor’s request, he would entertain a motion to withdraw Ordinance No. 20-O-65, titled “An Ordinance amending Section 883.06(a) of the Codified Ordinances of the City of Kirtland, relating to the credit of certain taxes paid to another municipality, and declaring an emergency.” Mr. Ruple so moved, and Mr. Smolic provided the second. **ROLL CALL: MOTION CARRIED 7/0 (VOTING YEA: SCHULZ, SMOLIC, WOLFE, HAYMER, LESNICK, LOWERY AND RUPLE. VOTING NAY: NONE).** The legislation was withdrawn and removed from the agenda.

STANDING COMMITTEE REPORTS:

Council President Lowery noted there will be a Finance Committee meeting following tonight's Council meeting.

CORRESPONDENCE:

None.

PUBLIC COMMENTS ON MATTERS NOT ON THE AGENDA:

None.

OLD BUSINESS:

None.

NEW BUSINESS:

PUBLIC COMMENTS ON AGENDA ITEMS OF NEW BUSINESS:

Tom Christopher, 9033 White Oak Road and 9199 Chillicothe Road, encouraged Council to re-think and walk back the idea of the tax increase in withdrawn Ordinance 20-O-65. Mr. Christopher stated that as a business owner and developer in the City, and as co-chair of the Kirtland Business Council with previous Mayor Doug Davidson, he believes the idea of raising taxes on existing residents is unnecessary to fix the roads and it is counterproductive. He is of the opinion that if taxes are raised the City will replicate the problems of New York and California. Mr. Christopher went on to say raising taxes drives marginal business owners and residents out of the city, which then drops property values, which begins a downward cycle. He contends the models of Florida and Texas are far better for accomplishing the job. These states have no taxes at the state level and work to partner with business to bring in new commerce and developments. This opens a wide range of creative tax-generating options used across the country today. Mr. Christopher has worked with his CFO to run models on alternative financing mechanisms and believes with a small amount of work more than enough money could be raised to fund the road program without the need of a tax increase.

PUBLIC COMMENTS ON AGENDA ITEMS OF NEW BUSINESS (continued):

Mr. Christopher went on to share stories from personal experience concerning the need for more businesses and vendors in the area. Mr. Christopher encouraged the Mayor and Council to partner with businesses to help raise the funds necessary to fix the roads. Mr. Christopher closed by stating while he is not a resident of Kirtland for tax purposes, as a business owner in the area he has a vested interest in seeing the area thrive into the destination city it has the potential to become.

Susan Shafer, 7992 Barristers Court, extended great appreciation for Service Director Joe Fornaro, noting that he was very helpful during this fall soccer season with many things, such as signage, goals, field conditions, and making sure hand sanitizer was available at both locations.

Kevin Eilerman, 8066 Pinehurst Drive, and business owner at 9165 Chillicothe Road, stated he believes there is an opportunity for the City to work together with businesses to find additional funding that does not impact current residents of Kirtland. Mr. Eilerman said he believes with determination additional funding opportunities can be found. He is unsure of the percentage of the funding that can be raised, but believes the conversations need to happen.

Bob Weinberg, 10467 Gaitside Trail, appreciated the previous comments, saying he shares those ideas and agrees everyone should be working together. He also offered to assist as needed.

Brian Glowe, 8859 Shetland Court, stated the withdrawn ordinance would not have been allowed by the Charter, and he believes it is important that the citizens are aware of that. He also offered to be on a committee of business owners and residents to research other funding opportunities.

Mayor Potter thanked the public for their attendance at tonight's meeting. He noted there have been several meetings regarding a road program and Finance Committee meetings relating to funding the program. He went on to say he is very pleased with the turnout at this meeting and hopes the participation will continue. Mayor Potter mentioned that the offer of help from the community is greatly appreciated.

Mr. Lallo referred to the legality of the withdrawn legislation, stating the reduction in the credit is legal. He believes what has been referenced concerning the Charter would pertain to whether the income tax can be increased. The Charter does limit the tax to 2.0%, however there are a couple of different ways it can be modified to permit a 2.5% income tax. That type of modification would be put before the voters in the fall general election. However, the legislation that was withdrawn, reducing the credit from 1.75% to 1.00% is perfectly legal. Mr. Lallo wanted to clear up any confusion on the subject, although the legislation was withdrawn and is not on the agenda.

RESOLUTION NO. 20-R-60
(Mayor Potter)

- **A RESOLUTION REQUESTING THE COUNTY AUDITOR TO MAKE ADVANCE PAYMENTS OF TAXES PURSUANT TO OHIO REVISED CODE SECTION 321.34, AND DECLARING AN EMERGENCY.**

The legislation was read by title only. Mr. Schulz moved to waive the three readings, with the second by Mr. Smolic. **ROLL CALL: MOTION CARRIED 7/0 (VOTING YEA: SCHULZ, SMOLIC, WOLFE, HAYMER, LESNICK, LOWERY AND RUPLE. VOTING NAY: NONE).** Mr. Schulz moved to adopt, with the second by Mrs. Wolfe. Mr. Lesnick moved to modify the previous motion, to declare an emergency and adopt, with a second by Mrs. Wolfe. Voting began on the motion to modify the previous motion. **ROLL CALL: MOTION CARRIED 7/0 (VOTING YEA: SCHULZ, SMOLIC, WOLFE, HAYMER, LESNICK, LOWERY AND RUPLE. VOTING NAY: NONE).** Voting then began on the modified motion, adopting the resolution as an emergency. **ROLL CALL: ADOPTED 7/0 (VOTING YEA: SCHULZ, SMOLIC, WOLFE, HAYMER, LESNICK, LOWERY AND RUPLE. VOTING NAY: NONE).**

NEW BUSINESS (continued):

ORDINANCE NO. 20-O-61 - **AN ORDINANCE AMENDING ORDINANCE NO. 20-O-59**
(Mayor Potter) **RELATING TO THE APPROPRIATION FOR THE YEAR**
2020.

The legislation was read by title only. Mr. Slapnicker explained there are only two funds changed in this amendment. The General Fund is increased \$37,500 and Fund 220 SCMR is reduced \$5,000 as a result of the gas tax collections coming in lower. Mr. Lesnick moved to waive the three readings, with the second by Mr. Smolic. **ROLL CALL: MOTION CARRIED 7/0 (VOTING YEA: SCHULZ, SMOLIC, WOLFE, HAYMER, LESNICK, LOWERY AND RUPLE. VOTING NAY: NONE).** Mr. Lesnick moved to adopt, with the second by Mrs. Wolfe. **ROLL CALL: ADOPTED 7/0 (VOTING YEA: SCHULZ, SMOLIC, WOLFE, HAYMER, LESNICK, LOWERY AND RUPLE. VOTING NAY: NONE).**

ORDINANCE NO. 20-O-62 - **AN ORDINANCE AUTHORIZING THE DIRECTOR OF**
(Mayor Potter) **FINANCE TO ENTER INTO THE HEALTHCARE**
PROGRAM PARTICIPATION AGREEMENT WITH THE
LAKE COUNTY BOARD OF COMMISSIONERS TO
PARTICIPATE IN ITS HEALTHCARE PROGRAM FOR
THE YEARS 2021 THROUGH 2023, AND DECLARING AN
EMERGENCY.

The legislation was read by title only. Mayor Potter explained the County Commissioners approached Administration a couple of months ago, offering to keep the City of Kirtland in the County's healthcare program. There was also a two-month credit offered, which covered the monthly premiums for January and February. There will be a two percent overall increase in premiums going forward, but the net savings will be approximately \$90,000. Mayor Potter thanked the Commissioners for bringing this forward, being considerate of the current fiscal climate and making this available to the City. He noted it does not change any healthcare policies for the City employees. Mr. Lesnick moved to waive the three readings, with the second by Mr. Ruple. **ROLL CALL: MOTION CARRIED 7/0 (VOTING YEA: SCHULZ, SMOLIC, WOLFE, HAYMER, LESNICK, LOWERY AND RUPLE. VOTING NAY: NONE).** Mr. Lesnick moved to declare an emergency and adopt, with the second by Mr. Smolic. **ROLL CALL: ADOPTED 7/0 (VOTING YEA: SCHULZ, SMOLIC, WOLFE, HAYMER, LESNICK, LOWERY AND RUPLE. VOTING NAY: NONE).**

ORDINANCE NO. 20-O-63 - **AN ORDINANCE AMENDING SECTION 254.13(b) OF**
(Mayor Potter) **THE CODIFIED ORDINANCES OF THE CITY OF**
KIRTLAND, RELATING TO CERTAIN BENEFITS FOR
RETIRING EMPLOYEES, AND DECLARING AN
EMERGENCY.

The legislation was read by title only and placed on First Reading. For clarity for Council members and City employees, Mr. Schulz requested that an example be provided showing how this would play out, such as a work-up of a fictional employee and how these changes will affect said employee.

ORDINANCE NO. 20-O-64 - **AN ORDINANCE AMENDING SECTION 254.06(j) OF**
(Mayor Potter) **THE CODIFIED ORDINANCES OF THE CITY OF**
KIRTLAND, RELATING TO THE PAYMENT OF
ACCRUED SICK TIME UPON AN ELIGIBLE
EMPLOYEE'S RETIREMENT, AND DECLARING AN
EMERGENCY.

The legislation was read by title only and placed on First Reading. Council President Lowery requested this amendment also be included in the example to be provided to Council.

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COUNCIL COMMENTS:

Councilman Schulz asked if there is an update on the investigation with Aqua Ohio regarding the TIF. Mr. Lallo stated he has not received a response from the other attorney. If no response is received by end of business tomorrow, Mr. Lallo will move to a different attorney. As discussed before, the City does want to move forward on this, and time is of the essence. Mayor Potter suggested scheduling a committee meeting and asking the attorney to come and speak on the TIF process.

CONTINUING CONCERNS:

Council President Lowery noted that this is an opportunity for the public to address Council about any continuing concerns. There were no comments from the public.

ADJOURNMENT:

Mr. Smolic moved to adjourn, with the second by Mr. Schulz. The motion of Council passed by unanimous vote and the meeting adjourned at 8:18 p.m.

President of Council

Clerk of Council