

## KIRTLAND CITY COUNCIL MINUTES

January 6, 2020

The meeting of Kirtland City Council was called to order at 7:03 p.m. by Council President Richard Lowery. 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 Daniel Richards, Assistant Finance Director Louis Slapnick, City Engineer Philip Kiefer, Service Administrator Duane Martz, Police Chief Lance Nosse and Economic Development Manager Monica Drake.

### MINUTES OF THE DECEMBER 16, 2019 WORK SESSION:

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 7/0 (VOTING YEA: LESNICK, LOWERY, RUPLE, SCHULZ, SMOLIC, WOLFE AND HAYMER. VOTING NAY: NONE).**

### MINUTES OF THE DECEMBER 16, 2019 COUNCIL MEETING:

Mr. Smolic moved to waive the reading of the minutes, with the second by Mrs. Wolfe. The motion of Council passed by unanimous vote. Mr. Smolic moved to approve the Minutes, as presented, with the second by Mrs. Wolfe. **ROLL CALL: MOTION CARRIED 7/0 (VOTING YEA: LESNICK, LOWERY, RUPLE, SCHULZ, SMOLIC, WOLFE AND HAYMER. VOTING NAY: NONE).**

### DEPARTMENT REPORTS:

**Police Chief Lance Nosse** began by saying he hoped everyone had a safe and healthy holiday season. Chief Nosse went on to report the Police Department has continued to be busy. Since the last meeting there have been a few serious incidents, including a fleeing and eluding situation in which the Department participated. The situation originated in the city of Painesville, proceeding through Kirtland and into the city of Willoughby, where it ended in a serious crash. There were no civilians injured in the crash. The subject then fled on foot, ending his life in the presence of the officers. The subject was armed with a handgun; no officers or civilians were hurt during the situation.

Chief Nosse stated that with the passage of House Bill 228, the Police Department has confiscated several guns from felons.

Chief Nosse reported on two burglaries and a stolen automobile, which have been solved, items recovered, and suspects are in custody. These burglaries are similar to other incidents where subjects are coming from Cuyahoga County, stealing property and getting involved in a pursuit. DNA evidence has been recovered and the Police Department will be working with other departments on the case.

The Chief reported that recently a couple juveniles on an ATV decided to flee from officers; they were captured and learned their lesson.

Council President Lowery mentioned that the notice on the City's website very clearly reminds the community there is no overnight parking and no parking during a snow ban.

**DEPARTMENT REPORTS (continued):**

Answering Councilman Lesnick's question concerning the format of his reports, Chief Nosse noted it is a standard used in reporting. Citations and arrests are summarized together as standard reporting procedure in the CAD system. There is a separate NIBRS report created for the government, which specifically details serious crimes only such as felony arrests for assault and other similar situations. Non-serious crimes would be traffic, arrests, etc. Moving forward, Mr. Lesnick asked if the report presented to Council can be restructured to reflect serious/non-serious crimes. Chief Nosse stated that the report generated for Council is a standard report from the CAD system; he noted he can look into providing a different reporting for Council. Noting that Kirtland is considered one of the safest cities in Ohio, Mr. Lesnick stated that a custom report would show the statistics to back that up. Chief Nosse said he would begin separating the serious (from the NIBRS) and the standard report.

Council President Lowery asked if the Circle K robbery case has been solved, to which Chief Nosse advised that the Police Department is currently working with 30-40 communities along with the State Highway Patrol and Federal agencies on the case, as it has been linked to what is believed to be a burglary ring. The case has also been linked to multiple cases of stolen vehicles and personal property that occurred Christmas morning 2015. Chief Nosse hopes they are able to close the case soon.

Councilman Schulz commented that he's noticed the bollards have been installed at the Circle K, but they do not go all the way across. He suggested this be a topic for discussion at the joint meeting with the Planning and Zoning Commission. Chief Nosse noted there are added steps that can be taken to make it safer; he believes relocating the cash machines away from the front of the store is the best option. Council President Lowery stated that he spoke with the store manager, who indicated they are not putting in another cash machine.

Councilman Smolic requested that the monthly report show a total for the year.

**Economic Development Manager Monica Drake** reported she's begun using a new software program called CoStar that defines properties for lease/sale in the community. It is an excellent tool to see the square footage of a building/commercial property and other specifics, along with being a good tool for statistics such as demographics. Detailed information can be provided through this program to someone who is considering relocating.

Ms. Drake has been working on projects for Mayor Potter, one of which consists of reviewing revenue sources.

Ms. Drake stated she and Mr. Martz attended *Show Me the Money* put on by ODOT. The program was excellent.

Ms. Drake received information from Governor DeWine's office pertaining to sewer funding. There is also a potential new funding source for infrastructure through Jobs Ohio; the program is tied to manufacturing jobs and site readiness. This is a new program which focuses on readying property for manufacturing. Ms. Drake sees this as a good opportunity to look at properties that might be impacted and how it can be leveraged.

Ms. Drake stated she spoke to a gentleman who is inquiring about purchasing some of the City's land on Route 6 for business use. The discussions are in the early stages, but there has been interest shown.

Responding to Councilman Schulz's question regarding the CoStar cost, Ms. Drake stated she believes it is an annual cost, noting that it was set up by the City of Wickliffe as part of the collaboration of the three cities. She stated it can provide people with information on available properties for sale and for lease in the City.

**DEPARTMENT REPORTS (continued):**

Councilman Lesnick mentioned an absence of Ms. Drake on the City's website as the Economic Development Manager. He noted that it would be helpful to have her contact information on the website. Ms. Drake suggested that the website could advertise available programs concerning land development.

Responding to Councilman Haymer regarding the property on Route 6 and the new wetland rules, Ms. Drake stated that while the rules have not yet been updated, they have passed at the Federal level and are working through the process. She advised that the interested party she mentioned earlier would like to construct a building for landscaping wholesale/retail sales.

**Service Administrator Duane Martz** wished everyone a Happy New Year. Mr. Martz reported the salt barn is still 70 percent full. The Service Department took advantage of the good weather in the last few weeks for city-wide tree-trimming, to keep branches away from the roads. There were also trees removed in the stormwater project areas. Mr. Martz stated that the Department has been keeping the catch basins clean, noting that there was one flooding issue during the past month. Mr. Martz stated that the Department has also been cold-patching.

Council President Lowery inquired about a large tree on Chillicothe Road that is leaning toward the road. Mr. Martz stated that Zoning Inspector Baumgart has been in contact with the resident.

Answering Councilman Haymer, Mr. Kiefer stated there is no guardrail proposed for Wisner Road. Mr. Kiefer noted the project is substantially done; it needs to be seeded in the spring.

**City Engineer Philip Kiefer** stated that he finished the draft scope of services for the sewer project last month. Council should receive the report by the next meeting for discussion.

Mr. Kiefer stated that Lake County Stormwater Department advised they are working on an MOU used to provide additional funding, noting that money has been requested for the Route 306 project, along with money for Rockwood and Wisner. He stated that the final reimbursement from OPWC should be received soon.

Mr. Kiefer stated that the project on Racoon Hill is almost complete.

Councilman Lesnick raised the question of what after-project work had been included in the stormwater projects. He mentioned that mud and debris has been left in yards. Mr. Kiefer stated there will be final grading, clean-up, and seeding on the properties, noting that the weather is too cold and wet at this time of year. Mr. Lesnick went on to ask about the roads themselves, using the cul-de-sac on Fox Hill as an example and stating it was a mess. Mr. Kiefer agreed to look into it.

Council President Lowery stated it appears the topography has been changed in the floor of the stream, but there has also been a pond created, which he hopes will be corrected in the spring when the grading is completed.

Answering Councilman Smolic, Mr. Kiefer stated that the clean-up, re-seeding, and grading will most likely be done during the months of March through April.

Responding to Mr. Smolic concerning the Wisner Road additional funding, Mr. Kiefer stated he does not yet have a final cost.

**DEPARTMENT REPORTS (continued):**

Responding to Council President Lowery's question regarding whether there were to be pipes installed on both sides of the road on Gildersleeve, Mr. Kiefer confirmed that was the initial plan. However, when the water line was marked it was determined it couldn't be accomplished. Mr. Kiefer stated both pipes were placed on the east side, where there is a better slope.

Councilman Schulz brought up the lack of completion dates on many of the projects, and requested in the future that contractors be held to set completion dates. Mr. Schulz stated there is also a safety concern if paving markings are not done. He noted that the issue of seeding does affect the environment with runoff.

Councilman Lesnick added that utilizing the new website, along with Facebook, for updates on projects may reduce the phone calls Council members receive. Residents will be able to see what stage the project is in and the reason for any delays.

With regard to Gildersleeve, Councilman Smolic confirmed with Mr. Kiefer that there were two extensions to the east side, which is the inflow side, and there was no work done to the other side.

**Assistant Finance Director Louis Slapnicker** advised that the Finance Department is working on finalizing the numbers for 2019; he anticipates this to be completed no later than early next week. There is a little more work to do, to ensure compliance in preparation for the audit and GAAP conversion. The 2020 accounting year has been opened so things will run smoothly. The payroll and invoice system is running well.

Mr. Slapnicker stated that in March the City had multiple negative fund balances. All are currently positive, except for the 503 Temple View Wastewater Treatment plant, which is the only negative fund balance.

Mr. Slapnicker stated for the first time the Finance Department is planning to handle the W-2s and 1099s in-house for the City and not utilize a third-party accounting firm.

Councilman Lesnick inquired about the negative fund balance for Temple View. Mr. Slapnicker stated it is his understanding that when the project was approved it was expected to run negative for 20 years. Mr. Kiefer added that the City began paying the funds back in 2011. There were two loans: a 20-year loan from OPWC, and a 40-year loan from USDA. To make it easier for the residents, it was decided the billing would be \$100.00 a quarter. This was done with the knowledge that it would run negative for the first 20 years, and the fund would be caught up/paid back after that time. Therefore, the fund is expected to run negative for the next 10 to 11 years.

Responding to Councilman Schulz, Mr. Kiefer stated there is no plan to have negative balances with the next sewer project, but the decision would be up to the Public Utilities Commission and Council.

Responding to Councilman Schulz concerning the plan to create W-2 and 1099 forms in-house, Mr. Slapnicker confirmed it was handled by Keith Martinet's firm previously. However, the accounting software will allow the Finance Department to create the forms without additional costs. There will be a filing fee, which is approximately \$2.00 per W-2. Concerning any reduction of cost by handling the forms internally, Mr. Slapnicker stated he will have to research it, but the overall cost is very modest. Concerning the new software, these forms are handled internally in the software.

Responding to Councilman Schulz, Mayor Potter stated that the end of the year figures will be available next week.

**DEPARTMENT REPORTS (continued):**

**Law Director Daniel Richards** stated that the Law Department will be working on an ordinance amendment, based upon recent legislative enactment by the State of Ohio regulating possession and ownership of firearms. He stated that Section 9.68 of the Ohio Revised Code adds penalties to the law that require cities not to enforce, or attempt to enforce, their ordinances that contradict the state statute regarding possession, ownership, manufacturing, and the like. This makes it necessary to amend the current ordinance.

Mr. Richards plans to coordinate the changes with the codification services that are available, to make sure there is not unnecessary work with regard to the drafting of the modification. He noted that some other cities have already begun the process. Mr. Richards went on to say he notified the Police Chief he didn't believe it would be appropriate for the City to enforce ordinances under Section 672 (the firearms section of the code) that are in any way different from the new law that has been in effect since December 28, 2019. If the City attempts to enforce the laws expressed in the City's current code that are at variance with the state law, there is a possibility that someone who felt aggrieved could make a claim for damages. Mr. Richards said he is not anticipating such a problem, as the City will not enforce anything contrary to current law. There will probably be something introduced in the next month in the way of legislative amendment for Chapter 672.

Councilman Schulz asked if there are any plans to change the distracted driving law to a primary offense. Mr. Richards said he has not reviewed that.

Mr. Richards went on to say the new law concerning firearms has nothing to do with the utilization of firearms or other sections of the current code that deal with discharge of firearms. He noted there are laws on the state books currently that regulate those sections and the City will be enforcing those laws.

Councilman Smolic explained to the public that ORC 9.68 basically addresses that the state law supersedes any city's laws, and that state laws take precedent.

**MAYOR'S REPORT/ANNOUNCEMENTS:**

Mayor Potter advised Council that he was notified of a grant opportunity. The Lake County Board of Commissioners passed a resolution for a one-time economic development grant for communities throughout the County. This grant was made possible by proceeds the County receives from casino gambling. The amount allotted per community was determined by license plate registrations, and Kirtland will be receiving \$52,000.00. The funds must be earmarked for road improvements, excluding engineering. Kirtland must first identify and commit to a project that qualifies for the funding. After Kirtland has passed an ordinance for the intended project, and filed that ordinance with the County, the funds will be released. The deadline to file is the end of March. Examples of acceptable projects would include road patching, paving, or construction.

Mayor Potter spoke of the work he and Ms. Drake have been doing concerning grant funding opportunities and low-interest loans for future projects.

The Mayor advised he has spoken with three of the five members he intends to nominate to the road paving task force and looks forward to moving that forward with the help of Council, in order to come up with a road plan for this year. He stated that once the numbers are known, the needs of each department can be determined and allocated as needed to keep the community and roads safe.

Mayor Potter stated that the Old Town sewer project is obviously a priority, in getting the Public Utilities Commission meeting underway and having a good understanding of the nature, scope, cost, and financing of the project, along with getting the information to the residents.

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

There was discussion regarding the SME proposal and the information that the visual inspection will provide. Mayor Potter noted that, similar to a PCR report, it will give a recommendation of where core samples should be taken to get an idea of sub-surface conditions.

Councilman Schulz inquired if there are any projects identified for the \$52,000 grant; he noted that the timeline is tight. There was discussion, and Mayor Potter noted that the SME inspection should provide assistance in determining the project.

There was discussion regarding the sewer scope of services report; it was noted the document is in pdf format. In response to Councilman Schulz's request, Mr. Kiefer stated that he can provide it as a Word document so Council members can comment in the document.

**STANDING COMMITTEE REPORTS:**

None.

**CORRESPONDENCE:**

None.

**OLD BUSINESS:**

None.

**NEW BUSINESS:**

**RESOLUTION NO. 20-R-1** - **A RESOLUTION DECLARING INTENT TO CONDUCT AN INTERNET AUCTION FOR THE SALE OF UNNEEDED, OBSOLETE OR UNFIT PERSONAL PROPERTY OF THE CITY OF KIRTLAND, AND DECLARING AN EMERGENCY.**  
(Mayor Potter)

The legislation was read by title only and placed on First Reading. Responding to Councilman Smolic, Chief Nosse stated that a list of equipment can be generated for this year.

**ORDINANCE NO. 20-O-2** - **AN ORDINANCE AMENDING SECTION 254.18 OF THE CODIFIED ORDINANCES TO PERMIT THE USE OF INSURANCE IN PLACE OF AN INDEMNITY BOND, AND DECLARING AN EMERGENCY.**  
(Mayor Potter)

The legislation was read by title only. Mr. Lesnick moved to waive the three readings, with the second by Mrs. Wolfe. **ROLL CALL: MOTION CARRIED 7/0 (VOTING YEA: LESNICK, LOWERY, RUPLE, SCHULZ, SMOLIC, WOLFE AND HAYMER. VOTING NAY: NONE).** Mr. Lesnick moved to declare an emergency and adopt, with the second by Mr. Schulz. **ROLL CALL: ADOPTED 7/0 (VOTING YEA: LESNICK, LOWERY, RUPLE, SCHULZ, SMOLIC, WOLFE AND HAYMER. VOTING NAY: NONE).**

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

**Sharon Vyskocil, 8415 North Locust**, had a procedural question concerning public comments. Mrs. Vyskocil stated she had questions about Ordinance No. 20-O-2, which she researched online earlier in the day. She wondered why public comments on agenda items are heard after Council has discussed and passed ordinances, without the three readings. She felt this inhibited her opportunity to raise questions and concerns before the ordinance was passed. Councilman Lesnick agreed that there should be opportunity for all citizens to come and be heard during meetings, and that information on agenda items should be available to the public as soon as possible. With regard to Ordinance No. 20-O-2, Mrs. Vyskocil stated that she wondered where money was being saved with the insurance policy versus the bond; she noted that since she came to the Work Session, Mr. Slapnicker has already answered her question. Councilman Ruple noted that he has several copies of the Ohio Revised Code relating to this matter, and he provided a copy to Mrs. Vyskocil.

Council President Lowery commended Mrs. Vyskocil for researching the ordinance before the meeting and coming to share her opinions.

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**CONTINUING CONCERNS:**

None.

**COUNCIL COMMENTS:**

Councilman Lesnick asked Mr. Richards about the order of the agenda, noting concern about the public having opportunity to comment on legislation. Mr. Richards stated many communities have rules that specifically regulate public participation. He noted that the Council meeting is a public meeting and not necessarily a public hearing, and oftentimes a public meeting is misinterpreted as a give and take between the legislative body and the public. Mr. Richards went on to say the City Council is meeting to handle business, specifically to discuss and deliberate the legislation. The public is welcome to speak, in terms of the agenda, but it should not become a question and answer session with Council or the Administration. He noted however, that Kirtland has fully welcomed conversations, discussions, and questions from anyone in the audience directed to Council and the Administration. Mr. Richards noted that information is available to the public at any time, even if they call rather than attend the Council meeting. Mr. Richards stated that citizens have recourse if legislation is adopted that they do not believe should have been adopted, noting that it can be reconsidered by Council. Mr. Richards went on to say the legislation adopted tonight was pretty clear cut, and it granted an additional alternative which, in the opinion of the Finance Department, generates a more efficient and economic benefit to the City; therefore, the three readings were waived and legislation was passed tonight. Mr. Richards said that he understands Mrs. Vyskocil's concerns; however, the City of Kirtland has always listened to the citizens openly, without many constraints.

**PUBLIC COMMENTS:**

None.

**ADJOURNMENT:**

Mr. Schulz moved to adjourn, with the second by Mr. Lesnick. The motion of Council passed by unanimous vote and the meeting adjourned at 8:10 p.m.

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President of Council

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Clerk of Council