

KETTERING CITY COUNCIL
REGULAR MEETING MINUTES
August 14, 2007

The Council of the City of Kettering, Ohio, met in regular session on Tuesday, August 14, 2007, at 7:30 p.m. in the Council Chambers of the Kettering Government Center, 3600 Shroyer Road. The Mayor, Donald E. Patterson, presided and the Clerk of Council, Connie S. Gaw, recorded. This meeting was telecast live on the cable access channel.

Council Members Present: Duke, Klepacz, Lehner, Spolrich, Thompson and Wanamaker

Council Members Absent:

Total Members Present: Seven (7)

Mayor Patterson led the audience in the Pledge of Allegiance and then gave the invocation. He introduced the cable TV operators, Earl Jones, Bill Greger and Joe McKenzie and thanked these volunteers for their assistance.

Mayor Patterson recommended two items be added to the agenda under Special Presentations this evening. The first a check presentation of proceeds received from the Mayor's Charity Ball to Daybreak and second, a presentation regarding the Ballot Issue. Mr. Wanamaker made a motion to add both presentations. Mrs. Lehner seconded this motion. The motion was approved by a unanimous roll call vote.

APPROVAL OF MINUTES

July 24, 2007 Regular and Workshop Meetings

Mr. Spolrich reported that he reviewed the above minutes and moved the minutes be approved. Mr. Thompson seconded the motion and there being seven (7) yea votes, and no (0) nay votes, the motion was declared carried by a majority roll call vote.

PROCLAMATIONS, SPECIAL PRESENTATIONS, AWARDS, SPECIAL RESOLUTIONS, APPOINTMENTS TO BOARDS AND COMMISSIONS

APPOINTMENT: Kettering Arts Council – Lisa Selvia

APPOINTMENT: Kettering Arts Council – Matthew Franklin

Mr. Duke made a motion to approve the appointment of Lisa Selvia and Matthew Franklin to the Kettering Arts Council. Mr. Spolrich seconded this motion. The motion was approved by unanimous vote.

PRESENTATION: Mayor's Charity Ball/Check Presentation

Jim Ghory, Chairman of the 2007 Mayor's Charity Ball presented a check of proceeds received from the Charity Ball in the amount of \$8,600.00 to Linda Kramer, Executive Director of Daybreak.

PRESENTATION: Ballot Issue

Mark Schwieterman, City Manager explained although there is a relationship between the issue of the proposed regional dispatch system and the issue of the initiative petitions, these issues are really separate and distinct. They are two separate issues that should be viewed, analyzed and decided upon separately. And, that is what the City has done. The issue of the proposed regional dispatch system and the issue of the initiative petitions were each independently reviewed and analyzed. The City Law Department has reviewed and analyzed the initiative petitions that were submitted to the City, and has also reviewed the accompanying

proposed resolution that is to be the basis for the ballot question. It is the opinion of our Law Director and outside counsel that the proposed resolution is not a proper subject matter for an initiative petition. The initiative process is intended to be used for subjects like creation of new laws. The resolution that is part of the initiative petitions does not create a new law. The proposed resolution deals with an administrative matter of the City. However, laws dealing with initiative measures and initiative petitions do not permit administrative matters to be placed on the ballot. Because of this, it is the position of the City Council and the City administration that the initiative petitions proposing a resolution about the regional dispatch system will not be forwarded to the Board of Elections. There are two important points that need to be stressed. The City Council and City administration, both, stand behind and will be the first to support the constitutional right of the initiative process. But, that support is limited to initiative measures that meet the requirement of the law. The City's position on this particular initiative petition would be the same for any initiative petition that does not meet requirements of the law. The City's position on this particular initiative petition has nothing to do with the City's position on the proposed regional dispatch system. The City's position is based on Ohio's Constitution, the powers of a Charter City and preservation of our form of local government. This issue about the initiative petitions may be the subject of litigation. Because of that, the Law Director has advised that comments on this matter be limited to what was just presented. Questions should be directed to the Law Director.

PUBLIC HEARINGS

PUBLIC HEARING: To rezone five (5) tracts of land totaling approximately 2.2103 acres, located approximately 800 feet to the east of Ridgeway Road, from R-E(b) Residential Estates District to R-E(a) Residential Estates District.

Mr. Ron Hundt, City Planner, Planning & Development Department showed an aerial photograph and explained the location of the site. He explained Planning Commission recently approved a plat adjusting the lot lines of three building sites and consolidating several remnant pieces of land. One of the original lots and several of the remnant parcels are zoned R-E(b). This rezoning would clear up any ambiguity as to where standards would be applied for the newly described lots within the plat area. Without the rezoning, two of the lots would fall into both the R-E-a and R-E-b designation.

COMMENTS AND QUESTIONS

Bob Pretzinger, 373 Tamarac Trail – expressed concern about access to this new subdivision. He pointed to the photo and asked if the smaller lot will have 40,000 square feet.

Mr. Hundt stated that future access to one lot in this plat could potentially be accessed off of Tamarac Trail. No decisions have been made at this time. Only one lot has frontage on Tamarack Trail. The R-E-a district requires 40,000 square feet per lot. The smaller parcel Mr. Pretzinger referred to, once re-platted will be around 2 ½ acres.

Mr. Duke wondered how many homes could be built on this.

Mr. Hundt replied there is possibility of potentially three lots. If divided into three lots it would have to go back before the Planning Commission.

Mr. Wanamaker stated that the land in this area is a very hilly and not a very easy site to build on.

Mr. Hundt replied that his statement is correct.

Richard Thomas, 401 Tamarac Trail – stated that he is not as worried about the rezoning as he is about the future plans for the property. He showed a map and pointed to where he lived. The land to be rezoned this evening is very rugged terrain

and would be difficult to build on. If someone were to build the land it would need to be stabilized. A sewer line also goes along the property. Very large volumes of storm water go across this property. In the past there had been large amounts of erosion that happens at a rapid rate. It would be difficult to prevent this erosion. Kettering Engineers have told him there is limited access to this property. It is important that this channel be maintained. He feels that attention should be brought forward about the drainage problems to help prevent future problems.

Mayor Patterson asked that if a house were to be built on this property it would need to go through a review process. Would citizens have access to this process?

Mr. Hundt replied that citizens could get information on any future building on this property. He would be happy to work with neighbors in this area to resolve their concerns.

Mayor Patterson asked if something stating citizen involvement could be added to the ordinance.

Mr. Eubank, Law Director stated that you could add to the ordinance. He recommended staff look at this issue and come back with changes to the ordinance that addresses citizen concern.

David Layman, 580 Lincoln Park – stated that he is the attorney for the applicant. He wanted to point out to Council that they are taking two lots that could be built upon and turning them into one lot. The owners currently do not have any plans to build. Their plans do not impact the density of homes in any way. He would be happy to cooperate with neighbors in the community and explain what they are doing.

There being no further discussion, Mayor Patterson closed the public hearing and advised that Council would render a decision at the August 28, 2007 Council Meeting.

ORDINANCES IN SECOND READING

RESOLUTIONS

A RESOLUTION

NO: 8301-07

BY: MR. WANAMAKER AND MRS. LEHNER

AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE KETTERING BOARD OF EDUCATION TO SHARE THE COST OF MAINTAINING THE SAFETY PROGRAM FOR ELEMENTARY STUDENTS/PEDESTRIANS FOR THE 2007-2008 SCHOOL YEAR

Mr. Wanamaker read the above resolution and moved for approval. Mrs. Lehner seconded the motion.

Mr. Schwieterman explained the City and School Board for the most part share cost of services for the Safety supervisors in performing crossing guard duties and monitoring safe routes to elementary public schools.

There being no discussion on the motion, the following votes were recorded: Mr. Thompson, Yea; Mr. Klepacz, Yea; Mr. Duke, Yea; Mr. Wanamaker, Yea; Mrs. Lehner, Yea; Mr. Spolrich, Yea; Mayor Patterson, Yea. There being seven (7) Yea votes and no (0) Nay votes, the motion was declared carried and the resolution duly adopted.

A RESOLUTION
NO: 8302-07
BY: MRS. LEHNER AND MR. SPOLRICH

TO MAKE SUPPLEMENTAL APPROPRIATIONS FOR CURRENT EXPENSES AND OTHER EXPENDITURES OF THE CITY OF KETTERING, STATE OF OHIO, DURING THE FISCAL YEAR ENDING DECEMBER 31, 2007

Mrs. Lehner read the above resolution and moved for approval. Mr. Spolrich seconded the motion.

Mr. Schwieterman explained this will allow for supplemental appropriations for the Courts Management System, Sonet Ring, Frazee Pavilion Fund and the Kettering Medical Center Foundation Grant.

There being no discussion on the motion, the following votes were recorded: Mr. Spolrich, Yea; Mrs. Lehner, Yea; Mr. Wanamaker, Yea; Mr. Duke, Yea; Mr. Klepacz, Yea; Mr. Thompson, Yea; Mayor Patterson, Yea. There being seven (7) Yea votes, no (0) Nay votes, the motion was declared carried and the resolution duly adopted.

Mayor Patterson invited Mr. Schwieterman to give a regional dispatch update.

Mr. Schwieterman stated he plans to make a recommendation to Council about the regional dispatch this evening. In September of 2006 a study was done to see if the City could offer better services if combined into a regional dispatch center. Ensuing from that study was a lot of concern from citizens about regional dispatching. In December the City could answer very few questions because there were no answers. In January of 2007 a decision was made that allowed the City of Kettering to study the concept of a regional dispatch center until December 31, 2007. He thanked Montgomery County for working on this proposal. They were very supportive from day one. The concept of regional dispatch got off to a bad start and because of the lack of information it has led to an atmosphere of mistrust. In January a twelve-point letter was sent to Montgomery County. Mr. Schwieterman then showed a power point presentation that highlighted those twelve points in the letter and reviewed each point individually. In his opinion the twelve points have not been adequately met at this point. He is not comfortable with the job loss as it pertains to City dispatchers and the projected savings, while considerable, is significantly less than originally anticipated. He stated that he is by no means turning his back on regionalism because regionalism is inevitable, but his study has led him to the recommendation that the proposed regional dispatch is not in the best interest for Kettering at this time. He would like to notify Montgomery County of the City's intent to not join the proposed regional dispatch. He again thanked Montgomery County for their efforts.

Mr. Klepacz stated that the quality of service is something that he feels strongly about. He does not feel that quality of service is hard to define. With our dispatch center's new phone system we should be able to get measurements that we were not able to get in the past.

Mr. Schwieterman replied that recently our dispatch center went through a major overhaul. When we began the overhaul, staff looked at items that could be transferred to a regional dispatch if needed. Phone systems cannot be transferred, so we still have an older system in place that does not give measurements. Adequate funds are in the budget for this future upgrade.

Mrs. Lehner stated she felt there were issues about a Council of Governments versus a Sheriff run regional dispatch.

Mr. Schwieterman explained that State law requires Sheriff Vore to be in charge of the dispatch center. The Technical Advisory Committee as a whole did not pursue a Council of Governments.

Mayor Patterson thanked Mr. Schwieterman for his presentation and his diligence. He then asked for comments from Council.

Mr. Wanamaker thanked Mr. Schwieterman for a fine presentation. He has listened to both sides of the argument and visited both centers. His vote this evening will reflect what he feels is in the best interest for the City.

Mrs. Lehner – No comments.

Mr. Spolrich stated that as a long time Kettering resident he is reminded of the word pride. Pride in City staff and Council and pride in its citizens. He is happy to be a member of Council and this community.

Mr. Thompson – No comments.

Mr. Klepacz thanked City staff. It has not been easy to deliver information to make an informed decision. The twelve points have been evaluated and the analysis is that this is not the best thing to do. At this time Council cannot state that there would be an improved quality of services if we move to a regional dispatch. Our dispatch is technically sound. We recently completed a one million dollar investment in a new facility. Many of our residents have expressed great concern over the loss of our local dispatch center and of quality services. At this time maintaining a local dispatch in our City is the right thing to do. He plans to vote to maintain a local dispatch center.

Mr. Duke expressed that in January Council agreed to study the idea of entering into a regional dispatch and we have done this. The State gives the Sheriff full authority to run the regional dispatch center. He had hoped that a Council of Governments could be formed. After several meetings with the policy committee it became very clear that a Council of Governments would not be established. The final decision-making would rest on the County Sheriff. He feels the administrative model is flawed and this is not acceptable to him. He visited both the regional and local dispatch centers. The County dispatchers are well qualified but Kettering's dispatchers are equally qualified and more experienced. He sees no reason to fix what is not broken. As a City this community should be very proud that everyone took the time to research this issue in the way it needed to be done. Citizens have shared their views in a very positive manner. He firmly believes that in the future a regional dispatch may work in this area but must be more defined.

Mayor Patterson thanked Council and staff. This process has been going on for almost a year. Council has stood firmly to make an informed choice to join a regional dispatch. They explored the option and sent a twelve-point letter to Montgomery County. They did not yield to pressures to make an emotional decision but waited for facts to develop. He visited both dispatch centers to see the way they operated. He thanked them for their commitment to the residents of this community during this difficult process. The Council process does work. The facts Council asked for are in and he thanked everyone for their perseverance. The decision here this evening does not mean a regional dispatch is not a good idea. He does believe that the new regional dispatch will be better because of Kettering's involvement. Regionalism is not a dirty word and Council will continue to explore options where they make sense. However, the time to join a regional dispatch is not now.

A RESOLUTION

NO: 8203-07

BY: MR. SPOLRICH AND MR. THOMPSON

TO WITHDRAW THE CITY'S INTEREST IN THE PROPOSED
CONSOLIDATED DISPATCH SYSTEM AND TO AUTHORIZE THE CITY
MANAGER TO INFORM MONTGOMERY COUNTY OF KETTERING'S
WITHDRAWAL OF INTEREST.

Mr. Spolrich read the above resolution and moved for approval. Mr. Thompson seconded the motion.

There being no discussion on the motion, the following votes were recorded: Mr. Thompson, Yea; Mr. Klepacz, Yea; Mr. Duke, Yea; Mr. Wanamaker, Yea; Mrs. Lehner, Yea; Mr. Spolrich, Yea; Mayor Patterson, Yea. There being seven (7) Yea votes and no (0) Nay votes, the motion was declared carried and the resolution duly adopted.

ORDINANCE IN FIRST READING

AN ORDINANCE

TO REZONE FIVE (5) TRACTS OF LAND TOTALING APPROXIMATELY 2.2103 ACRES, LOCATED APPROXIMATELY 800 FEET TO THE EAST OF RIDGEWAY ROAD, FROM R-E(b) RESIDENTIAL ESTATES DISTRICT TO R-E(a) RESIDENTIAL ESTATES DISTRICT

Mr. Thompson read the above ordinance in first reading. The ordinance will appear on the August 28, 2007, Council meeting agenda for second reading.

CERTIFICATIONS AND PETITIONS

MANAGER'S REPORT

Mr. Mark Schwieterman, City Manager reported:

Dayton Metropolitan Housing Authority – Greg Johnson will give a presentation at our August 28, 2008 Council meeting. He will address concerns about public housing units in the City of Kettering.

Waste Management – will now have Saturday morning hours from 8:00 a.m. to 2:00 p.m. This will offer better service to Kettering citizens. Residents should call 1-866-253-6445 for assistance.

Government Access Channel – effective August 29, 2007 the Government Access Channel 21 will be relocated to Channel 6.

Mayor Patterson then made a statement that the Council's position on the initiative petition issue and explained it is based solely on legal requirements that initiative petitions must meet. The initiative petition submitted to the City about the regional dispatch system does not meet the requirements of the law, and therefore the City will not be forwarding the petitions to the Board of Elections. Our Law Director has advised us to not discuss this matter further. Any questions should be presented to the Law Director.

OTHER BUSINESS NOT ON WRITTEN AGENDA

Communications and Reports

Audience Participation (5 Minute Limit Per Speaker)

Ellen Knickle, 944 Rio Lane – explained that she is a representative of CARD and a long time Kettering resident. She is very pleased with Mr. Schwieterman's recommendation to opt out of the regional dispatch. She was equally as happy to hear Council's decision. This has been a profound lesson for her in democracy. Her civics teacher would be very proud of Kettering's citizens. A year ago they did not know the process involved of bringing an initiative to the ballot. Now they do. She is proud to have worked with fellow citizens and to talk with so many people on the regional dispatch issue. She is very proud of Kettering. She feels the objective that CARD set out to reach has been obtained and the initiative will not go on the ballot in November. The City will undoubtedly face new challenges in the years ahead and now they know that they can work together for the betterment of Kettering citizens.

June Hites, 10090 Atchison Road – stated that on behalf of the Kettering dispatchers she would like to thank Council and Mr. Schwieterman on their decision to keep our Kettering Dispatch Center. They will provide quality service for years to come. She also thanked the Chief, CARD group and the Citizens of Kettering that supported them.

Joseph Koussa, 1537 Beaver Creek Lane - He asked God to keep an eye on all of the military men and women throughout the world fighting for our safety and freedom. He prays for their safe return. Ever since the war started everything has become more complicated. Many companies have moved out of the United States and left many people without jobs. Our President has been very busy with the many things going wrong in our country. He thinks the President should take care of the problems in the United States and the Vice President should take care of problems in other countries. We need a policy change. God Bless America.

Gary Gose, AMVETS Post 2003, 3108 Woodman Drive - The ladies auxiliary is in the process of organizing a project called the "Labor of Love 2007" to show support for our troops. From 12:00 p.m. – 8:00 p.m. daily they will be collecting items to ship over to Iraq and Afghanistan. Monetary donations will also be accepted.

COUNCIL COMMITTEE REPORTS

Mr. Thompson – No Report.

Mr. Klepacz – On Friday, August 10, 2007 he attended a ribbon cutting for a new Kettering subdivision called Johnstown Woods.

Mr. Duke – On August 7, 2007 Kettering hosted the First Tier Suburbs group at the Frazee. Nine communities participated.

Mr. Wanamaker – In addition to the relocation of some of the Government Access Channels, the Hallmark Channel and ESPN will be moved to the digital tier. Also, the call before you dig number had changed. It is now 8-1-1.

Mrs. Lehner – She just returned from a vacation in Russia. All you need to do is go to one of these countries to see how valuable our form of government is. It made her appreciate what we have in this country.

Mr. Spolrich – No report.

Mayor Patterson – Reported he was a guest on Talk Radio 1610 on Saturday, August 11, 2007. He talked about things going on in the Kettering community. It was part of a neighborhood garage sale that is held every year. On Sunday, August 12, 2007 he attended Art in the Park. It was a nice event and the quality of displays was great. The Holiday at Home Media Reception was on August 9, 2007. It gave Council a chance to meet the Queen and her court. On August 24, 2007, is the Kettering/Alter Football game. He encouraged everyone to get their tickets early because it will be a great game.

There being no further business to come before this meeting of the Kettering City Council, Mayor Patterson adjourned the meeting at 9:47 p.m.

ATTEST:

Connie S. Gaw
Clerk of Council

DONALD E. PATTERSON, MAYOR