

KETTERING CITY COUNCIL
SPECIAL MEETING MINUTES
February 9, 2006

The Council of the City of Kettering, Ohio, met in special session on Thursday, February 9, 2006 at 7:00 p.m. in the Council Chambers of the Kettering Government Center, 3600 Shroyer Road. The Mayor of the City, Donald E. Patterson, presided and Connie S. Gaw, Clerk of Council, recorded.

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

Council Members Absent: Wasky

Total Members Present: Six (6)

Mayor Patterson called the special meeting to order at 7:00 p.m. and said the purpose of the meeting was to discuss the Acorn Area Residential Reconstruction Project. Mayor Patterson led the audience in the Pledge of Allegiance.

Mayor Patterson explained the rules for the meeting. Each citizen that wishes to speak will have 5 minutes to do so. They must come to the podium and state their name and address. Shouting from the back of the room will not be permitted. Communications must be done in an orderly and civil fashion.

PRESENTATION/DISCUSSION: ACORN AREA RECONSTRUCTION PROJECT

Mr. Al Fullenkamp, Director of Engineering reported that the reason that the City does infrastructure improvements in neighborhoods is for community and neighborhood preservation and pride. He showed before and after photos of improvement that were done in other neighborhoods. In the Acorn project there are 169 parcels with 5 parcels owned by the City of Kettering. There are 132 property addresses that are being assessed (some lots have 2 or more parcels). Notice of this project began over a year ago with informational letters and public meetings for residents of the Acorn area. The roadway and sidewalk will be constructed on a 50-foot right-of-way owned by the City. After the project is complete, homeowners will be responsible for maintaining vegetation and responsible for maintaining curbing and sidewalk. The City will maintain the pavement and storm sewer system. Broad Boulevard has a median and because of this a 70-foot right-of-way is needed. Property owners along Broad Boulevard were surveyed and out of 26 replies, 21 want to keep the median. In the Acorn area there is 2" of asphalt that is currently in place. The Acorn reconstruction project for road, curb, sidewalk and storm sewers is approximately \$1,800,000 with property owners paying 33% of the total cost. The assessment cost established by City Council is \$66.00/front foot plus the cost of the drive approach. He reviewed past projects and showed a map of the past and future neighborhood reconstruction projects. This map was developed in 1998 and is a 30-year plan. When areas were chosen for the redevelopment plan the Engineering Department looked for unimproved streets, property density and potential neighborhood preservation. He then reviewed the cost for assessments that property owners could expect to pay in the Acorn area. The typical lot has 50 foot of frontage. The assessment would be 50 ft x \$66.00 ft = \$3,300.00, plus the drive approach which is approximately \$400.00. On a typical lot property owners could expect to pay approximately \$3,700.00 total project cost. He then reviewed the breakdown of assessments explaining that the property owners have payment options. Those options are: full amount in cash within 30 days; assessments onto property tax bill and pay it off in 5, 10, 15, or 20 years; defer payment (must income qualify) for 20 years or transfer of property. Mr. Fullenkamp explained that this project was expected to be complete in the spring of 2008. Final letters will go out at that time and that is

when property owners need to decide how they will pay these assessments. Property owners will not see any assessments on their property tax bill until at least January of 2009. Mr. Fullenkamp explained that if any property owner feels that the amount that they are paying is unfair they could appear before an Equalization Board. This 3 member advisory board will hear citizen's appeal of their assessment. The schedule for hearings of this board should take place in March of 2006, with recommendations reported to City Council in April 2006. He then asked for any questions from the Mayor or Council.

Mayor Patterson asked Mr. Fullenkamp to repeat when property owners could expect to see these assessments on their property tax bill.

Mr. Fullenkamp replied January of 2009.

Oleina Brownfield, 2628 Acorn Drive asked why they are paying 33% of the curbs and sidewalks. In the presentation given, Mr. Fullenkamp only reviewed how much the property owners were paying and not why they have to pay.

Mr. Fullenkamp replied that the City Council has chosen a reduced amount that citizens contribute for reconstruction projects, which is 33%.

Ms. Brownfield stated that the City should pay 100%.

Mr. Fullenkamp explained that in other areas of reconstruction projects the residents have paid their share, which is 33%. The City must be consistent with the Acorn residents.

Ms. Brownfield asked that if she disagrees with the project, would she still be forced to pay for it.

Mr. Husemann replied that by Ohio law, the assessed amount would go onto her property tax bill.

Ms. Brownfield asked why she was not told the cost of the project earlier in the project. If she had known the cost, it would have made a difference in her thinking and input at previous meetings regarding this project.

Mayor Patterson stated that the \$66.00 per foot cost was presented to residents at the March 2005 public meeting.

Ms. Brownfield asked if the City were estimating the costs of this project, would the costs remain the same as quoted in the letter they received or could it change.

Mr. Fullenkamp explained that the only variable would be the drive approach because it is bid out and costs could vary slightly. The major portion of the project will not change.

Ms. Lehner expressed that she felt that the whole neighborhood would benefit from these improvements.

Teresa Britenstein, 2825 Acorn Drive expressed that all of the City reconstruction projects are to be done over a 30-year period with the City paying 1.8 million per year. If they do one project every year, even with property owner assessments they are still spending 1.2 million. Now the City is proposing an income tax increase as well. This just does not seem right. Many in this neighborhood do not want the reconstruction. She feels that the City Council is being unfair. Others in the City do not have sidewalks. Many of the Councilmembers do not have sidewalks. Why do they not have reconstruction projects in the Council neighborhoods. She feels it is discrimination.

Mayor Patterson replied that sidewalks are only a small portion of the costs for this project. The major cost is for curbs, storm sewers and streets. This is not a sidewalk project it is a street project.

Ms. Britenstein stated that the City owns five homes in this area. The City is proposing a new development to be built at DESC. She thinks that this whole project is being done so that they can tear these homes down and make a nice entrance into the new development.

Mr. Husemann replied that only one house would be demolished for access into the new development.

Ms. Britenstein expressed that she read in the Ohio Revised Code that if the City is benefiting from a project it is not legal for the citizens of that area to pay for the access into the new development.

Mr. Husemann replied that this roadway is not necessary for access onto the DESC property.

Ms. Britenstein stated that she feels it is unfair to assess for sidewalk projects and also raise the City Income Tax.

Marlene Britenstein, 2345 Broadmoor Drive wanted to know if Mr. Duke was assessed for his neighborhood reconstruction project and asked if he remembered how much he paid.

Mr. Duke replied he took the cash option for the project but does not remember how much it was. When he purchased his home it was already on an improved street. When the street started to deteriorate it had to be replaced. At the same time many of the curbing and drive approaches had to be repaired or replaced. He only needed to repair the corner of his curb cuts. Other neighbors had to have totally new drive approaches put in.

Ms. Britenstein expressed that Mr. Fullenkamp had stated that the sidewalk plan has been in effect for several years. Why didn't Mr. Duke have to get a sidewalk, since they were repairing the street and curbing in his neighborhood.

Mr. Fullenkamp replied that this was repairs to an existing improved street with curbing and was not part of the reconstruction plan. Residents in this area were polled, but decided not to have sidewalks.

Ms. Britenstein wondered why the residents in the Acorn area were not asked if they wanted sidewalks. Instead it is forced on them. You are dealing with homeowners that have very small lots and the homes are very close to the street. She feels that sidewalks will be very ugly in this area.

Mr. Husemann replied that the sidewalks would be placed on City right-of-way, not private property.

Ms. Britenstein replied that she still is upset because they were never asked if they wanted sidewalks.

Mr. Husemann explained that it is standard practice for an improvement plan to put in sidewalks during reconstruction.

Diane Hesler, 2708 Colonial Avenue stated that her assessment is \$7,166.00, and after listening to Mr. Fullenkamp's presentation she will be paying over \$12,000 if she chooses to place this assessment for 20 years on her property taxes. She called the Montgomery County Auditors office and was told that there are two types of assessments; one being an assessment of necessity and the other an assessment for reconstruction. She was told that the assessment for reconstruction does not stay with the property and pass on to the next property owner. This type of assessment is placed on the property as a lien. Also, once you lock in with the County for a 20-year assessment, you are locked in for the whole 20 years. If you should decide to pay it off early or sell your home, you must pay for the whole 20 years of fees. City staff told her

that this assessment stays with the property, but it does not. This is not a win-win situation for homeowners.

Mr. Eubank, Law Director, replied that he is not sure whom she spoke with at the County but he has never heard of an assessment not running with the land. She may have been given some bad information. He expressed that he would talk with her after the meeting to get the name of the person that she spoke with at the County. He will call them to find out what they were referring to and get back to her.

Ms. Hesler stated that she is a single homeowner and you could say on a fixed income with the state of the economy these days. She wondered if the City did any kind of polling to see if these residents can even afford the cost of an assessment especially with the economy situation. Many in this area are struggling already and this will be a financial hardship.

Mr. Bryan Waid, 2912 Colonial Avenue stated that he has lived in Kettering for 20 years, 16 in his current home. He has always felt that sidewalks were necessary in this neighborhood. He has kids and is very excited about this project. He has seen many children in the neighborhood almost hit by cars. Their neighborhood is in the decline. He realizes it is a lot of money, but it is an investment for the neighborhood.

Ed Dapore, 2924 Colonial Avenue stated that he has owned a home in this neighborhood for over 30 years and is all for improvement of this area. His son owns 2920 Colonial Avenue. They will lose some grass frontage of their lots because of the plan to slightly widen the lane. He wondered what the future is for the vacant property on East Dorothy and Colonial. It has been vacant and an eyesore for the last five years. He has talked with the City on numerous occasions and can't get an answer. The City Inspector told him that they were having problems finding the owner and he thinks he is getting the run around.

Mr. Husemann replied they know this property very well and it is in the demolition process.

Mr. Eubank stated that it may take nine months or longer before it can be demolished. They have just started the process with the Common Pleas Court. There have been questions on ownership of this property and they are trying to overcome these problems so that it can be demolished.

Mayor Patterson expressed that the city believes in this neighborhood as well. The City will pay \$15,000 to demolish this house because it is an eyesore to the area.

Mr. Fullenkamp stated that they would lose some grass frontage to their lots because they plan to slightly widen the street at Dorothy and Colonial because of the traffic signal. This will allow for drivers from the neighborhood to make a right turn out so that traffic congestion does not back up into the neighborhood.

Jill Abrams, 2709 Harvey Avenue stated that she received every notice of every meeting except this one. She expressed that the City says that they should take care of their share. Not only will they have to pay the 33%, but will also have to pay the increased property taxes that the County will impose on them once their area has been improved. The City is also asking for a tax increase. They are financially burdening people in this area. The extra 10% for sidewalks is a lot of money for people on fixed incomes. The City does not have it's priorities straight. They do not have any problem spending more money at the Frazee or other projects within the City. Are curbs more important than their own police radio system? There are parts of the City where the police radios do not even have reception. If sidewalks are not important to the residents of this area, why not save everyone some money and not have them.

Mr. Husemann replied that money has been earmarked for a new police radio system for several years. The problem is they are waiting to see if there will be a regional system. They don't want to jump in and buy something that may be obsolete in a year.

Mr. Schwieterman stated that the holdup is they want to purchase a new system that would allow the City to access other police departments in the area. The way to do this is possibly a regional dispatch system that is countywide. They want to see where this possibility is going before they spend the money for a citywide only system.

Don Allen, 962 Broad Boulevard stated that he is happy with his neighborhood and likes his neighbors. He has made many improvements to his property over the years, but feels that he has no control over this project. He has talked with many of his neighbors and most are not in favor. They were not asked if they wanted a sidewalk and were not given a choice.

Mr. Husemann explained that sidewalks create a safer situation for the neighborhood and are part of this reconstruction plan. Sidewalks increase the resale value of homes and it is in the best interest of the community.

Mayor Patterson expressed that they need to look into the future of their neighborhood. They are putting in sidewalks in anticipation of what may happen. In years to come more people may move in with children. For the long haul it is important to think about the future of the neighborhood as well. The City has to balance the wants of the residents now as well as the wants of residents in the future.

Mrs. Lehner stated that sidewalks are typically something that families want. They want them so their kids can safely ride their bikes. Residents in the future will want sidewalks and if they are not available in this area may go to other neighborhoods that have them. By not wanting sidewalks you are limiting your resale possibilities.

Mr. Allen replied that he does understand and he is all for improvements. He would not allow his child to ride on the sidewalk even if he had them. Irrigation is also a problem in that area.

Mr. Husemann replied that storm sewers would take care of storm water.

David Turpin, 861 Orchard Drive stated that he feels this project is a road realignment, not a road improvement. The City is planning on building a neighborhood in DESC and wants a nice new road to enter into that new area. When he lived in Dayton the city paid for curbs and sidewalks. The people in the Acorn area just cannot afford this. There is a lady in his neighborhood that already has sidewalks and was told by the City that she will have to tear them out and put new ones in. He feels that residents do not have a say so. Some want sidewalks and some don't. All they want is to have a choice. He feels this is already a done deal and they can't vote on this.

Mrs. Lehner expressed that when she attended past public hearings she never once heard anyone say that they did not want sidewalks.

Mr. Turpin asked for a show of hands from the audience of those that did not want sidewalks. He stated that everyone wants a say so and that is why everyone is here this evening.

Corene Halcome, 751 Broad Boulevard stated that she already has a new driveway and sidewalks and wondered why she was told she would have to put new in. She lives at the corner of California and Broad Boulevard.

Mr. Fullenkamp replied that they would look at her individual situation and work with her on this issue.

Ms. Halcome stated that she is elderly and every dollar counts.

John Albrecht, 2700 Colonial Avenue stated that he has a family and small children. He is on a corner lot and that is considered a double lot and his assessment is \$7,000.00. If these sidewalks are built he will still never let his children out to play on them because it is unsafe and too many people speed along this street. He feels that the City is not

listening to what the people want and the neighborhood is getting the raw end of the deal. They don't get a choice.

Patty Kress, 2809 Acorn Drive stated that she attended the very first public meeting regarding this project. The first thing she asked at that meeting was if they have a choice. She was told "No." Where do you go from there? If a vote had been taken then, the meeting this evening would not have been necessary. If the City had listened to the neighborhood they would not be having all of these issues. The only reason the City has meetings is to tell them what to do, not ask them what they want. They do not want sidewalks in this neighborhood.

Jill Graham, 2624 Acorn Drive stated that she has lived in this neighborhood for 2 years. They debated on even buying their property because it did not have sidewalks. She and her husband plan on having children in the future. Even as adults it is difficult and dangerous to even walk in this neighborhood. To them this project is an investment. She understands that they will have to pay three or four thousand dollars, but it's worth it. It's an investment for their future.

Don Wright, 909 Broad Boulevard stated that his only variance from the project would be his driveway entrance. They may have to put in a retaining wall and he was wondering if that would affect his costs.

Mr. Fullenkamp replied that it would not.

Miriam Stuck, 960 East Drive stated that her husband has lived in their home for 55 years and she has lived there 25 years. She feels the City is implying a standard to a non-standard area. This project will change the lay of the land. Many will have a street right at their front door. The City says they own the land and it makes her feel why bother.

Andy Savery, 800 Broad Boulevard stated that he thinks the major concern is the cost. Not until you actually get the letter in the mail do you understand the cost and it is a big shock. Real estate in this area is only increasing modestly. Not sure if the neighborhood can see the benefit of this project. To them it is just a tax increase. He is concerned because his assessment is \$5,500.00, and then he read in the paper that the City is proposing a tax increase. He hopes the City does not feel that higher taxes are the way to go. Raising taxes in a slow moving economy is not a successful way to go. Broad Boulevard is a nice street and very quiet. He does not feel sidewalks are necessary in this area. He does feel that a new street is acceptable.

Jill Abrams, 2709 Harvey Avenue stated that she still does not understand why she did not receive a letter regarding this meeting but received one for all the others.

Ms. Diane Wensch, City Engineer, explained that they used the mailing list for those property owners being assessed. Letters were mailed and also hand delivered to each of these residents. She apologized for missing her and stated that Ms. Abrams should have been notified.

Ms. Abrams stated that she was not being assessed but was in an area next to the neighborhood being assessed. She got letters for all of the other meetings, why not this one.

Ms. Wensch stated that if she is not being assessed that is why she did not receive a letter. Only those involved in this assessment were notified. Previously, they sent letters to residents slightly outside of the assessment area just to let them know what was going on. Since she is outside the area and not being assessed that is why she was not notified for this meeting.

Rose Tropa, 950 Orchard Drive stated that they are not politicians and this project comes as a shock to them. They were not aware of this plan until a year ago. She has been to all of the City's public meetings. The fact that so many people are here this evening shows that people have concerns. They are concerned about the quality of

their neighborhood. Many bought in this neighborhood because there were not sidewalks. With the way the economy is today, many cannot afford this. If the City were paying attention instead of following an agenda they would have heard what the people want. There are many issues that sidewalks will not cure. Listen to the neighborhood.

Teresa Britenstein, 2825 Acorn Drive stated that she passed around a petition and 79 of her neighbors signed it. She wondered if they had ever made any concessions to any of the homeowners in other projects. She said that a resident called her from a past project area and told her that it is a done deal and Council will not listen and the only way to get them to listen is to recall them. Is that what she will need to do, recall Council to get them to listen.

Mayor Patterson stated that he is not sure if she is trying to threaten them, but the City Charter does allow residents to recall Councilmembers. There is a special process to follow. Ms. Britenstein referred to Council as not listening but a special meeting was called this evening to listen to neighborhood concerns. Whether Council agrees or disagrees with everything that is said, all is taken under consideration. If it were a done deal Council would not be here this evening. The Acorn area is not the first neighborhood that has gone through this process.

Mr. Duke stated that there are 168 parcels in this project. Three special meeting have been held. This evening 30 or 40 homeowners oppose sidewalks with 4 or 5 in favor. Where are all the other neighbors that they have not heard from? They did not hear any objections to this project until just a couple of weeks ago when Ms. Britenstein came before Council. Staff works very carefully with the neighborhood. Council will take all information into consideration and move forward. Everything will be done fairly for the neighborhood.

Marlene Britenstein, 2345 Broadmoor Drive stated that they have a petition with 79 signatures of residents opposing this project. Has Council ever made concessions to any of the homeowners in other projects.

Mayor Patterson replied that in some cases concessions have been made to widths of streets, location of sidewalks, boulevards and tree lawns.

Mike Britenstein, 2345 Broadmoor Drive stated that Council and a few others are concerned with where kids are going to ride their bicycles. Where do they ride them if they don't have sidewalks? Why can't Council give them what they want in this neighborhood? Ninety percent of homeowners in this area would be happy with only curbing. This project is being forced on them. He has driven through the Southern Hills neighborhood and all that concrete is ugly.

Mayor Patterson stated that the way the sidewalks were installed was a compromise with the Southern Hills homeowners. They chose to have them without tree lawns.

Mr. Britenstein asked if Council will listen to what they want and what can his neighbors expect. What is the next step and will the City keep them informed.

Mr. Fullenkamp stated that the next step is the Equalization Board process. Then Council will move forward with an ordinance to proceed with the project. If Council passes it with no changes the project will go forward as it is now. They could also ask staff to go back and look at changes to the project. He expressed that he will keep them informed as this project proceeds.

Mr. Husemann stated that a letter would be sent to all property owners once the time frames are worked out.

Mr. David Turpin, 861 Orchard Drive suggested that the City go door to door and ask the neighborhood personally.

Mrs. Lehner asked out of the 79 signatures on the petition, how many properties were represented.

Mr. Fullenkamp replied that the petition represented 60 properties.

Mayor Patterson stated that this petition gives them input on how to proceed and he does not feel that walking the neighborhood is necessary. Council has adequate information to make a decision.

Diane Hesler, 2708 Colonial Avenue stated that if Council should decide to put sidewalks on only one side, which neighbor has to pay for it.

Mayor Patterson replied that the cost would be the same for both property owners even if the sidewalks were only on one side.

There being no further business to come before this special meeting of the Kettering City Council, Mayor Patterson adjourned the meeting at 9:18 p.m.

ATTEST:

Connie S. Gaw
Clerk of Council

DONALD E. PATTERSON, MAYOR