

KETTERING CITY COUNCIL  
REGULAR MEETING MINUTES  
July 11, 2006

The Council of the City of Kettering, Ohio, met in regular session on Tuesday, July 11, 2006, 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, Patterson, Spolrich, Thompson,  
Wanamaker and Wasky

Council Members Absent: Lehner (excused)

Total Members Present: Six (6)

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

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

PRESENTATION: Charter Review Committee – Marilou W. Smith, Chairperson  
Marilou Smith, Chairperson for the 2006 Charter Review Committee reported that every 10 years the City Charter must be reviewed. Eighteen people were on the committee and they met two times. The committee recommended three changes. Two sections that were identified for change; Section 3-4, generally involving other public service of City Council members, and Section 3-2, generally involving clarification of the election cycles for Council members. The third change involves name changes to City Boards and Commissions.

The Council meeting was adjourned at 7:46 p.m. due to a tornado warning. Everyone was asked to go to the lower level for shelter. The meeting reconvened at 8:05 p.m.

Mayor Patterson asked Marilou Smith to continue with her presentation.

Mrs. Smith stated that she hopes that Council will accept these suggested changes. She thanked all of those who served on the committee and acknowledged their participation.

Mayor Patterson stated that this is a very important document and the framework for our City. There will be a resolution later this evening to approve these changes to the City Charter. All changes will be on the November ballot for citizen approval. He thanked Mrs. Smith for chairing this committee.

PRESENTATION: Montgomery County Solid Waste District  
Bob Downing with the Montgomery County Solid Waste District gave a presentation on their 15-year plan on how the Solid Waste District will proceed.

There was then brief discussion on the presentation.

Mayor Patterson asked for a motion to withdraw Item #2 – Public Hearing/Partial vacation of Colfax Avenue Right-of-Way from the agenda this evening. Mr. Wasky made a motion that Item #2 be withdrawn from the agenda. Mr. Wanamaker seconded the motion and there being six (6) Yea votes and no (0) nay votes, the motion was declared carried by a majority vote.

Mayor Patterson then excused himself from the meeting because of a conflict of interest regarding the next agenda item. He turned the meeting over to Vice Mayor Wasky.

#### PUBLIC HEARINGS

Rezoning of properties at 2801 and 2809 Wilmington Pike to Economic Development Overlay District #20 (Z.C. 858-05).

Vice Mayor Wasky opened the public hearing and called on Ron Hundt, City Planner, Planning and Development Department.

Ron Hundt, City Planner - Planning & Development Department reported that this request is for a rezoning of properties at 2801 and 2809 Wilmington Pike, (formerly the H&H Industries and Payday's Used Car Lot properties) from B-General Business to Economic Development District #20. He showed a site plan and explained the location of the subject project. Land uses for this property would include two buildings on the commercial side of the site facing Wilmington Pike. There will be a multi-tenant structure on the north side of the site and a one-tenant structure on the south side of the site. Residential development will go to the rear, possibly 3 or 4 unit condominiums. The Economic Development Overlay document would establish standards for land use, site circulation, building architecture, signage and related issues. He indicated that the applicant was proposing a minor change to the site plan, which he would present under applicant comments. He asked for any questions from the Council members.

#### COUNCIL COMMENTS AND QUESTIONS

Mr. Thompson asked that if the change proposed to the site plan would need to go back to the Planning Commission first.

Mr. Hundt replied that it would not be required because Council has the authority to make slight changes to the plan.

Mr. Wasky asked how close this property was to Beavertown School and would the Ohio Liquor Laws affect any of the businesses.

Mr. Eubank replied that if a school were located within a certain distance, the law would allow them to comment. It does not automatically restrict a business from having a liquor license.

Mr. Duke stated that there is already a bar located right across the street, which is much closer than this property is to the school.

#### COMMENTS BY PROPONENTS

Mr. Jeff Samuelson, 2080 S. Alex Road, West Carrollton, Ohio – stated that they are proposing a slight modification to the site plan to give them another option. He showed a revised site plan that lined up the two retail buildings to the front of the property, to give them a cleaner profile. The previous proposal had the buildings offset from each other. In one building there will be a restaurant and the other will have a non-food user.

#### COMMENTS BY OPPONENTS

None

There being no further discussion, the Vice Mayor closed the public hearing and advised that Council would render a decision at this meeting, as an expedited ordinance.

ORDINANCES IN SECOND READING

AN EXPEDITED ORDINANCE  
NO: 4045-06  
BY: MR. DUKE AND MR. THOMPSON

TO REZONE THE APPROXIMATE 3.8 ACRE PROPERTY LOCATED ON WILMINGTON PIKE, COMMONLY KNOWN AS THE H&H AND THE PAYDAYS LOT PROPERTIES, FROM "B – GENERAL BUSINESS" TO "ECONOMIC DEVELOPMENT OVERLAY DISTRICT NO. 20" (ZONING CASE 858-05): AND TO DETERMINE ADOPTION AS AN EXPEDITED ORDINANCE.

Mr. Duke read the above expedited ordinance and moved for approval. Mr. Thompson seconded the motion and there being no discussion, the following votes were recorded: Mr. Thompson, Yea; Mr. Wanamaker, Yea; Mr. Duke, Yea; Mr. Wasky, Yea; Mr. Spolrich, Yea; Mayor Patterson, Yea. There being six (6) Yea votes and no (0) Nay votes, the motion was declared carried and the expedited ordinance duly adopted.

Mayor Patterson returned to the meeting.

AN ORDINANCE  
NO: 4046-06  
BY: MR. WASKY AND MR. SPOLRICH

AMENDING PERSONNEL ORDINANCE NO. 4043-06 TO IMPLEMENT CHANGES AFFECTING THE COMPENSATION PLAN, PAY SCHEDULES AND SUPPLEMENTARY BENEFITS FOR THE EMPLOYEES OF THE CITY OF KETTERING, OHIO.

Mr. Wasky read the above ordinance in second reading and moved for approval. Mr. Spolrich seconded the motion and there being no discussion, the following votes were recorded: Mr. Thompson, Yea; Mr. Wanamaker Yea; Mr. Duke, Yea; Mr. Wasky, Yea; Mr. Spolrich, Yea; Mayor Patterson, Yea. There being six (6) Yea votes and no (0) Nay votes, the motion was declared carried and the ordinance duly adopted.

RESOLUTIONS

A RESOLUTION  
NO: 8108-06  
BY: MR. SPOLRICH AND MR. THOMPSON

DECLARING CERTAIN PROPERTIES WITHIN THE CITY OF KETTERING AS "OPEN SPACE" PROPERTIES

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

Mr. Schwieterman explained that through the CDBG Program and the FEMA/State of Ohio Mitigation Grant, the city has been purchasing deteriorated structures that are in the designated flood zone from willing sellers along the Middle Branch of the Little Beaver Creek. This land will be used for open space and recreational purposes and will not be redeveloped.

There being no discussion on the motion, the following votes were recorded: Mr. Spolrich, Yea; Mr. Wasky, Yea; Mr. Duke, Yea; Mr. Wanamaker, Yea; Mr. Thompson, Yea; Mayor Patterson, Yea. There being six (6) Yea votes and no (0) Nay votes, the motion was declared carried and the resolution duly adopted.

A RESOLUTION  
NO: 8109-06  
BY: MR. THOMPSON AND MR. WANAMAKER

TO ADOPT THE SOLID WASTE MANAGEMENT PLAN FOR THE  
MONTGOMERY COUNTY SOLID WASTE MANAGEMENT DISTRICT

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

Mr. Schwieterman explained that this would adopt the Montgomery County Solid Waste Plan. The Plan must be approved Countywide in order to take effect. The key item is that it calls for a \$1 increase in the generation fee on January 1, 2007.

There being no discussion on the motion, the following votes were recorded: Mr. Thompson, Yea; Mr. Wanamaker, Yea; Mr. Duke, Yea; Mr. Wasky, Yea; Mr. Spolrich, Yea; Mayor Patterson, Yea. There being six (6) Yea votes and no (0) Nay votes, the motion was declared carried and the resolution duly adopted.

A RESOLUTION  
NO: 8110-06  
BY: MR. WANAMAKER AND MR. DUKE

AUTHORIZING THE CITY MANAGER TO ACCEPT FUNDS FROM THE  
U.S. DEPARTMENT OF AGRICULTURE

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

Mr. Schwieterman explained that this allows the acceptance of funding from the United States Department of Agriculture (USDA) for equipment and overtime expenditures related to ongoing specific types of investigation not to exceed \$15,347.

There being no discussion on the motion, the following votes were recorded: Mr. Spolrich, Yea; Mr. Wasky, Yea; Mr. Duke, Yea; Mr. Wanamaker, Yea; Mr. Thompson, Yea; Mayor Patterson, Yea. There being six (6) Yea votes and no (0) Nay votes, the motion was declared carried and the resolution duly adopted.

A RESOLUTION  
NO: 8111-06  
BY: MR. DUKE AND MR. WASKY

TO MAKE A SUPPLEMENTAL APPROPRIATION FOR CURRENT  
EXPENSES AND OTHER EXPENDITURES OF THE CITY OF  
KETTERING, STATE OF OHIO, DURING THE FISCAL YEAR ENDING  
DECEMBER 31, 2006.

Mr. Duke read the above resolution and moved for approval. Mr. Wasky seconded the motion.

Mr. Schwieterman reported that this is related to the previous resolution and would appropriate funding from the USDA to fund Kettering Police Department overtime and equipment costs related to ongoing specific types of investigation.

There being no discussion on the motion, the following votes were recorded: Mr. Thompson, Yea; Mr. Wanamaker, Yea; Mr. Duke, Yea; Mr. Wasky, Yea; Mr. Spolrich, Yea; Mayor Patterson, Yea. There being six (6) Yea votes and no (0) Nay votes, the motion was declared carried and the resolution duly adopted.

A RESOLUTION  
NO: 8112-06  
BY: MR.WASKY AND MR. SPOLRICH

AUTHORIZING THE CITY MANAGER TO FILE AN APPLICATION WITH THE STATE OF OHIO, DEPARTMENT OF DEVELOPMENT, FOR THE ASSISTANCE UNDER THE OHIO JOB READY SITES PROGRAM

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

Mr. Schwieterman explained that this would allow him to apply for Job Ready Site funds through the Ohio Department of Development. The funding will be used to renovate Building #2 in Kettering Business Park to achieve certification as a Smart Office building. The grant requires a 25% match from the City.

There being no discussion on the motion, the following votes were recorded: Mr. Spolrich, Yea; Mr. Wasky, Yea; Mr. Duke, Yea; Mr. Wanamaker, Yea; Mr. Thompson, Yea; Mayor Patterson, Yea. There being six (6) Yea votes and no (0) Nay votes, the motion was declared carried and the resolution duly adopted.

A RESOLUTION  
NO: 8113-06  
BY: MR. SPOLRICH AND MR. THOMPSON

AUTHORIZING THE CITY MANAGER TO USE COMPETITIVE BARGAINING AND NEGOTIATED QUOTES TO CONTRACT FOR THE PURCHASE OF EMERGENCY LIGHTING FOR POLICE VEHICLES

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

Mr. Schwieterman reported that this would authorize him to use competitive negotiations to enter into one or more contracts for the purchase of emergency lighting for police vehicles, waiving sealed bids. This is part of the 800 MHz upgrade project to allow the police department to replace/upgrade outdated lighting/siren equipment to the police fleet.

There being no discussion on the motion, the following votes were recorded: Mr. Thompson, Yea; Mr. Wanamaker, Yea; Mr. Duke, Yea; Mr. Wasky, Yea; Mr. Spolrich, Yea; Mayor Patterson, Yea. There being six (6) Yea votes and no (0) Nay votes, the motion was declared carried and the resolution duly adopted.

A RESOLUTION  
NO: 8114-06  
BY: MR. THOMPSON AND MR. WANAMAKER

TO RECEIVE AND ACCEPT THE RECOMMENDATIONS OF THE 2006 CHARTER REVIEW COMMITTEE

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

Mr. Schwieterman explained that this resolution accepts the recommendations of the Charter Review Committee. This resolution does not approve the recommendations. Approval will be requested by a future ordinance.

There being no discussion on the motion, the following votes were recorded: Mr. Spolrich, Yea; Mr. Wasky, Yea; Mr. Duke, Yea; Mr. Wanamaker, Yea; Mr. Thompson, Yea; Mayor Patterson, Yea. There being six (6) Yea votes and no (0) Nay votes, the motion was declared carried and the resolution duly adopted.

#### ORDINANCES IN FIRST READING

None

#### CERTIFICATIONS AND PETITIONS

None.

#### MANAGER'S REPORT

Mr. Mark Schwieterman, City Manager reported:

July 4<sup>th</sup> Festivities - were held at Delco Park. They did not have the best of weather but still had a great turnout. Unfortunately, it rained during the fireworks and they ended 10 minutes early because approximately one third of them did not properly explode. The city is working with the contractor to try and figure out why this happened and get some reimbursement. They received several calls from concerned citizens regarding this.

Street Lighting Assessment Letters – went out a few weeks ago and he asked Mr. Fullenkamp to explain the plan.

Mr. Al Fullenkamp explained that in May a resolution was introduced to assess individuals for streetlights that were missed in past years. Previously collections were done by hand, but now this system has been converted electronically. Approximately 600 letters were sent out with only 20 phone calls from residents wondering why they just now had to pay for them. However, this letter did not make the citizens aware that they had a right to object to these charges. New letters will be sent to the 600 residents advising them of their right to object to an equalization board. After this process is complete, in September there will be a 100% inclusion in the electronic database.

#### OTHER BUSINESS NOT ON WRITTEN AGENDA

##### Communications and Reports

##### Audience Participation (5 Minute Limit Per Speaker)

Ms. Keven Mosley-Koehler, 679 S. Alpha-Bellbrook Rd. – She explained that she recently e-mailed all of the Council members asking them to approve a one hundred percent smoke free law. One of the Council members then called her and told her that they will not do anything about this until they see what happens with the state ballot this fall. She finds it hard to believe that this is stopping Council from doing something right now. There is a proposed 45 million dollar heart hospital to be built in the area but nothing is being done to promote lifestyle changes for something that is preventable. Part of creating a healthy community is to protect the community from health risks. She asked them to reconsider passing a local ordinance.

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. He celebrated the 4<sup>th</sup> of July at Delco Park watching fire works. During this event he thought about all of the military men and women throughout the world fighting for our safety and freedom. He

salutes them and hopes that next year we can all celebrate together. God Bless America.

COUNCIL COMMITTEE REPORTS

Mr. Wasky – attended a media event at Research Park on June 28, 2006. The expansion of Research Park is great news for Kettering and Beavercreek. Today he attended a national accreditation team report and luncheon that recognized the city's Parks and Recreation Department. He is very proud of the park system. He congratulated Mr. Spolrich for being named as the new principal for St. Albert School.

Mr. Spolrich – No Report.

Mr. Thompson – No Report.

Mr. Wanamaker – stated that the leaf, mulch and wood chips area at Indian Riffle Park would be closed July 16 – 19, 2006.

Mr. Schwieterman explained that a unique event is happening at the Skate Park during this time frame. MTV will be filming a feature film and the mulch pickup site will be a staging area for their equipment and trucks. The Skate Park will remain open.

Mr. Duke – stated that even though there were problems at the Go 4<sup>th</sup> event, it was still fun and well attended. On Thursday, July 13, 2006 the Parks Department will be hosting a "Picnic at your Park" at Southdale Park from 6 – 8 p.m.

Mayor Patterson – reported that on July 8, 2006 he did an interview for Informational Radio 1610, during a neighborhood garage sale event in the Marynoll Drive area. Residents have been having this sale for several years and he thanked all those that participated in this event. Tomorrow, July 12, 2006 at 9:00 p.m. a garden dedication will be held for past Mayor Marilou Smith, at Lincoln Park in the Frazee area. This dedication will honor her years of service to this community. All are invited to attend. He congratulated the Frazee for a great season. They have already had a number of sell out events and are a wonderful amenity to this community.

There being no further business to come before this meeting of the Kettering City Council, Mayor Patterson adjourned the meeting at 9:08 p.m.

ATTEST:

Connie S. Gaw  
Clerk of Council

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DONALD E. PATTERSON, MAYOR