

KETTERING CITY COUNCIL  
REGULAR MEETING MINUTES  
May 26, 2009

The Council of the City of Kettering, Ohio, met in regular session on Tuesday, May 26, 2009, 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: Mayor Patterson, Duke, Klepacz, Schrimpf, 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 and John Golub and thanked these volunteers for their assistance.

APPROVAL OF MINUTES

May 12, 2009 - 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 six (6) yea votes, one (1) abstain votes (Keith Thompson) 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

PRESENTATION: Senior Services Coordinator Update

Vickie Carraher, Senior Services Manager gave the presentation this evening. She thanked Council for attending the many senior activities that were held throughout the month of May. She updated Council on the new programs available for seniors and the residents of Kettering such as the Ohio Benefits Bank and the City of Kettering prescription discount card.

PUBLIC HEARINGS

PUBLIC HEARING - To amend the text of Section 1151 of the Kettering Zoning Code by adding new provisions related to garage use and vehicle storage use on single-family residential properties.

Mayor Patterson opened the public hearing.

Mr. Tom Robillard, Director of the Planning and Development Department gave the presentation this evening. He reported the purpose of this amendment is to protect residential neighborhoods from oversized structures and to ensure that the storage of vehicles is clearly an accessory to the principal use on residential properties. Accessory structure will not exceed 80% of the total area of the footprint of the principal structure or an area of 2,000 sq. ft. or whichever is less.

Mayor Patterson asked for Council comments.

Mr. Wanamaker asked if there were anything in the revision that dealt with the height of an accessory structure.

Mr. Robillard replied the height couldn't exceed 15 feet.

Mayor Patterson asked for Public comments. None were heard.

Mayor Patterson closed the public hearing and stated a decision will be made at the June 9, 2009 Council Meeting.

ORDINANCES IN SECOND READING

AN ORDINANCE  
NO: 4124-09  
BY: MR. DUKE AND MRS. SCHRIMPF

TO AMEND THE LAND USE, DEVELOPMENT AND ZONING PROVISIONS FOR ECONOMIC DEVELOPMENT OVERLAY DISTRICT NO. 15 (KETTERING BUSINESS PARK) BY PERMITTING INDOOR RECREATIONAL USE IN CURRENT BUILDING NO. 2 AS A CONDITIONAL USE

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

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

RESOLUTIONS

A RESOLUTION  
NO: 8641-09  
BY: MRS. SCHRIMPF AND MR. SPOLRICH

AUTHORIZING THE CITY MANAGER TO APPROVE THE CITY'S PARTICIPATION IN AN APPLICATION FOR BLOCK GRANT FUNDING FROM THE JUSTICE ASSISTANCE GRANT FROM THE OFFICE OF JUSTICE ASSISTANCE PROGRAMS

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

Mr. Schwieterman explained when awarded this grant will be made directly to the City of Kettering to reimburse the City for equipment expenditures relative to accident and criminal investigations, operational equipment and community relations.

There being no discussion on the motion, the following votes were recorded: Mr. Spolrich, Yea; Mrs. Schrimpf, Yea; Mr. Duke, Yea; Mr. Wanamaker, Yea; Mr. Klepacz, Yea; Mr. Thompson, 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: 8642-09  
BY: MR. SPOLRICH AND MR. THOMPSON

DIRECTING THE CITY ENGINEER TO PREPARE AND FILE RENEWED, RECALCULATED, AMENDED AND/OR CONSOLIDATED ASSESSMENTS FOR STREET LIGHTING

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

Mr. Schwieterman reported these assessments require a resolution to be passed enabling us to renew and recalculate street light assessments. Assessment rates are the same as they were in 2008.

There being no discussion on the motion, the following votes were recorded: Mr. Thompson; Yea; Mr. Klepacz, Yea; Mr. Wanamaker, Yea; Mr. Duke, Yea; Mrs. Schrimpf, 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: 8643-09  
BY: MR. THOMPSON AND MR. KLEPACZ

APPROVING AN ADDITIONAL EXPENDITURE OF CITY (LOCAL) FUNDS IN THE AMOUNT OF \$43,648 FOR THE FAR HILLS RESURFACING PROJECT – TALAWANDA TRAIL TO NORTH CORP. LINE (CITY PROJECT NO. 02-100RB; ODOT PROJECT MOT 48-6.49, PID NO. 80854)

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

There being no discussion on the motion, the following votes were recorded: Mr. Spolrich, Yea; Mrs. Schrimpf, Yea; Mr. Duke, Yea; Mr. Wanamaker, Yea; Mr. Klepacz, Yea; Mr. Thompson, 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: 8644-09  
BY: MR. KLEPACZ AND MR. WANAMAKER

EXTENDING THE TERM OF THE CURRENT EMPLOYMENT AGREEMENT WITH THE CITY MANAGER FOR AN ADDITIONAL THIRTY DAYS

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

There being no discussion on the motion, the following votes were recorded: Mr. Thompson, Yea; Mr. Klepacz, Yea; Mr. Wanamaker, Yea; Mr. Duke, Yea; Mrs. Schrimpf, 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: 8645-09  
BY: MR. WANAMAKER AND MR. DUKE

AMENDING THE 2008 COMMUNITY DEVELOPMENT BLOCK GRANT (“CDBG”) ACTION PLAN AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE REQUIRED CERTIFICATIONS FOR ACCEPTANCE OF CDBG RECOVERY ACT FUNDS

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

Mr. Schwieterman explained the City is eligible for funding that will be used for energy and water conservation activities by offering grants to income eligible homeowners to improve insulation, replace furnaces, water heaters, windows and doors as well as to replace water leaks and install water-saving faucets and showerheads. As allowed by the CDBG regulations, 10% of these funds will be used for planning and administration.

There being no discussion on the motion, the following votes were recorded: Mr. Spolrich, Yea; Mrs. Schrimpf, Yea; Mr. Duke, Yea; Mr. Wanamaker, Yea; Mr. Klepacz, Yea; Mr. Thompson, 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: 8646-09  
BY: MR. DUKE AND MRS. SCHRIMPF

AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE MIAMI VALLEY FAIR HOUSING CENTER FOR SERVICES DURING THE PERIOD JANUARY 1, 2009 THROUGH DECEMBER 31, 2009

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

Mr. Schwieterman explained the City contracts annually with the Miami Valley Fair Housing Center.

There being no discussion on the motion, the following votes were recorded: Mr. Thompson, Yea; Mr. Klepacz, Yea; Mr. Wanamaker, Yea; Mr. Duke, Yea; Mrs. Schrimpf, 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.

ORDINANCES IN FIRST READING

AN ORDINANCE  
NO: 4125-09  
BY: MRS. SCHRIMPF AND MR. SPOLRICH

AMENDING ORDINANCE NO. 4123-09 TO PROVIDE THAT THE CITY'S PROPOSED BONDS OF ANY SINGLE MATURITY MAY BEAR INTEREST AT MORE THAN ONE RATE AND DECLARING AN EMERGENCY

Mrs. Schrimpf read the above ordinance and moved for approval. Mr. Spolrich seconded the motion.

Mr. Schwieterman explained this ordinance will amend Ordinance 4123-09 to provide the City's proposed bonds of any single maturity may bear interest at more than one rate.

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

AN ORDINANCE

TO AMEND THE TEXT OF SECTION 1151 OF THE KETTERING ZONING CODE BY ADDING NEW PROVISIONS RELATED TO GARAGE USE AND VEHICLE STORAGE USE ON SINGLE-FAMILY RESIDENTIAL PROPERTIES.

Mr. Spolrich read the above ordinance in first reading. The ordinance will appear on the June 9, 2009, Council meeting agenda for second reading.

AN ORDINANCE

TO LEVY SPECIAL ASSESSMENTS FOR THE "EUREKA DRIVE RECONSTRUCTION" PROJECT (PROJECT NUMBER 02-272AB).

Mr. Thompson read the above ordinance in first reading. The ordinance will appear on the June 9, 2009, Council meeting agenda for second reading.

## AN ORDINANCE

TO AMEND THE TRAFFIC CONTROL MAP AND THE TRAFFIC CONTROL FILE OF THE CITY KETTERING, OHIO TO SHOW THE INSTALLATION OF TRAFFIC SIGNS ON VARIOUS STREETS AND AVENUES IN THE CITY OF KETTERING, OHIO.

**NO PARKING ANYTIME** – ON THE WEST SIDE OF WILLOWGROVE AVENUE BEGINNING 130 FEET NORTH OF THE INTERSECTION WITH SCHANTZ AVENUE AND CONTINUING NORTHWARD FOR A DISTANCE OF 70 FEET

Mr. Klepacz read the above ordinance in first reading. The ordinance will appear on the June 9, 2009, Council meeting agenda for second reading.

CERTIFICATIONS AND PETITIONSMANAGER'S REPORT

Mr. Schwieterman, City Manager reported:

- Trash pickup will be delayed by one day this week due to the Memorial Day Holiday.
- Pondview Drive, from Overbrook Rd. to Millwood Road will be closed May 26 through May 29.
- Community Block Party, May 27, 2009 from 5:30 – 8:00 at the Lincoln Park Civic Commons.
- Foreclosure Prevention Fair and Forum will be held at the Kettering Recreation Center on May 30, 2009 from 3 – 6 p.m.
- Homestead reduction deadline is June 1, 2009. Anyone 65 years or older during 2009 can apply.
- Yard Debris Center hours are Monday – Friday from 3 – 8 p.m. and Saturday 9 - 3.

OTHER BUSINESS NOT ON WRITTEN AGENDACommunications and ReportsAudience Participation (5 Minute Limit Per Speaker)

Susan Hayes, 2150 Willowgrove Avenue – She owns a four-unit townhouse and lives in one of the units. Garages are provided for her tenants behind the townhouses. They are one-car garages so if you have a second vehicle they have to be parked on the street. They currently park on Schantz Road and it has never been a problem. She opposes the ordinance in first reading this evening because it will eliminate four of their parking spaces and her tenants will have to park way down the street. She is concerned if this passes she could lose tenants. She asked that Council reconsider approving this ordinance.

Mayor Patterson stated the Ordinance is in first reading this evening and will be voted upon for approval or disapproval at the next meeting.

Ms. D. Williams, 120 E. Dorothy Lane, Apt. 3 – There is a serious electrical problem at her apartment and she has tried to work it out with her landlord to no avail. She had to finally hire an electrician on her own to change outlets to code and look at the breaker panel. The breaker panel was rusted and corroded. She called the City of Kettering Code Enforcement to report this problem. Inspectors came out and sent a notice of violation to the landlord on March 15, 2009. In the meantime she had the electrician come back out to figure out where the water was coming from. When he came out it was raining and he discovered water was coming in from the outside and draining directly into her breaker box. He put some silicon on it to try and seal the water from coming in. She again checked with the inspectors to see if they had any response from the landlord and found out they had closed the file. She is thinking about doing a public information request to see how the inspector came to this conclusion. The leak is still there and has not been fixed. The work has not been done. She feels it would be wise for the City of Kettering to enforce that property owners take care of their properties.

Mr. Schwieterman asked if she would talk with Mr. Robillard, Director of Planning and Development after the meeting to try and resolve this issue.

Ms. Williams replied she would talk with Mr. Robillard. Not only is she concerned for herself; there are also three other tenants in this building.

Robert Gibson, 696 Uplands Camp Rd. – He stated he currently has a lawsuit pending against the City regarding storm sewer drainage on his property. This has been an ongoing problem for the last three years. He has tried to work with the City but has been asked to pay out of his pocket to reroute the water from his property and he feels this is unacceptable. He showed Council a video, which showed storm water draining onto his property after it had rained. He did not want to file a suit and would prefer to work with the City to resolve this issue.

Mr. Dave Eubank, Law Director stated that Mr. Gibson has filed a claim against the City. It is a case that is currently in Common Pleas Court. City Council has been kept abreast of all matters of this suit. We do not discuss cases that are in litigation and no further comment will be made on this matter.

### COUNCIL COMMITTEE REPORTS

Mr. Duke – Reported on May 14, 2009 the Kettering Leadership Academy celebrated their sixth graduation. Eleven students graduated this year. He thanked Chief O'Dell for being the speaker at their graduation ceremonies. Applications are now being accepted for next year's class. On May 15, 2009 he attended the Montgomery County Juvenile Court Graduation. He is very impressed with how the court system works with young men and women by intervening in their lives in a positive way. Upon completion of graduation they will have their criminal record expunged. He represented the Mayor at the Iron Horse Trail dedication. This bike path trail begins in Centerville and is now into Kettering.

Mrs. Schrimpf – Expressed Kudos to the KMO Chamber. She attended at least three ribbon-cutting celebrations over the last couple of weeks. It is nice to see businesses locating in Kettering. She also attended a networking event at NCR.

Mr. Spolrich – He also is happy to see all the ribbon cuttings for new businesses in Kettering. He wishes them success. He attended many senior homes throughout Kettering over the last few weeks in celebration of Older Citizens Month. He enjoyed their enthusiasm and also got to see some quality care facilities for our seniors. The Partners for Healthy Youth Character word of the Month is "Integrity."

Mr. Thompson – We recently celebrated Memorial Day. Please remember all those that have sacrificed so that we may have our freedom. He hopes that everyone keeps this in mind and will fly the American flag to show their patriotism.

Mr. Klepacz – On May 13, 2009 he attended the Police Memorial Ceremony in Council Chamber to honor our Police Officers. He attended the Kettering Leadership Academy Graduation. The Board of Community Relations has two of those that graduated serving on their Board. At the Juvenile Court Graduation, Court was in session. The Judge talked about each of the young people graduating. Each had an experience that changed their lives. The success rate of this program is in the high 80%.

Mr. Wanamaker – Reported that he recently picked up some mulch at Kettering's mulch site. Volunteers were there checking identification. Some Kettering residents list their address as Dayton on their license and other documents. He urged residents to change them to read Kettering.

Mayor Patterson – The Police Memorial Ceremony was a nice service. He recently attended ribbon cuttings for Merchant Payment Service, Sopranos and Sonic. He attended the Relay for Life event at Delco Park. This year's walk should bring in around \$100,000.00. On May 23, 2009 he attended the car show at Lincoln Park. He presented a Mayor's Award for the car that he liked the best. School Superintendent

Bob Mengerink will be leaving the City of Kettering. He is moving to the Cleveland area and will be missed.

At 8:45 p.m. Mayor Patterson asked for a motion to go into executive session pursuant to Section 121.22 of the Ohio Revised Code for the purposes of consideration of the appointment, employment or compensation of a public employee. A motion was made by Mr. Duke and seconded by Mrs. Schrimpf. The motion was unanimously approved by a roll call vote.

At 9:37 p.m. Mrs. Schrimpf made a motion for City Council to come out of executive session and open into regular session. Mr. Wanamaker seconded this motion. The motion was unanimously approved.

There being no further business to come before this meeting of the Kettering City Council, Mayor Patterson adjourned the meeting at 9:38 p.m.

ATTEST:

Connie S. Gaw  
Clerk of Council

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DONALD E. PATTERSON, MAYOR