

**KETTERING CITY COUNCIL  
REGULAR MEETING MINUTES  
April 24, 2018**

The Council of the City of Kettering, Ohio, met in regular session on Tuesday, April 24, 2018, at 7:30 p.m. in Council Chambers at the Kettering Government Center South Building, 3600 Shroyer Road. Mayor Patterson presided and the Clerk of Council, LaShaunah D. Kaczynski, recorded. This meeting was telecast live on the cable access channel.

Council Members Present: Patterson, Lautar, Duke, Klepacz, Fisher, Scott and Wanamaker

Council Members Absent: None

Total Members Present: Seven (7)

Mayor Patterson led the audience in the Pledge of Allegiance and gave the invocation. He introduced the cable TV operator Liberty Lord. The Pages this evening were Zachary Finlayson and Carter Sheets from St. Charles School. He thanked them for their assistance.

APPROVAL OF MINUTES

April 10, 2018 - Council Meeting & Workshop Minutes

Mr. Scott reported that he reviewed the above minutes and moved the minutes be approved. Mr. Duke seconded the motion and there being six (6) yea votes, one (1) abstain vote (Mrs. Fisher) and no (0) nay votes for the April 10, 2018 Council Meeting & Workshop Minutes, the motion was declared carried by roll call vote.

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

Appointment- Kettering Arts Council-Gine Elliott (Term ending 12/31/2020)

Appointment-Kettering Arts Council- Penelope Johnson Miller (Term ending 12/31/20)

Mr. Scott made a motion to appoint Gine Elliott and Penelope Johnson Miller to Kettering Arts Council. Mr. Klepacz seconded the motion followed by an unanimous like sign vote.

PUBLIC HEARINGS

P.C. 18-007- Request for vacation of portions of easements- Ashton Gardens Final Phase.

Mayor Patterson opened the public hearing and asked that any person that intends to speak to City Council about this matter should stand and take an oath. Those that planned to speak took the oath.

Ron Hundt, City Planner gave the staff presentation this evening. Mr. Hundt mentioned that he would like to give a brief location of the property. Ashton Gardens was originally developed when Lincoln Park Center was constructed in the late 1970s. Two of the six twelve unit condominiums were constructed with the idea that four more units would follow later. Those four units did not get built but in 2016, the developer got approval from the Planning Commission to build four buildings that are smaller in height with fewer units. The new plan is four units in four buildings. That process lowered the height and changed the configuration slightly. That configuration change required the vacation of a few segments of easements. The segments that have to be vacated are very small. Mr. Hundt mentioned that the developer provided the footprint location of the four buildings. The largest area to be vacated is on the north since this portion of easement was primarily established for a drainage channel. That drainage channel is not affected by this easement vacation. The drainage channel runs to the north through Little Beaver creek. The second easement is on the east and is very small. It is not needed, and there are no utilities that are located within this easement. The building will go across this segment; therefore it needs to be vacated. The third easement is very small and needs to be vacated. There are no utilities within the easement. The only easement that requires reconstruction of storm drainage lines falls in between two buildings on the south side of the property. To get the utilities between the two buildings, the storm sewer and the easement that currently exists over the existing storm drainage would have to be partially vacated. This is a house keeping matter; this was something that was recommended to the Planning Commission for approval. The Planning Commission unanimously recommended that these small segments of easements be vacated. Mr. Hundt mentioned he would be happy to answer any questions.

Mr. Klepacz asked that he read in the staff report that there wasn't an opposition, but he wanted to know if there was anyone that spoke in favor of this project?

Mr. Hundt expressed that the decision of the development took place two years ago in 2016. There were a lot of comments made about what the new buildings would look like, how tall they would be, and how close they will be to other buildings. Those decisions were made and approved as part of the

2016 Planning Commission amendment to the actual Ashton Gardens plan. This is a public meeting and the plat itself is not a public hearing except for the vacation of the easements. These easements are required because of the plan approved in 2016. The issues that had been raised by residents at that time were resolved, and the plan was approved without an appeal. The plat came after the approval which is a necessary step, but this is pretty much a house keeping matter. He doesn't believe there is any opposition, but there may be some interest in the development. There wasn't any opposition expressed in the easement vacation.

Mr. Klepacz confirmed that the parking garage was only intended for six twelve unit buildings, so that is 72 parking spaces, and now only 24 spaces are being used?

Mr. Hundt expressed that the requirement is two spaces per unit. These buildings that were approved in 2016 have attached garages. It's likely that the residents of these new units will not use the parking structure for their daily use; they might still use the parking garage because it is part of their development, but their need isn't great.

Mr. Klepacz confirmed that the newly developed condos will not need to use the parking garage as much.

Mr. Hundt confirmed that is correct the new development residents will not be using the parking garage as much.

Mr. Hundt expressed that the applicant is not here this evening because since there was no opposition he told the applicant their presence is not needed. He expressed he would be happy to answer any questions that Council may have in regards to the applicant request.

Mayor Patterson asked if there were any other comments from the public either for or against concerning this public hearing, none were heard.

Mayor Patterson closed the public hearing and explained Council will consider legislation regarding this matter at a future Council meeting.

PUBLIC COMMENT ON LEGISLATION

ORDINANCES IN SECOND READING

RESOLUTIONS

A RESOLUTION  
NO: 10135-18  
BY: MR.LAUTAR AND MR.KLEPACZ

AUTHORIZING THE CITY MANAGER TO USE COMPETITIVE BARGAINING AND NEGOTIATED QUOTES TO PURCHASE EQUIPMENT FOR A DISASTER RECOVERY ENVIRONMENT IN THE BACKUP DATA CENTER

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

Mr. Schwieterman, City Manager gave a brief description of the resolution.

The following votes were recorded: Mr. Klepacz, Yea; Mrs. Fisher, Yea; Mr. Duke, Yea; Mr. Scott, Yea; Mr. Wanamaker, Yea; Mr. Lautar, 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: 10136-18  
BY: MR.KLEPACZ AND MRS.FISHER

AUTHORIZING THE CITY MANAGER TO USE COMPETITIVE BARGAINING AND NEGOTIATED QUOTES TO CONTRACT FOR ASBESTOS REMEDIATION AND DEMOLITION OF THE PROPERTY LOCATED AT 25 MORaine CIRCLE, KETTERING, OHIO

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

Mr. Schwieterman, City Manager gave a brief description of the resolution.

Mayor Patterson asked once the building is down, will there be any attempt to market the building? Also, does the City own that building entirely or is that a partnership with the City of Moraine?

Mr. Schwieterman mentioned once the building is down and cleared, it will then be up to Council for marketing of the City owned land.

Mayor Patterson asked how many acres is the land?

Mr. Schwieterman informed Council he does not know the acreage right off but he will get that information to them.

The following votes were recorded: Mr. Klepacz, Yea; Mrs. Fisher, Yea; Mr. Duke, Yea; Mr. Scott, Yea; Mr. Wanamaker, Yea; Mr. Lautar, 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: 10137-18  
BY: MRS.FISHER AND MR.SCOTT

AUTHORIZING THE CITY MANAGER TO USE COMPETITIVE BARGAINING AND  
NEGOTIATED QUOTES TO CONTRACT FOR WILMINGTON PIKE LANDSCAPE  
IMPROVEMENTS

Mrs. Fisher read the above resolution and moved for approval. Mr. Scott seconded the motion.

Mr. Bergstresser, Assistant City Manager gave a brief description of the resolution.

Mayor Patterson asked is there a minimal tree size?

Mr. Bergstresser informed Council that there is a minimal tree size.

The following votes were recorded: Mr. Klepacz, Yea; Mrs. Fisher, Yea; Mr. Duke, Yea; Mr. Scott, Yea; Mr. Wanamaker, Yea; Mr. Lautar, 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: 10138-18  
BY: MR.SCOTT AND MR.DUKE

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

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

Mr. Bergstresser, Assistant City Manager gave a brief description of the resolution.

The following votes were recorded: Mr. Klepacz, Yea; Mrs. Fisher, Yea; Mr. Duke, Yea; Mr. Scott, Yea; Mr. Wanamaker, Yea; Mr. Lautar, 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: 10139-18  
BY: MR.DUKE AND MR.WANAMAKER

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, 2018

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

Mr. Schwieterman City Manager gave a brief description of the resolution.

The following votes were recorded: Mr. Klepacz, Yea; Mrs. Fisher, Yea; Mr. Duke, Yea; Mr. Scott, Yea; Mr. Wanamaker, Yea; Mr. Lautar, 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.

AN ORDINANCE  
BY: MR. WANAMAKER

TO REZONE 2339 SOUTH DIXIE DRIVE (PLANNING COMMISSION CASE NO. PC 18-005)

CERTIFICATIONS AND PETITIONS

Mr. Schwieterman informed Council that the answer to the question that was asked earlier regarding the demolition of the Moraine building is 2.73 acres.

MANAGER'S REPORT/COMMUNITY UPDATE

Mr. Schwieterman, City Manager updated Council on upcoming and community events.

- Turn in your unused or expired prescriptions medications for safe disposal on Saturday, April 28 from 10:00 a.m. - 2:00 p.m. in the lobby of the Kettering Police Department for National Prescription Take Back Day.
- Coming to the Frazee
  - Euge Groove & Peter White- Thursday, September 6 at 7:30 p.m.

Tickets can be purchased to all events at the Frazee Pavilion Ticket Office, Frazee FanFare store located in Town & Country Shopping Center, [www.frazee.com](http://www.frazee.com), [www.etix.com](http://www.etix.com) or charge-by-phone at 1-800-514-3849.

- The annual Kettering Block Party will be held on Monday, June 11 from 6:00 p.m. - 8:00 p.m. at the Frazee Pavilion.
- Crews are currently working in District 9 and are progressing forward through the remaining districts. Please have your leaves raked and placed by the curb before crews get to your district.

Mr. Bergstresser, Assistant City Manager made a PowerPoint presentation regarding medical marijuana.

Mr. Klepacz asked what does a dispensary look like from the research that Mr. Bergstresser has conducted? What is the typical size of the building, number of employees, items they sell in the store, etc?

Mr. Bergstresser informed Council that some photos that he has seen from other states are a commercial center (large building with subdivided store fronts). Vapor shops are very similar to what these stores could look like. There would only be about a dozen employees depending upon shift changes and hours of operation, and mostly part-time minimal wage salaries. State law is very strict about items you can sell in the store. Nothing can be sold that could potentially be appealing to children (candy or cartoon products). What will be sold is the actual medical marijuana itself.

Mr. Klepacz wanted to confirm there will not be a sale of products such as potato chips.

Mr. Bergstresser confirmed it will not be a convenience store. Medical marijuana will only be sold in the forms that have been approved by State Law.

Mr. Lautar asked if paraphernalia would be allowed?

Mr. Bergstresser mentioned he would have to go back and look at the regulations to see if certain forms of paraphernalia would be suitable for sale. You will not be able to smoke the product, but you can by State Law vape the product. He would imagine vaping supplies could potentially be permitted.

Mr. Lautar asked are schools just considered K-12 or does that include colleges and preschools?

Mr. Bergstresser said he would imagine K-12 but he will have to go back and check the regulations.

Mr. Lautar asked is the distance considered the furthest property line to the closest property line?

Mr. Bergstresser informed Council that the distance is actually the closest point of the property to the closest point of the potential cultivator or dispensary.

Mr. Duke wanted to clarify that if the community bans the cultivation, processing, and dispensing of medical marijuana it does not limit any citizen from utilizing that product within the community. Also, you do not have to buy it in your county you can go to another county to buy it.

Mr. Bergstresser expressed that is his understanding but we will have to wait and see how the particulars work out. These will not be prescriptions because doctors cannot write prescriptions. They can only make recommendations. If you go to a qualified doctor and get a recommendation you can go to any dispensary in the state and bring it back to Kettering.

OTHER BUSINESS NOT ON WRITTEN AGENDA  
Audience Participation (5 Minute Limit per Speaker)

**Lisa Crosley- 3148 Allendale Dr.** - She is here this evening in support of restrictions that have been presented to Council regarding medical marijuana. She supports this for a variety of reasons, and she is thankful the City looked at data that was collected from a legal standpoint. Ms. Crosley is concerned about the legal action of the activity of the state and the federal prohibitions. There is no way to know how all of this will work out. Kettering will allow people to use medical marijuana according to state law, but restrict how it is cultivated and dispense seems to be a reasonable option. She is a business owner and when she has to make a decision for her business it is critical to weight potential negatives against any potential positives. As she looks at this situation, the negative consequences seem to outweigh any positive. She looks at this situation from this standpoint, if the state has restricted the cultivation and dispensing to a 500 feet radius from schools and churches, there is an omission that someone realizes there can be negative activity that can surround these organizations. The state is trying to protect these organizations by placing this restriction. This bothers her because it is a subtle omission that it can be dangerous. Also, the word medical is misleading because there will not be prescriptions for medical marijuana. When you hear the word medical you think of the controls and regulations over medications. She does not believe that would take place with this type of industry. As a citizen, she would like to know what Kettering Hospital thinks about what the City ought to do regarding medical marijuana. She runs a drug free work place, and this kind of expansion will make it hard for businesses to maintain drug free workplaces. At this present time, there are too many uncertainties that come along with medical marijuana. She had a family member who passed away from cancer and they used medical marijuana as part of their treatment. She is not making a moral judgement, but as for Kettering she thinks it would be best to leave the cultivation and distribution out of the City. She is in support of a ban.

**Roger Zappe- 680 Renolda Woods Ct.** – He mentioned this medical marijuana issue is something that is happening across the country. His question is why does the City want to permit medical marijuana? Is it a money maker to have medical marijuana growth operations? What is the good part in all of this? He mentioned there doesn't seem to be an answer.

Mayor Patterson noted that Council does not give answers during this portion of the meeting. This is a time for residents to voice their concerns to Council. If City staff would like to give an answer they can do so.

Mr. Zappe mentioned that having medical marijuana growth operations within jurisdictions must be a gold mine. Cities would follow this trend because of the money.

Mr. Bergstresser stated that when it comes to direct impact to the City of Kettering as far as income tax, the City is not anticipating a lot of tax revenue coming from medical marijuana. The number of employees and pay levels of these employees do not seem to be six figure salaries. The amount of tax revenue, if this type of operation is allowed would be a very insignificant amount received directly to the City.

Mr. Zappe mentioned with that information then why would we want that type of operation in the City of Kettering.

**Roger Zappe- 680 Renolda Woods Ct-** He is concerned that when he goes to the Frazee it seems to be too many people working and doing nothing. If you watch a show from the bleachers, you have to be four to five rows up before you can see anything on stage. This is because people are standing where they shouldn't be standing. None of the workers tell the people who are standing to move, and the first three aisle seats are useless because you cannot see anything. There are a ton of employees working but no one will tell other patrons to sit down. This is aggravating because he likes to sit in the bleachers. He has attended the Rose on several occasions and they seem to be more lenient about their rules and regulations. He has asked Frazee staff multiple times to have patrons sit down and they seem to just walk by him. The Frazee needs to get their act together because the Rose seems to be increasing their ticket sales. Also, the Rose does not seem to have as many employees as the Frazee. Also, a lot of families cannot afford to go to the Frazee. People use to be allowed to sit in the streets but now they cannot do that. Citizens were complaining about people using the restroom in the bushes. He thinks citizens should be allowed to bring a cooler full of pop and listen to the music outside of the Frazee.

Mayor Patterson mentioned residents are still allowed to do that. People were never allowed to sit in the streets, but the property owners of the 500 building said that people were no longer allowed to sit on their property. It is their right to implement that restriction. There is a section behind the fountains that residents can bring chairs and listen to the music. The City of Kettering cannot tell the owners of the office building to allow people to sit on their property. When they were allowed to sit on their property, people were constantly using their bathroom and stepping on their plants and bushes. The City then decided to have a designated area for people to listen to music. There are even portable toilets located in the Government Center parking lot for people who didn't have access to the Frazee from a ticket purchase. The property owners of the 500 building told the City that their facility was abused too much, but Council still wanted to meet the needs of residents who are unable to purchase a ticket to the Frazee.

Mr. Duke wanted to clarify that Mr. Zappe is sitting in the last section of the Frazee and patrons are standing in front of him and not sitting down.

Mayor Patterson commented that it is his understanding people are not allowed to stand in the patio paved area right behind the lawn seats.

Mr. Schwieterman informed Council that is true, but that area is also a through area from the concession stands to seats. Staff is instructed to keep people moving. There is obviously gathering that occurs. He certainly understands Mr. Zappe's concerns. If you are sitting in the first row it is hard to see since there is no elevation change.

Mayor Patterson mentioned as a patron in the back seated row you have people stand through an entire show and then you end up standing for the entire show. This is not limited to just the bleachers, people all over the Fraze stand, clap and dance which happens at all theatres.

#### COUNCIL COMMITTEE REPORTS

Mr. Lautar reported:

- He attended the Miami Valley Regional Planning Commission spring dinner.
- On April 11 he attended the staff appreciation breakfast.
- The Bike Committee will be hosting a "Walk or Bike the Arts" at the community block party on June 11.

Mr. Duke reported:

- Nothing to report.

Mr. Wanamaker reported:

- Thank you to Mr. Bergstresser for a nice presentation regarding medical marijuana.

Mr. Scott reported:

- Welcome Andria White, Clerk of Courts to the Council meeting this evening.
- Support Kettering small businesses during "Small Business Week" April 29-May5.

Mr. Klepacz reported:

- On April 11 he participated in a check presentation from Waste Management to the Kettering Backpack Program.
- On April 21 he read a proclamation for Arbor Day at Tree Fest.
- On April 21 he attended the retirement party for Dave Hicks.
- Shop Kettering.

Mrs. Fisher reported:

- Congratulations to the new Kettering Arts Council members.
- She planted trees along with her great nephew at Arbor Day.

Mayor Patterson reported:

- On April 11 he participated in a check presentation from Waste Management to the Kettering Backpack Program.
- Thank you to the Volunteer Office for putting the staff appreciation breakfast together.
- Congratulations to Dave Hicks on his retirement.

They're being no further business to come before this meeting of the Kettering City Council; Mayor Patterson adjourned the City Council Meeting at 8:50 p.m.

ATTEST:

LaShaunah D. Kaczynski  
Clerk of Council

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DONALD E. PATTERSON, MAYOR