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 Shroer 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
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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 housekeeping 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. Wamaker, 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 MORAINA 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.
ORDINANCES IN FIRST READING

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 Faze - Euge Groove & Peter White - Thursday, September 6 at 7:30 p.m. Tickets can be purchased to all events at the Faze Pavilion Ticket Office, Faze FanFare store located in Town & Country Shopping Center, www.fraze.com, 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 Faze 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)
Mr. Duke wanted to clarify that Mr. Zappe is sitting in the last section of the Fraze 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.

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

DONALD E. PATTERSON, MAYOR