

CITY OF KETTERING
CITY COUNCIL
WORKSHOP MINUTES
October 23, 2018

The Council of the City of Kettering, Ohio met in a workshop session on Tuesday, October 23, 2018 in the Kettering Meeting Room, 3600 Shroyer Road, Kettering Government Center. The meeting came to order at 6:03 p.m.

Council Members Present included Mayor Patterson, Vice Mayor Lautar, Mr. Duke, Mr. Wanamaker, Mr. Klepacz, Mr. Scott and Mrs. Fisher.

Staff Members Present: City Manager Mark Schwieterman, Assistant City Manager Steve Bergstresser, Law Director Ted Hamer, Human Resources Director Sara Mills Klein, Fire Chief Tom Butts, and Police Chief Chip Protsman

Mr. Sterling Abernathy was also in attendance.

At 6:03 p.m. Mr. Klepacz made a motion to enter into executive session under Section 121.06 (k) of the Codified Ordinances for purposes of Labor Negotiations; the motion was seconded by Mr. Lautar. The motion passed by a unanimous roll call vote.

At 6:20 p.m. Council exited the executive session and went back on the public record.

Agenda Review – Mr. Schwieterman reviewed the agenda for this evening’s meeting with the Council members. Mr. Wanamaker stated that the MVCC Board voted last week to move the Fiber Ring project forward, in regard to agenda item #1.

Employee Service Awards – Mr. Schwieterman stated that the annual Employee Service Awards will be held tomorrow morning, October 24, at Polen Farm.

Kettering Leadership Academy – Mr. Schwieterman stated that the Kettering Leadership Academy Alumni Event will be held tomorrow evening at the Presidential Banquet Center

Poverty Simulation – Mr. Schwieterman stated that the Poverty Simulation with the Kettering City Schools will be held on January 29, 2019 from 4pm-7pm. Location will be determined at a future date.

Hoopla Sponsorship – Mr. Schwieterman stated that the Dayton Hoopla has asked again for a \$5,000 Bronze Level sponsorship from the City of Kettering for the NCAA First Four event in March. Mr. Duke made a motion to donate the sponsorship, Mr. Wanamaker seconded; the motion passed unanimously.

MCES Master Plan – Mr. Schwieterman stated that at the next Council Meeting the Montgomery County Environmental Services (MCES) Solid Waste Master Plan will be considered for adoption.

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Recreation Complex Signage – Mr. Schwieterman stated that the new Recreation Complex entry signs and landscaping at the intersection of East Dorothy Lane and Prugh Woods drive is currently underway.

NatureWorks Grant – Mr. Schwieterman stated that the City has tentatively been awarded a \$140,000 NatureWorks grant for playground equipment at the proposed Gentile Park.

GFOA Conference – Mr. Schwieterman stated that Stacy Schweikhart was invited to make a presentation on branding and culture at the annual GFOA national conference this week in Savannah, Georgia.

ICMA Leadership Program – Mr. Schwieterman stated that Stacy Schweikhart has been accepted into the ICMA Leadership Program for year 2020.

Kettering Business Park Entrance Improvements – Mr. Bergstresser stated that the next phase of improvements to the main entrance of the Kettering Business Park will be starting soon. A contract has been awarded for the construction of the project, and the contractor is planning to begin work the week of October 29. Phase 2, which will be along Forrer Blvd through the roundabout, will include new landscaping plantings with tree up-lighting at night; red clay pavers in key areas of the roundabout; landscape mounds along both sides of Forrer; lighted bollards and pedestrian benches around the roundabout; a new marquee sign along Forrer; wayfinding signage at the roundabout; and other miscellaneous work to support the new infrastructure. The new signs will be similar in theme to the new entrance signs at Wilmington & Forrer, using the same types of materials. The project is scheduled to be complete next Spring, weather depending. Work will be ongoing through November and into December, with a break in January and February due to winter, and then will be completed with the new landscape plantings in March and April next year. Mr. Bergstresser explained that next year Forrer Blvd between Wilmington and the roundabout, as well as sections of Composite Drive and Madison Street will be resurfaced as part of the 2019 Asphalt Overlay Program. Council asked if business logos can be placed on the new signage. Mr. Bergstresser explained that logos would not be appropriate for the wayfinding signage, since those signs are in the public right-of-way and there are rules for sign content that would apply. Staff will investigate the possibility of including business logos on the new marquee sign.

FCC Small Cell Ruling – Mr. Hamer gave an update on the recent ruling issued by the Federal Communications Commission (FCC) regarding small cell telecommunications regulations. He reviewed the history of small cell regulations in Ohio, and explained that the Ohio General Assembly passed SB 331, which took away much city authority to control the rights of way for small cell equipment. Many Ohio cities banded together and went to court and got the law declared unconstitutional. With cities at the table, HB 478 was written and adopted. Then, on September 27, the Federal Communications Commission released a Declaratory Ruling and Third Report and Order that may preempt what was in HB 478. The Order limits the rights of state and local governmental entities to regulate small cell installations in the ROW and also on publicly-owned infrastructure, such as streetlight poles, utility poles, and traffic signals. The Order also limits fee amounts, the ability to impose aesthetic requirements, minimum spacing requirements, and timelines for application review. The Order also adopts a broad interpretation of the "effective prohibition, finding that a state or local government need only "materially inhibit" a small cell deployment to violate the provisions. Also, the order establishes that fees and charges assessed by a government entity for small cells, including annual pole attachment fees, are only permitted to the extent that they are nondiscriminatory and represent a "reasonable approximation" of the government entity's "objectively reasonable costs" specifically related to and caused by the deployment. In addition, the order establishes safe harbor costs that are presumed to be lawful, including \$500 for collocations and \$1,000 for new small cell sites. Under the Order, aesthetic requirements for small cells installations are subject to possible preemption, unless they are reasonable, no more burdensome than those applied to other types of infrastructure deployments, objective, and published in advance. The Order also discusses minimum spacing requirements between poles, and says such requirements will be preempted if they materially inhibit a small cell deployment. The Order adopts new, shortened shot clocks specifically applicable to small cell facilities and provides that failure to act within the shot clock amounts to a presumptive prohibition on the provision of personal wireless services. The new shot clocks are 60 days for collocation application (down from 90) and 90 days for new structures application (down from 120). The Order is effective December 26. Parties have until October 27 to file a petition for reconsideration of the Order, and until November 26 to file an appeal in a Federal court of appeals.

OSU/OCMA Job Shadow – Mr. Schwieterman stated that he had an Ohio State MPA Program student job shadow him today as part of a program with OCMA and Ohio State to allow students to gain real-world experience.

City Manager Vacation – Mr. Schwieterman noted he will be at the OCMA Board Meeting in Columbus on Thursday, October 25th and then on vacation from Friday, October 26th through Sunday, October 28st. Mr. Bergstresser will be Acting City Manager during this time.

DP&L Power Outage – Mr. Klepacz asked about the power outage over the weekend and when we are notified by DP&L when power outages occur. Mr. Schwieterman will ask DP&L whether the criteria for notification has changed.

The workshop meeting adjourned at 7:18 p.m.

ATTEST:

DONALD E. PATTERSON
MAYOR

LASHAUNAH D. KACZYNSKI
Clerk of Council