

**KETTERING CITY COUNCIL
REGULAR MEETING MINUTES
June 22, 2021**

The Council of the City of Kettering, Ohio, met in regular session on Tuesday, June 22, 2021, 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 and streamed live at mvcc.net.

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

Council Members Absent: None

Total Members Present: Six (6)

Mayor Patterson led the audience in the Pledge of Allegiance and gave the invocation.

APPROVAL OF MINUTES

June 8, 2021- Council Meeting & Workshop Minutes

Mr. Lautar reported that he reviewed the above minutes and moved the minutes be approved. Mrs. Fisher seconded the motion of the above minutes and there being six (6) yea votes and no (0) nay votes for the June 8, 2021 Council Meeting & Workshop Minutes, the motion was declared carried followed by a roll call vote.

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

Proclamation- Scleroderma Awareness Month

Mr. Duke read the above proclamation and same was accepted by Wilma Wills, Member of the Ohio Chapter of the Scleroderma Foundation. Ms. Wills expressed that scleroderma is a hard disease and it is even harder to pronounce. Ms. Wills mentioned that on behalf of the scleroderma support group, she would like to thank Mayor Patterson and City Council for declaring June as Scleroderma Awareness Month. This proclamation will help spread awareness of this devastating and complex autoimmune disease. Fundraising is a large part of getting the word out, and this year there will be six virtual walks, two golf outings and a bowling. Approximately 1,500 people attend fundraisers and funds are used for research, annual patient education days and conferences. The virtual fun run and walk is scheduled for Saturday, August 7, 2021. Registration and more information can be found at www.scleroderma.org/ohio. Fundraiser events help spread awareness about this disease and funds raised go toward research to help find a cure. Ms. Wills thanked Mayor Patterson again for declaring June as Scleroderma Awareness Month and she really appreciates the recognition and support.

PUBLIC HEARINGS

P.C. 21-002- Zoning Map Amendment

Mayor Patterson opened the public hearing and mentioned that anyone that intends to speak this evening regarding this matter should stand and take the oath. Those that planned to speak took the oath.

Tom Robillard, Planning & Development Director gave the staff presentation this evening. Mr. Robillard mentioned that this request is to rezone a piece of property from R-4 to O-Office at the intersection of Wilmington Pike and Woodman Avenue just south of the El Rancho Grande restaurant. As you might imagine, this piece of property could be difficult to develop due to multiple challenges including access, traffic safety, size dimensions, and set-backs. Access along this property would require reworking of traffic signals at the intersection. Over the last ten years, Mr. Robillard along with his staff have worked with Mr. Solada to try to find a development solution that meets both Mr. Solada's intended use and meet the requirements of the Zoning Code and also directives of the Wilmington Pike Improvement Plan and the Comprehensive Plan. Today, we have not come to a common solution. Mr. David Roller, City Planner will be presenting next and will explain Zoning Code requirements that staff and the Planning Commission must follow in order to make a recommendation of approval for this rezoning. As you will hear, there isn't really any other possible recommendation that staff or the Planning Commission could have offered in this particular case to stay compliant with City Council directives of the Wilmington Pike Improvement Plan or the Zoning Code.

David Roller, City Planner gave a brief presentation regarding zoning requirements. Mr. Roller mentioned that section 1153.12.6.A2 of the Codified Ordinances directs Planning Commission on what to do with rezoning applications. This section states, "No rezoning of land from a residential district to any non-residential zoning district shall be recommended by the Planning Commission unless the proposed site is at least one acre or a complete block face or the site is contiguous to land

in the proposed zoning classification". In this particular case, the site is less than one acre and it is not a complete block face. This site is also not contiguous to any O-Office zoning district. This site is contiguous to Business and R-1 zoning classifications. Therefore, those findings could not be made and Planning Commission made a recommendation to not approve the rezoning application to City Council.

Mr. Robillard concluded that Planning Commission did recommend that the application be denied.

Ron Solada gave the applicant presentation this evening. Mr. Solada mentioned he is a resident of Kettering and resides on Lotz Road. He has been a resident of Kettering for 25 years and has owned small businesses. He has worked on Wilmington Pike and his first office was at 3600 Wilmington Pike. His office was on Wilmington Pike for ten years from 2005-2015. In 2005, he started to work out of his office on Wilmington Pike and Mayor Patterson attended the ribbon cutting for his business. After being at this location for five years, he decided he wanted to build his own office and he wanted to place it on Wilmington Pike. At that time, Wilmington Pike was the central business district with many small business owners and he became acquainted with some of the small business owners along Wilmington Pike. In 2010 as his five year lease was coming up, he went to visit Ron Hundt, former City of Kettering Planner to let him know of his intentions as far as an office and Mr. Hundt guided him for four to six months. At this time, he met Mr. Robillard and there was an outreach from the Planning and Development Department to certain parts of the community to see redevelopment opportunities for particular areas in the community. He attended three to four of the outreach meetings, and no matter what side of Kettering the meeting was held, Wilmington Pike always became course of conversation and seemed to have a lot of economic interest and that was the place he wanted to have his office. Mr. Hundt did steer him away from some places along Dorothy Lane, and what he landed on was the property at 4225-4235 Wilmington Pike. The businesses there at the time were Flemings Printing and Hittle Improvements. The 2008 financial recession was devastating and the owners of Flemings Printing had moved out of the building and had moved up the street. Hittle Improvements went out of business around 2008. Mr. Hundt sent an email dated October 11, 2011 and he copied Mr. Roller and Mr. Robillard on the email. The first part of the email was a site plan submitted by Kitchens By Design which was intended to give him guidance but he ended up hiring an architect to do the work. This email was sent before he had purchased the property and the meat of the email expressed that staff is recommending that O-Office designation be sought, which would not include retail activity nor contractor offices and that David Roller will be handling his request. Upon getting approval, he closed on the property on December 2nd of 2011 which is about seven weeks after the email Mr. Hundt sent. About a year later on December 12, 2012, Mr. Roller sent an email which mentioned that once obstacles are able to be overcome, staff will be able to offer a conditional recommendation for approval. Mr. Roller also mentioned that once the tasks necessary to bring the property into compliance are achieved, the property would then be rezoned and allowed to be used as desired. Mr. Solada expressed that through 2012-2013, he hired an architect named Matt Franklin with Levin Porter to do the site drawing concept and represent his wishes to the city. The first concept drawing was completed on June 13, 2012. According to the architect, the concept he was putting together would run around \$115,000. Mr. Franklin came back from his meeting with the city very frustrated and mentioned to him that the city just wants him to go away. Mr. Solada mentioned he then instructed Mr. Franklin to put a concept together that the city wants and that concept came back over \$300,000. When he started this process, he purchased a dilapidated property and he thought his project would be embraced since he was taking over a dilapidated property and making it something. The previous buildings on this property were not gems and one building was a model home and another building was used as a contractor's office. After the June meetings, he received a phone call from Mr. Hundt which he asked if he would consider putting brick façade on all of the buildings. After seeing his site plan triple, he told Mr. Hundt he will not be putting brick façade on the buildings. That is the moment things began to go 180 degrees south. The first zoning attempt took place on April 1, 2013 and at that time, the city expressed in the staff report that they had conveyed to him that the rezoning would be problematic at best and unworkable at worst. The city also expressed in the staff report that he was strongly advised to not purchase the property for the intended use. Mr. Solada expressed that never happened. Further, the staff report expressed that the site would require significant modifications or even complete demolition and re-build to comply with standards for O-Office district. He couldn't get anywhere after hiring architects and attorneys, and it was a very frustrating experience. He then entered into talks with the city and the city offered to purchase his property at a price that was less than half of the value of the property and all parties were unable to come to terms. He demolished the property with the thought that if he starts this project with a clean slate as a brand new investment, he would get the rezoning he was looking for. The second zoning attempt took place on April 4, 2016 and in the staff report the city expressed that staff conveyed to the applicant that the rezoning would be problematic or even unworkable which was also stated in the staff report from 2013. Also within the 2016 staff report, the city expressed the property was demolished by using funds allocated by the 2013 Wilmington Pike Improvement Plan and City Council and that the demolition and removal was pursued jointly and cooperatively by both the applicant and the city. The report also mentions that the city was contacted by him (the applicant) to potentially purchase the property, and the city did participate in negotiations however an agreement could not be made. He is here today because he has tried everything. He has tried Business designation since his property was located near businesses and that didn't work. He also tried demolishing the property and that didn't work. Today, city staff is saying that since the property is not an acre or continues to another office, it does not qualify to be rezoned. Mr. Solada mentioned he would like clarification as to the meaning of a block face.

Mr. Robillard informed City Council that the official definition of a block face which is in the Zoning Code is a unit of land bounded by streets or a combination of streets and public land, railroad rights-of-way, waterways, or any barrier to the continuity to development. Mr. Robillard further express that block face is basically street to street.

Mr. Solada asked if a block face is considered to be a city block and an empty lot could be a smaller unit than a standard city block?

Mr. Robillard informed City Council that it could be depending upon if the block face met the other criteria.

Mr. Solada mentioned that the other requirements of people working from home, what is office and home is considered contemporary and he is unsure as to what that will do to zoning. The staff report from March 1, 2021 focuses on recommendations that commercial uses should be concentrated at intersections. He did attend various meetings involving the Wilmington Pike Improvement Plan. At those meetings, questions were asked as to how to bring back Wilmington Pike. The Wilmington Pike Plan emphasized commerce concentrated at intersections, which is difficult due to the speed limit on the corridor. If you are a business owner and once someone notices your business while traveling the corridor they have already passed it. While attending these meetings, he noticed that Stroop and Dorothy Lane were the intersections that the city wanted developed, and those are fully developed and occupied. The March 2021 staff report highlights the desire to have these types of commercial uses around intersections. There are five major intersections at Wilmington Pike and the car counts as followed (2015 MVRPC Traffic Count):

- Woodman Drive- 26,900 cars a day
- Stroop Road- 40,100 cars a day
- Marshall Road- 25, 200 cars a day
- Dorothy Lane- 46,000 cars a day
- Smithville- 28,800 cars a day

It does make sense to concentrate businesses around intersections and when city staff complains that there are too many vacant office spaces and why he won't purchase a vacant office space, he expresses he is trying to get an office space at an intersection which is the most appropriate use for his property. Sandy Fleming who owned Fleming Printing for over 20 years found that the two curb cuts worked well for both gaining access to the business and safely leaving the property. The north curb cut allowed for northward travel to Wilmington Pike when the light stopped the Wilmington traffic, which allowed Woodman to flow southbound which is south of the north curb cut. The south curb cut allowed customers to have easy and safe access to the south. In her 20 years of operation, she found there to be safe and adequate egress and ingress. Mr. Solada expressed this means a lot coming from a person who operated a business at this location for over 20 years and had customers coming and going. There is another part of the report from March 2021 where there is a conflict between height density and residential and the site location. This intersection is a hub and there is a lot of commercial activity at this location and his office would be a compliment to that. He doesn't know what the solution would be to allow the zoning since the Comprehensive Plan has a contradiction and the City Council must decide what they want to do with this. The staff report mentions sole interest and he is the only one benefiting from this rezoning. That couldn't be further from the truth. Back in 2011, 2012 and 2013, contractors would have welcomed the job this renovation would have brought. A lot of people in this trade go out of business which is a reason there is a housing shortage today because homes were not built out. He expressed to Planning Commission that part of the sole interest is that his property taxes goes to the schools. Once he couldn't get his zoning approved, he went to the county to get his taxes reduced. All of his kids attended Kettering City Schools all the way through high school and graduated, and if he was allowed to renovate this site he is estimating that over \$39,000 have been lost to Kettering schools since he wasn't allowed to develop the property that he was encouraged to buy. It's not sole use because the employees of his company and the other business he would like to attach if he is able to build out will generate taxes. He works with over 400 families in the Kettering community. When he started his business he didn't have a single nickel in deposits, and from that he has grown his business to over 400 families just from knocking on doors and meeting people. He has been trying for over a decade to secure zoning for this property that was completely dilapidated and now is a vacant lot that is producing no income.

Mr. Solada asked Mr. Bergstresser, Assistant City Manager to show him where he could place his curb cuts on his property. He feels like he has been manipulated because during demolition he gave up two curb cuts. He was under the assumption that once he had demolished the property and presented the new proposal that curb cuts would be allowed and the new proposal would move forward and it didn't. Right now he is maintaining property and his lawn guy has two choices to either jump a curb or trespass. He keeps the lawn clean but he has no curb cuts. He would formally like to ask Mr. Bergstresser to sit down with him in the next few days to show him where the city Engineering Department would think it would be safe to put two curb cuts.

Mayor Patterson mentioned this is a public hearing and not questions and answers.

Mr. Solada expressed he knows this is a public hearing but he has had situations where he has not been in the public (ex. on the phone or in person meetings) and nothing comes out of it.

Mr. Hamer, Law Director mentioned that curb cuts are a separate issue from what the City Council is here to hear this evening.

Mr. Solada expressed it is hard to capsule ten years. He is not a developer; he is just a regular guy. He saw a dilapidated property and he took encouragement from the city and Mr. Hundt. Mr. Roller had kind things to say about the property and that it could happen back in 2012, and the memo sent from Mr. Hundt placed Mr. Robillard and Mr. Roller on notice and they had more than enough time to tell him if he was going down the wrong path, and that didn't happen. It is a reasonable use at that intersection to have a property zoned commercial. The zoning as O-Office will be a better buffer as the residents of the south are looking at a restaurant to their north. With the office being there and the landscaping, it will be a better community. It is an appropriate use, and the new zoning attorney he has spoken with and other commercial developers are telling him this is probably not going to work, and he just doesn't know. Mr. Solada mentioned that is the end of his presentation and he would be happy to answer any questions.

Mayor Patterson asked if there are any comments from the public either for or against this matter; none were heard.

Mr. Solada expressed he had a question.

Mr. Patterson asked Mr. Hamer if he is allowed to entertain a question from the applicant.

Mr. Hamer informed Mayor Patterson that it is his choice if he would like to entertain a question from the applicant which is highly unusual for a presenter to question the City Council since they will be deciding on this matter.

Mr. Solada expressed his question is regarding the timing process.

Mr. Hamer mentioned City Council will take this matter under advisement and make a decision at a future meeting.

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

PUBLIC COMMENT ON LEGISLATION

ORDINANCES IN SECOND READING

RESOLUTIONS

A RESOLUTION
NO: 10584-21
BY: MR.KLEPACZ AND MR.LAUTAR

ACCEPTING THE FINDINGS AND RECOMMENDATIONS OF THE FACT FINDER IN SERB CASE NO. 2020-MED-10-1127 AND AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE KETTERING PROFESSIONAL FIREFIGHTERS, INTERNATIONAL ASSOCIATION OF FIREFIGHTERS LOCAL 2150, CONSISTENT WITH THOSE FINDINGS AND RECOMMENDATIONS OR AS MODIFIED BY MUTUAL AGREEMENT OF THE PARTIES

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

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

The following votes were recorded: Mr. Klepacz, Yea; Mr. Lautar, Yea; Mrs. Fisher, Yea; Mr. Duke, Yea; Mr. Wanamaker, 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: 10585-21
BY: MR.LAUTAR AND MRS.FISHER

AUTHORIZING THE CITY MANAGER TO PURCHASE ELECTRIC VEHICLE CHARGING STATIONS AND RELATED SERVICES THROUGH NEGOTIATED QUOTES OR A COOPERATIVE PURCHASING PROGRAM

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

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

The following votes were recorded: Mr. Klepacz, Yea; Mr. Lautar, Yea; Mrs. Fisher, Yea; Mr. Duke, Yea; Mr. Wanamaker, 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: 10586-21
BY: MRS.FISHER AND MR.DUKE

AUTHORIZING THE CITY MANAGER TO CONTRACT FOR TECHNOLOGY AND OTHER IMPROVEMENTS IN THE CLERK OF THE KETTERING MUNICIPAL COURT'S OFFICES

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

Mr. Scott, Kettering Municipal Clerk of Courts gave a brief description of the resolution.

The following votes were recorded: Mr. Klepacz, Yea; Mr. Lautar, Yea; Mrs. Fisher, Yea; Mr. Duke, Yea; Mr. Wanamaker, 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: 10587-21
BY: MR.DUKE AND MR.WANAMAKER

AUTHORIZING THE CITY MANAGER TO ACCEPT THE FIRST TRANCHE OF THE AMERICAN RESCUE PLAN ACT OF 2021 (ARPA) FUNDS AND AFFIRM THAT SUCH FUNDS WILL BE EXPENDED ONLY TO COVER CITY OF KETTERING EXPENDITURES FOR ELIGIBLE USES CONSISTENT WITH THE REQUIREMENTS OF ARPA, SEC. 9901, PUBLIC LAW 117-2

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; Mr. Lautar, Yea; Mrs. Fisher, Yea; Mr. Duke, Yea; Mr. Wanamaker, 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

CERTIFICATIONS AND PETITIONS

Certification- Planning Commission recommends vacation of P.C. 21-007- Request for street vacation at the northeast corner of Wilmington Pike and Brownleigh Road. A public hearing regarding this request will be held on Tuesday, July 13, 2021 at the Kettering City Council meeting.

MANAGER'S REPORT/COMMUNITY UPDATE

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

- Coming to the Frazee:
 - Hairball- Thursday, July 22 at 8:00 p.m.
 - The Menus- Friday, July 30 at 8:00 p.m.
 - Trace Adkins- Sunday, August 8 at 8:00 p.m.

Tickets can be purchased at the Frazee Fanfare store located in Town & Country Shopping Center, www.fraze.com, www.etix.com or charge-by-phone at 1-800-514-3849.

- Go 4th will be held on Sunday, July 4 at Delco Park.
- Kettering offices will be closed on Monday, July 5 in observance of the July 4th holiday. Rumpke will be delayed by one day.
- To download a block party request form residents can visit the city's website or call the Engineering Office at 937-296-2436.
- Celebrate summer by joining an awesome team of volunteers at the Frazee. For more information contact the Volunteer Office at 937-296-2433.
- To learn more or to nominate a neighbor for the city's Neighborhood Pride Award contact the Volunteer Office at 937-296-2433.

Mr. Schwieterman introduced Amy Schrimpf as the new Economic Development Manager for the City of Kettering.

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

COUNCIL COMMITTEE REPORTS

Mr. Lautar reported:

- On June 21 he attended the ribbon cutting for Kettering Health Senior Care.
- On June 22 he attended the retirement celebration for MaryLou Randolph.
- Mr. Wanamaker has been an asset to the city and city council and he will be missed.

Mr. Duke reported:

- On June 16 he attended the retirement celebration for Bill Ford.
- MaryLou Randolph, Volunteer Administrator will be retiring and will be missed.
- He is thankful to have served along Mr. Wanamaker and he will be missed.

Mr. Wanamaker reported:

- He will be resigning from his city council seat this evening due to health reasons. It has been a pleasure to have served the residents of the Kettering community.

Mr. Klepacz reported:

- On June 21 he attended the ribbon cutting for Kettering Health Senior Care.
- Shop local Kettering businesses.
- There are a lot of retirements happening within the city, but Mr. Wanamaker will truly be missed on city council.

Mrs. Fisher reported:

- Welcome Mrs. Schrimpf as the new Economic Development Manager.
- On June 22 she attended the retirement celebration for MaryLou Randolph.
- Mr. Wanamaker will be missed on city council.
- The Board of Community Relations will be sponsoring ice cream for Kettering block parties.
- The Board of Community Relations recently met with minority business owners in Kettering, please support local Kettering minority businesses.

Mayor Patterson reported:

- Mr. Wanamaker has served the Kettering community for over 60 years and he will be missed on city council.
- On June 10 he attended the retirement celebration for Gregg Gorsuch.
- On June 16 he attended the retirement celebration for Bill Ford.
- On June 19 he attended the Fishing Derby at Delco Park.
- On June 21 he attended the ribbon cutting for Kettering Health Senior Care.
- On June 22 he attended the retirement celebration for MaryLou Randolph.

They're being no further business to come before this meeting of the Kettering City Council; Mayor Patterson adjourned the City Council Meeting at 8:42 p.m.

ATTEST:

LaShaunah D. Kaczynski
Clerk of Council

DONALD E. PATTERSON, MAYOR