



CITY OF KETTERING

PEGGY LEHNER, MAYOR • JACQUE FISHER, VICE MAYOR
BRUCE E. DUKE • LISA DUVAL • TONY KLEPACZ • JYL HALL • BOB SCOTT

KETTERING COUNCIL AGENDA

March 14, 2023

Kettering Government Center – South Building
3600 Shroyer Rd. Kettering, Ohio 45429

6:00 P.M. **WORKSHOP** Deeds Room
7:30 P.M. **REGULAR MEETING** Council Chambers

PLEDGE OF ALLEGIANCE

INVOCATION

APPROVAL OF MINUTES

February 28, 2023- Council Meeting & Workshop Minutes

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

Special Presentation MLK Writing Contest Winners
Special Presentation Kettering Police Department Swearing-In Ceremony

PUBLIC HEARINGS

PUBLIC COMMENT ON LEGISLATION

(5 Minute Limit per Speaker)

ORDINANCES IN SECOND READING

RESOLUTIONS

1. Authorizing the City Manager to purchase television, radio, newspaper, billboard and internet advertising for the 2023 Frazee Pavilion performance season from various sources.
2. Authorizing the City Manager to use sealed bids, competitive bargaining and negotiated quotes, cooperative purchasing programs, or sole source suppliers to contract for the construction of Gentile Park.
3. Directing the City Engineer to prepare and file renewed, recalculated, amended and/or consolidated assessments for street lighting.
4. Authorizing the City Manager to accept a donation for the purchase of a dual purpose police canine and associated equipment.
5. Authorizing an additional expenditure of funds for engineering services with Heapy Engineering, Inc.
6. Authorizing the City Manager to use competitive bargaining and negotiated quotes to contract for audio visual upgrades at Kettering Recreation Complex.
7. Authorizing an amendment to the agreement with the Board of County Commissioners of Montgomery County, Ohio for application processing services under the U.S. Treasury's Emergency Rental Assistance Program.
8. 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, 2023.

ORDINANCES IN FIRST READING

9. To levy special assessments for the construction and repair of curbs, sidewalks, drive approaches, and related appurtenances for the Smithville Road Resurfacing- Wilmington Pike to North Corp Project (City Project Number 02-134F).

CERTIFICATIONS AND PETITIONS

Certification- Planning Commission is recommending approval of P.C. 23-001- Zoning Text Amendment. A public hearing regarding this request will be held on Tuesday, March 28, 2023 at the Kettering City Council meeting.

MANAGER’S REPORT/COMMUNITY UPDATE

OTHER BUSINESS NOT ON WRITTEN AGENDA

Audience Participation (5 Minute Limit per Speaker)

CITY COUNCIL REPORT/UPDATE

The City of Kettering wishes to make certain that all citizens have the opportunity to actively participate in their local government. If you have a disability and require accommodations to participate in a Council meeting, please contact the Clerk of Council at 296-2416 so that reasonable modifications can be made.

KETTERING CITY CALENDAR
2023

March 14	4:00 p.m. 6:00 p.m. 7:30 p.m.	Partners for Healthy Youth Council Workshop City Council Meeting
March 16	6:30 p.m.	Sustainability Committee
March 20	7:00 p.m. 7:00 p.m.	Planning Commission Board of Community Relations
March 23	6:00 p.m.	Strategic Plan Steering Committee
March 27	7:00 p.m. 7:30 p.m.	Board of Zoning Appeals Sister Cities
March 28	6:00 p.m. 7:30 p.m.	Council Workshop City Council Meeting

CITY OF KETTERING, OHIO

A RESOLUTION

By:

No.

**AUTHORIZING THE CITY MANAGER TO PURCHASE
TELEVISION, RADIO, NEWSPAPER, BILLBOARD AND
INTERNET ADVERTISING FOR THE 2023 FRAZE PAVILION
PERFORMANCE SEASON FROM VARIOUS SOURCES**

Be It Resolved by the Council of the City of Kettering, Ohio, that:

Section 1. Pursuant to Subsection "I" of Section 152.02 of the Codified Ordinances of the City of Kettering, the City Manager, on behalf of the City, is authorized to purchase, as necessary and under the terms and in the form the City Manager determines is in the interest of the City, television, radio, newspaper, billboard and internet advertising from various sources for the 2023 Frazee Pavilion performance season, without sealed bidding and without competitive bargaining.

Section 2. As provided in Section 4-8 of the City Charter, this Resolution takes effect immediately upon its adoption.

Passed by Council this _____ day of _____ 2023.

PEGGY LEHNER, Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. KACZYNSKI,
Clerk of Council

THEODORE A. HAMER III,
Law Director

Estimated cost: \$159,000.00
Amount Budgeted: \$145,000.00 2200-72740
\$14,000.00 2200-Personnel
(Not Hiring Group Leader – Marketing)
Acct. No.: 2200-72740

(Requested by: Parks, Recreation and Cultural Arts Department)

CITY OF KETTERING, OHIO
A RESOLUTION

By:

No.

**AUTHORIZING THE CITY MANAGER TO USE SEALED BIDS,
COMPETITIVE BARGAINING AND NEGOTIATED QUOTES,
COOPERATIVE PURCHASING PROGRAMS, OR SOLE SOURCE
SUPPLIERS TO CONTRACT FOR THE CONSTRUCTION OF
GENTILE PARK**

Be It Resolved by the Council of the City of Kettering, State of Ohio, that:

Section 1. The City Manager is hereby authorized, on behalf of the City, to use sealed bids, competitive bargaining and negotiated quotes, or cooperative purchasing programs and to enter into one or more contracts for the construction of Gentile Park. Further, if special circumstances make it advisable that the City deal with a sole source for any aspect of park construction, including without limitation playground equipment and signage, then the City manager may contract with sole source suppliers. The City Manager is further authorized to sign any amendments or extensions to any contracts that the City Manager deems appropriate.

Section 2. If bids are used, bids for such project shall be in accordance with the specifications on file in the Department of Finance, office of the Purchasing Manager. Bidding may be conducted electronically. The bids shall be opened at the time and place named in the advertisement for bids, unless extended by the City; or unless, within seventy-two hours prior to the published time for the opening of bids, excluding Saturdays, Sundays, and legal holidays, any modification of the plans or specifications for the project for which bids are solicited is issued and mailed or otherwise furnished to persons who have obtained plans or specifications for the project in which event the time for opening of bids shall be extended one week, with no further advertising of bids required. The City of Kettering shall and does reserve the right (a) to reject any or all bids so received, (b) to waive any irregularities in a bid, (c) to hold any bid up to sixty (60) days unless the time for awarding the contract is extended by mutual consent of the City and the bidder whose bid the City subsequently accepts or, (d) to accept that bid which, in the judgment of the City Manager, is in the best interest of the City.

Section 3. As provided in Section 4-8 of the City Charter, this Resolution takes effect immediately upon its adoption.

Passed by Council this _____ day of _____ 2023.

PEGGY LEHNER, Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. KACZYNSKI,
Clerk of Council

THEODORE A. HAMER III,
Law Director

Estimated Cost:	\$2,455,000.00
Amount Budgeted:	\$1,628,000.00 (\$1,487,000.00+\$141,000.00 ODNR grant for playground)
Account No.:	6106-77750 \$ 188,000.00 <u>6182-77750 \$ 2,267,000.00</u> \$ 2,455,000.00

(Requested by: Parks, Recreation and Cultural Arts Department)

CITY OF KETTERING, OHIO

A RESOLUTION

By:

No.

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

Be It Resolved by the Council of the City of Kettering, State of Ohio, that:

Section 1. The City Engineer is hereby directed to prepare and file in the office of the Clerk of Council renewed, recalculated, amended, and/or consolidated assessments for street lighting.

Section 2. The Clerk of Council shall arrange for publication in a newspaper of general circulation within the municipality, for two (2) consecutive weeks, a notice that the renewed, recalculated, amended, and/or consolidated street lighting assessments are on file and available for public inspection pursuant to Chapter 947 of the Codified Ordinances of the City of Kettering.

Section 3. As provided by Section 4-8 of the City Charter, this Resolution takes effect immediately upon its adoption.

Passed by Council this _____ day of _____ 2023.

PEGGY LEHNER, Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. KACZYNSKI,
Clerk of Council

THEODORE A. HAMER III,
Law Director

(Requested by: Engineering Department)

CITY OF KETTERING, OHIO

A RESOLUTION

By:

No.

**AUTHORIZING THE CITY MANAGER TO ACCEPT A
DONATION FOR THE PURCHASE OF A DUAL PURPOSE
POLICE CANINE AND ASSOCIATED EQUIPMENT**

WHEREAS, Mr. Greg McAfee has donated \$10,000.00 to the Kettering Police Foundation to enable the purchase of a dual purpose canine and associated equipment for use in police work by the Kettering Police Department; and

WHEREAS, this dual purpose canine will be a valuable resource for the Kettering Police Department in maintaining safety and order for residents in the City of Kettering;

NOW, THEREFORE, Be It Resolved by the Council of the City of Kettering, State of Ohio, that:

Section 1. The City Manager, on behalf of the City, is hereby authorized to take all necessary and proper action to accept from the Kettering Police Foundation a donation of \$10,000.00 for the purchase of a dual purpose police canine, associated equipment, and expenses.

Section 2. City Council hereby expresses its gratitude and appreciation to Mr. McAfee for his generous donation and the positive impact it will have on the City and its residents.

Section 3. As provided in Section 4-8 of the City Charter, this Resolution takes effect immediately upon its adoption.

Passed by Council this _____ day of _____ 2023.

PEGGY LEHNER, Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. KACZYNSKI,
Clerk of Council

THEODORE A. HAMER III,
Law Director

Estimated Cost: \$10,000.00
Amount Budgeted: \$0
Acct. No.: 0600-72220

(Requested by: Police Department)

CITY OF KETTERING, OHIO

A RESOLUTION

By:

No.

**AUTHORIZING AN ADDITIONAL EXPENDITURE OF FUNDS
FOR ENGINEERING SERVICES WITH HEAPY ENGINEERING,
INC.**

WHEREAS, in June 2020 the City entered into an agreement with Heapy Engineering, Inc. for engineering services, including design, on an as needed basis (the "Contract") and the Contract had an estimated cost below the threshold requiring Council approval; and

WHEREAS, Resolution No. 10783-22 ratified the Contract and authorized an additional expenditure of funds for engineering design services related to the Kettering Recreation Complex that exceeded the cost threshold requiring Council approval; and

WHEREAS, due to the need for additional engineering services for 2023 capital improvement projects, costs under the Contract during 2023 will again likely exceed the threshold requiring Council approval;

NOW, THEREFORE, Be It Resolved by the Council of the City of Kettering, State of Ohio, that:

Section 1. The City Manager is authorized, on behalf of the City, to expend \$50,000.00 under the Contract, subject to the change order provisions of C.O. 152.02(E), and to enter into any contract amendments that the City Manager deems appropriate.

Section 2. As provided in Section 4-8 of the City Charter, this Resolution takes effect immediately upon its adoption.

Passed by Council this _____ day of _____ 2023.

PEGGY LEHNER, Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. KACZYNSKI
Clerk of Council

THEODORE A. HAMER III
Law Director

Estimated Cost: \$50,000.00
Amount Budgeted: 100%
Acct. No. Various Per Project

(Requested by: Public Service Department)

CITY OF KETTERING, OHIO

A RESOLUTION

By:

No.

**AUTHORIZING THE CITY MANAGER TO USE COMPETITIVE
BARGAINING AND NEGOTIATED QUOTES TO CONTRACT
FOR AUDIO VISUAL UPGRADES AT KETTERING
RECREATION COMPLEX**

Be It Resolved by the Council of the City of Kettering, State of Ohio, that:

Section 1. On the basis that the City can often obtain lower prices and more favorable purchasing conditions through competitive bargaining and negotiated quotations than through sealed bids, the City Manager, on behalf of the City, is hereby authorized to use such bargaining and negotiation procedures and to enter into one or more contracts for audio visual upgrades at Kettering Recreation Complex. The City Manager is further authorized to sign any amendments or extensions thereto that the City Manager deems appropriate.

Section 2. As provided in Section 4-8 of the City Charter, this Resolution takes effect immediately upon its adoption.

Passed by Council this _____ day of _____ 2023.

PEGGY LEHNER, Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. KACZYNSKI,
Clerk of Council

THEODORE A. HAMER III,
Law Director

Estimated Cost: \$55,000.00
Amount Budgeted: \$55,000.00
Acct. No.: 6113-77750

(Requested by: Public Service Department)

CITY OF KETTERING, OHIO

A RESOLUTION

By:

No.

**AUTHORIZING AN AMENDMENT TO THE AGREEMENT WITH
THE BOARD OF COUNTY COMMISSIONERS OF MONTGOMERY
COUNTY, OHIO FOR APPLICATION PROCESSING SERVICES
UNDER THE U.S. TREASURY'S EMERGENCY RENTAL
ASSISTANCE PROGRAM**

WHEREAS, Resolution No. 10802-22 dated October 11, 2022 authorized the City Manager to enter into an agreement with the Board of County Commissioners of Montgomery County, Ohio to provide application processing and related services for Montgomery County under the U.S. Treasury's Emergency Rental Assistance Program to assist persons who have been impacted by COVID-19 and who meet all program requirements, with the main goal to keep those persons housed; and

WHEREAS, additional program funding has again become available;

NOW THEREFORE, be it resolved by the Council of the City of Kettering, State of Ohio, that:

Section 1. In order to accept and administer additional program funding, the City Manager is authorized to take all action necessary to amend the agreement with the Board of County Commissioners of Montgomery County, Ohio for application processing and related services under the U.S. Treasury's Emergency Rental Assistance Program. The City Manager is further authorized to sign any additional amendments or extensions thereto that the City Manager deems appropriate.

Section 2. As provided in Section 4-8 of the City Charter, this Resolution takes place immediately upon its adoption.

Passed by Council this _____ day of _____ 2023.

PEGGY LEHNER, Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. KACZYNSKI,
Clerk of Council

THEODORE A HAMER III,
Law Director

Estimated Cost: \$2,000,000.00
Funds Available: \$0.00
Acct. No.: Special Grants & Programs

(Requested by: Planning and Development Department)

CITY OF KETTERING, OHIO

A RESOLUTION

By:

No.

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, 2023

Be It Resolved by the Council of the City of Kettering, State of Ohio, that:

Section 1. To provide for the current expenses and other expenditures of the City of Kettering during the fiscal year ending December 31, 2023, the following supplemental sums are set aside and appropriated:

A. From the General Fund:

ECONOMIC DEVELOPMENT DEPARTMENT	
Operating Expenses	\$15,000.00
POLICE DEPARTMENT	
Operating Expenses	\$10,000.00
TRANSFERS TO OTHER FUNDS	
Capital Improvement Fund	\$827,000.00

B. From the Special Grants and Programs Fund:

Other	\$2,000,000.00
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C. From the Capital Improvement Fund:

PARKS & RECREATION	\$827,000.00
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Section 2. The Director of Finance is authorized to adjust appropriations within any fund or department as long as the adjustments made do not exceed the total appropriation authorized within that fund or department.

Section 3. The Clerk of Council is authorized and directed to forward a copy of this Resolution to the Montgomery County Auditor.

Section 4. As provided in Section 4-8 of the City Charter, this Resolution takes effect immediately upon its adoption.

Passed by Council this _____ day of _____ 2023.

PEGGY LEHNER, Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. KACZYNSKI,
Clerk of Council

THEODORE A. HAMER III,
Law Director

Estimated Cost: \$2,852,000.00 net transfer
Amount Budgeted: \$0.00
Acct. No. Various

(Requested by: Finance Department)

CITY OF KETTERING, OHIO

AN ORDINANCE

By:

No.

**TO LEVY SPECIAL ASSESSMENTS FOR THE
CONSTRUCTION AND REPAIR OF CURBS, SIDEWALKS,
DRIVE APPROACHES, AND RELATED APPURTENANCES
FOR THE SMITHVILLE ROAD RESURFACING-
WILMINGTON PIKE TO NORTH CORP PROJECT (CITY
PROJECT NUMBER 02-134F)**

WHEREAS, on October 12, 2021 this Council adopted Resolution No. 10634-21, a Resolution of Necessity, declaring the necessity to construct and repair curbs, sidewalks, driveway approaches, and related appurtenances, as part of the Smithville Road Resurfacing-Wilmington Pike to North Corp Project, City Project Number 02-134F (the "Project"); and

WHEREAS, notice of the passage of that Resolution of Necessity was given as required by law; and

WHEREAS, the City of Kettering subsequently constructed and/or repaired those curbs, sidewalks, driveway approaches, and related appurtenances which were not constructed or repaired by the owners of the abutting property; and

WHEREAS, the total cost of the construction has been reported to this Council; and a list of estimated assessments of that total cost has been prepared and placed on file in the office of the Clerk of this Council so as to be available for public inspection, and a copy of said list is attached hereto as Exhibit A and made a part of this Ordinance; and

WHEREAS, notice that the list of estimated assessments was available for inspection and examination was published as required by law in a newspaper of general circulation; and

WHEREAS, no objections to any assessment have been filed; and

WHEREAS, this Council has now reviewed the estimated assessments;

NOW, THEREFORE, Be It Ordained by the Council of the City of Kettering, Ohio, that:

Section 1. The list of estimated assessments referred to in the above recital paragraphs is hereby approved.

Section 2. The amounts of assessment on the list are hereby and shall be levied upon the lots and lands which abut the improvements, as set forth on the list.

Section 3. No assessment approved or levied by this Ordinance exceeds the special benefits resulting from the improvement and does not exceed any statutory limitation.

Section 4. The Clerk of Council is authorized and directed to continue to keep on file in her office until all the assessments have been paid in full a list of the assessments and the description of the lots and lands so assessed.

Section 5. The total assessment against each lot and parcel of land shall be payable in cash to the Finance Director of the City of Kettering by August 25, 2023, or, at the option of the property owner, shall be payable in not more than ten (10) annual installments over a period not exceeding ten (10) years, with the exact number of annual installments subject to the amount of the assessment, in accordance with the schedule set forth below:

<u>ASSESSMENT AMOUNT</u>	<u>ANNUAL INSTALLMENTS</u>	<u>INTEREST RATE</u>
\$0.01-249.99	1	2.89%
\$250.00-1499.99	5	2.64%
\$1500 & OVER	10	2.61%

Assessments paid in annual installments shall include all costs of the County Auditor and shall also include interest at the rates set forth in the above table.

All assessments and assessment installments that have not been paid at the expiration of the payment period allowed by this Ordinance shall, within fourteen (14) working days following such date of expiration, be certified by the Clerk of this Council to the County Auditor as provided by law. These assessments and installments shall then be placed on the tax duplicate and collected at the same time and in the same manner as real estate taxes are collected.

Section 6. The Clerk of Council is authorized and directed to cause notice of the passage of this Ordinance to be published once in a newspaper of general circulation in the City; the notice shall state that the assessments have been made and are on file in the office of the Clerk of Council for inspection and examination by interested persons.

Section 7. The Clerk of Council is authorized and directed to cause notice of the levy of the assessments to be filed with the County Auditor within twenty (20) days following the passage of this Ordinance. The Clerk of Council may provide such additional information to the County Auditor as may be required to effectuate the assessments, including, by way of example and without limitation, a summary of the assessments in table format containing only information requested by the County Auditor.

Section 8. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting; and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public, to the extent required by or under the Charter of this City.

Section 9. As provided in Section 4-8 of the City Charter, this Ordinance shall be effective two weeks after adoption.

Passed by Council this _____ day of _____ 2023.

PEGGY LEHNER, Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. KACZYNSKI,
Clerk of Council

THEODORE A. HAMER III,
Law Director

(Requested by Engineering Department)

EXHIBIT A

(3 pages including this page)



CITY OF KETTERING
PLANNING & DEVELOPMENT DEPARTMENT

CERTIFICATION

DATE: March 10, 2023
TO: Mayor and Council, City of Kettering
FROM: Planning Commission
SUBJECT: PC-23-001 - Zoning Text Amendment

Planning Commission hereby certifies that a public hearing was held on March 6, 2023 with a decision reached at that meeting concerning a request to amend selected portions of the City of Kettering Zoning Code.

Planning Commission hereby submits its recommendation to Council that the requested zoning code text amendments be approved

Vote of the Planning Commission

The motion recommending approval was passed by a vote of 3:0.

Reason for Request

The primary purpose of this request is to make selected revisions to the City of Kettering Zoning Code. The amendments will correct and clarify areas of conflict, serve to introduce best practices, and modernize and expand flexibility, particularly for the reuse of existing developed properties. This amendment also modifies the permitted uses table by removing vehicle sales/rental, vehicle fueling/recharging, and self/mini storage uses from the Business Park (BP) Zoning District, which is Kettering's Industrial Zoning District. Self & Mini storage uses are also removed from the Business (B) Zoning District as an allowable Conditional Use.

Respectfully submitted,

KETTERING PLANNING COMMISSION

By: Ryan Homs, City Planner
Planning and Development Department