

**THE CITY OF KENT, OHIO  
REGULAR COUNCIL MEETING  
WED., OCTOBER 21, 2009**

This regular meeting of Kent City Council was called to order on Wed., Oct. 21, 2009, at 7:30 p.m. by Mayor & President of Council John Fender.

**PRESENT:** MR. AMRHEIN, MR. DELEONE, MR. FERRARA, MR. HAWKSLEY, MR. KUHAR, MS. SHAFFER, MR. TURNER, MS. WALLACH, AND MR. WILSON

**ALSO PRESENT:** J. FENDER, MAYOR; D. RULLER, CITY MANAGER; J. SILVER, LAW DIRECTOR; AND L. COPLEY, CLERK OF COUNCIL

Mayor Fender welcomed those present, and called upon Mr. Hawksley for his opening remarks.

Mr. Hawksley said he wished to join Mr. Ferrara's comments from the September meeting, and thanked Mayor Fender for his many years as Mayor.

Following his opening remarks, Mr. Hawksley led those present in the Pledge of Allegiance.

**MOTION TO APPROVE THE MINUTES OF THE REGULAR COUNCIL MEETING OF SEPTEMBER 16, 2009 AND THE WORK SESSION OF SEPTEMBER 16, 2009.**

Motion made by Mr. Hawksley, seconded by Mr. DeLeone, and carried by a voice vote of 9-0.

**MOTION TO APPROVE THE(2) PUBLIC HEARINGS OF OCTOBER 7, 2009.**

Motion made by Mr. Hawksley, seconded by Mr. Ferrara, and carried by a voice vote of 8-0-1, with Ms. Wallach abstaining.

Mayor Fender called for audience communication at this time. He explained that members of the audience wishing to address Council should sign up with the Clerk of Council prior to speaking.

**Dave Williams:** Mr. Williams asked that in event there are comments from the floor beyond their presentation that he has a minute for rebuttal.

**Aaron Meadows, Presbyterian Church Pastor:** Rev. Meadows said he wished to speak in favor of the motion regarding the rezoning amendment for the church.

**Dave Williams:** Mr. Williams said there is a request for a zoning change that is before Council. He said if they need to do anything else at this time, they would be happy to do it. He asked that they consider the language as proposed.

Hearing no further audience comment, Mayor Fender called for written correspondence at this time.

The Clerk reported that notification was received from the Ohio Division of Liquor Control on Sept. 21, 2009. She said they advised a request for a new C1 & C2 license had been received from Walgreen Co., dba Walgreens 05639, 320 S. Water St., Kent, OH 44240. The Clerk said that the deadline for objections is Oct. 22, 2009, and Safety Director Lillich has advised there are no objections to this license.

**MOTION TO RETURN WITH NO OBJECTIONS.**

Motion made by Mr. Wilson, seconded by Mr. Ferrara, and carried by a voice vote of 9-0.

The Clerk reported that a letter was received from Cari Orris, on Sept. 24, 2009, thanking Council for the opportunity to rent office space in the City's incubator. She said that Ms. Orris advised that she is currently operating her business in downtown Kent. The Clerk said this letter was previously forwarded to all members of Council.

The Clerk reported that the FY2008 Consolidated Annual Performance and Evaluation Reporter (CAPER) was placed on file on Oct. 5, 2009 and made available on the City's website for the mandatory fifteen-day public comment period.

The Clerk reported that the Comprehensive Annual Financial Report for the year ending 12/31/2008 was received from the State Auditor's office on October 14, 2009.

The Clerk reported that prior to the start of this meeting, minutes of the September Standing Rock Cemetery Board meeting were placed on file by Council's representative, Mr. DeLeone.

The Clerk reported that Mr. Wilson, the liaison to the Park Board, placed the September and October agenda packets on file in the Council office earlier in the evening.

Mayor Fender called upon the City Manager for his report.

#### **MOTION TO APPROVE ITEMS #1 THROUGH #12**

Motion made by Mr. Wilson, seconded by Mr. Ferrara, and carried by a voice vote of 9-0.

The following items were approved by the aforementioned motion:

- 1) Authorization of Draft No. 09-116, accepting a \$3000 donation from the VFW Post 3703
- 2) Authorization of Draft No. 09-123, accepting tax amounts and rates as determined by the Portage County Budget Commission
- 3) Finance Committee time, proposed 2010 water rate increase
- 4) Finance Committee time, acceptance of grant, Admore skatepark
- 5) Finance Committee time, consideration of Phase 2 of the regional fire services study
- 6) Land Use Committee time, change in approved land use for 1238 W. Main Street
- 7) Land Use Committee time, swap of land for Parks and Recreation on Middlebury Rd.
- 8) Community Development Committee time, EDA Revolving Loan Fund certification
- 9) Community Development Committee time, Final acceptance/approval of downtown design guidelines
- 10) Streets, Sidewalks & Utilities Committee, consideration of Plum Creek Park conservation easements
- 11) Authorization for \$700 for food to support the regional emergency response teams assisting on Halloween night
- 12) Authorization for \$800 for food and related expenses for the City's bi-annual Town & Gown dinner

#### **MOTION TO RECESS INTO EXECUTIVE SESSION, PRIOR TO THE ADJOURNMENT OF THIS MEETING, FOR PENDING LITIGATION AND LAND ACQUISITION.**

Motion made by Mr. Wilson, seconded by Mr. Ferrara.

Roll call was taken on the motion. Voting aye: Mr. DeLeone, Mr. Ferrara, Mr. Hawksley, Mr. Kuhar, Ms. Shaffer, Mr. Turner, Ms. Wallach, Mr. Wilson, and Mr. Amrhein. The motion carried by a roll call vote of 9-0.

#### **STANDING COMMITTEE REPORTS**

##### **FINANCE COMMITTEE**

#### **MOTION TO APPROVE THE WRITTEN REPORT OF OCT. 7, 2009.**

Motion made by Mr. Wilson, seconded by Mr. DeLeone, and carried by a voice vote of 8-0-1, with Ms. Wallach abstaining.

#### **MOTION TO APPROVE RECOMMENDED ACTION #2, WITH THE ADMINISTRATION RETURNING WITH BUDGET PROPOSALS, WITH MORE ALTERNATIVES, WITH A MINIMUM CUT OF \$52,944**

**AND RECOMMENDED ACTION #3, AUTHORIZING THE AMENDMENTS TO THE 2009 APPROPRIATIONS ORDINANCE.**

Motion made by Mr. Wilson, seconded by Mr. DeLeone, and carried by a voice vote of

**MOTION TO APPROVE RECOMMENDED ACTION #1, TO AUTHORIZE THE ENERGY CONSERVATION PROJECTS FOR THE WATER AND WATER RECLAMATION PLAN FOR 2009, AND TO ALLOCATE UP TO \$33,600 FOR SOLAR HOT WATER FOR FIRE STATION #1, EVALUATING IF IT CAN BE DONE FOR LESS MONEY.**

Motion made by Mr. Hawksley, seconded by Ms. Shaffer.

Mr. Wilson said it is a total waste of money. He said the technology is not there for solar hot water, adding they may find the technology some day, adding it may not be solar. He said it is a bad investment if the payback is twenty to thirty years. He said it should be dropped from the list.

Mr. Kuhar said he is an expert in the field of solar energy. He said solar energy for water is a "different animal" than the solar energy that produces electricity. He said the technology has almost been perfected over twenty years on domestic water heating, adding they recapture almost 98% of what the sun puts out. He said that \$33,000 is a little high for any system he would think of for the fire station, which is why they allowed the Administration to see if it can be done for less money. He said he felt they would find a payback of less than 20 years. He said Kent will make a statement to the rest of the country and the community that they are trying to do things to move forward to a green ecology. He said they are not a business that needs a three-year payback of their money. He said he would support this 100%.

The motion carried by a voice vote of 6-2, with Mr. Wilson, Mr. Ferrara, and Mr. DeLeone dissenting.

**MOTION TO APPROVE RECOMMENDED ACTION #4, TO ASK THE ADMINISTRATION TO COME BACK WITH A FIVE YEAR ANALYSIS OF CONSTRUCTION PROJECTS, AND WHAT THAT RESIDENCY REQUIREMENT WOULD DO, REVENUE WISE, TO THE CITY.**

Motion made by Mr. Hawksley, seconded by Mr. Turner.

Mr. Wilson said he would vote against this motion. He said it would make the City less than workable as far as getting developers in Kent. He said they are going to tie the hands of developers or contractors, adding it will drive up the price of something. He said the Administration has more important things to look at currently.

Mr. Kuhar said this does not appear to be written the way they are trying to accomplish. He said they are trying to make an incentive and/or a study of what they can do to help Kent residents work on the projects. He said he did not believe it was restricting anything at this point, unless he misunderstood what they discussed previously.

Mr. Turner deferred to Mr. Hawksley at this time.

Mr. Hawksley said they are just asking the Administration for a number, and whether it applies to a \$100,000 project or a \$500,000 project. He said it is fairly simple, and should not be time consuming. He said they can then decide if it is worth pursuing something. He said he supports the recommendation.

Mr. Ferrara agreed with Mr. Hawksley that it may be worth knowing what that number is, but he agrees with Mr. Wilson that they are putting unnecessary constraints on what could be potential business in Kent. He said they are putting too many restrictions on future development in Kent. Mr. Ferrara concluded he would vote against the motion.

Mr. Turner said the overall intent was to see how they could employ Kent City residents, adding it was not meant to create obstacles for developers. He said it is about money developers need for public/private collaborations. He said the other issues are whether there are situations where the City expends money, and the possibility they could have more Kent City, JEDD and Portage County residents participating in those projects. He said this creates a new economy for the community by localizing the monies they will

use on projects. Mr. Turner said this is not meant to obstruct or create obstacles for developers, but, instead, is meant to try and employ Kent City residents.

Ms. Shaffer said she is looking beyond individual residents and is looking at subcontractors. She said if they have a local preference for subcontractors, they would help their local businesses and also contribute to their revenue stream. She said it is difficult to track down the out-of-town subcontractors that come and go. She said they do not tend to capture the tax revenue from those businesses. She said if they looked at having a local preference for subcontractors and a hiring preference for Kent residents, it would be a benefit, not a hurdle, to the community. She said she would support the motion.

The motion carried by a hand vote of 7-2, with Mr. Wilson and Mr. Ferrara dissenting.

The Mayor asked the Clerk to read Draft No. 09-116 by title only at this time.

**AN ORDINANCE ACCEPTING A DONATION IN THE AMOUNT OF \$3,000.00 TO THE CITY OF KENT POLICE DEPARTMENT FROM THE VETERANS OF FOREIGN WARS (VFW POST 3703) FOR CURRENT AND FUTURE EXPENSES RELATED TO SUPPORTING THE K-9 PROGRAM, AND DECLARING AN EMERGENCY.**

**MOTION TO SUSPEND THE THREE READINGS.**

Motion made by Mr. Wilson, seconded by Mr. Ferrara.

Roll call was taken on the motion. Voting aye: Mr. Ferrara, Mr. Hawksley, Mr. Kuhar, Ms. Shaffer, Mr. Turner, Ms. Wallach, Mr. Wilson, Mr. Amrhein, and Mr. DeLeone. The motion carried by a roll call vote of 9-0.

**MOTION TO ADOPT THE DRAFT ORDINANCE.**

Motion made by Mr. Wilson, seconded by Mr. Kuhar.

Roll call was taken on the motion. Voting aye: Mr. Ferrara, Mr. Hawksley, Mr. Kuhar, Ms. Shaffer, Mr. Turner, Ms. Wallach, Mr. Wilson, Mr. Amrhein, and Mr. DeLeone. The motion carried by a roll call vote of 9-0.

**2009-107: AN ORDINANCE ACCEPTING A DONATION IN THE AMOUNT OF \$3,000.00 TO THE CITY OF KENT POLICE DEPARTMENT FROM THE VETERANS OF FOREIGN WARS (VFW POST 3703) FOR CURRENT AND FUTURE EXPENSES RELATED TO SUPPORTING THE K-9 PROGRAM, AND DECLARING AN EMERGENCY.**

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Linda M. Copley, Clerk of Council

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John Fender, Mayor & President of Council

The Mayor asked the Clerk to read Draft No. 09-121 by title only at this time.

**AN ORDINANCE AMENDING ORDINANCE NO. 2008-220, THE CURRENT APPROPRIATION ORDINANCE, PASSED DECEMBER 3, 2008; AS AMENDED BY ORDINANCE NO. 2009-26, PASSED FEB. 18, 2009; AS AMENDED BY ORDINANCE NO. 2009-32, PASSED MARCH 18, 2009; AS AMENDED BY ORDINANCE NO. 2009-41, PASSED APRIL 15, 2009; AS AMENDED BY ORDINANCE NO. 2009-50, PASSED MAY 20, 2009; AND AS AMENDED BY ORDINANCE NO. 2009-67, PASSED JUNE 17, 2009, SO AS TO INCREASE APPROPRIATIONS IN FUND 001, GENERAL; FUND 102, S.C.M.R.; FUND 116, INCOME TAX; FUND 126, COMMUNITY DEVELOPMENT BLOCK GRANT; FUND 127, NEIGHBORHOOD STABILIZATION PROGRAM; FUND 128, FIRE & EMS; AND TO DECREASE APPROPRIATIONS IN FUND 201, WATER; FUND 202, SEWER; FUND 208, STORM WATER; AND FUND 301, CAPITAL PROJECTS, AND SO AS TO ADJUST TRANSFERS INVOLVING FUND 001, GENERAL AND FUND 127, NEIGHBORHOOD STABILIZATION, AND DECLARING AN**

**EMERGENCY.**

**MOTION TO SUSPEND THE THREE READINGS.**

Motion made by Mr. Wilson, seconded by Mr. Ferrara.

Roll call was taken on the motion. Voting aye: Mr. Hawksley, Mr. Kuhar, Ms. Shaffer, Mr. Turner, Ms. Wallach, Mr. Wilson, Mr. Amrhein, Mr. DeLeone, and Mr. Ferrara. The motion carried by a roll call vote of 9-0.

**MOTION TO ADOPT THE DRAFT ORDINANCE.**

Motion made by Mr. Wilson, seconded by Mr. Ferrara.

Roll call was taken on the motion. Voting aye: Mr. Hawksley, Mr. Kuhar, Ms. Shaffer, Mr. Turner, Ms. Wallach, Mr. Wilson, Mr. Amrhein, Mr. DeLeone, and Mr. Ferrara. The motion carried by a roll call vote of 9-0.

**2009-108: AN ORDINANCE AMENDING ORDINANCE NO. 2008-220, THE CURRENT APPROPRIATION ORDINANCE, PASSED DECEMBER 3, 2008; AS AMENDED BY ORDINANCE NO. 2009-26, PASSED FEB. 18, 2009; AS AMENDED BY ORDINANCE NO. 2009-32, PASSED MARCH 18, 2009; AS AMENDED BY ORDINANCE NO. 2009-41, PASSED APRIL 15, 2009; AS AMENDED BY ORDINANCE NO. 2009-50, PASSED MAY 20, 2009; AND AS AMENDED BY ORDINANCE NO. 2009-67, PASSED JUNE 17, 2009, SO AS TO INCREASE APPROPRIATIONS IN FUND 001, GENERAL; FUND 102, S.C.M.R.; FUND 116, INCOME TAX; FUND 126, COMMUNITY DEVELOPMENT BLOCK GRANT; 127, NEIGHBORHOOD STABILIZATION PROGRAM; FUND 128, FIRE & EMS; AND TO DECREASE APPROPRIATIONS IN FUND 201, WATER; FUND 202, SEWER; FUND 208, STORM WATER; AND FUND 301, CAPITAL PROJECTS, AND SO AS TO ADJUST TRANSFERS INVOLVING FUND 001, GENERAL AND FUND 127, NEIGHBORHOOD STABILIZATION, AND DECLARING AN EMERGENCY.**

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Linda M. Copley, Clerk of Council

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John Fender, Mayor & President of Council

The Mayor asked the Clerk to read Draft No. 09-123 by title only at this time.

**RESOLUTION ACCEPTING THE AMOUNTS AND RATES AS DETERMINED BY THE BUDGET COMMISSION AND AUTHORIZING THE NECESSARY TAX LEVIES AND CERTIFYING THEM TO THE COUNTY AUDITOR.**

**MOTION TO SUSPEND THE THREE READINGS.**

Motion made by Mr. Wilson, seconded by Mr. DeLeone.

Roll call was taken on the motion. Voting aye: Mr. Kuhar, Ms. Shaffer, Mr. Turner, Ms. Wallach, Mr. Wilson, Mr. Amrhein, Mr. DeLeone, Mr. Ferrara, and Mr. Hawksley. The motion carried by a roll call vote of 9-0.

**MOTION TO ADOPT THE DRAFT ORDINANCE.**

Motion made by Mr. Wilson, seconded by Mr. Ferrara.

Roll call was taken on the motion. Voting aye: Mr. Kuhar, Ms. Shaffer, Mr. Turner, Ms. Wallach, Mr. Wilson, Mr. Amrhein, Mr. DeLeone, Mr. Ferrara, and Mr. Hawksley. The motion carried by a roll call vote of 9-0.

**2009-109: RESOLUTION ACCEPTING THE AMOUNTS AND RATES AS DETERMINED BY THE BUDGET COMMISSION AND AUTHORIZING THE NECESSARY TAX LEVIES AND CERTIFYING THEM TO THE COUNTY AUDITOR.**

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Linda M. Copley, Clerk of Council

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John Fender, Mayor & President of Council

## **LAND USE COMMITTEE**

### **MOTION TO APPROVE THE WRITTEN REPORT OF OCT. 7, 2009.**

Motion made by Mr. Ferrara. seconded by Mr. DeLeone, and carried by a voice vote of 8-0-1, with Ms. Wallach abstaining.

### **MOTION TO AUTHORIZE THE ZONING AMENDMENT TO THE O-R DISTRICT, WITH THE EMERGENCY CLAUSE.**

Motion made by Mr. Ferrara. seconded by Mr. DeLeone, and carried by a voice vote of 9-0.

### **Motion TO AUTHORIZE THE ZONING AMENDMENT TO THE UNIVERSITY DISTRICT, WITH THE EMERGENCY CLAUSE.**

Motion made by Mr. Ferrara, seconded by Mr. DeLeone.

Ms. Shaffer said the more she read the actual text of the amendment, the more concerned she became, because it was written in a vague way. Ms. Shaffer said it potentially opens the land up to "just about anything". She said she would like to suggest an amendment at this time.

### **MOTION TO AMEND THE AMENDMENT SO AS TO MAKE IT MORE SPECIFIC, STRIKING THE WORDS IN THE FIRST LINE, FOLLOWING THE WORDS "PERMITTED USES", AS FOLLOWS: WHEN OWNED OR SPONSORED BY CHURCHES, OTHER RELIGIOUS ORGANIZATIONS, PUBLIC OR QUASI-PUBLIC ORGANIZATION, AND/OR PRIVATE ORGANIZATION AND TO REVISE THE LAST SENTENCE AS FOLLOWS: COMMON STUDENT DINING HALL, FOOD COURTS, CONFECTIONARIES, AND LOUNGES ARE PERMITTED IF THEY ARE PART OF A RESIDENTIAL, EDUCATIONAL, OR RECREATIONAL FACILITY.**

Motion made by Ms. Shaffer, seconded by Mr. Hawksley.

Ms. Shaffer said the language does not limit uses. She questioned what the words "common student" referred to also. She said her proposed language would tie the uses back to the listed uses. She said while there is not that much privately-owned land in that district, it could happen if the University sells land. She said she did not want another commercial district, adding there would be a temptation because it is so close to a huge market. She said they already had a lot of development in that direction, and she wanted to be sure the downtown was the center of gravity. Ms. Shaffer said she did not want to restrict the church's proposed use, adding it is a consistent usage. She said she wanted to avoid opening the door for other possible uses.

Mr. Kuhar said he was a little concerned in the Committee discussion as it involved the entire district. He said Ms. Shaffer came up with some good things that allowed the Presbyterian Church to do what they want to do, without affecting the community in the future. He said he would support the amendment.

Mr. Wilson said he understood Ms. Shaffer to say that the purpose of this amendment was to be sure that business stayed in the downtown, and Ms. Shaffer said that was part of it. She said that she is an editor, and she looks for modifier words. She said the language suggests there are other possible uses.

Ms. Shaffer said if she were a lawyer, she could argue if she wanted to open a food court for the general public. Mr. Wilson told her that because she was stopping one thing to protect another, the lawyers will have a field day if it is passed that way. He said he would vote against the amendment.

The amendment carried by a hand count of 5-4, with Mr. Ferrara, Mr. Amrhein, Mr. DeLeone, and Mr. Wilson dissenting.

The Mayor asked the Clerk to read the main motion, as amended at this time, and the Clerk deferred to

Ms. Shaffer. Ms. Shaffer reread the section, as amended, at this time.

The main motion carried by a hand count of 6-3, with Mr. Wilson, Mr. Amrhein, and Mr. DeLeone dissenting.

The Mayor asked the Clerk to read Draft No. 09-119 by title only at this time.

**AN ORDINANCE AMENDING SECTION 1147 OF THE CODIFIED ORDINANCES OF THE CITY OF KENT, ENTITLED “U: UNIVERSITY DISTRICT”, SO AS TO ADD CHURCH OWNED OR SPONSORED EDUCATIONAL, RECREATIONAL, AND/OR RESIDENTIAL USES AS A PERMITTED USE IN SAID DISTRICT, AND DECLARING AN EMERGENCY.**

**MOTION TO SUSPEND THE THREE READINGS.**

Motion made by Mr. Kuhar, seconded by Mr. Hawksley.

Roll call was taken on the motion. Voting aye: Ms. Shaffer, Mr. Turner, Ms. Wallach, Mr. Wilson, Mr. Amrhein, Mr. DeLeone, Mr. Ferrara, Mr. Hawksley, and Mr. Kuhar. The motion carried by a roll call vote of 9-0.

**MOTION TO ADOPT THE DRAFT ORDINANCE.**

Motion made by Mr. Ferrara, seconded by Mr. Kuhar.

Roll call was taken on the motion. Voting aye: Ms. Shaffer, Mr. Turner, Ms. Wallach, Mr. Amrhein, Mr. DeLeone, Mr. Ferrara, Mr. Hawksley, and Mr. Kuhar. Mr. Wilson dissented. The motion carried by a roll call vote of 8-1.

**2009-110: AN ORDINANCE AMENDING SECTION 1147 OF THE CODIFIED ORDINANCES OF THE CITY OF KENT, ENTITLED “U: UNIVERSITY DISTRICT”, SO AS TO ADD CHURCH OWNED OR SPONSORED EDUCATIONAL, RECREATIONAL, AND/OR RESIDENTIAL USES AS A PERMITTED USE IN SAID DISTRICT, AND DECLARING AN EMERGENCY.**

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Linda M. Copley, Clerk of Council

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John Fender, Mayor & President of Council

The Mayor asked the Clerk to read Draft No. 09-120 by title only at this time.

**AN ORDINANCE AMENDING SECTION 1125 OF THE CODIFIED ORDINANCES OF THE CITY OF KENT, ENTITLED “O-R: OPEN SPACE - RECREATION DISTRICT”, SO AS TO ADD PUBLIC OR PRIVATE SCHOOLS AS A CONDITIONALLY PERMITTED USE IN SAID DISTRICT, AND DECLARING AN EMERGENCY.**

**MOTION TO SUSPEND THE THREE READINGS.**

Motion made by Mr. DeLeone, seconded by Mr. Ferrara.

Roll call was taken on the motion. Voting aye: Mr. Turner, Ms. Wallach, Mr. Wilson, Mr. Amrhein, Mr. DeLeone, Mr. Ferrara, Mr. Hawksley, Mr. Kuhar, and Ms. Shaffer. The motion carried by a roll call vote of 9-0.

**MOTION TO ADOPT THE DRAFT ORDINANCE.**

Motion made by Mr. Ferrara, seconded by Mr. Wilson.

Roll call was taken on the motion. Voting aye: Mr. Turner, Ms. Wallach, Mr. Wilson, Mr. Amrhein, Mr. DeLeone, Mr. Ferrara, Mr. Hawksley, Mr. Kuhar, and Ms. Shaffer. The motion carried by a roll call vote of 9-0.

**2009-111: AN ORDINANCE AMENDING SECTION 1125 OF THE CODIFIED ORDINANCES OF THE CITY OF KENT, ENTITLED "O-R: OPEN SPACE - RECREATION DISTRICT", SO AS TO ADD PUBLIC OR PRIVATE SCHOOLS AS A CONDITIONALLY PERMITTED USE IN SAID DISTRICT, AND DECLARING AN EMERGENCY.**

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Linda M. Copley, Clerk of Council

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John Fender, Mayor & President of Council

**STREETS, SIDEWALKS & UTILITIES COMMITTEE**

**MOTION TO APPROVE THE WRITTEN REPORT OF OCT. 7, 2009.**

Motion made by Mr. DeLeone, seconded by Mr. Hawksley, and carried by a voice vote of 8-0-1, with Ms. Wallach abstaining.

**MOTION TO APPROVE RECOMMENDED ACTIONS #1 THRU #6, AND #8.**

Motion made by Mr. Hawksley, seconded by Mr. Ferrara, and carried by a voice vote of 9-0.

The following items were approved by the aforementioned motion:

- 1) TO APPROVE ACCEPTANCE OF THE DONATION OF TWO EASEMENTS FROM KENT STATE FOR THE SR 59 SIGNALIZATION PROJECT.
- 2) TO APPROVE RECOMMENDED ACTION #2, TO AUTHORIZE THE AGREEMENT WITH ODOT FOR THE SR 59 SIGNALIZATION PROJECT.
- 3) TO AUTHORIZE THE DRAFT ORDINANCE ON CIVIL CITATIONS, FOR SIDEWALK SNOW REMOVAL, AS DISCUSSED AND MODIFIED, REDUCING THE WARNINGS TO ONE WARNING.
- 4) TO HOLD THE SNOW PLOW OPERATORS' LICENSING PROGRAM IN ABEYANCE FOR A FUTURE DATE BASED ON AN ADMINISTRATIVE RECOMMENDATION.
- 5) TO AUTHORIZE RECOMMENDATION #3, REGARDING ASSEMBLING A LIST OF SNOW PLOWERS AND SHOVELERS
- 6) TO AUTHORIZE RECOMMENDATION #4, REGARDING THE EDUCATIONAL COMPONENT FOR SIDEWALK SNOW REMOVAL
- 8) TO ACQUIRE A STRIP OF LAND, 4 FEET x 60 FEET, IN FRONT OF VALVOLINE, ON SR 59, FOR \$6786.00 FOR THE SR 59 SIGNALIZATION PROJECT.

**MOTION TO APPROVE RECOMMENDED ACTION #7, TO AUTHORIZE RECOMMENDATION #5, AUTHORIZING THE REAPPROPRIATION OF \$20,000 FOR REMOVING SNOW PILES AT INTERSECTIONS CREATED BY THE CITY.**

Motion made by Mr. Hawksley, seconded by Mr. Amrhein.

Mr. Wilson said he still does not agree with it, and will not agree with the other \$30,000 later on. He said it is a mistake.

Mr. Kuhar said this is a drop in the bucket. He said they will have to do something else. Mr. Kuhar said they have solved a lot of the problems, but he cannot support spending \$50,000 at this point in time. He said they are asking the budget be cut by \$50,000, and are now spending it here.

Ms. Shaffer agreed with Mr. Kuhar that it is a drop in the bucket, but said it is movement in the right direction. She said if they are going to be enforcing the law about not placing snow on the sidewalks, they have to make an effort to clean up their mess. She agreed it was a drop in the bucket, but it would help the worst places and will show they are working on the problem.

Mr. Amrhein said he would support it for this year to see how it works, and then decide about next year.



The motion carried by a hand count of 6-3, with Mr. Kuhar, Mr. DeLeone, and Mr. Wilson dissenting.

The Mayor asked the Clerk to read Draft No. 09-117 by title only at this time.

**AN ORDINANCE AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE AN AGREEMENT BETWEEN THE CITY OF KENT AND THE OHIO DEPARTMENT OF TRANSPORTATION (ODOT) FOR THE S.R. 59 SIGNALIZATION PROJECT TO ALLOW THE USE OF FEDERAL FUNDS IN THE AMOUNT OF \$1,606,400 AND DECLARING AN EMERGENCY.**

**MOTION TO SUSPEND THE THREE READINGS.**

Motion made by Mr. Wilson, seconded by Mr. Ferrara.

Roll call was taken on the motion. Voting aye: Ms. Wallach, Mr. Wilson, Mr. Amrhein, Mr. DeLeone, Mr. Ferrara, Mr. Hawksley, Mr. Kuhar, Ms. Shaffer, and Mr. Turner. The motion carried by a roll call vote of 9-0.

**MOTION TO ADOPT THE DRAFT ORDINANCE.**

Motion made by Mr. Wilson, seconded by Mr. DeLeone.

Roll call was taken on the motion. Voting aye: Ms. Wallach, Mr. Wilson, Mr. Amrhein, Mr. DeLeone, Mr. Ferrara, Mr. Hawksley, Mr. Kuhar, Ms. Shaffer, and Mr. Turner. The motion carried by a roll call vote of 9-0.

**2009-112: AN ORDINANCE AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE AN AGREEMENT BETWEEN THE CITY OF KENT AND THE OHIO DEPARTMENT OF TRANSPORTATION (ODOT) FOR THE S.R. 59 SIGNALIZATION PROJECT TO ALLOW THE USE OF FEDERAL FUNDS IN THE AMOUNT OF \$1,606,400 AND DECLARING AN EMERGENCY.**

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Linda M. Copley, Clerk of Council

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John Fender, Mayor & President of Council

The Mayor asked the Clerk to read Draft No. 09-118 by title only at this time.

**AN ORDINANCE ACCEPTING FOR DEDICATION PURPOSES, TWO (2) EASEMENTS FROM THE STATE OF OHIO FOR THE S.R. 59 SIGNALIZATION PROJECT AND DECLARING AN EMERGENCY.**

**MOTION TO SUSPEND THE THREE READINGS.**

Motion made by Mr. Ferrara, seconded by Mr. DeLeone.

Roll call was taken on the motion. Voting aye: Mr. Wilson, Mr. Amrhein, Mr. DeLeone, Mr. Ferrara, Mr. Hawksley, Mr. Kuhar, Ms. Shaffer, Mr. Turner, and Ms. Wallach. The motion carried by a roll call vote of 9-0.

**MOTION TO ADOPT THE DRAFT ORDINANCE.**

Motion made by Mr. Ferrara, seconded by Mr. DeLeone.

Roll call was taken on the motion. Voting aye: Mr. Wilson, Mr. Amrhein, Mr. DeLeone, Mr. Ferrara, Mr. Hawksley, Mr. Kuhar, Ms. Shaffer, Mr. Turner, and Ms. Wallach. The motion carried by a roll call vote of 9-0.

**2009-113: AN ORDINANCE ACCEPTING FOR DEDICATION PURPOSES, TWO (2) EASEMENTS FROM THE STATE OF OHIO FOR THE S.R. 59 SIGNALIZATION PROJECT AND DECLARING AN EMERGENCY.**

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Linda M. Copley, Clerk of Council

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John Fender, Mayor & President of Council

The Mayor asked the Clerk to read Draft No. 09-124 by title only at this time.

**AN ORDINANCE CREATING SECTION STYLED "CIVIL OFFENSES" IN THE CODIFIED ORDINANCES OF THE CITY OF KENT, BY ADDING TWO (2) NEW SECTIONS ENTITLED 501.01(R) AND 501.13.**

**MOTION TO SUSPEND THE THREE READINGS.**

Motion made by Mr. Ferrara, seconded by Mr. DeLeone.

Roll call was taken on the motion. Voting aye: Mr. Amrhein, Mr. DeLeone, Mr. Ferrara, Mr. Hawksley, Mr. Kuhar, Ms. Shaffer, Mr. Turner, Ms. Wallach, and Mr. Wilson. The motion carried by a roll call vote of 9-0.

**MOTION TO ADOPT THE DRAFT ORDINANCE.**

Motion made by Mr. DeLeone, seconded by Mr. Ferrara.

Roll call was taken on the motion. Voting aye: Mr. Amrhein, Mr. DeLeone, Mr. Ferrara, Mr. Hawksley, Mr. Kuhar, Ms. Shaffer, Mr. Turner, Ms. Wallach, and Mr. Wilson. The motion carried by a roll call vote of 9-0.

**2009-114: AN ORDINANCE CREATING SECTION STYLED "CIVIL OFFENSES" IN THE CODIFIED ORDINANCES OF THE CITY OF KENT, BY ADDING TWO (2) NEW SECTIONS ENTITLED 501.01(R) AND 501.13.**

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Linda M. Copley, Clerk of Council

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John Fender, Mayor & President of Council

The Mayor asked the Clerk to read Draft No. 09-125 by title only at this time.

**AN ORDINANCE AMENDING CHAPTER 521 OF THE CODIFIED ORDINANCES OF THE CITY OF KENT, ENTITLED "HEALTH, SAFETY AND SANITATION", SO AS TO AMEND SECTION 521.16 ENTITLED "SNOW AND ICE REMOVAL AFFECTING PUBLIC RIGHT OF WAYS" AND TO MAKE IT A CIVIL OFFENSE.**

**MOTION TO SUSPEND THE THREE READINGS.**

Motion made by Mr. DeLeone, seconded by Ms. SHaffer.

Roll call was taken on the motion. Voting aye: Mr. DeLeone, Mr. Ferrara, Mr. Hawksley, Ms. Shaffer, Mr. Turner, Ms. Wallach, Mr. Wilson, and Mr. Amrhein. Mr. Kuhar abstained. The motion carried by a roll call vote of 8-0-1.

**MOTION TO ADOPT THE DRAFT ORDINANCE.**

Motion made by Mr. Ferrara, seconded by Mr. DeLeone.

Roll call was taken on the motion. Voting aye: Mr. DeLeone, Mr. Ferrara, Mr. Hawksley, Ms. Shaffer, Mr. Turner, Ms. Wallach, Mr. Wilson, and Mr. Amrhein. Mr. Kuhar abstained. The motion carried by a roll call vote of 8-0-1.

**2009-115: AN ORDINANCE AMENDING CHAPTER 521 OF THE CODIFIED ORDINANCES OF THE CITY OF KENT, ENTITLED "HEALTH, SAFETY AND SANITATION", SO AS TO AMEND SECTION 521.16 ENTITLED "SNOW AND ICE REMOVAL AFFECTING PUBLIC RIGHT OF WAYS" AND TO MAKE IT A CIVIL OFFENSE.**

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Linda M. Copley, Clerk of Council

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John Fender, Mayor & President of Council

The Mayor asked the Clerk to read Draft No. 09-126 by title only at this time.

**AN ORDINANCE ACCEPTING AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE A PURCHASE AGREEMENT WITH THE CITY OF KENT, OHIO, BUYING AN INTEREST IN 0.006 ACRES OF REAL PROPERTY FROM ASHLAND, INC., FOR \$6,786.00.**

**MOTION TO SUSPEND THE THREE READINGS.**

Motion made by Mr. Ferrara, seconded by Mr. DeLeone.

Roll call was taken on the motion. Voting aye: Mr. Ferrara, Mr. Hawksley, Ms. Shaffer, Mr. Turner, Ms. Wallach, Mr. Wilson, Mr. Amrhein, and Mr. DeLeone. Mr. Kuhar abstained. The motion carried by a roll call vote of 8-0-1.

**MOTION TO ADOPT THE DRAFT ORDINANCE.**

Motion made by Mr. Ferrara, seconded by Mr. DeLeone.

Ms. Wallach noted that some of the ordinances included "And declaring an emergency", and asked if that is when they ask for suspension. She noted that the other ordinances do not have an emergency, and whether they should still ask for suspension.

The Clerk explained that "Suspension" is of the three readings on three separate nights. She said the emergency means it will take effect immediately. She said those without an emergency clause take effect at the earliest time permitted by law, which is usually thirty days.

Roll call was taken on the motion. Voting aye: Mr. Ferrara, Mr. Hawksley, Ms. Shaffer, Mr. Turner, Ms. Wallach, Mr. Wilson, Mr. Amrhein, and Mr. DeLeone. Mr. Kuhar abstained. The motion carried by a roll call vote of 8-0-1.

**2009-116: AN ORDINANCE ACCEPTING AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE A PURCHASE AGREEMENT WITH THE CITY OF KENT, OHIO, BUYING AN INTEREST IN 0.006 ACRES OF REAL PROPERTY FROM ASHLAND, INC., FOR \$6,786.00.**

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Linda M. Copley, Clerk of Council

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John Fender, Mayor & President of Council

**SPECIAL COMMITTEE REPORTS** None

**UNFINISHED BUSINESS** None

**NEW BUSINESS**

**MOTION TO REFER TO THE ADMINISTRATION THE FORMER TAXICAB ORDINANCE FOR REVIEW, AFTER MEETING WITH THE CAB COMPANIES IN KENT.**

Motion made by Mr. Wilson, seconded by Mr. DeLeone, and carried by a voice vote of 9-0.

Mr. Kuhar asked the Clerk if he abstained on the vote for Draft No. 09-125, and she said he abstained on both of the motions. ***Mr. Kuhar said he wanted to vote in favor, and his vote was in error. The Clerk noted that his comments would be reflected in the record.***

Mr. Hawksley suggested that in the next month that the Council has a portrait made, with the Mayor and the Clerk. He asked that the Clerk set that up, either in conjunction with the dinner on Nov. 12, or at

another time.

Mr. Wilson asked who would pay for the portrait, and Mr. Hawksley said the Clerk could find that out. He suggested they get the image made, adding it should not be that expensive.

**MOTION TO AUTHORIZE THE CLERK TO COME BACK WITH A TIME, DATE, AND POSSIBLE COST OF THE PORTRAIT.**

Motion made by Mr. Hawksley, seconded by Ms. Shaffer, and carried by a voice vote of 9-0.

**MOTION TO REFER TO THE FINANCE COMMITTEE THE POSSIBILITY OF COUNCIL MEMBERS GETTING CITY HEALTH BENEFITS.**

Motion made by Mr. Ferrara, seconded by Ms. Shaffer.

Mr. Ferrara said it has been twenty years since a change in Council pay. He said it is a benefit that may entice people to be more involved, adding it was worth reviewing.

Mayor Fender noted that Mr. Ferrara brought that up as he is leaving.

Mr. Wilson said he may be wrong, but felt it came under compensation of Council. He said the procedure is to appoint a committee who reviews it, and recommends back to the Council. He suggested the Clerk could research it and get an opinion from the Law Director.

Mr. Ferrara said he would remove his motion, and ask the Clerk to research it.

Mr. Kuhar said he wanted to talk about the economic development plans from the past and in the future. He said over the past several years, they have been pursuing economic development for the "Right Dimensions" block. He said he has disagreed many times with the purchasing avenues for the properties, but not the idea.

Mr. Kuhar said the vision they had as a City was to develop that block into private enterprise to create new jobs and incomes from the City. He said the revenues would come through private development of property, property taxes, new employees with new income taxes, adding that was their goal for that block. He said he is concerned that this block will be "gobbled up" by government buildings that do not pay taxes, moving buildings from other locations, which are not a gain, adding that they all agreed a nicer looking downtown is a good thing to have. He said the word is that a beautiful downtown will attract busiensses from outside sources. He said they have to keep in mind what they put in that space, adding if they fill it with government buildings that do not pay taxes, they are occupying the space for new development, and cannot generate new revenue from those buildings. He said they are limited on what they can develop.

Mr. Kuhar said as they complete their plans over the next few years, he would ask the Council to keep in mind that they need retail and private enterprise to create revenue. He said they voted as a Council years ago they would not have "net losses" on their properties. He said if they move in businesses that do not create income, they are definitely not net gains.

Mr. Ferrara said an increase in the income will come from maintaining what they have. He said if they maintain the government entity, such as a courthouse, is one thing. He said they may be foregoing the property tax, but 90% goes to the School District. He said they also increase their revenues with new jobs. He asked they not confuse the property issue with the income and the salaried employees, adding that is where they get the income tax. He said it does not matter who they work for, they are still paying Kent City income tax. He asked that they keep those issues clear.

Mr. Kuhar said if they trade an employee from one side of the street to the other, they are maintaining the status quo. He said it is obvious from their financial issue that the status quo is not good enough to pay their bills. He said they need to increase their income to function properly.

**MOTION TO RECESS INTO THE PREVIOUSLY AUTHORIZED EXECUTIVE SESSION.**

Motion made by Mr. Wilson, seconded by Mr. Ferrara, and carried by a voice vote of 9-0.

Mayor Fender recessed this meeting at 8:15 p.m.

Following Executive Session, Mayor Fender reconvened this meeting at 8:29 p.m.

**MOTION TO AUTHORIZE ORDINANCES FOR EASEMENT ACQUISITION, AS LONG AS THEY ARE WITHIN THE STATE OF OHIO GUIDELINES, FOR THE SR 59 SIGNALIZATION PROJECT.**

Motion made by Mr. Ferrara, seconded by Mr. DeLeone, and carried by a voice vote of 9-0.

**MOTION TO AUTHORIZE EMINENT DOMAIN ACTION WITH KEYBANK FOR THE SR 59 SIGNALIZATION PROJECT.**

Motion made by Mr. Ferrara, seconded by Mr. DeLeone, and carried by a voice vote of 9-0.

**MOTION TO APPROVE SETTLING THE CASE, BENNETT VS. KENT, FOR \$40,000.**

Motion made by Mr. Ferrara, seconded by Mr. Wilson, and carried by a voice vote of 9-0.

Hearing no further business before this Council, Mayor Fender adjourned this meeting at 8:30 p.m.

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Linda M. Copley, Clerk of Council

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John Fender, Mayor & President of Council