

**THE CITY OF KENT, OHIO
STREETS, SIDEWALKS, AND UTILITIES COMMITTEE
WED., OCT. 7, 2009**

This meeting of the Streets, Sidewalks, and Utilities Committee of Kent City Council was called to order on Wed., Oct. 7, 2009, by Michael DeLeone, Chair, at 8:35 p.m.

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

ALSO PRESENT: J. FENDER, MAYOR; D. RULLER, CITY MANAGER; J. SILVER, LAW DIRECTOR; L. COPLEY, CLERK OF COUNCIL; J. BOWLING, CITY ENGINEER; G. LOCKE, DIR. OF COMM. DEV.; AND G. ROBERTS, SERVICE DIRECTOR.

ABSENT: MS. WALLACH

Chair DeLeone said the first item on their agenda dealt with the SR 59 signalization project.

Jim Bowling, City Engineer, said they were seeking approval to accept the donation of two easements from KSU valued at \$14,800.

MOTION TO APPROVE ACCEPTANCE OF THE DONATION OF TWO EASEMENTS FROM KENT STATE FOR THE SR 59 SIGNALIZATION PROJECT.

Motion made by Mr. Kuhar, seconded by Mr. Wilson, and carried by a voice vote of 7-0-1, with Mr. DeLeone abstaining.

Mr. Bowling said they are seeking approval to enter into an agreement with ODOT for the SR 59 Signalization Project. He said it is the same agreement they executed for the Hike & Bike Trail, Summit Street Improvement, and Spaulding Bridge improvement.

Mr. Kuhar asked Mr. Bowling to refresh his memory, and asked if some of this was federally funded. Mr. Bowling said three sources are funding this project. He said two are federal funding, and they are from AMATS and CDBG. He said they also received funding from OPWC, for the State of Ohio. He said the total project is \$2.9 million, with reimbursements of \$2.3 million. Mr. Kuhar noted it leaves about one-half million for the City.

MOTION TO AUTHORIZE THE AGREEMENT WITH ODOT FOR THE SR 59 SIGNALIZATION PROJECT.

Motion made by Mr. Wilson, seconded by Mr. Amrhein, and carried by a voice vote of 7-0-1, with Mr. DeLeone abstaining.

Mr. DeLeone said the next item on the agenda deals with sidewalk snow removal.

Dave Ruller, City Manager, explained they have broken this discussion down into two sections. He said that **Jim Silver, Law Director**, would carry the first discussion, adding this recommendation has to do with changing the penalty to a civil citation.

Mr. Silver said they could not find a quick or simple way. He said they used other cities as a model for the civil penalties. He said their directions were to change the penalty to a civil one in §521.16. He said his information sets out that process, and has appeal descriptions. He said some other models allowed for increased fines for the second and third offense. Mr. Silver said they can expand it to all sorts of ways, and suggested they may want to discuss other ways in the future. He said this will work, in the short term, for snow removal.

Mr. Kuhar said he has been reading about progressive fines, adding that is for the people who put snow in

the right of way, impeding them, and Mr. Silver said that was correct.

Ms. Shaffer commended Mr. Silver for his thoroughness. She explained that she met with Troy Loomis earlier in the day, and she felt there seemed to be a lot of contact before the citation. She suggested they cut down on the contacts. She said they currently have a friendly reminder, a warning, and a citation, and someone would have to follow up and investigate. Mr. Silver said that is for the first offense only, adding they have to give people notice after taking money out of their pocket.

Ms. Shaffer said she liked the idea of designating an individual to be contacted by the City so they have someone they can notify in a more streamlined way. Ms. Shaffer said they have this listed for rental properties, and suggested they include owner occupied and commercial properties. She said they could use the tax records, sending a one-time letter to the property owners that their property is in violation. He said they could improve and streamline the efficiency of the Community Development Department's job when they try to notify someone. She said that the city of Cleveland requires that for rental property owners since the 1960s.

Ms. Shaffer said she liked almost everything presented. She said her concern was about administrative costs. She said they could recoup some of their administrative costs, not just through the snow, but for tall grass, etc. She said this is a model that could be used for all types of violations. She asked what happens if there is no action. Ms. Shaffer asked if there is no quick action by the property owner, would the City take care of it and bill for it, and Mr. Silver said there is a phrase that says that the City can pass on the costs to correct the violation.

Mr. Kuhar said the idea of contact registration would be an administrative nightmare. He said it would be costly, and involve a lot of staff time. He said with respect to the collection of funds, he has heard that the fines for high grass have been a losing battle so far. Mr. Kuhar said they are on the right track if they can keep people from putting snow where it does not belong. He said he still has a moral issue of charging someone for something they do themselves.

Ms. Shaffer said without a list, they cannot carry out a program, and Mr. Kuhar said they have the criss cross directory. Ms. Shaffer said she thought the idea of calling or doing the friendly reminder in person was good, adding it was like the warning before the warning.

Mr. Hawksley said they do not have to wait twenty-four hours, adding they are going to have compliance once it is enforced.

Mr. Locke told Ms. Shaffer that the idea of registration with a responsible person on a rental unit has a lot of merit in this area, and other areas, gets them back to the rental licensing. He said he did not envision registering every rental property. He said if they cite someone, it would be very easy to tell them they are being warned, and obtaining the name of a designee. He said they would just register those they have trouble with.

Mr. Turner asked, with respect to the issue of a timely removal of the impediment, how quickly it would be done and what they would do to alleviate that situation as a city. He said they are calling it a safety issue, and asked if they notify and do not take action to remove the liability, what liability they are taking on if they do not correct the situation, and Mr. Silver said they still charge the property owners with clearing the sidewalk, so it is not a new liability.

Mr. Hawksley suggested that on page 3, paragraph 5, they change the wording to include residential and commercial, and Mr. Silver suggested just striking "residential".

Mr. Silver said he would also include the cost of someone removing the snow as being added to the fine, and Mr. Wilson noted they do that already in their high grass ordinance.

Mr. Hawksley said they spoke earlier of a reduction of the civil fine, but at the end, when the fines were discussed, there is nothing about a reduction. He asked Mr. Silver if he anticipated they could be reduced,

and Mr. Silver said that is correct. He said they are still trying to give them some incentive.

Ms. Shaffer suggested a citation book would be useful, instead of all of the letters that would have to be written, and Mr. Silver said he suspected they would contact the Police to find out the name of their vendor, and contact Oxford.

Mr. Kuhar said that Akron sticks a sticker on the front door, giving twenty-four hours to correct the situation. He said no letters are written. Mr. Hawksley said they already decided they did not want to take that approach.

Mr. Hawksley said he distributed a sheet from Bowling Green, adding they have one page on the website are all civil offenses and their classification. He said he thought that would be something for further discussion at another time.

MS. Shaffer said it looks like the document is a draft that they can tweak. She said they need to be able to explain it to the public, and need to understand the process. She said it needs to be simple and tight, adding it is hard to do anything with a violation that could melt away in a few days. She said she had a problem with the extra contact before the warning. Mr. Silver noted they can change it.

Ms. Shaffer noted they may have more snow than before with global warning, and Mr. DeLeone suggested they not start that discussion.

There was no audience comment at this time.

MOTION TO AUTHORIZE THE DRAFT ORDINANCE ON CIVIL CITATIONS, AS DISCUSSED AND MODIFIED, REDUCING THE WARNINGS TO ONE WARNING.

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

Mr. Hawksley said the Administration did a tremendous job. He said the warning can be done in a neighborly way, adding the whole approach is a wonderful step in the right direction.

Mr. Wilson asked if the motion encompassed all five items, and Mr. Hawksley said it was the first staff recommendation.

Ms. Shaffer urged their adoption of this draft with some tweaks. She said the rewrite of §521.16 was really well done, adding it was excellent. She said she is hopeful they have a way to deal with the worst of the problems.

Mr. Wilson said he would vote against it, adding that all warnings should be kept in place. He said the Court would look at it and want to see if the City tried to work it out. Mr. Wilson agreed with cutting out a warning in the second year, but not the first.

Mr. Hawksley said they are going to be sending out a lot of information about this, and there would be no excuse for anyone in Kent to not know they are doing this. He said it is a very public and fair first warning.

The motion carried by a voice vote of 6-1-1, with Mr. Wilson dissenting and Mr. DeLeone abstaining.

Mr. Ruller asked Mr. Roberts to address Item #2 at this time. Mr. Roberts said this dealt with the license program for snow plow operators. He said they had discussions on this, and when they revisited this idea, they decided to hold back unless the other aspect did not work.

Mr. Kuhar asked if they have a Kubota tractor, and Mr. Roberts said the Fire Department has one. Mr. Kuhar said he thought they made a snow blower attachment, and Mr. Roberts said they are looking at a snow blower for the ATV. He said if they do a level terrain, a tractor slides around. Mr. Kuhar said he saw a Kubota 4 wheel drive that a private owner was operating, adding it did a good job. Mr. Roberts said they did an experiment last year, and found they were limited as to the use of a snow blower. He said it could

only be used downtown, because of the range it sends the snow.

MOTION TO HOLD THE SNOW PLOW OPERATORS' LICENSING PROGRAM IN ABEYANCE FOR A FUTURE DATE BASED ON AN ADMINISTRATIVE RECOMMENDATION.

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

Ms. Shaffer noted that it is a good way to go about doing this first. She said it will be good to have something in their back pocket.

Mr. Hawksley noted that the motion was to "Flesh" out details, not to flush them out.

The motion carried by a voice vote of 7-0-1, with Mr. DeLeone abstaining.

Mr. Locke said Item #3 dealt with the subscription service idea, adding it would probably take on a lot of administrative capacity in terms of implementation. He said he felt they would get stuck in the middle. He suggested they advertise in the paper, and people who plow in Kent can give them their information, thus allowing people to call them, negotiating their own deals. He said they would not set a price. Mr. Locke said that those who send their information will get a package of information with the "Dos and Don'ts". He said it is not a subscription service, but is a good way to get information.

Mr. Kuhar said they need to include sidewalk shovelers. Mr. Locke said they could include them if anyone was interested.

Ms. Shaffer asked if it is easy to find plowing companies to do driveways, and Mr. Locke said it varies. He said they did not want to get in the middle, and they are not trying to impose a way to do it. He said they would offer the names, making it clear they are not endorsing anyone or taking liability.

Mr. Kuhar said that two fourteen-year-old children, near his home in Akron, told him they made close to \$200 by 12 noon.

MOTION TO APPROVE ITEM #3.

Motion made by Mr. Hawksley, seconded by Ms. Shaffer, and carried by a voice vote of 7-0-1, with Mr. DeLeone objecting.

Mr. Locke said Item #4 dealt with an educational campaign. He said they could put something together, but could not do it all at one time. He said they hoped to have something in the next Tree City Bulletin unless they have push back. He said if that is the case, they can go to the editor.

Mr. Locke said his department was going to buy some snow shovels. He said one may have some issues if they cannot buy a snow shovel. He said they will advertise the shovels as available.

Mr. Locke said, as time permits, they can develop a volunteer program. He said at the Bowman Breakfast the previous week, they heard Greg Jarvie talking about some of the things they are doing. He suggested they could develop this program and talk to the public school system. He said this is something they can review as time allows. He said that Bridget Susel has been busy with their grant programs, as they are trying to do everything in house. He said he did not know if they would get too far on this program before next summer. He said that Bridge has to do a new five-year plan, with HUD, in 2090. He said he did not see them going too much further until next summer.

Ms. Shaffer asked if this is something Mr. Locke's department would handle, and he said he assumed most of it would fall under his department. He said he suspected they would do the list of contractors. He said they have to do a trial run on this to see what they are getting into.

Ms. Shaffer said in her conversations with people, one barrier is the legal misinformation about a liability, and asked him to work with Mr. Ruller and the Law Department to address the issue as well, explaining to people they do not have to worry, unless they do something to make the situation worse, such as

dripping water on the sidewalk. She said there is a lot of confusion on that issue, and they need to chip away at the barriers. Mr. Locke said he was unsure they take on any legal liability.

Mr. Kuhar asked Mr. Silver what happens if there is freezing rain, followed by six inches of snow, and whether there was a liability if a person shoveled, and Mr. Silver said only one's actions can cause the hazard. Mr. Kuhar asked what the court thought, and Mr. Silver said he did not have a crystal ball.

MOTION TO ADOPT ITEM #4.

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

Ms. Shaffer said she would like to see a stepped up effort. She said it is heartening to hear this is not a one time thing, but something to be developed as part of the good neighbor campaign in general. She said they are an education city and need to focus on that. She said she would like to brainstorm with the Administration, at some point, on how to do it better.

The motion carried by a voice vote of 7-0-1, with Mr. DeLeone abstaining.

Mr. Roberts said that Item #5 will be the allocation of monies for this year. He said it is monies to be used in November and December, and they are requesting \$20,000. Mr. Roberts said they have a very narrow window, and would have to bid right away. Mr. Roberts said they are looking at a best guess on how to use the money, as no one knows the exact snow fall. He said they will try and stretch it as far as they can, and take care of the two critical areas. He said one critical area was Summit Street, from Kentway to Walgreens and CVS. He said this money does not cover SR 43 from Tower 43 to the Plaza. Mr. Roberts said they will work with Mr. Loomis to see what can happen. Mr. Roberts said this money will only be used for snow discharged off City blades. He said they are currently setting up meetings on what they need to do locally.

Ms. Shaffer asked if these are the only two areas or if they are going to use their best judgment, and Mr. Roberts said they can instruct the staff on any specific place. Ms. Shaffer asked about bus stops, and Mr. Roberts said they would be covered, if they are at the intersection. He said if they are not an intersection, the City will not touch them. Mr. Roberts said they need to see where the pedestrians are walking, and then will attack those areas.

Mr. Amrhein asked where the money is coming from, and Mr. Roberts said it would be an additional appropriation of \$20,000 for this year.

Mr. Kuhar asked if they just plan to deal with Summit Street to Kentway apartments, and Mr. Roberts said that is a target area. He said that area has two crosswalks with heavy pedestrian traffic. He said that Kentway and Tower 43 have problems during snowy weather. Mr. Roberts said that Tower 43 up to the plaza has no crosswalks where the roads intersect. Mr. Kuhar asked if there were sidewalks that far, and Mr. Roberts said they have sidewalks all the way to Devon Place. Mr. Kuhar asked if they were not doing something with the sidewalks, and Mr. Roberts said it is not included in this document.

MOTION TO ADOPT RECOMMENDATION #5, THE APPROPRIATION OF \$20,000.

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

Mr. Wilson said they are instructing the staff to take money out of the budget, adding they have already spent \$83,000 that will have to be recovered somewhere else. He said they are never going to get out of their budget situation spending money.

Mr. Turner said this is a health and safety issue, adding the issue is whether they can keep their residents safe. He said he understands about the dollars and cents, and the fact they cannot always throw money at everything. He said that seniors, handicapped, and children who can fall in the street are important. Mr. Turner said he appreciates the work done by Mr. Roberts, and definitely supports whatever money they can come up with to make it safe.

Mr. Hawksley said that Mr. Turner said it well. He said if they have to stop collecting leaves and brush, so be it. Mr. Hawksley said this is a safety issue. He said they have an open checkbook for plowing. Mr. Hawksley suggested they set aside 15 to 20% of that to clean up their piles that impede the safe passage of pedestrians.

Mr. Amrhein said he is concerned as well about the money. He said he supports this, but with the understanding this may lead to uncomfortable decisions down the line. He said he has seen students climb over this, but it does not come without some pain.

Ms. Shafer said this is a public safety issue for sure, as well as an issue of fairness. He said they are asking people to not create obstructions. Ms. Shaffer said the City needs to show they are trying to deal with their obstructions. Ms. Shaffer said they are looking at some of the worst places, and most sensitive areas, adding she felt they need to take a stab at it. Ms. Shaffer said this is important to do, adding it is not a total solution to the problem, just a piece, but it is an issue of fairness. She said if they are accused of creating the worst problems, they can say they are trying to rectify it with a piece of their budget.

Mr. Kuhar said this was a tough one for him, as it seems to be too little too late. He said on one side, any situation they create as a city, should be corrected by them. He said on the other side, they are asking the Administration to cut money, but here they are adding money. He said he felt they should find ways to do it all or they should do nothing. He said that doing nothing is not a good solution. He said when they look at the dollar and cents that is the cog on the wheel. Mr. Kuhar said he would probably vote against it.

Ms. Shaffer said she would like them to do it all, adding they have also tried to encourage people to step up and do something for their City. She said it is very important that they do something, as doing something means they are doing something different. She said this is a little different, and she hoped it will be visible to the general public. Ms. Shaffer said this is an attempt to do something for the most egregious areas.

Mr. Kuhar asked if that \$20,000 would stretch out to his ward, where they have College Towers or Summit Gardens, and Mr. Roberts said it would not.

Mr. Hawksley said if there are areas the City personnel is piling snow, people need to let the Administration know.

The motion carried by a voice vote of 6-2-1, with Mr. Kuhar and Mr. Wilson dissenting, while Mr. DeLeone abstained.

MOTION TO RECESS INTO EXECUTIVE SESSION FOR PENDING LITIGATION AND LAND ACQUISITION.

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

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

Chair DeLeone recessed this meeting at 9:30 p.m.

Following Executive Session, Chair DeLeone reconvened this meeting at 10:00 p.m.

MOTION 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 made by Mr. Ferrara, seconded by Ms. Shaffer, and carried by a voice vote of 7-0-1, with Mr. DeLeone abstaining.

Hearing no further business before this Committee, Chair DeLeone adjourned this meeting at 10:02 p.m.

Linda M. Copley, Clerk of Council

ACTIONS RECOMMENDED DURING THIS MEETING:

- 1) TO APPROVE ACCEPTANCE OF THE DONATION OF TWO EASEMENTS FROM KENT STATE FOR THE SR 59 SIGNALIZATION PROJECT.
- 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
- 7) TO AUTHORIZE RECOMMENDATION #5, AUTHORIZING THE REAPPROPRIATION OF \$20,000 FOR REMOVING SNOW PILES AT INTERSECTIONS CREATED BY THE CITY
- 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.

