

**THE CITY OF KENT, OHIO
HEALTH & SAFETY COMMITTEE
WED., JANUARY 6, 2010**

This meeting of the Health & Safety Committee of Kent City Council was called to order at 8:25 p.m. on Wed., January 6, 2010 by John Kuhar, Chair.

PRESENT: MR. AMRHEIN, MR. DELEONE, MR. FERRARA, MR. KUHAR, MS. SHAFFER, MR. VALENTA, MS. WALLACH, AND MR. WILSON

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

ABSENT: MR. TURNER, COUNCIL

Chair Kuhar said the first item on their agenda dealt with the City's Radio Network. **Dave Ruller, City Manager**, explained that they had done some work previously, and now the FCC is making some changes to the availability of bands. He said they are requesting that they advance their capital projects to take advantage of the situation now.

Gene Roberts, Service Director, explained that during the last few years, the Safety and Service Directors have been reviewing the phones. He said they have some special circuits which are pricey for the Service Department radio. Mr. Roberts said the Fire and Police departments have been also looking at the upgrade to Narrow Band. He said they were also looking for a repeater system at the water tower. Mr. Roberts said that once they started comparing notes, they saw the cost savings they can experience.

Mr. Roberts said if they move forward now, they will not have to reprogram their radios on multiple occasions. He said the Fire Department delayed their reprogramming in 2009, and the Police Department was to come forward this year. He said everyone has to move as a unit. Mr. Roberts said the cost was \$95,000, but they can do it through the State bid list as one operation for the Service, Police, and Fire, with all being narrow banded. Mr. Roberts said the Service Department had \$25,000 for the alarm system; \$20,000 for the radio repeater; and \$50,000 in the capital plan. He said they already had \$95,000, but they can get the same work, if not more, for \$92,000. Mr. Roberts said they are asking approval to budget the monies in 2010, for a savings of \$22,000 they will not have to spend.

Ms. Wallach asked if they can use this system to broadcast their water breaks, and Mr. Roberts said these are the bands for the Safety and Service government offices, in accordance with FCC regulations. He said the band is higher than the AM/FM frequencies.

Ms. Shaffer asked if they would save \$22,000, and Mr. Roberts said that was based on what they budgeted from 2009. He said there is a small piece for the Parks Department, Water Treatment Plant, and Water Reclamation Plant, so it is more than \$22,000 savings to the General Government Fund.

There were no further questions nor comments.

MOTION TO APPROVE THE RADIO NETWORK UPGRADES, WITH THE INCLUSION OF THE EMERGENCY CLAUSE.

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

Chair Kuhar said the next issue was the use of civil fines for code enforcement functions. Mr. Ruller said **Jim Silver, Law Director, and Gary Locke, Dir. of Community Development**, have been looking at this issue. He said it would deal with exterior maintenance code problems to shoveling issues. He said they have previously mentioned the challenges of code enforcement. He said it is not an effective

process. Mr. Ruller said this was presented previously by Mr. Locke, who has found other cities have created the civil process, which is quicker. He said they are present to jumpstart that piece of their neighborhood enrichment efforts.

Mr. Locke said they came to them before with snow removal ideas, and they created the civil infraction process, implementing it on people who do not do proper snow plowing or shoveling. He stressed it is for those people who throw snow improperly. He said at that time, he said he would be back to build this process into other code enforcement areas.

Mr. Locke said in his memo, he listed various code sections that would involve what they have already done, but also zoning code enforcement such as sign regulations, and other zoning violations, like grass and weeds. He said it would also affect the property nuisance section and apply to the new property maintenance code. He said this would make it effective, and they would need to amend those code sections. Mr. Locke said for those that are part of the Zoning Code, they would need to amend those sections through the formal process, which includes a public hearing in front of the Planning Commission and Council would hold a public hearing. Mr. Locke said all other sections can be done without additional input.

Mr. Locke said if they start collecting civil infractions, they would begin with a warning if someone violated something that could be enforced through this process. issue a warning. He said it would be verbally and in writing, as they cannot do many things verbally any more. He said they would issue a warning, advising the person they are in violation of the code section, giving them the time frame to correct it. He said if they do not correct it, the City would issue a citation, causing the violator to pay a civil fine. He said they would have the option of correcting the violation, or responding in writing, indicating whether they did or did not do it. He said they can also appeal. Mr. Locke said they can ask for a hearing, also, through a hearing officer. He said they can also appeal it, adding if the hearing officer finds in their favor, they may set it aside. He said if they are in violation, the fine still applies. He said there are provisions for a second appeal.

Mr. Locke said the idea behind this is that by complying with the order, even if they have to pay the fine, the fines could be reduced by 50%, He said this was done to create some incentive for people to comply. He explained that with the fine structure, they will not go to court and have the ability to be more effective with enforcement. He said they obviously would have some growing pains as they have never done this before. Mr. Locke said he has distributed an internal process memo to some of the other departments so they can be sure they have it right. He said they could start now on the sidewalks, as they have a few to cite for improper removal, but they need to solidify the process. He asked if they want to move this into other areas at this time.

Mr. Locke said if they do collect the fines, they could designate the fine funds. He said one community sets it aside to clean up other properties. Mr. Locke said they are not talking significant amounts of money. He said Toledo collected \$300,000 over a few years. He said it is not going to be a substantial amount of money, but they need to think about designating it to a fund.

Ms. Wallach asked if these types of fines can go on the property tax, if unpaid. Mr. Locke said if the fine is not paid, the party is unsuccessful with their appeal, or does not appeal, the fine becomes delinquent after a period of time and doubles. He said they are proposing \$100 as a fine, with it raising to \$200 if delinquent, and possibly \$300 if sent to collections. He asked if someone is not a property owner and commits a violation, how they would levy the fine, adding they could use a collection agency. He said for those that can be applied to a specific property, they can put it against the property taxes.

Mr. Valenta noted they have fifteen days to pay the fine, and asked if they have fifteen days to fix the problem, and Mr. Locke said the period to correct the violation would vary, depending on the nature of the violation. He said it is a broad range of violations, from signs to grass and weeds, as well as something affecting the public right-of-way. Mr. Valenta said he was concerned if there was a major problem and it had to be fixed in fifteen days. Mr. Locke said there are additional enforcement mechanisms, such as the compliance contracts, similar to the Property Maintenance Code. He said there is a fine structure also.

Mr. Ferrara asked if this goes hand in hand with the standards they adopted or is it a compliment, and Mr. Locke said they just adopted the International Property Maintenance Code, which was not really specific on enforcement mechanisms, but is specific on what constitutes a violation from time to time. He said currently, if the Law Director has to file a complaint, they are at the mercy of the court. He said it can take months or years, sometimes without resolution, adding that the courts may not look at things the same way we do. He said this proposal is consistent with what they are trying to do overall.

Ms. Shaffer said she heard Mr. Locke said they would ask the offender to comply within a certain time frame, and if they did, the fine would be reduced 50%. Mr. Locke said they adopted that for the sidewalk snow removal issues. He said he needs to give staff direction on how to do it, which is why he did a step by step process. He said the memo they received just shows what needs to be amended. He said the provision for civil infractions is already in the Code.

Mr. DeLeone asked if he wanted them to review these, and he would be coming back, and Mr. Locke said they are asking if the Council wants to incorporate the civil infractions for these offenses. Mr. DeLeone said some of the information was left out, and Mr. Locke said some was already adopted. He said he would include something in the Tree City Bulletin, as he felt it was important that people understand the process. He said that piece will have a lot of detail. He said he would be glad to discuss it with any of them in more detail.

Mr. Ruller noted that some have to come back through the Planning Commission, and Mr. Locke said the civil infraction process in the Zoning Code requires an amendment, with public hearings before the Planning Commission and Kent City Council before they can pass the ordinances.

William Lillich, Safety Director, suggested they include a repeat offender clause, so that those who repeat an offense during a given time period would receive a double penalty. Mr. Locke said in the ordinance they passed in November, they said they did not want to give a warning on a repeat offense. He said they could double the fees, if Council wished, unless there was something that would prohibit it by law. He said they can structure it that way, if they want to do something similar to what Mr. Lillich mentioned.

MOTION TO APPROVE THE CIVIL INFRACTIONS FOR CODE ENFORCEMENT VIOLATIONS, AS PRESENTED.

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

Ms. Wallach said she liked the suggestions of doubling the fines. She said when would like to see a warning first for second offenders.

Mr. Ferrara suggested they let the Administration try it as presented first.

Ms. Shaffer said it is important to give Mr. Locke the ability to enact this, adding it is consistent with how they are dealing with snow removal. She suggested they keep it as consistent as possible. Ms. Shaffer said it is time they give teeth to their codes. She said it is frustrating to get into the courts, and most will agree if there are ordinances on the books, they need some way to enforce them.

The motion carried by a voice vote of 7-1, with Mr. Kuhar dissenting.

Hearing no further business before this Committee, Chair Kuhar adjourned this meeting at 8:50 p.m.

Linda M. Copley, Clerk of Council

ACTION RECOMMENDED BY THIS COMMITTEE:

- 1) **TO APPROVE THE RADIO NETWORK UPGRADES, WITH THE INCLUSION OF THE**

- 2) **EMERGENCY CLAUSE.
TO APPROVE THE CIVIL INFRACTIONS FOR CODE ENFORCEMENT VIOLATIONS, AS
PRESENTED.**