

**THE CITY OF KENT, OHIO
WORK SESSION
WED., SEPT. 10, 2008**

This Work Session of Kent City Council was called to order by John Fender, Mayor, at 7:42 p.m. on Wed., Sept. 10, 2008.

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

ALSO PRESENT: J. FENDER, MAYOR; D. RULLER, CITY MANAGER; J. SILVER, LAW DIRECTOR; L. COPLEY, CLERK OF COUNCIL; D. SMITH, ECONOMIC DEV. DIRECTOR; AND G. LOCKE, DIR. OF COMM. DEVELOPMENT.

Mayor Fender said they would receive an update on the downtown development. **Dave Ruller, City Manager**, said they felt this would be an appropriate time to give you an update on the downtown development. He said when they started this; their main focus was to invite a firm to get the project going in the block of focus. He said that Ron Burbick has become the front and centerpiece, and has taken the lead. He said the Phoenix project is starting, and Mr. Burbick said he wanted it to be the spark and the catalyst. He said that Mr. Burbick is well underway. He said he met with him for a few hours the previous day. He said Mr. Burbick has covered a lot of ground.

Mr. Ruller said Mr. Burbick's original plan was to do three phases over three years. He said Mr. Burbick has had such success leasing it out, that he is compressing his plan into one year. He said site plan work must be done for Phases 2 and 2. He said Mr. Burbick's intention is to have this done by next year's Heritage Festival.

Mr. Burbick said this is a six million dollar investment. He said there is still a lot to do, adding he is over simplifying the process. He said the project is well underway, adding it is a great example of what can happen downtown.

Mr. Ruller said they had more meetings with the Fairmount project earlier in the day, adding they have weekly meetings, phone discussions and emails. He said they are currently in negotiations, adding it is a \$50 million project. He said there is a lot of ground to be covered before anything is unveiled. He said not a day goes by that one of them is not doing something with the project. Mr. Ruller said there is a lot of collaboration, adding they continue to work with the university on the hotel piece. HE said he hoped they saw Dr. Lefton's article in the Stater on the hotel. He said the proejct continues to evolve, and he will let **Dan Smith, Economic Development Director**, share more information. He said they are very close to wrapping up the land issues, and have made great progress. He said two members of Council serve on the Greater Downtown Action Plan. He said they are looking at how Mr. Burbick's work will complement the work with Fairmount, the potential transit area piece, the County/City/KSU complex, and how those feed into student connectivity to the river for the White river Project. He said they are about one-half of the way through the action plan work, adding it is very well done, and he is very please to see the thought process. He said they have about twenty city stakeholders who have a relevant role to play to play in the development of the downtown. He said there is not a lot in the headlines at this point, adding he is sure the people are wondering what is happening. He said they felt it was an appropriate time to update them.

Mr. Smith said the Manager gave a good overall opening. He said they know that the Phoenix project is happening, and next week, they will be putting the second floor trusses in place, which will get people's attention. He said that block would go from about twenty employees to one hundred, adding this is exciting. He said it not a bunch of pretty pictures, adding it is happening.

Mr. Smith said Mr. Burbick has done some interesting things. He said Acorn Alley would cut through and connect to other areas. He said Mr. Burbick has cut down the size of some of the units, hoping it will bring in people who could not get going previously. He said they are going after the homegrown, home

businesses, and plan unique items in the alley. He said there will be more eating opportunities, and they will have a somewhat covered outdoor area. He said almost all space in Phases 1 and 2 are booked, and Mr. Burbick has plans to have those phases under roof by January. He said Phase 3 would begin at that time. He said it would be exciting if it were done by the festival.

Mr. Smith said that others are making investments also. He said the Black Squirrel Gallery lettered the outside of the building. He said the W.W. Reed building was looking bad, and is not looking good. He said that Charlie Thomas renovated the upstairs at Ray's, and Mike Beder of Glory Days said the upstairs patio is nearly done. He said The Bakeri is now open. Mr. Smith said that Mr. Burbick has sparked this work.

Mr. Smith said as they looked at these projects in March and April, they realized they have a lot on the drawing board. He said that is when they came to Council to say they need a Master Plan. He said Council bantered about a steering committee, adding they have twenty people from the community that represent diverse areas of the town. He said they would be good advocates for these projects. He said they fast tracked the master plan, and hired Jan Krieger from Boston, who is tailoring it for them. He said they have plenty of background information from the last two years, adding today was a culmination with a two-hour presentation. He said this discusses what makes the most sense, and is sensitive to the pedestrian friendly aspects. He said the University is also at the table. He said they are moving along well, and have additional meetings scheduled with the University. He said they hoped to have that information for presentation soon.

Mr. Smith said they are trying to negotiate how things will happen with the downtown development, and who will do it. He said there are some things that slowed the process, like the size of the hotel. HE said that someone wanted his own independent study, and the size and the footprint of the retail and office space will tell them how much they can generate from the TIF that goes into the infrastructure. He said they are still talking to corporate anchors, and are developing retail letters of intent, and working with the University.

Mr. Smith said that Dr. Lefton was in the Cleveland Plain Dealer stating they are very committed to a hotel and visitors center in conjunction with the university. He said an incredible amount of work has been done quickly, adding it seemed like they had 100% consensus earlier in the day. He said he is overall pleased and excited with what is happening. He said they are working with the developers, and coming to a final agreement is not small task. He said they would have a better feel about the University, the corporate anchors, and letters of intent from retail.

Mr. Smith reminded them they had to update the blight study, adding this set the groundwork for the TIF. HE said they could now do something with the diner. He said they intended to do something Homecoming weekend, where there would be one last greasy dinner, and then they will make it go away. He said they have someone from Cleveland who wants to disassemble it and take it away. He said it is another symbol of progress.

Mr. Ferrara asked Smith if the independent study by the hotel developer showed what was shown in the previous study and whether it would be a deal breaker. Mr. Smith said it was just finished two weeks earlier, and is in a draft format. He said it is a feasible deal, adding they were trying to flush out how many rooms were needed. He said previously, it was 80-120, and it may now be 100-120 rooms. He said the University is having ongoing negotiations with the developer of the hotel and the City. Mr. Smith said he sees no deal breakers.

Mr. Ferrara said he knows they are looking at the University for financial backing, and asked if they are considering Schneller, Davey Tree, and Ametek, and Mr. Smith said that just about every potential revenue source has been discussed. He said they have continued the ambassador visits, and have met with Davey Tree and Schneller. He said that they joked with the CEO of Davey Tree about having the Davey Tree Hotel wing, and Mr. Warnake said as an international headquartered company, they need a nice place for people to say. He said he is unsure when they will ask for room guarantees and how the companies will feel.

Mr. Ferrara asked if Fairmount was on board with the hotel developers doing an independent study, and Mr. Smith said they did not have an actual discussion, but have sat in the same room, saying that they are working together. HE said the hotel developer is doing the hotel part, and Fairmount is doing the retail. He said they are not independent of each other. Mr. Ferrara asked if it is reasonable to expect they will have a formal agreement, and Mr. Smith said they have pressed for that agreement. He said when they have the two principals sitting together assuring the City, they tend to back off. He said he is sure they will see a formal agreement.

Mr. Ferrara said that Tom Simpson has done a great job with the Kent Stage in terms of diversifying the music and other venues. He said they are great for the downtown. Mr. Smith agreed, adding they adjusted some of the parking, and one plan was quite helpful to Mr. Simpson.

Mr. Ruller said this is the domino effect. HE said one of the challenges is the size of the hotel, adding it has direct relevance to the bottom line. He said there area assumptions built in, and it gets fairly complex. He said they are serving multiple masters, adding the corporate world is looking for something similar to a full service hotel, which will have a higher price. He said the largest user is related to the University, adding the price point is lower. He said the numbers are critical, adding they have not shared them yet and anticipate to do so within the next few weeks. He said there is a gap from the City's end, adding they do have finalize limitations. He said they must narrow the gap, while doing the best they can. He said he regrets if things seem slow with the development, but they wanted greater detail in the overall action plan to see how pieces will fit together in advance. HE said they although they want something tomorrow, they have to be cautious with their roles as fiduciary and urban planning.

Mr. Wilson said they keep referencing the hotel developer, and asked if the person has changed. Mr. Smith said it is the same person, and Mr. Ruller said it is Mr. Pizzuti.

Mr. Wilson asked if the visitor center is on or off, and Mr. Smith said they do not know more, which is why they cannot give them more information. He said his take is that it will be a hybrid. He said it would not be merely a conference center. Mr. Smith said the University wants a welcome center, with the conference facilities. He said he believes it will be a mix of both, and Mr. Wilson said that part has changed a little.

Mr. Ruller said that all along the conference center has been the University's piece, and they are on the lead as to how it looks. He said they are engaged into some preliminary fundraising campaigning, and are turning their wheels at this time.

Ms. Shaffer said this is a potential investment for the City. She asked when they think they may have some sense of the dollar figure, representing their investment, adding this information helps them explain to the citizens why it is so important to maintain as many of their reserve funds. She asked if he saw anything else substantial besides the parking as something that must be put in by the City.

Mr. Ruller said that **Jim Bowling, City Engineer**, has taken the lead on the infrastructure. He said that depending on the final design, including possible pedestrian ways, bike trails, a boulevard crossing on Haymaker, the menu starts to add up quickly. He said it is one thing to speculate, and another to do preliminary engineering. He said the utility issues include relocation and underground, adding they do not want to spend this much money and have overhead wires. He said they are focusing on those issues at this time. He said Mr. Smith indicated that two months is a reasonable time frame for getting a better handle on the number. He said they do not want to casually or hastily throw a number on the table. He said part of what the consultant is doing is fitting the pieces together and showing them the cost on an affordability issue. He said the key players are the City, the University, the County and the business community. He said they have the right resources, and need to jointly share them.

Mr. Ruller said the numbers would be driven by the final snapshot of what they are going to have. He said it is premature to guess things like the size of the hotel. He said that Right Dimensions was looking for \$13 million, and they are optimistic they will be below that amount, adding that is their goal. He said a lot has yet to be determined.

Ms. Wallach said she attended a meeting where they discussed auctioning Jerry's Diner, and giving the money to public arts. Mr. Smith said there were liability and safety issues. He said if someone wants to take it away, and it has new life, that seems reasonable. Mr. Smith said they are on a quick time frame, adding that a few of them have been in the building. He said it has extreme decay and water rot. He said he is surprised that the man from Cleveland thinks he can save pieces of the building. He said there are some issues that legal counsel will help them through, adding it is not a tangible asset they could auction off.

Mr. Kuhar asked if there is a percentage figure they expect from the University, adding he got the impression that Dr. Lefton was a cheerleader but was not planning to finance it with university funds. Mr. Smith said it is too early to give a percentage, adding that Dr. Lefton is not just a cheerleader. Mr. Kuhar asked if there are financial commitments, and Mr. Smith said that is correct, adding that all are being hashed out at this time. Mr. Kuhar asked if it is from the University or from Dr. Lefton's recruiting efforts, and Mr. Smith said they have not left any stone unturned.

Mr. Ruller said the University has purchased property in the block, so they also have financial stake. He said from their point of view, this strengthens their ability to negotiate and have the university side by side. He said this project has tried for years, and has been unsuccessful. He said this is a strong signal that University is going to will the project to happen.

Mr. Kuhar asked if, with the university's involvement, this will be a private enterprise, and not tax exempt, and Mr. Smith said it will be on the tax duplicate, and will not be a tax exempt project.

There were no further questions at this time.

Mayor Fender said the next issue was the Property Maintenance Code. Mr. Ruller said they had invited people from the city of Tallmadge, who notified them earlier in the day that they were unable to attend. He said that Mr. Locke would remind everyone that they had questions previously on how they warrant this, and some logistic issues.

Mayor Fender suggested it might be better to postpone this discussion, unless there is urgency. Mr. Ruller said they could postpone it, if that was their desire.

Mr. Hawksley asked their time frame to adopt this if they postponed the discussion for another month, and **Gary Locke, Director of Community Development**, said that depends on Council's process. HE said they have had no public hearings, and comments made previously were that staff should have some public hearings. He said that it is his believe that Council should do public hearings, and not just authorize staff to do it. He said there were a few questions, and they would like to be sure they are on the right track. He said adoption is three to four months away, if not longer, if they get into public hearings. He said that would back it up further. Mr. Locke said this started last summer, adding it has been a big issue and will be controversial. He said he thought Council wanted to proceed forward expeditiously.

Mr. Ruller said from their point of view, they think they have an employee who can do this well. He said the Mayor made a comment about another subject and how people did not want to be in their shoes. He said this employee has to knock on the doors, and encourage people to get into compliance, adding it is a difficult job. He said he has great confidence that they have the right person. He said if they agree to the concept, the timing is good, adding he trust the employee to make this happen.

Mr. Fender said they couldn't take action in a work session. He noted that Mr. Locke said there was more work. Mr. Locke said they prepared and presented the draft, and received a few comments. HE said they wanted to hear staff's approach to enforcement, and how it would be done. He said he tried to go back and look at that, which is the information distributed for this meeting. He said they reviewed the Code, and made a few changes to deal with some inconsistencies. Mr. Locke said the primary purpose was to propose the policy and procedures. He said it is off the beaten path, adding it is not that conventional. He said they have tried to come up with creative ways to deal with the problems, providing flexibility, but giving them a strong position for enforcement. Mr. Locke said he was going to suggest, if they were

comfortable with the process, that it may be applicable in other areas of their law, such as their Zoning Code, and their nuisance legislation. He said the primary idea was to see if this was something they were comfortable with, and give them a chance to think about it. He said if they are comfortable, this might be the time to start advancing it forward. Mayor Fender commented that the words “omfort level” may generate some questions.

Mr. Hawksley said they have talked about this for a long time. He said they should put this in Committee, and give the public the opportunity to speak. He said he is happy with the outline for enforcement, in that non-critical life or safety issues get a little slack. He said he agrees with the small bond and giving time. Mr. Hawksley said the staff has done a great job letting them have their cake and eat it too, adding it takes them to the next step. He said he likes the part about concentrated enforcement action, and would like to hear more at some point. He said he is glad it is not just complaint driven, adding they know they have a street or two that are bad problems. HE said this gives them the opportunity to start with the worst areas, and go from there, without being accused of discrimination.

Ms. Wallach said she was interested on the concentrated enforcement actions. She asked if there is a definition of the area that would need this, and Mr. Locke said there is no scientific response. He said they would know it when they see it. He said some neighborhoods suffer from the lack of maintenance, adding they may do one or two streets. HE said it could be done with input from Council and other entities. Mr. Locke said it could be those streets that have a lot of complaints, adding that Francis Street could be one of those streets. He said **Troy Loomis, Code Enforcement Officer**, has done a concentrated action in an indirect fashion. He said it could be an area they want to look at, adding the whole idea is to get the word out ahead of time and give some reasonable period of time. He said he might be a little naive to think it will happen, but he believes this will give property owners time to assess what is going on. He said they could call the City and talk to them, adding it is like a grace period for people to fix the property. He said if they enter into a voluntary compliance contract, there is no cash bond. He said they cannot boilerplate these things, adding it may take one week to fix a gutter, but all summer to pain a house. He said they are looking at some options regarding financial assistance. HE said some of the banks might have an interest, adding one banker said they might have interest in putting together a pool of money. Mr. Locke said the banks have invested a lot of money in Kent, as a bank, and the more they maintain, the better off for Kent. He said they are looking at ways of creating capital that goes beyond the City's coffers, adding they want to look at it comprehensively. He said concentrated enforcement action allows a grace period, adding the ordinance may take effect in six months, giving people a chance to address the issues.

Mr. Kuhar said he thought he would be more critical, adding the ordinance has a lot of tremendous attributes. He said he has no problems with the exterior aspect, but did have a few questions. He said it calls for no inoperable motor vehicles on or stored in the property, adding that includes 4-wheelers, snowmobiles, dune buggies, and motorcycles. He asked about those who race motorcycles or restore classic cars or four wheelers. He said the way it is written would exclude those, adding to be able to tell someone what they keep in their garage is wrong.

Mr. Kuhar said another section speaks about proper lighting and ceiling heights, adding a lot of their older homes may not meet those qualifications. He said they might need grandfather clauses. He said those homes built under the new code will not be affected, but they have hundreds of homes that will not meet those standards.

Mr. Locke said he was unsure he could impart any wisdom on the modifications of the International Code Council, adding this was adopted across the country. He said if there are pieces they are uncomfortable about, they can remove them, adding this was in the model code from the ICC, which was adopted in a number of places. He noted he distributed a list of cities previously that adopted this code. Mr. Locke said it is clearly up to them, adding he understands the comments about storage, but they do get complaints. He said it is not always inside the building. Mr. Locke referred, again, to Francis Street, adding they have vehicles and equipment stored outside. He said not everyone enjoys seeing that. Mr. Kuhar asked at what point they address their concerns so they can review and discuss it. He said he would hate to see something put up and be passed, when there are issues that need altered.

Mr. Locke said he thought he heard them saying they would return to committee, and at that point they can decide to make modifications. Mr. Kuhar commented they do not want cars jacked up.

Ms. Shaffer said it is terrific, adding she likes the contract. She said it is difficult to have a blanket rule for all of the possible contingencies. She said they are painting their house themselves, and removing the pain from the trim, which takes forever. She said she appreciated the fact that the Code Enforcement Officer would have the ability to work it out with the property owners. She said she imagined that extension could be negotiated.

Ms. Shaffer asked about homes in foreclosure, and Mr. Locke said he was with some of his colleagues in Columbus the previous day, discussing the same issue. He said some of the properties have gone into foreclosure, adding that while the bank controls them, they do not own them. He said trying to nail down the property owner is not that simple, as that entity has shown they are not responsible, by not paying the mortgage. He said they could take every available legal means to deal with the issue. HE said they would not tolerate those situations that may cause immediate danger. He said it is a problem that everyone is dealing with at this time.

Ms. Shaffer said there was a small paragraph about appeals, and asked if they thought it through. Mr. Locke said they have talked about it, adding a lot of cities created their own boards. He said they are not suggesting another board, and suggested utilization of the Board of Zoning Appeals. He said they are used currently for housing appeals. He said he was unsure they settled that, but it was pointing in that direction.

Mr. Locke said everyone has pointed to Mr. Loomis. He said they have two people, with Troy being one and Bob Nitchze, their Chief Building Official, being the other. He said that structural issues would be more appropriately dealt with by Mr. Nitchze. He said that Mr. Loomis does not have his certification at hits time for building code enforcement, which may be something he wants to do in the future. HE said another possibility is crossing departmental boundaries, with a team of people, especially if they concentrate in a certain neighborhood.

Mr. Turner said he was glad to hear about Mr. Nitchze, as he thought this was a lot of work for one person. He said he is also concerned with the possibility of an enforcement bottleneck in the court system, which makes it problematic in their effectiveness. He said they have people who start to take advantage, adding he was wondering about an approach that can help them resolve this issue.

Mr. Locke said there are two pieces, with one being the compliance contract. He said if they take 300 violations to the Law Department, it would be a slow process as there is a lot of legal work. He said with regard to the idea of compliance, they need to weed it out. He said they currently send an order, and if there is no compliance in thirty days, they refer it to the Law Department, which does not accomplish much. He said if they gave people a reasonable time period to fix the issue, it is a good concept.

MR. Locke said the second piece deals with the execution of the consent entry, which they have used before. He said the property owner would sign a legal document, and if they do not comply within a certain time period, the City can go right to court. He said this shortens the amount of work done by the Law Department. Mr. Locke said they are trying to be attentive to the whole issue.

Mr. Locke said the reason things do not get done is that they get stuck in their process.

Mayor Fender said that Mr. Locke started out by saying they were on the right track. He said they would schedule this for committee discussion.

Mr. Kuhar said he wanted to address one of Ms. Shaffer's questions. He said he spent a number of years in property management for foreclosed properties, adding the property manager is responsible for keeping the grass cut, taking care of the property and handling safety issues. Ms. Shaffer asked if they could make an ordinance asking that rental properties have a property manager, and Mr. Kuhar said it is not about the rental properties. He said the person holding the mortgage is the responsible party.

MOTION TO RECESS INTO EXECUTIVE SESSION FOR TWO PIECES OF PENDING LEGISLATION.

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

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.

Mayor Fender recessed this meeting at 8:35 p.m.

Following Executive Session, Mayor Fender reconvened this meeting at 9:14 p.m.

**MOTION TO AUTHORIZE THE PURCHASE OF PROEPRTY FROM RIGHT DIMENSIONS, AND
SETTLING THE LAW SUIT REGARDING DAMAGE TO THE PROPERTIES, FOR AN AMOUNT OF
\$400,000, WITH INSURANCE PAYING \$28621.56 FOR THE DAMAGE DONE TO THE PROPERTY.**

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

MOTION TO REVOKE THE LOCAL RELOCATION POLICY.

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

Mr. Kuhar asked if they would just give them what the Federal guidelines call for, and Mr. Silver nodded.

Ms. Wallach asked if they were amending their current policy, and Mr. Wilson said they were revoking it, and will follow the federal law. Ms. Wallach asked if it was just for this particular case, and MR. Wilson said it was for all cases. Ms. Wallach asked if that is true if the property was grand fathered, and Mr. Wilson said that no properties in Kent are grand fathered.

The motion carried by a voice vote of 9-0.

Hearing no further business before this committee, Mayor Fender adjourned this meeting at 9:15 p.m.

Linda M. Copley, Clerk of Council

ACTION RECOMMENDED:

- 1) **TO AUTHORIZE THE PURCHASE OF PROEPRTY FROM RIGHT DIMENSIONS, AND
SETTLING THE LAW SUIT REGARDING DAMAGE TO THE PROPERTIES, FOR AN AMOUNT
OF \$400,000, WITH INSURANCE PAYING \$28621.56 FOR THE DAMAGE DONE TO THE
PROPERTY.**
- 2) **TO REVOKE THE LOCAL RELOCATION POLICY.**