

**THE CITY OF KENT, OHIO
REGULAR COUNCIL MEETING
WEDNESDAY, MAY 23, 2007**

This regular meeting of Kent City Council was called to order on Wed., May 23, 2007 at 7:30 p.m. by John Fender, Mayor & President of Council.

PRESENT: MR. BARGERSTOCK, MR. DELEONE, MS. GAVRILOFF, MR. HAWKSLEY, MS. OSWITCH, MR. SCHULTZ, AND MR. WILSON

ALSO PRESENT: D. RULLER, CITY MANAGER; J. FENDER, MAYOR & PRESIDENT OF COUNCIL; J. SILVER, LAW DIRECTOR; AND L. ZORC, ACTING CLERK OF COUNCIL

ABSENT: MR. KUCHAR & MR. FERRARA, COUNCIL
L. COPLEY, CLERK OF COUNCIL

MOTION TO EXCUSE MR. KUCHAR.

Motion made by Mr. Wilson, seconded by Ms. Oswitch, and carried by a voice vote of 7-0.

Mayor Fender called upon Mr. Bargerstock for opening remarks at this time. Mr. Bargerstock had no opening remarks, and led those present in the Pledge of Allegiance.

MOTION TO APPROVE THE MINUTES OF THE REGULAR COUNCIL MEETING OF MAY 2, 2007, PUBLIC HEARING OF MAY 2, 2007 AND THE JOINT MEETING WITH FRANKLIN TOWNSHIP TRUSTEES OF MAY 2, 2007.

Motion made by Mr. Bargerstock, seconded by Ms. Gavriloff, and carried by a voice vote of 7-0.

At this time, Mayor Fender explained that the Kent Area Chamber of Commerce received first prize in the NOACC (Northern Ohio Area Chambers of Commerce) Growth Chamber Challenge, a challenge to find creative ways to grow membership and add innovative activities issued to 130 chambers of commerce in the NOACC (Northern Ohio Area Chambers of Commerce) network. He introduced Vicky Hawke, NOACC Executive Director, who presented the award and a \$1000 prize check to Dan Smith, Executive Director of the Kent Area Chamber of Commerce

COMMUNICATIONS

Mayor Fender called for audience comment at this time. Hearing none, he called for the written correspondence.

The Acting Clerk reported that a letter was received on May 7, 2007 from Gregory Vilk, managing Partner of Kent Hotel LLC, addressing issues and concerns with respect to the work being done in the city of his building. She said this letter was previously distributed to Council.

The Acting Clerk reported that an email was received on May 7, 2007, and previously distributed to Council from Council member Bargerstock, with an article from USA Today where the City Manager of Edinboro, PA spoke of the benefits and challenges of a tax exempt university in their city.

The Acting Clerk reported that notification was received from Ohio Edison that they will be filing for an increase in distribution rates, which would take effect on Jan. 1, 2009. She said that Ohio Edison advised that this increase would be more than offset by the elimination of certain charges related to electric restructuring in Ohio and would result in an overall decrease in the regulated charges.

The Acting Clerk reported that a letter was received from Time Warner Cable on May 9, 2007 announcing new stations that would be added to their selections. Another letter was received from Time Warner Cable on May 10, 2007 explaining that their previous letter notified that Toon Disney would be moving to their Expanded Basic tier. She said that the letter further explained that was in error, and Toon Disney will remain on the Digital Tier.

The Acting Clerk reported that emails were received on Monday, May 14, 2007 from Howard Boyle, Tom Simpson, Charlie Thomas, and John Simon Parking Action Committee members; Dan Smith, Executive Director of Kent Area Chamber of Commerce; Doron Kutash, volunteer for the Main Street program; Allan Orashan; Scott Hussing; Barbara Carlson; and Don Schjeldahl, encouraging Council to keep the parking on the bridge. These emails were previously distributed to Council prior to the committee meeting on May 16 on this topic.

The Acting Clerk reported that an email was received and forwarded to all members of Council on May 11, 2007 from Council member Bargerstock responding to an email Mr. Ruller sent to a citizen that posted a comment on his blog. Mr. Bargerstock disagreed with Mr. Ruller's comments regarding the West River Neighborhood project and the total cost of monies spent.

The Acting Clerk reported that an email was received and forwarded to all members of Council on Saturday, May 12, 2007 from Council member Kuhar speaking against the Buxton presentation. She reported that on May 14, 2007, Council member Bargerstock resent an email that was not previously received asking that the Buxton proposal be placed in Finance Committee for further discussion.

The Acting Clerk reported that minutes of the April 19, 2007 Standing Rock Cemetery Board meetings were placed on file by Council's representative, Mr. DeLeone, on Wed., May 16, 2007.

The Acting Clerk reported that an email was received and forwarded to all members of Council on Thursday, May 17, 2007 from Gary Lockwood, thanking Council for their support of Standing Rock Cultural Arts and their D.I.C.E. programs.

The Acting Clerk reported that affidavits were received on May 17, 2007 from John Idone, Director of Parks and Recreation and Kelly Wortman, a employee of the Parks and Recreation Department advising that the lease at 803 Fairchild Avenue is an arm's length transaction.

The Acting Clerk reported that after the agenda was printed, an email was received and forwarded to all members of Council on Friday, May 17, 2007, from Council member Bargerstock, following up on his public records request for information on 803 Fairchild Avenue.

The Acting Clerk reported that after the agenda was printed, an email was received and forwarded to all members of Council on Friday, May 17, 2007 from Council member Bargerstock with three examples of PILOT programs.

Mayor Fender called for the City Manager's report at this time.

MOTION TO APPROVE ITEM #1, WHEREIN THE LAW DIRECTOR REQUESTS CLARIFICATION FROM COUNCIL AS TO WHETHER OR NOT THEY WISH TO DISCUSS THE LEASE FOR 803 FAIRCHILD AVENUE FURTHER IN COMMITTEE.

Motion made by Mr. Wilson, seconded by Ms. Gavriloff, and carried by a voice vote of 7-0.

MOTION TO RECESS INTO EXECUTIVE SESSION, PRIOR TO THE END OF THE MEETING TO DISCUSS PENDING LITIGATION.

Motion made by Mr. Wilson, seconded by Ms. Gavriloff.

Roll call was taken on the motion. Voting aye: Mr. DeLeone, Ms. Gavriloff, Mr. Hawksley, Ms. Oswitch, Mr. Schultz, Mr. Wilson, and Mr. Bargerstock. The motion carried by a roll call vote of 7-0.

Mr. Ruller said the flowers are being planted in Kent, with the cooperation of the weather. He noted they may even need some rain, as the Adopt-a-Spot people have been busy. He thanked Cindy Price, the City's employee, who has done an amazing job. He said he has received two unsolicited comments from citizens who feel she is the hardest working City employee.

STANDING COMMITTEE REPORTS

POLICY & PROCEDURES COMMITTEE

MOTION TO APPROVE THE WRITTEN REPORT OF MAY 16, 2007, WHERE THERE WAS A REVIEW OF EVALUATION FORMS TO BE USED FOR THE MANAGER AND THE CLERK AND NO RECOMMENDED ACTION.

Motion made by Mr. Hawksley, seconded by Mr. Wilson, and carried by a voice vote of 7-0.

The Mayor asked the Acting Clerk to read Draft No. 07-56 by title only.

A RESOLUTION PAYING TRIBUTE TO BILL WOLCOTT, POSTHUMOUSLY, FOR HIS CIVIC INVOLVEMENT AND COMMITMENT TO THE CITY OF KENT.

MOTION TO SUSPEND THE THREE READINGS.

Motion made by Ms. Oswitch, seconded by Ms. Gavriloff.

Roll call was taken on the motion. Voting aye: Ms. Gavriloff, Mr. Hawksley, Ms. Oswitch, Mr. Schultz, Mr. Wilson, Mr. Bargerstock, and Mr. DeLeone. The motion carried by a roll call vote of 7-0.

MOTION TO ADOPT THE DRAFT ORDINANCE.

Motion made by Ms. Oswitch, seconded by Ms. Gavriloff.

Roll call was taken on the motion. Voting aye: Ms. Gavriloff, Mr. Hawksley, Ms. Oswitch, Mr. Schultz, Mr. Wilson, Mr. Bargerstock, and Mr. DeLeone. The motion carried by a roll call vote of 7-0.

2007-50: A RESOLUTION PAYING TRIBUTE TO BILL WOLCOTT, POSTHUMOUSLY, FOR HIS CIVIC INVOLVEMENT AND COMMITMENT TO THE CITY OF KENT.

Elizabeth Zorc, Acting Clerk

John Fender, Mayor & President of Council

COMMUNITY DEVELOPMENT COMMITTEE

MOTION TO APPROVE THE WRITTEN REPORT OF MAY 16, 2007 AND THE RECOMMENDED ACTION, TO RECOMMEND FUNDING DICE FOR \$3000 AND THE KSU FOLK FESTIVAL FOR \$7000 WITH THE CELEBRATE KENT! PROMOTIONS GRANT.

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

Mr. Bargerstock said he would speak against the motion. He explained that the two organizations they have agreed to fund are worthy and do a great job. He said the recommendation done by the Administration was done fairly and in conformance with the procedures given to the Administration. He said Council chose to exclude an organization that has served the community since 1976. He said they are a 501 (c)(3) organization that requested \$500. He said it was done in a mean spirit, because there is one individual that some members of Council chose not to like. He said there was no legitimate reason, adding this organization has provided, over a lot of years, a great deal of support for this community. He said it was a wrong process.

Ms. Oswitch said she would support the motion, but did disagree with the action regarding KentFest. She said they were eligible, adding that their employee, who is paid a lot of money, did his job. She said he received the policy, and returned with their eligibility. She said she felt it was a personal attack on the person who requested the money. He said there are a lot of businesses that are donating prizes, adding that the City should help also. She said it was wrong.

The motion carried by a voice vote of 6-1, with Mr. Bargerstock dissenting.

FINANCE COMMITTEE

MOTION TO APPROVE THE WRITTEN REPORT OF MAY 16, 2007 AND THE RECOMMENDED ACTION, TO RECOMMEND APPROVAL OF THE LEASE FOR 209 E. SUMMIT STREET, INCLUDING

THE PROVISION THAT THE LESSEE RETURN THE PROPERTY TO ITS ORIGINAL STATE, IF COUNCIL SO CHOOSES.

Motion made by Mr. Wilson, seconded by Mr. Hawksley, and carried by a voice vote of 7-0.

The Mayor asked the Acting Clerk to read Draft No. 07-57 by title only.

AN ORDINANCE ACCEPTING AND AUTHORIZING THE CITY MANAGER TO EXECUTE A PURCHASE AGREEMENT SELLING A 2.2203 ACRE PARCEL OF PROPERTY TO GARY PHILLIP BERARDINELLI, FOR \$50,000.00 AND DECLARING AN EMERGENCY.

MOTION TO SUSPEND THE THREE READINGS.

Motion made by Mr. Wilson, seconded by Ms. Oswitch.

Roll call was taken on the motion. Voting aye: Ms. Gavriloff, Mr. Hawksley, Ms. Oswitch, Mr. Schultz, Mr. Wilson, and Mr. DeLeone. Mr. Bargerstock dissented. Suspension of the three readings failed by a roll call vote of 6-1.

MOTION TO APPROVE FIRST READING.

Motion made by Mr. Wilson, seconded by Ms. Oswitch.

Roll call was taken on the motion. Voting aye: Ms. Gavriloff, Mr. Hawksley, Ms. Oswitch, Mr. Schultz, Mr. Wilson, and Mr. DeLeone. Mr. Bargerstock dissented. First reading carried by a roll call vote of 6-1.

The Mayor asked the Acting Clerk to read Draft No. 07-58 by title only.

AN ORDINANCE AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO ENTER INTO A LEASE AGREEMENT WITH THERESA TRIVELLI FOR PROPERTY LOCATED AT 209 EAST SUMMIT STREET, KENT, OHIO AND DECLARING AN EMERGENCY.

MOTION TO SUSPEND THE THREE READINGS.

Motion made by Mr. Wilson, seconded by Ms. Oswitch.

Roll call was taken on the motion. Voting aye: Mr. Hawksley, Ms. Oswitch, Mr. Schultz, Mr. Wilson, Mr. Bargerstock, Mr. DeLeone and Ms. Gavriloff. The motion carried by a roll call vote of 7-0.

MOTION TO ADOPT THE DRAFT ORDINANCE.

Motion made by Mr. Wilson, seconded by Ms. Oswitch.

Roll call was taken on the motion. Voting aye: Mr. Hawksley, Ms. Oswitch, Mr. Schultz, Mr. Wilson, Mr. Bargerstock, Mr. DeLeone and Ms. Gavriloff. The motion carried by a roll call vote of 7-0.

2007-51: AN ORDINANCE AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO ENTER INTO A LEASE AGREEMENT WITH THERESA TRIVELLI FOR PROPERTY LOCATED AT 209 EAST SUMMIT STREET, KENT, OHIO AND DECLARING AN EMERGENCY.

Elizabeth Zorc, Acting Clerk

John Fender, Mayor & President of Council

HEALTH & SAFETY COMMITTEE

MOTION TO APPROVE THE WRITTEN REPORT OF MAY 16, 2007.

Motion made by Ms. Gavriloff, seconded by Ms. Oswitch, and carried by a roll call vote of 7-0.

MOTION TO APPROVE THE RECOMMENDED ACTION, RECOMMENDING APPROVAL OF THE

ADMINISTRATION'S RECOMMENDATION TO KEEP PARKING ON THE MAIN STREET BRIDGE, WITH A GOOD DESIGN THAT IS AESTHETICALLY PLEASING FOR THE BARRIERS.

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

The motion failed by a hand count of 4-3, with Ms. Oswitch, Mr. Wilson, and Ms. Gavrilloff dissenting.

STREETS, SIDEWALKS & UTILITIES COMMITTEE

MOTION TO APPROVE THE WRITTEN REPORT OF MAY 16, 2007, AND THE TWO RECOMMENDED ACTIONS.

Motion made by Ms. Oswitch, seconded by Mr. Hawksley, and carried by a roll call vote of 7-0.

THE FOLLOWING ITEMS WERE APPROVED BY THE AFOREMENTIONED MOTION:

- 1) TO RECOMMEND ACCEPTANCE/DEDICATION OF THE FINAL PHASE OF THE LAKES @ FRANKLIN MILLS, CONTINGENT ON THE RECEIPT OF THE BONDS.
- 2) TO REFER CHANGING THE NAME OF ADMORE DRIVE TO STONEWATER DRIVE TO COMMITTEE.

SPECIAL COMMITTEE REPORTS None

UNFINISHED BUSINESS None

NEW BUSINESS

Mr. Wilson said if someone who voted for Action A, under Health & Safety, would make a motion for reconsideration, he would change his vote. He said that since he voted against the motion, he did not think he could make the motion for reconsideration. He said he would change his vote because he thought he knew the attempt and desire of Council. He said he does not like the parking on the bridge, but it was not fair, as there was a lengthy discussion.

Mr. Schultz said he felt that the parking would remain, as the motion failed.

Mr. Silver told Mr. Wilson that he could make the motion to reconsider as it must be someone dissenting. Mr. Wilson asked if the motion was needed, since the action failed. Mr. Silver said it would stay "as is" with no improvements.

MOTION TO RECONSIDER THE MOTION FOR ACTION A, HEALTH & SAFETY COMMITTEE.

Motion made by Ms. Gavrilloff, seconded by Mr. Wilson, and carried by a voice vote of 6-1, with Ms. Oswitch abstaining.

MOTION TO APPROVE ACTION A, RECOMMENDING APPROVAL OF THE ADMINISTRATION'S RECOMMENDATIONS TO KEEP PARKING ON THE MAIN STREET BRIDGE, WITH A GOOD DESIGN THAT IS AESTHETICALLY PLEASING FOR THE BARRIERS.

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

Mr. Wilson said he did not like parking on the bridge, but knew the intent of Council. He said he would not be that "kind of person" and would change his vote to follow through on the Committee's intent.

Ms. Gavrilloff said she is still opposed to the parking on the bridge, adding she was opposed to it two years earlier. She said it is a safety issue and "aesthetically ugly" for lack of a better word. She said if they can go through seven different temporary barriers, they will still have problems. She said she will still vote against the motion.

Mr. Hawksley said he did not say anything the previous week, adding he supported the motion. He said the City can hire the services of a landscape architect or someone who knows what they are doing. He said that all over the country, barriers are made to look nice. He said he appreciated Mr. Wilson's reconsideration.

The motion carried by a hand vote of 5-2, with Ms. Oswitch and Ms. Gavrilloff dissenting.

MOTION TO REFER TO THE ADMINISTRATION THAT THEY WORK WITH THE CHAMBER OF COMMERCE TO BEAUTIFY THE MAIN STREET BRIDGE PARKING AREA.

Motion made by Ms. Gavrilloff, seconded by Ms. Oswitch.

Ms. Gavrilloff said the Chamber sent them a letter and offered to financially assist the City with beautification of that bridge.

The motion carried by a voice vote of 7-0.

Mr. Wilson said on the City Manager's report, the Law Director was asking for clarification (with respect to 803 Fairchild Avenue).

MOTION TO REFER 803 FAIRCHILD AVENUE TO COMMITTEE FOR DISCUSSION.

Motion made by Mr. Wilson, seconded by Mr. Hawksley, and carried by a voice vote of 7-0.

Mr. Hawksley said they are requesting an Executive Session on June 6, 2007 to review the evaluations for their employees. He said they will have some self evaluations from both employees at that time.

Ms. Oswitch said she would be absent from that meeting.

Mr. Bargerstock said there appears to be problems with getting emails through the system. He said there were attachments regarding a PILOT program. He said these are in other communities experiencing the same kind of financial problems as Kent. He said some of these problems have been working successfully for fifteen or more years. He said he hoped all members received the attachments, and if they did not receive them, to contact the Clerk. He said they are interesting.

Mr. Bargerstock said he had said previously that he felt they were losing because of Kent State's tax exempt status. He said it was one reason why he proposed the admissions tax. He said the PILOT program is another alternative that they have never discussed. He said a retired professor who serves on the Oberlin Council is proposing the same thing. He said he knew there were some comments by a panel member previously and how they relate to private universities. He said the entire state of Connecticut is using the program, which means there must be some will by the state legislature to make those types of changes. He said that Berkeley, California is doing the same, and it is a public entity.

Mr. Bargerstock said this is going on around the country, and is nothing new or revolutionary. He said it is nothing he dreamt up overnight. He said all they have to do is go to "Google" and type it in there, adding they will find all kinds of material. He encouraged them to read it.

Mr. Bargerstock said the other situation that bothers him is the lease and/or sale of park property. He said the more questions that are asked, the more questions that are raised. He said the Law Director gave him a large packet earlier in the evening, adding he has not had a chance to review it thoroughly. He said some of the information does raise serious questions, particularly in light of one of the individuals. He said when he can examine it further, he will share it with members of Council. He said that when he requested the information, he wanted all of Council to receive the information. He said he made it as a public records request, as it was not a motion. He said he made that original request around May 14. He said it concerns him if any citizens are making a public records request, there has been a great deal of effort on his part to get the material. He said other members of Council need to review it also. He said when the issue was in committee, they did not have the information needed. He said he is glad it is back in committee.

Mr. Bargerstock said he voted against the sale of property, as he did not think the Parks Department should be involved in the sale of City property, adding that is why they have a city real estate broker. He said the sale of that property was not done professionally, and they also do not look like they are leasing property professionally. He said they made a mess of their incubator program, and had to rectify that problem. He questioned why they should continue that problem.

Ms. Oswitch said the gardens are extremely nice in Kent, and agreed with earlier comments by the

Manager about Cindy Price. She noted that Ms. Price “has been working her tail off”.

Ms. Oswitch commended everyone on the islands along Main Street. She said they have beautiful flowers this year, instead of wild flowers. She said they definitely look like flowers, and adds a lot of character.

MOTION TO RECESS THIS MEETING FOR THE PREVIOUSLY AUTHORIZED EXECUTIVE SESSION.

Motion made by Ms. Gavriloff, seconded by Ms. Oswitch, and carried by a voice vote of 7-0.

Mayor Fender recessed this meeting at 8:00 p.m. Following Executive Session, Mayor Fender reconvened this meeting at 8:30 p.m.

MOTION TO AUTHORIZE THE LAW DIRECTOR TO FILE A LAWSUIT AGAINST FERRIS DISPOSAL.

Motion made by Ms. Gavriloff, seconded by Mr. Wilson, and carried by a voice vote of 7-0.

MOTION TO ADJOURN THIS MEETING.

Motion made by Mr. Wilson, seconded by Ms. Gavriloff, and carried by a voice vote of 7-0.

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

Elizabeth Zorc, Acting Clerk

John Fender, Mayor & President of Council

