

**THE CITY OF KENT, OHIO  
REGULAR COUNCIL  
WEDNESDAY, MARCH 7, 2007**

This regular meeting of Kent City Council was called to order on Wed, March 7, 2007 by President Pro Tem Wilson, in the absence of John Fender, Mayor & President of Council, at 7:30 p.m.

**PRESENT:** MR. BARGERSTOCK, MR. DELEONE, MR FERRARA, MS. GAVRILOFF, MR. HAWKSLEY, MR. KUCHAR, MS. OSWITCH, MR. SCHULTZ & MR. WILSON

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

**ABSENT:** J. FENDER, MAYOR

**MOTION TO EXCUSE MAYOR FENDER**

Motion made by Ms. Oswitch, seconded by Ms. Gavrilloff, and carried by a voice vote of 8-0.

President Pro Tem Wilson called upon Mr. Hawksley for his opening remarks.

Mr. Hawksley said it was good to see th City Manager sitting across the table with a smile. He reminded everyone that another season was beginning soon, and spoke of new beginnings. He said that Spring is the time when garden plans become a reality, and encouraged Council members to envision a beautiful garden. He said they have to get their hands dirty and do some digging, to provide the Manager and his staff the necessary tools to fertilize and nurture the garden. He said their chief steward is well qualified, and encouraged the citizens to become cultivators.

Mr. Hawksley concluded with "Go Flashes". Following his opening remarks, Mr. Hawksley led the Pledge of Allegiance.

**MOTION TO APPROVE THE MINUTES OF THE REGULAR COUNCIL MEETING OF FEB.21, 2007.**

Motion made by Mr. Hawksley, seconded by Mr. DeLeone, and carried by a voice vote of 8-0.

At this time, President Pro Tem deviated from the agenda. He introduced **Safety Director Bill Lillich and Fire Chief Jim Williams.**

Chief Williams explained that Tim Morrison retired after thirty years of service with the City, allowing the opportunity to promote new individuals into new positions. He introduced Dave Manthey, who is in his twenty-seventh years with the Fire Department. He explained that Mr. Manthey will be promoted to Captain, replacing Captain Morrison on Black Shift. Chief Williams introduced Rich Lynn, who is serving his seventeenth year with the Fire Department. He explained that Mr. Lynn will be promoted to Lieutenant, and will be in charge of fire prevention. He said that Mr. Lynn is excited about doing fire prevention, adding that most are usually not excited.

Safety Director Lillich administered the oath at this time. Following the oath, Capt. Manthey and Lt. Lynn introduced their families.

**COMMUNICATIONS**

Pro Tem Wilson called for audience comment at this time. He reminded those wishing to address Council to sign up with the Clerk of Council prior to speaking

**Justin:** Justin explained he is with the Student Senate, and the task force will have an information meeting on Monday, Mar. 12 @ 7:00 p.m. in Room 204 of the Student Center. He said they are looking to create a task force similar to a few years ago, which would be an active party patrol with students and staff. He said he would love to have people from the community involved with the group. He said on the following Monday, they will have a training day, with Dr. Jerry Lewis doing the training of the party patrollers. He said that would be at 5:00 p.m. in the same room.

Justin explained that the Student Senate issued a deep concern with the ordinances be passed later in the evening. He said they were inviting Council and the Administration to join them at their next Senate meeting on March 21 at 3:45 p.m. in the Student Governance Chambers at the Student Center. He said they are very concerned with Draft Ordinance Nos. 07-23 and 07-24.

Hearing no further audience comment, President Pro Tem Wilson called on the Clerk for the written correspondence.

### **Written**

The Clerk reported that notification was received from the Kent Fire Fighters Association, Local 721, regarding the newly elected officers.

The Clerk reported that after the agenda was printed, the 2006 Annual Report for the Kent Police Department was placed on file on March 6, 2007. She said it will also be available on the City's website.

### **City Manager's Report**

#### **MOTION TO APPROVE ITEMS #1 THROUGH #2.**

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

The following actions were approved by the aforementioned motion:

- 1) AUTHORIZATION OF DRAFT NO. 07-22, FOP DONATION FOR K-9 UNIT
- 2) ADMINISTRATION OF OATHS OF CAPTAIN MANTHEY AND LT. LYNN

Mr. Ruller thanked everyone for their well wishes, thoughts, and calls, during his recent surgical procedure. He said he would not recommend this as a way to lose weight or to renew one's perspective. He said he feels an overwhelming sense of gratefulness that he was present at the meeting. He said he is renewed and refreshed. Mr. Ruller said that while he is not 100%, it is great to be back in the land of the living.

### **STANDING COMMITTEE REPORTS**

#### **COMMUNITY DEVELOPMENT COMMITTEE**

#### **MOTION TO APPROVE THE WRITTEN REPORTS OF FEB. 21, 2007 (ORAL REPORT APPROVED FEB. 21, 2007) AND FEB. 28, 2007, WITH THE RECOMMENDED ACTIONS OF FEB. 28, 2007.**

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

The following actions were approved by the aforementioned motion:

- 1) UPDATE ON MAIN STREET PROGRAM; NO ACTION REQUIRED
- 2) TO AUTHORIZE THE 2007 CHIP GRANT
- 3) TO AUTHORIZE THE CDBG CONSOLIDATED/ACTION PLAN.

President Pro Tem Wilson asked the Clerk to read Draft No. 07-21 by title only at this time.

#### **AN ORDINANCE AUTHORIZING THE COMMUNITY DEVELOPMENT DEPARTMENT TO FILE AN APPLICATION TO THE STATE OF OHIO TO PARTICIPATE IN THE FY 2007 COMMUNITY HOUSING IMPROVEMENT PROGRAM (CHIP) AND UPON AWARDING OF THE GRANT, AUTHORIZING APPROPRIATION OF FUNDS THEREFOR, AND DECLARING AN EMERGENCY.**

#### **MOTION TO SUSPEND THE THREE READINGS.**

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

Roll call was taken on the motion. Voting aye: Mr. DeLeone, Mr. Ferrara, Ms. Gavriloff, Mr. Hawksley, Mr. Kuhar, Ms. Oswitch, Mr. Schultz, Mr. Wilson, and Mr. Bargerstock. The motion carried by a roll call vote of 9-0.

**MOTION TO ADOPT THE DRAFT ORDINANCE.**

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

Roll call was taken on the motion. Voting aye: Mr. DeLeone, Mr. Ferrara, Ms. Gavriloff, Mr. Hawksley, Mr. Kuhar, Ms. Oswitch, Mr. Schultz, Mr. Wilson, and Mr. Bargerstock. The motion carried by a roll call vote of 9-0.

**2007-20: AN ORDINANCE AUTHORIZING THE COMMUNITY DEVELOPMENT DEPARTMENT TO FILE AN APPLICATION TO THE STATE OF OHIO TO PARTICIPATE IN THE FY 2007 COMMUNITY HOUSING IMPROVEMENT PROGRAM (CHIP) AND UPON AWARDED OF THE GRANT, AUTHORIZING APPROPRIATION OF FUNDS THEREFOR, AND DECLARING AN EMERGENCY.**

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Linda M. Copley, Clerk of Council

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Wayne A. Wilson, President Pro Tem

**FINANCE COMMITTEE**

President Pro Tem Wilson asked the Clerk to read Draft No. 07-22 by title only at this time.

**AN ORDINANCE ACCEPTING A DONATION IN THE AMOUNT OF \$500.00 TO THE CITY OF KENT POLICE DEPARTMENT FROM THE FRATERNAL ORDER OF POLICE, LODGE #70 FOR THE PURCHASE AND TRAINING OF A POLICE K-9 AND DECLARING AN EMERGENCY.**

**MOTION TO SUSPEND THE THREE READINGS.**

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

Roll call was taken on the motion. Voting aye: Mr. Ferrara, Ms. Gavriloff, Mr. Hawksley, Mr. Kuhar, Ms. Oswitch, Mr. Schultz, Mr. Wilson, Mr. Bargerstock, and Mr. DeLeone. The motion carried by a roll call vote of 9-0.

**MOTION TO ADOPT THE DRAFT ORDINANCE.**

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

Roll call was taken on the motion. Voting aye: Mr. Ferrara, Ms. Gavriloff, Mr. Hawksley, Mr. Kuhar, Ms. Oswitch, Mr. Schultz, Mr. Wilson, Mr. Bargerstock, and Mr. DeLeone. The motion carried by a roll call vote of 9-0.

**2007-21: AN ORDINANCE ACCEPTING A DONATION IN THE AMOUNT OF \$500.00 TO THE CITY OF KENT POLICE DEPARTMENT FROM THE FRATERNAL ORDER OF POLICE, LODGE #70 FOR THE PURCHASE AND TRAINING OF A POLICE K-9 AND DECLARING AN EMERGENCY.**

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Linda M. Copley, Clerk of Council

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Wayne A. Wilson, President Pro Tem

**HEALTH & SAFETY COMMITTEE**

**MOTION TO APPROVE THE WRITTEN REPORT AND RECOMMENDED ACTIONS #1, #3 - #7 OF FEB. 28, 2007.**

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

The following actions were approved by the aforementioned motion:

- 1) TO AUTHORIZE THE NUISANCE PARTY ORDINANCE.
- 3) TO SEND A LETTER TO THE JUDGE, AND ASK THAT THE FINES BE UPHELD TO THE MAXIMUM AMOUNT.
- 4) TO AUTHORIZE AN AMENDMENT TO THE PENALTY SECTION OF THE NOISE ORDINANCE.
- 5) TO AUTHORIZE THE ADMINISTRATION TO GO FORWARD WITH FURTHER DEVELOPMENT OF THE SOLID WASTE NOTIFICATION ORDINANCE.
- 6) TO AUTHORIZE THE ADMINISTRATION TO CONTINUE TO LOOK AT THE ISSUES REGARDING TRASH, RETURNING WITH RECOMMENDATION BASED ON THESE DISCUSSIONS.
- 7) TO CONTINUE THIS DISCUSSION ON NEIGHBORHOOD COUNCILS

**MOTION TO APPROVE RECOMMENDED ACTION #2, TO REFER THE ISSUE OF MEDIATION TO THE ADMINISTRATION TO WORK WITH THE UNIVERSITY.**

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

Ms. Gavriloff questioned why they would not work with all constituents, not just the University, when speaking of mediation. Ms. Oswitch agreed.

**MOTION TO AMEND ITEM #2 TO INCLUDE MEDIATION WITH THE ENTIRE CITY.**

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

Mr. Bargerstock agreed with what was said. He said they need to work closely with the courts, adding he has had a lot of conversations with Judge Oswick. He said that it appears the message is not getting through to those people convicted, and the judge has expressed her concern previously. He supported some form of mediation, adding it is not a university situation. He said if they can work with the courts and probation, they may reduce the problem.

The amendment to the motion carried with by a voice vote of 9-0.

The original motion, as amended, carried by a voice vote of 9-0.

President Pro Tem Wilson asked the Clerk to read Draft No. 07-23 by title only at this time.

**AN ORDINANCE AMENDING SECTION 509.12 OF THE KENT CODIFIED ORDINANCES STYLED UNLAWFUL NOISE.**

**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, Mr. Kuhar, Ms. Oswitch, Mr. Wilson, Mr. Bargerstock, Mr. DeLeone, and Mr. Ferrara. Mr. Schultz dissented. The motion carried by a roll call vote of 8-1.

**MOTION TO ADOPT THE DRAFT ORDINANCE.**

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

Mr. Schultz said he could not support the motion, as \$500 for noise violations was excessive.

Mr. Kuhar agreed with Mr. Schultz. He said he voiced the opinion that they wanted to send a stiff message, being more than a slap on the hands, but he did not want to bludgeon them. He commented that \$500 is a lot of money.

**MOTION TO AMEND THE PENALTY TO A MINIMUM OF \$300.**

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

Mr. Schultz said the minimum is \$0, and the proposed ordinance proposes that an offense with prior notification will have a minimum fine of \$500. Mr. Sliver said the person being charged would already have been notified.

Mr. Bargerstock spoke against the amendment. He said the discretion needs to be left with the Judge, adding they are told the judges are not enforcing the minimum. Mr. Bargerstock said the cost is high for the Police Department to put up and tolerate the activities. He said they have to balance the budget and the cost of the community versus the cost of the individuals perpetrating the problems. He said it is easy to pass the hat, with ten or fifteen people contributing. He said the change to the fee structure is needed badly, adding that the community says they need to deal with the problem effectively. He said asked how they can ignore what the community says and how they can ignore the budgetary costs. He said they need to look at the fact that three or four cruisers have to deal with the problem. He said it is not a good thing at 11:00 p.m. or midnight, when cruisers are tied up and cannot respond to other problems.

Mr. Ferrara said the first offense would still be a fine of \$0 to \$1000. Mr. Schultz said that after notification, there would be a minimum charge of \$500, and the amendment would reduce that to \$300.

Ms. Oswitch asked for clarification. She said she thought the same motion was made the previous week, and the Clerk said it was similar, but had a different dollar amount, so it was not the same motion.

Mr. Kuhar said the ordinance is not just about rental or student rental housing. He said they have drug dealers and rapists getting lesser amounts for fines. He said he is not condoning it, adding he would like to see all noisy parties shut down, but does not want to pay the City's debt with fines.

Ms. Gavriloff suggested they are forgetting one thing. She said it goes into effect after the offenders are warned. She said they already know they need to calm down the party, and are disrespecting the police officers. She said that the fine has been about \$250 since she was in college, and has not gone up with the rate of inflation.

The amendment failed by a hand count of 3-6, with Mr. Hawksley, Mr. Schultz, and Mr. Kuhar supporting the motion, while all others dissented.

Roll call was taken on the motion. Voting aye: Ms. Gavriloff, Mr. Hawksley, Ms. Oswitch, Mr. Wilson, Mr. Bargerstock, Mr. DeLeone, and Mr. Ferrara. Mr. Schultz and Mr. Kuhar dissented. The motion carried by a roll call vote of 7-2.

**2007-22: AN ORDINANCE AMENDING SECTION 509.12 OF THE KENT CODIFIED ORDINANCES STYLED UNLAWFUL NOISE.**

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Linda M. Copley, Clerk of Council

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Wayne A. Wilson, President Pro Tem

President Pro Tem Wilson asked the Clerk to read Draft No. 07-24 by title only at this time.

**AN ORDINANCE AMENDING THE CITY OF KENT CODIFIED ORDINANCES TO ADD A NEW SECTION 509.13 PROHIBITING NUISANCE PARTIES.**

**MOTION TO SUSPEND THE THREE READINGS.**

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

Roll call was taken on the motion. Voting aye: Mr. Hawksley, Mr. Kuhar, Ms. Oswitch, Mr. Schultz, Mr. Wilson, Mr. Bargerstock, Mr. DeLeone, and Mr. Ferrara. Ms. Gavriloff dissented. The motion carried by a roll call vote of 8-1.

**MOTION TO ADOPT THE DRAFT ORDINANCE.**

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

**MOTION TO AMEND SECTION E, PENALTY, FOR A FINE OF \$300 FOR THE FIRST OFFENSE; AND \$250 TO \$1000 TO THE SECOND OFFENSE.**

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

Mr. Kuhar said the second part of the penalty is stiff. He said he did not want to pay the debt from individuals that had too much beer.

Mr. Bargerstock said they are not paying their debt, but are attempting to match the cost of police action. He said that people cannot exercise good judgment, and someone has to get control. He said if a stiff fine is needed, it is needed. Mr. Bargerstock said it is the judge's discretion, adding that he doubted the maximum would be imposed as the judges have been tolerant.

Ms. Oswitch said the discussion began on Oct. 25, 2006, and the Committee told the Administration they wanted the fines increased. She said she remembered the Chief saying this was needed. She said that she was sure that the Safety Director and the Police Chief discussed all of the issues. She said it is not just about one group of people, and they need to keep it as written.

Mr. Kuhar said the penalty should be equal to the type of crime. He explained he would like to see all parties stopped, but did not think drunken or disorderly behavior was on an even scale with \$1000.

The amendment failed by a hand count of 3-6, with Mr. Hawksley, Mr. Kuhar, and Mr. Schultz supporting the motion, while all others dissented.

Roll call was taken on the motion. Voting aye: Ms. Oswitch, Mr. Wilson, Mr. Bargerstock, Mr. DeLeone, Mr. Ferrara, and Ms. Gavriloff. Mr. Hawksley, Mr. Kuhar, and Mr. Schultz. The motion carried by a roll call vote of 6-3

**2007-23: AN ORDINANCE AMENDING SECTION 509.12 OF THE KENT CODIFIED ORDINANCES STYLED UNLAWFUL NOISE.**

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Linda M. Copley, Clerk of Council

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Wayne A. Wilson, President Pro Tem

**LAND USE COMMITTEE**

**MOTION TO APPROVE THE WRITTEN REPORT OF FEB. 28, 2007 WHERE INFORMATION ON PROVIDED ON THE NUISANCE ORDINANCE ACTIVITY AND NO ACTION WAS RECOMMENDED.**

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

**STREETS, SIDEWALKS & UTILITIES COMMITTEE**

**MOTION TO APPROVE THE WRITTEN REPORT OF FEB. 21, 2007 (ORAL REPORT/ACTION APPROVED ON FEB. 21, 2007).**

Motion made by Ms. Oswitch, seconded by Ms. Gavriloff, and carried by a voice vote of 9-0.

**SPECIAL COMMITTEE REPORTS** None

**UNFINISHED BUSINESS** None

**NEW BUSINESS**

**MOTION TO REFER TO THE TRAFFIC SAFETY & ENGINEERING COMMITTEE THE FEASIBILITY OF A FOUR-WAY STOP AT FAIRCHILD & SILVER MEADOWS BLVD.**

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

Ms. Oswitch said she knew there was some discussion about traffic signals at some intersections on Fairchild. She said there was a bad accident recently, and she felt they needed to review that intersection.

The motion carried by a voice vote of 8-1, with Mr. Schultz dissenting.

Mr. Hawksley said the Clerk had asked them a question regarding the economic promotions grant

discussion, and there was some misunderstanding. He said they needed to resolve the issue for Mr. Weddle, and the question was whether it was referred back to include an in kind component or if is being approved with the same component.

**MOTION TO BRING IT BACK WITH RECOMMENDATIONS FROM THE ADMINISTRATION.**

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

**MOTION TO SCHEDULE AN EXECUTIVE SESSION ON MARCH 21 FOR THE POSTPONED QUARTERLY REVIEW OF THE CITY MANAGER.**

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

Ms. Oswitch said she would not be present. Mr. Wilson said he hated to cut anyone out, and asked about March 14. Mr. Hawksley asked the Clerk about their schedule, and she said it depended on their decision about whether to meet on March 28.

**MOTION TO TABLE THE DISCUSSION ON EXECUTIVE SESSION.**

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

Mr. Hawksley said that some of them, including himself, will be out of town on March 28. He asked if this would pile up March 14. The Clerk said they have a lot of issues on March 14, adding that she felt they should be easily resolved. Mr. Schultz said if they needed to, they could do some on March 21, after the Council meeting.

**MOTION TO SCHEDULE THEIR COMMITTEE MEETINGS ON MARCH 28, 2007.**

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

**MOTION TO TAKE THE DISCUSSION OF AN EXECUTIVE SESSION OFF THE TABLE.**

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

It was decided to schedule the Executive Session for March 14, instead of March 21.

Roll call was taken on the motion. Voting aye: Mr. Schultz, Mr. Hawksley, Mr. DeLeone, Ms. Oswitch, Mr. Bargerstock, Mr. Kuhar, Mr. Wilson, Ms. Gavrilloff, and Mr. Ferrara. The motion carried by a roll call vote of 9-0.

Mr. Bargerstock said that Mr. Wilson and Ms. Gavrilloff joined him in visiting the old hotel over the weekend. He said he was surprised and impressed with its condition, and it was in intriguing good condition. He said the facade was better than he believed. He said that the owner was keeping his words, and minimizing the hazards. He suggested there may be some promise and hope, and is glad they had the opportunity to explore the building. He said the old hotel may be a gem in the city.

Mr. Bargerstock said he was very pleased and proud of Council with the two ordinances passed, especially the party ordinance. He said he has lived near the university for twenty-eight years, and the confidence of the community has eroded over the years. He said the ordinances are steps in the right direction.

Mr. Bargerstock said that a majority of the students do not create problems, but instead, it is a small number. He said the ordinances are progressive steps, but are twenty to twenty-five years too late. He said a lot of people have given up and moved, causing further erosion. He said that some residents feel there were double standards, with some streets exempt. He said they took the right step, adding they are trying to impress on people the need to be civil. He questioned why they would view it as anti-Kent State Student, when it requires people to act civilly within the standards of the law. He said Kent is a good place for entertainment. He said he came to Kent for the entertainment, and now people are investing money in the town. He encouraged all students to go and have fun, in appropriate places, respecting their neighbors. Mr. Bargerstock encouraged everyone involved to work together.

Mr. Kuhar said he, too, was privileged to go through the old hotel, adding that the workers gave him a tour. He said he was curious, and had heard that nothing was being done. Mr. Kuhar said he was informed they have removed about twenty-four tractor/trailer loads. He said the guys are working hard,

and hopefully they will be able to finish.

Mr. Kuhar said that he wanted to clarify that because he voted against the nuisance parties ordinance does not mean he does not support the ordinance. He said it is a good enforcement tool, but he was opposed to the amount of money.

#### **MAYOR'S REPORT**

Pro Tem Wilson passed his condolences to the family of Linda Yost, Executive Director of KRBA. He said she did a fantastic job, and Kent lost a good person.

Hearing no further business before this Council, Pro Tem Wilson adjourned this meeting at 8:14 p.m.

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Linda M. Copley, Clerk of Council

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Wayne A. Wilson, President Pro Tem