



**City Council Regular Meeting Minutes**  
The City of Kent, Ohio  
Wednesday, January 22, 2020

At 7:30 p.m., Mayor Jerry T. Fiala called the **Regular Meeting of Kent City Council** to order. Roll was taken.

**PRESENT:** Mr. Jack Amrhein; Mr. Michael DeLeone; Mr. Robin Turner; Mr. John Kuhar; Ms. Gwen Rosenberg; Ms. Heidi Shaffer; Mr. Roger Sidoti; Ms. Tracy Wallach

**ALSO PRESENT:** Mr. Jerry T. Fiala, Mayor and President of Council; Mr. Dave Ruller, City Manager; Ms. Hope Jones, Law Director; Ms. Bridget Susel, Community Development Director; Ms. Melanie Baker, Public Service Director; Ms. Joan Siedel, Health Commissioner; Fire Chief Tosko; Mr. Kevin Swartzhoff, Parks and Recreation Director; Mr. Harrison Wicks, Assistant to the City Manager; Ms. Amy Wilkens, Clerk of Council

**ABSENT:** Mr. Garret Ferrara

Mayor Fiala asked for roll to be read; a MOTION TO EXCUSE Mr. Ferrara was made by Mr. Sidoti, seconded by Mr. Kuhar, and CARRIED by a voice vote of 8-0.

Mr. Kuhar, in his opening remarks, welcomed Boy Scout Troop 252 to the Council Meeting and encouraged them to attend these meetings as they grow older, as things in the City will affect their lives. Council welcomes members of the community to show up to these meetings and contribute to the discussion. He invited a Scout Member to come up and lead the Pledge of Allegiance.

A member of Scout Troop 252 led the Pledge of Allegiance.

**PRESENTATIONS:**

Mayor Fiala welcomed Fire Chief Tosko to the floor to speak on the **University Hospitals PulsePoint App**.

Chief Tosko thanked the Mayor and reviewed his visit one year ago to introduce the PulsePoint Smart Phone app that is designed to improve cardiac survival rates. At that time, he was approached by University Hospital's Dan Ellenberger who explained PulsePoint is part of the Heart Healthy University Hospital initiative being promoted. This technology alerts ordinary citizens in the community who have CPR training to respond to cardiac emergencies. Time is sensitive and within three to five minutes it may be hard to start the heart again. We are trying to get early CPR and early defibrillation prior to EMS's arrival. This app alerts those who have it if a cardiac arrest has occurred in the area. As soon as someone calls 911, the dispatch center sends an alert to PulsePoint who then targets all smartphones in a quarter mile radius and sends out an alert. UH provided initial funding for this program, and other funding was provided by the City of Kent and Kent State University. It has been a true collaborative effort. The app went live on January 21<sup>st</sup> and is on their platform right now.

Now that the app is up and running, AED locations need to be added into PulsePoint. Also needed is more AEDs in the community and more people trained in CPR. They have enlisted the help from Kent State University's College of Health and Human Services and the College of Public Health to provide interns to help push this out to the community. February is the American Heart Association's Heart month so they app will be rolled out during this time. **(Attachment #1)**

Chief Tosko introduced Mr. Bill Benoit, President of UH Portage Medical Center and Mr. Dan Ellenberger, UH EMS Institute Director, to speak on the program.

Mr. Bill Benoit stated the next phase will be to help Chief Tosko get more funding for more AEDs as well as to continue the collaboration with Kent State to further develop the deployment. He stated this program is all about survivability and really need the first people on the scene to start intervention so the survival rates in the community can be as high as they possibly can be.

Mr. Dan Ellenberger announced that the Kent Fire Department has received an award that he will be presenting to them. The goal is to get more cardiac arrest survivors by training everybody in CPR and getting them the PulsePoint app. He reviewed the points needed to receive the award achieved by the Kent Fire Department. The continuity of care received by members of the community is saving lives. He stated the goal in Kent is to make it a heart safe community and cardiac arrest free zone. The time taken to get a cardiac arrest patient in Kent to the hospital operating room is under 90 minutes. In the past, you had to drive to Akron, but now the labs are open, you can get in a lot closer. He presented an award plaque to Chief Tosko.

Mayor Fiala asked if you need to be certified in CPR first before you get the app.

Chief Tosko stated you do not but the Red Cross encourages everyone to take the CPR course. Kent Fire is trying to train as many people as they can in hands only CPR and AED use.

Dr. Christopher Woolverton was introduced to review the next steps in the project. He stated there are over 350,000 cardiac arrests every day in the United States. In 1982, just after receiving his CPR training, he was involved in resuscitating a woman alongside a group of people before EMS arrived. This group action by lay people starting hands on compression before EMS arrived helped in her survival. As a public health advocate and faculty member, he stated this is an opportunity to amplify what is offered by Kent EMS to its citizens. The College of Public Health has pledged two interns to GPS locate all the positions where new AEDs will be placed. The same will be done on campus with the goal of having an AED in every building. The College of Public Health will also be working on writing grants to get federal, state and local funding. UH Portage will augment what the City is doing and help support ongoing training of hands-on CPR. Next month, on campus, University Health Services will begin offering CPR classes in the near future. This will help place someone within feet of an incident when a call comes in to 911.

Mr. Kuhar asked about the time that it takes to go through CPR training.

Dr. Woolverton said it depends on which version of training you attend. CPR training can be done online to get the basic knowledge, and then you would go to a support center to learn how to do compressions. That's a minimal time commitment. Advanced training for EMS personnel and nurses is a little longer. Dr. Woolverton's training took two hours. It's good for two years and then renewal is required.

Mayor Fiala stated he completed his training at UH one Saturday morning and it took three hours. It was very easy and tailored to each person.

Ms. Shaffer asked what happens in residential situations when the app is activated.

Chief Tosko stated this app is for public places only. They do not want people trying to go into other people's homes. There is a database that PulsePoint uses to differentiate between a residential and public place.

Mr. Kuhar asked how it knows where a person is located by using their phone.

Chief Tosko states by the GPS location of the phone if they do not know their address. When a person calls 911 and gives their address, dispatch will type in "CPR" which activates PulsePoint, and then determines whether it is a public or residential place.

Mr. Kuhar said sometimes when you are in that physical state, your mental state is not stable, he thought 911 and cell phone towers could only get to certain proximity of the pole and not pinpointed.

Chief Tosko said they can get pretty close. In a residential neighborhood, they will pick up either that address, or a nearby address. It will only send people to a public place. He also added they have been teaching all City employees the hands only CPR.

Ms. Rosenberg said she would like to recertify in CPR and is very excited about this project. She thanked the generosity from UH Hospital Systems and will be sharing this information with other residents.

Chief Tosko played a video from PulsePoint regarding the program.

Mayor Fiala presented Chief Tosko with a Proclamation from the City declaring February "University Hospitals PulsePoint Heart Month".

Mayor Fiala introduced the **KSS Robotics Team** to review their research and present their findings to Council.

Mr. Harrison Wicks introduced the group from KSS Robotics who are doing a City Shaper Challenge this year, led by Josh Crawley who is the coordinator for the team.

Mr. Josh Crawley thanked Council for the time to present. This challenge encourages "gracious professionalism" and encourages team members to do their own research and act on their own. The group is a Lego Robotics Club and have done very well on their project this year. He turned the presentation over to the team.

A group of ten to twelve members stood before council with poster board diagrams and pictures of their research on indoor air quality. They presented their findings to Council and read from the attached statement (**Attachment #2**).

Ms. Wallach asked what the different plants do for indoor air quality.

A member of the team confirmed the palm tree plant purifies the air, the mother-in-law tongue eats CO2 in the air, and the money plant turns yellow when there are toxins in the air.

Mayor Fiala thanked the group for coming and sharing their knowledge and research with City Council.

Ms. Wallach asked what their t-shirts stood for.

A member of the team went over the design process for the team name- Charged Up- along with the design of the t-shirt. A battery with a charge symbol was chosen along with the percentage of the battery being the team number.

#### **APPROVAL OF MINUTES:**

MOTION TO APPROVE THE MINUTES OF THE REGULAR COUNCIL MEETING OF December 18, 2019 made by Mr. Kuhar, seconded by Mr. Sidoti, and CARRIED by a voice vote of 7-0-1 with Ms. Wallach abstaining.

#### **COMMUNICATIONS:**

**Audience Remarks:** Mayor Fiala asked the Clerk if anyone was signed in. There were three (3) visitors who signed in with the Clerk and were given permission to talk to Council for three minutes.

Mayor Fiala invited Tom Myers to the microphone, instructed him to give his name and address and say nothing abusive to the group.

Mr. Tom Myers of 1750 Oakhill Drive, Kent, Ohio in Twin Lakes came to talk about the ARB. He thanked City Council for the opportunity to speak before them about the Overlay District on the corner of Summit and Mogadore Rd. He first wanted to lodge a formal complaint about the lack of due process that was used to bring the proposal forward. He referenced a letter that was distributed to Council which detailed Chapter 1121.06 of the Code of Ordinances in regards to the codification of the Architectural Design Review Overlay Districts and Chapter 1111 regarding the publication of a hearing to discuss this zoning amendment (**Attachment #3**). He does not believe it was properly initiated nor the affected parties notified of the proposed changes. He is not aware of anywhere in the country where governmental legislation is proposed over privately owned property where the owner is not first consulted and officially notified. He is not aware of any public notification of this proposal and only found out about it by word of mouth. He has been told this stop gap legislation will protect the approved hotel project, and any unsubstantial changes that may be made to it. The proposed wording presented tonight does no such thing. Any changes could reintroduce the ARB into the process because changes can be subjective.

As a lifelong resident of the city, he stated he is not against the concept of architectural review. The more he studies the ARB Overlay District, the guidelines it uses and the composition of the Board, the more he believes a thorough review of this process is desperately needed. The ARB's guidelines appear to be directed towards historic renovation and reconstruction which may apply to the historic Downtown District but are inadequate when reviewing structures that have no historic significance and in areas that are not historically significant. The ARB is composed of one licensed architect, one engineer, an unlicensed graduate architect student, a draftsman and a banker and it is arguable they meet the ARB's written membership qualifications. He suggests this has probably led to some very arbitrary decision making.

Mr. Tom Myers asked where the emergency in passing tonight's legislation is. His project has been approved, is moving forward and is in technical review right now. He asked that Council take the time and properly review this process and get it right instead of perpetuating a flawed process. He respectfully requested the temporary legislation be tabled or denied. The issue is far too important to be dealt with and handled in a half hazard manner. He said before any changes are made to the Overlay District, the Zoning Code review should first be properly completed. He thanked Council for their time.

Mayor Fiala noted for the record the submission of a letter from Mr. Tom Myers that was submitted.

Mr. Paino was called to speak. He withdrew his request to speak this evening.

**Written Communications** were reported by Clerk Wilkens and placed on file in the Clerk's office as follows:

1. Planning Commission Agenda and Staff Report for January 7, 2020 was received on December 24, 2019 and the Agenda and Staff Report for January 21, 2020 was received on January 13, 2020.
2. Sustainability Commission Meeting Agenda for January 6, 2020 and Minutes from November 4, 2019 were received on January 2, 2020.
3. Board of Elections notification of availability to view galley proofs of ballots to be used at the Primary Election on March 17, 2020 received on January 9, 2020. A copy of this letter was emailed to City Council and City Administration.
4. Health Board Meeting Minutes and Statistical Report from December 2019 and Agenda for January 14, 2020 Board of Health Meeting was received on January 9, 2020.
5. Parks and Recreation Board Packet for January 16, 2020 was received on January 15, 2020.

6. Ohio Ethics Commission Official List of Elected Officials and Notification of Filing Requirement was received on January 14, 2020. A copy was emailed to all elected officials on January 15, 2020.

Mayor Fiala advised Council to speak with Clerk Wilkens for a hard copy of the Ohio Ethics Filing Application.

**City Manager's Report** was called for by Mayor Fiala.

1. Authorize the acceptance of a \$5,000 donation to Kent Parks and Recreation from the Henry V. And Frances W. Christenson Foundation. (Draft #2020-03)
2. Request Council's authorization of an Ordinance creating a temporary position and funding (not to exceed 8 weeks) to allow Mr. Dave Coffee to extend his employment with the City in order to assist in the transition of the new Finance Director as a result of his impending retirement. (Draft #2020-04)
3. Request Council's authorization to amend the City's recently passed Retirement Gift Policy to add the allowance of issuing a "service recognition" plaque to retirees with at least 10 years of service with the City using City departmental funds.
4. Request Council's approval to hold a public hearing at the February 5<sup>th</sup> Council meeting for consideration of a proposed text amendment on the zoning of the VFW Property.
5. Request Committee of the Whole time to receive an update from the architect on the status of the New City Hall project.
6. Request Committee of the Whole time to provide an overview of the content and functionality of the City's new web site.
7. Request Committee of the Whole time to update Council's 2020 Pending List.
8. Request for Streets, Sidewalks & Utilities Committee time for Council's consideration of authorization of the necessary easements for the N. Water Street Traffic Improvement Project.
9. Request for Streets, Sidewalks & Utilities Committee time for Council's authorization of the SR59 Paving Project legislation that is required for submission to ODOT.
10. Request for a Special Council meeting in order for Council to take a formal vote on the ODOT SR59 Paving legislation required by ODOT.
11. Request for Streets, Sidewalks & Utilities Committee time for Council's to receive an update on a new downtown special event, "Rainbow Weekend" that will include a temporary street closure at the intersection of Main Street and Water Street to install a temporary rainbow painted crosswalk.
12. Request for Health & Safety Committee time for Council's consideration of proposed text amendments to the City's regulations that are used in the management of feral cats in the community.

MOTION TO APPROVE ITEMS #1-12 OF THE CITY MANAGER'S REPORT made by Mr. Amrhein, seconded by Ms. Shaffer, and CARRIED by a voice vote of 8-0.

#### **STANDING COMMITTEES/ LEGISLATION**

1. COMMITTEE OF THE WHOLE:

MOTION TO APPROVE MEETING MINUTES of January 8, 2020 made by Mr. DeLeone, seconded by Ms. Rosenberg, and CARRIED by a voice vote of 7-0-1, with Ms. Wallach abstaining.

Recommended Actions:

**1) Accept the Standing Committees of Council's Slate of Chairs and Vice-Chairs as stands.**

MOTION TO APPROVE RECOMMENDED ACTIONS made by Mr. DeLeone, seconded by Ms. Shaffer, and CARRIED by a voice vote of 8-0.

**2. COMMUNITY DEVELOPMENT COMMITTEE:**

MOTION TO APPROVE THE COMMUNITY DEVELOPMENT MEETING MINUTES of January 8, 2020 made by Mr. Kuhar, seconded by Mr. Sidoti, and CARRIED by a voice vote of 7-0-1, with Ms. Wallach abstaining.

Recommended Actions:

**1) Authorize Conditional Review Authority for the Architectural Review Board at the Parcel at the Corner of Franklin, Summit and Mogadore Roads.**

MOTION TO APPROVE RECOMMENDED ACTIONS made by Mr. Kuhar, seconded by Ms. Wallach.

Mr. Sidoti said issues were raised tonight about notice and asked if it was something that should be taken into consideration.

Ms. Hope Jones asked that Council table both the action and the Draft No. 2020-01 so it can be reviewed.

Mr. Sidoti proposed to amend the motion. A MOTION WAS MADE to send the action and draft back to Committee for further review by Mr. Sidoti, seconded by Ms. Shaffer.

Ms. Wallach said the proposal does not affect the current project. This is if another project, such as a storage unit, comes in then the ARB would have a course of action. As it is right now, the ARB is just an advisory to the project.

Ms. Shaffer agrees with Mr. Myers about the sense of urgency because there might be a bait and switch going on, and even so it would have to pass through so many different Boards. She does not see a point of making this contingent on the ARB, and the Zoning review can discuss this particular area. She agrees this should be moved into Committee or tabled.

Mayor Fiala clarified the amended motion was to send it back to administration, not to table it.

Mr. Kuhar asked Mr. Sidoti to repeat the motion.

Ms. Jones clarified they are discussing the ACTION 8.2.2 and when they get to the Draft No., she would asked that be tabled.

Mr. Sidoti does not agree with Mr. Meyers concerning the intent and that if we are going to expand the Central District it should follow what the ARB does for the Central District and if it is expanded the ARB should be able to do that. He does believe, however, that without proper notice given, it should be tabled or moved back to the administration.

Ms. Wallach asked why this discussion was not brought up during Committee time.

Ms. Jones stated that Mr. Myers brought the issue up and the City's reading of parts of the code may be different than his, but he brings up valid points that need to be discussed. If the City has not done the right thing, it will be fixed.

Ms. Wallach asked if it should go back to committee or tabled.

Ms. Jones clarified once the action is tabled, we can work to figure out what is right and what is wrong. Then Ms. Jones can ask Dave (Ruller) to ask Council to bring it out on another agenda and get it back to committee.

AN AMENDED MOTION WAS MADE TO TABLE the action made by Mr. Sidoti, seconded by Ms. Rosenberg and CARRIED by a vote of 8-0.

**Draft No. 2020-01** AN ORDINANCE TO DESIGNATE, ON AN INTERIM BASIS ONLY, THAT ANY PROPOSED ALTERNATE LAND USE FOR THE 3.191 ACRE PARCEL ON WEST WILLIAMS RECENTLY RE-ZONED TO "COMMERCIAL-DOWNTOWN (C-D)," AS SUBJECT TO A CERTIFICATE OF APPROPRIATENESS BY THE ARCHITECTURAL REVIEW BOARD AUTHORITY; AND DECLARING AN EMERGENCY. (Authorized)

MOTION TO TABLE DRAFT NO. 2020-01 made by Mr. DeLeone, seconded by Ms. Shaffer and CARRIED by a vote of 8-0.

### 3. FINANCE COMMITTEE:

MOTION TO APPROVE THE FINANCE COMMITTEE MEETING MINUTES OF January 8, 2020 made by Mr. DeLeone, seconded by Ms. Rosenberg, and CARRIED by a voice vote of 7-0-1 with Ms. Wallach abstaining.

MOTION TO APPROVE THE FINANCE COMMITTEE ACTION ITEMS made by Mr. DeLeone, seconded by Ms. Shaffer, and CARRIED by a voice vote of 8-0.

#### Recommended Actions:

- 1) **Authorize the Proposed Bid Waiver and Bid Award for a New Kent Parks Master Plan Study to Brand Stetter Carroll.**

**Draft No. 2020-02** AN ORDINANCE AUTHORIZING THE PARKS AND RECREATION DIRECTOR, OR HIS DESIGNEE, TO ENTER INTO AN AGREEMENT WITH BRANDSTETTER CARROLL, INC. (BCI) AND THE CITY OF KENT PARKS & RECREATION DEPARTMENT FOR A COMPREHENSIVE PARKS MASTER PLAN, WAIVING COMPETITIVE QUOTING, AND DECLARING AN EMERGENCY. (Authorized), was read by title only by Clerk Wilkens per Mayor Fiala's request.

MOTION TO SUSPEND THE THREE READINGS made by Mr. Kuhar seconded by Ms. Rosenberg. On Roll call, voting "Yes": Mr. Amrhein, Mr. DeLeone, Mr. Kuhar, Ms. Rosenberg, Ms. Shaffer, Mr. Sidoti, Mr. Turner and Ms. Wallach. The Motion CARRIED by a roll call vote of 8-0.

MOTION TO ADOPT DRAFT NO. 2020-02 made by Mr. Kuhar and seconded by Ms. Shaffer. On Roll call, voting "Yes": Mr. Amrhein, Mr. DeLeone, Mr. Kuhar, Ms. Rosenberg, Ms. Shaffer, Mr. Sidoti, Mr. Turner and Ms. Wallach. The Motion CARRIED by a roll call vote of 8-0.

**ORDINANCE 2020-02 PASSED** as stated by Clerk Wilkens.

**Draft No. 2020-03** AN ORDINANCE ACCEPTING A GRANT DONATION IN THE AMOUNT OF \$5,000.00 TO THE CITY OF KENT PARKS & RECREATION DEPARTMENT FROM THE HENRY V. AND FRANCES W. CHRISTENSON FOUNDATION FOR THE DOWNTOWN KENT GAZEBO

PROJECT, AND DECLARING AN EMERGENCY. (Unauthorized) was read by title only by Clerk Wilkens per Mayor Fiala's request.

MOTION TO SUSPEND THE THREE READINGS made by Mr. Kuhar and seconded by Mr. DeLeone. On Roll call, voting "Yes": Mr. Amrhein, Mr. DeLeone, Mr. Kuhar, Ms. Rosenberg, Ms. Shaffer, Mr. Sidoti, Mr. Turner and Ms. Wallach. The Motion CARRIED by a roll call vote of 8-0. .

MOTION TO ADOPT DRAFT No.2020-03 made by Mr. Kuhar and seconded by Mr. DeLeone. On Roll call, voting "Yes": Mr. Amrhein, Mr. DeLeone, Mr. Kuhar, Ms. Rosenberg, Ms. Shaffer, Mr. Sidoti, Mr. Turner and Ms. Wallach. The Motion CARRIED by a roll call vote of 8-0. .

**ORDINANCE 2020-03 PASSED** as stated by Clerk Wilkens.

**Draft No. 2020-04 AN ORDINANCE AUTHORIZING THE CREATION OF A TEMPORARY POSITION IN THE CITY MANAGER'S OFFICE WHICH WILL BE TITLED, "TEMPORARY ADMINISTRATIVE SPECIALIST", AND DECLARING AN EMERGENCY.** (Unauthorized) was read by title only by Clerk Wilkens per Mayor Fiala's request.

MOTION TO SUSPEND THE THREE READINGS made by Mr. Kuhar and seconded by Ms. Wallach. On Roll call, voting "Yes": Mr. Amrhein, Mr. DeLeone, Mr. Kuhar, Ms. Rosenberg, Ms. Shaffer, Mr. Sidoti, Mr. Turner and Ms. Wallach. The Motion CARRIED by a roll call vote of 8-0. .

MOTION TO ADOPT DRAFT No. 2020-03 made by Mr. Kuhar and seconded by Mr. Sidoti. On Roll call, voting "Yes": Mr. Amrhein, Mr. DeLeone, Mr. Kuhar, Ms. Rosenberg, Ms. Shaffer, Mr. Sidoti, Mr. Turner and Ms. Wallach. The Motion CARRIED by a roll call vote of 8-0.

**ORDINANCE NO. 2020-04 PASSED** as stated by Clerk Wilkens.

4. HEALTH AND SAFETY COMMITTEE:

NO MINUTES OR RECOMMENDED ACTIONS TO BE APPROVED.

5. LAND USE COMMITTEE:

MOTION TO APPROVE THE LAND USE COMMITTEE MEETING MINUTES of January 8, 2020 made by Ms. Shaffer, seconded by Mr. Kuhar, and CARRIED by a voice vote of 7-0-1, with Ms. Wallach abstaining.

RECOMMENDED ACTIONS have been postponed.

6. STREETS, SIDEWALKS AND UTILITIES COMMITTEE:

MOTION TO APPROVE THE STREETS, SIDEWALKS AND UTILITIES COMMITTEE MINUTES of January 8, 2020 made by Mr. Sidoti, seconded by Mr. DeLeone, and CARRIED by a voice vote of 7-0-1, with Ms. Wallach abstaining.

MOTION TO APPROVE THE STREETS, SIDEWALKS AND UTILITIES COMMITTEE ACTION ITEMS made by Mr. Sidoti, seconded by Mr. DeLeone, and CARRIED by a voice vote of 8-0.

Recommended Actions:

- 1) **Authorize the Water Extension and Tap-in for the New Arby's Located at 1821 St. Route 59**
- 2) **Authorize the Proposed Right of Way License Agreement to Allow an Outdoor Patio at 101 Crain Avenue.**
- 3) **Authorize the submission of the proposed "Bike Friendly Community" designation.**

**Draft No. 2020-05** AN ORDINANCE AUTHORIZING OLIO DEVELOPMENT GROUP A WATER TAP-IN FOR THE NEW ARBY'S FAST FOOD RESTAURANT WHICH WILL BE RE-LOCATING FROM 1630 EAST MAIN STREET TO 1821 STATE ROUTE 59, OUTSIDE THE CITY OF KENT, AND DECLARING AN EMERGENCY. (Authorized) was read by title only by Clerk Wilkens per Mayor Fiala's request.

MOTION TO SUSPEND THE THREE READINGS made by Mr. Kuhar and seconded by Mr. Sidoti. On Roll call, voting "Yes": Mr. Amrhein, Mr. DeLeone, Mr. Kuhar, Ms. Rosenberg, Ms. Shaffer, Mr. Sidoti, Mr. Turner and Ms. Wallach. The Motion CARRIED by a roll call vote of 8-0.

Ms. Heidi Shaffer went on record to say she is disappointed this business is not joining the JEDD, especially when they are moving from the City.

MOTION TO ADOPT DRAFT No. 2020-05 made by Mr. Kuhar and seconded by Mr. DeLeone. On Roll call, voting "Yes": Mr. Amrhein, Mr. DeLeone, Mr. Kuhar, Ms. Rosenberg, Ms. Shaffer, Mr. Sidoti, Mr. Turner and Ms. Wallach. The Motion CARRIED by a roll call vote of 8-0.

**Ordinance 2020-05 PASSED** as stated by Clerk Wilkens

**Draft No. 2020-06** AN ORDINANCE AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO ENTER INTO A LICENSE AGREEMENT BETWEEN THE CITY OF KENT AND RANDOM OHIO, LLC TO ALLOW FOR THE INSTALLATION OF AN OUTDOOR PATIO AND ENTRANCE AT 101 CRAIN AVENUE, AND DECLARING AN EMERGENCY. (Authorized) was read by title only by Clerk Wilkens per Mayor Fiala's request.

MOTION TO SUSPEND THE THREE READINGS made by Ms. Shaffer and seconded by Mr. Kuhar. On Roll call, voting "Yes": Mr. Amrhein, Mr. DeLeone, Mr. Kuhar, Ms. Rosenberg, Ms. Shaffer, Mr. Sidoti, Mr. Turner and Ms. Wallach. The Motion CARRIED by a roll call vote of 8-0. .

MOTION TO ADOPT DRAFT No. 2020-06 made by Mr. Kuhar and seconded by Mr. Sidoti. . On Roll call, voting "Yes": Mr. Amrhein, Mr. Kuhar, Ms. Rosenberg, Ms. Shaffer, Mr. Sidoti, Mr. Turner and Ms. Wallach. The Motion CARRIED by a roll call vote of 7-0-1 with Mr. DeLeone abstaining.

**Ordinance 2020-06 PASSED** as stated by Clerk Wilkens

**Draft No. 2020-07** A RESOLUTION AUTHORIZING THE CITY OF KENT TO SUBMIT AN APPLICATION FOR THE NATIONAL "BIKE FRIENDLY COMMUNITY" DESIGNATION THROUGH THE LEAGUE OF AMERICAN BICYCLISTS, AND DECLARING AN EMERGENCY (Authorized) was read by title only by Clerk Wilkens per Mayor Fiala's request.

MOTION TO SUSPEND THE THREE READINGS made by Ms. Shaffer and seconded by Mr. Sidoti. On Roll call, voting "Yes": Mr. Amrhein, Mr. DeLeone, Mr. Kuhar, Ms. Rosenberg, Ms. Shaffer, Mr. Sidoti, Mr. Turner and Ms. Wallach. The Motion CARRIED by a roll call vote of 8-0.

MOTION TO ADOPT DRAFT No. 2020-07 made by Ms. Shaffer and seconded by Mr. DeLeone. On Roll call, voting "Yes": Mr. Amrhein, Mr. DeLeone, Mr. Kuhar, Ms. Rosenberg, Ms. Shaffer, Mr. Sidoti, Mr. Turner and Ms. Wallach. The Motion CARRIED by a roll call vote of 8-0.

**Ordinance 2020-07 PASSED** as stated by Clerk Wilkens.

**SPECIAL COMMITTEE REPORTS:** NONE

**UNFINISHED BUSINESS:**

MOTION MADE by Ms. Wallach to move the discussion regarding idling cars into Committee as soon as possible, seconded by Ms. Shaffer. After no further discussion the motion CARRIED by a voice vote of 8-0.

**NEW BUSINESS:**

MOTION MADE by Ms. Shaffer for the administration to consider putting a plant wall in the new City Hall, seconded by Ms. Wallach and CARRIED by a voice vote of 8-0.

MOTION made by Mr. Kuhar to move to the Parking Action Commission the issue of parking restrictions for downtown residents working in the evening and being home during the day SECONDED by Ms. Shaffer and CARRIED with a voice vote of 8-0.

Mr. Kuhar brought to discussion the options downtown residents have to park their vehicles overnight. He asked about people who work second or third shift and the only option is two hour parking.

Mr. Kuhar said there used to be ten hour parking for residents and as we grow as a city, this problem is not going to go away.

Ms. Shaffer said she would like to know the individual(s) that are impacted and hopes there will be a response from the Parking Action Committee on what they could do in those situations.

Ms. Wallach said they talked about this in the past that downtown residents would go to get a special permit.

Mr. Kuhar said that was for people who work during the day time. Another thing to discuss is the Emergency Snow Ban on all streets when it snows.

MOTION made by Ms. Wallach to move to the Sustainability Commission a proposal to designate one day a year for citizens of Kent to plant trees, seconded by Mr. DeLeone and CARRIED with a voice vote of 8-0.

Mr. DeLeone stated this has been done in the past. He remembers planting trees in the cemeteries on Arbor Day.

Ms. Rosenberg added that some businesses (Mad Cap, Tree City Coffee) planted small trees specifically on Arbor Day. This may be a way to embellish what is already existing on Arbor Day, so as not to lose momentum.

Mr. Kuhar said we have to be selective on where we plant trees on public property, specifically on the roadway. He asked if this would be for people to plant trees in their yard on private property, or park locations. Alongside the roadways is already handled.

Ms. Wallach replied this would be everywhere. She stated we need to get trees growing for climate change.

Mr. Sidoti suggested partnering with Davey Tree and the Shade Tree Commission.

MOTION TO MOVE INTO COMMITTEE HOW VACANCIES ON BOARDS AND COMMISSIONS are advertised and filled made by Ms. Rosenberg and seconded by Ms. Shaffer and CARRIED by a voice vote of 8-0.

Ms. Rosenberg stated she would like to hear back from the administration on different term limits for Boards and Commissions and ways we can expedite filling vacancies on Boards and Commissions.

Ms. Rosenberg noted that the Tree City Bulletin comes out quarterly and if we can get openings posted immediately on the website or wherever the city deems is the best way to reach people. She also suggested more of a consistency of term limits as they currently vary from Board to Commission. It would be easier for everyone to understand.

Ms. Shaffer really appreciates the amount of information that is on the new website, including information on the Boards and Commissions and it would be an ideal place to put upcoming vacancies to give people notice.

Mr. DeLeone asked if this is in the Charter.

Clerk Wilkens stated it is in the Standing Rules on how to advertise for Boards and Commissions.

Ms. Jones stated he meant for terms of office.

Mr. Sidoti said this is a good opportunity to look at the process and see if there is a better way to advertise and let everyone know we are looking for good people.

Ms. Shaffer said we are looking for diverse representation on the Committees, so this may be a good way to reach a lot of people.

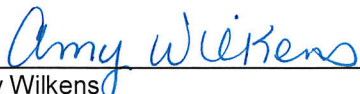
#### **COUNCILMEMBERS' COMMENTS**

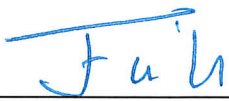
Ms. Shaffer commented she would be interested in getting certified in CPR if there is something available for Council in the evenings.

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

Mayor Fiala reminded everyone that the City is going to the ballot with a levy in March. It brings in \$325,000 every year which goes towards Police and Fire services, leaf pickup, and snow removal. He encouraged members to spread the word to their constituents. Also, the Citizens Police Academy starts February 20<sup>th</sup> and suggested members to participate to really understand what the Police Department does on a daily basis. He highly recommends it.

The Regular Meeting adjourned at 8:45 P.M.

  
\_\_\_\_\_  
Amy Wilkens  
Clerk of Council

  
\_\_\_\_\_  
Jerry T. Fiala  
Mayor and President of Council



# City Of Kent Fire Department

320 S. Depeyster St.  
Kent, Ohio 44240  
330. 673.8814  
330.676.7374 Fax

## Timeline:

Dan Ellenberger from University Hospitals approached me 1-1/2 to 2 years ago with the idea of PulsePoint. As a reminder, PulsePoint is a smart phone App created to help improve survival rates of cardiac arrest victims. UH provided initial funding for the services and Kent provided funding for a program patch to bridge the KSU Computer Aided Dispatch (CAD) to PulsePoint. Kent State provided IT expertise and a computer server to run the patch, they also maintain the CAD. It was truly a collaborative effort that took months of hard work. The real work could not begin until KSU moved to the new CAD Enterprise system last fall. Prior to that, the fire department had been inputting the AED locations.

This technology permits ordinary citizens to become lifesavers by providing locations of persons needing CPR and also providing the tools necessary to save those lives. By downloading the App and attending CPR training, hundreds, if not thousands of people throughout the community have the ability to respond to cardiac arrests, and make a difference.

Moving forward, two new groups are going to begin to help us. The UH-Portage Foundation, under the direction of Mrs. Shawn Gordon will provide possible funding and two KSU student interns. These students are from the College of Health and Human. The second group is the College of Public Health under Dr. Sonia Alemagno. They will provide interns as well. The interns will be a vital part of our outreach to the community. They will work to increase CPR training to individuals while adding to the AED inventory throughout the community.

February is the American Heart Association's "Heart Month" and will be a perfect time to begin this endeavor.

## Directions on downloading the PulsePoint App

### **Android:**

Make sure your GPS location is turned on and notifications are allowed

Go to your App Store and look up **PulsePoint Respond** (red icon)

Download and install the App

Once installed, open the app and go to the menu (three bars on the left)

Click on Agencies and look up Kent Fire (the second one down usually)

Select and Follow Kent Fire

Back out and go to notifications and make sure the Nearby CPR needed is selected, then select those types of call you would like to see.

Back out again and you should see a feed for Kent Fire. You may look up and select other departments, however, you can only follow one department at a time

### **IOS:**

Go to your App store and look up **PulsePoint Respond** (red icon)

Download app

During Setup allow all notifications

Last step choose Kent Fire Department and click Follow.

Click 3 bars in upper left

Click notifications

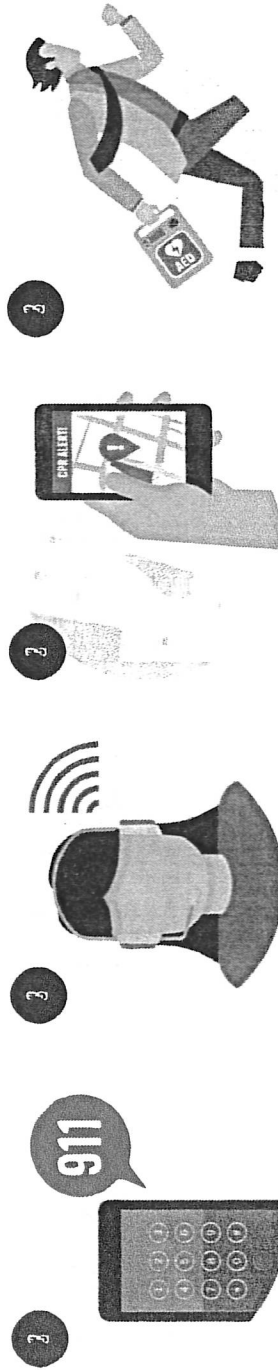
Check to make sure Nearby CPR-needed has a heart in the box, and select those types of calls you would like to see.

**PulsePoint**  
RESPOND

# GET THE APP. SAVE A LIFE.

Sudden Cardiac Arrest (SCA) is one of the leading causes of preventable deaths. The PulsePoint app alerts bystanders—like you—who can help victims before professional help can arrive.

PulsePoint alerts you to nearby people in need. For every minute that passes before help arrives, **SCA survival decreases by 7%-10%**. It's like an amber alert for SCA victims.



SCA victim in need.

911 system sends PulsePoint alert.

Signal received by nearby PulsePoint users.

Users rush to help the victim before professional help arrives.

DOWNLOAD  
THE APP:

Search: "PulsePoint"



**University Hospitals**  
Portage Medical Center

**KENT STATE**  
UNIVERSITY

SCA KILLS ALMOST  
**1,000 + / DAY**  
IN THE U.S.

NEARLY **60%** OF SCA  
VICTIMS DON'T GET CPR  
UNTIL PROFESSIONAL  
HELP ARRIVES.

**13M** AMERICANS ARE  
CPR TRAINED AND  
CERTIFIED ANNUALLY.

THE U.S. SURVIVAL  
RATE FOR SCA IS **11%**  
**WE CAN DO BETTER**

**CALL 911**  
PUSH HARD AND FAST  
IN THE CENTER OF THE  
CHEST TO THE BEAT  
OF "STAYIN' ALIVE"  
(100X/MINUTE).

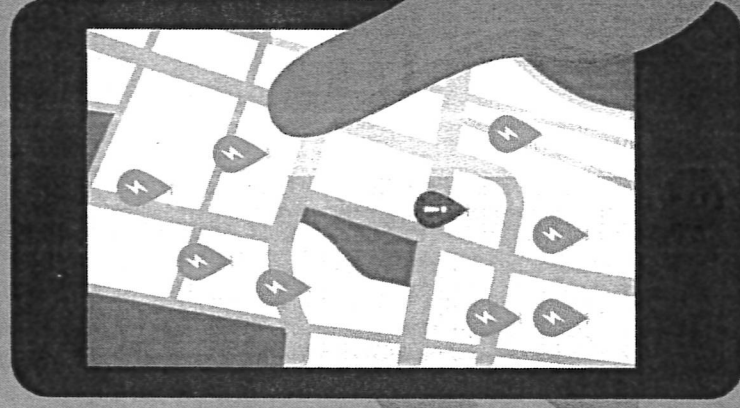
Early CPR and rapid defibrillation  
before an emergency team arrives  
can boost survival by **50%**.

**PulsePoint**  
AED

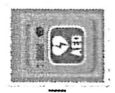
# HELP SAVE LIVES. LOCATE AND REGISTER AEDS.

When a cardiac emergency strikes, finding an Automated External Defibrillator (AED) can help save a life. But that takes knowing where AEDs are located.

PulsePoint AED lets you report and update AED locations so that emergency responders, including nearby citizens trained in CPR can find an AED close to them when a cardiac emergency occurs.

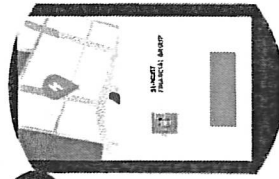


1



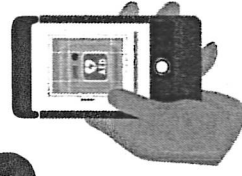
Locate an AED.

2



Register the AED using the PulsePoint AED app.

3



Add a photo of the AED in the context of its surroundings.

DOWNLOAD THE APP:

Search: "PulsePoint AED"



FIRST Lego League's Robot Team – CHARGED UP  
KSS Robotics

We are FIRST Lego League's robot team **Charged Up**. Our team meets at the KSS Robotics building located at 1640 Franklin Ave in Kent. FIRST is a global organization and stands for, *For Inspiration and Recognition in Science and Technology*. KSS Robotics offers 3 - FIRST programs for kids ages 5-18 years.

There are over 150 countries participating in FIRST Lego League and each year these teams are given a challenge to work on throughout the season. Past challenge topics have been Hydrodynamics, Trash Trek and Space. This year's challenge is called **City Shaper**. Our challenge is to go out and learn about our town and present a solution for a problem that we found.

Our solution was to use **certain plants in decorative applications inside buildings to help clean air and offset carbon dioxide production.**

This year has been a busy year for our team. To start, representatives in the Kent City managers' Office and faculty in the Kent State University College of Architecture and Environmental Design (CAED) took us on a walking tour of Downtown Kent. We were shown examples of sustainable building and urban planning, most notably a water retention pond with native plants adjacent to the Kent Police Station. **We were especially interested in how plants were able to filter toxic chemicals out of the rain water runoff. This got us thinking about plants.**

Next, our team met with Casey Weir, who is the director of the Brimfield Parks and Recreation Department. Dr. Brent Tippey from the Kent State College of Architecture talked with us about eco-friendly building design and using recycled materials in new building construction.

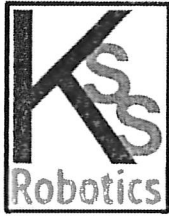
**For our project this year we chose Indoor Air Quality.** We chose this topic after each team member presented problems that they noticed with some of the buildings we saw in our town. After we presented our ideas, we voted on each of them until we narrowed it down to Air Quality. We also chose this as a project as it affects us more as kids. One thing that we noticed about our projects was that we all added plants to our building drawings as a solution.

Throughout our research we learned that certain plants help with air quality issues better than others.

After our presentations, we watched a TED Talk video where Dr. Kamal Meattle used 4 plants for each of his employees to purify the indoor air. In the City of New Delhi where Dr. Meattle works, there is a 50,000 square foot facility that employs 300 people. There are a total of 1200 plants of certain sizes in the building. This breaks down to 4 plants for each employee. The plant project has been so successful for them that according to Dr. Meattle, the employees blood oxygen levels have actually gone up by 1 point.

The Three plants used in the New Dehli experiment and ours are:

1. Mother in laws tongue or Snake Plant - Good at eating CO2.
2. The Money Plant - Indicates toxic air by turning yellow.
3. Areca Palm Plant - An air purifier.



KSS Robotics  
FLL Team Charged Up  
1640 Franklin Ave.  
Kent, OH 44240  
330-671-1815 - Josh

Kent City Council  
320 S. Depeyster St.  
Kent, Oh 44240  
330-678-8007

**RE: Living Architecture Plant Wall Cost Analysis for Future Kent Town Hall**

FIRST Lego League team Charged Up would like to propose a living plant wall to be permanently installed in one or more areas of the future Kent Town Hall. There are many proven positive effects of indoor plant walls including improved physical and mental health.

Listed are the three plants used in our carbon dioxide (CO<sub>2</sub>) test chamber experiment. The results of our tests was a 50% reduction in CO<sub>2</sub> over 48 hours.

The plants we are using can grow to be over 5' in height so depending on what the final wall will look like, other plants may be better suited for this application. Also, included with this analysis is a gardening guide from Petite Garden center. This guide can be used when selecting plants to be used in a living architecture plant wall.

Feel free to contact us with any questions you may have with regards to this project.

Thank you for your time,

Sincerely,

FLL Team, Charged Up.

# Living Architecture Plant Wall Cost

We will start with 600 plants.

Each plant will need approximately 1 square foot of growing room for root system.  
(600 sq. ft. in total)

Four mature plants are needed to zero out CO2 production from one person.

600 plants will zero out CO2 for 150 people. More plants may be needed for rooms or areas with higher occupancy loads.

Plants we used:

- Mother-in-law tongue - qty. 200 - Estimated cost \$2,000.00  
(4" and 6" pots, average height 12-15")
- Areca Palm Plant - qty. 200 - Estimated cost \$3,000.00 (8" pot, average height 10-18")
- Money Tree - qty. 200 - Estimated cost \$3,000.00 (6" pot, average height 10-18")

Other plants commonly used in plant walls are typically smaller than the ones we used in our project.. These plants can be found in some of our sample images.

Examples of these are:

- Dwarf Sansevieria (bird's nest)
- Sansevieria ballyi
- Pothos
- Assorted ferns
- Hanging Philodendron
- Striped Tradescantia



# Plants that Clean Your Air

It is a well known fact that plants are essential for supporting life. They convert carbon dioxide into oxygen through the process of photosynthesis. They are primary producers in biological food chains. Even the sight of something green growing in the middle of winter can immediately lift spirits! Also, studies by NASA in association with the Associated Landscape Contractors of America (ALCA) have shown that tropical and flowering houseplants are powerful purifiers filtering common toxins from the air like benzene (a common solvent used in inks, gas and paint), formaldehyde (used in manufacturing pressed wood and paper products), and trichloroethylene (another solvent used in metal degreasing, printing inks and adhesives).

NASA's indoor air quality studies, headed by Dr. B.C. Wolverton, were formed for future use in space life and how to best support life in an air-tight environment, but are readily applicable in today's homes and offices that are designed to be sealed-tight and energy efficient. Keep in mind that not all tropical and flowering plants were tested, but of those that were, the ones listed below resulted in excellent to good ratings in purifying the air:

| Name                                                           | Benzene   | Carbon Monoxide | Formaldehyde | Trichloroethylene | Comments                                                                                     |
|----------------------------------------------------------------|-----------|-----------------|--------------|-------------------|----------------------------------------------------------------------------------------------|
| <i>Aloe vera</i>                                               |           |                 | Excellent    |                   | Tolerant of bright light & drought                                                           |
| Bamboo palm or reed palm<br><i>Chamaedorea sefritzii</i>       | Excellent |                 | Excellent    |                   | Easy palm for medium to bright indirect light                                                |
| Bromeliad<br><i>Aechmea fasciata</i>                           |           |                 | Excellent    |                   | Excellent for xylene, prefers bright indirect light                                          |
| Bromeliad<br><i>Guzmania</i> "Cherry"                          |           |                 | Excellent    |                   | Excellent for xylene, prefers bright indirect light                                          |
| Chinese evergreen<br><i>Aglaonema modestum</i>                 | Excellent |                 |              |                   | Excellent for toluene, one of the best low light plants for a dark room or office, easy care |
| Cornstalk dracaena<br><i>Dracaena fragans</i><br>'Massangeana' |           |                 | Excellent    |                   | Likes medium to bright indirect light                                                        |
| Dracaena 'Janet Craig'                                         | Excellent |                 |              | Excellent         |                                                                                              |
| <i>Dracaena marginata</i>                                      | Excellent |                 | Good         | Good              | "Spike" type that grows anywhere                                                             |
| Dracaena 'Warneckii'                                           | Excellent |                 | Good         | Excellent         | Most colorful of the Dracaena                                                                |
| Dumbcane<br><i>Dieffenbachia maculata</i>                      |           |                 | Excellent    |                   | Easy to grow, medium indirect light                                                          |
| English Ivy<br><i>Hedera helix</i>                             | Excellent |                 | Good         | Good              | Prefers bright indirect light, evenly moist soil and humidity                                |
| Gerbera Daisy<br><i>Gerbera jamesonii</i>                      | Excellent |                 | Good         | Excellent         | Best in an eastern window                                                                    |
| Golden Pothos<br><i>Epipremnum aureum</i>                      | Excellent | Excellent       | Good         |                   | Tolerant of abuse but prefers medium indirect light and slightly dry soil                    |
| Mum <i>Chrysanthemum morifolium</i>                            | Good      |                 | Good         | Excellent         | Bright indirect to full sun, grow indoors or out                                             |

Rev 11/09

Avon 440.937.0690 · Oakwood Village 440.439.6511 · Strongsville 440.878.9409  
 Bainbridge 440.708.0177 · Tallmadge 330.633.2394 · Boardman 330.788.0733 · Mentor 440.205.0087  
 Brunswick 330.273.6255 · Canton/Jackson 330.617.1169 · [www.petittigardencenter.com](http://www.petittigardencenter.com)

| Name                                                     | Benzene   | Carbon Monoxide | Formaldehyde | Trichloroethylene | Comments                                                                                                                |
|----------------------------------------------------------|-----------|-----------------|--------------|-------------------|-------------------------------------------------------------------------------------------------------------------------|
| Orchid<br><i>Dendrobium</i>                              |           |                 | Excellent    |                   | Excellent for acetone, ammonia, chloroform, ethyl acetate, methyl alcohol, xylene. Bright indirect light is best        |
| Orchid<br><i>Phalaenopsis</i>                            |           |                 | Excellent    |                   | Excellent for xylene. Bright indirect light is best                                                                     |
| Peace lily <i>Spathiphyllum</i><br>'Mauna Loa'           | Excellent |                 | Good         | Excellent         | Easy low light plant, will yellow in too much light                                                                     |
| <i>Peperomia obtusifolia</i><br>"Baby Rubber Plant"      |           |                 | Good         |                   | Compact, easy plant for medium to bright indirect light                                                                 |
| <i>Philodendron domesticum</i><br>"Elephant Ear"         |           |                 | Excellent    |                   | Can take almost any light level and slightly dry soil                                                                   |
| <i>Philodendron oxycardium</i><br>"Heart Leaf"           |           |                 | Excellent    |                   | Can take almost any light level and slightly dry soil                                                                   |
| <i>Philodendron selloum</i>                              |           |                 | Excellent    |                   | Can take almost any light level and slightly dry soil                                                                   |
| Poinsettia<br><i>Euphorbia pulcherima</i>                |           |                 | Excellent    |                   | Holiday favorite so bright, draft free areas                                                                            |
| <i>Schefflera arboricola</i><br>Miniature Umbrella Plant | Good      |                 | Good         |                   | Good for toluene. Best in bright indirect light                                                                         |
| Snake plant <i>Sansevieria</i><br>'Laurentii'            | Excellent |                 | Excellent    | Good              | Easy low light plant, water when soil is dry. Do not overwater.                                                         |
| Spider Plant<br><i>Chlorophytum elatum</i>               |           | Excellent       | Excellent    |                   | Best in medium to bright indirect light or shade outside. Easy to propagate                                             |
| Weeping Fig<br><i>Ficus benjamina</i>                    |           |                 | Good         |                   | Best in medium to bright indirect light, evenly moist soil and some humidity. Do not move around or it will drop leaves |
| White-Veined Arrowhead<br><i>Syngonium podophyllum</i>   |           |                 | Good         |                   | Easy grower for medium indirect or bright light                                                                         |

**Low Indirect Light** = away from windows/no windows/dark corners/ barely enough to read by

**Medium Indirect Light** = 5-6' from a sunless window/ middle of a bright room/ 12-14 hours fluorescent lighting/ good for foliage plants

**Bright Indirect Light** = north window sill, indirect/filtered east, west or south exposure/ 5-6' from sunny window/great for any flowering and variegated varieties

**Full Sun** = requires 4+ hours of direct sun per day/ unobstructed east, west or south window sill

It is recommended that one six-inch potted plant or larger is grown per one hundred square feet of floor space. Increasing the amount of plant material in the home or office will multiply the clean air benefits. Also, placing plants where you spend the most time like at your bedside, near a computer or television will help too.

There are many other tropical plants that also received high marks in these studies and in B.C. Wolverton's book "How to Grow Fresh Air: 50 House Plants that Purify Your Home or Office". This book is a must read for anyone interested in this topic and concerned with the environments in which we live and work.

January 22st, 2020

City of Kent  
City Council Members  
Overholt Road  
Kent, Ohio 44240  
ATTN: The Honorable Jerry T. Fiala

Your Honor,

Please consider this correspondence as Nypano Company LLC's (hereinafter "Nypano") formal written statement concerning the City of Kent's intention to enact so called "Stop Gap" legislation to extend the boundaries of the City's Architectural Review Overlay Districts (sometimes referred to herein as the "*Overlay Design District*") so as to include in that district, the recently rezoned 3.19 acre parcel which is owned by Nypano and referenced in the attached drawing, which currently, is not included in the district.

### **OVERVIEW**

Throughout all of 2019, Nypano applied for and received approvals from all of the required city agencies for the rezoning of this parcel from its previous longstanding Industrial use, to a Commercial- Downtown zoning and use. It then applied for and received approval for the future construction of a 110 room suites style hotel to be erected upon the site, a use permitted under said zoning.

As one might imagine, this was a long, arduous and costly process which among other things, required Nypano to present its design to the Architectural Review Board ( the "ARB") which in fact it did, in the late Summer of 2019. At that time, the "ARB" rendered a "split decision" in that it unanimously disapproved the "style" of the proposed hotel design and at the same time ( again, unanimously) approved the site plan we presented.

Since the parcel was situated outside of the Overlay District, the ARB's decision as to the "style" of our design was moot, since the ARB had no legal purview over our project.

All of this was discussed publicly, at great length I might add, at the subsequent Planning Commission hearing a few weeks later, and that body unanimously approved the project as presented, in its entirety, despite the last minute correspondence from the ARB's

Chairman, Mr. Howard Boyle, requesting that the Planning Commission vote to disapprove the project.

Several months later, I learned ( *purely by word of mouth I might add, as to date no formal notice has been given to either myself or Nypano, the owner of the very property in question that is affected by this "stop gap" legislation, should it be enacted*) of an effort on the part of the ARB, acting through its Chairman, to have the Overlay District re-drawn and in summary fashion, so as to include this particular 3.19 acre parcel in the newly defined boundaries, thereby putting this parcel under the purview of the ARB, as well as this particular project, should any change(s) be made to the previously approved site plan or design of the intended structure.

### **OUR POSITION ON THE "STOP-GAP " LEGISLATION NOW BEING CONSIDERED AND THE PROCESS UNDERTAKEN IN THIS REGARD**

#### **A.) The Express Language Of Chapter 1121.06 Of The Code Of Ordinances**

(i) A review of the Code of Ordinance (*found at American Legal Publishing Corporation*) indicates that the Architectural Design Review Overlay Districts are in fact, codified at Chapter 1121. Specifically, *Amendments / Additional Districts* are governed under section 1121.06 of the code.

Section 1121.06 states in its entirety that; ***Any Overlay District may be amended at any point in time in the future upon the approval of Kent City Council and additional overlay districts may be created upon approval of Kent City Council. The Architectural Review Board, Planning Commission, or City staff may initiate such changes, amendments, and new districts as well as property owners within the geographic area to be designated as an Overlay District providing they have obtained the signatures of property owners on a petition of no less than 51% of the properties in the affected area.***

***Additional (new) overlay districts may be created upon approval of Kent City Council. Such changes shall be treated as amendments to the Kent Zoning Code and shall be subject to the requirements of Chapter 1111.***

Nypano Company LLC owns 100% of the properties in the affected area and as the Managing Member of said entity, I can attest to the fact that it (Nypano) is not a signatory to any petition seeking to change, amend or create a new district. In fact, no notice whatsoever has been given to Nypano of the proposed change or amendment.

Under a literal interpretation of the ordinance, no change or amendment can be made without the properly executed petition and that petition has not been made by the Architectural Review Board, Planning Commission, or City staff as required by statute.

Now, Staff or anyone else for that matter, may argue that this wasn't the intent of this ordinance, but nevertheless, that is in fact a literal reading of the language of the current ordinance where the making of any amendments to the Overlay District is concerned. Unless, and until this ordinance is re-written, notice is given and public comment solicited, and then subsequently approved by Kent City Council, the language of the law is clear and must be upheld.

(ii) Given the lack of specificity as to why this "Stop Gap" legislation is needed at all, a reasonable person could argue that this legislation is a *de facto* attempt to create a new district. In that case, according to Chapter 1121, the creation of a new district is to be governed by the provisions of Chapter 1111 of the Code of Ordinances.

A review of the Chapter 1111 of the Code of Ordinance ( *Zoning Amendments*) indicates at section 1111.05 that Initiation of Amendment may be initiated by: Action By City Council.

Its language reads in part that; ***Notice of such hearing shall be publicized in the following manner:***

At section (b);

***If the proposed amending ordinance intends to re-zone or re-district ten (10) or less parcels of land, as listed on the tax duplicate, written notice of the hearing shall be mailed by the Clerk of Council by first class mail, at least fifteen (15) days before the date of the public hearing to the owners of property within and contiguous to and directly across the street from such parcel or parcels, to the addresses of such owners appearing on the County Auditor's current tax list and to such other list or lists that may be specified by Council.***

Again, I can attest to the fact that no such required "Notice" of any hearing on this matter, was ever provided to Nypano Company LLC by the Clerk of Council. This matter does in fact, constitute a "re-zone or re-district" and as such, this provision is applicable.

Additionally, Section 1111.05(a) reads; ***In all cases, by one publication of the time and place of such hearing in a newspaper of general circulation in the City at least thirty (30) days prior to the hearing date. Such notice shall include a statement that opportunity shall be afforded to any person interested to be heard.***

I am not aware of any such "publication" giving general "Notice" to the public where this particular matter is concerned.

## **B.) The Purpose Of The Design Review Overlay Districts In Kent**

Chapter 1121.01 of the Code of Ordinances of the City of Kent ( *Design Guidelines*) states categorically that this chapter “*works in conjunction with Chapter 1120 of the Kent Codified Ordinances and utilizes the Design Guidelines adopted by reference herein for each overlay district.*”

The guidelines are then provided in Zoning Code Appendix A.

*The Design Guidelines For The Kent Design Overlay District* were prepared by Chambers, Murphy & Burge Restoration Architects, Ltd. on October 2<sup>nd</sup>, 2009. This firm had a venerable reputation in the field of restoration work at the time, that is why they were chosen by the City to draft the guidelines.

The Design Guidelines were written to be used in conjunction with the Overlay Districts in Kent, and are intended; “*to assist the community in preserving and enhancing places of special character.*”

They go on to say that; “*The Kent Design Guidelines...are written to be utilized by property owners, tenants, building managers, property caretakers, architects and builders that would be conducting work affecting an historic property. The Guidelines provide as framework for making good decisions about rehabilitation and new design.*”

One of the goals of Design Guidelines was to establish an Architectural Review Board (“ARB”), which was to function “*as one part of the City's overall development review process.*” In doing so it was intended that the ARB be composed of individuals with expertise in the area of historic preservation, construction, and architecture. In fact, Chapter 1120.06 set forth in specific detail the Composition of the ARB.

Section 1120.06(a) reads; ***Composition – The Architectural Review Board shall be comprised of five (5) members, appointed by Kent City Council. Of the five (5) members, composition to the extent feasible shall be as follows:***

***(1) A minimum of two (2) professionals practicing in one or more of the following fields: architecture, planning, landscape architecture, history or historic preservation, urban design.***

One can reasonably assume that given the importance of the ARB, the thought process of the drafters of this ordinance felt that it was critically important that there be not only community participation in this process, but that some bare modicum of true professional expertise be included as well. So much so that in fact, they codified it.

The makeup of the current ARB consists of; only one licensed architect, one engineer, one graduate architectural student, a draftsman, and is chaired by a banker. To my knowledge, the Architectural Review Board is not in compliance with the requirements of the ordinance as set forth in Chapter 1120.06(a). Why should the City extend the authority of this body, when as currently constituted, it does not meet the standards of the existing statute? Is that good public policy?

### **C.) Overlay District Boundaries Do Not Necessarily Have To Coincide With The Commercial- Downtown Zoning District**

It should be noted that the language contained in Chapter 1146, *C-D Commercial Downtown District*, itself, makes no specific mention of or to the Architectural Design Review Overlay District (the "ADROD") or its boundaries. Surely, if the drafters of the ADROD intended the two to be entirely in conformity with each other, they would have taken the steps necessary to formerly conform the two statutes to each other. In fact, when drafting the *Downtown/West River Overlay District* ( Chapter 1121.04 (a)) they set forth in a specific metes and bounds description, to the precise foot, the exact boundaries of the ADROD and notably, took no steps to amend the Commercial-Downtown District zoning ordinance ( Chapter 1146). I believe they intended to define the ADROD so that its boundaries were in line with the "historic downtown Kent" that we recognize as the Central Business District with its brick facades, ornate cornices and double hung windows. There was never any intention to include all of the Commercial-Downtown zoning district in the ADROD boundaries. If there was, surely the drafters would have codified conformity of the two in the statutes. This is evidenced by the fact that we're having this very discussion.

### **CONCLUDING REMARKS**

I am not against the concept of an Architectural Review Board, quite to the contrary. I believe it serves a worthy purpose in our community...a community, I might add, that I have resided in for most of my lifetime.

The Design Guidelines were written to protect the historic nature of the core downtown area. The parcel in question is in fact, not located in the core downtown area, but rather blocks away to the south and west in an all but heretofore forgotten section of the city that garnered little if any attention from anyone, for nearly 80 years, until I decided to try and do something productive with the parcel, besides mowing the grass and paying property taxes on it.

These design guidelines were never intended for properties outside of the aforementioned core downtown area and that are, in fact, not part of that "historic area." These guidelines give no direct guidance to any other architectural styles, which results in arbitrary decisions being made by the ARB based upon individual taste, rather than specific standards. The position presented and espoused by the members of the Architectural Review Board (a

board that is not lawfully constituted in my opinion) which led to this proposed "Stop-Gap" legislation, is not based upon sound reasoning. But rather, is based upon the assumption that simply because Commercial-Downtown Zoning has been extended to the parcel in question, that the Overlay District must somehow automatically follow suit. It doesn't and it shouldn't. The two issues are separate and distinct from each other.

This entire legislative process is tainted by the fact that it is being undertaken without due process, without proper notice to those who will be affected by it, and at the request of a body (the ARB) that is comprised of individuals with little or no formal expertise on the subject matter in question.

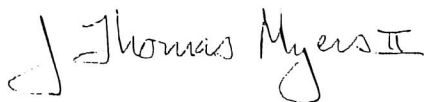
This is far too important an issue to be dealt with in such a rapid and haphazard manner. A piecemeal approach is the wrong approach and I feel that before any consideration is given on expansion of the current Overlay Design District to include the parcel in question, it should only be undertaken in conjunction with and after completion of the ongoing and extensive review of the entire Kent Zoning Code, with proper notice and with input from the property owner(s) affected by the proposed change(s), in full compliance with the applicable law(s) and upon the advice of competent experts in the field of architectural design guidelines, historic preservation and urban planning.

I remind the members that there is no "emergency" that warrants any action at this time. There are no substantive changes contemplated to the approved project's design and if there were to be any significant changes, existing rules would require my returning to the Planning Commission for re-review.

The status -quo is more than sufficient at this time. I reiterate, there is no "emergency", no dire need for this poorly conceived legislation.

I urge Council to carefully consider all that I have expressed herein this correspondence, that my written remarks be read into the record and that same be made part of the official record where this matter is concerned.

Respectfully submitted,



J. Thomas Myers, II  
As Managing Member Nypano Company, LLC