

Sustainability Commission Meeting, June 3rd, 2024

Meeting Summary

SC Members in Attendance: Mary Starbuck, Julie Grant, Maryjayne Stone

Excused: Judy Nelson, Andy Scholl

Motion to excuse Judy Nelson and Andy Scholl was made by Julie Grant, Maryjayne Stone seconded, and the motion was carried unanimously.

Others in Attendance: Julie Morris, Bill Wilen, Bridget Susel

Mary Starbuck called the meeting to order at 5:35pm and roll was taken.

Mary opened the Good of the Order/Open Comments section of the meeting. Hearing none, Mary opened the New Business discussion.

Julie Morris provided a brief review of last month's meeting discussion around the concerns raised about carbon capture storage and fracking wastewater injection wells in our region. Julie M. advised that Julie G. had suggested the commission potentially draft a resolution and/or ordinance to suggest Council be aware of and help address these concerns. Julie M. advised that after discussing this with Bridget Susel, they felt it would be helpful to have Bridget come speak to the Commission about the legislative process as it relates to addressing concerns.

Bridget provided a brief overview of the City Manager form of government and noted that Council's agenda items are set months to sometimes years in advance. Bridget advised Council agenda items are action driven. She explained ordinances are action, resolutions are formalized support, and they are done in response to existing law or something that has happened. She utilized the Resolution of Support for the Paris Accords as an example, stating Trump pulling the US out of that agreement was an action at the federal level. She explained the Sustainability Commission wanted to make a statement that the City of Kent doesn't agree with this action and went to Council making a plea during those public comments to support same. Council formalized a resolution of support indicating despite what was happening at the federal level, the City would still support addressing climate change, in other words, a direct response. She provided another example of this when the City added sexual orientation and gender identity to local fair housing law because there was action taken against this in 2017/2018 by the State's General Assembly. The City of Kent became the 16th city to act and formally add these as protected classes to its local fair housing and equal opportunity laws. This was done as an ordinance as it added law. Bridget advised the gist of it is that legislation needs to be in response to something. She noted a resolution isn't a law, just a formal statement that it is something the City is going to do. She also noted that ordinances, while creating law, don't carry any weight outside of the City of Kent.

Bridget advised that we don't take just anything to Council, as the City has literally tens of thousands of laws. She advised that twice per month Council meetings are held. She explained the first meeting of the month are Committee meetings where legislation is introduced to Council, which is legislation Council has asked for or that Staff has identified as being needed. She provided the example of the Climate Action Plan – the Resolution to support the Paris Accords stated the City would do a climate action plan. Council wasn't aware at the time that a Climate Action Plan required a greenhouse gas inventory and other studies to complete, which turned it into a much more formal process and which ended up requiring being formally adopted by Council. To do so, Bridget advised she has to create a Memo that is sent to the City Manager, Law Director and Clerk of Council saying that she needed it and why, and then the three of them decide whether the agenda item moves forward or not. She reiterated it is a very structured process to bring things before Council.

Bridget advised that the Carbon Capture Wells haven't come to Ohio yet. She advised that if they were to come and the Ohio General Assembly were to adopt same, the commission could go to Council and ask for a Resolution of Support that they don't want to see these in Kent. Julie G. advised it was more an issue that she thinks the City should be looking at, aspects like safety of the practice etc. Bridget advised the Administration handles that. She advised this kind of research falls to Julie M. in her position as Sustainability Coordinator advising that she is checking into all issues that arise related to Sustainability. Bridget noted that if Carbon Wells come to Kent, Julie M. will talk with Bridget, and they will talk to the law department and then would go to Council with it.

Julie G. advised it was her understanding that if someone comes to Bridget or the City with an issue, and the City doesn't already have laws or regulations in place, the City can't change the law around them (the issues) but that if there is already a policy or law where they come to you then you have a legal leg to stand on. Bridget advised this is not how the process works. She advised if what is at issue is not allowed as a land use or as a use in the State or the City, you can't do it. Julie G. advised in this case, carbon capture wells are allowed. Bridget asked where it was being practiced and whether there was law made that we need to respond to and/or regulations we need to respond to. Bridget asked if it was known how carbon wells are being regulated. Mary asked whether everyone present knew what was being talked about, and Julie G. clarified that we may not necessarily want to make a Resolution, but she thought it was a good idea to discuss the issue.

Mary agreed as she stated it may be an example of issues that come before the Commission in the future. Bridget advised that if the wells came to Kent, Julie M. would have to vet it as a problem. Bridget provided a recent, similar issue they had in January related to fur trade. She advised a gentleman came in during public comment at a Kent City Council meeting and wanted to have Council adopt laws banning furriers which involves the raising animals for furs and selling of furs. Council referred the issue to City administration and then administration did all the research. Their extensive research process showed there was no one raising animals as a furrier here in Ohio, and no one in Portage County that they could find who was selling it retail wise. They found one must have a license from ODNR to raise animals for fur purposes and there was nothing related to same going on here. Administration took their findings back to Council and the law director advised on not doing an action as they don't pass a law to ban something that doesn't exist here.

Julie G. asked whether there could ever be preventative laws made to protect the residents – to prevent it before it becomes an issue in the City. Bridget advised the City can't do that if there aren't laws on the books at the State level that allow the issue or action. Bridget provided another example to illustrate the point. The City is currently dealing with Adult-Use Cannabis, as the State hasn't come out with all the rules yet. She advised the only thing that is in the new Ohio Revised Code chapter is only the language of Issue 2, which grouped everything related to Adult-Use Cannabis together – dispensaries, processors, cultivators - all in one definition. She advised this is very problematic as cultivators don't do the same things or use space the same way as processors or dispensaries, etc.

Bridget advised that when Medical Marijuana was passed in 2016, it took the State about 16 months to review and add all the laws and definitions around same. The State came up with 5 different zoning land uses - a dispensary, two levels of cultivator – Level One and Level Two based on the amount of square footage in cultivation space, a processor and a testing facility. She noted that each one was defined differently and had different regulations, so when the City - administration, Community Development Department and the City Manager – took that forward, Bridget spent months with the Planning Commission and the Law Director coming up with the laws for each use category. She noted this hasn't happened yet with adult cannabis, but we do have a Medical Marijuana Dispensary and the only thing the State can do right now is issue a dual license until all the rules for Adult-use come out. Bridget explained this puts the City in a hard place because

the City has a Dispensary, but we don't have all the rules related to dual use, so the City is going to be very conservative in how it proceeds. Bridget noted she will be taking a Zoning Code amendment to Council to adopt those other uses that are currently all clumped together for Adult-use Cannabis since it is not defined the same way as Medical, and any of those uses for Adult-use Cannabis will be located in the Industrial zoning district. The reasoning is that is the most conservative, safe place to put them until the State provides all the rules. She noted local laws cannot be made until you have the State laws to look at.

Mary asked whether Julie G. had anything to say and Julie G. advised she appreciated Bridget laying all of this out, but with various industries like natural gas industry, there are aspects of the State laws where the legislature has passed a law allowing hydraulic fracturing and in certain aspects of that, the ODNR has yet to write up rules. She noted that while we don't have a right as a City to prevent them from coming to our community, she does think we have a right to say what we would prefer in our community and to be proactive, to say we understand the legislature is doing this, that the ODNR has all the authority to site this, but this is what we as a City would prefer.

Bridget advised the City does not do this as legislative action. She noted that typically, this is done as a resolution, but only if adopted. Bridget provided the example of horizontal hydraulic fracking. She noted the City was unable to pass law to ban fracking (hundreds came to those meetings – standing room only) because of the way the State law was written. Bridget added that the administration looked into it and found that with horizontal fracking, because it requires so much land to lay the linear line, there weren't any parcels in Kent city limits that could meet that requirement. Julie G. advised we do have lots of land for vertical injection wells and Bridget advised that yes, private property owners are allowed to have vertical wells here in Kent.

Mary asked a question about Resolutions as she thought it spoke to the issue Julie G. was raising. Mary provided an example about making a resolution that states "whereas so-and-so is a really great guy". Bridget advised Mary's example is actually a proclamation and not a resolution. Mary suggested that maybe a Proclamation could be something to ask for. Bridget advised that Proclamations are usually to recognize or honor a Day or a person.

Mary asked for clarification around the Resolution of the Paris Accords and the differences between federal and state action to respond to. Mary advised that if we don't yet have the issue of Carbon Wells in Ohio, or there are issues around the country we are concerned about, the Commission could respond to it as a federal issue. Bridget advised if it is an issue related to a federal law, then it would need to be taken through the administration. Mary and Maryjayne advised they are trying to understand the process. Julie M. advised of her experience with the Paris Accords Resolution and the process around same. She noted that during the public comment before Council, the comment was made that we do not agree with the action taken at the federal level to remove the US from the agreement, and we would like to support the Accords as a City. Julie M. noted council did not say yes right then and there - they assigned it to the administration to look further into same and as such, the Sustainability Commission held a bunch of meetings with City Staff looking at other Cities who had done similar resolutions. Julie M. noted the group had gathered at least 10 or 15 other resolution examples and worked through many drafts to put a resolution together that was then brought to Council for review. They reviewed same and decided to adopt it, but it took the full Council cycle of review and discussion of the resolution at the Council committee meeting, and then the vote to adopt same at the 2nd Regular City Council meeting. Mary clarified that the Paris Accords resolution was not a law, but a formal agreement at the international level. It was clarified that the Federal government took action to remove the US from same, and that action is what the City responded to.

Julie G. advised that what she was hearing is we have to wait until the State legislature approves, or laws regulating or allowing for carbon pipelines in our State are passed. She noted that the Commission could

consider addressing Frack Waste Injection Wells and suggest that as a City, it considers the safety of our drinking water supply and other related to same.

Bridget asked Julie M. to speak to this and Julie M. advised this was something that the Sustainability Commission used to track. The decision to track the fracking well reports provided by ODNR was Council's solution to the fracking issue since the wells had to be allowed, and the idea was that monitoring of the wells could at least help the City keep an eye on any new applications, existing well status and any changes to same. Over the three years Julie M. was on the Commission there were no changes to the well status in the City limits and she advised that practice of well status report review could be brought back to help address concerns. It was clarified that Council assigned this monitoring to the Sustainability Commission as a task.

Mary asked what could be done since fracking injection wells are allowed. Julie G. asked what was meant by there being no changes in the well reports. She advised there are new wells going in all the time, that the wastewater injected into these wells is toxic and radioactive according to the EPA and Portage County is one of the highest counties in the country to have these wells. Bridget advised we'd need to look into the data from the EPA and the ODNR reports. Julie G. also suggested looking at the organization Frack Tracker that also helps track the information. Bridget reiterated existing laws allowing fracking and injection wells are why Council didn't pass a ban on same when this issue was before them previously – they couldn't since it was already a State law. Julie G. clarified she is talking about the millions of gallons of wastewater that is produced by the process of fracking and is trucked into the county to be injected into the wells and/or spread on the roads as a kind of deicing brine as well.

Julie M. suggested she can look into what is being tracked at our water treatment plants and by our health department related to contaminants associated with fracking wastewater. Julie G. suggested the City water plant is one place to look but people who have their own well water systems could have issues with contaminants as well. Bridget confirmed anyone living in the City limits is required to be connected to the City's sanitary and water systems. She advised it is very rare for anyone in the City to have a water well at this point. They found one a year ago and the property owner was required to tie into the City water by law.

Julie G. advised Julie M. has brought an important factor to consider (testing for the fracking contaminants in the City's water supply), but she doesn't know what the Commission would want consider in a Resolution regarding this. She noted she is bringing it to attention as, while she doesn't know how many are in Kent proper, she knows there are a lot in Portage County. She noted she is bringing the issue up to make sure the City is paying attention to the issue. Bridget advised this can be done without a formal action of Council because we are a City Manager form of government. Bridget advised Julie M. can investigate and she can check with the new water plant manager, and Eric Gorczynski at the Health Department to obtain the water testing reports. Julie G. offered to work with Julie M. to provide other sources of fracking information.

Bridget advised issues of contamination to our water supply are heavily regulated and also reiterated we do not have any rural land within the City limits, that we are built out in the City of Kent. She noted that if you get outside of the City limits and the townships, you will see more wells. Mary asked for the definition of rural land and Bridget advised it is generally an open area of land over 2 acres in size. It was asked whether Brady Lake was considered part of Kent and Bridget confirmed it is part of Franklin Township.

Mary advised she had read recently that there is a lot of Lithium being identified in fracking wastewater in PA and wondered whether this was something we should be tracking. Julie M. suggested bringing in the water treatment plant and health department folks to speak to the Commission about what tracking of fracking contaminants they screen for, in addition to how they monitor the watershed for any contaminants that may be outside our City borders but potentially affect our water supply to help alleviate or address concerns. Julie

G. advised she is not asking for and doesn't need this presentation. Maryjayne suggested maybe this is a topic that we could offer to the community via one of our Open House series events.

Julie G. advised if we wanted to bring in someone from the water treatment plant, it would be interesting to her to hear what they are doing about PFAs and the new regulations related to same. Mary felt if we were going to bring anyone in, we should have specific questions for them to address instead of a more globalized/broader presentation. Julie G. suggested they address what the new regulations around PFAs means for the City water treatment process. Mary suggested they address what the monitoring process for fracking contaminants would be. Julie G. asked where the City of Kent's water supply comes from. Mary and Bridget advised via 5 deep wells and Bridget advised we have 3 backup wells that are not currently tapped but are available. Bridget advised the City owns the water wellfield which is monitored, controlled and tracked daily. The 100 Year Celebration Tour of the water treatment plant was mentioned and that it had been a useful experience for Mary to learn more about some of these processes.

Bridget advised she had to leave and recapped the legislation issue – it's usually in response to a formalized action that is needed or to a formalized response to something that was done at the State, Federal or County level. Mary asked about the Township, but Bridget advised they are a separate entity. Mary reiterated that it is action taken at the City, County, State or Federal levels that the Commission can respond to. Bridget confirmed and added that because there is so much legislation, they try not to create what are called "paper tigers" – pieces of paper that don't actually respond to an action or make a law, or a formalized statement for or against a law. She noted that the City can pass a Resolution in support of a law. Mary advised it's a way to not waste peoples' time and Bridget agreed.

Bridget advised members can speak publicly at Council as part of the Commission and then Council will assign the issue to Administration. That is when Staff vets the issue at hand and she referred back to the Furrier issue. She noted to put a law on the books when there was nothing there was not something that the City's law director advised them to do.

Bridget noted that when you prohibit something, and somebody wants to do it, they will sue. As such, the City generally waits to see whether the State passes further laws or prohibits it. Bridget referred back to the Adult-use cannabis issue noting we only have the Issue 2 ballot language and we do not have anything from the General Assembly who could end up changing it all. She provided the example "you're only allowed to have it if you sell it out of an old schoolhouse" or "you can't have it on a State Route" to illustrate the point. Bridget made up another situation to help illustrate the point. Say the City said they were going to allow Adult-use sales on Main Street but that turns out to be prohibited by the State, the City has just made a bunch of what are called pre-existing non-conforming uses – a phrase often used is "grandfathered in". This puts the City in a legal quagmire because it allowed the use without having all the laws ahead of time in a location it perhaps should not have been.

She noted this is why the City is being conservative and saying if the temporary moratorium is to be lifted, which is in place right now until the State of Ohio gives us laws for adult use cannabis the same as they did for medical marijuana, then we're going to be very conservative and put this in our industrial district that follows similar siting restrictions to medical. Bridget noted that Kent's industrial district covers a lot of close buildings, including the Overholt building, North Water Brewing etc. She noted this way the City doesn't run up against possible restrictions around schools (because schools are in our residential areas), commercial areas, churches, or substance abuse facilities, all things the State prohibited for medical marijuana siting. She advised in this case, the City would try to follow those same guidelines for now, but recognized the State also broke the definition apart saying cultivators, the processors were only allowed in certain areas, dispensaries in others etc. which is why we have that one dispensary in our Commercial district and everything else was in the

eye (meaning industrial). Bridget reiterated there are reasons why we wait to pass laws until we get that State and Federal foundation because otherwise we're either unbundling or we're going to be sued.

Mary asked whether there were any other questions. Bridget advised the Commission can, at any time, send something to Council to advise you are monitoring the issue and if it becomes an issue in Kent, that we will approach them. The Commission can make a formal motion at a meeting to do this and then Julie M. can let Council know. Bridget noted that the Planning Commission does this all the time. The Planning Commission recently made the recommendation to Council that they leave the temporary moratorium on Adult-use cannabis in place until the State comes up with the laws, but advised if they weren't going to do that, that they please put it in the eye (industrial district). They basically just said, this is what we want you to think about from us. Mary advised this was new information to her as she didn't know that was action the Sustainability Commission could take. Bridget reiterated it needs to be judicious. In the Adult-use cannabis example, they do have a temporary moratorium in place and it is a passed law. The Planning Commission only responded because Council said to staff they need to amend the zoning code and planning commission is part of that process.

Julie M. advised that in this case, with the Carbon Wells and/or Fracking Injection Well issues, Council hasn't asked the Commission to comment on any of this. Bridget advised if members want to pursue it, then the issues should be researched first. Julie M. advised that in doing the research, we may answer our own questions. It may turn out the existing regulations and laws, and tracking that the EPA and all the other agencies do, may already mitigate the concerns and Julie M. asked Julie G. whether she had come across any of these specific laws in her research of the problems. Julie G. advised she thinks Bridget's suggestion to find out whether there are any of these wells within the City of Kent is a good first step. Mary asked whether that could be done right now on the phone or computer since the information is online, but it was agreed that Julie M. can look up the information and report back.

Julie G. mentioned that some of this is born out of confusion about what the Sustainability Commission is supposed to be doing now that the CAP has been adopted. Julie M. advised the work detailed on the reports she provides the Commission is the work Staff is doing to move the CAP forward. She mentioned what she needs the Commission to do is help with items she brings to the Commission meeting working sessions. She mentioned the biggest areas of need currently are around helping with Education and Outreach for the CAP, with things like the creation of the Newsletter and planning for the Open Houses as examples. Julie M. noted that when Staff moves through CAP program development, she would be bringing items related to same to the Commission for advisement as well. Julie M. noted this is an advisory committee and she looks to them to provide input on work Staff is doing. She reiterated how much members' input has already influenced work that has been done on the CAP, pointing out that the current Transportation Open House event was brought about directly from their suggestions, and which was very well received by staff and PARTA.

Bridget reiterated the differences between an advisory board and a quasi-judicial board. Bridget advised we have 11 City boards and commissions under the Community Development Department, roughly half of which are advisory, and the other half are quasi-judicial. She noted that the Planning Commission and the Board of Zoning Appeals are required by the Ohio Revised Code to help review site plans and to allow variances from adopted zoning code. They are part of our Charter. Bridget also mentioned the Parks and Rec board, which is a board separate from Council. They are under the City but have a separate administering board, are quasi-judicial and make decisions. Bridget noted that the Sustainability Commission and Fair Housing Boards are advisory-only and noted the boards have different responsibilities. Bridget advised there are some boards required by the State and they only meet once a year noting the Tax and Center Review Council as an example and advising they review any tax exemptions or abatements that are given to private properties for

commercial development. Bridget noted they have another board that meets twice a year and then there are some that meet ad-hoc. It depends on the nature of what they are administering.

Bridget advised that the Sustainability Commission is advisory, but it was the move to support the Paris Accords that got us on track to move forward with a climate action plan. She noted the Commission was part of all that work. Now that Council has adopted the CAP, Bridget noted the goal is to move the CAP forward. Bridget reiterated not everything in the plan can be moved forward at once as it requires money, which Julie M. is looking at. She noted those grants are still very nebulous and are being funneled through the State. Bridget reiterated that getting information out, having educational sessions, like the Open House to introduce the Climate Action Plan to the public and the one next month focused on Transportation, is important as people don't know what the Climate Action Plan is, or that we have it. She noted that Education and Outreach are very important. She advised hopefully we'll get funding that will translate to bricks and mortar projects that aren't just performative.

Mary asked whether we could send a press release around Julie's position becoming full-time. Bridget advised this isn't usually done. Julie M. added that because some of the changes in the position were born out of budget cuts and other strains on the University side, it wouldn't be helpful to our partnership with them to put out a press release. Mary advised if we don't do a full press release, she feels it would be important to at least mention the change in position in the eNewsletter and Julie M. advised it would be fine to put a small blurb into same.

Mary felt it was time to move on given the time and Bridget left the meeting. Mary asked whether a motion was needed to have someone come to the Commission meeting to answer their specific questions on the fracking issues. Julie M. advised that was up to the members, but that she would suggest we do some research first. She'd like to find out whether there are any of the specific waste injection wells here in Kent, and she can reach out to the water plant to get some initial information on what contaminants they track. Julie M. can work with Julie G. to get some of this initial information and then they can report back at the next meeting. If it feels like it's warranted to then bring in speakers or obtain additional information, it can be decided at that time.

Mary thought it would be important to document that members had this concern and that they wanted to pursue it, but she agreed, as did Julie G. that getting more information first would be good. Mary also noted that having another speaker would cut into more meeting time, and she noted that might affect the ability to tend to other work. Julie M. noted that the meetings are currently set up such that when we have speakers and discussions during the formal meeting, we are not holding the working sessions.

Mary advised members to move on to the July meeting date discussion on the agenda and we would then adjourn. Mary opened the discussion for whether to cancel or postpone the July commission meeting. Julie M. advised of the reasons for needing to have this discussion – normally, if the first Monday of the month falls on a holiday it is generally just moved to the next Monday. That said, in this case, it doesn't fall on a holiday, but Julie M. is going to be out on vacation ahead of the job transition switch and so can't be there. The options are to postpone to July 8th or just cancel the July meeting altogether. Julie M. advised one reason to postpone the meeting instead of cancelling is that July 9th is the Transportation Open House and meeting on the 8th would give members a chance to discuss same ahead of the event, though that may not be possible if we have to continue the formal meeting agenda item following up on the fracking injection well waste concerns.

Mary motioned to cancel the July 1st meeting, Julie G. seconded and discussion was offered. Julie G. asked whether we need to discuss the Transportation Open House meeting before it happens. Julie M. advised it depended on how the members would like to receive the information. She noted that if we don't meet, then Julie M. would send out an email with context for what specifically would be needed of Commission members

for that evening, and then receive further instruction the night of the event as opposed to being able to talk through it more at the meeting the day before.

Julie M. provided a brief overview of the information that was outlined in the work update and noted Staff is still working to get all of the materials together, but it's possible she may be able to share them ahead of time and members could look at them on their own, if they're able to attend. Julie M. noted that we would need bodies to help staff the event and answer questions or direct folks to those who can answer if we don't know. Maryjayne asked who was on the list of stakeholders being invited. Julie M. advised it will go out to everyone the same way the previous Open House was publicized. She clarified this is a community wide event, not just for specific stakeholders, and all our same advertisement channels will be utilized. Julie M. advised Jim Bowling may have other contacts and PARTA may send it out through their channels as well. Julie M. advised a second staff planning meeting for the event will be held towards the end of June and she'll have more information at that point. Mary asked whether there was any more discussion and reiterated there is a motion on the table. Bill asked where it was going to be held – members advised it would be at the Roosevelt High School cafeteria, and reiterated that this event was related to the Transportation section of the Climate Action Plan.

Mary asked one more time whether there was any more discussion. Hearing none, she called the vote. Clarification was needed as to which way the members responded to the vote, and all members present clarified they were voting in favor of cancelling the July 1st Commission meeting. The motion passed unanimously. Julie M. advised she will send out additional information about the transportation event via email once she has it and if members have any questions, Julie M. offered to either meet with them individually or another option would be to schedule a working session to discuss it at a separate time that members could attend if they wanted.

Mary moved to adjourn the meeting, Julie G. seconded, discussion was offered and hearing none, the vote was held. The motion passed unanimously and the meeting adjourned at 6:32pm.

The next Sustainability Commission meeting will be held Monday, August 5th, 2024, starting at 5:30 p.m. at the Overholt building.