

**THE CITY OF KENT, OHIO
COMMUNITY DEVELOPMENT COMMITTEE
WEDNESDAY, OCTOBER 3, 2018**

Chair John Kuhar called the meeting of the Community Development Committee of the Kent City Council to order at 7:04 p.m.

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

ALSO PRESENT: Mr. Jerry T. Fiala, Mayor and President of Council; Mr. Dave Ruller, City Manager; Ms. Hope Jones, Law Director; Mr. Jim Bowling, City Engineer; Ms. Melanie Baker, Public Service Director; Ms. Bridget Susel, Community Development Director; Mr. David Coffee, Budget and Finance Director; Mr. Jeff Neistadt, Health Commissioner; and Ms. Tara Grimm, MMC, Clerk of Council

ABSENT: None

There was 1 item on the Agenda.

1. Discuss proposed Regulatory Options for Urban Chickens

Mr. Ruller joked how although not in her job description, Ms. Susel may have become the "Chief Hen". There are a lot of nuances to this. She has formulated a couple of proposed regulatory options, like a menu, for Council's consideration related to allowing chickens to be raised in City neighborhoods.

Ms. Susel has attempted to incorporate comments received from the members of City Council to provide Council with choices for their preferred options, as incorporated in her Memo to the City Manager dated September 25, 2018 where Council requested she bring forth draft legislation. It included the draft of a new Section 505.21 to be added to Chapter 505 "Animals and Fowl," which specifies the requirements for keeping and maintaining chickens within the City. She referred to a couple items not in the Memo such as Mr. Ferrara's question about parcel size and using that as a determinate versus setbacks. We do not have parcel size available on our GIS layering, but she was able to work with some of the data off-sets on the Auditor's website to make that determination. If we were to use parcel size, 73% of owner occupied residential parcels fall below a ½ acre; only 21% fall between a ½ acre and 1 acre; and 6% over 1 acre. The discussion of a ½ acre would eliminate a significant portion of households who might be entertaining having backyard chickens. For those reasons, she modeled the setbacks off of the R3 zoning district requirements which is 30 feet off the primary structure of the rear yard and 10 feet on either side. That is a starting point. Our zoning code on accessory structures has a setback of 10 feet on either side and 10 feet from the back. She recommends not going below those levels because it would be contradictory. With the help of the Kent State Geography Department, who has someone able to help with community projects, the person was unable to look at every single parcel but will be working on it as part of a larger project for Ms. Susel. She asked her to take a look at an area and apply the setbacks of 10 feet on both sides and 30 feet off the rear to those parcels; in an R2, out of 967 residential units, 872 would have met that setback requirement, or 90%. If applied to the higher density of the R3, it would still mean a significant portion; 60-70% of the households would be able to have backyard chickens if legislation was approved as represented in the draft.

Ms. Susel then asked to go through the actual draft legislation.

Mr. Kuhar asked if Ms. Susel wanted questions now or wait until she was complete.

Ms. Susel stated she was going to go through it, but if Council had questions...

Mr. Kuhar stated he thought Ms. Shaffer had her hand up.

Ms. Shaffer asked a question on setback, so it is specific. "What is the point of the setbacks, is it the point to protect the neighbor's yard or to protect the neighbor's residence?" She is concerned about the high-density houses that would like chickens or already do. Is it 30 feet from the backyard versus 30 feet from the neighboring residence? That might protect the residents but might also eliminate many people from being able to have chickens in the best area of their yard. Her neighbor's house is 5 feet from the property line on her side yard, so it would not be good to have a coop at 10 feet as it would only give that neighbor 15 feet away from the chicken coop. She'd like to amend it to be 30 feet from the neighboring residence.

Ms. Susel explained that the issue with that is when they are trying to enforce, using complaint driven enforcement that a coop is too close to the property line, they can't trespass onto the neighbor's yard to measure from the corner of their residence to that parcel line. Setbacks are always taken from the primary structure and parcel line. It is done that way to enforce placing it 10 feet off the parcel line; it is centered in and around the primary structure. A chicken coop is not the same width as a house; it is significantly smaller. The 10 foot setback on either side should not be an issue. It has to be 10 foot from the property line to the edge of the coop, not the primary structure.

Ms. Shaffer followed up by asking about the popularity of permaculture, which involves the use of a chicken tractor – a moveable coop in addition to the coop or be *the* coop depending on the size. It is her understanding that the chickens fertilize the land as it is moved around and eat the pests and bugs, which is an important purpose to people who want to have chickens. Can people have their coop in one area then move the chickens around?

Ms. Susel stated she is not recommending chicken tractors after looking into them after a resident spoke about chicken tractors at a previous meeting. It is abdicated for in a more rural setting; we are dealing with high-density residential areas. Our zoning code and many of our regulatory requirements stipulate many things not in a front yard as well as a side yard. This would fall under that same roof. Conceptually Ms. Susel recognizes the merits and benefits, but it has to be balanced with the reality that we are an older community and a compromise has to be set so that not every one may be able to get all aspects of backyard chickens that they want. We need to find what is reasonable and doesn't encroach on the people who do not want the chickens.

Ms. Shaffer has one more follow up question - if there will be hearings for exceptions like with the Board of Zoning Appeals?

Ms. Susel replied we would not take this to the BZA because it will not be in the City's zoning code, it will be under Section 505 – General Offenses. The mechanisms are already built in to appeal to the City Manager, Law Director, and in consultation with the Community Development Director. She gave an example of someone who appealed a POD with our POD legislation enacted recently.

Ms. Shaffer commented "so there is a process where people can come and say 'I have a situation here'?"

Ms. Susel replied "Yes" and gave an example of variance requests and a different section of the Code. We would build a case by case review to allow us to look at those situations.

Mayor Fiala questioned the current 2 acre parcel requirement in the Code. He agrees with Ms. Shaffer; does not agree with the current proposed side yard setback requirement and has a really big concern with the 10 foot setback not being an agreeable amount.

Ms. Susel stated it is currently a 2 acre parcel in the Code; the setback is meant to be a starting point.

Mr. Sidoti asked if the 30 foot setback is to keep a coop close to the person's own house to be fair to everyone. If someone wanted to have chickens, the compromise would be to keep the coop 30 feet off of their back property line. It would be the same issue if someone didn't want a coop close to their house and if this is time to balance everything we have talked about.

Ms. Susel replied he was correct, and that is why the setbacks are established in that form. Because of the configurations of some people's lot, they may not want their coop closer to their own home. Adjacent property owners may have other uses for their lot and do not want coops close to their yard. This is a way to ensure adjacent property owners can enjoy their own property. There has to be a balance between those two competing interests.

Ms. Rosenberg asked about Ms. Susel's original intent being to encourage people to keep a coop essentially behind their garage, closer to their home, in a space not next to another home with the way the setback designs are.

Ms. Susel replied "Yes" the design setbacks are not only for the recommendations for chickens but for use throughout the zoning code, which ensures those wanting to make adjustments to their properties can in a way that is balanced against those that adjacent properties may not want. That is why we do not allow a garage right up to a parcel line or just install a shed. It is balancing when dealing with property issues with those that want certain conditions and those that do not. Setbacks are used so that balance survives. Some properties are not designed for certain things like pools because they can't enclose it in a fenced in area. It is the nature of the parcel that the owner purchased.

Ms. Wallach asked if a homeowner can put a coop backed up against their own house.

Ms. Susel replied "Sure, absolutely."

Ms. Wallach also asked about chicken tractors working better in rural areas. Can it be put in the Code that if you have a property of a certain size, they may use a chicken tractor?

Ms. Susel stated right now, over 2 acres can have them. We can establish it or bring it down to 1 ½ acres, because it would not be that many households, and would still allow the chicken tractor in a rural setting. She strongly recommends we do not allow it in the higher density residential areas. She prefers a fixed coop and run that are predatory safe. A moving coop increases the risk for the animals. Parameters are set to ensure quality of life of the animals as well as property rights.

Mr. Ferrara asked if the issue about gaining access to someone's property is negated because you can use a laser range finder to determine the distance.

Ms. Susel stated they have to find the pins, then measure off the pins for the parcel line.

Mr. Ferrara commented how they can get a good idea of the setback.

Ms. Susel replied yes. There have been times of encroachment of fences on an adjacent property. They are advised to get a surveyor. If there was an issue between 2 property owners, she would strongly encourage them to get a survey. The City does not make those determinations on private property. They are done visually off of the parcel maps.

Mr. Ferrara commented that if he had a coop on his property and his neighbor thinks it is too close, the neighbor calls the City, the City goes on their property because they authorized it, and the City could shoot it with a range finder to get an idea of where it is.

Ms. Susel replied "if we owned a range finder."

Mr. Ferrara added "We will get you one."

Ms. Susel stated legally they "approximate" based on the parcel maps pulled from our own databases as well as the Auditor's website. Without a survey done by a legal surveyor, we cannot legally say someone is encroaching, even with the BZA. There are times we will assist in advising, but in a matter like that, we would tell them they need to get a professional, legal survey.

Mr. Ferrara stated how the issue comes down to Ms. Susel's comment that we can't go out there and

measure because we can't get on the neighboring property is probably overstated. We can at least get someone out there in the right position to estimate the distance.

Ms. Susel continued how we can get an estimate but there is actually unusual configurations on parcels in the City and you would be surprised with tree growth and bushes, you cannot get a visual.

Ms. Shaffer asked about #8 under J and composting of chicken waste. She understands this is a good idea for lots of reasons; however there are some people who know how to compost very well and could reasonably compost the waste without it becoming a predator issue.

Ms. Susel commented on how this was brought up this morning by Ms. Rosenberg; we are not averse to including composting, but it would have to be buried compost, not a basic compost pile. She stated Mr. Neistadt was here tonight to speak to some of the health concerns with the passage of this legislation. If that language were to be included, we would specify it needs to be buried compost.

Ms. Rosenberg asked if they were going to go through the drafted list Ms. Susel had in her Memo or if they were just going with questions.

Mr. Kuhar replied "questions".

Ms. Susel also verified how the draft does list pigeons as a type of other fowl. We do not have pigeons listed in other sections as fowl so we would likely strike that so it is matching elsewhere in the Code. Definition matching is important for enforcement.

Mr. Neistadt had several suggestions for Council to think about from the Health Department's standpoint:

- Waste Disposal - The word "reasonable" needs defined – how often and where disposal should happen. What is a reasonable amount of waste? It needs some parameters.
- Cleaning frequency of the coop and when does it become a nuisance, who enforces it, does it fall under our general code.
- We do have small egg processors here in Kent that sell their eggs to farms' markets – would this put them out of business? Ohio allows egg sales for someone with under 500 chickens.
- Can't sell eggs but worries about the exchange of eggs because of salmonella. Backyard chicken coops have caused 5,000 cases of salmonella since 2000.
- Does this prohibit free range chickens? Ms. Susel stated NO free range is allowed.
- Chickens carry diseases which can be transmitted to domesticated animals, then they are the carried to us.
- Has a big concern that if near schools, especially elementary schools, since small children do not always wash their hands. It is potential transmission source.
- Coop setbacks are established, but are there any setbacks for the run?

Ms. Susel informed Mr. Neistadt that the coop and run are considered one unit.

Mr. Neistadt questioned the 10 foot setbacks with waste product issues. Chickens produce a lot of waste. A rainy season could create neighborly issues if not cleaned frequently enough.

Ms. Shaffer asked if Mr. Neistadt finds a case of salmonella and there was a diseased chicken and he identified it, is there legal recourse?

Mr. Neistadt stated that was a good question as there is a lot of leeway with biting and rabies, but unsure on diseased chickens and where his authority lies.

Ms. Shaffer would like him to check on the Ohio Revised Code. She has heard that Health Commissioners can order chickens to be destroyed.

Mr. Neistadt stated those are things that he thinks should be addressed in our Code to make them comprehensive in case we do have a situation.

Mayor Fiala added how he was raised with ducks, chickens and rabbits and it was a weekend long process when dealing with waste. He referred to #8 Waste product disposal. Permanent disposal of the waste is not mentioned in the draft because it stinks after a while.

Mr. Neistadt agreed, everybody has a different definition of reasonable cleaning; it really needs to be buttoned up.

Mayor Fiala felt more works needs to be done on this.

Mr. Turner asked if Mr. Neistadt has seen an increase in rodents and vermin on properties.

Mr. Neistadt replied yes, last fall it was up, but not on private property. Coyotes are around; nothing out of the ordinary. He foresees a future coyote discussion depending on how things go with this legislation.

Mr. Turner was concerned with rodents having access to food and what other communities have done in terms of quality of life.

Mr. Neistadt stated he will research and get back to him on that.

Mr. Ferrara asked if we have the same restrictions when it comes to health concerns for entering or getting on properties.

Mr. Neistadt stated "Absolutely" They are allowed to go up to the front door; the law stops them from entering on private property. They try to be as creative as possible by going to other neighbor's houses, with a lot more success of the neighbor in the back to be able to see in, take pictures and get a really good idea of what is going on. Most people show you their concerns and exactly what is going on.

Ms. Rosenberg asked what our guidelines are for dog feces or litter boxes.

Mr. Neistadt said they chase a lot of people who do not clean up their dog feces as we have an ordinance on that, but not as far as on personal property. It is personal responsibility.

Ms. Rosenberg stated ultimately it is the owners who are responsible, and when neighbors have an issue or complaint they reach out and then it gets enforced passively.

Both Ms. Susel and Mr. Neistadt replied "Complaint driven." It is their obligation to write up an order and talk to the homeowner.

Ms. Shaffer requested "rodents" be inserted under #5 so we could enforce that.

Ms. Susel agreed and there are other sections of the housing code that address rodents. When she researched other cities, they did not have specifications on emptying waste or closeness, but she can look at it again.

Ms. Sidoti was curious and asked Mayor Fiala that if we are talking about maximum 6 chickens – how much waste is generated every week?

Mayor Fiala commented it's not about how much waste they produce, it's about how often it is going to be cleaned... imagine only cleaning once a year, you'd have a pile of "doodoo".

Mr. Kuhar and Mayor Fiala both stated you have to clean it every week. A dog walks around and isn't always in the same place; where a chicken coop is built, it is going to build up.

Mr. Sidoti hears people are utilizing the waste for fertilizer, so how do we compost it?

Ms. Susel replied, and as she stated before, it would have to be composted by being buried and stirred in.

Right now it says it needs to be in a sealed container and disposed of with solid waste because there will be an odor issue with open compost.

Ms. Wallach thought the smell discussed in #8 would be taken care of by #5.

Ms. Susel replied how she has learned in her time in government is that we can't codify common sense. Sometimes there has to be some reasonableness with homeowners. She stated she will be bringing a cat hoarding ordinance to Council soon. It has become a significant issue on several properties. Most people know not to put out 8 cans of food in their backyard or take windows out of their basement to allow the cats to free range. The majority of cat owners, even those of outside cats, do not create issues for adjacent property owners. We can come back and make adjustments to this Ordinance as we move forward and allow Code Enforcement some leeway in what is reasonable.

Mr. Amrhein asked about House Bill 175 in the General Assembly which is a broader law allowing different types of animals and not just chickens.

Ms. Susel stated it allows rabbits and goats, but we are a Charter community and our Code takes precedence over HB175. If we don't have something on the books, then state law would take precedence.

Mr. Amrhein added how if someone wanted to have goats, and we pass this legislation, we could say no they cannot have goats?

Ms. Susel stated goats would fall under Section 505 and they could not have them if they are under 2 acres. Section 505 is remaining in our Code.

Mr. Kuhar referred to the audience.

Mr. Bryan Vohsing of 1639 E. Main Street asked for clarification that they are referring chickens or hens and if it is specified.

Multiple people responded "Hens."

MOTION TO AUTHORIZE THE DRAFT LEGISLATION FOR URBAN CHICKENS AS SUBMITTED FOR KEEPING URBAN CHICKENS IN KENT made by Ms. Rosenberg, seconded by Ms. Shaffer.

Ms. Rosenberg thanked Ms. Susel for all her work. It is not an easy topic. There are enough people in this City that would like to keep a couple of hens in their backyard as well as others who don't want to keep them, but believe people should have the ability to keep chickens in Kent as responsible chicken owners.

Ms. Shaffer agreed with Ms. Rosenberg. She stated we did talk about some things that were going to be followed up on and wanted to ensure they are included in the final draft of the legislation.

Mr. Sidoti asked if Ms. Shaffer was trying to make an amendment because she seconded the Motion.

Mayor Fiala stated it stands then.

Ms. Shaffer stated "OK, as stands, I'm all for it."

MOTION TO AMEND THE MOTION AUTHORIZING THE DRAFT LEGISLATION TO CHANGE THE PROPERTY LINE SETBACK TO 20 FEET ON THE SIDES AND 50 FEET FROM AN EXISTING STRUCTURE made by Mr. Ferrara *FAILED* for lack of a second.

Mr. Turner wanted to amend to add a 2-3 year sunset provision to see how things go and keep people aware of the requirements.

Mr. Kuhar clarified if Mr. Turner was making a Motion.

MOTION TO AMEND TO ADD A SUNSET PROVISION OF 2-3 YEARS made by Mr. Turner *FAILED* for lack of a second.

Mr. Kuhar tried to take a voice vote but Mr. Ferrara stated he still had a comment.

Mr. Ferrara referred back to the Main Motion. He is not opposed to people wanting to have chickens. He felt 10 foot was too close for a side setback and 30 feet is too close in proximity to a neighboring parcel. We are not protecting the people who don't want chickens.

Mr. Sidoti talked about how 3 years ago he could not see us having chickens in Kent after a phone discussion he had with a resident; but after a lot of education, he never realized that urban settings can have chickens. He laughed about a recent TV advertisement where a man was racing out of an apartment and chasing a hen down the road. He is torn because he agrees with Mr. Turner that we should pilot a program for a couple years. He would be shocked if more than 50 households jumped right on this. He will support it, but also agrees with Mr. Ferrara and he struggles with the side yard a bit. He hopes common sense sets in when people decide to do this.

Mr. DeLeone asked Ms. Susel how many times she has done this with the chickens.

Ms. Shaffer called a POINT OF ORDER for Mr. DeLeone to speak to the Main Motion.

Mr. DeLeone said he was just making a statement and thanked Ms. Susel as this is the 3rd time he has sat through chicken discussions. He thinks we have spent way too much time on it; it will be a work in progress and feels there is no need for a sunset date as it is going to work itself out.

MOTION TO AUTHORIZE THE DRAFT LEGISLATION FOR URBAN CHICKENS AS SUBMITTED FOR KEEPING URBAN CHICKENS IN KENT originally made by Ms. Rosenberg, seconded by Ms. Shaffer *CARRIED* by a voice vote of 9-0.

At 7:52, after hearing no further business before this Committee, Council moved into Executive Session.

MOTION TO MOVE INTO EXECUTIVE SESSION IMMEDIATELY FOLLOWING IN ACCORDANCE WITH ORC §121.22 (G)(3): (3)“ *Conferences with an attorney for the public body concerning disputes involving the public body that are the subject of pending or imminent court action*” made by Mr. Ferrara, seconded by Mr. DeLeone. On Roll call voting “Yes”: Mr. Amrhein, Mr. DeLeone, and Mr. Ferrara, Mr. Kuhar, Ms. Rosenberg, Mr. Shaffer, Mr. Sidoti, Mr. Turner, and Ms. Wallach, Motion *CARRIED* 9-0.

At 8:25 p.m., Council came out of Executive Session and reconvened the regular meeting in open forum.

No action was taken.

At 8:28 p.m. Motion to Adjourn the meeting by Mr. Ferrara, seconded by Mr. Sidoti and carried by a voice vote of 9-0.

Tara Grimm, MMC
Clerk of Council

ACTION RECOMMENDED:

- 1) AUTHORIZE THE DRAFT LEGISLATION FOR URBAN CHICKENS AS SUBMITTED FOR KEEPING URBAN CHICKENS IN KENT

**THE CITY OF KENT, OHIO
FINANCE COMMITTEE
WEDNESDAY, OCTOBER 3, 2018**

Chair Michael DeLeone called the meeting of the Finance Committee of Kent City Council to order at 6:55 p.m.

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

ALSO PRESENT: Mr. Jerry T. Fiala, Mayor and President of Council; Mr. Dave Ruller, City Manager; Ms. Hope Jones, Law Director; Mr. Jim Bowling, City Engineer; Ms. Melanie Baker, Public Service Director; Ms. Bridget Susel, Community Development Director; Mr. David Coffee, Budget and Finance Director; Mr. Jeff Neistadt, Health Commissioner; and Ms. Tara Grimm, MMC, Clerk of Council

ABSENT: None

There was one (1) item on the Agenda.

1. Consideration of rescinding Fees for 535 Bowman Drive

Mr. Ruller referred to Ms. Jones and her Memo to the City Manager dated September 21, 2018 to discuss how the lien for the mowing arrearages should not have been certified to the County for this property.

Ms. Jones explained how the owner of 535 Bowman purchased the property at a Sheriff's sale in June 2017. Between that public sale and the time that the court approved the sale on August 16, 2017, Council passed Ordinance 2017-76 authorizing the placement of unpaid fees upon the property tax bills of delinquent property owners. In order for the Auditor to remove the unpaid mowing charges, Council must authorize the Auditor to do so. The purchaser proved the City was wrong. Ms. Jones stated she called the Auditor and was informed of the process to remove the fees was to have Council de-certify the fee.

Mr. Turner stated he interceded with Mr. Valor and spoke to Community Development who stated he had no basis to his claim.

Ms. Jones added that she has spoken to Ms. Susel, who had thought we had gotten there quick enough, but have to go back to June. Ms. Susel now agrees with Ms. Jones' findings.

Mr. Kuhar asked if this was an error of the Sheriff's department.

Ms. Jones responded no, it is part of a bank foreclosure when a title search is asked to be done, a lawsuit gets filed and there are proceedings. All of this happened before our certification to the Auditor.

Mr. Kuhar asked if there was a certain time limit.

Ms. Jones replied one year.

Ms. Susel commented how it was a matter of verifying the sale or purchase. The Auditor's posting had the August date on it, but through Ms. Jones' research, the court records were effective in June.

Ms. Jones continued that when the home was sold, there were other liens; ours is unsecured in the amount of \$1,570 and how we were at the bottom of the list and would probably not get paid anyway. We do have a judgement against the previous owners.

Mr. Sidoti asked if we were amending the legislation from 2017.

Ms. Jones clarified how we were not amending, but de-certifying this one amount and property with a brand new ordinance.

Council nor the audience had any further questions.

MOTION TO AUTHORIZE THE RESCINDING OF THE FEES FOR THE DELINQUENT MOWING BILL CERTIFIED TO THE AUDITOR FOR 535 BOWMAN DRIVE WITH AN EMERGENCY CLAUSE made by Mr. Kuhar, seconded by Mr. Ferrara, and CARRIED by a voice vote of 9-0.

Chair DeLeone adjourned the meeting at 7:04 p.m.

Tara Grimm, MMC
Clerk of Council

ACTION RECOMMENDED:

- 1) **AUTHORIZE THE RESCINDING OF THE FEES FOR THE DELINQUENT MOWING BILL CERTIFIED TO THE AUDITOR FOR 535 BOWMAN DRIVE WITH AN EMERGENCY CLAUSE**

**THE CITY OF KENT, OHIO
HEALTH & SAFETY COMMITTEE
WEDNESDAY, OCTOBER 3, 2018**

Chair Jack Amrhein called the meeting of the Health & Safety Committee of Kent City Council to order at 6:37 p.m.

PRESENT: Mr. Jack Amrhein; Mr. Michael DeLeone; Mr. Garret Ferrara; Mr. John Kuhar; Ms. Gwen Rosenberg; Ms. Heidi Shaffer; Mr. Roger Sidoti; and Mr. Robin Turner

ALSO PRESENT: Mr. Jerry T. Fiala, Mayor and President of Council; Mr. Dave Ruller, City Manager; Ms. Hope Jones, Law Director; Mr. Jim Bowling, City Engineer; and Ms. Tara Grimm, MMC, Clerk of Council

ABSENT: Ms. Tracy Wallach

There was one (1) item on the Agenda.

1. Authorize the Vagrancy Ordinance Revisions

Mr. Ruller commented on how luckily we do not have a lot of vagrancy or beggars in Kent like there are at the intersections in Akron. We have some old language in our existing Code and Ms. Jones is requesting we update the language based on where the courts are at. In essence, we are stepping back our restrictions.

Ms. Jones stated Mayor Fiala had forwarded her a letter from the ACLU requesting we repeal our outdated and unconstitutional vagrancy statute. The Supreme Court has ruled that people have the right to ask for money and to get help. These people need help, not to be arrested, especially in a community like Kent. She is requesting repealing this section as some of the other issues are covered elsewhere in our Code. Chief Lee informed her that we do not even use this section of the Code; therefore she is recommending repealing it in whole at the next regular meeting.

Mr. Kuhar referred to when he was in Florida in the 1970's, he worked with Attorney Quinn, and there were 67 vagrancy laws. In some municipalities, to control begging, they had zones for public begging. Mr. Kuhar questioned if that is what we are proposing?

Ms. Jones replied we are not and believes Akron tried to do that, which was challenged in Court. Akron requires a permit, which is not constitutional. People who need help have a right to ask for help. We have other laws to control the other issues such as an accident or nuisance that are created through begging.

Mr. Kuhar asked about the beggars who obstruct public right of ways and sidewalks, trying to charge \$1.00 to cross.

Ms. Jones added how if the person who needs help is getting aggressive, that is another issue and law.

Mr. DeLeone commented how in the news many communities are going through this right now, especially Akron.

Ms. Jones agreed.

Mr. Sidoti asked if this only affects public thoroughfares or does this open the doors to "door-to-door soliciting."

Ms. Jones clarified how door-to-door solicitation is lawful. Prohibitions can't be put on, we need to remain neutral in the way we treat people; it must be content neutral. We can't pick different groups of solicitors to pick on - that is where it gets scary and unconstitutional.

Mr. Sidoti asked what we can do to help people address solicitors at their homes as they are unsure how to handle them.

Ms. Jones replied that “No Solicitation” signs are the best way to deal with it.

Mr. Ruller added how our police department offers free signs with the Code printed on it.

Ms. Jones informed Council they can also call the police if they do not recognize the person knocking at their door or if they are afraid to open the door.

Mr. Kuhar asked if a beggar has to have a permit, because if they don’t, we would be in conflict with our own law as solicitors need a permit.

Ms. Jones clarified and believes we have are vendor and solicitor exemption sections in our Codified Ordinances for things like non-profit charitable organizations, religious organizations and things of that nature. She apologized if she has misspoken.

Mr. Kuhar asked why everyone isn’t exempt – it is a two-faced law.

Ms. Jones reminded Council how begging has been upheld; it is the businesses who are selling things that require the solicitation permits because they need to report their income to our tax department.

Mr. Kuhar was concerned the person begging could be a predator.

Ms. Jones agreed as that person may be; however she added how the Supreme Court upholds the Constitution and a person’s 1st Amendment rights. The Code allows differences between businesses speech who are for profit vs. political speech. There is not much leeway given to for-profit businesses.

Mr. Ruller interjected how any homeowner can place a “No Solicitation” sign on their door and the police can immediately be called if there is a problem.

Mr. Amrhein referred to the audience.

Mr. Karl Martin of 1734 Walnut Rd., Kent stated there is a difference between vagrants - which is a noun, and beggars - which sounds very 1930’s-ish. He feels we should not criminalize homelessness. He referred to a personal story about evangelism and how the Mayor of Ft. Lauderdale made homelessness a crime. Mr. Martin appreciated Council having a conversation about this topic.

Ms. Tina Bhargava of 630 Rustic Knoll Drive and Associate Professor, College of Public Health at Kent State, teaches about homelessness and stated there are students on campus who are homeless. She encouraged Council to think and connect the homeless with resources like Family and Community Services, the Miller House, and help find jobs and housing.

MOTION TO AUTHORIZE REPEALING SECTION 509.10 TITLED “VAGRANTS” FROM THE KENT CITY CODIFIED ORDINANCES WITH AN EMERGENCY CLAUSE made by Ms. Shaffer, second by Mr. Ferrara.

Ms. Shaffer felt the language sounded very 1930’s-ish and limits rights. We need to make sure our legislation is constitutional and seems like logical thing to do.

Ms. Rosenberg commented how there is no value in criminalizing requesting help and agrees with the ACLU. She’s like to see our City go in that direction.

Mr. Kuhar added that luckily we do not have laws like Florida and he even has a homeless gentleman who works for him. He doesn’t see why we can’t get this off our books if there are other laws in place.

Mr. Sidoti felt we need to continue to educate and help the homeless. It's as simple as the brochure we all received that shows the various organizations in this town that will help.

MOTION CARRIED by a voice vote of 8-0.

Hearing no further business before this Committee, Chair Amrhein adjourned the meeting at 6:55 p.m.

Tara Grimm, MMC
Clerk of Council

ACTION RECOMMENDED:

- 1) AUTHORIZE REPEALING SECTION 509.10 TITLED "VAGRANTS" FROM THE KENT CITY CODIFIED ORDINANCES WITH AN EMERGENCY CLAUSE**

**THE CITY OF KENT, OHIO
STREETS, SIDEWALKS, AND UTILITIES COMMITTEE
WEDNESDAY, OCTOBER 3, 2018**

After the Democracy Day Public Hearing, Chair Roger Sidoti called the meeting of the Streets, Sidewalks, and Utilities Committee of Kent City Council to order at 6:31 p.m.

PRESENT: Mr. Jack Amrhein; Mr. Michael DeLeone; Mr. Garret Ferrara; Mr. John Kuhar; Ms. Gwen Rosenberg; Ms. Heidi Shaffer; Mr. Roger Sidoti; and Mr. Robin Turner

ALSO PRESENT: Mr. Jerry T. Fiala, Mayor and President of Council; Mr. Dave Ruller, City Manager; Ms. Hope Jones, Law Director; Mr. Jim Bowling, City Engineer; and Ms. Tara Grimm, MMC, Clerk of Council

ABSENT: Ms. Tracy Wallach

There were two (2) items on the Agenda.

1. Authorize Chapter 937 for Small Cell Wireless

Mr. Ruller referred to Ms. Jones and her Memo to the City Manager dated September 21, 2018 to discuss the changes in Chapter 937 so the use of the public right-of-way and the small cell issues align with each other and are consistent with the changes in state law.

Ms. Jones reminded Council how in back in July we previously spoke about this topic when Attorney Hannah was here. At that time we could not adopt this legislation because state law requires us to give a 45 day notice to the Public Utilities Commission of Ohio (PUCO) of our intent to amend our Code. We have done that and can move forward with adopting the proposed changes.

Mr. DeLeone questioned if PUCO can object after?

Mr. Jones replied no, and we are only required to give notice. They would have to come to us to ask questions on our amendments.

There were no further questions from Council or the audience.

MOTION TO AUTHORIZE THE PROPOSED AMENDMENTS TO CHAPTER 937 WITH AN EMERGENCY CLAUSE made by Mr. Ferrara, seconded by Ms. Shaffer, and CARRIED by a voice vote of 8-0.

2. Authorize City/County Paving on Mogadore Road

Mr. Ruller referred to Mr. Bowling and his Memo to the City Manager dated September 12, 2018 for the paving of the portion of Mogadore Road, which is in the capital budget. The Memo stated:

The Service Department is requesting Council's consideration to cooperate with the Portage County Engineer's Office (PCEO) to resurface Mogadore Road. The PCEO is planning on resurfacing Mogadore Road in late 2019 from Howe Avenue to SR 261. Approximately 28% of the project limits are located within the City of Kent. The PCEO will manage the project and the City of Kent would reimburse the County upon completion of the project. The PCEO has submitted to OPWC for funding up to 50% of the project and they are requesting that the City pay its portion of the non-OPWC amount. This is currently budgeted at approximately \$40,000, including a contingency. This amount would be included as part of the upcoming capital plan for 2019.

Mr. Bowling explained the paving is from south of 261 to Howe Rd. 28% of the county's project is within the City limits and we were asked to pay our share, as well as receiving our share of grant funding.

Ms. Shaffer asked about paving north of SR 261.

Mr. Bowling reminded Ms. Shaffer and Council he brought that paving project to Council back in April and how he was successfully able to find grant funding to pave Mogadore Rd. from 261 to Cherry Street. He has not yet been successful in finding funding to pave Mogadore Rd. from Cherry St. to Summit St.

Mr. Kuhar questioned if the City's portion is to the middle of the hill after SR 261.

Mr. Bowling stated the City limit jogs in and out, but essentially is from SR 261 to Howe Rd.

MOTION TO AUTHORIZE PARTICIPATION IN THE 2019 PORTAGE COUNTY PAVING PROGRAM FOR THE PAVING OF THE PORTION OF MOGADORE ROAD SOUTH OF SR261 INSIDE THE CITY LIMITS, WITH AN EMERGENCY CLAUSE made by Mr. Ferrara, seconded by Mr. Kuhar, and CARRIED by a voice vote of 8-0.

Hearing no further business before this Committee, Chair Sidoti adjourned the meeting at 6:37 p.m.

Tara Grimm, MMC
Clerk of Council

ACTION RECOMMENDED:

- 1) AUTHORIZE THE PROPOSED AMENDMENTS TO CHAPTER 937 WITH AN EMERGENCY CLAUSE**
- 2) AUTHORIZE PARTICIPATION IN THE 2019 PORTAGE COUNTY PAVING PROGRAM FOR THE PAVING OF THE PORTION OF MOGADORE ROAD SOUTH OF SR261 INSIDE THE CITY LIMITS, WITH AN EMERGENCY CLAUSE**