

COUNCIL

July 17, 2008

Wilmington City Council met on Thursday, July 17, 2008, with President Pro Tempore Sandy Mongold presiding.

President Pro Tem Mongold: In the absence of the Clerk, Director of Law would you please serve in that roll?

Director of Law Hapner: I'd be glad to.

President Pro Tem Mongold: Do I have a motion to excuse the absent member?

Hapner: Actually, we should take roll call first.

Mongold: Yes, please call the roll.

Roll Call: Jaehnig, present; Wells, present; Peterson, present; Wallace, present; Popp, absent; Mongold, present; McKay, present.

Assistant Chief Weyand was also present.

A motion was made McKay and seconded by Wallace to excuse the absent member.

Motion passed.

Absent member is excused.

Council gave the Pledge of Allegiance to the flag.

A motion was made by Peterson and seconded by Jaehnig to postpone the meeting until 8:30 p.m. A roll call vote was taken Jaehnig: yes; Wells: no; Peterson: yes; Wallace: no; Mongold: no; McKay: no.

Motion did not pass.

A motion was made by McKay and seconded by Wells to approve the minutes of the last regular meeting, July 3, 2008, as received.

Motion passed.

Minutes approved as received.

President of Council - Sandy Mongold: We have a second reading on an ordinance amending Chapters 1131 and 1133 of the Wilmington Codified Ordinances.

A motion was made by McKay and seconded by Wells to give the second reading only on the ordinance Amending Chapters 1131 and 1133 of the Wilmington Codified Ordinances.

Motion passed.

Director of Law read the ordinance by title only.

President Pro Tem Mongold requested that the third reading be on the Agenda for the next meeting.

President Pro Tem Mongold: We also have a second reading on an ordinance amending Chapters 1139.06-07 (Board of Zoning Appeals) of the Wilmington Codified Ordinances.

A motion was made by McKay and seconded by Wallace to give the second reading only on the ordinance Amending Chapters 1139.06-07 (Board of Zoning Appeals) of the Wilmington Codified Ordinances.

Motion passed.

Director of Law read the ordinance by title only.

President Pro Tem Mongold requested that the third reading be on the Agenda for the next meeting.

President Pro Tem Mongold: The next items tonight is a second reading on an ordinance adding Chapter 1160 to the Codified Ordinances of the City of Wilmington Creating the H-1 Zone (A/K/A the Wilmington Commercial Historic District). Are there any questions.

A motion was made by Wallace and seconded by Jaehnig to give the second reading only on the ordinance.

Motion passed.

Director of Law read the ordinance by title only.

President Pro Tem Mongold requested that the third reading be on the Agenda for the next meeting.

President Pro Tem Mongold: The next item tonight is an ordinance adding Chapter 1169 to the Codified Ordinances of the City of Wilmington Creating the Stream and Riparian Overlay Zone.

A motion was made by Peterson and seconded by Wallace to give the second reading only on the ordinance.

Motion passed.

Director of Law read the ordinance by title only.

President Pro Tem Mongold requested that the third reading be on the Agenda for the next meeting.

President Pro Tem Mongold: The last item tonight is a second reading an ordinance Chapter 1302 Administration and Enforcement for Commercial Historic District; Design Review Board; Repealing Ordinances 2240, 2364, 2390, 3444, and Resolutions 666, 687 and Ordinances or Parts of Ordinances Inconsistent Herewith.

A motion was made by McKay and seconded by Jaehnig to give the second reading only on the ordinance.

Motion passed.

Director of Law read the ordinance by title only.

President Pro Tem Mongold requested that the third reading be on the Agenda for the next meeting.

President Pro Tem Mongold: We don't have a mayor tonight.

Asset, Acquisition and Use - No report.

President Pro Tem Mongold: Mr. Auditor.

Auditor - David Hollingsworth: I have nothing.

President Pro Tem Mongold: Thank you. Finance.

We do have an ordinance making supplemental appropriations tonight. The first item is the water refunding escrow account to the escrow payments of [inaudible] this is the interest [inaudible] that needed to be made to make the payment transfer. The second tonight item is from the first mortgage waterworks system revenue bond fund to escrow payments of \$8,029,500.00. That is just, its already been budgeted its just transferring the money so that it can be paid. I would move for the first reading.

A motion was made by Mongold and seconded by Peterson to give the first reading only on the ordinance.

Motion passed.

Director of Law read the ordinance by title only.

A motion was made by Mongold and seconded by Peterson to suspend the rules and give the second and third reading on the ordinance by title only.

Roll call: Jaehnig, yes; Wells, yes; Peterson, yes; Wallace, yes; Mongold, yes; McKay, yes.

Director of Law read the ordinance by title only.

A motion was made by Mongold and seconded by McKay to pass the ordinance as read.

Roll call: Jaehnig, yes; Wells, yes; Peterson, yes; Wallace, yes; Mongold, yes; McKay, yes.

Motion passed.

President Pro Tem Mongold: Water committee.

Water Committee - Chairperson Mike Wallace: no report.

President Pro Tem Mongold: Streets Committee.

Streets Committee - Chairperson Peterson: In streets committee we like to propose legislation, give it a reading and postpone it. The first item I'd like to postpone until the next meeting. We're in the process of amending that legislation so we're going to bring it back here and ask for the second reading at the next meeting. So put that on the Agenda for the next meeting.

Councilman McKay: We'll have an idea of what the legislation is going to be before the meeting.

Councilwomen Peterson: We're moving a few parking spaces on Sugartree and one parking space, perhaps, on Gallup Street. It depends. We're going to defer to the Streets Superintendent. That's why we want to delay this for a couple of weeks, so that he can actually do some measurements and make sure that we've got it right for next time.

Wells?: the biggest thing is getting around the corner with snow removal and emergency vehicles. We felt maybe it wasn't in the best interest of everybody to eliminate the parking spots on Gallup, but the corner still needs addressing.

McKay: So at this point you're considering leaving parking for the most part as it exists.

Councilwoman Peterson: We've had a lot of citizen involvement. In fact the idea for the changes in the legislation came from the citizens that live there. And then the next item we're going to go ahead and do the second and third reading on an ordinance Amending the Traffic Control Map and this in regard to Mulberry Street.

A motion was made by Peterson and seconded by Wallace to suspend the rules and give the second and third reading on the ordinance.

Roll Call: Jaehnig, yes; Wells, yes; Peterson, yes; Wallace, yes; Mongold, yes; McKay, yes.

Director of Law read the ordinance by title only.

A motion was made by Peterson and seconded by Wallace to pass the ordinance as read.

Roll call: Jaehnig, yes; Wells, yes; Peterson, yes; Wallace, yes; Mongold, yes; McKay, yes.

President Pro Tem Mongold declared Ord. _____ passed as read.

President Pro Tem Mongold: Solid Waste/Recycling Committee?

Solid Waste/Recycling Committee: Chairperson Don Wells: No report.

President Pro Tem Mongold: Wastewater/Sewer Committee?

Wastewater/Sewer Committee: Chairperson Mark McKay: No report.

President Pro Tem Mongold: Judiciary?

Judiciary Committee: Chairperson Mark McKay: We have a couple of things tonight. The first item has to do with the fact that we have annexed a large parcel of property around the airport and some other areas and when that happens we are required to reset the ward boundaries and our committee has met with the election board and we are all satisfied that these boundaries are contiguous to established wards now and seem to work with us in this way. Are there any questions about this? Yes, Geoff

Geoffrey Philips: Councilman, a question for clarification in the title in repealing all ordinances in conflict therewith and just for clarification, in the last ordinance back in 74 57, I think originally in 57, it establishes for example Birdsall that 1st and 2nd ward are split down the middle of the street. Looking at this map it does that. Does that language stay on the books of the City? Or is it all replaced by this map?

Councilman McKay: I do not know how to answer that.

Geoffrey Philips: The concern would be that if it is the map, citizens, anyone could go to the City's website and read the ordinances. There are no documents, so this map is not available to them. I understand what we are doing and have no problem with what we are doing, I was just concerned in the language right now there is a very clear distinction as to fact that two or three situations in the city its not down the middle of Locust Street, but its broken in the neighborhood and I know its only a first reading and possibly just a question.

Councilman McKay: You're saying that you still think there needs to be some clarification of language.

Geoffrey Philips: Well, my only question is if we're repealing ordinances in conflict therewith, does that repeal the language that's on the books today, and if it does, wouldn't we really do better to leave that language in place and provide clarification in an additional section.

Councilman Wallace: I thought [inaudible] and the map were one and the same.

Councilman McKay: I think what he's talking about is a bigger question. Are you satisfied is we do the first reading?

Geoffrey Philips: No problem with that. I just want to understand what the net impact is. That's all my questions.

Councilman McKay: We will find out because we will be doing, hopefully, second and third readings at the next meeting. I would just ask for the first reading tonight if there are no other questions.

Geoffrey Philips: Thank you.

President Pro Tem Mongold: We'll get a clarification on that before the next meeting. All those in favor say "aye". Opposed, nay.

Motion passed.

Director of Law read the ordinance by title only.

President Pro Tem Mongold requested that the second reading be on the Agenda for the next meeting.

Councilman McKay: The next item is a housekeeping type item that we do every year. It has to do with participation in a worker's compensation pool. Are there any questions? If not, I move for the first reading.

A motion was made by McKay and seconded by Peterson to give the first reading only on the ordinance.

Motion passed.

Director of Law read ordinance by title only.

A motion was made by McKay and seconded by Peterson to suspend the rules and give the second and third reading on the ordinance by title only.

Roll Call: Jaehnig, yes; Wells, yes; Peterson, yes; Wallace, yes; Mongold, yes; McKay, yes.

Director of Law read the ordinance by title only.

A motion was made by McKay and seconded by Wallace to pass the ordinance as read.

Roll call: Jaehnig, yes; Wells, yes; Peterson, yes; Wallace, yes; Mongold, yes; McKay, yes.

President Pro Tem Mongold declared Ord. _____ passed as read.

Councilman McKay: That's all I have with the exception that I believe we have a judiciary meeting scheduled for Tuesday at 6:00. That's all I have.

President Pro Tem Mongold. Thank you. Safety Committee.

Safety Committee: Chairperson Don Wells: No report.

President Pro Tem Mongold: Downtown Revitalization. I would just like to remind you that tomorrow night the Blues and Q concert in the mural park. It should be outstanding and the weather is supposed to be nice. The food will be excellent, Beaugard's is supplying. I hope to see you all there tomorrow night. Parks and Recreation Committee.

Parks and Recreation Committee: Convener Mike Wallace: No report.

President Pro Tem Mongold: Service Director. Safety Director. You have before you the Auditor/Treasurer report for June 2008. Do I have a motion to accept them as presented?

A motion was made by Peterson and seconded by Wallace to accept the Income Tax Report - June 2008, as received.
Motion passed.
Reports accepted as received.

President Pro Tem Mongold: Is there any member of the audience or council member that who would like to say something this evening? Just please go the front podium and state your name and address.

James Hanna, 370 High Street in Wilmington. I was before council at the last meeting on the question concerning potentially some parliamentary procedure issues out of the Board of Zoning Appeals. I was able to do some further research and study and found that that vote was able to stand. Parliamentary wise is was correct so I am back before you to acknowledge I was wrong and thank you for your time and attention to it.

President Pro Tem Mongold: Thank you.

Scott Kirchner, 261 South Mulberry Street. First of all I wanted to thank councilwoman Mongold for serving as President Pro Tem tonight. I appreciate your efforts and I also wanted to notice the Law Director, Kathryn Hapner, for performing the council of clerk duties this evening. I know its not your job and I'm glad to know responsible officeholders are here to do the people's work. I appreciate that. I came tonight because I noticed in the newspaper a week ago that the governor was going to be back in town and I know that in February I had raised concerns about tax payer funds being used to advocate for a Democratic fundraiser. I wanted to comeback tonight and ask the question as to whether or not more taxpayer funds had been used to advertise this fundraiser. I was curious, last time the Mayor's office seemed to defend the activity and behavior. I believe eventually it was found to be criminal and I didn't know if council had actually verified whether or not City funds had been spent on this Democratic fundraiser tonight.

President Pro Tem Mongold: Anybody have any information on that?

Scott Kirchner: O.K. I just wanted to

President Pro Tem Mongold: We'll follow up on that.

Scott Kirchner: I appreciate that. I just wanted to raise the concern having not heard anything back from February. I also wanted to notice that I'm disappointed if the absence of the Mayor and our single Democratic councilperson as well as our Democratic Clerk of Courts tonight is due to a political fundraiser. That they find political fundraising more important than doing the people's business. And I think it's a sad testament to their dedication if that is in fact true. That is, if it is in fact true. Thank you.

President Pro Tem Mongold: Thank you for your comments. Any other comments? Questions?

A motion was made by McKay and seconded by Peterson to adjourn.
Motion passed.
Council adjourned.

ATTEST:

President Pro Tem of Council

Acting Clerk

¹ CLERK'S NOTE: These Minutes were not prepared by the Clerk or her designee. There was/is no published agenda for this meeting because the regular meeting at 7:30 p.m. was not going to be held on July 17 per the Mayor and President of Council. Rather, a special meeting [a

regular meeting held at a time other than the regularly scheduled time] was to be held at 8:30 p.m. on July 17 and an agenda was published for the 8:30 p.m. meeting. Compliance with WCO 107.01, 111.04 and R.C. 121.22(F) certified. Pursuant to 107.01 Rule 12, the Clerk cannot certify compliance for the July 17, 7:30 p.m. meeting. WCO 107.01 Rule 1(c) (“Clerk” means the Clerk of Council or the City of Wilmington or his/her designee.”). The Clerk did not designate a designee for the July 17, 7:30 p.m. meeting pursuant to WCO 107.01, Rule 1(c) and cannot attest to these Minutes. WCO 107.01, Rule 12 states that “No business shall be conducted at any meeting until the Clerk has certified compliance with these rules. Such certification shall be conclusive upon the public body.”