

Wilmington City Council met on Thursday, March 17, 2011, with President Fred Ertel presiding.

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

Assistant Chief Duane Weyand was also present.

A motion was made by McKay and seconded by Jaehnig to excuse the absent member.
Motion passed.
Absent member excused.

Council gave the Pledge of Allegiance to the flag.

President of Council – Fred Ertel: Just glancing through the audience, it looks like everybody was observant in having a little bit of green on, which is a good thing with it being St. Paddy's Day and so forth.

A motion was made by Wells and seconded by Mead to approve the minutes of the last regular meeting, March 3, as received.
Motion passed.
Minutes approved as received.

President Ertel: The second thing is a Notice to Legislative Authority of the expiration of all permits to sell alcoholic beverages in the City of Wilmington on June 1, 2011, and the necessity of permit holders to file renewal application. Permit renewal objections taken by the Division of Liquor Control. This is on file here at the office, so if anyone would like to state objections or whatever, please come in and write them down. Otherwise, hopefully, June 2, they will all be relicensed. That's a good thing. I also have a notification to the public. Some of the legislation tonight we have is the first reading and we need to have it done by the end of the month, so we will have a special council meeting on Thursday, March 24, at 6 p.m. here in Council Chambers with one item to be discussed. Please note that on everybody's calendar – Thursday, March 24, at 6 p.m. That completes my portion. Mr. Mayor?

Mayor – Mayor Raizk: I don't have a report tonight, Mr. President.

President Ertel: Thank you. Let's move into the first committee report, and that is Asset, Acquisition and Use.

Asset, Acquisition and Use –Chairperson Sandy Mongold: Tonight we have the first reading on an ordinance authorizing a lease-purchase agreement with Total Baking Solutions, Inc. for Building #2 at 474 S. Nelson Avenue, Wilmington, Ohio.

A motion was made by Mongold and seconded by McKay to give the first reading only on the ordinance Authorizing a Lease and Purchase Agreement with Total Baking Solutions, LLC for Building #2 at 474 S. Nelson Avenue, Wilmington, Ohio.
All members votes yea.
Motion passed.
Director of Law read ordinance by title only.

President Ertel: We do have one question.

Paul Hunter: At the committee meeting around it, I didn't get a clear answer on the property tax thing. Is the company going to pay last year's taxes for us on that property? How's that going to work out?

Clerk Laura Curliss: No. They won't have any liability for last year, Paul. I did answer this for you. They won't have any liability for last year, and the Auditor still has to break

out the property, because part of it will be exempt and part of it won't be. Tax is usually prorated.

Paul Hunter: You didn't explain that to me, by the way.

Clerk Laura Curliss: Yes. I did say that it was going to be prorated. That's the normal course.

Paul Hunter: Well, say it is prorated, so we are \$23,000 short in the property tax budget line then. We will still have to do a supplemental for this 46,000 out there. If they are not going to contribute this year, then we will have to pay the entire... We've already paid 23, plus pay 23...

Mayor Raizk: Yes. Because we are always a year behind, so they weren't even in there.

Paul Hunter: That's my answer, I guess.

Clerk Laura Curliss: Then, when we bought it from Textron, we took care of the taxes prorated.

Paul Hunter: How's come we haven't filed for the exception?

Clerk Laura Curliss: You have to wait a year.

Paul Hunter: That's untrue.

Clerk Laura Curliss: No.

Paul Hunter: I checked with the Auditor and they say as soon as the deed crosses the Recorder's Office it is eligible to be requested for exemption. It takes a year to get it anyway. We wouldn't haven't gotten it.

Clerk Laura Curliss: Well, you could request it, but it is going to take a year.

Paul Hunter: Pardon me?

Clerk Laura Curliss: It is going to take a year.

Paul Hunter: It is going to take a year from the time of filing.

President Ertel: Thank you.

Mongold requested that the second and third reading be on the Agenda for the special council meeting.

President Ertel: Is there anything else? Thank you. No Auditor's report.

Auditor—In the absence of Auditor David Hollingsworth, there was no report.

President Ertel: Finance Committee?

Finance Committee—Chairperson Sandy Mongold: Tonight we have an ordinance making supplemental appropriations. The item is a refund request from the state for Medicare billing. They are being challenged by MBI, but in the meantime, we have to pay it. We are hoping to get it reversed.

A motion was made by Mongold and seconded by McKay to give the first reading only on the ordinance Making Supplemental Appropriations.

Motion passed

Director of Law read ordinance by title only.

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

Roll call: Jaehnig, yes; Wells, yes; Wallace, yes; Mead, 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; Wallace, yes; Mead, yes; Mongold, yes; McKay, yes.
Motion passed.
President of Council declared Ord. No. 4959 passed as read.

Councilwoman Mongold: Thank you. That is all we have this evening.

President Ertel: Thank you. Water Committee?

Water Committee – Chairperson Mike Wallace: No report, Mr. President.

President Ertel: Thank you. Streets Committee?

Streets Committee – In the absence of Chairperson Peterson, Councilman Wells: No report, Mr. President.

President Ertel: Thank you. Solid Waste/Recycling?

Solid Waste/Recycling Committee: Chairperson Don Wells: Mr. President, I have nothing on the agenda; however, I did receive my free curbside recycling pamphlet in my utility bill. I hope everybody got one of these. We encourage the citizens to recycle. It is the right thing to do. That is all, Mr. President.

President Ertel: Thank you very much. It is a great program. Wastewater/Sewer?

Wastewater/Sewer Committee: Chairperson Mark McKay: No report, Mr. President.

President Ertel: Thank you. Judiciary Committee?

Judiciary Committee: Chairperson Rob Jaehnig: We have three items tonight, Mr. President. I am going to let the first item be taken care of by Mr. McKay.

Councilman McKay: Our first item is the third reading on a resolution expressing support for implementing a bio-preferred purchasing policy for the City.

A motion was made by McKay and seconded by Mongold to give the third reading only on the resolution Expressing Support for Implementing a Bio-Preferred Purchasing Policy for the City of Wilmington, Ohio.

Jaehnig abstained. All others voted yea.

Motion passed.

Director of Law read the resolution by title only.

A motion was made by McKay and seconded by Mongold that the resolution be passed as read.

Jaehnig abstained. All other voted yea.

President of Council declared Resolution No. 2234 passed as read.

Councilman Jaehnig: The second item is three readings on a resolution authorizing the filing of a four-year capital and operating plan with the Ohio Department of Transportation. This is our four-year budgeting forecast for the transit services for the taxi services. Any questions in regards to that?

A motion was made by Jaehnig and seconded by McKay to give the first reading only on a resolution Authorizing the Filing of a Four Year Capital and Operating Plan with the Ohio Department of Transportation Covering the Period January 1, 2012, through December 31, 2015.

Motion passed

Director of Law read resolution by title only.

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

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

Director of Law read the resolution by title only.

A motion was made by Jaehnig and seconded by McKay to pass the resolution as read.

Roll call: Jaehnig, yes; Wells, yes; Wallace, yes; Mead, yes; Mongold, yes; McKay, yes.
Motion passed.

President of Council declared Res. No. 2235 passed as read.

Councilman Jaehnig: Our last item is three readings on an ordinance approving the editing and inclusion of certain ordinances as parts of the various component codes. This is an annual thing that we need to do that allows for the update of our ordinances and resolutions.

A motion was made by Jaehnig and seconded by McKay to give the first reading only on the ordinance Approving the Editing and Inclusion of Certain Ordinances as Parts of the Various Component Codes of the Codified Ordinances of Wilmington, Ohio, and Declaring an Emergency.

Motion passed

Director of Law read ordinance by title only.

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

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

Director of Law read the ordinance by title only.

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

Roll call: Jaehnig, yes; Wells, yes; Wallace, yes; Mead, yes; Mongold, yes; McKay, yes.
Motion passed.

President of Council declared Ord. No. 2235 passed as read.

Councilman Jaehnig: That is all, Mr. President. Thank you.

President Ertel: Thank you. Safety Committee?

Safety Committee- Chairperson Rob Jaehnig: No report, Mr. President.

President Ertel: Thank you. Downtown Revitalization Committee?

Downtown Revitalization Committee - Convener Mark McKay – There are lots of things happening in the downtown today. Tomorrow night is euchre at the General Denver, and I know there are a lot of other things to visit and shop here in the downtown.

President Ertel: Thank you. Parks & Recreation?

Parks and Recreation Committee - Convener Mike Wallace: No report, Mr. President.

President Ertel: Excellent. Thank you. The Service Director is on vacation. Is there anything Mr. Mayor?

Service Director- In the absence of Service Director Larry Reinsmith, Mayor David Raizk: No report.

President Ertel: Very good. Safety Director?

Safety Director – Mayor Raizk: No report.

Reports:

A motion was made by Wells and seconded by McKay to approve the Auditor – Treasurer's Report – February 2011, as received.

Motion passed.

Reports accepted as received.

President Ertel: At this point, I would like to open the meeting up to the general public and/or members of council to address council while in session.

Mike Prell: I am Mike Prell. This is my wife, Kim Prell. We are at 14 N. South Street, the new Wellness Studio. We opened up two weeks ago and we are pretty much bringing a change to Wilmington as far as things to do for the community. There are things that we offer that some people don't like or are not into, like readings and things, but we offer things at our center for everyone – reflexology, massage, gong meditation. I know Mr. Jaehnig has tried that. It is Chinese. We do have something for everybody. I am not into readings at all, but other people are, so we brought that to our center, because some people are interested in readings.

Mayor Raizk: Mike, I'm sorry...readings?

Mike Prell: We do life coach readings. We have a person that does that. Then we have astrology readings. That is more her field.

Kim Prell: Yes. Everything we offer is just based on very ancient knowledge. It is a holistic healthcare center is what we have. We wanted to come and introduce ourselves and let you know that we are there. We offer a lot of workshops. We have a Tai Chi class. You have some of our lavender items in your bag. Lavender, in case you didn't know, is great for relaxation and calming. Our farm actually is in Martinsville. I make all of the items that we sell with the lavender.

Mayor Raizk: So, you raise the lavender?

Kim Prell: Yes, we do.

Mike Prell: We have an acre of certified organic lavender on Martinsville Road. As you probably have heard, we are the ones building the earthship out of recycled materials. So, we have an 1100 square foot building that is pretty much done. Right now, it is being built under an agriculture exemption. In the future, we would like to move into there, but zoning regulations for a dwelling, no one is familiar with an earthship foundation. We have been working on that with the county, and it's kind of an uphill battle. Alternative buildings are hard to pull off in any county really. It is something we're doing there. We offer educational workshops. Your recycling...if you don't want to have it collected, bring it to us, and we will use your cans in our building. We have built partition walls out of cans and mud. It is plastered to an adobe finished, western style. We are basically building our building out of adobe. It's pretty neat. It is interesting. With Wilmington, one of the things we wanted to open the center for, is I was very bored here. When I moved in, I had no clue that Wilmington was seven miles away from me – straight shot. A fifteen minute drive. So, when I moved in, my neighbor was like, you know, you can go to Lowes up there with me. I thought, "Lowes?" I had been driving 45 minutes to Lowes. We had already moved in, and I had no clue that Wilmington was here. I was out on Martinsville Road and I was driving clear to Fields Ertel for everything.

[Laughter]

Mike Prell: He brought me up here, and I was like "Fast food!" I was pretty excited.

Councilman Jaehnig: That's not part of the Wellness Center.

[Laughter and banter]

Mike Prell: Our whole thing is we wanted to bring something to Wilmington that no one else has. It's not the quality in Wilmington, it is the quality in the Wilmington stores that I see. For my personal vision, when I see Wilmington, it is not all quality. Businesses are coming. We have the coffee shop coming in. We're coming in. There is another store that I know of...kind of a Yellow Springs-type crowd coming down here to open. Hopefully, they will be next door to the coffee shop, if everything works out well. South Street can be happening – definitely.

Mayor Raizk: Welcome. We're glad to have you.

Mike Prell: Yes. Stop by. Your first session is free for gong meditation. If you can get a free session, you should try it. It's pretty neat.

[Banter]

Mike Prell: We have two subatomic gongs. They are imported from China. They are handmade, hand-beaten to make the sound. You sit between two of the gongs in a zero-gravity chair, and then the gong-master, Gong Master Mike, and we have Gong Master Eric Guindon. He sits on the other side. We play lightly on the gongs and the vibrations to your body actually bounce out of the body, so when you get out of there, you're floating. You're like "Wow." You know, for me, I get too spaced out playing because I play for everybody. So, when I'm done, I'm like, "Ah, no more."

Kim Prell: So, those coupons that you have... If you are feeling depressed, if you're stressed out, that's a great time to stop in and try it out and see how it works for you. The reflexology... free 20-minutes... are passed out as well. I do that. If you don't know what it is, you're whole body is mapped out on your hands and feet. Basically, I work with pressure points to bring balance to your body. It is great for many different health benefits, as well as relaxation. I just want you to know what that is, since you have some in your hands.

Mike Prell: One more business adventure of ours is in the front of the Wellness Studio, I will be there every day. We want to create a development and web designer freelance business. I do a lot of web work full time, so I will be in the front of the Wellness Studios to take care of the people coming in and scheduling. I will also be doing the web-development there. So, there are two businesses in one... it's kind of crazy. The Lavender Festival too is June 18-19. It is a big event. A lot of people come out there. We bring thousands of people in. We have the fields completely full of cars, and the gongs will be going off.

President Ertel: This will be out in Martinsville?

Mike Prell: Yes. Hopefully, the earthship will be done enough to walk in and check it out.

Councilman McKay: We're happy that you found Wilmington.

Mike Prell: City life has changed. We're inner-city kids. It was fast-paced and pretty rough. We come out here and our kids are so much different than we were. I love seeing them grow up and not have that stress on them. It is a lot more laid back here for sure.

[Applause and general comments of congratulations and welcoming]

President Ertel again asked if anybody else from the public or the council wished to address council while in session.

Scott Kirchner: 245 S. Mulberry Street. I am happy to see that Total Baking Solutions has decided to call Wilmington their home. I had taken a cursory review of the original lease and agreement and just had a couple of quick questions. First of all, hoping that they take root and succeed, we all look forward to a future that is brighter for them. But, my curiosity would be, have we done any planning in the event that unfortunate circumstances would address the business to properly compensate for the use of the facility, say within the next five year years while they are renting for a dollar a year. Have we made them take out any bonding insurance that would make the city whole on the actual value of the property during that time if the company would go under? I know that this is not by any means what anyone wishes. We all are hopeful that they will. But, I will remind council that shortly after arriving, DHL disappeared. I know at the time I raised the concern that they might not be here in twenty. They weren't here in two. That is why my question is presented. Is there anything in here that makes them...

Mayor Raizk: No. There is really no way to do that. It is a lease until they exercise their option. At that point in time, yes, they have to complete it once they start it, but up until

that time, no. The security for the city is the fact that they taking over all of the expense, especially the utility expense is the biggest kicker on that building. It is rather huge. It is a drain. The fact that we don't have any expense as far as the utility goes and taxes. They have to pay their own insurance and take all of that. It is a lease. The way it is, they can't bond it. At some point in time, when they exercise the option to purchase and if they were doing that, it is due and payable if they decide to leave.

Scott Kirchner: Yes. I did read that. It was that interim time, for five years, basically, it is kind of rent-free of an industrial facility. We will also be foregoing any other opportunities with an incoming business to place them in there. So, if during that five years they would fail or leave, there would be opportunity costs as well.

Mayor Raizk: The reality of it is, though, it was fortuitous that these things aligned. Because essentially, if we didn't have this, the building would be out-of-pocket for the next two to three years anyway because of the remediation. We are allowed to do it this way because they are leasing it. But, we didn't have anybody lined up while the remediation was going on. The situation is, we're not really out anything, and we do have somebody taking care of that. We can't sell that building until the remediation is complete anyway. Even, if they weren't here. In other words, if we had nothing here, until we get the covenant not to sue and no further action letter, at the end of that period, monitoring and everything, the building cannot be sold. So essentially, we would have it empty. If somebody wanted to buy the building, we couldn't do it, unless we did it this way. To answer your question...no...but it does give us the opportunity to secure it for the future while this remediation is going on and it also alleviates us of the utility expense, the insurance expense, and some of those things.

Scott Kirchner: And I do agree with the approach the city has taken. I don't mean to question that, it was just simply the review...wondering if there was a protection in case of the unfortunate...

Mayor Raizk: There is really no way to do it. You couldn't bond something that you didn't own, so...

Councilman Jaehnig: They are also putting quite an investment in upgrading and adding to the facility on top of that. If they decide to leave before opting on their purchase agreement, the city then retains all of those improvements. They are going to do roof repairs, they are going to do wall repairs, and then, of course, building offices that don't currently exist out there.

Scott Kirchner: I say again, I agree with the approach that we're taking, it is just that insurance on that other side. We didn't think DHL would be gone either, and that would be the only reason that it occurred to me. Two other questions. One, I noticed that we put specifically the ability to sell the property while they are in there as long as the lease terms were assigned. It appears, I am not a lawyer by any means, perhaps the financing would have to go with whoever purchased it as well. I am curious why we would specifically call out the ability to sell it when we have already found a buyer.

Mayor Raizk: It is another protection for the city that we can do. If they decide to do it, we still have the ability to do it.

Scott Kirchner: It seems to be to another party...not to them.

Mayor Raizk: I understand. It's on default. It doesn't limit us to not sell it.

Scott Kirchner: Correct. The transfer by landlord, specifically item 26, indicates that we could sell it to another party as opposed to them, but the party would be bound by the contract with them. I was just curious if there was a reason we had seen fit to put that in.

Law Director Hapner: If someone comes along and wants to offer us a million dollars for it, you don't want to turn it down. That would be free money for us. Granted, the chances of that happening it are very slim...but...

Scott Kirchner: Then, the final question, it appears the city is going to be doing the financing after the five years....I am just curious...why have we decided to go that route instead of requiring them to get commercial financing. I noticed that we set the interest rate at the lowest available interest rate we have. I understand, we want to encourage them to be here, but does the city really want to be in the mortgage business is my question as opposed to...

Mayor Raizk: It was just a methodology for doing it. We set it at the lowest possible rate, which is the IRS fed rate of interest...wherever that is at the particular time. Right now it is about 2.75% I think or right around 3%. It is just a way to do it. There are a lot of opportunities around here. When we have looked at things across the country, there are a lot of buildings that are actually be given/deeded for nothing, because there is a lot of empty industrial space. In fact, they had a deal like that in Michigan, where they got literally a plant for nothing and it was given to them. We were able to work this deal because our location was a little better and a couple of other things were good. The other thing is, we want to stretch it to use it for job creation. There is incentive built into it by doing it this way so if they grow to 100 jobs, there is a financial incentive for them to do that. If they don't grow to 100 jobs or they don't have that, then there is a disincentive in it as well.

Scott Kirchner: The incentive, as I read it, just so I understand, in the five years prior to execution of the note, if the average employment was 100 over those prior five years...so during the five years of one dollar a year lease...

Mayor Raizk: No, it is at the purchase point...

Councilman Jaehnig: At the final purchase point.

Mayor Raizk: At the final purchase point.

Scott Kirchner: Correct. I'm talking about the qualification.

Mayor Raizk: Is from the five years of the commencement of the buy. There is a five-year note and then the rest of it is due at the end of the second five years.

Councilman Jaehnig: So, it is year six, seven, eight, nine and ten...

Mayor Raizk: Of the purchase.

Scott Kirchner: Not preceding the purchase.

Mayor Raizk: No.

Scott Kirchner: Okay. Thank you. That is all of my questions.

President Ertel: Thank you. Paul, you had your hand up.

Paul Fear: I was going to mention, item 8B and item 10B prohibit them from digging in any of the common areas so they can't destroy any of the stuff. Item 10B requires them to maintain the building. It gives us the right of inspection to repair in case they don't do it. I think that item 10B covers Scott's question about them to keep the building in the condition it is leased at, so I think we're okay there. The other comment about the sale, that's pretty normal and customary in banking. If you've got a lease, you want to write in there that you are able to sell it, so if we decide if it is advantageous to us to pull \$500,000 out of it instead of continuing to take the lease and then let them buy it from that...that's pretty normal and customary. The last comment is, if we are making 2.75, it is whole lot better than the 0.3 we're making in the marketplace now. We're better off to go ahead and finance it at the time it is purchased. I think it is a great deal for the city.

Mayor Raizk: One of the thoughts about the entire thing is to encourage longevity. If everything is pushed up front, it is a make-it or break-it scenario. This way, it encourages longevity. The incentive for job creation to the 100 jobs at the end of the

lease is another incentive to look for. Obviously, there is a \$250,000 difference to them. That is very real. I think it is a very good program for the city. I think it takes a lot of utilities off our back. We had about a \$20,000/month bill there for a little bit of time during the winter. Keeping a building heated, even at a minimal level (that's 113,000 square feet), is a rather large deal.

Councilman McKay: I would also add that it is a lot better to have that building occupied than not occupied from the standpoint...

Mayor Raizk: Absolutely.

President Ertel again asked if anybody else from the public or the council wished to address council while in session.

Lee Hendee: I have been contemplating doing what I am about to talk about for quite a while. I am glad I didn't have to follow these folks from the new store because they have quite a story to tell and think they are to be applauded for their efforts. What I want to do is provide the city council meetings on the internet. We will webcast them live on my site each and every time they are on. I will put my own advertising on previous to the council meeting and after, with a disclaimer that the advertising does not have any correlation to the city council meeting. It has no bearing on any issues before city council, it is strictly there as advertising to support my efforts. That is the plan. Hopefully our first webcast would be on April 7. And we would ask that anybody who wants to can talk to me afterwards. Our website is www.webentertainmentmedia.net. With city council's approval on that, I hope to start that on April 7. No one has to go to hair and makeup, so don't worry about all of that.

Councilman Jaehnig: What if we need it?

Lee Hendee: Do you have anybody in mind, Rob, that you think might need it?

Councilman Jaehnig: I'm not touching that one.

Lee Hendee: Me either...because I'm going to be behind the camera, so I don't have to worry about it. If anybody has any comments or questions about how I'm going to do it and the timing and all of that other stuff, feel free to talk to me after the council meeting. That's all I have. Thank you, gentlemen and ladies.

President Ertel: I have a question for you, Lee. Probably back under the clock is where you'll be?

Lee Hendee: Yes. I'll be behind the audience...that way I can kind of pan all of the council members and these two ladies as well.

Kathryn Hapner: I have a standing rule that you have to Photoshop out the double chin.

Lee Hendee: Laura is going to stand up and smile for us every once in a while.

President Ertel: There you go. Any problems with sound do you think?

Lee Hendee: I have a way to boost sound now and also have an amplifier that I can boost my microphones off. I will probably set up a microphone in the back and...

President Ertel: Can you put one up here?

Lee Hendee: I would probably have to get some more cable, but I probably could.

President Ertel: The other thing is hooking into there possibly.

Lee Hendee: I might be able to. We'll have to look into that.

President Ertel: Because a lot of times, sound is a big issue.

Lee Hendee: It sure is.

President Ertel: I, like Paul, totally applaud your efforts of bringing this up on the web, because this is something people have been asking about for a long time.

Lee Hendee: Well, I'm one person and I'm like a lot of the people here, I feel like people need to take more of a pro-action response to government. This is one way that we can get things out to people that can't come to council meetings or one thing or the other. I think this is one way that we can get issues about before the public so they can see what is going on.

President Ertel: Very good.

Lee Hendee: Thanks everybody.

[Applause]

President Ertel again asked if anybody else from the public or the council wished to address council while in session.

Councilman Wells: Happy St. Patrick's Day.

Seeing no one else who wished to speak, President Ertel asked for a motion to adjourn.

A motion was made by McKay and seconded by Jaehnig to adjourn.

Motion passed.

Council adjourned.

ATTEST:

President of Council

Clerk