

Wilmington City Council met on Thursday, August 4, 2011, at 7:30 p.m. with President Fred Ertel presiding.

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

Assistant Chief Duane Weyand was also present.

President Ertel: Welcome. We have a full crew tonight. That's excellent.

Council gave the Pledge of Allegiance to the flag.

A motion was made by Wells and seconded by Mead to approve the minutes of the last regular meeting, July 21, as received.

Motion passed.

Minutes approved as received.

A motion was made by Wells and seconded by Mead to approve the minutes of the July 18 special meeting as received.

Motion passed.

Special minutes approved as received.

President Ertel: I would like to make notice of a public hearing for petition of rezoning. This is hereby given a public hearing on a petition for rezoning of part of a 281.312-acre tract located on State Route 134 and Davids Drive from R-1 Single Family Residential and R-3 Multi-Family Residential to I-1 Industrial. The subject real estate is the property of Kelly A. Tolliver, Trustee of the Kelly A. Tolliver RLT dated 3/12/1997 and Kirby L. Tolliver, Trustee of the Kirby L. Tolliver RLT dated 3/12/1997. The plat recorded by Wilmington Ohio Planning Commission is on file with Clerk of the Wilmington City Council, Municipal Building, 69 N. South St., Wilmington, OH, and is available for public inspection. In fact, the maps are over there if you would like to have some. This was given at the public hearing upon said proposed rezoning. The proposed ordinance will be held before the Council of Wilmington Ohio on the 18<sup>th</sup> day of August 2011, at 7:30 in the Council Chambers, Municipal Building, 69 N. South St., Wilmington, OH, at which time and place any interested person can appear and be heard. I wanted to make sure that everyone was notified of that. That does my portion of the agenda. Mr. Mayor?

Mayor – Mayor David Raizk: No report, Mr. President.

President Ertel: Let's move right into the committee reports. Asset, Acquisition and Use?

Asset Acquisition and Use: Chairperson Sandy Mongold: No report this evening.

President Ertel: Thank you. Mr. Auditor?

Auditor – Auditor David Hollingsworth: I have nothing formally. I will just mention that Mary Kay and I talked, my Deputy Auditor, and we'll put together a report for Finance Committee. We probably will wait until the end of August to see where we are at. We'll have a report available for you.

President Ertel: Very good. We'll look forward to that. Finance Committee?

Finance Committee – Chairperson Sandy Mongold: Yes. We have two items tonight. The first is an ordinance making supplemental appropriations.

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; Stuckert, 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; Stuckert, yes; Wallace, yes; Mead, yes; Mongold, yes; McKay, yes.

Motion passed.

President of Council declared Ord. No. 4979 passed as read.

Councilwoman Mongold: The next item is an ordinance making miscellaneous transfers.

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

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; Stuckert, 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; Stuckert, yes; Wallace, yes; Mead, yes; Mongold, yes; McKay, yes.

Motion passed.

President of Council declared Ord. No. 4980 passed as read.:

Paul Hunter: May I ask a question of Sandy, please?

President Ertel: Sure. Go right ahead, Paul.

Paul Hunter: What utility is that? Sewer utilities? Is that how that works?

Councilwoman Mongold: Are you talking about the supplemental?

Paul Hunter: Yes.

Councilwoman Mongold: Yes it is.

Paul Hunter: One part of the sewer is going...

Councilwoman Mongold: It is going from the sewer fund to the utility line in the sewer fund. That is for the Randall building that we have.

President Ertel: Very good. Thank you.

President Ertel: Thank you. Water Committee?

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

President Ertel: Thank you. Streets Committee?

Streets Committee – Chairperson Wells: Mr. President. We have several items tonight. The first item is three readings on a resolution authorizing the Director of Public Service to advertise for bids and enter into a contract for the repaving of several streets in the City of Wilmington and declaring an emergency. Are there any questions?

A motion was made by Wells and seconded by Wallace to give the first reading only on a resolution Authorizing the Director of Public Service to Advertise for Bids and Enter into a Contract for the Repaving of Several Streets in the City of Wilmington and Declaring an Emergency.

Motion passed

Director of Law read resolution by title only.

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

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

Director of Law read the resolution by title only.

A motion was made by Wells and seconded by Wallace to pass the resolution as read.

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

Motion passed.

President of Council declared Res. No. 2248 passed as read.

Councilman Wells: The second item is the first reading on an ordinance amending the traffic control map and traffic control file for a no-parking zone on the east side of Grant Street. Are there any questions?

A motion was made by Wells and seconded by Wallace to give the first reading only on the ordinance Amending the Traffic Control Map and the Traffic Control File to Provide for a “No Parking” Zone on the East Side of Grant Street.

Motion passed

Director of Law read ordinance by title only.

Councilman Wells: Do we need the second and third reading on the next meeting?

Service Director Reinsmith: You might mention that is going to come back as an amendment.

Councilman Wells: Yes. We anticipate that we will amend this to provide for the west side to be parking where there is a no-parking right now. We are just swapping that. We will do both readings at the next council?

Service Director Reinsmith: As amended.

Councilman Wells: As amended.

Service Director Reinsmith: That way, we can get the measurements on that.

Councilman Wells: Thank you.

Wells requested that the second and third reading as amended be on the Agenda for the next meeting.

Councilman Wells: The last item is the first reading on an ordinance amending the traffic control map and the traffic control file to provide for a no-parking zone on the east side of Josephine Street. Are there any questions?

A motion was made by Wells and seconded by Wallace to give the first reading only on the ordinance Amending the Traffic Control Map and the Traffic Control File to Provide for a “No Parking” Zone on the East Side of Josephine Street.

Motion passed

Director of Law read ordinance by title only.

Wells requested that the second and third reading be on the Agenda for the next meeting.

President Ertel: Very good, Don. Thanks. Solid Waste/Recycling?

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

President Ertel: 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 two items tonight, Mr. President. The first item is one reading on a resolution authorizing a UDAG loan for E&S Cornerstone LLC at 14 North South Street. This currently houses the Peaceful Acres Wellness Center. It used to house Next to New. This is, of course, badly needed repairs on the structure of the facility itself. For those who were in our Judiciary meeting that may have not made our second one, it was determined that on this particular UDAG we are able to take a first position on the loan, which is very unusual. So, at this point, I would like to ask if there are any additional questions.

A motion was made by Jaehnig and seconded by McKay to give the first reading only on the resolution Authorizing a UDAG Loan for E&S Cornerstone, LLC for Real Property Improvements at 14 N. South Street.

Motion passed.

Jaehnig requested that the second and third readings be on the Agenda for the next meeting.

Councilman Jaehnig: The second item is one reading on a resolution authorizing an amendment to an already-approved UDAG loan for Amanda Boldman and Pamela and Jerry George at 135 N. South Street, which is the Cutting Room. This is a project that has already been in works. We have had some change orders that have increased the repair costs. We need to up the limit a little bit for them so they can get that project completed. Are there any questions on that?

A motion was made by Jaehnig and seconded by McKay to give the first reading only on the resolution Authorizing an Amendment to a UDAG Loan for Amanda Boldman and Pamela and Jerry George for Real Property Improvements at 135 N. South Street and Declaring an Emergency.

Motion passed.

Jaehnig requested that the second and third readings be on the Agenda for the next meeting.

Councilman Jaehnig: Thank you. That is all for Judiciary, sir.

President Ertel: Thank you. Safety Committee?

Safety Committee- Chairperson Rob Jaehnig: Even though on your list out there it doesn't show, we do have one item that is currently listed under Safety Director. It is for the Safety Committee. That is the second and third readings on a resolution authorizing the mayor to submit an application for a grant for \$70,000 for patrol cars from the Office of Criminal Justice Services. Another sign of our Assistant Chief doing an excellent job of searching out opportunities of ways to staff and outfit our police force in a manner that does not affect our budget, and I applaud them. Are there any questions?

A motion was made by Jaehnig and seconded by McKay to suspend the rules and give the second and third reading on the resolution Authorizing the Mayor to Submit an Application for an Edward Byrne Memorial Justice Assistance Grant of \$77,100 for Patrol Cars from the Office of Criminal Justice Services, a Division of the Ohio Department of Public Safety.

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

Motion passed.

President of Council declared Res. No. 2249 passed as read.

Councilman Jaehnig: That is all, Mr. President.

President Ertel: Very good. Downtown Revitalization Committee?

Downtown Revitalization Committee - Convener Mark McKay: No report, Mr. President.

President Ertel: Thank you. Parks & Recreation?

Parks and Recreation Committee - Convener Bob Mead: No report, Mr. President.

President Ertel: Thank you. Mr. Service Director?

Service Director- Service Director Larry Reinsmith: No real report. We have started the Prairie Road project. They decided they wanted to start by putting the sidewalk in first, which is probably good, because pedestrians can walk down there and they can tear everything else up when they are doing that project.

President Ertel: Very good. I saw that the other day. That will be nice. That will help Dick.

Dick Unger: Five years...I brought it up five years ago that we needed something done from the old Cincinnati Mill so you don't get run over when you walk down the road.

Service Director Reinsmith: I do want to tell you that not everybody is happy with that. I talked to a guy yesterday for a half hour that lives over in Denver Addition. He doesn't have a sidewalk in his front yard. He went on and on. I said, "You know, it's Issue 2 money, and if we don't spend it, someone..." He said, "I've heard that before. You don't need to spend it at all." What he doesn't realize is the voters voted on that money to spend it. They passed State Issue 1 so that legislators could sell bonds to turn around and give it back to the communities to do projects like that. I said, "People in Denver don't usually drive 70-80 miles an hour." Out in Prairie, there's no place for them to go when they come speeding in like that.

Dick Unger: I almost got hit twice out there. I'm glad to see it being done. Those people from Brownberry are out there pushing their children in little carts and stuff.

Service Director Reinsmith: They have a few big trees, but it's going to work.

Councilman Jaehnig: I thought you were going to say that it was Cindy Peterson that was unhappy about the sidewalks.

Service Director Reinsmith: She just had one question. What are these orange x's on my trees for.

[Laughter]

President Ertel: I think she found out. Before you, you have the Hotel Lodging tax...

Safety Director – Mayor Raizk: The Safety Director has no report, Mr. President.

President Ertel: I assumed that since we took your legislation.

Mayor Raizk: Well, you took everything.

President Ertel: And the opportunity. Very good. Thank you.

[Laughter]

Reports:

A motion was made by Wells and seconded by Mead to approve the Hotel Lodging Tax Certification and Income Tax Receipt Summary, 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.

Paul Hunter: 200 Randolph Street. Just a quick one. Not that anyone cares, but in that war between Fred Haught and zoning enforcement, Fred Haught wins, ten to zero. Thank you.

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

Dick Unger: 1036 N. Lincoln Street. Does anyone have a report on the movie people or what is happening out there?

President Ertel: I was told that they are filming inside that building and it is not open to the public. That's about...

Mayor Raizk: Dick, I can tell you that esteemed County Commissioner, Mr. Riley, and I just came from out there. We had to sign nondisclosure agreements, so we can't actually say anything about what we've seen or what we were shown. Did I speak that correctly, Randy?

Randy Riley: Absolutely.

Mayor Raizk: The one good thing is that it is very exciting that something like that is going on. When we first talked about it we were weren't sure where people were going to stay or what kind of impact it would have. What has been great is all of the people have been staying locally in our hotels. We had heard originally that some were going to stay in Cincinnati and so forth. That has not been the case. They have been going to the local establishments and so forth. Debbie Stamper is trying to get some data so that when it is all over we can see what kind of economic impact it did have and so forth. We are very excited to have them. There are quite a number of folks here.

Dick Unger: Now will these people be subject to our one percent income tax on their wages?

Mayor Raizk: We are looking into that and I've talked about the treasurer about that. We have to see. It depends on how long they are here and so forth.

Dick Unger: That's all. I was just curious.

President Ertel: Very good. Thank you.

Councilman Wells: Mr. President. I received a letter from Rachel Brooks on Meadow Ridge Circle about the status of Timber Glen with the mowing and the street work. I just wondered has anything changed with that? What is going on?

Service Director Reinsmith: I met with the realtor last week. He tells me that they want to sell the balance of the land off right now because they can't develop it. He says we should work together so they can get it sold. I told him I really didn't care if it got sold. It's not a blank piece of land out there. We have 100 residents living here. There are things that they haven't done to meet their end of the bargain. I told him that council, the mayor, no one is going to approve any lot splits or anything for you to sell this land until you have made provisions to finish the project. He kept saying that we have to work together. I said we're going to work together, but you're going to do what you're have to do to make it right.

Paul Hunter: Do you mean Mr. Keethler?

Service Director Reinsmith: No. Well...

Paul Hunter: Because he [inaudible for transcription] went bankrupt but he is still paying taxes.

Service Director Reinsmith: He went bankrupt, but Al Wiseman still owns.

Paul Hunter: Al still has a finger in there still?

Service Director Reinsmith: I contend that the bank owns it, but they said...

Councilman Wells: Who has the deed, Larry?

Service Director Reinsmith: Al Wiseman.

Councilman Wells: So is the city going to continue to mow?

Service Director Reinsmith: Yes. I talked to Denny yesterday. Our tractor has been down. I told Denny it needs it again. So, this will be the third mowing.

Councilman Wells: I'll let her know that.

Mayor Raizk: Yes. Our position is very adamant that no property can be transferred or sold without everything being up to snuff. Not just some...everything. And dedicated and then they can deal with the rest of the property. But not until that point.

Service Director Reinsmith: They have the common areas. They said that they were going to turn those over to an association. I told him that part of this deal is that the association is going to be formed and they'll vote to accept those common areas before we'll let you go on. That will be a challenge in itself trying to get that association formed out there.

Councilman Wells: Well, one of Rachel Brooks' concerns was the safety of the children with the weeds and the street problem, so I told her that we were working on it and that we would try to do the best we could to keep up so that there are no safety things.

Service Director Reinsmith: I think it could move a little faster now because I believe the bank wants to move on and they want to get it off of their plate.

Councilman Wells: Okay, That's good.

Mayor Raizk: I think financial is going to be the best lever.

Councilman Wells: Thanks a lot. That is all, Mr. President.

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

Gordy Bingham: 805 E. Columbus. I have an auto salvage business I have had since 2005. My understanding is there was an ordinance that came out in 2008 against any junkyards or salvage yards. For some reason, the zoning manager sent me a letter saying I can't do business any more. He said he had some complaints. I'm not sure...is it visual complaints?

Mayor Raizk: You can't operate a salvage yard. That is zoned I-1, but a salvage yard is a conditional use in I-1. When you got into the salvage business, which I believe was in January of this year...

Gordy Bingham: It was in '05 when I got into salvage.

Mayor Raizk: In that location?

Gordy Bingham: Yes. I've been there about 10 years.

Mayor Raizk: You've never applied for a conditional use, so you can't do it there. You can't apply for a conditional use now. You're not grandfathered because you didn't have a conditional use prior to the ordinance. Now you can't get a conditional use for it.

Gordy Bingham: Well, how does the general public know about anything like that except for going to the zoning office, which I did before I opened my business. There was no ordinance against any junkyard or auto salvage.

Mayor Raizk: That's not true. It's been a conditional use since 1959.

Service Director Reinsmith: 1959.

Mayor Raizk: You've always had to apply to the Board of Zoning Appeals or to the Planning Commission for a conditional use to operate a salvage yard within the City limits of Wilmington, even in an I-1 zone.

Gordy Bingham: Where does a person find those documents?

Mayor Raizk: They're on file.

Gordy Bingham: In Zoning?

Service Director Reinsmith: Yes. Why did you come to us in '05?

Gordy Bingham: I went to the Zoning office and got the zoning rules and didn't find any rules against auto salvage.

Service Director Reinsmith: Did you talk to anybody?

Gordy Bingham: No. I got the rules and it wasn't in there.

Service Director Reinsmith: Sometimes it's difficult to try to weed through those, especially when it comes to conditional uses and contingent. Those conditional uses require fencing and screening. And if it adjoins a residential neighborhood, there are other requirements. There are several requirements in there that you must meet when it was legal to put them in an I-1 zone. Ernie says you said you had a license to operate that you got from the state. It was issued by the Motor Vehicle...?

Gordy Bingham: Yes.

Service Director Reinsmith: That doesn't have to do with zoning at all. I didn't know it was a junkyard at all until the policeman told me. I remember it being a small engine repair shop and then it was converted to a transmission shop. That's the last thing I ever heard about it. I never knew it was converted to a salvage yard.

Gordy Bingham: A lot of people don't know we're there. There are a lot of places in town that have a lot more junky cars than what you can see from my place. That is what I didn't understand.

Mayor Raizk: But, it is a zoning violation. It is not necessarily... Now you can't be there as a salvage operation because we no longer permit that. Since you did not have a conditional use, as Larry explained, to operate a salvage yard, even in an I-1 zone, you would have had to have gotten a conditional use permit from the Board of Zoning Appeals. There are also restrictions on that as to what you can do – the fencing, blocking it off, it can't be adjacent to a residential neighborhood, which you are. Chances are, you wouldn't have gotten a conditional use permit had you asked for one back then. Now, it is a mute point because it is no longer available as an option. You can no longer operate there as that because it is a zoning violation.

Gordy Bingham: That's all I needed. Thank you.



President Ertel: Thank you.

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

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

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

Motion passed.

Council adjourned.

ATTEST:

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President of Council

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Clerk