

Wilmington City Council met on Thursday, October 4, 2012, with President Scott Kirchner presiding.

Call to Order

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

Assistant Chief Weyand was also present.

President of Council asked cell phones to be set to silent mode.

Pledge of Allegiance

Council gave the Pledge of Allegiance to the flag.

President of Council - President Kirchner: The first item on my portion of the agenda tonight is the approval of the meeting minutes from the September 20, 2012, regular meeting of council. What's your pleasure?

A motion was made by Wells and seconded by Stuckert to approve the minutes of the last regular meeting, September 20, as presented.

Motion passed.

Minutes approved as presented.

President Kirchner: The second item on my portion of the agenda tonight is the second reading on an ordinance authorizing the City Auditor of Wilmington to accept certain property. This is in regards to the TIF property exchange. Again, we brought this forward under my portion of the agenda because we needed it for timing and it was a simple transfer in/transfer out. At this time, I would say what is the council's pleasure.

A motion was made by McKay and seconded by Wallace to give the second reading only on the ordinance Authorizing the City Auditor of the City of Wilmington, Ohio, to Accept Title to Certain Property and to Transfer Title to the Property Back to the Original Owner in Connection with a Tax Increment Financing Transaction; and Declaring an Emergency.

Motion passed

Director of Law read ordinance by title only.

Kirchner requested that the third reading be on the Agenda for the next meeting.

President Kirchner: Thank you, Council. Item C tonight on my portion of the agenda is a public hearing for the City of Wilmington Transit Programs for 2013. With us tonight is our excellent Transit Authority Director, Mr. Phil Floyd.

Wilmington Transit Director Phil Floyd: Thank you, Mr. President. I'm amazed that we're at that point already.

President Kirchner opened the public hearing on the City of Wilmington Transit Programs for 2013.

Paul Hunter: People should sign in.

Phil Floyd: I do have a sign-in sheet over here. I would request everyone attending to please sign, which is something they ask for as far as all of the documentation we supply for our grant request. The public hearing is one of the final requirements of the 2013 Rural Transit Grant process. This process, which begins in July, includes preparation of multiple documents providing ODOT, Ohio Department of Transportation, with ridership data, budget information, and justification for our request for funds to continue providing service through the calendar year 2013. As the City of Wilmington is the official grantee, City Council is required to pass a resolution authorizing the submittal of the Public Transit Grant proposal, along with certification and insurance documents and

our budget request for operating and capital funds. The Ohio Department of Transportation Department of Transit will evaluate these documents along with our performance data, which is determined from our quarterly reports providing ridership, revenue collected, vehicle miles traveled, hours of operation, and other pertinent information. This data indicates our level of efficiency, which ultimately helps determine the approval of our request for funds. The ridership and efficiency of our system is a large part of determining the awarding of funds. It is also determined by the total amount of funds available from the federal and state public transit budget. We all know that within the 2012 state budget, as I mentioned in past presentations, public transit funds are at a 10-year low. We watched Ohio's public transit funds drop from a high of \$40,000,000 ten years ago to only \$7,500,000 this year and next year, 2013. All public transit systems across the country are facing the same dilemma, which is increased ridership but fewer funds available for operating and capital improvements. One thing in our favor is that our performance numbers continue to surpass the Department of Transportation's calculated averages, and actually places Wilmington's Transit System as one of the efficient rural systems in the state. I need to mention that this is a true testament of the absolute dedication and hard work provided by our 42 part-time drivers and our full-time staff. I do want to take the opportunity to publicly thank them and tell them that we appreciate their hard work and to tell them that this service would not have existed without their dedication. It is this dedication that allows for our excellent performance data that helps us to receive the grant funds necessary to continue providing services. Our goals for 2013 continue to be, as always, to maintain the same level of service by maintaining the same hours of operation, no fare increases and keeping our operating costs at absolute bare minimum, while keeping Wilmington's required matching funds at the lowest possible level. We're pleased to report that since 2008, we've reduced the required matching funds that must be made available within the General Fund by more than 50%. All of the transit employees work hard to maintain service at the same high level while keeping expenses at a minimum. All these stated goals help to ensure that our community members can continue to obtain affordable transportation to work, work opportunities, education, health care, shopping. As I have stated many times, Wilmington Transit System is an economic engine for Wilmington and for the county. Our most frequent destinations continue to be food and retail establishments as well as many restaurants around the area. All of the people transported to these destinations go there for two very important reasons – either to earn money or spend money. They help drive the local economy. We will again, in 2012, provide over 130,000 rides. Wilmington Transit System provides all our community members a level of independence that might not be available by any other means. As our population ages, it becomes more and more important that our seniors have the ability to maintain independence and continue to have the access to these services. So, in that, in our 2013 grant process seek a total of \$719,018 in federal and state grant funds. We estimate collecting \$250,000 in fares plus \$65,000 in contract revenue, which leaves the local match or the amount the city needs to show available within the General Fund for operating at \$186,842. That's 8% lower than this year's \$202,290 – and that's operating only. Also within our grant proposal, we're seeking capital funds for capitalized maintenance and replacement of four vehicles. The city's share for capitalized maintenance will be \$32,945. This is a fund that is essential for vehicle service and maintenance. For the four replacement vehicles, we have requested, the city's share for that would be \$30,799, which is the require 20% of purchase cost. Last year, it went up to 20%. The prior year it was only 10%. So, a grant total of \$250,586 will be the amount the city would need to indicate as available within the General Fund as matching funds for 2013. Of course our goal for 2013, as in every year, will be to do our best not to spend all that has been allocated. We should learn by mid-December whether our request for funds has been approved. The challenges are always great. The Wilmington Transit System will continue to provide safe, affordable transportation to the residents of Wilmington and Clinton County. Are there any questions about the proposal?

Councilman McKay: Typically, the amount requested required to be kept available. Is there some percentage that perhaps you see us not spending. What normally is that?

Phil Floyd: There's no set amount obviously, Mark, because every year is different. There are costs that we have no control over – fuel costs and vehicle maintenance costs being the two most relevant. This year we still have money left in the fund. You never

know what will happen tomorrow – a transmission may go out. But one significant important figure that I will mention is that while the funds that were made available by federal were 50% of the total and then state was 30% and then ours was 20%. We talked about this over a period of time. In 2008, we were at 29% of the total budget that we were providing. This year, in 2012, we were able to get that down to 13.8% of the total. Because of asking for four replacement vehicles, we'll be at 15.7% of the total budget. It is still quite low. When you look at other systems in Ohio, and they're 59 of them, it's one of the lowest. But replacing the vehicles is essential. Our absolute main goal is the safety and well-being of our passengers. And we skipped a year last year. This year I asked for three and we only replaced two. So, we've got to be careful not to get behind and have aged vehicles that aren't safe. So, we're asking for four more and we'll see if that's approved and we'll go from there.

Councilman McKay: Are these the bigger vehicles or a mix or...

Phil Floyd: It's a mix. This year I purchased one large wheelchair lift vehicle and we received one small minivan. Next year is a mix of two and two – two large and two small.

President Kirchner: Are we seeing ridership increase, Phil? Is it trending toward...

Phil Floyd: This year – right now – we're down by about 2%. I accredit that to the very mild winter last year. People chose to walk. Because there are those for whom two bucks is two bucks. We could see that increase if we begin having inclement weather – but just 2%. It's still well over 130,000 that we'll end up with this year.

Paul Hunter: Are we going to be able to operate on the same city contribution next year as we have this year?

Phil Floyd: Well, as I mentioned Paul... Total operating and capital, we're asking for \$250,586 be allocated to our department. This year was \$216,468. Again, there are several things that increase that number. One is I'm asking for more vehicles. But we're showing a rather significant increase here in insurance. But that may change as I understand it. So, that could change and actually lower the figure. But in operating costs, we have been able to lower it 8%, where we found we could save and tweak it a little bit here and there. So, again, we're doing our best to find where we can save money but at the same time maintain our level of service.

Paul Hunter: And you're buying your gas where these days?

Phil Floyd: From the city resources.

Paul Hunter: Not the cheapest place like the Police Department is?

Phil Floyd: Well we've talked about the UDF situation. I've talked to the people there, and after our discussions and doing an analysis of what savings there would be and the safety factor of pulling these large vehicles in and out of there, we determined that the best thing for us was to stay with the city's supply.

Paul Hunter: So, the dollar savings is minimal?

Phil Floyd: My analysis indicated it was. Thank you very much.

President Kirchner closed the public hearing on the Wilmington Transit Programs for 2013.

President Kirchner: The final item on my portion of the agenda tonight is the first reading on a resolution authorizing the County Commissioners to act as the purchasing agent in our aggregation plan. This is an exciting opportunity. The reason it has fallen under my portion of the agenda is simply because Ad Hoc had handled it. I have a note that this legislation has been an incredible, I think, combined effort, true joint effort, by the administration, all council members, and even our county commissioners. It's

exciting to see this finally come to fruition. I know the RFP's, to my understanding, for supplying aggregated electric are due in this coming week. So, we are hopeful that this legislation is going to offer our citizens a great deal of savings on the electric supply that comes their way. Of course, we would encourage citizens as they currently are getting advertisements for the long-term contracts, advertisements for renewals if they are already in contracts, to read them very, very carefully and consider the cost of breaking those contracts. Consider, perhaps, if they can, waiting to see if this aggregation, by combining buying power of the entire city, could bring them a better value. We're hoping that that will be the case. At this point, I would ask council what's your pleasure with this legislation?

A motion was made by Jaehnig and seconded by Wells to give the first reading only on the resolution Authorizing the Clinton County Commissioners to Act as the Purchasing Agent and Governmental Aggregator for Electric Power for the City of Wilmington and Declaring an Emergency.

President of Council asked for discussion.

Seeing none, President of Council called for a vote.

Motion passed.

Director of Law read resolution by title only.

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

President Kirchner: Thank you, council, for your support on that. That concludes my portion of the agenda.

Councilman Jaehnig: Mr. President. I'm sorry to interrupt you. I just want to make the comment that County Commissioner Mike Curry this morning talked about it at the Network Alliance meeting. For those that are doing early voting or when you go to the voting booths in November, if you're in the unincorporated areas of the county, make sure you turn to the very last page of your ballot, because the electric aggregation will be the very last item on the voting ballot. That has pushed it to the backside of the ballot. We want to make sure that everybody understands and realizes that it is a two-sided thing and that they actually get to the back so that the county residents will have the same opportunity as the city does.

President Kirchner: Thank you, Rob. That concludes my portion of the agenda. Mr. Mayor?

Mayor - Mayor Riley had no report.

Auditor - Auditor David Hollingsworth: The only thing I have to mention. I think we have received from all of the departments their proposed budgets for 2013. I had Mary Kay make a copy for me. At the supervisor's meeting, the mayor asked that they have them in by October 1. So we will be compiling that over the next week or two and then we will get the information to you just as soon as we can. That's all that I have.

President Kirchner: Thank you. And I will encourage all committee chairpersons to be considering your meetings for budgetary purposes in the last two weeks of the month to go through those budgets.

Asset, Acquisition and Use. - Chairperson Bob Mead had no report.

Finance Committee - Chairperson Mead had no report.

Water Committee - Chairperson Wallace had no report.

Streets Committee - Chairperson McKay had no report.

Solid Waste/Recycling - Chairperson Wells: I have no report tonight, but we are going to try to arrange a Solid Waste Committee meeting because we have several items we need

to talk about. We'll be in contact with the committee and all of the people we need to have there.

President Kirchner: Very good. I drive by the landfill every morning and the scale project looks like it's coming to completion. So, it's very exciting.

Wastewater/Sewer Committee - Chairperson Stuckert: Mr. President, we have one item and it would be a second reading on the resolution. It has to do with contracts that were sent out and brought back in for maintenance services at the Wastewater Department.

A motion was made by Stuckert and seconded by Mead to give the second reading only on the resolution Authorizing the Director of Public Service to Enter into Contracts for Maintenance Services at the Wastewater Department, and Declaring an Emergency.

President of Council asked for discussion.

Seeing none, President of Council called for a vote.

Motion passed.

Director of Law read resolution by title only.

Stuckert requested that the third reading be on the Agenda for the next meeting.

Councilman Stuckert: That's all we have, Mr. President, for Wastewater.

Judiciary Committee - Chairperson Stuckert: Mr. President, we have three items for Judiciary. The first and second items are the third readings on legislation connected with our public transit services, which the director just spoke tonight.

A motion was made by Stuckert and seconded by Wells to give the third reading only on the resolution Authorizing the Submittal of a Proposal with the Ohio Department of Transportation for a Grant through the U.S. DOT Federal Transit Law, as Codified 49 USC Section 5311, Financial Assistance for Other than Urbanized Areas and Funds Available from the Ohio Public Transportation Grant Program and Executing a Contract with the Ohio Department of Transportation Upon Grant Proposal Acceptance.

President of Council asked for discussion.

Seeing none, President of Council called for a vote.

Motion passed.

Director of Law read resolution by title only.

A motion was made by Stuckert and seconded by Wells that the resolution be passed as read.

All members voted yea.

Motion passed.

President of Council declared Resolution No. 2302 passed as read.

Councilman Stuckert: The next item is connected with it also.

A motion was made by Stuckert and seconded by Wells to give the third reading only on a resolution Authorizing the Mayor to Enter into a Contract with the Ohio Department of Transportation for the 2013 Elderly and Disable Transit Fare Assistance Program.

President asked for discussion.

Seeing none, President called for vote.

Motion passed.

Director of Law read resolution by title only.

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

All members voted yea.

Motion passed.

President of Council declared Res. No. 2303 passed as read.

Councilman Stuckert: Our third item tonight, Mr. President, is the first reading on an ordinance that is part of the package of ordinances that we are passing that have to do with the codified ordinances for messages or signs. This one has to do with electronic messaging center signs. Our previous legislation on electronic signs was very short and brief. We have added quite a bit to that to bring our electronic signs under code.

A motion was made by Stuckert and seconded by Wells to give the first reading only on the ordinance Amending §1167.01(a) to the Codified Ordinances of the City of Wilmington and Adding §1167.16 to the Codified Ordinances of the City of Wilmington Electronic Messaging Center Signs.
President of Council asked for discussion.

Councilman Jaehnig: I have a couple of questions. I'm a little confused. I apologize for missing that particular meeting, but I was in Columbus. In Section A under electronic messaging center signs, it talks about the number of signs permitted on the site unless approved by the Wilmington City Planning Commission. I was kind of wondering why it was the Wilmington City Planning Commission and not the Board of Zoning Appeals. That is where it has always been in the past and I was wondering why it's being moved.

Service Director Reinsmith: You know, it could happen in a Planned Unit Development where everything's on the table for negotiation with Planning Commission.

Councilman Jaehnig: Okay. But in the past, it has been through the Board of Zoning Appeals.

Service Director Reinsmith: Yeah. But Planning Commission and Council can bring additional signage on any PUD.

Councilman Jaehnig: In the past, it did not specify where you had to get an appeal. This time, we're specifying that it has to go to the Planning Commission, so I'm just wondering why we are doing that.

Councilman Stuckert: Well, that was in the recommendation of Chris who brought that to us. You made some adjustments too.

Law Director Shidaker: That wasn't one of them.

Councilman Stuckert: All right.

Councilman Jaehnig: Have we talked to the Board of Zoning Appeals.

Councilman Stuckert: They weren't at the meeting.

Councilman Jaehnig: Were they invited?

Councilman Stuckert: I believe they are on our list, aren't they?

Clerk Brenda Woods: The Secretary of the Board of Zoning Appeals gets the notice.

Councilman Jaehnig: I also have a question about Item B. It talks about EMC signs will not be placed within 500 feet of a residentially zoned area. I'm trying to determine how we came up with 500 feet. The reason I'm asking that is some of our B3 areas that would qualify along the road frontage, if you go straight back from their property, less than 500 feet will be residential area. Yet, that sign will not be of any hindrance to that residential area that sits behind everything, yet it's still less than 500 feet. It seems that the way this was spelled out, it really wasn't clear whether this was 500 feet of road frontage or where that came into play.

Councilman Stuckert: Again, this was part of the standardized language that was brought to us. I don't believe the 500 feet is one or the other. Wherever the sign is sitting, if it is within 500 feet, then it's...

Councilman Jaehnig: For an example, Pizza Hut, right now. If you were to take Pizza Hut's sign before we rezoned for the Fifth Third Bank, if you would take Pizza Hut's sign and put an electronic messaging sign up, less than 500 feet straight back you would run into residential, which means that they would not qualify. Yet that particular sign would have no impact on the residential area. So, I'm not sure why we would put a limit of that nature on a business like that.

Councilman Stuckert: I believe it is just because it was part of the normal language that was brought to us.

Councilman Jaehnig: Okay, but that 500 feet was not part of the language that was suggested by the National Sign Regulation marketing report that was turned in.

Councilman Stuckert: We would have to have Chris here to get the exact source of that.

Councilman Jaehnig: So other than their recommendation, we're not sure why that is there.

Paul Fear: When it was first brought up, one of the concerns was having a really bright sign close to a residential area so it would be hindrance to residential areas. So, it was recommended that something be specified.

Councilman Jaehnig: I understand that, but that is why the illumination regulation is in there, that causes the automatic dimming. Because our current lighting for signs for the internally lit sign, the illumination factor is actually higher than the electronic messaging sign once the dimming option has been approved. So, you could actually put up a very large sign similar to what happened with the Family Dollar in a residential area that is not an electronic messaging sign, but those illuminations would be higher than the electronic messaging sign based on the proposal that we have in front of us.

Councilman Wells: Chris isn't here tonight, so...

President Kirchner: Councilman Jaehnig, I know in my discussions with Chris Schock about this, one of the purposes to extending detail into EMC's had to deal with getting some basic guidelines down that allow the BZA to have an initial standard to judge hardship against. You look at a situation like the one you've described where the Pizza Hut would perhaps want to put up an electronic messaging system. They would have the ability to go before the BZA because they would be within that 500 feet.

Councilman Jaehnig: Actually, in the legislation they would not have the ability to go in front of the BZA because it would be handled by the City Planning Commission.

President Kirchner: Actually, that was never to our understanding what's been...

Councilman Jaehnig: It says it in the legislation.

President Kirchner: You've noted the one issue where they can allow more. However, it was my understanding all along that the language was consistent with the BZA being able to hear appeals of specific situations where they could demonstrate hardship. One of the purposes for putting specific measurements in here was to enable that standard to be looked at.

Councilman Jaehnig: And I know that since I have actually worked on this legislation for three years, and I'm the one that originally wanted this changed. So, back when I originally proposed this legislation, I am well aware of what the purpose was for it and what the original intent was of the legislation. In this particular case, there are two items that changed. The first item, I'm just asking "Why?" The second item, though, I feel is putting a stipulation that puts certain businesses at a disadvantage solely because of where they are located. If they are in a B-3 zone, then they are in a B-3 zone. I don't believe that there needs to be a 500-foot radius unless we're going to go back and take a look at the illuminations of lighted signs also. I believe we have taken it a step too far because this was not in the original proposal as it was originally brought in.

President Kirchner: And I can tell you that I had specifically expressed the interest in being sure that we erred on the side of protecting residential areas, homeowners, from having brightly illuminated changing messaging signs in their bedroom window. I think we are better off providing a tighter specification and enabling businesses to come before the Board of Zoning Appeals, notify adjacent property owners, so they can be

part of the process opposed to not having something in here. I agree with you that it is more restrictive, not directed at any one business, but directed out of a concern that some of our business areas overlap residential and that they can cause a very distinct difference to a neighborhood that may not be seen as positive for residential owners or property.

Councilman Jaehnig: But the EMC sign is actually of a lower illumination than a lighted sign based on the proposal that we put forth. So, if we do not allow those business to have an EMC sign, you are guaranteeing that a lighted sign with higher illumination will be put in its place thus being more interruptive of a residential area. I understand what you're saying, Mr. President. I had worked on this for three years. I have been through many, many, many other communities messaging sign ordinances in regards to this. This particular piece is not the norm. It was not recommended by the National Sign Association as a needed item because of the illumination restrictions and the automatic dimming that we require on the signage.

President Kirchner: And as I said, I requested that we err on the side of residential citizens because of the mixing of our zoning. It was just simply out of concern for them. The businesses still have the ability to work through the process in a cooperative manner and the citizens' rights – and truthfully, their happiness in their homes is protected, which I think is the critical thing about those transitional neighborhoods.

Councilman Jaehnig: But you're not protecting their happiness in their homes because the businesses do not have the opportunity to provide a lower-lit sign.

President Kirchner: They do. They do.

Councilman Jaehnig: Only if they go through the appeal process.

President Kirchner: Correct, but...

Councilman Jaehnig: You're protecting the citizens into a brighter sign. That's what you're doing.

President Kirchner: ...you did not bring forward any suggested changes on that portion of the legislation that would have lowered the illumination on those signs. So, I understand that you may be thinking that this was the solution, and the argument is "Oh, well give them messaging centers because the illumination is lower." We can address the illumination question in standard lighted signs without electronic messaging systems. That would be my thought. But with this being a brand new portion of the code, I definitely wanted to see us err on the side of the residential citizens.

Councilman Jaehnig: I have to ask...since this was a piece of legislation being run by the Judiciary Committee, I'm wondering why you're responding to all of my questions instead of the Chair of the Judiciary Committee.

President Kirchner: On that specific clause, I asked that Chris include a restriction because of the concern of transitional zones. After hearing the initial presentation and being concerned that you could have messaging signs right outside of bedroom windows, I definitely wanted to see a transition zone...

Councilman Jaehnig: But you don't...

President Kirchner: Rob, we can go through this all night long. I understand that you are unhappy with it, and that is fine. You can vote against it if you wish. I was simply answering why I had requested the transition zone be put into place.

Councilman McKay: I'm still slightly confused about the process of inserting Planning Commission in the place of BZA. Does that mean that Planning Commission basically hears all requests for changes? I'm not sure how that will work.

President Kirchner: I have not...I have not read that to indicate that is the case. Mr. Law Director, do you read that part of the legislation to indicate.

Law Director Shidaker: The way I read it, the Wilmington City Planning Commission would only be involved if somebody is requesting more than one EMC, but the BZA would be involved in all other changes.

Councilman McKay: Okay.

Councilman Jaehnig: And I'm fine with that. I just didn't understand why we made the change. Because in the past, that had been the BZA's responsibility.

President Kirchner: I think to Larry's point, and I agree, many shopping centers often are PUD's – strip mall developments. So, you're talking about situations where it was potential that it would apply, depending on the number of bays, you could have a number of stores that would want to add a number of signs...

Service Director Reinsmith: But I don't think we really handle any other variance requests – The Planning Commission.

Councilman Jaehnig: That's what the Law Director just said.

Service Director Reinsmith: The only thought I have, and I don't know if Brian feels like the BZA doesn't have the power to change and it's like a zoning code they can't change. We've gotten into that discussion before too. I don't know. Usually, an additional sign is based on road frontage. If you have so many hundred feet of road frontage, you can pick up that additional road sign/ground sign.

Paul Hunter: Those have come before the Board of Zoning Appeals - variations

Service Director Reinsmith: Yes.

Councilman McKay: Before we vote on this, I am just wondering since Chris is not here and there is confusion that we might delay this one meeting. Loren, it's totally up to you, but we might be able to talk it through a little better and understand what we're voting on and perhaps come up with a solution that everybody can live with.

Councilman Stuckert: What is it that we don't understand at this point?

Councilman McKay: Well, I was talking about the discussion that Rob had on the 500 feet aspect.

Councilman Jaehnig: Correct me if I'm wrong, Mr. Law Director, but in the past we had done amendments to legislation, and I believe that you informed us that we cannot do amendments once we've done the first reading. We have to start over.

Law Director Shidaker: If it's material. And I think if you were going to eliminate that or change the 500 feet, that would probably be a material change and we would have to start over.

Councilman Jaehnig: Thank you.

Councilman McKay: So, you could delay it one meeting and perhaps have another go at this in a committee setting with Chris there.

President Kirchner: And that's where we did have the meeting. But it's up to the committee. If they would like to postpone...

Councilman Wells: If it's already had a first and a second, can we just postpone it or not?

President Kirchner: Well, it would simply be voted down by a majority would be the way it would go. At this point, we have a first and a second.

Law Director Shidaker: The best thing would be to just bring it back next time if that is what you want to do.

[Discussion of procedure]

President Kirchner: It's up to council. If they would like to see it go back to committee – the encouragement is that if we can work together and compromise and protect the citizens, it is the right thing.

[Discussion of procedure]

President of Council requested a roll call vote.

Roll call: Jaehnig, no; Wells, no; Stuckert, no; Wallace, no; Mead, no; Siebenaller, no; McKay, no;
Motion failed.

Stuckert requested that legislation be taken back to committee for further discussion.

Councilman Stuckert: That is all we have, Mr. President.

President Kirchner: I will definitely encourage council to consider closely the transitional neighborhoods and working to protect our residential neighborhoods with this sign ordinance.

Councilman Stuckert: We're going to have difficulty in discussing this in a committee since we can't all discuss it. So, I don't know what the answer to that is.

President Kirchner: I believe the fact is that you requested Chris to be there to answer more questions. Chris will be able to be there. And according to the Sunshine rules, you will be able to engage your questions specifically with him. Debate on those changes to the legislation, you would not be able to participate in unless you are a committee member.

Safety Committee - Chairperson Wells had no report.

Downtown Revitalization Committee - Chairperson McKay: We do have some things tonight, Mr. President. In fact, we have two new businesses that are opening this week or have already opened in what I like to dub our arts and antique district, which is our South Street area here. We have – which we all got a card on and the proprietor is with us tonight – Charlotte Fahrer among other owners, the Downtown Antiques has re-opened or will open...?

Charlotte Fahrer: Will open Monday if we all live long enough to get it done.

Councilman McKay: ...in the space that was formerly traditions. If you remember them last year being in that space and doing a great job to add to this area of the downtown.

Charlotte Fahrer: We will be there for three months. We will close on December 31.

Councilman McKay: That's awesome.

Councilman Jaehnig: We would still like to convince you stay.

Councilman McKay: We do have another art gallery. I do not recall the name.

Councilman Jaehnig: North South.

Councilman McKay: North South Gallery that is opened in the former Miller-Turner location. A lot of us remember it as that. So, stop in and say hi to Ted there. Even though

we've talked about it several times, I just want to put my stamp of approval on the new wayfaring signs that are completed now thanks to our M&R Superintendent's crew. You'll see the big p's that show where parking is. The directions just kind of jump out at you now where as you kind of had to stop and wonder where you were before. I think people especially visiting our downtown are going to be able to get around easier and know where things are. I applaud everybody that was involved in that including Design Review. I know Tammy, who is no longer on that, was a big part of this. I applaud her efforts. The Main Street group, the Regional Planning, and of course Denny's crew who had to be the people on the streets to make the final decisions. That's all I have, Mr. President.

Parks and Recreation Committee – Chairperson Jaehnig had no report.

President Kirchner: As we come to the next committee report, which is the Income and Levy Tax Committee, we will be dealing with a piece of legislation that two of our council members have a legal conflict with due simply to their employer. They have both asked to abstain from the proceedings. Prior to handing it over to the committee chair, I would offer to them that if they would choose to leave the room they may at this point. We will come and get you when the legislation is complete. If you choose to stay, please state clearly that you abstain for the record and do not participate in any of the conversation.

Councilman Siebenaller: Do you want us to state that now or during the vote?

President Kirchner: You would state it now and would not engage in conversation in any of it, including the vote.

Councilman Siebenaller: I will abstain.

Councilman Stuckert: I will abstain also. I won't make any faces or anything.

President Kirchner: Very good. Let the record reflect that Councilman Siebenaller and Councilman Stuckert have both requested to abstain.

Income and Levy Tax Committee – Chairperson Jaehnig: We do have one item tonight on the agenda. That would be the first reading on the TIF legislation. Just a few clarifications before we move onto the motions. In the past, we have heard of multiple pieces of legislation. I know that David Hockaday at one point had talked about maybe four or five pieces of legislation besides the piece of legislation that Ad Hoc and the President had already been dealing with in terms of the property transfer. This will be the only additional piece of legislation. They have rolled everything into one massive piece of legislation and that is one of the reasons why it is so complicated to go through and chewed up so much of the President's time. The TIF legislation – before we move into a motion and get stuck in the same type of situation that I caused in Judiciary. I would like to give the opportunity for any questions or concerns. A few clear statements – the city, other than no income tax that would be generated by new employees out at the JUMP hangar, would have no financial liabilities. So that whatever revenues we are currently receiving, none of them would be in jeopardy with this piece of legislation. Now, in regards to the TIF itself, the portion that most concerns most of us would be the compensation agreement. The compensation agreement is quite complicated because it includes the compensation instructions and agreement for how payments are to be made by ATSG and how the City is suppose do handle them and put them back out. So that gets confusing again into what our agreement is then with the schools and what the city will reimburse the school system. There is a portion of the principle payment that will be coming from the taxes paid by ATSG that will be going to the schools. It is short of what the schools would normally get from the property taxes. The city's portion is we have agreed that we would pay one-third of any new income tax generated by employees working at that facility. So, to back up, if the number in the TIF is that ATSG when this is completed has a starting number of 385 employees – if for some reason that was to drop below 385 employees, they have to get back to 385 before they can start counting the new 259 employees that is part of the TIF agreement with the state. Of the 259 employees, any taxes generated and gathered by the city of those new employees we will

be giving one-third to the school district – a maximum of one-third. If in some manner that the valuation and the property taxes on that piece of property are greater than what is expected, then we may not have to pay out that entire one-third because they will cover a larger portion of what we are trying to make sure the schools are guaranteed. However, on the other side, if for some reason the valuation comes in substantially lower, then the new income tax on these new employees, the city would be required then to pay up to whatever we bring in. So, that's the worst case scenario. Again, of our current revenues there is nothing that is in jeopardy. There was a question at the last committee meeting that we were waiting for an answer on and that was in regards to any new levy that was passed by the school district during the time of this TIF. Confusion came into play that it kind of implied that the city would be responsible for any new levy that was passed during this 24-year period. No. The way it actually applies is it applies to the compensation payout. So, if there is a new levy and there are additional funds, they are collected because of a high valuation, then in that compensation payment or that principle payment, the school would receive all of the funds, not just a portion, but all of the funds that they would be due up to a maximum of what they would be due in that, assuming that the valuation is high enough to make that payment. Am I correct on that, Mr. Law Director?

Law Director Shidaker: On that point...yes.

Councilman Jaehnig: Okay. Have I said something else that was incorrect.

Law Director Shidaker: Maybe there was one thing that I was confused about. When you were indicating the one-third of the city income tax that we would receive, my understanding is that would not change. What would change is the make-up payment. You were indicating the change would come from the make-up payment, not the one-third.

Councilman Jaehnig: Yes. You are correct. I apologize.

Law Director Shidaker: That was the part I was confused about.

Councilman Jaehnig: I apologize. So, we are liable for one-third...period.

Law Director Shidaker: Yes, the change can happen with the makeup payment. That is where the change can take place. That can be reduced. Not the one-third of the income tax that we receive.

Councilman Jaehnig: Okay. Any other errors that I made?

Law Director Shidaker: No. That was it.

Councilman Jaehnig: At this point, I would like to have council or anybody in the audience have the opportunity to ask any questions. The President knows a great deal about this if I am unable to help, and of course we have the Law Director here also. So, if you have any questions, now is the time.

Paul Hunter: There is a person in the back from Airborne that is here to hear what you guys are saying. She may want to have some clarification. She's representing ATSG.

Kelly Medley: Government and Public Affairs for ATSG. Actually, I'm good.

[Laughter]

Kelly Medley: I understand everything that's going on, so we're good to go. I'm just here to report back, so thank you.

Councilman McKay: Could you give us your name?

Kelly Medley: Kelly Medley. I handle Government and Public Affairs for ATSG.

Councilman McKay: Glad to have you with us.

Kelly Medley: Thank you. I'm glad to be here.

Paul Hunter: You might address the timing that the land transfer has to take place before the final reading on this portion of this legislation.

Councilman Jaehnig: That is why the President has started that at a meeting before this, so that would be completed before we completed ours.

Paul Hunter: And then we will end with the Special Meeting, I understand...

Councilman Jaehnig: On the 22nd of October assuming that there is nothing that blows up between now and then.

Paul Hunter: And it will go into effect immediately because it's an emergency.

Councilman Jaehnig: That is correct. It is an emergency piece of legislation, so it will go into effect immediately.

A motion was made by Jaehnig and seconded by McKay to give the first reading only on An Emergency Ordinance Declaring the Improvement of Certain Real Property Located in the City of Wilmington, Ohio to be a Public Purpose; Declaring Such Property to be Exempt from Real Property Taxation; Designating Improvements to be Made that will Benefit Such Property; Requiring Annual Service Payments in Lieu of Taxes; Authorizing the Execution of a Compensation Agreement; Authorizing the Execution of a Cooperative Agreement; Establishing an Urban Redevelopment Tax Increment Equivalent Fund; Creating a Tax Incentive Review Council; Adopting Certain City Nondiscriminatory Hiring Policies for Tax Exemption Recipients; and Related Authorizations Pursuant to Ohio Revised Code Sections 5709.41, 5709.42, 5709.43, 5709.82, 5709.832 and 5709.85; and Declaring an Emergency.

President of Council called for roll call vote.

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

Motion passed.

Director of Law read ordinance by title only.

Jaehnig requested that the second reading be on the Agenda for the next meeting.

Councilman Jaehnig: So everybody is aware, our current plan is to have a special council meeting on the 22nd of October to have the third reading.

Councilman Wells: This is the first I've heard of it.

President Kirchner: We haven't set a time for it yet. It was in the documentation that I sent out. We had addressed it but my thought would be it would be the same time – 7:30. It will be the only item on the agenda.

[Discussion of time of special council meeting]

Law Director Shidaker: If anyone cannot be at that meeting, please let us know in advance, because it will take five votes to pass it as an emergency ordinance. If anybody cannot attend, please let us know.

Councilman Wells: I have a question. Who seconded that motion?

President Kirchner: Councilman McKay.

Councilman Wells: Thank you.

President Kirchner: You're testing my memory, Councilman Wells. And I believe we have a new winner for the longest legislation for our Law Director.

Councilman Jaehnig: I just have one comment. While I know I was one of the ones pushing when you had this piece of legislation, I have to thank you for the amount of effort that you put into it and a lot of your questions were very helpful in committee. I do appreciate the effort you put into it. Thank you.

Councilman McKay: May we also pass that along to the Law Director who answered all of the questions.

Councilman Jaehnig: Yes. That is all we have, Mr. President.

Service Director - Service Director Reinsmith had no report.

Safety Director – Safety Director Russ Burton had no report.

Councilman Wells: May I ask a question. Have we had complaints about people at McDonald's panhandling out there?

Safety Director Burton: Yes. Yesterday we had to remove him from the premises. It something we probably need to address as an ordinance take a look at the current ordinance and update it.

Councilman Wells: I saw a police officer stopped there this evening and talked to the gentleman. I didn't really know what was going on.

Safety Director Burton: As long as they stay on the sidewalk, it's...

Chief Weyand: The people that manage the property themselves – they manage all three plazas out there. They've gotten with us and said that they don't want the people basically walking the line from McDonalds and basically canvassing every stopped car at the light. They've asked us to keep them off the property. A lot of them out there, and we've been doing this for the best part of a year now, is addressing them, talking to them, and referring them to services. A lot of them we have sent to Your Father's Kitchen or we've sent them to the homeless shelter or we've worked on trying to get them some kind of assistance and directing them where they need to go. But the problem seems to be expediting. We have one person that has come from Chillicothe multiple times that we have dealt with. His response is the people here in Wilmington are more generous than in Chillicothe. Brian and I have had some conversations. I know he has wanted to take some stuff to Judiciary Committee and revise our ordinances. You should see something soon.

Councilman Wells: The reason I ask is because I have had several people ask me about it.

Chief Weyand: My thing is, if you're going to give someone your money, give it to Our Father's Kitchen or somewhere local where you know the money can be spent as well as used wisely to feed probably more people than just to feed one person for an hour.

Councilman Wells: Thank you.

President Kirchner: Duane, we have a couple of items that the Law Director asked be passed onto judiciary to update some O.R.C. changes. If you do have items that you would like considered, they are going to be putting together a meeting so, just let us know.

Chief Weyand: I'll be there.

President Kirchner: Excellent.

Law Director Shidaker: I do have a lot of stuff I could present on the panhandling. You cannot ban it altogether, but you can definitely restrict as far as of the manner, the time,

the place, all of that. If you want me to, I would be more than happy to give Judiciary some legislation regarding that if you would like to consider it.

Mayor Riley: The Law Director and I have discussed it. There are some cities that require – like Brian said, you can't ban it – but you can require them to register. That way, you know who they are, where they're from, and what they're up to. Cincinnati does that. I like that idea. It's fairly new for this city, so we are looking into it. Don. Thank you.

Reports

A motion was made by Wells and seconded by Mead that the Income Tax Report – September 2012, be accepted as presented.

Motion passed.

Reports accepted as presented.

President Kirchner opened the meeting up to the general public and/or members of council to address council while in session.

Paul Hunter: 200 Randolph Street. Rob, it's not just the illumination, it's the flashing of the light that's the concern.

Councilman Jaehnig: Right. And that's actually – in the legislation that Judiciary brought forth, it does reference that. It can't change any faster than 8 seconds and you cannot repeat any sooner than 16 seconds.

Paul Hunter: Bennett Realty, would that meet this. That is one of the most questionable ones that I can think of.

Councilman Jaehnig: To be honest, I haven't gone and look at it specifically to determine that. That one is grandfathered in.

Paul Hunter: The other thing I wanted to emphasize, people are being approached to sign up individual contracts on the aggregation. Once a citizen signs up, they're committed to as much as \$150 to cancel that contract to get into the aggregation. Historically, those individual contracts are about 6.99 cents per kilowatt hour. The history of our new providers should be in the range of 5.85 cents. That's a significant difference. You can pay down a cancellation fee – like in my case, I can save \$12 from my individual contract going over to the 5.85 contract – assuming that's what we get. So, I can pay it down in seven months. I pay my \$75 cancellation fee and still be ahead of the game. If you're at \$150 and you're halfway through it, it probably doesn't pay you to do it. But the citizens need to know, and I'm looking at Miss Chaffin on purpose, but they need to know that detail. There's a lot of pressure on people to sign up right now. They're signing up like mad. They're knocking on doors. You get them in the mail. I have a contract, but I'm getting a letter every week to sign up. So, the people need to be advised.

Councilman Jaehnig: At the last Ad Hoc meeting, the Treasurer held up a stack of requests.

[Discussion of contracts]

President Kirchner: I would completely support getting the message out to citizens. You need to think very carefully at this point. I would not advise citizens one way or the other. I would simply say that in my household, we have not signed up. We are waiting for this aggregation to take hold.

President Kirchner asked if anyone else wished to address council while in session.

Phil Floyd: I would just offer again if everyone would please sign the sheet that we have over here on the table as attending the public hearing, I would appreciate it.

[Discussion of sign in sheet]

Councilman Jaehnig: I would just like to publicly thank Councilman Siebenaller. We had a meeting up in State Representative Rosenberger’s office yesterday on pursuing economic development based on some efforts that he made on his own time. It was very fruitful. Hopefully it will lead to something. I really appreciate the effort that he made.

President Kirchner asked if anyone else wished to address council while in session.

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

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

ATTEST:

President of Council

Clerk