

Wilmington City Council met on Thursday, October 18, 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.

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: Thank you. I'd like to welcome everybody tonight. Under the President's portion of the agenda tonight, the first item we have is to approve the meeting minutes of the October 4, 2012, regular meeting of council.

A motion was made by Wells and seconded by Stuckert to approve the minutes of the last regular meeting, October 4, as received.

Motion passed.

Minutes approved as received.

President Kirchner: The second item we have tonight is the third reading on an ordinance which will transfer property ownership to the city from the Port Authority and back to the Port Authority. Again, this is on my portion of the agenda because of the timing that was required to get this item done prior to the TIF legislation. I did receive from the Law Director today an indication that we have a description change for legal purposes for the insurance of the Port Authority. Where we described in the ordinance, Section 3, a quitclaim deed, the insurance company has requested that language be correctly described legally as a limited warranty deed. This is simply a same meaning but legal definition for the insurance company change, and I would ask Council's consideration of amending that legislation prior to any action on it.

A motion was made by Jaehnig and seconded by Wallace to amend the changes for the Law Director as presented on the property transfer legislation.

President of Council asked for discussion.

Seeing none, President of Council called for a vote.

Motion passed.

Property Transfer legislation amended.

Councilman McKay: I would now move that the legislation be accepted as amended for the third reading.

President Kirchner: Do I have a second?

Councilman Wallace: Second.

President Kirchner: All in favor of passage. We have a first by Councilman McKay and a second by Councilman Wallace. Now that I think about it, I have been remiss. There were two council members who expressed to me their desire to abstain from all votes. I'm going to ask that we go back to the update and do a roll call so that we can clearly give them the opportunity to abstain. I apologize. That is my error. Brian, what would be the proper way to return to the item?

Law Director Shidaker: Simply, there has been a request for a roll call. So you are fine just doing it as a roll call now.

President Kirchner: Okay. Very good.

Councilman McKay: For both items – amendment...?

Acting Clerk Andrea Tacoronte: Are we roll-calling the amendment?

Law Director Shidaker: Oh, is that what you were...?

President Kirchner: Yes. The vote on the amendment. I asked for a yea-nay vote, but I need to ask for a roll call.

Law Director Shidaker: Ask for a roll call. That's fine.

President Kirchner: So, at this point, having not moved too far forward, I would ask that the last vote be made a roll call vote please.

Vote on amending property transfer legislation:

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

President of Council declared property transfer legislation amended.

Councilman McKay: Do you want to propose the legislation again? I move that we accept the legislation as amended.

Acting Clerk Andrea Tacoronte: We need to move for the third reading.

A motion was made by McKay and seconded by Wallace to give the third 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, As Amended.

President of Council asked for discussion.

Seeing none, President of Council called for a roll call vote.

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

Director of Law read ordinance by title only.

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

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

Motion passed.

President of Council declared Ord. No. 5054 passed as read.

President Kirchner: Thank you all for your support on that. I saw some questioning eyes in the audience. Let me explain the issue of abstention. It was our legal counsel who advised that because the two employees worked for a party to the agreements in question that they abstain from the process. They are simply following the advice of our legal advisor on that matter. It is simply because they work in the City Schools. Very good. The final item on the agenda under my portion tonight is the second and third readings on electric aggregation. I am pleased to let council know that I received a call from Bill Bradish this week that quotes have been completed if this moves forward and we name the commissioners as our aggregator. I will discuss later further matters on that, but at this point if council would have their pleasure with that.

Councilman Jaehnig: I move that we have the second reading on a resolution authorizing the county commissioners to act as our agents...

Councilman McKay: We're not going to do second and third.

Councilman Jaehnig: Oh. I'm sorry.

President Kirchner: He would generally do the second reading first and then suspend the rules and regulations to do the third reading. Correct?

Law Director Shidaker: Typically you would suspend the rules.

Acting Clerk Tacoronte: We suspend straight off the bat.

Councilman Jaehnig: Good, then I've added to the confusion of the evening.

[Laughter]

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: Wallace, yes; Mead, yes; Siebenaller, yes; McKay, yes; Jaehnig, yes; Wells, yes; Stuckert, yes;

Director of Law read the resolution by title only.

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

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

Motion passed.

President of Council declared Res. No. 2304 passed as read.

President Kirchner: Thank you very much for council's support on that. It's an exciting opportunity. That completes my portion of the agenda. Mr. Mayor?

Mayor - Mayor Riley: I'll step down for this. We've really held the line on hiring employees. One of things that I've said all year long is we are going to replace essential personnel. I don't think anybody would argue the fact that our dispatchers are highly essential personnel. Somebody calls 9-1-1, you have to have someone there to answer the phone. We have a replacement for one of our dispatchers. I want to introduce to you Robin Cassell. Duane?

Chief Duane Weyand: Robin Cassell has been with us for about three weeks now, so I just wanted to bring her up to introduce you to the friendly face behind the voice that's working in our communication center. She's a homegrown girl. She lives down the street. She's been in Wilmington for quite some time. She's married. Raised her kids and lived here for her whole life. So, I just wanted to introduce you so you're familiar with her when you stop up and see her if you have something to check in with dispatch. She'll be training for the next nine weeks and then after that she'll be out on her own. So, we just want to introduce her and say thanks and that we appreciate all of the support you give to the Police Department.

[Applause]

Mayor Riley: Hopefully you won't have to call 9-1-1 but if you do, you're going to have Robin there to talk to. Thank you, Robin. We appreciate it. Also, if you call 9-1-1 and Robin answers your phone call and you need a cop, we're proud to have with us Jeremy Skates tonight who we are going to be swearing in as a new officer. Wendy, if you would like to come up also. Jeremy is going to be starting as one of our new police officers. You come to us by way of Blanchester. So, he's got the experience. He's got the training. He already has all of the certifications and he will be good to go on duty just as soon as he gets started. Basically as soon as you are sworn in. So...

Jeremy Skates: Monday.

Mayor Riley: You'll be sworn in tonight but on Monday you'll start work. Monday you'll start getting dispatched, so it's good to have you with us.

Chief Duane Weyand: Jeremy has been with Blanchester for about seven years now. He comes to us and he's highly trained; highly reputable. We put him through out background process and interview process, and you know everybody that interviewed him, everybody that's worked with him, they couldn't think of a better person to have as a candidate. So, we're really lucky to steal such a fine officer from Blanchester and have someone come work in our community and make this his new home. We welcome Wendy and the kids as well into our family. We want to thank him and his wife for choosing us and taking the time to believe in our department and believe in what we do and believe in what our city holds for the future.

Jeremy Skates introduced his children to the council.

Mayor Riley swore Jeremy Skates in as a Patrol Officer for the City of Wilmington.

[Applause and banter]

Patrolman Jeremy Skates: I'm looking forward to it and I appreciate all of the support.

[Banter]

Mayor Riley: That's all I have.

Auditor - Auditor David Hollingsworth: Just a couple of things. I guess I'm probably looking for a little more direction rather than having a comment. We've had discussions with Finance Committee. We have a chance to save some substantial money by refunding some of our debt. I guess the idea is to maybe pay off some of the sewer debt. We had originally Scott Stubbins scheduled to come up to kind of speak to all of council if they had any questions on it. I just need to know who I need...what information is needed and who I need to talk to to get this moving forward. I guess there's some discussion that sewer wanted some additional information and that never got relayed to my office as far as exactly what information was needed or asked for. I mean, we can get anything you want pretty quickly.

Councilman Stuckert: One of the items needed...I mean we want to look at the payoff on a bond so we know of any costs associated with paying it off. Is there anything that would be out of the ordinary that would be an expense for paying it off.

Auditor David Hollingsworth: Really, unlike a refinancing, the only cost to pay them off would be whatever principle we owe and then whatever interest is accrued up to that point. I mean, I can get you that number. That's not a hard number to get. The principle outstanding on the debt is a \$1.4 million. That's a given. The interest is going to be a relatively nominal amount because I think we've paid most of the interest up to date with our bond payments we've made in 2012. So, I mean I can get that information for you pretty quickly.

Councilman Stuckert: I think we're planning to schedule a meeting for next week. So, we'll let you know about that date so you can get that information to us and we can take a look at it.

Auditor David Hollingsworth: Okay. As far as the G.O. debt. I mean, I'm not sure if that stays with the Finance Committee or who that gets assigned to.

President Kirchner: That was the expectation in talking with the Chair with the Finance, Councilman Mead, was that the G.O. bond refinancing would come through the Finance Committee. I will interject here because I've been talking with everyone. I know there was a request for more information and I think in addition to that, there was a question about timing about when it would need to be planned for in the budget and whether or not there were additional costs. We had the bond book out and trying very, very...what do I want to say...not professionally...trying to read the code and understand whether there were additional costs...percentages for early payoff was what we were trying to understand. Of course, the book is about the size of a couple of dictionaries put together. That was what we were trying to understand in that meeting. I did have a conversation with Scott Stubbins. He had blocked out Monday or Tuesday. We, of course, have a special council meeting on Monday and I believe another meeting on Monday, so Tuesday was when I had talked to both chairs to verify today that they and the majority of their members, if not all of their members, would be available from 7:00 to 8:00 – 7:00 -7:30 for Finance and 7:30 – 8:00 for Wastewater Sewer. And I had just talked to Andrea about availability there. Brenda, I know, is out of the office. So, Scott Stubbins already has that night blocked off for us. Then once the committees have reviewed it and have the stuff in front of them...I know you were going to talk to Margaret Comey...

Auditor David Hollingsworth: I talked to Margaret Comey. She's our legal counsel. She will be drafting the ordinances. She can come to anything. She says she just needs more than 24-hour notice if she needs to be up here to explain anything. She said she can come at anytime.

Councilman Stuckert: We're going to have a meeting Tuesday.

Auditor David Hollingsworth: Tuesday of next week?

President Kirchner: My question, David, would be for a bond payoff, is there required legislation other than the budgeting of the money for the expenditure?

Auditor David Hollingsworth: I don't believe so. The legislation she is working on...she had originally incorporated refinancing the bond. That what we kind of initially had looked at, so she is not modifying that to take that out now that we're going to pay it off. So, her work is basically just going to be on the refinancing.

President Kirchner: Okay. So the finance committee and the G.O. refinance would be the only issue where Margaret would have an impact. It will just be numbers and timing for the Wastewater Sewer. Councilman Jaehnig?

Councilman Jaehnig: If I could make a suggestion, is there a reason we're doing Finance and then Wastewater and not reversing. If for some reason Wastewater decides not to pay off the bond, then the discussion in Finance would be a different discussion than would occur.

President Kirchner: It was simply a matter of timing that night. The Chair of Wastewater Sewer has a grade card fair until 7 p.m. It is a correct point that if for some reason the Wastewater finds a reason not to do a payoff, they would then need to take it to Finance. But I think, if necessary, we can make the adjustments, have another Finance meeting and pull special council meetings if necessary. I know the timing of the window during this interest availability is of concern. But, that was the reason for the timing of the two meetings that evening.

Councilman McKay: Mr. President, has the supervisor of Wastewater/Sewer been talked to and is he in the loop on this and so forth.

President Kirchner: I am not aware of whether he is involved. I know the mayor talked about getting with him about a spending plan and we had not a committee meeting with any information back indicating that there was any issue. I know that when you look at the finances, you will still have approximately a million dollars of unencumbered monies as well as reduced budget necessity because of the lack of a bond payment. So, at this point, we haven't heard anything otherwise.

Councilman McKay: But has he been directly apprised of what the plan is? You know, I feel uncomfortable that he has not been part of any of those meetings or decisions and it is his budget.

Auditor David Hollingsworth: If I might interject, we can get into more discussion later, but most of the money in relation to the total that you are paying off inside the sewer fund or proposed to pay off is coming from funds that are already reserved under the indenture. There is a replacement fund. There is also a bond reserve fund. So, a good portion of the money to pay off the debt is not coming out of the operating money.

Councilman McKay: I understand. It's just protocol that the supervisor should be part of the discussion.

Auditor David Hollingsworth: Sure.

Mayor Riley: Harry's been apprised of it. We've talked about it.

Paul Hunter: This is hinging on the water bill increase? If we don't have to increase the water rates, is this still a viable – isn't that the purpose of this more or less.

President Kirchner: Well, actually, the purpose of the payoff was really more of a financial analysis. When we sat down and took a look at refinancing, there were savings that you definitely could get by lowering your interest rate, but when we looked at the amount and reviewed the amount in the accounts, we then got together with the Treasurer. And Paul, you can talk to this. Basically, what we looked at was a question of what are the investments of the money sitting in the account earning compared to what we are paying even at the refinanced rate? And the analysis that we got was actually that we could improve the citizens' position by paying off the loans flat off because the investments were not making as much as the interest was going to cost.

Paul Hunter: So equalizing the utility bill if the water rates have to go up, you can lower, hopefully, the sewer rates because this action. The users will see no change in their bill more or less.

President Kirchner: It's potential, Paul. Obviously, to Councilman McKay's point, you have to look at the cost of operation and the cost of maintenance of the system, but, and I think very solid theory, yes, I think this enables the maximum flexibility. If, based on the current bond coverage in the water fund and the operational cost, we have to raise water rates, then there is very significant potential that we would be able to counter-balance.

Paul Hunter: But you will not be lowering sewer rates as a part of this process.

President Kirchner: This process is just strictly about paying off the bonds. That discussion has not even been held. Really, with the budget season upon us, I think we need to take a look at the budget for 2013 first, take a look at the revenues for 2012, and really at that point understand what the situation is before we can have that discussion. We have to do the same, obviously, in the Water Department and take a look at that situation and see if it is necessary to adjust water rates as well.

Paul Hunter: We've been looking at this since 2005, right? The increased rates generated this surplus we have. Then we need to give it back eventually in some form.

President Kirchner: I think this actually basically pays off the peoples' mortgage on their sewer infrastructure as it exists today. That's not to say that it won't need expansion, improvement that would require future bonding events. But, yeah, this is using the monies that they have paid to complete the payment on that system. Does that answer all of your questions, David?

Auditor David Hollingsworth: Yes. That's all I have.

President Kirchner: Okay. Very good. Do you want to talk any about budget?

Auditor David Hollingsworth: Not yet.

President Kirchner: Very good.

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

Councilman Wallace: Mr. President, if I can ask. We've been discussing actually putting some of our properties up for sale. Is there any movement there? Do we know what has happened with any of that.

Mayor Riley: I'll let Larry address that.

Service Director Reinsmith: We sold the house.

Councilman Wallace: Oh, we did? Good.

Service Director Reinsmith: I think that's the only property.

Councilman Wallace: The one on Columbus?

Service Director Reinsmith: Yes. That's the only one we talked about wasn't it?

Councilman Wallace: Yes. I think we talked about another one. On the corner of Columbus...we sold that one?

Service Director Reinsmith: Yes.

President Kirchner: That went on GovDeals, right?

Service Director Reinsmith: No, we advertised in the paper.

President Kirchner: I was being facetious. I winked, but nobody caught it.

Councilman Wallace: That's what I was thinking about.

President Kirchner: Yeah...I remember passing that legislation. I have not heard of any more, but if there is property that we need to consider, by all means, I encourage you to let Councilman Mead know and I'm sure he'll hold a meeting.

Councilman McKay: Did the proceeds of that go to water?

Service Director Reinsmith: Water, yes. Because water paid for it.

Councilman McKay: Thank you.

President Kirchner: Does that answer all of the questions? Finance committee?

Finance Committee - Chairperson Mead: Mr. President, we have the beginning of two or three groups here of lengthy things that we're going to do this evening. The first item is three readings on an ordinance making supplemental appropriations. These have to do with moving money from the Fire Fund to Facilities Maintenance, from Federally Forfeited Funds to Transfer to State Forfeited Funds, from State Forfeited Funds to Program Expense, from Municipal Court to Special Projects, and from General Fund to Victim/Witness Salary. None of these items or the items coming up on the next thing directly have a negative effect on the General Fund. They are either money being moved from one fund to another or from a grant to an account so can be spent. It's kind of some Auditor's bookkeeping sort of thing. They need to get these things in order so they can spend the money under the right heading. So, unless anybody needs any additional information on any of the specific items on your list, I would move for the first reading.

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

President asked for discussion.

Councilman Wallace: What is the Fire Fund one for? Do you know what that is?

Councilman Mead: The Fire Fund – the money – sometime back they leased a fire truck to another fire department and received money in turn, which amounted to about \$25,000. Now they want to use this for facilities maintenance. Some of the things they are doing – we talked about moving the fire stations and moving number 2 back into number 1. Part of the money is going to be used in that area.

Councilman Wallace: For number 2 or number 1?

Councilman Mead: For number 1. So, basically that is what is happening there. They are moving money around in the funds so they will have it available for use to make improvements.

Councilman Wallace: Thank you.

Councilman Mead: They even talked about throwing that in too – since it was listed in a public session – they’re even talking about some of that is going to be spent redoing some space that is next to the fire station – in another building right next to the fire station. So, it isn’t just in Fire Station 1, it’s also expanding their space to include some additional area.

Councilman Wallace: Is that where the chiefs used to be?

Mayor Riley: It’s right next door. Where the chief used to be, Mike, is where the free clinic is now. We certainly don’t want to disrupt the operation of the free clinic. But just to the west of the free clinic is a two-story building. It is actually attached to the building where the free clinic is at. That is where we are talking about putting the chief and the assistant chief. Basically they are just right across the parking lot from the station.

President of council asked for other discussion.

Seeing none, President called for vote.

Motion passed

Director of Law read ordinance by title only.

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

Roll call: Siebenaller, yes; McKay, yes; Jaehnig, yes; Wells, yes; Stuckert, yes;

Wallace, yes; Mead, yes.

Director of Law read the ordinance by title only.

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

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

Motion passed.

President of Council declared Ord. No. 5055 passed as read.

Councilman Mead: The next item is a multiple part. These are items that have to do with making miscellaneous transfers from the various lines – Communications Salaries to Police Fund, Police Salaries to Capital Equipment, from Communication Capital Equipment to Police Fund, from Communication Salaries to Transfer to Police Fund, from Probation Capital Equipment to Probation Miscellaneous Transfers. The last item is the court’s request. But most of these, again, have to do with the police department. If there are any questions on any of these specific items, I am sure Chief Weyand would speak to them.

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

President asked for discussion.

Councilman Wallace: Chief, is this to try to update your communications?

Chief Weyand: Some of this is to fix a computer server that we have.

Councilman Wallace: You talked about that before.

Chief Weyand: Yes. We have four computer servers down there. One of them crashed, so now we are kind of operating with three which is making it run a little slow. The oldest one we have is a 2003, and then they stagger up to 2007. So, in a nutshell, we’re going to replace all of them and at the same time use that new server, which will allow us to take the mayor’s office stuff, which they have never had it backed up, they have never used a server themselves, and integrate them into the same server. It’s going to have mirrored back up...more stuff than I could probably explain...but allow them to have all of their data stored. They will be able to use a common drive so they can share documents a lot easier and have the ability to have everything backed up. Thanks.

Councilman Mead: I want to commend the chief for staying on top of his budget and being able to make these movements that he has to be able to accomplish some of the things that we would like to accomplish without affecting the General Fund.

President of Council asked if there was any more discussion.

Seeing none, President called for vote.

Motion passed

Director of Law read ordinance by title only.

A motion was made by Mead and seconded by Siebenaller 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; Siebenaller, yes; McKay, yes.

Director of Law read the ordinance by title only.

A motion was made by Mead and seconded by Stuckert to pass the ordinance as read.

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

Motion passed.

President of Council declared Ord. No. 5056 passed as read.

Councilman Mead: The next item is three readings on an ordinance establishing new funds. There are two new funds being established for the purpose of administering and accounting for the financing of the city, new funds be and the same hereby are created: Fund #265, Community Development Block Grant, Fiscal Year 2012; and Fund #253, 2012 CHIP Grant Funds. These are two new funds that they have to create to be able to handle the money.

A motion was made by Mead and seconded by McKay to give the first reading only on the ordinance Establishing New Funds.

President asked for discussion.

Seeing none, President called for vote.

Motion passed

Director of Law read ordinance by title only.

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

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

Director of Law read the ordinance by title only.

A motion was made by Mead and seconded by Siebenaller to pass the ordinance as read.

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

Motion passed.

President of Council declared Ord. No. 5057 passed as read.

Councilman Mead: The last item on my portion of the agenda is an ordinance establishing a new fund. This is a new fund that Chief Weyand found that he had to have created to handle forfeited money from the Federal Government and the State Government to keep them straight. We had kept them together in one fund; now they are going to require them to be kept separate in different accounts. So, they will keep it separately because sometimes it needs to be spent differently. This is just to establish a new fund.

A motion was made by Mead and seconded by Siebenaller to give the first reading only on the ordinance Establishing a New Fund.

President asked for discussion.

Councilman Jaehnig: Is there a reason why this is on a separate ordinance? Is there a legal reason or is it just timing.

Acting Clerk Tacoronte: There is...it's that whole...you can only have one item or one concept on a piece of legislation...so the first two are grant, so we can put those together, but the other one is police. So, they are two different categories of funds.

Councilman Jaehnig: That's all I needed to know. Thank you.

President of Council asked if there was further discussion.

Seeing none, President called for vote.

Motion passed

Director of Law read ordinance by title only.

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

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

Director of Law read the ordinance by title only.

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

Roll call: Siebenaller, yes; McKay, yes; Jaehnig, yes; Wells, yes; Stuckert, yes;

Wallace, yes; Mead, yes;

Motion passed.

President of Council declared Ord. No. 5058 passed as read.

Councilman Mead: That's all I have this evening, Mr. President.

Water Committee - Chairperson Wallace: I really have no legislation, but we had tried to get a Water Committee meeting going a couple of weeks ago. Somehow we got caught up in a lot of other meetings, so I think we need to bring this back up. We were going to discuss our bond situation and where we were with all of that stuff as well. As we go into this whole situation of budget review, we probably need to get an update with everyone on the committee. So, if we could have that committee meeting and either have David or somebody there from Finance, so we can talk about exactly where we are with the bank and that type of thing.

Acting Clerk Tacoronte: When were you wanting to try to do that?

Councilman Wallace: Next week sometime.

Acting Clerk Tacoronte: Before the next council meeting.

Councilman Wallace: Right. Before the next council meeting.

President Kirchner: Very good. I know, and we'll discuss it shortly, but all of the committee that have budgets are going to need to put together meetings very shortly. So, if we can tie that in. I realize it does.

Councilman Wallace: It's possible. I know about three weeks ago we started trying to get this together and we had four committee meetings going. So, we just kind of backed off of that. But we need to get that moving so everybody on our committee knows where we stand and what is going on.

Streets Committee - Chairperson McKay: We have no legislation, Mr. President, but we too are going to be scheduling a meeting probably the week after next. There are several things on the agenda. We probably will put budget on that also if time allows. We'll be looking to schedule that. The powers that be are already aware of that. That is all I have.

Solid Waste/Recycling - Chairperson Wells: Mr. President, I have nothing on the agenda tonight; however, we also are trying to get a Solid Waste Committee – if Donnie makes it back in time and is okay with that. We have Mr. Steven Taylor in the back tonight from Santech who wants to talk to us about the landfill. Hopefully we can get this setup for Monday.

Acting Clerk Tacoronte: We're shooting for Monday at 6:15 as long as Mr. Maher is available.

Councilman Wells: Mr. Taylor, did you have anything you wanted to say tonight?

Steven Taylor: Not really. We'll talk and we have some things to discuss with you on Monday when you have your committee meeting. We'll introduce the company at that time.

Councilman Wells: Okay. Thank you very much. That's all, Mr. President.

Paul Hunter: I have a question for Don. Is this for selling? Is this for vending the landfill or what.

Councilman Wells: No, this corporation contracts with cities to operate their landfills. Is that correct?

Steven Taylor: Yes.

Councilman Wells: I wanted to describe that correctly.

Paul Hunter: Operate the landfill. Okay.

Mayor Riley: We're looking at all options, Paul, not just selling the landfill. I presented to Don a list of options that we can look at – everything from doing absolutely nothing to continuing to as we are to capping the landfill right now to having a new operator at the landfill to selling the landfill. You know, there are pros and cons to everything and we're looking forward to finding out some information. We're just right now on information fact-finding.

Paul Hunter: That's the landfill operation – not pickup.

Mayor Riley: That's right.

Paul Hunter: Not residential pickup.

Mayor Riley: We could look at all of that and we will look at all of that, but their expertise is actually landfill management.

Wastewater/Sewer Committee - Chairperson Stuckert: Mr. President, we have one item on the agenda for Wastewater Sewer. It's a third reading. It's a resolution that we have had before us at previous council meetings to finalize the contracts for maintenance service out at the Wastewater Department.

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

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 Mead to pass the resolution as read.

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

Motion passed.

President of Council declared Res. No. 2305 passed as read.

Councilman Stuckert: I have nothing else in Wastewater, Mr. President.

President Kirchner: You do have a meeting on Tuesday, right? 7:30 p.m.

Councilman Stuckert: Yes.

Judiciary Committee - Chairperson Stuckert: We do have three items on Judiciary. The first item is an ordinance that we had before council at the last council, but due to some questions surrounding that particular ordinance, we sent it back to committee for discussion. We had a quite extensive amount of discussion on this. This is one of the ordinances that has to do with the signage in the city. This is 1167.01, which we are attempting to permit electronic message center signs within those lighted signs. We went back into committee. We had a couple of questions about those. Like I said, we had quite a discussion on it. The end result was that the committee felt that it was a good move to enable businesses to have EMC's as part of their signage, so we're delighted at that part

of it. It is limited to B3 roadside business and I-1 Industrial districts. There was a question with regard to a provision we had in there which called for a sort of a protection for residential areas that might be close to one of those business that had one of those signs. That provision called for a sign not to be placed within 500 feet of any residential zoned area. So, we had more discussion on that and as a committee we decided that was nice trigger mechanism that would enable us to protect residents if there is a question about these signs close to a residence. It still enables the businesses to bring the matter to the Planning Commission and to still have their sign if it gets approved that way. I believe this provides an opportunity for businesses that are good. It is the first time that electronic messaging signs are going to be legal, but at the same time, we want that provision or we are recommending that we leave that provision that gives a trigger mechanism to protect the residents and in the interest of the residents in the ordinance.

A motion was made by Stuckert and seconded by Mead to give the first reading only on the ordinance Amending §1167.01(a) of 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 asked for discussion.

Councilman Jaehnig: When I started work on this particular piece of legislation back almost three years ago now, I felt, as I still feel now, that this is extremely important legislation for businesses and that council's and government's responsibility is to assist and be business friendly. So, while I disagree with the stipulation of the 500-foot buffer, which will eliminate effectively 36% of the businesses that are in B3 or I1 zones from being able to take advantage of this new piece of legislation, I do not want to hold it up any further. If, at some time in the future, we are able to come back with legislation to get that reduced once people have had an opportunity to see the signs in use and that the illumination restrictions that are already on it and the flashing restrictions that are on it are more than adequate to take care of any intrusion into the residential areas, to get that adjusted. I do find it unfortunately that nearly a third of our businesses in these zones will not be able to take advantage of this without going through a zoning appeal. But, this is important enough that at this particular point I will move it forward for support.

Jonathan McKay: Two questions for Councilman Stuckert. Will any signs be able to be grandfathered into this legislation and will this effect one of our most prominent signs downtown, which is the Wilmington Savings Bank clock and temperature.

Councilman Stuckert: I may stand corrected on this, but I don't believe that this affects any of that.

President Kirchner: Any existing signs that already have proper zoning.

Paul Hunter: As long as they were installed before the date this was passed.

President Kirchner: It's future signs. Correct, Mr. Law Director?

Law Director Shidaker: Correct.

Service Director Reinsmith: The only time you have a problem is if that sign gets struck by lightning and gets struck down. Then if it is more than 50% or 75% of the value of that sign, then you couldn't put it back up if it wasn't compliant at that time. That would be the only issue. It would be grandfathered as long as it stayed up there. If somebody drives a car through it, they couldn't put it back up.

President Kirchner: Which would be the same as any of our signage. All signage that would be updated, whether it's electronic messaging signage or not, would have to meet current sign code or go through a variance process. Any other questions?

Phil Hale: On the 500 feet, how did that come up? Sorry, I haven't been here, but that's like a block and a half, right?

Councilman Stuckert: Yes. That's a good question. We looked at...included in that conversation was Chris Schock. We brought to the table best practices and things like that. This 500 feet or any kind of stipulation like that is not listed as a best practice, but it is included as options. You know, when we asked for what would be a suggested amount of space, the first one that came to us was 1000. And we went back and forth and just generally arrived at 500. I don't really know, unless it's some of the 30 percent or so that you're talking about, if it's 400 feet – I don't know. The interest wasn't so much how far the setback was but that it would be a setback in there that would trigger a mechanism if we had a residential area that had some concerns about that. It would then go under further review. It's not that they are not going to be able to do it. It's going to have to then go for a variance.

Councilman Jaehnig: The 500 feet, there is nothing documented anywhere. It was just determined that that was a number that was acceptable. So, there is nothing that they went to to look at, because that wasn't the recommendation from the National Sign Foundation. My concern isn't so much the lineal – from side to side – as the fact with 500 feet, if you go straight back, most properties aren't 500 feet deep. And a lot of these businesses have residences directly behind them. And that would eliminate them, even though the sign may not be even visible from that residential area.

Paul Hunter: I have a couple of things. A sign can be baffled in such a way that the right-of-way people driving back and forth can see it in both directions while it's backed by some method where it does not shine back on the residential area. That way, you can almost make it a zero setback, if you want to consider that. The second item is, I see this as a camel's nose under the tent on the Board of Zoning Appeals. Because traditionally, this would have gone and does currently – variances in signage go – to the Board of Zoning Appeals for someone who wants to go beyond the ordinance. If we go this way, then the Board of Zoning Appeals is cut out of that particular picture. That Best Practices was written by sign companies. Better than a half dozen of them wrote that Best Practices, and they're the ones who want the Board of Zoning Appeals out of the picture because they feel they could handle – in my view – they could handle that information better than they can the BZA.

Councilman Stuckert: I can't really speak...

Paul Hunter: Today's signs. Tomorrow's parking lots. The next time swimming pools or whatever it may be. It slowly erodes the BZA, which, as a former member, I feel like I have an interest in it.

Councilman Siebenaller: It is my understanding that the BZA isn't cut out of this, like you say as far as the 500-foot setback goes. It's only on the number of signs that are allowed that would go to Planning Commission. Anything in regard to the 500 feet, that would have to go to the BZA.

Paul Hunter: I don't know...I'll take your word for it.

Councilman Siebenaller: That is my understanding. That question was asked of Mr. Schock at the Judiciary meeting. That's how Mr. Schock answered the question to my understanding.

President Kirchner: That is correct, Paul. I tried to convey that in the email when you asked that question. The only issue that they identified the Planning Commission to address was if additional signs were requested. Which is why I was trying to explain to you that additional sign necessity would not be a hardship issue, so therefore the BZA would have no reason to act to grant additional signs.

Paul Hunter: They have in the past.

President Kirchner: That is why it was indicated to go to the Planning Commission. It was a best practice that had been described, as I understood it from Chris. So, that inclusion came from that point. Phil, if I could answer your question a little more directly. In talking with Chris Schock, the Executive Director of our Regional Planning

Office. I believe that Chris went back and looked at our map of where residential bumps into these zones. As Councilman Jaehnig indicated, there was no best practice distance given from the standard best practices because there was no setback indicated at all. They didn't want to create any kind of elimination zones for the potential of signs. The concern being that with our unique city where residential can be affected and impacted, we asked Chris to take a look at where does it occur and what kind of distance would make sense. He brought back the idea of 500 feet, and I think that is important simply to make sure that if it will impact a resident that they have the opportunity to know and to come to, if there is a request for a variance, to a variance hearing and let their thoughts be known. To the point of baffling, Paul, I will say that there could be situations where the right-of-way that you are indicating could be baffled to see it and could still shine it into a house. That is part of the concern, that you can't address every single issue.

Paul Hunter: I just offered that as an option.

President Kirchner: It is. The truth is, that is one of the options that in that zoning variance – that requirement could be put on if it was effective in eliminating the concerns of residents if the Board of Zoning Appeals so chooses. But, we couldn't say in the legislation that we had to have baffling because we couldn't tell where we need it and where we don't in a general...

Paul Hunter: Except – you could make an exception about baffling, but that's okay.

President Kirchner: I still think the mechanisms necessary to protect the residents exist here, and that is really what the goal was...to try to provide the most effective business-friendly, clear and new opportunity to put in. Because it didn't exist before – electronic messaging centers – and still protect the residents where those zones come close to each other.

Paul Hunter: I have no problem with that all. I think it's a fair deal.

President of Council asked for further discussion.

Seeing none, President called for vote.

Motion passed

Director of Law read ordinance by title only.

Stuckert requested that the second reading be on the agenda for the next meeting.

Councilman Stuckert: I do have another item, Mr. President. Mr. Hunter would happened to mention swimming pools, because that's what we're doing.

Paul Hunter: That's why I brought it up.

Councilman Stuckert: Anyway, we have a couple of items that were brought to our attention by our Law Director where we needed to take some actions. This second one – it was discovered that we have a chapter 1151 that deals with swimming pools and regulation of those swimming pools. The only problem was, there wasn't a description of swimming pools. So, it was recommended that we add legal language that will describe swimming pools to our ordinance. I can read the language if you like. I assume this is the exact language that you suggested: "Any structure located in ground or above ground containing, or normally capable of containing, water to a depth at any point greater than 24 inches for the purpose of recreation, sports activity, or swimming." So, we have an ordinance that would place that language in our Chapter 1151.

President Kirchner: If I'm correct, Loren, I believe it's 1131.

Councilman Stuckert: Well, my letter says 1151.

President Kirchner: I hope we have the right one on the legislation.

Law Director Shidaker: We can amend it if it's wrong. It would be a typographical error.

President Kirchner: That would be an amendment if needed that we could do. It's a typographical error.

A motion was made by Stuckert and seconded by Wells to give the first reading only on the ordinance Adopting New Section in Chapter 1131 of the City of Wilmington Codified Ordinance Regarding Definition of a Swimming Pool, and Declaring an Emergency.

President of Council asked for discussion.

Councilman McKay: I just have a question for the Law Director. The term structure, is that something which is built or could that be a pond?

Law Director: A pond?

Councilman McKay: A pond.

Law Director: Is it something that is typically used for recreation or sport. That would be the question. Well, it would be up for some interpretation. I'm assuming that would be man-made structures. That is how I would interpret that.

Councilman McKay: Well, a pond it man-made too. Something which is other than a hole in the ground. We don't want to have to change how people -- like our city parks pond.

Law Director Shidaker: Right. That came to my mind as well. I don't believe that's the intent of this legislation. I don't think that's the intent.

Mayor Riley: It was not intended to address ponds at all.

Law Director Shidaker: And is the purpose of the pond -- it's for the purpose of recreation, sports activity or swimming. Is that the purpose of the pond?

Councilman McKay: Most every pond is.

Councilman Jaehnig: It depends on who owns the pond.

Councilman McKay: Fishing is recreation.

Councilman Jaehnig: I would suggest we add an exception.

President Kirchner: We had a little bit of discussion on this that evening because one of the things that I thought about -- sometimes you have people who have actual turtle ponds, which they intentionally make and are of a depth, I think, beyond that, which would be landscaping in nature. Of course, the difference being that you don't necessarily fish in them, swim in them, or have recreation -- they are landscaping in nature. I know the concern in the discussion about the city pond came up too. Should we revisit the language or do you feel that it is effective enough?

Law Director Shidaker: It was simply a suggestion. I looked at a lot of the city ordinances throughout the state of Ohio. This is the definition that kept coming up over and over again. It doesn't mean that it's right. It was just merely a suggestion for council to consider. So, if you feel that it needs to be changed or something amended -- that's fine.

Service Director Reinsmith: I've been around a long time. This has come up a lot of times. I know I had one Law Director, she just turned her head and didn't really want to face this problem. I discussed it with the current Law Director. It is a problem. We don't have a definition. Through the years, I've noticed that a lot of people who use those little two-foot pools, a lot of those families aren't well-to-do. They can't afford swimming pool memberships. So, it's 90 degrees and they've got them in their back yard. One of the problems with that ordinance, when we have that swimming pool, it requires a 5-foot fence around that swimming pool. Most of them can't hardly afford the pool or to put the

water into it, but now that throws another hardship on those. Really, they may not even fill that two-foot pool with a foot of water because they have very small children, but this ordinance tells you it has the capability of holding two feet of water. And we have people call and complain that the neighbor has put their pool up and they don't have a fence, so we have to deal with that. It's a tough issue. I don't know what the magic number is. We try to deal with them. The ones that are about 4-feet tall. Those are the tough ones. They usually have ladders, and I tell the neighbor, pick your ladder up at night and put it inside the pool. Because the ordinance read that it was to prevent small children and animals from walking into the pool. So, I just think that we need to be sensitive to that because there are a lot of people in this town that can't afford to put 5-foot fences up around their whole yard.

Mayor Riley: I think the effort was to define a swimming pool as opposed to, you know, one of those little kiddie wading pools that you buy at Wal-Mart and just throw in the back yard for the kids to jump and run around in. Because some of the pools, as Larry knows, we looked at, they are inflatable pools that are easily 4-feet deep. They can take them down in the fall and then put them back up in the summer time, the next summer. But during the summer season, it presents a hazard to children, particularly if there is not a fence and there is not a locked gate and children can just wander into somebody's back yard. They're drawn like any kid would be to water. I don't want to be around when we have a tragedy just because we don't have a definition for what a swimming pool is. I think the definition that the Law Director came up with is a good, solid definition. If we want to put some exception language in... The pond in front of Hale Hospital, one of the most beautiful well-known ponds that we have, I don't know if it's been 2-feet deep ever.

Phil Hale: Not lately, but it is up to three and a half to four feet deep.

Mayor Riley: Does it hold that much? I didn't know.

Phil Hale: No one has ever drowned in that pond.

Councilman Jaehnig: But the legislation says "has the capability." It doesn't say, "has that much in it."

Mayor Riley: Our idea was not to include ponds – that's not a swimming pool. That has never been designed to be a swimming pool. It's designed for recreation. That's not designed for recreation; that's designed for goldfish and turtles – the aesthetics of a beautiful pond. I would never want to see that go. It's the same with the pond that we have out at the city park. That is not designed for swimming. In fact, if I'm not mistaken, we have a number of signs around it that say that.

Unknown speaker: There's fishing out there though, right?

Multiple speakers: That's recreation.

Mayor Riley: But it's not designed for swimming. So, it would not fit the definition of a swimming pool.

Councilman Jaehnig: Well, no.

Paul Hunter: It says recreation.

Mayor Riley: If we need to wordsmith this, we can certainly do it. We're lucky now that we're out of the swimming pool season. We have until springtime to get this fixed, and we will get it fixed before springtime, I'm sure. Certainly we can come up with a definition of what a swimming pool is. It shouldn't be that difficult – that would still allow fish in the Hale Pond and ducks.

President Kirchner: The other thing that I would note is this is simply legislation to define a swimming pool. All of the other legislation requiring protection around pools is already in existence. The issue was that there was no legal definition for what a

swimming pool is, even though we have been addressing issues. This was simply an attempt to legally define swimming pools so that that enforcement as it has been going on can continue to protect. And I agree with the mayor, I mean, the need to protect, especially young children who can wander into the opportunity to get into these things is critical. You know, we'd hate to see people lose their family pet because they fell into them as well. We actually specifically talked at that meeting about the Hale Reflecting Pool with the concern of...does this... Of course, our theory then was that it was never two feet deep.

Paul Hunter: Does Mr. Bush's pond have a fence around it?

Inaudible comments regarding structure

Paul Hunter: See, you could except ponds somehow.

Service Director Reinsmith: The problem is all of these water sources are all inviting nuisances for little kids. They see that thing and they want to go over. They want to throw stuff in it or they want to...

Paul Hunter: So theoretically, that Bush pond represents a hazard, right?

Mayor Riley: Well, what we were looking at, Paul, was not to address the ponds and pools and such but if somebody put a 4-foot wading pool...if we tried to get them to put up a fence with a lock on it to protect children in the neighborhood, they could say this is not a swimming pool. I've looked at the ordinance. This is a wading pool. It doesn't have a filter, you know...

Paul Hunter: I understand. You just have to except the things you don't want to include in that, which would be ponds as far as I'm concerned.

Mayor Riley: We can wordsmith it and bring it back, if that's council's wishes.

Councilman McKay: You have a first and a second.

Councilman Jaehnig: We've had this come a couple of times now. Why is it that the discussion comes after the motion rather than before the motions when we wouldn't get into the position of actually having to vote a piece of legislation down because we could just table it before the motions are made. Is there a reason...are we required to have the discussion...it didn't seem to me that we were doing that before in that order. The discussion happened first.

Councilman Mead: Because there's nothing to discuss until there is a motion on the floor. Then you discuss the motion. There's nothing to discuss before that.

Councilman Jaehnig: It's those pesky Roberts Rules.

President Kirchner: That said, I think the Chairs of the committee have worked to try to give explanation ahead of time. I will say the reason that I call for discussion is because it is the point in the meeting where I have received a motion and a second on the floor and there is an action for me to take. If council would like to discuss these ahead of these motions, I don't know if there is a legal problem with that or not. Especially, if we have concern about it. This is simply the Roberts Rules of Order that I was following.

Mayor Riley: Let me add that this, in my book, is excellent use of council time. This is City Council doing City Council work at a time when all seven people that would vote on this are together talking to the public, talking to people that have ponds, talking to Larry who has been in this a long time. This is excellent conversation. I'm glad to hear this. This is really council discussing and debating. And if you vote it down and you bring it up later, not a problem with that. I have no problem with that. This is good time.

Councilman Wells: Can the first reading be passed with an amendment added later.

President Kirchner: No. You would materially change the legislation. If you are updating a typo or...

Law Director Shidaker: Yes. An exception would be probably a whole other...

Councilman McKay: Mr. President. I have another solution. As we talked about last meeting, Mr. Law Director, if this is passed or denied, whichever, we can then move for reconsideration of the motion and then decide to table it, postpone it, so that gets us through that as though it never existed.

Paul Hunter: It clears the agenda.

Councilman McKay: So, you go ahead and have the vote and then we move for reconsideration...

Law Director Shidaker: And table it.

Councilman McKay: ...and then we could move to table it or postpone it.

President Kirchner: I'm fine as long as we meet all of the legal requirements we need to to make sure that when the legislation when it finally goes through meets all of your requirements.

Law Director Shidaker: Table it to send it back to the committee or to send it to the next council meeting.

Councilman McKay: Or further discussion.

President Kirchner: So, we would actually take a vote on the motion to give a first reading and at that point someone could give a motion for reconsideration, in which case it would reverse it and table it?

Law Director Shidaker: Mm-hmm.

Councilman McKay: Well, you'd have to go through the entire thing...

Law Director Shidaker: After it gets shot down.

President Kirchner: Gotcha. Mr. Treasurer?

Paul Fear: I was in the mayor's office this week just to verify, knowing that that was coming back. I said at the last meeting that a person could withdraw their second and then you wouldn't have a second on the motion. In fact, Roberts Rules of Order, if you want to look it up in the book in the mayor's office, that is how you can eliminate that by withdrawing your second motion and then you don't have a second motion and you can let the original motion die without a second. The second option that Roberts Rules of Order does say is since you have a first and a second, someone can make a motion to table it, somebody would then second that motion, you would then vote to table the motion. Those are the two actions, according to Roberts Rules of Order in the mayor's office.

Councilman McKay: Before the vote?

Paul Fear: Yeah. While you're in the discussion phase, you can make a motion to table it, and if the table get's seconded, then you would vote on the table.

President Kirchner: I believe that Paul is correct. I've tried to study Roberts Rules of Order in little bits of spare time. But I believe there are several motions that are allowed when a motion is on the table. Tabling, I believe, is one of them. In which case, we could take it back to committee, bring it back as a tabled motion.

Councilman Stuckert: May I make a motion that we table this?

Law Director Shidaker: That's fine?

President Kirchner: Is there any problem with it being the same person that made the original motion tabling?

Law Director Shidaker: No.

President Kirchner: You may.

A motion was made by Stuckert and seconded by McKay to table the ordinance defining swimming pools.

President Kirchner: The normal thing to say is "any discussion," but I'm a little bit gunshy at the moment. Councilman Jaehnig is that okay? I think we've come to a good conclusion.

[Laughter]

Councilman McKay: If former Councilman Hockaday was here...

Mayor Riley: The parliamentarian.

President Kirchner: His thing was always he loved getting to the point where you could find to split the question.

Councilman McKay: Well, the term "table," he always said meant that the motion would be reconsidered at the end of the meeting. The proper motion should be postpone.

President Kirchner: Do you have your reference book?

Law Director Shidaker: You don't really want me to open this book tonight. Can we just get through this?

President Kirchner: It seems to me that the majority of council desire that this go back for revisit to look at the definition. If we just all vote "no" as we did with the original sign legislation, it will not go forward for a reading and will return to committee. I have a first and second on a motion for a first reading. You have Councilman Stuckert first and Councilman Wells seconded?

Acting Clerk Tacoronte: On the first reading.

President Kirchner: On the first reading.

Acting Clerk Tacoronte: And then I have a second motion to either table or postpone, with Stuckert and McKay.

President Kirchner: So at this point, we will vote on the motion to table. I would suggest, based on the fact that it may have to be reconsidered at the end of the meeting, which I will research after this meeting, I would suggest that council consider voting that down, but please vote your conscience.

President of Council asked for a vote on the motion to table.
Several council members votes yea.

President Kirchner: That didn't go the way I hoped.

[Laughter]

Councilman Jaehnig: You didn't ask for the other half.

Councilman Wallace: There are enough there that you are going to have to do a roll call vote anyway.

President Kirchner: Let's go to the roll call vote; I was a little confused on who said "yea." Remember, if you are in favor of tabling, we will table this as opposed to get to the point of voting it down.

Paul Hunter: That doesn't sound right.

President of Council requested a roll call vote.

Roll call: Jaehnig, no; Wells, no; Stuckert, no; Wallace, no;

Paul Hunter: Scott, are you saying no don't table it?

Councilman Wells: Yes.

[Laughter]

Councilman Wells: Trust us, Paul, trust us.

President Kirchner called for order.

Roll call, continued: Mead, no; Siebenaller, no; McKay, no.

President of Council declared that motion to table fails.

President Kirchner: We return to the original motion for a first reading. Again, let me make it clear, if you want to take this back to committee, a nay vote would be where you would go. If you would like the first reading to be held now, a yea vote is where you would go.

President of Council called for a vote on the motion to give the first reading on the ordinance defining swimming pools.

All members voted nay.

Motion defeated.

President of Council declared that the ordinance could go back to committee.

President Kirchner: I will study Roberts Rules of Order much closer. I will address the issue, Councilman Jaehnig, of the question of when discussion can be held and we will try to see if legally we can hold discussion ahead of that to solve these issues.

Councilman Stuckert: Mr. President, I do have one other item. This is marihuana and I hope it fares better. We have, again, a letter from our Law Director that pointed out that effective September 28, 2012, under Ohio Revised Code 2925.141, the illegal use or possession of marihuana drug paraphernalia is a minor misdemeanor in the State of Ohio. Our local ordinance should be amended to reflect the recent change from a fourth degree misdemeanor to a minor misdemeanor. So we have an ordinance that will amend that ordinance 513.12 and adopting in Chapter 513 the new classification of possessing marihuana drug paraphernalia.

A motion was made by Stuckert and seconded by Mead to give the first reading only on the ordinance Amending Codified Ordinance 513.12 and Adopting New Section in Chapter 513 Regarding Drug Paraphernalia; and Declaring an Emergency.

President asked for discussion.

Seeing none, President called for vote.

Motion passed

Director of Law read ordinance by title only.

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

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

Director of Law read the ordinance by title only.

A motion was made by Stuckert and seconded by Wells to pass the ordinance as read.
Roll call: Stuckert, yes; Wallace, yes; Mead, yes; Siebenaller, yes; McKay, yes; Jaehnig, yes; Wells, yes;
Motion passed.
President of Council declared Ord. No. 5059 passed as read.

Councilman Jaehnig: Mr. Chairman, if I can ask the Chief, is that a stricter or a lower punishment?

Chief Weyand: We're just bringing ours in line...

Councilman Jaehnig: I know, we're bringing ours in line with the state.

Chief Weyand: It's lower.

Councilman Jaehnig: That's fine. I just wondered. I was just curious.

Law Director Shidaker: With the old law, if you had marihuana paraphernalia, they could arrest somebody for that. You can no longer arrest for possessing marihuana paraphernalia. That's what the State Legislature decided.

Councilman Stuckert: Mr. President, that's all I have.

President Kirchner: Thank you, Councilman Stuckert, I'm pretty sure that's all I need.

Safety Committee - Chairperson Wells had no report.

Downtown Revitalization Committee - Chairperson McKay had no report.

Parks and Recreation Committee – Chairperson Jaehnig had no report.

Income and Levy Tax Committee – Chairperson Jaehnig: We have one item tonight. This will be the second reading on the TIF, which obviously will allow the Port Authority and AMES to move forward with the new JUMP hangar. As with the property transfer ordinance earlier in the evening, we do have a verbiage correction that needs to be made for amendment on this. In the TIF ordinance where we find the 9th whereas clause, again we're replacing the word quitclaim with limited warranty. It is the same correction and is making sure that everything goes with the same verbiage as with the first ordinance earlier this evening. So, if there are no questions in regards to that particular portion, I would like to request that we amend the ordinance to reflect this correction.

A motion was made by Jaehnig and seconded by Wallace to amend the TIF ordinance as stated.

President of Council asked for discussion.

Seeing none, President of council called for a vote.

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

Motion to amend passes.

Councilman Jaehnig: I would then ask if there are any discussions or questions in regards to the TIF ordinance before we move forward with the second reading.

Councilman Wells: I have one question that was asked of me, and I still do not understand the answer. If a person were working at AMES on the original property and he is paying Wilmington City Earnings Tax and he would be transferred to the new JUMP hangar, would his earnings tax then be whole to the city or would it be divided between the City and Wilmington Schools.

President Kirchner: I am going to ask the Law Director to clarify that. We talked through this. There are guaranteed jobs that exist prior to the creation of new.

Law Director Shidaker: Correct.

President Kirchner: So new employees would be what you are describing. They do have existing employees that are guaranteed.

Councilman Wells: This is someone who is already working there. Not a new hire.

Councilman Jaehnig: One of the 385 guaranteed jobs that are already currently out there. Now, if that person happened to be one of the temporary employees, not a full-time employee, they could be counted as a new employee if they moved to a full-time roll.

President Kirchner: If they moved into a full-time roll in one of the new positions.

Councilman Jaehnig: But if they are currently a regular full-time employee, they would be counted under the 385 guaranteed jobs before they're allowed to start counting the 259 new jobs.

Councilman Wells: So his earnings that we receive the tax would remain whole to the city, even though he is working in the JUMP hangar.

Councilman Jaehnig: That is correct.

Councilman McKay: At some point, it would be divided with the schools.

Councilman Jaehnig: No.

President Kirchner: Not those existing jobs now. If in the hangars they are working someone that is currently on those rolls is moved location to this new hangar when it is opened, would be part of the guaranteed 385 that are not in the new income tax, which will be considered for the 259 new positions that would fall under the revenue-sharing agreement.

Paul Hunter: At a recent Port Authority Director's meeting, they said unequivocally these would be new employees...take them for their word...they will be new employees, they won't be temporary changeovers, or they won't be somebody transferred in. Those are their words. They're saying this 259 will be original new jobs, for what that's worth.

Councilman Jaehnig: That's our understanding also. Now, in regards to the community, if they happen to start transferring employees in but still increase tax base and still increase jobs in the community, I don't know if there's anything that really restricts them from doing that. Now what their intentions...their intentions may be not to do that, but I don't believe there's a restriction that will stop them from transferring somebody from Florida, working at their facility down there to up here. It would still be a new job in this community at that facility.

Paul Hunter: The State of Ohio demands that they meet the 259 new employees to keep their tax credit ratings.

Councilman Jaehnig: That is correct.

Paul Hunter: So, they have an incentive to make them just new employees added on.

Councilman Wells: The main reason I ask that question is because the Police budget comes out of the General Fund and I'm just trying to understand how we can protect that money.

President Kirchner: I would agree, Councilman Wells. Many of the questions that I had asked prior to signing the notice to JVSD were to understand those various questions about existing revenue streams. I shared those documents with all of you because of that. Hopefully that answers your question.

Councilman Wells: Thank you.

Councilman Jaehnig: Any additional questions?

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

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

Motion passed

Director of Law read ordinance by title only.

Jaehnig requested that the third reading be on the Agenda for the next special council meeting on October 22 at 7:30 p.m.

Councilman Jaehnig: As a point of interest, I attended the last Port Authority meeting and am pleased to say that the Port Authority passed a resolution in the last meeting approving the JUMP hangar construction to start before all of the state paperwork is completed so that they can get ahead of the freeze and break ground before winter sets in.

Paul Hunter: I believe it was site preparation.

Councilman Jaehnig: Site preparation. So, you know, I was very pleased to see that act of faith as we move forward with this. Thank you, Mr. President. That's all we have.

Service Director - Service Director Reinsmith had no report.

Safety Director – Safety Director Russ Burton had no report.

Reports

A motion was made by Wells and seconded by Stuckert that the Auditor-Treasurer's 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.

President Kirchner: I would offer a couple of quick things. I do want to note that we have a special council meeting this coming Monday, October 22, 2012, at 7:30 p.m. here in council chambers. The only item on the agenda will be the third reading for the TIF legislation and that is to meet the timing of completing everything for the state and to meet the construction season. So that will be the only item on. Again for the five members of council that will be voting, if any of you have any kind of conflict that comes up, please notify us immediately so that we can make appropriate arrangements. The other thing that I would like to say is a welcome to Robin and Jeremy. It was great to have them here tonight. We're very excited to have them on and serving the citizens of Wilmington and part of the city's family. The other thing I will offer to everyone is that the Auditor has indicated that he has compiled initial budgets and budget meetings now can proceed. I will encourage you all to check your calendars and communicate to Brenda and Andrea what your availability is as chairs. You can set up your individual committee meetings through them. Today being the 18th of October, the uniqueness to November is that the 1st of November will actually be our first council meeting. It is on a Thursday. So, in order to have legislation ready by the 15th, we would need to complete

budget reviews in the next two weeks, initial, in order for us to have time to look at special council meeting budget work session to review the overall budget. So, if you can all be flexible with one another and keep in mind that we are up against the budget season. If we need to have special council meetings to pass the budget, we can, but if we could get a first reading on the 15th, I would encourage it. If you have any questions, please let me know.

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

Seeing no one else who wished to speak, President Kirchner declared the meeting adjourned.

Council adjourned.

ATTEST:

President of Council

Clerk