

Wilmington City Council met on Thursday, August 18, 2011, at 7:30 p.m. with President Fred Ertel presiding.

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

Assistant Chief Duane Weyand was also present.

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

Motion passed.

Minutes approved as received.

A motion was made by Wells and seconded by Stuckert to approve the minutes of the special meeting, August 3, as received.

Motion passed.

Minutes approved as received.

President Ertel: I would like to call your attention to a public hearing on a request for rezoning concerning the rezoning of 109 acres of land, more or less, located on S.R. 134 and Davids Drive from R-1 single family residential and R-3 multi-family residential to I-1 industrial, the property of Kelly A. Tolliver, Trustee of the Kelly A. Tolliver, RTL, dated 3/12/97 and Kirby L. Tolliver, Trustee of the Kirby L. Tolliver RTL, dated 3/12/1997 (the "Tolliver Fields" Project). Bill Peelle is representing the petitioners in this case.

President Ertel opened the public hearing on the "Tolliver Fields" rezoning.

President Ertel: Are there any comments or questions.

Bill Peelle: I am not sure at what point it is proper for me to begin to address council, but I assume the sooner the better, so we can all keep the agenda moving. There is a slight mistake. It is Kelly Tolliver, 3/12/97. It is not a major concern. I think most people are familiar with the property that was begun to come under develop on Davids Drive with the group from out in Colorado that came in and anticipated developing it. A long story short is that less than a year ago, Kelly and Kirby acquired that property. They have farmed it for the last ten or twenty years, so they are familiar with it. It does have a little bit of infrastructure that has been placed out there, but it doesn't look like that will be used in the near future. One hundred and seventy-two acres of that is already zoned I-1, and now there is a request for the balance of the 282 acres (the 109 acres that you see, hopefully, in the petition in front of you that has been described recently from the survey). So, that 109 they would like to have I-1 as well as well as the 172 they already have. Part of the reason for that is the unique opportunity that may present itself for some purposes along some agricultural and marketing aspects. I would, if Rob Jaehnig is willing to do so, I would ask that he would comment at this point with regard to some of the knowledge that he has as the CIFT Director and also as a person who has been somewhat involved in being at least communicated with concerning the information as to why Kirby and Kelly would request that this property be rezoned at this time. Rob, would you address that, please?

Councilman Jaehnig: Thank you, Bill. The Tolliver Fields project is what this is becoming known as. It was originally introduced as the Austin project. As projects come out and get going, they take on a local name once it is determined how they are going to proceed. The project itself is actually the certification of a piece of property to allow it to attract the food and ag industry. The certification would turn it into a shovel-ready site for the food processing industry and for the bakery industry. In this particular case, that would make this quite unique, because there are currently no shovel-ready sites for the baking industry in the State of Ohio. Certification means a great deal in regards to site selection. The group that was brought in to work on this shovel-ready certification is Ady International and Austin Group. Ady International is run by a gentleman by the

name of Robert Ady. He is one of the foremost experts in site certification in the food processing and pharmaceutical processing industries in the world. As an example, if somebody like a Kraft Foods was looking for a new facility, quite often they would call somebody like Mr. Ady and start the site selection process at that particular point. For a business, this is a very drawn-out, long procedure. It is often quite expensive. So, they started prepping sites in advance for shovel-ready, meaning that they have all of the information they need in regards to the infrastructure that's available, the workforce that's available, what the local regulations are, zoning is already properly in place, what infrastructure sits there, will it fit the needs of the industry as it moves in, and those types of things. The value to a manufacturer would start at a minimum of \$100,000 in savings from actually having to hire out this job to be done by an expert. The State of Ohio in trying to be proactive instead of reactive, came to CIFT and said, "We would like you to organize and work with Ady International, the Austin Project, to certify not just some sites, but three entire industrial complexes or parks. That way, we really can be a major player. Since the State of Ohio, Ohioans consume \$64 billion worth of food a year, but right now we only produce about 3% of that. That is something that we should be able to do a better job at. It doesn't mean we don't grow more, it is just quite often it leaves the state for processing and comes back. When you sit down at dinner at night, your meal, on average, will have traveled 1500 miles. This was the State's attempt to say, "Okay, let's be aggressive. Let's be out in front of the industry." If this site is certified as a shovel-ready site for the food processing and bakery industries, then that will shorten the amount of time it takes for a manufacturer to get up and going. In this economy, nobody is building a plant until they absolutely have to have it, and at that point, they are in a big rush to get it done. So, that really moves us to the top of the list for economic development. It really is a great opportunity for the community. The last piece of the puzzle, to be honest, is this rezoning tonight.

Bob Peelle: Thank you, Rob. I think what Rob commented on (besides the sewer and the infrastructure and the fact that it is basically available and can be used commercially once the rezoning is in place) is that the labor pool that we have is one of our richest resources right now and certainly one that we need to tap into as soon as possible, whatever manufacturing business might be able to relocate here. If anybody has any questions at all, Kirby and Jeff Bennett, who has been instrumental in assisting the Tolliver family with regard to the acquisition and also is assisting as the realtor, is available to answer any unique questions that anybody might have.

Paul Hunter: Have there been any EPA testing to make sure it meets the "green" criteria.

Councilman Jaehnig: Yes. A complete Phase 1 EPA study is completed and done.

Paul Hunter: And it came up clean?

Councilman Jaehnig: Yes.

Mayor Raizk: Mr. President, for the record, Planning Commission has voted unanimously to recommend the rezoning to council.

President Ertel: Very good. Are there any questions or comments.

President Ertel closed the public hearing on the Tolliver rezoning.

President Ertel: Okay, Mr. Mayor. Do you have any comments?

Mayor – Mayor David Raizk: No report tonight, Mr. President. You have plenty on your agenda.

President Ertel: Okay. Thank you so much. We will move right to Asset, Acquisition and Use.

Assets Acquisition and Use: Chairperson Sandy Mongold: We have the ordinance changing the zoning of real property located in the City of Wilmington, the Tolliver Fields Project, 109.455 acres for rezoning.

Councilman Jaehnig: Mr. Chairman. I would like to request council's approval to abstain from this vote due to a conflict of interest.

President Ertel: That will be fine.

A motion was made by Mongold and seconded by McKay to give the first reading only on the ordinance Changing the Zoning of Real Property Located in the City of Wilmington, Ohio (Tolliver Fields Project – 109.455 acre rezoning).

Motion passed

Director of Law read ordinance by title only.

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

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

Director of Law read the ordinance by title only.

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

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

Motion passed.

President of Council declared Ord. No. 4981 passed as read.

Councilwoman Mongold: That is all. Thank you.

President Ertel: Mr. Auditor?

Auditor – Auditor David Hollingsworth: Just real quickly, as we are getting ready to go into the budget process for 2012, we just received certification from the county on what our local government monies will be for 2012, and we are probably going to see a decrease of close to \$150 thousand. It is going to be passed down from the State through the County. That will no doubt affect our budget in going into 2012. I think this is the first part of some of the budget cutbacks on the State level that are filtering down to the local municipalities. It is about \$150 thousand less than what we certified in 2011. That is all I have.

President Ertel: Thank you. Finance Committee?

Finance Committee – Chairperson Sandy Mongold: The first item we have tonight is an ordinance making miscellaneous transfers.

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

Motion passed

Director of Law read ordinance by title only.

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

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

Director of Law read the ordinance by title only.

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

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

Motion passed.

President of Council declared Ord. No. 4982 passed as read.

Councilwoman Mongold: The second item tonight we have is a resolution declaring it necessary to light the streets, lanes, alleys, lands, squares, and public places in the City of Wilmington for the year 2012. This is a something we do every year.

A motion was made by Mongold and seconded by McKay to give the first reading only on a resolution Declaring it Necessary to Light the Streets, Lanes, Alleys, Lands, Squares, and Public Places in the City of Wilmington, Ohio, with Electric Lights and for the Special Assessments to be Levied to Pay the Cost Thereof for the Year 2012.

Motion passed

Director of Law read resolution by title only.

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

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

Director of Law read the resolution by title only.

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

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

Motion passed.

President of Council declared Res. No. 2250 passed as read.

Councilwoman Mongold: The third item we have tonight is another resolution acknowledging receipt from the Ohio Department of Taxation of the 2012 Local Government Formula money. We also do this every year.

A motion was made by Mongold and seconded by McKay to give the first reading only on a resolution Acknowledging Receipt from the Ohio Department of Taxation of the 2012 Local Government Formula, the Notification of a Reduction in the Amount of Local Government Funds Available to Clinton County for Jan.-June 2012 (25% Reduction) and July-Dec 2012 (50% Reduction) and Accepting the Same.

Motion passed

Director of Law read resolution by title only.

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

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

Director of Law read the resolution by title only.

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

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

Motion passed.

President of Council declared Res. No. 2251 passed as read.

Councilwoman Mongold: That is all we have tonight. Thank you.

President Ertel: Thank you. Water Committee?

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

President Ertel: Thank you. Streets Committee?

Streets Committee – Chairperson Wells: Mr. President. We have two items tonight on the agenda. The first item, I would ask that we postpone the second reading tonight. We are trying to get a Streets Committee meeting together to work on an amendment to this ordinance, so I would like to postpone that. The second item is the second reading of an ordinance changing the traffic control map of the City of Wilmington adding a “no-parking” zone on the east side of Josephine Street.

Councilman Wallace: Do we need to be more specific?

Mayor Raizk: It’s defined by the map.

Clerk Laura Curliss: In the text, it should be pretty specific. It’s 180 feet from something or other. We’ve gone out and measured.

Mayor Raizk: All the data is in.

Councilman Jaehnig: It’s 130 feet.

A motion was made by Wells and seconded by Wallace to give the second reading only on the ordinance Amending the Traffic Control Map and the Traffic Control File to Provide for a “No Parking” Zone on the East side of Josephine Street  
Motion passed  
Director of Law read ordinance by title only.

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

Councilman Wells: That is all, Mr. President.

President Ertel: Thank you. Solid Waste/Recycling?

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

President Ertel: Okay. Wastewater/Sewer?

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

President Ertel: Thank you. Judiciary Committee?

Judiciary Committee: Chairperson Rob Jaehnig: We have two items tonight, Mr. President. The first item is the second and third reading authorizing a UDAG loan for E&S Cornerstone, LLC, for real property improvements at 14 N. South Street. This is the building of Peaceful Acres Lavender Farm Wellness Center. Are there any questions in regards to this?

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

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

Director of Law read the resolution by title only.

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

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

Motion passed.

President of Council declared Res. No. 2252 passed as read.

Councilman Jaehnig: Thank you. The second item tonight is the second and third readings on a resolution authorizing an amendment on a UDAG loan that we have already approved in regards to improvements at the Cutting Room. They have a change order and they need to increase their loan by a small amount. We had the first reading at the last meeting. Are there any additional questions at this point?

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

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

Director of Law read the resolution by title only.

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

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

Motion passed.

President of Council declared Res. No. 2253 passed as read.

Councilman Jaehnig: That is all we have today. Thank you, sir.

President Ertel: Thank you. Safety Committee?

Safety Committee- Chairperson Rob Jaehnig: No report.

President Ertel: Thank you. Downtown Revitalization Committee?

Downtown Revitalization Committee - Convener Mark McKay: Mr. President, I attended the last Main Street promotions meeting. There are just a whole lot of things planned. Actually, every week they have an open mike night at the General Denver. Tonight, if you go down to the South Street Coffee House, there is an open mike downtown. Nice, casual atmosphere. Tomorrow night, Mr. Mayor, there will be a third Friday event at the Mural Parking Lot. It is going to be also accompanied by our first ever cruise-in on Mulberry Street. I think that is going to be a really neat thing. Surprisingly enough, the band is going to be Streetwise. So, everything fits together for that. It will be a really neat event. It is the last third Friday event of the season, so I hope everybody attends that.

[Banter regarding Third Friday events]

Councilman McKay: Another event that is just a bunch of fun that is coming up is the Wine Walk scheduled on a third Friday in September. So, that will be September 16. Participation advertising will be upcoming on that. Then, you know, we are going into Halloween and they do all kinds of neat things downtown for that. They are going to have some new events this year. If you are familiar with geocaching is. Dan Stewart is going to be heading up a geocaching event October 1. We are talking about...

Councilman Jaehnig: The question is, "What is that?" The answer is it is an ultra-modern scavenger hunt with GPS systems.

Councilman McKay: We are talking about possibly having caroling downtown in December. Then, Holidazzle is coming up. We've got a lot of things happening. I am really, really happy for the downtown.

President Ertel: One thing about the Wine Walk. Tickets have to be bought ahead of time, I assume. Where may those be sold at?

Councilman McKay: I think for sure the hotel, but there will be other locations where you can purchase those. Once again, advertising should be coming out on that just right away. They have a finite number of folks that they'll take, so you'll want to get yours early.

Councilman Jaehnig: Not to interrupt you, Mark, but I think the new Murphy season is very exciting coming up.

Councilman McKay: Thank you. Actually, there are 23 events scheduled at the Murphy this year, not including six movies. So, there are going to be movies at the Murphy starting in September and every month thereafter... things like *Gone with the Wind*, *Top Gun*, *Raiders of the Lost Ark*. You'll get to see them on the big screen again. So, the Murphy is doing great. They have a new roof over the stage.

Councilman Jaehnig: Is the air conditioning in yet?

Councilman McKay: I think it is a very close. That is all I have, Mr. President.

President Ertel: Thank you. Very nice report. Parks & Recreation?

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

President Ertel: Excellent. Thank you. Service Manager and/or Director?

Service Director- Service Director Larry Reinsmith: I have a little reminder. This is a good time to remind people, with the election coming on. I will just kind of read this, because I scribbled it out. This is a friendly reminder. No signs, being temporary or permanent, are permitted on the street right-of-ways or utility poles within the City. On most streets, the right-of-way is the tree line or the area between the back of the curb and

the sidewalk. Now, these signs include business signs, political signs, real estate signs, and yard and garage sale signs. Our policy will be, if we find the signs, we will pick them up and we will take them either to the Police Department or the Street Department. We have quite a collection already. It seems like it just gets out of hand. People come in from out of town. I know one of them is Cole Furniture. They put them up and down Rombach and all of the Streets and that is clear down in Mt. Orab. They clutter up everything. The other day, I came out of Doan Street and I wanted to turn onto South Street there. I looked back toward town, and there was a Garage Sale sign this big hanging on a power pole. It was a real safety issue. I know they didn't get permission from DP&L to put that there, so I went out and tore it down. Some people use little signs and some people big signs and there is no real distinction. The code just says no signs are permitted in the right-of-way. I want to put this reminder in the paper because we have a lot of violations and we do pick them up a lot. I know some of the new candidates may not be aware of that. Sometimes, you'll go out and it looks like somebody just pulled up in a car and they were dumping them along the curb there. I just want to save you some money. Our Prairie Road project is moving slowly, but it is moving. I was walking with the crew and I find out that these crews aren't as big as they used to be because the work is not there. The crews have downsized. They'll get it done, but they're kind of spread a little thinner now. Thank you, Mr. President.

Dick Unger: I think you'll find Lincoln and Lorish Street is a good place to gather signs, probably starting tonight or tomorrow for weekend garage sales. That would be an excellent place to go.

Service Director Reinsmith: Usually they are today. They run those garage sales on Fridays. That's the big day for garage sales.

Paul Hunter: The one on Doan has been there for 2-3 weeks.

Service Director Reinsmith: I took it down. I think they put it back it up. That's the thing. A lot of these people put them up, but they don't go back and put them back down.

[Discussion and banter regarding garage sales]

Mayor Raizk: If you see something, just call up.

Service Director Reinsmith: Another issue. Apparently a guy called up and there had been a sign up in the right-of-way. He mowed and he got all of that wire caught in his mower. That's a real situation there.

Paul Hunter: Some people even hang them on stop signs.

[More banter about political signage]

Scott Kirchner: Is it only new candidates that tend to make the mistake, or do old candidates make the mistake? Are you singling anybody out?

Service Director Reinsmith: Even the old candidates, they have friends who don't know the rules.

Scott Kirchner: That's why I wondered, cause I've seen a few...

Service Director Reinsmith: You know, it gets to a point where it just gets out of hand, and I think, "I can't take any of these signs down, because everybody will be mad." I do it within reason. You'll get these empty lots on the corner, and there will be 20 signs all the way around the corner. Everybody.

Mayor Raizk: Scott, the thing that is also kind of comical as well is that sometimes a candidate's campaign committee will come up there and say someone has stolen all of our signs and they will come and make the complaint to the police department, and the signs will be there at the police department.

President Ertel: Okay. Thank you, Larry. Safety Director?

Safety Director – Mayor Raizk: No report, Mr. President.

Reports:

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

Motion passed.

Reports accepted as received.

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

Brian Stanforth: 620 Bernice Street. I would like to bring up a problem that we brought up over three years ago. We have a junk vehicle in the back yard next door to us that we have been bringing up. We have addressed the Mayor; we have addressed Ernie; we have addressed council twice about it. It is still there. Nothing has been done. Now there is another vehicle there sitting in front of their back yard that doesn't run. It doesn't move. The problem is growing in the neighborhood. I've counted just on my street and the next street over alone, six junk vehicles that ain't been moved... grass growing up around it. I would like to know where to go from here.

Mayor Raizk: Larry, didn't we go out and take a look at that the other day?

Service Director Reinsmith: I looked at it the other day again.

Brian Stanforth: I brought it up to Larry.

Service Director Reinsmith: While we've got the Law Director here, because this issue of this one truck has come up several times, Kathryn. Remember? I think the truck is in the back yard.

Law Director Kathryn Hapner: It makes a difference whether it is back or front.

Service Director Reinsmith: Granted, it might be his privacy fence. I think part of it is.

Brian Stanforth: It is. We put up a privacy fence so we would not have to look at it.

Service Director Reinsmith: But it's back there, and unless you stand on your roof, I don't think you could see the truck. I thought at that time there wasn't much that could be done about it.

Law Director Hapner: There's not. If it is not visible and if it is not creating a health hazard; there's no rats, snakes or whatever.

Brian Stanforth: I've lived there for over twenty years. Now we have mice and snakes coming into our yard because of that property and the property on the other side of us now. The worst two houses on the street, we live right between. They've got brush piled up by the back door, wild grape vines growing across the back of the fence, weeds growing up everywhere. The neighborhood is just going downhill. I'd like to know what to do.

Polly Stanforth: Should we call the Health Department also, because it is mice now too.

Mayor Raizk: It can't hurt, I guess.

Brian Stanforth: It's not just a junk truck; there's all kinds of stuff piled up back there.

Councilman Jaehnig: You said a second vehicle, and I think you used the term "in front of their back yard." Now what is that?

Brian Stanforth: They towed a vehicle in that is sitting in front of the gate that goes to their back yard.

Councilman Jaehnig: So it is at the side of their house?

Brian Stanforth: Yes.

Councilman Jaehnig: Is that one something we could address?

Brian Stanforth: What about the mess in the back yard, though? We spent money on a privacy fence so we wouldn't have to look at it. The mess just keeps growing and growing and growing.

Paul Hunter: It's a public nuisance.

Law Director Hapner: Well, maybe it is and maybe it is not, Paul. The thing is, you have to balance...

Brian Stanforth: They've got tires and everything else.

Law Director Hapner: Excuse me. You have to balance what may or may not be a public nuisance against the property owner's rights to do what they want with their property. You don't have to necessarily have to like what your neighbors do with their property, but they do have certain rights to do with it what they will. Now there is a line that it can cross, and if it becomes a public nuisance or a health hazard, then there are things that can be done. The Health Department can get involved with that. But, if things are not available from the outside, the City does not have the right to go in there and just tell them to clean up if there is not some visible obstruction and there is not a public health hazard.

Brian Stanforth: It is a public health hazard when there are mice and snakes.

Law Director Hapner: Then contact the Health Department on that.

Brian Stanforth: Okay.

Polly Stanforth: Also, the front yard of the same place he is talking about, it is getting really trashy also.

Law Director Hapner: The front yard, things that are visible from the street, those are things the City can address.

Polly Stanforth: Right. We just don't want mice in our house because of them. They are everywhere because of them.

Service Director Reinsmith: I guess we are still talking about the house on the left when you're talking about the trash in the front yard. When we were there and I saw her out in the front yard, I didn't see trashy stuff. I saw things...novelties.

Polly Stanforth: Buckets?

Service Director Reinsmith: Old buckets can be antiques.

Paul Hunter: They're seeking relief.

Service Director Reinsmith: I know that. Sometimes, things aren't illegal. You may not like them, but they're not illegal. Like I said, nothing really stood out to me like what they're talking about.

Councilman Jaehnig: I think the unfortunate thing is that we as citizens don't concern ourselves with our neighbors and the effects that they have or the effects that it has on the city and the way the City appears and presents itself and so forth. It would be nice if

everybody took a responsibility to stand up and say “Yeah, I’m going to do my part and take care of my property so that my neighborhood is good and the community is nice and we are able to attract new people to our community and new businesses.”

Unfortunately, not everybody is willing to do that and in some cases is able to do that. I would suggest you definitely see the Health Department. The stuff in the front yard and the new vehicle on the side of the house, what is the time line that...?

Law Director Hapner: After they’re notified?

Councilman Jaehnig: No. Before we can even approach them about the new vehicle?

Law Director Hapner: First, you have to determine whether it is a junk vehicle. There is some criteria...whether it is has an expired registration, whether it runs...

Councilman Jaehnig: Whether it has tags.

Law Director Hapner: Right. Because the thing is, if it has a current registration and it runs, it doesn’t matter how long it sits there. It’s not necessarily a junk vehicle.

Councilman Jaehnig: As long as they are not running a garage out of there.

Law Director Hapner: Right.

Paul Hunter: If it is a junk vehicle, it doesn’t make any difference whether it is front or back yard, right?

Law Director Hapner: Once again, things that are visible from the street, they are publically visible, the City can attend to. But the City does not have the right to go into somebody’s back yard when it is not visible from a public street, alley, or sidewalk.

Paul Hunter: This is under a different setup than the junk car that you guys past in ’05. Where it was spelled out what a junk car is, it was separate issue from the nuisance.

Law Director Hapner: I understand what...

Paul Hunter: You can’t have a junk yard and you can’t have junk cars.

Law Director Hapner: I understand that, Paul. But, the city is still confined by the rights of landowners to be free from government interference.

Paul Hunter: So, the ordinance is moot.

Law Director Hapner: No, it’s not. You’re twisting what we’re saying. I can’t just go into somebody’s yard and decide to inspect it. The City can’t do that. They don’t have the authority to do that.

Councilman Jaehnig: I take it that you don’t have an alley going behind you.

Service Director Reinsmith: No. They don’t want to talk about what’s behind them.

Brian Stanforth: No.

Councilman Wallace: I can tell you that it is very frustrating for all of council members because we go over these things all of the time. We try to deal...

Brian Stanforth: We were promised three years ago that something would be done. Ernie did go back there and look at it.

Mayor Raizk: And, they keep registering the vehicle.

Polly Stanforth: We were told that they were going to tow it. They had 48 hours, but no one ever towed it out. They actually lied to us about that towing. They did.

Brian Stanforth: Ernie did. He sent a notice saying it would be towed in 48 hours.

Mayor Raizk: We also found out, in consultation with our legal department, that we did not have the authority to tow it out of the back yard. We didn't lie to you. We tried.

Service Director Reinsmith: I think we were told that if we towed it we could be cited for trespassing.

Mayor Raizk: Theft.

Law Director Hapner: Theft.

Polly Stanforth: But I was told. They shouldn't have told me that.

Mayor Raizk: But we were trying. Under further review, we were told that we weren't allowed to do that.

Councilman McKay: There is a new health commissioner, I believe. So, she might want to cut her teeth on that. Go over and visit with her. She is a nice lady.

Mayor Raizk: That would be the place to go. At least try that avenue. We can't enforce that part of the Health Department. If they can, that would be wonderful.

Dick Unger: Wouldn't your zoning laws fall into place here about storage of material like that?

Mayor Raizk: It is not prohibited under there.

Brian Stanforth: So, I can run a junk yard in my back yard.

Mayor Raizk: No, you can't. Not a junk yard.

Brian Stanforth: Well, I can have junk cars back there. I can have all the junk cars, old vehicles that don't run...

Polly Stanforth: Is that right. Can we?

Brian Stanforth: It's fenced in. Nobody can see it.

Law Director Hapner: If you're not running a junk yard.

Mayor Raizk: That is what we found out before. Every time we would go over there, they would pull the registration, and they would keep registering it for some reason. I don't know why you would pay \$45 or whatever it is to register, but they do. We have done that more than once to track the registration.

Councilman Wallace: Doesn't it have to run? Don't the wheels have to turn?

Mayor Raizk: I believe so. But again, it is in the back and it is not visible from the street. It is not in the driveway or in the front part. It might be something that we might want to look at legislatively and see if there is some way to do that. Right now, we are having difficulty where it is not in view.

Service Director Reinsmith: We have difficulty moving a junk car that is in sight, in view in the front yard. We go through the processes and we go to court. Look at Lytle Place.

Law Director Hapner: The fact is, it doesn't matter how often we take cases to court and we can win them in court, but if they are given x-number of days to clean it up, there is nothing we can do about that. We have to follow whatever the judge's order is.

Paul Hunter: The police have a role to play in this too, do they not? As far as public nuisance, they have enforcement authority in the ordinance. Whether they are outdated or not, I can't say. There is an ordinance dealing with the police and public nuisance. They have the authority to remove a nuisance.

Law Director Hapner: Yes, but first it has to be determined to be a public nuisance.

Paul Hunter: If you can determine that, then somebody can act without much...

Mayor Raizk: It is kind of difficult. But yes, it could be.

Jonathan McKay: 371 High Street. For a long time, I've been the youngest person up here at the City Council meetings. Now, I have a younger member. I have been blessed to be able to teach an AP Government class at Wilmington High School and Wilmington City School Board Member Bill Liermann is back there. I wanted to introduce you, Bill. I have Jane Kincaid with me, and she is from my AP government class. I am going to have a long-term subbing position for this government class, and throughout my tenure, we're going to have different young people coming up and experiencing government in action. She saw it tonight, that is for sure. There are going to be five of us walking in and out. One does live out on the outskirts of the City, so we will be going to a township trustee meeting. But, they volunteered to do this. They said, "If we are going to take this upper-level class, which will count toward college credit, they said, we want to see government in action. Mr. Stuckert and Councilman Wallace probably have seen her around and Councilman Stuckert probably taught her regular government at some point. I wanted to introduce council so they understand what is going on and all of that.

Councilman Jaehnig: I hope she gets extra credit.

Jonathan McKay: We'll work something out.

Councilman Jaehnig: Nice seeing you, Jane.

President Ertel: Thank you. Thank you for coming.

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

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

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

Motion passed.

Council adjourned.

ATTEST:

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President of Council

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Clerk