

Wilmington City Council met on Thursday, October 20, 2011, with President Fred Ertel presiding.

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

Assistant Chief Duane Weyand was also present.

A motion was made by McKay and seconded by Mead to excuse the absent member.

Motion passed.

Absent member excused.

Council gave the Pledge of Allegiance to the flag.

A motion was made by Wells and seconded by Stuckert to approve the minutes of the last regular meeting, October 6, as received.

Motion passed.

Minutes approved as received.

President of Council – Fred Ertel: I would like to recognize Pamela Walker-Bauer, who is the Clinton County Health Commissioner.

Pamela Walker-Bauer greeted council and stated that she has been with the Clinton County Health Department for almost three months. She replaced Commissioner Derge when he retired at the end of July. She expressed appreciation at how she had been welcomed into the community and emphasized that she has an open-door policy, is focused on good Customer Service, and encouraged council members to contact her whenever they have a concern or an idea that they would like to share. Ms. Walker Bauer announced that it is flu-shot season and that they hold several different clinic times. She said they looking at doing a clinic on election date. Also, she said if council members know anyone who is home-bound who has special needs, the Health Department will be willing to go out and help them. Flu shots cost \$25 and they can process some insurance cards. They can also provide you with a receipt so you ask for reimbursement from your insurance company. In addition, Ms. Walker-Bauer announced that birth certificates are now state issuance, which means that anyone who is born in the State of Ohio can come to the local health department and purchase a birth certificate. It costs \$22. In the future, they will establish credit card billing capabilities and at that time the price will increase to \$23. This means that they will be able to take calls over the telephone and will be more competitive with other health departments in the State of Ohio. She explained that when she was the Health Commissioner for the City of Norwood, their birth certificate issuance rate went from 16 per year to over 300 per year after the institution of the credit card billing. She thanked council for their time and asked if there were questions.

President Ertel: For those who do not have insurance, flu shots are how much?

Pamela Walker-Bauer said that flu shots are \$25 but they will not turn anyone who cannot pay.

Councilman Wells: I have one question. Now, you have different departments that handle different things like the environmental. Can you tell me exactly what they do?

Pamela Walker-Bauer said that the Environmental Health Department is responsible for all food inspections, sewage inspections, private water system inspections, swimming inspections and nuisance complaints. She said the Nursing Department does primarily immunizations. She said they can also do BCMH (Bureau for Children with Medical Handicaps) site monitoring visits. They do head lice checks and they have school nursing contracts with Wilmington City of Schools. She said the Health Department has a WIC (Women, Infants and Children) Department. The Vital Statistics Department has

birth records and death records. She went on to say that general health type issues and education is also something the Health Department does as well.

Councilman Wells: The reason I ask is because we have had a couple come and they talked about the nuisance complaint and I knew that you might be involved with that now.

Pamela Walker-Bauer said that the couple should call the Health Department and they could come out and take a look and see what they can do to help. She said it is possible that city ordinances that have a little more teeth than Health Department regulations. She said they focus on trash and public health issues, but if it is more of a building-type issue, that would probably fall under the city.

Councilman Wells: Thank you.

Paul Hunter asked if the Health Department has the same restriction to enter private property as anyone else and if they needed a warrant.

Law Director Kathryn Hapner: No. If you're looking at trash nuisances, it's not a criminal action.

Pamela Walker-Bauer said that if they can't get into the property, they log it and then see if they can get a search warrant to go onto the property.

Paul Hunter asked if they do that on occasion.

Pamela Walker-Bauer said that Matt Johannes, the Environmental Director for 21 years, has done warrants four times in his career but has done many permissive entries.

Councilman McKay: I just want to say that I invited Pam after meeting her. I knew that we bring up the Health Department from time to time in our discussions and I thought it would be awful nice to have a face with the name. Tammy and I had lunch with her one day and we walked around downtown and just had a very enjoyable time. I think she is going to be a great asset from the community.

Pamela Walker-Bauer thanked council for having her.

[Applause]

President Ertel: I would like to mention a notice of public hearing on rezoning petition of Fifth Third bank regarding 1.362 acres of land, more or less, located on the corner of Rombach Avenue and Oak Street in the City of Wilmington, from B-1 Local and R2 Single Family Residential to B3 Roadside Business. The Public Hearing will be held on November 17 at 7:30 in the Council Chambers. That does my portion. Mr. Mayor?

Mayor – Mayor Raizk: Thank you, Mr. President. I do not have a report tonight. I am acting on behalf of the school board, shilling for them. Mr. Bill Lierman has told me that I need to get up here. I just want to make mention. I know everybody is thinking about it. I'm sure we're preaching to the choir in this room, but I would like it in the paper. I will then defer to Mr. Jaehnig, who would like to take this a step farther. Vote "yes" on the city school levy. This is so important to our community. We talk about economic development all of the time. There is nothing more important than well-funded schools for economic development because people just will not locate here if the schools are not well-funded. I think what bothers me and what bothers all of us is that these are excellent schools and we need to show our support. When we don't show our support, then it says something about our community in my opinion. There is no tax increase here. It is just a renewal. It is sorely needed. The more we can do the better to keep our schools functioning and viable and doing the job that they have been doing for all of these years. They are doing a great job over there. I think Superintendent Sexton, the faculty and everybody are doing an excellent job. Please vote "yes." Tell your friends and neighbors to vote "yes." Tell people why this is important. I think people need to know where we all stand on this issue as well. With that, I am going to defer to Mr. Jaehnig.

Councilman Jaehnig: I have to agree with the mayor. There is not single more important item on the ballot this year than this school tax renewal. Without this tax renewal, our efforts in regards to economic development will be severely impacted in order to attract new businesses and that type of thing to our community. Those that do not have kids in school and say, "Okay. I've already paid my taxes. My kids are done. I'm tired of paying taxes." I understand. I can sympathize with you. At this particular point, by not renewing the levy, you will start to jeopardize our ability to recover and thus then force us into situations where we start having to make those tough decisions in regards to what things we can continue to provide and what things we can't. At this particular point, while we don't have a formal resolution, I would like to ask council for a verbal resolution in support for the tax levy.

A motion was made by Jaehnig and seconded by McKay to make a verbal resolution of support of the tax levy for Wilmington City Schools.  
Motion passed.

Councilman Jaehnig: Thank you all very much.

[Applause]

President Ertel: Thank you, Mr. Mayor. Committee reports. Asset, Acquisition and Use?

Asset, Acquisition and Use – In the absence of Chairperson Sandy Mongold, Councilman McKay: I don't think there is any report this evening.

President Ertel: Thank you.

Auditor – In the absence of Auditor David Hollingsworth, there was no report:

President Ertel: Finance Committee?

Finance Committee – In the absence of Chairperson Sandy Mongold, Councilman McKay: The first is an ordinance making supplemental appropriations. In your packet you will see one of those are in the utility billing area, the credit card fund needs to be increased by \$1100. That is basically because more people are paying by credit cards so we need to increase that fund. The second one is the EMS billing fees. That is \$12,500. Again, this is due to increased revenues in EMS billing. We received more than anticipated so we need to supplement those billing fees. Are there any questions?

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

Motion passed

Director of Law read ordinance by title only.

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

Director of Law read the ordinance by title only.

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

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

Motion passed.

President of Council declared Ord. No. 4992 passed as read.

Councilman McKay: The second item is miscellaneous transfers in the taxi area. Mr. Floyd is here tonight if you have any questions about that. Once again it is transfers and they are to offset increases in the contract maintenance area, if I am not mistaken, Phil?

Phil Floyd: Yes.

Councilman McKay: Excessive contract maintenance that they did not anticipate. They have areas where they can transfer from. It is a total of \$20,000. Are there any other questions?

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

Director of Law read the ordinance by title only.

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

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

Motion passed.

President of Council declared Ord. No. 4993 passed as read.

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

President Ertel: Thank you. Water Committee?

Water Committee – Chairperson Mike Wallace: If you remember from the last meeting, we have a parcel of land that we are trying to move on. I don't think there are any questions. If there are, bring them up.

A motion was made by Wallace and seconded by Wells to suspend the rules and give the second and third reading on the ordinance Declaring Parcel #2900136793, More Commonly known as 415 Columbus Street, Wilmington, Ohio, to be Surplus Property, Authorizing the Mayor to Enter into a Purchase and Sale Agreement for Said Parcel.

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

Director of Law read the ordinance by title only.

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

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

Motion passed.

President of Council declared Ord. No. 4994 passed as read.

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

President Ertel: Thank you. Streets Committee?

Streets Committee – Chairperson Wells: Mr. President, I have nothing on the agenda tonight; however, I would like to say that the new blacktop in town looks real nice. It is a lot better. I did receive, and I talked to the mayor about this, Mr. Bob Bennett at 1006 Timber Glen. He couldn't understand why we can't get some new blacktop on his street that is not finished. I tried to explain it to him. Have we had any changes or anything come up?

Mayor Raizk: Not so far. We're still trying to look into what legal actions we can take and we have a situation where we...

Law Director Kathryn Hapner: I think the one contractor went bankrupt.

Mayor Raizk: So that people understand, these streets have not been dedicated to the city yet because they are not up to spec. Therefore, technically, they are not our streets so you all can't spend money to go blacktop that street until the owners of the street do, because we don't own the street yet. It's kind of a catch-22 at this point.

Service Director Reinsmith: I think I mentioned before – I mailed the realtor that is handling all of this and representing the bank, because the bank wants to do something. I said, "Well, we can make this happen, but we need to make some other things happen too." Like this paving and stuff like that. It is kind of back in the bank's court right now.

Councilman Wells: Well, he wanted to bring this up. Somebody can't even go across the street to visit his neighbor.

Mayor Raizk: To expand a little further on that, we feel like at this point the best thing we can do is to put pressure on the lender. Also, we are restricting their right to develop any further until everything is done, finished to our specifications and then dedicated before they can sell another lot. Really, at this point in time, that is the best lever we have.

Councilman Jaehnig: We're in the same situation. Are we making any progress on the other?

Mayor Raizk: Well, it is the same situation and it is the same lender.

Service Director Reinsmith: Well, in both subdivisions, it is the same bank. What they really want to do is they want to cut off that big excess land and sell it off. I guess they have farmers that want to buy tracts in the both subdivisions. I told them we are not going to cut anything off until we get these other matters resolved.

Mayor Raizk: We have the authority to not let them sell or develop. They can farm it, but they can't sell it off yet.

Councilman Jaehnig: So, that actually is progress. So, thank you.

Councilman Wells: Thanks a lot. That is all I have.

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 is three items on a resolution enacting recommendations from the tax incentive review council. This is something that is done yearly in regards to those tax incentives that have already been given in the past, where they review, are they meeting the requirements and so forth. We have their recommendations from this year. We usually have these approved back in August, so we do need to take action with three readings tonight, if I can have your indulgence. Any questions in regards to this?

Scott Kirchner asked what the delay was in getting the report done.

Councilman Jaehnig: They were working out an agreement to be able to move forward.

Mayor Raizk: It was from the county.

Scott Kirchner said he was curious if there was a systemic issue.

Councilman Wallace: Well, the meeting got pushed back a month.

Mayor Raizk: Yes. The meeting got pushed back a month. Mike sits on it and I sit on it, as well as county folks and school. It was supposed to be in July, I think, and it got pushed back to August. Then, once the decision was made, there was a delay in getting the information to us.

A discussion was held on whether it was three readings plus an emergency measure or just three readings. It was explained that it was just three readings without an emergency.

Councilman Jaehnig: Are there any other questions?

A motion was made by Jaehnig and seconded by McKay to give the first reading only on a resolution Enacting Tax Incentive Review Council Recommendations.

Motion passed

Director of Law read resolution by title only.

A motion was made by Jaehnig and seconded by Stuckert 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; 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; McKay, yes. Motion passed.

President of Council declared Res. No. 2260 passed as read.

Councilman Jaehnig: Our second item tonight is going to be three readings on a resolution opposing state control of municipal income tax collection. Paul, would you like to take a moment and explain this? You will do a much better job than I will.

Paul Fear: This is not a new issue to come before the state, but it is being brought up more heated because of the budget issues with the state. Joe Testa and the Governor and the Assistant Governor have brought forth issues. There are two sides to it: one is a standardization of municipal taxes and one is central collection of the taxes. There is a lot of work being done by Representative Henne, who has done a lot of work for the standardization and the creation of these forms in the past. They are looking for some standardization, which means issues like whether you give a business a loss carry forward for three years or five years, whether your minimum tax is one dollar or five dollars. Some of those things that are miniscule and non-issues that they are trying to resolve and maybe get everybody on the same page on that. It is being brought forward more recently by the CPAs because they have a business that might be doing business in different localities and they have different issues to deal with everywhere. We are not necessarily opposed to some of the standardization issues, and there are about nineteen of them that are different. What we are opposed to, and all of the other 578 municipalities in the state, is the state collection of our City income taxes. It would be handled probably the same way as they are handling the school district taxes, which is horrid at best. The timeliness of it seems to be remiss. The problem with those are, for example, if you live in zip code 45177, how is the state going to tell whether you live within the city or outside of the city? How are they going to monitor the delinquencies? We physically touch every tax return that is filed. They know everybody that has filed. We have records of people. If they ask for a modification, if they have an issue or something else, we will know their past history. We can handle everything on a local level. We believe we can be more efficient and even cheaper than the state says they can do it if they did it on a state level. What the different tax authorities, DATA is the Dayton Area Tax Authority, SWOTA is the Southwest Ohio Tax Authority, everybody is asking the City Councils to support a resolution citing against it. Once they take it out of our control, it can be anywhere. I think the school district has found out that if they are short on collecting taxes, they don't know why they are short for the year. They might be \$200 or \$300 or \$800,000 but nobody can tell them where it came from, what was paid and what wasn't paid. That is what is bringing this resolution. They are asking for the municipalities, the councils, to consider what would happen if it is being centralized in the state rather than collecting locally and they are asking for us to support it with a resolution. The conversation that we have had with everybody, we have sent a letter out to Cliff Rosenberger and Dave Daniels about our not being in favor of it, but they are asking for a resolution so that we can show that there has been other thought given to it. So, that is the issue, the plan and that is the support that we are asking for – for City Council to approve this resolution that has been drawn up. I would be happy to ask any questions along those lines.

Councilman Jaehnig: Are there any questions?

Paul Hunter suggested that they were sending up a trial balloon just to see what the communities would say and stated that nothing had been set yet.

Paul Fear: Well, it has been brought up in years past and it has kind of died off. Then they do some tweaking on the standardization. Some of the problems and the other issues that they are talking about is piggybacking, where you go ahead and take your federal and you do line 32 to your state. Then there some deductions you might be able to take for the state and then you go back and do the school district and roll them right down and piggyback. All of us are different now. Like I said, some of the standardizations we support, but some of it, based on the Home Rule Rights that Laura has cited in here, we are 1% tax. Xenia is 2.25%. There is no way to standardize those types of things with all of the different tax rates. We feel it would be a nightmare for the city to try to get money back from the state. They will charge probably 1.5% fee, the same way as they charge the school, so we will lose 1.5% of the what the gross amount is. There will be no way to follow delinquencies.

Paul Hunter asked if we could go to court for compliance under that type of set-up.

Paul Fear: Well, we feel that we could go to court and force that they wouldn't standardize the change for us to 2.25 – say everybody in the state is going to be 1.5% or something like that.

Paul Hunter clarified that he meant enforcement wise – that if someone was delinquent on their taxes now we could take them to court.

Kathryn Hapner: No, we couldn't...

Paul Fear: No.

[Discussion with members and audience speaking simultaneously]

Paul Fear: We know if there are 700-800 people that don't file. We know who they are. We can send them a notice and everything. We eventually take a couple of dozen to court in the end to collect. If the state was collecting it, we wouldn't even know the highs and the lows of who is paying or not. We would like council's support on this resolution and we will move it on to our representatives.

Councilman Jaehnig: Thank you, Paul. Are there any other questions for council?

A motion was made by Jaehnig and seconded by Mead to give the first reading only on a resolution Opposing State Control of Municipal Income Tax Collection.

Motion passed

Director of Law read resolution by title only.

A motion was made by Jaehnig and seconded by Mead 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; McKay, yes. Director of Law read the resolution by title only.

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

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

President of Council declared Res. No. 2261 passed as read.

Councilman Jaehnig: There is just one item that I would like to mention. We are all, I am sure, aware of the incident that occurred with the wild animals – the exotic animals – outside the community. I would like to thank council for the action they took a year ago, well ahead of the state. This is the second time we have taken action ahead of the state on safety issues. I appreciate council's continued commitment in that area so we did not have a situation like that pop up in our area. That is all, Mr. President.

President Ertel: Thank you. Safety Committee?

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

President Ertel: Thank you. Downtown Revitalization Committee?

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

President Ertel: Thank you. Parks & Recreation?

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

President Ertel: Excellent. Thank you. Mr. Service Director?

Service Director- Service Director Larry Reinsmith: No report.

President Ertel: No report? Salt in for the winter?

Service Director Reinsmith: Yes. I think today we were having classes on beet juice. The county also shared that class.

President Ertel: Are we seeing a spike in salt prices like we did last year?

Service Director Reinsmith: No.

President Ertel: So it's okay. That's good.

Councilman Wells: Can I ask a question about beet juice? I heard a report that beet juice is really caustic to the undersides of vehicles. Davey, you might have an answer on this from the dealership. Have you had any problems?

Mayor Raizk: I haven't heard that it is anymore caustic than the salt.

Councilman Wells: But, we have not really used it much in our area.

Mayor Raizk: No it has not been used. I think the jury is a little out on it.

Service Director Reinsmith: And Denny is not going to mix any salt with it. You can mix salt with the beet juice and then it becomes very expensive. But, Denny is not going to mix the salt with it.

Mayor Raizk: I think that is where the caustic part comes in – when it is mixed with salt.

Service Director Reinsmith: And it doesn't taste very good. I know they were dumping it into the tank and splashed a little onto one guy's face and it was nasty.

Councilman Jaehnig: It will make all of the roads a nice romantic red.

Service Director Reinsmith: No color.

[Banter]

President Ertel: Safety Director?

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

Reports:

A motion was made by Wells and seconded by Stuckert to approve the Auditor-Treasurer Report – September 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.



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

Paul Hunter: No report.

[Laughter]

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