

Wilmington City Council met in regular session on Thursday, August 1, 2013, 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.

Pledge of Allegiance

Council gave the Pledge of Allegiance to the flag.

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

President of Council - President Kirchner

A motion was made by Wells and seconded by Stuckert to approve the minutes of the last regular meeting, July 18, as presented.

Motion passed.

Minutes approved as presented.

A motion was made by Wells and seconded by Stuckert to approve the minutes of the last special meeting, July 11, as presented.

Motion passed.

Minutes approved as presented.

Mayor –

Mayor Riley swore in James R. Smithson, Jr. as a patrol officer of the Wilmington Police Department.

Mayor Riley asked Councilman Jaehnig to present the new jobs numbers for the City. Councilman Jaehnig announced that the jobs number had increased from 263 to 314. New jobs are as follows: Cole Taylor, 27; Pizza Hut, 17; Arcardia Learning, 1; Downtown Consignment, 1; Leadership Clinton, ½; Groves Tire, 4; CMH, 1.

Councilman McKay said they attended the Pizza Hut ribbon cutting.

Auditor - Auditor David Hollingsworth had no report.

Asset, Acquisition and Use. - Chairperson Bob Mead presented the annexation of Suburban Investment, Co. Clinton County Port Authority, Wilmington College, and the City of Wilmington. He said that everyone had maps and agreements to look at and asked Bill Peelle to present information on the annexation.

Bill Peelle explained that the annexation was being requested by four parties – Suburban Investment, the City of Wilmington, Wilmington College and the Clinton County Port Authority. It is anticipated to be done by total agreement. The land annexed will include McMahan Trailer Park, two city reservoirs, a parcel belonging to Wilmington College parcels owned by the Clinton County Port Authority, and all of Airborne Road, for a total of around 1181 acres. Airborne Road has to come into the annexation in order to make the properties contiguous with the existing city limits. The current sewer line ends at Davids Drive, and McMahan's will pay for the appropriate size of sewer line to be extended to their area. If the city or another party desires an upgrade beyond that which is necessary to handle the sewer capacity of McMahan's Trailer Park, the extra expense associated with the upgrade would be passed through the party requesting that. Both Wilmington College and Clinton County Port Authority wish to join the annexation in order to support future development of their parcels. Union Township is being represented by Jim Fife. They do not oppose the annexation; their primary concern is their potential loss of revenue and how that affects the future abilities of the township to

cover its economic needs. The concern with all parties is primarily limited to working out an agreement with the township and the city with regard to the appropriate division of tax revenues in the future. Currently the township receives approximately \$3000 per year.

Bill Peelle – As the runway is exempt from taxation right now and most of the other land is under CAUV application, the primary source of revenue is the real estate tax that comes in from the mobile home park. Once it is annexed, the income tax would be the portion that would be the city's for sure. Whatever the two entities work out is where the real estate tax would come into play. That's about 20 miles and about \$3000 per year at the present time. That is a point of discussion that will need to be held. The county engineer's office is in the process of putting together a legal description for the entire area once all of the parcels have been agreed upon. They are in a perimeter survey, and the entire 1181-plus acres that would be in one survey to bring in. It is very important, at least to the mobile home park, that this annexation occur sooner rather than later because it is critical that the sewer line get developed out as soon as possible for the mobile home park.

President Kirchner asked if the sewer line for Suburban will be sized to current capacity or to the size necessary to service the development on all of the acreage that they own out there?

Service Director Reinsmith – I think we would have to look at the potential for all of the acreage. We have a 12-inch line right now that sits right in front of Southern State. Talking with Harry McVey, Superintendent of Wastewater, he was talking probably about the same size of line to go down Airborne Road. It's all going to eventually end up in a lift station right there at the intersection of 134, with a force main going partially back towards Southern State. We're probably looking at a 12-inch line.

[Discussion of sizes of sewer lines needed]

Bill Peelle – We have provisions in our ordinance that covers the upsize should the city require it.

Service Director Reinsmith – They have already hired an engineering firm out of Lebanon who is working with Harry on pipe sizing.

President Kirchner – So, once it is installed, it would be annexed. This would be part of the city's infrastructure. If they don't install the proper size amount of service, all of the development in the land that they have, that would be a cost to the rest of the citizens. I'm trying to make sure everyone is aware of what that cost would be. My question specifically goes to are we calculating all of those sizes based on development on all of their land coming in.

Service Director Reinsmith – The one problem you have, you would love to put a 24-inch line in there that would carry anything forever, but you're faced with the EPA fighting you on that because if you go too big, then all of your liquids run through it and you leave your solids. We fought to get a 12-inch line down Davids Drive and we had to agree to do certain things to be able to do that because they said that was too big of a line. We talked about all of the industry and things we might have down there, but it didn't make any difference to them.

[Further Discussion of Sewer Lines]

President Kirchner asked if the park was currently on city water. Service Director Reinsmith explained that there was a master meter. President Kirchner asked how the city will be able to bill individual units. Service Director Reinsmith said that we would be able to charge McMahan's; we are not buying the park system. It will be similar to Town and Country, where everyone pays a certain amount on their monthly lot rental, which includes their water, sewer and their trash pickup.

Councilman McKay verified if their sewer would be brought up to our specifications before brought in.

President Kirchner asked if we would be pumping from their basin and not taking on the sewer system in the park. Service Director Reinsmith explained that was true and we also would not be taking on the maintenance of the streets there.

Councilman Wallace asked how going from county to municipal status affect the CAUV status of the property. Peelle explained that once you take it out of CAUV, it would come into commercial and the tax would be based on the true fair market value instead of the agriculture. The agreement with the township will determine how the tax is collected. In the DHL annexation agreement, the township is set to receive, not just the current tax but the future tax in perpetuity on the land that is being annexed in. The question is, how is the tax to be properly collected and who receives the tax distribution.

[Discussion of tax collection processes]

Councilman Jaehnig – I agree that the township should be made whole. If we're going to bring in the cost of Airborne Road (which will quickly eat up all of the tax basis coming in), to then say any development happens or if anything changes in the Air Park for any reason, any growth on those properties and the value of the properties would continue to go on to the township forever is where I have an issue. I don't even have a problem with making them more than whole, but at some point, the city has to start seeing the benefits of the investment and the efforts that they're putting into the tract of land. If, in fifty years, the airport is a giant casino, and the property is worth 500 million dollars, the city should be able to see some benefit from that. There needs to be a happy medium.

President Kirchner – Historically, when land was annexed, there would be a 10-year agreement where the township would continue to get that number for 10 years in order to allow them a time frame to adjust their budget to having that income. The Ohio Revised Code 709.19 sets up a maximum time frame that you must give for a contested annexation – 12 years – but doesn't ever give them a 100%. The percentage reduces over time. It would actually harm them more than the 10-year agreement we have historically done. The negotiation on the DHL annexation, because it was a large industrial complex, was to get them on board with taxes in perpetuity. I was on council when that occurred. I didn't think it was responsible to the citizens to sign up for something until the end of time. At the time, my suggestion was extend it to 20 years and to get DHL pay the money they were saving in water and sewer over to the township into an endowment that would keep the township. And then DHL left. I would suggest capping it at 10 years because you have to consider the cost of maintaining Airborne Road, an extra expense for the City.

Jim Fife – The township is trying to propose an agreement that benefits both the city and the township. Any agreement that does not benefit both sides, is not a good agreement. Scott, you talk about forever is a long time. You are correct. When you annex land from the township, you have it forever. Over the past 25 years or so, the city has annexed in excess of 4500 acres from the townships. That's a major impact on township budgets. What we are trying to do is foster a relationship with the city that's based on trust and mutual respect. When one side is taking everything and not giving anything back, that does not foster trust and mutual respect.

President Kirchner – I don't see this as a one-sided agreement. The city did not go and look for this land. However, my understanding is the impetus behind this is, if we are to be able to develop this for McMahan's with water and sewer, it would have to be in the city now. The township will benefit because they will see improved property values as better employment opportunities develop. The city will have to take on the burden of maintaining Airborne Road. Keeping up the infrastructure will benefit the township. There is benefit for the whole community if we work together and get this done.

Jim Fife – We didn't propose the annexation. We were confronted with that possibility. When we were aware that McMahan's Trailer Park was facing some difficulties in the future, as a township, I think we would be irresponsible if we didn't do everything

possible to help our neighbors. That's why we are willing to enter into a quick agreement, as quickly as possible. But, we cannot continue to have annexation erode the tax base of the township. We can't afford to do that, Scott. From the city's point of view, it makes a lot of sense. We annex the land, there will be development and you will make it up in the township. Well, that sounds good, but in reality, it doesn't always happen. It may happen, but there's no guarantee. So, from a township standpoint, we are willing to enter into an agreement as quickly as possible; all we ask is that we remain whole.

President Kirchner – My thought would be, the need for the quick agreement is to service the members of your township, the trailer park.

Jim Fife – It's members of our community; it's not just members of our township. It's what's good for the community. Not what's good for the city. Not what's good for the township. What's good for the whole. The community. McMahan's is a part of our community. They are our neighbors. I want to clarify that.

President Kirchner – Are you saying that the township will stand against this agreement if they don't get in perpetuity.

Jim Fife – I'm saying we are open to negotiation to try to make this happen to help our neighbors.

Councilman Jaehnig suggested a proposal such as \$10,000 a year payment for twenty years as a starting point for negotiations. Councilman Wells – asked if it was to limit the dollar amount – smaller for a longer period of time.

President Kirchner – If the annexation is contested, it will become a 12-year max with percentages below 100%. The historical 10 year/100% annexation is a better deal for the township. I would like to understand that thought process behind the contract with the DHL annexation.

[Discussion of DHL contract language]

Councilman McKay asked Jim Fife if there was a deal other than perpetuity that the township would accept. Jim answered that he could not speak for the entire board, but he personally was not opposed to creative thinking, especially if it benefits members of the community. Any agreement entered into needs to benefit both sides as well as McMahan's Trailer Park.

[Discussion of annexation]

Councilman Mead asked the opinions of other members of council. Councilman Wells wondered if there was any development in the works for that area. Bill Peelle said none that he knew of. Councilman Stuckert raised concerns about the increased costs associated with maintaining Airborne Road. Service Director Reinsmith said the police and fire services are already out in that neighborhood. None of the streets in the city have been touched for a few years, so street maintenance in general needs to be addressed. There will be increased costs in terms of mowing, snow removal, and maintenance. Councilman Jaehnig asked if there might be funding resources from the county since they would no longer bear the responsibility for maintaining the road.

Councilman Wallace said he would like to make the township whole but has an issue with the perpetuity clause.

Councilman Mead expressed that he thought 10 years of payments was best as this is what had been done in the past and was stated as the norm in the DHL annexation contract.

Councilman Siebenaller said he was uncomfortable with perpetuity, and we need to try and come to whatever dollar amount might make both sides able to agree. Councilman McKay said that the mayor and the township need to get together and come back with an agreed-upon proposal.

Councilman Mead asked what the next step would be. President Kirchner stated they could authorize the mayor to enter into a contract with limitations. He said they also could wait for a historical review of annexations.

Law Director Shidaker explained the legal process. The petition, along with the certified copy of the agreement, would go to the commissioner's office. If everybody was in agreement, they wouldn't even hold a hearing. They would just pass it and everything would happen fast. In order to have the agreement in place, you need to authorize the mayor to enter into that agreement and then that question becomes under what conditions do you want him to enter into an agreement. Do you want those conditions in place – 10 years, in perpetuity, whatever. You could authorize the mayor to enter into the agreement tonight and then it would lay into the township's lap as to whether they would also enter into the agreement.

Councilman Mead asked if they needed to make that decision tonight. The mayor indicated that he would need direction from council prior to negotiations. Law Director Shidaker said it would be nice to know, prior to going into negotiations, if anything was definitely off the table.

Councilman Siebenaller indicated a historical reference would be helpful as well. President Kirchner said the Law Director had told him that all of the annexations going back to 2004, other than the Airpark, had been 10 year/100%.

[Further discussion of prior annexations and millage amounts]

A motion was made by Mead and seconded by Stuckert to authorize the mayor to offer the township the percentage or mills that they are currently receiving for a period of 10 years.

President Kirchner asked for discussion.

Councilman Jaehnig stated that he did not like sending the mayor in without room for negotiation. Mayor Riley explained that he may come back with a counter from Union Township. Councilman Mead agreed that it was a negotiation process. Councilman Wallace reiterated that he had no problem extending it beyond 10 years but had a problem with perpetuity. Councilman Wells indicated that the 10-year agreement was better than if it became a contested annexation.

Councilman Jaehnig said that it works better for everyone to maintain a good working relationship and have an expedited annexation. He said he did not wish to authorize the mayor to enter into agreement; rather, he wishes to give the mayor authorization to negotiate and then discuss what comes out of that meeting. Councilman Siebenaller suggested it would be okay to authorize him to enter into a standard 10-year/100% agreement but leave the door open for him to bring a counter offer back.

Mayor Riley – I will go on record saying that I have a world of respect for Union Township, for the township trustees, for what their mission is and for how well they have accomplished their mission over the past decades. Union Township is a great place, a great place to live, and it has been a pleasure to work with them on their fire services and everything else. I want to negotiate something that is fair for the township and fair for city. Imagine, put yourself in a situation, where you own property and somebody is able to just take parcels of your property without paying you. We do, I think, owe them something. Not, what that something is, I'm more than willing to sit down and talk with township trustees about to find out what is fair for them and fair for us and then bring it back. I think Jim has a real clear understanding that in perpetuity is not ringing well with any of you, but we do have room for discussion.

Councilman Siebenaller – If I'm hearing the mayor correctly, either way, you would have to come back to us for approval. What I'm saying is, give you the ability to enter into it as Bob suggested but also, if need be, negotiate and then come back.

Mayor Riley – In worst case scenario, I'll be back in two weeks for council approval because we will certainly meet within that period of time.

President Kirchner asked if there was more discussion.

President called for a vote.

Wallace and Jaehnig voted nay. All other members voted aye.

Motion passed.

Bill Peelle thanked council and repeated that he hoped the compensation issue could get resolved so they could move forward in a timely manner.

Finance Committee - Chairperson Mead introduced legislation rescinding a previous supplemental appropriation. He explained that the police cruiser supplemental appropriation was not done correctly originally.

Auditor David Hollingsworth – The money has to be appropriated so it comes out of the general fund. The original ordinance had the money going directly out of the General Fund to a line item for the cruisers. The money has to actually go from the General Fund to the transfer to police and then appropriate it inside the police fund to the police cruiser for a capital line item. That middle step was skipped in the original ordinance. That's why you are rescinding that ordinance and doing another one.

A motion was made by Mead and seconded by McKay to give the first reading only on the ordinance Rescinding Ordinance No. 5098 Making Supplemental Appropriations.

President asked for discussion.

Seeing none, President called for vote.

Motion passed. All yeas.

Director of Law read ordinance by title only.

A motion was made by Mead and seconded by Stuckert 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. All yeas.

President of Council declared Ord. No. 5100 passed as read.

Councilman Mead introduced the corrected legislation making supplemental appropriations for the purchase of police cruisers.

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

President asked for discussion.

Seeing none, President called for vote.

Motion passed. All yeas.

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: 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 McKay to pass the ordinance as read.

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

Motion passed. All yeas.

President of Council declared Ord. No. 5101 passed as read.

Water Committee - Chairperson Wallace had no report.

Councilman Wells had no report, but wanted to speak to council on behalf of Mr. Spinks concerning his water bill. President Kirchner asked that he wait until the public comment portion of the meeting.

Streets Committee - Chairperson McKay introduced legislation that allowed for paving of streets that had not had top coats placed on them. He asked the mayor to speak.

Mayor Riley explained that there were unfinished streets in several subdivisions, including Timber Glen, Country Oaks and Cross Creek. The manholes are elevated. There is a gap between the curb and the roadway. The streets need to be top-coated. He has received many calls in the office from property owners in these neighborhoods expressing their frustration. Because of bankruptcy situations, the burden to complete these is falling on the city because there is no longer anyone else who can be held fiscally responsible for the completion of the streets. The city would like to use a combination of permissive tax funds and the calling of any existing letters of credit in order to finish the streets. The plan will be to recoup the money in the future by placing a restriction on the issuance of building permits until the developer repays the city. He would like to have the work completed by November.

[Discussion]

Councilman Wells pointed out that there was a typo on the ordinance on the spelling of "Meadow."

Councilman Stuckert asked if the bankruptcies were complete yet, and the mayor answered that they were not. Stuckert then asked if the lien could be placed on the property once the process is complete. Mayor Riley said that the plan had been discussed with the bank president, who will be the holder of the property, and he believes it is a plan that will work. Law Director Shidaker added that he would like to get an agreement in writing in place with the bank.

Mayor Riley stated that he did not like for government to be in a bullying situation, but the residents have waited long enough on the developers to get it done, and the developers have not gotten it done.. I certainly appreciate Larry's input on this because a lot of this came from Larry's ideas. We put it together and it seems like a good way to accomplish what would otherwise not be accomplished.

Councilman Stuckert said it's our duty to fix the streets. Law Director Shidaker assured him that the city will do whatever it can to recoup the money from the bank.

Councilman Stuckert stated that council also needs to review a list of streets priorities so a plan for maintenance and repair can be developed to address the deficiencies.

[Discussion of current street maintenance needs]

Councilman Jaehnig and Councilman McKay both mentioned that legislation was being developed in terms of bonding projects to help avoid this situation in the future.

A motion was made by McKay and seconded by Jaehnig to give the first reading only on the ordinance Authorizing and Directing the Director of Public Service to advertise and contract for the Purchase of Materials and Labor for Repair of Certain City Streets and Declaring an Emergency.

President asked for discussion.

Seeing none, President called for vote.

Motion passed. All yeas.

Director of Law read ordinance by title only.

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

Roll call: Siebenaller, yes; McKay, yes; Jaehnig, yes; Wells, yes; Stuckert, yes; Wallace, yes; Mead, yes.  
Motion passed. All yeas.  
President of Council declared Ord. No. 5102 passed as read.

Service Director Reinsmith – Now that you have passed it, we tentatively have the specs ready to go. We are going to advertise August 13 and 20 and look over the bids on August 28. We're going to try to have the bid awarded by September 5, with a completion date of no later than November 1. We should be able to get it done while it is still warm.

Councilman McKay – This is just a project that is good for the city and residents and good for the economic development of those projects. Hopefully they will all get sold and built out and we will move on.

Solid Waste/Recycling - Chairperson Wells had no report.

Wastewater/Sewer Committee - Chairperson Stuckert had no report.

Judiciary Committee - Chairperson Siebenaller – We had a lengthy meeting this evening, including a discussion on the bonding that prevent the situation with the streets and the subdivisions from happening again, along with some discussion on UDAG and the possible city revolving loan. It was a good meeting, and we will be meeting probably again early next week. Other than that, there is no report.

Safety Committee - Chairperson Wells welcomed the newest officer James Smithson and wished him well and good luck.

Downtown Revitalization Committee - Chairperson McKay – we had a good meeting with some of the Main Street Group and some other elected officials concerning the downtown. Actually, Main Street meets again in the morning. There are just a bunch of ideas being tossed around about improving, enhancing and making our downtown more of a destination.

Parks and Recreation Committee – Chairperson Jaehnig had no report.

Income and Levy Tax Committee – Chairperson Jaehnig had no report.

Service Director - Service Director Reinsmith had no report.

Safety Director – Safety Director Russ Burton had no report.

#### Reports

A motion was made by Wells that the Income Tax Report – July 2013, be accepted as presented.

Councilman Stuckert noted that we have increased our deficit from last year by over \$150,000. Is there any kind of forecast on where we are headed with this?

Auditor David Hollingsworth – You will have to talk to the Income Tax Department. I don't know what the reasoning is.

Stuckert seconded the motion.  
Motion passed.  
Reports accepted as presented.

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

Paul Hunter – 200 Randolph Street – Due to an election back 2003, Wilmington is set up to add gas aggregation savings. Since the county is not a player in gas consumption, all that is required is for the city to choose a broker who will issue a bid offer. The city will



have two public hearings and that is more or less it. I'm told that it will take about six months from when we start the process to completion. Gas prices have increased 75% this year over last year. Last year, it was 50 cents; this year it is 85 cents. Like electric aggregation, residents can opt out of the program if they choose to do so. Winter is coming. I beg council to not delay on this project. Councilman Stuckert is familiar with the program and is a member of the Ad-Hoc committee that will process the enabling legislation. I cannot think of any downside; you either save money or you don't get into the program.

President Kirchner mentioned that when the electric aggregation was considered, gas aggregation was not pursued because the market was so low, there were no cost savings.

Paul Hunter explained that the gas prices have crept up. He said the process is different than electric aggregation in that it is priced at a percentage lower than the New York commodity market price. Also, the distribution charges for gas do not fluctuate based on usage.

President Kirchner said council would be happy to take a look at it.

Councilman Wells said that he spoke to Richard Spinks of 75 Josephine Street, who asked him to relay his concerns. He is upset with the Water Committee. He has rental property. The renters move out sometimes and he is stuck with the unpaid water bill. He believes the city is helping the criminals against the landlords. He asked that Mr. Spinks be notified of the next meeting of the Water Committee so they can speak to his concerns.

Councilman Wallace said he had spoken with Mr. Spinks on the phone yesterday as well. I told him about 3-4 years ago, we passed legislation that all landowners should receive notification from the water department that the bill is in delinquency. Hopefully that gets to him before the people move out. It has happened to me. I own another house and I have received that many times. I also have been burnt, just like Mr. Spinks. We have battled this in the water committee for the ten years that I have been on council. It's an issue. We keep trying to find ways we can help the landowners a little bit more than we have. No one has been able to come up with a better way yet. I'll be glad to invite him to a committee meeting and he can sit and listened to all of us on water committee and we can listen to him.

[Discussion of utility billing procedures]

Mayor Riley said he would be happy to check with Western Water to determine how they handle water shut-offs, deposits and landlord concerns.

President Kirchner announced that the LEAP program wished to present a report to council on August 13 at 6 p.m. and asked council members for availability on that date. He stated that a special council meeting would be scheduled for the purpose of listening to the State Auditor's report. This portion of the meeting will be held in executive session.

Councilman Mead added that there were other items under finance that needed to be put on the agenda for the special council meeting. Law Director Shidaker clarified that there would need to be an executive session also to discuss pending legislation. He indicated that he would be requesting an appropriation following the executive session. In addition, Councilman Mead said he had some housekeeping items that could be taken care of at the same time.

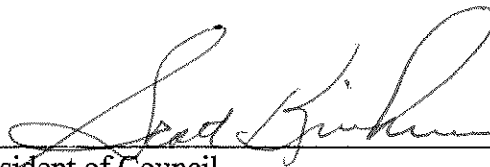
Clerk Brenda Woods asked if they could also add other pending items – miscellaneous transfers and the Amounts and Rates resolution, which will be due on September 1. Councilman Mead agreed that it would be fine to add those items.

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

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

A motion was made by Jaehnig to adjourn.  
President of Council declared the meeting adjourned.  
Motion passed.  
Council adjourned.

ATTEST:

  
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President of Council

  
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Clerk