

Wilmington City Council met on Thursday, April 17, 2014, at 7:30 p.m. with President Cindy Peterson presiding.

Call to Order

Roll Call: Jaehnig, present; Spicer, present; Stuckert, present; Mead, present; Miller, present; Milburn, present; McKay, present.

Chief Weyand was also present.

Pledge of Allegiance

Council gave the Pledge of Allegiance to the flag.

President of Council

A motion was made by Stuckert and seconded by Mead to approve the minutes of the last regular meeting, April 3, as presented.

Motion passed.

Minutes approved as presented.

Mayor - Mayor Riley presented a proclamation to members of Relay for Life to kick off their April 26 Paint the Town Purple Campaign.

Mayor Riley welcomed back Officer Kyle Brown who recently returned from a year-long military tour in Kuwait and Qatar. Chief Duane Weyand had on display the American flag that was flown with Officer Brown's unit in Kuwait.

Auditor - Auditor David Hollingsworth had no report.

Solid Waste/Recycling –

President Peterson opened the public hearing on Landfill Operations.

Mayor Riley - This is the first public hearing designed to receive public input on future management of the landfill. There will be future public hearings if needed. A little over two years ago someone expressed interest in purchasing the landfill. Mayor Riley gave an overview of the Ohio EPA fines that were levied against the landfill in the past year. He said that when the EPA received the check from the city, the Director of the Ohio EPA told him that Wilmington needed to decide whether or not it really wanted to be in the landfill business. We are the smallest municipal landfill in the state. The maximum operating capacity of our facility is around 195 tons per day, and we currently take in about 65 tons of trash every day. The mayor expressed concern regarding a Letter to the Editor recently submitted by Geoffrey Phillips. He said the letter was irresponsible because it talked about landfill sites that could not be compared to Wilmington and because it was written to create fear in the public. He said the letter compared the city landfill to the one near Columbus. The landfill near Columbus does a volume of over 5000 tons a day. The city only does 65 tons a day. Even if we did the max, the OEPA will not let any more than 195 tons per day to be hauled into the landfill. The current Permit to Install goes with the landfill. He stated the city has four options: 1) Continue with operations as they are currently; 2) Close the landfill now; 3) Sell the landfill; 4) Lease the landfill to someone who will manage it. The option of continuing as we are now is bad because the OEPA really does not want small landfills. They want fewer and larger operations. They can make it difficult for the city to operate the landfill. Operating a landfill is very expensive. The opening and closing costs are huge. Someday in the future, the landfill is going to be capped and closed. It will cost \$4 million dollars to close it down and monitor it for 30 years. It costs about \$800,000 to open a new cell. In order to pay for this, we have to bring in more trash than is generated by the City of Wilmington. We could close the landfill sooner rather than later if we wanted. We have also had offers to buy the landfill. We did a request for proposal about a year ago to try to find out what the options might be and to find out what the value of the landfill is on the market. This is how we found Santek. They manage landfills rather than own and

operate landfills. After gathering this information and looking at the numbers, we are now ready to have a discussion with the public and present what options for the future of the landfill might look like. We also need to look at options for continuing trash pickup service. If we closed the landfill, we would need to create a transfer station for trash pickup or we would need to allow other contractors in the city to do the trash pickup.

Mayor Riley emphasized that he has not made up his mind. His only preference is that we do not sell the landfill.

Cheryl Dunson from Santek gave a brief presentation on what her company does and an overview of services provided. Santek works under the authority of the local government and leases the landfill space. The local government sets the rules. They let us know how much waste they want, where the waste is going to come from, how high their landfill is going to go and how big their landfill is going to grow. The corporate headquarters are located in Cleveland, Tennessee. They have an engineering company as well as a waste collection company. Currently Santek manages 17 publicly owned landfills, four transfer stations, and four waste collection companies in a nine-state region. If the city would enter an agreement with Santek, then Santek would take over management of the landfill. They would hire existing personnel, provide heavy equipment, and through the engineering company would offer engineering support and environmental monitoring. Santek would assist the city with their future permitting and expansion needs. They would lease the existing buildings that have been offered to them. Santek would have an on-site office and they would pay the Wastewater Treatment Plant to dispose of the landfill's leachate. There are things that need to happen at the landfill for it to have a future. There is a limited amount of space right now. As the mayor said, the 195 tons a day is the maximum the city can accept, but to be able to expand the landfill and help the city secure those expansions, it would be a juggling act on how much waste we could take in. Right now, we are looking at about 100 total tons per day.

Councilman Jaehnig said he wanted to remove some myths about the process. First, the landfill cannot get higher or move northerly. It can only expand west. The agreement with a management company would just be for landfill operations, not for trash pickup. Bringing in a management company would not create more truck traffic because Santek has the ability to bring in larger trucks loads. Management makes sense because we can continue to run our own landfill; council would have control of how much trash is accepted and where it would come from. He emphasized that no decisions have been made. If we do not pursue a lease agreement, we need to decide how we are going to move forward. We are trying not to increase everyone's rates in order to continue to operate or increase rates to pay for the closing of the landfill.

Paul Hunter, 200 Randolph Street – Last year we did 14,606 tons, which is 58 tons per day. Those were 2013 numbers. The landfill is operating well. It has a \$500,000 carryover each year. It provides good service and is self-sustaining at the present. If the landfill is short on money it is because the City depleted the carryover in order to pay for the expansion. Bringing trash in at the current rate will allow us to keep it open for 10-12 years.

Paul Hunter and Councilman Jaehnig debated the current tonnage being brought into the landfill and the life expectancy of the cells. Braden Dunham said that the average so far in the current year is around 65 tons.

Bill Limbacher – 394 Darbyshire Drive - asked if there was a way to convert trash to fuel or other useful items so we don't have to continue to put it in the ground. Can Santek help with a program like that? Councilman Jaehnig stated that the Santek lease opportunity will allow us to have funds to increase the recycling program. We would be able to take cardboard and would be able to add a roll-off component.

Mayor Riley spoke about conversion/recycling programs. He explained landfill mining where everything is sorted out as it enters the landfill. What remains is mostly combustible. Furnaces would be developed that would burn the remaining trash and the energy generated from that would be converted to electricity to sell back to the grid. He

said that he suspected the technology is not yet in line to make it economically feasible at this time.

Scott Campbell, 41 S. High Street; Suite 1700, Columbus, Ohio. Attorney representing Wilmington Citizens for a Healthy Future. His clients supports the status quo in terms of local control and using the landfill primarily to serve the needs of this community. They oppose the outside management of the landfill from three different standpoints. 1) From a business standpoint, local businesses will suffer. One of the members of the organization he represents owns a company that owns significant amounts of property and employs a significant amount of residents here. If the landfill becomes a magnet for out-of-state trash and a profit center for the management company, our clients will have to think seriously about expanding elsewhere when it comes time for that business to expand. 2) From a local control standpoint, Wilmington has done a good job of managing the landfill locally. Local control keeps the interests of the citizens at the forefront in terms of quality of life, health and safety, and property value. It would be in the management company's interest to fill the landfill faster because they are volume-driven. The cap of 195 tons is 300% or a tripling of what we are doing today. It shrinks the lifespan of the permit to install from 14 years to 3 years. The Santek proposal states that 195 tons is not really enough and they will want to get the cap increased. 3) From a health and safety standpoint, scientific literature has shown that larger landfills are associated with elevated incidences of cancer and low birth weight. In addition, Santek was sued in the past in Ohio for failing to renew a permit on time. The landfill was fined \$19,000. We have also seen reports from Arkansas and Tennessee where Santek has gotten into trouble. They are volume-driven and there is a greater risk to the community with them in charge.

Jim Stanfield - 408 Mayfair – He was on council when the property was originally purchased to create the landfill. It took a long time to put the deal together. We thought we would have a landfill for a long time. Our current fees are very reasonable. We could raise fees to make it more operable and keep control of it. If the landfill is valuable to someone else, why is it not valuable to the City. Making it too big will affect the subdivisions that are close by. Let's fix it and keep it running. But if we can't fix it and make it profitable ourselves, then shut it down.

[Discussion of the creation of the landfill]

Shawn Bowen – 1155 Sylvan Drive – I live right around the corner from the landfill and I do not want it to be out of city control. I would rather raise rates than have other people's trash brought in. I would prefer to raise the rates and keep the city managing the landfill.

Councilman Jaehnig pointed out that about 50% of the tonnage brought into the landfill is currently coming from outside the city.

[Discussion of origins of trash brought into landfill]

Shawn Bowen – We don't want to be a dump for the state.

[Discussion of raising rates]

Shawn Bowen asked how much money the landfill loses each year. Mayor Riley said he could provide specific numbers at a later date. He added that we make money on the trash hauling but we lose money on the landfill management portion.

[Back and forth discussion of projected future expansions, costs of closing the landfill, and landfill rate structure]

Councilman Jaehnig said it would cost \$4 million to close the landfill, including the cost of capping it and monitoring for 30 years.

Shawn Bowen said he would be in favor of the city working to make the landfill profitable.

Mayor Riley read statements made by OEPA at a previous meeting and outlined the options for the landfill: Continuing status quo, operating the landfill, leasing the landfill to a management operation, closing the landfill, or closing the landfill and operating at transfer station. Mayor Riley said the OEPA could shut down our landfill by simply not issuing another permit to the city.

[Discussion of problems with the OEPA at the landfill]

Auditor David Hollingsworth said that on the books of the city, the liability of closing the landfill is listed as \$3.75 million. That number goes up every year. There is no reserve to cover that.

Councilman Stuckert verified that the trash pickup and the landfill operations were both funded through the same Enterprise Fund.

Service Director Reinsmith pointed out that \$12 out of every ton of what we put in the landfill is paid out in fees to the OEPA and the Clinton County Solid Waste District.

Terry Habermehl – 806 Crestview Avenue – I encourage the mayor to have another meeting. If we are having trouble at the landfill, we should shut it down now. I believe the OEPA will shut us down anyway. We should be proactive and close the landfill on our terms instead of on their terms. Otherwise, if we are having managerial issues and do not wish to shut it down, we should fix the issues but not lease it to an outside company.

Jason Besser – 1225 Warren Drive – According to the Santek proposal, the city would pay \$89,000 per month (over a million dollars per year) to Santek for them to run the landfill.

Councilman Jaehnig explained the proposed Santek contract. The \$89,000 is a guaranteed monthly fee. We get credit for tonnage that goes into the landfill back toward the \$89,000.

[Discussion of specific numbers in the Santek contract]

Mayor Riley said that another public hearing would be held and the numbers could be provided. Shawn Bowen suggested the figures be put into a document that everyone could read.

Jason Besser also pointed out that per contract they could increase above 195 tons. He said he had maps that show how large the landfill property actually is. He said that there are plans in the future to put an entrance on Park Drive or 22/3. He is against the management contract because it is importing more garbage to the city. His preference is closing the landfill.

President Peterson – There will be a notice in the paper about another public hearing to continue the discussions.

President Peterson closed the public hearing at 8:44 p.m.

[Brief recess]

President Peterson resumed the meeting at 8:48 p.m.

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

Finance Committee – Chairperson Miller had no report.

Water Committee - Chairperson McKay had no report.

Streets Committee - Chairperson McKay had no report.

Wastewater/Sewer Committee – Chairperson Milburn had no report.

Judiciary Committee - Chairperson Jaehnig.

Councilman Jaehnig presented the second reading on legislation creating a permit process for tree planting and maintenance.

Councilwoman Miller asked if there was an appeals process in case a citizen had a disagreement with a ruling. Tammy McKay said that none existed in either the Xenia or the Yellow Springs legislation. Law Director Brian Shidaker asked who they thought should hear the appeals. Councilman Jaehnig said they would have to look into what entity would be the best suited. Tammy McKay pointed out that there are members on the Tree Commission that are very knowledgeable and are certified arborists and retired foresters.

Councilwoman Miller stressed that she had upmost support for the Tree Commission and respect for their credentials. She said that the legislation needs to be written, though, in a way that works regardless of who sits on the Tree Commission. The current members will not always be in charge. There are repercussions for not obeying the law, so an appeals process should be in place to protect citizens.

[Discussion of powers of board and jurisdiction of legislation]

Don Smith asked who is responsible to pay for damages when tree roots planted in the right-of-way damage the sidewalks and sewers. Service Director Reinsmith said that any decision the Service Director makes can be appealed to the Board of Zoning Appeals. The building department uses a state board for appeals, which consists of engineers, architects and other building professionals. The city might consider creating an appeals board that has an arborist, but it might be difficult in a small town like Wilmington to find certified arborists.

Councilman Jaehnig said that creating an appeals process could be put on the top of the list of things to work on.

[Discussion of trees on private property and in right-of-way]

President Peterson asked Councilman Jaehnig if he wanted to move forward with the legislation. Councilman Jaehnig answered that he did.

A motion was made by Jaehnig and seconded by Milburn to give the second reading only on the ordinance Amending Certain Sections of Chapter 909 of the Codified Ordinances, Rescinding §909.10, and Adopting New Sections in Chapter 909 of the Codified Ordinances, Regarding Downtown Historic District Trees.

Seeing no further discussion, President called for vote.

Motion passed

Director of Law read ordinance by title only.

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

A motion was made by Jaehnig and seconded by Milburn to give the second reading only on the ordinance Rescinding Chapter 547, Trees, Shrubs and Weeds, of the Codified Ordinances and Adopting a New Chapter 547, Trees and Shrubs, of the Codified Ordinances.

Seeing no further discussion, President called for vote.

Motion passed

Director of Law read ordinance by title only.

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

Councilman Jaehnig said that the appeals process would be discussed at the next Judiciary Committee meeting.

Councilman Jaehnig introduced legislation authorizing the mayor to enter into an agreement with Spyglass to analyze the city's communications accounts.

Councilwoman Miller asked if this was the only group that was contacted to quote for these services because they seem expensive. Mayor Riley said that it was a fairly specialized service and they were the only ones contacted. Councilwoman Milburn stated that she did online research and the company seemed to be highly recommended. She asked how long the process takes, and Councilman Jaehnig answered that it was just a couple of months.

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 the Mayor to Enter into an Agreement with Spyglass to Analyze the City of Wilmington's Primary Telecommunications Accounts.

Roll call: Jaehnig, yes; Spicer, yes; Stuckert, yes; Mead, yes; Miller, yes; Milburn, 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: Spicer, yes; Stuckert, yes; Mead, yes; Miller, yes; Milburn, yes; McKay, yes; Jaehnig, yes.

Motion passed.

President of Council declared Res. No. 2358 passed as read.

Councilman Jaehnig introduced the second and third reading on legislation to continue the agency agreement between Downtown Wilmington Community Improvement Corporation and the City of Wilmington.

A motion was made by Jaehnig and seconded by Stuckert to suspend the rules and give the second and third reading on the ordinance Approving the Continued Agency Agreement Between the City of Wilmington and the Downtown Wilmington Community Improvement Corporation Within the Central Business District.

Roll call: Stuckert, yes; Mead, yes; Miller, yes; Milburn, yes; McKay, yes; Jaehnig, yes; Spicer, yes.

Director of Law read the ordinance by title only.

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

Roll call: Mead, yes; Miller, yes; Milburn, yes; McKay, yes; Jaehnig, yes; Spicer, yes; Stuckert, yes.

Motion passed.

President of Council declared Ord. No. 5149 passed as read.

Councilman Jaehnig introduced the second reading on legislation creating a permitting process for games of skill facilities. He addressed the issue of singling out businesses by saying that many businesses have permitting processes that are specific to their industry. He said that 62/88 counties have some type of legislation regulating games of skill.

Councilman Stuckert said that he still did not believe that the city would be protecting citizens from getting a bad machine by passing this legislation. He stated that he also has issues with the restrictions placed by the state on social clubs.

Councilman McKay asked if skilled gaming facilities exist in any of the 26 counties in Ohio that do not have legislation in place. Councilman Jaehnig said he did not know the answer to that. Councilman McKay said that the people who operate skilled gaming facilities expect to be charged a fee.

Councilman Spicer asked whether the city is collecting proper income tax on winnings at these facilities. Treasurer Paul Fear answered that in the city, we do not collect unless the winnings are greater than \$5000, and the taxes are being collected appropriately.

A motion was made by Jaehnig and seconded by Milburn to give the second reading only on An Ordinance Establishing a License Requirement for the Ownership, Installation, Maintenance and Operation of Certain Gaming Machines/ "Games of Skill" Seeing no more discussion, President called for a roll call vote.

Roll call: McKay, yes; Jaehnig, yes; Spicer, yes; Stuckert, no; Mead, no; Miller, yes; Milburn, yes.

Motion passed

Director of Law read ordinance by title only.

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

A motion was made by Jaehnig and seconded by Stuckert to give the second reading only on the ordinance Amending Section 1155.043 of the Codified Ordinances of the City of Wilmington B-3 Roadside Business.

Seeing no discussion, President called for a roll-call vote.

Roll call: Jaehnig, yes; Spicer, yes; Stuckert, yes; Mead, yes; Miller, yes; Milburn, yes; McKay, yes.

Motion passed

Director of Law read ordinance by title only.

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

Councilman Jaehnig introduced legislation approving the annual editing and inclusion of Ohio Revised Code ordinances into the Wilmington Codified Ordinances.

A motion was made by Jaehnig and seconded by McKay to give the first reading only on An Ordinance Approving the Editing and Inclusion of Certain Ordinances as Parts of the Various Component Codes of the Codified Ordinances of Wilmington, Ohio; and Declaring an Emergency.

Seeing no discussion, President called for vote.

Motion passed

Director of Law read ordinance 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 ordinance by title only.

Roll call: Miller, yes; Milburn, yes; McKay, yes; Jaehnig, yes; Spicer, yes; Stuckert, yes; Mead, yes.

Director of Law read the ordinance by title only.

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

Roll call: Milburn, yes; McKay, yes; Jaehnig, yes; Spicer, yes; Stuckert, yes; Mead, yes; Miller, yes.

Motion passed.

President of Council declared Ord. No. 5150 passed as read.

Safety Committee - Chairperson Spicer had no report.

Downtown Revitalization Committee – Convener McKay had no report.

Parks and Recreation Committee – Convener Stuckert 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 McKay and seconded by Miller that the Auditor-Treasurer Report – March 2014, be accepted as presented.

Motion passed.

Reports accepted as presented.

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

Mayor Riley announced that there would be a medication disposal event on Saturday, April 26, 9:00 a.m. – 12:00 p.m. at Boyd Cancer Center in Wilmington and Uhl's in Sabina. The city also has a medication disposal bin on the first floor of the municipal building near the police department.

Councilman Stuckert asked for clarification on how we were proceeding with the landfill issue. He pointed out that full council had not been involved in the process of collecting information about bringing in a management company. Full council did not vote to give the Service Director authorization to start the bidding process that brought in the Santek proposal.

Councilman Jaehnig said that under the previous chair of the Solid Waste Committee, council voted to put the RFP out. Councilman Stuckert said he would be interested in seeing the date that happened because he does not recall it happening.

[Discussion of bidding procedure]

Councilman Stuckert said he would like to verify that it was voted on by council. He said he remembers it as all happening in committee. He does not believe that we met the ORC requirement on bids and asked the Law Director if we did it correctly.

Law Director Shidaker said that you have to advertise five consecutive weeks. Councilman Stuckert said he did not think it had been done. What are our intentions to move forward in the public interest?

Mayor Riley said that based off of the information collected at this evening's public hearing, we can move forward with an additional hearing and be able to respond to some of the public's specific concerns. Councilman Stuckert said that he felt that the city did not have figures that had been collected as a result of a bidding process authorized by council.

Mayor Riley said that this first public meeting was to get a sense of where the public stood on the issue. He recommended the next meeting be held in the Community Room downstairs, and more detailed information could be provided at the next meeting. He added that if the city decides to go forward with officially requesting bids from management companies, it will be a very formal process. The initial RFP that was done was just to get an idea of what the market was like so a discussion could be held.

[Discussion of information gathering process]

Councilman Stuckert asked if the landfill issue could go to public vote. Councilman Jaehnig said that if we waited that long, the option of leasing the landfill would be off the table because of key deadlines.

Councilman Spicer said that he had talked to many citizens and not a single person thought that leasing the landfill is a good idea. The people he talked to all said they would prefer the city make it work or close it.

President Peterson verified that the next steps were to have a Solid Waste Committee meeting to regroup and then a public hearing following that.

Mayor Riley said that he would try to have representatives from the OEPA and the Clinton County Health Department at the next public hearing.

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

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

A motion was made by McKay to adjourn.
Council adjourned.

ATTEST:

President of Council

Clerk