

TO: Mayor, Council

FROM: Lynda Yartin, Municipal Clerk

SUBJECT: Verbatim Excerpt from October 3, 2006, Regular Council Meeting

DATE: October 5, 2005

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Mr. Sabatino has requested a verbatim transcript of the discussion at the October 3, 2006, Regular Council Meeting, regarding the referral of the Economic Development Agreement to Service Committee.

Mayor Shaver: Is there other business before Council?

Mr. Fix: Mister Mayor, if I might.

Mayor Shaver: Yes.

Mr. Fix: Several weeks ago Finance Committee met and had it's initial debate on the proposed Economic Development Agreement between the Township and the City. And, that debate went for several hours. It was a healthy debate, and at the end of that conversation Chairman Wisniewski asked that we have a Special Finance Committee meeting the subsequent Monday so that we could continue that conversation. Unfortunately, Chairman Wisniewski and Mr. Hackworth were unable to attend that meeting; there was no quorum, there was no meeting. At that point, I asked Chairman Wisniewski to schedule a subsequent Special Finance Committee meeting to further the conversation and to allow for a vote on the legislation so that it may move forward to Council for further debate and eventual vote. Unfortunately, we have not been able to schedule such a meeting and it is my belief that no such meeting will happen between now and the next regularly scheduled Finance Committee meeting on, I believe it is the 23<sup>rd</sup>, 19<sup>th</sup>, I'm sorry, the 19<sup>th</sup> of this month. Unfortunately, Councilman Smith will not be able to attend that meeting and will not have an opportunity to vote. Which means that, at worst, the legislation will not be brought before Council because it will be voted down, and at best, it will be moved back to the November Finance Committee meeting which would push back any hope of moving this legislation forward and have it completed

back to St. Patrick's Day of next year. I believe that it is imperative that we move this forward quickly and that we have the opportunity to have Council have a full, open debate, over the course of three meetings so the public can be involved, and the press will be here, and we have everybody with an opportunity to present their views on this. I also believe that time is of the essence, that as we sit here today if we were able to begin the conversation at the next Council meeting, it would be Christmas before this legislation will be enacted. I also believe that in reviewing our City's Charter and Code, that the Service Committee would be a more appropriate place for this legislation to be reviewed as the Service Committee is the Committee that deals with land use, and this is all about land use. Based on that, and because time is of the essence, because I think putting it before Council is imperative, and because I think the Service Committee is the more appropriate place for this legislation to be reviewed, I am asking the Mayor to move this legislation to the Service Committee for their review at their next meeting.

Mayor Shaver: Mr. Hartmann, is it my prerogative to select Committees?

Mr. Hartmann: It is my understanding...I have reviewed your Code in-depth on this issue, and I could not find any support either way on how anything gets to a Committee. It is my understanding that customarily that this is what has been done in the past, in talking with Lynda, that it has been the Mayor's ability to put things into Committee. And, there is nothing that prohibits anything from being in two Committees, if it wanted to be in two Committees, but it has to be passed out of one Committee prior to a final vote. So, it could actually be in Committee while you actually vote on it also.

Mayor Shaver: Mr. Fix, you are the sponsor of the legislation and I do think it needs to be debated vigorously before all parties....

Mr. Wisniewski: So, the October 5<sup>th</sup> meeting that we have scheduled of Finance is not good enough?

Mr. Fix: It is a Work Session, not a Special Meeting.

Mr. Wisniewski: It is a Special Meeting.

Mr. Fix: It is not a Special Meeting where any legislation can be voted on.

Mr. Wisniewski: So, basically, the only thing you're willing to do is a dog and pony show to move something out and not to really discuss it?

Mr. Fix: That is not....

Mr. Wisniewski: Your only intent is to move something out and not to discuss it.

Mr. Fix: No, Brian, my intent is to move it out before all of Council so all of Council can discuss it, and all the public can come and comment on it.

Mr. Wisniewski: I see. I see.

Mr. Sabatino: I would like to make a comment because I received an e-mail from Mr. Fix that stated that this, this ordinance or this legislation, was done or something to that effect and he wanted to move forward with it. Meaning, to me, that he had already made up his mind on it and that is the way it's going to be. Not, let's...it's open for more discussion and changing it moving forward. So, I think we should be a little more honest in our representations.

Mr. Fix: Michael, I've asked that it be put before Council for vigorous, honest, open debate, in front of the public, in front of the press. There are seven votes on Council...

Mr. Wisniewski: Of which you already have four. So, it's a dog and pony show.

Mr. Fix: It's not a dog and pony show. It's debate...

Mr. Wisniewski: It absolutely is.

Mr. Fix: Well, that's your opinion.

Mr. Wisniewski: You're darned right it is. Even though it's dealing with economic issues. Now, we're going back to the displays of the past as to where we can move something out of Committee based on where we have the votes available to us. It's the very thing we tried to remove from prior Councils and all of the antics that went on

before, we are now becoming quickly so that we can continue on with scratching backs and moving on.

Mr. Fix: No, Brian. I think that, you know, you had the opportunity to attend the Special Finance Committee meeting, that you called, and you chose not to, that was your prerogative. You've also chosen not to call a Special Finance Committee meeting where it could be voted on, and you've held this back from the Council. And, I think that's wrong. I'm asking that it be moved forward to Council so we can have that debate over six weeks, seven weeks, and that the public can participate in the conversation, and that we move forward with this. As it is now, it will be Christmas before it is passed. That's a long time.

Mr. Sabatino: Mr. Fix, I would like to say that I read in the newspaper where Mr. Dunlap was stating that there really wasn't any urgency for this, and I think that any urgency you are expressing is self-imposed on your part, and, you know, I think it is wrong, ethically, morally, and every other way, to shop for a Committee where you've got a more favorable chance of getting something moved the way you want it to go. We have a process that we are supposed to use, we should use it, and I don't really see the need to circumvent anything the way that you want to do it. Either we should continue on as we have, the people will be able to offer input at our Board sessions just the same as they would at Council meetings. And, we all know once it hits the Council floor the discussion on it will be minimal at best...

Mr. Fix: I disagree.

Mr. Sabatino: ...Before one of you calls the question.

Mr. Fix: I disagree. I've committed not to call the question, and I would ask everyone else not to call the question because I think if we need to sit here for three or four hours each time it is on the table and have the conversation, that we should do so. I want the debate, I want everyone to be able to express every opinion on it, and have the public comment on it as well. And, the public doesn't show up for Special Work Sessions or Special Meetings.

Mr. Sabatino: Oh, I think they will. I think they have in the past, and I think they will again.

Mr. Hackworth: I would like....

Mayor Shaver: I don't want to cut off debate, but I don't really care what Committee this goes through. I don't really care how it gets to Council, but we do not have, Michael, a particular procedure for determining what bills go through what Committees. It has always been pretty much the sponsor selected what bill went through what Committee or if it was something sponsored by the City's staff, they simply put it forward. So, I have no particular problem since Mr. Fix could have selected Service Committee for this in the first place, if he wants to move it to Service Committee I have no objection to sending it to Service Committee.

Mr. Sabatino: I think that completely circumvents the way things are intended to be, and I feel, if he wanted it to be in Service Committee he should have put it there from the very beginning. Not, since he's reached a roadblock now he's going to try and find some way with smoke and mirrors and pull some rabbit out of the hat to come up with some conjecture to try and further his cause.

Mr. Fix: Michael, I'm sure you recall that it was not me that brought it to Finance Committee, Chairman Wisniewski put it on the Finance Committee agenda.

Mr. Wisniewski: But, you agreed.

Mr. Sabatino: But you didn't have a problem with that until it won't go where you want it to.

Mr. Wisniewski: You agreed that that was the place for it, and I can pull out the e-mail that states that.

Mr. Fix: That's fine. I'm just clarifying that it wasn't me that put it on the Finance Committee agenda.

Mr. Wisniewski: Yes. And you agreed that was the place for it because it was an agreement, economic as in that belongs in Finance. So now, all of a sudden we are going to circumvent the process.

Mr. Fix: Brian, you can accuse me of circumventing the process; I can accuse you of the same thing. You are holding it back...

Mr. Wisniewski: Okay, the 19<sup>th</sup> is our next Finance Committee...

Mr. Fix: Keith Smith can't attend that meeting.

Mr. Wisniewski: So, where are we going, it isn't going your way so now you want to circumvent the process again. I found out today that Keith cannot attend this, I did not find out any other time about that, so now all of a sudden you can't have your way so now you want to...well, you know what, let's shop it around. Let's find out...

Mr. Fix: I'm not shopping around; I'm sending it to the appropriate Committee. And, again, you called a special meeting for two Mondays ago, and chose not to attend.

Mr. Wisniewski: I could not make it.

Mr. Fix: You called the meeting, Brian.

Mr. Wisniewski: Oh, yeah.

Mr. Sabatino: Jeff, how...

Mr. Hackworth: Why didn't we have it the rest of the week? You were out of town.

Mr. Fix: Yeah.

Mr. Hackworth: So, you're trying to put the blame on us that we didn't have a special meeting.

Mr. Fix: Ted, I'm not putting the blame anywhere. I said....

Mayor Shaver: Let me propose one other solution. It's going to eventually, one way or the other, find it's way to Council. Why don't we just by council manic put it on the next Council agenda?

Mr. Hartmann: Let me just add, it doesn't take anything, I mean it just takes putting it on the agenda now. It can still be in Committee while it

is on the agenda, you just can't have a final vote until it comes out of Committee.

Mayor Shaver: So, why don't we just have it stay with Finance Committee and at the same time put it on the next Council meeting agenda?

Mr. Sabatino: Doesn't that take a council manic waiver?

Mayor Shaver: That's what I'm saying, why don't you do a council manic waiver?

Mr. Hartmann: I don't believe it does, because there is not a final vote.

Mayor Shaver: Eventually it has to come with a council manic waiver or out of Committee. One of the two.

Mr. Hartmann: When I was reading though, and maybe you guys have done this different, but when I was reading, you can have anything before council, it just has to have committee approval prior to when it is finally acted on. And, you have done that before. For example, Mr. Sabatino had an election issue that we put before council quickly, that was not in a committee, that was voted on and was put through and it got the appropriate votes.

Mr. Sabatino: I believe that was made in the form of a motion, not going through a committee.

Mayor Shaver: Why don't we do this? I think the public needs debate on this issue. I think all council groups can maneuver it through committee or not show up for meetings so there is no quorum, or do whatever you want to to keep it in committee. Why don't we solve this by simply doing a council manic waiver now and putting it on council agenda for the next round?

Mr. Sabatino: Does that require a vote?

Mayor Shaver: Yes.

Mr. Hackworth: But, it takes, for an ordinance, it takes six votes.

Mayor Shaver: For a motion on a waiver...

Mr. Sabatino: You need six votes.

Mayor Shaver: Right. That's why...

Mr. Hackworth: Well, we ran through Article I and there are about 12 Articles on there we need to talk about, and that is as far as we got and we were still here until 11:30 P.M. I think we will have some awful long council meetings if we are going to debate this. And, the second thing is, I would like to have some assurance at least that we can do some amendments here because there are some issues on there that I would like to see addressed.

Mayor Shaver: I think any ordinance is subject to continuing discussion and continuing amendment as we do constantly throughout this process, Ted. It's always up to what form the majority wants the ordinance to be in.

Mr. Wisniewski: And, we try and work it out in committee first though, where it belongs. We've had one discussion on this so far. We've got a work session scheduled for Thursday to work on it again. We have the 19<sup>th</sup>, the opportunity to work on it again. So, why can we not work on this in the committee where it belongs and go through the process that belongs and is proper? Why are we forcing this through?

Mr. Fix: Because it deserves full council debate.

Mr. Wisniewski: Oh, geez.

Mr. Fix: You are holding it back by...

Mr. Wisniewski: You are so full of crap it's unreal.

Mayor Shaver: I will defer to the councilman who is the sponsor and move it to Service Committee if you don't want to follow the compromise suggestion of keeping it in Finance and putting it on the meeting agenda for the next meeting while it still remains in Finance.

Mr. Fix: Mr. Smith won't be able to attend the Finance meeting on the 19<sup>th</sup>, so I ask that we move it to Service Committee where it can get a vote and be moved to Council.



Mr. Sabatino: You seem to be pretty confident that one meeting is all it is going to take wherever you have your votes lined up to get it out, Jeff.

Mr. Fix: I'm confident that the people in Service Committee are interested in having a full council debate, Michael.

Mr. Sabatino: You can have that, as I said, with a work session. Your only interest in this Jeff is, you seem to have some sense of urgency; the Township Trustees have said that they don't have a sense of urgency, you have one, you won't tell us what it is, so we can only speculate you've got some agenda that you're dealing with. Unless there's some more information, Jeff, I see this as a push only by you.

Mayor Shaver: Mr. Smith, what is your schedule?

Mr. Smith: I'm in Seattle, Washington, on the 19<sup>th</sup>.

Mayor Shaver: When could you attend a Finance Meeting?

Mr. Smith: Well, any day except the 18<sup>th</sup>, 19<sup>th</sup>, or 20<sup>th</sup>.

Mayor Shaver: Gentlemen. I suggest we break for 30 seconds or two minutes, go out in the hall and pick a Finance Committee date you can all come to.

Mr. Wisniewski: I just heard Jeff wanting to move it to Service, so what are we doing here? If he wants to move it to Service let him go do it, I mean, it doesn't matter to me. I mean, if we're going to do this for show, then let's just get it over with and just do it. I mean, for crying out loud. We can cancel the 5<sup>th</sup> because there is obviously no need for discussion. We've got everything lined up and ready to go.

Mr. Sabatino: I would like to know where in the Code it says you can move it from committee to committee.

Mrs. Riggs: The Mayor just asked you to see if you could get together and pick a different date. We've now had three different suggestions on the

floor. Pick one. See if you can come up with another date. You're an elected official.

Mr. Sabatino: What my question is....

Mr. Wisniewski: He is not on Finance.

Mrs. Riggs: Well, Brian. Whoever is on Finance, pick a date.

Mr. Wisniewski: This is a dog and pony show, it doesn't matter. Move it to Service, get your votes out, and get it taken care of. I mean, for crying out loud. There is no real discussion that is going to occur on this, Heidi. He's already solicited all you guys; you've got the votes lined up, so let's take care of it.

Mrs. Riggs: I have a problem with that personally, Brian.

Mr. Wisniewski: Well, that's amazing because I have a voice mail right here that says that "I've got my four votes."

Mrs. Riggs: I don't care what Jeff says. I have campaign literature where I talked about it. And, I bring it out every once in awhile to remind myself why I ran and what is on my agenda.

Mr. Sabatino: And, what is that?

Mrs. Riggs: I talked about a JEDD. I talked about commercial development. I don't understand the problem in being collaborative with the Township. It looks as if we have something to hide. That we don't want to work with them.

Mr. Sabatino: That's your take.

Mayor Shaver: At this point, so tempers don't flare, I will offer once again the suggestion, and Brian if you don't want to deal with it, that's fine, we'll just move it to Service Committee at the request of the sponsor and council person.

Mr. Wisniewski: I don't have my calendar so I have no idea of what any other days look like. I had no intention of coming in and scheduling another

meeting tonight. So, I have no clue, I mean, Wednesdays are not good, I know that, but...

Mr. Sabatino: Doing something that is not allowed by the Charter.

Mayor Shaver: That's what I'm asking, Mr. Hartmann, is it appropriate for me to do this?

Mr. Hartmann: I have looked, and I can refer you to the section, it is Section 220.04(G), "Mandatory Referral." All it says is, "All ordinances and resolutions shall be referred to an appropriate committee for review and recommendation prior to final action by Council." When I read that, all it means is there is always going to be overlapping committees that could hear things. We've had things that have been in two committees, and there is nothing that prohibits it from being moved from one committee to another. I've read through the entire Administrative Code and talked with Lynda if there has ever been anything that came up in the past, and also the way I read this is, and how I believe it has worked in the past, is that we have had things before Council simultaneous with it being in committee. So, I mean that is also an option. I don't think it requires anybody but one council member wanting to put something on the agenda. That is one of your rights under your Charter, that you can propose legislation. I mean, if it would get voted down at council, then obviously in the committee it would be, I assume, dead, but it can be put before a vote without council manic action either, it just cannot pass finally without council manic action or without passing it out of committee with a recommendation.

Mr. Fix: Mayor, I believe it is in the best interests of the community that we move this thing into council where we can have the discussion, and, therefore, I would ask again that we move it to Service Committee so it can be voted on.

Mayor Shaver: I will move it to Service Committee.

Mr. Fix: Thank you.

Mayor Shaver: If that is within my prerogative, and if it isn't then Mr. Sabatino if you find something that says that is not within my prerogative, I will be glad to withdraw that.

Mr. Sabatino: If we find something that doesn't allow it, I will do whatever I need to do to make sure it never happens again.

Mr. Wisniewski: Lynda, what do I need to do to cancel the 5<sup>th</sup>, since we obviously will not need the work session for Finance.

Mrs. Yartin: I will make the notifications, tomorrow.

Mr. Wisniewski: Fine.

Mayor Shaver: Is there a motion to adjourn?

Mr. Fix: So moved.

Mr. Smith: Second.