

City of Springdale Council

November 4, 2015

President of Council Vanover called Council to order on November 4, 2015 at 7:00 p.m.

The governmental body and those in attendance recited the Pledge of Allegiance.

President Vanover: Excuse me, there is no Invocation tonight. Church is over. All the prayers were said last night.

Mrs. McNear took roll call. Council members Diehl, Emerson, Hawkins, Knox, Squires, and Vanover were present. Mrs. Harlow was absent.

The minutes of the October 21st, 2015 City of Springdale City Council meeting were considered. Mr. Squires made a motion to adopt; Mr. Hawkins seconded. With a vote of 6 – 0, the minutes of the October 21st, 2015 City Council meeting were approved as published.

Mayor Webster: I can't let this pass. Invocation, which you indicated we'd have Invocation – I've been in Mrs. McNear's shoes for a number of years. It's sort of an empty feeling when that happens – the President of the Council says we're going to have an Invocation and you're not prepared to give one. All of the sudden, things are flying through your mind – is this the first or third (Wednesday)? Then, in her case, she was saved by the bell because you made the mistake but where you really get the heebie geebies is when it is the third Wednesday and you don't have one prepared. Anyway, I'm sure it was an anxious moment there for you, Mrs. McNear.

Mr. Squires: Trying to think of an old one.

Mrs. McNear: Yes, there was one time I actually forgot to bring the prayer with me and I had to do it on the fly, and, you're right, I was sweating under the collar for that one.

President Vanover: Well, I've been there, filling in, and it wasn't in the packet, so beads of sweat appeared quickly.

Communications

Mrs. McNear: Nothing this evening, Mr. President. Thank you.

Communications from the Audience - None

Ordinances and Resolutions

ORDINANCE No. 26-2015

TO AMEND CHAPTER 94 OF THE CODIFIED ORDINANCES OF THE CITY OF SPRINGDALE REGARDING MUNICIPAL INCOME TAX

President Vanover: Council, you've heard the reading of Ordinance 26-2015. This is the First Reading.

Mayor Webster: I'll try not to go off too much on this as you've all heard my objections to this as it has unfolded over the last few years but I haven't changed my mind. I think this is an infringement upon our Home Rule Charter Rights but the courts have ruled otherwise so we have to abide by the law and adopt this. I still think it's the first step towards consolidation of all Income Earnings Tax will be eventually sent to Columbus and they will send back what they deem fit to each city. I think it's a very dangerous slippery slope that we're on but I don't think we have any choice. I think it's ironic that here we are adopting this and the person that introduced this – you know where he is tonight? He's in state prison for wire fraud and investment fraud and everything else. That's how rotten this piece of legislation is. Thank you.

Mr. Parham: Council, I'm going to ask Mr. Jeff Williams to come forward. As you see the Exhibit A on the second page of the ordinance is not the Tax Code. The actual Tax Code is probably 59 or 60 pages long, so we did not include a copy of it with your ordinance. We did include a copy of a document that is titled Summary of Differences between the Current Tax Ordinance and House Bill 5. Mr. Williams is going to give us just some of the highlights of the differences.

City of Springdale Council

November 4, 2015

Mr. Parham (continued): One of the things that he may point out for you, but I will tell you now, is that we want to know how this is going to financially impact the City. In some instances, we may be able to see it more immediately. In others, we are not going to be able to tell until after we have gotten into the process. With that, I will turn it over to Mr. Williams.

Mr. Williams: One thing I noticed on the agenda is how fast you get out of here is up to me (laughter). House Bill 5 has been evolving for a long time. OML (the Ohio Municipal League) sent out their version of the ordinance for House Bill 5 with the rules of "if you don't pass this by the beginning of 2016, you can not levy an earnings tax." When we received the sample ordinance, there were three opportunities. The first of the three things we had to look at were items we were required to adopt. This was most of the document. Next, there were options to choose from once the sample ordinance came down. They had many of these options highlighted under option 1 or option 2 and we had to choose one or the other. We had to choose whether we wanted to continue requiring mandatory filing; whether we wanted to tax those under the age of 18; whether we wanted to tax stock options. There was a long laundry list that we had to address. We chose to remain consistent with the ordinance and the treatment we currently have. Finally, we needed to add items that they did not address that are in our current ordinance and that we could add to House Bill 5. This included items such as having residents and businesses register with the Tax Office, for example. I put together a summary of the differences between the current ordinance and House Bill 5 for the things that I thought were deemed the major changes in the House Bill.

The first item is Loss Carry-Forward: What this does is allow a business that has an activity loss in the current year under our current practice to bring that loss forward for three years. If they have any profits in those three years, they can offset that against their losses and as a result they might not owe anything if their profits don't cover the loss. That's a three year offset. Under House Bill 5, everybody has to go to a five-year Loss Carry-Forward. Looking at that at first, it seems like that could have a big effect on the City as far as revenues. We wanted to look at the top companies in the City with losses, because we wanted to determine if their activity is always at a loss or if they would continue to be at a loss. In that case, that would have no effect on us. We looked at 100 business accounts with the largest losses. Of those, 77 were always in a loss for the past five years. We got 77% of those in a loss for the last five years, so if they continue in that pattern, that won't have any kind of major impact on us. Here is what we see as the problem: if one year that company had a big profit and the following year they had a loss, and the next year they have a profit, then more than likely we will not see that profit of the final year.

The next item is Lottery, Sweepstakes, Gambling, and Sports Winnings: Currently those are not taxable (by Springdale). Under House Bill 5, they are taxable. The revenue effect on that is really unknown at this time because it's new territory.

Frequency of Withholding Remittance: This pertains to how often companies have to withhold on their employees. Currently, they are required to file a quarterly remittance to the City or, they can have another time period, if it's agreed upon. Sometimes they may want to go monthly or, based upon if somebody's a real small company, where they hardly have any withholdings, we can just agree to every six months, or every year. For the most part, everybody does file quarterly. Under House Bill 5, they set a threshold of basically, \$2,400, that if your prior year withholdings are over that amount, then monthly withholdings are required. If your prior year withholdings are under that, then you have to file quarterly. So this could have a positive effect on 2016, but it's something that will even out. It might be a bump in 2016 based on the fact that we'll get fourth quarter 2015, and then, at the same time, they'll start going monthly.

The Occasional Entrant Rule: If you remember back to the original uniformity 8 – 10 years ago, when we had our first go around from the State that said everybody has to have certain things in their tax ordinance. One of those things was the 12-Day Rule. What that was, was for businesses located outside of the City, that is doing work in the City, for example you have an HVAC company that's located in Sharonville, but they come to Springdale to do a job. If their employees, throughout the year, are in Springdale less than 12 days, then they were not required to withhold on those employees. Once they hit that 13th day, then they had to account for everything. They had to send everything in back to the first day. Under House Bill 5, it becomes a 20-Day Rule. If, in the first from 1 to 20 days, they are not here for 20 days, they do not have to withhold on their employees. If they are here the 21st day, all they have to do is go from that day forward. So we are out of the first 20 days, under House Bill 5.

City of Springdale Council

November 4, 2015

Mr. Williams (continued): The effect that this will have on the revenues is unknown, because I am sure a lot of those businesses are small companies and they don't want to change their payroll systems. They don't want to change how they're doing things. If they go that route it really won't have any effect, but if they decide that they're going to keep track of it and not pay on those, then that could have a small effect. We're talking about businesses located outside of Springdale, so it's not major to begin with.

Small Employer Treatment: Currently on businesses located in the City, and all businesses that earn revenue from activity in the City, they are required to withhold on employee wages with the exception of the 12-Day Rule. Under House Bill 5, they define a small employer as a business with revenues less than \$500,000 in a year. If they qualify under that, the only place they need to withhold is the city where they are located. So again, with the Sharonville example, you have a business located in Sharonville and they come into Springdale to do a job. If they are under \$500,000 in annual revenue, then they don't have to withhold to us at all. They have to withhold everything to Sharonville. Now, when you look at this, you can say, okay, we're going to be out of that revenue, but then we have the small businesses located here that have to withhold everything to Springdale, where in the past, maybe they had Evendale, Sharonville, and we just got a small portion of that where now we will get all of those withholdings.

The next item is Do Not Collect/Do Not Refund: The current amount that we don't collect or we don't refund is \$3, three dollars of taxes. The amount for House Bill 5 is \$10 Do Not Collect/Do Not Refund. For this, we reviewed the resident and business accounts for 2014 with a tax liability that was between \$3 and \$10. The total collected on those accounts was less than \$1,000. So again, that will have some kind of impact, but not major. Also, that works on the other side, as far as Refunds. We reviewed refunds in 2014 for amounts between \$3 and \$10. The total issued from that was \$150. So again, the amount we get back should not be anything major.

Obtaining a Tax Return Filing Extension: Currently, a written extension request must be received by April 15th, the tax return due date. If the account is current, then a 7 ½ month extension is granted. Under House Bill 5, if a business, or if anybody, a business or a resident, is on a federal extension, they don't have to send that in by April 15th. They can just send that in when they file. So if the feds give them a six-month extension, they're automatically extended with us for six months. As long as they provide communication or give us a copy of the federal extension when they file, they're not late. This should not have any revenue effect since the extension is for filing of the return and not for payment. What this will have an effect on is internal procedure to determine what accounts are delinquent. After April 15th, we have a huge stack of accounts to review. We go through those and determine who has filed and who has not. After a certain amount of time goes by, we start sending out letters reminding people they have not filed. This time, we won't know immediately of those who are on a federal extension. If somebody is not on federal extension, then it's the same rules as the current ordinance.

Interest Assessment: Currently, tax balances are assessed interest at 1% per month, which is an annual of 12%. Under House Bill 5, interest is assessed at the federal short-term rate plus 5%. So, since right now, the federal short-term rate, rounded to the nearest percent, which is 0%, so that means next year it will be 5% and that's an annual rate. That's subject to change annually, based on the federal short-term rates. So you have to always take the federal rate and add 5% and that's what our rate has to be for the next year. The rate has to be posted by October of every year on our website.

Penalty Assessment: Currently, we have penalties for the following: \$25 penalty for late return filing; \$25 penalty of 70% of the tax liability if not paid by January 31st; 2.5% per month of withholding balance for late withholdings; and a 25% penalty for late withholding W-1 filings that they file quarterly. With House Bill 5, a late tax return filing is \$25 per month, up to a maximum of \$150. If somebody is late six months, according to this, we assess them \$150, which is a lot. We went through this a long time ago, trying to clear up our penalty structure and take it down to what we thought was a fair amount.

City of Springdale Council

November 4, 2015

Mr. Williams (continued): Then House Bill 5 comes along and says you have to assess this but the bill gives the Tax Administrator the authority to basically reduce penalty and interest to what they believe is a fair amount, which is what we plan to do. We are not going to hit people over the head with this. We are just going to tell people: "Hey, we have to assess this at \$150 because you're six months late, but we're not going to charge you that amount. We are still going to charge you the \$25 because we can do that." For tax balances due, there is a 15% penalty and for late withholdings, there is a 50% penalty. We implemented our 2.5% per month on withholding balances basically because it's not their money. It's our money that they're holding in trust and withholding from their employees and when it's late, it can have a drastic effect and we currently assess 2.5% per month, which is 30% annual and it really gets their attention. They call and say hey, what can we do about it? I look at it and just assess it for fairness. They are appreciative of that and they take care of the balance, and they pay the penalty. Any effect on earnings tax revenue will be small, since penalty and interest have historically made up less than 1% of what we get in total, for earnings tax.

Quarterly Declaration Payments: Currently, the 1st Quarter is due April 30th, the 2nd Quarter is due July 31st, the 3rd Quarter is due October 31st, and the 4th Quarter is due January 31st, with 70% of the tax liability needing to be paid by January 31st. Under House Bill 5, the 1st Quarter is due April 15th, the 2nd Quarter is due June 15th, the 3rd Quarter is due September 15th, and the 4th Quarter is due December 15th, with 90% of the tax liability due on December 15th. This could, again, have a positive effect in 2016, but it will even out because they are saying you need to have your quarterly estimated payments in earlier. I believe those are the major items from House Bill 5. Do you have any questions?

Mr. Squires: Jeff, it doesn't look to me like, from what you said, that it will have a major impact here.

Mr. Williams: I do not think it will. We still have mandatory filing. Businesses here still have to file their withholdings and that doesn't change. There is a lot of procedural changes, a lot of things that we have to know internally regarding how do we assess this. One thing that happens as a result of this, our old tax ordinance doesn't go away. It is still in effect through 2015. We still have people that will file late so we have to, if they're filing a 2015 two years from now, we still have to know what those rules are, and then as we move forward, obviously, we have to look at House Bill 5.

Mr. Hawkins: I just want to say Exhibit B, the table, makes it much easier to digest, to be able to see the effects from the current ordinance and the possible changes, so thank you for that.

Mr. Squires: Well done.

Mr. Williams: Thank you.

Mr. Parham: I would respond to Mr. Squire's question by saying that it doesn't appear it will have a large monetary effect on us, but it will have an effect on us. It will have an effect on our operations and I, just like the Mayor, believe this is setting up an opportunity and a process to begin to take things and move them to Columbus and, at that point, you will then see the financial impact. So it may be, as we review this information right now, you see small dollar amounts, but this isn't about the dollar amounts right now. This is about setting this process up so if they decide to make one full pen swipe, then they have control of collecting our earnings tax and we no longer have control of that. Our earnings tax for our community is 82% of our Revenue. That is major.

Mr. Squires: So you see it as a matter of control?

Mr. Parham: I see it as them preparing for some future date as the Governor, our current governor has said previously, and his Tax Commissioner has said previously, that they believe they can handle and manage these dollars better than local governments can.

Mrs. McNear: Another thing that you will see once this ordinance takes place and things go down the path that we think they will go, with things being handled in Columbus, the other impact you will see is the services, because the services that are provided by our Tax Department now will change if we don't have the responsibility for collecting the taxes that are due us internally.

City of Springdale Council

November 4, 2015

Mrs. McNear (continued): So that will be another impact and it won't just be financial. So services we expect today – like you know they're not going to be able to walk in and have someone do their taxes for them necessarily. There could be some other impacts as well; definitely not something that we're in favor of. Thank you.

Mr. Squires: Well said, I agree.

Old Business

- none

New Business

Mayor Webster: I'm not sure where this belongs, but I would like to just take a few minutes to talk about the election. As all of you know, we elected three at-large Council people, we elected the Finance Director, and we elected the Mayor yesterday, and all for the next four years. I'd just like to take this opportunity to congratulate the winners and also congratulate the, I guess we had about 2,507 people that came out; I think those are the real winners – people that went out and cast their voice by going to the ballot box and expressing their preference so I'd like to congratulate those people for doing it and I'd also like to take this opportunity to address the people that were not elected. There were certainly no losers. I think it was a great experience. I'm sure the two young men in the back row would attest to that. I think there were some atrocities that took place yesterday. In that vein, a person can just stick their name on a ballot, syphon of almost 600 votes and you know, so what, big deal. No money spent, I guess there was a \$40 filing fee and stole 600 votes from legitimate candidates and I think that's a real atrocity. I don't know that there's anything this body can do about it or should do about it but I think it's just something people ought to think about. We encourage people to run for public office, we encourage people to get involved, but if you're going to do it, damn it, do it! Don't stick your name on the ballot and steal off enough ballots to change the outcome of the election. I think that's a real atrocity. That being said, I would like to also say that I did get a call this morning, 07:30 a.m. San Francisco time, from Mrs. Harlow, offering her congratulations to me. That was very gracious of her and I appreciate that comment. I'm looking forward to our new government, the new Council people getting seated, looking forward to working with those folks and I think that the work really starts now. The campaigning we think is hard, and it is – it's very stressful for the family and the candidates, but then the real work lies ahead of us in the next four years of administering this government and making this a great place for people to live, raise a family, and work. I look forward to working with all of the successful candidates and also to the unsuccessful candidates. I urge you guys to stay involved and I'm sort of out of kilter here tonight because I looked down here and didn't see you guys, but anyways, stay involved and good luck to all of you. Thank you very much.

President Vanover: Thank you, Mayor. I would echo your comments about the high cost of the phantom candidate and also it kind of reflects back on us that we need to know who the candidates are – this morning I was just shaking my head in total disbelief, that that could actually go on as much as we, our system is touted - we saw the shortcomings and it just amazes me that people will vote and not know what they're voting for and that's a shame. That's our responsibility as voters to do our homework so I hope that a lesson learned and passed on. Another example of why we need Civics being taught again. While we're on New Business Council, we have forthcoming, actually terms expiring the end of this month. On Planning Commission, I have, Council appointment, we have Mr. Nienaber. Oh, I'm sorry – he is, I'm sorry, I'm looking at BZA. He is 2017. We have two Mayoral appointments, which the Mayor I'm sure will, the one that will concern us is Mr. Robert Weidlich. Mr. Weidlich has tendered his resignation, or intent not to continue, so we will need a Councilmatic appointment for BZA. We have two Councilmatic appointments on Planning Commission. I have texted Mr. Okum; I will make a phone call to Mr. Bauer to see if they are interested in continuing on. Charter Revision - we have one, it looks like and that is December 31st of this year, Mr. Mastrullo, so we'll check and see of his continued interest. We also have a Civil Service appointment, Mr. Coleman. We'll want to make contact with him and if he does intend to continue on and that's Civil Service and, by virtue of his appointment on the Review Board too. Parks and Recreation are the Mayoral appointments, likewise Board of Health. We have a Tax Review Board - Mrs. Rose Fehr has moved out of the city; actually that one stated January.

City of Springdale Council

November 4, 2015

Mr. Parham: Do you have an older version?

President Vanover: Well, I guess I do.

Mr. Parham: The members currently on that board are Mr. Roy Mitchell and Mr. Dan Jacobs and then Mr. Knox is the Council Representative on there.

President Vanover: Okay, well, I see I need a revision. I think that pretty much makes up the appointments that we will need so be thinking about that. We will want to act really at our next meeting because both the Planning Commission and Board of Zoning Appeals do expire at the end of this month and we want for them to be able to operate without handicapping them in any measure. That concludes my discussion on New Business.

Meetings and Announcements

Mr. Squires: The Springdale Board of Health will meet tomorrow evening, the 6th of November at 7:00 p.m. in the room adjoining Council Chambers. (Note: date corrected below).

Mr. Hawkins: Planning Commission will meet on November 10th at 7:00 p.m. in these chambers.

Mayor Webster: There seems to be some confusion on a date – what are you saying?

Mrs. Webster: Jim is saying meet tomorrow night; the meeting is next Thursday for Board of Health.

Mr. Squires: We meet the second Thursday.

Mayor Webster: Tomorrow will be the first Thursday.

Mr. Squires: It's the 13th, isn't it? Yes, thank you.

Mayor Webster: The 12th.

President Vanover: The 12th is Board of Health.

Mayor Webster: I'd just like to remind everyone that next Wednesday, the 11th, is Veterans' Day and we will have our annual Veterans' Day memorial service across the street at our memorial. It starts at 1:00 p.m. Our Honor Guard will be there; we have a young lady singing the National Anthem. Reverend Norman Paslay from the Calvary Church will be doing the Invocation; I'll have a few opening remarks. Our guest speaker is Colonel Dan Burris. Our Springdale Elementary 4th grade choir will be there. We will be laying a wreath with Mrs. Frances Basham, who is the widow of recently departed Ronnie Basham. Taps and service will conclude with the Springdale Elementary choir. We urge all of you to please attend and it's one of those events where we will have no public recognition of any elected officials – this day is for our veterans, and that's exactly what we'll honor next Wednesday so please join us at 1:00 p.m.

Mr. Diehl: The Finance Committee will meet on November 23rd, which is a Monday, at 6:30 p.m. in the Administration conference room.

Mr. Knox: The Board of Zoning Appeals will meet on November 18th, in this chamber at 7:00 p.m.

Communications from the Audience - none.

Update on Legislation Still in Development

Mr. Squires: Council, as you review your Internal Memorandum, Ordinance No. 26-2015, that is the First Reading of that, of Codified Ordinances of the City of Springdale Regarding Municipal Income Tax. That would be Item I.

City of Springdale Council

November 4, 2015

Mr. Squires (continued): The other items on here would be forthcoming: Ordinances Authorizing the Annual Contracts for the Mayor's Court – Magistrate, Prosecutor, and Public Defender with Emergency Clauses. Item III, forthcoming – an Ordinance Accepting the Bid and Authorizing the Mayor and Clerk of Court/Finance Director to Enter into a Contract with the Lowest and Best Bidder for Waste Collection and Recycling Services and thus Declaring an Emergency. Item IV would also be forthcoming. Several Resolutions, either confirming Mayoral appointments and/or Council appointments to various Boards, Commissions and/or Committees. Item V again, forthcoming – Adopting the Final Appropriation and Transfer Ordinance for 2015. Item VI, Adopting a Temporary Appropriation Ordinance for the period January 1, 2016 until FY-2016 Appropriations Permanent Ordinance is approved by City Council. Item VII, an Ordinance Setting the Compensation for the Elected Mayor for Calendar Year 2016 and Declaring an Emergency. Item VIII, forthcoming – an Ordinance Setting the Employee Pay Rates for 2016 and thus Declaring an Emergency. Last, but not least, well that would be it. There's a Council Swearing-In Ceremony scheduled for Sunday, December 1st, 2015, time To Be Determined and coming up is the 2016 Budget and the Introduction of a new Administrative Assistant in the Building Department, Mary E. Morsch at the December 2nd Council meeting. That would be it, Mr. President.

President Vanover: Mr. Parham, I'm sure you got it.

Mr. Parham: Yes, sir.

President Vanover: Go ahead.

Mr. Parham: That was not Mr. Squire's error. That was in the Memorandum, so that is on me. The Swearing-In Ceremony is on Tuesday, not Sunday, December the 1st.

Mr. Squires: Okay.

Mr. Parham: The only other thing that I would add, Mr. President, is perhaps, four Resolutions of Appreciation since the next meeting would be the last meetings served by Mr. Squires and Mr. Knox, as well as Resolutions of Appreciation for Mr. Weidlich and Mr. Kellner and, I believe, Mrs. Boice, on Planning.

Mayor Webster: Don't we usually do those on the first? I don't think we do those at the last meeting in November.

Mr. Parham: It's up to you.

Mayor Webster: Traditionally, we do it.

Mr. Squires: I'm in no hurry.

Mayor Webster: Well, yeah. I mean, I would suggest we do those Appreciation Ordinances as we have in the past, on the 1st of December.

President Vanover: Okay, that's fine.

Mr. Parham: We will put them on there then for the 1st.

President Vanover: Okay, excellent.

Mayor Webster: I guess I'd just like a concurrence from Council and also Mr. Shroyer back here – do you want us to go ahead and make dinner arrangements for the 1st of December? We usually have a Unity Dinner. We all go out for dinner and we'll be more than happy to make those arrangements unless somebody else wants to stop forward and do that.

President Vanover: Volunteers?

Mayor Webster: So swearing-in at 6:00 p.m.?

City of Springdale Council

November 4, 2015

President Vanover: I thought we were going to do 7:00 p.m., since it's a weeknight.

Mayor Webster: Late dinner.

Mrs. McNear: My suggestion was going to be as early as possible because by the time we have our meeting and get to dinner, it is 9:00 at night and that is way too late for a dinner.

Mayor Webster: 6:00 p.m.

Mrs. McNear: 6:00 p.m.

President Vanover: 6:00 p.m.

Mr. Squires: 6:00 p.m. is good.

President Vanover: Okay.

Mr. Parham: Just for clarification, the meeting is at 6:00 p.m.

President Vanover: Yes, the meeting is at 6:00 p.m., correct.

Mayor Webster: Mr. Forbes, will you take care of getting one of the judges to swear us in?

Mr. Forbes: Yes, we were just waiting and if that's what Council would like, then I'll take care of that.

President Vanover: Judge Marsh.

Mr. Forbes: That will be my first call.

President Vanover: Yes. Administration, we're covered for Requested Items for next meeting?

Mr. Parham: We're covered.

Council adjourned at 7:43 p.m.

Respectfully submitted,

Kathy McNear
Clerk of Council/Finance Director

Minutes Approved:
Tom Vanover, President of Council

_____, 2015