

MINUTES PUBLIC MEETING
REYNOLDSBURG CITY COUNCIL
May 5, 2014

President of Council Doug Joseph called the public meeting to order at 7:00 p.m.

Members of Council present: Cornelius McGrady, III., Mel Clemens, Barth R. Cotner, Chris Long, Daniel J. Skinner, Scott A. Barrett, Leslie Kelly.

Approval of Agenda

Public Meeting regarding the proposal to enter into a Contract to create a Joint Economic Development Zone with the Township of Etna, to facilitate economic development, create and preserve jobs and employment opportunities, and improve the economic welfare of the people of the State, the County of Licking, the Township, the City and the Zone.

Mr. Joseph: A number of speaker slips and if anyone has not yet filled out the speaker slips they can comment on the JED this evening please fill out a yellow slip in the back in the hallway. Bring it up to me and we will get you into the lineup for the speakers tonight. Let's just jump right in with the speakers. If everyone can please keep as close to three minutes as possible so that we can get as many people to give their comments (inaudible) amount of time we have before the meeting this evening. First is Nyla Benson. Please come up to the microphone here and give your full name and address for the record.

Nyla Benson-2390 Sherwood Road Bexley, Ohio-I am the Vice President of Human Resources for Ascena Retail Group. I'd like to thank the council for hearing us this evening. Ascena Retail Group owns a couple of the brands here locally-Justice and Lane Bryant. We also have other retail brands in other communities. We are the first business to locate to the Etna Corporate Park with our distribution center and its we are the largest employer in that area. Ascena opposes the JEDZ. It is an unfair tax. The tax will affect our associates. They have to pay this additional tax with no tangible benefit. We recently expanded into the neighborhood and have been actively supporting the community. We are part of the community and we want to continue to be part of this community. Ascena doubled its size of its distribution center and we relocated the core of our services support for all brands to Etna. We're building onto the facility and will be moving in May. I am an example of relocation. I've moved to Ohio from New Jersey in March to be part of this organization here in Ohio. We've made significant contributions including the high school and supporting them. In the process of expanding in Etna we negotiated incentives with the state, worked with the local leaders, partnered with the schools and this JEDZ tax goes in the exact opposite direction from what we were trying to accomplish with our community here. The associates end up bearing the burden and it is unfair. The proposed JEDZ will receive less than 12% of the new tax revenue. It's estimated to be \$60,000 or less annually for future economic development. Clearly that is not enough money to have economic development. Ascena has reached out to the Etna trustees on multiple occasions to partner and work through other solutions. For example we offered to discuss a pilot program with the township to help with the budget constraints. We are disappointed then despite this the JEDZ proposals continues without

any additional discussion with us on it. The proposed JEDZ we believe will impair economic development and we will feel it's unfair and it is going to deter Ascena from continuing to expand in the Etna area. Thank you.

Mr. Joseph: Any questions? Next is Eric Pidgeon. Please come up to the microphone and state full name and address for the record.

Eric Pidgeon-200 Heritage Drive Pataskala, Ohio: Good evening and thank you for your time. I have worked for Ascena Retail Group for nearly 14 years now and I concur with Nyla's statements on behalf of Ascena Retail Group. I do oppose the JEDZ tax and um that is all I have to say.

Mr. Joseph: Any questions? Next is Jeff Gilkey. Please give your full name and address.

Jeff Gilkey-200 Heritage Drive Etna Ohio: Good evening and thanks for your time tonight. I have been an employee at Ascena for about 9 years. I agree with Nyla and Eric. I oppose the JEDZ tax. I pay a local tax as well as um I think its unfair fair for all the associates. I wanted to say that on behalf of Ascena Retail Group.

Mr. Joseph: Any questions? Next is Melissa Lester. Please give your name for the record please.

Melissa Lester-8200 Rameys Crossing Blacklick Ohio: Thank you for your time this evening. I am a senior community resource manager for Ascena Retail. I also oppose JEDZ tax for our associates. It is unfair to them having to take that out of their checks. (Inaudible) for their take home income for their family.

Mr. Joseph: Any questions? Next is Opha Lawson. Name and address for the record.

Opha Lawson 437 Sherwood Drive in Newark, Ohio: I am an employee of Ascena Retail Group in Etna and I am opposed the JEDZ tax as well. As a resident of Newark I pay an income tax on my school district and also on my city tax. So it would be a 1.5% increase to my tax. I feel that it is unfair. Not just to me but for all employees at Ascena.

Mr. Joseph: Any questions? Next is Jodi Null. Please give your name and address for the record.

Jodi Null-5957 McIntyre Dr. Dublin Ohio: I am the director for the Etna Facility-I have worked there for about 8 years supporting the Etna facility um namely our distribution center associates um that are about an average wage of \$12 an hour now. We work really hard to compete in that area to ensure we are paying wages that are competitive in the market. A 1.5% tax would be unfair. We are very opposed to this especially on behalf of our associates and the impact to them and their families. We ask that you consider this when making your decision. Thank you.

Mr. Joseph: Next is John Zeiger. Please state your name and address for the record.

John Zieger: Before I start may I provide each member of city council with a letter that I sent to your city attorney?

Mr. Joseph: Yes

John Zieger: Good evening. I am a partner in the litigation boutique of Zieger, Tiggus and Little. It is a law firm in Columbus, Ohio. We have been retained in recent days to represent Ascena Retail Group in the situation involving the proposed JEDZ. Like the other speakers before me I appreciate the opportunity to be heard this evening. My office is located 3500 Huntington Center Columbus, Ohio for the record. As Nyla and the other individuals from the company have indicated they are very opposed to the adoption of the JEDZ. A complete misnomer under the contract you are being asked to approve this evening. Ascena has retained us to assist it with protecting its employees. Some of who you have already heard are already paying other taxes in other jurisdictions and will end up with yet again another tax load. The JEDZ as envisioned by the Ohio General Assembly was intended to provide economic within that zone. It was never intended to provide additional revenue to cities that may be struggling to meet their obligations to their residents. It was never intended to become a mechanism by which townships could tax a portion of the township for general services that they are already obligated to provide. Indeed the statute creates the potential for a JEDZ is perfectly clear. The contract that the city of Reynoldsburg would enter into with Etna Township has to provide that the money that is going to be resulting from these taxes be used for economic development in the zone. Not for the general purposes of Reynoldsburg. Not for the general purposes of the township. It has to be used for what was being taxed which is the creation of economic development in that zone. The contract that you are being asked to approve this evening has been reviewed carefully. I hope you have taken a look at it because it has serious consequences. For example do you understand that 70% of the money that these people will be taxed may be used by the township for anything the township wants whether or not related to economic development within the zone? Indeed the contract they are asking you to approve expressly says they have no obligation to use the money for anything that would relate to the zone. Do you understand that the contract you are being asked to approve this evening expressly provides that Reynoldsburg gets 20% of what these people will pay in taxes and obligate you to do essentially nothing in return for that money. And do you understand the contract that has been put before you has been put before you for approval provides that the JEDZ board of trustees gets 10% of the money. That's all for devotement within that jurisdiction. Doesn't that sound kind of strange? That somehow these people should be taxed for economic development in their zone but the money never gets used there or at least 90% or so of it never gets there. Yea it does sound strange and frankly it is illegal. It is illegal under the statutes of Ohio. But we all know the story of the Boston Tea Party. What was the Boston Tea Party all about? It was about the efforts of the British to impose taxes on the colonists with money that would then go to another jurisdiction. Great Britain. And you know the way this contract is written for this JEDZ is exactly what is happening here. Why do I bring up the Boston Tea Party? Because it led to the American constitution. I suspect that each of you took the oath to uphold that when you became members of city council. And in that constitution there is a due process clause and the supreme court of the United States has said that for a city to impose a tax it has to have a relationship with the people that it is taxing. That's called a nexus-a technical legal word for relationship. Here you have no nexus with these people who are working

in a location that is not part of your community and in a location and residing in a location that is not part of your community. There is no question that you can impose a tax on your residents or people who work within your city limits but you can't impose a tax on people who have no relationship with your city what so ever. No matter how hard it may be to meet your obligations to your citizens and maybe no matter how hard it is to deal with any revenue shortfalls here. My point is that the contract is drafted bylates the statuette and bylates the constitution of the USA and by the way the constitution of Ohio as well. Ultimately the issue of the JEDZ is being debated throughout this entire state. Additional revenues are badly needed. What a great outcome but does it make any sense? I suggest to you that it doesn't and that's why the other two JEDZ proposals that have surfaced in central Ohio in recent months have both been affirmatively rescinded within the last two weeks and taken off the ballot. The citizens and the legislative authorities of those other cities and townships concluded that this doesn't make any sense. I ask that you carefully consider what you are doing this evening and particular I would also ask you as you will see in the letter to consider that fact that under the contract that is drafted if a legal challenge is brought to this JEDZ this city of Reynoldsburg will have to foot the entire bill. Perhaps several hundred thousand dollars and if those challenges will be successful which I guess they will be you will never recoup that money under this agreement. A strange provision given the fact that the township gets 70% and you only get 20% but you have all of the litigation risks associated with your obligations under the agreement and they have none. Again I suggest this makes no sense for the citizens of Reynoldsburg. So I would ask you to carefully consider the question of whether you approve this contract or not. I would ask you to defer any action to make sure you understand the legal consequences of this entirely and I would ask at the end of the day you do like the other two townships that have recently rescinded the JEDZ that have been previously been adopted and decide to reject this contract and work within your own city for revenue sources that may be needed. You've been very kind to hear me out. If there are any questions I would be glad to try my best and answer them.

Mr. Joseph: Any questions? Yes Mr. (inaudible)

Mr. Skinner: Thank you Mr. Zeiger for coming. Do you um. . . I would assume that your firm has looked over control (inaudible) stuff like that?

Mr. Zeiger: We have.

Mr. Skinner: Is that something that you can get to Mr. Hood and also to my attention when you get a chance?

Mr. Zieger: I would be glad to send them to you tomorrow.

Mr. Skinner: Thank you. I appreciate that.

Mr. Zeiger: There is a court of appeals decision out of Lucas County that is the primary decision. Part of it says very directly that the use of JEDZ money by a township for this purpose of providing the services they are already obligated to provide is illegal. Indeed that is exactly what this contract calls for.

Mr. Skinner: How high did that case go? Is that a Supreme Court case?

Mr. Zeiger: It was not. It only went to the appellate court in Toledo. It also in my view misconstrued the limitation on the provisions that are required in the contract and we are prepared to take on that issue if necessary.

Mr. Skinner: Are you representing parties in that case?

Mr. Zeiger: I was not. This was some time ago in Toledo.

Mr. Skinner: Anything in the 10th district?

Mr. Zeiger: Nothing.

Mr. Skinner: And I suppose you don't mind to forward that to Mr. Hood as well?

Mr. Zeiger: Mr. Hood has been most cooperative with us on some public records request regarding this matter in fact. Extraordinarily cooperative and I expressed my appreciation to him earlier. I will be glad to get that to Mr. Hood and as well as you Mr. Skinner.

Mr. Joseph: Any questions? Mr. Hood just to get your input on this. The numbers that the gentleman cited on the city being liable for hundreds of thousands if we are brought into a suit on this-what is your assessment on that?

Mr. Hood: I would be happy to discuss that in executive session with you, Mr. Joseph. Once you conclude the public hearing I believe that we have a committee meeting with this on the agenda and also a special council meeting. I would be happy to talk to you then.

Mr. Joseph: Any other questions? Thank you. Next is Norm Brusk.

Norman Brusk, 1861 Crosswick Court, Actually what I am requesting is maybe someone like Dan give us an overview of what this does, what the effects are, what's the purpose-I got some of it but I am still quite confused about it. What are the advantages and disadvantages to Reynoldsburg? What are the consequences-Just heard one? Um what happens if Reynoldsburg doesn't approve this to as far as that goes? And that is all I have. Thank you for your time.

Mr. Barrett: Mr. Hood would you like to touch on that as appropriate? Or Mr. Havener?

Mr. Havener: JEDZ is an agreement that's brought between a township and a city that allows the township or gives them the ability to levy a tax upon workers within the JEDZ described area as well as net profits of the company itself that within that some area. Townships without this ability don't have the power to levy income taxes so without this JEDZ the township which they are well why they are going for it is due to the fact that they need funding to provide the improvements and infrastructure needed for uh the maintenance of the existing roadways as well as improvements that will be needed down the road for additional businesses coming into the

area. It's a benefit to not only bring new business but for the expansion and retention of existing businesses within the area.

Mr. So that's basically the JEDZ. What we as a city are doing. We would basically be acting as the agent for the township. We would be engaging in the activities to promote and compliment basically the benefits for the economic development of not only the JEDZ but the surrounding areas. And we would act as a partner with the township to assist them in their development needs and planning purposes. So besides that the city auditor and his staff would basically acting as the accounting, book keeping, purchasing and income tax collecting enforcement agency and administration services uh any administration services to provide for the service of the JEDZ would be handled by the city. Is there anything else Mr. Brusk would like to know? As presented previously the city in return for its service and partnership with the township would be getting the 20%. That would be the 20% of the net income from the JEDZ and 3% of the gross profits and revenue from the JEDZ would be going to RITA who would be overseeing the income tax for the JEDZ also. The city would be working with RITA and partnership to take care of that situation. Is there anything else I can answer? Norm is that giving you the answers you need? Ok.

Mr. Joseph: Thank you very much. Last speaker is Rob Platte. Please give your name and address.

Rob Platte, Thank you President Joseph and members of council. My name is Rob Platte and I am the township administrator at Etna Township. The township hall address is 81 Liberty Street Etna, Ohio 43018. I would like address some of the statements made before me here and try to clarify a few things for you. I do realize there are some questions and maybe some answers. This is new to council as I am aware you are not involved in any other JEDZ. Just to address a few things that were brought up this evening and then kind of tag on to what Mr. Havener said. There was a question on the percentage breakdown and we have had a great relationship with Mr. Havener, Mr. Hood and the mayor trying to figure out what works for both entities. The JEDZ tool by Ohio Revised Code is an economic development tool for a township and a municipality to partner together. The basis for that is to spur on economic development. As stated before Etna township and townships in Ohio do not have the ability to levy an income tax. What's interesting about that is that tax abatements for businesses get granted for businesses to come in but then the townships are burdened with the infrastructure improvements and maintenance with no taxing tool in place to try and offset those costs. Especially when those abatements are put in place. First I want to address percentages as stated before the city would get 20% for its services. We are looking forward to working with Mr. Havener with economic development expertise and helping us that way to bring things into the township. The 10% to the improvement account is for specific-it's very specific in there what that can go to in the improvement account for the board to use for the JEDZ purposes. The other 70% goes to Etna Township. The intent of the trustees is to use it for . . . you know we have had some discussions. Across the state we have heard things of townships using them for all kinds of crazy things but at any rate Etna townships look on is when water and sewage improvements need made the township will be able to partner with the water and sewer district to make things happen. Not only in the corporate park but over the 310 and 70 exchange area. If fire services need to be improved the township will have the ability to

partner with an entity to do that. Obviously with a corporate park and three story buildings it begs the question do you need a firehouse, ladder truck and other things like that. As more people are working there medics become a question and things like that as well as police protection. So the large percentage gives the township the ability and the funding to be able to make things like that happen and those are the things that are going to spur on your economic development. So that is why we kind of structured it that way to give the township the latitude of the ability to make those things happen to improve the economic development. There was a question on legality of this. ORC715691 is what provides for this. Not only has the township retained an attorney for legal services but Mr. Hood obviously representing the city has reviewed this and I can assure you that it has been done to the letter of the law and what is provided in the ORC has been followed. The economic development plan does state out that generally what it will be used for but that is kind of difficult to put a specific structure on that when we look at the future and we don't really know exactly what is going to be needed. Where when I talk about fire and police and things like that we do not know if and when those things will happen or what so that is required by ORC and we did provide them a contract and to a sufficient matter. So Etna Township as you may be aware currently does have two JEDZ in place and those are with Prologis area. Those have been largely successful for Etna Township, Prologis and for the corporate park. Where we stand now is we have a corporate park where we have two main roads into it. We have Etna Parkway and Heritage Drive. These are all being served not just by Prologis but by the other businesses that are in this new JEDZ area. The questions becomes should only the Prologis companies be helping to pay for the infrastructure or should all of the companies pitch in to help these things happen. Certainly the township does not have ability without a way to levy an income tax so I would ask the council to look at what we have done with the first JEDZ. JEDZ 2 is on the south side of 40 so it is not creating things at this time but it has given us the ability to make some improvements there and will continue to do so and then JEDZ 3 is just expanding that area. I really want to address some of the people from Ascena had some questions and I want to reassure them. I'm not really sure what kind of information is out and being shared but I started with Etna township in June of last year and our office and I don't believe the trustees certainly not in their trustee email but not through our office has not received any kind of request from any of the businesses to have any discussions to sit down as board or anything. We obviously hold public meetings just like you do. I would go as far as saying that I when I came on board did reach out to the Licking county chamber of commerce because I do know that they were directly involved with the businesses and that was to no avail. I know that they were having meetings with those businesses and I made the point to say invite me and I'll let you know what is going on at the township and that never happened. I don't know what all is being said there but the main thing I want to make sure everybody is aware, This is not an increase in taxes. Then only time that this would be in an increase is if someone does not currently pay an income tax or if the city/municipality that they live in does not currently credit a tax. There was a gentleman that spoke from Newark. Newark imposes a 1.75% income tax so for a person who lives in Newark and works in Etna in JEDZ 3 with a 1.5% rate would not see any increase at all since they are already paying 1.75%. There is no increase in taxes for persons who are already paying likewise to the city of Reynoldsburg. It would be any municipality that credits-the employees would not see an increase there. Like I said I don't know what kind of information is out there but I wanted to clarify a few things so at any rate there has been some discussion around the state of House bill 289 and there was a question of legality and should

JEDZ be entered into and all that kind of thing. There are two-Perry and Jefferson Township that the gentleman before spoke of and those were pulled off the ballot and those are recent but you have to look at all the other ones that are in place that are working well to help the municipalities and the townships to be able to provide for economic development in their areas so we can't really just pick on two and say "Hey this is a reflection and changes need made in the ORC." But what I can tell you is Etna Township has two other ones that have worked successfully in place and adding a third one would incorporate the corporate park and allow us to provide those infrastructure improvement agreements and things that way to help bring the businesses in so we certainly excited about it. We are looking forward to working with the Economic Development Director Mr. Havner here and this has been looked at many times and this has been about a 2 year process for Etna township since they started and I can tell you the trustees are excited to work with Reynoldsburg. It is a big milestone and they are looking forward to it. I would be happy to answer any questions if there are any or maybe later in the evening.

Mr. McGrady: Sir you made reference to the other two JEDZ that are already in place. Could you forward those? I would like to see the language.

Mr. Platte: Of the JEDZ contracts? I most certainly can. I will tell you those were drafted when Etna Township had a different legal representation at that time so the format is a little bit different but the contents are similar. It will look a little bit different just so you are aware.

Mr. McGrady: You can send it to the clerk April. Thank you.

Mr. Skinner: Who is your legal counsel through this transaction?

Mr. Platte: We are represented by John Albers from Albers and Albers Law Firm.

Mr. Skinner: Would you mind sending me his contact information when you get a chance?

Mr. Platte: Absolutely

Mr. Joseph: Ok this topic will move on to the special meeting following committees. There will be additional discussion at that point.

Adjournment 7:38 p.m.

Doug Joseph, President of Council

April L. Beggerow, Clerk of Council