

NEW PHILADELPHIA CITY COUNCIL MET IN REGULAR SESSION IN COUNCIL CHAMBERS ON JANUARY 14TH, 2013 WITH PRESIDENT OF COUNCIL SAM HITCHCOCK PRESIDING. MR. HITCHCOCK OFFERED A PRAYER, AND ALL IN ATTENDANCE RECITED THE PLEDGE OF ALLEGIANCE.

COUNCIL MEMBERS IN ATTENDANCE:

- MS. SANDY COX
- MS. COLLEEN ESPENSCHIED
- MR. DAN LANZER
- MR. DARRIN LAUTENSCHLEGER
- MR. ROB MAURER
- MS. WINNIE WALKER
- MR. JOHN ZUCAL

MS. COX MADE A MOTION TO ACCEPT TONIGHT’S AGENDA  
MR. ZUCAL SECONDED THE MOTION  
ROLL CALL, 7 YEAS, MOTION PASSED.

MS. COX MADE A MOTION TO APPROVE THE MINUTES FROM THE PREVIOUS REGULAR SESSION OF COUNCIL HELD ON DECEMBER 27TH, 2012.  
MS. WALKER SECONDED THE MOTION  
ROLL CALL, 7 YEAS, MOTION PASSED.

CORRESPONDENCE . . . . . CLERK, PATRICIA MCKAY

1. Mayor’s Report/ Requests to Council dated January 14th, 2013
2. Salary Committee Meeting Minutes From December 10th, 2012
3. Mayor’s Monthly Statement to Council as of December 31st, 2012
4. Financial Committee Meeting Minutes From December 27th, 2012
5. Special/Contact Committee Meeting Minutes From December 27th, 2012
6. December 2012 Month End Summary for the New Philadelphia Fire Department
7. Auditor’s Financial Statement for the Month of December 2012
8. Auditor’s Monthly Statement of 2012 Revenue for the General Fund for December 2012
9. City of New Philadelphia Statement of Cash Position Month to Date Report as of December 31st, 2012
10. News Release dated January 2nd, 2013 from Mayor Taylor subject towing parked vehicles in violation of Codified Ordinance 303.08 (2)

ADMINISTRATIVE REPORTS:

MAYOR’S REPORT/REQUESTS.....MAYOR MICHAEL TAYLOR

Mayor Taylor addressed the following:

- Effective February 1, 2013 the Mayor announced that he is re-appointing Frances Fantin to the New Philadelphia City Board of Health. Frances has served for many years as a Board Member and has a keen interest of public health and a great working knowledge of our Health Department.
- The Mayor announced the appointment of Gary Little to the New Philadelphia Planning Commission. Gary is the Executive Director of the Tuscarawas County Community Improvement Corporation.
- The Mayor reported, he and the Police Chief met with officials from New Philadelphia City Schools at their request to discuss their thoughts about the potential to have Police School Resource Officers in some of their buildings. The Mayor reported that he indicated to them that we would be willing to discuss this further if they were able to fund the expenses of these new positions. School Resource Officers would promote the safety and well being of our students and staffs and provide other benefits as well.
- The Mayor welcomed Mr. Jerry Wortman as the new City Treasurer. He will be completing the final year of the former Treasurer’s four year term and has indicated his willingness to seek election to the position.
- Last Friday the Mayor participated in the assessment portion or interview/oral portion of the Civil Service Process to hire a replacement Police Chief upon the retirement of Chief Urban in March.

SERVICE DIRECTOR.....MR. JAMES ZUCAL

The Service Director reported the he wrapped up projects from 2012 putting them together in a booklet form for the next Council Meeting on the January 28th, 2013 and will be glad to share with all Members of Council. The Service Director announced that he will also have a list of accomplishments from 2012 and the new infrastructure tabulation.

AUDITOR .....MS. BETH GUNDY ..... NO REPORT

SAFETY DIRECTOR.....MR. GREG POPHAM

Mr. Popham reported the Chief’s Test was administered on Friday January 11th, 2013 along with the first half of the Sergeant’s Test. The Captain’s Test had been scheduled but due to lack of participation was cancelled. Mr. Popham announced they will re-post it to deal with that in the very near future. Mr. Popham also announced they should know something, probably, within the next week or so, on the Chief.

TREASURER . . . . .MR. GERALD S. WORTMAN.....NO REPORT  
ABSENT

LAW DIRECTOR . . . . .MR. MARVIN FETE

The Law Director reported the first item was old business that he wanted to address

1. At the last Council Meeting the Law Director requested an assignment to a Committee for the Service Director & Water Superintendent Ed Wilson to go into a contract with Conant Family Trust. The Law Director is withdrawing that request.
2. The second issue to address is in term pay raises:

When this issue was first brought up he had read a radiogram that one of the Council Members stated that there was nothing in the Ohio Revised Code that prohibited in term pay raises.

That is not exactly true and he stated that he had himself self to blame for that. He stated that means he has not made clear to Council what the Law is and as a result he actually changed his policy. He is going to have lot more written opinions so people will have things they can reference. He has given verbal as much as possible but he is going to start issuing written opinions. He informed Council that he wanted to clarify so the Council will be clear on their vote tonight.

- Ohio Revised Code does in fact prohibit in term pay raises in addition there have been two Ohio Ethic Opinions which also prohibit it.
- At least one Court of Appeals Opinion which prohibits in term pay raises however; This is the critical distinction the Fifth District Court of Appeals allows for in term pay raises and The Fifth District Court of Appeals Governs us.

Brief Civil Procedure Lesson so that you understand how the Court of Appeals system works:

- There are Twelve Court of Appeals in the State of Ohio.  
For example each one governs a specific geographic area.  
Tuscarawas County is governed by the Fifth District Court of Appeals.  
That means that if you want to appeal a decision in New Philadelphia Municipal Court, Tuscarawas Common Pleas Court, and Southern District Court; you would appeal it to the Fifth District Court of Appeals.
- Any ruling by the Fifth District Court of Appeals makes we must abide by.  
Any ruling by the Eleventh District Court of Appeals makes the people who live in that district must abide by for example Trumble County they have to abide by that ruling.
- Above all the Twelve Court of Appeals is the Ohio Supreme Court. Any ruling by the Ohio Supreme Court makes everyone has to abide by, the entire State of Ohio must follow. So consequently, you can issue that is decided one way in the Fifth District Court of Appeals and a different way in the Eleventh District Court of Appeals.  
The Ohio Supreme Court has never taken up the issue of in term raises.
- The vote the Eleventh District decision and the Fifth District Court of Appeals decision which was Bellville verses Beal was Fifth District Court of Appeals decision where the court said were free that a Non Chartered Municipal Corporation is not bound by the Ohio Revised Code in this regard.  
The other opinion doesn’t matter to us it is the Fifth District Court of Appeals that we must follow.
- It is legal and permissible in the City of New Philadelphia because of the Fifth District Court of Appeals decision. The Law Director stated that it is his personal opinion while it is legal he does not believe it is Good Public Policy and it is for that reason he asked and chose to forgo a pay raise an in term raise for his self and his professional staff in the Prosecutors’ Office.

The Law Director stated that he doesn’t have to tell this body he knows everyone here recognizes anytime we grant retroactive in term pay raises we generally hear from the taxpayers and they don’t like that.

So even though it is legal it is not good public policy. The Law Director is advocating Council take up the issue of updating salaries for all Elected Officials. He believes a study would find that New Philadelphia lags substantially behind similar sized Cities. Dover for example: In terms of what their Elected Officials are paid and he believes that it is time the Council considers upgrading the pay raises so we are in to it with other similar sized communities rather than doing 3 % in term pay raises every year. Do away with those all together and just set a salary that is mentored

with other municipalities our size and rather than have it paid in term it would take effect in the new term for any elected position. In other words example if you wanted to raise the Law Directors Salary he would advocate that it not take effect while he is Law Director but would takes effect in the new term than whoever is elected for the new term would be the person to get that raise. This is the Law Director's position on that he just wanted to make sure that was clear and apologized for any misunderstanding or confusion as to whether it was legal to grant in term raises. It is perfectly legal. Law Director's stated it his personal opinion that we need to change that policy.

**BOARD/COMMISSION REPORTS:**

**PLANNING COMMISSION.....MAYOR MICHAEL TAYLOR**

Mayor Taylor announced the Planning Commission did not meet in the Month of January because of a lack of an agenda. The next Planning Commission Meeting will be held Tuesday, February 12th, 2013 at 1:00 PM in Council Chambers pending and agenda.

**BOARD OF ZONING APPEALS.....MR. JAMES ZUCAL**

Mr. Zucal announced Board of Zoning Appeals did not meet in the Month of January. The next Board of Zoning Appeals will meet Tuesday, February 12th, 2013 at 5:00 PM in Council Chambers providing there is an agenda.

**AIRPORT COMMISSION..... MR. JOHN ZUCAL**

Mr. John Zucal announced that the Airport Commission met Tuesday, January 8th, 2013 at 6:00 PM in the Airport Meeting Room. The Commission heard a report from Loretta Snider, from the Michael Baker Jr. Company, our Airport Consultant. She updated the Commission on the status of the Safety Plan submitted to the FAA.

**PARK BOARD..... MR. DARRIN LAUTENSCHLEGER..... NO REPORT**

Mr. Lautenschleger announced that the Park Board will meet Tuesday January 15th, 2013 at 7:00 PM at the Tuscora Park Office.

**HEALTH BOARD..... MS. SANDY COX**

Ms. Cox announced that the Health Board will meet Wednesday, January 16th, 2013 at 12:00 Noon at the Health Department

**STANDING COMMITTEE REPORTS:**

**FINANCE COMMITTEE. ....MS. SANDY COX**

- Ms. Cox announced the Finance Committee requested:
  - The rules be suspended on Ordinance 18-2012 the Contract Agreement with the Public Defenders Commission in regard to indigents.
  - The rules be suspended on Ordinance 19-2012 Amending and Adjusting the Permanent Appropriations Ordinance for the year 2012
- Ms. Cox requested the Law Director to please provide the Finance Committee with a written legal opinion (or ruling) in regards to the Lodging Tax on any relevant information that pertains to enacting the 3% or distribution of the Tax.

Comment from Council Member Lautenschleger, "Is that why we don't have legislation drafted? "

Council Member Cox replied, Yes. "There were some questions."

Comment from Council Member Lautenschleger, "The Committee voted to have that drafted."

Comment from the Law Director, Marvin Fete:

"I received some information Friday from Ms. Dee Grossman that I wanted to take into consideration. I discussed it with the Chair Person. She stated that she was going to request a formal written legal opinion from him. I did do a draft that I was prepared to submit but I wanted to make sure to give a hard look at what Ms. Grossman had provided him to make sure it with the law. To make sure Council do what they are allowed to do. I think we all want to do what is right on the legal page. I guess you think it is my responsibility to review the information before I draft it. To make sure I draft it the way Council wants."

**SALARY COMMITTEE .....MR. JOHN ZUCAL**

Mr. Zucal reported that the Salary Committee met at 6:15 PM in Council Chambers with 2 items to discuss

1. Resolution 29-2012 the reappointment of Alan Welch to the Airport Commission. The Salary Committee did vote 3-0 to add the resolution to the agenda for the next Council Meeting
2. Heard presentation from the Fire Chief as well as the Mayor updating Council on the progress towards a new Fire Station for the City of New Philadelphia.

**SAFETY HEALTH & SERVICE COMMITTEE . . . . .MR. ROB MAURER.....NO REPORT**

**PUBLIC WORKS & ECONOMIC DEVELOPMENT COMMITTEE ...MR. DARRIN LAUTENSCHLEGER**

Mr. Lautenschleger reported that January 14th, 2013 the Public Works & Economic Development Committee met in Council Chambers at 6:45 PM with one item to discuss Proposed Enterprise Zone Agreement for potential location of GE Mobile Water in the Knisely Industrial Park. The committee was joined along with the Administration, Gary Little, Executive Director of Community Improvement Corporation, Scott Reynolds, Director of the Tuscarawas County Office of Community and Economic Development and Dale R.Wray, Project Manager of GE Power &Water.

Mr. Wray informed the Committee along with the Mayor the GE Mobile Water which is a division of General Electric is seeking to purchase a 17 acres plot of property in the Knisely Industrial Park and a 10 year Real Estate Tax Abatement at a 75% level is being requested. Along with this request there are certain obligation and rights that both the City and New Philadelphia City School District as well as Buckeye Local Joint Vocation School District have involved.

The GE Mobile Water the Water Purification Process provider and a division of GE that purifies the customers water. The first thing a lot of us would think of is probably related to the Oil/Gas Industries interest in our area. Actually it is not this is a strategic move by GE Mobile Water they have locations also in Virginia, Connecticut and St. Louis Area and they are looking to bring this service into Ohio and surrounding states. They are projecting 41,000 square foot facility in addition up to 50 jobs in a four year period after it opens. Of course the water to be used in the process will be purchased from the City.

Mr. Reynolds was able to provide the Committee with background about the Enterprise Zone Agreement Process and guidelines and handed out a potential range of what the abatement is worth in dollars over all.

Conclusion Mayor Taylor recommended that the City move forward with the process and a motion by Ms. Cox seconded by Mr. Maurer Committee voted unanimously to request the Law Director prepare the proper legislation for the Enterprise Zone Agreement to be enacted and placed on the agenda for the next Regular Session of Council.

The meeting was adjourned at 7:18 PM.

**ZONING & ANNEXATION COMMITTEE .....MS. COLLEEN ESPENSCHIED .....NO REPORT**

**CONTACT & SPECIAL COMMITTEE ..... MR. DAN LANZER ....NO REPORT**

**PARKS & CEMETERY COMMITTEE .....MS. WINNIE WALKER....NO REPORT**

**VISITOR’S COMMENTS:**

Diane Lautenschleger, 250 Lewis Avenue NW, New Philadelphia, OH 44663  
New Philadelphia Business and Community Association, 126 East High Avenue, New Philadelphia, Ohio 44663  
Diane Lautenschleger, Administrative Director, of New Philadelphia Business and Community Association

Ms. Lautenschleger addressed Council and distributed to all Council her final report as she has resigned her position effective January 17th, 2013. She provided Council with a three page written reported on Reflections of 2012 for NPBCA.

Ms. Lautenschleger reported on the following:

- Represented NPBCA by attending 87 meetings
  - Routinely attended New Philadelphia Council provided verbal reports
  - Spoke with New Philadelphia Rotary
  - Spoke with Twin City Development group
- Provided members with relevant knowledge to grow their businesses
- Inventory (155 businesses are housed in their CBD)
- 28 New Members
- NPBCA Partners
- Events held in 2012
- The dollar value of NPBCA Volunteer Hours 847 = \$18,456.
- Grant Applications
- Fund Raising Projects.

Ms. Lautenschleger reported the 2013 NPBCA vision for the City, which includes Full Store Fronts, Business Incentives, Capital Improvements and a Greater Experience for visitors and guests.

This vision needs to become collaborative with the New Philadelphia City Council.

Her Goals and actions always reflected her desire to work with Council noting the importance of shared vision.

She stated that without Councils’ support the NPBCA Program will struggle to truly advance the City. With Councils’ support, you can expect the City to become a premier model for other communities in areas of growth, advancement and engagement.

Ms. Lautenschleger stated she appreciated the opportunity to work with/ for Council during the past four years. Her goal was to make a positive difference in New Philadelphia and she feels she has accomplished that goal. She thanked everyone and extended her sincere best wishes to Council for continued growth and development.

President of Council Sam Hitchcock thanked Ms. Lautenschleger on behalf of Council “we appreciated the hard work that you have done for the City all the complete and informative reports and we wish you well in your new adventure.”

Council Member John Zucal expanded more on what Mr. Hitchcock expressed Mr. Zucal stated that he realizes all the time, effort and energy that go into planning all the different events that take place in downtown New Philadelphia; behind every event there were countless hours of planning hard work trying to organize volunteers. Ms. Lautenschleger made a significant difference in the City, from a Council prospective the detailed reports and updates consistently, that allows us to see the work that you put in as well as the countless folks that supported you. “I know you will be missed and I thank you, you did make our community a better place.”

Council Member Rob Maurer thanked Ms. Lautenschleger for her time, effort and passion. “Nobody is going to fill your shoes. I can only hope someone is close. I wish you the best of luck.”

Mayor Taylor thanked Ms. Lautenschleger, “Council member Zucal said it very well definitely the organization is much more stable the downtown is much better for the time you have put in. I want to personally thank you for that and wish you good luck in your new adventure I know we will still see you at NPBCA and we will value your input at those meetings thank you.”

Law Director, Marvin Fete thanked Ms. Lautenschleger he expressed his enjoyment of the events she put on and coordinated but stated it was even better seeing it through his son’s eyes. He stated that it was wonderful just being able to walk and stroll downtown and that he and his family are very grateful to her/NPBCA for all their hard work.

President of Council “you have raised the bar very high and left some pretty big shoes to fill please keep in touch.”

Dee Grossman Director of the Convention and Visitors Bureau and President of NPBCA. 124 East High Avenue  
Dee Grossman President, of the New Philadelphia Business and Community Association, 126 East High Avenue, New Philadelphia, Ohio 44663

President of NPBCS, Ms. Grossman addressed Council on the following:

- With Ms. Lautenschleger recent resignation Ms. Grossman would like to make sure we have some sort of mail process. NPBCA gets their mail at a postal box and Ms. Lautenschleger was the one who picked up that mail. If there are notices for Lodging Tax or any other notices of meetings that affect the City of New Philadelphia please make sure someone physically hands it to us or brings it over to the office. There may be a week or so that we don’t get over to the post office. We did miss the meeting on December 27th, 2012 for that reason. So I would ask that you try to provide us with a hard copy.
- The e-mail that the Law Director is referring to is a copy of some Ohio Revised Code information that she had provided to him she brought copies of those as well and passed those around.

Two questions in regard to the Lodging Tax.

1. Who can receive the Lodging Tax (according to the document that is going around)  
As a Municipal Government you are allowed to give that Lodging Tax to anybody as long as it is for a lawful purpose.
2. How long must the City hold the tax in escrow before it is distributed Ms. Grossman stated she heard that the City is thinking of holding it for 12 months and while you are allowed to do that there is no good reason to do that. That money in other communities has been released almost immediately. It has been successfully released and spent in the City of Wooster. We have that Codified Ordinance on file if you need a copy of that as well so it is lawful to give the money to the organization and it is lawful to disburse that money on a timely fashion Ms. Grossman announced that she will not be talking about the Lodging Tax again unless you want her to.

John Zucal has been hit up by Ms. Grossman at the Airport Committee Meeting several times on what the City are doing Pass the Lodging Tax Give a portion of the money to the New Philadelphia Organization. It does not all have to go and let us continue to carry the vision of this community forward she knows it is scary she knows collecting the money and letting it go to another Organization is scary but you have to trust NPBCA we really do know what we are doing and allow us to continue to grow this community because without it I’m kind of scared. To be honest we have lost Michael Ley she stated she was surprised Alan Rodriguez is still in town.

If we don’t fill those Store Fronts if we don’t put butts in seats in our events I’m sorry we are just going to have a City. I don’t know what it is going to look like So please pass the Lodging Tax get it moving get some of that money into the

Organization's hand so we can do some of things that we proposed almost a year ago and this is the last time I will talk to you about it Mr. Zucal.

Comment from Mr. Zucal "that is ok Ms. Grossman."

Law Director requested a copy of the Wooster Ordinance

Ms. Grossman replied it should be in your file it was sent to you right after your election.

Law Director stated he had Sugarcreek, Dover, Uhrichsville, Maumee and Marysville but not Wooster.

Ms. Grossman stated she will send it to him tomorrow and informed him they use it for the Main Street Program.

Law Director asked, "Did they do it on a monthly basis?"

Ms. Grossman, "they collect it monthly because the hotel is accustomed to that."

Law Director asked, "How do they disburse it?"

Ms. Grossman replied, "I don't know?"

Law Director announced that he is trying to find one that is disbursed on a monthly basis and asked if she had an ordinance to that affect he would like to see it.

Ms. Grossman thanked the Mayor for the good relationship they have acquired with the Fire Department.

When the renovation of the City building took place the Mayor ask if they could bring equipment in the Visitors Convention Bureau basement and they agreed. Ms. Grossman announced that they are getting ready to do some upgrades to that building.

Ms. Grossman stated she appreciated the partnership on that.

## READING OF ORDINANCES AND RESOLUTIONS

### ORDINANCES:

- 17-2012      An ordinance to amend and replace Codified Ordinance Chapter 947 Water Wells and Ground Water Protection, and enact the current replacement pages to the Codified Ordinances and declaring an emergency. (3<sup>rd</sup> Reading)  
Motion to vote on passage made by Ms. Cox  
Seconded by Mr. Maurer  
Roll call, 7 yeas, Ordinance passed.
- 18-2012      An ordinance authorizing the Mayor of the City of New Philadelphia, Ohio, to enter into an agreement with the Tuscarawas County Public Defender's Commission for the provision of legal representation for indigents charged with violations of New Philadelphia City Ordinances in the Municipal Court where such offenses carry a possible loss of liberty, establishing compensation and terms thereof, and declaring an emergency. (1<sup>st</sup> Reading)  
Motion to suspend the rules made by Ms. Cox  
Seconded by Ms. Espenschied  
Roll call, 7 yeas, rules suspended  
  
Motion to vote on passage made by Ms. Cox  
Seconded by Ms. Espenschied  
Roll call, 7 yeas, Ordinance passed
- 19-2012      An ordinance amending and adjusting the permanent appropriations ordinance for the year 2012 and declaring an emergency. (1<sup>st</sup> Reading)  
Motion to suspend the rules made by Ms. Cox  
Seconded by Mr. Lautenschleger  
Roll call, 7 yeas, rules suspended  
  
Motion to vote on passage made by Ms. Cox  
Seconded by Mr. Lautenschleger  
Roll call, 7 yeas, Ordinance passed
- 20-2012      An ordinance by the Council of the City of New Philadelphia to Authorize the Mayor of the City to enter into a contract with State Electric Supply Company to offer a three year Tax Credit for Income Taxes as the result of new jobs created beginning \_\_\_\_\_, 20\_\_\_\_\_ within the City for the Calendar year 2013, 2014, and 2015 and declaring an emergency. (2<sup>nd</sup> Reading)

## RESOLUTIONS:

31-2012 A resolution by the Council of the City of New Philadelphia, Ohio to authorize the rate increase for ambulance services provided by the New Philadelphia Fire Department for the calendar year 2013, and to adopt changes in the Ambulance Service Fees charged by the City of New Philadelphia for 2012, and declaring an emergency. (3<sup>rd</sup> Reading)  
Motion to vote on passage made by Mr. Lanzer  
Seconded by Mr. Zucal  
Roll call, 7 yeas, Resolution passed.

32-2012 A resolution to authorize the City of New Philadelphia to enter into a contract with the Tuscarawas County Commissioners and the Tuscarawas County Sheriff's Office for the Housing of inmates in the Tuscarawas County jail. And payment of Housing costs to the Tuscarawas County Commissioners and declaring it an emergency. (2<sup>nd</sup> Reading)

Amended

No. 33-2012 A resolution by the Council of the City of New Philadelphia, Ohio to enact a pay increase for all Elected Officials and the Clerk of Council, excluding the Judge of Municipal Court, Members of City Council and the New Philadelphia City Law Director, to be the amount of 3.0% increase retroactive to January 1, 2012 and declaring an emergency. (3<sup>rd</sup> Reading)  
Motion to vote on passage made by Mr. Zucal  
Seconded by Mr. Lautenschleger

Comment from Council Member Mr. Lautenschleger

"In light of comments from the Law Director about this topic and a suggestion; Several of us have thought about in terms of one format or another would the Council President entertain the possibility of assigning to a Committee the review of Council's pay scale range for Elected Officials and others that fit into that category of non bargaining potentially and especially given the uncomfortable way that Councils had to handle this over the past few years. Outside of the uncomfortable way that Council has had to handle this actually for our citizens and constituents to see exactly what the pay range would be and how we could meet that there are some ways that could be done for instance members of Council today no longer meet the threshold to receive their pension benefits that they might receive otherwise. That is something that has been changed in the past year just something I wanted to throw that out there since this topic is coming up frequently in the past couple of years."

President replied he would entertain that if the motions are withdrawn.

We have a motion on the floor and second to pass this amended resolution.

Comment from Council Member Rob Maurer

"In light of what I heard I only have had 20 minutes to digest this I don't feel entirely comfortable at this point and time voting this evening on this matter"

Motions are still on the floor.

Comment from Council Member Colleen Espenchied

"I feel the same a Rob to have this thrown at me 20 minutes before the meeting. I think it is something I have to digest or talk more to the Law Director about. It's nothing against anyone here."

Comment from Council Member John Zucal

"What the Law Director shared tonight is my interpretation is no different than what we heard before. The Fifth District Court of Appeals has upheld consistently or at least once under review of the case cited by the law director this evening that the administration of what is considered in term pay raises for elected officials under the Fifth District Court of Appeals has always been upheld for there is nothing unethical or illegal about it could be a matter of opinion as to whether it is in the best interest to do that. Neither applies illegal or unethical conduct on behalf members of Council if that is the case any of us would be setting here tonight looking at Amended Resolution 33-2012 what I find discomfoting is the fact we have continued to look at this for the entire year and it is not moving forward at some point and time we will either approve or deny that legislation. At the same time I do recognize and have worked with the past President of Council and Members of Council to establish different tier groups that look in fact very much like what the Law Director has asked for. We would set precedent to different pay scales different rates and those would not require annual passage. That we would have competitive salaries for Members of Council and also for our Non Bargaining Unit Members that is part why we have done that not but we have not moved forward with any work that had already be done. I would like to see that give consideration as to what we do as a council for the year 2013 to avoid any of those uncomfortable issues and also in many ways to avoid the embarrassment as we as council have brought upon themselves with the way we have handled this piece of legislation."

The Law Director addressed concerns

“I did not mean to throw a wrench into this it is just like Mr. Zucal stated It is perfectly legal for the City of New Philadelphia to grant 3% in term pay raise since 1982 I looked at the case that made this rule only about 6 hours ago as I checked it to make sure that it was still good. That it has not been reversed by the Fifth District Court of Appeals or overturned in Federal Court or by the Ohio Supreme Court it has not. It is legal there is no reason not to vote on the issue today. If you are considering whether it is legal from that standpoint and Council Member Zucal did interpret I was merely asking Council take into consideration changing the pay rate along the lines what Council Member Mr. Lautenschleger said so we don’t have to go through this on a repeated basis. I looked back on what the old Law Director file and there were several requests from citizens asking whether or not it was legal and letters had to go out to explain what I just explained to Council. Yes, it is legal.

Other people who are not attorneys will look at the Ohio Revised Code and think that Ohio says this how you can do that the Ohio Revised Code can say one thing but it is legal to do something else because the Court decides that.

I can understand the concern that case was 1982 not something that is new it is perfectly legal for Council to vote for the in term pay raise I would not have put forth the legislation if I felt it was illegal.

When we had a Committee Meeting on this several month ago I did say that it was legal issue a written opinion and I think that is where the confusion comes in it is very legal you can vote without any reservations. I have the court case if anyone would like to read it.

Even in the court case the Judges said “we are not stating whether or not it is a wise decision; we are merely stating it is legal as to the wisdom of the decision that is up to this body to determine. It is perfectly legal to grant pay raises to re examine the issue as to whether it could be done better. Whether or not our Elected Officials are on par with similar sized municipalities.

Council Member Maurer “that is my concern are we just putting a band aid on it or do we go back to the drawing board and re look at it I understand the legalities.”

Law Director “it has happened since 1982 to grant the in term pay raises. I think part of the reason is people who are dedicated full time workers, raising families need the 3% pay raise need this to get by and in all cases deserve it. It is no problem done that currently until we have something different in place.

Given this is the beginning of a new year, I thought this was a good time to re-examine that issue this is retroactive to January 2012. I don’t think it is a band aid I don’t see any reason if Council decides to go ahead and do that.

I merely advocated because it is the beginning of the year we could find a new way to do it.

Whether or not we can do away with the 3 % raise and replace it with salaries that are in line with other communities there would not be a need for in term pay raises.

Council Member Zucal “That is what the work of the Ad Hoc Committee from over 2 years ago. We were trying to provide a tier structure based both on Elected Officials and Non Bargaining Unit Members that would look for salary adjustment rather than raises. I think that is what Mr. Maurer is saying. We need to look at salary adjustment to the level the playing field so we are competitive not only with other Elected Officials from our local area but also a competitive field that allows us to continue to sustain/ retain the folks that we do have in key positions like the Service Director, Fire Chief Police Chief all those areas so we don’t always have to consider raises. That we do the tier structure on each year on an annual basis and Mr. Lautenschleger provide that citizens of New Philadelphia with clear understanding of what those amounts are on an annual basis as well.”

Roll call, 5 yeas, 2 nays (Ms. Cox and Ms. Walker) Amended Resolution 33-2012 Passed.

- 1-2013 A resolution by the Council of the City of New Philadelphia, Ohio to commend Theodore R. Wenger for his thirty five (35) years of service and dedication in Water Filtration for the City of New Philadelphia. (1<sup>st</sup> Reading)
- 2-2013 A resolution by the Council of the City of New Philadelphia, Ohio to commend Daniel B. Risinger for his twenty six (26) years of service and dedication to the City of New Philadelphia as a Police Officer with the New Philadelphia Police Department. (1<sup>st</sup> Reading)

UNFINISHED OR OLD BUSINESS: .....NONE

NEW BUSINESS:

Mr. John Zucal commented on the Mayor’s Report/Request to Council this evening the opportunity that does present itself

- The potential to hire Police School Resource Officers in some of New Philadelphia City Schools’ Buildings.

Mr. John Zucal commented “from a prospective of both a Council Member and Principal in the District the potential to hire Resource Officers to work within our school is one of the most important things we can do.

Both as a School District and hopefully have the support of the City of New Philadelphia as well as the safety of our young people and the folk's that work in our schools district is certainly a top priority of our district. Each and every day when students go to school and teachers go to work other members of our staff, their safety is the upmost concerns for each and every one of us. Given the nationwide trend toward school violence as well as a nationwide response to that, this is something that many districts across the United States are looking at. Some of our own local areas have established that. Harrison Hills has had Resource Officers for a number of years now those Resource Officers come not only helping to assist us but for the safety of our students, members of the staff, faculty and also provide valuable ally for our students forming great relationships among law enforcement and being both a mentor and probably assisted them in many cases so any point in time to move forward if it don't Mr. John Zucal did inform all it would be his hope City Council would assist and support the New Philadelphia City Schools if we are able to move in that direction."

President of Council commented "that is certainly an important consideration."

- President of Council, Sam Hitchcock expressed his appreciation for the professionalism of Council their help and support this past year and stated that he is honored to be a part of this group and is looking forward to witnessing this group moving the City forward. He stated that he knows that everyone here serving a part time Council Position is not doing it for the money they are doing it because they care about the City of New Philadelphia.

MS. COX MADE A MOTION TO ADJOURN AT 8:27 PM.

CLERK OF COUNCIL \_\_\_\_\_

APPROVED \_\_\_\_\_

PRESIDENT OF COUNCIL \_\_\_\_\_