

ALLEGHENY COUNTY COUNCIL

SPECIAL MEETING

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BEFORE:

John P. DeFazio	-	Chair, Council-At-Large
Richard Fitzgerald	-	President, District 11
Chuck McCullough	-	Council-At-Large
Charles J. Martoni	-	Vice President, District 8
Matt Drozd	-	District 1
Jan Rea	-	District 2
James R. Burn, Jr.	-	District 3
Michael J. Finnerty	-	District 4
Vince Gastgeb	-	District 5
Joan Cleary	-	District 6
Nick Futules	-	District 7
Robert Macey	-	District 9
William Russell Robinson	-	District 10
Jim Ellenbogen	-	District 12
Amanda Green	-	District 13

Allegheny County Courthouse  
Fourth Floor, Gold Room  
436 Grant Street  
Pittsburgh, Pennsylvania 15219

Tuesday, July 29, 2008 - 5:00 p.m.

SARGENT'S COURT REPORTING SERVICE, INC.  
429 Forbes Avenue, Suite 1300  
Pittsburgh, PA 15219  
(412) 232-3882 FAX (412) 471-8733

IN ATTENDANCE:

James Flynn - County Manager  
Michael Wojcik - County Solicitor  
Joseph Catanese - Director of Constituent Services  
John H. Rushford, Jr. - Counsel for County Council  
Jared Barker - Director of Legislative Services  
Jennifer Liptak - Budget Director  
Jack Cambest - Solicitor

PRESIDENT FITZGERALD: We are calling a special meeting of Allegheny County Council, the Tuesday, July 29th meeting, to order. If everybody would please rise for the Pledge of Allegiance and remain standing for a moment of silent prayer or reflection.

(Pledge of Allegiance.)

(Moment of silent prayer or reflection.)

PRESIDENT FITZGERALD: Thank you. Please call the roll.

MR. BARKER: Mr. Burn?  
MR. BURN: Here.  
MR. BARKER: Ms. Cleary?  
MS. CLEARY: Present.  
MR. BARKER: Mr. DeFazio?  
MR. DEFAZIO: Here.  
MR. BARKER: Mr. Drozd?  
MR. DROZD: Here.  
MR. BARKER: Mr. Ellenbogen?  
MR. ELLENBOGEN: Here.  
MR. BARKER: Mr. Finnerty?  
MR. FINNERTY: Here.  
MR. BARKER: Mr. Futules?  
MR. FUTULES: Here.  
MR. BARKER: Mr. Gastgeb?  
MR. GASTGEB: Here.  
MR. BARKER: Ms. Green?  
MS. GREEN: Present.  
MR. BARKER: Mr. Macey?  
MR. MACEY: Here.  
MR. BARKER: Mr. Martoni?  
MR. MARTONI: Here.  
MR. BARKER: Mr. McCullough?  
MR. MCCULLOUGH: Present.  
MR. BARKER: Ms. Rea?  
MS. REA: Here.  
MR. BARKER: Mr. Robinson?  
MR. ROBINSON: Present.  
MR. BARKER: Mr. Fitzgerald, President?

PRESIDENT FITZGERALD: Here.

MR. BARKER: Fifteen (15) members present.

PRESIDENT FITZGERALD: Okay. Public comment on agenda items. We have five speakers this evening, beginning with Mr. Joe Weinroth, followed by Linda Warman.

Mr. Weinroth, if you'd come to the podium and state your name and address for the record, please.

MR. WEINROTH: Joe Weinroth, 5621 Marlborough Road. Gentlemen --- ladies and gentlemen, I'm here to speak to you as a resident of Allegheny County and as a taxpayer today. I believe the vast majority of Allegheny County residents are opposed to any increase in taxes, no matter the form that it may take. We already are too heavily taxed as it is. My Council representative, Mr. Fitzgerald, has introduced this ordinance that you're going to discuss today at this special meeting.

And with all due respect, it is an ordinance that is revised specifically to thwart the will of the people of Allegheny County. It's designed to scare them and threaten a property tax in the place of a drink tax should the people vote the way they feel they want to vote. The Allegheny County executives and the majority of the Council members have used deceit, fear and political chicanery to defeat the efforts and the role of the people in this county, contrary to what you're purported to be here for.

You have wrongfully and deceptively framed the issue as an either/or proposition. It is not. It's not a drink tax or a higher property tax. There is another option that you might consider, and that is to balance the budget without raising property taxes or the drink tax. That is something that you can do and should be speaking about more seriously.

Last Thursday after this Council's meeting, when the cameras were rolling, Mr. Fitzgerald stated that Allegheny County must have a balanced budget for 2008. We have already seen the new drink tax and the car rental tax generate in excess of --- the latest number I just heard is \$22 million, and that's before the end of June. And that is much more than is necessary --- by November, that will be much more than is necessary to balance the budget for 2008. So Mr. Fitzgerald's comments were, again, misleading and deceitful to the public.

You all voluntarily sought this office. You swore an oath to God and the people of this county. Do your jobs and fulfill that oath. Do not put party affiliations and political expediency above upholding your duties to the county residents. I challenge my Councilman, Mr. Fitzgerald, to withdraw the proposed ordinance now, and I challenge all the Democrats on this

Council to demonstrate the leadership and good government that they were elected to demonstrate and to show it is more important than political policies. Do the right thing. Let the will of the voters decide the issue without deception, confusion or competing ballot questions. And ultimately remember that the will of the voters, you'll have to face that again. Thank you.

PRESIDENT FITZGERALD: Thank you, Mr. Weinroth. Linda Warman, followed by Jeff Cohen. Ms. Warman, if you'd state your name and address for the record, please.

MS. WARMAN: Linda Warman. I live on Glen Caladh Street in Hazelwood, and I am here today about, I would say, mostly the referendum. But there are a few other tidbits in there to put in. This referendum that --- rather, either/or property tax or the drink tax, I agree with the gentleman that just previously spoke. It's not an either/or issue. That drink tax and the rental car tax was made for transits.

To balance the budget on the backs of the taxpayers by raising the property tax is no good. Already, there have been several foreclosures. On foreclosed properties, you cannot raise a property tax. Who's going to be there to pay it? You gentlemen have already, from what I understand by reading this article here, that you guys have broken the law by doing a closed door act. That is not right, even in --- on this issue of the referendum.

You know, there are no good paying jobs in this county anymore, either by car or by bus. And most of the people here, I believe, mock --- the group I represent, Save Our Transit, has no --- that there are 250,000 riders, whether they ride the bus by choice or by need. Okay?

Otherwise --- and then also, there's another thing. I've been hearing a rumor that one of you guys on the Council wants to, if I can get this right, wants PAT transit to file for bankruptcy. If they file for bankruptcy, how are they going to pay their property taxes? Unfortunately, we do not need this referendum to be on the ballot. And \$22 million, I'm surprised. Where is the money going? Thank you.

PRESIDENT FITZGERALD: Thank you, Ms. Warman. Jeff Cohen, followed by Kevin Joyce.

MR. COHEN: Good evening. Jeff Cohen. I've been here a few times the last six months or so. I'm sure

you're tired of seeing me. I don't know if I'm tired of seeing you or not, but hopefully not.

I don't understand. We passed a tax we thought was bad. Everyone said it was bad. Now you go and want to change the code by allowing yourselves to put your own referendum on the ballot. And we need to get 23,000 signatures for our position on the ballot, and you guys want to have a meeting. I mean, that changed the whole government thought process. And what it really does is, it puts 15 people in way too much control. Seriously. You're elected by the people. We need to get 23,000 signatures and now you can decide you want eight votes to put your own referendum on the ballot. I mean, this just doesn't make sense.

That being said, I mean, I think it's true. You talked about mass transit voting. You needed X amount of money, \$26 million. You're going to add that money in within the next month. There's been no cooperation by anybody, neither here nor from Dan's office. What do you think happened? All right? We got our money for fiscal 2008. We have it. And now we'll start working on 2009. There has to be a better solution. I said from day one, you never want to tax one entity for a broad-based tax. We have to put the emphasis back on industry. Plus the \$2 car rental was wrong from day one.

I mean, for me, I don't understand how if only ten percent of people go out and spend money in the region, the other 90 percent are tax-free. They don't contribute. We have \$25 billion worth of nonprofits within a five-mile radius. And they pay zero. Zero. If there was a fire today at the University of Pittsburgh, who would go to that fire? The city fire company. I mean, they're not nonprofits. And we have kids that go to college and now we're paying ---. UPMC is not nonprofit, Highmark is not nonprofit, Duquesne's not nonprofit. They're not nonprofit. And what's happening is that we contribute as a region, they keep getting bigger, so the people that are staying are paying more. That's why people are leaving.

I own three companies. Let me tell you guys and ladies, it's tougher than ever. You've got a tough job. You make \$9 an hour. You spend a lot of time. God Bless You. But you know what? There's no way I would do that. Seriously. I would not.

But fiscally and morally, this vote tonight is the wrong thing. You should not be in charge of putting a referendum on the ballot. What I really think is the right thing to do is let the people think. It should not be that it's the drink tax or it's the property tax. And truthfully, the property taxes are too high. We need to look at our budget. We can raise some fees in some other areas and have some kind of combinations to raise ---. The Port Authority is a barren agency. And we keep putting money into the agency, more and more every year. Honestly, the taxpayers of this region, in this county are tired of it. I hope tonight that you guys make and vote on the right decision and vote against being able to put this on the ballot. Thank you very much.

PRESIDENT FITZGERALD: Thank you, Mr. Cohen. Kevin Joyce, followed by John Graf. Mr. Joyce, name and address for the record.

MR. JOYCE: My name is Kevin Joyce, and I'm proprietor of Carlton Restaurant, One Mellon Bank Center, and immediate past chairman of the Board of Pennsylvania Restaurants Association. And I want to thank Joe's comments and Linda's comments. They've been good thus far. You know, I'm not expecting any miracles tonight. I've been visiting Council for over a year now. I've watched this process. I've become fond of a lot of you. I've become close to a few of you. And I have a respect for the job you do and the time you put in.

But I'm here to tell you that you're really making a big mistake. I don't know how I can explain it, that --- you know, I've said it before up here. I mean --- and we've learned a lot from this process. I mean, we've learned that nine of you or eight of you shouldn't be gathering with folks that are paid employees of the county and making decisions. And yet that's exactly what happened that resulted in these five special meetings, clearly in violation of the Sunshine Laws. You've been in violation for a long time. Maybe changing the Code. The Code is to Allegheny County as the Constitution is to the United States of America. We don't change our Constitution lightly. You should not change the Code lightly. You change this Code for one issue, but in that process, have changed government forever. If we elect a Republican county executive tomorrow, he will be unable to govern because as long as there is more than eight or nine or ten Democrats, they can put --- you can put measure

after measure after measure on the ballot. California will be nothing compared to Allegheny County, because you changed the Code.

You've made a big mistake. And it just bothers me that all these promises I've heard from many of you dating back to last summer through December when you passed the tax, you still were committed to working on something else, recognizing that it was wrong. You know, the County Executive was committed. He was on the air and welcomed the referendum. And he was looking at the drink ---. He was looking at video poker. He was looking at different things. The end result has been nothing.

The most energy I've seen out of this Council, besides the general meetings, has been the series of five special meetings over the last four weeks, designed to do one thing; thwart a citizen's effort, a citizen's effort with a high bar, 23,000 good signatures, people out there involved in democracy, which is what you guys should be all about, and participating in it the way it's scripted in the County Charter and the Code. And now in one fell swoop, you're going to change it. You're making a mistake. And you're doing it all for one issue, and you're doing it to thwart the citizens' movement designed to lower the drink tax, not repeal, to one half of one percent. One half of one percent is \$2.5 million for the Port Authority. \$2.5 million is more than our fair share as an industry.

You know, today a few restaurant companies, Bennigan's Steak and Ale used to operate here, shut its doors in 37 restaurants --- 37 states. That is what's happening in our industry. It's a recession. And you're making this recession one hell of a lot worse. Please think about what you're doing tonight. Thank you for your time.

PRESIDENT FITZGERALD: Thank you, Mr. Joyce. John Graf? Mr. Graf, please state your name and address for the record, please.

MR. GRAF: My name is John Graf. My address, 6933 Church Avenue, in the Borough of Ben Avon. I'm here today to address Ordinance 4208-08. Folks, some of you may have seen the movie Apocalypse Now. In Apocalypse Now, Captain Willard, played by Charlie Sheen, is sent up the Yukon River to go and terminate the command of a rogue colonel named Kurtz, who's played by Marlon Brando. So after a lot happens, Martin Sheen gets up to the outpost

and he goes --- and he has a long talk with Colonel Kurtz, who's loaded and lying down. And Kurtz asks him, he says, are you an assassin? And Captain Willard says, no, I'm a soldier. And Colonel Kurtz replies, no, you're here as an errand boy.

This is an innocuous legislative body. It was created for the purpose of being a check and a balance against the County Executive, who is invested with a lot of power under the structure of this government. This 4208, rather than honoring that legacy, makes this Council and the County Executive, Dan Onorato's, errand boy.

What's the genesis of this? This ordinance was created in conjunction with the County Solicitor to be placed on the ballot. Now, two weeks ago, Mr. Burn here suggested that one of the reasons that you might want to be able to have the County Council put referenda on the ballot in the first place was for people without the means of having their voices heard through referenda to be able to do that. He was suggesting maybe senior citizens.

So here we are with our first ordinance to be placed for referendum, and is it a senior citizen's group trying to get a senior center funded? No. Boy Scouts? No. No, it's the County Executive, the one person who has the power to send petitions out and get the signatures to get on the ballot, just the way Friends Against Counterproductive Taxation is doing.

Folks, do not pass this ordinance. It demeans this body and it demeans this county government. This is an end around the voices of people. Its entire purpose is to confuse, misdirect and thwart. This is no way to run a government. Let the people's voices be heard. Vote against this ordinance. Thank you.

PRESIDENT FITZGERALD: Thank you, Mr. Graf. Okay. Being a special meeting, there's one item on the Agenda. Mr. DeFazio?

MR. DEFAZIO: Yes. As a point of order and a point of special privilege, I'd like to answer a question --- a couple I've heard.

PRESIDENT FITZGERALD: Go ahead.

MR. DEFAZIO: First of all, I want to make it crystal clear here. Someone said we broke the law. But you know, I don't blame anyone. Let them speak and state their point, and that's fine. But don't say we broke the law. We have two verbal opinions, one from the county, the Department Solicitor, and one from our Solicitor,

verbally. And now we have both groups stating the same thing. We didn't break the law, okay, according to the experts. All right? So you can say what you want. We're not trying to deceive anybody. At the end of the day, if this thing passes, the people will vote and we'll listen to the people. We didn't do that. And also ---.

UNIDENTIFIED SPEAKER: You should have listened to the people the first time.

PRESIDENT FITZGERALD: We're going to have order or we're going to clear the room. We cannot speak out from the audience, sir.

MR. DEFAZIO: We listened to the Solicitors; okay? Everybody in the audience has an opinion. That's fine. But it don't make you right. So we have people on this Board, whatever the majority does, and we have a County Solicitor and we also have our Solicitor saying it's right. So what do we do? Do we listen to everyone in the county having an opinion or do we listen to the experts?

Two --- that's not part of this. That's why I asked for the special privilege. The statement was made about the Sunshine. There was a decision made on that that everything we've been doing for the last eight, nine years, whatever it may be, has been legal. They told us that. But what we did, because some people don't ---. They say ---. We really don't need eight people in a room. We never voted on issues. But what we said, from here on in, I'm making it crystal clear, we were told it's legal. We feel it's legal. Before we started into this years ago, we went through this. To make it simple for everyone on that issue, we won't meet anymore with eight people or more in the room. No problem whatsoever. So that's cleared up. Thank you, Mr. President.

PRESIDENT FITZGERALD: Mr. Drozd, and then we're just going to move on. We're not here to debate Sunshine. We're here to talk about this bill.

MR. DROZD: Well, I mean, because it was brought up by ---.

PRESIDENT FITZGERALD: He was responding to the charge ---.

MR. GASTGEB: Mr. Drozd has asked for privilege in this thing, but I'd like ---.

PRESIDENT FITZGERALD: Go ahead.

MR. DROZD: Thank you.

PRESIDENT FITZGERALD: Mr. Gastgeb, please.  
You're out of order. You're out of order.

MR. DROZD: Thank you, sir. I'm not here to question what is which or whatever. One thing that concerns me about this whole process is, again, is the fact that I asked some questions of our County Manager and our Solicitor the other day. And I asked, who was in attendance at the meetings, where were the meetings held and who was in attendance at those meetings? And I still didn't get a yes or a no. I want a yes or no because I believe very much in transparency of government. I believe the people and the news media, they have a right to know. And I'm going to put forth a formal request to the Chief Executive with a copy to the County Manager and Solicitor. I want specific answers to that, and I want a yes or no. I think we deserve that on behalf of the people of Allegheny County. Thank you, Mr. President.

PRESIDENT FITZGERALD: Committee on Government Reform, second reading, 4208-08. Mr. McCullough?

MR. MCCULLOUGH: Point of order, point of privilege. I just like to put this on the record. To the extent there may be any defects with notice of the meeting, I waive that. And I do not waive any Sunshine Law issues or the First Amendment as a result of this meeting. Thank you.

PRESIDENT FITZGERALD: 4208-08.

MR. BARKER: Bill Number 4208-08, an ordinance of the County of Allegheny, Commonwealth of Pennsylvania, directing that an ordinance be submitted by referendum question to the registered voters of the County on the November 2008 General Election ballot. Sponsored by President Fitzgerald.

PRESIDENT FITZGERALD: Okay. We held a meeting on the 24th, last Thursday, the Committee on Government Reform. The bill was referred out of Committee but with a neutral recommendation. I believe this bill is a balance budget bill. It gives the voters the choices of which level of revenue they would like to see. And I would ask for a motion to approve.

MR. MACEY: So moved.

MS. CLEARY: Second.

PRESIDENT FITZGERALD: Moved, second.

Discussion?

MR. GASTGEB: Mr. Fitzgerald?

PRESIDENT FITZGERALD: Mr. Gastgeb and Mr. Ellenbogen.

MR. GASTGEB: At this time, I'd like to offer an amendment to be brought forth to Council.

PRESIDENT FITZGERALD: You have an amendment? Is it written?

MR. GASTGEB: Yes, it is.

PRESIDENT FITZGERALD: Okay. If you would ---. Mr. Gastgeb, let us hear your amendment.

MR. GASTGEB: Thank you, President Fitzgerald. Basically, this amendment would supplant your bill, this bill, by asking a separate question. And basically, your first question --- the first question, shall the County enact an ordinance to repeal the alcoholic drink tax, would be one. The second part, and I hope that this piggybacks on your operative choice, that if the alcoholic drink tax is repealed, shall the County make up the loss of any necessary drink tax revenues based upon a review of all lawful means of increasing revenues and/or reducing expenditures? And as it's broadly written to bring this back to us to do our jobs. At this point, I'd ask that this amendment be considered for discussion and placed on the agenda for this meeting.

PRESIDENT FITZGERALD: Motion to amend?

MR. GASTGEB: You have that motion, Mr. President.

PRESIDENT FITZGERALD: Do we have a second?

MS. CLEARY: Second.

PRESIDENT FITZGERALD: Motion, second. And discussion? Please call the roll. Oh, I'm sorry. Mr. Drozd?

MR. DROZD: Thank you, Mr. President. I believe this is fair. I believe that we have to look at ways to reduce the taxes of Allegheny County. We need to send that message out there that we are open for business. It's important. It's critical. Our people really need to see that we really intend to do something to make this county more competitive. I also believe it's fair. I believe that the history shows that the revenues have far exceeded the expectations.

I would like to also mention that both affect the people of Allegheny County. One affects the businesses, by the way, very much so, not just both ways in the essence of the car rental tax. And also, these taxes are directed on the people of Allegheny County.

Let's do what's right. Let's do both of these. This isn't something that I think is out of the ordinary. I think if we can look --- revisit this later on, it's the right thing to do. It'll send a good, strong message to people out there that we really want to make this County more competitive and we want you to stay here, and we want you to come here to Allegheny County. And I think it's critical that we do that. Thank you.

PRESIDENT FITZGERALD: Mr. Burn and Ms. Cleary.

MR. BURN: Thank you, Mr. President. I'm a little disappointed, only because my colleagues that are sponsoring this, and some of those who support their position, they've made some very good arguments in the last couple weeks as to why we shouldn't be doing referendums. And we can agree to disagree. Some of us up here think we can do this. We have legal ability to do it. We can debate the pros and cons of it and hear all the different lines about whether or not we can or can't do 4208-08.

I'm just disappointed that the sponsors of this --- at one point earlier in the year, some of them had introduced --- proposed referendums of their own and didn't seem to think there was any problem with doing it. And then when 4208-08 surfaced, it seemed to ---. It pulled theirs and then went off --- especially in the committee meetings, we discussed 4208-08, telling us how wrong this was for a variety of reasons, and now can put this on without any discussion or debate or any committee process.

I'm just disappointed that this path can be taken when they reversed their position once and seem to be reversing it again. I'm not going to get into any adjectives or anything like that, because I respect them. I just don't agree with them on this. I just don't think it's ---. I think it's a little disingenuous at this late stage to do something like this, considering they seem to have changed their position at least four or five times. Thank you.

PRESIDENT FITZGERALD: Ms. Cleary and then Mr. McCullough.

MS. CLEARY: Thank you. I really agree with the initial referendum question because in this amendment, you want to use any lawful means to increase revenue. I believe that to increase our revenues \$30 million to cover Port Authority costs, we have to increase property taxes.

There is no other way to do it. That's the biggest revenue source that we have. And as far as reducing expenditures --- we have done that. Kanes were losing \$10 million when I started here. They're breaking even now. We did Row Office reform to save some money there. We also had a lot of layoffs to save money there. I mean, we are looking at the expenditure side of this, too. I believe this Council has been very responsible with advice that was given to them. We all take this job seriously.

So I just really can't agree with this because I think it's disingenuous, because it is going to be drink tax or property tax. As far as the will of the people, I know the folks I represent, a lot of the people I talk to, they understand it, but they do not --- nobody wants their property taxes to go up. Thank you.

PRESIDENT FITZGERALD: Mr. McCullough?

MR. MCCULLOUGH: Thank you, Rich. Jim, I really think this amendment, and the reason why I'm going along with it, really reflects the discussion we had at the committee meeting last Thursday. I agree. I'm not wild about any of these referendums or referenda, whatever you call them. But if we're going to have one, I think we ought to have a question that makes sense and addresses some of the legal issues that we've talked about. The discussion we had last Thursday made it clear that --- Rich, even you acknowledge that raising property taxes isn't the only way to raise \$30 million or \$45 million in its entirety. Again, you and I may disagree as to the extent to which that has to be done, but surely you recognize that a dollar here and a dollar there negates the need to absolutely raise property taxes 100 percent for the loss of drink tax revenues. And I think this question reflects that.

I think this question also reflects the concern of the concerns raised in committee that you're somehow usurping powers of the Chief Executive and the powers of Council. It does nothing more than say the Council and the Chief Executive are doing exactly what they're supposed to do and exactly what they do every year when they prepare the budget, which is to look at all lawful means of raising revenues and reducing expenditures, rather than narrowing the focus and taking that power away from them and putting it in the hands of the people.

Lastly, I think the fact that it's split into two questions is important. And in saying that, I know

the two opinions that we've gotten from our respective Solicitors tonight, the County Solicitor and our Solicitor, they both did not address this point, and that is, you can't have a double issue referendum question. And I think the question that's been proposed by President Fitzgerald's legislation really is linking two questions together. And I think it makes much more sense to split them into two separate issues. Thank you.

PRESIDENT FITZGERALD: Please call the roll on the Gastgeb amendment.

MR. BARKER: On the motion to amend Bill Number 4208-08, Mr. Burn?

MR. BURN: No.

MR. BARKER: Ms. Cleary?

MS. CLEARY: No.

MR. BARKER: Mr. DeFazio:

MR. DEFAZIO: No.

MR. BARKER: Mr. Drozd?

MR. DROZD: Aye. Yes.

MR. BARKER: Mr. Ellenbogen?

MR. ELLENBOGEN: No.

MR. BARKER: Mr. Finnerty?

MR. FINNERTY: No.

MR. BARKER: Mr. Futules?

MR. FUTULES: Yes.

MR. BARKER: Mr. Gastgeb?

MR. GASTGEB: Yes.

MR. BARKER: Ms. Green?

MS. GREEN: No.

MR. BARKER: Mr. Macey?

MR. MACEY: No.

MR. BARKER: Mr. Martoni?

MR. MARTONI: No.

MR. BARKER: Mr. McCullough?

MR. MCCULLOUGH: Aye.

MR. BARKER: Ms. Rea?

MS. REA: Yes.

MR. BARKER: Mr. Robinson?

MR. ROBINSON: No.

MR. BARKER: President Fitzgerald?

PRESIDENT FITZGERALD: No.

MR. BARKER: Ayes five, noes ten. The amendment fails.

PRESIDENT FITZGERALD: On the bill as amended, discussion on the bill. Please call the roll.

I'm sorry. Mr. Drozd and then Mr. Ellenbogen.

MR. DROZD: We have ---.

PRESIDENT FITZGERALD: We're discussing 4208-08, yes.

MR. DROZD: Now the bill itself?

PRESIDENT FITZGERALD: Correct.

MR. DROZD: I have to say, I'm very, very disappointed that this bill gives the people of Allegheny County a few choices, really, the lesser of two evils. Do you want this tax or do you want this tax? You know, it reminds me of what it says to them. I think it's an insult to the people of Allegheny County. In essence, by anyone voting for this --- I would like to ask, did the Chief Executive to support this, Mr. President, your bill?

PRESIDENT FITZGERALD: I haven't discussed it with him, but he's made public comments that has indicated that he probably would sign, but I have not had discussions.

MR. DROZD: What really disappoints me is, in essence, by this bill going forth and saying, do you want a property tax or do you want a drink tax, in essence, what you're saying is --- all you're saying is, do you want another tax? And in essence, by saying that, and all I've heard always was that we wouldn't even consider a property tax, but yet by endorsing this, you are considering the possibility of a property tax, an increase to the people of Allegheny County.

It's the lesser of two evils. It's almost asking the people of Allegheny to say, hey, would you like to drop --- jump off the 20th floor of the U.S. Steel Building, or do you want to drop off --- jump off the heliport. Either way, the same result is the same ending. And it's disastrous to this county. It's almost ---. And the other thing that really concerns me is all these people are out there circulating this petition, they have to get 20,000-some signatures. And here it is with so many votes, if you go against it --- it's confusing to the people of Allegheny County. It's misleading and it's scare tactics. It's telling the people of Allegheny County that, you know, there's a potential of a property tax increase in Allegheny County.

What about other sources of revenue? Why aren't we exploring them? I have one that is buried in committee right now about going after the court money. Why don't we explore those? Why do we always just talk --- it's either

this tax or that tax. Why aren't there other revenues that we look at? Why don't we look for other imaginative, outside-the-box, creative issues such as maybe looking within our agencies and our authorities? But all I hear, it's either this tax or that tax. We constantly hear this and it's almost like tax and spend, that's all we know. Is that it? Is that what we're about? Is that what we're about as a body? Is that what we're about as an administration? If it is, I think it's really disheartening and very ---. It's a disservice to the people of Allegheny County. I don't even think that this should be put forth. I really don't. I think that the people ought to have a straightforward question, and they ought to have other alternatives put before them, not always a tax. And that's all it seems like it happens.

So I'm not going to support this. It's not the way to go. It reminds me almost of Custer's Last Stand. When he was outnumbered thousands to one, you know what the end result of that was. And we deserve --- the people of Allegheny County deserve much better than what's being offered. Thank you, Mr. President.

PRESIDENT FITZGERALD: Mr. Ellenbogen and Mr. Burn.

MR. ELLENBOGEN: I'd like to offer an amendment to your bill, Mr. President.

PRESIDENT FITZGERALD: Do you have it in writing?

MR. ELLENBOGEN: Yes, sir, I do.

PRESIDENT FITZGERALD: If you'd get that distributed. Mr. Ellenbogen, do you want to speak to your amendment?

MR. ELLENBOGEN: Thank you, Mr. President. You know, as a Democrat, I'm for doing everything I can to help just regular folks. The amendment I'm offering is to reduce the drink tax to five percent, effective on September 1st, 2008.

I spent last weekend cruising South Side. I did a lot of --- speaking to a lot of different waitresses and bartenders, getting their take on it to see how much it's hurting a lot of single mothers. I believe that, you know, we're talking about using extra money in terms of with the ten percent drink tax. Basically, you say, well, we can use it for roads. We can do it for this, we can do it for that.

I'm trying to offer this Council a compromise to bring everyone together, to give the restaurant owners a break, to give the waitresses a break, the bartenders, the thousands in the service workers industry who are being hurt here, to give them the guide --- you know, the carpenter, the iron worker or the auto body guy who goes and takes his family or goes to get a couple beers, to get a break here.

Now, I know for a fact there's been talk on this Council reducing and --- discussing to reduce this drink tax to seven percent. Well, although I'd like to see it reduced, seven percent doesn't do anything but help the restaurant industry, because I can't imagine waiters and waitresses walking around carrying rolls of pennies to make up that difference. It need to be five. Now, five percent, I think, is a good number. I think at the end of the day, people won't lose their jobs. The budget will remain solid. And if in the case we're a few dollars short, then we, as Democrats and Republicans, have to work hard and work harder so that the people of this county are getting a fair shake.

Because from the conception of this thing, people were confused. And to be honest with you, I've had a lot of phone calls from citizens feeling that this whole thing has just been a shell game, things being misrepresented. And I'm not going to accuse anybody of anything. You know, like Councilman DeFazio always says, you know, everybody has a right to believe and vote the way they want. I'm looking for a compromise. I have a lot of respect for everybody up here. You know, everybody speaks from their heart.

But I think that reducing the drink tax to five percent gives everybody a break. And it also keeps the budget solid. And like I said, at that point, you know, let's work. You know, let's work the budget. Let's maybe raise some fees. Let's go back to Legislature. You know, I keep hearing everybody say this is what the Legislature gave us. But I cannot believe in my heart of hearts that the Democrats and the Republican-elected officials of this county, in the Senate and in the Legislature have any less feeling for the solvency of this county than we do.

We've got to go back to them and talk with them and show them, you know what, we're willing to work, too. Now, you know what? I don't want to go down to .05 because I think you're putting folks' jobs in jeopardy at

that point. But I think at five percent, I think it's a good compromise. I think it helps the restaurant people. I think it helps the hardworking people in this county who are the service industry people. It also helps, you know, the guy that just wants to leave like I do right now and go get a beer, to be honest with you. With that, I offer this amendment as a means of compromise and hope my fellow Democrats will support me. Thank you, Mr. President.

PRESIDENT FITZGERALD: Before we vote, I want to ask our Solicitor a question. I believe we're talking about a single issue tonight, a referendum question. To my understanding, this is not a referendum. This is an actual change.

MR. CAMBEST: That's what we were just discussing because of the amendment. Rewording his language --- it's his amendment. It's his ---.

PRESIDENT FITZGERALD: It's in the bill, I mean, it seems to me. I mean, that's ---. You can call it an amendment all you want, but it seems we're not asking the voters to make a choice. This is part of the budget process of Mr. Robinson's committee. I'll ask the Solicitor for a ruling on that.

MR. CAMBEST: That's the way I would understand it.

MR. ELLENBOGEN: So you're telling me that this ---?

MR. CAMBEST: You're not asking that to be put on the ballot to reduce it?

MR. ELLENBOGEN: Yes.

MR. CAMBEST: Is that what you're asking?

MR. ELLENBOGEN: Yes. I'm asking to amend Mr. Fitzgerald's bill that instead of ---.

PRESIDENT FITZGERALD: Mr. Burn?

MR. BURN: If what Mr. Ellenbogen is saying is that he wants to amend Mr. Fitzgerald's bill for the November ballot, then somebody must have figured out some quantum theory to travel through time, because this goes into effect September of this year, unless I read it wrong. So that is a contradiction. Not that this doesn't deserve some discussion and debate.

MR. ELLENBOGEN: I'm sorry. That is a misprint, Mr. Burn.

PRESIDENT FITZGERALD: I want a ruling on this amendment.

MR. CAMBEST: With the reading we're doing now, this looks like an amendment to an ordinance, not a ballot question to be placed on the ballot. That's the way it looks, so I don't know.

PRESIDENT FITZGERALD: So should we consider this amendment, or should this amendment be ruled out of order?

MR. CAMBEST: It can't be considered as drafted.

MR. GASTGEB: Can I make a comment?

PRESIDENT FITZGERALD: Mr. Gastgeb, please.

MR. GASTGEB: In the confines of a special meeting that this is ruled out of order versus a referendum, which I think you just stated, can it not be considered as an ordinance, therefore changing the ordinance that we have right now, which is ten percent, which is to be voted on December 4th, I believe? Then President Fitzgerald, if he agrees, if the majority agrees, he can withdraw the referendum. And then we would be left with this ordinance as the ordinance of the county.

MR. CAMBEST: But I think the question is, for this meeting, for this meeting, we're looking at referendum questions, not amending the existing ordinance establishing a ten percent drink tax.

PRESIDENT FITZGERALD: Mr. McCullough?

MR. MCCULLOUGH: Yes. I'd like to address our --- Jim. I'd like to dispute --- first of all, the rules on amendment are very, very liberal, consistent with the First Amendment. All it says is, it has to be germane to the subject matter. Now, we can parse words all night as to what the subject matter is. The subject matter here isn't referendum questions, because if it were, we'd be talking about referendum questions for every doggone thing under the sun. What we're talking about here is the drink tax. That's the issue. The issue is what to do with it. I think Mr. Ellenbogen's amendment is a valid amendment. And whether you want to dispute that or not, we have the power among ourselves to weigh whatever procedural issues anybody thinks we have and address it.

And I'd like to say this. First of all, I, too, was on the South Side over the weekend at a 35th high school reunion. And from a practical standpoint, I can tell you, we had a lot of out-of-town classmates who were really ticked off about paying this ten percent drink tax. And frankly, a lot of them stuck me with their tabs

because they thought I had something to do with it. I think five percent makes a hell of a lot of sense here. We all know it will bring in twice as much money as we need. We all know that we would have ---.

PRESIDENT FITZGERALD: Mr. McCullough, we did discuss that during the bill itself. Let's see if this amendment is proper. That's what we have to do. Are you going to give me an argument that it is?

MR. MCCULLOUGH: Absolutely. It's germane to the subject matter.

PRESIDENT FITZGERALD: Ms. Cleary? Let's stay --- we want to stay on the amendment.

MS. CLEARY: I'm confused by Mr. Ellenbogen, what he's calling an amendment here, because he says to change it to five percent. And our question is definitely a referendum question. It says it is an ordinance to be submitted by referendum question. I believe we're talking about a referendum question, and this legislation from Mr. Ellenbogen does not address an amendment to the referendum question. It's just an out and out lowering of the drink tax, and that's not what we're talking about. We want to give the people the right to this referendum question, so I think that's what we need to stick to. Thank you.

PRESIDENT FITZGERALD: Okay. Mr. Finnerty, Mr. Burn and Mr. Drozd.

MR. FINNERTY: Thank you, Mr. President. I really think this has nothing to do with the referendum question, and that's why this special meeting was called. And I think you could be introducing all kinds of amendments to ordinances here. But there is one subject on the table, and that's the referendum question. Thank you, Mr. President.

PRESIDENT FITZGERALD: Okay. Mr. Burn and Mr. Drozd.

MR. BURN: Two questions for the sponsor, if I may. In addition to explaining to me how a referendum that would go on for November 2008 would take effect September of 2008 ---.

MR. ELLENBOGEN: I told you it was a misprint.

MR. BURN: Please. I'm not finished. My second question is, where's the fiscal note?

PRESIDENT FITZGERALD: Mr. Drozd and Mr. Macey.

MR. DROZD: Thank you, Mr. President. I believe we have to accept that Council member Ellenbogen --- he's an honorable man, and he has put this forth. His intent

is well-meaning, and he's explained to us what his intent was on this. And I think we ought to accept that. Why question him of what his intent was when he said, this is what I intended it to be? Secondly, as the fiscal note was referred to just recently, that's what I'd like to ask again and I asked before, where is the fiscal note on this referendum? I have yet to see the fiscal note on this referendum. I've asked for it many times. So thank you, Mr. Burn, for pointing that out. How can we vote on a referendum that we don't even have a fiscal note on and we don't even know what the end result is going to be?

So if you have to question Mr. Ellenbogen about a fiscal note, by God, we better start questioning this referendum. Where is the fiscal note? And that was established policy by Mr. Robinson's committee, which I sit on. If we vote on that referendum tonight, this referendum, we're violating our own policy. So what are we about? So I thank you, Mr. Burn, for bringing up the fiscal note. I asked that on this referendum. It's not there. So I'd like to defer to my honorable Councilman. His intent is well meaning, and I accept what he felt that he wanted to do with this. Thank you, Mr. President.

PRESIDENT FITZGERALD: Mr. Macey?

MR. MACEY: Thank you, Mr. Chairman. I, too, wondered where the fiscal note is for this. And I believe that this needs to be part of a budget process. What we're trying to do here in Allegheny County is budget and spend money ad hoc. We don't have a system in place. We don't have a committee forum that's actually discussed this. We need to go and put this in the budget committee. Thank you.

PRESIDENT FITZGERALD: Mr. Futules?

MR. FUTULES: Oh, I believe that he knew what he's talking about, but this is an inappropriate time to ---. And when you're talking about a referendum, I don't think the people should decide whether we should get five percent. This is our decision what we're going to do in the future. I don't believe this has anything to do with a referendum. And we certainly can't support that because this is what we were elected to do, set the budget. And that's what we'll do. So I think that's out of order.

PRESIDENT FITZGERALD: I want to ask Mr. Cambest if he's had a chance to maybe look over the issue.

MR. CAMBEST: I mean, there's no question as to Mr. Ellenbogen's intent. We understand that. This is a

special meeting to place a ballot question on the referendum. I think Jim's amendment is an amendment to the existing ordinance we have. That could be brought up at any regular meeting, irrespective of the referendum question. And this Council can decide who pays the drink tax, five percent, if that's their desire later on. But I don't think the way it's drafted --- and I think it was Jim's intent, I think, to have that go into a referendum --- is not appropriate at this special meeting.

PRESIDENT FITZGERALD: So we're going to rule this amendment as not part of this. Okay. Recognized as a ruling ---.

MR. ELLENBOGEN: Can I answer, please?

PRESIDENT FITZGERALD: You can answer, yes, but he's made a ruling.

MR. ELLENBOGEN: Well, let me ask you something, Mr. Cambest. Is there a way to make this ---?

MR. CAMBEST: I mean, I answered that question ---.

MR. ELLENBOGEN: Well, I'm asking you, sir. If I'm out of order, tell me ---.

MR. CAMBEST: If you want to get into it, if you want to call a recess ---. Do you want to call a recess to the meeting, and we can take a look at it? But I don't know that I can answer that question right now.

MR. BURN: Excuse me. Point of order.

PRESIDENT FITZGERALD: Yes. The question has to be written in proper procedure for us to consider. Now, we can vote on it. I don't know if ---. We can look at it that way, whatever ---. Mr. DeFazio, I interrupted him.

MR. DEFAZIO: You know, I know his heart's in the right place. I mean, all of us --- not all of us, but some people, we know who it is, would like to see this settled, if possible. But it's inappropriate. Look, we're talking about one thing. This is a little bit of a different issue. This isn't a real, true amendment, anyway. This is a change from what was on the proposal. So it's inappropriate. I agree with the Solicitor.

PRESIDENT FITZGERALD: I'll let you, Mr. Ellenbogen, since it's your amendment.

MR. ELLENBOGEN: You know what? And ---.

PRESIDENT FITZGERALD: Do you have a way to make it appropriate, I guess, is the question? And we can go back and try to do that, but I don't want to ---.

MR. ELLENBOGEN: I mean, you know, what I want to say is, and I'm getting the jest, in reality, you know, what's --- in terms of whether it's going to be considered or not. I'm just trying to settle this thing, and I honestly think there's some semantics going on here, that if we wanted to make this, we probably could. But if that's the will of the Council, you know, I did the best I could.

PRESIDENT FITZGERALD: I'm not suggesting, Mr. Ellenbogen ---. You may want to just withdraw it for tonight. You can still bring it back as part of the budget process and introduce it at our next Council meeting. You're the sponsor, so it's your call.

MR. ELLENBOGEN: Well, I'd like to hear what Councilman McCullough ---. He has his hand up.

PRESIDENT FITZGERALD: Mr. McCullough, do you want to speak on this?

MR. MCCULLOUGH: Well, it's real simple and I'd ask Jennifer to do this. Just change the text of this to call for a referendum question to reduce the drink tax to five percent, effective January 1, 2009.

MR. ELLENBOGEN: Would that be legal, Mr. Cambest?

MR. MCCULLOUGH: It's a referendum question.

MR. CAMBEST: It's clear --- we took at a look at the advertisement, so it's very clear that that is the only --- the referendum question is the only issue that we can speak to tonight.

MR. MCCULLOUGH: Okay.

MR. CAMBEST: So in order to do that, it would have to be an amendment to Mr. Fitzgerald's bill to place that on the referendum. That's ---.

MR. MCCULLOUGH: Well, that's what I'm asking her to do, Jack. Why don't we give her a chance to type it up? Because that's what it would say. It would take the five percent effective January 1, 2009. It would be an amendment to your bill.

PRESIDENT FITZGERALD: Is that a McCullough amendment now, or is it ---?

MR. MCCULLOUGH: Why don't we call it the Ellenbogen amendment?

MR. ELLENBOGEN: Well --- I mean, he's making suggestions, and I'm just ---. You know, I ---.

PRESIDENT FITZGERALD: Jim, did you want it to go to referendum, or did you want it to go to five percent? They're two different ---.

MR. ELLENBOGEN: I want it to go to referendum and let the voters vote on it.

MR. MCCULLOUGH: Well, this would be the way to do it. All right? I'm doing nothing more than trying to clarify Mr. Ellenbogen's intent.

PRESIDENT FITZGERALD: Mr. DeFazio?

MR. DEFAZIO: One thing I feel --- you know, there's a lot of us off the record that would like to see things settled. But when we get down to the actual vote, somebody should contact Mr. Robinson's committee and get that involved with the budget. What can we do? What can't we do? How much ---? Here, just tonight --- I mean, we're flying blind again. We don't know what this costs. I mean, this should have been brought up to him earlier, the way I see it.

PRESIDENT FITZGERALD: Mr. Gastgeb, Ms. Cleary and Mr. Burn.

MR. GASTGEB: If I understand what Mr. McCullough and Mr. Ellenbogen has talked about, the amendment being offered, you know, this is the one we can vote on --- it would have the same practical effect. It's a referendum. So once that gets typed and once it gets put --- the one we offered about ten minutes ago, this one is probably the same one. And secondly, none of this has been in the Budget and Finance Committee or the Government Reform Committee. We've had two special meetings the week before that where the Government Reform Committee could have considered this.

To me it's real simple. Mr. Ellenbogen's tax at five percent, \$45 million collected, which is \$20 million more than we need to bring in \$22 million. The drink tax was supposed to bring in \$26 million. So you can vote if you think that's close enough or not. Thank you.

PRESIDENT FITZGERALD: Ms. Cleary and Mr. Burn.

MS. CLEARY: I'm just confused about the five percent thing here. I mean, the initial one said increase real estate tax in order to repeal the drink tax, and I think that's what these folks wanted. They wanted it repealed. Now we're going to do five percent. So the way I see this, we're going to end up with a real estate tax increase and the drink tax. So I don't know. Maybe that is the better compromise. But I think it's just getting

more and more confusing. And by eliminating the drink tax to five percent, we are limiting our own budget process because we're the ones that need to decide how we're going to do this budget with the revenues that we have. Thank you, Mr. President.

PRESIDENT FITZGERALD: I want to let Mr. Ellenbogen, who sponsored the amendment, respond to that suggestion.

MR. ELLENBOGEN: I just wanted, for the record, to state that I'm opposed to any property tax increase. I'm saying that if we're a little bit short somewhere else, I'm looking for some other revenues, you know, to work hard to try to do some other things. But I really believe, from what I've seen in the notes coming in from the treasurer, that I think we will be okay with the budget here, as I understand it.

PRESIDENT FITZGERALD: Mr. Burn?

MR. BURN: Thank you. First, Jimmy, you say it's a typo.

MR. ELLENBOGEN: It is.

MR. BURN: All right.

MR. ELLENBOGEN: I'm not as good at this as you are. You're an attorney.

MR. BURN: Save this to talk about at the Board meeting. You know, so that wasn't my concern. Well, it was my concern, that the dates were backwards. But also, I think you're well intended in doing this. I think we all are trying to look for a way to get everybody on the same page. And it ties in, Mr. President, with what I was going to comment before earlier to, some of the things my esteemed colleague, Mr. Drozd, had said about, why aren't we up here looking for a solution. We've all said, we want to do it. Why aren't we doing it, explore other sources of revenues?

And let me back up from that, then come back to Jimmy. Matt voted no on a 14 to 1 resolution that I worked on and Chuck worked on to do exactly that. And we didn't use the word taxes. We used revenues. And it passed 14 to 1. It has been sidetracked for a lot of reasons, and I say this to the gentlemen and ladies sitting down here, and I've said it to all of you, the longer we can --- the longer we do this, the longer we try to reach each other up here, and the longer there's this debate between us and the opponents of the drink tax, the longer Harrisburg is going to do nothing. Harrisburg

created it, and that's where we have to go to find other solutions.

The fact that Jimmy, Mr. Ellenbogen --- if you're going to be revising this, I understand you're going to make it more of a referendum versus an ordinance. Just consider some of the statements you made in a very casual manner in the committee meeting last week about the emergency situation handcuffing the Chief Executive. And think about whether or not you're going to be able to reconcile your intention tonight with any referendum question, with some of the powerful statements you made on the record last Thursday. Thank you, Mr. President.

PRESIDENT FITZGERALD: Mr. Finnerty?

MR. FINNERTY: I will tell you, I will respond to that.

MR. ELLENBOGEN: Mr. Burn, I don't think you will find anything contradictory in what I said. You're talking about the Board meeting. Basically, what I said was, the Chief Executive's job in this whole --- from Two to Section H of the Charter, it demonstrates exactly what I said. There's no contradiction there. I'm saying that at five percent, we're going to have enough money to balance the budget, and that there is no way there is a contradiction to what I said. All I said was, there's a separation of power. And if you want to bring that issue up ---.

The point is, it is not the legislative bodies to enact policy in this county that the Chief Executives, under the Charter, as Ms. Cleary likes to remind us all the time, it is his function to make that decision. And this referendum merely hinders him in making his decision. Perhaps he wants to raise some fees. Perhaps he wants to reorganize some departments or even merge some things with the city. All this does is it hinders his rights. So if you go back to the record, you'll find, sir, that there is no contradiction. Thank you.

PRESIDENT FITZGERALD: Okay. Now we're going to go on with Mr. Finnerty, Mr. McCullough, Mr. Drozd, Mr. Macey and Ms. Cleary.

MR. FINNERTY: Thank you, Mr. President. I'd just like to mention that now we're talking about a specific number, five percent. The fiscal note has to be raised on this. You can't go on without one. The difference, for everyone's knowledge here, was President Fitzgerald's referendum question. It had no amount in it,

so we could watch and wait. This has a specific amount in it. The fiscal note, according to our policy, has to be brought forward on this. Thank you.

PRESIDENT FITZGERALD: Mr. McCullough?

MR. MCCULLOUGH: Yes.

PRESIDENT FITZGERALD: Then Mr. Drozd.

MR. MCCULLOUGH: Sorry. I was trying to do a little proofreading now. I would like to address this issue of the fiscal note because I brought that up the last time we had a special meeting. And what I was told was, we don't need a fiscal note for a referendum question. And that's what we're talking about here. The other thing I would point out is, if we're going to talk --- if we don't need a fiscal note to totally eliminate a tax, why would we need a fiscal note to just cut it in half?

The other point I'd like to make is, our budget target for the drink tax and the car rental tax combined is \$28 million. That's what's in the budget. We're well on pace to get \$6 million annually on the car rental taxes. Mr. Ellenbogen is not talking about cutting that. When you add in the projection for the drink tax, we're right where we need to be. And again, this is going to go into effect January 1. And we're going to have a huge surplus of drink tax revenues for 2008.

And we all know that that's limited to its application. You can't just put it in the general fund. We can debate whether it's going to the Port Authority or something more generic under the terms of mass transit. The bottom line is, we're going to have a huge surplus of monies there. So I don't see that there's any, you know, fiscal concern whatsoever with this. I think this is nothing more than Mr. Ellenbogen's attempts to recognize exactly what is going on, which is, the taxes are too high, and we need to effect some relief.

We've got gridlock on Council. Council has now approved a process to break gridlock, you know, have the referendum questions go to the public. And this is a fair and balanced way to deal with that.

PRESIDENT FITZGERALD: Mr. Drozd and Ms. Cleary.

MR. DROZD: Thank you, Mr. President. For the record, my esteemed colleague, Mr. Burn, said I voted against going to Harrisburg. The reason put in there about tax --- and then it's, well, I'll pull that out. And then I specifically --- and if you go back to the

record, you'd see I asked that. I asked the president. I asked, would that again include going to the legislator and asking for alternate sources of taxes? And the answer was clearly yes. So I said, I refuse to be a member of any delegation to go and ask this legislator or anybody to put more taxes on the people of Allegheny County. They're overtaxed now. Secondly --- after which I was refused access to a meeting --- and we were talking again about --- we know, we talk about these meetings that were held where other Council members were invited. And as I walked in the door, and some of the people here today are a witness to that, I was refused entrance into that meeting. So you know, I don't know who this ---. I'm stumped, you know, as far as trying to ---. That wasn't part of it? It was part of it. It was definitely part of it. So let's verify that.

Lastly, I'll say, I voted no on 14 to 1 raises in the capital budget. But only two or three districts gets the bulk of the money on the capital budget on behalf of the other 11, 12, 13 or whatever it is. I vote no because they deserve their share. If the people of Allegheny got to bear the interest on the debts issued here, the fruits of the labor, they should get their fair share, too, in the other districts. Thank you, Mr. President.

PRESIDENT FITZGERALD: Ms. Cleary? Ms. Liptak, is this printed yet?

MS. LIPTAK: Printing it now.

PRESIDENT FITZGERALD: Okay. Then we can distribute to all members so they'll know what they're voting on?

MS. LIPTAK: Yes.

PRESIDENT FITZGERALD: Ms. Cleary?

MS. CLEARY: Thank you. I just wanted to correct something. I don't think this referendum takes anybody's powers away from them, because the Chief Executive still has to propose a fiscal plan and we still have to do our budget work and put the budget together and approve a budget. So it takes nobody's responsibilities away from them. Thank you.

PRESIDENT FITZGERALD: Mr. Gastgeb?

MR. GASTGEB: Thank you, President Fitzgerald. Under our new amendment that we passed that allows referendums to the Administrative Code, this certainly is relevant and appropriate. That's why it was passed. It

allows anyone to put matters forth, whether it's fiscal or not, in this type of manner. So this is what we're going to be seeing moving forward, which is why the minority party supported us. But Mr. Ellenbogen brings a solution. There's some technicalities. We can always waive the fiscal, though, because it's a Rule of Council. So we can easily get this on if we want. But the bottom line is that we are over collecting the drink tax. This cuts it in half and gets us back to where, I believe, the real intent was. And I want to commend Mr. Ellenbogen for having the courage to put this on. Thank you.

PRESIDENT FITZGERALD: Ms. Cleary?

MS. CLEARY: I believe before we lower the drink tax, that we have to do what's fiscally responsible and look --- and be responsible for the budget. I think we have to do all this at budget time and not tie our hands now. Thank you.

PRESIDENT FITZGERALD: Okay. We'll wait until the printing comes back so that the people can look at it. And then we'll have a vote on the Ellenbogen amendment. Did we have a proper motion and second on this, just to be official? Mr. Ellenbogen, do you want to make a motion?

MR. ELLENBOGEN: I think we're waiting to see this ---.

PRESIDENT FITZGERALD: Okay. Mr. DeFazio?

MR. DEFAZIO: Yes. I have another procedural question I'd like to ask Mr. Cambest. Did you look under the Rules of Special Meetings? Now, the question is, we have a special meeting. When you state one issue or the issue that's being addressed ---. Special meetings are called by the president, Chief Executive --- this is down here. A written notice of each special meeting shall be delivered to a mail slot of each Council member. The Chief Executive for the County may do this 24 hours before the meeting is held. Such notice shall specify the time, place and purpose of the special meeting. Only business mentioned on the call of the special meeting can be transacted at such meeting.

MR. CAMBEST: Yes. And you're correct. And that's why we ruled that Mr. Ellenbogen's attempt to amend an existing ordinance was in violation of the special meeting requirements. And now it has been changed to an amendment of the issue that has been noticed as part of the special meeting, so it would be appropriate in that case, but not as originally written.

PRESIDENT FITZGERALD: Council member Ellenbogen, do you wish to make an amendment?

MR. ELLENBOGEN: Mr. President, I'd like to make an --- offer my amendment.

PRESIDENT FITZGERALD: Okay. I think everybody has it in front of them and we sort of discussed it. Was there a second to that amendment?

MR. MCCULLOUGH: Second.

PRESIDENT FITZGERALD: Second. Please call the roll on the McCullough-Ellenbogen amendment.

MR. BARKER: On the McCullough-Ellenbogen amendment, Mr. Burn?

MR. BURN: No.

MR. BARKER: Ms. Cleary?

MS. CLEARY: No.

MR. BARKER: Mr. DeFazio?

MR. DEFAZIO: No.

MR. BARKER: Mr. Drozd?

MR. DROZD: Yes.

MR. BARKER: Mr. Ellenbogen?

MR. ELLENBOGEN: Aye.

MR. BARKER: Mr. Finnerty?

MR. FINNERTY: No.

MR. BARKER: Mr. Futules?

MR. FUTULES: No.

MR. BARKER: Mr. Gastgeb?

MR. GASTGEB: Yes.

MR. BARKER: Ms. Green?

MS. GREEN: No.

MR. BARKER: Mr. Macey?

MR. MACEY: (No response.)

MR. BARKER: Mr. Martoni?

MR. MARTONI: May ---?

PRESIDENT FITZGERALD: No, no, no. We cannot discuss. This is a roll.

MR. BARKER: Mr. Martoni?

MR. MARTONI: No.

MR. BARKER: Mr. McCullough?

MR. MCCULLOUGH: Aye.

MR. BARKER: Ms. Rea?

MS. REA: Yes.

MR. BARKER: Mr. Robinson?

MR. ROBINSON: No.

MR. BARKER: Mr. Fitzgerald, President?

PRESIDENT FITZGERALD: No.

MR. FUTULES: May I possibly --- I think I need to abstain from this. This is reducing a tax, which I don't think I'm allowed to do.

PRESIDENT FITZGERALD: Well, it's a referendum question. It's a referendum question.

MR. CAMBEST: You already voted, and I don't believe the vote ---. As I indicated to you previously, a vote to place something on the referendum is not a vote for or against that particular issue.

PRESIDENT FITZGERALD: Okay.

MR. ELLENBOGEN: Point of order.

PRESIDENT FITZGERALD: Mr. Ellenbogen?

MR. ELLENBOGEN: Are you telling us on the record --- saying that anybody who had anything to do with the drink tax is not allowed to vote on it?

MR. CAMBEST: No, no. No. What I'm saying is, if we were voting on your amendment as originally proposed, we'd probably tell Nick that he should not vote on that because that could be directly in his favor. All this is is to put it on a referendum. I don't see a conflict. So I don't think he has a conflict.

PRESIDENT FITZGERALD: Mr. Burn?

MR. BURN: If it was on the ballot, maybe he could vote for it then. But it's just put on the ballot.

PRESIDENT FITZGERALD: So the amendment fails. 4208-08 was properly voted and seconded. Do we have discussion on the bill itself? If not, please call the roll.

MR. MCCULLOUGH: Excuse me.

PRESIDENT FITZGERALD: Oh, I'm sorry. Mr. McCullough.

MR. MCCULLOUGH: I do have some discussion. You know, first of all, I'd like to ask somebody from staff to pass out something. No amendments. What I'm passing out is an Opinion decided by Judge James five years ago regarding the referendum question. And I think it's very important, very germane, to what we have here. As we talked in committee last Thursday, and Rich, as even you acknowledged, your bill does take some power from the Chief Executive and some power from County Council relative to matters of taxation in the budget. That requires a charter amendment. But more importantly, it's a change in form of government.

And the case that I'm handing out to you is actually a referendum question that was posed five years

ago to take the County police and put it under the arm of the independent elected Sheriff's Office. And you'll see in this Opinion that Judge James ruled that even that, even though there is nothing in the Charter that expressly gives the executive branch any say whatsoever over the County police, it is an implied and referred power. And even moving that one department of 200-some employees, which is, you know, a fraction of the total number of employees of the County, constituted a change in form of government, and ergo, violates the five-year rule.

This issue does not address either opinion of Council ---. I submit to you that this question runs afoul of that five-year mandate, and I predict that if it's challenged, it will be illegal. I ask everybody to reconsider this because we've been down this road before when we enacted in haste to put change in form of government questions on the ballot, only to have the Courts rule against us, most recently, last year when we tried to take the Sheriff's Office and put it on the ballot.

There's another issue, too, here. And this is really a more pragmatic one. And Rich, I'm going to ask you this question. Do you believe, as the President of Council, that we should repeal the drink tax in total? Do you, as a matter of policy ---?

PRESIDENT FITZGERALD: As a matter of policy?

MR. MCCULLOUGH: Yes.

PRESIDENT FITZGERALD: Mr. DeFazio, point of order.

MR. DEFAZIO: Point of order. We're here only to discuss one thing, and we're going all over the board.

PRESIDENT FITZGERALD: I think that's more appropriate during the budget season.

MR. MCCULLOUGH: No, Rich, I don't. And here's why. I mean, you put forth the question saying, shall the drink tax be repealed by raising the property tax? And I want to know as a matter of policy, do you believe in that? Do you believe the drink tax should be repealed by raising the property tax?

PRESIDENT FITZGERALD: My position is very clear, that I think we have two options, and I think the drink tax is a better option, not a good option, but a better option than raising the property tax.

MR. MCCULLOUGH: Okay. And that's what I understood you to have said consistently throughout this

entire process. And I'm going to make this statement. I don't think there's anybody on this Council that thinks raising property taxes is a better alternative to the drink tax. I don't think there's one of us that believes that. And that's the problem I have with this legislation, because when you introduce a bill, when you introduce legislation and you pass it, you're validating the question. You're making an affirmative act that you think this is the way this Council should go. And I honestly don't think there's anybody on this Council that will, in good conscience, when they go in to vote on this, will vote in favor of this question.

And that's a fundamental problem I have with what we're doing. Forget about all the procedural gobbledygook we're doing. Forget about change in form of governments or anything else. I think when we act, and we act in an affirmative manner, we're making representations to people that we think what we're doing is right. So we're putting out a question tonight that says, repeal the drink tax and raise the property taxes. That's an affirmative statement by this Council. And if nobody believes that, if nobody is going to come out here and say in public, yes, that's what I think we should do as a matter of County policy, then we're playing games with the public and we're betraying our position of fiduciary responsibility.

That's a fundamental mischaracterization of what we should be doing here. We should be acting in an affirmative manner, and when we pass something, we should be willing to stand up, those of us who vote for it, and say, yes, we believe in it. But how are we going to look to the public when we pass this, or if this thing passes, and we're going to go out and say, vote against it? How's that going to look? We've taken five meetings, three special meetings, two Committee meetings, to come back with an ordinance that we're going to go around, those who don't believe in it, and say, vote against our own action. Vote against something that we committed an extensive amount of time and resources on. We don't want you to do it.

And how are we going to look when this thing fails? And I'll predict to you, this thing is going to go down in flames faster than anything we've ever brought out of here. Who in their right mind is going to vote this? What are we doing to Council as a body when we pass

things, work against it, and hope that it fails? And that's the fundamental reason why I'm against this, because basically, anybody that does this is saying, I'm for raising property taxes to get rid of the drink tax, an open-ended commitment to raise property taxes to get rid of the drink tax, taking the Chief Executive out of play, taking County Council out of play, not even knowing how much revenues we're talking about in some open-ended checkbook, for the largest property tax increase in the history of this county.

And you know, God help anybody that votes for this thing, because I think you've damned your careers because you've basically come out with the biggest property tax increase in the history of this county. Otherwise, you're betraying the representation you're giving the public. And that's why I'm against this.

PRESIDENT FITZGERALD: Mr. Gastgeb and Ms. Cleary and Mr. DeFazio.

MR. GASTGEB: Thank you, President Fitzgerald. And now that we're on your bill, I think there has to be a distinction by some of us that we want to separate property from drink. And that's what it comes down ---. That's the umbrella. That's the over layer to this. Many of us don't believe that the two should be linked. And I do believe letting this question go forth, there's an inherent danger of property taxes being increased or raised. I mean, no matter how we look at this --- we could say, well, jeez, I could probably predict how this is going to be --- we're still leaving things to chance. This could be a property tax increase. And I agree with Chuck. Nobody up here wants property taxes to be increased, but you approach closer to allowing that to happen or allowing this question to go out.

The other thing we have to all understand --- and Mr. Joyce spoke to this, I think, pretty straightforwardly, this Council doesn't allow for a referendum question like we're seeing tonight. So I mean, there's no secret there. This is a referendum question. Mr. Ellenbogen had one. I had one. The budget process has been minimized.

So by calling this up --- well, this has to go to the budget committee --- not if you're on referendum and you're doing --- and running around. And to correct my colleague, Ms. Cleary, who spoke about the Kanes being in better shape and the Row Offices, this is from Mr.

Flaherty's report, as County Controller, in April. Kanes' loss was \$2 million in 2007 and Enhanced 911 loss was \$6 million in 2007. And jail healthcare loss was \$2 million higher. And that's the inherent problem of the Council that we took. We're not in the budget process. We're not going through things like we should. And we validated that to be allowed by the actions that Council took, only to get this one referendum question on the ballot to support the efforts of people who were allowed to do it for the Charter. And worse yet, we have Council people up here not even knowing what our revenues and expenditures are.

Lastly, no one can dispute this. There's a \$2 million difference between what we appropriated for the Port Authority last year and this year. Not even \$2 million. It's less than \$2 million. We could say this --- well, I know this, and how we moved it out, what property taxes, and all that. But we're only appropriating less than \$2 million more for the Port Authority than we did last year. And that is indisputable. Thank you.

PRESIDENT FITZGERALD: Ms. Cleary, Mr. DeFazio, Mr. Futules, Mr. Finnerty and Mr. Ellenbogen. Ms. Cleary?

MS. CLEARY: Thank you. I take exception to what Mr. McCullough says, that we want this --- that we all want this referendum to fail. I do not feel that way. And I feel I'm being honest with the people because we need so much money to run government. Any government needs so much money to run it. And if we don't have the drink tax, then we are going to have to do property tax, because that's our biggest revenues.

As far as Mr. Gastgeb saying about the jail healthcare, that is a big issue. And one of the reasons that the jail healthcare is an issue is because any inmates that did not apply for any State aid, we have to pick up that bill, and that is a big bill. And that one has gone up. It has gone up every year. And the Kanes are more fiscally responsible. We are selling more of that property. They had a little bit of a setback, but basically, on that task force, we made a lot of changes to make that a lot better. So I believe this is a good referendum question, because to be honest with the people, it is going to be one or the other. Thank you.

PRESIDENT FITZGERALD: Mr. Futules and ---.

MR. MCCULLOUGH: I want to respond.

PRESIDENT FITZGERALD: You'll get your chance at the end, right after Mr. Ellenbogen --- Mr. Futules. I mean --- I'm sorry. Mr. DeFazio, then Mr. Futules.

MR. DEFAZIO: I keep going back to the same question. I agree with what Joan just said. We're not putting this on --- we're not putting this out there to have it fail. The County Solicitor and our Solicitor are saying this is perfectly legal what we're doing. So I don't understand people saying this is wrong and that's wrong. It's just confusing to me. Who do I listen to? Who are the experts? Who are we supposed to listen to, everybody that gets up and speaks, or somebody up here? Or do we listen to the people we pay in the County Law Department?

They're telling us we're doing nothing wrong. If someone shows me, any of these three --- we're doing something wrong, I will take my --- I will just go away from it. I want nothing to do with it. I was asked that question. They said, would you violate the Charter if you knew it was wrong? No. If I thought I was doing something wrong, I wouldn't be going along with it. Simple as that.

PRESIDENT FITZGERALD: Mr. Futules?

MR. FUTULES: In response to all of this, Chuck, this amendment that everybody's throwing in our face, does this mean that if ---? I'm going back to this because it says here --- based upon a review of all lawful means of increasing revenues --- would a tax increase for properties be included in this? Are you saying that you'd be in favor of that? The question is --- I like this question because we're not really looking at one item, property taxes. There are other items in this county that we could find money, other revenues. And I like this question.

But the big question --- I'm not done. The big question is, why wasn't this referendum made last year before the tax was put into place? I mean, we're asking after the fact. I'm just questioning the fact that --- even our Chief Executive has come up tonight. You keep saying that you refuse to raise property tax to support the Port Authority, but in essence, if 51 percent of the people in this county said, raise our property tax, you will. I doubt that. I'll support this referendum question just to see if he signs it.

PRESIDENT FITZGERALD: I'll let the sponsors, Mr. McCullough or Mr. Gastgeb, answer Mr. Futules' question.

MR. MCCULLOUGH: Well, to answer your most recent question, I wasn't here last year, so that's why it wasn't on the ballot. But the other point is, I think it's already been shot down. We offered this amendment and it was voted down. And the third point, and I won't belabor this, I've taken the position and I've tried to work very hard this year to demonstrate that there is a panoply of resources we could look at without raising the property tax. I think the most obvious one is, we're bringing in about twice as much money as we need. So only with that alone, we ought to be able to sustain ourselves for another year without doing anything. But you know, I think that's beating a dead horse right now.

PRESIDENT FITZGERALD: Do you want to go, Mr. Gastgeb?

MR. GASTGEB: Yes. And the reason why you saw it tonight, Nick, it was just a month ago, or not even 30 days ago, we weren't allowed to do that. We had to pass the change in Administrative Code on a referendum to basically run its course as you're seeing tonight. So it couldn't have been done any earlier, so ---. And I did notice you voted yes for that, so to your point, it allows for revenue options to be considered outside of the property tax. And that's the big difference with Mr. Fitzgerald. Mr. Fitzgerald is only the property tax.

Can I take it a step further, Nick, and answer your question? Here's some additional revenue sources one could argue may not be available. There was a \$6.6 million in gaming funds that we created a special board for. It was the Airport Authority debt that we expect to get repaid, \$27 million; we're not going to see. It was building permits possibly going on the tax bill up to \$2 million. It was maybe going out to what Mr. Burn and Mr. McCullough thought to do, look at nonprofits in some capacity. Even to voluntarily look at nonprofits in some capacity. The City gets \$5 million for nonprofits voluntarily. It's the excise that we're collecting, \$20 million worth. So yes, that's some of the additional avenues if the question was laid out, and I'm glad you took it that way, Nick. Thank you.

MR. FUTULES: Thank you.

PRESIDENT FITZGERALD: Okay. Mr. Finnerty?

MR. FINNERTY: Thank you, Mr. President. I believe that we talked about this in Committee before, in relation to referendum or referenda or whatever you want to call this thing anymore, that we looked --- we saw in the paper that one of our Council members said that we couldn't do it. That Council member, in turn, read a section from the Charter that showed that we could do it. So my own personal opinion about it is that we never had to do anything with the vote. It was already in the Charter and we could have done it.

And not only that, but there was introduced four referenda questions before the Code was checked. So all of a sudden, a referendum is introduced by Council President Fitzgerald, and there's all kinds of smoke and screaming and yelling and ranting and raving that we changed the rules. Having stated it in Committee, it could have been done without that.

We're talking about giving the voters a chance to put their opinion, what they want. It's a yes or no thing. That's what everybody here has been saying. There was a referendum that was put up, and it is very similar to this referendum, not the same. But it was put up. There was no screaming, yelling, ranting and raving on that one because I assume that that was one that was put up that was pleasing to the people that are opposed to the drink tax. Nothing was said, not a word. It was put up. It was talked about in committee. Never got out of committee. In fact, it did come out of committee, because President Fitzgerald did release it. But it was pulled, I believe, at our last meeting. You know, to just sit up here and --- we talk and we talk and we talk. I think we should vote on this. I know which way I'm going to vote, and I'm sure everybody else knows which way they're going to vote. And you keep throwing smoke up because it's not going your way, that's up to you. Thank you.

PRESIDENT FITZGERALD: Mr. Ellenbogen and then Mr. McCullough.

MR. ELLENBOGEN: The problems that I have with this particular referendum is that I feel that, first of all, instead of being elected to create a solution to this, I feel that this referendum gives the public an ultimatum. And I don't think that that's what we were elected to do. Now, if I could just call you to Section 2 of Article 5 of the Charter, I feel that this referendum is us doing the Chief Executive's duties. It's based on

Constitutional law. It's basically a separation of power through the legislative body. It's for the Chief Executive, who, I might add, is very capable of defending his position. If the referendum passes, the Chief Executive is more than capable of defending his position as he has done in the media. And it's his position to do so. He chooses to tell the public, you can vote one way or the other, this is what I'm going to have to do. That being said, it's his job to do that.

Now, if you look at some of the sections here, particularly, you know, the Chief Executive's powers, he's to enforce the ordinances and resolutions. Under Section 8, he's to control and be accountable for the administration of all departments and agencies, except those specifically placed under the jurisdiction of the Charter. He's also the one who negotiates and signs, or causes to be negotiated all the contracts, all the agreements and other instruments, except provided in the section. Clearly he is elected to run the government, and we are to pass the laws.

Now, Section N is very clear. And if anybody on this Council wants to tell me I'm wrong, if the drink tax passes, I'm hearing that we have a huge hole in the County budget. Well, a \$30 million hole in the County budget is a state of emergency; would you not say so? Under Section N, it is very clear that it is the Chief Executive who declares and takes appropriate action in meeting a state of emergency. It doesn't say in here that County Council is to take action to meet a state of emergency. The Chief Executive is more than capable of defending his position. If the drink tax is that devastating to the budget --- you know, a lot of us, we're incapable of telling the public his argument. It's his right. He was elected to do so. It is not our side of the aisle. We are not the executive end of this process. We're the legislative end. That being said, you know --- I mean, we learned this in third grade. We are not here to run the government. We are here to pass the laws that the Chief Executive is to live under. It's his decision.

And furthermore, you're telling the public, we got an ultimatum here. If you get rid of the drink tax, we're going to raise the property tax. Well, what if the Chief Executive says, well, go back to Harrisburg and ---. You know what? I've been able to negotiate this deal here. You can't do it, because we've just told him,

you've got to raise the property taxes. Well, what if the Chief Executive says, you know, I can pick up a couple million dollars here if I use out-of-county fees or whatever. Can't do it, because we decided, you've got to raise the property taxes, Dan.

It is not our job. It is his job, and he's very capable of --- again, I've said it like, five times, let the Chief Executive do his job. We were elected to represent the people and to make the laws. We're not elected here to run his departments. He is a very capable kind of manager. He's very bright. And he's bright enough to do what he needs to do. We're not elected to do his ---. This referendum question flies in the face of what our kids learn in school, separation of powers. Thank you, Mr. President.

PRESIDENT FITZGERALD: Mr. McCullough, Mr. Drozd, Mr. Futules, Mr. Burn, Ms. Cleary.

MR. MCCULLOUGH: Thank you, fellow students. Anyway, Mr. Fitzgerald, thank you. I passed out a couple of sheets of paper that I'd like everybody to take a look at. And actually, what it is is back in the spring when the Chapter came out, I posed some questions to the Controller's Office. And on April 23rd of this year, I had the privilege of having a meeting not only with the Controller and two of his assistants, but also our Budget Director, one of her assistants, and Ms. Liptak as well.

The bottom line is, I had the opportunity to discuss these kinds of issues with the fiscal brain trust of the county, from all three directions; County Council, the Executive Branch and the independent elective office of the Controller. This meeting actually preceded the Controller's presentation to Council. And the reason why I'm bringing this up is this will demonstrate conclusively to you that, number one, we don't need to go the route of linking a repeal of the drink tax to a dollar for dollar increase in the property tax. And number two, that we're tramping on the toes of a number of not only important institutions here, but going contrary to the advice of our fiscal experts.

Let's take a look at the answer to the first question. The issue of the \$19.9 million that came in at the tail end of last year, gaming monies that were earmarked for the Airport. We were told at the time that that could not be used for the general fund. Well, if you read question one and the answer to question number two,

it turns out, lo and behold, it did get into the general fund. So now we know that those kind of monies, when they come from the state, we can use for our General Fund. If you turn to the second page, I've checked off a couple of other points. Question ten, one-timers. And it identifies a minimum of \$12.4 million in those same gaming monies earmarked for the airport. A minimum is to be received this year. We haven't received it yet. So we've got twice as much drink tax money as we anticipated, twice as much car rental tax money as we anticipated and we've got another \$12.4 million coming in that we haven't received yet. And we now we can use that for the general fund.

Take a look at number 11. What savings relative to Row Office Consolidation can be accelerated, and how much? The direction is to read the Controller's white paper. Those savings amount to \$1.1 million a year. In relation to this conversation, they haven't been realized yet because they haven't been implemented. That's another \$1.1 million a year.

Then we get to number 12, recommendations towards Kanes, 911, healthcare, jail personnel, what have you. Note the first sentence and the answer. The administration to address these concerns. And that underscores the point that Councilman Ellenbogen has made. The Chief Executive is well armed and well equipped and has the responsibility to address these kinds of issues. We're taking that power away from him, and we tie his hands and we tie our hands and we tie our fiscal experts' hands and say, you must raise property taxes when you repeal the drink tax, and you must repeal the drink tax to raise the property tax. Clearly, Councilman Ellenbogen's idea of cutting it to five percent makes all the sense in the world, and we're absolutely disregarding it.

Now, look at some of the things that were identified here. The Kanes lost \$2 million. We lost \$6 million in the 911. We lost \$2 million more in jail healthcare than was anticipated. All these things within the purview of the Executive Branch, Chief Executive, to deal with these. And obviously, there are ways that we can save money and not have to raise the property tax dollar for dollar. Let's take a look at number 13. What other revenue/cost measures are being considered? OPEB trust to reduce long-term liabilities. That's called an Open Post Employment Benefit Trust. And I think --- the

Controller went on at length, the significant savings will be realized not only by the Port Authority, but our other authorities, if we combined all our post-retirement benefit plans into one comprehensive trust.

Review the Homestead exemption. We found out that that's a leaky faucet. Sale of assets. And you wonder where I got the idea of looking at the sale of the Port Authority and the FCA and ALCOSAN and the Airport. As the Controller said at this meeting, and he said publicly, all of those issues should be on the table. And lastly, continued implementation of IT solutions. The last page, and this was part of his public presentation, five bullet points, his recommendations on cutting costs and raising revenues. Accelerate efforts to realize savings from Row Office Consolidation. Review of all County operations to decrease costs and increase revenue. Verbatim, the Gastgeb amendment that was introduced earlier this evening and defeated. Enact fiscal action plan for projected revenue shortfall through long-term planning. Document a specific plan to include a financial analysis for City/County taxpayers on a City/County merger. And this was defeated by Council the last time we got together. And of course, the OPEB Trust.

I don't see anything here that says, repeal the drink tax, raise the property taxes. The bottom line is, you're flying blind here. You have no --- there is no reason to do what we're doing here. I would suggest rather than having spent the last two weeks with a multiplicity of meetings for this kind of purpose, which is just going to exacerbate the problems we've got and basically take these decisions away, not only from the Chief Executive but from ourselves, but also, it would take our fiscal expert right out of play. This time has been misspent. We would have been much better off if we had followed up on the Controller's offer and the offer we heard from the Treasurer, as well, that had round table discussions similar to the one I had, and try to hammer out solutions to deal with these problems and to try to avoid the largest property tax increase, an open-ended property tax increase, on the citizens of Allegheny County.

One other point, this wasn't my doing; all right? You know, I get the impression that when I come up with things, they look at it and they say, well, that's McCullough. He's a Republican. That's dead on arrival.

But if gave that impression, and it's wrong, I apologize to anybody that I might have slighted. This Council has people who are not only elected but appointed, they are recognized as experts in their field, and they've been totally ignored now for the last three months, and I think that's most unfortunate.

PRESIDENT FITZGERALD: Mr. Drozd?

MR. DROZD: Mr. DeFazio ---. I'll defer ---. I'll go after him. He had his hand up.

PRESIDENT FITZGERALD: No, he's got a ways to go, Mr. Drozd. Do you want to give your time up, or do you want to speak?

MR. DROZD: No, I want to speak.

PRESIDENT FITZGERALD: Okay.

MR. DROZD: I was going to let him go first. Okay. Thank you, Mr. President. You know, I'm becoming more and more weary and very tired. In essence, all I hear every time it's brought to this Council is taxes. That's all we hear about, we talk about, new ways and other ways to find taxes. I'll quote that Harry Truman said. The buck stops here. You know, the buck stops across that hall. And the buck starts here, too. And the imagination and the creativity should start here. I haven't seen that yet. And it seems to fall on this Council every time, this power that falls on this Council.

I'm tired of being reactive than proactive. I see in our crystal ball --- I'll point out from years back that some certain people were in an elected office then. For instance, the North Shore Connector. Yeah, it's a done deal. It's not just \$12 million of County money --- \$70-some million from the State the Governor committed that we need for our roads and bridges. That's \$80-some million. Add it up.

Secondly, I'd like to point out that there's also this gaming money. The gaming money was supposed to go to alleviate the people of Allegheny County of their tax burden. \$20-some million last year, where did that go? To balance the budget. And I don't understand it, because in essence, we thought the budget was balanced then. Then I'll add up another factor that we talked about. There's money out there on the table that the state owes us, \$40-some million a year. More than \$88 million is state-adjudicated from the State of Pennsylvania, from the Supreme Court of Pennsylvania. Add that into this.

Lessons learned. Let me point that out. Lessons learned. That's what we say in the military. I don't see us learning from our lesson. I don't see us forecasting where we can get cash flows in this county without adding it on, always back to the taxpayer, for more taxes. And that's what it seems like happened here. I've been on this Council for two years. I want to see more imagination. And I know these Council members are part time. I don't fault that. But we have a staff here. We have a full-time administration here. I want to see that come across that hall. I want to see it start there, and the buck stops here, the responsibility.

This Council continuously has brought to them just taxes, taxes and more taxes. And I think it's time that there be other imaginative and creative issues coming here. As Harry Truman said, the buck stops here. Well, it's over there. And the buck stops there and the imagination should start there, too, along with this Council. And that's all I have to say. And it's very sad. Let's look at some strategic plan. Let's look at some forecasting, not reaction. Thank you.

PRESIDENT FITZGERALD: Mr. Futules and Mr. Burn.

MR. FUTULES: Moving back to the actual ordinance in question, if I could. The question just simply states, shall the County enact an Ordinance to increase real estate taxes in order to repeal the drink tax --- alcoholic drink tax? What about the car rental? Did we forget that? They're not in the equation here. Maybe we should have a choice, eliminate the drink tax or maybe the car rental tax. I just don't think that they should be left out of this. And I really like your amendment there, by the way, Vince, because all the different means of collecting increased revenues, it's a little bit broad. We're not directing it at the property tax. You're right. There's a whole lot of different avenues. And I think that this question is so generalized, it's just --- it needs amended.

PRESIDENT FITZGERALD: Mr. Gastgeb, just quickly, and then Mr. Burn.

MR. GASTGEB: Thank you, Mr. Futules. You're a wise man.

PRESIDENT FITZGERALD: There you go. Mr. Burn? Then Ms. Cleary.

MR. BURN: I have nothing.

PRESIDENT FITZGERALD: Okay. Ms. Cleary and Mr. DeFazio, then Ms. Rea.

MS. CLEARY: Contrary to what we keep hearing here, the Home Rule Charter I have in front of me, I guess I need to read it to people. Article 4 under the Legislative Branch, Section 2, Number C, adopt a balanced annual operating and capital budget, as provided by Article 7 --- 6. Seven, rather. And under Article 7, County Council shall adopt by resolution a balanced annual operating and capital budget for the next fiscal year. And for adoption, County Council may add, delete, increase or decrease any appropriation items.

And under Mr. Robinson's leadership, we have done this. The Controller gives us all reports periodically. We all know what the Controller has to say and how we can do things. And I believe that for the last four and a half years I've been here, we have gone through this budget process and really made some cutbacks where we can. I'm getting a little bit upset that people say we're not doing our job up here. I believe that we are. Thank you.

PRESIDENT FITZGERALD: Mr. DeFazio and Ms. Rea.

MR. DEFAZIO: Yes. I'd like to ask Chuck McCullough a quick question.

MR. MCCULLOUGH: Sure.

MR. DEFAZIO: Chuck, I don't know if I heard you right or wrong on this. Did you say that 4208-08 --- you said that the County would vote that down?

MR. MCCULLOUGH: Joe, I predict the electors are going to vote this down. Absolutely.

MR. DEFAZIO: See, that's one good reason why we have to have a vote. I disagree with you 100 percent. I could be wrong. At the end of the day, we're going to find out who's right or wrong. But this is where people seem to forget everything. Everybody has an opinion. Okay? Well, who's right? This is going to the public. He's stated a lot of things here. He's saying the public's going to vote it down. I might be wrong. I think the public is not going to vote it down. But if the public votes it down, with the public, whatever way the public goes, they should have a voice. And that's what we're doing. We have done nothing wrong or illegal. I told you a hundred times, all of our solicitors told us we're right, but we're dancing around in circles here

trying to confuse the people. Look, we're not doing anything wrong.

Look, I understand their problem. And somewhere along the line, I'm hopeful we do get it solved. But I think now, at this late date, we're going to have to wait until the budget comes up and try to see where the money's at and do something. But everything we're doing, it's real crystal clear, there's nothing wrong what we're doing. And I disagree, Chuck. That's why --- if there's a lot of disagreement, that's why the public ---. Let's see what the public thinks. Thank you.

PRESIDENT FITZGERALD: Ms. Rea?

MS. REA: I think the question threatens the property tax increase when the residents of the county are the most vulnerable right now about losing their homes with the economy. And I also think, Mr. DeFazio, you feel very strongly this referendum will pass. But the real issue is, some people go in and vote who never vote, don't even look for a referendum question, and missed it or vote one way and think they're voting another way. So you really cannot predict how people will vote. But I do think you give the public an ultimatum about this. We are saying, we're increasing your property taxes if you do not vote for this. And that's a serious question, in my mind. Thank you.

PRESIDENT FITZGERALD: Mr. DeFazio, do you want to respond? Then Mr. Gastgeb and Mr. McCullough.

MR. DEFAZIO: I'd just like to respond. I'm not --- I'm giving my opinion. I could be wrong. At the end of the day, I go with wherever the majority of the votes go. I could live with it. All I'm telling you, in my opinion, I disagree with Chuck. Okay? But look, the main thing here, are we doing this legally? My answer is yes, based on all of the written and verbal information we received. So let's let the public have their say. Okay? And let's all try to inform them what's going on and let them have their say. That's all I'm saying.

PRESIDENT FITZGERALD: Mr. Gastgeb and Mr. McCullough.

MR. GASTGEB: Thank you, President Fitzgerald. Just so I get this straight, the question that we're deciding on, 4208, which is the Fitzgerald question, shall the County enact an Ordinance to increase real estate taxes in order to repeal the alcoholic drink tax? Chuck, you're version is they're going to say no?

MR. MCCULLOUGH: What was that?

MR. GASTGEB: You're going to vote no ---.  
They're going to vote no or turn down the Fitzgerald ---.

MR. MCCULLOUGH: I hope to hell they do.

MR. GASTGEB: And Mr. DeFazio is going to vote  
yes.

MR. DEFAZIO: Yes.

MR. GASTGEB: Okay. I hope they vote no,  
because they'll vote to raise your property taxes. You'd  
have to vote no so you don't raise your property taxes.  
And if we're confused up here, most of the 15 of us,  
what's going to happen when it gets out to the public?  
Mr. DeFazio is basically advocating that the citizens out  
there raise their own property taxes on themselves by  
voting yes, considering how the question's written. My  
main thing is not if it's legal, and talk of solicitors.  
My main thing, what's in the best interest of my district  
and then the county at large?

But the best thing for us, I believe ---. And  
even though Council members have stated that things were  
going to be --- the Kanes were going to break even when  
the Controller said at least \$2 million. It's all  
rhetoric up here. We don't need this question going out.  
Thank you.

PRESIDENT FITZGERALD: I'll let Mr. DeFazio  
respond, then Mr. McCullough.

MR. DEFAZIO: Once again, Vince, that's a matter  
of opinion. Can I ask you one quick question? How many  
people do you represent?

MR. GASTGEB: 100,000.

MR. DEFAZIO: I represent 1.2 million. And all  
the people I'm talking to --- almost everyone said,  
whatever you do, please do not do anything to raise our  
property tax. That's what this is about. And I  
understand the rest of you people, and I hope before it's  
all over in the end, that that gets settled, also.

PRESIDENT FITZGERALD: I'll let Mr. Gastgeb  
respond.

MR. GASTGEB: Well, the perception is, I think,  
out there, is that the drink tax wasn't needed in light of  
all the options Mr. McCullough just went over. But again,  
shall the County ---? This is what we're going to be  
voting on, shall the County enact an Ordinance to increase  
real estate taxes in order to repeal the alcoholic drink  
tax? You would want to vote no if you don't want your

property taxes to go up. So I relate to Mr. McCullough. You're suggesting the people vote yes.

PRESIDENT FITZGERALD: That's correct. We want them to vote no to raise ---.

MR. GASTGEB: Well, apparently, Mr. DeFazio doesn't. And that's what you're doing. You're confusing the whole issue with this, because we should be doing our job in passing the budget. Through Mr. Robinson's committee, I keep hearing about --- we're advocating our responsibility by putting it out. And between the 15 of us, we can't even get it right.

PRESIDENT FITZGERALD: Mr. McCullough and Ms. Rea.

MR. MCCULLOUGH: Rich, he just said it all. We want them to vote no. And that's why I had a problem with you putting out a referendum question and asking it in an affirmative manner. We want them to vote no. Why the heck would any of us want to put this thing out and risk it being passed?

PRESIDENT FITZGERALD: Ms. Rea?

MS. REA: I agree with Mr. Gastgeb. The question is, do you want your real estate property taxes increased and eliminate the drink tax? It is confusing. I mean, it's a referendum question. I mean, I think anyone ---. One of us up here, we've read referendum questions before that confuse you. And sometimes you vote on it, sometimes you don't vote on it. That's the real issue. The question really says --- you know, basically, or you can interpret it as saying, everyone up here will increase real estate taxes. We're all willing to do that under any circumstances. That's what we're doing. That's our next step.

PRESIDENT FITZGERALD: John?

MR. DEFAZIO: Well, I have to admit, I made a mistake. I made it clear; no one wants to raise property taxes. Chuck, I'm going to ask you a question.

MR. MCCULLOUGH: Yes.

MR. DEFAZIO: Based on what I'm saying, I feel the people don't want to raise their property taxes.

MR. MCCULLOUGH: Oh, I agree with you 100 percent. That's why I hope this thing fails and it shouldn't even get out of this Council.

MR. DEFAZIO: I'm sorry --- misspoke, okay? I'm sorry.

MR. MCCULLOUGH: I think we're making a hell of a mistake, anybody that votes for this, in turning this thing loose. And that's the problem. You're going to put this thing out, John, and you're hoping everybody votes against it. Why the hell are we doing it?

PRESIDENT FITZGERALD: Please call the roll.

MR. BARKER: On Bill Number 4208-08, Mr. Burn?

MR. BURN: Yes.

MR. BARKER: Ms. Cleary?

MS. CLEARY: Aye.

MR. BARKER: Mr. DeFazio?

MR. DEFAZIO: Yes.

MR. BARKER: Mr. Drozd?

MR. DROZD: Nay.

MR. BARKER: Mr. Ellenbogen?

MR. ELLENBOGEN: No.

MR. BARKER: Mr. Finnerty?

MR. FINNERTY: Yes.

MR. BARKER: Mr. Futules?

MR. FUTULES: Yes.

MR. BARKER: Mr. Gastgeb?

MR. GASTGEB: No.

MR. BARKER: Ms. Green?

MS. GREEN: Aye.

MR. BARKER: Mr. Macey?

MR. MACEY: Yes.

MR. BARKER: Mr. Martoni?

MR. MARTONI: Yes.

MR. BARKER: Mr. McCullough?

MR. MCCULLOUGH: No.

MR. BARKER: Ms. Rea?

MS. REA: No.

MR. BARKER: Mr. Robinson?

MR. ROBINSON: Aye.

MR. BARKER: Mr. Fitzgerald, President?

PRESIDENT FITZGERALD: Yes.

MR. BARKER: Ayes ten, noes five. The bill passes.

PRESIDENT FITZGERALD: Public comment on general items. Seeing none this evening, the meeting is adjourned.

MEETING CONCLUDED AT 6:45 P.M.