

Wilmington City Council met in special session on Wednesday, December 26, 2012, with President Scott Kirchner presiding.

Call to Order

Roll Call: Jaehnig, present; Wells, present; Stuckert, present; Wallace, present; Mead, present; Siebenaller, present; McKay, present.

Chief Weyand was also present.

President of Council - President Kirchner said the only item on the agenda was the second reading on the budget ordinance. He asked the Law Director to give an opinion on whether the budget ordinance could be amended after the first reading.

Brian Shidaker explained that he had reviewed the Ohio Revised Code as well as the local rules. An ordinance or resolution has to be read on three separate dates. He said he thought they are all aware that we can suspend that if three-fourths of the majority votes to suspend the rules and regulations. That requires six of the seven to suspend it. Once an ordinance is read for the first time, his understanding, and the way he had asked other attorneys and researched the issue, we can amend typographical errors and things that are not material to the ordinance itself. If amendments are made to an ordinance that are material in nature, then it has to start over again with the first reading. He said he knew historically amendments have been made to the budget all the way up until the end and then the ordinance is passed. Basically what he'd seen from previous councils when that happens, they suspend the rules and regulations at that time and pass the ordinance with a super-majority or three-fourths majority. So, long story short, if you want to amend the ordinance that has already been read, you need to start over with a first reading because legally it is a new ordinance. He asked if there were any questions on that. If there are amendments to be made that make material changes to the ordinance, it needs to be a first reading.

Councilman Siebenaller asked for a definition of material changes.

Brian Shidaker explained that means if you are changing numbers within the budget, he believes that would material. If there was a misspelling or something like that, it would not be a material change.

President Kirchner said he wanted Brian to provide the legal advice on what they have before them now that they have a first reading. He turned the item over to council.

Councilman Mead said that the process needed to continue.

A motion was made by Wallace and seconded by McKay to give the first reading only on the ordinance Making Appropriations for Current Expenses and Other Expenses and Other Expenditures of the City of Wilmington, Ohio, During the Fiscal Year Ending December 31, 2013.

President asked for discussion.

Councilman Mead said he is opposed to the budget as presented for the following reasons. First, he does not believe it has been an open and transparent procedure. He said that even though they were shown the budget after it was created, they were not participants in creating the budget. Second, he does not like the cost allocation because it puts certain departments at a disadvantage. Third, he thinks the income had been artificially inflated to give the appearance of a balanced budget. Four, he does not like the way the majority of council has been treated by the mayor concerning the budget. Finally, he does not believe the budget is legitimate. According to the Ohio State Code, an annual appropriation ordinance shall be prepared by the legislative authority, which is City Council, in a municipal corporation from estimates submitted by the mayor. He said that is not how this was handled and he does not think it is legitimate according to the law. Therefore, he is opposed. He said council is able to prepare a budget and will prepare a budget and it will be voted on at some point.

Councilman Stuckert said he wanted to see real numbers. He said when he ran for office, he ran in support of a budget balanced to revenue, without sacrificing safety services. He said that in the campaign they said the move toward a balanced budget would have to start with the higher level administrative salaries. He added that the latest budget, all of the sudden they found \$230,000 of additional revenue. He said they found an excess of \$650,000 and how have they found the savings – by eliminating two firemen and one police officer and by reducing the General Fund costs on the transfer lines. He said that was exactly the place they did not want to make the sacrifice coming in. He said in past years that is always where things are cut. He added that to be fair, he wanted to mention that they had entered into an efficiency study for the whole city. If the efficiency study determines that we have one police officer that we don't need or two firemen that we don't need, then that will change his mind. He continued that he was not interested in adjusting the figures on the paper by withdrawing the safety functions from the budget. He said he thought the emphasis was on the wrong end of the budget because he believes if cuts are going to be made, they need to be done at the top levels of administration. He said that at the beginning of the year, council will be asked to put the police officers and the cruiser and the firemen back in, and he does not want to have to be in a position where he tells them no. He said he wanted to take his stand now on administrative costs. He said he also wanted the city to line up the benefit insurance renewal in a way that allows them to be more accurate and have a better idea of what they are looking at in terms of the benefit insurance costs. He said he spent 24 years in the insurance business and you start getting the information much earlier than April 1 when they renew. He said the 18-month suggestion is reasonable and they should go toward that. He added that he is very troubled by the allocation of the former General Fund items to the Enterprise Funds. He brought up the problems in the budget in the Water Department and said that now we were trying to add property casualty fees to their budgets. He said it makes sense that if you have automobiles, the Enterprise Fund should pay for the insurance on those automobiles. But he said that 80% of the property casualty insurance was being allocated to the Enterprise Fund and he thought that was inaccurate. He said he could not support the budget as it sits right now. He said he wanted realistic revenue figures, a budget that does not artificially remove the safety service positions, and that does not allocate expenses, and he would like to see changes in the benefit insurance renewal date.

Councilman Jaehnig asked if the two firefighters and the policeman were replacements or additional. Chief Mason said that his hires were replacements of firefighters that had quit during the current year. He said that he started 2012 with 18, two quit, he was now at 16 and trying to get back up to 18. Chief Weyand said that his was an additional position from 2012, but replaced someone who had left several years ago. President Kirchner asked for clarification on the Police officer positions. Chief Weyand said there were two positions that they had done away with through attrition and they were trying to reinstitute them. One was filled this year and they still had one that had not been reinstated. In addition, there was one position vacancy due the retirement of Officer Whalen.

Councilman Wells said he was also disturbed by the safety services reductions. He said that he read in the paper that for three years in a row, there has been an increase in the death of police officers in the line of duty. He said when he calls 9-1-1, he wants to make sure someone shows up.

Councilman Siebenaller asked if that was something they could all agree on – that they would like to see police and fire at the same level of staffing as in 2012 in the budget for next year. He added that there were changes that he would like to see made, but we have one more meeting to get things done. If changes are made, then council needs to make sure that they are all on the same page so that it can be passed very quickly in order to move into funding the city in 2013.

Councilman Jaehnig pointed out that the budget can be added to or reduced at the beginning of the year. He gave as an example the 18-month insurance cycle. He said the current budget is more austere than he would prefer, but changes could be made with no problems at the beginning of the year. He said he would like to put \$92,000 back in for

the parks, add the cruiser, add the police officer and put back in the firemen. He also said he realizes he likes to spend money more than some people on council. He said that neither the prior budget nor the current budget is ideal, but he realizes that council can work on either of them after the first of the year. He added that he trusts the Auditor and the Mayor to be able to work with council because he does not believe that anyone has the city's detriment in mind. He said everyone is trying to work for the same thing.

Councilman Wallace said that it was his understanding that many members of council wanted to have a budget that was closer to being balanced between revenue and expenditures and he thought that is what the mayor and auditor had provided. He said that if you want to have a hands-off approach to the Enterprise Funds plus you don't want to touch safety services, there's not a whole lot you can do with the budget. He said there's only a handful of departments to look at and if you say you can't touch the three enterprise funds and the two safety services, then that only leaves you with a couple of places to look at. He said on a morning like today, you realize that the cuts are starting to affect city services because you can't even get down the street because we don't have enough money in the streets budget to push the ice out of the way. He said maybe we could eliminate all of the city services and shut down city hall if that is what they want to do.

Councilman Jaehnig said in regards to the comments about revenue, based upon what he has read in the paper, he has counted about 600 jobs that are coming online in 2013. He said most of those announcements came between the time of the initial budget and the revised budget, so he doesn't think those estimations are out of line. He added that he still thinks they are conservative.

Marque Jones said that he started with \$4,000,000 because he was trying to be very conservative. He said that as of today, the city income tax revenue is at \$4,046,000, and that does not include any of the construction or new jobs coming in. He said the estimation was just based on what had actually happened in 2012. He said by the end of next year we should be above the \$4,050,000.

Councilman Wells said that Sack & Save was going to be closing in the 3<sup>rd</sup> ward and asked if anyone heard anything coming into that space. Mayor Riley said he had not heard.

President Kirchner asked for further discussion.

Mayor Riley said in the original budget, he had a 25% carryover, which is exactly what council had requested. Then when council asked for more reductions, they cut all of the places that they thought they could, now leaving a 35% carryover. He said it gives even more of a cushion. He said if things start going badly, they can find money if needed with that cushion. If a cruiser flat-out dies on us, the money is available to purchase it. He said the budget is extremely tight and it is going to be another tight year. He said it is good that there are signs of economic development and he is hopeful of what that brings this year. He said his goal as mayor is not to take the citizens hard-earned money that they pay in taxes and just put it into the bank. He said his goal is to serve the citizens. He mentioned that Councilman Stuckert had said at the last meeting that his goal was to safeguard the economy – to look at the budget and to balance the budget. He said his first job is to service the citizens of Wilmington and make sure we can give them as much service as we can give them for the money they pay in taxes. Sitting on 35% unnecessarily is not what the citizens hired us to do. He said if that is the will of council, it is fine. He said we do not know what the new year is going to bring us, whether it's prosperity or hardship, so we have to be flexible. He said he agrees with Councilman Wells and Councilman Stuckert that it is going to be interesting as we go through the State Auditor's process of the LEAP program to see what efficiencies we can find and how we can restructure city services. He said if the LEAP program identifies something in March that is a game-changer in terms of saving revenue, it will be implemented immediately.

Councilman Siebenaller said that one of his major concerns was the reduction in the safety services, so he has a hard time going forward with something that creates less

staffing in those departments than we had this year. He said if we put that back in, we should probably be around the 25%.

Auditor David Hollingsworth explained that there was nothing to stop them from coming back to finance and asking for those things.

Councilman Jaehnig said the current budget puts them in a position in the upcoming year where they can make the decisions whether to spend above the revenue or not because each item will have to be approved as it comes up. He said the finances of the city are the council's responsibility and the mayor and the auditor were giving them a golden opportunity to have that happen.

President Kirchner said as he has looked through the numbers, he personally has a great deal of discomfort with the mayor's description of the carryover. Having moved a quarter of a million dollars in property casualty insurance out of the General Fund into the Enterprise Funds, you have reduced an expenditure that should calculate into that carryover. You have not eliminated the expense. In addition, moving to charge the Enterprise Funds for administrative costs, totally over \$144,000, basically you have artificially increased the revenue to the General Fund while reducing no expenses. He said it is being placed into funds where, as council, you must adjust rates to cover the costs of operation. He said it is a hidden tax and the mayor has made it clear that revenue is what he is after. He said cost allocation was done before but it was stopped because of the effect it had on bond coverage. He said that we still have that issue with the water department. He said the mayor can continue to say that he has never called for a rate increase, but he does oversee the operation of the utility at a significant loss. He said this council will have to deal with it and the public will have to cover the costs. We are increasing the burden on those rates and council is going to have to address it. He said that the 25% or 35% is not an accurate reflection.

Councilman Jaehnig said that the operation of the Enterprise Fund without having to cover their real costs is artificial. Every business on the planet that is nongovernmental has to cover its own costs. He said Enterprise Funds are supposed to operate in the exact same manner. He said for them to not have to pay for their property casualty and their administrative costs makes them look like they are operating appropriately. He went on to say that he did not believe the General Fund revenues should be used to pay for Enterprise Fund costs. He said if the Enterprise Funds cannot operate on their own, then maybe we should not be involved. He said there are very few things the government does better than the private sector. If we cannot operate the Enterprise Funds within the revenues that are coming in, then maybe we should not be operating them.

Councilman Wells suggested that the Enterprise Fund were paying more than their true costs.

Multiple speakers answered that they were not.

President Kirchner asked how many people in council had the formula for how costs are allocated. He asked Phil Floyd if he had the formulas.

Phil Floyd said that he had the formula for his department. He has been doing it for a few years as the state suggested, because it was very appropriate to allocate costs that are incurred by different departments up here into the transit department, because they provide services purchasing, payroll and many others. He said the cost allocation was very appropriate because they had been doing it for three years.

President Kirchner said that was just a portion of the costs that were being discussed.

Phil Floyd said that they got together with Mary Kay and did a percentage of the costs based on the employees and allocated to the department, which the state suggested they do. He said now the other departments are doing it as well.

Chief Weyand said he asked another friend of his who is a police chief in a different jurisdiction how they handle things in terms of efficiencies. He said they are funded

totally by taxpayer money. He said there are so many things billed back to their department that he was appalled. He said they even pay for the utilities in the building they are in. He said a lot of things get billed back to the individual user. President Kirchner said they have not historically here. Chief Weyand said that his point was that in other places they get billed for everything they use from their General Fund. President Kirchner said if you trace the budget back far enough, prior to having any levies, they were covered under the General Fund budget.

Bill Liermann said that part of the earnings tax that was increased several years ago went to cover police and fire. He said that we needed to look at whether we are overstaffed with police now in terms of our population numbers. He said there was a 0.5 to 1% increase that was put on specifically for police and fire. President Kirchner explained the purpose of the efficiency study was to tell the city if the staffing levels are appropriate. He said that no one on council is against police and fire. Bill Liermann said that we need to look at the population. President Kirchner said that the population from 2000 to 2010 showed an increase. Bill Liermann said that he gets the impression that council is characterizing the budget as having cuts in safety services. He just thinks that we should make sure that the staffing levels are appropriate before anyone gets upset.

Paul Fear said that it was a nice luxury when the surplus was so much to absorb all of those costs. He went on to say that there was nothing arbitrary about the way the cost allocation was figured. He said that Mary Kay looked at the insurance costs per vehicle and then allocated the costs to the department that housed that vehicle. He said it was not a percentage – it was item by item. He said that it was nice that costs were absorbed by the General Fund, but now the Enterprise Funds need to operate on their own. He said that income-wise, we increased the building permits because of the fees that would be coming in for JUMP hangar. He said he increased his interest because his investments show that he is going to make more money. He said we also received more money from the Union Township Fire Department. He said in addition, inheritance tax should be coming in, and if it does, then they can put the policeman back in the budget.

Councilman McKay said that it looked like there was a group that was dead-set against the budget, but he thought there was also a group that might be for it. He explained that if it wasn't passed today, then they would have to suspend the rules to get anything done by the end of the year, which would be much harder. He said what he had heard tonight he thinks the numbers are there. He said he thought they should go ahead and vote.

President Kirchner asked David Hollingsworth to check on the numbers of the contract numbers for the fire department. He asked what the money was for that Paul Fear was talking about.

Auditor David Hollingsworth said that he did not know what the money was for, he just heard about it for the first time at the council meeting. He said he would need to check on it. He said that he knew there was nothing he could say to get some of the members of council to trust him or to trust his office. He said when you throw out words like “artificially inflated” it sounds to the general public as if someone is doing something wrong intentionally. He said he takes offense to that. He said he went over the numbers in detail what they were changing at the Finance Committee meeting, some of which Paul had just covered. He said the only thing that there might be any question about are the ambulance revenues, but they felt comfortable increasing that by \$50,000 based on the past history of what they have collected. He said the budget is a moving target anyway. He said even if it is balanced, it is going to change. He said the \$75,000 that they added for the MVRMA refund was a number that they did not have when the first budget came out. It was a result of the low number of claims that the city had. He said the insurance fund had always been there but had not been included as part of the General Fund balance and was going to have to be used for insurance. He said they eliminated the new hires. It does not mean they can't have them, but they eliminated them to see what it would do to the budget. He said then you have to see if you can justify the amount of money that is being carried in the General Fund. Can you justify to the citizens that you're carrying more in that fund than you anticipate needing when we hit a rough bump in the road. He said if you're not going to use it, the question has to be asked, why are you keeping it. Why are we saving 25%? If it needs to get us through a

rough time until the economy recovers. He said in terms of the cost allocation, it would be no more fair for the General Fund to pay for the salaries in the water department than it has to pay for their insurance costs. He said if we can't do it efficiently, then maybe we shouldn't be doing it. He said the philosophy in the past has always been that the city can control the cost to the citizens better than going to a private enterprise. He said maybe that's not the case anymore. He said this budget at least gets us to a starting point. He said that council can evaluate the benefit insurance when it comes up for renewal. He said that nothing blocks you in; decisions will still have to be made.

Councilman McKay pointed out that the Safety Committee can put the safety services back in after the first of the year.

Councilman Wells said that it didn't seem right to say that we did not need the police cruiser, the policeman and the firefighters tonight and then bring them back after the first of the year.

Councilman McKay said they were just saying that they could not budget for them if they were going to bring revenue and expenditures into balance. He said they were in the previous budget but people were not in favor of that either. He said there is only so much give and take that can happen. He thinks everyone is in favor of moving it forward if we receive funds in the city.

President Kirchner said that no one indicated that they were unhappy with the budget before because it had the same level of police and fire. He said he never remembered a meeting where it was discussed by the mayor to take them out.

Councilman Jaehnig said they also never had a meeting where a three-month budget was discussed until it appeared before council. It's a similar thing.

Councilman McKay said that once again they were talking in circles. He said they should vote on it tonight and pass it or not. He asked for a vote.

Councilman Stuckert said that since four or five years ago the actual money in the bank has gone down from one year to the next every single year because when the numbers were all in, they spent more than they took in and the carryover account went down. He said that is the issue. He said that what a majority wants to see is for that to stop. He said that is the root of their financial problems. He said he is not about keeping money in the bank. He is about living within the revenue and providing the services to the citizens.

Paul Fear said he should be in favor of the budget, then, because it was \$105 to the good.

Councilman Stuckert said that he was not in favor of it.

Councilman Wells said he thought Total Baking Solutions was supposed to be adding jobs but there are never any cars there. Councilman Jaehnig said a lot of their employees travel because they install the ovens that they build. Councilman Wells asked if they had added the number of jobs that they said they would. Councilman Jaehnig said that he did not think that they had.

Seeing no further discussion, President called for roll call vote.

Roll call: Jaehnig, yes; Wells, no; Stuckert, no; Wallace, yes; Mead, no; Siebenaller, yes; McKay, yes.

Motion passed

Director of Law read ordinance by title only.

Councilman Wallace asked that the third reading be on the agenda for the next special meeting of council.

A motion was made by McKay to adjourn.

President of Council declared the meeting adjourned.

Council adjourned.

ATTEST:

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President of Council

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Clerk