

Wilmington City Council met in special session on Monday, July 18, 2011, at 8:30 a.m. with President Pro Tem Sandy Mongold presiding.

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

Assistant Chief Duane Weyand was also present.

President Pro Tem Mongold: The first item on the agenda is the Auditor.

Auditor – Auditor David Hollingsworth: A couple of things. I'm going to hand out our most recent audit report. This is after Clark, Schaefer, Hackett. I'm not going to go through it. You can go through it on your own.

[Banter while handing out report]

Auditor David Hollingsworth: Basically, we got a clean opinion, which we have every year. The only thing, they do have various management items listed in the management report. The only thing of any substance mentioned this year that I will point out. Since we went to self-insurance on our health insurance a couple of years ago, we were supposed to have had an actuary come in and estimate what our liability was at the end of the year, which we had not done. So, that was, in essence, a finding. Nothing of material substance changed their unqualified opinion or our clean opinion on the audit report. I just wanted you guys to know that. We have since corrected that issue. It was just something that kind of slipped through the cracks. We're going to bring it to Clark Schaefer's attention next year because they actually do our gap conversion. I feel like that they should have caught it when they did the gap conversion before they actually came in and did the audit. The bottom line is it is my responsibility, so we have corrected the problem and we will just move forward. This just contains all of our funds. What you get on a monthly basis as far as the Auditor-Treasurer report probably makes more sense than looking at this document. Not that this is not important, but we are required for our external reporting to report on a full accrual basis. What you get on a monthly basis is a cash basis, which I think makes more sense to just about everybody. This is full of all kinds of accruals, our debt obligations, extensive footnote disclosures that are required. So, just look at it at your leisure. If you have questions, please ask me. I will be more than happy to answer any questions you might have, but it is just too large to try to go through and try to hit page by page. I wanted to mention that issue. One other item that I have, and I don't know whether... We've got an issue and we've had an issue with the hotel lodging tax with one particular business in town. We have been able to get their information, calculate what the tax is that is due. They have countered with a proposal to us on what they would like to pay, which is less than what they owe by about \$4000. We had actually calculated, under the terms of the hotel lodging tax, we have a right on any delinquent accounts to assess a penalty and interest. I went ahead and calculated what the interest would be and in essence was willing to forgive the penalty if they are willing to pay and pay the interest. But, they have countered. I guess I'm looking for some direction. I don't know whether you want me to make that decision or if that needs to be a decision made by...

Law Director Kathryn Hapner: It is also important information that we have a judgment from the court for the full amount.

Mayor Raizk: That includes the interest. In other words, David's amount.

Law Director Kathryn Hapner: Yeah.

Councilman McKay: How much is the full amount?

Auditor David Hollingsworth: The full amount is sixteen thousand?

Mary Kay Vance: No. \$14,000, almost \$15,000.

[Simultaneous discussion regarding the amount]

Councilman McKay: Do they want about a third or a little bit more than a third forgiven? Is that what it is?

Councilman Jaehnig: Or do they want to pay the actual tax and no interest?

Auditor David Hollingsworth: They don't even want to pay the full amount of the actual tax.

Councilman Jaehnig: The only problem that I have is the fact that they actually charged those staying there that tax. So, it's not like someone who got paid and is behind on their taxes or something of that nature...that's a different thing. But, when you've actually collected the money from people staying in the room and taken that tax...

President Pro Tem Mongold: It's like a payroll tax. It's the same thing.

Councilman Jaehnig: It would be like the City taking out payroll tax and then not paying the tax.

Kathryn Hapner: If you don't collect it all from them, particularly when you have a judgment against them, then what happens when the General Denver or Holiday Inn or somebody says, "Well, you didn't make Wilmington Inn pay their full amount. Why should we have to pay ours?" I think it sets a really bad precedent.

Mayor Raizk: I think any negotiation has to be strictly on the interest or the penalties. I don't think you can forgive a penny of the actual tax.

Auditor David Hollingsworth: I agree.

Mayor Raizk: I you say, "Okay, you have to pay the tax in full." The interest – you weren't counting on the interest anyway. I don't think you can negotiate below the amount of the tax. If they'll ante up the other money now and not phase it in, pay it up front, then forgive the interest but get all the tax money. That's an estimate, is it not, or is that real?

Auditor David Hollingsworth: That's real.

Mayor Raizk: The tax money is real.

Councilman Jaehnig: I know they were putting you off for a long time.

Mary Kay Vance: They finally filed with us every quarterly return, albeit we are assuming they are correct without having gone in and physically auditing them. They filed it so we could come up with the number that they owe us. And David came up with a payment schedule for them. Then we said, "We believe that the citizens are entitled to the interest at least on that." Then they countered with... I mean, it was like being at an auction.

Auditor David Hollingsworth: They have had use of our money. I think the interest is not unreasonable.

Councilman Jaehnig: In my opinion, if they want to pay all of the tax, without the interest, all in one lump sum and get current immediately, then fine. Otherwise, I think they pay it all. If we are going to give them payments on top of it...they have had the money for...

Kathryn Hapner: Two years? Three years? I mean it's been.

Mary Kay Vance: The fourth quarter of 2009.

Councilman Jaehnig: If they're not going to pay it in full, then I think they owe it all. That's my opinion.

President Pro Tem Mongold: I think they should pay all of the tax immediately. I am not real keen on forgiving all of the interest. Maybe a portion of it.

Auditor David Hollingsworth: It's less than \$2000, the interest.

President Pro Tem Mongold: It's the principle, I guess.

Mary Kay Vance: \$1400.

Mayor Raizk: Well, the other part of it is, if they pass all of the tax immediately, then they could make payments on the interest.

President Pro Tem Mongold: My vote would be at least to get all of the tax. I will put the rest in your hands and whatever you feel is the right decision.

Auditor David Hollingsworth: Do we need any action to give me that...

Mayor Raizk: What do you think? I think it rests in you, David.

Kathryn Hapner: It's within your discretion. The other thing to remind them of is that there are also criminal penalties for not paying. I mean, it is theft. They have stolen money that they have received and not turned it over.

Councilman Jaehnig: Instead of seeing Mary Kay, they could see Duane.

Assistant Chief Duane Weyand: I have friends with the State's Auditor's office that investigate.

Auditor David Hollingsworth: That is all I have.

President Pro Tem Mongold: It can't happen again.

Auditor David Hollingsworth: They actually made their current quarterly payment.

Mary Kay Vance: We have money out of them.

President Pro Tem Mongold: Does it appear that it is pretty consistent with the years they were filing, what they are saying they owe now?

Mary Kay Vance: Yes.

President Pro Tem Mongold: Is that all you have, David?

Auditor David Hollingsworth: Yes.

President Pro Tem Mongold: Mary Kay, do you want to discuss the supplemental appropriations.

Finance Committee - Mary Kay Vance: I have a question, Kathryn. We need to create a new fund. It is not listed on this agenda. Can I still discuss it.

Kathryn Hapner: Yes. As long as we don't take any official action as far as...

Mary Kay Vance: I am going to ask finance to send it to council for Thursday night. So, can we discuss it if it is not on the agenda for this special meeting.

Kathryn Hapner: Yes. You can discuss things that are related to finance, because that is the purpose of the meeting.

Mary Kay Vance: So, I'm not tied immediately to that.

Kathryn Hapner: You just can't do legislation unless legislation is on the agenda.

President Pro Tem Mongold: I think we need to have a discussion on whether this is a special meeting or a committee meeting.

Kathryn Hapner: Unfortunately, because it is a committee of the whole, it is a special council meeting. I told Fred, "It's up to you because you're the president." But this is not the way I would have done it, because it makes a real nightmare for Andrea or whoever is doing the minutes. If it had been up to me, I would have simply left it as the Finance Committee members, whoever the three or four of you are.

President Pro Tem Mongold: Seven now.

Kathryn Hapner: I know, but whoever they were originally.

President Pro Tem Mongold: I see what you are saying.

Kathryn Hapner: Then as president of council, I would have said, "But I want all of the council members to attend, the non-committee members, in their private capacity. So that they are attending as citizens as opposed to council members. Because, that keeps it a committee meeting and not a special council meeting. Because you still meet in your committee. You don't pass legislation. You are still just forwarding on to council for the regular council meetings on Thursday nights.

Councilman McKay: Because you have a less than a quorum. That's the reason.

Kathryn Hapner: Right. And that is all you are doing at these meetings too. You are still not passing anything as far as legislation wise. You're still just forwarding it on to the regular council meeting. So, you're not doing anything different except by making it a committee of the whole and the statute says when the whole council is there, it is a special meeting as opposed to a committee meeting. I gave my opinion on that. My advice was not taken, so here we are.

Mayor Raizk: I think everyone in this office concurs with that opinion.

President Pro Tem Mongold: So it would be in Fred's hands.

Kathryn Hapner: Because he appoints the committees and if he appoints all of the council members to the committee, then that's what happens.

Councilman McKay: I'm sure that was not his intent, but that is the way it turned out.

Kathryn Hapner: Right. He and I spoke about that.

President Pro Tem Mongold: So, we will talk about the fund you want to create.

Mary Kay Vance: Okay. Everybody has the list that I handed out for finance. The first item is to create a new fund. How long ago was it, a year or so ago, that we The City went to... I don't know what the procedure was. The mayor's office made application for a line item request through on the state budget through the Ohio Department of Natural Resources.

Mayor Raizk: Essentially, we looked at Sugartree Corridor with two separate sources of funding. One was TE funds, who are through the Ohio Department of Transportation, and also the Ohio Department of Resources. We were able to secure funding because it became a line item. I think some of this was actually stimulus money in effect that got to the state that gave them extra budget. A little over a year ago, it's been almost two years ago now, we applied for it. We have received the grant. It is about \$281,000.

Mary Kay Vance: It's \$284,000 and they get to keep a little piece.

Mayor Raizk: They always get their little administration fee off the top. Direct deductions as it were. Anyway, we have that. We need to create a new fund to be able to administer it out of there and proceed. We've looked at the Sugartree Street Corridor. I think people have talked about it before. There have been some changes in that corridor that make this pretty fortuitous for us to get the grant at this point in time. Some properties and so forth may be available that hitherto were not. We are looking in coming with a general proposal for the money. Anyway, we do have it, so we have to create a fund for it.

Mary Kay Vance: We have to create the fund, and then you'll see down in the supplementals where I am putting the money in line so we can go ahead and use that, but remembering it is a grant. It is grant money. It is not General Fund money. It's not coming from... It's all taxpayer money; we all agree about that. But it is coming from the state level and not directly on the local level.

Mayor Raizk: I think it is key for folks who are a little bit confused by appropriation accounting. Even when you get a grant, you have to appropriate it. So, a lot of times your budget will look like it is swollen by the amount of that grant, but it is an in and out. So, in other words, if your budget was \$8,000,000 and you have a \$400,000 grant that you are going to administer in that year. Even though it is not coming out of that pocket, your budget now becomes \$8,400,000. You always have to add the grants in. They go in and then they go out. People will say, "Why does your budget look like that?" Well, you've got a \$400,000 grant that you have to account for.

Mary Kay Vance: It may not be a local revenue source.

Mayor Raizk: It may not be local revenue, but you have to account for it in that way. Sometimes it confuses when you are looking at the budget process.

Councilman McKay: So you need a motion to create the fund.

Mary Kay Vance: No, just for this committee to send it on to council.

President Pro Tem Mongold: What we will do is make a motion to move all of this to the council floor.

Councilman McKay: You're just going to do it all at once?

President Pro Tem Mongold: Yes.

Councilman McKay: Okay. Excuse me.

Mary Kay Vance: Are we done? Are there any more questions about that item?

Councilman Mead: Is there a matching amount?

Mayor Raizk: No. There was not for that one.

Councilman Mead: Is this the same old Sugartree Corridor we go over every ten years of so...

Mayor Raizk: But two things have happened. Number one, we finally got a little money and some other changes so it may be finally moving.

Councilman Jaehnig: More will be coming on that?

Mary Kay Vance: Right.

Mayor Raizk: Yes. We hope so.

Mary Kay Vance: The second item is the then and now. It should be attached to your packet there. I don't have another copy. It is just one item. The CORF fund. I will remind you, anytime we expend prior year dollars in the current year, whether we had it on a purchase order, whether it was appropriated or not in the prior year, anytime it has been in this year, I just have to give you notification. You have no veto power over whether it can be spent or not. I just have to give you notification of anything over \$3000 that was spent. It dribbles in at this time of year. We have quite a bit at the very beginning because obviously we have purchase orders that were opened up in December and we are paying those as those bills come in during January. Many times, we have quite a few in January and February and then they go away. With these big projects, like this CORF fund, they will be recurring because it takes several years for those to all go away.

Councilman Jaehnig: And this CORF is coming out of a line item that had those funds in it...?

Mary Kay Vance: It is grant money too. That is grant. Are there any other questions on that? Supplementals. The first one we just discussed with the capital construction line in the Waste Fund for the second phase of the vertical expansion. This is a supplemental. You will see there is a transfer in the bottom that we'll discuss. The two together equal the \$365,000 that Donnie was talking about that is going to be the total cost for the second phase. Any other questions about that? The second item is this Sugartree Corridor Grant fund. You can see I had \$284,000 there. I crossed through that because that is what the line item was for. The Ohio Department of Natural Resources is keeping 1% for their administrative fee. It brings it really to \$281,160. Any more questions?

President Pro Tem Mongold: No.

Mary Kay Vance: The third item in the General Fund to this line item that has the 150 as the three middle numbers identifies it as Municipal Court expenses. This is a reimbursement that we owe back to the IRS. We have the capability with people who we are paying unemployment on or where we've had to cover their insurance expense while they are phasing out where they were let go. There was an employee from the court that is no longer with them. The stimulus money was put in line where we could add that to our 941 when we file it quarterly to request that money back. We had an audit of those, and unbeknownst to me, this one court employee did not qualify for this stimulus request money. So, we got it. They paid us, but now we have to give it back to them. This is the amount of money there. It is not anything additional; it is almost like the grant money coming in and going out. We received the grant money through the stimulus dollars covering the insurance for this employee, but I am told that we are not entitled to it, so we need to send it back. So, I'm putting that in line for that to go back out. It's a wash to the General Fund. Any other questions? The next three items, it should be attached, are a request from Jerry Rowlands. Those of you who sat in the Water Committee meeting last Friday, these are some of the things you discussed. Those next four items are all supplemental requests from him that were a follow-up to that water committee meeting.

Councilman Jaehnig: These were based on his figures to get him through the end of the year. Correct?

Mary Kay Vance: Correct. The last one being the specific one you discussed about the ODNR payment, when we were discussing whether to pay it all now or pay it in pieces or so forth.

Auditor David Hollingsworth: Can we withhold one percent from that for our...?

[Laughter]

Kathryn Hapner: That seems fair, doesn't it.

Auditor David Hollingsworth: I wonder if we could try that.

Mayor Raizk: You know, if we could withhold one percent from what we pay for everything to deal with Caesar Creek, we could....

[Banter regarding holding one percent]

Mary Kay Vance: Any other questions regarding those supplementals. I'll move onto transfers. The very first transfer is the one we just discussed in the Waste Fund from the line item that is the bond retirement to the capital construction for \$100,000.

[Mayor Raizk left the meeting]

Mary Kay Vance: The next three, I asked Duane to come because they all have to do with the Police Department and with his motor vehicles.

Assistant Chief Duane Weyand: Basically, we purchased a couple of new cars this year. In order to outfit them, we knew money would be tight, so we had saved some money along the way in some of these other line items to transfer over to complete the outfitting of the cars. You will see that it is coming out of Equipment Parts and Supplies. You can typically buy stuff for cruisers out of that, but to keep it neat and clean and for auditing purposes, we put it all in the Motor Vehicle line item. When we do the end of the year capital asset forms that we do because there is a depreciation value associated with cruisers, it just makes it easier for auditing purposes to put all of the money in the same pool and then spend out of that. That is all I have.

Mary Kay Vance: Any other questions? The very last one is in the taxi fund we have an employee that we were paying. You had already seen an unemployment request for this. It was adjusted. We got another report from Job and Family Services that says, "Oh, sorry, it is going to be \$82.94 more. So, I'm just..."

Councilman Jaehnig: That's there one percent.

[Laughter]

Mary Kay Vance: That is all.

President Pro Tem Mongold: Are there any questions? I would like a motion to move these items forward to the July 21 meeting.

A motion was made by McKay and seconded by Jaehnig to move the items to the July 21 council meeting.

Motion passed.

Items forwarded to council.

President Pro Tem Mongold: Are there any items to be discussed?

Councilman Wallace: I have a question.

President Pro Tem Mongold: Yes.

Councilman Wallace: Going back to what Kathryn addressed earlier. Can we just pass it now and get it done without putting it on to the next council meeting.

Kathryn Hapner: You can't now because it was not on the agenda that was published. If it had been on the agenda that was published for this meeting, then you could. In special meetings, you can only pass things that actually on the agenda.

President Pro Tem Mongold: But the supplementals were.

Councilman Wallace: I'm just thinking if we are all here and we all have to meet, then we should just get them done.

Andrea Tacoronte: I don't know if it's an issue, but we don't actually have legislation prepared...

President Pro Tem Mongold: I wouldn't do that anyway. Do I have a motion to adjourn?

A motion was made by Jaehnig and seconded by McKay to adjourn the meeting.
Motion passed.
Council adjourned.

ATTEST:

President of Council

Clerk