



City of Gahanna

Meeting Minutes

Finance Committee

Office of the Clerk of Council
200 South Hamilton Road
Gahanna, Ohio 43230

*Michael Schnetzer, Chair, Karen J. Angelou, Ryan P. Jolley,
Thomas R. Kneeland, Brian D. Larick, Jamie Leeseberg, Stephen A. Renner*

Kimberly McWilliams, CMC, Clerk of Council

Monday, September 22, 2014

Council Committee Rooms

Immediately Following Committee of the Whole

Roll Call:

Present 7 - Brian D. Larick, Jamie Leeseberg, Karen J. Angelou, Michael Schnetzer, Ryan P. Jolley, Stephen A. Renner, and Thomas R. Kneeland

Additional Attendees:

Mayor Stinchcomb, City Attorney Ewald, Lt. Dan Williams, General Williams, Rory Gaydos, Matt Holdren, Dottie Franey, Sue Wadley, Tony Collins, Karl Wetherholt, Rob Priestas, Niel Jurist, Jennifer Teal, Joann Bury, Anthony Jones, Clerk McWilliams; Press.

DISCUSSION ITEMS

1. Capital Needs Assessment

Schnetzer called the meeting for Monday, September 22, to order; there are 2 discussion items on the agenda; if no objections would like to reverse the order; start with Litigation Reserve.

Larick said capital needs is a continuation of the discussion we had last time; back to answer any questions; I am interested in prioritization and what the administration's priorities will be.

Teal said since we left this conversation 2 weeks ago, for priorities, we have been waiting to hear from Council with questions, comments and discussion on any pet projects or ones that you think definitely should not be done; if you think that it is important, even if it is not project specific, like we want economic development projects or parks and trails; direction and input like that would help us understand this group's priorities; absent that, there is a lot of crafting that goes on between today and the budget request being provided; part of that is understanding what money is available; is there current revenue

money or only one time reserve money available to do projects; we are not at that point yet; but the numbers are being put together as we speak; we have set aside time internally to work on budget requests; we know the ongoing projects will be in there; we are hearing of some one time operational use requests like the pools and planning; we don't want to bring forward a slate of things that will never fly; want the projects brought forward to be successful and have buy in; that is what we have been waiting to hear; to my knowledge we have received no input the last 2 weeks on any projects in the books; this is the chance for input as we move from grocery list to cart; happy to answer questions and hear anything you want to share.

Jolley said do you prefer we send an email or have discussion in committee. Teal said we did not anticipate another session on this; we have to start our internal discussions; if additional time is needed to shoot us comments or you have comments now we are happy to hear them; there is a point at which we move forward even when we haven't heard anything.

Jolley said I have a few thoughts; I have been advised by colleagues that the plan I frequently reference should be a Community Plan; this would look at the City, surrounding townships, and include the schools; would be a 30 year timeline; look at all aspects of the community comprehensively as it changes over time; meanwhile I have focused on the priority 1 projects and believe funds are limited for much else due to this litigation; when I think about the Community Plan, a big part of that is land use, government facilities for the City, and school facilities; like to see this as a joint venture between City, townships and schools; there are 4 priority one projects I believe we should hold off on pending the Community Plan outcome; these 4 items are the Gahanna Swim Club front pool and deck rebuild, Police Headquarters facility, the Agler Road relocation, and the Municipal complex HVAC upgrades and replacements; removing those causes over the next 5 years the priority 1 projects to go down to just over 3.1 million in one time monies that could be covered in the GF; my perspective is the Agler Road work is needed; I support keeping the pools open for 1 more year while we evaluate alternatives; I do believe we should consider postponing these 4 projects pending discussion between us and the community about where we go long term and what our needs are going to be.

Kneeland said I have a comment on the proposed capital needs; the Buckles Tract is a priority 2 for economic development; we talk about being proactive with economic development to drive additional tax revenue; it is a long process to get that to where it produces revenue; the further we delay the longer it takes before we see any revenue; incumbent on us to look at this and make sure it is not a priority 1;

should evaluate this from a revenue producing standpoint; we do need to replace some of the priority 1 items and we have some serious issues to deal with; we should be cognizant of how we prioritize anything that has revenue generation and look at those as priority 1.

Jolley said one note on the Buckles Tract is the possibility of a TIF repayment; do we have any idea how quickly we would see revenue from those potential investments. Teal said if we got the site shovel ready, we would be at best 2 years from beginning to get the revenue stream; have a strong desire to continue thinking about using TIFs for this type of repayment; creates a long term revenue stream for the GF; the question is getting solid numbers on when and how it will perform; it is art as well as science.

Jolley said is it possible to bond some of the projects so repayment could coincide with those payments. Teal said potentially; use general obligation debt; issue is do we know we will have money for debt service; can we predict the performance of the TIF; need to be very careful in those estimates; even when we think the TIF money is coming next year, it could be a year when the GF has to eat that debt service; we would only pursue this path upon careful study.

Schnetzer said the RFP we have out there, how close are we to having that back. Jones said we have 2 finalists that have done initial screening; they are being interviewed Thursday and Monday; the proposals have come in with reasonable expenses; we have good feedback and good prospects; should be done in short order. Schnetzer said one of the objectives of the RFP was business attraction and retainment and overall planning with the Buckles Tract a component of that; once done will you have a plan on the shelf you can pull down and we can make appropriations for the Buckles Tract based on that this year, or is it 6 or 12 months out.

Jones said the plan has to be completed and is 3 to 4 months out; they have analysis, property owner interviews, it is more than just the real estate component; it has a market assessment and a survey of our companies to identify challenges; at the end of the plan, the goal is to have a strategy that is implementable to work with the property owner to discuss infrastructure expenses; not just for Buckles Tract but for others as well; that is the intent of the plan.

Schnetzer said to Council does knowing this solidify the Buckles Tract as a priority 2; doesn't make sense to move it up right now and take action on it.

Larick said it will be a consideration in our discussions on where we end up placing it.

2. Litigation Reserve

Schnetzer said the goal of the discussion is to come up with a number to set aside from the GF (General Fund) balance; would like the City Attorney to provide probabilities on if the ruling will be upheld; maximum and minimum damages; have the Director of Finance weigh in on the mechanics of a set aside.

Teal said we were in contact with RITA (Regional Income Tax Authority) during the early stages of the discovery period; they provided an estimate of 6.2 million dollars; acknowledge that is a pure tax amount; no penalty or interest that a tax payer could have paid; this is the type of emergency that the Emergency Reserve was developed to handle; we have 6.4 million dollars reserved; at the end of August we had additional excess reserves of nearly 11 million dollars; there are transactions that can impact how this quarter ends but this lets you know where the 6.2 million falls. Schnetzer said to clarify, the excess GF balance is somewhere around 16 to 17 million. Teal said right; Bury has been in touch with our auditors to find out how to report a potential liability; do we have to reserve it; do we have to allocate or protect it; we need to make a note disclosure but we do not have to specifically segregate it until we are advised by legal that it is very likely to be needed; we are not at that point.

Kneeland said using that scenario, it is based on time; do we have an estimate on time. Ewald said within the next 2 to 3 years. Kneeland said at what point would we pull the trigger; year 2 or 2.5. Ewald said after the second round of appeals taking 1 to 2 years. Kneeland said how long until we would have to settle. Ewald said depends on what the Judge comes back with; could be immediate. Kneeland said seems to be risky not to set money aside. Schnetzer said to clarify, this would be a set aside over and above the emergency reserve. Kneeland said yes; funds allocated specifically for this.

Larick said what is Ewald's assessment of the risk at this point. Ewald said since we had a summary judgment at this time risk is higher; as we go through the appellate process, the further along we get the better the chance we have to over turn this; as the main issues of the case come before an appellate court denovo, they can look at the evidence instead of issuing a summary judgment; we can present the intent and purpose of the statute; I believe we have a good likelihood of prevailing.

Larick said is there any other information that would be pertinent to assessing this. Teal said there is the conceptual idea of preserving

funds and I understand the desire to do that; from the mechanical, administrative and accounting law standpoint we don't have a need or mechanism in place to do that officially at this point; looking at the 2015 budget, what do we not do is we don't allocate 11 million dollars to one time capital projects; doesn't mean we don't continue to work our sustainable operating model or operate the way we know we can; when we spend one time capital money we have a very measured conversation about what the items would be and maintain some of the excess reserve for this purpose over the next couple of years until final resolution; we continue in the short run by saying perhaps our emergency reserve needs to be 30 or 40%; or we can have a notation in the budget book that says we are spending this much but don't forget we are holding this much aside just in case; it does not have to be a mechanical or legal piece because it can't get spent unless appropriated; best power that we have now is saying we can't appropriate without creating hoops that we would administratively have to jump through.

Mayor said last year we finished a long good process on the reserve policy; it is a tight policy; we talked at that time about the possibility of litigation; we have an emergency reserve for this purpose; do we use it as it is intended or do we have to set aside an additional sum; big difference in philosophy.

Ewald said I echo the Mayor's comments; given the constraints of the economy, people are becoming creative in the legal world on how they chase people with big pockets; municipalities with lots of cash have become likely targets; can look over the last 10 years to see how this has increased; we do not have stiffer laws like some states; Ohio legislature could look at that; until that happens we will continue to have lawsuits even when we are not at fault because we are a big target; only thing we can do is make sure we have a healthy reserve; work with Finance and plan appropriately and deal with each issue of litigation as it comes to us.

Schnetzer said this is an appropriate use of the emergency reserve; we are in a unique situation because we can see it coming; don't know that it makes sense to set aside the full 6.2 million but maybe some portion of that, if not mechanically, certainly as a footnote in the budget book.

Leeseberg asked Schnetzer to speak to the effect of this on ratings. Schnetzer said one of the criteria in the ratings matrix to Moodys is the GF balance as a percentage of revenues or expenditures; higher that number the better; taking a 6.2 million dollar hit plus interest and penalty would draw that down; effect depends on if below a certain threshold and how it fits in the matrix, as well as our other strengths

and weaknesses; when the emergency reserve was discussed, used a model that showed draw down below a certain level did affect our rating; to what extent we don't know; if we have to pay this our AA1 credit rating will be notched down at least one point grade. Leeseberg said if we earmarked this how would it affect this. Teal said I have a call with Moodys on Friday; they wanted to chat; I talked to the analyst that we worked with and that has been impressed with our work; told him about some things we have put in place, formalizing a best practice emergency reserve policy; work we have done on our sustainable operating model along with our faith that this is just a potential liability; he seemed pleased to hear that we were mitigating with good foundational work; we will find out quickly and I will keep you posted; good evidence that they really are paying attention to what is happening; whether we footnote it, which means we are proactively managing it; or making sure we don't lose that bubble or put it somewhere else; mathematically it is still the same ratio and doesn't change the bottom line; if we spend it or spend excess reserve for other things and the bottom line gets smaller, then their potential ratios come into play.

Kneeland said footnoting; whether we footnote out of the emergency reserve or balance; what are the risks.

Teal said the community I worked in before coming here had a large potential liability similar to this; it hung out for years; they knew it could happen; every year there was a budget message that it could happen on all the pages and an acknowledgement of it's effect on their decisions; doesn't matter where you put it; it is the knowledge that we have got it if it happens; doesn't matter what bucket you say it is in, only that it is in a bucket.

Kneeland said my concern is if we footnote it out of emergency reserve, then we don't want to get into a situation where we spend down the balance to where if we have an emergency over and above this, now we have competing needs. Teal said input from this group is valuable and would be considered; if I had to write this today my input would be we do a modest spend of one time resources on the highest priority projects; things we have already started like Hamilton Road Central, and a notation that this is out there and we will know more soon; that is how I would package it.

Larick asked what are the drivers to not setting it aside formally; the mechanics of reversing it if not needed. Teal said I am not fully versed in Ohio law with how this would be accomplished; having auditors tell us it doesn't need to be accomplished and knowing that cities face litigation all the time makes me think we would be doing a lot of unnecessary work; we have the emergency reserve of 6.4 million dollars; mechanically it is no different than the other dollars in the GF balance; it is not accounted for any differently; it would be accounted

for on financial statements; from the standpoint of fund creation, ordinances, mechanics, and Council mechanics it is no different than the other dollars; I see the set aside similarly; we account for it in financial statements; we do not have to create a fund for potential liability; it is accounted for separately; does not have to be part of fund 992 that we just made up for nothing; it can stay in the general fund; we take care of it on the reporting side.

Larick said what are the mechanics of creating this structurally. Teal said to create a fund, first Council would pass an ordinance to do so; then we would ask the Auditor of State if we can have that fund; they look to see if that is an appropriate use for the type of fund; we have asked before; we were told unless you have to have it for statutory purposes we don't want to get behind that and help you out; it would depend on the rationale we use and how they perceive it.

Schnetzer said the emergency fund and reserve are all in the GF; if we set up a separate fund, does it then move out of the GF or is it a sub fund. Teal said I am not sure; not done before. Schnetzer said if we move it out it lowers our ratio. Teal said the reserve is effectively the sub fund because it will show as a reserve amount on our financials; this would be added as a footnote and come out in the final reporting as set aside.

Larick said formalizing an amount, noting it as a reserve on financial statements effectively sets it aside for a purpose without having to form a technical account; think that is what we are talking about; then it is identifying it as in the emergency reserve or is it a separate amount and what is the amount; my concern with using the 6.4 million figure is we wouldn't spend the 6.2 anyway; if paid out of there would have to be paid back from someplace; if there was a cash balance we would use the cash balance; don't need to get the amount tonight; for me it was understanding the mechanics and best practices and information that would lead us towards amounts; next meeting or two we may come to an action; this has been helpful to me.

Angelou said so we are reserving the emergency reserve. Teal said look at it like if 6.2 million is the number we might pay half out of the emergency reserve and half from cash held aside; there could be some negotiation and the likelihood it may not come to pass; frees the discussion on the one time side of things to have ability to move forward some; been in a holding pattern; a way to move forward responsibly on the highest priorities. Larick said exactly why I want to get to a place with a defined amount; that clarifies what else is there and the opportunity to complete some projects.

Leeseberg said for the replenishment of the reserve policy, hard time

replenishing something we may or may not spend; if we decide to use 2 million of it, per the plan, we need to come up with how and when we are going to replenish it. Teal said only have to replenish it if you use it; let's say you plan to use it but you still have enough excess reserve to cover it; you don't have to use the emergency, use the excess; it is a shell game at that point; not as much excess at the end; other piece is use 3 million in excess reserve and 3 million in emergency reserve; suggests that is all we have left is 3 million in reserve; that is what spends it down into the emergency at which point you come up with a plan to replenish the 3 million dollars over 2 or 3 years; can work and it is 3 years from now so can see how it plays out; don't see us getting to a point where we spend every dollar; once we start spending it then it would be appropriate to talk about what happens as the gap narrows; for now the gap is as wide as it has ever been; we are in position to handle this.

Angelou said if you put this on hold as a footnote, would it take a formal action to take it off. Teal said no; it would take a formal action to spend money. Angelou said we don't want to put it somewhere where it is hard to reverse it. Teal explained the budget messages that would accompany the book distributed over 3 years; it would be handled in the story telling and in the Council action when it is appropriated.

Angelou said is there any way to move the appeal process along instead of knowing it could be 3,2 or 1 years. Ewald said that is normal process; prefer to have our day in court.

Schnetzer said the 6.2 million dollars is a raw number with no interest or penalty; do we know what that might be. Teal said we know nothing about what if damages were to be determined, we have no idea how it would be calculated; RITA was more concerned with the fact they knew there was tax liability of 6.2 million; we don't know if that amount was paid; that is determined by a return by return analysis which they are working on to find total liability.

Kneeland said how soon will we need to make a decision on the direction we go. Teal said I am hearing from Council that they have the desire to discuss some mechanism for foot noting of the amount in the budget; additional discussions and an idea from this group, like should it be half from one fund and half from the other, would be helpful as we move forward. Kneeland said the idea is then to continue the discussions for the balance of the year. Teal said you will get your budget books in about a month and we will need a final determination at that time.

Larick said we have capital projects to assess; we need some kind of

insight to evaluate what we can appropriately handle; key piece of it; no immediate rush but don't know if it can wait that long; need this determination so the fund information is available to these other capital projects at budget; like to keep it on the agenda for further discussion of the numbers and documentation of it.

Ewald reviewed the possible hearing scenarios; advised Council to plan for the worst case moving forward.
Teal said she believed the 6.2 million number is a good number to use as a place holder; we will have months of lead time to deal with changes.

Schnitzer asked how will we do payouts if that happens. Ewald said that depends on the ruling of the Court.

Meeting Adjourned following Capital Needs Assessment discussion.

Recommendation: Return to Finance Committee.

Della Brandenberger, Reporting