

October 16, 2018

A Regular Work Session of the Danville City Council convened on October 16, 2018 at 8:27 p.m. in the Conference Room located on the Fourth Floor of the Municipal Building. Council Members present were: James B. Buckner, L. G. "Larry" Campbell Jr., Mayor Alonzo L. Jones, Dr. Gary P. Miller, Sherman M. Saunders, Fred O. Shanks, III, Vice Mayor J. Lee Vogler, Jr., and Madison J.R. Whittle (8). Adam J. Tomer was absent (1).

Staff Members present were: City Manager Ken Larking, Deputy City Manager Earl B. Reynolds, City Attorney W. Clarke Whitfield Jr., and City Clerk Susan M. DeMasi.

Mayor Jones presided.

MINUTES

Upon **Motion** by Council Member Buckner and **second** by Vice Mayor Vogler, Minutes from the Regular Work Session held on September 18, 2018 were approved as presented. Draft copies were distributed to Council Members prior to the Meeting.

WORK SESSION ITEMS

CONSIDERATION OF APPOINTMENTS TO THE FOLLOWING BOARDS AND COMMISSIONS

Vice Mayor Vogler noted the Committee on Appointments met earlier this evening, and make the following recommendations:

Industrial Development Authority	Reappoint: Richard Turner, John Laramore and Max Glass
Transportation Advisory Board	Appoint: Anna Kautzmann
Danville Utility Commission	Appoint: Paul Liepe

Council Agreed to Put the Appointments on an upcoming Business Agenda.

REVIEW OF GENERAL FUND FINANCIALS THROUGH SEPTEMBER 30, 2018

Director of Finance Michael Adkins reviewed the results of the General Fund through September 30th, which marks the first quarter for FY2019, and 25% of the year complete. Total Revenues compare very favorably to last year at this time. As of September 30th, there was a little over \$18.2M collected; that is \$1.2M higher than last year at this time. Property Taxes do not show a lot of activity, the tax bills for the first half of this fiscal year go out in about 2-3 weeks. They have been working on delinquent real estate collections, which is \$312,000 so far for the first quarter, 39% of budget, and ahead of budget. The City will hold its next public auction of delinquent parcels on Friday, November 9th. Local taxes are on target and performing better than budget; through the end of the first quarter the City collected \$5.5M, about \$367,000 over last year at this time. Sales tax was at \$2.3M, 26% of budget, and tracking a little ahead of budget at \$124,000 more than last year. Under Meals tax, the City now has two months at the new rate collected at \$2M, on target at 25% of budget and \$159,000 more than last year. Hotel/Motel did well for the summer in July and August at \$316,000 which is 33% of budget and \$50,000 more than last year. For other income items, some are higher than last year due to timing; the City has received Categorical Aid from the State a little earlier for the first quarter. Also, for the City's investment

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income, interest rates have increased a several times over the last six months, most recently last month. As the City's CDs mature, the City reinvests and is getting higher rates with an increase in interest income.

Expenditures were \$31.4M for the first quarter, that is \$2.1M more than last year and most of that is the timing to the CIP fund. \$1.8M has already been transferred to the CIP, which is more than last year at this time. The rest of the increase is primarily General Government Operations and most of that is the enhancement to public safety's retirement benefits; staff budgeted for that and increased that contribution. Revenues are on track, Expenditures, where they have increased were either budgeted or just a timing difference, and everything looks appropriate for the first quarter. Mr. Adkins stated the City has received the proceeds from the bond issues, there will be a budget appropriation ordinance coming before Council at the meeting on November 20, and then for final adoption on December 4th. The Audit for the City is progressing with about four to five more weeks and no concerns have been raised. Mr. Yoder from Brown, Edwards will be at Council on December 4th at the work session to formally present the audit report.

PROGRAM UPDATES

Mr. Larking noted staff has emergency operations meetings periodically when things like Michael happen; staff has been having those meetings since Thursday night. At the meeting on Monday, staff was supposed to compile the amount of public infrastructure damage, the estimated cost for City related items, not counting the schools. At that time, the City was up to about \$2.2M in infrastructure costs just for the City. That does not count things like overtime, and does not believe it included Parks & Recreation which had about half a million more in damage. The City has more than met its threshold as a locality to trigger the kind of assistance it can get, but believes there is also a statewide trigger that has to happen and does not think that has been met yet. The City is going to submit all the information they can and hopefully they can get some assistance from State or Federal level. Mr. Larking stated he was very proud of his department heads and their staff, they are very professional and did a great job for the community.

Mr. Campbell asked what benefits come from a local State of Emergency and Mr. Larking explained one is perception. When a local state of emergency is declared, it alerts the public that there is danger and they should be careful. The State of Emergency is typically recommended by the Fire Chief to the City Manager, the City Manager calls for it and it is ratified by City Council. The State of Emergency allows the City to procure equipment and contracts more quickly than it normally would. Mr. Campbell thanked the City Manager for keeping Council informed during the Emergency. Dr. Miller questioned the utility workers that come help the City, what does the City pay for and Mr. Larking explained the City has a mutual aid agreement with several localities and when the City asks for help, they will send help. Mr. Saunders questioned the shelter at Bonner, how many people utilized it and Mr. Larking noted at one point they had sixty people in the shelter. Many of them left when the weather looked like it was a little better. Overnight, about fifteen people stayed.

City Attorney Clarke Whitfield noted several Council Members asked him to speak about the steps to file suit against drug manufacturers, particularly the opioid manufacturers; some Council Members saw the presentation at VML put on by Kaufman and Knowles. The first step would be for Council to pass an Ordinance or Resolution declaring the situation with regard to opioids a public nuisance. Once that has been done, the City could move forward to sue and potentially recover financial damages; simultaneously to doing that, the City would want to look at retaining a litigation team. The litigation team will come in and investigate the City's claims. If the City doesn't have enough money to recover and claims to file suit on, there is no need to do it. They

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do a free investigation and will provide a report that states what the City has potentially to gain or that they shouldn't proceed with litigation. Their only requirement is if the City does proceed with litigation, most firms require that the City not take their information to another law firm. If the City decides to sue, the City signs a retainer agreement that says the City will pay their costs plus 25% of the recovery.

If the City were to win, it would receive the money less the costs and contingency. If the City were to be a part of the localities that are suing and were to lose, the City would pay a pro rata share of just the expenses, no attorney fees will be charged. Right now with Kaufman and Knowles, there are over thirty localities that have joined, and everyone has signed the same contract. It is not going to be something that will be quick, it will probably take several years, but they do a good job of keeping everybody up to date. Mr. Whitfield explained their approach is to file in state court rather than federal court; the theory behind that is the drug manufacturers are going to have a more difficult time defending it in every single jurisdiction. Their theory for the case is that manufacturers made false claims about how addictive opioids are and distributors who are required by federal and state law to control and report the unlawful drug diversions allegedly have ignored their responsibilities. There has been a lot made about the AG suing Perdue Pharma, they have, and they are also trying to fine them. With the AG's office, all the money they recover goes directly to the state, none of it is coming to the localities.

In response to Mr. Whittle, Mr. Whitfield explained the opioids are a public nuisance not only for causing the death of the users, but the cost the community has to bear in order to fight the addiction and all the other problems. It is an overall community problem and the firm will refer to certain cases and statistics. They will be talking to a lot of healthcare professionals, law enforcement, and social service organizations in order to do that report. Reverend Campbell questioned who is liable and Mr. Whitfield stated it is multi-level; manufacturers, distributors and probably pharmacies because a lot of them allegedly ignore what are their responsibilities. As the opioids are prescribed, it is supposed to be recorded how many the person is getting; a lot of that was not being done, but more of it is being done now. Dr. Miller noted there are some physicians that are in trouble for prescribing too many pills, now there are computer systems that keep track of that. The people that supplied the pills, the benefit managers, ignored that. They saw that the patient was getting pills from different sources, they were supposed to control that and they weren't doing that.

Dr. Miller noted Kaufman and Knowles are associated with a national firm and Mr. Whitfield stated they are associated with one in Texas and one in Nashville. Mr. Shanks questioned if there was a local firm and Mr. Whitfield explained the George Daniels group, does not think he practices in Virginia and Mr. Shanks stated his son does. Mr. Whitfield noted he believed they were doing a Federal court suit and Mr. Shanks asked Mr. Whitfield to find out. Mr. Shanks noted if there are any local firms that have that capability he would like Mr. Whitfield to look into that.

In response to Mr. Whittle, Mr. Whitfield explained the cost is determined once the firm determines what the City's damages would be. The way Kaufmann and Knowles has structured it, the City's pro rata share is not by population, it is by the number of violations and the amount of money it could recover. In a situation like this, Martinsville and Galax would end up paying a much larger pro rata share than Danville. There is something called the Morphine Milligram Equivalent Units. The national average is 640 mmes of opioids prescribed each year; in Danville that number is 1,444.9 mmes, and Martinsville and Henry County together is over 5,000. Mr. Whitfield stated he would look into a local firm that could represent the City, but anybody that the City's hires, they would want them to provide the City with an analysis first. If they can't provide the analysis first, he does not believe the City would want to deal them.

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COMMUNICATIONS

Dr. Miller questioned if staff has had a chance to look into scooters, like Richmond and Mr. Whitfield noted there have been some reviews of that, and to the best of staff's knowledge, it is in bigger cities. Dr. Miller noted in Richmond they put scooters on street corners, they didn't go to the City and get a license, they weren't regulated and doesn't want it to happen here. Mr. Whitfield noted Mr. Reynolds has been looking at it along with Mr. Dodson to look into some regulations so they can't just be dumped on the streets.

Mr. Saunders asked if there was anything Council was going to do with regard to Dr. Polhamus. Mayor Jones noted his funeral is next Tuesday at St. Luke's. Dr. Miller asked if Council could do a resolution regarding his service to the City.

Mr. Shanks noted he has received complaints about gear braking by tractor trailer trucks. The complaint came from the Route 58 area; asked the City Attorney to look into it, maybe put some signage up, or put it in the Code that it is not legal to do.

Vice Mayor Vogler would like Council to consider a Resolution or Proclamation, thanking the lineman who were out working, including all the people that were working during Michael. Mayor Jones suggested a letter from all Council Members that can go to all employees. Vice Mayor Vogler noted something to show Council's appreciation for the work a number of people did. Council members noted they didn't want to leave anyone out, including volunteers. Mr. Shanks noted he was interested in those working double shifts which included Public Works and Utilities, but would also agree to citywide employees. Mr. Shanks noted he would like to see the DLSC people included if possible. Mr. Saunders requested the City Manager come back with recommendations.

MEETING ADJOURNED AT 9:20 P.M.

MAYOR

CITY CLERK