



## OFFICE OF THE CITY CLERK DAWN M. JONES, CITY CLERK

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Personnel and Finance Committee     August 8, 2022, 5:20 P.M.

Committee Members Present:     Sheila Niezgodski, Eli Wax, Troy Warner, Rachel Tomas Morgan, Henry Davis Jr.

Citizen Members Absent:     Aaron Steiner

Other Council Present:     Lori Hamann, Karen White, Canneth Lee

Other Council Absent:     Sharon McBride

Others Present:     Dawn Jones, Victoria Trujillo, Bob Palmer

Presenters:     Kacey Gergely

Agenda:     Bill No. 37-22-Appropriating Additional Funds of \$46, 080,405 from the American Rescue Plan

Full audio dialogue of the meeting is available upon request from the City Clerk's Office.

Committee Chair Sheila Niezgodski called to order the Personnel and Finance Committee; Niezgodski at 5:20 p.m. and requested a roll call.

Clerk Jones conducted the roll call and stated five (5) members are present; a quorum has been established.

### **Bill No. 37-22**

Committee Chair Sheila Niezgodski requested a presenter for Bill No. 37-22.

Dan Parker, City Controller, with offices located on the 12<sup>th</sup> floor of the County-City Building, stated the bill is to appropriate funds from the American Rescue Plan to fulfill one of the allowable uses of the funds which are to replace lost public sector revenue. Parker stated there are four allowable uses of the funds from the Department of Treasury. One of these is to replace lost public sector revenue. Part of the City's plan to effectively utilize the American Rescue Plan funding is to increase flexibility on the use of funds by utilizing revenue replacement. Revenue replacement funds appropriated by this bill will be used to pay for expenditures that are normally paid for from the General Fund. This frees up funds in the General Fund to be used for spending on priorities identified as the "ARP-related budget" during the 2022 budget process. The reasoning behind why the City is using revenue replacement is it allows the City to satisfy the provisions of the Federal Government, remove time and purpose restrictions the Federal Government has put on the ARP funds, and



implement the priorities that the Council and administration worked on in the 2022 budget process. The revenue replacement does not change the planned spending, nor does it remove the Council’s role in appropriating ARP funds. The Council is still required to appropriate funds in both the General Fund and the ARP Fund. This allows the City to free up some dollars in the General Fund to push for the priorities that were identified during the 2022 budget process. Parker then presented the ARP-related budget. A little over fifty-eight million dollars (\$58,000,000.00) were approved as a part of the budget process. This is what the City refers to as the “ARP-related budget.” The total award a little over is fifty-eight million nine hundred thousand dollars (58,900,00.00) so there is a little money left from the total award that has not been appropriated. Parker stated that not all the money is intended to be spent from the ARP fund directly. The City has multiple funds, two of which are the ARP Fund and the General Fund. The ARP Fund received the award of fifty-eight million nine hundred dollars (\$58,900,000.00) but the City already planned during the 2022 budget to spend that money from both the ARP Fund as well as the General Fund. The bulk of the money was planned to come from the General Fund totaling forty-four million nine hundred ninety-five thousand dollars (44,995,000.00) and thirteen million ten thousand dollars (\$13,010,000.00) was planned to come from the ARP Fund. The “ARP-Related Budget” is unaffected by Bill No. 37-22. The revenue replacement frees up forty-six million eighty thousand four hundred five dollars (\$46,080,405) in the General Fund to pay for the forty-five million dollars that are planned on strategic initiatives. Parker stated the City is moving forward on the “ARP-Related Budget.” The amount of money that has been spent or encumbered for the different programs in this budget is just over thirteen million eight hundred thousand dollars (\$13,800,000.00) of the fifty-eight million dollars (\$58,000,000.00) that have been appropriated. Just over twenty-three million eight hundred thousand dollars (\$23,800,000.00) has been committed to capital projects. Capital projects have a long lead time, so the City knows roughly what the projects will be, but not necessarily what the result will look like. Parker stated many more conversations need to happen with the capital projects. Of the roughly fifty-eight million nine hundred thousand dollars (\$58,900,000.00) from the award, approximately sixty-four percent (64%) of the total award has been spent or committed, totaling a little over thirty-seven million six hundred thousand dollars (\$37,600,000.00). Parker clarified that the Revenue Replacement just allows the City to free up money in the General Fund so the City can continue spending money out of the General Fund. Parker stated he wanted to clarify how the City came up with the total amount of revenue loss. The Federal Government provided a four-step process to determine this revenue loss. Step one is to calculate revenues collected in the most recent full fiscal year prior to the public health emergency (i.e., the last full fiscal year before January 27, 2020) called the “base year revenue.” When calculating the City’s base year revenue, the total came to over two hundred eighteen million two hundred thousand dollars (\$218,200,000.00). Interfund transfers, PILOT, interfund allocation reimbursement, debt proceeds, Inter-organization payments, debt service, and several other types of revenue are excluded from this calculation. The second step is to estimate counterfactual revenue, which is what would your revenue have been had the pandemic not occurred. The counterfactual revenue is equal to the following formula, where  $n$  is the number of months elapsed since the end of the base year to the calculation date:  $\{base\ year\ revenue\ * (1 + growth\ adjustment)^{n/12}\}$  The growth adjustment is the greater of either a standard growth rate, five point two percent (5.2%), or the recipient’s average annual revenue growth in the last full three fiscal years prior to the COVID-19 public health emergency. The City’s counterfactual revenue comes out to be roughly over two hundred twenty-nine million two hundred thousand dollars (\$229,600,000.00). The third step would be to identify actual revenue, which equals revenues



collected over the twelve (12) months immediately preceding the calculation date. The City's 2020 actual revenue comes out to a little over two hundred three million five hundred thousand dollars (\$203,500,000.00). The final step is to calculate revenue loss, which is the counterfactual revenue minus the actual revenue (adjusted for tax changes) for the twelve-month period. If actual revenue exceeds counterfactual revenue, the loss is set to zero for those twelve months. Revenue loss for the period of performance is the sum of the revenue loss for each calculation date. In 2020 according to the formula set by the Federal Government, the city lost approximately twenty-six million one hundred thousand dollars (\$26,100,000.00). Under the final rule, "any diminution in actual revenue calculated using the formula above would be presumed to have been 'due to' the COVID-19 public health emergency". The City does not need to prove that the revenue loss is directly related to the pandemic. The term "adjusted for tax changes" above refers only to tax cuts or tax increases that are adopted after the adoption of the final rule (January 6<sup>th</sup>, 2022). This does not apply to the City. After repeating all four steps for 2021, there was a reduction in revenue of approximately twenty-nine million three hundred thousand dollars (\$29,300,000.00). When adding the reduction in revenue for 2020 and 2021, the total reduction in revenue is approximately fifty-five million four hundred thousand dollars (\$55,400,000.00). The forty-six million eighty thousand dollars (\$46,080,000.00) appropriation is based on the total award (plus interest earnings earned to date), minus programs intended to be spent from the ARP Fund #263. That will give the amount planned to be spent from the General Fund. The Fund #263 interest earnings come out to a little over one hundred sixty thousand dollars (\$160,000.00). The programs intended to be spent from the ARP Fund #263 include the Dream Center (Budget), which is eleven million one hundred thousand dollars (\$11,100,000.00), and the ARP premium pay (Actual) which is approximately one million eight hundred thousand dollars (\$1,800,000.00). When adding the ARP award and the Fund #263 interest earnings, and subtracting the spending coming directly from Fund #263, the total comes out to approximately forty-six million eighty thousand dollars (\$46,080,000.00).

Jeff Rowe, Partner with Baker Tilly, located in the Ironworks at Buetterpark, Mishawaka, shared his observations about the revenue recovery spending option under the Treasury "Final Rule". Rowe stated he had the opportunity to help identify potential spending opportunities that comply with the federal guidelines in municipalities across the country. Rowe stated he agrees with Parker's presentation of allocating funds from the ARP dollars to revenue loss recovery which was observed in other municipalities. Rowe described the history of the Treasury Interim and "Final Rule" and their realization of the need for flexibility at the local level. This led to the Treasury expanding the limitations on revenue recovery dollars. This created two options, one was to elect to spend up to ten million dollars (\$10,000,000) or the full amount of the ARP FRF distribution or you could go through the process of calculating the actual loss on an annual basis, which is what Dan Parker just presented. Rowe stated the City is prohibited from spending FRF dollars on debt or the payment of judgments.

Committee Member Eli Wax thanked the presenter for the presentation and asked when an update will be available for the anticipated funds that will not be spent in their categories, whether they are no longer necessary such as the last million dollars in COVID infrastructure or for the money that won't be spent in the original plan.



Dan Parker stated entering the budget season is a good time to have those discussions such as what spending can be carried into the new year, and what will have to be reappropriated based on the annual budget cycle.

Committee Member Wax asked for clarification on the difference and reason between the forty-five million dollars (\$45,000,000.00) coming out of the General Fund for the ARP plan, and the City appropriating forty-six million dollars (\$46,000,000.00). Wax asked if the next million dollars will come from the General Fund as well.

Dan Parker replied the primary difference is between fifty-eight million nine hundred thousand dollars (\$58,900,000.00) and fifty-eight million dollars (\$58,000,000.00), which is a difference of approximately nine hundred thousand dollars (\$900,000) that has not been appropriated. If the Council decides to appropriate those funds, they will come from the General Fund. The remaining small portion of one hundred sixty thousand dollars (\$160,000.00) is the interest earnings that have been earned by the dollars sitting in the ARP Fund.

Committee Member Wax asked if it is fair to anticipate, through administration and the budget process, the updated ARP will allocate the extra million dollars.

Dan Parker replied he doesn't know if that will happen in this budget cycle, but eventually, it is the goal to spend all fifty-eight million nine hundred thousand dollars (\$58,900,000.00) plus whatever savings on the programs that have been put in place will be appropriated from the General Fund to equal fifty-eight million nine hundred thousand dollars (\$58,900,000.00).

Committee Member Wax rephrased his questions to ask the City will be going forward with the mind that these are ARP funds, not just general funds.

Dan Parker replied yes, although he can't speak to when this will happen, however, there will be a version of the ARP-Related Budget that will total fifty-eight million nine hundred thousand dollars (\$58,900,000.00).

Committee Member Henry Davis Jr. requested clarification that the Council does not request appropriations, only approves appropriations. Davis stated he wants the people to understand this, and asked which cities or towns are similarly allocating funds.

Jeff Rowe replied that they have worked with many municipalities in Indiana as well as outside of the state. Rowe stated they have worked with the city of Elkhart advising on the City's ARP spending. Rowe stated most cities and towns that they have worked with are planning to spend money out of the revenue recovery category. Rowe stated the mechanism around spending power within the General Fund has been guided by the State Board of Accounts.

Council Member Karen White asked if the funds that have not been allocated will be sent back to the Council for any projects as previously mentioned.



Dan Parker stated with the gap of nine hundred thousand dollars (\$900,000) and some programs not costing as much as expected, budget savings that can be reallocated may result. Parker stated that funds might also be reallocated between the administration and the Council in general because priorities have changed.

Council Member White clarified that most of the programs will be moving forward and will be funded either through the General Fund or the American Rescue Fund, it is just a matter of how the dollars are being looked upon. White clarified that some spending will go towards the neighborhoods.

Dan Parker concurred.

Council Member Lori Hamann thanked Dan Parker for his patience with her questions. Hamann asked what the time limit is for transferring monies from the ARP Fund to the General Fund.

Dan Parker replied that the time limit established by the Federal Government to transfer funds is that it must be done before the end of 2024. Parker stated there is a time limit for the strategic city initiatives and programs while pushing forward out of the General Fund. Parker stated that the money is going to be spent out of the General Fund without allocating money from the ARP Fund. Parker stated the time limit is sometime in 2023.

Council Member Hamann asked if it would be easier to transfer money to the department that will be handling them as opposed to reallocation and having to come back before the Council.

Dan Parker replied that it will not have to go back to the Council due to the way it was budgeted in the 2022 budget. Parker stated the only it would have to go back to the Council would be if we wanted to change the spending at this point.

Council Member Canneth Lee stated that the reallocation of funds from the ARP Fund to the General Fund is more so an accounting technicality.

Dan Parker agreed and stated it is an accounting exercise to make sure funds are being replaced from the spending out of the General Fund.

Committee Member Rachel Tomas Morgan thanked Dan Parker and Jeff Rowe for the presentation and looks forward to hearing more from them.

Committee Chair Niezgodski requested comments from the public.

Citizen Charlotte Pfeifer, 1013 W. Washington St. stated she was not sure if she would be for or against the bill. Pfeifer stated the bill is not very clear and is messy. Pfeifer encouraged clarification for the public and stated confusion causes the people to mistrust the government and not vote. Pfeifer stated her agreement on flexibility although some things may need to come back to the Council. Pfeifer requested funds to be spent on arts, parks, and venues on the west side of town and other areas that are experiencing violence, poverty and neglect.



Pfeifer stated the East Side has Howard Park, Potawatomi Park, and the Zoo. The Far South Side has the Obrien Center and skateboard parks, and the West Side has a few old recreation centers. Pfeifer stated her distress in spending fifty-four million dollars (\$54,000,000.00) on Howard Park and eleven million dollars (\$11,000,000.00) on the Dream Center. Pfeifer stated the need for educational activities and statues of likenesses of our heroes and heroines. Pfeifer stated there will be a statue of Harriet Tubman in Howard Park, however, her likeness belongs on the West Side. Pfeifer stated many historical figures should be present on the West Side including Malcolm X, Dolores Huerta, Gandhi, James Baldwin, Sojourner Truth, and Tony Morrison. Perhaps if the youth who are killing others or are confused and distressed could see the people that sacrificed and died for them, maybe it could make a difference in their lives. Pfeifer stated there need to be pools, courts, and business districts. Pfeifer stated many funds on the other side of town should be on the West Side as well. Pfeifer asked if the funding is COVID-related and stated the problems in students, parents, etc. because of COVID. Pfeifer stated taxpayer money goes to fund and support everything in the arts, parks, and venues and that the West side deserves to have things too. Pfeifer asked the district and at-large Councilmembers where the forty-six million dollars (\$46,000,000.00) is going. Pfeifer encouraged the Council to take responsibility for the city. Pfeifer asked how citizens can find out how the money is being spent, and if the city has a report card. Pfeifer stated she is for Bill No. 37-22.

Committee Chair Niezgodski asked if there is anyone else present wishing to speak in favor or against Bill No. 37-22.

Clerk Dawn Jones stated there is no one online wishing to speak in favor or opposition of Bill No. 37-22.

Council Member Davis thanked Charlotte Pfeifer for her comments and agrees. Davis stated he voted against this the first time around. Davis stated he went and spoke with the mayor approximately two weeks ago and asked for clarification and the mayor did not provide details. Davis stated if they are asking for order, then order needs to be spread across the table and the presentation should have been in the packet before the presentation for questions to be answered adequately. Davis stated the ARP-Related Budget is messy. Davis stated that COVID-related money was for the disparities brought out about by COVID and for the City to find a better way to spend it and increase the spending of money. Davis stated it was supposed to provide transformative change to the communities ravaged by COVID. Davis stated that he does not agree with the hardest-hit communities not getting the infusion of cash that they deserve. Davis stated the money is being divided and filtered resulting in going broke with lessened efforts. Davis stated that the city is not doing enough for the hardest-hit communities. Davis stated he is willing to take anyone on a tour of the communities that were hardest hit during COVID.

Council Member Hamann stated to the community the Council did not approve the program directors' salaries for a lot of the programs and that more clarity would be helpful.

Caleb Bauer stated several of the programs that staff had contemplated for the administration of the programs, the city worked to identify alternate staffing arrangements or contract work to



supplement those pieces; it has impacted the timeline of program development. Bauer stated the homebuyer assistance program needs more work, and a number of the other programs including housing financing, home repair, city-wide comprehensive plan, land bank start-up costs, demos, neighborhood development assistance, vacant building development financing, neighborhood recovery grants, and neighborhood main streets are moving forward in an alternative arrangement than what was originally proposed by the administration in the prior year.

Council Member Hamann asked if there is any way those programs could be outlined for the Council.

Caleb Bauer stated that he can come back before Council to give an update on the programs and hopes to be able to give a few exciting announcements to the Council in the coming months.

Committee Chair Niezgodski thanked the presenters for their presentation and stated she understands this is to satisfy the treasury requirement for revenue replacement dollars. Niezgodski stated she welcomes the updates on the initiatives, especially the Strong Neighborhood initiative; Niezgodski entertained a motion.

Committee Member Wax made a motion to send Bill No. 37-22 to the Committee of the Whole with a favorable recommendation. Committee Member Tomas Morgan seconded the motion which was carried by a vote of four (4) ayes and one (1) nay (Henry Davis Jr.).

Committee Chair Niezgodski stated Bill No. 37-22 be sent to the Committee of the Whole with a favorable recommendation.

With no further business, Committee Chair Niezgodski adjourned the Personnel and Finance Committee meeting at 6:07 p.m.

Respectfully Submitted,

Sheila Niezgodski, Committee Chair