


## MEMORANDUM

**To:** Peggy Sidman, Managing Deputy and Deputy of Legislative Affairs  
**From:** Lawsikia Hodges, Attorney IV   
**Re:** Budget Question No. 3  
**Date:** July 22, 2014

---

### I. Questions Asked.

You have asked the following questions:

- A. Whether the Mayor's annual budget proposal, Ordinance 2014-466 (the "Proposed Budget"), complies with Section 106.106, Ordinance Code; and
- B. Whether the proposed 37 million dollar transfer from operating reserves<sup>1</sup> in the Proposed Budget to pay City expenditures for Fiscal Year 2015 constitutes use of "current year revenues" under Section 106.106(a)(1), Ordinance Code.

### II. Short Answers.

- A. The Proposed Budget does not violate the provisions of Section 106.106 because this section is applicable to final adopted annual budgets and not proposed budgets by the Mayor. Section 106.106 requirements apply to the annual budget as adopted by the City Council. The Proposed Budget contains recommendations by the Mayor for the City Council to consider in adopting the annual budget ordinance.
- B. The Mayor's proposed use of the 37 million dollars of operating reserve funds in the Proposed Budget, if adopted by the City Council, will constitute "current year revenues" for purposes of meeting the requirements of Section 106.106(a)(1). The use of the 37 million in the Proposed Budget is only a *recommendation* by the Mayor under Section 106.205, Ordinance Code.

---

<sup>1</sup> This information was provided by the City Council Auditor's Office.

**III. Discussion.**

A. The following provisions of Chapter 106 are pertinent to answering the first question above:

- Section 106.106(a)(1) & (b) provides as follows:

(a) **Balanced Budget.**

(1) The annual General Fund [sic] budget for expenditures of the City of Jacksonville shall be balanced from current year revenues.

\*\*\*

(b) The following financial planning targets (identified as percentages of the operating budget) are established to assist the City in returning to traditional cash based funding by fiscal year 2012-2013:

(i)

**General Fund.**

Operating Reserve .....	5—7%
Emergency Reserve .....	5—7%
Budgeted Contingency .....	1%
Pay-As-You-Go-Capital .....	The value of 1 mill of property taxes

- Section 106.103(d) defines the term *Budget* as “a plan for or statement of estimated expenditures during a definite period of time and proposed methods of financing such expenditures.”
- Section 106.103(e) defines the term “*Budget proposal*” as the “consolidated legislative budget submitted by the Mayor, or the legislative budget submitted by an independent agency, to the Council for its consideration.”

The requirement under Section 106.106(a)(1) pertains to the annual budget adopted by City Council and not the Mayor’s budget proposal. Likewise, the financial planning targets in Section 106.106(b) are targets imposed by the City Council on the annual budgets adopted by City Council. These sections do not limit the content of the Mayor’s recommendations to the City Council in his budget proposal, and the Mayor is expressly tasked by the City Council to make budget recommendations, including

recommendations that the City Council expend, increase or decrease reserves. See Sections 106.205, Ordinance Code, which provides:

- (a) If the estimated revenues for the ensuing fiscal year, on the basis of laws existing at the time the annual budget proposal is submitted, including the estimated cash carryover from the current fiscal year, are less than the estimated expenditures for the ensuing fiscal year, the Mayor in the annual budget proposal shall make recommendations to the Council for additional or new taxes, rates, charges or other appropriate action. In no case whatsoever shall the Mayor submit an unbalanced annual budget proposal to the Council.
  
- (b) If the estimated revenues, including the estimated cash carryover from the current fiscal year, are greater than the estimated expenditures for the ensuing fiscal year, the Mayor shall make such recommendations as in his opinion the public interest requires.

Accordingly, the Mayor in his annual budget proposal may make recommendations to the Council regarding the use of revenues to pay for expenses in the ensuing fiscal year, including the recommendation to spend from any City operating reserve funds. Council, as the legislative appropriating body under the City Charter, may accept, reject, or modify these recommendations in its sole discretion in adopting the annual budget ordinance.

**B.** Similar to the analysis above, the requirement under Section 106.106(a)(1) pertains to the annual budget adopted by City Council and not the Mayor's proposed budget. City Council in adopting the budget ordinance should comply with Section 106.106(a)(1). Accordingly, the Mayor may recommend use of the proposed 37 million dollars from operating reserves in the Proposed Budget. If Council accepts the Mayor's recommendation, the proposed 37 million dollars would be a use of "current year revenues" for Fiscal Year 2015, and the City Council would be in compliance with Section 106.106(a)(1). The City Council may use operating reserves in adopting a balanced City budget.

#### **IV. Conclusion.**

The Proposed Budget does not violate Section 106.106 because Section 106.106 is applicable to final adopted budgets by the City Council. The Proposed Budget only sets forth recommendations by the Mayor for City Council's consideration. Additionally, the Mayor may recommend using the proposed 37 million dollars from operating reserves in the Proposed Budget, and if this recommendation is accepted by the City Council, such funds will constitute current year revenues for purposes of meeting the requirement of Section 106.106(a)(1).