

THE DULY ELECTED MEMBERS OF THE BOARD OF COUNTY COMMISSIONERS OF WASHINGTON COUNTY, OHIO, MET IN REGULAR SESSION ON DECEMBER 30, 2019 IN ACCORDANCE WITH OHIO REVISED CODE 305.05, WITH THE FOLLOWING MEMBERS PRESENT: DAVID A. WHITE, PRESIDENT. RONALD L. FEATHERS, VICE PRESIDENT. KEVIN J. RITTER, MEMBER. THE MEETING WAS CALLED TO ORDER AT 9:00 A.M. BY THE PRESIDENT OF THE BOARD. MR. WHITE LED THOSE ATTENDING IN THE PLEDGE OF ALLEGIANCE TO OUR FLAG.

Also attending:

Timothy Williams, Probate/Juvenile Judge  
Rae Ward, Probate/Juvenile Court Administrator  
James Booth  
Michele Newbanks, *The Marietta Times*  
Ben Cowdery, Fiscal Manager/Clerk

**Washington County Commissioners  
AGENDA  
9:00 am, December 30, 2019**

9:00 Annual Appropriations Resolution for 2020

**RE: ANNUAL APPROPRIATIONS RESOLUTION FOR 2020**

Mr. Feathers moved and Mr. Ritter seconded a motion to adopt the Annual Appropriations Resolution for 2020 for Washington County. The resolution is summarized as follows:

Total Appropriated for County General Fund	\$ 17,524,914
Total Appropriated for all funds	\$ 65,249,392

Commissioner Feathers said the carryover balance is approximately equal to the previous year. Mr. Feathers said this year's budget has expenses of \$1.2 million more than expected revenue and this is possible because 2019 revenues were higher than anticipated. The commissioners approved a 2% merit increase for county employees, allowing elected officials and department heads to determine how best to distribute those amounts.

A calling of the roll resulted in the following vote: David White aye. Ron Feathers aye. Kevin Ritter aye. Motion passed.

**RE: COMMISSIONERS – LETTER TO JUDGE WILLIAMS**

Commissioner Ritter submitted the following letter for the record:

December 30, 2019

Dear Judge Williams,

Thank you for taking the time to attend our public meeting last week and sharing your concerns regarding the budget process. Like you, we believe in a healthy separation of powers. Only by having three, separate and distinct branches of government can we guarantee the citizens of this County that power is not invested solely in the hands of a single individual. Like you, we know that a healthy respect for separation of powers means maintaining a balance between the competing branches of government. Too much power to any one branch, un beholden to anyone, is unhealthy for our republican form of government.

Under the doctrine of separation of powers, "Common pleas courts and their divisions have inherent power to order funding that is reasonable and necessary to the courts' administration of their business." *State ex. Rel. Maloney v. Sherlock*, 100 Ohio St. 3d. 77, 2003-Ohio-5058 25.

The Board of County Commissioners is "obligated to appropriate the requested funds, unless the board can establish that the court abused its discretion by requesting unreasonable and unnecessary funding." *Id.*

The standard for court ordered funding is reasonable and necessary. The burden is on the board of commissioners to establish that the proposed increases in funding are arbitrary and unreasonable.

On July 23, 2019, the Probate and Juvenile Court set its reasonable and necessary budget for 2020. On October 30, 2019, you met with the Board of Commissioners to review the Court's 2020 budget request. That request was the reasonable and necessary funding required to operate the Court.

On November 25, 2019, you filed a Court Order for a "Revised Budget." This new budget request included almost \$60,000 in new salary requests. These requested salary appropriations were above and beyond the salary increases that had already been included in your July 23<sup>rd</sup> budget request.

In your new and revised court ordered budget request you stated that the increased salaries were required because of an increase in the pay of Children Services employees.

We find your July 23, 2019 budget to be the reasonable and necessary expenses for Court operations and have approved that budget request. The November 25, 2019

court order is unreasonable and unnecessary, and those additional funds shall not be appropriated.

A review of Ohio Supreme Court jurisprudence in this area is insightful.

In the case of *State ex. Rel. Lohn v. Medina County*, 124 Ohio St. 3d 241, 2009-Ohio-6851, the Supreme Court agreed with the Board of Commissioners that the requested pay increases were not reasonable and necessary. The Court noted that the comparison of collectively bargained salaries and non-bargained salaries was inappropriate. *Id.* at ¶ 25. In the *Lohn* case, the Juvenile Court was comparing salaries of juvenile detention center employees with county jail employees. The court found that there was little incentive for the juvenile detention center employees to leave their employment to go to county jail. *Id.*

Comparing the Supreme Court's jurisprudence with the current situation in Washington County, your request is unreasonable and unnecessary.

The salaries that you reference from Children Services were negotiated as part of a collective bargaining agreement. As such, these salaries should not be used for comparison with the juvenile court. Moreover, the children services employees did not so much receive a "pay raise" as they were placed on the existing Job and Family Services pay scale. The union negotiated to have children services employees placed on the JFS pay scale and the County agreed.

Moreover, the salaries are not good comparisons because the jobs are so dissimilar and require vastly different education. A child protective case worker must possess a four-year degree in social sciences. There is no corresponding degree requirement for juvenile court employees.

Additionally, child protective case workers are required to conduct after hour and in-house visits. There is currently no out of office or outside traditional business hour requirement for juvenile court employees. Consequently, there is little risk of juvenile court employees leaving the court system for employment with JFS because they lack the requisite education to apply for the positions.

Finally, you lump all of your employees into one group for pay raises. The work of juvenile and probate court clerks is more analogous to Clerk of Court employees than Children Services caseworkers. Clerk of Court employees who perform a nearly identical function as your clerks are paid a starting salary of \$11 an hour. Juvenile detention center employees may be more analogous to Child Support Enforcement Caseworkers, who begin working for the county at \$10 an hour.

It seems disingenuous to select whichever agency or department has received a pay increase and immediately use that position as a comparison.

Based upon the clear precedence of Ohio Supreme Court. We find your increased salaries are unnecessary and unreasonable.

Comparing unionized salaries to non-union salaries has specifically been rejected by the Ohio Supreme Court, Children Services workers have education requirements that Juvenile Court workers do not, the positions and job responsibilities are not similar at all, and Juvenile Court employees are already slated to receive a two percent pay raise, pursuant to your July 23, 2019 request.

As you stated publicly, you have additional funds that you have not spent. Should you choose to use those funds to increase the pay of Juvenile Court employees we lack the power to, and comity suggests we should not, act. However, no additional funding 2020 shall be forthcoming.

Sincerely,

Washington County Board of Commissioners

**RE: ADJOURNMENT**

Mr. Feathers moved and Mr. Ritter seconded a motion to adjourn. A calling of the roll resulted in a unanimous vote in favor. The meeting adjourned at 9:06 a.m.

\_\_\_\_\_, President

\_\_\_\_\_, Vice President

\_\_\_\_\_, Member

\_\_\_\_\_, Clerk