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**REPORT OF VILLAGE ATTORNEY ON THE ISSUE OF THE VILLAGE OF
SWANSEA, ILLINOIS GENERAL FUND RESERVE**

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The Facts

§ 36.032(A) of the Swansea ordinances provides as follows:

“The unrestricted fund balance of the General Fund shall be maintained at a level amounting to *no less than two months, nor more than four months*, of the current fiscal year budgeted General Fund revenues, exclusive of federal, state or county grant funds. Use of the minimum unrestricted fund balance shall be authorized only when emergency expenditures or an unexpected revenue reduction, including, but not limited to, unanticipated operating expenses, major equipment repairs, weather related damages or unanticipated legal expenses, or to off-set unanticipated decreases in revenues, such as national recessions or delays in distribution of state revenue designated for local governments would cause the General Fund budget to end the fiscal year with a negative balance. The amending of the budget to utilize the unrestricted fund balance shall require approval of an ordinance by a two-thirds vote of the members. The fund balance shall be restored to its required level in the following fiscal year.” (Emphasis added)

The Village of Swansea General Fund has sustained an amount at a level in excess of 4 months of the current fiscal year budgeted General Fund apparently since FY 21/22. Exhibit A.¹ As the reserves grew, over the past few years Village Administrator, Ben Schloesser has recommended utilization of some Village General Fund reserve funds ...”to supplement the tax levy, thus allowing the Village to fund obligations and operations as it desires, without placing unnecessary burden on its residents with an outsized levy.”² He made a similar recommendation in December, 2025. The issue came to a head at the December 1, 2025, Finance Committee meeting while discussing the property Tax Levy for the next budget.

¹ These were prepared by Finance Manager Kari Speir in the past week.

² See e.g. Schloesser memo of December 2, 2024, to Mayor and Board of Trustees re: Tax Levy Proposal.



The December 1, 2025, Village Finance Committee meeting minutes note that Trustee Thouvenot raised “significant concerns” about the reserves and past practices. He was quoted in the minutes as saying:

"There's been a lot of talk tonight about how healthy reserves are much needed and we've apparently had a change of heart in using reserves to fund ongoing expenses." He referenced voting against the current fiscal year's budget because it proposed using reserve funds for ongoing expenses. "The collection of these reserves has violated our code far before I ever became a trustee. And we need to look at that forensically to find out what's the date that we crossed the ordinance violation."

"It lies with all of us as board members and I'm guilty of the same thing. I should have looked on my own."³

This meeting was followed by several Facebook posts by Thouvenot

He said in a Facebook post that the “*Village has stockpiled financial reserves that seemingly are not allowed in our code of ordinances*” suggesting that the Finance Chairman and the Administrator should have explained if it was necessary to hold more in reserve. He called for a “thorough internal review of our financial reserves, how they were used in past years, and whether they were used in accordance with the code. Finally, he said that “... *these reserves are meant for specific purposes of addressing emergencies and not for unbudgeted expenses, positions, or pay increases.*”

He also suggested and assailed the “*Finance Committee Chairman and/or the Village Administrator*” in that they “...*did not read, understand, and comply with the code of ordinances related to financial reserves, that is a serious issue.*” Thouvenot also said that he suspected that

³ Finance Committee minutes for the Village of Swansea for December 1, 2025.



officials have violated another part of the ordinance specifying what the money can be spent on. Thouvenot suggested that we were *“taking overages in our annual budget that we didn’t spend – and putting it into this general reserve fund and at the same time raising taxes.”*

In a December 24, 2025, Belleville News Democrat (BND) article, it was reported that he said *“the monies that have been amassed above the statutory limit are currently no longer ours to decide what to do with. That includes all of the interest the Village has gained on these funds. These are taxpayers’ dollars, unfairly collected and/or managed, and kept.”*

In the BND article, Mayor Jeff Parker defended Schloesser and Lanter saying they were guided by *“positive reports from auditors at C.J. Schlosser & Company and by standard practices of municipalities in Illinois.”* He noted that the auditor was happy with their finances and reserves that they have been able to build up.

Finally, addressing Thouvenot, he said *“I find that a little bit appalling ... that you wrote the word ‘illegal’ like there was something that was criminal going on here and that’s why a forensic audit was needed. A forensic audit is for things like theft and fraud. This was a mistake apparently made, and I don’t think the intent was on purpose ... not to look at something with a gotcha attitude.”*

I was asked by Mayor Jeff Parker, and Village Administrator, Benjamin Schloesser, to review and report on the issues raised by Trustee Thouvenot.

For this investigation I did the following things and reviewed the following items:

- The Swansea audits for the years 2016 – 2025 inclusive



- Belleville News Democrat article of December 24, 2025, on this issue where Trustee Thouvenot and Mayor Parker were quoted.
- All known Facebook posts from Trustee Brian Thouvenot on these issues
- Certain Facebook posts from “How is Swansea Doing”
- GFOA publication titled “Fund Balance Guidelines for the General Fund” created September 30, 2015
- The Illinois Budget Act, 50 ILCS 330 and Annual Appropriation Ordinances section of the statute 65 ILCS 5/8-2-8 and 65 ILCS 5/8-2-9
- Illinois case law on the subject matter
- I spoke with the following individuals: Mayor Jeff Parker; Trustee Matt Lanter; Village Administrator, Benjamin Schloesser; Kari Speir, Swansea Finance Manager, Chris Sobrino, Swansea’s outside auditor
- Data from Benjamin Schloesser accumulated from 17 Southern Illinois Municipalities on surplus issues.
- Calculations determining status of General Fund reserves prepared by Kari Speir at my request.
- Schloesser memo of December 2, 2024, to Mayor and Board of Trustees re: Tax Levy Proposal
- Finance Committee minutes for the Village of Swansea for December 1, 2025.

Analysis



Legal Authority and Policy

All indications are that the Village properly adopted its current and recent annual budgets pursuant to the appropriate state statutes found at 65 ILCS 5/8-2-9.1 through 5/8-2-9.10. The budget must contain the actual or estimated revenues and expenditures for the two preceding fiscal years. *Id.* It must show the funds from which anticipated expenditures will be drawn. *Id.* These provisions are largely consistent with the Illinois Municipal Budget Law (50 ILCS 330/). The budget should conform to a statutory directive of “good fiscal management practices”.

To conform to “good fiscal management practices,” the statute lists several entities who provide recommendations for budgeting practices that are “deemed proof” of substantial conformity. These include the National Committee on Governmental Accounting, the Auditor of Public Accounts of the State of Illinois, or the Division of Local Governmental Affairs and Property Taxes of the Department of Revenue of the State of Illinois. Finance Manager Kari Speir confirmed that the Village consults one or more of these sources as needed, particularly the National Committee on Governmental Accounting.

Neither of the Illinois statutes listed above, nor the National Committee of Government Accounting (now the Government Accounting Standards Board, GASB) provide a reference or recommendation for a maximum number of months for reserves of General Fund revenue. The GFOA does recommend that municipalities maintain a general and restricted fund balance of no less than 2 months with the goal of replenishing within 1 to 3 years. The GFOA is a partner with the Illinois Government Finance Officers Association.⁴

⁴ Both Village outside auditor Chris Sobrino and Village Finance Manager Kari Speir confirmed that GFOA is a credible and authoritative source.



In GFOA publication “*Fund Balance Guidelines for the General Fund.*” again, there is no recommendation for a maximum number of months for General Fund Reserves. However, the article does address the event where the General Fund balance exceeds the formal requirement set forth in that municipality’s policies. When that occurs, the GFOA recommends that the municipalities undergo policy considerations to address that circumstance and that the use of the funds for recurring expenditures should be prohibited. (See below)

It is also notable that the Illinois Supreme Court has addressed reserves in other contexts. With respect to municipal budgets and appropriations, it has said that “surpluses are to be expected upon application of conservative budgeting practices, and no prejudice to taxpayers results when validly levied taxes are collected and applied to the corporate fund surplus in the following year. People ex rel. Schlaeger v. Jourdan Packing Co. 389 Ill. 163, 169, 58 N.E.2d 910 (1945) Moreover, the inclusion of such an asset (surplus) in the following years’ budget will have the corresponding benefit of reducing the appropriation and levy needed for that year. In re: Application of Rosewell, 159 Ill. 2d 393, 639 N.E.2d 559 (1994). As such, Illinois’ highest court has articulated a public policy that views surpluses as to be expected in budgeting and to be a good thing not only for the municipality when an unforeseen circumstance arises, but potentially for the taxpayer as well.

The Reserves

The current calculated General Fund reserve of the Village of Swansea is 8.33 months. (Exhibit A). Reserves are generally generated by unexpended appropriations which lapse if not expended and are then regarded as assets and must be treated accordingly in the budget for the



next succeeding year. See **People ex rel. Schlaeger v. Jourdan Packing Co.** supra at 168.

Village auditor, Chris Sobrino, suggested that an increase in reserves may also be explained by the fact that income tax and sales tax revenue has increased over the past several years due to the restoration of these taxes after COVID, inflation, along with prudent financial management.

The current balance and status of reserves is readily illustrated in the most recent audit report dated December 1, 2025. Page 14 of the report has a section identified as “Fund Balance” which lists all of the reserves. The “fund balance” as articulated to me by Chris Sobrino is synonymous with the “reserves.”

The unrestricted reserve fund totals \$8.325.016 which is set forth in the first column. The other reserves are restricted, for example, as in the case of TIF funds, and together total just under \$10 million.. These monies exist and are earning investment revenue for the Village.

The necessity of reserves is well articulated in the GFAO report.

“It is essential that governments maintain adequate levels of fund balance to mitigate current and future risks (e.g., revenue shortfalls and unanticipated expenditures) and to ensure stable tax rates. In most cases, discussions of fund balance will properly focus on a government’s general fund.”

This brings us to the issue of Swansea ordinance § 36.032 (A) as to a “minimum” or “maximum” for reserves. This ordinance was passed in 2011.⁵ There is nothing in the ordinance or any state statute, case law or regulations that addresses this issue generally so that a “remedy” for exceeding an ordinance legislated maximum for General Fund reserves does not exist.

⁵ I could not identify from currently available sources the reasons why a maximum amount of reserves was part of this ordinance. None of the current, elected officials were in office at that time 15 years ago.



The GFOA report suggests guidelines for the adequacy of unrestricted fund balances (reserves).

“The adequacy of unrestricted fund balance in the general fund should take into account each government’s own unique circumstances. For example, governments that may be vulnerable to natural disasters, more dependent on a volatile revenue source, or potentially subject to cuts in state aid and/or federal grants may need to maintain a higher level in the unrestricted fund balance. Articulating these risks in a fund balance policy makes it easier to explain to stakeholders the rationale for a seemingly higher than normal level of fund balance that protects taxpayers and employees from unexpected changes in financial condition.”

The GFOA then goes on to recommend a reserve of no less than two months of regular general fund operating expenses.

The GFOA report has a helpful section entitled “Unrestricted Fund Balance Above Formal Policy Requirement.” It says in pertinent part:

“ In some cases, governments can find themselves in a position with an amount of unrestricted fund balance in the general fund over their formal policy reserve requirement even after taking into account potential financial risks in the foreseeable future. Amounts over the formal policy may reflect a structural trend, in which case governments should consider a policy as to how this would be addressed. Additionally, an education or communication strategy, or at a minimum, explanation of large changes in fund balance is encouraged. In all cases, use of those funds should be prohibited as a funding source for ongoing recurring expenditures.”

This recommended policy does not include a “maximum” and further does not distinguish between unrestricted fund balances above a “minimum” or “maximum” amount so it should be considered to be equally applicable to either situation.

Mayor Parker has begun the discussion of some of these issues in his media comments and at meetings, including valid concerns about reserves in the event of natural disasters such as



tornado and storm damages which are relatively common occurrences in this part of the country. Other considerations would be the recent uncertainty in policies of the current Administration of the federal government as to the availability of historically available federal funds.

Conclusions

- *Assertions that General Fund reserves have been used to fund ongoing expenses and/or that legislative authorization is needed to do so are incorrect.. There is no need or basis for a “forensic audit.”*

A fair reading of one of the principal assertions made by Trustee Thouvenot is that he believes that reserves have been used to fund ongoing expenses and that Village ordinances requiring authorization were not followed. Page 14 of the most recent audit sets forth the current reserves. Exhibit A calculates the reserves after each fiscal year. If current reserves are to be tapped, no legislative authorization is needed unless the Village seeks to tap the minimum unrestricted fund balance. § 36.032 of Swansea Ordinances. So, it is not surprising that in the past eight years at least where the reserves exceeded the two month unrestricted unfunded minimum required by the ordinance, reserves have never been identified as a source of revenue in the passed budgets preceding the financial year. It appears Trustee Thouvenot has misread 36.032 as always requiring legislative approval if reserves are used.

Swansea has a highly qualified auditor who has just reported the most recent audit to the Village Finance Committee which approved the audit. The answers to the questions raised here are readily apparent to one with a working knowledge of the Village budget and audit and



financial statements generally. If not, outside auditor Sobrino could have easily explained them as he did for me, if asked.⁶ Accordingly, no obvious reason exists here for a “forensic audit”.

- *The provisions of Ordinance section 36.032 including the four-month ceiling provision for accumulation of General Fund reserves, do not provide for remedies for non-compliance and as such, under Illinois law, are not “mandatory” but merely “directory” and are more in the nature of policies of the Village established by ordinance. These reserves were not “collected” as suggested and are the lawful property of Swansea.*

Although the fact that the reserves exceed four months of revenue is technically contrary to the ordinance in question, improper conclusions are sought to be drawn from this. These funds were created by legally proper tax levies and receipt of revenue from normal and proper sources for a unit of local government such as Swansea. They were dispersed pursuant to lawfully created budgets. They simply remained in the General Fund as lapsed appropriations. **People ex rel. Schlaeger v. Jourdan Packing Co.** supra. As such, Swansea did not improperly “collect” reserves as characterized by Trustee Thouvenot.

As noted in the above Analysis, neither Illinois statutes, nor case law or regulations or the ordinance itself provide a remedy if the ceiling is exceeded. If such a remedy were contemplated (such as producing the harsh result suggested by Trustee Thouvenot of perhaps disgorging the funds) the legislature or our ordinance would have so provided.

⁶ Curiously neither Trustee Thouvenot nor any Village official made such an inquiry of Mr. Sobrino when he presented his 2025 audit report at the January 5, 2026, Finance Committee meeting although all of Trustee Thouvenot’s issues were public by then for at least two weeks.



Illinois law is clear that statutes that provide for a duty but do not specify a consequence for non-compliance are "directory" and not "mandatory". Statutes are mandatory if the intent of the legislature dictates a particular consequence for failure to comply with the provisions.

However, in the absence of such legislative intent the statute is directory and *no particular consequence flows from noncompliance*. **People v. Delvillar**, 235 Ill.2d 507, 514, 337 Ill.Dec. 207, 922 N.E.2d 330 (2009); **Carr v. Board of Education of Homewood-Flossmoor**

Community High School District No. 233, 14 Ill.2d 40, 44, 150 N.E.2d 583 (1958) It has also been held that whenever the mandatory/directory dichotomy is at issue, the word "shall" is not determinative. **People v. Robinson**, 217 Ill.2d at 53, 298 Ill.Dec. 37, 838 N.E.2d 930 (2005).

The Swansea ordinance here is clearly directory. It provides a consequence for the minimum unrestricted funds but not the maximum. It is more in the nature of a policy.⁷

- *It is incorrect to suggest that the reserves are meant only for the specific purposes of addressing emergencies and not for unbudgeted expenses, positions, or pay increases."*

Swansea ordinance section 36.032 provides in pertinent part:

"...Use of the *minimum unrestricted fund balance* shall be authorized only when emergency expenditures or an unexpected revenue reduction, including but not limited to, unanticipated operating expenses, major equipment repairs, weather related damages or unanticipated legal expenses, or to off-set unanticipated decreases in revenues, such as national recessions of delays in distribution of state

⁷ Support for these positions can also be found in Swansea ordinance Sections 10.08 and 10.04 (G). 10.08 provides that if conflicting provisions in ordinances, the provisions bearing the last passage date "shall prevail." 36.032 must be viewed as conflicting with the multiple ordinances approving Swansea budgets since its enactment in 2011. In line with that section, 10.04 (G) provides that ordinances shall be liberally construed in order that the true intent and meaning of the President and Board be carried out.



revenue designated for local governments would cause the General Fund budget to end the fiscal year with a negative balance.” (Emphasis added)

This is apparently the section Trustee Thouvenot is referencing. It only applies to use of the “unrestricted fund balance”, which in the case of Swansea is two months of budgeted General Fund revenues. It does not apply to the reserves accumulated beyond the two months of revenue as is (and has been) the case with Swansea. As noted, Swansea did not place restrictions on funds generated if the “maximum” reserve was exceeded.

- ***That the Finance Chair and Village Administrator did not read, understand or comply with ordinances is not supported and is an unfair allegation.***

The last several audits, including the most recent audit presented at the last meeting, indicate Swansea is in excellent financial shape, especially given its reserves. The audit conducted by Mr. Sobrino this year, and by his firm in prior years, is an “unqualified” audit which means that they have not found anything to qualify or limit any of their opinions and they are highly confident of it. Indeed, this year’s audit report, and prior ones, provide the opinion and certification that:

“In our opinion, the financial statements referred to above present fairly, in all material respects, with respect to financial position the governmental activities, the business-type activities, each major fund and the aggregate remaining fund information of the Village of Swansea as of April 30, 2025, and the respective changes in financial position and where applicable cash flow is therefore for the year that and in accordance with the accounting principles generally accepted in the United States of America.”



Schloesser discussed these criticisms with Illinois Municipal League Executive Director Brad Cole who indicated they were without merit. All officials are and should be subject to criticism and constant evaluation and should have “thick skin”. But democracy is undermined when unsupported distractions are created. Schloesser and Lanter have served the Village in their respective positions, 8 and 12 years, respectively. Their experience and qualifications are well known.⁸

They and each of us are far from perfect but saying they ...”did not read, understand or comply with ordinances” is not supported and counterproductive. The strong financial position of the Village contraindicates this assertion as well.

Recommendations

- Ordinance 36.032 should be revisited as to whether the minimum reserve is appropriate and whether the maximum reserve is necessary. It is beyond the scope of my assignment and this report to make specific recommendations for this but we have provided some additional data on this issue that the Board of Trustees may find helpful.⁹
- Given the current reserves (8.33 months of General Fund revenue), consideration should be given to legislation or policy with respect to future managing of these reserves as discussed and cited in this report.

⁸ See [\(25\) Ben Schloesser | LinkedIn](#) and [\(25\) Matt Lanter | LinkedIn](#)

⁹ Administrator Schloesser conducted an informal survey of 17 Southern Illinois municipalities on their respective policies which is attached as Exhibit B.

GENERAL FUND - FUND BALANCE COMPARISON

	<u>FY 25/26</u>	<u>FY 24/25</u>	<u>FY 23/24</u>	<u>FY 22/23</u>	<u>FY 21/22</u>	<u>FY 20/21</u>	<u>FY 19/20</u>	<u>FY 18/19</u>
Beginning Cash Balance (May 1)	\$ 7,435,315.35	\$ 6,068,922.04	\$ 6,403,613.06	\$ 5,604,310.83	\$ 3,385,210.05	\$ 2,321,114.83	\$ 2,497,465.03	\$ 2,106,236.54
Restricted Funds	\$ (164,067.65)	\$ (119,742.82)	\$ (628,582.80)	\$ (434,332.41)	\$ (260,901.26)	\$ (109,919.89)	\$ (54,824.18)	\$ (301,716.10)
Budgeted Revenues	\$ 10,469,517.00	\$ 9,832,435.00	\$ 9,512,828.00	\$ 9,553,792.00	\$ 8,028,103.00	\$ 7,669,797.00	\$ 7,461,378.00	\$ 7,015,422.00
Per Code of Ordinances:								
2 month reserve amount	\$ 1,744,919.50	\$ 1,638,739.17	\$ 1,585,471.33	\$ 1,592,298.67	\$ 1,338,017.17	\$ 1,278,299.50	\$ 1,243,563.00	\$ 1,169,237.00
4 month reserve amount	\$ 3,489,839.00	\$ 3,277,478.33	\$ 3,170,942.67	\$ 3,184,597.33	\$ 2,676,034.33	\$ 2,556,599.00	\$ 2,487,126.00	\$ 2,338,474.00
Actual Months of Reserve	8.33	7.26	7.28	6.49	4.67	3.46	3.93	3.09

Exhibit A

Municipality	Minimum/Maximum	General Policy
Carlyle	No min/max	
Centralia	No min/max	Tries to keep at least 3 months of expenses
Columbia	None	None
Collinsville	No max Min – 15-20% for General Fund and Water/Wastewater fund	
Edwardsville	Min- 90 working days or 25% of projected annual operating expenses. Preferred – 120 working days or 33% of projected op exp. No max.	
Freeburg	None	At least 3 months
Greenville	Unknown	Maintains 6 months of expenses
Glen Carbon	Enterprise Funds 3 months	8 month GF reserve; any additional balance rolled into Village Capital Fund annually.
Highland	Min- 3 months. No Max.	
Litchfield	Max 15% (but will aim for 25% of General Fund). If below 15%, expenditure reductions and/or revenue increased to be submitted to City Council. If below 15% at end of fiscal year, City to rebuild balance within 2 fiscal years. If balance exceeds 30%, excess shall be utilized for onetime expenditures approved by City Council.	
Mascoutah	No min/max	
Mt. Vernon	No min/max	6 month minimum in general fund
O'Fallon	No limit.	
Red Bud	No min/max	3 months of operating cash on hand in general fund.
Sparta	No min/max	Tries to keep at least 3 months of expenses
Troy	No min/max	
Wood River	No min/max	

Exhibit B