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## City budget for 2023 gains approval

### Common Council opts to keep tax levy at 4.19%

By Kaitlyn Scoville  
OSHKOSH HERALD

Oshkosh's Common Council paved the way for 2023 by approving the city's operating budget, capital improvements plan and more allocations from American Rescue Plan Act (ARPA) funds.

These approvals followed earlier discussions and a decision to add enhancements to the budget that did not ultimately affect the city's tax levy.

### 2023 operating budget

City staff approached councilors at a previous meeting to recommend 19 enhancements to the operating budget, including positions in water utilities, parks, police and geographic information systems.

tems.

While only a handful of them were approved, the city's tax levy for next year will remain at 4.19% after Deputy Mayor Matt Mugerauer requested that \$153,600 of fund balance be used to offset what would have been a 4.52% levy.

"We have cash on hand that we can use to pay down the debt," he said. "This job

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## DA, defender ranks depleted

### Winnebago County case delays stalling justice

By Bethanie Gengler  
OSHKOSH HERALD

An underfunded system is leading to a shortage of prosecutors and public defenders both locally and statewide, causing a delay in at least one county case and potentially violating defendants' constitutional rights.

The right to a speedy trial and the right to an attorney is guaranteed under the Sixth Amendment. If defendants cannot afford an attorney, a state public defender (SPD) is appointed to represent them. The SPD may either be a staff attorney or a private sector attorney certified to take public defender appointments.

The American Civil Liberties Union (ACLU) reports that four out of five criminal defendants require a public defender. With a statewide backlog of about 15,000 cases, the SPD office cannot keep up; and with a shortage of prosecutors, the issues are affecting Winnebago County.

### Murder case delayed

Mandel Roy, who is accused of killing 22-year-old Roger Ridgeway near Gord's Pub in Neenah in April 2021, has been



Oshkosh Herald

Winnebago County court cases have been impacted by a shortage of assistant district attorneys and public defenders.

without an attorney since his SPD-appointed attorney stopped representing him in June. Roy's accomplice, Terran Colwell, was sentenced in September.

The SPD office made 262 contacts in an attempt to find representation for Roy,

without success. At the current rate, it may be more than two years after Ridgeway's death before Roy enters a plea or faces sentencing. After repeated delays,

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## Palmeri's Assembly victory opens up mayoral race

By Kaitlyn Scoville  
OSHKOSH HERALD

The city's Common Council will have a new mayor in April as a result of the Nov. 8 midterm election.

Oshkosh Mayor and Democratic candidate Lori Palmeri defeated Republican challenger Donnie Herman - 12,124 to 10,382 - for a seat on the state Assembly for District 54. She will replace fellow Democrat Rep. Gordon Hintz, who announced he was stepping down from his position earlier this year.

Palmeri will be sworn into the Assembly in January at the state Capitol to begin her first term. She has served on the city's council since 2016 and is in her second term as mayor, which will end in April.

She said she will not seek re-election as mayor because of her new duties.

Statutorily, Palmeri is able to serve



Palmeri

both at the same time but her intention, she said, was to save Oshkosh taxpayers from having to pay for a special election.

"It was a bit of a bumpy ride," Palmeri said. "I'm very grateful to the voters for the turnout, that they did show up and participate.

"There really is an opportunity for unifying and working together," she added, with regard to the state Legislature. "There is hope for doing things differently and getting some of the people's work done."

Hintz, who had encouraged Palmeri to run for his seat, said he was pleased with the outcome.

"She gave voters more of a reason to vote for her," he said, "whereas the other side seemed to spend so much time trying to convince people to vote against her. And I think that was a key distinction."

Hintz also said Palmeri is only the third person from Oshkosh to hold a

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# Court backlog

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the court ordered a Dean appointment for Roy on Nov. 1.

Under the 1991 case of State v. Dean, individuals who do not qualify for an SPD but are unable to afford legal representation are appointed an attorney at county expense.

In recent years, there has been an increase in cases where courts have used Dean appointments for individuals who do qualify for a public defender, but have not been appointed one, to mitigate the amount of time indigent defendants spend without representation.

The court appointed attorney Scott Ceman to represent Roy. Ceman was a Winnebago County prosecutor for 12 years before resigning in 2019, citing low wages in a resignation letter he addressed to Gov. Tony Evers and other officials. Ceman said at that time that his earnings as deputy DA for 2018 were around \$69,000. The issues that Ceman outlined in his resignation letter have not improved.

## Prosecutor shortage

District Attorney Eric Sparr has been a prosecutor for 17 years, taking over the lead position in May after the resignation of Christian Gossett. Sparr said the primary issue his office faces in keeping prosecutors is the low pay.

Winnebago County has lost three assistant DAs in the past six months. In May, Nerrissa Dyett resigned to relocate to California. In September, David Rashid resigned to accept a position as the Neenah city attorney and Margaret Struve resigned to accept a position as the Menasha city attorney.

Both Rashid and Struve's new positions

came with significant pay increases, with the city attorney positions offering wages of up to \$110,000 per year based on experience, about twice as much as starting assistant DAs are paid.

The Winnebago County DA's office includes the DA, deputy DA, and 10 assistant DAs. The county currently has two open full-time assistant positions.

Earlier this year the state announced \$5.7 million in American Rescue Plan Act (ARPA) funds would be going toward filling assistant DA positions, about 30 positions statewide. The funds are allocated based on caseload and estimated backlog.



Sparr

Winnebago was awarded one part-time position.

Sparr said the state positions are for a two-year term and many of the positions across the state have remained unfilled. He said it's difficult to fill full-time permanent positions and even harder to fill a temporary part-time position.

The DA's office has not received any applicants for the part-time ARPA-funded position. When the DA's office posted a job listing for a full-time assistant DA position in May, they also had no applicants.

"I have never seen anything like this in Winnebago, where our turnover is lower than prosecutor turnover statewide," Sparr said.

Sparr said the situation isn't ideal, but his office has been able to keep up with the caseload. He said the goal is for the county to make a charging decision on all cases within 30 days. In the past few years, the average number of cases with no charging decision after 30 days was about 50. That number has increased to about 100.

"That's still a pretty small number but I'd rather have it at zero or something close to that," he said.

In other counties, the problem is worse. Oconto County was without a DA from September through late October after the resignation of Edward Burke Jr. Waupaca County will be without a DA in December with the resignation of Veronica Isherwood. Langlade County DA Elizabeth Gerbert is resigning as of Jan. 1.

"This has been a problem for a long time in the state," Sparr said. "It has reached the next level at this point where it's become absolutely a crisis and we're feeling it too."

Sparr stressed the importance of having experienced prosecutors in the office.

"Making decisions even on lower-level cases – those are things that have tremendous impact on the lives of offenders and of victims," he said. "If we have people that don't have experience that are put in the position to be making those decisions and they're not doing a good job with it, that impacts everyone in the community."

## Public defender shortage

The problems plaguing prosecutors mirror those of the SPD Office. Earlier this year, state public defender Kelli Thompson told WisPolitics that the state had a backlog of about 35,000 cases that will take years to get through due to the shortage of public defenders. SPD legislative liaison Adam Plotkin estimated the backlog is about 15,000 cases.

Plotkin said that pre-pandemic, the statewide turnover for public defenders was about 10% to 12%. That turnover has now jumped to about 20%. There are also fewer private attorneys accepting cases for the SPD, he said.

The office has created a centralized unit to help make appointment calls to private bar attorneys. They've hired temporary support staff to make calls and help attorneys prepare their cases.

"At this point everyone in the agency, including the state public defender herself, are making calls to try and find private bar attorneys," Plotkin said.

The office is also moving positions around the state to deal with particular problem areas, but there are limitations to that.

"You're sort of robbing Peter to pay Paul, so you may fix a problem in one part of the state but create a problem in another," Plotkin said.

When the prosecutors office received

ARPA funds from the state earlier this year, the SPD office also received \$5.5 million for the statewide public defender shortage. Plotkin said the increased resources are a step in the right direction, but the office is still having a difficult time hiring attorneys.

"We have been able to make use of the resources, so that's helping, and we're starting to see some of the glimmers of the first signs of things going the other way," he said.

Even still, he said the only way to truly deal with the shortage is for the state Legislature to fund pay increases for public defenders.

## Follow the money

County prosecutors and public defenders are employees of Wisconsin, with salaries set by the state. Both public defender and assistant district attorney positions in Wisconsin start at \$26.70 per hour, which is about \$55,000 per year based on a 52-week work year.

Although there have been times when the state prosecutors and public defenders offices have authorized hiring at a wage greater than the minimum, they often don't have the funding to do it. The low entry wages are considered a barrier to attracting and keeping prosecutors and public defenders, who are often saddled with hefty law school debt.

In advance of the state budget next year, both the prosecutors and SPD offices are requesting an increase in resources. Both agencies are asking for starting attorney and prosecutor pay to be increased to \$35 per hour, along with an increase in current employees' pay at or above that level. The agencies are also requesting full funding of a merit pay system to increase attorney and prosecutor pay.

The SPD compensates private bar attorneys at \$70 per hour to represent indigent defendants, which Plotkin said is far below the market rate. The federal public defenders office pays private bar attorneys about \$150 per hour. Court appointed attorneys are paid \$100 per hour. The SPD is asking for the private attorney rate to be raised to \$100 for out-of-court work and \$125 per hour for time spent in court.

## Justice denied

A lawsuit filed in Brown County earlier this year on behalf of eight parties challenges whether it's constitutional for legal aid to be delayed for low-income defendants. Five of the parties have been incarcerated for up to a year while awaiting a court-appointed attorney.

Sparr said the delays in the state's criminal justice system become even more problematic when they impact people who are ultimately not guilty or incarcerated on less serious offenses.

"The system has failed to provide representation for people that are supposed to have it and they're entitled to it, and it's resulted in them staying in jail when they shouldn't," he said.

Plotkin said even short stays in custody pretrial affect the defendant, their family and the community.

"The system-wide lack of resources has a direct impact on public safety and the work that we're doing here is a core constitutional responsibility of the state government," he said.

When it comes to local impact, Sparr said the Roy murder case is a perfect example of a system that isn't adequately funded.

"There's the saying that justice delayed is justice denied and there's a lot of truth to that," he said. "The longer it takes to get cases into the system, the less effective the system is."




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