

## RECORD OF ORDINANCES

BARRETT BROTHERS - DAYTON, OHIO

Form 6220S

Ordinance No. 2018-25

Passed \_\_\_\_\_, \_\_\_\_\_

ORDINANCE ACCEPTING THE ANNEXATION OF CERTAIN  
TERRITORY LOCATED NORTH OF THE CITY OF MARION  
CONTAINING 224.257 ACRES AND DECLARING AN EMERGENCY

WHEREAS, a petition for annexation of certain territory in Grand Prairie Township was duly filed by Brian P. Barger, Attorney and Agent ("Petitioner") for the property owner The National Lime & Stone Company ("National"), which owns one hundred percent of the territory proposed for annexation ("Property");

WHEREAS, the petition was duly filed with the Board of Marion County Commissioners ("Commissioners") on April 10, 2014;

WHEREAS, on April 28, 2014, the City of Marion ("City") pursuant to Ohio Revised Code Section 709.023(C) adopted Resolution No. 2014-12 whereby the City agreed to provide the Property with "fire protection, zoning, police protection, street maintenance, emergency services, engineering services, sewer, sanitation, and all other ordinary and necessary city services provided within the boundaries of the City of Marion";

WHEREAS, Resolution No. 2014-12 further provides, "that the territory to be annexed becomes subject to the zoning of the City of Marion, Ohio and that Marion City Zoning Code does permit the intended use. Specifically, the City of Marion shall zone the territory proposed to be annexed as I-3 Mineral Extraction for use as a limestone surface mine and associated processing activity under the City of Marion zoning code.";

WHEREAS, Resolution No. 2014-12 further provides, "that the City of Marion hereby consents to the proposed annexation filed by Brian P. Barger for the territory described above and further depicted in attached Exhibit A.";

WHEREAS, on May 1, 2014 the Board of Township Trustees of Grand Prairie Township met in special session and passed a resolution objecting to the proposed annexation;

WHEREAS, on May 12, 2014, the Commissioners conducted a special meeting to deliberate on the annexation petition;

WHEREAS, on May 15, 2014, the Commissioners unanimously passed Resolution #2014-0317 denying the proposed annexation on two grounds: (i) that Petitioner had failed to obtain the signature of Norfolk Southern Railway Company ("Norfolk") whose railroad tracks pass through the Property; and (ii) the Property did not have the statutory minimum contiguous border with the City;

WHEREAS, Petitioner sought a writ of mandamus from the Court of Appeals for the Third Appellate District to compel the Commissioners to approve the annexation petition;

WHEREAS, the Court of Appeals dismissed Petitioner's complaint for a writ of mandamus;

WHEREAS, the Supreme Court of Ohio reversed the judgment of the Court of Appeals finding that Norfolk's property interest in the Property was a railroad right-of-way held in fee and that Norfolk fell within the exception to the definition of "owner" set forth in R.C. 709.02(E);



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WHEREAS, the Supreme Court of Ohio found that Petitioner had satisfied each of the statutory conditions for annexation and that the Commissioners had no discretion to deny the annexation petition;

WHEREAS, the Supreme Court of Ohio further found that the City has identified and agreed to provide ordinary city services to the Property and agreed to zone the Property for mineral extraction, while also providing for a buffer zone between the mineral-extraction activity and adjacent township land that is zoned for residential use;

WHEREAS, the Supreme Court of Ohio issued a writ of mandamus compelling the Commissioners to approve the annexation petition;

WHEREAS, on December 14, 2017, the Commissioners unanimously passed Resolution #2017-0812 granting the petition for annexation of the Property to the City and instructed its Clerk to enter the action upon the journal and forward to the City a certified copy of the entire record of the annexation processing;

WHEREAS, on January 18, 2018, the Clerk of the Commissioners delivered a certified copy of the entire annexation record to the Clerk of Council of the City; and

WHEREAS, sixty days from the date of delivery of the entire annexation have now elapsed in accordance with Ohio Revised Code Section 709.04.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Marion, Marion County, Ohio:

Section 1. That the proposed annexation as applied for in the petition of Petitioner for National, which owns one hundred percent of the Property, as filed with the Commissioners on April 10, 2014 that prayed for annexation of the Property to the City and that was approved for annexation to the City by the Commissioners on December 14, 2017 be and is hereby accepted. The Property is legally described as follows:

Situated in the Township of Grand Prairie, County of Marion, State of Ohio, and being a part of the SE1/4 of Section 34 and part of the SW1/4 and SE1/4 of Section 35, T4S, R15E, a tract of land bounded and described as follows:

BEGINNING at an iron pin set marking the intersection of the west line of the SW1/4 of Section 35 and the southerly right of way line of County Road No. 195 (Linn-Hipsher Road), described as lying, S00°53'03"W, a distance of 30.00 feet from a railroad spike found marking the northwest corner of said SW1/4;

thence along the southerly right of way line of County Road No. 195 (Linn-Hipsher Road), S88°53'50"E, a distance of 695.09 feet to an iron pin set;

thence along the southerly right of way line of County Road No. 195 (Linn-Hipsher Road), S84°19'06"E, a distance of 651.91 feet to an iron pin set;

thence along the southerly right of way line of County Road No. 195 (Linn-Hipsher Road), S72°47'05"E, a distance of 156.04 feet to an iron pin set;



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thence along the southerly right of way line of County Road No. 195 (Linn-Hipsher Road), S88°46'50"E, a distance of 130.23 feet to an iron pin set on the westerly limited access right-of-way line of U.S. Route No. 23;

thence along said westerly limited access right-of-way line and in a southeasterly direction on a curve segment to the left having a radius of 5854.58 feet, a central angle of 00°35'39" and a length of curve of 60.71 feet, the chord of said curve segment bearing S29°47'01"E, a distance of 60.71 feet to an iron pin found;

thence continuing along said westerly limited access right-of-way line, S30°05'00"E, a distance of 506.91 feet to an iron pin found;

thence continuing along said westerly limited access right-of-way line, S26°48'45"E, a distance of 1073.38 feet to an iron pin set on the northwesterly right-of-way line of the Norfolk Southern Railroad;

thence, S49°08'06"E, a distance of 80.37 feet to an iron pin set on the southeasterly right-of-way of the Norfolk Southern Railroad;

thence continuing along said westerly limited access right-of-way line, S32°07'01"E, a distance of 986.14 feet to an iron pin set;

thence continuing along said westerly limited access right-of-way line, S29°05'40"E, a distance of 234.03 feet to an iron pin set on the south line of Section 35;

thence along the south line of Section 35, also being along a portion of the existing corporation of the City of Marion, N89°01'22"W, a distance of 3132.19 feet to the southeast corner of the SE1/4 of Section 34;

thence along the south line of said SE1/4, N89°18'03"W, a distance of 1765.45 feet to an iron pin set on the right of way of Township Road No. 66 (Kenton- Galion Road);

thence along an east right of way line of Township Road No. 66 (Kenton- Galion Road), N00°41'57"E, a distance of 30.00 feet to an iron pin set;

thence along the north right of way line of Township Road No. 66 (Kenton- Galion Road), N89°18'03"W, a distance of 336.41 feet to an iron pin set on the east line of a 0.229 acre tract of land as described in Deed Volume 409, Page 554 of the Marion County Deed Records;

thence along the east line of said 0.229 acre tract, N26°04'42"E, a distance of 66.80 feet to an iron pin set marking the northeast corner of said tract;

thence along the north line of said 0.229 acre tract, N89°18'03"W, a distance of 100.00 feet to an iron pin set on the east line of a 2.029 acre tract of land as described in OR 473, Page 926 of the Marion County Official Records;

thence along the east line of said 2.029 acre tract and along the east line of a 3.777 acre tract of land as described in OR 352, Page 633 of the Marion County Official Records and along the east line of Sonnanstine's 3<sup>rd</sup> Addition as platted in Plat Book 5, Page 15 of the Marion County Plat Records, N26°04'42"E, a distance of 1192.22 feet to an iron pin set;

thence along a south line of said Sonnanstine's 3<sup>rd</sup> Addition, S89°02'36"E, a distance of 306.86 feet to an iron pin found marking a southeast corner of said Addition;

thence along the east line of said Sonnanstine's 3<sup>rd</sup> Addition, along the east line of Sonnanstine's 1<sup>st</sup> Addition as platted in Plat Book 4, Page 120 of the Marion County Plat Records and along the east line of the Woodlawn Tracts as shown in Book 5, Page 177 of the County Engineers Survey Records, N26°21'31"E, a distance of 1607.35 feet to a an iron pin set on the southerly right of way line of County Road No. 195 (Linn-Hipsher Road);

thence along the southerly right of way line of County Road No. 195 (Linn-Hipsher Road), S89°20'05"E, a distance of 668.98 feet to the Point of 2010-5



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Passed \_\_\_\_\_, \_\_\_\_\_

Beginning, containing 224.257 acres, more or less, of which 85.280 acres lie in the SE1/4 of Section 34, 134.764 acres lie in the SW1/4 of Section 35 and 4.213 acres lie in the SE1/4 of Section 35, subject however to all legal highways and prior easements of record.

NOTE: The bearings in this legal description are based upon an assumed meridian and are used only for the purpose of describing angular measurements.  
I.P. Set = 1" Rebar with Aluminum Cap Set

Section 2. That the Property shall be zoned I-3 Mineral Extraction for use as a limestone surface mine and associated processing activity under the City zoning code.

Section 3. That the City agrees to provide fire protection, zoning, police protection, street maintenance, emergency services, engineering services, sewer, sanitation, and all other ordinary and necessary municipal services provided within the boundaries of the City on the earliest date allowed by law.

Section 4. The Clerk of Council is hereby authorized and directed to make three copies of this ordinance containing the petition, the map or plat accompanying the petition, a transcript of the proceedings of the Commissioners, and resolutions and ordinances in relation to the annexation, with a certificate as to the correctness thereof. The Clerk of Council shall then forthwith deliver one copy to the County Auditor, one copy to the County Recorder and one copy of the Secretary of State and shall file notice of this annexation with the Board of Elections within thirty days after it becomes effective, and the Clerk shall do all other things required by law.

Section 5. That this ordinance is hereby declared to be an emergency measure necessary for the welfare of the City of Marion and the inhabitants thereof and for the further reason that it is necessary for the daily operation of the City; and for further reason that the Ohio Revised Code mandates that the City of Marion shall act within the allotted time limit; and as such shall take effect and be in force immediately upon its passage and approval by the Mayor, provided it receives the affirmative vote of three-fourths of all members elected to Council; otherwise, this ordinance shall become effective from and after the earliest period allowed by law.

\_\_\_\_\_  
Todd Schneider  
President of Council

APPROVED:

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CLERK



RECORD OF RESOLUTIONS

Dayton Legal Blank, Inc., Form No. 30045

Resolution No. 2018-11 Passed \_\_\_\_\_, 20\_\_\_\_

RESOLUTION AUTHORIZING PARTICIPATION IN THE ODOT WINTER CONTRACT (018-19) FOR ROAD SALT, AND DECLARING AN EMERGENCY

WHEREAS, the City of Marion, Marion, Ohio (hereinafter referred to as the "Political Subdivision") hereby submits this written agreement to participate in the Ohio Department of Transportation's (ODOT) annual winter road salt bid (018-19) in accordance with Ohio Revised Code 5513.01(B) and hereby agrees to all of the following terms and conditions in its participation of the ODOT winter road salt contract:

- a. The Political Subdivision hereby agrees to be bound by all terms and conditions established by ODOT in the winter road salt contract and acknowledges that upon of award of the contract by the Director of ODOT it shall be bound by all such terms and conditions included in the contract; and
  - b. The Political Subdivision hereby acknowledges that upon the Director of ODOT's signing of the winter road salt contract, it shall effectively form a contract between the awarded salt supplier and the Political Subdivision; and
  - c. The Political Subdivision agrees to be solely responsible for resolving all claims or disputes arising out of its participation in the ODOT winter road salt contract and agrees to hold the Department of Transportation harmless for any claims, actions, expenses, or other damages arising out of the Political Subdivision's participation in the winter road salt contract; and
  - d. The Political Subdivision hereby requests through this participation agreement a total of 1,800 tons of Sodium Chloride (Road Salt) of which the Political Subdivision agrees to purchase from its awarded salt supplier at the delivered bid price per ton awarded by the Director of ODOT; and
  - e. The Political Subdivision hereby agrees to purchase a minimum of 90% of its above-requested salt quantities from its awarded salt supplier during the contract's effective period of September 1, 2018 through April 30, 2019; and
  - f. The Political Subdivision hereby agrees to place orders with and directly pay the awarded salt supplier on a net 30 basis for all road salt it receives pursuant to ODOT winter salt contract; and
  - g. The Political Subdivision acknowledges that should it wish to rescind this participation agreement it will do so by written, emailed request by no later than Thursday, June 1, 2018. The written, emailed request to rescind this participation agreement must be received by the ODOT Office of Contract Sales, Purchasing Section email: [Contracts.Purchasing@dot.ohio.gov](mailto:Contracts.Purchasing@dot.ohio.gov) by the deadline. The Department, upon receipt, will respond that it has received the request and that it has effectively removed the Political Subdivision's participation request. Furthermore, it is the sole responsibility of the Political Subdivision to ensure ODOT has received this participation agreement as well as the receipt of any request to rescind this participation agreement. The Department shall not be held responsible or liable for failure to receive a Political Subdivision's participation agreement and/or a Political Subdivision's request to rescind its participation agreement.
- NOW, THEREFORE, be it ordained by the following authorized person(s) that this participation agreement for the ODOT winter road salt contract is hereby approved, funding has been authorized, and the Political Subdivision agrees to the above terms and conditions regarding participation on the ODOT winter salt contract.

RECORD OF RESOLUTIONS

Dayton Legal Blank, Inc., Form No. 30045

Resolution No. \_\_\_\_\_ Passed \_\_\_\_\_, 20\_\_\_\_

Section 1. This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, welfare and safety of the City of Marion and the inhabitants thereof and for the further reason that the deadline for ODOT is May 18, 2018, and as such shall take effect and be in force immediately upon its passage and approval by the Mayor, provided it receives the affirmative vote of two-thirds of all members elected to Council; it shall become effective from and after the earliest period allowed by law.

Approved:

\_\_\_\_\_  
Todd Schneider  
President of Council

\_\_\_\_\_  
Mayor Scott Schertzer

Attest:

\_\_\_\_\_  
Clerk of Council

RECORD OF ORDINANCES

Ordinance No. 2018-37

Passed \_\_\_\_\_, \_\_\_\_\_

ORDINANCE MAKING ADDITIONAL APPROPRIATIONS IN THE  
LAW ENFORCEMENT TRUST FUND FOR TRUST EXPENSES  
FOR THE YEAR ENDING DECEMBER 31, 2018.

Whereas, the police department is requesting money be  
appropriated in the Law Enforcement Trust Fund for trust expenses.

BE IT ORDAINED by the Council of the City of Marion, Marion  
County, Ohio:

Section 1. That there be additional appropriations as follows:

**Law Enforcement Trust Fund**

MPACT Trust Expense	246.2066.5502	11,726
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Section 2. This ordinance shall take effect and be in force from  
and after the earliest period allowed by law.

\_\_\_\_\_  
Todd Schneider  
President of Council

Approved:

\_\_\_\_\_  
Mayor Scott Schertzer

Attest;

\_\_\_\_\_  
Clerk of Council



RECORD OF ORDINANCES

Ordinance No. 2018-38

Passed \_\_\_\_\_, \_\_\_\_\_

ORDINANCE MAKING AN ADDITIONAL APPROPRIATION IN THE  
GENERAL FUND FOR THE YEAR ENDING DECEMBER 31, 2018.

WHEREAS, the IT Department has recently sent an employee to a training for the software program used in the Marion City Police Department, and

WHEREAS, the funds were not in place at the time of the scheduled training that was held in Greensboro, SC, and

WHEREAS, the training was necessary for the CAD (Computer Aided Dispatch), Mobile CAD and RMS (Records Management System) used in the Marion City Police Department, and

WHEREAS, Council finds that the funds should be appropriated for year ending December 31, 2018 in order to reimburse the employee for the expenses incurred.

BE IT ORDAINED by the Council of the City of Marion, Marion County, Ohio:

Section 1. That there be an additional appropriation made as follows:

Department	Fund	Amount	
<b>City</b>			
Travel & Transportation	101.1021.5201	\$	1,067.00
	Total	\$	1,067.00

Section 2. That this ordinance shall become effective from and after the earliest period allowed by law.

APPROVED:

\_\_\_\_\_  
Todd Schneider  
President of Council

\_\_\_\_\_  
Mayor Scott Schertzer

ATTEST:

\_\_\_\_\_  
Clerk of Council



RECORD OF ORDINANCES

Ordinance No. 2018-39

Passed \_\_\_\_\_

ORDINANCE ESTABLISHING A MARION CITY COUNCIL  
SOCIAL MEDIA POLICY.

WHEREAS, the Marion City Council desires a social media policy.

BE IT ORDAINED by the Council of the City of Marion, Marion  
County, Ohio:

Section 1.

~~Department~~ MARION CITY COUNCIL Use of Social Media

343.1 PURPOSE AND SCOPE DO NOT BELIEVE THIS NUMBER  
REFERENCE HAS ANY MEANING TO CITY OF MARION IS THERE A  
CURRENT TIE IN TO CURRENT CODIFIED ORDINANCES ?

This policy provides guidelines to ensure that any use of social media on behalf of  
the Department MARION CITY COUNCIL is consistent with the ~~department~~  
COUNCIL mission.

This policy does not address all aspects of social media use. Specifically, it does  
not address:

- Personal use of social media by ~~department~~-COUNCIL members (~~see the~~  
~~Employee Speech, Expression and Social Networking Policy~~).
- Use of social media in personnel processes (~~see the Recruitment and~~  
~~Selection Policy~~).
- ~~Use of social media as part of a criminal investigation, other than~~  
~~disseminating information to the public on behalf of this department (see the~~  
~~Investigation and Prosecution Policy).~~

343.1.1 DEFINITIONS

Definitions related to this policy include:

Social media - Any of a wide array of Internet-based tools and platforms that allow  
for the sharing of information, such as the ~~department~~ CITY COUNCIL website or  
social networking services.

343.2 POLICY

~~The Marion Police Department~~ CITY COUNCIL may use social media as a  
method of effectively informing the public about ~~department~~ CITY COUNCIL  
services, ~~issues, investigations~~ AGENDAS, MEETING NOTICES, MEETING  
MINUTES, and other relevant events.

~~Department~~COUNCIL members shall ensure that the use or access of social media  
is done in a manner that protects the constitutional rights of all.

343.3 AUTHORIZED USERS

Only members authorized by the Chief of Police or the authorized designee may  
utilize social media on behalf of the Department. Authorized members shall use  
only department-approved equipment during the normal course of duties to post  
and monitor ~~department~~ COUNCIL-related social media, unless they are  
specifically authorized to do otherwise by their supervisors.

~~The Chief of Police~~ CITY COUNCIL may develop specific guidelines identifying  
the type of content that may be posted. Any content that does not strictly conform  
to the guidelines should be approved by a ~~supervisor~~ CITY COUNCIL prior to  
posting.

~~Requests to post information over department social media by members who are~~  
~~not authorized to post should be made through the member's chain of command.~~



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## 343.4 AUTHORIZED CONTENT

Only content that is appropriate for public release, that supports the ~~department~~CITY COUNCIL mission and conforms to all ~~department~~ CITY COUNCIL policies regarding the release of information may be posted.

Examples of appropriate content include:

- (a) Announcements.
- (b) ~~Tips and information related to crime prevention.~~ AGENDAS, MEETING MINUTES, AND LINKS TO AUDIO OR VIDEO RECORDINGS OF COMMITTEE AND COUNCIL MEETINGS.
- (c) ~~Investigative requests for information.~~
- (d) ~~Requests that ask the community to engage in projects that are relevant to the Department mission.~~
- (e) Real-time safety information that is related to in-progress crimes, geographical warnings or disaster information.
- (f) Traffic information.
- (g) Press releases.
- (h) ~~Recruitment of personnel.~~ CITY HALL HOURS, CLOSINGS
- (i) ~~Positive police/community interaction.~~ ALL SUCH POSTINGS/RECORDINGS AND ANY OTHER ACTIVITY SHALL BE UNBIASED AND NON-PARTISAN.

### 343.4.1 INCIDENT-SPECIFIC USE

~~In instances of active incidents where speed, accuracy and frequent updates are paramount (e.g., crime alerts, public safety information, traffic issues), the Public Information Officer or the authorized designee will be responsible for the compilation of information to be released, subject to the approval of a supervisor.~~

## 343.5 PROHIBITED CONTENT

Content that is prohibited from posting includes, but is not limited to:

- (a) Content that is abusive, discriminatory, inflammatory or sexually explicit.
- (b) Any information that violates individual rights, including confidentiality and/or privacy rights and those provided under state, federal or local laws.
- (c) Any information that could compromise an ongoing investigation.
- (d) Any information that could tend to compromise or damage the mission, function, reputation or professionalism of the ~~Marion Police Department~~ CITY COUNCIL or its members.
- (e) Any information that could compromise the safety and security of ~~department operations, members of the Department, victims, suspects or the public.~~ MEMBERS OF CITY COUNCIL, COUNCIL CLERK, COUNCIL PRESIDENT, OR OTHER CITY OFFICIALS
- (f) Any content posted for personal use.
- (g) Any content that has not been properly authorized by this policy ~~or a supervisor.~~

Any COUNCIL member who becomes aware of content on this ~~department's~~CITY COUNCIL'S social media site that he/she believes is unauthorized or inappropriate should promptly report such content to a ~~supervisor~~ CLERK OF COUNCIL. The ~~supervisor~~CLERK OF COUNCIL will ensure its removal from public view and investigate the cause of the entry. Removed material shall be maintained in a non-media policy file consistent with public record keeping obligations.

## 343.6 MONITORING CONTENT

The ~~Chief of Police~~ CITY COUNCIL will ~~appoint a supervisor to~~ review, at least biannually, the use of ~~department~~CITY COUNCIL social media and report back on, at a minimum, the resources being used, the effectiveness of the content, any unauthorized or inappropriate content and the resolution of any issues.



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343.7 RETENTION OF RECORDS

~~The Administration Staff Commander should work with the Custodian of Records~~  
to-CLERK OF COUNCIL SHALL establish a method of ensuring that public records generated in the process of social media use are retained in accordance with established records retention schedules AND COMPLY WITH STATE AND FEDERAL LAWS.

343.8 TRAINING

~~Authorized members should receive training that, at a minimum, addresses legal issues concerning the appropriate use of social media sites, as well as privacy, civil rights, dissemination and retention of information posted on department sites.~~

Section 2. This ordinance shall take effect and be in force from and after the earliest period allowed by law.

\_\_\_\_\_  
Todd Schneider  
President of Council

Approved:

\_\_\_\_\_  
Mayor Scott Schertzer

Attest;

\_\_\_\_\_  
Clerk of Council