

ORDINANCE AUTHORIZING AND DIRECTING THE INTERIM AUDITOR TO PAY THE INTERNAL REVENUE SERVICE (IRS) PENALTIES AND INTEREST, APPROPRIATING THE NECESSARY FUNDS AND DECLARING AN EMERGENCY

WHEREAS, the Council has been advised that the former Auditor erred in failing to pay to the IRS sums withheld from the employees' earnings said withholdings for the third quarter and fourth quarter of 2020 along with part of the first quarter of 2021; and

WHEREAS, the Council has been advised that the principal sums owed to the IRS for said quarters has been paid as of February 9, 2021; and

WHEREAS, the Council has been advised that the IRS has sent a notice of penalties and interest to the former Auditor on June 7, 2021, July 12, 2021, August 16, 2021, and September 6, 2021.

WHEREAS, the Council has been advised that the appeal filed by the former Auditor that was pending has been denied by the Internal Revenue Service; and

WHEREAS, the Council has been advised that the IRS has assessed penalties and interest in excess of \$153,000.00 as of August 16, 2021, and further that an appropriation would be needed to pay said penalties and interest; and

WHEREAS, the Council has been advised that the IRS notice dated August 16, 2021, intended to levy the assets of the City of Marion if the balance was unpaid as of September 16, 2021; and

WHEREAS, said penalties and interest have not been paid as of October 20, 2021, and further that without payment in full IRS could execute the seizure of assets to satisfy the unpaid amounts plus all interest accrued since the date of the notice.

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

Section 1. That this council affirms that it is in the best interest of the city and the taxpayers to pay said sums.

Section 2. That the Interim Auditor is hereby authorized and directed to pay all penalty and interest sums to the Internal Revenue Service (IRS) as soon as possible in order to prevent the seizure of assets and further harm to the City

Section 3. That there be an additional appropriation in the amount necessary to satisfy the amount due on said penalties and interest not to exceed \$160,000.00 as follows:

Statutory Accounts:		
101.1023.5481	Penalties and Interest	\$160,000.00

Section 4. The Council has been advised Ohio law and precedent provides, in part, late fees and penalties are not considered a proper public purpose for the use of tax dollars, resulting in a finding for Recovery being issued against Tim Goodwin, prior fiscal officer, for \$19,240, in favor of the Village of Richwood General Fund.

<https://ohioauditor.gov/news/pressreleases/Details/5636>

Late fees and penalties are not considered a proper public purpose for the use of tax dollars: <https://ohioauditor.gov/news/pressreleases/Details/5635>

Late fees call into question the performance of a local government's fiscal personnel: <https://ohioauditor.gov/news/pressreleases/details/4922>

Late fees and penalties are not considered a proper public purpose for the use of tax dollars, resulting in a finding for Recovery being issued against Brown Township Fiscal Officer Karen Martin: <https://ohioauditor.gov/news/pressreleases/Details/5716>

The interim Auditor has advised he has communicated with the State of Ohio's Auditors Office in regard to the above and will seek recoveries of the funds being used as authorized by this Ordinance all consistent and compliant therewith. The Interim Auditor will continue to pursue all available appeals with the Internal Revenue Services.

Section 5. That this ordinance is hereby declared an emergency measure for the welfare and safety 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 for further reason that the City is subject to assets seizure if the sums are not paid immediately; and as such, shall take effect and be in force immediately upon its passage and approval by the Mayor provided it receives the vote of two-thirds of all members elected to Council; otherwise it shall become effective from and after the earliest period allowed by law.

Todd Schneider
President of Council

APPROVED:

Mayor Scott Schertzer

ATTEST:

Tarina R. Rose
Clerk of Council