

City of Independence, Ohio

"THE HEART OF CUYAHOGA COUNTY"

6800 BRECKSVILLE ROAD

INDEPENDENCE, OHIO 44131

(216) 524-4131

MEMORANDUM

To: Mayor Gregory P. Kurtz
Members of Council

From: Finance Director Vernon Blaze

Date: Friday, February 12, 2021

Re: Finance Department Updates

Advances to Tax Increment Financing (TIF) Funds

Over the years, the City has completed millions of dollars of infrastructure projects in areas of the City that are located within Tax Increment Financing (TIF) Districts. TIF Revenue has served to offset some of that multi-million dollar infrastructure investment, but it also has not come close to funding all of the infrastructure projects that have been completed to date.

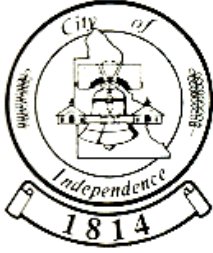
To make up the difference, Advances are made from the Municipal Income Tax Fund to the various TIF Funds. An Advance is money moved from one fund to another *with* the intent of that money being returned (paid back) to the originating fund.

This contrasts with Transfers, which is money that is moved from one fund to another *without* the intent of that money ever being returned (paid back) to the originating fund.

2019 ended with the City's TIF Funds having an outstanding Advance total of \$20,848,500 from the Municipal Income Tax Fund. Due to the projects completed in 2020, that outstanding Advance Total in the TIF Funds had increased to \$24,632,000 as of December 31, 2020.

Some opine that since Advances are funds transferred internally within the same organization, they really aren't "true" liabilities.

However, the Auditor of State (Ohio) does list these Advances as an Interfund Payable (Liability) on the City's Balance Sheet in its Comprehensive Annual Financial Report (CAFR). (A Balance Sheet is a financial statement that lists what an entity owns (Assets) and what it owes (Liabilities), with the difference between the two called Capital, or Equity).



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Municipal Income Tax Revenue (MITR)

Regular readers of this weekly Memorandum know that the City generally receives MITR from the Regional Income Tax Agency (RITA) in two allocations each month - an Advance around the first of the month, and then the Remainder close to the mid-point of the month.

February's Advance was about as low as an Advance as there ever was in the recent past. Eye-catchingly low? For sure. Something to panic about? Not really, as regular readers know that the finance office always cautions about getting too excited about a monthly MITR collection that is real high, or panicking about a monthly MITR collection that is real low. It's the longer-term trends over quarters and years that are more informational than a single month's aberration.

But since Monday the 15th is President's Day and a legal holiday, the City is in receipt of February's Remainder today. Due to an unusually high level of Net Profits Taxes of \$525,170 received, February ended up having the highest February MITR total by far in recent history – it wasn't even close. Following are MITR collections for February dating back to 2016:

| <u>February</u> | <u>MITR</u> |
|-----------------|-------------|
| 2021 | \$3,613,241 |
| 2020 | \$2,874,076 |
| 2019 | \$2,874,456 |
| 2018 | \$3,053,631 |
| 2017 | \$2,790,031 |
| 2016 | \$2,256,321 |

This high February MITR level also allowed the first two months of 2021 to be the highest start of a year in recent history as follows:

| <u>Jan/Feb</u> | <u>MITR</u> |
|----------------|-------------|
| 2021 | \$5,986,939 |
| 2020 | \$5,908,482 |
| 2019 | \$5,628,289 |
| 2018 | \$5,810,917 |
| 2017 | \$5,148,630 |
| 2016 | \$4,562,178 |

But even February's real high MITR collection level wasn't enough to allow the most recent four months be the highest similar time period on record. The figures below show that the time period November, 2020 – February 2021 is still trailing the time period November, 2019 – February, 2020:



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Municipal Income Tax Revenue (MITR) Continued

| <u>Four-Month Time Period</u> | <u>MITR</u> |
|---------------------------------|--------------|
| November, 2020 – February, 2021 | \$11,154,909 |
| November, 2019 – February, 2020 | \$11,208,467 |
| November, 2018 – February, 2019 | \$10,718,474 |
| November, 2017 – February, 2018 | \$10,548,914 |
| November, 2016 – February, 2017 | \$ 9,867,257 |
| November, 2015 – February, 2016 | \$ 9,385,942 |

Capital Purchases/Infrastructure Projects

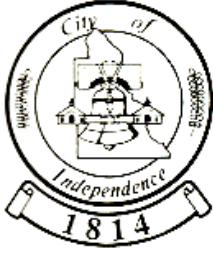
Some items listed in the 2021 – 2025 Capital Improvement Plan (CIP) were already “put in motion” at the December, 2020 Council Meeting. Following is a three-month summary of items approved for purchase (Capital) or projects approved (Infrastructure) that provide support that the CIP really is an effective planning tool for the both the Administration and Council. It lays out a framework for the next five years, and is systematically followed.

| <u>Ordinance</u> | <u>For</u> | <u>Date</u> | <u>Amount</u> |
|------------------|--|-------------|------------------|
| 2020-106 | City Hall/Community Center Security | 01/12/2021 | \$ 71,000.00 |
| 2020-127 | Loose Equipment – Fire Truck | 12/08/2020 | 79,709.00 |
| 2020-134 | Hillside (West) Sidewalks - Euthenics | 12/08/2020 | 29,888.50 |
| 2020-137 | Upper Brookside Reconstruction – Fabrizi | 12/08/2020 | 1,113,070.60 |
| 2021-004 | Maple Shade Cemetery – Design Services | 01/12/2021 | 22,500.00 |
| 2021-005 | Creek, Utility Maint. Contract – Geotech | 01/12/2021 | 200,000.00 |
| 2021-006 | Creek, Utility Maint. Contract – Catts | 01/12/2021 | 200,000.00 |
| 2021-007 | Sanitary/Storm Maint. Contract – United Survey | 01/12/2021 | 100,000.00 |
| 2021-008 | Sanitary/Storm Maint. Contract – C & K | 01/12/2021 | 100,000.00 |
| 2021-009 | Concrete Maint. Contract – Catts | 01/12/2021 | 400,000.00 |
| 2021-012 | Rescue Squad | 02/09/2021 | 245,000.00 |
| 2021-013 | Police Vehicles (Six) | 02/09/2021 | 200,106.00 |
| 2021-014 | Building Department Vehicle (One) | 02/09/2021 | 33,273.00 |
| 2021-015 | Toro Polar Trac – Multipurpose Vehicle | 02/09/2021 | <u>53,358.52</u> |

Total Capital/Infrastructure Approved from the 5-Year CIP since 12/2020 \$2,847,905.62

Municipal Income Tax – Litigation

Councilperson Trakas mentioned at the online Council Meeting on Tuesday about two new lawsuits that were filed challenging Ohio’s pandemic law that allows municipalities to keep



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Municipal Income Tax – Litigation Continued

collecting local income taxes from people who are not currently physically working in those respective municipalities, as long as the employer of those people is located there.

These two new lawsuits are in addition to one filed in 2020, all challenging the legality and constitutionality of Ohio's above-noted pandemic law.

The "twist" with these two new lawsuits is that both plaintiffs claim that they were substantially remote workers even prior to the pandemic law being enacted, and they would successfully file for refunds of taxes paid to cities that they did not physically work out of.

So their claim essentially is, if Ohio and municipalities within it have already been engaged in the past practice of issuing refunds for local income taxes paid when employees did not physically work in a respective municipality, then it already is an established precedent in Ohio that local income taxes are not paid to municipalities that employees do not physically work out of.

Local municipal trade associations can work for and the General Assemblies (Houses and Senates) can pass any legislation they want that preserves the current pandemic law, but it is predicted here that this issue is so important and so impactful that it will ultimately be decided at the Supreme Court level.

History is full of examples of either state-level supreme courts or the U.S. Supreme Court ruling that bills approved by various legislative bodies did not pass constitutional muster, and were eventually over-turned.

Time to panic? No, not really. We're a ways off from this issue being decided through the various court levels. But it certainly is an important enough issue that Mayor Kurtz is on the right track focusing his and the Cuyahoga County Mayors and City Managers Association's time on it.

Along with the Mayor focusing time on it, the Finance Department surely is too, as certain changes to Ohio's local tax laws could have a material, significant and permanent negative impact on Independence, its finances, and thusly, the City as we know it.

The ideal solution is to make Independence, its employers and its places of work so attractive that employers want to bring employees back to those places of work, and employees want to be here more times than not. Then, possible changes to local tax laws won't have such a material negative impact, as most/all employees would be back physically working in Independence.