

Evie Warr-Cummings

From: David Strzalka <strzad@gmail.com>
Sent: Thursday, January 27, 2022 2:04 PM
To: Dohafer; Michael Nicolosi; Dick; Gary Pendleton; RegionalPlanning
Subject: Marion County Port Authority Annual Meeting
Attachments: MCPA Minutes 10-15-2020.pdf; 2022 OCPA Dues.pdf; Position on HB436.pdf; Audit report 2020 and 2019.pdf

Please plan to attend the Marion County Port Authority meeting on Thursday February 17, 2022 at 10am in the Marion County Regional Planning office. The agenda is as follows:

- 1) Adoption of 10/15/2020 minutes
- 2) Adoption of 2022 budget
- 3) Annual membership in Ohio Council of Port Authorities
- 4) Position on HB 436
- 5) Review of 2021 State Audit
- 6) Election of Officers
- 7.) *Public Records Policy*

Please see the attachments for details on the agenda items

Marion County Port Authority
Minutes of Working meeting to review applications
October 15, 2020
10:00 AM
RPC Conference Room & Zoom

Port Authority Agenda

Roll Call:

Strzalka
 Arndt
 Hafer
 Pendleton
 Nicolosi

Guest:

Karen McCleary

Staff Present:

Evelyn Warr-Cummings
 Ken Lengieza
 Rich Fender

Roll Call: The meeting was called to order at 10:00 AM with three members present.

Minutes: Dr. Arndt made a motion to approve the last minutes from July. Mr. Nicolosi seconded the motion. A voice vote showed no dissent.

Review of Marion Township Cares Applications

Recommendation:

- | | |
|-------------------------|-------|
| 1. Habitat for Humanity | \$500 |
| 2. Payne's Pizza | \$500 |
| 3. Marion Fitness Club | \$500 |
| 4. Scioto Shoe Mart | \$500 |

Two more cases may yet come in: Tommy's Italian Bistro has been asked to document additional months of losses to satisfy the OMB suggestions to show a year's worth of monthly revenues. Zoomers Skating was recently informed about the program and may submit. Board agreed they can be handled via email to ensure timeliness.

City of Marion Cares Act – under discussion at City, will want us to review applications. Evelyn explained that Mike Neff was interested in offering a small business relief program that focused on lost revenues. The City may allocate \$100,000 for grants up to \$2,500 per business. Still being discussed in Committee and will need to go to full City Council.

Caledonia Village Cares Act – Mayor Morrison looking into it now,. Evelyn sent them our samples from Marion Township.

Waldo Township Cares Act – They will handle their own program

Adjournment at 11:00 AM

Next meeting: January 21, 2021 at 10:00 AM at RPC office and Zoom

Ohio Council of Port Authorities

2868 Stelzer Road, Box 230
Columbus, Ohio 43219
Phone: 614.239.5064

INVOICE NUMBER: 2240
INVOICE DATE: JANUARY 26, 2022

TO: MARION PORT AUTHORITY

2022 Membership Dues

Select One	Description	Unit Price	Total
<input type="radio"/>	Membership Dues – Recreational in nature	\$100.00	\$100.00
<input type="radio"/>	Membership Dues – Non-recreational in nature	\$200.00	\$200.00
	<p style="text-align: center;"><u>OCPA DUES STRUCTURE FOR 2022</u></p> <p><i>Annual dues for membership in the OCPA will be \$200 for all port authorities that are not recreational in nature; recreational ports dues are \$100 annually.</i></p> <p>We recognize that recreational ports are only in operation for a very small period every year and take in minimal income but still play an important role in the quality of life that we Ohioans enjoy.</p>		
TOTAL DUE			\$
Due Date: March 31, 2022			

Instructions for payments:

1. Make checks payable to: Ohio Council of Port Authorities
2. Please send check or money order to:
Ohio Council of Port Authorities
2868 Stelzer Road, Box 230
Columbus, Ohio 43219

MEMORANDUM

TO: Ohio Council of Port Authorities (OCPA) – All Members

FROM: HB 436 Committee

DATE: January 13, 2022

RE: Position Statement In Opposition To HB 436

To All OCPA Member Organizations:

A committee comprised of representatives of several OCPA member organizations was formed in late 2021 in order to review legislative changes to Ohio’s port statute and to Ohio’s sales tax laws proposed by HB 436. OCPA’s HB 436 Committee consists of the following individuals:

Tiffany McClelland	Assistant Director, Lorain Port and Finance Authority
Rhonda Winslow	Director of Finance, Cleveland-Cuyahoga County Port Authority
Joe Cappel	Vice President of Business Development, Toledo-Lucas County Port Authority
Bethany Dentler	Executive Director, Medina County Port Authority
Daniel G. Evers	Executive Director, Clinton County Port Authority
Rick Platt	President & CEO, Heath-Newark-Licking County Port Authority
Jason Ricker	Director of Business Development / Real Estate, Economic Development and Finance Alliance of Tuscarawas County

HB 436 OVERVIEW

HB 436 was introduced on September 28, 2021 by Rep. Kris Jordan (R-Ostrander) and Rep. Rick Carfagna (R-Genoa Twp.). Sponsor testimony on this bill was held on October 26, 2021.

The bill makes two sets of changes to Ohio’s laws that apply to port authorities.

First, a set of unnecessary changes are made to the bonding authorizations of “old ports” contained in Ohio Revised Code Chapter 4582, the Port Act. Specifically, the bill inserts a curious cross-reference from the bonding provisions of the “old port” statute (in Ohio Revised Code Section 4582.06) to the bonding provisions of the “new port” statute (in Ohio Revised Code Section 4582.48). “Old ports” have their own bonding statute, Ohio Revised Code Section 4582.06. The edit essentially states that “old ports” can issue revenue bonds but only with “new port” revenues.¹

¹ See Exhibit A for an excerpt of the edit to Ohio Revised Code Section 4582.06.
² See Exhibit B for the proposed text of new Ohio Revised Code Section 5735.02(B)(57).
³ The bill synopsis states: “To narrow the purposes for which a port authority that was created prior to July 9, 1982, may issue revenue bonds beyond the limit of bonded indebtedness”

Second, and even more concerning, changes are made to the sales tax exemption rules contained in Ohio Revised Code Section 5739.02 applicable to personal property. Specifically, the bill establishes a new Ohio sales tax exemption under Ohio Revised Code Section 5739.02(B) by creating a new subsection (57) applicable to "sales of tangible personal property or services to a person under contract with a port authority for use in performing that person's obligations under that contract."² The new exemption would enable an exemption of personal property to occur for a project "downstream" of the government, to be claimed directly by developers or owners of personal property without port authority ownership of the personal property.

POSITION STATEMENT

OCPA's HB 436 Committee opposes HB 436 and recommends that OCPA's full membership vote to take a formal opposition position that can be shared with Ohio legislators. There are flaws with both portions of this bill.

Port Act Revisions

Regarding the revisions to Ohio Revised Code Chapter 4582, the Port Act, the Committee believes that there are no legitimate rationales for amending the Port Act in this way. The only change that HB 436 makes to the Port Act is to insert a confusing cross-reference from the bonding provisions of the "old port" statute (in ORC Section 4582.06) to the bonding provisions of the "new port" statute (in ORC Section 4582.48).

"New ports" and "old ports" currently have the same bonding powers, and they would continue to have the same bonding powers under this bill, so this is not a logical edit to the statute. Ohio's port authority statute was amended over the course of the past 20 years to gradually conform the powers of "old ports" and "new ports". Now, "old ports" and "new ports" have the same purposes and bonding powers. Additional changes to this statute are unnecessary because all Ohio ports got the same powers many years ago.

There is no *stated* goal for this change other than in the bill's summary, which states that its goal is to "narrow" the purposes of "old ports",³ and the bill does not achieve this goal.

Generally, Ohio has succeeded when the bond market sees stability in our bond laws. Inserting confusion in the Ohio port authority revenue bond statutes would be contrary to long and successful policy.

Sales Tax Law Revisions

Regarding the revisions to Ohio Revised Code Section 5739.02, the Committee believes that, under current law, there are many opportunities available to all Ohio port authorities to use Ohio's sales tax statutes to advance individual projects. The Committee notes that Ohio's sales tax statutes currently permit real property tax exemptions for building and construction materials incorporated into buildings

owned by Ohio port authorities, or for building and construction materials incorporated into buildings constructed pursuant to construction contracts with Ohio port authorities. In addition, personal property tax exemptions exist for personal property acquired by Ohio port authorities. The ownership, control, contracting, and financing requirements that have been developed by Ohio port authorities alongside these statutory exemptions provide needed safeguards associated with their use. However, HB 436 may inappropriately broaden Ohio's personal property sales tax exemptions in ways that are contrary to our collective economic development goals.

First, "personal property" is a much broader category of exemption than "building and construction materials" currently utilized by port authorities for real property improvements. Items as diverse as furniture and advanced robotics may all be considered personal property. A concern shared by many port authorities is the likelihood for non-uniform application of this exemption. For example, passive personal property like carpet or furniture might be made exempt in some parts of the state while only production equipment might be made exempt in other parts of the state. The Ohio Port Authority Council does not favor an environment where developers create a "race to the bottom" with excessive incentive requests about a very broad exemption. Significant disparities in the use of this tool, and any disputes that may arise as a result of these disparities, may cause greater third-party scrutiny on this and other Ohio port authority tools.

Second, unlike the requirements available to Ohio port authorities under the real property sales tax exemption laws, there is no requirement of Ohio port authority ownership associated with the HB 436 authorization. The approach taken by HB 436 would make it very difficult for an Ohio port authority to appropriately supervise the project associated with the exemption to ensure that it meets the economic development goals of the port authority and affected communities.

Third, unlike the real property sales tax exemption laws, a personal property sales tax exemption applies to a moveable object – personal property – that may be relocated. A concern shared by many port authorities is the likelihood for companies to abuse this exemption without sufficient controls by port authorities available. For example, personal property could be exempt and then relocated by a bad actor to another site or another state or used for a disfavored purpose.

CONCLUSION

For the reasons stated above, OCPA's HB 436 Committee opposes HB 436.

We can see no legitimate rationale for amending ORC Ch. 4582 in this way. Also, we do not believe that sales tax exemptions for personal property not owned by an Ohio port authority are critical to make economic development projects succeed in light of the risks inherent in granting such a broad, sweeping tax exemption. In the future, the Committee would like to see dialogue among OCPA members, stakeholders, and state legislators about the scope of sales tax exemptions that apply to Ohio port authorities prior to legislative proposals being introduced.

Please let Tiffany McClelland or any member of the HB 436 Committee know if you have any questions, comments, or feedback about this position statement.

Enclosures

EXHIBIT A

HB 436 Revision to Ohio Revised Code Section 5739.02(B)(57)

(57) Sales of tangible personal property or services to a person under contract with a port authority for use in performing the person's obligations under that contract. As used in division (B)(57) of this section, "port authority" means a port authority created under Chapter 4582, of the Revised Code.

EXHIBIT B

HB 436 Revision to Ohio Revised Code Section 4582.06

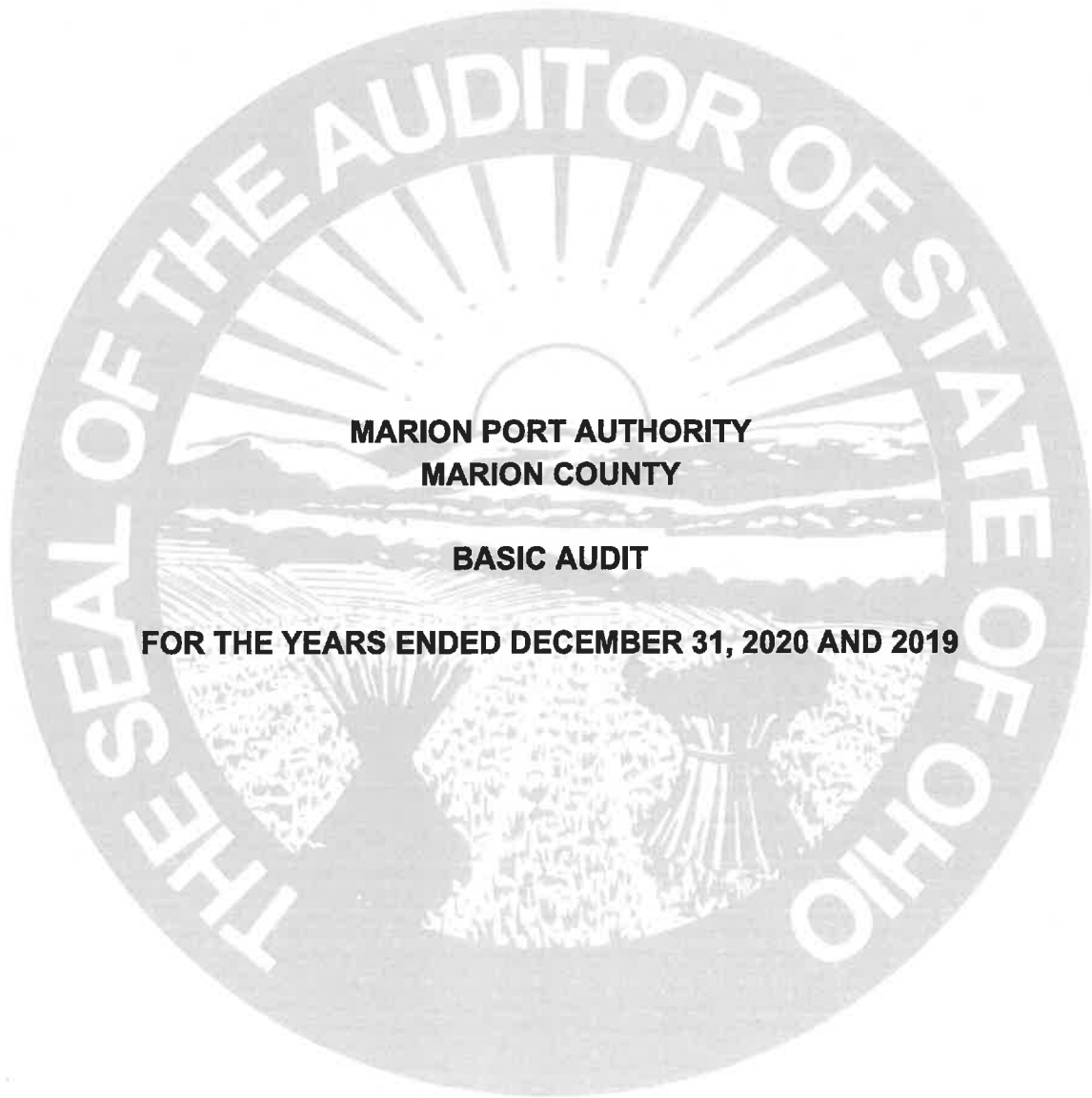
(4) By resolution of its board of directors, issue revenue bonds beyond the limit of bonded indebtedness provided by law, ~~for the acquisition, construction, furnishing, or equipping of any real or personal property, or any combination thereof, related to, useful for, or in furtherance of any authorized purpose, including all costs in connection with or incidental thereto~~payable solely from revenues as provided in section 4582.48 of the Revised Code, for the purpose of providing funds to pay the costs of any port authority facility or facilities or parts thereof.

9249 PORT AUTHORITY	7,511.56	200.00	7,511.56	7,511.56	0.00
Revenue	0.00	0.00	0.00	0.00	(7,100.00)
36 Regional Planning	0.00	0.00	0.00	0.00	(7,100.00)
9249-0936-40213 FEES	0.00	0.00	0.00	0.00	0.00
9249-0936-40531 CITY SHARE	0.00	0.00	0.00	0.00	0.00
9249-0936-40532 COUNTY SHARE	0.00	0.00	0.00	0.00	0.00
CARRYOVER					(7,100.00)
Expense	7,511.56	200.00	7,511.56	7,511.56	7,100.00
36 Regional Planning	7,511.56	200.00	7,511.56	7,511.56	7,100.00
9249-0936-50211 SUPPLIES	400.00	0.00	400.00	400.00	0.00
9249-0936-50330 GRANT MATCH	6,000.00	0.00	6,000.00	6,000.00	6,000.00
9249-0936-50336 MEMBERSHIP DUES	250.00	200.00	250.00	250.00	250.00
9249-0936-50516 TRAVEL	361.56	0.00	361.56	361.56	350.00
9249-0936-50531 ALL EXPENSES	500.00	0.00	500.00	500.00	500.00
9249-0936-50535 SURETY BONDS	0.00	0.00	0.00	0.00	0.00

Grand Total 36,121.42 (21,468.30) 29,549.22 2,045,906.22 0.00

Account	Full Year Budget 2020	Full Year Actual 2020	Initial Budget 2021	Total Current Year Budget 2021	Next Year Departmental Budget
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*Report Contains Filters



**MARION PORT AUTHORITY
MARION COUNTY**

BASIC AUDIT

FOR THE YEARS ENDED DECEMBER 31, 2020 AND 2019

**OHIO AUDITOR OF STATE
KEITH FABER**



OHIO AUDITOR OF STATE KEITH FABER



88 East Broad Street, 5th Floor
Columbus, Ohio 43215-3506
(614) 466-3402 or (800) 443-9275
CentralRegion@ohioauditor.gov

BASIC AUDIT REPORT

Marion Port Authority
Marion County
222 West Center Street
Marion, Ohio 43302

We have completed certain procedures in accordance with Ohio Rev. Code Section 117.01(G) to the accounting records and related documents of the Marion Port Authority, Marion County, (the Authority) for the years ended December 31, 2020 and 2019.

Our procedures were designed solely to satisfy the audit requirements of Ohio Rev. Code Section 117.11(A). Because our procedures were not designed to opine on the Authority's financial statements, we did not follow *generally accepted auditing standards*. We do not provide any assurance on the Authority's financial statements, transactions or balances for the years ended December 31, 2020 and 2019.

The Authority's management is responsible for preparing and maintaining its accounting records and related documents. Our responsibility under Ohio Rev. Code Section 117.11(A) is to examine, analyze and inspect these records and documents.

Based on the results of our procedures, we found the following significant compliance or accounting issues to report.

Current Year Observation

1. The Authority does not have a Board approved public records policy required by Ohio Rev. Code § 149.43(E)(2). Failure to properly approve a public records policy could result in not properly providing records for public inspection, improperly handling of public records requests, or inadvertently providing information that is confidential and not subject to public record requests.
2. The Authority does not have a Board approved records retention policy required by Ohio Rev. Code § 149.43(B)(2). Failure to maintain a records retention policy could result in records being destroyed that are not permitted, or being destroyed before the permitted timeframe.

Blank Signature

Signature name
Signature Title
Columbus, Ohio

August 19, 2021

MARION COUNTY PUBLIC RECORDS POLICY

- Marion County's policy is to provide the general public with prompt inspection of Marion County's public records and copies of these records within a reasonable amount of time during its regular business hours from 8:30 a.m. to 4:30 p.m.
- Copies will be provided at the actual cost of reproduction. Paper copies will be provided at five cents (\$.05) per copy.
- A copy of Marion County's complete Public Records Policy is available upon request.

Freda W. Cunningham
County policy since 9/24/2007



OFFICE OF THE AUDITOR
KEITH FABER

The Ohio Auditor of State's Office

certifies that

Evelyn Warr-Cummings

has successfully completed the

April 5, 2019

Certified Public Records Training fulfilling the requirements under Ohio Revised Code Section
109.43(B) effective September 29, 2007.

Keith Faber
Ohio Auditor of State
Keith Faber

