

Sponsor Elliott / Onda

RESOLUTION NO 15-17

A RESOLUTION DECLARING THE NECESSITY FOR AND AUTHORIZING THE TRANSFER OF FUNDS BY THE CITY OF JACKSON FROM THE ELECTRIC FUND TO THE GENERAL FUND, PURSUANT TO O.R.C. SECTION 5705.15 AND DECLARING AN EMERGENCY.

WHEREAS, the anticipated revenue to the General Fund for the start of the 2018 fiscal year shall be insufficient to provide the current level of services now provided by the City; and

WHEREAS, the unencumbered balance in the City's Electric Utility Fund (the "Electric Fund") is of a sufficient balance to permit a transfer without risk that the Electric Utility Fund will be unable to meet the utility's obligations; and

WHEREAS, this matter constitutes an emergency as the transfer of \$751,914.25 from the Electric Fund to the General Fund will provide the City with the necessary funds on January 1, 2018 to meet its obligations throughout that fiscal year and to maintain the level of services currently in place and to maintain a sound financial condition, protecting and providing for the health, safety and welfare of the Citizens of the City; and

WHEREAS, the transfer of said \$751,914.25 will not adversely affect the financial stability of the Electric Fund or the quality of service presently being provided to the City's electric customers; and

WHEREAS, the legislative authority of the City of Jackson has determined that any negative impact that may be caused by the transferring of funds is outweighed by the benefit of meeting the immediate operational expenses of the ~~sewer~~ ~~system~~ ~~city~~.

WHEREAS, pursuant to Section 5705.16 of the Ohio Revised Code, a Resolution of the City Council of the City ("City Council") must be passed by a majority of all the members thereof, declaring the necessity for the subject transfer of funds as provided for in Section 5705.15 of the Ohio Revised Code; and

WHEREAS, pursuant to Section 5705.16 of the Ohio Revised Code, a Petition (the "Petition") must be prepared by the City Council addressed to the Common Pleas Court of Jackson County, Ohio (a copy of which is attached hereto) setting forth: the name and amount of the fund from which a transfer is sought to be made, the fund to which the transfer is to be made, a copy of this Resolution with a full statement of the proceedings pertaining to its passage, and the reason or necessity for the transfer; and

WHEREAS, pursuant to Section 5706.16 of the Ohio Revised Code, a duplicate copy of the Petition is to be forwarded to the Tax Commissioner of the State of Ohio for his examination and approval; and

WHEREAS, pursuant to Section 5705.16 of the Ohio Revised Code, if the Tax Commissioner approves the Petition, the Petition is sent by him, marked with his approval, within 10 days of its receipt, to the Clerk of the Common Pleas Court of Jackson County, Ohio; and

WHEREAS, pursuant to Section 5705.16 of the Ohio Revised Code, if the Petition is approved by the Tax Commissioner, he shall immediately notify the officers of the City submitting the Petition who then shall file the Petition in the Common Pleas Court of Jackson County, Ohio for the Court's consideration.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF JACKSON, OHIO:

SECTION 1. For the reasons set forth in the preamble to this Resolution, this City Council finds, determines and declares that it is necessary to transfer \$751,914.25 from the Electric Fund to the General Fund and that this matter constitutes an emergency.

SECTION 2. The Petition having been prepared, the Clerk of City Council is authorized and directed to forward a duplicate of the Petition to the Tax Commissioner of the State of Ohio, along with a duplicate of this Resolution, for his approval as required by law; to file such Petition in the Common Pleas Court of Jackson County, Ohio, following notification of its approval by the Tax Commissioner of Ohio; and to cause publication of notice of the filing, object and prayer of such Petition, and of the time when the Petition will be heard in accordance with Section 5705.16 of the Ohio Revised Code.

SECTION 3. The Auditor of the City is authorized and directed to take any and all further action as may be necessary to carry out the purposes of this Resolution to effectuate the subject transfer of funds.

SECTION 4. It is hereby found and determined that all formal actions of the City Council pertaining to and relating to the adoption of this Resolution were adopted in open meetings of this City Council, and that all deliberations of this City Council and any of its committees that resulted in such formal actions were in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code and the Ordinances of the City of Jackson, Ohio.

SECTION 5. If any prior Ordinance or Resolution is found to be in conflict with this Resolution, then the provisions of this Resolution shall prevail. Further, if any portion of this Resolution is found to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this Resolution or any part thereof.

SECTION 6. In the event this Resolution receives a majority vote for passage but fails to receive the required number of votes to pass as an emergency, then this Resolution shall be deemed to have passed but with no emergency clause and shall take effect at the earliest time permitted by law.

It is hereby found and determined that all formal actions of this Council concerning and relating to adoption of this resolution were adopted in an open meeting of this Council and the deliberations of this Council and any of its committees that resulted in such formal action were in a meeting open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

PASSED AND ADOPTED by the Legislative Authority of the Political Subdivision on this 30th day of October, 2017.

E. A. Brown
President of Council

ATTEST:

Sherry Barr
Clerk of the Legislative Authority

Approved this 30th day of October, 2017.

Randy Veatch
Mayor

IN THE COURT OF COMMON PLEAS, JACKSON COUNTY, OHIO

In Re
The Matter of:

PETITION OF THE CITY OF JACKSON
FOR AUTHORITY TO TRANSFER OF
MONIES FROM THE ELECTRIC
FUND TO THE GENERAL FUND

Case No. _____

Judge Regan

1. Petitioner is the City Council of the City of Jackson, Ohio (the "City").
2. The City is a municipal corporation organized and acting under the laws of the State of Ohio.
3. Petitioner is the taxing authority of the City.
4. Petitioner adopted Resolution No. 15-17, approved by a majority of its members, declaring the necessity for the transfer of funds as authorized by Section 5705.15 of the Ohio Revised Code from the City's electric utility fund (the "Electric Fund") to the City's general fund (the "General Fund"). A true copy of Resolution 15-17, is attached hereto, and incorporated herein by this reference, and sets forth the reason and necessity for the transfer and a full statement of the proceedings pertaining to the passage of said Resolution.
5. As set forth in Resolution 15-17, there is now and will be on December 31, 2017, an unencumbered balance in the Electric Fund sufficient to permit the requested transfer without risk that the Electric Utility Fund will be unable to meet able to meet the utility's obligations.
6. The transfer to the General Fund of \$751,914.25 from the Electric Fund will permit the City to provide the current level of services as of January 1, 2018 and maintain the City in a sound financial condition while protecting and providing for the health, safety and welfare of the Citizens of the City.
7. Without the transfer prayed for herein, the General Fund will not have sufficient funds on January 1, 2018 to maintain the current City services or those services in place as of December 31, 2017 thereby jeopardizing the health, safety and welfare of its Citizens.
8. The transfer prayed for herein will not adversely affect the financial stability of the Electric Fund or the quality of electric utility service provided to the City's electric utility customers, which service will continue to be provided in an effective and efficient manner.
9. A duplicate of this Petition and other matters, as required by Ohio Revised Code

Section 5705.16, was forwarded to the Tax Commissioner of Ohio for his examination and approval.

10. Officers of the Petitioner have been notified that the Tax Commissioner has approved this Petition and, therefore, the filing of this Petition is proper and timely.

WHEREFORE, Petitioner prays that this Court grant its Petition and order and authorize the transfer of \$751,914.25 from the Electric Fund to the General Fund of the City.

Submitted by:

Joseph D. Kirby, 0055443
Attorney for City of Jackson
227 East Main Street
Jackson, Ohio 45640
(740) 286-3735

In Re
The Matter of:

PETITION OF THE CITY OF JACKSON
FOR AUTHORITY TO TRANSFER OF
MONIES FROM THE ELECTRIC
FUND TO THE GENERAL FUND

1. Petitioner is the City Council of the City of Jackson, Ohio (the "City").
2. The City is a municipal corporation organized and acting under the laws of the State of Ohio.
3. Petitioner is the taxing authority of the City.
4. The funds sought to be transferred were derived from the City owned municipal electric system.
5. Moneys in an electric fund derived from a municipal owned system can be transferred to any other fund and be used for any municipal purpose. Niles v. Union Ice Corp. 133 Ohio St. 169 (1938)
6. Petitioner adopted Resolution No. 15-17, approved by a majority of its members, declaring the necessity for the transfer of funds as authorized by Section 5705.15 of the Ohio Revised Code from the City's electric utility fund (the "Electric Fund") to the City's general fund (the "General Fund"). A true copy of Resolution 15-17, is attached hereto, and incorporated herein by this reference, and sets forth the reason and necessity for the transfer and a full statement of the proceedings pertaining to the passage of said Resolution.
7. As set forth in Resolution 15-17, there is now and will be on December 31, 2017, an unencumbered balance in the Electric Fund sufficient to permit the requested transfer without risk that the Electric Utility Fund will be unable to meet able to meet the utility's obligations.
8. The transfer to the General Fund of \$751,914.25 from the Electric Fund will permit the City to provide the current level of services as of January 1, 2018 and maintain the City in a sound financial condition while protecting and providing for the health, safety and welfare of the Citizens of the City.
9. Without the transfer requested herein, the General Fund will not have sufficient funds on January 1, 2018 to maintain the current City services or those services in place as of December 31, 2017 thereby jeopardizing the health, safety and welfare of its Citizens.

10. The transfer prayed for herein will not adversely affect the financial stability of the Electric Fund or the quality of electric utility service provided to the City's electric utility customers, which service will continue to be provided in an effective and efficient manner.

For the reasons set forth above, Petitioner requests the approval by the Tax Commissioner of this Petition for the transfer of \$751,914.25 from the Electric Fund to the General Fund of the City.

Submitted by:

City of Jackson


Eric Brown, President of Council


Randy Heath, Mayor
