

Exploratory/Investigative Select Committee

Regular Meeting

June 7, 2021

Roll Call: Members in attendance: Schaber, Meade, Ratliff

With a quorum present, Chairperson Schaber called the meeting to order at 8:08 PM.

**Item 1. tempRES2021-15: RESOLUTION OF THE COUNCIL OF THE CITY OF MARION, OHIO EXPRESSING ITS FINDINGS AND DETERMINATIONS IN REGARD TO THE CITY AUDITOR'S USE OF UNAPPROPRIATED CASH RESERVES AND HIS STATEMENT IN REGARD TO THE CITY'S FINANCIAL CONDITION CREATED SIGNIFICANT RISKS TO THE FINANCIAL WELL BEING OF THE CITY AND REQUESTING THE AUDITOR OF THE STATE OF OHIO INVESTIGATE AND TAKE ALL APPROPRIATE STEPS AS PROVIDED BY OHIO LAW AND DECLARING AN EMERGENCY**

Schaber opened the meeting by reviewing the scope of investigation. The scope includes: 1) \$100 million dollar Misstatement of funds from a previous administration and 2) the second payment to the IRS. He turned over the floor to Auditor Landon.

Landon -- "Mr. Chairman, I have a couple statements I would like to make. Deputy Auditor Watts is going to hand out a letter I received from a Finance Director from the City of Marysville sometime in May. I would like that to go into the record. Brad Lutz is his name. Brad Lutz is a experienced Finance Director. He's a former State Auditor. I had run this by him before just getting his opinion on this topic. He gave me a complete endorsement of my actions on what we had taken to make the payment to the IRS. So, you can feel free to read that in your spare time. I can send another copy to you for all the other Council members.

I do have a statement I would like to read. Payroll taxes are obligated to be paid at or close to the time when employees are paid. Therefore, the obligation to pay those amounts was effectively approved when the budget was approved to pay those employees' wages. While one may make the case that the approval for the payroll was made in one year, but the payroll taxes were paid in another, it does not change the fact that the obligation was incurred when the employee was paid. And therefore, regardless of the year, the obligation must be fulfilled. So, money was used to pay both years' obligation because Council had approved the appropriations to meet them in both fiscal years and it was our responsibility to correct the mistake to ensure they went to the correct place. In relation to that point, Council's only approval for these payroll taxes is in the form of budget approval for salaries and benefits. The payments to the IRS or other agencies are paid from these amounts from deductions from the paycheck.

These expenditures are not part of the normal purchase order approval process Council utilizes for other expenditures. They approve the salary. The employee, based on their tax situation, effectively sets their deductions by virtue of the amount they earn or through other approved deductions such as federal taxes. It is the responsibility of the City Auditor to make the payments to the appropriate agencies. In a way if Council was responsible for approving these payments in the current budget structure, they would be approving the payment twice -- once in the approved salary and once as part of

the payment to the government taxing authority. I am not aware of a local government who in their budget splits out the take-home salary employees earned from the payments made to the government authorities. Whether in public or private accounting, salaries reported is approved as salary not as take-home pay and then payroll taxes paid.

The simplest point may be that money was paid but to the wrong agency. This payment was a correction this would be no different than if a payment were approved for company A but for some reason, we wrote a check to company B. Company B would send the money back even if maybe they cashed it. But we would still have to write a check to company A. We would not go back to Council for approval to pay company A again. That was already approved. The payment to company B was a clerical error that was corrected. Money returned and then the correct company paid.

Every year our office completes the annual reconciliation for their Ohio Department of Taxation. This report tells us whether we overpaid or underpaid and informs us to whether we will be receiving a credit. Or whether we owe additional money, much like when an individual files their individual tax return. Our office discovered we had overpaid the State of Ohio during this reconciliation and would be due an overpayment. Realizing we would be getting the overpayment return soon and knowing our cash position was stable to make the correct payment amount to the IRS, we determined it necessary to make the payment to the IRS. Also noting there was an error that occurred and waiting until a future date to meet that obligation would not sit well with my ethical obligations to act in the best interest of the City of Marion. Further my office had already informed the Auditor of State early on of what had happened. And lastly, I believe my authority rests to make that payment to the IRS because it's a federal law mandating those payments."

Schaber – "So we will deal with the IRS issue first. And my question -- I will ask my question first -- was always -- it was never really the mistake... mistakes happen -- was the second grab and it was explained that it came out of the general cash account general checking account. I was under the understanding, and I still am understanding that if different funds feed into this general account... let's say a sewer project or grant project... do we have the authority -- we as the City Auditor -- to grab that money at that time? Would that be a misappropriation of funds if we did that or is it just one big pot and it really doesn't matter where this money's fit into as long as when the bill comes due the cash is available?"

Landon – "Yeah, it is one big pot of money. So, our checking accounts are set up the way to my knowledge every municipality sets it up. We have a general checking account, and we have a payroll checking account. And every time we go to do payroll, I take money what I'm told from my payroll specialist that she needs to process payroll. Whatever that figure is, I transfer that from the general checking account to the payroll checking account. It was no different than when the IRS situation occurred. We did the same thing. We transferred that money from the general checking account to the payroll checking account. The general checking account exists to meet all obligations. So, whether it's making a purchase for a police cruiser or a way whether it's paying a contract for paving our streets, that's all one lump sum of money.

So, what you're talking about is our cash side of the city's finances which is strictly dealing with our bank. Then you have your books and your appropriations. I think you made reference that this was unappropriated monies. These were not unappropriated monies because you already appropriated them through the salaries line items."

Schaber – “So if there was a sewer project of whatever amount and we took the second grab and then that sewer project came due, was we ever at any risk financially that we was floating a check per se to the IRS hoping that it would come back in time to cover it?”

Landon – “You're going specifically when we found out that there was a mistake?”

Schaber – “Yeah when you sent the check yeah.”

Landon – “Yeah there was no issue with what the cash we had in the bank. We had plenty of cash to meet that obligation. And knowing that at some point we didn't know exactly when we were going to be getting that money, we were going to be getting that money back fairly soon from the State Department of Taxation.”

Schaber – “I'll open up to the other <?>. I will think of my other questions, but any other committee members want to jump in?”

Ratliff – “A couple initial questions that I have off of what that you had just stated. If you have company A and company B and you send a check to the wrong company... instead of saying I have the authority to resend and repay another check, why wouldn't you come to City Council and say we have sent a wrong check? We need an appropriation of money to send it now to company B. Then when company A pays the money back that was sent to them in error, you would then come back to City Council and Council would reappropriate the money back into the general fund. That seems to me the way that it's always been done. That seems to me the way the books are clean and that seems to me the only thing that makes sense. So, I don't understand when you're saying it's one big pot of money. The reason you have a pot of money is because we have a budget. Okay. And the pot of money meets the money that's supposed to be paid from the budget and you being the Auditor are supposed to follow the budget and follow the appropriations. When there's \$1.28 million sent to the wrong place, we agree that action needs to be taken. I think we disagree that you are standing by the fact that you have the authority to respend \$1.28 million that was not appropriated because \$2.56 million was not appropriated only \$1.28 was. And you have to have authority to re-spend the \$1.28 million. Then when you collect the 1.28 million back from the State, it has to be reappropriated through City Council. I don't understand where we don't agree with that.”

Landon – “Well what you're referring to is a clerical error. So, if there's a clerical error, you have already authorized in the budget those appropriations that are set aside in the budget. If the police department says we need to buy a police cruiser, but the money went to some other place, you had already given that authorization to meet that encumbrance for the police cruiser. It would be our responsibility to fix that mistake to make sure the money goes to the correct place and make sure it all balances on the books. So, we know the books aren't off because of the mistake. The books are all accurate. It was just all on the cash side of things. The cash is cash has somewhat nothing to do with the books because it's there to it exists to meet the obligations of what the appropriations say should be there.”

Ratliff – “So here in lies I think the worst problem that we have. That if this situation arose today, you would react in the same exact manner.”

Landon – “Mr. Ratliff, I apologize if I've offended you in my actions. To the best of my knowledge my actions are in accordance with Ohio law. I haven't seen anything from what the Law Director has provided in our conversations or in his letters to City Council that states that I've acted outside of my

authority. And so, as the Auditor, that's kind of my duty is to make sure those obligations are met. I also have a federal law mandating me to make those payments and so if I don't make those payments there can be some serious consequences."

Ratliff – "So I can surmise that the answer to that is yes."

Landon – "To what?"

Ratliff – "That you would react in the exact same way if the exact situation happened again today."

Landon – "I don't think the exact same situation would occur today. We know a lot more now than when that situation occurred. And again, I don't see anything. Could we have come to Council sooner? I guess we can disagree on that. We felt we were still in the middle of a very thorough investigation and didn't have all the facts. And we were dealing with some internal issues with the payroll specialist making sure we understood what she did or didn't know when she was off on leave that month when that error occurred in June of 2020."

Ratliff – "That still doesn't answer the question but I'm going to assume that the answer is yes. So, I guess I'll get to the questions that I had sent you earlier today. And question one. What is your experience and or training with the payroll processing of this City when the incident happened?"

Landon – "Mr. Chairman. When I had agreed to attend this meeting and partake in the political show that's going on here, you had promised questions in advance. I got those at 10:30 this morning. 87 questions. Did not have time to review them all. Have daily work that we were doing in our office as well, so it's not fair to go through a list of 87 questions and expect me to answer them all."

Ratliff – "Did you get through question one?"

Landon – "I've had public records requests from the Law Director, Councilman Meade, Councilman Schaber, and others. Over 1,500 pages of documents have been provided that explains to my knowledge probably everything that's in the 87 questions."

Meade -- "Mr. Landon. One of the letters that came out from Law Director Russell cited ORC 5705.41. I believe... I'm assuming he probably sent it to you as well. You referenced no ORC or anything that makes it that would refer that you wouldn't be able to do that... do what you did. But that part of the ORC says that 'no subdivision or taxing unit shall make any expenditure of money unless it's been approved as provided in such chapter make any expenditure of money except by proper warrant drawn against the appropriate fund'. Would that come in direct conflict with what you're saying?"

Landon -- "No, because the money was appropriated when you appropriate the salaries. There's no line items that exist separately from salaries. So, there's not a federal tax line item. There's not a State of Ohio tax line item. There's a there's not a child support line. Those are all deductions that are mandated to come out of these paychecks based off of what is set up in the system that they're required to meet those obligations. So, if you appropriate gross salaries, you're not appropriating net salaries."

Meade – "So would you then be able to -- if you found it financially smart to do -- would you then have to pay future years because we had appropriated an initial 1.28? Would we be able to under that I guess logic would we then if you found it reasonable could you pay this year's, next year's, in the years

after from \$1.28? Since it seems like your interpretation is just because we passed the \$1.28, it gives you the ability to even if \$1.28 gets sent somewhere else to then pull another 1.28?"

Landon – "So in January 2019, we became aware of the issue and so I was pretty close to the previous fiscal year and again if you had -- yes you had -- already appropriated that money and it was an obligation that still needed to be fulfilled which on the book side of things the books didn't know that that money obviously wasn't going to the IRS. On the book side that showed that it was going to the IRS, it was just some cash. It went to the State of Ohio and so again I'm not seeing anything that says that we can't do what we had done. If you have evidence to the contrary, I'd be happy to review it."

Ratliff – "If I can get really basic with you for a minute. You've been Auditor for quite some time at this point. Can you explain to us at the end of a payroll what the payroll processing process is?"

Landon – "I don't know why that exactly pertains to this particular committee. If you're asking me if I know every single detail of every job in that office a year and a half in? No. No. I do not. I don't know anybody that did know that job a year and a half in -- every single job in the office."

Ratliff – "Do you know any part of it?"

Landon – "Yes, I do as an <?> elected official, it's up to me to conduct the affairs in my office."

Ratliff – "I mean, Mr. Chairman what do we do? Because in your discussions with him, he was going to show up and he was going to answer the questions. I knew this is what we were going to get. This is why I wanted to issue subpoenas and oath because I knew he wouldn't answer any questions. So how do we figure out what's going on when the person that's in charge of our money won't talk to us about it?"

Landon – "Mr. Chairman. That's not accurate. For the past four months, I've been answering questions. I've put out press releases and statements to the public. I've answered records requests. The Law Director even kind of made reference that -- I don't know if he had a problem with it -- that he got so many documents -- but he requested them and we gave them over 1500 pages. And again, it appears to me that Council is trying to usurp the authority of the voters here by trying to dictate every single action..."

Ratliff – "I don't care what appears to you. What does it appear to me since you have been Auditor Mr. <multiple people talking> you won't answer anything."

Landon – "Mr. Chairman, as my attorney's sitting here. I would ask him for his opinion and what he would do to take further action to protect my office from these attacks from City Council. Since he is my attorney. If he's not willing to do that, then is he willing to provide independent legal council to do so?"

Schaber – "We are getting our emotions involved instead of sticking to..."

Ratliff – "I would like to stick to my questions..."

Schaber – "And that's what we will do. We will stick to questions directed towards the scope of this committee. That's the IRS issue and the hundred million dollars and if anyone chooses to not answer them, that's on them. Then we will move to the next question. So, if you have questions, ask them and if... we cannot force him to say something."

Ratliff – “Can we agree as a committee that this started from the processing of payroll incorrectly?”

Landon – “Mr. Chairman. The payroll... in fact, the first payroll that Kim did when the experienced 10-year payroll specialist that was hired before I came in was on leave and did not catch that when she came back in. She processed the first payroll and did correctly to my knowledge. I don't think she did anything wrong on that one. And then I'm gonna say it's the last week of June -- I don't remember exact dates right now -- but the last one in June is when the error occurred. And it was simply because in the process of doing it, there was an employee that showed up on the payroll that was a phantom employee... should not have been on the payroll. And in the process of trying to remove it, she clicked the wrong button and somehow deleted the IRS account number. Again, as I've stated previously multiple times in several previous meetings, and that account number was deleted out of the system. We didn't see it anywhere in files. Maybe it exists somewhere in the files that I didn't I couldn't find them, and she certainly couldn't find them and so and so. That's how it happened. Through the process of recovering the account number, we have the wrong account number.”

Meade – “Mr. Landon. In our previous meetings, we had brought up potential litigation against the third-party vendor. If the case is that the member of your office just pressed the wrong button, what litigation would arise out of that?”

Landon – “I'm not an attorney. I think that would be a question for the Law Director.”

Meade -- “Do you feel like there's a law being violated by them, by one of your employees pressing the wrong button?”

Landon – “I'm not an attorney so I'm not going to speculate on why. The city attorney's sitting here perfectly able to ask them those questions as well.”

Meade – “Mr. Russell are you aware of any law that would be broken by one of his employees hitting the wrong button?”

Russell – “Are you referring to a mistake?”

Meade – “Yeah. What would this do you think the third party would be liable?”

Russell – “A mistake is not a violation of a criminal code.”

Meade – “Thank you.”

Schaber -- “Mr. Ratliff, would you care to go through your list of questions or how would you like to proceed?”

Ratliff – “I didn't submit them to not ask them. I don't anticipate him answering any of them but... Other than not paying the correct person who is the taxing authority, was there any other issues with this payroll processing?”

Landon – “Honestly again this was a year ago, so I don't recall and during any of those conversations I don't recall there being an issue with the processing of the payroll other than the account number was accidentally deleted out of the software system.”

Ratliff – “Was there a non-employee that was paid?”

Landon – “Again to my knowledge I don't believe there was.”

Schaber – “Are you speaking to the phantom employees that was dealt with that caught led to the <?>...”

Ratliff – “Okay but you being the Auditor, if somebody was paid that was not an employee you would know, correct?”

Landon – “I mean I would think so. If something's not brought to my attention, I obviously I can't speak to it. I mean if something's brought to my attention, obviously I would be aware of it. But nothing's been brought to my attention to say otherwise.”

Ratliff – “Now when payroll is processed -- and again I think this is so very important and really the people of Marion should be able to know this anyway because we're dealing with their money, and they should have faith that it's being handled correctly, and I don't know why we would shy away from pretty basic questions. Can you explain to us once the payroll is inputted, is there just one person who looks at it? Is there multiple people who look at it? Who audits it from the time that it's inputted to the time that it is submitted?”

Landon – “So, the payroll specialist audits the timecards. It does go through -- to my understanding -- several layers of audit because it starts out at the department level, and it works its way up. And so again if you're saying there's errors in some payroll, we're going to process what's submitted to us. We're going to check to the best of our ability that it's accurate. But again, departments and directors take some responsibility on that too on what's submitted to us. There's just no way. It's all paper card timecards.”

Ratliff – “So the person puts it in. Who tallies if it's all paper timecards, who tallies the bottom?”

Landon – “Yeah, the payroll clerk does that. Again, I think it's tallied to an extent from those departments when it's submitted to us. But the payroll clerk does it and again to my knowledge, we're following the same practices that was in that office when that payroll specialist first did that job. And if there was something done differently, I was never advised by that payroll specialist of doing something different.”

Ratliff – “Okay so does anybody double check her work?”

Landon – “To what extent? Are you implying...”? <inaudible>

Ratliff – “Does anybody re-add the cards? Does anybody look them over?”

Landon – “That's kind of the job that general specialist is paid to do. The payroll specialist is paid to do that job. Is there every time an income tax return is processed is there somebody looking over that person's shoulder to make sure that income tax return? I mean how much work would you get done if you're verifying every single thing? That's what we pay people jobs to do. You do your best to train them on that job. And so the payroll specialist does that job and then that money is sent to me or the request for the money is sent to me to transfer the money from the general checking out to the payroll checking account.”

Meade – “Do you understand why that might sound a little strange that people shouldn't be double checking their work, since there's a \$1.28 million mistake?”

Landon – “But the work is being double checked as I said Mr. Meade. That there's several layers of payroll approval. It's the same thing with a purchase order. Purchase order starts at the department level, typically with a clerk secretary, and then it works its way up to our office.”

Schaber – “Mr. Landon. Is there -- we're speaking specifically to the mistake the account number was deleted re-added or however it happened to get the federal button back. That account number once it was recreated -- is there ever any oversight through whoever checks the payroll clerk's work to check at an account level number and verify that is indeed the correct account that it should go to?”

Landon – “Well, there is now.”

Schaber – “There is now, but in the past...”

Landon – “Yeah, we are working on... we've been working on... we got some pushback from the previous payroll specialist on I thinking it was adding duties... but we signed up for what's called EFTPS. I forget what that stands for... electronics.... It's basically like Ohio Business Gateway for the State of Ohio. It's their State of Ohio software that we upload tax payments to. And so, this is for the IRS. And so, we have the ability to be able to go in and look and they will notify us if like a double payment's made. So, it gives us a better audit trail, see what payments were made, or there were no payments as well. We haven't been able to use that yet since our previous payroll specialists just left and went out to the transit department and so once our new people are trained on that they'll be doing that as well.”

Meade – “Was the employee that made the mistake cross trained to do the work that you requested her to?”

Landon – “Well, that was certainly the goal, Mr. Meade. We were six months into the first year of my office with a pandemic, had just come back from working from home remotely, and in fact I think when this all happened and the employee went on a month-long leave she was working remotely, and then she might have been back in office for a week or so, and so for about a month or so we have been working remotely. So sometimes there's going to be some errors. Unfortunately, that can happen and would happen with an employee taking on a new task.”

Meade – “I know there's a meeting with union representation with the payroll clerk at the time. What was the purpose of that meeting with their union representation at your office?”

Landon – “Well, we were investigating. We were asking the employee questions on what they do, how they didn't catch it being in the office for the past ten or so years, and we met with that person with my senior staff, and they felt like they should have union representation there to kind of defend them. And so that that was February 10th and that was the same day we made that payment.”

Meade – “So at what point did you so at that point you were not aware that it was an issue of account number being deleted?”

Landon – “I was aware that the account number was deleted because we made the payment on February 10th to the correct account after we found out on January 29th which was a Friday February 1st on Monday. Again, this is all stuff I submitted to you guys previously. So, we came in Monday, and we tried to process the payment but we were told by our payment provider that we had to do what's called a pre-unknown because we just got that account number recovered into the system to test to



make sure that was the right account number. And once you did that from that date, we had to wait seven days.”

Meade – “Did you believe that it was her that had made the mistake at the time of the meeting with the union representation? When you met with union representation did you believe that it was the previous payroll clerk who had made the mistake?”

Landon – “I want to defer to the Law Director. I’m not sure exactly how to answer that since that’s an internal personnel matter with a union employee. I just don’t want to speak to something that maybe I’m sure...”

Meade – “The background of my question is that she’s gone for a month on bereavement. Unless the office was not aware that she was gone, it seemed silly for I guess I can’t understand why she would think that unit representation would be necessary unless she felt like she was going to be blamed for a mistake that she was out on bereavement for.”

Russell – “Somewhere in there is there a legal question?”

Meade – “I didn’t think so but apparently there is.”

Russell – “You’re asking for response to speculate and it’s never good to speculate. In a lot of my previous writings, I’ve talked about focusing on documents and we’ve had a good discussion. But when you start to speculate, it doesn’t lead to more clarity. This committee initially defined its scope very specific -- was the Auditor with authority on February 10th to take from the cash reserves and make the IRS payment. Very specific. Mr. Landon’s done a fine job presenting his position. The discussion should be enlightening, what we’ve heard. You have to take the committee back to what the scope was. The scope was -- was he with authority on February 10th when he took from cash reserves and sent the 1.28 second payment from the initial appropriation to the federal government waiting on the state to come back. So, I only say let’s continue to remain focused. The draft resolution that was compiled in response to the request from the committee chairperson has your scope on it. If we focus on that I think we can be more productive.”

Schaber – “Before I open it up to the audience. Do you have anything else to ask or add?”

Ratliff– “Absolutely. I want to clarify. Once that the payroll specialist inputs payroll, it is not overlooked by the Internal Auditor. It is not overlooked by either one of your Deputy Auditors. And it is not overlooked by you the City’s Auditor before that it gets actually processed. I want to make sure that I...”

Landon – “That’s not correct because our internal Auditor does a monthly reconciliation of every month and is reconciling the books and there’s nothing on the books that would have suggested that something was off unless he knew that the account number was wrong in the system at that time. Obviously, we knew that account number was wrong with the system at that time surely, we would have adjusted at that time, Mr. Ratliff.”

Schaber – “Okay.”

Ratliff – “So there is audits that go on every month. We do a very thorough bank reconciliation process. In fact, with our meetings with the State Auditor’s office, they told us that we do a more thorough bank

reconciliation than a lot of other municipalities because we reconcile every single activity and not just to the funds.”

Meade – “So would the 1.28 appear on a reconciliation?”

Landon – “No, because on the reconciliation on the books. It was the books say it was going to the IRS. Unless you're in the payment provider software and had some kind of suspicion that that account number was wrong, there would have been no way for us to tell.”

Schaber – “So on your audit or your oversight validation of each what is it bi-monthly that we do you don't look down to the account number to make sure that...”

Landon – “We certainly will now.”

Schaber – “You will now.”

Landon – “Yes. There was nothing there for us to suspect that. But I mean I would also point out with these 87 questions; it seems like you guys had a lot of that information provided to you by somebody -- whether it was from me and you guys just don't recall or if it came from somebody in administration or Law Director's office. I'm not entirely sure. But it looks like a lot of these questions you guys were asking, you kind of already knew the answers to.”

Ratliff – “I don't. That's why that I'm asking them, and I still don't because you won't answer most of them. However, looking at the... we keep talking about the account number. Is that our federal EIN number or is that a different number?”

Landon -- “It's a different number. It's the bank account routing number that you send to the IRS.”

Ratliff – “Okay and are those attached to our EIN number?”

Landon – “Okay. My Deputy Auditor says...” <inaudible>

Ratliff – “So when we had sent these payments because we have a state number, and we have a federal number. Correct?”

Landon – “Yes.”

Ratliff – “So when we re-inputted the numbers into the system, we must have inputted the State tax number because I've heard you say several times, we didn't know the number. Correct? Was the number on your W-2?”

Landon -- “I haven't seen my W-2 in a long time, Mr. Ratliff.”

Ratliff – “Was the number on anybody's W-2 in your office?”

Landon – “But again we did consult with our bank and our payment provider who has all the account numbers that we have for every vendor, every person that we pay on payroll, and those numbers. So, ... we trusted our experts when we went to them that we were getting the right account.”

Ratliff – “And so sometimes to get the right answer you have to ask the right question.”

Landon – “Well, Mr. Ratliff. If you want to narrow it down to every single little action I could have taken, we would be here all night. Again, we admitted that a mistake was made we took every action once we had discovered that mistake was made to correct it. And we're trying to put in measures to make sure it doesn't happen again. I would again going with what the Law Director said, you want me to speculate. If you want me to tell you what time I go to bed at night, what time I come into the office in the morning...”

Ratliff – “Now you're being a ridiculous jerk. Okay.”

<inaudible – multiple voices>

Ratliff – “I’ve never asked you what time that you go to bed. I've asked you things about payroll because that's what was messed up here.

Landon – “I mean do you ask questions every time a mistake is made in any department?”

Ratliff – “I really try.”

Meade – “We should. I would hope so.”

Landon – “OK. Just checking.”

Ratliff – “So, what I would love to have happened out of the entire process is for you to be able to say, ‘man if I had this to do over again, I wouldn't have done it like this’ and I wouldn’t even support the resolution on our agenda tonight.”

Landon – “If you're threatening me with passing the resolution...”

Ratliff – “No.”

Landon – “I fully support your resolution because I've been in talks with the Auditor's office since day one. I'm sure they're gonna admit we made a mistake. I don't think you're gonna find them saying that the Auditor's office broke the law. The Auditor's office should go to jail. The Auditor's office should be removed from office. The Auditor’s office so on and so forth. So, I fully support your resolution. I'm not quite sure what your original point was.”

Ratliff – “My point is that you haven't learned anything and all I wanted you to do is learn something from this.”

Landon --- “Mr. Ratliff, I certainly have learned a lot and you expect me to sit here and tell you every single thing I've learned when I'm independently elected and I'm not coming to these Council meetings telling you what legislation to pass and how to run your meetings but you're trying to do it to my office. If there was a law broken, maybe I can understand that. But if you're wanting to be in the inner workings of the Auditor's office, I'm sorry you're not an employee of the Auditor's office. I'm sorry you don't have the authority to administer government. You're a legislative member and so I find it offensive that you're trying to manage my office. If you want me to admit we made a mistake again, I don't know how many times I've admitted a mistake here tonight. In previous meetings, Deputy Auditor Kim Hutchinson has done the same thing as well. We can always look back and say we should have done something different. Any kind of mistakes made. I would think you would know that. I'm sure you

probably know that when you're doing IRS returns for your employer as well. Sometimes unfortunately when you're working with humans, mistakes are made.”

Schaber – “Are there any...”

Ratliff – “Where we are going to disagree on is that the worst mistake that was made was not coming back to Council to get the proper approval to resend the money.”

Landon – “Where's your authority for citing that I did need to come...?”

Ratliff – “Where's your authority for sending it?”

Landon – “I've already given you my authority.”

Ratliff – “No.”

Landon – “You haven't provided anything other than what your Law Director has said, and I've already disputed that. That has no bearing...”

Ratliff – “I passed a budget, and this City Council passed a budget.”

Landon – “Yes.”

Ratliff – “You are obligated to follow it.”

Landon – “We did.”

Ratliff – “We passed a budget allowing you to spend 1.28 million dollars. You spent it twice without asking for any approval to spend the second money.”

Landon – “Mr. Ratliff, if you'd call around and ask other City Auditors and Finance Directors, they would tell you they would do the same exact thing. So, in essence you're saying that every City Auditor I've talked to...”

Ratliff – “I'm glad they would answer my questions.”

Landon – “Every financial... I've sat here and answered your questions. I think the audience would agree.”

Ratliff – “Well of course, most of them are your friends.”

<inaudible multiple voices>

Schaber – “...not talking over each other. Mr. Russell, if I could ask you. Robert, the Auditor, was given the budget for 2020 to pay the bills for lack of a term. Since there was a mistake, is he obligated to come back to Council and say you gave me permission to do this, x happened I sent it to the wrong place, I need to grab another pot of money to fulfill the obligation you're already giving permission to do.”

Russell – “I'm glad you asked that question and in fact it was just discussed by Auditor Landon. He indicated that he has no qualms or issues with the resolution in regards to the authority to spend the February 10th monies. The expert that we all have talked about is the State Auditor for the State of

Ohio. Pass the resolution. Let the expert, the State Auditor for the State of Ohio, answer that for all of us. That's the only place I think we'll find the answer. We want to know from our expert."

Schaber – "Anyone from this committee have any more questions before I open up all these smiling faces?"

Ratliff – "We also have the second issue."

Schaber – "Yes. I will open the audience to questions of the IRS issue and we still have the second 100 million misstatement of funds that we will get to. So, anyone in the audience want to speak to the IRS issue that is before us right now, please come to the mic, state your name and address, and..."

Cooperider – "Mr. Russell. You didn't give your opinion on that. You kind of passed it off to it. Can you please give your official word on that last question sir?"

Russell – "Mr. Cooperider. You may not have had the benefit of a document that I provided in response to counsel's questions on this topic. It was April 12<sup>th</sup>. I'd give you a copy. But in that I outlined this important question regarding Ohio Revised Code and there was a reference earlier to the legal authority to make an expenditure which requires an appropriation first. We've talked about appropriations. Mr. Landon's given his position that the money was appropriated in 2020 to pay the bill. It just required taking some cash in February 10, 2021, pay it a second time because it went to the wrong place the first time. But in the document, I find I put in here to make an expenditure of money you first have to have an appropriation. And the answer to your question I think we should turn to the expert because I read that to say before you can make an expenditure, you have to have an appropriation. And at the end of the day the State of Ohio Auditor should help us all out with that and give us a response."

Cooperider – "As representative of Mr. Landon because you do represent Mr. Landon..." "

Russell – "I represent the City of Marion."

Cooperider – "Which he is an employee. He's a city employee. So, what would your official guidance to Mr. Landon and advice be to him. Is he within as you see it interpret it -- is he within his rights the way he handled the situation?"

Russell – "We need to turn to the expert the State of Ohio."

Cooperider – "Your opinion sir."

<inaudible multiple voices>>

Russell – "There was another letter -- which I provided you a copy of -- that I provided the Council in response to questions as to what the role the Law Director is. Under Ohio law, the Law Director prepares resolutions and ordinances -- things that we're familiar with -- and, when called upon by any Council member, administrator, or department head, to provide a response as to legal questions. I provide responses -- can be orally it can be in writing. So, my role is to provide legal guidance when there's a legal question presented and that's what I always do. So, in this case, my opinion is push this resolution to the State Auditor and let him tell us. He's the expert in regards to audits as to whether or not additional approval was necessary to make the February 10, 2021 payment."

Cooperider – "I now feel your pain, Mr. Ratliff."

Schaber – “If you want to speak just walk up to the mic and state your name and address and we'll just form a little bit of a line if we have to.”

Blevins (220 Blaine Avenue) – “Mr. Ratliff. I like you and you've done a lot of things good for the City and I like when you question ordinances and all that. You're very in to doing your job and I really do appreciate it. But it also just occurred to me while I was listening to you when you were questioning Landon about payroll. ‘Well didn't you see the account number on your check?’ You obviously do not know anything about payroll.”

Ratliff – “Sir, it's important then to understand how I would receive a check. And a) my check was not even part of this batch. There is bi-weekly payroll and there is bi-monthly payroll.”

Blevins – “I'm sure.”

Ratliff – “So my check wasn't even in this. And on everybody's check it will show how much was held out for your federal in income tax. It doesn't say where that went to. It doesn't give you an account number where that went to. So, I would have never seen any of that.”

Blevins – “That's what it sounded like to me when you asked that question.”

Ratliff – “OK. Well then I did not ask a question correct.”

Blevins – “Sorry I misunderstood your question.”

Ratliff – “Okay.”

Blevins – “But that's what it sounded like that you should have been able to look at a check and find the account number.”

Ratliff – “No, what I believe is that when you have somebody that deletes your federal EIN number, you should know enough to not put the State EIN number in and put the federal EIN number in when you've been an employee of the City for several years and you have received a W-2 every year that has the federal EIN number -- and that's the number that you actually needed.”

Blevins – “No it isn't. Right?”

Ratliff – “It is.”

Blevins – “That is not the number you need.”

<inaudible multiple voices>

Clerk – “I can't hear.”

Landon – “It's the bank account number, not the...” <inaudible>

Ratliff – “I specifically asked if the account numbers were linked to the EIN number and the answer was yes.”

Landon – “On paper, not your software. Maybe I misunderstood your question, and the software is not linked. To my knowledge it's only the account number and routing number for the software because you're only dealing with the electronic payments.”

Blevins – “And then I have a question for you, Mr. Landon, if you don't mind. I would like to think, and you've already stated that you've learned a lot. Anybody. You as a Council person when you first came into the City Council you learned a lot.”

Ratliff – “Yes, I did.”

Blevins – “And you made mistakes.”

Ratliff – “I absolutely did.”

Blevins – “Right, and every one of us do. But my question to Mr. Landon, do we now have on paper all the accounts that we are paying to on paper in files locked up secured and we know where they all are now probably because of this. I would assume.”

<whispering>

Landon – “Yes yeah IRS State of Ohio all of those are all compiled electronic and paper hard copy.”

Blevins – “And I pretty much agree for whatever it's worth department with most of the other Auditors and people we've talked to et cetera et cetera and he who has no sin cast the first stone. Thank you very much and I'm going home. I'm tired.”

Schaber – “If anyone wants to speak come up to the mic. If we start a line, so be it. Me trying to catch a hand and a name -- not going to happen. Well, so walk up here on the line.”

Clerk – “Jason, I may be getting tired too but I'm really having a hard time when we have multiple people talking. If we could go one person at a time, it would really help me.”

Schaber – “Yes.”

Neff – “I just have a question for Mr. Ratliff.”

Schaber – “And also if we can address as a whole committee, we kind of got away from that but go ahead.”

Neff – “A mention was made to questions that were given to the Auditor today. There were questions given to the Auditor today for this meeting and what was the number of questions?”

Ratliff – “I gave 87.”

Neff – “So and that made it to the Auditor at what time today?”

Ratliff – “Well, he said 10/10:30.”

Neff – “Okay so 10:30 this morning, you gave him 87 questions to answer for this meeting.”

Ratliff – “Now again, a lot of them were not very difficult questions. A lot of them yes and no questions. A lot of them just say did you meet about this subject? Who did you meet with? When did you meet? Where did you meet? So, I mean that would be like five where I could have asked it all in one and really made it a whole bunch less. I thought I made it very simple in the layout of the questions that I gave, and I spent quite a bit of time on them. You don't come up with 87 questions if you don't care about a subject and if you don't spend time on the subject.”

Neff – “But you didn't come up with the questions until 10:00 this morning?”

Ratliff – “Well, I really worked on them hard over the weekend to finish them up. Yes.”

Neff – “Anywhere in those questions do you ask anything about this phantom employee that magically appeared on the payroll?”

Ratliff – “Yes.”

Neff – “Because for me that's the big question. Was this phantom employee somewhere in payroll before? Has it been in there after? It just popped up one time out of the blue?”

Ratliff – “If you would do me a favor and ask him and get the answer that would be I would greatly appreciate it.”

Landon – “I believe we did address that some meetings ago that we're not entirely sure. We had gotten Safety Director Caryer involved in an investigation to check maybe we were hacked or something happened. Again, I'm not an expert on the software. I'm not sure why that person popped into the software system. We did find out through the course of the investigation that the IT department did not have our audit trail turned on on the server which is very concerning to me. And IT does not report to me. A lot of times, we can't even get answers. And so those are other things I think are important to be doing thorough the quote “Investigation Committee” here... why those questions aren't answered and why our audit trail was not turned on and why I am not privy to have having been trained or have access to know how that gets turned on and turned off. As the statutory office holder of the Auditor's office when the server exists in my office it was to my knowledge brought in by the former Auditor's administration and to my knowledge only houses New World, maybe some other material, and so why that's either withheld or maybe it's a breakdown of communication. I'm not sure but those are some big concerns of mine.”

Schaber – “Excuse me. I do not want to be the chair of the next exploratory committee that goes into any of these issues, but I do want to focus on the two that we have tonight. Do you have any questions on the IRS authority?”

Neff – “Mr. Chairman, I have a question about the organizational committee meetings that we were not allowed to speak at.”

Schaber – “That has nothing to do with it...”

Neff – “... having to do with YouTube, having to do with speaker view on YouTube, having to do with the public not having access to that last name on 5/17. Shut off. Does anybody have any explanation for that? I've been told by numerous taxpayers that the YouTube livestream was shut off during the special...”

Schaber – “I don't know of anything how a YouTube livestream I don't even know that that is what that is has to do with an IRS...”

Neff – “Well it has all to do with a public meeting.”

Schaber – “We follow it to the letter, sir. Ohio open meeting laws.”

Neff – “Okay.”



Schaber – “And if you don't understand those, there's a book right here I'll give you...”

Neff – “Sunshine Laws. There you go. Sure.”

Schaber – “Here's my copy. Do you have any other questions?”

Neff – “I do not. Not at this time.”

Schaber – “OK. Thank you. Anyone else?”

<inaudible>

Dunston (Christian (211 East Fairground St) – “So it's about the 1.28. But I have questions to get to that. It's about the appropriation. So, the appropriation is made. Then it gets paid. What happens? Does it go away? Is there something in the system that says we paid that, let's move on to the next appropriation?”

Schaber – “That's the question at hand.”

Dunston – “Right what I'm saying because where I'm what I'm getting I'm sorry...”

Landon – “Do you want me to go ahead and answer that question?”

Dunston – “Yeah.”

Landon – “So it would show up as a budgetary expenditure in the software system.”

Dunston – “It will show that money for that appropriation regardless of what it is has been spent?”

Landon – “Yes. If I'm understanding correctly.”

Dunston – “So, if I'm understanding correctly once that money is spent, if what I'm getting is to spend money you need an appropriation. Period. Is what the opinion of the Law Director is. Regardless of what you spend it on. You want to buy pencils? You got to have an appropriation for pencils. Once you spend 1.28 million dollars, it shows that money was paid then can't re-spend the money without another appropriation. I mean I understand what you did and from a city standpoint you're covering the city. I get that. But to re-spend the money, you have to have another appropriation to re-spend money.”

Schaber – “That is what we're trying to get to the bottom of. Once is that obligation to the Auditor's office clear through whether there's a mistake or not or once they thought they sent it does that obligation end and then a new appropriation has to be brought forward? That's what we're trying to figure out. And it sounds like we're not going to get the answer tonight. That we will indeed in fact have to ask the State to let us know so that Robert or Auditor Landon is justified or vilified.”

Dunston – “Correct me if I'm wrong. Is your opinion that once the money that was appropriated for that amount was spent and sent to the wrong place you have the authority to correct that error?”

Landon – “Yeah. Absolutely. If we paid Lowes and it was supposed to go to Menards, we're going to correct that because it's a clerical error. Your Council already set that appropriation and the Council said we want this money to go here and in essence by appropriating salaries you're saying we want those

people to have their taxes paid. If not, we're not going to be in compliance with federal law or state law."

Dunston – "I understand your point that the Council set the appropriation to be sent to this place, but in the software from what you've explained to me you did that because it showed as paid."

Landon – "Say that again. I'm not following the question."

Dunston – "So what I'm saying is when Council said we want 1.28 million dollars to go to this federal government. When that money was paid, regardless of who it was paid to, your software said this has been paid. This appropriation has been taken care of. It was then discovered that through whatever error, it was not sent at the correct place. You worked quickly to fix that error. But my question is... the money was the appropriation was already handled and if we need an appropriation to spend money don't we need another appropriation to correct the error?"

Watts – "Normally, you're absolutely correct, except this is salaries and payroll."

Dunston – "Okay."

Watts – "So what you're saying is, in essence, we should have come and ask for more salary appropriation because you can't spend any money from salaries unless you cut a payroll. So, there's really no way I mean other than asking permission to spend it..."

Dunston – "Right."

Watts – "There's no way to reappropriate those funds and spend them without overstating the books. You see because you can't spend salaries without cutting a payroll. So, in essence it's not like paying Menard's <where> you have a purchase order to pay Menards you didn't get paid, so you use purchase order for Lowes to pay it. This is salaries and salaries you make forty thousand dollars a year you only get twenty-four thousand. The rest goes to the IRS blah blah blah. It goes somewhere else. But to go to Council -- and I'm not saying that we should have gone to Council and got approval to spend the money - - we couldn't have gotten another appropriation because the appropriation would then had to increase salaries. But then you couldn't spend salaries other than payroll you see what I'm saying."

Dunston – "I am."

Watts – "But so the only way we could pay it, is to pay it this way."

Dunston – "Didn't you effectively increase salaries when you did that?"

Watts – "No."

Dunston – "Because you spent it twice."

Watts – "Because yes."

Landon – "It all balances out."

Watts – "Yes, we spent it twice, but you couldn't have appropriated the money and reissued a payroll without over showing the books. To make that payment... the books were okay. It's just that through Magic Writer, the money went to the wrong place. So I'm not saying that you couldn't ask for

permission. You wouldn't have asked for another appropriation, because it would have been nothing to appropriate to.”

Landon – “That would have shown up probably as an audit finding in our state audit.”

Watts – “I mean there's just wouldn't have been any way.”

Dunston – “So you're saying salaries as in like my salary at my job.”

Watts – “Right.”

Dunston – “I'm of the understanding that it was taxes due for the money that was so the money just taken off my salary for my taxes...”

Watts – “Right.”

Dunston – “That my company pays to the IRS.”

Watts – “Yeah, so you...”

Dunston – “It wasn't the actual my actual salary it was the tax money that's withheld from me that's given to the government.”

Watts – “Right in your name.”

Dunston – “In my name and so when that money was sent wherever the wrong state. You're stating that I would you would then have you cannot reappropriate that money.”

Watts – “There was nowhere to appropriate to.”

Dunston – “Because there's no way nowhere to appropriate.”

Watts – “There's no federal income tax line item. There are no deduction line items.”

Dunston – “Okay so...”

Watts – “So if you appropriate...”

Dunston – “If there's no deduction line item, how do how much money you have to pay? How does any money get appropriated to pay the taxes?”

Watts – “It's appropriated to salaries. So, you have salaries say just for giggles you make a hundred dollars. You get a check for 60. Because you get about 60% then the rest is broke out through various different concepts and means. One of the concepts is the federal government says if you make this much, you're going to go down on this chart. Except then you fill out a w-4 and you say I have three deductions so then the chart changes. So, what you say actually changes your deductions. Okay. So then based on what you say with the state the federal and maybe the courts say well we're going to take child support from you and all these other things that you've signed up for health insurance life insurance blah blah blah, then all these monies are drawn out of that original hundred dollars. But the appropriation was for hundred dollars. Out of that hundred dollars, you got sixty and forty dollars went somewhere else and that only occurs through payroll.”

Dunston – “So that money goes into the line-item payroll?”

Watts – “Yes so the payroll for you would be like a hundred dollars a week so.”

Dunston – “I'm with you. So the line item that all of the money goes to is payroll?”

Watts – “Right so...”

Dunston – “The Auditor's office knows the amount of money out of payroll that needs to be sent to the IRS.”

Watts – “Right we have salaries. We have a salary line item.”

Dunston – “You have a system that you've set up that is accurate that says of the total salaries for the State of for the City of Marion this amount is going to the IRS and but that money stays in payroll. It doesn't go to a separate line item within payroll, and it stays in payroll.”

Watts – “Oh yeah and it just stays there until a payroll is done and then it's drawn out. Because you could at any time say marry somebody with a couple of children, you adopt them all of a sudden your deductions go up, get a divorce you go down to one single deduction. So every pay things could change so there's really no way to ask for appropriation to pay for these funds when the appropriation is salaries.”

Dunston – “Do you internally move that money.”

Watts – “We do. When the payroll clerk goes through and figures to set the payroll. OK. And then based on all the payroll that's done on who worked when, over time, blah blah blah. Then the determination is made on how much money payroll will need and those funds are taken from the general checking, and they're transferred into payroll account and then from the payroll account then payments go out to each individual that are directly deposited into their checking account.”

Dunston – “I understand.”

Watts – “And then checks or EFT's (electric fund transfers) are sent to PERS which is public employees retirement, state government, federal government, we send one to the city income tax department, and then Ohio deferred comp, buckeye deferred comp, so on and so forth and then also to health insurance based on your deductions on <inaudible>.”

Ratliff – “Mr. Watts, can I ask you a couple questions based off of what that you said. OK. So, you had said that if you would have come back for and for an appropriation, we would have had to increase salaries.”

Watts – “I don't believe you could do an appropriation, but we could have asked for permission. but yes, I'm saying that the only way that the only thing I personally see that is would be feasible to ask for would be an increase in salaries.”

Ratliff – “Right. So at the time that the office paid 1.28 million had not recovered the money back...”

Watts – “Correct.”

Ratliff – “And paid 1.28 million again.”

Watts – “Correct.”

Ratliff – “Didn't you in turn increase salaries by 1.28 million from the money that you have paid?”

Watts – “Not on the books. Since we took the money from the general checking put it into the payroll like we would do on a payroll and then sent it to the IRS to their routing code number that all went through Magic Writer.”

Ratliff – “Okay.”

Watts – “That does not show anywhere on the books except in the monthly reconcilliation.”

Ratliff – “So the 1.28 million the second 1.28 million...”

Watts – “Yes.”

Ratliff – “... is not quote ‘on the books’ and the recapturing of the 1.28 million dollars is also not on our books.”

Watts – “No, that's correct it does not.”

Ratliff – “Does that sound right to you?”

Watts – “No, but...”

Ratliff – “Me either.”

Watts – “But you couldn't without misstating your books you cannot break normally you bring that back in and say it's miscellaneous revenue or a refund.”

Ratliff – “Yes. So why wouldn't you ask for an increase of salaries and then ask for a decrease once that the money was brought back in I

Watts – “Like a deappropriation?”

Ratliff – “Yes.”

Schaber – “Well. I before we go further maybe the best solution in hindsight is always better probably should have came to Council and asked for like a short term cash advance. We've done that before on I can't remember here most recently. I think that would have been the best course of action because if you start inflating your salaries or other line items, you're screwing your books all up. I think that short term cash advance whatever you want to call it would have just...”

Landon – “Right. You would have screwed up your salaries if you...”

Watts – “Yeah.”

Landon – “Which is why we didn't do that. From the State Auditor's office employees I've talked to and other finance directors and City Auditors even though the cash advance would have been the way they would have handled it.”

Schaber – “Okay anything else or do you have more of it?”

Watts – “No. I was just saying that we did check with the State Auditor, but as you know that once you're at a certain point...”

Schaber – “Yeah.”

Watts – “Then the way to fix it is different than if you in had done it in hindsight.”

Ratliff – “So when you say you checked with the State Auditor at what point like at what point on the process did we check with the State Auditor?”

Watts – “Well, it was before we got the money back. We had to explain where we were.”

Ratliff – “So we didn't check before we sent the one point the second 1.28?”

Watts – “No. We took care of that right away. And then that's when after we had taken care of that then the Mayor and Council and so then we checked to make sure with the State Auditor that we did not make any misstatements onto the books.”

Schaber – “Okay, so I have...”

Watts – “I'm not saying that the Auditor automatically said that what we did is good. Although she's indicated that that we followed the proper protocol with what have occurred at that point. You see what I'm saying? So, I'm not sure what the State Auditor will say, but I feel pretty confident that that we acted within...”

Schaber – “Your authority.”

Watts – “But yeah within our rights.”

Meade – “What reasoning did you what reason was provided when you spoke about cash advances with other Auditors, what reasoning did they provide as to why that wouldn't be a good idea?”

Landon – “At least what I've already provided to you tonight in the previous meetings is that it's a clerical error that happened. We had a if you want to say ethical obligation/statutory obligation whatever you want to call it to correct those errors and make sure that it properly reflects where it's supposed to go. So that books don't show that we spent more than appropriations as I guess <inaudible>.”

Meade – “Could that just be covered by the deappropriation then after the fact?”

Landon – “There's no de-appropriation needed. There's no need to deappropriate any money because you're fixing the money from where it went to where it needed to go.”

Meade – “You would be putting forward one point... okay so the second time you spend the 1.28, you get the cash advance, then when the money comes back you de-appropriate. Don't you think that that like in terms of ethical issues?”

Watts – “I don't know where you would have advanced the cash to. Okay, I mean you could do a cash advance to salaries and have a big long transaction to salaries. But you don't draw down salaries without doing payroll, so we could have done cash advance and the books would show the cash advance and then we could have paid it back and then the question would have been why.”

Ratliff – “Because when we have transactions that total over two and a half million dollars and then we state they're not on the books. Like that that just doesn't sound right. It couldn't sound right to anybody.”

Watts – “It's not that they're not documented yet. They're not on the New World. The New World shows that it only went through one way. It does show those are shown on bank statements, transfers to payroll, and the refund from the state.”

Ratliff – “So if it's not documented in New World and if it's not you keep using the term ‘on the books’...”

Watts – “Yes.”

Ratliff – “How do we even know that it's right now?”

Landon – “To my knowledge, we've provided all the documents you guys have requested. We have like he said in hindsight. We've also talked to the Auditor of State's office. And the way we've done things, everything's right everything balances out. What he's saying is it is documented. It's documented in our bank statements and even in our Magic Writer payment provider system that you can see, I think. And that was a part of the reason why the records to the Law Director's office were so long with this is because we gave him every time payroll was processed over the six months that we didn't know that was going to the State of Ohio. And so, it is documented in the payment provider software. It's documented in our bank statements. But on your books from your general ledger everything... the general ledger is... it's not a robot. It's not going to know that you were on the cash side of things not sending the money to the right place. Because every time you process it in the New World software system, it's assuming everything's going to the proper place. And it's not going to change that unless you go in and you got to do journal entries to change this.”

Marden – “And it'll show up on the 941 reports to the IRS and I think one of the 940s that go to the State it'll appear there and then we obviously will have to make audit notes on it to clarify what occurred and why it occurred and why it won't occur again.”

Caryer (Safety Director) -- “Just to clarify on the investigation into the audit trail being turned off, I met with Auditor Landon. They were told that it appeared the audit trail had been turned off and we started an investigation into that. We were in touch with New World and Jacob Bolden, the IT specialist for the City of Marion. It was discovered the audit trail was still turned on in New World and this ghost employee was not a ghost employee. The employee had actually worked in transit as a bus driver and had quit several years earlier and was kept on the books as a contingent driver and that's how she came up. So, there were it's not really a ghost employee and the audit trail was not turned off.”

Landon – “Jacob told me that the audit trail was turned off <inaudible>.”

Caryer – “I think the report that I gave you showed that the audit trail was not turned off that's how he was able to get back...”

Landon – “You gave me an audit trail after the fact. Several days after we met.”

Caryer – “After we met? Or before we met?”

Landon – “Yeah. Because during the investigation, we had no proof. We could not go back. We called New World about that. That's how we found out about that. New World told us. You did not tell us

that audit trail was turned off and nor did Jacob. New World told us and that's why we brought it to you. Then he went and turned on the audit trail which could go back dated and then show what had happened after the fact."

Caryer – "Okay well, Jacob had told me that the audit trail was still on, so I don't know about that."

Landon – "Whose jurisdiction is the is the server in your opinion?"

Caryer – "It's the City of Marion's. I would think I would say that it would fall under the jurisdiction of the Mayor ultimately."

<multiple voices>

Schaber – "Hold on a minute. We are talking about servers and audit trails."

Caryer – "There is not a ghost employee. The employee did exist."

Schaber – "Okay and there was no payroll paid to them?"

Caryer – "Well I don't think I don't know about that. But the reason that employee came up in payroll was because they would have been employed here."

Schaber – "Okay, we can do another committee on that."

Landon – "Because this finance committee last week we discussed about the credit card situation about how cyber security is such an important thing and we need to protect the Auditor's office. We need to do these things, but we don't even have a clear line of who has oversight over the server. The police cruisers is the police department's. The fire trucks is the fire department's. Okay. I get it we all work for the city generally speaking but there are also specific domains for each department in each officeholder. And we don't have a clear line of understanding. And past practice which is the responsibility of the Auditor's office. It rests inside the Auditor's office. It houses New World which was brought to the City by the Auditor's office, and I believe we signed a renewal contract. My name's on the contract, so I guess, where's the answer for that."

Schaber – "That sounds like an excellent question for another investigative committee that I will not volunteer to chair. So, we're getting way out of we're deep in the weeds now. I've got two lovely people that just dying and speak. Mayor you're there go and then we'll go to the next two,,,"

Mayor – "The City is responsible for the server. Which that means I'm responsible for the server. The server has a dual purpose, not just New World and not just servicing the Auditor's office. We have multiple servers that do multiple things. And we have a cyber security subcommittee that goes along with the City Hall security committee that will be meeting this Wednesday that I do believe that the Auditor said that he would attend because he is a member of the cyber security subcommittee to discuss these issues about the server. I know you don't want to talk about the server in this committee. I know it's not part of your scope, but that server keeps coming up. So, I don't know if that gives any clarity and I do apologize to the folks that I cut in front of <inaudible>..."

<multiple voices>

Schneider – "I'll make this quick. The budget of if I may ask a question of Auditor Landon. Mr. Landon, what is the budget of the City of Marion just overall the overall cash flow what we spend in a year?"



Landon – “59 to 61 million.”

Schneider – “Okay, so roughly 60 million. Mistakes are made. A million-dollar mistake is obviously a big mistake. I don't think anybody is disputing that. I think the question at hand is did the Auditor have the authority to pay the extra or, I'm sorry, to rectify the missed payment. That's the question at hand. One side says yes. The other side says no. And Mr. Russell has said that the State Auditors what has to tell us. So, I think at this point, I think we reached the point where we send this resolution on to the Council and I'm sure there will be robust discussion in Council which I know I will preside over. I know we'll discuss it. I know we'll talk about it. But ultimately, I think the authority rests with the Auditor, and I think that's what we have to do is send it to the State Auditor to make that decision. Now, I know other mistakes have been made but at this point we're talking about that payment, so I think we send it on to the Auditor, State Auditor, and we go from there. So, I really don't have any questions that was just my opinion for what it's worth.”

T. Landon (989 Fairway Avenue) -- I know nothing about servers. I don't know nothing about appropriations. I know nothing about business as far as all of this goes. But I have listened to all of the Zoom meetings, and I have heard several weeks ago that questions would be given to Auditor Landon in appropriate times that he could prepare for those questions before this meeting. It has been said several times Mr. Neff had asked when were those questions given to Auditor Landon. And Mr. Ratliff you said that you worked diligently very hard this weekend to come up with those 80 questions.”

Ratliff – “To finish.”

T. Landon – “OK. To finish. So however long it took you to write those 80 questions, I don't know that time frame. But you give them to him at 10:30 on a day of questioning and then attack him and saying you can't answer my questions, but you have taken weeks to prepare those questions but only given him on a business day the time to answer those questions and protectives (?) and that's just name calling. That is very unprofessional. That is an attack against it and I don't think that was not fair. And I don't think that to constantly say that he is not answering those questions when it took you a long time to ask those questions and to prepare them to give him there's a lot of time to answer those questions. That's all I have.”

Ratliff – “And I would just respond to you in that 1) if you were to come up with questions about my job and what I do, it would take you quite a while to come up because I have a pretty specialized job. however, I could answer them with zero prep because I know my job.”

T. Landon – “Okay if he does that on a business day, I mean he has office time.”

Ratliff – “Right.”

T. Landon – “He's working.”

Ratliff – “Right. Yeah, I wouldn't even ask them I wouldn't even need you to give them to me and you are a loving mother and I and I applaud you being up here to defend your son.”

T. Landon – “I it was just I think just for general public that everybody has heard...”

Ratliff – “Right.”

T. Landon – "... that he has not answered questions that has been prepared in a couple weeks in a matter of time thank you."

Landon – "I have a question for Mr. Ratliff and I'm not sure it might even apply to you, but Mr. Ratliff's has been on City Council for 16 years roughly. Do you know?"

Ratliff – "You didn't submit this before the meeting <inaudible> but I will answer. Yes."

<multiple voices>

Landon – "But do you recall several years in a row several audit citations under a former Auditor."

Ratliff – "Yes."

Schaber – "Okay before we go any further <inaudible> as long as it applies to..."

Landon – "Because it does apply Mr. Schaber."

Schaber – "As long as it applies to the IRS issue. If it does, let's go. But if it doesn't, I'll stop."

Landon – "One particular kind of citation that I recall seeing was in 2013 where budgetary expenditures exceeded appropriations and that was noted, and I think it was a reoccurring issue but there was no investigative committee called at that time. I'm just curious why you feel the need now to call an investigative committee, but you didn't seven or eight years ago especially when there was a weird <?>issue."

Ratliff – "Sure absolutely. So, 1) it was a different money amount. Okay. 2) the Auditor learned something from it. And 3) it was said in this very chamber I well actually it was on zoom at that point by somebody in your own party that had said that I really gave the Auditor the previous Auditor a lot of questions and a lot of issues when she took the office also until she learned the job. And so, to say that I was different then to now is absolutely wrong because I have really, I have I really came after the Auditor at some point. I was on the Mayor at some point and the Law Director. and so, I mean I am equal opportunity either party. If you make a mistake, I'm gonna call you on it and I have done it from for 16 years."

Landon – "So there's been an investigative committee performed by this City Council?"

Ratliff – "No, I wasn't I was not the president pro tem then and you can rest assured if I was one would have been called anyone else?"

Schaber – "Anyone else in the audience that wants to speak to the IRS issue or the committee because if not we will give Auditor Landon time to discuss the 100-million-dollar misstatement of funds. Speak now or forever hold your peace. You got one more thing?"

Ratliff – "I will ask because I know that again that the server has been brought up several times. One thing I hate out of meetings is somebody says yes, and somebody says no, and we never get the answer. And then we leave the meeting with saying see Robert said this and then you see the Safety Director said this. And so, I'm gonna ask that the Safety Director and the Auditor meet with Jacob, get the answer, and provide it to Council on Monday. I want to know if it was off or not."

Caryer – "I have a written report that I did back at the time that was like six months ago..."

Schaber – “And before we continue this discussion, we have a information and technology committee that this would fit wonderfully in. <multiple voices> So, if you guys want to work that out...”

Landon – “A written report is nice. I appreciate that he had written a report, but you can make a written report say anything and after the fact. I’m not saying...”

<multiple voices>

Caryer – “I will say that the report is the facts as I know them.”

Schaber – “Hold on back to our scope. Mr. Ratliff's statement's out there. If you two can get together and I don't know who the hell is the Chairman of that committee. Kai? Please call meeting.”

Meade – “I'll do what I can.”

Schaber – “So let's move on. So, we've talked the IRS. We're done with the discussion with the IRS. Mr. Landon, 100 million misstatement please sir please enlighten us on what that is, if it is a thing, if it isn't a thing, let's slow down.”

Landon – “Deputy Auditor Watts is going to provide you a copy. I haven't had enough time between trying to look at 87 questions and document and do my normal course of duties to print off one copy, but I can print off more.”

Schaber – “This is the one copy?”

Landon – “Yeah there's a letter there from Mr. Alex Reese who is an experienced accountant here in Marion. Also explaining the report that I'm speaking to. But I want to be very clear because I believe it was Mr. Ratliff or it might have been somebody else that said that I said money was missing. And I want to be clear. I did not say any money was missing.”

Schaber – “That may have been me because when I was trying to call the meeting, I didn't know the exact whatever, but I've been informed to call it a misstatement.”

Landon – “We're like 47 meetings into this... <inaudible>”

Ratliff – “We have a quote that says the City's books were off by over 100 million.”

Landon – “Yeah. That does not mean there is cash missing. The books can be off, but not mean missing.”

Schaber – “Okay.”

Landon – “Specifically what I'm referring to is a trial balance report. It's a worksheet that reports the debits and credits cross reference with your general ledger. Your general ledger accounts for all the debits and credits so every activity that's on your books would have a debit and credit. It's a double entry accounting system and it verifies that bookkeeping has been correct. When debits and credits are equal, there's just one way to assure that the entity there are no errors in the bookkeeping. In essence, a general ledger is validated by trial balance. If an accountant or a citizen comes into my office and asks to see a trial balance report and you have it right there in front of you, you can obviously understand some of my concerns when debit and credits are matching up. What I say to a citizen and explain to them when they may or may not have any accounting knowledge on why these books appear that way

and knowing that we're in government you guys know how sometimes folks can be when they ask questions that they don't understand and then it raises a lot of alarm bells. And then there's a lot of accusations or a lot of things that can happen from there. And so, it puts me in a very uncomfortable position because I have not been around since that software system was brought in in October 2008 and so I've never seen a trial balance report look like this. I've asked other accountants and that's why Mr. Reese wrote a letter to this City to determine what a trial balance report is. I understand Director Chaffin's comments about accruals. I think she's incorrect or partially correct, but it is an accrual-based software system. And my understanding of accounting is, it really doesn't matter whether it's an accrual or a modified accrual system, in an accounting practice an accounting principle you're taught that your trial balance should match your general ledger. Because it should reflect, and you wanted to talk about an audit report and how do you verify all the numbers that are on your general ledger. I should be able to go to my trial balance report and see that my debits and credits match. Now there is a reconciliation process, and this is what I wanted to stress and my comment that money is not missing. That there is a reconciliation process that happens, and the Auditor of State's office has been involved and they're very aware of this issue. We've met with them several times and they've told us that it took them about three or four years to kind of figure out the software system when it was first brought into the city. And this is kind of what they settled on. And so, to me again it's concerning to go present this information to John Doe Citizen if they ask for this information. The Auditor of State's office also advised us that it's really an internal matter. There's nothing that the Auditor of State's going to come in and do and tell us how to operate that trial balance as long as cash isn't missing and that we can reconcile at the end of the month and at the end of the year."

Schaber – "So there's to clarify restate that there isn't any money any cash missing because with all the audits that we do annually that would have been caught. It's just..."

Landon – "Well in theory yes, there's times where people steal money that isn't caught right away."

Schaber – "Right. Yes. But eventually for and we're not by any means saying anyone stole anything."

Landon – "Absolutely right I would not say that about the former Auditor or the Deputy Auditor. I don't think that they were trying to do anything nefarious or anything like that."

Schaber – "Does it just come down to a auditing preference or an accounting preference? Is that what it boils down to and philosophy differences between a previous Auditor and you."

Landon – "No."

Schaber – "So I guess if it's not, then what's the alarm?"

Landon – "Because it's an accounting principle so and again just because no money's missing we're going to say in this committee that there's not an issue here just because there's nothing missing. When we were talking about do you know the audit process? Do you process payroll? Do how process payroll's process? And thank God no money was missing or something didn't happen where we didn't get the money back from the IRS or from the State of Ohio but this is an environment like this is where errors can occur and things can happen and again I'm not saying it is or has. I'm saying it is an environment where things can happen. And if you're wanting to base your actions of this committee on integrity that we're putting everybody equally accountable, I think this is an important subject to be brought up because that report shows like our payroll is negative 104 million dollars. If somebody comes here and

asks me why does that say it's 104 million dollars? I think I have a pretty good idea of journal entries not being recorded into the general ledger, but I wasn't here through the whole 12-year period that this happened. And I've spoken to other accountants that said I wouldn't touch your books with a 12-foot pole to try to come and fix that. It takes a lot of work and manpower in my office that this goes back to my a point earlier that this committee has, not necessarily intentional, has affected the operations of my office with very large records requests and taking up time on a very particular subject and we've met with the Auditor's office on this subject as well and it takes a lot of time and I don't have the manpower to just go in and dedicate to go in and change this all right away."

Schaber – "So would that be a request of Council for additional dollars to your department to fix that? So explain to me or tell me what you need this committee to refer to Council regarding that 100 million dollars?"

Landon – "I simply wanted it to be brought up because if somebody again asked to see the books... full transparency and disclosure. What's going on with the books. And if I show them this report, then I'm the one that answers for that. And I want to make sure that it's out there that people understand what's going on with that. And so if I do ever get a records request and it's regarding, this that there's already been information provided that's already been discussed at length. If Council has something that they want to see, there's suggestions. It's a dialogue and this is kind of what this committee you just asked me about previously on bringing my IRS situation to your <inaudible>. I would hope that the committee would be thankful that I'm at least bringing it to your attention without trying to throw any accusations at anybody in particular at all that. It's just a it's a report that has a lot of errors in it because you can't dispute it because the debits and credits don't match."

Schaber – "So to correct it requires a significant amount of manpower and you're not asking for additional help to correct it because it's not a matter of and I'm going to sound really stupid you just can't draw a line from when your administration came in and started the zero point from there and then if someone requests something from back whenever say this is their report? I don't know. I'm trying to figure out the solution here and how we should move forward to help you fix it and so you don't have to hand out negative reports from here."

Landon – "Well, there's one way of doing it. If that the Auditor's Auditor of State's office gave us blanket authority under their supervision to make like a if we do the proper adjustment at that time to make to verify it and you make one large adjustment entry to fix it over a 12-year period. Typically, they're not going to do that because there's been there's no documentation throughout the years that that had happened. If every two weeks, I do payroll and there's journal entries that are recorded on the books or are supposed to have recorded on the books and they're not there. That's typically what they want to see and so that would more than likely be the process and to go back for 12, I think maybe almost 13, years now to be able to do something like that takes a lot of time."

Schaber – "So we can't fix it we have to continue to limp along with what we have."

Landon – "Well the Auditor of State's office has advised us that it's an internal matter as long as money's not missing. It's kind of one of those local government matters that they'll let us handle internally how we want to handle it and I would prefer to be able to do that in my conscience there's nothing requiring this by Ohio law to do that specifically."

Schaber – “To do what?”

Landon – “Specifically to go back in and change those debit and credits to equal zero.

Schaber – “So you want to keep the status quo the way it is.”

Landon – “I’m not saying I’m still working in discussions with Auditor of State’s office on how to proceed with that.”

Meade – “What would be, sorry Mr. Chairman.”

Schaber – “Yes.”

Meade – “What would be the point in going to every member of finance in a I would say a serious state and implying that the books are off 100 million dollars, if there was not a prepared solution for it in any way shape or form. And then I guess this is this might be going too far but to bring it up as a non-accusatorial I guess issue. When I believe our phrasing in the hallway right out there was ‘if I told you the books were off 100 million dollars and it was the former Democratic party chair what would you do about it?’ So that comes off as a little like maybe politically motivated. There’s some accusations there or something like that. So, I guess what would be the point in bringing it up if you keep saying ‘well the state doesn’t really want to do anything about it’, ‘well we don’t really have an answer now?’”

Landon – “You don’t want to know about a negative 140-million-dollar error in the payroll?”

Meade – “It’s not that I don’t want to know about it. It’s just if I want to get the full picture. So when I call your Deputy Auditor and I say what’s going on with the 100 million dollar issue, I don’t want him to tell me ‘I don’t know what he’s talking about’. I want him to say... I want him to be on the same page as you instead of just throwing out random accusations left and right for 100 million dollars. I mean because that’s exactly what’s going on here. I mean he we can say that like there’s between ‘off’ and like you said ‘missing’ when you went to every single member of finance you said ‘missing’ and then you tried to apply a party role.”

Landon – “Do you have record of that?”

Meade – “No, because you went to some people in the hallway to talk to them about it.”

Landon – “I specifically went to Chairman Daniels right here in the Council chambers right after that meeting. I was told it was not his problem. It was my problem to fix.”

Meade – “Where did our conversation take place?”

Landon – “Whose?”

Meade – “Me and you. About the hundred million dollar...”

Landon – “Out in the lobby somewhere.”

Meade – “It took place in the hallway. And when I asked you for proof, I said to you I said when can we meet about it and then I sent you an email trying to schedule a date. No response. I call your Deputy Auditor.”

Landon – “You did not ask me for proof that night.”

Meade – “I said...”

Landon – “No. You said you sent me an email and maybe you did and I apologize if I did not see it. But you did not ask me for proof out there. And this was this had happened right about the time my former Internal Auditor Perry Payne had discovered that the trial balance what was really kind of causing that with the payroll journal entries every payroll period. And so you want me to bring the IRS. You think I should have brought the IRS issue sooner but then you didn't want me to bring this issue at all. Or I should have known every single detail before I brought it and there's just conflicting reports from you on different subjects. It seems like maybe you're wanting to try to protect somebody or something instead of just allowing me to state now what I'm saying now.”

Meade – “Because the IRS is telling you that it is an accounting it's basically two different accounting styles and members of your office when I call them are saying that you are misunderstood on how accounting works.”

Landon – “No. It's not any practice. It's an accounting principle. If you call some accountants, they will tell you.”

Meade – “I called your Deputy Auditor and that's what he told me. Can I'd like to ask Miss Chaffin questions if she doesn't mind. Would you care to answer questions by chance?”

Chaffin – “Sure.”

Meade – “Sorry, Mr. Chairman.”

Schaber – “By all means if you're willing to answer you're here.”

Chaffin – “Absolutely.”

Meade – “I did not, and I apologize for not getting you these questions beforehand.”

Chaffin – “That's okay. I'm here to answer any questions you ask me.”

Meade – “So the there's a I guess what is your side of your side of this? Because this is kind of like a lofty thing to say.”

Chaffin – “You have cash accounting. You have modified accrual and you have full accrual. You can make a journal entry that moves. If you see on a trial balance, you'll see a positive number of I'm gonna throw out 110 million dollars in the general. Then you see a negative 104 million in payroll. Still come out to your cash balance... has zero effect. It is a preferred method of what we did. When I was the former Deputy Auditor, we did a modified accrual-based accounting. Nothing wrong with it. State Auditors will tell you, nothing wrong with it. GAP Auditors will tell you, nothing wrong with it. It is a preference. You can make the entries or not make the entries. Totally his choice. As I said at that meeting, if he wanted to do a full accrual basis, good luck. Because it's very difficult in government to do a full accrual because your cash balance will read every revenue you've not received less every liability that you've not paid yet. That truly doesn't get you to a today cash balance. It's kind of like the IRS payment that I believe you're referring to on the 1.28. If you don't record it, it's not on the books. It doesn't exist. Okay? If you have a revenue come in and it's not recorded, it's not on the books. It doesn't exist. Those things become reconciling entries. That's the difference between the Treasurer's balance and the Auditor's balance which we balanced every month. I don't know if he has or hasn't. Not

my choice. He could balance it on cash basis and that is the preferred method that we used. So, each month you would see a reconciling entry. A revenue hits on May 31<sup>st</sup>. It didn't get recorded until June 2nd because that was a weekend or that was a holiday. That becomes a reconciling month end entry. It is noted. It's provided to the Treasurer that we have a difference of "x" amount. This is our entry, and this is why. That's all it is. That's a method that you would like to use. If Mr. Reece uses full accrual accounting, so be it. That's up to them. But I will not sit here and listen to a deferment against the previous administration and not defend our work that had a perfect audit. Did we make mistakes? Absolutely. Did we come and ask for appropriations? Yes, we did. And I would do it again. We did not do anything wrong. We did it differently. I have said to them each and every time that I have been asked to answer any questions. I have fully answered, I have honestly answered, and I have assisted in any way I can. But not anymore. Don't ask me a thing. Because I will not have somebody come up here ask me how to do their job, I tell them, and then turn around and try to say we've done something wrong. I have been harassed by Mr. Landon, by his statements, by his accusations. I'm not putting up with it any longer. I'm sorry. So, ask me any question anybody wants to ask me, and I'll fully answer, and I'll fully answer under oath. I have no problem with that. And I apologize. I hope I answered your question."

Ratliff – "Now Mr. Watts, has Cathy Chaffin been a lot of help?"

Watts – "Yes."

Ratliff – "And every time you've asked her for anything has she not bent over backwards to help you?"

Watts – "Yes."

Ratliff – "Okay."

Watts – "Other workers on the third floor have too. Second and first floors too."

Ratliff – "Good."

Schaber – "Are we going somewhere with this?"

Ratliff – "Nope. I want to make sure. One thing that really struck me in the conversation between the Auditor and Councilman Meade is the Auditor said he told Josh Daniels after a meeting and then they had a conversation in the hall. The comment that you made had to be in April or May... that you made publicly. Correct?"

Landon – "Specifically?"

Ratliff – "About the hundred million dollars."

Landon – "I don't recall <inaudible multiple voices>."

Ratliff – "So I would you say that I'm wrong that it was in April or May?"

Landon – "I can't say you're right or wrong..."

Schaber – "Guys, can we hold on a second. We have some early leavers. If you guys want to leave, please hurry up and leave so we're not disrupting a meeting."



Ratliff – “When you said that you made the statement this year.”

Landon – “About the hundred million? Yes.”

Ratliff – “Okay and that was during the zoom meeting.”

Landon – “Yes.”

Ratliff – “And we have been on zoom for well over a year, correct?”

Landon – “Yes, but it was in September when we temporarily went back to in-person meetings for a few weeks when that happened. And that report I show you dates September 30<sup>th</sup>.”

Ratliff – “OK. I think we were here for one meeting. So, if that was in September and you went up and you spoke to Councilman Daniels and you went up and you spoke to Councilman Meade. Have you talked to any other Council members about 100 million dollars?”

Landon – “I don't know who doesn't know at this point.”

Ratliff – “I can say we never have had a conversation about it.”

Landon – “I can say you don't come to my office when you're on third floor talking to the administration about the credit card situation, Mr. Ratliff. I mean I personally tried to call you just a week or two ago...”

Ratliff – “Right.”

Landon – “... about one of the needs(?). When Miss Swanger and some of the others... Mr. Meade and I met first couple months of my...”

Ratliff – “Now remember the question that you're answering is have you talked to anybody else any other Council members about the hundred million dollars? That's the question that we're trying to...”

Landon – “I think I told Mr. Neff.”

Ratliff – “OK.”

Landon – “I'm not sure Karen was on at that time or not.”

Ratliff – “Okay so and she's been on for quite some time. So, you're not sure if she was on or not so that was quite some time ago too. So, if by best case scenario you told Councilman Meade and Daniels in September and then October went by November went by December went by January went by February went by March went by. That's six months and then you didn't make the statement publicly until you were being questioned about a one point two eight-million-dollar mistake in your...”

Landon – “Because I was asked about any other issues that I was aware of at that time. Mr. Daniels... agenda... <inaudible>”

Ratliff – “So, if you were concerned about a hundred million dollars, why did you sit silent for six months?”

Landon – “I didn't sit silent, Mr. Ratliff. I brought it up to several Council members in September and then from there we worked with State Auditor's office trying to hold meetings and it wasn't until December that we had I think it was a virtual meeting and then late January before we had another meeting and

then in March. Because they're very very busy. They have other things that they're working on as well. And when I'm working with the State Auditor's office, unfortunately I'm kind of holding their schedule when they can meet with them."

Ratliff – "OK I'm just it's very odd that you didn't say anything publicly for six months until there was an issue with your office. And that's called deflection. And I just it it's very odd and I I'm not sure how much you believe it if you sit on it for six months."

Landon – "I think it's very odd that as soon as this topic came up both you and Mr. Meade got very very defensive; as if you had to prove something, defending something or someone."

Ratliff – "No, absolutely not."

Landon – "And so the bias automatically came out very early. I've already answered these questions. it's 10 o'clock. I sat through three hours of meetings, and I've sat through four months of questions and public record requests. I'm not sure what else I can do to satisfy your appetite. I don't think any answer I can give you would satisfy that appetite to be honest with you."

Meade – "Just for clarification, your answer to why you did not bring up the hundred million dollars before is because no one asked you about it?"

Landon – "Mr. Meade, you know I already answered that."

Meade – "I just like if I had 100 if I found 100 million issue, I wouldn't just sit on it or talk to just Council members in hallways and stuff like that until someone asked me if I knew something about it."

Landon – "Because they didn't want to hear it."

Meade – "But why would you just..."

<inaudible>

Landon – "Mr. Meade, you're being very dishonest in the whole statement that I sat on it. I did not sit on it."

Meade – "You did because I gave you opportunity to give some sort of evidence and you still ignored the email. I'll pull the email."

Schaber – "OK so the resolution would bring back to the resolution. It also states that we referred this 100 million dollars to the State Auditor for them to make sure that there's no bad intentions regarding that. Either direction."

Landon – "Mr. Chairman. I'm understanding correctly the resolution doesn't just address the IRS penalty <?>. It addresses the statement that was made in the previous meeting. <inaudible>"

Schaber – "Yeah, that's right that's what I'm trying to think that's what I'm trying to work through is."

Ratliff – "That's what it says."

Landon – "What exactly is there to investigate on that?"

Meade -- "Whether or not a public official is purposely making incorrect statements towards a city employee."

Landon -- "That's not... They're not incorrect statements. So, you're saying that the debits and credits match on that report."

Meade -- "I'm saying..."

Landon -- "... that that one account is not negative 104 million dollars..."

Meade -- "I'm saying that no matter what the answer is sending it to the State Auditor is the best solution to find out one way or the other what's going on. But then just but waiting until someone's criticizing you for something to then actively bring that out regardless of the fact it's just, I mean it's deflection."

Schaber -- "So in our in our resolution it does say whether 'the statement of the City Auditor the city books were off over 100 million dollars was not based in fact'. That is what this resolution is asking Council to send."

Ratliff -- "Correct"

Schaber -- "... to the State which it which maybe it should state to look into that 100 million dollars well like is the wording correct because..."

Ratliff -- "... sure and he's already endorsed it."

Schaber -- "Well, let's not..."

Ratliff -- "He already he already asked us to pass this..."

Landon -- "I wasn't aware that you were also..."

Ratliff -- "Read it."

Landon -- "I mean I don't feel like I said anything wrong. Is this Council also going to refer to that the inter-department transfers that have been approved at the finance committee level for years that I've brought up for several months and then Mr. Russell had finally helped me with on a letter to draft to the city administration that those are supposed to go to the whole Council. I asked everybody... <inaudible> to stay in compliance with that. Are you going to investigate that as well?"

Schaber -- "No. We're not having any more investigative committees (?). I've asked that every time that we have a transfer if it needs to go to full Council. It never gets past that. But the resolution at hand... Mr. Cooperider are you standing still (?) or are you wanting..."

Cooperider -- "No. I've got my hand up."

Schaber -- "Oh. OK. Yes. Please come forward. Is it about the hundred million dollars?"

Cooperider -- "Well, it's really about this committee... I mean he's the Chairman."

Schaber -- "OK. It's 10:00 and I would really like to stay focused on the issue at hand. So, if it's about the hundred-million-dollar misstatement that we've been talking about..."

Cooperider – “it’s all connected.”

Schaber – “Okay oh you can ask it quickly. Not promising you an answer.”

Schaber – “I am asking that Mr. Meade recuse himself from this committee as he is an employee of Todd Anderson who is Mr. Landon's a former attorney in his case with the city and there's a big conflict of interest as he has access to confidential information that is definitely influencing his decisions within this committee.”

Schaber – “So you're stating that Mr. Meade has inside information to prove what he's saying is correct?”

Cooperider – “That is going to impact his decision making on this committee.”

Schaber – “He was selected by the pro tem, and we'll leave it at that because we're going to wrap this up. okay.”

Cooperider – “That I want that on the record.”

T. Dyer (45 N. Grand Ave) – “It is about the 100 million and it's about you and the former administration so it's all. So, like I just have two things. one is about that. When I think about when he's talking about all the crazy stuff that happened in the previous administration and this money, it seems really really strange to me that on one hand you could talk about how it was all crazy in that administration but then on the other hand he could accept an award from that previous administration and put it on his Facebook page saying and that was from the previous administration. It wasn't from his administration.”

Schaber – “How is that about the hundred million dollars?”

T. Dyer – “That it's all about that and then the other thing he keeps talking about oh I got so much work to do and on my office in the backlog. If you're at the top and this stuff is ruining your office, you nearly have to sleep in your office. We elected him to do that, so I don't want to see him leaving at 2:30 or whatever. I want to see his butt in the office giving us what we want as citizens. Giving us the proof that we need, whatever workload, or whatever your office is, or whatever you're doing give us what we want. I don't care how long it takes for how long. Yeah. I know he's got a family and all that but whatever it takes for us to get this information because like it's like 10 o'clock. This all could be easily done. So, give us what we want no matter how long you have to stay in your office and get it done.”

Schaber – “And I don't question Mr. Landon's work ethic at all. I'm not investigating that as a chair of this committee.”

T. Dyer – “I’m not talking about that.”

Landon – “Mr. Chairman.”

Schaber – “But thanks for your comment. If you're going to comment to that I want to ask you not to because we're not going to get anywhere from...”

Landon – “It's just the they're all on 2019 activities but the reports come out in 2020 which was when I was in office.”

Schaber – “And I think that's absolutely amazing.”

Ratliff – “How much of that report was on your work?”

Schaber – “Mr. Landon, please sit. Mr. Ratliff, we’re not going to discuss any awards.”

<inaudible. Many voices>

Landon – “it’s contracted out to the Auditor of State’s office.”

Ratliff – “So what it is...”

<multiple voices. Gavel.>

Schaber -- “So hold on we live in a society that everyone gets an award. Let's leave it at that. So, let's get back to the topic at hand because it's 10:07. And I think Tarina Rose will suffer PTSD if we go much longer. So, in the language of the resolution, are we really asking the State Auditor to look at Auditor Landon's comments about the City's book that the cities books were off 100 million dollars or are we asking Auditor of the State to come in and help him do whatever he needs to do. I think that language would be better than... It's 10 o'clock and the State Auditor's not going to give two shits about what Auditor Landon said in a public meeting and...”

Ratliff – “They should. Because if you have an Auditor who makes a purposeful, material misstatement of fact of a hundred million dollars; if I was a State Auditor, I would give more than two shits about it. So I mean I so what it says is that we want them to see if that that was based in fact. And if that was not based in fact, then yes then that should be referred to them. And they should deal with the fact that the person that’s handling our money is making purposeful, material misstatements of facts over a hundred million dollars. That is a that is a lot of money.”

No further comments or questions from committee, staff, or audience.

Ratliff made a motion, Meade 2<sup>nd</sup>; Roll Call: Ayes – Schaber, Meade, Ratliff.

**tempRES2021-15 RECOMMENDED TO COUNCIL (3-0)**

With no further business to conduct, Chairman Schaber adjourned the meeting at 10:09 PM.

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Chairman Schaber

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Council Clerk

