

**MINUTES OF THE REGULAR MEETING  
MASSILLON CITY COUNCIL  
HELD, MONDAY, APRIL 6, 2009**

**COUNCIL PRESIDENT GAMBER** – I'd like to welcome all of you to Massillon City Council for Monday, April 6, 2009. We have in attendance with us this evening: Mayor Francis Cicchinelli, Auditor Jayne Ferrero, Community Development Director Aane Aaby, Engineer Keith Dylewski and Law Director Perry Stergios. On the wall to your left are agendas for anyone who wishes to follow the meeting. Also under item #5 on the agenda is where the public can speak on any item that appears on the agenda and then under item #17 is where the public can speak on any item that does not appear on the agenda. I'd also like to remind anyone with a cell phone please turn it off or turn it very far down.

**1. ROLL CALL**

Roll call for the evening found the following Council Members present: Kathy Catazaro-Perry, Dave Hersher, Chuck Maier, Paul Manson, Dave McCune, Donnie Peters, Larry Slagle and Tony Townsend.

Thus giving a roll call vote of 8 present.

**COUNCIL PRESIDENT GAMBER** – Councilman Mang did call he has a medical situation tonight and can't be with us. Mr. Manson, do you have a motion?

**COUNCILMAN MANSON** – Yes, I'd like to make a motion to excuse to Councilman Mang, seconded by Councilwoman Catazaro-Perry.

Roll call vote of 8 yes to excuse Councilman Mang.

**COUNCIL PRESIDENT GAMBER** – Councilman Mang is excused in his absence I'll recognize Councilman Maier for the invocation and the pledge of alliance.

**2. INVOCATION**

**COUNCILMAN MAIER** – Gave the invocation for tonight.

**3. PLEDGE OF ALLEGIANCE**

**COUNCILMAN MAIER** – Chairman of the Public Utilities Committee led those in attendance in the Pledge of Allegiance.

**4. READING OF THE JOURNAL**

**COUNCIL PRESIDENT GAMBER** – Madame Clerk are the minutes of the previous meeting transcribed and open for public viewing (Yes, they are) Are there any additions or corrections to the minutes? If not the minutes stand approved as written.

**5. REMARKS OF DELEGATIONS AND CITIZENS TO MATTERS ON THE AGENDA**

**6. INTRODUCTION OF ORDINANCES AND RESOLUTIONS**

**ORDINANCE NO. 48 – 2009**

**BY: COMMUNITY DEVELOPMENT COMMITTEE**

Amending the agreement between the City of Massillon and Alco Industries, dba U.S. Chemical & Plastics, under the Ohio Urban Jobs and Enterprise Zone Program, and declaring an emergency.

**COUNCILMAN MCCUNE** – Yes, this is a community development committee ordinance that is talking about the City of Massillon and Alco Industries Chemicals & Plastics for a 10 year 75% real and personal property abatement which will run from January 1<sup>st</sup> 2008 through December 31<sup>st</sup> 2017. If there's any questions on this we can bring the Mayor forth to answer those questions. If not I plan to give this first reading.

ORDINANCE NO. 48 – 2009 WAS GIVEN FIRST READING.

**ORDINANCE NO. 49 – 2009**

**BY: COMMUNITY DEVELOPMENT COMMITTEE**

Amending the agreement between the City of Massillon and Robert J. Matthews Co./Filters, Inc., under the Ohio Urban Jobs and Enterprise Zone Program, and declaring an emergency.

**COUNCILMAN MCCUNE** – Yes, this is Ordinance No. 49 is also for the community development committee. It's an agreement between the City of Massillon and Robert J. Matthews Co./Filters, Inc., under the Urban Jobs and Enterprise Zone Program to amend the state's term of 10 year 100% tax abatement from January 1, 2002 through December 31, 2011. If we have any questions we can bring the mayor the forward to answer those questions. Otherwise I will be giving this first reading.

ORDINANCE NO. 49 – 2009 WAS GIVEN FIRST READING.

**ORDINANCE NO. 50 – 2009**

**BY: COMMUNITY DEVELOPMENT COMMITTEE**

Repealing Ordinance No. 150 – 2001, and rescinding the Enterprise Zone Agreement with Crown Cork & Seal Co., and declaring an emergency.

**COUNCILMAN MCCUNE** – Yes, this is also under the community development committee and because of the change in the law this tax abatement is no longer needed. We can bring Mr. Aaby forward to speak on it if anyone has any questions. If not I will be asking for a suspension of the rules and to pass this tonight.

COUNCILMAN moved for suspension of the rules and passage, seconded by Councilman Hersher.

Roll call vote of 6 yes, 2 no for suspension. Peters and Townsend voted no.

**COUNCIL PRESIDENT GAMBER** – It does take 7 votes to suspend the rules, first reading for Ordinance No. 50.

ORDINANCE NO. 50 – 2009 WAS GIVEN FIRST READING.

**ORDINANCE NO. 51 – 2009**

**BY: COMMUNITY DEVELOPMENT COMMITTEE**

Repealing Ordinance No. 148 – 2003, and rescinding the Enterprise Zone Agreement with Ring Masters, LLC., and declaring an emergency.

**COUNCILMAN MCCUNE** – Much like Ordinance No. 50 this tax abatement is no longer needed and it's basically null in void.

COUNCILMAN moved for suspension of the rules and passage, seconded by Councilman Hersher.

Roll call vote of 5 yes, 3 no for suspension. Peters, Townsend and Catazaro-Perry voted no.

**COUNCIL PRESIDENT GAMBER** – First reading for Ordinance No. 51 - 2009.

ORDINANCE NO. 51 – 2009 WAS GIVEN FIRST READING.

**ORDINANCE NO. 52 – 2009**

**BY: COMMUNITY DEVELOPMENT COMMITTEE**

Repealing Ordinance No. 67 – 2004, and rescinding the Enterprise Zone Agreement with Ohio Packaging Corp., and declaring an emergency.

**COUNCILMAN MCCUNE** – Much like the prior to is rescinding an enterprise zone agreement I would just be asking for first reading.

ORDINANCE NO. 52 – 2009 WAS GIVEN FIRST READING.

**ORDINANCE NO. 53 – 2009**

**BY: COMMUNITY DEVELOPMENT COMMITTEE**

Repealing Ordinance No. 152 – 1999, and rescinding the Enterprise Zone Agreement with R & D, Inc., and declaring an emergency.

**COUNCILMAN MCCUNE** – Like the previous three this is to rescind a current enterprise zone agreement and I'll be giving it first reading.

ORDINANCE NO. 53 – 2009 WAS GIVEN FIRST READING.

**ORDINANCE NO. 54 – 2009**

**BY: COMMUNITY DEVELOPMENT COMMITTEE**

Approving an application for assistance under Title I of the Housing and Community Development Act of 1974, as amended, including the Consolidated Plan and Annual Action Plan; authorizing the execution and filing of the application and related assurances and certifications.

**COUNCILMAN MCCUNE** – Yes, we have a public hearing that has already been advertised scheduled for April 20<sup>th</sup> at 6:30pm for this ordinance. I'll be giving it first reading.

ORDINANCE NO. 54 – 2009 WAS GIVEN FIRST READING.

**ORDINANCE NO. 55 – 2009**

**BY: COMMUNITY DEVELOPMENT COMMITTEE**

Approving an amendment to the City of Massillon's FY 2008 Community Development Block Grant Program Annual Plan, authorizing the filing and execution of the amendment, and declaring an emergency.

**COUNCILMAN MCCUNE** – Yes, this also will be included in the public hearing April 20<sup>th</sup> at 6:30pm it already has been advertised and I will be giving it first reading.

ORDINANCE NO. 55 – 2009 WAS GIVEN FIRST READING.

**ORDINANCE NO. 56 – 2009**

**BY: PARKS AND RECREATION COMMITTEE**

Authorizing the Mayor of the City of Massillon, Ohio, to enter into contract agreements with Variety Attractions, Inc, L & B Enterprise Inc., and other companies for various engagements for the 2009 summer concert series, and declaring an emergency.

**COUNCILMAN TOWNSEND** – First reading.

ORDINANCE NO. 56 – 2009 WAS GIVEN FIRST READING.

**ORDINANCE NO. 57 – 2009**

**BY: POLICE AND FIRE COMMITTEE**

Authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to advertise for and receive sealed bids, and enter into a contract, upon award and approval of the Board of Control, with the lowest and best bidder, for the lease/purchase of six police cruisers for the Massillon City Police Department, and declaring an emergency.

**COUNCILMAN MCCUNE** – Yes, we discussed this at the work session last Monday. There seems to be a need for additional cruisers. Auditor Ferrero has signed on to this so if we have any questions about financing or need for we can bring her forward.

**COUNCILWOMAN CATAZARO-PERRY** – Thank you. Could you bring the auditor forward please? Mrs. Ferrero, where are we going to find the funds for this what account are these going to come out of?

**AUDITOR FERRERO** – All we're doing right now is just going out to bid. There's not any kind of designated account that this will be going out to. We'll have to see if there's some grant money or some stimulus money that maybe that can be used for that. So right now there isn't any kind of a designated fund for that to come out of. All they're doing is just going through a procedure.

**COUNCILWOMAN CATAZARO-PERRY** – And as we stated before entering into contract that doesn't allow us to be held to any kind of contract at all?

**AUDITOR FERRERO** – That's correct. I just talked with the law director and he said that was supposed to be stricken. Is that correct?

**COUNCILMAN PETERS** – No.

**AUDITOR FERRERO** – Mr. law director? Could you call him?

**COUNCIL PRESIDENT GAMBER** – Mrs. Ferrero, that question did come up in discussion and due to the fact that a second ordinance would be required it was the law director's opinion to just leave it in and the committee chairman agreed with that.

**LAW DIRECTOR STERGIOS** – Okay, when I did it I wasn't aware of that. But I thought you guys didn't want the contract language in there. If you're coming back that's fine. I was trying to read minds.

**COUNCIL PRESIDENT GAMBER** – Mr. McCune, are you satisfied with the way the ordinance is written?

**COUNCILMAN MCCUNE** – Yes, I am we had a discussion over this issue at the work session. It was felt that because no funds could go out without the appropriate financing ordinance that it was no issue.

**COUNCILWOMAN CATAZARO-PERRY** – Could you bring the law director forward, please? Mr. Stergios, when we enter into contract in a legislation what would allow us to be bound to that contract or what would not allow us to be bound to the contract?

**LAW DIRECTOR STERGIOS** – The well if you want to get technical right now the way this is reads it authorizes the director to take the low bid and sign the contract. So I don't think in this type of scenario if the mayor or the auditor or the director say they're going to bring the bids back and make sure we have the money before they enter into it. You have to trust them. I don't think that you have to worry but technically the way Mike could sign the contract it could bid, the Board of Control could approve the low bid and sign it without coming back. Now I think what they're saying is that they're going to come back once they know what the bids are and where we're going to get the money. I was when I changed the ordinance I was under the impression you guys didn't want enter into contract in the ordinance. Like I said I was just reading people's minds when I did it and we left it in which might be because somebody said to leave it in. I don't have preference either way is fine with me but if you want the technical answer that's technically right.

**COUNCILWOMAN CATAZARO-PERRY** – We have had this discussion over and over again and I know we differ on our opinions but technically if we could be bound to that contract the way its written in. Mr. McCune, I would prefer that it be taken out we are as Mrs. Ferrero said at our work session we are in dire straights with our funds. Just by chance that there would be an accident and he would sign it I mean then we're bound to a contract. So I would prefer that it be stricken from the legislation.

**COUNCIL PRESIDENT GAMBER** – If I could make a comment that was my recommendation also to strike that, that's what we've always done in the past. Just to even though it is a technicality it looks better if we do one item with one ordinance and then finish it off with another. Mr. Peters?

**COUNCILMAN PETERS** – I have a question. Mr. Stergios, if the law director lets just keep going with this if the law or the safety service director receives the bids and enters into a contract and council says "no, you're not we're not going to give you the money" what happens then?

**LAW DIRECTOR STERGIOS** – Interesting question. If you don't appropriate the money it brings us potentially into a situation where the vendor could sue us to try to enforce the contract and force us to go through with it. I think it would be an odd scenario for all that to transpire but you have to appropriate the money regardless. But we could be held to the contract it would get us into a pickle obviously.

**COUNCILMAN MCCUNE** – At the work session we had much because I had originally had that language strike from the ordinance. We had much discussion over it and it was felt that because they couldn't appropriate the money without council approval that it would be neither here nor there if we left the language in. Hearing what you're saying now and because we weren't able to tap into your knowledge at the work session I'm going to recommend that we amend this ordinance so that that language is removed. That the "enter into contract" is not a part of this ordinance.

**COUNCIL PRESIDENT GAMBER** – That's a statement from you is that a question to the law director?

**COUNCILMAN MCCUNE** – From what I'm hearing I believe that's your recommendation right, Mr. Stergios?

**LAW DIRECTOR STERGIOS** – I wouldn't say recommendation it sure heck doesn't hurt to delete it if that's what we intend to do anyhow is to have him come back and say "here's the bids auditor tell us where we have the money" or however you want to proceed I guess I like it better that way to delete "and enter into a contract upon award and approval of the Board of Control with the lowest and best bidder" from at least the first paragraph section 1 and section 2, I think your fine. It says what you mean it clears up any debate I guess.

**COUNCIL PRESIDENT GAMBER** – In my opinion since that is materially altering the ordinance I will take that in a form of an amendment please. Mr. McCune.

COUNCILMAN MCCUNE moved to amend Ordinance No. 57 – 2009, seconded by Councilman Slagle.

ORDINANCE NO. 57 – 2009 WAS AMENDED BY A ROLL CALL VOTE OF 8 YES.

COUNCILMAN MCCUNE moved for suspension of the rules and passage, seconded by Councilman Slagle.

Roll call vote of 8 yes for suspension.

ORDINANCE NO. 57 – 2009 WAS PASSED BY A ROLL CALL VOTE OF 8 YES.

**ORDINANCE NO. 58 – 2009**

**BY: POLICE AND FIRE COMMITTEE**

Authorizing the Mayor and the Chief of Police of the City of Massillon, Ohio, to submit an application to the U.S. Department of Justice for funding under the COPS Hiring Recovery Program (CHRP), and declaring an emergency.

**COUNCILMAN MCCUNE** – Yes, this ordinance gives the Mayor and the Chief of Police the authorization to file for a COPS Hiring Recovery Program federal grant which would prevent the layoff of future police and with the dire straights that we are facing with our funding I believe we would be remiss if we did not do so.

COUNCILMAN MCCUNE moved for suspension of the rules and passage, seconded by Councilman Slagle.

Roll call vote of 8 yes for suspension.

ORDINANCE NO. 58 – 2009 WAS PASSED BY A ROLL CALL VOTE OF 8 YES.

**ORDINANCE NO. 59 – 2009**

**BY: PUBLIC UTILITIES COMMITTEE**

Authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to enter into a Non-Surface Development Gas & Oil Lease with Range Resources Appalachia, LLC for a 7.52 acre parcel owned by the City of Massillon, and declaring an emergency.

**COUNCILMAN MAIER** – First reading.

ORDINANCE NO. 59 – 2009 WAS GIVEN FIRST READING.

**ORDINANCE NO. 60 – 2009**

**BY: PUBLIC UTILITIES COMMITTEE**

Authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to enter into a Non-Surface Development Gas & Oil Lease with Range Resources Appalachia, LLC for a 0.40 acre parcel owned by the City of Massillon, and declaring an emergency.

**COUNCILMAN MAIER** – First reading.

ORDINANCE NO. 60 – 2009 WAS GIVEN FIRST READING.

**ORDINANCE NO. 61 – 2009**

**BY: STREETS, HIGHWAYS, TRAFFIC & SAFETY COMMITTEE**

Authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to advertise for and receive sealed bids and enter into a contract upon award and approval of the Board of Control, with the lowest and best bidder for the 32<sup>nd</sup> Street NW Bridge Replacement Project in the City of Massillon, and declaring an emergency.

**COUNCILMAN PETERS** – As the Clerk read this is to go out for bid for 32<sup>nd</sup> Street NW Bridge Replacement Project in the City of Massillon. We discussed this at the streets and highways committee meeting on Monday. Keith answered any questions that all of us had but if we have any other questions Keith is here tonight and he would be glad to come up and explain. I'm going to ask for passage of this on the first reading just because we want to get these bids out there. It's getting kind of late now and if we drag this out another four weeks you know the bids are going to come in late and then the project might not get done.

**COUNCILWOMAN CATAZARO-PERRY** – Could we call Mr. Dylewski up please? Of course, I'm going to ask you where we're going to get the funding from and I believe there is funding already secure for this. I just wanted to review that.

**ENGINEER DYLEWSKI** – That's correct we got a grant through OPWC and later tonight we're appropriating our portion with our share of the project. So the money is in place.

**COUNCILWOMAN CATAZARO-PERRY** – And what is our share of the project?

**ENGINEER DYLEWSKI** – I believe it was \$56,000.00 we're appropriating tonight.

**COUNCILWOMAN CATAZARO-PERRY** – And what account are we taking that from?

**ENGINEER DYLEWSKI** – I'm pretty sure it was municipal road fund.

**COUNCILWOMAN CATAZARO-PERRY** – Okay, that's all I needed. Thank you.

COUNCILMAN PETERS moved for suspension of the rules and passage, seconded by Councilman Townsend.

Roll call vote of 8 yes for suspension.

ORDINANCE NO. 61 – 2009 WAS PASSED BY A ROLL CALL VOTE OF 8 YES.

**ORDINANCE NO. 62 – 2009**

**BY: STREETS, HIGHWAYS, TRAFFIC & SAFETY COMMITTEE**

Authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to advertise for and receive sealed bids and enter into a contract upon award and approval of the Board of Control, with the lowest and best bidder for the Wales Road (SR 241) Resurfacing Project in the City of Massillon, and declaring an emergency.

**COUNCILMAN PETERS** – This was also discussed at the streets and highways committee meeting on Monday. This is for to receive bids and enter into contract for the Wales Road Resurfacing Project in the City of Massillon and declaring an emergency. We also discussed that at the committee meeting that the funding and so forth and where it was coming from. The money is there to do so. This is another one I'm going to ask for passage on the first reading just because we need to get out there for the bids.

**COUNCILWOMAN CATAZARO-PERRY** – Mr. Dylewski, would please approach again and tell us where these funds are coming from.

**ENGINEER DYLEWSKI** – Yes, this is a joint project with the Ohio Department of Transportation. The majority of the funds are coming from them and the remaining funds we made an application to the municipal road fund through Stark County Commissioners. That will be making up the remaining funds.

COUNCILMAN PETERS moved for suspension of the rules and passage, seconded by Councilman Townsend.

Roll call vote of 8 yes for suspension.

ORDINANCE NO. 62 – 2009 WAS PASSED BY A ROLL CALL VOTE OF 8 YES.

**ORDINANCE NO. 63 – 2009**

**BY: STREETS, HIGHWAYS, TRAFFIC & SAFETY COMMITTEE**

Authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to sign an LPA Agreement with the Ohio Department of Transportation for the Wales Road Resurfacing Project in the City of Massillon, and declaring an emergency.

**COUNCILMAN PETERS** – This is just that. It's to the LPA Agreement with ODOT and this is in reference to the State Route 241 Project. Again, I'm going to ask for passage on the first reading just because we want to get moving on it.

COUNCILMAN PETERS moved for suspension of the rules and passage, seconded by Councilman Townsend.

Roll call vote of 8 yes for suspension.

ORDINANCE NO. 63 – 2009 WAS PASSED BY A ROLL CALL VOTE OF 8 YES.

**ORDINANCE NO. 64 – 2009**

**BY: FINANCE COMMITTEE**

Making certain appropriations from the unappropriated balance of the General Fund, OPWC Projects Fund, Municipal Road Vehicle License Plate Fund, Wastewater Treatment Capital Improvement Fund, Capital Improvement Fund, Local Law Enforcement Trust Fund and the Street Fund, for the year ending December 31, 2009, and declaring an emergency.

**COUNCILMAN MANSON** – Yes, I'd like to discuss maybe rearranging the agenda here a little bit. We had some discussions with the auditor and I'm looking at Ordinance No. 64 and 66 and we kind of feel like putting 64 ahead of 66 is putting the cart before the horse.

**COUNCIL PRESIDENT GAMBER** – You're requesting to consider 66?

**COUNCILMAN MANSON** – If we don't approve 66 we can't make the appropriations in 64.

**COUNCIL PRESIDENT GAMBER** – Are there any objections to amending our agenda to address Ordinance No. 66 at this point based on the auditor and the chairman of the committee? Any objections? There are none we'll put 64 off for the moment since we've had no discussion.

**ORDINANCE NO. 66 – 2009**

**BY: FINANCE COMMITTEE**

Amending Ordinance No. 143 – 1976 by repealing Section 13 – “ALLOCATION OF FUNDS – INCOME TAX” and enacting a new Section 13 “ALLOCATION OF FUNDS – INCOME TAX” and repealing Ordinance No. 75 – 2008, and declaring an emergency.

**COUNCILMAN MANSON** – Yes, this is very simple. We discussed this at the committee meeting the other night we're changing the split from 95/5 if we pass this from 95/5 to 98/2 because we need more cash. If there's any questions I can have either auditor or the mayor come up and discuss them.

**COUNCILWOMAN CATAZARO-PERRY** – I don't really have a question I just have a comment. I am going to support this change in the split this evening and I have been anticipating this occurring this year. However, I do think we need to communicate more we need to talk about our finances more we need to talk about our future plans more for our budget. So I am going to support this tonight but I am also very concerned about our future budget for 2009.

COUNCILMAN MANSON moved for suspension of the rules and passage, seconded by Councilwoman Catazaro-Perry.

Roll call vote of 8 yes for suspension.

ORDINANCE NO. 66 – 2009 WAS PASSED BY A ROLL CALL VOTE OF 8 YES.

**COUNCIL PRESIDENT GAMBER** – We will now return to Ordinance No. 64 – 2009.

**ORDINANCE NO. 64 – 2009**

**BY: FINANCE COMMITTEE**

Making certain appropriations from the unappropriated balance of the General Fund, OPWC Projects Fund, Municipal Road Vehicle License Plate Fund, Wastewater Treatment Capital Improvement Fund, Capital Improvement Fund, Local Law Enforcement Trust Fund and the Street Fund, for the year ending December 31, 2009, and declaring an emergency.

**COUNCILMAN MANSON** – Yes, we have approximately \$332,000.00 of transfers being made. \$170,000.00 like she said police, fire and then there's various numbers going on down there with a total of we also have the last one on there the \$15,000.00 on the fire salary that's a little separate from the rest of them. That part of it please prepare an ordinance to appropriate from the unappropriated balance of the general fund \$1,000.00 to go to salary fire \$15,496.00. This funding is coming from a grant from Ordinance No. 12 – 2009. Okay, then the rest of them are going to be covered by the what we did with the split and also about \$131,000.00 or \$133,000.00 of inheritance money that we transferred awhile back for a of total of \$463,323.00. Section 2, is please appropriate this is what we talked about earlier with streets and highways. Please appropriate \$255,967.00 from the OPWC projects fund 1482 for the 32<sup>nd</sup> Street Bridge Replacement Project. Number 3, we have \$120,000.00 for the Tremont Bridge Project and \$56,000.00 more for the 32<sup>nd</sup> Street Project, \$120,000.00 from the unappropriated balance of the 1206 municipal motor vehicle license plate fund. This is a joint project between city and Stark County splitting 20% of all escrow cost, 20% of railroad cost and 20% of construction and inspection costs. Okay, and then \$56,000.00 from municipal motor vehicle plate fund for the 32<sup>nd</sup> Street Bridge. Section 4, is \$68,000.00 please appropriate \$68,000.00 from the unappropriated balance of the Wastewater Treatment Improvement 1406 account into an account 1406. This money is needed to cover expenses for legal fees to be paid to the law firm of Bricker and Eickler pertaining to Wastewater Treatment Plant tertiary filter litigation. Then we have number 5, the first part is \$18,095.00 from the unappropriated balance of the capital improvement fund to an account for roof repair at the Legends. Mr. Kaminski's received proposals for this work to be done by All Right Roofing. They were the lowest bidder. Then \$7,047.00 from the unappropriated balance of the capital improvement fund to an account 1401.325 siren repair and maintenance. This will go into an account to make sure that its not used somewhere else. This money

was paid by the Aultman I guess Health Foundation or whatever Aultman Hospital. Section 6, we have \$5,000.00 for jail equipment \$5,000.00 to be appropriated from the Massillon Police Department safety forces equipment fund account 1205. It's \$1,750.00 into an account 1205.2530 these funds are needed for jail maintenance repairs and improvements. Then section 7, \$3,000.00 appropriated from the unappropriated balance of the street fund 1201 to 1201.435.2290; \$3,000.00 for unemployment. If there's any questions we'll get the answers.

**COUNCILMAN SLAGLE** – Yes, could we have the mayor come forward please? These last two pieces of legislation are what triggered the auditor's statement I believe that by August we're likely to run out of funds. Since you were not at the session I was just wondering what plans are being taken for that possibility in terms of planning so that we don't run out of funds in August if we can?

**MAYOR CICCHINELLI** – Well, as stated earlier we're very much concerned about 2009 we've been concerned about 2009. We really wanted to get through the complete first quarter which was just over. As soon as we get another indication because there are some positive points for example income tax collections are up three percent over last year as we speak. If you gauge that with what's happening in other communities that's certainly a positive. However, some of our other funds could be down and I say could be down because we really don't know. So we're considering all of that before we take any actions. Also on top of that as you both know we are having negotiations at the present time. All of you should know that. We're waiting to see what could happen there. It appears that some of those negotiations could be heading to fact finder. Nothing is a 100% but that's what it appears so we were trying to wait for a couple of several of those things to be completed before we look at other options.

**COUNCILMAN SLAGLE** – How long can we wait before we should be starting looking at other options anticipating that perhaps things will not be as positive as you have indicated.

**MAYOR CICCHINELLI** – What do you suggest Mr. Slagle?

**COUNCILMAN SLAGLE** – Well, I have no idea we're looking for direction I think from the administration from this particular regard. Because we have been advised that its likely according to the auditor that we'll run out of funds by August. So there are different steps that obviously can be taken. Some communities as we saw in Akron had both the rainy day and a surplus fund that they were able to tap into apparently we have neither of those.

**MAYOR CICCHINELLI** – We never had rainy day funds and surplus funds or at least rainy day funds. We've never had that.

**COUNCILMAN SLAGLE** – So, I mean at some point if you run out of money you have to take steps in advance of running out the money so you don't just turn off lights and lock doors. Don't you?

**MAYOR CICCHINELLI** – Yes, and do you really think that's going to happen?

**COUNCILMAN SLAGLE** – I have no idea I'm listening to what the auditor said last week, mayor.

**MAYOR CICCHINELLI** – Well, if you go back from the beginning, Larry, at the beginning of this year her estimates were based on 0% growth in income tax, 0% growth in personal and real property taxes and of course personal property taxes are about nil right now, 0% growth inheritance taxes.. So I understand the predicament that we're in. But I'm one that doesn't push the panic button and if you have some suggests you know I certainly would consider any members of council contacting us and discussing this. But I don't believe that its in that type of scenario right now and I don't want at least in this particular meeting get into a heated argument with our auditor. But I don't think that we're going to shut the lights off and close the doors in August. If and we have through the years extended to this body alternative revenue streams and we've been the door has been slammed in our face. So its easy now to sit back and say "well what are you going to do". The legislative authority approved the budget as presented in early January. So I think the legislative authority was at least it appeared that they were on board with that budget. The budgetary process is always based on estimated revenues. But to sit here in early April and say "well what are you going to do now" and we're going to run out of money in August I don't believe that's going to happen. But there still some time to look at alternatives and we stated consistently that everything is on the table including layoffs. We have not we have not decided to hide like some folks have sited to do. So we will do the appropriate things necessary to make sure our lights are turned on and our lights stay on. But I'm not one for panic and I know that there's some folks that want to paint a very bleak picture on top of what we've consistently said is not a good situation right now. But if we work together I feel confident that we can get through it. But you have to understand that we can only propose ways to increase revenues. If you don't agree with us then I guess we tried and if you have ways that you know of that we can increase revenue let us know. It's strictly making sure that budget and the budget deficits are eliminated at the end of the year. So but everything is on the table and we will continue to work through it and see what we have to do.

**COUNCILMAN SLAGLE** – Well, frankly, I for one kind of regret voting on that initial budget but as I remember it was based upon certain representations which over the past three months haven't appeared to be coming forward in terms of meetings and terms of discussions of what avenues we can take. I'm not suggesting at any time that we need to panic but planning is a different thing. I'm just asking what plans are being made. It seems to me that from what the auditor told us that this shortfall that we start out with at the beginning of the year is increasing based upon her projections. Rather if she's accurate or not is not for me to say I will leave that to her. But at the same time its not a panic situation to suggest that we should be looking at other options I don't think anyone likes layoffs. Obviously any business is run the same way you've got money coming in if you don't have enough money to pay your expenses you have to deal with them short term by financing which I don't believe the city can do because that availability isn't available to us for short term things. But it strikes me that there ought to be ways that we should all be working together to discuss how things can be done. I was just hoping based upon the representations we had before that that would have occurred before now.

**MAYOR CICCHINELLI** – What make you think that they haven't that discussions haven't occurred.

**COUNCILMAN SLAGLE** – We haven't heard them.

**MAYOR CICCHINELLI** – Well I think I respect the structure of council I think you have a finance committee and we work through the finance committee. I don't think a week goes by that I don't talk to the chairman of the finance committee. He's taken it upon himself to call at least two, three times a week. There are two other members of the finance committee and in one particular case I haven't heard any I haven't been asked any questions or any comments. So I guess I don't know you said that we're going back on what we said we were going to do in the beginning of the year. Those meetings have been held we have discussions with the auditor, I've discussions with the chairman of the committee. Were you under some impression that we were going to come back to council as a whole and have meetings?

**COUNCILMAN SLAGLE** – That was the impression frankly.

**MAYOR CICCHINELLI** – No, okay, well I did not know I thought you wanted us to respect the structure of council and go through the committees. I mean I guess this is a two way street. I don't think anything has changed since January 1 other than the situation is critical. It has remained critical I did give you an example of income tax being up which is a positive now. If council has suggestions on what to do I'm willing to listen. But I think we have certainly made some changes within the structure to try to get more dollars. But it boils down to the fact that we need more money. That's what it boils down to. Larry, you mentioned business operate like a business and I know a lot of politicians like to say that. Government most of the time can not operate that way. Because if a business is short on revenue they increase the price of their product we don't have that luxury and I'm glad we don't. We can not increase other than what we've proposed to this body through the years. We can not increase our revenues through increasing the price of our product because that means increasing taxes. So other than that everything is on the table now its great publicity to say to have a politician say "we need to operate government as a business" but in reality that sometimes is unrealistic. Because of the business that we're in its service and you can't predict how many services are going to be distributed through the city as any given week any given month. But if your in the business sector it's a lot different. So I mean our door is still open you're more than happy to discuss any of this any of you and throughout the last three months we've had some discussions I think with some members of council. But we were waiting I think you go back and look at your minutes we were waiting for the first quarter. That was a decision the auditor and I sat down and decided. That just ended a week ago. Okay, so...

**COUNCILMAN SLAGLE** – I'll yield for now. Thank you.

**COUNCILWOMAN CATAZARO-PERRY** – Mrs. Ferrero, would approach please?

**AUDITOR FERRERO** – I want this body to know that I do meet with the mayor on a regular basis. I also want the body to realize that we are on target with the budget that you passed. I hope I made that very clear when I spoke with you the budget that you passed we are meeting that budget. But you know there were shortfalls in that budget and that's where I my concern comes from. So the mayor and I have different opinions on things however I've respectfully waited till the end of the first quarter and I can tell you that this week I will be meeting with the mayor and we'll be ironing some of these things out. We do have issues with the contracts with police and fire contracts that we have to work through we're really bound by those things and that's a huge, huge issue. So to look at other alternatives and cost saving ways are really difficult at this time. We're coming into April which is the month that we get in large dollars because we get in property tax money and we get estate income tax money and real estate money. But that money is allocated just like right now we need \$300,000.00 to pay police and fire pension. So you have to understand that as we operate throughout the year with no carryover all of these bills come in and we have to pay them and we have to find this money plus meet payroll. Now I can tell you we're not going to shut off the lights because that has all been budgeted. So you know I mean I just want you all to know that I'm painting a dimmer picture than what our mayor paints. He being the optimist, me being more realistic in my

feeling. That's my own opinion. But I respect him and I work well with him and I can assure you that we meet regularly.

**COUNCILWOMAN CATAZARO-PERRY** – Mrs. Ferrero, I can recall that Mr. Manson said back in January that we were going to meet every two weeks and we were going to function as a team and the mayor agreed. That hasn't happened and that's where my concern comes from especially with the comments that you make at times at the work sessions. You know putting up that red flag saying "we need to be cautious". So I'm following your lead as well as being a past finance chair.

**AUDITOR FERRERO** – I'm here at every meeting. So any time that you want to meet I am here and I am available for you. You ask me questions and I tell you what the picture looks like at that given point in time. That's my job is to report to you exactly what's going on in my office.

**COUNCILWOMAN CATAZARO-PERRY** – But we don't have communication on plans as Mr. Slagle is talking about and what we're thinking and what the administration is thinking and what options we have. I mean have had zero conversations on that.

**AUDITOR FERRERO** – And in defense I do think that Mr. Manson made it told me earlier on that he wanted to wait until after the first quarter as well. So I think that is why no planned meetings have been and I shouldn't speak for someone. I'll let Mr. Manson speak for himself. But he and I have had this discussion, he and I meet on a weekly basis as well and we talk a couple times a week. He's very hands on as a finance chairman.

**COUNCILWOMAN CATAZARO-PERRY** – Well, and I met also with Mr. Hamit on a weekly basis and had multiple conversations throughout the week. However, our year our budget was not as critical as it is this year. The question that I had was pertaining to this ordinance that we were going to be voting on and we changed the split. So for the Legends roof repair the \$18,000.00 I wanted to make sure you calculated that for capital improvement.

**AUDITOR FERRERO** – Yes, that came out the mayor's capital improvement fund; he agreed to pay that.

**COUNCILWOMAN CATAZARO-PERRY** – Thank you.

**COUNCILMAN MANSON** – Just to back up what the auditor and the mayor said if you know me and you've talked finance and I think Mr. Peters will back me up on this. It's always been my opinion to wait until after the first quarter and actually wait until after the income tax is over on April 15<sup>th</sup> it used to be April 20<sup>th</sup> or whatever I'm not sure. But that's the time you can look at every year and see exactly what our position is. This is the way I operated for years. Now I did say we would have more meetings but quite honestly as poisoned as our committees meetings and stuff were for a month or two I had no intention of bringing the mayor in here and sitting down and arguing over finance right at that particular time. I walked out of a meeting several weeks ago because the paper described it as a shouting match at the end. When its like that I don't have any intention of trying to setting up a meeting and discuss stuff. But we will be having more later on. But that's all I have to say about that.

**COUNCILMAN SLAGLE** – I don't want it to seem that I'm attacking anyone for decisions that have been made or not been made in front of us. All I'm suggesting is that at some point this council concluded that we should have joint committee meetings which suggests to me that the finance committee was going to meet jointly on the work sessions amongst the group and discuss these issues and I haven't really seen that. It's not an attack on either the auditor, on the mayor or Paul in anyway. This concept that seems to be any time someone suggests that perhaps we should all be involved in these decisions makings processes as a group as opposed to individually which I still think is a waste of the time for people to go in there individually and discuss these things. I just don't quite understand we're all here to solve the same problem to try to get there we know we didn't fund line items that we're going to have to have money for at the end of the year unless some miracle arises that we don't have overtime which I've never heard happening or someone doesn't retire and we have to pay them out. So it just strikes me that at some point we should be sitting down and looking up what options we have rather than you know the rancor as Paul says I don't understand that I never will understand that because everyone is here for the same purpose trying to get us out of the problems that has arisen that I believe have been long standing and have been arising over a long period of time. Some of us haven't been on this council for that long of that time. So don't take anything as a criticism but at the same time there may be critiques and I think critiques are justifiable.

**AUDITOR FERRERO** – I agree I mean I think that this council has every right to ask questions to critique to talk with the mayor to talk with myself whatever you want to do. I mean I speak with Mr. Manson we don't always agree we don't and I just tell him what I think he tells me what he thinks and we chose to disagree. The same way with the mayor and I we don't always agree. The mayor knows exactly what is going on what we need to do and he would express it differently than what I would.

**COUNCILMAN PETERS** – I was never under the impression that we were going have all of us there discussing the finances. I thought that was with the finance committee was going to do as in past years you know they have had special finance meetings with the finance people on that committee. I was on the finance committee and frankly I got off of it and I really don't want to sit through another one of those finance committees. So I hope they don't bring it to all of us at the same time. I rely on the committee chairman to feed me the information that I need to know. That's why we have committees. If I tell you that 32<sup>nd</sup> Street needs paved you ought to believe me I'm the head of the streets and highways. If I tell you it doesn't need paved you ought to believe me. You should assume that I'm doing my job and I'm assuming that Mr. Manson is doing his job and I know he spend and I see him in the auditor's office. I know he is on top of this so I am under no impression that we're all going to sit down and hash this out. I'm going to reiterate what I have said for four years now it is not up to this city council to make cuts or do this or do that that is the administrations job. I respect the administration's ability to do that job we're here to pass or deny their suggestions but its not up to us to find the cure for the budget or anything else. We approved the budget I agree with that but we have to live by that but we can't change it. We do not have the ability to change it and so with that being said I mean and I agree with the administration I think you've got to be a little optimistic. I sat through and all of you guys have sat through this we've all been in this gloom and doom picture before and we come out on top of it. I think that's the way we need to look at it. It's a little worse this year just because of the general world economy but I think that I agree with the mayor in the aspect that I think we're going to come out of this and I think you have to look at it in a positive manner. At any rate there's nothing that city council can do going forward to change that. I mean we can listen to the suggestions of the administration or if we have an idea we can present it to the administration but it doesn't have to be done it doesn't have to be done as a group. Any one of us could go to the mayor's office and tell him I think we ought to raise the income tax a half percent I'm just making that as an example. I mean that's what we can do we have the ability to that with that being said that's all I have to say.

**AUDITOR FERRERO** – I think the intent of the special meetings was to meet like an hour before the council meeting and of course the finance committee along with the mayor and myself and then anybody else on council that wanted to attend could. So I think that was how it was set up.

**COUNCILMAN MANSON** – The auditor has told me she will come any time we ask her to. The mayor will come probably when he's invited but I have not invited him like said so far this year.

**COUNCILMAN SLAGLE** – Do we know what the first quarter figures are now?

**AUDITOR FERRERO** – We're just wrapping it up its just we did get the income tax report it was down 3% but its up for the quarter. It was down 3% for last year for last month for the month of March for the year. But 3% is a very small amount as I'm looking at it when we have to make up that two million dollar figure. What we're doing right now is we're paying police and fire their overtime and their comp out of their salary line so you budgeted for their salary line and that's when I said we're going to run out of money in those line items is because we're using that money for things that weren't budgeted for comp and overtime. So that's why that has a shortfall so we have to find ways to fill that money and hopefully we're going to come up with some ways to do that.

COUNCILMAN MANSON moved for suspension of the rules and passage, seconded by Councilman Hersher.

Roll call vote of 8 yes for suspension.

ORDINANCE NO. 64 – 2009 WAS PASSED BY A ROLL CALL VOTE OF 8 YES.

**ORDINANCE NO. 65 – 2009**

**BY: FINANCE COMMITTEE**

Reducing the appropriations in the General Fund, for the year ending December 31, 2009, for the year ending December 31, 2009, and declaring an emergency.

**COUNCILMAN MANSON** – Yes, we this is an ordinance to reduce the appropriations in the general fund \$10,000.00 from health and life and \$5,000.00 from PERS. This comes from the Clerk of Courts Maier after carefully examining my budget I have made cuts internally I am returning \$15,000.00 to the City of Massillon's general fund in order to assist the city in these difficult economic times.

COUNCILMAN MANSON moved for suspension of the rules and passage, seconded by Councilwoman Catazaro-Perry.

Roll call vote of 8 yes for suspension.

ORDINANCE NO. 65 – 2009 WAS PASSED BY A ROLL CALL VOTE OF 8 YES.

**RESOLUTION NO. 2 – 2009**

**BY: PARKS AND RECREATION COMMITTEE**

Resolution recognizing the various neighborhood associations for the adoption of a specific part in their neighborhood.

**COUNCILMAN TOWNSEND** – You know we're all aware everyone in here that people in Massillon are very much aware of the ill condition that the parks and recreation department is in. But some of the neighborhood associations and the people in the fourth ward has decided to help out where they can. They have decided to adopt a few parks within the ward and what I mean adopt they're looking to keep it clean, plant flowers, lay down mulch, plant plants and do things like that. So they're looking to beautify these parks and at the same time give the parks and recreation department a hand. So I would just like to recognize these associations which is Walnut Hills Neighborhood Association, Young Street Neighborhood Association, Southeast Improvement Association Neighborhood and a newly formed neighborhood association by the name of Franklin Village. These groups are looking to improve their entire area and they're starting with the parks. So they're doing excellent work within the community and I'd just like to commend them and recognize them for their excellent job, excellent work that they're doing within the fourth ward.

COUNCILMAN TOWNSEND moved for suspension of the rules and passage, seconded by Councilman Maier.

Roll call vote of 8 yes for suspension.

RESOLUTION NO. 2 – 2009 WAS PASSED BY A ROLL CALL VOTE OF 8 YES.

**RESOLUTION NO. 3 – 2009**

**BY: COMMITTEE OF THE WHOLE**

Resolution on the spending of federal economic renewal grants to Massillon, Ohio.

**COUNCILMAN MCCUNE** – Yes, this resolution deals with the stimulus funding that the City of Massillon would be receiving and requiring basically that whenever possible the stimulus money be which is taxpayer money will be spent on American goods and products and whatever work will be done will be done by American workers. We discussed this at last week and I believe all of us felt that this was a good thing to do.

COUNCILMAN MCCUNE moved for suspension of the rules and passage, seconded by Councilman Manson.

Roll call vote of 8 yes for suspension.

RESOLUTION NO. 3 – 2009 WAS PASSED BY A ROLL CALL VOTE OF 8 YES.

**7. UNFINISHED BUSINESS**

**8. PETITIONS AND GENERAL COMMUNICATIONS**

LETTER FROM OHIO DIVISION OF LIQUOR CONTROL REGARDING A TRANSFER OF LIQUOR LICENSE FROM DI SUZ INC DBA DICKS RESTAURANT & LOUNGE 7936 HILLS & DALES RD MASSILLON OHIO 44646 TO SOPHIA G PAXOS DBA DICKS RESTAURANT & LOUNGE 7936 HILLS & DALES RD MASSILLON OHIO 44646

LETTER FROM OHIO DIVISION OF LIQUOR CONTROL REGARDING A NEW LIQUOR LICENSE FOR CORY NELSON DBA BRAKERZ 641 LINCOLN WAY W MASSILLON OHIO 44647

**COUNCIL PRESIDENT GAMBER** – Do both the councilmen have a copy of that? (Yes) Alright, thank you.

**9. BILLS, ACCOUNTS AND CLAIMS**

- A. REPOSITORY - \$1,166.60
- B. INDEPENDENT - \$17.72

**COUNCILMAN MANSON** – I move that we pay the bills, seconded by Councilwoman Catazaro-Perry.

Roll call vote of 8 yes to pay the bills.

## **10. REPORTS FROM CITY OFFICIALS**

A). MAYOR SUBMITS MONTHLY PERMIT REPORT FOR MARCH 2009. – COPY FILE

B). AUDITOR SUBMITS MONTHLY REPORT FOR MARCH 2009 – COPY FILE

**COUNCIL PRESIDENT GAMBER** – Alright, we need a motion to accept the auditor's report.

**COUNCILMAN MANSON** – I move that we accept the auditor's report, seconded by Councilman Hersher.

Roll call vote of 8 yes to accept the auditor's report.

## **11. REPORTS OF COMMITTEES**

**COUNCIL PRESIDENT GAMBER** – We'll meet next Monday the 13<sup>th</sup>, I'm reminded by the Clerk that the city offices will be closed on Friday due to Good Friday. So everybody keep that in mind.

## **12. RESOLUTIONS AND REQUESTS OF COUNCIL MEMBERS**

## **13. CALL OF THE CALENDAR**

## **14. THIRD READING ORDINANCES AND RESOLUTIONS**

### **ORDINANCE NO. 33 – 2009**

### **BY: COMMUNITY DEVELOPMENT COMMITTEE**

Amending Section 1151.02 of the Massillon Code of 1985 rezoning a certain tract of land from I-1 Light Industrial to R-1 Single Family Residential.

**COUNCILMAN MCCUNE** – Yes, we held a hearing prior to tonight's council meeting to discuss this in depth. We had several members from the community to step forward in support of this. No one step forward in opposition. I would defer to Councilman Peters since this has been something that he has taken by the horns to get through after many years. I believe Mr. President you might have started this effort some years ago. So I would just like to let Mr. Peters make any comments that he has on this prior to going forward with the vote.

**COUNCILMAN PETERS** – Again, as I said at the public hearing this is something that the mayor kind of step forward and asked me to do. I was in total agreement with him its something as Mr. McCune had said you had started even back when you were the ward councilman. We've had several meetings really didn't have much opposition just concerns and we've answered all the concerns. I fully support what we're doing I think its long overdue and I'd like to thank Aane for all his hard work that he put forth on this here. I would ask that we definitely pass this for the betterment of ward 5 and Massillon.

COUNCILMAN MCCUNE moved for suspension of the rules and passage, seconded by Councilman Hersher.

Roll call vote of 8 yes for suspension.

ORDINANCE NO. 33- 2009 WAS PASSED BY A ROLL CALL VOTE OF 8 YES.

### **ORDINANCE NO. 34 – 2009**

### **BY: COMMUNITY DEVELOPMENT COMMITTEE**

Implementing Sections 3735.65 through 3735.70 of the Ohio Revised Code, establishing and describing the boundaries of community reinvestment area in the City of Massillon, Ohio, designating a housing officer to administer the program, and creating a community reinvestment housing council, and declaring an emergency.

**COUNCILMAN MCCUNE** – Yes, this is third reading as the Clerk read its to implement section 3735.65 through 3735.70 of the Ohio Revised Code. y questions we can bring the mayor he's here tonight to answer those questions. If not I would like to move this forward for emergency passage and waive the rules requiring three separate readings.

**COUNCILMAN PETERS** – I have a question for the mayor if he would come up. I know you've answered this before but I just forget this is third reading. We discussed this housing officer what did we determine who that would be and how we would go about you know.

**MAYOR CICCHINELLI** – Internally with Aane.

**COUNCILMAN PETERS** – I just wanted to make sure I really did forget who said was going to do that.

COUNCILMAN MCCUNE moved for suspension of the rules and passage, seconded by Councilman Hersher.

Roll call vote of 8 yes for suspension.

ORDINANCE NO. 34- 2009 WAS PASSED BY A ROLL CALL VOTE OF 8 YES.

## **15. SECOND READING ORDINANCES AND RESOLUTIONS**

### **ORDINANCE NO. 39 – 2009**

**BY: COMMUNITY DEVELOPMENT COMMITTEE**

Authorizing and directing the Director of Public Service and Safety of the City of Massillon, Ohio, to enter into a contract agreement with Massillon Main Street for continuation of its Downtown Revitalization Program, and declaring an emergency.

**COUNCILMAN MCCUNE** – Yes, this is a community development agenda item and I'm going to give it second reading.

ORDINANCE NO. 39 – 2009 WAS GIVEN SECOND READING.

### **ORDINANCE NO. 40 – 2009**

**BY: PUBLIC UTILITIES COMMITTEE**

Authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to enter into a Non-Surface Development Gas & Oil Lease with Everflow Eastern Partners, LP for three (3) parcels of real estate owned by the City of Massillon, and declaring an emergency.

**COUNCILMAN MAIER** – Second reading.

ORDINANCE NO. 40 – 2009 WAS GIVEN SECOND READING.

### **ORDINANCE NO. 41 – 2009**

**BY: PUBLIC UTILITIES COMMITTEE**

Authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to enter into a Non-Surface Development Gas & Oil Lease with Ohio Valley Energy Systems Corporation, and declaring an emergency.

**COUNCILMAN MAIER** – Second reading.

ORDINANCE NO. 41 – 2009 WAS SECOND READING.

### **ORDINANCE NO. 42 – 2009**

**BY: STREETS, HIGHWAYS, TRAFFIC & SAFETY**

Vacating a portion of Sweetleaf Circle NW, and declaring an emergency.

**COUNCILMAN PETERS** – Second reading.

ORDINANCE NO. 42 – 2009 WAS GIVEN SECOND READING.

## **16. NEW AND MISCELLANEOUS BUSINESS**

## **17. REMARKS OF DELEGATIONS AND CITIZENS TO MATTERS NOT ON THE AGENDA**

**SCOTT GRABER** – 1218 Tremont Avenue SW. I bringing a petition to end misappropriation of city rec. income tax proceeds to the Legends of Massillon golf course.

Scott read from a length petition pertaining to the income tax proceeds it has been included as part of the official record.

RECEIVED

APR 06 2009

MB Bailey

## A Petition

# To End Misappropriation Of City Rec Income Tax Proceeds to the Legends of Massillon Golf Course

Whereas, Taxes on income are collected from the citizens of the City of Massillon, State of Ohio, pursuant to a ballot initiative ratified on August 8, 1995 by the Citizens of the City of Massillon, in the amount of .3 percent Tax on Income, and enacted pursuant to Massillon City Ordinance 106-1995 which reads

*(1) The three tenths percent (.3%) that the electors of the City of Massillon approved on August 8, 1995 for the specific purpose for the operation and development of the Park and Recreation System within the City, shall be deposited in a special designated fund established by Council and shall be used for, but not limited to, the purchase of real estate for park and recreation, construction of recreation facilities, renovation of existing recreation facilities, and the expenses for the maintenance and operation of the facilities."*

Whereas, The specified purpose of the above stated ballot initiative was to provide funding for a new Recreation Board to operate the City Parks and Recreation Dept, which is established pursuant to Massillon City Council Ordinance 201-1995 and the Ohio Revised Code Section 755.14(A) , and for no other enterprise of a commercial nature;

Whereas The Legends of Massillon Golf Course was established as a Commercial Enterprise;

Whereas The Legends of Massillon Golf Course was at the time of the ratification by the people of said Income Tax Levy, not under the jurisdiction and responsibility of the Joint Recreational District which was dissolved by the same Ordinance 201-1995, nor was it included in the properties or lands under the jurisdiction of the newly formed Recreation Board of the City of Massillon, in the first 7 years of its

existence and operation;

Whereas, The Legends of Massillon Golf Course is not a recreation facility pursuant to ORC 75.12 et seq;

Whereas, By the enactment of City Ordinance 201-1995, the Recreation Board of the City of Massillon has sole authority in the City of Massillon,  
to supervise and maintain parks, playgrounds, playfields, gymnasiums, public baths, swimming pools, and indoor recreation centers, independently and autonomously.

Whereas, Income tax proceeds collected pursuant to the .3 percent Recreation Income Tax Levy are being used to satisfy The Legends of Massillon Golf Course operational and indebtedness expense;

Whereas, On November 14, 2002, as recorded in the minutes of the Recreation Board of the City of Massillon, the Hon Francis Cicchinelli, Jr. Mayor of Massillon, Ohio, in presenting the Legends of Massillon Golf Course to the Recreation Board, to be "accepted under the umbrella" of the Recreation Board, stated:

***"The Mayor believes this decision now, in the long-term, will be beneficial for everyone, and he stated that they promised the citizens that the City would not subsidize this golf course. ";***

Whereas, The adoption of Motion 02-150 was secured without relevant information concerning the indebtedness incurred on the Legends of Massillon Golf Course being provided to the Recreation Board, as recorded in the Massillon Recreation Board Minutes, November 2, 2002:

***"Moe also questioned what the debt is and who would be responsible for a debt loss this year. The Mayor stated that the City would be responsible";***

Whereas, On November 2, 2002, as recorded in the Minutes of the Recreation Board of the City of Massillon, Motion 02-150 was adopted, which reads:

***"02-150. Joel Fichter moved, seconded by Ben Bradley, to accept The Legends of Massillon Golf Course under the umbrella of the Massillon Parks and Recreation Department as a division reporting to the Director of Parks and Recreation. All staff, operations, maintenance, and future capital improvements will follow current policies and procedure set by the Recreation Board. The financial structure of The Legends will remain as it currently is, covering all expenses with revenue generated by the golf course. Motion carried 4-0 by roll call vote. Ron Pribich was absent.";***

Whereas, Motion 02-150 states " The financial structure of The Legends will remain as it currently is, covering all expenses with revenue generated by the golf course";

Whereas, The specified purpose of the Income Tax Levy of .3 percent on Income, which is the recreational needs of the Citizens of the City of Massillon, is being defeated due to the misappropriation of the proceeds of said Tax Levy, to satisfy the operations expense, salaries, maintenance, repairs, and bond indebtedness, incurred by The Legends of Massillon Golf Course;

Whereas, We The Committee to Save our Parks determine:

1. That The Legends Golf Course is a commercial enterprise, and not a "park" or "recreational facility" as defined in the Ohio Revised Code Section 755.12 et seq.;
2. That any expense for operations, salaries, maintenance, repairs, or bond indebtedness, incurred by the creation or operation of The Legends of Massillon Golf Course, is not the specified purpose of income tax proceeds collected pursuant to the .3 percent Recreation Income Tax on the Incomes of the residents of Massillon and that any expenditure of said income tax revenues on any expense relating to the operations, salaries, maintenance, repairs, or bond indebtedness on The Legends of Massillon Golf Course, is a violation of the ORC Section 718.01(C), 755.14(A) and City Ord. No. 106-1995;
3. That the Mayor of Massillon, the Hon Francis H. Cicchinelli, Jr. "promised the citizens that the City would not subsidize this golf

course.";

4. That the Purpose and Intent of Motion 02-150 as adopted, has been invalidated by violation of the clause regarding the financial structure of the Legends Golf Course; and

Whereas, We The Committee to Save our Parks determine, that misappropriation of Massillon City Recreation Income Tax proceeds is caused by the improper commandeering of the City of Massillon Recreation Board, by the administrative authority of the City of Massillon; now, therefore be it

Resolved, That We The Committee to Save our Parks do hereby and humbly petition the Mayor of the City of Massillon, State of Ohio, the Hon. Francis H. Cicchinelli, Jr., and/or the Chairman of the Parks and recreation committee of the Massillon City Council, or any Council person, to request legislation from the City Council of the City of Massillon, to remove the Legends of Massillon Golf Course from the jurisdiction of the Recreation Board of the City of Massillon and that City Council promptly adopt said legislation; and,

Resolved, That We The Committee to Save our Parks do hereby and humbly petition the Mayor of the City of Massillon, State of Ohio, the Hon. Francis H. Cicchinelli, Jr. and/or the Chairman of the Parks and Recreation Committee of the Massillon City Council, or any Council person, to request legislation from the City Council of the City of Massillon, that declares that the Legends of Massillon Golf Course to be a Commercial Enterprise, and that no revenue collected pursuant to the City Recreation Income Tax may be expended on Legends Golf Course operations, salaries, maintenance, repairs, or bond indebtedness, and that City Council promptly adopt said legislation.

The Committee to Save our Parks

Scott R. Graber  
Chairman Pro Tem

**COUNCIL PRESIDENT GAMBER** – Thank you, your second resolution paragraph does indicate that this aimed at the mayor, the chairman of the parks and rec. and any council member. So if you have copies we'll make sure they get them if not we'll make copies. Do you have a list of names that signed the petition?

**SCOTT GRABER** – No, I'm spokesman for the committee.

**COUNCIL PRESIDENT GAMBER** – Okay, so it's a statement rather than a petition, a petition generally...

**SCOTT GRABER** – No, it's a petition, it's a petition, one person can petition.

**COUNCIL PRESIDENT GAMBER** – Alright, that's fine.

**SCOTT GRABER** – Well, I'm speaking for this committee.

**COUNCIL PRESIDENT GAMBER** – Okay, is there anything you can tell us about the committee?

**SCOTT GRABER** – What would you like to know?

**COUNCIL PRESIDENT GAMBER** – Anything, I'm just asking. Normally when we get a petition we indicate where it came from and who signed the petition.

**SCOTT GRABER** – Its an ad hock committee of citizens.

**COUNCIL PRESIDENT GAMBER** – Okay, alright.

**MAYOR CICCHINELLI** – Mr. President, may I...

**COUNCIL PRESIDENT GAMBER** – Hang on one second here. Yeah, now did you say you do have copies of these. (Yes) Alright, if you could pass those around to make sure that the Clerk gets them we will put a date on this. Is it alright if we put the date of April 6<sup>th</sup> on the top.

**SCOTT GRABER** – Please.

**COUNCIL PRESIDENT GAMBER** – Alright. After we do that we will make sure every council member has a copy. Is there anything else any comments or statements?

**SCOTT GRABER** – Not on that.

**COUNCIL PRESIDENT GAMBER** – Okay, on anything?

**SCOTT GRABER** – Not on that particular piece of document.

**COUNCIL PRESIDENT GAMBER** – As you're standing there. Is there anything else you'd like to say?

**SCOTT GRABER** – Yes, I also have one other I'd like to read.

Scott read from a length petition pertaining to Genshaft Park it has been included as part of the official record.

RECEIVED

APR 06 2009

*MB Bailey*

## A Petition

### To Preserve Arthur Genshaft Memorial Park

Whereas, The Arthur Genshaft Memorial Park was accepted by the City of Massillon as a charitable gift, made by Superior's Brand Meats, Inc. and the Family of the late Arthur Genshaft, and in his name, as a Memorial to the name of Mr. Genshaft, and for the benefit of the least advantaged, and all of the citizens of Massillon, and memorialized by Massillon City Resolution 5 -1982 dated January 4, 1982, and enacted January 5, 1982, by the signature of the Hon. Mayor Delbert A Demmer;

Whereas, In the Preamble to City Ordinance 5 -1982, is stated "Whereas, the City of Massillon, Ohio, is in accord with Superior's Brand Meats Inc.'s desire to establish a lasting memorial to Arthur Genshaft.";

Whereas, By enactment of Massillon City Ordinance 201-1995, a Recreation Board was created, pursuant to Ohio Revised Code Section 755.14(A);

Whereas, A Recreation board created by the legislative authority of a municipal corporation pursuant to Ohio Revised Code Section 755.14 (A) has the sole authority, once vested, to supervise and maintain parks, playgrounds, playfields, gymnasiums, public baths, swimming pools, or indoor recreation centers;

Whereas, The Arthur Genshaft Memorial Park has been under the jurisdiction of the City of Massillon Recreation Board since its inception in 1995, and was under the sole jurisdiction of the Joint Recreation District which was dissolved by City Ordinance 201-1995;

Whereas, No land under the jurisdiction of the City of Massillon Recreation Board may be sold without prior authorization by the City of Massillon Recreation Board;

Whereas, No authorization by the City of Massillon Recreation Board

has been adopted by said Board, for the sale of The Arthur Genshaft Memorial Park; and,

Whereas, City of Massillon Ordinance 92-2007, which authorizes the Director of Public Services and Safety to enter into a purchase agreement for the sale of the Genshaft Park is enacted under the false pretense and statement that said park is "not needed for any municipal purpose in the City of Massillon"; Now, Therefore be it

Resolved, That We The Committee to Save our Parks do hereby and humbly petition the Mayor of the City of Massillon, State of Ohio, the Hon. Francis H. Cicchinelli, Jr., and/or the Chairman of the Parks and recreation committee of the Massillon City Council, or any Council person, to request legislation from the City Council of the City of Massillon, rescinding any zoning classification which would allow commercial development of the Arthur Genshaft Memorial Park, and reaffirming the accord memorialized in Resolution 5-1982, accepting the Arthur Genshaft Memorial Park as a lasting memorial to Arthur Genshaft, and declaring that said Memorial Park shall remain as a facility for the recreational use of the Citizens of Massillon, State of Ohio, into perpetuity, as it was the intended purpose of the gift, and that City Council promptly adopt said legislation; and

Resolved, That We The Committee to Save our Parks do hereby and humbly petition the Mayor of the City of Massillon, State of Ohio, the Hon. Francis H. Cicchinelli, Jr. and/or the Chairman of the Parks and Recreation Committee of the Massillon City Council, or any Council person, to request legislation from the City Council of the City of Massillon, repealing City Ordinance 92-2007, which authorizes the Director of Public Service and Safety to enter into a purchase agreement for the sale of "the Genshaft Park", and that the City Council promptly adopt said legislation.

The Committee to Save our Parks

Scott R. Graber  
Chairman Pro Tem

**SCOTT GRABER** – I'm the chairman, pro-tem.

**COUNCIL PRESIDENT GAMBER** – Again, I wasn't implying at all that you couldn't come and give this. Normally, as I say we just get as much information as we can when it's a petition. Do you have copies of this, Mr. Graber? (Yes) Again, we will stamp these with today's date and return them to all the council members. Are there any other remarks that you would like to make?

**SCOTT GRABER** – No, sir.

**COUNCIL PRESIDENT GAMBER** – Thank you.

**SCOTT GRABER** – Thank you for having me.

**COUNCIL PRESIDENT GAMBER** – The mayor has given me the wig wag here that he would like to respond. Mr. Mayor? Has everyone received the petition regarding the income tax proceeds to the Legends of Massillon? Does everyone have that? Thank you.

**MAYOR CICCHINELLI** – Mr. Graber on several occasions tonight you mentioned terminology misappropriation of funds. I certainly take exception to those accusations. I don't know who you're listening to or who you're talking to although I do have suspicions of that also. But there have never been any misappropriations of funds. You're accusing elected officials of an illegal activity. I'm sure that all those elected officials take exception and are offended by those accusations. The envelope that you brought all this information tonight to share tonight to share with council and the administration. Do you have a yellow envelope out there?

**SCOTT GRABER** – I have a yellow envelope here.

**MAYOR CICCHINELLI** – And where did that envelope come from.

**SCOTT GRABER** – I picked it up at the YMCA.

**MAYOR CICCHINELLI** – Who's name is on the top of that envelope?

**SCOTT GRABER** – It says "inter departmental delivery"

**MAYOR CICCHINELLI** – And who signed that?

**SCOTT GRABER** – Perry Stergios.

**MAYOR CICCHINELLI** – Excuse me?

**SCOTT GRABER** – Perry Stergios in on top of it.

**MAYOR CICCHINELLI** – Where did you'll be more direct where did you receive all this information?

**SCOTT GRABER** – What information, sir?

**MAYOR CICCHINELLI** – That you disseminated here tonight. Who gave you that? Who's on the bottom of the envelope just inform the public and members of council?

**SCOTT GRABER** – The information that I read in petitions?

**MAYOR CICCHINELLI** – No, the information that you brought tonight. Look at the bottom of the envelope okay, why don't we do this if you don't want to tell them. Just pass that envelope around.

**SCOTT GRABER** – You mean this envelope here?

**MAYOR CICCHINELLI** – Yeah, I think that's the one...

**SCOTT GRABER** – That has nothing to do with my petitions.

**MAYOR CICCHINELLI** – Oh, it doesn't?

**SCOTT GRABER** – No.

**MAYOR CICCHINELLI** – You're trying to say that none of the information disseminated and passed out tonight to council was not in that envelope?

**SCOTT GRABER** – Absolutely never was sir.

**MAYOR CICCHINELLI** – Well, just for the sake of discussion who's name appears on the bottom of that envelope.

**SCOTT GRABER** – This was given this information right here was given...

**COUNCIL PRESIDENT GAMBER** – Excuse me one moment please? Would the council members like this to continue if so we'll ask Mr. Graber to come to the microphone. Otherwise I'll ask the Mayor to make his comments and then we will have a response. I don't want to get into a back and forth on every item if you don't mind.

**MAYOR CICCHINELLI** – No, I only one more item sir. But I think he's made some accusations and I think we need to bring some of this stuff forward. I mean he...

**COUNCIL PRESIDENT GAMBER** – Whatever you're getting at with the envelope just state it plainly, Mr. Mayor.

**MAYOR CICCHINELLI** – Well, okay, who I want him to verify who is at the bottom at that who's name is at the bottom of that envelope?

**SCOTT GRABER** – This information came from I don't even know you're asking me the question.

**MAYOR CICCHINELLI** – I just want to know.

**COUNCIL PRESIDENT GAMBER** – You don't have to answer but he did ask a simple question.

**SCOTT GRABER** – I'm going to decline to answer that question right now. If you don't mind.

**COUNCIL PRESIDENT GAMBER** – Alright, now again, if we can Mr. Mayor, make your comments.

**MAYOR CICCHINELLI** – Did Mr. Graber, did Judge Edward Elum give you any information from that packet? Was his name at all on that...

**SCOTT GRABER** – Judge Edward Elum has given me information. Has provided me with information.

**MAYOR CICCHINELLI** – Okay.

**SCOTT GRABER** – So has other citizens provided me with information.

**MAYOR CICCHINELLI** – Yeah, and did he was he an author of a lot of the correspondence?

**SCOTT GRABER** – No, I am the complete author of all of that.

**MAYOR CICCHINELLI** – You were?

**SCOTT GRABER** – Yes sir.

**MAYOR CICCHINELLI** – Okay. My other point Mr. President I mean...

**SCOTT GRABER** – Well, excuse me, let me correct myself. I authored the first draft of that petition that I read.

**MAYOR CICCHINELLI** – Right.

**SCOTT GRABER** – It was amended by the committee to save our parks.

**MAYOR CICCHINELLI** – But I think its important for the citizens of Massillon to know that Judge Elum is involved tremendously involved in this whole process. I think that's important and that was the information that I wanted to make council aware of. So some folks could start connecting the dots. My other question my other point is you keep saying there's a committee. I understand there was a meeting held at the Blue Heron this past Saturday morning. There were eight people supposedly there who are those people? If they're citizens of the community I think if they're publicly coming forward...

**SCOTT GRABER** – They didn't authorize me sir, to reveal their identities. It was not addressed. It was not addressed.

**MAYOR CICCHINELLI** – So how are they going to help you privately. How do you help...

**SCOTT GRABER** – I don't think it's a material thing to ask me at this point in time. I'm their spokesperson, I've identified myself clearly, the people who met Saturday morning did not tell me or authorize me to reveal their identity.

**MAYOR CICCHINELLI** – But didn't they pass a resolution authorizing that you attend Monday's council meeting?

**SCOTT GRABER** – Yes they did. They ordered me to do so as a matter-of-fact. That's why I'm here.

**MAYOR CICCHINELLI** – Are you taking minutes of those meetings. (Yes) With attendance?

**SCOTT GRABER** – No, we don't have to...

**MAYOR CICCHINELLI** – So they're sort of public meetings.

**SCOTT GRABER** – No, they're not public meetings at all it was a private meeting of a private organization.

**MAYOR CICCHINELLI** – Were any elected public officials there?

**SCOTT GRABER** – Could have been.

**MAYOR CICCHINELLI** – Okay.

**SCOTT GRABER** – There were several people there that...

**MAYOR CICCHINELLI** – So there were some public officials there, elected public there was at least one public official there?

**SCOTT GRABER** – I would say yes.

**MAYOR CICCHINELLI** – Okay, I would hope in the not too distant future that you would submit to this body and to the administration because of the accusations thrown around tonight about a misappropriation of funds that we know who these accusers are. I would like you in writing since you're good at writing things to submit a complete list on roster of the save our parks committee before I respond to you in your request of the administration. Okay.

**SCOTT GRABER** – That would be up to you, sir. That would be your option.

**MAYOR CICCHINELLI** – No, I said I want a complete I want a list of the save our parks committee and I would like to know who was in attendance last Saturday. Can I have that?

**SCOTT GRABER** – I understand what you're asking me.

**MAYOR CICCHINELLI** – Can I have that?

**SCOTT GRABER** – I'll have to ask them.

**MAYOR CICCHINELLI** – Okay, well, you'll be getting a letter from either the attorney representing the city or an attorney from my office asking for that information. I think we have a right to know especially if there were elected officials there.

**SCOTT GRABER** – That may be.

**COUNCIL PRESIDENT GAMBER** – Thank you, Mr. Mayor. Thank you, Mr. Graber.

**ROBERT RICHARDS** – 1375 Benson Street SW. I'd like to ask city council about the sale of the Genshaft Park. I worked for the Genshaft family for over 45 years and they do not want this park sold. I mean there is its immoral to me how we can take a gift of that magnitude and give it away and sell it for some money or whatever you want to do with it. I think its wrong and I think city council ought to act on this. That's all I've got to say.

## **18. ADJOURNMENT**

**COUNCILMAN MAIER** – I move that we adjourn, seconded by all.