

**MINUTES OF THE REGULAR MEETING
MASSILLON CITY COUNCIL
HELD, MONDAY, FEBRUARY 2, 2009**

COUNCIL PRESIDENT GAMBER I d like to welcome all of you to Massillon City Council for Monday, February 2, 2009. We have in attendance with us this evening: Mayor Francis Cicchinelli, Auditor Jayne Ferrero, Law Director Perry Stergios, Engineer Keith Dylewski and Fire Chief Tom Burgasser. 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, Ron Mang, Paul Manson, Dave McCune, Donnie Peters, Larry Slagle and Tony Townsend.

Thus giving a roll call vote of 9 present.

2. INVOCATION

COUNCILMAN SLAGLE Gave the invocation for tonight.

3. PLEDGE OF ALLEGIANCE

COUNCILMAN SLAGLE – Chairman of the Health, Welfare and Building Regulations 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. 16 2009 BY: COMMUNITY DEVELOPMENT COMMITTEE

Amending Section 1151.02 of the Massillon Code of 1985 rezoning a certain tract of land from Tuscarawas Township (no zoning) to A-1 General Agricultural District.

COUNCILMAN MANG The planning commission back on January 14th recommended approval of this zoning request. This is the Manson Annexation that had prior to this had been in Tuscarawas Township where they have no zoning. The Manson Annexation now would like to be in our city and they would like their zone change to be A-1 General Agricultural District. We'll be giving it first reading tonight the public hearing will be held on March 2nd at 7:20pm.

ORDINANCE NO. 16 – 2009 WAS GIVEN FIRST READING.

ORDINANCE NO. 17 2009 BY: HEALTH, WELFARE & BLDG REGULATIONS

Authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to advertise for and received sealed bids and enter into contract with the lowest and best bidder, upon approval of the Board of Controls, for sidewalk, stair and ramp improvements at the Massillon Municipal Government Annex Building located at 151 Lincoln Way East, and declaring an emergency.

COUNCILMAN SLAGLE – This was discussed at the work session in regards to the city government building where some repair work needs to be done. It was brought to our attention by the Keith the city engineer as we know the estimated cost of that will be \$72,000.00 but we're putting out for bids. Most of the funds will be used from the CDBG and capital improvement funds having heard no opposition to it at the work session I would request that I'd move that we suspend the requirement for three separate readings and put this for vote this evening.

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

COUNCIL PRESIDENT GAMBER Is there any discussion? Mrs. Catazaro-Perry?

COUNCILWOMAN CATAZARO-PERRY – I do Mr. Slagle have a question about how the funds will be distributed between capital improvement dollars and the CDBG. We've already tapped into capital improvement dollars this year and the auditor says we're going to be looking at changing the split again sometime this year. So I was just wondering what those dollar amounts would be from capital improvement.

COUNCILMAN SLAGLE – I'll ask the auditor to come forward.

AUDITOR FERRERO – My understanding is that \$50,000.00 is going to be coming out of CDBG and then the remainder would be coming out of capital improvement money.

COUNCILWOMAN CATAZARO-PERRY – Do you feel comfortable with the remainder coming out of capital improvements?

AUDITOR FERRERO – I do he will have that money in that line item at the time when this all takes place. It is necessary they get many calls and we get calls even because for some reason we're the first ones in the phonebook. So we get those calls too so it's really a necessity at needs to be done for safety reasons.

The rules were suspended by a roll call vote of 9 yes.

ORDINANCE NO. 17 – 2009 WAS PASSED BY A ROLL CALL VOTE OF 9 YES.

ORDINANCE NO. 18 2009 BY: HEALTH, WELFARE & BLDG REGULATIONS

Authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to enter into the Planned Service Agreement with Honeywell for maintenance of heating and air conditioning for the Wastewater Treatment Plant, City Hall and Fire Stations 1, 2, 3 and 4, Municipal Annex Building and the City Garage, and declaring an emergency.

COUNCILMAN SLAGLE – First reading.

ORDINANCE NO. 18 – 2009 WAS GIVEN FIRST READING.

ORDINANCE NO. 19 2009 BY: RULES, COURTS AND CIVIL SERVICE COMMITTEE

Amending Chapter 121.02 "RULES OF COUNCIL" of title 3 of the Massillon Codified

Ordinances by enacting rule 74, and declaring an emergency.

COUNCILWOMAN CATAZARO-PERRY – We do not have currently have a council clerk assistant or someone that Mary Beth’s place if she were ill. She had a vacation and she couldn’t get back for some reason so this ordinance is going to allow a employee in the auditor’s office to come up and learn Mary Beth’s job at \$50.00 per time she’s trained which I don’t think it’s going to take very long. Pat is very good at what she does and she learns very quickly. Then \$50.00 every occurrence that Mary Beth would be absent or ill.

COUNCILMAN PETERS – Yes, I’m not being I’m not critiquing Mary Beth but you said rules of council title 3 and mine says 9. (Its’ supposed to be 3) Okay.

COUNCILWOMAN CATAZARO-PERRY moved for suspension of the rules and passage, seconded by Councilman Townsend.

The rules were suspended by a roll call vote of 9 yes.

ORDINANCE NO. 19 – 2009 WAS PASSED BY A ROLL CALL VOTE OF 9 YES.

ORDINANCE NO. 20 2009 BY: FINANCE COMMITTEE

Authorizing the Auditor to pay various 2008 bills that have been received and that will be received by her office between January 1, 2009 and March 1, 2009, out of the 2009 appropriations within the various departments of the City of Massillon, Ohio, and declaring an emergency.

COUNCILMAN MANSON Yes, we discussed this at last Monday’s work session. This is something that we’ve done every year since I have been here on council. We always have some bills that come in from last year that must be taken care of.

COUNCILWOMAN CATAZARO-PERRY – I do have a question. It was my understanding that the auditor had all of the department heads to pay their bills and generate the rest of the money from their accounts for the end of the year expenditures. So I’m not sure what bills we have left over but if you could explain what bills we have left over and what the amounts are going to be. Because we said last year that we really wanted to be cautious about having bills coming into the 2009 year with our tight budget.

COUNCILMAN MANSON I guess I’ll ask the auditor to come forward and give an explanation on that please.

AUDITOR FERRERO – I apologize that you weren’t here on Monday when we went into quite a bit of a discussion about this. There were some problems with some a few of the department that they didn’t follow the proper procedure. However, that’s all been addressed with the department heads and the mayor has kept track of all that and he’s policing that. I have met with the mayor about it and we are keeping a handle on it. I did think it was important for council to know what the proper procedure was and that we can’t afford for this to happen again in the future as well as the mayor has agreed with me on that. One of my suggestions would be that we stop spending as soon as October 1st or we stop any type of a purchase order. So that’s something we’re going to be looking at for this year. Hopefully we’re going to really be keeping a thumb on it. I know the administration’s watching it and my office is watching it as well. So we are policing it and all of the departments that it had happened have been advised and they know the proper procedure at this time. Did I answer your question?

COUNCILWOMAN CATAZARO-PERRY – Well, it’s really concerning because I know our budget is very tight and you know I think I remember when I was finance chair we did monthly reports so that we could really track what’s happening. Because we don’t want it to get away from us and you know council is not doing this daily I mean this isn’t our daily job. So I really think we need to encourage meetings and dialogue and communication about our funds throughout the entire year.

AUDITOR FERRERO – I can tell you at the staff meeting the very first staff meeting of the year the mayor has that after every council meeting every Tuesday morning. I go to those meetings and he has asked all the department heads to cut their budgets into twelve and that was one place that we thought we could start rather than letting them get purchase orders like we need to do away with blanket purchase orders things like that. I can tell you that we really have a tight hold on it and we're monitoring it very seriously.

COUNCILWOMAN CATAZARO-PERRY – Great. Thank you.

COUNCIL PRESIDENT GAMBER – If council will indulge me the mayor has indicated he would like to come forward and add a comment.

MAYOR CICCHINELLI – I guess at the and this is sort of I'm going to be commenting on what was just said. Since the question was asked concerning bills that are paid from the following year from previous years. First of all, that is not an unusual activity that happens every year. We always have bills that for some reason are paid through the following year's monies. The thing that concerns the administration is from one member of council or a couple members of council made mention of a practice that was potentially illegal. That is something that of course we're all concerned about. I did read in the paper that someone did say that that's illegal to do. Nothing that was that occurred in this whole process was illegal. It may have been not following proper procedures but wasn't illegal. There's a big difference here. So I wanted to publicly acknowledge that no one basically committed any crime here. The problem in question and its very difficult especially in the later months of the year. You know all the department heads try to cooperate and try to zero out their purchase orders. But with emergencies sometimes that's almost impossible there's some of them some of the departments felt that there were some dollars there but as we all know there weren't. Because when the purchase orders were liquidated there were no dollars there to do any of this work that needed to be done or spend the money that needed to be spent. That's not really anyone's fault I do think that we aren't going to have that problem anymore. We have addressed it and it will not occur again but keep in mind folks that there are emergencies that will occur throughout the year especially in later months. Those kinds of things and we aren't going to be able to predict the snow and the weather and everything else. Also keep in mind there were a couple of departments under my jurisdiction but also the courts did the same thing. For snow removal in the parking lot they thought they had dollars in those accounts they didn't and I'm not even sure the bill was paid. But the point is no one including the courts no one is doing anything on purpose in breaking the law. So we need to get that upfront and we're on top of it at every staff meeting like Mrs. Ferrero stated we emphasis to the department heads not to, to be careful all years be careful but specifically most importantly this year. So we have it handled and I think we're not going to have the problem like we had this past year.

COUNCILMAN MANSON – I'd just like to make a comment to you know there are going to be bills regardless I mean whether its utilities this is going to happen every year to a certain extent. What we talked about the other night I said it sounded like to me like there were some confusion and things maybe we're not totally clear and I think that's kind of showing that is what happened. I don't know I'd like to ask Mrs. Ferrero she doesn't need to come back up again but I believe you said that you thought things were better this year that we had less bills that carried over from the previous year or not.

COUNCIL PRESIDENT GAMBER – Mr. Manson, I'd prefer to have her at the microphone if you'd like to ask her a question.

COUNCILMAN MANSON – Okay. When we were talking Monday you said you thought that we actually had less this year than what we had the year before. I don't know if you want to comment on that or not. (Bills?) Yes.

AUDITOR FERRERO – Well, we did have less bills this year but we the biggest problem was that the purchase orders weren't done properly. That's what we need to avoid we need to avoid that ever happening again and when the department heads come to our office if they have an emergency all they have to do is they need to call our office and then we will help them. That's what we're there for we need to know what they're spending money on and so that we can

whether or not we're going to have the money to pay the bills or not to pay the bills. So last year if you recall we did have a very large deficit this year's it wasn't quite as high. But money was much tighter this year we had zero carryover and so that's the reason for the crisis. Any other questions?

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

The rules were suspended by a roll call vote of 9 yes.

ORDINANCE NO. 20 – 2009 WAS PASSED BY A ROLL CALL VOTE OF 9 YES.

ORDINANCE NO. 21 2009 BY: FINANCE COMMITTEE

Making certain transfers in the 2009 appropriations from within the General Fund, for the year ending December 31, 2009, and declaring an emergency.

COUNCILMAN MANSON What we have is we are appropriating money and we are transferring it from we are going to be taking from bailiff's salary \$24,000.00 will be going to salary municipal court. We have \$8,700.00 from hospital, eye and dental going to municipal hospital, eye and dental. We have \$3,600.00 from bailiff's PERS going to municipal court PERS and \$348.00 from bailiff's Medicare to municipal court Medicare. Any questions?

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

The rules were suspended by a roll call vote of 9 yes.

ORDINANCE NO. 21 – 2009 WAS PASSED BY A ROLL CALL VOTE OF 9 YES.

ORDINANCE NO. 22 2009 BY: FINANCE COMMITTEE

Making certain appropriations from the unappropriated balance of the Capital Improvement Fund, for the year ending December 31, 2009, and declaring an emergency.

COUNCILMAN MANSON Yes, this appropriation is \$18,172.00 to its needed to repair a couple of our fire trucks. If there are any questions we have the fire chief here and he can come up and explain it if anybody would like.

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

The rules were suspended by a roll call vote of 9 yes.

ORDINANCE NO. 22 – 2009 WAS PASSED BY A ROLL CALL VOTE OF 9 YES.

7. UNFINISHED BUSINESS

8. PETITIONS AND GENERAL COMMUNICATIONS

9. BILLS, ACCOUNTS AND CLAIMS

10. REPORTS FROM CITY OFFICIALS

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

B). AUDITOR SUBMITS MONTHLY REPORT FOR JANUARY 2009 COPY FILE

C). MAYOR'S APPOINTMENTS BOARD OF COMMISSIONS – TABLED FROM 1/20/09

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 Councilwoman Catazaro-Perry.

Roll call vote of 9 yes to accept the auditor's report.

COUNCIL PRESIDENT GAMBER Regarding the mayor's appointments for the boards and commissions it was tabled from January. We have been told by the law director that council does not legally need to approve these. But we have had some discussion at this point I will recognize Councilman Peters.

COUNCILMAN PETERS – Yes, I'd like to move to vote on the mayor's appointments to the boards of commissions and to divide the question by voting on the recreation board separately. Seconded by Councilwoman Catazaro-Perry.

Roll call vote of 6 no, 3 yes for the recreation board appointment. Hersher, Manson and McCune voted yes.

COUNCIL PRESIDENT GAMBER And now we are voting on the rest of the appointments as a block.

COUNCILMAN PETERS – I've got a question. We're voting on the rest of the commissions, correct? (That's correct) What did you say about a block?

COUNCIL PRESIDENT GAMBER As a block as a group in its entirety.

COUNCILMAN MANSON – I have a question. When we voted on the recreation board was that for all three on the recreation board.

COUNCIL PRESIDENT GAMBER There was only one appointment at this time.

COUNCILMAN MANSON – Alright, on this others yes.

Roll call vote of 9 yes on the rest of the appointments.

COUNCIL PRESIDENT GAMBER As I say we do have an opinion from our law director that states one thing and council has just made a motion on its own efforts.

11. REPORTS OF COMMITTEES

COUNCIL PRESIDENT GAMBER Next Monday is February 9th for committee sessions. A reminder that the next council meeting will be on Tuesday, February 17th because of Presidents' Day.

12. RESOLUTIONS AND REQUESTS OF COUNCIL MEMBERS

COUNCILMAN MANG – I'll be very brief and short. But the problem exists in the reservoir area in the third ward, good portion of the first ward our feathered friends are pretty much taking over the area. On Sunday I had a call from the people just north of the reservoir and talking about the numbers a great number. Matter-of-fact I'm sure there's a 100 out there I took a little drive over there and I can see from looking where she did that she probably was the numbers were great. I didn't know if they were set up looking to do a wave or what. But I'd never seen so many of them they were like proud peacocks walking around. You know it was like it's our land and you know we do have a problem. I don't know the answer but I have had many calls from the people up there. I think we've got to try and find out what we can do as a city I know there's a lot of things that our city people have approached and found out no, no you can't do that because we have protection of the livelihood of animals, etc. That's all fine but we do have another problem I guess it concerns me is that also we could have a health problem with these things. I don't know as the woman explained to me said that in the summertime it's kind of rough if you have grandchildren over and you're afraid to leave them outside. For the life of me I don't know what they were doing over there yesterday in the snow and that. I don't know

what they're eating or what but its something we've got to try and get some input from someplace, somehow. You know it appears to me that they're not going to go away and they are finding their way further throughout the city. I know it just it hasn't been too long ago that I was going on 12th Street very close to this area and here comes a parade. I don't know if there were one or ten but they just walked right across the street kind of defy you to hit them. The woman one of the ladies who called me mentioned to me that sometime ago I don't know how long ago we had a fence that ran along Hankins Road right there alongside of the sidewalk. She thought that fence helped now looking at some of these fearless animals on Sunday they didn't fly there. There's no way they got off the ground they had to be doing the walking stint. I don't know if a fence or what I'm doing is just throwing this out here so we can't forget this thing because they're just all over the place. I know our neighbors further to the north got the same problem we have and to the east and west. But they're going to go away and they are not Canadian geese these are Stark County geese. They have no ancestry to Canada they're born and raised in this area. You know they don't know about going home this is home. So I think we really have to find a way and Mr. Mayor whatever you can do from I know your people in the park department have worked on those things. But if there's anything that we can find and the paper help us to get people to call in I know you can do things. But I'm talking about things that will legitimately help us we had a problem a number of years ago of pigeons downtown I don't know what happened to the pigeons. I don't know if someone went down and said "come guys" and they all left I don't know. But that apparently got taken care of and if we're that lucky with the cut down on the populations it should be helpful. Thank you.

COUNCIL PRESIDENT GAMBER Mr. Mayor, you indicated you wanted to speak.

MAYOR CICCHINELLI – I appreciate Mr. Mang giving us a heads up on he was going to be asking this question. So we had talked to Kenn Kaminski concerning the geese problem and there's no question Mr. Mang's correct those that lady or ladies were correct also. We have done some things in the past just so council knows I'll list them as to what we've done in the past to scare them away. We've had biodegradable goose repellent which is sort of a hot spray. We've had our police use their shot guns to scare them away. We've had a liquid fence which is used to make all the food the geese will eat taste bad and a long time ago and I don't know what that means a sonic blast that was donated for a short period of time by a vendor which makes like a high pitch scares them away. One of the problems that we have there and I'm sure all of you know that we live I live at the golf course and we really don't have a major problem right now and the main reason we don't have a major problem right now in the winter is that no one is out there feeding them. You're going to find out that one of the major reasons at the Reservoir that they're congregating is we have a lot of folks feeding them. Bringing bread and bringing pellets or whatever they eat and that's great that because everyone's grandchildren or children would like to feed the geese. But I'm telling you that is keeping them there especially if they're staying through the winter. If they're congregating there they aren't stupid they're going to know that they're going to get feed. So its hard to tell someone that when they have their grandchildren or their children there not to feed the geese. We understand all that but that's the main reason we have the issue right now that those folks were talking about. There could be some repellent that maybe we could purchase if council would like to come up with \$1,500.00 to \$2,000.00 to do that. That's an estimate that Kenn's saying that could be used but I think long term all these things that we have done are short term. What's really making them appear is the feeding of the geese and they're going to say there.

COUNCILMAN PETERS – Mr. Mayor, you named all the things that we have done in the past and I don't claim to know everything all the time. But there is one solution that a lot of golf courses around the country are doing now and its working. Not just golf courses but everywhere and it's a lot cheaper than \$1,500.00 or \$2,000.00. You purchase two swans and you put them down there they will chase the geese; the geese will not come around swans. It's a proven fact and a lot of places are trying it. I'm just telling you that because I got that inside information last year from some reliable sources and it seemed to have worked for them. So just another you know another thing to try.

MAYOR CICCHINELLI – I will turn that idea you just said I'll talk to Kenn tomorrow.

COUNCILMAN PETERS – I mean how much can two swans cost?

COUNCILMAN MANSON – Since Mr. Mang brought that up about the pigeons we may as well talk about both things here. We still have a really bad condition along the old Scorchers building down there on Erie. It's really bad.

MAYOR CICCHINELLI – Mr. Manson is right. We got rid of most of them but what they do they will reappear. Certain buildings downtown the taller ones they take care of it and there are ways to do that. But that building the owner and the condition of the building they're all congregating there right now. You can see them sometimes flying and they'll go there because they know right now that there's nothing there's no repellent there. So...

COUNCILMAN MAIER – Yes, Mr. Mayor, I don't know if you're aware the Tiger Booster Club used to have two propane cannons which they would blast after touchdowns and those were specifically farm cannons to scare the birds and that away. I don't know if they still have them but it might be an idea to look into that. If they still have them they have no use for them since they've been using the fireworks.

MAYOR CICCHINELLI – We'll take both those suggestions and see what we can do. But I can't emphasize enough the more we feed them they're going to stay there. Its sort of a catch 22 folks.

COUNCILWOMAN CATAZARO-PERRY – You briefly spoke about this municipal court handout tonight. I just want to make everyone clear I did not pass this out. I don't know who did maybe you could let us know.

COUNCIL PRESIDENT GAMBER No one suggested you did. What Mrs. Catazaro-Perry is referring to is a sheet of paper titled "Massillon Municipal Court Deficit". There's no date there's no sender, there's no recipient its just in our boxes I asked the Clerk where it came from she indicated that it came from the Mayor. Mr. Mayor, did this come from you? (Yes) And I had indicated to the Clerk in the future I would like anything that goes to the council members to be identified. This did happen to come from the Mayor but it could have come from anywhere from anybody. It really doesn't say anything other than a listing of numbers. So its up to you if you want to discuss it...

MAYOR CICCHINELLI – Sure, first of all I apologize the instructions that I gave my administrative assistant was to make sure that Mary Beth knew where it came from.

COUNCIL PRESIDENT GAMBER Mary Beth knew did but like I said there's nothing on there. So all I'm telling her is from now on to identify it.

MAYOR CICCHINELLI – Okay, this is something that we have used that these numbers come from the auditor's office that I have been gathering for quite some time. I have used these numbers at various times when we've discussed the issue of the municipal court. So I don't know what the big deal is we wanted council to get a copy of it so I'm not sure if you're upset that you got this or you're upset about the manner in which you got it.

COUNCIL PRESIDENT GAMBER No, not all.

MAYOR CICCHINELLI – The fact is its really not a laughing manner. Anybody that would laugh at it I would question their sincerity because these numbers are staggering when you compare them 1998 when the citizens of Massillon were only taking \$400,000.00 out of the pocketbooks to eliminate the deficit. Now we're up to \$1.2 million dollars. You think that's laughable well its not laughable as far as I'm concerned. But we do apologize for any mix up as far as procedures but I thought we made it clear where it came from.

COUNCILMAN SLAGLE The numbers obviously speak for themselves but what do you propose by presenting those numbers?

MAYOR CICCHINELLI – Well, again, this has been something that I have been talking about for quite some time. I think at various times I have proposed taking legislative action maybe having the laws the changed in the State of Ohio. Maybe taking some court action maybe I

know that just recently there's been some folks talking to the judges and trying to get them to understand the predicament that we're in. Not necessarily because of the financial condition now I've been preaching this for ten years. So this isn't anything new. It's a travesty what's happening. Somewhere along the line we have to stop it. So whether we hire an attorney to see what can be done legally. Remember council in the past they have wrestled with this and one time they did file a lawsuit. Whether we want to do that or not you know I'm getting a little tired of hearing people say "the mayor's just picking on the courts". I'm not picking on the courts what I'm saying is this whole situation has gotten out of control. We've got to look at the situation and try to resolve it. If the people in charge of the court are not willing to work with us then we have to look at other measures. But these numbers are staggering and they're not going anywhere. So if talking is not going to do any good which we've tried we've done that consistently asked for some dollars back. The only elected official that would do that is the Clerk of Court, Johnnie Maier. He has consistently given money back at the end of the year. If he can do that in his salary accounts so can the judges. Anybody that says contrary is not informed. There are funds that can be utilized and this number the funds are growing over there and the dollars deficit is growing over there. I'm just bringing it to council's attention that we need to do it and I've consistently done that this is nothing new. I thought you wanted a copy of it maybe you don't.

COUNCILMAN SLAGLE What was the result of when council took a lawsuit?

MAYOR CICCHINELLI – Well, that was many years ago. Actually the city won a case at one part of it and the Judge Musser at the time that's how far back it goes won part of it.

COUNCILMAN SLAGLE Well, I mean so what affect would it be for us to it again if it's already been decided.

MAYOR CICCHINELLI – Well, not necessarily this that was a different lawsuit it involved court spending but it wasn't specifically these dollars. I mean isn't it a concern of yours Mr. Slagle that every year this number goes up as far as we end the year and we have to throw in \$1,165,000.00 and then each year they start the new year with a this year it was almost \$900,000.00 in the black that they start the year with a large carryover. I mean to me there's something wrong with that and especially the numbers that have grown so much in a short period of time. You know the city has always provided space and has always taken care of the deficit in the court. These numbers are getting to the point where it's ridiculous and I know the court that we have is unique to Ohio and that's why I'm saying maybe we should try to legislate a change. Because these numbers are not going to change and that's why we have to do something quickly.

COUNCILMAN SLAGLE Well, I just don't know what the city council can do about this. As I understand it whether we like it or not its something that we have to based upon the state legislative enactments that we have no control over. So I don't know we as a city council can do anything about it.

MAYOR CICCHINELLI – You know maybe we should have a work session to discuss this but I guess I don't know who said? Who said that?

COUNCILMAN SLAGLE Well, its just my understanding that's what it is because of the way the court as you just said our court district is set up with such large townships that give us so much work there's really not much we can do about it based upon the current state of the legislation and the state legislature which frankly is not likely to change. Because there's many moiré townships than there are cities.

MAYOR CICCHINELLI – And what I said that was one idea and that is to legislate a change. No, I did not specifically say that all I said was this court is a unique institution and it is. That doesn't mean that every dollar and every one of those funds that have been created can not some of those dollars can not be given back to us. That is what needs to be investigated I mean its just one word of one or two people versus another. But I think council should be concerned with these dollars continually increasing and all I ask you to do is maybe look at some of the other courts and how they operate. But you know that's hard to evaluate you'd have to go and you'd

have to probably hire somebody to see if every municipal court operates the same way as ours. That's where I think that needs to be done. Now that all being said I mentioned that we may have to ask the state to legislate well we don't know what that will end up being Mr. Slagle unless it's investigated. We need to look at it that's why I bring these numbers to your attention. It needs to be evaluated and looked at.

COUNCILMAN PETERS Mr. Mayor, I didn't mean to burst out and say "you did" but I went to your state of the city address which was very good by the way. But you said specifically at that state of the city address that is something that is currently controlled by the state legislatures and that you would yell from the top of the highest mountain to those people until they realized what these courts were doing to our city. So I guess I'm kind of like Mr. Slagle in that aspect and that aspect only that you know I'm confused. I thought it was controlled by the state legislature.

MAYOR CICCHINELLI – No, what I said Mr. Peters, at the state of the city breakfast was that the misinformation specifically when Jackson Township was going to incorporate here about ten years ago. Some of the folks out there were saying that they would get the municipal court automatically. That the municipal court is to be housed in the municipality with the largest population. As you know Jackson has around 41,000 people and we have 33,000 people. If they would ever incorporate and those numbers would ever stay the same that isn't the case. I brought up that the state legislature creates all the municipal courts. That's what I said and they can only alter that municipal court. They can move the court, they can put another division within the county or they can create another municipal court. So if Jackson an example with Jackson Township would incorporate they could establish another municipal court in the new city of Jackson whatever they call it. That's what I said about the state and it is true that the state does govern a lot of these activities that are performed by the courts. What I think we need to do is sit down with all powers concerned and I've said this many times trying to come up with ways to cushion this and if there are some accounts and funds which I think there are some funds those dollars can be given back. If the Clerk of Court can take funds out of his accounts and give them back to the city on a yearly basis then I think the judges can do the same thing. To what extent we've asked them the auditor has asked them late last year she had a meeting with the presiding judge at that time Mr. Elum. He said no I'm not returning any money I just think it's going to have to be brought to a head because it's not going to get any better. I happen to think that our citizens deserve better. I don't think this should continue. That's why I bring it up.

COUNCILMAN PETERS Well, okay, I'm a little clearer on that and then Mr. Slagle's got me confused I mean so what you're telling me is the state legislature has no say so over how these funds are distributed in the City of Massillon and its all up to council?

MAYOR CICCHINELLI – No, no, the courts were established by the state legislature and the state legislature sets up certain criteria. Example, there was a bill proposed ten years ago maybe plus ten years that would force townships that contribute to a municipal court to pay their percentage of costs. That bill was introduced it was for townships and or incorporated communities. Another words, cities or villages the township lobby the bill was presented the township was so strong in Columbus that the township association was strong in Columbus that took the part out about the townships. So in essence all that's left to support a municipal court are the incorporated communities of that particular municipal court. That's wrong especially in a court like Massillon where you have a township of 40,000 and a township of 28,000. It just creates a lot of problems a lot of the court log and court cases comes from those two townships. Yet they don't have to pay a percentage. So through the years various times we've tried to deal with that and its like they don't want to give us the money they don't have to give us the money. So that's these are the things that I'm saying as far as legislating change in Columbus. As well as coming up with maybe some creative ways to maybe even finance municipal courts. I mean these courts are really I mean they do they're a burden to the community that they're housed in. They really, really are. I know we have to have a judicial branch of government and a seat and I know that's part of our structure of government. But that's why I keep referring to it as unique because of the nature of the two urban townships. Canal Fulton for example they pay us something but they're incorporated, Navarre, they're incorporated buy you're talking a small city of little over 5,000 and a village of 1,300, 1,400. So there's not a lot of cases so they don't contribute a lot to the court. But we just need to have dialogue other than no; I'm not interested

in helping. So...

COUNCILMAN PETERS So say in short we can do something as a council to force them to do that.

MAYOR CICCHINELLI – Well, I think Mrs. Catazaro-Perry once reported that she had talked to the courts and she can answer this better than me because she talked to them or somebody over there. There was one fund that could that they said that they could give some dollars back to the city. She said that I'm just saying I think it needs to be looked into there might be more than just that one fund. You know some of these funds were established all the funds were established by council. So and I know that if you put money into a certain fund for a specific purpose yes some of those dollars probably can't be spent for general operation. But how do we know any of that if that if all everybody else says is well the court doesn't matter we went to court that's not the way to approach we need to address it. That's all I'm saying and if in the final analysis we can't do anything well at least we tried. But I'm telling you I'm not sure of that these numbers aren't growing. I mean almost a \$1.2 that's a lot of money that's a lot of money that the citizens of Massillon are putting in and this is these are after expenses it costs so much to run the court. They receive so many dollars in fees that's the difference these numbers that you see here are the difference between those two.

COUNCILWOMAN CATAZARO-PERRY – As the newly elected chairman of rules and courts I thought it was my job to start the research on it because we've heard so much from the mayor saying that there's dollars at the courts that he can have. So I did meet with Judge Elum as well as Judge Centrone and they're both willing to come and speak to council and answer all your questions. So you know we can set that up Mr. Mang at a work session if you'd like and they're both willing to come in and talk with you and answer any questions that you'd like. I am going to meet with Mr. Maier to discuss further because I believe that's my job as chairman. So hopefully I will be able answer any questions in the future and he Mr. Maier may also be able to come in and speak with you as well.

COUNCILMAN MCCUNE Mr. Mayor, you mentioned possible state legislation have you spoken to any of the state legislatures from this area about this subject and got their feelings on it may or may not be doable as Councilman Slagle mentioned and as you just mentioned the township lobby is a heavy duty machine.

MAYOR CICCHINELLI – I'll be quite honest with you I have an appointment with a member of the House scheduled and this is going to come up. In the most recent past goes back several years the individuals that represented this district were not of my political party, number one. Probably most importantly were not going to do anything to jeopardize votes within the townships. That's the problem that you have here and that if you look at the State of Ohio 2/3 of all Ohioans this is a good statistic 2/3 of all Ohioans live in incorporated communities. Are you going to sit here and tell me that 2/3 of all the House and Senate seats in Columbus those folks live in incorporated communities. The answer is heck no; most of them are from townships. So they don't have a vested interest in changing it and I already mentioned to you that an attempt was made to do that and the township lobby was so strong they yanked it out of the bill before they passed it. So I think what this really boils down to its some people in their minds think that this is a Cicchinelli versus Elum thing. It really, really isn't I've been screaming about this deficit long before Judge Elum really came on board. I mean this is something since he's come on board I will openly say it has concerned me even greater. Because the numbers bare that out; those numbers don't lie. But this isn't a Cicchinelli versus Elum game. This is these are numbers that are staggering and we need to deal with it somehow someday. By having them come in here great, if that's going to help solve that, that's good but if they're all going to say if the two judges are going to say "well, we tried and no we can't and no we aren't going to these monies out" you know and invite them to a council these are your meetings and these are your work sessions. Do whatever you want but there needs to be some questions asked about what can be done to try to solve this problem. Not just Massillon's the court seat so that's the way it's supposed to be I don't buy that. That's why I mentioned going to try to legislate a change and I'm not sure its even going to get a hearing because there aren't too many courts like this in the state. If there are courts municipal courts most of the communities that are served by those courts are incorporated. In urban areas the rural areas the issue is no big deal.

COUNCILMAN MCCUNE Because of the burden that's placed on the citizens of Massillon to carry the heavy weight of this load. Maybe this is more of a question for the law director but we can show a hardship and possibly go forward with a lawsuit under that guise for a lack of a better term. Because I agree with you that it is a heavy burden for the citizens of Massillon to have to bear and it's just the way the laws are set up. I blame neither the judges or whoever but I think because we are so unique possibly we should be contacting other municipalities that are finding themselves in the same position as us and see if there's a viable lawsuit that could go forward to have the laws changed to rectify the situation.

MAYOR CICCHINELLI – Yeah, maybe as Mrs. Catazaro-Perry's committee can look into that I suggested look at what other municipal courts do and see how they fund their courts and see what the percentage of dollars returned to those cities general funds. No one talks about it because no one really wants to hear it but raising fees that's an alternative that the court has. Now the argument is yeah but the people that don't pay the fees if you raise them they aren't going to pay those either. These always arguments the point is this deficit is going up every year and that's why we wanted you to have a copy of it. I think most of you have gotten copies of this in the past. This isn't anything new.

COUNCILWOMAN CATAZARO-PERRY – Well, I just wanted to say that the whole point of bringing that out was that I wanted the council members to know that I did not pass that paper out. Because I am chairman of rules and courts I had no connection with that paper at all and there was not a name on it. I just learned myself when Mr. President told us who passed it. I just wanted council members to be aware that it was not me. So that's the whole conversation stirred from.

MAYOR CICCHINELLI – Well that's good I'm not responsible for how council does its business. My administrative assistant was instructed to inform Mary Beth who the person is who the author of that particular that letter is. So I can't be responsible for how things are done.

COUNCILMAN PETERS I don't mean this to be rude or anything but if we have these judges come to our work session would you be so kind as to show up to that work session also. I mean we'll stand between you guys I mean I think that you know I know its not going to be like one of those nice things. There's going to be its going to get heated possibly but I want any one of us want to ask questions I'm sure that speaking for this council we want to hear both sides of it. You know not two days later or I'd like to hear like right then. You know I think that's important. I'm just asking that you please come to that you know I don't expect you to be here every work session I mean because a lot of the stuff we do. But that there I feel is really important.

MAYOR CICCHINELLI – If you request me to be here I'll be here.

13. CALL OF THE CALENDAR

14. THIRD READING ORDINANCES AND RESOLUTIONS

. SECOND READING ORDINANCES AND RESOLUTIONS

16. NEW AND MISCELLANEOUS BUSINESS

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

COUNCIL PRESIDENT GAMBER I would like to make a request for a very short meeting in the conference room with the rules and court committee which would be Mrs. Catazaro-Perry, Mr. McCune, Mr. Townsend and I'd like for the law director and Mr. Mang to sit in. Of course, it's a public meeting anyone can sit in if they'd like to.

18. ADJOURNMENT

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

MARY BETH BAILEY, CLERK,

GLENN E. GAMBER, PRESIDENT



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