

**MINUTES OF THE REGULAR MEETING
MASSILLON CITY COUNCIL
HELD, TUESDAY, FEBRUARY 17, 2009**

COUNCIL PRESIDENT GAMBER I d like to welcome all of you to Massillon City Council for Tuesday, February 17, 2009. We have in attendance with us this evening: Safety Service Director Mike Loudiana, Auditor Jayne Ferrero, Engineer Keith Dylewski, Community Development Director Aane Aaby and the 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, Ron Mang, Paul Manson, Dave McCune, Donnie Peters, Larry Slagle and Tony Townsend.

Thus giving a roll call vote of 9 present.

2. INVOCATION

COUNCILWOMAN KATHY CATAZARO-PERRY – Tonight I have a special treat for you I tried to bring one of our American Elite American Idol cheerleaders before but she couldn't make it tonight. We have Katie Teets she is in the fourth grade at Smith Elementary. She's eleven years old and she is on my special needs cheerleading team and she's going to say the pray with us tonight.

3. PLEDGE OF ALLEGIANCE

COUNCILWOMAN KATHY CATAZARO-PERRY – Chairperson of the Rules and Court 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. 23 – 2009 BY: COMMUNITY DEVELOPMENT COMMITTEE

Approving an application for assistance under the Ohio Neighborhood Stabilization Program, and authorizing the execution and filing of the application and related assurances and certifications, and declaring an emergency.

COUNCILMAN MANG – It's not very often that we talk about \$1,000.000.00 here not unless

we're being short. But tonight there's a \$1,578,000.00 plus thousand dollars that could be available to the city from the state. These funds of course would have to be utilized under the Title 3 Housing and Economic Recovery Act. There's a number of things that this money could be used for and one of the things that has caught the attention of some of the council people is the fact that there's a good chance that many of the homes that we find for demolition that a good portion of this money be used to take care of those. Would also help in the foreclosure market that there would be some properties that very likely that if they're abandoned or such that the city might act upon themselves and some point be able to rehab them or whatever. There's a number of programs that are outlined and they definitely have to if in fact we receive the money we definitely have to abide by all the provisions. I noticed in here that this has to be filed by the 27th of this month. So its not a really a situation where we can have a reading a second reading or such. As it was explained to us in the work session that we outlined a number of things in here that we would do with the money. The criteria is still the same but some of these projects of course council would have say so into what really does happen. But we will need to get this piece of legislation going tonight and we do have Aane here and if you have some questions now would be the time to ask them or not.

COUNCILMAN TOWNSEND – I have one question. On the list of the homes to be demolished you have Jones School on here. I guess my question is there's a church connected to it that is actually holding service. How would they I guess tear the school down but keep the church attached.

COUNCIL PRESIDENT GAMBER Are you calling Mr. Aaby?

COUNCILMAN TOWNSEND – Oh, I'm just throwing it out there.

COUNCIL PRESIDENT GAMBER Alright.

COMMUNITY DEVELOPMENT DIRECTOR AABY – I'm not certain we'll be able to use this money to tear down that property or not because we may be restricted to residential properties. So I know there is a church there and I'm not certain you know how if it would proceed to some type of demolition how that would be done. The school I think has been closed off from the gym part that was renovated that the church uses. So perhaps if it would proceed something could be done but I'm not even sure if we'll be able to use this money to do that.

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

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

ORDINANCE NO. 23 – 2009 WAS PASSED BY A ROLL CALL VOTE OF 9 YES.

COUNCILMAN MAIER – Point of order, is there a reason we started out of order on the names when we did the roll call vote?

COUNCIL PRESIDENT GAMBER We started alphabetically it changes all the time.

COUNCILMAN MAIER – Okay.

COUNCIL PRESIDENT GAMBER Where did we start?

COUNCILMAN MAIER – We started with Mang.

COUNCIL PRESIDENT GAMBER Alright, and then next would be...

COUNCILMAN MAIER – Usually we went with Catazaro-Perry and then...

COUNCIL PRESIDENT GAMBER No, we'll just go alphabetically where ever we start we go alphabetically.

COUNCILMAN MAIER – Usually when we leave off we start where we left off.

COUNCIL PRESIDENT GAMBER I have no idea.

COUNCILMAN MAIER – Okay, I just wondered.

ORDINANCE NO. 24 – 2009 BY: COMMUNITY DEVELOPMENT COMMITTEE

Authorizing the Mayor of the City of Massillon, Ohio, to make an application to the Ohio Historical Preservation Office for financial assistance under the Certified Local Government Grant Program designating the Massillon Heritage Foundation as the Third Party Administrator, and declaring an emergency.

COUNCILMAN MANG – This is an opportunity really for the city to help the Massillon Heritage Foundation where they actually use the city as a vehicle to obtain funds. The funds that they're looking for is under the Historical Preservation Office which would give them assistance in looking at their building and determining what needs to be done and how it will be accomplished and still preserve the historical home. So there's not really much for this council to do because if in fact the money is awarded to them it will go really directly to the historical or to Five Oaks. If you have some questions we'll try to get you an answer.

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

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

ORDINANCE NO. 24 – 2009 WAS PASSED BY A ROLL CALL VOTE OF 9 YES.

ORDINANCE NO. 25 – 2009 BY: PARKS AND RECREATION 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 purchase of chemicals and fertilizer for The Legends of Massillon Golf Course, and declaring an emergency.

COUNCILMAN TOWNSEND – We discussed this last week at the work session. Passing this would just allow the city to advertise and receive sealed bids for chemicals and fertilizer for the golf course.

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

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

ORDINANCE NO. 25 – 2009 WAS PASSED BY A ROLL CALL VOTE OF 9 YES.

ORDINANCE NO. 26 – 2009 BY: PARKS AND RECREATION COMMITTEE

Amending Ordinance No. 201 – 1995 by repealing Sections 1 and 2, and enacting new Sections 1 and 2 as on attached, and declaring an emergency.

COUNCILMAN TOWNSEND – For the last few weeks we have had much discussion about the validity of council vote as it pertains to the appointments to the parks and rec. Hopefully with the passing of this ordinance we can clear that up. Last week I know we had a couple council members who had some concerns about the language in Ordinance No. 26 pertaining to the retroactive piece. That was removed I think it's very important that we vote on this today to allow members of the parks and rec. board to go on with their business. The parks and rec. is in a bad way and I think its time for us to take care of our business so they can go on and take care theirs. If there are no questions if there are I can the Perry Stergios up the law director if not I would like move Ordinance No. 26 forward for a vote.

COUNCILMAN SLAGLE – When was the retroactivity withdrawn from it because I know it was in it when we discussed it at a work session.

COUNCILMAN TOWNSEND – I requested for it to be removed because there was some questions about how did it get there. We did have an opinion from the law director we didn't have a second opinion. I know that Councilwoman Catazaro-Perry stated that she received some information from an attorney. I know Councilman Dave Hersher questioned that and I think it was a legitimate concern of his. I'm not an attorney but I think there is there maybe some issues with that. The way I see it we vote and at that point any other appointments in the future will have to come through council but it is very important for the parks and rec. to get on with their business.

COUNCILMAN SLAGLE – As I understand it and you've gotten an opinion from the law director that the retroactivity language was not...

COUNCILMAN TOWNSEND – I didn't get it in writing but we can call him up and he can explain it to you.

COUNCILMAN SLAGLE – If you please.

COUNCILMAN TOWNSEND – Please, Perry.

LAW DIRECTOR STERGIOS – Generally, we tried to do some research on Wednesday and Thursday when this first came across my desk. I have to admit it was an interesting issue but ultimately the research that we can up with and I can put it in a final letter if council wishes to is that you can't undo that appointment by making this retroactive. You can certainly do it in the future I talked with Mr. Peters yesterday and he seemed to indicate that I don't know as to his personal opinion. So when I first drafted it on Wednesday and Thursday I left it out I think the research still bears out that you can't undo what's been done by saying that its retroactive so I thought the consensus was to leave it out. So...

COUNCIL PRESIDENT GAMBER Mr. Slagle, do you have any other questions?

COUNCILMAN SLAGLE – Not at this time, thank you.

COUNCIL PRESIDENT GAMBER Alright, who was next over here? Mr. Manson?

COUNCILMAN MANSON – Yeah, I had a couple of questions about it. One was what you answered there the other one was when this came up this originally started this was I believe two council meetings back. We had a vote to approve to there was a proposed vote to approve the mayor's list of appointees and this became an issue. If I'm wrong somebody let me know at the same time we talked about and Mr. Peters brought it up and I know at the last meeting committee meeting Mr. Slagle and I had some conversation about this about clarifying the responsibilities of the parks and rec. board. I think you know when we started out when we proposed to table this thing four weeks ago there were two points I made. One, was about the appointment and the other one was about whether or not the it was right about what Donnie was saying about the attorney general in saying you know that the Ohio Revised Code what it states. I think that's the two things that needed both of them needed cleaned up not just the election of the board members. I don't feel that we've gotten to that point yet that we have cleared that up. The way I look at it personally it was the mayor's appointment to make. I didn't like that maybe Mr. Luckring was leaving I thought he did a good job but also he was not removed it was then end of his term and the mayor didn't re-nominate him and he nominated Mr. Pribich to take his place. I think Mr. Pribich is as good as a guy as there is around this table right here this circular table. But I do think just acting on one part of this is not the way to it. I think we should be clearing up exactly what authority the parks and rec. board has. I look at these things as some people do not accept a decision that's made by somebody like say the mayor here and immediately they want to change the rules. I've had a lot of experience over the years with unions I've been a trustee on a lot of this an executive board member. I don't like to see things just changed this quickly or this easily without you know a justifiable reason. So I will probably be voting no on this but I still believe that we need to clear up the part about how much

authority the parks and rec. board actually does have. That's all.

COUNCIL PRESIDENT GAMBER Mr. Peters, did you have your hand up?

COUNCILMAN PETERS – No.

COUNCIL PRESIDENT GAMBER Mrs. Catazaro-Perry?

COUNCILWOMAN CATAZARO-PERRY – You know the Ohio Revised Code we're not changing the Ohio Revised Code it is what it is. It's the law and so I don't think by taking out the retroactive I don't have an issue with that. I think that the law is the law and we already voted the answer was no and we gave that back to the mayor and he appointed him anyway. If you look back in our minutes August 18th we all voted 8 yes on Mr. Muzi. They called for a roll call vote we have consistency here for a long time guys and in 1996 I did do a little bit of homework and there was extensive conversation and a vote on the park and board members. I understand it was about a two hour conversation and they questioned those people that were up for appointment. So I don't think we've done anything wrong I don't think that the gentleman should be attending the meetings. I think we voted no and that we need to stand by the state law. So I don't have an issue with taking out the retroactive language because it doesn't matter the law is the law. So I plan on voting in favor of this tonight Tony I don't have a problem with that at all. So you just need to know that we've been consistent over the years appointing these board members to the rec. expect for 2007 as the president has pointed out and for some reason that was oversight. I don't know who's error that was but for some reason it was an error but we've been consistent with appointing these board members and I think its really unethical of what is happening here. So I plan on supporting this, this evening.

COUNCIL PRESIDENT GAMBER Anyone else with comment?

COUNCILMAN SLAGLE – Yeah, I concur with Paul that we should be looking into the whole interaction between the parks and rec. board and our oversight over them. That's frankly why I was disappointed that the mayor did not listen to the council's he gave it to for us for our input we have him our input and he didn't follow it. Regardless what the now the statute may or may not say. But having said that I see no reason why we shouldn't in the future make sure that is not the going to be used in that fashion again. Because this rec. board just controls too many of taxpayers dollars and too much they oversee too many taxpayers dollars and oversee too many other dollars coming in and dollars being spent that they take in other forms. Frankly, we as a council are the ultimate decision makers on that and we have to be comfortable with what that board is doing. We've already I think indicated that we thought a new vision a new direction should be made on that appointment and it wasn't. So I'm disappointed because now I think I've got to get put a lot more oversight into what comes from that board. Not because of any kind of mistrust or anything else its just that historically the parks and rec. department whether it be the Legends issue they have or others coming up in the future. They need a different view point in my opinion and I didn't believe they were going to get with an appointment from someone who had been there and been involved in the past. So I have no problem supporting the legislation without the retroactivity I agree with Paul that we really need to get that settled in terms of their authority, our authority and what can and can not be done.

COUNCIL PRESIDENT GAMBER Are you finished? (Yes, thank you) Mr. Hersher.

COUNCILMAN HERSHER – I have a question for the law director while he's up there. Why in this situation Mr. Stergios does the revised code not govern whether or not we have to approve this nomination. Is it just because this is a situation where our city ordinance is permitted to be more restrictive than the revised code and because its missing that language with council approval that the revised code doesn't apply.

LAW DIRECTOR STERGIOS – We are a home rule municipality we're entitled to pass laws that govern our citizens and sometimes they can differ in certain circumstances from the revised code. For whatever reason in 1995 it was passed without that language I honestly I went back through the files have no indications as to how or why that was done or if there was any real reason behind it. Because what was passed is virtually identical to the revised code provision

except for those four or five words. So but in general being a home rule entity we are allowed in this type of situation to decide that we want to do it differently than the revised code. You will see a lot of municipalities across the state have a park and rec. board that has five people appointed by the mayor the school board has nothing to do with it. Others say consent of council some don't say consent of council. I mean its all over the map now admittedly we are somewhat unique with the .03% of the income tax being designated by a different ordinance for park and rec. purposes. But that does not in of itself mandate that and I think I talked with maybe the president today about you know maybe why does the school board even have appointees. Maybe all five of them should be by council or mayor with council approval. But that's a different issue and I don't want to I'm not saying that's the right thing to do. But there might be reasons you can't do that. Any event under our home rule authority we have the ability to do that and for whatever reason it was done and we have the ability to change it.

COUNCILMAN MAIER – Yes, and I do agree with the law director it was virtually identical as to what the state law says and it even quotes the state law section in there. For that reason I think it might have been an inadvertently left out and I'm going to support the legislation that it doesn't need to be retroactive. I'm going to support it.

COUNCIL PRESIDENT GAMBER Mr. Manson?

COUNCILMAN MANSON – Now this only applies to the parks and recreation board and none of the other committee appointments...

COUNCIL PRESIDENT GAMBER The way its written that is correct.

LAW DIRECTOR STERGIOS – To point out what Mr. Maier said not to debate the issue there was another typo in there that we're fixing that clearly was not meant to be 04 it should have been 14 and for whatever reason its been that way for 13 years I think. So...

COUNCIL PRESIDENT GAMBER Mr. McCune?

COUNCILMAN MCCUNE – Yes, because of the differences between the city ordinances and the state law I fully support us getting in line with that state and getting everyone as this ordinance indicates we will so we're on the same page. I also support Mr. Manson and Mr. Slagle's feelings that we need to get a better handle on what guidelines we are capable of providing for the rec. board. They do handle an immense amount of money there has been some things that have come up during these discussions that I have concerns about in some of the past actions that board has taken. So I too support this ordinance but I too also believe that we need to go further into this issue and get legal opinion on just exactly what they can and can not do without our input. So I will be voting in support of this ordinance tonight but I will be working with Mr. Manson and Mr. Slagle and the entire council to make sure that we get some clarification on the other matter.

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

The rules were suspended by a roll call vote of 8 yes, 1 no. Manson voted no.

ORDINANCE NO. 26 – 2009 WAS PASSED BY A ROLL CALL VOTE OF 8 YES, 1 NO. MANSON VOTED NO.

ORDINANCE NO. 27 – 2009 BY: POLICE AND FIRE COMMITTEE

Authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to enter into a contract with Waikem Ford Inc., for the purchase of one prisoner van for the Massillon Police Department, and declaring emergency.

COUNCILMAN MCCUNE – Yes, as you from our discussions at the work session and over the past several weeks we in dire need of a new transport vehicle for prisoners. The Captain Herrick and his associates at the police department did a very fine job going through and getting the bids

and the best deals possible. Unless there's questions I can have the safety service director come forward to answer I plan to move forward with this ordinance tonight.

COUNCILMAN PETERS – Mine is for the auditor. This thing was put on the agenda or put on the ordinance then it was taken off the ordinance and then it was put back on the ordinance can I have the reason for that?

AUDITOR FERRERO – Absolutely, the reason was because I was told that this is coming out of a court fund and in the beginning I was told that it was all approved and it wasn't. So we had to go to the court and ask for their approval and which we did today and it got approved very quickly. But I didn't want it to go forward without that approval from the judges and so he did it very quickly. Once he did that I asked Mary Beth to put it back on.

COUNCILMAN PETERS – And I'm not playing stupid I really didn't know any of that. I just wanted to know why I thought maybe there was a...

AUDITOR FERRERO – Nope, that's why. That's exactly why and it was just an oversight and but it needed to be done and done properly so that everything went through correctly.

COUNCILMAN PETERS – So its still coming out of the court funds and okay. (It is, it is) Thank you.

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

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

ORDINANCE NO. 27 – 2009 WAS PASSED BY A ROLL CALL VOTE OF 9 YES.

ORDINANCE NO. 28 – 2009 BY: POLICE AND FIRE COMMITTEE

Amending CHAPTER 1187 “SUPPLEMENTAL ZONING REGULATIONS” of the Codified Ordinances of the City of Massillon, Ohio, by enacting a new Section 1187.16 “FREE STANDING WINDMILL REGULATIONS”, and declaring an emergency.

COUNCILMAN MCCUNE – Yes, this is an ordinance an issue that I've been working on for quite some time along with the rest of council while I was still chairing public utilities committee and Councilman Maier has been gracious enough to let me complete that task even though I'm no longer part of the committee. This is to deal with wind power and people's private property as we know as the utility costs continue to skyrocket. People are looking for ways and avenues to cut down some of that cost. So it was felt that it was important that we get something in to regulate wind mills on private property. That's what this ordinance will do it will require an ordinance change so it will have to have three readings and it will have to have a public hearing. That public hearing will take place on March 16th at 7:20pm so that the public can come in and state whatever concerns that they may have on this issue. So because of that I will be giving this first reading tonight.

LAW DIRECTOR STERGIOS – Mr. President?

COUNCIL PRESIDENT GAMBER Mr. Stergios, would you like to come up?

LAW DIRECTOR STERGIOS – But it also needs to be referred to the planning commission for recommendation from them. Mr. Aane and I were discussing that and you and I didn't think of that today when we talk but...

COUNCIL PRESIDENT GAMBER Well, we had that discussion when council first brought it up. Generally what we do is we pass an ordinance requesting the planning commission to study an item. We were told that we didn't need to that in this case so the councilman did all the studying.

LAW DIRECTOR STERGIOS – I think it still needs to go to them for their recommendation one way or the other.

COUNCIL PRESIDENT GAMBER Alright, we do have this is first reading tonight so by our next committee meeting we will have worked that out. But it needs to be referred to the planning commission we can certainly do that and put this on hold.

LAW DIRECTOR STERGIOS – I don't think it will need to be put on hold. Give it first reading and go to planning commission.

COUNCIL PRESIDENT GAMBER Alright, thank you.

ORDINANCE NO. 28 – 2009 WAS GIVEN FIRST READING.

ORDINANCE NO. 29 – 2009 BY: RULES, COURTS AND CIVIL SERVICE

Amending CHAPTER 373 “BICYCLES AND MOTORCYCLES” of the Codified Ordinances of the City of Massillon, Ohio, by enacting a new Subsection 373.24 “CODE APPLICATION TO ALL PURPOSE VEHICLES” and 373.25 “ CODE RULES FOR EQUIPMENT OF ALL PURPOSE VEHICLES” of CHAPTER 373 “BICYCLES AND MOTORCYCLES” and declaring an emergency.

COUNCILWOMAN CATAZARO-PERRY – First reading.

ORDINANCE NO. 29 – 2009 WAS GIVEN FIRST READING.

ORDINANCE NO. 30 – 2009 BY: FINANCE COMMITTEE

Making certain appropriations from the unappropriated balance of the Capital Improvement Fund, OPWC Projects Fund, 1205 Fund, State Highway Fund, Federal Law Enforcement Trust Fund and the Bond Retirement WWT Fund, for the year ending December 31, 2009, and declaring an emergency.

COUNCILMAN MANSON Yes, we have I believe six parts to this tonight. First part we have city leases please appropriate from the \$171,371.00 from the capital improvement fund to the following accounts we have money for cruisers, fire truck lease, early warning signals and street sweeper lease payment. This appropriation is necessary for the lease payments due for the 2009 year. So if there's any questions we can get the auditor up there. Second part, is please appropriate \$74,000.00 from the unappropriated balance of the OPWC project funds 1482 to the Keuper Blvd storm sewer project. This is just a paper trail for the state auditor and it does not constitute real money the source of these funds are coming from the Ohio Public Works Association. Number three, please appropriate \$48,884.00 from the unappropriated balance of the 1205 fund for the purchase a prisoner van for the Massillon Police Department. We talked about that earlier. Number four, please appropriate \$26,857.00 from the unappropriated balance of the state highway fund. This appropriation is necessary to purchase salt for the streets the unappropriate balance is from liquidated purchase orders from 2008. Number five, please appropriate \$7,000.00 from the unappropriated funds of the federal law enforcement trust fund account and I won't give the number but this money is to used for confidential funds in the special investigative unit. Number six, please prepare legislation to appropriate from the unappropriated balance of the bond retirement wastewater treatment fund 1305 \$1,800.00 in fees. This is necessary to pay for expenses related to the additional money borrowed for OWDA for the plant. Any questions I'll have the auditor up and answer them.

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. 30 – 2009 WAS PASSED BY A ROLL CALL VOTE OF 9 YES.

ORDINANCE NO. 31 2009 BY: FINANCE COMMITTEE

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

COUNCILMAN MANSON Yes, section one we are going to make two reductions. We're going to reduce \$255,500.00 from an account called entitled salary – police and we will reduce \$255,500.00 from an account entitled salary – fire. These reductions are necessary because of notification from Stark County that the local government will be reduced by \$136,000.00 because of decline of interest income of \$100,000.00 and no carryover in cash in the general fund at \$275,000.00.

COUNCILWOMAN CATAZARO-PERRY I'd like to have the auditor come up please. Of course, Mrs. Ferrero you know I was going to bring you up. I'm concerned about the salary line items and what its going to look like towards the end of the year. We're reducing quite a bit of dollars \$600,000.00 in their salary account. (That's correct) Where are we going to find those dollars to replace them?

AUDITOR FERRERO – Well, as you know inheritance money comes in in March but that money is prorated we get that in twice a year. We get it in September and in March and we should be getting our first inheritance check but we've been notified we're only going to be getting \$136,000.00. Which is a very small amount from what we're used to. So we are hoping and that's all we can do at this point because we can't even predict what that could be that maybe what we get in September. I will tell you I will be coming to you very shortly and asking you to change the split and I'm even anticipating a 100% rather than 97/3 or anything that we've done in the past. I want you to know that I am monitoring this on a daily basis I have spoke with the administration and I meet with them regularly. They are aware of my issues I also will tell you I will be going on vacation this week I won't be back until next Thursday. So I've asked the administration to give some thought to this. We need to really think seriously about what we're going to do. I also think and I haven't gotten a chance to discuss it with the chair of finance but I think we need to think about the credit that we give for income tax too. I know that's something that would have to probably require a lot of discussion. However at this point in time its something that we really need to consider. We need to think of all the avenues that we can go down and that's one that we have not approached for a long time. So you should be concerned and I'm concerned but this is what we have to do there is no money in that overtime or that comp line. I do believe that those departments are watching it and they are keeping as much in control as they possible can. I do believe that. Also we do have some retirements coming up a couple of people are retiring or leaving. So we have some big pay outs on that too. So those are things that we don't have any control over those things. We don't have money put aside for that as well. The one is a wastewater treatment plant comes out of their funds and they do have the money there to pay for that. I hope I answered your question.

COUNCILWOMAN CATAZARO-PERRY You did. Thank you.

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. 31 – 2009 WAS PASSED BY A ROLL CALL VOTE OF 9 YES.

7. UNFINISHED BUSINESS

8. PETITIONS AND GENERAL COMMUNICATIONS

LETTER FROM THE OHIO DIVISION OF LIQUOR CONTROL REGARDING A TRANSFER OF LIQUOR LICENSE FROM FOE AERIE0190 MASSILLON 117 1ST ST SW 1ST FL & 2ND FL MASSILLON OHIO 44647 TO FOE AERIE0190 MASSILLON DBA FOE AERIE 190 MASSILLON 303 WEIRCIH BLVD NW MASSILLON OHIO 44647

9. BILLS, ACCOUNTS AND CLAIMS

- A. REPOSITORY - \$815.00
- B. INDEPENDENT - \$36.81

COUNCILMAN MANSON I move that we pay the bills, seconded by Councilman Hersher.

Roll call vote 9 yes to pay the bills.

10. REPORTS FROM CITY OFFICIALS

- A). POLICE CHIEF SUBMITS MONTHLY REPORT FOR JANUARY 2009 COPY FILE
- B). TREASURER SUBMITS MONTHLY REPORT FOR JANUARY 2009 COPY FILE
- C). FIRE CHIEF SUBMITS MONTHLY REPORT FOR JANUARY 2009 – COPY FILE
- D). INCOME TAX DEPT SUBMITS MONTHLY REPORT FOR JANUARY 2009 – COPY FILE
- E). WASTE DEPT SUBMITS MONTHLY REPORT FOR JANUARY 2009 – COPY FILE
- F). MAYOR’S MONTHLY REPORT FOR JANUARY 2009 – COPY FILE

COUNCIL PRESIDENT GAMBER Thank you, there’s nothing there that we need to vote on luckily. So we will accept all those and file them

11. REPORTS OF COMMITTEES

COUNCIL PRESIDENT GAMBER Committee meetings will be next Monday the 23rd at 5:30pm.

12. RESOLUTIONS AND REQUESTS OF COUNCIL MEMBERS

COUNCILMAN PETERS Yes, my question is to Kathy. I was notified that the judges were going to be here at the next work session. I don’t have a problem with that but I also remember that last council meeting you know we told the mayor about this and he said if you have them at a work session I will definitely attend. Now I understand that he can’t attend do you think we should hold off on bringing the judges in here until the mayor is here?

COUNCILWOMAN CATAZARO-PERRY Are you asking me, Donnie?

COUNCILMAN PETERS Yeah.

COUNCILWOMAN CATAZARO-PERRY You know that’s fine the judges are ready to come Judge Centrone and Judge Elum. They’re not going to present anything they’re going to come so council can ask them any questions that they would like. If you want me to wait until the mayor is available but he did say that if they would come that he would definitely be here. So I’m not sure I know I asked Mary Beth to contact him and I got an email saying that he would not be able to attend. I don’t know the reason why. So its up to council.

COUNCILMAN PETERS Just to the other members of council I mean I don’t want to get into a thing where you know where its back and forth, back and forth and waste a lot of our time. You know if both parties are here maybe we can maybe you know get figured out what we have to do. I just think that you know the mayor had a good point he said “I’ll be here so we can you know do these things” and now he’s not going to be here. So I just again we’re just going to have one side of it its just my opinion. So I’ll leave it up the rest of council what they think too.

COUNCILMAN MCCUNE I agree Mr. Peters. The mayor submitted I believe two dates that he would be available to attend the work sessions. I think it would be prudent on our part to make sure all parties that we would like to be involved would be involved prior to having them here at a work session so that we’re not going back and forth continually.

COUNCIL PRESIDENT GAMBER Kathy, do you have those two dates.

COUNCILWOMAN CATAZARO-PERRY I don't what would those two dates be Mr. McCune?

COUNCILMAN MCCUNE They were in the email I don't have them with me. They were in March but I don't remember the dates.

COUNCIL PRESIDENT GAMBER Do you remember where the email came from?

COUNCILMAN MCCUNE It was in council email.

COUNCILWOMAN CATAZARO-PERRY Mary Beth, do you have the dates? (I'd have to look) Okay, would you just send that out again please? (Yes) Thank you.

COUNCIL PRESIDENT GAMBER What else was in the email?

COUNCILMAN MCCUNE That he was unable to attend at that work session but he would be able to attend two dates in March. I don't remember those dates were off the top of my head.

COUNCIL PRESIDENT GAMBER Kathy, its your call what do you want to do?

COUNCILWOMAN CATAZARO-PERRY No, I think that's appropriate. We'll try to you know have all parties here and so we'll shoot for a different day. I can give Judge Elum call in the morning and we can change that if that's what council wishes I don't think that's an issue at all with the judges.

13. CALL OF THE CALENDAR

14. THIRD READING ORDINANCES AND RESOLUTIONS

.SECOND READING 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 Second reading, public hearing March 2nd at 7:20pm.

ORDINANCE NO. 16 – 2009 WAS GIVEN SECOND READING.

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 – As we've discussed now in two separate work sessions and the Honeywell representatives here again today. This is a long term contract because of the length of the contract a little bit further explanation should be should given to the public. It's a ten year contract being entered into with Honeywell concerning many of the city buildings not all the rec. center for instance is not included in this. But it covers a number of things first of all its replacement of some antiquated equipment that needs to be replaced. It also governs a ten year service contract to take care and maintain the City of Massillon just as the previous contractor has been doing. It also has an energy savings guarantee within the contract that in my opinion makes it a very attractive one for the city. The mayor and the city engineer and the safety service director should all be commended for looking at such a contract and bringing it to our attention. As the contract is worded it basically will end up in a net gain to the city in may aspects. First of all, we'll become more green which is something every city should be doing because we're putting energy savings devises and he explained at the last meeting that it will in

fact improve our carbon footprint. That based upon what's being done there'll be a savings in terms of energy cost that the cost of the materials that are needed to be replaced during that ten years is included in the contract. Where as in the past it had been a parts additional type contract as the material was given to us show that it was a net gain to the cities whether or not it ultimately pans out I think probably it will of actually a positive cash flow for the years of the contract. As you know I talked to both Stow, Elyria and Streetsboro prior to the last work session. They all had nothing but positive statements since then I have talked to the City of Sandusky Ms. Kathy McPhillips they also had a performance contract with them that she again had nothing but glowing comments for the contract the benefits it had to the city, the professionalism that was being handled by the Honeywell people and that they were very pleased with what happened. So based upon I believe that we should suspend further need for reading the final one and ask that we suspend those rules and I hope to pass it tonight unless there's any questions that can be raised.

COUNCIL PRESIDENT GAMBER Mr. Mang?

COUNCILMAN MANG – Yes, the question I have. The paper has indicated that there's a good possibility that we may build a combo station with Jackson fire station. If that would so happen then fire station 3 would probably be the one that would be eliminated. Will there be provisions to opening this contract I'm not certain who will have what in this combo whether it will be city maintained, Jackson maintained I'm not sure what. But it looks like there's a very good possibility that this thing can go and will go through since they're talking about building it on county land. What affect it has here I don't know other than I would think fire station 3 being the age it is probably has some antiquated things that need to be replaced and etc. How that will affect this I don't know I probably should forget about it but I can't I've got to ask this question.

COUNCILMAN SLAGLE – Mr. Mang, I don't know that answer either that unfortunately I read about the fire station joint effort in the paper. So until then I didn't I wasn't aware of it but Mr. Spizzichini is here right do you know if that's or would Mike be better? Mr. Mang, you have the floor.

COUNCILMAN MANG – The question I have is that you know we're signing a ten year contract to cover four fire stations. If in fact we do build a new station a combo with Jackson, fire station 3 would be eliminated. My question is, is there places in this contract for reopening it and doing what has to be done because the upkeep on the new station is going to be considerable different than what's happening on number 3. But then again I don't know who, what or say is going to have is going to handle the maintenance or whatever on that new station.

SAFETY SERVICE DIRECTOR LOUDIANA – The general discussion on that is it would be shared equally by Jackson and Massillon. We are at a point where we'll eventually bring that to council and they'll take it to the trustees. Once it gets to that point we are sending all the information to Bocceri and he will take it to Washington. There are possibly funds to build that station outside the stimulus package. It's an awfully good chance that we'll get the funding because it affects three entities the county, Jackson Township and Massillon. Three separate political entities. So they are very excited about doing that. As far as opening this up it would be a brand new station and without putting my foot in my mouth I'm sure that it could be added to that contract. It's a separate entity it would be a brand new station it shouldn't need anything for 6 or 7 years. So we would look into that however at this point we don't even know what the station is going to look like to try to get any kind of a quote. Secondly,,,

COUNCILMAN MANG – I guess I'm not looking for that. I just wanted to make certain there was an opportunity to open up this contract because there's definitely going to be a difference with a new station versus number 3. Which I am assuming because of its age has a lot of things that would need to be done.

SAFETY SERVICE DIRECTOR LOUDIANA – Right, and it remains to be seen what we're going to do with that station too. I don't know if we'll get rid of it. The other thing on a new fire station it will be a green station there will be no energy savings it will be a brand new station. So now we're talking a little different thing and we would be just requiring maintenance on it. Okay? (Thank you) And we have thought about that but we don't have anything to work with.

COUNCILMAN MANG – I understand that part.

COUNCILMAN MCCUNE – The Honeywell people are here maybe we can bring the representative forth and possibly clarify this.

COUNCILMAN SLAGLE – Yeah, we do have a Honeywell representative here.

JIM ROSEN – I work for Honeywell and I'm the district general manager. My home address is 4041 Greenridge Drive in Uniontown, Ohio.

COUNCILMAN SLAGLE – Thank you. Mr. Mang?

COUNCILMAN MANG – Yes, my question is. That on the horizon there's going to be a new station and very likely with a new station, station 3 will be no longer a fire station. My concerns are there will be a different another words the work that will be required in number 3 won't be required in whatever and how does this shake out since it's a ten year contract. I'm not asking for dollars and cents I know that. But I'm just trying is there a place in there that if this come forward that you will re-evaluate what was going to happen in 3 or whatever. I would think there would probably be a reduction if in fact we're building something new.

JIM ROSEN – Yes, exactly, there are provisions within the this type of an open agreement this occurs all the times. I'll give you an example with all of the schools being built we have agreements with many of the school districts and what we do is we make adjustments. We make adjustments in terms of the coverage and the cost of the coverage for the maintenance of the HBHC system because you're basically and typically that's when your cost might go down. Because you're replacing an old antiquated system that may require more preventive maintenance and its riskier for us because the allowance for replacement or the risk of replacement is higher than it would be under a new system. The other thing that would be adjust and because of the documentation that we've provided in our typically provide always provide in our agreements is that the energy savings guarantee maybe adjusted. Again depending upon the realities of the old building and the realities of the new building its very typical

COUNCILMAN MANG – You answer my question the contract is open as such to handle this type of thing. (Yes) I have no other questions.

JIM ROSEN – And its handled through amendments to the contract we do it with school districts all the time as they tear down old buildings and build new ones under the Ohio School Facility Commission.

COUNCILMAN SLAGLE – Yeah, the only other comment was in fact that the energy savings that we're contractually guaranteed by Honeywell to at least two of the other entities that I talked to were both exceeded. Meaning that the actual savings were granted than what the guarantee was. So we really need to pass this we know that we have an antiquated and systems need to be replaced. We are currently not operating under any contract by all aspect it seems like a good contract to enter into if there's nothing but positive comments from those who have done it in the past.

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

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

ORDINANCE NO. 18 – 2009 WAS PASSED BY A ROLL CALL VOTE OF 9 YES.

16. NEW AND MISCELLANEOUS BUSINESS

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

18. ADJOURNMENT

COUNCILWOMAN CATAZARO-PERRY – I move that we adjourn, seconded by all.

MARY BETH BAILEY, CLERK,

GLENN E. GAMBER, PRESIDENT



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