

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

COUNCIL PRESIDENT GAMBER I d like to welcome all of you to Massillon City Council for Monday, March 2, 2009. We have in attendance with us this evening: Mayor Francis Cicchinelli and Law Director Perry Stergios. On the wall to your left are agendas for anyone who wishes to follow the meeting. Also under item #5 on the agenda is where the public can speak on any item that appears on the agenda and then under item #17 is where the public can speak on any item that does not appear on the agenda. I d also like to remind anyone with a cell phone please turn it off or turn it very far down.

1. ROLL CALL

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

Thus giving a roll call vote of 8 present.

COUNCIL PRESIDENT GAMBER We do have one member absent he called the Clerk today and has a medical situation. Mr. Manson, do you have a motion?

COUNCILMAN MANSON Yes, I'd like to make a motion to excuse to Councilman Mang, seconded by Councilman Maier.

Roll call vote of 8 yes to excuse Councilman Mang.

2. INVOCATION

COUNCILMAN HERSHER Gave the invocation for tonight.

3. PLEDGE OF ALLEGIANCE

COUNCILMAN HERSHER – Chairman of the Environmental 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

DAVID MCCLAIN – 330 Independence Street SE in Massillon. You have on your agenda Ordinance No. 29 you're working on as for all purpose vehicles. I'd just like to support that although I would like a little clarification on what constitutes an all purpose vehicle. I know I had emailed the law director I hadn't heard back yet but that was this Friday.

COUNCIL PRESIDENT GAMBER At this point, sir, you're making comments which we will

take later on as we discuss this. I'm sure someone will address your question. Are there any other comments you'd like to make? (No, that's it) Alright, thank you.

6. INTRODUCTION OF ORDINANCES AND RESOLUTIONS

ORDINANCE NO. 33 2009 BY: COMMUNITY DEVELOPMENT COMMITTEE

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

COUNCILMAN MCCUNE Yes, we discussed this at our work session this past week. This is an issue it's a tract of land that Councilman Peters has worked diligently on with the city and Aane Aaby and the mayor to have the Columbia Heights neighborhood rezoned light industrial to residential. We will be giving it first reading tonight and there will be a public hearing on this ordinance on April 6th at 7:00pm.

ORDINANCE NO. 33- 2009 WAS GIVEN FIRST READING.

ORDINANCE NO. 34 2009 BY: COMMUNITY DEVELOPMENT COMMITTEE

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

COUNCILMAN MCCUNE Yes, we also discussed this at our work session and this is re-implement a new community reinvestment act. If anyone has any questions we can bring the mayor he's here tonight to answer those questions. If not I would like to move this forward for emergency passage and waive the rules requiring three separate readings.

COUNCIL PRESIDENT GAMBER Do we have any questions on this ordinance? I would like to direct one myself if I could Mr. McCune to the law director. Could you come forward please? (Certainly) I have no objections to Mr. McCune waiving the rules is this something that should go through right away are there any sort of public hearings that should be required with this.

LAW DIRECTOR STERGIOS – No, public hearings required of any types so if we want to keep things moving there's no reason it can't go through as an emergency. I guess that's up to council I think the mayor would like to get it moving but I don't know my conversation with him indicated that. So...no other reason.

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

COUNCIL PRESIDENT GAMBER Mr. Maier, you had a question.

COUNCILMAN MAIER I had a quick question here. It says designating a housing officer is that somebody that we already have on board or are we going to hire somebody?

COUNCILMAN MCCUNE Could I bring the mayor forward to answer these questions?

MAYOR CICCHINELLI – That would refer to Aane would perform that responsibility or function.

COUNCILMAN MAIER So we're not going to have to hire another person?

MAYOR CICCHINELLI – No, no, no.

COUNCILMAN MAIER Okay, that's the only question I had.

MAYOR CICCHINELLI – At the request of the president, if you want to give it first I mean I

did have some conversations with Perry this afternoon concerning this issue. We would like to really get it moving but we can wait two weeks and if you have any questions please get those questions to us. The law just so you understand we had a CRA established before it expired the law since the expiration of our old CRA has changed. One of the new things that they put in was this committee. But its basically the same boundaries in fact I think it is the same boundaries so we will we can give it first reading and then if you have any questions it might be wise also to give it another reading because I noticed on the map I wanted to change the map and Aane as you know is out of the country on vacation and I don't think that was done. So it probably would be wise to give it first reading. But the only reason we're doing it is because we do have a specific project and it does allow for tax incentives in the downtown area.

COUNCIL PRESIDENT GAMBER Mr. McCune, I have no objections at all if you want to go forward with this its no problem.

COUNCILMAN MCCUNE Well, if there's some concern about the map then I think we probably would be prudent to I'll withdraw that motion and just give it first reading.

COUNCIL PRESIDENT GAMBER Alright, the motion has been withdrawn, first reading.

ORDINANCE NO. 34- 2009 WAS GIVEN FIRST READING.

ORDINANCE NO. 35 2009 BY: HEALTH, WELFARE & BLDG REGULATIONS

Amending CHAPTER 1307 "BUILDING MAINTENANCE CODE" and CHAPTER 1309 "HOUSING CODE" of the Codified Ordinances of the City of Massillon, Ohio, by repealing existing Sections 1307.05(g) and 1309.05(g) "Roof, Gutters and Downspouts" and enacting replacement sections of CHAPTER 1307 "BUILDING MAINTENANCE CODE" and CHAPTER 1309 "HOUSING CODE" and declaring an emergency.

COUNCIL PRESIDENT GAMBER In case anyone thinks I'm being mean to the Clerk I did offer to read the titles for her she said she wanted to go ahead with that.

COUNCILMAN SLAGLE – We had discussed all of the next three ordinances in work session. It's really a matter of house keeping in all three instances. Certainly in the first section it's a matter of house keeping to keep to bring the criminal ordinance up to the local and the state building codes. It's really only reworking the ordinance by shifting one paragraph or one section of the ordinance and then adding "on splash blocks" to the end. I only bring this and I'm going to ask that we waive the requirement for three separate readings of this particular ordinance and pass it as an emergency legislation tonight with the understanding that constitute had emailed me and I'm sure you all got that too concerned about the fact that we pass so many things by emergency ordinance. However, ordinances such as this one and the next two are really just matters of bringing things up to be copasetic with our building code. Between the building code and the criminal code and I don't see that that is an issue in this case. Although I can see in sometimes where the input by the citizens that would come when we only have a first reading rather than passing by an emergency would be warranted. But in regards to that particular concern I don't see that its here. But I don't think may citizens know why we pass things as an emergency when it's not really an emergency. But its really just un-clutter our procedures so we don't have to keep reading it three different times when there's really no reason to do so. So if you don't have any questions we had discussed this really according to Mr. Saracina and Mr. Kraft this is just bringing our criminal code up to be the same as what the state and the local building codes already are. The only change really in this is switching the end in the middle and then adding on splash guards. So I would hope that if there aren't any questions we can go ahead and pass it tonight.

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

The rules were suspended by a roll call vote of 7 yes, 1 no. Peters voted no.

ORDINANCE NO. 35 – 2009 WAS PASSED BY A ROLL CALL VOTE OF 8 YES.

ORDINANCE NO. 36 2009 BY: HEALTH, WELFARE & BLDG REGULATIONS

Amending CHAPTER 1307 “BUILDING MAINTENANCE CODE” of the Codified Ordinances of the City of Massillon, Ohio, by repealing existing Sections 1309.06(f) “Demolition Costs” and 1307.06(h) “Penalty” and enacting replacement sections of CHAPTER 1307 “BUILDING MAINTENANCE CODE”, and declaring an emergency.

COUNCILMAN SLAGLE – This actually changes the language from the old which said the same this one you actually expends the city expends funds to demolition the building. In the old section as a lien on the real estate or sue the owner directly in court for the cost of said demolition is the new language. Formally it only said and the same shall become a lien on the real estate. So this just gives the city the authority to actually go to court for the cost of the demolition it’s a necessary requirement as I understand it so that we do have that ability in the event it ever comes to that. The second part of this legislation is you’ll remember is just giving the option of community service can be levied in lieu of jail time. As you know frankly when a violation of these occur I don’t think anyone should really serve any jail and they only come about when they’ve totally ignored our city building department in taking care of the issue anyway. So this just puts community service as a part of it.

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

The rules were suspended by a roll call vote of 7 yes, 1 no. Peters voted no.

ORDINANCE NO. 36 – 2009 WAS PASSED BY A ROLL CALL VOTE OF 8 YES.

ORDINANCE NO. 37 2009 BY: HEALTH, WELFARE & BLDG REGULATIONS

Amending CHAPTER 1309 “HOUSING CODE” of the Codified Ordinances of the City of Massillon, Ohio, by repealing existing Section 1309.99 “Penalty” and enacting a replacement section of CHAPTER 1309 “HOUSING CODE”, and declaring an emergency.

COUNCILMAN SLAGLE – Once again, this is amending a current ordinance in the sense that all we have added to this ordinance everything else has already been in place is “community service can be levied in lieu of jail time”. Once again, it’s the same penalties before under the same chapter except with that additional just gives that option which I think is a very good option to have in the criminal code for these types of violations.

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

The rules were suspended by a roll call vote of 7 yes, 1 no. Peters voted no.

ORDINANCE NO. 37 – 2009 WAS PASSED BY A ROLL CALL VOTE OF 8 YES.

ORDINANCE NO. 38 2009 BY: FINANCE 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 contract upon the award and approval of the Board of Control, with the lowest and best bidder for various items needed for the use in various departments of the city, and declaring an emergency.

COUNCILMAN MANSON Yes, we discussed this at the work session last Monday and this is a shopping list of things that these departments will need. The explanation this is our annual list of various items purchased for the street department, wastewater treatment department and parks and recreation department. If there’s any questions I’ll see if we can answer otherwise I’m going to be asking to waive the rule.

COUNCILMAN MAIER Yes, on section one in the last sentence it says various departments in the city said items listed on exhibit “a” attached here onto. I’ve got one page I don’t have exhibit

“a”.

COUNCIL CLERK MARY BETH – I forgot to attach it to the ordinance. I can get a copy for everyone.

COUNCILMAN MAIER Was that at the work session?

COUNCILMAN MANSON We had it with our stuff Monday night I had it then too.

COUNCILMAN MAIER I just wanted to make sure it didn't change or anything.

COUNCIL CLERK MARY BETH – No, it's still the same. I can get everyone copy.

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 8 yes.

ORDINANCE NO. 38 – 2009 WAS PASSED BY A ROLL CALL VOTE OF 8 YES.

7. UNFINISHED BUSINESS

8. PETITIONS AND GENERAL COMMUNICATIONS

9. BILLS, ACCOUNTS AND CLAIMS

A. REPOSITORY - \$702.20

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

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

10. REPORTS FROM CITY OFFICIALS

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

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

C). MAYOR'S APPOINTMENT OF ELAINE CAMPBELL TO THE PLANNING COMMISSION

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 8 yes to accept the auditor's report.

11. REPORTS OF COMMITTEES

COUNCIL PRESIDENT GAMBER As far as committee reports goes next Monday the 9th our committee sessions at 5:30pm.

12. RESOLUTIONS AND REQUESTS OF COUNCIL MEMBERS

13. CALL OF THE CALENDAR

14. THIRD 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 MCCUNE Yes, this is a tract of land that was formerly in Tuscarawas Township and no zoning and the city has been able to annex it and we will be designating an A-1 general agriculture. If there are any questions the mayor is here also the land owner is here. We can ask them those questions. We had a public hearing this evening prior to the meeting and there was no questions from the public at that time. We did have one issue I guess we might as well as bring Mr. Manson up and get it on record. The council as a body received an email from a concerned constituent as to why this land was being zoned agricultural rather than residential and what impact that might have the city school district. So if Mr. Manson would come up to the microphone and state his name and address and answer that question for us just get it on the record I would be appreciative.

JASON MANSON – 980 27th Street NW, Massillon, Ohio, 44647.

COUNCILMAN MCCUNE Mr. Manson, we as a body received an email from a citizen asking what impact your property would have on the city school district as it being zoned agricultural rather than residential. Do you know what if any impact that will have the school district?

JASON MANSON – It would have none.

COUNCILMAN MCCUNE And you base that on?

JASON MANSON – There's no tax savings being agricultural versus residential unless you're receiving the CAUV farm program credit. Does that answer your question?

COUNCILMAN MCCUNE Yes, it does. Mr. Mayor, is there anything you would like to add?

JASON MANSON – Okay.

MAYOR CICCHINELLI – The important thing members of council to remember is the use. The use has already been determined by the county auditor as residential. So everything else is irrelevant.

COUNCILMAN MCCUNE Thank you.

COUNCILMAN MCCUNE moved to bring Ordinance No. 16 – 2009 forward for passage, seconded by Councilman Hersher.

COUNCILMAN MAIER I just wanted to make comment that there was no one here in opposition tonight. I just wanted to make that comment for the record.

COUNCILMAN MANSON I ask to be excused from voting, seconded by Councilman Peters.

Roll call vote of 7 yes to excuse Councilman Manson from voting on Ordinance No. 16 – 2009

ORDINANCE NO. 16 – 2009 WAS PASSED BY A ROLL CALL VOTE OF 7 YES.

. SECOND READING ORDINANCES AND RESOLUTIONS

ORDINANCE NO. 28 – 2009 BY: PUBLIC UTILITIES 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, I'd like to give this second reading.

COUNCIL PRESIDENT GAMBER Just as a follow up from our last meeting has this item been

referred to the planning commission Mr. McCune? (Yes, it has) Do you have any idea when they plan to act on this? (March 11th) Do we have a public hearing scheduled?

COUNCILMAN MCCUNE – Yes, March 16th.

ORDINANCE NO. 28 – 2009 WAS GIVEN SECOND 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 – I’d like to thank Mr. McClain for coming out this evening. He and several others supported all purpose vehicles. We have done extensive research on these for our city. I was the one that really pushed to have this put into legislation and brought forward to city council for a vote. Since we talked I did get some information from the chief and his wishes. But I wanted to answer Mr. McClain’s question about what defines an all purpose vehicle and this comes from the Department of Public Safety. An all purpose vehicle is any self propelled vehicle designed primarily for cross country travel on land and water or on more than one type of terrain and steered by wheels or caterpillar treads or any combination thereof including vehicles that operate on a cushion of air, vehicles commonly known as all terrain vehicles, all season vehicles, mini bikes and trail bikes. So there’s your long definition of an all purpose vehicle. But even with the input from the chief which I greatly appreciate his input I have in bringing this forward tonight not in support of this but because we had some constituents really requesting that we put these into law in our city. Unfortunately I can’t support that the public safety and service department says that they do not endorse that. Several other chiefs of police say that it’s nothing but a problem in their townships. So tonight I am recommending that we vote this down.

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

COUNCILMAN MAIER Yes, I’m also not in support of it from my experience over the years these vehicles are problematic and they’re its just not something we should have on the streets.

COUNCILMAN MANSON Yes, I’d like to go on record too I personally ride an ATV but I do not feel that we want them on the streets running around all the time at this time.

The rules were suspended by a roll call vote of 8 yes.

ORDINANCE NO. 29 – 2009 WAS DEFEATED BY A ROLL CALL VOTE OF 8 NO.

16. NEW AND MISCELLANEOUS BUSINESS

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

PINKIE GILLIAN – 1840 Stoner Avenue NE, Massillon. I am working with the committee on the July 4th Picnic in the Park and fireworks this year. As you know many things are being discontinued this year because of money matters and this event is also in jeopardy of if we can not bring enough funds into have the event. I think if everybody can get involved that there’s just not businesses or industrial if people just the average person on the street who likes this event which we’ve had it for many years and it’s a very popular event. We’d like to take it back to the park and we need people to volunteer their time whether its maybe an hour or all day, maybe to help set up, clean up afterwards, if you can give donations I mean as little as \$5.00 if a 100 people gave \$5.00 that would be enough to kind of off set the cost of one of the entertainment events. So I would ask that people get involved if you want to continue this tradition and help the committee. I’m sure any of the councilmen know that people that are on

the committee if you get a hold of your councilman they can tell you how to make a donation. Watch the paper there will be information about coming in the Independent. Thank you.

18. ADJOURNMENT

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

MARY BETH BAILEY, CLERK,

GLENN E. GAMBER, PRESIDENT



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