

**MINUTES OF THE REGULAR MEETING
MASSILLON CITY COUNCIL
HELD, MONDAY, JUNE 1, 2009**

COUNCIL PRESIDENT GAMBER I d like to welcome all of you to Massillon City Council for Monday, June 1, 2009. We have in attendance with us this evening: Mayor Francis Cicchinelli, Pat Pentello representing the auditor’s office, Engineer Keith Dylewski and Law Director Perry Stergios. On the wall to your left are agendas for anyone who wishes to follow the meeting. Also under item #5 on the agenda is where the public can speak on any item that appears on the agenda and then under item #17 is where the public can speak on any item that does not appear on the agenda. I d also like to remind anyone with a cell phone please turn it off or turn it very far down.

1. ROLL CALL

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

Thus giving a roll call vote of 9 present.

2. INVOCATION

COUNCIL PRESIDENT GAMBER For the purpose of the invocation and the pledge of allegiance I will recognize Councilman Dave McCune.

COUNCILMAN MCCUNE Thank you. Tonight we have with us some very special guests. We have a group of young men and women from the Massillon Washington High School Advance Choir in attendance. Some of which are members of the recently graduation class of 2009 who will be representing the Washington High School Choir for one final time. This group of young men and women were part of Washington High School’s five competitive choirs which for the first time in the long historical history of the WHS choir department recently earned superior ratings at state competition for the third consecutive year. Along with this group of exceptional young men and women we also have with us tonight the director of the WHS choir Mr. Doug Beery along with is associate director Ms. Julie Mienhart. We also have attendance Massillon School Superintendent Mrs. Lisa Carmichael and WHS school principal Mr. Mike Babics. Tonight we will be honoring the achievements of the WHS choir department for their previously mentioned never before achieved three-peat five for five state superior ratings. In effect, at least in my mind we are honoring the outstanding group of young men and women who made up these five choirs along with the directors for accomplishing what would be the same feat as the tiger football team winning three consecutive state football championships. In lieu of our normal invocation and pledge of allegiance the group of young men and women here with us tonight will be singing a rendition of one of their advance choir signature songs “The Lord Bless You and Keep You” followed by the national anthem. At this time I will ask Mr. Doug Beery to prepare to come forward to the microphone so he can say a few words about his kids, the choir, their accomplishments prior to honoring us with the renditions of the aforementioned songs and then we can get on with the official business of council.

DOUG BEERY – On behalf of Washington High School, the choirs at Washington High School, the students, the administrators, Ms. Mienhart and myself I would like to thank you all for having the students here tonight and recognition of what has been certainly as a late a lot of positive press towards their five for five feat as the students put it. All five of our traditional

choirs received superior ratings which is the top rating that can be awarded at state contest held last month. Amongst these five choirs were the freshman choir, the concert choir, the men's chorus, the women's chorus and the advanced choir. Standing behind me this evening are members of the advanced choir of whom I must first recognize one because they are volunteered to come this evening which is wonderful that's the type of kids we work with at Massillon which is wonderful. They're giving to the program, community and their school. Second the juniors soon to be seniors are preparing for their exams so I appreciate them being here tonight and the seniors as I was quickly corrected when I was thanking them the alumni of Massillon Washington High School choir. Many of them came back this evening just on their own accord and I certainly very much appreciate that. I guess what I would like to say I would like to thank all of you and would like to recognize these fine students and the nearly 300 students that they represent that were involved with the choirs this year that received this unprecedented award. I would also like to say make mention of the hard work and dedication that the students make not just during that contest season but all year. They begin actually we will start our year a new in about two weeks when we begin we have a couple weeks of summer choir rehearsals where we begin our preparations of Handel's Messiah which we had our 65th presentation of this year. The Washingtonians which is our selective show choir that many of you have probably seen at community events and functions that really serves as an outreach group into the community of singing and dancing students. So they will be soon coming back for that it all begins in June for them and then the education from went from there. I must say we as teachers feel that these students as the year progressed we had less and less of a what should I say an influence as far as their success this year. Ms. Mienhart and I both feel strongly that students need to be taught along with their musical growth and musical teaching they need to be taught things that will go along that will help them as citizens and also help to be self disciplined. This group behind you and the other 300 students are a prime example of that. They come in do many small rehearsals on their own and have really this is not something that Ms. Mienhart and I could have accomplished with them. If you are constantly reminding and telling and I should say the teaching in the form of being the dictative leader that does not create great students. They have created themselves with the self discipline Ms. Mienhart and I try to step in as facilitators but they really take it from there. There's many of our executive council of the choir that are here tonight that are as much responsible for this as any other student in the program. So I would like to once again thank you council, thank you Massillon City School administrators for being here tonight it's very much appreciated and we look forward to in just a minute here signing for you.

3. PLEDGE OF ALLEGIANCE

COUNCIL PRESIDENT GAMBER Thank you very much that was wonderful that was just fantastic. We have one bit of housekeeping in our agenda then we'll move on towards the resolution. Thank you, Dave, thank you, Chuck for your part in organizing that we appreciate it very much. This point we'll move forward with our agenda.

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

COUNCIL PRESIDENT GAMBER Mr. McCune, do you have a request?

COUNCILMAN MCCUNE Yes, I would like to move to bring Resolution No. 7 – 2009 forward to the top of our agenda for this evening.

COUNCIL PRESIDENT GAMBER Is there any objection to moving Resolution No. 7 forward as our first item? There's no objection Madame Clerk would you please read the title to Resolution No. 7 – 2009.

RESOLUTION NO. 7 2009 BY: COMMITTEE OF THE WHOLE

Resolution recognizing the Massillon Washington School Choirs for their outstanding State Superior ratings for the last three years consecutively.

COUNCILMAN MCCUNE Yes, I would like to make a motion that we pass Resolution No. 7 – 2009 recognizing the Washington High School choirs for their outstanding state superior ratings.

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

RESOLUTION NO. 7 – 2009 WAS PASSED BY A ROLL CALL VOTE OF 9 YES.

COUNCIL PRESIDENT GAMBER We just happen to have a signed copy here I had a feeling it would probably pass so Mr. McCune I'm not sure exactly who you're bringing forward but the Mayor and I will meet you down here in just a moment. As we're doing that I invite the Mayor forward he also has a proclamation and if you would like to read your proclamation we'll present both as the same time. Mr. Mayor?

MAYOR CICCHINELLI – Good evening, ladies and gentlemen. You know as a proud graduate of Washington High School I know fully well that there are a lot of excellent superior extra curricular activities at Washington High School. One program that is exceptional through the decades has been the choir program. There's no question that it's maintained a stability and proof of that are the superior ratings that the choir program receives. That just doesn't happen and on behalf of the administration and all of city government congratulations to our fine young people to make this thing happen. Congratulations to present directors and past directors and all the support group and the administration of the Massillon City School District because these kinds of awards should not be taken for granted. It shows the hard dedication and the hard work of our people that great tradition at Washington High School continues. We have prepared a proclamation I will not read all of it but I will read one paragraph. "Whereas, we the citizens of Massillon, my administration and myself would like to congratulate and commend the Massillon Washington High School Choirs for their hard work and dedication to music. Awarding them the accomplishment of state superior ratings for the last three years and also their success in the past and continued success in the future. The City of Massillon is proud of your achievements and has enjoyed your wonderful entertainment throughout the year. Good job, students, directors and supporters and I would be remiss if I didn't say that choir pride is city wide". Congratulations. We also have copies of the proclamation to Superintendent Carmichael, Principal Babics and the vocal music department.

COUNCIL PRESIDENT GAMBER Mr. Maier, you were going to make a commercial for us?

COUNCILMAN MAIER – Yeah, the video tape is run Sunday night at 6:00pm on Massillon Cable so this will be run for you guys to record or whatever you want to do with it. So we do this all the time and its regular council video tape but it runs Sunday night at 6:00pm.

COUNCIL PRESIDENT GAMBER Again, thank you all very much for being here. We do have an awfully exciting meeting coming up you're welcome to say but if you do plan to leave we'll give you a moment now you can all exit the chamber.

ORDINANCE NO. 78 – 2009 BY: PUBLIC UTILITIES COMMITTEE

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

COUNCILMAN MAIER – First reading.

ORDINANCE NO. 78 – 2009 WAS GIVEN FIRST READING.

ORDINANCE NO. 79 – 2009 BY: PUBLIC UTILITIES COMMITTEE

Authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to enter into a Non-Surface Development Gas & Oil Lease with Ohio valley Energy Systems, Corp., for one (1) parcel owned by the City of Massillon, and declaring an emergency.

COUNCILMAN MAIER – First reading.

ORDINANCE NO. 79 – 2009 WAS GIVEN FIRST READING.

ORDINANCE NO. 80 2009 BY: FINANCE COMMITTEE

Making certain appropriations from the unappropriated balance of the Local Law Enforcement Trust Fund and the Muni Motor Vehicle License Plate Fund, for the year ending December 31, 2009, and declaring an emergency.

COUNCILMAN MANSON Yes, we discussed these last Tuesday at our committee meeting. Section 1, we have \$15,000 please appropriate \$15,000 from the unappropriated funds of the local law enforcement trust fund. This money is to be used to replace expired ballistic vests and helmets for the swat team. Any questions on that? Then the next part is \$4,000 please appropriate \$4,000 from the unappropriated funds of the local law enforcement trust fund into an account this money is to be used for the purchase of covert equipment for the special investigations unit and also to purchase high visibility traffic vests for police officers and auxiliary police officers. Then in section 2, we have \$5,200 please appropriate \$5,200 from the unappropriated balance of the 1206 municipal motor vehicle license plate fund. This is to add a battery back up system to the intersection of Lillian Gish Blvd SW and State Route 21. This is about the fourth intersection now I believe we've done. Any questions if not I will be asking to waive the rule.

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

Roll call vote of 9 yes for suspension.

ORDINANCE NO. 80 – 2009 WAS PASSED BY A ROLL CALL VOTE OF 9 YES.

7. UNFINISHED BUSINESS

8. PETITIONS AND GENERAL COMMUNICATIONS

9. BILLS, ACCOUNTS AND CLAIMS

- A. REPOSITORY - \$565.40
- B. NORLSON - \$67.50

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

Roll call vote of 9 yes to pay the bill.

10. REPORTS FROM CITY OFFICIALS

- A). MAYOR SUBMITS MONTHLY PERMIT REPORT FOR MAY 2009. COPY FILE
- B). AUDITOR SUBMITS MONTHLY REPORT FOR MAY 2009 COPY FILE

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

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

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

11. REPORTS OF COMMITTEES

COUNCIL PRESIDENT GAMBER As far as committee reports I'll give you a heads up I'm sure you all know that there are five Monday's this month which means we will be taking the 22nd off and meeting on the 29th. Is there any other reports or resolutions or requests?

COUNCILMAN TOWNSEND – I won't be here the 29th.

COUNCIL PRESIDENT GAMBER Okay, thank you.

12. RESOLUTIONS AND REQUESTS OF COUNCIL MEMBERS

13. CALL OF THE CALENDAR

14. THIRD READING ORDINANCES AND RESOLUTIONS

. SECOND READING ORDINANCES AND RESOLUTIONS

ORDINANCE NO. 75 – 2009 BY: STREETS, HIGHWAYS, TRAFFIC & SAFETY

Authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to enter into an agreement with Dalene M. Pride to perform the Motor Vehicle License Audit for the City of Massillon, and declaring an emergency.

COUNCILMAN PETERS – We've already passed the finance part of this contract and the only reason I didn't pass it at the last meeting was because our engineer wasn't here. He's here tonight so if there are any questions we can get them answered if not I'm going to move forward for its passage.

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

Roll call vote of 9 yes for suspension.

ORDINANCE NO. 75 - 2009 WAS PASSED BY A ROLL CALL VOTE OF 9 YES.

ORDINANCE NO. 77 – 2009 BY: ENVIRONMENTAL COMMITTEE

Authorizing the Mayor of the City of Massillon, Ohio, to enter into the Settlement Agreement with Infilco Degremont, Inc., regarding the pending lawsuit concerning the construction and upgrade of the Wastewater Treatment Plant, and declaring an emergency.

COUNCILMAN HERSHER As you guys are aware this goes back to 2001, 2002 maybe even before that with the original design of upgrade at the Wastewater Treatment Plant. We've had a couple of weeks with this specific settlement agreement or at least with the major ideas contained in the agreement including an hour that we met before the last regular council meeting two weeks ago to discuss this. The major bullet points have not changed in that they Infilco will replace the metal plates, the medium, they're going to guarantee that for five years also pay the city \$225,000 within five days of this being executed. I know we didn't vote on it two weeks ago because we were waiting for a final agreement which we have it has been signed by Infilco and its only waiting for us to approve it so that the city can sign it and we can put this behind us. So with that being said I would like to pass this, this evening our engineer is here our law director is here we can certainly answer any questions that anyone may still have from the last couple weeks. But I would like to suspend the rules and pass this tonight.

COUNCIL PRESIDENT GAMBER Do we have any questions? Mrs. Catazaro-Perry?

COUNCILWOMAN CATAZARO-PERRY – I'd like to bring the law director up please? Mr.

Stergios, I just wanted to get your opinion on this agreement and I'd like to have I know we didn't have all the verbiage in there in the last go around but we do tonight. So I'd like to get your opinion on the agreement.

LAW DIRECTOR STERGIOS – Based upon my discussions with our lawyers and what we have been through I am recommending that we accept the agreement tonight and I have no problems with it.

COUNCILWOMAN CATAZARO-PERRY – We talked two weeks ago about the odor is the completion of the let me see what they're called again the filters going to get rid of the odor or is it going to have no effect on it?

LAW DIRECTOR STERGIOS – I would not be qualified to answer that but maybe Keith can not to blow it over to him but I was under the impression that filters have nothing to do with the odor but I certainly beyond my realm of expertise. I guess.

COUNCILWOMAN CATAZARO-PERRY – Maybe we can bring Mr. Dylewski up then. I don't have any further questions.

COUNCIL PRESIDENT GAMBER Are there any other questions for the law director? Mr. Peters?

COUNCILMAN PETERS – I don't know I'll throw this out but he'll send it to somebody else because it really isn't you anyway. But we also discussed the when the settlement money comes what account that's going to be deposited in. I thought that was going to be clear in the ordinance.

COUNCIL PRESIDENT GAMBER I'm certain it is clear it indicates that its going back to where it came from. I'll recognize Mr. Hersher though to answer that more fully.

COUNCILMAN HERSHER Well, having stolen all of my thunder I'll just repeat that yeah in section 3 it is clear.

COUNCILMAN PETERS – Okay. Shame on me for not and just to correct you this goes back to May 1999 too. So its...just to show you that I know something.

COUNCILWOMAN CATAZARO-PERRY – Mr. Dylewski when I toured the plant with Joe Ulrich he said that the odor was due to all the machinery was not working properly and it hasn't worked properly since its been there. Unfortunately, we had to go to file a lawsuit in order to get them to approve the warranty that we already had so we've wasted some money on the warranty because we've had to fight to make it effective. So can you tell me if all of the machinery is working properly are we going to see a decrease in the odor, no effect on the odor or is it going to become worse.

ENGINEER DYLEWSKI - Well, I think at this point we have made a lot of head way with the odor through some implementation of other processes you know through the plant. This particular piece of equipment the filter building has nothing to do with that they're function is to remove solids before the final step goes out into the river. So it really has no bearing whatsoever for anything with the odor at that point because it's the final process before the water is discharged.

COUNCILWOMAN CATAZARO-PERRY – Okay, so there will be no effect on the odor whatsoever once these are corrected?

ENGINEER DYLEWSKI - Right, they had no effect before and would have no effect today. You know once this is implemented.

COUNCILWOMAN CATAZARO-PERRY – Great, thank you.

ENGINEER DYLEWSKI - Sure.

COUNCIL PRESIDENT GAMBER Mr. Slagle?

COUNCILMAN SLAGLE – The original lawsuit had nothing to do with odor questions anyway. It only had to do with these filters not operating properly, correct?

ENGINEER DYLEWSKI - That's correct.

COUNCILMAN SLAGLE – Thank you.

COUNCIL PRESIDENT GAMBER Thank you, Mr. Slagle for making that point. Is there anyone else. Thank you, Mr. Dylewski. Mr. Hersher?

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

Roll call vote of 9 yes for suspension.

ORDINANCE NO. 77 – 2009 WAS PASSED BY A ROLL CALL VOTE OF 9 YES.

RESOLUTION NO. 6 – 2009 BY: ENVIRONMENTAL COMMITTEE

Authorizing the Mayor of the City of Massillon, Ohio, to file an application to the State of Ohio, to participate in the Clean Ohio Assistance Fund.

COUNCILMAN HERSHER We've spent two work sessions with this legislation including at the first work session having a representative of HCW Environmental here to discuss this. Essentially at no cost to the city the developers of the old Republic site are have enlisted an environmental consulting company to do an environmental study at that site to see if its you know if its feasible to move on with development. There are there is funding available under the Clean Ohio Assistance Fund that the application for that grant money has to be made by a public entity. So we are this legislation is to authorize the mayor of the city to apply for that grant money so that it can be used to perform that study at that site. We heard at the first work session the amount of time that it takes for this process to go through so having had two work sessions not hearing any questions or concerns with it I would like to go ahead and pass it tonight so that we can get the ball rolling.

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

Roll call vote of 9 yes for suspension.

RESOLUTION NO. 6 – 2009 WAS PASSED BY A ROLL CALL VOTE OF 9 YES.

16. NEW AND MISCELLANEOUS BUSINESS

COUNCIL PRESIDENT GAMBER Mr. Maier?

COUNCILMAN MAIER – Yes, I'm not sure if this would be the engineer or the mayor. The paving that was done down by Amherst shopping center that cuts through I was wondering if that was complete.

COUNCIL PRESIDENT GAMBER Are you talking Keuper?

COUNCILMAN MAIER – Yes.

COUNCIL PRESIDENT GAMBER Would you like to call someone forward?

COUNCILMAN MAIER – Yeah, let's call the engineer up. The reason I was asking I was done there yesterday and if you go down there and look like by the car wash there's areas that was

tore up by the construction and the blacktop is below grade and there's cement in there it's not complete. I don't know if we signed off on that yet but it's...

ENGINEER DYLEWSKI - No, there's are a couple sections that the utility companies had done some work and they are they'll be in to finish that here hopefully this week.

COUNCILMAN MAIER – Okay, because I did receive like several calls from residents.

ENGINEER DYLEWSKI - No, yeah, no, that's not going to stay like that, that wasn't part of the contractor's responsibility.

COUNCILMAN MAIER – Okay, so the blacktop that is not complete will be completed when?

ENGINEER DYLEWSKI - We're hoping this week. We notified them that you know they're ready to come back in and finish that. So...

COUNCILMAN MAIER – Okay, I'm just concerned because the car wash and Maggore's and all those down through there didn't create those problems and I want to make sure that it gets done that's all.

ENGINEER DYLEWSKI - No, we're fully aware of it.

COUNCILMAN MAIER – Alright, thank you very much.

ENGINEER DYLEWSKI - Sure.

COUNCIL PRESIDENT GAMBER Is there anything else? Mr. Peters?

COUNCILMAN PETERS – I just have a question for the TV guy; what channel is this on, on Sunday nights? (22) Okay, no wonder I can't ever find it on 11. Okay.

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

18. ADJOURNMENT

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

MARY BETH BAILEY, CLERK,

GLENN E. GAMBER, PRESIDENT

