

**MINUTES OF THE REGULAR MEETING
MASSILLON CITY COUNCIL
HELD, MONDAY, MARCH 15, 2010**

COUNCIL PRESIDENT GAMBER B I'd like to welcome all of you to Massillon City Council for Monday, March 15, 2010. We have in attendance with us this evening: Mayor Cicchinelli, Auditor Ferrero, Law Director Stergios, Engineer Dylewski, Park & Rec. Superintendent Kaminski and Wastewater Treatment Superintendent Bledsoe. 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: Gary Anderson, Kathy Catazaro-Perry, Dave Hersher, Ron Mang, Dave McCune, Donnie Peters, Larry Slagle and Tony Townsend.

Thus giving a roll call vote of 8 present.

2. INVOCATION

COUNCIL PRESIDENT GAMBER B I will recognize Gary Anderson who has a guest for the invocation and then Councilman Anderson will lead us in the Pledge of Allegiance.

COUNCILMAN ANDERSON B I would like to introduce Reverend Les Piney, pastor of First United Methodist Church and a member of the McDonald morning breakfast club to the invocation.

3. PLEDGE OF ALLEGIANCE

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

COUNCIL PRESIDENT GAMBER B Mr. Mang, I'd like a motion please to excuse Councilman Manson.

COUNCILMAN MANG – Yes sir, I move that we excuse Councilman Manson from tonight's meeting, seconded by Councilwoman Catazaro-Perry.

Roll call vote of 7 yes, 1 no to excuse Councilman Manson. Peters voted no.

4. READING OF THE JOURNAL

COUNCIL PRESIDENT GAMBER B 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

ERIC MAIER – I represent the neighbors of Fresh Mark relative to Ordinance No. 12 – 2010. That ordinance was tabled at the meeting two weeks ago. After having met with representatives of Fresh Mark including Brian Ashman the residents withdraw their objections. We reached a mutually agreeable resolution to those objections both parties are satisfied with the resolution and we are pleased to be able to come before you and withdraw those objections.

RON HALTER – 303 Ertle Avenue NE. While I'm up here I would just like to ask the council people when they speak to speak closer to the microphones because back here we have a hard time hearing. My main reason to speak is about the parks as a person not a member of any group are completely dissatisfied with the shape that our parks are in and the fact that you're going to spend money again tonight out of the park fund for the Legends golf course. Now you have a right to do that and other people will get up and speak on that further tonight. But I just wanted to give you my opposition we see the income tax money being collected and we expect improvements to our parks and instead of improvements we keep seeing them go down hill. Now you all know its no secret to the maintenance on the parks right now is terrible. That's not my opinion that's the opinion of 90% of the people in the city. I'd like to say something about Genshaft Park instead of being so gun hoe on selling that believe me I think we're a lot better off to keep that and put some big money into it. We need picnic shelters down there, picnic tables, we need an RV hook ups for electric and water for all these out-of-town tournaments if we ever get them back. That's really all I have to say on that someone else will speak more. The other thing I wanted to speak on is the proposed sewer rate increase study. Now there's been I don't know how many studies in the past 10 – 12 years and I really think that with the employees that we have at the wastewater treatment department and the 4 engineering department employees they're paid out of that fund that they should be able to come up with a decent rate increase that would be applicable. When I say applicable I'm talking about going on the consumption based way of billing. There's no reason why a widow living by herself in an apartment should pay as much as a family of 4 in a full blown house etc, etc, etc. You know what I'm talking about. But I think there should be some consideration given to the apartment owners the first rate increase that we had in 1999 or 2000 I forget when it was they took the apartments off the separate category and put them on as single family. So in other words so I think its \$256.00 now so an apartment with one person in it is still pay \$256.00. The way it was before they only paid half that and the reason for that is apartments don't have washers. Every duplex or what do you call them duplex or single family homes you have a washer and dryer etc and you use more water. Well, apartments 99% of them don't have washers and most apartment houses have a washer that the residents can use. Its usually a coin operated machine etc and that apartment owner gets charged for that. So its not fair to charge those apartment owners the full price as a single family and then charge them again for their laundry facilities. I could say a lot more but that's all I have to say. My wife's in Florida and the last thing she told me at the airport was don't say anything that's going to embarrass me.

COUNCIL PRESIDENT GAMBER B I won't ask why she went and left you here.

RON HALTER – No, I was tell you when she leaves the house play nice, don't fight and don't volunteer for anything and she always does.

COUNCIL PRESIDENT GAMBER B Thank you.

SCOTT GRABER – 1218 Tremont Avenue SW, in the City of Massillon. I'm rising today to speak on Ordinance No. 30 – 2010 by the parks and recreation committee. Which reads an ordinance authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to enter into contract with B & B Restaurants, Ltd., to purchase the food and beverage service and related items, and declaring an emergency. I'll be completely honest with you the only coral I have with this ordinance is the fact that to my understanding the funding for the purchase is to come out of the parks and recreation department's budget. There seems to be a little contraversary about this and I hope that's cleared up. The newspaper today published that it was coming out of the parks and recreation department budget. If in deed it does come out the parks and recreation and I believe its not in order to even consider that ordinance it's a violation of the Ohio Revised Code and the City Ordinance of Massillon that authorized the income tax to

be levied by a vote of the people. When the people vote on a increase in the taxes that they levy upon themselves I believe that the legislative authority must interpret the intent of that vote as the people interpret the intent of that proposed. I know that its being said now that a restaurant business which I consider to be a speculative business venture is somehow a part of the recreation system because it sits on a golf course which is a part of the recreation system. I don't particularly think that it matters where a restaurant sits that would change the nature of the restaurant business is a speculative business venture. The ordinance that enabled and authorized the increase in the income tax was #106.-1995 and I'm going to read from that subject to the approval of the electors of the City of Massillon provided in section 718.01 the Revised Code of Ohio certain sections Chapter 181 of the Codified Ordinances of the City of Massillon are here amended to provide for an increase in the tax rate levied on income of 1.5% to 1.8%, effective January 1, 1996 in which the .3% increase on an income will be designated specifically for the operation and development of the Parks and Recreation System within the City of Massillon. I believe the words specifically is very important here because the Ohio Revised Code that permitted that to be put on for a vote reads thus: No municipal corporation shall levy a tax on income at a rate in excess 1% without having obtained the approval of the excess by majority of the electors of the municipality voting on the question at an election. In the event of an affirmative vote the proceeds of the levy may be used only for the specified purpose. Specified means I believe it has a meaning which means the only purpose. The purpose that's actually specified pursuant to that election which did pass in 1995, October 16, 1995 the City of Massillon City Council adopted Ordinance No. 201 – 1995, which reads: whereas on August 8, 1995 the electors of the City of Massillon approved a .3% increase in the city income tax rate which is to be designated specifically for the operation and development of the Park and Recreation System within the City of Massillon. And whereas this council determines that the power to equip, maintain and operate parks, playgrounds, play fields, athletic fields, swimming centers, indoor recreation centers, municipal camps, recreation facilities whether within or outside the city and now owned or hereafter acquired by the city for park and recreation purposes shall be exercised by a recreation board as provided for in section 755.14 the Ohio Revised Code. I believe that is the specification that's what specified in the law in the city ordinance what this levy can be used. Nowhere do I see in this ordinance a speculative business venture which the proceeds of which maybe used to fund the park and recreation system. I have one more document that I'd like to read from June 16, 1997, on Ordinance No. 104 – 1997, the proposal to buy a community park land for a community park on Richville Drive in the City of Massillon. Councilman Gamber and I quote "Mr. President, I hope I'm not violating a council dress code I'm wearing a t-shirt from the campaign two years ago to pass this tax levy in support of parks and rec. I was involved actively from the beginning and I take a back seat to nobody in terms of supporting the recreation and parks program." As the President of City Council, Mr. President, you have the duty to rule on questions of order on the items that come before the city council. I'm going to ask you when the motion to adopt Ordinance No. 30 – 2010 to rule it out of order as its presently written as it violates the Ohio Revised Code 718.01 (c) which authorized the increase in city income tax because its not one of the specified purposes described in Ordinance No. 210 – 1995. Because nowhere in that ordinance does it say that we may purchase a speculative business venture of any kind in order to fund parks and recreation. That's all I have to say.

SAM DAUT – 835 Cherry Rd NW. I was here a week ago when you had your special meeting. I'm making a last pitch effort here to try to convince you guys that this I mean I'm here specifically for the same reason. Mostly because of the fact I mean you don't belong the restaurant business is one thing I don't want you to use I really don't want to be a stockholder in your business. Lets put it that way and as a taxpayer I really think you guys should reconsider this I mean I just think you should it should be of a further study. You know I mean if you if this was a bad mistake and it went on for 15 years how long is it going to go another 15 years that we have to accept another bad mistake. What happens in a year from now that you don't make this money in the paper I read you were going to make \$30,000 to \$50,000 you guys have such a span of dollars in that amount that I don't and it is its truly a speculative restaurant business that I don't know why you're even entertaining this thought. But in ending that I'm hoping that most of you people on city council really look at this more objectively and don't endorse something because you know the parks and recreation I agree with the individual here the fact that it was never designed to go into business. I think it should furthermore just stay where its at in the recreation thing and that's all I have to say tonight and hope that most you guys like reconsider somehow and put some more for thought into it and just may personal I

think I speak for a lot of people in the community that just kind of like stay out of the food and restaurant business.

COUNCIL PRESIDENT GAMBER B We appreciate you all being here and we appreciate the comments of those who spoke this evening. Mr. Townsend had asked me if he could have a moment. Mr. Townsend?

COUNCILMAN TOWNSEND – I asked the president to allow me to make a statement early in the council meeting because I wanted all the council members to be here along with the mayor, department heads and citizens of Massillon. On March 7, 2010 I was stopped and detained for suspicion of OVI. As everyone know this would possibly be my second conviction if convicted in the last four years. Having to experience this again I must say that I am deeply sorry for the impact this incident may have on those who support me. Trust me my colleagues on council, my constituents and most importantly my wife and two children. This is the biggest embarrassment of their lives and mine as well. I am prepared to accept all personal, legal and political consequences this may have on me. I have come to the conclusion that I have some issues in my life that I must address. I'm a decent human being with a good heart but that alone does not exclude me from making mistakes. I make no excuses for my actions and I have taken the necessary steps to address my issues and I will be working very hard on building myself spiritually. I have the support of many people especially my pastor who I told to be here at 8 until I saw everyone here and I needed to tell everybody to get this off my chest. Over the weekend I personally visited my of the supporters in the ward and informed them of what had happened with me. What I have learned that many people who support me they believe that I will overcome this and I will continue to serve them. I will not resign from city council but the council members can do whatever they feel is just towards me at this point I really don't care. I have only one thing to ask for everybody in this room that everybody pray for my family and myself in hopes that I get through this very difficult time and overcome the issues that I have in my life. That's all I have to say, Council President Gamber. Thank you.

6. INTRODUCTION OF ORDINANCES AND RESOLUTIONS

COUNCIL PRESIDENT GAMBER B Mr. Mang, you had a request to amend our agenda I believe.

COUNCILMAN MANG – Yes, I'd like to amend the agenda by introducing Resolution No. 7 and at this point yes, I'd like to introduce Resolution No. 7 and if it's accepted by the council I will ask Bob Sanderson from the Chamber of Commerce to come up and talk about Resolution No. 7.

COUNCIL PRESIDENT GAMBER B Alright, not just yet, Mr. Sanderson, Mr. Mang, we need a seconded is there a second? Seconded by Mrs. Catazaro-Perry. Mr. Mang, do you have the appropriate signatures to add this onto the agenda? (Yes) At least three? (Two) Needs three we better grab a third very quickly. Alright, and you want that in its proper order in the agenda or do you want to consider that now?

COUNCILMAN MANG – I want to consider it first and I also want to make another change.

COUNCIL PRESIDENT GAMBER B Alright, well we have a motion first to amend our agenda to include Resolution No. 7. Madame Clerk, would you please call the roll to include Resolution No. 7?

Roll call vote of 8 yes to amend the agenda to include Resolution No. 7 – 2010.

COUNCIL PRESIDENT GAMBER B Now, Mr. Mang, your second request?

COUNCILMAN MANG – My second request is to move #12 Fresh Mark up to #2 on the agenda, since we do have people there residents of the area and I'd like to see that happen.

COUNCIL PRESIDENT GAMBER B Alright, now you're requesting Resolution No. 7 as our first item of business.

COUNCILMAN MANG – Right, #12 to be the second.

COUNCIL PRESIDENT GAMBER B And may I suggest is there anything you'd like to do with Ordinance No. 30? Which is 3rd reading for the food service contract or just leave that where it is?

COUNCILMAN MANG – Ordinance No. 30?

COUNCIL PRESIDENT GAMBER B I'm simply asking if you would like to bring that forward in the agenda also.

COUNCILMAN MANG – No, at this point.

COUNCIL PRESIDENT GAMBER B Alright, we have a request by Mr. Mang to bring Resolution No. 7 and Ordinance No. 12 forward as the first items. Is there any objection to this? Are there are no objections. Madame Clerk, would you please read the title to Resolution No. 7?

RESOLUTION NO. 7 B 2010

BY: COMMITTEE OF THE WHOLE

Supporting the Massillon Area Chamber of Commerce in retaining the OHSAA football championships in Stark County.

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COUNCILMAN MANG B Yes, we have Bob Sanderson here from the Chamber of Commerce. Bob would you come up to the microphone and give us the background?

BOB SANDERSON – First of all good evening lady and gentlemen of city council. I want to first apologize that this resolution was not forwarded to this council in due time.

COUNCIL PRESIDENT GAMBER B Bob, if we could for the record we need your name and address.

BOB SANDERSON – Oh, Bob Sanderson, President Massillon Area Chamber of Commerce. Tonight I'm also representing the Ohio High School Athletic Association Championship Weekend Committee. Do you want official address? Okay, thank you. Again, thank you for hearing this resolution the Ohio High School Athletic Association Central Committee is in the process of receiving bids from communities who are interested in hosting the championship weekend for football in the years 2012 through 2014. Stark County has hosted the championships for the last 20 years and will have those for 2 more years. It is our desire to keep those games here in Stark County. They bring in anywhere between \$4 to \$6 million dollars to Stark County on that weekend. It has been a tradition that we wish to continue using both Paul Brown Tiger Stadium and Canton Fawcett Stadium. We believe it's the best sporting event in all of Ohio high school athletics and we would like to have your support by resolution this evening. We put in our bid package and help us be successful in maintaining the championship weekend.

COUNCIL PRESIDENT GAMBER B Thank you, are there any questions for Mr. Mang or Mr. Sanderson regarding this resolution? Alright we need a roll call vote to suspend.

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

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

RESOLUTION NO. 7 – 2010 WAS PASSED BY A ROLL CALL VOTE OF 8 YES.

COUNCIL PRESIDENT GAMBER B The resolution has passed. Mr. Mang?

COUNCILMAN MANG B Yes, I would like to apologize for bring this to you at such a late date. I'm not really in favor of introducing legislation that we have not talked about in the committee session. But I thought that the importance of this and to the people in the business restaurant business, hotel business I think it's very important to them to have this source of income if it's available to us. I thank you for leaving me getting it on the agenda.

COUNCIL PRESIDENT GAMBER B Thank you, Mr. Mang. Madame Clerk would you please read the title to Ordinance No. 12?

ORDINANCE NO. 12 B 2010
COMMITTEE

BY: COMMUNITY DEVELOPMENT

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

COUNCIL PRESIDENT GAMBER B Thank you. This ordinance was the subject of a public hearing as required by law. This will be its resurrection from call of the calendar. Mr. Mang?

COUNCILMAN MANG B Yes, we had the representative of the neighborhood who spoke to you told us basically that they have reached an agreement with Fresh Mark so this Ordinance No. 12 can proceed.

COUNCILMAN MANG moved to bring Ordinance No. 12 – 2010 be brought forward for its passage, seconded by Councilman McCune.

ORDINANCE NO. 12 – 2010 WAS PASSED BY A ROLL CALL VOTE OF 8 YES.

ORDINANCE NO. 37 B 2010

BY: ENVIRONMENTAL COMMITTEE

Authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to sign an agreement with URS to perform a sewer rate study for the City's wastewater system, and declaring an emergency.

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COUNCILMAN HERSHER B We are as we talked about at the work session currently bound by ordinance to undergo a rate study every two years. This was put out URS had the best bid and this particular ordinance is to authorize the Director of Public Service and Safety to enter into an agreement so that the study can be conducted. The cost is not to exceed \$17,066.40 since we're obligated to do it we did talk about it at the work session there weren't any big questions or concerns and I haven't heard anything since the work session I would like waive the rules and this be brought forward for its passage. Seconded by Councilman Slagle.

COUNCILMAN PETERS B I wasn't paying attention what reading is this?

COUNCILMAN HERSHER B This is first.

Roll call vote was 3 yes, 5 no, the rules were not suspended. ANDERSON, CATAZARO-PERRY MCCUNE, PETERS AND TOWNSEND.

ORDINANCE NO. 37 – 2010 WAS GIVEN FIRST READING.

ORDINANCE NO. 38 B 2010
COMMITTEE

BY: PARKS AND RECREATION

Amending Ordinance No. 14 – 2010 by revising Section 2 for the contract term for golf carts at The Legends Golf Course, and declaring an emergency.

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COUNCILMAN SLAGLE B Thank you, Mr. President, how are you tonight?

COUNCIL PRESIDENT GAMBER B Fine, thank you

COUNCILMAN SLAGLE B Good. Having seen the last one does anyone have any questions for Kenn Kaminski regarding this? Kenn, why don't you take the stand, please?

COUNCILWOMAN CATAZARO-PERRY – I'm just learning about the electric versus the gas golf carts. At our work session we talked about that generally we use the electric ones first. (That's correct) I've only ever used the electric when I've done scrambles. So I'm wondering with the 6 year contract is that feasible do you think that we'll be going completely too electric within 6 years. Everyone tells me that electric is recommended and preferred by the golfers. So I was just wondering what your vision is for the electric versus gas since the contract is for 6 years for the next 6 years.

PARK AND RECREATION DIRECTOR KAMINSKI – The contract is for 6 years. Ideally getting to all electric would be the ideal situation because again as you said golfers really do prefer it it's also a lot cheaper for us as well. I can't imagine within the next 4 to 5 years that we're going to have the ability to do that make the transformation from gas to electric. That's why I recommended the 6 years.

COUNCILWOMAN CATAZARO-PERRY – So are you saying that you think within 4 to 5 years we'll just be using electric?

PARK AND RECREATION DIRECTOR KAMINSKI – If it happens it's going to probably be towards the end of this contract if it does. That's a big if because it's just so expensive to make the conversion especially with the building itself.

COUNCILWOMAN CATAZARO-PERRY – How often do we use the gas golf carts?

PARK AND RECREATION DIRECTOR KAMINSKI – Any time we surpass the 60 cart mark. So pretty much every day late in the day we definitely use our gas carts for all outings and/or special events first then we go directly to the gas carts.

COUNCILWOMAN CATAZARO-PERRY – Would you say that's a deterrent for golfers to maybe choose a different course or...

PARK AND RECREATION DIRECTOR KAMINSKI – No, they understand because I'm a golfer myself and no matter which ever one we get you know you're okay with it. But I don't believe it's a big deterrent at all or a deterrent at all.

COUNCILWOMAN CATAZARO-PERRY – Thank you.

PARK AND RECREATION DIRECTOR KAMINSKI – You're welcome.

COUNCIL PRESIDENT GAMBER B Mr. Mang?

COUNCILMAN MANG B Kenn, is there any place in the contract that would allow us to switch from gas to electric if it was so permissible at the golf course.

PARK AND RECREATION DIRECTOR KAMINSKI – I do not know for sure but I do not believe there is. I do not believe there is.

COUNCILMAN MANG B Thank you.

PARK AND RECREATION DIRECTOR KAMINSKI – I do not believe there is it's been a while since I've read that.

COUNCIL PRESIDENT GAMBER B Mr. Anderson, is your hand up?

COUNCILMAN ANDERSON B Yes, just a question on the golf carts are where are they now? They're up at that eastern?

PARK AND RECREATION DIRECTOR KAMINSKI – South East, that's correct.

COUNCILMAN ANDERSON B And you're opening the course next week?

PARK AND RECREATION DIRECTOR KAMINSKI – On Thursday, they're bringing down some carts right now on loaners until we get this contract taken care of. That's pretty typical.

COUNCILMAN ANDERSON B If this goes through tonight we can have people on the course with carts when it opens?

PARK AND RECREATION DIRECTOR KAMINSKI – Yeah, we're opening up Friday and we'll have carts down there.

COUNCILMAN ANDERSON B Okay. That's all.

COUNCIL PRESIDENT GAMBER B Mr. Slagle?

COUNCILMAN SLAGLE B Mr. Kaminski, you should explain why we're going 6 years on this contract as opposed to 3.

PARK AND RECREATION DIRECTOR KAMINSKI – The reason the 6 year contract is because it's going to save approximately \$50,000. We're going to be paying I believe its \$94,000 this year to the bid that was turned in at \$144,000.

COUNCILMAN SLAGLE B Any other questions obviously we need the carts to open the course don't we?

PARK AND RECREATION DIRECTOR KAMINSKI – Yes, sir.

COUNCILMAN SLAGLE B Okay. Seeing no further questions I move to suspend the requirement that we waive the requirement of three separate readings and bring this forward for passage tonight.

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

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

ORDINANCE NO. 38 – 2010 WAS PASSED BY A ROLL CALL VOTE OF 8 YES.

ORDINANCE NO. 39 B 2010

BY: FINANCE COMMITTEE

Making certain appropriations from the unappropriated balance of the General Fund and the 1201 Street Construction Fund, for the year ending December 31, 2010, and declaring an emergency.

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COUNCILMAN HERSHER B Section 1 of this ordinance is a transfer from the general fund to an account entitled supplies, materials and postage that's to be used for salt and street material that was used in February. In section 2, we have \$5,500 from the unappropriated balance of the 1201 street construction fund to an account entitled intersection backups. That is to add a battery backup system to the intersection of Warmington Road and State Route 21. That completes the battery backup system for that corridor through town. So at this point I

would ask what because I was at most of the finance section on Monday, so what questions were unanswered and/or objections any members of council has to this legislation at this point.

COUNCILMAN HERSHER 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. 39 – 2010 WAS PASSED BY A ROLL CALL VOTE OF 8 YES.

ORDINANCE NO. 40 B 2010

BY: FINANCE COMMITTEE

Making certain transfers in the 2010 appropriations from within the General Fund, for the year ending December 31, 2010, and declaring an emergency.

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COUNCILMAN HERSHER B First I'd like to direct council's attention to what's labeled section 3 of this ordinance it appears it might be a typographical error that should be labeled section 2. At least the ordinance I have in front of me goes from section 1 to section 3.

COUNCIL PRESIDENT GAMBER B If everyone would please correct that typo there is no section 3.

COUNCILMAN HERSHER B This ordinance is transferring and appropriating \$14,000 from the account entitled state examination, \$7,500 from EEO Director's salary and \$1,050 from PERS. The \$14,000 is going to an account entitled contracted services and that is to fund transporting the prisoners to the Stark County Jail. The remaining \$8,550 is going to an account to fund the EEO services as a contract service rather than as an employee. Again, if there are questions or concerns I'd be glad to get them answered at this time.

COUNCIL PRESIDENT GAMBER B Does anyone have a question? Mr. Hersher, your motion please?

COUNCILMAN HERSHER 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. 40 – 2010 WAS PASSED BY A ROLL CALL VOTE OF 8 YES.

ORDINANCE NO. 41 B 2010

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.

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COUNCILMAN HERSHER B This is an annual ordinance this is allowing the Director of Public Service and Safety to receive bids and enter into contract for the purchase of various items at the street department, parks and rec. department, wastewater plant and other miscellaneous departments in the city may need throughout the year. Again the auditor is here anyone that we need to get any questions answered for this evening.

COUNCIL PRESIDENT GAMBER B Mrs. Catazaro-Perry?

COUNCILWOMAN CATAZARO-PERRY – Mrs. Ferrero, earlier in the year we talked about scrutinizing you and the mayor on purchases. So we generally do this every single year

and I just want to make sure that you will be watching over that very carefully throughout the year.

AUDITOR FERRERO – My committee we've been reviewing every purchase order that comes through we don't let anything go through unless Pat and I are both looking at it. Then if there's any questions we go directly to the mayor on it.

COUNCILWOMAN CATAZARO-PERRY – Thank you.

COUNCILMAN HERSHER 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. 41 – 2010 WAS PASSED BY A ROLL CALL VOTE OF 8 YES.

ORDINANCE NO. 42 B 2010 **BY: FINANCE COMMITTEE**

Authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to enter into contract with South East Golf Car Co., for the lease of 108 golf carts to be used at The Legends, and declaring an emergency.

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COUNCILMAN HERSHER B Couple moments ago we approved Ordinance No. 38 which amended previously approved Ordinance No. 14 which allowed the advertising and accepting the bids for leasing of golf carts for the course. This ordinance authorizes the Public Service and Safety Director to enter into contract for those golf carts. Again, if there are questions we'll get them answered.

COUNCILMAN HERSHER 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. 42 – 2010 WAS PASSED BY A ROLL CALL VOTE OF 8 YES.

RESOLUTION NO. 6 B 2010 **BY: POLICE AND FIRE COMMITTEE**

Permitting the Mayor of the City of Massillon, Ohio, to enter a Memorandum of Understanding with the Stark Council of Governments (SCOG) to consolidate emergency dispatching operations to enhance safety and improve efficiency.

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COUNCILMAN MCCUNE B First reading.

RESOLUTION NO. 6 – 2010 WAS GIVEN FIRST READING.

7. UNFINISHED BUSINESS

8. PETITIONS AND GENERAL COMMUNICATIONS

9. BILLS, ACCOUNTS AND CLAIMS

A. Repository - \$394.72

B. Independent - \$15.13

COUNCIL PRESIDENT GAMBER B Mr. Hersher, we need a motion?

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

Roll call vote of 8 yes to pay the bills.

10. REPORTS FROM CITY OFFICIALS

- A). POLICE CHIEF SUBMITS MONTHLY REPORT FOR FEBRUARY 2010 B COPY FILE
- B). TREASURER SUBMITS MONTHLY REPORT FOR FEBRUARY 2010 B COPY FILE
- C). FIRE CHIEF SUBMITS MONTHLY REPORT FOR FEBRUARY 2010 – COPY FILE
- D). INCOME TAX DEPT SUBMITS MONTHLY REPORT FOR FEBRUARY 2010 – COPY FILE
- E). WASTE DEPT SUBMITS MONTHLY REPORT FOR FEBRUARY 2010 – COPY FILE
- F). MAYOR SUBMITS MONTHLY REPORT FOR FEBRUARY 2010.

COUNCIL PRESIDENT GAMBER B Thank you. Everyone has those reports and we'll keep copies on file.

11. REPORTS OF COMMITTEES

COUNCIL PRESIDENT GAMBER B If you look at the calendar you'll there are five Mondays this month. That means next Monday the 22nd there are no meetings scheduled. We will have committee sessions on the 29th to prepare for the April 5th council meeting.

12. RESOLUTIONS AND REQUESTS OF COUNCIL MEMBERS

COUNCIL PRESIDENT GAMBER B Are there any reports of committees are there any requests or resolutions to come forward from any member? Mr. Slagle?

COUNCILMAN SLAGLE – Yes, I'm going to speak in terms of the Ordinance No. 30 – 2010 only because as we know we attempted to get a financing ordinance on tonight's agenda. That under the understanding that if there were passage on the third reading of #30 – 2010 that then would have to be funded. It's my understanding that funding is rather critical because the current owners are not likely to open and until we pay them they not likely to turn over the keys at which point we won't be able to open. So I would hope that something can be done to get some sort of immediate early perhaps emergency council meeting for the purposes of getting the funding ordinance in place. Frankly I think it should have been in place for tonight's meeting the funding for this project has been discussed through every committee meeting has been discussed with the director of our parks and recreation. Has been fully disclosed from the get go and it was just an over site that it was not until the mid or last or late of last week that the funding ordinance itself was not brought forward. So it certainly has been seen the public light of where the funds were coming from. It should have been on the agenda tonight and I would hope it can be brought to the attention of council at the earliest possible moment.

COUNCIL PRESIDENT GAMBER B Thank you. Madame Clerk, this was brought to council's attention last week was an ordinance ever prepared?

COUNCIL CLERK MARY BETH – I received it Friday morning about 10:00am.

COUNCIL PRESIDENT GAMBER B Have we prepared an ordinance?

COUNCIL CLERK MARY BETH – No we have not.

COUNCIL PRESIDENT GAMBER B Alright. I also appreciate the irony that added an ordinance tonight but kept another ordinance off tonight. So sometimes things don't make sense.

13. CALL OF THE CALENDAR

14. THIRD READING ORDINANCES AND RESOLUTIONS

Authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to enter into contract with B & B Restaurants, Ltd., to purchase the food and beverage service and related items, and declaring an emergency.

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COUNCILMAN SLAGLE – I first call the law director Mr. Stergios forward. We have with us all copies of is this what I presume to be the final asset sales agreement?

LAW DIRECTOR STERGIOS – Yes sir, that is the one I told Mary Beth to print out and give to everybody on Wednesday or Thursday whenever I emailed it. The exhibits are all the final exhibits.

COUNCILMAN SLAGLE – And is this in now in complete form in your opinion? (Yes it is) And does it cover every possible legally anticible aspect of the transfer of these assets and the purchase thereof.

LAW DIRECTOR STERGIOS – As best as I can do. Yes.

COUNCILMAN SLAGLE – is there anything that you can think of that has been missed and can you tell a little bit about what type of negotiations went on and first reaching this agreement to begin with in its overall form and then finally details?

LAW DIRECTOR STERGIOS – Generally as everybody here knows the original lease agreement for the food and beverage service was a 15 year contract, 3 - 5 year periods or yeah 20 year contract I think. We're in the last 5 year period is forthcoming and the rates were to be negotiated between the parties as to what the percentage split would be paid to the city if they continued for the last 5 years. A decision was made by I think both the park and rec. board and the administration and a lot of comments from council that it would probably be advisable to see if we could just take the food and beverage service over. Kenn Kaminski's been working on it for quite time and I know the park and rec. board has been having discussions as has the mayor's office. Ultimately when things started I think at least a year ago the numbers that they wanted paid were much higher than what we ultimately agreed to here throughout the process we did obtain an appraisal of the existing assets that is one of the list that you have attached. Although and you've all seen the appraisal previously. Long and short of it is we ultimately came up with these numbers and everybody agreed to them subject to the approval of council. There's no perfect way to calculate these things some of this is implicit in the benefit of getting an ongoing business walking in there turning on the lights and ready to go as opposed to them taking all their stuff out us purchasing new equipment at higher cost and not having what we've all referred to as turn key facility. I can't say that I disagree with the price that was reached but only hind site will tell us if it was right also. I mean I think we did the best we could do I know Mr. Slagle did a significant amount of work that was above and beyond the call of duty. I know that Kenn Kaminski in his office and the administration did a lot of work in both the negotiation and trying to come to these numbers. So I think that answers the question.

COUNCILMAN SLAGLE – And under the contract it did require us to purchase these items or he could remove them at this cost. Is that correct?

LAW DIRECTOR STERGIOS – Yes, that is correct. There's a certain number of equipment items chairs and tables and things like that that he would be permitted to remove if we did not renew the contract with B & B. So you know there could have been a battle about what was permitted and what wasn't. But clearly a significant number of items could be removed without damage to the facility and we would have to buy new items to get that facility operational.

COUNCILMAN SLAGLE – Thank you, any questions? Mr. Kaminski could you come forward too please? You were actively involved in these negotiations were you not? (Yes, sir) And what is the advantage of actually purchasing the even though they are used items of

purchasing them rather than dealing with the removal thereof or even some of the removal of the items that he could take and leave the premise exactly as they were when he took it.

PARK AND RECREATION DIRECTOR KAMINSKI – First of all as Mr. Stergios stated making it a turn key operation is the best possible scenario for us. Because then we have the ability to literally once the key is turned over to jump in and operate it. The one big disadvantage we would have if B & B would end up taking all of their items which is a significant list as you're aware. We would have to actually go out and purchase all that and do it in a timely fashion to where we would be able to operate this year. They have put in a tremendous amount of capital improvements into the building as well as a tremendous amount of equipment. If you noticed on the one appraisal that was done just the cost of getting that up is significant. Getting it up and operating excuse me.

COUNCILMAN SLAGLE – Were you involved in the negotiation process throughout and is the administration in support of this as well? (Yes, sir) And you're in support of this as the park and rec. director? (Yes, sir) And you tell us the advantages of the city actually having control of this food and beverage operation which we have not been able to have for 15 years?

PARK AND RECREATION DIRECTOR KAMINSKI – The biggest advantage is one we're going to be able to control the complete operations of the food and beverage which we currently don't have. I stated last week that I am more excited about the fact not that we're purchasing a revenue stream for the revenue that we would generate off the food and beverage itself. Although its going to be more than what we're currently getting I'm more excited about the fact that now we have the opportunity to attract larger groups, more groups to the golf course but as well complete that customer service of a golf experience that is necessary for golfers when they come there. We have a wide variety of ideas other things that golf courses have done programs like golf courses have done that are successful that we're willing and ready to implement that we did not have the ability of doing. As I stated last week we have two entities previously the city and the restaurant company that we're both trying to protect our profits. We only had very, very little flexibility in trying to attract large groups. Now with us being able to have that flexibility I believe that we are going to contract and get a significant amount of groups that we're currently losing.

COUNCILMAN SLAGLE – In your experience in training in the parks and recreation field have you had the opportunity to see how the food and beverage works in with the operations of a golf course? (Yes, sir) And you've gone to seminars and the like on that and conferences?

PARK AND RECREATION DIRECTOR KAMINSKI – We've gone to seminars and conferences we've also done a lot of research. This is for some reason there's a misconception that this was just thrown onto council this month. We've been talking about this for 21/2 years. Actually the first meeting I had with our previous employee Craig Immell that was #1 on the agenda and that was 4 years ago. We've been speaking about this at the recreation board for an extensive period of time. We went to other golf courses we saw how they operate we went to golf courses that have current contracts like us and see how they're struggling. But we also went golf courses and did a lot of research on when they have the flexibility and freedoms that we're looking for to be able to operate this.

COUNCILMAN SLAGLE – So in your best professional opinion is this something that the city definitely should be doing? (Yes, sir) Okay.

COUNCILMAN MCCUNE – Mr. Kaminski, I know that at the end of every year that you review the program that you put in place and policies that you have in place. I'm going and I don't want to put your words in your mouth but I'm going to assume that at the end of 2011 after you've had a chance to put your own policies and procedures and things in place out at the facility that we may purchase that if it doesn't seem to be going to bear the fruit that we anticipate that we would be willing to consider alternative measures at that time. (Absolutely) Thank you.

COUNCILMAN TOWNSEND – I have a question. When I was the chairman of the parks and rec. I asked a few questions about like Shiver Park and Franklin. Times I asked about the

basketball court itself where the ground was cracking and I was told there were no funds. I asked about getting a new fence over at Shriver was always told there were no funds. I asked about basketball rims because those are some pretty old rims they're tin, aluminum right now they're bending down. Always was told there was no funds. Franklin Park you know the sign was hit or something happened to it. I don't believe it was ever put up was told there was no funds. I guess my question is where did the \$200,000 come from?

PARK AND RECREATION DIRECTOR KAMINSKI – First of all its only \$95,000 that is what we're asking that's the first part. Second part is you're right I did tell you that there were no funds. But as we progressed last year and had an incredible year financially at the golf course as well as the parks and recreation department we were able to save this money. It was with the understanding when we start making cuts and personnel start making cuts and programs and operations when we generated that money that I was going to be able to use this to purchase a revenue source. That's exactly what my goal is here is to purchase this revenue source so that money can get into the department as a whole so we can then take care of all those projects that you've spoken about.

COUNCILMAN TOWNSEND – I can appreciate your vision. I guess the problem I have while this restaurant when it starts making a profit time continues and at the same time these parks Shriver and Franklin are going down. What is going to be done with these parks really they look pretty bad.

PARK AND RECREATION DIRECTOR KAMINSKI – One of the things and you're aware of this because we've spoken about this when you were on the committee. We are continually doing everything that we can to set money aside. As you know and you've seen all those when you've sat in on all the work sessions and all that we are continually putting money aside so that we can take care of capital improvement projects throughout the parks and parks and recreation center, senior center all that. That's what we'll continue to do and if we are able to generate any additional revenue off of this contract that we're going to purchase that's just going to expediate the process that we're trying to do.

COUNCILMAN TOWNSEND – That's all.

COUNCILMAN ANDERSON – I just have one question concerning a business plan. I understand the mayor and you have done a lot of hard work on this thing but I have yet to see a detailed comprehensive business plan for anything in the food, bar or banquet business out at the golf course.

PARK AND RECREATION DIRECTOR KAMINSKI – What you saw if you had an opportunity to get your email you saw a brief synopsis of...

COUNCILMAN ANDERSON – Two pages?

PARK AND RECREATION DIRECTOR KAMINSKI – Yes.

COUNCILMAN ANDERSON – You're looking at probably 50 to 75 pages of a business plan. I would never go into a business without a business plan. You folks are going into a business with no business plan. At least one that council has seen. No plan whatsoever.

PARK AND RECREATION DIRECTOR KAMINSKI – We're talking about 2 years worth of plans that we had no idea if we were going to have the opportunity. We spoke about this in great detail in work sessions, we spoke about this in great detail at recreation board meetings, we literally had probably 5 or 6 different work sessions regarding this over the last 4 or 5 years per year regarding that.

COUNCILMAN ANDERSON – Where's the business plan?

PARK AND RECREATION DIRECTOR KAMINSKI – We had to finally get to a point to where we were able to do this. For us to be able to go out and actually give money trust me I'd love to come here to ask you for money to give us a business plan. But where we were we

going to get the money, where were you going to get the money? Is more of the question. We did not have the opportunity or the where with all to be able to go get a professional plan. I would love to do that.

COUNCILMAN ANDERSON – So we're going to vote to buy a business to put a business in with no plan? You might have a plan but I don't know about anybody else on council but I have yet to see anybody's plan.

PARK AND RECREATION DIRECTOR KAMINSKI – Mr. Anderson, this is the same thing with the golf course. I feel very comfortable with this and we've had great success, you could have said the same exact thing to me 2 1/2 years when Mr. Slagle said we need a golf course professional out there. I looked in his eyes and said you're right I'm not a golf course professional. But you know what from that point to now I think I've proven that we can generate money. I think I've proven that we could have a great golf experience and the golf course is really striving well. Yes, I don't have the ability to go out and get a business plan and purchase a business plan. But you know what I'm not a restaurateur, I'm not a golf professional, I'm not a restaurant professional but I'm going to give everything I can to make this operate the right way.

COUNCILMAN ANDERSON – If this is passed tonight would we see a business plan?

PARK AND RECREATION DIRECTOR KAMINSKI – You're going to see continuous business plans. If you would if council would continue to read what I give them the monthly reports, the quarterly reports and you're able to see all the things we're doing financially and read the recreation board stuff you'll see what we're trying to do. It's all there.

COUNCIL PRESIDENT GAMBER B Are you finished, Mr. Anderson?

COUNCILMAN ANDERSON – Yes.

COUNCIL PRESIDENT GAMBER B Mrs. Catazaro-Perry?

COUNCILWOMAN CATAZARO-PERRY B Mr. Kaminski, I'm very concerned I'm not voting for this tonight. I'm very concerned Genshaft looked horrible last year. Reserve Park in my ward was horrible last year, the golf course was absolutely beautiful. You have done a fantastic job with that but we've let everything else go. So I'm not going to support trying to get into the restaurant business when we can't maintain what we need to maintain and that's the park's department.

COUNCILMAN SLAGLE – When we talk about a business plan you already have an ongoing I mean part of a business plan normally is taking a new start up business, finding a location with traffic, finding out if that product needs to be if there's a product for that. Just like over on Whipple Avenue when they had somebody tried to open up a vegetarian salad bar I mean that bombed. But I mean you already have a business plan in the sense with the golf course do you not?

PARK AND RECREATION DIRECTOR KAMINSKI – We do and we have done a business plan for the golf course but especially with the food and beverage. Because we have a 15 year history of what they've done. We've worked hand in hand with them over the past 15 years. We get all their financial reports we see what they're paying in taxes. We have all of that history at our disposal and have had it for the last 15 years. Now I've got to take that material disseminate it and figure out how we're going to generate additional revenue.

COUNCILMAN SLAGLE – I was at a meeting over the weekend and I think there are residents that have legitimate concerns about what they perceive as to be the draining of the parks and rec. funds by the Legends. But in taking this move does this in fact alleviate some of that problem in your opinion bring in additional revenue that we do not currently have?

PARK AND RECREATION DIRECTOR KAMINSKI – Yes, it does. The reason that it does is because last year council gave us a budget we generated quite a bit more money than

what was budgeted for that. Council gave us \$350,000 towards the debt retirement. Basically what we had to come up with was \$181,000 to operate the golf course last year and we did that close. We did that with the amount of revenue that we generate in our day to day fees and our membership fees that we were able to gather throughout the year. With this additional revenue we will be able to cover that \$181,000 and then be able to reinvest back into the golf course, parks and recreation department, rec. center and everything else that we operate.

COUNCILMAN PETERS – I'd like to say without making everybody in the place. I've made no secret the whole time I've been on city council and this is a belief of mine and it has nothing to do with Mr. Kaminski not being capable I know that I personally know that he works harder than probably anybody I know at trying to make something work that probably doesn't have a chance. Okay, but I know he'll give it his all so when I say this don't take this personal but I firmly believe and all of you listened to me argue this point since you've known me is that I don't believe that the government should be involved in anything that the private sector can do better. I will never relinquish that theory of mine whether I'm right or I'm wrong. The restaurant business to boot just kind of quadruple my theory because I know I experienced it. It is one of the toughest businesses in the world to get into. Mr. Kaminski used this statement and I'm not making a big deal but he said jump in. That's just exactly what we would be doing jumping into a pile of bad food. It's not we're not going to benefit from this. We'll never see what it actually costs us to run this thing. We'll never see a lot of things this is what happens when government runs businesses. You don't see because they don't have to they're not on the same playing field as a private business. Because they're taxpayer funded so they don't to go along the same lines as a normal business. I can not see going into the restaurant business that is funded by our taxpayers. So I am voting no on that reason alone. Thank you.

COUNCILWOMAN CATAZARO-PERRY B Well, I didn't get to add my last thought that was very, very important is that if you approve this contract tonight we don't have the next step in place which would be to hire the people that are going to run that business. So it puts them in a wonderful seat to name their price to do the job that we need them to do so if I would have seen a full plan as Mr. Anderson spoke about a business plan and it had every single base covered I may have been more inclined to support that. I think Kenn has done a fantastic job with the golf course. We've let the parks go but you've done a fantastic job at the golf course. But I don't think we can trade that off Kenn, I just don't. So but I just wanted to know the second thought that I had Kenn.

COUNCILMAN SLAGLE – I call the mayor up to podium please. Mr. Mayor, have you been active in understanding the whole concept of this file 5 year contract extension on the Legends? (Yes) So you have been involved the entire time I've been on city council and prior to that I always understood that the only way that the Legends could ever possibly work to the benefit is to get this contract back. Isn't that correct?

MAYOR CICCHINELLI – That's correct, Mr. Slagle, I think this council at least that's what we thought we heard and previous councils expressed the viewpoint to the administration that we should of operated the food and beverage from the very beginning. When the golf course was built some communities operate independently other communities operate themselves. So we chose back then to really sub that out and that's why we did it that way. Since the course has been open for awhile you see that the potential was there to make some additional dollars for the parks and rec. and for the golf course. I know a couple members of council asked about a plan and it is correct that before you get into business you normally have a business plan. In this case it's a little different type of business. You do have a captured audience in that the food and beverage serves primarily the golfers. However, there are other avenues open to the city to make sure and I've heard this criticism many times that the food operation is not open other hours. In other words additional hours whereby additional dollars could actually be received. So we're going to insist whether we operate it directly or there's still a possibility that we're going to accept proposals and have someone with a restaurant business run it for us. So it's a little different twist in that there are additional dollars to be made and that you do have a captured clientele in a facility like this. So when you talk about a business plan remember folks two different families did make a good profit running the food and beverage since the course was built. There's actually two families that we're receiving income it is a pretty solid income revenue stream. I don't think in this case that a full blown business plan which would cost money to actually accomplish would be prudent because you do know the course has been

operating and you do know because we do get reports monthly of the revenue received by the Club Legends that there are dollars to be made. I know as the years passed many members of council said that they felt that it was a mistake that the city should have operated the food and beverage from the very beginning. Now we're at that 11th hour and there's discussion. I understand that but I think this is a much different situation.

COUNCILMAN SLAGLE – Do you think this will be a positive as well for both the city and the parks and rec. department?

MAYOR CICCHINELLI – Oh absolutely.

COUNCILMAN SLAGLE – Now there's been a lot of criticism that by putting the Legends into the parks and rec. department there's been a perceived drain on the parks and rec. funds because of the Legends inability to make their payments on their debt. (Yes) Is there any way the city could alleviate the parks and rec. their own board concern on occasion raised because of that?

MAYOR CICCHINELLI – Ask that question again, sir?

COUNCILMAN SLAGLE – Is there any way the city can give any type of you being the administration part give any type of indication as to what you see this as alleviating some of that drain #1 and whether the city can give in the event that it turns out to be not a good business proposition for instance. Or even on the \$95,000 payment.

MAYOR CICCHINELLI – Again, that's a good question. When the golf course was built many communities prior to that we did a little study and many communities have the municipally owned golf course under the jurisdiction of the parks and rec. department. Other communities have set up a separate department so there was an experiment for a period of time. Of course as all of you know it was operated independent. As time went on both the administration and the council and the recreation board because the recreation board also voted unanimously to take the golf course over. It was switched over to the parks and rec. Now we can have disagreements on that and I respect disagreements on anything however what a lot of people don't understand is that when the tax was approved in August of '95 the dollars for the three-tenths the parks and rec. department the new entity that was created did not have any monies to operate. So the City of Massillon back in '96 loaned the parks and rec. department \$365,000. That \$365,000 is yet to be paid back. In succeeding years both well in 2000 the City of Massillon gave the parks and rec. department \$100,000, in 2001 the City of Massillon's general fund gave another \$100,000 to the parks and rec. department. That's \$565,000 has not been paid back we had every intention of collecting those dollars. You have before you an ordinance which pays back the rest of the \$70,000 of the \$140,000 that originally was loaned by the city's general fund to the parks and rec. department. Maybe, maybe what we can do here is if this settles it once and for all and shows our good faith effort we had every intention of before I say this...

COUNCIL PRESIDENT GAMBER B Mr. Mayor and Mr. Slagle, if I could suggest we have two members missing would you like to continue with your comments or would you like to take break until we have...alright I'm sorry I thought Mr. Anderson was still out but in any event its entirely up to you.

MAYOR CICCHINELLI – Well, I think this is important we probably should right.

COUNCIL PRESIDENT GAMBER B Well, my own feeling is we should wait until everyone here to continue the discussion.

MAYOR CICCHINELLI – As is always customary and maybe I know council members should know this and maybe some of the citizens in the audience should know this that at all times there was constant dialogue and cooperation between the different city departments. So and in some cases an administrative fee is paid by a particular department to assist in the city's general fund. But there's always examples where dollars are spent from other funds like general fund for a department in this case with the parks and rec. department. So there's been a total of \$740,000 that as of right now are dollars owed to the city's general fund from the parks and rec.

department. That's a substantial amount of money and that goes back I mentioned earlier 1996, 2000, 2001, 2007 and 2008. So it shows our good faith in trying to work through these issues for the parks and rec. department. I'm willing to put on the table a consideration of a waiver of a portion of these funds. I'm proposing to waive the earlier funds which amount to \$565,000 the \$365,000 that was loaned to get the parks and rec. department up and running. Because as you well know since '96 was the first year of collection the dollars didn't come in of course until the total dollars until the end of the year. So and that \$565,000 if we waive it then we will not see those dollars again. I think that does a couple of things it sort of eliminates the concept that and I've heard one or two residents say that if they would not object to the city getting into the food and beverage business if another source of revenue could be found to buy the food and beverage business. This in essence would do that if the intent was from the very beginning and you can see by pass practices that we would like to get some of those dollars back. If we waive that \$565,000 would that make it a little more exorable for people here members of council to vote for a food service and keep in mind folks that the course is going to open on Friday there needs to be a food service. I think this will show good faith if we waive this and technically if anything legally has to be done to waive it I think it shows that and we do this all the time I mean we do provide services for the parks and rec. department. It's not sometimes in discussions it seems to always be a one way street that the city is raiding the funds of parks and rec. But there are services that we provide to the parks and rec. department at no cost to them. Now this and we say that because it is a department of the city just like any other department. But it's a revenue producing department which is a little bit different than the police department or the street department or the fire department. So this will show our good faith in trying to come to some sort of agreement that we need to proceed with the food and beverage as well as waiving these dollars. I think it helps solidify the position of the parks and rec. department down the road. Any comments council may have?

COUNCIL PRESIDENT GAMBER B Mr. Mang?

COUNCILMAN MANG – Yes, based on what you said Mr. Mayor it's apparent that the general fund is purchasing the items that we're talking about. So there's really no argument as to the money coming out of the park and rec. This is money that is owed by the parks and rec. and by excusing them or permitting them to waiver the money that the city has given to them I think that ends the argument as to who's purchasing this. It's obvious to me if they owe us \$565,000 I'm not sure how they're going to get it. So Mr. Mayor I commend you for making that remark and I think it stabilizes the program. Because all I've heard is it's going to be paid out of the recreation fund. Well, it's not thank you.

COUNCILMAN MCCUNE – I also agree with Mr. Mang and at the same time I think that by doing that that's a good faith gesture that takes some of that lowness off the rec. department. During discussions that we've had leading up tonight its also been stated that although we the city would in essence be running a snack bar and the beverage business the day to day occurrences of the golf course the banquet facilities would be actually looked at to be put up possibly for bid or whatever you want to call it for as an educational facility even possibly where the banquet facilities could possibly end up being in the hands of Drage or some other entity.

MAYOR CICCHINELLI – You're right I mean its not they're not going to be city employees that's the misnomer here. I mean technically it might be under contract but its not going to be an actual city employee.

COUNCILMAN MCCUNE – So even if it maybe a private entrepreneur or it may be an educational facility the banquet portion of the purchase of the Legends club would be really an essence separate from the day to day operations of the golf course and the snack bar and beverage portion. So I personally feel comfortable with that and I think it makes me even more comfortable that with the good faith gesture that you made to that in waiving the debt. So because of that I will be voting in favor of this ordinance tonight.

COUNCILWOMAN CATAZARO-PERRY – Mr. Mayor, to me this is just a political spin on the money. I think its unfortunate that like you just spoke about the eleventh hour you come to us and now you're spinning it to say now its going to be paid by the general fund. You know

there's no plan for this we don't have a plan for who's going to take over there's no plan for that. There's no I wrote my own business plan when I started my center. So it doesn't cost money that's a misnomer. You can write your own you can project your own numbers it's just a political spin. What is the truth tonight is that our parks departments are suffering they're not being mowed, they're not being maintained. The Legends does look beautiful and that needs to be commended to Mr. Kaminski and his staff. But we can't just focus all of our attention on one entity of the city. You have to focus on everything and we're not doing that and unless there's a full plan to show who's going to run it, who's going to like on this page here there's deposits for some people and not for others. You know if you look at the banquet facilities who's booked those some people have given deposits and some people haven't. You need a full plan who's doing that, how are you going to take those reservations, who's making those deposits, how much are they? We don't have a plan and I think that's unfortunate for the residents because they are the taxpayers that are taking this on. Not just us council members voting yes or no for it it's all of us. I really feel that it's put us in a poor situation you know we made reckless decisions in the past and I think this is going to be another one. I think it should have been more thought out.

MAYOR CICCHINELLI – I actually disagree when you make comments that all the other parks are in horrible shape. I think that's a political spin and of course you accuse other people of political spinning but that seems to be your chief subject here recently. That's okay that's part of the process I'm not spinning anything. We had every intention of collecting that \$565,000 and I preference my comments Kathy before I got into the detail that that was our intent. The proof of that is that you do see dollars going back from parks and rec. to these various funds that they were taken from. So there's no political spin here. The reality of the situation if some of our citizens are legitimately complaining about dollars being spent from parks and rec. to the golf course. I'm giving you a scenario where the opposite is occurring. That is general fund money is being spent or has been spent for parks and rec. activities. That's not a spin that's an accurate portrayal of what is actually taking place. Call it whatever you want but I think it's important to show the citizens that we are attempting to make a good faith effort to run both all of our operations. One thing to remember the golf course is also a parks and rec. activity just like the rec. center is a parks and rec. activity or the softball fields are recreation activity. We have a pretty comprehensive recreational program where a lot of our citizens benefit. It's a give and take and we have shown and we continue to do that we have paid the major portion of the debt for the golf course this year out of the general fund. We continue to do that in the foreseeable future we're probably going to have to continue to do that. So that is not a spin that is a reality that we're making it through however we can make it through. But I beg the differ with you when you say you know when you mention comments about mowing grass. Well this is just March and believe me when the parks and rec. department gets cracking on those parks they'll be in tip top shape like they were like they've been in the past. I think sometimes that's a spin and believe me that's not an actual portrayal of our parks. But that's your opinion and that's mine.

COUNCILMAN HERSHER – Mr. Mayor, you referenced earlier Ordinance No. 33 and 34 that we have in front of us for third reading tonight which is the return on the advance from parks and rec. to the general fund. Do you anticipate what you're talking about now having any effect on these two pieces of legislation this for giving?

MAYOR CICCHINELLI – Well, what I think we should for give is the \$565,000 not the \$70,000.

COUNCILMAN HERSHER – Thank you.

MAYOR CICCHINELLI – Because they've already paid half of it back.

COUNCILMAN HERSHER – Thank you.

COUNCILMAN PETERS – I just have one question which park isn't in bad shape? I'd like to go see it.

MAYOR CICCHINELLI – Well, I'd be more than happy to take you on tour. Well, you

know you say bad shape I don't know what you mean by that.

COUNCILMAN PETERS – Well, show me one park where we don't have graffiti written all over the playground equipment, where picnic tables aren't over turned, where the restroom doors aren't broken down, where the sign isn't painted over, where the walking path don't have trees over it. I just don't know of or where a bridge hasn't fallen down and it's a nuisance or the buildings are falling apart. I'd just like for you tell me which park it is I'll go look at it and I'll be happy with the answer.

MAYOR CICCHINELLI – Better than that why don't you and I schedule a tour with Mr. Kaminski and we will tour any member of council would like to we will tour all the parks. Remember we're coming out of one of the worst severe winters we've ever had. So of course there's going to be cosmetic things that are going to need attention and we'll get to that. But this is only March.

COUNCILMAN PETERS – I understand that but you know I know that you know and Kenn has to stand up and say I'm right I can show 4 or 5 parks that we haven't done anything with in 3 or 4 years. You know I mean I sent you pictures of one and that's never been taken care of that was two years ago. Okay, and so I understand we've been through a rough winter I understand that we're not ready to just go out and they're already groomed. I'm not a total imbecile but I do know our parks and in your defense we have too many parks. Okay, we need to get rid of some of these parks because they are burdensome to the city and they can be better used for something else. But the one but we have them right now and the people expect them to be up to their standards and they're not.

MAYOR CICCHINELLI – I agree with you.

COUNCILMAN PETERS – I don't believe they are at this point. I think there's solutions and we talked about that. But I'm just not buying that the parks are in pristine shape and ready to go.

MAYOR CICCHINELLI – I didn't say they were in pristine shape.

COUNCILMAN SLAGLE – You know part of what's being addressed are just society problems you know we've had graffiti on walls and in caves since we could write on walls and caves. You know if we don't have parents that are willing to tell their children it's not a good idea to spray paint on things then we're going to do that. There's nothing a city can do to stop graffiti that's a citizens problem in this city #1, #2, in December 8, 2005 I've heard along how this has been the drain on the parks or the Legends has been a drain. I'm not a big supporter of this either in terms of the city should have never been in the golf course business, the city shouldn't be in the recreation center business, but we are. We're faced with that fact and we're faced with debts that we have to deal with and we have to deal with the future and not the past. But in 2005 Jay Boodishwar who I think is held in high esteem said in the public record to the Independent money from two sources the revenues generated by the golf course and a portion of park and recreation department income tax will be consolidated to make the debt payments for the golf course. Which is exactly what's been done as far as I can tell over the past 4 or 5 years now you can deal with these things constructively and give us constructive ideas to move forward or can give us destructive ideas which is just bury the golf course and eat the debt. I prefer to hear constructive ideas because I don't think that's a rational way to deal with things. It's the way that certain members of the congressional parties our country is dealing with now rather than coming up with constructive ideas to deal with things we just road block things. Perhaps we should look at something that Lyndon Johnson said in 1964 when Medicare was passed when democrats conservative democrats were obstructing things he said you know what any jackass can kick a barn down, but it takes a carpenter to build one. Frankly I think we've got carpenters to build this up to build the parks and rec., we've been told from the start that the Legends will not be will be more viable once we take this contract over. Now all of a sudden we have opposition when it comes forward if there are political statements being made it statements such as we were reckless in this regard. Four years have gone into this many discussions have gone into this I in fact almost lost a good friend over this because certain things were floated about how much had to be paid on this. We had to fight to get this down to

a reasonable level as a lawyer there's always a negotiation process. Mr. Best and his company wanted more money than we wanted to pay them and we wanted to pay them less than we could. But to vote against this now is a destructive measure it's a destructive measure to our golf course which ends up being a destructive measure to our parks and recreation department. It turns out to be a destructive measure to our city that would be reckless.

COUNCIL PRESIDENT GAMBER B I'm going to remind the council members that our council rules suggest that we go around twice for comments and discussions, we generally end up with the committee chairman who makes a wrap up statement. I consider that to have just been done. Please make your comments very brief.

COUNCILWOMAN CATAZARO-PERRY – Thank you. I'd just would like to clarify that I may have again been incline to support this Mr. Slagle had the complete project been completely done. I do think the contract is very poor and I've said that on council floor many times but this is no better. We don't know who's taking over the contract its wide open and that's what I'm saying is reckless. Thank you.

COUNCIL PRESIDENT GAMBER B Mr. Slagle, your motion?

COUNCILMAN SLAGLE moved to bring Ordinance No. 30 – 2010 forward for passage, seconded by Councilman Mang.

Roll call vote was 4 yes, 4 no for passage,

COUNCIL PRESIDENT GAMBER B Well this is one of those rare occasions were the president gets to vote and before I do I would like to say that I will be voting for this. I've been on council for 14 years or more all I've heard from day one is that we dropped the ball when it came to the contract for the food services at the Legends. Over those years we could have complained all we wanted but this is the first opportunity to renegotiate that contract. Whether the parks and rec. department should be in that business is not for me to say but that's the ordinance that was brought to us. I feel confident that at the very least we won't lose money but the city will also be in charge for the first time of many of the operational items, the hours that its open, the menu, the pricing, special promotions and things like that. There will be a general manager hired to run the business and I've certainly heard along with you that after a trial period if its not working there may be something else done. So this does have to be done quickly my vote is yes.

ORDINANCE NO. 30 – 2010 WAS PASSED BY A ROLL CALL VOTE OF 5 YES, 4 NO. ANDERSON, CATAZARO-PERRY, PETERS AND TOWNSEND VOTED NO.

COUNCIL PRESIDENT GAMBER B I'd also like to take a moment to address the question that was brought up earlier about the legality of these ordinances. We have a law director in this city every ordinance that is approved by a committee goes to the law director who approves it for legal sufficiency. Therefore anything that comes back to us in ordinance form has met legal sufficiency and I'm comfortable with that and don't need to apologize or explain that in any way.

- **SECOND READING ORDINANCES AND RESOLUTIONS**

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ORDINANCE NO. 28 B 2010
COMMITTEE

BY: COMMUNITY DEVELOPMENT

Amending CHAPTER 1121 "CONSTRUCTION OF LANGUAGE; DEFINITIONS", CHAPTER 1153 "R-1 Through R-4 ONE FAMILY RESIDENTIAL DISTRICTS" and CHAPTER 1163 "B-1 LOCAL BUSINESS DISTRICT" of the Codified Ordinances of the City of Massillon, by enacting new Subsections 1121.02(89) and (90) "DEFINITIONS", Subsections 1153.03(f)(4) "PRINCIPAL USES PERMITTED SUBJECT TO SPECIAL CONDITIONS" and 1163.02(k) "PRINCIPAL USES PERMITTED", and declaring an emergency.

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COUNCILMAN MANG B I think most of us understand what we're doing here is defining basically what a golf course and what a miniature golf course is. We do have Mr. Stergios here who prepared this legislation based on defending the city on at least one case so if anybody has a question tonight. We will have a public hearing on this at our next council meeting and I think is at 7:20pm.

ORDINANCE NO. 28 – 2010 WAS GIVEN SECOND READING.

ORDINANCE NO. 32 B 2010

BY: STREETS, HIGHWAYS, TRAFFIC &

SAFETY

Accepting the replatting of Lots 9563, 9564, 9565, 9566, 9567, 9568, located on the north side of Lincoln Way East, just west of Wales Road, and including the dedication of a small portion of right-of-way for Lincoln Way East, in the City of Massillon, County of Stark, State of Ohio, presently on file in the office of the City Engineer, and declaring an emergency.

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COUNCILMAN PETERS B We talked about this now for about 3, 4 weeks. It's basically for the replatting of the north side of Lincoln where the proposed CVS pharmacy is going to be. If there's any questions our engineer is here we've asked him to come up before there weren't any questions but that changes I know. So if there are we can bring him up.

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

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

ORDINANCE NO. 32 – 2010 WAS PASSED BY A ROLL CALL VOTE OF 8 YES.

ORDINANCE NO. 33 B 2010

BY: FINANCE COMMITTEE

Making certain transfers in the 2010 appropriations from within the Park & Recreation Fund, for the year ending December 31, 2010, and declaring an emergency.

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COUNCILMAN HERSHER B This ordinance and the remaining section 1 of Ordinance No. 34 that follows has been at least touched on by reference earlier this evening. This is the remaining \$70,000 of a \$140,000 advance from the general fund to parks and rec. There are three steps in returning the advance \$70,000 from parks and rec. to an account entitled advanced to which is actually in Ordinance No. 34 and then section 1 of Ordinance No. 33 that we're discussion right now moves that \$70,000 from that advanced to account to return on advance. I know there were some objections or some questions it's my understanding that at least Councilman Slagle's satisfied with the questions that he had. I know that this was recommended by the state auditor. I'm sure our own city auditor is anxious to get this cleared up and fixed on the books. So if there are questions I'd like to get them addressed this evening otherwise I'd like to clean it up.

COUNCIL PRESIDENT GAMBER– Mr. Peters?

COUNCILMAN PETERS B I've got a question for you Mrs. Ferrero. What exactly is this?

AUDITOR FERRERO– This is the remaining of a \$140,000 loan that was lent. At the end of 2009 you repaid \$70,000 of it this is the remaining \$70,000. Okay?

COUNCILMAN PETERS B Gotcha ya, I just wanted to make sure.

COUNCIL PRESIDENT GAMBER – Mrs. Ferrero, when was that first \$70,000 repaid?

AUDITOR FERRERO – It was in October of 2009.

COUNCIL PRESIDENT GAMBER – Okay, October of '09 we did the first \$70,000. Are there other questions?

COUNCILMAN HERSHER 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. 33 – 2010 WAS PASSED BY A ROLL CALL VOTE OF 8 YES.

ORDINANCE NO. 34 B 2010

BY: FINANCE COMMITTEE

Section 1 only

Making certain appropriations from the unappropriated balance of the Parks & Rec. Fund, for the year ending December 31, 2010, and declaring an emergency.

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COUNCILMAN HERSHER B The remaining section 1 of this ordinance is simply the other half of what we just voted on in Ordinance No. 33.

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.

SECTION 1 OF ORDINANCE NO. 34 – 2010 WAS PASSED BY A ROLL CALL VOTE OF 8 YES.

16. NEW AND MISCELLANEOUS BUSINESS

COUNCILMAN PETERS B This really isn't new but I have a question from our friend there Councilman at Large Mr. Slagle, would you please explain to me on this special meeting that you're going to have to call for this (I can't call it) or the finance committee has to call. I guess my question is does that have to be passed before we sign the contract?

COUNCIL PRESIDENT GAMBER – If I could answer that Mr. Slagle, the \$95,000 is what you're talking about right? The error was in not including that in ordinance form along with the champion piece.

COUNCILMAN PETERS B I understand all that.

COUNCIL PRESIDENT GAMBER – The finance committee has to sign off on that.

COUNCILMAN PETERS B Right and then we have to call a special meeting.

COUNCIL PRESIDENT GAMBER – It has to either suspend the rules or go three readings.

COUNCILMAN PETERS B Okay, thank you very much.

COUNCIL PRESIDENT GAMBER – Okay and there was an opportunity for the finance members to put that on tonight for the first reading and they chose not to.

COUNCILMAN PETERS B We can not sign the contract and I thought the contract had to be

signed tomorrow.

COUNCIL PRESIDENT GAMBER – Well this presents some issues that they're going to have to work out. We've authorized the signing of the contract if the seller has issues then I don't know what we'll do. Would you like to call the mayor or Mr. Kaminski up?

COUNCILMAN PETERS B No, I'm perfectly fine with that answer.

COUNCIL PRESIDENT GAMBER – Mr. Slagle?

COUNCILMAN SLAGLE – That's why not funding this can be a very not well thought prudent decision because without food and beverage at this golf course for the coming golf season which could occur. I think that could be a very reckless decision not to have it.

COUNCIL PRESIDENT GAMBER – In any event there's nothing on the agenda and it will require what it requires to get it passed when it gets passed. If there are consequences there are consequences. Mrs. Catazaro-Perry?

COUNCILWOMAN CATAZARO-PERRY – I do want council members to understand that Mr. Hersher and I received a phone call late Friday asking this to be placed on the agenda. We did speak and he did not think it was necessary nor did I for something to come. It wasn't well thought out and it wasn't our fault as finance committee members that we should get a call late Friday asking it to be placed on the agenda. So I think someone needs to take responsibility for that and I don't think it should be David Hersher or myself.

- **REMARKS OF DELEGATIONS AND CITIZENS TO MATTERS NOT ON THE AGENDA**

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18. ADJOURNMENT

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

MARY BETH BAILEY, CLERK,

GLENN E. GAMBER, PRESIDENT

