

**MINUTES OF THE REGULAR MEETING
MASSILLON CITY COUNCIL
HELD, MONDAY, SEPTEMBER 20, 2010**

COUNCIL PRESIDENT GAMBER - I'd like to welcome all of you to Massillon City Council for Monday, September 20, 2010. We have in attendance with us this evening: Mayor Cicchinelli, Law Director Stergios, Engineer Dylewski, from the auditor's office Pat Pentello and Wastewater Treatment Plant Supervisor 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. As I mentioned earlier we will be up for second reading on the service ordinance but I certainly don't anticipate that there will be a vote on it.

1. ROLL CALL

Roll call for the evening found the following Council Members present: Gary Anderson, Dave Hersher, Ron Mang, Paul Manson, Dave McCune, Donnie Peters, Larry Slagle and Tony Townsend.

Thus giving a roll call vote of 8 present.

COUNCIL PRESIDENT GAMBER - Mr. Mang, we will need a motion to excuse Councilwoman Catazaro-Perry.

COUNCILMAN MANG - I make a motion to excuse Councilwoman Catazaro-Perry, seconded by Councilman Townsend.

Roll call vote of 7 yes, 1 no to excuse Councilwoman Catazaro-Perry. Peters voted no.

2. INVOCATION

COUNCIL PRESIDENT GAMBER - I will recognize Councilman Dave Hersher for the invocation and the Pledge of Allegiance.

COUNCILMAN HERSHER - It's my pleasure to introduce a friend of mine tonight Shane Cockrill who in addition to having a quick first step and a serviceable 15 feet jump shot is the Pastor at the Abundant Live Christian Fellowship. Which is the church located on 8th Street SW just south of Tremont in my neighborhood. So I'd like to recognize Pastor Cockrill for the purposes of the invocation this evening.

3. PLEDGE OF ALLEGIANCE

COUNCILMAN HERSHER - Chairman of the Environmental Committee led those in attendance in the Pledge of Allegiance.

4. READING OF THE JOURNAL

COUNCIL PRESIDENT GAMBER - Madame Clerk, are the minutes of the previous meeting transcribed and open for public viewing (Yes, they are) Are there any additions or corrections to the minutes? If not the minutes stand approved as written.

5. REMARKS OF DELEGATIONS AND CITIZENS TO MATTERS ON THE AGENDA

COUNCIL PRESIDENT GAMBER – We are item #5 in the agenda where we invite you forward to speak on a topic that is on the agenda. Please come to the microphone give your name and address as always I'll remind you we have no time limit per say but I think about three minutes should be reasonable. If someone has said everything you want to say don't come back up and say it all again just tell us that you agree with what they said. So I'd also like to remind everyone to keep personalities out of this and remain as factual as you can be. So at this point if anyone would like to come forward please do and after that don't wait for an invitation just come forward when the previous person is finished.

JOE GLICK – 10804 Corundite Rd NW, Massillon, Ohio. I'm here to speak to ask a few questions in regards to the Resolution No. 14 – 2010. First of all I just want to thank you all as a council for the time that you spent on this issue. I appreciate that and I would really appreciate if you look at some of these questions and for the sake of the record I'm just going to read I have seven questions that I really appreciate if those could be answered before you make a decision on that issue. 1) What is the fence ordinance for isn't it to protect the view of the neighboring property? 2) Is Mr. Ricker's lot exempt from the ordinance 1187.08 residential fences yes or no? If the answer is yes then what exempts Mr. Ricker's lot from that ordinance. Is it because it's a vacant lot or something else? If is something else I need to know what that is. If it is exempt because it is a vacant lot then what ordinances do apply to vacant lots. Back to the second question is Mr. Ricker's lot exempt from the fence ordinance if the answer is no then is Mr. Ricker's fence a legal fence yes or no. If the answer is yes then what makes Mr. Ricker's fence legal. Is it because it doesn't enclose property like Mr. Houpt says yes or no. If the answer is yes then please explain what a required side yard is which is what is in the ordinance. If the answer is no then please explain to me what makes it a legal fence. I would really appreciate if someone could please answer these questions for me before you make a decision on this matter. Thank you very much.

COUNCIL PRESIDENT GAMBER – Thank you. Mr. Glick, if you'd like to see that Mr. Mang gets a copy of that and as the committee chairman he can take those questions under advisement.

JOE GLICK – I will be glad to do that.

COUNCIL PRESIDENT GAMBER – Pass those to Mr. McCune.

FRED BERENS – 3105 Sunnybrook NW, Massillon. In response to what you just heard we're calling this structure a fence I think that's stretching the imagination. This thing is 4 feet high and it doesn't enclose anything that's what a fence does it encloses something. This encloses nothing. The reason that thing is there is so Mr. Ricker will know where his lot begins and so that he can maintain that property. Because Mr. Glick's property runs behind it. Mr. Glick's asking a lot of questions about what is a fence ordinance. I wonder what's a frontage ordinance this man does not have the required frontage on Harmony Avenue to build a house on that lot. He's only got less than 30 feet. As far as I know it you need to be 90 feet wide he's not he is if he goes behind Mr. Ricker's property. So we're talking about things like that. I mean every house just about every house in that allotment has some kind of something on the corner of the lot to depict the fact that is the lot corner. Many of them have trees some of them have small apertures like this fence. The guy right up the street from me has one on each side of his house. Nobody has any objections to that. He should of known what he was buying when he bought the lot he should of known what he was doing and he finagled to get three lots out of two lots. This is all a bunch of crap and you know he comes down here with his smiles and with his sweet talk. This guy is trying to he's already pulled one fast one out there to get three lots out of two. Now he wants to get Mr. Ricker who's lived out there for 50 years to take down a fence that rightfully belongs to him so that his lot is going to look good. Well what's when Mr. Ricker plants a row of threes up there that are going to go 40 feet high when the guy's house is going to be inside of a woods. What kind of things is he going to have then. You know you're here to protect the citizens of Massillon you're here to protect their rights. That's what I want you to do tonight. If you go up there and look at our allotment everybody up there has been happy for

years until this guy showed up. Now he wants to change everything. We're not happy about it we'd like to know why that has to happen and I don't think it should happen. Thank you.

JEAN APPLEBY – I live at 975 Lincoln Way NW, Massillon. I've been a citizen a resident of Massillon all my life which is we'll say over 60 years. That's all I'll go. I am here to file a complaint or log a complaint against the annexation at the Tuslaw and the Bit of Eden. One of my main reasons is we have annexed a lot of property in the City of Massillon. When it started it was a good thing now it has gotten totally out of hand. I have a lot of time to go to Navarre I don't know I think its been over 10 years ago we annexed Carmont Avenue past Pigeon Run. 17th Street. I go out there a lot its like driving through a bomb zone. The roads have never been maintained since it was annexed into the City of Massillon. It's the same way with 17th Street SW itself, 17th Street NW. They're like walking down trying to drive down where they've dropped bombs. The roads have never ever been maintained. Now we want to annex more property and maintain more roads. We do not have the money to maintain the roads that we have now. The mayor has put a freeze on everyone's department in the City of Massillon. You're not allow to spend anymore money. My question is where is he going to come up with the money to put in the new sewer, to put in the new water lines when no one else in the city government is allowed to spend any money. It's like me saying to my kids you can't go out and spend any money we don't have any and then I'll go out and spend \$500 because I really want that. There's no rhyme or reason to it we stretched our safety forces as far as we can stretch them. We stretched our city crews as far as maintaining the streets especially in the wintertime. We don't have the money and we don't have the where with all to do this anymore. We keep promising these people all of these things that we're going to give them. We the original citizens of Massillon and everyone that lives here suffer along with these people. I think its time to start maintaining and taking care of what we have in the City of Massillon and let the other people where they are. We don't have the money to do this its time to put a stop to it. Thank you.

REBECCA SHONK – 11392 Wooster Street NW, Massillon . I very much agree with what she just said and my points kind of reflect that. My husband's employer was Myers Control Power on the southeast side of Massillon. They left Massillon for North Canton took 126 jobs. My sister-in-law's company was Canton Elevator they left Massillon too. It just seems to me that filling empty buildings that already have services and water, fire assigned to them would be a lot more inexpensive would less expensive than trying to expand further west where we don't need the services. We have services fire, sheriff that we're all happy with. So keeping businesses in the city seems to be a priority rather than expansion. Thanks.

VICKY HERSHEY – 14845 Orrville Street, North Lawrence. I spoke at the last council meeting but tonight I would like to read a letter on my sister's behalf. She is out-of-town due to an out-of-town commitment. Dear Mr. Mayor and Massillon City Council,

COUNCIL PRESIDENT GAMBER – Can you tell us who your sister is and where she lives?

VICKY HERSHEY – Yes, Paula Hershey-Crawford, she's in Jackson Township. Dear Mr. Mayor and Massillon City Council, I remember the creation of Tuslaw School District my parents fully supported the two townships creating the district and allowing the central western students of Stark County to have a school district of their own. I also remember how unified and proud the communities of North Lawrence, Newman, Moffit Heights, Meyers and all the enviers of the township came together to be known as Tuslaw. To think that I was member of the 6th graduating class and astounding and what we were so solidified in our identity after just a few short years. I passed along that information to have you reflect at the unified stance that you see against this annexation by the people of Tuscarawas and Lawrence Townships. Although this statute that is being used to gain the additional land is not against the law as any student of America's history classroom should be able to tell you taxation without representation was a key point in the colonies fighting the American Revolution. This action by the mayor and subsequently the council rings eerily similar. Again this glitch in the law allows for the taking of the land without the voice, without vote and without consideration of those who live in the affected area. But it is evident that the overwhelming majority of the constituents of this land does not want to be part of the annexation. That is not in question I would hope that you would chose to become statesman in this decision rather than politicians by choosing what you know to be the right thing to do. Choose today to be on the right side of the majority of the

people most intimately impacted by your decision and make their voice be able to be heard. Thank you, Paula Hershey-Crawford Tuslaw High School Class of 1969.

DEAN NELSON – My address is 1764 Ben Fulton. I'm next door neighbors on two of three sides of Tuslaw High School. I was invited to a community meeting last week and I was asked to come here tonight and share my story. Because from what I understand there are letters from some of you city councilmen that are making your consideration based on the possibility of picking up the neighbors on that side of Tuslaw High School. So I am on both of the north side of the school and I am on the west side of the school. Tell you a little bit about myself I've been married 28 years, 7 kids, I'm from Fairless we moved to Tuslaw back in 1996. I don't think Tuslaw still accepts Fairless people a whole lot but I'm proud to be speaking here on their behalf tonight. I was a coach at Tuslaw when they had the first state champ back in the '90's. I was fortunate enough to have my own son win a state championship there as a wrestler in 2006. I am now an assistant coach and what I want to share here tonight is my first job coming out of the submarine service in the Navy was the MCA Sign Company. Its where I worked right out of the Navy where my father worked and its where my stepfather worked. My mother and my grandfather worked at Republic Steel so I'm very grateful to benefits I've received over the years from employment my family has had with the City of Massillon. I do know that there's no city council here that here for the money. You're here because you love the city and you wouldn't be here. I know the mayor loves the city. I've been in his chambers many of times and he helped me out when I moved my business into Massillon. I got talked into buying a building that was on its way out. I put over a million dollars in it and heartbreakingly I've now moved that out of there and the appraisal on my building is only \$350,000 after putting a 1.5 million dollars into the building. Its tough times are tough things are tough for the city, things are tough for the private sector. I think it's a bad idea to take anything out of anybody's pocket right now. I had my business in Massillon for 14 years it was a good 14 years. We are now in Belden Village the MCA Sign Company is gone after 100 years or on their way out. Republic Steel that helped build this town is gone. We're your neighbors Tuslaw is your neighbors, we're your friends. We shop in your stores, we eat in your restaurants. Many of us work in your city we are your friends. When somebody's your friend and when somebody shops in your stores and they work in your city we benefit from each other. We need Massillon to turn around if Massillon turns around Tuslaw is stronger. If Tuslaw is stronger, Massillon is better. The name of this school district is Tuslaw, Tuscarawas Township and Lawrence Township. For goodness sake its their name Tuslaw. It's not Masslaw. It's Tuslaw it's a network of farmers, hardworking people. This city has many great things about it and its got things it needs to fix. You have many things you can be proud of. You have museums, you have a historic football team, you have a downtown, you have new shopping centers. But Tuslaw has their school. It is their community. It is the very essence of that community.

COUNCIL PRESIDENT GAMBER – Mr. Nelson, we're moving on six minutes sir.

DEAN NELSON – Alright, I'd like you would anybody be willing to indulge me with three more of their minutes?

COUNCIL PRESIDENT GAMBER – Mr. Nelson, we're not trading we're asking you to finish up please.

DEAN NELSON – I'll just close then. I'm going to plead with this city council to do the right thing. Okay, we are your friends, we are your neighbor. You know already what the right thing to do is. When our school system wanted to pass a levy they came to me and I knew I was going to be the heaviest taxed person in the community by voting for the levy. But they gave me a choice and I voted yes and it cost me about double what they estimated to me that it would be. But it was my choice, my vote and my decision these people have no voice. I've never seen anything like it I fought and served my country to at least have a choice and a vote and a say. Don't use an obscure rule in an obscure law that there's even legislation to possibly change the next two months to pick your neighbors pocket. This city council is too good for that, mayor you're too good for that. That's all I have to say thank you.

RANDY BLEIGH - 12850 Sunshine Circle Massillon, Ohio. This week schools you know everybody's whipping boy. You know I hate to come up every few weeks and speak because

I'm looked at the school board member who has to show he cares. But often you forget I'm a resident of Tuslaw who is concerned for what appears a senseless annexation. Bit of Eden, its fine with me you know if they want in they want annexed you know they're getting money to do it. But as a property owner and a partial owner of the Tuslaw I'm irritated. You know as Dean said you know who is Tuslaw? As the mayor said Tuslaw needs to pay for all the revenue your past annexations has generated for them. Tuslaw is not a business that pays taxes, gets abatements and wants to do business in your city. According to the expedited annexation code they don't exist because they can not sign off on a petition. I'm here to tell you that Tuslaw does exist. Tuslaw does exist, Tuslaw's people you know you see a lot of them here tonight so you're not hurting Tuslaw the school you're hurting Tuslaw the people. If we were a business or resident we might consider moving to avoid this travesty but we can't move our schools or our community. As the mayor said 281 houses over the past have helped our revenue. I look as the resident and the school board member to say where you know that's assuming we have two students per household that's 562 more students. We're going to assume half of them are in kindergarten through six grade and half of them are in high school. So we've had to add four buses and four bus drivers and more cooks and more custodians and everything. We've been reducing people out there so I haven't seen the people that are supposedly out there. What I see as the problem as Dean had said too is jobs. You know Massillon needs jobs, everybody needs jobs. Even I understand that you know if you have no job and you're taxed at 1.8% 0x1.8% is still 0% that you're getting from people. We desperately need jobs in the city and the county and the state. Anything else I can imagine as a council member or anybody who's been in the city for a long time that you know 15 years ago when you brought the sewer lines and everything out there that you imagine that you'd have three about four fire stations on this side of town to service everything and you have one out of 17th Street. You're going to have to look at a new one out farther its like you know you're just shifting the focus of all your infrastructure out to the west. We've got it all here and the other thing I looked at you know with Massillon Schools they've had to lay off people. So supposedly all these people that came to Tuslaw must have come out there so we've had to lay off the higher paying jobs in Massillon hurt all those teachers. They're shutting down schools we've had to build a new school with taxpayer's dollars. We've had to put 14, 15 million dollars into a school again taking money out of my pocket. It's taking me more money to maintain the schools with all those 562 students that we don't seem to have. So just as a council person I just say you have a choice to vote yes or no on the upcoming proposal. You know we would just like you to see that as Tuslaw we have no choice. Thank you for doing what's right and voting no on the annexation proposal.

HOLLY FOX – 12584 Sinclair Street, Massillon, Ohio, teacher. First of all for the council members who have already stated that you will not vote in favor of annexation I thank you from the bottom of my heart. Because you are choosing the ethical, moral decision and I pray God will bless you. I don't say that lightly. I pray God will bless you for it. For those of you that will vote against annexation for economic reasons I applaud your wisdom. Because its going to cost Massillon more than it would gain in dollars. Its also going to cost Massillon in good will, it may cost Massillon businesses that's up to everyone's consciences. It will cost Massillon in respect and reputation if this goes through. For those of you that are still considering voting for the annexation I have a \$50 bill right here and this is real. I got it from First Merit Bank Mayflower Massillon, Ohio last Saturday. I should have asked the teller to be here and she could confirm that its not a toy piece of money. If you vote in favor of this annexation in a matter of weeks or months you will be taking \$50 from my paycheck every two weeks for the rest of my teaching career. You are giving me nothing in return other than heartache. You will do it silently through your treasurers department and our treasurers department. You will never have to look me in the eye you'll just take it. So I'm asking you tonight is there any one of you here that will take it from me now and look me in the eye. Thank you, Mr. Gamber.

ANDREA KRAFT - I live at 1449 Woodline Avenue SW, North Lawrence, Ohio. I have a terrible back which I'm going for an epidural block on Monday. I've spent six hours walking today to get people in the allotments of Massillon to sign a petition to stop this annexation. I talked to 79 people today and of the 79, 76 signed the petition to stop this annexation. No matter what pain I feel tonight if this is to shut down it will be all worth it. Thank you.

SAM DOUT – 835 Cherry Rd NW. Members of council, Mr. President, I'm here in opposition once again to Ordinance No. 95 for the storm utility tax. Because like right about now I think everything is just kind of really I've not seen it so much expenses coming out everybody. It

seems like every time we turn around we're talking about a tax here I just think this thing that this thing needs a lot more study. It goes back to like the annexation of these people because one kind is really offsetting the other. Because pretty soon a lot of this money is going to end up out in the township. Which if the people in the township want annexed in the City of Massillon I don't have a problem with that. The thing is somebody's going to have to start paying their own way. Do I want you to taking \$75,000 out of the sewer income tax fund to fund the Bit of Eden absolutely not. If the Bit of Eden wants annexed in the City of Massillon with a petition to come in the City of Massillon then let the Bit of Eden pay for it. But as far as like this Ordinance No. 95 I think it should be something that should be tabled, should be studied because even though the city engineer is much has admitted that any other communities are already signed on to this. I really don't care what 80 other communities do. All I know is I kind of support these people and its really terrible that everybody has to come down here every other week to come down here and complain. I personally think what you should do tonight is to suspend your third reading vote on this thing tonight because each and every one of you know what you're going to do on this annexation. Tell the mayor that you don't want any more of our money and city tax dollars going out look at the infrastructure people have told you tonight you guys live in your wards. You're at large if you don't drive this city and see what's going on here shame on you. Because I really think the buck should stop here tonight and vote on this thing and let these people go home to their families and be done with this. Suspend your readings and vote on this thing tonight and let the mayor make his speech tonight and put an end to this. Thank you.

SHARON BAUM – I teach kindergarten at Tuslaw. My address is 11605 Sarbaugh Street. I graduated in '67 from Massillon. I just want to say I love the City of Massillon, I love the Fourth Street Historical District, the library, the museum. We shop in Massillon and go to the restaurants in Massillon and like Mr. Nelson said we're not your enemy. I mean we love the City of Massillon and I think you should be friends with us also. I live in Tuslaw I've lived here for 37 years and we're just partners. We're friends and we don't hate you and we just think that you should respect us as an entity of our own. Thank you.

MARY GLAROS – I live at 1345 Stuart Street in Massillon, Ohio. I taught in Tuslaw Schools for 25 years. I still work in Tuslaw as a before and after school assistant. I started in Tuslaw in 1978 and when I started that first year I was new to the Massillon area and they said I would get a job nowhere. Massillon just had rift for 40 teachers, Perry the same, everybody the same. I got a job at Tuslaw what a wonderful career, what a wonderful community. Its absolutely fabulous the people, the neighbors, the kids, the education, everything about Tuslaw. It's A #1 I do have to say in those odd 30 years Tuslaw's never ever had to go in the red, everyone around us, every school district was in the red borrowing from the state. Tuslaw never had to do that they were very careful, they never laid off people, they were very careful. We managed through without the help of Massillon, we didn't need the allotments we made it just fine without the allotments. I do agree with everybody that spoke and I don't want to repeat but I'd like as an old teacher please have mercy on me. As an old teacher I'd like to draw an analogy now I have a neighbor that has a lovely home they embellish it they buy furniture for it. Beautiful home but I don't expect that neighbor to come over to me to ask me to pay the bills. Just like I don't expect Massillon to come to me to pay the bills. That's all I have to say.

TERRY HEMPERLY – 12910 Barber St SW, Massillon. Thank you city council for listening to me again. This is all about land and you want land for development. Well you have land out there you've got Mrs. Princehorn's farm out there. It's close to the high school you can develop that. You don't need to develop any land beyond Tuslaw High School. Mr. Nelson he's lives behind he doesn't want to develop his land in the city. You have an 88 acre farm my mother-in-law off of Deerford everybody that drives on Deerford knows what part belongs to Tuscarawas Township. We've got our part blacktop the city doesn't. Now when my father-in-law, mother-in-law and my sister-in-law annexed into the city they were promised a lot of things. All they got was two crummy street lights and a road that's falling apart. Now I don't think its far you've got land already develop it. You don't need to go beyond. Now my kids went to Tuslaw, they got a great education I feel I owe it to these teachers to fight for them. That's what I'm going to do. The Tuscarawas Trustees don't get any money out of this it just changes our boundaries just a little bit but we don't get anything. We're fighting for the teachers who did a great job teaching our kids. Thank you.

TRISHA LAU - I live on 14241 Sanwood Street SW. I've already spoken my opinions on what I would like the council to do. But tonight I come with a heavy heart because of tragedy in Massillon. That really puts things in perspective. I realize the courts, laws and states they have to run and you have to do your business. But this is getting beyond what's really important. So when things like today happen and if you read the paper you would be aware of that. It just puts it into perspective of what's important and what's not and we will keep fighting until end and keep taking time away from our families. Everyone here I'm sure finagled something with the families. I've been to a volleyball game today, I've been to a football game today and I've helped at the school today. I will fight with everyone else till the end if you would like us to. But please, please, please, please, realize what is important and this is not more important than the lives of the people that you are affecting. Thank you very much.

COUNCIL PRESIDENT GAMBER – Is there anyone else who would like to speak on the annexation issue? If not alright is there anyone else after this gentleman please raise your hand. Alright, sir.

STEVE GALINDO – I live at 2324 17th Street SW, Massillon. I bought my house off my parents, we've been in the City of Massillon now over 20 some years. When we were annexed into the city we were offered water, sewer, gas, we got water in '92 I believe it was, we didn't get gas until '95. We were annexed in the '80's we still don't have sewer. How are we going get and provide out there at Tuslaw when we can't provide inside the city ourselves. Not that anybody out there wants sewer at this point we've been without it for 25 years we might as well stay without because we don't need it. If you asked today could we take back the annexation and go back to being in the township you're right we want to go back to the township. We wouldn't want to be annexed in because we don't need it we're self sufficient as we are out there. So please vote no against the annexation.

COUNCIL PRSIDENT GAMBER – Mr. Gessner, do you have comments you'd like to make?

BOB GESSNER – If I may I'd sort of defer until these folks here...

COUNCIL PRESIDENT GAMBER – Okay, I believe I asked if there were anymore and there were not. So if you'd like to..

BOB GESSNER – Well, I'm just thinking if you want to dispose of that now they can go home. Because they don't really want to hear what I have to say.

6. INTRODUCTION OF ORDINANCES AND RESOLUTIONS

COUNCIL PRESIDENT GAMBER – If there's no one with any other remarks regarding an item on the agenda I'll ask Councilman Mang if he would like to bring Ordinance No. 102 forward as the first item of business the service ordinance.

COUNCILMAN MANG - I would like to change the order of the agenda and bring the ordinance as mentioned by the president to the first item of business for tonight.

COUNCIL PRESIDENT GAMBER – Is there any objection to bringing that forward? There is not Madame Clerk would you please read the title to Ordinance No. 102.

ORDINANCE NO. 102 - 2010
COMMITTEE

BY: COMMUNITY DEVELOPMENT

Indicating what services and zoning conditions the City of Massillon, Ohio, will provide to the Bit of Eden Area Annexation.

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COUNCILMAN MANG – Second reading.

ORDINANCE NO. 102 – 2010 WAS GIVEN SECOND READING.

COUNCIL PRESIDENT GAMBER – As I say we'll wait for a moment or two if anyone would like to exit the building that takes care of that ordinance for tonight.

ORDINANCE NO. 108 - 2010
REGULATIONS

BY: HEALTH, WELFARE & BLDG

Authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to enter into a contract with Public Entities Pool of Ohio (PEP) for the vehicle, property, general and public official liability, and law enforcement coverage for the City of Massillon, and declaring an emergency.

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COUNCILMAN TOWNSEND – Ordinance No. 108 is just simply a contract renewal with the city's liability insurance provider which is the Public Entities Pool of Ohio. Like I said its just a contract renewal and it expired September 16th. So really we need to act on this tonight. If anyone has any questions I guess I can call up the mayor maybe he can answer some of the questions. But its really simple its just a renewal contract.

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

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

ORDINANCE NO. 108 – 2010 WAS PASSED BY A ROLL CALL VOTE OF 8 YES.

ORDINANCE NO. 109 - 2010

BY: PUBLIC UTILITES COMMITTEE

Establishing a video service provider fee to be paid by an video service provider offering video service in the city; authorizing the Mayor to give notice to the video service provider of the video service provider fee; and declaring an emergency.

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COUNCILMAN ANDERSON – Yes, I'm going to call on Bob Gessner to come up and give us his input into this. Bob?

BOB GESSNER – I'm president of Massillon Cable TV. Thank you for giving me some time tonight. My goal here tonight is to add a little historical context to this matter you're about to consider or start to consider and maybe add some legislative details to it. But please know that the ordinance that you're considering is not occasion by Massillon Cable TV. It's not something that we necessarily asked for rather its something that was created by an action of the state back in 2007. I also want to make sure you know I think you're ably represented by Perry Stergios I'm not a lawyer certainly not your lawyer. I hope you just look upon me as a person who has some subject matter knowledge. I can answer questions now or answer them as you move forward with your deliberations. A little history just so everybody recognizes there is a specific definitive agreement between Massillon Cable TV and the City of Massillon right now. It's been there since 1965 there's nothing wrong with that agreement it's pretty basic to the sort of evolution of regulations of the cable television industry. It's the way the industry grew. Individual companies and individual communities wrote specific agreements. That's sort of ancient history now all the way back to say 1965. Recent history has changed that relationship in 2007 AT&T approached the General Assembly with a proposal to create a single unified type of regulation for all video service providers in the state. Eventually a cooperative effort among cable TV companies, phone companies and the organizations that represent local governments created Senate Bill 117 which is called the Video Service Authorization Law. That created this single unified regulation and it replaced the sort of patch work quilt of local agreements with a single entity the Department of Commerce as the regulatory authority. So any company that wants to do business as a wire line service provider in the State of Ohio must have an authorization from the Department of Commerce. That applies whether this is a new company or an existing operator like myself. Massillon Cable TV has obtained authorization from the

Department of Commerce and I have submitted that authorization information to the Mayor as well as the President of Council. So Senate Bill 117 preempts the city's authority to enter into an agreement with any video service provider. It did that in 2007 but it didn't require that all franchises terminate immediately and fall under the jurisdiction of the Department of Commerce. Instead it allows existing franchises to continue through their current term. Now it does prohibit the city from extending revising or renewing a franchise. So when our franchise terminates we must shift from local regulation to state regulation that's the state law. Our franchise agreement with the city expires on October 18th of this year. So about a month from now we must shift to that state authorization. There's no difficulty with that we've done that any number of times now. But while the state VSA law preempts the city's right to enter into a franchise agreement with us it does create a right and a responsibility for the city regarding what they call the VSA fee video authorization fee which we've always called the franchise fee. Basically the local tax that we collect on our video service revenue. It also establishes the VSA law also establishes a definition of the revenue that's included under the VSA fee. The city is not allowed to change that definition so you either have to impose the fee on that basis of revenue. There's only one real option for the city and that is to decide if local advertising revenue falls under the VSA fee. You either it is or is not included in the VSA fee. Currently Massillon Cable TV collects a franchise fee that's 2.5% of our video revenue. The definition that we currently use is very similar to the one that the Department of Commerce established. My estimate is its less than a 1% difference. Massillon Cable TV currently does not collect a franchise fee on local advertising revenue and this where I guess I'll become a little editorial. It's really impossible to properly allocate the commercial local advertising revenue to individual residential customers. So in my opinion its really a bad practice to try to do that. I advise against it but its ultimately your decision how you want to handle that. So since the VSA law gives the city the right to collect a VSA fee it also imposes a responsibility to set that VSA fee. The VSA law did not grandfather existing rates it didn't set a specific fee it says the city must affirmatively establish that fee. Otherwise the default is 0 so that's really what council is considering in this ordinance and that's the question of how large of a VSA fee will providers be required to collect and remit to the city. That's really at the heart of it, its how large of a fee do you want to establish. Keep in mind that the legislation is not specific to Massillon Cable TV it applies to anyone who operates a video service in the City of Massillon now or in the future. Also I would remind you that it is not permanent it can be changed as council chooses although I wouldn't want it to happen month to month it can happen from time to time. So I guess in summary I would just say the City of Massillon and Massillon Cable TV has had a very long and I think mutually beneficial relationship. I've always considered the support that the city has given us to be excellent and I hope the city feels that we provide a service to the residents that's been beneficial as well. We've been through this VSA process in a number of communities and I can tell you that it really is transparent. Consumers will see no change to their monthly charges they'll see no change to the availability of services and they'll see no change in the local support that we provide to them. Obviously its not going to change our long standing commitment to the city to our local community organizations as well as to the local support that we provide our customers. So with that I'll answer questions but I understand its first reading so I'll also make myself available at your next work session or anytime if you have questions about this. Thank you.

COUNCIL PRESIDENT GAMBER – Are there any questions for Mr. Gessner?

BOB GESSNER – I know its foreign concept and its new so if you have questions you know later please feel free to call me. Thank you.

COUNCIL PRESIDENT GAMBER – Mr. Anderson, Ordinance No. 109?

COUNCILMAN ANDERSON – First reading.

ORDINANCE NO. 109 – 2010 WAS GIVEN FIRST READING.

ORDINANCE NO. 110 - 2010
SAFETY

BY: STREETS, HIGHWAYS, TRAFFIC &

Authorizing and directing the Director of Public Service and Safety of the City of Massillon, Ohio, to enter into an agreement with the Ohio Department of Transportation for the

preventative maintenance project along US 68 (US 30) within the corporate limits of the City of Massillon, Ohio, and declaring an emergency.

-

COUNCILMAN PETERS – We discussed this at last week’s work session. Per the Ohio Revised Code the director of transportation is required to request and receive legislation from municipalities prior to making any necessary repairs to any state route that are within the city corporation limits. There’s no monies involved in this project with the City of Massillon all funding will be 100% ODOT unless the city specifically requests something be done and determined by ODOT to be unnecessary for the project. If there’s any questions the engineer is here he can answer them if not I’m not going to move for suspension.

COUNCIL PRESIDENT GAMBER – Do we have any questions for Mr. Peters or the engineer? There are none. Mr. Peters, your motion.

COUNCILMAN PETERS 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. 110 – 2010 WAS PASSED BY A ROLL CALL VOTE OF 8 YES.

ORDINANCE NO. 111 - 2010 **BY: STREETS, HIGHWAYS, TRAFFIC & SAFETY**

Authorizing and directing the Director of Public Service and Safety of the City of Massillon, Ohio, to enter into an agreement with the Board of Stark county Commissioners, upon approval of the Board of Control, for the purchase of salt for the city streets for the 2010-2011 winter season, and declaring an emergency.

-

COUNCILMAN PETERS – It’s just as the clerk described its to we need to approve the purchase of salt for the winter. It’s about \$.90 higher than it was last year. But by doing this we always save money we saved a great deal of money by doing it every year since I’ve been on streets and highways. If there’s any questions I’ll try to get them answered if not I’m going to move that we pass this so we can get this done.

COUNCIL PRESIDENT GAMBER – Anybody have any questions about the price of salt? Mr. Peters?

COUNCILMAN PETERS 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. 111 – 2010 WAS PASSED BY A ROLL CALL VOTE OF 8 YES.

ORDINANCE NO. 112 - 2010 **BY: FINANCE COMMITTEE**

Making certain appropriations from the unappropriated balance of the Muni Motor Vehicle Fund, Legends Fund, Municipal Road Fund, General Fund, Solid Waste Fund and the Home Health Fund, for the year ending December 31, 2010, and declaring an emergency.

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COUNCILMAN MANSON - Yes, we have six sections here tonight to discuss. I believe I was not here for last Monday’s committee meeting. I believe there was discussion on it I do not believe there was any serious disagreements here. So we’ll go through it part by part and if you

have any questions we'll answer them if we can. Section 1 is for \$34,625 appropriate from the unappropriated balance of the muni motor vehicle fund 1206 to a fund for street repairs. This money is needed for materials and supplies. Section 2 we have \$18,000 golf supplies, \$10,000 food and beverage supplies, \$10,000 food and beverage supplies also in another account, \$6,000 in sales tax. These are funds that will be coming out of the golf 2104 fund and hopefully this will be enough revenue to get us through to the end of the year. This is income that we have from the concessions and whatever else down there golf supplies. Section 3 is for \$19,753 please appropriate from the unappropriated balance of the municipal road fund to an account 1409.435 Tremont Avenue SW increase to the project is a result of additional storm sewer work that was needed to be completed. The project is 100% funded with 80% being funding through SCATs and the remaining 20% coming from the municipal road fund that was awarded by the Stark County Commissioners. Section 4 is there's three parts to this please appropriate from the unappropriated balance of the general fund 1100 \$16,670 to supplies and materials for the garage and \$6,000 for contracted services for the fire and that's for EMS billing for part of the third quarter I believe is what that's for. But that's what we pay for EMS billing to Jackson Township. \$13,330 this money is needed for the civil service department for their examinations and psychological evaluations. A meeting or two ago we approved \$11,000 the total needed was \$24,000. This will be going to the testing. Next one is for \$16,000 from the solid waste please appropriate from the unappropriated balance of the solid waste fund \$16,000 will go to solid waste hospital, eye and dental and life insurance for benefits for the rest of the year. The last one is for \$15,000 the health department needs to appropriate from the unappropriated balance of the home health fund account 1235.705. The amount is \$15,000 to the home health services and contracts account 1235.705.2392 for payment of vital statistics fees through the end of the year. That is for fees such as death certificates and birth certificates and we have to pay that annually. Any questions?

COUNCIL PRESIDENT GAMBER – Any questions on any of these items? Mr. Townsend?

COUNCILMAN TOWNSEND – I have a question section 2. The \$10,000 for the food and beverage services is that salaries or is it salaries being paid?

COUNCILMAN MANSON – I'm sorry but I'm going to need some help on that. Pat, can you help me out on that or the mayor?

PAT PENTELLO – That is to pay for the people that run some of the banquets, the restaurant for the big events who do the serving and hold the banquets. Those are all contractual services there's no additional employees that were hired as an employee to do any of that. So the more events that they hold you know of course the more money they make the more we have to supply that account. Any other questions?

COUNCIL PRESIDENT GAMBER – Did that answer your question Mr. Townsend?

COUNCILMAN TOWNSEND – Yes, sir.

COUNCIL PRESIDENT GAMBER - Mr. Manson, your motion please?

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

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

ORDINANCE NO. 112 – 2010 WAS PASSED BY A ROLL CALL VOTE OF 8 YES.

ORDINANCE NO. 113 - 2010

BY: FINANCE COMMITTEE

Amending Ordinance No. 144 – 2008 by revising Section 1, and declaring an emergency.

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COUNCILMAN MANSON – Yes, this is just a policy change on a travel policy and its just a procedure that we're taking to maybe tighten our oversight on it a little bit just to make sure there are no abuses. We have the deputy auditor here she can discuss this if you would like.

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

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

ORDINANCE NO. 113 – 2010 WAS PASSED BY A ROLL CALL VOTE OF 8 YES.

RESOLUTION NO. 14 - 2010
COMMITTEE

BY: COMMUNITY DEVELOPMENT

Reversing the decision of the Massillon Zoning Board of Appeals made on July 15, 2010, wherein the Zoning Board of Appeals upheld the decision of the Building Inspector issuing a permit for a proposed fence at 2950 Meadowcrest Street NW, on Lot No. 16369 in the City of Massillon, Ohio, and declaring an emergency.

-

COUNCILMAN MANG – This piece of legislation deals with property in Mr. McCune's ward. Dave has worked pretty well with the owners and I defer judgment to Mr. McCune.

COUNCILMAN MCCUNE – Well I'm not here to judge or be the jury Ron. But yes, this is an issue that came up back in July and because of the timeframe that we're in although I had indicated I had planned to give this first reading I am in the position where we're going to have to move it forward tonight to stay within the legal timeframe. I'm going to ask that the law director come forward and kind of reiterate the position that the law department has taken on this resolution on this fence. As I stated at the work session I've had conversation with all departments involved in this. Mr. Houpt has been here to explain to us why he ruled the way he did. I've spoken with the engineer, I've spoken with the law department. Everyone seems to be in the consensus that Mr. Ricker has acted within the law as the ordinance provides. So I would like for Law Director Stergios to come forward and speak to us in regard to this.

LAW DIRECTOR STERGIOS – You are correct we after reviewing the issue John Simpson from my office issued a memo dated September 16 that basically said that he felt Mr. Houpt's approval of the permit for the fence was a responsible interpretation of our current zoning ordinance regarding residential fences. So I can answer any questions,

COUNCIL PRESIDENT GAMBER - Mr. Peters?

COUNCILMAN PETERS – Mr. Stergios, I guess my first question is to Councilman McCune and you while you're up there. Why are we out of time, why can't we take this another reading?

LAW DIRECTOR STERGIOS – Our code says that council has to act within 60 days of when it was referred to council and as best as I can glean from the file I think the appeal was filed on approximately July 20th. I'm not sure when the next council meeting was after that. But...

COUNCILMAN PETERS – Well, remember we were on vacation so did that I mean and it has to come to council. I can't believe that we can't let this go one reading till some questions are answered.

LAW DIRECTOR STERGIOS – If you don't act on it within the 60 days then the decision of the Board of Zoning Appeals stands is the way our ordinance is written. So I mean I think you're right at the cusp of 60 days right now.

COUNCILMAN PETERS – Yeah, but we think. I'd like to know for certain were we're at. Is that for sure?

LAW DIRECTOR STERGIOS – Well, if he filed an appeal on July 20th we're at 60 days.

COUNCILMAN PETERS – But it has to come to council. Just because he filed the appeal I mean he could file the appeal and council couldn't take it up till January you can't punish that gentleman because he filed the appeal and council didn't meet on it or act on it.

COUNCIL PRESIDENT GAMBER – The council rule is very specific. To my recollection

we have had numerous discussions in committee meetings and on the floor of council. I'm not saying that's why we need to do it tonight but I think council has had the opportunity to discuss it and hear several sides of the argument. But we do have to act within the 60 days, we can't waive that. Obviously waiting till October for a meeting puts it well beyond the 60 days Mr. Peters. Why it wasn't brought onto the agenda before now I don't know. But we certainly have been discussing it. Would you agree?

COUNCILMAN PETERS – No, but I never do agree so it doesn't matter.

COUNCIL PRESIDENT GAMBER – You still have the floor.

COUNCILMAN PETERS – That's all I have.

COUNCIL PRESIDENT GAMBER – Mr. Hersher?

COUNCILMAN HERSHER – Mr. Stergios, just so that I am clear in my mind 60 days from when the appeal was filed or from the because our first meeting after the appeal would have been August 2nd. So I'm just trying to get clear in my head what the...

LAW DIRECTOR STERGIOS – The rule says after the appeal is filed its referred to the next regular meeting of council. Which I would have no question you're right was August 2nd or 4th what date was it you said?

COUNCILMAN HERSHER – I have according to my calendar the 2nd.

LAW DIRECTOR STERGIOS – And within 60 days thereafter council may modify or revise the decision. If you don't act within 60 days etc so the next meeting still puts us pass the 60 days. I guess is my point by two days.

COUNCIL PRESIDENT GAMBER – Any question on the issue itself? Mr. Manson?

COUNCILMAN MANSON – Would it be possible to have two emergency meetings.

COUNCIL PRESIDENT GAMBER – It's always possible.

COUNCILMAN MANSON – That's a problem well this is one reading do we have to have two more readings? I'm just throwing that out there for you guys...

COUNCILMAN PETERS – I'm for doing that than I am for passing it tonight.

COUNCILMAN MANSON – Well, I'm just throwing it out there you guys can do what you want on this.

COUNCIL PRESIDENT GAMBER – Are you finished Mr. Manson? (Yes) Mr. Hersher?

COUNCILMAN HERSHER – Well we wouldn't unless I'm misunderstanding do we have to have three readings? I mean we could we pass it on second we could have one emergency meeting before the 2nd of October and pass it on that second reading or you know address it excuse me. Address it on second reading. Thank you.

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

COUNCIL PRESIDENT GAMBER – Now before we move for a vote I want to mention that this is one of those awkward resolutions. Because of the way it's worded the resolution looks to reverse the decision. The decision was to let the fence stand so a yes vote will overturn that decision and the fence will come down. A no vote will upholds that decision and the fence stays. Is everyone clear on that? If you want the fence to stay you vote no, if you want the fence to come down you vote yes. Mr. Peters?

COUNCILMAN PETERS – Okay, I know a motion has been made and its been seconded but a have a question specific for the law director. If this is not if the suspension is not voted on tonight then how do we have a special meeting. I mean what's the guarantees that we will have

a special meeting?

COUNCIL PRESIDENT GAMBER – According to the law director if it does not receive action tonight we will be beyond the 60 days.

COUNCILMAN PETERS – No, we have until October 2nd according to the law director.

COUNCIL PRESIDENT GAMBER – Alright, if we go until October the 2nd we would be beyond. If it would receive first reading tonight you will have to act on it before then.

LAW DIRECTOR STERGIOS – Right.

COUNCIL PRESIDENT GAMBER – There has to be at least 24 hours between each emergency meeting.

COUNCILMAN PETERS – Who's got to call that meeting then?

COUNCIL PRESIDENT GAMBER – Any three members of council, the mayor, me. One other point I'll mention is that it does take seven to suspend it also takes seven to overturn the ruling. Mr. Manson?

COUNCILMAN MANSON – Okay, first thing we're talking about is suspending right?

COUNCIL PRESIDENT GAMBER – That's what the motion is right now.

COUNCILMAN MANSON – Okay, now if we agree with lets say we do make the motion to suspend and we don't have enough votes for it, it will be automatically have to be brought back.

COUNCILMAN PETERS – No, we have enough votes. What he's saying is if it takes seven to overturn. Now we're minus one council members tonight if two council members vote to overturn it its overturned.

COUNCIL PRESIDENT GAMBER – No.

COUNCILMAN PETERS – Or its or vote not the opposite whatever that stupid you know. But if they vote no then its overturned.

COUNCIL PRESIDENT GAMBER – If you vote no you're voting not to overturn, you're voting to keep the fence.

COUNCILMAN PETERS – Yes, if you vote yes you're voting to... the motions been made for suspension.

COUNCIL PRESIDENT GAMBER – I'll go over this is ordinance is written to reverse the decision. A yes vote will reverse it and the fence comes down; a no vote will sustain the decision the fence stays up. Mr. Peters still has the floor.

COUNCILMAN PETERS – I guess that's my explanation to Mr. Manson but it was just a yes instead of a no. That's all I mean but it could be voted we could overturn it tonight.

COUNCILMAN MANSON – First of all we have to...

COUNCIL PRESIDENT GAMBER – Hang on Mr. Manson.

COUNCILMAN PETERS – I'm done.

COUNCIL PRESIDENT GAMBER – Okay, Mr. Manson.

COUNCILMAN MANSON – I didn't have anything to say. Yeah, first of all we have to waive the rule. If we would not waive the rule then it would just come back for second reading.

COUNCIL PRESIDENT GAMBER – If there is no special meeting between now and the 60 days.

COUNCILMAN MANSON – Now wait before I'm done its my floor right now but if we do have seven votes to waive the rule we can act on it tonight then. Then we would waive the rule then it would come back for a yes or no vote on the ordinance itself.

COUNCIL PRESIDENT GAMBER – If you waive the rule tonight then you will vote on it tonight.

COUNCILMAN MANSON – Exactly and it could be over one way or the other. If its not over there if we don't have seven votes is it six or seven we need to act...

COUNCIL PRESIDENT GAMBER – Once the rules are suspended and you vote that's the vote.

COUNCILMAN MANSON – It's just a simple majority or since we're waiving the rule do we have to have...

COUNCIL PRESIDENT GAMBER – Mr. Manson, it is seven votes to overturn seven votes.

COUNCILMAN MANSON – Okay.

COUNCIL PRESIDENT GAMBER – Five votes...

COUNCILMAN MANSON – So it has to be seven yes' to overturn it.

COUNCILMAN PETERS – Has to be seven yes'

COUNCIL PRESIDENT GAMBER – Guys we go through this every single time. It's not that difficult. If you would like to I will ask Mr. Manson for about a five minute recess and you all can discuss it. But I think we're well beyond the point of discussing it here on the floor. We have the motion right now, we have the second and we're in discussion about that motion. Are there any other further questions it does take seven votes to suspend, Mr. Peters?

COUNCILMAN PETERS – If it isn't suspended will there be a special meeting to do this or will it fall under that rule that we're out of the 60 days? That's my question.

COUNCIL PRESIDENT GAMBER – Someone needs to initiate the special meeting. It can be any three council members it can be the president, it can be the mayor.

COUNCILMAN PETERS – It has to be three council members.

COUNCIL PRESIDENT GAMBER – And I don't plan to call a special meeting. Are there any other questions? Alright we have a motion and a second to suspend the rules.

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

COUNCIL PRESIDENT GAMBER – Three reading rule has been suspended. Now if you'd like to discuss the resolution itself once again it is written to overturn the decision. A yes vote will overturn it a no vote will keep it. Mr. Manson?

COUNCILMAN MANSON – Yes, the letter that Mr. Stergios was talking about actually in it, it says that Mr. Simpson met with Mr. Houpt on June 3rd regarding the above matter. At the time Mr. Houpt and myself reviewed the approval of the variance for a fence located and it gives the address. At that time I advised Mr. Houpt that his approval of the permit from Mr. Michael Ricker was a reasonable interpretation of our current zoning ordinance regarding residential fences. Because of that I will be voting no the other part of it is the zoning board of appeals voted to uphold the action that our building department had taken. So I will be voting no on this.

COUNCIL PRESIDENT GAMBER – Mr. Hersher?

COUNCILMAN HERSHER – You know I know the appeal was filed back in July and we've had it around since then. I felt like maybe we haven't had enough discussion of it in the work session especially having just heard from Mr. Glick's you know attorney at the last. That's why

I voted no for suspension being forced to vote this evening which I don't feel like we're prepared to do then. I mean I think I at least have to follow the opinion of the law director and our enforcement officer and the board of appeals which has already taken a look at that. I think being forced into a vote this evening rather than have the option to take a little more time to look at it. Thank you.

COUNCIL PRESIDENT GAMBER – Mr. McCune?

COUNCILMAN MCCUNE – Yes, I've been up and down on both sides of the fence on this issue. I've told Mr. Glick from day one that it was going to be incumbent upon him and his attorney to convince us that the Mr. Houpt was erroneous in his decision. I also told him that if all bodies of government supported that decision that I would be bound as a city official to support the law director's decision, building decision. So I too will feel forced to vote no tonight and so that's what I will be doing.

COUNCIL PRESIDENT GAMBER – Mr. Peters?

COUNCILMAN PETERS – Well, I've never agreed with the law director on anything and I'm not going to start tonight. I don't think he's given us a good enough explanation as to this decision. I don't think the Board of Zoning Appeals made the right decision and I'm voting to overturn. I really did want one more meeting maybe some of these things could have been clarified but I screwed up I voted for suspension.

COUNCIL PRESIDENT GAMBER – Are there any other comments. Alright we had the vote for suspension now the vote for passage. Once again a yes vote will overturn the decision and it takes seven votes.

RESOLUTION NO. 14 – 2010 WAS DEFEATED BY A ROLL CALL VOTE OF 6 NO, 2 YES. PETERS AND TOWNSEND VOTED YES.

7. UNFINISHED BUSINESS

8. PETITIONS AND GENERAL COMMUNICATIONS

9. BILLS, ACCOUNTS AND CLAIMS

A. Repository - \$1,231.00

COUNCIL PRESIDENT GAMBER - Mr. Manson, we need a motion to pay the bill.

COUNCILMAN MANSON – I make a motion to pay the bills, seconded by Councilman Hersher.

Roll call vote of 8 yes to pay the bill.

10. REPORTS FROM CITY OFFICIALS

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

COUNCIL PRESIDENT GAMBER - Thank you. Everyone has those reports and we'll keep copies on file. I believe right you are getting these in hard copy very shortly those will start to come strictly by email. If you absolutely have to have a hard copy of a particular report we can request it. But in general it doesn't make sense to keep printing all those pages.

11. REPORTS OF COMMITTEES

COUNCIL PRESIDENT GAMBER – We will meet again on the 27th for a work session.

Are there any reports, resolutions or requests by anyone?

12. RESOLUTIONS AND REQUESTS OF COUNCIL MEMBERS

13. CALL OF THE CALENDAR

TABLED FROM AUGUST 16, 2010

ORDINANCE NO. 88 B 2010 REGULATIONS

BY: HEALTH, WELFARE & BLDG

Amending CHAPTER 1188 “SIGNS” of the Codified Ordinances of the City of Massillon, by repealing existing SubSections 1188.03 “General Provisions” (b) and 1188.04 “Regulation of On-Premise Signs by Zone:(a)(7), and enacting new SubSections 1188.03 “General Provisions” (b) and 1188.04 “Regulation of On-Premise Signs by Zone”(a)(7).

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COUNCILMAN TOWNSEND B This ordinance is a schedule of fees to be charged to applicants for appeals by board of zoning appeals. There were two fees associated with this ordinance and it was a residential fee and a commercial fee. The residential fee the original fee was \$100 and the commercial fee was \$200. The original fee a few years back I believe the residential fee was actually \$50 with an increase of \$50. The commercial development was \$125 no it was \$175 and its been changed to \$200 with an additional fee of \$125. I know Councilwoman Kathy Catazaro-Perry had some concerns regarding this ordinance also Councilman Donnie Peters. Since Councilwoman Catazaro-Perry is not here I would like to table this till September 27th so she can be here and possibly Mr. Houpt can come in and speak on it.

COUNCIL PRESIDENT GAMBER – We have two meetings in September the 4th and the 18th I believe or October 4th.

COUNCILMAN TOWNSEND B We have the 27th is a work session right? We can discuss it then if time permits.

COUNCIL PRESIDENT GAMBER – You’re tabling it until a meeting.

COUNCILMAN TOWNSEND B Oh, you’re right, you’re right. October 4th.

COUNCIL PRESIDENT GAMBER – Will you restate your motion please?

COUNCILMAN TOWNSEND made a motion to table Ordinance No. 88 – 2010 until October 4, 2010, seconded by Councilman Slagle.

Roll call vote of 8 yes to table Ordinance No. 88 – 2010 until October 4, 2010

ORDINANCE NO. 88 – 2010 WAS TABLED UNTIL OCTOBER 4, 2010.

14. THIRD READING ORDINANCES AND RESOLUTIONS

ORDINANCE NO. 95 - 2010

BY: ENVIRONMENTAL COMMITTEE

Enacting a new CHAPTER 943 “STORMWATER UTILITY” of the Codified Ordinances of the City of Massillon.

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COUNCILMAN HERSHER – There is still some work to be done on this ordinance. It wasn’t practical to discuss it at the last work session with the members that we had in attendance.

COUNCILMAN HERSHER moved to table Ordinance No. 95 – 2010 until the October 4th meeting, seconded by Councilman Slagle.

Roll call vote of 8 yes to table Ordinance No. 95 – 2010 until October 4, 2010

ORDINANCE NO. 95 – 2010 WAS TABLED UNTIL OCTOBER 4, 2010

15. SECOND READING ORDINANCES AND RESOLUTIONS

ORDINANCE NO. 104 - 2010 **REGULATIONS**

BY: HEALTH, WELFARE & BLDG

Amending CHAPTER 1188 “SIGNS” of the Codified Ordinances of the City of Massillon, by repealing existing SubSections 1188.07 (c) “Permit Fees” and 1188.07 (e) “Permit Conditions, Refunds and Penalties” (1) (2) and (3), and enacting new SubSections 1188.07 (c) “Permit Fees” and 1188.07 (e) “Permit Conditions, Refunds and Penalties” (1) and (2).

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COUNCILMAN TOWNSEND – Second reading.

ORDINANCE NO. 104 – 2010 WAS GIVEN SECOND READING.

ORDINANCE NO. 107 - 2010

BY: COMMITTEE OF THE WHOLE

Authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to enter into an agreement with CBSC for the collection of delinquent accounts including but not limited to ambulance services, utility bills, delinquent taxes and parking violations, and declaring an emergency.

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COUNCILMAN MANG – Mr. President, is this second reading or third reading?

COUNCIL PRESIDENT GAMBER – Second reading.

COUNCILMAN MANG – Apparently we don’t like to collect money, but I’ll try it again.

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

The rules were not suspended by a roll call vote of 6 yes, 2 no. Peters and Townsend voted no.

ORDINANCE NO. 107 – 2010 WAS GIVEN SECOND READING.

16. NEW AND MISCELLANEOUS BUSINESS

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

JOE GLICK – Yeah I would like to thank you all for voting. I have to do say that I have lost respect you a lot because at the last work session they made it very clear to me and to my attorney that was here that there was going to be two more readings on it. That they were going to full the process of law that was very clear my attorney explained that to me. He told me he didn’t think it would be necessary for me to here because it wasn’t going to be doing the reading on that. To be honest with you I don’t appreciate it. As far as the City of Massillon I’ve enjoyed working there to a certain extent, but I’m losing respect. They don’t uphold the ordinances, they don’t uphold the regulations of what they have. I would love if any of you know whether its Keith, Cicchinelli, Roger the building department what I have done to the City of Massillon that has caused them to turn on me. You know this whole thing with the neighbors were all upset that all fell back into the city misleading them. The city is the one that was misleading them telling them that I had to have 95 foot of frontage to split a lot. There is no regulation that says that you have to have 90 foot of frontage to split a lot. The definition of lot width is defined is at the setback line at the building front. We run into that before they passed the lot they approved it. I don’t understand where the city is coming from so I guess I’m appealing to you guys to communicate with me. You know I tried to meet with Perry, I tried to

meet with Keith at times. Back when we were in the process of splitting that lot tried to meet with Cicchinelli. I don't understand what you guys are doing to us. I guess I'm taking as saying goodbye to the city I can't work with you. Am I misunderstanding you?

COUNCIL PRESIDENT GAMBER – I have two questions please? You had mentioned that you were under the impression that this would go for two more readings. Who, what, how did you get that impression?

JOE GLICK – At the work session one week ago there was discussion on it. There were a number of the members that were missing it was brought to the attention that Perry was going to be here this time to see if he would have a definition of that ordinance. You know nobody has interpreted that ordinance to us. I'm pretty sure it was Dave had mentioned that Dave McCune had mentioned that he would like to take it through full course of the law the three readings. Am I wrong in that? You know use the word here.

COUNCILMAN PETERS – No, you're right, you're absolutely right.

JOE GLICK – Thank you, I appreciate that.

COUNCIL PRESIDENT GAMBER – My second question then are you telling me that you tried to meet with the mayor and the building department and you could not get those meetings?

JOE GLICK – I have in the past, yes.

COUNCIL PRESIDENT GAMBER – But you just indicated was that you tried to meet with the mayor and you implied that you were not able to. Were you able to meet with the mayor?

JOE GLICK – I never met with the mayor.

MAYOR CICCHINELLI – He never made an appointment.

COUNCIL PRESIDENT GAMBER – Did you make an appointment?

JOE GLICK – I endeavored to I was always told that I couldn't.

COUNCIL PRESIDENT GAMBER – Well, I don't want to split hairs with you.

JOE GLICK – Okay, I....

COUNCIL PRESIDENT GAMBER – You either called and asked to meet or you didn't.

JOE GLICK – You know I made I talked to Dave McCune out on site. I was rejected the appeal process to start with. Dave McCune encouraged me to talk to him and talk to the building department and to talk to Perry.

COUNCIL PRESIDENT GAMBER – Well, that's what I'm asking did you attempt to do that?

JOE GLICK – Then Dave had written a letter to them.

COUNCIL PRESIDENT GAMBER – Mr. Glick, Mr. Glick, I'm asking a direct question. Did you talk to the Mayor's office to try to arrange a meeting? It's either yes or no.

JOE GLICK – Not for this particular situation. But I was for the lot split. I did for the lot split.

COUNCIL PRESIDENT GAMBER – Okay, there again you implied that you tried to meet with these individuals over this issue. I just wanted to clarify it that's all. Mr. McCune?

COUNCILMAN MCCUNE – Yes, we did indicate at the work session we were going to give this the full three readings. At that time none of us realized that we were up against the 60 day timeframe on this.

COUNCIL PRESIDENT GAMBER – Did anyone communicate that to Mr. Glick?

COUNCILMAN MCCUNE – I was made aware of the need today when I walked in here that we were up against the 60 days.

COUNCIL PRESIDENT GAMBER – I'll just asking.

JOE GLICK – Do you mind me asking...

COUNCIL PRESIDENT GAMBER – You can ask one direct question.

JOE GLICK – Did Tom Ferrero explain to you that he's not going to be here this evening and to not have the reading on that today?

COUNCILMAN MCCUNE – No, Tom asked me to get an opinion from the law director on the subject and that's what I did.

JOE GLICK – I guess I just have the question for the city you know what I am doing wrong that's causing them to turn on me. What have I done to offend them? Keith...

COUNCIL PRESIDENT GAMBER – We'll take that as a rhetorical question we don't have the answer for you obviously. Can you finish up please up?

JOE GLICK – Is there anything that can be done besides taking you to court?

COUNCIL PRESIDENT GAMBER – Well you've gone to the Board of Zoning Appeals and you've taken it to council. So you're remedies with the city are finished and at this point it would be a civil matter for you and your attorney.

JOE GLICK – Are you all as council in agreement that that's where I'm at?

COUNCIL PRESIDENT GAMBER – Mr. Glick, I asked you to finish up please.

JOE GLICK – Yeah, I love you guys. I don't understand. Bye.

18. ADJOURNMENT

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

MARY BETH BAILEY, CLERK,

GLENN E. GAMBER, PRESIDENT

