

**MINUTES OF THE REGULAR MEETING
MASSILLON CITY COUNCIL
HELD, MONDAY, OCTOBER 3, 2011**

COUNCIL PRESIDENT GAMBER - I'd like to welcome all of you to Massillon City Council for Monday, October 3, 2011. We have in attendance with us this evening: Auditor Ferrero, Engineer Dylewski, Community Development Director Aaby, Fire Chief Burgasser, Judge Elum and Stark County Chief Deputy Michael McDonald, who will be speaking in just a few moments. 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, Paul Manson, Donnie Peters, Larry Slagle and Tony Townsend.

Thus giving a roll call vote of 7 present.

COUNCIL PRESIDENT GAMBER – Mr. Manson, we have two absences.

COUNCILMAN MANSON – Yes, I've been asked to split these for a vote. So I will make a motion to excuse Mr. Mang from tonight's meeting. Seconded by Councilman Hersher.

Roll call vote of 7 yes to excuse Councilman Mang.

COUNCIL PRESIDENT GAMBER – Mr. Manson?

COUNCILMAN MANSON – I'd like to make a motion to excuse Councilman McCune from tonight's meeting. Seconded by Councilman Anderson.

Roll call vote of 5 yes, 2 no to excuse Councilman McCune. Peters and Townsend voted no.

2. INVOCATION

COUNCILMAN SLAGLE – Gave the invocation for the evening.

3. PLEDGE OF ALLEGIANCE

COUNCILMAN SLAGLE – Chairman of the Parks and Recreation Committee led those in attendance in the Pledge of Allegiance.

4. READING OF THE JOURNAL

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

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

DAVID FROST – 1632 Amherst Rd NE, Massillon. I'd like to know is the council

representatives are they going to talk about my variance.

COUNCIL PRESIDENT GAMBER – Yes, it is on the agenda tonight.

DAVID FROST – And do I have anything or say so after if they have any discussion or anything like this?

COUNCIL PRESIDENT GAMBER – Well, this is your opportunity Mr. Frost to make whatever comments you would like.

DAVID FROST – Okay, may I ask...?

COUNCIL PRESIDENT GAMBER – No, you may not ask questions. This is your comments please.

DAVID FROST – Okay, I went to ward 7 this evening I was told by certain person that this fence this gentleman he put this fence up two days. It took him two days to put the fence from the corner of his front house to the street. Now why is he getting away with it and I can not have a fence from my house to 40 feet. Am I being discriminated or not, Mr. President?

COUNCIL PRESIDENT GAMBER – I have no answer for that...

DAVID FROST – What do you mean you do not every meeting I have come here I have complained, complained, complained? I go around I tell you I have taken pictures of evidence you people do not believe me. Tony came to my house last Monday I explained to Tony. Kathy I hope she's come tomorrow she says she will. I'm going to explain to her. It's simple that's all I want a fence from house 40 feet that's it 3 feet high. And this is one proof right here and I've got bunch of other on Lake, First Street on Wales by the church going on Hills and Dales there's a brand new wooden fence extend the whole front of their property. Why are they getting away with it and I can not, Mr. President?

COUNCIL PRESIDENT GAMBER – I have no answer for you on that.

DAVID FROST – You have to have an answer sir.

COUNCIL PRESIDENT GAMBER – I'm telling you have no answer Mr. Frost and I think you might have misspoke earlier when you mentioned that house is in the 7th ward. We don't have a 7th ward in the city.

DAVID FROST – Okay, 6th ward excuse me I apologize ward 6 Dave McCune.

COUNCIL PRESIDENT GAMBER – Okay.

DAVID FROST – And this house is not far from his residents.

COUNCIL PRESIDENT GAMBER – Thank you, Mr. Frost.

DAVID FROST – Thank you, sir.

COUNCIL PRESIDENT GAMBER – Is there anyone else who like to speak? If not I will call on the judge and the chief deputy. I don't know if you have a tag team or if one of you is going first or both of you together.

JUDGE ELUM – My name is Eddie Elum and I'm here as a member of the Community Corrections Planning Board Executive Committee. I want to introduce Chief Deputy Mike McDonald and your Fire Chief Tom Burgasser. We are here to ask for your support in a resolution in support of Issue 29 which is .5% criminal justice sales tax issue that will be on the ballot in November. I wanted to first turn it over to Chief Deputy Mike McDonald who runs the Stark County Jail along with Sheriff Swanson and how this will impact community justice system in Western Stark County, the crime lab that we use here in the City of Massillon and also

I want Chief Tom Burgasser to speak on behalf of how its going to impact his hazmat team and the Massillon Fire Department. I can tell you right now we are at a critical stage because of the various cutbacks at the Stark County Jail. If Issue 29 is not passed in November we do not get the support of the populous and Massillon Municipal Court which you adequately fund and which covers all of Western Stark County will not have any jail beds available to sentence anybody. Now there's ramifications with that but at this time I'm going to take questions but I want to thank President Gamber for getting us on the agenda this quickly at probably a two day notice. So I'm going to introduce my friend and Chief Deputy Mike McDonald who can tell you about the issues at the Stark County Jail and what it is impacted to various courts. I can also tell you that there's going to be a jail tour on Thursday and Massillon Cable TV has generously sent out a camera crew to show some of the conditions at the Stark County Jail in the event the jail has to close.

CHIEF DEPUTY MICHAEL MCDONALD – I appreciate this opportunity to speak here today. I am Chief Deputy Michael McDonald Stark County Sheriff's Office. I've been with the office approximately 30 years. I've held every rank since I've been a member of the Stark County Sheriff's Office and I'm coming here tonight to fight to have the privilege to be able to arrest somebody and put them in jail. That's basically what it has come to. Today there's 324 inmates in the Stark County Jail, 12 of those inmates are murderers. I've got six officers watching those inmates. I have two patrol officers or three on any given shift to patrol the unincorporated areas of Stark County. We're in charge of 90,000 people. Now that doesn't mean a lot to you folks because you have your own police department. Some time back we decided to regionalize booking because we had a difficult time given the situation in Massillon with the circumstances of the jail getting people in and out in a timely manner. So we decided to take the booking over for the Massillon City Jail. We did this at no cost and we did it to try to keep to get law enforcement officers back in the streets. Our goal was try to get them out there within 10 to 15 minutes. Now again I said that it doesn't have a huge impact on you because you have your own police department but we are doing the booking for everybody that's arrest west of Whipple Avenue. That will have a huge impact on the officers and the good police departments and good police officers that are conducting investigations and making good arrests in that they have no place to put somebody if they arrest them. We're going to keep 122 beds open if this tax fails. If you took a snapshot of the population today there would be approximately 100 inmates charged with serious violent crimes. Inmates that we do not want to see back on the streets. I work for the Stark County Jail at a time when we had 6,000 inmates waiting to serve their time. I worked for the jail at a time when we were spending \$2.1 million dollars housing inmates in other county jails a year. Because of our relationship with the Community Corrections Planning Board and people like Judge Elum we are able to stop all of that nonsense. We have not spent one penny since April of 2000 housing inmates in any other county jail. We've been able to run the county jail with the staffing levels that I had that are less than what I had in the year 2000 and that was prior to me opening two wings. I'm very proud of the work that the officers do they work very, very hard but I'm very, very scared for them. I think that on any given time the inmates could take over the county jail. I'm in fear for their lives that's why I come to you this evening. I ask for your support I know we have a great working relationship with the City of Massillon. Any help that you could give us I'd really appreciate it. Thank you.

FIRE CHIEF BURGASSER – I'm going to brief and I just want to make sure I've got my figures straight so I'll look a little bit. I rise also in support of the half percent tax county tax. Due to its impact on its fire service in general and more specifically our fire department Stark County currently contributes \$30,000 each year to the operation of the County Hazardous Materials Team and that covers equipment and operational expenses. The County Hazmat Team has come along way in the last five years I sit on the executive board of that team and I'm proud to report that we've gone from no typing in terms of NIMS standard National Incident Management System to a level 2 or a type 2 team that can respond to all but the most extreme terrorists, weapons of mass destruction and biological incidents. I can also tell you as an executive member that I am gravely concerned about the funding for the Hazmat Team if this \$30,000 is not continued and that is the result of the tax failing. Stark County also maintains the

county crime lab closing the crime lab for us would mean that arson evidence would have to be processed in locations outside of the Stark County area. Most likely at the crime lab in the state fire academy in Columbus. Recently we had an arson fire and because the owners of the building knew members at the crime lab we had to have our evidence processed at the fire academy in Columbus. Because the evidence and most of it is delicate with time critical processing and I give you as an example that accelerant tends to evaporate quickly and the ability to preserve that evidence diminishes over time. We had to drive that evidence down to crime lab in Columbus we also had to drive to pick it up. Now they were able to obviously fax us the results but we had to drive down to give it to them and drive to pick it up. We will either ship or drive that evidence depending on its nature to Columbus for processing and that would be at a considerable expense. I'd also like to talk about the fact that the county prosecutor's office is staffed by people who are generally considered in serving our community. We've required their assistance on numerous occasions to help prosecute crimes of arson, code enforcement violations that may result in unsafe buildings to our residents and firefighters and other serious crimes which involve fire protection to one degree or another. I believe that our fire prevention bureau operates more effectively and efficiently because of their efforts in assistance. Lastly the Stark County Jail is where all but the most serious criminals convicted of arson or other fire related crimes will serve their sentences. Now I'm dating myself here but the TV show Baretta leads off with the message don't do the crime if you can't do the time. Well our inability to hold criminals accountable by incarcerating them sends the wrong message to them. If we excuse their behavior by not holding them accountable there's no threat of accountability crime will certainly rise. That includes the crime of arson other fire related offenses. I appreciate your time and I thank you for the opportunity to speak. If anybody has any questions I'd be happy to answer them. Mr. Anderson?

COUNCILMAN ANDERSON – I have a question probably for the two gentlemen that spoke earlier.

COUNCIL PRESIDENT GAMBER – Do we have any questions for this gentleman?

FIRE CHIEF BURGASSER – Thank you.

COUNCILMAN ANDERSON – No, sir. I am for the tax just let me I want to make that point clear. The issue that I have is there are a lot of people how many I don't know but I've had a number of people indicate to me that this is a scare tactic being used on the citizens in order to get this tax passed. I don't believe that it is but I think it something that needs to go on the record to indicate why this is not that case. Does that make sense?

JUDGE ELUM – Oh sure. I'll let you go first.

CHIEF DEPUTY MICHAEL MCDONALD – Nobody and I repeat nobody in their right mind would put their officers what my officers are going through for any amount of money. You've got two police officers on the street and at any given time I mean I speak almost on a daily basis for a tax. I'm running for the office of sheriff next year I've got to be the biggest fool that there ever was because no politician wants to put their face on this. I wouldn't be out there speaking if I thought this was some sort of a scare tactic sir. I would never, ever and I know my sheriff would never, ever put his officers through what they're going through today for anything like this. We had to go around and pass out lay off notices back in December of 2010. That's probably the hardest thing I ever done in my career to have to go to somebody's house and tell them that they don't have a job anymore. That's not a fun thing to do sir and there's no way that we would release we're releasing burglars. I'll tell you a quick story my wife's car was broken into this year at the YMCA in Louisville. The guy went into the right rear window and took her purse that was laying on the floor. Now my wife goes to the gym every day and I should probably follow her but I don't. This guy takes her purse he's been arrested 50 times in the past I'm a chief deputy and I couldn't keep him in jail. That's not about it being a scare tactic and we're releasing people every day that I mean God help us. Nobody wants to see burglars and the type of people that we're releasing because they're committing crimes again time after time after time after time after.

JUDGE ELUM – I've also heard that the people that are promoting Issue 29 is going to try to scare you into voting for it. I understand where they're coming from except this is real time. Today I had to let 4 people go that normally would be in jail. Friday was another 4 so at the end of the week there's approximately 30 people Gary that I have let go that I wanted to keep in jail. These are individuals some of them are more than burglars we've had the many of the drug arrests that you're special operations force here in the City of Massillon Police Department. Many of those are right back on the street in fact we have a saying that these defendants are out on the streets before the officers get done with the booking process. For those in the audience and members of council I did bring a fact sheet that I left there where Mary Beth told me to. Also gave it to each council person the facts on the .5% sales tax. Councilman Anderson I want to also address the critics who think it's a scare tactic when you look into a crime victim's eyes when that person is in your court and they make a statement. Number 1, Prosecutor Ferrero had to greatly reduce his crime victim's staff and the prosecutor's office here is scrambled, Mr. Ferrero is scrambled. We're probably using a skeleton crew right now just to get victim impacts. Many times that person the crime victim breaks down in the courtroom because of how or she has been violated as the defendant has walked out of the courtroom on a bond who normally would have been booked in. Judge Centrone and I down to approximately 8 beds a piece that's 16 among two judges and two magistrates and only the judges can issue the commitment papers. As of December 1st if this tax does not pass we will have 0 beds. So here's the snowball effect not only does the victims of crime become really victims of crime and every day they become victims but the crime lab closes and everything has to be sent down to Columbus which will delay the operation of courts probably by months because right now if you get something from the state crime lab is over a month. The criminal booking system when we have collaborated everybody wanted us to collaborate on booking and we did. We spend \$50 million dollars on the front end in law enforcement in this county. If this tax fails that \$50 million will go for not because we will not be able to support law enforcement, judges, probation officers and protect victims of a crime on the back end of that. So and I know where they're coming from Councilman Anderson and no one likes to sit here and advocate for a tax but this is a criminal justice tax. We're the only county in the State of Ohio that does not have a piggyback sales tax to support county operations. These county operations will be specific as you can see its going to be for criminal justice and administrative justice services to allow Stark County Prosecutor John Ferrero to reopen his victim advocate to run three grand juries, to take jail beds and if we don't have that forget about the collection of fines and costs. Forget about people doing community service and forget about people who commit felonious assaults on the weekends because there will be no booking at the county jail. There a joke is that law enforcement will put that person in the cruiser Friday afternoon and drive them around for three days until we open on Monday and drop the person off. Because there will be no place to a felonious assault, a burglar or what these special operations force just did the various cocaine trafficking deals in the City of Massillon. They will all walk. Any other questions? Yes, Sam?

COUNCIL PRESIDENT GAMBER – If you come to the microphone please.

SAM DAUT – Yes, Judge Elum, you just told us that you had to pretty much release people that should have been incarcerated. If you didn't incarcerate them where did you put them did you just send them on a good behavior if that were that bad, number one? Number 2, the second question is if this county does pass this income tax and the council approves it how is that going to benefit I mean are you going to add more rooms on. Because that was the original tax from what I remember before it was rebilled that's how it all came about as far as Mr. Anderson suggesting about the scare tactics. Because I remember being at Tiger Stadium and finding a thing on my window shield and that's how they got the income tax originally passed was they threatened people pretty much that if you don't pass this tax that we're going to turn everybody loose. If we pass the tax you promised years ago that you were going to add on to the facility, you were going to incarcerate these people and if crime has gotten that bad we need to look at a different system here of what's going on here. Because all it seems to me is perpetuate more jobs in the criminal justice system...

JUDGE ELUM – Well, Sam, you've asked about a lot of questions. First of all...

SAM DAUT – But okay well just go ahead and answer the first one like where did you put these people?

JUDGE ELUM – It's not an income tax, it's not an income tax. It was a tax passed in 2003 it was not repealed it had a natural sunset so it expired July 1, 2010. So it went for a period from 2004 the beginning of 2004 to just last June 30th 2010. So it was a natural sunset at its height when it was running we had 25 beds per judge. Okay, now I'm down to 8 and I'll be down to 0 December 1st. Sam, the other thing you mentioned there's no scare tactic but where I am sending these people? I'm sending them back to their neighborhood when am I going to put them? I mean unless you have a lot of room up at your shop I'll send them there.

SAM DAUT – If they're that bad criminally how can you let them go back to their neighborhoods?

JUDGE ELUM – I have no...we have no beds.

SAM DAUT – Because basically I mean its like you're threatening your neighborhood. But my point excuse me but one more and I'll leave. That are you telling me that this county tax is pretty much a tax just designed around the criminal justice system it has nothing to do with any infrastructure in the county at all. Or is this just specifically for the criminal now did I read did I misread the article in the paper today that it was going to basically generate any where around \$12 million dollars did I misread read that? And the last person that ran against the sheriff basically said that they didn't need the tax. So am I misreading it I mean did I misread that today?

COUNCIL PRESIDENT GAMBER – Mr. Daut, would you ask one question and he'll answer it then you may ask another.

JUDGE ELUM – First of all I can't get back to what the guy said 4 years ago because he was completely off the wall. It doesn't make any sense if you look at item 1 on the handout Sam that I passed out it's for criminal justice and criminal administrative services. It's not for infrastructures, not for bridges, its not for roads, it's specifically for criminal justices to keep the jail. We have a 500 bed jail and I'll let the chief deputy speak on that.

SAM DAUT – Well how many beds will add to the facility with this money?

JUDGE ELUM – We did add.

SAM DAUT – Well how many are you going to add with this new tax?

JUDGE ELUM – No, we're just going to operate...

CHIEF DEPUTY MICHAEL MCDONALD – I can answer that.

JUDGE ELUM – Go ahead.

CHIEF DEPUTY MICHAEL MCDONALD – First of all, let me go back let me back and do some history here. A study was conducted by the Institute of Law and Justice in the '90's to determine how many beds Stark County Jail needed. At that time I spoke about there were we were spending \$2.1 million dollars a year housing inmates. We had 5,000 or 6,000 inmates waiting to serve their time. What was going on is that these inmates were coming to jail we would look at them and say we don't have room back in two years and we would send a notice to the judge. So the Institute of Law and Justice came and they conducted a study and they determined that we needed a couple of things. We needed to develop a day reporting center because they said that were some people in jail that shouldn't be there non-violent petty thieves and those types of people. Then they said that we needed to build on an addition and we did that \$18 million dollar addition that was paid the county commissioners paid cash for that addition. They used the money from the sale of Nist and they also used money from the previous sale tax to pay cash for that 122 bed addition. Now everything was running very well

until the tax expired this year in July. That in anticipating this tax to expire and anticipating that there was going to be no money coming in the sheriff was forced to layoff because they cut the budget 16%. Now when we when our budget is cut we have to start with the first pay period in the year which in a fiscal year for the county it's in December. That's why if this tax doesn't pass we're going to loose an awful lot of officers again this year in December because we have to cut for next year. So does that answer your question and then you also asked a question in regards to what's going to happen to the jail. The county commissioners have promised us that they will bring the jail up to 400 beds as soon as the tax passes and put a couple of patrolmen back on the road per shift. That's what they promised us now. I feel that that's going to help we need to continue to work to get that jail up and running at 500 capacity because that's what's required here in Stark County. Now you're talking about people that were released what happens to them? We only have so many beds to use because when it gets over 300 we start getting nervous right now its probably 324 – 325 something like that it changes by the hour. I don't have anybody to supervise those inmates once it gets up higher than I can house. So somebody has to go so the judges look at their roster every day they speak with pre-trial release people that come out and conduct interviews with the inmates and they release people based on that information that is received. Now I can tell you that years ago there were people there are people getting out today that would never, ever get out years ago. Or even last year. So that's what they're basing it on we only have so much money we can only do so much. Our officers have agreed they haven't had a pay raise in four years. They know that they know that times are tough everybody knows that times are tough. People have agreed to take no pay raises we're working short handed we understand I had more staff in the year 2000 than I have today and I have opened up two different housing sections. So I hope I've answered your questions.

SAM DAUT – Yep, okay.

COUNCIL PRESIDENT GAMBER – Are there any other questions for either of the gentlemen? We appreciate you being here and we appreciate your presentation. Judge, you did say you left some of those info sheets back here.

6. INTRODUCTION OF ORDINANCES AND RESOLUTIONS

ORDINANCE NO. 118 - 2011

BY: COMMITTEE OF THE WHOLE

Repealing Ordinance No. 250 – 2001, which subdivided the City of Massillon, Ohio, into wards and enacting a new Ordinance subdividing the City of Massillon, Ohio, into wards, and declaring an emergency.

COUNCILMAN MANSON – Yes, what we're talking about here is the redistricting that we're required to do after every census. We had Mr. Aaby in and he gave us a little power point presentation and explained it. We had discussions about it and I don't believe there are any major disagreements with it. If not I will be asking to waive the rule and bring this forward.

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

The rules were suspended by a roll call vote of 7 yes.

ORDINANCE NO. 118 – 2011 WAS PASSED BY A ROLL CALL VOTE OF 7 YES.

ORDINANCE NO. 119 - 2011 **REGUALTIONS**

BY: HEALTH, WELFARE AND BUILDING

Enacting a new Chapter 1323 “NOTIFICATION OF FORECLOSURE FILING” of the Codified Ordinances of the City of Massillon, Ohio.

COUNCILMAN TOWNSEND – First I would like to make a motion to amend one section in the penalty section.

COUNCIL PRESIDENT GAMBER – Would you like to explain it first and then make the motion?

COUNCILMAN TOWNSEND – In the penalty's paragraph it states that...

COUNCIL PRESIDENT GAMBER – Can you tell us where you're at please?

COUNCILMAN TOWNSEND – Penalty last page kind of the last down where it starts to whoever violates this section goes across whoever violates this section is guilty of failure to file notice of foreclosure. I want to remove is guilty of a minor misdemeanor and. Where it would just include guilty of failure to file notice of a foreclosure complaint shall be fined and go into the rest of the sentence.

COUNCIL PRESIDENT GAMBER – You're deleting the words is guilty of a minor misdemeanor?

COUNCILMAN TOWNSEND – And that word to and because it has no place in there once is guilty of a minor misdemeanor is deleted.

COUNCIL PRESIDENT GAMBER – is that the only change?

COUNCILMAN TOWNSEND – That's the only change.

COUNCIL PRESIDENT GAMBER – Would you like to make your motion?

COUNCILMAN TOWNSEND – I'd like to make a motion to amend Ordinance No. 119 to reflect the changes of the deletion of is guilty of a minor misdemeanor and. Seconded by Councilman Manson.

Roll call vote of 7 yes for the amendments to Ordinance No. 119 – 2011.

COUNCIL PRESIDENT GAMBER – Is there discussion on the ordinance itself? Mr. Townsend, may I ask a question? (Oh, yes) The amendments you just offered deleting those words can I ask did that come from the law director or you're...

COUNCILMAN TOWNSEND – Well, no it didn't originally even Mr. Houpt stated that he didn't see a reason for it. So I was kind of thinking about it and then when I got an email from you and you kind of suggested the same thing. So at that point I kind of figured we probably I should remove it.

COUNCIL PRESIDENT GAMBER – Mr. Manson, do you have your hand up?

COUNCILMAN MANSON – Yes, I just wanted to ask Mr. Townsend to give this first reading give us a few weeks to study this thing a little bit.

COUNCILMAN TOWNSEND – Yeah, I can give it first reading.

COUNCILMAN MANSON – I signed it to move it along and I'm glad to do that but also I would like some time to look at it and...

COUNCILMAN TOWNSEND – First reading.

ORDINANCE NO. 119 – 2011 WAS GIVEN FIRST READING.

ORDINANCE NO. 120 - 2011

BY: FINANCE COMMITTEE

Making certain appropriations from the unappropriated balance of the General Fund, Solid Waste Fund, 1206 Muni Motor Vehicle License Tax Fund, 1401 Capital Improvement Fund and the Local Law Enforcement Trust Fund, for the year ending December 31, 2011, and declaring an emergency.

COUNCILMAN MANSON – Yes, we have 5 parts that we’re dealing with here. In section 1 is \$300,000 appropriate \$300,000 from the unappropriated balance of 1100 general fund for the northern portion of the former Republic Steel facility. The city was awarded a grant from the State of Ohio for an environmental assessment to be conducted on this property in the amount of said appropriation request. This appropriation is needed for the auditing purposes for the reimbursement of grant dollars. Ordinance No. 54 – 2011 authorized the Director of Public Service and Safety to enter into an agreement with the developer for this project. This is state money that came to us the only thing is our auditor office does the paperwork to keep record of where this money goes and how its spent. The next part is section 2 is for \$99,000 please prepare an ordinance to appropriate from the unappropriated balance of the solid waste fund 2102 to the following account: 2102.605 \$99,000. That is we are going back retroactive to the beginning of the year and taking the money that was going into capital improvement in solid waste. Section 3, is \$51,000 please prepare an ordinance to appropriate and this is all together \$51,000 from the 1206 muni motor vehicle license plate tax fund for various street repair projects. Section 4 is for \$45,400 and this is part of the same legislative request \$45,400 from 1401 capital improvement fund for street repairs. Section 5 is for \$6,000 please appropriate \$6,000 from the unencumbered balance of the local law enforcement trust fund #1215 to account 1215.305. These monies are needed to purchase ammunition for requalification and training for officers.

COUNCIL PRESIDENT GAMBER – Are there questions? Mrs. Catazaro-Perry?

COUNCILWOMAN CATAZARO-PERRY – I would like to make a motion that we separate out sections 3 and 4 and vote on those two separately out of Ordinance No. 120 – 2011.

COUNCIL PRESIDENT GAMBER – And you want to make two votes or one vote for section 3 and 4?

COUNCILWOMAN CATAZARO-PERRY – One vote is fine.

COUNCIL PRESIDENT GAMBER – We have a motion to separate out section 3 and 4 is there a second? Seconded by Councilman Anderson. Are there any comments or discussion?

COUNCILMAN MANSON – The only thing I’d like to say about these is this is we approved this and all this is doing is appropriating the money to go ahead with these projects and getting them finished.

COUNCIL PRESIDENT GAMBER – Mrs. Catazaro-Perry?

COUNCILWOMAN CATAZARO-PERRY – I voted no on both of these projects due to the financial situation of this city. That’s why my request is to split them out. Thank you.

COUNCIL PRESIDENT GAMBER – Mr. Townsend, do you have your hand up?

COUNCILMAN TOWNSEND – She just answered my question.

COUNCIL PRESIDENT GAMBER – I see the auditor has her hand up does anyone have an objection if the auditor speaks? Mrs. Ferrero?

AUDITOR FERRERO – I’m just going to reiterate what Mr. Manson said. This was all passed through council its already been passed and all we’re doing now is appropriating the money. So I just wanted to bring that to your attention.

COUNCIL PRESIDENT GAMBER – Mr. Peters?

COUNCILMAN PETERS – Madame Auditor?

COUNCIL PRESIDENT GAMBER – Mr. Peters, direct your question to the chair.

COUNCILMAN PETERS – My question is is the money there to be appropriated? Do we have the money?

AUDITOR FERRERO – Well the money is probably this project is probably even going to happen until next year. But you did appropriate the money. I mean you did already spend that money with that last...

COUNCIL PRESIDENT GAMBER – We did that at the last meeting.

AUDITOR FERRERO – With the last you know at the last meeting. Now all we're doing is appropriating so that we can pay the bill when it comes in.

COUNCIL PRESIDENT GAMBER – We have a motion to delete section 3 and 4. Roll call vote please.

Roll call vote of 6 no, 1 yes to separate sections 3 and 4. Catazaro-Perry voted no.

COUNCIL PRESIDENT GAMBER – Mr. Manson, what is your pleasure for the entire ordinance?

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

The rules were not suspended by a roll call vote of 6 yes, 1 no. Catazaro-Perry voted no.

ORDINANCE NO. 120 – 2011 WAS GIVEN FIRST READING.

RESOLUTION NO. 14 - 2011 **BY: COMMITTEE OF THE WHOLE**

Resolution in support of the proposed Stark County Sales Tax.

COUNCILMAN MANSON – Yes, we just went through this with the chief deputy and the judge. It's my intention unless there's some objection as to bring this forward for passage tonight.

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

The rules were suspended by a roll call vote of 7 yes.

RESOLUTION NO. 14 – 2011 WAS PASSED BY A ROLL CALL VOTE OF 7 YES.

7. UNFINISHED BUSINESS

8. PETITIONS AND GENERAL COMMUNICATIONS

LETTER FROM THE DIVISION OF LIQUOR CONTROL REGARDING A TRANSFER OF LIQUOR LICENSE FROM EL GHAZAL GASOLINE SERVICE LLC DBA PRIME STATION 804 WALES RD MASSILLON OHIO 44646 TO RAZNIL PETROLEUM DMA PRIME STATION 804 WALES RD MASSILLON OHIO 44646

9. BILLS, ACCOUNTS AND CLAIMS

10. REPORTS FROM CITY OFFICIALS

- A). MAYOR SUBMITS MONTHLY REPORT FOR SEPTEMBER 2011 B COPY FILE
- B). AUDITOR SUBMITS MONTHLY REPORT FOR SEPTEMBER 2011 – COPY FILE
- C). MAYOR SUBMITS REPORT FOR AUGUST 2011

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

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

Roll call vote of 7 yes to accept the auditor's report.

11. REPORTS OF COMMITTEES

COUNCIL PRESIDENT GAMBER – Regarding committees next Monday is Columbus Day but its business as usual for us we will meet. We do have five Mondays this month however so the fourth Monday we will not meet that's the 24th be back on the 31st.

12. RESOLUTIONS AND REQUESTS OF COUNCIL MEMBERS

COUNCIL PRESIDENT GAMBER – Are there any reports of committees any resolutions or requests of council members? Mr. Manson?

COUNCILMAN MANSON – Yes, when we get to them I will be giving second reading to Ordinance No. 16 and 17. We have been discussing this, this has to do with the refinancing of the rec. center and the senior high rise. I was given some information I'm sure everybody probably heard it but if not I would like to reiterate this. That there will be a savings this year if we refinance the rec. center of \$529,932. If we refinance the senior housing there will be savings this year of \$136,832. Just to make that known.

COUNCIL PRESIDENT GAMBER – That information came from?

COUNCILMAN MANSON – That information came from the auditor's office. What I'm saying here is we have been talking now this will be the second reading; we've been talking four weeks about it. It was my intention from the beginning to have it go three readings and try to answer as many or all the questions we can. I think we had a number of questions answered when we met in executive session about this whole project as far as the senior center is what I'm referring to. And the litigation that we're involved in I think if it isn't cleared up for anybody please get their questions in by next Monday so we can talk about them at committee meeting. Also we had talked one time it had been brought up about a conference call with the finance people. I believe if council people believe that it would be beneficial I would be in favor of asking the bond council to come back and maybe discuss this with us. If a majority of the council people feel that we need that because it does cost us a few dollars when we do these things. But we also need to understand them when we're talking about doing taking steps like we're taking here. Also I understand that Mr. Stergios will be out of commission for a while so I would like to make that we have somebody from the law department attending Monday's meeting and probably even the next council meeting when we bring this up for third reading.

COUNCIL PRESIDENT GAMBER – is that something that you can take charge of and make sure that someone is here?

COUNCILMAN MANSON – I can do that part, I can do that part as far as trying to make sure somebody is sent here Monday.

COUNCIL PRESIDENT GAMBER – And if you have specific question or a specific point for them...

COUNCILMAN MANSON – Specific questions you can get them to me you can them to the auditor's office probably the auditor's office would be very good because the auditor and the law director have been doing probably and Mr. Aaby have been doing most of the communicating on this. So bring them in and the only reason I'm encouraging everybody to do this because if we do take any action we need to take it approximately by the middle of October to allow them to complete all the paperwork and everything before I believe it was December

1st. So I'm getting a sense that everybody's agreeing right now with no problem at all about the refinancing of the rec. center. There may be still some questions on the high rise but it would be a savings to us.

COUNCIL PRESIDENT GAMBER – Is there anything else?

13. CALL OF THE CALENDAR

14. THIRD READING ORDINANCES AND RESOLUTIONS

ORDINANCE NO. 106 - 2011

BY: COMMUNITY DEVELOPMENT

COMMITTEE

Indicating what services the City of Massillon, Ohio, will provide to the Cincinnati Area Annexation, upon annexation, and declaring an emergency.

COUNCILMAN HERSHER – This is third reading for the service ordinance for the Cincinnati Area Annexation. We authorized the petition for the annexation earlier this summer I want to say like Juneish. So we've given the service ordinance three separate readings haven't heard of any you know big concerns or anything over the last six weeks. So I intend to bring it forward for passage this evening.

COUNCIL PRESIDENT GAMBER – Mrs. Catazaro-Perry?

COUNCILWOMAN CATAZARO-PERRY – I'd like to bring the engineer up please. Mr. Dylewski what is our commitment to this area as far as sewer and water?

ENGINEER DYLEWSKI – Well this particular annexation would just be the right-of-way for Route 30. So in this instance we won't have any.

COUNCILMAN HERSHER moved to bring Ordinance No. 106 – 2011 forward for passage, seconded by Councilman Manson.

ORDINANCE NO. 106 – 2011 WAS PASSED BY A ROLL CALL VOTE OF 7 YES.

ORDINANCE NO. 109 - 2011

BY: POLICE AND FIRE COMMITTEE

Authorizing the Mayor and the Director of Public Service and Safety to enter into an agreement with the Massillon F.O.P. Henderson Lodge Police Officers Association Collective Bargaining employees extending the current contract for an additional six (6) months, December 31, 2011 through June 30, 2012, and declaring an emergency.

COUNCIL PRESIDENT GAMBER – In the absence of the chairman Mr. Slagle and Mr. Peters which of you will handle this?

COUNCILMAN PETERS – Be my guest.

COUNCILMAN SLAGLE – Yes, this is the contract with the current F.O.P. expires December 31st; normally it would be negotiated by the current administration and its safety service director. They have requested that due to the two issues actually that because of the Senate Bill 5 and the referendum on the ballot the F.O.P. has and the administration have suggested we extend the current contract for six months which is what is proposed here. I know that Mr. McCune is in favor of that since both the administration and the union are in favor of it. I frankly think its also a good idea because it will take this out of a end of the year change in administration on occasion which we haven't been faced with because the mayor's been here so long. But normally then one administration would be negotiating contract fairly regularly for the next. I frankly think that should be something that the new administration be dealt with. I know that one mayoral candidate has expressed her belief that this should be passed for that

purpose. I haven't heard from the other but that's good enough for me. I would suggest that we probably should pass this to give them a six month window of additional based on the current contract until June 30th, 2012 to give the us to know about the uncertainty of what will have on Senate Bill 5. Secondly we'll have in the hands of the new administration.

COUNCILMAN SLAGLE moved to bring Ordinance No. 109 – 2011 forward for passage, seconded by Councilwoman Catazaro-Perry.

COUNCIL PRESIDENT GAMBER – Mr. Manson?

COUNCILMAN MANSON – Just discussion on it. I'm taking the same position on this as I did on the fire. I do not believe that we should be extending a contract into June of next year without some type of incentive for the city and everybody included. There's contracts being negotiated everywhere where there's no raise clauses there's employees are agreeing to picking up some cost of their healthcare and their pensions. Personally I don't want to wait on Senate Bill 5 or anything else. I think we should if we do have a financial problem we should deal with it right now and I think we should be looking at healthcare specifically. So I will be voting no.

COUNCIL PRESIDENT GAMBER – I'd like to apologize to Mr. Peters I did not see his hand up he wanted to second that. May I suggest that you put your hand up higher so that I can be sure that that's what you're trying to do.

ORDINANCE NO. 109 – 2011 WAS PASSED BY ROLL CALL VOTE OF 5 YES, 2 NO.
MANSON AND PETERS VOTED NO.

RESOLUTION NO. 11 - 2011 **BY: COMMUNITY DEVELOPMENT**
COMMITTEE

Adopting the decision of the Tax Incentive Review Committee made on August 11, 2011 wherein they recommended that those certain Enterprise Zone Agreements listed on the attached exhibit "A" be continued, and declaring an emergency.

COUNCILMAN HERSHER – This is third reading to act on the recommendations of the tax incentive review committee. I think we're ready to pass it this evening. I haven't heard of any questions or anything since at least our last work session. I plan on bring it forward this evening.

COUNCILMAN HERSHER moved to bring Resolution No. 11 – 2011 forward for passage, seconded by Councilman Manson.

RESOLUTION NO. 11 – 2011 WAS PASSED BY A ROLL CALL VOTE OF 7 YES.

RESOLUTION NO. 12 - 2011 **BY: COMMUNITY DEVELOPMENT**
COMMITTEE

Reversing the decision of the Massillon Zoning Board of Appeals made on August 11, 2011 wherein the Zoning Board of Appeals denied a request for variance from the Massillon Zoning Code, Massillon Codified Ordinance Section 1187.08 (a) for a proposed fence at 1632 Amherst Rd NE, on Lot 11221 in the City of Massillon, Ohio, and declaring an emergency.

COUNCILMAN HERSHER – This is our third reading with this appeal the zoning board's decision to not grant a variance to extend a chain linked fence into the front yard of a home. I think its worth noting as we vote that the way the ordinance is worded a yes vote is to reverse the decision of the Zoning Board of Appeals and a no vote is to uphold the decision or rather to decline to reverse the decision.

COUNCILMAN HERSHER moved to bring Resolution No. 11 – 2011 forward for passage,

seconded by Councilman Peters.

COUNCIL PRESIDENT GAMBER – Are there any comments? Mrs. Catazaro-Perry?

COUNCILWOMAN CATAZARO-PERRY – Mr. Hersher, I just need to understand this completely before I cast my vote. On his paperwork in some areas it looks like its at the side of the house and then in other areas it looks like its in the front yard. Could you clarify for council please?

COUNCILMAN HERSHER – My understanding is that it extends beyond the front of the house into the front yard I believe 40 feet or so stopping 10 or 12 feet short of the front property line or the front sidewalk. I guess is the easy way of putting it. Does that answer...

COUNCILWOMAN CATAZARO-PERRY – And therefore from what I understood that at least the complaints that I've heard is that he wants this for to keep his neighbor out of his yard but to go in the front yard their lawns don't abut. So according to that I'm to vote you said to cast a no vote to uphold it. Is that correct?

COUNCILMAN HERSHER – Correct.

COUNCILWOMAN CATAZARO-PERRY – Thank you.

COUNCIL PRESIDENT GAMBER – Are there any other comments? To reemphasis a yes vote reverses the decision a yes vote means the fence goes up a no vote means it does not go up. Mr. Townsend, is your hand up? (Yes) I'd like to ask raise your hand so I can see. Alright, Mr. Townsend, go ahead.

COUNCILMAN TOWNSEND – I just have a statement. I did go out and meet with Mr. Frost and while talking with him you know I noticed a couple of doors down that there were a fence that was much larger than his and it was actually going a little further towards the street than what he was proposing. I think something needs to be done I don't know who's in charge of this but someone needs to go around and check to see who is taking out permits to put up fences. Because my heart goes out to Mr. Frost because if I followed the right procedures get turned down and I can look right down the street and I see someone who put a fence who did not follow the procedures but they still have their fence up I'd be a little disgruntle too. Something needs to be done about it because when that is overlooked it ends up right in here and we have to fight it out. I don't think that's right. So that's all I have.

COUNCIL PRESIDENT GAMBER – As I've mentioned numerous times these are the types of issues that there really are no winners no matter what way you decide.

DAVID FROST – Mr. President, do I have a say so?

COUNCIL PRESIDENT GAMBER – No, I'm sorry you had your opportunity numerous times Mr. Frost. We've been very lenient allowing you to speak but its time for the vote now.

RESOLUTION NO. 12 – 2011 WAS DEFEATED BY A ROLL CALL VOTE OF 7 NO.

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15. SECOND READING ORDINANCES AND RESOLUTIONS

ORDINANCE NO. 116 – 2011 **BY: FINANCE COMMITTEE**

AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$925,000 OF BONDS FOR THE PURPOSE OF CURRENTLY REFUNDING BONDS ISSUED IN 1994 FOR THE PURPOSE OF PROVIDING PERMANENT FINANCING FOR THE MASSILLON SENIOR APARTMENTS PROJECT; AUTHORIZING A BOND PURCHASE AGREEMENT

APPROPRIATE FOR THE SALE OF THE BONDS; AUTHORIZING AN ESCROW AGREEMENT IN CONNECTION WITH THE BONDS, IF DESIRED; AUTHORIZING AN OFFICIAL STATEMENT IN CONNECTION WITH THE SALE OF THE BONDS; AUTHORIZING THE PURCHASE OF A MUNICIPAL BOND INSURANCE POLICY, IF DESIRED, IN CONNECTION THEREWITH; AND DECLARING AN EMERGENCY.

COUNCILMAN MANSON – Yes, as I said earlier I was going to give that second reading.

ORDINANCE NO. 116 – 2011 WAS GIVEN SECOND READING.

ORDINANCE NO. 117 – 2011 **BY: FINANCE COMMITTEE**

AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$11,500,000 OF BONDS FOR THE PURPOSE OF ADVANCE REFUNDING BONDS ISSUED IN 2002 FOR THE PURPOSE OF (I) ACQUIRING LAND IN CONNECTION WITH A CITY RECREATION CENTER; SITE IMPROVEMENTS FOR THE CITY RECREATION CENTER, INCLUDING DEMOLITION RELATED THERETO; CONSTRUCTING, FURNISHING AND EQUIPPING THE CITY RECREATION CENTER; (II) CONSTRUCTING PHASE I PARK AND RECREATION FACILITIES AT THE COMMUNITY PARK; FURNISHING AND EQUIPPING THE SAME; LANDSCAPING AND IMPROVING THE SITES THEREOF; ACQUIRING LAND AND INTEREST IN LAND FOR PARK AND RECREATION PURPOSES; AND (III) DREDGING AND IMPROVING THE RESERVOIR AT RESERVOIR PARK AND SITE IMPROVEMENTS RELATED THERETO; AUTHORIZING A BOND PURCHASE AGREEMENT APPROPRIATE FOR THE SALE OF THE BONDS; AUTHORIZING AN ESCROW AGREEMENT IN CONNECTION WITH THE BONDS; AUTHORIZING AN OFFICIAL STATEMENT IN CONNECTION WITH THE SALE OF THE BONDS; AUTHORIZING THE PURCHASE OF A MUNICIPAL BOND INSURANCE POLICY, IF DESIRED, IN CONNECTION THEREWITH; AND DECLARING AN EMERGENCY.

COUNCILMAN MANSON – Yes, second reading.

ORDINANCE NO. 117 – 2011 WAS GIVEN SECOND READING.

16. NEW AND MISCELLANEOUS BUSINESS

COUNCIL PRESIDENT GAMBER – Is there any new or miscellaneous business to bring forward? Mr. Manson?

COUNCILMAN MANSON – Yeah, I have a couple things here I wanted to bring up and maybe ask the auditor we have been getting reports on transporting we've been asking for them regularly. I have one here that says year-to-date revenue is \$448,367 is that correct? And it says that we should be at 75% and we are at 84% of what we estimated that for the year.

COUNCIL PRESIDENT GAMBER – Mrs. Ferrero, can we get you to a microphone please?

AUDITOR FERRERO - Yes, he's right we're over what we anticipated over our targeted percentage.

COUNCILMAN MANSON – The point I wanted to make is we have already arrived at about what we made \$447,000 so with nearly three months to go we've already done almost the same as we did last year in transportation. So that's a significant increase going to be a significant increase. Then another thing I want to point out there was a report went out on the internet to you, you should of gotten it today. On tax revenues for the year and for the first nine months we're up \$660,000 which is approximately 6.69%. I'd just like to say that if you go back over the last 12 month period till last October when we started that we are up tax revenue wise nearly 8 over \$800,000. So we are showing some nice increases in tax revenue there.

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

COUNCIL PRESIDENT GAMBER – Is there anyone in the audience who would like to address council on any topic at all please come to the microphone at this point. Make your or give us your name and address and make your comments.

MICHAEL HENDERSON – 215 State Avenue NE here in town Massillon. My question is and its sort of I guess I come from the view point that I've been here two meetings in the last month or so. So I understand there's a lot of pressing needs and priorities in the City of Massillon expenses money and all that and so forth. But I want to bring something up that's sort of mid low grade kind of thing that is always on my mind but it does cost money and it does require some thought. I guess I want to see what you folks in the council and the government thinks about it. It's the issue of traffic lights I look at the townships Perry Township, Jackson Township some of the other surrounding cities and so forth and I see the traffic lights are ones that are triggered. From my view point seems to be more efficient in the flow of traffic and so forth and then when you get into Massillon coming off of from the east from Perry Township or from mostly the area into the city I live on the northeast side. So anyhow its timed lights all of them are timed lights they look like they've been very antiquated seems to be very inefficient and then I see some of the lights for example State and 1st Street NE there's a four way traffic light. Then I see inconsistencies up Amherst where it terminates on the southern part runs into Cherry. I see an awkward intersection where there's flashing yellow lights, flashing red lights and I can consistently see people getting that confused. So the rational of having lights at a four way intersection the idea that many citizens aren't able figure out a four way intersection and then something like that is not consistent. I guess the bigger the more broad question I want to bring up is I don't know if we can take a look at is there not funding available one way or another for traffic lights to be modified. I saw that Jackson Township and Perry had theirs modified is it not somewhere on the radar screen is there feasibility of that. Are there less expensive options as well such as maybe having more of the flashing lights at night rather being you know when the traffic is much lower? I'm just trying kind of throwing it out to you folks as far as what kind of options are available because the traffic lights seem to be very inefficient with the timing especially if its 11:00 at night I'm not sure if anybody else sees what I'm seeing. But that's kind of what I'm seeing there. I wanted to see to get that on the radar at least as far as an issue a priority that's kind of at least kicked around to see what would be the best approach to address that from the council's view point. So...

COUNCIL PRESIDENT GAMBER – Thank you. If you'll hold on, Mr. Peters I believe that comes under streets and highways does it not? (Yes, sir) I'm just indicating if you would like to Mr. Peters is the committee chairman. I'll tell you I personally resent every red light out there. But anyways get together with Mr. Peters perhaps the city has already done a lot of the research that you're talking about.

MICHAEL HENDERSON – Okay, I just wanted to get that on the radar screen at least as an issue to kind of kick around and maybe get a good solution to it.

COUNCIL PRESIDENT GAMBER – Sure. Then secondly Mr. Dylewski is this something that your department gets involved with at all street lights?

ENGINEER DYLEWSKI – Well, the maintenance of them is handled by the street department the electrical department.

COUNCIL PRESIDENT GAMBER – But in terms of the timing and that type of...

ENGINEER DYLEWSKI – Yeah, that's the electrical department.

COUNCIL PRESIDENT GAMBER – Thanks for coming, we appreciate it.

18. ADJOURNMENT

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

MARY BETH BAILEY, CLERK,

GLENN E. GAMBER, PRESIDENT



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