

**MINUTES OF THE REGULAR MEETING
MASSILLON CITY COUNCIL
HELD, MONDAY, DECEMBER 3, 2012**

COUNCIL PRESIDENT GAMBER B I'd like to welcome all of you to Massillon City Council for Monday, December 3, 2012. We have a number of city officials with us this evening Mayor Catazaro-Perry, Safety Service Director Maier, Community Development Director Herncane, Fire Chief Burgasser, Income Tax Director Koher, Law Director Stergios and Engineer Dylewski. 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: Milan Chovan, Sarita Cunningham-Hedderly, Nancy Halter, Ed Lewis, Paul Manson, Donnie Peters, Andrea Scassa, Larry Slagle and Tony Townsend.

Thus giving a roll call vote of 9 present.

2. INVOCATION

COUNCILMAN CHOVAN – Gave the invocation.

3. PLEDGE OF ALLEGIANCE

COUNCILMAN CHOVAN – Chairman of the Police and Fire 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

DANIEL SWARTZ – I live at 1670 Deerford SW. Okay, I'm here to talk about Resolution No. 19 – 2012 reversing the decision of the Massillon Historic Preservation Commission. I was at the meeting the second meeting when the vote was taken and there was one vote in favor. I'd like to suggest that if the council is not willing to support a decision that occurred twice in such an overwhelming vote then you ought to change the people on the commission or do away with the commission. I can't imagine sitting on a commission in Massillon spending all that time and effort and then have a council just override it. My second point is I lived in a town called South Yarmouth and it had a business strip of about two miles long. Every business got a curb cut some of them got two and what happened over the years was the traffic did not move, the businesses declined, the buildings became abandoned and became a blighted area. Finally the town did something about it. They got the businesses together they took a curb cut, two curb cuts for one business they combined three businesses, two curb cuts for six businesses. Guess what happened? The all the businesses came back traffic that could not before move at all took

over an hour to drive two miles all that traffic came back and now it's a thriving community. A main street with businesses can not endure curb cuts and it can endure curb cuts because it inhabits the traffic to the point where people just say hey listen I'll go to the mall I don't really need this hassle. Finally I would say at this meeting the presenter for Visconsi whatever it is okay, said that if you don't do what I say I'm going to sue you and every dime we put into a lawsuit I'm going to take out of the building. I for one do not like to live under threats like that. It's obvious that they're not going to be a very good neighbor if all they can think about is suing the town and then take whatever money they spend on a lawsuit and take it out the building they're going to build. So obviously I'm here to recommend that you support the historic commission and not reverse their decision. Thank you.

COUNCIL PRESIDENT GAMBER – Thank you, Mr. Swartz. Is there anyone who would like to address council please come forward.

ROBYN BLOOM – 846 Wellman Avenue, I'm also a member of the historic preservation commission. I would like for you guys to support our decision for many reasons. You know one (1) is that I mean if you look at these pictures on the walls you see new buildings on any of these pictures? Do you see any new homes on any of these pictures? It's our history I mean I understand it was built in the early '70's but cars are classics you know that was built in the '70's. I mean if we keep tearing down and building new we're not going to have anything to show in our downtown. We're not going anything you know that's worth preserving and we're not going to have our history. I mean the thing is that you go in a lot of other older you know neighborhoods, cities such as Shaker Heights up in Cleveland I don't know if anybody's been up there but they have a CVS in the Shaker Heights it's a two story plaza its in an older building they made it to conform to the exiting building. So I mean things can be done its just I mean there's better options than to keep tearing down and keep building new. So that's my point. Thank you.

COUNCIL PRESIDENT GAMBER – Thank you, Ms. Bloom. Is there anyone else? Thank you for speaking.

6. INTRODUCTION OF ORDINANCES AND RESOLUTIONS

ORDINANCE NO. 130 - 2012 **COMMITTEE**

BY: COMMUNITY DEVELOPMENT

Authorizing the Mayor of the City of Massillon, Ohio, to enter into a contract with Stark County Regional Planning Commission for Housing Rehabilitation Services in the City of Massillon, Ohio, and declaring an emergency.

COUNCIL PRESIDENT GAMBER – Mr. Manson?

COUNCILMAN MANSON – Yes, thank you, Mr. President. We discussed this at committee meeting the other night we had Mr. Herncane here if there's any questions we have been contributing this money to them and we get a lot help from them over the years. So if there are any questions we'll ask Mr. Herncane to come up and answer them if not I intend to move for passage.

COUNCILMAN MANSON moved for suspension of the rules and passage, seconded by Councilwoman Scassa.

The rules were suspended by a roll call vote of 9 yes.

ORDINANCE NO. 130 – 2012 WAS PASSED BY A ROLL CALL VOTE OF 9 YES.

ORDINANCE NO. 131 - 2012 **COMMITTEE**

BY: COMMUNITY DEVELOPMENT

Authorizing the Mayor of the City of Massillon, Ohio, to enter into an Occupancy Grant Agreement with Premier Industrial Supply, Inc., for the purpose of relocating the company to the City of Massillon, and declaring an emergency.

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COUNCIL PRESIDENT GAMBER – Mr. Manson?

COUNCILMAN MANSON – Yes, thank you, Mr. President. As I said on the last ordinance we discussed this at the committee meeting last Monday. Premier Industries intends to bring approximately 70 manufacturing jobs to town as soon as the facility is finished. They're expecting their initial payroll to be about \$4 million dollars. So there will be a considerable income tax revenue. The sharing formula I'm sorry I don't have it here right now let's see it was start at 20 then went 35 and it was 50/50 and 50 I believe it what it was. Yes, 20, 35, 50, 50, 50. What's nice about this it has not effect on the funding for schools and these will be tax dollars that are returned to them after they pay their city income then we will be refunding those percentage amounts to them. So it is not costing us anything upfront to do this. If you have any questions Ted again can answer them. If not if you have any serious questions we don't have to act on it tonight but my intention is to waive the rules if we don't have any problems with this.

COUNCILMAN MANSON moved for suspension of the rules and passage, seconded by Councilwoman Scassa.

The rules were suspended by a roll call vote of 9 yes.

ORDINANCE NO. 131 – 2012 WAS PASSED BY A ROLL CALL VOTE OF 9 YES.

ORDINANCE NO. 132 - 2012 **BY: ENVIRONMENTAL COMMITTEE**

Authorizing the Mayor of the City of Massillon, Ohio, to enter into the Recycling Program Grant Agreement with the Stark-Tuscarawas-Wayne Joint Solid Waste Management District, and declaring an emergency. .

COUNCIL PRESIDENT GAMBER – Mr. Lewis?

COUNCILMAN LEWIS – Yes, this is in reference to the grant that we utilize to pay for some of the recycling of the tires. I spoke with Mr. Koher before the committee and he was sharing with me I believe it's like 26 tons of tires that we're able to recycle at the city garage. This grant goes a long way in helping us afford to continue this service. So with that considered I think we should go ahead and suspend the rules.

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

The rules were suspended by a roll call vote of 9 yes.

ORDINANCE NO. 132 – 2012 WAS PASSED BY A ROLL CALL VOTE OF 9 YES.

ORDINANCE NO. 133 - 2012 **BY: ENVIRONMENTAL COMMITTEE**

Amending CHAPTER 937 "WASTEWATER TREATMENT REVENUE FUND" of the Codified Ordinances of the City of Massillon, Ohio, by repealing existing Section 937.08 ADMINISTRATION AND DISBURSEMENT OF FUNDS" and enacting new Section 937.08 ADMINISTRATION AND DISBURSEMENT OF FUNDS, and declaring an emergency.

COUNCIL PRESIDENT GAMBER – Mr. Lewis?

COUNCILMAN LEWIS – Yes, we went over this as well in the work session. Nobody seemed to have any major problems or questions at that time we all seem to be on the same page. What it is is any time there's any kind of adjustment over at the Wastewater Treatment they have to adjust the allocation or disbursement of the funds to take care of capital improvements and things of the nature. All this is doing is stating what those adjustments will be and that we approve them. So seeing that there wasn't much discussion at the work session or debate.

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

The rules were suspended by a roll call vote of 9 yes.

ORDINANCE NO. 133 – 2012 WAS PASSED BY A ROLL CALL VOTE OF 9 YES.

ORDINANCE NO. 134 - 2012 **BY: POLICE AND FIRE COMMITTEE**

Authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to enter into a contract with Penn Care Medical Products for the lease purchase of a 2013 MEDIX ambulance using the Ohio STS Procurement State Purchasing plan, and declaring an emergency.

COUNCIL PRESIDENT GAMBER – Mr. Chovan?

COUNCILMAN CHOVAN – Yes, thank you. This is the ordinance where we will be leasing an ambulance. The total cost of the ambulance is \$112,710.00 and we were I think we were talking about a four (4) year lease which would be paid totally out the fire department share of what they get to keep out of the transport funds. So if there's I plan to move this ahead since simply because this goes on past the end of this month we're going to incur another \$12,000 to \$14,000 in expenses for some upgrades that are going to be mandated after January 1st. So if you have any questions I'll bring the chief up if not I'm going to move that we waive the three readings and pass this tonight.

COUNCIL PRESIDENT GAMBER – Do we have questions on the ordinance? Your motion please Milan?

COUNCILMAN CHOVAN moved for suspension of the rules and passage, seconded by Councilman Slagle.

The rules were suspended by a roll call vote of 8 yes, 1 no. Peters voted no.

ORDINANCE NO. 134 – 2012 WAS PASSED BY A ROLL CALL VOTE OF 8 YES, 1 NO. PETERS VOTED NO.

ORDINANCE NO. 135 - 2012 **BY: RULES, COURTS & CIVIL SERVICE COMMITTEE**

Amending Ordinance No. 9 – 2012 by amending SubSection (f) of Article XVII Section 1 on the attachment thereto, and declaring an emergency.

COUNCIL PRESIDENT GAMBER – Ms. Scassa?

COUNCILWOMAN SCASSA – Thank you, Mr. President. This is an ordinance that is

amending what the non bargaining employees their share for health care it brings them in line with what the police and fire have bargained for and what we agreed to. As I said at the committee meeting I plan on moving to suspend the rules so that this can get put into place and we can start at the beginning of the year. No one expressed any questions or issue with it. I don't know if...

COUNCIL PRESIDENT GAMBER – Do we have any questions on the item? Mr. Slagle?

COUNCILMAN SLAGLE – Are the rest of the contracts that we entered into do they make the same amount for a single and family plans as this does or are they on a percentage basis. Does anyone recall? Because I think that's the issue that Pat Pentello brought up last meeting and frankly if it's different for the rest of the city as opposed to what we're doing here then I would agree that seems to be a valid issue.

COUNCIL PRESIDENT GAMBER – Would you like to call some forward?

COUNCILWOMAN SCASSA – Yes, I call on the safety service director.

COUNCIL PRESIDENT GAMBER – Mr. Maier?

SAFETY SERVICE DIRECTOR MAIER – The answer to your question is that it mirrors what's in the bargaining unit contract. There's no difference between what the bargaining unit members pay and what the non bargaining unit members pay. As you recall we had some discussions when we talked about passage of the contracts and there were some questions among the body on whether or not we were going to make some adjustments so that everybody was paying the same amount. That's what this legislation is intended to do to make an adjustment so that all the employees are paying the same amount regardless if they're bargaining unit or non bargaining unit members.

COUNCILMAN SLAGLE – Well I guess the question I had though under those bargaining unit contracts that a single person is their contribution per week the same as a family contribution as its calling for here or is it based on the percentages as we discussed at being I think 17% is what you said was negotiated. Because there would be a difference because a family contract price is greater than the single individual price.

SAFETY SERVICE DIRECTOR MAIER – Well, I think what I told you was that it comes out it came out to be about 17% based on what we were paying at that time. Although there's nothing in the contracts that have been negotiated that addresses any percentages it's a straight \$50.00 per pay okay, that's deducted whether it's family or non-family individuals. So its \$50.00 per pay for in order for an employee in the City of Massillon to receive healthcare benefits they're co-pay towards their premium is \$50.00 per pay. Now not to confuse and I'd have to look at the language in there, there are 26 pays in a year the auditor withdraws 24 of the 26 so it comes out to \$54 and some odd cents. But it is actually \$50.00 per pay for everybody.

COUNCILMAN SLAGLE – Okay, so that was regardless of whether they were a single was a single plan or a family plan then. So we in fact when we did this we did based on the amounts actually make our single policy holders pay a greater percentage than our family policy holders is what it worked out to be.

SAFETY SERVICE DIRECTOR MAIER – Well, if you figure in the percentages yes there's a slight a difference however keep in mind that in the bargaining unit contracts those are good for three years. Each year your healthcare plan goes up as we all know. So that being said someone paying 15% today in their bargaining unit contract as those goes up they would be paying more 15% of the higher rate in the next couple of years. So in essence if you sat down and really put pencil to this you'd find out that the folks even the individual policyholders in the third year would more likely be paying more than what we're asking them to pay now. The \$50.00 is for the three years, \$50.00 per pay is for the three (3) years of the contract.

COUNCILMAN SLAGLE – Thank you.

COUNCIL PRESIDENT GAMBER – Mr. Manson?

COUNCILMAN MANSON – Yeah, I don't want to be redundant but just one more time a single non bargaining unit employee will be paying the same as a single fireman or a single police officer is that what you're saying? (Correct, yes sir) Okay.

COUNCIL PRESIDENT GAMBER – Is there anything else. Thank you, Mr. Maier. Ms. Scassa?

COUNCILWOMAN SCASSA – Okay, if nobody else has any other again questions like I said I was going to my intent is to bring this forward.

COUNCILWOMAN SCASSA moved for suspension of the rules and passage, seconded by Councilman Chovan.

The rules were suspended by a roll call vote of 9 yes.

ORDINANCE NO. 135 – 2012 WAS PASSED BY A ROLL CALL VOTE OF 9 YES.

ORDINANCE NO. 136 - 2012 **BY: STREETS, HIGHWAYS, TRAFFIC & SAFETY**

Vacating a portion of Millennium Blvd SE right-of-way, and declaring an emergency.

COUNCIL PRESIDENT GAMBER – Mr. Townsend?

COUNCILMAN TOWNSEND – Thank you, Mr. President. Ordinance No. 136 we discussed it at the work session. It's simply vacating a portion of Millennium Blvd SE the right-of-way will be approximately 52 feet long and 60 feet wide. If any council members have any questions I can call up the engineer to answer those questions if not I'll be moving Ordinance No. 136 forward for its vote.

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

The rules were suspended by a roll call vote of 9 yes.

ORDINANCE NO. 136 – 2012 WAS PASSED BY A ROLL CALL VOTE OF 9 YES.

ORDINANCE NO. 137 - 2012 **BY: STREETS, HIGHWAYS, TRAFFIC & SAFETY**

Accepting the dedication of a right-of-way located on Millennium Blvd SE, in the City of Massillon, Ohio, and declaring an emergency.

COUNCIL PRESIDENT GAMBER – Mr. Townsend?

COUNCILMAN TOWNSEND – Thank you, Mr. President. The passage of Ordinance No. 137 would accept the dedication of the right-of-way along Millennium Blvd SE. The request includes a approximately 720 feet extension on Millennium Blvd. This property will serve the purpose of Baker and Hughes' facility. If any council members have any questions I can call up the engineer if not I'll be moving Ordinance No. 137 forward for its vote.

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

The rules were suspended by a roll call vote of 9 yes.

ORDINANCE NO. 137 – 2012 WAS PASSED BY A ROLL CALL VOTE OF 9 YES.

ORDINANCE NO. 138 - 2012

BY: STREETS, HIGHWAYS, TRAFFIC & SAFETY

Authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to sign the Consent Legislation with the Ohio Department of Transportation for the US 30 bridge over SR 21 Bridge Repair and Maintenance Project, PID 94048, and declaring an emergency.

COUNCIL PRESIDENT GAMBER – Mr. Townsend?

COUNCILMAN TOWNSEND – Thank you, Mr. President. Just like the clerk has read this will allow the safety service director to sign a consent legislation with Ohio Department of Transportation for the US 30 bridge repair located over 21. One thing to note there will be no city dollars expended for the project. It will be funded 100% by ODOT. If there are not questions I'd like to bring this forward for its vote.

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

The rules were suspended by a roll call vote of 9 yes.

ORDINANCE NO. 138 – 2012 WAS PASSED BY A ROLL CALL VOTE OF 9 YES.

ORDINANCE NO. 139 - 2012

BY: FINANCE COMMITTEE

Making certain appropriations from the unappropriated balance of the 2105 Stormwater Utility Fund and the 1206 Municipal Motor Vehicle License Plate Fund, for the year ending December 31, 2012, and declaring an emergency.

COUNCIL PRESIDENT GAMBER – Mr. Peters?

COUNCILMAN PETERS – Thank you, Mr. President. Two (2) sections to this ordinance first one appropriate from the unappropriated balance of the 2105 Stormwater Utility Fund for the year ending December 31, 2012 to the following: \$1,938 to an account entitled Contracted Services 2105.549.2392. Second section appropriate from the unappropriated balance of the 1206 Municipal Motor Vehicle License Plate Fund for the year ending December 31, 2012 the following: \$946.97 to an account entitled Services and Contracts, \$924.50 to an account entitled Services and Contracts.

COUNCIL PRESIDENT GAMBER – Are there any questions on these items? Mr. Peters?

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

The rules were suspended by a roll call vote of 9 yes.

ORDINANCE NO. 139 – 2012 WAS PASSED BY A ROLL CALL VOTE OF 9 YES.

7. UNFINISHED BUSINESS

8. PETITIONS AND GENERAL COMMUNICATIONS

9. BILLS, ACCOUNTS AND CLAIMS

10. REPORTS FROM CITY OFFICIALS

- A). AUDITOR SUBMITS MONTHLY REPORT FOR NOVEMBER 2012 B COPY FILE
- B). MAYOR SUBMITS MONTHLY REPORT FOR OCTOBER 2012 – COPY FILE.

COUNCIL PRESIDENT GAMBER – We have two (2) reports from city officials the mayor's monthly report is on file and you all have copy. The auditor submits her report Mr. Peters we need a motion to accept.

COUNCILMAN PETERS – I make a motion to accept the auditor's report, seconded by Councilman Manson.

Roll call vote of 9 yes to accept the auditor's report for November 2012.

11. REPORTS OF COMMITTEES

COUNCIL PRESIDENT GAMBER – Next committee work sessions will be Monday the 10th. I'll remind you again that the following work session will be New Year's Eve. So I don't know if anything's been done yet as far as looking at another time for that.

12. RESOLUTIONS AND REQUESTS OF COUNCIL MEMBERS

COUNCIL PRESIDENT GAMBER – Are there any reports or resolutions or requests from any committee or council member?

13. CALL OF THE CALENDAR

14. THIRD READING ORDINANCES AND RESOLUTIONS

RESOLUTION NO. 19 - 2012 **COMMITTEE**

BY: COMMUNITY DEVELOPMENT

Reversing the decision of the Massillon Historic Preservation Commission made on August 8, 2012 and again on September 13, 2012 wherein the Historic Preservation Commission denied a request for a Certificate of Approval from the Visconsi Companies Ltd., and declaring an emergency.

COUNCIL PRESIDENT GAMBER – Mr. Manson?

COUNCILMAN MANSON – Yes, we've been discussing this for six weeks so I'll be moving it forward for a vote tonight.

COUNCIL PRESIDENT GAMBER – Is there any discussion? Ms. Scassa?

COUNCILWOMAN SCASSA – I know I spoke out at the work sessions on this but I just want to point out I think everyone either received the email and read it or received a copy of the email that was sent to us this afternoon. I know that was something Paul kept saying along if anyone was out there so I guess take that into consideration if you haven't already made your mind up or if it changes your mind. But like I said I've spoken from being a member of the commission and I hope everyone just like I said took everything into consideration as I asked you last time I hope everyone looked over the guidelines and came to a well informed decision.

COUNCIL PRESIDENT GAMBER – Mr. Slagle?

COUNCILMAN SLAGLE – I'm somewhat I concerned about the comment on the lawsuit. Could I call the law director up?

COUNCIL PRESIDENT GAMBER – Mr. Stergios?

COUNCILMAN SLAGLE – Mr. Law Director, there's some indication by someone about there was a threat that even if we were to uphold this ruling that a lawsuit could be initiated. What would be the basis for that and is there any concern for that under the historic preservation rules whether or not that would be we could defeat such a suit?

LAW DIRECTOR STERGIOS – Well, there's concern any time a lawsuit is filed. I mean the comment I believe might have been made during one of the presentations by the attorneys for the developer that they had the option of taking our decision council's decision to common pleas court and appealing it. It would be a administrative type of appeal and I would be sort of remised to say what our odds of prevailing or not prevailing would be. But I think there's probably some I really don't want to say in a public forum what my opinion is of a potential lawsuit but it could happen. We could win, we could lose.

COUNCILMAN SLAGLE – What would be the basis for that though?

LAW DIRECTOR STERGIOS – The decision of council was well I don't want to give them their basis' but there's some questions of how this thing was created and why it exists and what the purpose of it is. If I was on the other side I think those are legitimate issues I guess. But I wouldn't want to go much further on into it than that at this point.

COUNCIL PRESIDENT GAMBER – Are there any other questions for the law director? Thank you, Mr. Stergios.

LAW DIRECTOR STERGIOS – Thank you.

COUNCIL PRESIDENT GAMBER – Are there any other questions or comments in general? Mr. Manson?

COUNCILMAN MANSON – My only comment was that a yes vote is reversing the decision correct of the historical preservation, a no vote is upholding their ruling. So just so everybody understands which way they're voting when they vote.

COUNCIL PRESIDENT GAMBER – Mr. Chovan?

COUNCILMAN CHOVAN – Yeah, this question is Andrea what email were you talking about that was received today?

COUNCILWOMAN SCASSA – Everyone on council received an email about...

COUNCILMAN CHOVAN – Just tell me is this the one from Ed Davila? (Yeah) Okay, yeah I have it here I just was afraid there was something else I hadn't seen.

COUNCILWOMAN SCASSA – Nope, nope that was it.

COUNCIL PRESIDENT GAMBER – Mr. Townsend?

COUNCILMAN TOWNSEND – I just have a statement. When we were talking about the Walgreens some of the council members had brought up the issues of safety. Initially I can remember speaking that I felt that safety was not an issue. But I experienced something yesterday while going to our local Dollar Store. I was at the light that sits right there at First Street and Lincoln Way and there was a young man on a scooter he was on the sidewalk and the light turned green. What he was doing he was rushing to beat us before we went to the green light. So at that point I kind of realized what would happen when the Wal-Mart, Walgreen customers leave out the parking lot if they're also trying to beat the light before it turns red and you've got folks going down Lincoln Way through that green light. So at that point you know when I start I remember when a council members had mentioned the issues of safety at that point I kind of felt there maybe some safety issues. So as I stated before initially I did support this but tonight I don't think I will because of that safety issue. That's all I have to say Mr. President.

COUNCIL PRESIDENT GAMBER – Mr. Lewis?

COUNCILMAN LEWIS – Picking on what Mr. Townsend had. I want to remind everybody that if this Walgreens would go into effect this would be six (6) points of entries at one intersection. Six (6) points you have 1st Street coming in from two (2) different directions you have Lincoln Way from both directions you'd have the Walgreens and you'd have the plaza. That plaza one I know don't get used a whole lot because anybody who's lived here more than ten (10) minutes knows not to go out that way you're not going to ever move you have to find another way out. So its six (6) points there that's to me is incomprehensible that we've be okay with putting six (6) points of entrance in one (1) intersection and sit here and say that's not a safety concern.

COUNCIL PRESIDENT GAMBER – Is there anyone else? Mr. Peters?

COUNCILMAN PETERS – I'm going to I just want to say we're not voting on that site plan, we're not voting on the safety, we're not voting on traffic, the only thing we're voting on is the historic preservation's decision not to grant them approval. I think that some of these other issues and the developer has even said that I mean these things can be ironed out. The only reason they're putting that entrance there is because of what the historic district preservation committee asked them to do. I mean if I'm not mistaken I mean they had them change their site plan from their original plan. It wouldn't have been like that. So I'm not changing my mind I've been for this thing from the start and I'll be voting for it to overturn tonight.

COUNCIL PRESIDENT GAMBER – Is there anyone else? End up with the chairman Ms. Scassa.

COUNCILWOMAN SCASSA – I guess before we vote I want to make a couple of things..

COUNCIL PRESIDENT GAMBER – I'm sorry you're not the chairman Mr. Manson is the chairman.

COUNCILWOMAN SCASSA – Before we vote I just want to make a couple things very clear. The first site plan that was submitted to the commission did not comply with the historical guidelines at all. It was as described by our chairman of the commission who is an architect it is a suburban type of architectural design. All though it may have been in compliance with city code, building code, zoning code, it was not in compliance with preservation guidelines at all. I believe that Visconsi knew that so if you will it was a no brainer that we voted it down because it did not comply with the historic guidelines at all. The second site plan that was submitted to us yes it was changed and that intersection line up was changed and had that curb cut. What Mr. Swartz said was 100% right we were told by Visconsi that if we vote it down their second proposal that they would pursue this whatever legal means they had to. That comment was also made to the effect if they had to put money into a legal battle with us that essentially it would take away from the building that they would present to the city because of the amount of money that it cost them to design and construct that historic looking building. So the comment that Mr. Swartz made was essentially true. I'm not and I don't want to sit here and call it a threat that's what was said to the commission. So the second site plan that was submitted with that curb cut again was emphasized to us along that that curb cut had to be in there. It was told to us numerous times that Visconsi has a formula or excuse me Walgreens has a formula Visconsi carrying it out as a developer but they have a formula and that formula includes an egress, ingress from Lincoln Way. So it wasn't that the preservation commission forced them into the second site plan it's a fact that they have a formula and that formula includes an entrance, exit off of Lincoln Way.

COUNCIL PRESIDENT GAMBER – Mrs. Halter?

COUNCILWOMAN HALTER – The fact remains that we're not here to vote on whether or not they threatened them with a lawsuit or not. The fact remains that we're here to vote on whether or not to reverse the decision. The way I understand it the decision was made because of the egress, the curb cut but nowhere in the guidelines does it say that you can not have a curb

cut. So I think that Visconsi did everything that they could as far as I can tell to go along with what the historic preservation committee requested and I'm going to support it.

COUNCIL PRESIDENT GAMBER – Is there anyone else? Mr. Manson, we had an opportunity at the beginning of the meeting for public comments no one from the developer chose to get up at that time I've just been sort of given a flag from the audience its up to you if you'd like him to come forward and speak.

COUNCILMAN MANSON – Yes, I would like him to have the opportunity to respond please.

COUNCIL PRESIDENT GAMBER – Alright, invite you forward to the microphone. Your name and address please.

BRAD GOLDBERG – 30050 Chagrin Blvd I'm...

COUNCIL PRESIDENT GAMBER – If I can remind this is not a committee meeting or a back and forth make your comments.

BRAD GOLDBERG – I just want to make sure there's a couple of things that we worked with the historic preservation committee. The first site plan that we did present to the historic preservation we had present in order to get a denial to go head and then present the plan that met the historic guidelines and all the issues that were involved in that decision. Regard to the lawsuit what we said is we're quote unquote was not put in a threatening manner that "we're going to make sure that we expend the efforts to make sure that our rights are protected." Again, we followed the guidelines to a T nowhere in the guidelines does it say anything about egress, ingress, curb cut, right in, right out, what have you. Therefore what we're asking council to do tonight is just to make sure that our rights are protected if the guideline would of stated deal with the access right in, right out full movement we have obliged. But it did not say that so we're asking council to do is to overturn the decision of the historic preservation committee only based on because you can't changed the rules. We play by the rule book so that's...thank you.

COUNCIL PRESIDENT GAMBER – Thank you. Mr. Manson, we're back to you for a motion please.

COUNCILMAN MANSON – Well, I just want to make one last comment that no way as the influence of a possible lawsuit affecting any decision I'm going to make. I'm going to make it just based on how I feel this should be done. So my intention is to still support this ordinance to overturn the preservation commission. So I'll move to bring it forward.

COUNCILMAN MANSON moved to bring Resolution No. 19 – 2012 forward, seconded by Councilman Townsend.

COUNCIL PRESIDENT GAMBER – If I can once we started to vote but again as Mr. Manson mentioned earlier a yes vote reverses the decision, a no vote upholds the decisions.

RESOLUTION NO. 19 – 2012 WAS PASSED BY A ROLL CALL VOTE OF 6 YES, 3 NO. LEWIS, SCASSA AND TOWNSEND VOTED NO.

COUNCIL PRESIDENT GAMBER – Thank you, the resolution has passed therefore the decision of the preservation commission has been reversed.

15. SECOND READING ORDINANCES AND RESOLUTIONS

ORDINANCE NO. 120 - 2012

BY: FINANCE COMMITTEE

Authorizing the Director of Public Service and Safety and the Mayor of the City of Massillon, Ohio, to enter into a three-year contract with the Board of Trustees of Local Organized Governments in Cooperation (LOGIC) for police and fire dispatching services with the

Regional Emergency Dispatch for the Massillon Police and Fire Department, and declaring an emergency.

COUNCIL PRESIDENT GAMBER – Mr. Peters?

COUNCILMAN PETERS – Thank you, Mr. President. In short this is to renew our contract with the Red Center for police and fire dispatching. This is the second reading but we've discussed it there wasn't any questions at the last work session other than one part was left out. The original for the fire department but we put that in and it reverted back to first reading. So really this is like the third reading but its not. If there aren't any questions I'm going to move that we bring this forward for a vote.

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

The rules were suspended by a roll call vote of 9 yes.

ORDINANCE NO. 120 – 2012 WAS PASSED BY A ROLL CALL VOTE OF 9 YES.

16. NEW AND MISCELLANEOUS BUSINESS

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

18. ADJOURNMENT

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

MARY BETH BAILEY, CLERK,

GLENN E. GAMBER, PRESIDENT

