

**MINUTES OF THE REGULAR MEETING
MASSILLON CITY COUNCIL
HELD, MONDAY, DECEMBER 17, 2012**

COUNCIL PRESIDENT GAMBER B I'd like to welcome all of you to Massillon City Council for Monday, December 17, 2012. We have a number of city officials with us this evening Mayor Catazaro-Perry, Safety Service Director Maier, Law Director Stergios, Pat Pentello and Debbie Bonk from the auditor's office, Budget Director Koher, 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

COUNCILWOMAN CUNNINGHAM-HEDDERLY B Gave the invocation for tonight.

3. PLEDGE OF ALLEGIANCE

COUNCILWOMAN CUNNINGHAM-HEDDERLY – Chairman of the Streets, Highways, Traffic & Safety 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

6. INTRODUCTION OF ORDINANCES AND RESOLUTIONS

ORDINANCE NO. 140 - 2012

BY: ENVIRONMENTAL COMMITTEE

Repealing certain Subsections of CHAPTER 925 “SEWERS GENERALLY” of the Codified Ordinances of the City of Massillon, Ohio, and enacting new Subsections to such Chapter, and declaring an emergency.

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COUNCIL PRESIDENT GAMBER – Mr. Lewis?

COUNCILMAN LEWIS – First reading.

ORDINANCE NO. 140 – 2012 WAS GIVEN FIRST READING.

ORDINANCE NO. 141 - 2012
COMMITTEE

BY: RULES, COURTS AND CIVIL SERVICE

Authorizing the Director of Law of the City of Massillon, Ohio, to renew a one year contract with the Stark County Public Defendant's Office, for the purpose of providing representation for indigent defendants charged under City Ordinances, and declaring an emergency.

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COUNCIL PRESIDENT GAMBER – Ms. Scassa?

COUNCILWOMAN SCASSA – Thank you, Mr. President. This ordinance is simply renewing a contract with the County Public Defenders Office for the public defenders office to provide representation to indigent defendants in our courts. This is instead of appointing private counsel and the contract is set to begin January 1, 2013. No one had any issues with it at the work session so due to the contract hopefully starting in the next week or so I will be bringing this forward for its passage tonight unless anyone has any questions or issues with it tonight.

COUNCILWOMAN SCASSA 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. 141 – 2012 WAS PASSED BY A ROLL CALL VOTE OF 9 YES.

ORDINANCE NO. 142 - 2012

BY: FINANCE COMMITTEE

Making certain appropriations from the unappropriated balance of the 1410 16th Street Project Fund, 2105 Stormwater Utility Fund, 1482 OPWC Project Fund, Muni Motor Vehicle Fund, Solid Waste Fund, General Fund and the Museum Fund, for the year ending December 31, 2012, and declaring an emergency.

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COUNCIL PRESIDENT GAMBER – This ordinance and the rest of them tonight are all from the finance committee so Mr. Peters from here on when the clerk reads the title when she's finished just jump in. We'll call on you for Ordinance No. 142.

COUNCILMAN PETERS – I'm good at jumping in. Okay, this first ordinance has seven (7) sections. I'm going to try and go as fast as I can. First section, hereby appropriate from the unappropriated balance of the 1410 16th Street Project Fund for the year ending December 31, 2012 and to shorten this up all these are for the year ending December 31, 2012 so I'm not going to read that anymore either. The amount \$17,641.79 to an account entitled 1st Street NE Improvement Project. Section 2, appropriate from the unappropriated balance of the 2105 Stormwater Utility Fund \$9,588.35 to an account entitled 1st Street NE Improvement Project. Section 3 appropriate from the unappropriated balance of the 1482 OPWC Project Fund for \$63,536.98 to an account entitled 1st Street NE Improvement Project. Section 4, appropriate from the unappropriated balance of the Muni Motor Vehicle Fund \$34,900 to an account entitled Services and Materials. Section 5, appropriate from the unappropriated balance of the Solid Waste Department Fund \$16,000 to an account entitled Landfill, \$6,000 to an account entitled Services and Contracts, \$3,202 to an account entitled Unemployment, \$3,000 to an account entitled Supplies, Materials, Postage. Section 6 appropriate from the unappropriated balance of the General Fund \$3,500 to an account entitled Special Events Program. Section 7 appropriate from the unappropriated balance of the Museum Fund \$481.31 to an account entitled Massillon Museum Holding Account and \$65.06 to an account entitled Fees.

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

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. 142 – 2012 WAS PASSED BY A ROLL CALL VOTE OF 9 YES.

ORDINANCE NO. 143 - 2012

BY: FINANCE COMMITTEE

Reducing the appropriations in the Bond Retirement WWT Fund, Wastewater Treatment Fund, WIC Program Fund, Law Dept. Community Partnership Grant Fund and the State Patrol Transfer Fund, for the year ending December 31, 2012, and declaring an emergency.

COUNCILMAN PETERS – Thank you. This has five (5) sections; Section 1 hereby reduce the appropriations are hereby reduced in the Bond Retirement Wastewater Treatment Fund for the year ending December 31, 2012 as follows: \$190,580.70 to an account entitled Principle Design, \$5,514.15 from an account entitled Principle Upgrade, \$3,854.20 from an account entitled Interest Design, \$2,038.05 from an account entitled Fees, \$1,386.27 to an account entitled Interest Fothergill. Section 2 appropriations are hereby reduced in the Wastewater Treatment Fund \$100,000 from an account entitled Utilities. Section 3, the appropriations are hereby reduced in the WIC Program Fund \$2,911 from an account entitled Salary and Wages, \$2,822 from an account entitled PERS WIC, \$300.76 from an account entitled Medicare WIC, \$1,473.75 from an account entitled Utilities, \$25.00 from an account entitled Services and Contracts, \$3,144.06 from an account entitled Hospital, Eye, Dental, Life, \$665.14 from an account entitled Supplies and Materials. Section 4 appropriations are hereby reduced in the Law Department Community Partnership Grant Fund \$4,879.73 from an account entitled Salary Community Partnership, \$3,242.31 from an account entitled Hospitalization, \$31.15 from an account entitled Medicare. Section 5 appropriations are hereby reduced in the State Patrol Transfer Fund \$7,731.03 from an account entitled State Patrol Transfer Law Library, \$9,867.15 to an account entitled State Patrol Transfer to General Fund.

COUNCIL PRESIDENT GAMBER – Are there any questions on any of the figures?

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. 143 – 2012 WAS PASSED BY A ROLL CALL VOTE OF 9 YES.

ORDINANCE NO. 144 - 2012

BY: FINANCE COMMITTEE

Making certain transfers in the 2012 appropriations from within the General Fund, for the year ending December 31, 2012, and declaring an emergency.

COUNCILMAN PETERS – Thank you. This here has one (1) section its long I'm not going to read the account numbers I'm just going to read where they're being transferred from and the amount and then I'll read where they're transferred to and the amount and give you the totals. Travel - \$1,000.00, Services & Contracts - \$5,000.00, Supplies - \$14,000.00, Supplies, Materials. Postage - \$1,830.43, Transfer – Debt Retirement - \$6,662.95, Uniform Allowance - \$5,033.32, Uniform Allowance – Fire - \$3,400.00, Services & Contracts Police - \$2,000.00, Supplies/Materials Police - \$2,000.00, Salary – Health - \$2,000.00, Services/Contracts Law Director - \$1,766.00, PERS Auditor - \$1,645.33, Hospital/Eye Treasurer - \$1,400.00, Furtherance of Justice - \$1,000.00, Travel/Seminar – Engineer - \$1,000.00, Funeral Expense - \$500, Supplies/ Materials - \$500.00, Travel/Seminar Fire - \$379.25, Supplies/Materials Domestic Violence - \$225.00, PERS Building - \$217.99, Medicare Service Dept. - \$190.00,

Travel/Seminar Domestic Violence - \$187.00, Hospital/Eye Law Director - \$99.54, PERS Health - \$88.23, Medicare Auditor - \$60.00, Accrued Liab. Police - \$53.38, PERS Council - \$24.98, Medicare Mayor - \$14.01 for a total of \$52,332.91. To: Bailiff Salary - \$1,000.00, Bailiff Salary - \$5,000.00, Bailiff Salary - \$14,000.00, Insurance - \$1,830.43, Unemployment Fire - \$17,900.00, County Collection Fees - \$4,045.53, Unemployment Police - \$3,065.00, PERS Domestic Violence - \$1,918.72, Annexation Fees - \$1,626.46, Salary Law Director Staff - \$1,374.55, Medicare Law Director Staff - \$300.00, Medicare Domestic Violence - \$200.00, Medicare Council - \$31.00, PERS Service Dept. - \$20.63, PERS Mayor - \$20.59

COUNCIL PRESIDENT GAMBER – Do we have any questions?

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. 144 – 2012 WAS PASSED BY A ROLL CALL VOTE OF 9 YES.

ORDINANCE NO. 145 - 2012 **BY: FINANCE COMMITTEE**

Authorizing the Auditor of the City of Massillon to deposit the three-tenths percent (.3%) City Income Tax for the Parks and Recreation System into the “Parks and Recreation Operations Fund, “Parks and Recreation Debt Retirement Fund” and the “Parks and Recreation Capital Improvement Fund”, and declaring an emergency.

COUNCILMAN PETERS – Thank you. Two (2) sections well three (3) sections first section is hereby determined that it is necessary for the auditor for the City of Massillon to deposit a portion of the three tenths percent city income tax for the Parks and Rec. System into the Parks and Recreation Fund, Parks and Recreation Capital Improvement Fund, Parks and Recreation Bond Retirement Fund effective October 1, 2012 through December 31, 2012. The auditor of the City of Massillon is hereby authorized to deposit the following percentages into the following funds from the amounts collected from the income tax for the Parks and Rec. Department – 40% shall be deposited into the Parks and Rec. Operations Fund, 60% shall be deposited into Parks and Recreation Debt Retirement Fund and 0% shall be deposited into the Parks and Recreation Capital Improvement Fund.

COUNCIL PRESIDENT GAMBER – Do we have questions or comments on the ordinance?
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. 145 – 2012 WAS PASSED BY A ROLL CALL VOTE OF 9 YES.

ORDINANCE NO. 146 - 2012 **BY: FINANCE COMMITTEE**

Authorizing the Auditor of the City of Massillon to deposit the three-tenths percent (.3%) City Income Tax for the Parks and Recreation System into the “Parks and Recreation Operations Fund, “Parks and Recreation Debt Retirement Fund” and the “Parks and Recreation Capital Improvement Fund”, and declaring an emergency.

COUNCILMAN PETERS – Thank you. This ordinance here is kind of well not kind of it is the same as Ordinance No. 145 – 2012 with the exception in Section 2 the dates are different

this is for effective January 1, 2013 through December 31, 2013. The auditor of the City of Massillon is hereby authorized to deposit the following percentages into the following funds: 42.50% shall be deposited into the Parks and Recreation Operations Fund, 56.50% shall be deposited into the Parks and Recreation Debt Retirement Fund and 1% shall be deposited into the Parks and Recreation Capital Improvement Fund.

COUNCIL PRESIDENT GAMBER – Do we have questions on this ordinance? Mr. Slagle?

COUNCILMAN SLAGLE – Just a comment that this and the next one were approved by the Rec. Board at their next meeting by a majority vote. So they were discussed.

COUNCIL PRESIDENT GAMBER – Any other comments? 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. 146 – 2012 WAS PASSED BY A ROLL CALL VOTE OF 9 YES.

ORDINANCE NO. 147 - 2012 **BY: FINANCE COMMITTEE**

Repealing Ordinance No. 34 – 2012 and any other ordinances inconsistent with this ordinance, and authorizing and directing the Auditor of the City of Massillon as of January 1, 2013 to deposit funds received from golfing fees at The Legends of Massillon Golf Course into the Legends Fund and the Bond Retirement – Legends Fund, and declaring an emergency.

COUNCILMAN PETERS – Thank you. This has two (2) sections now therefore be ordained by the City Council of Massillon, Ohio, Ordinance No. 34 – 2012 and other ordinances inconsistent with this ordinance be and are hereby repealed. Section 2 the auditor of the City of Massillon is hereby authorized and directed as of January 1, 2013 to deposit funds from golfing fees at The Legends of Massillon Golf Course as follows: 97.25% of the monies received shall be deposited into The Legends Operating Fund and 2.75% of the monies received shall be deposited into the Bond Retirement Fund.

COUNCIL PRESIDENT GAMBER – Do we have any questions or discussion on these items?

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. 147 – 2012 WAS PASSED BY A ROLL CALL VOTE OF 9 YES.

ORDINANCE NO. 148 - 2012 **BY: FINANCE COMMITTEE**

Amending Ordinance No. 143 – 1976 by repealing Section 13 – “ALLOCATION OF FUNDS – INCOME TAX”, and enacting a new Section 13 “ALLOCATION OF FUNDS – INCOME TAX” and repealing Ordinance No. 92 – 2012, and declaring an emergency.

COUNCILMAN PETERS – Thank you. This two (2) sections Section 1 Ordinance No. 92 – 2012 be and is hereby repealed, Section 2 that there be and hereby is enacted a new section 13 Allocation of Funds – Income Tax of Ordinance No. 143 – 1976. Said new Section 13 shall read as follows: Section 13 Allocation of Funds effective January 1, 2013 the funds collected

under provisions of this ordinance shall be dispersed as follows: 98% shall be deposited in the General Fund and 2% shall be deposited in the said Income Tax Capital Improvement Fund and shall be used for capital improvements to defray operating expenses of the City including such part thereof as shall be necessary to defray all costs of administering and enforcing the provisions thereof. Section 2, capital improvements are all property, assets, machinery, equipment or improvements which the City is authorized by law to acquire, construct and maintain, including plans and studies thereof with an estimated life or usefulness of five (5) years or more, including land and interests therein, and including reconstructions; enlargements and extension thereof having an estimated life or usefulness of five (5) years or more provided, however, that the purchase of motorized equipment for the various city departments and the resurfacing and resealing of public streets, including "chip and seal" method, shall be deemed capital improvement without regard to estimated life or usefulness.

COUNCIL PRESIDENT GAMBER – Are there questions on Ordinance No. 148 - 2012? 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. 148 – 2012 WAS PASSED BY A ROLL CALL VOTE OF 9 YES.

ORDINANCE NO. 149 - 2012 **BY: FINANCE COMMITTEE**

Appropriating money for current expenses and other expenses of the City of Massillon, Ohio, for the fiscal year ending December 31, 2013, and declaring an emergency.

COUNCILMAN PETERS – Thank you. In short this is the budget I'll go down through every line and read the amounts for the whole budget so we have it on record I'm just kidding.

COUNCIL PRESIDENT GAMBER – You were about to be gaveled.

COUNCILMAN PETERS – We've gone over this and over this and I think we're all in agreement that we need to pass it for the betterment of Massillon. So if there aren't any questions I'm going to move that we pass it.

COUNCIL PRESIDENT GAMBER – Are there any questions on the budget?

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. 149 – 2012 WAS PASSED BY A ROLL CALL VOTE OF 9 YES.

ORDINANCE NO. 150 - 2012 **BY: FINANCE COMMITTEE**

To approve current replacement pages to the Massillon Codified Ordinances, and declaring an emergency.

COUNCILMAN PETERS – Thank you, Madame Clerk. This ordinance is just like she just said it's an ordinance to approve current replacement pages for our codified ordinances. We do this every year Ohio Constitution requires that Ohio municipal ordinances comply with state law they are an exercise of the municipalities police powers.

COUNCIL PRESIDENT GAMBER – Mr. Lewis?

COUNCILMAN LEWIS – Did we go over this at the work session?

COUNCILMAN PETERS – Yeah, you probably wasn't paying any attention.

COUNCILMAN LEWIS – Whatever reason it's not ringing a bell I just wanted to verify that. I guess you can go to someone else.

COUNCIL PRESIDENT GAMBER – You have a specific question?

COUNCILMAN LEWIS – I'm just not being familiar with it I don't know exactly what's in it or what we're referencing so I may refrain from voting yes simply out of the conscience of not exactly what I'd be voting yes for.

COUNCIL PRESIDENT GAMBER – Mr. Peters, do you have an answer? Do you want to call someone?

COUNCILMAN PETERS – Mr. Manson?

COUNCIL PRESIDENT GAMBER – Mr. Manson?

COUNCILMAN MANSON – It is what Mr. Peters said every year we have to put the new codes in the codified ordinances. So there's really no sense in not supporting it.

COUNCILMAN PETERS – Anything that we passed.

COUNCIL PRESIDENT GAMBER – Are there any other comments or questions? 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 8 yes, 1 no. Lewis voted no.

ORDINANCE NO. 150 – 2012 WAS PASSED BY A ROLL CALL VOTE OF 8 YES, 1 NO. LEWIS VOTED NO.

7. UNFINISHED BUSINESS

8. PETITIONS AND GENERAL COMMUNICATIONS

9. BILLS, ACCOUNTS AND CLAIMS

A). WALTER DRANE - \$4,240.12

COUNCIL PRESIDENT GAMBER – Mr. Peters?

COUNCILMAN PETERS – I'd like to make a motion that we pay the bill, seconded by Councilman Manson.

Roll call vote of 9 yes to pay the bill.

10. REPORTS FROM CITY OFFICIALS

A). TREASURER SUBMITS MONTHLY REPORT FOR NOVEMBER 2012 B COPY FILE.

COUNCIL PRESIDENT GAMBER – We do have one (1) report from city official that's the treasurer's monthly report that will be filed.

11. REPORTS OF COMMITTEES

COUNCIL PRESIDENT GAMBER – Regarding committee reports the next work session will be on Wednesday, January the 2nd due to the fact that the fifth Monday of this Monday is New Year’s Eve. That will be at 6pm on the 2nd prepping for the council meeting on January the 7th.

12. RESOLUTIONS AND REQUESTS OF COUNCIL MEMBERS

COUNCIL PRESIDENT GAMBER – Are there any report, request or resolution from anyone on council?

13. CALL OF THE CALENDAR

14. THIRD READING ORDINANCES AND RESOLUTIONS

15. SECOND READING ORDINANCES AND RESOLUTIONS

16. NEW AND MISCELLANEOUS BUSINESS

COUNCIL PRESIDENT GAMBER – Mrs. Halter?

COUNCILWOMAN HALTER – I would just like to thank Mr. Rink from the Independent for his being here at every meeting and writing all the nice things that he does about city council. We wish you good luck in your new job.

COUNCIL PRESIDENT GAMBER – I also have a bit of new business we have a Christmas card for our clerk Mary Beth Bailey. This is just a small token of appreciation for the very friendly but also professional and efficient way that she runs our office. She also makes gifts for each of us each Christmas so hopefully what’s in the envelop is more than what she put out for our gift. But we appreciate the effort you put into that every year.

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

18. ADJOURNMENT

COUNCILWOMAN CUNNINGHAM-HEDDERLY – I move that we adjourn, seconded by all.

MARY BETH BAILEY, CLERK,

GLENN E. GAMBER, PRESIDENT

