

**MINUTES OF THE REGULAR MEETING  
MASSILLON CITY COUNCIL  
HELD, TUESDAY, FEBRUARY 19, 2013**

**COUNCIL PRESIDENT TOWNSEND B** I'd like to welcome all of you to Massillon City Council for Tuesday, February 19, 2013. We have in attendance tonight Interim Safety Service Director Jim Johnson, Law Director Perry Stergios, Community Development Director Ted Herncane, Auditor Jayne Ferrero, and City Engineer Keith 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 to vibrate.

**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 and Larry Slagle.

Thus giving a roll call vote of 8 present.

**2. INVOCATION**

**COUNCILMAN PETERS B** Gave the invocation for tonight.

**3. PLEDGE OF ALLEGIANCE**

**COUNCILMAN PETERS** – Chairman of the Finance Committee led those in attendance in the Pledge of Allegiance.

**COUNCIL PRESIDENT TOWNSEND** – Before we get to the reading of the journal I would like to ask the gentleman in the back if he could quit smoking that electronic cigarette. We have young men in the audience who are from the Boy's Scout I just find that to be a little bit disrespectful.

**4. READING OF THE JOURNAL**

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

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

**COUNCIL PRESIDENT TOWNSEND** – In this part of the agenda where citizens may speak on a topic that appears on tonight's agenda. If you would like to speak on something please come to the microphone at this time and give your name and address and for the record the topic you want to discuss at this time.

**SCOTT GRABER** – 1218 Tremont Avenue SW, I will be brief. We all know I'm rising in favor of passage of Ordinance No. 12 – 2013 without further readings, suspending the rules. It's defective, its defective legislation on several levels. One of the basic concepts of contracts and agreements is that the people entering into the contract or agreement know the terms of the

contract or agreement. 151 implements language which reduces the waiting period for enrollment into the city paid health care plan by bargaining unit employees. I assume all employees since there's a me too clause here from six (6) months to as little as one (1) day. It's very clear from the minutes of the meeting of January 28th, 2013 which by the way is the five (5) year anniversary of passage of Ordinances 22 and 23 – 2008 on January 28th that advanced \$105,000 from an account called 1401 Income Tax Capital Improvements into a fund to pay past due sand and fertilizer bills for the Legends Golf Course.

**COUNCIL PRESIDENT TOWNSEND** – Mr. Graber, could you stick to Ordinance No. 12 please.

**SCOTT GRABER** – It's an anniversary date it's a five (5) year anniversary date. Also in a questionable called a notified meeting on January 28th 2008. In the meeting of 2013 January 28th Donnie Peters objected to a legislation request saying that he had no idea that the language that was proposed had been implemented or passed in any way. I'm going to quote from that date "Councilman Peters – I was well see I was correct me if I'm wrong and the mayor can correct me if I'm wrong was told that the ordinance what's that ordinance number the new one? That's this one I was told that and correct me if I'm wrong mayor that it was just to clean up the verbiage. Okay, well that's not cleaning up the verbiage that's changing the ordinance. Mayor Catazaro-Perry – You already passed this."

**COUNCIL PRESIDENT TOWNSEND** – Mr. Graber, Mr. Graber...

**SCOTT GRABER** – Yes sir?

**COUNCIL PRESIDENT TOWNSEND** – With all due respect what does that have to do with Ordinance No. 12 – 2013?

**SCOTT GRABER** – Defective. "No, Councilman Chovan said no we didn't pass this, we didn't pass this he's right." Now that refers to 151 – 2012 which this ordinance that's in front of you right now refers to changing the waiting period for the enrollment of employees. That being the case that the members did not know the ordinance they passed on December 27th 2012 changed this language and from reading the minutes of that meeting it's impossible to tell that that language was being amended at that point in time. There is no reference to it all the ordinances that are referenced in 151 – 2012 none of them refers to the language of enrollment they're all having to do with other matters. So it's very clear that this is defective on the basis that the people agreeing to it did not know what they were agreeing to. Now that's not the only fact that makes this legislation defective. It also was passed in a meeting that wasn't noticed properly to the public on December 27th, 2012. But here's the bottom line I want this council to pass this legislation tonight because many of them are running for office in a primary in May and then in November. I want anybody who's running against these people to be able to say and know that they're saying the truth. These people will allow themselves to be tricked into passing legislation that they don't even know contains. Then they will allow themselves to be forced to implement it. That's what I want council to do tonight please pass this, suspend the rules, pass on the second reading without further discussion. There's no need for debate. Thank you.

**COUNCIL PRESIDENT TOWNSEND** – Thank you. We are at item six (6) introduction of ordinances and resolutions.

## **6. INTRODUCTION OF ORDINANCES AND RESOLUTIONS**

**ORDINANCE NO. 15 - 2013**  
**COMMITTEE**

**BY: COMMUNITY DEVELOPMENT**

Authorizing the Massillon Historic Preservation Commission to designate six (6) city parks in the City's historic district as permitted by Chapter 1349 of the Codified Ordinances, and declaring an emergency.

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**COUNCIL PRESIDENT TOWNSEND** – Councilman Manson?

**COUNCILMAN MANSON** – Yes, thank you, Mr. Townsend. I intend to give this first reading but there were some and mainly because there were some questions that came up at last week's committee meeting. The law director is here if there's anybody that any questions that you'd like to address to him right now we could do that or you could give him your questions then he can answer them for us by the next committee meeting. I know one question that came up Mr. Stergios is are there any deed restrictions on any of these properties. So I would imagine that's something you need to look into for us.

**LAW DIRECTOR STERGIOS** – Yes, I don't we looked at other properties but I don't know if we looked at specific ones that was a couple of years ago.

**COUNCILMAN MANSON** – Okay, yeah Donnie is there anything you wanted to bring up? Cause the other night you had some questions on this.

**COUNCILMAN PETERS** – I'm sorry I was off somewhere else. But what did you just ask him?

**COUNCILMAN MANSON** – Well, I'm going to give this first reading. But I know the other night Milan had a question, you had a question that I remembered. This came up about the deed restrictions on these parks and the cemetery and stuff.

**COUNCILMAN PETERS** – And what was Mr. Stergios' answer?

**COUNCILMAN MANSON** – He said he's going to take a look at it.

**COUNCILMAN PETERS** – Okay.

**COUNCILMAN MANSON** – And get us any information.

**COUNCILMAN LEWIS** – Could we just ask Mr. Stergios to be at the next work session?

**COUNCILMAN MANSON** – Mr. Townsend, could you ask Mr. Stergios to please come up?

**COUNCIL PRESIDENT TOWNSEND** – Mr. Stergios, could you come up to the microphone, podium?

**LAW DIRECTOR STERGIOS** – Questions deed restrictions, Kendal Park, Kiddie Koral, North Sippo, South Sippo, Oak Knoll, Union Cemetery. Those to my recollection nobody asked me to check those before possibly Kendal and Kiddie Koral were checked a couple of years ago at the request of Mr. Muzi along with a different list. I do we found some restrictions for some properties that are not on this ordinance specifically one that we received from the school system and I think its Kiwanis Park. Part of that and some others these we'll have to check. I do not believe to pick an example Kendal Park I don't know if anyone can find the deed where the city actually received title. It was platted when the whatever the village of Kendal was incorporated into Massillon and it just sort of exist. Union Cemetery I recall it was very difficult to find anything to show how we even own it other than everybody says we've always owned it. But some of these we can check further but I don't restrictions really have nothing to do with designating them as historical as part of the historical district. I mean we own them. Whether we designate them or not is a slightly different animal in what the implications of that maybe in the future. So I can answer further questions.

**COUNCIL PRESIDENT TOWNSEND** – Are there anymore questions for Mr. Stergios?

**COUNCILMAN LEWIS** – I was just going to ask it might be beneficial if you could make it to the next work session in case during that discussion someone has a question or something and maybe you could double check on the restrictions that may or may not exist in the next week or

so.

**LAW DIRECTOR STERGIOS** – I doubt that you're going to have that I mean you're talking title searches back to the 1800's. I you know we can start paying people to run these titles if we want that answer. But that's really a very labor intensive process and a couple of these deeds I know we have somewhat available. But you know you're talking ancient history. I mean I'll come to the work session but I don't think I'll have the titles run by then. I don't know if there's a need to run the titles we're not selling anything.

**COUNCILMAN LEWIS** – We're just designating.

**LAW DIRECTOR STERGIOS** – We're just designating so...

**COUNCIL PRESIDENT TOWNSEND** – Councilwoman Scassa?

**COUNCILWOMAN SCASSA** – The deed restrictions I brought it up based on a couple of years ago when the parks department was examining whether or not to sell off some parks. I think that's when I had referenced that there were some issues with deeds of these parks that have just existed forever like you mentioned. We don't have a deed with that's where I had mentioned that there maybe some deed restrictions when it was brought up what if on the results of the audit they tell us we need to sell some parks. So that's where I had mentioned that so I guess that's one component. The second component is when Jeff Day was here at the work session who's the chairman of the historic preservation commission. He was trying to explain and you being the law director might be able to expound he was trying to explain that giving this designation doesn't necessarily preclude this land from being sold it just adds more safe guards to whoever buys it from developing or putting certain buildings or doing certain things to this land. So I don't know if you can explain that a little bit better but that's where the deed restrictions that's where I brought up from what I recalled a couple of years ago from the research that was done. Then what Jeff was trying to explain at the work session.

**LAW DIRECTOR STERGIOS** – Well I called Jeff last week to discuss it with him just as to his input as he's chairman of the commission. That's basically what he said and I agree if bad example but look at Walgreens. We didn't own Walgreens but they're in the historic district and they had to comply with certain requirements from the preservation commission to do the project they wanted to do. The commission denied their application; council overruled the commission and let them go forward. If we designate Kiddie Koral as part of the historic district the same process would happen. Joe developer buys Kiddie Koral well it's subject to the historic district designation and if he want to put condos on Kiddie Koral he has to go to the preservation commission and get a permit for approval of whatever construction he wants. If they grant it then it goes forward, if they do not grant it then he can appeal to council and council can either give him the go ahead or deny it. It's really it's the same thing except we own the property and if we wanted to do something I didn't analyze that aspect of it. But arguably the city couldn't just go build a parking deck at Kiddie Koral because we gave it this historic designation. That's sort of a convoluted way but I think the possibility is there but that's not really our purpose. So what Jeff said is its more protection for the neighborhood and the historical aspects of these various parks and probably he didn't say this but it may depending on who you are it may dilute the value if we wanted to sell it anyhow. It just depends if it's on the market and many factors that are out of our control. So...

**COUNCIL PRESIDENT TOWNSEND** – Any more questions. Thank you.

**LAW DIRECTOR STERGIOS** – Thank you, Mr. President.

**COUNCIL PRESIDENT TOWNSEND** – Councilman Manson, you still have the floor.

**COUNCILMAN MANSON** – Okay, Monday night at committee meeting Margy Vogt's going to come in and discuss these parks a little more in depth. We'll give it first reading.

ORDINANCE NO. 15 – 2013 WAS GIVEN FIRST READING.

**ORDINANCE NO. 16 - 2013**

**BY: ENVIRONMENTAL COMMITTEE**

Authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to prepare specifications and to advertise for and receive sealed bids and enter into a contract, upon award and approval of the Board of Control, with the lowest and best bidder for sewer sludge removal and disposal at the Wastewater Treatment Plant in the City of Massillon, and declaring an emergency.

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**COUNCIL PRESIDENT TOWNSEND** – Councilman Lewis?

**COUNCILMAN LEWIS** – Yes, this is a piece of legislation that we did look over at the last work session. It didn't have a whole lot of questions pertaining to it. It's very similar to the one that we just passed a couple of weeks ago that had to deal with a different waste product, byproduct that is collected down at the Wastewater Treatment Center. This is the sludge removal they're just looking for the best bidder so that they can get the best price and make it as efficient as possible in getting rid of the sludge. Do I have any questions pertaining to this legislation that needs to be discussed this evening? Seeing no questions then I make a motion to that we suspend the rules requiring three readings and bring Ordinance No. 16 – 2013 forward for a vote.

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

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

ORDINANCE NO. 16 – 2013 WAS PASSED BY A ROLL CALL VOTE FOR 8 YES.

**ORDINANCE NO. 17 - 2013**

**BY: ENVIRONMENTAL COMMITTEE**

Authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to enter into a Mutual Agreement for technical assistance between the City of Massillon, Ohio and Stark County Ohio Soil and Water Conservation District, and declaring an emergency.

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**COUNCIL PRESIDENT TOWNSEND** – Councilman Lewis?

**COUNCILMAN LEWIS** – Yes, again this is legislation that we discussed at the last work session. This is a contract that we do with the district every year. It's in relation to the service that we provide. There wasn't a whole lot of questions at the work session so I again open it up are there any questions or discussions you can bring up the city engineer if you'd like before we move forward this evening. Seeing none then I would move that we suspend the rules requiring three readings and bring Ordinance No. 17 – 2013 forward for a vote.

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

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

ORDINANCE NO. 17 – 2013 WAS PASSED BY A ROLL CALL VOTE FOR 8 YES.

**ORDINANCE NO. 18 - 2013**

**BY: STREETS, HIGHWAYS, TRAFFIC & SAFETY**

Authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to advertise for and receive sealed bids and enter into a contract, upon award and approval of the Board of Control, with the lowest and best bidder for the Lincoln Way (SR 172) Catch Basin Replacement Project in the City of Massillon, and declaring an emergency.

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**COUNCIL PRESIDENT TOWNSEND** – Councilman Peters?

**COUNCILMAN PETERS** – Yes, Mr. Townsend. This ordinance just like the clerk read determines it to be necessary in the public health and safety and welfare to advertise for and receive sealed bids and enter into a contract upon the award and approval of the Board of Control with the lowest and best bidder for the Lincoln Way (SR 172) Catch Basin Replacement Project in the City of Massillon. If there's any question the engineer is here and we can bring him up. Seeing none I'm going to make a motion that we waive the rule requiring three separate readings and bring Ordinance No. 18 – 2013 forward for passage.

COUNCILMAN PETERS moved for suspension of the rules and passage, seconded by Councilwoman Cunningham-Hedderly.

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

ORDINANCE NO. 18 – 2013 WAS PASSED BY A ROLL CALL VOTE FOR 8 YES.

**ORDINANCE NO. 19 - 2013**                      **BY: FINANCE COMMITTEE**

Making certain appropriations from the unappropriated balance of the 1406 Wastewater Treatment Capital Improvement Fund and the 2105 Stormwater Utility Fund, for the year ending December 31, 2013, and declaring an emergency.

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**COUNCIL PRESIDENT TOWNSEND** – Councilman Peters?

**COUNCILMAN PETERS** – Thank you, Mr. President. This ordinance has two sections. Section 1, appropriate from the unappropriated balance of the 1406 Wastewater Treatment Capital Improvement Fund for the year ending December 31, 2013 the following: \$18,250 to an account entitled Capital Supplies and \$18,242 to an account entitled Capital Supplies. Did I read that right? Yes. Section 2, appropriate from the unappropriated balance of the 2105 Stormwater Utility Fund \$3,500 to an account entitled Contracted Services.

**COUNCIL PRESIDENT TOWNSEND** – Are there any questions? Your motion Mr. Peters?

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

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

ORDINANCE NO. 19 – 2013 WAS PASSED BY A ROLL CALL VOTE FOR 8 YES.

**ORDINANCE NO. 20 - 2013**                      **BY: FINANCE COMMITTEE**

Reducing the appropriations in the Massillon Museum Fund, for the year ending December 31, 2013, and declaring an emergency.

**COUNCIL PRESIDENT TOWNSEND** – Councilman Peters?

**COUNCILMAN PETERS** – Thank you, Mr. President. The appropriations are hereby reduced in the Massillon Museum Fund, for the year ending December 31, 2013 as follows: \$213.44 from an account entitled Massillon Museum Holding Account.

**COUNCIL PRESIDENT TOWNSEND** – Are there any questions? Councilman Slagle is that a question or a motion?

**COUNCILMAN SLAGLE** – I just have it was a raised issue by someone on the museum board and I clarified with the auditor that this was because of the reduced reduction in the real estate taxes so the certificate had to be dropped accordingly. So its not a it looks like its taking money away from the museum but its not.

**COUNCIL PRESIDENT TOWNSEND** – You still have the floor Mr. Peters? Your motion.

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.

ORDINANCE NO. 20 – 2013 WAS PASSED BY A ROLL CALL VOTE FOR 8 YES.

**RESOLUTION NO. 4 - 2013**                      **BY: HEALTH, WELFARE AND BUILDING REGULATIONS**

To enter into an agreement with the City of Canal Fulton, Ohio for the enforcement of the Residential Code of Ohio, within said city.

**COUNCIL PRESIDENT TOWNSEND** – Councilwoman Halter?

**COUNCILWOMAN HALTER** – Thank you, Mr. President. This is a resolution it's a companion piece to the ordinance that we passed earlier regarding taking over the building selling of building permits and also inspections of buildings in Canal Fulton. We talked about it Monday night I see Mr. Kraft is here this evening if any of you would have a question. This particular resolution is just saying to the state that we will enforce these and accept and approve plans and specifications and make inspections in accordance with Residential Code of Ohio. If you have any questions I'd be happy to call up Mr. Kraft.

**COUNCIL PRESIDENT TOWNSEND** – Do you have a question for Mr. Kraft?

**COUNCILWOMAN SCASSA** – My question is actually for the law director.

**COUNCIL PRESIDENT TOWNSEND** – Mr. Stergios, could you come up? Can we also note that Mr. Kraft the building superintendent is with us now?

**COUNCILWOMAN SCASSA** – Thank you, Mr. Stergios. I guess just real quick looking over the contract and I know we've entered into this agreement before but under five (5) where it states the City of Canal Fulton hereby holds to the City of Massillon harmless from all claims and causes of action of every kind in nature arising from the acts of the City of Massillon, its agents or employees or representatives. And the administration and enforcement of the Residential Code of Ohio within the limits of the City of Canal Fulton. So I guess I just wanted to make clear that that's exactly as it states in the sense of...

**LAW DIRECTOR STERGIOS** – Yes, absolutely.

**COUNCILWOMAN SCASSA** – Okay, so I mean if one of our agents would deny a permit or you know approve it and another party has an issue our agents are not going to be or I guess the city is not going to be on the hook for any type of litigation involving that. Is that fair to say?

**LAW DIRECTOR STERGIOS** – Under this that's fair to say yes. We still might get drugged in but Canal Fulton would have to indemnify us and so forth. But...

**COUNCILWOMAN SCASSA** – Okay, so we won't have to pay any legal bills I guess for...

**LAW DIRECTOR STERGIOS** – Let's hope. That's the intent of it.

**COUNCILWOMAN SCASSA** – Okay, well in reading that that’s what I just wanted to make sure since it is our agents or code enforcement or whatever you want to call them that will be issuing these permits or potentially denying the permits.

**LAW DIRECTOR STERGIOS** – Correct.

**COUNCILWOMAN SCASSA** – Okay, that was my only question.

**LAW DIRECTOR STERGIOS** – Okay. Thank you.

**COUNCILWOMAN HALTER** – Any other questions? Thank you, Mr. Stergios.

**COUNCIL PRESIDENT TOWNSEND** – Your motion?

COUNCILWOMAN HALTER moved for suspension of the rules and passage, seconded by Councilwoman Scassa.

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

RESOLUTION NO. 4 – 2013 WAS PASSED BY A ROLL CALL VOTE FOR 8 YES.

**RESOLUTION NO. 5 - 2013**  
**REGULATIONS**

**BY: HEALTH, WELFARE AND BUILDING**

To enter into an agreement with the City of Canal Fulton, Ohio for the enforcement of the Ohio State Building Codes.

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**COUNCIL PRESIDENT TOWNSEND** – Councilwoman Halter?

**COUNCILWOMAN HALTER** – Thank you, Mr. President. This again is another resolution similar to the last one however this is for the enforcement of Ohio State Building Codes. So this is a little different but it’s basically the same contract. Are there any questions?

**COUNCIL PRESIDENT TOWNSEND** – Are there any questions? Your motion?

COUNCILWOMAN HALTER moved for suspension of the rules and passage, seconded by Councilwoman Scassa.

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

RESOLUTION NO. 5 – 2013 WAS PASSED BY A ROLL CALL VOTE FOR 8 YES.

**7. UNFINISHED BUSINESS**

**8. PETITIONS AND GENERAL COMMUNICATIONS**

**9. BILLS, ACCOUNTS AND CLAIMS**

- A. REPOSITORY - \$346.80
- B. ENGRAVERS GALLERY - \$48.00

**COUNCIL PRESIDENT TOWNSEND** – Thank you.

**COUNCILMAN PETERS** – I’d like to make a motion that we pay the bills.

**COUNCIL PRESIDENT TOWNSEND** – Thank you, Mr. Peters. Seconded by Councilman Slagle.

Roll call vote of 8 yes to pay the bills.

**COUNCIL PRESIDENT TOWNSEND** – Thank you and the clerk will pay the bills.  
Thank you.

## **10. REPORTS FROM CITY OFFICIALS**

### **11. REPORTS OF COMMITTEES**

**COUNCIL PRESIDENT TOWNSEND** – Are there any reports of committees or resolutions or request of council members? Mr. Peters?

**COUNCILMAN PETERS** – Thank you, Mr. President. At this time as council pro tem councilman pro tem I'd like to make a motion on from the floor or on the floor whatever to make a committee change. We discussed it briefly at Monday's work session. So I'm making a motion from the floor to put Mr. Lewis on the community development committee and take him off the rules and courts committee. And that is my motion.

**COUNCIL PRESIDENT TOWNSEND** – It is your motion. Do we have a second? Seconded by Councilman Chovan.

Roll call vote of 8 yes for the changes to the committee and chairman list.

### **12. RESOLUTIONS AND REQUESTS OF COUNCIL MEMBERS**

**COUNCIL PRESIDENT TOWNSEND** – Anything else Mr. Peters? (Nope) Councilman Lewis?

**COUNCILMAN LEWIS** – Yes, if I could please call interim safety service director up its in reference to something we discussed at the last work session. At last work session we had Mr. Purtz from Aqua Ohio come and we had discussed the water rates and the adjustments that he is going to be putting forth to this body. But during that discussion it was also brought up the possibility of how they've done the billing for sewer in other communities and that might be an option we would be interested in looking into. In order to do so we need a better idea of what the billing aspect actually costs the city. So I was wondering if the administration could develop that like what personnel involved, how much it costs for us to mail it out. Things along those so we can get that bottom line per year or monthly and if we could have it by the 11th of March at that work session. That way we have something to compare against cause obviously if it's not very fiscally responsible we don't want to go that route. We need a base to work from.

**INTERIM SAFETY SERVICE DIRECTOR JOHNSON** – Well, we'll explore that for you and get back to you with this issue here I don't see why we can't. But...

**COUNCILMAN LEWIS** – Just so we know how much it costs basically. Because we really need to know where we're working from. (Okay) Thank you.

**COUNCIL PRESIDENT TOWNSEND** – Anything else, Councilman Lewis?

**COUNCILMAN LEWIS** – No, that will be it.

**COUNCIL PRESIDENT TOWNSEND** – Thank you.

### **13. CALL OF THE CALENDAR**

### **14. THIRD READING ORDINANCES AND RESOLUTIONS**

### **15. SECOND READING ORDINANCES AND RESOLUTIONS**

#### **ORDINANCE NO. 12 - 2013** **COMMITTEE**

#### **BY: RULES, COURTS AND CIVIL SERVICE**

Amending Ordinance No. 3 – 2010 and all other ordinances inconsistent therewith by repealing Section 8, paragraphs (f)(1) and (f)(6), and enacting new Section 8, paragraphs (f)(1) and (f)(6),

and declaring an emergency.

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**COUNCIL PRESIDENT TOWNSEND** – Councilwoman Scassa?

**COUNCILWOMAN SCASSA** – I'd like to call up the law director please. Thank you, Mr. Stergios; I have some questions for you so I'm going to start off first and foremost Ordinance No. 151. Can you enlighten us as to and I just want to get this taken care of. Was the public notified for that meeting that you're aware of?

**LAW DIRECTOR STERGIOS** – According to the records that were produced by Ken Koher the notice of special meeting was faxed to the repository and there's a facsimile history report that shows it was sent to them 12:52pm on December 24th of 2012. The result was that the fax went through. I believe one was also faxed or emailed to Matt Rink at the Independent but I am told and I have no knowledge of this that he was on vacation that week. I also have copies of the notices that were delivered to all of you of the special meeting and some were left at your residence, some you signed for. But I think that's all been provided and it looks to me based on what I've seen notice was properly given of the meeting.

**COUNCILWOMAN SCASSA** – Okay, so the request that went out for public records were answers were supplied. (Yes) Since that seemed to come up tonight. (Yes) Okay and then speaking about 151 as that is in section 1 of Ordinance No. 12 – 2012 I guess can you just clarify we read it we talked about it at the last work session but just so there's no confusion for the record did 151 have to do with the date of eligibility?

**LAW DIRECTOR STERGIOS** – No, it did not.

**COUNCILWOMAN SCASSA** – Okay, can you I guess explain...?

**LAW DIRECTOR STERGIOS** – Give you a history lesson?

**COUNCILWOMAN SCASSA** – Well, we talked about it I guess maybe just a very short history lesson while you're here tonight.

**LAW DIRECTOR STERGIOS** – Yes, short. Ordinance No. 185 – 2006 passed and entered into a contract which we forget about that aspect but it is the health insurance provision that's shown under Article XVII of what we provide people who aren't under union contracts. That thing has never been changed, renewed we've just kept following it. That's another debate. So then we get to Ordinance No. 9 – 2012 in February of last year about a year ago we amended the 2006 ordinance and put in language that employees can shall contribute 15% of the monthly cost of health insurance coverage. So that covered the non bargaining unit people that's February 6th of 12. So then in December we started this new health care plan committee and with 135 – 2012 amended that language but I guess by oversight of all of us we left in that the employees pay 15% of the monthly cost and then we put in the calculation of what they paid. So it was conflicting and that wasn't your intent. Go ahead.

**COUNCILWOMAN SCASSA** – And if I can stop you again I tried to explain this at the last work session but Ordinance No. 135 – 2012 the first section of that states that this new subsection having the 54.17 was inserted. (Yes) And that's where the confusion came about and why 151 was then brought forward to say that the other sections were deleted and that this was replaced. (Right) Okay, so again I guess to clear up any confusion was the date of eligibility in your opinion in your legal opinion ever addressed in 135, 151 or 9 from last year? (No) Okay.

**LAW DIRECTOR STERGIOS** – It's always been six (6) months for everybody but the courts and the clerk's office.

**COUNCIL PRESIDENT TOWNSEND** – Councilman Peters?

**COUNCILMAN PETERS** – Thank you, Mr. President. I’ve got to get some things clear in my head too because I’m the one who started this whole mess. You know I made the comment the night of that meeting and of course you all hear it you know kind of I didn’t realize I said all of those things but... Anyways I brought up the fact that I was not aware that in the previous ordinance my issue and everybody knows my issue was the eligibility date. So that’s what was brought up in that 151 correct? In 151 we’re changing the eligibility date?

**LAW DIRECTOR STERGIOS** – In this one we’re changing we’re the eligibility date.

**COUNCILMAN PETERS** – It was it was somewhere on that 151.

**LAW DIRECTOR STERGIOS** – No.

**COUNCILWOMAN SCASSA** – Can I answer it Mr. President?

**COUNCIL PRESIDENT TOWNSEND** – Yes, yes.

**COUNCILWOMAN SCASSA** – Okay, 151 I don’t know if it confusion is coming about because on Ordinance No. 12 – 2013 section one (1) states the City of Massillon will provide health care insurance to eligible city employees who elect to participate in the health care insurance as outlined in the health care committee by-laws per Ordinance No. 151 – 2012. But if you look at 151 – 2012 what we voted on at the December 27th meeting...

**COUNCILMAN PETERS** – That was not in there.

**COUNCILWOMAN SCASSA** – Eligibility date was not in there.

**COUNCILMAN PETERS** – Okay and I still have the floor if if and that’s what happened the safety service director and the mayor called me the next day and apologized that that’s what they told me they had to change. It was not put in that ordinance and they clarified it right then that night they didn’t realize it wasn’t in that ordinance. Okay? And that’s why I spouted off about the eligibility date, okay. So and I you know I didn’t know any different until the next day. Okay, so and I just want to briefly respond to the gentleman that spoke even though he’s not still here. But you know I can’t remember every single meeting we get called to and every single council you know work session. I don’t have a you know a great memory with that stuff because we do so many things. That happened to be my birthday I probably should have remembered it. But you know I didn’t even remember the special meeting until Councilwoman Halter brought it to my attention that that’s when we had the meeting. You know so to say that we’re not prepared or known that not entering into contracts and so forth is just hog wash. You know as far as I’m concerned pass it tonight I don’t care. So I just want to say that we do our homework on all this stuff and I know I do or I try to but sometimes things get missed just like this date of eligibility. I was told it was on there and that’s why I was raising cane about it and it wasn’t even on there. So...

**LAW DIRECTOR STERGIOS** – Not to add to the confusion but I think reference was also made that the police and fire contracts we recently passed deleted the six (6) month waiting period and we were the administration was trying to make the rest of everybody consistent with what we just did with police and fire. That was also part of and somebody referenced that and you said it correctly there’s a lot of things to remember. But they’re trying to get it all the same I think. Not to speak for them but that’s what I’m told.

**COUNCIL PRESIDENT TOWNSEND** – Councilman Chovan?

**COUNCILMAN CHOVAN** – Did 151 was that where we voted to accept the police contract? That was not 151 correct?

**COUNCILWOMAN SCASSA** – No, no, no.

**COUNCILMAN CHOVAN** – Because when I brought that up to then Director Maier about those contracts the statement he made which I think is what you’re eluding to...

**LAW DIRECTOR STERGIOS** – Right.

**COUNCILMAN CHOVAN** – Is that by accepting those contracts we agreed to take the health care provision out of them and be handled separately by a committee that could then make those decisions you know without us being involved with them. And I that's what I heard that night when I asked that questions. So and that's what I didn't agree with because just because we have a health care committee that represents all of the employees now I didn't my understanding was not that by pulling that stuff by pulling the health care reference out to the contracts that that gave the administration the ability to go ahead and just change dates like this waiting period without discussing it with us first. That's pretty much what Director Maier led me to believe was the answer he gave me from that podium that night. So you know by taking the health care provisions out of the contracts and putting it strictly in the hands of the health care committee I'm guessing that's where this whole thing came about where they want to change the dates of eligibility.

**COUNCIL PRESIDENT TOWNSEND** – Councilwoman Scassa it's still your committee.

**COUNCILWOMAN SCASSA** – That's where I think a lot of the confusion came about. Not only that discussion about that contract but I think the contract with the health plan pertaining to this. Which we were never given to us.

**COUNCILMAN CHOVAN** – Right.

**COUNCILWOMAN SCASSA** – And I think no offence Councilman Peters but you had mentioned something about well you never read the contract and as I keep referencing that's when I think you shamed yourself and said shame on me. But we had never gotten that contract to read. So that's where I think that whole work session there was just some misstatements I don't think intentionally but I think there was just some confusion with the passage of these ordinances and whether it was included or wasn't included. But I guess that's why I wanted to clear that up tonight. I know I've mentioned prior that I we talked about amending it and then I mentioned about possibly passing it tonight. With all this I'm going to just give it first reading after I make my motion to amend so that way it can sink in. If anybody has any further questions I'm not trying to beat a dead horse with this but you know as we're striving to be more transparent I don't want the public to think you that we're trying to rush this through with any sort of ill intent. I think there was just a lot of confusion that was you know it happened and lets just try and...

**COUNCIL PRESIDENT TOWNSEND** – So are you going to first reading or you're taking it to third reading?

**COUNCILWOMAN SCASSA** – At this point I would like to make a motion to amend the language of section six (6) and this would be the language that we spoke about at the last work session for the second sentence of paragraph six (6) to read: all new employees who meet the eligibility requirements as established may elect to enroll in said insurance program on the first day of the month following 30 days from the date of hire. So I'd like to make a motion to amend.

**COUNCIL PRESIDENT TOWNSEND** – Okay, do I have a second? Seconded by Councilman Peters.

Roll call vote of 8 yes to amend Ordinance No. 12 – 2013 as described by Councilwoman Scassa.

ORDINANCE NO. 12 – 2013 HAS BEEN AMENDED.

**COUNCIL PRESIDENT TOWNSEND** – The amendment has passed and I do believe we still have to pass the ordinance no, you're going to first reading. Okay, first reading.

**COUNCILWOMAN SCASSA** – I'd just like to take it back to first reading.

**COUNCIL PRESIDENT TOWNSEND** – Okay, first reading.

ORDINANCE NO. 12 – 2013 WAS GIVEN FIRST READING.

**16. NEW AND MISCELLANEOUS BUSINESS**

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

**18. ADJOURNMENT**

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

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MARY BETH BAILEY, CLERK,

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TONY M. TOWNSEND, PRESIDENT



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