

**MINUTES OF THE REGULAR MEETING  
MASSILLON CITY COUNCIL  
HELD, MONDAY, NOVEMBER 4, 2013**

**COUNCIL PRESIDENT TOWNSEND B** I'd like to welcome all of you to Massillon City Council for Monday, November 4, 2013. We have in attendance this evening several city officials: Law Director Stergios, Auditor Ferrero, Debbie Bonk from the auditor's office, Safety Service Director Al Hennon, and a few other elected officials. 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 them off or down.

**1. ROLL CALL**

Roll call for the evening found the following Council Members present: Milan Chovan, Sarita Cunningham-Hedderly, Nancy Halter, Quenessa Hampton, Ed Lewis, Paul Manson, Donnie Peters, Andrea Scassa and Larry Slagle.

Thus giving a roll call vote of 9 present.

**2. INVOCATION**

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

**3. PLEDGE OF ALLEGIANCE**

**COUNCILMAN MANSON** – Chairman of the Community Development Committee led those in attendance in the Pledge of Allegiance.

**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** – We are now at item #5 this is the 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, address for the record and the topic you want to discuss at this time.

**6. INTRODUCTION OF ORDINANCES AND RESOLUTIONS**

**ORDINANCE NO. 129 - 2013**  
**COMMITTEE**

**BY: COMMUNITY DEVELOPMENT**

Amending Ordinance No. 117 – 2013 to include the date of termination of the Enterprise Zone Agreements for Cloverleaf Cold Storage, and declaring an emergency.

**COUNCIL PRESIDENT TOWNSEND** – Councilman Manson?

**COUNCILMAN MANSON** – Yes, this is this ordinance we passed an ordinance pertaining to this subject about a month ago. But there was a problem was with the dates that I guess when it went to Canton the auditor over there I believe pointed it out. So all we are doing is changing the dates to reflect the last day of the year. So having said that I don't think we want to slow down Fresh Marks purchase of Cold Storage so I intend to move this forward if there aren't any questions that we can't answer.

**COUNCIL PRESIDENT TOWNSEND** – Are there any questions? See none your motion?

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. 129 – 2013 WAS PASSED BY A ROLL CALL VOTE OF 9 YES.

**COUNCIL PRESIDENT TOWNSEND** – Ordinance No. 129 has passed.

**ORDINANCE NO. 130 - 2013**                      **BY: FINANCE COMMITTEE**

Making certain appropriations from the unappropriated balance of the General Fund, Fire Pension Fund, 1409 Municipal Road Fund, 2105 Stormwater Utility Fund, 1433 Capital Improvement Fund, 1206 Municipal Motor Vehicle License Plate Fund, 1414 Collection System Improvement Fund, 1482 OPWC Project Fund and the Insurance Fund, for the year ending December 21, 2013, and declaring an emergency.

**COUNCIL PRESIDENT TOWNSEND** – Councilman Peters?

**COUNCILMAN PETERS** – Thank you, Mr. President. There are nine sections to this I'll try and get through them as quickly as possible. If anyone has any questions please raise your hand to be recognized and we'll get the question answered after each section. Section 1, appropriate from the unappropriated balance of the General Fund for the year ending December 31, 2013 the following: \$45,000 to an account entitled Law Dept Staff Salary, \$5,000 to an account entitled Law Dept PERS, \$300,000 to an account entitled Police Salary, \$300,000 to an account entitled Fire Salary, \$150,000 to an account entitled Street Lighting. Section 2, appropriate from the unappropriated balance of the Fire Pension Fund \$48,359.98 to an account entitled Fire Pension. Section 3, appropriate from the unappropriated balance of the 1409 Municipal Road Fund, \$26,718.75 to an account entitled Lake Avenue NE Resurfacing Project. Section 4, appropriate from the unappropriated balance of the 2105 Stormwater Utility Fund \$15,237 to an account entitled Storm Sewer Repairs. Section 5, appropriate from the unappropriated balance of the 1433 Capital Improvement Fund \$11,570 to an account entitled Capital Improvement Expense. Section 6, appropriate from the unappropriated balance of the 1206 Municipal Motor Vehicle License Plate Fund, \$5,487 to an account entitled Street Repairs, \$3,155 to an account entitled Street Repairs. Section 7, appropriate from the unappropriated of the 1414 Collection System Improvement Fund \$5,083.81 to an account entitled Griffith Avenue SW Sanitary Sewer Project. Section 8, appropriate from the unappropriated balance of the 1482 OPWC Project Fund \$4,884.44 to an account entitled Griffith Avenue SW Sanitary Sewer Project. Section 9, appropriate from the unappropriated balance of the Insurance Fund \$1,660.51 to an account entitled Employee Insurance.

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. 130 – 2013 WAS PASSED BY A ROLL CALL VOTE OF 9 YES.

**COUNCIL PRESIDENT TOWNSEND** – Ordinance No. 130 has passed.

**ORDINANCE NO. 131 - 2013**

**BY: FINANCE COMMITTEE**

Making certain transfers in the 2013 appropriations from within the General Fund, for the year ending December 31, 2013, and declaring an emergency.

**COUNCIL PRESIDENT TOWNSEND** – Councilman Peters?

**COUNCILMAN PETERS** – Thank you, Mr. President, hereby is transferred from the 2013 appropriation from within the General Fund, for the year ending December 31, 2013 the following: from Income Tax Dept. Salary \$15,928.45 from Income Tax PERS \$2,230 to Safety Director Health Insurance \$2,224.42, to City Hall Utilities \$14,260, to Miscellaneous Expense Workers Comp. \$1,674.03.

**COUNCIL PRESIDENT TOWNSEND** – Alright, are there any questions for Mr. Peters? There are no questions what is your motion Councilman 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 9 yes.

ORDINANCE NO. 131 – 2013 WAS PASSED BY A ROLL CALL VOTE OF 9 YES.

**COUNCIL PRESIDENT TOWNSEND** – Ordinance No. 131 has passed.

**7. UNFINISHED BUSINESS**

**8. PETITIONS AND GENERAL COMMUNICATIONS**

**9. BILLS, ACCOUNTS AND CLAIMS**

**10. REPORTS FROM CITY OFFICIALS**

- A). AUDITOR SUBMITS MONTHLY REPORT FOR OCTOBER 2013 B COPY FILE.
- B). MAYOR’S APPOINTMENT TO BOARDS AND COMMISSIONS – COPY FILE

**COUNCIL PRESIDENT TOWNSEND** – Councilman Peters I need a motion to accept the auditor’s report?

**COUNCILMAN PETERS** – I’d like to make a motion that we accept the auditor’s report, seconded by Councilman Manson.

Roll call vote of 9 yes to accept the auditor’s report.

**COUNCIL PRESIDENT TOWNSEND** – Thank you Madame Clerk, also under the mayor’s appointments to boards and commissions we have an appointment to the historical preservation commission which requires a vote from city council. Mr. Peters?

**COUNCILMAN PETERS** – What?

**COUNCIL PRESIDENT TOWNSEND** – May I have a motion to accept the appointment to the historical preservation commission and the young lady that is being appointed is Mandy Pond. I don’t believe she’s here this evening, she’s not.

**COUNCILMAN PETERS** – I’d like to make a motion that we accept the mayor’s appointment

to the historical preservation committee. Seconded by Councilman Manson.

Roll call vote of 9 yes for the appointment to the Massillon Historical Preservation Committee.

**COUNCIL PRESIDENT TOWNSEND** – Thank you, Madame Clerk. Also would like to remind everyone our work session will be November 12th due to Veterans Day on the 11th so we will have our work session on the 12th. Do we have any other reports from city officials?

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

**COUNCIL PRESIDENT TOWNSEND** – Any reports of committees? Yes, Councilman Peters?

**COUNCILMAN PETERS** – Just do this while so council meeting on the 18th we will have another budget meeting at 6:30pm just for whether you know we'll just schedule one so we have it and its out there. Thank you.

**COUNCIL PRESIDENT TOWNSEND** – Thank you.

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

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

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

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

##### **ORDINANCE NO. 120 - 2013**

##### **BY: ENVIRONMENTAL COMMITTEE**

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 construction of a salt storage structure to be located at the Department of Public Works on Walnut Road SW, in the City of Massillon, and declaring an emergency.

**COUNCIL PRESIDENT TOWNSEND** – Councilman Lewis?

**COUNCILMAN LEWIS** – Yes, I've been in contact with the city engineer he will be at our next work session on the 12th of November and we will discuss these pieces both No. 120 and No. 121 at that time. Therefore I give Ordinance No. 120 – 2013 second reading.

ORDINANCE NO. 120 – 2013 WAS GIVEN SECOND READING.

**COUNCIL PRESIDENT TOWNSEND** – Thank you, Councilman Lewis.

##### **ORDINANCE NO. 121 - 2013**

##### **BY: ENVIRONMENTAL COMMITTEE**

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 Genshaft Park Sanitary Sewer Replacement Project in the City of Massillon, and declaring an emergency.

**COUNCIL PRESIDENT TOWNSEND** – Councilman Lewis?

**COUNCILMAN LEWIS** – Second reading.

ORDINANCE NO. 121 – 2013 WAS GIVEN SECOND READING.

**COUNCIL PRESIDENT TOWNSEND** – Second reading.

**ORDINANCE NO. 122 - 2013**  
**REGULATION COMMITTEE**

**BY: HEALTH, WELFARE & BLDG**

Enacting a new CHAPTER 751 “CHARITABLE DONATION CONTAINERS” of the Codified Ordinances of the City of Massillon, and declaring an emergency.

**COUNCIL PRESIDENT TOWNSEND** – Councilwoman Halter?

**COUNCILWOMAN HALTER** – Second reading.

ORDINANCE NO. 122 – 2013 WAS GIVEN SECOND READING.

**COUNCIL PRESIDENT TOWNSEND** – Second reading.

**ORDINANCE NO. 124 - 2013**

**BY: FINANCE COMMITTEE**

Repealing Ordinance No. 147 – 2012 and any other ordinances inconsistent with this ordinance, and authorizing and directing the Auditor of the City of Massillon as of January 1, 2014 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.

**COUNCIL PRESIDENT TOWNSEND** – Councilman Peters?

**COUNCILMAN PETERS** – Thank you, Mr. President. I was going to give this second reading but after some careful deliberation I decided to bring it forward tonight. This ordinance section 1, Ordinance No. 147 – 2012 and any 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, 2014 to deposit funds received 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 shall be deposited into the Bond Retirement Fund.

**COUNCIL PRESIDENT TOWNSEND** – Are there any questions? Your motion, Councilman 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 9 yes.

ORDINANCE NO. 124 – 2013 WAS PASSED BY A ROLL CALL VOTE OF 9 YES.

**COUNCIL PRESIDENT TOWNSEND** – Ordinance No. 124 has passed.

**ORDINANCE NO. 125 - 2013**

**BY: FINANCE COMMITTEE**

Authorizing the Auditor of the City of Massillon, Ohio, 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.

**COUNCIL PRESIDENT TOWNSEND** – Councilman Peters?

**COUNCILMAN PETERS** – Thank you, Mr. President. This ordinance section 1, is hereby determined that it is necessary for the Auditor of the City of Massillon to deposit a portion of the .3% city income tax for the Parks and Recreation System into the Parks and Recreation Fund, Parks and Recreation Capital Improvement Fund and the Parks and Recreation Bond Retirement Fund. Effective January 1, 2014 through December 31, 2014 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 Recreation Department 42.50% shall be deposited into the Parks and Recreation Operations 1234 fund, 56.50% shall be deposited into the Parks and Recreation Debt Retirement 1306 fund, 1% shall be deposited into the Parks and Recreation Capital Improvement 1433 fund. And that section 3 that Ordinance No. 146 – 2012 be and is hereby repealed as of December 31, 2013.

**COUNCIL PRESIDENT TOWNSEND** – You have a question Councilman Slagle?

**COUNCILMAN SLAGLE** – Well I just the rec. board did discuss both these ordinances both today and last week. So they understand it and in keeping with it although forewarn to the auditor I know that they have in their mind if they have a surplus at the end of the year they want that to go to the capital Improvement fund and I believe they passed a resolution to that effect tonight.

**COUNCIL PRESIDENT TOWNSEND** – Anymore question or statement? Councilman 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 9 yes.

ORDINANCE NO. 125 – 2013 WAS PASSED BY A ROLL CALL VOTE OF 9 YES.

**COUNCIL PRESIDENT TOWNSEND** – Ordinance No. 125 has passed.

**ORDINANCE NO. 126 - 2013**                      **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. 87 – 2013, and declaring an emergency.

**COUNCIL PRESIDENT TOWNSEND** – Councilman Peters?

**COUNCILMAN PETERS** – Thank you, Mr. President. I’d like to make a motion that we to amend Ordinance No. 126 – 2013.

**COUNCIL PRESIDENT TOWNSEND** – Okay, amend to what?

**COUNCILMAN PETERS** – Well do I need a second first or not?

**COUNCIL PRESIDENT TOWNSEND** – Tell us what you’re amending first.

**COUNCILMAN PETERS** – Okay, Section 13 Allocation of Funds (a) Section 1 it reads 99.50% shall be deposited in the General Fund and .50% shall be deposited in said Income Tax Capital Improvement Fund. I want to change that to 98% shall be deposited in the General Fund and 2% shall be deposited in said Income Tax Capital Improvement Fund.

**COUNCIL PRESIDENT TOWNSEND** – Okay, do you have a question Councilman Manson or are you second?

**COUNCILMAN MANSON** – No, second.

**COUNCIL PRESIDENT TOWNSEND** – Are there any questions or discussion on this or you guys had it already prior to the council meeting. Okay, well, seconded by Councilman Manson. Your motion?

**COUNCILMAN PETERS** – No, don't we got to vote on the to amend?

**COUNCIL PRESIDENT TOWNSEND** – Yes, lets do that.

Roll call vote of 9 yes to amend Ordinance No. 126 – 2013.

ORDINANCE NO. 126 – 2013 WAS AMENDED BY A ROLL CALL VOTE OF 9 YES.

**COUNCIL PRESIDENT TOWNSEND** – Okay, we're back at first reading. Councilman Peters?

**COUNCILMAN PETERS** – Well, I probably should read this ordinance before I bring it forward I guess because there's more than that one section that I amended. So I apologize. Okay, therefore be it ordained by the Council of the City of Massillon, State of Ohio, that section 1, Ordinance No. 87 - 2013 is hereby repealed. Section 2, that there be and hereby is enacted a new Section 13 AALLOCATION OF FUNDS - INCOME TAX@ of Ordinance No. 143 - 1976. Said new Section 13 shall read as follows: Effective January 1, 2014 the funds collected under the provision of this ordinance shall be disbursed as follows: Ninety-Eight percent (98.00%) shall be deposited in the General Fund and Two percent (2.00%) shall be deposited in said AIncome Tax Capital Improvements@ 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. (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 AChip and Seal@ method, shall be deemed Capital Improvement without regard to estimated life or usefulness.

**COUNCIL PRESIDENT TOWNSEND** – Okay, that's it?

**COUNCILMAN PETERS** – Yeah, now I'll make my 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 9 yes.

ORDINANCE NO. 125 – 2013 WAS PASSED BY A ROLL CALL VOTE OF 9 YES.

**COUNCIL PRESIDENT TOWNSEND** – Ordinance No. 125 has passed.

**ORDINANCE NO. 128 - 2013**  
**COMMITTEE**

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

Amending CHAPTER 121 "COUNCIL" of the Codified Ordinances of the City of Massillon, by enacting a new Section 121.02(q) Rule 64 "Who Admitted Within Bar".

**COUNCIL PRESIDENT TOWNSEND** – Councilwoman Scassa?

**COUNCILWOMAN SCASSA** – Thank you, I believe there was talk about giving this second reading although...

**COUNCILMAN CHOVAN** – Yeah, second reading.

**COUNCILWOMAN SCASSA** – Okay, second reading.

ORDINANCE NO. 128 – 2013 WAS GIVEN SECOND READING.

**COUNCIL PRESIDENT TOWNSEND** – Second reading.

## **16. NEW AND MISCELLANEOUS BUSINESS**

**COUNCIL PRESIDENT TOWNSEND** – Okay, do we have any new or miscellaneous business prior to me going to Councilman Manson? Councilman Lewis?

**COUNCILMAN LEWIS** – Not seeing an opportunity before this I just wanted to state on the record I wanted to thank the mayor, her administration anyways and I wanted to thank the street department because you guys have heard me for the last six weeks complain about Castlewest. I was up there this weekend and they did lay some asphalt. It doesn't fix the problem it still needs probably a complete repair but at least it is a little bit easier to drive on for the folks in that neighborhood. That's all I wanted to say.

**COUNCIL PRESIDENT TOWNSEND** – Thank you, that's a compliment to the street department and Mr. Berens is in the rear of the council meeting. Councilman Peters, you have a question?

**COUNCILMAN PETERS** – Yeah, all joking aside I mean is there something the matter with the heat? I mean I just said it was comfortable but my nose is starting to run now. I mean is there something the matter with it?

**COUNCIL PRESIDENT TOWNSEND** – Yeah, we were talking about it earlier Honeywell has to come out and fix that. We don't have someone in house to fix it.

**COUNCILMAN PETERS** – I make a motion that we fix it before the next meeting.

**COUNCIL PRESIDENT TOWNSEND** – Yeah, I agree. Okay, I would like to recognize Councilman Paul Manson under the new and miscellaneous business.

**COUNCILMAN MANSON** – Okay, Mr. President, before I make my motion here to go to executive session do you think it would be out of order for us to go to 17 so if there are people that want to make comments then they won't have to stay they can leave in case we get tied up for a little while.

**COUNCIL PRESIDENT TOWNSEND** – Yeah, that's an excellent idea, excellent idea.

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

**COUNCIL PRESIDENT TOWNSEND** – We're going to move to item 17 this is the part of the agenda if you'd like to speak on a topic that is not on the agenda please come to the microphone and give your name and address and the topic you wish to discuss.

**JIM HUEBLER** – I live at 55 6th Street SE here in Massillon. I wanted to ask the council if it would please consider joining some other Ohio communities including Cincinnati, Dayton, Akron, Canton, Youngstown and Cleveland in passing a resolution regarding the stand your ground provisions that are being proposed in changes to Ohio's concealed carry law. I've been collecting copies of the various other resolutions that councils have passed. I've got Canton, Akron and Youngstown so far and I'm trying to get the rest of them. I'd be happy to either give you what I have now just so you can make copies of it or just email everybody these so that they

can take a look at them to see what these communities are doing.

**COUNCIL PRESIDENT TOWNSEND** – Yeah, I think Mr. Huebner if you email it to each council member and the council clerk or email it to her and she'll make sure that all the council members receive those resolutions.

**JIM HUEBLER** – Okay, okay, thank you. I also want to say I heard rumor that this arrangement of the seats may change and I want you to know that I'm really looking forward to it. I'd like to see you guys facing us so we can hear you speak.

**COUNCIL PRESIDENT TOWNSEND** – Mr. Huebner, I don't think they're being changed to that setting but stay tuned. Okay, Councilman Manson?

**COUNCILMAN MANSON** – Yes, I'd like to move that we go to executive session to discuss pending litigation for sale/purchase of property.

**COUNCIL PRESIDENT TOWNSEND** – And who would you like to attend the executive session?

**COUNCILMAN MANSON** – I would like all the council people, the law director, safety service director and the auditor and the deputy. Is there anybody else you can think of that we missed? Do we need a vote on that or?

**LAW DIRECTOR STERGIOS** – You have to vote on it.

**COUNCIL PRESIDENT TOWNSEND** – Yes we do have to vote. Okay, I need a motion to accept Councilman Manson's decision to go into executive session.

**COUNCILMAN PETERS** – I make a motion to accept Councilman Manson's motion to go into executive session. Seconded by Councilman Chovan.

Roll call vote of 9 yes to go into executive session to discuss pending litigation for sale/purchase of property.

**COUNCIL PRESIDENT TOWNSEND** – Okay, thank you, Madame Clerk. Okay, we're out of the executive session are there any questions any business? Okay, before we adjourn I would just like to wish all the candidates good luck tomorrow in their races. Councilman Manson, I need a motion to adjourn.

## **18. ADJOURNMENT**

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

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MARY BETH BAILEY, CLERK,

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TONY M. TOWNSEND, PRESIDENT

