

AGENDA

DATE: MONDAY, OCTOBER 6, 2003

PLACE: COUNCIL CHAMBERS

TIME: 7:30 P.M.

THERE ARE NO PUBLIC HEARINGS TONIGHT

1. ROLL CALL
2. INVOCATION BY COUNCILWOMAN GLORIA AUTREY
3. PLEDGE OF ALLEGIANCE
4. READING OF THE JOURNAL
5. REMARKS OF DELEGATIONS AND CITIZENS TO MATTERS ON THE AGENDA
6. INTRODUCTION OF ORDINANCES AND RESOLUTIONS

ORDINANCE NO. 147 - 2003

BY: COMMUNITY DEVELOPMENT COMMITTEE

P.S.D. 9-2
AN ORDINANCE authorizing the Directing of Public Service and Safety to advertise for bids and enter into contract for the demolition of the former City Youth Center located at 1428 Walnut Road SE, in the City of Massillon, and declaring an emergency.

ORDINANCE NO. 148 - 2003

BY: COMMUNITY DEVELOPMENT COMMITTEE

P.S.D. 9-2
AN ORDINANCE authorizing and directing the Mayor of the City of Massillon to enter into an agreement with Ring Masters, LLC, providing for the adoption of a project which will establish a new facility and create employment opportunities within the City of Massillon Enterprise Zone, and declaring an emergency.

ORDINANCE NO. 149 - 2003

BY: COMMUNITY DEVELOPMENT COMMITTEE

P.S.D. 9-2
AN ORDINANCE authorizing and directing the Director of Public Service and Safety of the City of Massillon, Ohio, to enter into a contract agreement with various programs through the Community Development Grant Programs which the City has provided through the CDBG Program funding, and declaring an emergency.

ORDINANCE NO. 150 - 2003

BY: PARKS AND RECREATION COMMITTEE

P.S.D. 9-2
AN ORDINANCE authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to re-advertise for, receive sealed bids for bid packages 500 (Plumbing) and 600 (HVAC) and award contracts upon approval of the Board of Control for the Massillon Recreation Center North Wing Expansion Project, and declaring an emergency.

ORDINANCE NO. 151 - 2003

BY: PARKS AND RECREATION COMMITTEE

P.S.D. 9-2
AN ORDINANCE authorizing the Mayor of the City of Massillon, Ohio, to advertise and receive sealed bids and enter into contract, upon the approval of the Board of Control, with the lowest and best bidder for the construction of the Bike Path Relocation at the Wastewater Treatment Plant, and declaring an emergency.

MONDAY, OCTOBER 6, 2003

ORDINANCE NO. 152 - 2003

BY: POLICE AND FIRE COMMITTEE

Pass 9-2
AN ORDINANCE repealing CHAPTER 761 "TOWING COMPANIES" of the Codified Ordinances of the City of Massillon, Ohio, and enacting a new CHAPTER 761 "TOWING COMPANIES" of the Codified Ordinances of the City of Massillon, and declaring an emergency.

ORDINANCE NO. 153 - 2003

BY: POLICE AND FIRE COMMITTEE

Pass 9-2
WHEREAS, the General Membership of the Stark Council of Governments (SCOG) has adopted an alternative method for apportioning the 2000-2009 funds (the "Alternative Method") in lieu of the method of apportioning the Stark County Undivided Local Government Fund and the Stark County Undivided Local Government Revenue Assistance Fund (collectively, the "Funds") as provided in Chapter 5747 of the Ohio Revised Code by an agreement entitled "Alternative Method for Apportioning the Stark County Undivided Local Government Fund and the Stark County Undivided Local Government Revenue Assistance Fund Pursuant to Sections 5747.58 and 5747.63 of the Ohio Revised Code", which Agreement was executed in 1999 (hereinafter "Agreement"), and

7% - 2003 7% 2004-2009

ORDINANCE NO. 154 - 2003

BY: FINANCE COMMITTEE

Pass 9-2
AN ORDINANCE making certain transfers in the 2003 appropriation from within the General Fund, of the City of Massillon, Ohio, and declaring an emergency.

ORDINANCE NO. 155 - 2003

BY: FINANCE COMMITTEE

Pass 9-2
AN ORDINANCE making certain appropriations from the unappropriated balance of the Community Development Block Grant Program Fund, Parks & Recreation Reservoir Project Fund, Probation Services Fund, Home Health Service Fund, TIF Service Payment Fund, Summer Concert Fund and the General Fund for the year ending December 31, 2003, and declaring an emergency.

ORDINANCE NO. 156 - 2003

BY: FINANCE COMMITTEE

Pass 9-2
AN ORDINANCE authorizing the Director of Public Service and Safety of the City of Massillon to enter into a contract with Love Insurance Agency for boiler & machinery insurance and crime insurance coverage, and declaring an emergency.

ORDINANCE NO. 157 - 2003

BY: HEALTH, WELFARE & BLDG COMMITTEE

Pass 9-2
AN ORDINANCE authorizing the Director of Public Service and Safety of the City of Massillon to enter into a contract with Public Entities Pool of Ohio (PEP) for the vehicle, property, general and public official liability, and law enforcement coverage for the City of Massillon, and declaring an emergency.

ORDINANCE NO. 158 - 2003

BY: HEALTH, WELFARE & BLDG COMMITTEE

File 90
AN ORDINANCE amending CHAPTER 333 "DUI, WILLFUL MISCONDUCT, SPEED of the "TRAFFIC CODE " of the Codified Ordinances of the City of Massillon, by repealing Section 333.01 "Driving or Physical Control While Under The Influence; Evidence" of CHAPTER 333 "DUI, WILLFUL MISCONDUCT, SPEED of the TRAFFIC CODE" of the Codified Ordinances of the City of Massillon, and declaring an emergency.

Post 90
ORDINANCE NO. 159 - 2003

BY: FINANCE COMMITTEE

Ordinance No. 159 - 2003 will be presented tonight by the Finance Committee
on emergency Hotel Audit 14,000-6,000-

7. UNFINISHED BUSINESS
8. PETITIONS AND GENERAL COMMUNICATIONS
9. BILLS, ACCOUNTS AND CLAIMS
10. REPORTS FROM CITY OFFICIALS

- A). MAYOR SUBMITS MONTHLY PERMIT REPORT FOR SEPTEMBER 2003
- B). AUDITOR SUBMITS MONTHLY REPORT FOR SEPTEMBER 2003

11. REPORTS OF COMMITTEES
12. RESOLUTIONS AND REQUESTS OF COUNCIL MEMBER
13. CALL OF THE CALENDAR

ORDINANCE NO. 108 - 2003

BY: HEALTH, WELFARE & BLDG COMMITTEE

Post 90
AN ORDINANCE amending CHAPTER 1181 "ACCESSORY BUILDINGS" of the Codified Ordinances of the City of Massillon, by repealing existing Section 1181.01 "REGULATIONS" and enacting a new Section 1181.01 Regulations", and declaring an emergency.

14. THIRD READING ORDINANCES AND RESOLUTIONS

ORDINANCE NO. 137 - 2003

BY: COMMUNITY DEVELOPMENT COMMITTEE

Tabbed End of page
AN ORDINANCE indicating what services the City of Massillon, Ohio, will provide to the Poets Glen Estates Area Annexation, upon annexation, and declaring an emergency.

15. SECOND READING ORDINANCES AND RESOLUTIONS
16. NEW AND MISCELLANEOUS BUSINESS
17. REMARKS OF DELEGATIONS AND CITIZENS TO MATTERS NOT ON THE AGENDA
18. ADJOURNMENT

MARY BETH BAILEY - CLERK OF COUNCIL

DATE: OCTOBER 6, 2003

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 147 - 2003

BY: COMMUNITY DEVELOPMENT & ANNEXATION COMMITTEE

TITLE: AN ORDINANCE authorizing the Director of Public Service and Safety to advertise for bids and enter into contract for the demolition of the former City Youth Center located at 1428 Walnut Road SE, in the City of Massillon, and declaring an emergency.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, STATE OF OHIO, THAT:

Section 1:

The Council of the City of Massillon, Ohio, hereby determines it to be necessary in the public health, safety and welfare to advertise for bids and enter into contract for the demolition of the former City Youth Center located at 1428 Walnut Road SE, in the City of Massillon,

Section 2:

The Director of Public Service and Safety of the City of Massillon, Ohio, is hereby authorized to advertise for and enter into contract for the demolition of the former City Youth Center located at 1428 Walnut Road SE, in the City of Massillon.

Section 3:

This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the health, safety, and welfare of the community, and for the additional reason that it is necessary to demolish the building as it has been vacant for some time and is in deteriorating condition. Provided it receives the affirmative vote of two-thirds of the elected members to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

DATE: OCTOBER 6, 2003

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

Passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 148 - 2003

BY: COMMUNITY DEVELOPMENT & ANNEXATION COMMITTEE

TITLE: AN ORDINANCE authorizing and directing the Mayor of the City of Massillon to enter into an agreement with Ring Masters, LLC, providing for the adoption of a project which will establish a new facility and create employment opportunities within the City of Massillon Enterprise Zone, and declaring an emergency.

WHEREAS, the City of Massillon has encouraged the development of real property and the acquisition of personal property located in the area designated as an Enterprise Zone; and

WHEREAS, Ring Masters, LLC, is hereby proposing to acquire the assets of another company and start up business operations located at 240 6th Street NW. within the Massillon Enterprise Zone, and is proposing to establish a facility that will manufacture various ring products for automotive tier II supplies, provided that the appropriate development incentives are available to support the economic viability of said Project; and

WHEREAS, the Council of the City of Massillon, Ohio, (hereinafter "Council") by Ordinance No. 163-1994, adopted on July 18, 1994, and as amended by Ordinance No. 57-1998, adopted March 2, 1998 and as amended by Ordinance No. 43 - 1999, adopted March 1, 1999, has designated an area of the City as an "Enterprise Zone" pursuant to Chapter 5709 of the Ohio Revised Code; and

WHEREAS, effective September 12, 1994, and as amended on March 13, 1998, and as amended on March 9, 1999, the Director of Development of the State of Ohio has determined that the aforementioned area designated in said Ordinance No. 163 - 1994 contains the characteristics set forth in 5709.61(A) of the Ohio Revised Code, and has certified said area as an Enterprise Zone under Chapter 5709; and

WHEREAS, the City of Massillon, having the appropriate authority for the stated type of project is desirous of providing Ring Masters, LLC, with the incentives available for development of the Project in said Enterprise Zone, under Chapter 5709 of the Ohio Revised Code; and

WHEREAS, Ring Masters, LLC, have submitted a proposed agreement application, herein attached as Exhibit "A", to the City of Massillon, Ohio, requesting that the incentives available for development within the Enterprise Zone be approved for the Project; and

WHEREAS, the Mayor of the City of Massillon, Ohio, has investigated the application submitted by the Ring Masters, LLC, and has recommended approval of the same to the Council on the basis that the company is qualified by financial responsibility and business experience to create employment opportunities in said Enterprise Zone and to improve the economic climate of the City of Massillon; and

WHEREAS, the project site is located in the Massillon City School District and the Massillon City School Board of Education has been notified and has been given a copy of the application.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, STATE OF OHIO, THAT:

Section 1:

The Council of the City of Massillon, Ohio does hereby authorize and direct the Mayor to enter into an agreement, attached hereto as Exhibit "A" and incorporated herein by reference, with Ring Masters, LLC, providing for the adoption of a project which will establish a facility and reserve employment opportunities within the City of Massillon Enterprise Zone.

Section 2:

This Ordinance is declared to be an emergency measure immediately necessary for the preservation of the health, safety and welfare of the City of Massillon, Ohio and for the further reason that approval of said agreement is necessary so as to maximize the investment that will be made by the Ring Masters, LLC, within the City of Massillon, Ohio. Provided it receives the affirmative vote of two-thirds of the elected members to Council it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

PASSED IN COUNCIL THIS 6th DAY OF October 2003

APPROVED: Mary Beth Bailey
MARY BETH BAILEY, CLERK OF COUNCIL Dennis D. Harwig
DENNIS D. HARWIG, PRESIDENT

PROVED: October 7, 2003
FRANCIS H. CICCHINELLI, JR., MAYOR

DATE: OCTOBER 6, 2003

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

Passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 149 - 2003

BY: COMMUNITY DEVELOPMENT & ANNEXATION COMMITTEE

TITLE: AN ORDINANCE authorizing and directing the Director of Public Service and Safety of the City of Massillon, Ohio, to enter into a contract agreement with various programs through the Community Development Grant Programs which the City has provided through the CDBG Program funding, and declaring an emergency.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, STATE OF OHIO, THAT:

Section 1:

The Council of the City of Massillon, Ohio, hereby finds that it is necessary to enter into contract agreement with various programs through the Community Development Grant Programs which the City has provided through the CDBG Program funding.

Section 2:

The Director of Public Service and Safety of the City of Massillon, Ohio, is hereby authorized and directed to enter into separate contract agreements with the programs listed below for the amounts specified through the Community Development Grant Programs which the City has provided through the CDBG Program funding.

Massillon Main Street	\$75,000.00
Westark Family Services, Inc. - Elderly Homemaker Program	\$19,160.00
Community Services of Stark County - Family Living Center Program	\$14,580.00
Massillon Urban League	\$14,370.00
Western Stark Medical Clinic	\$11,496.00
Domestic Violence Project	\$ 8,622.00
YWCA of Western Stark County - YWCA Child Development Center	\$ 4,790.00
Massillon Commission to Advance Literacy - Adult Literacy Program	\$ 4,790.00
Massillon Urban League - Teen Pregnancy Prevention Program	\$ 3,832.00
Hospice of Tuscarawas County, Inc., - Hospice Caregiver Services	\$ 958.00

Section 3:

Upon delivery of the aforesaid agreements, the Director of Public Service and Safety is hereby authorized to issue vouchers to the Auditor of the City of Massillon, Ohio, directing prompt payment for each agreement and the City Auditor is authorized and directed to honor and pay said vouchers.

Section 4:

This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the health, safety, and welfare of the community, and for the further reason that these services are needed to benefit the community as a whole and to meet the goals and objectives of the City's Community Development Block Grant Program. Provided it receives the affirmative vote of two-thirds of the elected members to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

PASSED IN COUNCIL THIS 6th DAY OF October 2003

APPROVED: Mary Beth Bailey Dennis D. Harwig
MARY BETH BAILEY, CLERK OF COUNCIL DENNIS D. HARWIG, PRESIDENT

APPROVED: October 7, 2003 Francis H. Cicchinelli, Jr.
FRANCIS H. CICCHINELLI, JR., MAYOR

I hereby certify that the foregoing ordinance is a true copy of the original, as passed by the Council of the City of Massillon, Ohio, and approved as noted thereon:

Mary Beth Bailey
Clerk of Council

Date 10/6/03

DATE: OCTOBER 6, 2003

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 150 - 2003

BY: PARKS AND RECREATION COMMITTEE

TITLE: AN ORDINANCE authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to re-advertise for, receive sealed bids for bid packages 500 (Plumbing) and 600 (HVAC) and award contracts upon approval of the Board of Control for the Massillon Recreation Center North Wing Expansion Project, and declaring an emergency.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, STATE OF OHIO, THAT:

Section 1:

The Council of the City of Massillon, Ohio, hereby determines it to be necessary in the public health, safety and welfare to re-advertise for and receive sealed bids according to law, for the Massillon Recreation Center North Wing Expansion Project.

Section 2:

The Director of Public Service and Safety of the City of Massillon, Ohio, is hereby authorized and directed to prepare plans and specifications and to re-advertise for and receive sealed bids according to law, for the Massillon Recreation Center North Wing Expansion Project.

Section 3:

This Ordinance is hereby declared to be an emergency measure necessary for the preservation of the health, safety and welfare of the community and for the additional reason that it is necessary to receive bids for the Massillon Recreation Center North Wing Project. Provided it receives the affirmative vote of two-thirds of the elected members to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

DATE: OCTOBER 6, 2003

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

Passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO.151 - 2003

BY: PARKS AND RECREATION COMMITTEE

TITLE: AN ORDINANCE authorizing the Mayor of the City of Massillon, Ohio, to advertise and receive sealed bids and enter into contract, upon the approval of the Board of Control, with the lowest and best bidder for the construction of the Bike Path Relocation at the Wastewater Treatment Plant, and declaring an emergency.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, STATE OF OHIO, THAT:

Section 1:

The Council of the City of Massillon, Ohio, hereby determines it to be necessary in the public health, safety and welfare to advertise and receive sealed bids and enter into contract, upon the approval of the Board of Control, with the lowest and best bidder for the construction of the Bike Path Relocation at the Wastewater Treatment Plant.

Section 2:

The Director of Public Service and Safety of the City of Massillon, Ohio, is hereby authorized and directed to advertise and receive sealed bids and enter into contract, upon the approval of the Board of Control, with the lowest and best bidder for the construction of the Bike Path Relocation at the Wastewater Treatment Plant.

Section 3:

This Ordinance is hereby declared to be an emergency measure necessary for the preservation of the health, safety and welfare of the community and for the additional reason that it is necessary to advertise and receive sealed bids and enter into contract, upon the approval of the Board of Control, with the lowest and best bidder for the construction of the Bike Path Relocation at the Wastewater Treatment Plant. Provided it receives the affirmative vote of two-thirds of the elected members to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

DATE: OCTOBER 6, 2003

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

pt heading
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 152 - 2003

BY: POLICE AND FIRE COMMITTEE

TITLE: AN ORDINANCE repealing CHAPTER 761 "TOWING COMPANIES" of the Codified Ordinances of the City of Massillon, Ohio, and enacting a new CHAPTER 761 "TOWING COMPANIES" of the Codified Ordinances of the City of Massillon, and declaring an emergency.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, STATE OF OHIO, THAT:

Section 1:

CHAPTER 761 "TOWING COMPANIES" of the Codified Ordinances of the City of Massillon, Ohio, be and is hereby repealed.

Section 2:

That there be and hereby is enacted a new CHAPTER 761 "TOWING COMPANIES" of the Codified Ordinances of the City of Massillon, Ohio. Said new chapter shall read as follow:

(SEE ATTACHED)

Section 3:

This ordinance is hereby declared to be an emergency measure, the reason for the emergency being that said amendment is necessary for the more efficient operation of towing and storage of vehicles within the City of Massillon and for the preservation of the public health, safety and welfare of the community. Provided it receives the affirmative vote of two-thirds of the elected members to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

PASSED IN COUNCIL THIS _____ DAY OF _____, 2003

ATTEST: _____
MARY BETH BAILEY, CLERK OF COUNCIL

DENNIS D. HARWIG, PRESIDENT

APPROVED: _____

FRANCIS H. CICCHINELLI, JR., MAYOR

SCHEDULE OF RATES

LIGHT DUTY TOWING:

Passenger cars, vans, motorcycles and trucks up to and including 3/4 ton with up to 16" tires.	\$ 75.00	OLD RATES 50.00
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HEAVY DUTY TOWING:

Vehicles with one (1) ton or greater capacity and or 16" tires or larger	\$ 150.00	100.00
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Tractor and Trailers with 10 00 [?] -20 tires or larger	\$ 200.00	150.00
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STORAGE CHARGES:

Light duty towing (Per Day)	\$ 10.00	8.00
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Heavy Duty Towing - Straight Trucks (Per Day)	\$ 20.00	10.00
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Tractor & Trailers (Per Day Per Piece)	\$ 20.00	
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ADDITIONAL CHARGES:

The following are additional services which may be needed in conjunction with or in addition to standard towing services; all services and charges listed hereafter shall be in addition to the above standard towing charges.

Dollies- Flatbed service	\$ 40.00 Extra	30.00
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Winching (after 25 feet)	\$1.00 per foot	
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Disconnect transmission linkage	\$ 20.00	10.00
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Unlocking doors for towing	\$ 20.00	10.00
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Extra labor and/or extra truck (to be charged only in extraordinary circumstances)	\$ 50.00 per hr	40.00
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	light duty	
	\$ 150.00 per hr	100.00
	heavy duty	

Call out and no tow needed	\$ 40.00 light duty	25.00
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	\$100.00 heavy duty	
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After Hours Gate fee for releasing vehicles	\$20.00	
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Reed's Inc.

1030 Third St. N.W.
Massillon, Ohio 44647

Phone 330-833-2823

Fax 330-833-0392

Toll Free 1-888-231-0785

August 29, 1003

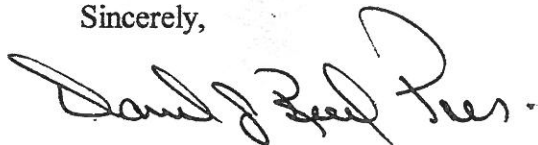
Police and Fire Committee
City of Massillon - City Council
Massillon, Oh 44646

To Whom It May Concern:

Myself Dan Reed of Reed's Inc. and Bob Rohr of Rohr's Towing would like to submit some changes to ORC 761 titled Towing Companies. Other than some rewording in most areas the most significant would be in Rates. September 1996 was the last time we had ask for and were granted an increase for our services to Massillon Police Department. A few reasons we feel this increase is needed are as follows: Equipment cost, Wages, All Insurance's, Workman's Compensation, and All Fuel Products have all taken a toll on our bottom line.

Therefore we are asking you to look over our request and would take it before City Council Members for a vote. I would be more than happy to sit in on any discussion that you may have regarding this matter.

Sincerely,



Daniel J. Reed
Reed's Inc.

DJR/sjm



Robert P. Rohr
Rohr's Towing

DATE: OCTOBER 6, 2003

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 153 - 2003

BY: POLICE AND FIRE COMMITTEE

WHEREAS, the General Membership of the Stark Council of Governments (SCOG) has adopted an alternative method for apportioning the 2000-2009 funds (the "Alternative Method") in lieu of the method of apportioning the Stark County Undivided Local Government Fund and the Stark County Undivided Local Government Revenue Assistance Fund (collectively, the "Funds") as provided in Chapter 5747 of the Ohio Revised Code by an agreement entitled "Alternative Method for Apportioning the Stark County Undivided Local Government Fund and the Stark County Undivided Local Government Revenue Assistance Fund Pursuant to Sections 5747.58 and 5747.63 of the Ohio Revised Code", which Agreement was executed in 1999 (hereinafter "Agreement"); and

WHEREAS, SCOG agreed in said Agreement that the County, Massillon and the remaining political subdivisions would allocate sixty six and one-half percent (66 ½%) to the County and City of Massillon with a maximum of ten percent (10%) of the funds so allocated to the County and City of Massillon to be used to fully fund the operation of SCOG; and

WHEREAS, Section 6 (B) of said Agreement provided that:

If, during any time within the term of this Agreement, there is not in full force and effect a sales and use tax for the benefit of Stark County,...County reserves the right during such time to reduce the SCOG contribution of both County and Massillon to five percent (5%) of the funds...In such event, the difference between the maximum SCOG allocation (10%) and the minimum SCOG allocation (5%) shall be allocated to County, Massillon, and the remaining political subdivisions by the Budget Commission in the manner set forth in paragraph 2...; and

WHEREAS, Stark County did exercise the right to temporarily reduce the County and City of Massillon contribution to SCOG to five percent (5%) effective for all of Calendar Year 2002 and thus far in 2003 pursuant to said Agreement; and

WHEREAS, a sales and use tax of 1/4 of one-percent (1%) for eight (8) years has been authorized by the electorate as of May 6, 2003, for collection beginning July 1, 2003, and distribution estimated to take place in October, 2003, thereby reinstituting the ten percent (10%) maximum SCOG allocation to be made by the County and the City of Massillon to SCOG effective July 1, 2003, unless as was otherwise provided, and

WHEREAS, Section 9 of said Agreement mandates a review before June 1, 2004, by a committee of representatives from the County, Massillon, the remaining political subdivisions and the Budget Commission which shall review the allocations under the Alternative Method and "if necessary, recommend modifications..." with said modifications becoming effective only if approved by the Board of Commissioners of Stark County, Massillon City Council and the majority of the legislative authorities of the remaining political subdivisions; and

WHEREAS, an Allocation Committee which was appointed by the SCOG Chairperson pursuant to Section 9, met and recommended that Section 6 of the Agreement be modified so that the County and the City of Massillon would continue to contribute the minimum SCOG allocation of five percent (5%) for the balance of Calendar Year 2003 rather than the maximum allocation of ten percent (10%), and

WHEREAS, said Allocation Committee, the Executive Committee and the General Membership then determined that a five percent (5%) contribution from the County and the City of Massillon combined with the accumulated surplus presently held by SCOG was sufficient to fully fund SCOG operations through the end of 2003, and a majority of the political subdivisions have enacted resolutions and ordinances to effect the temporary reduction, and

WHEREAS, the Allocation Committee again met on July 23, 2003, to analyze and reevaluate changes to the Undivided Local Government Revenue Assistance Fund and made recommendations to the SCOG Executive Committee and General Membership as to the SCOG allocations for Calendar/Fiscal Year 2004 and thereafter, to be enacted in the Fourth Quarter of 2003 by a majority of the political subdivisions, and

WHEREAS, said recommendation is a seven percent (7%) contribution rate for Calendar Year 2004, and seven and one-half percent (7.5%) thereafter unless otherwise modified, with a mandatory biennial review by the Allocation Committee commencing in 2004;

NOW, THEREFORE, BE IT RESOLVED THAT;

Section 1. Pursuant to the authority provided in Section 9 of the above cited Alternative Method Funding Agreement, Sections 6 and 9 of said Agreement are hereby temporarily modified, as provided herein for the period commencing January 1, 2004, so that the County and the City of Massillon, despite the passage of the sales tax as aforesaid, shall pay a SCOG allocation of seven percent (7%) for Calendar/Fiscal Year 2004 and 7.5% for the remaining years of the Agreement, unless otherwise modified, rather than the maximum SCOG contribution of ten percent (10%). The remaining political subdivisions shall receive along with the County and the City of Massillon, the difference between the maximum SCOG allocation and the reduced SCOG allocation in the amounts and in the manner set forth in paragraph 2 of the Agreement.

Section 2. The continuing reduced contribution to SCOG by the County and the City of Massillon for the Year 2004 of seven percent (7%) and seven and one-half percent (7.5%) in 2005 and thereafter is contingent upon the passage of this resolution by the Stark County Commissioners, Massillon City Council and a majority of the boards of trustees and councils of the remaining political subdivisions in order to approve said modification of the Agreement, and said ordinances or resolutions shall be effective from January 1, 2004.

Section 3. This resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health or safety of the citizens of Massillon, Ohio, the emergency being the continued efficient operation of SCOG and its sanctioned operations, and the necessity to conduct an ongoing fiscal analysis of SCOG's needs and the State of Ohio's changing position on the Local Governments Revenue Assistance Fund. And provided it receives the affirmative vote of two-thirds of the elected and/or appointed members to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

PASSED IN COUNCIL THIS 6th DAY OF October 2003

APPROVED: Mary Beth Bailey
MARY BETH BAILEY, CLERK OF COUNCIL

Dennis D. Harwig
DENNIS D. HARWIG, PRESIDENT

APPROVED: October 7, 2003

Francis H. Cicchinelli, Jr.
FRANCIS H. CICHINELLI, JR., MAYOR

I hereby certify that the foregoing ordinance is a true copy of the original, as passed by the Council of the City of Massillon, Ohio, and approved as noted thereon:

Mary Beth Bailey
Clerk of Council

Date 10/6/03

DATE: OCTOBER 8, 2003

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 154 - 2003

BY: FINANCE COMMITTEE

TITLE: AN ORDINANCE making certain transfers in the 2003 appropriation from within the General Fund, of the City of Massillon, Ohio, and declaring an emergency.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, STATE OF OHIO, THAT:

Section 1:

There be and hereby is transferred from the 2003 appropriation from within the General Fund of the City of Massillon, Ohio, the following:

\$ 10,000.00 FROM: "Salary - Police Clerks." 1100.305.2111
TO: "Salary - Building" 1100.415.2110

Section 2:

That this Ordinance is hereby declared to be an emergency measure, the reason for the emergency being that said funds are immediately necessary for the more efficient operation of the various departments in the City of Massillon, Ohio, and for the preservation of the public health, safety and welfare of the community. Provided it receives the affirmative vote of two-thirds of the elected members to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

PASSED IN COUNCIL THIS 6th DAY OF October, 1999

ATTEST:

Mary Beth Bailey
MARY BETH BAILEY, CLERK OF COUNCIL

Dennis D. Harwig
DENNIS D. HARWIG, PRESIDENT

APPROVED:

October 7, 2003

Francis H. Cicchinelli, Jr.
FRANCIS H. CICCHINELLI, JR., MAYOR

DATE: OCTOBER 6, 2003

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 155 - 2003

BY: FINANCE COMMITTEE

TITLE: AN ORDINANCE making certain appropriations from the unappropriated balance of the Community Development Block Grant Program Fund, Parks & Recreation Reservoir Project Fund, Probation Services Fund, Home Health Service Fund, TIF Service Payment Fund, Summer Concert Fund, and the General Fund for the year ending December 31, 2003, and declaring an emergency.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, STATE OF OHIO, THAT:

Section 1:

There be and hereby is appropriated from the unappropriated balance of the Community Development Block Grant Program Fund for the year ending December 31, 2003, the following:

\$75,000.00 to an account entitled "Main Street Revitalization" 1203.845.2828
\$19,160.00 to an account entitled "Elderly Homemaker Program" 1203.845.2803
\$14,580.00 to an account entitled "Family Living Center" 1203.845.2841
\$14,370.00 to an account entitled "Housing Counseling Program" 1203.845.2802
\$11,496.00 to an account entitled "Western Stark Medical Clinic" 1203.845.2857
\$ 8,622.00 to an account entitled "Domestic Violence Shelter" 1203.845.2858
\$ 4,790.00 to an account entitled "Massillon Literacy Commission" 1203.845.2819
\$ 4,790.00 to an account entitled "YWCA Tots Day Care" 1203.845.2854
\$ 3,832.00 to an account entitled "Teen Pregnancy Prevention" 1203.845.2815
\$ 958.00 to an account entitled "Community Hospice Program" 1203.845.2860

Section 2:

There be and hereby is appropriated from the unappropriated balance of the Parks and Recreation Reservoir Project Fund for the year ending December 31, 2003, the following:

\$76,000.00 to an account entitled "Reservoir Project" 1436.505.2510

Section 3:

There be and hereby is appropriated from the unappropriated balance of the Probation Services Fund for the year ending December 31, 2003, the following:

\$ 40,000.00 to an account entitled "Salary" 1238.125.2110
\$ 14,400.00 to an account entitled "Hospital, Eye, Dental" 1238.125.2210
\$ 600.00 to an account entitled "Medicare" 1238.125.2231

Section 4:

There be and hereby is appropriated from the unappropriated balance of the Home Health Service Fund for the year ending December 31, 2003, the following:

\$6,350.00 to an account entitled "Home Health Bio-Terrorism Grant Supplies" 1235.705.2411
\$1,500.00 to an account entitled "Home Health Supplies" 1235.705.2410

Section 5:

There be and hereby is appropriated from the unappropriated balance of the TIF Service Payment Fund for the year ending December 31, 2003, the following:

6,100.00 to an account entitled "Massillon City School District TIF Payment" 3109.905.2379

Section 6:

There be and hereby is appropriated from the unappropriated balance of the General Fund for the year ending December 31, 2003, the following:

\$3,713.16 to an account entitled "Domestic Violence Services/Contracts" 1100.116.2392
\$2,500.00 to an account entitled "Building Department Services/Contracts" 1100.415.2392
\$1,000.00 to an account entitled "Building Department Supplies/Materials/Postage" 1100.415.2410
\$ 600.00 to an account entitled "Building Department Gas/Oil" 1100.415.2430

Section 7:

There be and hereby is appropriated from the unappropriated balance of the Summer Concert Fund for the year ending December 31, 2003, the following:

\$600.00 to an account entitled "Services/Contracts" 1212.505.2392

Section 8:

This Ordinance is hereby declared to be an emergency measure, for the efficient operation of the various departments of the City of Massillon and for the preservation of the public health, safety and welfare of the community. Provided it receives the affirmative vote of two-thirds of the elected members to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

PASSED IN COUNCIL THIS 6th DAY OF October 2003

ATTEST: Mary Beth Bailey Dennis D. Harwig
MARY BETH BAILEY, CLERK OF COUNCIL DENNIS D. HARWIG, PRESIDENT

APPROVED: October 7, 2003 Francis H. Cicchinelli, Jr.
FRANCIS H. CICCHINELLI, JR, MAYOR

I hereby certify that the foregoing ordinance is a true copy of the original, as passed by the Council of the City of Massillon, Ohio, and approved as noted thereon:

Mary Beth Bailey
Clerk of Council

Date 10/16/03

DATE: OCTOBER 6, 2003

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 156 - 2003

BY: FINANCE COMMITTEE

TITLE: AN ORDINANCE authorizing the Director of Public Service and Safety of the City of Massillon to enter into a contract with Love Insurance Agency for boiler & machinery insurance and crime insurance coverage, and declaring an emergency.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, STATE OF OHIO, THAT:

Section 1:

The Council of the City of Massillon, Ohio, hereby determines it to be necessary and in the public health, safety and welfare to enter into contract with Love Insurance Agency for boiler & machinery insurance and crime insurance coverage.

Section 2:

The Director of Public Service and Safety of the City of Massillon is hereby authorized to enter into contract with Love Insurance Agency for boiler & machinery insurance and crime insurance coverage.

Section 3:

This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the health, safety, and welfare of the community, and for the additional reason that it is necessary to enter into a contract with Love Insurance Agency as the previous policies are about to expire. Provided it receives the affirmative vote of two-thirds of the elected members to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

DATE: OCTOBER 6, 2003

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

Passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 157 - 2003

BY: HEALTH, WELFARE AND BUILDING REGULATIONS COMMITTEE

TITLE: AN ORDINANCE authorizing the Director of Public Service and Safety of the City of Massillon to enter into a contract with Public Entities Pool of Ohio (PEP) for the vehicle, property, general and public official liability, and law enforcement coverage for the City of Massillon, and declaring an emergency.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, STATE OF OHIO, THAT:

Section 1:

The Council of the City of Massillon, Ohio, hereby determines it to be necessary and in the public health, safety and welfare to enter into contract with Public Entities Pool of Ohio (PEP) for the vehicle, property, general and public official liability, and law enforcement coverage for the City of Massillon.

Section 2:

The Director of Public Service and Safety of the City of Massillon is hereby authorized to enter into contract with Public Entities Pool of Ohio (PEP) for the vehicle, property, general and public official liability, and law enforcement coverage for the City of Massillon.

Section 3:

This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the health, safety, and welfare of the community, and for the additional reason that it is necessary to enter into a contract with Public Entities Pool of Ohio (PEP) as the previous policies are about to expire and the renewal is due in October, 2003. In addition it is necessary to maintain insurance coverage for the City. Provided it receives the affirmative vote of two-thirds of the elected members to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

DATE: OCTOBER 6, 2003 CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 158 - 2003

BY: RULES, COURTS AND CIVIL SERVICE COMMITTEE

TITLE: AN ORDINANCE amending CHAPTER 333 "DUI, WILLFUL MISCONDUCT, SPEED of the "TRAFFIC CODE" of the Codified Ordinances of the City of Massillon, by repealing Section 333.01 "Driving or Physical Control While Under The Influence; Evidence" of CHAPTER 333 "DUI, WILLFUL MISCONDUCT, SPEED of the TRAFFIC CODE " of the Codified Ordinances of the City of Massillon, and declaring an emergency.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, STATE OF OHIO, THAT:

Section 1:

The existing Section 333.01 "Driving or Physical Control While Under The Influence; Evidence" of CHAPTER 333 "DUI, WILLFUL MISCONDUCT; SPEED" of the "TRAFFIC CODE" of the Codified Ordinances of the City of Massillon, are hereby repealed.

Section 2:

That there is enacted new Section 333.01 "Driving or Physical Control While Under The Influence; Evidence" of CHAPTER 333 "DUI, WILLFUL MISCONDUCT, SPEED" of the "TRAFFIC CODE" of the Codified Ordinances of the City of Massillon. Said newly enacted Sections shall read as follows:

(SEE ATTACHED)

Section 333.01

**DRIVING OR PHYSICAL CONTROL WHILE UNDER THE
INFLUENCE; EVIDENCE.**

Ordinance

(a) Operation Generally. No person shall operate any vehicle within the Municipality, if any of the following apply:

(1) The person is under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse.

(2) The person has a concentration of eight-hundredths of one per cent or more but less than seventeen-hundredths of one per cent by weight of alcohol in the person's blood.

(3) The person has a concentration of eight-hundredths of one gram or more but less than seventeen-hundredths of one gram by weight of alcohol per two hundred ten liters of the person's breath.

(4) The person has a concentration of eleven-hundredths of one gram or more but less than two hundred thirty-eight-thousandths of one gram by weight of alcohol per one hundred milliliters of the person's urine.

(5) The person has a concentration of seventeen-hundredths of one per cent or more by weight of alcohol in the person's blood.

(6) The person has a concentration of seventeen-hundredths of one gram or more by weight of alcohol per two hundred ten liters of the person's breath.

(7) The person has a concentration of two hundred thirty-eight-thousandths of one gram or more by weight of alcohol per one hundred milliliters of the person's urine.

(b) Operation After Under-Age Consumption. No person under twenty-one years of age shall operate any vehicle within this Municipality, if any of the following apply:

(1) The person has a concentration of at least two-hundredths of one per cent but less than eight-hundredths of one per cent by weight of alcohol in the person's blood.

(2) The person has a concentration of at least two-hundredths of one gram but less than eight-hundredths of one gram by weight of alcohol per two hundred ten liters of the person's breath.

(3) The person has a concentration of at least twenty-eight one-thousandths of one gram but less than eleven-hundredths of one gram by weight of alcohol per one hundred milliliters of the person's urine.

(c) One Conviction Limitation. In any proceeding arising out of one incident, a person may be charged with a violation of subsection (a)(1) hereof and a violation of subsection (b)(1), (2) or (3) hereof, but the person may not be convicted of more than one violation of these subsections.

(d) Physical Control Generally. No person shall be in actual physical control of any vehicle within the Municipality, if any of the following apply:

(1) The person is under the influence of alcohol, a drug of abuse, or

alcohol and a drug of abuse.

(2) The person has a concentration of eight-hundredths of one per cent or more by weight of alcohol in the person's blood.

(3) The person has a concentration of eight-hundredths of one gram or more by weight of alcohol per two hundred ten liters of the person's breath.

(4) The person has a concentration of eleven-hundredths of one gram or more by weight of alcohol per one hundred milliliters of the person's urine.

(e) Physical Control by Minors. No person under twenty-one years of age shall be in actual physical control of any vehicle within this Municipality, if any of the following apply:

(1) The person has a concentration of at least two-hundredths of one per cent but less than eight-hundredths of one per cent by weight of alcohol in the person's blood.

(2) The person has a concentration of at least two-hundredths of one gram but less than eight-hundredths of one gram by weight of alcohol per two hundred ten liters of the person's breath.

(3) The person has a concentration of at least twenty-eight one-thousandths of one gram but less than eleven-hundredths of one gram by weight of alcohol per one hundred milliliters of the person's urine.

(f) (1) Evidence; Tests; Immunity. In any criminal prosecution or juvenile court proceeding for a violation of this section, the court may admit evidence on the concentration of alcohol, drugs of abuse, or alcohol and drugs of abuse in the defendant's blood, breath, urine or other bodily substance at the time of the alleged violation as shown by chemical analysis of the defendant's blood, urine, breath or other bodily substance withdrawn within two hours of the time of the alleged violation.

When a person submits to a blood test at the request of a police officer under Ohio R.C. 4511.191, only a physician, a registered nurse or a qualified technician or chemist shall withdraw blood for the purpose of determining its alcohol, drug, or alcohol and drug content. This limitation does not apply to the taking of breath or urine specimens. A physician, a registered nurse or a qualified technician or chemist may refuse to withdraw blood for the purpose of determining the alcohol, drug, or alcohol and drug content of the blood, if in the opinion of the physician, nurse, technician, or chemist the physical welfare of the person would be endangered by the withdrawing of blood.

(2) In a criminal prosecution or juvenile court proceeding for violation of subsection (a) hereof if there was at the time the bodily substance was withdrawn a concentration of less than eight-hundredths of one percent by weight of alcohol in the defendant's blood, less than eight-hundredths of one gram by weight of alcohol per 210 liters of the defendant's breath or less than eleven-hundredths of one gram by weight of alcohol per 100 milliliters of the defendant's urine, that fact may be considered with other competent evidence in determining the guilt or innocence of the defendant. This subsection does not limit or affect a criminal prosecution or juvenile court proceeding for a violation of subsection (b) hereof.

(3) Upon the request of the person who was tested, the results of the chemical test shall be made available to the person or the person's attorney or agent, immediately upon the completion of the chemical test analysis.

The person tested may have a physician, a registered nurse or a qualified technician or chemist of the person's own choosing administer a chemical test or tests in addition to any administered at the request of a police officer, and shall be so advised. The failure or inability to obtain an additional chemical test by a person shall not preclude the admission of evidence relating to the chemical test or tests taken at the request of a police officer.

(4) A. As used in subsections (f)(4)B. and C. of this section, "National Highway Traffic Safety Administration" means the National Highway Traffic Safety Administration established as an administration of the United States Department of Transportation under 96 Stat. 2415 (1983), 49 U.S.C.A. 105.

B. In any criminal prosecution or juvenile court proceeding for a violation of this section, if a law enforcement officer has administered a field sobriety test to the operator of the vehicle involved in the violation and if it is shown by clear and convincing evidence that the officer administered the test in substantial compliance with the testing standards for any reliable, credible and generally accepted field sobriety tests that were in effect at the time the tests were administered, including, but not limited to, any testing standards then in effect that were set by the National Highway Traffic Safety Administration, all of the following apply:

1. The officer may testify concerning the results of the field sobriety test so administered.

2. The prosecution may introduce the results of the field sobriety test so administered as evidence in any proceedings in the criminal prosecution or juvenile court proceeding.

3. If testimony is presented or evidence is introduced under subsection (f)(4)B.1. or 2. of this section and if the testimony or evidence is admissible under the Rules of Evidence, the court shall admit the testimony or evidence and the trier of fact shall give it whatever weight the trier of fact considers to be appropriate.

C. Subsection (f)(4)B. of this section does not limit or preclude a court, in its determination of whether the arrest of a person was supported by probable cause or its determination of any other matter in a criminal prosecution or juvenile court proceeding of a type described in that subsection, from considering evidence or testimony that is not otherwise disallowed by subsection (f)(4)B. of this section.

(5) Any physician, registered nurse or qualified technician or chemist who withdraws blood from a person pursuant to this section, and any hospital, first-aid station or clinic at which blood is withdrawn from a person pursuant to this section, is immune from criminal liability, and from civil liability that is based upon a claim of assault and battery or based upon any other claim that is not in the nature of a claim of malpractice, for any act performed in withdrawing blood from a person. (ORC 4511.19)

Section 3:

This ordinance is hereby declared to be an emergency measure, the reason for the emergency being that said enactments are necessary in that Ohio's DUI Laws were amended effective July 1, 2003 and it is necessary to amend the Massillon Codified Ordinances and for the additional reason for the preservation of the public health, safety and welfare of the community. And provided it receives the affirmative vote of two-thirds of the elected members to Council, it shall take effect and be in force immediately upon its passage and approval by the mayor. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

PASSED IN COUNCIL THIS 16th DAY OF October, 2003

ATTEST: Mary Beth Bailey Dennis D. Harwig
MARY BETH BAILEY, CLERK OF COUNCIL DENNIS D. HARWIG PRESIDENT

APPROVED: October 7, 2003 Francis H. Cicchinelli, Jr.
FRANCIS H. CICCHINELLI, JR., MAYOR

I hereby certify that the foregoing ordinance is a true copy of the original, as passed by the Council of the City of Massillon, Ohio, and approved as noted thereon:

Mary Beth Bailey
Clerk of Council

Date 10/6/03

DATE: OCTOBER 6, 2003

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO.159 - 2003

BY: FINANCE COMMITTEE

TITLE: AN ORDINANCE authorizing the Massillon City Council to enter into an agreement to retain the services of Spector & Saulino as consultants in areas of agreed-up procedures for the financial records for the Downtown Massillon Hotel, Ltd, and Charles Street Associates, Ltd, and declaring an emergency.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, STATE OF OHIO, THAT:

Section 1:

The Council of the City of Massillon, Ohio, hereby determines it to be necessary in the public health, safety and welfare to authorize and direct the Director of Public Service and Safety to enter into an agreement to retain the services of Spector & Saulino as consultants to preform an audit on the Downtown Massillon Hotel, Ltd, and Charles Street Associates, Ltd, financial records upon the term and conditions contained in the agreement attached hereto as Exhibit A..

Section 2:

This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the health, safety, and welfare of the community, and that this agreement is to audit the financial records of the Downtown Massillon Hotel, Ltd and Charles Street Associates, Ltd and will assist the City in evaluating the financial status of these entity. Provided it receives the affirmative vote of two-thirds of the elected members to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

PASSED IN COUNCIL THIS _____ DAY OF _____ 2003

ATTEST:

MARY BETH BAILEY, CLERK OF COUNCIL

DENNIS D. HARWIG, PRESIDENT

APPROVED _____

FRANCIS H. CICCHINELLI, JR., MAYOR



SPECTOR & SAULINO

AN INDEPENDENTLY OWNED AND OPERATED CPA FIRM

September 11, 2003

Councilman Tim Bryan
City of Massillon Ohio
C/o Buell & Associates
3249 Wales Avenue NW
Massillon, Ohio 44646

Dear Mr. Bryan:

We are pleased to confirm our understanding of the nature and limitations of the services we are to provide for the City of Massillon Ohio.

We will apply the agreed-upon procedures which the Massillon City Council has specified, listed in the attached schedule, to the financial records of Downtown Massillon Hotel, Ltd. and Charles Street Associates, Ltd. for the period from January 1, 2002 to July 31, 2003. This engagement is solely to assist the Massillon City Council in analyzing the cash flow summaries provided by Downtown Massillon Hotel, Ltd. in connection with the \$2,250,000 promissory note dated October 20, 1999. Our engagement to apply agreed-upon procedures will be conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of the procedures is solely the responsibility of those parties specified in the report. Consequently, we make no representation regarding the sufficiency of the procedures described in the attached schedule either for the purpose for which this report has been requested or for any other purpose. If, for any reason, we are unable to complete the procedures, we will describe any restrictions on the performance of the procedures in our report, or will not issue a report as a result of this engagement.

Because the agreed-upon procedures listed in the attached schedule do not constitute an examination, we will not express an opinion on the financial records or the cash flow summaries provided by Downtown Massillon Hotel, Ltd. and Charles Street Associates, Ltd. In addition, we have no obligation to perform any procedures beyond those listed in the attached schedule.

We will submit a report listing the procedures performed and our findings. This report is intended solely for the use of the Massillon City Council, and should not be used by those who did not agree to the procedures and take responsibility for the sufficiency of the procedures for their purposes. Our report will contain a paragraph indicating that had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

[Handwritten signature: Mike Louphana] 9/29/03
9/29/03

Martin Spector Alan J. Tobin Jeffery A. Walters

Michael J. Zelaznik David J. Giannetti Martha S. Bethea

4040 Embassy Parkway, Suite 100 Akron, Ohio 44333-8354 330/668-6500 888/668-6501 (Fax) 330/666-8789

Councilman Tim Bryan
September 11, 2003
Page 2

At the conclusion of our engagement, we will require a representation letter from management of Downtown Massillon Hotel, Ltd. and Charles Street Associates, Ltd.

We estimate that our fees for these services will range from \$4,000 to \$6,000. This fee estimate is based on anticipated cooperation from the personnel of Downtown Massillon Hotel, Ltd. and Charles Street Associates, Ltd. and the assumption that unexpected circumstances will not be encountered during the engagement. If significant additional time is necessary, we will discuss it with you and arrive at a new fee estimate before we incur the additional costs.

All disputes arising under this engagement (including with respect to the scope, nature and quality of services to be performed by us, and our fees) shall be submitted to mediation. Each party shall designate an executive officer or principal empowered to resolve the dispute. Should the designated representatives be unable to agree on a resolution, a mediation service acceptable to both parties shall select a mediator to mediate the dispute. Each disputing party shall pay an equal percentage of the mediator's fees and expenses. No suit or arbitration proceedings shall be commenced under this professional service agreement until at least 60 days after the mediator's first meeting with the involved parties. In the event that the dispute is required to be litigated, the court shall be authorized to impose litigation costs against any non-prevailing party identified in this agreement found not to have participated in the mediation process in good faith.

We appreciate the opportunity to assist you and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign the enclosed copy and return it to us. If the need for additional services arises, our agreement with you will need to be revised. It is customary for us to enumerate these revisions in an addendum to this letter. If additional specified parties of the report are added, we will require that they acknowledge in writing their responsibility for the sufficiency of procedures.

Very truly yours,

Spector & Saulino
Certified Public Accountants, L.L.C.

RESPONSE:

This letter correctly sets forth the understanding of the Massillon City Council.

Councilman Tim Bryan
City of Massillon Ohio

Date