

## AGENDA

DATE: MONDAY, FEBRUARY 2, 2004

PLACE: COUNCIL CHAMBERS

TIME: 7:30 P.M.

THERE ARE NO PUBLIC HEARINGS TONIGHT

1. ~~ROLL CALL~~
2. ~~INVOCATION BY COUNCILWOMAN KATHY CATAZARO-PERRY~~
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 - *Amend Agenda ADD CRD 54  
ADD LAW DIR PERMIT  
2ND Read 16-2004*

### ORDINANCE NO. 21 - 2004

BY: COMMUNITY DEVELOPMENT COMMITTEE

*P.H. 3-1 @ 7:30pm*

*125* **AN ORDINANCE** repealing existing CHAPTER 1156 "R-CRD CONDOMINIUM RESIDENTIAL DISTRICT" to PART ELEVEN - PLANNING AND ZONING CODE under TITLE SEVEN - Zoning Regulations of the Codified Ordinances of the City of Massillon and the underlying ordinance which enacted it, Ordinance No. 47 - 2003, and adding a new CHAPTER 1156 "R-CRD CONDOMINIUM RESIDENTIAL DISTRICT" to PART ELEVEN - PLANNING AND ZONING CODE under TITLE SEVEN - Zoning Regulations of the Codified Ordinances of the City of Massillon.

### ORDINANCE NO. 23 - 2004

BY: COMMUNITY DEVELOPMENT COMMITTEE

*Susp 9-0  
Post 9-0* **AN ORDINANCE** accepting the Final Plat for Kenyon Creek Estates Phase II in the City of Massillon, Stark County, Ohio, presently on file in the office of the City Engineer [and declaring an emergency.]

### ORDINANCE NO. 24 - 2004

BY: COMMUNITY DEVELOPMENT COMMITTEE

*PH 3/1 @ 6:30pm*

*125* **AN ORDINANCE** amending Section 1151.02 of the Massillon Code of 1985 rezoning a certain tract of land from R-1 Single Family Residential to I-1 Light Industrial..

### ORDINANCE NO. 25 - 2004

BY: ENVIRONMENTAL COMMITTEE

*Susp 9-0  
Post 9-0* **AN ORDINANCE** authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to accept the dedication of a 20 foot wide sanitary sewer easement for 1322 Erie Street South, and declaring an emergency.

### ORDINANCE NO. 26 - 2004

BY: PARKS AND RECREATION COMMITTEE

*Susp 9-0 Post 9-0*

**AN ORDINANCE** authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to advertise for, receive sealed bids and to enter into a contract, upon award and approval of the Board of Control, with the highest and best bidder for the operation of the concession stands at the Genshaft and Community Parks, and declaring an emergency.



**ORDINANCE NO. 27 - 2004**

**BY: PARKS AND RECREATION COMMITTEE**

*5050 9-0*  
*P.M. 9-0*  
**AN ORDINANCE** authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to enter into a contract, without competitive bidding, with James Martin as the Equipment Mechanic for the Parks and Recreation Department for the year of 2004, and declaring an emergency.

**ORDINANCE NO. 28 - 2004**

**BY: POLICE AND FIRE COMMITTEE**

*5050 9-0*  
*P.M. 9-0*  
**AN ORDINANCE** authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to advertise for, receive sealed bids for the repair and renovation of the Police Shooting Range Project and award the contract upon approval of the Board of Control for the Massillon Police Shooting Range Project, and declaring an emergency.

**ORDINANCE NO. 29 - 2004**

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

*5050 9-0*  
*P.M. 9-0*  
**AN ORDINANCE** vacating a portion of 2846 Lee Avenue NW.

**ORDINANCE NO. 30 - 2004**

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

*5050 9-0*  
*P.M. 9-0*  
**AN ORDINANCE** accepting the dedication of a 25 foot right-of-way on the west side of 16<sup>th</sup> Street SE, south of Walnut Road and north of Gibson Avenue, in the City of Massillon, Ohio, and declaring an emergency. *(Diane Parker)*

**ORDINANCE NO. 31 - 2004**

**BY: FINANCE COMMITTEE**

*5050 9-0*  
*P.M. 9-0*  
**AN ORDINANCE** authorizing the issuance of not to exceed \$1,775,000.00 of bonds for the purpose of making improvements to S.R. 21 and Erie Street, including road widening and improvements, traffic signalization, drainage improvements, repair and replacement of curbs, street lights, utility relocation and grading and seeding of same, and necessary appurtenances related thereto, and retiring notes previously issued for such purpose, the debt service payments for which are expected to be paid from payments in lieu of taxes made pursuant to Section 5709.42, Ohio Revised Code, authorizing a bond purchase agreement appropriate for the sale of the bonds, authorizing the purchase of a municipal bond insurance policy in connection therewith, approving the form of official statement relating to the bonds, and declaring an emergency.

**ORDINANCE NO. 32 - 2004**

**BY: FINANCE COMMITTEE**

*5050 9-0*  
*P.M. 9-0*  
*9-month Note.*  
**AN ORDINANCE** authorizing the issuance of not to exceed \$2,957,000.00 of tax-exempt notes in anticipation of the issuance of bonds for the purpose of providing funds for acquiring land and interests in land and demolition relating thereto for the purpose of urban redevelopment in connection with the Lincoln Center Phase III Project, and retiring notes previously issued for such purpose, and declaring an emergency.



**ORDINANCE NO. 33 - 2004**

**BY: FINANCE COMMITTEE**

*505P 9-0*

*PR 9-0*

**AN ORDINANCE** authorizing the Director of Public Service and Safety of the City of Massillon to advertise for, receive sealed bids, and enter into contract upon award of the Board of Control, with the lowest and best bidder for various items needed for the use in various departments of the city, and declaring an emergency.

**ORDINANCE NO. 34 - 2004**

**BY: FINANCE COMMITTEE**

*505P 9-0  
PR 9-0*

**AN ORDINANCE** establishing the asset capitalization threshold for financial reporting at Five Thousand (\$5,000) for the financial period of 2003, and declaring an emergency.

**ORDINANCE NO. 35 - 2004**

**BY: FINANCE COMMITTEE**

*505P 9-0  
PR 9-0*

**AN ORDINANCE** to approve current replacement pages to the Massillon Codified Ordinances, and declaring an emergency.

**ORDINANCE NO. 36 - 2004**

**BY: FINANCE COMMITTEE**

*505P 9-0  
PR 9-0*

**AN ORDINANCE** making a transfer in the 2004 appropriation of the General Fund, of the City of Massillon, Ohio, and declaring an emergency.

**ORDINANCE NO. 37 - 2004**

**BY: FINANCE COMMITTEE**

*505P 9-0  
PR 9-0*

**AN ORDINANCE** making certain appropriations from the unappropriated balance of the Wastewater Treatment Plant Upgrade Fund, Capital Improvement Fund, General Fund, and the Community Development Block Grant Program Fund, for the year ending December 31, 2004, and declaring an emergency.

**ORDINANCE NO. 38 - 2004**

**BY: FINANCE COMMITTEE**

*505P 9-0  
PR 9-0*

**AN ORDINANCE** authorizing the Director of Law of the City of Massillon, to enter into a one year contract with the Village of Canal Fulton, for the purpose of providing prosecutorial services, and declaring an emergency.

*1st ORD 39-2004*

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 JANUARY 2004

*B)* AUDITOR SUBMITS MONTHLY REPORT FOR JANUARY 2004

*& LAW DIR REPORT*

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

*Tim Reg. A legal advise on 505P of P100 & Emergency*

14. THIRD READING ORDINANCES AND RESOLUTIONS

ORDINANCE NO. 3 - 2004

BY: FINANCE COMMITTEE

*190*  
**AN ORDINANCE** making certain appropriations from the unappropriated balance of the General Fund for the year ending December 31, 2004, and declaring an emergency

15. SECOND READING ORDINANCES AND RESOLUTIONS

ORDINANCE NO. 5 - 2004

BY: COMMUNITY DEVELOPMENT COMMITTEE

*P.H. 2-18-04 @ 7:00pm*  
*2ND*  
**AN ORDINANCE** amending Section 1151.02 of the Massillon Code of 1985 rezoning a certain tract of land from I-1 General Industrial to B-3 General Business.

ORDINANCE NO. 6 - 2004

BY: ENVIRONMENTAL COMMITTEE

*5000*  
*9-0*  
*9-0*  
**AN ORDINANCE** accepting the replatting of Part of Out Lot 512 and all of Lot No. 15098, a 19.604 acre area, located on the west side of Bostic Boulevard SW, and the south side of Industrial Avenue SW, and including the extension of an existing sanitary sewer easement at the location of Lot No. 15098, in the City of Massillon, County of Stark, State of Ohio, presently on file in the office of the City Engineer, and declaring an emergency.

ORDINANCE NO. 14 - 2004

BY: FINANCE COMMITTEE

*2ND*  
**AN ORDINANCE** amending CHAPTER 917 "STANDARDS FOR CURBS, SIDEWALKS AND DRIVEWAYS" of the Codified Ordinances of the City of Massillon, by repealing existing Section 917.12(b) "LICENSE REQUIRED, FEE, BOND, EXCEPTION" and 917.13(b) "PERMIT REQUIRED FEES" and enacting new Sections 917.12(b) "LICENSE REQUIRED, FEE, BOND, EXCEPTION" and 917.13(b) "PERMIT REQUIRED FEES".

ORDINANCE NO. 15 - 2004

BY: FINANCE COMMITTEE

*2ND*  
**AN ORDINANCE** amending CHAPTER 1369 "NUMBERING STRUCTURES" of the Codified Ordinances of the City of Massillon, by creating Section 1369.01(f) "SCHEME OF NUMBERING".

*2ND ORD 16-2004 ADDED*  
ORDINANCE NO. 17 - 2004

BY: FINANCE COMMITTEE

*2ND*  
**AN ORDINANCE** amending CHAPTER 1113 "ADMINISTRATION AND ENFORCEMENT" of the Codified Ordinances of the City of Massillon, by repealing existing Sections 1113.06(a) "FEES" and 1113.06(b) "PLAN CHECKING AND FILED INSPECTION FEES" and enacting new Sections 1113.06(a) "FEES" and 1113.06(b) "PLAN CHECKING AND FILED INSPECTIONS FEES".

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: FEBRUARY 2, 2004

CLERK: MARY BETH BAILEY

5050 9-0  
P000 9-0

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

*passed*  
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 23 - 2004

BY: COMMUNITY DEVELOPMENT & ~~ANNEXATION~~ COMMITTEE

TITLE: AN ORDINANCE accepting the Final Plat for Kenyon Creek Estates Phase II in the City of Massillon, Stark County, Ohio, presently on file in the office of the City Engineer, and declaring an emergency.

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

Section 1:

The Final Plat for Kenyon Creek Estates Phase II in the City of Massillon, Stark County, Ohio, presently on file in the Office of the City Engineer, is hereby approved and accepted and that the dedication to public use of the streets and alleys thereon shown, be, and the same is hereby accepted and confirmed. This plat was approved by the Planning Commission at a meeting held August 13, 2003. The undertaking given by the owners for improvement of streets and now on file with the City Engineer is approved. The description of Kenyon Creek Estates Phase II is as follows:

Being Known as Part of Out Lot 872, a 15.9654 acre parcel of land located on the south side of Wooster Street NW, between Deermont and Kenyon Avenues NW. Total of 44 lots zoned R-1 One Family Residential. Streets to be dedicated will be: Wooster Creek, Kenyon Creek, Yellow Creek Avenues NW and Huron Creek Street NW.

Section 2:

This Ordinance is declared to be an emergency measure for the reason that said plat is urgently needed for the development of this area, the immediate approval of this plat will enable the developer to proceed with construction on the property, which will result in revenue being received by the city in the form of taxes faster than otherwise, and for the proper community growth and hence immediately necessary for the preservation of the 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 \_\_\_\_\_ 2004

APPROVED: \_\_\_\_\_  
MARY BETH BAILEY, CLERK OF COUNCIL    DENNIS D. HARWIG, PRESIDENT

APPROVED: \_\_\_\_\_  
FRANCIS H. CICCHINELLI, JR., MAYOR



DATE: FEBRUARY 2, 2004

CLERK: MARY BETH BAILEY

*PH 3/1 @ 6:30PM  
125 2/2/04*

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

*1st Reading*  
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 24 - 2004

*PH 3/1 @ 6:30*

BY: COMMUNITY DEVELOPMENT & ANNEXATION COMMITTEE

*passed 3/1/04*

TITLE: AN ORDINANCE amending Section 1151.02 of the Massillon Code of 1985 rezoning a certain tract of land from R-1 Single Family Residential to I-1 Light Industrial.

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

Section 1:

It is hereby determined to be in the best interest and promotion of the general health, safety and convenience, comfort, prosperity and welfare of the community to change the designation of the area set forth in Section 2 hereof from R-1 Single Family Residential to I-1 Light Industrial. Said rezoning was approved by the Planning Commission of the City of Massillon, Ohio, on January 14<sup>th</sup> 2004, and that notice and public hearing has been given according to law.

Section 2:

The City of Massillon, Ohio, Zone Map as identified by Section 1151.02 of the Massillon Code of 1985, be and is hereby amended to show the following described area as I-1 Light Industrial.

Being known as Part of Out Lot 288, two vacant parcels on Finefrock Blvd, (S.R. 241) and Oberlin Road SW, as identified on the attached Exhibit "A", the western parcel being 1.662 acres in size and the eastern parcel being 1.301 acres in size. This request has been submitted by the Massillon Baptist Temple, Inc. The Massillon Baptist Temple wishes to sell these parcels for industrial development

Section 3:

.Provided it receives the affirmative vote of a majority of the elected members to Council, it shall take effect and be in force from and after the earliest period allowed by law.



PASSED IN COUNCIL THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2004

APPROVED: \_\_\_\_\_  
MARY BETH BAILEY, CLERK OF COUNCIL    DENNIS D. HARWIG, PRESIDENT

APPROVED: \_\_\_\_\_  
FRANCIS H. CICCHINELLI, JR., MAYOR



DATE: FEBRUARY 2, 2004

CLERK: MARY BETH BAILEY

*507P 9-0  
pass 9-0*

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

*passed*  
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 25 - 2004

BY: ENVIRONMENTAL COMMITTEE

TITLE: AN ORDINANCE authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to accept the dedication of a 20 foot wide sanitary sewer easement for 1322 Erie Street South, 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, hereby finds that it is necessary to accept the dedication of a 20 foot wide sanitary sewer easement for 1322 Erie Street South, said easement to be located on Out Lot 153 and Part of Out Lot 828 as further identified on Exhibit "A" attached hereto.

Section 2:

The Director of Public Service and Safety of the City of Massillon, Ohio, is hereby authorized to accept the dedication of a 20 foot wide sanitary sewer easement for 1322 Erie Street South, said easement to be located on Out Lot 153 and Part of Out Lot 828 as further identified on Exhibit "A" attached hereto and being further described as follows:

Being known as Out Lot 153 and Part of Out Lot 828 located on the east side of Erie Street South between Shriver and Pearl Avenue SE. This request has been submitted by Russell and Margaret Draime. The property is zoned I-1 Light Industrial.

Section 3:

That this Ordinance is hereby declared to be an emergency measure for the reason that this 20 foot wide sanitary sewer easement is necessary so that the owner of the property may commence with installation of the sewer line and obtain an occupancy permit for property as soon as possible and it is in the public interest for this line to be installed as quickly as possible. 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 \_\_\_\_\_ 2004

APPROVED: \_\_\_\_\_  
MARY BETH BAILEY, CLERK OF COUNCIL      DENNIS D. HARWIG, PRESIDENT

APPROVED \_\_\_\_\_  
FRANCIS H. CICCHINELLI, JR., MAYOR



DATE: FEBRUARY 2, 2004

CLERK: MARY BETH BAILEY

*5:00P 9-0*

*PAS 9-0*

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

*passed*  
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 26 - 2004

BY: PARKS AND RECREATION COMMITTEE

TITLE: AN ORDINANCE authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to advertise for, receive sealed bids and to enter into a contract, upon award and approval of the Board of Control, with the highest and best bidder for the operation of the concession stands at the Genshaft and Community Parks, 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, receive sealed bids according to law and to enter into a contract, upon award and approval of the Board of Control, with the highest and best bidder for the operation of the concession stands at the Genshaft and Community Parks.

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 advertise for, receive sealed bids according to law, and enter into contract upon award and approval by the Board of Control, with the highest and best bidder the operation of the concession stands at the Genshaft and Community Parks.

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, is immediately necessary so that the contracts may be bid out and approved, and the concessionaire moved in prior to the commencement of the of the baseball and softball seasons, and for the additional reason that it is necessary for the more efficient operation of concession stands at the Genshaft and Community Parks. 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 \_\_\_\_\_, 2004

ATTEST: \_\_\_\_\_  
MARY BETH BAILEY, CLERK OF COUNCIL      DENNIS D. HARWIG, PRESIDENT

APPROVED: \_\_\_\_\_  
FRANCIS H. CICCHINELLI, JR., MAYOR



DATE: FEBRUARY 2, 2004

CLERK: MARY BETH BAILEY

*Susp 9-0  
Pass 9-0*

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

*passed*  
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 27 - 2004

BY: PARKS AND RECREATION COMMITTEE

TITLE: AN ORDINANCE authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to enter into an independent contractor agreement, without competitive bidding, with James Martin, for the year of 2004, and declaring an emergency.

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

Section 1:

The Director of Public Service and Safety of the City of Massillon, Ohio, is hereby authorized and directed to enter into an independent contractor agreement, without competitive bidding, with James Martin to provide maintenance, service and repair to City machinery and vehicles. The terms of the agreement are specified on Exhibit "A" attached hereto.

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 commence service, maintenance and repair of City machinery and vehicles immediately so that they are in proper condition by spring . 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 \_\_\_\_\_, 2004

ATTEST: \_\_\_\_\_  
MARY BETH BAILEY, CLERK OF COUNCIL      DENNIS D. HARWIG, PRESIDENT

APPROVED: \_\_\_\_\_  
FRANCIS H. CICCHINELLI, JR., MAYOR



# CITY OF MASSILLON

## Independent Contractor Agreement

This agreement made this \_\_\_\_\_ day of \_\_\_\_\_, 2004, by and between the City of Massillon, hereinafter called "City" and Jim Martin, hereinafter called the "Mechanic", of Address: 723 Taylor Street, S.W. \* Massillon, Ohio 44647 Home phone number: 330-806-1154

The City does hereby agree to contract with the Mechanic to provide mechanical repair and maintenance services for the City of Massillon Parks and Recreation Department from approximately February 1, 2004 – November 30, 2004.

Mechanic shall provide maintenance and repair services on an hourly basis for the maintenance, repair and service of the vehicles, machinery, and equipment of the City.

The City will pay the Mechanic for his services under this AGREEMENT at a rate of \$15.00/hr during the period of this AGREEMENT for services performed by the mechanic. Mechanic must submit monthly invoices for services rendered with accompanying timecards detailing the hours spent by Mechanic each month and such invoices shall be paid by City according to its usual custom for payment of invoices.

The City will provide support employees as needed and available to assist Mechanic with any maintenance work. The City will also provide all necessary tools and parts to effectively perform duties.

Contractor is an independent contractor and is responsible for the control, direction, and completion of his work. As such, neither federal, nor state, nor local income tax, nor payroll tax of any kind shall be withheld nor paid by City on behalf of Contractor. Contractor shall not be treated as an employee with respect to services performed hereunder for federal or state purposes.

Because Contractor is engaged in his own independent business, he is not eligible for, and shall not participate in, any pension, health or fringe benefit plan of the City.

Contractor understands that he, alone, is responsible to pay according to law, his own income taxes. If Contractor is not a corporation, he further understands that he may be liable for self-employment (social security) tax to be paid by it according to law.

The AGREEMENT will be in effect unless terminated by either party as provided for herein. The City or Mechanic may terminate the AGREEMENT at anytime, for any reason, two (2) weeks after written notice has been given to the appropriate party.

IN WITNESS THEREOF, the parties have hereunto set their hands this

\_\_\_\_\_ day of \_\_\_\_\_, 2004.

ATTEST

THE CITY OF MASSILLON, OHIO

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Alan W. Climer, Director of Public Service and Safety

ATTEST

MECHANIC

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Jim Martin

DATE: FEBRUARY 2, 2004

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

*passed*  
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 28 - 2004

BY: POLICE AND FIRE COMMITTEE

TITLE: AN ORDINANCE authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to advertise for, receive sealed bids for the repair and renovation of the Police Shooting Range and award the contract upon approval of the Board of Control for the Massillon Police Shooting Range, 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 and receive sealed bids according to law, for the repair and renovation of the Massillon Police Shooting Range.

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 advertise for and receive sealed bids according to law, for the repair and renovation of the Massillon Police Shooting Range.

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, the repair and renovation of the Shooting Range is urgently need so that the Police Officers may properly train and maintain their certification, and for the additional reason that it is necessary to receive bids for the Massillon Police Shooting Range Project so that the repair and renovation may be completed as soon as possible. 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 \_\_\_\_\_, 2004

ATTEST: \_\_\_\_\_  
MARY BETH BAILEY, CLERK OF COUNCIL      DENNIS D. HARWIG, PRESIDENT

APPROVED: \_\_\_\_\_  
FRANCIS H. CICCHINELLI, JR., MAYOR

DATE: FEBRUARY 2, 2004

CLERK: MARY BETH BAILEY

*Motion TO PASS Ordinance 9-0  
By MANSER*

CITY OF MASSILLON, OHIO

*OSP 9-0  
PASS 9-0*

COUNCIL CHAMBERS

*passed*  
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 29 - 2004

BY; STREETS, HIGHWAYS, TRAFFIC & SAFETY COMMITTEE

TITLE: AN ORDINANCE vacating a portion of a fifteen (15) foot wide storm drainage easement on property located at 2846 Lee Avenue NW.

WHEREAS, there has been filed with this Council a request by the owner of the property and the surveyor requesting that a five (5) foot portion off the west end of a fifteen (15) foot wide storm drainage easement described be vacated, and

WHEREAS, upon hearing, this Council hereby finds that there is good cause for such vacation and that it will not be detrimental to the general interest of this community and that such vacation should be made.

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

Section 1:

There has been a request to vacate a portion of a fifteen (15) foot wide storm drainage easement located at 2846 Lee Avenue NW, lying 5 feet off the west end of a 15 foot wide storm drainage easement. The request is to vacate a 5 foot portion off the west end of a 15 foot wide storm drainage easement of Lot No. 15815 located at 2846 Lee Avenue NW. This vacation plat is filed in the City Engineer's Office. Approval of the vacation was recommended by the City Planning Commission on January 14<sup>th</sup>, 2004. Said vacation is hereby approved, adopted and confirmed.

Section 2:

This ordinance shall take effect and be in force from and after the earliest period allowed by law.

PASSED IN COUNCIL THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2004

APPROVED: \_\_\_\_\_  
MARY BETH BAILEY, CLERK OF COUNCIL    DENNIS D. HARWIG, PRESIDENT

APPROVED: \_\_\_\_\_  
FRANCIS H. CICCHINELLI, JR., MAYOR



DATE: FEBRUARY 2, 2004

CLERK: MARY BETH BAILEY

505P 9-0  
9-0  
CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

*passed*  
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 30 - 2004

BY: STREETS, HIGHWAYS, TRAFFIC AND SAFETY COMMITTEE

TITLE: AN ORDINANCE accepting the dedication of a 25 foot right-of-way on the west side of 16<sup>th</sup> Street SE, south of Walnut Road and north of Gibson Avenue, in the City of Massillon, Ohio and declaring an emergency.

WHEREAS, upon hearing, the Council hereby finds that there is good cause to accept the dedication of such a right-of-way and that it will be beneficial to the general interest of this community and that such right-of-way should be accepted.

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

Section 1:

Council hereby accepts the dedication of the 25 foot right-of-way from Lot No. 10403 and Part of Out Lot 305 located on the west side of 16<sup>th</sup> Street SE, south of Walnut Road and north of Gibson Avenue. The request is to dedicate 25 feet off the front of these lots to the City of Massillon for roadway purposes, as the same is further described by the dedication plat attached hereto as Exhibit "A"..

Section 2:

That this Ordinance is declared to be an emergency measure necessary as said dedication is necessary so that the property lines of these lots extends to the centerline of 16<sup>th</sup> Street, S.E., there is no reason to delay approval of the dedication, and for the immediate preservation of the 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 \_\_\_\_\_ 2004

APPROVED: \_\_\_\_\_  
MARY BETH BAILEY, CLERK OF COUNCIL DENNIS D. HARWIG, PRESIDENT

APPROVED: \_\_\_\_\_  
FRANCIS H. CICCHINELLI, JR., MAYOR

DATED: FEBRUARY 2, 2004

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

*passed*  
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 31 - 2004

BY: THE FINANCE COMMITTEE

AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$1,775,000 OF BONDS FOR THE PURPOSE OF MAKING IMPROVEMENTS TO S.R. 21 AND ERIE STREET, INCLUDING ROAD WIDENING AND IMPROVEMENTS, TRAFFIC SIGNALIZATION, DRAINAGE IMPROVEMENTS, REPAIR AND REPLACEMENT OF CURBS, STREET LIGHTS, UTILITY RELOCATION AND GRADING AND SEEDING OF SAME, AND NECESSARY APPURTENANCES RELATED THERETO, AND RETIRING NOTES PREVIOUSLY ISSUED FOR SUCH PURPOSE, THE DEBT SERVICE PAYMENTS FOR WHICH ARE EXPECTED TO BE PAID FROM PAYMENTS IN LIEU OF TAXES MADE PURSUANT TO SECTION 5709.42, OHIO REVISED CODE, AUTHORIZING A BOND PURCHASE AGREEMENT APPROPRIATE FOR THE SALE OF THE BONDS, AUTHORIZING THE PURCHASE OF A MUNICIPAL BOND INSURANCE POLICY IN CONNECTION THEREWITH, APPROVING THE FORM OF OFFICIAL STATEMENT RELATING TO THE BONDS, AND DECLARING AN EMERGENCY.

WHEREAS, the Council of the City (the "Council") has issued notes dated February 28, 2003, in the amount of One Million Seven Hundred Seventy Five Thousand Dollars (\$1,775,000) (the "Outstanding Notes") in anticipation of the issuance of the bonds herein described, which Outstanding Notes will mature February 27, 2004; and



WHEREAS, the City Auditor of the City (the "City Auditor") has certified to this Council that the estimated life of the improvements stated in the title of this ordinance (the "Project") which are to be financed from the proceeds of the bonds herein described exceeds five (5) years and the maximum maturity of said bonds is twenty (20) years; and

WHEREAS, it is now deemed necessary to issue and sell not to exceed \$1,775,000 of such bonds under authority of the general laws of the State of Ohio, including Chapter 133, Ohio Revised Code, and in particular Section 133.23 thereof, for the purpose stated in the title of this ordinance;

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

Section 1. It is hereby declared necessary to issue bonds of the City in the principal sum of not to exceed One Million Seven Hundred Seventy Five Thousand Dollars (\$1,775,000), or such lesser amount as shall be determined by the City Auditor and certified to this Council, which bonds shall be designated City of Massillon, Ohio Market Place Infrastructure Bonds" (the "Bonds"), or as otherwise determined by the City Auditor. The Bonds shall be issued in one lot.

Section 2. The Bonds shall be issued as fully registered bonds in book entry form only, in such denominations as shall be determined by the City Auditor, but not exceeding the principal amount of Bonds maturing on any one date; shall be numbered consecutively from R-1 upward, as determined by the City Auditor; shall be dated the date determined by the City Auditor and set forth in the Certificate of Award provided for hereinbelow; and shall bear interest, payable semiannually on such dates as shall be determined by the City Auditor and set forth in the Certificate of Award, until the principal sum is paid or provision has been duly made therefor. Interest shall be calculated on the basis of a 360-day year of twelve 30-day months.

Section 3. The City Auditor is hereby authorized and directed to execute of behalf of the City a Certificate of Award (the "Certificate of Award") setting forth the aggregate principal amount and the final terms of the Bonds, which aggregate principal amount and terms, subject to the limitations set forth in this ordinance, shall be as determined by the City Auditor. The Certificate of Award shall indicate the dated date for the Bonds, the dates on which interest on the Bonds is to be paid (the "Interest Payment Date"), the purchase price for the Bonds (which shall be not less than 97% of the face value thereof), the maturity schedule for the Bonds (provided that the maximum maturity date of the Bonds shall not exceed the dates set forth hereinabove), the interest rates for the Bonds (provided that the true interest cost for all Bonds in the aggregate shall not exceed six per centum (6.00%) per annum), the optional and mandatory redemption provisions, if any, and such other terms not inconsistent with this ordinance as the City Auditor shall deem appropriate.

Section 4. The Bonds shall be issued with interest payable semiannually on each Interest Payment Date until the principal sum is paid or provision has been duly made therefor (the "Current Interest Bonds") or with interest compounded on each Interest Payment Date but payable only at maturity (the "Capital Appreciation Bonds") in such proportions as shall be set forth in the Certificate of Award. The Current Interest Bonds shall be in the denominations of \$5,000 or any integral multiple thereof, and the Capital Appreciation Bonds shall be in the denominations on the date of their issuance and delivery equal to

the principal amount which, when interest is accrued and compounded thereon, beginning on the date of delivery to the Original Purchaser (as defined hereinbelow), and each Interest Payment Date thereafter, will equal \$5,000 or any integral multiple thereof at maturity. The Current Interest Bonds shall be dated such date as shall be determined by the City Auditor and set forth in the Certificate of Award and the Capital Appreciation Bonds shall be dated their date of delivery to the Original Purchaser.

Section 5. The Current Interest Bonds shall be subject to optional and mandatory redemption prior to stated maturity, as provided in the Certificate of Award. If optional redemption of the Current Interest Bonds at a redemption price exceeding 100% is to take place on any date on which a mandatory redemption of the Current Interest Bonds of the same maturity will take place, the Current Interest Bonds to be redeemed by optional redemption shall be selected by the Bond Registrar (as defined hereinbelow) prior to the selection of the Current Interest Bonds to be redeemed at par on the same date.

When partial redemption is authorized, the Bond Registrar shall select Current Interest Bonds or portions thereof by lot within a maturity in such manner as the Bond Registrar may determine, provided, however, that the portion of any Current Interest Bond so selected will be in the amount of \$5,000 or any integral multiple thereof.

The notice of the call for redemption of Current Interest Bonds shall identify (i) by designation, letters, numbers or other distinguishing marks, the Current Interest Bonds or portions thereof to be redeemed, (ii) the redemption price to be paid, (iii) the date fixed for redemption, and (iv) the place or places where the amounts due upon redemption are payable. From and after the specified redemption date interest on the Current Interest Bonds (or portions thereof) called for redemption shall cease to accrue. Such notice shall be sent by first class mail at least 30 days prior to the redemption date to each registered holder of Current Interest Bonds to be redeemed at the address shown in the Bond Register (as defined hereinbelow) on the 15th day preceding the date of mailing. Failure to receive such notice of any defect therein shall not affect the validity of the proceedings for the redemption of any Current Interest Bond.

Section 6. The Bonds shall express upon their faces the purpose for which they are issued and that they are issued pursuant to this ordinance; and shall be executed by the City Auditor and the Mayor of the City, in their official capacities, provided that either or both of their signatures may be a facsimile. No Bond shall be valid or become obligatory for any purpose or shall be entitled to any security or benefit under this ordinance unless and until a certificate of authentication, as printed on the Bond, is signed by the Bond Registrar as authenticating agent. Authentication by the Bond Registrar shall be conclusive evidence that the Bond so authenticated has been duly issued and delivered under this ordinance and is entitled to the security and benefit of this ordinance. The certificate of authentication may be signed by any officer or officers of the Bond Registrar or by such other person acting as an agent of the Bond Registrar as shall be approved by the City Auditor on behalf of the City. It shall not be necessary that the same authorized person sign the certificate of authentication on all of the Bonds.

Section 7. The principal of and interest on the Bonds shall be payable in lawful money of the United States of America without deduction for the services of the Bond Registrar as paying agent. The principal of the Bonds shall be payable upon presentation and surrender of the Bonds at the principal office of the Bond Registrar. Each Bond shall bear interest from the later of the date thereof, or the most recent Interest Payment Date to which interest has been paid or duly provided for, unless the date of authentication of any Bond is less than 15 days prior to an Interest Payment Date, in which case interest shall accrue from such Interest Payment Date. Interest on any Bond shall be paid on each Interest Payment Date by check or draft mailed to the person in whose name the Bond is registered, at the close of business on the 15th day next preceding that Interest Payment Date (the "Record Date") (unless such date falls on a non-business day,

in which case the Record Date shall be the preceding business day), on the Bond Register at the address appearing therein.

Any interest on any Bond which is payable, but is not punctually paid or provided for, on any Interest Payment Date (herein called "Defaulted Interest") shall forthwith cease to be payable to the registered owner on the relevant Record Date by virtue of having been such owner and such Defaulted Interest shall be paid to the registered owner in whose name the Bond is registered at the close of business on a date (the "Special Record Date") to be fixed by the Bond Registrar, such Special Record Date to be not more than 15 nor less than 10 days prior to the date of proposed payment. The Bond Registrar shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, first class postage prepaid, to each Bondholder, at such Bondholder's address as it appears in the Bond Register, not less than 10 days prior to such Special Record Date, and may, in its discretion, cause a similar notice to be published once in a newspaper in each place where Bonds are payable, but such publication shall not be a condition precedent to the establishment of such Special Record Date.

Subject to the foregoing provisions of this section, each Bond delivered by the Bond Registrar upon transfer of or in exchange for or in lieu of any other Bond shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Bond.

Section 8. The City Auditor is hereby authorized and directed to serve as authenticating agent, bond registrar, transfer agent, and paying agent for the Bonds (the "Bond Registrar") or to execute on behalf of the Council a Bond Registrar Agreement with such bank or other appropriate financial institution as shall be acceptable to the City Auditor and the Original Purchaser, pursuant to which such bank or financial institution shall agree to serve as the Bond Registrar for the Bonds. If at any time the Bond Registrar shall be unable or unwilling to serve as such, or the City Auditor in such officer's discretion shall determine that it would be in the best interest of the City for such functions to be performed by another party, the City Auditor may, and is hereby authorized and directed to enter into an agreement with a national banking association or other appropriate institution experienced in providing such services, to perform the services required of the Bond Registrar hereunder. Each such successor Bond Registrar shall promptly advise all bondholders of the change in identity and new address of the Bond Registrar. So long as any of the Bonds remain outstanding, the City shall cause to be maintained and kept by the Bond Registrar, at the office of the Bond Registrar, all books and records necessary for the registration, exchange and transfer of Bonds as provided in this section (the "Bond Register"). Subject to the provisions of hereinabove, the person in whose name any Bond shall be registered on the Bond Register shall be regarded as the absolute owner thereof for all purposes. Payment of or on account of the principal of and interest on any Bond shall be made only to or upon the order of that person. Neither the City nor the Bond Registrar shall be affected by any notice to the contrary, but the registration may be changed as herein provided. All payments shall be valid and effectual to satisfy and discharge the liability upon the Bonds, including the interest thereon, to the extent of the amount or amounts so paid.

Any Bond, upon presentation and surrender at the office of the Bond Registrar, together with a request for exchange signed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Bond Registrar, may be exchanged for Bonds of the same form and of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Bonds surrendered, and bearing interest at the same rate and maturing on the same date.

A Bond may be transferred only on the Bond Register upon presentation and surrender thereof at the office of the Bond Registrar, together with an assignment executed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Bond Registrar.



Upon that transfer, the Bond Registrar shall complete, authenticate and deliver a new Bond or Bonds of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Bonds surrendered, and bearing interest at the same rate and maturing on the same date.

The City and the Bond Registrar shall not be required to transfer or exchange (i) any Bond during a period beginning at the opening of business fifteen (15) days before the day of mailing of a notice of redemption of Bonds, and ending at the close of business on the day of such mailing, or (ii) any Bonds selected for redemption, in whole or in part, following the date of such mailing.

In all cases in which Bonds are exchanged or transferred hereunder, the City shall cause to be executed and the Bond Registrar shall authenticate and deliver Bonds in accordance with the provisions of this ordinance. The exchange or transfer shall be without charge to the owner; except that the City and Bond Registrar may make a charge sufficient to reimburse them for any tax or other governmental charge required to be paid with respect to the exchange or transfer. The City or the Bond Registrar may require that those charges, if any, be paid before it begins the procedure for the exchange or transfer of the Bonds. All Bonds issued upon any transfer or exchange shall be the valid obligations of the City, evidencing the same debt, and entitled to the same benefits under this ordinance, as the Bonds surrendered upon that transfer or exchange.

Section 9. For purposes of this ordinance, the following terms shall have the following meanings:

"Book entry form" or "book entry system" means a form or system under which (i) the beneficial right to payment of principal of and interest on the Bonds may be transferred only through a book entry and (ii) physical Bonds in fully registered form are issued only to the Depository or its nominee as registered owner, with the Bonds "immobilized" to the custody of the Depository, and the book entry is the record that identifies the owners of beneficial interests in those Bonds.

"Depository" means any securities depository that is a clearing agency under federal law operating and maintaining, together with its participants, a book entry system to record beneficial ownership of Bonds and to effect transfers of Bonds, in book entry form, and includes The Depository Trust Company (a limited purpose trust company), New York, New York.

All or any portion of the Bonds may be initially issued to a Depository for use in a book entry system, and the provisions of this section shall apply, notwithstanding any other provision of this ordinance; (i) there shall be a single Bond of each maturity, (ii) those Bonds shall be registered in the name of the Depository or its nominee, as registered owner, and immobilized in the custody of the Depository; (iii) the beneficial owners in book entry form shall have no right to receive Bonds in the form of physical securities or certificates; (iv) ownership of beneficial interests in any Bonds in book entry form shall be shown by book entry on the system maintained and operated by the Depository, and transfers of the ownership of beneficial interests shall be made only by the Depository and by book entry; and (v) the Bonds as such shall not be transferable or exchangeable, except for transfer to another Depository or to another nominee of a Depository, without further action by the City. Bond service charges on Bonds in book entry form registered in the name of a Depository or its nominee shall be payable in next day funds delivered to the Depository or its authorized representative (i) in the case of interest, on each Interest Payment Date, and (ii) in all other cases, upon presentation and surrender of Bonds as provided in this ordinance.

The Bond Registrar may, with the approval of the City, enter into an agreement with the beneficial owner or registered owner of any Bond in the custody of a Depository providing for making all payments to that owner of principal and interest on that Bond or any portion thereof (other than any payment of the

entire unpaid principal amount thereof) at a place and in a manner (including wire transfer of federal funds) other than as provided above in this ordinance, without prior presentation or surrender of the Bond, upon any conditions which shall be satisfactory to the Bond Registrar and to the City. That payment in any event shall be made to the person who is the registered owner of that Bond on the date that principal is due, or, with respect to the payment of interest, as of the applicable date agreed upon as the case may be. The Bond Registrar shall furnish a copy of each of those agreements, certified to be correct by the Bond Registrar, to other paying agents for Bonds and to the City. Any payment of principal or interest pursuant to such an agreement shall constitute payment thereof pursuant to, and for all purposes of, this ordinance.

The City Auditor and the Mayor of the City are authorized and directed to execute, acknowledge and deliver, in the name of and on behalf of the City, the letter agreement among the City, the Bond Registrar and The Depository Trust Company, as depository, to be delivered in connection with the issuance of the Bonds to the Depository for use in a book entry system in substantially the form submitted to this Council.

If any Depository determines not to continue to act as a depository for the Bonds for use in a book entry system, the City and the Bond Registrar may attempt to establish a securities depository/book entry relationship with another qualified Depository under this ordinance. If the City and the Bond Registrar do not or are unable to do so, the City and the Bond Registrar, after the Bond Registrar has made provision for notification of the beneficial owners by the then Depository, shall permit withdrawal of the Bonds from the Depository and authenticate and deliver bond certificates in fully registered form to the assigns of the Depository or its nominee, all at the cost and expense (including costs of printing definitive Bonds), if the event is not the result of action or inaction by the City or the Bond Registrar, of those persons requesting such issuance.

Section 10. There shall be and is hereby levied annually on all the taxable property in the City, in addition to all other taxes and within the ten mill limitation, a direct tax (the "Debt Service Levy") for each year during which any of the Bonds are outstanding, for the purpose of providing, and in an amount which is sufficient to provide, funds to pay interest upon the Bonds as and when the same falls due and to provide a fund for the repayment of the principal of the Bonds at maturity or upon redemption. The Debt Service Levy shall not be less than the interest and sinking fund tax required by Article XII, Section 11 of the Ohio Constitution; provided, however, that in each year to the extent that funds are available from other sources and are lawfully appropriated for the payment of the Bonds, the amount of the Debt Service Levy shall be reduced by the amount of such funds so available and appropriated.

Section 11. The Debt Service Levy shall be and is hereby ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers, in the same manner, and at the same time that taxes for general purposes for each of such years are certified, extended and collected. The Debt Service Levy shall be placed before and in preference to all other items and for the full amount thereof. The funds derived from the Debt Service Levy shall be placed in a separate and distinct fund, which shall be irrevocably pledged for the payment of the interest and principal of the Bonds when and as the same falls due. Notwithstanding the foregoing, if the City determines that funds will be available from other sources for the payment of the Bonds in any year, including payments in lieu of taxes made pursuant to Section 5709.42, Ohio Revised Code, paid by property owners directly benefiting from the Project, the amount of the Debt Service Levy for such year shall be reduced by the amount of funds which will be so available, and the City shall appropriate such funds to the payment of the Bonds in accordance with law.

Section 12. The Bonds shall be sold at private sale to Fifth Third Securities, Columbus, Ohio (the "Original Purchaser") at the purchase price set forth in the Certificate of Award, plus interest accrued to the date of delivery of the Bonds to the Original Purchaser. The City Auditor and the Mayor of the City, or

either of them individually, are authorized and directed to execute on behalf of the City a Bond Purchase Agreement with the Original Purchaser, setting forth the conditions under which the Bonds are to be sold and delivered, which agreement shall not be substantially inconsistent with the form heretofore presented to the Council.

The proceeds from the sale of the Bonds, except the premium and accrued interest thereon, shall be used for the purpose aforesaid and for no other purpose. The premium and accrued interest received from such sale shall be transferred to the Bond Retirement Fund to be applied to the payment of the principal of and interest on the Bonds, or other outstanding obligations of the City, in the manner provided by law.

Section 13. The City hereby covenants that it shall comply with the requirements of all existing and future laws which must be satisfied in order that interest on the Bonds is and will continue to be excluded from gross income for federal income tax purposes, including without limitation restrictions on the use of the property financed with the proceeds of the Bonds so that the Bonds will not constitute "private activity bonds" within the meaning of Section 141 of the Internal Revenue Code of 1986, as amended (the "Code"). The City further covenants that it shall restrict the use of the proceeds of the Bonds in such manner and to such extent, if any, as may be necessary, after taking into account reasonable expectations at the time the Bonds are issued, so that they will not constitute arbitrage bonds under Section 148 of the Code and the regulations prescribed thereunder or under the Internal Revenue Code of 1954, as amended (the "Regulations").

The City Auditor, or any other officer, including the Mayor, is hereby authorized and directed (a) to make or effect any election, selection, designation, choice, consent, approval or waiver on behalf of the City with respect to the Bonds as permitted or required to be made or given under the federal income tax laws, for the purpose of assuring, enhancing or protecting favorable tax treatment or the status of the Bonds or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing any rebate amount or any payment of penalties, or making any payments of special amounts in lieu of making computations to determine, or paying, any excess earnings as rebate, or obviating those amounts or payments, as determined by the City Auditor, which action shall be in writing and signed by the City Auditor, or any other officer, including the Mayor, on behalf of the City; (b) to take any and all actions, make or obtain calculations, and make or give reports, covenants and certifications of and on behalf of the City, as may be appropriate to assure the exclusion of interest from gross income and the intended tax status of the Bonds; and (c) to give an appropriate certificate on behalf of the City, for inclusion in the transcript of proceedings, setting forth the facts, estimates and circumstances, and reasonable expectations of the City pertaining to Section 148 and the Regulations, and the representations, warranties and covenants of the City regarding compliance by the City with Sections 141 through 150 of the Code and the Regulations.

The City Auditor shall keep and maintain adequate records pertaining to investment of all proceeds of the Bonds sufficient to permit, to the maximum extent possible and presently foreseeable, the City to comply with any federal law or regulation now or hereafter having applicability to the Bonds which limits the amount of bond proceeds which may be invested on an unrestricted yield or requires the City to rebate arbitrage profits to the United States Department of the Treasury. The City Auditor is hereby authorized and directed to file such reports with, and rebate arbitrage profits to, the United States Department of the Treasury, to the extent that any federal law or regulation having applicability to the Bonds requires any such reports or rebates.

Section 14. The City Auditor, or any other officer, including the Mayor, is authorized to make appropriate arrangements, if such officer deems it in the best interest of the City, for the issuance of a municipal bond insurance policy with respect to all or any portion of the Bonds, including executing and



delivering a commitment therefor and certificates and other documents in connection therewith. All additional provisions required to be authorized by this Council for the issuance of a municipal bond insurance policy shall be contained in the Certificate of Award.

Section 15. The form of Preliminary Official Statement relating to the Bonds as presented to this Council, and the distribution thereof by the Original Purchaser, are hereby authorized, approved, ratified and confirmed. The proposed form of final Official Statement relating to the Bonds, as presented to this Council, and the distribution by the Original Purchaser of the final Official Statement, in substantially the form presented to this Council, are hereby authorized and approved. The City Auditor and the Mayor of the City are authorized to execute and deliver the final Official Statement on behalf of the City, which shall be substantially as per the form of Official Statement heretofore presented to this Council, with such changes as the City Auditor and the Mayor may approve; their execution thereof on behalf of the City to be conclusive evidence of such authorization and approval, and copies thereof are hereby authorized to be prepared and furnished to the Original Purchaser for distribution to prospective purchasers of the Bonds and other interested persons.

Section 16. The officer having charge of the minutes of the Council and any other officers of the Council, or any of them individually, are hereby authorized and directed to prepare and certify a true transcript of proceedings pertaining to the Bonds and to furnish a copy of such transcript to the Original Purchaser. Such transcript shall include certified copies of all proceedings and records of the Council relating to the power and authority of the City to issue the Bonds and certificates as to matters within their knowledge or as shown by the books and records under their custody and control, including but not limited to a general certificate of the City Auditor and a no-litigation certificate of the Mayor and the City Auditor, and such certified copies and certificates shall be deemed representations of the City as to the facts stated therein.

Section 17. It is hereby found and determined that all acts, conditions and things necessary to be done precedent to and in the issuing of the Bonds in order to make them legal, valid and binding obligations of the City have happened, been done and been performed in regular and due form as required by law; that the faith, credit and revenue of the City are hereby irrevocably pledged for the prompt payment of the principal and interest thereof at maturity; and that no limitation of indebtedness or taxation, either statutory or constitutional, has been exceeded in issuing the Bonds.

Section 18. It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 19. The City Clerk is hereby directed to forward a certified copy of this ordinance to the County Auditor of Stark County, Ohio.

Section 20. This ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health and safety of the City and its inhabitants for the reason that notes heretofore issued are about to mature and it is necessary to make immediate provision for their repayment in order to preserve the credit of the City; wherefore this ordinance shall take effect and be in force from and immediately after its adoption.

Adopted in Council on this 2nd day of February, 2004.

Effective this 2nd day of February, 2004.

Attest:

\_\_\_\_\_  
Clerk

\_\_\_\_\_  
President of Council

Approved:

\_\_\_\_\_  
Mayor

CERTIFICATE

The undersigned Clerk hereby certifies that the foregoing is a true copy of Ordinance No. \_\_\_\_ - 2004 duly adopted by the Council of the City of Massillon, Ohio on February 2, 2004 and that a true copy thereof was certified to the County Auditor of Stark County, Ohio on February \_\_, 2004.

\_\_\_\_\_  
Clerk  
City of Massillon, Ohio

RECEIPT OF COUNTY AUDITOR FOR  
LEGISLATION PROVIDING  
FOR THE ISSUANCE OF  
GENERAL OBLIGATION BONDS

I, Brant A. Luther, the duly elected, qualified, and acting County Auditor in and for Stark County, Ohio hereby certify that a certified copy of Ordinance No. \_\_\_\_ - 2004 duly adopted by the City Council of the City of Massillon, Ohio on February 2, 2004 providing for the issuance of general obligation bonds designated City of Massillon, Ohio Market Place Infrastructure Bonds, in the amount of not to exceed \$1,775,000 was filed in this office on February \_\_, 2004.

WITNESS my hand and official seal at Canton, Ohio on February \_\_, 2004.

[SEAL]

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County Auditor  
Stark County, Ohio



9 month Note  
503P9-2  
PASS  
9-0  
DATED: FEBRUARY 2, 2004

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

passed  
LEGISLATIVE DEPARTMENT

ORDINANCE NO. \_32\_ - 2004

BY: THE FINANCE COMMITTEE

AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$2,957,000 OF TAX-EXEMPT NOTES IN ANTICIPATION OF THE ISSUANCE OF BONDS FOR THE PURPOSE OF PROVIDING FUNDS FOR ACQUIRING LAND AND INTERESTS IN LAND AND DEMOLITION RELATING THERETO, FOR THE PURPOSE OF URBAN REDEVELOPMENT IN CONNECTION WITH THE LINCOLN CENTER PHASE III PROJECT, AND RETIRING NOTES PREVIOUSLY ISSUED FOR SUCH PURPOSE, AND DECLARING AN EMERGENCY.

WHEREAS, the City Council (the "Council") of the City of Massillon (the "City") has issued tax-exempt notes dated June 12, 2003, in the amount of One Million Three Hundred Three Thousand Dollars (\$1,303,000) (the "Tax-Exempt Outstanding Notes") in anticipation of the issuance of the bonds herein described, which Tax-Exempt Outstanding Notes will mature February 27, 2004; and

WHEREAS, the City Council (the "Council") of the City of Massillon (the "City") has issued taxable notes notes dated June 12, 2003, in the amount of One Million Six Hundred Twelve Thousand Dollars (\$1,612,000) (the "Taxable Outstanding Notes" and, together with the Tax-Exempt Notes, the "Outstanding Notes") in anticipation of the issuance of the bonds herein described, which Taxable Outstanding Notes will mature February 27, 2004; and

WHEREAS it appears advisable in lieu of issuing bonds at this time to issue new notes in anticipation of the issuance of bonds and to retire the Outstanding Notes, and to issue such new notes as tax-exempt bond anticipation notes; and

WHEREAS, the City Auditor (the "City Auditor") of the City has certified to the Council of the City (the "Council") that the estimated life of the improvement stated in the title of this ordinance (the "Project") which is to be financed with the proceeds of bonds and notes hereinafter referred to exceeds five (5) years, the maximum maturity of bonds being thirty (30) years and notes being eighteen (18) years;

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

Section 1. It is hereby declared necessary to issue bonds (the "Bonds") of the City in the principal sum of not to exceed \$2,957,000 for the purpose of paying the cost of financing the Project.

Section 2. The Bonds shall be dated prior to the maturity date of the Notes (as defined hereinbelow), shall bear interest at the maximum average annual interest rate presently estimated to be five per centum (5.00%) per annum, payable semiannually until the principal sum is paid and shall mature in thirty (30) annual installments.

Section 3. It is necessary to issue and this Council hereby determines that notes shall be issued in anticipation of the issuance of the Bonds and to retire the Outstanding Notes.

Section 4. Such anticipatory notes (the "Notes") shall be in the amount of not to exceed \$2,957,000, which sum does not exceed the amount of the Bonds. The Notes shall be dated the date established by the City Auditor and certified to this Council and shall mature on such date as shall be determined by the City Auditor and certified to this Council, provided that such maturity date shall not be later than one year after the date of issuance of the Notes. The City Auditor is authorized and directed to execute a Certificate setting forth the final terms of the Notes, consistent with the requirements of this Ordinance, and to present the same to Council after closing of the Notes.

Section 5. The Notes shall be issued as one fully registered note in book-entry only form in denominations of \$100,000 or any integral multiple of \$1,000 in excess thereof. Coupons shall not be attached to the Notes. The Notes shall be sold in a transaction exempt from the requirements of Rule 15c2-12 of the United States Securities and Exchange Commission. Based upon the foregoing, beneficial interests in the Notes are not to be sold or transferred in principal amounts of less than \$100,000.

Section 6. The Notes shall be the full general obligation of the City, and the full faith, credit and revenue of the City are hereby pledged for the prompt payment of the same. The par value to be received from the sale of the Bonds and any excess funds resulting from the issuance of the Notes shall, to the extent necessary, be used only for the retirement of the Notes at maturity, together with interest thereon, and is hereby pledged for such purpose.

Section 7. There shall be and is hereby levied annually on all the taxable property in the City, in addition to all other taxes and inside the ten mill limitation, a direct tax (the "Debt Service Levy") for each year during which any of the Notes are outstanding, in an amount which is sufficient to provide funds to pay interest upon the Notes as and when the same fall due and to provide a fund for the repayment of the principal of the Notes at maturity or upon redemption. The Debt Service Levy shall not be less than the interest and sinking fund tax required by Article XII, Section 11 of the Ohio Constitution.

Section 8. The Debt Service Levy shall be and is hereby ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers, in the same manner, and at the same time that taxes for general purposes for each of such years are certified, extended and collected. The Debt Service Levy shall be placed before and in preference to all other items and for the full amount thereof. The funds derived from the Debt Service Levy shall be placed in a separate and distinct fund, which shall be irrevocably pledged for the payment of the premium, if any, and interest on and principal of the Notes and Bonds when and as the same fall due. Notwithstanding the foregoing, if the City determines that funds will be available from other sources for the payment of the Notes and Bonds in any year, the amount of the Debt Service Levy for such year shall be reduced by the amount of funds which will be so available, and the City shall appropriate such funds to the payment of the Notes and Bonds in accordance with law.

Section 9. The Notes shall bear interest, based on a 360-day year of twelve 30-day months, payable at maturity, at such rate per annum as shall be determined by the City Auditor and certified to this Council, provided that such rate shall not exceed five per centum (5.00%) per annum. The Notes shall be, and hereby are, awarded and sold to Fifth Third Securities, Inc., Columbus, Ohio (the "Original Purchaser") at the par value thereof, and the City Auditor of this Council is hereby authorized and directed to deliver the Notes, when executed, to said purchaser upon payment of the purchase price and accrued interest, if any, to the date of delivery.

The proceeds of such sale, except any accrued interest or premium thereon, shall be deposited in the Treasury of the City and used for the purpose aforesaid and for no other purpose. Any accrued interest or premium on the Notes shall be transferred to the Bond Retirement Fund to be applied to the payment of the principal and interest on the Notes, and other outstanding obligations of the City, in the manner provided by law.

Section 10. The Notes shall be executed by the City Auditor and the Mayor, provided that either or both of such signatures may be a facsimile. The Notes shall be designated "City of Massillon, Ohio Lincoln Center Phase III Land Acquisition Notes," or as otherwise designated by the City Auditor, and shall express upon their faces the purpose for which they are issued and that they are issued pursuant to this ordinance. No Note shall be valid or become obligatory for any purpose or shall be entitled to any security or benefit under this ordinance unless and until a certificate of authentication, as printed on the Note, is signed by the Note Registrar (as defined in this ordinance) as authenticating agent. Authentication by the Note Registrar shall be conclusive evidence that the Note so authenticated has been duly issued and delivered under this ordinance and is entitled to the security and benefit of this ordinance. The certificate of authentication may be signed by any officer or officers of the Note Registrar or by such other person acting as an agent of the Note Registrar as shall be approved by the City Auditor on behalf of the City. It shall not be necessary that the same authorized person sign the certificate of authentication on all of the Notes.

Section 11. The City hereby covenants, pursuant to Section 133.05(B)(7), Ohio Revised Code, to appropriate annually from lawfully available municipal income taxes, and to continue to levy and collect municipal income taxes adequate to produce, amounts necessary to meet the debt charges of the Notes and the Bonds in each year until full payment is made.

Section 12. Fifth Third Bank, is hereby appointed to act as the authenticating agent, note registrar, transfer agent and paying agent (collectively, the "Note Registrar") for the Notes. So long as any of the Notes remain outstanding, the City will cause to be maintained and kept by the Note Registrar, at the office of the Note Registrar, all books and records necessary for the registration, exchange and



transfer of Notes as provided in this section (the "Note Register"). The person in whose name any Note shall be registered on the Note Register shall be regarded as the absolute owner thereof for all purposes. Payment of or on account of the principal of and interest on any Note shall be made only to or upon the order of that person. Neither the City nor the Note Registrar shall be affected by any notice to the contrary, but the registration may be changed as herein provided. All payments shall be valid and effectual to satisfy and discharge the liability upon the Notes, including the interest thereon, to the extent of the amount or amounts so paid.

Any Note, upon presentation and surrender at the office of the Note Registrar, together with a request for exchange signed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Note Registrar, may be exchanged for Notes of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Notes surrendered, and bearing interest at the same rate and maturing on the same date.

A Note may be transferred only on the Note Register upon presentation and surrender thereof at the office of the Note Registrar, together with an assignment executed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Note Registrar. Upon that transfer, the Note Registrar shall complete, authenticate and deliver a new Note or Notes of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Notes surrendered, and bearing interest at the same rate and maturing on the same date.

In all cases in which Notes are exchanged or transferred hereunder, the City shall cause to be executed and the Note Registrar shall authenticate and deliver Notes in accordance with the provisions of the Note Ordinance. The exchange or transfer shall be without charge to the owner; except that the City and Note Registrar may make a charge sufficient to reimburse them for any tax or other governmental charge required to be paid with respect to the exchange or transfer. The City or the Note Registrar may require that those charges, if any, be paid before it begins the procedure for the exchange or transfer of the Notes. All Notes issued upon any transfer or exchange shall be the valid obligations of the City, evidencing the same debt, and entitled to the same benefits under the Note Ordinance, as the Notes surrendered upon that transfer or exchange.

Section 13. For purposes of the Note Ordinance, the following terms shall have the following meanings:

"Book entry form" or "book entry system" means a form or system under which (i) the beneficial right to payment of principal of and interest on the Notes may be transferred only through a book entry and (ii) physical Notes in fully registered form are issued only to a depository or its nominee as registered owner, with the Notes "immobilized" to the custody of the Depository, and the book entry is the record that identifies the owners of beneficial interests in those Notes.

"Depository" means any securities depository that is a clearing agency under federal law operating and maintaining, together with its participants, a book entry system to record beneficial ownership of Notes and to effect transfers of Notes, in book entry form.

The Notes will be initially issued to a Depository for use in a book entry system, and the provisions of this section shall apply, notwithstanding any other provision of the Note Ordinance; (i) there shall be a single Note of each maturity, (ii) those Notes shall be registered in the name of the Depository or its nominee, as registered owner, and immobilized in the custody of the Depository; (iii) the beneficial owners in book entry form shall have no right to receive Notes in the form of physical

securities or certificates; (iv) ownership of beneficial interests in any Notes in book entry form shall be shown by book entry on the system maintained and operated by the Depository, and transfers of the ownership of beneficial interests shall be made only by the Depository and by book entry; and (v) the Notes as such shall not be transferable or exchangeable, except for transfer to another Depository or to another nominee of a Depository, without further action by the City. Note service charges on Notes in book entry form registered in the name of a Depository or its nominee shall be payable in same day funds delivered to the Depository or its authorized representative upon presentation and surrender of Notes as provided in the Note Ordinance.

The Note Registrar may, with the approval of the City, enter into an agreement with the beneficial owner or registered owner of any Note in the custody of a Depository providing for making all payments to that owner of principal and interest on that Note or any portion thereof (other than any payment of the entire unpaid principal amount thereof) at a place and in a manner (including wire transfer of federal funds) other than as provided in the Note Ordinance, without prior presentation or surrender of the Note, upon any conditions which shall be satisfactory to the Note Registrar and to the City. That payment in any event shall be made to the person who is the registered owner of that Note on the date that principal is due, or, with respect to the payment of interest, as of the applicable date agreed upon as the case may be. The Note Registrar will furnish a copy of each of those agreements, certified to be correct by the Note Registrar, to other paying agents for Notes and to the City. Any payment of principal or interest pursuant to such an agreement shall constitute payment thereof pursuant to, and for all purposes of, the Note Ordinance.

The Clerk of the City is authorized and directed to execute, acknowledge and deliver, in the name of and on behalf of the City, if requested, a letter agreement among the City, the Note Registrar and The Depository Trust Company, to be delivered in connection with the issuance of the Notes to the Depository for use in a book entry system in substantially the form submitted to the City.

If any Depository determines not to continue to act as a depository for the Notes for use in a book entry system, the City and the Note Registrar may attempt to have established a securities depository/book entry relationship with another qualified Depository under the Note Ordinance. If the City and the Note Registrar do not or are unable to do so, the City and the Note Registrar, after the Note Registrar has made provision for notification of the beneficial owners by the then Depository, shall permit withdrawal of the Notes from the Depository and authenticate and deliver bond certificates in fully registered form to the assigns of the Depository or its nominee, all at the cost and expense (including costs of printing definitive Notes), if the event is not the result of action or inaction by the City or the Note Registrar, of those persons requesting such issuance.

Section 14. The City hereby covenants that it will comply with the requirements of all existing and future laws which must be satisfied in order that interest on the Notes is and will continue to be excluded from gross income for federal income tax purposes, including without limitation restrictions on the use of the property financed with the proceeds of the Notes so that the Notes will not constitute "private activity bonds" within the meaning of Section 141 of the Internal Revenue Code of 1986, as amended (the "Code"). The City further covenants that it will restrict the use of the proceeds of the Notes in such manner and to such extent, if any, as may be necessary, after taking into account reasonable expectations at the time the debt is incurred, so that they will not constitute arbitrage bonds under Section 148 of the Code and the regulations prescribed thereunder or under the Internal Revenue Code of 1954, as amended (the "Regulations").

The City Auditor, or any other officer of the City, including the Mayor, is hereby authorized and directed (a) to make or effect any election, selection, designation, choice, consent, approval or waiver on

behalf of the City with respect to the Notes as permitted or required to be made or given under the federal income tax laws, for the purpose of assuring, enhancing or protecting favorable tax treatment or the status of the Notes or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing any rebate amount or any payment of penalties, or making any payments of special amounts in lieu of making computations to determine, or paying, any excess earnings as rebate, or obviating those amounts or payments, as determined by the City Auditor, which action shall be in writing and signed by the City Auditor, or any other officer of the City, including the Mayor, on behalf of the City; (b) to take any and all actions, make or obtain calculations, and make or give reports, covenants and certifications of and on behalf of the City, as may be appropriate to assure the exclusion of interest from gross income and the intended tax status of the Notes; and (c) to give an appropriate certificate on behalf of the City, for inclusion in the transcript of proceedings, setting forth the facts, estimates and circumstances, and reasonable expectations of the City pertaining to Section 148 and the Regulations, and the representations, warranties and covenants of the City regarding compliance by the City with sections 141 through 150 of the Code and the Regulations.

The City Auditor shall keep and maintain adequate records pertaining to investment of all proceeds of the Notes sufficient to permit, to the maximum extent possible and presently foreseeable, the City to comply with any federal law or regulation now or hereafter having applicability to the Notes which limits the amount of Note proceeds which may be invested on an unrestricted yield or requires the City to rebate arbitrage profits to the United States Department of the Treasury. The City Auditor of the City is hereby authorized and directed to file such reports with, and rebate arbitrage profits to, the United States Department of the Treasury, to the extent that any federal law or regulation having applicability to the Notes requires any such reports or rebates.

Section 15. The officer having charge of the minutes of the Council and any other officers of the Council, or any of them individually, are hereby authorized and directed to prepare and certify a true transcript of proceedings pertaining to the Notes and to furnish a copy of such transcript to the Original Purchaser. Such transcript shall include certified copies of all proceedings and records of the Council relating to the power and authority of the City to issue the Notes and certificates as to matters within their knowledge or as shown by the books and records under their custody and control, including but not limited to a general certificate of the City Auditor and a no-litigation certificate of the Mayor and the City Auditor, and such certified copies and certificates shall be deemed representations of the City as to the facts stated therein.

Section 16. It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 17. It is hereby determined that all acts, conditions and things necessary to be done precedent to and in the issuing of the Notes in order to make them legal, valid and binding obligations of the City have happened, been done and been performed in regular and due form as required by law; that the full faith, credit and revenue of the City are hereby irrevocably pledged for the prompt payment of the principal and interest thereof at maturity; and that no limitation of indebtedness or taxation, either statutory or constitutional, has been exceeded in issuing the Notes.

Section 18. The Clerk is hereby directed to forward a certified copy of this ordinance to the Auditor of Stark County, Ohio.

Section 19. This ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health and safety of the City and its inhabitants for the reason that notes heretofore issued are about to mature and it is necessary to make immediate provision for their repayment in order to preserve the credit of the City; wherefore this ordinance shall take effect and be in force from and immediately after its adoption.

Adopted in Council on this 2nd day of February, 2004.

Effective this 2nd day of February, 2004.

Attest:

\_\_\_\_\_  
Clerk

\_\_\_\_\_  
President of Council

Approved:

\_\_\_\_\_  
Mayor

CERTIFICATE

The undersigned Clerk hereby certifies that the foregoing is a true copy of Ordinance No. \_\_\_\_ - 2004 duly adopted by the Council of the City of Massillon, Ohio on February 2, 2004, and that a true copy thereof was certified to the County Auditor of Stark County, Ohio, on February \_\_, 2004.

\_\_\_\_\_  
Clerk  
City of Massillon, Ohio



RECEIPT OF COUNTY AUDITOR FOR  
LEGISLATION PROVIDING  
FOR THE ISSUANCE OF  
GENERAL OBLIGATION NOTES

I, Brant A. Luther, the duly elected, qualified, and acting County Auditor in and for Stark County, Ohio hereby certify that a certified copy of Ordinance No. \_\_\_\_ - 2004 duly adopted by the City Council of the City of Massillon, Ohio on February 2, 2004, providing for the issuance of general obligation notes designated City of Massillon, Ohio Lincoln Center Phase III Land Acquisition Notes in the aggregate amount of not to exceed \$2,957,000 was filed in this office on February \_\_, 2004.

WITNESS my hand and official seal at Canton, Ohio this \_\_\_\_ day of February, 2004.

[SEAL]

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County Auditor  
Stark County, Ohio

DATE: FEBRUARY 2, 2004

CLERK: MARY BETH BAILEY

*SWP  
pas 9-0  
9-0*

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

*passed*  
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 33 - 2004

BY: FINANCE COMMITTEE

TITLE: AN ORDINANCE authorizing the Director of Public Service and Safety of the City of Massillon to advertise for, receive sealed bids, and enter into contract upon award of the Board of Control, with the lowest and best bidder for various items needed for the use in various departments of the city, 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, receive sealed bids, and enter into contract with the lowest and best bidder for various items needed for the use in various departments of the city, said items listed on Exhibit "A" attached hereto.

Section 2:

The Director of Public Service and Safety of the City of Massillon is hereby authorized to advertise for, receive sealed bids, and enter into contract with the lowest and best bidder for various items needed for the use in various departments of the city, said items listed on Exhibit "A" attached hereto.

Section 3:

This Ordinance is declared to be an emergency measure for the reason that the items listed on Exhibit "A" attached hereto are needed for the efficient operation of the city, and due to the time involved in the advertising and bid process it must be commenced immediately so that the items are available for use as soon as possible as the various items are needed for the efficient operation of the various departments. 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 \_\_\_\_\_ 2004

APPROVED: \_\_\_\_\_  
MARY BETH BAILEY, CLERK OF COUNCIL      DENNIS D. HARWIG, PRESIDENT

APPROVED: \_\_\_\_\_  
FRANCIS H. CICCHINELLI, JR., MAYOR

DATE: FEBRUARY 2, 2004

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

*passed*  
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 34 - 2004

BY: FINANCE COMMITTEE

TITLE: AN ORDINANCE establishing the asset capitalization threshold for financial reporting at Five Thousand (\$5,000) for the financial period of 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 is hereby established within the City of Massillon, Ohio, an asset capitalization threshold starting in the financial reporting period of 2003 at Five Thousand Dollars (\$5,000) per item.

Section 2:

That this Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the health, safety and welfare of the community and for the additional reason that it is necessary that the asset capitalization threshold be established for the purpose of complying with the requirement of the Auditor. 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 \_\_\_\_\_ 2004

APPROVED: \_\_\_\_\_  
MARY BETH BAILEY, CLERK OF COUNCIL    DENNIS D. HARWIG, PRESIDENT

APPROVED: \_\_\_\_\_  
FRANCIS H. CICCHINELLI, JR., MAYOR



5-30-9-0

pass 9-0

3

passed

ORDINANCE NO. 35-2004

AN ORDINANCE TO APPROVE CURRENT REPLACEMENT  
PAGES TO THE MASSILLON CODIFIED ORDINANCES AND  
DECLARING AN EMERGENCY.

WHEREAS, the State General Assembly by Senate Bill 123 has completely revised the State Traffic Code, effective January 1, 2004;

WHEREAS, the Ohio Constitution requires that Ohio municipal ordinances comply with State law if they are an exercise of the Municipality's police powers;

WHEREAS, a new Traffic Code as contained in the current replacement pages has been prepared for the municipality;

WHEREAS, certain other provisions within the Codified Ordinances should be amended to conform with current State law; and

WHEREAS, various ordinances of a general and permanent nature have been passed by Council which should be included in the Codified Ordinances; and

WHEREAS, the City has heretofore entered into a contract with the Walter H. Drane Company to prepare and publish such revision which is before Council;

NOW, THEREFORE, BE IT ORDAINED, by the Council of the City of Massillon, Ohio:

SECTION 1: That the ordinances of the City of Massillon, Ohio, of a general and permanent nature, as revised, recodified, rearranged and consolidated into component codes, titles, chapters and sections within the 2004 Replacement Pages to the Codified Ordinances, are hereby approved and adopted.

SECTION 2: That the following sections and chapters are hereby added, amended or repealed as respectively indicated in order to comply with current State law.

Traffic Code

- 301.201 Operate Defined. (Added)
- 301.251 Predicate Motor Vehicle or Traffic Offense Defined. (Added)
- 301.51 Vehicle Defined. (Amended)
- 303.01 Compliance With Lawful Order of Police Officer; Fleeing. (Amended)
- 303.02 Traffic Direction in Emergencies; Obedience to School Guard. (Amended)
- 303.04 Road Workers, Motor Vehicles and Equipment Excepted. (Amended)
- 303.06 Freeway Use Prohibited By Pedestrians, Bicycles and Animals. (Amended)

Traffic Code (Cont.)

- 303.09 Leaving Junk and Other Vehicles on Private or Public Property Without Permission or Notification. (Amended)
- 303.99 General Traffic Code Penalties. (Amended)
- 311.01 Placing Injurious Material or Obstruction in Street. (Amended)
- 311.02 Parades and Assemblages. (Amended)
- 311.03 Toy Vehicles on Streets. (Amended)
- 313.01 Obedience to Traffic Control Devices. (Amended)
- 313.03 Traffic Control Signal Terms and Lights. (Amended)
- 313.04 Lane-Use Control Signals Over Individual Lanes. (Amended)
- 313.05 Pedestrian Control Signals. (Amended)
- 313.06 Flashing Traffic Signals. (Amended)
- 313.07 Unauthorized Signs and Signals, Hiding From View, Advertising. (Amended)
- 313.08 Alteration, Injury, Removal of Traffic Control Devices. (Amended)
- 313.09 Driver's Duties Upon Approaching Ambiguous or Non-Working Traffic Signal. (Amended)
- 313.10 Unlawful Purchase, Possession or Sale. (Amended)
- 331.01 Driving Upon Right Side of Roadway; Exceptions. (Amended)
- 331.02 Passing to Right When Proceeding in Opposite Directions. (Amended)
- 331.03 Overtaking, Passing to Left; Driver's Duties. (Amended)
- 331.04 Overtaking and Passing Upon Right. (Amended)
- 331.05 Overtaking, Passing to Left of Center. (Amended)
- 331.06 Additional Restrictions on Driving Upon Left Side of Roadway. (Amended)
- 331.07 Hazardous or No Passing Zones. (Amended)
- 331.08 Driving in Marked Lanes or Continuous Lines of Traffic. (Amended)
- 331.09 Following Too Closely. (Amended)
- 331.10 Turning at Intersections. (Amended)
- 331.11 Turning Into Private Driveway, Alley or Building. (Amended)
- 331.12 "U" Turns Restricted. (Amended)
- 331.13 Starting and Backing Vehicles. (Amended)
- 331.14 Signals Before Changing Course, Turning or Stopping. (Amended)
- 331.15 Hand and Arm Signals. (Amended)
- 331.16 Right of Way at Intersections. (Amended)
- 331.17 Right of Way When Turning Left. (Amended)
- 331.18 Operation of Vehicle at Yield Signs. (Amended)
- 331.19 Operation of Vehicle at Stop Signs. (Amended)
- 331.20 Emergency or Public Safety Vehicles at Stop Signals or Signs. (Amended)
- 331.21 Right of Way of Public Safety or Coroner's Vehicle. (Amended)
- 331.22 Driving Onto Roadway From Place Other Than Roadway: Duty to Yield. (Amended)

Traffic Code (Cont.)

- 331.23 Driving Onto Roadway From Place Other Than Roadway: Stopping At Sidewalk. (Amended)
- 331.24 Right of Way of Funeral Procession. (Amended)
- 331.25 Driver's View and Control To Be Unobstructed By Load or Persons. (Amended)
- 331.26 Driving Upon Street Posted As Closed For Repair. (Amended)
- 331.27 Following and Parking Near Emergency or Safety Vehicles. (Amended)
- 331.28 Driving Over Fire Hose. (Amended)
- 331.29 Driving Through Safety Zone. (Amended)
- 331.30 One-Way Streets and Rotary Traffic Islands. (Amended)
- 331.31 Driving Upon Divided Roadways. (Amended)
- 331.32 Entering and Exiting Controlled-Access Highway. (Amended)
- 331.33 Obstructing Intersection, Crosswalk or Grade Crossing. (Amended)
- 331.34 Failure To Control; Weaving; Full Time and Attention. (Amended)
- 331.35 Occupying a Moving Trailer or Manufactured or Mobile Home. (Amended)
- 331.36 Squealing Tires, "Peeling", Cracking Exhaust Noises. (Amended)
- 331.37 Driving Upon Sidewalks, Street Lawns or Curbs. (Amended)
- 331.38 Stopping For School Bus; Discharging Children. (Amended)
- 331.39 Driving Across Grade Crossing. (Amended)
- 331.40 Stopping at Grade Crossing. (Amended)
- 331.41 Shortcutting; Avoiding Traffic Control Devices. (Amended)
- 331.42 Littering From Motor Vehicle. (Amended)
- 331.43 Wearing Earplugs or Earphones Prohibited. (Amended)
- 333.01 Driving or Physical Control While Under the Influence. (Amended)
- 333.02 Operation in Willful or Wanton Disregard of Safety. (Amended)
- 333.03 Maximum Speed Limits; Assured Clear Distance Ahead. (Amended)
- 333.031 Approaching a Stationary Public Safety Vehicle. (Amended)
- 333.04 Stopping Vehicle; Slow Speed; Posted Minimum Speeds. (Amended)
- 333.05 Speed Limitations Over Bridges. (Amended)
- 333.07 Street Racing Prohibited. (Amended)
- 333.08 Operation Without Reasonable Control. (Amended)
- 333.09 Reckless Operation on Streets, Public or Private Property. (Amended)
- 335.01 Driver's License or Commercial Driver's License Required. (Amended)
- 335.02 Permitting Operation Without Valid License; One License Permitted. (Amended)
- 335.03 Driving With Temporary Instruction Permit; Curfew. (Amended)
- 335.031 Driving With Probationary License; Curfew. (Amended)
- 335.04 Certain Acts Prohibited. (Amended)
- 335.05 Wrongful Entrustment of a Motor Vehicle. (Amended)
- 335.06 Display of License. (Amended)
- 335.07 Driving Under Suspension or License Restriction. (Amended)
- 335.071 Driving Under OVI Suspension. (Added)

Traffic Code (Cont.)

- 335.072 Driving Under Financial Responsibility Law Suspension or Cancellation.  
(Added)
- 335.073 Driving Without Complying With License Reinstatement Requirements.  
(Added)
- 335.08 Operation or Sale Without Certificate of Title. (Amended)
- 335.09 Display of License Plates. (Amended)
- 335.10 Expired or Unlawful Plates. (Amended)
- 335.11 Use of Illegal License Plates; Transfer of Registration. (Amended)
- 335.12 Stopping After Accident Upon Streets; Collision With Unattended  
Vehicle. (Amended)
- 335.13 Stopping After Accident Upon Property Other Than Street. (Amended)
- 335.14 Vehicle Accident Resulting in Damage to Realty. (Amended)
- 337.01 Driving Unsafe Vehicles. (Amended)
- 337.02 Lighted Lights; Measurement of Distances and Heights. (Amended)
- 337.03 Headlights on Motor Vehicles and Motorcycles. (Amended)
- 337.04 Tail Light; Illumination of Rear License Plate. (Amended)
- 337.05 Rear Red Reflectors. (Amended)
- 337.06 Safety Lighting on Commercial Vehicles. (Amended)
- 337.07 Obscured Lights on Vehicles in Combination. (Amended)
- 337.08 Red Light or Red Flag on Extended Loads. (Amended)
- 337.09 Lights on Parked or Stopped Vehicles. (Amended)
- 337.10 Lights on Slow-Moving Vehicles; Emblem Required. (Amended)
- 337.11 Spotlight and Auxiliary Lights. (Amended)
- 337.12 Cowl, Fender and Back-Up Lights. (Amended)
- 337.13 Display of Lighted Lights. (Amended)
- 337.14 Use of Headlight Beams. (Amended)
- 337.15 Lights of Less Intensity on Slow-Moving Vehicles. (Amended)
- 337.16 Number of Lights; Limitations on Flashing, Oscillating or  
Rotating Lights. (Amended)
- 337.17 Focus and Aim of Headlights. (Amended)
- 337.18 Motor Vehicle and Motorcycle Brakes. (Amended)
- 337.19 Horn, Siren and Theft Alarm Signal. (Amended)
- 337.20 Muffler; Muffler Cutout; Excessive Smoke, Gas or Noise. (Amended)
- 337.21 Rear-view Mirror; Clear View to Front, Both Sides and Rear.  
(Amended)
- 337.22 Windshield and Windshield Wiper; Sign or Poster Thereon. (Amended)
- 337.23 Limited Load Extension on Left Side of Passenger Vehicle. (Amended)
- 337.24 Motor Vehicle Stop Lights. (Amended)
- 337.25 Air Cleaner Required. (Amended)
- 337.26 Child Restraint System Usage. (Amended)
- 337.27 Drivers and Passengers Required to Wear Seat Belts. (Amended)
- 337.28 Use of Sunscreening, Nontransparent and Reflectorized Materials.  
(Amended)
- 337.29 Bumper Heights. (Amended)
- 337.30 Directional Signals Required. (Amended)
- 339.01 Oversize or Overweight Vehicle Operation on State Routes;  
State Permit. (Amended)
- 339.02 Use of Local Streets; Local Permit and Conditions. (Amended)



Traffic Code (Cont.)

- 339.03 Maximum Width, Height and Length. (Amended)
- 339.05 Wheel Protectors. (Amended)
- 339.06 Vehicles Transporting Explosives. (Amended)
- 339.07 Towing Requirements. (Amended)
- 339.08 Loads Dropping or Leaking; Removal Required; Tracking Mud. (Amended)
- 339.09 Shifting Loads; Loose Loads. (Amended)
- 339.10 Vehicles With Spikes, Lugs or Chains. (Amended)
- 339.11 Use of Studded Tires and Chains.
- 341.01 Commercial Drivers Definitions. (Amended)
- 341.02 Exemptions. (Amended)
- 341.03 Prerequisites to Operation of a Commercial Motor Vehicle. (Amended)
- 341.04 Prohibitions. (Amended)
- 341.05 Criminal Offenses. (Amended)
- 341.06 Employment of Drivers of Commercial Vehicles. (Amended)
- 351.03 Prohibited Standing or Parking Places. (Amended)
- 351.04 Parking Near Curb; Handicapped Locations on Public and Private Lots and Garages. (Amended)
- 351.05 Manner of Angle Parking. (Amended)
- 351.06 Selling, Washing or Repairing Vehicle Upon Roadway. (Amended)
- 351.07 Unattended Vehicle: Duty to Stop Engine, Remove Key, Set Brake and Turn Wheels. (Amended)
- 351.08 Opening Vehicle Door on Traffic Side. (Amended)
- 351.09 Truck Loading Zones. (Amended)
- 351.10 Bus Stops and Taxicab Stands. (Amended)
- 351.11 Parking in Alleys and Narrow Streets; Exceptions. (Amended)
- 351.12 Prohibition Against Parking on Streets or Highways. (Amended)
- 371.01 Right of Way in Crosswalk. (Amended)
- 371.02 Right of Way of Blind Person. (Amended)
- 371.03 Crossing Roadway Outside Crosswalk; Diagonal Crossings at Intersections. (Amended)
- 371.04 Moving Upon Right Half of Crosswalk. (Amended)
- 371.05 Walking Along Highways.
- 371.06 Use of Highway for Soliciting; Riding On Outside of Vehicles. (Amended)
- 371.07 Right of Way on Sidewalk. (Amended)
- 371.08 Yielding to Public Safety Vehicle. (Amended)
- 371.09 Walking on Highway While Under the Influence. (Amended)
- 371.10 On Bridges or Railroad Crossings. (Amended)
- 371.11 Persons Operating Motorized Wheelchairs. (Amended)
- 371.12 Electric Personal Assistive Mobility Devices. (Amended)
- 373.02 Riding Upon Seats; Handle Bars; Helmets and Glasses. (Amended)
- 373.03 Attaching Bicycle or Sled to Vehicle. (Amended)
- 373.04 Riding Bicycles and Motorcycles Abreast. (Amended)

### Traffic Code (Cont.)

373.05	Signal Device on Bicycle. (Amended)
373.06	Lights and Reflector on Bicycle; Brakes. (Amended)
373.07	Riding Bicycle on Right Side of Roadway; Obedience to Traffic Rules; Passing. (Amended)
373.08	Reckless Operation; Control, Course and Speed. (Amended)
373.09	Parking of Bicycle. (Amended)
373.10	Motorized Bicycle Operation, Equipment and License. (Amended)
373.23	Paths Exclusively for Bicycles. (Amended)
375.02	Snowmobile, Off-Highway Motorcycle and All-Purpose Vehicle Equipment. (Amended)
375.03	Code Application; Prohibited Operation. (Amended)
375.05	Licensing Requirements of Operator. (Amended)
375.06	Registration of Vehicles. (Amended)
375.07	Accident Reports. (Amended)
375.08	Certificate of Title. (Amended)

### General Offenses Code

501.01	General Code Definitions. (Amended)
501.02	Classification of Offenses. (Amended)
501.99	Penalties for Misdemeanors. (Amended)
505.04	Abandoning Animals. (Amended)
505.071	Cruelty to Companion Animals. (Added)
513.02	Gift of Marihuana. (Amended)
513.03	Drug Abuse; Controlled Substance Possession or Use. (Amended)
513.04	Possessing Drug Abuse Instruments. (Amended)
513.05	Permitting Drug Abuse. (Amended)
513.06	Illegal Cultivation of Marihuana. (Amended)
513.07	Possessing or Using Harmful Intoxicants. (Amended)
513.08	Illegally dispensing drug samples. (Amended)
513.12	Drug Paraphernalia. (Amended)
517.01	Gambling Definitions. (Amended)
517.02	Gambling. (Amended)
517.04	Public Gaming. (Amended)
517.05	Cheating. (Amended)
517.06	Methods of Conducting a Bingo Game. (Amended)
517.07	Instant Bingo Conduct. (Added)
517.08	Raffles. (Added)
517.09	Charitable Instant Bingo Organizations. (Added)
517.10	Location of Instant Bingo. (Added)
517.11	Bingo or Game of Chance Records. (Amended)
517.13	Bingo Exceptions. (Amended)
517.14	Instant Bingo Conduct By a Veteran's or Fraternal Organization. (Added)

General Offenses Code (Cont.)

529.021	Purchase by Minor. (Amended)
529.04	Liquor Consumption in Motor Vehicle. (Amended)
529.08	Hours of Sale or Consumption. (Amended)
533.01	Sexual Offenses Definitions. (Amended)
533.02	Presumption of Knowledge; Actual Notice and Defense. (Amended)
533.09	Soliciting. (Amended)
533.11	Disseminating Matter Harmful to Juveniles. (Amended)
537.02	Vehicular Homicide and Manslaughter. (Amended)
537.03	Assault. (Amended)
537.051	Menacing by Stalking. (Amended)
537.07	Endangering Children. (Amended)
537.09	Coercion. (Amended)
537.14	Domestic Violence. (Amended)
537.15	Temporary Protection Order. (Amended)
537.18	Contributing to Unruliness or Delinquency of a Child. (Amended)
541.09	Vehicular Vandalism. (Added)
549.14	Possessing Replica Firearm in School. (Amended)
553.07	Railroad Vandalism. (Added)
553.08	Railroad Grade Crossing Device Vandalism. (Added)

Fire Prevention Code

1511.01	Open Burning Definitions. (Amended)
1511.03	Open Burning in Restricted Areas. (Amended)
1511.04	Permission and Notice to Open Burn. (Amended)
1511.05	Bonfires. (Amended)

SECTION 3: That the complete text of the sections listed above are set forth in full in the current replacement pages to the Codified Ordinances which are hereby attached to this ordinance as Exhibit A. The listing above of each new section by reference to its title shall constitute sufficient publication of new matter contained therein.

SECTION 4: That this ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health and safety of the Municipality and its inhabitants for the reason that there exists an imperative necessity for the earliest publication and distribution of current Replacement Pages to the officials and residents of the Municipality, so as to facilitate administration, daily operation and avoid practical and legal entanglements, including conflict with general State law, and shall go into effect immediately except that the amendments or additions listed in Section 2 shall be effective January 1, 2004, or on the effective date of this ordinance, whichever date is later.

*THE WALTER H. DRANE COMPANY*  
*Municipal Codes*  
*Tower East - Suite 420*  
*20600 Chagrin Boulevard \* \* \* Cleveland, Ohio 44122-5334*

Phone (216) 752-1022  
E-Mail: whdrane1@aol.com

Fax (216) 752-7935  
Web Site: www.walterdrane.com

Mary Beth Bailey  
Clerk of Council  
Massillon, Ohio

DATE 12-12-03

CONTRACT signed 2-8-02

INVOICE NO. 10893

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Services for 2003 revision of Codified Ordinances

Editorial	\$ 900.00
250 changed pages @ \$22.00	5456.00
108 photo pages @ \$10.00	1080.00
57 extra sets of TRAF. & G.O. RP's;	
276 pgs. @ \$3.00	828.00
10 extra sets of P. & Z. RP's;	
26 pgs. @ \$.60	15.60
Shipping and handling	<u>49.00</u>
	\$ 8328.60



DATE: FEBRUARY 2, 2004

CLERK: MARY BETH BAILEY

*Susp 9-0*

*Pass 9-0*

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

*passed*  
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 36 - 2004

BY: FINANCE COMMITTEE

TITLE: AN ORDINANCE making a transfer in the 2004 appropriation of 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 2004 appropriation of the General Fund of the City of Massillon, Ohio, the following:

\$30,000.00 FROM: "General Fund" 1100.905.2714.

\$ TO: "Summer Concert Fund" 1212.505.1860.

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 2004 Summer Concert Series, these funds will enable the contracting and booking of various artists for the Summer Concert Series, the Summer Concert Fund needs additional funds in order to perform these tasks and 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 \_\_\_\_\_ DAY OF \_\_\_\_\_, 2004

APPROVED: \_\_\_\_\_  
MARY BETH BAILEY, CLERK OF COUNCIL      DENNIS D. HARWIG, PRESIDENT

APPROVED: \_\_\_\_\_  
FRANCIS H. CICCHINELLI, JR., MAYOR

DATE: FEBRUARY 2, 2004

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

*passed*  
LEGISLATIVE DEPARTMENT

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r 490  
COUNCIL CHAMBERS

ORDINANCE NO. 37 - 2004

BY: FINANCE COMMITTEE

TITLE: AN ORDINANCE making certain appropriations from the unappropriated balance of the Wastewater Treatment Plant Upgrade Fund, Capital Improvement Fund, General Fund, and the Community Development Block Grant Program Fund, for the year ending December 31, 2004, 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 Wastewater Treatment Plant Upgrade Fund for the year ending December 31, 2004, the following:

\$842,047.55 to an account entitled "WWT Plant Upgrade Project" 1421.610.2510.

Section 2:

There be and hereby is appropriated from the unappropriated balance of the Capital Improvement Fund, for the year ending December 31, 2004, the following:

\$ 50,124.56 to an account entitled "Leases" 1401.905.2530

Section 3:

There be and hereby is appropriated from the unappropriated balance of the General Fund, for the year ending December 31, 2004, the following:

\$ 19,650.00 to an account entitled "Workers Comp" 1100.905.2270

Section 4:

There be and hereby is appropriated from the unappropriated balance of the Community Development Block Grant Program Fund, for the year ending December 31, 2004, the following:

\$ 10,000.00 to an account entitled "Youth Center" 1203.845.2804.

Section 5:

There be and hereby is appropriated from the unappropriated balance of the General Fund, for the year ending December 31, 2004, the following:

\$ 7,459.88 to an account entitled "Health Services/Contracts" 1100.705.2392.

Section 6:

This Ordinance is hereby declared to be an emergency measure, for the efficient operation of the various departments of the City of Massillon to insure that department accounts are adequately funded to pay necessary bills 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 \_\_\_\_\_ 2004

APPROVED: \_\_\_\_\_  
MARY BETH BAILEY, CLERK OF COUNCIL      DENNIS HARWIG, PRESIDENT

APPROVED: \_\_\_\_\_  
FRANCIS H. CICCHINELLI, JR, MAYOR



DATE: FEBRUARY 2, 2004

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

*passed*  
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 37 - 2004

BY: FINANCE COMMITTEE

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Section 1:

There be and hereby is appropriated from the unappropriated balance of the Wastewater Treatment Plant Upgrade Fund for the year ending December 31, 2004, the following:

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Section 3:

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\$ 19,650.00 to an account entitled "Workers Comp" 1100.905.2270

Section 4:

There be and hereby is appropriated from the unappropriated balance of the Community Development Block Grant Program Fund, for the year ending December 31, 2004, the following:

\$ 10,000.00 to an account entitled "Youth Center" 1203.845.2804.



Section 5:

There be and hereby is appropriated from the unappropriated balance of the General Fund, for the year ending December 31, 2004, the following:

\$ 7,459.88 to an account entitled "Health Services/Contracts" 1100.705.2392.

Section 6:

This Ordinance is hereby declared to be an emergency measure, for the efficient operation of the various departments of the City of Massillon to insure that department accounts are adequately funded to pay necessary bills 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 \_\_\_\_\_ 2004

APPROVED: \_\_\_\_\_  
MARY BETH BAILEY, CLERK OF COUNCIL      DENNIS HARWIG, PRESIDENT

APPROVED: \_\_\_\_\_  
FRANCIS H. CICCHINELLI, JR, MAYOR

DATE: FEBRUARY 2, 2004

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

*Passed*  
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 38 - 2004

BY: FINANCE COMMITTEE

TITLE: AN ORDINANCE authorizing the Director of Law of the City of Massillon, to enter into a one year contract with the Village of Canal Fulton, for the purpose of providing prosecutorial services, 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 for the Director of Law of the City of Massillon, to enter into a one year contract with the Village of Canal Fulton for the purpose of providing prosecutorial services.

Section 2:

The Director of Law of the City of Massillon, Ohio, is hereby authorized to enter into a one year contract with the Village of Canal Fulton for the purpose of providing prosecutorial services. The cost of said contract to the Village of Canal Fulton shall not exceed Nineteen Thousand Dollars (\$19,000.00).

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 for the additional reason the Village of Canal Fulton has requested the Director of Law of the City of Massillon to prosecute all criminal and traffic cases that come before the Massillon Municipal Court and it is necessary to be effective immediately so that increased revenue can be received. 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 \_\_\_\_\_ 2004

APPROVED: \_\_\_\_\_  
MARY BETH BAILEY, CLERK OF COUNCIL      DENNIS D. HARWIG, PRESIDENT

APPROVED \_\_\_\_\_  
FRANCIS H. CICCHINELLI, JR., MAYOR

DATE: FEBRUARY 2, 2004

CLERK: MARY BETH BAILEY

152  
COUNCIL CHAMBERS

CITY OF MASSILLON, OHIO

ORDINANCE NO. 39 - 2004

*1st reading*  
LEGISLATIVE DEPARTMENT

BY: FINANCE COMMITTEE

TITLE: AN ORDINANCE to amend Section # 1 of Ordinance 17-1971, to set new fees for Site Plan Reviews under Section 1187.09 of the Massillon Code of 1985.

WHEREAS pursuant to Ordinance No. 17-1971 fees were established for the review of site plan performed under Section 1187.09 of the Massillon Code of 1985, and it is necessary that such fees be raised, and

WHEREAS Council has determined that the proposed fees submitted by the City Engineer are reasonable and necessary, now therefore:

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

Section 1:

Section #1 of Ordinance No. 17-1971, concerning Site Plan Review Fees is hereby amended to read as follows:

Site Plan Review

- |                                |  |
|--------------------------------|--|
| a. Residential Development     | \$100.00 + \$20.00 for each acre of land contained within the development. |
| b. Non-Residential Development | \$100.00 + \$20.00 for each acre of land contained within the development. |

Section 2:

This ordinance shall take effect and be in force from and after the earliest period allowed by law.



PASSED: IN COUNCIL THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2004

APPROVED: \_\_\_\_\_  
MARY BETH BAILEY, CLERK OF COUNCIL

\_\_\_\_\_  
DENNIS D. HARWIG, PRESIDENT

APPROVED: \_\_\_\_\_

\_\_\_\_\_  
FRANCIS H. CICCHINELLI, JR. MAYOR