

AGENDA

DATE: TUESDAY, FEBRUARY 17, 2004

PLACE: COUNCIL CHAMBERS

TIME: 7:30 P.M.

THERE ARE NO PUBLIC HEARINGS TONIGHT

1. ROLL CALL
2. INVOCATION BY COUNCILMAN GLENN GAMBER (GUEST - REV. DURWIN BURTZ, PASTOR AT LIGHTHOUSE CHAPEL AND MASSILLON POLICE DEPT. CHAPLAIN.)
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. ADD ORD 45 - 2003

ORDINANCE NO. 40 - 2004

BY: ENVIRONMENTAL COMMITTEE

SVOP 9-0
POSE 9-0
Lowes
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 construction of the Lincoln Way West Pump Station, and declaring an emergency.

ORDINANCE NO. 41 - 2004

BY: PUBLIC UTILITIES COMMITTEES

12
AN ORDINANCE authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to sign an extension of an Oil & Gas Lease with Great Lakes Energy Partners, LLC for a 1.09 acre parcel owned by the City of Massillon, and declaring an emergency.

ORDINANCE NO. 42 - 2004

BY: RULES, COURTS & CIVIL SERVICE COMMITTEE

SVOP 9-0
POSE 9-0
AN ORDINANCE amending Section 2(D) OCCUPATION LIST OF CLASS TITLES - SOLID WASTE DEPARTMENT of Ordinance No. 127 - 1997 by repealing Section 2(D) OCCUPATION LIST OF CLASS TITLES - SOLID WASTE DEPARTMENT, and enacting a new Section 2(D) OCCUPATION LIST OF CLASS TITLES - SOLID WASTE DEPARTMENT, in the City of Massillon, Ohio, and declaring an emergency.

ORDINANCE NO. 43 - 2004

BY: STREETS, HIGHWAYS, TRAFFIC & SAFETY

SVOP 9-0
POSE 9-0
AN ORDINANCE authorizing and directing the Director of Public Service and Safety to enter into an LPA Project Agreement with the Ohio Department of Transportation for the Lincoln Way West Reconstruction Project, and declaring an emergency.

ORDINANCE NO. 44 - 2004

BY: FINANCE COMMITTEE

10
w/ Admin mtr.
AN ORDINANCE adopting and enacting Chapter 195, entitled "TRANSIENT OCCUPANCY TAX" of the Codified Ordinances of the City of Massillon.

proposed
2ND - 3/1/04 & POSE @ SEC. Ready Not as emergency

ORDINANCE NO. 46 - 2004

BY: FINANCE COMMITTEE

508
90
PASS
90
AN ORDINANCE making certain appropriations from the unappropriated balance of the Wastewater Treatment Plant Fund, Summer Concert Fund, General Fund, Probation Find, and the ADR Fund, for the year ending December 31, and declaring an emergency.

ORDINANCE NO. 47 - 2004

BY: FINANCE COMMITTEE

508
90
PASS
90
AN ORDINANCE determining to proceed with the assessment of a portion of the costs of the Hamilton Avenue NE sanitary sewer extension to the landowners benefitted by the same, and declaring an emergency.

RESOLUTION NO 7 - 2004

BY: POLICE AND FIRE COMMITTEE

508
90
PASS
90
The Council of the City of Massillon, Stark County, Ohio met at a duly called and authorized meeting of the Council on the date set forth below, such meeting being duly called pursuant to a notice stating the time, place and purpose of the meeting received by all Council Members, and the following resolutions were made, seconded, and adopted by those present at the meeting.

7. UNFINISHED BUSINESS

8. PETITIONS AND GENERAL COMMUNICATIONS

(A) LETTER FROM OHIO DIVISION OF LIQUOR CONTROL REGARDING A TRANSFER OF LIQUOR LICENSE FROM BUSSCAT INC DBA VENICE 1328 FIRST ST NE, MASSILLON OHIO 44646 TO BETH A. MOSBERGER DBA OBIES TAVERN AND GRILL 1328 FIRST ST NE, MASSILLON, OHIO 44646

- 9. BILLS, ACCOUNTS AND CLAIMS
- 10. REPORTS FROM CITY OFFICIALS

- A). POLICE CHIEF SUBMITS MONTHLY REPORT FOR JANUARY 2004
- B). TREASURER SUBMITS MONTHLY REPORT FOR JANUARY 2004
- C). FIRE CHIEF SUBMITS MONTHLY REPORT FOR JANUARY 2004.
- D). INCOME TAX DEPARTMENT SUBMITS MONTHLY REPORT FOR JANUARY 2004
- E). MAYOR SUBMITS MONTHLY REPORT FOR JANUARY 2004
- F). WASTE DEPARTMENT SUBMITS MONTHLY REPORT FOR JANUARY 2004
- G). FIRE CHIEF SUBMITS ANNUAL REPORT FOR 2003.
Main STREET REPORT Annual Report 2003

- 11. REPORTS OF COMMITTEES 2/23/04 - Jay would like to make a resolution
- 12. RESOLUTIONS AND REQUESTS OF COUNCIL MEMBERS 6:00 (15 min)
- 13. CALL OF THE CALENDAR

14. THIRD READING ORDINANCES AND RESOLUTIONS

ORDINANCE NO. 5 - 2004

BY: COMMUNITY DEVELOPMENT COMMITTEE

pass 9-0
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. 14 - 2004

BY: FINANCE COMMITTEE

effective 30 days signed 2/18
pass 9-0
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

effective 30 days signed 2/18
pass 9-0
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".

ORDINANCE NO. 16 - 2004

BY: FINANCE COMMITTEE

effective 30 days signed 2/18
pass 9-0
AN ORDINANCE amending CHAPTER 913 "EXCAVATIONS" of the Codified Ordinances of the City of Massillon, by repealing existing Section 913.02 "OBTAINING A PERMIT AND FEES" and enacting a new Section 913.02 "OBTAINING A PERMIT AND FEES".

ORDINANCE NO. 17 - 2004

BY: FINANCE COMMITTEE

effective 30 days signed 2/18
pass 9-0
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".

15. SECOND READING ORDINANCES AND RESOLUTIONS

39-2004 - SITE PLAN Review Fees

ORDINANCE NO. 21 - 2004

BY: COMMUNITY DEVELOPMENT COMMITTEE

P.H 3/1 @ 7:00PM
2nd
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.

TUESDAY, FEBRUARY 17, 2004

ORDINANCE NO. 24 - 2004

BY: COMMUNITY DEVELOPMENT COMMITTEE

PA 3/1/04 @ 6:30pm

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..

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

ORD 24-2004 - 247

DATE: FEBRUARY 17, 2004

CLERK: MARY BETH BAILEY

5000 2-0
PMS 9-0

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

Passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 40 - 2004

BY: ENVIRONMENTAL 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 construction of the Lincoln Way West Pump Station, 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 construction of the Lincoln Way West Pump Station.

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 for the construction of the Lincoln Way West Pump Station. The estimated cost of the project is Three Hundred Thirty-One Thousand Dollars (331,000.00)

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, immediate passage is necessary so that the advertisement for bids can be placed immediately, the citizens will benefit by the project being completed, and for the additional reason that it is necessary to complete the construction of the Lincoln Way West Pump Station. 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 17, 2004

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

LEGISLATIVE DEPARTMENT

ORDINANCE NO. 41 - 2004

BY: PUBLIC UTILITIES COMMITTEE

TITLE: AN ORDINANCE authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to sign an extension of an Oil & Gas Lease with Great Lakes Energy Partners, LLC for a 1.09 acre parcel owned by the City of Massillon, and declaring an emergency.

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

Section 1:

The Council of the City of Massillon, Ohio, hereby determines it to be necessary in the public health, safety and welfare to extend an Oil & Gas Lease with Great Lakes Energy Partners, LLC for a 1.09 acre parcel owned by the City of Massillon.

Section 2:

The Director of Public Service and Safety of the City of Massillon, Ohio, is hereby authorized to sign an extension of an Oil & Gas Lease with Great Lakes Energy Partners, LLC for a 1.09 acre parcel owned by the City of Massillon. A copy of the extension is attached hereto as Exhibit "A".

Section 3:

This Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the health, safety and welfare of the community, the extension of the lease will result in the continuation of payment of royalties to the City, and for the additional reason that it is necessary to extend the Gas & Oil Lease Agreement with Great Lakes Energy Partners, LLC for the 1.09 acre parcel of City owned land. Provide it receives the affirmative vote of two-thirds of 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

Exhibit "A"

EXTENSION OF OIL AND GAS LEASE

KNOW ALL MEN BY THESE PRESENTS:

That the undersigned City of Massillon as the current Lessor, and Great Lakes Energy Partners, L.L.C. as the current Lessee, are parties by execution or succession to that certain Oil and Gas Lease dated May 21, 1998, covering lands situated in Perry Township, bounded and described as follows:

TAX MAP/PARCEL #:

NORTH: Miller; Englehardt
EAST: Englehardt
SOUTH: Rep. Steel
WEST: Miller

containing 1.0900 acres more or less, said Oil and Gas Lease being recorded in Stark County, Ohio and recorded in Instrument 98044577; and

WHEREAS, the primary term of said Oil and Gas Lease is six (6) year(s), and the undersigned and Great Lakes Energy Partners, L.L.C. desire to extend said primary term.

NOW THEREFORE, in consideration of the sum of One Dollar (\$1.00) and other valuable consideration paid to the undersigned, the receipt and sufficiency of which is hereby acknowledged, the undersigned agrees as follows:

1. Said Oil and Gas Lease is hereby amended such that the primary term of six (6) year(s) as therein provided shall be extended to be a total of eleven (11) year(s) from the date of said lease, said primary term thereby extended for an additional five (5) year(s) and expiring on May 21, 2009.

The undersigned hereby ratifies and confirms the aforementioned Oil and Gas Lease, leases and lets the lands described therein to Great Lakes Energy Partners, L.L.C. under the same terms and conditions thereunder, and acknowledges that the same is in full force and effect.

This agreement shall be binding upon and inure to the benefit of the respective heirs, representatives, successors and assigns of the undersigned.

This instrument is executed this ____ day of _____, 2004.

Mayor, City of Massillon

Director of Public Service and Safety, City of Massillon

RECEIVED
JAN 30 2004

DATE: FEBRUARY 17, 2004

CLERK: MARY BETH BAILEY

505P 9-0

CITY OF MASSILLON, OHIO

Pass 9-0

COUNCIL CHAMBERS

Passed

LEGISLATIVE DEPARTMENT

ORDINANCE NO. 42 - 2004

BY: RULES, COURTS AND CIVIL SERVICE COMMITTEE

TITLE: AN ORDINANCE amending Section 2(D) OCCUPATION LIST OF CLASS TITLES - SOLID WASTE DEPARTMENT of Ordinance No. 127 - 1997 by repealing Section 2(D) OCCUPATION LIST OF CLASS TITLES - SOLID WASTE DEPARTMENT, and enacting a new Section 2(D) OCCUPATION LIST OF CLASS TITLES - SOLID WASTE DEPARTMENT, in 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:

Section 2(D) OCCUPATION LIST OF CLASS TITLES - SOLID WASTE DEPARTMENT of Ordinance No. 127 - 1997 be and is hereby repealed.

Section 2:

That a new Section 2(D) OCCUPATION LIST OF CLASS TITLES - SOLID WASTE DEPARTMENT of Ordinance No. 127 - 1997 be and is hereby enacted and shall read as follows:

(SEE ATTACHMENT 'A' PAGE 1; AND INSERT IN THE SALARY ORDINANCE 127 - 1997)

Section 3:

That this Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public health, safety and welfare of the community and for the additional reason that the establishment of the new 14H Truck Drive - Foreman position is necessary in order to create the new position and pay the appropriate rate of pay and the provisions hereby enacted are immediately necessary to bring current personnel up to an appropriate rate of pay in the Solid Waste Department. 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

PASSED IN COUNCIL THIS _____ DAY OF _____ 2004

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

APPROVED: _____
FRANCIS H. CICCHINELLI, JR., MAYOR

**CLASS
GRADE**

SCHEDULE

DEPARTMENT & TITLE DESCRIPTION

CON'T. RECREATION DEPARTMENT

MS Program Coordinator II
MS Program Coordinator I
MS Security
MS Clerk/Receptionist
SE Laborer-1
SE Laborer-2
SE Laborer-3
SE Laborer-4
SE Laborer-5
SE Laborer-6
SE *Laborer-7

PART TIME/TEMPORARY/SEASONAL

MS Custodian
MS Program Coordinator I/Laborer I
MS Program Coordinator II/Laborer II
MS Program Coordinator III/Laborer III
MS Clerk
MS Clerk/Typist

SOLID WASTE DEPARTMENT

620

22S SU UN Operations Superintendent (Split 1/3)
17S SU UN Collection Department Chief (Split 1/2)
15S SU UN Collection Department Chief (Split 1/2)
15S SU UN Collection/Data Center (Split 1/3)
12S CL Collection Clerk Administrator
11S CL Collection Clerk Administrator
8S CL Billing Clerk
7S UN Account Clerk II Typist
6S UN Account Clerk I
16H A Sanitation Group Leader
14H A Refuse Collection Foreman
14H A *Truck Driver - Foreman
12H A Truck Driver
11H A Laborer II
10H A Storekeeper (Split 1/2)
9H A Laborer I
9H A *Clerk-Dispatcher II
6H A Clerk-Dispatcher I
3H A Clerk-Dispatcher
1H A Temporary Labor

*The 18H is
Eliminated
By Council*

PART TIME/TEMPORARY/SEASONAL

MS Clerk

WASTEWATER TREATMENT

610 - 615

27S SU UN Manager
22S SU CL Operations Superintendent
22S SU CL Maintenance Superintendent

DATE: FEBRUARY 17, 2004

CLERK: MARY BETH BAILEY

510P 9-0
PSS 9-0

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 43 - 2004

BY: STREET, HIGHWAYS, TRAFFIC & SAFETY COMMITTEE

TITLE: AN ORDINANCE authorizing and directing the Director of Public Service and Safety to enter into an LPA Project Agreement with the Ohio Department of Transportation for the Lincoln Way West Reconstruction Project, and declaring an emergency.

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

Section 1:

The Council of the City of Massillon, Ohio, hereby finds that it is necessary to enter into an LPA Project Agreement with the Ohio Department of Transportation for the Lincoln Way West Reconstruction Project.

Section 2:

The Director of Public Service and Safety of the City of Massillon, Ohio, is hereby authorized and directed to enter into an LPA Project Agreement with the Ohio Department of Transportation for the Lincoln Way West Reconstruction Project. The Ohio Department of Transportation will reimburse the City One Hundred Seventy-Five Thousand One Hundred and Sixty Dollars (175,160.00).

Section 3:

This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the health, safety, and welfare of the community, and for the reason that it is necessary to enter into an LPA Project Agreement with Ohio Department of Transportation so as to proceed with the Lincoln Way West Reconstruction Project as the same is needed for the benefit of the residents of the City and the reconstruction of the road will make the road safer for vehicular travel. Provided it receives the affirmative vote of two-thirds of the elected members to Council, it shall take effect and be in force immediately on 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 17, 2004

CLERK: MARY BETH BAILEY

1st w/ amendments offered

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

stready
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 44 - 2004

passed 3/1/04

BY: FINANCE COMMITTEE

TITLE: AN ORDINANCE adopting and enacting Chapter 195, entitled "TRANSIENT OCCUPANCY TAX" of the Codified Ordinances of the City of Massillon.

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

Section I:

There be and is hereby enacted a new Chapter 195, entitled "TRANSIENT OCCUPANCY TAX" of the Codified Ordinances of the City of Massillon Said newly enacted Section shall read as follows:

CHAPTER 195- TRANSIENT OCCUPANCY TAX

(See exhibit "A" attached hereto)

Section 2:

This ordinance shall take effect and be in force from and after the earliest period allowed by law, *BUT NO SOONER THAN APRIL 1, 2004.*

PASSED IN COUNCIL THIS _____ DAY OF _____, 2004

ATTEST: _____
MARY BETH BAILEY, CLERK OF COUNCIL

DENNIS D. HARWIG, PRESIDENT

PROVED: _____

FRANCIS H. CICCHINELLI, JR., MAYOR

CHAPTER 195 – TRANSIENT OCCUPANCY TAX**195.01 INTENT.**

It is the intent of this chapter to levy an excise tax of three percent (3%) on transactions by which lodging by a hotel is or is to be furnished to transient guests, as authorized and permitted by Ohio R.C. 5739.02(C). Accordingly, this chapter shall be construed to effectuate that purpose and to be consistent with any requirement of law, compliance with which is a prerequisite to the validity of the tax intended to be levied.

195.02 PURPOSE.

There shall be levied an excise tax on transactions by which lodging by a hotel is or is to be furnished to transient guests of three percent (3%) of the amount paid or to be paid by the transient guests for the lodging for the purpose of providing revenue with which to help meet the needs of the City.

195.03 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- (a) "Administrator" means the City Auditor
- (b) "Hotel" means every establishment kept, used, maintained, advertised or held out to the public to be a place where sleeping accommodations are offered for consideration to guests, in which ^{two} five or more rooms are used for the accommodation of guests, whether the rooms are in one or several structures.
- (c) "Transient guests" means persons occupying a room or rooms for sleeping accommodations for less than thirty days.
- (d) "Vendor" means the person who is the owner or operator of the hotel and who furnishes the lodging.

195.04 APPLICATION OF TAX

The tax shall be known as the transient guest tax. It applies and is collectible at the time the lodging is furnished, regardless of the time when the price is paid. The tax does not apply to lodging furnished to the State or any of its political subdivisions. For the purpose of the proper administration of this chapter and to prevent the evasion of the tax, it is presumed that all lodging furnished by hotels in the City to transient guests is subject to the tax until the contrary is established.

(c) All claims for exemption from tax filed by transient guests with the vendor during the reporting period shall be filed with the return.

(d) All returns and payments submitted by each vendor shall be treated as confidential by the Administrator and shall not be released by him except on order of a court of competent jurisdiction or to an officer or agent of the United States, the State, the County or the City, for official use only.

(e) The Administrator, if he deems it necessary in order to insure the payment of the tax imposed by this chapter, may require returns and payments to be made for other than quarterly periods. The returns shall be signed by the vendor or his authorized agent.

195.09 REFUNDS.

The Administrator shall refund or grant credits to vendors for the amount of taxes paid illegally or erroneously or paid on any illegal or erroneous assessment where the vendor had not reimbursed himself from the transient guest. A transient guest may obtain a refund or credit for the amount of taxes paid illegally or erroneously, but only when the tax was paid by the transient guest directly to the Administrator. No refund shall be paid unless the claimant establishes his right thereto by written records showing entitlement and makes a claim in writing on forms furnished by the Administrator, stating under penalty of perjury the specific grounds on which the claim is founded. The claim shall be filed with the Administrator within three years of the date of payment.

195.10 FAILURE TO COLLECT AND REPORT TAX.

If any vendor fails or refuses to collect the transient guest tax or to file a return to make a remittance of the tax or any portion thereof, as required by this chapter, the Administrator shall proceed in the manner he may deem best to obtain information on which to base the assessment of any tax imposed by this chapter and payable by any vendor who has failed or refused to collect the tax, or to file a return and to make a remittance of the proper amount thereof. The Administrator shall proceed to determine and assess against the vendor the tax and penalty provided for in this chapter.

195.11 HEARINGS.

(a) In case a determination as provided for in Section 195.11 is made, the Administrator shall give notice of the amount so assessed by serving it personally or by registered or certified mail. The vendor may within ten days after the serving or mailing of the notice, make application in writing to the Administrator for a hearing on the amount assessed. If application by the vendor is not made within the time prescribed, the tax and penalty determined by the Administrator shall become final and conclusive and immediately due and payable.

(b) If the application is made, the Administrator shall give not less than five days' written notice in the manner prescribed in this section to the vendor to show cause at a

195.05 TAX COLLECTION; EXEMPTIONS.

a) The transient guest tax imposed by this chapter shall be paid by the transient guest to the vendor, and each vendor shall collect from the transient guest the full and exact amount of the tax payable on each taxable lodging. The tax required to be collected under this chapter shall be deemed to be held in trust by the vendor until paid to the Administrator, as provided in Section 195.09. If for any reason the tax due is not paid to the vendor, the Administrator may require that the tax be paid directly to the Administrator.

(b) No exemption shall be granted except on a claim therefor made at the time rent is collected and under penalty of perjury on a form prescribed by the Administrator.

195.06 RECORDS.

The transient occupancy tax shall be stated and charged separately from the charge for the lodging and shown separately on any record thereof, at the time when the occupancy is arranged or contracted and charged for, and on every evidence of occupancy issued or delivered by the vendor.

195.07 LIMITATIONS ON TAX REDUCTIONS.

No vendor shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the vendor, or that it will not be added to the amount charged for the lodging, or that, if added, any part will be refunded, except in the manner provided in this chapter.

195.08 RETURNS REQUIRED.

(a) Each vendor shall, on or before the last day of each quarter of the calendar year, make and file a return for the preceding quarter, on forms prescribed by the Administrator, showing the receipts from furnishing lodging, the amount of tax due from the vendor to the City for the period covered by the return, and any other information the Administrator deems necessary for the proper administration of this chapter. The Administrator may extend the time for making and filing returns. Returns shall be filed by delivering or mailing them to the Administrator, together with payment of the full amount of tax shown to be due thereon.

(b) The Administrator may authorize vendors whose tax liability is not such as to merit quarterly returns, as determined by the Administrator on the basis of administrative costs of the City, to make and file returns at less frequent intervals. This authorization shall be in writing and shall indicate the intervals at which returns are to be filed.

time and place fixed in the notice why the amount specified therein should not be fixed for the tax and penalty. At this hearing, the vendor may appear and offer evidence why the specified tax and penalty should not be so fixed. After the hearing, the Administrator shall determine the proper tax to be remitted and shall thereafter give written notice to the person in the manner prescribed in this section of the determination and the amount of the tax and penalty. The amount determined to be due shall be payable after fifteen days.

195.12 APPEALS.

Appeals from any ruling or determination of the Administrator with respect to the amount of the tax and penalty shall be made as provided by law.

195.13 ACTIONS TO COLLECT.

Any tax required to be paid by a transient guest under the provisions of this chapter shall be deemed a debt owed by the transient guest to the City. Any tax collected by a vendor which has not been paid to the City shall be deemed a debt owed by the vendor to the City. Any person owing money to the City under the provisions of this chapter shall be liable to an action brought in the name of the City for the recovery of the amount.

195.14 ALLOCATION OF FUNDS.

The funds collected under this chapter are designated for and deposited to the General Fund of the City.

195.99 PENALTY.

(a) Any vendor who fails to remit any tax imposed by this chapter within the time required shall pay a penalty equal to ten percent (10%) of the amount of the tax in addition to the tax.

(b) Any person violating any provision of this chapter shall be guilty of a misdemeanor of the first degree.

DATE: FEBRUARY 17, 2004

CLERK: MARY BETH BAILEY

Supp 9-0
R-10 9-0

CITY OF MASSILLON, OHIO


LEGISLATIVE DEPARTMENT

COUNCIL CHAMBERS

ORDINANCE NO. 46 - 2004

BY: FINANCE COMMITTEE

TITLE: AN ORDINANCE making certain appropriations from the unappropriated balance of the Wastewater Treatment Plant Fund, Summer Concert Fund, General Fund, Probation Fund, and the ADR Fund, for the year ending December 31, 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 Fund for the year ending December 31, 2004, the following:

33,150.00 to an account entitled "Lincoln Way West Pump Station Project" 2101.610.2514.

Section 2:

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

\$35,000.00 to an account entitled "Services/Contracts" 1212.505.2392

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:

\$13,705.00 to an account entitled "Court Treatment Grant Service" 1100.127.2392

Section 4:

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

\$525.00 to an account entitled "Worker's Comp" 1238.125.2270.

Section 5:

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

\$ 47.00 to an account entitled "Worker's Comp" 1242.125.2270.

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 17, 2004

CLERK: MARY BETH BAILEY

*500P 90
P000 90*
COUNCIL CHAMBERS

CITY OF MASSILLON, OHIO

passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 47 - 2004

BY: FINANCE COMMITTEE

TITLE: AN ORDINANCE determining to proceed with the assessment of a portion of the costs of the Hamilton Avenue NE sanitary sewer extension to the landowners benefitted by the same, and declaring an emergency.

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

Section 1:

This Council hereby determines it necessary to proceed with the assessment of a portion of the costs to the landowners being benefitted by the Hamilton Avenue NE sanitary sewer extension thereto.

Section 2:

The assessment shall be made in accordance with the provisions of Resolution No. 14 - 2002 adopted on July 15th, 2002, and with the plans, specifications, profiles and estimate of cost previously approved and now on file in the office of the Clerk of Council.

Section 3:

The assessment shall conform to the Ohio Revised Code Section 727.25 assessing the attached properties per Resolution 14 - 2002.

Section 4:

The portion of the cost of the assessment to be assessed in accordance with Resolution No. 14 - 2002 shall be passed in the manner and in the number of installments provided in that resolution and on the lots and lands described therein.

Section 5:

The estimated assessments previously prepared and filed in the office of the Clerk of this Council be and the same are hereby adopted.

Section 6:

The Clerk of Council is directed to deliver a certified copy of the Ordinance to the Auditor of Stark County within fifteen days after its passage.

Section 7:

This Council finds and determines that all formal actions of this Council concerning and relating to the passage 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 those formal actions were in meetings open to the public, in compliance with the law.

Section 8:

This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the health, safety, and welfare of the community, and for the additional reason that the assessment described herein is urgently required for proper storm water drainage and the elimination of resulting flooding conditions. 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

Hamilton Ave NE Saniatry Sewer Extension

H & W Contractors, Inc.
P.O. Box 876
Massillon, Ohio 44646-0876

Original Amount of Contract \$ 35,491.00
Change Orders (+/-) \$ -
Final Contract Amount \$ 35,491.00

City's Share of the Contruction \$ 21,691.00
Amont to be Assessed \$ 13,800.00

Owner's Name and Address	Parcel Number	Lot Number	Preliminary Estimate	Signature of Acceptance
Donald W. Heitger Jr. 428 Hamilton Ave. N.E. Maassillon, Ohio 44646	06-16735	13903-20' ES; 13904 WH	\$ 2,760.00	Donald W. Heitger Jr.
Terry A. Telford 436 Hamilton Ave. N.E. Maassillon, Ohio 44646	06-14557	13905 WH	\$ 2,760.00	Terry A. Telford
Noel D. Finley 504 Hamilton Ave. N.E. Maassillon, Ohio 44646	06-14554	13906 WH	\$ 2,760.00	Noel D. Finley
Michael D. Woods and Lisa S. Mark 435 Hamilton Ave. N.E. Maassillon, Ohio 44646	06-14564	13887 WH	\$ 2,760.00	Michael D. Woods
				Lisa S. Mark
Paul W. and Kathie P. Hilliard 425 Hamilton Ave. N.E. Maassillon, Ohio 44646	06-14579	13888 WH	\$ 2,760.00	Paul W. Hilliard
				Kathie P. Hilliard

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Hamilton Sanitary Sewer Extension - Original Estimate

Item	Description	Assessment Quantity	City Quantity	Unit	Unit Price	Special Assessment	City	Total Estimate
202	Manhole Removal	0	1	EACH	\$ 500.00	-	\$ 500.00	\$ 500.00
254	2" Pavement Planning	0	1141	S.Y.	\$ 1.25	-	\$ 1,426.25	\$ 1,426.25
404	Asphalt Concrete	0	65	C.Y.	\$ 60.00	-	\$ 3,900.00	\$ 3,900.00
407	Tack Coat	0	80	GALLONS	\$ 1.25	-	\$ 100.00	\$ 100.00
603	6" Conduit Type B	200	100	L.F.	\$ 25.00	\$ 5,000.00	\$ 2,500.00	\$ 7,500.00
603	* 12" Conduit Type B	320	123	L.F.	\$ 50.00	\$ 16,000.00	\$ 6,150.00	\$ 22,150.00
604	Manhole Type 3	0	2	EACH	\$ 2,500.00	-	\$ 5,000.00	\$ 5,000.00
604	Manhole Rehab.	0	1	EACH	\$ 1,500.00	-	\$ 1,500.00	\$ 1,500.00
623	Construction Layout Stakes	0.5	0.5	LUMP SUM	\$ 500.00	\$ 250.00	\$ 250.00	\$ 500.00
623	Mobilization	0.5	0.5	LUMP SUM	\$ 1,000.00	\$ 500.00	\$ 500.00	\$ 1,000.00
870	Seeding and Mulching	0.5	0.5	LUMP SUM	\$ 100.00	\$ 50.00	\$ 50.00	\$ 100.00
SPEC	Existing Utilities	0.5	0.5	LUMP SUM	\$ 500.00	\$ 250.00	\$ 250.00	\$ 500.00
Sub Total					\$ 22,050.00	\$	\$ 16,200.00	\$ 44,176.25
Contingency					\$ 1,000.00	\$	\$ 1,620.00	\$ 2,620.00
Total					\$ 23,050.00	\$	\$ 17,820.00	\$ 46,796.25

Hamilton Sanitary Sewer Extension Actual Costs - Final with actual cost at time of completion

Item	Description	Assessment Quantity	City Quantity	Unit	Labor Unit Price	Material Unit Price	Special Assessment	City	Total Estimate
202	Manhole Removal	0	1	EACH	\$ -	\$ 350.00	\$ -	\$ 350.00	\$ 350.00
254	2" Pavement Planning	0	1141	S.Y.	\$ 3.00	\$ 0.50	\$ -	\$ 3,993.50	\$ 3,993.50
404	Asphalt Concrete	0	65	C.Y.	\$ 84.00	\$ 8.00	\$ -	\$ 5,980.00	\$ 5,980.00
407	Tack Coat	0	80	GALLONS	\$ 1.50	\$ 1.00	\$ -	\$ 200.00	\$ 200.00
603	6" Conduit Type B	200	100	L.F.	\$ 9.50	\$ 12.50	\$ 4,400.00	\$ 2,200.00	\$ 6,600.00
603	12" Conduit Type B	320	123	L.F.	\$ 10.00	\$ 12.50	\$ 7,200.00	\$ 2,767.50	\$ 9,967.50
604	Manhole Type 3	0	2	EACH	\$ 1,250.00	\$ 500.00	\$ -	\$ 3,500.00	\$ 3,500.00
604	Manhole Rehab.	0	1	EACH	\$ 300.00	\$ 200.00	\$ -	\$ 500.00	\$ 500.00
623	Construction Layout Stakes	0.5	0.5	LUMP SUM	\$ 800.00	\$ 200.00	\$ 500.00	\$ 500.00	\$ 1,000.00
623	Mobilization	0.5	0.5	LUMP SUM	\$ -	\$ 1,200.00	\$ 600.00	\$ 600.00	\$ 1,200.00
870	Seeding and Mulching	0.5	0.5	LUMP SUM	\$ 350.00	\$ 350.00	\$ 350.00	\$ 350.00	\$ 700.00
SPEC	Existing Utilities	0.5	0.5	LUMP SUM	\$ 500.00	\$ 1,000.00	\$ 750.00	\$ 750.00	\$ 1,500.00
					\$ 13,800.00				\$ 21,691.00
					\$				\$ 35,491.00

RECEIVED
FEB 02 2004

DATE: FEBRUARY 17, 2004

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

Cassell
LEGISLATIVE DEPARTMENT

RESOLUTION NO. 7 - 2004

BY: POLICE AND FIRE COMMITTEE

TITLE: The Council of the City of Massillon, Stark County, Ohio met at a duly called and authorized meeting of the Council on the date set forth below, such meeting being duly called pursuant to a notice stating the time, place and purpose of the meeting received by all Council Members, and the following resolutions were made, seconded, and adopted by those present at the meeting.

WHEREAS, the eligible employees of the Fire and Police Departments participate in the Ohio Police and Fire Pension Fund (OP&F);

WHEREAS, the City of Massillon has previously adopted a deferred pension, (pre-tax) plan of the ten percent (10%) mandatory contributions required under by Section 742.31 of the Ohio Revised Code for participating employees of the Fire and Police Departments who are members of the OP&F;

WHEREAS, OP&F has adopted new procedures for reporting tax deferred (pre-tax) contributions in order to properly prepare 1099-R forms for its members;

WHEREAS, The City of Massillon Council wishes reaffirm and amend and restates its prior resolution in order to continue the tax deferred (pre-tax) under new procedures;

NOW, THEREFORE, BE IT RESOLVED, that effective as of immediately has determined to continue the deferred pension (pre-tax) of the ten percent (10%) mandatory contributions by the employees who are members of the Ohio Police and Fire Pension Fund.

BE IT FURTHER RESOLVED, that said deferred pension (pre-tax) contributions will not be included in the gross income of the employees for tax reporting purposes, that is, for federal or state income tax withholding taxes, until distributed from the Ohio Police and Fire Pension Fund;

BE IT FURTHER RESOLVED, that said employees shall not be entitled to any option of choosing to receive the contributed amounts directly instead of having them paid by the City of Massillon to the Ohio Police & Fire Pension Fund.

PASSED IN COUNCIL THIS _____ DAY OF _____, 2004

ATTEST: _____
MARY BETH BAILEY, CLERK OF COUNCIL

DENNIS D. HARWIG, PRESIDENT

APPROVED: _____

FRANCIS H. CICCHINELLI, JR., MAYOR