

AGENDA

DATE: MONDAY, JUNE 21, 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

ORDINANCE NO. 103 – 2004

BY: COMMUNITY DEVELOPMENT COMMITTEE

pt - 7-19 @ 7:15

135 AN ORDINANCE amending Section 1151.02 of the Massillon Code of 1985 rezoning a certain tract of land from I-1 Light Industrial to B-1 Local Business.

ORDINANCE NO. 104 – 2004

BY: COMMUNITY DEVELOPMENT COMMITTEE

pt AN ORDINANCE authorizing and directing the Director of Public Service and Safety to enter into a contract with Environmental Design Group (EDG) for professional services for the former Ohio Drilling Company property, and declaring an emergency.

ORDINANCE NO. 105 – 2004

BY: COMMUNITY DEVELOPMENT COMMITTEE

pt AN ORDINANCE repealing Ordinance No. 191 – 2003, and declaring an emergency.

ORDINANCE NO. 106 – 2004

BY: POLICE AND FIRE COMMITTEE

pt AN ORDINANCE authorizing the Director of Public Service and Safety to accept the Airway Grant from the Ohio Department of Public Safety, Division of Emergency Medical Services for Massillon Fire Department, and declaring an emergency.

ORDINANCE NO. 107 – 2004

Finance
BY: POLICE AND FIRE COMMITTEE

pt AN ORDINANCE authorizing the Director of Public Service and Safety of the City of Massillon to enter into an agreement with the State of Ohio-Governor's Highway Safety Office (GHSO) for a 402 Safety Grant, and declaring an emergency.

ORDINANCE NO. 108 – 2004

BY: POLICE AND FIRE COMMITTEE

pt AN ORDINANCE authorizing the Director of Public Service and Safety and the Chief of Police of the City of Massillon, to enter into a contract with Vance's Law Enforcement to trade surplus firearms for Taser electronic restraint devices to be used in the Massillon Police Department, without competitive bidding, and declaring an emergency.

ORDINANCE NO. 109 – 2004

BY: STREETS, HIGHWAYS, TRAFFIC & SAFETY

PS **AN ORDINANCE** authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to remove two existing traffic signal lights at two separate intersections on the northwest side of the City of Massillon, Ohio, and declaring an emergency.

ORDINANCE NO. 110 – 2004

BY: FINANCE COMMITTEE

PS **AN ORDINANCE** authorizing the Director of Public Service and Safety of the City of Massillon to accept the 2004 Federal Bulletproof Vest Partnership Grant from the Bureau of Justice Assistance for the Massillon Police Department, and declaring an emergency.

ORDINANCE NO. 111 – 2004

BY: FINANCE COMMITTEE

PS **AN ORDINANCE** amending Ordinance No. 143 – 1976 by repealing Section 13 “ALLOCATION OF FUNDS – INCOME TAX” and enacting a new Section 13 “ALLOCATION OF FUNDS – INCOME TAX” and repealing Ordinance No. 90 – 2003, and declaring an emergency.

ORDINANCE NO. 112 – 2004

BY: FINANCE COMMITTEE

PS **AN ORDINANCE** making certain appropriations from the unappropriated balance of the Lincoln Centre Phase III Fund and the General Fund, for the year ending December 31, 2004, and declaring an emergency.

RESOLUTION NO. 17 – 2004

BY: COMMUNITY DEVELOPMENT COMMITTEE

PS **A RESOLUTION** reserving the decision of the Massillon Zoning Board of Appeals made on April 8, 2004 wherein the Zoning Board of Appeals denied two variances from the Massillon Zoning Code for proposed construction of an oversized garage at 1224 Tremont Avenue SW. Known as Lot No. 1998 in the City of Massillon, Ohio, and declaring an emergency.

RESOLUTION NO. 18 – 2004

BY: COMMUNITY DEVELOPMENT COMMITTEE

PS **A RESOLUTION** reversing the decision of the Massillon Zoning Board of Appeals made on May 13, 2004 wherein the Zoning Board of Appeals denied a variance from the Massillon Zoning Code on an 8' front yard setback variance on Kendall Avenue NE to construct a new single family dwelling. Lot known as Lot No. 6796 in the City of Massillon, Ohio, and declaring an emergency.

RESOLUTION NO. 19 – 2004

BY: COMMITTEE OF THE WHOLE

PS **A RESOLUTION** concerning the position of the City of Massillon, Ohio, with regard to the Complaint for Declaratory Judgment filed as case No. 2004 CV 01552 in the Court of Common Pleas of Stark County, Ohio (“Lawsuit” herein). Said Lawsuit names the City as a party because of the interest that the City possesses in a property currently owned and occupied by Massillon Community Hospital.

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

- A). POLICE CHIEF SUBMITS MONTHLY REPORT FOR MAY 2004
- B). TREASURER SUBMITS MONTHLY REPORT FOR MAY 2004
- C). FIRE CHIEF SUBMITS MONTHLY REPORT FOR MAY 2004.
- D). INCOME TAX DEPARTMENT SUBMITS MONTHLY REPORT FOR MAY 2004
- E). MAYOR SUBMITS MONTHLY REPORT FOR MAY 2004
- F). WASTE DEPARTMENT SUBMITS MONTHLY REPORT FOR MAY 2004
- G). ACCEPT MAYOR'S APPOINTMENT OF ATTORNEY JOEL FICHTER
- H). ACCEPT MAYOR'S APPOINTMENT OF JOE LUCKRING

11. REPORTS OF COMMITTEES
12. RESOLUTIONS AND REQUESTS OF COUNCIL MEMBERS
13. CALL OF THE CALENDAR
14. THIRD READING ORDINANCES AND RESOLUTIONS

ORDINANCE NO. 91 – 2004

BY: PUBLIC UTILITIES COMMITTEE

ppc
AN ORDINANCE to provide for water service to be furnished by Aqua Ohio, Inc. to the City of Massillon, Ohio and the inhabitants thereof, and to regulate the rates under which water service shall be furnished in the City of Massillon, Ohio for and during the term of three and a half (3 1/2) years beginning on July 1, 2004, and declaring an emergency.

ORDINANCE NO. 92 – 2004

BY: STREETS, HIGHWAYS, TRAFFIC & SAFETY

Table 7-16-04
AN ORDINANCE vacating a portion of a certain public alley.

ORDINANCE NO. 93 – 2004

BY: FINANCE COMMITTEE

Referent
AN ORDINANCE imposing an additional municipal motor vehicle license fee pursuant to Section 4504.171 of the Ohio Revised Code.

15. SECOND READING ORDINANCES AND RESOLUTIONS

ORDINANCE NO. 89 – 2004

BY: COMMUNITY DEVELOPMENT COMMITTEE

ppc
AN ORDINANCE accepting the dedication of a 20 foot right-of-way on the north side of Indian River Road SW, and a 50 foot right-of-way with cul-de-sac, known as Treatment Drive, in the City of Massillon, Ohio, and declaring an emergency.

ORDINANCE NO. 96 - 2004

BY: COMMUNITY DEVELOPMENT COMMITTEE

2000
AN ORDINANCE amending Section 1151.02 of the Massillon Code of 1985 rezoning a certain tract of land from R-2 One Family Residential to R-T Two Family Residential.

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: JUNE 21, 2004

CLERK: MARY BETH BAILEY

COUNCIL CHAMBERS

CITY OF MASSILLON, OHIO

ORDINANCE NO. 103 - 2004

1st reading
LEGISLATIVE DEPARTMENT

2nd reading 7/6
Passed 7/19

BY: COMMUNITY DEVELOPMENT COMMITTEE

TITLE: AN ORDINANCE amending Section 1151.02 of the Massillon Code of 1985 rezoning a certain tract of land from I-1 Light Industrial to B-1 Local Business.

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 I-1 Light Industrial to B-1 Local Business. Said rezoning was approved by the Planning Commission of the City of Massillon, Ohio, on June 9, 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 B-1 Local Business.

Being known as Part of Out Lot 536, a 2.296 acre parcel located on the north side of Indian River Road SW, across from Massillon Marketplace. The applicant is the City of Massillon. The City proposes to sell this property for commercial development.

Section 3:

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



PT. O.L. 536
MASSILLON CITY

O.L. 540

S.R. 21

MASSILLON CITY
PT. O.L. 536
OUTLOT
2.296 Ac

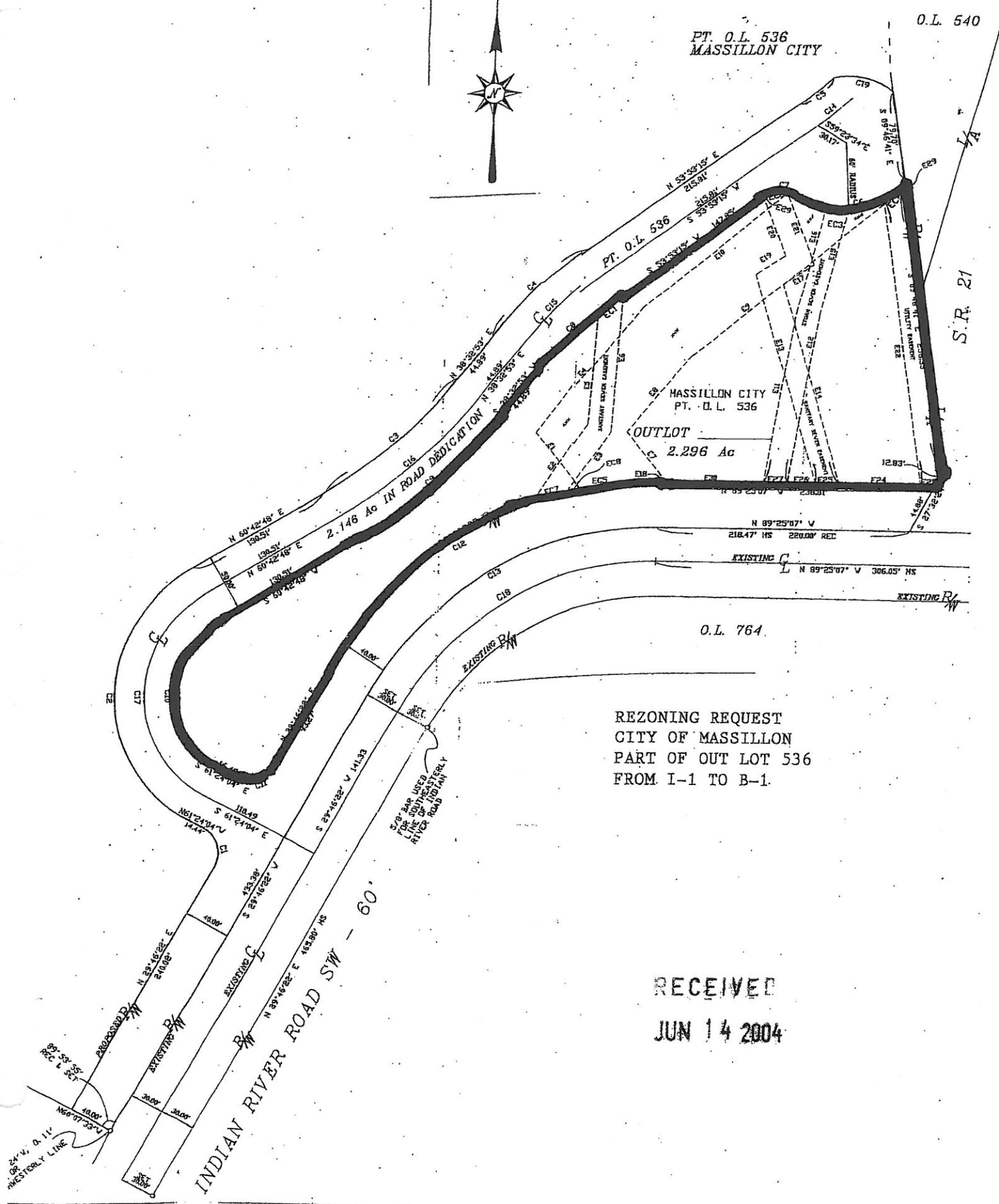
2.146 Ac IN ROAD DEDICATION

O.L. 764

REZONING REQUEST
CITY OF MASSILLON
PART OF OUT LOT 536
FROM I-1 TO B-1.

RECEIVED
JUN 14 2004

INDIAN RIVER ROAD SW - 60'



DATE: JUNE 21, 2004 CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 104 - 2004

BY: COMMUNITY DEVELOPMENT COMMITTEE

TITLE: AN ORDINANCE authorizing and directing the Director of Public Service and Safety to enter into a contract with Environmental Design Group (EDG) for professional services for the former Ohio Drilling Company property, 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 a contract with Environmental Design Group (EDG) for professional services to validate the previously performed phase one and phase two studies for the former Ohio Drilling Company and Armando's Pizza. The cost of said contract shall not exceed Thirty Thousand Dollars (\$ 30,000.00).

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 reason that it is necessary to engage the professional services to expedite the development of this real estate. 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: JUNE 21, 2004

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

Passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 105 - 2004

BY: COMMUNITY DEVELOPMENT COMMITTEE

TITLE: AN ORDINANCE repealing Ordinance No. 191 - 2003, and declaring an emergency.

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

Section 1:

Ordinance No. 191 - 2003 be and is hereby repealed.

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 that it is necessary to repeal said ordinance as part of the settlement of three pending lawsuits concerning said ordinance, and the election protest currently scheduled for June 23rd 2004. All the lawsuits will be dismissed and the election protest withdrawn and this must be done prior to the hearing date on the protest. 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: JUNE 21, 2004

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 106 - 2004

BY: POLICE AND FIRE COMMITTEE

TITLE: AN ORDINANCE authorizing the Director of Public Service and Safety to accept the Airway Grant from the Ohio Department of Public Safety, Division of Emergency Medical Services for Massillon Fire Department, 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 accept the Airway Grant from the Ohio Department of Public Safety, Division of Emergency Medical Services in the amount of Two Thousand One Hundred Twenty-Four Dollars and Eighty-Three Cents (\$2,124.83) for the emergency medical service operations for the Massillon Fire Department.

Section 2:

The Director of Public Service and Safety of the City of Massillon, Ohio, is hereby authorized and directed to accept the Airway Grant from the Ohio Department of Public Safety, Division of Emergency Medical Services for emergency medical service operations for the Massillon Fire Department.

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 the grant is necessary for the emergency medical service operations for the Massillon Fire 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 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: JUNE 21, 2004

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

Passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 107 - 2004

BY: FINANCE COMMITTEE

TITLE: AN ORDINANCE authorizing the Director of Public Service and Safety of the City of Massillon to enter into an agreement with the State of Ohio-Governor's Highway Safety Office (GHSO) for a 402 Safety Grant, 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 a 402 Safety Grant Agreement with the State of Ohio-Governor's Highway Safety Office. The grant is reimbursable, the grant will study the following intersections:

(SEE ATTACHED EXHIBIT "A")

Section 2:

This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the health, safety, and welfare of the community, and for the reason that the grant is necessary for the safety study for various intersections throughout the City of Massillon and the grant application is due no later than July 1st 2004. 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

Exhibit "A"

This is a reimbursable grant given by the state of Ohio. The proposed grant is to study the following intersections:

Street	Intersecting Street	ADT	Severity Index	Crash Rate per Million Vehicles	SCATS Hazard Rating
11th Street NE	State Ave	5,600	2.05	3.42	32.725
* Street NE	Federal Ave. NE	6,700	1.67	2.04	11.359
...e Street North	Federal Ave. NE	6,750	1.93	2.03	13.079
3rd Street SE	Tremont Ave. SE	11,550	1.88	1.98	20.646
Erie Street South (SR 241)	Tremont Ave. SE	17,400	1.69	1.36	13.343
Erie Street (SR 241)	Lincoln Way (SR 172)	25,050	1.5	1.17	12.44
Great Lakes (SR 21)	Lake Ave. (SR 236)	17,350	1.48	1.11	7.615

The City would like to employ a consultant engineer to study the above intersections. The study should consist of 24 hour count, turning movement counts, Warrant analysis, sight and speed issue analysis and intersection capacity analysis. The above applications are due in Columbus by July 1, 2004 at 4:00pm.

DATE: JUNE 21, 2004

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

Passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 108 - 2004

BY: POLICE AND FIRE COMMITTEE

TITLE: AN ORDINANCE authorizing the Director of Public Service and Safety and the Chief of Police of the City of Massillon, to enter into a contract with Vance's Law Enforcement to trade surplus firearms for Taser electronic restraint devices to be used in the Massillon Police Department, without competitive bidding, 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 a contract with Vance's Law Enforcement to trade surplus firearms for Taser electronic restraint devices. The cost of the Taser equipment is approximately Twelve Thousand Dollars (\$12,000.00).

Section 2:

The Director of Public Service and Safety of the City of Massillon is hereby authorized to enter into a contract with Vance's Law Enforcement to trade surplus firearms no longer needed for Taser electronic restraint equipment, without competitive bidding, Vance's is a federally licensed firearms dealer.

Section 3:

This Ordinance is 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 the Massillon Police Department no longer needs the surplus firearms, but is in need of the Taser devices to run the department more efficiently. 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: JUNE 21, 2004

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

1st Reading
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 109 - 2004

passed 7/6

BY: STREETS, HIGHWAYS, TRAFFIC & SAFETY COMMITTEE

TITLE: AN ORDINANCE authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to remove two existing traffic signal lights at two separate intersections on the northwest side 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:

The Council of the City of Massillon, Ohio, hereby determines it to be necessary in the public health, safety and welfare to remove the two existing traffic signal lights at two separate intersections on the northwest side of the City of Massillon, Ohio.

Section 2:

The Director of Public Service and Safety of the City of Massillon, Ohio, is hereby authorized to remove the two existing traffic signal lights on the northwest side of Lincoln Way West and 12th Street NW and Lincoln Way West and Grosvenor Drive NW. A traffic engineer study has concluded that under the Ohio Uniform Traffic Control Manual (OUTCM) these two traffic signal lights do not meet standard requirements and should be removed and the side streets posted with stop signs.

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 remove this two existing traffic signal lights and replace with two way stop signs. 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: JUNE 21, 2004

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 110 - 2004

BY: FINANCE COMMITTEE

TITLE: AN ORDINANCE authorizing the Director of Public Service and Safety of the City of Massillon to accept the 2004 Federal Bulletproof Vest Partnership Grant from the Bureau of Justice Assistance for the Massillon Police Department, and declaring an emergency.

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

Section 1:

The Council of the City of Massillon, Ohio, hereby determines it to be necessary in the public health, safety and welfare to authorize the Director of Service and Safety of the City of Massillon to accept the 2004 Federal Bulletproof Vest Partnership Grant from the Bureau of Justice Assistance for the Massillon Police Department.

Section 2:

The Director of Public Service and Safety of the City of Massillon, Ohio is hereby authorized to accept the 2004 Federal Bulletproof Vest Partnership Grant from the Bureau of Justice Assistance in the Massillon Police Department. The amount of the grant is Six Thousand Four Hundred Seventy-Seven Dollars and Fifty Cents (\$6,477.50). This grant will not require an addition match.

Section 3:

This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the health, safety, and welfare of the community, and for the additional reason that the grant is necessary to enable the purchase of additional bulletproof vests for the safety of our Police 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 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: JUNE 21, 2004

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

Passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 111 - 2004

BY: FINANCE COMMITTEE

TITLE: AN ORDINANCE amending Ordinance No. 143 - 1976 by repealing Section 13 - "ALLOCATION OF FUNDS - INCOME TAX" and enacting a new Section 13 "ALLOCATION OF FUNDS - INCOME TAX" and repealing Ordinance No. 90 - 2003, and declaring an emergency.

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

Section 1:

Ordinance No. 90 - 2003 be and is hereby repealed.

Section 2:

That there be and hereby is enacted a new Section 13 "ALLOCATION OF FUNDS - INCOME TAX" of Ordinance No. 143 - 1976. Said new Section 13 shall read as follows:

Section 13 - ALLOCATION OF FUNDS

(A) Effective April 1, 2004 through December 31, 2004 the funds collected under the provision of this ordinance shall be disbursed as follows:

(1) Ninety-Eight (98) percent shall be deposited in the General Fund and Two (2) percent shall be deposited in said "Income Tax Capital Improvements" Fund and shall be used for capital improvements to defray operating expenses of the City including such part thereof as shall be necessary to defray all costs of administering and enforcing the provisions thereof.

(B) Effective January 1, 2005 the funds collected under the provisions of this ordinance shall be disbursed as follows:

(1) Ninety-Five (95) percent shall be deposited in the General Fund and shall be used to defray operating expenses of the city including such part thereof as shall be necessary to defray all costs of administering and enforcing the provisions thereof.

- (2) There is hereby created a separate fund entitled "Income Tax Capital Improvement Fund". Five (5) percent shall be deposited in said "Income Tax Capital Improvements" and shall be used for capital improvements.
- (3) Capital Improvements are all property, assets, machinery, equipment or improvements which the City is authorized by law to acquire, construct and maintain, including plans and studies thereof with an estimated life or usefulness of five (5) years or more, including land and interests therein, and including reconstructions, enlargements and extension thereof having an estimated life or usefulness of five (5) years or more provided, however, that the purchase of motorized equipment for the various city departments and the resurfacing and resealing of public streets, including "Chip and Seal" method, shall be deemed Capital Improvement without regard to estimated life or usefulness.

Section 3:

This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, welfare and safety and the emergency being the necessity of providing funds for the operation of necessary governmental functions imposed by law, including the proper police and fire protection, but not limited thereto, for, without said funds, said governmental functions would have to be curtailed to such an extent that the public safety and welfare would be greatly jeopardized. And provided it receives the affirmative vote of two-thirds of the elected members to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

PASSED IN COUNCIL THIS _____ DAY OF _____, 2004

ATTEST: _____

MARY BETH BAILEY, CLERK OF COUNCIL

DENNIS D. HARWIG, PRESIDENT

APPROVED: _____

FRANCIS H. CICCHINELLI, JR, MAYOR

DATE: JUNE 21, 2004

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 112 - 2004

BY: FINANCE COMMITTEE

TITLE: AN ORDINANCE making certain appropriations from the unappropriated balance of the Lincoln Centre III Fund, and the General 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 Lincoln Centre III Fund, for the year ending December 31, 2004, the following:

↯30,000.00 to an account entitled "Services & Contracts" 1425.905.2392

Section 2:

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

\$2,124.83 to an account entitled "Supplies, Postage and Materials" 1100.325.2410

Section 3:

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

PASSED IN COUNCIL THIS _____ DAY OF _____ 2004

ATTEST: _____

MARY BETH BAILEY, CLERK OF COUNCIL

DENNIS HARWIG, PRESIDENT

APPROVED: _____

FRANCIS H. CICCHINELLI, JR, MAYOR

DATE: JUNE 21, 2004 CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

defeated
LEGISLATIVE DEPARTMENT

RESOLUTION NO. 17 - 2004

BY: COMMUNITY DEVELOPMENT COMMITTEE

TITLE: A RESOLUTION reversing the decision of the Massillon Zoning Board of Appeals made on April 8, 2004 wherein the Zoning Board of Appeals denied two variances from the Massillon Zoning Code for proposed construction of an oversized garage at 1224 Tremont Avenue. Known as Lot No. 1998 in the City of Massillon, Ohio, and declaring an emergency.

WHEREAS, the Massillon Zoning Board of Appeals on April 8, 2004 denied a variance from the Massillon Zoning Code on

WHEREAS, on April 12, 2004, a Notice of Appeal pursuant to Section 1129.09 of the Massillon Zoning Code was filed with the Clerk of Council by Mr. Samuel Beall, appealing the decision in Case No. 1141 of the Massillon Zoning Board of Appeals.

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

Section 1:

The Council of the City of Massillon, Ohio, deems it is in the best interest for proper community growth to reverse and amend the decision of the Massillon Zoning Board of Appeals made on April 8, 2004 in Case No. 1141, by allowing the lot coverage variance and the oversized garage to be built on Lot No. 1998 in the City of Massillon, Ohio.

Section 2:

This Resolution is declared to be an emergency measure in that the reversal of the decision of the Massillon Zoning Board of Appeals is essential for the proper community growth and hence immediately necessary for the preservation of the health, safety and welfare of the community. Wherefore, this Resolution shall be in full force and effect immediately from and after passage and approval by the Mayor.

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: JUNE 21, 2004

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

passed
LEGISLATIVE DEPARTMENT

RESOLUTION NO. 18 - 2004

BY: COMMUNITY DEVELOPMENT COMMITTEE

TITLE: A RESOLUTION reversing the decision of the Massillon Zoning Board of Appeals made on May 13, 2004 wherein the Zoning Board of Appeals denied a variance from the Massillon Zoning Code on an 8' front yard setback variance on Kendall Avenue NE to construct a new single family dwelling. Lot known as Lot No. 6796 in the City of Massillon, Ohio, and declaring an emergency.

WHEREAS, the Massillon Zoning Board of Appeals on May 13, 2004 denied a variance from the Massillon Zoning Code on

WHEREAS, on May 14, 2004, a Notice of Appeal pursuant to Section 1129.09 of the Massillon Zoning Code was filed with the Clerk of Council by Mr. Charles Reed, appealing the decision in Case No. 1143 of the Massillon Zoning Board of Appeals.

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

Section 1:

The Council of the City of Massillon, Ohio, deems it is in the best interest for proper community growth to reverse and amend the decision of the Massillon Zoning Board of Appeals made on May 13, 2004 in Case No. 1143, by allowing the construction of a single family dwelling to be built on Lot No. 6796 in the City of Massillon, Ohio.

Section 2:

This Resolution is declared to be an emergency measure in that the reversal of the decision of the Massillon Zoning Board of Appeals is essential for the proper community growth and hence immediately necessary for the preservation of the health, safety and welfare of the community. Wherefore, this Resolution shall be in full force and effect immediately from and after passage and approval by the Mayor.

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: JUNE 21, 2004

CLERK: MARY BETH AILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

passed
LEGISLATIVE DEPARTMENT

RESOLUTION NO. 19 - 2004

BY: COMMITTEE OF THE WHOLE

TITLE: A RESOLUTION concerning the position of the City of Massillon, Ohio, with regard to the Complaint for Declaratory Judgment filed as Case No. 2004 CV 01552 in the Court of Common Pleas of Stark County, Ohio ("Lawsuit" herein). Said Lawsuit names the City as a party because of the interest that the City possesses in a portion of the property currently owned and occupied by Massillon Community Hospital.

WHEREAS, the City has been named as party in the Lawsuit referenced above, and

WHEREAS, Akron General Health System, as owner of Massillon Community Hospital, wishes to engage in a transaction with Triad Hospitals, Inc., wherein the Hospitals will form a joint venture which will own and operate both Massillon Community Hospital and Doctor's Hospital of Stark County;

WHEREAS, the City of Massillon possesses certain rights by reason of a deed recorded in Office of the Stark County Recorder on April 28, 1905 in Vol. 439 pages 55-56 of the Stark County Recorder's records (the "Pocock Deed" herein);

WHEREAS, the City wishes to state its position with regard to the Lawsuit and authorize the City Law Director to prepare an appropriate response to said Lawsuit and to enter into an agreement with regard to resolution of the Lawsuit; and

WHEREAS, the Council of the City of Massillon determines that it would be in the best interest of the citizens of Massillon that both Massillon Community Hospital and Doctor's Hospital of Stark County provide continued health care for all of the residents of the service area of both hospitals, and in order to accomplish this purpose it is necessary to permit the transaction proposed by the Lawsuit to proceed.

NOW, THEREFORE, be it resolved by Council of the City of Massillon, State of Ohio, that:

Section 1: The Law Director of the Massillon, Ohio is hereby directed to enter into an agreement, on behalf of the City, with the Plaintiffs in the above referenced Lawsuit, the terms of said agreement to provide as follows:

1. That the transaction proposed by the Lawsuit shall be deemed to comply with the provisions of the Pocock Deed and thus permissible under the same.

2. In the event that the transaction proposed by the Lawsuit is not consummated and the new entity is not formed, the parties to the Lawsuit shall file a Judgment Entry with the Court vacating and agreement reached there under and vesting the City of Massillon, Ohio, with all rights that it had under the Pocock Deed prior to the commencement of the Lawsuit.
3. In consideration of the City consenting to the proposed transaction the Plaintiffs must agree to provide the following:
 - a. Western Stark Medical Clinic – the Plaintiffs will continue to support the Western Stark Medical Clinic in the following ways:
 - 1) Plaintiffs will either provide the Clinic with rent free space and utilities in a location similar in size to the current location or pay for the monthly rent and utilities on behalf of the clinic for a minimum period of 10 years at the current rates paid by the clinic with reasonable adjustments for inflation. Currently the Clinic pays monthly rent of \$2310.00 and monthly utilities of approximately \$431.00.
 - 2) The Plaintiffs will continue to provide service to the patients of the Clinic free of charge from the laboratory and radiology departments.
 - 3) The Plaintiffs will provide the Clinic with the advice and consultation of the computer technicians and pharmacy assistance at such times as the same are required by the clinic.
 - b. Family Living Center – the Plaintiffs will continue to provide financial support for the Family Living Center in the following ways:
 - 1) Plaintiffs will permit the Family Living Center to utilize its current facilities at 876 Amherst Road N. E., Massillon, Ohio 44646 for a minimum period of ten(10) years and no rent shall be due and payable to Plaintiffs. Plaintiffs will also pay for and provide all utilities to said location free of charge to the Family Living Center.
 - 2) Plaintiffs will continue to provide meal vouchers to residents of the Family Living Center so that they may continue to eat at the Plaintiff's cafeteria.
 - 3) Plaintiffs will continue to provide landscaping, yard maintenance and snow removal free of charge to the premises occupied by the Family Living Center.
 - c. In the event that the City institutes a procedure to bill insurance companies for EMS runs the Plaintiffs will perform the billing services for the City free of charge.

- d. The Lawsuit contemplates the forming of a new company which will be governed by a governing board. The organizational documents of the new company will provide that two (2) members of the governing board will be appointed by the Mayor of the City of Massillon with the consent of the Council of the City of Massillon. Plaintiffs shall have the right to approve or disapprove of the two (2) appointed members provided, that approval will not be unreasonably withheld by Plaintiffs. Further the appointees shall not be employees of the City of Massillon.
- e. Plaintiffs shall for a period of five (5) years after the merger, continue to operate the Massillon Community Hospital as a general acute care hospital having emergency room operations. Plaintiffs shall also continue to provide indigent care and cause the hospital to participate in the hospital care assurance program, general assistance and disability assistance of the State of Ohio provide that the hospital continues to qualify in such programs and such programs continue.

Section 2: This Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the Health and Wealth fare of the citizens of Massillon and for the additional reason that immediate adoption of this Resolution will permit the Plaintiffs to commence negotiations concerning the proposed merger. Further, if this Resolution is not immediately passed it is possible that the Plaintiffs will not go through with the proposed merger and potentially the City of Massillon could lose a Health Care facility. Provided it receives the affirmative vote of two-thirds of all the members duly elected to Council, it shall take effect and be enforce immediately upon it 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