

AGENDA

DATE: MONDAY, DECEMBER 6, 2004

PLACE: COUNCIL CHAMBERS

TIME: 7:30 P.M.

**THERE ARE TWO PUBLIC HEARINGS TONIGHT
ORDINANCE NO. 164 – 2004 REZONING AT 7:20PM
ORDINANCE NO. 165 – 2004 REZONING AT 7:00PM**

- 1. ROLL CALL**
- 2. INVOCATION BY COUNCILMAN MIKE LOUDIANA**
- 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**

Passed
ORDINANCE NO. 185 - 2004

Bol
BY: ENVIRONMENTAL COMMITTEE

AN ORDINANCE authorizing and directing the Director of Public Service and Safety of the City of Massillon, Ohio, to enter into a contract upon approval of the Board of Control with Central Allied Enterprises of Canton for the construction of the West Warmington West Bank Sanitary sewer, and declaring an emergency.

Passed
ORDINANCE NO. 186 – 2004

Bol
BY: ENVIRONMENTAL COMMITTEE

AN ORDINANCE authorizing and directing the Director of Public Service and Safety of the City of Massillon, Ohio, to enter into a contract with Kaufman Plumbing and Heating Company of Canton for the emergency repair to the secondary tunnel area at the Wastewater Treatment Plant, and declaring an emergency.

Passed
ORDINANCE NO. 187 – 2004

Bol
BY: ENVIRONMENTAL COMMITTEE

AN ORDINANCE authorizing and directing the Director of Public Service and Safety of the City of Massillon, Ohio, to enter into a contract upon approval of the Board of Control with McCoy Associates, inc., for the professional services for the design of the ponds and the analysis of the Federal Avenue Pump Station for the Lincoln Center Phase III, and declaring an emergency.

BT
ORDINANCE NO. 188 – 2004

BY: STREETS, HIGHWAYS, TRAFFIC & SAFETY

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

Passed
ORDINANCE NO. 189 – 2004

BY: FINANCE COMMITTEE

AN ORDINANCE establishing a fund entitled "Lincoln Center Infrastructure Improvement Fund" and creating line items within said fund, and declaring an emergency.

Passed
ORDINANCE NO. 190 – 2004

BY: FINANCE COMMITTEE

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

Passed
ORDINANCE NO. 191 – 2004

BY: FINANCE COMMITTEE

AN ORDINANCE making a transfer in the 2004 appropriation from the Lincoln Center Phase III Fund to Lincoln Center Infrastructure Improvement Fund of the City of Massillon, Ohio, and declaring an emergency.

Passed
ORDINANCE NO. 192 – 2004

BY: FINANCE COMMITTEE

AN ORDINANCE making certain appropriations from the unappropriated balance of the Wastewater Treatment Fund, General Fund, Legends Golf Fund, Park & Recreation Fund, Lincoln Center Infrastructure Improvement Fund, Home Program Fund and the Solid Waste Department Fund, for the year ending December 31, 2004, and declaring an emergency.

Passed
ORDINANCE NO. 193 – 2004

BY: FINANCE COMMITTEE

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

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 NOVEMBER 2004

B). AUDITOR SUBMITS MONTHLY REPORT FOR NOVEMBER 2004

11. REPORTS OF COMMITTEES

12. RESOLUTIONS AND REQUESTS OF COUNCIL MEMBER

13. CALL OF THE CALENDAR

14. THIRD READING ORDINANCES AND RESOLUTIONS

Passed
ORDINANCE NO. 164 – 2004

BY: COMMUNITY DEVELOPMENT COMMITTEE

AN ORDINANCE amending Section 1151.02 of the Massillon Code of 1985 rezoning a certain tract of land from R-3 One Family Residential to RM-1 Multiple Family Residential.

2/1/05
ORDINANCE NO. 165 – 2004

BY: COMMUNITY DEVELOPMENT COMMITTEE

AN ORDINANCE amending Section 1151.02 of the Massillon Code of 1985 rezoning a certain tract of land from O-1 Office to RM-1 Multiple Family Residential.

passed
ORDINANCE NO. 174 – 2004

BY: STREETS, HIGHWAYS, TRAFFIC & SAFETY

AN ORDINANCE vacating various streets in the City of Massillon, Ohio, further described as a 60 foot right-of-way for Oberlin Road SW and a 50 foot right-of-way for 6th Street SW, and declaring an emergency. *Revisits @ next meeting to amend description.*

15. SECOND READING ORDINANCES AND RESOLUTIONS

ORDINANCE NO. 179 – 2004

BY: PUBLIC UTILITIES COMMITTEE

2nd
AN ORDINANCE authorizing the Director of Public Service and Safety to enter into a four year renewal of the contract agreement with Ohio Edison Company for the street lighting, known as The Efficiency/Safety Incentive Program (ESIP) for public streets and roads in the City of Massillon, and declaring an emergency.

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

DECEMBER 6, 2004

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

Passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 185 - 2004

BY: ENVIRONMENTAL COMMITTEE

TITLE: AN ORDINANCE authorizing and directing the Director of Public Service and Safety of the City of Massillon, Ohio, to enter into a contract upon approval of the Board of Control with Central Allied Enterprises of Canton for the construction of the West Warmington West Bank Sanitary Sewer, 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, is hereby authorized and directed to enter into a contract with Central Allied Enterprises of Canton for the construction of the West Warmington West Bank Sanitary Sewer.

Section 2:

The Director of Public Service and Safety of the City of Massillon, Ohio, is hereby authorized and directed to enter into a contract with Central Allied Enterprises of Canton for the construction of the West Warmington West Bank Sanitary Sewer. The cost of the project by Central Allied Enterprises of Canton is Four Hundred Twenty-Two Thousand Nine Hundred Sixty-Nine Dollars and Seventy Cents (\$422,969.70) which was the lowest bid of the eight bids submitted.

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 have the professional services of Central Allied Enterprises to perform the construction of the West Warminton Band Sanitary Sewer said contract needs executed immediately to enable prompt commencement and scheduling of the construction. Provided it receives the affirmative vote of two-thirds of the elected members to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

DATE: DECEMBER 6, 2004

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 186 - 2004

BY: ENVIRONMENTAL COMMITTEE

TITLE: AN ORDINANCE authorizing and directing the Director of Public Service and Safety of the City of Massillon, Ohio, to enter into a contract with Kaufman Plumbing and Heating Company of Canton for the emergency repair to the secondary tunnel area at the Wastewater Treatment Plant, and declaring an emergency.

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

Section 1:

The Council of the City of Massillon, Ohio, hereby determines it to be necessary in the public health, safety and welfare to authorize the Director of Public Service and Safety to enter into a contract with Kaufman Plumbing and Heating Company of Canton for the emergency repair to the secondary tunnel area at the Wastewater Treatment Plant.

Section 2:

The Director of Public Safety and Service of the City of Massillon, Ohio, is hereby authorized to enter into a contract with Kaufman Plumbing and Heating Company of Canton for the emergency repair to the secondary tunnel area at the Wastewater Treatment Plant.

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 it is necessary to have the secondary tunnel area repaired at the Wastewater Treatment Plant for proper and efficient operation of the Wastewater Treatment Plant. Provided that 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.

ATE: DECEMBER 6, 2004

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 187 - 2004

BY: ENVIRONMENTAL COMMITTEE

TITLE: AN ORDINANCE authorizing and directing the Director of Public Service and Safety of the City of Massillon, Ohio, to enter into a contract upon approval of the Board of Control with McCoy Associates, Inc., for the professional services for the design of the ponds and the analysis of the Federal Avenue Pump Station for the Lincoln Center Phase III, 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, is hereby authorized and directed to enter into a contract with McCoy Associates, Inc., for the professional services for the design of the ponds and the analysis of the Federal Avenue Pump Station for the Lincoln Center Phase III area

Section 2:

The Director of Public Service and Safety of the City of Massillon, Ohio, is hereby authorized and directed to enter into a contract with McCoy Associates, Inc., for the professional services for the design of the ponds and the analysis of the Federal Avenue Pump Station for the Lincoln Center Phase III area.

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 have the professional services of McCoy Associates, Inc., for the immediate design of the ponds and the analysis of the Federal Avenue Pump Station for the Lincoln Center Phase III project where the movie theater is to be built as the ponds must be in place by June 1, 2005. Provided it receives the affirmative vote of two-thirds of the elected members to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

DATE: DECEMBER 6, 2004

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

ORDINANCE NO. 188 - 2004

1st reading
LEGISLATIVE DEPARTMENT

2nd read 12/20
Defeated 1/3/05

BY: STREETS, HIGHWAYS, TRAFFIC & SAFETY COMMITTEE

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

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 imposes an additional municipal motor vehicle license fee pursuant to Section 4504.171 of the Ohio Revised Code upon the operation of motor vehicles on public roads and highways.

Section 2:

Said additional license fee shall be at the rate of Five Dollars (\$5.00) per motor vehicle on all motor vehicles located or registered as being located within the City of Massillon, Ohio.

Section 3:

This license fee is imposed for the purpose of paying the costs and expenses of enforcing said tax to supplement and provide additional revenue already available to the City of Massillon, Ohio, under Sections 4504.04, 4504.06, 4504.17 or 4504.171 of the Ohio Revised Code

Section 4:

All monies received from said license fee shall be used exclusively for street and roadway project expenses and none of said funds shall be used for payment of salaries or wages

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: DECEMBER 6, 2004

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 189 - 2004

BY: FINANCE COMMITTEE

TITLE: AN ORDINANCE establishing a fund entitled "Lincoln Center Infrastructure Improvement Fund", and creating line items within said fund, 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, a fund entitled "Lincoln Center Infrastructure Improvement Fund", and creating line items within said fund.

Section 2:

The City Auditor is hereby authorized and directed to draw his warrants and make payments on vouchers duly approved by the proper departmental authority.

Section 3:

That this Ordinance is declared to be an emergency measure immediately necessary in order to keep federal grant dollars in one specific fund as recommended by the State Auditor for accounting procedures within the Auditor's 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.

DATE: DECEMBER 6, 2004

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 190 - 2004

BY: FINANCE COMMITTEE

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

\$45,000.00 to an account entitled "Transfer To" 1425.905.2710

Section 2:

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: DECEMBER 6, 2004

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 191 - 2004

BY: FINANCE COMMITTEE

TITLE: AN ORDINANCE making a transfer in the 2004 appropriation from the Lincoln Center Phase III Fund to Lincoln Center Infrastructure Improvement 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 a transfer in the 2004 appropriation from the Lincoln Center Phase III Fund of the City of Massillon, Ohio, the following:

\$45,000.00 FROM: "Lincoln Center Phase III Fund" 1425.905.2710

\$45,000.00 TO: "Lincoln Center Infrastructure Improvement Fund" 1483.905.1860

Section 2:

This Ordinance is hereby declared to be an emergency measure, the reason for the emergency being that said funds are necessary for the Lincoln Center Infrastructure Improvements to be completed. 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: DECEMBER 6, 2004

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 192 - 2004

BY: FINANCE COMMITTEE

TITLE: AN ORDINANCE making certain appropriations from the unappropriated balance of the Wastewater Treatment Fund, General Fund, Legends Golf Fund, Park & Recreation Fund, Lincoln Center Infrastructure Improvement Fund, Home Program Fund, and the Solid Waste Department 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 Fund, for the year ending December 31, 2004, the following:

\$450,000.00 to an account entitled "West Warmington Sanitary Sewer Trunk" 2101.610.2510
\$ 50,000.00 to an account entitled "Services/Contracts" 2101.610.2392

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:

\$133,900.00 to an account entitled "Fire Department Salary" 1100.325.2110
\$ 6,337.50 to an account entitled "Safety Equipment" 1100.305.2530
\$ 5,000.00 to an account entitled "Income Tax Refunds" 1100.210.2710
\$ 100.00 to an account entitled "PERS" 1100.105.2230

Section 3:

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

\$60,000.00 to an account entitled "Advance Return" 2104.920.2750

Section 4:

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

\$20,500.00 to an account entitled "Utilities – Rec. Center" 1234.505.2341
\$15,200.00 to an account entitled "Hosp/Eye/Dental/Life" 1234.505.2210
\$ 4,200.00 to an account entitled "PERS" 1234.505.2230
\$ 4,000.00 to an account entitled "Salary - Recreation" 1234.505.2112
\$ 3,000.00 to an account entitled "Utilities" 1234.505.2340

Section 5:

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

\$45,000.00 to an account entitled "Services/Contracts" 1483.425.2392

Section 6:

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

\$12,000.00 to an account entitled "HOME Housing Program" 1229.845.2814

Section 7:

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

\$ 5,000.00 to an account entitled "Services/Contracts" 2102.605.2392
\$ 2,500.00 to an account entitled "Gas & Oil" 2102.605.2430

Section 8:

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

passed

ORDINANCE NO. 193-2004

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

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, certain 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 2005 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. (Amended)
- 333.01 Driving or Physical Control While Under the Influence. (Amended)
- 333.02 Operation in Willful or Wanton Disregard of Safety. (Amended)
- 333.07 Street Racing Prohibited. (Amended)
- 335.01 Driver's License or Commercial Driver's License Required.
(Amended)
- 335.03 Driving With Temporary Instruction Permit; Curfew. (Amended)
- 337.28 Use of Sunscreening, Nontransparent and Reflectorized Materials.
(Amended)

General Offenses Code

- 501.04 Rules of Construction. (Amended)
- 501.99 Penalties for Misdemeanors. (Amended)
- 509.02 Failure to Disperse. (Amended)
- 509.05 Misconduct at an Emergency. (Amended)
- 513.01 Drug Abuse Definitions. (Amended)
- 529.03 Sales to Intoxicated Persons. (Amended)
- 529.05 Permit Required. (Amended)
- 529.07 Open Container Prohibited. (Amended)
- 537.02 Vehicular Homicide and Manslaughter. (Amended)
- 537.021 Vehicular Assault in a Construction Zone. (Added)
- 541.04 Criminal Mischief. (Amended)
- 541.05 Criminal Trespass. (Amended)
- 549.01 Weapons and Explosives Definitions. (Amended)
- 549.02 Carrying Concealed Weapons. (Amended)
- 549.04 Improperly Handling Firearms in a Motor Vehicle. (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.

PASSED IN COUNCIL THIS _____ DAY OF _____ 2004.

APPROVED: _____

Mary Beth Bailey, Clerk of Council

Dennis D. Harwig, President

Francis H. Cicchinelli, Jr., Mayor