

AGENDA

DATE: MONDAY, MAY 15, 2006
PLACE: COUNCIL CHAMBERS
TIME: 7:30 P.M.

THERE ARE NO PUBLIC HEARINGS TONIGHT

1. ROLL CALL
2. INVOCATION BY COUNCILMAN DAVE MCCUNE
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. 72 – 2006 BY: COMMUNITY DEVELOPMENT COMMITTEE

AN ORDINANCE authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to enter into a contract with F & M Properties for the sale of land known as and being Lot Nos. 2572 and 16416, located on First Street NW, in the City of Massillon, Stark County, Ohio and owned by said City, which is not needed for any municipal purpose, and declaring an emergency.

1st. reading.
ORDINANCE NO. 73 – 2006 BY: COMMUNITY DEVELOPMENT COMMITTEE

AN ORDINANCE authorizing the Mayor of the City of Massillon, Ohio, to enter into an agreement with Polymer Packaging, Inc. to provide an economic development "inducement grant" to assist the company in relocating and expanding its operations in Massillon, and declaring an emergency.

Passed
ORDINANCE NO. 74 – 2006 BY: ENVIRONMENTAL COMMITTEE

AN ORDINANCE authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to enter into a contract, without competitive bidding, with Republic Waste Services of Ohio, LLC, dba Countywide Recycling & Disposal Facility for the disposal of municipal solid waste for the City of Massillon, Ohio, and declaring an emergency.

Passed
ORDINANCE NO. 75 – 2006 BY: ENVIRONMENTAL COMMITTEE

AN ORDINANCE accepting the vacation, replat and dedication of easements on Out Lot 1012, a 9.086 acre parcel located on the south side of Cherry Road NW, east of State Route 21 in the City of Massillon, County of Stark, State of Ohio, presently on file in the office of the City Engineer, and declaring an emergency.

Passed
ORDINANCE NO. 76 – 2006 BY: HEALTH, WELFARE & BLDG REGULATION

AN ORDINANCE authorizing and directing the Director of Public Service and Safety of the City of Massillon, Ohio, to enter into a contract without competitive bidding with McCoy Associates, Inc., for their engineering services needed for sidewalks, stairway and ramp improvements around Huntington Bank/Administrative Annex, and declaring an emergency.

MONDAY, MAY 15, 2006

Passed
ORDINANCE NO. 77 – 2006**BY: PARKS AND RECREATION COMMITTEE**

AN ORDINANCE amending Ordinance No. 86 – 2004 and authorizing and directing the Director of Public Service and Safety of the City of Massillon, Ohio, to enter into a revised agreement concerning the purchase of real estate located in the Township of Tuscarawas, Stark County, Ohio, which is currently owned by Daniel D. Cottrill, Jr., and declaring an emergency.

ORDINANCE NO. 78 – 2006**BY: FINANCE COMMITTEE**

AN ORDINANCE making certain appropriations from the unappropriated balance of the General Fund and the Capital Improvement Fund, for the year ending December 31, 2006, and declaring an emergency.

ORDINANCE NO. 79 – 2006**BY: FINANCE COMMITTEE**

AN ORDINANCE making certain appropriations from the unappropriated balance of the Capital Improvement Fund, for the year ending December 31, 2006.

Passed
ORDINANCE NO. 80 – 2006**BY: FINANCE COMMITTEE**

AN ORDINANCE making certain transfers in the 2006 appropriations from within the General Fund, of the City of Massillon, Ohio, for the year ending December 31, 2006, and declaring an emergency.

Passed. OKD No. 81-
RESOLUTION NO. 12 – 2006**BY: COMMITTEE OF THE WHOLE**

Passed
A RESOLUTION accepting a gift from the Rotary Club of Massillon of a memorial clock to be installed on the southeast corner of the intersection of Lincoln Way East and First Street SE upon part of Massillon City Lot No. 1127.

7. UNFINISHED BUSINESS**8. PETITIONS AND GENERAL COMMUNICATIONS**

LETTER FROM OHIO DIVISION OF LIQUOR CONTROL REGARDING A TRANSFER OF LIQUOR LICENSE FROM CHRISTOPHER ALAN ENTERPRISES INC 14 LINCOLN WAY W 1ST FL MASSILLON, OHIO 44646 TO THREE OLIVES LLC 14 LINCOLN WAY W 1ST FL MASSILLON, OHIO 44646

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

- A). POLICE CHIEF SUBMITS MONTHLY REPORT FOR APRIL 2006
- B). TREASURER SUBMITS MONTHLY REPORT FOR APRIL 2006
- C). FIRE CHIEF SUBMITS MONTHLY REPORT FOR APRIL 2006.
- D). INCOME TAX DEPARTMENT SUBMITS MONTHLY REPORT FOR APRIL 2006
- E). WASTE DEPARTMENT SUBMITS MONTHLY REPORT FOR APRIL 2006

-3-

MONDAY, MAY 15, 2006

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

ORDINANCE NO. 65 – 2006 BY: COMMUNITY DEVELOPMENT COMMITTEE

AN ORDINANCE amending Section 1151.02 of the Massillon Code of 1985 rezoning a certain tract of land from Perry Township Zoning to R-1 Single 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: MAY 15, 2006

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

Passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 72 - 2006

BY: COMMUNITY DEVELOPMENT COMMITTEE

TITLE: AN ORDINANCE authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to enter into a contract with F & M Properties for the sale of land known as and being Lot Nos. 2572 and 16416, located on First Street NW, in the City of Massillon, Stark County, Ohio and owned by said City, which is not needed for any municipal purpose, and declaring an emergency.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, OHIO, IN REGULAR SESSION SITTING TWO-THIRDS OF THE MEMBERS CONCURRING;

Section 1:

That the following described real estate belonging to the City of Massillon, Ohio, is not needed for any municipal purpose, to-wit:

Known as and being Lot Nos. 2572 and 16416, Parcel No. 06-03162 and 06-18315, located on First Street NW, in the City of Massillon, County of Stark and State of Ohio.

Section 2:

The Director of Public Service and Safety of the City of Massillon, Ohio, is authorized to sell said real estate to F & M Properties, and the Director of Public Service and Safety of the City of Massillon, Ohio, is hereby authorized to convey said real estate by deed to the F & M Properties according to law.

Section 3:

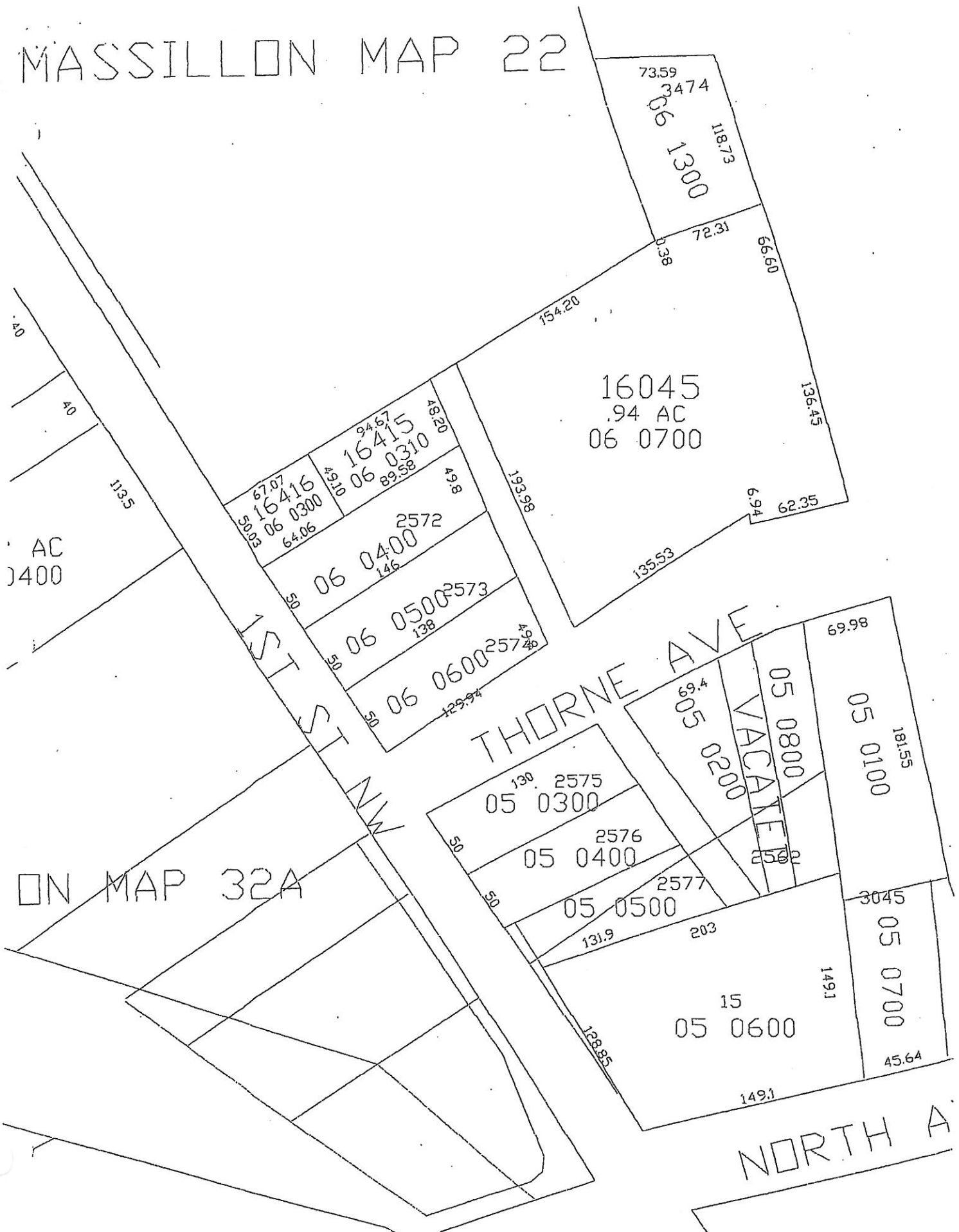
The real estate shall be sold to the buyer for the sum of Seventeen Thousand Five Hundred Dollars (\$17,500.00)

Section 4:

This Ordinance is declared to be an emergency measure immediately necessary for the preservation of the public health, safety and welfare of the community and for the further reason of such emergency arising out of the necessity to dispose of real estate no longer needed for any municipal purpose for the best price obtainable. 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.

* 2nd page is the signature page

MASSILLON MAP 22



DATE MAY 15, 2006

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

ORDINANCE NO. 73 - 2006

BY: COMMUNITY DEVELOPMENT COMMITTEE

TITLE: AN ORDINANCE authorizing the Mayor of the City of Massillon, Ohio, to enter into an agreement with Polymer Packaging, Inc. to provide an economic development "inducement grant" to assist the company in relocating and expanding its operations in Massillon, and declaring an emergency.

WHEREAS, the City of Massillon carries out a variety of economic development programs designed to promote the creation and expansion of business and industry in the community; and

WHEREAS, Polymer Packaging Inc. desires to relocate and expand its headquarters located at 800 Navarre Road SE, and

WHEREAS, the City of Massillon proposed to assist Polymer Packaging Inc. in this relocation and expansion of its operations by providing an economic development "inducement grant", the purpose of which is to help offset the company's costs in relocating its operations to Massillon.

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

Section 1:

This Council hereby authorizes the Mayor to enter into an agreement with Polymer Packaging Inc. providing an economic development "inducement grant", in a total amount not to exceed One Hundred Thousand Dollars (\$100,000.00) for the purpose of assisting the company in relocating and expanding its operations in Massillon.

Section 2:

In return for this economic development grant assistance, Polymer Packaging, Inc. shall provide the City with information regarding the number of jobs that it has provided as a result of the company's relocation and expansion in Massillon.

Filed 8/21

1st reading
LEGISLATIVE DEPARTMENT

2nd " 4/5

Filed 6/19

Filed 7/17

Filed 8/7

Passed 8/21/06

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 and for the additional reason that it is necessary to improve the economic climate of the community through the expansion of business and employment opportunities. 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 _____, 2006

APPROVED: _____
MARY BETH BAILEY, CLERK OF COUNCIL GLENN E. GAMBER, PRESIDENT

ATTEST: _____
FRANCIS H. CICCHINELLI, JR. MAYOR

DATE: MAY 15, 2006

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 74 - 2006

BY: ENVIRONMENTAL COMMITTEE

TITLE: AN ORDINANCE authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to enter into a contract, without competitive bidding, with Republic Waste Services of Ohio, LLC, dba Countywide Recycling & Disposal Facility for the disposal of municipal solid waste for 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 finds that it is necessary to enter into a contract, without competitive bidding, with Republic Waste Services of Ohio, LLC, dba Countywide Recycling & Disposal Facility for the disposal of municipal solid waste for the City of Massillon, Ohio.

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, without competitive bidding, with Republic Waste Services of Ohio, LLC, dba Countywide Recycling & Disposal Facility for the disposal of municipal solid waste for the City of Massillon, Ohio.

Section 3:

The said agreement is an extension of the original agreement for a three-year period. The cost will be Twelve Dollars and Seventy-Five Cents (\$12.75) plus Four Dollars and Seventy-Five Cents (\$4.75) for host fees.

(SEE ATTACHMENT)

Section 4:

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.

** 2nd page is the signature page*



Countywide Recycling & Disposal Facility

Division of Republic Waste Services of Ohio
3619 Gracemont Street S.W.
East Sparta, Ohio 44626
Phone: 330-874-3855
Fax: 330-874-2426

May 1, 2006

Michael Loudiana
Director of Public Service and Safety
City of Massillon
151 Lincoln Way East
Massillon, OH 44646

Dear Mr. Loudiana:

The City of Massillon has utilized the Countywide RDF, for the last 5 years to dispose of the city's municipal waste. Countywide has enjoyed an outstanding relationship with the City and daily with the refuse drivers, we hope that you have found a strong partnership as well.

As you are aware, the current contract extension between the City and Countywide will expire on 7/23/06. Countywide would like to offer the City an additional 3 year contract extension as follows. In year one the current rate of \$12.75 per ton for disposal + fees of \$4.75 per ton for in district waste would apply. An annual CPI increase would apply in years two and three on the disposal rate.

Fees are regulated by the OEPA and the Joint Solid Waste District and are subject to change.

We hope you would consider this offer as an extension of our current agreement.

Should you have any questions, please contact me at 330 874-3855.

Sincerely,

Jack Palermo
Jack Palermo
Countywide RDF
Sales

14.34

DATE: MAY 15, 2006

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 75 - 2006

BY: ENVIRONMENTAL COMMITTEE

TITLE: AN ORDINANCE accepting the vacation, replat and dedication of easements on Out Lot 1012, a 9.086 acre parcel located on the south side of Cherry Road NW, east of State Route 21 in the City of Massillon, County of Stark, State of Ohio, presently on file in the office of the City Engineer, and declaring an emergency.

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

Section 1:

The vacation, replat and dedication of easements on Out Lot 1012, a 9.086 acre parcel located on the south side of Cherry Road NW, east of State Route 21 in the City of Massillon, County of Stark, State of Ohio, presently on file in the office of the City Engineer, is hereby accepted and confirmed. This vacation, platting and easement dedication were approved by the Planning Commission at a meeting held April 12, 2006. The City Engineer having requested that the vacations, replatting and dedications be formally accepted by the City, this Council hereby approves the same as heretofore described:

The area being requested for vacation, platting and dedication of easements is located on the south side of Cherry Road NW, east of State Route 21. The Great Escapes Theater is located on this property. This request was submitted by the Ragains Enterprises for the replat of 4 new out lots with frontage on Cherry Road and Tommy Henrich Blvd. The easement plat would be dedicated by plat a 20' wide public storm sewer easement on Out Lot 1, a 20' wide public sanitary sewer easement on Out Lot 2, a 24' and 36' wide private ingress/egress easement on Out Lot 1 to provide access to Out Lots 3 and 4 and 20' wide private storm sewer easement on Out Lots 3 and 4. The vacation plat would include an existing 20' wide public storm sewer easement on Out Lot 1. A separate ingress/egress easement would be dedicated by separate plat from an 0.078 acre portion of Lot 16882 located on the south side of Cherry Road NW at the location of the former 1st Street NW (now vacated). This will provide additional access to the above property.

Section 2:

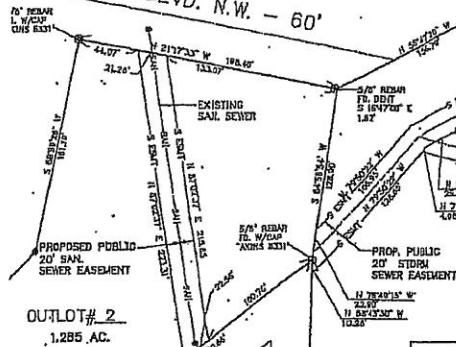
This Ordinance is declared to be an emergency measure for the reason that said dedication is urgently needed for proper community growth and hence immediately necessary for the preservation of the health, safety and welfare of the community. Provided it receives the affirmative vote of two-thirds of the elected members to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor. Otherwise it shall take effect and be in force from and after the earliest period allowed by Law.

PASSED IN COUNCIL THIS _____ DAY OF _____, 2006

ATTEST: _____
MARY BETH BAILEY, CLERK OF COUNCIL GLENN E. GAMBER, PRESIDENT

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

MY HENRICH BLVD. N.W. - 60'

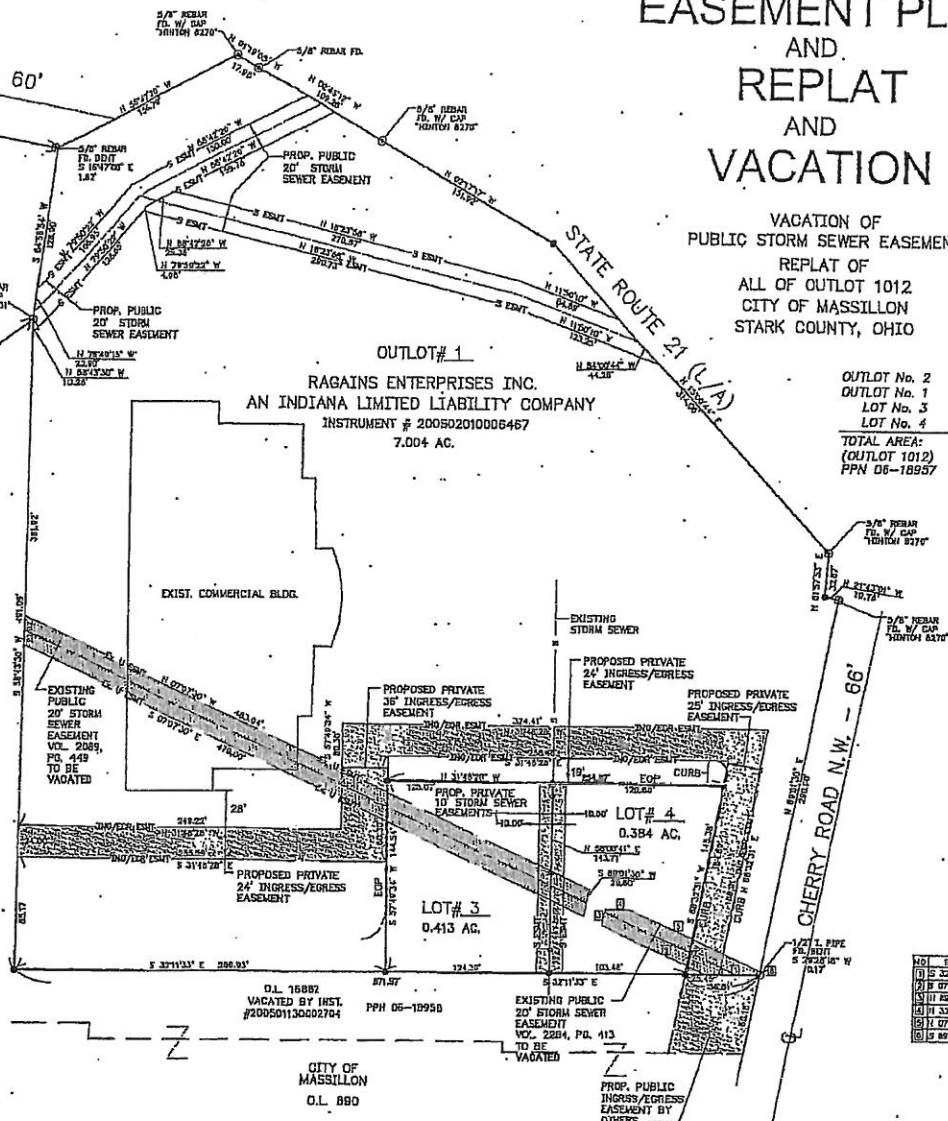


OUTLOT # 2
1.285 AC.

CHERRY ROAD N.W. - 60'

JUANITA I. CALHOUN
LOT 10

TOMMY HENRICH BLVD. N.W. - 55'



OUTLOT # 1
RAGAINS ENTERPRISES INC.
AN INDIANA LIMITED LIABILITY COMPANY
INSTRUMENT # 200502010006467
7.004 AC.

EASEMENT PLAT AND REPLAT AND VACATION

VACATION OF
PUBLIC STORM SEWER EASEMENT
REPLAT OF
ALL OF OUTLOT 1012
CITY OF MASSILLON
STARK COUNTY, OHIO

OUTLOT No. 2 1.285 AC.
OUTLOT No. 1 7.004 AC.
LOT No. 3 0.413 AC.
LOT No. 4 0.384 AC.
TOTAL AREA:
(OUTLOT 1012)
PPN 06-18957 8.086 AC.

NO.	BEARING	DIST.
(1)	S 32°11'33" E	41.64'
(2)	N 87°07'50" E	66.11'
(3)	N 82°00'00" E	11.00'
(4)	N 33°11'33" W	18.73'
(5)	N 07°07'50" W	108.31'
(6)	S 88°11'33" W	2.41'

O.L. 16882
VACATED BY INST.
#200501130602704
PPN 05-10958

CITY OF
MASSILLON
O.L. 880

PROP. PUBLIC
INGRESS/EGRESS
EASEMENT BY
OTHERS

JOB NO.
06037

DESIGNER
PPN

REVIEWER
LED

EASEMENT PLAT AND REPLAT AND VACATION
OF OUTLOT 1012
RAGAINS ENTERPRISES, LLC

MCCOY ASSOCIATES, INC.
300 S. JAMES ST. SUITE 200
COLUMBUS, OHIO 43215
614.291.1000

DATE: MAY 15, 2006 CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 76 - 2006

BY: HEALTH, WELFARE & BUILDING REGULATION 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 without competitive bidding with McCoy Associates, Inc., for their engineering services needed for sidewalks, stairway and ramp improvements around the Huntington Bank/Administration Annex, 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 without competitive bidding with McCoy Associates, Inc., for their engineering services needed at 151 Lincoln Way East with regard to curbs, sidewalk, ADA ramps and related design work.

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 without competitive bidding with McCoy Associates, Inc., for their engineering services needed. The said cost is not to exceed Six Thousand Dollars (\$6,000.00)

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 have the professional engineering services of McCoy Associates, Inc., for the needed improvements to the Huntington Bank/Administration Annex. 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.

* 2nd page is the signature page

DATE: MAY 15, 2006

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 77 - 2006

BY: PARKS AND RECREATION COMMITTEE

TITLE: AN ORDINANCE amending Ordinance No. 86 -2004 and authorizing and directing the Director of Public Service and Safety of the City of Massillon, Ohio, to enter into a revised agreement concerning the purchase of real estate located in the Township of Tuscarawas, Stark County, Ohio, which is currently owned by Daniel D. Cottrill, Jr., 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. 86 – 2004 is hereby amended in accordance with the terms and conditions specified below.

Section 2:

The Director of Public Service and Safety is authorized to enter into a lease-purchase agreement to purchase approximately 76.20 acres of real estate located in the Township of Tuscarawas, Stark County, Ohio currently owned by Daniel D. Cottrill, Jr.

Section 3:

The terms of the lease-purchase agreement shall essentially provide as follows:

a. The City of Massillon shall pay the sum of Six Hundred and Thirty-Thousand Dollars to purchase the real estate in accordance with the following schedule;

1.) \$200,000.00 in the month of June, 2006

2.) \$140,000.00 on or before December 1, 2006

3.) \$140,000.00 on or before June 1, 2007

4.) \$140,000.00 on or before December 1, 2007

5.) The \$10,000.00 down payment currently held in escrow shall be released to the seller upon execution of the lease-purchase agreement and applied to the purchase price.

6.) The unpaid balance of the purchase price shall bear simple interest at the rate of 6% per annual.

Section 4:

The lease-purchase agreement shall contain the payment terms specified above, and other terms and conditions as approved by the Director of Law of the City of Massillon, Ohio.

Section 5:

This Ordinance is hereby declared to be an emergency measure, immediately necessary for the preservation of the health, safety and welfare of the community and for the additional reason that the acquisition of the real estate is necessary for further preservation of natural wildlife and nature preserves, and for the reason that the City previously entered into an option to purchase the real estate which expires May 20, 2006, and because of the timeline for the grant funding to be received to be used for the purchase of the real estate, it is necessary that this ordinance be passed as an emergency prior to the expiration of the option to purchase which expires May 20, 2006. 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 _____, 2006

ATTEST: _____

MARY BETH BAILEY, CLERK OF COUNCIL

GLENN E. GAMBER, PRESIDENT

APPROVED: _____

FRANCIS H. CICCHINELLI, JR., MAYOR

DATE: MAY 15, 2006

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

LEGISLATIVE DEPARTMENT

ORDINANCE NO. 78 - 2006

2nd reading 4/5
passed 6/19

BY: FINANCE COMMITTEE

TITLE: AN ORDINANCE making certain appropriations from the unappropriated balance of the General Fund and the Capital Improvement Fund, for the year ending December 31, 2006, 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 General Fund, for the year ending December 31, 2006, the following:

\$50,000.00 to an account entitled "Income Tax Refunds" 1100.210.2720
\$ 5,000.00 to an account entitled "Web Page" 1100.210.2391

Section 2:

There be and hereby is appropriated from the unappropriated balance of the Capital Improvement Fund, for the year ending December 31, 2006, the following:

\$ 6,000.00 to an account entitled "Services/Contracts" 1401.405.2392
\$ 6,000.00 to an account entitled "County Collection Fees" 1401.905.2393

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.

** 2nd page is the signature page*

DATE: MAY 15, 2006

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

LEGISLATIVE DEPARTMENT

ORDINANCE NO. 79 - 2006

2nd reading 6/5
passed 6/19

BY: FINANCE COMMITTEE

TITLE: AN ORDINANCE making certain appropriations from the unappropriated balance of the Capital Improvement Fund, for the year ending December 31, 2006.

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 Capital Improvement Fund, for the year ending December 31, 2006, the following:

\$10,085.00 to an account entitled "Fire Dept Equipment" 1401.325.2531

\$ 5,706.00 to an account entitled "Fire Dept Equipment" 1401.325.2531

Section 2:

This Ordinance 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 _____ 2006

ATTEST: _____
MARY BETH BAILEY, CLERK OF COUNCIL

GLENN E. GAMBER, PRESIDENT

APPROVED: _____

FRANCIS H. CICCHINELLI, JR, MAYOR

DATE: MAY 15, 2006

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 80 - 2006

BY: FINANCE COMMITTEE

TITLE: AN ORDINANCE making certain transfers in the 2006 appropriations from within the General Fund, of the City of Massillon, Ohio, for the year ending December 31, 2006, and declaring an emergency.

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

Section 1:

There be and hereby is transferred from the 2006 appropriations from within the General Fund of the City of Massillon, Ohio, the following:

\$ 8,840.00	FROM: "Salary – Deputy Auditors"	1100.205.2111
\$ 1,211.08	FROM: "P.E.R.S – Auditor"	1100.205.2230
\$ 128.18	FROM: "Medicare – Auditor"	1100.205.2231
\$ 8,840.00	TO: "Service Director – Clerk"	1100.160.2111
\$ 1,211.08	TO: "P.E.R.S. – Service Dept"	1100.160.2230
\$ 128.18	TO: "Medicare – Service Dept"	1100.160.2231

Section 2:

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

* 2nd page is the signature page

DATE MAY 15, 2006

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 81 - 2006

BY: COMMUNITY DEVELOPMENT COMMITTEE

TITLE: AN ORDINANCE authorizing the Mayor of the City of Massillon, Ohio, to enter into an agreement with Polymer Packaging, Inc. for a development project. Polymer Packaging Inc. is planning to construct a new approximately 72,500 square foot warehouse located at 800 Navarre Road SE for use by Polymer Packaging, Inc. The construction of this facility will result in the creation of 50 new jobs within the City of Massillon Enterprise Zone, and declaring an emergency.

WHEREAS, the City of Massillon carries out a variety of economic development programs designed to promote the creation and expansion of business and industry in the community; and

WHEREAS, Polymer Packaging Inc. is planning to improve, modify and enlarge an existing facility at 800 Navarre Road SE, within the Massillon Enterprise Zone, through the construction of this facility at a total investment of \$22,290,000.00 (hereinafter the "Project"), provided that the appropriate development incentives are available to support the economic viability of said Project; and

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

WHEREAS, effective September 12, 1994, and as amended on March 13, 1998 and on March 9, 1999, the Director of Development of the State of Ohio has determined that the aforementioned area designated in said Ordinance No. 163 – 1994, Ordinance No. 57 – 1998, and Ordinance No. 43 – 1999 contains the characteristics set forth in 5709.61 (A) (1) (a) and (e) of the Ohio Revised Code, and has certified said area as an Enterprise Zone under Chapter 5709; and

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

WHEREAS, Polymer Packaging, Inc. has submitted a proposed agreement application, herein attached as Exhibit "A" to the City of Massillon, Ohio, requesting that the incentives available for development within the Enterprise Zone be approved for the Project; and

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

WHEREAS, the project site is located in the Perry School District and the Perry Board of Education has been notified in accordance with Section 5709.83 and have been given a copy of the application.

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

Section 1:

The Council of the City of Massillon, Ohio does hereby authorize and direct the Mayor to enter into an agreement, attached hereto as Exhibit "A" and incorporated herein by reference, with Polymer Packaging, Inc. providing for the adoption of the project which will improve their facility and preserve employment opportunities within the City of Massillon Enterprise Zone.

Section 2:

This Ordinance is declared to be an emergency measure immediately necessary for the preservation of the health, safety, and welfare of the City of Massillon, Ohio and for the further reason that approval of said agreement is necessary so as to maximize the investment that will be made by Polymer Packaging, Inc within the City of Massillon, Ohio. Provided it receives the affirmative vote 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 15th DAY OF May, 2006

APPROVED:

Mary Beth Bailey
MARY BETH BAILEY, CLERK OF COUNCIL

Glenn E. Gamber
GLENN E. GAMBER, PRESIDENT

ATTEST:

May 16, 2006

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

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

Mary Beth Bailey
Clerk of Council

OHIO ENTERPRISE ZONE AGREEMENT

This Agreement made and entered into by and between the **City of Massillon, Ohio**, a municipal corporation, with its main offices located at 151 Lincoln Way East, Massillon, Ohio 44646 (hereinafter referred to as "City of Massillon"), and **Polymer Packaging, Inc./LLL Investments II, LLC**, an S-Corporation with its main offices currently located at 7576 Freedom Avenue NW, North Canton, Ohio 44720 (hereinafter referred to as "the Enterprise").

WITNESSETH:

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

Whereas, the Enterprise, which produces pre-zippered film to make reclosable bags for use in the food service and consumer products markets, is desirous of establishing a facility within the Enterprise Zone through the acquisition of an existing building in order to expand its converting/manufacturing business to include blown film extrusion and to consolidate its current operations into one facility (hereinafter referred to as the "Project"), provided that the appropriate development incentives are available to support the economic viability of said Project; and

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

Whereas, effective September 12, 1994, and as amended on March 13, 1998 and on March 9, 1999, the Director of Development of the State of Ohio has determined that the aforementioned area designated in said Ordinance No. 163-1994, Ordinance No. 57-1998, and Ordinance No. 43-1999 contains the characteristics set forth in 5709.61 (A) (1) (a) and (e) of the Ohio Revised Code, and has certified said area as an Enterprise Zone under Chapter 5709; and

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

Whereas, the Enterprise has submitted a proposed agreement application, herein attached as Exhibit A, (hereinafter referred to as the "Application") to the City of Massillon, Ohio, requesting that the incentives available for development within the Enterprise Zone be approved for the Project; and

Whereas, the Enterprise has remitted the required state application fee of \$750.00 made payable to the Ohio Department of Development with the application to be forwarded with the final agreement; and

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

Whereas, the project site as proposed by the Enterprise is located in the Perry Local School District and the Board of Education of said district and any applicable Joint Vocational School District have been notified in accordance with Section 5709.83 and been given a copy of the Application; and

Whereas, pursuant to Section 5709.62(C) and in conformance with the format required under Section 5709.631 of the Ohio Revised Code, the parties hereto desire to set forth their agreement with respect to matters hereinafter contained.

Now, therefore, in consideration of the mutual covenants herein contained and the benefit to be derived by the parties from the execution hereof, the parties herein agree as follows:

Section I:

The Enterprise shall acquire an existing 72,500 square foot building located at 800 Navarre Road SE, and known as Out Lot 595 (Parcel 07-00754), a 10.09 acre parcel located on the north side of Navarre Road east of State Route 21 (hereinafter the "Project Site"). The Enterprise will use the Project Site to expand its existing converting/manufacturing business to include blown film extrusion, enabling this extrusion and converting to take place under one roof. The project requires rail service, high volume electricity, a sophisticated resin silo bulk/transfer storage system and an expanded office operation.

As part of this Project, the Enterprise will construct various improvements to this facility, including modifications of a portion of the building for high clearances, power upgrades, and the addition of a 10,000 square foot office building. The Enterprise will purchase certain machinery and equipment as detailed in the Application, including blown film extrusion lines and related support equipment.

The Project will involve a total investment by the Enterprise of (\$22,290,000) Twenty-Two Million Two Hundred Ninety Thousand Dollars, plus or minus 10%, at the project site. Included in this investment are (\$2,675,000) Two Million Six Hundred Seventy-Five Thousand Dollars for acquisition of buildings, (\$1,500,000) One Million Five Hundred Thousand Dollars for building additions, (\$700,000) Seven Hundred

Thousand Dollars for improvements to existing buildings, (\$15,815,000) Fifteen Million Eight Hundred Fifteen Thousand Dollars for first used machinery and equipment, (\$100,000) One Hundred Thousand Dollars for first used furniture fixtures, and (\$1,500,000) One Million Five Hundred Thousand Dollars for increased to inventory levels..

Furthermore, the Enterprise has reported that its existing on-site base level of inventory as listed in the personal property tax return for the tax year (stated in average \$ value per most recent 12 month period) in which the agreement is entered into is \$2,700,000.

The Project will begin May 2006, and all acquisition, construction, and installation will be completed by December 31, 2009.

The total investment by the Enterprise in undertaking this Project and establishing the new facility represents a significant new investment on behalf of the Enterprise, and as such, the City of Massillon hereby determines that the Project is eligible for the tax incentives and other benefits as described in this Agreement.

If, at any time, The Enterprise determines that it will not undertake all the improvements set forth in this Section 1, or otherwise desires to modify the Project, the Enterprise will notify the City of Massillon, stating the reasons for its determination. The parties will thereupon confer to discuss the effect of the Enterprise's determination on the tax exemptions provided herein and to amend or terminate this Agreement accordingly. In no event shall any such amendment operate to revoke retroactively the tax exemptions provided herein.

Section 2:

The Enterprise shall create within a time period not exceeding 36 months after the start of construction of the aforesaid Project, 50 new full-time permanent jobs with an annual payroll of (\$1,912,840) One Million Nine Hundred Twelve Thousand Eight Hundred Forty Dollars. The Enterprise's schedule for hiring is as follows: create 20 new full-time permanent jobs in year one; create 20 new full-time permanent jobs in year two; and create 10 new full-time permanent jobs in year three. The job creation period begins in 2007 and all jobs will be in place by December 31, 2009.

In addition, the Enterprise will be relocating to the Project Site 68 existing full-time permanent jobs. These jobs will be relocated from the Enterprise's present location at 7576 Freedom Avenue NW, in Jackson Township, Stark County, Ohio. The Enterprise will use its best efforts to retain these 68 existing full-time permanent jobs at the Project Site. The Enterprise currently has 70 existing full-time permanent employees in the State of Ohio.

The relocation and retention of these 68 existing full-time permanent jobs will maintain the Enterprise's current annual payroll for these jobs of (\$2,928,509) Two Million Nine Hundred Twenty-Eight Thousand Five Hundred Nine Dollars.

Section 3:

The Enterprise shall provide to the proper Tax Incentive Review Council any information reasonably required by the council to evaluate the Enterprise's compliance with the agreement, including returns filed pursuant to section 5711.02 of the Ohio Revised code if requested by the council.

Section 4:

The City of Massillon hereby grants the Enterprise a tax exemption pursuant to Section 5709.62 for eligible new tangible personal property acquired in conjunction with the Project and will only apply to the investment limits expressed in the project description as defined in Sections 1 and 4 of this agreement. This tax exemption shall be at the rate of 75% on all machinery and equipment, furniture and fixtures, and inventory acquired as part of the Project as defined in Section 1 and Exhibit A of this Agreement. Each identified project improvement will receive a ten year exemption period.

The minimum investment for tangible personal property to qualify for the exemption is \$100,000 to purchase machinery and equipment first used in business at the facility as a result of the project, \$10,000 for furniture and fixtures and other noninventory personal property first used in business at the facility as a result of the project, and \$100,000 for new inventory. The maximum investment for tangible personal property to qualify for exemption is \$15,815,000 to purchase machinery and equipment first used in business at the facility as a result of the project, \$100,000 for furniture and fixtures and other noninventory personal property first used in business at the facility as a result of the project, and \$1,500,000 for new inventory. The exemption commences the first year for which the tangible personal property would first be taxable were that property not exempted from taxation. No exemption shall commence after tax return year 2009 nor extend beyond tax return year 2018. In no instance shall any tangible personal property be exempted from taxation for more than ten return years.

Section 5:

The City of Massillon hereby grants the Enterprise a tax exemption for real property improvements made to the Project Site pursuant to Section 5709.62 of the Ohio Revised Code. This tax exemption shall be at the rate of 75%. Each identified project improvement will receive a ten year exemption period. The exemption commences the first year for which the real property exemption would first be taxable were that property not exempted from taxation. No exemption shall commence after December 31, 2009 nor extend beyond December 31, 2018.

The Enterprise must file the appropriate tax forms (DTE 23) with the County Auditor to effect and maintain the exemptions covered in the agreement.

Section 6:

Continuation of this agreement is subject to the validity of the circumstances upon which The Enterprise applied for, and the Director of the Ohio Department of Development issued, the waiver pursuant to Section 5709.633 of the Ohio Revised Code. If, after formal approval of this agreement by the City of Massillon, the Director or the City of Massillon discovers that such a circumstance did not exist, the Enterprise shall be deemed to have materially failed to comply with this agreement. The formal waiver document shall be incorporated as an exhibit to this agreement and must state the specific conditions enumerated in Section 5709.633 of the Revised Code upon which the waiver was issued.

Section 7:

The Enterprise shall pay to the City of Massillon an annual monitoring fee of (\$500) Five Hundred Dollars for each year the agreement is in effect. The fee shall be made payable to the City of Massillon and shall be paid by certified check and delivered to the Mayor by March 31 of each year that the fee is due and payable. This fee shall be deposited in a special fund created for such purpose and shall be used exclusively for the purpose of complying with section 5709.68 of the revised code and by the tax incentive review council created under section 5709.85 of the revised code exclusively for the purposes of performing the duties prescribed under that section.

Section 8:

The Enterprise shall pay such real and tangible personal property taxes as are not exempted under this agreement and are charged against such property and shall file all tax reports and returns as required by law. If the Enterprise fails to pay such taxes or file such returns and reports, all incentives granted under this agreement are rescinded beginning with the year for which such taxes are charged or such reports or returns are required to be filed and thereafter.

Section 9:

The City of Massillon shall perform such acts as are reasonably necessary or appropriate to effect, claim, reserve, and maintain exemptions from taxation granted under this Agreement including, without limitation, joining in the execution of all documentation and providing any necessary certificates required in connection with such exemptions.

Section 10:

If for any reason the Enterprise Zone designation expires, the Director of the Ohio Department of Development revokes certification of the zone, or the City of Massillon revokes the designation of the zone, entitlements granted under this agreement shall continue for the number of years specified under this agreement, unless the Enterprise materially fails to fulfill its obligations under this Agreement and the City of Massillon terminates or modifies the exemptions from taxation under this agreement.

Section 11:

If the Enterprise materially fails to fulfill its obligations under this Agreement, **other than with respect to the number of employee positions estimated to be created or retained under this agreement**, or if the City of Massillon determines that the certification as to delinquent taxes required by this agreement is fraudulent, the City of Massillon may terminate or modify the exemptions from taxation granted under this Agreement.

Section 12:

The Enterprise hereby certifies that, at the time this agreement is executed, it does not owe any delinquent real or tangible personal property taxes to any taxing authority in the State of Ohio, and does not owe delinquent taxes for which the Enterprise is liable under Chapter 5733., 5735., 5739., 5741., 5743., 5747., or 5753. of the Revised Code, or, if such delinquent taxes are owed, the Enterprise currently is paying the delinquent taxes pursuant to an undertaking enforceable by the State of Ohio or an agent or instrumentality thereof, has filed a petition of bankruptcy under 11 U.S.C.A. 101, et seq., or such a petition has been filed against the Enterprise. For the purposes of the certification, delinquent taxes are taxes that remain unpaid on the latest day prescribed for payment without penalty under the chapter of the Revised code governing payment of those taxes.

Section 13:

The Enterprise affirmatively covenants that it does not owe: (1) any delinquent taxes to the State of Ohio or a political subdivision of the State; (2) any moneys to the State or a state agency for the administration or enforcement of any environmental laws of the State; and (3) any other moneys to the State, a state agency or a political subdivision of the State that are past due, whether the amounts owed are being contested in a court of law or not.

Section 14:

The Enterprise and the City of Massillon acknowledge that this Agreement must be approved by formal action of the legislative authority of the City of Massillon as a condition for the agreement to take effect. This Agreement takes effect upon such approval.

Section 15:

The City of Massillon has developed a policy to ensure recipients of Enterprise Zone tax benefits practice non-discriminating hiring in its operations. By executing this agreement, the Enterprise is committing to following non-discriminating hiring practices acknowledging that no individual may be denied employment solely on the basis of race, religion, sex, disability, color, national origin, or ancestry.

Section 16:

Exemptions from taxation granted under this agreement shall be revoked if it is determined that the Enterprise, any successor enterprise, or any related member (as those terms are defined in Section 5709.61 of the Ohio Revised Code) has violated the prohibition against entering into this agreement under Division (E) of Section 3735.671 or Section 5709.62 of the Ohio Revised Code prior to the time prescribed by that division or either of those sections.

Section 17:

In any three-year period during which this agreement is in effect, if the actual number of employee positions created or retained by the Enterprise is not equal to or greater than seventy-five percent of the number of employee positions estimated to be created or retained under this agreement during three-year period, the Enterprise shall repay the amount of taxes on property that would have been payable had the property not been exempted from taxation under this agreement during that three-year period. In addition, the City of Massillon may terminate or modify the exemptions from taxation granted under this agreement.

Section 18:

The Enterprise affirmatively covenants that it has made no false statements to the State or local political subdivision in the process of obtaining approval for the Enterprise Zone incentives. If any representative of the Enterprise has knowingly made a false statement to the State or local political subdivision to obtain the Enterprise Zone incentives, the Enterprise shall be required to immediately return all benefits received under the Enterprise Zone Agreement pursuant to ORC Section 9.66(C)(2) and shall be ineligible for any future economic development assistance from the State, any state agency, or a political subdivision pursuant ORC 9.66(C)(1). Any persons who provides a false statement to secure economic development assistance may be guilty of falsification, a misdemeanor of the first degree, pursuant ORC 2931.13(D)(1), which is punishable by a fine of not more than \$1,000 and/or a term of imprisonment of not more than 6 months.

Section 19:

This Agreement is not transferable or assignable without the express, written approval of the City of Massillon.

In Witness Whereof, the City of Massillon, Ohio, by Francis H. Cicchinelli, Jr., its Mayor, and pursuant to Ordinance No. _____, has caused this instrument to be executed this ____ day of _____; Polymer Packaging, Inc./LLL Investments II, LLC, by Jeffrey S. Davis, CFO, and has caused this instrument to be executed this ____ day of _____.

WITNESSED BY:

THE CITY OF MASSILLON, OHIO

Francis H. Cicchinelli, Jr., Mayor

WITNESSED BY:

**POLYMER PACKAGING, INC./
LLL INVESTMENTS II, LLC**

Jeffrey S. Davis, CFO

Approved as to form and legal sufficiency:

Pericles G. Stergios, Director of Law
City of Massillon, Ohio

DATE: MAY 15, 2006

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

passed
LEGISLATIVE DEPARTMENT

RESOLUTION NO. 12 - 2006

BY: COMMITTEE OF THE WHOLE

TITLE: A RESOLUTION accepting a gift from the Rotary Club of Massillon of a memorial clock to be installed on the southeast corner of the intersection of Lincoln Way East and First Street SE upon part of Massillon City Lot No. 1127.

WHEREAS, the Rotary Club of Massillon has proposed, as an extension of the David Humanitarian Award, to present the Paul L. David Memorial Clock to the community as a gift.

WHEREAS, the memorial, in the form of a clock, will serve as a new landmark for the community that will be enjoyed by all and generations to come; and

WHEREAS, the memorial will serve as a reminder and encourage others to continue their civic and philanthropic contributions to our community as the Rotary Club of Massillon and the Paul and Carol David Foundation have done in the past and presently.

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, hereby accepts the gift of a memorial clock from the Rotary Club of Massillon and expresses its appreciation for the same.

Section 2

The Council of the City of Massillon, Ohio, shall permit the memorial clock to be placed at the southeast corner of Lot No. 1127 in the City of Massillon, Ohio.

Section 3:

The Council of the City of Massillon, Ohio, hereby expresses its gratitude to the Rotary Club of Massillon, the Paul and Carol David Foundation, and recognizes the civic and philanthropic contributions made to the community by both.

** 2nd page is the signature page*