

## AGENDA

DATE: TUESDAY, JANUARY 16, 2006  
PLACE: COUNCIL CHAMBERS  
TIME: 7:30 P.M.

THERE ARE NO PUBLIC HEARINGS TONIGHT

1. ROLL CALL
2. INVOCATION BY COUNCILMAN RON MANG
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. 10 – 2007

BY: RULES, COURTS & CIVIL SERVICE COMMITTEE

PASS 9-0

AN ORDINANCE authorizing the City of Massillon, Ohio, to pick up the statutorily required contribution to the Public Employees Retirement System of Ohio for certain employees of the City of Massillon, Ohio, pursuant to I.R.C. Section 414 (H) (2), and declaring an emergency.

ORDINANCE NO. 11 – 2007

BY: STREETS, HIGHWAYS, TRAFFIC & SAFETY

1<sup>ST</sup> READING

AN ORDINANCE vacating a portion of a certain public alley.

ORDINANCE NO. 12 – 2007

BY: FINANCE COMMITTEE

PASS 9-0

AN ORDINANCE making certain appropriations from the unappropriated balance of the 1201 Street Fund, Massillon Municipal Court Capital Improvement Fund, Parking Enforcement Fund and the Veterans Park & Duncan Plaza Fund, for the year ending December 31, 2007, and declaring an emergency.

ORDINANCE NO. 13 – 2007

BY: FINANCE COMMITTEE

PASS 9-0

AN ORDINANCE making certain transfers in the 2007 appropriation form within the 1201 Street Fund to the 1206 Muni Motor Vehicle Tax Fund, in the City of Massillon, Ohio, and declaring an emergency

RESOLUTION NO. 1 – 2007

BY: HEALTH, WELFARE AND BLDG REGULATIONS

1<sup>ST</sup> READING

A RESOLUTION authorizing the Law Director to enter into a professional legal services contract on behalf of the City of Massillon related to claims against several lead-based paint and lead manufactures in order to remediate the hazards of lead in the City of Massillon, and

RESOLUTION NO. 2 – 2007

BY: STREETS, HIGHWAYS, TRAFFIC & SAFETY

PASS 9-0

A RESOLUTION enacted by the City of Massillon, Ohio, hereinafter referred to as the Legislative Authority/Local Public Agency or "LPA", in the matter of the stated described project.

**7. UNFINISHED BUSINESS**

**8. PETITIONS AND GENERAL COMMUNICATIONS**

LETTER FROM OHIO DIVISION OF LIQUOR CONTROL REGARDING A TRANSFER OF LIQUOR LICENSE FROM SERVISHARP INC DBA CAPT DICKS DRIVE THRU #2 1005 1<sup>ST</sup> ST NE MASSILLON OHIO 44646 TO RICHARD S HASSEL DBA CAPT DICKS DRIVE THRU #2 1005 1<sup>ST</sup> STREET NE MASSILLON OHIO 44646

LETTER FROM OHIO DIVISION OF LIQUOR CONTROL REGARDING A TRANSFER OF LIQUOR LICENSE FROM THOMAS B GALLION DBA TEE CEES MAIN STREET MARKET 2304 W MAIN ST MASSILLON OHIO 44647 TO MARSHS MAIN MART LLC DBA MARSHS MAIN MART 2304 MAIN AVE W MASSILLON OHIO 44647

**9. BILLS, ACCOUNTS AND CLAIMS**

**10. REPORTS FROM CITY OFFICIALS**

- A). POLICE CHIEF SUBMITS MONTHLY REPORT FOR DECEMBER 2006
- B). TREASURER SUBMITS MONTHLY REPORT FOR DECEMBER 2006
- C). FIRE CHIEF SUBMITS MONTHLY REPORT FOR DECEMBER 2006.
- D). INCOME TAX DEPARTMENT SUBMITS MONTHLY REPORT FOR DECEMBER 2006
- E). WASTE DEPARTMENT SUBMITS MONTHLY REPORT FOR DECEMBER 2006
- F). MAYOR SUBMITS MONTHLY REPORT FOR DECEMBER 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. 2 – 2007    BY: COMMUNITY DEVELOPMENT COMMITTEE**

*2ND READING*

**AN ORDINANCE** amending Section 1151.02 of the Massillon Code of 1985 rezoning a certain tract of land from Tuscarawas Township (no zoning) to A-2 General Agricultural District.

**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: JANUARY 16, 2007

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

  
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 10 - 2007

BY: RULES, COURTS AND CIVIL SERVICE COMMITTEE

TITLE: AN ORDINANCE authorizing the City of Massillon, Ohio, to pick up the statutorily required contribution to the Public Employees Retirement System of Ohio for certain employees of the City of Massillon, Ohio, pursuant to I.R.C. Section 414 (H) (2), and declaring an emergency.

WHEREAS, Pursuant to federal and Ohio laws, certain employees of the City of Massillon, Ohio, could defer the federal and state income taxes on a portion of their wages or salaries if the City of Massillon, Ohio, would "pick up" (assume and pay) a portion of the statutorily required contribution by such employees to the Public Employees Retirement System of Ohio;

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

Section 1:

Effective April 1, 2006, 0.5% (1/2 percent) of the statutorily required employee contribution to the Public Employees Retirement System of Ohio shall be picked up and paid as a fringe benefit by the City of Massillon, Ohio, for each person designated in Section 2 herein. This "pick up" by the City of Massillon is, and shall be designated as, public employee contributions and shall be in lieu of contributions to the Public Employees Retirement System of Ohio by each person within any of the classes established in Section 2 herein. No person subject to this "pick up" shall have the option of choosing to receive the statutorily required contribution to the Public Employees Retirement System of Ohio directly instead of having it "picked up" by the City of Massillon, Ohio, or of being excluded from the "pick up".

In the 2007 calendar year the amount "picked up" by the City of Massillon shall equal 1.0% and for the 2008 calendar year and thereafter it shall equal 1.5%.

The City of Massillon, Ohio, shall, in reporting and making remittance to the Public Employees Retirement System of Ohio report that the public employees contribution for each person subject to this "pick up" has been made as provided by the statute.

Section 2:

The "pick up" by the City of Massillon, Ohio, provided by this Ordinance shall apply to all persons that are covered the agreement between the City of Massillon, Ohio and AFSCME, Ohio Council 8, Local 996, AFL – CIO (street department).

Section 3:

Under the Fringe Benefit Method Employee pick-up, salary is not modified; however, the employer will pay a certain percentage of the employees, statutorily required contribution to PERS.

Section 4:

The Treasurer is hereby authorized and directed to implement the provisions of this Ordinance to institute the "pick up", of the statutorily required contributions to the Public Employees Retirement System of Ohio for those persons reflected in Section 2 herein so as to enable them to obtain the result in federal and state tax deferments and other benefits.

PASSED IN COUNCIL THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2007

ATTEST: \_\_\_\_\_

MARY BETH BAILEY, CLERK OF COUNCIL

GLENN E. GAMBER, PRESIDENT

APPROVED \_\_\_\_\_

FRANCIS H. CICCHINELLI, JR., MAYOR



DATE: JANUARY 16, 2007 CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

ORDINANCE NO. 11 - 2007

*1st reading*  
LEGISLATIVE DEPARTMENT

*2nd reading 4/5*  
*filed 7/20 to 3/5*  
*passed 3/5/07*

BY: STREETS, HIGHWAYS, TRAFFIC & SAFETY COMMITTEE

TITLE: AN ORDINANCE vacating a portion of a certain public alley.

WHEREAS, there has been filed with this Council by the owners of all of the lots and lands bounding and abutting upon the alley hereinafter described, a petition requesting that a portion thereafter described be vacated, and

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

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

Section 1:

A request to vacate an unnamed 15 foot wide alley, lying between Tremont Avenue SW and Lincoln Way West and running in an east/west direction between 6<sup>th</sup> Street SW and 5<sup>th</sup> Street SW. The request is to vacate that portion from 6<sup>th</sup> Street SW easterly approximately 156 feet. This property will be divided equally amongst the petitioners and replatted into the adjoining lots. This vacation plat is on file in the City Engineer's Office and was approved by the City Planning Commission on December 13<sup>th</sup>, 2006. The said vacation is hereby approved, adopted and confirmed.

Section 2:

This Ordinance is hereby declared to be an emergency measure for the immediate preservation of the health, safety, and welfare and for the continued efficient operation of the City of Massillon, Ohio, the portion of the street to be vacated is no longer needed for municipal purposes. 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 \_\_\_\_\_ 2007

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

\_\_\_\_\_  
GLENN E. GAMBER, PRESIDENT

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

HOUSTON PL

9320

3909

10

1

3925

3926

3927

9321

9322

9323

3924

3923

3922

9324

9325

9326

9327

439

441

6th St SW

TREMONT AVE.

16319

1697

1696

1695

352

1693

1692

1691

1960

1689

1688

1687

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437

12995 13000 12997

12999 12998

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1845

9337

1848

DATE: JANUARY 16, 2007

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

*passed*  
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 12 - 2007

BY: FINANCE COMMITTEE

TITLE: AN ORDINANCE making certain appropriations from the unappropriated balance of the 1201 Street Fund, Massillon Municipal Court Capital Improvement Fund, Parking Enforcement Fund and the Veterans Park & Duncan Plaza Fund, for the year ending December 31, 2007, 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 1201 Street Fund, for the year ending December 31, 2007, the following:

\$162,548.00 to an account entitled "Advanced To" 1201.435.2750

Section 2:

There be and hereby is appropriated from the unappropriated balance of the Massillon Municipal Court Capital Improvement Fund, for the year ending December 31, 2007, the following:

\$35,000.00 to an account entitled "Parking Lot Improvements" 1204.125.2530

Section 3:

There be and hereby is appropriated from the unappropriated balance of the Parking Enforcement Fund, for the year ending December 31, 2007, the following:

\$5,000.00 to an account entitled "Services/Contracts" 1208.445.2392

Section 4:

There be and hereby is appropriated from the unappropriated balance of the Veterans Park & Duncan Plaza Fund, for the year ending December 31, 2007, the following:

\$2,000.00 to an account entitled "Supplies/Materials" 1240.125.2410



Section 5:

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 \_\_\_\_\_ 2007

ATTEST: \_\_\_\_\_

MARY BETH BAILEY, CLERK OF COUNCIL

GLENN E. GAMBER, PRESIDENT

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

FRANCIS H. CICCHINELLI, JR, MAYOR

DATE: JANUARY 16, 2007

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

*passed*  
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 13 - 2007

BY: FINANCE COMMITTEE

TITLE: AN ORDINANCE making certain transfers in the 2007 appropriation from within the 1201 Street Fund to the 1206 Muni Motor Vehicle Tax Fund, in the City of Massillon, Ohio, and declaring an emergency.

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

Section 1:

There be and hereby is transferred from the 2007 appropriation from within the 1201 Street Fund to the 1206 Muni Motor Vehicle Tax Fund, of the City of Massillon, Ohio, the following:

\$162,548.00 FROM: "Advance To" 1201.435.2750  
TO: "Advance In" 1206.435.1865

Section 2:

That this Ordinance is hereby declared to be an emergency measure, the reason for the emergency being that said funds are necessary for the operation of the various departments for 2007, 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 \_\_\_\_\_ 2007

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

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

DATE: JANUARY 16, 2007

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

LEGISLATIVE DEPARTMENT

RESOLUTION NO. 1 - 2007

*1st reading  
2nd reading 1/15/07  
passed 7/20*

BY: HEALTH, WELFARE AND BLDG REGULATIONS COMMITTEE

TITLE: A RESOLUTION authorizing the Law Director to enter into a professional legal services contract on behalf of the City of Massillon related to claims against several lead-based paint and lead manufactures in order to remediate the hazards of lead in the City of Massillon, and

WHEREAS, numerous health authorities, legislatures and courts have recognized that lead-based pain is a public health problem which has been banned as a public health hazard, and has resulted in documented behavioral and medical problems, especially in children; and

WHEREAS, numerous municipalities throughout the nation, and several in Ohio including Toledo, Akron and Canton, have brought litigation to declare lead-based paint to be a public nuisance, and to hold specified lead and paint manufacturers liable for the costs of remediation and medical monitoring; and

WHEREAS, a coalition of Ohio and out-of-state lawyers and law firms have offered to provide investigation and legal representation to the City of Massillon through a lawsuit against several lead and paint manufacturers relating to the presence of and effects from lead in paint in the City of Massillon on a contingency fee basis;

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, authorizes the Law Director to enter into a professional legal services contract with attorneys and law firms to be known as the City of Massillon Litigation Group (LLG) for representation in matters related to claims which the city has or may have against several lead-based paint and lead manufactures in order to remediate the hazards of lead in the City of Massillon.

Section 2:

Said services are to coordinated by the law department and provided on a contingency fee basis, i.e. for a percentage of any recovered awards or collected monies.



PASSED IN COUNCIL THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2007

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

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

DATE: JANUARY 16, 2007

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

*passed*  
LEGISLATIVE DEPARTMENT

RESOLUTION NO. 2 - 2007

BY: STREETS, HIGHWAYS TRAFFIC AND SAFETY COMMITTEE

TITLE: A RESOLUTION enacted by the City of Massillon, Ohio, hereinafter referred to as the Legislative Authority/Local Public Agency or "LPA", in the matter of the stated described project.

WHEREAS, on the 2<sup>nd</sup> Day of January, 2007 the LPA enacted legislation proposing cooperation with the Director of Transportation for the described project:

Improvement of State Route 241 by planning and resurfacing, including pavement marking and curb repair, lying with the City of Massillon. Total work length of project being approximately 1.1 miles; and

WHEREAS, the LPA shall cooperate with the Director of Transportation in the above described project as follows:

The City agrees to assume and bear one hundred percent (100%) of the entire cost of the improvement, less the amount of State funds set aside by the Director of Transportation for the financing of this improvement from funds allocated by the Federal Highway Administration, U.S. Department of Transportation, and further.

Also, the City agrees to assume and bear the entire cost and expense of the installation and/or repair of curb ramps which are necessary to ensure compliance with the Americans with Disabilities Act.

In addition, the City also agrees to assume and bear one hundred percent (100%) of the cost of any construction items requested by the City on the entire improvement, which are not necessary for the improvement, as determined by the State and Federal Highway Administration.

The share of the cost of the LPA is now estimated in the amount of One Hundred Sixty Two Thousand Five Hundred Forty Eight and ---00/100 Dollars, (\$162,548.00), but said estimated amount is to be adjusted in order that the LPA's ultimate share of said improvement shall correspond with said percentages of actual costs when said actual costs are determined; and

WHEREAS, The Director of Transportation has approved said legislation proposing cooperation and has caused to be made plans and specifications and an estimate of cost and expense for improving the above described highway and has transmitted copies of the same to this legislative authority; and

WHEREAS, The LPA desires the Director of Transportation to proceed with the aforesaid highway improvement.

NOW THEREFORE, be it resolved:

- I. That the estimated sum of One Hundred Sixty Two Thousand Five Hundred Forty Eight and ----00/100 Dollars (\$162,548.00), was appropriated January 2, 2007 per Ordinance No. 6 for the improvement described above and the fiscal officer is hereby authorized and directed to issue an order on the treasurer for said sum upon the requisition of the Director of Transportation to pay the cost and expense of said improvement. We hereby agree to assume in the first instance, the share of the cost and expense over and above the amount to be paid from State funds.
- II. That the LPA hereby request the Director of Transportation to proceed with the aforesaid highway improvement.
- III. That the LPA enter into a contract with the State, and that the Director of Public Service and Safety be, and is hereby authorized to execute said contract, providing for the payment of the LPA the sum of money set forth herein above for improving the described project.
- IV. That the LPA transmit to the Director of Transportation a fully executed copy of the final resolution attached hereto.

This resolution is hereby declared to be an emergency measure for the immediate preservation of the health, safety, and welfare and for the additional reason that we can proceed with the project on a timely manner. 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 \_\_\_\_\_ 2007

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

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

## FINAL RESOLUTION

The following Final Resolution enacted by the City of **Massillon**, Ohio, hereinafter referred to as the Legislative Authority/Local Public Agency or "LPA", in the matter of the stated described project.

WHEREAS, on the **2<sup>nd</sup> Day of January, 2007** the LPA enacted legislation proposing cooperation with the Director of Transportation for the described project:

**Improvement of State Route 241 by planing and resurfacing, including pavement marking and curb repair, lying with the City of Massillon. Total work length of project being approximately 1.1 miles; and**

WHEREAS, the LPA shall cooperate with the Director of Transportation in the above described project as follows:

**The City agrees to assume and bear one hundred percent (100%) of the entire cost of the improvement, less the amount of State funds set aside by the Director of Transportation for the financing of this improvement from funds allocated by the Federal Highway Administration, U.S. Department of Transportation, and further.**

**Also, the City agrees to assume and bear the entire cost and expense of the installation and/or repair of curb ramps which are necessary to ensure compliance with the Americans with Disabilities Act.**

**In addition, the City also agrees to assume and bear one hundred percent (100%) of the cost of any construction items requested by the City on the entire improvement, which are not necessary for the improvement, as determined by the State and Federal Highway Administration.**

The share of the cost of the LPA is now estimated in the amount of **One Hundred Sixty Two Thousand Five Hundred Forty Eight and ----00/100 Dollars, (\$162,548.00)**, but said estimated amount is to be adjusted in order that the LPA's ultimate share of said improvement shall correspond with said percentages of actual costs when said actual costs are determined; and

WHEREAS, The Director of Transportation has approved said legislation proposing cooperation and has caused to be made plans and specifications and an estimate of cost and expense for improving the above described highway and has transmitted copies of the same to this legislative authority; and



WHEREAS, The LPA desires the Director of Transportation to proceed with the aforesaid highway improvement.

NOW THEREFORE, be it resolved:

- I. That the estimated sum of **One Hundred Sixty Two Thousand Five Hundred Forty Eight and ---00/100 Dollars (\$162,548.00)**, was appropriated January 2, 2007 per Ordinance No. 6 for the improvement described above and the fiscal officer is hereby authorized and directed to issue an order on the treasurer for said sum upon the requisition of the Director of Transportation to pay the cost and expense of said improvement. We hereby agree to assume in the first instance, the share of the cost and expense over and above the amount to be paid from **State** funds.
- II. That the LPA hereby request the Director of Transportation to proceed with the aforesaid highway improvement.
- III. That the LPA enter into a contract with the State, and that the **Director of Public Service and Safety** be, and is hereby authorized to execute said contract, providing for the payment of the LPA the sum of money set forth herein above for improving the described project.
- IV. That the LPA transmit to the Director of Transportation a fully executed copy of this Resolution.

This is to certify that we have compared the foregoing copy of Resolution with the original record thereof, found in the record of proceedings of the LPA, and which Resolution was duly passed by the LPA on the \_\_\_\_\_ day of \_\_\_\_\_, 2007, and that the same is a true and correct copy of the record of said Resolution and the action of said LPA thereon.

Legislation Authority of the  
City of Massillon, Ohio

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**Glenn E. Gamber**  
President, City Council

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**Mary Beth Bailey**  
City Council Clerk