

AGENDA

DATE: MONDAY, SEPTEMBER 17, 2007
PLACE: COUNCIL CHAMBERS
TIME: 7:30 P.M.

THERE IS ONE PUBLIC HEARING TONIGHT
ORDINANCE NO. 52 – 2007 AT 6:50 P.M. REZONING

1. ROLL CALL
2. INVOCATION BY COUNCILWOMAN JAYNE FERRERO
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. 107 – 2007

BY: STREETS, HIGHWAYS, TRAFFIC & SAFETY

Passed
9/10

AN ORDINANCE authorizing and directing the Director of Public Service and Safety of the City of Massillon, Ohio, to enter into a contract with the Ohio Department of Transportation for the replacement and deck widening of STA-21 (Erie Street) Bridge Project, and declaring an emergency.

ORDINANCE NO. 108 – 2007

BY: STREETS, HIGHWAYS, TRAFFIC & SAFETY

1st. Reading

AN ORDINANCE vacating a portion of Taylor Street SW, and declaring an emergency.

ORDINANCE NO. 109 – 2007

BY: STREETS, HIGHWAYS, TRAFFIC & SAFETY

Passed

9/10 AN ORDINANCE vacating a portion of Sweetleaf Circle NW, and declaring an emergency.

ORDINANCE NO. 110 – 2007

BY: FINANCE COMMITTEE

Passed

9/10 AN ORDINANCE making certain appropriations from the unappropriated balance of the General Fund, 1201 Street Fund, Capital Improvement Fund, Community Development Block Grant Program Fund and the Economic Development Fund, for the year ending December 31, 2007, and declaring an emergency.

ORDINANCE NO. 111 – 2007

BY: FINANCE COMMITTEE

Passed

9/10 AN ORDINANCE making certain appropriations from the unappropriated balance of the 1419 Market Place Infrastructure Fund, for the year ending December 31, 2007, and declaring an emergency.

ORDINANCE NO. 112 – 2007

BY: FINANCE COMMITTEE

Passed

9/10 AN ORDINANCE reducing the appropriation in the 1340 Tax Increment Fund, for the year ending December 31, 2007, and declaring an emergency.

MONDAY, SEPTEMBER 17, 2007

RESOLUTION NO. 10 – 2007

BY: STREETS, HIGHWAYS, TRAFFIC & SAFETY

Passed

9/10

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.

RESOLUTION NO. 11 – 2007

BY: COMMUNITY DEVELOPMENT COMMITTEE

1st. Reading.

A RESOLUTION reversing the decision of the Massillon Zoning Board of Appeals made on August 9, 2007 wherein the Zoning Board of Appeals denied a request for a home occupation permit in an R-3 single family zoned district of the Massillon Zoning Code for the operation of a landscaping company out of the residence at 1345 Burd Avenue NE, in the City of Massillon, Ohio.

RESOLUTION NO. 12 – 2007

BY: PUBLIC UTILITIES COMMITTEE

1st. Reading.

A RESOLUTION authorizing all actions necessary to effect a governmental natural gas aggregation program with opt-in provisions pursuant to Article 18.04, Ohio Constitution and authorizing and directing the Director of Public Service and Safety to enter into an agreement with Buckeye Energy Brokers, Inc. for consulting services and any other required services related to natural gas aggregation.

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

- A). POLICE CHIEF SUBMITS MONTHLY REPORT FOR AUGUST 2007
- B). TREASURER SUBMITS MONTHLY REPORT FOR AUGUST 2007
- C). FIRE CHIEF SUBMITS MONTHLY REPORT FOR AUGUST 2007
- D). INCOME TAX DEPARTMENT SUBMITS MONTHLY REPORT FOR AUGUST 2007
- E). WASTE DEPARTMENT SUBMITS MONTHLY REPORT FOR AUGUST 2007
- F). MAYOR SUBMITS MONTHLY REPORT FOR AUGUST 2007
- G). MAYOR SUBMITS MONTHLY REPORT FOR JULY 2007

11. REPORTS OF COMMITTEES
12. RESOLUTIONS AND REQUESTS OF COUNCIL MEMBERS
13. CALL OF THE CALENDAR – TABLED FROM MAY 21, 2007

ORDINANCE NO. 52 – 2007

BY: COMMUNITY DEVELOPMENT COMMITTEE

Table Indefinitely 12-3-07

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

MONDAY, SEPTEMBER 17, 2007

14. THIRD READING ORDINANCES AND RESOLUTIONS

Passed
9/10

RESOLUTION NO. 7 – 2007

BY: COMMUNITY DEVELOPMENT COMMITTEE

A RESOLUTION adopting the decision of the Tax Incentive Review Committee made on August 8, 2007 wherein they recommended that those certain Enterprise Zone Agreements listed on the attached exhibit "A" be continued, and declaring an emergency.

15. SECOND READING ORDINANCES AND RESOLUTIONS

2nd Reading

ORDINANCE NO. 99 – 2007

BY: COMMUNITY DEVELOPMENT COMMITTEE

AN ORDINANCE amending CHAPTER 1137 "CHANGES AND ADMENDMENTS" of the Codified Ordinances of the City of Massillon, by amending existing Section 1137.02(a)(2) "DETAILS OF PROCEDURE", by adding a new Subsection 1137.02(a)(2)(f) and 1137.08(a) "FREQUENCY OF APPLICATIONS" by changing the time requirement for the frequency of applications.

2nd Reading

ORDINANCE NO. 100 – 2007

BY: COMMUNITY DEVELOPMENT COMMITTEE

AN ORDINANCE amending Section 1151.02 of the Massillon Code of 1985 rezoning a certain tract of land from RM-1 Multiple Family Residential, R-T Two Family Residential and R-1 One Family Residential to B-3 General Business.

6/3

ORDINANCE NO. 101 – 2007

BY: COMMUNITY DEVELOPMENT COMMITTEE

table 11-19-07

AN ORDINANCE enacting of the Codified Ordinances of the City of Massillon, entitled "Construction Contracts," to authorize the Mayor to execute a Project Labor Agreement ("PLA") with the East Central Ohio Building and Construction Trades Council ("ECOB & CTC" or "Council"), its successor, or any individual union that is a member of the Council or the Council's successor, for any Construction Project undertaken by City of Massillon, and declaring an emergency.

Passed

ORDINANCE NO. 104 – 2007

BY: HEALTH, WELFARE & BLD REGULATIONS

9/10

AN ORDINANCE enacting CHAPTER 771 JUNK DEALERS, OF PART SEVEN – BUSINESS REGULATION CODE of the Codified Ordinances of the City of Massillon.

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: SEPTEMBER 17, 2007

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

Passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 107 - 2007

BY: STREET, HIGHWAYS, TRAFFIC & SAFETY 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 the Ohio Department of Transportation for the replacement and deck widening of STA-21 (Erie Street) Bridge Project, and declaring an emergency.

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

Section 1:

The Council of the City of Massillon, Ohio, hereby finds that it is necessary to enter into a contract with the Ohio Department of Transportation for the replacement and deck widening of STA-21 (Erie Street) Bridge Project.

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 the Ohio Department of Transportation for the replacement and deck widening of STA-21 (Erie Street) Bridge Project. The estimated cost for this project is Three Hundred Forty-Two Thousand Two Hundred Seventy Two Dollars (\$342,270.00) See attached agreement.

(SEE ATTACHED EXHIBIT "A")

Section 3:

This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the health, safety, and welfare of the community, and for the reason that it is necessary to enter into an updated LPA contract with Ohio Department of Transportation so as to proceed with the STA-21 (Erie Street) Bridge Project. 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.

C O N T R A C T
(Chapter 5521, Ohio Revised Code)

This contract is made by and between the State of Ohio, Department of Transportation, acting through its director (hereinafter referred to as the "STATE"), 1980 West Broad Street, Columbus, Ohio 43223, and the City of Massillon, (hereinafter referred to as the legislative authority/Local Public Agency or "LPA").

WITNESSTH:

WHEREAS, Chapter 5521 of the Ohio Revised Code provides that the legislative authority may cooperate with the STATE in a highway project made by and under the supervision of the Director of Transportation; and

WHEREAS, through the enactment of preliminary legislation, the LPA and the STATE have agreed to cooperate in the highway project described below; and

WHEREAS, through the enactment of final legislation, the LPA has committed to pay an estimated amount of money as its share of the total estimated cost and expense of the highway project described below; and

WHEREAS, the fiscal officer of the LPA has filed with the LPA a certificate stating that sufficient moneys are available, as required by Chapter 5521 and Section 5705.41 of the Ohio Revised Code. A duplicate certificate is attached hereto; and

WHEREAS, in accordance with the final legislation, the LPA hereby enters into this contract with the STATE to provide for payment of the agreed portion of the cost of the highway project and any additional obligations for the highway project described below.

NOW, THEREFORE, in consideration of the premises and the performances of mutual covenants hereinafter set forth, it is agreed by parties hereto as follows:

SECTION I: **RECITALS**

The foregoing recitals are hereby incorporated as a material part of this contract.

SECTION II: **PURPOSE**

The purpose of this contract is to set forth requirements associated with the highway project described below (hereinafter referred to as the "PROJECT") and to establish the responsibilities for the administration of the PROJECT by the LPA and the STATE.

SECTION III: LEGAL REFERENCES

This contract is established pursuant to Chapter 5521 of the Ohio Revised Code.

SECTION IV: SCOPE OF WORK

The work to be performed under this contract shall consist of the following:

Design Build project, lying within the City of Massillon.

SECTION V: FINANCIAL PARTICIPATION

1. The STATE agrees to provide the necessary funds as enumerated in this section and allowed by law for the financing of this project.
2. The STATE may allocate the money contributed by the LPA in whatever manner it deems necessary in financing the cost of construction, right-of-way, engineering, and incidental expenses, notwithstanding the percentage basis of contribution by the LPA.
3. The total cost and expenses for the project are only an estimate and the total cost and expenses may be adjusted by the STATE. If any adjustments are required, payment of additional funds shall correspond with the percentages of actual costs when said actual costs are determined, and as requested, by the Director of Transportation.
4. The LPA agrees to pay to the STATE its share of the total estimated cost expense for the above highway project in the amount of **Four Hundred Eighty Seven Thousand Seventy and - - - - 00/100 Dollars (\$487,070.00)**, less Toll Revenue Credit applied in the amount of **One Hundred Forty Four Thousand Eight Hundred and - - - - 00/100 Dollars (\$144,800.00)**, leaving a balance due in the amount of **Three Hundred Forty Two Thousand Two Hundred Seventy and - - - - 00/00 Dollars, (\$342,270.00)**
5. The City agrees to assume and bear one hundred percent (100%) of the entire cost of the non-structure items of the improvement. ODOT shall assume and bear one hundred percent (100%) of the entire cost of the structure and incidental items with Federal-aid funds, including SCATS and Toll Revenue Credit 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.

In addition, the City 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.

6. The LPA agrees that change orders and extra work contracts required to fulfill the construction contracts shall be processed as needed. The STATE shall not approve a change order or extra work contract until it first gives notice, in writing, to the LPA. The LPA shall contribute its share of the cost of these items in accordance with other sections herein.

SECTION VI: RIGHT-OF-WAY AND UTILITIES

1. The LPA agrees that all right-of-way required for the described project will be acquired and/or made available in accordance with current State and Federal regulations. The LPA also understands that right-of-way costs include eligible utility costs.
2. The LPA agrees that all utility accommodation, relocation, and reimbursement will comply with the current provisions of 23 CFR 645 and the ODOT Utilities Manual, including that:
 - A. Arrangements have been or will be made with all utilities where facilities are affected by the described PROJECT, that the utilities have agreed to make all necessary removals and/or relocations to clear any construction called for by the plans of this PROJECT, and that the utilities have agreed to make the necessary removals and/or relocations after notification by the LPA or STATE.
 - B. The LPA shall, at its own expense, make all removals and/or relocations of publicly-owned utilities which do not comply with the reimbursement provisions of the ODOT Utilities Manual. Publicly-owned facilities which do comply with the reimbursement provisions of the ODOT Utilities Manual will be removed and/or relocated at project expense, exclusive of betterments.
 - C. The removals and/or relocation of all utilities shall be done in such a manner as not to interfere with the operation of the contractor constructing the PROJECT and that the utility removals and/or relocations shall be approved by the STATE and performed in accordance with the provisions of the ODOT Construction and Materials Specifications.

SECTION VII: ADDITIONAL PROJECT OBLIGATIONS

1. The STATE shall initiate the competitive bid letting process and award the PROJECT in accordance with ODOT's policies and procedures.
2. The LPA agrees:
 - A. To keep said highway open to traffic at all times;
 - B. To provide adequate maintenance for the PROJECT in accordance with all applicable state and federal law, including, but not limited to, Title 23, U.S.C., Section 116;

- C. To make ample financial and other provisions for such maintenance of the PROJECT after its completion;
- D. To maintain the right-of-way and keep it free of obstructions in a manner satisfactory to the STATE and hold said right-of-way inviolate for public highway purposes;
- E. To place and maintain all traffic control devices conforming to the Ohio Manual on Uniform Traffic Control Devices on the project in compliance with the provisions of Section 4511.11 of the Ohio Revised Code;
- F. To regulate parking in accordance with Section 4511.66 of the Ohio Revised Code, unless otherwise controlled by local ordinance or resolution.

SECTION VIII: DISPUTES

In the event that any disputes arise between the STATE and LPA concerning interruption of or performance pursuant to this contract, such disputes shall be resolved solely and finally by the Director of Transportation.

SECTION IX: NOTICE

Notice under this contract shall be directed as follows

City of Massillon
151 Lincoln Way East
Massillon, Ohio
44646

Ohio Department of Transportation
Office of Estimating
1980 West Broad Street, 1st Floor
Columbus, Ohio 43223

SECTION X: GENERAL PROVISIONS

1. This contract constitutes the entire contract between the parties. All prior discussions and understandings between the parties are superseded by this contract.
2. Neither this contract nor any rights, duties or obligations described herein shall be assigned by either party hereto without the prior express written consent of the other party.
3. Any change to the provisions of this contract must be made in a written amendment executed by both parties.
4. This contract and any claims arising out of this contract shall be governed by the laws of the State of Ohio. Any provision of this contract prohibited by the law of Ohio shall be deemed void and of no effect. Any litigation arising out of or relating in any way to this contract or the performance thereunder shall be brought only in the courts of Ohio, and the LPA hereby irrevocably consents to such jurisdiction. To the extent that the STATE is a party to any litigation arising out of or relating in any way to this contract or the performance thereunder, such an action shall be brought only in a court of competent jurisdiction in Franklin County, Ohio.

5. All financial obligations of the State of Ohio, as provided in this contract, are subject to the provisions of Section 126.07 of the Ohio Revised Code. The financial obligations of the State of Ohio shall not be valid and enforceable unless funds are appropriated by the Ohio General Assembly and encumbered by the STATE. Additionally, it is understood that this financial obligation of the LPA shall not be valid and enforceable unless funds are appropriated by the LPA's legislative body.
6. This contract shall be deemed to have been substantially performed only when fully performed according to its terms and conditions and any modification thereof.

SECTION XI: SIGNATURES

Any person executing this contract in a representative capacity hereby warrants that he/she has been duly authorized by his/her principal to execute this contract on such principal behalf.

IN WITNESS THEREOF, the parties hereto have caused this contract to be duly executed in duplicate.

SEAL
(If Applicable)

**OHIO DEPARTMENT OF
TRANSPORTATION**

**LOCAL PUBLIC AGENCY
City of Massillon**

Director of Transportation

Director of Public Safety and Service

Date

Date

DATE: SEPTEMBER 17, 2007

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

LEGISLATIVE DEPARTMENT

ORDINANCE NO. 108 - 2007

BY: STREETS, HIGHWAYS, TRAFFIC & SAFETY COMMITTEE

TITLE: AN ORDINANCE vacating a portion of Taylor Street SW, and declaring an emergency.

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

WHEREAS, upon hearing, this Council hereby finds 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:

That Taylor Street SW, approximately 30 foot wide right-of-way, located between Glenn Place SW and 11th Street SW, north of Walnut Road. The request is to vacate that portion from the north line of Lot 7703 approximately 160 feet north to an unnamed alley. The applicant is Jay Howell, Ghetta Murray, Kelley Jacobs, Randy & Jodi Cockrill. Approval of the vacation was recommended by the Planning Commission on August 8th, 2007. Said vacation is hereby approved, adopted and confirmed.

Section 2:

This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the health, safety and welfare of the community and for the continued efficient operation of the City of Massillon, Ohio, and for the reason that all adjacent property owners have agreed to the vacation. 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

09 2500 3122
2700 3121
09 2800
09 2900 3120

GREEN AVE SW

31.30 31.30 31.25 31.25 41.10

01 2700
01 2800
9914 130

01 2600
9916

01 2500
9917

01 2400
9918

99

GREEN BL SW

46 02 0000 3117
42 02 0000 3118
42 02 0000 3119
42 02 0000 3120
46.42 01 3200 3162
46.42 01 3100 3161
46.42 01 3000 3160
46.42 01 2900 3159

40 02 0400 3116
40 02 0400 3115
40 02 0600 3114
40 02 0700 3113
40 02 0800 3112
46.42 01 0100 7697
46.42 01 0200 7699
46.42 01 0300 7702
46.42 01 0400 7703

43.33 03 0800 3105
34.33 3108 03 0700
50.5 3109 02 0900
42 3110 02 0900
42 3111 02 0900

43.33 01 0600 3164
43.33 01 0700 3163
43.33 01 0800 3162
43.33 01 0900 3161
43.33 01 1000 3160

44 0600 3106
44 0600 3107
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44 0600 3112
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44 0600 3120

WALNUT RD SW



DATE: SEPTEMBER 17, 2007

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 109 - 2007

BY: STREETS, HIGHWAYS, TRAFFIC & SAFETY COMMITTEE

TITLE: AN ORDINANCE vacating a portion of Sweetleaf Circle NW, and declaring an emergency.

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

WHEREAS, upon hearing, this Council hereby finds 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:

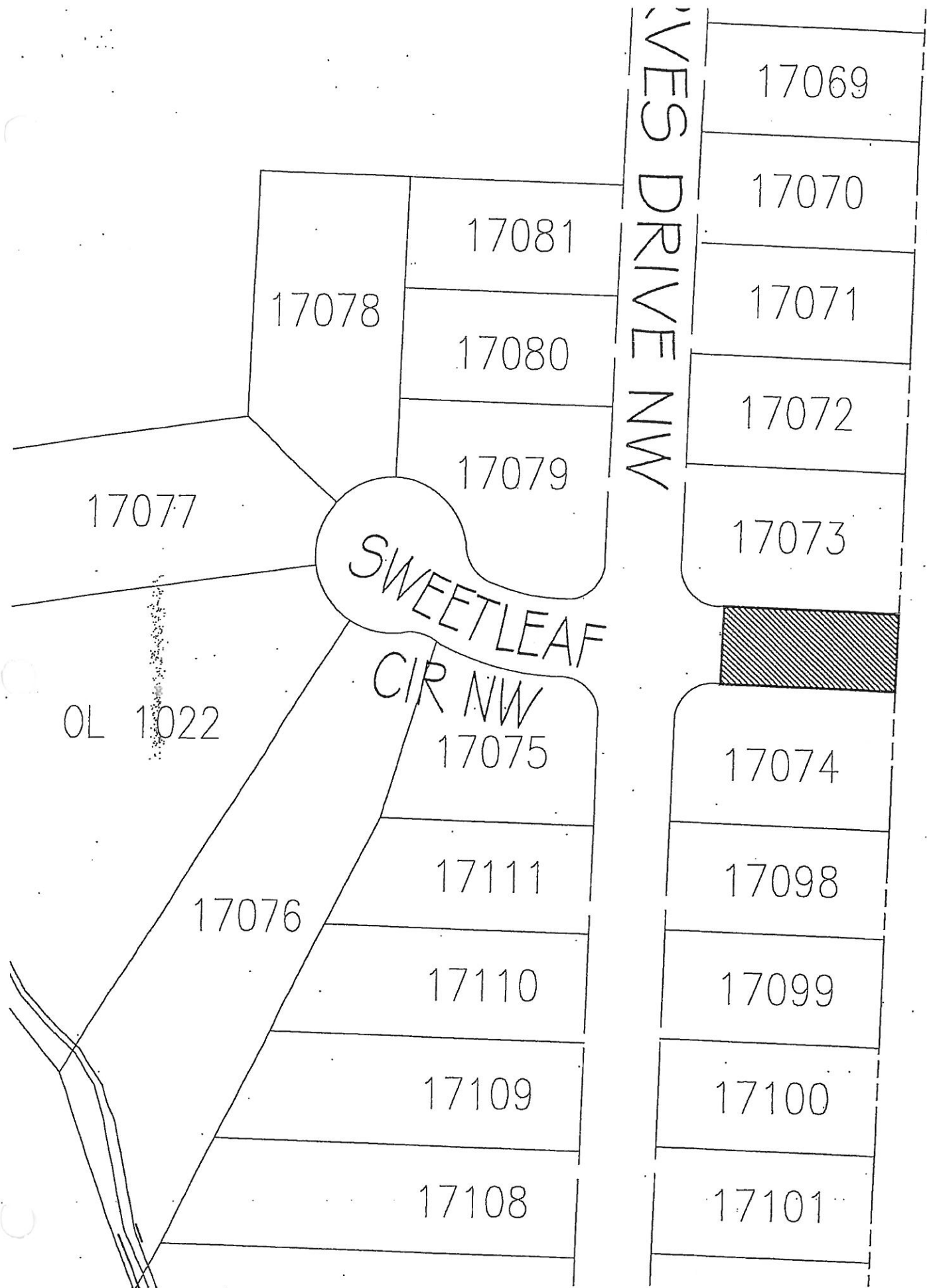
Section 1:

That Sweetleaf Circle NW, approximately 50 foot wide right-of-way, located on the north side of Sippo Reserves Drive NW, east of Manchester Road. The request is to vacate that portion from the north side of Sippo Reserves Drive approximately 115 feet in a northerly direction. Said property will be re-platted with the adjoining lots on either side of the street. The applicant is Crockett Homes/Nathan and Tig Held. Approval of the vacation was recommended by the Planning Commission on July 11th, 2007. Said vacation is hereby approved, adopted and confirmed.

Section 2:

This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the health, safety and welfare of the community and for the continued efficient operation of the City of Massillon, Ohio, and that the portion of the street to be vacated is necessary to permit immediate commencement of the replatting of the lots in the area. 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: SEPTEMBER 17, 2007

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

Passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 110 - 2007

BY: FINANCE COMMITTEE

TITLE: AN ORDINANCE making certain appropriations from the unappropriated balance of the General Fund, 1201 Street Fund, Capital Improvement Fund, Community Development Block Grant Program Fund and the Economic Development 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 General Fund, for the year ending December 31, 2007, the following:

\$104,694.97 to an account entitled "Police Comp Paid"	1100.305.2118
\$ 60,000.00 to an account entitled "Fire Comp Paid"	1100.325.2118
\$ 20,000.00 to an account entitled "Police Overtime"	1100.305.2119
\$ 20,000.00 to an account entitled "Fire Overtime"	1100.325.2119
\$ 2,000.00 to an account entitled "Regional Planning"	1100.905.2390

Section 2:

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

\$50,000.00 to an account entitled "Supplies/Materials/Postage"	1201.435.2410
\$ 2,000.00 to an account entitled "Services/Contracts"	1201.435.2392

Section 3:

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

\$12,000.00 to an account entitled "Fire Station Roof Repairs"	1401.325.2510
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Section 4:

There be and hereby is appropriated from the unappropriated balance of the Community Development Block Grant Program Fund, for the year ending December 31, 2007, the following:

\$10,000.00 to an account entitled "Neighborhood Partnership Program" 1203.845.2862

Section 5:

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

\$1,000.00 to an account entitled "Services/Contracts" 1237.845.2392

Section 6:

This Ordinance is hereby declared to be an emergency measure, for the efficient operation of the various departments of the City of Massillon 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: SEPTEMBER 17, 2007

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 111 - 2007

BY: FINANCE COMMITTEE

TITLE: AN ORDINANCE making certain appropriations from the unappropriated balance of the 1419 Market Place Infrastructure 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 1419 Market Place Infrastructure Fund, for the year ending December 31, 2007, the following:

\$342,270.00 to an account entitled "STA-21 Erie Street Bridge" 1419.435.2510

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 _____ 2007

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

APPROVED: _____
FRANCIS H. CICCHINELLI, JR, MAYOR

DATE: SEPTEMBER 17, 2007

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 112 - 2007

BY: FINANCE COMMITTEE

TITLE: AN ORDINANCE reducing the appropriation in the 1340 Tax Increment Fund, of the City of Massillon, 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:

The appropriation is hereby reduced in the 1340 Tax Increment Fund, for the year ending December 31, 2007, as follows:

\$282.25 from an account entitled "Debt Retirement Interest" 1340.905.2620

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 and for the additional reason that the appropriation needs to be reduced because of an audit procedure. 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: SEPTEMBER 16, 2007

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

Passed
LEGISLATIVE DEPARTMENT

RESOLUTION NO. 10 - 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 2nd Day of October, 2001 the LPA enacted legislation proposing cooperation with the Director of Transportation for the described project:

Design Build project, lying within the City of Massillon; 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 non-structure items of the improvement. ODOT shall assume and bear one hundred percent (100%) of the entire cost of the structure and incidental items with Federal-aid funds, including SCATS and Toll Revenue Credit 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.

In addition, the City 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 Four Hundred Eighty Seven Thousand Seventy and---00/00 Dollars (\$487,070.00) less Toll Revenue Credit applied in the amount of One Hundred Forty Four Thousand Eight Hundred and---00/00 Dollars (\$144,800.00) leaving a balance due of Three Hundred Forty Two Thousand Two Hundred Seventy and---00/00 Dollars (\$342,270.00), 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 Three Hundred Forty Two Thousand Two Hundred Seventy and---00/00 Dollars (\$342,270.00), is hereby appropriated 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 Federal 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 Director of Public Safety and Service 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 the proceedings of the LPA, and which Resolution was duly passed by the LPA on the ____ day of _____, 2____, and that the same is a true and correct copy of the record of said Resolution and the action of said LPA thereon.

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: SEPTEMBER 17, 2007

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

1st reading
LEGISLATIVE DEPARTMENT

RESOLUTION NO. 11 - 2007

passed 10/1

BY COMMUNITY DEVELOPMENT COMMITTEE

TITLE: A RESOLUTION reversing the decision of the Massillon Zoning Board of Appeals made on August 9, 2007 wherein the Zoning Board of Appeals denied a request for a home occupation in an R-3 single family zoned district of the Massillon Zoning Code for the operation of a landscaping company out of the residence at 1345 Burd Avenue NE, in the City of Massillon, Ohio.

WHEREAS, the Massillon Zoning Board of Appeals on August 9, 2007 denied the request for a home occupation permit under the Massillon Zoning Code in Case No. 1226; and

WHEREAS, on August 23, 2007, a Notice of Appeal pursuant to Section 1129.09 of the Massillon Zoning Code was filed with the Clerk of Council by Glen Sekulic, appealing the decision in Case No. 1226 of the Massillon Zoning Board of Appeals.

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

Section 1:

The Council of the City of Massillon, Ohio, hereby determines that the appellant meets the requirements for the issuance of a home occupation permit and reverses the decision of the Massillon Zoning Board of Appeals made on August 9, 2007 and hereby determines that the request for the home occupation should be approved, and

Section 2:

Provided it receives the affirmative vote of six of the elected members of Council, this ordinance shall take effect and be in force from and after the earliest period allowed by law.

2nd page is the signature page

DATE: SEPTEMBER 17, 2007

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

1st reading
LEGISLATIVE DEPARTMENT

RESOLUTION NO. 12 - 2007

passed 10/1

BY: PUBLIC UTILITIES COMMITTEE

TITLE: A RESOLUTION authorizing all actions necessary to effect a governmental natural gas aggregation program with opt-in provisions pursuant to Article 18.04, Ohio Constitution and authorizing and directing the Director of Public Service and Safety to enter into an agreement with Buckeye Energy Brokers, Inc. for consulting services and any other required services related to natural gas aggregation.

WHEREAS, the Ohio Constitution provides for any municipality to acquire, construct, own, lease and operate within or without its corporate limits, and public utility the product or service of which is or is to be supplied to the municipality or its inhabitants, and may contract with others for any such product or service.

WHEREAS, governmental aggregation provides an opportunity for residential and small business customers collectively to participate in the potential benefits of natural gas deregulation through lower natural gas rates which they would not otherwise be able to have individually;

WHEREAS, this Council seeks to establish a governmental aggregation program with opt-in provisions pursuant to Article 18.04, Ohio Constitution for the residents, businesses and other natural gas consumers in the City, as permitted by law.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, COUNTY OF STARK AND STATE OF OHIO, THAT;

Section 1:

That the Director of Public Service and Safety is hereby authorized and directed to enter into an agreement with Buckeye Energy Brokers, Inc. for consulting services and any other required services related to natural gas utility deregulations for the City of Massillon and ratifying any such services heretofore performed.

Section 2:

This Council finds and determines that it is in the best interest of the City, its residents, businesses and other natural gas consumers located within the corporate limits of the City to establish the Aggregation Program in the City. The City may exercise such authority jointly with other municipalities using Buckeye Energy Brokers, Inc, as to the full extent permitted by law, and for such purpose, the Director of Public Service and Safety is hereby authorized to execute and deliver a service agreement with the selected natural gas program supplier. The aggregation will occur provided each interested person using natural gas service from Dominion East Ohio Gas within the city limits "opts-in" to the program by contacting the natural gas program supplier.

Section 3:

This Council finds and determines that all formal actions of this Council concerning and relating to the adoption of this Resolution were taken in an open meeting of this Council and that all deliberations of this Council and of any committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 4:

This Resolution is declared to be an emergency measure necessary for the immediate preservation of the public health, safety and welfare of the City, and for the further reason that this Resolution is required to be immediately effective in order to file a certified copy of this Resolution.

PASSED IN COUNCIL THIS _____ DAY OF _____ 2007

APPROVED _____
MARY BETH BAILEY CLERK OF COUNCIL

GLENN E. GAMBER, PRESIDENT

APPROVED _____

FRANCIS H. CICCHINELLI, JR., MAYOR