

MASSILLON CITY COUNCIL
CITY OF MASSILLON, OHIO
GLENN E. GAMBER, PRESIDENT

AGENDA

DATE: MONDAY, MARCH 3, 2008
PLACE: COUNCIL CHAMBERS
TIME: 7:30 P.M. -

THERE ARE NO PUBLIC HEARINGS TONIGHT

1. ROLL CALL
2. INVOCATION BY COUNCILMAN PAUL MANSON
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. 35 – 2008

PASS 9-0

BY: COMMUNITY DEVELOPMENT COMMITTEE

AN ORDINANCE accepting an application for annexation for the Prophecy Massillon Annexation to the City of Massillon, and declaring an emergency.

ORDINANCE NO. 36 – 2008

PASS 8-0

BY: COMMUNITY DEVELOPMENT COMMITTEE

*MANSON ABSTAINED FROM VOTING.

AN ORDINANCE indicating what services the City of Massillon, Ohio, will provide to the Manson Annexation, upon annexation, and declaring an emergency.

ORDINANCE NO. 37 – 2008

PASS 9-0

BY: COMMUNITY DEVELOPMENT COMMITTEE

AN ORDINANCE indicating what services the City of Massillon, Ohio, will provide to the Poets Glen Area Annexation, upon annexation, and declaring an emergency.

ORDINANCE NO. 38 – 2008

PASS 9-0

BY: COMMUNITY DEVELOPMENT COMMITTEE

AN ORDINANCE authorizing the Mayor of the City of Massillon, Ohio, to enter into an agreement with Pepsi-Cola General Bottlers of Mansfield, to provide an economic development "inducement grant" to assist the company in relocating its operations in Massillon, and declaring an emergency.

ORDINANCE NO. 39 – 2008

PASS 9-0

BY: COMMUNITY DEVELOPMENT COMMITTEE

AN ORDINANCE authorizing the Mayor of the City of Massillon, Ohio, to enter into an amended agreement between the City of Massillon and Pepsi-Cola General Bottlers, under the Ohio Urban Jobs and Enterprise Zone Program, and declaring an emergency.

ORDINANCE NO. 40 – 2008

BY: COMMUNITY DEVELOPMENT COMMITTEE

PASS 9-0

AN ORDINANCE authorizing the Mayor of the City of Massillon, Ohio, to make an application to the Ohio Historic Preservation Office for financial assistance under the Certified Local Government Grant Program designating the Massillon Heritage Foundation as the Third Party Administrator, and declaring an emergency.

ORDINANCE NO. 41 – 2008

BY: ENVIRONMENTAL COMMITTEE

PASS 9-0

AN ORDINANCE authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to advertise for and receive sealed bids, and enter into a contract, upon award approval of the Board of Control, with the lowest and best bidder, for the purchase of one waste packer truck for the City of Massillon Solid Waste Department, and declaring an emergency.

ORDINANCE NO. 42 – 2008

BY: FINANCE COMMITTEE

PASS 9-0 - SECTION 1

AN ORDINANCE making certain appropriations from the unappropriated balance of the Economic Development Fund, General Fund, Unclaimed Money Fund and the Muni Motor Vehicle License Plate Fund, for the year ending December 31, 2008, and declaring an emergency.

ORDINANCE NO. 43 – 2008

BY: FINANCE COMMITTEE

PASS 9-0

AN ORDINANCE authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to advertise for and receive sealed bids, and enter into contract upon the award and approval of the Board of Control, with the lowest and best bidder for various items needed for the use in various departments of the city, and declaring an emergency.

ORDINANCE NO. 44 – 2008

BY: FINANCE COMMITTEE

PASS 9-0

AN ORDINANCE authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to enter into contract with Waikem Auto Group for the purchase of two (2) 2008 Ford Explorers for the Wastewater Treatment Department, and declaring an emergency.

7. UNFINISHED BUSINESS

8. PETITIONS AND GENERAL COMMUNICATIONS

LETTER FROM OHIO DIVISION OF LIQUOR CONTROL REGARDING A NEW LIQUOR LICENSE FOR CANTON PIZZA INC DBA PIZZA HUT 2400 LINCOLN WAY E MASSILLON OHIO 44646

9. BILLS, ACCOUNTS AND CLAIMS

10. REPORTS FROM CITY OFFICIALS

A). MAYOR SUBMITS MONTHLY PERMIT REPORT FOR FEBRUARY 2008

B). AUDITOR SUBMITS MONTHLY REPORT FOR FEBRUARY 2008

C). FIRE CHIEF'S ANNUAL REPORT FOR 2007

D). LAW DIRECTOR'S ANNUAL REPORT FOR 2007

E). PRESIDENT'S SPECIAL COMMITTEE ON COUNCIL SECURITY & RECONFIGURATION APPOINTMENT

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

ORDINANCE NO. 29 – 2008

BY: ENVIRONMENTAL COMMITTEE

2ND READING

AN ORDINANCE amending CHAPTER 925 "SEWERS GENERALLY" of the Codified Ordinances of the City of Massillon, Ohio, by amending existing Section 925.12 SEWER CONNECTION PERMIT REQUIRED; FEE and adding Subsection 925.12(d) to said section.

ORDINANCE NO. 30 – 2008

BY: ENVIRONMENTAL COMMITTEE

2ND READING

AN ORDINANCE amending CHAPTER 937 "WASTEWATER TREATMENT REVENUE FUND" of the Codified Ordinances of the City of Massillon, Ohio, by repealing existing Sections 937.05 PAYMENT DATES; PENALTY CHARGE, 937.08 ADMINISTRATION AND DISTRIBUTION OF FUNDS, 937.09 ANNUAL RATES FOR SEWER SERVICE and 937.10 ADDITIONAL SURCHARGE FOR INDUSTRIAL WASTES and enacting new Sections 937.05 PAYMENT DATES; PENALTY CHARGE, 937.08 ADMINISTRATION AND DISTRIBUTION OF FUNDS 937.09 ANNUAL RATES FOR SEWER SERVICE and 937.10 ADDITIONAL SURCHARGE FOR INDUSTRIAL WASTES of CHAPTER 937.

ORDINANCE NO. 34 - 2008

BY: FINANCE COMMITTEE

2ND READING

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

16. NEW AND MISCELLANEOUS BUSINESS
17. REMARKS OF DELEGATIONS AND CITIZENS TO MATTERS NOT ON THE AGENDA
18. ADJOURNMENT

MARY BETH BAILEY - CLERK OF COUNCIL

DATE: MARCH 3, 2008

CLERK: MARY BETH BAILEY

MASSILLON CITY COUNCIL
CITY OF MASSILLON, OHIO
GLENN E. GAMBER, PRESIDENT

COUNCIL CHAMBERS

Passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 35 - 2008

BY: COMMUNITY DEVELOPMENT COMMITTEE

TITLE: AN ORDINANCE accepting an application for annexation for the Prophecy Massillon Annexation to the City of Massillon, Ohio, and declaring an emergency.

WHEREAS, a petition for the annexation for certain territory in Perry Township, was duly filed by Jason Haines, Agent for the petitioners, and

WHEREAS, the said petition was duly considered by the Board of County Commissioners of Stark County on November 29, 2007, and

WHEREAS, the Board of County Commissioners on November 29, 2007, approved the annexation of said territory to the City of Massillon as hereinafter described, and

WHEREAS, the Board of County Commissions certified the transcript and pertinent documents of proceedings in connection with said annexation with the map and petition required in connection therewith, to the Auditor of the City of Massillon

WHEREAS, at least two-thirds of the members elected to Council of the City of Massillon Ohio, have found, considered and determined that in order to annex said territory to the City of Massillon, this constitutes an emergency, requiring immediate action.

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

Section 1:

The application of Jason Haines for the petitioners is hereby accepted for the annexation of the following described territory in the County of Stark and adjacent to the City of Massillon, to wit; a 78.614 acre tract as more fully described on the petition attached hereto:

Section 2:

The City Council Clerk be and is hereby directed to file certified copies of said annexation containing the petition, map accompanying the petition, a transcript of the proceedings of the County Commissioners, and this Ordinance, with the Stark County Recorder and the Secretary of State.

Section 3:

The Clerk of this Council be and is hereby directed to file with the Clerk of the Board of Commissioners of Stark County, as well as the County Board of Elections, notice in writing of the boundary changes of the City of Massillon hereby affected together with a map of the annexed territory.

Section 4:

This Ordinance is declared to be an emergency measure, the reason for the emergency being that said enactment is necessary for the more efficient operation of the City of Massillon, Ohio, and for the additional reason that it is in the best interest of the property owners in the annexed area that their property become a part of the City of Massillon. 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 _____ 2008

APPROVED: _____
MARY BETH BAILEY, CLERK OF COUNCIL

GLENN E. GAMBER, PRESIDENT

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

PETITION
BY CITIZENS FOR THE PROPHECY MASSILLON ANNEXATION
TO THE CITY OF MASSILLON, OHIO

TO THE COMMISSIONERS OF STARK COUNTY, STATE OF OHIO:

We, the undersigned, being a majority of the adult owners of real estate in the territory hereinafter described, hereby petition for the annexation of the following described territory to the City of Massillon, Massillon Township, Stark County, Ohio.

Situated in the Township of Perry, County of Stark, and State of Ohio and known as and being parts of the Northeast Quarter of Section 32, Southwest Quarter of Section 33, and Southeast Quarter of Section 33; T-10, R-9, and further described as follows:

Beginning at a county monument at the southwest corner of the Northeast Quarter of Section 32, Perry Township, said point also being the centerline of Erie Ave. SW (SR 21); thence S 85° 14' 00" E along the quarter section line, a distance of 40.00 feet to a point on the east right-of-way line of said Erie Ave. SW, said point being further known as the True Place of Beginning for the tract herein described;

Thence along said right-of-way line, said line also being the west line of a tract of land currently or formerly owned by Prophecy Massillon, LLC; on a bearing of N 05° 00' 00" E a distance of 875.67' to a point, said point being on the south line of a tract of land currently or formerly owned by Dorothy Doll;

Thence continuing along said Doll tract the following courses:

S 85° 03' 00" E a distance of 250.40 feet to a point;

S 05° 05' 00" W a distance of 14.40 feet to a point;

S 85° 25' 00" E a distance of 471.83 feet to a point;

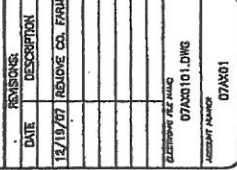
N 05° 00' 00" E a distance of 206.97 feet to a point, said point being at the southeast corner of a tract of land currently or formerly owned by N. & B. Petty, Trustees;

Thence along the south line of said Petty tract N 85° 09' 44" W a distance of 722.20 feet to a point, said point being on the east right-of-way line of Erie Ave. SW (SR 21);

Thence along said right-of-way line, on a bearing of N 05° 00' 00" E a distance of 303.84' to a point, said point being on the northwest corner of a tract of land currently or formerly owned by; N. & B. Petty, Trustees;

Thence along the north line of said Petty tract, and along the north line of said Prophecy Massillon LLC tract, on a bearing of S 85° 09' 44" E a distance of 2604.39 feet to a point, said

STARK COUNTY COMMISSIONERS

[illegible]

DATE: MARCH 3, 2008

CLERK: MARY BETH BAILEY

MASSILLON CITY COUNCIL
CITY OF MASSILLON, OHIO
GLENN E. GAMBER, PRESIDENT

COUNCIL CHAMBERS

Passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 36 - 2008

BY: COMMUNITY DEVELOPMENT COMMITTEE

TITLE: AN ORDINANCE indicating what services the City of Massillon, Ohio, will provide to the Manson property, upon annexation, and declaring an emergency.

WHEREAS, certain property owners have filed a petition requesting that their property, Manson Annexation be annexed to the City of Massillon, Ohio, pursuant to the Ohio Revised Code Section 709.02, and

WHEREAS, Ohio Revised Code Section 709.03(D) requires that upon receiving notice, the Municipal Legislative Authority, shall by Ordinance or Resolution, adopt a statement indicating what services, if any, the municipal corporation will provide to the territory proposed for annexation upon annexation, and

WHEREAS, this Ordinance is intended to comply with the requirements of the Ohio Revised Code section 709.03(D), and

WHEREAS, it is required by Section 709.033 (A) (6) of the Ohio Revised Code, that no street or highway will be segmented by municipal/township boundary line as to create a maintenance problem; and if a street or highway is divided, the municipality agrees to assume all maintenance of such street or highway as part of the annexation.

WHEREAS, the legislative authority of the City of Massillon, Ohio, is supportive of the annexation proposal, and

WHEREAS, the Stark County Commissioners have scheduled a public hearing to be held at the Tuscarawas Township Administrative Offices, 956 Manchester Avenue SW, North Lawrence, Ohio, on Wednesday, April 16, 2008 at 7:00p.m.

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

Section 1:

Sanitary sewer is already available to the proposed area and the City of Massillon, Ohio, will extend to the proposed area, upon annexation, the availability of all municipal services extended to all of the current citizens, residents and property owners of the City of Massillon, Ohio, including, but not limited, to the services of the Municipal Police Department, services of the Engineering Department, services of the Building Department, services of the Street Department, services of the Safety Department, services of the Planning Department, services of the Health Department, services of the Sewer Department, and the services of the City of Massillon Administration within approximately one year of the annexation. The City of Massillon will also maintain the full width of the pavement along the frontage of the subject area to be annexed.

Section 2:

This Ordinance is hereby declared to be an emergency measure for the preservation of the health, safety and welfare of the community and for the additional reason that it is necessary to indicate what services the City of Massillon will provide to the area upon annexation prior to the Stark County Commissioners hearing April 16, 2008 in the Tuscarawas Township Administrative Offices, 956 Manchester Avenue SW, North Lawrence, Ohio. 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 _____ 2008

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

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

DATE: MARCH 3, 2008

CLERK: MARY BETH BAILEY

MASSILLON CITY COUNCIL
CITY OF MASSILLON, OHIO
GLENN E. GAMBER, PRESIDENT

COUNCIL CHAMBERS

passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 37 - 2008

BY: COMMUNITY DEVELOPMENT COMMITTEE

TITLE: AN ORDINANCE indicating what services the City of Massillon, Ohio, will provide to the Poets Glen Area Annexation, upon annexation, and declaring an emergency.

WHEREAS, certain property owners have filed a petition requesting the Poets Glenn Area be annexed to the City of Massillon, Ohio, pursuant to the Ohio Revised Code Section 709.02, and

WHEREAS, Ohio Revised Code Section 709.03(D) requires that upon receiving notice, the Municipal Legislative Authority, shall by Ordinance or Resolution, adopt a statement indicating what services, if any, the municipal corporation will provide to the territory proposed for annexation upon annexation, and

WHEREAS, this Ordinance is intended to comply with the requirements of the Ohio Revised Code section 709.03(D), and

WHEREAS, it is required by Section 709.033 (A) (6) of the Ohio Revised Code, that no street or highway will be segmented by municipal/township boundary line as to create a maintenance problem; and if a street or highway is divided, the municipality agrees to assume all maintenance of such street or highway as part of the annexation.

WHEREAS, the legislative authority of the City of Massillon, Ohio, is supportive of the annexation proposal, and

WHEREAS, the Stark County Commissioners have scheduled a public hearing to be held at the Massillon City Council Chambers, One James Duncan Plaza, Massillon, Ohio, on Wednesday, April 9, 2008 at 7:00p.m.

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

Section 1:

Sanitary sewer is already available to the proposed area and the City of Massillon, Ohio, will extend to the proposed area, upon annexation, the availability of all municipal services extended to all of the current citizens, residents and property owners of the City of Massillon, Ohio, including, but not limited, to the services of the Municipal Police Department, services of the Engineering Department, services of the Building Department, services of the Street Department, services of the Safety Department, services of the Planning Department, services of the Health Department, services of the Sewer Department, and the services of the City of Massillon Administration within approximately one year of the annexation. The City of Massillon will also maintain the full width of the pavement along the frontage of the subject area to be annexed.

Section 2:

This Ordinance is hereby declared to be an emergency measure for the preservation of the health, safety and welfare of the community and for the additional reason that it is necessary to indicate what services the City of Massillon will provide to the area upon annexation prior to the Stark County Commissioners hearing April 9, 2008 at the Massillon City Council Chambers, One James Duncan Plaza, Massillon, Ohio. 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 _____ 2008

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

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

DATE MARCH 3, 2008

CLERK: MARY BETH BAILEY

MASSILLON CITY COUNCIL
CITY OF MASSILLON, OHIO
GLENN E. GAMBER, PRESIDENT

COUNCIL CHAMBERS

passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 38 - 2008

BY: COMMUNITY DEVELOPMENT COMMITTEE

TITLE: AN ORDINANCE authorizing the Mayor of the City of Massillon, Ohio, to enter into an agreement with Pepsi-Cola General Bottlers of Mansfield, to provide an economic development "inducement grant" to assist the company in relocating its operations in Massillon, and declaring an emergency.

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

WHEREAS, Pepsi-Cola General Bottlers of Mansfield, desires to relocate its headquarters located at 255 Warmington Road SW; and

WHEREAS, the City of Massillon, Ohio, has proposed to assist Pepsi-Cola General Bottlers of Mansfield, in this relocation 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 Pepsi-Cola General Bottlers of Mansfield, providing an economic development "inducement grant", in a total amount not to exceed Fifty Thousand Dollars (\$50,000.00) for the purpose of assisting the company in relocating its operations in Massillon.

Section 2:

In return for this economic development grant assistance, Pepsi-Cola General Bottlers of Mansfield., shall provide the City with information regarding the number of jobs that it has provided as a result of the company's relocation in Massillon.

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 _____, 2008

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

ATTEST: _____
FRANCIS H. CICCHINELLI, JR. MAYOR

AGREEMENT

This Agreement made and entered into this _____ day of _____ 2008 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 the "City"), and Pepsi-Cola General Bottlers of Mansfield, Inc. (dba PepsiAmericas), a Corporation with offices currently located at 815 Oberlin Road SW, Massillon, Ohio 44647 (hereinafter referred to as the "Company").

WITNESSETH:

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

Whereas, the Company desires to relocate and expand its business operations, currently located in a leased facility at 815 Oberlin Road SW, to property located in the City of Massillon at 255 Warmington Road SW (hereinafter the "Project Site"). The Company will use the Project Site to expand its existing warehouse, sales and distribution business (hereinafter the "Project").and

Whereas, the Company, as part of the Project, proposes to close its existing facility in New Philadelphia and transfer these operations to the Project Site; and

Whereas, the Company, as a result of this project, plans to relocate 72 full-time jobs and 13 part time jobs from the Oberlin Road SW facility, as well as transfer 34 jobs from the New Philadelphia facility to the Project Site; and

Whereas, the City of Massillon proposes to assist the Company in this relocation by providing an economic development "inducement grant", the purpose of which is to help offset the Company's costs in relocating its operations to the Project Site.

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 1: Project Description

The Company shall relocate its business operations to an existing facility located at 255 Warmington Road SW, in the City of Massillon, Stark County, Ohio, As a result of this project, the Company shall provide a total of 119 jobs at the Project Site.

Section 2: Economic Development Grant

In order to assist the Company in this relocation and expansion, the City shall make an economic development inducement grant to the Company in a total amount not to exceed Fifty Thousand Dollars (\$50,000.00). The Company shall use these funds to help offset its costs related to the relocation and expansion of its operations at the Project Site.

This inducement grant shall be provided in the form of a deferred payment loan, at 0% interest, for a ten year term. At the end of the ten year period, the balance on said deferred payment loan shall be \$0.00, and no payment shall be required, provided that Company is still in operation at the Project Site.

The entire amount of the inducement grant shall become immediately due and payable either upon the bankruptcy, reorganization, syndication, dissolution or liquidation of Company. In addition, if during the term of the deferred payment loan, the Company relocates its business operations outside the corporate limits of the City of Massillon, Ohio, the entire amount of the inducement grant shall become immediately due and payable.

Section 3: Assurance of Project Jobs

In return for this economic development grant assistance, the Company shall furnish the City with information regarding its total project investment and the number of jobs that it has provided at the Project Site as a result of the project.

Section 4: Disbursement of Funds

The City shall provide this inducement to the Company, or its designee, upon the relocation and the establishment of its business operations at the Project Site. Economic development grant funds shall be disbursed by the City on the basis of vouchers submitted by the Company, including any supporting documentation as needed to verify project costs.

Section 5: Miscellaneous

This Agreement shall be governed by and constructed in accordance with the laws of the State of Ohio.

In Witness Whereof, the City and Company have caused this Agreement to be duly executed, as of the date first above written.

WITNESSED BY:

THE CITY OF MASSILLON, OHIO

Francis H. Cicchinelli, Jr., Mayor

WITNESSED BY:

PEPSI-COLA GENERAL BOTTLERS OF
MANSFIELD, INC.

W. Scott Nehs, Senior Vice President

Approved as to form and legal sufficiency:

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

DATE MARCH 3, 2008

CLERK: MARY BETH BAILEY

CITY OF MASSILLON, OHIO

COUNCIL CHAMBERS

Passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 39 - 2008

BY: COMMUNITY DEVELOPMENT COMMITTEE

TITLE: AN ORDINANCE authorizing the Mayor of the City of Massillon, Ohio; to enter into an amended agreement between the City of Massillon and Pepsi-Cola General Bottlers, under the Ohio Urban Jobs and Enterprise Zone Program, 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 does hereby authorize amending the Enterprise Zone agreement between the City of Massillon and Pepsi-Cola General Bottlers, by the property being conveyed from Fame Beverage and authorizing the Mayor to enter into the same under the Ohio Urban Jobs and Enterprise Zone Program.

Section 2:

The agreement between the City of Massillon and Pepsi-Cola General Bottlers, under the Ohio Urban Jobs and Enterprise Zone Program is hereby amended to show the property being conveyed from Fame Beverage and the Mayor is authorized to enter into the same.

Section 3:

A copy of said amendment is attached hereto and made part of this Ordinance.

Section 4:

This Ordinance is hereby declared to be an emergency measure, the reason for the emergency being that said enactment is necessary for the Enterprise Zone agreement to reflect the revised agreement with the property being conveyed to the new company Pepsi-Cola General Bottlers to the agreement. 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.

**AMENDMENT TO OHIO ENTERPRISE ZONE AGREEMENT
CONSENT TO ASSIGNMENT**

This Amendment made and entered into this 12th day of February, 2008, by and between the City of Massillon, Ohio (the "City"), and Pepsi-Cola General Bottlers of Mansfield, Inc. (dba PepsiAmericas) (the "Assignee").

Whereas, the City entered into an Ohio Enterprise Zone Agreement dated May 9, 2002 (the "Agreement") with Fame Beverage Company (the "Enterprise") and 1911 LTD (the "Lessor") whereby the Enterprise and the Lessor constructed a new seventy-one thousand (71,000) square foot industrial facility located at 255 Warmington Road SW, in the City of Massillon, Stark County, Ohio (the "Project"); and in return, the City agreed to provide the Enterprise and the Lessor with development incentives to support the economic viability of the Project; and,

Whereas, the Agreement provides for a ten year, 75% tax exemption for real and personal property improvements made in connection with the Project; and,

Whereas, the Assignee has acquired the property at 255 Warmington Road SW from the Lessor; and,

Whereas, the Assignee wishes to assume all of the Enterprise's and Lessor's rights and obligations under the Agreement; and

Whereas, pursuant to Section 17 of the Agreement, the Agreement is not transferable or assignable without the express, written approval of the City, which approval the City is willing to grant on the terms and conditions contained in this Amendment and Consent to Assignment.

Now, therefore, the parties hereby agree as follows:

Section 1:

The City approves of and consents to the assignment to Assignee of the Agreement, including the transfer to Assignee of all rights of the Enterprise and the Lessor contemplated by the Agreement and the assumption by Assignee of all of the Enterprise's and Lessor's payment and performance obligations expressly arising under the Agreement from and after the date of the assignment thereof.

Section 2:

The Assignee hereby agrees that, in connection with the assignment of the Agreement, it will assume the Enterprise's and Lessor's payment and performance obligations under the Agreement arising from and after the date of the assignment thereof.

Section 3:

In all other respects, the Agreement is hereby confirmed and ratified as written.

Section 4:

The City hereby undertakes to execute and deliver on its behalf such further instruments and documents as may be reasonably requested by Assignee to evidence the assignment of rights and assumption of obligations under the Agreement.

Section 5:

This Amendment and Consent to Assignment shall be binding upon the parties hereto and their respective successors and assigns.

Section 6:

This Amendment and Consent to Assignment shall be construed and enforced in accordance with the laws of the State of Ohio.

Section 7:

This Amendment and Consent to Assignment may be executed by the parties hereto in one or more counterparts, each of which shall be deemed to be an original and all of which shall constitute together but one and the same agreement.

In Witness Whereof, the parties have each caused this Amendment and Consent to Assignment to be executed by their duly authorized representatives as of the date and year first above written.

WITNESSED BY:

PEPSI-COLA GENERAL BOTTLERS OF
MANSFIELD, INC. (dba PEPSIAMERICAS)

Shahid Basham

By:

W. Scott Neils - Senior Vice President

WITNESSED BY:

THE CITY OF MASSILLON, OHIO

.....

By:

Francis H. Cicchinelli, Jr., Mayor

Approved as to form and legal sufficiency:

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

DATE: MARCH 3, 2008

CLERK: MARY BETH BAILEY

MASSILLON CITY COUNCIL
CITY OF MASSILLON, OHIO
GLENN E. GAMBER, PRESIDENT

COUNCIL CHAMBERS

passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 40 - 2008

BY: COMMUNITY DEVELOPMENT COMMITTEE

TITLE: AN ORDINANCE authorizing the Mayor of the City of Massillon, Ohio, to make an application to the Ohio Historic Preservation Office for financial assistance under the Certified Local Government Grant Program, and declaring an emergency.

WHEREAS, under the Certified Local Government Grant Program, the Ohio Historic Preservation Office makes available 70% funding for historic preservation planning activities to qualifying units of local government; and

WHEREAS, the City of Massillon, Ohio, has been designed by the U.S. Department of the Interior as a certified local government, eligible to apply for funding; and

WHEREAS, the City of Massillon, Ohio, deserves to file an application with the Ohio Historic Preservation Office for grant funds to prepare a preservation plan for Massillon;

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

Section 1:

The Mayor of the City of Massillon, Ohio, is hereby authorized and directed to make application to the Ohio Historic Preservation Office for financial assistance under the Certified Local Government Grant Program.

Section 2:

The Mayor being the Chief Executive Officer of the City of Massillon, Ohio, is hereby designated as the authorized representative of the City, to act in connection with the city's application to the State of Ohio for historic preservation grant funding and to provide such additional information as may be requested by the State of Ohio in connection with the application; further, that the Mayor is authorized to accept any offer of grant funds which may be tendered by the State of Ohio in connection with the Certified Local Government Program.

Section 3:

That this Ordinance is hereby declared to be an emergency measure necessary for the immediate 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.

I. Proposal for Historic Structure Report: Five Oaks Historic Home

Scope of Work

The Historic Structures Report (HSR) would be summarized in a written and graphical report which would include the following:

- In depth Investigation and evaluation of the site including the interior and exterior of the building. The survey and inspection will address the building's exterior and interior materials, features and finishes, interior spaces and visible structural systems. The investigation will not include the concealed structural systems; mechanical, electrical, plumbing systems, fire detection and security systems.
- A detailed summary of information known and conditions observed at the time of the survey.
- Two to three levels of treatment for repair, preservation or restoration for individual features and/or areas of damage/deterioration.
- Laboratory analysis of the existing mortar (four to six locations).
- Recommendations for decision-making about the overall treatment approach (preservation, rehabilitation, or restoration) of the facility.
- Prioritization of the recommendations for treatment
- Identification of future areas of research or documentation.
- Provide a CD of photographic Images

Estimated Cost

Tools & Testing	\$300.00
Six Mortar Analysis	\$600.00
Reproduction Costs	\$100.00
Labor (Approx.)	\$9,000.00
<i>Total</i>	<i>\$10,000.00</i>

Purpose and Benefits of Project

A historic structure report provides documentary, graphic, and physical information about a property's history and existing condition. Broadly recognized as an effective part of preservation planning, a historic structure report also addresses management or owner goals for the use or re-use of the property. The report serves as an important guide for all changes made to a historic property during a project-repair, rehabilitation, or restoration and can also provide information for maintenance procedures. Finally, it records the findings of research and investigation, as well as the processes of physical work, for future researchers.

Generally, a completed historic structure report provides:

- A planning document for decision-making about the overall treatment approach (preservation, rehabilitation, restoration, or reconstruction)
- Identifies remaining significant and character defining features
- A summary of information known and conditions observed at the time of the survey
- Recommended treatments for individual features or areas.
- Prioritization of recommendations
- Identification of future areas of research or documentation

Because of extensive research and comprehensive existing condition information, the HSR is a valuable reference tool for the site. This information establishes the framework for owners and stewards to consider physical alterations to the property, with the understanding how the proposed work will impact the historical fabric and character.

In the development of any historic structure report, the scope of work and level of detail are necessarily adjusted to meet the requirements of a particular project, taking into account the property's significance, condition, intended use, and available funding.

Most projects would benefit greatly from the preparation of such a report—and not only from the value of the report as an efficient planning tool. If work proceeds without a historic structure report to guide it, it is possible that physical evidence important to understanding the history and construction of the structure may be destroyed or that inappropriate change may be made. The preparation of a report prior to initiation of work preserves such information for future researchers. Even more importantly, prior preparation of a report helps ensure that the history, significance, and condition of the property are thoroughly understood and taken into consideration in the selection of a treatment approach and development of work recommendations. One of the goals of a historic structure report is to reduce the loss of historic fabric or significance and to ensure the preservation of the historic character of the resource.

II. Proposal for Field Verification Services: Five Oaks Historic Home -

Scope of Work

- Field verify the site, all interior floors including basement, first floor, second floor and third floor; and the four exterior elevations, (approx. 40+ hours)
- Preparation of AutoCAD digital plans of the site, floor plans and exterior elevations listed above. (approx. 60+ hours)
- Printing costs associated with three sets of drawings.

Purpose and Proposed Accomplishments

Field verification (measuring) is the process of verifying the existing (as-built) conditions and documenting these actual conditions of any given structure, facility, building or residence. Many individuals / companies underestimate the vital importance of accurate, complete and usable as-built drawings. For historic buildings, the field verification documents become an

archival document in the history and physical condition of the building. These documents are also a good facilities management tool in the fact that they can be used with other building related consultants (architects, engineers, contractors, etc.)

At the completion of the project, the client will be given three sets of blue prints and two copies of the CAD digital files on CD media.

Estimated Cost

\$4,700.00

PROJECT SITE DESCRIPTION

NAME: Historic: Five Oaks / J. Walter McClymond Residence

Current: Massillon Women's Club

LOCATION: 210 Fourth Street, Massillon, Ohio 44646



DATE CONSTRUCTED: 1894

STYLE: Richardsonian Romanesque

SUMMARY OF PHYSICAL APPEARANCE:

Five Oaks is a massive three-story mansion of rock-faced random ashlar with a steeply pitched hip roof of red slate. On the west facade is a porch designed with round arches supported by squat four-cluster columns. The round arch motif, a dominant element of the Romanesque style, is repeated in other first floor windows. A large gable rises above the porch; while on the southwest corner there is a three-story, octagonal turret displaying battlements, a motif repeated along the porch roof. Between the gable and the tower is a richly embellished dormer. The front entrance, located on the porch, has heavy double oak doors. To the south of the porch is a stone column supporting a stone lion holding a shield which displays a design of five oak trees, emblematic of the home's original name. Three chimneys dominate the south elevation. On the north elevation, a porte cochere shelters the centrally placed side entrance. On the east is a small gable, three wood-framed dormers on the third floor, and prominent skylight that covers a glazed tile court with a Tiffany glass dome over the first floor billiards room. The third floor is a 45' x 40' ballroom with a galleried musicians' stand.

STATEMENT OF SIGNIFICANCE:

J. Walter McClymond (1842-1912) was president of Russell and Company and the Russell Engine Company, as well as president of the Merchant's National Bank of Massillon, which he organized and established in 1890. In 1870 McClymond married Flora Russell, daughter of Russell and Company's president, Nahom S. Russell. From 1872 until 1888 McClymond advanced in the company from bookkeeper to partnership, secretary and treasurer, and finally, president. A prominent businessman, McClymond also was president of the Massillon Electric Light Company and the Brown Lumber Company. He was an ardent Republican and in 1888 was a presidential elector for Benjamin Harrison. He also was a long-term friend of William McKinley. The McClymonds lived in three different corner homes at the intersection of Prospect and North Street. When first married they took up residence with his wife's parents, the Russell's, on the southeast corner and subsequently built a home on the northwest corner. Ten years later Five Oaks was constructed on the northeast corner of the street. Five Oaks was designed by prominent Cleveland architect Charles F. Schweinfurth who designed many mansions on Cleveland's Euclid Avenue. Built of stone from the Everhard Quarry in Massillon, Five Oaks cost \$200,000. In the spring of 1900 McClymond's daughter Edna was married in the home with more than 400 guests attending, including President and Mrs. McKinley. The residence was donated in 1920 to the women of Massillon by Mrs. Arvine Wales (Edna McClymond) and Mrs. Leslie Maitland (Ruth McClymond). The Massillon Women's Club was founded in 1919 by women who were Red Cross workers during World War I.

National Register Reference Number: 73001535

National Register Listing Date: 04/11/1973

Applicable Criteria:

Criterion C: Properties that embody the distinctive characteristics of a type, period, or method of construction or represent the works of a master, or possess high artistic values, or represent a significant and distinguishable entity...

DATE: MARCH 3, 2008

CLERK: MARY BETH BAILEY

MASSILLON CITY COUNCIL
CITY OF MASSILLON, OHIO
GLENN E. GAMBER, PRESIDENT

COUNCIL CHAMBERS

passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 41 - 2008

BY: ENVIRONMENTAL COMMITTEE

TITLE: AN ORDINANCE authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to advertise for and receive sealed bids, and enter into a contract, upon award and approval of the Board of Control, with the lowest and best bidder, for the purchase of one waste packer truck for the City of Massillon Solid Waste Department, and declaring an emergency.

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

Section 1:

The Council of the City of Massillon, Ohio, hereby determines it to be necessary in the public health, safety and welfare to advertise for and receive sealed bids, according to law, and to enter into a contract, upon award and approval of the Board of Control, with the lowest and best bidder, for the purchase of one packer truck for the City of Massillon Solid Waste Department.

Section 2:

The Director of Public Service and Safety of the City of Massillon, Ohio, is hereby authorized and directed to prepare plans and specifications and to advertise for and to receive sealed bids according to law, and enter into contract upon award and approval by the Board of Control, with the lowest and best bidder for the purchase of one packer waste truck for the City of Massillon Solid Waste Department.

Section 3:

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

DATE: MARCH 3, 2008

CLERK: MARY BETH BAILEY

MASSILLON CITY COUNCIL
CITY OF MASSILLON, OHIO
GLENN GAMBER, PRESIDENT

COUNCIL CHAMBERS

passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 42 - 2008

BY: FINANCE COMMITTEE

TITLE: AN ORDINANCE making certain appropriations from the unappropriated balance of the Economic Development Fund, General Fund, Unclaimed Money Fund and the Muni Motor Vehicle License Plate Fund, for the year ending December 31, 2008, 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 Economic Development Fund, for the year ending December 31, 2008, the following:

\$50,000.00 to an account entitled "Services/Contracts" 1237.845.2392

Section 2:

There be and hereby is appropriated from the unappropriated balance of the General Fund, for the year ending December 31, 2008, the following:

\$1,050.00 to an account entitled "Supplies/Materials/Postage" 1100.325.2410

Section 3:

There be and hereby is appropriated from the unappropriated balance of the Unclaimed Money Fund, for the year ending December 31, 2008, the following:

\$1,000.00 to an account entitled "Unclaimed Money" 3108.905.2390

Section 4:

There be and hereby is appropriated from the unappropriated balance of the Muni Motor Vehicle License Plate Fund, for the year ending December 31, 2008, the following:

\$700.00 to an account entitled "Storm Sewer Repairs" 1206.425.2510

DATE: MARCH 3, 2008

CLERK: MARY BETH BAILEY

MASSILLON CITY COUNCIL
CITY OF MASSILLON, OHIO
GLENN E. GAMBER, PRESIDENT

COUNCIL CHAMBERS

passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 43 - 2008

BY: FINANCE COMMITTEE

TITLE: AN ORDINANCE authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to advertise for and receive sealed bids, and enter into contract upon the award and approval of the Board of Control, with the lowest and best bidder for various items needed for the use in various departments of the city, and declaring an emergency.

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

Section 1:

The Council of the City of Massillon, Ohio, hereby determines it to be necessary in the public health, safety and welfare to advertise for and receive sealed bids and enter into a contract, upon the award and approval of the Board of Control, with the lowest and best bidder for various items needed for the use in various departments of the city, said items listed on Exhibit "A" attached hereto.

Section 2:

The Director of Public Service and Safety of the City of Massillon, Ohio, is hereby authorized to advertise for and receive sealed bids, and enter into contract with the lowest and best bidder for various items needed for the use in various departments of the city, said items listed on Exhibit "A" attached hereto.

Section 3:

This Ordinance is declared to be an emergency measure for the reason that the items listed on Exhibit "A" attached hereto are needed for the efficient operation of the city, and due to the time involved in advertising and bid process it must be commenced immediately so that the items are available for use as soon as possible as the various items are needed for the efficient operation of the various departments. 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.

BID FORM

City Garage
401 Walnut Road SW
Massillon, Ohio 44647
330-833-5746

STREET DEPARTMENT

1. Asphalt of H.P.M. cold mix (loaded on City trucks) \$ _____ ton
2. 402, 404 fine top asphalt hot mix under 200 tons daily 402 \$ _____ ton
(loaded on City trucks) 404 \$ _____ ton
3. 402, 404 fine top asphalt hot mix over 200 tons daily 402 \$ _____ ton
(loaded on City trucks) 404 \$ _____ ton
4. 412 sand and fine top asphalt hot mix (loaded on City trucks) \$ _____ ton
5. 301 base asphalt hot mix (loaded on City trucks) \$ _____ ton
6. 10,000 pounds, more or less, as the City may require of crack sealant for City streets:
 - a) RS-221, sealant meets ODOT 705.04 specifications (a) \$ _____ lb.
 - b) RS-201 sealant (b) \$ _____ lb.
 - c) Polyfiber sealant (c) \$ _____ lb.
7. SS-921 cold mix asphalt (loaded on City trucks) \$ _____ ton
8. 702.04 MS-2 (tack coat No. 407) furnished and applied at one tenth (1/10th) gallon per sq. yard \$ _____ gal.

MISCELLANEOUS

9. 200 tons, more or less, No. 4 gravel and limestone gravel \$ _____ ton
(Loaded on City trucks) limestone \$ _____ ton
10. 500 tons, more or less, No. 57 gravel and limestone gravel \$ _____ ton
(Loaded on City truck) limestone \$ _____ ton

11. 2,000 tons, more or less, as the City may require, of Grit (hailed by City trucks) \$ _____ ton

WASTEWATER TREATMENT PLANT

12. (a) 3,000 gallons 50% Caustic Soda; Tech Grade, delivered
Liquid delivered. 3,000 minimum gallons \$ _____ gal.
- (b) 3,000 gallons Sodium Hypochlorite, delivered
Liquid delivered. 3,000 minimum gallons \$ _____ gal.
Same as above
- © 2,900 pounds Tote 75% Phosphoric Acid, delivered \$ _____ lb.
Liquid delivered 2,900 lb. Tote minimum

Delivery of any of these products must be received at the facility within 72 hours of placement of the order.

Days & hours for delivery are Monday-Friday, 7:00 a.m. to 2:00 p.m.

Address of delivery: 100 Bid Indian Dr. SW, Massillon, OH 44646

Contracts are effective for a one-year period.

PARKS AND RECREATION DEPARTMENTS

13. Mulch - 100 yards, more or less, brown bark mulch - City will pick up \$ _____ yd.
14. Play Ground Surface - 100 yards, more or less, double ground oak, delivered
Delivery to Reservoir Park on Reservoir Drive NE, Massillon, Ohio. \$ _____ yd.

DATE: MARCH 3, 2008

CLERK: MARY BETH BAILEY

MASSILLON CITY COUNCIL
CITY OF MASSILLON, OHIO
GLENN E. GAMBER, PRESIDENT

Passed
LEGISLATIVE DEPARTMENT

COUNCIL CHAMBERS

ORDINANCE NO. 44 - 2008

BY: FINANCE COMMITTEE

TITLE: AN ORDINANCE authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to enter into contract with Waikem Auto Group for the purchase of two (2) 2008 Ford Explorers for the Wastewater Treatment Department, and declaring an emergency.

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

Section 1:

The Council of the City of Massillon, Ohio, hereby determines it to be necessary in the public health, safety and welfare to enter into contract with Waikem Auto Group for the purchase of two (2) 2008 Ford Explorers for the Wastewater Treatment Department.

Section 2:

The Director of Public Service and Safety of the City of Massillon, Ohio, is hereby authorized and directed to enter into contract with Waikem Auto Group for the purchase of two (2) 2008 Ford Explorers for the Wastewater Treatment Department. The total cost of the two (2) 2008 Ford Explorers will be Forty-Three Thousand Eight Hundred Eighty-Five Dollars (\$43,885.00).

Section 3:

This Ordinance is hereby declared to be an emergency measure necessary for the preservation of the health, safety and welfare of the community and for the additional reason that it is necessary that contracts are signed so that the ford trucks can be purchase for the Wastewater Treatment Department. Provided it receives the affirmative vote of two-thirds of the elected members to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

2nd page is the signature page