

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

DATE: MONDAY, NOVEMBER 16, 2009
PLACE: COUNCIL CHAMBERS
TIME: 7:30 P.M.

THERE ARE NO PUBLIC HEARINGS TONIGHT

1. ROLL CALL
2. INVOCATION BY COUNCILWOMAN KATHY CATAZARO-PERRY
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. 135 – 2009

BY: COMMUNITY DEVELOPMENT COMMITTEE

1ST READING

AN ORDINANCE declaring the improvement of certain real property located in the City of Massillon, Ohio to be a public purpose; declaring such property to be exempt from real property taxation; designating the improvements to be made that will directly benefit or serve such real property; requiring the owner of such real property to make annual service payments in lieu of taxes; establishing a municipal public improvement tax increment equivalent fund for the deposit of service payments; and declaring an emergency.

ORDINANCE NO. 136 – 2009

BY: COMMUNITY DEVELOPMENT COMMITTEE

1ST READING

AN ORDINANCE declaring the improvement of certain real property located in the City of Massillon, Ohio to be a public purpose; declaring such property to be exempt from real property taxation; designating the improvements to be made that will directly benefit or serve such real property; requiring the owner of such real property to make annual service payments in lieu of taxes; establishing a municipal public improvement tax increment equivalent fund for the deposit of service payments; and declaring an emergency.

ORDINANCE NO. 137 – 2009

BY: COMMUNITY DEVELOPMENT COMMITTEE

1ST READING

AN ORDINANCE declaring the improvement of certain real property located in the City of Massillon, Ohio to be a public purpose; declaring such property to be exempt from real property taxation; designating the improvements to be made that will directly benefit or serve such real property; requiring the owner of such real property to make annual service payments in lieu of taxes; establishing a municipal public improvement tax increment equivalent fund for the deposit of service payments; and declaring an emergency.

ORDINANCE NO. 138 – 2009

1ST READING

AN ORDINANCE enacting a new CHAPTER 1330 "REGISTRATION OF NON-OWNER OCCUPIED OR MULTIPLE UNITS", of the Codified Ordinances of the City of Massillon, and declaring an emergency.

BY: HEALTH, WELFARE & BLGD REGULATIONS

ORDINANCE NO. 139 – 2009

1ST READING

AN ORDINANCE amending CHAPTER 1125 "ADMINISTRATION AND ENFORCEMENT" of the Codified Ordinances of the City of Massillon, by repealing existing Sections 1125.05 "Certificate of Occupancy", 1125.06 "Final Inspection" and 1125.07 "Fees", and enacting new Sections 1125.05 "Certificate of Occupancy", 1125.06 "Final Inspection" and 1125.07 "Fees", and declaring an emergency.

BY: HEALTH, WELFARE & BLGD REGULATIONS

ORDINANCE NO. 140 – 2009

1ST READING

AN ORDINANCE enacting a new CHAPTER 1331 "REGISTRATION OF VACANT BUILDINGS", of the Codified Ordinances of the City of Massillon, and declaring an emergency.

BY: HEALTH, WELFARE & BLGD REGULATIONS

ORDINANCE NO. 141 – 2009

PASS 9-0

AN ORDINANCE making certain appropriations from the unappropriated balance of the Community Partnership Fund, General Fund and the Summer Concert Fund, for the year ending December 31, 2009, and declaring an emergency.

BY: FINANCE COMMITTEE

ORDINANCE NO. 142 – 2009

PASS 9-0

AN ORDINANCE making certain transfers in the 2009 appropriation from within the General Fund and the Street Fund, for the year ending December 31, 2009, and declaring an emergency.

BY: FINANCE COMMITTEE

RESOLUTION NO. 20 – 2009

PASS 9-0

A RESOLUTION acknowledging the authorization establishment of a government aggregation program with opt-out provisions pursuant to Section 4928 of the Ohio Revised Code (the "Aggregation Program") for the residents, businesses and other electric consumers in the City of Massillon.

BY: PUBLIC UTILITIES COMMITTEE

RESOLUTION NO. 21 – 2009

PASS 9-0

A RESOLUTION renaming the Tremont Viaduct to the Vietnam Veterans Memorial Viaduct to honor the servicemen who lost their lives during the Vietnam War.

BY: STREETS, HIGHWAYS, TRAFFIC & SAFETY

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 OCTOBER 2009
- B). TREASURER SUBMITS MONTHLY REPORT FOR OCTOBER 2009
- C). FIRE CHIEF SUBMITS MONTHLY REPORT FOR OCTOBER 2009
- D). INCOME TAX DEPARTMENT SUBMITS MONTHLY REPORT FOR OCTOBER 2009
- E). WASTE DEPARTMENT SUBMITS MONTHLY REPORT FOR OCTOBER 2009
- F). MAYOR'S APPOINTMENT OF TERESA EMMERLING TO AFFINITY MEDICAL CENTER BOARD OF TRUSTEES

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. 134 - 2009

BY: FINANCE COMMITTEE

PASS 8 - 1 (CATAZARO - PROBY)

AN ORDINANCE making certain appropriations from the unappropriated balance of the General Fund, Wastewater Treatment Fund, Massillon Museum Fund, State Patrol Transfer Fund, Home Health Fund, OPWC Fund, Muni Motor Vehicle Fund and the Marketplace Infrastructure Fund, for the year ending December 31, 2009, 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

DATED: NOVEMBER 16, 2009

CLERK: MARY BETH BAILEY

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

COUNCIL CHAMBERS

1st reading
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 135 -2009
2nd reading 12/17
passed 12/21

BY: THE COMMUNITY DEVELOPMENT COMMITTEE

AN ORDINANCE DECLARING THE IMPROVEMENT OF CERTAIN REAL PROPERTY LOCATED IN THE CITY OF MASSILLON, OHIO TO BE A PUBLIC PURPOSE; DECLARING SUCH PROPERTY TO BE EXEMPT FROM REAL PROPERTY TAXATION; DESIGNATING THE IMPROVEMENTS TO BE MADE THAT WILL DIRECTLY BENEFIT OR SERVE SUCH REAL PROPERTY; REQUIRING THE OWNER OF SUCH REAL PROPERTY TO MAKE ANNUAL SERVICE PAYMENTS IN LIEU OF TAXES; ESTABLISHING A MUNICIPAL PUBLIC IMPROVEMENT TAX INCREMENT EQUIVALENT FUND FOR THE DEPOSIT OF SERVICE PAYMENTS; AND DECLARING AN EMERGENCY.

WHEREAS, pursuant to Ohio Revised Code Sections 5709.40(B), 5709.42 and 5709.43 (the "TIF Statutes") the City of Massillon (the "City") may utilize municipal tax increment financing to declare the improvement to certain parcels of real property located within the municipal corporation to be a public purpose and exempt from taxation, require the owner of each parcel to make service payments in lieu of taxes, provide for the distribution of the applicable portion of such service payments to the City, local or exempted village school district, establish a municipal public improvement tax increment equivalent fund for the deposit of the remainder of such service payments and specify public infrastructure improvements made, to be made or in the process of being made that directly benefit, or that once made will directly benefit, those parcels for which improvements are declared to be a public purpose; and

WHEREAS, the parcels of real property identified and depicted in Exhibit A attached hereto are located in the City (collectively, the "Property"), and this City Council of the City (the "Council") has determined to declare the Improvement (as defined in Section 1 of this Ordinance) to the Property to be a public purpose; and

WHEREAS, this Council has determined that it is necessary and appropriate and in the best interest of the City to exempt from taxation one hundred percent (100%) of the Improvement to the Property as permitted and provided in Section 5709.40(B) of the Ohio Revised Code for up to thirty (30) years (the "TIF Exemption") and to simultaneously direct and require the current and future owner(s) of

parcels (each such owner individually, an "Owner," and collectively, the "Owners") comprising the Property to make annual Service Payments (as defined in Section 2 of this Ordinance) with respect to the Property in lieu of real property tax payments, in the same amount as they would have made real property tax payments except for the exemption provided by this Ordinance; provided that the TIF Exemption and the obligation to make Service Payments is subject and subordinate to any tax exemptions applicable to the Improvement approved by the City pursuant to Sections 3735.65 through 3735.70 or 5709.61 through 5709.69 of the Ohio Revised Code; and

WHEREAS, the City has determined that a portion of the Service Payments shall be paid directly to the Massillon City School District (the "School District") in an amount equal to the real property taxes that the School District would have been paid if the Improvement to the Property located in the School District had not been exempt from taxation pursuant to this Ordinance; and

WHEREAS, pursuant to Section 5709.43(A) of the Ohio Revised Code, this Council has determined to establish a municipal public improvement tax increment equivalent fund for the Property, in which there shall be deposited the remaining Service Payments distributed to the City; and

WHEREAS, this Council has determined to provide for the construction of the public infrastructure improvements described in Exhibit B attached hereto (the "Public Infrastructure Improvements"), which, once made, will directly benefit the Property; and

WHEREAS, notice of this proposed Ordinance has been delivered to the Boards of Education of the School District and the Stark County Area Vocational School District in accordance with and within the time periods prescribed in Sections 5709.40 and 5709.83 of the Ohio Revised Code;

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

SECTION 1. Authorization of TIF Exemption. Pursuant to and in accordance with the provisions of Ohio Revised Code Section 5709.40(B), this Council hereby finds and determines that one hundred percent (100%) of the increase in assessed value of the Property subsequent to the effective date of this Ordinance (which increase in assessed value is hereinafter referred to as the "Improvement," as defined in Section 5709.40(A) of the Ohio Revised Code) is hereby declared to be a public purpose, and shall be exempt from taxation for a period commencing with the first tax year that begins after the effective date of this Ordinance and in which an Improvement to the Property first appears on the tax list and duplicate of real and public utility property and ending on the earlier of (a) thirty (30) years after such commencement, or (b) the date on which the City can no longer require Service Payments (as defined in Section 2 herein) in lieu of taxes, all in accordance with the requirements of the TIF Statutes.

SECTION 2. Service Payments and Property Tax Rollback Payments. Pursuant to Section 5709.42 of the Ohio Revised Code, the City hereby directs and requires the Owners of the Property to make annual Service Payments (as defined herein) in lieu of taxes with respect to the Improvement allocable thereto to the Stark County Treasurer on or before the final dates for payment of real property taxes. Each service payment in lieu of taxes, including any penalties and interest at the then current rate established under Sections 323.121(B)(1) and 5703.47 of the Ohio Revised Code (collectively, the "Service Payments") shall be charged and collected in the same manner and in the same amount as the real property taxes that would have been charged and payable against the Improvement if it were not exempt from taxation pursuant to Section 1 of this Ordinance. The Service Payments, and any other payments with respect to the Improvement that are received by the Stark County Treasurer in connection

with the reduction required by Sections 319.302, 321.24, 323.152 and 323.156 of the Ohio Revised Code, as the same may be amended from time to time, or any successor provisions thereto as the same may be amended from time to time (the "Property Tax Rollback Payments"), shall be allocated and distributed in accordance with Section 4 of this Ordinance. This Council further hereby authorizes and directs appropriate officers of the City to make such arrangements as are necessary and proper for collection of the Service Payments from the Owners, including the preparation and filing of any necessary exemption applications.

If determined to be necessary and appropriate, the Mayor of the City (the "Mayor") and the City Auditor of the City (the "City Auditor"), or either of them individually, may execute on behalf of the City one or more Service Payment Agreements between the City and Owners providing for the payment and collection of the Service Payments, which agreement shall be in such form as is acceptable to such officials, approved by the Law Director of the City, and not substantially inconsistent with the terms of this Ordinance.

SECTION 3. Creation of TIF Fund. This Council hereby establishes pursuant to and in accordance with the provisions of Ohio Revised Code Section 5709.43, a Municipal Public Improvement Tax Increment Equivalent Fund (the "Shearer's Food TIF Fund"). The TIF Fund shall be maintained in the custody of the City and shall receive all distributions to be made to the City pursuant to Section 4 of this Ordinance. Those Service Payments and Property Tax Rollback Payments received by the City with respect to the Improvement of the Property and so deposited pursuant to Section 5709.42 of the Ohio Revised Code shall be used solely for the purposes authorized in the TIF Statutes or this Ordinance. The TIF Fund shall remain in existence so long as such Service Payments and Property Tax Rollback Payments are collected and used for the aforesaid purposes, after which time the TIF Fund shall be dissolved and any surplus funds remaining therein transferred to the City's General Fund, all in accordance with Section 5709.43 of the Ohio Revised Code.

SECTION 4. Distribution of Funds. Pursuant to the TIF Statutes, the Stark County Treasurer is requested to distribute the Service Payments and the Property Tax Rollback Payments as follows:

- (i) to the School District, an amount equal to the amounts that the School District would otherwise have received as real property tax payments (including the applicable portion of any Property Tax Rollback Payments) derived from the Improvement to the Property located within the School District's boundaries if the Improvement had not been exempt from taxation pursuant to this Ordinance; and
- (ii) to the City, all remaining amounts for further deposit into the TIF Fund for payment of costs of the Public Infrastructure Improvements, including debt service on any securities issued to finance those costs.

SECTION 5. Application for Real Property Tax Exemption and Remission. This Council further hereby authorizes the Mayor or the City Auditor, or other appropriate officers of the City, to sign and execute all documents and make such arrangements as are necessary and proper for collection of said Service Payments from the Owners of Property, which are to be deposited into the TIF Fund.

SECTION 6. Further Authorizations. This Council further hereby authorizes and directs the Mayor and the City Auditor, or other appropriate officers of the City, to prepare and sign all agreements, and any amendments thereto such that the character of those changes is not substantially adverse to the City,

which shall be established conclusively by their signatures thereon, and to prepare and sign all instruments and to take all other actions as may be necessary and appropriate to implement this Ordinance.

SECTION 7. Filings with Ohio Department of Development. Pursuant to Ohio Revised Code Section 5709.40(I), the Clerk of Council is hereby directed to deliver a copy of this Ordinance to the Director of Development of the Department of Development of the State of Ohio (the "Director of Development") within fifteen (15) days after its adoption. Further, on or before March 31 of each year that the TIF Exemption set forth in Section 1 hereof remains in effect, the City Auditor or other authorized officer of the City shall prepare and submit to the Director of Development the status report required under Ohio Revised Code Section 5709.40(I).

SECTION 8. Tax Incentive Review Council. The City hereby creates the City of Massillon Tax Incentive Review Council with the membership of that Council constituted in accordance with Ohio Revised Code Section 5709.85. That Council shall review annually all exemptions from taxation resulting from the declarations set forth in this Ordinance and any other such matters as may properly come before that Council, all in accordance with Ohio Revised Code Section 5709.85.

SECTION 9. Open Meetings. It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were passed in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Ohio Revised Code Section 121.22.

Adopted in Council on this ____th day of _____, 2009.

Effective this ____ day of _____, 2009.

Attest:

Clerk, MARY BETH BAILEY

President of Council, GLENN E. GAMBER

Approved:

Mayor, FRANCIS H. CICCHINELLI, JR.

CERTIFICATE

The undersigned Clerk hereby certifies that the foregoing is a true copy of Ordinance No. _____ -
2009 duly adopted by the City Council of the City of Massillon, Ohio on _____, 2009.

Clerk
City of Massillon, Ohio

EXHIBIT A

The Property

Property Owner: Shearer's Food Inc

Location: Millenium Blvd SE

Parcel Nos.: 07-01739

EXHIBIT B

Description of Public Infrastructure Improvements

The Public Infrastructure Improvements include permanent improvements within the definition of "costs of permanent improvements" as defined in Ohio Revised Code Section 133.15(B), including, but not limited to:

(i) Street improvements and other public infrastructure improvements to Millennium Boulevard SE, Navarre Road SE, and State Route 21, including street repaving and reconstruction, sewer and drainage, bridge maintenance and replacement, rail crossings, and traffic signal maintenance and replacement;

(ii) The costs of financing such Public Infrastructure Improvements, which financing costs specifically include the debt service charges on securities issued to finance the Public Infrastructure Improvements; and

(iii) Legal, consulting, engineering, and other eligible costs related thereto.

All of the Public Infrastructure Improvements described above are hereby determined to be "public infrastructure improvements" (as defined in Ohio Revised Code Section 5709.40(A)(7)) and will directly benefit the real property described in Exhibit A.

RECEIPT OF THE DIRECTOR OF DEVELOPMENT FOR THE STATE OF OHIO
FOR LEGISLATION DECLARING CERTAIN IMPROVEMENTS TO REAL PROPERTY
TO BE EXEMPT FROM REAL PROPERTY TAXATION PURSUANT TO
OHIO REVISED CODE SECTION 5709.40

I, Lisa Patt-McDaniel, the Director of Development of the Department of Development of the State of Ohio, hereby certify that a certified copy of Ordinance No. ____-2009, which was duly adopted by the City Council of the City of Massillon, Ohio (the "City") on _____, 2009 and which declared the improvement of certain real property located within the City to be a public purpose and declaring a portion of such property to be exempt from real property taxation pursuant to Ohio Revised Code Section 5709.40, was filed in this office on _____, 2009.

WITNESS my hand and official seal at Columbus, Ohio on _____, 2009.

Director of Development
Department of Development
State of Ohio

DATED: NOVEMBER 16, 2009

CLERK: MARY BETH BAILEY

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

COUNCIL CHAMBERS

1st reading
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 136-2009

BY: THE COMMUNITY DEVELOPMENT COMMITTEE

2nd reading 12/7
passed 12/1

AN ORDINANCE DECLARING THE IMPROVEMENT OF CERTAIN REAL PROPERTY LOCATED IN THE CITY OF MASSILLON, OHIO TO BE A PUBLIC PURPOSE; DECLARING SUCH PROPERTY TO BE EXEMPT FROM REAL PROPERTY TAXATION; DESIGNATING THE IMPROVEMENTS TO BE MADE THAT WILL DIRECTLY BENEFIT OR SERVE SUCH REAL PROPERTY; REQUIRING THE OWNER OF SUCH REAL PROPERTY TO MAKE ANNUAL SERVICE PAYMENTS IN LIEU OF TAXES; ESTABLISHING A MUNICIPAL PUBLIC IMPROVEMENT TAX INCREMENT EQUIVALENT FUND FOR THE DEPOSIT OF SERVICE PAYMENTS; AND DECLARING AN EMERGENCY.

WHEREAS, pursuant to Ohio Revised Code Sections 5709.40(B), 5709.42 and 5709.43 (the "TIF Statutes") the City of Massillon (the "City") may utilize municipal tax increment financing to declare the improvement to certain parcels of real property located within the municipal corporation to be a public purpose and exempt from taxation, require the owner of each parcel to make service payments in lieu of taxes, provide for the distribution of the applicable portion of such service payments to the City, local or exempted village school district, establish a municipal public improvement tax increment equivalent fund for the deposit of the remainder of such service payments and specify public infrastructure improvements made, to be made or in the process of being made that directly benefit, or that once made will directly benefit, those parcels for which improvements are declared to be a public purpose; and

WHEREAS, the parcels of real property identified and depicted in Exhibit A attached hereto are located in the City (collectively, the "Property"), and this City Council of the City (the "Council") has determined to declare the Improvement (as defined in Section 1 of this Ordinance) to the Property to be a public purpose; and

WHEREAS, this Council has determined that it is necessary and appropriate and in the best interest of the City to exempt from taxation one hundred percent (100%) of the Improvement to the Property as permitted and provided in Section 5709.40(B) of the Ohio Revised Code for up to thirty (30) years (the "TIF Exemption") and to simultaneously direct and require the current and future owner(s) of

parcels (each such owner individually, an "Owner," and collectively, the "Owners") comprising the Property to make annual Service Payments (as defined in Section 2 of this Ordinance) with respect to the Property in lieu of real property tax payments, in the same amount as they would have made real property tax payments except for the exemption provided by this Ordinance; provided that the TIF Exemption and the obligation to make Service Payments is subject and subordinate to any tax exemptions applicable to the Improvement approved by the City pursuant to Sections 3735.65 through 3735.70 or 5709.61 through 5709.69 of the Ohio Revised Code; and

WHEREAS, the City has determined that a portion of the Service Payments shall be paid directly to the Massillon City School District (the "School District") in an amount equal to the real property taxes that the School District would have been paid if the Improvement to the Property located in the School District had not been exempt from taxation pursuant to this Ordinance; and

WHEREAS, pursuant to Section 5709.43(A) of the Ohio Revised Code, this Council has determined to establish a municipal public improvement tax increment equivalent fund for the Property, in which there shall be deposited the remaining Service Payments distributed to the City; and

WHEREAS, this Council has determined to provide for the construction of the public infrastructure improvements described in Exhibit B attached hereto (the "Public Infrastructure Improvements"), which, once made, will directly benefit the Property; and

WHEREAS, notice of this proposed Ordinance has been delivered to the Boards of Education of the School District and the Stark County Area Vocational School District in accordance with and within the time periods prescribed in Sections 5709.40 and 5709.83 of the Ohio Revised Code;

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

SECTION 1. Authorization of TIF Exemption. Pursuant to and in accordance with the provisions of Ohio Revised Code Section 5709.40(B), this Council hereby finds and determines that one hundred percent (100%) of the increase in assessed value of the Property subsequent to the effective date of this Ordinance (which increase in assessed value is hereinafter referred to as the "Improvement," as defined in Section 5709.40(A) of the Ohio Revised Code) is hereby declared to be a public purpose, and shall be exempt from taxation for a period commencing with the first tax year that begins after the effective date of this Ordinance and in which an Improvement to the Property first appears on the tax list and duplicate of real and public utility property and ending on the earlier of (a) thirty (30) years after such commencement, or (b) the date on which the City can no longer require Service Payments (as defined in Section 2 herein) in lieu of taxes, all in accordance with the requirements of the TIF Statutes.

SECTION 2. Service Payments and Property Tax Rollback Payments. Pursuant to Section 5709.42 of the Ohio Revised Code, the City hereby directs and requires the Owners of the Property to make annual Service Payments (as defined herein) in lieu of taxes with respect to the Improvement allocable thereto to the Stark County Treasurer on or before the final dates for payment of real property taxes. Each service payment in lieu of taxes, including any penalties and interest at the then current rate established under Sections 323.121(B)(1) and 5703.47 of the Ohio Revised Code (collectively, the "Service Payments") shall be charged and collected in the same manner and in the same amount as the real property taxes that would have been charged and payable against the Improvement if it were not exempt from taxation pursuant to Section 1 of this Ordinance. The Service Payments, and any other payments with respect to the Improvement that are received by the Stark County Treasurer in connection

with the reduction required by Sections 319.302, 321.24, 323.152 and 323.156 of the Ohio Revised Code, as the same may be amended from time to time, or any successor provisions thereto as the same may be amended from time to time (the "Property Tax Rollback Payments"), shall be allocated and distributed in accordance with Section 4 of this Ordinance. This Council further hereby authorizes and directs appropriate officers of the City to make such arrangements as are necessary and proper for collection of the Service Payments from the Owners, including the preparation and filing of any necessary exemption applications.

If determined to be necessary and appropriate, the Mayor of the City (the "Mayor") and the City Auditor of the City (the "City Auditor"), or either of them individually, may execute on behalf of the City one or more Service Payment Agreements between the City and Owners providing for the payment and collection of the Service Payments, which agreement shall be in such form as is acceptable to such officials, approved by the Law Director of the City, and not substantially inconsistent with the terms of this Ordinance.

SECTION 3. Creation of TIF Fund. This Council hereby establishes pursuant to and in accordance with the provisions of Ohio Revised Code Section 5709.43, a Municipal Public Improvement Tax Increment Equivalent Fund (the "Massillon Area Credit Union TIF Fund"). The TIF Fund shall be maintained in the custody of the City and shall receive all distributions to be made to the City pursuant to Section 4 of this Ordinance. Those Service Payments and Property Tax Rollback Payments received by the City with respect to the Improvement of the Property and so deposited pursuant to Section 5709.42 of the Ohio Revised Code shall be used solely for the purposes authorized in the TIF Statutes or this Ordinance. The TIF Fund shall remain in existence so long as such Service Payments and Property Tax Rollback Payments are collected and used for the aforesaid purposes, after which time the TIF Fund shall be dissolved and any surplus funds remaining therein transferred to the City's General Fund, all in accordance with Section 5709.43 of the Ohio Revised Code.

SECTION 4. Distribution of Funds. Pursuant to the TIF Statutes, the Stark County Treasurer is requested to distribute the Service Payments and the Property Tax Rollback Payments as follows:

- (i) to the School District, an amount equal to the amounts that the School District would otherwise have received as real property tax payments (including the applicable portion of any Property Tax Rollback Payments) derived from the Improvement to the Property located within the School District's boundaries if the Improvement had not been exempt from taxation pursuant to this Ordinance; and
- (ii) to the City, all remaining amounts for further deposit into the TIF Fund for payment of costs of the Public Infrastructure Improvements, including debt service on any securities issued to finance those costs.

SECTION 5. Application for Real Property Tax Exemption and Remission. This Council further hereby authorizes the Mayor or the City Auditor, or other appropriate officers of the City, to sign and execute all documents and make such arrangements as are necessary and proper for collection of said Service Payments from the Owners of Property, which are to be deposited into the TIF Fund.

SECTION 6. Further Authorizations. This Council further hereby authorizes and directs the Mayor and the City Auditor, or other appropriate officers of the City, to prepare and sign all agreements, and any amendments thereto such that the character of those changes is not substantially adverse to the City,

which shall be established conclusively by their signatures thereon, and to prepare and sign all instruments and to take all other actions as may be necessary and appropriate to implement this Ordinance.

SECTION 7. Filings with Ohio Department of Development. Pursuant to Ohio Revised Code Section 5709.40(I), the Clerk of Council is hereby directed to deliver a copy of this Ordinance to the Director of Development of the Department of Development of the State of Ohio (the "Director of Development") within fifteen (15) days after its adoption. Further, on or before March 31 of each year that the TIF Exemption set forth in Section 1 hereof remains in effect, the City Auditor or other authorized officer of the City shall prepare and submit to the Director of Development the status report required under Ohio Revised Code Section 5709.40(I).

SECTION 8. Tax Incentive Review Council. The City hereby creates the City of Massillon Tax Incentive Review Council with the membership of that Council constituted in accordance with Ohio Revised Code Section 5709.85. That Council shall review annually all exemptions from taxation resulting from the declarations set forth in this Ordinance and any other such matters as may properly come before that Council, all in accordance with Ohio Revised Code Section 5709.85.

SECTION 9. Open Meetings. It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were passed in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Ohio Revised Code Section 121.22.

Adopted in Council on this ____th day of _____, 2009.

Effective this ____day of _____, 2009.

Attest:

Clerk, MARY BETH BAILEY

President of Council, GLENN E. GAMBER

Approved:

Mayor, FRANCIS H. CICCHINELLI, JR.

CERTIFICATE

The undersigned Clerk hereby certifies that the foregoing is a true copy of Ordinance No. ____ -
2009 duly adopted by the City Council of the City of Massillon, Ohio on _____, 2009.

Clerk
City of Massillon, Ohio

EXHIBIT A

The Property

Property Owner: Massillon Area Credit Union Inc.

Location: Erie Avenue SW

Parcel Nos.: 07-01741

EXHIBIT B

Description of Public Infrastructure Improvements

The Public Infrastructure Improvements include permanent improvements within the definition of "costs of permanent improvements" as defined in Ohio Revised Code Section 133.15(B), including, but not limited to:

(i) Street improvements to State Route 21 and Warmington Road, bridge maintenance and replacement on Warmington Road, and traffic signal maintenance and replacement to State Route 21 and Warmington Road;

(ii) The costs of financing such Public Infrastructure Improvements, which financing costs specifically include the debt service charges on securities issued to finance the Public Infrastructure Improvements; and

(iii) Legal, consulting, engineering, and other eligible costs related thereto.

All of the Public Infrastructure Improvements described above are hereby determined to be "public infrastructure improvements" (as defined in Ohio Revised Code Section 5709.40(A)(7)) and will directly benefit the real property described in Exhibit A.

RECEIPT OF THE DIRECTOR OF DEVELOPMENT FOR THE STATE OF OHIO
FOR LEGISLATION DECLARING CERTAIN IMPROVEMENTS TO REAL PROPERTY
TO BE EXEMPT FROM REAL PROPERTY TAXATION PURSUANT TO
OHIO REVISED CODE SECTION 5709.40

I, Lisa Patt-McDaniel, the Director of Development of the Department of Development of the State of Ohio, hereby certify that a certified copy of Ordinance No. ____-2009, which was duly adopted by the City Council of the City of Massillon, Ohio (the "City") on _____, 2009 and which declared the improvement of certain real property located within the City to be a public purpose and declaring a portion of such property to be exempt from real property taxation pursuant to Ohio Revised Code Section 5709.40, was filed in this office on _____, 2009.

WITNESS my hand and official seal at Columbus, Ohio on _____, 2009.

Director of Development
Department of Development
State of Ohio

DATED: NOVEMBER 16, 2009

CLERK: MARY BETH BAILEY

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

COUNCIL CHAMBERS

1st reading
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 137 -2009

BY: THE COMMUNITY DEVELOPMENT COMMITTEE

2nd reading 11/17
passed 12/1

AN ORDINANCE DECLARING THE IMPROVEMENT OF CERTAIN REAL PROPERTY LOCATED IN THE CITY OF MASSILLON, OHIO TO BE A PUBLIC PURPOSE; DECLARING SUCH PROPERTY TO BE EXEMPT FROM REAL PROPERTY TAXATION; DESIGNATING THE IMPROVEMENTS TO BE MADE THAT WILL DIRECTLY BENEFIT OR SERVE SUCH REAL PROPERTY; REQUIRING THE OWNER OF SUCH REAL PROPERTY TO MAKE ANNUAL SERVICE PAYMENTS IN LIEU OF TAXES; ESTABLISHING A MUNICIPAL PUBLIC IMPROVEMENT TAX INCREMENT EQUIVALENT FUND FOR THE DEPOSIT OF SERVICE PAYMENTS; AND DECLARING AN EMERGENCY.

WHEREAS, pursuant to Ohio Revised Code Sections 5709.40(B), 5709.42 and 5709.43 (the "TIF Statutes") the City of Massillon (the "City") may utilize municipal tax increment financing to declare the improvement to certain parcels of real property located within the municipal corporation to be a public purpose and exempt from taxation, require the owner of each parcel to make service payments in lieu of taxes, provide for the distribution of the applicable portion of such service payments to the City, local or exempted village school district, establish a municipal public improvement tax increment equivalent fund for the deposit of the remainder of such service payments and specify public infrastructure improvements made, to be made or in the process of being made that directly benefit, or that once made will directly benefit, those parcels for which improvements are declared to be a public purpose; and

WHEREAS, the parcels of real property identified and depicted in Exhibit A attached hereto are located in the City (collectively, the "Property"), and this City Council of the City (the "Council") has determined to declare the Improvement (as defined in Section 1 of this Ordinance) to the Property to be a public purpose; and

WHEREAS, this Council has determined that it is necessary and appropriate and in the best interest of the City to exempt from taxation one hundred percent (100%) of the Improvement to the Property as permitted and provided in Section 5709.40(B) of the Ohio Revised Code for up to thirty (30) years (the "TIF Exemption") and to simultaneously direct and require the current and future owner(s) of

Property to make annual Service Payments (as defined in Section 2 of this Ordinance) with respect to the Property in lieu of real property tax payments, in the same amount as they would have made real property tax payments except for the exemption provided by this Ordinance; provided that the TIF Exemption and the obligation to make Service Payments is subject and subordinate to any tax exemptions applicable to the Improvement approved by the City pursuant to Sections 3735.65 through 3735.70 or 5709.61 through 5709.69 of the Ohio Revised Code; and

WHEREAS, the City has determined that a portion of the Service Payments shall be paid directly to the Massillon City School District (the "School District") in an amount equal to the real property taxes that the School District would have been paid if the Improvement to the Property located in the School District had not been exempt from taxation pursuant to this Ordinance; and

WHEREAS, pursuant to Section 5709.43(A) of the Ohio Revised Code, this Council has determined to establish a municipal public improvement tax increment equivalent fund for the Property, in which there shall be deposited the remaining Service Payments distributed to the City; and

WHEREAS, this Council has determined to provide for the construction of the public infrastructure improvements described in Exhibit B attached hereto (the "Public Infrastructure Improvements"), which, once made, will directly benefit the Property; and

WHEREAS, notice of this proposed Ordinance has been delivered to the Boards of Education of the School District and the Stark County Area Vocational School District in accordance with and within the time periods prescribed in Sections 5709.40 and 5709.83 of the Ohio Revised Code;

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

SECTION 1. Authorization of TIF Exemption. Pursuant to and in accordance with the provisions of Ohio Revised Code Section 5709.40(B), this Council hereby finds and determines that one hundred percent (100%) of the increase in assessed value of the Property subsequent to the effective date of this Ordinance (which increase in assessed value is hereinafter referred to as the "Improvement," as defined in Section 5709.40(A) of the Ohio Revised Code) is hereby declared to be a public purpose, and shall be exempt from taxation for a period commencing with the first tax year that begins after the effective date of this Ordinance and in which an Improvement to the Property first appears on the tax list and duplicate of real and public utility property and ending on the earlier of (a) thirty (30) years after such commencement, or (b) the date on which the City can no longer require Service Payments (as defined in Section 2 herein) in lieu of taxes, all in accordance with the requirements of the TIF Statutes.

SECTION 2. Service Payments and Property Tax Rollback Payments. Pursuant to Section 5709.42 of the Ohio Revised Code, the City hereby directs and requires the Owners of the Property to make annual Service Payments (as defined herein) in lieu of taxes with respect to the Improvement allocable thereto to the Stark County Treasurer on or before the final dates for payment of real property taxes. Each service payment in lieu of taxes, including any penalties and interest at the then current rate established under Sections 323.121(B)(1) and 5703.47 of the Ohio Revised Code (collectively, the "Service Payments") shall be charged and collected in the same manner and in the same amount as the real property taxes that would have been charged and payable against the Improvement if it were not exempt from taxation pursuant to Section 1 of this Ordinance. The Service Payments, and any other payments with respect to the Improvement that are received by the Stark County Treasurer in connection with the reduction required by Sections 319.302, 321.24, 323.152 and 323.156 of the Ohio Revised Code,

as the same may be amended from time to time, or any successor provisions thereto as the same may be amended from time to time (the "Property Tax Rollback Payments"), shall be allocated and distributed in accordance with Section 4 of this Ordinance. This Council further hereby authorizes and directs appropriate officers of the City to make such arrangements as are necessary and proper for collection of the Service Payments from the Owners, including the preparation and filing of any necessary exemption applications.

If determined to be necessary and appropriate, the Mayor of the City (the "Mayor") and the City Auditor of the City (the "City Auditor"), or either of them individually, may execute on behalf of the City one or more Service Payment Agreements between the City and Owners providing for the payment and collection of the Service Payments, which agreement shall be in such form as is acceptable to such officials, approved by the Law Director of the City, and not substantially inconsistent with the terms of this Ordinance.

SECTION 3. Creation of TIF Fund. This Council hereby establishes pursuant to and in accordance with the provisions of Ohio Revised Code Section 5709.43, a Municipal Public Improvement Tax Increment Equivalent Fund (the "Shearer's Food TIF Fund"). The TIF Fund shall be maintained in the custody of the City and shall receive all distributions to be made to the City pursuant to Section 4 of this Ordinance. Those Service Payments and Property Tax Rollback Payments received by the City with respect to the Improvement of the Property and so deposited pursuant to Section 5709.42 of the Ohio Revised Code shall be used solely for the purposes authorized in the TIF Statutes or this Ordinance. The TIF Fund shall remain in existence so long as such Service Payments and Property Tax Rollback Payments are collected and used for the aforesaid purposes, after which time the TIF Fund shall be dissolved and any surplus funds remaining therein transferred to the City's General Fund, all in accordance with Section 5709.43 of the Ohio Revised Code.

SECTION 4. Distribution of Funds. Pursuant to the TIF Statutes, the Stark County Treasurer is requested to distribute the Service Payments and the Property Tax Rollback Payments as follows:

- (i) to the School District, an amount equal to the amounts that the School District would otherwise have received as real property tax payments (including the applicable portion of any Property Tax Rollback Payments) derived from the Improvement to the Property located within the School District's boundaries if the Improvement had not been exempt from taxation pursuant to this Ordinance; and
- (ii) to the City, all remaining amounts for further deposit into the TIF Fund for payment of costs of the Public Infrastructure Improvements, including debt service on any securities issued to finance those costs.

SECTION 5. Application for Real Property Tax Exemption and Remission. This Council further hereby authorizes the Mayor or the City Auditor, or other appropriate officers of the City, to sign and execute all documents and make such arrangements as are necessary and proper for collection of said Service Payments from the Owners of Property, which are to be deposited into the TIF Fund.

SECTION 6. Further Authorizations. This Council further hereby authorizes and directs the Mayor and the City Auditor, or other appropriate officers of the City, to prepare and sign all agreements, and any amendments thereto such that the character of those changes is not substantially adverse to the City.

which shall be established conclusively by their signatures thereon, and to prepare and sign all instruments and to take all other actions as may be necessary and appropriate to implement this Ordinance.

SECTION 7. Filings with Ohio Department of Development. Pursuant to Ohio Revised Code Section 5709.40(I), the Clerk of Council is hereby directed to deliver a copy of this Ordinance to the Director of Development of the Department of Development of the State of Ohio (the "Director of Development") within fifteen (15) days after its adoption. Further, on or before March 31 of each year that the TIF Exemption set forth in Section 1 hereof remains in effect, the City Auditor or other authorized officer of the City shall prepare and submit to the Director of Development the status report required under Ohio Revised Code Section 5709.40(I).

SECTION 8. Tax Incentive Review Council. The City hereby creates the City of Massillon Tax Incentive Review Council with the membership of that Council constituted in accordance with Ohio Revised Code Section 5709.85. That Council shall review annually all exemptions from taxation resulting from the declarations set forth in this Ordinance and any other such matters as may properly come before that Council, all in accordance with Ohio Revised Code Section 5709.85.

SECTION 9. Open Meetings. It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were passed in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Ohio Revised Code Section 121.22.

Adopted in Council on this ____th day of _____, 2009.

Effective this ____day of _____, 2009.

Attest:

Clerk, MARY BETH BAILEY

President of Council, GLENN E. GAMBER

Approved:

Mayor, FRANCIS H. CICCHINELLI, JR.

CERTIFICATE

The undersigned Clerk hereby certifies that the foregoing is a true copy of Ordinance No. ____ -
2009 duly adopted by the City Council of the City of Massillon, Ohio on _____, 2009.

Clerk
City of Massillon, Ohio

EXHIBIT A

The Property

Property Owner: Case Farms LLC

Location: Millenium RD

Parcel Nos.: 07-01710

EXHIBIT B

Description of Public Infrastructure Improvements

The Public Infrastructure Improvements include permanent improvements within the definition of "costs of permanent improvements" as defined in Ohio Revised Code Section 133.15(B), including, but not limited to:

(i) Street improvements and other public infrastructure improvements to Millennium Boulevard SE, Navarre Road SE, and State Route 21, including street repaving and reconstruction, sewer and drainage, bridge maintenance and replacement, rail crossings, and traffic signal maintenance and replacement;

(ii) The costs of financing such Public Infrastructure Improvements, which financing costs specifically include the debt service charges on securities issued to finance the Public Infrastructure Improvements; and

(iii) Legal, consulting, engineering, and other eligible costs related thereto.

All of the Public Infrastructure Improvements described above are hereby determined to be "public infrastructure improvements" (as defined in Ohio Revised Code Section 5709.40(A)(7)) and will directly benefit the real property described in Exhibit A.

RECEIPT OF THE DIRECTOR OF DEVELOPMENT FOR THE STATE OF OHIO
FOR LEGISLATION DECLARING CERTAIN IMPROVEMENTS TO REAL PROPERTY
TO BE EXEMPT FROM REAL PROPERTY TAXATION PURSUANT TO
OHIO REVISED CODE SECTION 5709.40

I, Lisa Patt-McDaniel, the Director of Development of the Department of Development of the State of Ohio, hereby certify that a certified copy of Ordinance No. ____-2009, which was duly adopted by the City Council of the City of Massillon, Ohio (the "City") on _____, 2009 and which declared the improvement of certain real property located within the City to be a public purpose and declaring a portion of such property to be exempt from real property taxation pursuant to Ohio Revised Code Section 5709.40, was filed in this office on _____, 2009.

WITNESS my hand and official seal at Columbus, Ohio on _____, 2009.

Director of Development
Department of Development
State of Ohio

CITY OF MASSILLON, OHIO

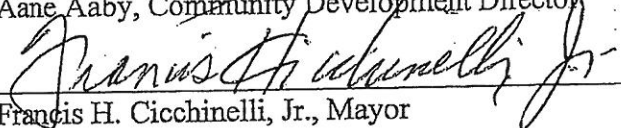
Request for Legislation to: Community Development Committee

Request for Legislation for: November 16, 2009 Council Meeting

Requested by: 

Aane Aaby, Community Development Director

11/4/09

Approved by: 

Francis H. Cicchinelli, Jr., Mayor

11-4-09

Subject: Establishment of Additional Non-School TIF Parcels

On August 17, City Council approved legislation establishing three Non-School TIF parcels. These TIF parcels were created to enable the City to capture additional revenues generated from development for needed capital improvements while still providing schools with all the tax revenues they would ordinarily receive.

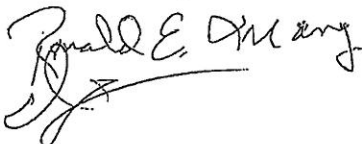
The City is now proposing to establish three additional Non-School TIF Parcels:

- Shearer's Foods, 4100 Millennium Blvd SE
- Case Farms, 4001 Millennium Blvd SE
- Massillon Area Credit Union, Erie Avenue South at Warmington Road

As previously explained, Tax Increment Financing (TIF) is an infrastructure tool authorized by the Ohio Revised Code. A TIF works by locking in the taxable worth of real property at the value it holds at the time authorizing legislation is approved. Payments derived from the increased assessed value of any improvement to this property beyond that amount are directed towards a separate fund to finance the construction of public infrastructure defined within the TIF legislation. Local governments may authorize TIFs to fund a variety of infrastructure needs, including streets and highways, water and sewer lines, public utilities, demolition, storm drainage, etc.

Under a Non-School TIF, school tax revenues would not be part of the TIF service payments received by the City. Instead, the authorizing legislation directs the County Treasurer to pay to the affected School District, from a portion of the TIF service payments, the amount of taxes that would have been payable to the school if the improvements had not been exempted from taxation by the TIF. A Non-School TIF preserves 100% of the school's funding, while still providing the City with a revenue source for public infrastructure improvements needed to serve these developments.

Given to Council: 11/4/09 Given to Auditor: 11/4/09



DATE: NOVEMBER 16, 2009

CLERK: MARY BETH BAILEY

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

COUNCIL CHAMBERS

1st Reading
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 138 - 2009

Filed July 14

BY: HEALTH, WELFARE & BUILDING REGULATIONS COMMITTEE

TITLE: AN ORDINANCE enacting a new CHAPTER 1330 "REGISTRATION OF NON-OWNER OCCUPIED OR MULTIPLE UNITS", of the Codified Ordinances of the City of Massillon, and declaring an emergency.

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

Section 1:

There be and is hereby enacted a new CHAPTER 1330 "REGISTRATION OF NON-OWNER OCCUPIED OR MULTIPLE UNITS", of the Codified Ordinances of the City of Massillon. Said newly created Chapter shall read as follows:

(SEE ATTACHED EXHIBIT "A")

Section 2:

It shall take effect and be in force from and after the earliest period allowed by law.

PASSED IN COUNCIL THIS _____ DAY OF _____, 2009

APPROVED: _____
MARY BETH BAILEY, CLERK OF COUNCIL

GLENN E. GAMBER, PRESIDENT

APPROVED: _____

FRANCIS H. CICCHINELLI, JR., MAYOR

The Building Department is requesting to create a new ordinance under Part Thirteen-Building Code.

We are requesting to create the following:

1330.01 LICENSE

The owner or agent for the owner of any non-owner occupied structure shall license and register properties with the Massillon Building Department, complete a registration application form prescribed by the Chief Building Official and pay all fees required as stated in Section 1330.02. The license shall be in effect for a period of three (3) years and can be transferred to a new owner.

1330.02 LICENSE SCHEDULE

All non-owner occupied properties

A.) Shall be registered yearly on or before January 31st, the fees are as follows:

- 1.) The initial application fee shall be \$30.00.
- 2.) In addition thereto the yearly license fee shall be \$60.00 for the first unit payable for a 3 year licensing period for a total of \$180.00 at the time of initial registration and any renewals thereafter. Each additional unit is \$5.00 per unit per year not to exceed \$1,000.00 per year.

Example 1: An owner with a four (4) unit apartment would pay: \$60.00 plus \$15.00=\$75.00 per year.

Example 2: An owner with a duplex and four (4) separate homes would pay: \$60.00 plus \$25.00=\$85.00 per year.

B.) Transfer Fee

A Certificate of Registration shall be transferred to a new owner by the payment of a transfer fee of \$30.00 and thereafter shall expire at the end of the original 3 year term.

C.) Penalty.

- 1.) Failure to make application within fifteen (15) days from the date of notice shall result in the assessment of a \$50.00 per property.
- 2.) Failure to register a non-owner occupied property will result in an assessment of a \$500.00 fee and sent to the Law Department for assessment upon the tax duplicate of said property.

DATE: NOVEMBER 16, 2009

CLERK: MARY BETH BAILEY

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

COUNCIL CHAMBERS

1st reading
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 139 - 2009

2nd read 11/17
Tabled budget 12/17

BY: HEALTH, WELFARE & BUILDING REGULATIONS COMMITTEE

TITLE: AN ORDINANCE amending CHAPTER 1125 "ADMINISTRATION AND ENFORCEMENT" of the Codified Ordinances of the City of Massillon, by repealing existing Sections 1125.05 "Certificate of Occupancy", 1125.06 "Final Inspection" and 1125.07 "Fees", and enacting new Sections 1125.05 "Certificate of Occupancy", 1125.06 "Final Inspection" and 1125.07 "Fees", and declaring an emergency.

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

Section 1:

The existing Sections 1125.05 "Certificate of Occupancy", 1125.06 "Final Inspection" and 1125.07 "Fees" of the Codified Ordinances of the City of Massillon are hereby repealed.

Section 2:

That there hereby is enacted new Sections 1125.05 "Certificate of Occupancy", 1125.06 "Final Inspection" and 1125.07 "Fees" of the Codified Ordinances of the City of Massillon. Said newly enacted Sections shall read as follows:

SEE EXHIBIT "A" ATTACHED HERETO

Section 3:

It shall take effect and be in force from and after the earliest period allowed by law.

PASSED IN COUNCIL THIS _____ DAY OF _____, 2009

ATTEST:
MARY BETH BAILEY, CLERK OF COUNCIL

GLENN E. GAMBER, PRESIDENT

APPROVED: _____

FRANCIS H. CICCHINELLI, JR., MAYOR

The Building Department is requesting to amend sections of Chapter 1125 Administration and Enforcement, which dates back to 1970.

We are requesting to amend the following:

CHAPTER 1125.05 CERTIFICATE OF OCCUPANCY

- B.) Delete City Engineer – Insert Chief Building Official
- E.) Change Building Inspector to Chief Building Official
- G.) Change wording to: Application for Certificates. Application for certificates of occupancy shall be made in writing to the Chief Building Official on forms prescribed by that office; if such application is found after inspection, the building or structure or part thereof, is in accordance with the provisions of the Massillon Zoning Code, Ohio Building Code and/or Residential Code of Ohio. A certificate shall be issued according to the applicable code. If such certificate is refused for cause, the applicant shall be notified in writing of such refusal and cause thereof.

CHAPTER 1125.06 FINAL INSPECTION

Insert Chief Building Official for Building Inspector

CHAPTER 1125.07 FEES

- A.) Application for certificate of occupancy shall be accompanied by payment of non-refundable fee pursuant to the following schedule of charges:
 - 1.) Initial and re-certification inspection fees applicable to the Residential Code of Ohio for existing One, Two and Three Family dwellings = \$50.00.
 - 2.) Initial and re-certification inspection fees applicable to the Ohio Building Code for existing structures = \$70.00 plus \$10.00 per unit.
 - a.) Initial and Re-Certification inspection shall be completed along with Massillon City Fire Prevention Officer.
 - 3.) Certificate of occupancy for newly constructed structures are included in the building permit.
 - 4.) A combined serious hazard inspection shall be conducted by the Fire Prevention Officer and the Chief Building Official or its designee.
 - 5.) Re-scheduling fee for failure to appear at a scheduled inspection, payable before the rescheduling of a second or subsequent inspections = \$75.00.
 - 6.) No certificate of occupancy shall be issued unless and until all rescheduling fees have been paid.

DATE: NOVEMBER 16, 2009

CLERK: MARY BETH BAILEY

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

COUNCIL CHAMBERS

1st reading
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 140 - 2009

Tabled Indef 11/17

BY: HEALTH, WELFARE & BUILDING REGULATIONS COMMITTEE

TITLE: AN ORDINANCE enacting a new CHAPTER 1331 "REGISTRATION OF VACANT BUILDINGS", of the Codified Ordinances of the City of Massillon, and declaring an emergency.

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

Section 1:

There be and is hereby enacted a new CHAPTER 1331 "REGISTRATION OF VACANT BUILDINGS", of the Codified Ordinances of the City of Massillon. Said newly created Chapter shall read as follows:

(SEE ATTACHED EXHIBIT "A")

Section 2:

It shall take effect and be in force from and after the earliest period allowed by law.

PASSED IN COUNCIL THIS _____ DAY OF _____, 2009

APPROVED: _____
MARY BETH BAILEY, CLERK OF COUNCIL

GLENN E. GAMBER, PRESIDENT

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

The Building Department is requesting to create a new ordinance under Part Thirteen-Building Code.

We are requesting to create the following:

CHAPTER 1331 REGISTRATION OF VACANT BUILDINGS

1331.01 APPLICABILITY

This chapter shall be applicable to all residential and commercial buildings located within the City.

1331.02 DEFINITIONS

The following shall apply to this chapter:

- A. "Chief Building Official" means the Chief Building Official of the City of Massillon or his designee.
- B. "Owner" means any person who alone or jointly or severally with others shall have the legal or equitable title to a property and shall include executors, administrators, trustees or guardians of the estate of the owner and any purchaser or assignee under a certificate of sale pursuant to mortgage foreclosure. The term "owner" shall also include partnerships and corporations and other unincorporated associations. Any individual "owner" regardless of whether he shares ownership responsibility with other persons. Any general partner of a partnership and any officer of a corporation or unincorporated association shall have direct and personable responsibility and liability for compliance with the provisions of this chapter.
- C. "Vacant Building" means any structure or part of a structure which is unoccupied and which constitutes an "unsafe building" or "public nuisance".
- D. "Unsafe Building or Public Nuisance" as used in the Building Code shall mean and include.
 - 1.) Any building, house, shed, fence, or other man-made structure or parts thereof, which by reason of its condition endangers human health, life or limb or is likely to cause the spread of disease or otherwise cause injury to the health of persons or to surrounding neighborhood structures.
 - 2.) Any building, house, shed or fence or other man-made structure or parts thereof, which by reason faulty construction, age, lack of proper repair or other cause, is especially liable to occurrence of fire and constitutes or creates a fire hazard.
 - 3.) Any building, house, shed, fence, or other man-made structure or parts thereof, which by reason of faulty construction, age, lack of repair or any other cause is especially liable to cause injury or damage to person or property by collapse or by danger of collapse of any part of the structure.
 - 4.) Any building, house, shed, fence or other man-made structure or parts thereof, which because of its condition or lack of doors and/or windows is unsecured, open and available to and frequented by individuals, disorderly persons who are not lawful occupants of such structure.

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

DATE: MONDAY, NOVEMBER 16, 2009
PLACE: COUNCIL CHAMBERS
TIME: 7:30 P.M.

THERE ARE NO PUBLIC HEARINGS TONIGHT

1. ROLL CALL
2. INVOCATION BY COUNCILWOMAN KATHY CATAZARO-PERRY
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. 135 – 2009

BY: COMMUNITY DEVELOPMENT COMMITTEE

1ST READING

AN ORDINANCE declaring the improvement of certain real property located in the City of Massillon, Ohio to be a public purpose; declaring such property to be exempt from real property taxation; designating the improvements to be made that will directly benefit or serve such real property; requiring the owner of such real property to make annual service payments in lieu of taxes; establishing a municipal public improvement tax increment equivalent fund for the deposit of service payments; and declaring an emergency.

ORDINANCE NO. 136 – 2009

BY: COMMUNITY DEVELOPMENT COMMITTEE

1ST READING

AN ORDINANCE declaring the improvement of certain real property located in the City of Massillon, Ohio to be a public purpose; declaring such property to be exempt from real property taxation; designating the improvements to be made that will directly benefit or serve such real property; requiring the owner of such real property to make annual service payments in lieu of taxes; establishing a municipal public improvement tax increment equivalent fund for the deposit of service payments; and declaring an emergency.

ORDINANCE NO. 137 – 2009

BY: COMMUNITY DEVELOPMENT COMMITTEE

1ST READING

AN ORDINANCE declaring the improvement of certain real property located in the City of Massillon, Ohio to be a public purpose; declaring such property to be exempt from real property taxation; designating the improvements to be made that will directly benefit or serve such real property; requiring the owner of such real property to make annual service payments in lieu of taxes; establishing a municipal public improvement tax increment equivalent fund for the deposit of service payments; and declaring an emergency.

ORDINANCE NO. 138 – 2009

1ST READING

BY: HEALTH, WELFARE & BLGD REGULATIONS

AN ORDINANCE enacting a new CHAPTER 1330 "REGISTRATION OF NON-OWNER OCCUPIED OR MULTIPLE UNITS", of the Codified Ordinances of the City of Massillon, and declaring an emergency.

ORDINANCE NO. 139 – 2009

1ST READING

BY: HEALTH, WELFARE & BLGD REGULATIONS

AN ORDINANCE amending CHAPTER 1125 "ADMINISTRATION AND ENFORCEMENT" of the Codified Ordinances of the City of Massillon, by repealing existing Sections 1125.05 "Certificate of Occupancy", 1125.06 "Final Inspection" and 1125.07 "Fees", and enacting new Sections 1125.05 "Certificate of Occupancy", 1125.06 "Final Inspection" and 1125.07 "Fees", and declaring an emergency.

ORDINANCE NO. 140 – 2009

1ST READING

BY: HEALTH, WELFARE & BLGD REGULATIONS

AN ORDINANCE enacting a new CHAPTER 1331 "REGISTRATION OF VACANT BUILDINGS", of the Codified Ordinances of the City of Massillon, and declaring an emergency.

ORDINANCE NO. 141 – 2009

PASS 9-0

BY: FINANCE COMMITTEE

AN ORDINANCE making certain appropriations from the unappropriated balance of the Community Partnership Fund, General Fund and the Summer Concert Fund, for the year ending December 31, 2009, and declaring an emergency.

ORDINANCE NO. 142 – 2009

PASS 9-0

BY: FINANCE COMMITTEE

AN ORDINANCE making certain transfers in the 2009 appropriation from within the General Fund and the Street Fund, for the year ending December 31, 2009, and declaring an emergency.

RESOLUTION NO. 20 – 2009

PASS 9-0

BY: PUBLIC UTILITIES COMMITTEE

A RESOLUTION acknowledging the authorization establishment of a government aggregation program with opt-out provisions pursuant to Section 4928 of the Ohio Revised Code (the "Aggregation Program") for the residents, businesses and other electric consumers in the City of Massillon.

RESOLUTION NO. 21 – 2009

PASS 9-0

BY: STREETS, HIGHWAYS, TRAFFIC & SAFETY

A RESOLUTION renaming the Tremont Viaduct to the Vietnam Veterans Memorial Viaduct to honor the servicemen who lost their lives during the Vietnam War.

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 OCTOBER 2009
- B). TREASURER SUBMITS MONTHLY REPORT FOR OCTOBER 2009
- C). FIRE CHIEF SUBMITS MONTHLY REPORT FOR OCTOBER 2009
- D). INCOME TAX DEPARTMENT SUBMITS MONTHLY REPORT FOR OCTOBER 2009
- E). WASTE DEPARTMENT SUBMITS MONTHLY REPORT FOR OCTOBER 2009
- F). MAYOR'S APPOINTMENT OF TERESA EMMERLING TO AFFINITY MEDICAL CENTER BOARD OF TRUSTEES

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. 134 - 2009

BY: FINANCE COMMITTEE

PASS 8 -1 (CATAZARO - PROBY)

AN ORDINANCE making certain appropriations from the unappropriated balance of the General Fund, Wastewater Treatment Fund, Massillon Museum Fund, State Patrol Transfer Fund, Home Health Fund, OPWC Fund, Muni Motor Vehicle Fund and the Marketplace Infrastructure Fund, for the year ending December 31, 2009, 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

DATED: NOVEMBER 16, 2009

CLERK: MARY BETH BAILEY

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

COUNCIL CHAMBERS

1st reading
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 135 -2009 *2nd reading 12/21*
passed 12/21

BY: THE COMMUNITY DEVELOPMENT COMMITTEE

AN ORDINANCE DECLARING THE IMPROVEMENT OF CERTAIN REAL PROPERTY LOCATED IN THE CITY OF MASSILLON, OHIO TO BE A PUBLIC PURPOSE; DECLARING SUCH PROPERTY TO BE EXEMPT FROM REAL PROPERTY TAXATION; DESIGNATING THE IMPROVEMENTS TO BE MADE THAT WILL DIRECTLY BENEFIT OR SERVE SUCH REAL PROPERTY; REQUIRING THE OWNER OF SUCH REAL PROPERTY TO MAKE ANNUAL SERVICE PAYMENTS IN LIEU OF TAXES; ESTABLISHING A MUNICIPAL PUBLIC IMPROVEMENT TAX INCREMENT EQUIVALENT FUND FOR THE DEPOSIT OF SERVICE PAYMENTS; AND DECLARING AN EMERGENCY.

WHEREAS, pursuant to Ohio Revised Code Sections 5709.40(B), 5709.42 and 5709.43 (the "TIF Statutes") the City of Massillon (the "City") may utilize municipal tax increment financing to declare the improvement to certain parcels of real property located within the municipal corporation to be a public purpose and exempt from taxation, require the owner of each parcel to make service payments in lieu of taxes, provide for the distribution of the applicable portion of such service payments to the City, local or exempted village school district, establish a municipal public improvement tax increment equivalent fund for the deposit of the remainder of such service payments and specify public infrastructure improvements made, to be made or in the process of being made that directly benefit, or that once made will directly benefit, those parcels for which improvements are declared to be a public purpose; and

WHEREAS, the parcels of real property identified and depicted in Exhibit A attached hereto are located in the City (collectively, the "Property"), and this City Council of the City (the "Council") has determined to declare the Improvement (as defined in Section 1 of this Ordinance) to the Property to be a public purpose; and

WHEREAS, this Council has determined that it is necessary and appropriate and in the best interest of the City to exempt from taxation one hundred percent (100%) of the Improvement to the Property as permitted and provided in Section 5709.40(B) of the Ohio Revised Code for up to thirty (30) years (the "TIF Exemption") and to simultaneously direct and require the current and future owner(s) of

parcels (each such owner individually, an "Owner," and collectively, the "Owners") comprising the Property to make annual Service Payments (as defined in Section 2 of this Ordinance) with respect to the Property in lieu of real property tax payments, in the same amount as they would have made real property tax payments except for the exemption provided by this Ordinance; provided that the TIF Exemption and the obligation to make Service Payments is subject and subordinate to any tax exemptions applicable to the Improvement approved by the City pursuant to Sections 3735.65 through 3735.70 or 5709.61 through 5709.69 of the Ohio Revised Code; and

WHEREAS, the City has determined that a portion of the Service Payments shall be paid directly to the Massillon City School District (the "School District") in an amount equal to the real property taxes that the School District would have been paid if the Improvement to the Property located in the School District had not been exempt from taxation pursuant to this Ordinance; and

WHEREAS, pursuant to Section 5709.43(A) of the Ohio Revised Code, this Council has determined to establish a municipal public improvement tax increment equivalent fund for the Property, in which there shall be deposited the remaining Service Payments distributed to the City; and

WHEREAS, this Council has determined to provide for the construction of the public infrastructure improvements described in Exhibit B attached hereto (the "Public Infrastructure Improvements"), which, once made, will directly benefit the Property; and

WHEREAS, notice of this proposed Ordinance has been delivered to the Boards of Education of the School District and the Stark County Area Vocational School District in accordance with and within the time periods prescribed in Sections 5709.40 and 5709.83 of the Ohio Revised Code;

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

SECTION 1. Authorization of TIF Exemption. Pursuant to and in accordance with the provisions of Ohio Revised Code Section 5709.40(B), this Council hereby finds and determines that one hundred percent (100%) of the increase in assessed value of the Property subsequent to the effective date of this Ordinance (which increase in assessed value is hereinafter referred to as the "Improvement," as defined in Section 5709.40(A) of the Ohio Revised Code) is hereby declared to be a public purpose, and shall be exempt from taxation for a period commencing with the first tax year that begins after the effective date of this Ordinance and in which an Improvement to the Property first appears on the tax list and duplicate of real and public utility property and ending on the earlier of (a) thirty (30) years after such commencement, or (b) the date on which the City can no longer require Service Payments (as defined in Section 2 herein) in lieu of taxes, all in accordance with the requirements of the TIF Statutes.

SECTION 2. Service Payments and Property Tax Rollback Payments. Pursuant to Section 5709.42 of the Ohio Revised Code, the City hereby directs and requires the Owners of the Property to make annual Service Payments (as defined herein) in lieu of taxes with respect to the Improvement allocable thereto to the Stark County Treasurer on or before the final dates for payment of real property taxes. Each service payment in lieu of taxes, including any penalties and interest at the then current rate established under Sections 323.121(B)(1) and 5703.47 of the Ohio Revised Code (collectively, the "Service Payments") shall be charged and collected in the same manner and in the same amount as the real property taxes that would have been charged and payable against the Improvement if it were not exempt from taxation pursuant to Section 1 of this Ordinance. The Service Payments, and any other payments with respect to the Improvement that are received by the Stark County Treasurer in connection

with the reduction required by Sections 319.302, 321.24, 323.152 and 323.156 of the Ohio Revised Code, as the same may be amended from time to time, or any successor provisions thereto as the same may be amended from time to time (the "Property Tax Rollback Payments"), shall be allocated and distributed in accordance with Section 4 of this Ordinance. This Council further hereby authorizes and directs appropriate officers of the City to make such arrangements as are necessary and proper for collection of the Service Payments from the Owners, including the preparation and filing of any necessary exemption applications.

If determined to be necessary and appropriate, the Mayor of the City (the "Mayor") and the City Auditor of the City (the "City Auditor"), or either of them individually, may execute on behalf of the City one or more Service Payment Agreements between the City and Owners providing for the payment and collection of the Service Payments, which agreement shall be in such form as is acceptable to such officials, approved by the Law Director of the City, and not substantially inconsistent with the terms of this Ordinance.

SECTION 3. Creation of TIF Fund. This Council hereby establishes pursuant to and in accordance with the provisions of Ohio Revised Code Section 5709.43, a Municipal Public Improvement Tax Increment Equivalent Fund (the "Shearer's Food TIF Fund"). The TIF Fund shall be maintained in the custody of the City and shall receive all distributions to be made to the City pursuant to Section 4 of this Ordinance. Those Service Payments and Property Tax Rollback Payments received by the City with respect to the Improvement of the Property and so deposited pursuant to Section 5709.42 of the Ohio Revised Code shall be used solely for the purposes authorized in the TIF Statutes or this Ordinance. The TIF Fund shall remain in existence so long as such Service Payments and Property Tax Rollback Payments are collected and used for the aforesaid purposes, after which time the TIF Fund shall be dissolved and any surplus funds remaining therein transferred to the City's General Fund, all in accordance with Section 5709.43 of the Ohio Revised Code.

SECTION 4. Distribution of Funds. Pursuant to the TIF Statutes, the Stark County Treasurer is requested to distribute the Service Payments and the Property Tax Rollback Payments as follows:

- (i) to the School District, an amount equal to the amounts that the School District would otherwise have received as real property tax payments (including the applicable portion of any Property Tax Rollback Payments) derived from the Improvement to the Property located within the School District's boundaries if the Improvement had not been exempt from taxation pursuant to this Ordinance; and
- (ii) to the City, all remaining amounts for further deposit into the TIF Fund for payment of costs of the Public Infrastructure Improvements, including debt service on any securities issued to finance those costs.

SECTION 5. Application for Real Property Tax Exemption and Remission. This Council further hereby authorizes the Mayor or the City Auditor, or other appropriate officers of the City, to sign and execute all documents and make such arrangements as are necessary and proper for collection of said Service Payments from the Owners of Property, which are to be deposited into the TIF Fund.

SECTION 6. Further Authorizations. This Council further hereby authorizes and directs the Mayor and the City Auditor, or other appropriate officers of the City, to prepare and sign all agreements, and any amendments thereto such that the character of those changes is not substantially adverse to the City,

which shall be established conclusively by their signatures thereon, and to prepare and sign all instruments and to take all other actions as may be necessary and appropriate to implement this Ordinance.

SECTION 7. Filings with Ohio Department of Development. Pursuant to Ohio Revised Code Section 5709.40(I), the Clerk of Council is hereby directed to deliver a copy of this Ordinance to the Director of Development of the Department of Development of the State of Ohio (the "Director of Development") within fifteen (15) days after its adoption. Further, on or before March 31 of each year that the TIF Exemption set forth in Section 1 hereof remains in effect, the City Auditor or other authorized officer of the City shall prepare and submit to the Director of Development the status report required under Ohio Revised Code Section 5709.40(I).

SECTION 8. Tax Incentive Review Council. The City hereby creates the City of Massillon Tax Incentive Review Council with the membership of that Council constituted in accordance with Ohio Revised Code Section 5709.85. That Council shall review annually all exemptions from taxation resulting from the declarations set forth in this Ordinance and any other such matters as may properly come before that Council, all in accordance with Ohio Revised Code Section 5709.85.

SECTION 9. Open Meetings. It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were passed in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Ohio Revised Code Section 121.22.

Adopted in Council on this ____th day of _____, 2009.

Effective this ____ day of _____, 2009.

Attest:

Clerk, MARY BETH BAILEY

President of Council, GLENN E. GAMBER

Approved:

Mayor, FRANCIS H. CICCHINELLI, JR.,

CERTIFICATE

The undersigned Clerk hereby certifies that the foregoing is a true copy of Ordinance No. _____ -
2009 duly adopted by the City Council of the City of Massillon, Ohio on _____, 2009.

Clerk
City of Massillon, Ohio

EXHIBIT A

The Property

Property Owner: Shearer's Food Inc

Location: Millenium Blvd SE

Parcel Nos.: 07-01739

EXHIBIT B

Description of Public Infrastructure Improvements

The Public Infrastructure Improvements include permanent improvements within the definition of "costs of permanent improvements" as defined in Ohio Revised Code Section 133.15(B), including, but not limited to:

(i) Street improvements and other public infrastructure improvements to Millennium Boulevard SE, Navarre Road SE, and State Route 21, including street repaving and reconstruction, sewer and drainage, bridge maintenance and replacement, rail crossings, and traffic signal maintenance and replacement;

(ii) The costs of financing such Public Infrastructure Improvements, which financing costs specifically include the debt service charges on securities issued to finance the Public Infrastructure Improvements; and

(iii) Legal, consulting, engineering, and other eligible costs related thereto.

All of the Public Infrastructure Improvements described above are hereby determined to be "public infrastructure improvements" (as defined in Ohio Revised Code Section 5709.40(A)(7)) and will directly benefit the real property described in Exhibit A.

RECEIPT OF THE DIRECTOR OF DEVELOPMENT FOR THE STATE OF OHIO
FOR LEGISLATION DECLARING CERTAIN IMPROVEMENTS TO REAL PROPERTY
TO BE EXEMPT FROM REAL PROPERTY TAXATION PURSUANT TO
OHIO REVISED CODE SECTION 5709.40

I, Lisa Patt-McDaniel, the Director of Development of the Department of Development of the State of Ohio, hereby certify that a certified copy of Ordinance No. ____-2009, which was duly adopted by the City Council of the City of Massillon, Ohio (the "City") on _____, 2009 and which declared the improvement of certain real property located within the City to be a public purpose and declaring a portion of such property to be exempt from real property taxation pursuant to Ohio Revised Code Section 5709.40, was filed in this office on _____, 2009.

WITNESS my hand and official seal at Columbus, Ohio on _____, 2009.

Director of Development
Department of Development
State of Ohio

DATED: NOVEMBER 16, 2009

CLERK: MARY BETH BAILEY

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

COUNCIL CHAMBERS

1st reading
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 136 -2009

BY: THE COMMUNITY DEVELOPMENT COMMITTEE

2nd reading 12/7
passed 12/1

AN ORDINANCE DECLARING THE IMPROVEMENT OF CERTAIN REAL PROPERTY LOCATED IN THE CITY OF MASSILLON, OHIO TO BE A PUBLIC PURPOSE; DECLARING SUCH PROPERTY TO BE EXEMPT FROM REAL PROPERTY TAXATION; DESIGNATING THE IMPROVEMENTS TO BE MADE THAT WILL DIRECTLY BENEFIT OR SERVE SUCH REAL PROPERTY; REQUIRING THE OWNER OF SUCH REAL PROPERTY TO MAKE ANNUAL SERVICE PAYMENTS IN LIEU OF TAXES; ESTABLISHING A MUNICIPAL PUBLIC IMPROVEMENT TAX INCREMENT EQUIVALENT FUND FOR THE DEPOSIT OF SERVICE PAYMENTS; AND DECLARING AN EMERGENCY.

WHEREAS, pursuant to Ohio Revised Code Sections 5709.40(B), 5709.42 and 5709.43 (the "TIF Statutes") the City of Massillon (the "City") may utilize municipal tax increment financing to declare the improvement to certain parcels of real property located within the municipal corporation to be a public purpose and exempt from taxation, require the owner of each parcel to make service payments in lieu of taxes, provide for the distribution of the applicable portion of such service payments to the City, local or exempted village school district, establish a municipal public improvement tax increment equivalent fund for the deposit of the remainder of such service payments and specify public infrastructure improvements made, to be made or in the process of being made that directly benefit, or that once made will directly benefit, those parcels for which improvements are declared to be a public purpose; and

WHEREAS, the parcels of real property identified and depicted in Exhibit A attached hereto are located in the City (collectively, the "Property"), and this City Council of the City (the "Council") has determined to declare the Improvement (as defined in Section 1 of this Ordinance) to the Property to be a public purpose; and

WHEREAS, this Council has determined that it is necessary and appropriate and in the best interest of the City to exempt from taxation one hundred percent (100%) of the Improvement to the Property as permitted and provided in Section 5709.40(B) of the Ohio Revised Code for up to thirty (30) years (the "TIF Exemption") and to simultaneously direct and require the current and future owner(s) of

parcels (each such owner individually, an "Owner," and collectively, the "Owners") comprising the Property to make annual Service Payments (as defined in Section 2 of this Ordinance) with respect to the Property in lieu of real property tax payments, in the same amount as they would have made real property tax payments except for the exemption provided by this Ordinance; provided that the TIF Exemption and the obligation to make Service Payments is subject and subordinate to any tax exemptions applicable to the Improvement approved by the City pursuant to Sections 3735.65 through 3735.70 or 5709.61 through 5709.69 of the Ohio Revised Code; and

WHEREAS, the City has determined that a portion of the Service Payments shall be paid directly to the Massillon City School District (the "School District") in an amount equal to the real property taxes that the School District would have been paid if the Improvement to the Property located in the School District had not been exempt from taxation pursuant to this Ordinance; and

WHEREAS, pursuant to Section 5709.43(A) of the Ohio Revised Code, this Council has determined to establish a municipal public improvement tax increment equivalent fund for the Property, in which there shall be deposited the remaining Service Payments distributed to the City; and

WHEREAS, this Council has determined to provide for the construction of the public infrastructure improvements described in Exhibit B attached hereto (the "Public Infrastructure Improvements"), which, once made, will directly benefit the Property; and

WHEREAS, notice of this proposed Ordinance has been delivered to the Boards of Education of the School District and the Stark County Area Vocational School District in accordance with and within the time periods prescribed in Sections 5709.40 and 5709.83 of the Ohio Revised Code;

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

SECTION 1. Authorization of TIF Exemption. Pursuant to and in accordance with the provisions of Ohio Revised Code Section 5709.40(B), this Council hereby finds and determines that one hundred percent (100%) of the increase in assessed value of the Property subsequent to the effective date of this Ordinance (which increase in assessed value is hereinafter referred to as the "Improvement," as defined in Section 5709.40(A) of the Ohio Revised Code) is hereby declared to be a public purpose, and shall be exempt from taxation for a period commencing with the first tax year that begins after the effective date of this Ordinance and in which an Improvement to the Property first appears on the tax list and duplicate of real and public utility property and ending on the earlier of (a) thirty (30) years after such commencement, or (b) the date on which the City can no longer require Service Payments (as defined in Section 2 herein) in lieu of taxes, all in accordance with the requirements of the TIF Statutes.

SECTION 2. Service Payments and Property Tax Rollback Payments. Pursuant to Section 5709.42 of the Ohio Revised Code, the City hereby directs and requires the Owners of the Property to make annual Service Payments (as defined herein) in lieu of taxes with respect to the Improvement allocable thereto to the Stark County Treasurer on or before the final dates for payment of real property taxes. Each service payment in lieu of taxes, including any penalties and interest at the then current rate established under Sections 323.121(B)(1) and 5703.47 of the Ohio Revised Code (collectively, the "Service Payments") shall be charged and collected in the same manner and in the same amount as the real property taxes that would have been charged and payable against the Improvement if it were not exempt from taxation pursuant to Section 1 of this Ordinance. The Service Payments, and any other payments with respect to the Improvement that are received by the Stark County Treasurer in connection

with the reduction required by Sections 319.302, 321.24, 323.152 and 323.156 of the Ohio Revised Code, as the same may be amended from time to time, or any successor provisions thereto as the same may be amended from time to time (the "Property Tax Rollback Payments"), shall be allocated and distributed in accordance with Section 4 of this Ordinance. This Council further hereby authorizes and directs appropriate officers of the City to make such arrangements as are necessary and proper for collection of the Service Payments from the Owners, including the preparation and filing of any necessary exemption applications.

If determined to be necessary and appropriate, the Mayor of the City (the "Mayor") and the City Auditor of the City (the "City Auditor"), or either of them individually, may execute on behalf of the City one or more Service Payment Agreements between the City and Owners providing for the payment and collection of the Service Payments, which agreement shall be in such form as is acceptable to such officials, approved by the Law Director of the City, and not substantially inconsistent with the terms of this Ordinance.

SECTION 3. Creation of TIF Fund. This Council hereby establishes pursuant to and in accordance with the provisions of Ohio Revised Code Section 5709.43, a Municipal Public Improvement Tax Increment Equivalent Fund (the "Massillon Area Credit Union TIF Fund"). The TIF Fund shall be maintained in the custody of the City and shall receive all distributions to be made to the City pursuant to Section 4 of this Ordinance. Those Service Payments and Property Tax Rollback Payments received by the City with respect to the Improvement of the Property and so deposited pursuant to Section 5709.42 of the Ohio Revised Code shall be used solely for the purposes authorized in the TIF Statutes or this Ordinance. The TIF Fund shall remain in existence so long as such Service Payments and Property Tax Rollback Payments are collected and used for the aforesaid purposes, after which time the TIF Fund shall be dissolved and any surplus funds remaining therein transferred to the City's General Fund, all in accordance with Section 5709.43 of the Ohio Revised Code.

SECTION 4. Distribution of Funds. Pursuant to the TIF Statutes, the Stark County Treasurer is requested to distribute the Service Payments and the Property Tax Rollback Payments as follows:

- (i) to the School District, an amount equal to the amounts that the School District would otherwise have received as real property tax payments (including the applicable portion of any Property Tax Rollback Payments) derived from the Improvement to the Property located within the School District's boundaries if the Improvement had not been exempt from taxation pursuant to this Ordinance; and
- (ii) to the City, all remaining amounts for further deposit into the TIF Fund for payment of costs of the Public Infrastructure Improvements, including debt service on any securities issued to finance those costs.

SECTION 5. Application for Real Property Tax Exemption and Remission. This Council further hereby authorizes the Mayor or the City Auditor, or other appropriate officers of the City, to sign and execute all documents and make such arrangements as are necessary and proper for collection of said Service Payments from the Owners of Property, which are to be deposited into the TIF Fund.

SECTION 6. Further Authorizations. This Council further hereby authorizes and directs the Mayor and the City Auditor, or other appropriate officers of the City, to prepare and sign all agreements, and any amendments thereto such that the character of those changes is not substantially adverse to the City,

which shall be established conclusively by their signatures thereon, and to prepare and sign all instruments and to take all other actions as may be necessary and appropriate to implement this Ordinance.

SECTION 7. Filings with Ohio Department of Development. Pursuant to Ohio Revised Code Section 5709.40(I), the Clerk of Council is hereby directed to deliver a copy of this Ordinance to the Director of Development of the Department of Development of the State of Ohio (the "Director of Development") within fifteen (15) days after its adoption. Further, on or before March 31 of each year that the TIF Exemption set forth in Section 1 hereof remains in effect, the City Auditor or other authorized officer of the City shall prepare and submit to the Director of Development the status report required under Ohio Revised Code Section 5709.40(I).

SECTION 8. Tax Incentive Review Council. The City hereby creates the City of Massillon Tax Incentive Review Council with the membership of that Council constituted in accordance with Ohio Revised Code Section 5709.85. That Council shall review annually all exemptions from taxation resulting from the declarations set forth in this Ordinance and any other such matters as may properly come before that Council, all in accordance with Ohio Revised Code Section 5709.85.

SECTION 9. Open Meetings. It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were passed in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Ohio Revised Code Section 121.22.

Adopted in Council on this ____th day of _____, 2009.

Effective this ____day of _____, 2009.

Attest:

Clerk, MARY BETH BAILEY

President of Council, GLENN E. GAMBER

Approved:

Mayor, FRANCIS H. CICCHINELLI, JR.

CERTIFICATE

The undersigned Clerk hereby certifies that the foregoing is a true copy of Ordinance No. ____ -
2009 duly adopted by the City Council of the City of Massillon, Ohio on _____, 2009.

Clerk
City of Massillon, Ohio

EXHIBIT A

The Property

Property Owner: Massillon Area Credit Union Inc.

Location: Erie Avenue SW

Parcel Nos.: 07-01741

EXHIBIT B

Description of Public Infrastructure Improvements

The Public Infrastructure Improvements include permanent improvements within the definition of "costs of permanent improvements" as defined in Ohio Revised Code Section 133.15(B), including, but not limited to:

(i) Street improvements to State Route 21 and Warmington Road, bridge maintenance and replacement on Warmington Road, and traffic signal maintenance and replacement to State Route 21 and Warmington Road;

(ii) The costs of financing such Public Infrastructure Improvements, which financing costs specifically include the debt service charges on securities issued to finance the Public Infrastructure Improvements; and

(iii) Legal, consulting, engineering, and other eligible costs related thereto.

All of the Public Infrastructure Improvements described above are hereby determined to be "public infrastructure improvements" (as defined in Ohio Revised Code Section 5709.40(A)(7)) and will directly benefit the real property described in Exhibit A.

RECEIPT OF THE DIRECTOR OF DEVELOPMENT FOR THE STATE OF OHIO
FOR LEGISLATION DECLARING CERTAIN IMPROVEMENTS TO REAL PROPERTY
TO BE EXEMPT FROM REAL PROPERTY TAXATION PURSUANT TO
OHIO REVISED CODE SECTION 5709.40

I, Lisa Patt-McDaniel, the Director of Development of the Department of Development of the State of Ohio, hereby certify that a certified copy of Ordinance No. ____-2009, which was duly adopted by the City Council of the City of Massillon, Ohio (the "City") on _____, 2009 and which declared the improvement of certain real property located within the City to be a public purpose and declaring a portion of such property to be exempt from real property taxation pursuant to Ohio Revised Code Section 5709.40, was filed in this office on _____, 2009.

WITNESS my hand and official seal at Columbus, Ohio on _____, 2009.

Director of Development
Department of Development
State of Ohio

DATED: NOVEMBER 16, 2009

CLERK: MARY BETH BAILEY

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

COUNCIL CHAMBERS

1st reading
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 137 -2009

BY: THE COMMUNITY DEVELOPMENT COMMITTEE

2nd reading 11/17
passed 11/17

AN ORDINANCE DECLARING THE IMPROVEMENT OF CERTAIN REAL PROPERTY LOCATED IN THE CITY OF MASSILLON, OHIO TO BE A PUBLIC PURPOSE; DECLARING SUCH PROPERTY TO BE EXEMPT FROM REAL PROPERTY TAXATION; DESIGNATING THE IMPROVEMENTS TO BE MADE THAT WILL DIRECTLY BENEFIT OR SERVE SUCH REAL PROPERTY; REQUIRING THE OWNER OF SUCH REAL PROPERTY TO MAKE ANNUAL SERVICE PAYMENTS IN LIEU OF TAXES; ESTABLISHING A MUNICIPAL PUBLIC IMPROVEMENT TAX INCREMENT EQUIVALENT FUND FOR THE DEPOSIT OF SERVICE PAYMENTS; AND DECLARING AN EMERGENCY.

WHEREAS, pursuant to Ohio Revised Code Sections 5709.40(B), 5709.42 and 5709.43 (the "TIF Statutes") the City of Massillon (the "City") may utilize municipal tax increment financing to declare the improvement to certain parcels of real property located within the municipal corporation to be a public purpose and exempt from taxation, require the owner of each parcel to make service payments in lieu of taxes, provide for the distribution of the applicable portion of such service payments to the City, local or exempted village school district, establish a municipal public improvement tax increment equivalent fund for the deposit of the remainder of such service payments and specify public infrastructure improvements made, to be made or in the process of being made that directly benefit, or that once made will directly benefit, those parcels for which improvements are declared to be a public purpose; and

WHEREAS, the parcels of real property identified and depicted in Exhibit A attached hereto are located in the City (collectively, the "Property"), and this City Council of the City (the "Council") has determined to declare the Improvement (as defined in Section 1 of this Ordinance) to the Property to be a public purpose; and

WHEREAS, this Council has determined that it is necessary and appropriate and in the best interest of the City to exempt from taxation one hundred percent (100%) of the Improvement to the Property as permitted and provided in Section 5709.40(B) of the Ohio Revised Code for up to thirty (30) years (the "TIF Exemption") and to simultaneously direct and require the current and future owner(s) of

Property to make annual Service Payments (as defined in Section 2 of this Ordinance) with respect to the Property in lieu of real property tax payments, in the same amount as they would have made real property tax payments except for the exemption provided by this Ordinance; provided that the TIF Exemption and the obligation to make Service Payments is subject and subordinate to any tax exemptions applicable to the Improvement approved by the City pursuant to Sections 3735.65 through 3735.70 or 5709.61 through 5709.69 of the Ohio Revised Code; and

WHEREAS, the City has determined that a portion of the Service Payments shall be paid directly to the Massillon City School District (the "School District") in an amount equal to the real property taxes that the School District would have been paid if the Improvement to the Property located in the School District had not been exempt from taxation pursuant to this Ordinance; and

WHEREAS, pursuant to Section 5709.43(A) of the Ohio Revised Code, this Council has determined to establish a municipal public improvement tax increment equivalent fund for the Property, in which there shall be deposited the remaining Service Payments distributed to the City; and

WHEREAS, this Council has determined to provide for the construction of the public infrastructure improvements described in Exhibit B attached hereto (the "Public Infrastructure Improvements"), which, once made, will directly benefit the Property; and

WHEREAS, notice of this proposed Ordinance has been delivered to the Boards of Education of the School District and the Stark County Area Vocational School District in accordance with and within the time periods prescribed in Sections 5709.40 and 5709.83 of the Ohio Revised Code;

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

SECTION 1. Authorization of TIF Exemption. Pursuant to and in accordance with the provisions of Ohio Revised Code Section 5709.40(B), this Council hereby finds and determines that one hundred percent (100%) of the increase in assessed value of the Property subsequent to the effective date of this Ordinance (which increase in assessed value is hereinafter referred to as the "Improvement," as defined in Section 5709.40(A) of the Ohio Revised Code) is hereby declared to be a public purpose, and shall be exempt from taxation for a period commencing with the first tax year that begins after the effective date of this Ordinance and in which an Improvement to the Property first appears on the tax list and duplicate of real and public utility property and ending on the earlier of (a) thirty (30) years after such commencement, or (b) the date on which the City can no longer require Service Payments (as defined in Section 2 herein) in lieu of taxes, all in accordance with the requirements of the TIF Statutes.

SECTION 2. Service Payments and Property Tax Rollback Payments. Pursuant to Section 5709.42 of the Ohio Revised Code, the City hereby directs and requires the Owners of the Property to make annual Service Payments (as defined herein) in lieu of taxes with respect to the Improvement allocable thereto to the Stark County Treasurer on or before the final dates for payment of real property taxes. Each service payment in lieu of taxes, including any penalties and interest at the then current rate established under Sections 323.121(B)(1) and 5703.47 of the Ohio Revised Code (collectively, the "Service Payments") shall be charged and collected in the same manner and in the same amount as the real property taxes that would have been charged and payable against the Improvement if it were not exempt from taxation pursuant to Section 1 of this Ordinance. The Service Payments, and any other payments with respect to the Improvement that are received by the Stark County Treasurer in connection with the reduction required by Sections 319.302, 321.24, 323.152 and 323.156 of the Ohio Revised Code,

as the same may be amended from time to time, or any successor provisions thereto as the same may be amended from time to time (the "Property Tax Rollback Payments"), shall be allocated and distributed in accordance with Section 4 of this Ordinance. This Council further hereby authorizes and directs appropriate officers of the City to make such arrangements as are necessary and proper for collection of the Service Payments from the Owners, including the preparation and filing of any necessary exemption applications.

If determined to be necessary and appropriate, the Mayor of the City (the "Mayor") and the City Auditor of the City (the "City Auditor"), or either of them individually, may execute on behalf of the City one or more Service Payment Agreements between the City and Owners providing for the payment and collection of the Service Payments, which agreement shall be in such form as is acceptable to such officials, approved by the Law Director of the City, and not substantially inconsistent with the terms of this Ordinance.

SECTION 3. Creation of TIF Fund. This Council hereby establishes pursuant to and in accordance with the provisions of Ohio Revised Code Section 5709.43, a Municipal Public Improvement Tax Increment Equivalent Fund (the "Shearer's Food TIF Fund"). The TIF Fund shall be maintained in the custody of the City and shall receive all distributions to be made to the City pursuant to Section 4 of this Ordinance. Those Service Payments and Property Tax Rollback Payments received by the City with respect to the Improvement of the Property and so deposited pursuant to Section 5709.42 of the Ohio Revised Code shall be used solely for the purposes authorized in the TIF Statutes or this Ordinance. The TIF Fund shall remain in existence so long as such Service Payments and Property Tax Rollback Payments are collected and used for the aforesaid purposes, after which time the TIF Fund shall be dissolved and any surplus funds remaining therein transferred to the City's General Fund, all in accordance with Section 5709.43 of the Ohio Revised Code.

SECTION 4. Distribution of Funds. Pursuant to the TIF Statutes, the Stark County Treasurer is requested to distribute the Service Payments and the Property Tax Rollback Payments as follows:

- (i) to the School District, an amount equal to the amounts that the School District would otherwise have received as real property tax payments (including the applicable portion of any Property Tax Rollback Payments) derived from the Improvement to the Property located within the School District's boundaries if the Improvement had not been exempt from taxation pursuant to this Ordinance; and
- (ii) to the City, all remaining amounts for further deposit into the TIF Fund for payment of costs of the Public Infrastructure Improvements, including debt service on any securities issued to finance those costs.

SECTION 5. Application for Real Property Tax Exemption and Remission. This Council further hereby authorizes the Mayor or the City Auditor, or other appropriate officers of the City, to sign and execute all documents and make such arrangements as are necessary and proper for collection of said Service Payments from the Owners of Property, which are to be deposited into the TIF Fund.

SECTION 6. Further Authorizations. This Council further hereby authorizes and directs the Mayor and the City Auditor, or other appropriate officers of the City, to prepare and sign all agreements, and any amendments thereto such that the character of those changes is not substantially adverse to the City.

which shall be established conclusively by their signatures thereon, and to prepare and sign all instruments and to take all other actions as may be necessary and appropriate to implement this Ordinance.

SECTION 7. Filings with Ohio Department of Development. Pursuant to Ohio Revised Code Section 5709.40(I), the Clerk of Council is hereby directed to deliver a copy of this Ordinance to the Director of Development of the Department of Development of the State of Ohio (the "Director of Development") within fifteen (15) days after its adoption. Further, on or before March 31 of each year that the TIF Exemption set forth in Section 1 hereof remains in effect, the City Auditor or other authorized officer of the City shall prepare and submit to the Director of Development the status report required under Ohio Revised Code Section 5709.40(I).

SECTION 8. Tax Incentive Review Council. The City hereby creates the City of Massillon Tax Incentive Review Council with the membership of that Council constituted in accordance with Ohio Revised Code Section 5709.85. That Council shall review annually all exemptions from taxation resulting from the declarations set forth in this Ordinance and any other such matters as may properly come before that Council, all in accordance with Ohio Revised Code Section 5709.85.

SECTION 9. Open Meetings. It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were passed in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Ohio Revised Code Section 121.22.

Adopted in Council on this ____th day of _____, 2009.

Effective this ____day of _____, 2009.

Attest:

Clerk, MARY BETH BAILEY

President of Council, GLENN E. GAMBER

Approved:

Mayor, FRANCIS H. CICCHINELLI, JR.

CERTIFICATE

The undersigned Clerk hereby certifies that the foregoing is a true copy of Ordinance No. _____ -
2009 duly adopted by the City Council of the City of Massillon, Ohio on _____, 2009.

Clerk
City of Massillon, Ohio

EXHIBIT A

The Property

Property Owner: Case Farms LLC

Location: Millenium RD

Parcel Nos.: 07-01710

EXHIBIT B

Description of Public Infrastructure Improvements

The Public Infrastructure Improvements include permanent improvements within the definition of "costs of permanent improvements" as defined in Ohio Revised Code Section 133.15(B), including, but not limited to:

(i) Street improvements and other public infrastructure improvements to Millennium Boulevard SE, Navarre Road SE, and State Route 21, including street repaving and reconstruction, sewer and drainage, bridge maintenance and replacement, rail crossings, and traffic signal maintenance and replacement;

(ii) The costs of financing such Public Infrastructure Improvements, which financing costs specifically include the debt service charges on securities issued to finance the Public Infrastructure Improvements; and

(iii) Legal, consulting, engineering, and other eligible costs related thereto.

All of the Public Infrastructure Improvements described above are hereby determined to be "public infrastructure improvements" (as defined in Ohio Revised Code Section 5709.40(A)(7)) and will directly benefit the real property described in Exhibit A.

RECEIPT OF THE DIRECTOR OF DEVELOPMENT FOR THE STATE OF OHIO
FOR LEGISLATION DECLARING CERTAIN IMPROVEMENTS TO REAL PROPERTY
TO BE EXEMPT FROM REAL PROPERTY TAXATION PURSUANT TO
OHIO REVISED CODE SECTION 5709.40

I, Lisa Patt-McDaniel, the Director of Development of the Department of Development of the State of Ohio, hereby certify that a certified copy of Ordinance No. ____-2009, which was duly adopted by the City Council of the City of Massillon, Ohio (the "City") on _____, 2009 and which declared the improvement of certain real property located within the City to be a public purpose and declaring a portion of such property to be exempt from real property taxation pursuant to Ohio Revised Code Section 5709.40, was filed in this office on _____, 2009.

WITNESS my hand and official seal at Columbus, Ohio on _____, 2009.

Director of Development
Department of Development
State of Ohio

CITY OF MASSILLON, OHIO

Request for Legislation to: Community Development Committee

Request for Legislation for: November 16, 2009 Council Meeting

Requested by: 

Aane Aaby, Community Development Director

11/4/09

Approved by: 

Francis H. Cicchinelli, Jr., Mayor

11-4-09

Subject: Establishment of Additional Non-School TIF Parcels

On August 17, City Council approved legislation establishing three Non-School TIF parcels. These TIF parcels were created to enable the City to capture additional revenues generated from development for needed capital improvements while still providing schools with all the tax revenues they would ordinarily receive.

The City is now proposing to establish three additional Non-School TIF Parcels:

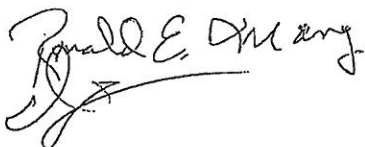
- Shearer's Foods, 4100 Millennium Blvd SE
- Case Farms, 4001 Millennium Blvd SE
- Massillon Area Credit Union, Erie Avenue South at Warmington Road

As previously explained, Tax Increment Financing (TIF) is an infrastructure tool authorized by the Ohio Revised Code. A TIF works by locking in the taxable worth of real property at the value it holds at the time authorizing legislation is approved. Payments derived from the increased assessed value of any improvement to this property beyond that amount are directed towards a separate fund to finance the construction of public infrastructure defined within the TIF legislation. Local governments may authorize TIFs to fund a variety of infrastructure needs, including streets and highways, water and sewer lines, public utilities, demolition, storm drainage, etc.

Under a Non-School TIF, school tax revenues would not be part of the TIF service payments received by the City. Instead, the authorizing legislation directs the County Treasurer to pay to the affected School District, from a portion of the TIF service payments, the amount of taxes that would have been payable to the school if the improvements had not been exempted from taxation by the TIF. A Non-School TIF preserves 100% of the school's funding, while still providing the City with a revenue source for public infrastructure improvements needed to serve these developments.

Given to Council: 11/4/09

Given to Auditor: 11/4/09


Ronald E. May

DATE: NOVEMBER 16, 2009

CLERK: MARY BETH BAILEY

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

COUNCIL CHAMBERS

1st Reading
LEGISLATIVE DEPARTMENT
Tabled Indef 1/17

ORDINANCE NO. 138 - 2009

BY: HEALTH, WELFARE & BUILDING REGULATIONS COMMITTEE

TITLE: AN ORDINANCE enacting a new CHAPTER 1330 "REGISTRATION OF NON-OWNER OCCUPIED OR MULTIPLE UNITS", of the Codified Ordinances of the City of Massillon, and declaring an emergency.

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

Section 1:

There be and is hereby enacted a new CHAPTER 1330 "REGISTRATION OF NON-OWNER OCCUPIED OR MULTIPLE UNITS", of the Codified Ordinances of the City of Massillon. Said newly created Chapter shall read as follows:

(SEE ATTACHED EXHIBIT "A")

Section 2:

It shall take effect and be in force from and after the earliest period allowed by law.

PASSED IN COUNCIL THIS _____ DAY OF _____, 2009

APPROVED: _____
MARY BETH BAILEY, CLERK OF COUNCIL

GLENN E. GAMBER, PRESIDENT

APPROVED: _____

FRANCIS H. CICCHINELLI, JR., MAYOR

The Building Department is requesting to create a new ordinance under Part Thirteen-Building Code.

We are requesting to create the following:

1330.01 LICENSE

The owner or agent for the owner of any non-owner occupied structure shall license and register properties with the Massillon Building Department, complete a registration application form prescribed by the Chief Building Official and pay all fees required as stated in Section 1330.02. The license shall be in effect for a period of three (3) years and can be transferred to a new owner.

1330.02 LICENSE SCHEDULE

All non-owner occupied properties

A.) Shall be registered yearly on or before January 31st, the fees are as follows:

- 1.) The initial application fee shall be \$30.00.
- 2.) In addition thereto the yearly license fee shall be \$60.00 for the first unit payable for a 3 year licensing period for a total of \$180.00 at the time of initial registration and any renewals thereafter. Each additional unit is \$5.00 per unit per year not to exceed \$1,000.00 per year.

Example 1: An owner with a four (4) unit apartment would pay: \$60.00 plus \$15.00=\$75.00 per year.

Example 2: An owner with a duplex and four (4) separate homes would pay: \$60.00 plus \$25.00=\$85.00 per year.

B.) Transfer Fee

A Certificate of Registration shall be transferred to a new owner by the payment of a transfer fee of \$30.00 and thereafter shall expire at the end of the original 3 year term.

C.) Penalty.

- 1.) Failure to make application within fifteen (15) days from the date of notice shall result in the assessment of a \$50.00 per property.
- 2.) Failure to register a non-owner occupied property will result in an assessment of a \$500.00 fee and sent to the Law Department for assessment upon the tax duplicate of said property.

DATE: NOVEMBER 16, 2009

CLERK: MARY BETH BAILEY

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

COUNCIL CHAMBERS

1st reading
LEGISLATIVE DEPARTMENT

ORDINANCE NO. 139 - 2009

BY: HEALTH, WELFARE & BUILDING REGULATIONS COMMITTEE

2nd read 11/17
Filed 11/18/09
TITLE: AN ORDINANCE amending CHAPTER 1125 "ADMINISTRATION AND ENFORCEMENT" of the Codified Ordinances of the City of Massillon, by repealing existing Sections 1125.05 "Certificate of Occupancy", 1125.06 "Final Inspection" and 1125.07 "Fees", and enacting new Sections 1125.05 "Certificate of Occupancy", 1125.06 "Final Inspection" and 1125.07 "Fees", and declaring an emergency.

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

Section 1:

The existing Sections 1125.05 "Certificate of Occupancy", 1125.06 "Final Inspection" and 1125.07 "Fees" of the Codified Ordinances of the City of Massillon are hereby repealed.

Section 2:

That there hereby is enacted new Sections 1125.05 "Certificate of Occupancy", 1125.06 "Final Inspection" and 1125.07 "Fees" of the Codified Ordinances of the City of Massillon. Said newly enacted Sections shall read as follows:

SEE EXHIBIT "A" ATTACHED HERETO

Section 3:

It shall take effect and be in force from and after the earliest period allowed by law.

PASSED IN COUNCIL THIS _____ DAY OF _____, 2009

ATTEST:

MARY BETH BAILEY, CLERK OF COUNCIL

GLENN E. GAMBER, PRESIDENT

APPROVED: _____

FRANCIS H. CICCHINELLI, JR., MAYOR

The Building Department is requesting to amend sections of Chapter 1125 Administration and Enforcement, which dates back to 1970.

We are requesting to amend the following:

CHAPTER 1125.05 CERTIFICATE OF OCCUPANCY

- B.) Delete City Engineer -- Insert Chief Building Official
- E.) Change Building Inspector to Chief Building Official
- G.) Change wording to: Application for Certificates. Application for certificates of occupancy shall be made in writing to the Chief Building Official on forms prescribed by that office; if such application is found after inspection, the building or structure or part thereof, is in accordance with the provisions of the Massillon Zoning Code, Ohio Building Code and/or Residential Code of Ohio. A certificate shall be issued according to the applicable code. If such certificate is refused for cause, the applicant shall be notified in writing of such refusal and cause thereof.

CHAPTER 1125.06 FINAL INSPECTION

Insert Chief Building Official for Building Inspector

CHAPTER 1125.07 FEES

- A.) Application for certificate of occupancy shall be accompanied by payment of non-refundable fee pursuant to the following schedule of charges:
 - 1.) Initial and re-certification inspection fees applicable to the Residential Code of Ohio for existing One, Two and Three Family dwellings = \$50.00.
 - 2.) Initial and re-certification inspection fees applicable to the Ohio Building Code for existing structures = \$70.00 plus \$10.00 per unit.
 - a.) Initial and Re-Certification inspection shall be completed along with Massillon City Fire Prevention Officer.
 - 3.) Certificate of occupancy for newly constructed structures are included in the building permit.
 - 4.) A combined serious hazard inspection shall be conducted by the Fire Prevention Officer and the Chief Building Official or its designee.
 - 5.) Re-scheduling fee for failure to appear at a scheduled inspection, payable before the rescheduling of a second or subsequent inspections = \$75.00.
 - 6.) No certificate of occupancy shall be issued unless and until all rescheduling fees have been paid.

DATE: NOVEMBER 16, 2009

CLERK: MARY BETH BAILEY

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

COUNCIL CHAMBERS

1st reading
LEGISLATIVE DEPARTMENT
Tabled July 18/7

ORDINANCE NO. 140 - 2009

BY: HEALTH, WELFARE & BUILDING REGULATIONS COMMITTEE

TITLE: AN ORDINANCE enacting a new CHAPTER 1331 "REGISTRATION OF VACANT BUILDINGS", of the Codified Ordinances of the City of Massillon, and declaring an emergency.

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

Section 1:

There be and is hereby enacted a new CHAPTER 1331 "REGISTRATION OF VACANT BUILDINGS", of the Codified Ordinances of the City of Massillon. Said newly created Chapter shall read as follows:

(SEE ATTACHED EXHIBIT "A")

Section 2:

It shall take effect and be in force from and after the earliest period allowed by law.

PASSED IN COUNCIL THIS _____ DAY OF _____, 2009

APPROVED: _____
MARY BETH BAILEY, CLERK OF COUNCIL

GLENN E. GAMBER, PRESIDENT

APPROVED: _____

FRANCIS H. CICCHINELLI, JR., MAYOR

- 5.) Any building, house, shed, fence, or other man-made structure or surrounding area to any of the foregoing structures which by reason of continued vacancy and or lack of reasonable and adequate maintenance causes a deteriorating and blighting influence on nearby properties and causes depreciation in the use, enjoyment and value of properties in the immediately surrounding area to such an extent that it is harmful to the community in which such structure is situated.

1331.03 REGISTRATION OF VACANT BUILDINGS; COMPLIANCE AND REQUIREMENTS

- A.) All buildings presently located within the City which are "vacant" as defined in this chapter or which hereafter become "vacant" shall be registered by the owner thereof within 30 days from date of their last occupancy with the Chief Building Official.
- B.) Registration shall be made on forms supplied by the Chief Building Official and shall include:
1. A description of the premises;
 2. The names and addresses of the owners of the premises
 3. The names and addresses of the person or persons who shall be responsible for compliance with this chapter;
 4. The period of time for which the premises are to remain vacant; and
 5. A plan for conforming the premises to applicable minimum housing, health, fire and safety laws and regulations.
- C.) Upon registration of any building pursuant to this chapter, or when any such vacant building comes to his attention, the Chief Building Official shall cause inspections to be made of the premises to determine the condition of such building and premises and whether there exists any fire, safety or health hazards upon the premises, and shall provide notices to the owners thereof to comply with the provisions of this chapter.
- D.) As a minimum requirement, all vacant buildings as defined in this chapter shall conform to the following requirements:
- 1.) The interior of the building, to include any garage area, shall be cleaned and free of debris;
 - 2.) The grounds of the premises shall be kept free of weeds and debris and the grass shall be mowed during summer months and the public sidewalks free of snow and ice during the winter months; and
 - 3.) No junk cars shall be parked on the premises.

E.) All buildings, which in addition to being "vacant" as defined in this chapter, are also open and unsecured to trespass, shall additionally meet the following requirements:

- 1.) All windows and doors on the ground floor area, including basement and garage, shall be boarded up and secured with minimum one-half inch sheathing grade plywood; and
- 2.) The sheathing shall be applied in a neat and orderly manner, cut to the size of the opening.

F.) The plan required in subsection (B)(5) hereof shall be reviewed and approved by the Chief Building Official and implemented and completed within 6 months of the date that the building is registered under this chapter. Upon application by the owner, the Board of Building Appeals may extend the period of compliance for an additional 6 months; provided, however, that such extension shall be granted only where the owner has demonstrated a good faith effort to comply with the plan that has been filed pursuant to this chapter.

G.) The fee for each quarter of the year or fraction thereof for which such vacant or unoccupied building is registered shall be \$50.00 per calendar quarter. The owner of any building that is required to be registered by this chapter may, upon the showing of financial hardship, have the payment of registration fees waived or deferred upon recommendation by the Board of Building Appeals. If any registration is not made within the time set forth in this chapter, the required fee shall be increased an additional \$10.00 each month for the period of time that the registration is delinquent.

H.) No registration shall be assignable. If the names or addresses of any of the persons required as a part of the registration statement change, a new registration statement shall be properly made within ten days from the date of such change in the same manner and form as herein prescribed.

1331.04 PROHIBITION FOR FAILURE TO REGISTER

No person shall own a vacant building as defined in this chapter unless the building is registered with the chief Building official in accordance with the requirements of this chapter.

1331.05 NO ABROGATION OF OTHER PROVISIONS

This chapter does not in any manner abrogate the other provisions of the Health, Building and Housing Codes of the City pertaining to the abatement of public nuisances or unsafe buildings.

1331.06 PENALTY

See Section 1330.02 (c) for the enforcement and penalty provisions for violations of this chapter.

DATE: NOVEMBER 16, 2009

CLERK: MARY BETH BAILEY

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

COUNCIL CHAMBERS

passed
LEGISLATIVE DEPARTMENT

ORDINANCE NO.141 – 2009

BY: FINANCE COMMITTEE

TITLE: AN ORDINANCE making certain appropriations from the unappropriated balance of the Community Partnership Fund, General Fund and the Summer Concert Fund, for the year ending December 31, 2009, 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 Community Partnership Fund, for the year ending December 31, 2009, the following:

\$28,428.08 to an account entitled "Salary – Community Partnership" 1228.115.2111
\$ 5,951.75 to an account entitled "Supplies/Materials" 1228.115.2410
\$ 3,979.93 to an account entitled "PERS" 1228.115.2230
\$ 1,500.00 to an account entitled "Equipment" 1228.115.2530
\$ 495.00 to an account entitled "Travel/Seminar" 1228.115.2389
\$ 412.21 to an account entitled "Medicare" 1228.115.2231

Section 2:

There be and hereby is appropriated from the unappropriated balance of the General Fund, for the year ending December 31, 2009, the following:

\$20,673.04 to an account entitled "Salary – Domestic Violence" 1100.116.2111
\$ 2,894.23 to an account entitled "Salary – PERS" 1100.116.2230
\$ 829.85 to an account entitled "Supplies/Materials" 1100.116.2410
\$ 299.76 to an account entitled "Medicare" 1100.116.2231
\$ 137.50 to an account entitled "Travel/Seminar" 1100.116.2389

Section 3:

There be and hereby is appropriated from the unappropriated balance of the Summer Concert Fund, for the year ending December 31, 2009, the following:

\$2,000.00 to an account entitled "Services/Concerts" 1212.505.2392

Section 4:

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 _____ 2009

ATTEST: _____

MARY BETH BAILEY, CLERK OF COUNCIL

GLENN E. GAMBER, PRESIDENT

APPROVED: _____

FRANCIS H. CICCHINELLI, JR, MAYOR

DATE: NOVEMBER 16, 2009

CLERK: MARY BETH BAILEY

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

COUNCIL CHAMBERS

ORDINANCE NO. 142 - 2009

Passed
LEGISLATIVE DEPARTMENT

BY: FINANCE COMMITTEE

TITLE: AN ORDINANCE making certain transfers in the 2009 appropriations from within the General Fund and the Street Fund, for the year ending December 31, 2009, 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 2009 appropriation from within the General Fund, for the year ending December 31, 2009, the following:

FROM:	Police Gas & Oil	1100.305.2430	\$49,000.00
	Fire Gas & Oil	1100.325.2430	\$ 6,400.00
	Garage Gas & Oil	1100.440.2430	\$ 2,500.00
	Contracted Services	1100.215.2392	\$ 500.00
	Contracted Services	1100.705.2392	\$ 488.71
	Travel/Seminar	1100.215.2389	\$ 450.00
	Travel/Seminar	1100.205.2389	\$ 450.00
	Health Gas & Oil	1100.705.2430	\$ 250.00
TO	Utilities	1100.410.2340	\$ 60,038.71

Section 2:

There be and hereby is transferred from the 2009 appropriation from within the Street Fund, for the year ending December 31, 2009, the following:

FROM:	Safety Salary	1201.420.2110	\$54,000.00
TO	Street Salary	1201.435.2110	\$27,000.00
	Street PERS	1201.435.2230	\$27,000.00

Section 3

That this Ordinance is hereby declared to be an emergency measure, the reason for the emergency being that said funds are necessary for the preservation of the public health, safety and welfare of the community and for the additional reason that the funds are required in the specific accounts to pay city obligations by the end of 2009. 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 _____ 2009

APPROVED: _____
MARY BETH BAILEY, CLERK OF COUNCIL

GLENN E. GAMBER, PRESIDENT

APPROVED: _____

FRANCIS H. CICCHINELLI, JR., MAYOR

DATE: NOVEMBER 16, 2009

CLERK: MARY BETH BAILEY

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

COUNCIL CHAMBERS

passed
LEGISLATIVE DEPARTMENT

RESOLUTION NO. 20 - 2009

BY: PUBLIC UTILITIES COMMITTEE

A Resolution acknowledging the authorization establishment of a government aggregation program with opt-out provisions pursuant to Section 4928 of the Ohio Revised Code (the "Aggregation Program") for the residents, businesses and other electric consumers in the City of Massillon.

WHEREAS, on November 3, 2009, Massillon residents voted in favor of the City having the authority to aggregate the retail electric loads located in the City and to enter into service agreements to facilitate for those loads the sale and purchase of electric pursuant to Sections 4928 of the Ohio Revised Code; and

WHEREAS, after the passage of the ballot, the Council held two public hearings as required by Revised Code 4928.20(c) to explain customer rights in an "opt-out" aggregation and to adopt a Plan of Operations and Governance for its electric governmental aggregation program.

NOW, THEREFORE, be it ordained by the Council of the City of Massillon, County of Stark, State of Ohio:

Section 1: That the Council of the City of Massillon acknowledge the affirmative vote of the electorate on November 3, 2009, thereby granting authority to the City of Massillon to establish an electric aggregation program.

Section 2: That this Council hereby adopts the City of Massillon's Plan of Operation and Governance, (attached hereto and incorporated herein by reference as Exhibit A) for the implementation and administration of the City's electric aggregation program in accordance with Revised Code 4928.20(c).

Section 3: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including section 121.22 of the Ohio Revised Code.

Section 4: That this Resolution shall be in full force and effect from and after the earliest period allowed by law.

PASSED IN COUNCIL THIS _____ DAY OF _____ 2009

APPROVED _____
MARY BETH BAILEY, CLERK OF COUNCIL

GLENN E. GAMBER, PRESIDENT

APPROVED _____

FRANCIS H. CICCHINELLI, JR., MAYOR

CITY OF MASSILLON ELECTRIC AGGREGATION PROGRAM

Plan of Operations and Governance

For additional information contact:
Mark R. Burns, President
Independent Energy Consultants, Inc.
Ph: (330) 995-2675



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1. Purpose of Electric Aggregation Program & Services

This aggregation plan has been developed in compliance with Ohio Revised Code, Section 4928.20 regarding governmental aggregation of electric service. That section of the Code defines two different types of aggregation that may be enacted by a governmental entity; opt-in aggregation and opt-out aggregation. The City of Massillon ("the City") will administer an opt-out aggregation program that will automatically include all eligible electric accounts receiving a beneficial offer from a Competitive Retail Electric Service Supplier (CRES Supplier). Those customers will be given prior notice entitling them to affirmatively elect not to be part of the Program.

The City passed the necessary resolution to place the issue of Opt-out Governmental Aggregation of electricity on the 11/3/2009 ballot. The ballot issue subsequently passed. The City will follow the Plan of Operation and Governance ("Plan") outlined below. This Plan was adopted after two public hearings were held in accordance with section 4928.20 (C) of the Ohio Revised Code.

The City's Aggregation Program ("Program") seeks to aggregate the retail electric loads of consumers located in the City to negotiate the best rates for the generation supply of electric power. With a City population of approximately 32600 the Program has the potential to combine residential accounts and small commercial accounts into a buying group that will be attractive to a Competitive Retail Electric Service Supplier (CRES Supplier). Participation in the Program is voluntary. Any individual customer (Member) has the opportunity to decline to be a Member of the aggregation program and to return to the local utility (Ohio Edison) standard offer of service or to enter into a power supply contract with any CRES Supplier.

Residential and small commercial electric customers often lack the ability to effectively negotiate electric supply services. The City's Program provides them an opportunity to benefit from professional representation and bargaining power achieved through an aggregation program.

The aggregation program is designed to reduce the amount Members pay for electric energy and to gain other favorable terms of service. The City will not buy and resell the power to the Program Members. Instead, the City will competitively bid and negotiate a contract with a CRES Supplier to provide firm, full-requirements generation service to the Members of the aggregation program.

Due to the complexity of deregulation of the electric utility industry, the City has entered into contract with Independent Energy Consultants, Inc. (Independent Energy Consultants), a PUCO certified broker and aggregator of natural gas and electricity. Among other things, Independent Energy Consultants will provide professional assistance which includes these consulting services:

- Draft and assist in maintaining this Plan of Operation and Governance
- Lead the required Public Hearings and attend Council meetings
- Assist the City in the day-to-day administration of program (problem resolution, press releases, PUCO compliance, supplier liaison, contract review, etc.)

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- Administer the Request for Proposal process, analyze supplier responses and provide recommendations for the supply agreement
- To review customer data provided by Ohio Edison that would serve as the basis for an opt-out notice
- To write/prepare reports on a quarterly/annual basis to the City, PUCO, PUCO's Market Monitoring division, and the Ohio Consumers' Counsel.

2. Determination of Rates and Other Charges

2.1. Rates

Through the efforts of its consultant, Independent Energy Consultants, Inc., the City will seek proposals from CRES suppliers. The request for proposals shall require the suppliers to offer a generation charge for firm, full-requirements supply. CRES Providers will bid by Ohio Edison customer rate classification or customer class. CRES Providers will be encouraged to bid on as many electric accounts as possible, but it is recognized that from a practical standpoint it is not likely that bids will be received for larger commercial and industrial accounts that require interval metering and individual price analysis. Furthermore, a CRES Provider may not be able to beat Ohio Edison's tariff rates for all customer classes and/or rate schedules. The prices to be charged to Members in the Program will be set by City Council, or their designee, after negotiations with the selected CRES Supplier. Members will be notified of the rates and terms of the Program through a direct mailing sent to each eligible resident and business within the City limits. Once offers are found a table similar to the one shown below will be populated to reflect the offer rates.

Ohio Edison Rate Schedule	CRES Supplier Offer – percent discount off the generation, generation related and transmission charge (Rider Gen) as set forth in the Ohio Edison applicable tariff
RS – Residential Service	6% – 2010 through April 2018
RSG – Residential Water Heating	4% – 2010 through April 2018
RSH – Residential Space Heating	4% – 2010 through April 2018
GS – General Service	3% – 2010 through April 2018
Other	

2.2 Charges

Neither the City nor the selected Supplier will impose any terms, conditions, fees, or charges on any Member served by the governmental aggregation unless the particular term, condition, fee, or charge is clearly disclosed to the Member at the time the Member chose not to opt-out of the aggregation

Ohio Edison will continue to bill for Late Payment, Delivery Charges and Monthly Service Fee, etc. These charges apply whether or not a Member switches to the Program's CRES supplier. Switching generation suppliers will not result in any new charges billed to the Member.

2.3 Switching Fees

Should Ohio Edison assess a switching fee for Members voluntarily remaining in the aggregation program; the Request for Proposal will be written to require the selected supplier to pay the switching fee.

2.4 Early Termination Fee

Members may terminate their agreement without penalty if they relocate outside of the City. Members that leave for other reasons may be assessed an early termination fee by CRES supplier. Early termination fees are standard in most electric contracts. The City will negotiate with the CRES supplier to ensure that any early termination fee assessed is reasonable and clearly stated in the opt-out disclosure notice.

3. Process for Providing Opt-Out Disclosure Notices

When a successful supply offer is found the City shall order the eligible customer list from Ohio Edison. Ohio Edison shall turn over the list to the City or its consultant upon request. Once the list is obtained, it will be shared with the selected CRES supplier and they will have 30 days from the City's receipt of the data to mail the opt-out notices to all eligible Members receiving an offer.

The selected CRES supplier will be required to pay for printing and mailing of opt-out disclosure notices. The notices will be mailed to the owner or occupant residing at the electric account mailing address shown on Ohio Edison's customer list. The notice will contain the City's name and logo to clearly indicate to the recipient that it is a notice from the City.

Prior to mailing opt-out notices a thorough review will be performed to see that all eligible Members receiving an offer are sent the notice. The review process will include the efforts of numerous parties and utilize a number of resources as specified in section four of this plan.

Following acceptance of an offer by the City, the CRES supplier will mail opt-out notices to eligible Members. Members will have 21 days from the postmark date on the notice to postmark the return opt-out card if they do not wish to participate in the City's program.

In the event that an eligible Member is inadvertently not sent an opt-out notice and is omitted from the Program; the CRES supplier shall, upon request, enroll the eligible Member at the group rate for the remaining term.

4. Determination of Eligible Customer Pool

Under the opt-out aggregation provisions, all eligible electric consumers within the City will be automatically included in the Program. However, such customers will be given prior notice entitling them to affirmatively elect not to be part of the Program.

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Prior to mailing opt-out notices a thorough review will be performed to see that all ineligible customers are excluded. The review process will include the efforts of numerous parties and utilize a number of resources:

- Ohio Edison will query their customer database using best efforts to capture all accounts within the City limits.
- The City's consultant working with the CRES supplier, available City resources and publicly available material shall screen out customers who are not located within the City limits. Those resources may include any or all of the following: Property records, water and/or sewer records, fire and/or police department address records, 911 address records, street listings, City maps, internet maps, county parcel mapping databases, and geographical information systems (GIS).
- Ineligible accounts will be screened out based on codes provided in the Ohio Edison data.
- The data shall be reviewed to see that all zip codes have been included, all streets included, all customer classes, all customer rate schedules, and finally that an expected total for a community of this population was turned over.
- Any suspected omissions will be reported to Ohio Edison along with a request to furnish that data.
- Eligibility may be limited by a supplier's offer. For example, a fixed rate might not be offered to an account if their Price-to-Compare indicates they would not save.

5. Opt-Out Process

The City is using an Opt-Out form of Governmental Aggregation pursuant to section 4928.20 of the Ohio Revised Code. Any such person that opts-out of the aggregation program pursuant to stated procedure will default to the standard service offer provided by Ohio Edison until the person chooses an alternative supplier.

When a successful supply offer is found the City shall order the eligible customer list from Ohio Edison. Ohio Edison shall turn over the list to the City or its consultant upon request. Once the list is obtained, it will be shared with the selected CRES supplier and they will have 30 days from the City's receipt of the data to mail the opt-out notices to all eligible Members receiving an offer.

The selected CRES supplier and the City will agree upon the format of the opt-out notice and will docket a sample with the PUCO at least ten days prior to mailing it to eligible Members.

The selected CRES supplier will be required to pay for printing and mailing of opt-out disclosure notices. The notices will be mailed to the owner or occupant residing at the electric account mailing address shown on Ohio Edison's customer list. A City official will sign the notice and it will contain the City's name and logo on the outside to clearly indicate to the recipient that it is a notice from the City.

Prior to mailing opt-out notices a thorough review will be performed to see that all eligible Members receiving an offer are sent the notice. The review process will include the efforts

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of numerous parties and utilize a number of resources as specified in section four of this plan.

Following acceptance of an offer by the City, the CRES supplier will mail opt-out notices to eligible Members receiving an offer. Members will have 21 days from the postmark date on the notice to postmark the return opt-out card if they do not wish to participate in the City's program. If available, Members may also call the CRES supplier's toll-free recorded phone number to opt-out. The selected CRES supplier will not enroll those accounts opting out from the Program.

In the event that an eligible Member is inadvertently not sent an opt-out notice and is omitted from the Program, the CRES supplier shall, upon request, enroll the eligible Member at the group rate for the remaining term.

All members of the Program will also be given an opportunity to opt-out without penalty at least once every three years.

Procedure Steps:

1. The selected CRES supplier and the City will agree upon the format of the opt-out notice and will docket a sample with the PUCO at least ten days prior to mailing it to eligible Members.
2. The selected supplier will distribute an Opt-Out Form to all eligible Members via first class U.S. Mail;
3. Recipients will have 21 days from the postmark on the notice to notify the selected CRES supplier if they do not want to be part of the program;
4. Members will be able to opt out by returning an opt-out card via U.S. Mail to the selected CRES supplier. The supplier may offer additional means of opting out, such as, making a toll-free recorded phone call to the CRES supplier, email notification or fax.
5. Additionally, Members who do not opt-out per step 4 above will receive written notification from Ohio Edison stating that they are about to be switched. That notice will inform them that they have 7 days to rescind the contract by contacting Ohio Edison; and
6. The selected CRES supplier will not enroll those accounts opting out from the Program.

The opt-out notice will clearly notify the Program Members of the rates to be charged for electricity and other terms of the contract with the selected supplier. The notice will also satisfy the requirements for disclosing the environmental impact of the generation sources used to supply the program.

6. Customer Classes Included

All eligible Members are included in the Program but the selected CRES supplier's offer will determine which groups receive an offer and opt-out notice. It is envisioned that residential and small commercial customers supplied by Ohio Edison within the City limits are the most likely to receive an offer. The specific rate schedules will be identified

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in Section 2 of this Plan of Operation. In addition to having a rate schedule listed in Section 2, the following eligibility requirements apply:

- Customers must be up to date with their bill payment;
- Customers must not have Opted-out of the Program;
- Customers must not be on the Do Not Aggregate list;
- Customers must not be supplied generation service from another CRES provider;
- Customer must not be on a special contract with Ohio Edison;
- Customers must not be in the Percentage of Income Payment Program (PIPP);
- Commercial Customers must have a Peak Demand of ≤ 399 kW; and
- Commercial Customers must not have interval metering.
- Customer must not be classified as mercantile.
- Eligibility may be further limited by a supplier's offer. For example, a fixed rate might not be offered to an account if their Price-to-Compare indicates they would not save.

7. Billing Procedures

The City will utilize the coordinated billing services of Ohio Edison and the selected CRES supplier. Most customers are expected to receive a single bill from Ohio Edison that itemizes among other things, the cost of generation provided by the CRES supplier. In some instances, particularly for commercial accounts, the CRES supplier may request that dual billing be used. In this case the supplier would issue a bill for their supply service and Ohio Edison would issue a bill for their delivery services.

Members currently on budget billing will continue to be budget billed. Ohio Edison's process will remain the same. Members wishing to start budget billing should contact Ohio Edison. The process will take place in accordance with Ohio Edison's policy and is not unique to the City's Program. Ohio Edison's policies will dictate what portions of a Member's bill are budgeted and how the budget amount is calculated.

Members are required to remit and comply with the payment terms of Ohio Edison and/or their supplier if dual billing is used. This Program will not be responsible for late or no payment on the part of any of its members. Furthermore, slow or no payment on the part of some Members will not adversely impact the rates charged to other Members. The selected Supplier shall not charge more than 1 ½ percent per month for overdue balances owed to the selected Supplier.

8. Credit/Deposit Requirements

Collection and credit procedures remain the responsibility of Ohio Edison, the selected Supplier and the individual Member. Members are required to remit and comply with the payment terms of Ohio Edison. This Program will not be responsible for late or no payment on the part of any of its Members. The City will have no separate credit or deposit policy.

9. Procedures for Handling Customer Complaints and Dispute Resolution

Members have multiple means of addressing complaints. As a general rule, concerns regarding service reliability should be directed to Ohio Edison, questions regarding the Program administration should go to the City, billing questions should be directed to Ohio Edison or the selected supplier and any unresolved disputes should be directed to the Public Utilities Commission of Ohio and/or The Ohio Consumers' Counsel. Listed below is a table of toll-free numbers for members to call for assistance.

Nature of Complaint	Contact	Phone Number
Service interruptions or emergencies	Ohio Edison	1-888-544-4877
Service turn on/off	Ohio Edison	1-800-633-4766
Billing disputes – Delivery charges	Ohio Edison	1-800-633-4766
Billing disputes – Supplier charges	FirstEnergy Solution	1-866-636-3749
Joining/Leaving Program	FirstEnergy Solution	1-866-636-3749
Aggregation Program questions	City of Massillon Independent Energy Consultants	(330) 830-1701 1-888-862-6060
Unresolved disputes	Public Utilities Comm. (voice)	1-800-686-7826
Unresolved disputes	Public Utilities Comm. TDD/TTY	1-800-686-1570
General information – residential	Ohio Consumers' Counsel	1-877-742-5622

10. Moving Into/Within the City

Utility rules require that people moving into a different residence, new construction or otherwise, be assigned a new account number and be served for at least one month by the local utility before they can switch to a new supplier. The above-mentioned are examples of utility rules approved by the PUCO that will impact the operation of Massillon's aggregation program.

Residents and businesses that move into the City will not be automatically included in the City's Program. The City cannot guarantee the rates, terms and conditions to Members enrolling after the 21-day opt-out period of the initial enrollees. Members wishing to opt-in to the Program may contact the City or the CRES supplier to obtain enrollment information. There is, however, no guarantee that customers opting-in at a later date will receive the same price, terms and conditions as did the initial participants. The selected CRES supplier's decision whether or not to extend an offer will be based, in part, on the market prices at the time of request.

Members who move within the City limits and are assigned a new account number by Ohio Edison will be treated in the same manner as a new resident. They will not be automatically enrolled, but may contact the CRES supplier concerning re-enrollment. Once again, there is no guarantee that the CRES Supplier will extend an offer, or an offer that is the same as that of the initial enrollees.

11. Moving Within the City and Maintaining the Same Account Number

The selected CRES Supplier shall continue service at the same rate and under the same terms and conditions for any Member who relocates within the City prior to the expiration of the contract term, providing that the Member notifies the CRES Supplier of their desire to do so with thirty (30) days written notice. Moving within the City may cause the Member to be served for a brief period of time by the local utility. The CRES supplier shall have the right to bill the participant for any associated switching fee imposed by Ohio Edison. Members may also opt-out without penalty under these circumstances.

12. Joining the Aggregation Group after Opting-Out

Members who have left the aggregation group and wish to rejoin at a later date are treated in the same manner as new residents moving into Massillon. These customers may contact the City or the CRES supplier at any time to obtain enrollment information. There is however, no guarantee that customers opting-in at a later date will receive the same price, terms and conditions as did the initial participants.

13. Reliability of Power Supply

The Program will only affect the generation source of power. Ohio Edison will continue to deliver power through their transmission and distribution systems. Responsibility for maintaining system reliability continues to rest with Ohio Edison. If Members have service reliability problems they should contact Ohio Edison for repairs. The PUCO has established "Minimum Reliability Standards" for all utilities operating distribution systems in Ohio. Customer outages, duration of outages, interruptions, etc., are monitored to ensure reliability remains at satisfactory levels.

In addition to maintaining the "wires" system, Ohio Edison is required to be the "Provider of Last Resort." This means, should the selected CRES supplier fail for any reason to deliver any or all of the electricity needed to serve the Members needs, Ohio Edison will immediately provide for the shortfall. Ohio Edison would then bill the supplier for the power provided on their behalf. The Members would incur no additional cost.

14. Supplier Qualification Selection Criteria

Only Suppliers meeting strict criteria will be considered.

- Suppliers will need to be certified by the Public Utilities Commission of Ohio
- Registered with Ohio Edison to do business in their service territory. Both the certification and registration ensure that Suppliers possess the managerial, technical, and financial competence to perform the services they offer.
- Successfully completed Electronic data Interchange (EDI) computer system testing with Ohio Edison to support Governmental Aggregation Program transactions.
- Agree to hold harmless the City from any financial obligations arising from the Program.
- The selected CRES supplier will need to agree to notify the City and negotiate with the City at least 60 days in advance of attempting to terminate the agreement for any reasons other than (i) the scheduled end date or (ii) Force

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- The selected CRES supplier shall demonstrate its creditworthiness by possessing an investment grade long-term bond ratings from at least two of the following rating agencies:

Standard & Poors

Moody's Investors' Services

Fitch ICBA

Duff & Phelps

BBB or Higher

Baa3 or Higher

BBB or Higher

BBB or Higher

Should the CRES supplier be unable to demonstrate its creditworthiness, the supplier will be required to provide:

- a Letter of Credit; or
- a Parental Guaranty from a company that is deemed creditworthy; or
- a Surety Bond.
- Details of the credit type and amount will be subject to negotiation.

15. Miscellaneous

The City will maintain a copy of this Plan of Operation and Governance on file at its Administrative office. This Plan will be kept available for public inspection. It will, upon request, be copied for any existing or potential Members of the aggregation in accordance with the City rules for copying public documents.

The City will not materially alter this Plan of Operation and Governance without first notifying its Members.

The City or the selected CRES supplier will not issue an opt-out notice before the City has obtained its certification as a Governmental Aggregator of electricity from the Public Utilities Commission of Ohio.

The success of the City's Aggregation Program relies in part to the cooperation it receives from Ohio Edison. In addition to other tasks, Ohio Edison must turn over accurate customer data and perform the customer switching process in a timely manner. The City will comply with PUCO rules, and will hold Ohio Edison to its obligations under the same.

The Electric Aggregation Program may be terminated upon the termination or expiration of the supply contract without any extension, renewal or subsequent supply contract being negotiated. Each individual Member receiving electric supply service under the Program will receive notification 45-90 days prior to termination of the Program. In the event of termination, Members in the City aggregation program would either return to Ohio Edison supply service or choose a CRES supplier on their own.

If the City is unable to find a satisfactory offer at the end of an existing supply agreement, they have the option of maintaining their status as a Governmental Aggregator while they continue to seek offers for their Members.

DATE: NOVEMBER 16, 2009

CLERK: MARY BETH BAILEY

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

COUNCIL CHAMBERS

passed
LEGISLATIVE DEPARTMENT

RESOLUTION NO. 21 - 2009

BY: STREETS, HIGHWAYS, TRAFFIC & SAFETY COMMITTEE

TITLE: A RESOLUTION renaming the Tremont Viaduct to the Vietnam Veterans Memorial Viaduct to honor the servicemen who lost their lives during the Vietnam War.

WHEREAS, the viaduct will be officially dedicated in December to honor the eighteen Massillon men who lost their lives in the Vietnam War fighting for their country.

WHEREAS, the names of the eighteen Massillon men to be honored for their ultimate sacrifice for their country are as follows: Charles J. Bair, Timothy D. Berry, Robert E. Bethune, William F. Coyne, Richard E. Fuchs, Ronald V. Hacker, David W. Hendle, Forest G. Highland Jr., Lamont D. Hill, Paul R. Maddox, Robert L. Mingle, William L. Nulph Jr., Vernon R. Riley, John R. Sinnock, Ronald V. Stanton, Gary L. Stewart, Terry C. Welty and Robert D. Wuertz.

WHEREAS, on Memorial Day of 2010 plaques will be unveiled at each end of the viaduct to honor the Massillon servicemen who gave the ultimate sacrifice for their country. An additional plaque will recount the story of "The Three Buddies" from Massillon, Timothy D. Berry, William F. Coyne and Richard E. Fuchs who were neighborhood friends that joined the Marines after graduating from Washington High School in 1965. Two years later these three young servicemen lost their lives when their helicopter crashed into the South China Sea.

Now, therefore be it resolved that Massillon City Council recognizes the ultimate sacrifice these brave eighteen servicemen gave during the Vietnam War on the official record.

PASSED THIS _____ DAY OF _____ 2008

ATTEST:

MARY BETH BAILEY, CLERK OF COUNCIL

GLENN E. GAMBER, PRESIDENT

APPROVED: _____

FRANCIS H. CICCHINELLI, JR., MAYOR

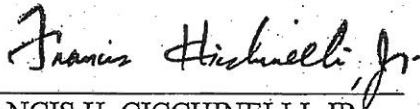
THE CITY OF MASSILLON, OHIO
Office of the Mayor
FRANCIS H. CICCHINELLI, JR.

TO: Massillon City Council **DATE:** November 10, 2009
FROM: Mayor Francis H. Cicchinelli, Jr.
SUBJECT: Mayor's Appointment to Affinity Medical Center Board of Trustees

This Memo is to advise you of the following appointment which I have made to
the **Affinity Medical Center Board of Trustees**:

Teresa Emmerling
2820 Emily Circle N.W.
Massillon, OH 44647

Respectfully,



FRANCIS H. CICCHINELLI, JR.
Mayor