

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

DATE: MONDAY, DECEMBER 20, 2010
PLACE: COUNCIL CHAMBERS
TIME: 7:30 P.M.

THERE ARE NO PUBLIC HEARINGS TONIGHT

1. ROLL CALL
2. INVOCATION BY COUNCILMAN DAVID MCCUNE
3. PLEDGE OF ALLEGIANCE
4. READING OF THE JOURNAL
5. REMARKS OF DELEGATIONS AND CITIZENS TO MATTERS ON THE AGENDA
6. INTRODUCTION OF ORDINANCES AND RESOLUTIONS

ORDINANCE NO. 151 – 2010

BY: COMMUNITY DEVELOPMENT COMMITTEE

PASS 9-0

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

ORDINANCE NO. 152 – 2010

BY: COMMUNITY DEVELOPMENT COMMITTEE

PASS 9-0

AN ORDINANCE authorizing the Mayor of the City of Massillon, Ohio, to enter into an offer to purchase agreement between the City of Massillon and the State of Ohio for the purchase of real estate located adjacent to the Indian River Juvenile Correction Facility, upon approval of the Board of Control, and declaring an emergency.

ORDINANCE NO. 153 – 2010

BY: HEALTH, WELFARE, BLDG REGULATIONS

PASS 7-2 (TOWNSEND; CATAZARO PERRY)

AN ORDINANCE amending CHAPTER 1313 "ELECTRICAL CODE" of the Codified Ordinances of the City of Massillon, and enacting new Subsections 1313.01 "ADOPTION OF NATIONAL ELECTRICAL CODE; COPIES; CONFLICT, 1313.04 "LICENSE EXEMPTIONS". 1313.06 "APPLICATION FOR ELECTRICAL CONTRACTOR'S LICENSE, FEES, O.C.I.L.B. CERTIFICATION", 1313.07 "APPLICATION FOR JOURNEYMAN ELECTRICIAN'S LICENSE; FEES, 1313.08 "APPLICATION FOR REGISTERED APPRENTICE LICENSE, FEES, 1313.09 "POWERS AND DUTIES OF BOARD OF ELECTRICAL EXAMINERS" 1313.10 "EXAMINATION FOR LICENSE" 1313.11 "LICENSE FEE" 1313.12 "LICENSE RENEWAL" 1313.13 "REVOCATION OF LICENSE" 1313.16 "PERMIT FEES", 1313.17 "ROUGH AND/OR SERVICE INSPECTION", 1313.18 "FINAL INSPECTION", 1313.23 "CONSTRUCTION REQUIREMENTS" and 1313.99 "PENALTY".

ORDINANCE NO. 154 – 2010

BY: HEALTH, WELFARE, BLDG REGULATIONS

PASS (6-3) - PETERS; TOWNSEND; CATAZARO PERDY.

AN ORDINANCE amending CHAPTER 1321 "HEATING, VENTILATION AND AIR CONDITIONING CODE" of the Codified Ordinances of the City of Massillon, and enacting new Subsections 1321.01 "DEFINITION", 1321.02 "APPLICABILITY AND EXCLUSIONS", 1321.03 "MECHANICAL CODES ADOPTION", 1321.04 "REGISTRATION", 1321.05 "QUALIFICATIONS REQUIRED FOR AN APPLICATION FOR HVAC CONTRACTOR'S REGISTRATION", 1321.07 "REGISTRATION REQUIREMENTS", 1321.08 "PERMITS", 1321.09 "PLANS EXAMINATION", 1321.11 "BOARD OF HVAC EXAMINERS", 1321.12 "BOARD DUTIES", 1321.13 "ADDITIONAL BOARD DUTIES", 1321.15 "INSPECTIONS", 1321.17 "STOP WORK ORDERS", 1321.18 "NOTICE TO OWNER OF CITY VERIFICATION OF DEFECTIVE HEATING EQUIPMENT", 1321.19 "REGISTRATION OF JOURNEYMEN", 1321.20 "APPLICATION FOR REGISTERED APPRENTICE LICENSE" and 1321.99 "PENALTY".

ORDINANCE NO. 155 – 2010

BY: RULES, COURTS AND CIVIL SERVICE

1ST READING

AN ORDINANCE authorizing the Director of Law of the City of Massillon, Ohio, to renew a one year contract with the Stark County Public Defender's Office, for the purpose of providing representation for indigent defendants charged under City Ordinances, and declaring an emergency.

ORDINANCE NO. 156 – 2010

BY: FINANCE COMMITTEE

PASS 9-0

AN ORDINANCE making certain appropriations from the unappropriated balance of the Legends Fund, Bond Ret. WWT Fund, Safety Forces Equipment Fund and the Municipal Road Fund, for the year ending December 31, 2010, and declaring an emergency.

ORDINANCE NO. 157 – 2010

BY: FINANCE COMMITTEE

PASS 9-0

AN ORDINANCE reducing the appropriations in the Law Dept. Community Partnership Fund, State Patrol Transfer Fund, Municipal Road Fund, OPWC Loan Fund, Bond Retirement Park & Rec. Fund, Tax Increment Fund, Section 108 Loan Fund and the Bond Retirement Lincoln Center Fund, for the year ending December 31, 2010, and declaring an emergency

ORDINANCE NO. 158 – 2010

BY: FINANCE COMMITTEE

PASS 9-0

AN ORDINANCE making certain transfers in the 2010 appropriations from within the General Fund, for the year ending December 31, 2011, and declaring an emergency.

ORDINANCE NO. 159 – 2010

BY: FINANCE COMMITTEE

PASS 9-0

AN ORDINANCE amending Ordinance No. 21 – 2010 by revising Section 4 of the 2010 budget, and declaring an emergency.

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 NOVEMBER 2010
- B). TREASURER SUBMITS MONTHLY REPORT FOR NOVEMBER 2010
- C). FIRE CHIEF SUBMITS MONTHLY REPORT FOR NOVEMBER 2010
- D). INCOME TAX DEPARTMENT SUBMITS MONTHLY REPORT FOR NOVEMBER 2010
- E). WASTE DEPARTMENT SUBMITS MONTHLY REPORT FOR NOVEMBER 2010
- F). MAYOR SUBMITS MONTHLY REPORT FOR NOVEMBER 2010

11. REPORTS OF COMMITTEES

12. RESOLUTIONS AND REQUESTS OF COUNCIL MEMBERS

13. CALL OF THE CALENDAR

14. THIRD READING ORDINANCES AND RESOLUTIONS

ORDINANCE NO. 129 – 2010

BY: HEALTH, WELFARE, BLDG REGULATIONS

PASS 6-3 (PETERS; TOWNSEND; CATAZARO - PERRY)

AN ORDINANCE amending CHAPTER 1305 "RESIDENTIAL BUILDING CODE OF OHIO FOR ONE, TWO AND THREE FAMILY DWELLINGS" of the Codified Ordinances of the City of Massillon, and enacting new Subsections 1305.02 "COPIES", 1305.03 "DWELLING PLANS EXAMINATION" 1305.04 "SCHEDULE OF FEES FOR BUILDING PERMITS, 1305.06 "RESIDENTIAL CONTRACTORS REGISTRATION" 1305.07 "CONTRACTOR REGISTRATION AND BOND FEES, 1305.08 "JOURNEYMEN AND APPRENTICE REGISTRATION" and 1305.99 "PENALTY".

ORDINANCE NO. 136 – 2010

BY: FINANCE COMMITTEE

FAIL 5-4 (ANDERSON; CATAZARO - PERRY; TOWNSEND; PETERS; SLASLE)

AN ORDINANCE appropriating money for current expenses and other expenses of the City of Massillon, Ohio, for the fiscal period ending December 31, 2011, and declaring an emergency.

15. SECOND READING ORDINANCES AND RESOLUTIONS

ORDINANCE NO. 140 – 2010

BY: RULES, COURTS AND CIVIL SERVICE

2ND READING

AN ORDINANCE amending Chapter 121 "COUNCIL" of the Codified Ordinances of the City of Massillon, by enacting a new Section 121.02(b) Rule 8.1 "Powers and Duties", and declaring an emergency.

ORDINANCE NO. 141 – 2010

BY: RULES, COURTS AND CIVIL SERVICE

2ND READING

AN ORDINANCE accepting the appointment of Mary Ann Coyne as the City Records Custodian as voted by the Massillon Records Commission, and declaring an emergency.

ORDINANCE NO. 142 – 2010

BY: STREETS, HIGHWAYS, TRAFFIC & SAFETY

PASS 9-0

AN ORDINANCE authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to sign the Consent Legislation with the Ohio Department of Transportation for the SR 172 Paving Project, and declaring an emergency.

ORDINANCE NO. 143 – 2010

BY: STREETS, HIGHWAYS, TRAFFIC & SAFETY

PASS 9-0

AN ORDINANCE authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to enter into an agreement with Dalene M. Pride to perform the Motor Vehicle License Audits for the City of Massillon, and declaring an emergency.

ORDINANCE NO. 148 – 2010

BY: FINANCE COMMITTEE

PASS 9-0

AN ORDINANCE authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to enter into contract with The Health Plan for health insurance coverage for the City employees, and declaring an emergency.

16. NEW AND MISCELLANEOUS BUSINESS

17. REMARKS OF DELEGATIONS AND CITIZENS TO MATTERS NOT ON THE AGENDA

18. ADJOURNMENT

MARY BETH BAILEY - CLERK OF COUNCIL

DATE: DECEMBER 20, 2010

CLERK: MARY BETH BAILEY

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

COUNCIL CHAMBERS

LEGISLATIVE DEPARTMENT

ORDINANCE NO. 151 - 2010

passed

BY: COMMUNITY DEVELOPMENT COMMITTEE

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

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

WHEREAS, the said petition was duly considered by the Board of County Commissioners of Stark County on September 7, 2010, and

WHEREAS, the Board of County Commissioners on September 7, 2010, approved the annexation of said territory to the City of Massillon as hereinafter described, and

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

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

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

Section 1:

The application of Jason Haines for the petitioners is hereby accepted for the annexation of the following described territory in the County of Stark and adjacent to the City of Massillon, to wit: see Exhibit "A" attached hereto.

Section 2:

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

Section 3:

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

Section 4:

This Ordinance is declared to be an emergency measure, the reason for the emergency being that said enactment is necessary for the more efficient operation of the City of Massillon, Ohio, and for the additional reason that it is in the best interest of the property owners in the annexed area that their property become a part of the City of Massillon. Provided it receives the affirmative vote of two-thirds of the elected members to Council, it shall take effect and be in force immediately upon its passage and approval by the mayor. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

PASSED IN COUNCIL THIS _____ DAY OF _____ 2010

PROVED: _____

MARY BETH BAILEY, CLERK OF COUNCIL

GLENN E. GAMBER, PRESIDENT

APPROVED: _____

FRANCIS H. CICCHINELLI, JR., MAYOR

Exhibit "A"

**PETITION
BY CITIZENS FOR THE SIBILA FAMILY LLC ANNEXATION
TO THE CITY OF MASSILLON, OHIO**

TO THE COMMISSIONERS OF STARK COUNTY, STATE OF OHIO:

We, the undersigned, being a majority of the adult owners of real estate in the territory hereinafter described, hereby petition for the annexation of the following described territory to the City of Massillon, Massillon Township, Stark County, Ohio. The following description is based solely on record information found in the Stark County Official Records, a boundary survey was not performed.

Situated in the Township of Perry, County of Stark, and State of Ohio and known as and being part of the Northwest and Southwest Quarter of Section 4, T-10, R-9, and further described as follows:

Beginning at the southeast corner of the Northwest Quarter of Section 4, Perry Township, said point also known as the true place of beginning; thence S 02° 15' 08" W, 733.23 feet along said quarter section line to a point, said point being the southeast corner of a tract of land currently or formerly owned by Sibila Family LLC;

Thence along said Sibila tract the following courses:

N 75° 00' 42" W, 650.87 feet to a point;

N 20° 58' 43" E, 315.94 feet to a point;

N 60° 15' 34" E, 253.62 feet to a point;

N 04° 34' 28" E, 325.96 feet to a point; and crossing over the north line of the Southwest Quarter Section 4, Perry township; thence

N 03° 29' 34" E, 261.27 feet to a point;

N 89° 28' 57" E, 299.81 feet to a point, said point being on the east line of the Northwest Quarter Section 4, Perry Township;

Thence continuing along the quarter section line on a bearing of S 02° 15' 08" W, a distance of 445.24 feet to a point, said point being the Southeast corner of the Northwest Quarter of Section 4, Perry Township, and also being the True Place of Beginning and containing 10.54 acres more or less, subject to all legal highways.

The basis of bearing is S 02° 15' 08" W along the east line of the Northwest Quarter Section 4, Perry Township, as recorded in Instrument # 200911020044733 of the Stark County Official Records.

Jason Haines, 151 Lincoln Way East, Massillon, OH 44646 is hereby appointed agent for the undersigned petitioners as required by ORC 709.02 with full power and authority hereby granted to said agent to amend, alter, change, withdraw, refile, substitute, and to take any action necessary for obtaining the granting of this petition. Said amendment, compromise, increase or deletion, or other things for granting this petition shall be made in the petition, description, and/or plat by said agent without further expressed consent of the petitioners.

DATE: DECEMBER 20, 2010

CLERK: MARY BETH BAILEY

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

COUNCIL CHAMBERS

LEGISLATIVE DEPARTMENT

ORDINANCE NO. 152 - 2010

passed

BY: COMMUNITY DEVELOPMENT COMMITTEE

TITLE: AN ORDINANCE authorizing the Mayor of the City of Massillon, Ohio, to enter into an offer to purchase agreement between the City of Massillon and the State of Ohio for the purchase of real estate located adjacent to the Indian River Juvenile Correction Facility, upon approval of the Board of Control, and declaring an emergency.

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

Section 1:

The Council of the City of Massillon, Ohio, hereby finds that it is necessary to enter into an offer to purchase agreement between the City of Massillon and the State of Ohio for the purchase of an 8.622 acre parcel of real estate located near the Indian River Juvenile Correction Facility, the same being more fully described on exhibit "a" attached hereto, upon approval of the Board of Control.

Section 2:

The Mayor of the City of Massillon, Ohio, is hereby authorized and directed to enter into the purchase agreement between the City of Massillon and the State of Ohio, the terms of which are contained in exhibit "a" attached hereto.

Section 3:

The purchase price for said real estate shall be \$15,000 (Fifteen Thousand Dollars). The city will be receiving the \$15,000 (Fifteen Thousand Dollars) through the Massillon Community Improvement Corporation and said funds will be used to pay for the purchase of this parcel of real estate. Separate legislation will ultimately be presented permitting the city to convey said real estate to the Massillon Community Improvement Corporation.

Section 4:

This Ordinance is hereby declared to be an emergency measure necessary for the preservation of the health, safety and welfare of the community and for the additional reason that it is necessary for such agreement to be in place before the end of the calendar year so that the state legislature can pass state legislation authorizing the sale of the property to the City of Massillon. Provided it receives the affirmative vote of two-thirds of the elected members to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

2nd page is the signature page

OFFER TO PURCHASE REAL ESTATE

The undersigned, City of Massillon, Ohio, a body politic, having an office within the Municipal Government Annex, Administration Building, 151 Lincoln Way East, Massillon, Ohio 44646 (hereinafter referred to as "Purchaser"), hereby offers to purchase from the State of Ohio, acting through its Department of Administrative Services, 4200 Surface Road, Columbus, Ohio 43228-1395 (hereinafter referred to as "State"), acting on behalf of the Ohio Department of Youth Services, (hereinafter referred to as "Agency"), an 8.622 acre tract of land, located near the Indian River Juvenile Correctional Facility, which correctional facility is located at 2775 Indian River Road, S.W., Massillon, Ohio 44646, and more fully described within "Exhibit A" and "Exhibit B", attached hereto and made a part hereof, subject to the legal description and survey prepared pursuant to Section 5 herein (hereinafter referred to as "Premises").

The foregoing offer is subject to the following terms and conditions:

1. The purchase price for the Premises shall be Fifteen Thousand and 00/100 Dollars (\$15,000.00) and shall be paid at closing payable to the Treasurer, State of Ohio.
2. The State shall convey title to the aforescribed Premises to Purchaser by Governor's Deed (hereinafter referred to as "Deed").
3. Any title evidence desired by Purchaser shall be at Purchaser's cost.
4. The risk of loss or damage to the Premises shall remain with and is expressly assumed by the State until title passes at the time of the delivery of the Deed, at which time the risk of loss or damage to the Premises shall be expressly assumed by Purchaser.
5. For purposes of facilitating legislation regarding the transfer of subject property, Purchaser shall provide at Purchaser's cost, a boundary survey (including legal description and corresponding drawing) for the Premises approved by the City of Massillon Engineer for deed transfer, or shall have the existing legal description of the Premises approved by the City of Massillon Engineer for deed transfer. The State shall approve the division of property necessary to facilitate the deed transfer.
6. Purchaser shall pay all costs associated with the purchase and conveyance of the subject premises, including recordation costs of the Deed.
7. Purchaser has examined the Premises and agrees to accept the Premises, and all improvements and chattels thereon, in its present condition, as is. Purchaser and State agree that the condition of the Premises will not be changed, altered or modified between the time of executing this agreement and the date of closing.

8. Purchaser and seller acknowledge certain analysis and determinations relating to the Premises found in that certain Memo dated June 1, 2009 by Hammontree & Associates, and that certain Erosion Study dated April 2010, by Sands Decker, CPS. Purchaser agrees that after taking title to the Premises, Purchaser shall construct a detention basin (the "Basin") as depicted within Exhibit "C", attached hereto and made a part hereof. All costs of constructing and maintaining the Basin shall be paid by Purchaser. Construction of the Basin shall be completed by Purchaser no later than one hundred eighty (180) days following transfer of title of the Premises. The Basin shall:
- a. Repair the eroded gully;
 - b. Prevent future gully erosion;
 - c. Prevent damage and/or debris from disrupting the Ohio & Erie Canal Towpath Bike Trail;
 - d. Allow Agency to discharge current water flow rates/volumes into the Basin; and
 - e. Maintain and/or relocate Agency's storm sewer connection(s).

Purchaser shall be responsible for maintenance of the Basin, and the slopes of the Basin, to prevent erosion of Agency's property. In consideration of the purchase price, Purchaser shall hold State and Agency harmless for any and all past, present, or future damages discovered or unknown caused by or relating to the Premises. This specifically includes storm water runoff. The provisions of this Paragraph 8 shall survive the conveyance of the Premises.

9. Said sale is subject to and governed by the passage of legislation by the Ohio General Assembly authorizing the sale of the Premises in accordance with the terms and conditions herein.
10. This agreement sets forth the entire understanding of the parties with respect to this transaction. It may not be modified, rescinded, changed or amended without the specific written consent of both of the parties hereto until such time as legislation is passed, at which time the legislation shall supplement the terms and conditions of this agreement. This agreement shall be binding upon the parties hereto and their respective administrators, successors and assigns.

IN WITNESS WHEREOF, we have hereunto set our hands this _____ day of
_____, 20_____.

PURCHASER:
City of Massillon, Ohio

By: _____
Francis H. Cicchinelli, Jr., Mayor

Per Massillon City Council Resolution #: _____

APPROVED AS TO FORM:
City of Massillon, Law Department

By: _____
Pericles G. Stergios, Director of Law

ACCEPTANCE

The undersigned, Hugh Quill, being the Director of Administrative Services for the State of Ohio as authorized by Ohio Revised Code §123.01(A)(12) and being the person referred to as State above, hereby accepts the foregoing offer of Purchaser for the subject property and agrees to the terms and conditions relating thereto and set forth above.

Executed this _____ day of _____, 20_____.

State of Ohio, by:

By: _____
Hugh Quill, Director of Administrative
Services

CONCURRENCE

The undersigned, Christine Money, being the Interim Director of the Ohio Department of Youth Services has reviewed the foregoing document and is in agreement with the terms and conditions contained herein.

Approved this _____ day of _____, 20_____.

AGENCY:
Ohio Department of Youth Services

By: _____
Christine Money, Interim Director

Exhibit "A"

Legal Description of Premises
(DESCRIPTION OF AN 8.622 ACRE TRACT)

Situated in the City of Massillon, County of Stark, State of Ohio and being part of Massillon City Out Lot 538. Also being part of a 40.00 acre tract conveyed to State of Ohio Youth Commission.

Beginning at a 1/2-inch iron bar with an H&A cap set at the southeast corner of said Out Lot 538 and the true place of beginning;

1. Thence N 60°13'44" W along the north line of a tract now or formerly owned by Massillon Materials, Inc. (O.R. Vol. 1167, Pg. 223) a distance of 1411.25 feet to a 1/2-inch iron bar with an H&A cap set;
2. Thence N 39°37'36" E along the east line a tract of land now or formerly owned by the City of Massillon (21.46 ac.) a distance of 34.07 feet to a 1/2-inch iron bar with an H&A cap set;
3. Thence N 48°54'16" E continuing along the east line of said City of Massillon tract (21.46 ac.) a distance of 100.03 feet to a 1/2-inch iron bar with an H&A cap set;
4. Thence N 56°10'56" E continuing along the east line of said City of Massillon tract (21.46 ac.) a distance of 101.15 feet to a 1/2-inch iron bar with an H&A cap set;
5. Thence N 55°38'06" E continuing along the east line of said City of Massillon tract (21.46 ac.) a distance of 89.92 feet to a 1/2-inch iron bar with an H&A cap set;
6. Thence N 55°25'36" E continuing along the east line of said City of Massillon tract (21.46 ac.) a distance of 100.03 feet to a 1/2-inch iron bar with an H&A cap set;
7. Thence N 54°13'26" E continuing along the east line of said City of Massillon tract (21.46 ac.) a distance of 100.00 feet to a 1/2-inch iron bar with an H&A cap set;
8. Thence N 44°40'56" E continuing along the east line of said City of Massillon tract (21.46 ac.) a distance of 101.37 feet to a 1/2-inch iron bar with an H&A cap set;
9. Thence S 06°28'18" E along a new division line a distance of 469.59 feet to a 1/2-inch iron bar with an H&A cap set;
10. Thence S 60°13'44" E continuing along a new division line a distance of 700.00 feet to a 1/2-inch iron bar with an H&A cap set;
11. Thence N 74°46'16" E continuing along a new division line a distance of 282.84 feet to a 1/2-inch iron bar with an H&A cap set;
12. Thence S 29°46'16" W along the west line of said Massillon Materials, Inc. tract (O.R. Vol. 1167, Pg. 223) a distance of 400.00 feet to a 1/2-inch iron bar with an H&A cap set and the true place of beginning.

The above described tract contains 8.622 acres of which no acres lie within the public right-of-way as surveyed under the supervision of Gary L. Toussant, P.S. #6332 of Hammontree and Associates, Limited, Engineers, Planners and Surveyors of North Canton, Ohio on November 2, 2006.

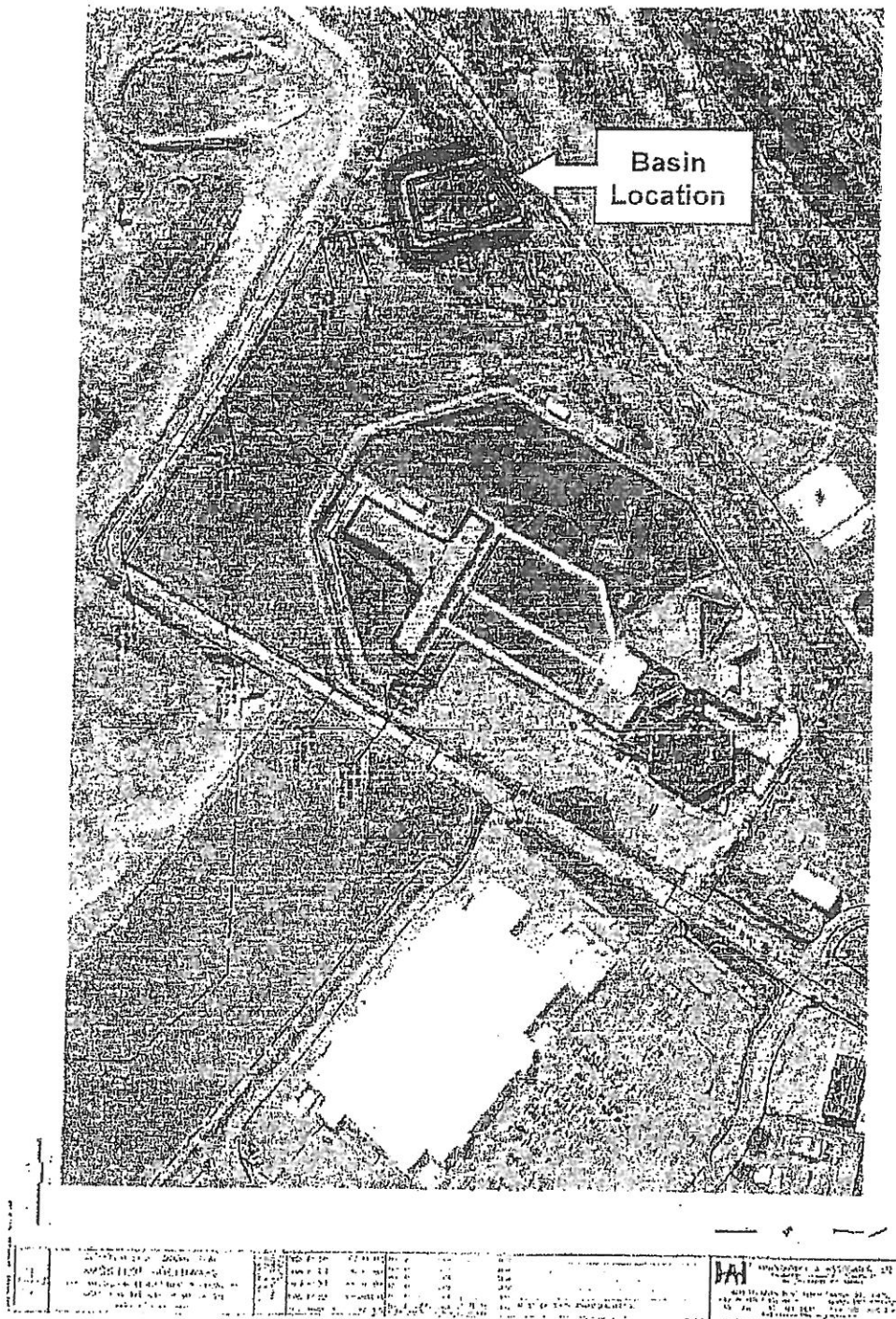
The basis of bearings is the Ohio State Plane Coordinate System, North Zone, NAD83 from the City of Massillon Control Survey.

Map to Accompany Legal Description of Premises



Exhibit "C"

Basin Map
(Indicates size/location of the Basin)



DATE: DECEMBER 20, 2010

CLERK: MARY BETH BAILEY

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

COUNCIL CHAMBERS

LEGISLATIVE DEPARTMENT

ORDINANCE NO. 153 - 2010

passed

BY: HEALTH, WELFARE, BUILDING REGULATIONS COMMITTEE

TITLE: AN ORDINANCE amending CHAPTER 1313 "ELECTRICAL CODE" of the Codified Ordinances of the City of Massillon, and enacting new Subsections 1313.01 "ADOPTION OF NATIONAL ELECTRICAL CODE; COPIES; CONFLICT, 1313.04 "LICENSE EXEMPTIONS". 1313.06 "APPLICATION FOR ELECTRICAL CONTRACTOR'S LICENSE, FEES, O.C.I.L.B. CERTIFICATION", 1313.07 "APPLICATION FOR JOURNEYMAN ELECTRICIAN'S LICENSE; FEES, 1313.08 "APPLICATION FOR REGISTERED APPRENTICE LICENSE, FEES, 1313.09 "POWERS AND DUTIES OF BOARD OF ELECTRICAL EXAMINERS" 1313.10 "EXAMINATION FOR LICENSE" 1313.11 "LICENSE FEE" 1313.12 "LICENSE RENEWAL" 1313.13 "REVOCATION OF LICENSE" 1313.16 "PERMIT FEES", 1313.17 "ROUGH AND/OR SERVICE INSPECTION", 1313.18 "FINAL INSPECTION", 1313.23 "CONSTRUCTION REQUIREMENTS" and 1313.99 "PENALTY".

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

Section I:

Existing Chapter 1313" ELECTRICAL CODE" is hereby amended by enacting new Subsections 1313.01 "ADOPTION OF NATIONAL ELECTRICAL CODE; COPIES; CONFLICT, 1313.04 "LICENSE EXEMPTIONS". 1313.06 "APPLICATION FOR ELECTRICAL CONTRACTOR'S LICENSE, FEES, O.C.I.L.B. CERTIFICATION", 1313.07 "APPLICATION FOR JOURNEYMAN ELECTRICIAN'S LICENSE; FEES, 1313.08 "APPLICATION FOR REGISTERED APPRENTICE LICENSE, FEES, 1313.09 "POWERS AND DUTIES OF BOARD OF ELECTRICAL EXAMINERS" 1313.10 "EXAMINATION FOR LICENSE" 1313.11 "LICENSE FEE" 1313.12 "LICENSE RENEWAL" 1313.13 "REVOCATION OF LICENSE" 1313.16 "PERMIT FEES", 1313.17 "ROUGH AND/OR SERVICE INSPECTION", 1313.18 "FINAL INSPECTION", 1313.23 "CONSTRUCTION REQUIREMENTS" and 1313.99 "PENALTY", of the Codified Ordinances of the City of Massillon. Said newly enacted Subsections shall read as follows:

SEE EXHIBIT "A" ATTACHED HERETO

Section 2:

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

PASSED IN COUNCIL THIS 20th DAY OF December, 2010

APPROVED: Mary Beth Bailey Glenn E. Gamber
MARY BETH BAILEY, CLERK OF COUNCIL GLENN E. GAMBER, PRESIDENT

APPROVED: December 21, 2010 Francis H. Cicchinelli, Jr.
FRANCIS H. CICCHINELLI, JR., MAYOR

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

Mary Beth Bailey
Clerk of Council

Date 12/30/10

DATE: DECEMBER 20, 2010

CLERK: MARY BETH BAILEY

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

COUNCIL CHAMBERS

LEGISLATIVE DEPARTMENT

ORDINANCE NO. 154 - 2010

passed

BY: HEALTH, WELFARE, BUILDING REGULATIONS COMMITTEE

TITLE: AN ORDINANCE amending CHAPTER 1321 "HEATING, VENTILATION AND AIR CONDITIONING CODE" of the Codified Ordinances of the City of Massillon, and enacting new Subsections 1321.01 "DEFINITION", 1321.02 "APPLICABILITY AND EXCLUSIONS", 1321.03 "MECHANICAL CODES ADOPTION", 1321.04 "REGISTRATION", 1321.05 "QUALIFICATIONS REQUIRED FOR AN APPLICATION FOR HVAC CONTRACTOR'S REGISTRATION", 1321.07 "REGISTRATION REQUIREMENTS", 1321.08 "PERMITS", 1321.09 "PLANS EXAMINATION", 1321.11 "BOARD OF HVAC EXAMINERS", 1321.12 "BOARD DUTIES", 1321.13 "ADDITIONAL BOARD DUTIES", 1321.15 "INSPECTIONS", 1321.17 "STOP WORK ORDERS", 1321.18 "NOTICE TO OWNER OF CITY VERIFICATION OF DEFECTIVE HEATING EQUIPMENT", 1321.19 "REGISTRATION OF JOURNEYMEN", 1321.20 "APPLICATION FOR REGISTERED APPRENTICE LICENSE" and 1321.99 "PENALTY".

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

Section I:

Existing Chapter 1313 "ELECTRICAL CODE" is hereby amended by enacting new Subsections, 1321.01 "DEFINITION", 1321.02 "APPLICABILITY AND EXCLUSIONS", 1321.03 "MECHANICAL CODES ADOPTION", 1321.04 "REGISTRATION", 1321.05 "QUALIFICATIONS REQUIRED FOR AN APPLICATION FOR HVAC CONTRACTOR'S REGISTRATION", 1321.07 "REGISTRATION REQUIREMENTS", 1321.08 "PERMITS", 1321.09 "PLANS EXAMINATION", 1321.11 "BOARD OF HVAC EXAMINERS", 1321.12 "BOARD DUTIES", 1321.13 "ADDITIONAL BOARD DUTIES", 1321.15 "INSPECTIONS", 1321.17 "STOP WORK ORDERS", 1321.18 "NOTICE TO OWNER OF CITY VERIFICATION OF DEFECTIVE HEATING EQUIPMENT", 1321.19 "REGISTRATION OF JOURNEYMEN", 1321.20 "APPLICATION FOR REGISTERED APPRENTICE LICENSE" and 1321.99 "PENALTY" of the Codified Ordinances of the City of Massillon. Said newly enacted Subsections shall read as follows:

SEE EXHIBIT "A" ATTACHED HERETO

Section 2:

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

PASSED IN COUNCIL THIS 20th DAY OF December, 2010

APPROVED: Mary Beth Bailey
MARY BETH BAILEY, CLERK OF COUNCIL

Glenn E. Gamber
GLENN E. GAMBER, PRESIDENT

APPROVED: December 21, 2010

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

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

Mary Beth Bailey
Clerk of Council

Date 12/20/10

CHAPTER 1321
Heating, Ventilating and Air Conditioning Code

1321.01	Definitions. examination	1321.12	Board duties; and licensing.
1321.02	Applicability and exclusions.	1321.13	Additional Board duties.
1321.03	Mechanical Codes adoption.	1321.14	HVAC Inspector; qualifications and duties.
1321.04	Registration.	1321.15	Inspections.
1321.05	Qualifications required for an application for HVAC contractor's Registration.	1321.16	Compliance.
1321.06	Homeowner's exemption.	1321.17	Stop work orders.
1321.07	Registration requirements.	1321.18	Notice to owner of City verification of defective heating equipment.
1321.08	Permits.	1321.19	Registration of Journey- men.
1321.09	Plans examination.	1321.20	Application for Registered Apprentice License.
1321.10	Schedule of permit fees.	1321.99	Penalty
1321.11	Board of HVAC Examiners.		

1321.01 DEFINITIONS.

(a) "Air conditioning" means the conditioning or treatment of air within an enclosed space by a mechanical apparatus and, particularly, the lowering of the temperature of air and control of the ventilation, filtration and humidity of air primarily for human, environmental comfort. The refrigeration of air below 40 Fahrenheit for commercial and industrial purposes is not included within the meaning of "air conditioning" for purposes of this chapter.

(b) "Commercial structure" means any four-family dwelling house or greater and any structure used for private or public business, but does not include industrial structures.

(c) "Electric heat system" means any system of heating that uses electric baseboard heaters, electric panel heaters or electric resistance heat of any type, but does not include imbedded electric resistance heating.

(d) "Heating" means the conditioning or treatment of air within an enclosed space by a mechanical apparatus for the warming of the temperature of air primarily for human, environmental comfort and includes all ducted air heating, electric heat, wet heat, air conditioning when combined with a component of a heating system or other similar environmental apparatus.

(e) "HVAC" is an abbreviation for the words "heating, ventilating and air conditioning" wherever used in this chapter.

(f) "HVAC contractor" means any person, partnership, corporation or other business entity which proceeds with or employs other for the installation, alteration, addition to, repair or replacement to any heating, ventilating and air conditioning system used or to be used in any building within the City.

(g) "Residential structure" means any single-family, two-family and three-family dwelling house which is not constructed of industrialized units.

(h) "Ventilations" means the circulation of air within an enclosed space by a mechanical apparatus primarily for human, environmental comfort.

(i) "Wet heat system" means any system of heating or cooling that involves steam, hot water, chilled water or the transfer of heat by a circulating fluid in a closed network of piping.

(Ord. 45-1989. Passed 3-20-89.)

(j) "Mechanical journeymen" means a person who has been working at the HVAC / Mechanical trade for at least five (5) years either in the employ or under the supervision of a HVAC / Mechanical Contractor, and who is properly registered as described herein by the Building Department.

(k) "Mechanical apprentice" means a person engaged in learning the HVAC / Mechanical trade, by working under the direct supervision of a plumbing contractor or journeyman HVAC / Mechanical, under an apprenticeship program registered with the U.S. Department of Labor, Bureau of Apprenticeship Training, and who is properly registered as described herein by the Building Department.

1321.02 APPLICABILITY AND EXCLUSIONS.

(a) This chapter shall apply to the installation, alteration, addition to, repair or replacement of all heating, ventilating and air conditioning systems utilized in any residential or commercial structure within the City except as specifically excluded hereinafter.

(b) This chapter shall not apply to the following:

- (1) The installation, alteration, addition to, repair or replacement of heating, ventilating and air conditioning systems within industrial plants and performed by manufacturer's with their own employees; and
- (2) Portable, self-contained, non-commercial heating, ventilating and air conditioning units which are not attached to permanent wiring.

(c) This chapter shall not apply to high pressure boilers which are inspected by the Division of Boiler Inspection, Department of Commerce, of the State of Ohio; and there shall be no requirement for licensing, permits or inspections for contractors who install or repair high pressure boilers by the City of Massillon.

(d) In all HVAC systems, the air ducted distribution portion of the system shall be installed and required only by a HVAC contractor licensed pursuant to this chapter and shall require permits and inspections as set forth in this chapter.

(e) This chapter shall apply to all other wet heat systems and non-deducted, non-electric heating units and shall require permits and inspections for contractors who install or repair such systems as to this chapter or plumbing contractors licenses pursuant to Chapter 1317 may install or repair these systems. Plumbing contractors licenses pursuant to Chapter 1317 shall not be required to obtain a license under this chapter to perform installation or repair work on wet heat systems and non-ducted, non-electric

heating units. Plumbing contractors licensed pursuant to Chapter 1317 who perform installation or repair work on wet heat systems and non-deducted non-electric heating units are, however, required to obtain permits and inspections under this chapter.

(f) In any wet heat system, HVAC contractors may furnish and install all plumbing connections between the HVAC unit and the first connection from the supply and return header on both the feed side of the system and the distribution side of the system. This work shall conform to the requirements of the Ohio Plumbing Code. From the first connection from the supply and return header on both the feed side of the system and the distribution side of the system and beyond, any water piping or other plumbing connections shall be completed only by plumbing contractors licensed pursuant to Chapter 1317 and shall require permits and inspections as set forth in Chapter 1317.

(g) HVAC contractors may furnish and install all plumbing connections between the HVAC unit to the first valve connection in any fossil fuel system. This work shall conform to the requirements of the Ohio Plumbing Code. From the first valve connection to the meter bar and beyond, any fossil fuel piping shall be completed by a licensed City plumbing contractor.

(h) In any installation, replacement or repair on any HVAC system, the installer or repairer of such system, whether a HVAC contractor or a plumbing contractor, may only make electrical connections between the end of the existing feed and the item replaced or repaired. HVAC contractors may additionally work on the low voltage control system within HVAC systems which they install or repair, subject to the restriction that they be limited to working on not more than six low voltage thermostats which encompass, by way of example, a thermostat controlling a damper or a duct heater or a variable volume box or a solenoid per project. Licensed HVAC contractors, or in the case of wet heat systems, plumbing contractors, may not make direct connections of the HVAC unit into the service or subpanel, these connections and work shall be performed by licensed electrical contractors.

(i) Nothing in this chapter shall be interpreted to prohibit electrical contractors who are licensed pursuant to Chapter 1313 from installing and repairing electric heating systems. Electrical contractors shall not be required to obtain a license under this chapter to perform installations or repair work on such systems, but shall be required to obtain permits and inspections pursuant to Chapter 1313 for such work. (Ord. 45-1989. Passed 3-20-89.)

1321.03 MECHANICAL CODES ADOPTION.

(a) The City approves and adopts the "Residential Code of Ohio, One-and-Two-Family Dwelling Code," Current Edition, Section IV-MECHANICAL, and any editions or amendments as may be hereinafter adopted and promulgated, which shall be applicable to all heating, ventilating and air conditioning systems within all industrial structures within the City.

(b) The City adopts and approves the Ohio Mechanical Code and any amendments as may hereinafter be adopted and promulgated, which shall be applicable to all heating, ventilating and air conditioning systems within all commercial structures within the City.

(c) Low pressure boilers shall be installed according to manufacturer's specifications, and to the Ohio Plumbing Code. (Ord. 45-1989. Passed 3-20-89.)

1321.04 REGISTRATION.

(a) No person, partnership, corporation or business entity shall engage in the business of residential or commercial heating, ventilating and air conditioning contracting within the City unless such person individually holds a HVAC contractor's registration issued pursuant to this chapter or unless such person, partnership, corporation or business entity regularly and steadily has in its employ a holder of a HVAC contractor's license issued pursuant to this chapter. The holder of the license shall register with the City as the authorized representative of the person, partnership, and corporation or business entity and shall represent such person, partnership, and corporation or business entity in all matters pertaining to this chapter.

(b) The HVAC contractor's registration shall be issued only to an individual and such registration shall not be transferable. A holder of a registration may not represent and may not apply for permits for more than one person, partnership, and corporation or business entity. If the person to whom the registration was issued ceases to be an employee or member of any person, partnership, corporation or business entity engaged in the business of HVAC contracting, the person, partnership, corporation or business entity shall be allowed sixty days for the completion of unfinished contracts but shall not thereafter be permitted to engage in the business of HVAC contracting until a new registration issued to another authorized representative.

(c) The person, partnership, corporation or business entity employing the holder of a HVAC contractor's license and the individual holding the HVAC contractor's registration shall be jointly and severally liable for all violations under this chapter. (Ord. 45-1989. Passed 3-20-89.)

1321.05 QUALIFICATIONS REQUIRED FOR AN APPLICATION FOR HVAC CONTRACTOR'S REGISTRATION.

- (1) All applicants must present a valid and unexpired Qualification Certificate issued by the O.C.I.E.B.
- (2) The applicant shall be of good moral character. In considering the moral character of an applicant, the authority reviewing the registration may consider a record of dishonest practices or malpractices in the conduct of a business, trade, or profession, and that it is in the public interest that the applicant not be Registered. When an applicant is a firm or corporation, each responsible member of such firm or corporation shall be determined to be of good moral character.

1321.06 HOMEOWNER'S EXEMPTION.

No provision of this chapter shall be interpreted to require that the bona-fide owner and occupant of a single-family dwelling be licensed who personally, or with casual assistance, performs work upon such premises. All such work shall be done in conformity with the provisions of this chapter and no work shall be done unless all permits required by this chapter are obtained. (Ord. 45-1989. Passed 3-20-89.)

1321.07 REGISTRATION REQUIREMENTS.

- (a) Such applicant shall tender an application fee of \$75.00.

(b) Before a HVAC contractor is issued a registration he must provide copies of documents proving that such electrical contractor is paying Workers' Compensation premiums.

(c) Registration Fee. A registration fee in the amount of \$150.00 shall be tendered by the HVAC contractor upon issuance of a registration certificate. Registration issued during the year shall require a full year's registration fee. Such registration fees shall be renewed annually on or before February 28th of each year.

(d) Renewal. The registration required herein shall be renewed annually upon the presentation of a valid and unexpired HVAC contractor's license issued pursuant to Ohio R.C. Chapter 4740 and upon payment of \$150.00 on or before February 28th of each year without the requirement of reapplication. A \$75.00 late fee shall be assessed for renewals after February 28th.

(e) No person, firm, corporation or other entity shall perform any electrical wiring within the City as a HVAC contractor without complying with this chapter.

(f) Such application shall be accompanied by a surety bond, to be held on file by the City, in the sum of no less than ten-thousand dollars (\$10,000), which bond shall be approved by the Building Department and the Law Director of the City and shall be conditioned upon the applicant saving and keeping the City harmless from any and all losses and damages that may arise from the negligent or reckless conduct of the applicant and his employees and/or agents; such bond shall also provide that the applicant, and his agents and employees, shall conform to and comply with all statutes, laws, ordinances, rules and regulations which have been or may hereafter be enacted or adopted regarding any electrical work or the installation of any electrical wiring within the City. The applicant shall present such bond to the City prior to receiving the actual HVAC contractor's registration.

1321.08 PERMITS.

(a) No HVAC contractor or homeowner pursuant to Section 1321.06 shall install, alter, add to, repair or replace any heating, ventilating, or cooling system or equipment which is subject to the provisions of this chapter without first obtaining a permit from the Division of Heating, Ventilating and Cooling. Any HVAC contractor or homeowner who fails to obtain permits required by this chapter prior to the beginning of work, except in those cases where emergency repairs are necessary, shall be required to obtain and pay for the permits which were originally required and in addition thereto shall pay a penalty twice the amount of the original permit fees. No HVAC contractor other than the holder of the original permit may use the same permit.

(b) In the event that emergency repairs or replacement of a heating, ventilating or cooling system are required on a non-City business day, the HVAC contractor may proceed with the work without first obtaining a permit. The HVAC contractor shall keep the defective equipment on the premises for inspection by the HVAC Inspector and shall file an application for the permit covering such emergency work immediately upon the first City-business day thereafter. Failure to comply with the provisions of this section or commencing work without obtaining permits in non-emergency situations shall subject the HVAC contractor to the penalties for failure to obtain permits as provided in subsection (a) above.

(c) No registration is required to install wood stove or pre-fabricated fireplaces, but a permit must be obtained. Wood burning stoves and pre-fabricated fireplaces must be listed by Underwriters Laboratories or another recognized testing laboratory and installed to the manufacturer's specifications.

(d) No permit shall be required for minor repairs or alterations which do not require dismantling of the heating, ventilating or cooling system and for which the contract price for the repairs does not exceed five hundred dollars (\$500.00).

(e) Before a permit is issued on forms secured from the City Building Department a heat loss shall be submitted using manual J of National Warm Air Heating Code, or industry approved calculation method and form.
(Ord. 45-1989. Passed 3-20-89.)

1321.09 PLANS EXAMINATION.

(a) The application for a permit shall, upon request of the Building Official, be accompanied by duplicate copies of complete plans for the proposed construction, installation, alteration or repair of any heating, ventilating and air conditioning system before a permit is issued.

(b) Fees for processing and the inspection of plans and specifications for commercial buildings shall be as follows:

(1) New construction. The processing fee, upon submission of the plans, shall be governed by Section 1301.11.

(2) Remodeling and alteration. Refer to Section 1301.10.c

1321.10 SCHEDULE OF PERMIT FEES.

(a) Applications for all building permits shall be accompanied by payment of the following standard fees and inspection fees set forth in subsection (1) through (4) below plus such additional fees as are set forth in subsection (6) through (19) below:

(1)	Commercial permit fee (includes only the final inspections)	\$100.00
(2)	Residential Standard Permit Fee (Includes only the final Inspection)	\$50.00
(3)	Each rough inspection	\$30.00
(4)	Any requested inspection	\$30.00
(5)	Re-inspection fee for code violation	\$35.00
(6)	No Show re-inspection fee	\$75.00
(7)	Repair work Inspection	\$25.00

		New Construct- tion Under 200,000 BTU	Replacement Under 200,000 BTU	New and Replacement Over 200,000 BTU
(8)	Forced warm air	\$25.00	\$20.00	\$35.00
(9)	Unit heaters/Uni-vac Heater(each)	\$15.00	\$10.00	\$20.00
(10)	Furnace with A/C	\$30.00	\$20.00	\$35.00
(11)	Wood stoves or			

	pre-fab fire-places	\$25.00	-0-	-0-
(12)	Room heater where permitted	\$20.00	-0-	-0-
(13)	Fire dampers/per damper	\$ 2.00	\$ 2.00	\$ 2.00
(14)	Heat pumps	\$25.00	\$25.00	\$35.00
(15)	Rooftop units up to 5-ton, 60,000 BTU	\$40.00	\$30.00	\$50.00
(16)	Rooftop units over 5-ton 60,000 BTU	\$50.00	\$30.00	\$60.00
(17)	Additions or Re-modeling of Duct or unit	\$20.00	\$20.00	\$30.00
(18)	Steam/Low pressure boilers	\$25.00	\$20.00	\$40.00
(19)	Venting System	\$25.00	\$25.00	\$35.00
(20)	Air Conditioner	\$25.00	\$20.00	\$35.00

(b) All fees shall be paid in full prior to issuance of final approval and/or certificate of occupancy for the structure.
(Ord. 45-1989. Passed 3-20-89.)

1321.11 BOARD OF HVAC EXAMINERS.

Permanent Board of HVAC Examiners.

(a) There is hereby created a Board of HVAC Examiners which shall be appointed by the Mayor. Such Board shall consist of five residents of the Court District of the City of Massillon, as follows:

- (1) Four shall be either a HVAC contractor or a registered HVAC who is registered as such by the City.
- (2) One shall be disinterested citizen.

(1) The Board members shall serve for a period of five years, except that those first appointed shall serve as follows: one to serve for five years; one to serve for four years; one to serve for three years; one to serve for two years; and one to serve for one year. Thereafter one shall be appointed each year so that the terms will be overlapping.

(a) Secretary of the Board of HVAC Examiners. The HVAC Inspector shall be an ex officio member of the Board of HVAC Examiners and shall serve as secretary of such Board. He shall attend all meetings of such Board and shall keep the minutes and records of these meetings as required, but he shall not have a vote in any matters considered by the Board.

(b) Organization of the Board of HVAC Examiners. The Board of HVAC Examiners shall meet, organize and select a chairman within thirty days after January 1 of each year. Thereafter, they shall meet at such intervals as may be necessary for the proper performance of their duties, or upon call of the secretary.

A majority of the members shall constitute a quorum for the transaction of business. A majority of all members is required to approve or disapprove the competency of an applicant.

DATE: DECEMBER 20, 2010

CLERK: MARY BETH BAILEY

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

COUNCIL CHAMBERS

LEGISLATIVE DEPARTMENT

ORDINANCE NO. 155 - 2010

1st Reading
passed 1/3

BY: RULES, COURTS AND CIVIL SERVICE COMMITTEE

TITLE: AN ORDINANCE authorizing the Director of Law of the City of Massillon, Ohio, to renew a one year contract with the Stark County Public Defender's Office, for the purpose of providing representation for indigent defendants charged under City Ordinances, and declaring an emergency.

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

Section 1:

The Council of the City of Massillon, Ohio, hereby finds that it is necessary for the Director of Law of the City of Massillon, Ohio, to renew the one year contract with the Stark County Public Defender's Office for the purpose of providing representation for indigent defendants charged with violations of City Ordinances.

Section 2:

The Director of Law of the City of Massillon, Ohio, is hereby authorized to renew the one year contract with the Stark County Public Defender's Office for the purpose of providing representation for indigent defendants. The City of Massillon shall pay the sum of One Hundred Ninety-Five Dollars (\$195.00) per case under the terms of the contract said payment to be made from municipal court funds which were previously used to pay private counsel appointed for indigent defendants. The contract will commence January 1, 2011 through the end of 2011 calendar year with an option to renew for an additional year.

Section 2:

This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the health, safety, and welfare of the community, and for the additional reason the Stark County Public Defender's Office will provide representation to the City of Massillon's indigent defendants that come before the Massillon Municipal Court and it is necessary to be effective immediately. 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.

MEMORANDUM OF AGREEMENT

It is agreed among the City of Massillon, the Stark County Public Defender Commission and the Ohio Public Defender Commission that Section 3 of the Contract for Municipal Ordinance Representation, dated January 11, 2010 shall be exercised to renew the Contract for an additional one year period commencing January 1, 2011 and terminating December 31, 2011.

IN WITNESS WHEREOF, the parties have hereunto set their hands this ____ day of

_____, 20____.

WITNESSES:

APPROVED AS TO FORM:

CITY OF MASSILLON

STARK COUNTY PUBLIC
DEFENDER COMMISSION

BY: _____

CITY OF MASSILLON, OHIO

BY: _____

OHIO PUBLIC DEFENDER
COMMISSION

BY: _____

CONTRACT FOR MUNICIPAL ORDINANCE REPRESENTATION

This Agreement is entered into by the Stark County Public Defender Commission (the "COMMISSION"), and the City of Massillon, Ohio (the "CITY").

WHEREAS, CITY recognizes its responsibilities under the laws of the State of Ohio and of the United States of America to provide legal counsel to indigent persons charged with loss of liberty offenses in Municipal Court; and

WHEREAS, CITY in furtherance of the execution of its legal responsibilities desires that the legal services of the Public Defender Office be delivered to CITY'S indigent citizens and others so situated;

NOW, THEREFORE, the parties do mutually agree to bind themselves as follows:

1. Scope of Work

COMMISSION shall, in a satisfactory and proper manner, under the terms and conditions contained herein, perform the services set out in the "Work Plan" as follows:

Work Plan

COMMISSION shall provide Public Defenders to be available in the Massillon Municipal Court to represent indigents charged under City Ordinances, thus allowing CITY continuing representation in conformance with Chapter 120 of the Ohio Revised Code. It is understood by both parties that the representation presently provided to indigents charged under the Ohio Revised Code will be continued by COMMISSION and is in no way affected by this Agreement.

2. Compensation

CITY shall pay to COMMISSION compensation for representation by COMMISSION on City ordinance jailable offenses as follows:

A. For purposes of this Agreement, a "case" is defined as follows:

- (i) one or a series of related traffic or criminal charges which are assigned the same case number; or
- (ii) one or a series of related traffic or criminal charges which are assigned separate case numbers; or
- (iii) one or a series of unrelated traffic or criminal charges which are assigned separate case numbers which are administratively processed together for ease of disposition (However, a current arrest where there are outstanding warrants on separate unresolved and unrelated charges constitute separate cases if the offense is tried to a verdict to the court or to a jury.)

- B. In any case where the principal offense or count one constitutes a City ordinance jailable offense, CITY shall pay COMMISSION a fee of \$195.00 for representation in the case, regardless of the manner of disposition of the case.
- C. In any case where the principal offense or count one is charged under State statute with additional or secondary offenses charged as a City ordinance jailable offense or offenses, CITY shall pay COMMISSION a fee of \$195.00 for representation, provided that the City ordinance jailable offense(s) are tried to a verdict to the Court or to a jury. (In other words, no compensation shall be paid for such cases which are disposed of by pleas.)
- D. In any case where the principal offense is charged as a felony or felonies, with additional lesser included or associated or unassociated City ordinance jailable offenses, CITY shall pay COMMISSION a fee of \$195.00 for representation on the City ordinance jailable offense(s), provided that one of the following applies:
- (i) The case(s) are bound over to the Stark County Grand Jury and the City ordinance offense(s) are returned to the Massillon Municipal Court; or
 - (ii) The Massillon Municipal Court retains jurisdiction of the City ordinance offense(s) apart from the felony case or cases which are bound over to the Stark County Grand Jury and a further appearance is required by the COMMISSION on behalf of Defendant.
- E. The Stark County Public Defender shall be entitled to a single fee for any one case, regardless of the number of separate offenses contained therein. No additional fee shall be paid if the Defendant fails to appear and is arrested requiring subsequent Court appearances. The fee of \$195.00 encompasses all work required to provide representation, including pre-trial and post-trial work in the Municipal Court.

COMMISSION will bill CITY four (4) times per year (March 31, June 30, September 30, and December 31) for the amount of City ordinance cases assigned to COMMISSION. In the event that CITY fails to make full payment within thirty (30) days after receipt of invoice, then interest shall accrue at the rate of ten percent (10%) (per annum). The interest shall accrue beginning with the first day after the thirty (30) day period and be calculated on any unpaid balance until full payment is received. The formula for computation of any interest shall be as follows:

Total amount due X 10% : 365 = N x number of late days.

3. Term of Service

The duration of this contract shall be for the period commencing January 1, 2010 and shall terminate December 31, 2010 with an option to renew this contract for a period of one (1) year, commencing January 1, 2011 and terminating December 31, 2011.

4. Assignment

COMMISSION shall not assign all or any part of this Agreement without the prior written consent of CITY, which consent shall not be unreasonably withheld.

5. Termination of Agreement

If either party shall fail to fulfill in reasonable, timely or proper manner, its obligations under this Agreement, or if either party should substantially violate any of the covenants, agreements or stipulations of this Agreement, the other party shall thereupon have the right to terminate this Agreement by giving written notice to the party violating this Agreement of such termination and specifying an effective date thereof of at least sixty (60) days before the effective date of said termination. However, notwithstanding the above clause, COMMISSION shall have the separate and additional right to discontinue the service provided by COMMISSION under this contract, without notice, if payment of a quarterly invoice is not received within thirty (30) days of invoice. The decision to suspend or continue service under the contract upon non-payment of an invoice with thirty (30) days is discretionary with COMMISSION. The suspension or continuation of services by COMMISSION shall have no effect upon the obligation of payment of an invoice or the calculation of interest as set forth elsewhere in this contract. (If service is suspended, it shall be provided again when payment plus interest is received.)

6. Amendments

Any amendments to this Agreement agreed upon by the parties shall be in writing and made a part of this Agreement.

7. Anti-Discrimination Provision

There shall be no discrimination against any employee who is employed in the work covered by this Agreement or against any application for such employment because of race, color, religion, sex or national origin. This provision shall apply to, but not be limited to, employment, promotion or transfer, recruitment or recruitment advertising, layoffs or termination, raises of pay or other forms of compensations, and selections of training. COMMISSION shall insert a similar provision in any sub-contract for services covered by this Agreement.

8. Conflict of Interest

COMMISSION covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner with the performance of services required under this Agreement. No resident commissioner shall share in any part of this contract or any benefits to arise here from.

9. Re-Negotiation of Agreement

Upon a thirty (30) day written notice either party may re-negotiate this agreement for good cause.

10. Determination of Indigency

The Standards of Indigency and other rules and standards as established by the Ohio Public Defender Commission and the State Public Defender shall be used in determining an individual's indigent status and the appointment of the services of the Public Defender shall be in conformity with those standards.

IN WITNESS WHEREOF, the parties have hereunto set their hands at Massillon, Ohio, this 11 day of January, 2008.

WITNESSES

[Signature]
Debra K. Christman

STARK COUNTY PUBLIC DEFENDER
COMMISSION

BY: [Signature]

CITY OF MASSILLON, OHIO

BY: [Signature]

OHIO PUBLIC DEFENDER
COMMISSION

BY: [Signature]

APPROVED AS TO FORM:

DATE: DECEMBER 20, 2010

CLERK: MARY BETH BAILEY

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

COUNCIL CHAMBERS

LEGISLATIVE DEPARTMENT

ORDINANCE NO.156 – 2010

passed

BY: FINANCE COMMITTEE

TITLE: AN ORDINANCE making certain appropriations from the unappropriated balance of the Legends Fund, Bond Ret. WWT Fund, Safety Forces Equipment Fund and the Municipal Road Fund, for the year ending December 31, 2010, 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 Legends Fund, for the year ending December 31, 2010, the following:

\$19,235.01 to an account entitled "Legends – Salary" 2104.920.2110

Section 2:

There be and hereby is appropriated from the unappropriated balance of the Bond Ret. WWT Fund, for the year ending December 31, 2010, the following:

\$17,221.89 to an account entitled "Principle – Upgrade WWT" 1305.940.2613

\$ 2,892.43 to an account entitled "Interest – Upgrade WWT" 1305.940.2623

Section 3:

There be and hereby is appropriated from the unappropriated balance of the Safety Forces Equipment Fund, for the year ending December 31, 2010, the following:

\$6,113.72 to an account entitled "Equipment" 1205.125.2530

Section 4:

There be and hereby is appropriated from the unappropriated balance of the Municipal Road Fund, for the year ending December 31, 2010, the following:

\$518.20 to an account entitled "Tremont Ave SW Improvement Project" 1409.435.2513

Section 5:

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

PASSED IN COUNCIL THIS _____ DAY OF _____ 2010

ATTEST: _____

MARY BETH BAILEY, CLERK OF COUNCIL

GLENN E. GAMBER, PRESIDENT

APPROVED: _____

FRANCIS H. CICCHINELLI, JR, MAYOR

DATE: DECEMBER 20, 2010

CLERK: MARY BETH BAILEY

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

COUNCIL CHAMBERS

LEGISLATIVE DEPARTMENT

ORDINANCE NO. 157 - 2010

passed

BY: FINANCE COMMITTEE

TITLE: AN ORDINANCE reducing the appropriations in the Law Dept. Community Partnership Fund, State Patrol Transfer Fund, Municipal Road Fund, OPWC Loan Fund, Bond Retirement Park & Rec. Fund, Tax Increment Fund, Section 108 Loan Fund and the Bond Retirement Lincoln Center Fund, for the year ending December 31, 2010, and declaring an emergency.

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

Section 1:

The appropriations are hereby reduced in the Law Dept. Community Partnership Fund, for the year ending December 31, 2010, as follows:

\$23,160.77 from an account entitled "Salary – Comm. Partnership" 1228.115.2111
\$ 7,844.24 from an account entitled "PERS" 1228.115.2230
\$ 421.27 from an account entitled "Medicare" 1228.115.2231
\$ 495.00 from an account entitled "Travel/Seminar" 1228.115.2389
\$ 36.75 from an account entitled "Supplies & Materials" 1228.115.2410

Section 2:

The appropriations are hereby reduced in the State Patrol Transfer Fund, for the year ending December 31, 2010, as follows:

\$3,546.30 from an account entitled "State Patrol Transfer Law Lib" 3105.930.2390
\$3,546.36 from an account entitled "State Patrol Refund to General" 3105.930.2720

Section 3:

The appropriations are hereby reduced in the Municipal Road Fund, for the year ending December 31, 2010, as follows:

\$6,042.18 from an account entitled "Wales Rd Resurfacing" 1409.435.2398

Section 4:

The appropriations are hereby reduced in the OPWC Loan Fund, for the year ending December 31, 2010, as follows:

\$.54 from an account entitled "OPWC Principal" 1342.940.2610

Section 5:

The appropriations are hereby reduced in the Bond Retirement Park & Rec. Fund, for the year ending December 31, 2010, as follows:

\$.50 from an account entitled "Debt Retire Park & Rec. Interest" 1306.505.2620

Section 6:

The appropriations are hereby reduced in the Tax Increment Fund, for the year ending December 31, 2010, as follows:

\$.50 from an account entitled "Debt Retire Market Interest" 1340.905.2620

Section 7:

The appropriations are hereby reduced in the Section 108 Loan Fund, for the year ending December 31, 2010, as follows:

\$.40 from an account entitled "Debt Retire Section 108 Interest" 1341.845.2620

Section 8:

The appropriations are hereby reduced in the Bond Retirement Lincoln Center Fund, for the year ending December 31, 2010, as follows:

\$.24 from an account entitled "Phase III Interest" 1303.940.2621

Section 9:

This Ordinance is hereby declared to be an emergency measure, for the efficient operation of the various departments of the City of Massillon and for the preservation of the public health, safety and welfare of the community and for the additional reason that the appropriation needs to be reduced because of an audit procedure. Provided it receives the affirmative vote of two-thirds of the elected members to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

PASSED IN COUNCIL THIS _____ DAY OF _____ 2010

APPROVED: _____
MARY BETH BAILEY, CLERK OF COUNCIL

GLENN E. GAMBER, PRESIDENT

APPROVED: _____

FRANCIS H. CICCHINELLI, JR, MAYOR

DATE: DECEMBER 20, 2010

CLERK: MARY BETH BAILEY

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

COUNCIL CHAMBERS

LEGISLATIVE DEPARTMENT

ORDINANCE NO. 158 - 2010

BY: FINANCE COMMITTEE

passed

TITLE: AN ORDINANCE making certain transfers in the 2010 appropriations from within the General Fund, for the year ending December 31, 2010, 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 2010 appropriation from within the General Fund, for the year ending December 31, 2010, the following:

FROM:	Council – Medicare	1100.105.2231	\$ 10.00
	Mayor – Hosp/Eye	1100.110.2210	\$ 20.56
	Mayor – Services	1100.110.2392	\$ 4,493.61
	Mayor – Supplies	1100.110.2410	\$ 95.88
	Domestic Violence – Salary	1100.116.2111	\$ 500.00
	Domestic Violence – Hosp/Eye	1100.116.2210	\$ 1,226.10
	Safety Director – Hosp/Dental	1100.160.2210	\$ 13.41
	Safety Service – Services	1100.160.2392	\$ 208.00
	Auditor – Hosp/Eye	1100.205.2210	\$ 43.50
	Auditor – Medicare	1100.205.2231	\$ 20.00
	Auditor – Travel	1100.205.2389	\$ 450.00
	Auditor – Services	1100.205.2392	\$ 180.12
	Income Tax – Hosp/Eye	1100.210.2210	\$ 22.88
	Income Tax – Refunds	1100.210.2720	\$ 137.04
	SD Revenue Sharing	1100.210.2721	\$ 90.00
	Police Dispatch	1100.305.2375	\$51,202.30
	Fire Dispatch	1100.325.2375	\$17,253.80
	Utilities	1100.410.2340	\$76,066.20
	Street Lighting	1100.905.2392	\$36,487.96
	Transfer/Debt Retirement	1100.905.2712	\$19,724.78
	Law Director – Salary	1100.115.2110	\$ 1,700.00
	Janitor Contract Services	1100.410.2392	\$ 188.57
	Janitor – Supplies	1100.410.2410	\$ 226.54
	Health – Hosp	1100.705.2210	\$ 4,250.00
	Muni Ct – Services	1100.125.2392	\$30,000.00
	Bailiff – Hosp/Eye	1100.135.2210	\$23,103.97

Muni Ct – Supplies	1100.125.2410	\$10,000.00
Bailiff – PERS	1100.135.2230	\$ 7,034.00
Muni – Travel/Seminar	1100.125.2389	\$ 5,000.00
Muni Ct – PERS	1100.125.2230	\$ 4,614.00
Sub judge – Salary	1100.125.2112	\$ 3,000.00
Bailiff – Supplies	1100.135.2410	\$ 2,500.00
Bailiff – Travel/Seminar	1100.135.2389	\$ 1,500.00
Bailiff – Services	1100.135.2392	\$ 1,000.00

TO	Law Dept – Medicare	1100.115.2231	\$ 900.00
	Domestic Violence – Medicare	1100.116.2231	\$ 12.00
	Service Director – Medicare	1100.160.2231	\$ 10.00
	Building – Salary	1100.415.2110	\$ 6,700.00
	Police - Comp	1100.305.2118	\$ 20,000.00
	Police – Overtime	1100.305.2119	\$ 6,900.00
	Police – Salary	1100.305.2110	\$177,039.25
	Health - Salary	1100.705.2110	\$ 3,000.00
	Health – Uniform	1100.705.2280	\$ 50.00
	Fire Salary	1100.325.2110	\$ 87,751.97

Section 2

That this Ordinance is hereby declared to be an emergency measure, the reason for the emergency being that said funds are necessary for the 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 2010. 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 _____ 2010

APPROVED: _____
MARY BETH BAILEY, CLERK OF COUNCIL

GLENN E. GAMBER, PRESIDENT

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

DATE: DECEMBER 20, 2010

CLERK: MARY BETH BAILEY

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

COUNCIL CHAMBERS

LEGISLATIVE DEPARTMENT

ORDINANCE NO. 159 - 2010

passed

BY: FINANCE COMMITTEE

TITLE: AN ORDINANCE amending Ordinance No. 21 – 2010 by revising Section 4 of the 2010 budget, and declaring an emergency.

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

Section 1:

Ordinance No. 21 - 2010 a copy of which is attached hereto as Exhibit "A" be and is hereby amended.

Section 2:

The following provision is hereby inserted into Ordinance No. 21 – 2010:

\$488,367.54 from General Fund to Fire Pension Fund
\$383,168.17 from General Fund to Police Pension Fund
\$513,943.76 from General Fund to Lincoln Center Debt Fund
\$ 24,631.46 from General Fund to OPWC Debt Fund
\$285,000.00 from General Fund to Bond Retirement Park Fund

Section 3:

This ordinance is hereby declared to be an emergency measure, the reason for the emergency being that said amendment is necessary to the budget as a requirement by the State Auditor for these transferred to be completed. 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.

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