MINUTES OF THE REGULAR MEETING
MASSILLON CITY COUNCIL
HELD MONDAY, MARCH 2, 2020

COUNCIL PRESIDENT ISTNICK – Welcome to the Massillon City Council Meeting for Monday, March 2, 2020. We have in attendance with us the following city officials: Mayor, Kathy Catazaro-Perry, Safety Service Director, Barb Sylvester, Law Director, Justin Richard, Engineers, David Krock, Jason Popiel and Greg Mccue and Economic Development Director, Dave Maley. Also, in the audience, we have Commissioner William Smith. Thank you for coming tonight, Mr. Smith. On the wall to the left are agendas if you wish to follow the meeting. Also, if you look at the agenda, under item #5 is where the public can speak on any item that appears on tonight's agenda and then under item #17 is where the public can speak on any item that does NOT appear on tonight's agenda. I want remind anyone with cell phones, please turn them down or set them to vibrate.

COUNCIL PRESIDENT ISTNICK – Roll call.

1. **ROLL CALL**

Roll call for the evening found the following Council Members present: Jill Creamer, Mike Gregg, Ted Herncane, Ed Lewis, Mark Lombardi and Megan Starrett.

Roll call of 6 present

COUNCIL PRESIDENT ISTNICK – Thank you, Madam Clerk. Councilman Lewis.

COUNCILMAN LEWIS – I make motion that we excuse the Councilpersons absent this evening.

COUNCIL PRESIDENT ISTNICK – Seconded by Councilwoman Starrett. Roll call.

6 yes to excuse Councilwoman Halter, Councilwoman Litman and Councilman Thieret

COUNCIL PRESIDENT ISTNICK – Thank you, Madam Clerk. Councilwoman Halter and Litman and Councilman Thieret have been excused. Councilman Lombardi.

2. **INVOCATION**

COUNCILMAN MARK LOMBARDI

3. **PLEDGE OF ALLEGIANCE**

LED BY COUNCILMAN LOMBARDI

4. **READING OF THE JOURNAL**

COUNCIL PRESIDENT ISTNICK – Madam Clerk, are the minutes of the previous meeting transcribed and open for public viewing?

COUNCIL CLERK ROLLAND – Yes, they are.

COUNCIL PRESIDENT ISTNICK – Are there any additions or corrections to be made?

COUNCIL CLERK ROLLAND – No, there are not.

COUNCIL PRESIDENT ISTNICK – Then the minutes stand approved as written.

5. REMARKS OF DELEGATIONS AND CITIZENS TO MATTERS ON THE AGENDA

6. INTRODUCTION OF ORDINANCES AND RESOLUTIONS

ORDINANCE NO. 26 – 2020 **BY: COMMUNITY DEVELOPMENT COMMITTEE**

AN ORDINANCE authorizing the Mayor of the City of Massillon, Ohio, to enter into an Agreement with Tremont Coffee to provide an economic development "inducement grant" to fund expansion costs at the property located at 215 Erie Street N., Massillon, Ohio, and declaring an emergency.

COUNCIL PRESIDENT ISTNICK – Councilwoman Starrett.

COUNCILWOMAN STARRETT – Thank you, Madam President. First reading.

COUNCIL PRESIDENT ISNTICK – Thank you. Ord. No. 26 – 2020 has received first reading. Ord. No. 27 – 2020.

ORDINANCE NO. 27 – 2020 **BY: COMMUNITY DEVELOPMENT COMMITTEE**

AN ORDINANCE authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to enter into an agreement to transfer diesel and fuel oil located at the former Affinity Medical Center from the City of Massillon, Ohio, to the Community Improvement Corporation of Massillon (CIC), and declaring an emergency.

COUNCIL PRESIDENT ISTNICK – Councilwoman Starrett.

COUNCILWOMAN STARRETT – Thank you, Madam President. This ordinance came up rather recently. I would ask that we call Mr. Maley up to explain to City Council members exactly what this is.

COUNCIL PRESIDENT ISTNICK – Mr. Maley.

DAVE MALEY – Councilmembers, we have, just to bring you up to speed; we have four underground storage tanks up at the hospital. Two of them have diesel fuel in them and two have fuel oil in them. The two diesels are backup for the generators in the hospital and the fuel oil is for the boilers. Currently we have about 470,000+ gallons of diesel and about 24,000+ gallons of fuel oil. Of the four tanks, two of them are regulated by the State of Ohio, those with the diesel fuel. So, we are currently, we had our last inspection we are currently out of compliance. So, one of these options is to get the oil and diesel out of the tanks. That's the area we pursued and at this point, I've talked to four different companies and I've had ranging from costing us money to not charging us money to one company that's going to pay us some money for the contents of the tanks. So, that's where I'm at with regards trying to get this

transferred to CIC so that they can enter into contract with the company to come and pump the fuel and the diesel oil.

COUNCIL PRESIDENT ISTNICK – Does anyone have any questions for Mr. Maley? Councilwoman Starrett.

COUNCILWOMAN STARRETT – So, by doing this and pumping the fuel oil and diesel oil out of the tanks, that would put us into compliance?

DAVE MALEY – It'll take us out from underneath the State. The fuel oil isn't under the State anyways; it's the diesel. But if we do get the other out of there, it basically wouldn't fall under the jurisdiction of the State anymore.

COUNCILWOMAN STARRETT – And this diesel company is willing to pay us?

DAVE MALEY – A company is going to pay us, yes, so much for each gallon that they're pumping out.

COUNCIL PRESIDENT ISTNICK – Anymore questions? Councilman Gregg.

COUNCILMAN GREGG – Thank you, Madam President. So, the company that would be paying us, will they charge us, also, to take it out?

DAVE MALEY – No. Everybody else, one local company was going to take the diesel and really wasn't interested in the other. Another one was going to charge us; two other companies were going to charge us to take it out and this company is going to pay us. So, obviously, that's the company we're interested in pursuing.

COUNCILMAN GREGG – Thank you.

COUNCIL PRESIDENT ISNTICK – Anyone else? Councilman Thieret.

COUNCILWOMAN STARRETT – Thank you, Madam President. Obviously since we are not in compliance with the diesel tanks, this is something I hoped we could move quickly on, but, obviously, tonight we could not due to only having six members here and being unable to waive the rules. Right now, I'm just going to give this first reading and go from there.

COUNCIL PRESIDENT ISTNICK – Thank you. Ord. No. 27 – 2020 has received first reading. Ord. No. 28 – 2020.

ORDINANCE NO. 28 – 2020 **BY: RULES, COURTS AND CIVIL SERVICE COMMITTEE**

AN ORDINANCE amending Section 2(D) Occupation List of Class Titles – City Officials – Law Director, of Ordinance No. 127 – 1997 by repealing Section 2(D) Occupation List of Class Titles – 115 – 116 – Law Director, and enacting a new Section 2(D) Occupation List of Class Titles – 115 – 116 – Law Director, in the City of Massillon, Ohio, and declaring an emergency.

COUNCIL PRESIDENT ISTNICK – Councilman Gregg.

COUNCILMAN GREGG – Thank you, Madam President. First reading.

COUNCIL PRESIDENT ISTNICK – Thank you. Ord. No. 28 – 2020 has received first reading. Ord. No. 29 – 2020.

ORDINANCE NO. 29 – 2020 **BY: RULES, COURTS AND CIVIL SERVICE COMMITTEE**

AN ORDINANCE amending Chapter 121 "COUNCIL" of the Codified Ordinance of the City of Massillon, Ohio, by enacting a new Chapter 121 "COUNCIL" of the Codified Ordinances of the City of Massillon, Ohio, pursuant to "Unclassified Rules", Section 121.02(r); Rule 68 of the Codified Ordinances of Massillon, Ohio.

COUNCIL PRESIDENT ISTNICK – Councilman Gregg.

COUNCILMAN GREGG – First reading.

COUNCIL PRESIDENT ISTNICK – Thank you. Ord. No. 29 – 2020 has received first reading. Ord. No. 30 – 2020.

ORDINANCE NO. 30 – 2020 **BY: RULES, COURTS AND CIVIL SERVICE COMMITTEE**

AN ORDINANCE amending Chapter 121 "COUNCIL" Section 122.02(b), Rule 11, "Powers and Duties" of the Codified Ordinances of the City of Massillon, Ohio, by enacting a new Section 121.02(b), Rule 11, "Powers and Duties" of the Codified Ordinances of the City of Massillon, Ohio.

COUNCIL PRESIDENT ISTNICK – Councilman Gregg.

COUNCILMAN GREGG – First reading.

COUNCIL PRESIDENT ISTNICK – Thank you. Ord. No. 30 – 2020 has received first reading. Ord. No. 31 – 2020.

ORDINANCE NO. 31 – 2020 **BY: FINANCE COMMITTEE**

AN ORDINANCE making certain appropriations from the unappropriated balance of the 1234 Parks and Recreation Fund for The Legends Golf Course of Massillon, for the year ending December 31, 2020, and declaring an emergency.

COUNCIL PRESIDENT ISTNICK – Councilman Lewis.

COUNCILMAN LEWIS – First reading.

COUNCIL PRESIDENT ISTNICK – Thank you. Ord. No. 31 – 2020 has received first reading. Ord. No. 32 – 2020.

ORDINANCE NO. 32 – 2020 **BY: FINANCE COMMITTEE**

AN ORDINANCE making certain appropriations from the unappropriated balance of the 1100 General Fund for expenses at the former Affinity Medical Center, for the year ending December 31, 2020, and declaring an emergency.
COUNCIL PRESIDENT ISTNICK – Councilman Lewis.

COUNCILMAN LEWIS – First reading.

COUNCIL PRESIDENT ISTNICK – Thank you. Ord. No. 32 – 2020 has received first reading. Ord. No. 33 – 2020.

ORDINANCE NO. 33 – 2020 **BY: FINANCE COMMITTEE**

AN ORDINANCE making certain appropriations from the unappropriated balance of the 1100 General Fund for the Mayor's Breakfast, for the year ending December 31, 2020, and declaring an emergency.

COUNCIL PRESIDENT ISTNICK – Councilman Lewis.

COUNCILMAN LEWIS – First reading.

COUNCIL PRESIDENT ISTNICK – Thank you. Ord. No. 33 – 2020 has received first reading. Ord. No. 34 – 2020.

ORDINANCE NO. 34 – 2020 **BY: FINANCE COMMITTEE**

AN ORDINANCE authorizing the Director of Law of the City of Massillon, Ohio, to renew the one (1) year contract with the City of Canal Fulton, Ohio, for the purpose of providing prosecutorial services, and declaring and emergency.

COUNCIL PRESIDENT ISTNICK – Councilman Lewis.

COUNCILMAN LEWIS – First reading.

COUNCIL PRESIDENT ISTNICK – Thank you. Ord. No. 34 – 2020 has received first reading. Res. No. 8 – 2020.

RESOLUTION NO. 8 – 2020 **BY: COMMITTEE OF THE WHOLE**

A RESOLUTION authorizing the Director of Law of the City of Massillon, Ohio, to accept the One Ohio Memorandum of Understanding (MOU) regarding the pursuit and use of potential opioid litigation settlement funds, and declaring an emergency.

COUNCIL PRESIDENT ISTNICK – Councilman Lewis.

COUNCILMAN LEWIS – Yes, Madam President. I'd like to call forward the Law Director.

COUNCIL PRESIDENT ISTNICK – Thank you. Mr. Richard.

JUSTIN RICHARD – This is concerning the opioid litigation. This is a proposal from Dave Yost, the Attorney General and Mike DeWine, the governor which essentially unites the majority of plaintiffs, municipal and county plaintiffs, that have not settled at this point or otherwise engage in litigation to enter into a proposed agreement. This is really just an MOU, a Resolution that we sign our intent that we would be available if we could resolve it under certain circumstances. We were prepared; we had some of our plaintiff attorneys tonight that could have gone over the MOU with us, but I think we're going to wait for when we have a

quorum to be able to do that. But, with that being said, they are here and they're willing to answer any questions with broad strokes if you guys want a little more understanding of this situation.

COUNCIL PRESIDENT ISTNICK – Councilman Lewis.

COUNCILMAN LEWIS – I don't have any questions at this time. However, I would be proposing that we're going to have a Special Meeting on Thursday to address this matter.

COUNCIL PRESIDENT ISTNICK – What time?

COUNCILMAN LEWIS – I'd like to call a Special Meeting for this Thursday at 6:30 p.m. The contents of this Special Meeting would be Res. No. 8 – 2020, and it is also requested that we include Ord. No. 27 – 2020 in that Special Meeting for 6:30 p.m. on March 5th. If I am correct, the Memorandum of Understanding as it does have a deadline.

JUSTIN RICHARD – It's in arbitrary. They certainly didn't play as fair as we would have liked them to have played. They've updated this the second time already. They gave a lot of municipalities not a lot of warning and certainly considering that some municipalities don't meet as often as we do. They had to call Special Meetings and/or; so, it certainly doesn't exclude us, but it does show our intention to move forward to negotiate on this level as opposed to litigation. Additionally, I would also ask that Ord. No. 28 – 2020 be added to that agenda as well; allowing the addition of Chief Counsel.

COUNCIL PRESIDENT ISTNICK – So Mr. Richard, is Monday the 9th too late?

JUSTIN RICHARD – Technically, yes. They gave us, the State, again, it's arbitrary, but I think that it would certainly have more impact if it were March 6th.

COUNCIL PRESIDENT ISTNICK – Okay. March 5th.

JUSTIN RICHARD – Excuse me, before March 6th.

COUNCIL PRESIDENT ISTNICK – So, you want a Special Meeting requested by Councilman Lewis for Thursday, March 5th at 6:30 p.m. Diane you'll see that that's taken care of?

COUNCIL CLERK ROLLAND – Yes.

COUNCIL PRESIDENT ISTNICK – Will they all be back by March 5th?

COUNCILMAN LEWIS – I know that Ms. Litman will be back.

COUNCIL PRESIDENT ISTNICK – Okay.

COUNCILMAN LEWIS – As far as the agenda for that evening, the matter for discussion will be at a level of emergency and excessive need and I will see that the legislation is at that same level of emergency. I wouldn't be interested in extending the agenda unless other Council members have a belief that there is something that is pressing also.

COUNCIL PRESIDENT ISTNICK – We'll have a Special Meeting on Res. No. 8 and Ord. No. 27 and Ord. No. 28 as well?

COUNCILMAN LEWIS – He did request it but I'd just say, in my personal opinion, I don't see the necessity of that, but if other members of Council did, they'd need to make their request.

JUSTIN RICHARD – May I speak to the necessity?

COUNCIL PRESIDENT ISTNICK – Yes, Mr. Richard.

JUSTIN RICHARD – Thank you, Madam President. The necessity is that we've been without a full-time employee and I can't move forward until, quite honestly, I can advertise a position that actually exist. I have a position for a Chief Prosecutor and I don't need one. So, every day that the City of Massillon goes without a Chief Prosecutor and/or Chief Counsel that is…the City's losing out because we have a full-time position that is not employed and the only thing only it up is this Council.

COUNCIL PRESIDENT ISTNICK – So, Mr. Lewis, is that going to be that we include Ord. No. 27 and Ord. No. 28 for the Special Meeting?

COUNCILMAN LEWIS – My personal feelings are unchanged, again, unless you or other members of Council was to whether or not we will have it on the agenda. My argument would also be that I have local business that cannot be done that is concerned to operations of a position that I have business concerning the hospital that will not be done, I have a golf course that cannot get their bunkers fixed and all other issues that make the same argument that they are being held up for two weeks as well.

COUNCIL PRESIDENT ISTNICK – Councilman Gregg.

COUNCILMAN GREGG – Thank you, Madam President. As Chairperson of the Rules, Courts and Civil Service Committee, I'd like to request that we do include Ord. No. 28 to the agenda. I agree with you on the other points as well, but we have to draw the line somewhere, but I'd like to add that to the agenda. I agree with the Law Director.

COUNCIL PRESIDENT ISTNICK – Councilman Herncane.

COUNCILMAN HERNCANE – Madam President, I concur with Mr. Gregg.

COUNCIL PRESIDENT ISTNICK – As do I. Mr. Richard has requested that Ord. No. 28 be added to the agenda. Anyone else? Okay, so we will have Res. No. 8 and Ord. No. 27 Ord. No. 28 at our Special Meeting on March 5th.

7. UNFINISHED BUSINESS

8. PETITIONS AND GENERAL COMMINCATIONS

9. BILLS, ACCOUNTS AND CLAIMS

The Repository	$ 622.00	Publication of January Ordinances

COUNCIL PRESIDENT ISTNICK – Councilman Lewis.

COUNCILMAN LEWIS – I make a motion that we pay the bills.

COUNCIL PRESIDENT ISTNICK – Seconded by Councilwoman Starrett. Roll call.

6 yes to pay the bills

COUNCIL PRESIDENT ISTNICK – Thank you, Madam Clerk. The Clerk will pay the bills and charge them to their proper accounts.

10. REPORTS FROM CITY OFFICIALS

Treasurer's Report - January 2020

11. REPORTS OF COMMITTEES

COUNCIL PRESIDENT ISTNICK – Our next Work Session will be Monday, March 9, 2020 at 6:30 p.m.

12. RESOLUTIONS AND REQUESTS OF COUNCIL MEMBERS

13. CALL OF THE CALENDAR

ORDINANCE NO. 2 – 2020 **BY: COMMUNITY DEVELOPMENT COMMITTEE**
Tabled February 3, 2020 until March 2, 2020

AN ORDINANCE amending Section 1151.02 of the Massillon Code of 1985 rezoning a certain tract of land from O-1 Office to R-1 One Family Residential, and declaring an emergency.

COUNCIL PRESIDENT ISTNICK – Councilwoman Starrett.

COUNCILWOMAN STARRETT – Thank you, Madam President. This was tabled in order to have the public hearing that was held last Monday. There was nobody here speaking in opposition of the ordinance. We had several people in favor of the ordinance. This zoning change to the Habitat for Humanity was favorable. At this point, I would ask that we go forward.

COUNCIL PRESIDENT ISTNICK – Roll call.

6 yes for passage

COUNCIL PRESIDENT ISTNICK – Thank you, Madam Clerk. Ord. No. 2 – 2020 has passed. Ord. No. 11 – 2020.

ORDINANCE NO. 11 – 2020 **BY: FINANCE COMMITTEE**

AN ORDINANCE authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to exercise the option to renew the Engineering contract with OHM Advisors for the years 2020, 2021 and 2022, and declaring an emergency.

COUNCIL PRESIDENT ISTNICK – Councilman Lewis.

COUNCILMAN LEWIS – Yes. I'd like to call forward David Maley or whoever is representing the Administration.

MAYOR CATAZARO-PERRY – Good evening, Madam President and Members of Council.

COUNCILMAN LEWIS – I just called forward because the last time it was in front of us, there were some adjustments that were being made and we were asked to table it. So, I was wondering if you could give us an update on those adjustments?

MAYOR CATAZARO-PERRY – So, since we have been having our new Law Director, since, I think early February, he has brought to our attention that he does not think we should hire a law firm, excuse me, I mean an engineering contractor. So, what we decided to do was to really research it and we've done that. But there are discrepancies. There are discrepancies with the information that we're getting from OHM and from their advisors and so, what we're going to ask you to do tonight is to table this indefinitely. We have spoken with State Senator, Kirk Schuring, and he wants to work with us if there are issues with the language, to change those at the State level. We have a great relationship with OHM. They provide us with many services and we would like to continue that, but our Law Director is saying that he recommends hiring a person. So, we're trying to work through that and so, we'd like to table this indefinitely. It is fine, according to our Law Director that we work just month-to-month with this company until we get through the process with Senator Schuring.

COUNCIL PRESIDENT ISNTICK – Councilman Lewis.

COUNCILMAN LEWIS – So many questions.

MAYOR CATAZAR\O-PERRY – Well, let me just say that just for the record that every contract that they've had has been vetted by the Law Dept. previously and has been given a green light for us to bring to Council and we have that in e-mails. So, we do have documentation that it was okay to proceed previously and as I shared with Mr. Richard that we rely on our Law Dept. to direct us and three attorneys prior to Mr. Richard directed us to take the contract and move it forward to City Council.

COUNCILMAN LEWIS – What is the argument over a firm as compared to an individual?

MAYOR CATAZARO-PERRY – The argument is that, and we had a meeting this afternoon and Mr. Richard said that we can hire a firm, but they cannot do any additional work for us.

COUNCILMAN LEWIS – The argument is that we may when we hire them as our contractor, all that additional work that OHM was doing, they would be excluded from the bid process?

MAYOR CATAZARO-PERRY – According to Mr. Richard, correct. Now, our OHM advisors are telling us differently and I want to make sure that you all understand that we've followed the process and Mr. McCue is here and he will be able to speak to that process and so, Greg, would you come up and share that?

GREG MCCUE – Good evening. Just to go back, I think we reiterated this before. There is a qualification-based selection that is provided by the State of Ohio that we have to follow some rules and regulations and going back into 2016, 2017 and 2018, we asked for qualifications from firms and I believe it was April 2016, we received all of those qualifications and then when we needed to fill the City Engineer's position, we went through that QBS process and asking for the City Engineer. So, we did follow those processes and they were requested and required by the State.

MAYOR CATAZARO-PERRY – Thank you, Greg. And I will add, one of the reasons we have this issue is that we did put out the job description and ask for applicants, initially. And we need to have a P.S. and a P.E. Those are much more expensive salaries. We did not get anyone to apply. Therefore, we moved onto looking at local firms.

COUNCIL PRESIDENT ISTNICK – Councilwoman Starrett.

COUNCILWOMAN STARRETT – Mayor, you probably don't know this off the top of your head, but how many other municipalities have contracted out with engineering firms this day and age? It seems like that tends to be the trend for municipalities to contract out.

MAYOR CATAZARO-PERRY – That's correct and even we have one in Canal Fulton. Our former engineer, Siv Pro, is the engineer for Canal Fulton. So, it's just not here. It's all over the State of Ohio. So, if Mr. Richard is correct and what we were going to do is go to the Ohio Attorney General to get an opinion from him. However, we've learned since then that only townships and villages can ask for that opinion. So that was not an option for us. So, this past, for about a month, we've been digging and trying to really uncover what is the right answer. Because we did have three attorneys say "Move forward" and then now our new Law Director says "Hold up. I don't think you should do that" and then as soon as this afternoon, not to throw Mr. Richard "under the bus", but said that we could hire a firm, however, he prefers to hire just an engineer.

COUNCIL PRESIDENT ISTNICK – Mr. Richard, could you come forward?

JUSTIN RICHARD – Sure. Just to clarify, I said that it was my legal opinion that we could go that route, but that would only be if there were no individuals that would qualify if we did our due diligence and search for them. You said that we did that three years ago. I would like to see that done again, but certainly that's my opinion and you ultimately don't have to follow it. But, it's not illegal to hire a firm as a place, like Councilwoman Starrett said; it's certainly the trend. The trend cannot be when a department director who's now an entity, is either appointed by the municipality, has engineers underneath them that are then assigning work back to that engineering firm. That violates O.R.C. 2921 that prohibits an official, or in this case, an official firm from having any interests in profits or benefits of a public contract entered into for a public agency which they are connected. So, yes. If we went about that route again and we searched individually for an engineer and we did due diligence and there was absolutely no candidates, I would say that our only hope because we have to have an engineer, would be to hire an engineering firm and then, say it could be OHM, but then they would not be able to do any of the projects or vice versa. We could hire an alternate firm that applied as we went through the QFR's and then they would be excluded from doing that.

MAYOR CATAZARO-PERRY – So continue to muddy the waters, the National Society of Professional Engineers offers an opinion where, in fact, they can do that. And so, it really is

unclear and that's why we've went to Senator Schuring to say, "If there's an opportunity, can you look at this and really kind of clear this up for us through the State legislator?" And if a law needs to be changed, we'd like to ask him to change that. And he said "He would certainly work through that process".

JUSTIN RICHARD – And to be clear, that opinion was not using Ohio ethics.

MAYOR CATAZARO-PERRY – I don't know who said that.

JUSTIN RICHARD – I know, I clarified today. That was not using our specific Ohio Ethics which would be the standard that we would have to hold our engineer to. That was the National statement, not the specific Ohio Ethics.

MAYOR CATAZARO-PERRY – Okay, great. Thank you.

COUNCILMAN LEWIS – One other question for the Mayor.

MAYOR CATAZARO-PERRY – Yes, sir.

COUNCILMAN LEWIS – Have we ever had to deal with the O.R.C. in the past?

MAYOR CATAZARO-PERRY – I know that our City Engineer that we let go had an issue years ago. But that person was approving his own plans. So, it was a little bit different scenario.

COUNCIL PRESIDENT ISTNICK – Councilman Lombardi.

COUNCILMAN LOMBARDI – So, am I to understand that we did hire a full-time engineer versus to having to hire a firm that specializes in engineering; this engineer is a specialist?

MAYOR CATAZARO-PERRY – Greg, do you want to answer that question? Is the answer "yes"?

GREG MCCUNE – Yes.

MAYOR CATAZARO-PERRY – The answer is "yes".

COUNCIL PRESIDENT ISTNICK – Councilwoman Creamer.

COUNCILWOMAN CREAMER – My question is, the contract that started December 31, 2019 and not later than March, we have no contract, so what are we doing? Is there another agreement signed?

MAYOR CATAZARO-PERRY – According to our Law Director, we spoke about that over and over because we do have a lot going on right now and he does not believe we should abandon working with OHM at this point. Would you like to speak to that?

JUSTIN RICHARD – Sure. Essentially, we've gone into a…

COUNCILMAN LEWIS – The Mayor is not in charge of the meeting. It's not his fault on that. I just want to make sure we're respecting the President.

JUSTIN RICHARD – Absolutely.

MAYOR CATAZARO-PERRY – Would you like to call the Law Director.

COUNCIL PRESIDENT ISTNICK – Mr. Richard.

JUSTIN RICHARD – Thank you. My apologies to the Council. I'm sorry, what was the thought?

MAYOR CATAZARO-PERRY – It was about the contract, month-to-month.

JUSTIN RICHARD – It essentially goes to a month-to-month. We're in a contract, so, we, each month, we're in the middle of these projects and I think it would be more detrimental to the City to halt. If there is damage done previously, it was done under the Council; not "the" Council, but counsel, "sel" of the previous Law Director. So, I think it's essentially water under the bridge, but I would just warn in entering into future contracts, certainly the ones of these proposed lengths, that we do it correctly and that's all. That was my hesitation and trepidation.

MAYOR CATAZARO-PERRY – And we have e-mails from both Andrea Scassa and Gary Fry that says "Thank you for your hard work. This is good to take to Council". So, we have that and we also have one, I believe, from Perry Stergios when he was the Law Director. So, as I shared with Mr. Richard when he took the position, we really rely on the legal experience and expertise of our Law Dept. and we send everything to our Law Dept. So, we're not going to bring it to you unless we get the go ahead and the approval and we, typically, have a paper trail for us to fall back on. So, we do have that, as well.

COUNCIL PRESIDENT ISTNICK – Councilman Lewis.

COUNCILMAN LEWIS – I'd like to call a representative from OHM.

COUNCIL PRESIDENT ISTNICK – Thank you, Mr. Krock.

DAVID KROCK – Good evening.

COUNCILMAN LEWIS – Mr. Krock, thank you for being in attendance this evening. Obviously, you are able to discuss this, this evening?

DAVID KROCK – Yes.

COUNCILMAN LEWIS – As a representative of OHM, are you able to say that you guys are willing to provide the services that we need?

DAVID KROCK – I absolutely am and I have a few other things to add if I'm allowed at some point.

COUNCILMAN LEWIS – Yes. At what rate? Is it going to be at our previous contract rate or is it a new rate under this new contract?

DAVID KROCK – That's beyond me what it would be. Obviously, we would prefer the rate we had discussed, but I don't know, legally, what it would be. We would abide by whatever the City decided on.

COUNCILMAN LEWIS – I appreciate that. And then, I guess, I'll open up the floor if you'd like to add information or opinion on this.

DAVID KROCK – All I would really like to pass along to Council is, obviously, this is beyond a little uncomfortable tonight. It's also something that the Administration and I and Mr. Richard have talked about extensively and, obviously, it's our goal to do whatever is right. That's what's behind this. In a little history, I've been serving a City Engineer role for twenty-years in various places and this is the first time I've had this come up where there was any question about, first, whether a consultant could be a City Engineer and secondly, whether it was ethical to provide services as the City Engineer and I think that's something we need to work out. I think maybe it's a sense that ORC is a little unclear on this. But, in any case, we've decided that the best thing to do is to work through this and so whatever time that takes and it may take some time to get things through the State House, the important thing is we want to get the right decision and we all certainly want to do everything correct and right and ethical. That's our number one goal. Number two, in my conversation with ACEC Ohio who represents hundreds of engineering companies throughout the State, they have certainly highlighted this as an issue that could affect many, many firms. Probably a hundred cities or more across the State that are doing exactly what you're doing today. This is not just Massillon; this would impact tons and tons of communities across the State; the whole engineering industry itself. So, just know that everyone is taking this seriously, we're taking it through the right courses and when we have that final answer, we'll bring that to you. I certainly respect Mr. Richard for bringing this forward. We're going to make sure it gets answered properly and if that requires legislation changes at the State level, well, that's what it requires. But we certainly have enjoyed the last three and a half years being your City Engineer. We'd love to continue. Obviously, as a consulting firm with over 500 people, we bring a lot of different services to the table that you're not going to get through one person, I think, to Mr. Lombardi's point. That's one of the benefits you get with a consulting firm. Especially one that can provide all the different things that we can and I think over the years, that's sort of proven out to be good value, a really good value to the City. So, I just wanted to really pass along that we're willing to work through this, whatever it takes. It may take a few months and as long as you all continue to have us in that meantime, we're certainly happy to be here.

COUNCIL PRESIDENT ISTNICK – Anymore questions? Councilman Lewis.

COUNCILMAN LEWIS – Thank you. I was, after hearing all this discussion, I think there's a lot of "dots" there. For that reason, I would say that I personally do not feel comfortable in tabling this indefinitely because I feel like we need to keep this in the forefront of Council. So, my preference would be to make a motion that we would only table it until April 6th and that way we are assured updates. Once that's updated, I'll be looking for members of this Council, I would want to see what other communities in the State of Ohio have already had to deal with challenges of this nature where they have had a engineering firm that takes care of their City's engineering and then they also bid on projects under that contract and then be challenged by a third party whether it's legal or not legal or whatever our concerns my be and I'd also be possibly be looking for some kind of feeling from the Ohio Ethics Commission to see how they come out on such an issue. I personally feel there are questions as to whether contracting out

with a firm as opposed to hiring an engineer. So, unless any one objects, I would like to make a motion that we table Ord. No. 11 – 2020 until April 6, 2020.

COUNCIL PRESIDENT ISTNICK – Seconded by Councilwoman Starrett. Roll call.

6 yes to table Ord. No. 11 – 2020 until April 6, 2020.

COUNCIL PRESIDENT ISTNICK – Thank you, Madam Clerk. Ord. No. 11 – 2020 has been tabled.

14. THIRD READING ORDINANCE AND RESOLUTIONS

15. SECOND READING ORDINANCES AND RESOLUTIONS

16. NEW AND MISCELLANEOUS BUSINESS

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

JAMES HAAVISTO – Madam President, Council. Thank you for allowing me to speak tonight. I live at 2443 Wittenberg Ave. S.E. and I would like to address, once again, the Rezzy. We've got an awful lot of stuff going on in our City. This has been a topic that's been going on and on for years. We heard during the election cycle that from people that are now citizens of this year that this would cost us $12 million to put a body of water; put all over social media. Not true. We heard the amount for restoring the reservoir as it was; $5 million, $7 million. We never had an actual number nor an official estimate. So, not really true. Then we heard option #2 which was the pond, would cost us $1.5 million dollars plus a little bit more in maintenance. Well, recently the Park Board came back and said that they can do that pond with actually a little bit of research for $350,000. That's true. As many of us discussed, it wouldn't take that much money to put a reasonable pond, size doesn't matter, but, roughly five acres at 10 feet deep, but that can be worked with; but $350,000. Now, other conversations that went on. We talked about how the Park Board is paying off debt that belongs to more than just the parks and we decided, we heard right from the Administration on October 8th that that's not fair and we could allocate possibly $100,000 or possibly more in the budget to pay that debt. I think that's a great idea. But now that the Park Board has voted 3 to 2 to go ahead and pursue funding for the reservoir, they've talked about getting a grant for that. Now, grants are great. I understand. We live by the grant; we die by the grant. However, my concern is since 1995, the citizens of this City have paid for the reservoir over and over and over again to the tune of millions of dollars. What I'm doing as a citizen is simply coming to you again, and making an official request of this Council, would you please find money in that $4.5 million dollars or so overflow? Previously $2.7 million and I could go back further, would you please find simply $350,000 so we don't have to keep on hearing "We're working on a grant"? Maybe this year, maybe next year, maybe this fall, maybe next year. We have $350,000 in this City. Our citizens deserve the park and our own Administration has said, "Parks make a better quality of life for all people". That's true. Please find money and fund our reservoir for $350,000. Thank you.

COUNCIL PRESIDENT ISTNICK – Thank you, Mr. Haavisto. Anyone else?

CAROLE CONNOLLY – I live at 825 Campbell Cir. N.E. I'd like to remind people how wonderful the reservoir is. Back in the '70's, I got a solo license for an airplane. My first solo

flight, I flew over Massillon, my mother's house and the Rezzy and when I saw the Rezzy, right there in the middle of all this urban civilization, the blue sky was reflected in the water. The falls were white and sparkly, it was so gorgeous. So, every flight that I took after that, the first thing I would do would come out of the Beach City airport, go over the reservoir. And then I found a lot of newspaper clippings lately about the reservoir. Maybe some people are old enough to remember Rella Potts from the library, nice librarian. She used to swim in the reservoir at 6:30 a.m. every morning before she went to work and at that time, they had the diving deck and she said the water was so clear you could see fish. She would do that every single morning. Also, we called it the Premier Park and I don't know what would make it premier if we're just like every other park with a creek running through. I think a large water feature really benefits any community and I think it was really an unnecessary thing to have this taken from us. A trust was broken because we voted and thought it would be maintained forever. This will probably brand me as really eccentric, but for my retirement, part of what I wanted to do was study the snails and the little clams that are in the reservoir. There are many of them and not much research has been done on them and I wanted to make an independent study of that and I hope I still can. I hope we get the reservoir back. Thank you.

COUNCIL PRESIDENT ISTNICK – Anyone else?

18. ADJOURNMENT

COUNCILMAN LOMBARDI – I make a motion that we adjourn.

COUNCIL PRESIDENT ISTNICK – Seconded by Councilwoman Starrett. Meeting adjourned.

DIANE ROLLAND, COUNCIL CLERK

CLAUDETTE ISTNICK, PRESIDENT