

**MINUTES OF THE REGULAR MEETING
MASSILLON CITY COUNCIL
HELD MONDAY, MARCH 20, 2023**

COUNCIL PRESIDENT ISTNICK – Welcome to the Massillon City Council Meeting for Monday, March 20, 2023. We have in attendance the following City officials: Safety Service Director, Barb Sylvester, Law Director, Justin Richard, Asst. Law Director, Edmond Mack, and Economic Development Director, David Maley. Under #5 on the agenda is where the public can speak on any topic that appears on tonight’s agenda and under #17 is where the public can speak on any topic that does NOT appear on tonight’s agenda. I’d like to remind everyone keep your mics off until you’re ready to speak and please, mute your cell phones 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, Julie Harwig Smith, Ted Herncane, Ed Lewis, Jamie Slutz, Mike Snee and Aaron Violand.

Roll call of 8 present

COUNCIL PRESIDENT ISTNICK – Councilman Lewis.

COUNCILMAN LEWIS – I make a motion that we excuse Councilman Lombardi.

COUNCIL PRESIDENT ISTNICK – Seconded by Councilman Herncane. Roll call.

8 yes to excuse Councilman Lombardi

COUNCIL PRESIDENT ISTNICK – Thank you, Madam Clerk. Councilman Lombardi has been excused. Councilman Herncane.

2. INVOCATION

COUNCILMAN TED HERNCANE

3. PLEDGE OF ALLEGIANCE

LED BY COUNCILMAN HERNCANE

4. READING OF THE JOURNAL

COUNCIL PRESIDENT ISTNICK – Thank you, Councilman Herncane. 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. I'd like to make a couple of comments before our public speak segment. Before COVID, I addressed the issue of public speaks at Council meetings and I received some negative feedback. I'm a tough old broad and I can take the criticism. It does, however, make me sad to have to address this issue again, but I must. I guess I don't understand why people can't treat each other with respect but if you turn on TV to any news station, you'll see why it doesn't happen. That's all you hear, people bickering back and forth. As President of City Council, my main job is to conduct the Council meeting in a structured, orderly fashion. I am not here to keep the public from speaking under Items No. 5 and 17 on the agenda. But I am, however, responsible for keeping the demeanor civil, respectful, non-aggressive and orderly. Inside voices would be greatly appreciated. Our microphone system amplifies our voices adequately. I have shown tolerance in the past, but I feel I need to set a couple of guidelines for future meetings. The guidelines will be posted back there, but they're not right now. Guidelines for public speaks:

1. There will be no "PERSONAL" attacks on anyone present or not present. You may, however, address departments or positions.
2. Calling someone a "Liar" will not be tolerated. Mistruths may have been spoken gets the same message across.
3. Please remember this is not a question/answer session.
4. Please limit your comments to 4 minutes or less.
5. When you have finished speaking, please sign the form on the back counter.

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

6. NEW AND MISCELLANEOUS BUSINESS

7. INTRODUCTION OF ORDINANCES AND RESOLUTIONS

COUNCIL PRESIDENT ISTNICK – Ord. No. 22 – 2023.

ORDINANCE NO. 22 – 2023

BY: ECONOMIC DEVELOPMENT COMMITTEE

AN ORDINANCE authorizing the Mayor of the City of Massillon, Ohio, to enter into an agreement with Allison Merry to provide an economic development "inducement grant" to fund start-up costs including build-out, equipment etc. for Caffeine & Gunpowder, located at 155 Lincoln Way W., Suite A-096, Massillon, Ohio, and declaring an emergency.

COUNCIL PRESIDENT ISTNICK – Councilman Herculane.

COUNCILMAN HERNCANE – Thank you, President Istnick. First reading.

COUNCIL PRESIDENT ISTNICK – Thank you. Ord. No. 22 – 2023 has received first reading. Ord. No. 23 – 2023.

ORDINANCE NO. 23 – 2023

BY: POLICE AND FIRE COMMITTEE

AN ORDINANCE authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to advertise for, receive, and evaluate Statements of Qualifications and to negotiate and enter into contract(s) for the design and the inspection of the Massillon Police Department Renovation Project, all in accordance with Sections 153.65 to 153.73 of the Ohio Revised Code and the City of Massillon Qualifications-Based Selection (QBS) Process, and declaring an emergency.

COUNCIL PRESIDENT ISTNICK – Councilman Slutz.

COUNCILMAN SLUTZ – This is for renovations in the Police Dept. In order to maintain completion date requirements for the American Rescue Plan Act funding. There is emergency language, so therefore, I'd like to make a motion that we waive the rules requiring three readings and bring Ord. No. 23 – 2023 forward for a vote.

COUNCIL PRESIDENT ISTNICK – Seconded by Councilman Snee. Roll call for suspension.

8 yes for suspension

COUNCIL PRESIDENT ISTNICK – And for passage.

8 yes for passage

COUNCIL PRESIDENT ISTNICK – Thank you, Madam Clerk. Ord. No. 23 – 2023 has passed. Ord. No. 24 – 2023.

ORDINANCE NO. 24 – 2023

BY: STREETS, HIGHWAYS, TRAFFICE AND SAFETY COMMITTEE

AN ORDINANCE authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to advertise for and receive sealed bids and to enter into a contract with the lowest and best bidder, upon the approval of the Board of Control, for the Erie Street South Improvement Project, and declaring an emergency.

COUNCIL PRESIDENT ISTNICK – Councilman Snee.

COUNCILMAN SNEE – Thank you, Madam President. At this time, I'd like to waive the rules requiring three readings and bring Ord. No. 24 – 2023 forward for a vote.

COUNCIL PRESIDENT ISTNICK – Seconded by Councilman Violand. Roll call for suspension.

8 yes for suspension

COUNCIL PRESIDENT ISTNICK – And for passage.

8 yes for passage

COUNCIL PRESIDENT ISTNICK – Thank you, Madam Clerk. Ord. No. 24 – 2023 has passed. Ord. No. 25 – 2023.

ORDINANCE NO. 25 – 2023

BY: STREETS, HIGHWAYS, TRAFFICE AND SAFETY COMMITTEE

AN ORDINANCE authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to enter into contract with the selected firm, Environmental Design Group, based on the City of Massillon Qualifications-Based Selection (QBS) Process, upon the approval of the Board of Control, for the inspection of the Erie Street South Improvement Project, and declaring an emergency.

COUNCIL PRESIDENT ISTNICK – Councilman Snee.

COUNCILMAN SNEE – Thank you, Madam President. At this time, I'd like to waive the rule requiring three readings and bring Ord. No. 25 – 2023 forward for a vote.

COUNCIL PRESIDENT ISTNICK – Seconded by Councilman Violand. Roll call for suspension.

8 yes for suspension

COUNCIL PRESIDENT ISTNICK – And for passage.

8 yes for passage

COUNCIL PRESIDENT ISTNICK – Thank you, Madam Clerk. Ord. No. 25 – 2023 has passed. Ord. No. 26 – 2023.

ORDINANCE NO. 26 – 2023

BY: FINANCE COMMITTEE

AN ORDINANCE making certain appropriations from the unappropriated balance of the 1212 Summer Concert Series Fund, for the year ending December 31, 2023, and declaring an emergency.

COUNCIL PRESIDENT ISTNICK – Councilman Lewis.

COUNCILMAN LEWIS – Yes. This is a pass-through of donations for the Summer Concert Series Fund. Are there any questions? Seeing none, I make a motion that we suspend the rules requiring three readings, bringing Ord. No. 26 – 2023 forward for a vote.

COUNCIL PRESIDENT ISTNICK – Seconded by Councilman Gregg. Roll call for suspension.

8 yes for suspension

COUNCIL PRESIDENT ISTNICK – And for passage.

8 yes for passage

COUNCIL PRESIDENT ISTNICK – Thank you, Madam Clerk. Ord. No. 26 – 2023 has passed. Ord. No. 27 – 2023.

ORDINANCE NO. 27 – 2023

BY: FINANCE COMMITTEE

AN ORDINANCE making certain appropriations from the unappropriated balance of the 1201 Street Construction M & R Fund, for the year ending December 31, 2023, and declaring an emergency.

COUNCIL PRESIDENT ISTNICK – Councilman Lewis.

COUNCILMAN LEWIS – Yes, Madam President. I'd like to have representative of the Administration come forward please.

COUNCIL PRESIDENT ISTNICK – Anyone in particular?

COUNCILMAN LEWIS – Whoever can speak to this ordinance.

COUNCIL PRESIDENT ISTNICK – Thank you, Mrs. Sylvester.

BARB SYLVESTER – Good evening.

COUNCILMAN LEWIS – Yes. I just wanted a quick summary of what this \$50,000 appropriation was to be used for.

BARB SYLVESTER – Yes. This is coming out of the 1201 Street account. But basically, \$20,000 of that is going into the Services/Contracts line and that is to continue the removal of the trees that we've been doing along Rt. 21 that are unsafe. Trees and weeds grown out and to continue that project and the approximate amounts that we'll need to do that; to continue that and then the \$30,000 that's on there is for guardrail repairs. We did an assessment of all of our guardrails in the City, as you may have seen. We've already done quite a few of them and Council did pass when we redid the guardrail down on the Erie underpass because we did have a fatality there and put the attenuators on there. Also, on Rt. 21 we got the guardrails and put the attenuators on there. It helps that, again, with any crashes or accidents that we do have there. So, throughout the City we do have a program in place. Our Police Dept. has a policy that if any accidents to City property it is given to my office and then of course, we work with the Street Dept., get quotes and so forth. And so, if the person has insurance, we do get refunded for that as well. But through this program we do have, this is the approximate amount right now because major guardrails did need repair to.

COUNCILMAN LEWIS – I have no other questions. Thank you. With that, I make a motion that we suspend the rules requiring three readings, bringing Ord. No. 27 – 2023 forward for a vote.

COUNCIL PRESIDENT ISTNICK – Seconded by Councilman Gregg. Roll call for suspension.

8 yes for suspension

COUNCIL PRESIDENT ISTNICK – And for passage.

8 yes for passage

COUNCIL PRESIDENT ISTNICK – Thank you, Madam Clerk. Ord. No. 27 – 2023 has passed. Ord. No. 28 – 2023.

ORDINANCE NO. 28 – 2023

BY: FINANCE COMMITTEE

AN ORDINANCE authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to enter into a one-year contract between the City of Massillon, Ohio, and the Board of Stark County Commissioners for the housing of City of Massillon, Ohio, Codified Ordinance prisoners at the Stark County Jail, and declaring an emergency.

COUNCIL PRESIDENT ISTNICK – Councilman Lewis.

COUNCILMAN LEWIS – Are there any questions or discussion this evening? Seeing none, I make a motion we suspend the rules requiring three readings, bringing Ord. No. 28 – 2023 forward for a vote.

COUNCIL PRESIDENT ISTNICK – Seconded by Councilman Gregg. Roll call for suspension.

8 yes for suspension

COUNCIL PRESIDENT ISTNICK – And for passage.

8 yes for passage

COUNCIL PRESIDENT ISTNICK – Thank you, Madam Clerk. Ord. No. 28 – 2023 has passed.

8. UNFINISHED BUSINESS

9. PETITIONS AND GENERAL COMMUNICATIONS

A Request for the Transfer of a Liquor License from Starway Lounge LLC, 1st and 2nd Floor and Patio, located at 49 Lincoln Way E., Massillon, Ohio 44646 to Smitty's Steak and Ale LLC, 1st and 2nd Floor and Patio, located at 49 Lincoln Way E., Massillon, Ohio 44646. Permit Classes are D1, D2, D3 and D3A and is located in Ward 2.

COUNCIL PRESIDENT ISTNICK – Councilman Violand, did you get information on this?

COUNCILMAN VIOLAND – Yes, I did, Madam President. Thank you.

COUNCIL PRESIDENT ISTNICK – Thank you.

10. BILLS, ACCOUNTS AND CLAIMS

US Bank Equipment Finance	-	\$ 133.35	March Payment for Copier
Copley Ohio Newspapers	-	<u>1,588.34</u>	Publication of Dec. & Jan. Ordinances
Total		\$1,721.69	

COUNCIL PRESIDENT ISTNICK – Councilman Lewis.

COUNCILMAN LEWIS – I make a motion to pay the bills.

COUNCIL PRESIDENT ISTNICK – Seconded by Councilman Gregg. Roll call.

8 yes to pay the bills

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

11. REPORTS FROM CITY OFFICIALS

Treasurer’s Report - February 2023

Mayor’s Report - February 2023

Auditor’s Report - February 2023

COUNCIL PRESIDENT ISTNICK – Councilman Lewis.

COUNCILMAN LEWIS – I make a motion that we accept the Auditor’s Report.

COUNCIL PRESIDENT ISTNICK – Seconded by Councilman Gregg. Roll call.

8 yes to accept the Auditor’s Report

COUNCIL PRESIDENT ISTNICK – The Auditor’s Report has been accepted.

12. REPORTS OF COMMITTEES

COUNCIL PRESIDENT ISTNICK – Our next Work Session will be Monday, March 27, 2023, at 6:30 p.m. with a Health and Welfare Committee meeting prior to that at 6:00 p.m.

COUNCIL PRESIDENT ISTNICK – Councilwoman Creamer.

COUNCILWOMAN CREAMER – I’m sorry. I thought it was changed to 5:30 p.m.

COUNCILMAN SLUTZ – It’s at 6:00 p.m.

COUNCILWOMAN CREAMER – Okay. Thank you.

COUNCIL PRESIDENT ISTNICK – 6:00 p.m.

13. RESOLUTIONS AND REQUESTS OF COUNCIL MEMBERS

14. CALL OF THE CALENDAR

15. THIRD READING ORDINANCE AND RESOLUTIONS

16. SECOND READING ORDINANCES AND RESOLUTIONS

COUNCIL PRESIDENT ISTNICK – Ord. No. 15 – 2023.

ORDINANCE NO. 15 – 2023

BY: ECONOMIC DEVELOPMENT COMMITTEE

AN ORDINANCE authorizing the Mayor of the City of Massillon, Ohio, to enter into an agreement with Carolyn Worthen to provide an economic development “inducement grant” to fund start-up costs including build-out, equipment, etc. for Little Sprouts – West, located at 2112 Lincoln Way W., Massillon, Ohio, and declaring an emergency.

COUNCIL PRESIDENT ISTNICK – Councilman Herncane.

COUNCILMAN HERNCAINE – Thank you, Madam President. Second reading.

COUNCIL PRESIDENT ISTNICK – Thank you. Ord. No. 15 – 2023 has received second reading. Ord. No. 17 – 2023.

ORDINANCE NO. 17 – 2023

BY: RULES, COURTS AND CIVIL SERVICE COMMITTEE

AN ORDINANCE amending Section 2(D) OCCUPATION LIST OF CLASS TITLES of Ordinance No. 127 – 1997, to add three (3) new positions within the 705 – 730 HEALTH DEPARTMENT, and declaring an emergency.

COUNCIL PRESIDENT ISTNICK – Councilman Gregg.

COUNCILMAN GREGG – Thank you, Madam President. This ordinance was given first reading at the last meeting that I was not able to attend. Council members, specifically in Rules and Courts, do you have any further questions or comments?

COUNCILWOMAN HARWIG SMITH – Yes. I asked last week, I don’t know if our Law Director, Edmond Mack, a question regarding this request for these three positions was approved unanimously by the City Board of Health, that’s their job; and it’s being paid in full with the Workforce Development Grant through November 30, 2027, which eliminates any expense from the City budget. What’s not addressed is what happens after November 30, 2027? So, I asked Mr. Mack if he could check into that and see if that’s something that we need to consider that to make these temporary positions either that or at that time that we make sure that if it’s not the grant whether they’re just moved into the City budget. We have some recourse whether we deem we really need them or not. Mr. Mack.

EDMOND MACK – Thank you, Councilwoman. I did look into that issue per your request and reviewed the grant application materials. There’s nothing in the grant that requires the City to have funding for the position in perpetuity after the grant funding runs out. So, it could be your prerogative to expressly state that in the ordinance or say nothing; in which case you wouldn’t be obligated to fund it further after the grant runs out. However, I’ve also had subsequent conversations with the Mayor’s Administration, specifically, the Mayor and the Health Commissioner and I think they may have obviated this entirely with what they’re proposing to do. I don’t know if the Safety Service Director can speak to this, but I think what they’re planning on doing may resolve these concerns.

COUNCIL PRESIDENT ISTNICK – Thank you, Mrs. Sylvester.

BARB SYLVESTER – Yes. I believe that our Health Commissioner did speak on that when she was here and its also stated in the letter and it will be made clear to any applicants that are

interviewed and it will also be a part of the job description. At this point and time, it's hopeful that it will be extended after the four and a half years because, again, this is the same Workforce Grant that we received during COVID and they have extended it now for another four and a half years. As far as what Commissioner Argent has said is that the State has realized that a lot of the health departments have been short staffed and that's why they're continuing these grants. So, they're hopeful for that, but the plan is to make sure that all applicants are aware of that at the time of their interviews and at the time that the job description is handed to them.

COUNCIL PRESIDENT ISTNICK – Thank you, Barb. Councilman Gregg.

COUNCILMAN GREGG – I have a question, Mrs. Sylvester. They're made aware of what?

BARB SYLVESTER – They're made aware that this is being funded through a Workforce Grant.

COUNCILMAN GREGG – And may not continue?

BARB SYLVESTER – That's correct. And as Atty. Mack said, it's clearly stated in the grant as well. So, they will be made aware of that; that's how this is being funded through.

COUNCILMAN GREGG – Thank you.

BARB SYLVESTER – Your welcome.

COUNCILMAN GREGG – Thank you. Mr. Slutz.

COUNCILMAN SLUTZ – Thank you, Mr. Gregg. What would a job description be for these future employees?

BARB SYLVESTER – As Commissioner Argent was up here and spoke of it, it's also listed in the letter that you were given too at that time, I can point them out to you here, if you want me to read those back to you again? The Outreach Coordinator, part-time Language Service Coordinator and a Seasonal Intern. That's what was in the letter that was given to you from Commissioner Argent at the Work Session.

COUNCILMAN SLUTZ – Thank you.

COUNCIL PRESIDENT ISTNICK – Councilwoman Creamer.

COUNCILWOMAN CREAMER – I have no questions.

COUNCIL PRESIDENT ISTNICK – Councilman Lewis.

COUNCILMAN LEWIS – I personally would like to see this possibly get second reading. I have some follow-up questions I don't think we can get resolution on right now. I know that the Law Dept. has someone that works in Domestic Violence that is grant supported. So, I'd like to look at how their job is classified to see if there's a way that we actually would have it within our classifications that make it a grant supported position as compared to just creating a new position. If we could just buy ourselves two weeks to double check on that, I'd appreciate it.

COUNCILMAN GREGG – Is there a time constraint on this legislation?

BARB SYLVESTER – Well, there isn't a time restraint, but again, the money is already available as Commissioner Argent said when she was here. The money in funding is there, so, the longer that it takes the less amount of time you're going to be able to take the full potential of the grant that's there.

COUNCILMAN GREGG – Thank you.

COUNCIL PRESIDENT ISTNICK – Councilman Gregg.

COUNCILMAN GREGG – Given that, I think that we'll give this second reading tonight so that we can get some further questions answered. Thank you.

COUNCIL PRESIDENT ISTNICK – Thank you, Barb. Ord. No. 17 – 2023 has received second reading.

RESOLUTION NO. 4 – 2023

BY: COMMUNITY DEVELOPMENT COMMITTEE

A RESOLUTION approving the decision of the Massillon Board of Zoning Appeals in Case No. 2023 – 2.

COUNCIL PRESIDENT ISTNICK – Councilwoman Creamer.

COUNCILWOMAN CREAMER – Thank you, Madam President. Thank you, Madam President. This resolution is requesting Council to approve the decision of the Massillon Zoning Board of Appeals, denying an appeal filed November 22, 2022, in Variance Case No. 2023-2 from the Massillon Zoning Code for the appellant, Huth Ready Mix and Supply Co. to Cease-and Desist per the order issued by the Zoning Officials on November 16, 2022. This denial of the appeal was made at a Special Meeting at the Massillon Zoning Board of Appeals on February 23, 2023. This evening we had a public hearing at 5:30 p.m. We did hear from Atty. Runkle representing Mr. Brosanhan and also neighbors in that area that were opposed; were in favor of the Massillon Zoning Board denying the appeal. Through the past couple of weeks, we have received documents from the Law Dept. regarding the transcripts from the Massillon Zoning Board. In addition, we have received some supporting facts denying the appeal of Case No. 2023-2. The first is, processing, crushing and a recycling of concrete materials with a crushing machine is not a permitted use in an I-1 Light Industrial zoning designation applicable to the property. I'm just going to reference our Ordinance Chapter 1169.01, the intent. So, the "I-1 Light Industrial District is designed so as to primarily accommodate wholesale activities, warehouses and industrial operations, whose external physical effects are restricted to the area of the district and in no manner effect in a detrimental way any of the surrounding districts. The I-1 District is so structured as to permit along with any specified uses the manufacturing, compounding, processing, packaging, assembly and/or treatments of finished or semi-finished products from previously prepared material. It is further intended that the processing of raw material for shipment in bulk form to be used in an industrial operation at another location is not permitted. Item No. 2, "The processing, crushing and/or recycling of concrete materials with a crushing machine is a different use than the operation of a facility for the production of ready mix concrete materials and the appellant has failed to demonstrate with reliable competent evidence that such use is an incidental use to be

operation of such facility". Item No. 3, "The processing, crushing and/or recycling materials with a crushing machine is not a prior conforming use that occurred when the property prior to the designation of the property as I-1 Light Industrial zoning. Item No. 4, "Even if the appellant had demonstrated with reliable, competent evidence, that the appellant's operation of a ready mix concrete facility is a prior non-conforming use of the property that occurred prior to the designation of the property as I-1 Light Industrial zoning, the processing, crushing and recycling of concrete materials with a crushing machine is an impermissible expansion of such non-conforming use". I want Council to take into effect, consider, in the transcripts, it was stated that multiple facilities in Stark County perform this activity and there were two companies mentioned in the transcripts; Diano Concrete and Reliable Ready Mix. With the help of Tracee Ward, she provided us documents today stating that Diano Concrete is listed as an I-2 Industrial Heavy District. Also, Reliable Ready Mix, there were two (2) parcels, I-1 Industrial Light and I-2 Industrial Heavy. So, for those activities to occur at those two facilities, based on this information and Canton's ordinance, Industrial Light, building materials, sales, yards including concrete mixing, falls under Industrial Light. So, in Canton where this falls under mixing of concrete is Industrial Light. There's no mention of crushing, processing concrete in an Industrial Light District. Also, this activity, per the transcripts, "the concrete has never been crushed on our property before and that's because the previous owner didn't choose to". So, this is new activity that's being performed in this I-1 Light Industrial area. So, at this point, I would like to open it up for Council that has any additional questions or clarification regarding this request. Any questions?

COUNCIL PRESIDENT ISTNICK – Councilwoman Harwig Smith.

COUNCILWOMAN HARWIG SMITH – Can we ask questions of anyone?

COUNCILWOMAN CREAMER – Sure.

COUNCILWOMAN HARWIG SMITH – Yes, I wanted to ask a question. They had talked about how the initial concrete mountain and they brought in the machines and I'm just wondering if they used different machines at that time than what they'll be using in the future because he also talked about how now they're putting in the small pads. So, if I could have his attorney or the owner of Huth Ready Mix address if that makes a difference in the process and the sound and the machines that they're using and jackhammers compared to how they'll be doing it from this point forward.

ADAM BROSNAHAN – Owner of Huth Ready Mix and Co. Can you, one more time?

COUNCILWOMAN HARWIG SMITH – So, you talked about how it was the big mountain and they had to bring in all these big machines. Will they be bringing in those same machines every time or will they be not needing as big a machines? And then you talked about how it was a big mountain but now you're pouring small little pads that are broken up as you go. So, will that make a whole difference in the dust and the noise when it comes time to make it into the aggregate again?

ADAM BROSNAHAN – Absolutely. So, originally we had a mountain and it was big and it was concrete that was poured on top of each other. So, concrete does bond to itself and it took two 80,000 pound excavators with hydraulic hammers plus a couple of other small ones during the 2020-2021 time when this became such a big deal. A lot of repetitive hammering; they worked Monday through Thursday, 7:00 a.m. to 5:00 p.m. and it took months to get through that. So,

we got through that initial mountain, that material sold off and not quite two years later we processed again. But in the meantime, instead of building a mountain, the concrete would come back in the trucks, be dumped flat on the ground and six inches to a foot thick and then that was busted up into smaller pieces then and then pushed into a pile to the side and then a pile is made and then instead of two 80,000 pound excavators coming back to do the work, we used two 30,000 excavators to do the work. It was a considerable difference in what you're doing and also, the process didn't take months, it took weeks.

COUNCILWOMAN HARWIG SMITH – So, you're saying the new process will not make as much noise or dust?

ADAM BROSNAHAN – Correct, and it's not...it doesn't go on and on for days.

COUNCILWOMAN HARWIG SMITH – And you're not going to have to be going through a giant mountain?

ADAM BROSNAHAN – And you don't have two 80,000 pound excavators with hydraulic hammers running ten hours a day sitting on top of the mountain.

COUNCILWOMAN HARWIG SMITH – So you don't anticipate them ever coming in again with that kind of machinery?

ADAM BROSNAHAN – Correct.

COUNCILWOMAN HARWIG SMITH – Thank you.

COUNCIL PRESIDENT ISTNICK – Anyone else?

COUNCILWOMAN CREAMER – I'd like to ask Asst. Law Director just to clarify that with these facts that the activity that's taking place is not permitted under our I-1 Light Industrial zoning that this processing in crushing is a different use than the operation of the facility and the protection of Ready Mix and "the processing and crushing of materials with this machine is not a prior conforming, is not a non-conforming use that occurred on the property prior to the designation of the property as I-1 Light Industrial zoning". So, are those and the information that was provided at the Zoning Board that referenced the two concrete companies, they are industrial heavy and can. So, they possibly are performing these activities under a different district? Am I understanding that correctly?

EDMOND MACK – You're understanding what the Board of Zoning Appeals found based on the evidence that was presented at the hearing and I don't want to give you my conclusions, of course. But that is what the BZA concluded and that's the decision that's before you. So, I think with that caveat, you have stated it correctly, Councilwoman.

COUNCIL PRESIDENT ISTNICK – Anyone else? Councilwoman Harwig Smith.

COUNCILWOMAN HARWIG SMITH – Thank you. This is a question for Law Director Mack. In the papers where you see from Atty. Runkle it states that the initial Cease-and-Desist order is factually incorrect, it must be overturned by Council and I did go back and read those transcripts and everything from the meeting and they kept going on to whether it was like second hand or first-hand material and things like that and in Mr. Johnson's statements,

everything he stated was kind of prior to where later on in the transcripts they began to talk about how they more or less proved that it was still virgin material, not second hand material. Does that have bearing on anything? Because Mr. Johnson stated that after that fact was pretty much established as it is virgin material still, Mr. Johnson didn't have anything to say. So, I'm just wondering if that has any bearing?

EDMOND MACK – That would be for you guys to decide. Under, I think how the BZA interrupted the I-1 designation, I'm not sure how that distinction would make a difference. But it would be this body's determination and its interpretation and application of the zoning ordinance. In its prerogative, if it were to find there is a difference between those two things.

COUNCIL PRESIDENT ISTNICK – Anyone else? Councilman Violand.

COUNCILMAN VIOLAND – Thank you, Madam President and I'll keep it brief. This question is for Mr. Brosanhan. You stated that you always hire an outside company to come in and do this crushing for you. Is that correct?

ALAN BROSANHAN – Correct.

COUNCILMAN VIOLAND – Okay. These other companies that are referenced, do they do the same thing or do they crush on site with their own machinery? Do you have any plan of purchasing your own machinery?

ALAN BROSANHAN – Originally when this started, the intention was to get through our initial site that we had and then to set up a permanent facility to crush concrete and resell that product. But, with everything that's went on, it makes no sense to make any investments in that regard.

COUNCILMAN VIOLAND – Okay. That's all, thank you.

COUNCIL PRESIDENT ISTNICK – Anyone else? Councilwoman Creamer.

COUNCILWOMAN CREAMER – With seeing no more questions, I would like to waive the rules requiring three readings and bring Res. No. 4 – 2023 forward for a vote and this vote, if you are in favor of approving the decision of the Massillon Zoning Board, you would be in favor and you would vote "yes" and if you are opposed to the decision of the Massillon Zoning Board, you would vote "no".

COUNCIL PRESIDENT ISTNICK – Seconded by Councilman Lewis. Roll call for suspension.

8 yes for suspension

COUNCIL PRESIDENT ISTNICK – And for passage.

6 yes; 2 no for passage – Gregg and Harwig Smith voted "no"

COUNCIL PRESIDENT ISTNICK – Thank you, Madam Clerk. Res. No. 4 – 2023 has passed.

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

GAYLE DANZY – I live at 2014 Tennyson Ave N.E., Massillon, Ohio. First, I want to correct something that I said two weeks ago about the code violations. I was speaking only of commercial properties and not of residential properties. Some people brought that up to me, so, I wasn't speaking of people that own residences. I was speaking of commercial only. And so then I did some research because I like to do research and I apologize if I'm the guilty one that has called people's names. So, I won't do that again; facts though they are, but I won't call anymore names. I found out that the reason that the judge doesn't get anything for these commercial properties is, and I brought my notes so that I wouldn't forget anything. When they have a violation, they then get a first letter with ten days to appeal it. Then they get a second and final notice. Then it goes to the Massillon City Building Board of Appeals. Now, if they put a Band-Aid on what's wrong then it doesn't even get to the Board of Appeals. So, it very regularly never will get to the court because they do things to keep from getting to the court that goes through the Board of Appeals. If they should happen to get to the Board of Appeals, they have ten days to act on their order then it's given to the Massillon Law Dept. where it can be criminally or civilly prosecuted. But what I found out is the reason it's been ten years is that it never gets to go that far because they are babysat and allowed to put Band-Aids on their little things so that it never gets to the court. So, again, I'm asking Council if you would please consider creating some type of legislation to stop these people that have code violated buildings for renting and still collecting money. Because now we've torn down one of their buildings at the cost of about \$450,000 that the City is paying for that I've asked for money so many times that I know you've noticed; I just don't ask the City for anything anymore. Because I was active in the 90's and the City didn't give me one dime. So, I finally got the sense, Gayle, they're not going to give you anything; quit asking. But I believe that that money that's used to tear down somebody's privately owned building could be used for affordable housing in the City of Massillon and I am still working on that. I'm just not going to ask the City for anything because I get it; the City's not going to give me anything. I had someone ask me about how many, well, let me just say, the person who shall remain nameless, owns thirty-three buildings downtown Massillon. Thirty-three buildings and then there are two other landowners, commercial landowners who have things pending against them now. One of them, and I have the address, I don't know what it is, 39 Lincoln Way has had orders against them since October 2022 and now they're on a sixty-day plan of action. So, I don't know if Council is aware of all this stuff, but what they do is just enough, not to ever go to court. Then, I wasn't here for the meeting that they had when, I forgot who it was that talked about the different buildings, but what I was told was when they had that fire back on Easter whatever year that was, that those were different people in office. So, I understand that now. Those people are gone. So, now it's all new people. New Council people, new everybody. So, you're still abiding by what those people did in 2009 or whatever year it was. That needs to change. And then I was told that all they have to do is keep the buildings safe to occupy. They said in the last meeting that you had that you were told that even when you take care of the code violations, that will not rehab the buildings. Some of those buildings need to come down and somebody needs to speak up and say they need to come down before you have another building to tear down at the cost of \$450,000 of the City's taxpayer's money. The only other thing I wanted to ask, the ARPA; are you guys familiar with what that stands for and are you familiar with all the things that it can be used for and that it cannot be used for? Because when I looked up Council's responsibility to that, I found out that Council is supposed to make legislation that the Administration administrates. The Administration is not supposed to be coming to Council meetings and telling you guys what to do. And that's what I keep observing. I'm here every week. You're supposed to tell the Administration what to do. Come to some

type of agreement. The Administration isn't supposed to come in here and tell you what to do. You were elected by City people to represent them. Administration wasn't elected by anybody. They applied for jobs and got them and got paid. But the people of the City, me included being one of them; we're depending on you to do what's best for us. So, that's all that I'm going to ask that, once again, you will reconsider creating legislation to do what's best for the City of Massillon. Thank you.

COUNCIL PRESIDENT ISTNICK – Thank you, Gayle. Anyone else?

ROBYN BLOOM – I live at 846 Wellman Ave. S.E., Massillon, Ohio. Along with the downtown buildings, we're also losing a lot of downtown homes. Wellman is set to lose three more on the other side of the KFC just bought by the Altman Co. By the end of the month, they're going to be torn down. So at this point and time, now, we've lost six homes either due to fire or progress. Either we've lost almost six homes due to either fire or progress in five years. Progress or preservation. If we don't start preserving these old homes and these old buildings through downtown, you're not going to have much of a downtown, you're not going to have much downtown living because it's all going to be gone. So, if we're getting grants to fund demo, why can't we find grants for preservation? Thank you.

COUNCIL PRESIDENT ISTNICK – Thank you, Robin. Anyone else?

18. ADJOURNMENT

COUNCIL PRESIDENT ISTNICK – Councilman Herncane.

COUNCILMAN HERNCANE – Thank you, Madam President. I move that we adjourn.

COUNCIL PRESIDENT ISTNICK – Seconded by Councilman Violand. Roll call.

8 yes to adjourn

COUNCIL PRESIDENT ISTNICK – Meeting adjourned.

DIANE ROLLAND, COUNCIL CLERK

CLAUDETTE ISTNICK, PRESIDENT