

**MINUTES OF THE REGULAR MEETING
MASSILLON CITY COUNCIL
HELD MONDAY, APRIL 18, 2022**

COUNCIL PRESIDENT ISTNICK – Welcome to the Massillon City Council Meeting for Monday, April 18, 2022. We have in attendance the following City officials: Mayor, Kathy Catazaro-Perry, Safety Service Director, Barb Sylvester, Auditor, Jayne Ferrero, Chief Counsel, Bill Bartos and Economic Development Director, Dave Maley. Under #5 on the agenda is where the public can speak on any item that appears on tonight’s agenda and under #17 is where the public can speak on any item 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. Thank you.

COUNCIL PRESIDENT ISTNICK – Roll call.

1. ROLL CALL

Roll call for the evening found the following Council Members present: Jill Creamer, Julie Harwig Smith, Ted Herncane, Ed Lewis, Mark Lombardi, Jamie Slutz, Mike Snee, and Jim Thieret.

Roll call of 8 present

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

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

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

8 yes to excuse Councilman Gregg

COUNCIL PRESIDENT ISTNICK – Thank you, Madam Clerk. Councilman Gregg has been excused. Councilman Slutz.

2. INVOCATION

COUNCILMAN JAMIE SLUTZ

3. PLEDGE OF ALLEGIANCE

LED BY COUNCILMAN SLUTZ

4. READING OF THE JOURNAL

COUNCIL PRESIDENT ISTNICK – Thank you, Councilman Slutz. 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 corrections or additions 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

JOE PEROTTI – I live at 3009 Castlewest Cir., Massillon, Ohio. We've been there about 20 years now and our road has been in dire need of replacement for many years and, I understand that there are a lot of roads in Massillon that need attention. The climate is just as tough on the roads, I understand that. But, all of us in Castlewest Estates would really appreciate it if this year of 2022 would be our year. We'll finally get our road replaced. We'd really appreciate that. So, we would strongly urge you, if I may, to pass Ord. No. 69 so that we can get our road replaced. And I want to thank all of you for your service to the City of Massillon. That's a substantial responsibility and we appreciate that. Thank you very much.

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

6. NEW AND MISCELLANEOUS BUSINESS

7. INTRODUCTION OF ORDINANCES AND RESOLUTIONS

COUNCIL PRESIDENT ISTNICK – Ord. No. 68 – 2022.

ORDINANCE NO. 68 – 2022

BY: STREETS, HIGHWAYS, TRAFFIC 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 St. Andrews Estates Improvement Project Phase IV, and declaring an emergency.

COUNCIL PRESIDENT ISTNICK – Councilman Thieret.

COUNCILMAN THIERET – Thank you, Madam President. We've already looked through these at the Work Session and I believe everybody was pretty much in favor of it. But, are there's any questions or concerns from Council? Then I'd like to make a motion that we waive the rules requiring three readings and move Ord. No. 68 – 2022 up for a vote tonight.

COUNCIL PRESIDENT ISTNICK – Seconded by Councilwoman Creamer. 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. 68 – 2022 has passed. Ord. No. 69 – 2022.

ORDINANCE NO. 69 – 2022

BY: STREETS, HIGHWAYS, TRAFFIC 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 Castle West Estates Improvement Project Phase II, and declaring an emergency.

COUNCIL PRESIDENT ISTNICK – Councilman Thieret.

COUNCILMAN THIERET – Thank you, Madam President. Again, we have gone through this a little bit and as always, we like to get these projects up for bid as quick as possible. So, if there's no objections, I will move to move this forward this evening. Any questions or comments from Council? Yes.

COUNCILMAN SNEE – Thank you, Mr. Thieret. So, yes, again, I went out the Friday before last and looked at this road. This is tied with the worse road in my Ward. There's parts of it where there's a differential between six to eight inches, which probably should be shut down. So, if we can waive the rules, get it through, get it moving as quick as possible, I'd really appreciate it.

COUNCILMAN THIERET – Anyone else? I move that we waive the rules requiring three readings and move Ord. No. 69 – 2022 up for vote tonight.

COUNCIL PRESIDENT ISTNICK – Seconded by Councilwoman Creamer. 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. 69 – 2022 has passed. Ord. No. 70 – 2022.

ORDINANCE NO. 70 – 2022

BY: STREETS, HIGHWAYS, TRAFFIC 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 bidders, upon the approval of the Board of Control, for the 2022 Catch Basin Replacement Project, Phase I and Phase II, and declaring an emergency.

COUNCIL PRESIDENT ISTNICK – Councilman Thieret.

COUNCILMAN THIERET – Thank you, Madam President. Again, as we have discussed at the Work Session and I believe we already have this budgeted again. So, if there's no objections or any comments from Council; I move that we waive the rules requiring three readings and bring Ord. No. 70 – 2022 up for a vote tonight.

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. 70 – 2022 has passed. Ord. No. 71 – 2022.

ORDINANCE NO. 71 – 2022

BY: STREETS, HIGHWAYS, TRAFFIC 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 2022 Street Resurfacing Project, and declaring an emergency.

COUNCIL PRESIDENT ISTNICK – Councilman Thieret.

COUNCILMAN THIERET – Thank you, Madam President. Again, this is Phase I of the list of streets that we are planning to resurface this year. Any questions from Council? Seeing none, I move that we waive the rules requiring three readings and move Ord. No. 71 – 2022 up for vote tonight.

COUNCIL PRESIDENT ISTNICK – Seconded by Councilwoman Creamer. 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. 71 – 2022 has passed. Ord. No. 72 – 2022.

ORDINANCE NO. 72 – 2022

BY: FINANCE COMMITTEE

AN ORDINANCE making certain appropriations from the unappropriated balance of the 1100 General Fund, for the year ending December 31, 2022.

COUNCIL PRESIDENT ISTNICK – Councilman Lewis.

COUNCILMAN LEWIS – Yes, this is an appropriation of \$30,000.00 for arbitration services related to labor contracts. Are there any discussions or questions this evening? Seeing none, I make a motion that we suspend the rules requiring three readings, bringing Ord. No. 72 – 2022 forward for a vote.

COUNCIL PRESIDENT ISTNICK – Seconded by Councilman Lombardi. 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. 72 – 2022 has passed. Ord. No. 73 – 2022.

ORDINANCE NO. 73 – 2022

BY: FINANCE COMMITTEE

AN ORDINANCE granting the Mayor of the City of Massillon, Ohio, a one-time salary increase to \$90,000.00 per year, effective January 1, 2024, and granting the Auditor of the City of Massillon, Ohio, a one-time salary increase to \$77,000.00 per year, effective January 1, 2024.

COUNCIL PRESIDENT ISTNICK – Councilman Lewis.

COUNCILMAN LEWIS – First reading.

COUNCIL PRESIDENT ISTNICK – Thank you. Ord. No. 73 – 2022 has received first reading. Ord. No. 74 - 2022.

ORDINANCE NO. 74 – 2022

BY: FINANCE COMMITTEE

AN ORDINANCE making certain appropriations from the unappropriated balance of the 1238 Probation Service Fund, for the year ending December 31, 2022, and declaring an emergency.

COUNCIL PRESIDENT ISTNICK – Councilman Lewis.

COUNCILMAN LEWIS – Yes. There's a few caveats within this ordinance that I want to mention before we get into discussion. One, this is coming from our Courts. They are asking for \$60,000.00 for work that was to be completed or has been completed on facilities that they operate within that are City-owned. I do still have some questions that have gone unanswered at this point. Madam President, could you please have the Clerk verify, for the record, that Judge Eddie Elum was invited to tonight's meeting?

COUNCIL CLERK ROLLAND – Yes he was. I contacted Jeannie Schrider and left her a message. She called back and said that the Judge would be in attendance tonight.

COUNCILMAN LEWIS – Okay. So, for one reason or another, he has been able to make it. I'll give him the benefit of the doubt that something has come up with his schedule. So, we'll proceed discussion and then if we move on from this ordinance and he arrives later in the meeting, I would like to reserve the right to come back to it, if that's okay?

COUNCIL PRESIDENT ISTNICK – Fine.

COUNCILMAN LEWIS – Secondly, I did talk to the Law Dept. and some of the questions that I had and you guys may also have, as we go through discussion, where legal in nature; the Law Dept. is still researching where their ethical line operates, given how they work within the City

and what advise they can give. So I would, respectfully ask that our questions can go to the Administration or the Auditor, but until the Law Dept. is able to finalize what it can and cannot say on the record, we won't want to call them up because it will put them in a situation where they may not be able to answer tonight. With all that said, Madam President, I'd like to call up the Auditor of the City.

COUNCIL PRESIDENT ISTNICK – Okay. Ms. Ferrero, if you could come up to the front mic, please.

JAYNE FERRERO – Madam President, Members of Council, good to see you this evening. Mr. Lewis.

COUNCILMAN LEWIS – Yes, Madam Auditor, from my understanding, this is a request for \$60,000.00 related to the expenses for renovations to the facilities within the City that you were ordered to pay, but the fund that it was coming from did not have the necessary funds, hence the reason the appropriation is necessary?

JAYNE FERRERO – That is correct. As you know, my position is that I pay the bills and we come to you and we ask to appropriate the money and these funds have not been appropriated. The money has been spent, the work is done and the Judge has court-ordered me to pay the bill.

COUNCILMAN LEWIS – And what fund would he have been paying out of?

JAYNE FERRERO – The 1238 fund which is the Court fund.

COUNCILMAN LEWIS – Okay.

JAYNE FERRERO – And they do have money to transfer into the Probation Fund to pay the bill.

COUNCILMAN LEWIS – Okay.

JAYNE FERRERO – That's why I signed this.

COUNCILMAN LEWIS – On our spreadsheet it shows a substantial balance, but what you're looking at is a line item that did not have that, correct?

JAYNE FERRERO – That's correct, yes.

COUNCILMAN LEWIS – Okay.

JAYNE FERRERO – But there's a procedure we go through, in the City, that when it's a certain dollar amount, they have to go out to bid and that was not done. And so, the work has been done and that's something the Safety Service Director can really speak to better than I. But, there's money in that 1238 fund to transfer over and I cannot pay this bill until I get money in that line item.

COUNCILMAN LEWIS – And also clarify because this is something I wanted to make sure I understood right and was discussing; this is absolutely the Courts money and if they follow the proper protocol, it is their money to spend as how they see fit.

JAYNE FERRERO – Absolutely. And he is in his right to spend that money. That is his right. That's the Court's money. He has the right to spend it.

COUNCILMAN LEWIS – Alright. Madam President, I'd open up to see if anyone else has questions of the Auditor.

JAYNE FERRERO – Any other questions?

COUNCIL PRESIDENT ISTNICK – Councilman Thieret.

COUNCILMAN THIERET – Just to clarify; they need to pay it, but not necessarily out of this fund?

JAYNE FERRERO – No, it needs to come out of that fund. We have to transfer money from the 1238 fund, which is part of the Court's carryover.

COUNCILMAN THIERET – Okay.

JAYNE FERRERO – And we would put it in the Probation Fund and that's what we would pay it out of. And that's what the court order directs me to do.

COUNCILMAN THIERET – The 1238 says Probation Services Fund.

JAYNE FERRERO – Yes, yes sir.

COUNCILMAN THIERET – I guess I'm missing something. Transferring it from what; from here to here?

JAYNE FERRERO – The 1238 is there carryover balance and they have plenty of money in there to transfer the money.

COUNCILMAN THIERET – Back to the 1238?

JAYNE FERRERO – Back to the Probation Fund, yes.

COUNCILMAN LEWIS – Do you mind? I had the same question at first. Because when we look on our spreadsheet that we have, it shows \$640,000.00 in there and that's why I said line item. We haven't appropriated the dollars. The money might be there, but we haven't appropriated the dollars. So, he cannot spend until it gets appropriated.

JAYNE FERRERO – You haven't given me the authority to spend that money and I never spend money unless you tell me I can. I do sometimes with my husband, but I wouldn't with you.

COUNCILMAN LEWIS – I wanted to make a remark like that, but I'll refrain with you.

COUNCIL PRESIDENT ISTNICK – Any other questions for the Auditor? Councilman Lewis.

COUNCILMAN LEWIS – Yes, I'd like to call up the Safety Service Director, Barb Sylvester, please.

COUNCIL PRESIDENT ISTNICK – Thank you, Jayne. Mrs. Sylvester if you could come on up.

BARB SYLVESTER – Good evening.

COUNCILMAN LEWIS – Thank you. Mrs. Sylvester, to my understanding the improvements we're discussing, can you tell us where those improvements were?

BARB SYLVESTER – I can tell you that I read the invoice, the Auditor's office does have the invoice and the invoice does say Courts Services Building, which is the Getz Building.

COUNCILMAN LEWIS - Okay. And these improvements that were made were in excess of \$50,000?

BARB SYLVESTER – Yes they were.

COUNCILMAN LEWIS – And so, our process is that they then have to go out to bid and that would be for anybody that operates in the City?

BARB SYLVESTER – Yes sir.

COUNCILMAN LEWIS – And we don't have any evidence of that?

BARB SYLVESTER – That's correct.

COUNCILMAN LEWIS – Okay. So, that's where my questions came in, just so that the rest of Council is aware. I don't have a problem with appropriating money for the Court to use as necessary. My concern is the position that Council is in to appropriate funds to fulfill invoices on a project that did not follow proper legal protocols that all authorities within a public entity have to follow. What position does that put us into then if someone doesn't follow the process and then we go ahead and funded it anyways, knowing that they possibly did not. Did they talk to you guys at all about the updating of the facility?

BARB SYLVESTER – Yes, I did have brief conversation with Judge Fichter.

COUNCILMAN LEWIS – Prior to or afterwards?

BARB SYLVESTER – Prior to, there was a short discussion about it. But then the work went forward. I do have a meeting with both judges tomorrow afternoon that had been scheduled a while back. It had been rescheduled then because Judge Fichter was off for a short period of time for medical reasons.

COUNCILMAN LEWIS – How do these improvements impact the improvements that this Council had already put into place for the Getz Building?

BARB SYLVESTER – Well, this Council approved the improvements for the Getz Building for the ADA restrooms and also approved, the ordinance was issued for the Safety Service Director to go out to bid and so, when we were preparing to go out to bid, I notified the judges because they do use that for services in the building and anyone else who uses services, that we were going to begin to have an engineer in there to get started so we can get the sematic drawings to go out to bid and Judge Elum gave me a court order that we would not be able to go into the building to start to begin renovations. So, this goes back, I have a whole timeline here that goes back to probably about January of this year, so, we met them on, I believe, February 13th. Judge Fichter, Judge Elum and I and Greg McCue, from our engineering, to go over everything. As this Council knows, I presented to all of you a signed document from both judges. They had eleven requests that they wanted us to conform to when we did the renovations. They both signed off on it; we agreed to it. But then Judge Elum gave a court order and said they could not conform to it. So, I wanted to work with them to see what we needed to change, what we needed to do, what we could do for all of us to move forward with it and, like I said, that was a meeting March 13th. So, at that meeting, actually long story short, there were a few things. A new idea came up, actually, from Judge Elum. I told him that we probably could work through that. We acquired some new drawings and we put some new information together so, at that time, I did get with John Picard and we did put new drawings and so forth together and then, like I said, we had a meeting scheduled and Joel had to reschedule. So, it got rescheduled for tomorrow, but in the meantime, the work has been done in the facility by the Judge Elum.

COUNCILMAN LEWIS – From my understanding, the City owns the building?

BARB SYLVESTER – That's correct.

COUNCILMAN LEWIS – As in, we own all public facilities within that the City uses?

BARB SYLVESTER – That's correct.

COUNCILMAN LEWIS – So, that's where my question gets to be as how can one branch start to improve facilities that they don't necessarily have ownership of without following the processes of going through the other entities. It's starts to seem like we're muddying the water there and there's the check and balances we all learn in fifth grade civics of the three different branches and we all keep each other in check and it kind of seems like, you know, this is a government-owned building. We do have a branch of government that oversees that and it seems like another branch may have acted outside of that fundamental element of how our government is structured. That's what my concern was. So, with that, is there anything you wanted to add that we haven't discussed yet?

BARB SYLVESTER – No, like I said, I will be, again...I want to work with everybody and make it so that, again, the facility is ADA compliant, number one. It is another public building. As all of know, we have been working, all of you have done a great job with this as well, for all of our facilities that we are getting to be ADA compliant. We also wanted to, of course, have the ADA restrooms for Duncan Plaza. Again, health and safety reasons. And again, making everything accessible to those with disabilities is definitely a high priority for all of us and that was the goal there for that building.

COUNCILMAN LEWIS – And to clarify as well, I'm sorry, but, when we were talking about these renovations, I remember some conversation regarding the Courts, and in particular, it

discussed that we just had to make sure that we left courtrooms and backup courtrooms so that this is available to the court in case there were to be needed, correct?

BARB SYLVESTER – That is correct.

COUNCILMAN LEWIS – That is our one obligation. We have to make sure facilities are made available to the Court for their usage. It doesn't necessarily say that we are not allowed to update or make alterations to the said facilities.

BARB SYLVESTER – That's correct.

COUNCILMAN LEWIS – Alright. I'll open it up, Madam President, to any other questions.

COUNCIL PRESIDENT ISTNICK – Councilman Thieret.

COUNCILMAN THIERET – Again, just one for clarification; you mentioned the \$50,000 number. In the invoice, was there a variety of jobs that may have been added up to this \$50,000? Or did they just combine them on one invoice where that makes it come under the radar, if you would?

COUNCILMAN LEWIS – From my understanding, we might have to ask Mrs. Sylvester or the Auditor that even if you have a job that would be \$55,000, you can't break it up into a \$25,000 and a \$30,000 job in order to avoid the \$50,000 threshold. So that might be why you see a few different invoices, none of which reach \$50,000. But when you add them all up and they're all for the same job, then you're exceeding the \$50,000 and he has to put it out for bid.

COUNCILMAN THIERET – Well, that's the essence of my question; are they all for the same job?

COUNCILMAN LEWIS – From my understanding.

BARB SYLVESTER – Yes, they are. I do have the invoices here.

COUNCILMAN THIERET – Thank you.

COUNCIL PRESIDENT ISTNICK – Councilwoman Creamer.

COUNCILWOMAN CREAMER – Thank you, Madam President. I have a couple questions. So if I'm understanding this correctly, there has been some renovation completed in the Getz Building by the Court?

BARB SYLVESTER – Yes, that's correct.

COUNCILWOMAN CREAMER – But, the renovation for the Getz Building that we approved for the restrooms and other areas; has that project been moving forward or has it been delayed and what type of timeline has it been delayed based on the situation that's taking place?

BARB SYLVESTER – So, like I said, it has been delayed. Well, I mean, again, I'm trying to be considerate to everyone, want to work with everyone, make sure that everything, every service that we provide to our community is addressed and taken care of. November is when Council

passed the ordinance for the Safety Service Director to go out to bid for that job. So, in January, as I said, I was making people aware that we were going to have the engineers go in and start so we could get sematic drawings and that's when I received an e-mail from Judge Elum that we needed to meet and go over some things because he was going to do some clean up and some renovations in the building. And so, he wanted to meet with me at that time. And that's when we did have a meeting then.

COUNCILWOMAN CREAMER – So, what was our timeline for completion of the renovation of the restrooms in the Getz Building?

BARB SYLVESTER – Well, to be honest, as soon as possible as we do with all of our project. We waited until after the first of the year, again, before we get the engineers into the building and to get everything started. But once we go out to bid, we get the sematic drawings plus we go out to bid, then we would move as quickly as we could get a contractor assigned to the project. I can't give definite timeline because, again, once we go out to bid, wonder if one of the bids to high, wonder if nobody bids. You have to advertise for so much time to get in and then go ahead and schedule the work. We wanted to get it completed as soon as possible.

COUNCILWOMAN CREAMER – So, for the 2022 summer concert series, was the goal to have them completed for the 2022 or 2023?

BARB SYLVESTER – 2022.

COUNCILWOMAN CREAMER – Okay. My second round of questions is; how would we go about self-reporting since this process of this renovation took place without going out to bid? Is there a self-reporting process that we have to go through?

BARB SYLVESTER – I cannot answer that because we always follow the law and always come to Council and get the approval to go out to bid and then we go out to bid. So, I cannot answer that.

COUNCILWOMAN CREAMER – I know that Mr. Lewis stated that the Law Dept. is on hold, but I didn't know if the self-reporting, if that would fall under the Law Dept. or we already have information if other situations arise on how we would self-report. So, I'll be patient and wait for the Law Dept. to provide us feedback. Thank you.

COUNCIL PRESIDENT ISTNICK – Councilman Lewis.

COUNCILMAN LEWIS – I was just going to say, I think that question is probably generalized enough that if the Law Dept. feels comfortable in answering that, I would welcome them to come forward.

COUNCIL PRESIDENT ISTNICK – Mr. Bartos, thank you.

COUNCILMAN LEWIS – I guess to help rephrase that, if there were to be a situation in which Council became aware of an entity within the City, they would go out to bid on any project, is there a process in which we must self-report?

BILL BARTOS – Member Lewis, I would just say, as I mentioned before, we're working through the ethical questions. Any questions raised here tonight would either be addressed by

the Law Dept. after we look through the ethical issue or if we determine we have an ethical issue then we'll refer them to a third party for review. So, we'll take that one under consideration in that realm. So, it is a good question and we'll take that one with us under consideration. I did my best. I like my law license. That's how I feed my family. So, at this point, I've got to stick with that answer.

COUNCILWOMAN CREAMER – Okay, thank you.

COUNCIL PRESIDENT ISTNICK – Councilman Snee.

COUNCILMAN SNEE – Thank you, Madam President. I'm a little confused because I have it on pretty good authority, when you mean the City owns that building, what does that mean? The City as the Administration or the City as in the Courts? Because I've been told that the Courts own it, now it's City owned. I mean, who owns it and how do we know?

COUNCIL PRESIDENT ISTNICK – Councilman Lewis.

COUNCILMAN LEWIS – So that is part of the discussion. From my understanding, Courts cannot own property. They are not an entity that is capable of owning as in the City. So, it is the City courts that serves Western Stark County. This is the City's Hall or City Legal and Justice Services just like it's all City property, at the end of the day. If someone were to say, fall on the steps outside going to a court case, they wouldn't sue Massillon City Courts. They would sue the City of Massillon. So, that's my understanding. That is what I'm looking to get some more clarification from, but we've heard the response from the Law Dept. for tonight.

COUNCIL PRESIDENT ISTNICK – Councilman Snee.

COUNCILMAN SNEE – Speaking through that, I would really like to hear from the Courts.

COUNCILMAN LEWIS – Same.

COUNCILMAN SNEE – Because I'm getting two different conflicting stories here. Thank you.

COUNCIL PRESIDENT ISTNICK – Councilman Lewis. Councilman Lombardi.

COUNCILMAN LOMBARDI – Thank you, Madam President. I'd just like to suggest that since Judge Elum wasn't able to make it tonight and the Law Dept. is prepared to be able to answer us that maybe we just give this a first reading or table it until the next Council session to get those answers on the record.

COUNCILMAN LEWIS – And that was my intention tonight, to give it first reading with the Judge not being here. I just want to be very clear that my position and whatever everybody else feels is it's not about whether or not we're releasing the money to the Judge to be able to spend, it's about the updating of City-owned property without looping in other entities that have statutory rights to having insight on how that property is to be updated. Because in theory or say if we didn't have that checks and balances and oversight of one another then, in theory, the Court could tear down that building and there'd be nothing we could say. So, I don't think anyone is saying that they have that authority. If they did, they could tear down this building because they operate out of it and no one is trying to say that. So, I think there is obviously some kind of line there that says other entities have say in how buildings are utilized, updated

or not. Also, if it did exceed the \$50,000, we obviously have a legal question there as to what we can or cannot do. So, like Mr. Lombardi said, there's still some questions. I do hope that Judge Elum is able to make it to the next Work Session or the next Council Session to discuss this further. First reading.

COUNCIL PRESIDENT ISTNICK – Mr. Lewis, is the work complete? The work is not complete?

COUNCILMAN LEWIS – From what I've been told, it is. Jayne Ferrero seems to have an answer.

COUNCIL PRESIDENT ISTNICK – Jayne, if you could.

JAYNE FERRERO – Okay. I just want all of you to know that I've been court-ordered to pay this within five days. Now, I have spoken to the Law Dept. and he has informed me that I will not go to jail. But maybe you all will. I'm kidding. Because you direct me on how to spend that money and you're not agreeing to give me the money to spend to pay the bill. So, I just want you to know that it's an issue in my office and it's not a little issue; it's a huge issue and now that the Law Director doesn't have any legal opinion, I'm kind of in limbo.

COUNCIL PRESIDENT ISTNICK – Councilman Lewis.

COUNCILMAN LEWIS – I would like to believe that it is not the position of our courts to want to put any other elected official in jail while we try to figure out the legalities of the request, especially since they were unable to make it to the meeting this evening to clarify the request for themselves.

JAYNE FERRERO – Okay. The Judge court-orders every bill that is sent to my office to be paid. We pay all of his bills within five days. But he does court-order every single bill that he sends. No other department, well, the Clerk of Courts; they court-order. But, Judge Elum signs it, that court-order. But, we pay everybody's bills within five days. We pay every week, the bills. So, it's not necessary to be court-ordered, but he chooses to do that. But, I have been told by the State Auditors that when somebody court-orders me, that I need to follow that court-order. So, I'm just throwing that out at you.

COUNCIL PRESIDENT ISTNICK – Or what?

JAYNE FERRERO – Or go to jail. I don't think that he would put me in jail. I would like to think he wouldn't, but don't put that in the paper.

COUNCIL PRESIDENT ISTNICK – Anyone else? Councilman Thieret.

COUNCILMAN THIERET – Given the gravity of this, obviously, it's just a procedural issue, what's hanging in the balance is the peace of mind for our Auditor, first of all, and the people that we owe the money to. I think any procedural issues can be worked out later. Why don't we just pay the bill that we owe and move on and let the legal haggling for the lawyers, okay? That's my opinion.

COUNCIL PRESIDENT ISTNICK – Councilman Lombardi.

COUNCILMAN LOMBARDI – Thank you, President Istnick. As a Council Member, I understand what you're saying, Councilman Thieret. However, I would also have to wonder what legal ramifications would be for us as a Council to go ahead and move forward and approve something that was done outside the jurisdiction of our laws and rules that we already have established. That's the only problem I would have with moving forward with this.

COUNCIL PRESIDENT ISTNICK – Councilwoman Harwig Smith.

COUNCILWOMAN HARWIG SMITH – Thank you, Madam President. I have two questions; so a probation bond, is that strictly the Courts money that they make and their fund and only they can spend?

COUNCIL PRESIDENT ISTNICK – Councilman Lewis.

COUNCILMAN LEWIS – Yes.

COUNCILWOMAN HARWIG SMITH – So, that's their money and then they just need to appropriate it over across to spend. So, the work that was done, is it broken down where it was one job or was it multiple small jobs that just ended up coming over \$60,000? Is that what we don't know?

COUNCIL PRESIDENT ISTNICK – Councilman Lewis.

COUNCILWOMAN HARWIG SMITH – Because if that was the case, then it, I mean it's really their money, they're moving it; he paid for it and saved the City money because he paid for it with the Courts money, because we can't touch that money. Am I correct in saying that?

COUNCILMAN LEWIS – That is correct and we cannot touch it. However, if renovations are done, say, down in the Getz Bldg., and he is doing multiple renovations and each renovation is only \$10,000.00 each, but they're all are in the spirit of the same project, it still needs to go out to bid. So, it doesn't matter if it was just a bunch of small things. If they were all part of the same project, I mean, when we do the renovation that we're talking about at Getz, we're going to have parts of that project that are under \$50,000.00, whatever; laying the carpet, we would still have to put that as part of the bid. Because otherwise, we would just break down every single project we have to less than \$50,000.00 and avoid the whole bid process and that would be considered unethical. So, that's part of the question. That's why we asked for the judge to be here to give us that detail and he's not present to explain anything.

COUNCIL PRESIDENT ISTNICK – Councilman Lewis, how long is the bid process?

COUNCILMAN LEWIS – I believe thirty days or something like that. I'd have to ask the Administration.

COUNCIL PRESIDENT ISTNICK – Councilman Herncane.

COUNCILMAN HERNCANE – Thank you, Madam President. I guess the only thing that I would add to this conversation is a reminder that the Massillon Municipal Court is not a department of the City. They are a separate entity. Their jurisdiction is everything west of Whipple Rd. Over the years, issues between the Court and the City have come up and going back several years, some have been resolved peacefully, some have not. But this is a unique

situation throughout the State of Ohio. There aren't too many places in the State where you have this type of arrangement where you have a municipal court and, I guess, we're probably considered their, I don't know what the right word would be; fiduciary agent or something like that. I guess would just suggest that we, knowing that they are not a department of the City and knowing that they are a different animal altogether, I would suggest that we maybe make extra sure that we're correct and that their bidding requirements are the same as our bidding requirements as a city. They could be different, I don't know. I'm not an expert in that, but they are a separate entity. If there's a budget that we don't approve of theirs, the Court can order their budget. They have great latitude as judges and as a municipal court. I would just that we should tread lightly in terms of if we are entirely sure of what, that their rules are the same as our rules. I think we should consider them in that light. Thank you.

COUNCIL PRESIDENT ISTNICK – Councilman Lewis.

COUNCILMAN LEWIS – I don't necessarily disagree with anything you said, but again, without the Law Dept. to give me a legal opinion or a judge from the court to come here and tell me what knowledge they have, I cannot make an informed decision. I have a legitimate concern that passing this tonight would put the City at risk of approving something that we don't necessarily have the legal authority or ethical ability to do. So, as I already stated, first reading.

COUNCIL PRESIDENT ISTNICK - Thank you. Ord. No. 74 – 2022 has received first reading.

COUNCIL CLERK ROLLAND – Madam President.

COUNCIL PRESIDENT ISTNICK – Yes.

COUNCIL CLERK ROLLAND – Councilman Lewis, I do have a copy of the invoice, if you want me to make copies.

COUNCILMAN LEWIS – Yes.

8. UNFINISHED BUSINESS

COUNCIL PRESIDENT ISTNICK – Mr. Dewalt is still looking into the PA system in here and when he gets some information, we will bring it forward to Council.

9. PETITIONS AND GENERAL COMMUNICATIONS

A Transfer of a Liquor License from Rajnil Petroleum, Inc. DBA Prime Station located at 804 Wales Rd. N.E., Massillon, OH 44646 to Himal Petroleum, LLC DBA Prime Station located at 804 Wales Rd. N.E., Massillon, OH 44646. Permit Classes are C1 and C2 and is located in Ward 1.

COUNCIL PRESIDENT ISTNICK – Councilman Lombardi, did you receive a copy of this?

COUNCILMAN LOMBARDI – Yes I did, thank you.

COUNCIL PRESIDENT ISTNICK – Thank you.

10. BILLS, ACCOUNTS AND CLAIMS

Walter H. Drane - \$ 440.00 Annual Web Hosting Fee

COUNCIL PRESIDENT ISTNICK – Councilman Lewis.

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

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

8 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.

11. REPORTS FROM CITY OFFICIALS

Auditor's Report - March 2022
Mayor's Report - March 2022

COUNCIL PRESIDENT ISTNICK – Councilman Lewis.

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

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

8 yes to accept the Auditor's Report

COUNCIL PRESIDENT ISTNICK – Thank you, Madam Clerk. The Auditor's Report has been accepted.

12. REPORTS OF COMMITTEES

COUNCIL PRESIDENT ISTNICK – Our next Work Session will be Monday, April 25, 2022, at 6:30 p.m.

13. RESOLUTIONS AND REQUESTS OF COUNCIL MEMBERS

COUNCIL PRESIDENT ISTNICK – Councilman Lewis.

COUNCILMAN LEWIS – In light of our most recent discussion, I'd like to call a Special Meeting for April 25, 2022 at 6:30 p.m. and we will be discussing Ord. No. 74 – 2022 and that way, if the judge is able to attend that meeting, we can have this resolved quickly for the Courts.

COUNCIL PRESIDENT ISTNICK – A Special Meeting on Monday, April 25, 2022 at 6:30 p.m.?

COUNCILMAN LEWIS – Correct.

COUNCIL PRESIDENT ISTNICK – Anyone else?

14. CALL OF THE CALENDAR

COUNCIL PRESIDENT ISTNICK – Ord. No. 39 – 2022.

ORDINANCE NO. 39 – 2022 **BY: COMMUNITY DEVELOPMENT COMMITTEE**
Tabled April 4, 2022 until April 18, 2022

AN ORDINANCE amending the Zoning Map of the City of Massillon, Ohio, by rezoning certain property from O-1 Office District to B-2 Central Business District.

COUNCIL PRESIDENT ISTNICK – Councilwoman Creamer.

COUNCILWOMAN CREAMER – Thank you Madam President. We had a Public Hrg. this evening at 6:00 p.m. in Council Chambers regarding this ordinance. We had one individual that attended that was in favor of this zone request, O-1 Office District to B-2 Central Business District. It was Mr. William Hendricks. He plans to open a sporting apparel retain shop in that vicinity. There was nobody that opposed that attended the Public Hrg. this evening. So, are there any additional questions that Council may have regarding this request? Seeing none, I make a motion to bring forward Ord. No. 39 – 2022 for a vote.

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

8 yes for passage

COUNCIL PRESIDENT ISNTICK – Thank you, Madam Clerk. Ord. No. 39 – 2022 has passed.

15. THIRD READING ORDINANCE AND RESOLUTIONS

COUNCIL PRESIDENT ISTNICK – Ord. No. 50 – 2022.

ORDINANCE NO. 50 – 2022 **BY: COMMUNITY DEVELOPMENT COMMITTEE**

AN ORDINANCE authorizing the Mayor of the City of Massillon, Ohio, to accept an “Obie the Tiger” statue, on behalf of the City of Massillon, Ohio.

COUNCIL PRESIDENT ISTNICK – Councilwoman Creamer.

COUNCILWOMAN CREAMER – Thank you, Madam President. As stated, this is to accept the Obie statue valued at \$90,000.00 from an anonymous donor along with the 2022 Massillon Tiger Football Booster Club. Are there any additional questions regarding this request? This statue is to be placed at the corner of Lincoln Way and First St. N.E. Any questions? Seeing none I make a motion to bring forward Ord. No. 50 – 2022 for a vote.

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

8 yes for passage

COUNCIL PRESIDENT ISTNICK – Thank you, Madam Clerk. Ord. No. 50 – 2022 has passed.

16. **SECOND READING ORDINANCES AND RESOLUTIONS**

COUNCIL PRESIDENT ISTNICK – Ord. No. 55 – 2022.

ORDINANCE NO. 55 – 2022

BY: COMMUNITY DEVELOPMENT COMMITTEE

AN ORDINANCE authorizing the Mayor and/or the Director of Public Service and Safety of the City of Massillon, Ohio, to enter into a Capital Improvement Community Park, Recreation/Conservation Project Pass Through Grant Agreement with the Ohio Department of Natural Resources (ODNR), and declaring an emergency.

COUNCIL PRESIDENT ISTNICK – Councilwoman Creamer.

COUNCILWOMAN CREAMER – Thank you, Madam President. We've had discussions regarding this ordinance. Most recent was at the Work Session last week. This is in regards to the Massillon Reservoir Park Splash Pad. This ordinance is just agreeing to enter into this agreement with ODNR and the Capital Improvement Community Park, Recreation/Conservation Project Pass Through Grant. There were quite a few questions still pending with Council Members last Monday regarding this. So, I would like to give this second reading. Please plan on attending next Monday at the Work Session and have any further discussion or questions that you may have brought forward to Administration, so we can make an educated decision at the next Council meeting. Second reading.

COUNCIL PRESIDENT ISTNICK – Thank you. Ord. No. 55 – 2022 has received second reading. Ord. No. 56 – 2022.

ORDINANCE NO. 56 – 2022

BY: COMMUNITY DEVELOPMENT COMMITTEE

AN ORDINANCE amending the Zoning Map of the City of Massillon, Ohio, by rezoning certain property from RM-1 Multiple-Family Residential District to B-3 General Business District.

COUNCIL PRESIDENT ISTNICK – Councilwoman Creamer.

COUNCILWOMAN CREAMER – Thank you, Madam President. This request is a zone change from RM-1 Multiple-Family Residential District to B-3 General Business District. It is located on Lincoln Way. There are four parcels, vacant parcels on Lincoln Way. We have had a presentation from one of the individuals that's proposing a Starbucks on two of the parcels. Currently, I have a public hearing scheduled for May 16, 2022 at 6:00 p.m. here in Council Chambers. So, are there additional questions or concerns that Council members may have at this time? Seeing none, second reading.

COUNCIL PRESIDENT ISTNICK – Thank you. Ord. No. 56 – 2022 has received second reading. Ord. No. 66 – 2022.

ORDINANCE NO. 66 – 2022

BY: FINANCE COMMITTEE

AN ORDINANCE authorizing the Mayor and the Director of Public Service and Safety of the City of Massillon, Ohio, to enter into three (3) year contracts with the Board of Trustees of Local Organized Government in Cooperation (L.O.G.I.C.) for Police Dispatch Services and Fire & EMS Dispatch Services, and declaring an emergency.

COUNCIL PRESIDENT ISTNICK – Councilman Lewis.

COUNCILMAN LEWIS – Yes. This is a regular contract that we received to approve for dispatch services. Is there any discussion or questions this evening; otherwise I was thinking of moving it forward for a vote this evening? Seeing none, I make a motion that we suspend the rules requiring three readings, bringing Ord. No. 66 – 2022 forward for a vote.

COUNCIL PRESIDENT ISTNICK – Seconded by Councilman Lombardi. 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. 66 – 2022 has passed. Ord. No. 67 – 2022.

ORDINANCE NO. 67 – 2022

BY: FINANCE COMMITTEE

AN ORDINANCE amending and approving the Wage Scale for City of Massillon Police Department Supervisors, specifically the wage differential for the position of Captain, and declaring an emergency.

COUNCIL PRESIDENT ISTNICK – Councilman Lewis.

COUNCILMAN LEWIS – Second reading.

COUNCIL PRESIDENT ISTNICK – Thank you. Ord. No. 67 – 2022 has received second reading.

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

COUNCIL PRESIDENT ISTNICK – Seeing none, before we adjourn, Mayor, did you have anything for the good of the order? Sorry, I forgot earlier.

MAYOR CATAZARO-PERRY – That's okay. I just wanted to remind everyone that the Sidewalk Program application is through April 30th. So, we're about 46%, at this point. So, there's a lot of money left over. We'd like people to utilize it. Thank you.

COUNCIL PRESIDENT ISTNICK – Thank you.

18. **ADJOURNMENT**

COUNCIL PRESIDENT ISTNICK – Councilman Slutz.

COUNCILMAN SLUTZ – Thank you, President Istnick. I'd like to make a motion to adjourn.

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

8 yes to adjourn.

COUNCIL PRESIDENT ISTNICK – Meeting adjourned.

DIANE ROLLAND, COUNCIL CLERK

CLAUDETTE ISTNICK, PRESIDENT