

**MINUTES OF THE SPECIAL MEETING  
MASSILLON CITY COUNCIL  
HELD MONDAY, MAY 22, 2023  
For Meeting Originally scheduled for  
MONDAY, MAY 15, 2023**

**COUNCIL PRESIDENT ISTNICK** – This meeting will come to order. This Special Meeting was called by Massillon City Council for the purpose to consider the unfinished business items from the regular meeting originally scheduled for Monday, May 15, 2023. We have in attendance the following City officials: Mayor Kathy Catazaro-Perry, Safety Service Director, Barb Sylvester, Law Director, Justin Richard, 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 you that if you have a cell phone, please set it to mute, vibrate or turn it off so it doesn't interfere with the recordings.

**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, Mark Lombardi, Mike Snee and Aaron Violand.

Roll call of 8 present

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

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

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

8 yes to excuse Councilman Slutz

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

**2. INVOCATION**

**COUNCILMAN AARON VIOLAND**

**3. PLEDGE OF ALLEGIANCE**

**LED BY COUNCILMAN VIOLAND**

**4. READING OF THE JOURNAL**

**COUNCIL PRESIDENT ISTNICK** – Thank you, Councilman Violand. 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**

**LEW GARRETT** – Massillon, Ohio. Madam President, Council Members, I'd like to address point number 14 on the agenda tonight, the proposed inducement grant for Caffeine and Gunpowder. The last time I was here before you, I asked you to make a business decision on this. Tonight, I'm simply going to ask you to use common sense. I passed around one of the pieces of litigation that I talked about five weeks ago and this was the Federal case from the U.S. Dept. of Labor for not paying minimum wage or overtime. What you have in your hand and it's this document right here. It says U.S. District Court; I hope you all have it. It's the Judgement by Default against the defendant, one of the co-owners of Caffeine and Gunpowder. I want you to look at this. For the last two years, and by the way, this default judgement was issued on June 6, 2022. It's not ancient history. It's right now and if you read through it, you'll note that the judge issued this default judgement in the amount of \$112,000.00+. It's a default judgement because the defendant in this case did not bother to attend. And if you read through this, the defendant in the case, basically, for the last two years of the case, simply was not involved. So in the last five weeks, I've done some homework on this. I wondered how much of the \$112,000.00 was actually paid. Guess what? Nothing has been paid. So what I did is I notified the acting Secretary of Labor, the three attorneys who represented the plaintiff, the U.S. Dept. of Labor, and the judge and told all three of them that no payments had been made on this. So they are now on notice. So, this \$112,000.00, and by the way, if you look at the last three pages, the United States is just the collection agency for this. There's ninety-three individuals that were not paid. So, you might ask, well, what will happen now, and it could be a number of things. The Federal government may decide to do nothing; they may garnish wages. We know that's happened one other time with one of the co-owners of Caffeine and Gunpowder or they could make a motion to seize assets. So now what assets would the gentleman have? Well, he's the co-owner of this store, correct? So, theoretically, half the inventory could be available for seizure to pay this money. By the way, it's no longer \$112,000.00, it's been one year. The amount now, with interest, is \$126,000.00 that hasn't been paid. I want you to look at the ninety-three names. These are ninety real people that have not been paid and on this list there are more than twenty veterans that have not been paid. There are more than a dozen police officers and other police support agencies people that have not been paid. So if you want to do something for veterans, the first thing you should do is ask this individual to pay the \$126,000.00 that he owes. The second piece of paper that I handed to you was from their mission plan, from their mission statement, "Due to the experiences and beneficial relationship, the co-founders of the company bring to the table...". So, what I'm going to ask all of you is, do you think that includes these ninety-three people? Do you they've had a beneficial relationship with one of the co-owners of this? Ask yourself; just use some common sense on this. Do you think that someone that owes \$126,000.00 and has made zero payments, do you think the citizens of Massillon should give that person, the other person, \$8,000.00? I would simply ask you to use common sense on this. Madam President, Council Members, thank you.

**COUNCIL PRESIDENT ISTNICK** – Thank you, Lew.

**GAYLE DANZY** – Massillon, Ohio. So, I decided to come from a different perspective this time, since I've been here for this same event. It's not our job to decide who should get the grant. That's up to the City and whoever makes that decision and I did hear that they didn't really do a lot to decide to set the perimeters of why you should receive the and I understand that they are working on doing something to make that better. But, I don't think that's your responsibility. I'm not even sure with all of this legal stuff because I'm a paralegal too and while all of this is true, I don't know if you could really use that because wasn't what you were given to make the decision. I wish you could and maybe you can, but what I would like to speak to, some time ago when my daughter was in high school; she was called a nigger at school and she beat the girl down, beat her real bad and then asked the girl if she would apologize to her and the girl said "no". So, she beat her again. So then the parents came to file charges against my daughter and that would have left her with a record as a sophomore, I think she was in high school. So, you know me. I got a lawyer and when we went to the school and they started to talk to me, I'm like no, no, don't talk to me, talk to her and they were like "Well, who is that?". That's my lawyer. Anyway, my lawyer said that nigger was an insightful word. Could not be used in public. We won the case and my daughter never had a record. So my question now is to you, I've talked to people from all of your wards, you know me and research. I've spoken to them and I've not talked to one person who is in favor of giving this money. So now my appeal to you as the people who represent the community is that you would consider voting as the people in your ward would like for you to vote. Because after all, they are the ones that elect you. They don't elect the administrative people. So, I'm asking you, almost like he (Lew) said, use common sense. Have you talked to people in your ward and are they for this? And if they are for this, if the majority people in your ward are for this, then you owe it to them to vote for it. Because every time you vote you should be representing the people that elected you. So, that's all I'm asking you today is to look at, is that an insightful word? Can you put "f'n this and f'n that" and make little threats, which that does. I wasn't able to get all of my legal work done, so I will not say anything emphatically that I don't know to be the truth. But, ask yourself, if those are insightful words and they appear on the walls of stores, do you want to vote to give money to someone who could be in violation of the law. Thank you.

**COUNCIL PRESIDENT ISTNICK** – Thank you, Gayle.

**DAVID MCCUNE** – I live in Massillon, Ohio. I want to thank you for letting me take a moment or two of your time. Tonight I would like to speak to you once more regarding Ord. No. 22 – 2023, the proposed business inducement grant for Caffeine and Gunpowder, LLC. As Council prepares to vote on Ord. No. 22 – 2023, I would like to take just a moment to speak with you in regard to the investment opportunity, or lack thereof, that Caffeine and Gunpowder, LLC seems to represent. Due to the efforts of citizens Council is elected to represent public records information including a lawsuit involving previous employees, along with multiple previous business failures, including have the right to do business revoked by the State of Ohio not once, but twice, were discovered and subsequently presented to Council for consideration. When one takes into consideration all of the aforementioned information that has been provided Council, including the decision of ownership through the attacking and vulgar language displayed within to not be an all-inclusive business, and Caffeine and Gunpowder, LLC seems to represent a poor investment opportunity for the City of Massillon. Due to all of the aforementioned information that has been provided to Council and the findings

within, I once again respectfully urge you to vote “No” on Ord. No. 22 – 2023. Madam President, I would like to submit this statement as part of tonight’s record, if I may. Thank you.

**COUNCIL PRESIDENT ISTNICK** – Thank you, David. Anyone else?

**YVONNE NATOLI** – I live in Massillon, 28<sup>th</sup> St. N.W. I’m kind of late for the party here, because I’d come to the last meeting. My understanding is that there was an application applied for security, to increase security at the gun store. How many people know that? I don’t know that it’s relevant as it would be in any of your lives what has happened whether you owe people money. I didn’t hear is there possibly a...did they file an appeal for this case? Is that why nothing’s been paid? Is it outstanding because of that? Possibly, I don’t know. Unless that affects the topic we’re talking about. I don’t understand why one is brought to the other. I would assume that everybody here, like myself, agree that we need to secure a gun store. Especially within a hundred-mile radius, there’s been “smash and grabs”. If we truly want to keep guns out of the hands of illegal gun owners who do not follow the law, they did not apply for a license as I did. They did not take the test to carry a legal weapon. That is what this is for. The paperwork was filled out to apply to get more security for the gun store. I don’t understand what the problem is. We use grant money to tear down buildings that frankly, I know some of the people that had more than enough money to tear down their self. I know over by where Building 9 was, the City paid to tear down buildings over there. You know what was said by the owner when asked if they were going to build anything? “No”. Why aren’t you going to build anything? “It’s not coming out of my pocket. They paid to tear it down, but I still got the land”. So, let’s use the money wisely. I asked a running Council member today on Facebook a couple of simple questions. I was very civil about it. Initially, his post said about propaganda. I said “Propaganda in the store. What is the propaganda? Trump’s name?”. The funny thing is the gun store, our second amendment is here to protect our right to free speech and that’s even vulgar. Our feelings don’t matter, okay. Unless you can prove that it was racial, directed at somebody. Things are said all the time. I see signs all the time that I disagree with. I may not like it, but that person has an absolute right under our constitution to have that sign in their establishment. You don’t have to like Trump. I don’t have to like Biden, but we are supposed to support the Constitution of the United States and that is fair for her to let everybody should know that this is to protect. She tried to get benches so that people couldn’t ride their cars into the windows. Couldn’t get that. So, she applies for this so that she can upgrade the security. Why is that a problem? If you truly want guns out of criminals hands, why is that a problem? I was told our tax money should not go for propaganda. Well, you better show me the propaganda because what you posted here actually is propaganda. Then I went and sent the definition of propaganda. Well, then it was changed to signs. So now signs are offending enough that we’re just going to disregard common sense and laws? If you want feelings to dictate the laws, then the laws need to be changed. I just hope that more people find out what this grant was actually to be used for. Thank you.

**COUNCIL PRESIDENT ISTNICK** – Thank you, Yvonne.

**JOSEPH BLUBAUGH** – I don’t actually live in Massillon. I live in Plain Twp., but it’s nearby and I appreciate the opportunity to say a few words here. I’m here to voice my opinion that I don’t think the City Council of Massillon should use your limited funds to support the Caffeine and Gunpowder. I think it would not be beneficial at all to the community of Massillon and by extensions in my community, in Plain Twp. also. I think there’s many other businesses that would be beneficial both to Massillon and my extension to Plain Twp. as well and this is definitely not one of them. So, I just wanted to let you know that that’s how I feel. Thank you.

**COUNCIL PRESIDENT ISTNICK** – Thank you, Joseph.

**ERIC RAY** – I live in Massillon, Ohio. This is obviously a very touchy subject. I just want to come to this from a place of equality. As Gayle touched on, when we or you as Council are approached by the members who vote for you or vote you into position, you have to kind of lean towards what it is that they want from you. I just can only be transparent because I've been standing in this position before and they neighborhood didn't want it. As Council, I understand the decision. I've only seen maybe two people in the time that I've been up here say that they were for this thing and this is not just a ward. This is the entire Massillon and it's the voices that speak from this place over here. As far as propaganda, freedom of speech is definitely necessary. I don't have a problem with that. You can feel how you feel and believe what you believe in. But most people who believe in things so firmly don't have to ask for money. Don't have a need to have help for what I thought it originally was; I thought it was written for to facilitate a program for veterans so that they would have a safe place to go. That's what I thought it originally started as and then once the gun store was robbed, it turned into security, which no one has a problem with that. But, I just want you guys to vote from a conscious place and make a decision of equality. If the City is saying "no" or the ward or whoever is say "no", it would be right to say "no". If you say "yes" and table it, then it's difference. Unless there's more to it that we missed out on. But, that's just my stand on it. I would vote "no". Thank you.

**COUNCIL PRESIDENT ISTNICK** – Thank you, Eric.

**GAYLE DANZY** – Could I have a minute? The prominent attorney just called me and gave me his answer and told me that I can tell you and it is a prominent attorney.

**COUNCIL PRESIDENT ISTNICK** – Give you his answer on what?

**GAYLE DANZY** – I was asking him that the use of those words, could they result in a lawsuit and he said "Absolutely, they can" and he's a very prominent attorney that you all know and he just called me as I've been trying to get him all day.

**COUNCIL PRESIDENT ISTNICK** – Thank you, Gayle.

**COUNCILMAN LOMBARDI** – It used to be that if there were candidates running for an active office, they were active candidates for an office, they had to identify themselves as such before they spoke in Council and I think we've had two that have not done that tonight.

**ERIC GRAY** – I'm running for Ward 2 City Councilman.

**COUNCIL PRESIDENT ISTNICK** – Thank you, Eric.

**DAVE MCCUNE** – I'm running for Ward 6 Councilman.

**COUNCIL PRESIDENT ISTNICK** – Thank you. Anyone else?

6. **NEW AND MISCELLANEOUS BUSINESS**

**COUNCIL PRESIDENT ISTNICK** – Councilman Snee.

**COUNCILMAN SNEE** – Yes, thank you, President Istnick. I have here a petition to submit of eighty-eight individuals who are supporting Caffeine and Gunpowder. Rather than subject Council to weigh more than eighty-eight who were going to come and speak tonight and last week, they decided to sign instead and this petition was circulated just inside Caffeine and Gunpowder. We didn't go out. I had nothing to do with this other than I collected this from the owner. So, I'd like to submit this for the official record.

**COUNCIL PRESIDENT ISTNICK** – Thank you.

**COUNCILMAN SNEE** – Thank you.

**COUNCIL PRESIDENT ISTNICK** – Councilman Lewis.

**COUNCILMAN LEWIS** – Yes. I'd like to make a motion that we go into Executive Session following the rules set forth by ORC with the purpose of discussion of pending and/or impending lawsuits. To this Executive Session I would invite all voting members of Council, the President of Council, the Law Director and the Mayor and the Safety Service Director.

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

8 yes to enter into Executive Session – 6:55 p.m.

**COUNCIL PRESIDENT ISTNICK** – Thank you, Madam Clerk. We will now enter into Executive Session.

**COUNCIL PRESIDENT ISTNICK** – Councilman Lewis.

**COUNCILMAN LEWIS** – I make a motion that we exit Executive Session.

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

8 yes to exit Executive Session – 7:10 p.m.

**COUNCIL PRESIDENT ISTNICK** – Thank you, Madam Clerk. We have now exited Executive Session and back to our Regular Session.

## 7. INTRODUCTION OF ORDINANCES AND RESOLUTIONS

**COUNCIL PRESIDENT ISTNICK** – Ord. No. 46 – 2023.

**ORDINANCE NO. 46 – 2023**

**BY: COMMUNITY DEVELOPMENT COMMITTEE**

AN ORDINANCE enacting CHAPTER 166 “LAND REUTILIZATION PROGRAM” under TITLE FIVE – ADMINISTRATIVE of PART I – ADMINISTRATIVE CODE of the Codified Ordinances of the City of Massillon, Ohio, and authorizing and directing thereunder the disposition of certain nonproductive land not needed for municipal purposes.

**COUNCIL PRESIDENT ISTNICK** – Councilwoman Creamer.

**COUNCILWOMAN CREAMER** – First reading

**COUNCIL PRESIDENT ISTNICK** – Thank you. Ord. No. 46 – 2023 has received first reading. Ord. No. 47 – 2023.

**ORDINANCE NO. 47 – 2023**

**BY: POLICE AND FIRE COMMITTEE**

AN ORDINANCE authorizing the Mayor and the Director of Public Service and Safety, on behalf of the City of Massillon, Ohio, to enter into a 3-year billing agreement with the Board of Trustees of Jackson Township, Stark County, Ohio, for the processing and collection of EMS charges from the Massillon Fire Department, and declaring an emergency.

**COUNCIL PRESIDENT ISTNICK** – Councilman Lombardi.

**COUNCILMAN LOMBARDI** – First reading.

**COUNCIL PRESIDENT ISTNICK** – Thank you. Ord. No. 47 – 2023 has received first reading. Ord. No. 48 – 2023.

**ORDINANCE NO. 48 – 2023**

**BY: PUBLIC UTILITIES AND ENVIRONMENTAL COMMITTEE**

AN ORDINANCE authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to enter into contract with OHM Advisors for the design and administration of the 20<sup>th</sup> Street Area Storm Sewer Improvement 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 Violand.

**COUNCILMAN VIOLAND** – Thank you, Madam President. This particular ordinance, I believe we discussed at our last Work Session. Mr. Burgasser spoke to it. I do plan on bringing this forward tonight. I did look into OHM Advisors a little bit. They seem reputable. Does anyone have any questions for the Administration regarding this particular ordinance? Seeing none, I would make a motion to waive the rules requiring three readings and bring this forward for a vote tonight.

**COUNCIL PRESIDENT ISTNICK** – Seconded by Councilman Lewis. 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. 48 – 2023 has passed. Ord. No. 49 – 2023.

**ORDINANCE NO. 49 – 2023**

**BY: PUBLIC UTILITIES AND ENVIRONMENTAL 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 contract upon award and approval of the Board of Control with the lowest and best bidder for the 2023 Sanitary Sewer Cleaning and Televising Project, and declaring an emergency.

**COUNCIL PRESIDENT ISTNICK** – Councilman Violand.

**COUNCILMAN VIOLAND** – Thank you, Madam President. This was also discussed at our last Work Session. I also plan on bringing this forward tonight unless anyone has any questions of the Administration. Seeing none at this time, I make a motion to waive the rules requiring three readings and bring this forward for a vote.

**COUNCIL PRESIDENT ISTNICK** – Seconded by Councilman Lewis. 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. 49 – 2023 has passed. Ord. No. 50 – 2023.

**ORDINANCE NO. 50 – 2023**

**BY: FINANCE COMMITTEE**

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

**COUNCIL PRESIDENT ISTNICK** – Councilman Lewis.

**COUNCILMAN LEWIS** – Yes. This appropriation is for \$17,410.00. Does anyone have any discussion this evening? Seeing none, I make a motion that we suspend the rules requiring three readings, bringing Ord. No. 50 – 2023 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. 50 – 2023 has passed. Ord. No. 51 – 2023.



**ORDINANCE NO. 51 – 2023**

**BY: FINANCE COMMITTEE**

AN ORDINANCE making certain appropriations from the unappropriated balance of 1100 General Fund, for the purpose of Special Events, for the year ending December 31, 2023, and declaring an emergency.

**COUNCIL PRESIDENT ISTNICK** – Councilman Lewis.

**COUNCILMAN LEWIS** – Yes. This is money that was generated through the Mayor’s Annual Breakfast and we’re just acting as a pass-through. It’s \$1,104.00. Is there any discussion this evening? Seeing none, I make motion that we suspend the rules requiring three readings, bringing Ord. No. 51, 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. 51 – 2023 has passed. Ord. No. 52 – 2023.

**ORDINANCE NO. 52 – 2023**

**BY: FINANCE COMMITTEE**

AN ORDINANCE making certain appropriations from the unappropriated balance of the 1203 Community Development Fund, for the year ending December 31, 2023, and declaring an emergency.

**COUNCIL PRESIDENT ISTNICK** – Councilman Lewis.

**COUNCILMAN LEWIS** – Yes. This is \$40,898.00 for downtown street improvements. This was part of the CDBG dollars that had previously been allocated, but now are in the carryover and this would be re-appropriated in the fiscal split. Is there any discussion or questions this evening? Seeing none, I make a motion that we suspend the rules requiring three readings, bringing Ord. No. 52 – 2023 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. 52 – 2023 has passed. Ord. No. 53 – 2023.

**ORDINANCE NO. 53 – 2023**

**BY: FINANCE COMMITTEE**

AN ORDINANCE making certain appropriations from the unappropriated balance of the 1235 Community Health Services Fund, for the year ending December 31, 2023, and declaring an emergency.

**COUNCIL PRESIDENT ISTNICK** – Councilman Lewis.

**COUNCILMAN LEWIS** – Yes. This is a total appropriation of \$21,987.49. It is for cost associated with the move of the Health Dept. to its new facility that could not be calculated prior to the move. Are there any questions or discussion this evening? Seeing none, I make a motion that we suspend the rules requiring three readings, bringing Ord. No. 53 – 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. 53 – 2023 has passed. Ord. No. 54 – 2023.

**ORDINANCE NO. 54 – 2023**

**BY: FINANCE COMMITTEE**

AN ORDINANCE approving and ratifying the winning bid of the Director of Public Service and Safety of the City of Massillon, Ohio, during the Stark County Sheriff's Sale on May 2, 2023, for the purchase of Parcel Nos. 608429 and 608430 and authorizing the Director of Public Service and Safety to take all other actions necessary to facilitate said purchase; and declaring the same to be an emergency.

**COUNCIL PRESIDENT ISTNICK** – Councilman Lewis.

**COUNCILMAN LEWIS** – Yes. This is the purchase of Third Base by the City. Are there any questions or discussion this evening? Seeing none, I make a motion to suspend the rules requiring three readings, bringing Ord. No. 54 – 2023 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. 54 – 2023 has passed.

**8. UNFINISHED BUSINESS**

**9. PETITIONS AND GENERAL COMMUNICATIONS**

A Request for an Economic Development Transfer (TRES) of a liquor License for Aldi Inc., Ohio, located at 2630 Lincoln Way E., Massillon, OH 44646. Permit Classes are C1 and C2 and is located in Ward 3.

**COUNCIL PRESIDENT ISTNICK** – Thank you. Councilman Gregg, did you receive information on this?

**COUNCILMAN GREGG** – Yes, I have.

**COUNCIL PRESIDENT ISTNICK** – Thank you.

**10. BILLS, ACCOUNTS AND CLAIMS**

US Bank Equip. Finance -	\$ 127.00	May 2023 Payment for Copier
First Commonwealth Bank -	<u>13.58</u>	Office Supplies
	<b>\$ 140.58</b>	<b>Total</b>

**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**

Mayor's Report -	April 2023
Auditor's Report -	April 2023

**COUNCIL PRESIDENT ISTNICK** – Councilman Lewis.

**COUNCILMAN LEWIS** – I make a motion to 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** – The Auditor's Report has been accepted. The Mayor has some updates.

**MAYOR CATAZARO-PERRY** – Good evening, Madam President, Members of Council. Our banner program, as you can see as you came in tonight, all of the veterans that have passed that have served our country are up on Lincoln Way and also some of First St. That program has grown and we're very excited because Memorial Day is on Monday and that parade will kick off at 9:30 a.m. and we'll be able to honor and remember all of the veterans who protected our country. That (the parade) will begin at Eighth St. N.E. So, if you'd like to come to the parade, it will begin at 9:30 a.m. Monday beginning at Eighth St. The next item I wanted to share with you is that we'll also have a ceremony following the parade and that will be immediately after the parade on Duncan Plaza. We have a program for the levy ribbon cutting. Congressman Gibbs, if you recall, was really the catalyst for bringing in \$22,000,000.00 to work on our levy. That program is ending its completion and we'll be doing a ribbon cutting on June 21<sup>st</sup> at 11:00 a.m. and we'll be sending out a map to Councilmembers if you'd like to attend. We just had a few site plans last week and we're really excited about these items. Panda Express is coming to Massillon and their site plan has been approved. Also, the Starbucks that will be a drive-thru, that is coming to Massillon as well and both of those are across from McDonald's. A new store, it's called Seven Brew and that is going to go on the other side of Chipotle's in front of the old K-Mart and that company sells coffee, teas and smoothies and its drive-thru only. That site plan has also been approved. Chick-fa-lay, the building, if you've not been by, Chick-fa-lay where the old Fisher's was. The building is down and excavating has begun. That's all I have for you tonight. Thank you.

**COUNCIL PRESIDENT ISTNICK** – Do you know when Aldi's is opening?

**MAYOR KATHY CATAZARO-PERRY** – Aldi's is opening soon. So, they're just about ready to go and we don't have a date on that exactly, but as soon as I know, I will be sharing that with all you.

**COUNCIL PRESIDENT ISTNICK** – Thank you.

## 12. REPORTS OF COMMITTEES

**COUNCIL PRESIDENT ISTNICK** – Our next Work Session will be Monday, Tuesday May 30, 2023, at 6:30 p.m. instead of Monday because of Memorial Day. Councilman Gregg.

**COUNCILMAN GREGG** – I'd just like to mention that I will not be at that meeting. Thank you.

**COUNCIL PRESIDENT ISTNICK** – Thank you. Anyone else? Madam Clerk, we don't have anything prior to that meeting, do we?

**COUNCIL CLERK ROLLAND** – No ma'am.

**COUNCIL PRESIDENT ISTNICK** – Thank you.

## 13. RESOLUTIONS AND REQUESTS OF COUNCIL MEMBERS

## 14. CALL OF THE CALENDAR

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

**ORDINANCE NO. 22 – 2023**

**BY: ECONOMIC DEVELOPMENT COMMITTEE**

**Tabled April 17, 2023 until May 15, 2023**

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, Madam President. I do intend on bringing this forward this evening. Are there any questions or final comment from any member of Council on this matter?

**COUNCIL PRESIDENT ISTNICK** – Councilman Lewis.

**COUNCILMAN LEWIS** – I have a question for Mr. Maley.

**COUNCIL PRESIDENT ISTNICK** – Thank you. Mr. Maley, if you could come down?

**DAVE MALEY** – Good evening.

**COUNCILMAN LEWIS** – Mr. Maley, can you just walk us through the process, not necessarily only that Caffeine and Gunpowder goes through, but any entity that would go through if they’re seeking an economic development grant?

**DAVE MALEY** – If somebody reaches out to me about an economic development grant and I get all kinds of different calls on it, but if they are interested, I let them know how the process works with regards to filling out an application, submitting it to Council. So, I give them an application, they submit the application back to me. I go through the application then I sit down with the Mayor to discuss what type of appropriation would be submitted with that application and then I submit that to Council.

**COUNCILMAN LEWIS** – Does that application have any questions regarding legal history or indebtedness?

**DAVE MALEY** – No, it doesn’t.

**COUNCILMAN LEWIS** – And has it at all in the past ten years?

**DAVE MALEY** – No.

**COUNCILMAN LEWIS** – And so then, they’ve turned in the application, you give it to us, you run your out rhythm based off of new or existing business and where they fall into our tiers?

**DAVE MALEY** – Yes. It’s really based on the revenue generation, jobs, investment, those type of things. The perimeters that I give you.

**COUNCILMAN LEWIS** – And Caffeine and Gunpowder, if you'd refresh my memory, what grouping did they fall in? It was like 8,000 to 10,000, or something like that.

**DAVE MALEY** – That's correct.

**COUNCILMAN LEWIS** – And you recommended to Council the \$8,000?

**DAVE MALEY** – That's correct.

**COUNCILMAN LEWIS** – Okay. How long have you been involved with doing economic development grants?

**DAVE MALEY** – Since I've been there. About seven or eight years.

**COUNCILMAN LEWIS** – Seven or eight years.

**DAVE MALEY** – And that was, basically, we have changed the grants somewhat, but they're basically the standard when I took over.

**COUNCILMAN LEWIS** – And when you took over, was the process of the tiers and everything in place or is that something that was built later?

**DAVE MALEY** – That's something that's been brought forward since then, the tiers.

**COUNCILMAN LEWIS** – And have you ever, again, looked into the indebtedness of a company or the legal history of any of its owners?

**DAVE MALEY** – No, we never had to in the past.

**COUNCILMAN LEWIS** – Okay. And do you by chance know that there's two owners of Caffeine and Gunpowder, but we talk about one. Do you know what that relationship is? Is there a percentage or how that partner relationship is arranged?

**DAVE MALEY** – I do not know.

**COUNCILMAN LEWIS** – That's all I have for Mr. Maley.

**DAVE MALEY** – Thank you.

**COUNCIL PRESIDENT ISTNICK** – Councilman Violand.

**COUNCILMAN VIOLAND** – Thank you, Madam President. Mr. Maley, just briefly, in your history in processing these, have you ever said "no" and if so, for what reasons have you rejected?

**DAVE MALEY** – You mean as far as the Administration or myself?

**COUNCILMAN VIOLAND** – Yes, the Administration.

**DAVE MALEY** – No. We've always brought stuff forward automatically to Council.

**COUNCILMAN VIOLAND** – Okay. Thank you.

**COUNCIL PRESIDENT ISTNICK** – Anyone else? Councilman Herculane.

**COUNCILMAN HERNCANE** – Thank you, Madam President. I have a question for the Law Director, if he could come up.

**COUNCIL PRESIDENT ISTNICK** – Okay. Thank you, Mr. Richard.

**JUSTIN RICHARD** – Good evening, Council President.

**COUNCILMAN HERNCANE** – Mr. Richard, if the funds are awarded for this grant, with the lawsuit pending, could those funds be attached based on the arrangement of the business?

**JUSTIN RICHARD** – Let me just understand the question. What lawsuit pending? Which one?

**COUNCILMAN HERNCANE** – The most recent one for not paying the rent? Well, I guess that is the most recent one. Could those, and even the one with the wages, can any of these lawsuits, could they attach any monies coming into the business, let's say through this grant?

**JUSTIN RICHARD** – Yes, to all potential debtors.

**COUNCILMAN HERNCANE** – So we can't even guarantee if this passes that it's going to go to the stated purpose?

**JUSTIN RICHARD** – Not with that pending judgment and additional suits. We don't know the outcome. I certainly don't know the merit of those, but I can tell that there is a Federal judgement that Mr. Lewis spoke of and certainly they could for that one hundred and some odd people, they could attach.

**COUNCILMAN HERNCANE** – Alright, thank you.

**COUNCIL PRESIDENT ISTNICK** – Councilman Lewis.

**COUNCILMAN LEWIS** – Just a follow-up question. Are we able to ever guarantee that the funds of an economic development grant are used for the purposes that the businesses ask?

**JUSTIN RICHARD** – I'm not sure if that's a legal question, but, no.

**COUNCIL PRESIDENT ISTNICK** – Anyone else? Councilman Herculane.

**COUNCILMAN HERNCANE** – Thank you, Madam President. To answer Mr. Lewis' question, I believe when the recipient applies for funding or show their reimbursement expenses paid from the grant, then Mr. Maley looks at that and awards them based on that they did what was stated in the agreement, to my knowledge.

**JUSTIN RICHARD** – May I respond just to all of that? I think the numbers and excuse me if I'm not perfect, but I think it's something over the past four or five years, forty-three grants, I

believe we've had four or five of them default. If that's not exact, it's pretty close and we have successfully, we being the Law Dept., have gone after those that default. So, the scenario that you gave; certainly if they didn't hold up their end of the bargain, we would be suing them or going after the money.

**COUNCIL PRESIDENT ISTNICK** – Thank you. Anyone else? Councilman Herncane.

**COUNCILMAN HERNCANE** – Thank you, Madam President. The only final comment that I would like to make on this before I bring it forward is that regarding the matter of security. These individuals chose to go into the business of running a gun store and if they do not have the where all to secure that investment, which I consider a risky nature, I don't believe it's the business of the government to secure that for them. That is my opinion on that. With that...

**COUNCIL PRESIDENT ISTNICK** – Councilman Lewis.

**COUNCILMAN LEWIS** – I just want to make a closing comment. I think there have been excellent arguments on both sides of this whole debate and the one thing that keeps plaguing me is that as Mr. Richard alluded to, there's been forty-three or so grants that we have given in the past few years and whether it be at fault of the City or not, we have not held any other grant recipient to this level of scrutiny and we have had previous recipients that are felons and have been incarcerated and still receive grants. So, to suddenly come to a point where we are saying previous recipients are able to have criminal records and be incarcerated, but this particular grant recipient is not. Plus, we do not know the exact relationship. I have not heard an exact relationship of the defendant in these lawsuits as to if they are 50% owner or if they're 10% partner or exactly what that breakdown is. So, that is something I find intriguing and I also am not a huge fan of changing the rules mid-step. If the other forty-three applicants have not gone under the scrutiny, they've just been given an application, answered the questions that were provided or asked of them and then off the Council, then they have followed all the steps and they were not warned or told that other things of this nature were going to be in place, it seems odd to me that we would change the rules in the last minute on them when we have not done so with others. I can also say that I'm only aware of one, that I can believe off hand, that this Council's ever refused economic development grant and that was, I believe, earlier this year and that was because it was essentially and sole proprietor with no employees. And so our purpose of that was the lack of growth because it was not an actual business.

**COUNCIL PRESIDENT ISTNICK** – Anyone else? Councilman Snee.

**COUNCILMAN SNEE** – Thank you, Madam President. I just wanted to reiterate that I will be submitting the four surrounding gun stores that have been broken into and while I tend to agree with Mr. Herncane that it is not the government's responsibility to secure these stores, it is our privilege and our constitutional obligation to do so. That's all I have. Thank you.

**COUNCIL PRESIDENT ISTNICK** – Anyone else? Councilman Violand.

**COUNCILMAN VIOLAND** – Yes. Once again, briefly, and I don't know if anyone can answer this, but, do we know the ownership situation with Caffeine and Gunpowder? Additionally, what sort of entity is it from a business perspective? Is it an LLC? Is it a partnership? Is it 50/50?



**COUNCILMAN SNEE** – It is an LLC.

**COUNCILMAN VIOLAND** – Okay. Thank you.

**COUNCIL PRESIDENT ISTNICK** – Anyone else? Councilman Herncane.

**COUNCILMAN HERNCANE** – For the last time, thank you, Madam President. I do agree with Mr. Lewis and I would want at the next meeting, I would like to call a Committee meeting of the Economic Development Committee to discuss this program moving forward. I don't think we need to entertain any more of these until we really wrap our hands around some perimeters for this program which there really have never been. But that is a matter for another day. Today, I bring Ord. No. 22 – 2023 forward for a vote.

**COUNCIL PRESIDENT ISTNICK** – Seconded by Councilwoman Harwig Smith. Roll call.

6 yes; 2 no for passage – Creamer and Herncane voted “no”

**COUNCIL PRESIDENT ISTNICK** – Thank you, Madam Clerk. Ord. No. 22 – 2023 has passed.

**15. THIRD READING ORDINANCE AND RESOLUTIONS**

**16. SECOND READING ORDINANCES AND RESOLUTIONS**

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

**BROOKE LONGHEIR** – Hello. The buildings have ordinances for one. You know it's great. You all just gave a business \$8,000.00 while I went through a road closure with no money. While I went through COVID. Couldn't get any money because the road closure caused so much business loss that we couldn't get any money through COVID. Went through a seven-week shutdown to a demolition. You think the city gave me a dime for that? No. It's our constitutional, apparently, right to make sure a gun store is safe. Meanwhile, the same Council isn't posting my business on Facebook to support it.

**COUNCIL PRESIDENT ISTNICK** – Brooke, you can't discuss Gunpowder because it was on the agenda. If you have something else you'd like to discuss?

**BROOKE LONGHEIR** – Okay, let me move on then.

**COUNCIL PRESIDENT ISTNICK** – Thank you.

**BROOKE LONGHEIR** – We sit here and listen to you guys every week; pass ordinances, talk about ordinances. From my observance, that's apparently what Council does. So, let me bring you back to the ordinance passed on March 20, 1989 that states “Whenever a building or other structural parts thereof, if one side of a party wall is removed, existing party walls shall be maintained in a safe weather-proof condition by and at the expense of the person, firm or corporation causing the building or other structure to be removed. Temporary, permanent bracing shall be provided as necessary for maintaining the stability of such party wall or adjoining building whenever such stability is endangered by the removal of a building or other structure of part thereof. Open beam poles and party walls exposed by removal of a building

or other structural parts thereof shall be closed with approved masonry”, once again, “by the expense of the person, firm or corporation causing them to be exposed”. So, why do we sit here and talk about making new building ordinances when we don’t care about the ones that we have. I was basically told “Go use that in court”. Okay, so why do we have it? The way I’m looking at it right now, the City tore down the buildings next to me. So the City and the owner of the building could fight back and forth who’s responsible for it and why we’re helping other businesses while meanwhile, taking my 126-year old business and saying a big “f” you. We don’t care that you’ve been here for a 126 years. We’re not going to help you get fixed back up, even though we tore you down and if you don’t, you know this steel that’s \$4,000 a month, if you have it removed then we will vacate you. Meanwhile the building three buildings down from me that is the other corner of the building that had the two metal take down is advertising a new business that’s opening Wednesday and I’ve mentioned to the City several times about it and they keep telling me “Oh, she can’t open”. Yet, she keeps putting stuff in and now has a sign saying that she’s opening on Wednesday. No steel, that’s \$4,000 a month. So, now the owner that clearly has his little hands in the pocket of the City, because he gets away with everything, gets to now make money off of his buildings as I am losing money being open because I don’t profit \$4,000 a month. So just being open is costing me money, meanwhile, he gets to make money off of his. So y’all keeping talking about your ordinances and giving your grants while you’re screwing the businesses that have been here for over a century.

**COUNCIL PRESIDENT ISTNICK** – Thank you, Brooke.

**GAYLE DANZY** – Massillon, Ohio. This is just a reminder; some time ago I came to you and asked you, well, let me say this first. I come every month, you know that. I come to all your committee meetings and I come to all of your council meetings. And so, I’m still waiting to hear you come up with some discussion about what you’re going to do moving forward so that we’re not tearing down buildings that are privately owned. I haven’t heard any discussion about that, so, I just wanted to remind you that I asked if you would consider doing some legislation so that we don’t continue to run into the same problem again. Thank you.

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

18. **ADJOURNMENT**

**COUNCIL PRESIDENT ISTNICK** – Councilman Violand.

**COUNCILMAN VIOLAND** – Motion to adjourn.

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

8 yes to adjourn

**COUNCIL PRESIDENT ISTNICK** – Meeting adjourned.

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DIANE ROLLAND, COUNCIL CLERK

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CLAUDETTE ISTNICK, PRESIDENT