

**MINUTES OF THE REGULAR MEETING  
MASSILLON CITY COUNCIL  
HELD MONDAY, NOVEMBER 21, 2022**

**COUNCIL PRESIDENT ISTNICK** – Welcome to the Massillon City Council Meeting for Monday, November 21, 2022. We have in attendance the following City officials: Safety Service Director, Barb Sylvester, Chief Deputy Auditor, Stefanie Myers, Asst. Law Director, Edmond Mack, Chief Counsel, Tim Piero, Economic Development Director, David Maley, Police Chief, Jason Saintenoy and Income Tax/Budget Director, Lori Kotagides-Boron. 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, Mark Lombardi, Jamie Slutz, Mike Snee and Aaron Violand.

Roll call of 9 present

**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** – Thank you. Then the minutes stand approved as written. Councilman Gregg.

**COUNCILMAN GREGG** – Thank you, Madam President. I’d like to give a shout-out to our Massillon Varsity Football team for another big win this past Friday night against Lake in difficult conditions. But the defense took over at the beginning and dominated the entire game

and we pulled out the win. So, we moved on. We've got one step towards the State Championship. This Friday we play at Infocision Stadium against Akron Hoban and I'm sure the boys will be up for that game and I encourage all from Massillon to come and support the team. They're doing a great job. They're representing themselves, their school and their communities. So, please join us. Go Tigers, beat Hoban.

**COUNCIL PRESIDENT ISTNICK** – Thank you.

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

**6. NEW AND MISCELLANEOUS BUSINESS**

**COUNCIL PRESIDENT ISTNICK** – Councilman Lewis.

**COUNCILMAN LEWIS** – Yes, Madam President. I'd like to make a motion that as permissible by the ORC that we go into Executive Session regarding potential or pending litigation. I'd like to invite all nine members of Council, the Council President and the Law Director or his representatives.

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

9 yes to enter into Executive Session – 6:35 p.m.

**COUNCIL PRESIDENT ISTNICK** – Councilman Lewis.

**COUNCILMAN LEWIS** – I make a motion that we return to Regular Session.

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

9 yes to exit Executive Session – 6:55 p.m.

**COUNCIL PRESIDENT ISTNICK** – Thank you, Madam Clerk. We are now back into our Regular Session.

**7. INTRODUCTION OF ORDINANCES AND RESOLUTIONS**

**COUNCIL PRESIDENT ISTNICK** – Ord. No. 164 - 2022

**ORDINANCE NO. 164 – 2022**

**BY: PARKS AND RECREATION COMMITTEE**

AN ORDINANCE authorizing the Director of Parks and Recreation, on behalf of the Massillon Recreation Board and the City of Massillon, Ohio, to accept new and ongoing donations in memory of Phil Roberson to the Jake Roberson Splash Park Project.

**COUNCIL PRESIDENT ISTNICK** – Councilwoman Harwig Smith.

**COUNCILWOMAN HARWIG SMITH** – Thank you, Madam President. So, as it states, this is just to accept possibly obtaining more donations for the project for the splash park. I'd like to make a motion to waive the rules requiring three readings and bring Ord. No. 164 – 2022 up for a vote.

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

8 yes, 1 no for suspension

**COUNCIL PRESIDENT ISTNICK** – And for passage.

9 yes for passage

**COUNCIL PRESIDENT ISTNICK** – Thank you, Madam Clerk. Ord. No. 164 – 2022 has passed. Ord. No. 165 – 2022.

**ORDINANCE NO. 165 – 2022**

**BY: POLICE AND FIRE COMMITTEE**

AN ORDINANCE repealing Section 2 of Ordinance No. 127 – 1997 and enacting a new Section 2 of Ordinance No. 127 – 1997, and declaring an emergency.

**COUNCIL PRESIDENT ISTNICK** – Councilman Lombardi

**COUNCILMAN LOMBARDI** – Thank you, President Istnick. This is the legislation that was brought forward by Chief Saintenoy to eliminate the one chief position and add a sergeant's position. Does anybody have any questions on that tonight?

**COUNCIL PRESIDENT ISTNICK** – Councilman Gregg.

**COUNCILMAN GREGG** – Just to clarify; it's one captain's position.

**COUNCILMAN LOMBARDI** – Yes. It's one captain's position is being deleted and then one sergeant's position is being added. I'm sorry. Thank you.

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

**COUNCILMAN LOMBARDI** – I make a motion that we suspend the rules for three readings and bring Ord. No. 165 – 2022 forward for a vote.

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

9 yes for suspension

**COUNCIL PRESIDENT ISTNICK** – And for passage.

9 yes for passage

**COUNCIL PRESIDENT ISTNICK** – Thank you, Madam Clerk. Ord. No. 165 – 2022 has passed. Ord. No. 166 – 2022.

**ORDINANCE NO. 166 – 2022**

**BY: RULES, COURTS AND CIVIL SERVICE COMMITTEE**

AN ORDINANCE amending Section (2) D OCCUPATION LIST OF CLASS TITLES of Ordinance 127 – 1997, 845 COMMUNITY DEVELOPMENT-PLANNING DEPARTMENT to increase Class Grade Pay Schedule for Economic Director for 22S SU UN to Class Grade 26S SU UN.

**COUNCIL PRESIDENT ISTNICK** – Councilman Gregg

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

**COUNCIL PRESIDENT ISTNICK** – Thank you. Ord. No. 166 – 2022 has received first reading. Ord. No. 167 – 2022.

**ORDINANCE NO. 167 – 2022**

**BY: RULES, COURTS AND CIVIL SERVICE COMMITTEE**

AN ORDINANCE amending CHAPTER 165 of the Codified Ordinances of the City of Massillon, Ohio, by enacting Section 165.01 to require that employees of the City reside within Stark County or any adjacent county.

**COUNCIL PRESIDENT ISTNICK** – Councilman Gregg.

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

**COUNCIL PRESIDENT ISTNICK** – Thank you. Ord. No. 167 – 2022 has received first reading. Ord. No. 168 – 2022.

**ORDINANCE NO. 168 – 2022**

**BY: FINANCE COMMITTEE**

AN ORDINANCE making certain appropriations from the unappropriated balance of the 3112 Donation Fund, for the year ending December 31, 2022, and declaring an emergency.

**COUNCIL PRESIDENT ISTNICK** – Councilman Lewis.

**COUNCILMAN LEWIS** – Yes. This ordinance would appropriate the \$107,000.00 donation that we received for the ice rink that will be installed in the City this year. 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. 168 – 2022 forward for a vote.

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

9 yes for suspension

**COUNCIL PRESIDENT ISTNICK** – And for passage.

9 yes for passage

**COUNCIL PRESIDENT ISTNICK** – Thank you, Madam Clerk. Ord. No. 168 – 2022 has passed. Ord. No. 169 – 2022.

**ORDINANCE NO. 169 – 2022**

**BY: FINANCE COMMITTEE**

AN ORDINANCE making certain appropriations from the unappropriated balance of the 1234 Parks and Recreation Fund, for the year ending December 31, 2022, and declaring an emergency.

**COUNCIL PRESIDENT ISTNICK** – Councilman Lewis.

**COUNCILMAN LEWIS** – Yes. This is taken from the balance within the Park and Recreation Fund that is unappropriated and placing it into salary and associated expenses as well as some for capital improvements through the end of the year. Are there any questions or discussion this evening? Seeing none, I make a motion we suspend the rules requiring three readings, bringing Ord. No. 169 – 2022 forward for a vote.

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

9 yes for suspension

**COUNCIL PRESIDENT ISTNICK** – And for passage.

9 yes for passage

**COUNCIL PRESIDENT ISTNICK** – Thank you, Madam Clerk. Ord. No. 169 – 2022 has passed. Ord. No. 170 – 2022.

**ORDINANCE NO. 170 – 2022**

**BY: FINANCE COMMITTEE**

AN ORDINANCE reducing the appropriations in the 3109 TIF Service Payment Fund, the 3110 Massillon Museum Fund and the 1340 Tax Increment Fund, for the year ending December 31, 2022, and declaring an emergency.

**COUNCIL PRESIDENT ISTNICK** – Councilman Lewis.

**COUNCILMAN LEWIS** – As we close in on the end of the year we will see a reducing of appropriations in multiple accounts. This is in order to zero out the balances of these line items at the end of the year and that is what we see in these three areas this evening. Are there any further questions or discussion this evening? Seeing none, I make a motion that we suspend the rules requiring three readings, bringing Ord. No. 170 – 2022 forward for a vote.

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

9 yes for suspension

**COUNCIL PRESIDENT ISTNICK** – And for passage.

9 yes for passage

**COUNCIL PRESIDENT ISTNICK** – Thank you, Madam Clerk. Ord. No. 170 – 2022 has passed. Ord. No. 171 – 2022.

**ORDINANCE NO. 171 – 2022**

**BY: FINANCE COMMITTEE**

AN ORDINANCE authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to enter into an agreement for a one (1) year renewal with Medical Mutual of Ohio for health insurance coverage for City employees, effective January 1, 2023 through December 31, 2023, and declaring an emergency.

**COUNCIL PRESIDENT ISTNICK** – Councilman Lewis.

**COUNCILMAN LEWIS** – Yes. This is the renewal of our health insurance that we are able to provide for our City employees. This has already gone through our Health Benefit Committee that is comprised of City employees and members of Management. Are there any questions or discussion this evening? I'm personally okay with moving forward, but if someone has reservations, please let it be known. Seeing none, I make a motion that we suspend the rules requiring three readings, bringing Ord. No. 171 – 2022 forward for a vote.

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

9 yes for suspension

**COUNCIL PRESIDENT ISTNICK** – And for passage.

9 yes for passage

**COUNCIL PRESIDENT ISTNICK** – Thank you, Madam Clerk. Ord. No. 171 – 2022 has passed.

**8. UNFINISHED BUSINESS**

**9. PETITIONS AND GENERAL COMMUNICATIONS**

A Request for the Transfer of a Liquor License from Ashley Willis DBA West End Tavern, 1<sup>st</sup> Floor, Basement & Patio, located at 1407 Tremont Ave. S.W., Massillon, OH 44647 to Benders Food and Spirits, Inc. DBA West End Tavern, 1<sup>st</sup> Floor, Basement & Patio, located at 1407 Tremont Ave. S.W., Massillon, OH 44647. Permit Classes are D1, D3 and D3A and is located in Ward 5.

**COUNCIL PRESIDENT ISTNICK** – Councilwoman Harwig Smith, did you receive a copy of this?

**COUNCILWOMAN HARWIG SMITH** – Yes, I did.

**COUNCIL PRESIDENT ISTNICK** – Thank you.

**10. BILLS, ACCOUNTS AND CLAIMS**

Walter H. Drane Co.	-	\$ 5,463.28	Replacement Pages of the Codified Ords.
The Repository	-	<u>1,250.00</u>	Publication of Aug. & Sept. Ordinances
<b>Total</b>	-	<b>\$ 6,713.28</b>	

**COUNCIL PRESIDENT ISTNICK** – Councilman Lewis.

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

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

9 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**

Treasurer’s Report	-	October 2022
Mayor’s Report	-	October 2022

**COUNCIL PRESIDENT ISTNICK** – Thank you.

**12. REPORTS OF COMMITTEES**

**COUNCIL PRESIDENT ISTNICK** – Our next Work Session will be Monday, November 28, 2022, at 6:30 p.m.

**13. RESOLUTIONS AND REQUESTS OF COUNCIL MEMBERS**

**COUNCIL PRESIDENT ISTNICK** – Councilman Slutz.

**COUNCILMAN SLUTZ** – I just want to let you know that I will not be here next week.

**COUNCIL PRESIDENT ISTNICK** – Thank you.

**14. CALL OF THE CALENDAR**

**15. THIRD READING ORDINANCE AND RESOLUTIONS**

**16. SECOND READING ORDINANCES AND RESOLUTIONS**

**COUNCIL PRESIDENT ISTNICK** – Ord. No. 155 – 2022.

**ORDINANCE NO. 155 – 2022**

**BY: RULES, COURTS AND CIVIL SERVICE COMMITTEE**

AN ORDINANCE amending Section 2(D) OCCUPATION LIST OF CLASS TITLES of Ordinance No. 127 – 1997 by separating the positions of Civil Service Administrator and Equal Employment Opportunity Officer as merged by the enactment of Ordinance No. 93 – 2018, reclassifying and enacting an increase to the Class Grade pay schedule for the position of Civil Service Administrator under 150 “CIVIL SERVICE COMMISSION”, re-establishing and creating the 175 “HUMAN RESOURCES DEPARTMENT”, re-establishing and creating the position of Equal Employment Opportunity Officer and establishing the Class Grade pay schedule for said position within the 175 “HUMAN RESOURCES DEPARTMENT”, repealing Ordinance No. 93 – 2018 in its entirety, in the City of Massillon, Ohio, and declaring the same to be an emergency.

**COUNCIL PRESIDENT ISTNICK** – Councilman Gregg.

**COUNCILMAN GREGG** – Thank you, Madam President. We just had a couple of discussions on this piece of legislation. It’s a complicated piece of legislation. It has, I believe, some moving parts so therefore, I’m going to give it another week of discussion. So, second reading.

**COUNCIL PRESIDENT ISTNICK** – Thank you, Councilman Gregg. Ord. No. 155 – 2022 has received second reading. Ord. No. 160 – 2022.

**ORDINANCE NO. 160 – 2022**

**BY: FINANCE COMMITTEE**

AN ORDINANCE amending Ordinance No. 143 – 1976 to enact a new Section “ALLOCATION OF FUNDS – INCOME TAX” by repealing Section 13 “ALLOCATION OF FUNDS – INCOME TAX” and enacting a new Section 13 – “ALLOCATION OF FUNDS – INCOME TAX” and repealing Ordinance No. 151 – 2019, and declaring an emergency.

**COUNCIL PRESIDENT ISTNICK** – Councilman Lewis.

**COUNCILMAN LEWIS** – Second reading.

**COUNCIL PRESIDENT ISTNICK** – Thank you. Ord. No. 160 – 2022 has received second reading. Ord. No. 161 – 2022.

**ORDINANCE NO. 161 – 2022**

**BY: FINANCE COMMITTEE**

AN ORDINANCE to adopt appropriations for the operating and capital expenditures of the City of Massillon, Ohio, for the fiscal year 2023, and declaring an emergency.

**COUNCIL PRESIDENT ISTNICK** – Councilman Lewis.

**COUNCILMAN LEWIS** – Second reading.

**COUNCIL PRESIDENT ISTNICK** – Thank you. Ord. No. 161 – 2022 has received second reading. Ord. No. 162 – 2022.



**ORDINANCE NO. 162 – 2022**

**BY: FINANCE COMMITTEE**

AN ORDINANCE amending the salary and wage schedules for SUPERVISORY (CLASSIFIED OR UNCLASSIFIED) EMPLOYEES, CLASSIFIED EMPLOYEES, and UNCLASSIFIED EMPLOYEES in the City of Massillon, Ohio, also amending the MISCELLANEOUS SCHEDULE for part-time employees in the City of Massillon, Ohio, and declaring an emergency.

**COUNCIL PRESIDENT ISTNICK** – Councilman Lewis.

**COUNCILMAN LEWIS** – Yes. This is the 3% increase to the employees that we've been committed to. I don't see any reason to hold this up any longer. Seeing no objections, I make a motion that we suspend the rules requiring three readings and bring Ord. No. 162 – 2022 forward for a vote.

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

9 yes for suspension

**COUNCIL PRESIDENT ISTNICK** – And for passage.

9 yes for passage

**COUNCIL PRESIDENT ISTNICK** – Thank you, Madam Clerk. Ord. No. 162 – 2022 has passed. Res. No. 14 – 2022.

**RESOLUTION NO. 14 – 2022**

**BY: COMMUNITY DEVELOPMENT COMMITTEE**

A RESOLUTION reversing the decision of the Massillon Board of Zoning Appeals in the Variance Case No. 2022-16.

**COUNCIL PRESIDENT ISTNICK** – Councilwoman Creamer.

**COUNCILWOMAN CREAMER** – Thank you, Madam President. This request entails two variances from the Massillon Zoning Board. The first variance is to allow for a structure that is too large for the available space. This structure is 26' x 40' which is a detached garage in the rear yard of Parcel # 619373. The second variance is regarding the height of this structure which is 17' 6" where the legal limit is 14'. The structure is located in Ward 1 at 843 Sheffield Ave. N.E., Massillon, Ohio. Based on the Massillon Codified Ordinance No. 1129.05, Section (b), there are two requirements that the applicant, the variance applicant must satisfy and they must prove these two requirements in order to seek the variance. The first requirement is due to exceptional conditions which may include dimension, size, area or other conditions at such property; strict application of the regulations would result in exceptional practical difficulties. The second requirement is such relief may be granted without substantially impairing the intent and purpose of the zoning ordinance. In my opinion, reviewing this ordinance, these two requirements, the first requirement, is not met. Duncan factors also that fall under practical difficulties that we have all been educated and reviewed. Does anyone have any questions or any other comments regarding these Duncan factors and the practical difficulties?

**COUNCIL PRESIDENT ISTNICK** – Councilman Lewis.

**COUNCILMAN LEWIS** – Well, I’m in agreement with you, Councilwoman Creamer, as far as practical difficulties and as Council advised us, I believe it was two weeks ago with the Duncan factors; I look at it and there’s four in particular that I’m looking at that I think would apply here. One of them being “whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance”. I would say “yes”. This was an existing home and structure that provided benefit to the owners for years, decades even, prior to the request for change. So, in that Duncan factor I think we would have every right to overturn if we so chose. Number two; “whether the variance is substantial”. I would say that when you have to make two variances, both of them substantially increasing the size and going beyond what are regulations are; I would say that would qualify as a substantial variance that this property owner was requesting. “Whether the essential character of the neighborhood would be substantially altered or whether adjoining property would suffer substantial detriment as a result of this variance”. I think it does change the character of the neighborhood. This neighborhood is one that is built with nice smaller homes. It is a nice, quiet neighborhood and a large structure of this nature is larger than not only the property owner’s home, but larger than any other homes in the area and it comes right abut against the neighbor to the rear who has voiced substantial detriment to their property if they were to ever try to be in a position where they would have to sell. And then the Duncan factor of “whether the property owner purchased the property with knowledge of the zoning restrictions”. Now I cannot speak directly to what any one person may or may not know, but I would feel that it would be safe to deduce that anybody that lives within the City as long as this property owner has and has owned or lived on multiple properties and has even gone as far as owning multiple businesses and dealing with our zoning board and our engineering committee, that they are very well aware of what our ordinances are in the City and zoning. So, when you look at those four Duncan factors, I think we do not see any reason for this variance to ever have been granted and we would be in our right to overturn what the Zoning Board has done.

**COUNCIL PRESIDENT ISTNICK** – Anyone else? Councilwoman Creamer.

**COUNCILWOMAN CREAMER** – Seeing none, second reading.

**COUNCIL PRESIDENT ISTNICK** – Res. No. 14 – 2022 has received second reading.

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

**18. ADJOURNMENT**

**COUNCIL PRESIDENT ISTNICK** – Councilman Herncane.

**COUNCILMAN HERNCANE** – I make a motion to adjourn.

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

9 yes to adjourn

**COUNCIL PRESIDENT ISTNICK** – Meeting adjourned.

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DIANE ROLLAND, COUNCIL CLERK

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CLAUDETTE ISTNICK, PRESIDENT