

Regular Council

May 28, 2009

The regular meeting of Macedonia City Council meeting was called to order at 7:40pm on May 28. Council President David Engle, mayor pro tempore, presided.

**Present:** Council members' Shane Barker, David Engle, Kenneth Martin, Nicholas Molnar, and Peggy Spraggins; Law Director Joseph W. Diemert, Jr. and Council Clerk Josephine Arceci

**Absent:** Mayor Donald Kuchta and Councilor Janet Tulley

**PLEDGE OF ALLEGIANCE** led by Council President Dave Engle was followed by an invocation led by Councilor Peggy Spraggins in which Mrs. Spraggins also recognized the retirement of City Prosecutor Dale Economus.

**INTRODUCTION, READINGS & ADOPTION OF LEGISLATION**

**ORD. NO. 29 -2009**

AN EMERGENCY ORDINANCE AMENDING ORDINANCE NO. 3-2009 PROVIDING FOR THE ANNUAL APPROPRIATIONS was **offered** by Mrs. Spraggins for its **third reading by title only**. Second not required.

Mr. Engle moved, Mr. Molnar seconded, to **amend Ordinance No. 29-2009, Section 1** to include following: “ **Additionally, there shall be no replacement hires or new hires by the City until further action by Council except for replacement of personnel at the Recreation Center, specifically life guards and physical activity part-time personnel.**”

Roll call: Ayes: Engle, Molnar, Spraggins  
Nays: Barker, Martin  
The motion carried

Mrs. Spraggins moved, Mr. Molnar seconded, to **approve ORD. NO. 29-2009 as amended** and post according to law.

Roll call: Ayes: Barker, Engle, Martin, Molnar, Spraggins  
Nays: None  
The motion carried. **ORD. NO. 29-2009 adopted as amend**

Relative to ORD. NO. 29-2009 and Mr. Engle's amendment the discussion was held before action was taken.

Law Director Diemert had advised that Mr. Engle's amendment may not be appropriate given the subject matter of Ordinance No. 29-2009 is unrelated. In Mr. Diemert's opinion Mr. Engle's amendment should be separate ordinance. With regards to the importance and relevance of the of the HR position Mr. Diemert reminded Council that Local Union 436, Macedonia Firefighters Association and Macedonia's chapter of the Ohio Patrolmen's Benevolent Association provided testimony as to why this position should be maintained These organizations fear you are putting them in jeopardy by not maintaining this position Mr. Diemert added.

Councilor Engle disagreed with Mr. Diemert feeling both issues were relatively the same genre and therefore could be incorporated into the same legislation.

Councilor Barker had asked if Mr. Engle's amendment included the appointment of the three firefighters that the fire levy provides for to which Mr. Engle answered yes. Mr. Barker didn't feel the firefighters should be included because voters approved funds specifically earmarked for these positions. If voters weren't willing to pay extra for safety protection then they wouldn't have spoken so loudly Mr. Barker stated. Voters said yes and therefore the three positions should not be included in the motion. In fact Mr. Barker stated the three positions should be filled as soon as possible. Changing the rules in the middle of the game is unfair and deceptive he told Mr. Engle.

Councilor Spraggins interjected that even though taxpayers agreed to pay for additional firefighters, the agreement didn't specify when the firefighters would be appointed. It makes no sense to her to appoint firefighters this year than have to lay them off next year.

## Regular Council

May 28, 2009

Councilor Barker reminded Mrs. Spraggins that the funds from five-year levy are specially designated for the positions of new three firefighters. The levy money has its own earmark; the City cannot use these resources for any other financial need. If the City needs to make cuts elsewhere in order to keep its promise to the voters than that is what will need to be done he stated. In Mr. Barker's opinion the voice of the people should be honored.

Councilor Martin stated in his opinion Mr. Engle's amendment was a redundant and really not necessary other than to say it's Mr. Engle's intent to create an all inclusive umbrella for all employees.

Council President Engle responded that the amendment is meant to be all inclusive. The City will have a better idea by August Mr. Engle stated of the status of its revenue and ongoing revenue stream. At that time Council will be able to make better decisions as to what will have to be done in order maintain the services of the City. There should be no appointments at this time. The firefighters can be appointed later in the year or early in to next.

Chief Black reminded Mr. Engle that the revenue for the firefighters is being generated through property tax dollars and not income tax. The Chief anticipates the first firefighter appointment to be in July or August with the promotional appointments to the position of captain and lieutenant occurring before that. Taxpayers were promised firefighters. The fire-levy money cannot be used for anything else. In fact Chief Black added, using the fire-levy money now provides relief on General Fund so it behooves Council to make the appointments sooner than later.

### **ORD. NO. 30-2009**

AN EMERGENCY ORDINANCE REPEALING CHAPTER 1353 OF THE CODIFIED ORDINANCES RELATING TO FLOOD DAMAGE PREVENTION IN ITS ENTIRETY AND REPLACING IT WITH NEW CHAPTER 1353 ENTITLED SPECIAL PURPOSE FLOOD DAMAGE REDUCTION **offered** by Mr. Martin got its **second reading by title only**. Second not required.

Relative to ORD. NO. 30-2009, Councilor Martin had reminded residents that there will be informational forum regarding said ordinance on Thursday, June 11 at 7:30pm. The purpose of the meeting is too not only provide information but the opportunity for a question and answer period for residents who may be impacted by a change in rates because of the alterations FEMA has made to Macedonia's flood plain maps. Kelly Lueke from GPD, Macedonia's engineering firm will take lead at the meeting.

### **ORD. NO. 31-2009**

AN EMERGENCY ORDINANCE AMENDING SECTION 1127.03 OF THE CODIFIED ORDINANCES OF THE CITY OF MACEODONIA RELATIVE TO THE DEDICATION OF OPEN SPACE WITHIN A SUBDIVISION **offered** by Mr. Martin got its **first reading by title only**. Second not required.

### **ORD. NO. 32-2009**

AN EMERGENCY ORDINANCE AMENDING SECTION 909.04 OF THE CODIFIED ORDINANCES OF THE CITY OF MACEODONIA REGARDING NOXIOUS WEEDS **offered** by Mr. Molnar got its **first reading by title only**. Second not required.

Relative to ORD. NO. 32-2009, Councilor Molnar explained that the purpose of the amendment is to stream line and alleviate to some extent the inspection process relative to property maintenance. The building inspector is dealing with exceptionally large volumes of properties that are not being maintained, in part because of the economy and the increasing number of foreclosures.

**MOTIONS OR OTHER LEGISLATIVE ACTIONS:** None.

**CORRESPONDENCE:** None

### **PUBLIC COMMENTS:**

Anthony Discenza, municipal marketing representative for Waste Management of Glen Willow, Ohio explained that today, far more than in years past, there is a strong trend to recycle. More of the population is genuinely concerned about sustainability and their carbon footprint. The truth is recycling lengthens the life of a landfill. For those in the recycling business however it is not always profitable. The recycling market has its ups and downs. The currently market is terrible. Waste Management is considering warehousing certain recyclable commodities because prices

## Regular Council

May 28, 2009

are so depressed Mr. Discenza said. Macedonia's current recycling program is successful. Residents' responsiveness has increased since the inception of the recycling program and since

the recycling bins were moved to a more visible and more convenient location. Curbside recycling however would generate more participation he stated. Mr. Discenza mentioned that the Ohio legislature is considering increasing the Ohio EPA landfill fee by \$1.25 per ton. The last time this fee was increased was in 2005. The then \$1.50 per ton fee translated into \$.24 per household. The proposed fee has not been incorporated into Waste Republic new bid Mr. Discenza stated because the legislators have yet to approve the fee. When and if the fee is approved the fee will be passed on to the consumer Mr. Discenza added.

Councilor Engle asked Mr. Discenza the worthiness of residents to recycle with regards ecological benefits and with regards to reducing waste in landfills. While still keeping in mind he added the fees Ohio EPA mandates.

Mr. Discenza suggested that the Akron/Summit Solid Waste Management Authority may be better at answering his question. Each household generates about 43 lbs of trash per week. It's estimated that amount decreases to 39 lbs when households recycled. For whatever reason he added there is not a direct correlation between increases in recycling and its effect on other solid waste.

With regards to another matter, Leonard Krysinski of 9021 Crow Drive complained to Council and the Mayor about blatant drug activities at the intersection of Crow and Seminole. Mr. Krysinski has personally witnessed two transactions from his front yard he said. Individuals involved in the transactions have been brazen and defiant. One in fact waved at Mr. Krysinski. There needs to be more police presence so that this type of business does not happen in Macedonia. Mr. Krysinski said he grew up on the near west side of Cleveland and is more concerned about the safety of his young family now that that he lives in Macedonia than he was when he lived in his former neighborhood. Mr. Krysinski called the police department each time he witnessed the drug transactions. Each time the department has been very professional and responsiveness, but by the time they come the transactions had ended. Mr. Krysinski feels in order for there to be resolution there needs to be more surveillance by unmarked police cars. The individuals selling drugs are assertive and unafraid. The message also has to be sent that this type of activity will not be tolerated in Macedonia.

Councilor Barker applauded Mr. Krysinski for coming to tonight's meeting and speaking publicly. But as a safety official Mr. Barker knows that open acknowledgement can sometime impede an investigation. As chair of the Safety Committee Mr. Barker asked Mr. Krysinski to telephone or email him about this problem. Mr. Barker told Mr. Krysinski that he will work closely with Chief Golden to see that this nuisance is eliminated.

With regards to another matter, Greg McNeil of Hudson, Ohio and president of Quiet Zone Committee explained that a little over 17 months ago he and a group of eager residents began pursuing federal stimulus dollars. Mayor Kuchta was the first and loudest proponent of this effort and was willing Mr. McNeil stated to be the public authority during the application process. Initially Mr. McNeil explained Hudson, Macedonia and Northfield Center funded the preliminary engineering study, Macedonia by 50% of the \$7500 cost and Hudson and Northfield each by 25%. Last September shortly after the study was completed the Quiet Zone Committee put together the entire budget of \$168,323.00 and presented the same to Congressman LaTourette. Congressman LaTourette tried to get the project funded for this year but was unsuccessful. The Congressman also tried to get it incorporated into the next year's transportation bill. Instead, as luck would have it Mr. McNeil stated in March the Committee met with newly elected Summit County Engineer Alan Brubaker who suggested the Committee apply for federal stimulus funding. The Committee took Mr. Brubaker suggestions and with great excitement received 100% of their request, the entire \$168,323.00. The Agreement relative to these funds that is now before Macedonia City Council Mr. McNeil stated has a stipulation. The stipulation is that City must agree to absorb any cost overruns. Working closely with Norfolk & Southern as well as the ORDC, Ohio Rail Development Commission Mr. McNeil said he is confident that there won't be any cost overruns. In fact Mr. McNeil feels the project is going to be under budget for the reason that Norfolk & Southern typically estimates high. Norfolk Southern Mr. McNeil stated estimates the circuitry which is the lion's share of the budget, will take six weeks to complete. ORDC on the other hand believes it will take only 2 to 3 weeks. Mr. McNeil and City Engineer Gene Hill were present during the on-sight survey of the area in early April and both feel the funds available will be more than enough to complete the project. The other stipulation of the Agreement

## Regular Council

May 28, 2009

Mr. McNeil stated is that it must be accepted by Macedonia Council within 14 days which in this case means June 1 otherwise the funds will be lost.

Councilor Martin said the Agreement mandates a number of stipulations which he finds disconcerting. Additionally the fact that the City is responsible for expenses over the \$168,323 is a major concern for him. Who is responsible for paying the engineering Mr. Martin asked. Is that an additional cost he asked?

Mr. McNeil answered that the cost of engineering is already included in the \$168,323. The cost of the preliminary engineering, the \$7500.00 was a separate cost, not reimbursable and not in the \$168,323. The preliminary engineering was performed by Norfolk & Southern he added. The final specifications will also be prepared by Norfolk & Southern as it is an upgrade to their circuitry because in a manner of speaking it is their domain

Councilor Martin complained the railroad could very well double in cost of the project and there would little the City could do once it enters into the Agreement.

Mr. McNeil reiterated his confidence that dollar amount received will cover the cost of the project if in fact it does not come in below it. There has been so much publicity surrounding the stimulus money and this project Mr. McNeil stated that it is unlikely to him that the federal government and the railroad would want to generate negative publicity. Governor Strickland, Senator Voinovich and Congressman LaTourette, all high public profiles, do not want negative press particularly with regards to something as positive as the stimulus funding Mr. McNeil stated. Additionally the PUCO and ODRC reviewed this project and are equally confident the amount of the stimulus money will cover wants been budgeted.

Councilor Molnar expressed concern that is even if the overrun is small comparatively speaking, Macedonia's finances are strained. The City is struggling making current expenses Mr. Molnar added.

Councilor Spraggins suggested that Hudson, Macedonia and Northfield Center enter into a Memorandum of Understanding to equally share any cost overruns. Why should Macedonia bear the entire cost she added.

Councilor Barker asked Mr. Diemert and Engineer Hill if an extension could be filed to provide additional time to get answers to some of the questions that have been raised this evening. Mr. Barker doesn't want the project to fall by the wayside, particularly since so much effort has been put forth. On the other hand Council needs assurances that cannot be guaranteed tonight.

Mr. Hill responded that he is confident that the \$168,323 will cover the cost of the project to the extent that Norfolk & Southern and ODRC provided the estimates and they are the entities that know and understand the cost of the upgrade; they are the expert in this field. As a civil engineer his opinion has no validity as this is not the type of engineering he does everyday.

Mr. McNeil explained that in order to gain a quiet zone requires that the circuitry at the site be brought up to state-of-the art FRA's standards. The ORDC in conjunction with FRA periodically schedules work at each crossing to replace, repair or upgrade circuitry. Eventually over time the circuitry at all crossing will be upgraded to the highest level. The ORDC and FRA have this system down to a science Mr. McNeil stated and for this reason know the cost of creating a quiet zone at the Twinsburg crossing.

Councilor Engle asked what the cost of the barriers that will prohibit motorists from crossing the tracks which Mr. Hill answered he wasn't certain but their cost is included in the \$168,353.

Mr. McNeil interjected that the supplemental safety devices chosen for the Twinsburg Road crossing are median dividers called quik curbs. Quik curbs are easy to install, are easy to maintain and are cost effective, about \$11,000. The FRA has a risk index for every rail crossing Mr. McNeil added. The quik curbs have safety rating of 2.5%, which will greatly improve the safety at Twinsburg Road crossing Mr. McNeil stated. Mr. McNeil made a personally commitment to seek additional funding if this project incurs cost overruns.

Councilor Spraggins asked who the fiscal agent on the project will be to which Mr. McNeil answered the ORDC. She asked if ORDC is the fiscal agent wondered why Macedonia is being made responsible for cost overruns to which Mr. McNeil answered that a government agency has

## Regular Council

May 28, 2009

to take responsibility. The crossing is physically located in Macedonia and therefore Macedonia is the logical governmental entity. The Agreement is basically boiler plate language he added. Safe guards were not incorporated into the first round of stimulus funding so thereafter, a more cautious approach has been taken with regards to monies that have been granted.

Councilor Spraggins will support the project if Hudson and Northfield Center willingly share equally in the cost overruns. Mrs. Spraggins asked Mr. McNeil to contact Hudson and Northfield about their share, she asked him to file an extension and she asked Council President Engle to set a special meeting June 4 to approve the stimulus funding providing he other communities cooperate.

Mr. McNeil told Mrs. Spraggins that he is more than willing to speak to Mayor Currin of Hudson. However Mr. McNeil knows first hand that Northfield Center will not cooperate. It was difficult enough he added to get the township to pay \$2500.00 towards the preliminary engineering study.

Mr. Diemert suggested resolve the stalemate that that perhaps that Council could approve the Agreement with a stipulation that at least would provide the extension everyone wants. Upon Mr. Diemert's recommendation

Mr. Molnar moved, Mr. Engle seconded to authorize Mayor Kuchta to execute the Ohio Rail Development Commission Agreement minus the last sentence of first paragraph on the second page that reads "Any cost above and beyond the \$168,323 of ARRA funding provided for construction shall be reimbursed by the City at 100% of costs incurred"

Roll call:           Ayes: Barker, Engle, Martin, Molnar, Spraggins  
                          Nays: None  
                          The motion carried

Mrs. Spraggins asked Mrs. Arceci to include in the notice of the special meeting on June 4 the verbiage "and other business which may come before Council">

**MAYOR'S REPORT:**   None

**COMMITTEE REPORTS**   None

### **DEPARTMENT REPORTS**

**Service Department**   Mr. Crevar announced that the service department in conjunction with the Tinker's Creek Watershed Partners is sponsoring a rain garden workshop on Saturday, June 20 at 9am at the City Center. Mr. Crevar also announced that SASAWA is sponsoring a household waste recycling drop off at Macedonia City Center on June 20 between 8am -1pm. Information about the rain garden and household recycling can be found on the City's website [www.macedonia.oh.us](http://www.macedonia.oh.us). Mr. Crevar mentioned too that the City's curbed streets are in the process of being swept and that phone books can now be dropped-off at the recycling bins located at the Recreation Center.

**Building Department**   Mr. Posar reported that there have been numerous citations relative to yard, home and commercial building maintenance. In the month of May there 11 point of sales were made, six of which ended in home sales.

**Engineering**   Mr. Hill reported that the SR82 widening is on schedule. The new rails are in use. An announcement will be made when the old bridge will be torn down.

**Recreation Department**   Ms. Gmerek reported that Kid's Family Fishing-Day at Longwood Lake is Sunday, May 31 between 9 to 2pm. Kid's Safe Day will be held Saturday, June 13 between 10am and 2pm. Summer Camp for children ages 6-12 begins June 14 and operates until August 15. Registration for camp can be in one week to 3 week increments or participants can be enrolled for the entire summer. Ms. Gmerek announced that Relay for Life in conjunction with Macedonia and Twinsburg will be held at Twinsburg High School Stadium on June 5 and June 6

**Finance Department**   Mrs. Musson reported that at the yield relative to May 20<sup>th</sup> Mayor's Court regarding income tax summons was over \$33,000.

Regular Council

May 28, 2009

**Fire Department** Chief Black had no report.

**Police Department** Chief Golden had no report.

**Law Department** Mr. Diemert had no report.

**Unfinished business** None

**New business** None

**EXECUTIVE SESSION**

**At 8:59pm Mrs. Spraggins moved, Mr. Barker seconded to adjourn into an Executive Session for the purpose of discussing Personnel and acquisition of property.**

**Roll call: Ayes: Barker, Engle, Martin, Molnar, Spraggins  
Nays: None  
The motion carried**

At 9:20pm Council reconvened into their regular meeting and there being no further business the meeting was adjourned at 9:21pm