

Regular Council

June 11, 2009

The regular meeting of Macedonia City Council meeting was called to order June 11 at 7:35pm. Council President David Engle, mayor pro tempore, presided.

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

Absent: Mayor Donald Kuchta

PLEDGE OF ALLEGIANCE led by Council President Dave Engle was followed by an invocation led by Councilor Janet Tulley in which Mrs. Tulley referenced Flag Day

MINUTES Mrs. Tulley moved, Mr. Barker seconded to approve the minutes of the special meeting of May 7, the regular meetings of May 14 and May 28 and the special meeting of June 4, 2009.

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

FINANCIAL REPORT Mr. Molnar moved, Mr. Barker seconded acknowledging receipt of the Financial Reported dated April 30, 2009.

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

INFORMATIONAL FORUM RELATIVE TO ORDINANCE NO. 30-2009

Kelly Leuke, civil engineer of GPD, Macedonia's consulting engineering group stated her presence was to help alleviate any concerns residents may have regarding the City's floodplain map recently restructured by FEMA. Ms. Leuke explained that GPD sent approximately 100 letters to homeowners who are now living within the newly structured plain and to those who are no longer considered within the plain. The primary purpose of GPD's letter Ms. Leuke stated was to inform residents that they should contact their insurance provider before July 20, when the new map takes effect in order to save money on their homeowner and property insurance. Ms. Leuke had computer generated maps and graphics illustrating the different levels of flood risk relative to various properties throughout the community. The risk levels relative to the voracity of flooding Ms. Leuke stated are rated as to occurrences once every 500-years, 100-years or 50-years. FEMA's now refers to 100-year floodplains has a special flood hazard area Ms. Leuke stated. This means she explained that a special flood hazard area has a 1 in 100% chance of flooding every year. Ms. Leuke stated that there are approximately 15 new residences within the updated map and about 90 that have been removed. From FEMA's point of view, the new mapping better defines areas of risk and thus the reason some properties were removed The 90 residences may still be at some risk Ms. Leuke stated and therefore are encouraged to maintain flood insurance. Ms. Leuke stated that Ordinance No. 30-2009, the new flood damage reduction ordinance will replace the City's current flood insurance maps.

INTRODUCTION, READINGS & ADOPTION OF LEGISLATION

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 was offered by Mr. Martin for its **third reading by title only**. Second not required.

Mr. Martin moved, Mr. Engle seconded to **approve ORD. NO. 30-2009**, and post same according to law.

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

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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 **was offered** by Mr. Martin for its **second 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 **was offered** by Mr. Molnar for its **first reading by title only**. Second not required.

Relative to ORD. NO. 32-2009, Councilor Engle mentioned to Mr. Diemert that in Mr. Engle's opinion there's discrepancy between several sections of Chapter 1127. The current language of Section 1127.03 entitled Dedication of Parcels Removed from the Subdivision gives the Planning Commission discretion in determining whether 10% of the subdivision should be dedicated to park or whether the developer must pay \$400 per parcel. Yet 1127.06 entitled Money in Lieu of Land requires that if parkland is not the option that the developer must pay the \$400 per parcel before the preliminary plat is approved. That being the case Mr. Engle stated the proposed amendment is unnecessary. It was incumbent upon the Planning Commission Mr. Engle added to require the Villas of Taramina's developer to pay the entire fee instead of allowing him to pay \$400 as each parcel is sold. The Planning Commission had no authority Mr. Engle stated to permit the developer to pay as he goes. Reading the sections par mutually Mr. Engle stated, Section 1127.03 addresses payment, Section 1127.06 speaks to time of payment.

Law Diemert didn't agree with Mr. Engle but both agreed there was some confusion with each section in part because Section 1127.03 was adopted after 1127.06. There appears, without future research Mr. Diemert stated that 1127.06 was overlooked when 1127.03 was amended. Mr. Diemert added 1127.06 clearly contradicts 1127.03. Mr. Diemert suggested research is needed to determine the rationale at the time 1127.03 was amended.

Councilor Martin brought up the point that Section 1127.06 was created in 1977. This section should have been eliminated when 1127.03 was amended eleven years later. In Mr. Martin's opinion this was clearly an oversight and that 1127.03 prevails.

Councilor Spraggins interjected that as past practice developers have had to pay their fees up front. Developers were not allowed to pay as each parcel was sold as the Planning Commission has just granted in the Villas of Taramina. Up front payment was a method of safe guard the City against potential bankruptcy of the developer which occurred on more than one occasion she added

Councilor Martin informed Mrs. Spraggins the City has been safeguarded. The \$400 fee is attached to each parcel so in the event Villa of Taramina is no longer being developed by Mr. Migliorini the City will continue receiving the \$400 as each parcel is sold.

Councilors Spraggins and Tulley questioned the manageably relative to future collections if in fact the subdivision is not completed by Mr. Migliorini. Each councilor stated the City is not in the real estate business and should not be responsible for monitoring the sale of someone else's property. Mrs. Tulley however felt the Planning Commission's position would have been more acceptable had they attached a time frame to the partial payments. In other words, Mrs. Tulley stated within three years full payment should have been required if by then all parcels have not sold.

ORD. NO. 32-2009

AN EMERGENCY ORDINANCE AMENDING SECTION 909.04 OF THE CODIFIED ORDINANCES OF CITY OF MACEDONIA REGARDING NOXIOUS WEEDS **was offered** by Mr. Molnar and moved Council waive the requirement that it be read by title on three different days, instructing the Clerk to read it by **title and Subsection (b) for all three readings**. Second by Mrs. Spraggins.

Roll call: Ayes: Barker, Engle, Martin, Molnar, Spraggins, Tulley
Nays: None

The motion carried

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Mr. Molnar moved, Mrs. Spraggins seconded, to **adopt ORD. NO. 32-2009**, and post same according to law.

Roll call: Ayes: Barker, Engle, Martin, Molnar, Spraggins, Tulley
Nays: None
The motion carried. **ORD. NO. 32-2009, adopted**

RES. NO. 34 -2009

A RESOLUTION TO ADOPT AND PARTICIPATE IN MULTI-JURISDICTIONAL HAZARD MITIGATION PLAN IN CONJUNCTION WITH THE COUNTY OF SUMMIT EMERGENCY MANAGEMENT AGENCY was **offered by Mrs. Tulley** for its **first reading by title only**.
Second not required.

ORD. NO. 35 -2009

AN EMERGENCY ORDINANCE AUTHORIZING AND DIRECTING THE MAYOR TO ENTER INTO A FIVE YEAR AGREEMENT BEGINNING ON JULY 1, 2009 TO JUNE 30, 2001 FOR THE RESIDENTIAL SOLID WASTE COLLECTION, DISPOSAL AND RECYCLING SERVICES WITHIN THE CITY was **offered by Mrs. Spraggins** for its **first reading by title only**. Second not required.

Relative to ORD. NO. 35-2009, Assistant Service Director Jamieson explained that the proposed contract is for 5-years with an option for 5 additional years. Mr. Jamieson said the major change in the contract compared to the current contract is the option for curbside recycling. Curbside recycling was added to the specs Mr. Jamieson said because of the numerous requests the service department received from residents. Recycling at curbside would require an 18 gallon bin which would be supplied by the trash hauler. The cost differential for curbside recycling is a \$1.00 per month. The cost of the proposed contract excluding curbside recycling, a fuel surcharge and a senior citizen discount is \$11.85 per month compared to the current contract of \$11.81 he added.

Councilor Martin suggested that an informational meeting be held June 25 at 7:30pm for the purpose of providing an opportunity for residents to speak on this issue. Competing philosophies relative to the additional cost of recycling versus benefits of the program warrants continued dialogue Mr. Martin stated. Council agreed and advised Mrs. Arceci to make notification of the same.

ORD. NO. 36 -2009

AN EMERGENCY ORDINANCE AMENDING SECTION 909.04 OF THE CODIFIED ORDINANCES OF THE CITY OF MACEDONIA RELATIVE TO WEEDS AND GRASS SEASON was **offered** by Mr. Molnar and moved Council waive the requirement that it be read by title on three different days, instructing the Clerk to read it by **title and Subsections (d) and (e) for all three readings**. Second by Mr. Barker.

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

Mr. Molnar moved, Mr. Barker seconded, to **adopt ORD. NO. 36-2009**, and post same according to law.

Roll call: Ayes: Barker, Engle, Martin, Molnar, Spraggins, Tulley
Nays: None
The motion carried. **ORD. NO. 36-2009, adopted**

Relative to ORD NO. 36-2009 as well as ORD. NO. 32-2009, Councilor Tulley stated the primary change is that notification is within 7 days and no longer 14 days. The requirement the property been maintained applies to improved parcels only, those having buildings or dwellings she added.

ORD. NO. 37 -2009

AN ORDINANCE PROVIDING FOR THE SUBMISSION TO THE ELECTORS OF THE CITY OF MACEDONIA A PROPOSED AMENDMENT TO SECTIONS 4.01, 4.02, 3.03(b1), 4.08, 4.09, 4.10, 6.09, 7.05, 8.06, 9.05, 10.04, 11.02, 12.04, 13.06, 13.07, 14.02 OF THE CHARTER OF THE CITY REDUCING THE NUMBER OF COUNCILMEN FROM 6 TO 5,

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198 ELIMINATING MAYOR'S VOTE TO BREAK TIES, & RELATED SECTIONS AFFECTED
199 THEREBY was **offered by Mr. Barker for its first reading only**. Second not required.

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201 **ORD. NO. 38-2009**

202 AN ORDINANCE PROVIDING FOR THE SUBMISSION TO ELECTORS OF THE CITY OF
203 MACEDONIA A PROPOSED AMENDMENT TO SECTIONS 3.02 AND 4.02 OF THE
204 CHARTER REQUIRING RESIDENCY OF 2 YEARS IMMEDIATELY PRECEDING THE
205 ELECTION FOR MAYOR & COUNCIL, CHANGING MINIMUM AGE REQUIREMENT
206 FOR MAYOR FROM 25 TO 21 & PROHIBITING COUNCIL MEMBERS FROM HOLDING
207 OTHER ELECTED PUBLIC EMPLOYMENT was **offered by Mr. Barker for its first reading**
208 **only**. Second not required

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210 **ORD. NO. 39-2009**

211 AN ORDINANCE PROVIDING FOR SUBMISSION TO ELECTORS OF THE CITY OF
212 MACEDONIA A PROPOSED AMENDMENT CREATING NEW SUBSECTION 11.03 OF
213 THE CHARTER OF CITY OF MACEDONIA PROVIDING AN APPEAL RIGHT FROM
214 DECISIONS OF BOARD OF ZONING APPEALS TO CITY COUNCIL EMPLOYMENT was
215 **offered by Mr. Barker for its first reading only**. Second not required

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217 **ORD. NO. 40 -2009**

218 AN ORDINANCE PROVIDING FOR THE SUBMISSION TO ELECTORS OF THE CITY OF
219 MACEDONIA A PROPOSED AMENDMENT TO SECTION 12.01 OF THE CHARTR OF
220 THE CITY OF MACEDONIA RELATING TO THE REMOVAL OR TERMINATION OF THE
221 POLICE AND FIRE CHIEFS was **offered by Mr. Barker for its first reading only**. Second
222 not required

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224 **ORD. NO. 41-2009**

225 AN ORDINANCE PROVIDING FOR SUBMISSION TO ELECTORS OF THE CITY OF
226 MACEDONIA A PROPOSED AMENDMENTS TO SECTIONS 14.01 AND 14.02 OF THE
227 CHARTER OF THE CITY OF MACEDONIA RELATING TO CHANGING THE TITLE OF
228 THE CHIEF BUILDING OFFICIAL TO BUILDING COMMISSIONER was **offered by Mr.**
229 **Barker for its first reading only**. Second not required

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231 **ORD. NO. 42 -2009**

232 AN ORDINANCE PROVIDING FOR SUBMISSION TO ELECTORS OF THE CITY OF
233 MACEDONIA A PROPOSED AMENDMENT TO SECTION 3.01 OF THE CHARTER OF
234 THE CITY OF MACEDONIA ESTABLISHING MAYOR'S COMPENSATION was **offered by**
235 **Mr. Barker for its first reading only**. Second not required

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237 Relative to the ORD. NOS. 37-42-2009, Councilor Barker, chairman of the Charter Review
238 Commission thanked each member of the Commission; Dan Cegelka, Paula Fowles, Chuck
239 Loparo, Mike Miller, Rosemary Park and Sam Pilato for their commitment over the last six
240 months. Mr. Barker also thanked Mr. Diemert and Mrs. Arceci who acted as secretary to the
241 Commission. Mr. Barker added that personally the experience was very educational. It was
242 gratifying to hear the broad range of thoughts and opinions expressed by each member of the
243 Commission. Mr. Barker is hopeful Council will have enough faith in the Commission to place
244 each of the Commission's recommendations on the ballot. Some of the Commission's proposals
245 are substantial Mr. Barker added; others are a merely a matter of clarifying language. Regarding
246 Ordinance No. 37 Mr. Barker stated causing the number of council seats to be an odd number was
247 one of Mrs. Spraggins' recommendations although the Commission truly supported the division
248 of legislative and administrative power the odd number would provide. If the voters approve this
249 amendment, the Mayor would lose his ability to break ties, he would not however lose his veto
250 power. Regarding Ordinance No. 38, Mr. Barker explained that the Commission thought the
251 residency requirement should be clarified and could be by simply inserting the word
252 "immediately" to the sentence. The Commission also thought the time was right to reduce the
253 age requirement relative to the position of Mayor from 25 to 21. There is no age requirement
254 relative to the positions of Council he added. The other part of the ordinance Mr. Barker stated
255 has to do with precluding holding any other elected public office outside the City of Macedonia.
256 Ordinance No. 39 would add Council as another level of appeals following denials by the Board
257 of Zoning and Code Appeals. Ordinance No. 40-2009 is at the request Civil Service Commission
258 because chiefs being removed or terminated should not be reemployed at a lower rank. Mr.
259 Barker added that matters of voluntary reduction are governed by Civil Service rules and
260 regulations and the statutes of the State of Ohio. Ordinance No. 41 merely clarifies the title of
261 Building Commission from the former title of Chief Building Official and Ordinance No. 42
262 provides a formula for setting the Mayor's annual compensation. Mr. Barker encouraged
263 residents to take the opportunity to comment relative to the proposed recommendations at the

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265 Council meetings of June 25 and July 9. Mr. Barker anticipates Council will take action on the
266 ordinances at the July 9 meeting thereby having enough time for Mrs. Arceci to file them with the
267 Board of Elections before the August deadline.
268

269 Chuck Loparo, member of Charter Review Commission addressed Council stating his
270 comments are not on behalf of the Commission. Mr. Loparo personally does not agree
271 with reducing the number of council seats from 6 to 5. Mr. Loparo believes more politics
272 will evolve with a lesser number of council members. Mr. Loparo also believes there
273 hasn't been enough tie breakers over Macedonia's history to warrant an odd number of
274 council seats. Mr. Loparo also doesn't believe there should be a residency requirement.
275 Anyone willing to serve in government should be allowed to do he added.
276

277 Councilor Barker expressed surprise and disappointment that Mr. Loparo would
278 comment because the Commission unanimously agreed to publicly speak as a whole.
279 Mr. Loparo speaking on his own in a public forum breached that promise Mr. Barker
280 stated.
281

282 **MOTIONS OR OTHER LEGISLATIVE ACTIONS:**

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284 Mr. Engle moved Mrs. Spraggins seconded to reconsider Mayor Kuchta's June 1, 2009 veto of
285 Ordinance No. 29-2009 thereby causing the Mayor's veto to be overridden thus resulting in the
286 approval and adoption of said ordinance.
287

288 Roll call: Ayes: Barker, Engle, Martin, Molnar, Spraggins
289 Nays: Tulley
290 The motion carried **ORD. NO. 29-2009 approved**
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293 **CORRESPONDENCE:** Letter of appreciation to Chief Golden from Robert and Beverly Porter of
294 N. Bedford Road for police surveillance of the Porter' home in their
295 absence.
296

296 **PUBLIC COMMENTS:**

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298 Anthony Discenza, representative of Waste Management of Glen Willow, Ohio and apparent low
299 bidder of proposed contract stated Mrs. Spraggins' had inquired about payment methods. There
300 are several Mr. Discenza stated; online, by phone or by mail. Waste Management's current rate
301 is \$11.81 minus the surcharge Mr. Discenza stated is has Mr. Jamieson previously reported. The
302 new rate is \$11.85 minus the surcharge and the other items Mr. Jamieson mentioned. Waste
303 Management will provide a senior discount for anyone is the household who is 62 of age Mr.
304 Discenza added.
305

306 With regards to another matter, Rosemary Filisky of Blue Jay Trail suggested as a former
307 member of a Charter Review Commission that the three recommendations incorporated into
308 Ordinance No. 38-2009 be separated into their own legislation because of the importance of each.
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310 **MAYOR'S REPORT:** None
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312 **COMMITTEE REPORTS**

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314 **Planning Commission** Mr. Martin announced the next Planning Commission meeting is June
315 26 at 5:30pm. With regards to another matter Mr. Martin questioned Mr. Hlad why he hasn't
316 responded to Mr. Martin's attempts to scheduling another meeting with residents of the Lake
317 Forrest subdivision.
318

319 Mr. Hlad responded that Mr. Martin was informed by email that any further meetings with the
320 residents of Lake Forrest would be held solely at Mr. Martin's discretion. Mr. Hlad added that
321 he was advised by the administration and the law department that he will not be involved in any
322 further discussion about Lake Forrest.
323

324 **Finance Committee** Mr. Molnar announced the next finance meeting is Wednesday, June 17
325 at 6pm.
326

327 **Longwood Manor Historical Society** Mr. Engle reported that he meet with architect Duane
328 Van Dyke who is preparing a feasibility study for the LMHS relative to the conservation of the

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330 Manor House. Mr. Van Dyke indicated to Mr. Engle that there may be a potential for the Manor
331 House to receive a tax credit even though the Manor House is on private property. Matching
332 funds relative to grant application filed on behalf of the Manor House Mr. Engle added will be
333 provided by the LMHS.

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335 **DEPARTMENT REPORTS**

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337 **Service Department** Assistant Service Director Jamieson announced that a rain garden
338 workshop is being held at the City Center on Saturday, June 20 at 9am. The workshop is being
339 conducted by the service department in conjunction with the Tinker's Creek Watershed Partners.
340 Mr. Jamieson explained that rain gardens are areas of depressed ground where certain plant
341 vegetation thrive in moist soil. Water is diverted from downspouts to keep rain gardens moist
342 and bountiful. Mr. Jamieson encouraged residents to take the opportunity to attend the garden
343 workshop and learn how to create their own unique garden while benefiting the community. Mr.
344 Jamieson also announced that Summit/Akron Solid Waste Management Authority is sponsoring a
345 household waste recycling drop off at Macedonia City Center on June 20 between 8am -1pm.
346 Information about the rain garden and the household recycling can be found on the City's website
347 www.macedonia.oh.us. Mr. Jamieson reminded residents that free wood mulch is available at
348 Service Garage 1 at 9000 Valley View Road Mondays-Friday during regular business hours.
349 Residents were reminded that while the mulch is free they must be prepared to self load their
350 vehicles.

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352 **Building Department** Mr. Hlad reported that Kenmore Construction has begun slip forming the
353 south bound lane of Route 82. Mr. Hlad mentioned that Norfolk Southern meet with Kenmore
354 today for the purpose of turning the bridge over to Kenmore for demolition. The bridge is
355 expected to be demolished next week during evening hours Mr. Hlad added. Mr. Hlad mentioned
356 that South Freeway Drive should be complete within the next 2 weeks.

357

358 **Engineering** Ms. Leuke had no report.

359

360 **Recreation Department** Ms. Gmerek reported that Kid's Safe Day is Saturday, June 13
361 between 10am and 2pm. There will be many activities include a parade of decorated bicycles as
362 well as the presence of outside agencies offering safety and health information. Ms. Gmerek also
363 mentioned Macedonia Summer Day Camp for children ages 6-12 that begins June 14 and
364 operates through August 15. Registration for camp can be in one week to 3 week sessions or
365 participants can be enrolled for the entire summer.

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367 **Finance Department** Mrs. Musson reported that income tax collection as of May 28 was up
368 2.7%. Mrs. Musson added that although collections are slightly up overall City collection is
369 down by 17.4% from last year in part because of net profit refunds. Also, year to date, JEDD
370 collections are down by about 61%. Mrs. Musson will have a more detailed report about
371 collections at the June 17 finance meeting. Collections relative to income tax summons at the
372 June 10 Mayor's Court yielded \$48,000 Mrs. Musson stated. Mrs. Musson stated she's begun
373 preparation of the 2010 Tax Budget.

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375 **Fire Department** Chief Black was not present

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377 **Police Department** Chief Golden reminded residents who leave their vehicles parked in their
378 driveways overnight to keep them locked as well as to remove any valuable items from inside.
379 There have been numerous car break-ins lately the chief said which can be deterred if cars are
380 locked and there is nothing of value inside them.

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

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384 **Unfinished business** None

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386 **New business** Mr. Engle reported that he attended a Regional Prosperity Initiative in
387 Brunswick, Ohio that was sponsored by the Northeast Ohio City Council Association. The
388 meeting revisited regionalization and the good it would provide. The area of northeast Ohio is
389 large comprising 16 counties so for regionalization to work it will take the cooperation of every
390 city council member and every trustee of the 197 governmental entities within these counties Mr.
391 Engle said. This is an arduous task he added but one that will result in major, positive benefits if
392 cooperation can be met. The topics of last night's meeting Mr. Engle stated was land use
393 development, control of urban sprawl and new grown revenue sharing. Mr. Engle informed
394 Council that the Regional Prosperity Initiative is proposing legislation in the early part 2010

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regarding future cooperation among the various entities so expect that there will may be something on Macedonia's agenda.

With regards to another matter Mr. Martin asked Mr. Diemert to prepare hate crime legislation in lieu of the vicious murder in Arkansas last week of an American recruiting officer.

EXECUTIVE SESSION [Mr. Diemert was present]

At 9:05pm Mr. Engle moved, Mr. Barker seconded to adjourn into an Executive Session for the purpose of discussing Personnel, the hiring of Personnel and pending litigation.

Roll call: Ayes: Barker, Engle, Martin, Molnar, Spraggins, Tulley

Nays: None

The motion carried

At 9:40pm Council reconvened into their regular meeting and there being no further business the meeting was adjourned at 9:41pm