

Regular Council

July 23, 2009

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4 The regular meeting of Macedonia City Council was called to order at 7:35pm on July 23, 2009
5 Mayor Donald Kuchta presiding.

6
7 **Present:** Council members' Shane Barker, David Engle, Kenneth Martin, Nicholas
8 Molnar, Peggy Spraggins and Janet Tulley; Law Director Joseph W. Diemert Jr.,
9 and Council Clerk Josephine Arceci.

10 **Absent:** None

11
12 **PLEDGE OF ALLEGIANCE** led by Council President Dave Engle was followed by an invocation
13 led by Councilor Jan Tulley.

14
15 **INTRODUCTION, READINGS & ADOPTION OF LEGISLATION**

16 **ORD. NO. 31 -2009**

17 Mr. Martin moved, Mr. Engle seconded for **ORD. NO. 31 -2009: AN EMERGENCY**
18 **ORDINANCE AMENDING SECTION 1127.03 OF THE CODIFIED ORDINANCES OF THE**
19 **CITY OF MACEDONIA RELATIVE TO THE DEDICATION OF OPEN SPACE WITHIN A**
20 **SUBDIVISION to remain at its second reading** (First reading: May 28, 2009)

21
22 Roll call: Ayes: Barker, Engle, Martin, Molnar, Spraggins, Tulley
23 Nays: None
24 The motion carried.

25 **RES. NO. 34 -2009**

26 A RESOLUTION TO ADOPT AND PARTICIPATE IN A MULTI-JURISDICTIONAL
27 HAZARD MITIGATION PLAN IN CONJUNCTION WITH THE COUNTY OF SUMMIT
28 EMERGENCY MANAGEMENT AGENCY was **offered** by Mr. Barker and moved Council
29 waive the requirement that it be read by title on three different days, instructing the Clerk to read
30 it by **title only for its third reading**. Second not required.

31
32 Mr. Barker moved, Mr. Engle seconded, to **adopt RES NO. 34-2009**, and post same according to
33 law.

34 Roll call: Ayes: Barker, Engle, Martin, Molnar, Spraggins, Tulley
35 Nays: None
36 The motion carried. **RES. NO. 34-2009, adopted**

37
38 Relative to RES. NO. 34-2009, Chief Black's explanation of the Mitigation Plan is found under
39 Department Reports.

40
41 **ORD. NO. 51 -2009**

42 AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF \$1,758,000 NOTES IN
43 ANTICIPATION OF THE ISSUANCE OF BONDS, FOR THE PURPOSE OF PAYING THE
44 PROPERTY OWNERS' PORTION, IN THE ANTICIPATION OF THE COLLECTION OF SPECIAL
45 ASSESSMENTS HERETOFORE LEVIED, OF THE COST OF IMPROVING IN COOPERATION
46 WITH THE CITY OF TWINSBURG, SHEPARD ROAD BETWEEN CERTAIN TERMINI BY
47 CONSTRUCTING SANITARY SEWERS AND REPLACING, WHERE NECESSARY, PAVEMENT
48 AND DRIVEWAY APRONS, ALL TOGETHER WITH THE NECESSARY APPURTENANCES
49 THERETO, AND PAYING THE PROPERTY OWNERS' PORTION IN ANTICIPATION OF THE
50 LEVY AND COLLECTION OF SPECIAL ASSESSMENTS, AND THE CITY'S PORTION OF THE
51 COST OF IMPROVING SOUTH FREEWAY DRIVE BETWEEN CERTAIN TERMINI BY GRADING,
52 DRAINING, PAVING, CONSTRUCTING DRIVEWAY APRONS, REPLACING GUARDRAILS
53 WHERE NECESSARY, REHABILITATING THE RELATED STORM SEWER SYSTEM BETWEEN
54 CERTAIN TERMINI BY CONSTRUCTING STORM SEWERS, CATCH BASINS, MANHOLES,
55 JUNCTION CHAMBERS AND A CONCRETE HEADWALL, AND ACQUIRING ANY NECESSARY
56 REAL ESTATE AND INTERESTS THEREIN, ALL TOGETHER WITH THE NECESSARY
57 APPURTENANCES THERETO, AND DECLARING AN EMERGENCY was **offered** by Mr. Molnar
58 and moved Council waive the requirement that it be read by title on three different days,
59 instructing the Clerk to read it by **title only for all three readings** . Second by Mr. Engle.

60
61 **FISCAL OFFICER'S CERTIFICATE PREVIOUSLY SUBMITTED TO COUNCIL**

62
63 Roll call: Ayes: Barker, Engle, Martin, Molnar, Spraggins, Tulley
64 Nays: None
65 The motion carried.

66
67 Mr. Molnar moved, Mr. Engle seconded, to **adopt ORD. NO. 51-2009**, and post same according
68 to law.

69 Roll call: Ayes: Barker, Engle, Martin, Molnar, Spraggins, Tulley
70 Nays: None
71 The motion carried. **ORD. NO. 51-2009, adopted**

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ORD. NO. 52-2009

AN EMERGENCY ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT WITH AMERICAN HEATTEK CORPORATION TO PERFORM A COOLING TOWER REPAIR AT MACEDONIA CITY CENTER WITHOUT THE NECESSITY OF ADVERTISEMENT AND FORMAL BIDDING AND AUTHORIZING THE APPROPRIATION OF \$36,450.00 IN THE CITY CENTER BUILDING MAINTENANCE FUND (101.07J.000-735.004) **offered** by Mr. Engle and moved Council waive the requirement that it be read by title on three different days, instructing the Clerk to read it by **title only for all three readings** . Second by Mr. Molnar.

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

Mr. Engle moved, Mr. Barker seconded, to **adopt ORD. NO. 52-2009**, and post same according to law.

Roll call: Ayes: Barker, Engle, Martin, Molnar, Spraggins, Tulley
Nays: None
The motion carried. **ORD. NO. 52-2009, adopted**

Relative to ORD. NO. 52-2009, Council President Engle had mentioned the cost of this repair is covered under insurance and therefore it is neutral to the budget.

ORD. NO. 53-2009

AN EMERGENCY ORDINANCE RATIFYING THE COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF MACEDONIA AND TEAMSTERS LOCAL UNION NO. 436(ADMINISTRATIVE UNIT) FOR A TERM THAT WILL BEGIN UPON EXECUTION AND EXPIRE DECEMBER 31, 2009 AND APPROPRIATING FUNDS THERETO was **offered** by Mrs. Tulley for its **first reading by title only**. Second not required.

RES. NO. 54-2009

A RESOLUTION CONFIRMING THE FINAL APPOINTMENT OF DAVID ABERTH TO THE POSITION OF PART-TIME FIREFIGHTER was **offered** by Mr. Barker and moved Council waive the requirement that it be read by title on three different days, instructing the Clerk to read it by **title only for all three readings**. Second by Mr. Molnar.

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

Mr. Barker moved, Mr. Molnar seconded, to **adopt RES NO. 54-2009**, and post same according to law.

Roll call: Ayes: Barker, Engle, Martin, Molnar, Spraggins, Tulley
Nays: None
The motion carried. **RES. NO. 54-2009, adopted**

RES. NO. 55-2009

A RESOLUTION CONFIRMING APPOINTMENT OF DAVID MORRIS TO THE POSITION OF FULL-TIME FIREFIGHTER was **offered** by Mr. Barker and moved Council waive the requirement that it be read by title on three different days, instructing the Clerk to read it by **title only for all three readings**. Second by Mr. Engle.

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

Mr. Barker moved, Mr. Engle seconded, to **adopt RES NO. 55-2009**, and post same according to law.

Roll call: Ayes: Barker, Engle, Martin, Molnar, Spraggins, Tulley
Nays: None
The motion carried. **RES. NO. 55-2009, adopted**

Relative to RES. NO. 55-2009, Chief Black introduced Firefighter Morris who in turn introduced his family and friends who were in attendance. Mr. Morris thanked the Mayor and Council for his appointment. Mr. Morris said when he was appointed to the position of part-time firefighter for the City of Macedonia 9-years, 9-months and 19-months ago he thought it couldn't get better than this and now it has.

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MOTIONS OR OTHER LEGISLATIVE ACTIONS: None

CORRESPONDENCE: None

PUBLIC COMMENTS:

John Bush of Longwood Brook Drive and 42-year resident of Macedonia mentioned that for the last several months his Sprint mobile phone bill has had monthly charges of between 2 to 5 cents that are identified as a Macedonia City Tax. According to Sprint this is a sales tax imposed by the state legislator. Mr. Bush believes that tax to be 1 mill, or 10 cents on every \$100. Mr. Bush wanted Council, the administration and residents who may be Sprint subscribers to aware of this fee and who imposed the fee. From what he has learned Mr. Bush said the City may be entitled to some or all of the revenue generated by this tax. It is his understanding that revenue from the state imposed tax is supposedly remanded back to the City. Mr. Bush suggested Macedonia pursue whether in fact this is true. The E911 fee is separate and should not be confused with the Macedonia City Tax he just described. In fact Mr. Bush stated his bill under the title of Government Fees and Taxes lists the following: Ohio State 911 Tax, Ohio State Sales Tax, Summit County Sales tax, and Macedonia City Sales Tax.

With regards to another matter, Rosemary Filisky of Blue Jay Trail questioned why Summit County real property documents or Macedonia's zoning map for that matter do not reflect the correct zoning classification relative to 3 parcels or 22.89 acres, the area at the north end of South Bedford Road that was reclassified R-2 Residential Use District pursuant to the May 14, 2007, Summary Judgment issued by Judge Paul Gallagher.

Mayor Kuchta suggested to Ms. Filisky that perhaps the County neglected to update its records. The Mayor assured Mrs. Filisky that going forward the zoning reclassification will be properly marked. The Mayor thanked Mrs. Filisky for her due diligence and for being one of the most responsible residents he knows.

Mr. Diemert interjected that it appears the problem is clerical in nature. Identification of the zoning classification will be fixed immediately as the Mayor indicated. The property was reclassified R-2 as ordered by the court Mr. Diemert stated.

With regards to another matter, Councilor Spraggins asked Councilor Martin as representative to the Planning Commission to look into the matter of the sale of the former Tourist and Business Information Center, otherwise known as the TBIC. Mrs. Spraggins noticed a "For Sale" sign on the former TBIC building and does not believe the building can be sold under the terms of the lease agreement. It is Mrs. Spraggins' recollection she said that when the building was no longer of use it was to be torn down because it was non-conforming with no ingress or egress.

Mayor Kuchta informed Mrs. Spraggins that the entire parcel, not just that portion that the TBIC is located upon is for sale. The for-sale sign was placed on the corner of building for better visibility to SR8. The Mayor added that the Lease Agreement relative to the TBIC does not call for the demolition of the building as Mrs. Spraggins mentioned. Pursuant to the Agreement the current owners have full access and use of the building.

Councilor Tulley agreed with Mayor Kuchta in that the Agreement called for the structure to revert back to the property owner. There was no mention that the building was to be demolished if it was abandoned.

Councilor Spraggins' concern she said is that the use of the building is extremely limited and for that reason questioned the sale. Special considerations that were given at time and concession that were made may not be applicable if just that building is being sold she added.

With regards to another matter, Council Martin asked that structure or delineators being used to separate traffic at the location of the Speedway station be made to look attractive. Mr. Martin suggested a concrete triangle with some aesthetics value. He also suggested that the conceptual drawing of the divider(s) be presented to the Planning Commission.

Councilor Tulley reminded Mr. Martin that the Mayor brought this issue up during tonight's work session. The mayor not only addressed design concepts but that the cost will be the City's responsibility.

MAYOR'S REPORT:

"Changes are happening so quickly as the road repairs are being done that it is hard for even me to keep track! North bound I-271 ramps are going to be different. Keep thinking Bob Evans and whenever you need

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212 to go North from west of I-271. The NEW ramp to go North on I-271
213 **WILL BE LOCATED THERE** right next to Bob Evans. The old ramp
214 to get on I-271 that was by the school will be **GONE!** Left turns onto I-
215 271 North from Route 82 will be **Gone**. Right turns onto the North
216 bound ramp there will remain. Just for an example ...if you live off of
217 N. Bedford or Crow or Shepard nothing will change. If you live **WEST**
218 of the I-271 Bridge you will need to go South on 8 and get on the ramp
219 just next to Bob Evans.

220
221 South Bedford will not be able to be accessed by a left turn for a while.
222 The plan will be to not have that problem when school starts. They are
223 under the gun to finish the South side of 82 in 3 weeks!

224
225 Once again I would like to ask you yet again to learn alternate routes,
226 but not at the expense of not patronizing our local businesses. We need
227 to keep those folks in business in these chaotic times.

228
229 Tuesday night there was a meeting in Council Chambers to form a
230 relationship with the local YMCA. This was a Parks and Recs
231 Commission meeting that was held to accommodate and encourage
232 public input. There were no decisions, but many residents voiced their
233 opinions. We are looking to our Commission to provide direction on
234 this issue. To inquire about further Commission Meetings you can ask
235 at the Rec. Center or watch for the meeting postings.

236
237 We have been dealing with further losses of City Income Tax. The bad
238 economy will be started to be felt by loss of City services to cut cost.
239 You will immediately see cuts made by talking to a telephone instead
240 of a receptionist. I think that we are about to lose one of the best
241 receptionists we ever had. Diane Jones is leaving us Monday to move
242 out of state. We will have only one receptionist left and that is Denise
243 Slovan. Diane will not be replaced with a person as a cost cutting
244 measure. If things keep up as they are we could be doing less for our
245 residents in many ways. I am not happy with any of it, but at this point
246 the goal is not to spend more than we take in. We really aren't the only
247 ones because news shows daily talk about government cuts at the local,
248 county, and State level. At the next Finance Meeting further cuts from
249 every department will be brought to the table. These cuts will be
250 grouped as essential and non-essential. Essential will be cutting people
251 and core services. Non-essentials will be things like not doing crack
252 sealing on our streets. Is that really a non- essential? This year already,
253 all the street repaving that was scheduled to be done was pulled in our
254 original budget cuts in March. I am not talking major projects...I am
255 talking residential streets. To be frugal we pushed back our street
256 program and that expenditure was removed from the budget. We all
257 need to realize that doing this will affect street programs planned for
258 the next year, and then the next year. Back to not doing crack
259 sealing...by not doing crack sealing we will add more bad streets to the
260 list! In the spring we squeezed the Budget like squeezing the juice out
261 of a grape. Now we are going after the seed. Our finance committee is
262 Council as a whole and the finance meetings are public. The only thing
263 that is for sure is that more cuts will be needed. The problem faced by
264 the Administration and Council will be where do we stop cutting and
265 how can we increase revenue. Bringing in new businesses is a great
266 way to overcome deficit and we are lucky to have some coming.
267 However, that increase is offset by those we lose. I sincerely hope that
268 the slots will be in Northfield Race Track soon. I see only positive
269 effects on our local restaurants, hotels, and retail sales. The ripple effect
270 of that kind of a venture will affect businesses for miles. I know
271 because I remember the effect that Sea World had on those very same
272 types of businesses even though it was a long way away.

273
274 July 30th will be the last issue of the Sun newspaper we get here in
275 Macedonia. There will be a total of 22 publications that will be cut.
276 Again, the dark cloud of the economy looms.

277
278 We have hints that the old First Merit will be updated and occupied by
279 the end of the year. Walmart is moving closer to being a Super Store
280 through a long drawn out process. I believe that one more Planning

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281 Commission Meeting should about do it, so that construction can move
282 forward.

283
284 We are all being tested at this time. Try and remember that America is
285 the best country in the world and we have made it through this type of
286 economic downturn before.
287 God bless America and us all.”
288

COMMITTEE REPORTS

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291 **Planning Commission** Councilor Martin announced that Planning’s next meeting is Monday,
292 July 27 at 5:30pm.

293
294 **Finance Committee** Councilor Molnar announced that the finance meeting set for Thursday,
295 August 6 at 6:30pm may be rescheduled to Monday, August 3 at 7:30pm if the consultant is
296 available on that day and time. If he is not, the meeting will remain as previously scheduled.
297

298 **JEDD** Councilor Tulley announced a meeting of the JEDD Board will be held Wednesday,
299 August 29 at 6:30pm in Council Chambers.
300

301 **Northfield-Macedonia Cemetery Board** Mrs. Tulley announced that the Board held a meeting
302 last week in which the major area of discussion was future expenses and escalating costs. Mrs.
303 Tulley also mentioned that an initiative is underway of transferring cemetery records to a
304 computer data base for searchable purposes.
305

306 Mayor Kuchta advised Mrs. Tulley that there are sandstone blocks from the SR82 Bridge at the
307 9000 Valley View Road service garage that the Board is welcomed to cemetery purposes.
308

DEPARTMENT REPORTS

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310
311 **Service Department** Mr. Crevar reported that the service crew are performing catch basin
312 repairs as well as performing maintenance duties at the Twinsburg Road service garage. One of
313 the duties at the Twinsburg Road location is installing concrete pads by the area of the salt sheds.
314 At presently one bin is totally filled with salt. Once the pads are completed more salt will be
315 purchased. The additional salt should the City through December 31 he added. Mr. Crevar
316 reported that the parks crew is mowing and maintaining the athletic fields at Sugarbush and
317 Longwood he added.
318

319 **Building Department** Mr. Hlad had no report.
320

321 **Engineer’s Report** Mr. Hill was not present
322

323 **Recreation Department** Ms. Gmerek announced the second annual “Move in the Park” is
324 Friday, August 7 at Longwood. The movie being shown between 9-11pm is Kung Fu Panda.
325 Families are encouraged to bring their lawn chairs and blankets to enjoy a free event under the
326 stars where concession items will be sold she added.
327

328 **Finance Department** Mr. Sengstock had no report.
329

330 **Fire Department** Chief Black explained the Hazard Mitigation Plan pursuant to Ordinance
331 No. 34-2009. There are four phases of emergency management he said: mitigation, preparedness,
332 response and recovery. The first, mitigation is the action taken to eliminate or reduce the degree
333 of risk to life or property. Mitigation is the effort to lesson the chance that a disaster will occur.
334 Preparedness is the part of the program that makes the response to a disaster more effective.
335 Response is the action taken immediately before, during or just after the emergency. The recovery
336 mode is when vital support systems are returned back to normal operating standards he stated.
337 Chief Black stated the Mitigation Plan of Summit County including Macedonia covers every type
338 of emergency; winter storms, tornadoes, severe thunder storms, high winds, transportation
339 incidences, hazardous material incidences, civil disturbance, terrorism, drought, flood damage
340 and infectious diseases. The chief added that federal dollars can be captured by the mere fact this
341 Plan has been adopted. With regards to another matter Chief Black thanked Macedonia residents
342 for supporting the fire levy and the Mayor and Council for the appointment Firefighter Dave
343 Morris. Residents are to be applauded Chief Black stated for their generosity and unselfishness.
344 In this stressful, economic environment residents have reached into their pockets in order to keep
345 Macedonia’s fire department operating at optimal levels he stated.
346

347 **Police Department** Chief Golden reminded motorists to be mindful that traffic patterns have
348 been changed along SR82. The change will be for about three weeks. Signs have been posted at
349 various locations and will be changed again when traffic will be shifted again. Regarding another
350 matter, Chief Golden mentioned that house and vehicle invasions and burglaries have increased.

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351 Residents and motorists were encouraged to immediately report behavior or activities of a
352 suspicious nature to the police department.

353
354 **Law Department** Mr. Diemert had no report.

355
356 **Unfinished business** None

357
358 **New business** None.

359
360 **EXECUTION SESSION**

361
362 **At 8:35pm Mrs. Spraggins moved to adjourn into Executive Session for the purpose of**
363 **discussing contract negotiations. For lack of a second, Mrs. Spraggins' motion failed.**

364
365 Mrs. Spraggins asked what the financial impact of the Administrative Unit Collective Bargaining
366 Agreement (Ordinance No. 53-2009) will be to the 2009 budget to which Mr. Sengstock
367 responded he will not have that information until the finance meeting. Mrs. Spraggins asked Mr.
368 Engle if he'll be scheduling a special meeting to act upon Ordinance No. 53-2009.

369
370 Mr. Engle responded that if another member of Council wants to call a special meeting, their
371 welcomed to make the motion to do so. Frankly, his personal choice he said is that the contract
372 ratify by default without Council action because Council has had no involvement. Former
373 Finance Director Anna Musson informed Council that there is money in budget to cover the cost
374 of the contract this year.

375
376 Law Director Diemert informed Council that the bulk of the contract is comprised of boiler plate
377 language. What is contained within establishes what the management's rights are and what the
378 employees' rights are. As the first union contract for the administrative employees, this
379 agreement lays the ground work for all future discussions, negotiations and grievances. The
380 contract is just for one year and will expire December 31, 2009. There are no wages indicators
381 for the current contract Mr. Diemert added except those identified in Attorney Hoban's "Side
382 Letter to the Collection Bargaining Agreement". The Side Letter addresses pay increases for
383 three employees for this year. The total cost for these employees' amounts to about \$7,000 Mr.
384 Diemert stated. The remaining administrative employees' increases will occur after February 1,
385 2010. The financial impact for 2010 should be in the area of \$14,000-\$15,000. Mr. Diemert
386 reminded Council that the new contract must be accepted or rejected by August 8. Mr. Diemert
387 will confer with Mr. Hoban to see if Council can accept the contract and reject the Side Letter
388 which is the only part of the contract that has a financial impact for this year as well as next.

389
390 Mrs. Spraggins questioned why Section 17.01 of the proposed contract relative to separation of
391 employment doesn't identify the limit paid out to an employee as the Codified Ordinances does.

392
393 Mr. Diemert responded that the Codified Ordinance relative to employee benefits still applies to
394 union employees. If the Codified Ordinance is in conflict with the union contract than it is not
395 applicable Mr. Diemert told Mrs. Spraggins, if it does than it is still applicable.

396
397 Mrs. Spraggins believes the new contract misses some pertinent language that could prove costly
398 when an employee separates employment.

399
400 Councilor Tulley interjected that there are several areas within the new contract that the values
401 and dollar amounts Mrs. Spraggins is concerned with are in fact addressed. Section 20.08 for
402 example addresses accrued sick leave. The limit is 40% of the value not to exceed 384 hours.
403 And Section 33.03 addresses vacation accumulation and Section 33.04 addresses vacation time
404 upon separation.

405
406 Mrs. Spraggins asked if 100% vacation time can be carried over to which Mr. Sengstock
407 answered that it cannot. However, with the Mayor's approval one week of vacation time may be
408 carried over and used in the subsequent year. There was some uncertainty whether the carried
409 over week must be used in the first quarter. Pursuant to CO Chapter 161.12(d) it does not.

410
411 Mrs. Tulley stated the language of the new contract mirrors the Codified Ordinance.

412
413 Mrs. Spraggins questioned why Section 37.02 of the contract states the City has the right to
414 conduct drug and alcohol upon reasonable suspicion when she thought in order to receive
415 discounts from the Bureau of Worker's Compensation the City had to maintain a "Drug Free
416 Work Place" and all employees had to be tested randomly.

417
418 Mrs. Tulley told Mrs. Spraggins she is reading Section 37.02 out of context. The City still
419 requires random testing. Further in the paragraph Mrs. Tulley said it states the City has the right

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420 to require employees holding positions designated as safety sensitive to participate in random
421 drug and alcohol testing.

422

423 Mayor Kuchta interjected that in regards to the discount the City had been receiving it is his
424 understanding that going forward this discount is no longer going to be issued.

425

426 Mrs. Spraggins stated that in as much as the union contract is the ruling document she disagrees
427 with how the paragraph was drafted. Reasonable suspicion and post accident testing are totally
428 different than random testing particularly with regards to employees in public sector positions
429 Mrs. Spraggins said.

430

431 There being no further business before Council, the meeting was adjourned at 8:50pm

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