

## Regular Council

August 27, 2009

The August 27 regular meeting of Macedonia City Council was called to order at 7:35pm, Mayor Donald Kuchta presiding.

**Present:** Council members' Shane Barker, David Engle, Kenneth Martin, Nicholas Molnar, Peggy Spraggins and Janet Tulley; Assistant Law Director Thomas Hanculak, and Council Clerk Josephine Arceci.

**Absent:** None

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

**FINANCIAL REPORT** Mr. Molnar moved, Mr. Barker seconded acknowledging receipt of the Financial Report dated May 31, 2009.

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

**PRESENTATION** Donald Spaner, M.D., Emergency Medical Director for Southpointe Hospital, part of the Cleveland Clinic healthcare system presented the fire department with two heart monitors know as Lifepak 15s. Dr. Spaner is the fire department's medical supervisor and Southpointe is the department's medical and quality control hospital. Southpointe also provides EMS training under Dr. Spaner's direction. Dr. Spaner is a colonel in the US Army attached to the 246<sup>th</sup> Combat Support Hospital. He is a veteran of Afghanistan and Iraq having been immobilized four times since 9/11. For the last three years Dr. Spaner has been medical director of the Cleveland Breast Cancer 3-Day Walk. Joining Dr. Spaner for the presentation was Kathy Crawford, Vice President of Professional Services, Sharon Dooley, Director of Emergency Services and Rich Wisniewski, EMS coordinator of Southpointe Hospital and Sagamore Hills Medical Center. Dr. Spaner explained that the two heart devices, valued at about \$80,000 are capable of monitoring and instantaneously transmitting a patient's readings to the hospital for immediate analysis before the ambulance's arrival. The machines also monitor carbon dioxide and carbon monoxide levels. Macedonia is fortunate in that it is the only community in Summit County using these highly sophisticated machines. The machines are loan for an extended period. In addition the monitors the City also received an electronic vein finder. The view finder emits a strong light that literally tracks viable veins for intravenous infusions. The finder prevents blind sticks which are particularly troublesome in children and older adults. Dr. Spaner exalted Macedonia's fire department which he described as one of the best units he has ever worked with.

Chief Black thanked Dr. Spaner, Ms. Dooley, Ms. Crawford and Mr. Wisniewski for their continued support and for the use of the Lifepak 15s.

### **INTRODUCTION, READINGS & ADOPTION OF LEGISLATION**

Mr. Martin moved, Mrs. Spraggins seconded to **table ORD. NO. 31 -2009: AN EMERGENCY ORDINANCE AMENDING SECTION 1127.03 OF THE CODIFIED ORDINANCES OF THE CITY OF MACEDONIA RELATIVE TO THE DEDICATION OF OPEN SPACE WITHIN A SUBDIVISION with the intent Ordinance No. 31-2009 be placed on Council's September 24, 2009 work session agenda.**

Roll call: Ayes: Barker, Engle, Martin, Molnar, Spraggins, Tulley  
Nays: None  
The motion carried. **ORD. NO. 31-2009 tabled**

Relative to ORD. NO. 31-2009 and prior to adoption the following discussion was held.

Mrs. Spraggins said she was only willing to table Ordinance No. 31-2009 knowing it will be discussed in the very near future. There has been a considerable amount of time, energy and cost attributed to creating a new code section and setting it aside without coming to a final determination in her opinion is counterproductive. Mrs. Spraggins feels Mr. Migliorini is in violation of the current ordinance for not paying the recreation fee in its entirety. She feels strongly that something should be done to rectify this situation. Mrs. Spraggins asked the law director be present for the work session discussion.

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Council President Engle interjected that determining the statutory construction of Section 1127 has been difficult and inconclusive as Mr. Diemert has pointed out is his July 27 legal opinion. This is troublesome to Mr. Engle because he does not believe the Planning Commission had the authority to allow the partial payment of recreation fees relative to the Mary Maria subdivision. The inability to understand the rational or intent of those who amended Section 1127 over 20 years ago is part of the issue. Another part is the conflicting interpretations of Section 1127. Mr. Engle added the language of Ordinance No. 31-2009 really doesn't fully captured the essence of Mr. Engle's initial intent so passing it is problematic and thus the reason he was willing for it to be tabled.

Councilor Martin said he doesn't feel the legislation should be reconsidered as Mrs. Spraggins suggests. Mr. Martin feels it was within the Planning Commission's authority and discretion to permit payments as each parcel is sold.

**Prior to the readings of Ordinance No. 56 and 57-2009 Mrs. Spraggins had asked that they be removed from the agenda because in her opinion there was no reason they should segregated from Ordinance No. 58-2009, the legislation amending the 2009 appropriations. Mrs. Spraggins felt it was redundant for the ordinances to be on the agenda as the funding relative to each program identified in their respective ordinances is also identified in Ordinance No. 58-2009.**

**Mr. Hanculak explained to Mrs. Spraggins the reason the ordinances are on the agenda and separate action is required is because each program was created pursuant to its own ordinance. Each original enabling ordinance is in full force and effect until it's amended, thus the relevancy for isolating them from Ordinance No. 58-2009. Ordinance Nos. 56 & 57-2009 identifies what is to happen to the funds and for what period of time. The amended appropriation (Ordinance No. 58-2009) will show that the funds have been removed.**

**Mr. Sengstock explained further to Mrs. Spraggins that logically Ordinance Nos. 56 & 57-2009 should be acted upon before the appropriation is amended and therefore the reason they were placed on the agenda prior Ordinance No. 58-2009.**

**ORD. NO. 56-2009**

AN EMERGENCY ORDINANCE SUSPENIND THE MACEDONIA FIRE DEPARTMENT'S FIRE AND PREVENTION AWARENESS PROGRAM AND FUNDING OF THE SAME FROM SEPTEMBER 1, 2009 THROUGH DECEMBER 31, 2010 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 only for all three readings**. Second by Mr. Engle.

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

Mr. Molnar moved, Mr. Engle seconded, to **adopt ORD. NO. 56-2009**, and post same according to law.

Roll call: Ayes: Barker, Engle, Molnar, Spraggins, Tulley  
Nays: Martin  
The motion carried. **ORD. NO. 56-2009, adopted**

**ORD. NO. 57 -2009**

AN EMERGENCY ORDINANCE SUSPENDING THE CITY'S SENIOR REFUSE AND SNOW PLOWING PROGRAMS FOR INDEFINITE PERIOD (**Ordinance No. 57-2009 not acted upon.**)

**ORD. NO. 58-2009**

AN EMERGENCY ORDINANCE AMENDING AND SUPPLEMENTING THE 2009 ANNUAL APPROPRIATIONS ORDINANCE NO. 3-2009 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 only for all three readings**. Second by Mr. Engle.

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

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Mr. Engle moved, Mr. Baker seconded to **amend ORD. NO. 58-2009, Exhibit A as follows:**

- Deleting \$10,800 ((05C) Recycling Drop Off and Senior Citizen Refuse Subsidy) from Tier 1 of proposed amendments to appropriation.
- Deleting \$8,000 (Senior Citizen Snow Plowing Program (07W)) from Tier 1 of proposed amendments to appropriation.
- Reducing capital outlay relative to police cruisers from \$96,000 to \$25,332 (01A) from Tier 1 of proposed amendments to appropriation.
- Deleting \$25,332 ((01B) cost of part-time jailers) from Tier 3 of proposed amendments to appropriation. (Funds taken from part-time jailers to be used to purchase one (1) cruiser).

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

Mr. Molnar moved, Mrs. Tulley seconded, to **adopt ORD. NO. 58-2009, as amended.** and post same according to law.

Roll call: Ayes: Barker, Engle, Molnar, Spraggins, Tulley  
Nays: Martin  
The motion carried. **ORD. NO. 58-2009, adopted as amend.**

Relative to ORD. NO. 58-2009 and prior to adoption the following discussion was held.

Councilor Barker thought Council should wait several more weeks before taking action.

Councilor Tulley felt strongly that Council couldn't afford to wait. Too much is at stake to keep putting off the inevitable she said. There is no money tree she added. Income tax collections have not just flat lined, they've decreased from earlier projections and there is no indication collections are going to improve she added. Council is doing its best to keep the work force stable. Employee lay-offs or furloughs won't have to be considered if the budget is amended now and financial conservatism prevails. The average citizen is learning to cope with less; the City must learn to do the same she added. Waiting or putting off what needs to be taken care of now is financially irresponsible Mrs. Tulley stated

Mr. Sengstock agreed with Mrs. Tulley. Deferring action several more weeks is counter productive and ill-advised he added. A lot of work and talk has occurred to come to tonight's conclusions. There are no surprises and there is not going to be better news in the weeks ahead. Delaying action another month will in fact jeopardize the City's financial condition even further he added. Each department head has been waiting for direction Mr. Sengstock stated. It is not fair to them or their personnel to wait any longer.

Mr. Stuczynski, financial consultant to the City advised Council that delaying action presents a conundrum. There are just a limited number of line items within the amended appropriations that can wait another 30-days. The longer Council waits the timetable in which the proposed cuts can be implemented shrinks and the greater the potential for a riskier, more troublesome situation to occur. If Council in fact wants to wait Mr. Stuczynski suggested that that action be taken no later than the next regular meeting.

Councilor Engle interjected that the administration in collaboration with Council made good decisions with regards to the cuts that have been presented. While there are some areas Mr. Engle personally would have changed overall he is pleased with the reductions and for this reason feels the amendments should be approved this evening.

Councilor Molnar other the hand said he feels before any cuts are made the emergency reserve fund should be used. Later in the year, if the financial situation continues then cuts will be made. In Mr. Molnar's mind the City's current situation is an emergency and therefore his reason for wanting to use the emergency reserve.

Councilors Engle and Tulley didn't agree with Mr. Molnar. Mr. Engle said this year's financial situation is an immediate concern but the picture Mr. Sengstock and Mr. Stuczynski have painted for next year may be more daunting. With revenues projected to be down by 2.5%, Council must be prepared to deal with 2010. Using the emergency reserve now and not providing a safeguard or buffer for next year is not wise Mr. Engle's opinion.

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Councilor Molnar interjected that he is optimistic in part he said current indicators are that the economy is showing signs of improvement.

Councilor Barker said he was willing to act on the amendments tonight with minor revisions. His fear is that if the general amendments are made Council will not add back the cuts made this evening, particularly with regards to allowing the purchase of one police cruiser.

Councilor Engle suggested Council adopt the appropriation with revisions discussed during tonight's work session. The proposals of suspending funding to the F.A.I.R program, foregoing hiring part-time jailers at a savings of \$25,662 (Tier 3 proposal) and using the \$25,662 to purchase one police cruiser, retaining the senior snow removal and rubbish subsidy program and retaining the recycling bin at the Recreation Center are good compromises to him because they appease Council and allow the administration to move forward from today.

Councilor Spraggins asked Chief Black if the hours that's he's cut relative to the position of part-time fire inspector are going to be reinstated to which that chief answered that there are not. Chief Black main goal he told Mrs. Spraggins is to stay under budget and by reinstating hours prevents him from doing so. The chief told Mrs. Spraggins because the fire department's budget was cut \$158,000 he can ill afford not to adhere to the reductions he's proposed. The chief assured Mrs. Spraggins while the part-time fire inspector's hours have been cut there have been no staffing changes. The individual Mrs. Spraggins is referring to Chief Black stated has been assigned shift hours. Currently the chief explained that there are four fire fighters on shift. After the first of the year that will increase to five as promised to Macedonia's voters.

Councilor Engle assured Mrs. Spraggins that the part-time fire inspector was not laid-off as she was lead to believe. Chief Black simply changed the structure of the fire department, which in Mr. Engle's mind was a creative way to save dollars and positions.

Mr. Hanculak interjected that Council should adopt the amendments this evening, (the Tier 1 proposals) then at the September 10 meeting Council may revise what they adopt tonight. By doing this at least the general amendments can be made without further worry or anxiety.

Mr. Stuczynski advised Council that if they revisit Ordinance No. 58-2009, that they should not reconsider the Tier 1 proposal again, other that what's been previously mentioned. Doing otherwise he suggested sends a conflicting message to the administration.

Mrs. Spraggins asked the Mayor if Council has a commitment from him that the administration will adhere to the reductions proposed this evening.

Mayor Kuchta told Mrs. Spraggins that he did not understand her question. After all it was the administration who presented the reductions he added.

Mrs. Spraggins answered that several months ago Council directed the reduction of the personnel administrator (HR) yet the administration ignored that directive.

Mayor Kuchta reminded Mrs. Spraggins that Council took the opportunity in his absence to remove the position and funding relative to an administrative employee. Council's take of funding for an employee whose salary was previously appropriated was most probably an illegal gesture the Mayor added. Mayor Kuchta said he was advised by the law director that the position not be eliminated. Placing City employees in harms way and creating the potential for libelous situations as Council's directive would have done was, if not illegal, very narrow minded the Mayor added. With regards to the reductions presented this evening Mayor Kuchta told Mrs. Spraggins the proposals are a culmination of weeks of review by he and his staff and he resents her acquisitions.

### **RES. NO. 59-2009**

A RESOLUTION AUTHORIZING AND DIRECTING THE DIRECTOR OF FINANCE TO IMPLEMENT TRANSFERS BETWEEN CERTAIN FUNDS. 2009 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 only for all three readings**. Second by Mr. Barker.

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

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Mr. Molnar moved, Mr. Barker seconded, to **adopt RES NO. 59-2009**, and post same according to law.

Roll call: Ayes: Barker, Engle, Martin, Molnar, Spraggins, Tulley  
Nays: None  
The motion carried. **RES. NO. 58-2009, adopted.**

Relative to RES. NO. 59-2009, Deputy Finance Director Sengstock explained the transfers are housekeeping in nature and have a neutral effect on the budget.

**MOTIONS OR OTHER LEGISLATIVE ACTIONS:** None

### **CORRESPONDENCE:**

Letter of appreciation from the Taylor Family of Macedonia to Chief Golden and his staff for the periodic inspections of their property while on vacation..

Letter of appreciation from the entire team of Macedonia's Shooting Stars including Sandy Bell, Sandra Riha, Dianne Moore and their entire team to Macedonia's Youth Fire Explorers for their during the Relay for Life held in Twinsburg, Ohio on June 5-6, 2009.

### **PUBLIC COMMENTS:**

Karen Zagara, 8437 Oaktree asked for clarification relative an article in the local newspaper detailing reductions within the fire department. Ms. Zagara fully supports the safety forces, the police and fire departments and if the article is correct she is extremely disappointed that the City has chosen to reduce personnel and hours.

Chief Black responded that the article is incorrect. There has been no reduction in shift time. Each shift is fully manned. Part-time staffing has been reduced as full-time firefighters have been appointed. This is a natural transition and in the long run a cost savings to the City the chief stated. The voters of Macedonia have been generous Chief Black added and for this reason the department is staying intact.

**MAYOR'S REPORT:** See end of this document.

### **COMMITTEE REPORTS**

**Planning Commission** Councilor Martin announced that the Commission approved signage at its August 14 meeting for a Mexican restaurant that will be utilizing the space once occupied by the Denny's restaurant. The next Planning meeting is September 14 at 5:30pm.

Councilor Spraggins asked Mr. Martin if he's brought the use of the TBIC building to the attention of the Planning Commission to which Mr. Martin answered that he forgot and he apologized for doing so.

### **DEPARTMENT REPORTS**

**Service Department** Mr. Crevar reported that all curbed streets throughout the City have been sweep. This will be the last sweep before the winter season he added. Mr. Crevar reported a water main break occurred on Highland Road in the vicinity of Patio Enclosure and Fun and Stuff. The second round of bid openings relative to the refuse collection is Friday, August 28 at noon. Four bids were received compared to three the last time Mr. Crevar added. Mr. Crevar also reported the service crew have recently completed an extensive storm water project on S. Bedford Road in the area of Nordonia High School.

**Building Department** Mr. Hlad reported that the Route 82 bridge widening and road improvement project is on schedule. Mr. Hlad stated he and Mr. Sengstock meet with officials of District 4 to discuss funding relative to the Route 82 project. There have been several change orders throughout the project amounting to about \$200,000 Mr. Hlad stated. However, about \$175,000 worth of work has not had to be performed. The cost differential is then almost a wash he added. Mr. Hlad reported that South Freeway Drive is nearly complete. Berm restoration is all that has to be done. Mr. Hlad reported that there are currently 22 homes under construction with 12 additional homes having their final grade. Total new home construction this year has been 40 Mr. Hlad stated with a valuation of over \$6 million dollars.

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**Engineer's Report** Mr. Hill was not present

**Recreation Department** Ms. Gmerek was not present

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

**Fire Department** Chief Black thanked Dr. Spanner, his staff, and Southpointe Hospital for the continued support they provide Macedonia. The Lifepak 15s will provide an edge to the already efficient and effective service Macedonia provides to its residents. Chief Black also thanked Ms. Zagara for attending tonight's Council meeting and questioning information reported in the local paper.

**Police Department** Lt. Vince Yakopovich in Chief Golden's absence reminded residents to be mindful that school is back in session. Each driver needs to be cautious and attentive as school children are now clustered at bus stops at various locations throughout the city.

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

**Unfinished business** Mrs. Spraggins asked Mayor Kuchta the status of the Twinsburg Road Quiet Zone to which the Mayor answered that the stimulus money has been turned over to the ODRC. A situation for which the Mayor stated he is not happy. The mayor said he would have preferred that the money would have remained with the City as a way to ensure the project would get done sooner than later. The project at this point the Mayor added is out of local control. The Mayor is certain though that Greg McNeil, the Hudson resident who spear headed the Quiet Zone Project and who was instrumental in getting the stimulus money is monitoring the situation.

**New business** None.

There being no further business before Council, the meeting was adjourned at 9:25pm

### **Mayors Report**

Some good news about the audit this year. It is being presented much earlier than it has been in years. We will be having our Post Audit Meeting next week. When I was elected the City had spent more than it had taken in the years preceding my taking office. The lack of thorough audits was causing it and handicapping the Administration and the Council. The elected officials were not aware of just were the City stood financially. Good audits are that critical. When my first audit was presented and it was incomplete, a meeting was called with the auditors, along with then Council President Jan Tulley, we showed those auditors the door. This auditor was a private contracted auditor working for the State. Usually municipalities are not too anxious to go against the State Auditor or the people working for their office, because it could lead to very tough audits in the future and that is not what elected officials want. However that strategy turned out to be a good thing for the City.

In subsequent years after that encounter our audits were long in getting before us and delayed over and over (at one time the Auditors had to leave for three months because they could not make sense of the mess our Tax Department was in)! We had removed our tax Department and gone to RITA (Regional Income Tax Agency) right about then. It took the experts at RITA **3 months** to get the mess resolved so that an audit could be done correctly. We then went through years of getting audits at the end of the year following the actual year being audited! It is very hard to correct procedures that would result in good results for the next audit when we were so late in getting guidelines and recommendations. We also had audits that listed a myriad of problems because things were not being done correctly for years. There were problems everywhere in how transactions were being done. But I still consider the fact that we were finding out where our problems were was better than being oblivious to them and it gave us the opportunity to fix them. We have been doing this year by year by year. This could start to finally show results in this audit. Last year's audit will be made public after the Post Audit Meeting.

Meetings are continuing with the NEORS. (North East Ohio Regional Sewer District). To refresh your memory...they are the final destination of our sewage therefore we are

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one of the communities that make up the Council of Governments who comprise the District. Technically NEORS was created by Judge George J. McMonagle to develop a detailed integrated plan for regional management of waste water collection and storm water drainage“. Over the years this had led to many improvements and projects in Cuyahoga County. There is now a growing threat that they will be charging us a Storm Water fee. Our fears are that those fees would disappear into Cuyahoga County never to be seen again. At first the plan had all minuses and no pluses. As we move forward the pluses are growing substantially. They will be able to force the fee by law, and if we get stuck paying it, the goal is for our projects as identified by the long hard work of our storm water committee (the DSCC) will become the priority projects for the NEORS. I think we are gaining ground, and the plan is not due to rollout until the middle of next year. It is our hope to work with Summit or Cuyahoga, no matter where the fee comes from to get the best bang for our buck.

I would like to thank Rosemary Filisky for taking time out of her day to represent the DSCC at this meeting. The DSCC and I have received a draft of the “Rain water management in Summit County program”. Having a creek run through our town and having hills all around us means that we have always needed attention paid to our flooding problems. I foresee a day when all of our residents will worry just a little less when they hear the rumbling thunder coming our way.

Just a quick explanation for the nightmare traffic jam going through town today. There was a water main break on Highland Rd. and traffic had to be detoured to 82 which is not ready to handle it yet. I am told that the businesses will have water soon and that the main should be fixed by midnight.

As a parting thought today I have to repeat a phrase you have heard me say many, many times. Please frequent our local businesses. These are some very hard and scary times for them. It may take you a couple of minutes longer but we need to keep them in business!