

Regular Council

September 11, 2008

1 Presiding Officer, Mayor Donald Kuchta called the September 11 regular meeting of Macedonia
2 City Council to order at 7:48pm.

3
4 **Present:** Council members' Shane Barker, David Engle, Kenneth Martin, Nicholas Molnar
5 and Peggy Spraggins; Law Director Joseph W. Diemert Jr., and Council Clerk
6 Josephine Arceci

7
8 **Absent:** Council member Janet Tulley

9
10 **PLEDGE OF ALLEGIANCE** led by Council President Dave Engle was followed by an invocation
11 led by Councilor Nick Molnar in which he in asked for a moment of silence in the memory of the
12 events of 9/11.

13
14 **HEARING** There were no public comments made relative to Ordinance No. 78-2008
15 regarding changing the street name of South Park Boulevard to Girl Scout Way.

16
17 **EXECUTIVE SESSION**

18
19 **At 7:49pm, Mr. Engle moved, Mr. Barker seconded, to adjourn into an executive session for**
20 **the purpose of discussing pending litigation. Included in the executive session was Attorney**
21 **Patrick Hoban of Zashin & Rich Co., L.P.A.**

22
23 **Roll call: Ayes: Barker Engle, Martin, Molnar, Spraggins**
24 **Nays: None**
25 **The motion carried**

26
27 **Council reconvened into the regular meeting at 8:34pm**

28
29 **INTRODUCTION, READINGS & ADOPTION OF LEGISLATION**

30
31 Mr. Molnar moved, Mrs. Spraggins seconded, for **ORD. NO. 67-2008:**
32 **AN EMERGENCY ORDINANCE AMENDING VARIOUS PROVISIONS OF CHAPTER 761**
33 **OF THE CITY OF MACEDONIA'S CODIFIED ORDINANCES PERTAINING TO**
34 **PEDDLERS AND SOLICITORS to remain at its second reading.** (Introduced June 26, 2008)

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36
37 **Roll call: Ayes: Barker Engle, Martin, Molnar, Spraggins**
38 **Nays: None**
39 **The motion carried**

40
41 Mrs. Spraggins moved, Mr. Engle seconded, for **ORD. NO. 69-2008:AN EMERGENCY**
42 **ORDINANCE AMENDING ARTICLE VII OF THE LEASE BY WAY OF CONCESSION**
43 **BETWEEN THE CITY OF MACEDONIA AND 2CLUB GOLF OF MACEDONIA, LLC to**
44 **remain at its second reading** (Introduced July 10, 2008)

45
46 **Roll call: Ayes: Barker Engle, Martin, Molnar, Spraggins**
47 **Nays: None**
48 **The motion carried**

49 **ORD. NO 71 -2008**
50 **AN EMERGENCY ORDINANCE AUTHORIZING THE USE OF FULL-TIME MACEDONIA**
51 **POLICE OFFICERS AS FILL-IN PART-TIME JAILERS IN THE MACEDONIA JAIL ON A**
52 **VOLUNTARY, OCCASIONAL AND SPORADIC BASIS AT THE PART-TIME JAILER'S**
53 **RATE was offered by Mr. Barker for its third reading by title only. Second not required.**

54
55 Mrs. Spraggins moved, Mr. Barker seconded, to **amend ORD. NO. 71-2008** to require that Mr.
56 Diemert's legal opinion dated May 27, 2008 and entitled "Use of Full-Time Patrol Officers for
57 Part-Time Jail Fill-in" to be incorporated as exhibits to the ordinance as well as the minutes of
58 this meeting. **(Letter attached to end of this document)**

59
60 **Roll call: Ayes: Barker Engle, Martin, Molnar, Spraggins**
61 **Nays: None**
62 **The motion carried**

63
64 Mr. Barker moved, Mrs. Spraggins seconded, to **adopt ORD. NO. 71-2008, as amended**
65 **and post same according to law.**

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69 Roll call: Ayes: Barker Engle, Martin, Molnar, Spraggins
70 Nays: None
71 The motion carried. **ORD. NO. 71-2008, adopted as amended.**
72

ORD. NO. 75 -2008

74 AN EMERGENCY ORDINANCE ESTABLISHING THE EMERGENCY RESERVE FUND
75 was **offered** by Mrs. Spraggins and moved Council to waive the requirement that it be read by
76 title on three different days, instructing the Clerk to read it by **title only for its second and third**
77 **readings.** Second by Mr. Molnar.

78
79 Roll call: Ayes: Barker, Engle, Martin, Molnar, Spraggins
80 Nays: None
81 The motion carried
82

83 Mrs. Spraggins moved, Mr. Molnar seconded, to **adopt ORD. NO. 75-2008**, and post same
84 according to law.

85 Roll call: Ayes: Barker, Engle, Martin, Molnar, Spraggins
86 Nays: None
87 The motion carried. **ORD. NO. 75-2008, adopted**
88

ORD. NO. 78-2008

89 AN ORDINANCE GRANTING THE PETITION OF THE GIRL SCOUTS OF NORTHEAST
90 OHIO TO CHANGE THE NAME OF SOUTH PARK DRIVE TO GIRL SCOUT WAY was
91 **offered** by Mr. Martin and moved Council to waive the requirement that it be read by title on
92 three different days, instructing the Clerk to read it by **title only for its second and third**
93 **readings.** Second by Mr. Engle.
94

95 Roll call: Ayes: Barker, Engle, Martin, Molnar, Spraggins
96 Nays: None
97 The motion carried
98

99 Mr. Martin moved, Mr. Engle seconded, to **adopt ORD. NO. 78-2008**, and post same according
100 to law.

101 Roll call: Ayes: Barker, Engle, Martin, Molnar, Spraggins
102 Nays: None
103 The motion carried. **ORD. NO. 78-2008, adopted**
104

105 Mr. Martin moved, Mr. Barker seconded, that **RES. NO. 79-2008: A FINAL RESOLUTION**
106 **RELATIVE TO THE RESURFACING OF STATE ROUTE 8 remain at its first reading.**
107

108 Roll call: Ayes: Barker, Engle, Martin, Molnar, Spraggins
109 Nays: None
110 The motion carried
111

ORD. NO. 87 -2008

112 AN EMERGENCY ORDINANCE AMENDING 151.01(b)(1) OF THE CODIFIED
113 ORDINANCES REGARDING THE COMPOSITION OF POLICE LIEUTENANTS IN THE
114 MACEDONIA POLICE DEPARTMENT was **offered** by Mr. Barker its **second reading by**
115 **title only.** Second not required.
116

117 Relative to ORD. NO. 87-2008, Councilor Barker, Safety Committee chair announced that the
118 Safety Committee will be meeting at 6pm September 25 to discuss this legislation.
119

ORD. NO. 88-2008

121 AMENDING CHAPTER 139 REGARDING PAYMENT TO SAFETY FORCE EMPLOYEES
122 DEPLOYED BY THE FEDERAL GOVERNMENT FOR NATURAL DISASTER RESPONSE
123 OR MATTERS OF HOMELAND SECURITY IN ORDER TO AFFECT FULL
124 REIMBURSEMENT FROM THE FEDERAL GOVERNMENT was **offered** by Mr. Barker and
125 moved Council to waive the requirement that it be read by title on three different days, instructing
126 the Clerk to read it by **title only for all three readings.** Second by Mr. Engle
127

128 Roll call: Ayes: Barker, Engle, Martin, Molnar, Spraggins,
129 Nays: None
130 The motion carried
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Mr. Barker moved, Mr. Engle seconded, to **adopt ORD. NO. 88-2008**, and post same according to law.

Roll call: Ayes: Barker, Engle, Martin, Molnar, Spraggins
Nays: None
The motion carried. **ORD. NO. 88-2008, adopted**

Relative to ORD. NO. 88-2008, Finance Director Brunot explained that FEMA reimburses communities for the local public employees deployed in cases of national disasters whether the disasters be weather related or otherwise. All costs relative to the deployment, including overtime are reimbursed he added. Chief Black, as a member of an Ohio specialized disaster unit was deployed to New Orleans because of Hurricane Gustav. Under normal working conditions Mr. Brunot explained, Chief Black as a department head would not be eligible for overtime at time and a half. However, during his deployment Chief Black is employed by FEMA and therefore is eligible. The timeliness of the passage of this ordinance is relevant because this is payroll week and until this ordinance is approved Chief Black cannot be paid.

Councilor Spraggins asked who paid for the Macedonia firefighters who traveled to New Orleans following Hurricane Katrina to which Mr. Brunot answered they responded as volunteers using their personal time and/or vacation time. There was no additional cost to the City.

Captain Gagliardi interjected that FEMA learned after Hurricane Katrina that the best prevention is pre-staging rescue personnel in times of impending danger instead of recruiting them after the fact. FEMA has been very pro-active since Katrina in establishing units of specialists in various rescue techniques for deployment on a moments notice.

Ordinance No. 89-2008 & Resolution No 90-2008 added to the agenda by motion of Mrs. Spraggins and second by Mr. Engle.

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

ORD. NO. 89-2008
AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH DAY FORD FOR THE PURCHASE OF A 2008 FIRE VEHICLE FOR THE FIRE DEPARTMENT was **offered** by Mr. Barker and moved Council to 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 and waive the 48-hour rule of Council**. Second by Mr. Molnar.

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

Mr. Barker moved, Mr. Molnar seconded, to **amend ORD. NO 89-2008**, to read: "...THE PURCHASE OF A 2008 ~~FIRE VEHICLE~~ FORD EXPEDITION FOR THE FIRE DEPARTMENT..."

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

Mr. Barker moved, Mr. Molnar seconded, to **adopt ORD. NO. 89-2008**, and post same according to law.

Roll call: Ayes: Barker, Engle, Martin, Molnar, Spraggins
Nays: None
The motion carried. **ORD. NO. 89-2008, adopted, as amended.**

RES. NO. 90-2008
AUTHORIZING MAYOR KUCHTA TO BE MACEDONIA'S ALTERNATE REPRESENTATIVE TO THE WESTERN RESERVE CABLE CONSORTIUM was **offered** by Mr. Engle and moved Council to 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 and waive the 48-hour rule of Council**. Second by Mr. Barker.

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

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199 Mr. Engle moved, Mr. Barker seconded, to **adopt RES. NO. 90-2008**, and post same according
200 to law.

201 Roll call: Ayes: Barker, Engle, Martin, Molnar, Spraggins
202 Nays: None
203 The motion carried. **RES. NO. 90-2008, adopted**
204

205 **MOTIONS OR OTHER LEGISLATIVE ACTIONS:** None.
206

207 **CORRESPONDENCE:** None
208

209 **PUBLIC COMMENTS:**

210 Chuck Loparo of Bradford Lane announced that he is not and never has been a staff writer for the
211 Internet blog known of NS7 as Mayor Kuchta and Councilor Tulley have accused.
212

213 Mayor Kuchta asked members of Council how then did NS7 know privileged information from
214 an executive session. The administration certainly did communicate with this “rag” the Mayor
215 stated. What member of Council wrote NS7 or who spoke to Mr. Loparo who in turn wrote NS7
216 or spoke with Paul Buescher. Mayor Kuchta asked Mr. Diemert if NS7 is liable for the
217 misinformation or false statements printed within if its received illegally.
218

219 Mr. Diemert answered that the City could not prosecute but an individual could pursue a
220 personal, civil lawsuit if there is an issue of defamation of character. The test to determine such
221 an issue Mr. Diemert stated lies within the case known as New York v. Sullivan. Public officials
222 are subjected to more speculation than the average citizen Mr. Diemert stated . But if it can be
223 proven that there was reckless or malicious disregard of the truth as defined in New York v.
224 Sullivan than action can be taken. NS7 is not liable for receiving privileged information Mr.
225 Diemert told Mayor Kuchta. The liability lies with the public official who betrayed executive
226 session privilege by releasing confidential information either directly or indirectly to NS7.
227

228 Mayor Kuchta asked Mr. Diemert if the sheriff’s department can investigate who on Council
229 breached the privilege to which Mr. Diemert answered that Council is responsible for enforcing
230 its own rules and regulations. Theoretically however an outside agency under regulations set
231 forth in the Ohio Revised Code could investigate if it can be determined that the City has been
232 jeopardized by the breach of confidential information.
233

234 Mayor Kuchta interjected that it is more than alarming to him that someone with whom
235 privileged information was confided has betrayed confidences to an information source as
236 defamatory as NS7
237

238 Mr. Diemert advised Mayor Kuchta to consider the source. A publication whether Internet based
239 or otherwise who allows anonymous editorials has no credibility and therefore is not worthy of
240 consideration.
241

242 **MAYOR’S REPORT:** Attached
243

244 **COMMITTEE REPORTS**

245
246 **Planning Commission** Mr. Martin reported the Commission’s next meeting is Monday,
247 September 22 at which time plans relative to Girl Scouts will be reviewed.
248

249 **DEPARTMENT REPORTS**

250
251 **Service Department** Mr. Crevar reported that annual maintenance is being performed to the

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252 parking lots of the City Center and Recreation Center. The maintenance includes crack sealing,
253 seal coating and striping he stated. One of the three soccer fields located on the north side of
254 Longwood Park will be hydro seeded Friday, September 12. Mr. Crevar also mentioned that
255 Macedonia is sponsoring a Community Litter Day on Sunday, October 5 from 1pm-3pm, rain or
256 shine. This event is conjunction Tinker's Creek Watershed, an outreach program of Macedonia's
257 Drainage Sewer and Storm Water Committee. Participants will receive donuts, cider and a free t-
258 shirt that will read "Macedonia Litter Collection Day". The meeting location for the clean up of
259 the areas around Routes 8 & 82 is the parking lot of Best Buy products. Mr. Crevar also
260 mentioned that fall street cleaning will begin next week. The license bureau has moved to
261 Summit Plaza in Northfield Village and that Summit Solid and Waste Management Recycling
262 Center will be closing at the end of September. Collections will resume in the spring. Service
263 mechanics are presently readying four pieces of equipment used to perform the fall leaf removal
264 program. Service crews continue to work on catch basin repairs and road side ditch re-definition.
265 NEO/SO road salt bids open September 18. Rumors have it that salt will increase by 10-20%
266 Mr. Crevar stated. Pavement marking bids open at 11am September 12. Eligible senior citizens
267 were reminded that applications relative free to trash pick-up and snow removal must be received
268 by September 26.

269
270 Mayor Kuchta asked Mr. Crevar how residents will be notified of the leaf removal schedule to
271 which Mr. Crevar answered that a schedule will posted in the NewsLeader, on the City's
272 homepage and in the City's email Messenger.

273
274 **Building Commissioner** Mr. Hlad was absent Mr. Hlad's report previously submitted to
275 Council is attached at the end of this document.

276
277 **Engineer** Mr. Hill reported that the access road from the City Center is completed. He is still
278 waiting for costs relative to the second phase of Shepard Road. Phase 2 encompasses the area
279 north of Phase 1, IS480 to Broadway/ Ravenna Road. The primarily plans, specifications and
280 special assessment relative to Shepard Road Phase I are also being drawn up he said. Phase 3 is a
281 portion of Shepard Road between the utility corridor and Highland Road.

282
283 Mayor Kuchta interjected that while nothing may happen in the near future dialogue relative to
284 the potential roundabout at intersection of Ravenna/Broadway, Shepard and Richmond Roads is
285 continuing with Summit County Engineer Greg Bachman and the communities to Macedonia's
286 north east.

287
288 **Recreation Department** Ms. Gmerek reported that the Recreation Center's Community Yard
289 sale is scheduled for Saturday, September 20 from 9am-1pm at Longwood Park. The rain date is
290 Sunday, September 21 from noon-4pm. Preregistration is required. The Recreation Center is
291 hosting a Blood Drive on Thursday, October 2 from 1pk-7pm in conjunction with the American
292 Red Cross, the Nordonia Hills Kiwanis Club and Southpointe Hospital. The Recreation Center's
293 winter hours resume October 1 she added.

294
295 **Finance Department** Mr. Brunot had no report.

296
297 **Fire Department** Captain Gagliardi had no report.

298
299 **Police Department** Chief Golden thanked those involved in the apprehension of the
300 perpetrator relative to the Ohio Edison site on Valley View Road: Macedonia's Officer Chris
301 Neal and the detective bureau, the Summit County sheriff department and SWAT.

302
303 **Law Department** Mr. Diemert asked Council to reconsider their motion of August 26 regarding
304 extending the time relative to demolition of the Manor House. For the reason that after
305 extensively reviewing the Charter and Codified Ordinances it is Mr. Diemert's opinion that
306 Council violated a remedial order. Pursuant to Charter 3.03(a) Mr. Diemert stated that it is the
307 Mayor as the Director of Public Safety who exercises exclusive control over all departments and
308 is the chief conservator of peace and safety and must at all times enforce the laws of the City as
309 well as the State of Ohio. The powers of Council under Section 4.01 on the other hand are limited
310 to legislative. The Chief Building Official under Section 14.02.A shall administer and enforce all
311 building and zoning laws. Codified Ordinance 1385.05 further states if the Chief Building
312 Official finds a dangerous or unsafe structure he shall issue a remedial order. Section 1385.09
313 allows an appeal of such remedial action and 1385.10 states if any person fails to comply with the
314 remedial order Council shall cause the demolition and shall cause the cost to be placed on the tax
315 duplicate applicable to the owner of the property. Section 1385.99, the penalty clause, makes the
316 failure to comply with the remedial order a misdemeanor of the third degree. Mayor Kuchta and
317 Mr. Hlad are responsible for the actions taken in accordance with the Charter and the Codified
318 Ordinances Mr. Diemert stated. They have taken oaths not only to uphold the Charter and the
319 Codified Ordinances but the laws of the State of Ohio. Councils' action has clearly placed them
320 in violation of these laws. Mr. Hlad did have the discretion not to issue the remedial the order,

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321 the mayor did not have the discretion not to enforce it and Council had no authority Mr. Diemert
322 could find to extend it. The situation Council has caused in essence is the prosecution of us Mr.
323 Diemert stated for violating the condemnation and demolition order.

324
325 Mayor Kuchta interjected that GPD engineering estimated costs relative to asbestos removal
326 considerably lower than original estimates. Relative to the Manor House the removal cost is
327 estimated to be \$14,000 and the cost of demolition is \$15,800. There is no asbestos in the
328 Caretaker's House. The cost of demolishing the Caretaker's House is \$4,500. The cost of
329 asbestos removal at the residential structure at 944 E. Aurora Road (at Park Avenue) is \$2,500
330 and demolishing it is \$4,500. The mayor added that the City applied for demolition grants from
331 Summit County. If successful the City could receive up to \$7500 per structure which will reduce
332 costs substantially. Each contract, that is for the removal of the asbestos and the demolition of
333 the structures are separate the mayor added. Mayor Kuchta asked Mr. Diemert what could
334 happen if Council does not rescind their motion. Mr. Diemert answered that theoretically the
335 summons or citation would be served on the mayor as the representative of the City in all matters
336 and proceedings.

337
338 Councilor Barker asked Council's logic in extending the demolition. Council has had numerous
339 opportunities since he took office to take action. Legislation was offered last year that would
340 have provided for a new roof on Manor House and for Council's commitment to further
341 restoration. He has continually asked his fellow council members to take a stand one way or the
342 other Mr. Barker said. What prompted Council to stall an administrative directive now he asked?

343
344 Councilor Spraggins stated a Longwood Manor Historical Society member informed Council at
345 its last meeting that it would be less costly to moth ball the Manor House until the City was in a
346 better fiscal position to renovate it than to demolish it seemed to be a viable idea to Mrs.
347 Spraggins.

348
349 Councilor Engle interjected that Council did not have the exact costs of the asbestos removal or
350 demolish on August 26. It seemed valid to him to extend the demolish to allow the City more
351 time to collect additional estimates given the original estimate to remove the asbestos was
352 \$30,000. Demolish costs may have been in the budget but asbestos removal was not. It is
353 incumbent upon Council to properly contain the budget Mr. Engle added.

354
355 Mayor Kuchta interjected that the LMHS member who spoke on August 26 (Ms. Bonnard) is not
356 a resident of Macedonia.

357
358 Councilor Martin asked his fellow council members what is to be gained by holding this issue up?

359
360 Council Engle answered the issue for him is the cost.

361
362 Councilor Martin asked Mr. Engle if its his position to save the Manor House to which Mr. Engle
363 answered that his position is to maintain the fiscal integrity of the City. Because Mr. Engle did
364 not have a full scope of the costs at the last meeting Mr. Engle felt obligated to act to insure
365 sound financial footing before taking further action. Mr. Martin asked Mr. Engle again if he
366 thought the Manor House should be saved to which Mr. Engle responded that the question is a
367 difficult to answer. It would be nice to save the Manor House. The more important issue for him
368 is the fiscal integrity of the City as he previously stated. Mr. Engle added he does not feel its
369 prudent for any member of council to vote on an issue until true costs are known. Financial
370 stability cannot be maintained if Council continues to authorize expenditures of unknown dollar
371 amounts, no matter how important or vital the expenditure. Given the fact that new costs have
372 been reported this topic could be readdressed at the next council meeting Mr. Engle stated. Mr.
373 Martin reminded the public that the cost of bringing the Manor House up to code has been
374 estimated to be at least \$500,000. This does not include the cost of future maintenance If
375 \$50,000 is being questioned Mr. Martin stated, then from where is the \$500,000 to come.

376
377 Councilor Engle reiterated the question for him is whether the City can afford \$50,000 now. The
378 question of which there is no answer tonight Mr. Engle stated is whether in fact it may be cheaper
379 to moth ball the house for future renovation than to immediately tear it down. Mr. Engle told
380 Mr. Martin that it was unfair of Mr. Martin to criticize those members of Council who are
381 unwilling to spend an unlimited amount of money to tear down the building.

382
383 Councilor Martin expressed disappointment in Council for ignoring Mr. Diemert's opinion
384 regarding the Council's legal inability to usurp the administrative directive in this matter.

385
386 Councilor Engle interjected that Mr. Diemert did not offer his opinion until this evening. At the
387 meeting of August 26 Mr. Diemert was admittedly unprepared to answer whether Council was in
388 violation. .

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390 Councilor Spraggins interjected that it is within Council's discretion to amend the Codified
391 Ordinances. Council did not amend Section 1385 permanently. Council simply extended the
392 demolish by 60 days. Since the last meeting Mrs. Spraggins has heard that someone has offered
393 a sizeable donation. That being the case she feels more time is needed to learn if the donation is
394 legitimate.

395
396
397 Mayor Kuchta told Mrs. Spraggins that the donation offered was only if the Manor House could
398 be used for a commercial enterprise which of course it cannot.. Mayor Kuchta agreed that this
399 entire situation has been frustrating. Estimates have been across the board. Who is to believe
400 what. Last year Mrs. Thomas presented documentation to Council that it would cost \$30,000 to
401 repair the roof. Ms. Bonnard now says it will cost more like \$15,000.

402
403 Councilor Spraggins said she is aware of how difficult decisions about the Manor House have
404 been over the last 15 years. Solutions however are not going to be solved over night or even over
405 the next two or three years she stated. What if however a 10-year long range plan could be
406 developed? Mrs. Spraggins thought the responsibility for the Manor House should be brought
407 back under the umbrella of the City and its park director, that it no longer be under the directive
408 of volunteer organizations. If the City is willing to spend \$30,000 for demolition why then
409 wouldn't there be a willingness to make annual allocations to the Manor House so it can be
410 maintained like every other municipal building. Use the \$30,000 to install the roof pursuant to
411 Mrs. Thomas's estimate. Then each year incrementally bring the house up to code. Mrs.
412 Spraggins is aware the Manor House is too small for providing a public purpose. A thought
413 simply for discussion she stated is to build an additional room off the dining room which would
414 allow for the house to be used for larger venues.

415
416 Councilor Martin stated that if in fact there is interest in preserving the Manor House than serious
417 consideration must be given to the fact there are far better uses of tax payers dollars with regards
418 to other, broader recreational uses than that of the Manor House.

419
420 Councilor Barker asked Mrs. Spraggins when and why has she changed her position with regards
421 to maintaining the Manor House. He agreed with Mr. Martin in that why would Council allow
422 hundreds of thousands of dollars be spent on the Manor House when there are so many other
423 more important recreational uses for the money.

424
425 Councilor Spraggins answered she just wants what is right for the City to which Mr. Barker
426 answered all she is doing is delaying the agony.

427
428 Councilor Martin told Mrs. Spraggins regarding her idea of providing additional space for larger
429 venues that the Community Room located here in the City Center already provides that purpose.
430 The Community Room is large, it is safe, it is well lit, it is handicap accessible and it has a
431 working kitchen he stated.

432
433 Mr. Diemert interjected that the Will does not allow public business or private personal parties or
434 meetings to which Mrs. Spraggins answered that was news to her. For the last 20-years she said
435 various volunteer groups have been attempting to restore the Manor for those various purposes.
436 Why has Mr. Diemert changed his opinion to which Mr. Diemert answered he didn't change his
437 opinion, no one ever asked him.

438
439 Councilor Barker said Council is at a crossroads. This is an emotional, sentimental topic.
440 Because of bad press council members are now flip-flopping and changing their minds. What's
441 their rationale? Costs estimates are too high for any member of Council to seriously consider
442 restoration or even maintaining it. There are too many other needs throughout the City to spend
443 money on the Manor House. There is no valid public purpose. There is no money in the budget,
444 nor does it appear that there will be in the near future to allocate funds for this project. If
445 members of Council were as serious as they say they are then the legislation last year committing
446 to the Manor House would not have been tabled he stated. One of Councils' jobs Mr. Barker
447 stated is to make decisions whether they are accepted by the public or not. Council has seriously
448 failed in its job Mr. Barker added.

449
450 Councilor Martin interjected that after reviewing Macedonia's Debt Management Plan there is no
451 reasonable way funds can be allocated to the Manor House.

452
453 Mayor Kuchta reminded Council that the Manor House has been quadrant off. Parents are calling
454 his office worried about falling debris. What is he to tell them he asked Council? Mayor
455 Kuchta stated a memorial to Mayor Long is the more appropriate affordable avenue to take.

456
457 Councilor Molnar interjected that he has fond memories of the Manor House. The Manor House
458 also has a significant historical presence. The legal and political ramifications are different

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459 matters. He was not a member of Council in prior years to address what did or did not happen.
460 Mr. Molnar feels the 60-day extension is reasonable given how long the Manor House has been a
461 topic. He personally would love to find a way to fund the restoration of the Manor House but if
462 after the 60-day extension nothing is found he'll give up he said.
463

464 Mayor Kuchta told Mr. Molnar that it was Mr. Molnar's predecessor and Council's representative
465 to the Parks and Recreation Commission, Michael Miller who offered the legislation to fix the
466 Manor House roof. But when Mr. Miller's fellow council members would not support the
467 proposal Mr. Miller moved to table which Mr. Engle seconded.
468

469 Councilor Spraggins asked Mr. Brunot if \$30,000 has been appropriated for the demolition or a
470 roof to which he answered \$15,000 has been allocated for demolition purposes only. He further
471 stated that the cost of asbestos removal minus the \$7500 grant and difference of \$800 from
472 estimate to actual allocation can be appropriated from the unencumbered balance. [\$15,800(cost
473 of demolition) - \$15,000 (appropriated)=\$800; \$14,000(cost of asbestos removal)-\$7500 grant =
474 \$6500; \$800+\$6500=\$7300, the additional amount needed to be appropriated]
475

476 Councilor Engle interjected that according to the finance department's recent expenditure and
477 revenue report, real estate property tax revenue is down by about \$131,000. This is a serious
478 concern for Mr. Engle and just one reason why he is acting cautiously with regards to current and
479 future expenditures.
480

481 Mr. Brunot assured Mr. Engle that Mr. Brunot as the same concerns. The budget is tight. And it
482 will be tight again next year he added. But in reviewing the budget, an overall, broader financial
483 picture must be taken. For example Mr. Brunot stated, while property tax revenue is down, jail
484 revenue is up thereby off setting the loss. Another consideration is the revenue associated with
485 Chief Black's deployment and the reimbursement the City will receive from FEMA.. While this
486 may not seem logical the City will make money on the reimbursement Mr. Brunot stated.
487

488 **Unfinished business** None

489 **New business** None

490 There being no further business before Council, the meeting adjourned at 10pm
491
492
493
494

495 EXHIBIT relative to Ordinance No. 71-2008 below
496 May 27, 2008
497

498 Chief Jon Golden
499 City of Macedonia Police Department
500 9691 Valley View Road
501 Macedonia, OH 44056
502

503 **Re: Use of Full-Time Patrol Officers for Part-Time Jail Fill-n**
504

505 Dear Chief Golden:
506

507 Your specific question was whether or not full-time police officers in the City of
508 Macedonia may, at their option, work as a part-time jailor without incurring mandatory
509 overtime compensation.
510

511 The answer is found in Section 7(p)(2) of the Federal Fair Labor Standard Act.
512

513 The FLSA provides that where state or local government employees, solely at
514 their option, work occasionally or sporadically on a part-time basis for the same agency
515 in a different capacity from their regular employment, the hours worked in the different
516 jobs shall not be combined for purposes of determining overtime liability under the
517 FLSA. 29 CFR 533.30(a).
518

519 The hours worked on separate appointments do not have to be counted when all of
520 the following requirements are met:
521

- 522 1. Work is accepted SOLELY at the employee's option; and
- 523 2. Work is occasional or sporadic and performed on a part-time basis;
524 and
525

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- 526
527 3. Work is in a different capacity from the regular employment of that
528 employee.
529

530 When work is accepted solely at the employee's option, the decision must be
531 made freely by the employee and the employee must be free to refuse to perform such
532 work. 29 CFR 533.30(b)(2). Furthermore, there cannot be any coercion, implicit or
533 explicit, by the employer and there may not be any sanctions against the employee for
534 refusing to perform, nor any requirement for justification or explanation for the refusal.

535 The work must be occasional or sporadic and performed on a part-time basis. The
536 term occasional or sporadic means infrequent, irregular, or occurring in scattered
537 instances. An activity is not failed to be occasional merely because it is recurring.
538

539 Lastly, the work must be in a different capacity from the employee's regular
540 position. Since some occupational titles are much broader than others, the determination
541 of an employee's primary duty must be based upon all of the facts in a particular case,
542 with the major emphasis on the character of the employee's job as a whole.
543

544 As such, based upon the facts that you have provided to me with regards to the
545 position of patrol officer verses that of a jailor, I am of the opinion that if the first two
546 requirements set forth above are met, that the City of Macedonia will not incur overtime
547 liability in the event that a full-time patrol officer fills in on a sporadic basis in the
548 position of part-time jailor.
549

550 Should have any further questions on this issue, please do not hesitate to contact
551 me.
552

553 Very truly yours,
554

555 Thomas M. Hanculak
556 Assistant Director of Law
557 City of Macedonia
558
559

560 TMH/jac

561 cc: The Honorable Mayor Donald Kuchta
562 Steven Brunot, Director of Finance Department
563
564
565

566 Attachment - Mayor's Report
567

568 Our Council meeting today is on a day of huge significance in the History of America. It
569 has made us less secure and cocky about defending our homeland. We now realize that
570 we can be attacked. As your Mayor, I would be remiss if I did not ask you to reflect as a
571 community. We need to reflect and honor people that were lost that day. We need to
572 honor the heroes that were found. All of our Emergency Services and our Armed Forces
573 have stepped up to the plate time and time again for the sake of the American people.
574

575 Fire Chief Tim Black was deployed two weeks ago to serve as a FEMA Rescue
576 Specialist. Tim is one of 60 specialists representing a three state area! I am very proud
577 that we have a man of his quality in our Fire Department. His talents had him on standby
578 for Hurricane Gustov due to arrive at Atlanta; he then went to Alabama on standby for
579 Hurricane Hannah. He came home last night and now has been re-deployed to get ready
580 for Hurricane Ike to hit Galveston, Texas. They are predicting much devastation there. (A
581 possible category 3 or 4).
582

583 Tim is Special. He was very much in favor of local fire regionalization because of his
584 ability to see the big picture and his training as a specialist. Small minded people actually
585 accused him of trying to annex our neighbors. I can only imagine what an insult that was
586 to a man of his caliber, and ability, and desire to serve people with his skills. By the way,
587 the City is completely reimbursed for his wages while he is serving as a specialist.

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Good Luck and make sure you come back safe to us Tim.

I also have to be thankful for a Police Department that was able to solve and make arrests on a large burglary over the weekend. Remember that this is done on top of their normal duties. They simultaneously had a suspicious death that needed to be reviewed. If I can only impress upon you how seriously these men take their job. When the Chief called me to tell me that the suspect got away he sounded like his team lost the Super Bowl! When he called me back that the net was getting tighter and that the suspect was arrested because of great detective work, he sounded as if his team had won the Super bowl. I guess the important word in both of these Safety Departments is the word “team”. Macedonia will constantly be working on ways to increase that team by working with our neighbors to service you better.

Our First Economic Development Roundtable Luncheon will be Wednesday September 24th at 11:30 Am in our community room. We will be meeting with local businesses to enhance communications. Remember that City Income tax runs our City, and that money is paid by employees in our City. Employees work for our Businesses. The better the communications and interaction with our businesses the less Real Estate tax our residents pay.

Speaking of Economic Development...County Executive Russ Pry was here holding an economic forum on September third. Among his distinguished guests were the State of Ohio Treasurer, Richard Corday, President of County Council Nick Kostandaras, Director of Community and Economic Development, Connie Krauss, and others whose purpose was to heighten awareness of County programs that are available to stimulate economic growth within the City of Macedonia. Perhaps you can sense the new buzz words are “Economic Development” at the City, County, State, and Federal level. There is a reason for that. The reason is... that it is better for our constituents at every level to create and maintain economic growth and development and jobs. That is what this great Country always has been about. We are getting back to basics.

Halloween will be celebrated Friday October 31st from 6:00 to 8:00PM.

ATTACHMENT – Building Commissioner’s Report

TO: JOSEPHINE ARCECI, CLERK OF COUNCIL
FROM: MIKE HLAD, BUILDING COMMISSIONER
SUBJECT: BUILDING COMMISSIONER’S REPORT
DATE: SEPTEMBER 11, 2008

Pursuant to the regularly scheduled Council Meeting, I offer the following:

Major Infrastructure Projects:

Route 82: Kenmore Construction is on schedule. Night work will resume next week from 8:00 pm to 6:00 am. Valley View Road will be open by the end of September!!

Building Department:

Highland Point Properties: Finals for the building have been scheduled. Occupancy of structure will be given shortly. Planning Commission and the Board of Building and Zoning Appeals have approved the sign and it will be erected soon.

Cobra Plastics: Continue work. Temporary occupancy has been granted.

Mary Maria: Continue to work on storm sewers. Looking for an extension on roadway completion.

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Gene Hill will be presenting the Engineer's Report.

This concludes my report.

cc: Mayor Kuchta
MEH/km