

Regular Council

December 11, 2008

Presiding Officer, Mayor Donald Kuchta called the December 11 regular meeting of Macedonia City Council to order at 7:35pm.

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 David Engle was followed by an invocation by Councilor Janet Tulley.

Mayor Kuchta acknowledged the safe return of Kenny Martin, the son of Councilor Martin from Kenny's tour of duty in Iraq.

PROCLAMATION Mayor Kuchta proclaimed middle school student Josh Golobek an honorary firefighter of the City of Macedonia and December 11 as Josh Golobek Day.

On behalf of the Macedonia Firefighter Association, Chief Black presented Josh and the Golobek Family a check in the amount of \$10,425.00 to help defray Josh's extensive medical expenses.

MINUTES Mr. Engle moved, Mrs. Tulley seconded to approve the minutes of the regular meeting of October 23, 2008 as submitted by the clerk of council.

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

INTRODUCTION, READINGS & ADOPTION OF LEGISLATION

ORD. NO. 105-2008

AN ORDINANCE PROVIDING THE 2009 TEMPORARY APPROPRIATIONS AND DECLARING AN EMERGENCY was **offered** by Mrs. Spraggins for its **third reading by title only**. No second required.

Mrs. Spraggins moved, Mrs. Tulley seconded, to **adopt ORD. NO. 105-2008**, and post same according to law.

Roll call: Ayes: Barker, Engle, Martin, Molnar, Spraggins, Tulley
Nays: None
The motion carried. **ORD. NO. 105-2008, adopted**

ORD. NO. 109 -2008

AN EMERGENCY ORDINANCE AMENDING CHAPTER 1321 AND SECTIONS 1325.06, 1327.04, 1361.06 AND 1139.03 OF THE CODIFIED ORDINANCES OF THE MACEDONIA REGARDING VARIOUS REVIEW FEES was **offered** by Mr. Martin 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 its second and third readings**. Second by Mr. Engle.

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

Mrs. Spraggins moved to **amend ORD. NO. 109-2008, Section 1327.04** relative to the increase of the point of sale fee from \$25 to \$75, which Mrs. Spraggins' described as excessive. Motion failed for a lack of a second.

Regarding Mrs. Spraggins' motion a brief discussion was had in which Mr. Martin stated he thought the increase was modest given inspectors' make numerous inspections and the fact that the fee has not increased in 16-years. Mr. Martin feels the fee schedule increases in general are modest since fees across the board have not increased in over 20-years. Building Commissioner Hlad mentioned that Macedonia's fees are lower than most communities and that they are the lowest in Summit County. Some communities charge as much as \$200 for point of sale inspections he added. Mr. Hlad stated that disappointingly at the first home inspection violations are found 80% of the time. Mrs. Tulley questioned Mrs. Spraggins if she considered the other residential increases to which Mrs. Spraggins answered that she had not.

Mr. Martin moved, Mr. Engle seconded, to **adopt ORD. NO. 109-2008**, and post same according to

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law.

Roll call: Ayes: Engle, Martin, Molnar, Spraggins, Tulley
Nays: Barker
The motion carried. **ORD. NO. 109-2008, adopted**

RES. NO. 114-2008

A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH SUMMIT COUNTY AND OTHER COMMUNITIES THROUGHOUT SUMMIT COUNTY FOR JOB CREATION AND RETENTION AND TAX REVENUE SHARING was **offered** by Mr. Molnar 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 its second and third 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 RES. NO. 114-2008**, and post same according to law.

Roll call: Ayes: Barker, Engle, Martin, Molnar, Spraggins, Tulley
Nays: None
The motion carried. **RES. NO. 114-2008, adopted**

RES. NO. 115-2008

A RESOLUTION CONFIRMING THE FINAL APPOINTMENT OF JACQUELINE SCHULD TO THE POSITION OF FULL-TIME DISPATCHER 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 its second and third readings**. Second by Mrs. Tulley.

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

Mr. Barker moved, Mrs. Tulley seconded, to **adopt RES. NO. 115-2008**, and post same according to law.

Roll call: Ayes: Barker, Engle, Martin, Molnar, Spraggins, Tulley
Nays: None
The motion carried. **RES. NO. 115-2008, adopted**

RES. NO. 116 -2008

A RESOLUTION CONFIRMING THE REAPPOINTMENT OF PAT LACHOWSKI AS THE REPRESENTATIVE OF THE CITY OF MACEDONIA TO THE SUMMIT COUNTY BOARD OF HEALTH was **offered** by Mrs. Tulley 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 its second and third readings**. Second by Mr. Engle.

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

Mrs. Tulley moved, Mr. Engle seconded, to **adopt RES. NO. 116-2008**, and post same according to law.

Roll call: Ayes: Barker, Engle, Martin, Molnar, Spraggins, Tulley
Nays: None
The motion carried. **RES. NO. 116-2008, adopted**

RES. NO. 117 -2008

A RESOLUTION CONFIRMING THE REAPPOINTMENT OF JOE BIBER TO THE AUDIT COMMITTEE was **offered** by Mrs. Spraggins 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 its second and third readings**. Second by Mrs. Tulley.

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

Mrs. Spraggins moved, Mrs. Tulley seconded, to **adopt RES. NO. 117-2008**, and post same according to law.

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Roll call: Ayes: Barker, Engle, Martin, Molnar, Spraggins, Tulley
Nays: None
The motion carried. **RES. NO. 117-2008, adopted**

RES. NO. 118 -2008

A RESOLUTION CONFIRMING THE REAPPOINTMENT OF ROBIN BUGENSKE THE AUDIT COMMITTEE 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 its second and third readings**. Second by Mrs. Tulley.

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

Mr. Engle moved, Mrs. Tulley seconded, to **adopt RES. NO. 118-2008**, and post same according to law.

Roll call: Ayes: Barker, Engle, Martin, Molnar, Spraggins, Tulley
Nays: None
The motion carried. **RES. NO. 118-2008, adopted**

RES. NO. 119 -2008

A RESOLUTION CONFIRMING THE REAPPOINTMENT OF DAN CEGELKA TO THE PARKS & RECREATION COMMISSION was **offered** by Mr. Molnar 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 its second and third 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 RES. NO. 119-2008**, and post same according to law.

Roll call: Ayes: Barker, Engle, Martin, Molnar, Spraggins, Tulley
Nays: None
The motion carried. **RES. NO. 119-2008, adopted**

RES. NO. 120 -2008

A RESOLUTION ADOPTING SENSIBLE SALTING PRACTICES was **offered** by Mrs. Spraggins 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 its second and third readings**. Second by Mr. Barker.

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

Mrs. Spraggins, Mr. Barker seconded, to **adopt RES. NO. 120-2008**, and post same according to law.

Roll call: Ayes: Barker, Molnar, Spraggins, Tulley
Nays: Engle, Martin
The motion carried. **RES. NO. 120-2008, adopted**

ORD. NO. 121 -2008

AN ORDINANCE AMENDING SECTION 1137.06 REGARDING THE REVIEW FEES FOR THE PLANNING COMMISSION AND CODIFYING THE SAME was **offered** by Mr. Martin 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 its second and third readings**. Second by Mr. Engle.

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

Mr. Martin Mr. Engle seconded, to **adopt ORD. NO. 121-2008**, and post same according to law.

Roll call: Ayes: Engle, Martin, Molnar, Tulley, Spraggins
Nays: Barker
The motion carried. **ORD. NO. 121-2008, adopted**

ORD. NO. 122-2008

AN EMERGENCY ORDINANCE AUTHORIZING AND DIRECTING THE MAYOR TO ENTER

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INTO A CONTRACT TO PROVIDE EMERGENCY DISPATCH SERVICES TO THE VILLAGE OF BOSTON HEIGHTS, OHIO FOR A THREE -YEAR TERM COMMENCING JANUARY 1, 2009 AND ENDING DECEMBER 31, 2011 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**. Second by Mrs. Tulley.

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

Mr. Barker, Mrs. Tulley seconded, to **adopt ORD. NO. 122-2008**, and post same according to law.

Roll call: Ayes: Barker, Engle, Martin, Molnar, Spraggins, Tulley
Nays: None
The motion carried. **ORD. NO. 122-2008, adopted**

ORD. NO. 123-2008

AN EMERGENCY ORDINANCE AUTHORIZING AND DIRECTING THE MAYOR TO ENTER INTO A CONTRACT TO PROVIDE EMERGENCY DISPATCH SERVICES TO THE VILLAGE OF NORTHFIELD, OHIO FOR A THREE-YEAR TERM COMMENCING JANUARY 1, 2009 AND ENDING DECEMBER 31, 2011 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**. Second by Mrs. Tulley.

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

Mr. Barker, Mrs. Tulley seconded, to **adopt ORD. NO. 123-2008**, and post same according to law.

Roll call: Ayes: Barker, Engle, Martin, Molnar, Spraggins, Tulley
Nays: None
The motion carried. **ORD. NO. 123-2008, adopted**

ORD. NO. 124 -2008

AN EMERGENCY ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE AN AMENDED AND RESTATED FIRST AMENDMENT TO LEASE AGREEMENT BY AND BETWEEN THE CITY OF MACEDONIA AND NEW PAR, d/b/a, VERIZON WIRELESS 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**. Second by Mrs. Tulley.

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

Mr. Barker, Mrs. Tulley seconded, to **adopt ORD. NO. 124-2008**, and post same according to law.

Roll call: Ayes: Barker, Engle, Martin, Molnar, Spraggins, Tulley
Nays: None
The motion carried. **ORD. NO. 124-2008, adopted**

ORD. NO. 125 -2008

AN EMERGENCY ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT WITH JULIAN & GRUBE INC., FOR CERTAIN FINANCIAL SERVICES was **offered** by Mr. Molnar for its **first reading by title only**. Second not required.

Mr. Engle moved, Mr. Martin seconded to reconsider ORD. NO. 125-2008.

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

Mr. Engle moved, Mr. Martin seconded, moving that Council to waive the requirement that **ORD. NO. 125-2008** be read by title on three different days, instructing the Clerk to read it by **title only for all three readings by title only**.

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

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Mr. Engle moved, Mr. Martin seconded, to **adopt ORD. NO. 125-2008**, and post same according to law.

Roll call: Ayes: Barker, Engle, Martin, Molnar, Tulley
Nays: Spraggins
The motion carried. **ORD. NO. 125-2008, adopted**

Regarding ORD. NO. 125-2008, Councilor Spraggins preferred that Council would have waited until the next fiscal year before allocating funds for this service. Mrs. Spraggins questioned spending money for a CAFR, the Comprehensive Annual Financial Report in a bad economy. Generally speaking Mrs. Spraggins has been dissatisfied with the service provided by LGS and the state auditors. Mrs. Spraggins questioned whether the City could contract with private auditors for the next audit. She expressed disappointment that Mr. Brunot had told Council that the last audit would be completed sooner than previous one but it was not.

Finance Director Brunot informed Mrs. Spraggins that if the City wants private auditors the state first has to give its approval. The state has already informed Mr. Brunot that state wants to be the auditor for the next audit. Regarding the time frame in which the last audit was completed Mr. Brunot told Mrs. Spraggins that he had no control over how the auditors allocated their time. The City supplied documentation on time. The auditors however left the City more than several times during the course of the audit to perform audits elsewhere.

Deputy Finance Director Sengstock and soon to be interim finance director interjected that the reason for contracting with Julian and Grube now is that the preparation of financial statements begins prior to an audit. Mr. Sengstock added that the cost of this agreement is less than the agreement the City had with LGS.

ORD. NO. 126-2008

AN EMERGENCY ORDINANCE AMENDING CERTAIN PROVISIONS OF CHAPTER 713, SNOW REMOVAL, OF THE CODIFIED ORDINANCES OF THE CITY OF MACEDONIA was **offered** by Mr. Molnar 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**. Second by Mrs. Tulley.

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

Mr. Molnar, Mrs. Tulley seconded, to **adopt ORD. NO. 126-2008**, and post same according to law.

Roll call: Ayes: Barker, Engle, Martin, Tulley
Nays: Molnar, Spraggins
The motion carried. **ORD. NO. 126-2008, adopted**

ORD. NO. 127 -2008

AN EMERGENCY ORDINANCE AMENDING AND SUPPLEMENTING THE 2008 ANNUAL APPROPRIATIONS ORDINANCE NO. 2-2008 AND AUTHORIZING THE NECESSARY TRANSFERS OF FUNDS was **offered** by Mrs. Spraggins 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**. Second by Mr. Engle.

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

Mr. Engle moved, Mr. Barker seconded, to attach the document prepared by Finance Director Brunot entitled "Appropriation Amendment 121108 Rationale" to this evening's minutes as well as to attach it to Ordinance No. 127-2008 as Exhibit "A".

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

Mrs. Spraggins, Mr. Engle seconded, to **adopt ORD. NO. 127-2008**, and post same according to law.

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

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Nays: None

The motion carried. **ORD. NO. 127-2008, adopted**

RES. NO. 128 -2008

A RESOLUTION AUTHORIZING AND DIRECTING THE DIRECTOR OF FINANCE TO IMPLEMENT FOURTH QUARTER TRANSFERS BETWEEN CERTAIN FUNDS was **offered** by Mrs. Spraggins 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**. Second by Mr. Molnar.

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

Nays: None.

The motion carried

Mrs. Spraggins, Mr. Molnar seconded, to **adopt RES. NO. 128-2008**, and post same according to law.

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

Nays: None

The motion carried. **RES. NO. 128-2008, adopted**

RES. NO 129 -2008

AN EMERGENCY RESOLUTION APPOINTING MYRA SEVERYN AS MUNICIPAL PROSECUTOR 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**. Second by Mrs. Tulley

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

Nays: None.

The motion carried

Mr. Engle offered, Mrs. Tulley seconded, to **adopt RES. NO. 129-2008**, and post same according to law.

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

Nays: None

The motion carried. **RES. NO. 129-2008, adopted**

Regarding RES. NO. 129-2008, Council President Engle stated that Ms. Severyn is an excellent prosecutor and a good replacement to Mr. Economus who served the City well for 20 years. As the City's magistrate Mr. Engle worked with Ms. Severyn who was Mr. Economus' assistant so Mr. Engle knows first hand that Ms. Severyn's knowledge, experience, temperament and demeanor make her a very good choice.

RES. NO. 130-2008

A RESOLUTION CONFIRMING THE APPOINTMENT BY THE MAYOR OF SONYA MARIE GREEN TO THE POSITION OF FULL-TIME DISPATCHER 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**. Second by Mrs. Tulley.

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

Nays: None.

The motion carried

Mr. Barker offered, Mrs. Tulley seconded, to **adopt RES. NO. 130-2008**, and post same according to law.

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

Nays: None

The motion carried. **RES. NO. 130-2008, adopted**

Relative to RES. NO. 130-2008, Chief Golden thanked Council for Ms. Green's appointment. Chief Golden introduced Ms. Green who in turn thanked the Mayor and Council for the opportunity to serve the City.

RES. NO. 131-2008

A RESOLUTION ADOPTING THE OFFICIAL POLICY OF NOPEC URGING FIRSTENERGY TO EXTEND THE NOPEC GENERATION DISCOUNT was **offered** by Mrs. Tulley 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**. Second by Mr. Molnar.

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

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Nays: None.
The motion carried

Mrs. Tulley offered, Mr. Molnar seconded, to **adopt RES. NO. 131-2008**, and post same according to law.

Roll call: Ayes: Barker, Engle, Martin, Molnar, Spraggins, Tulley
Nays: None
The motion carried. **RES. NO. 131-2008, adopted**

MOTIONS OR OTHER LEGISLATIVE ACTIONS:

~~ See Committee Reports, Longwood Manor Historical Society

~~Mr. Barker moved, Mr. Engle seconded, authorizing the Director of Finance to accept on behalf of the City of Macedonia Police Department a donation in the amount of One Hundred Dollars (\$100.00) from Jeff Sanda. Mr. Sanda requested that use of his donation be at the desecration of the police department

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

~~ Mr. Engle moved, Mrs. Tulley seconded, to cancel the regular council meeting of December 25 in observance of Christmas.

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

~~ **Mr. Engle moved, Mrs. Spraggins seconded, to accept the resignation of Finance Director Brunot effective December 31, 2008. (Question never called)**

Discussion had relative to the above motion follows.

Mr. Brunot stated that the effective date his resignation is January 5, 2009 not December 31, 2008.

Mr. Barker asked Mr. Engle why he is changing the date of Mr. Brunot's resignation.

Mr. Engle responded to save Macedonia money and because Mr. Engle does not feel that it is appropriate for Mr. Brunot to receive compensation relative to vacation time and health benefits for working just of few days into the new year.

Mr. Barker informed Mr. Engle that vacation time is earned in the preceding year and therefore Mr. Brunot is entitled to vacation time on January 1, 2009 that he earned in 2008. Selectively changing the rules as Councilor Engle and Spraggins are attempting to do in Mr. Barker's opinion is unfair and vindictive and most probably illegal. If Council wants this practice to stop or it wants to change how payments are made than the ordinances relative to this issue need to be amended he added. But changing the rules in the middle of the game is unwarranted he added

Assistant Law Director Hanculak cautioned Council that their attempt to change Mr. Brunot's resignation is against the law. Council's action can be interpreted as removing the finance director. Mr. Hanculak reminded Council that Macedonia's Codified Ordinances provide for all employees, including part-time employees the right to grieve their dismissal, removal, termination and forced resignation. Mr. Brunot would be no exception. The only method for removing an employee from this municipality Mr. Hanculak stated is through due process. Mr. Hanculak reminded Council of the several employee hearings that were held in this regard. Mr. Hanculak told Council that their actions are inappropriate and premature at best if their sole purpose of changing the date of Mr. Brunot's resignation is because of what the City may have to pay-out. The Council cannot give fewer rights to a department head than what would be given to any other employee, including part-time employees. It is against the law; it is against Macedonia's Charter and Codified Ordinances. Mr. Hanculak forewarned Council that their action could generate litigation. Mr. Hanculak assured Council that there has been ongoing discussion between the Personnel department, the law department, the finance department and the Mayor's office about what Mr. Brunot is entitled. Mr. Diemert has yet to make a determination on the matter. Mr. Hanculak also reminded Council that Mr. Brunot did not legally have to provide the City with an early resignation notice. Mr. Brunot did so as a courtesy and to provide a smooth transition because he is a man of integrity Mr. Hanculak stated. Mr. Hanculak

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suggested it might be easier if Mr. Brunot withdraws his resignation until after January 1.

Councilor Tulley interjected that in her experience changing the date of a tendered resignation to an earlier date is considered a termination. Extending the date is a negotiable item.

Councilor Spraggins asked how can this Council justify to Macedonia resident that Mr. Brunot takes four days vacation time the last week in December but because he has so much work he has to work 2 days in the new year and for this he can receive vacation time in the amount of \$8,000 and HSA benefits in the amount of \$4,000.

Mr. Hanculak again reminded Mrs. Spraggins that Mr. Diemert has yet to determine the pay-out to Mr. Brunot.

Councilor Engle interjected that there has been a flurry of emails over the last week about this issue. It disturbs Mr. Engle that now in the eleventh hour Mr. Diemert is going to render an opinion. Why hadn't the opinion already been rendered Mr. Engle questioned particularly when the administration has been aware of Council's dissatisfaction with the amount of Mr. Brunot's pay-out? Mr. Engle does not believe it is in the best interest of the City's finances to have to pay this amount simply because Mr. Brunot is conveniently working two days into the new year.

Councilor Tulley said Council cannot be selective and punish Mr. Brunot simply because they don't want to pay the amount that is due. While Mrs. Tulley isn't thrilled with the timing and the amount of pay-out Council cannot change the rules for its convenience. The Council cannot ignore its ordinances. Rules are rules, if Council doesn't follow them, who will she asked. Mrs. Tulley suggested amending the ordinance to provide that upon resignation only one week of vacation time is paid per quarter.

Councilor Barker agreed with Mrs. Tulley. Councilor's Engle and Spraggins' action constitutes a termination Mr. Barker stated.

Councilor Molnar disagreed. Mr. Brunot's pay-out of vacation time and HSA amounts to almost \$12,000 for working just a few days into 2009. That is no't right, what more is to be said he added.

Mr. Hanculak reminded Mr. Molnar that Mr. Brunot's pay-out has yet to be determined.

Councilor Barker interjected that the issue has nothing to do with the amount of the pay-out. The current law entitles a person to be paid for time earned in the pervious year. Until the ordinance is amended that is the entitlement. It was okay for other employees to receive this benefit Mr. Barker stated including Mrs. Spraggins who left the City in January 1991. Anyone could read the history and know what Mrs. Spraggins asked for Mr. Barker stated.

Councilor Spraggins' response to Mr. Barker was why he would bring up what happened 20-years ago. "I don't believe you people, I am sure that if I was no't entitled to whatever I got, and who knows what that was because you people have traced history for 20-years.", she stated. Mrs. Spraggins informed Mr. Barker that she was appointed to the position of clerk of Summit County Council on January 2, 1991, the day of the County's organization meeting and therefore she could not have resigned from Macedonia prior to that date.

Councilor Tulley interjected that the point is that pay-outs have been a past practice in Macedonia in accordance with its ordinances no matter who the employee, including Mrs. Spraggins's so why the difference with Mr. Brunot. Macedonia's Charter and Codified Ordinances will stand up in a court of law if litigation results from this issue Mrs. Tulley said. Council cannot be selective. Mrs. Tulley is willing to work with the administration and law department to create legislation so that substantial pay-outs are no longer an issue.

Councilor Spraggins interjected that Macedonia employees used to accumulate 4.6 vacation hours during a pay period. When did that change she asked?

Mr. Brunot informed Mrs. Spraggins that she was confusing sick time accumulation with vacation time. Sick time is accumulated during each pay period. Vacation time is earned in the preceding year in which it can actually be used. Earned vacation time can be used after an employee's anniversary date. Mr. Brunot suggested that perhaps he erred in giving the City too much notice. He felt that it was honorable to provide the City with a more than adequate notice in order to provide time for a smooth, seamless transition. Regarding the time Mr. Brunot is taking at Christmas he stated that he has always taken vacation time around the holidays and he

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has no intention of changing his plans because those days were allocated and personal plans made well before accepting his new job. Mr. Brunot stated he has nothing to be ashamed of, he has done nothing wrong. He has done nothing different than countless of other employees who have separated service from Macedonia including Mrs. Spraggins. If Mr. Brunot were terminated on January 5 instead of tendering his resignation all his vacation time would be due to him, so what is the difference he asked. Why is he being punished for voluntarily providing more than ample notification he asked?

Councilor Spraggins asked Mr. Brunot how can he justify to Macedonia residents a pay-out of over \$8 thousand dollars in vacation time and the cost of HSA benefits for two days of work in 2009.

Mr. Brunot told Mrs. Spraggins that the benefits relating to his health care were none of anyone's business and that he was offended by her mentioning it. Regardless, he opted out of the HSA program and therefore no money is due to him. Mr. Brunot said his pay-out is justifiable because he earned those hours in 2008, his salary was arbitrarily frozen by Council and for the fact that he has saved the City hundreds of thousands of dollars over the last four-years he has been finance director. Shame on you that you question me he told Mrs. Spraggins. "When are you going to repay the tuition reimbursement you received from the City when you were an employee?" He said. Mr. Brunot added that Mrs. Spraggins stole Macedonia taxpayers because she never paid her tuition back to the City.

Mrs. Spraggins stated why is it when she questions what does not make sense it becomes a personal attack on her. What happened 20-years ago has no bearing on what is happening now she stated.

Councilor Barker answered that it most certainly does. A wrong never goes away he said.

Councilor Martin commented how frustrated residents must be by Council's actions this evening. One would hope Mr. Martin stated that discussions such as this would have been handled far in advance of a public forum. There is nothing to be gained this evening by the accusations, insults and innuendoes that have been made. The serious nature of today's economy has made Mr. Brunot's pay-out questionable whether he is entitled to it or not. Mr. Martin suggested that before Council acts, Mr. Diemert should address the matter impartially and judiciously. Council has always weighed the opinion of the law director in their final decision. This issue should be no exception he added.

In consideration for providing time for Mr. Diemert to render a legal opinion Mr. Barker moved, Mrs. Tulley seconded to hold a Special meeting on Tuesday, December 18 at 6:15pm for the purpose of acting upon Mr. Brunot's resignation.

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

[Footnote: The special meeting of Council was canceled because the question of Mr. Brunot's benefits became moot following Law Director Joseph W. Diemert Jr. legal opinion dated December 17, 2008 and entitled Steve Brunot Separation Benefits in which Mr. Diemert stated that due to the specific terms of Mr. Brunot's appointment for which requirements of Section 161.12 were waived no benefits were due. The full text of Mr. Diemert's legal opinion is on file in the office of the Clerk of Council]

At 9pm there was a fifteen minute recess. Council reconvened at 9:15pm.

CORRESPONDENCE:

~Letter of appreciation from the Teeney Family of 7657 Sara Fletcher Court, Twinsburg Township to Chief Black and Macedonia Fire Department relative their response to a fire at the Teeney home.

~Letter of appreciation from Bernice Blatnik to Chief Black and the emergency service provided to her husband on November 25, 2008.

PUBLIC COMMENTS: Chuck Loparo of Bradford Lane chastised the remarks that were made relative to tuition the City paid on Mrs. Spraggins' behalf when she was an employee. According to Mr. Loparo the official ruling relative to Mrs. Spraggins tuition was that she did not have to

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pay the City back the tuition because she never signed documents relative to the reimbursement program and because Mayor Migliorini and Council told her she did not have to pay it.

Regarding another matter, Pat Bonhard of the Longwood Manor Historical Society thanked Council for their patience while LMHS investigates various repair options and funding opportunities relative to the Manor House. Ms. Bonhard also thanked Council for the reprieve relative to the demolition slated for November 12. Ms. Bonhard stated the use of Longwood Manor is strongly recommended in a recent report prepared by Cleveland State University. Ms. Bonhard thanked CSC for the report that was prepared free of charge as a class project. Ms. Bonhard always thanked Heritage Ohio for taking an ardent interest in the Manor House. The LMHS is in the process of seeking grants Ms. Bonhard stated. One grant, the Johanna Favrot Fund for Historic Preservation through the National Trust for Historic Preservation requires that the City use the equity in Longwood Park as the match of the grant. There would be no outlay of actual dollars required by the City Ms. Bonhard said. The LMHS plans on contracting with a grant writer to write the grant. The LMHS plans to continue other fund raising endeavors. Ms. Bonhard mentioned that LMHS has acquired the architectural renderings of Longwood Manor from the Western Reserve Historical Society. Archived with WRHS are over 50 boxes of Mayor Long's documents, which Ms. Bonhard added not only have been very interesting but have been helpful as well.

MAYOR'S REPORT: In addition to his report (attached), Mayor Kuchta commended Mr. Brunot for four years of outstanding service to the City of Macedonia. Mayor Kuchta described Mr. Brunot as the man who saved Macedonia. When Mayor Kuchta took office, Macedonia was in dire financial condition he said. It was Mr. Brunot who turned the City around. There was a \$1M dollars in debt in the tax department, a \$1M dollars in negative fund balances and negative carryover of \$257,000. Without Mr. Brunot the Mayor is convinced that Macedonia would have been taken over by the state. Mr. Brunot not only improved Macedonia financial condition, he proved to be instrumental in the areas of economic development and union negotiations.

COMMITTEE REPORTS

Planning Commission Mr. Martin reported that WalMart is submitting new architectural renderings at the Commission's special meeting of December 22 with regards to adding more Western Reserve characteristics to the facade. The regular meeting scheduled for this date had previously been canceled he mentioned.

Building Commissioner Hlad added that WalMart has fulfilled all the preliminary steps relative to the planning review process. At this point the architects are simply incorporating some additional Western Reserve characteristics to the exterior of the structure as Mr. Martin had reported.

Parks & Recreation Commission Mr. Molnar reported that the next Commission meeting is Monday, December 15 at 7pm. As always, the meeting will be held at the Recreation Center. The public is encouraged and welcomed to attend.

Western Reserve Cable Consortium Mrs. Tulley reminded residents that digitalization conversion is scheduled for February 17. Those residents who do not have cable or DirectTV must install a converter box in order to receive transmissions through their analog televisions. The City does not provide converters. The FCC is providing each household two coupons valued at -\$40 each that must be in hand at the time of the purchase of the boxes she added.

Longwood Manor Historical Society Council President Engle reported that the LMHS has an opportunity to apply for a viable grant. In light of this Mr. Engle suggested that the condemnation order be extended another 120 days to allow LMHS time to submit the grant. (See motion below) Mr. Engle feels the LMHS should pursue as many financial avenues as possible as long as the City is not responsible for expending taxpayers' dollars. Mr. Engle stated that he has spoken with a historic architect who advised Mr. Engle that the City is eligible for a fifty-fifty grant for the renovation of the Manor House. The City's split of the grant would require no expenditure. It would however require collateral, the Manor House and the land for which it sits.

Mr. Engle is encouraged that original blueprints were found. They will be a tremendous help with regards to the renovation as well as the grant application. Mr. Engle feels the Manor House should be saved in light of its historical significance and in light of funding availability. Mr. Engle made it clear that the LMHS would bear all expenses. The City would make no dollar contributions.

Councilor Tulley questioned how the City can offer the Manor House and the land as collateral

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and asked that the law department review the grant application before it's submitted.

Mr. Engle explained as it was explained to him that the LMHS is filing the application on behalf of the City. The City's share, split, contribution is therefore the Manor House and Longwood Park. The City therefore does not have to come up with cash for its share of the grant.

~~~Mr. Engle moved, Mr. Molnar seconded, to extend the condemnation order relative to the Manor House an additional 120 days in order to allow the Longwood Manor Historical Society time to submit a grant application relative to the renovation and restoration of the Manor House. The City will not be responsible for any expenses relating to contracting a grant writer relative to the grant application, the writing or filing the grant application or any other expenses relating to the grant, the results of the grant or any expenses relating to the renovation or restoration of the Manor House.

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

DEPARTMENT REPORTS

Service Department Mr. Crevar reported that due to Christmas Thursday's rubbish collection will be on Friday and Friday's will be on Saturday. The same will be true for New Year's Day he added. Mr. Crevar mentioned that in between snow events service crews are completing the final round of leaf collection. Information about the whereabouts of the service crews can be viewed online on the City's website. Mr. Crevar reported that the FEMA reimbursement relative to the windstorm damage sustained by the City was \$13,800.00. Mr. Crevar mentioned that ODOT has freed up salt and as a result is guaranteeing the City 3000 tons at \$75 per ton. The cost and details of trucking the salt to Macedonia are still be negotiated. Mr. Crevar mentioned that Norfolk Southern is cleaning all the railroad graffiti this week. Mr. Crevar stated that there are 70 participants in the Senior Snow Removal program. The cost of the program to the City is \$11 per push when the snow is at 3 inches. Last year there were 11 call-outs he stated. The proposed 2009 allows for at least a dozen call-outs. However, there are only enough funds in this year's budget to allow for two more call-outs. Mr. Crevar wished everyone Merry Christmas and best wishes of the New Year as well as to wish Mr. Brunot good luck in his new position.

Building Commissioner Mr. Hlad reported that residential construction is not suffering in Macedonia. There are currently 15 homes under construction, 10 of which have been purchased. Macedonia continues to be ranked third in Summit County relative to residential permits. Mr. Hlad reported that construction for one new commercial building that will be located on Highland Road will begin soon as will the additions to WalMart and Specialty Lubricants. Several interior commercial renovations are also underway he added.

Engineer Mr. Hill reported that the SR82 is progressing on schedule with an anticipated completion date of October 2009. Engineering negotiations are underway relative to SR 82 Phase 3. Plans relative to the Highland Road Grade Separation are nearly complete he mentioned. The plans are currently in review in what Mr. Hill referred to as Stage 3 submittal. The Shepard Road Sanitary Sewer Phase 2 project in conjunction with the City of Twinsburg is on hold at Twinsburg's request Mr. Hill reported. Twinsburg would like to wait until they know more about the stormwater utility fee being proposed by the Northeast Ohio Regional Sewer District (NEORD). Mr. Hill is not sure why Twinsburg feels that the fee may relate to the project. But until he hears otherwise the project is at a standstill. Preliminary estimates are complete relative to Shepard Road Sanitary Sewer Phase 3. This phase is completely located in Macedonia. The DSCC continues to meet regularly Mr. Hill stated and they have been apprised of the NEORD fee. With regards to several studies prepared by CTI relative to Macedonia stormwater issues there were some questions Mr. Hill had so CTI is going to run additional calculation for clarification purposes.

Mayor Kuchta mentioned that he has conveyed his dissatisfaction about the NEORD fee to the three mayoral board members of NEORD.

Recreation Department Ms. Gmerek reported that the Parks & Recreation Winter brochure is due tomorrow. The guide will include upcoming information on classes, programs and events planned from January through April. Area residents can expect a copy to be delivered as an insert in the *NewsLeader* in the next week. For its annual promotion the Recreation Center is offering free land and aquatic fitness classes to members and non-members the week of January 5. Ms. Gmerek mentioned that the Recreation Center will be closed December 24, 25 and

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January 1. On December 31 the hours of operation will be 9am until 3pm. Ms. Gmerek mentioned that *Sun News* ran an article today edition regarding local communities who are promoting healthy residents within their communities by paying a portion of their residents' membership to local fitness centers. Ms. Gmerek pointed out that the costs reported in the article relative to what Twinsburg Township residents pay to utilize Macedonia Recreation Center were incorrect. Twinsburg Township residents pay non-resident rates. The prices that the Sun reported were what Twinsburg Township residents pay to join Twinsburg Recreation Center. Macedonia residents Ms. Gmerek stated pay the lowest rate and will always pay the lowest rate to utilize Macedonia Recreation Center, as well as to participate in any of Macedonia's programs she said. The *Sun News* will run a correction article next week she added. Communities, like Walton Hills subsidize the difference so their residents can use Macedonia Recreation Center.

Finance Department Mr. Brunot thanked Council for clearing the agenda before the year's end. Mr. Brunot stated that while he is excited and anxious about his new position in the office of the Summit County engineer he will miss Macedonia and the relationships he has developed with residents and employees. Macedonia is an outstanding place in which to work and live he added.

Fire Department Chief Black reported that the Santa Gift program begins next week. The chief thanked the Mayor and Council for allowing Josh Golobek to become an honorary firefighter. Josh is a very sick young man who is fighting a courageous battle. He and his family were thrilled by the events they experienced this evening. Chief Black wished Mr. Brunot well in his new position. Chief Black commended Mr. Brunot. The chief said Mr. Brunot has been a pleasure to work with and his presence will certainly be missed.

Councilor Engle commended Chief Black and Macedonia Firefighter Association for their extraordinary donation to Josh Golobek and his family.

Police Department Chief Golden commended Officers Chris Neal and Michael Burda relative to a two-week crash investigation course each attended. Both received a perfect score of 100 in addition to extra credit points. Both officers are now members of the Summit County Crash Team. The chief also commended Sergeant Gary Ennis, Macedonia's jail administrator. Sergeant Ennis is an excellent overseer of the operations of the jail the chief stated. In 2006 jail revenue was \$22,000, in 2007 it was \$51,000 and this year it was \$125,000 the chief added.

Law Department Mr. Hanculak had no report.

Unfinished business Councilor Spraggins asked if legislation has been prepared amending the MOP ordinance to preclude nonprofits from receiving grants.

Mr. Brunot responded that legislation has not been prepared because at the meeting of October 23 Mrs. Spraggins had stated it would be unfair to amend the legislation since a nonprofit had already applied for a MOP grant.

Regarding the Girl Scout MOP grant, Mrs. Spraggins asked Mr. Hanculak how Ordinance No. 98-2008 passed on November 13 when only a quorum of Council was present. Mrs. Spraggins stated that in her 30-years as either an employee of the City, a resident or an elected official she cannot recall any instant in which an ordinance passed with so few members present and under the condition of a tie vote. Four members were present; the vote was 2-2 with the tie vote in the affirmative. How was that possible Mrs. Spraggins asked Mr. Hanculak when each piece of legislation written states in the emergency clause, "...and provided it receives the affirmative vote of four (4) or more of the members elected or appointed to Council...". Mrs. Spraggins agreed that pursuant to the Charter the mayor breaks all ties. She did not agree however that the ordinance could pass with so few votes.

Mr. Hanculak reminded Mrs. Spraggins the numbers of votes required relative to the emergency clause pertain exclusively to the effective date of legislation. The emergency clause is not applicable to the adoption of legislation. The adoption of legislation requires the vote of a simple majority. Pursuant to the Charter, in the case of a tie vote the Mayor casts his vote. Four votes are required for the legislation to become effective immediately, that is, upon its adoption. Otherwise the legislation does not, cannot become effective for 30-days he stated. The Girl Scout MOP grant ordinance passed on November 13. It will however not become effective, and the agreement can not be executed until December 13. Referring back to November 13 meeting, Mr. Hanculak stated there was a quorum, enough members were present to transact Council business. Ordinance No. 98-2008 had been read on three separate occasions. The vote to adopt was taken. The 2-2 vote resulting required the Mayor to break the tie. The legislation passed by

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a vote of 3-2. The effective date of Ordinance No. 98-2008 was not immediate but December 13 because of the emergency clause rule. Legislatively and procedurally, the matter was handled correctly Mr. Hanculak told Mrs. Spraggins.

Mrs. Spraggins answered that she was disappointed nonetheless. The resulting circumstance may be an issue for review by the Charter Review Commission she suggested. She was also disappointed that Ordinance No. 98-2008 passed since she had been working behind the scenes with Dr. Alford Smith and thought a compromise had been worked out.

Councilor Tulley questioned when Mrs. Spraggins met with Dr. Alford Smith. Were other members of Council aware of this she asked Mrs. Spraggins to which Mrs. Spraggins answered that the Mayor was aware?

Mayor Kuchta corrected Mrs. Spraggins. He was aware that Mrs. Spraggins had talked to Dr. Alford Smith but no compromise was reached as Mrs. Spraggins said. Mayor Kuchta stated that he had countered Mrs. Spraggins' proposal but she never responded to the counter. Mrs. Spraggins had wanted to cut the grant in half and the Mayor Kuchta was willing with the stipulation that the grant would be extended.

Mrs. Spraggins said she did not respond because she was with Dr. Alford Smith and Lewis Atkins on November 17. The meeting was pointless she added after the November 13 council meeting

With regards to another matter, Mrs. Tulley commended Fire Chief Black and Macedonia Fire Association for the amount of the donation from the pancake breakfast to Josh Golobek. It was a phenomenal event and a testimony to all the volunteers who made it possible. As a fund raiser for the Leukemia Lymphoma Foundation knows first hand how sometimes difficult and time consuming these events, though worthwhile, can be. Everyone who participated should be very proud she added. Regarding Mr. Brunot, Mrs. Tulley thanked him for all he did for Macedonia: The Five-Year Plan, the detailed financial reports, the improved audits, the creation of the Audit Commission to name just a few. Mr. Brunot helped Macedonia move light years ahead with regards to its financial condition and footing Mrs. Tulley stated. Mr. Brunot met each and every one of Council demands and then some she added.

New business Discussion was had relative to the review of the Charter due in 2009. Mrs. Tulley stated she placed an article in the Macedonia Messenger relative to the six-month review process. It was mentioned that two pieces of legislation will be introduced at the January 8 meeting: One providing for the review of the Charter and the other approving the appointments to the Commission. There will be six appointments and a Council representative. The Council representative does not submit a recommendation. Recommendations to the Commission will be made by the Mayor and the other members of Council.

There being no further business before Council, the meeting adjourned at 10:10pm

Mayor's Report

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This will be our last meeting until after the end of the year Holidays. We have witnessed a year that has seen many things change, some for the better, and some for the worse. I think that we all have our opinions of what constituted the good, bad, and the ugly. I think that our City has had a good year as for as the positive changes that happened or in the process of happening. Macedonia has seen road projects happening on our perimeters and right in our downtown district. We have seen roads fixed right here in town that haven't been fixed since John Kennedy was president. We have had voters support issues that will help insure our destiny. We have seen gas prices escalate to unbelievable highs then plummet. We have seen road salt turn to white gold. We have seen a black man elected president for the first time, and seen our federal government spend more money than it took in for the umpteenth time. We have seen phones get smaller and phone bills get bigger. We have seen automobile companies and banks ask for a bailout funded by the taxpayers, while the tax payers are not sure they will be funded.

Maybe I should pick a different subject to talk about before the Grinch steals Christmas. We do have some new businesses in town and the possibility of a new Super WalMart. We do have road projects that are ahead of schedule. We have some businesses here in town that are actually expanding.

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I guess things could be worse but we can never stop trying to make them better. That is our job as your elected officials, and we have taken an oath that states clearly that it is our responsibility to do that.

With that thought in mind let's wish all of our constituents a very happy Holiday season and a Happy New Year with things getting better than ever.

And don't forget that one of the best ways you can make people forget the *past* is with a *present*!

The total court revenue for the month of November was \$30,538.00.