

Record of Proceedings
Regular Council Meeting
October 9, 2014

Presiding Officer, Mayor Donald Kuchta called the October 9 meeting of Macedonia City Council to order at 7:31pm.

Present: Council members' Rita Darrow, David Engle, Sylvia Hanneken, Nicholas Molnar and Janet Tulley; Council Clerk Josephine Arceci and Law Director Joseph W. Diemert, Jr.

Absent:

PLEDGE OF ALLEGIANCE was led by Council President Dave Engle

INVOCATION was led by Mayor Kuchta.

FINANCIAL REPORT Ms. Hanneken moved, Mr. Engle seconded, acknowledging receipt of the Financial Report dated August 31, 2014 as submitted by the finance director

Roll call: Ayes: Darrow, Engle, Hanneken, Molnar and Tulley
Nays: None
The motion carried

Relative to the August financials, Councilor Hanneken stated that it is all good news. Income tax revenue exceeded collections during this same period last year. The difference is last year's collections however included revenue from the additional, temporary quarter percent income tax in place at the time.

PUBLIC COMMENTS

John Cassmer, Macedonia resident and president of the Longwood Manor Historical Society proudly announced that on September 3rd the Manor House was placed on the National Registry. In honor of this recognition a public ceremony will be held at the Recreation Center on November 16 at 2pm.

Mayor Kuchta commended Mr. Cassmer and all the members of the LMHS for their perseverance.

Regarding another topic, Shirley Koth, 902 Eileen Drive, questioned the status of the storm water project relative to Eileen Drive. Based on dialogue from the last Council meeting Ms. Koth expected an ordinance authorizing the project to be on tonight's agenda. Ms. Koth is concerned that if something is not done before winter that she and her neighbors, especially the Kominek's will still be facing treacherous conditions when going in or out of their driveways.

Service Director DeGaetano assured Ms. Koth that service crew will start the project of moving a water main, laying new pipes and adding additional catch basins as soon as the finance director issues a purchase order.

INTRODUCTION, READINGS & ADOPTION OF LEGISLATION

ORD. NO. 93-2014

AN ORDINANCE PROVIDING FOR A SENIOR SNOW REMOVAL PROGRAM FOR THE

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2014-2015 WINTER SEASON was **offered by** Ms. Darrow for its **third reading by title only**. Second not required.

Ms. Darrow moved Mr. Engle seconded to **amend ORD. NO. 93-2014, Section 3 to read: “...not to exceed \$12.50 per push...”**

Roll call: Ayes: Darrow, Engle, Hanneken, Molnar and Tulley
Nays: None
The motion carried

Ms. Darrow moved, Mr. Engle seconded to **adopt ORD. NO. 93-2014 as amended** and post same according to law.

Roll call: Ayes: Darrow, Engle, Hanneken, Molnar and Tulley
Nays: None
The motion carried. **ORD. NO. 93-2014 declared adopted**

ORD. NO. 96-2014

AN ORDINANCE AMENDING THE 2014 ANNUAL APPROPRIATIONS ORDINANCE NO. 26-2014 REGARDING SERVICE DEPARTMENT TRUCK REPAIRS was **offered** by Ms. Hanneken 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 its second and third readings**. Second by Mr. Engle.

Roll call: Ayes: Darrow, Engle, Hanneken, Molnar and Tulley
Nays: None
The motion carried.

Ms., Hanneken moved, Mr. Engle seconded to **adopt ORD. NO. 96-2014** and post same according to law.

Roll call: Ayes: None.
Nays: Darrow, Engle, Hanneken, Molnar and Tulley
The motion failed. **ORD. NO. 96-2014 not approved**

ORD. NO. 97-2014

AN ORDINANCE AUTHORIZING THE APPROPRIATION OF FUNDS FROM THE UNAPPROPRIATED FUND BALANCE TO PROVIDE FOR CURRENT EXPENSES OF THE SERVICE DEPARTMENT OF THE CITY OF MACDONIA (REMOVAL OF TREES AT SUGARBUSH AND LONGWOOD PARKS) was **offered** by Ms. Hanneken 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 its second and third readings**. Second by Mr. Engle.

Roll call: Ayes: Darrow, Engle, Hanneken, Molnar and Tulley
Nays: None
The motion carried

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Ms. Hanneken moved, Mr. Engle seconded **to adopt ORD. NO. 97-2014** and post same according to law.

Roll call: Ayes: None.
Nays: Darrow, Engle, Hanneken, Molnar and Tulley
The motion failed. **ORD. NO. 97-2014 not approved**

Relative to ORD. NOS 96 & 97-2014, Councilor Molnar explained each ordinance was voted down for the reason that the dollars intended for equipment repairs and tree removal are incorporated into the subsequent legislation, Ordinance No. 99-2014.

ORD. NO. 99-2014

AN ORDINANCE AMENDING AND SUPPLEMENTING THE 2014 ANNUAL APPROPRIATIONS ORDINANCE NO. 26-2014 RELATIVE TO VARIOUS FUNDS) was **offered** by Ms. Hanneken 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 its second and third readings**. Second by Ms. Tulley.

Ms. Hanneken moved, Mr. Engle seconded moved to **amend ORD.NO. 99-2014, by added the following to Section 1:**

Fund	201.355.5410	CONTRACTED SERVICES	\$240.00
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Ms. Hanneken moved, Ms. Tulley seconded **to adopt ORD. NO. 99-2014 as amended** and post same according to law.

Roll call: Ayes: Darrow, Engle, Hanneken, Molnar and Tulley
Nays: None
The motion passed **ORD. NO. 99-2014 declared adopted as amended.**

Relative to ORD. NO. 99-2014, Mr. Svab provided a brief explanation of the amendments. The first half of the list of amendments is budget neutral he stated. The second half (bolded items) have an impact. The largest impact is \$70,000 which pertains to a federal fire grant being used for capital outlay. A savings of \$5600 from the vendor used to purchase the equipment was realized by ordering the equipment now instead of waiting to purchase n 2015. The grant was a matching share he added. The service items were previously discussed.

RES. NO. 100-2014

AN EMERGENCY RESOLUTION DECLARING THE NECESSITY AND INTENTION TO APPROPRIATE FOR STREET PURPOSES CERTAIN FEE SIMPLE INTERESTS AND EASEMENTS IN AND TO VARIOUS PREMISES ALONG SOUTH FREEWAY DRIVE AND STATE ROUTE 82 TO FACILITATE THE I-271 NORTHBOUND ENTRANCE RAMP RELOCATION FROM STATE ROUTE 82 TO CONNECT WITH A NEW RAMP FROM SOUTH FREEWAY DRIVE; TO WIDEN

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STATE ROUTE 82 TO INSTALL A SIXTH LANE BETWEEN MACEDONIA COMMONS BOULEVARD AND THE OVERHEAD RAILROAD BRIDGE WITH THE ADDITIONAL LANE SERVING AS A LEFT TURN, WITH THE EXISTING LEFT TURN LANES FROM STATE ROUTE 82 TO SOUTH FREEWAY DRIVE AND MACEDONIA COMMONS TO BE LENGTHENED, ALL PROVIDING ACCESS TO A NEW I-271 NORTHBOUND ENTRANCE RAMP OFF OF SOUTH FREEWAY DRIVE, ALTOGETHER WITH THE NECESSARY APPURTENANCES THERETO FURTHER IDENTIFIED AS P.I.D. NO. 97084 WITH THE COUNTY/ROUTE/SECTION NO. SUM-271-12.65 was offered by Ms. Tulley for **its first reading by title only**. Second not required

MOTIONS OR OTHER LEGISLATIVE ACTIONS

Prior to motion below Mr. Engle explained this matter was discussed during this evening's work session.

~Mr. Engle moved, Ms. Darrow seconded, authorizing an independent outside investigation regarding the allegations raised against finance director Scott Svab.

Roll call: Ayes: Darrow, Engle, Hanneken, Molnar and Tulley
 Nays: None
 The motion passed.

Mr. Engle invited members of Council to suggest person(s) they believe appropriate for this task. Mr. Engle asked that their suggestions be submitted to him as soon as possible so a meeting can be scheduled to vet those person(s) and their qualifications and to define the scope of the investigation. An ordinance authorizing the outside investigator will follow.

CORRESPONDENCE:

~Letter to Mayor Kuchta from Rudy and Pam Kenik, 8536 N. Bedford Road in appreciation for the "successful work" performed by service crew on N. Bedford Road.

~Email to Service Director DeGaetano from Joseph Migliorini in appreciation for the "competent work" performed by service crew on Migliorini Way and Maureen in the Villas of Taramina.

MAYOR'S REPORT:

Mayor Kuchta stated the Ledge Road Bridge continues to be unsafe; it continues to pose a serious threat to vehicles and pedestrians. There is a battle ensuing between the City and Norfolk Southern the Mayor stated particularly since the most recent incident when a stone from the tracks hit the car windshield of a Macedonia resident. The Mayor said that unfortunately trying to work with the railroad is extremely difficult given its autonomous; it's a sovereign like entity so there is virtually no cooperation. Mayor Kuchta displayed photos of the decaying bridge as well as photos of a train derailment that occurred in 2012 in a residential suburb of Chicago four hours after the bridge was inspected. The Chicago bridge resembled the Ledge Road bridge.

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Mayor Kuchta thanked television Channels 3, 5, 8 and 19 for the media coverage they recently provided. The Mayor also thanked Ohio Senator Frank LaRose, who is a member of the Railroad Commission and who has been with the City every step of the way Mayor Kuchta stated.

Mayor Kuchta also read correspondence in support of Macedonia's position by the following elected officials.

Statement from Congressman David Joyce... "Protecting drivers in Macedonia is the first priority in this situation. I've reached out to Norfolk Southern to see what can be done to prevent further incidents like this and will do all I can to help the City of Macedonia ensure this bridge is safe."

Statement from Summit County Councilor and President of County Commissioners of Ohio Nick Kostandara..."The prolonged problem created on Ledge Road affects the health and safety not only in Macedonia but everyone who travel it. It is imperative that Norfolk Southern Road begin a process to go ahead and fix the Ledge Road Bridge up to standards. As Summit County Council representative and President of County Commissioners of Ohio, I support Mayor Kuchta and his efforts to help resolve this problem"

Statement from Northfield Village Mayor Jesse J. Nehez..."...the Village of Northfield fully supports your efforts to compel Norfolk Southern Railroad to adequately repair or replace the railroad bridge over Ledge Road. The current condition of the bridge and falling stones pose a serious safety hazard to residents and visitors to the Village that have to travel underneath the bridge, including children walking under the bridge to get to Lee Easton School. In the event that the road under the bridge needs to be closed permanently due to the above safety risks, traffic patterns will be disrupted, motorists will be significantly inconvenienced, and traffic jams will occur on alternate routes in both our communities. Therefore, it is essential to the Village of Northfield as well as the City of Macedonia for Norfolk Southern to adequately repair or replace the bridge as soon as possible. The Village of Northfield applauds and supports your steadfast efforts in this regard."

Law Director Diemert, expounding on Mayor Kuchta comments explained that a conference was held in 2013 between the City, railroad officials and local legal counsel for Norfolk after the City threatened the railroad with legal action. Railroad officials conceded at that time that there were issues with the bridge but described them as minor. Railroad officials contend the bridge is structurally sound. The City's engineering consultants disagree. Railroad officials will not share their structural reports. Norfolk installed chicken wire to contain the falling debris and is maintaining it. Debris however continues to fall. Mr. Diemert reaches out monthly to Norfolk's legal counsel. This July Mr. Diemert learned no attempts are being made to make major changes. So after last week's windshield incident and the bridge having to be closed for safety concerns Mr. Diemert advised Norfolk legal counsel that he was preparing a case against them in federal court. Mr. Diemert explained that the railroad operates independently under the National Railway Act but there is a loop hole in that the municipality can assert its authority relative to

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the street under the bridge. Pursuant to the Ohio Revised Code, the Mayor as safety director as the mandatory duty to maintain, keep safe and keep open all roadways in the community. Mr. Diemert is developing legal parameters relative to the City's argument. The railroad does not want court action, they want resolution and to that end they have engaged outside engineering to perform a study to be completed by December. The City would like that commitment in writing but do not Mr. Diemert stated. The City would also like to see existing engineering reports but under the law cannot compel Norfolk to release them. That may change Mr. Diemert stated if the issue goes to court. Mr. Diemert mentioned that since the threat of court action the railroad has been more receptive to the point of wanting to sit down with City officials. Mr. Diemert mentioned too that when it's determined the street can be opened signage with flashing lights will warn motorists not to travel under the bridge if a train is passing above.

Chief Golden interjected that a PUCO official who was standing under the bridge was astounded when a rock the size of a fist fell through the rails above.

COMMITTEE REPORTS

Planning Commission Councilor Darrow announced Planning's October 20th agenda includes signage reviews for Hot-Topic, 8210 Macedonia Commons #25; First Watch, Macedonia Market Place, Aurora Road; Herchick's Tire and Auto Service, 854 E. Aurora Rd; Windmill Golf Center, 1511 E. Aurora Rd; Auto Correct, 573 E. Highland Rd, B.W. Rogers/Minrak, 7900 Empire Parkway; Charming Charlie, 8210 Macedonia Commons. Included as well is closed outdoor storage for St. Timothy's Episcopal Church, 8667 Shepard Rd; landscape plan for retail plaza at 463 E. Aurora Rd; the rental ranch style homes at South Park Drive; an exterior awning package for Charming Charlie, 8210 Macedonia Commons, the preliminary plan review of Getgo, 265 E. Highland Rd and an engineering inspection for GFS Macedonia, 1051 E. Aurora Rd.

Finance Committee Ms. Hanneken announced that three finance meetings have been scheduled: Wednesday, October 15 at 7pm for a first cut briefing, Thursday, October 16 at 6pm with the Mayor and the individual departments, and if needed, Thursday October 30 at 7pm. Ms. Hanneken's objective is to have 2015 budget complete for approval in December.

Charter Review Commission Mr. Engle announced that the first Charter Review meeting is Wednesday, November 19 at 6:30pm.

DEPARTMENT REPORTS

Service Department Director DeGaetano reported that the materials have been order for the storm water project at Gloria & Eileen. The Migliorini Way and Maureen road repairs will be reimbursed by the Cleveland Water department because the failure of the roads was due to a water main break. Mr. DeGaetano mentioned the October 2nd meeting with Iroquois and Blackhawk residents was very insightful. Residents who have lived in their homes since late 1950 provided a good knowledge base of their area, which Mr. DeGaetano was previously unaware. Regarding mailboxes, Mr. DeGaetano

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reminded residents to winterize them in preparation of heavy snow being thrown during plowing season. Macedonia follows ODOT standard regarding damage to mailboxes. That is Mr. DeGaetano stated, the City only pays to replace mailboxes when they have been hit directly by the plow blade.

Councilor Tulley asked Mr. DeGaetano why the "B" streets (Roseland Estates) were marked with paint spray to which Mr. DeGaetano explained in preparation of full depth repairs. Other streets outside that subdivision were marked as well he added.

Mayor Kuchta thanked Mr. DeGaetano relative to the repairs at Migliorini Way and Maureen and his persistent interaction with Cleveland Water over the matter.

Building Commissioner Mr. Hlad reported that punch list remains relative to GFA Food Service. Mr. Hlad reported that the roads are completed in the Enclave, the residential rental subdivision and that the footers for the Vista Springs senior facility have been poured. The new retail center will be coming back to Planning he reported because of a change in its landscape plan to include outdoor dining. There are 60 homes currently under construction Mr. Hlad added.

Engineer Mr. Fini had no report.

Recreation Department Ms. Gmerek reported that the Recreation Center was closed in September for a week for annual cleaning and maintenance. A major project performed this year was one of the pools was resurfaced. The pools have not been resurfaced since the facility opened in 1997. The life span of most pool surfaces Ms. Gmerek added is seven years. Mr. Gmerek intends to have the larger lap pool resurfaced in 2015. Ms. Gmerek reported that the Recreation Center's website is undergoing a makeover which will include online registration. The Annual Winter Craft Fair is Saturday, November 8 from 9am -2pm at Lee Eaton School, Ledge Road. Admission is free. There is however a booth fee. The Recreation Center will be opened Columbus Day, October 13th Ms. Gmerek added

Finance Department Mr. Svab reported income tax revenue is up by 1.4% or \$94,766. R.I.T.A. attributes the increase to net profits primarily from company's who received MOP grants. Whether net profits will remain high in 2015 is unknown Mr. Svab added. Mr. Svab thanked Council for authorizing a non-bias independent investigation concerning allegations against him. Mr. Svab said he's been working on the 2015 budget and has met with every department head regarding their proposed budgets. Wage and hospitalization costs are a major consideration he added. Mr. Svab anticipates another amended appropriation for October 23 agenda primarily for the run-off claims associated with BORMA. Claims amounted to \$170,000, \$110,000 of which the City recouped as a result of intervention by the law department.

Councilor Tulley mentioned that has been political noise during this campaign season suggesting the state income tax should be repealed. What effect would that have municipalities Ms. Tulley asked Mr. Svab?

Mr. Svab answered there has already been a reduction in local share money from the state. Over the last three years Macedonia has lost almost \$500,000. The loss of inheritance tax has had an impact as well of about \$60,000 annually he added. It is hard to say what will happen if more is reduced. Governor Kasich

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was able to balance the state's budget on the backs of municipalities by decreasing the local share he stated. Fortunately for Macedonia it has a strong business base and therefore should not be as impacted as severely by these decisions.

Fire Department In Chief Black's absence, Captain Ripley announced that displayed in the corridor are \$213,000 worth of fire air packs purchased through the federal fire grant. The City's share was \$60,000. Captain Ripley also announced that the Macedonia Firefighter Association Annual Fall Party for Macedonia children is Sunday, October 26 from 4-6pm and that annual pancake and sausage breakfast is Sunday, November 9 from 8am-2pm. Both events are at the fire station. Captain Ripley announced this is fire prevention week. This is the time of the year everyone is reminded to check the batteries in their smoke alarms.

Police Department Chief Golden reported that photos of the Ledge Road Bridge are posted on the police department's Facebook. The Chief reported that last week was National Take Back Drug Week for the disposal of unused or expired prescription drugs. There is a mailbox/container at the Recreation Center for this purpose. Excluded in disposal are syringes, needles and aerosol containers.

Law Department Mr. Diemert had no report.

Unfinished business None.

New business Councilor Hanneken stated, "I want to comment on the issue of the finance director, the treatment of our finance director and the treatment of this Council by your former campaign manager and highest contributor in 2011. The implication was made in this week's NewsLeader that the Council did irrationally and without any thought simply passed through this process because of political reasons and we did not consider any of the evidence. I don't know why that statement was made because nobody ever talked to us. I want to tell you what we have been doing. We had a package that was waved around last week. We not only had that package but we had 18 pages of rebuttal. I had an 8 page matrix that I put together to look at exactly what the allegations were, what the weight of them were, including what the evidence was to provide perspective on exactly what was being said. It was after all of that work that we thought that at best we ought to, in order to clear everything up we would have an independent investigation as an option. That was foreclosed when the Mayor terminated Mr. Svab and then we were forced to make a decision in public with statements made in public that were damaging to his reputation and without him being able to defend himself. So I take this very badly because the implication is that we are irresponsible and we don't care anything about the kinds of things that are going on in the City. We certainly do. And I will tell you the amount of work that went into this was days and hours and weeks at looking at things and doing the analysis. So number one, this was completely thorough look at everything before we made any kind of decision. The second point that I would like to make is that this was all to be done with the word confidential all over it. And we did not do anything to reveal the confidential allegations but those allegations ended up in the newspaper without any rebuttal associated with them. And there is an extensive rebuttal I was given and had considerable weight in her view and in the others so I would just like to say at this point that is why we have to move forward. We were intending to move originally with an investigation. We are now on record has absolutely ensuring we are going to have thorough outside independent investigation of these allegations so there can be no doubt for residents.

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We do take these things seriously and that we are going to find out right to the bottom of things what is going on. I want to say one other thing because there was an actual number quoted during that last meeting about the painter who came into the finance department. It was said that we saved only \$100.00. This person had, and no one knew he had a drug and alcohol problem, which was later discovered but he did excellent work and he did a tremendous amount of work. The bid that he, basically the total amount of money he charged was \$3,025.00. But there was a comparison to another vendor who offered a quote. But that other vendor only talked about part of the work this man did. If we compare apples to apples this other vendor would have cost us about \$6300.00 so the City basically saved about \$3,000 by having this gentleman come in and do the work. And he did a better job than some of the other folks. And I have some of the evidence here that is the case. So I just want to make sure that we, I don't want to go out and debate every item because I have not released this to the press but unfortunately these allegations are out there. Statements have been made which are inaccurate. So I just want to say that thank goodness this is a country in which we have innocent until there is real evidence."

Councilor Tulley interjected, "I thought we were saving all of this for the independent investigation? It is at that point in time a decision would be made pertaining to any of the allegations. Your statement about the painter, you haven't taken a look at the work that was done or seen the pictures where he didn't move book cabinets, he didn't move boards, he didn't move things. I tell you what I wouldn't have hired him to do my house when I see the job that was done. But I thought all of this was going to be cared for in the independent investigation that Council has allowed before further statements were made."

There being no further business, the meeting adjourned at 8:35pm.