

Record of Proceedings

Regular Council Meeting

December 11, 2014

Presiding Officer, Mayor Donald Kuchta called the December 11 meeting to order at 7:40pm.

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 Councilor Janet Tulley.

MINUTES Ms. Tulley moved, Mr. Molnar seconded to approve the minutes of the regular meeting of October 23, 2014, as submitted by the clerk of council. [*Ms. Hanneken requested that the November 13th minutes which were also on the agenda for approval be held until the next regular meeting*]

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

PROCLAMATION Terry Hudak, Macedonia resident and member of the Longwood Manor Historical Society read the following proclamation regarding the Longwood Manor.

*In the name of by the authority of The State of Ohio,
John R. Kasich and Mary Taylor, Governor and Lieutenant Governor of Ohio
do hereby officially recognize LONGWOOD MANOR AND FARM
upon the placement of a NATIONAL REGISTER OF HISTORIC PLACES PLAQUE
We commend all those involved, in cooperation with the Longwood Manor Historical Society for raising awareness of our state's unique heritage by erecting a National Register of Historic Places plaque. These plaques reflect and honor the people, places and events associated with our state's rich history, and through this reflection, encouraging appreciation of our past as we look to our future.
Thank you for your commitment to encourage our state's history is persevered and remembered.
Sealed and signed by the Governor and Lt. Governor November 16, 2014*

PUBLIC COMMENTS

Steve Knotts, resident of the Lake Forrest subdivision stated it has been four years of complaining about the sand and debris in the stream on his property and the properties of several of his neighbors. The stream of this size with 42" culverts should be maintained by a governmental agency and not a patch work of residents Mr. Knotts stated Mr. Knotts has sought advice of four engineers he said two of which were from the Corp of the Army Engineers and they have confirmed the same. Mr. Knotts mentioned the original plat of Lake Forrest contained an easement of the stream. Mr. Knotts asked Council to approve \$3,000 relative to the legal documents necessary to facilitate an easement. The easement would insure access of professionals to the property for routine maintenance and emergency repairs Mr. Knotts added. If the road washes out Mr. Knotts stated, numerous residents will not have access to their properties. In Mr. Knotts opinion the most inexpensive solution to this problem is to deed maintenance and rights of the stream to the City by way of easement.

Laura Knotts, 1196 Stoney Brook Circle and wife of Steve Knotts, reiterated her husband's statements. Ms. Knotts added Lake Forrest culverts are 3 ½ feet wide, three times larger than most 12' residential culverts. It is not logical to Ms. Knotts for culverts of this size, which run under the city's street to be maintained by homeowners. The cost of establishing an easement and the cost of the City providing routine maintenance is nothing Ms. Knotts stated compared to the cost of repairing the road after the culvert fails from continual sand build up.

Kevin Bilkie, a Lake Forrest resident and president of the subdivision's HOA questioned the results of the sand test as well as the status of the easement the Knotts' have requested.

Service Director DeGaetano informed Mr. Bilkie that the preliminary test results are complete and indicate the sand is from natural erosion of sandstone up stream. Mr. DeGaetano feels the second part of test, which would cost an additional \$2500.00, will probably indicate the same, that that sand is a natural occurrence.

Record of Proceedings

Regular Council Meeting

December 11, 2014

Councilor Engle interjected the preliminary test was not a quantitative, scientific test. An engineer walked the site and made a visual observation.

Mr. Bilkie asked if there was a way to slow down the natural occurrence to which Engineer Nick Fini responded a storm water deterrent upstream. Mr. Bilkie asked if the City would take responsible for that to which Council President Engle answered that Ms. Darrow asked for a work session to discuss these very issues and everyone on Council agrees. After the first of the year a work session will be held which will include Mr. DeGaetano, engineering and the law department. The budget supports additional storm water project, which may include Lake Forrest Mr. Engle stated. There are many issues yet to be resolved Mr. Engle stated including the fact that public dollars cannot be spent on projects for private property. Mr. Engle said he was surprised to learn this evening that an easement was included in the original plat but was removed.

Mr. Bilkie thought the easement was a “done deal” he said. From reactions from previous meetings Mr. Bilkie had the impression Council was “onboard” with the Knotts’ request. Now he hearing that is not the case.

Councilor Molnar interjected; given the size of the culvert resolution is going to take some time. Mr. Molnar has been working with building and engineering to find a solution. The solution is complicated.. Mr. Molnar mentioned there have been spirited emails about this issue, which Mr. Molnar feels were predicated by a misunderstanding. It is Mr. Molnar’s intent he said that an easement of the stream be created and granted to the City because the culvert is too large and waterway too complex to be the responsibility to be homeowners. Mr. Molnar has been speaking with Mr. Engle about the legalities of the issue.

Mr. Bilkie asked if there are other storm drains within the City like Lake Forrest not controlled and maintained by Macedonia to which Mr. Molnar responded he did not know. Mr. Bilkie reminded Council Lake Forrest residents came to them in June.

Councilor Hanneken interjected from her standpoint prevention is the answer, controlling storm water from upstream as Engineer Fini has suggested. The sand accumulation is having an effect on many properties. Preventing or slowing sedimentation coming from Twinsburg Township may be the answer Ms. Hanneken stated.

Mr. Bilkie told Ms. Hanneken the issues of sand and the easement are not the same.

Ms. Hanneken responded she for one wants a solution, even if it takes the next several months to find one. However a determination will be made after knowing what the alternatives are because she added, “We don’t want to keep having a bunch of slaves dig out sand out from places.”

Mr. Bilkie asked if Council will approve the \$3,000 Councilor Molnar requested for the legal documents.

Ms. Hanneken responded that there just has not been enough dialogue at a detailed level to arrive at a solution. Council does not have clear picture of what is needed because there has not been an engineer report in this regards. Ms. Hanneken feels Council can address the issue in a comprehensive manner following information gathering and a work session in the New Year. Ms. Hanneken is has frustrated over the issue as are Lake Forrest residents

Councilor Molnar assured Mr. Bilkie that Mr. Molnar is continuing to work towards legislation creating an easement. In Mr. Molnar’s opinion \$3,000 is a nominal fee to draft the legal documents required in this process. Mr. Molnar reminded Council that Lake Forrest residents came in June. Mr. Molnar is just trying to facilitate what needs to be done. The waterway is a separate issue from the culvert. The waterway needs to be in an easement so the waterway can be maintained by the City. Mr. Molnar is not trying to be combative he just wants his fellow members of Council to understand the situation.

Mr. Engle told Mr. Molnar he is being combative. Mr. Engle said Mr. Molnar has not included Council in what he has been doing; Mr. Molnar has kept the matter his own secret project. But tonight Mr. Molnar springs on Council \$3,000. Mr. Engle said he is trying to work with Mr. Molnar on this matter by providing Mr. Molnar the legal opinions which stated public dollars cannot be spent on projects for private property. Mr. Engle understands Lake Forrest residents have a problem but there are residents throughout Macedonia who have similar storm water problems. Mr. Engle feels a plan should be

Record of Proceedings

Regular Council Meeting

December 11, 2014

developed which addresses the entire community. Mr. Engle wants to find an effective solution so all these types of issues can be addressed in the future.

Councilor Molnar reminded Mr. Engle that Mr. Molnar has been involved since Ms. Darrow called Mr. Molnar this summer to help Lake Forrest resident John Matijasich. All Mr. Molnar has done thus far is listening to resident's concerns, walked their properties, walked the stream and taken emails about this subject. There is a problem; the City knows there is a problem, continuing talking about it isn't helping. In Mr. Molnar's opinion he has found a solution in detailing with the problem.

Councilor Darrow told Mr. Molnar she did not call Mr. Molnar as he said. Mr. Matijasich came to a council meeting she said and thereafter Messer's Engle and Molnar visited Mr. Matijasich's property.

Councilor Tulley interjected that Mr. Bilkie's points are well taken. The fact is Council has procrastinated this year on numerous road projects. Council talked about roads all year and did nothing to that end. Action has to replace procrastination Ms. Tulley stated. Councilor Molnar has taken up the gauntlet, he is try to get facts in order so when a Lake Forrest work session is can be an in intelligent meeting.

Mayor Kuchta added a drainage and storm water control committee (DSCC) was formed a number of years ago for the purpose of determining the areas throughout Macedonia which presented flooding hazards and develop a course of action. The DSCC prepared an extensive report with numerous recommendations. Only one project from that report has been completed to date Mayor Kuchta stated. The second project is scheduled in 2015 he added.

Regarding another matter resident Shirley Koth of Eileen Drive thanked service department personnel for making repairs in the area of Eileen Drive. Ms. Koth thanked Council for having the 2015 budget prepared before year end. The budget may not be perfect and may need adjustments throughout the year but for far too many years Ms. Koth said it was a thorn in her side that the budget wasn't approved until the last month of the first quarter of the New Year. Ms. Koth also feels the line itemed budget was effective. Regarding the council meetings on Cable 9 Ms. Koth complained that the recordings have not been shown in their entirety.

Mayor Kuchta explained to Ms. Koth the problem has been a timing issue which has since been resolved.

Councilor Engle thanked Ms. Hanneken as finance chair for being instrumental in the implementation and timeliness of the 2015 budget.

INTRODUCTION, READINGS & ADOPTION OF LEGISLATION

Mr. Engle moved, Ms. Darrow seconded to move the following resolution from last item on agenda to the first.

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

RES. NO. 121 -2014

A RESOLUTION CLARIFYING THE RETAINER AND HOURLY SERVICES PROVIDED BY THE DIRECTOR OF LAW AND THE LAW DEPARTMENT was **offered** by Ms. Engle and moved Council waive the requirement that it be read by title on three different days, instructing the Clerk to read it by **title for all three readings and waive 48-hour rule.** Second by Ms. Darrow.

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

Mr. Engle moved, Ms. Darrow seconded to **amend RES. NO. 121-2014, Sections 1 & 2 reducing per hour rate to \$128.50 from \$140.00.**

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

Record of Proceedings
 Regular Council Meeting
 December 11, 2014

Mr. Engle moved, Ms. Tulley seconded to **amend RES. NO. 121-2014, to be effective January 1, 2015.**

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

Mr. Engle moved, Ms. Darrow seconded to **adopt RES. NO. 121-2014 as amended** and post same according to law.

Roll call: Ayes: Darrow, Engle, Hanneken, Molnar and Tulley
 Nays: None.
 The motion passed. **RES. NO. 121-2014 declared adopted, as amended.**

Relative to RES. NO. 121-2014, Councilors Molnar and Tulley thanked Mr. Engle for working with Law Director Diemert relative to the matter of his compensation.

ORD. NO. 116-2014

AN ORDINANCE PROVIDING FOR THE 2015 ANNUAL APPROPRIATIONS was **offered** by Ms. Hanneken for its **third reading by title only**. Second not required.

Ms. Hanneken moved, Mr. Engle seconded to **amend ORD. NO. 116-2014, Exhibit A relative to following deletions and additions to the 2015 budget:**

Account	Description	2015 Budget	
101.150.5340	Legal Contracted Services	\$110,000.00	\$96,000.00
101.150.5345	Litigation Expenses	\$25,000.00	\$30,000.00
101.321.5365	Transfer to 401 Capital	\$1,600,000.00	\$1,690,000.00
401.401.5342	271 Ramp Project		\$158,690.00
401.401.5348	City Hall Roof Repairs		\$200,000.00
401.401.5595	Shepard Road Twinsburg		\$40,440.00
401.401.5596	Matching Grant Funds		\$30,000.00
401.401.5605	Road Project Cap (Westwood)		\$142,000.00
401.401.5627	Rte 82 Land Acquisition		\$150,000.00
401.401.5628	Airlane Rd Project		\$105,000.00

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

Ms. Hanneken moved, Mr. Engle seconded to **adopt ORD. NO. 116-2014, as amended** and post same according to law.

Roll call: Ayes: Darrow, Engle, Hanneken, Molnar and Tulley
 Nays: None.
 The motion passed. **ORD. NO. 116-2014 declared adopted, as amended**

ORD. NO. 117-2014

AN ORDINANCE ESTABLISHING THE PAY RANGE SCHEDULE OF COMPENSATION FOR THE EMPLOYEES OF MACEDONIA EFFECTIVE JANUARY 1, 2015 was **offered** by Ms. Hanneken for its **third reading by title only**. Second not required.

Ms. Tulley moved, Mr. Molnar seconded to **amend ORD. NO. 117-2014, Section 6, by deleting the last sentence of the paragraph which reads, "All department head merit raises must be approved by Council."**

Roll call: Ayes: Molnar and Tulley
 Nays: Darrow, Engle, Hanneken
 The motion failed

Ms. Hanneken moved, Mr. Engle seconded, to **amend ORD. NO 117-2014, Section 2 relative to following upgrades and adjustments to the non-union employee compensation paygrade range as recommended by Macedonia HR administer.**

Record of Proceedings
 Regular Council Meeting
 December 11, 2014

	Compensation Range		
	Minimum	Midpoint	Maximum
Paygrade 1	Minimum Wage	10.02 10.07	12.04
Paygrade 2	Minimum Wage	10.80 10.85	13.59
Paygrade 3	8.53	12.04 11.95	15.36
Paygrade 4	9.63	13.60 13.50	17.36
Paygrade 5	10.89	15.36 15.25	19.61
Paygrade 6	12.30	17.36 17.23	22.16
Paygrade 7	13.90	19.61 19.48	25.05
Paygrade 8	15.71	22.16 22.01	28.31
Paygrade 9	18.78 17.75	25.04 24.87	31.98
Paygrade 10	20.06	28.31 28.11	36.15
Paygrade 11	22.66	31.98 31.75	40.84
Paygrade 12	25.61	36.14 35.88	46.14
Payrade 13	30.62 28.94	40.83 40.54	52.14
Paygrade 14	32.70	46.14 45.82	58.93

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

Ms. Hanneken moved, Mr. Engle seconded to **amend ORD. NO. 117-2014, Section 4, reducing annual compensation to law director \$96,000.00 from \$110,000.00.**

	2015
Law Department	
Law Director (annual contract)	\$110,000.00 <u>\$96,000.00</u>

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

Ms. Hanneken moved, Mr. Engle seconded to **adopt ORD. NO. 117-2014, as amended** and post same according to law.

Roll call: Ayes: Darrow, Engle and Hanneken
 Nays: Molnar, Tulley
 The motion passed **ORD. NO. 117-2014 declared adopted as amended.**

ORD. NO.122 -2014

AN ORDINANCE CONFIRMING THE FINAL APPOINTMENT OF TERRENCE SCHNEIDER BY THE MAYOR TO THE POSITION OF FULL-TIME POLICE OFFICER was **offered** by Ms. Darrow and moved Council waive the requirement that it be read by title on three different days, instructing the Clerk to read it by **title for all three readings**. Second by Mr. Molnar.

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

Ms. Darrow moved, Mr. Molnar seconded to **adopt ORD. NO. 122-2014** and post same according to law.

Roll call: Ayes: Darrow, Engle, Hanneken, Molnar and Tulley
 Nays: None.
 The motion passed. **ORD. NO. 122--2014 declared adopted.**

ORD. NO. 123-2014

AN ORDINANCE CREATING SPECIAL FUND 226, POLICE CANINE (K-9) DONATION FUND was **offered** by Mr. Molnar and moved Council waive the requirement that it be read by title on three different days, instructing the Clerk to read it by **title for all three readings**. Second by Ms. Tulley.

Record of Proceedings

Regular Council Meeting

December 11, 2014

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

Mr. Molnar moved, Ms. Tulley seconded **to adopt ORD. NO. 123-2014** and post same according to law.

Roll call: Ayes: Darrow, Engle, Hanneken, Molnar and Tulley
Nays: None.
The motion passed. **ORD. NO. 123--2014 declared adopted.**

Relative to ORD. NO. 123-2014 Chief Golden announced K-9 Officer Haro has officially been on duty.

RES. NO. 124-2014

A FINAL RESOLUTION REQUESTING THE DIRECTOR OF TRANSPORTATION PROCEED WITH THE IMPROVEMENTS TO SR 82 AND DECLARING AN EMERGENCY was **offered** by Mr. Molnar and moved Council waive the requirement that it be read by title on three different days, instructing the Clerk to read it by **title for all three readings**. Second by Ms. Tulley.

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

Mr. Molnar moved, Ms. Tulley seconded **to adopt RES. NO. 124-2014** and post same according to law.

Roll call: Ayes: Darrow, Engle, Hanneken, Molnar and Tulley
Nays: None.
The motion passed. **RES. NO. 124--2014 declared adopted**

ORD. NO. 125 -2014

AN ORDINANCE AMENDING CODIFIED ORDINANCE 923.09(C) (2)(b)(2) BY CREATING AN ANNUAL ESCROW FEE FOR INSPECTIONS AND ADMINISTRATION OF LONG TERM MAINTNENANCE AGREEMENTS REGARDING POST-CONSTRUCTION WATER QUALITY PRACTICE was **offered** by Ms. Tulley for its **first reading by title only**. Second not required

ORD. NO. 126-2014

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT WITH LIFE INSURANCE COMPANY OF NORTH AMERICA, A SUBSIDIARY OF THE CIGNA GROUP INSURANCE, IN ORDER TO SUPPLY LIFE INSURANCE BENEFITS TO QUALIFIED EMPLOYEES was **offered** by Ms. Darrow and moved Council waive the requirement that it be read by title on three different days, instructing the Clerk to read it by **title for all three readings**. Second by Mr. Engle.

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

Ms. Darrow moved, Ms. Tulley seconded **to adopt RES. NO. 126-2014** and post same according to law.

Roll call: Ayes: Darrow, Engle, Hanneken, Molnar and Tulley
Nays: None.
The motion passed. **RES. NO. 126-2014 declared adopted**

ORD. NO. 127 -2014

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT WITH HUMANA COMPBENEFITS FOR THE PURPOSE OF SUPPLYING VISION HEALTH CARE TO QUALIFIED CITY OF MACEDONIA EMPLOYEES BEGINNING JANUARY 1, 2015 AND ENDING DECEMBER 31, 2016 was **offered** by Mr. Engle and moved Council waive the requirement that it be read by title on three different days, instructing the Clerk to read it by **title for all three readings**. Second by Ms. Tulley.

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

Record of Proceedings
Regular Council Meeting
December 11, 2014

Mr. Engle moved, Ms. Darrow seconded **to adopt ORD. NO. 127-2014** and post same according to law.

Roll call: Ayes: Darrow, Engle, Hanneken, Molnar and Tulley
Nays: None.
The motion passed. **ORD. NO. 127-2014 declared adopted**

ORD. NO. 128 -2014

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT WITH DELTA DENTAL INSURANCE FOR DENTAL BENEFITS FOR ELIGIBLE MACEDONIA EMPLOYEES FOR YEAR 2015 was **offered** by Ms. Tulley and moved Council waive the requirement that it be read by title on three different days, instructing the Clerk to read it by **title for all three readings**. Second by Mr. Molnar.

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

Ms. Tulley moved, Mr. Molnar seconded **to adopt ORD. NO. 128-2014** and post same according to law.

Roll call: Ayes: Darrow, Engle, Hanneken, Molnar and Tulley
Nays: None.
The motion passed. **ORD. NO. 128-2014 declared adopted**

Relative to ORD. NO. 128-2014, Councilor Tulley thanked HR administer Betsy McCafferty for orchestrating the schedule of benefits for Macedonia's employees.

ORD. NO. 129 -2014

AN ORDINANCE RENEWING THE EAP CONTRACT WITH TRI-COUNTY EMPLOYEE ASSISTANCE PROGRAM FOR YEAR 2015 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 for all three readings**. Second by Ms. Tulley.

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

Ms. Hanneken moved, Ms. Tulley seconded **to adopt ORD. NO. 129-2014** and post same according to law.

Roll call: Ayes: Darrow, Engle, Hanneken, Molnar and Tulley
Nays: None.
The motion passed. **ORD. NO. 129-2014 declared adopted**

ORD. NO. 130-2014

AN ORDINANCE APPROPRIATING FUNDS AND AUTHORIZING THE PURCHASE OF TWELVE (12) AUTOMATED EXTERNAL DEFIBRILLATORS (AED) FROM PHYSIO-CONTROL, INC., FOR USE BY THE FIRE, POLICE, SERVICE AND RECREATION DEPARTMENTS OF THE CITY OF MACEDONIA was **offered** by Ms. Darrow and moved Council waive the requirement that it be read by title on three different days, instructing the Clerk to read it by **title for all three readings**. Second by Mr. Molnar.

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

Ms. Darrow moved, Mr. Molnar seconded **to adopt ORD. NO. 130-2014** and post same according to law.

Roll call: Ayes: Darrow, Engle, Hanneken, Molnar and Tulley
Nays: None.
The motion passed. **ORD. NO. 130-2014 declared adopted**

ORD. NO. 131-2014

AN ORDINANCE AUTHORIZING APPROPRIATION AND PAYMENT OF THE CITY'S PORTION OF AN ODNR NATURE WORKS GRANT FOR THE RESTORATION OF SUGARBUSH PARK was **offered** by Mr. Molnar and moved Council waive the requirement that it be read by title on three different days, instructing the Clerk to read it by **title for all three readings**. Second by Ms. Tulley.

Record of Proceedings

Regular Council Meeting

December 11, 2014

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

Mr. Molnar moved, Ms. Tulley seconded to **adopt ORD. NO. 131-2014** and post same according to law.

Roll call: Ayes: Darrow, Engle, Hanneken, Molnar and Tulley
Nays: None.
The motion passed. **ORD. NO. 131-2014 declared adopted**

ORD. NO. 132 -2014

AN ORDINANCE APPROPRIATING FUNDS AND AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH FRED AZAR LANDSCAPING FOR A SENIOR GUTTER CLEANING PROGRAM FOR THE FALL, 2014 SEASON was **offered** by Ms. Tulley and moved Council waive the requirement that it be read by title on three different days, instructing the Clerk to read it by **title for all three readings**. Second by Mr. Molnar

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

Ms. Tulley moved, Mr. Molnar seconded to **adopt ORD. NO. 132-2014** and post same according to law.

Roll call: Ayes: Darrow, Engle, Hanneken, Molnar and Tulley
Nays: None.
The motion passed. **ORD. NO. 132-2014 declared adopted**

Relative to ORD. NO. 132-2014, Councilor Hanneken announced the gutter cleaning program is applicable to seniors who are also eligible for Macedonia’s senior snow removal and refuse collection programs.

ORD. NO. 133-2014

AN ORDINANCE AUTHORIZING THE APPROPRIATION OF FUNDS FROM UNENCUMBERED FUND BALANCE TO PROVIDE FOR CURRENT EXPENSES OF THE CITY OF MACEDONIA 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 for all three readings**. Second by Ms. Tulley

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

Ms. Hanneken moved, Mr. Engle seconded to **amend ORD. NO. 133-2014, Section 2 reducing appropriation to law director to \$55,000.00 from \$65,000.00.**

From Account	To Account	Amount	
Unencumbered Fund Balance	101.150.5340 Legal Fees	\$65,000.00	<u>\$55,000.00</u>

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

Ms. Hanneken moved, Ms. Tulley seconded to **adopted ORD. No. 133-2014, as amended** and posted same according to law.

Roll call: Ayes: Engle, Molnar and Tulley
Nays: Darrow and Hanneken
The motion carried. **ORD. NO. 133-2014 adopted as amended**

Record of Proceedings

Regular Council Meeting

December 11, 2014

ORD. NO. 134 -2014

AN ORDINANCE AMENDING AND SUPPLEMENTING THE ANNUAL APPROPRIATIONS ORDINANCE NO. 26-2014 was **offered** by Ms. Darrow and moved Council waive the requirement that it be read by title on three different days, instructing the Clerk to read it by **title for all three readings**. Second by Ms. Tulley.

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

Ms. Darrow moved, Ms. Tulley seconded **to adopt ORD. NO. 134-2014** and post same according to law.

Roll call: Ayes: Darrow, Engle, Hanneken, Molnar and Tulley
Nays: None.
The motion passed. **ORD. NO. 134-2014 declared adopted**

ORD. NO. 135 -2014

AN ORDINANCE AMENDING AND SUPPLEMENTING THE ANNUAL APPROPRIATIONS ORDINANCE NO. 26-2014 2014 was **offered** by Mr. Molnar and moved Council waive the requirement that it be read by title on three different days, instructing the Clerk to read it by **title for all three readings**. Second by Ms. Hanneken.

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

Mr. Molnar moved, Ms. Tulley seconded **to adopt ORD. NO. 135-2014** and post same according to law.

Roll call: Ayes: Darrow, Engle, Hanneken, Molnar and Tulley
Nays: None.
The motion passed. **ORD. NO. 135-2014 declared adopted**

ORD. NO. 136 -2014

AN ORDINANCE AMENDING ORDINANCE NO. 99-2014 AUTHORIZING THE TRANSFER OF FUNDS FROM WITHIN THE SERVICE DEPARTMENT BUDGET TO PROVIDE FOR CURRENT SERVICE DEPARTMENT EXPENSES OF THE CITY OF MACEDONIA was **offered** by Mr. Engle and moved Council waive the requirement that it be read by title on three different days, instructing the Clerk to read it by **title for all three readings**. Second by Mr. Molnar.

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

Mr. Engle moved, Mr. Molnar seconded **to adopt ORD. NO. 136-2014** and post same according to law.

Roll call: Ayes: Darrow, Engle, Hanneken, Molnar and Tulley
Nays: None.
The motion passed. **ORD. NO. 136-2014 declared adopted**

ORD. NO. 137 -2014

AN ORDINANCE AMENDING AND SUPPLEMENTING THE 2014 ANNUAL APPROPRIATION ORDINANCE NO. 26-2014 TO PROVIDE FOR FUNDS TO THE MACEDONA SERVICE DEPARTMENT was **offered** by Ms. Tulley and moved Council waive the requirement that it be read by title on three different days, instructing the Clerk to read it by **title through the Whereas clauses for all three readings**. Second by Mr. Molnar.

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

Ms. Tulley moved, Mr. Molnar seconded **to adopt ORD. NO. 137-2014** and post same according to law.

Roll call: Ayes: Darrow, Engle, Hanneken, Molnar and Tulley
Nays: None.
The motion passed. **ORD. NO. 137-2014 declared adopted**

Record of Proceedings

Regular Council Meeting

December 11, 2014

ORD. NO. 138-2014

AN ORDINANCE AUTHORIZING THE APPROPRIATION OF FUNDS FROM UNENCUMBERED FUND BALANCE TO PROVIDE FOR CURRENT EXPENSES OF THE CITY OF MACEDONIA SERVICE 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 for all three readings**. Second by Mr. Molnar.

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

Ms. Hanneken moved, Mr. Engle seconded **to adopt ORD. NO. 138-2014** and post same according to law.

Roll call: Ayes: Darrow, Engle, Hanneken, Molnar and Tulley
Nays: None.
The motion passed. **ORD. NO. 138-2014 declared adopted**

ORD. NO. 139-2014

AN ORDINANCE AMENDING ORDINANCE NO. 87-2014 (AS AMENDED 8-28-14) IN WHICH A TRANSFER OF FUNDS MEANT FOR THE SERVICE DEPARTMENT FUND 204.203.5410 TO PAY AN INVOICE FROM AQUA DOC WAS INCORRECTLY APPLIED TO THE RECREATION DEPARTMENT FUND 204.204.5620 was **offered** by Ms. Darrow and moved Council waive the requirement that it be read by title on three different days, instructing the Clerk to read it by **title for all three readings**. Second by Ms. Tulley.

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

Ms. Darrow moved, Mr. Molnar seconded **to adopt ORD. NO. 139-2014** and post same according to law.

Roll call: Ayes: Darrow, Engle, Hanneken, Molnar and Tulley
Nays: None.
The motion passed. **ORD. NO. 139-2014 declared adopted**

ORD. NO. 140 -2014

AN ORDINANCE AMENDING ORDINANCE NO. 87-2014 (AS AMENDED 8-28-14) WHICH FUNDS REQUESTED FOR SERVICE DEPARTMENT FUND 204.203.5445 WERE INCORRECTLY POSTED TO ACCOUNT 204.204.5575 was **offered** by Mr. Molnar and moved Council waive the requirement that it be read by title on three different days, instructing the Clerk to read it by **title for all three readings**. Second by Ms. Tulley.

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

Mr. Molnar moved, Ms. Tulley seconded **to adopt ORD. NO. 140-2014** and post same according to law.

Roll call: Ayes: Darrow, Engle, Hanneken, Molnar and Tulley
Nays: None.
The motion passed. **ORD. NO. 140-2014 declared adopted**

MOTIONS OR OTHER LEGISLATIVE ACTIONS

- ~~~Mr. Engle moved, Ms. Darrow seconded cancelling the regular meeting of December 25, 2014 in observance of Christmas.

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

Record of Proceedings

Regular Council Meeting

December 11, 2014

- ~~~Mr. Engle moved, Ms. Darrow seconded authorizing the Police Chief to accept on behalf of the City four (4) donations to the Macedonia Police Department K9 Program as follows: \$1000.00 from General Plastex, Inc; \$565.35 from Telstar Productions LLC; \$100.00 from Leota Renee Hershberger and \$25.00 from Anita & Dennis Bader.

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

- ~~~Ms. Hanneken moved, Ms. Darrow seconded, prohibiting any expenditure of funds for the purposes described in the letter dated December 4, 2014 for Fisher and Phillips because there has been no appropriation to support this investigation and because this investigation is not an independent investigation.

Roll call: Ayes: Darrow, Engle and Hanneken
Nays: Molnar* and Tulley**
The motion passed

Following Ms. Hanneken's motion and prior to roll Ms. Hanneken stated, "There are independent investigations in progress of Scott Svab, finance director and the Mayor and they are in the hands of the Attorney General, Office of the Auditor and the Ohio Ethics Commission. They are on-going. We asked for a speedy result for the simpler issues to the sheriff's department. That was denied. What we are doing is, we are following and asking for an independent, outside look at both of these folks who have alleged to have violated our laws and ordinances and this particular expenditure is \$10,000, which is a lot of money to duplicate what we are doing already."

Councilor Tulley interjected, "I would like to disagree. In fact, Council authorized us to go out and get an independent investigator in October. In fact Mr. Engle's specifically said give names to him. He would like to have some information so he could go out and make a choice. I am the only one who went out and found, and you say this is not an independent. I don't know any of these people. There were two names supplied to me by the Employee Council which is an agency that I have never dealt with before but who was referred because they are experts in employee law and in state law and in city law regarding employees, harassment, the whole gamut. The other two names I gave were names provided to me by the prosecutor of Geauga County. Don't know these people at all. Don't know any of the four. I hand those to city council. No one I believe read them as far as I know because we have had zero discussion. I provided them and asked at the last meeting when those were presented to have a selection made by Monday. It is unfair to Mr. Svab and it is unfair to the City that we do not go forth with an investigation as we had originally chosen as city council members to do, an independent investigation outside any criminal, auditor or attorney general. The Mayor took the four names and the Mayor made a choice to go forth with what city council said they wanted to proceed with. I'm confused when it said we never said we would do an independent investigation. I'm also confused when you say these are not independent investigators because they do not work for the city, they do not work for anyone of this dais, plus they don't work for the law department. They don't work for anyone in this community. That statement is questionable from the standpoint that these are independent people from organizations specializing in that activity."

Councilor Engle stated, "I made the motion with the understanding that we would interview people, make a decision. We got a hand-out from you at the end of a work session, I think. If you did in fact then say you wanted a decision the next day or another meeting, I don't remember that. I'm not denying that. I'm not saying you didn't say that, I'm just don't remember. There has been no interview process as we discussed. There has been no chance to talk to these people and the Mayor is making the call on a piece of investigation of a decision he made and that is why I do not think, and that is why I don't support it."

Councilor stated, "Let me rebut a couple of the statements here. He has provided all the information to the two independent bodies. That one choice was made by someone independent of us, the police chief, but the auditor has this reaction after the Attorney General referred it to the auditor and this has also been referred to the Ohio Ethics Commission for extensive review."

Councilor Tulley interjected, "You did not announce that until the council meeting when you said, 'I already sent it off'. Council had never agreed to that."

Record of Proceedings

Regular Council Meeting

December 11, 2014

Councilor Hanneken answered, "Well, it's already been sent, Ms. Tulley. It has been sent. And the law department sent stuff to the Ethics Commission also. So what I am saying to you is this, these are two bodies which are already designated, they are outside of us, we are not being charged for these things. This is a firm that has been selected by the Mayor, without discussion from us, without any kind of agreement on approach what we're to cover, anything. And, I say this was not approved before, it was not approved now and I'm just, a motion confirming that this is not an independent investigation and it not the intent of that resolution that was originally passed. And, I'm simply saying now I move that we prohibit expenditures any funds on this item because it is a waste of money and we do have these different independent investigations already in progress. So, as far as I'm concerned, I think we need to proceed and call the questions."

Mayor Kuchta stated, "I have more discussion, Joe?"

Law Director Diemert answered, "Yes, Mayor, first of all.

Councilor Darrow interjected, "Dave wants to ask you something."

Councilor Engle stated, "I think the question was called?"

Mr. Diemert answered, "I don't think so, I think there is still comment."

Councilor Hanneken stated, "I called the question."

Mayor Kuchta responded, "We're still having discussion."

Councilor Hanneken answered, "Well, I called the question."

Mr. Diemert responded, "I'm sorry, you want to silence the law department on a issue relating to an investigation we committed. It was already completed. We were independent in making our investigation and making our findings. Now, I hear Ms. Hanneken that she thinks the police chief is independent. Why not let our own police department do the investigation then for no additional funds? It was not my idea to send it to the auditor, the Attorney General or to anyone else. I made my recommendations. Council, three council members chose not to accept those recommendations."

Ms. Hanneken stated, "Right."

Mr. Diemert continued, "So, you said you wanted someone independent. Now this is a person I don't know. The Mayor didn't know or knew who he has retained to go ahead and do this. So, if you think our police department can do it, I think it's a great idea. Let's let them do it."

Ms. Hanneken stated, "Let's call the question, please."

Mayor Kuchta stated, "Not only that, but we have to bring closure to this incident. So, something has to be done. We cannot go on the way we are."

**Councilor Tulley stated, "I'm voting to retain this person, so my vote is no because the Mayor has the authority to expend without authorization of City Council. The Mayor has, it amazes me that we have a conversation in the back room, a conversation on the floor, then we come out here and say no we didn't agree to any of this and go off and do our own thing. I'm voting no, I agree we retain an independent counselor as the Mayor has chosen to do. This is not fair to the residents of this City to continue to be paying someone for sitting at home when we all had agreed at the first blush that we would get an independent investigator to take care of this."

*Councilor Molnar stated, "I have a couple of questions before I vote. Mr. Diemert can or cannot the Mayor expend up to \$10,000 without Council approval?"

Mr. Diemert responded, "That is the question he has asked the finance department and they have indicated there are monies appropriated for that purpose."

*Councilor Molnar asked, "So he is in his rights and Council cannot overturn his ability to do that?"

Record of Proceedings
Regular Council Meeting
December 11, 2014

Mr. Diemert answered, "Council can pass any motion they want. That is what this would be."

*Councilor Molnar asked, "Another question, with Mr. Svab being on administrative leave can he have anything to do with the City, budget, anything of that nature?"

Mr. Diemert answered, "No, he had been prohibited from doing that."

*Councilor Molnar stated, "We have emails admitting that our finance chair has worked with him on this budget?"

Mr. Diemert stated, "What are you going to do, add on to the dozen charges already against him for violating the Mayor's order? I don't think that would be accepted by the majority of Council either because they are already doing it."

*Councilor Molnar stated, "I don't think, what I am trying to point out is, guilty or innocent he should not have hands on this whatsoever. Sylvia, you admitted in an email that you are working with him and I am deeply troubled by that."

Councilor Hanneken responded, "Sir, he is being paid as the finance director. I am working with him. The Mayor can prohibit him from talking to anybody who is working with the City. I am independent legislator and I did speak with him. But the basic decisions that are about this, it was for technical advice as I have repeated to you several times. Now what I am saying to you also is this, that this is simply not independent. It is the Mayor asking, the Mayor fired the finance director. We restored him to duty and the fact is he has not accepted that. So, even though that is the Charter, he must have the majority vote."

Mayor Kuchta interjected, "That is not the Charter that is you overstepping your bounds. You're getting into administration".

Councilor Hanneken responded, "It is in the Charter, sir"

Mr. Diemert interjected, "The Charter gives the Mayor total authority over all employees."

Councilor Hanneken answered, "No it does not give him authority to fire the finance director if the majority of the council does not concur. You know that sir."

Councilor Molnar interjected, "This is a power struggle. The point I'm trying to make is whether or not you feel he is guilty or innocent, you working with him is unprofessional and to me irresponsible in my mind. There is no reason to be working with someone who is on administrative leave until you know for sure he is proven innocent. If he is found guilty and he worked on our budget that serves our community what does that say? What does that say?"

Councilor Hanneken answered, "He has not worked on anything, I have produced the budget. He has simply given me technical advice about how to approach, including something we're excluding it, that's it. There is nothing wrong."

Councilor Tulley interjected. "You talk to him; you talk to him on a daily basis. You said that in the meeting."

Councilor Hanneken responded, "I didn't say, I said when I was preparing the budget I spoke with him. But I am not even defending anything other than I have every right to speak to him. He is on paid administrative leave. He is guilty of nothing. Just like the Mayor is not guilty of theft in office."

Councilor Molnar interjected, "He is innocent? You're saying he is innocent?"

Councilor Hanneken stated, "No, I am saying he has not been proven guilty. He is on paid administrative leave. He is not fired and that is the condition."

Mayor Kuchta interjected, "We need..."

Councilor Hanneken stated, "He is not fired Don."

Record of Proceedings
Regular Council Meeting
December 11, 2014

Mayor Kuchta stated, "You have overstepped your bounds."

Councilor Hanneken stated. "We have not, sir"

Mayor Kuchta stated, "And we have a mess and the mayor is going to get it cleaned up by getting someone with another opinion as to whether there is worthy charges or not."

Councilor Hanneken responded, "And we are going to get someone, we are going to get an independent person to check into the charges against you too. That will be great. We don't need to do this"

Mayor Kuchta stated. "There is a big difference."

Councilor Hanneken stated, "There is not a big difference."

Mayor Kuchta stated. "There is a big difference. You have it this thick, a stack. Then you have something that can't be proved that I wasn't even aware of"

Councilor Hanneken stated, "That doesn't mean a thing. Well sir, we will find out about. That is an independent person."

Mayor Kuchta stated. "Isn't this funny that the finance director pointed this out, like maybe he knew about it and maybe he should have told me about it?"

Mr. Diemert interjected, "Or, maybe he should not have paid it, another violation"

Councilor Hanneken stated, "Let's go on to the next motion>"

Councilor Molnar interjected, "It's still my turn to speak"

Councilor Darrow stated, "Dave has something he would like to say."

Councilor Tulley interjected, "Excuse me, he has already voted. Second of all, how many weeks have we been taking about stuff in work session and this was never discussed, period"

Councilor Hanneken answered, "Yes, and neither was this letter either, dear. That was just absolutely..."

Councilor Tulley stated, "Excuse me, don't call me dear."

Councilor Hanneken answered, "I'm just saying to you, you did not..."

Councilor Tulley stated. "I did not hire."

Councilor Hanneken stated, "You were involved in this."

Councilor Tulley answered, "So what."

Councilor Hanneken stated, "You were involved in this, that's what you did. That's what you just said, you were involved"

Councilor Tulley responded, "He is allowed to, he is the mayor."

Councilor Hanneken answered, "He is allowed to but this is the business that we all agreed on and it was not involving ..."

Councilor Tulley asked, "Did anyone of you bother to read any of the four? Did any of us get together? Dave you were to call all of us together and talk about this. You said you would charge. It never happened. We are not into month number, what, four or five with the guy getting paid to sit at home. Talking to you daily about our budget? When you have a resident who stands up and says he should have zero activity with our budget. My concern is you have overstepped the administration who is allowed to hire independent counsel and they are allowed spend, it's more than \$10,000, I believe without any approval of Council"

Record of Proceedings
Regular Council Meeting
December 11, 2014

Councilor Darrow interjected, "We just made a motion that just says no."

Councilor Hanneken stated, "Right, and we just passed it."

Councilor Engle interjected, "I don't know why we are having all this argument about the budget and the process of how it when through and who has talked to who. We all have known that Sylvia was talking to Scott and we all passed budget unanimously so let's move on."

* Councilor Molnar stated, "I still did not complete my vote. My vote would be an absolute and complete no and the reasons why have been stated."

Councilor Engle questioned, "So are you wanting to change the budget?"

Councilor Hanneken interjected, "No, he's talking about the motion I made."

Councilor Molnar stated, "No, what I'm trying point out is we've got a bit of a power struggle here and it is getting a little ridiculous. We have found some things that were hidden today about raises with department heads, Council taken over power with that. The Mayor is here to do a job like Council. That is all I want to say about. You can do what you want to do about it. You can hide things and not say anything about them. But at the end of the day this is the way it is supposed to work. So why keep fighting and having the power struggle between the Mayor and you. I don't get it."

Councilor Hanneken answered, "It is not a power struggle sir."

Mayor Kuchta interjected, "Oh, yes, it is."

Councilor Hanneken answered, "Well, that's how you look at everything but I do not. I try, we, listen..."

Mayor Kuchta stated, "It is very obvious, it happens every meeting."

Councilor Hanneken answered, "No it doesn't. On only certain issues, I'm proud to say we didn't pass the increase in taxes you were trying for. In fact, the residents did not have increased taxes."

Mayor Kuchta, "Wait a minute now. You are putting something into this discussion and again its malarkey. That increase in taxes you are saying that I wanted would have got something done that you did not allow. And that was, this was the first time I've never fixed a road and paid for it cash all because of you."

Councilor Hanneken, "No, sir. Let's move on. That is not true. You made the decision yourself. Let me move on. I have another motion so we can all get through this night."

- ~~~Ms. Hanneken moved to restore Mr. Svab to duty. [There was no audible second]

Following Ms. Hanneken's motion she stated. "There is no reason for him not to be on duty and if we move ahead we can then determine if there is any reason why either of you or Mr. Svab should be separated by the City then we will go ahead."

Councilor Tulley interjected, "I would move that we table that until we have discussion. Again, we have not had discussion. You are saying there is no power struggle. That is a pure power struggle when we said we go for independent you forwarded to the Ohio Attorney General without telling any of us."

Councilor Hanneken responded, "I did not do that Jan."

Councilor Tulley stated, "You did. You said you blamed it against the Mayor and finance director. You sent it to the Attorney General and you also sent it to the Ohio Ethics Commission. We are a party of five. This is not your Council. And s say you get the three to vote to bring him back, we haven't finalized whether he is guilty or innocent."

Councilor Hanneken stated, "Correct."

Mayor Kuchta asked, "And you're going to bring him back?"

Record of Proceedings
Regular Council Meeting
December 11, 2014

Councilor Hanneken answered, “That’s right because acquisitions and allegations. You have not fired him. He is not gone. He is being paid.”

Councilor Molnar interjected, “He was fired. You cannot bring him back.”

Mayor Kuchta stated, “You can’t bring him back.”

Councilor Hanneken, stated, “We can bring him back”

Mayor Kuchta said, “No you can’t “

Councilor Hanneken answered, “Well, I have a motion.”

Mayor Kuchta stated, “You can make all the motions you want. He is not coming back.”

Councilor Tulley interjected, “You can make a motion to bring him back and the Mayor can put him on administrative leave the minute we are done. Why can’t you just let independent investigation proceed?”

Councilor Hanneken stated, “Because this is not an independent investigation. This is malarkey. It is malarkey.”

Councilor Tulley asked, “Have you talked to her, have you called her, do you know anything about her?”

Councilor Hanneken answered, “Yes, this woman had her license suspended for several months back in 2006 because she failed to meet the annual educational requirements. Yes, I know about her.”

Councilor Tulley stated, “Okay, so Mr. Svab never got a finance degree. But he is our finance director. Did we hold him to that? No. Did you call her or did you just google her? ”

Councilor Hanneken stated, “Well, you asked me.”

Councilor Tulley stated, “Did you raise your questions or concerns to the Mayor?”

Councilor Hanneken stated, “I’m not going, can we call the question?”

- **Ms. Tulley moved, Mr. Molnar seconded to adjourn. [Privileged motion supersedes all over motions].** Meeting was adjourned at 9:05pm and no further business was had.

CORRESPONDENCE:

MAYOR’S REPORT:

COMITTEE REPORTS

DEPARTMENT REPORTS

Service Department

Building Commissioner

Engineer

Recreation Department

Finance Department

Fire Department

Police Department

Law Department

Unfinished business

New business