

Record of Proceedings  
Regular Council Meeting  
April 9, 2015

Presiding Officer, Mayor Donald Kuchta called the April 9 regular meeting to order at 7:32pm.

**Present:** Council members' Rita Darrow, David Engle, Sylvia Hanneken and Janet Tulley; Council Clerk Josephine Arceci and Assistant Law Director Thomas Hanculak.

**Absent:** Councilor Nick Molnar

**PLEDGE OF ALLEGIANCE** was led by Council President Darrow

**INVOCATION** was led by Councilor Jan Tulley

**MINUTES**

Ms. Darrow moved, Ms. Hanneken seconded, to amend Line 334 of the minutes of the March 26, 2015 regular meeting, to read as follows: '....for the purpose of considering ~~charges or~~ complaints against a public employee or official.'

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

Ms. Darrow moved, Mr. Engle seconded to approve the March 26, 2015 minutes as amended.

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

**PUBLIC COMMENTS**

Bernie Bottum of S. Bedford Road expressed his opposition to the proposed Ambassador International soccer stadium to be situated in an area behind his home. Mr. Bottum feels the proposed 500 foot long 70' high building with hundreds of parking spaces and with only a 50' buffer is too close to residential property. Mr. Bottum opined Macedonia's L-I zoning limits recreational facilities to private recreation facilities. The zoning board thought that meant private ownership and if it was privately owned any indoor recreational use would be within L-I zoning. By contract Mr. Bottum said every definition he has found refers to 'use' not 'ownership', also referring to a homeowner's association recreation centers or private membership only clubs such as a membership only soccer club. The term is used to distinguish from private to open to the public and commercial use regardless of ownership. Mr. Bottum questioned why anyone would care if something bordering their property was owned privately or publicly? The concern is all about its use, how the activity will impact S. Bedford Road residents. The only Macedonia zoning which addresses use is B-3 zoning Mr. Bottum stated. B-3 zoning allows structures to be 80' in height and requires large area parking. Mr. Bottum believes that is what Ambassador is proposing 50' from his property and those of his neighbors. Mr. Bottum cited the city of Hudson as providing more clarity in their definitions regarding private recreational facilities and play facilities for residents and their guests, private greenhouses and private recreational facilities for use by employees and their guests. Ambassador is not going to be private he stated. There will be activities until midnight seven days a week, a concern for Mr. Bottum. Fun & Stuff, located at the furthest end of the L-I zoning has been in existence for years. Mr. Bottum opined Fun & Stuff is in violation of the L-I zoning and questioned how it was allowed by the Planning Commission or the BZA. Perhaps he added because it is set far away from homes. Mr. Bottum asked Macedonia officials to be mindful of the negative effect the Ambassador proposal will have on S. Bedford Road properties.

Bev Sexton, another S. Bedford Road stated S. Bedford Road residents are "perplexed" that their request for a determination relative to the Ambassador proposal is being ignored. Over two months ago she stated S. Bedford Road residents provided their own research on the issue to numerous city personnel including the law department. On February 9<sup>th</sup> S. Bedford residents provided an outline to the Planning Commission explaining why this proposed facility is inappropriate in L-I zoning. This outline prompted an email to the law department asking for a determination on this issue because S. Bedford Road residents feel the Ambassador proposal is better suited to B-3 zoning. City Planner Brian Frantz asked for the law department's involvement as well. Mr. Diemert's replied on February 10<sup>th</sup> that the law department will research the matter. When can S. Bedford Road residents expect the law department's determination Ms. Sexton asked.

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Ms. Sexton questioned the economic benefit for Macedonia as the trustee of the subject parcel given Macedonia will realize only a one-time tax benefit. And given the company is non-profit organization, future property taxes will be exempted. Ms. Sexton is disheartened that Macedonia officials will allow a facility the size and scope of Ambassador in L-I zoning adjacent to residential property. Ms. Sexton opined this is a violation of L-I zoning and the protection inherent in that zoning. An international soccer facility as large as Ambassador labeled as a commercial and public endeavor cannot be considered a private recreational facility. Ms. Sexton stated S. Bedford Road residents feel approving Ambassadors business model, which in their opinion should be in B-3 zoning, would be injurious to their properties and contrary to the community's best interest. If the administration approves the Ambassador project, resident's can no longer rely on zoning protection Ms. Sexton stated.

Mayor Kuchta informed Ms. Sexton that the project is predicted on the sale of the property the conditions of which have not been finalized. Ambassador however is on Planning's April 20<sup>th</sup> agenda. Mayor Kuchta said he asked that the legal opinion on the matter before Planning's meeting.

Assistant Law Director Hanculak interjected residents cannot directly ask the law department for legal opinions. Under the Charter the law department receives direction from the administration and Council on such matters. An opinion to the Planning Commission is forthcoming because the Commission is the only body having the authority to approve the project. Mr. Hanculak explained the Roll & Hold property went into foreclosure almost 20-years ago. The developer filed a lawsuit against the then property owner. There are back taxes on the parcel in the amount of about \$485,000. As a result of the lawsuit the court ruled Macedonia the trustee on the property. Macedonia is not the owner of or has any ownership in the property. The court instructed Macedonia to market and to sell the parcel. The prospective buyer, Ambassador entered into an option or Memorandum of Understanding to purchase the property conditioned upon Planning Commission approval. If the Planning Commission, the independent arbiter in this situation does not approve the project it goes no further. Regarding property tax revenue, Mr. Hanculak stated there are no taxes being generated on the property now so in his opinion that argument is not a valid. The back taxes will be paid out the proceeds of the sale. Regarding L-I zoning generally, Mr. Hanculak mentioned another permitted use is sex related establishments. Mr. Hanculak described L-I zoning as the broadest of the zoning districts.

Councilor Hanneken questioned Mr. Hanculak if the sale agreement has to be approved by Council to which he answered that it does not because Macedonia does not own the property.

Councilor Tulley questioned the method of changing zoning from one classification to another. Ms. Tulley was under the impression referendum voting is required for a change of any zoning classification. Ms. Tulley questioned if S. Bedford Road residents could purchase the L-I zoned property zoning and then change the zoning to residential zoning to which Messer's Hlad and Hanculak answered the property could be purchased but the zoning would not automatically occur. Ms. Tulley questioned how the Planning Commission could deny a project if use is permitted and all code restriction is met.

Councilor Hanneken interjected that Ambassadors' first proposal was not in compliance. Is there a new proposal to which Mr. Engle, Council's representative to the Planning Commission answered that new plans were circulated this evening for April 20<sup>th</sup> meeting. Ms. Hanneken suggested the new plans be provided to S. Bedford Road residents.

Ms. Sexton asked Mr. Hanculak the process relative to Planning Commission approval to which he answered the Commission may approve an application in whole or in part or it may deny the entire application. Following denial, due process may ensue; the applicant makes a case and anyone against the applicant makes their case.

Mayor Kuchta asked Mr. Hanculak if Macedonia can be sued if Planning denies Ambassadors' plans even if permitted use is within code requirements and every other aspect of the project is in compliance to which Mr. Hanculak the sale of the parcel is predicated on Planning Commission approval. That said, is Macedonia liable: as everyone knows Mr. Hanculak continued anyone can be sued at anytime over anything.

Regarding another matter resident John Matijasich of the Lake Forrest Estates complained about a telephone call he received from Councilman Nick Molnar on March 14, 2015. Mr. Molnar handles issues that do not cast good light on him with threats and intimidation. Mr. Molnar made several acquisitions during that telephone call. Mr. Matijasich said his telephone as on speaker. Mr. Matijasich wife heard

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the entire conversation even Mr. Molnar's threat to "unleash the beast". Mr. Molnar was also recording the conversation. Mr. Molnar's comments were unprofessional and perhaps unlawful Mr. Matijasich stated; attempts to threaten point to his flawed character. Mr. Molnar questioned where the rocks in Mr. Matijasich's creek came from suggesting that Mr. Matijasich violated a Lake Forrest HOA covenant or city ordinance. Mr. Matijasich stated on July 20, 2011 he met with Building Commissioner Hlad regarding work being performed in Mr. Matijasich's yard. Mr. Matijasich paid \$250 for a permit to move sand and dirt from the creek to a slope on his property. Mr. Matijasich has never been flagged by Ohio Stream Preservation for any work done in his yard, unlike other residents in Lake Forrest. Mr. Matijasich provided copies of that last two OSP documents as verification of no violation (on file). Mr. Matijasich complained while Mr. Molnar has narrowed his scope on Mr. Matijasich but not on former HOA President Kevin Bilkie who in Mr. Matijasich's opinion has violated HOA declarations. Mr. Matijasich stated Mr. Molnar is unfit to be a member of City Council. Mr. Matijasich chastised Mayor Kuchta, Ms. Tulley and Mr. Molnar for supporting Kevin Bilkie's appointment to Macedonia's Audit Committee. Mr. Matijasich accused Mr. Bilkie of lying and falsely filing documents on behalf of the Lake Forrest HOA with the City. Mr. Bilkie lost \$13,000 of HOA funds without advising Lake Forrest residents of the loss and spent \$20,000 for the recreational patio the HOA did not approve. Mr. Matijasich warned the residents of Lake Forrest about Kevin Bilkie, now he is warning the residents of Macedonia of the same.

Kevin Bilkie of Lake Forrest said he did not realize he was going to be so popular this evening. Mr. Bilkie questioned the status of the termination of the finance director when will action be taken on the resolution on the agenda and if the finance director continues to be paid? Mr. Bilkie said he read that members of Council are paying personally for the current investigation. Mr. Bilkie questioned whether payment by the members of Council is a matter of record, did Council vote publicly on that action, is payment be made equally by three members or by all five members and where Councilor Molnar and Tulley asked to pay.

Mayor Kuchta answered that no action on the termination has been taken because there is another investigation underway.

Councilor Hanneken interjected that no action will take place until the conclusion of the current investigation. Ms. Hanneken told Mr. Bilkie no action relative to paying the investigator was taken during a meeting. Councilors Molnar and Tulley were not asked to participate. Ms. Hanneken mentioned the purchase order she requested authorizing payment to the investigator was refused. Regarding the finance director being paid while on administrative leave, Ms. Hanneken stated that was an administrative directive.

Robert Scott, a Lake Forrest Estates resident for almost one-year stated he has been one hundred percent pleased with every Macedonia department. Mr. Scott did express concern however for what he described as a "disconnect" among members of Council. Council members do not work together he added. Mr. Scott expressed concern over the numerous emails Lake Forrest residents have been getting particularly about the sand. Most of the emails serve no value. They are unproductive, combative and unprofessional. Regarding an email from Service Director DeGaetano in which Mr. DeGaetano stated the sand does not impede the flow of water in the Lake Forrest estates Mr. Scott had a different opinion. Mr. Scott feels that sand is changing the course of the creek at the confluence of the creek beds on his property. The creek is no longer in the area of the preserve but it is in his yard Mr. Scott stated. The EPA recommended in 2011 that a retention area be installed upstream in Twinsburg Township. What is the status of the retention basin he asked?

Council President Darrow told Mr. Scott Council does work together. The emails he was referring were not answered by all members of Council.

Councilor Hanneken interjected she has not read one email from any member of Council that was unpleasant or was not factual.

Engineer Fini told Mr. Scott after initiating dialogue again with the EPA that the EPA will not subpoena for any sand samples from Medina Sand and Supply because their 2011 ruling/recommendation remains the same. The sand is from natural erosion from upstream, that a retention basin near the industrial park in Twinsburg Township would mitigate, slow down accumulation.

Service Director DeGaetano provided recent photo of creek beds (on file). Mr. DeGaetano is going to have tested samples of sand from various parts of the creek to determine at the very least the sand at the

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top of the creek is the same as at the bottom. Mr. DeGaetano has never had one complaint about flooded basements or yards in Lake Forrest he stated. Sand is not even in the catch basin on Mr. Matijasich's property. Sand in the creek bed has been the only issue. Resolution is not going to be easy. There is an industrial park to contend with as well as another political subdivision. Mr. DeGaetano primary concern at this point is repairing the dangerous outlet wall that no one seems to care about.

Joseph R. Jenkins, Northeast Ohio Government Affairs Specialist resource. Mr. Jenkins is part of an outreach program, liaison between communities and NEORS. There has been disconnect between many municipalities and NEORS over the last several years which Mr. Jenkins his position, as a contact and resolve will help resolve.

**PENDING &/OR NEW LEGISLATION**

**ORD. NO. 28-2015**

Ms. Hanneken moved, Ms. Darrow seconded for **ORD. NO. 28-2015 : AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A MACEDONIA OCCUPANCY PROGRAM AGREEMENT WITH BLACKBURN'S HUBCAPS AND WHEEL, INC., to remain at its second reading pending Council work session on April 16, 2015.**[First Rdg: 2-26-15; Second Rdgs: 3-12-15; 3-26-15]

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

**ORD. NO. 29-2015**

Ms. Hanneken moved, Ms. Darrow seconded for **ORD. NO. 29-2015: AN EMERGENCY ORDINANCE AMENDING ORDINANCE NO. 108-2007, AS AMENDED BY ORDINANCE NO. 81-2009, RELATING TO THE MACEDONIA OCCUPANCY PROGRAM AND ELIGIBILITY REQUIREMENTS to remain at its second reading pending Council work session on April 16, 2015 .**[First Rdg: 3-12-15; Second Rdg: 3-26-15] Meeting regarding the same on April 16, 2015

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

**RES. NO. 36 -2015**

Ms. Hanneken moved, Mr. Engle seconded for **RES. NO. 36 -2015: A RESOLUTION APPROVING THE MAYOR'S REMOVAL OF SCOTT SVAB AS DIRECTOR OF FINANCE to remain at its first reading pending further developments relative to reports.** [First Rdg: 3-12-15; 3-26-15].

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

**ORD. NO. 38-2015**

Ms. Hanneken moved, Mr. Engle seconded for **ORD. NO. 38-2015: AN EMERGENCY ORDINANCE AUTHORIZING THE MAYOR TO ADOPT A REVISED RECORDS POLICY to remain at its first reading.**[First Rdg;; 3-12-15; 3-26-15]

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

Relative to ORD. NO. 38-2015, Councilor Tulley asked Mr. Hanculak for the law department to review Macedonia's current records policy with amendments Ms. Hanneken has proposed and compare each with any new federal and state laws, which may require revisions of Macedonia policy

Mr. Hanculak interjected the 2015 state law updates are completed and online. The updates are not substantive. They pertain only to footnotes and case law.

**ORD. NO. 40 -2015**

AN ORDINANCE AMENDING THE CURRENT APPROPRIATIONS ORDINANCE 116-2014, TO APPROPRIATE FUNDS FOR A FULL-TIME HUMAN RESOURCE /PERSONNEL ADMINISTRATOR OF THE CITY OF MACEDONIA was **offered** by Mr. Engle for its **second reading by title only.** Second not required.

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**ORD. NO. 41-2015**

AN ORDINANCE ESTABLISHING THE PART-TIME POSITION OF “PUBLIC RECORDS CLERK” WITHIN THE MAYOR’S OFFICE AND ESTABLISHING COMPENSATION THEREFORE was **offered** by Ms. Tulley for its **second reading by title only**. Second not required.

**ORD. NO. 44-2015**

AN ORDINANCE AUTHORIZING AND DIRECTING THE MAYOR TO ENTER INTO A CONTRACT WITH SPECIALIZED CONSTRUCTION FOR THE 2015 REPAIR OF VARIOUS STREETS 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 only for all three readings**. Second by Ms. Tulley.

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

Ms. Darrow moved, Ms. Hanneken seconded, to **adopt ORD. NO. 44-2015**, and post same according to law

Roll call: Ayes: Darrow, Engle, Hanneken and Tulley  
Nays: None  
The motion carried. **ORD. NO. 44-2015, declared adopted**

**RES. NO. 45-2015**

A RESOLUTION CONFIRMING THE APPOINTMENT OF CHRISTOPHER OWEN TO THE AUDIT COMMITTEE TO FILL A VACANCY OF A TERM 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 only for all three readings**. Second by Ms. Tulley.

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

Mr. Engle moved, Ms. Tulley seconded, to **adopt RES. NO. 45-2015**, and post same according to law

Roll call: Ayes: Darrow, Engle, Hanneken and Tulley  
Nays: None  
The motion carried. **RES. NO. 45-2015, declared adopted**

**MOTIONS OR OTHER LEGISLATIVE ACTIONS**

- Ms. Hanneken moved, Ms Tulley seconded authorizing the transfer and appropriation of Two Thousand Five Hundred Forty Dollars (\$2540.00) from the General Fund encumbered fund balance to Fund/Account 101.316.5625 for Macedonia’s April 25, 2015 Earth Day Clean-Up Campaign and Arbor Day Celebration.

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

**CORRESPONDENCE:** None.

**MAYOR’S REPORT:** [Imported from Word document]

“The Future Growth Committee has had two organizational meetings now and we are gathering information to update the members as far as demographics, and where we stand in the building department as far as ongoing and new projects. The first few meetings will probably address where we are today, so that they can better envision where we need to be in the future. Brian Frantz who is our certified City Planner will be with the committee at every meeting. The committee is made up of people with diverse backgrounds. Some are citizens that could be your neighbor, some have businesses here, there are some younger people, some older people and professionals will be

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made available to them as needed. Kevin Westbrook has been elected Chairman of the committee.

A Ledge Road Railroad Bridge meeting was held and the bridge reconstruction is getting closer every day. The repairs to the bridge will cause road closure probably in June. The goal would be to close the road in the summer to lessen the burden of getting the children to school. It will probably take two months to complete the re-enforcement and rebuild of that structure. Start planning a detour now in preparation for the road being closed. Hopefully, that will be the last of the road closures due to that crumbling old bridge. Remember that our Nixle alert system can help you get through the construction going on this summer. You can get it on your phone by simply texting our zip code, 44056, to 888-777 and then hit send. You should get confirmation within a few minutes. Also, don't forget that Macedonia has an app for your smart phone and it will take you to our website. We will try to keep that as current as possible regarding detours and road closures. There will be much roadwork throughout the City, not just on the arterial roads, so bear with us because the end result will be worth the aggravation you may experience. Route 82 could be subject to lane closures from the west end of town all the way to the east end by Twinsburg. By the end of 2016 Interstate 271, the widening of 82, and the ramp relocation should be history. When it is all done we will be asking why didn't we do this sooner.

At a meeting and ground breaking at the Cuyahoga Valley Career Center last week, local elected officials were made aware of a new addition being built there for robotics. As our world changes there becomes new challenges for the teachers who prepare our children for the work place. While I was talking to our local teachers who were there for the ceremony, they made mention of the amount of new families moving to Macedonia. There are many new children at the schools, and that means that you may have to watch for kids playing in or near the streets throughout the City where there might not have been kids before. It always pays to remind everyone to watch for children as you drive. Please be aware of that as the weather warms. In less than a month, the city has a levy renewal on the ballot. The operating real estate tax of 5.07 mills has not increased in over 40 years. Please remember that your vote is important on this coming May 5th. This levy (issue 12) generates less than \$600,000/yr of much needed revenue for the City, and costs taxpayers about \$3.00 a month for every \$100,000 of real estate value. Again, this is a renewal and not a new tax.

Total revenue for the month of March from our Mayor's Court was \$46,433.51.”

### **COMMITTEE REPORTS**

**Planning Commission** Mr. Engle announced Planning's next meeting is April 20 at 5:30pm. There are several sign issues on the agenda as well as the Ambassador Soccer facility.

**Charter Review Commission** Mr. Engle announced that the CRC completed its initial review of the Charter. CRC members will begin voting April 15<sup>th</sup> on about twelve recommendations to send to Council for consideration on November ballot. Mr. Engle thanked members of the Charter Review for their time and commitment.

### **DEPARTMENT REPORTS**

**Service Department** Mr. DeGaetano reported the new playground equipment has been installed at Sugarbush Park. Preparation is underway for the six-foot wide handi-cap accessible sidewalk and pavilion pad to be poured. Grading and seeding will follow and as funds permit, additional restoration will occur. The restoration of Memorial Park is scheduled to begin next week. The cannon is being refurbished and moved to another location within the park, the gazebo is completely being restored and water and electric are being installed. The Firemen Memorial is being removed and placed at the corner city owned lot at Routes 82 and Park Avenue. Mr. DeGaetano reported supplies have been ordered for the crossover pipe and catch basin repairs. And weather permitting, repair of the Lake Forrest outlet will begin April 13<sup>th</sup>. Mr. DeGaetano advised residents to report outages or malfunctioning street lights to the service department. The service department is responsible for contacting Ohio Edison. The service department depends on residents and the police department for knowing about malfunctioning fixtures. It is useless for residents to contact Ohio Edison directly. Ohio Edison is responsible for all residential street lighting except in private subdivisions like Arbor Trail, The Preserves, Villa Lago, Springhill and Spruce Hill. The city of Macedonia is responsible for all lighting relative to the service garages, the City

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Center and the Recreation Center. The only exception for Macedonia's involvement in residential lighting is if there are exposed wires at which time the wires are capped and the area will be secured.

Councilor Hanneken suggested to Mr. DeGaetano that there be a ground breaking ceremony when Sugarbush is completed. Ms. Hanneken informed Mr. DeGaetano that several residents have contacted her regarding lights in their subdivision. Ms. Hanneken questioned the chain of command regarding work orders and utilities issues. There does not appear to be work performance standards by the utility companies. Ms. Hanneken added residents complain Ohio Edison no sooner repair fixtures when they're are out again.

Council President Darrow asked Mr. DeGaetano if he's contracted the Nordonia Hills Garden Club regarding Memorial Park to which he stated he has already met with Bob Parks, the club's new president. Ms. Darrow questioned when the downed light fixture outside the City Center is going to be repaired to which he answered it was repaired once than hit again.

**Building Commissioner** Mr. Hlad thanked Council for approving Specialized Construction for the 2015 road program. Mr. Hlad reported the storm water mapping mandated by the EPA, Phase 2 and prepared by GPD is complete. He also reported First Watch Restaurant and Antonio's Pizza have been given occupancy and the first occupancy relative to the Enclave rental units is expected this month. Mr. Hlad mentioned the catch basin inspection program has started.

**Engineer** Mr. Fini also thanked Council for approving commencement of this year's road program. Mr. Fini mentioned gas and electric utilizes are being moved regarding the Route 82, third phase widening project. Once completed the project with fully commence.

**Recreation Department** Ms. Gmerek reported the Knights Way 5K and 1 Mile Walk is Sunday, April 19 will be held rain or shine. The event begins and ends at the Nordonia High School stadium. Registration online at macrec.com closes April 17. Registration, although more costly is possible the day of the event.

**Finance Department**

**Fire Department** Chief Black was not present.

**Police Department** Lt Yakopovich who was present for Chief Golden had no report.

**Law Department** Mr. Hanculak reported the law department is preparing a new draft of the MOP grant program for discussion purposes during Council's April 16 work session. The draft/working document he stated primarily retains current concepts. Mr. Hanculak is suggesting however that the program be codified and that the name of the program be amended from Macedonia Occupancy Program to Macedonia Occupancy and Jobs Creation Program because one of the premises of even the original program is creating new jobs.

**Unfinished business** None.

**New business** Councilor Tulley thanked the NewsLeader for featuring Nordonia City schools Science Olympiads who has created a robotics lab. The students are represented by the middle school and high school. Ms. Tulley welcomed the Vitamin Shoppe, First Watch Restaurant and Antonia's Pizza, the latter of which Mr. Tulley was the first customer.

There being no further business the regular meeting adjourned at 8:55pm (Roll call taken)