

Record of Proceedings
Regular Council Meeting
October 8, 2015

Presiding Officer, Mayor Donald Kuchta called the October 8 regular meeting to order at 7:30pm.

Present: Council members' Rita Darrow, David Engle, Sylvia Hanneken, Nicholas Molnar and Janet Tulley; Council Clerk Josephine Arceci and Assistant Law Director Mark V. Guidetti.

Absent:

PLEDGE OF ALLEGIANCE was led by Council President Darrow

INVOCATION was led by Councilor Molnar

MINUTES Ms. Hanneken moved, Mr. Molnar seconded to approve minutes of regular meeting of September 10, 2015.

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

PROCLAMATION Mayor Kuchta declared November 13, 2015, World Pancreatic Day in Macedonia

PUBLIC COMMENTS

Liz McKinley of 1193 Land's End in Lake Forrest Estates announced her candidacy for a position to the Nordonia Hills Board of Education. Ms. McKinley stated she is a mother of four, has a MA in curriculum and instruction and has had 15-years experience in education.

Regarding another topic, Attorney Jorge Pla, a Parkview Estates resident stated Joseph Migliorini has threatened a lawsuit against Councilwomen Darrow and Hanneken for defamation alleging each falsely told Macedonia residents that Mr. Migliorini was criminally investigated in the 1990's. Mr. Pla stated there are documents supporting Mr. Migliorini was investigated for a period of 4-years. Findings were forwarded to Summit County Prosecutor Sherri Bevan-Walsh in 2000. In Mr. Pla's opinion Councilors Darrow and Hanneken needn't worry about a defamation lawsuit because truth is the complete and best defense against allegations of defamation. Continuing, Mr. Pla stated: "On behalf of Justin Barnhart and our client Scott Svab, I would ask that the City mitigate its damages, reinstate Mr. Svab to his position and honor Judge O'Brien's ruling, and I can assure the City that the case was dismissed for valid reasons which I am not at liberty to discuss at this time. But please do the right thing and put Mr. Svab back in office."

Resident Joseph Migliorini of 1182 Mig Court, former mayor and current mayoral candidate questioned how or why anyone of the public would believe Mr. Pla. Mr. Pla lacks credibility. He is suing the City of Macedonia and the Parkview Homeowner's Association for millions of dollars. Mr. Pla told the Parkview HOA that he owned the property he wanted to split, which, at the time of the split he did not. Documents relative to the lot were not properly executed by the original owner prior to the split. Regarding Mr. Pla's previous comments about Mr. Migliorini, Mr. Migliorini stated during his tenure as mayor from 1988-2001 he had many opponents. Mr. Migliorini was investigated from 1995/1996 to

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2001/2002. When he resigned from his position from mayor of the City it was to become Director of Economic Development of Summit County, where he remained until retiring in 2005. The County would not have sought his leadership if the allegations were true he added. Mr. Migliorini explained that Prosecutor Bevan-Walsh forwarded the allegations against Mr. Migliorini to Cuyahoga County prosecutor for an independent review of the case. Mr. Migliorini stated per the investigator the only issue was as chair of the Planning Commission Mr. Migliorini should have removed himself entirely from the room during the approval of the Parkview subdivision instead of sitting in the audience with others members of the public. Mr. Migliorini stated resident Kurt Laubinger has filed numerous complaints against Mr. Migliorini with the Board of Elections over the years about same of issue, residency which was recently filed with the Board by another resident. This last case was reviewed by the Ohio Elections Commission. In each situation Mr. Migliorini said he was exonerated. Regarding the closure of Sioux Road Mr. Migliorini suggested the City act quickly to make full repair and restoration under the authority of necessity for the health, safety and welfare of the residents instead of waiting for all the other jurisdictional agencies to give their approval.

PENDING &/OR NEW LEGISLATION

ORD. NO. 52-2015

Ms. Tulley moved, Ms. Hanneken seconded for ORD. NO. 52-2015 AN ORDINANCE AMENDING SECTION 375.03 OF THE CODIFIED ORDINANCES RELATING TO SNOWMOBLES, OFF-HIGHWAY MOTORCYCLES AND ALL-PURPOSE VEHICLES **to remain at second reading** [First Rdg: 5/14/15; Second Rdg: 5/27/15, 6/11/15; 7/9/15; 8/13/15, 8/27/15, 9/10/15, 9/24/15; Public Hearings; 6/11/15 & 9/10/15. Second public hearing on revisions]

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

Relative to ORD. NO. 52-2015, Mayor Kuchta explained that the citizen committee has nearly completed its final review. The last and final revision will be presented to Council for approval at the October 22nd meeting.

ORD. NO. 97 – 2015

AN ORDINANCE COMPLETELY REPEALING EXISTING ORDINANCE SECTION 1171.19 OF CODIFIED ORDINANCES “DONATION BOXES PROHIBITED” AND ADOPTING NEW ORDINANCE 1171.19 WHICH REGULATES DONATION BOXES AND CREATES A PERMITTING PROCESS was offered by Mr. Engle for its **third reading** by title only. Second not required.

Mr. Molnar moved, Mr. Engle seconded to **amend Exhibit A of ORD. NO.97-2015 to conform to new Exhibit A introduced this evening, October 8, 2015.**

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

Mr. Engle moved, Mr. Molnar seconded to **adopt ORD. NO. 97-2015 as amended** and post same according to law.

Roll call: Ayes: Darrow, Hanneken, Molnar and Tulley
Nays: Engle
The motion passed. **ORD. NO. 97-2015 declared adopted as amended.**

Relative to ORD. NO. 97-2015, Councilor Molnar explained that he met with representatives of Planet Aide who agree with the last additions and revisions of the ordinance. The primary changes to the previous draft: only one donation box allowed per parcel. A permit is required. Entities like Planet Aide however may have its fee waived by the building commissioner for non-profit status, and the size of the lettering allowed on the donation boxes was increased

RES. NO. 118 – 2015

A RESOLUTION CONFIRMING THE APPOINTMENT OF JIM PREDOVIC TO THE PLANNING COMMISSION TO FILL A RECENT VACANCY OF A TERM ENDING JULY 3, 2020 was **offered** by Mr. Engle for its **second reading by title only**. Second not required.

Ms. Darrow moved, Ms. Hanneken seconded to table RES. NO. 118 – 2015

Roll call: Ayes: Darrow, Engle and Hanneken
Nays: Molnar and Tulley
The motion passed. **RES. NO. 118-2015 Tabled**

ORD. NO. 119 – 2015

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A COLLECTIVE BARGAINING AMENDMENT/ADDENDUM WITH THE COLLECTIVE BARGAINING UNITS OF THE CITY OF MACEDONIA TO BE EFFECTIVE JANUARY 1, 2016 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 for its **second and third reading by title only**. Second by Ms. Tulley.

Ms. Hanneken moved, Mr. Molnar seconded to **adopt ORD. NO. 119-2015** and post same according to law.

Roll call: Ayes: Darrow, Engle Hanneken, Molnar and Tulley
Nays: None
The motion passed. **ORD. NO. 119-2015 declared adopted**

Relative to ORD. NO. 119-2015, Councilor Tulley stated this level of wage increase for all the bargaining is overdue because the unions agreed to no pay increases during Macedonia's lean years.

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ORD. NO. 124– 2015

AN ORDINANCE CONFIRMING THE APPOINTMENT BY THE MAYOR OF REBECCA HANZEL TO THE POSITION OF PART-TIME POLICE AND FIRE DISPATCHER 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 only for all three readings**. Second by Mr. Molnar

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

Ms. Tulley moved, Mr. Molnar seconded to **adopt ORD. NO. 124-2015** and post same according to law.

Roll call: Ayes: Darrow, Engle Hanneken, Molnar and Tulley
Nays: None
The motion passed. **ORD.NO. 124-2015 declared adopted.**

ORD. NO. 125– 2015

AN ORDINANCE CREATING NEW CHAPTER 182 OF THE CODIFIED ORDINANCES OF MACEDONIA OHIO REGARDING MUNICIPAL INCOME TAX was offered by M. Molnar for its **first reading by title** only. Second not required.

RES. NO. 126– 2015

A RESOLUTION AUTHORIZING THE ADVANCE OF LOCAL TAXES BY SUMMIT COUNTY FISCAL OFFICE OT CITY OF MACEDONIA FOR 2015 TAXES PAYABLE IN 2016 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 all three readings**. Second by Mr. Molnar

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

Ms. Hanneken moved; Mr. Molnar seconded to **adopt RES. NO. 126-2015** and post same according to law.

Roll call: Ayes: Darrow, Engle Hanneken, Molnar and Tulley
Nays: None
The motion passed. **RES. NO. 126-2015 declared adopted**

MOTIONS OR OTHER LEGISLATIVE ACTIONS

Mr. Molnar moved, Ms. Hanneken seconded to cancel Council's regular meeting of November 26th in observance of Thanksgiving.

Roll call: Ayes: Darrow, Engle Hanneken, Molnar and Tulley

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Nays: None
The motion passed.

CORRESPONDENCE: None

MAYOR'S REPORT: [Imported from Word document]

“I have talked about our Fire Department with you in the past, and we know we have one of the best that is rated in the top one percent of the Country. Today I want to touch on our Macedonia Fire Explorers who also rate highly. I was invited to attend an Explorer get together the other night and was very impressed with the attitude and image they portray for our city. They traveled to Washington and to the World Trade Center Site in New York. In a venture such as this you always have concern for how the young people will react with their behavior. They were an excellent group that brought pride to the Fire Department and to the City they represented. Thanks to them and their chaperones and to Lieutenant Paul Celinski for the organizing such a great experience for our group of Explorers. I would like to thank these young people for representing us so well. The explorers are affiliated with the Boy Scouts of America and the program is open to young adults

Just to inform you..... We did receive funds from \$11.5 million dollar settlement with Morton Salt and Cargill filed by the Attorney General Mike Dewine for price fixing the price of road salt. There were 850 municipalities involved and we received \$15,415. 48, which was our share of that settlement. That will help pay for the new equipment we purchased to make our roads safer this coming winter.

Total revenue from the courts in September were \$46, 034.29”

COMMITTEE REPORTS

Finance Committee Councilor Hanneken announced that the October 15th finance meeting is at 7pm.

Councilor Tulley questioned why the meeting was going forward given she had indicated she was unable to attend and asked that the meeting be moved to October 29th to which Ms. Hanneken responded the date was not changed because Ms. Tulley was the only member who could not attend.

Councilor Molnar interjected that he too informed Ms. Hanneken that he was unable on October 15th. Council meetings have been changed to accommodate Councilor Darrow’s schedule on several occasions, then why not for him and Ms. Tulley he asked. Mr. Molnar asked Ms. Hanneken for the same respect given Ms. Darrow and reschedules the meeting for October 29th.

Ms. Hanneken opined that it’s imperative that the October 15th meeting be held in order to start the budgeting process. An additional finance meeting will be scheduled for October 29th she added.

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Ms. Tulley suggested that if Ms. Hanneken feels the appointment to the Planning Commission and the other appointments the Mayor has wanted should wait until after the election and a new mayor then the 2016 budget can wait as well. The budget does not have to be adopted until March 31. A finance meeting three weeks prior to the election is illogical to Ms. Tulley. Moreover, preparation of the budget is not Council's responsibility, it is the Mayor's.

Mayor Kuchta agreed with Ms. Tulley and for that reason the current administration is not presenting a 2016 budget.

Ms. Hanneken explained that the October 15th meeting is primarily a preliminary review of factors which may have an effect on next year's budget. The meeting is to review the current budget and anticipate expenses for 2016 particularly capital expenses. If the new mayor is pleased with the budget the approval process has just been made easier and faster she added.

Discussion continued about the process related to the 2015 budget and who prepared it. Opinions were expressed about who attended finance meetings held regarding the 2015 budget, who were invited, who did the inviting as well as whether department heads were given any opportunity to provide input about their departments.

Planning Commission Councilor Engle reported the next Planning meeting is October 19 at 5:30pm. Several important items are on the agenda including improvements to the Reliable Snow Plowing Facility and Ambassador Soccer Facility, the latter submitting its final site plan.

DEPARTMENT REPORTS

Service Department Acting Service Director Hnottavange announced the gazebo at Veterans Memorial Park is being lit in pink until October 19th since October is "Breast Cancer Awareness Month". Mr. Hnottavange announced that the leaf removal program tentatively begins October 19th. Residents were reminded leaf piles should remain 12 feet from the edge of the road, be away from ditch lines and storm sewers. Mr. Hnottavange reported that quotes from seven vendors were sought for the snow plowing program. Only one vendor has responded to date. Mr. Hnottavange mentioned that the grounds/soil of Police/Fire Memorial Park (Park Ave at Aurora Rd) has been graded and the landscape buffer of arborvitae has been planted at the south border of the park

Building Commissioner Mr. Hlad was not present.

Engineer Mr. Fini was not present. Engineer's October 8, 2015 report to Mr. Hlad forwarded to Council (On file)

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Recreation Department Ms. Manley reported that the annual Winter Craft Fair is November 14 at Lee Eaton Elementary school, Ledge Road from 9am-2pm. Ms. Manley reported the Recreation Center's new website will be live and operational within a few days. The website has to be rebuilt from ground-up because of being hacked this summer. All programming, classes and instructional information and membership applications are on the website. Facebook is a big part of the website she added.

Finance Department

Fire Department Chief Black reported the Macedonia Firefighter Association Annual Children's Halloween party is being held at the fire station on Sunday, October 25 from 4-6pm. Traditional Trick-or-Treat is being observed Saturday, October 31 from 6-8pm.

Police Department Chief Golden reported effective January 2016 pursuant to state law all cellular 911 calls within northern Summit County will be routed to the Stow dispatch call center if the caller does not or cannot identify their exact location. This additional step in providing response is going to add vital minutes to emergency. This is going to cost lives Chief Golden stated. Land-line 911 calls will remain within the local jurisdiction he added.

Councilor Tulley asked Chief Golden if the state's decision can be reversed to which he responded if tried it will not easy in part because state funding is tied to the mandate. If, for example Chief Golden explained, Summit County Executive Russ Pry doesn't not comply with the state mandate, the County losses 50% in state funding.

Law Department Mr. Guidetti explained that centralizing dispatch call centers throughout the state relative to cellular 911 calls is a move towards regionalization. The carrot or incentive towards this end is funding as Chief Golden stated. The mandate for total regionalization of cellular 911 call centers is 2018 Mr. Guidetti stated. Regarding Jorge Pla's statement about Judge O'Brien's decision, Mr. Guidetti stated the law department reviewed the decision and has determined it does not comport with applicable law. Therefore, with the Mayor's authorization and on behalf of the City an appeal was filed this morning with Ninth District Court Mr. Guidetti added. Regarding Law Director Diemert, Mr. Guidetti read a letter dated October 8, 2015 from Mr. Diemert in which he announced effective December 1, 2015 he personally will resign as law director of City of Macedonia. Full -text of letter attached.

Councilor Engle interjected; the appeal does not surprise him, doing so is political particularly since the law director had indicated this intent in an article prior to Judge O'Brien's decision. Judge O'Brien dismissed the case against Mr. Engle for failure to state a claim for which relief can be granted. This means Mr. Engle explained that the Court has to accept everything that is pled as true. Then the Court has to determine that there is no law that exists supporting the claims made, the facts alleged are insufficient to state a claim or there is an insurmountable bar on the face of the complaint preventing recovery. Mr. Engle said the decision can be read in its entirety on the website of the Clerk of Court for the Court of Common Pleas. Mr. Engle told Mr. Guidetti, "The appeal is frivolous conduct, its Rule XI,

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it's sanctionable, I welcome your appeal but I will seek attorney's fees and make a contribution to the Manor House. This is purely political crap."

Unfinished business Councilor Molnar mentioned he has received numerous calls questioning why the Sioux Lane culvert is taking so long to repair. The reason Mr. Molnar explained is the project requires authorization from several outside agencies in addition to easements from three property owners. These residents must give permission Mr. Molnar explained in order for the City to be allowed perform work on their property. Letters in this regard were mailed to each today. If the property owners do not obliged another course of action will have to be taken he added.

Councilor Darrow questioned Mr. Molnar why he didn't mention the status of Sioux Lane during this evening's work session to which he answered because he assumed the email he received regarding Sioux all the members received.

Ms. Hanneken interjected; several residents living closest to the culvert would like Sioux to remain closed.

Regarding another topic, Councilor Tulley mentioned she has been working with residents regarding maintenance and repairs of fire hydrants and utility poles. There is some confusion about who is responsible for repairs of fire hydrants. The hydrants are owned and repaired by Cleveland Water. There is the misconception the City is responsible. Macedonia is responsible for flushing and painting them which the fire department performs annually. A member of Council told a resident Ms. Tulley said that the reason hydrants weren't being repaired is because of a problem within the fire department. Breaks in water mains are also the responsibility of Cleveland Water. Cleveland reimburses Macedonia for repairs the City has to make to the roadway resulting from the break in water main. Cleveland has repairs the main before the City can seal the road. Ms. Tulley thanked Mr. Hnottavange for following up regarding a situation at Lane and Shepard Road in this regard. Light poles are another matter she added. There are usually at minimum three different entities /companies sharing a single utility pole: the utility, first then Windstream and Time Warner. Correlating these entities when a pole is moved or replaced is a nightmare Ms. Tulley. Residents on Driftwood have had to wait 16-months for resolution in this regard. Ms. Tulley strongly urged residents to call the Mayor's office when they have an issue regarding any of these matters. There are normally better results when problems/communication is consolidated. Ms. Tulley thanked Mr. Hnottavange for quickly responding to the issue of the water main break and light poles and Chief Black regarding fire hydrants.

Relative to another subject, Councilor Hanneken addressed rumors about her intentions regarding the work force if she is elected mayor. Ms. Hanneken believes the supervising staff/management some of whom are in the classified service is generating the rumor that she will reduce the full-time police department to a part-time department, that she will eliminate the service department, that she will close the senior center and other allegations. Ms. Hanneken offered reassurance to all employees that nothing radical was going to be done. In fact she is proposing an additional officer be added to the detective bureau. Ms. Hanneken believes these lies are being generated by supporters of her opponent. Ms.

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Hanneken announced endorsement by the Tri-County Labor Council for her candidacy to position of Mayor of Macedonia. Ms. Hanneken said she would not have receive this support if she were not respectful of unions.

New business

At 8:35pm, prior to Ms. Tulley and Mr. Molnar being an opportunity to comment under new business, which both had requested to do, Ms. Hanneken moved, Mr. Engle seconded to adjourn the meeting.

Roll call: Ayes: Engle, Darrow and Hanneken
 Nays: Molnar and Tulley
 The motion carried. Meeting was adjourned at 8:35pm.