

Record of Proceedings

Regular Council Meeting

May 24, 2018

Presiding Officer, Mayor Joseph Migliorini called the May 24 regular meeting to order at 7:30 p.m.

Present: Mayor Joseph Migliorini and Council members' Kevin Bilkie, Jessica Brandt, Nick Molnar, Jan Tulley and Vini J. Ventura; Law Director Mark Guidetti and Council Clerk Josephine Arceci.

Absent:

PLEDGE OF ALLEGIANCE & INVOCATION by City Chaplin Commander Tom O'Brien, Nordonia Hills American Legion 801.

MINUTES Ms. Tulley moved, Mr. Ventura seconded and motion carried unanimously on a voice vote to approve the minutes of regular meeting of May 10, 2018.

FINANCIAL REPORT Mr. Bilkie moved, Ms. Brandt seconded and motion carried unanimously on a voice vote acknowledging receipt of Financial Report dated April 30, 2018.

PRESENTATION Recommendations of 2018 Charter Review Commission
Chairman Ryan Sweeney

Chairman Sweeney thanked fellow commission members Jessica Brandt, Council's representative, recording Secretary Cathy Loya, former Mayor Don Kuchta, former Councilmember Shane Barker, Joe Biber and Stephen Donaldson, Jr. Mr. Sweeney commended Ms. Loya's transcriptions of meeting minutes. Mr. Sweeney explained the focus or basis of discussion and decision making amongst commission members was the best interest of the citizens of Macedonia; increasing executive powers relative to the hiring and removal processes; maintaining the integrity of the checks and balances between the executive and legislative branch of government all while at the same time considering legal parameters relative to these areas. The initial task of the 2018 Charter Review Commission Mr. Sweeney said was to review Ordinance Nos. 2, 3, 4 & 5-2018, Charter amendments introduced to Council earlier in the year but which were and have remained tabled. These four ordinances represent increasing the composition of Council from five to six; providing for the ability of the Mayor to break a tie-vote; reorganizing the composition of the Planning and Zoning Commission and expanding the regulations governing the conduct of members of Council. As well, the Commission took under considered an amendment proposed by Councilman Ventura in which the powers and duties of the Mayor and Council pertaining to hiring employees has been reorganized. Mr. Sweeney said after discussing and deliberating for a period of ten meetings the consensus of the CRC is as follows Ordinance No. 3-2018, Amending Sections 4.01 & 4.02 by increasing the composition of Council from five to six members should not be acted upon by Council. The CRC recommends that the composition remain at five out of respect for the will of the voters and given that the amendment while voted upon by the electorate during the Charter Review of 2009, only became effective since January 2014 time is needed to appreciate an adjustment period of more than one term. It is also the opinion of the CRC that the odd number composition provides for proper checks and balances between the Mayor and Council. If then the composition of Council remains at five, Ordinance No. 2-2018, Amending Section 3.03 providing the Mayor the ability to break a tie vote is no longer relevant. Regarding Ordinance No. 5-2018, Amending Section 10.01 as it pertains to the composition of the Planning and Zoning Commission, the CRC's recommends that the Mayor become the sixth, non-voting member of the Commission. The Mayor should be allowed a vote only in the absence of a Commission member. The logic behind this recommendation Mr. Sweeney said is the Mayor is often literally the first individual a business owner encounters, who negotiates with before appearing before the Planning and Zoning Commission. Any arrangements that were discussed or made

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during initial meetings may get lost in translation as it may be when appearing before the Planning and Zoning Commission. It is only logical in the opinion of the CRC therefore that the Mayor become a sitting member of Planning and Zoning Commission thereby eliminating any communication gaps. Mr. Sweeney said the CRC spent much time on Ordinance No. 4-2018, Amending Section 4.13 relative to the conduct of Council member. The CRC recommends that Section 4.13 be amended allowing for Council to govern itself through censure and to provide consequences to being censured on a per term basis. The CRC discussed several options towards this end Mr. Sweeney stated. The CRC recommends at the first censure the member be suspended from attending one regularly scheduled council meeting, the loss of pay for one month and the loss of committee chairmanship, membership to committee and loss of seniority. In the event of the second censure a new Section 4.13(b) would be added giving Council the authority to vote on the question of removing that censured member from Council. If removal is rejected, censured council member would be subject the suspension of from two to six council meetings and the loss of pay for up to three months. If there is a third censure of the same member Council shall vote on the removal of office. Law Director Guidetti advised the CRC Mr. Sweeney stated that keeping a censured member from voting may be problematic but at this point based on research there is no case law regarding this question. Mr. Sweeney said the CRC supports denying a censured member the ability to vote and is hopeful Home Rule trumps case law in this regard. The Charter already provides for Council to govern its own to the extent members remove one of their own. But the CRC considered what a censure entails and the goal or purpose of a censure given the seriousness of this action. The CRC also discussed providing the censured member due process. Mr. Sweeney said that currently, there are no consequences of being censured. The consequence for the City however is great in the opinion of the CRC. Mr. Sweeney explained that censuring a member of a Council of five requires two-thirds vote of the remaining members or three votes. Mr. Sweeney stated the CRC's last recommendation is Councilor Ventura proposal to reorganize the powers of the Mayor and Council relating to hiring of employees including those appointed through civil service testing. The CRC recommends the Mayor be given the authority to hire non-department head employees without confirmation of Council. However the Mayor's appointments of department head would continue to require the confirmation of the majority member of Council (three of five). Regarding the removal of the department head, it is the opinion of the CRC that the Mayor be provided the authority to remove a head of a department without confirmation of Council. In this scenario the department head would have the ability to appeal said termination to Council within the venue of a public meeting. Overturning the Mayor's termination by Council would require the affirmative of the supermajority, four votes.

Councilor Tulley asked Law Director Guidetti if two council members can be censured at the same time to which he answered fact dependent, yes. Continuing Mr. Guidetti explained that Chartered communities have better opportunities in the state of Ohio to creative solutions to problems whether problems are current or existed in the past. Regarding the CRC's rationale relative to censure Mr. Guidetti explained they are trying to clarify or rectify a procedure that currently has no parameters. Insofar as there is no case law regarding the CRC's recommendation of denying a censured member the ability to vote Mr. Guidetti said it is difficult to determine how the court would perceive the matter if it were challenged.

Councilor Bilkie asked Mr. Guidetti if a censure became a legal issue would it affect the business of Council to which Mr. Guidetti answered all Charter provisions would remain effective until the court of law determined otherwise.

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Councilor Brandt asked Mr. Guidetti regarding censure who could challenge the Charter language to the to which he answered he cannot technically in practice provide the answer but it can be anyone in standing which means the person impacted the decision.

Councilor Brandt mentioned that the CRC had considered not including the suspension of the ability to vote but the CRC's feels consequences are paramount and suspending the ability to vote is a serious consequence.

Mayor Migliorini interjected, when, as member of Council prior to his first term as mayor he introduced the Charter amendment whereby Council confirms mayoral appointments of department heads as well as Council's involvement during the removal/termination process. Mayor Migliorini said at that time he thought the amendment was fair but the amendment was not as effective as he had hoped. In fact over the years the amendment has proved to be a detriment and agrees with the consensus of the CRC that it should be changed.

Councilor Brandt mentioned that the CRC initially had considered deleting Council confirmation of appointments department heads however after lengthy review agreed keeping the provision maintained a working relationship between the administration and the legislative body. Under the CRC new recommendation, if a problem arises as has happened in recent history, the Mayor is being given more leverage for removing an individual Ms. Brandt said. Ms. Brandt added that Council continues to have the ability to remove a department head by the affirmative vote of the supermajority.

Councilor Bilkie asked Mr. Guidetti if Council removes a department head does that individual have the ability to appeal the removal to the Mayor to which Mr. Guidetti answered they do not. Pursuant to current language of the Charter Council is the final arbitrator. There is no additional layer pertaining to the executive Mr. Guidetti added.

Councilor Tulley, summarizing, stated the new language eliminates the need for Council to confirm every appointment outside managerial level employees and makes less cumbersome the executive's authority to remove an unsatisfactory department head. Ms. Tulley commended the CRC regarding this area of review and subsequent recommendation including the original ordinances they were commissioned to do all while keeping in their regard the general public, the administration and the legislative body. Mr. Sweeney told Ms. Tulley the main focus of CRC regarding general appointments is provide the Mayor with greater abilities during recruiting and hiring process without any interference and hopefully, while still maintaining the relationship between the Mayor, Council and the department heads.

Councilor Brandt interjected, Council will continue to part of the confirmation process of the Mayor's appointments of department heads. However appointments of the employees to the various departments will be left to the discretion of the Mayor and the respective department heads. It is the CRC's opinion since Council approved the leadership appointment of a department head that department head should play a more integral part in the hiring of employees within department head's purview. Also in the opinion of the CRC, this is a critical step in separating administrative and legislative responsibilities.

Council President Molnar asked Mr. Guidetti to confirm for Mr. Molnar that once the Mayor terminates a department head, the terminated individual must leave the building; the terminated individual will receive no pay unless the individual wins an appeal of the termination by the supermajority vote of Council to which Mr. Guidetti answered that is correct.

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A brief discussion ensued about Macedonia Civil Service Rules and Regulations prevailing relative to Civil Service appointments, and appointments which may appear inappropriate because of the appearance of nepotism or similar comparisons and how state and ethics laws prevail regarding the latter.

Council President Molnar and Mayor Migliorini thanked Chairman Sweeney and the Charter Review Commission for their judicious approach in reviewing the four Charter amendments tabled earlier in the year as well as the new recommendation with regards to Macedonia's appointment and termination processes.

Councilor Brandt thanked Cathy Loya again for volunteering to be the CRC's recording secretary and for producing stellar minutes which captured the Commission's thought processes and interactions.

PUBLIC COMMENTS None

INTRODUCTION, READINGS & ADOPTION OF LEGISLATION

ORD. NO. 40-2018

AN ORDINANCE AMENDING CHAPTER 1135 OF THE CODIFIED ORDINANCES OF THE CITY OF MACEDONIA REGARDING THE BOARD OF ZONING AND BUILDING CODE APPEALS was **offered** by Mr. Ventura for its **third reading by title only**. Second not required.

Mr. Ventura moved, Mr. Molnar seconded and motion carried unanimously on a voice vote to **amend Exhibit A of ORD. NO. 40-2018 to conform in its entirety to the most recent version of Exhibit A introduced and distributed by the Law Director.**

Mr. Ventura moved, Mr. Molnar seconded and motion carried unanimously on a voice vote to **adopt ORD.NO. 40-2018 as amended** and post same according to law. **ORD. NO. 40-2018 declared adopted as amended.**

48-Hour Rule...Ms. Brandt moved, Mr. Bilkie seconded and motion carried unanimously on a voice vote to waive the 48-Hour Rule of Council relative to forthcoming ORD. NO. 66- 2018.

ORD. NO. 66 -2018

AN ORDINANCE PROVIDING FOR SUBMISSION TO THE ELECTORS OF HRE CITY OF MACEDONIA A PROPOSED AMENDMENT TO VARIOUS SECTIONS OF THE CHARTER RELATIVE TO COUNCIL CONSIDERATION TO EXECUTIVE ACTION was **offered** by Ms. Brandt for its **first reading by title only**. Second not required.

MOTIONS AND/OR OTHER LEGISLATIVE ACTION ~None

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CORRESPONDENCE

~Email from Daniel Kuches of Northfield Center to Chief Jon Golden in appreciation for the kind and caring service provided to Mr. Kuches' elderly father by Officer Rick Rizzo.

~Email from Amy Sboray to Chief Tim Black in appreciation for the expedient and professional emergency service provided to Mrs. Sboray's husband.

MAYOR'S REPORT

~Mayor Migliorini stated during the finance meeting held last night much was discussed regarding how the City should move forward financially given the .25% income tax rate increase failed by only 87 votes on May 8. There is no question Macedonia continues to need more revenue in order to maintain and improve current services. In fact the Mayor said in 1988 during his first term of office as mayor the capital improvement budget was only \$50,000. There wasn't much that could be done with so little. Today the situation is the same; in fact the capital improvement is less than it was then. And while Macedonia has never been flush with cash, in years back consideration was never given to increasing Macedonia's property tax because in part because the City was receiving income from a variety of other revenue streams: inheritance and tangible tax, gas well royalties and a healthier share of local government funds from the state. These sources of revenue have since gone by the wayside the Mayor said. In addition, the economy has changed. There is less need for retail or commercial centers. This change has negatively impacted income tax revenue. A strong income tax base helps a community but a weak one is little help unless there is another strong revenue source such as property tax. Mayor Migliorini stated that in order to maintain the integrity of the Macedonia, in order to maintain or improve the level of services residents have come to expect from the departments of police, fire and service all residents need to step up to the plate. The Mayor suggested the .25% income tax increase be placed on the ballot again in November because in his opinion it is the only way to keep the City from faltering. Another option the Mayor suggested is for Council to eliminate a portion of the tax credit even in the short term. Mayor Migliorini suggested if the income tax increase passed in November Council could then rescind the tax credit. The Mayor mentioned that in a recent edition of Crain's Business magazine Macedonia's property tax rate is listed as the third lowest amongst fifteen communities. Mayor Migliorini stated while there a level of pride in this fact it is a problem because there is not another strong source of revenue, like from payroll and profit tax which is the financial difference Macedonia needs to remain strong. Mayor Migliorini feels the reason the levy fail by only 87 votes in May is there was a lot of confusion and lack of information. The message was just not received he added.

~Mayor Migliorini announced the townships of Northfield Center and Sagamore Hills and the village of Northfield have entered into agreements with the City regarding Macedonia's senior citizen program. Each community is paying Macedonia \$3500 annually to be part of the City programming. Changes in Macedonia's programming include expanding the lunch program from two to three days a week. The additional day represents about 160 senior meals. Seniors will pay \$4.00 per lunch Mondays and Fridays and \$3.00 on Wednesday. Besides lunch the senior program includes educational, health and social programming as well as games days. The senior room has a pool table and now a fax machine, which seems to be a hit amongst them all added Mayor Migliorini. The City has made application to the Department of Area Aging in the past and has received a \$12,000. The City has reapplied because of the expanded group and now asking for \$21,000. Mayor Migliorini thanked the officials of the respective communities for joining Macedonia's program.

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~Mayor Migliorini provided a brief history of the plan development of Longwood Park that created in the late eighties and early nineties. Originally Mayor Migliorini explained the plan included four soccer fields on the south side of the park in proximity to the four ball diamonds that exist currently. However only two soccer fields were created but that is changing as two more fields will be created whereby establishing the original intent. The three soccer fields on the north side of LWP were never in the original plan the Mayor stated. The Mayor mentioned it was also originally intended that the open area of the oval on the north side of the park was to be hard-surfaced. To make it as envisioned the City is taking grindings from Ledge Road project as well as the City's road projects. The Mayor explained that through the years different park improvements came about through happenstance. Longwood Lake became a reality Mayor Migliorini said when Bart Wolstein who previously donated \$100,000 towards naming rights of the LWP baseball diamonds needed good dirt for the construction of Macedonia Commons. The Commons got good fill and Longwood Park got a beautiful spring fed lake at no cost the Mayor said. Mayor Migliorini thanked Councilor Tulley who in the early years of her tenure was an integral part of the development of LWP as well as playing a vital role as a member of the Field of Dreams.

Councilor Brandt mentioned that the P&RC expressed concern that completing the oval would short change filling in the walking paths and other areas of Longwood where grindings are also needed. The Mayor has assured the P&RC however that there is enough for the path around the lake, to fill-in the paths within the woods as well as for the paths at the eastern side of the woods and possibility to add some hard surface paths throughout in the park.

~Mayor Migliorini announced that the Recreation Center renovations are on schedule in terms of time and funding.

~Mayor Migliorini mentioned that he and Finance Director Hall met with officials of the Stifel and Nicolaus Company relative to Macedonia's Moody rating, currently AA3. The Mayor would like Macedonia's rating to be better perhaps AA 2 or AA 1 in part because it provides for a better bonding rating. The Moody rating is predicated on the financial strength of a city the Mayor added. The Mayor's presentation to Moody is in June.

COMMITTEE REPORTS: **Finance Committee of the Whole** Chairman Bilkie said at last night's finance meeting Council reviewed the amenities residents currently receive at no cost. Council discussed about five financial options going forward and will meet again June 7 at 6:30pm to review the options more thoroughly.

DEPARTMENT REPORTS: **Service Department** Director Hnottavange had no report.

Building Commissioner

Engineer In Mr. Gigliotti's absence Mayor Migliorini reported thirty-three roads are currently under contract to be paved as part of the 2018 road program. Specialized Construction is the contractor. Construction is taking place concurrently on many of the roads. As such, some of the roads are in different stages of reconstruction than others, and some road work has not even begun. Regarding the Shepard Hills Boulevard and Robin Lane water main improvements once the work has been completed the roads will be repaved. Ample notification will be given to residents affected by this work. Catts Construction is contractor for water mains which is being funded by NEORS.

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Recreation Department Ms. Manley announced the Spirit of Macedonia Fun Fest is Thursday, June 7 through Sunday, June 10. Featured Thursday evening is Classic Car show, Friday is 5K-Run benefitting the Human Society of Summit County and Saturday night a firework display. The four day event includes amusement rides, food vendors and music. Presale cost of the \$20 all day ride ticket is \$15.

Councilor Brandt asked Ms. Manley the outcome of the online auction and how long will the weight room be closed for its upgrades to which Ms. Manley answered the City netted about \$4500.00 on the sale of all the equipment and the weight room will be closed May 30-31 and possibility June 1.

Finance Department Director Hall reported income tax receipts for May was \$1,202,000 up \$152,213 from last year. In total, year-to-date the City is up from last year by \$460,435. In reality however receipts are down by about \$25,000 from where they should be. Regarding tax refunds Ms. Hall explained the City has received 464 requests for which 382 have been processed for a total of \$47,394.31. Some of the unprocessed requests are due to ineligibility and others are still being reviewed by R.I.T.A

Fire Department Chief Black had no report.

Police Department Lt. Yakopovich in Chief Golden's absence had no report.

Law Department Law Director Guidetti had no report.

Unfinished business None.

New business None.

There being no further business before Council the regular meeting was adjourned at 8:50pm