

EXECUTIVE SESSION – Borough Council held an executive session at 6:30 p.m., prior to the Council meeting, to discuss real estate. No action was taken from the executive session.

CALL TO ORDER

President Chris Becker called the January 21, 2019, meeting of Macungie Borough Council to order at 7:30 p.m. in Macungie Institute, 510 E. Main Street, Macungie, PA.

ATTENDANCE

Council Members:	Alma Akinjiola
	Chris Becker
	Barry Bloch
	Greg Hutchison
	Roseann Schleicher
Mayor:	Ronald Conrad
Borough Manager:	Chris L. Boehm
Solicitor:	Patrick Armstrong
Administrative Assistant:	Selma Ritter
Absent:	Marvin Moyer
	John Yerman

MACUNGIE POLICE DEPARTMENT (“MPD”). No officers were available to attend tonight’s meeting to provide updates and hear resident issues.

PUBLIC COMMENTS

- a. Prior Public Comments to Council. None.
- b. Comments from the Audience on non-agenda items. Macungie Farmers Market (the “Market”) vendor, Joyce Marin, of 100 Wetzel Road, Longswamp Township, thanked Council and Borough Manager Boehm for their support of the Market over the years. She then updated Council on the Market’s transition, noting that from 2019 and forward the Market will be managed by the farmers (a/k/a vendors) of the Market, instead of the Borough of Macungie. She stated the Market will remain operating out of the Macungie Memorial Park (“MMP”), for an annual contracted fee.

The next Market meeting will be held on Thursday, January 31, 2019. Ms. Marin asked if Council would be agreeable to allow the Market to hold a few meetings a year at the Macungie Institute and waive the fees in 2019. Council agreed to the request.

Ms. Marin acknowledged the Market funds that remain in the Borough’s account, because Council agreed to release the funds to an entity and not individuals. She then commented that it has been difficult to transition the Market into its own entity without access to the funds. She also requested that Council and the vendors work together with the transition. Ms. Marin requested the managing vendors have access to the funds to establish a budget and have funds for startup costs, i.e.,

advertisements, etc. Several suggestions on how to advertise and startup the Market, until the entity is formed, were discussed. President Becker suggested the Market provide the Borough with invoices for the startup costs, then the Borough would pay the invoices to the creditor, out of the Market funds being held in the Borough account. Solicitor Armstrong suggested Borough Manager Boehm verify the amount of Market funds in the account are actually for the purposes of the Market, before paying for the costs.

Borough Manager Boehm commented that the MMP fees and liability insurance for the Market would also be part of the startup costs. Solicitor Armstrong stated he would be surprised if MMP would enter into a contract with the Market before the entity is formed. Ms. Marin commented that the 2018 Market forms, i.e., By-Laws, will be revised and used to transition the Market from 2019 forward.

Ms. Marin asked if Council would be amenable to allowing the Market to remain with the Borough in 2019 to help with the transition, only until the entity is formed. There was a discussion on what the Borough would be responsible to provide to keep the Market with the Borough during the transition period, i.e. insurance, manage funds, use the Borough's address for mail, etc. President Becker suggested Council Member Schleicher and/or Borough Manager Boehm act as a liaison for the Market and to keep Council informed of the Market's transition progress.

Ms. Marin asked if the Market could use the Borough's address on the forms and letters, so they could begin advertising; and continue to operate the Market as it has in the past until the entity is formed, including remaining under the Borough liability insurance. Council discussed what this request would entail and the roles Borough staff would play.

There was a consensus among Council to allow the Market to stay with the Borough in 2019, until the entity is formed. They agreed the Borough's address could be used on the forms, the Market will remain under the Borough's insurance policy, the application fees mailed to the Borough will be deposited into the Market account at the Borough and the startup costs will be paid from the Market funds. Ms. Marin and the other managing vendors will be responsible for all of the other aspects of the Market, including its marketing, administration and organization. Terry Bleiler, another vendor for the Market, stated the application process to incorporate the Market as an entity should only take 4-6 weeks.

Solicitor Armstrong suggested having the MMP contract be a month-to-month, instead of an annual, so it can be transitioned after the Market is established as an entity. Borough Manager Boehm noted that MMP will require liability insurance when the contract is signed, which is usually done in the beginning of May.

#### COUNCIL COMPLIMENTS, COMPLAINTS, PETITIONS AND APPEALS.

a. President Becker's comments:

i. In observation of the Martin Luther King holiday, today, President Becker read several of Mr. King's quotes and commented that the quotes are just as relevant today as they were then. He complimented Mr. King when stating "he was a really great man."

ii. He discussed Section 1006 of the Borough Code, which allows for special meetings, including executive session(s), to be called by the president of council or upon written request of at least one-third of the members of council. He explained the reasoning for executive sessions being scheduled at 6:30 p.m., prior the regular Council meeting, instead of being after the regular meeting, as (1) to allow the Members to go home earlier, especially those who have to wake up early in the morning to go to work, and (2) to accommodate professionals that may be attending the meeting to provide a paid service. After Council discussed what time would best accommodate the member's personal schedules, there was a consensus among a majority of the Council Members to continue scheduling the executive sessions at 6:30 p.m.

iii. Section 904 of the Borough Code does not allow Council Members to make decisions about removing absentee Council Member(s) for not attending meetings. They can only be removed with the Governor's assistance and/or approval.

President Becker commented that this year is an election year and noted three (3) Council Member seats will be expiring December 31, 2019. He asked any parties that are interested in the positions to register at the Courthouse in Allentown, Pennsylvania, by the February 2019 registration date. He briefly discussed the process for candidates to get on the 2019 ballot.

iv. He noted that Mack Truck, Inc. has been renting the old Tyler Pipe property located at 99 W. Main Street to store their tractor trailers, and reported that the truck drivers are continuing to drive over the bump out, causing damage to the bump out, plantings, reflectors and signs. He requested that a motion be made instructing Borough Manager Boehm to send Mack Trucks an invoice for the damages, every time they drive over the bump out; if they don't pay the bill, a late notice would be sent to them and if they don't pay the late notice, the Borough would then contact Solicitor Armstrong to legally pursue it. He expressed frustration with the trucks continuously driving over government property and causing damage.

Council Member Hutchison made a motion to authorize Borough Manager Boehm to send Mack Trucks, Inc. an invoice for the damage, and continuing sending Mack Trucks, Inc. invoices for any future damages, second by Council Member Becker.

b. Council Member Hutchison requested that persons speaking at Council meetings be held to the allotted 3 minute speaking time rule that Council established. President Becker noted Council follows the 2012-2013 Minute Guidelines, which states parties may speak for 5 minutes or less. He commented that Council Members should conduct themselves equally at every meeting, so everyone is treated the same.

#### APPROVAL OF MINUTES

a. January 07, 2019 minutes. Council Member Schleicher made a motion to approve the January 07, 2019 minutes, as written, second by Council Member Bloch. Motion carried: 4 ayes.

Council Member Hutchison stepped out of the room prior to the motion for the minutes being made, then returned after the motion.

#### CONSENT AGENDA

a. Payment of invoices as listed totaling \$162,503.01. After Council discussed the bills, Council Member Hutchison made a motion to approve the invoices listed on the January 22, 2019 Consent Agenda, in the amount of \$162,503.01, second by Council Member Schleicher. Motion carried: 5 ayes.

#### CORRESPONDENCE

a. Senator Pat Browne's Office, re: certificate of congratulations. The office gave a certificate to the Borough for receiving the Community of Distinction Award on January 07, 2019. The certificate stated "you should be very proud of your accomplishment. I thank you for your dedicated service on behalf of your residents."

The Council Members discussed where the Community of Distinction road signs could be displayed in the Borough. Council Member Schleicher suggested hanging two (2) of them on each end of the Borough line on Route 100, and one at Borough Hall and the Macungie Institute. Borough Manager Boehm noted the signage congestion at the west end Borough line and suggested putting it closer to the center of the Borough.

Council decided to hang them at the Borough lines on West Main Street (by 212 W. Main Street) and North Walnut Street (at Fern Alley) and also at Borough Hall and the Macungie Institute. Borough Manager Boehm will inquire about ordering an additional sign.

b. Lehigh County Humane Society ("LCHS"), re: 2019 Contract. The Contract enables the LCHS to provide the Borough with normal care and shelter to stray animals from the Borough, under certain conditions.

c. Haley Aldrich, re: Tyler Pipe Facility Second Notice of Intent to Remediate. No action taken by Council.

d. Emmaus Library, re: January 15, 2019 Board Meeting Minutes/Packet. No action taken by Council.

e. Macungie Ambulance Corp., re: December 2018 monthly report. They responded to 315 calls during this service month; 21 of the calls were in the Borough of Macungie.

f. Municipal Retirement Trust, re: Quarterly Report. No action taken by Council.

g. Municipal Retirement Trust, re: December 2018 Monthly. No action taken by Council.

#### REPORTS

a. Mayor – he requested that Council consider promoting Sergeant Travis Kocher to Police Chief. He would like to start the process of communicating about it and hold an interview with Sgt. Kocher to discuss his thoughts and requirement requests.

There was a consensus among the Council Members to meet with Sgt. Kocher in an executive session to discuss it. Council Member Hutchison asked that Council prepare a list of questions/items to discuss with Sgt. Kocher, prior to meeting with him, which could include proposed terms, conditions, contract concerns, any other potential concerns and/or other topics that were previously discussed the last time the topic of the position arose. Council Member Hutchison reminded Council of the last time the Chief's position was discussed with Sgt. Kocher, when he [Sgt. Kocher] requested certain promises to be covered, which they were unable to resolve, i.e. union membership, civil service protection or being hired at the will of Council. President Becker suggested giving Sgt. Kocher the compiled list, before he attends a meeting, so he has time to prepare his answers.

There was a consensus among Council to hold the first meeting with Sgt. Kocher during the week of March 3, 2019. President Becker will begin a draft list of questions and circulate it to the other Council Members for them to add their questions to. After the list is compiled, President Becker will forward it to Solicitor Armstrong for review, before providing it to Sgt. Kocher.

Mayor Conrad will ask Sgt. Kocher to compile a list of his own questions that he would like Council to answer.

b. Borough Manager

i. Police Testing Consortium. She spoke with other municipal managers, who stated they definitely want an intergovernmental agreement and they are not comfortable with the fast pace the Chief Association wants to move.

At this time, Sgt. Kocher and Borough Manager Boehm will continue to work on the internal list, which will be good for two (2) years, and continue discussion about the Consortium. The two (2) year period will provide ample time for the questions to be answered and Council to decide if they want to join the Consortium. She noted she is not comfortable moving forward with the Chief's Association, as there are numerous unanswered questions remaining. President Becker suggested asking the Civil Service Commission their opinion.

ii. Request for Proposal (RFP) for Residential Rental Property Inspection Ordinance. After Borough Manager Boehm and Solicitor Armstrong compiled the RFP, it was distributed to the Council Members for their review and comments.

President Becker discussed his RFP comments and questions, to which Solicitor Armstrong provided clarification. President Becker questioned if the RFP, as written, would deter individuals from submitting a proposal, which would then only have bigger firms applying, because the language in the RFP seems to target firms. He expressed concern of using "professional service" in the language, as he believes it refers to larger firms and not individuals. Solicitor Armstrong stated that whether it is a firm or individual, they are providing a professional service to the Borough, for the purposes of the Residential Rental Inspection Ordinance with inspecting the units.

President Becker also questioned if all of the required insurance listed in the RFP was necessary. He expressed concern that the cost of insurance could increase the inspector's fee, which Council and the landlords may not be comfortable with. (He noted that several Council Member's

previously stated they do not want the inspections to become costly to the landlords.) Solicitor Armstrong stated that the amount of insurance is required by Pennsylvania law, whether it is a firm or individual providing the service. President Becker suggested the potential candidate(s) provide an insurance Declaration page to show the insurance qualifications were met. Borough Manager Boehm will contact the Borough's insurance company, to inquire what insurance is necessary for the candidate to provide.

Borough Manager Boehm questioned where the RFP states that the inspector has to enter the information into, and maintain, computer databases, i.e. SharePoint and Excel. Solicitor Armstrong commented that it is stated in the RFP where it says "administer," which would include databases, and would be discussed further in an interview with the candidate.

Question arose as to if a Council Member could apply for the inspector position. Solicitor Armstrong was uncertain, but stated it could be a conflict of interest. President Becker commented that for simplicity the best case scenario would be for the Borough Zoning Officer to conduct the inspections, but that is not possible at this time, however, could be in the future. Borough Manager Boehm and Solicitor Armstrong agreed that candidates with similar experience would be considered for the position, even if they don't have the exact experience, by tailoring their comparable experience to the RFP request. Solicitor Armstrong stated that the Inspection Checklist will be attached to the RFP, so candidates would know what qualifications the inspector would need.

President Becker requested that some of the language in the RFP be changed to soften it, so qualified individuals would not be discouraged from applying for the position. After further discussion as to who would be qualified to conduct the inspections, there was a consensus among a majority of Council to change the language in the RFP prior to advertisement. Solicitor Armstrong will review the RFP and change some of the language.

c. Committees. No action by Council Members.

Council Member Schleicher reported that the 2018 Macungie Holiday post-event meeting went very well. The committee is currently working on the 2019 Macungie Holiday event and are seeking suggestions from the public. The next Macungie Holiday event is scheduled for Saturday, December 14, 2019.

UNFINISHED BUSINESS – PART I – None.

UNFINISHED BUSINESS – PART II

a. 2019 Fee Schedule. Borough Manager Boehm provided updates on the Fee Schedule, including the increase for photo copies. Barry Isett & Associates ("BIA") quoted a \$400 fee for Sewer Later Video Inspections, if they have to perform it. Borough Manager Boehm commented that the inspection fee would be much less if the property owner hires a plumber to do it. The BIA fee also includes checking for floor drain, sump pump and down spout connections. The Residential Rental Inspection was also added to the Fee Schedule, with an amount to be determined (TBD).

Council Member Hutchison questioned how many yard sales a person could hold each year. Solicitor Armstrong stated they are allowed 4 sales per year, up to 3 consecutive days per sale, totaling no more than 12 days per year.

Council Member Becker made a motion to accept the changes to the 2019 Fee Schedule, second by Council Member Schleicher. Motion carried: 5 ayes.

#### NEW BUSINESS

a. Street Excavation. The City of Allentown and Emmaus Borough Street Excavation Ordinances, which David Boyko provided, were distributed to Council to use as a reference for a proposed Borough of Macungie Ordinance. Council discussed the need for a similar Ordinance in the Borough, which would better organize street openings prior to reconstruction or resurfacing, to reduce the number of openings and patch work.

Council then discussed the street paving and/or repairs that are scheduled to be completed in 2019. Borough Manager Boehm noted funds for paving West Chestnut Street were allotted in the 2019 Budget, but paving funds for South Church Street were not. Council Member Schleicher commented that West Chestnut Street has been listed on the street paving list since 2017.

President Becker requested Public Works Supervisor, Tracy Smith, update the street paving list and provide them with a copy. He would also like Supervisor Smith to get estimates to pave South Church Street, as it also needs repaving.

b. Proposed Ordinance, re: tax credit for volunteers of Fire Department or Ambulance Corp. The proposed Ordinance was discussed. Borough Manager Boehm questioned what type of volunteers could receive the tax credit, i.e., volunteers for any emergency service or only those that volunteer and live in the Borough of Macungie. Solicitor Armstrong stated that as the current proposed Ordinance is written, any emergency management volunteer that resides in the Borough could apply for the credit, no matter what municipality they volunteer in, however, Council could limit it to certain types of volunteers or only for those that volunteer and live in the Borough.

Borough Manager Boehm then questioned who would track the volunteer's time and completed duties to ensure they are meeting the tax credit requirements. Solicitor Armstrong stated the Chief of the organization would track the information. Council agreed that it would be the volunteer's responsibility to ensure their hours and duties are tracked properly by the Chief; and the volunteer would be required to submit their information, or ensure the Chief submits it, to the Borough.

There was a brief discussion on what criteria the volunteers would have to meet. Solicitor Armstrong commented a Resolution would establish the criteria for the tax credit, but Council could modify it. He suggested Council work with the Chief on the criteria requirements.

Borough Manager Boehm expressed concern of a volunteer applying for a credit, then either not meeting the requirements or stop volunteering, and still receive the credit each year. Solicitor Armstrong stated it would be an annual credit, where an Ordinance would require the volunteer to

pay their annual taxes, then apply for a refund from the Borough; the volunteer would be required to submit supporting documents from the Chief showing they have met the requirements and are eligible for the refund. He stated Council would have to decide if they want to allow a tax credit for Real Estate, Earned Income Tax (“EIT”) or both. He noted that the Real Estate maximum credit is 20%, but council could choose a lesser amount if desired, and may have it refunded it through the Borough Tax Collector’s office. The EIT would be a maximum flat rate amount, but no more than what they paid, and may be refunded through the Borough’s 3<sup>rd</sup> party EIT collector (Berkheimer Tax Innovations). The refund process would depend on how Council sets it up.

Solicitor Armstrong suggested Council view how much a tax credit would impact the Borough Budget before deciding which credit(s) to allow and how much the credit(s) should be.

President Becker asked Solicitor Armstrong to provide the amounts other municipalities are giving, along with the types of credits they are giving, for Council’s comparison. Borough Manager Boehm will also ask other municipal managers what their municipality is giving.

Solicitor Armstrong noted that an Ordinance would establish the tax credit and a Resolution would create the volunteer service tax credit program and the requirements volunteers have to meet. He suggested Council discuss the tax credit with the Chief of the Macungie Volunteer Fire Department and/or Macungie Ambulance Corps to inquire what tax credit amount they feel would be good and to discuss the eligibility criteria the volunteers would have to meet.

c. Approval of Lehigh County Humane Society 2019 Contract. The 2019 annual LCHS services were contracted at \$800.

Council Member Hutchison made a motion to approve the Lehigh County Humane Society 2019 Contract, in the amount of \$800, second by Council Member Akinjiola. Motion carried: 5 ayes.

#### ITEMS NOT ON AGENDA.

EXECUTIVE SESSION – None.

#### ADJOURNMENT

Hearing no further business to be brought before Borough Council, Council Member Hutchison made a motion to adjourn the meeting at 9:32 p.m., second by Council Member Akinjiola. Motion carried: 5 ayes.

Respectfully submitted,

/s/ *Selma Ritter*

Selma Ritter  
Administrative Assistant