

CALL TO ORDER

President Chris Becker called the June 03, 2019, regular 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:	Debra Cope
	John Yerman

PUBLIC COMMENTS

- a. Prior Public Comments to Council – None.
- b. Comments from the Audience on non-agenda items.
  - i. Tom Bailey, from Bailey Associates Inc., on behalf of the Macungie Volunteer Fire Department (“MVFD”). Mr. Bailey, MVFD Treasurer, gave a brief history of Council’s request for an audit of the MVFD 2017 financial books. He noted a couple of proposals were offered to Council in lieu of an audit, but they were not suitable, because of the accounting industry’s definition of *audit*. Unable to find a way to provide the requested audit, Mr. Bailey asked Phil Vanim to speak to Council about the audit requirements for a fire department.

Mr. Vanim asked Council to consider the goal of an audit. He pointed out that an audit could include review of different types of reports, such as a Balance Sheet, Income Statement, Cash Flow, Statement Functional Balances and/or Foot Notes, or other types of accounting functions. He discussed the items looked at during an audit and informed Council an audit would be difficult to conduct on the MVFD because there is no history of previous audits.

Mr. Vanim suggested Council consider accepting an Agreed Upon Procedures Agreement (“AUPA”), in lieu of an audit, which would be an agreement between Council and the MVFD defining Council’s requirements of the audit. He stated that the AUPA would be more cost effective and less time consuming than an audit. An accountant would perform the work, then provide a report to Borough Council along with his/her findings.

- b. Ryan Gingrich, 990 Vine Street, Macungie. Mr. Gingrich complained about constant parties, with loud noise and a lot of traffic occurring at 995 Hillcrest Drive South since the new residents moved there in December 2018. He stated a couple of neighbors and himself have tried

to discuss the matter with the resident; but were only met with disrespect. The police have also been called. He provided several examples of the noise and disrespect the residents have imposed upon the neighbors and neighborhood.

Mr. Gingrich then discussed Section 230-1 of the Nuisance Ordinance, including §A, which regulates noise and asked for more police presence in the area, especially on the weekends. Mayor Conrad will discuss the matter with the MPD, then call Mr. Gingrich to discuss his findings. President Becker offered to meet with Mr. Gingrich to help resolve the matter.

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

a. Council Member Schleicher expressed her thanks for the lovely Memorial Day events at Macungie Memorial Park, which were very moving. Council Members Akinjiola, Becker and Schleicher participated in the parade and ceremony.

#### APPROVAL OF MINUTES

a. May 20, 2019 meeting – two (2) corrections to the Minutes were requested:

i. Council Member Schleicher requested a statement she made at the meeting be added to the end of the first paragraph on page 10(a), to read, “Council Member Schleicher stated that she asked two former Mayors of the Borough if a Chief of Police is important to a police department, to which they both replied yes. One stated that you have a President of Council, a Borough Manager and a Public Works Supervisor. She continued that a Police Chief takes on the responsibility of the police budget, the scheduling of officers and they are in charge of overseeing the standard operating procedures of the department. She stated that Sgt. Kocher has done all of these things without the title of Chief of Police.”

ii. Council Member Becker requested a deletion of a sentence on page 8(c), paragraph two, which read “President Becker discussed using the loan monies that were obtained for the reorganization of the sewer system.” He stated that he did not recall saying this and the sentence did not have any place there.

Council Member Akinjiola made a motion to approve the May 20, 2019 meeting minutes, with the two changes, second by Council Member Bloch. Motion carried: 4 ayes and 1 nay. Council Member Hutchison opposed.

#### CONSENT AGENDA

a. Treasurer’s report of May 30, 2019 – After Council discussed the Treasurer’s Report, Council Member Schleicher made a motion to approve the May 30, 2019 Treasurer’s Report, as presented, second by Council Member Hutchison. Motion carried: 5 ayes.

b. Payment of invoices as listed totaling \$167,589.65 – Council discussed the invoices listed on the Consent Agenda, as of June 04, 2019.

Council Member Hutchison made a motion to approve paying the Consent Agenda invoices, in the amount of \$167,589.65, second by Council Member Schleicher. Motion carried: 5 ayes.

CORRESPONDENCE

a. Grace Lutheran Church, re: invitation to annual Strawberry Festival and Community Fair will be held on Saturday, June 22, 2019 from 4:00 p.m. to 7:00 p.m., at the church.

REPORTS

a. Solicitor – None.

b. Mayor - Mayor Conrad reported there will be a graduation ceremony at the Lower Macungie Community Center, on Wednesday, June 05, 2019, for this year's certified volunteer firefighters. MVFD will have three or four firefighters graduating.

Council Member Bloch reported there are approximately eight (8) dirt bikes traveling around the Borough with no license plates or tail lights. He asked Mayor Conrad to look into the legality of the matter.

c. Borough Manager

i. LSA Grant award for Cotton Street Pedestrian Bridge. Borough Manager Boehm reported the Borough was awarded an LSA Grant in the amount of \$32,197 for the Cotton Street bridge. The original grant application requested \$50,305 for the project. The Borough's expense portion would be \$20,758. She asked Council to approve and sign the Agreement.

Borough Manager Boehm provided a detailed memo on the project and costs. She commented that the DEP Permit will take approximately six months to obtain. The bridge will be purchased through COSTARS and a deposit for the bridge will be required.

Carl Sell, 46 Locust Street, Macungie, questioned if the bridge is really necessary. He believes it is a waste of money. The history of the bridge was briefly discussed, along with the grant funds. Council Member Schleicher commented that residents came before Council and requested a bridge be installed for safety reasons. President Becker noted that grant funds have to be spent on the project they were obtained for and cannot be moved to another project.

Angela Ashbrook, 317 Parkside Drive, Macungie, asked if Council knew how many people walk on Cotton Street. Council Members replied that a lot of people walk in the area. Ms. Ashbrook commented that it seems like every time one person requests something, it becomes a multi-thousand dollar project.

Richard Stukas, 43 Locust Street, Macungie, asked if not having a bridge would be a liability issue. Solicitor Armstrong stated the Borough does not have any legal requirement or obligation to provide the bridge. He commented Barry Isett & Associates ("BIA") reviewed the PennDOT requirements and regulations and what is currently there now is acceptable. Borough Manager Boehm commented that once the bridge is installed, the stop signs would be removed.

President Becker suggested putting a notice on the Borough website, asking the public to come to the next Council meeting, on June 17, 2019, to comment on the installation of the pedestrian bridge on Cotton Street.

ii. Crosswalk Painting at Race and Main Streets. Borough Manager Boehm discussed her Memorandum, dated May 30, 2019, regarding the project. As directed by Council, she obtained a cost estimate from A-1 Traffic Control Products (“A-1”) to paint the crosswalk markings at Race and Main Street, as proposed in BIA’s Option #1, in the amount of \$1,190, including labor, materials and traffic control.

Due to additional issues and expenses involved with BIA’s Option #1, Borough Manager Boehm recommended the scope of work be revised to exclude any painting on the Romig (“Romig”) property, also known as Automotive Service Solutions, and within the Norfolk Southern Railroad (“NS”) right-of-way. She suggested eliminating all hash markings on the Romig property side of the plan; only painting the single white line to delineate the walking area and only painting the hash markings on the Route 100 side of the crosswalk up to the NS right-of-way, eliminating all the painting within the NS right of way.

She also discussed the costs associated with the project, including a \$750 per day fee for a flagger from Norfolk Southern Railroad, which they require. Solicitor Armstrong commented that the Borough cannot go onto Norfolk’s right-of-way without their permission. Tracy Smith, Supervisor of the Public Works Department, suggested hiring A-1 Traffic Control to do the work because they get it completed faster and provide their own traffic control.

President Becker will discuss the matter with Norfolk Southern and Mr. Romig, then report back to Council.

iii. HB 432 PTSD Presumption for First Responders. Borough Manager Boehm discussed the Susquehanna Municipal Trust (“SMT”) letter, dated May 28, 2019, which requested municipalities contact their State Representatives in opposition to HB 423, as the legislation would provide assumption of PTSD for first responders. The SMT letter noted that when Act 46 was approved, it provided cancer assumption for Firefighters, then most insurance companies stopped covering them. Borough Manager Boehm agreed with SMT’s letter. She expressed concern that if HB 423 passes, there will be repercussions from the insurance companies.

There was a unanimous consensus among Council to contact the Borough’s State Representative.

iv. South Church Street Improvements Estimate. Borough Manager Boehm provided Council with a BIA’s cost estimate, in the amount of \$657,059.85, for the S. Church Street reconstruction. She commented that this estimate is out of budget range and requested Council discuss how to accomplish the project, including dividing the project into sections.

President Becker commented that this project is a budget item. He also suggested getting input from the Authority and sewer because their utility lines are under the road. Borough Manager Boehm will investigate if sewer work will be required during the reconstruction project.

d. Committees.

- *Public Safety Committee* (Conrad, Cope and Yerman)

As discussed at the last Council meeting, Borough Manager Boehm spoke with Lower Macungie Township regarding the agreement for fire protection services with Alburtis Borough. She

reported there is currently no agreement between Alburdis Fire Company and Lower Macungie Township Fire Company, because Alburdis Fire Department is currently in litigation with their Social Hall. No agreement will be signed until the matter is settled.

Mayor Conrad commented that the Alburdis, Willow Lane and Wescosville Fire Departments are all part of the Lower Macungie Township Fire Department.

#### UNFINISHED BUSINESS – PART I

a. Borough Facility Feasibility Study. The matter was deferred until Council Members Cope and Yerman are in attendance, to discuss it with a full board.

b. Police Chief discussion. Some Council Members expressed concern of having a Police Chief discussion without all of the Council Members present. Council Member Hutchison asked to hear Mayor Conrad's proposal, with Council not making any decision on the matter.

Mayor Conrad stated his Police Chief proposal included promoting from within the MPD and not hiring from outside to fill the position of Police Chief; more specifically promoting Sergeant Travis Kocher; and giving him [Sgt. Kocher] a non-competitive Civil Service test, for the position of Police Chief within the Borough. Mayor Conrad's proposal also included, that he [Sgt. Kocher] would:

- receive the same pay he now receives;
- be Civil Service protected (*See* the conversation below, where Mayor Conrad changed this portion of his proposal to recommend he would not be Civil Service protected.);
- serve in the position of Chief at the will of Council with the option of demoting him back to Sergeant at any time, if Council is not happy with his job performance;
- be a patrolling Chief, doing the same job he has been doing for the last three years; and
- no other police officer would be hired and there would be no change in rank of any other officers. There would be no Sergeant. Corporal Michael Mullen would remain as Corporal and act as the officer in charge in a specific situations, if Sgt. Kocher is not available.

The question arose on what was meant by a noncompetitive Civil Service test. Borough Manager Boehm explained that if Sgt. Kocher takes a non-competitive Civil Service test for Police Chief, he will have Civil Service protection as Chief.

President Becker noted that Mayor Conrad made a recommendation of hiring a Chief from within the MPD and who that person would be. He commented that the next steps would be to digest Mayor Conrad's recommendation, then Council would need to discuss it. Once that is narrowed down, the next logical point would be to address it with Sgt. Kocher and hear what his offer would be. Mayor Conrad commented that they would also have to look at the legality of it, i.e., a possible contract.

Council Member Hutchison noted that no other previous Police Chief in the Borough had Civil Service protected. When questioned, it was confirmed that Mayor Conrad stated Sgt. Kocher would take the non-competitive Civil Service test and be Civil Service protected. After this was discussed further, Mayor Conrad commented that he did not know if legally Sgt. Kocher would

have to take the test to be Chief. Borough Manager Boehm stated that he does not have to take the test, but that Sgt. Kocher wants Civil Service status. Mayor Conrad then changed his proposal to recommend he [Sgt. Kocher] not be provided Civil Service status as Police Chief.

Council Member Hutchison asked for clarification on the Civil Service status. Mayor Conrad stated that he [Sgt. Kocher] would not need to take the Civil Service test for the position of Chief, but he would like him to remain Civil Service protected at the rank of Sergeant. President Becker clarified that Mayor Conrad's recommendation is not to have Sgt. Kocher Civil Service protected as Chief. Borough Manager Boehm reiterated that he does not have to take the Civil Service test to be appointed Police Chief.

The matter was deferred until all the Council Members are in attendance, to discuss it with a full board.

#### UNFINISHED BUSINESS – PART II

a. Jeffrey and Steffany Hartman Sidewalk Waiver Request. President Becker commented that it is up to the Hartmans to come back before Council with any possible recommendations and/or clarifications to their proposal not install sidewalks on their property. Council has not heard from them. President Becker noted the indefinite extension of time the Borough received regarding making a decision on their sidewalk waiver. Borough Manager Boehm questioned if Council would make a decision on the Hartmans sidewalk before Main Street Commons ("MSC") starts construction on their sidewalks. Council Member Hutchison stated that a decision should be made, because if the Hartmans have to put a sidewalk in, then it should be installed at the same time MSC is installing their sidewalk. President Becker gave a brief history on the waiver request, then he reiterated that the Hartman's position is to never have a sidewalk on their property, in any form. He noted that the last time the Hartmans were before Council they were asked to rethink their position and consider different alternatives to what a sidewalk could be, then return before Council with a proposal.

Council Member Schleicher noted that the Hartmans expressed their biggest concern was harm to their trees. She then gave examples of other properties in the Borough where sidewalks were installed near existing trees and no harm was done to the trees.

Borough Manager Boehm questioned if Council would still make a decision if the Hartmans don't come back before Council. She expressed concern that if they don't have to put a sidewalk on their property, a connection would be missed. Solicitor Armstrong suggested sending the Hartmans a follow up letter, with an action date, stating that if they do not comeback before Council with their proposal on or before such and such a date, then Council would make a decision. President Becker commented that the MSC sidewalk would most likely be installed around November 2019, therefore, Council could wait a couple of months before sending the Hartmans a letter.

b. Main Street Streetscape Phase 2.

i. Resident concerns, re: tree roots and sidewalks. The residents' concerns expressed at the May 20, 2019 Phase 3 Streetscape Workshop were discussed. President Becker commented that Council has a responsibility to take care of the tree maintenance. He suggested Council have

a tree account to budget for the maintenance annually. He also suggested the Borough take care of any sidewalk repairs around the tree that would occur from the tree roots.

Council Member Hutchison asked if the property owners along Main Street would be asked if they want a tree on their property and/or if they were notified of a tree being planted on their property. President Becker gave a brief history on tree installation and noted the previous workshops when the trees were discussed. Solicitor Armstrong stated that the Borough could put the trees in the right-of-way because they are a public improvement. Borough Manager Boehm noted that every property owner on Main Street/Route 100, in Phase 2 and 3, were directly invited to the Streetscape workshop to discuss the improvements, including the trees.

Council discussed earmarking funds for tree maintenance, and possibly sidewalk repairs around the trees, caused by tree root damage, during budget time. There was a unanimous consensus among Council to consider this at budget time to be an expense by the Borough to maintain the sidewalk, curb and trees.

c. Main Street Streetscape Phase 3. Borough Manager Boehm reported that she was informed by BIA that Phase 3 should be ready to go out for bid within the month.

NEW BUSINESS

a. Proposed Ordinance Providing EIT Tax Credit to Volunteers of the Macungie Volunteer Fire Department and the Resolution establishing criteria and amount, 6/3/19 meeting. Solicitor Armstrong gave a brief history of the proposed Ordinance. He noted that a volunteer that lives in the Borough could receive up to \$350 annually for the EIT Tax Credit, if they meet the volunteer criteria. He stated that tonight’s meeting was advertised in the East Penn Press, in accordance with the Pennsylvania Borough Code.

The public hearing was opened at 9:07 p.m. Hearing no comments or questions from the public or Council Members, the public hearing was closed at 9:07 p.m.

Motion #1 – Ordinance. Council Member Becker made a motion approving Ordinance 2019-01, establishing the volunteer service tax credit, second by Council Member Schleicher. Motion carried: 5 ayes.

Mr. Stukas commented that he is in favor of the Ordinance.

Roll Call Vote:	Akinjiola – aye	Becker – aye
	Bloch – aye	Cope - absent
	Hutchison – aye	Schleicher – aye
	Yerman – absent	

Motion Passed.

Solicitor Armstrong stated that a Resolution needed to be adopted to establish the criteria for Ordinance 2019-01, which the volunteers have to meet to receive the tax credit. He then discussed required criteria.

Motion #2 – Resolution 2019-08. Council Member Becker made a motion to adopt the Resolution establishing the annual criteria for the volunteer service credit program for the Borough of Macungie in accordance with Ordinance 2019-01, to be adopted and given the next available Resolution number of the Borough, second by Council Member Schleicher. Motion carried: 5 ayes.

Roll Call Vote:	Akinjiola – aye	Becker – aye
	Bloch – aye	Cope - absent
	Hutchison – aye	Schleicher – aye
	Yerman – absent	

Motion Passed.

b. Authorization to sign development agreements for approved Stone Hill Meadows Land Development Plan. Solicitor Armstrong gave a brief history on the plans, including Council's conditional approval of the Subdivision and Land Development Plans in August of 2018. He commented that the applicant has been working on meeting the conditions and upgrading the plans. It is Solicitor Armstrong's understanding that BIA reviewed the latest Plans, with a revision date of May 28, 2019.

Council Member Schleicher made a motion to authorize Council President to execute the agreements in accordance with the approved plans, second by Council Member Hutchison. Motion carried: 5 ayes.

ITEMS NOT ON AGENDA (Mayor and Council members only).

a. President Becker discussed hearing from Tom Bailey, Treasurer for the MVFD, and the struggle they are having to provide an audit. He then discussed the July 30, 2017 original letter, which was revised on August 07, 2017, a/k/a the 10-point checklist, of which item #7 (an audit presented to the Borough of all financial records; proposed action, an additional report of all fund drives annually to the Borough) has not been provided. President Becker commented on Mr. Vanim's recommendation to have an AUPA, then suggested having a sub-committee with Council Members to work with the MVFD on a list of questions that Council needs answered in regard to the things they are looking for, and to hire an accountant who would do a review and write a formal opinion.

To find a resolution to item #7, President Becker asked Council to consider changing item #7, from saying the word "audit," to say an Agreed Upon Procedures Agreement, and to have some Council Members work with the MVFD on a list, and the hiring of an accountant for a written opinion. Borough Manager Boehm commented that she spoke with the Borough auditor, who stated that an audit on a fire department is not normal, because it is difficult to perform. The Borough auditor suggested having a compliance review done, which is almost the same thing as an AUPA; he suggested hiring an accountant that only does fire department reviews so they are familiar with Fire Department documents.

Ms. Ashbrook asked if receipts have to be provided for grant money the Borough receives for projects, so they know what the funds were spent on. She then asked if Council could expect the MVFD to provide what Council is expected to do, when grant money comes to the Borough. President Becker replied, yes. Borough Manager Boehm commented that if an audit is over a

certain amount of money, they usually ask for an audit of the grant money, but not all Borough funds. Ms. Ashbrook suggested Council ask the MVFD to provide receipts for funds obtained from the Borough. President Becker replied that they have been doing that. He then provided the history on why an audit was requested, which stemmed from several residents coming before Council and demanding Council give them an accountability of the MVFD, because they were concerned about how funds were being spent.

Mayor Conrad and Council Member Hutchison volunteered to serve on the committee to work with the MVFD on the list of questions.

Council Member Becker made a motion to change item #7 from the word “audit” to an Agreed Upon Procedures Agreement, second by Council Member Schleicher. Motion carried: 4 ayes and 1 nay. Council Member Bloch opposed.

b. Council Member Schleicher commented about trash issues in the Borough. She stated that people are putting trash out to the curb early and large cans are being stored outside where they can be seen from the street in front of the property. She suggested sending a reminder out to residents. She then gave a few examples of the violations, including the entrances to the Macungie Village Apartments having toters/dumpsters fronting their property are now visible from the street, which the Ordinance says they cannot do. President Becker read a notice a previous Zoning Officer sent violators and suggested something similar be sent to violators.

Mr. Stukas agreed with Council Member Schleicher and stated that he also complained about trash being put out to early. He noted the Ordinance states trash cannot to be put out to the curb before 6:00 p.m. He then commented that the refuse company has not been picking the trash up by the 12:00 p.m. deadline and they should be held accountable for being late. Borough Manager Boehm stated that someone putting their trash out early has nothing to do with the refuse company picking it up late. She then stated sometimes they run late due to circumstances that arise. She then noted that the Ordinance also states that the hauler cannot collect before 5:00 a.m. and businesses on Main Street cannot be collected before 8:00 a.m.

c. Council Member Hutchison

i. He questioned if the Borough heard anything from Attorney Jeff Stewart regarding the Corporal Mullen grievance. Borough Manager Boehm stated she had not.

ii. He questioned how much hail damage was done to the MPD vehicles. Borough Manager Boehm was not sure of the amount, but she stated a claim was filed because it did affect all of the vehicles.

iii. He asked Borough Manager Boehm if she spoke with Macungie Institute Manager, Tim Brown, about the East Penn group that used to meet at the Macungie Institute (they had the trolley), about meeting again at the Macungie Institute on a Tuesday morning. Borough Manager Boehm stated that she did not speak with him yet, because she wanted to discuss it with Council first. It was a unanimous consensus among Council to allow the East Penn Chamber Board to meet at the Macungie Institute for their monthly meeting at no charge. However, the usage would have to be considered annually based on the finances of the Macungie Institute. Borough Manager Boehm will discuss the matter with Facility Manager Brown.

EXECUTIVE SESSION - None.

ADJOURNMENT

Hearing no further business to be brought before the Council, Council Member Schleicher made a motion to adjourn the meeting at 9:39 p.m., second by Council Member Bloch.

Respectfully submitted,

/s/ *Selma Ritter*

Selma Ritter  
Administrative Assistant