

CALL TO ORDER

President John Yerman called the June 15, 2020, regular meeting of Macungie Borough Council to order at 7:30 p.m. Due to the Coronavirus Pandemic (COVID-19), the meeting was held via telecommunications. The change in venue was announced on the Borough website and by a posting notice on the Macungie Institute and Borough Hall doors. The meeting was open to the public where participants could “attend” the meeting by using an assigned web link or telephone number and access code.

ATTENDANCE

Council Members:	Alma Akinjiola Angela Ashbrook Barry Bloch Ryan Hanosek Todd Rutledge Roseann Schleicher John Yerman
Mayor:	Ronald Conrad
Borough Manager:	Robert H. Glisson
Solicitor:	Patrick Armstrong (left meeting at 8:20 p.m.)
Engineer:	Stan Wojciechowski (left meeting at 8:19 p.m.)
Administrative Assistant:	Selma Ritter (left meeting at 9:32 p.m.)

ENGINEER’S OPEN ISSUES - Engineer Stan Wojciechowski from Barry Isett & Associates (“BIA”).

a. Streetscape Phase III Change Order to Mohawk Contracting & Development (“Mohawk”) to provide a more easily maintained edge against the curb. The total cost of the Change Order (“CO”) was in the amount of \$3,810.66, which would include the installation of new pavers, supplied from Borough stock, cut tight to the existing curb; furnishing and installation of polymeric sand and sealer for repaired paver areas; and furnishing and installation of bituminous setting materials & neoprene adhesive as required. Engineer Wojciechowski stated there were enough grant funds remaining from the project to pay for the CO, and would also allow Mohawk to hire Eastern States Paving, Inc. (“Eastern”) to recut the bricks.

Council discussed the maintenance and aesthetic concerns of the current brick layout in Phase III. They also discussed how the bricks were originally laid out. Council Member Rutledge commented it is a work in progress and the appearance/layout of the bricks is a matter of someone’s opinion, where someone thought they looked okay and other people may not think they look good. President Yerman suggested to learn from the experience and improve the inspection process and communications on the next phase and discuss the findings at Council meetings. Engineer Wojciechowski concurred the Borough would have an inspector on the Streetscape that is more oriented towards aesthetics.

There was a discussion on if the contractor could be held responsible for the current brick issues. Engineer Wojciechowski stated the contractor could not be held responsible if the Borough

authorized the work and signed off on it. Council Member Rutledge requested Engineer Wojciechowski to view the BIA Streetscape file to seek documentation on who authorized and signed off on the current brick work; he commented a civil lawsuit could cost more than the \$3,800.00 to fix the problem with the grant money. Solicitor Armstrong stated that if a Borough staff member or representative spoke on behalf of the Borough and directed the contractor to move forward with installing the brick in the current manner, the contractor would not be responsible to reimburse the Borough.

Council discussed having Council Members at the site during the inspections. President Yerman commented he would like information on when inspections would occur and bi-weekly inspection reports from the inspector(s) to inform Council on what is going on and what has been found (Engineer Wojciechowski concurred).

Council Member Yerman made a motion for Council to move forward with the Mohawk Change Order, in the amount of \$3,810.66, to fix the gaps between the bricks and the curbs in the Streetscape Phase III, second by Council Member Rutledge. Motion carried: 5 ayes and 2 nays (Council Members Ashbrook and Bloch).

Engineer Wojciechowski stated any remaining grant funds from the Phase III Streetscape can be rolled over to Phase IV (or future Main Street Streetscape) but it could not be used on other projects. President Yerman commented he has not heard this before and the rolling funds over would need to be confirmed.

b. Award of Streetscape Phase IV Contract. The lowest bidder was Mohawk with a base bid of \$307,645.00. Mohawk's bid documents stated they would use Eastern States Paving, Inc. as their subcontractor for the brick paver work in Phase IV.

Council discussed the quality of Mohawk's brick work in Phase III, which was not completed to their liking; they questioned if they would have to award the bid to the lowest bidder or if they could chose the second lowest bidder. Engineer Wojciechowski discussed the experience specifications bidding contractors were required to possess to avoid issues in the future. Solicitor Armstrong commented the Borough could risk a lawsuit if they did not award the contract to the lowest bidder.

Council Member Rutledge made a motion to award the Phase IV contract to Mohawk, in the amount of \$307,645.00, second by Council Member Yerman. Motion carried: 7 ayes.

The project inspections were discussed. The Council Members were encouraged to visit the area during the project to ensure the standards meet their expectations. President Yerman requested BIA submit a summary to Council on how the inspections would be conducted and how often.

c. Estates at Brookside Close – Out Status Discussion. Engineer Wojciechowski reported the last Certificate of Occupancy was issued last Summer. BIA requested a schedule for completion of the outstanding punch list items from the Developer, but has not received it. The punch list items were scheduled for completion in early Spring 2020, but with the COVID-19 pandemic and shutdown of construction the Developer was unable to follow through. The Developer has now developed a medical condition and will most likely be unable to meet the Borough's completion deadline of June 30, 2020.

Council discussed having the work completed by the end of 2020, if they found the Developer in default, by the Borough having the work done and funding it with the Cash Escrow the Developer posted. There is approximately \$141,000.00 in funds remaining in the Cash Escrow. President Yerman expressed concern of the Developer not having the work done and not communicating with the Borough; he then suggested giving the Developer until July 31, 2020 to complete the work or make significant progress on it. Council member Rutledge suggested the date be July 15, 2020.

Council Member Schleicher made a motion that Council finds the Developer in default and authorizes the drawing of the Cash Escrow, for the purposes of completing the improvements, if the Developer does not complete the work on or before July 15, 2020, second by Council Member Rutledge. Motion carried: 7 ayes.

d. BIA List of Borough Projects/Grants. In response to Council's request at their June 01, 2020 meeting, Engineer Wojciechowski provided Council a summary of the current and future projects the Borough is working, which included the grant funds awarded for certain projects. The Municipal Separate Storm Sewer System (MS4) projects were not included in the summary because a different engineering firm (ACELA Engineering) is handling those projects.

Council Member Rutledge requested potential completion dates be included on the BIA summary list. Council Member Ashbrook requested all engineering firms working on Borough projects provide a comprehensive list and include any project grants the Borough will be applying for.

MACUNGIE POLICE DEPARTMENT ("MPD") – Sergeant Travis Kocher was in attendance tonight to provide updates and hear any issues residents may have.

a. Macungie Police Department ("MPD"), re: May 2020 Report. Sgt. Kocher discussed the May 2020 report, which included being dispatched to 147 incidents, 5 Traffic Citations and 6 persons arrested. He commented the differences in the call volume was most likely due to the Governor's Stay At Home Order.

b. Miscellaneous:

i. Sgt. Kocher reported on May 23, 2020, at approximately 6:30 p.m., there was an armed robbery at the Sunoco station on Lehigh Street in the City of Allentown. A bystander provided a partial license plate number of the suspect to the police, which came back to a Macungie address. Alburdis Police Department was able to locate the vehicle while traveling to Macungie Borough. The Alburdis Officer and Officer Todd Bernhard were able to apprehend the suspect, without incident, and turn him over to the Allentown Police Department for processing. A letter of commendation will be given to Officer Bernhard for his acts in the apprehension of the armed suspect.

ii. Sgt. Kocher updated Council on an incident involving Corporal Michael Mullen. The suspect in the case was committed to Lehigh County Prison on \$40,000.00 straight bail. He was charged with felony acts against a police officer. Sgt. Kocher commented this incident will be shown on the June 2020 MPD Report.

PUBLIC COMMENT

- a. Prior Public Comments to Council - None.
- b. Comments from the Audience on Non-Agenda Items – None.

COMPLAINTS, PETITIONS, APPEALS AND COMPLIMENTS – None.

#### APPROVAL OF MINUTES

- a. June 01, 2020 – President Yerman requested three (3) changes to the June 01, 2020 Minutes: (1) Page 1, second sentence from the bottom, which read “President Yerman commented the wiring and connection fees were estimated to cost approximately \$19,000.00.” President Yerman clarified the fees were estimated by BIA, not himself. The sentence will be changed to read “President Yerman commented *BIA estimated* the wiring and connection fees ~~were estimated~~ to cost approximately \$19,000.00”; (2) Page 2.b., 4<sup>th</sup> paragraph, which read “...that installation was approved by the past Council because they wanted the same brick sightline when looking down the street.” President Yerman requested the first part of the sentence be removed because it was unclear who approved the gap between the bricks or if Council discussed it. The sentence will be changed to read “President Yerman commented the curbs in Phase III are not straight, but the bricks are straight, which leaves a gap; ~~that installation was approved by the past Council because they wanted the same brick sightline~~ when looking down the street”; and (3) Page 5, *Correspondence* b. – the sentence read “The report shows a 10% decrease compared to other years.” President Yerman requested the sentence be changed because it was not a comparison to other years. The sentence will be changed to read “The report shows a 10% decrease ~~compared to other~~ this years.”

Council Member Akinjiola made a motion to approve the June 01, 2020 minutes, with the three (3) requested changes, second by Council Member Schleicher. Motion carried: 7 ayes.

- b. June 08, 2020 - Council Member Schleicher made a motion to approve the June 08, 2020 reconvened meeting minutes, as written, second by Council Member Yerman. Motion carried: 7 ayes.

#### CONSENT AGENDA

- a. Payment of invoices listed, as of June 16, 2020, totaling \$188,912.86. Some of the invoices listed on the Consent Agenda were briefly discussed.

Council Member Rutledge made a motion to approve the invoices listed on the Consent Agenda, as of June 16, 2020, in the amount of \$188,912.86, second by Council Member Schleicher. Motion carried: 7 ayes.

- b. Approval of PennDOT Pass Through Funds to Phase II Contractor. President Yerman commented for the record that the Marino Corporation, Streetscape Phase II Estimate 7, in the amount of \$111,479.19, is pass though money the Borough received from PennDOT. At the reconvened meeting on June 08, 2020, Council passed paying the invoice because the Borough was behind in a timeline to pay the Marino invoice. At the June 08, 2020 meeting Solicitor Armstrong recommended Council report the unanimous vote to pay Marino at tonight’s meeting.

CORRESPONDENCE

- a. Macungie Ambulance Corps, May 2020 Monthly Report. They responded to 301 calls during this service month; 26 of the calls were in the Borough of Macungie.
- b. Letter from BIA on Extensions of Some Grants. BIA Grant writer, Mary Himmelberger, provided an update on two Department of Community and Economic Development (“DCED”) grant deadline extensions: (1) the DCED Multimodal Transportation Program (“Multimodal”) application deadline has been extended to 09/30/2020. Grant requests can be between \$100,000 and \$3,000,000. There is a 30% Borough match on the funds, but the Borough can apply for a “waiver.” The deadline to request Ms. Himmelberger’s grant writing assistance for the Multimodal grant is 06/30/2020; and (2) the DCED/CFA Local Share Account (“LSA”) Program grant application deadline for Lehigh County has been extended to 11/30/2020. The deadline to request Ms. Himmelberger’s grant writing assistance for the LSA grant is 08/31/2020. The grant would be applied to Phase V of the Streetscape improvements. President Yerman commented if Council wanted to move forward with continuing the Streetscape Council would need to vote on the Multimodal grant application tonight to meet Ms. Himmelberger’s June 30<sup>th</sup> deadline.

The grant application and award process were discussed, along with fees the Borough would be responsible to pay. Council Member Bloch expressed concern for the unfunded costs (engineering and other fees), which would not be paid by the Multimodal grant, along with the matching funds the Borough (taxpayers) would be required to pay. President Yerman commented there has been a change in the way Council addresses the unfunded costs, where in the past two phases, less work was performed so grant funds were available to cover the engineering fees. He suggested if Council made a motion tonight, it should include confirmation of the grant funds covering all of the fees, including the engineering fees.

Council Member Ashbrook recalled Council discussing stopping the Streetscape at Phase IV; she then commented but now they [Council] seem to be pushing ahead into Phase V. She expressed concern for other unfunded projects the Borough is required to do and “free” money [grants] ending up costing money. President Yerman acknowledged there would be some costs involved, then he suggested Council vote to decide if they would like to continue with the Streetscape.

President Yerman reminded Council that if they apply for the Multimodal grant now, an award would not be determined for approximately one year. Mayor Conrad commented the year would give Council time to think about it [moving forward with the Streetscape]. Council Member Ashbrook expressed concern that if they decide to apply for the Multimodal grant now, then a year from now Council will say they already moved forward and Phase V is already in motion, which she stated is what happened in at least one other phase, then Council had to vote to accept the grant funds. She commented Council would be deciding right now on what money they would be spending one year from now.

President Yerman commented the past two grants covered the full installation costs of Phases III and IV and there were funds remaining. He replied to Mayor Conrad’s question on if the Phase V costs would take money away from streets or other projects in the near future by stating “no” and he believes Council could apply for the grant in a manner that makes it very clear the Borough needs a waiver for the required matching funds because they do not have funds to match.

Council Member Rutledge suggested Council vote to apply for the grant with the caveat that next year Council strives to build in all of the fees (including engineering) into the grant so it is not a burden or any hidden surprise to the taxpayers. Council Member Ashbrook commented it still becomes a burden to the taxpayers because there are trees that need to be maintained, electric bills and wreath costs for the light posts; therefore, the free grant money costs the Borough [taxpayers] money. These costs were briefly discussed. Council Member Ashbrook expressed concern of having to raise taxes because Council is spending money on cosmetic things instead of dealing with infrastructure, unfunded pensions and other things the Borough actually has to pay for.

Council Member Bloch questioned if the matching funds are not waived and the grant is approved, could the Borough get out of it [accepting the grant funds]. Council Member Rutledge reiterated President Yerman's suggestion to apply for the grant and state that the Borough has no matching funds by asking for a waiver.

Council Member Rutledge made a motion to approve contacting BIA and authorizing them to apply for the DCED Multimodal Transportation Program grant for Phase V of the Streetscape, with the caveat that they only apply for the grant after confirming that the matching funds requirement is waived, the grant covers all of the engineering fees and other administrative fees, and the Borough can tailor what they are applying for to match the grant money the Borough is awarded so no taxpayer monies are used, second by Council Member Akinjiola. Motion carried: 4 ayes and 3 nays (Council Members Ashbrook, Bloch and Hanosek opposed).

President Yerman stated he would call Ms. Himmelberger tomorrow to explain the real issue and confirm the things Council said.

c. Letter from Haley Aldrich Re: Department of Environmental Protection ("DEP") Approval for Tyler Pipe Facility Cleanup Plan. The letter stated DEP approved the Final Report under the Land Recycling and Environmental Remediation Standards Act (Act 2) for the Tyler Pipe Facility, located at 101 North Church Street, Macungie. The Cleanup Plan consists of institutional and engineering controls used to attain compliance with the site-specific cleanup standard. An Environmental Covenant has been recorded with the Lehigh County Recorder to formalize the institutional and engineering controls applicable to the site.

Council Member Bloch questioned if the property will be developed. Borough Manager Glisson commented the north side by Swabia Creek could be developed for residential use, but there could be an issue getting into it; however, the south side could not be used for residential or schools. He stated the survey map that was sent with the Final Report clarifies the current zoning district the property is in and what uses would be permitted.

## REPORTS

a. Mayor.

i. Police Chief Position. There was no discussion on this matter.

ii. Protests and/or Police Policies. Mayor Conrad stated any questions on Macungie Police Department policies and/or the protests should be directed to himself or Sgt. Kocher, so everyone receives the same answers.

b. Borough Manager – a written report was provided to Council.

c. Committees.

i. Completed Employee Handbook Revisions; Distributed to Employees. The revisions, which were adopted by Council at their June 01, 2020 meeting, were distributed to the Borough employees on June 11, 2020.

#### UNFINISHED BUSINESS – PART I.

a. Consideration of Residential Rental Ordinance 2018-06 (the “Ordinance”) Amendment. No discussion by Council. The matter was deferred to an undetermined future Council meeting.

b. Jeffrey and Steffany Hartman (collectively, the “Hartmans”) Property at 212 W. Main Street; Installation of Sidewalk. At their December 02, 2019 meeting, Council made a motion to require the Hartmans to have a sidewalk completely installed on their property by June 01, 2020. On May 28, 2020, the Hartmans sent the Borough Zoning Officer, Joseph Peterson an email which provided a status update on the installation of a sidewalk on their property. The email stated they decided to install a 4’ wide concrete sidewalk; the Hartmans also alleged in the email they “confirmed that Penn-Dot owns the Right of Way in front of my [the Hartmans] property, and therefore the Borough is responsible for permitting” and they allegedly confirmed with Brett Klingel, PennDOT Permit Manager, “that sidewalks constructed in Penn-Dot right of ways are permitted, owned, and maintained by the Municipality. It is the Borough’s responsibility for submitting the permit and obtaining HOP approvals.”

Borough Manager Glisson discussed the email the Hartmans sent to Zoning Officer Peterson. Borough Manager Glisson stated he has been trying for over a week to confirm the information in the Hartmans email with PennDOT and receive clarity on whether the Borough has to get involved. He commented the Borough Zoning Ordinance clearly states property owners come to the Borough to obtain a sidewalk permit. He then abbreviated his conversations with two different PennDOT representatives, including how far back the PennDOT Highway Occupancy Permit (HOP) ends and if PennDOT has a right-of-way on the Hartman property. Borough Manager Glisson was uncertain how much an HOP would cost the Borough, if they have to pay for it. President Yerman stated the Borough would have to sort this all out.

Council Member Bloch questioned if the Borough has to obtain the permit, if Borough Manager Glisson could go ahead and apply for it so the matter does not drag out for months. President Yerman referenced the Hartmans’ comment in the email that stated “sidewalks constructed in Penn-Dot right of ways are permitted, owned, and maintained by the Municipality,” which he stated is more than the permitting; it is also about who owns and maintains the sidewalk. He stated he does not know any other property owners along Route 100 who claim the Borough owns and maintain the sidewalks, therefore, the Borough needs to get to the bottom of it. He suggested Borough Manager Glisson contact the developer next to the Hartman property to find out where

they got their rulings to install the recent sidewalk on that property in the Borough because if a developer could get out of owning and maintaining their sidewalk they would try to.

Council Member Bloch expressed concern the Hartmans would not install the sidewalk because the Borough did not take ownership of it. President Yerman commented the Borough needs to “get their ducks lined up” and if the Hartmans don’t install the sidewalk the Borough would have to do it for them, then levy a lien on their property. He recommended after Borough Manager Glisson receives real clear answers on the three issues (permit, owns and maintains), Solicitor Armstrong should send the Hartmans a letter.

#### UNFINISHED BUSINESS – PART II

a. Lease for Sonya Spotts’ Use of 24 S. Church Street; (1) Signature by Borough & (2) Timing of Commencement of Rent to the Borough of Macungie (Green Phase?). Borough Manager Glisson suggested Council does not request Ms. Spotts to pay rent on the building until Governor Wolf opens Lehigh County to the “green phase” of the COVID-19 reopening plan for Pennsylvania, since Ms. Spotts cannot open the salon for business until then.

Council Member Yerman made a motion for the Borough to sign the Lease Agreement, to waive Sonya Spotts’ from paying rent until Lehigh County goes green and require Ms. Spotts to pay a security deposit, second by Council Member Bloch. Motion carried: 7 ayes.

b. Get the Macungie Institute Trustees Functioning Again (Council Point of Contact; Council Member Hanosek).

i. Macungie Institute HVAC Plan. No discussion by Council.

ii. Possible Long-Term Rentals. No discussion by Council.

iii. Building Keys. The MI Trustees tried to conduct a walkthrough of the building this past week, but they could not get into a lot of the rooms. Borough Manager Glisson will provide keys to President Yerman tomorrow.

c. Verizon Proposal to Place 5G Antennas in Five Locations and Proposed Ordinance for Wireless Communications (at Planning Commission). No discussion by Council.

d. Interim Act 537 Plan (Wastewater Treatment Plan for LVA - at Planning Commission; Council to Vote on August 03, 2020 Meeting). No discussion by Council.

e. Review Sufficiency of Zoning Hearing Board Fees for Hearings; Committee Consisting of Council Member Rutledge and Schleicher, and Borough Manager Glisson to Report at July 06, 2020 Meeting. No discussion by Council.

f. Status of Newsletter. Borough Manager Glisson reported he has completed a number of the Newsletter pages and the other pages will be completed soon.

g. Website Issues. Borough Manager Glisson provided an update on the proposals: (1) DigiTek looked at Administrative Assistant Ritter’s computer last week; (2) he will be meeting with the Lantek representative this coming Thursday; (3) he will try to meet with Stratix this

coming Wednesday or early next week; and (4) he plans on meeting with IntegraONE. He would like the proposals from all four companies submitted by the end of next week, but he has not informed them of a set deadline because he is not sure they are available to meet before then.

h. Letter to Streetscape, Phase IV Property Owners, re: Sidewalk Repairs; Mailed. Borough Manager Glisson confirmed the letters were mailed to the property owners.

#### NEW BUSINESS

a. MS4 Possible Opportunities at Brookside Country Club (“BCC”) Development. Engineer Wojciechowski stated he included possible MS4 opportunities in his BCC review letter. He suggested the Borough include the MS4 Engineer (ACELA) in the discussion(s). President Yerman suggested ACELA provide some ideas in writing.

Representatives for the Applicant, Kay Builders, will present the project at the Borough Planning Commission meeting tomorrow evening. The meeting will be held at the Macungie Institute in compliance with Governor Wolf’s “Yellow” phase of the COVID-19 State reopening plan, which will include the limitation of 25 individuals, social distancing, and the wearing of masks.

#### ITEMS NOT ON AGENDA (Mayor and Council Members Only).

a. Council Member Ashbrook requested the contact information for the agency responsible for the street cutouts (patch work) on Route 100 South, which are now distressed. Council Member Schleicher reported the cutouts were done by UGI. Borough Manager Glisson stated the patch work was temporary and UGI would come back out to fix it permanently.

Karen Billger, 975 Vine Street, Macungie, stated she spoke with “Rose” [Rosemarie Nonnemacher, Borough Clerk/Assistant Treasurer] at the Borough about it approximately one month ago, who said the Borough would work on it.

EXECUTIVE SESSION, IF NECESSARY - President Yerman called for an Executive Session at 9:32 p.m. The regular Council meeting reconvened at 10:11 p.m. President Yerman stated in the Executive Session a scheduling issue with the MPD was discussed and Council also set the salary for the newly hired Borough Clerk/Assistant Treasurer at \$19.25 per hour, which totals \$40,040.00 per year.

President Yerman then asked for a motion. Council Member Schleicher stated she would make a motion, second by Council Member Rutledge. Motion carried: 7 ayes.

ADJOURNMENT - Hearing no further business to be brought before Borough Council, Council Member Rutledge made a motion to adjourn the June 15, 2020 meeting at 10:13 p.m., second by Council Member Schleicher. Motion carried: 7 ayes.

Respectfully submitted,

/s/ *Selma Ritter*

Selma Ritter  
Administrative Assistant