

ATTENDANCE

Council Members: Angela Ashbrook  
Barry Bloch  
Ryan Hanosek  
Todd Rutledge  
Roseann Schleicher, Vice-President  
John Yerman, President

Mayor: Ronald Conrad

Interim Borough Manager: Chris Boehm

Solicitor: Patrick Armstrong  
Jeffery Stewart (8:30 p.m. to 9:01 p.m.)

Engineers: Stan Wojciechowski, Barry Isett & Associates (7:30 to 7:44 p.m.)

Administrative Assistant: Selma Ritter

Absent: Alma Akinjiola

Due to the Coronavirus Pandemic (COVID-19), the Macungie Borough Council meetings are being 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.

CALL TO ORDER - President John Yerman called the regular meeting to order.

LEHIGH COUNTY COMMISSIONER, JEFFREY DUTT introduced himself and noted he was appointed to fill the seat of Nathan Brown in District 5, effective December 09, 2020. He would like to be a liaison between the Borough and Lehigh County and help the Borough in any way he can. He will be running for the full year term in 2021.

Lehigh County holds a hazardous waste event on even calendar years and they also have funds available to help municipalities fund their own event on odd years.

BOROUGH ENGINEER’S REPORT – Stan Wojciechowski, Barry Isett & Associates (“BIA”).

- a. Cotton Street Bridge Repair.
  - i. Change Order #1. The Change Order would increase the Contract Price by \$500.00 (from \$25,960.00 to \$26,460.00). With the Change Order, the Contract would be modified to include additional work, which was described as “demolish and remove existing concrete wall and flow channel. Install 10+- feet of 18” Smooth lined corrugated plastic pipe onto existing 18” Reinforced concrete pipe. Pour concrete collar around connection. Backfill over new pipe.”

Council Member Bloch made a motion to approve Change Order #1 in the amount of \$500.00, second by Council Member Schleicher. Motion carried: 6 ayes.

- ii. Pre-Construction Conference Pre-Bid Agenda. J. Phillips Excavating, LLC started working on the bridge on January 11, 2021.

b. Main Street Commons: Phase 1, re: Partial Escrow/Security Release. BIA recommended the release of the Improvements Security in the amount of \$330,804.36. The remaining Security amount would be \$86,946.84. Engineer Wojciechowski stated installation of the wearing course on the driveway is the only improvement that has not been completed, but the remaining security amount would be sufficient for its completion.

Council Member Rutledge made a motion to release Main Street Commons Phase 1, Partial Escrow/Security Release in the amount of \$330,804.36 back to the developer, second by Council Member Schleicher. Motion carried: 6 ayes.

c. Stone Hill Meadows. Engineer Wojciechowski reported the developer hired another engineer who Engineer Wojciechowski believes has a good handle on the project and issues. He also reported the new Lower Macungie Township Engineer stated the new Stone Hill Engineer is much more capable of handling the concerns.

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

a. 2020 Annual Report. Sgt. Kocher discussed the report, which included Officers being dispatched to 1,879 incidents, 57 Criminal Arrests and 293 Emergency Medical Services (EMS) assists. The report is also available on the Borough website.

b. Miscellaneous Items:

- Monthly Report. No monthly report was given for December 2020 due to the MPD changing record management systems. Sgt. Kocher commented the reports generated from the new system will have a different format.

- Ammunition (“AMMO”) Purchase. There is still an ammo shortage, with a 6-12 month backorder period, and the prices have more than doubled. Last week, \$1,500.00 was spent on ammo for the MPD.

- Sgt. Kocher and Cpl. Mullen requested an Executive Session later this evening to discuss a personnel matter.

#### PUBLIC COMMENT

a. Prior Public Comments to Council - None.

b. Comments from the Audience on Non-Agenda Items - None.

#### COMPLAINTS, PETITIONS, APPEALS AND COMPLIMENTS

a. Council Member Schleicher noted the Certificate of Merit that was Awarded to Macungie Volunteer Fire Department (“MVFD”) for the extraordinary seamless teamwork they displayed with assisting to save 87 lives under very challenging circumstances at the Heather Glen Senior Living Center fire on September 22, 2019. She then reported ABC News “Hearts of Heroes” segment featured the Heather Glen fire on January 17, 2021, which showed news footage of the fire and different fire departments, including the MVFD, firefighting efforts. She found the

segment very interesting and it made her feel very proud the Borough has a good volunteer fire department.

b. President Yerman noted today is Martin Luther King Jr. Day. He commented Dr. King was a great inspiration to everyone for his peaceful approach to making changes.

#### APPROVAL OF MINUTES

a. December 21, 2020 (Regular Meeting). Council Member Bloch made a motion to approve the December 21, 2020 minutes, as written, second by Council Member Schleicher. Motion carried: 6 ayes.

b. December 28, 2020 (Budget Workshop). Council Member Schleicher made a motion to approve the December 28, 2020 minutes, as written, second by Council Member Bloch. Motion carried: 6 ayes.

c. January 04, 2021. Council Member Schleicher made a motion to approve the January 04, 2021 minutes, as written, second by Council Member Bloch. Motion carried: 6 ayes.

#### CONSENT AGENDA

a. Payment of invoices listed, as of January 19, 2021, totaling \$196,226.61. Some of the invoices listed on the Consent Agenda were briefly discussed.

Council Member Schleicher made a motion to approve paying the invoices listed on the Consent Agenda, as of January 19, 2021, as presented, second by Council Member Rutledge. Motion carried: 6 ayes.

#### CORRESPONDENCE

a. Macungie Volunteer Fire Department (“MVFD”), re: 2020 Year End Calls. They responded to a total of 70 calls during the 2020 year.

b. Macungie Ambulance Corps, re: December 2020 Monthly Report. They responded to 413 calls during this service month; 24 of the calls were in the Borough of Macungie.

#### REPORTS

a. Mayor.

i. Sgt. Kocher reported that, at the request of the FBI, the MPD added additional staffing on Wednesday for the Inauguration.

b. Solicitor.

i. Ownership of Walls on Mountain Creek at Route 100. This matter has been tabled until the files at Borough Hall are reviewed.

ii. Estates at Brookside Request to Forgo the Maintenance Period Requirement. This matter has been tabled until the legal descriptions for the roads and stormwater sewer are received.

iii. Race Street Storm Drain.

(1) Temporary Construction Easement. No discussion.

(2) Curb Replacement. Solicitor Armstrong commented he is unsure of the project status. President Yerman suggested he, Public Works Supervisor Tracy Smith (“Supervisor Smith”), Interim Manager Boehm and Solicitor Armstrong discuss how to accomplish the project.

c. Borough Manager.

i. Borough Manager Search. The position has been advertised on the Borough website, in the Morning Call Newspaper and on an online employment job board. The deadline for resume submissions is Friday, January 22, 2021 at noon.

Council Members Ashbrook, Hanosek, Rutledge and Yerman are on the committee for the Borough Manager search.

ii. Truck #3, Mini Dump Truck, Repairs. The mini dump truck is currently 18-years old and while performing snow removal during the last snowstorm started blowing smoke. The Borough Mechanic, Ryan Keiser, estimated the total repair costs to be between \$15,000.00 - \$21,000.00. Interim Manager Boehm recommend the truck is not fixed and a new truck be purchased. The cost of a new truck was estimated at \$83,275.00. The salt spreader, controls and plows can be removed from the current mini dump and installed on a new truck; there would be a cost for the installation.

Council Member Bloch stated a diagnosis test was done on the truck, but it did not determine exactly what was wrong with it; therefore, a compression test should be done to more accurately determine the problem(s) before Council decides if it should be fixed or replaced. A compression test would cost \$1,200.00 and Council could get the test results by Wednesday. Council Member Bloch recalled the truck previously had a new transmission and bed installed. President Yerman suggested Supervisor Smith budget a certain amount of funds annually for equipment repairs and/or replacement.

Council Member Bloch made a motion to approve spending the \$1,200.00 for the compression test to determine the exact problem with the truck, second by Council Member Yerman. Motion carried: 6 ayes.

iii. Allen Organ Right-To-Know Request. All Borough Council Members were asked to provide Interim Manager Boehm with their emails that fall under the request.

iv. COVID 19 Block Grant. Interim Manager Boehm has been working on gathering documents and/or receipts to support the expenses that were reported in the grant application. She requested Council authorize submission of the receipts, signing of the subrecipient agreement, and the refund of any unused grant funds.

Interim Manager Boehm discussed the receipts, expenses, eligibility requirements and her calculations to justify the expenses. A \$10,924.59 donation to the MVFD has been included as an expense for their COVID-19 staffing. Solicitor Armstrong suggested the Borough confirm the timing of the expenses with Lehigh County.

President Yerman made a motion to approve moving forward with signing the grant paperwork, based upon Interim Manager Boehm's new analysis of the Borough's COVID expenses, including a \$10,924.59 donation to the Macungie Volunteer Fire Department, second by Council Member Schleicher. Motion carried: 4 ayes and 2 nays (Council Members Ashbrook and Hanosek opposed).

President Yerman commented the Borough needs to be clear with Lehigh County on the expenses and how they were justified. He further commented all of the expenses listed on the grant are within the grant's rules.

d. Committees – None.

#### UNFINISHED BUSINESS

a. Verizon Proposal to Place 5G Antennas in Five Locations and Proposed Agreement for Wireless Communications for Council consideration (Ordinance at Planning Commission. No comment or discussion.

b. Public Works Department, re: Monthly Report on Upcoming Projects; Due at 2<sup>nd</sup> Council Meeting of month. No report given.

c. Committee Vacancies.

i. Planning Commission Vacancy, term expiring 3/31/2022.

(1) Angie Ashbrook, re: Letter of Interest.

Council Member Yerman made a motion to appoint Angela Ashbrook to the vacant Planning Commission position, with a term expiring March 31, 2022, second by Council Member Rutledge. Motion carried: 6 ayes.

d. Public Works Department Equipment Replacement Plan (the "Plan"). The proposed plan showed the listed equipment description, year it was purchased, how many years it has been in service, the annual number of miles, total number of miles, estimated cost, a suggested year to replace it, the target replacement miles, and proposed funding source. President Yerman requested a proposed annual amount to be earmarked in the Budget and the number of years to fund the equipment be added to the Plan.

#### NEW BUSINESS

a. Adoption of Resolution 2021-01, re: 2021 Fee Schedule. Interim Manager Boehm stated the Fee Schedule is usually adopted annually, at the first meeting of the year. She then discussed the revisions.

Council Member Schleicher made a motion to adopt Resolution 2021-01, second by Council Member Rutledge. Motion carried: 6 ayes.

Roll Call Vote:	Akinjiola – absent	Ashbrook – aye
	Bloch – aye	Hanosek - aye
	Rutledge – aye	Schleicher – aye
	Yerman – aye	

Motion Passed.

b. Purchasing Threshold. President Yerman provided the history on why a threshold of \$1,500.00 was established last year for discretionary purchases. He stated emergencies and monthly bills would be excluded from the threshold amount. The request to purchase items over the threshold amount would include items that were approved in the annual budget. After the \$1,500.00 threshold amount was discussed, there was a unanimous consensus among Council to reduce the threshold to \$1,000.00.

c. Adoption of 2021-02 Ordinance, re: Loan Refinancing (8:00 p.m.). Attorney Kevin Reid, from KingSpry Law Firm, and Ryan Hottenstein, from FSandL were in attendance this evening to discuss the 2021 Capital Loan Refinancing and Ordinance 2021-02. The Ordinance is required to refinance the loan.

Mr. Hottenstein stated they are seeking approval of Ordinance 2021-02 tonight for the purpose of a new 2021 Note of new capital to fund the sewer work in the Borough. The original Note for the work was financed in 2016, with a 3-year draw period which expired. He researched options to best refund the existing debt. He noted “refunding” the loan does not mean the Borough would be getting money back, but rather the Borough would be refunding its current loan, a high interest rate debt, for a lower interest rate.

Mr. Hottenstein then discussed the current General Bond Note, which changes to a floating interest rate in 2023, with a maximum interest rate cap of six percent (6%). He also discussed the Maximum Debt Service Schedule (Schedule A to Ordinance 2021-02), General Obligation Note Series of 2021. The new Note interest rate will be fixed at 2.3% (fixed through maturity) with no early payoff penalty(s) and would be paid off in 2028. He noted the refunding of the Note with New Tripoli Bank will save the Borough approximately \$40,000.00 in interest, which he estimated by using the new 2.3% interest rate compared to the old 6% interest rate. New Tripoli Bank is requiring a full draw on the funds at the time of closing. The funds will be used for the Borough sewer projects.

Attorney Reid discussed Ordinance 2021-02, the purpose for the refunding and the County, State and Federal requirements attached to the loan documents. He reiterated the loan amount of \$3,240,000.00, with a fixed interest rate of 2.3%. He noted the payoff date would be July 15, 2028. He stated there are two phases to this refinance (1) authorization and (2) closing; tonight’s action would be for the authorization phase. If Council takes favorable action tonight, the documents would then be submitted to the State who would have 20-days to review it, after the Borough places the post-meeting advertisement. The closing would take place approximately 30-35 days after the authorization is complete. Attorney Reid’s office will prepare the required documents, then share them with Solicitor Armstrong, the Bank and the Bank’s counsel. The closing will be a

paper-wire closing and all of the documents will be held in escrow until all of the parties sign them. Solicitor Armstrong stated Ordinance 2021-01 has been advertised for action this evening, and if it is adopted this evening, pursuant to the Debt Act, Attorney Reid would advertise the Ordinance (post-hearing), then submit it to DCED for approval. Attorney Reid clarified the Debt Act requires all municipalities to advertise pre-meeting and post-meeting. The pre-meeting advertisement was published in the newspaper, which provided the notice to the public.

Council Member Rutledge made a motion to adopt Ordinance 2021-02, second by Council Member Schleicher. Motion carried: 6 ayes. There were no public comments.

Roll Call Vote:	Akinjiola – absent	Ashbrook – aye
	Bloch – aye	Hanosek - aye
	Rutledge – aye	Schleicher – aye
	Yerman – aye	

Motion Passed.

d. Emmaus Public Library (the “EPL”) 2021 Agreement. If approved, the Agreement would be effective January 21, 2021. The contracted amount of \$20,416.00 was approved in the 2021 Budget.

Council Member Schleicher made a motion to approve entering into the EPL 2021 Agreement, second by Council Member Yerman. Before a vote of Council could be taken, Solicitor Armstrong noted the Agreement did not have a termination provision. The Council Members then discussed having a termination provision added to the Agreement, which would only be used in emergency situations where the Borough is experiencing a negative financial impact. The language for adding a termination provision will be discussed with the EPL and a revised Agreement will be provided to Council for their consideration. No vote was taken on the motion to approve entering the Agreement, therefore, the motion died.

e. Coronavirus 2019 (COVID-19) Policies.

i. Mitigation Measures/Policy #0016. Sgt. Kocher and Cpl. Mullen both had comments and/or concerns with the following item in Policy #0016:

- Section C.2.(3), Non Work-Related Travel, which stated “When a police officer requests permission to work from home under the above-referenced circumstances, the Mayor may provide a recommendation to Borough Council in response to the request, but the final decision to allow an Employee to temporarily work from home under the above-referenced circumstances shall be that of Borough Council.”

Cpl. Mullen pointed out, in the case law, *Ricky Hoffman, Mayor of the Borough of Macungie vs. The Borough of Macungie, et.al.* (2013), the Court determined the Mayor has the final discretion and power to direct the time and place where the MPD will conduct their business, not Borough Council. Sgt. Kocher pointed out the Borough Code (Section 1123.1) also states the Mayor sets the policies for the MPD and Council is only responsible for funding, establishment and the total number of hours of the MPD (he reiterated this), therefore, the Mayor would make the final decision on if an Officer could work from home. He commented he did not want to see a precedence by this type of policy slip through the cracks, then be challenged at the Taxpayer’s expense; and the Judge’s ruling are the rules the MPD wants to follow. President Yerman noted

the policy would only be used for a COVID-19 related quarantine. Solicitor Armstrong stated the policies discussed this evening are drafts and are subject to revisions before being finalized. Council Member Schleicher suggested the Borough's 2015 Organizational Chart be distributed to the Council Members, so they can clearly see the chain of command. Given this new information was provided, Section C.2.(3) in the policy would need to be changed to state the Mayor makes the decision for the MPD, then the Mayor would then inform Council of the decision.

ii. Temporary Telework / Work-at-Home Policy #0017. Cpl. Mullen expressed concern for the language in the first paragraph on page 2, in the *Compensation and Work Hours* section of the proposed policy, which stated "The employee's compensation, benefits, work status, and work responsibilities may be subject to change while participating in the temporary work-at-home policy." He commented this language to change an employee's work hours and compensation because they change locations where they perform their duties is a slippery slope and very scary to take with full-time employees. He noted this section of the policy would not apply to the MPD because a patrol officer would most likely not work from home. Solicitor Armstrong commented it would be a very easy fix to change the language for employees covered by the Collective Bargaining Agreement. Interim Manager Boehm questioned why any employee's salary and/or benefits would change because they work from home (there was no reply or discussion to the question). President Yerman stated the policy Committee could fix the language when they figure out where it applies. Council Member Ashbrook requested all comments regarding the policies be submitted in writing to Council for their consideration.

Council Member Schleicher suggested the section of the policy that discusses payment for work should include the MPD's Act 17, regarding Heart and Lung, because that is how the MPD would get compensated for COVID-19.

f. Lumber Street Lights Bid Change Order #1. The Change Order, dated January 11, 2021, from Fromm Electric would increase the bid award contract by \$2,553.00 (Original Bid Amount=\$26,600.00 and the New Bid Agreed Upon Amount=\$29,153.00) for additional work listed as (1) Seven Use Receptacle's with button style photocells in each for each of the lights-\$245/each x 7 set ups (\$1,715); (2) One replacement LED Driver (\$149); and (3) One replacement light engine (\$689).

Council Member Schleicher made a motion to approve Change Order #1, and authorize signing, second by Council Member Yerman. Motion carried: 5 ayes (Council Member Rutledge abstained, because he works for Fromm Electric).

g. Time Extension Waiver – Main Street Commons, Phase II (Car Wash). The waiver was issued for an indefinite amount of time, which may end only after sixty (60) days written notice from either party.

Council Member Yerman made a motion to accept Main Street Commons' Time Extension Waiver, second by Council Member Schleicher. Motion carried: 6 ayes.



ITEMS NOT ON AGENDA (Mayor and Council Members Only)

- a. President Yerman will follow up with Ron Beitler about the meeting that was to be scheduled with Susan Wild. A Zoom meeting with BIA Engineer, Harry Garman, needs to be scheduled to discuss the matter.
- b. Council Member Rutledge commented Engineer Garman has not provided the sewer flow meter readings for the substations in Lower Macungie Township to the Borough yet.

EXECUTIVE SESSION, IF NECESSARY, personnel (8:30 p.m.).

President Yerman called for an Executive Session at 8:29 p.m. to discuss personnel matters. The regular Council meeting reconvened at 9:01 p.m. with the no actions or decisions made.

ADJOURNMENT - Hearing no further business, Council Member Rutledge made a motion to adjourn the January 18, 2021 meeting at 10:33 p.m., second by Council Member Hanosek. Motion carried: 6 ayes.

Respectfully submitted,

/s/ *Selma Ritter*

Selma Ritter  
Administrative Assistant