

PURPOSE OF THE WORKSHOP MEETING

The purpose of the workshop is to address public comments from the Phase 2 Streetscape workshop on 1/22/2018 and discuss the proposed Rental Inspection Ordinance.

CALL TO ORDER

President Chris Becker called the March 26, 2018, workshop meeting of Macungie Borough Council to order at 7:00 p.m. in Macungie Institute, 510 E. Main Street, Macungie, PA.

ATTENDANCE

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

OPENING

President Becker opened by welcoming the public and thanking them for attending. He asked the public, by a show of hands, to state if they attended tonight’s meeting for the proposed Rental Ordinance or Phase 2 Streetscape. A majority of attendees were there regarding the proposed Rental Ordinance.

HISTORY OF THE PROPOSED RENTAL ORDINANCE

He then gave a brief synopsis and history on the proposed Rental Ordinance, along with the required Rental License, Application, an Exterior checklist and Interior checklist. President Becker noted that, currently, there are approximately 7 or 8 municipalities in the area with Rental Ordinances. Council has reviewed several of their Rental Ordinances.

President Becker noted that according to the US Census 46% of the properties in the Borough of Macungie are rental properties of some kind. Some of those properties are owned by Lehigh County Housing Authority.

After Council received several complaints from property owners about properties next to them not being maintained, they found a majority of them were rental properties and some of the owners live out of state. Council commented that owners that live out of state do not have a personal

interest in the communities where their rental properties reside, so they don't maintain them in accordance with the community.

President Becker noted that he is a landlord and is in favor of Rental Ordinances because they help make everyone's property more desirable and help increase the quality of life and wellbeing of the people within the community.

In approximately 2016, Council and the Zoning Officer, at that time, met to discuss a proposed Rental Ordinance. The goal was to have a quality of life in the Borough that everyone desires. The Rental Ordinance is going to center around public safety and exterior appearance.

The draft "Residential Rental Unit Inspection Checklist" included electrical issues, hot and cold running water, window and door accessibility and condition, chipping and peeling paint, working smoke detectors, exterior surfaces free from hazards, functional bathroom fixtures (toilet, basin and shower), working fire extinguishers and appliances for cooking.

Major areas President Becker discussed were:

1. How often the unit would be inspected, which would be at the time of property sale or a specific time frame (undetermined amount of years). Council did discuss inspecting the units upon every time a tenant moved out, but agreed that could be cumbersome on the landlords, tenants and inspector. President Becker stated that it would take approximately every 3 years, after the Rental Ordinance is adopted, to inspect all rental properties in Macungie Borough.
2. Who would be conducting the inspections? Council discussed if the Borough Zoning Officer, an engineering firm or another party would conduct the inspections. They further discussed hiring an individual, employed by the Borough, and what kind of qualifications they would need. Council decided to have an individual, hired by the Borough, conduct the inspections. Council will need to draft a job description.
3. A change in use would require a unit to meet today's building code standards.

Zoning Officer Nicholson noted that the Rental Ordinance would not require inspections for building code and uniform construction code violations. However, the inspector would be required to report safety issues, not on the inspection check list. The proposed Rental Ordinance conditions would be additional to other codes mandated under the law, not instead of.

Council Member Schleicher read the mission statement of the Rental Committee, which is:

"Our Mission is to support the professional and ethical practices of rental property management in Macungie PA through Zoning and Code enforcement."

Council agreed, by a show of hands, to continue discussion regarding a proposed Rental Ordinance. Council Member Bloch stated he would be okay with a Rental Ordinance, if it is for safety reasons. But, he expressed concern about the depth of the inspections. Council Member Hutchison stated he would like to hear the landlord's opinions, but thinks the ordinance could be

a good idea.

President Becker recapped the ordinance, sample inspection, license application and fee schedule.

PUBLIC COMMENTS ON PROPOSED RENTAL ORDINANCE:

a. Lee Stivale, Esquire, Stivale Law Offices, Springfield, Delaware County, PA. He specializes in real estate commercial businesses and attended on behalf of several landlords in the community.

Attorney Stivale mentioned that the proposed Rental Ordinance is not a zoning issue, but health, wealth and safety ordinance. His suggestions, comments and recommendations to the Rental Ordinance are:

- i. Defining the purpose of the Ordinance;
- ii. Effective exterior enforcement;
- iii. Applicability of the Ordinance;
- iv. Providing a clear checklist to the landlord so they could see if they are compliant. Attorney Stivale did not feel the Ordinance provided clear guidance or a checklist.
- v. Older units should be grandfathered, unless they have a change in use.
- vi. The Ordinance should list what they are inspecting for, then reference the inspection list as an exhibit to the Ordinance. Otherwise, it would be an open issue for the inspector.
- vii. The Ordinance should not be drafted as widely as possible. And should reflect the safe habitation of the code.
- viii. He noted the proposed checklist President Becker mentioned was a foundation.
- ix. Felt it would be better to hire a retired professional, rather than an engineering firm.
- x. There are mixed issues within the code.
- xi. Access to the property violates the 4th Amendment of the Constitution Protective Rights. It is the occupants of the property choice to permit access to the Borough. It is the Landlords responsibility to give notice to the occupant that there will be an inspection. When someone says “no,” the criminalization of the landlord has to be removed. The Borough would have to impose the burden of an administrative search warrant, through the District Magistrate’s Office. A copy of the Warrant should be given to the property owner, so they can coordinate execution of the Warrant without causing property damage from a forced entry. Language should be added to the Ordinance stating that a copy of the search warrant will be given to the landlord.
- v. Terms are mixed in the Ordinance, which is a huge issue. The words “dwelling,” “unit” and “rental” were used interchangeably. The terms need to be consistent and used separately.
- vi. Suggested asking the landlords what they want in the Ordinance.
- vii. Suggested educating the landlords on what they need to do to comply.
- viii. Suggested all units, owner occupied and investment, be inspected upon sale, not just rental units.
- ix. Rental license should not be based on tenant behavior.
- x. Landlords want to have the same results as the Borough.
- xi. If an exterior inspection is required, it may not be necessary to implement an internal

inspection. If one is necessary, landlord education is necessary.

- xii. The inspection list needs to be for health, safety and welfare, rather than an inspection asking property owners to rebuild their properties.

In closing, Attorney Stivale offered to speak with the Borough Solicitor to help in any way he can.

- b. David Schnellman, 4595 Reservoir Hill Road, Macungie, PA.

Question: How much will the license cost?

Answer: At this time, there is no fee. If a fee is established in the future, Council will try to keep it as low as possible.

- c. Derek Pulcini, Property Manager of Macungie Village Apartments, 268 W. Chestnut Street, Macungie, PA.

Question: He felt the Rental Ordinance was more for private landlords, but asked how it would affect a large apartment complex, such as Macungie Village, which has 19 buildings and 175 units. He felt it would be a huge undertaking to inspect 175 units and a tremendous expense on the complex. He suggested inspecting the complex "turn by turn."

Answer: President Becker said Council would have to consider the larger complex and discuss options, including the possibility of doing spot checks on some units, but not all units, and have a longer expiration period.

- d. Allen Crawford, 202 S. Walnut Street, Macungie, PA.

Comment: He stated most of the issues he had were from tenants giving him problems. He feels most of the laws are in favor of the tenant and not the landlord. He expressed concern on having another piece of legislation enforcing things on landlords, when there are already problems coming from the tenants.

His building was built in 1869, so he was pleased to hear it would be grandfathered.

- e. Donald Young, c/o 119 E. Main Street, Macungie, PA.

Comments:

- i. Thought the draft Rental Ordinance was complicated and asked Council to keep it simple.
- ii. Suggested any language that would confuse the inspector be deleted.
- iii. Thought it was important that landlords know what items the inspection would include.
- iv. Would like inspections to be consistent, and feels they would be if the Borough hired a person, rather than an engineering firm, because an engineering firm would send different people out for the inspections.
- v. Believes it is a Borough wide issue and not just with rental properties. He suggested all properties in the Borough be inspected in the same way.
- vi. Liked the idea of an exterior license code.

Question: Is payment for the license a onetime payment (one and done)?

Answer: Landlords only have to pay for license once. They keep it until the property is sold. Once the property is sold, a new license would need to be issued.

f. Michael Boyko, 10 E. Main Street, Macungie, PA.

Question: What is the license for, per unit, per dwelling, and how many years is it good for?

Answer: It would be for one dwelling, and individual units would be listed on the form. President Becker suggested the license would be good for 3-4 years, then they would expire, unless the property is sold before the expiration.

Comment: He is in favor of hiring an individual, verses an engineering company.

Question: Who supersedes who? If more than one inspection is required by different entities, which inspection would take precedence? For example, if they have a 4 or 5-unit building and one tenant is a HUD tenant, HUD requires an inspection and the Borough requires an inspection.

Answer: Borough inspections would be separate from other entity inspections, i.e. HUD. Then landlord would need to meet both inspection requirements.

Question: What pressure would be water be required to be at?

Answer: Water pressure and temperature are not specified in the ordinance, the Borough only requires that they have hot and cold running water.

Comment: Mr. Boyko suggested the Borough ask for grant money to purchase and install a water tower. He feels the current one needs improvements.

Answer: They Borough Water Authority just rebuilt the water tower, within the past six (6) months and it passed inspection.

After hearing no further public comments, President Becker recapped the proposed Rental Ordinance, sample inspection checklist, license application and fee schedule. The documents will be available on the Borough of Macungie website at www.macungie.pa.us for review. He also mentioned that it could take 2-3 months for completion of the Rental Ordinance, as Council would need to discuss the proposed Rental Ordinance more before implementation. They will also need to discuss the inspector's salary, what the fees would cover and draft a job description for the inspector.

In closing, Council mentioned that rental leases usually have a stipulation that Landlords can enter the property for inspections, but they first need to give notice to the tenant. If the Landlord works with the Tenant to schedule the inspection, this would void the need for a Search Warrant.

HISTORY OF MAIN STREET/ROUTE 100 STREETScape

President Becker gave a brief history on the Main Street/Route 100 Streetscape plan for the Borough of Macungie.

A majority of the financing for the projects were received from grant monies. The Borough was required to have matching funds for the grant monies, which totaled \$169,300. With the funds, Phase 1 began. Phase 2 of the Streetscape starts at Race Street and ends at Pine Alley. The project includes, pavers, LED street lights and street trees (City Sprite Zelkova). At this time, the center median island has been removed from the plan.

President Becker then addressed several public comments/questions from the Phase 2 Streetscape

Workshop, which was held on January 22, 2018. The questions addressed, which were listed as “action items,” along with the answers provided on January 22, 2018, included:

a. Council Member Yerman

Question: Will concrete be under the sidewalk pavers.

Answer: Concrete will not be under pavers, because the trees will not get enough water and it would discourage tree growth. Therefore, not using concrete will foster better tree growth.

Question: The effect of porches on Main Street that are close to pavers.

Answer: There are only 1 or 2 locations where porches are at the edge of the pavers. Most other locations have at least 3-4’ of concrete between the pavers and porch. The pavers will be set in a stone setting bed, so they will be dry and in the future, if needed, they can be easily adjusted under the base and put back.

Question: Who would adjust or re-adjust the pavers.

Answer: Typically, the sidewalk is the responsibility of the property owner.

Question: Would the trees be the property owner’s responsibility?

Answer: That it is a Borough decision and the decision can be made as Council moves forward.

At tonight’s meeting, Council decided to hire an arborist to care for and maintain the street trees that will be planted during Phase 2. This will ensure they are uniformed and their care would be consistent.

Because the current Shade Tree Ordinance states the property owner is responsible for maintaining the street trees on their property, the Ordinance needs to be changed to indicate the Borough would be responsible for the street trees.

Council Member Hutchison expressed that he is not in favor of the trees and felt it was not right to force a property owner to care for a tree they do not want. Then, he noted the previous trees on Main Street were not properly cared for and some were cut down, leaving a stump in its place, which is not attractive in appearance. He also commented that an engineer stated the tree’s life would only be 20 years.

Council Member Bloch asked how far apart the trees would be. President Becker said they would be spaced 83’ apart, and the new LED lights would be installed between the trees.

To address the question “Who would adjust or re-adjust the pavers:”

Borough Manager Boehm mentioned the Public Works Crew expressed concern that they would be responsible to re-adjust the paver and they questioned why stamped concrete is not being considered. President Becker answered that pavers are needed so the trees could get the proper amount of water. The homeowners would be responsible to maintain the pavers and sidewalks. Council Member Bloch expressed he is opposed to pavers and anything other than sidewalks.

Council discussed putting the brick pavers in concrete, then having 6’ of space on each side, where the pavers would not be in concrete. The pavers around the trees would allow water for the trees,

then the other pavers could be in concrete. This would provide more stability for the pavers and they would not require adjustments.

b. Dorothy Kociuba – 93 S. Fairview Street, Macungie

Question: Who will be responsible for taking care of the trees?

Answer: At this time, it has not been decided if the Borough or property owner will take care of the trees. However, President Becker stated if the Borough takes care of them, they will have a uniform look and be taken care of equally. He felt it would be difficult to maintain a uniform look and care, if the property owners were to care for them. Resident Kociuba agreed with President Becker.

Comment: Looking at the Lancaster Model on an overhead screen, Resident Kociuba felt the trees seemed taller than they were described.

Answer: The Lancaster Model was from 2014, when Council was applying for the original grant. Since that time, Council decided to install City Sprite Zelkova trees, which are a 20' high diamond shaped tree with a 7' clearance.

Comment: Resident Kociuba thought that if the Borough takes on the responsibility of pruning and maintain the trees, the property owners would be more acceptable to having them on their property. Also, if Council wants a uniform look, it would be important for the Borough to prune and maintain the trees.

Question: Will the pear trees be removed?

Answer: The pear trees will only be removed where the improvements are being made.

Comment: Resident Kociuba expressed the poor look of the pear trees throughout the Borough and their being a problem for the sidewalks.

Answer: President Becker stated that it would be essential to have a maintenance program for the new City Sprite Zelkova trees.

Question: When will Council make that decision? That should be decided at the start of Phase 2.

At tonight's meeting, Council stated that the arborist taking care of the street trees would keep the tree height below the wires, which would be a 20' high with a 7' clearance. Council will need to have a standard height for the arborist to follow. The old pear trees will be removed.

Council Member Hutchison asked how deep the dirt bed would be for the trees.

c. Ernest Skidmore – 105 Brookfield Drive, Macungie

Question: With 89 streetlights planned, and it is assumed the cost of the light will be covered by the grant, will the electric bill will be responsibility of the Borough residents. Does anyone have a figure on the electric cost to run the lights?

Answer: No operating cost comparison was done between the current lights and the new ones. Council will conduct a cost comparison and provide a copy to Resident Skidmore and the public.

At tonight's meeting, Council stated that this is an unquantifiable question, at this time. However, an LED light should be less expensive to operate than the current lights.

d. Risa Donegan – 9 Coach Street, Macungie

Comment: When Allen Organ employees use Coach Street, they speed down the alley, which is very dangerous. She is concerned more employees will use the alley because they will not want to wait in traffic at the light on Church and Main Street.

Resident Donegan also commented on people not removing snow and ice from their sidewalks within the 24-hour period allotted by the Zoning Ordinance. If Council wants to make the Borough a walkable community, they need to enforce the Zoning Ordinance.

Answer: President Becker wanted it noted in the 1/22/18 Minutes that snow and ice removal within the 24-hour period needs to be enforced.

At tonight's meeting, President Becker stated that with the traffic light at Church and Main Street now functioning, it should help with the traffic on Coach Street.

He also noted that the sidewalks on Main Street will be done when Main Street is paved in May 2018. The property owners will be financially responsible for the sidewalks, but PennDOT will be replacing some of the curb with their paving project.

Council Member Bloch suggested pattern concrete for the pavers and sidewalks. Council discussed pattern concrete being expensive and not being durable. Borough Manager Boehm suggested installing pavers around the trees without concrete and pavers with concrete for the rest of the bump-out area.

PUBLIC COMMENTS ON PHASE 2 OF THE MAIN STREET STREETScape:a. Coleen Laky, Owner of Piece of Cake, 18 E. Main Street, Macungie, PA.

Comment: She expressed concern for the damage tree roots can cause and felt trees are a hindrance. She stated that tree leaves clogged her property's rain gutters and the roots grew in the downspout drain under her sidewalk, which caused a backup. She does not want to cut trees back from the wires and believes no one wants to either. She suggested not planting trees, but installing flower boxes or some type of concrete planter where a bush or flowers could be planted by the property owners. Ms. Laky is supportive of pavers.

Answer: Council expressed concern that flower boxes would not be properly maintained and would be used as garbage cans and ashtrays. Council will discuss the possibility further.

Council Member Bloch asked if the tree area could be adjusted.

Answer: Changes will be made as needed through the process.

b. John Albright, 20 W. Main Street, Macungie, PA.

Comment: He does not want trees planted, but likes the idea of planters. He feels property owners should get to vote on the planting of trees. Mr. Albright likes the idea of pavers.

Answer: The grant monies received for the Streetscape included the trees, which were on the plan.

c. Francis Ondrejca, Jr., 165 E. Main Street, Macungie, PA.

Question: Are the property owners responsible for the sidewalks and curbs? He expressed concern of having to keep fixing the sidewalk and curbs.

Answer: The Borough Ordinance requires property owners to maintain curbs and sidewalks.

Question: How many trees will be in front of my property?

Answer: Phase 2 of the Streetscape stops at Pine Alley. It will not affect his property.

Comment: Mr. Ondrejca expressed dissatisfaction with the Zoning Ordinance regulations.

President Becker reiterated the traffic problem in the Borough of Macungie and stated that Phase 2 is for traffic calming. He agreed that a maintenance plan is needed.

CLOSING COMMENTS:

A representative for Turkey Hill will be attending the next Council meeting, which is scheduled for April 2, 2018. They will be discussing their proposed request to transfer a liquor license into the Borough for the Turkey Hill Market located on Main Street/Route 100, Macungie, PA. The public was encouraged to attend.

President Becker thanked the community for coming out tonight and sharing their questions and concerns. He welcomed the community to come out to other meetings in the future.

ADJOURNMENT:

Hearing no further business to be brought before Borough Council, a motion was made by Council Member Schleicher, second by Council Member Hutchison, to adjourn the meeting at 9:07 p.m. Motion carried: 6 ayes.

Respectfully submitted,

/s/ Selma Ritter

Selma Ritter
Administrative Assistant