

ATTENDANCE

Council Members:	Angela Ashbrook, Vice President Alma Akinjiola Barry Bloch Todd Rutledge Lisa Yegal
Interim Borough Manager:	John A. Brown
Solicitor:	Patrick Armstrong
Administrative Assistant:	Selma Ritter (7:30 p.m. to 9:56 p.m.)
Absent:	Ronald Conrad, Mayor Ryan Hanosek, Council Member John Yerman, Council President

CALL TO ORDER – Vice-President Angela Ashbrook called the regular Council meeting to order at 7:30 p.m.

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

a. MPD, Monthly Report for June 2021. The report included being dispatched to 155 incidents, 10 total crimes reported, 7 traffic citations/warnings and 4 parking tickets/warnings. Sgt. Kocher commented the total number of crimes reported was elevated due to an increase in Social Security identity theft/fraud.

b. Miscellaneous Discussion.

i. Recently, there was a meeting with several Council Members, Sgt. Kocher and Cpl. Michael Mullen. During the meeting, Council Member Rutledge commented a good portion of the Council Members are not familiar with the MPD’s current staffing. Sgt. Kocher stated, at a minimum on a bi-annual basis when new Council Members are sworn in, he would provide them with a snapshot of the Department’s manpower and/or staffing. He then briefly discussed the MPD’s current manpower and its operating needs.

c. Questions from Council Members and/or Public.

i. Council Member Bloch reported there are five (5) Weis Market shopping carts on Race Street, between Main Street and Locust Street. Sgt. Kocher stated it is theft to remove shopping carts from store parking lots. He suggested the Borough Public Works Department (“PWD”) take them back.

Council Member Bloch received complaints about vehicles speeding and stop sign violations on Race Street; he encouraged the complainants to contact the MPD. Sgt. Kocher requested as

much information as possible be noted (vehicle description, license plate number), then provide it to the MPD so they can contact the violators.

ii. Gregory Hutchison, 120 N. Walnut Street, Macungie, questioned (1) if Officer Erin McFarland would be returning to work at the Borough and (2) how her shifts are currently being staffed. Solicitor Armstrong stated her absence is a personnel matter which would need to be discussed in an Executive Session. Sgt. Kocher stated her shifts are being filled by other Officers.

### PUBLIC COMMENT

a. Prior Public Comments to Council – None.

b. Comments from the Audience on Non-Agenda Items.

i. Heather Printz, 16 W. Main Street, Macungie, requested financial assistance from the Borough for the fireworks display at the Das Awkscht Fescht Antique event at Macungie Memorial Park (“MMP”). She commented the fireworks display is in danger of being cancelled this year due to the 2020 and 2021 COVID-19 shutdowns, which caused financial hardships for MMP. She stated the fireworks are usually funded by the Committee, but they are lacking funds this year. At this time, an additional \$7,500.00 is needed for the fireworks display. To help obtain funding, Ms. Printz set up a Go Fund Me page and has also asked local businesses for donations. Council Member Ashbrook suggested the East Penn Press Newspaper include the need for firework donations in their article covering tonight’s Council meeting. Council Member Rutledge suggested fireworks attendees be asked to donate \$1.00 or more on the night of the event or MMP could scale back the fireworks display to fit within their budget. Solicitor Armstrong stated the request for financial assistance would need to come from the Committee.

ii. Carl Sell, 46 Locust Street, Macungie, requested permission to purchase a sign he drafted to hang on the Cotton Street Pedestrian Bridge, which would provide a breakdown of grant funding and taxpayer dollars that were used to pay the cost of the bridge’s installation, plus annual maintenance costs. He stated he would pay for the cost of the sign and install it himself.

Solicitor Armstrong and some of the Council Members expressed concern for the accuracy of the dollar amount that were stated on Mr. Sell’s proposed sign. Solicitor Armstrong suggested the discussion be deferred until the dollar amounts are confirmed and Council considers if they want the language Mr. Sell is proposing to be on the sign. He stated the current sign on the bridge (and its wording) maybe a condition of the grant agency. Solicitor Armstrong informed Council they do not have to act on this request within a certain timeframe or at all.

iii. Gregory Hutchison, questioned what happened to the pedestrian crossing signs that used to be in the street on Route 100/Main Street to slow traffic down. He asked Sgt. Kocher to have officers patrol the area for violations. It was suggested the matter be deferred for Mayor Conrad’s consideration. Sgt. Kocher stated he acknowledges there are various traffic issues within the Borough, but the MPD lacks manpower for enforcement details, and they have to prioritize their workload.

COMPLAINTS, PETITIONS, APPEALS AND COMPLIMENTS.

a. Council Member Bloch reported he received a complaint there are not enough American Flags hung on Main Street/Route 100. He suggested the PWD be contacted to inquire if they have any flags at the garage to hang up.

b. Council Member Rutledge received multiple complaints from residents in The Ridings Development regarding the Consumer Compliant Report (“CCR”) violation letter they received. The residents were confused with the wording used in the letter and feared their water was unsafe for use.

It was noted the letter was sent to all water customers in the Borough because The Department of Environmental Protection (DEP) notified the Borough Authority the lab that conducts the Borough’s water testing failed to submit the free chlorine test results for the week of June 27, 2020 by the due date, which was an administrative violation. A notice was included in the Spring/Summer Newsletter’s CCR section, but the publisher accidentally omitted it from the Newsletter. Therefore, each water customer was notified of the violation by mail.

c. Council Member Ashbrook complimented the PWD crew on the Parkside Drive paving project. She stated they did a great job and the work looked very professional.

d. Sgt. Kocher reported there is a home foundation in Phase III (Borough) of the Stone Hill Meadows Development (off of Spring Street). He recalled a Borough condition for building in Phase III, that stated Phase II (Lower Macungie Township) of the development had to be completed before homes could be built in Phase III. Solicitor Armstrong stated he looked at Stone Hill Meadows approval letter from the Borough and found the condition was related to the plan where the developer could not record the Borough plan (Phase III) before recording the Lower Macungie Township plan (Phase II); and, the condition did not mean the developer had to fully complete Phase II before building in Phase III. Council Member Bloch questioned how the developer could begin building homes before correcting the water runoff issues; as Engineer Stan Wojciechowski approved the erection of homes in Phase III.

APPROVAL OF MINUTES

a. June 21, 2021. Council Member Bloch made a motion to approve the June 21, 2021 minutes, as written, second by Council Member Rutledge. Motion carried: 5 ayes.

b. July 06, 2021. Council Member Bloch made a motion to approve the July 06, 2021 minutes, as written, second by Council Member Rutledge. Motion carried: 5 ayes.

BILLS FOR APPROVAL - CONSENT AGENDA

a. Bank Reconciliation Reports, June 30, 2021 - No comment.

b. Bills for Payment listed, as of July 24, 2021, totaled \$415,120.89. Some of the bills were discussed in more detail.

Council Member Bloch made a motion to approve paying the invoices listed on the Consent Agenda, as of July 24, 2021, as presented, second by Council Member Akinjiola. Motion carried: 5 ayes.

#### CORRESPONDENCE

a. Macungie Ambulance Corps, re: June 2021 Monthly Report. They responded to 339 calls during this service month; 30 of the calls were in the Borough of Macungie.

b. Macungie Ambulance Corps, re: Merissa L. Frye Memorial Emergency Responder Training Fund - 2021 Mid-Year Report. In 2019 the Macungie Ambulance Corps, with the support of the Merissa L. Frye (MLF) Small Cell Cervical Cancer Memorial Foundation, created the Merissa L. Frye Emergency Responder Memorial Training Fund, for the purpose of providing free and low-cost first-aid, CPR, and other training to local emergency responders. On June 26, 2021, the MLF Foundation donated \$ 5,000 to this training fund.

c. Macungie Memorial Park, re: Request for Borough Public Works Department to Assist MMP with Fence Post Installation for Das Awkscht Fescht on August 6, 7, 8, 2021 and Wheels Of Time Street Rod Show on August 27, 28, 29, 2021. The fence is erected for security and visitor admissions during the events.

Council Member Ashbrook made a motion to approve the Borough Public Works Department assistance to MMP with fence post installation for the Das Awkscht Fescht and Wheels Of Time Street Rod Show, second by Council Member Bloch. Motion carried: 5 ayes.

d. Macungie Volunteer Fire Department, re: June 2021 Training Report. The report included training on Hose Testing and New Rescue Tools, along with setup for a truck show.

e. Rosanne McGinn, re: Request to Re-Open Macungie Institute and Hire Coordinator. Council discussed Ms. McGinn's re-opening request. Concern was expressed for hiring a coordinator and re-opening the facility, then the COVID-19 pandemic guidelines changing to require the facility to close again and a newly hired coordinator not having work. Council also discussed the amount of rental interest, which they commented were low. Council Member Ashbrook questioned if the Macungie Institute Trustees ("Trustees") would allow a Coordinator to be hired for less hours in the beginning of the re-opening, then increase their hours as needed. Solicitor Armstrong stated the Collective Bargaining Agreement may dictate how many hours the coordinator would work. It was suggested the new coordinator have marketing experience to properly market the facility. There was a discussion on how the building could and/or should be utilized.

#### REPORTS

a. Mayor – None.

b. Solicitor.i. Oak Street Vacation Ordinance and Easement – Cory Zeisloft.

- Ordinance No. 2021-04, re: Vacation of Oak Street.
- Declaration of Easement – Right-of-Way for Sanitary Sewer Pipe.
- Barry Isett & Associates Engineering, re: Oak Street Vacation Drawing/Survey Request.

Solicitor Armstrong reported he received the necessary description for the exhibit and is waiting for Mr. Zeisloft to sign and return the easement to him. He cautioned Council not to vacate the street before the easement is signed.

Solicitor Armstrong also reported he prepared the legal notice for Ordinance No. 2021-04 to be published for adoption at the August 16, 2021 Council meeting, assuming the signed easement for the sewer line is received within enough time to meet the advertisement requirements.

ii. Sunshine Act Amendment. An amendment to the Pennsylvania Sunshine Act has been approved. Effective August 29, 2021, Act 65 of 2021 requires all municipalities to post a meeting agenda containing all items that will be acted on at least 24 hours before the meeting. If a matter is not listed on the posted agenda, it will not be able to be acted upon at the meeting. The agenda will need to be posted at the location of the meeting, at the principal office of the agency and on the agency's website if it has one. There are certain posting exceptions provided for within the Act, including an exception for emergency business relating to a real or potential emergency involving a clear and present danger to life or property, de-minimis matters that do not involve the expenditure of funds or entering into a contract or agreement, which allows it to be acted upon if it arises within 24-hours of the meeting and the ability for an agency to vote at the meeting to add a matter of agency business to the agenda if it is agreed to by a majority of the members present. This amendment to the Sunshine Act will have an impact on municipalities throughout the Commonwealth and how they prepare for and take action at public meetings.

A few questions regarding the amendment were asked:

i. How would the amendment affect action(s) taken at the public part of a meeting as a result of the discussion held in executive session when Council resumes the public portion of the meeting? For example, hypothetically, if a real estate matter was discussed in an executive session, and Council wanted to make a motion on the matter, is this permissible or would the matter need to be placed on the next Council meeting for action. Solicitor Armstrong stated he interpreted the amendment to say a majority of Council could come out of the executive session and vote to amend the agenda (to include whatever they want to act upon), then they would make another motion the same night as the executive session to act upon the matter or Council could place the matter on their next meeting agenda for action.

ii. Does the amendment mean the regular meeting cannot be reconvened after an executive session? For example, after Council comes out of an executive session, they reconvene the regular meeting and begin discussing matters not listed on the agenda which were

not related to anything discussed in the executive session. Solicitor Armstrong stated this would not be permissible.

iii. Would posting the agendas on the Macungie Institute building meet the criteria for posting “at the principal office of the agency”, since the Macungie Institute is a Borough owned building? Solicitor Armstrong stated the agendas would have to be posted at Borough Hall (principal office of the agency) and the Macungie Institute (meeting location) if the meeting is being held at the Macungie Institute. However, if the meeting is held at Borough Hall, then the agenda does not have to be posted at the Macungie Institute. He noted the agenda would also have to be posted on the Borough website and the amendment applies to all board meetings.

iv. Would the “Public Comments” section (Comments from the Audience on Non-Agenda Items) of the agenda be affected? Solicitor Armstrong stated there would still be a Public Comments section for non-agenda items on the agenda because the purpose of it is every time Council takes action on an agenda item they open it to public comment, it gives the public the opportunity to comment on anything and no action would be taken at that time; it is just a comment.

c. Borough Manager.

i. Manager’s Report. Some of the items included in his report were:

- Miscellaneous.

1. 2021 Note-Sewer Loan Update Payment. The first Note payment was due July 15, 2021. Interim Manager Brown noted this loan was created from a combination of paying off the other sewer loan and new money for sewer work. He stated funds to pay the loan payments would be drawn from two accounts (1) 19% would come out of the General Fund which is allocated from the old Note and (2) 81% would come out of the collections for sewer payments.

2. Zoom Contract Cancellation. Currently, the Borough is paying \$54.99 per month for the service. Interim Manager Brown recommended Council cancel the Zoom subscription due to a lack of use. It can be reinstated at a later time, if needed.

Council Member Rutledge made a motion to cancel the Zoom subscription, effective tomorrow, and moving forward (if Zoom needs to be reinstated) it the time is limited to 40-minutes, second by Council Member Bloch. Motion carried: 5 ayes.

3. Weeds in Borough Roadway @ Church Street-DPW. Interim Manager Brown will seek input from the PWD on either spraying weed killer and/or seal the curb line that meets the street so weeds don’t grow there.

4. Department of Environmental Protection (“DEP”) MS4 Audit. Barry Isett & Associates indicated DEP is auditing local municipalities in the region for their MS4 Plan. To date, DEP has not notified the Borough regarding an audit. Interim Manager Brown

requested permission to have an engineer accompany him in the audit. There was a majority consensus among Council for Interim Manager Brown to determine which Engineering firm (ACELA or BIA) to use.

- Grants/Projects.

1. 2020 D.O.J Bullet Proof Vest (BVP) Grant for MPD. The grant is currently under review by the D.O.J.

2. ARPA Local Fiscal Recovery Grant (LFRF). The funding agency awarded the Borough a total \$332,678.76 in funds. The Borough received the first half of the awarded funds (\$166,319.38) on July 13, 2021. The second half of funds should be received in July 2022.

3. New Grant Opportunities.

- PennDOT TASA-August 16, 2021. The funds for this grant could be used on projects such as on and off-road pedestrian and bike facilities, improving access to public transit, trails that serve a transportation purpose and safe routes to schools. TASA projects are funded at 100% of the construction cost (including construction inspection). Applicants are required to match funds for all preliminary construction costs, such as the survey, design, permitting, clearances, right of way, utilities, etc.

- DCED-Local Share Account (LSA)-September 30, 2021. The application deadline is September 30, 2021. No matching funds are required. Funds could be used for almost anything. Grants rely heavily on the support of the municipality's legislators. Interim Manager Brown requested Council consider projects they would like the funds used for.

4. DEP Growing Greener-Mountain Creek. The application has been submitted for the amount of \$303,427.00. The Borough is waiting for notification of approval. The Borough must provide \$45,524.00 in taxpayer matching funds for this grant.

5. DCED Multimodal Grant for Main Street, Streetscape VI, for the amount of \$1,907,790.00 has been submitted.

6. DCED Multimodal Grant for Main Street, Streetscape, Phase V (\$435,198.00). BIA engineering service proposal in the amount of \$42,750.00 has been signed, as per Council's approval at their June 07, 2021 meeting.

7. DCED Multimodal Grant for Main Street Streetscape, Phase IV. A Certificate of Substantial Completion has been received for this project. Borough is waiting for close out documents.

8. DCED Small Water & Sewer Grant-Church Street. This was a Borough Authority grant. The project has been completed.

9. DCED LSA Macungie Institute HVAC/Heating. DCED is forwarding the grant contract; once it is received, the Borough can move forward with the systems replacement.

10. Cotton Street Rain Garden-payment request. The contractor recently submitted a final payment request to the Borough. Daniel Witczak, from ACELA Engineering, is currently reviewing the project. Recently, there was a meeting at the site with some Council Members, Interim Manager Brown and the engineer to review the project. While the contractor stated the raingarden is working properly, some Council Members expressed concern it may not work properly and it may still need some work.

Council Member Ashbrook stated the contractor verbally admitted the raingarden was not built according to the plan; she commented President Yerman requested the contractor provide something in writing stating the raingarden would function as it is supposed to and they guarantee the quality of work, although it is not built to the approved plan specifications. Council discussed how this particular raingarden is intended to work and the overall concept of a raingarden. Some of the incorrect work of this particular raingarden was described as wrong grades, a pipe work sticking out of the ground (should be 7" underground) and it is unclear what is currently growing in the raingarden, e.g., weeds and/or grass, instead of flowers and plants that were shown on the plan. Council Member Ashbrook commented the vegetation should be resolved but not by just adding more seeds, the contractor should also provide a written guarantee they will stand behind the work and it will function the way it is intended to. The raingarden was inspected through the contractors own inspection (they inspected their own work).

Interim Manager Brown stated the engineer was asked to (1) certify their work would function as they said it would, (2) certify how the work was done relative to the original engineering drawings and (3) certify the raingarden's function meets the DEP requirements. Solicitor Armstrong reiterated President Yerman would like ACELA to provide (1) a list of what items are not exactly the same design as what is on the drawing/plan, (2) it is the engineers opinion the raingarden would still operate as it was intended the way it was constructed, and (3) the engineer would certify the raingarden as built.

Solicitor Armstrong then discussed the contractual obligation the Borough has to pay the payment request. Council Member Ashbrook stated there was a previous conversation on holding back some of the funds for the cost of plantings; therefore, Council would not know exactly what they would be approving this evening. There was a consensus among Council to table the payment to their August 02, 2021 meeting to allow time to get certification from ACELA and also determine if Council would like to pay the payment request in full or not.

Maintenance of the raingarden was then discussed. Solicitor Armstrong suggested the Borough inquire how it should be maintained.

Council Member Rutledge made a motion to table the payment request pending the response President Yerman is lobbying to get from ACELA Engineering, until August 02, 2021, second by Council Member Ashbrook. Motion carried: 5 ayes.

11. Sewer Lateral Lining Project. The project will be advertised for bids in the newspaper on July 14 and 21, 2021. Bids would be due to the Borough by August 11, 2021. Council will award the bid at their September 07, 2021 meeting.

- Public Works Department.

1. Street Paving Schedule. The paving of Parkside Drive was completed the week of July 12, 2021. Cedar Street (Allen Organ to Race Street) is scheduled to be paved the week of August 16, 2021, subject to the amount of remaining budgeted funds available after the paving costs for Parkside Drive are deducted.

2. Lumber Street Lights. The PWD will provide an installation schedule. As per Council Member Rutledge's request, the PWD will obtain updated quotes, which would include an updated wire length and wire set.

3. Roofing/Damage -Insurance Claim. The roofing work at Town Hall, Macungie Institute and Borough Garage was completed last week. The contractor identified additional minor repairs that need to be completed, which will be scheduled soon.

- Contracts Expiring.

1. Refuse – Advanced Disposal/Waste Management; Expires 10/31/2021. Solicitor Armstrong stated this item needs to be bid out.

2. Auditor – Anderson France Auditing Service; Expires 12/31/2021.

ii. Main Street Streetscape, Phase IV, Project Substantial Completion Certificate-Mohawk Construction was finalized on July 12, 2021. This matter was not discussed this evening.

UNFINISHED BUSINESS

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

b. Race Street Storm Drain (Meeting with Manager, Public Works Supervisor, Council President and Solicitor).

- i. Temporary Construction Easement.
- ii. Curb Replacement.

c. Cotton Street Raingarden, re: Payment Request #2, in the Amount of \$15,250.00 (Carried from 7/6/2021 Meeting). Discussed under Manager's Report, § Grants/Projects, §§ 10.

NEW BUSINESS

a. Main Street Commons (“MSC”), Phase II. In their letter, dated May 27, 2021, Lehigh County Authority stated MSC requested 9,985 gallons of water per day in their Sewer Planning Module.

Chad Helmer, from the Helmer Company, was in attendance this evening and identified himself as a representative/consultant to the developer, 178 West Main Street, LP (a/ka/ Main Street Commons). He stated MSC’s Interim Act 537 Plan and Sewer Module EDU request before Council this evening would be used for the remaining portions of the development (excludes the Bank), which would include for the proposed car wash and any other lots that would be developed in the future.

i. Sewage Facilities Planning Module. The module request was also submitted to the Borough’s Planning Commission for action at their July 20, 2021 meeting.

ii. Resolution #2021-12 for Plan Revision for New Land Development. The Pennsylvania Sewage Facilities Act requires municipalities to adopt an *Official Sewage Facilities Plan* and revise said plan whenever it is necessary. Resolution #2021-12 provides for (1) adoption of the Sewage Facilities Planning Module for Main Street Commons Phase II and (2) submission to DEP for approval and revision of the *Official Sewage Facilities Plan*.

Council Member Rutledge made a motion to adopt Resolution #2021-12, second by Council Member Bloch. Motion carried: 5 ayes.

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

Motion Passed.

b. Items Not on Agenda.

i. Fireworks Permit for Wedding. Celebration Fireworks, Inc. submitted an Application for Fireworks Display (Permit #4588) to the Borough for fireworks at the Brookside Country Club relating to a wedding on July 24, 2021; the fireworks are scheduled to commence at 9:15 p.m. (lasting approximately 8-10 minutes).

Council Member Ashbrook made a motion to approve Permit #4588 for the wedding on July 24, 2021, second by Council Member Rutledge. Motion carried: 5 ayes.

ii. Borough’s Facebook Policy. The Borough’s Facebook Policy (Policy No. 0010), effective November 19, 2012, was distributed to Council for their review. (This Policy does not cover the then Facebook pages of the Macungie Farmers Market and Macungie Institute, which are separate and distinct Facebook pages and not governed by this policy.) The purpose of the Policy is to provide guidelines and define the responsibilities for the creation and use of the

Borough's Facebook page as a means of conveying Borough information to its citizens. As per Policy #0010, Page 1 Number 2, The Borough Manager shall be in full charge and control of the Macungie Borough Facebook page, including the information posted on the page, in accordance with this policy. However, Pages 1-2 Number 3, provides Council and/or the Manager to authorize other Macungie Borough representatives to access and post certain information on the Borough's Facebook page.

Currently, the Borough's Facebook page is being managed by President Yerman. Council briefly discussed who could/should manage the page. There was a unanimous consensus among Council to table the matter.

ITEMS NOT ON AGENDA (Mayor and Council Members Only)

a. Council Member Ashbrook questioned if the paperwork that is included in the Council packets could be projected on a screen during a Council meeting so attendees could view it while it is being discussed. Some Council Members questioned who would be tasked with displaying the paperwork during the meeting. After the matter was discussed in more detail, there was a majority consensus to not project the paperwork.

EXECUTIVE SESSION, IF NECESSARY

Vice-President Ashbrook called for an Executive Session at 9:56 p.m. to discuss personnel matters, with no action anticipated. The regular Council meeting reconvened at 10:51 p.m. with no action(s) taken.

ADJOURNMENT - Hearing no further business tonight's meeting adjourned at 10:52 p.m.

Respectfully submitted,

/s/ *Selma Ritter*

Selma Ritter  
Administrative Assistant