



# **INVESTIGATIVE REPORT**

## **City of Macedonia**

**DATE COMPLETED: May 2015**

**This Investigation was provided by:**



**SACS Consulting and  
Investigative Services, Inc.  
520 South Main Street  
Canal Place-Suite 2516**

**TEL: 330-255-1101 | FAX: 330-255-1135 |**



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# **I. SCOPE OF INVESTIGATION**

SACS Consulting and Investigative Services, Inc. was retained and requested to perform an investigation to discover and/or verify the existence of the following:

(1) Any Criminal, Civil, Improper and/or other Misconduct Action(s) on the part of Scott Svab; and

(2) Any Criminal, Civil, Improper and/or other Misconduct Action(s) on the part of other City of Macedonia management or employees.

The main scope of this investigation will also include a review of previous investigation findings by the Macedonia City Law Department and the investigation/review performed by Attorney Maribeth G. Wuertz of Fisher & Philips LLP.

In addition to other investigation processes, the investigation will include administering several Polygraphs on Scott Svab in pursuit of the truth of the accusations against Scott Svab. Interviews with current and past employees will be conducted and all results as part of this investigation will be disclosed in the report. Until Scott's polygraphs are completed it will not be feasible or proper to interview any City of Macedonia employees without having those results beforehand.

Mayor Kuchta and Law Director Joe Diemert did allow City of Macedonia employees to be interviewed during normal work hours with Atty. Maribeth Wuerts' investigation, but have not granted the same permission for this SACS investigation.

This investigation will be impartial and objective. Due to the scope of the investigation and the review process outlined above, improper conduct, civil liability and/or criminal violations by other City of Macedonia employees, management and other related parties may also be revealed as part of the investigation findings.

Lastly, specific investigative findings and/or potential criminal actions may be turned over to state and/or federal law enforcement authorities for further investigations.

# **II. DISCLAIMER**

SACS Consulting and Investigative Services, Inc. prides itself on its strong reputation and integrity. Over the past 25 years SACS has been able to achieve success for its clients through numerous projects and investigations by taking an objective role during its processes.

SACS Consulting and Investigative Services will specifically serve as an objective, non-biased third-party in its investigation.

SACS would also like to disclose that compensation is not contingent upon certain findings and/or conclusions. SACS compensation is solely based on time expended during the investigation process.

### **III. PERSONS OF INTEREST (Not Inclusive)**

#### **List of Persons Involved in the Macedonia Investigation:**

**Donald Kuchta** – Mayor of Macedonia

**Diana Augustine** – Administrative Assistant to the Mayor

**Scott Svab** – Finance Director of Macedonia, Elected Councilman in Canal Fulton

**Michael Hlad** – Dept. Head of the Macedonia Building and Engineering Department

**Jim DeGaetano** – Dept. Head of the Macedonia Service Department

**Betsy McCafferty** – Dept. Head Macedonia Personnel Department

**Jon Golden** – Chief, Macedonia Police Dept

**Vince Yakapovich** – Lieutenant, Macedonia Police Department

**Myra Severyn** – Macedonia Prosecutor

**Jonelle Melnichenko** – Macedonia Finance Department Clerk

#### **Outside Law Firm Utilized By City of Macedonia -Diemert & Associates Co., LPA:**

**Joseph W. Diemert** – Law Director, Macedonia and Attorney Owner of Diemert & Associates

**Thomas Hanculak** – Assistant Law Director, Macedonia and Attorney for Diemert & Associates

**Mark Guidetti** – Attorney, Diemert & Associates

**Diane Calta** – Attorney, Diemert & Associates

#### **Macedonia City Council Members:**

**David Engle** – Attorney and President of Macedonia Council (2014)

**Sylvia Hanneken** – Retired Manager from Dept. of Defense and VP of Macedonia Council and Finance Chair (2014-2015)

**Rita Darrow** – President of Macedonia Council (2015)

**Nick Molnar** – Assistant Service Dept. Head, City of Green

**Jan Tulley** – AT&T Employee

### **Additional Persons To Potentially Interview:**

**Mark Kollar** – Ohio Attorney General BCI Richfield Ohio Regional Office –  
[ NOTE: **Police Chief Jon Golden** referred Macedonia investigation to Kollar in October 23, 2014 email]

**Chris Rudy** – Investigator from Ohio Auditor of State (AOS) Special Investigations Division assigned to review and investigate allegations against Svab for potential criminal charges.

**Mike Spiert** – Supervisor, AOS Special Investigations Division.

**Margaret Scott** – Head, Criminal Division, Summit County Prosecutor's Office, direct subordinate of Brad Gessner, Sherri Bevan Walsh's Deputy

**Lou DiStefano** – OML Insurance Agent, Canal Fulton

**Mike Reighart** – Painter from Canal Fulton

**Maribeth G. Wuertz** – Attorney for Fisher & Phillips hired for previous investigation

### **City of Canal Fulton:**

**Scott Svab** – President of Council, Canal Fulton (2014), VP Council (2015)

**Mark Cozy** – City Manager of Canal Fulton

**Richard Harbaugh** – City of Canal Fulton Mayor

**William Rouse** – Finance Director, Canal Fulton

### **Ohio Department of Natural Resources (ODNR):**

**Sean Landon** – Aquatics Grant Administrator, ODNR

**Nick Jamison** – Aquatics Grant program, ODNR

### **Summary of SACS Investigation and Findings:**

- Scott Svab cooperated fully and he willingly subjected himself to polygraph interviews concerning allegations that were listed in the original Diemert investigation/report and the Wuertz investigation/report. Bottom line: The polygraph results show that Scott Svab's responses were truthful and do not support the allegations he is being accused of.
- The SACS investigation confirmed that the city suffered no financial losses relative to the allegations made concerning Scott Svab. Some allegations involved information (contractor registration, problems with tree fund controls, lack of updated vehicle insurance list, and purchase order delays) required from other city departments (Primarily Service and Building Depts.) that was either not provided or not provided in a timely manner. Allegations that Scott Svab made harsh comments to some employees were examined, but it appears that much of this was likely based on a misunderstanding. As we talked with employees, several described harsh language and improper treatment toward employees by other department heads. All of this raises the question of whether Scott Svab was held to a different and higher standard than others. Additionally, it appears that 'selective enforcement' of rules by management is common practice for both employees and management.
- The Mayor did speak with SACS Investigations, but withdrew his promise to permit access by SACS Investigations to Macedonia employees during regular work time (although such access was provided to Ms. Wuertz) after the Mayor was informed that his actions were also potentially subject to the investigation. As our investigation developed, SACS was contacted by several current and former Macedonia employees who described an atmosphere of retaliation and intimidation by City administration leaders if they disputed the allegations about Scott Svab or other matters. Current and former Macedonia employees also stated the atmosphere of retaliation and intimidation by City administration leaders has been ongoing for many years.

- Finally, as our interviews expanded, we also noted issues rose concerning the Mayor, the Law Director and other management that are noted in last section of this report which needs consideration by the Council.
- This above summary information is supported in detail by the following pages of documentation and information.

### **Summary of Scott Svab's Polygraphs Results:**

**Scott Svab Polygraph Results:** Passed and Affirmed his statement referencing his claim that he (Scott Svab) never deliberately failed to register the painting contractor.

**Scott Svab Polygraph Results:** Passed and Affirmed his statement reference he (Scott Svab) never deliberately slowed down any purchase orders.

**Scott Svab Polygraph Results:** Passed and Affirmed his statement referencing his claim that he (Scott Svab) never intentionally delayed reimbursement of the State Route 82 Project.

**Scott Svab Polygraph Results:** Passed and Affirmed his statement referencing his claim that he never called Lorrie Flannegan "stupid."

**Scott Svab Polygraph Results:** Passed and Affirmed his statement referencing his claim that he (Scott Svab) never stated that within the finance department he preferred younger vs. older persons.

**Scott Svab Polygraph Results:** Passed and Affirmed his statement referencing his claim that he (Scott Svab) never stated to DeGaetano that bad things would come down the pike if his son were not hired.

**Scott Svab Polygraph Results:** Passed and Affirmed his statement referencing his claim that he (Scott Svab) never did anything other than refer Mallendick to Hlad.

## **IV. SUMMARY OF FINDINGS**

**NOTE:** The “Allegations” and “Findings” in each numerical section listed below in italics were taken directly from Attorney Maribeth G. Wuertz’s final report to maintain requested consistency for investigation purposes and review. “SACS Investigation Findings” will be provided secondarily in plain text.

### **Falsification of Public Record (ODNR):**

**Allegation: (Taken directly from Attorney Maribeth G. Wuertz final report)**

*Mr. Svab directed his subordinate, Jonelle Melinchenko (Accounts/Receivable Clerk – Finance Department), to create a backdated invoice to Canal Fulton resulting in a benefit to Canal Fulton, where Mr. Svab is a Councilman. Mr. Svab also provided a false statement during an administrative investigation.*

**Findings: (Taken directly from Attorney Maribeth G. Wuertz final report)**

*Macedonia received a grant from the Ohio Department of Natural Resource (ODNR) to be used for a fishing event for children. The Macedonia Finance Department discovered it had double ordered fishing poles for the event. The excess poles were paid for from the City’s budget-ODNR grant money was not used. Ms. Melinchenko contacted the vendor who agreed to refund the payment for the poles, provided the City paid for the shipping costs to return them. Mr. Svab, however, determined that the poles should be sold to Canal Fulton. According to Mr. Svab, who is also a Councilman for Canal Fulton, Canal Fulton had under spent its ODNR grant money for the same event and rather than return the remaining funds to ODNR, could use*



the money to purchase the excess poles from Macedonia. However, the ODNR grant required that grant monies be expended by June 30th of the fiscal year in which the grant awarded. Therefore, ODNR grant monies awarded in fiscal year 2014 would have had to have been expended by June 30, 2014, otherwise the monies must be returned to ODNR. Therefore, any funds not expended by Canal Fulton for the 2014 fishing event prior to June 30, 2014 must be returned to ODNR. Ms. Melinchenko questioned Mr. Svab as to whether it would be appropriate to sell these fishing poles to the City of Canal Fulton. Mr. Svab assured her that it was appropriate, but that the invoice would have to be backdated in order for Canal Fulton to comply with the grant requirements. Mr. Svab instructed Ms. Melinchenko to prepare the invoice with a May date. She did not feel comfortable in preparing a backdated invoice, and therefore, prepared the invoice with the correct date of July 23, 2014. Mr. Svab returned the invoice to her and ordered her to prepare a new invoice with a May 2014 date. He assured her that ODNR had approved the backdating of the invoice. Therefore, per Mr. Svab's order and assurance of ODNR approval, Ms. Melinchenko prepared a new invoice dated May 31, 2014. Documents provided by Ms. Melinchenko include a copy of the original July invoice to Canal Fulton on which she notes, "Cancel and create new invoice with May date to comply with requirements from ODNR for Canal Fulton per Scott Svab." In the written rebuttal provided by Mr. Svab during the law department investigation, Mr. Svab provided a statement in regard to the ODNR grant for the fishing event and the backdating of the invoice to Canal Fulton. Specifically Mr. Svab states, **"Mr. Landon said that would be fine to purchase the excess equipment but to make sure the invoice date is before the closing of the grant dated July 1st."** According to statements from Mr. Landon, he did not advise Mr. Svab to backdate the invoice, and does not recall discussing the grant at all with Mr. Svab. Mr. Landon affirmed in a written statement provided to the City of Macedonia Law Department that he did not authorize this action, would not authorize this action and he does not recall discussing this grant at all with Mr. Svab

### **SACS Investigation Findings:**

Mr. Svab stated in his interview that backdating invoices is common practice that takes place in other municipalities as a process to meet requirements and stay within appropriation guidelines.

An investigation conducted by Auditor of State Investigator Chris Rudy made a final determination that since no one was making a profit out of the sales and the equipment ended up in the hands of children for the intended purposes that ODNR has no issue with what took place and therefore Mr. Svab's action has no impact on the grant of the ODNR. Investigator Rudy further stated that these facts should put the issue of the back dated invoice to rest.

- **This accusation and charge has no support from ODNR for further review and/or wrongdoing and therefore cannot and should not be pursued by City of Macedonia.**

## **2. Violation of Licensing of Contractors Ordinance -Great Lakes Hydro Seeding.**

### **Allegation: (Taken directly from Attorney Maribeth G. Wuertz final report)**

*Mr. Svab failed in his duty to ensure that contractor Great Lakes Hydro Seeding was registered with the City before commencing work.*

### **Findings: (Taken directly from Attorney Maribeth G. Wuertz final report)**

*Contractors retained to provide services for the City of Macedonia are generally required to register with the City (obtain a permit and license) before commencing work (see Codified Ordinance 1361.02). This requirement is necessary in order to protect the City's interests and to shield the City from liability for damages caused by the contractor. Although it is the contractor's obligation to comply with this requirement and seek registration, it is the responsibility of the department head or other City official to assure that the contractor has met its obligations. Great Lakes Hydro Seeding Company was hired to perform certain services for the City of Macedonia. Great Lakes Hydro Seeding was referred by Department of Service Director, Jim DeGaetano to Mr. Svab. The Company performed services and was paid for those services without obtaining proper registration. Mr. Svab's statement, referred to above, asserts that Mr. DeGaetano handled all aspects of contracting with Great Lakes Hydro Seeding. Mr. DeGaetano concedes he was not aware that registration was necessary for landscaping services, and has accepted responsibility for the failure to assure that this contractor was registered.*

### **SACS Investigation Findings:**

This responsibility for registering Great Lakes Hydro Seeding Company was not Mr. Svab's responsibility and was the responsibility of Mr. DeGaetano, Service Director. Mr. DeGaetano fully admits that this responsibility was his and that he was not aware of that specific responsibility at the time.

Both Mr. DeGaetano and Scott Svab disclosed to investigators that neither of them was aware of the requirement for registration of companies that conduct work on City of Macedonia buildings and properties. Scott Svab stated specifically that he thought the registration requirement was for only companies conducting business in the City of Macedonia on or for residences and/or commercial businesses.

- It appears that the Building Dept. handles registration of all contractors and it is not the responsibility of the Finance Department or other departments within City of Macedonia. In addition, all forms and files for registration process and completed forms are kept within the Building Department offices.
- There appears to be confusion and lack of clarity among many of the management staff whether the registration requirement is only for companies conducting business in the City of Macedonia for residences and/or commercial businesses. More specifically, there is confusion whether the registration requirement does not include businesses that do work for the City of Macedonia.
- There is also confusion on whether there is a need for bids on costs for work below the \$25,000.00 limit on any bid process with the City of Macedonia. This bid process needs to be reviewed and determined if this job would qualify as an exception under the bid process.

### **3. Violation of Licensing of Contractors** **Ordinance/Failure to Supervise Contractor -** **Reighart Painting.**

#### **Allegation: (Taken directly from Attorney Maribeth G. Wuertz final report)**

*Mr. Svab failed in his duty to assure that contractor, Reighart Painting, was properly registered with the City before commencing work and failed to supervise the contractor.*

#### **Findings: (Taken directly from Attorney Maribeth G. Wuertz final report)**

*In December, 2014, Mr. Svab hired Reighart Painting, of Canal Fulton, to paint certain administrative offices and common areas in the City Hall. Mr. Svab failed to assure that Reighart was properly registered with the City. Further, Mr. Svab authorized payment to Reighart, in spite of the fact that Reighart was not an authorized contractor in that it was not registered with the City. Subsequently, it was discovered that the painter and owner, Michael Reighart, had a criminal record including felony drug violations.*

*The maintenance of City buildings is the responsibility of the Service Department. Therefore, the hiring of a painter for the City Hall offices is the prerogative of the Service Director. Mr. Svab hired Reighart to paint certain areas of City Hall without prior approval or even knowledge of the Service Director. Mr. Svab did not disclose that the painter, Michael Reighart, was painting his (Svab's) personal residence at the same time. Mr. Svab maintains that the reason he hired Reighart was because he found his work and his prices to be exceptional. However, the quality of the paint job is seriously inadequate. Pictures*

*obtained by this investigator show that the painter painted around bulletin boards and desks. For example, if a bulletin board is removed, a large white rectangle can be seen on the dark beige wall. Either Mr. Svab failed to properly monitor the painter's work or was aware of the inferior job and remained silent.*

## **SACS Investigation Findings:**

Scott Svab states he was not familiar and aware of the required registration process of new vendor who conducts sub-contract work for the City of Macedonia.

Additionally, the City of Macedonia saved approximately \$5,000.00 for comparable work done and better workmanship utilizing Mr. Reighart for some City painting projects. Mr. DaGaetano, the Mayor, and building supervisor Dino Morretto commented on the quality workmanship of his work.

After the finance offices were painted, the service director, Mr. DaGaetano, , showed Mr. Reighart around and asked him for quotes on various additional projects.

The Mayor also showed Mr. Reighart downstairs in the senior citizens hallway and asked the painter if he could provide a quote for patching and painting the halls.

Scott Svab stated he never authorized Mr. Reighart to paint the conference room. Mr. Degaetano directly solicited the quotes from Mr. Reighart for the additional painting after the finance offices were painted.

Scott Svab stated specifically that he thought the registration requirement was only for companies conducting business in the City of Macedonia on or for residences and/or commercial businesses.

It appears that the Mayor and Mr. DaGaetano failed to check if Mr. Reighart was registered and since they never checked and never discovered that Mr. Reighart was not registered this registration "fell between the cracks." There is no evidence that this oversight by all three individuals was intentional.

- It appears that the Building Dept. handles registration of all contractors and it is not the responsibility of the Finance Department or other departments within City of Macedonia. Also, all forms and files for registration process and completed forms are kept within the Building Department offices.
- There is also confusion on whether there is a need for bids on costs for work below the \$25,000.00 limit on any bid process with the City of Macedonia. This bid process needs to be reviewed and determined if this job would qualify as an exception under the bid process.
- There appears to be confusion and lack of clarity among many of the management staff whether the registration requirement is for only companies conducting business in the City of Macedonia for

residences and/or commercial businesses. More specifically, there is confusion whether the registration requirement does not include businesses that do work for the City of Macedonia.

The Building Department did issue a “stop work order” to Reighart Painting once it was discovered that this company had not properly registered with the City of Macedonia. Reighardt Painting then formerly registered with the City of Macedonia and paid the requisite registration fees and insurance proof and costs.

### **Interview of Michael Thomas Reighart:**

#### **Reference paint-work for the City of Macedonia**

- A. Late in the year (2013), Scott Svab had asked Reighart (painter) if he would be interested in a small paint-job for the city of Macedonia. Reighart accepted.
- B. Mid-January (2014)  
Near completion of the original work requested by Scott Svab, Donald Kuchta (Mayor of Macedonia) asked the painter if he would be “interested in additional paint-work?” Jim DeGaetano (Department Head of the Macedonia Service Department) met and made arrangements with the painter for further assignments.
- C. Per Reighart, the above paint work consisted of the following:
  - 1) Finance Office
  - 2) Basement Hallway
  - 3) Restroom(s)
  - 4) Detectives’ Office

Initially, the painter did not have an access card for entry to the city building. Either Scott Svab or DeGaetano let the painter in or out of the building. Eventually, the painter was granted a swipe-card. The painter states that he was under the impression (or to his knowledge) there were no other bids pertaining to the requested work. Upon completion of the assignment, Reighart (painter) was under the impression that his work was highly acceptable.

**Scott Svab Polygraph Results:** Passed and Affirmed his statement referencing his claim that he (Scott Svab) never deliberately failed to register the painting contractor.

### **4. Conflict of Interest/Failure to Comply with City Ordinance and Mismanagement.**

**Allegation: (Taken directly from Attorney Maribeth G. Wuertz final report)**

*Mr. Svab failed to comply with a City Ordinance requiring the solicitation of quotes for goods and services, and failed to manage insurance coverage resulting in significant overpayment by the City.*

**Findings: (Taken directly from Attorney Maribeth G. Wuertz final report)**

*In February 2014, Distefano Insurance Services, Inc., insurance provider for the City, sent a renewal quote to Mr. Svab advising that the current contract would expire on April 1, 2014. The proposed renewal was for a three-year period. Macedonia's Purchasing Manual, which was developed by the Finance Department, sets forth the procedures that must be followed for the purchase of goods and services by City Departments. The Manual includes a "Formal Competitive Bidding" process and an "Informal Competitive Bidding" process. Due to the value of the service, at a minimum, the purchase of the liability insurance services required compliance with the Informal Competitive Bidding process which provides: "For purchases not subject to formal competitive bidding, City policy requires the departments to seek informal quotes from at least three (3) suppliers of the goods and or services." (City of Macedonia Purchasing, Manual 1.A.02). Accordingly, Mr. Svab was required to seek quotes for the liability insurance coverage from at least three insurance vendors. Instead, without considering other quotes, Mr. Svab recommended renewal of coverage with Distefano's. In an email, dated March 3, 2014, to the Mayor and other City personnel, Mr. Svab recommended the renewal of the Distefano's contract but offered to solicit quotes if desired. Mr. Svab was instructed to seek other quotes as required by City policy. Mr. Svab did solicit quotes, including a solicitation of Jim Zuccaro of Summit Insurance Agency. However, per an email from Mr. Zuccaro dated March 11, 2014, he could not provide the requested proposal within the timeframe required by Mr. Svab. Mr. Zuccaro also pointed out that Mr. Svab had failed to give the required 60-day notice to Distefano's regarding termination of their services and, "it may not be in your best interest to leave." (Conditions are imposed for failure to timely give notice.) Also in an email dated March 11, 2014 from Mr. Distefano to Mr. Svab, Mr. DiStefano also references their agreement and the notice requirement. Mr. Svab recommended the renewal of services with Distefano's without soliciting other quotes in violation of the City's Purchasing Manual procedures. Further, due to Mr. Svab's failure to timely solicit quotes, and provide the required 60-day notice to Distefano's, the City was denied the opportunity to entertain competitive quotes, and thereby, possibly, a lower cost of insurance coverage. Further, Mr. Svab failed to provide an updated list of vehicles to be covered by insurance resulting in overpayment of coverage for approximately 30 vehicles that were no longer part of the City's fleet. When the account was originally written in 2011, the City had an inventory of 91 vehicles. Mr. Distefano states,*

*in a letter to the City Law Director, "We did not receive an updated list until December of 2013 and it was incomplete. We went back to the City and asked for an accurate list. In March, we received a completed list which had a total of 64 vehicles." A subsequent letter from Mr. Distefano confirms that the City would receive a refund for the 2013 inventory adjustment, however, there would be no refund for prior years.*

### **SACS Investigation Findings:**

The utilization of Distefano Insurance by Scott Svab saved the City of Macedonia \$150,000.00 the previous three years. Scott Svab also attempted to get bids from Travelers Insurance and Wells Fargo Insurance but time constraints prevented any official formal bids from taking place from these two additional insurance companies.

Scott Svab also stated that there was confusion on whether three bids were needed to be taken on all services provided to the City of Macedonia and he pointed to the GPD contracts that have been in effect for several years where it appears that no GPD bids were taken on their services when their contracts expired in previous years.

On July 2<sup>nd</sup> Scott Svab e-mailed a response to all of Council, Mayor and Joe Diemert that the liability insurance records of titles were handled by the Service Department and the titles list was generated and maintained in that office. Scott Svab stated that since those records were handled by the Service Department he assumed that specific aspect was not his responsibility, unfortunately, the service department failed to provide an updated list of vehicles to be covered by insurance resulting in overpayment of coverage for approximately 30 vehicles that were no longer part of the City's fleet.

## **5. Circumventing Time Clock Bidding Requirements Imposed by Council.**

### **Allegation: (Taken directly from Attorney Maribeth G. Wuertz final report)**

*Mr. Svab failed to comply with City Ordinance requiring him to advertise for bids for the purchase of electronic time clocks and submit bids to Council; and failed in his duty to assure that a contractor is properly registered with the City before commencing work.*

### **Findings: (Taken directly from Attorney Maribeth G. Wuertz final report)**

*On March 14, 2013, the City Council passed Ordinance 9-2013. The Ordinance directed the advertisement for bids for the purchase of electronic fingerprint time clocks for use by City employees. The Ordinance further provided that **the Department of Finance should analyze the bids and submit them to Council for final award of***

**a contract to the lowest and best bidder.** Mr. Svab contracted with Cleveland Time Clock and Service Company. There is no evidence that Mr. Svab had received any other bids nor submitted them to Council for final award of a contract "to the lowest and best bidder." The electronic time system was installed on November 20, 2013. In a letter dated June 26, 2014 from Douglas Davenport, Marketing Services, Cleveland Time Clock Company to Mr. Joseph Diemert, City of Macedonia Law Director, Mr. Davenport confirmed that he did not provide a bid in response to an advertisement. Instead, he was contacted by a City official and asked to provide a quote. He was not informed of Ordinance 9-2013 which required advertising for bids. Accordingly, Mr. Svab obtained the services of Cleveland Time Clock and authorized payment for those services in violation of the Ordinance. As a result, Cleveland Time Clock was required to and did reimburse the City and remove the time clock system. In regard to this transaction, Mr. Svab not only failed to comply with the Ordinance, he also failed to comply with City procedures requiring that contractors register with the City. On March 4, 2014, Cleveland Time Clock was sent a letter from the City of Macedonia informing it of the failure to obtain proper registration. Registration was obtained on April 15, 2014, well after the November 20, 2013 date that the time clock system was installed. As the Department Head who oversaw the hiring of the time clock service, Mr. Svab had a duty to assure that this contractor had proper registration, which he failed to do.

### **SACS Investigation Findings:**

On July 2<sup>nd</sup> Scott Svab e-mailed a response to all of Council, Mayor and Joe Diemert that the time clocks were returned and the Mayor and Council approved a prorated refund.

Scott Svab stated that the costs for this work was below the \$25,000.00 limit for bids and that these time clocks being utilized at ONE location were only being utilized as part of a "pilot test program" to see if the test was a viable solution for past problems and issues potentially involving questionable behavior by two other management personnel. Eventually the proposed solution was to be utilized for all three time clock locations. Due to this being a "pilot test program" there appears to be no reason for any formal bidding process and any wrong doing on Scott's behalf.

## **6. Violation of Tree Fund Ordinance, Failure to Maintain Working Relationships.**



**Allegation: (Taken directly from Attorney Maribeth G. Wuertz final report)**

*Mr. Svab failed to effectively manage tree fund monies; assist staff in determining appropriate line items, resulting in delays in the payment of vendors; failed to Memo to City of Macedonia*

**Findings: (Taken directly from Attorney Maribeth G. Wuertz final report)**

*Generally when a developer commences work for the City such as developing a new residential subdivision, the developer is required to pay certain fees, including fees for the planting of trees on tree lawns. As the planting of trees does not occur until the development is near completion, the money that is initially paid to the City is maintained in an account until it is needed by the Service Department to pay for the tree planting. Typically, the developer pays the fees to the Building Department. The Building Department would forward the payment to the Finance Department to enter in the proper account for the Tree Fund. At the time the trees were to be planted, the Service Department requests the fees to cover the cost of the planting. Mr. DeGaetano, Service Director, experienced ongoing problems in obtaining the Tree Fund money. Often when the developer or home owner requested that the trees be planted, Mr. DeGaetano discovered that there was a zero balance in the Tree Fund. This created a difficult situation with a developer or home owner, as there could be an extensive delay in planting trees due to the inability to locate the funds. For example, in May 2014, Mr. DeGaetano sought the funds that had been deposited by the developers for the Gardens at Highland and Canyon Woods subdivisions. However, the subdivision Tree Fund showed a zero balance. The balance should have included funds deposited by the developers for the Gardens at Highland and Canyon Woods, as well as other subdivisions that had not yet been completed. Receipts indicate that fees had been paid for the Gardens at Highland project and the Canyon Woods project. However, these funds could not be located and made available to the Service Department to cover the cost of planting the trees. Ultimately, Council was required to approve the transfer of money from the General Fund Revenue to the Tree Fund. Mr. DeGaetano, Service Director noticed that his problems with the Finance Department began after Mr. Svab's son was not hired as a service employee for the City. In March 2013, when Mr. DeGaetano was appointed head of the Service Department, his former position in Service became available. Mr. Svab's son applied for the position. During that time, Mr. Svab and Mr. DeGaetano were with the Mayor in the Mayor's office. Mr. Svab made the comment to Mr. DeGaetano that if he hired his son, Mr. Svab would have to leave him alone. Mr. Svab's son was interviewed, however, not hired. In the spring of 2014, another position in the Service Department became open and Mr. Svab's son applied for the position, and again was interviewed but not hired.*

*Subsequently, Mr. Svab entered the Service Department offices intending to remove all of the Tree Fund files. Mr. DeGaetano objected and the two went to the Mayor's office. During the meeting, Mr. DeGaetano declared that he was not going to get fired because Mr. Svab prevented him from doing his job, and that Mr. Svab should be fired. Mr. Svab's response was that he was not going to get fired because he has the votes of Council. Mr. Svab denies making these comments, however, they are corroborated by Mayor Kuchta.*

### **SACS Investigation Findings:**

On July 2<sup>nd</sup> Scott Svab e-mailed a response to all of Council, Mayor and Joe Diemert that the tree fund deposits were erroneously placed in accounts that were designated by the Building Department and one deposit was transacted before he (Scott Svab) started working for the City of Macedonia.

The Tree Fund file along with all proper information and accountable funds (no funds missing) was eventually located by Cherie Kuczma. She showed both Scott Svab and Jim DeGaetano that the Tree Fund file was placed in the bottom drawer in DeGaetano's office. Kuczma further stated she provided that Tree Fund file to Sharon Sapato. Once Kuczma showed DeGaetano and Svab the file in the bottom drawer in DeGaetano's office she allegedly witness and heard DeGaetano yelling loud at Svab.

It was also discovered that the missing funds were accidentally placed in the wrong accounts and once discovered it was verified that the entire funds were totally accounted for and no monies were missing. Once again, no intentional wrong doing by Scott Svab or anyone else.

## **7. Wrongful Delay of Issuance of Purchase Orders.**

### **Allegation: (Taken directly from Attorney Maribeth G. Wuertz final report)**

*Mr. Svab wrongfully delayed the issuance of purchase orders requested by the Building Commissioner and the Service Director, failed in his duty to maintain effective working relationships with Department Representatives, and failed to respond to inquiries and complaints from employees.*

### **Findings: (Taken directly from Attorney Maribeth G. Wuertz final report)**

*When a contractor is retained to work on a particular project such as roadway construction, the contractor provides a quote, which is presented to Council. Council will then pass an Ordinance appropriating the funds necessary for the project. Once the Ordinance is passed, the Finance Department is advised and then issues a*

*purchase order (PO). The Contractor can then submit its bill and be paid from the funds allocated through the PO. In cases of a major project, the contractor may bill monthly. In her capacity as Building Administration Assistant, Andrea Maye, regularly works with the Finance Department. She worked with four different Finance Directors for the City of Macedonia during her tenure with the City. One of her responsibilities is to request purchase orders from the Finance Department. In her experience, the Finance Directors would issue a purchase order as soon as Council passed an Ordinance appropriating the related funds. In most cases, the purchase order would be issued the day after the Ordinance was passed. However, when Mr. Svab was Finance Director, the Building Department experienced significant delays in getting purchase orders issued by the Finance Department. This was particularly true when an invoice for an engineering contractor, GPD, was involved. Ms. Maye was required to repeatedly request purchase orders in order to cover invoices from GPD. Mr. Svab would request copies of Ordinances that should have already been in his possession. Sometimes it would take up to six months, without explanation, until a purchase order was issued for GPD. The City Engineer, Nick Fini, is employed by GPD and not the City of Macedonia. However as City Engineer, he reports to Mr. Michael Hlad, Building Commissioner. Shortly after Mr. Svab became Finance Director, he approached Mr. Fini and proposed that he, Mr. Fini, be hired as an employee of the City. Mr. Fini declined the offer, preferring to stay with GPD as a City Engineer on a contractor basis. Mr. Svab had, also, made comments to Mr. Hlad that he preferred to hire an engineer for the City rather than use the services of GPD, complaining that GPD was too expensive. Mr. Svab recommended the hiring of an engineer, Matt Moellendick. Mr. Hlad met with Mr. Moellendick in approximately July, 2011. However, Mr. Hlad advised Mr. Svab that GPD was able to provide engineers with different expertise depending on the projects needed by the City electrical, water, etc. and that it would be difficult, if not impossible, to find one engineer who had expertise in all of these areas. Mr. Hlad subsequently discovered that Mr. Moellendick had been terminated by GPD and that he was a co-council person with Mr. Svab on the Canal Fulton City Council. Mr. Svab had not revealed this information to Mr. Hlad. Following the refusal of Mr. Fini to consider a position with the City as an employee and the refusal of Mr. Hlad to support the dismissal of GPD and hiring of the engineer recommended by Mr. Svab, GPD experienced excessive delays in payment of its invoices for services that had been rendered. On several occasions it took a meeting involving the Mayor, Mr. Hlad, Mr. Svab, Mr. Fini and Mr. Fini's boss, Mr. Darwish to get the PO's issued and the invoices paid. Examples of delays in in payment of GDP invoices are summarized below.*

- Westwood Drive & Airplane Drive Road Improvement Projects. Ordinances 38-2014 and 39-2014, passed on June 12, 2014,*

authorized the appropriation of funds for the Airline Drive Road and Westwood Drive improvement projects. A work order was submitted from the Engineering Department by City Engineer Nick Fine on June 20, 2014 requesting the amount needed to commence work on the road program, and requesting a purchase order in the amount needed so that the project could begin. A week later, on June 26, 2014, the purchase order had not been issued. An email was sent to Mr. Svab from the Building Department requesting that a PO be issued "ASAP."

- *State Route 82 Phase 3, Invoices-10% Local Share.* On November 19, 2013, Mr. Fini sent an email to Mr. Svab attaching invoices representing seven months of bills that had not been paid, and requested payment. Mr. Svab assured him that payment was forthcoming, however, Mr. Fini was required to send another email requesting payment and noting that GPD had not been paid for the entire year. Finally, a meeting was held involving the Mayor, Mr. Fini, Mr. Darwish and Mr. Svab. Mr. Svab offered no reason for the delay in payment and said that the payment would be forthcoming.
- *I-271 Ramp Relocation.* This project involved the widening of I-271 by ODOT, including a section through Macedonia. Macedonia was interested in moving an on ramp for safety purposes. Mr. Fini requested a purchase order so that he could commence work on the project. Time was of the essence as ODOT needed a commitment from the City, including assurance of the right-of-way. ODOT would not delay the project and would go forward without the City and the City would miss the opportunity for the relocation project. A series of emails involving Mr. Fini, Mr. Svab and a Building Department employee addresses Mr. Fini's request for a PO and repeated requests from the Building Department for the PO. Mr. Fini's original request was dated December 3, 2013, and as of January 9, 2014 the PO had not been issued.

*In fact, in order to prevent jeopardizing the City's ability to participate in the project, Mr. Fini commenced with preparation, including attending ODOT meetings, even though a PO had not been issued which would authorize payment for his services. Dezirae Stoker, as Accounts Payable Clerk, confirms the delays in issuance of purchase order to the Building and Service Departments and that she often received complaints from the Building and Service Departments regarding the delays. Sharon Sopata, Service Department Clerk, repeatedly went to the Finance Department to complain about delayed purchase orders that were needed to pay delinquent invoices. On one occasion when Ms. Stoker relayed a request from Ms. Sopata, Mr. Svab responded, "Let her wait." During the time Mr. Svab has been on an administrative leave, the Building and Service Departments have received purchase orders on a timely basis. The Finance Department has received no complaints about delays in the issuance of purchase orders. Mr. Svab has not offered*

*substantive reasons for the delay of purchase orders of his records requests.*

### **SACS Investigation Findings:**

Scott Svab states that if there are insufficient funds or insufficient line item money in the account he cannot issue payment for a project and that this is the ONLY reason he ever held up any Purchase Order. Further he states that until Council appropriates money to be transferred from General Fund to the Capital Fund, this can also hinder the issue of a Purchase Order.

Scott Svab also contends that delays will occur when purchases are made for supplies or contracts previous to obtaining a Purchase Order. The service and building departments are currently and have continually in the past purchased items without a purchase order contrary to the City of Macedonia purchasing policy and the State of Ohio Revised Code. Mr. DeGaetano stated to Scott Svab he would meet with his staff and start restricting the use of certain vendors that allow "open charging" without a valid purchase order on file. This is a clear admittance that past practice has not been correctly followed, confusion existed on the purchase order process by other departments, and the willingness by Building Department to correct that process.

There appears to be no dispute, problems or complaints from the police, fire, recreation center or dispatch offices in regards to the purchase order process because they follow the correct procedures in purchasing.

On October 9, 2014 Scott Svab sent an e-mail to Jim DeGaetano and Sylvia Hanneken informing them of the fact that a purchase involving Murphy Tractor/John Deere Financial was not on file prior to invoice date of 9/20/14. Scott Svab further explained that in the future they do not proceed with any work unless a purchase order has been provided to them. This is an obvious example of other departments not following the purchase order guidelines.

A letter dated October 13, 2014 from DLZ c/o Greg Reynolds, Project Mgr., stated that Mr. Svab and his staff fast-tracked every check request by his team upon settlement with the owners. Mr. Reynolds further indicates in his letter that he is thankful to Mr. Svab and his staff for "expediting the payment process" to meet the ODOT Certification date of September 30, 2014.

As far as delaying Purchase Orders, Scott Svab has informed investigators that this issue can be tracked by reviewing when the "Input Fin Q Requisition" was made and then check the indicated approved Purchase Order Date by Scott Svab that is on the request form. This will clearly prove any "intentional" Purchase Order delays on Scott Svab's part. It's unclear why these Fin Q Requisitions were not pulled under previous investigations for objective review prior to this current investigation.

Karol Petro, State Auditor, was with Scott Svab on one occasion where Scott Svab was discussing about two locations that he was being accused of delaying the Purchase Orders on. These two locations were Westwood Road and Airplane Drive Improvement Projects. At this time Karol Petro pointed out to Scott Svab that he needs to continue to follow the proper guidelines and she did not understand why the persons making the purchase order request were doing the process incorrectly.

Investigator Timothy Dimoff was informed by Mike Hlad that all of his purchase order requests e-mails were retrieved by Andrea Maye and that she turned them over to Attorney Wuertz. That documentation was never revealed nor were copies provided by Attorney Wuertz at the conclusion of her investigation. Also, these documents were never turned over to Council or to Investigator Dimoff for his review and assistance to this current investigation. Further discussions with Attorney Wuertz has resulted in cooperation to send those documents to Investigator Dimoff by submission time of this final Investigative Report.

**Scott Svab Polygraph Results:** Passed and Affirmed his statement reference he (Scott Svab) never deliberately slowed down any purchase orders.

## **8. Violation of City Public Records Policy.**

**Allegation: (Taken directly from Attorney Maribeth G. Wuertz final report)**

*Mr. Svab violated the City Public Records policy by procuring, and in some cases releasing, City documents on his own and did not follow City Procedures, including requesting the records through the Custodian of Records.*

**Findings: (Taken directly from Attorney Maribeth G. Wuertz final report)**

*The City of Macedonia's Public Records Policy specifies the manner in which requests for public records will be processed. In a memo dated January 16, 2013, from the Law Department, City employees were reminded that public record requests should be referred to Diana Augustine, the Designated Records Custodian and Coordinator for all administrative departments. It is the duty of the Custodian of Records to track all requests. Appropriate procedures must be followed to assure compliance with state law, as well as to protect confidential information that is exempt from disclosure. The Records Custodian is also charged with contacting the Law Department regarding any*

*questions of legal compliance. The City's Public Records Policy applies to all public records requests received by the City, including requests received from City employees, Council members or other officials. Requests from those individuals should be forwarded to the Custodian of Records.*

*Mr. Svab has repeatedly violated the Public Records Policy by procuring and releasing records on his own accord and not through the Records Custodian. On occasion, he simply told the Records Custodian that he had released the records –and refused to submit a request. He also has directed staff to make copies of public records for him. For example, Mr. Svab directed Ms. Stoker, to provide him with copies of all applications related to the position for which his son was not hired. (Ms. Stoker was assigned to the Human Resources Department at the time.) Ms. Stoker advised Mr. Svab that he must comply with the public records request policy and procedures. Also, after Mr. Svab returned from his first administrative leave of absence, Ms. Stoker witnessed him making copies and asked if there was a public records request. Mr. Svab gave her some cash for the copying costs. She inquired as to what account she should put the money and how to mark it, but did not get any direction from Mr. Svab. In 2013, Mr. Svab scanned and released cell phone numbers for SWAT, Incident Command and the Rescue Squad telemetry numbers, creating a concern regarding usage of those numbers that would interfere with police department and fire department operations.*

### **SACS Investigation Findings:**

Scott states that he requested the employee records at the request of a City of Macedonia Council Member. In addition, the specific records he obtained were provided directly to City of Macedonia Council Member and were never released to the public.

## **9. Acts of Retaliation and Harassment.**

### **Allegation: (Taken directly from Attorney Maribeth G. Wuertz final report)**

*Mr. Svab delayed the issuance of purchase orders, failed to make tree fund money available, and submitted records requests for the employment records of the Building Commissioner and Service Director in order to harass and retaliate against them for their participation in an investigation regarding his misconduct and for complaining about him to the Mayor.*

### **Findings: (Taken directly from Atty. Attorney Maribeth G. Wuertz final report)**

*Building Commissioner Hlad and Service Director DeGaetano believe that Mr.*

*Svab's delaying purchase orders, inability to access tree funds and numerous records requests pertaining to their employment with the City are in retaliation for their complaints about Mr. Svab and their participation in the investigations concerning Mr. Svab's conduct as Finance Director. As noted above, The Mayor terminated Mr. Svab's employment following an investigation by the Law Department, (which did not become effective because it was not approved by a majority of Council). The findings of the Law Department regarding misconduct by Mr. Svab included testimony from Mr. Hlad and Mr. DeGaetano. On September 29, 2014, Mr. Svab returned from his administrative leave and the same day submitted a public records request for "wage history, performance evaluations, feedback, etc., personnel records of Mike Hlad (Bldg Comm.) & Jim DeGaetano (Svc. Dir.)." Subsequently, Mr. Svab made public records requests for "Mike Hlad's time sheets for 2010, 2011, 2012, 2013, 2014" (requested on 11/3/14). Mr. Hlad and Mr. DeGaetano have complained to the Mayor about the records requests and that they are being harassed and retaliated against by Mr. Svab for their participation in investigations related to Mr. Svab's conduct as the Finance Director.*

*Evidence that the delay in purchase orders was retaliation by Mr. Svab is detailed in subsection 7 above. Further evidence in support of finding that the delay in the issuance of purchase orders was retaliatory is provided by Mr. Svab in his statement to Council confirming that, "I have not had one complaint from the fire, dispatch or police, or the recreation center departments in regards to invoices or purchase orders and timeliness of checks being processed!" While Mr. Svab has been on leave, neither the Building Department nor the Service Department have experienced delays in getting purchase orders issued from the Finance Department.*

### **SACS Investigation Findings:**

Cherie Kuczma, in the presence of DeGaetano and Svab found the missing file for the tree fund in the bottom drawer of DeGaetano's Office. It was the same tree fund file that she provided to Sharon Sopata on an earlier date. Cherie Kuczma looked for this file upon Svab's request to solve the missing tree fund monies. It was also discovered that the missing funds were accidentally placed in the wrong accounts and once discovered it was verified that the funds were accounted for and no monies were missing. Some monies may have been utilized for the 2009 recession operational costs.

In addition, at this point in time, Mr. DeGaetano yelled at Scott Svab in a very loud and degrading tone that was witnessed by Cherie Kuczma and others in the area.



The delayed purchase orders and submitted records requests for the employment records of the Building Commissioner and Service Director issues have all been addressed in previous sections of this investigative report.

**Scott Svab Polygraph Results:** Passed and Affirmed his statement referencing his claim that he (Scott Svab) never deliberately slowed down any purchase orders.

## **10. Failure to Seek Reimbursement for Funds for Right-of-Way for the Route 82 Project.**

**Allegation: (Taken directly from Attorney Maribeth G. Wuertz final report)**

*Mr. Svab failed to seek reimbursement of funds for the Route 82 Project.*

**Findings: (Taken directly from Attorney Maribeth G. Wuertz final report)**

*While Mr. Svab was on administrative leave, it was discovered that he had not sought reimbursement from the State of Ohio for right-of-way services for a Route 82 project. The City became aware of the failure to seek funds in November 2014 when the Law Department was informed that Macedonia had not sought reimbursement on any funds on the right-of-way services for the Route 82 project with ODOT. Per Building Commissioner Hlad, he and the City Engineer, Nick Fini, had discussed the need for Mr. Svab to seek reimbursement after an ODOT meeting. The reimbursement value is equal to \$354,200 of unpaid money to the City; representing 80% of the anticipated expenses.*

### **SACS Investigation Findings:**

Scott Svab had talked to ODOT and all disbursements were not completed and that is what delayed the reimbursement for the funds process. Subsequently, Scott Svab was placed on Administrative Leave and unable to address this reimbursement issue further.

**Scott Svab Polygraph Results:** Passed and Affirmed his statement referencing his claim that he (Scott Svab) never intentionally delayed reimbursement of the State Route 82 Project.

## **11. Acts of Insubordination while on Administrative Leave.**

**Allegation: (Taken directly from Attorney Maribeth G. Wuertz final report)**

*Mr. Svab committed numerous acts of insubordination while on a paid administrative leave of absence.*

**Findings: (Taken directly from Attorney Maribeth G. Wuertz final report)**

*While on administrative leave, Mr. Svab was not to perform any work on behalf of the City or contact City employees, unless requested to do so by the Mayor. Mr. Svab violated this directive by engaging in various acts of insubordination as detailed below. Mr. Svab contacted the City IT software vendor regarding establishing remote access to the City's network. This action was taken without approval of the Mayor and in violation Mr. Svab's administrative leave. Mayor Kuchta was advised via an email Memo to City of Macedonia from a representative of the City's finance software vendor, CMI, that she had received a request for a quote for IT services to allow Mr. Svab to access the City's software network in order to work from his home. The representative inquired as to whether Mr. Svab was authorized to request the quote and spend the City's money, and whether he was permitted to log into the City's financial software in order to work from his home. In response, the Mayor sent a cease and desist order to Mr. Svab dated October 28, 2014, advising Mr. Svab that he had been contacted by the City vendor about ordering financial software to be used at home. The Mayor further stated, "You certainly have no permission or ability to order, solicit, purchase or buy for yourself, any of our City's software or information from any third party."*

*Mr. Svab worked on the City budget with a Council member. In the October 28th letter reference above, the Mayor advised Mr. Svab that Councilwoman, Sylvia Hanneken, announced that she was working with Mr. Svab on the budget. The Mayor warns, "As your supervisor, you are again reminded to have no contact and perform no City services, unless my office calls you for some particular information." An interim Finance Director had been hired to manage the Finance Department (including assisting with the budget) during Mr. Svab's leave. The letter concludes by warning Mr. Svab that he is to cease and desist from attempting to harass or intimidate any City Council member or any other employee of the City, and that such behavior would be added to charges of insubordination.*

*In December, 2014, a message was left from the County Fiscal Office, "Christine" indicating that she was returning Mr. Svab's call. The Mayor called Christine to advise her that Scott Svab was on an administrative leave. Christine informed the Mayor that Scott Svab had requested information regarding a TIF (tax increment financing) estimate on a particular parcel of land. Mr. Svab refused to cooperate with this administrative investigation as directed by his superior, Mayor Kuchta. Initially, Mr. Svab demanded an affidavit from the investigator assuring that she did not have business or personal relationships with the Mayor or the Law Director or the Law Director's law firm; a copy of all*

questions to be asked during the interview; the right to record the session, and to have his attorney present at the interview. The investigator assured Mr. Svab that she did not have any personal or business relationships with anyone connected with the City of Macedonia, the Law Department or the Law Director's law firm, and that she had provided this information in a letter that was provided to the Mayor and to Council. She also advised him that this was an internal administrative investigation and not a legal proceeding, therefore, it would not be appropriate to have a lawyer present. Also, as Mr. Svab was aware that the investigation was concerning all of the allegations and findings based on the Law Department investigation, it would not be necessary to provide him with written questions in advance. This investigator agreed to the recording of the interview. Subsequently, Mr. Svab informed the City of Macedonia's Human Resources Director that he refused to participate in the investigation. In an email dated January 17, 2015 from the Mayor to Mr. Svab, the Mayor stated that as Mr. Svab was on a paid administrative leave he was obligated to do as the Mayor's office required of him, including cooperating with the administrative investigation. The Memo to City of Macedonia further advised Mr. Svab that he did not have authority to ask the investigator for an affidavit and assured Mr. Svab that the investigator had provided written verification that she had no personal or professional connections with City Administration, Council, the Law Director or his law firm. The Mayor also advised Mr. Svab that he, of course, had the right to invoke the Fifth Amendment protecting against self-incrimination. The Mayor warned Mr. Svab that refusal to cooperate with the investigation would be considered insubordination. Mr. Svab continued to refuse to participate in the investigation.

### **SACS Investigation Findings:**

The Charter states that the Finance Director works with Council and/or Mayor to create the City Budget. That is exactly the scope of his work with Council that Scott Svab is being accused of as improper or in violation. Sylvia Hanneken, Finance Chair, had directly requested Scott Svab work from his home with her on the budget and therefore if a request was made from a council member then there is no support of fact for any type of insubordination charge against Scott.

Scott Svab refusal to cooperate in the investigation with Attorney Wuertz was due to the fact that Attorney Wuertz would not sign the Impartiality Affidavit for Conflict of Interest, would not allow an attorney to be present during her interview with him and would not provide the questions in advance. In addition, Scott Svab states Attorney Wuertz would not be utilizing a polygraph that he felt should be utilized and Attorney Wuertz was not officially authorized to conduct the investigation by City of Macedonia Council.

## **12. Inappropriate Conduct towards Staff/Failure to Supervise Staff.**

### **Allegation: (Taken directly from Attorney Maribeth G. Wuertz final report)**

*Mr. Svab did not often provide effective supervision of staff in that he often refused to review and sign off on their work and did not provide sufficient assistance in determining appropriate line items.*

### **Findings: (Taken directly from Attorney Maribeth G. Wuertz final report)**

*Mr. Svab refused to check the work of the Accounts Payable and Receivable Clerks on a daily basis and to sign off his approval even when requested by the clerks to do so, according to his prior clerk, Ms. Butto, as well as current clerks Ms. Stoker and Ms. Melinchenko. City employees cited numerous examples of inappropriate treatment by Mr. Svab as detailed below.*

- Several witnesses stated that Mr. Svab made comments that he would prefer to hire younger women in the Finance Department. At the time Mr. Svab became Finance Director, there were two clerks in the Finance Department, Lorraine Flanagan (dob 8/30/59) and Laura Butto (dob 1/23/57). Mr. Svab fired Ms. Flanagan and transferred Ms. Butto to the Service Department. He hired the current Finance clerks, Dezirae Stoker (dob 7/19/88) and Jonelle Melinchenko (dob 7/31/89). Mr. Hlad stopped going to lunch with Mr. Svab because of derogatory comments Mr. Svab made about Lorraine Flanagan and Laura Butto such as: "old and slow - nice to have younger women." Mr. Svab also made comments about older workers, asking when certain people were going to retire so that he could bring in younger people.*
- Several staff members state that Mr. Svab is disrespectful towards staff. For example, MS. Butto heard Mr. Svab tell Ms. Flanagan that she was "stupid" and that "a high school person could do a better job." Ms. Butto also stated that she was in shock and embarrassed when, during a staff meeting, Mr. Svab announced that she was being moved to the Service Department. He had not discussed this with her. Ms. Melinchenko is concerned that Mr. Svab will retaliate against her for providing information regarding the backdating of the fishing invoice. While Mr. Svab was being escorted out of the Finance Department due to being placed on administrative leave, he asked Ms. Melinchenko if she had talked to the law department about the fishing grant, and if she had communicated with the Law Department via email.*
- One evening Ms. Stoker and Mr. Svab were both working late in the Finance Department. Mr. Svab was reviewing documents related to record keeping issues flagged by the State Auditor in 2012 and*

*2013. Mr. Svab began yelling at Ms. Stoker that it was her responsibility to make sure the records were correct and that "It will be your ass if anything goes wrong."*

### **SACS Investigation Findings:**

No formal written complaints were ever requested or taken in regards to improper conduct of Scott Svab by any City of Macedonia employee before the previous investigations were commenced.

At the end of each month Scott Svab signed off on monthly Bank Reconciliation Statements. Previous Finance Director, Loren Sengstock, had a different system that Scott was not totally aware of and that may have caused some confusion, but this alone does not make Scott's system any worse or less effective or improper.

Scott Svab was also accused of calling Lorrie Flannigan "Stupid" which Lora Butto may have overheard. Scott Svab admits to using the word "stupid" out loud but stated it was utilized in reference to his idea of using a typewriter to make the paperwork appear more professional. Scott Svab states when he realized that the typewriter did not help improve the professional appearance of the paperwork he did in fact say in a loud voice that using the typewriter was a "stupid" idea and his remarks were strictly in reference ONLY to the typewriter and not any individual employee, including Lorrie Flannigan.

The record reveals that Scott Svab has had a positive employment history for approximately three years starting with his hiring February 28, 2011. His pay rate has increased \$75,000.00 to \$95,000.00 in that time period.

In February the Mayor posted a very positive comment about Scott Svab commending Scott Svab for doing "an excellent job of monitoring our financial condition and being the watchdog of your tax dollars."

In an April 17<sup>th</sup> letter from Dave Yost, Auditor of State addressed to Diemert Law, Mark Guidetti, David Yost and Brendan Inscho, Deputy Chief Legal Counsel, supported Scott Svab and stated that Scott Svab cannot spend public money without an appropriation under RC 5705.41(B). Additionally, David Yost clearly states that if Scott Svab were to issue payments without appropriations he could be found personally liable for those expenditures (RC 9.39)

Atty. General Office refused to give an opinion on the enforcement of the local pay ordinance.

County Prosecutor Margaret Scott Svab informed all parties that the NONE of the allegations against Scott Svab rise to the level of any criminal act.

Scott Svab was accused of pressuring Hlad to hire Mollendick as Macedonia City Engineer. Matt Mollendick was interviewed. The interview with Mollendick revealed that Mollendick ONLY talked to Hlad about a new service paving project for the City of Macedonia and that

Mollendick and Hlad never discussed at any time employment with City of Macedonia.

Scott Svab was accused of trying to influence DeGaetano to hire Scott's son, Steve, for a City of Macedonia job. During an interview with Steve Svab, he explained this was not true. Although Steve believes he was more qualified than the other candidates, he went out of his way to explain to DeGaetano that he did not want his father's status with City of Macedonia to influence its decision on whether to hire him or not. In the end Steve believes he was not hired because of the dislike of his father by DeGaetano. While he has no proof of this, he has been unable to identify a significant difference in qualifications between himself and the hired candidate.

Several interviews of past and current employees strongly support the overall trend of management has been to "gang up" on certain employees where "personality conflicts" start to flare up. Examples of this conduct have been revealed. It is very clear that the investigation on Scott Svab started when Council voted to change the process of payment to Joe Diemert and his Law Firm. Scott Svab refused to issue payments to Joe Diemert and his Law Firm in respect to the new legislation outlined by Council. The investigation against Scott Svab escalated when Joe Diemert's requests and demands to be paid "personally" continued to be met by refusals from Scott Svab. This took place even though there was clear law and regulation supported by State Officials, City of Macedonia guidelines and Council's new ordinance recently passed.

Attorney Wuertz investigation was focused on HR based Issues with Scott Svab. Our Interview with Betsy McCafferty revealed that Attorney Wuertz did not interview McCafferty reference HR guidelines with the City of Macedonia or her interworking with Scott Svab. McCafferty worked quite a bit with Scott Svab and it might have been valuable for Attorney Wuertz to interview McCafferty. McCafferty stated that Scott Svab was very proficient and knowledgeable as Financial Director, she got along with him, and she got along with all the other managers/employees with the City of Macedonia.

Towards the end of this investigation it was discovered that several employees had confided to HR Director, Betsy McCafferty about various unfair management practices. The employees stated that Betsy listened, but they did not get the feeling that she was capable of doing anything about these various complaints.

Scott Svab did complain to Betsy McCafferty regarding DeGaetano's rudeness and another employee (Desirae Stoker) inability to perform efficiently at her job.

**Scott Svab Polygraph Results:** Passed and Affirmed his statement referencing his claim that he never called Lorrie Flannegan "stupid."

**Scott Svab Polygraph Results:** Passed and Affirmed his statement referencing his claim that he (Scott Svab) never stated that within the finance department he preferred younger vs. older persons.

- No formal written complaint was ever submitted reference this specific complaint.

**Scott Svab Polygraph Results:** Passed and Affirmed his statement referencing his claim that he (Scott Svab) never stated to DeGaetano that bad things would come down the pike if his son were not hired.

**Scott Svab Polygraph Results:** Passed and Affirmed his statement referencing his claim that he (Scott Svab) never did anything other than refer Mallendick to Hlad.

## **V. CONCLUSION**

**The General Culture and Work Environment For City of Macedonia:**

During the investigation several CURRENT Employees specifically requested NOT to be contacted through "normal channels". The timing of this activity occurred after the Mayor started announcing SACS may be contacting employees for interviews. These employees (who refused to provide their names) are in fear of retaliation.

We have been informed by these unidentified employees that "allegedly" many employees are VERY intimidated by certain "Leaders" of the City of Macedonia, fear retaliation action by these leaders, have observed "Witch Hunt" efforts in the past, and many employees were "cautious" about the previous investigation since it is believed the Mayor participated in the selection of the Attorney Wuertz with the help of the Law Director. It is further believed both the Mayor and Diemert influenced the direction of the investigation.

We were also provided some additional information that this "Witch Hunt" fear had taken place in the past. These accusations that were now more than just a few created a need for our investigation to also take on the role of proving or disproving that a negative management practice existed and could have been utilized against Scott, current and former City of Macedonia employees.

As the investigation grew with additional interviews we were continually informed of negative past situations where employees felt their jobs were on the line in retaliation from certain City of Macedonia management leaders.

Several employees cited the example of a "Witch Hunt" and management retaliation practices against former HR Director, Denise Mulhollen, who left employment with City of Macedonia as a direct result of this negative personal treatment.

As stated above, it was pointed out a former employee by the name of Denise Mulhollen who was the former City of Macedonia Human Resource Director had a negative management experience. During her employment with Macedonia, she reported Mr. Hlad for working at two different employments (City of Macedonia and Village of Cuyahoga Heights) at the same time which would be considered potentially criminally illegal and improper. It was further revealed that Mr. Hlad, once he knew he was being investigated, allegedly went back to the Village of Cuyahoga Heights and was allowed to change his respective time clock hours so that his working hours at both employments were not in conflict. We obtained proof of these time sheets indicating changes made by hand writing in the PM and AM categories.

We have also interviewed three other current employees who do not want to be identified. These three current employees also state they have



been treated very unfairly, yelled at, degraded in front of others, and have been threatened to have their employment terminated. According to them this is common practice.

Validating these accusations is beyond the scope of this current investigation. However, given the seriousness of these comments further consideration and investigation is necessary.

### **Standards of Performance Expected by All Employees:**

One of several purposes of this investigation was to determine whether Mr. Svab's, the Mayor, Management and any other City of Macedonia Employees conduct and job performance met the standards expected of their respective positions. This list below was part of Attorney Wuertz's investigation report and provides a baseline of expectation for the City of Macedonia management.

This determination is based on the City of Macedonia Human Resources Policies and Employee Handbook guidelines that have already been outlined in previous investigations, reviews and reports. Some of the previous and more important guidelines include the following:

- Adhering to job description duties
- Ability to develop and maintain effective working relationships with other City employees, department representatives, various private and public agency representatives and the public.
- Ability to provide effective supervision.
- Respond to inquiries and complaints from employees, elected officials and public.
- Effective analytical problem solving, decision making, project management, time management, prioritization, and organizational skills.
- Prevent discrimination against employees.
- Prohibit the use of obscene, immoral, harassing, discriminatory and other improper language and gestures in the course of his/her job duties.
- An employee shall not be insubordinate or fail to follow instructions or legitimate work orders of his/her supervisor.
- Falsify any City document record or related information.
- An employee shall not harass or discriminate or engage in such behavior as prohibited by City policy or law.

**Additional Considerations For Further Investigation:**

**\*The additional considerations listed below have been brought to our attention by current and past employees of the City of Macedonia, during interviews, and as a result of the investigative processes. Because additional time and funds would be necessary to complete a thorough investigation, these additional considerations listed below were not brought to final investigative determination despite the fact that many of them are believed to be accurate and/or preliminary evidence strongly supports their position. It will be the City of Macedonia and more importantly the Macedonia Council's obligation to make the determination as to what extent an investigation of each of these potential considerations for improper process, insubordination and/or criminal behavior is necessary.**

**City of Macedonia Reported Questionable Behavior:**

**Law Director, Joe Diemert**

***\*DISCLAIMER: Further investigation is needed to verify and/or disqualify the information listed below pertaining to this specific City of Macedonia employee. Our investigation has led to the discovery of this unverified information. We have an ethical obligation to at least provide this information for further potential investigative determination and/or disqualification:***

- Prior to requests by Council, the Diemert Law Firm never provided sufficient details of tasks performed under its hourly retainer billing arrangement for several years. In some cases the billings from Diemert Law Firm acting under the Law Dept. had no time period assigned to specific itemized tasks. This claim raises some concern as to overbilling, abuse, etc.
- Law Dept. (Joe Diemert), as acting City of Macedonia Law Director, verbally and in writing demanded directly to Scott Svab to issue payment to Diemert Law Firm when Council had not made any appropriation for payment of services provided by the Diemert Law Firm. This clearly would have been improper, potentially a criminal act on the part of Scott Svab, and Scott Svab would have been personally liable for that monetary payment(s) if he would have complied. This action is also potentially illegal and improper on part of Law Director Joe Diemert. Lastly, it raises a conflict of interest since it directly involves Joe Diemert and his personal law firm's contract with City of Macedonia.

- Law Dept. (Joe Diemert) demanded that Scott Svab issue payment to him (Joe Diemert) personally for payment of services provided by Diemert Law Firm as acting City of Macedonia Law Department Director. Scott Svab requested that Joe Diemert fill out and sign a 1099 and PERS exemption form which Diemert refused to do, but continued to demand that Scott Svab provide payment personally to him (Joe Diemert). This clearly would have been improper and potentially a criminal act on the part of Scott Svab if he would have complied. This action is also potentially illegal, improper and a conflict of interest on part of Law Director Joe Diemert.
- Ed Kuchar was offended by the fact that Law Director Joe Diemert approached him (Kuchar) personally and asked Kuchar to forgive Mayor Kuchta for a personal debt that Mayor Kuchta owed to Mr. Kuchar. Mr. Kuchar felt that it was very inappropriate and a conflict of interest for the City of Macedonia Law Director to be involved with Mayor Kuchta's personal debt issues that were indirectly potentially affecting and/or tied into the progress of the City of Macedonia plaza development project.
- Mr. Kuchar claims that Mayor Kuchta's debt was arranged to be paid off in order to keep him (Kuchar) quiet about complaining and exposing specific facts of impropriety of the plaza development. These facts pertained to permits for the plaza that were signed by Mr. Hlad before proof of property ownership was provided and verified. This is potentially improper and illegal, but was supported by Law Director Joe Diemert who stated directly to Ed Kuchar "We do this all the time."  
NOTE: This debate of placing signature on permits before ownership is clearly identified and was previously debated by several people connected to City of Macedonia. A final determination made by Jerry Piasecki stated in letter that in all future actions it is recommended that ownership be clearly identified before the permits are signed.
- Mayor Kuchta intentionally hid a garnishment request for approximately two weeks and this action resulted in additional legal action against the City of Macedonia that the Law Department (Under the guidance Law Director Joe Diemert) had to spend money and time to defend. Since the Mayor's action was a personal finance debt matter that was forced onto the City of Macedonia the question of why didn't the Law Director insist and demand Mayor Kuchta to reimburse The City of Macedonia the total costs of legally defending his personal debt and garnishment case remains unanswered. The additional question came up if there was a potential conflict of interest and/or insubordination for the lack of taking appropriate action by Law Director Joe Diemert to collect expenses from Mayor Kuchta on the defense of this case. It is known that the City of Macedonia was a defendant in this case, but that cause of action was a direct result of a personal debt/garnishment action the Mayor failed to act on that forced the defense of City of Macedonia. Due to these specific circumstances it is believed that the Law Director had an obligation to

request and demand reimbursement for all costs to the City of Macedonia and tax payers. Additionally, this potentially shows an improper pattern of the Law Director spending City of Macedonia time and money for Mayor Kuchta's personal issues, etc. as shown with this garnishment litigation and involvement with the Mayor's personal debt to Kuchar. Additional unconfirmed reports by others are suggesting that this improper relationship between Mayor Kuchta and the Law Director calls into question several things including who is running the City and conflicts of interest.

- June 30, 2014 Diemert Law Office sends records request to Mark Cozy, City Manager, City of Canal Fulton. The request is for the personnel file of Scott Svab as both a former employee and as a current council person that could potentially be used for harassment and intimidation purposes.
- April 25, 2014 mail from Joe Diemert where he states "I decide my own conflicts" could potentially be interpreted as insubordination, harassment and/or intimidation.
- April 24, 2014 e-mail from Joe Diemert to Svab, Mayor, Clerk Arceci, Hanculak and Guidetti reference local pay ordinance stating that three Council persons and finance Director are in violation of law is inaccurate and once again could potentially be interpreted as insubordination, harassment and/or intimidation on the part of Joe Diemert.

**City of Macedonia Reported Questionable Behavior:**  
**Mayor, Don Kuchta**

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- Scott Svab was told and felt strongly pressured by the Mayor to write Council a letter to support the reinstatement of the Law Dept. retainers and fully fund the law department. Scott Svab printed out the draft letter and went to the Mayor's office for approval of the letter. The Mayor read the draft letter, edited the letter and then told Scott Svab to send it to Council immediately.
- On April 9, 2014 the Mayor sends a correspondence to the Law Dept. and other Dept. Heads that Sylvia Hanneken will no longer be permitted to meet with Dept. Heads unless it is scheduled through his office because it is counterproductive. This could potentially be interpreted as insubordination, harassment and/or intimidation.
- Mayor Kuchta could be in violation and/or criminally liable for misappropriation of Public Funds or Theft in Office for: (1) Placing his residence (8855 Smokerise, Macedonia, Ohio) on the low income senior

list to receive contracted work for free snow plowing and garbage pick-up for which his income level did not qualify him to receive; (2) The Mayor may have conducted numerous marriages ceremonies (Estimated around 70+) for a fee that was never reported nor deposited in any City of Macedonia General Fund; and (3) Mayor Kucta's office failed to respond to a lawful Court order requiring garnishment of his Mayor salary due to a large unpaid personal debt. Subsequently, the City of Macedonia Law Director's law firm performed legal work to prevent Macedonia from being held in contempt of Court because of his personal lapse. As Chief Administrator of the City of Macedonia, the Law Department billings are submitted to and authorized for payment by the Mayor, creating a potential conflict of interest.

- Jim Crevar, former City of Macedonia Service Director, will confirm that Mayor Kuchta directly requested Mr. Crevar to add his personal residence (8855 Smokerise, Macedonia, Ohio) to the free snow plow and free trash pick-up residence list.
- Potential violation and criminal liability that Mayor Kuchta took it upon himself to be paid for both the Service Director Job and Mayor Position at the same time when there was no Service Director officially employed. It is believed that this potential "double dipping payment" took place in the time period before Jim Degaetano was hired in 2014.
- Potential violations of improper influence on the part of Mike Hlad and Mayor Kuchta for accepting fishing trips and attending sporting events from GPD employees Mo Darwish and Nick Fini. Phone calls for an interview from Investigator Timothy Dimoff to Nick Fini have not been returned.
- There is no evidence that has been provided to show proof that the bid process by City of Macedonia has not been enforced or included towards the contracts over the last 10-15 years for GPD.
- Dennis Mulac resigned from Mayor Kuchta Election Campaign Committee as Treasurer due to the fact that Mayor Kuchta wrote two checks and/or used his debit card from his donated campaign funds for personal bills which is illegal. Dennis Mulac and Ed Kuchar (Members of his Election Campaign Committee) demanded that Mayor Kuchta put the money back in the campaign fund which the Mayor did eventually agree to do. Then two weeks later the Mayor wanted another amount of money for \$1,000.00 for personal bills out of the campaign fund again which was prevented and not approved by both Dennis Mulac and Ed Kuchar. Additionally, the Mayor was transferring money out of his campaign funds to other candidates running for office which was not approved by both Dennis Mulac and Ed Kuchar due to the fact that this action would be illegal.
- When the Mayor was off injured with an ankle injury and was getting around his residence with a golf cart he had an asphalt path installed around the side of his garage and other areas around his residence. Our investigation revealed that this asphalt work was conducted by

Mid-Ohio Asphalt who also has contracts with the City of Macedonia. At this point in the investigation we are not sure if the Mayor personally paid for this asphalt work at his residence or if it was provided by Mid-Ohio Asphalt at no costs to the Mayor.

- City of Macedonia Charter Section 6.06: Council may by ordinance provide for the creation of the Deputy Director of Finance. The Deputy Director of Finance will perform all the duties of Director of Finance in the event of absence or illness of the Director of Finance. It has been brought to our attention that this process has not been adhered to and potentially the Mayor has taken on the position of Director of Finance recently when Scott Svab was placed on Administrative Leave and this action by the Mayor is improper.

**City of Macedonia Reported Questionable Behavior:**  
**Building Commissioner, Mike Hlad**

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- Potential violations of improper influence on the part of Mike Hlad and Mayor Kuchta for accepting fishing trips and invitations to sporting events from GPD employees Mo Darwish and Nick Fini. Phone calls for an interview from Investigator Timothy Dimoff to Nick Fini have not been returned.
- There is no evidence that has been provided to show proof that the bid process by City of Macedonia has not been enforced or included towards the contracts over the last 10-15 years for GPD.
- The question remains whether Mike Hlad has the requisite State of Ohio certification to sign off on both Residential and Commercial Building Permits. It is believed that Mr. Hlad has the Residence certification and ability, but does NOT have the Commercial certification and ability as allowed by State of Ohio. If Mr. Hlad does not have State of Ohio certification for commercial permits then there is a serious problem since Mr. Hlad has signed off on numerous commercial permits for several years.
- Mr. Hlad recently signed off on several commercial permits for the new plaza that is being currently developed in the City of Macedonia.
- We were informed that former HR Director, Denise Mulhollen, reported Mr. Hlad for working at two different employments (City of Macedonia and Village of Cuyahoga Heights) at the same time which would be considered criminally illegal and improper. It was further revealed that Mr. Hlad, once he knew he was being investigated, went back to the Village of Cuyahoga Heights and was allowed to change his respective time clock hours so that his working hours at both employments were

not in conflict. Copies of time sheets showing the changes of the time sheets have been produced, identified and confirmed.

- Mr. Kuchar claims that Mayor Kuchta's debt to Mr. Kuchar was paid off in order to keep Mr. Kuchar quiet about complaining and exposing the fact of the permits for the plaza were signed by Mr. Hlad before proof of property ownership were provided and verified. This is potentially improper and illegal, but was allegedly supported by Law Director Joe Diemert who stated directly to Mr. Kuchar "We do this all the time."  
NOTE: This debate of placing signature on permits before ownership is clearly identified and was debated by several people connected to City of Macedonia. A final determination made by Jerry Piecarsky stated in letter that in all future actions it is recommended that ownership be clearly identified before the permits are signed.
- Matt Mollendick was interviewed. Hlad stated that Scott Svab pressured him (Hlad) to hire Mollendick as City Engineer for Macedonia. The interview with Mollendick revealed that Mollendick ONLY talked to Hlad about a new service paving project for the City of Macedonia and that Mollendick and Hlad never discussed at any time employment with the City of Macedonia.

**City of Macedonia Reported Questionable Behavior:**  
**Service Director, Jim DeGaetano**

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- A heated argument between Scott Svab and Jim DeGaetano took place in Mr. DeGaetano's office regarding the "Tree Fund." This argument and outburst on the part of Mr. DeGaetano was supposedly witnessed by Cherie Kuczma, the previous service director assistance. Mr. DeGaetano yelled loudly at Scott Svab and at one point exploded and shouted "f\*\*\* you" to Scott Svab. This could potentially be interpreted as insubordination, harassment and/or intimidation.
- Current employees reported that Mr. DeGaetano is very vindictive, bad temper, a power control freak, and a compulsive liar.
- Mr. DeGaetano plays favorites and requires *some* employees to put in several years in order to get the "Tradesman" level which pays more money per hour. Recently, it was reported during our investigation process that DeGaetano promoted an employee to Tradesman who only had 6 months experience.
- DeGaetano went to Home Depot in Macedonia and told certain Home Depot employees (not to be named in this report) out loud that Sam Cisek and Ray Reed were "homos." This took place several times when Sam and Ray were present and also when they were not present.

- On April 18<sup>th</sup> Jim DeGaetano talked briefly with Investigator Timothy Dimoff and at that time stated he could not talk. He further stated that he would return a phone call to investigator Dimoff on Monday, April 20<sup>th</sup>. It is the desire of Investigator Dimoff to request Degaetano to take a polygraph reference this case and accusations against Scott Svab. More specifically, Investigator Dimoff would like Degaetano to take the polygraph reference the question confirmation if Scott Svab told Degaetano that if his (Scott's) son Steve was not hired he (Scott) could make his (Degaetano's) life at work a lot harder. DeGaetano never returned a phone call to Investigator Dimoff.
- Several employees have provided information that tarnishes the credibility of Mr. Degaetano. In addition, we were provided a tape recording of a staff meeting that Mr. DeGaetano held with his employees where he clearly explains to the employees how they can use City of Macedonia tools for their personal use, work on their personal vehicles at City of Macedonia facilities and addresses his employees in a very degrading manner.
- It was brought to our attention that a brother (Mickey Lewis) of a current Fireman employee for the City of Macedonia (Rob Lewis) was promised "for sure" by Mr. DeGaetano that he (Mikey Lewis) would be hired next and it never happened. This was also brought to the attention of former HR Director Betsy McCafferty who was upset by this occurrence and thought it was unprofessional. Two other persons were hired for this promised position about one month ago.
- It has also been brought to our attention that Mr. DeGaetano also threatened to write up an employee for NOT taking his break or working through lunch. The employee stated that it was his choice to work during his break and/or lunch and he should not have been harassed by Mr. DeGaetano for wanting to do a good job and being dedicated.
- Another employee stated the Mr. DeGaetano never provided tools to his employees and recently he is now providing money (\$800.00) and/or tools to the new hired employees. He believes that Mr. DeGaetano is reckless and unfair at times. This employee also stated that who you know determines if you get the job, what job assignments you get, etc. This employee also had the same complaint about Mr. DeGaetano promoting young workers to Tradesman that have very little time on the job and are not even done with probation. We discovered that one new employee who recently got promoted to Tradesman with little time on the job was Jason McRithchie.
- DeGaetano has a neighbor that lives across the street who is the son of the Founder and President of Mid-Ohio Asphalt. The son is now a co-owner and a main influence on the Mid-Ohio Asphalt business. Mid-Ohio does quite a bit of business with City of Macedonia in providing asphalt projects. Due to this potential conflict of interest, we are not sure if this situation needs to be revealed to proper authorities at City of Macedonia as a potential conflict of interest or not.



- Before he was promoted to Director, DeGaetano worked his two days off a week for the City of Macedonia at another company by the name of Sagamore Soil. Sagamore Soil currently does quite a bit of business with City of Macedonia for disposing of leaves, top soil purchasing, etc. Due to this potential conflict of interest, we are not sure if this situation needs to be revealed to proper authorities at City of Macedonia as a potential conflict of interest or not.

### **Additional Investigative References:**

Reference potential conflict of interest by Law Director Joe Diemert:

<http://www.supremecourt.ohio.gov/LegalResources/Rules/ProfConduct/profConductRules.pdf>

Rule 1.7 - CONFLICT OF INTEREST

Rule 1.11(D) - SPECIAL CONFLICTS OF INTEREST FOR CURRENT GOVERNMENT OFFICERS AND EMPLOYEES.

### **Referral To Federal and/or State Investigative Agencies:**

Specific investigative findings and/or potential criminal actions have been turned over to unnamed state and/or federal investigative authorities for further investigations. Due to confidentiality guidelines those agency(ies) and their respective contacts cannot be revealed.



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**---END OF  
REPORT---**

