

**SPECIAL COUNCIL MEETING  
OF THE COUNCIL OF THE CITY OF BROOK PARK, OHIO  
HELD ON TUESDAY, JULY 1, 2014 IMMEDIATELY  
FOLLOWING THE SPECIAL CAUCUS MEETING**

The meeting was called to order by Council President Patten at 4:51 p.m., the clerk called the roll and the following Members of Council answered:

**D'AMICO, TROYER, SALVATORE, MENCINI, BURGIO, POWERS, HIGGINS**

Also in attendance were Mayor Coyne, Law Director Jamison, Assistant Finance Director Healy, Economic Development Commissioner Dolan, Safety Director Byrnes, Service Director Cayet.

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**REMARKS FROM THE AUDIENCE ON SUBJECT MATTER ON THIS AGENDA ONLY:**

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**Motion** by Mr. Burgio, supported by Mr. D'Amico, to go into Executive Session for Attorney Conferences.

**ROLL CALL: AYES:** Burgio, D'Amico, Troyer, Salvatore, Mencini, Powers, Higgins  
**NAYS:** None. The motion carried at 4:52 p.m.

In attendance: Members of Council, Mayor Coyne, Law Director Jamison, Assistant Finance Director Healy, Economic Development Commissioner Dolan, Attorney Steve Kaufman from Kaufman & Associates Law Firm and Attorney, Don Hart.

**Motion** by Mr. Troyer, supported by Mr. Burgio, to adjourn the Executive Session.

**ROLL CALL: AYES:** Troyer, Burgio, Mencini, Powers, Higgins, D'Amico, Salvatore  
**NAYS:** None. The motion carried at 5:55 p.m.

**Motion** by Mr. Salvatore, supported by Mr. Higgins, to go back to the Regular Order of Business.

**ROLL CALL: AYES:** Salvatore, Higgins, Powers, Burgio, Mencini, Troyer, D'Amico  
**NAYS:** None. The motion carried.

**VERBAL APPROVAL:**

1. **CITIZEN OF THE YEAR AMENDMENTS**

**Motion** by Mr. Salvatore, supported by Mr. Burgio, to amend bylaw number one by deleting one appointment by the Mayor to read as follows: There will be eight (8) voting members, one appointment per Council person. Members of Council voted AYE. The motion carried.

**Motion** by Mr. Salvatore, supported by Mr. Higgins, to amend bylaw number three first sentence to delete the word quarterly and insert the phrase 'or as needed or by a call of the Chairman' to read 'The committee will meet quarterly or as needed or by a call of the Chairman to review all letters of nomination, etc. Members of Council voted AYE. The motion carried.

Verbal Approval: cont.

Citizen of the Year Amendments: cont.

**Motion** by Mr. Salvatore, supported by Mr. D'Amico, to amend bylaw number four by inserting the words 'unless in the event of a tie' to read 'The Chairman will not vote unless in the event of a tie but will preside over all meetings under the guidelines of Roberts Rules of Order. Members of Council voted AYE. The motion carried.

**Motion** by Mr. Salvatore, supported by Mr. Burgio, to amend bylaw number 6 by inserting the phrase after the word Mayor 'and shall serve as the Grand Marshall of the Home Days Parade' to read 'The winner of the Citizen of the Year shall be turned over to the Best of Brook Park Committee to be part of the festivities set forth by the Mayor' and shall serve as the Grand Marshall of the HomeDays Parade. Members of Council voted AYE. The motion carried.

**Motion** by Mr. Higgins, supported by Mr. Mencini, to nominate Councilman Salvatore as Chairman for the Citizen of the Year Committee.

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Mr. Salvatore asked for any other nominations. None came forward.

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Members of Council voted AYE. The motion carried.

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**INTRODUCTION OF RESOLUTIONS AND ORDINANCES: (FIRST READING):**

1. **ORDINANCE NO. 9923-2014, APPROVING AN EASEMENT FOR THE RETENTION BASIN LOCATED AT 20400 SHELDON ROAD AND DECLARING AN EMERGENCY.**  
Introduced by Council as a Whole.

**Motion** by Mr. Salvatore, supported by Mr. Burgio, to suspend.

**ROLL CALL: AYES:** Salvatore, Burgio, Mencini, Powers, Higgins, D'Amico, Troyer  
**NAYS:** None.

**Motion** by Mr. Salvatore, supported by Mr. Burgio, to adopt.

**ROLL CALL: AYES:** Salvatore, Burgio, Mencini, Powers, Higgins, D'Amico, Troyer  
**NAYS:** None. Ord. No. 9923-2014, has passed under Suspension of the Rules. Adopted.

2. **ORDINANCE NO. 9924-2014, AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH GREATER CLEVELAND AUTO AUCTION, PUBLIC AUCTIONEERS, FOR THE PURPOSE OF DISPOSING OF POLICE VEHICLES AND DECLARING AN EMERGENCY** Introduced by Mayor Coyne

**Motion** by Mr. Burgio, supported by Mr. Salvatore, to suspend.

**ROLL CALL: AYES:** Burgio, Salvatore, D'Amico, Higgins, Mencini  
**NAYS:** Troyer, Powers.

**Introduction of Resolutions and Ordinances: (First Reading): cont.**

Mr. Patten stated Ordinance No. 9924-2014 has had its First Reading.

3. ORDINANCE NO. 9925-2014, AMENDING SECTION 1355.04 OF THE BROOK PARK CODIFIED ORDINANCES ENTITLED 'PERMITS' AND DECLARING AN EMERGENCY. Introduced by Mayor Coyne

**Motion** by Mr. D'Amico, supported by Mr. Burgio, to suspend.

**ROLL CALL: AYES:** D'Amico, Burgio, Mencini, Powers, Higgins, Salvatore

**NAYS:** Troyer

**Motion** by Mr. D'Amico, supported by Mr. Salvatore, to adopt.

**ROLL CALL: AYES:** D'Amico, Salvatore, Troyer, Mencini, Burgio, Powers, Higgins

**NAYS:** None. Ord. No. 9925-2014, has passed under Suspension of the Rules. Adopted.

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**INTRODUCTION OF RESOLUTIONS AND ORDINANCES: (SECOND READING):**

1. ORDINANCE NO. 9919-2014, AUTHORIZING THE CITY OF BROOK PARK TO ENTER INTO AN AGREEMENT WITH ADVENTURE PROPERTY HOLDINGS, LLC AND ROCK-N-ROLL CITY HARLEY DAVIDSON AND DECLARING AN EMERGENCY Introduced by Mayor Coyne

Mr. Patten stated that Law Director Jamison has amendments to this legislation.

Mr. Jamison stated there will be several changes to the naming of the entity and owning the property. The first change is in the title third line delete Adventure Property Holdings, LLC and insert Lakeview Motorsports, LLC, dba. The next change is in the first Whereas delete Adventure Property Holdings, LLC and insert Lakeview Motorsports, LLC, dba. The second Whereas insert Lakeview Motorsports LLC, dba and delete the word have and insert the word has to read Lakeview Motorsports LLC, dba Rock N Roll City Harley Davidson has elected... The third Whereas insert Lakeview Motorsports LLC, dba. The fourth Whereas insert Lakeview Motorsports LLC, dba and delete the word have and insert the word has to read Lakeview Motorsports LLC, dba Rock N Roll City Harley Davidson has entered... The fifth Whereas insert Lakeview Motorsports LLC, dba and make the word intend plural to read intends. The next change is delete the number nine (9) and insert the number five (5) to read Lakeview Motorsports LLC, dba Rock N Roll City Harley Davidson intends to commence construction of a new \$3.5 million dollar dealership facility in the City of Brook Park on or before November 1, 2014. The seventh Whereas delete Adventure Property Holdings, LLC and insert Lakeview Motorsports LLC, dba and also delete the word is and insert the word are to read Lakeview Motorsports LLC, dba Rock N Roll City Harley Davidson are desirous... The eighth Whereas delete Adventure Property Holdings, LLC and insert Lakeview Motorsports, LLC dba. Ninth Whereas delete Adventure Property Holdings, LLC and insert Lakeview Motorsports LLC, dba. In Section One delete Adventure Property Holdings, LLC and insert Lakeview Motorsports LLC, dba. In section four delete the name Adventure Property Holdings, LLC and insert the name Lakeview Motorsports LLC, dba. Mr. Jamison continued the changes to the attached incentive grant were basically the name and on page two paragraph number one the dollar amount was changed from \$3,900,000.00 to

**Introduction of Resolutions and Ordinances: (Second Reading): cont.**

\$3,500,000.00 in terms of construction costs. In paragraph five that starts on page two and continues on page three seventh line down the sentence was added per request of Lakeview Motor Sports legal counsel the sentence reading 'In the event that Lakeview misses one of the deadlines in this agreement due to unforeseen circumstances such as weather, or delays in approvals or permitting, the effective deadline shall be extended by mutual agreement which will not be unreasonably withheld, for a reasonable period of time to allow completion'.

**Motion Mr. D'Amico, supported by Mr. Salvatore, to accept the law director's amendments'.**  
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Mr. Troyer stated to the law director this does change things a little bit on giving them a chance. Based on this last change the city can say no and stick to the agreement written if this should take too long or be too outrageous. The city would know weather problems but if there were other problems the city could say no, this won't work.

Mr. Jamison responded yes, the agreement reads 'mutual agreement' so both sides must agree to the extension of the time deadline. The line that follows reads 'which will not be unreasonably withheld' so if Lakeview Motorsports asks for a week that would be a reasonable request; if the request is for six months that wouldn't be a reasonable request.

Mr. Troyer asked the law director with the change to the dollar amount is less being done or a cheaper way found to do the job?

Mr. Jamison responded those numbers were given to the city early on and possibly Lakeview Motorsports looked at the level of what needs to be put into this project and that's a benchmark in terms of what the company thinks it's going to cost to build and is not an issue of concern for the city.

Mr. Troyer asked with the claw back provision what will happen if building gets built and everything is going good for three years and then something happens. Since the city has a six year recovery to get the monies back and the company closes is the city out those monies.

Mr. Jamison stated paragraph five spells out everything that must be done and those timeframes are met then that there is no ability to come back. The city is basically saying things have to get going by a certain date to purchase the property; construction must be started by a certain date and relocate by a certain date. That is setting up a timeframe to acquire the property, build the facility and move in; that's what that the monies are for. If the timeframes are not met then the city gets the incentive monies back but if they have to close in ten years for some odd reason the city can't get the \$2,000,000.00 back.

Mr. Dolan stated whether it's \$3.9 or \$3.5 there is no scale back for the project it was just better numbers and better techniques to achieve a better cost factor. On the second issue is there a risk yes there is a risk but the question is how remote is that risk? The Harley Davidson store currently on Lorain Avenue and relocating to the City of Brook Park has been in existence since the early 1940's and if the economic turn back of 2008 didn't take it out the

**Introduction of Resolutions and Ordinances: (Second Reading): cont.**

chance of any significant economic crisis occurring within the payback period is remote and the probability is very low that the city will not see the money returned.

Mr. Troyer stated to Law Director Jamison in the agreement paragraph nine (9) confidential information that is not allowed to be disclosed; what information would that entail since the city is a public entity.

Mr. Jamison responded that would be more of an issue for the Finance Department as this moves forward.

Mrs. Powers expressed concerns with the different dates mentioned in the agreement. The agreement states that Lakeview does not own the property to date but yet the city is in a rush to give this company all the permission to move ahead with this project.

Mayor Coyne responded the contingencies mentioned in the agreement is what Lakeview agreed to and these dates were given by Lakeview Motorsports and Harley Davidson would want this facility opened as fast as possible. If for some reason Lakeview doesn't acquire the property or doesn't get opened that is their problem. This city is partners with economic development in the city and Lakeview is investing \$4 million dollars and the city is investing \$200,000.00, which is a good deal and the dates have to be met.

Mrs. Powers stated Council was told that if everything is up and running and projected amounts happen that the city would get the \$200,000.00 back in 6.6 years. If the projected income is not met will that be extended because with any new adventure there is always a risk.

Mayor Coyne stated that is true but the reality is that this company is investing \$4 million dollars and the city is investing \$200,000.00 To simplify the equation the city is granting \$200,000.00 for the development of the corner and if for some reason this company fails the city still has the building and improvement and the city will find someone to go into that facility and with this principles background the failure equation is slim.

Mrs. Powers asked how much the \$200,000.00 is going to cost the city because the city still has to pay the hospital and school board taxes on the abatement.

Mr. Jamison responded this is not tax abatement this is the city giving a grant of \$200,000.00 to get this project up and running. Tax abatement is where real estate or real property taxes are being abated, that's not the case here.

Mrs. Powers asked if the company will have the property purchased by November, 2014.

**Introduction of Resolutions and Ordinances: (Second Reading): cont.**

**Michael Davis**  
**205 Pinnacle Drive**  
**New Philadelphia, OH**

Mr. Davis stated when we went under contract we committed to closing on the property with the seller within sixty days and some of the activities in this contract are under contingency but we are prepared to close.

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**ROLL CALL: AYES:** D'Amico, Salvatore, Troyer, Higgins, Powers, Burgio, Mencini  
**NAYS:** None. The amendments carried.

**Motion** by Mr. D'Amico, supported by Mr. Burgio, to suspend.

**ROLL CALL: AYES:** D'Amico, Burgio, Mencini, Powers, Higgins, Troyer, Salvatore  
**NAYS:** None. The motion carried.

**Motion** by Mr. D'Amico, supported by Mr. Higgins, to adopt.

**ROLL CALL: AYES:** D'Amico, Higgins, Powers, Burgio, Mencini, Salvatore, Troyer  
**NAYS:** None. Ord. No. 9919-2014 has passed under Suspension of the Rules.  
Adopted.

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**Council/Administrative Remarks:**

Mr. Salvatore asked if there will be future special meetings called for railroad legislation that has been drafted.

Mr. Patten responded yes in speaking with the law director there is another piece being worked on and should be coming forward; once completed a special meeting will be called.

Mayor Coyne stated that legislation will be forthcoming for the Leslie Drive/Sylvia Drive Reconstruction-Watermain Project. With the railroad issues this city needs to take some measures and Economic Development Commissioner and I met with both railroad principles and I have never seen such a dismissive attitude by anyone; not only with the issues of idling cars but also with city businesses trying to get rail service.

Mr. Mencini stated that complaints have been received of teenagers playing on railroad tracks and horns being blown in the middle of the night.

Mr. Troyer stated that Congresswoman Kaptur's office has been contacted but to date there's been no response but something needs to be done in Wards 1 and 2.

Mr. Jamison stated one word of caution is in the 20 years as a prosecutor this city has something on the books for when the roadways are blocked and at anytime in court there would be three to five citations issued. Railroad personnel would pay the fine but the basic position was at one point they were very aggressive saying that they are regulated by the federal government and local entities

**Council/Administrative Remarks: cont.**

do not have the right to regulate them. Pursuant to the proposed legislation requested by the Chairman to include heavier fines what is being researched now is to determine if the city makes it so onerous that the railroads could push back and does the city really have the ability to impose those fines and penalties; or are they not subject to local regulations. The railroads argument is that they are a function of interstate commerce and the city doesn't have the ability to regulate them.

Mayor Coyne stated that's correct but there are some other issues like how the railroads are storing cars and the biggest one is the content of those cars so hopefully there will be some movement to give some cities some control. If not then Congress is going to have to do something about the content of these trains because the city needs to know what is traveling through the town.

Mrs. Powers stated there are fewer people affected in Ward 3 but those residents should receive the same consideration as Wards 1 and 2 and yes the city should know the contents of the trains traveling through the city.

Mr. Mencini stated are the quiet zones in the city considered state or local since Council voted on those quiet zones.

Mr. Jamison stated quiet zones are basically adopted by the railroads and the theory is those trains should not be blowing the horns through those zones. To get the attention of the railroads to possibly discipline or train engineers when going through quiet zones is an ongoing issue.

Mr. Mencini commented that complaints have been received about kids playing on the tracks and that Council should be open minded for new businesses coming into the city.

Mr. Troyer commented Council is charged with watching residents' monies but questions have to be asked to find out the facts on what is being voted on.

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There being no business to come before this meeting a motion by Mr. Burgio, supported by Mr. Troyer to adjourn. Members of Council voted AYE. The motion carried at 6:35 p.m.

RESPECTFULLY SUBMITTED Michelle Blazak  
Michelle Blazak  
Clerk of Council

APPROVED August 19, 2014

THESE MEETING MINUTES APPROVED BY BROOK PARK CITY COUNCIL ARE A SYNOPSIS, NOT TRANSCRIBED IN THEIR ENTIRETY, ALTHOUGH ACCURATE.