

**SPECIAL COUNCIL MEETING  
OF THE COUNCIL OF THE CITY OF BROOK PARK, OHIO  
HELD ON SATURDAY, JULY 9, 2016**

The meeting was called to order by Council Pro Tem Mencini at 10:00 a.m., who read the meeting notice. The Clerk called the roll and the following Members of Council responded:

**SCOTT, BURGIO, SALVATOR, TROYER, POWERS, McCORMICK, MENCINI**

Mr. Astorino was excused.

Also in attendance were Mayor Coyne, Law Director Horvath and Service Director Cayet, Economic Development Director Dolan (arrived 10:11 a.m.)

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**REMARKS FROM THE AUDIENCE ON THE ORDINANCES AND/OR  
RESOLUTIONS THAT PERTAIN TO THE AGENDA ONLY:**

Mr. Ralph Lohn, 15960 Meigs Blvd., asked if other cities had signed the water service agreements, and if Cleveland could turn off water or outrageously raise rates if the agreements were not signed.

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Mr. Troyer felt according to the rules it was not proper during a special meeting to answer the initial remarks from the audience on topic.

Mr. Mencini said it was a special meeting with only one topic and the rules could be suspended.

**Motion** by Mr. Troyer to suspend the rules to allow responses to the audience, supported by Mr. Scott.

Mr. Salvatore stated suspension was not necessary as it is always proper for a Councilperson to speak when responding to a resident's question.

**ROLL CALL: AYES:** Troyer, Scott, Burgio, Salvatore, Mencini.  
**NAYS:** Powers, McCormick. The motion failed 5-2.

**REMARKS FROM THE AUDIENCE ON THE ORDINANCES AND/OR RESOLUTIONS THAT PERTAIN TO THE AGENDA ONLY: CONT.**

Mr. Troyer stated since 2001, under the current agreement, which is also a bad deal, Cleveland could have raised rates as much as they wanted. In that sense there is no difference except this new agreement does limit that to ten years. They would only be able to raise it a certain amount, 75% over what they raised any Cleveland resident for a first high, and 100% over whatever they raised Cleveland's residents' water rate in the second high. So that has been in effect. Some of these things are in effect in the current bad deal. Cleveland could turn water off any time if they wanted to, however, there would be issues and he did not believe that would happen. Mr. Troyer said if you find yourself in a hole, stop digging. What would you do if you found yourself in a hole and the entity that helped you get there was handing you a shovel. That is what is happening. Would you dig deeper?

Mr. Mencini asked Mr. Troyer to answer Mr. Lohn's question about other cities signing the agreements.

Mr. Troyer said 35 have joined over the last ten or eleven years and quite a few have still not joined.

Mr. Scott said he polled ten cities that are part of the agreement and received six positive responses. They said responses have been great. In an hour and one half a supervisor checks the road and makes a decision. Brunswick on Rt. 303 had a main water break and a supervisor was out in an hour and one half.

Ms. Powers asked for a point of order as Mr. Scott was giving a long dissertation and he only has to say other cities have or have not.

Mr. Mencini said Mr. Lohn asked about other municipalities and Mr. Scott was stating what other municipalities are doing.

Mr. Troyer said he asked if other municipalities have joined and he already answered.

Mr. Mencini stated he would allow Mr. Scott to proceed as his comments would pertain to the answer.

**REMARKS FROM THE AUDIENCE ON THE ORDINANCES AND/OR RESOLUTIONS THAT PERTAIN TO THE AGENDA ONLY: CONT.**

Mr. Scott said North Royalton had nothing but positive comments and Brooklyn Heights had a \$300,000 street repair that they ended up paying \$60,000 for so it is a cost savings. If other Council Members would have researched they probably would have received the same answers.

Mr. Troyer said 35 cities have joined and he did call around, but it was fruitless as the mayors and most Councils will favor this because it takes the burden of the cost of the sewer lines out of the budget. They have you believe Cleveland, since they will own them under this agreement, will fix them upon request, which is not true. We must apply twice a year; first week of April, which we missed, and again first week of September. Legislation was introduced March 15<sup>th</sup>, Cleveland Water Department's presentation was April 12<sup>th</sup>, already past the deadline to apply for spring, to have water lines replaced, not repaired. Cleveland Water already repairs the water lines. This is about replacing when they need full replacement of a section. Some people hope to get the water line on Brookdale replaced this year as it qualifies for replacement under Cleveland's rules and/or condition ratings. But in talking to Commissioner of Engineering, Alex Margevicius, based on the timeframe they use, that water line would be a winter project. There is no way since this was introduced that the water line will get replaced this year. They decide whether it qualifies or if they will do it, which takes about a month after the deadline, bringing it from September to October. Then, engineering takes place, bids go out, we have to reapply those bids to Cleveland Water Department, they have to approve them and send it back out there which takes about a month, bringing it to November 1<sup>st</sup>. Currently, only 5 million dollars, maybe, is in the pot. Mr. Margevicius did not email the actual numbers as requested, but, basically, this year there was actually 15 million in the pot, not 10 as stated in the contract and not 20 as stated by the Mayor. The first 5 is already appropriated or given out before the April deadline as a 2016 repair. They try to have 5 million for spring and 5 million for fall. Other Mayors and Councils like this as it takes the oneness of the cost to replace water mains, not repairs of water lines, from the cities' budgets and puts it on the residents who pay for that in higher water rates.

**REMARKS FROM THE AUDIENCE ON THE ORDINANCES AND/OR RESOLUTIONS THAT PERTAIN TO THE AGENDA ONLY: CONT.**

Mayor Coyne said Mr. Troyer was clueless and his last statement was not factual. Residents are paying water rates, and if part of this agreement, we would have money to repair water lines without increases to those water rates. The other fact is you have been sitting on this for months. You know the deadlines, and that is the reason you have been sitting on it, because you did not get a road in your ward.

Ms. McCormick asked for a point of order stating we are supposed to be answering questions not going back and forth, and the Mayor is not answering the resident's question, but is responding.

Mr. Mencini said we will go one at a time and asked the Mayor to finish.

Mayor Coyne said Mr. Troyer did not answer, but had his own summations as he comprehends this and is making false statements, so he was correcting same.

Ms. McCormick asked for a point of order and Mr. Mencini asked the Mayor to continue.

Mayor Coyne said in addition to paying water rates, there will be an opportunity to get some money back on the capital program, which fluctuates yearly. It could be 15 million; he did not recall saying 20 million. More money is available as more people join the program. To state Cleveland is blackmailing us to do this, they do not have to do it. In late 1970's, early 1980's, there was a huge fight about the water system partly because we did not get repairs or maintenance so they appropriated a capital budget to do so, and to also find a way to assist cities that owned their water lines, to make money available to them. This is a return on the rates and the only way the public in Cuyahoga County can change this is to get their own lake. Lakewood tried, but it was hydraulically impossible. This is a good deal. To say otherwise is not factual and is not being frank with the residents.

Mr. Troyer said he did not say some of those things this morning. He further stated the agreement says they will spend 10 million dollars a year on these

**REMARKS FROM THE AUDIENCE ON THE ORDINANCES AND/OR RESOLUTIONS THAT PERTAIN TO THE AGENDA ONLY: CONT.**

water lines. Under this agreement none of that was in the budget. It will come from the rates of the residents. His biggest concern is not being able to fight whatever Cleveland ends up doing after ten years. Between 10 and 20 years we cannot fight it according to this agreement. Rates will pay for these water mains whether we get any in our city or not. We will be paying for any water lines Cleveland Water Department replaces, which we are doing right now. This agreement takes us from a bad deal to a worst deal. We are already paying higher water rates. Cleveland's water rates are not scheduled to go up until 2019. The rate we are paying now is paying for water mains in other cities. Because we are not a part of this agreement we do not have a chance of getting any money. If we join we do have a chance of getting some, but the more cities that join, the more cities will be applying for that money to get those water mains done and it is only 10 million a year. Some years it will go up. When they need to do more water lines, when that amount goes up, it is coming from the residents' water rates. That is where the money is coming from to pay for these water mains. It is no longer with the cities budgets, and that will help our budget. That is why most city governments will say it is a good deal. In a sense it is a good deal because we are getting some of that water that we are already paying for, but it is also putting the brunt of all future costs onto the water bill of the resident. So when you say it is good for the city, it is good for the city budget and it is not good for the residents in his opinion.

Mayor Coyne said currently citizens pay a rate for which we get nothing in return except water and we gain no capital improvement money. We have the opportunity to compete for water line replacement and secure money so we do not have to allocate it out of our very scarce capital improvement money. This is a very good deal and there is no way to change Cleveland's control of the water. He thought currently the city was a 20-year agreement so these things are not the end of it. At any rate the new agreements will be coming forward with the other cities and he said he was pretty sure Cleveland would make the same thing. You cannot control it unless you have a lake or body of water to produce water. Ask the City of Berea, when they tried it on their own, how it worked out for them. So to say citizens will have some unfair rate increase because of us participating in this program is factually not true.

**REMARKS FROM THE AUDIENCE ON THE ORDINANCES AND/OR RESOLUTIONS THAT PERTAIN TO THE AGENDA ONLY: CONT.**

**Motion** by Ms. McCormick to return to the regular order of business and get to the third readings.

Mr. Salvatore said in response to Mr. Lohn's question, according to a city leader in Middleburgh Heights that he talked to, they are taking a good look at it and will probably decide by the end of summer.

Mr. Troyer said he talked to someone in Parma and they are taking a look at it too. Imagine, when a city the size of Parma joins, how fast the 10 million dollars is going to go and how fast they will need more money to fund these water mains.

Mr. Powers referred to the water department's presentation where it states municipalities are responsible for capital improvement, for distribution mains, cleaning, lining and other capital repairs and replacements. So, clearly, under this agreement we are responsible for that. It also says we would have to transfer all our assets to Cleveland and if we wanted to cancel, it is a 20-year agreement and we cannot cancel for the first 15 years. After 15 years we can say that we want to opt out of the last 5. She felt that was not a good deal. Cleveland has the right to determine who and when things get repaired and that if we are on a list with all the different areas that are on this agreement then Cleveland has the right to say Cleveland has the oldest water lines in the area and therefore Cleveland's will get repaired first and they have the right to say Brook Park is one of the newer suburbs and we get put to the end of the line. So, yes, we could be agreeing to this and get nothing for the next 20 years or more. It is a 20 year agreement, but if Cleveland is busy repairing Cleveland and all the other older water systems, then, where do we come into it, but we have been paying for it all the time.

Mr. Troyer said the current agreement we are under was entered into in 1991 and was a ten-year deal as far as what the rates would be and some other things. Basically, we are on a day to day basis, kind of like a month to month rent and it is not expiring. So with the current deal Cleveland can raise our rates to whatever they want. That percentage of the 7500, 130 ? is not in effect because that was only for ten years. That rate structure was set for the ten-year period and the agreement was for ten years. In the new agreement

**REMARKS FROM THE AUDIENCE ON THE ORDINANCES AND/OR RESOLUTIONS THAT PERTAIN TO THE AGENDA ONLY: CONT.**

the rate structure is set for ten years, but the agreement is a 20 year and there are ten years in there where in that agreement rates can go as high as they want.

That is not necessarily going to happen. The rates are scheduled not to go up until 2019. The problem is entering into a deal that allows that to happen.

Mr. Scott said this is all hypothetical. If we are not in the program the burden for all road repairs and water lines is on the tax payers. If we get into the program, there is a chance to pick up some of the cost so the burden is not totally on tax payers. The chance is there for the possibility of reimbursement for the road repairs, otherwise, the tax payers will pay for all the road repairs and water lines and we will stay with the same three or four streets we do every year. That is not moving forward. This is a possible way to improve the budget and make money available. There is no 100% guarantee, but we have to take the chance. The availability is there so why not avail ourselves to the possibilities and go for it.

Mr. Mencini said does the city want to get into the business of repairing sewer lines and put that on the tax payers? There is a big cost factor there. Sewer rates will probably increase soon enough. Ms. Powers had a point about Cleveland's sewer system being very dated, but so is Brook Park's. In five, ten years we want to be making improvements in the city, not so much to the sewer system.

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**THIRD READING OF RESOLUTIONS AND ORDINANCES:**

1. ORDINANCE NO. 10025-2016, AUTHORIZING AND DIRECTING THE MAYOR TO ENTER INTO THE RESTATMENT OF THE WATER SERVICE AGREEMENT WITH THE CITY OF CLEVELAND. Introduced by Mayor Coyne.

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

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**THIRD READING OF RESOLUTIONS AND ORDINANCES: CONT.**

Mr. Troyer said as far as adopting this today he explained why he was not in favor of this. If you find yourself in a hole stop digging. The point is, what would you do if you find yourself in a hole and the entity that helped you get there was handing you a shovel? Would you dig the hole deeper so as to make it impossible to get out or would you find your way out of the hole?" The Cleveland Water Department is encouraging Brook Park City Council to shift from our current bad water service agreement "the hole" to an amended agreement with an additional three companion agreements "the hole we can never get out of." Our current water service agreement has some bad articles. He believed the proposed agreements make it worse. Article IV has water rates, 4.01, Cleveland Water Department can raise rates from 75 to 100% higher on any rate increase in the City of Cleveland for Brook Park residents during the first ten years of the 20-year deal. That was on the current agreement for the first ten years. After ten years the sky is the limit and the meaning of highway robbery comes to mind. 4.02, if Brook Park were to consider leaving the Cleveland Water Department they then can increase rates as high as they want. So the ten-year deal would be off to limit the increases if we tried to leave. Articles II and III, Cleveland Water Department can move you from first high to second high. Every time you go to another high it increases your rates. Cleveland Water can move you from first high to second high to third high at any time after 60 days' notice. There is no guarantee of adequate pressure at our homes in these agreements. It actually states that Cleveland Water has no guarantee of water pressure. Article V, Covenant Not to Sue on Water Rates Exclusive Franchise, 5.01. This puts Brook Park and its residents in a hole we cannot get out of for 20 years. We cannot sue Cleveland Water Department, if and when the rate increases rise to unaffordable highs for our resident. Article X, Insulation and Ownership of Distribution Mains. Under the new agreements we will be transferring all Brook Park water mains to the Cleveland Water Department and in turn Cleveland Water Department, in its sole discretion, shall determine whether to schedule capital improvements to replace water mains in our city. Again, at their sole discretion. We do not contact them and say we are replacing a street. We need this replaced. It is on your list and they say okay we will come out and do it. First we have to apply. We can only apply twice a year and you can see how that worked out this year. Again, there is no way that this water line is going to get replaced this



**THIRD READING OF RESOLUTIONS AND ORDINANCES: CONT.**

year. The timeframe was never going to work. The Water Department presentation was April 12<sup>th</sup> which was passed the deadline for the first application period which was the first week in April. So when they presented this to us the deadline was already over to get it done in the summer. The next deadline is the first week in September and it is two months out for that according to the commissioner of the Water Department which takes it to November 1<sup>st</sup>. We could get it done as a winter project if the engineering is done where the current water line remains in place and the replacement line is put next to the current water line to be powered up later as was explained to him by the commissioner. You cannot put in a temporary water line as they do in the summer since it will freeze during the winter months. It can be a winter project but, obviously, you will not replace the road in the winter. So, this is not getting done this year. According to the agreement an average of 10 million dollars per year toward system wide capital improvements may be available. Again, Brook Park has no guarantee that we will receive any of it when we need it because we have to compete with other cities for the project. 10.04, the cost of the above referenced capital improvements will be included as part of the water rate on a system wide basis. Brook Park residents will be, and are paying, increased rates for all capital improvements system wide even if no projects are completed in our city. If the city no longer has to pay for the water mains, that frees up money in the budget, which is a good thing for the Administration and Council, but not for the residents. The current "little hole" agreement allowed the Cleveland Water Department to upcharge residents for something and not give anything in return. That is wrong and never should have happened. In the proposed agreement "deep hole" Cleveland Water Department will own the water mains and be responsible for repair and replacement at its sole discretion. The proposed agreements will take the burden off the city and put the costs directly on the residents in the form of much higher water bills and the sky is the limit after ten years and the agreement is a 20-year deal. If the new agreements pass, shouldn't freed up money go back to the residents since they are the ones now paying for the water main replacement and it will now be taken out of the budget? Article XXIII, Term of Agreement, 23.01. As mentioned above the term of the proposed agreement is 20 years, but that does not mean we can just end the agreement after 20 years. Brook Park will no longer own the water

**THIRD READING OF RESOLUTIONS AND ORDINANCES: CONT.**

main. Under the agreements Brook Park would have to pay all capital improvements Cleveland Water Department made on a prorated 20-year basis to get our water mains back. As you can see, there is no way out of the agreement. That is the hole we can never get out of. If we join this, we give up our water mains. If and when Cleveland Water Department does replace them, if we try to get out of the deal, we have to pay them back on a prorated basis, based on a 100-year life of the water lines so the part we will not pay for will be very little. We would have to pay for any projects they did in order to get out of the deal. We could never get out of this deal. It is the same way as if we privatized garbage and got rid of our garbage trucks. We would not have it in our budget to be able to purchase garbage trucks if we wanted to start having our employees doing it again. So it is the same thing. We would not have it in our budget to pay for the water lines that just got replaced over 5, 10, 15 years or, actually, even 20 because you cannot get out of it for 20. I would hope that some water lines were replaced over 20 years, but we would have to pay all that money back minus the prorated amount, which is based on 100 years, which is not going to reduce that cost very much. Again, municipal utility district agreement. Income tax monies for sharing within the district. I have not even mentioned the anti-poaching part of these agreements. If a company decides to move to Brook Park from Cleveland, Brook Park would have to pay Cleveland half the income tax revenue generated by that company for five years if their payroll was over \$500,000 and vice versa. What does poaching have to do with the Cleveland Water Department? It is probably what you are thinking and what the audience is thinking right now as most people do when they find out about this. If this gets out of control in any way, we are giving up our right to sue. Anyone wanting to read these agreements can go to the [tomtroyer.com](http://tomtroyer.com) website. These are some of the main reasons he will vote no on this agreement tonight.

Ms. McCormick said Mr. Troyer did not mention the inclusion of the anti-poaching agreement, which she felt had no place in a water agreement. As a city we should be going after as many businesses as possible so she will vote against this.

The clerk called the roll on the motion by Mr. Scott, supported by Mr. Burgio, that Ordinance No. 10025-2016 for third reading.

**THIRD READING OF RESOLUTIONS AND ORDINANCES: CONT.**

**ROLL CALL: AYES:** Scott, Burgio, Salvatore, Mencini.

**NAYS:** Troyer, Powers, McCormick. Ord. No. 10025-2016 passed on third reading. Adopted.

RESOLUTION NO. 16-2016, AUTHORIZING THE MAYOR TO ENTER INTO A RESTATEMENT OF THE WATER SERVICE AGREEMENT FOR DIRECT SERVICE WITH THE CITY OF CLEVELAND AND DECLARING AN EMERGENCY. Introduced by Mayor Coyne.

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

**ROLL CALL: AYES:** Burgio, Scott, Salvatore, Mencini.

**NAYS:** Troyer, Powers, McCormick. Res. No. 16-2016 passed on third reading. Adopted.

RESOLUTION NOL. 17-2016, AUTHORIZING THE MAYOR TO ENTER INTO AN ASSET TRANSFER AGREEMENT WITH THE CITY OF CLEVELAND FOR THE TRANSFER OF WATER SERVICE ASSETS AND DECLARING AN EMERGENCY. Introduced by Mayor Coyne.

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

Mr. Troyer said this is giving all our water mains to Cleveland.

**ROLL CALL: AYES:** Scott, Burgio, Salvatore, Mencini

**NAYS:** Troyer, Powers, McCormick. Res. No. 17-2016 passed on third reading. Adopted.

RESOLUTION NO. 18-2016, AUTHORIZING THE MAYOR TO ENTER INTO A MUNICIPAL UTILITY DISTRICT AGREEMENT WITH THE CITY OF CLEVELAND IN CONNECTION WITH THE PROVISION OF WATER SERVICE AND DECLARING AN EMERGENCY. Introduced by Mayor Coyne.

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

**ROLL CALL: AYES:** Scott, Burgio, Salvatore, Mencini

**NAYS:** Troyer, Powers, McCormick. Res. No. 18-2016 passed on third reading. Adopted.

There being no further business to come before this meeting, Council Pro Tem Mencini declared this meeting adjourned at 10:49 a.m.

RESPECTFULLY SUBMITTED *Michelle Blazak*  
Michelle Blazak  
Clerk of Council

APPROVED *January 17, 2017*

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