

**SPECIAL COUNCIL MEETING
OF THE COUNCIL OF THE CITY OF BROOK PARK, OHIO
HELD ON TUESDAY, DECEMBER 13, 2016**

The meeting was called to order by Council President Astorino at 6:00 p.m. who read the meeting notice, the clerk called the roll and the following Members of Council answered:

SCOTT, BURGIO, SALVATORE, TROYER, POWERS, MENCINI

Also in attendance were Mayor Coyne, Service Director Cayet, Finance Director Cingle, Building Commissioner Hurst, Law Director Horvath, Economic Development Commissioner Dolan, and Engineer Piatak.

INTRODUCTION OF NEW LEGISLATION:

New Legislation:

1. An Ordinance authorizing the issuance and sale of general obligation bonds in the maximum principal amount of \$5,200,000 for the purpose of paying the cost of installations, modifications and remodeling of City buildings to conserve energy as further described herein, and to pay the cost of issuance for said bond, and declaring an emergency. Introduced by Mayor Coyne and Councilman Mencini.

Mr. Astorino: Sponsors introduced this pursuant to Council Rule No. 12.

Mayor Coyne: This is an emergency due to predicted increases in interest rates, which will cost the city more money for this project.

Mr. Astorino: This will be Ordinance No. 10058-2016 on a special meeting agenda, therefore, audience participation is required.

REMARKS FROM THE AUDIENCE ON THE ORDINANCES AND/OR RESOLUTIONS ON THE AGENDA ONLY:

Mayor Coyne: This meeting was for first reading and discussion of this legislation and people can speak at the appropriate time.

Mr. Astorino: Reiterated his previous comment and allowed audience participation.

Mr. Tom Greenlee
15841 Paulding Blvd

Mr. Greenlee: this legislation is authorizing the Mayor to advertise for requests for qualifications for an energy efficiency project and stated it did not reference or intend to comply with ORC 717.02 for energy savings. Council will have to

determine if they are to follow city ordinances and the e **Remarks from the audience on Ordinances and/or Resolutions on this agenda only: cont.** Charter or competitive bidding and then proceeded to explain the procedure he felt was proper for Council to follow and said the procedure being followed was incorrect. Mr. Greenlee recommended tabling the ordinance until all information and three proposals from an energy report are obtained and that Council comply with ORC (Ohio Revised Code) requirements.

Ms. Lavaine Cates
15499 Remora Blvd.

Ms. Cates: questioned the procedure being followed for this meeting with discussion ensuing between Mr. Astorino and the Mayor as to what procedure should be followed. Mr. Astorino being in favor of following Council rules for audience participation and having the ordinance added to the agenda for first reading as it was not on the agenda when posted.

Mayor Coyne: he can call a special meeting per Charter, irrespective of Council rules and also stated first reading and discussion is why the meeting was called, the notice was very clear and followed the Charter.

Ms. Cates: after I am done then you should be discussing this.

Mr. Astorino: after audience participation there will be first reading and the ordinance will be before Council.

Ms. Cates: legislation already had first reading.

Mr. Astorino: the legislation was introduced which is how legislation has been processed for years.

Mayor Coyne: I refuse to accept you giving false information to a resident.

Mr. Astorino: you claim you have the right to call a special meeting.

Mayor Coyne: I do.

Mr. Astorino: We are at a special meeting that you called and you claim you have the right to introduce legislation; the legislation was introduced so we complied to your request.

Ms. Kates: Asked about the ordinance being on the Caucus agenda.

M. Astorino: That is not the current meeting taking place and I can only answer questions about what is going on right now.

Remarks from the audience on Ordinances and/or Resolutions on this agenda only: cont.

Ms. Cates: legislation cannot be in two places at once, let's get this recreation center going.

Mr. Mike Vecchio
14417 Park Dr.

Mr. Vecchio said pursuant to Sunshine Laws it should have been on the agenda as to where the legislation is and an addendum should have been posted. Mr. Vecchio asked for clarification as to why that didn't happen.

Mr. Astorino: The agenda was posted in the manner that it was, by introducing it under Council Rule 12 for the emergency aspect, that provides that it will go to item M for a first reading. Council Rule No. 4 requires that all special council meetings shall provide audience participation to allow the public to voice their concerns and/or opinions on only the subjects pending before Council, prior to Council's consideration; we cannot exclude the audience from participation.

Ms. Horvath: Will research Mr. Vecchio's request. Council can suspend the rules and can move legislation around as they see fit and can move that legislation has had first reading, second reading, be placed on an agenda of a future meeting or a different agenda. Council can do what they wish with legislation and urged Council to keep that in mind. While the agenda is set, it is also controlled by Council.

Mr. Astorino: Agreed that Council could suspend the rules, but in this situation we are following rules.

INTRODUCTION OF ORDINANCES AND RESOLUTIONS: (FIRST READING):

ORDINANCE NO. 10058-2016: AUTHORIZING ISSUANCE AND SALE OF GENERAL OBLIGATION BONDS IN THE MAXIMUM PRINCIPAL AMOUNT OF \$5,200,000 FOR THE PURPOSE OF PAYING THE COST OF INSTALLATION, MODIFICATIONS AND REMODELING OF CITY BUILDINGS TO CONSERVE ENERGY AS FURTHER DESCRIBED HEREIN, AND TO PAY THE COST OF ISSUANCE OF SAID BONDS, AND DECLARING AN EMERGENCY. Introduced by Mayor Coyne and Councilman Mencini.

Mayor Coyne: Bond counsel provided a response regarding ramifications and qualifications of ORC (Ohio Revised Code) section 717.02, reflecting that it was followed. The law director clarified that the provisions were followed and there is a Charter provision allowing it. It is an energy conservation measure to reduce energy consumption; four proposals were received and selected by state law how they should be evaluated. The person with the highest score reviewed the City's energy usage, what it costs, provided a report. The savings must show that the project will reduce energy consumption in the building with financing limited to 15

Introduction of Ordinances and Resolution: (First Reading): cont.

years. A public presentation was made and Brewer-Garrett is well qualified to do this work and did an analysis of this building and serviced it for the last 16 or 17 years. Bond Counsel, Jennifer Roth, will answer questions regarding the draft legislation and there are also responses by her and the law director to every issue there has been a question about.

Ms. Jennifer Roth
950 Main Avenue

Ms. Roth asked if the questions were answered:

Mr. Astorino: They were provided just prior to the meeting, therefore, has not reviewed them. ORC allows us to avoid competitive bidding does the language in the Charter prevent that from happening?

Ms. Roth: Read Section 7.04 (a) of the Charter that incorporates the provisions of the ORC with respect to competitive bidding and there are no other provisions in the Charter that would otherwise require competitive bidding where the statute does not require it.

Mr. Astorino: Letter (h) Public Bidding is something separate from ORC 717.02?

Ms. Roth: Yes. Section (h) seems to provide additional authority to the Council to deviate from what the ORC requires and it gives you more flexibility rather than limiting what Council is allowed to do.

Mayor Coyne: Three readings are scheduled so there is time to get clarification the responses. It is in Brewer Garrett's best interest to get the lowest and best costs for the project. Brewer-Garrett can bid parts of the project they feel will lower costs and if the city did this no one is guaranteeing the savings. That is one of the driving factors; the savings and ability to do this without affecting the city; that is why the state passed this along to cities, to do the same thing that schools do.

Ms. Roth: The ordinance provides for bonds to pay for the improvement and the debt service is paid for in the savings. Those savings will exceed total debt service on these bonds and there should not be any amount above the savings, they have to balance. The ordinance was revised and the previous version made reference of a board, that was a preliminary draft.

Mayor Coyne: The law director has the amendments and they will be made.

Discussion ensued between Mr. Troyer, Ms. Roth and Mr. Astorino regarding three proposals from three vendors never being presented to Council. There is no

Introduction of Ordinances and Resolution: (First Reading): cont.

information as to the cost and what is going to be done. Ms. Roth said four proposals were received and the ordinance she prepared included provisions for Council to approve hiring Brewer-Garrett to make all the decisions, which complies with the code. The legislative authority will make the final decision, review the report, and make the decision that the report shows that the amount of savings will be more than the debt service. The law director would determine the process and who is the authority as delegated to take administrative steps in the meantime. Ms. Roth said the ordinance includes both approval of the report, approval of Brewer-Garrett as the choice, approval of the bond issue, and the other determinations required under ORC. Ms. Roth said the report ties the amount being saved to the energy conservation measures that would be installed. The code requires that when looking at the dollars being saved, that the cost of those measures cannot exceed the dollars being saved. Ms. Roth explained the difference between Series 2017 energy conservation improvement bonds and Serial Series.

Mr. James Wilbanks
6800 Eastland Rd.
Middleburg Hts.

Mr. Wilbanks stated qualifications verses a proposal is somewhat nebulous and his RFQ (Request for Qualifications) response included full scope of work, pricing, savings model, and utility analysis. The bulk is a technical report specific to Brook Park facilities and addresses why each facility uses that amount of units for that amount of money. An understanding of the utility analysis provides an understanding of what the city's expenses were, that is the starting point. Then areas are identified where improvements can be made that will result in energy savings for the facility that Brewer-Garrett will then guarantee.

Mr. Troyer: The RFQ has no real numbers or costs and questioned the handout of what the city will be getting that included City Hall/Council demolition and general trades, \$3.1 million.

Mayor Coyne: There is no contract until authorized by Council and did not believe the City Hall demolition would be included as it is not part of the energy savings. It is not in the normal bidding process, where there are three bids to do all these things. The short timeframe used to perform the extensive study of the energy usage was questioned.

Mr. Wilbanks explained it is not uncommon in the competitive process and thins the herd. There are tighter timeframes when there is enough manpower and horsepower within a company to execute that amount of work in a very short period of time. The original May 5th response did not have the \$4.38 million price which is typical, we go through the initial process in a vacuum. We say

Introduction of Ordinances and Resolution: (First Reading): cont.

everything we see, show you the opportunities we see, cost them out, and apply savings methodology for them. Once selected we work with various members of the institution and work to finalize what they want the offering to be. The final scope of work before you today with the ordinances has shifted around a bit because there are various approaches to anything, we wanted to meet with everyone to decide the best way to approach it.

Mayor Coyne: Read the four phases of the RFQ contracting process that has been followed and said the formal contract will be approved by Council. When selected they will do the analysis and their project will meet the criteria and provide the savings that will provide for the issuance of the debt. This is not the same as getting three proposals for the lowest and best bid and the is currently in the fourth phase.

Mr. Troyer: There are more numbers than provided and that he would like to have to have in order to make an educated decision.

Mayor Coyne: Once again explained the process that was followed by law and said the contractor is responsible for the end result, the numbers changed due to the roof.

Mr. Astorino asked Mr. Wilbanks if an energy conservation report was done?

Mr. Wilbanks responded yes and was certified by a professional engineer with the company.

Discussion ensued between Mr. Astorino and Mr. Wilbanks about the city engineer, service director, economic development commissioner and a resident analyzing the proposals and qualifications rather than Council which is what some are having a problem with.

Mr. Wilbanks said that process is a mirror image of just about every public institution and the final authority resides with Council. Forming a board or committee of qualified individuals to make recommendations to Council is very common place. The legislative authority who ultimately has the final say passes the analytical authority to a board or committee, receives feedback from them, takes back the legislative authority and makes the final decision.

Mr. Astorino commented the legislative body did not analyze the RFQ's and proposals.

Mr. Dolan: By ordinance the Council authorized the Mayor to proceed in a manner virtually identical to Section (c) of 717.02, the board evaluated all four proposals

Introduction of Ordinances and Resolution: (First Reading): cont.

that had energy conservation reports in them, on an objective standard and scored them. Brewer-Garrett was selected based on experience and criteria set forth in the objective report; once selected, they will prepare a more detailed energy conservation analysis of the city, typical to what happens all over the state; it all starts with the legislation authorized by the Council.

Mayor Coyne: Asked Ms. Roth to review the ordinance passed by Council to determine whether or not the legislative action authorized is under section (c) to proceed with the law director and provide an opinion.

Mr. Astorino: Suggested Ms. Roth review the minutes for those meetings because there was discussion in March that may provide some clarification.

Mr. Troyer requested from Mr. Wilbanks a written scope description that matches each one of the measures saying exactly what will be done.

Mr. Matt Stuczynski
17172 Penny Pines Circle
Strongsville

Mr. Stuczynski explained the Cash Flow Analysis/Saving Verses Expense, Current Projected Interest Rate as of December 12, 2016, Energy Conservation Project; payment plan for the project; underwriters being separated from municipal advisors, their responsibilities and function; the municipal market index that reflects changes in the interest rate environment; and recent increases in basis points. Which has been a big move in the municipal interest rate world due to the current political environment and potential changes to tax laws. There is a risk because if tax rates decrease, tax exempt bonds are less valuable, therefore, people are moving out of them into other products because they do not get the benefit of the tax exempt bond. Moving aggressively forward to be shelf ready will capitalize on any movement in the interest rate environment in the event there is a decrease in rates. Shelf ready is when the official statement and the rating is done and are ready to go to sell the bonds into the third party investor investment community. That addresses some of the expediency being requested this evening as it relates to acceleration of the readings. Throughout the last six months most issuers in the country have been trying to accelerate their timelines to get into the capital markets and sell in advance of the election, and they are certainly looking to get in before the end of the year before there are changes in tax rates.

Mr. Mencini: With the stock market doing well in the last few weeks, any third party investor would want to keep up that average.

Mr. Stuczynski stated third party investors are funds like Federated, Fidelity, Blackrock, large firms that buy muni bonds into their muni index funds. If they

Introduction of Ordinances and Resolution: (First Reading): cont.

think rates are going up tomorrow, they sit on their hands today. If they think rates are going up two days from now they sit on their hands for two days and wait until the yields become attractive enough to make it worth their investment of their capital; that has been happening in the last 30 days or so and is why rates are climbing. The ORC stipulates we must retire a certain principal and a certain amount of interest, a certain principal by all means, and we have rules by way of the ORC and the Uniform Bond Law that drives what type of debt service schedule we are allowed to construct. In 2017, as an example, we have roughly \$170,000 in principal, the rest is interest and not too dissimilar in 2018, those are the first two years. Regarding the type of financing to be used he is hypothetically modeling a bond issuance of January 1, 2017 and are not likely ready to do that, but it helps with keeping the cash flow on a calendar year and it is easier to follow. We are looking at general obligation bond, 20 years, tax exempt, fixed rate, with a call feature in ten (10) years. So you have an option to redeem those bonds after 10 years. The investor is protected for that ten (10) years, which is common in Ohio. He detailed on a preliminary basis the estimate for cost of issuance and added that to the total project cost, which would be financed as part of the cost, or the City could pay for that in cash, which is an option that the City could entertain. Typically, those costs are built into the project and are considered part of the financing that would be repaid in an obligation and the reconciliation between Brewer Garrett and the City to repay that in terms of their analysis of the savings verses the expense, because that is an expense of the financing. The savings verses the expenses analysis models the projected savings using the assumptions out of the project summary from Brewer Garrett, which they will have an obligation of performance contract and an obligation to meet. That was compared against the total expense and showed the anticipated savings in excess of the total expense. The savings must be in excess of the total expense.

Mr. Astorino: Projected Savings Growth increases each year and the first time you talked to Council there was no increase and you were very conservative. What did you use to calculate the increases?

Mr. Stuczynski: The increases are based upon inflationary assumption provided by estimates of increased costs in gas and utility, supplied by Brewer-Garrett; they supply the estimated assumptions as it relates to increase in utilities. His goal was to try to make sure that we meet this with a flat savings, but with the move in interest rate, we can no longer achieve that. We are now somewhere between where we were with the most conservative scenario and where we are at with the projected growth model. We are somewhat in the middle of that, still achieving the methodologies required by HB 420, but not as aggressive as we would hope to be, when we tried to achieve it based upon no increases and savings. We are just not capable of doing that based on these cash flow models and staying with a 20-year financing.

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Mr. Burgio: Regarding the municipal market index, when stocks are strong, are bonds weaker?

Mr. Stuczynsky: That is exactly what has happened.

Mr. Burgio: So if bonds are weaker they cost more for municipalities to purchase them?

Mr. Stuczynski: Bonds weaker, meaning the price for the bond?

Mr. Burgio: Yes, the price.

Mr. Stuczynski: When interest rates go up, bond prices go down; interest rates have been going up and the value of what you own is now lower. If you own a bond when interest rates go up, your value is decreased. That is what has people selling their tax exempt bonds and going into other products. Interest rates are going higher, their bond value is going lower, they are concerned about interest rates going even higher and, therefore, they are selling their muni bonds and moving into other products.

Mr. Burgio: If investors are optimistic about the future and stocks get stronger and increase and the economy is growing, that would mean that the bonds are not as sought after.

Mr. Stuczynski: That is the theory.

Mr. Burgio: When do we get locked into a rate; as soon as Council passes this are we locked into that certain rate?

Mr. Stuczynski: We have to have some confidence that the legislation would pass that would allow us to get started earlier with preparing the documentation for an official statement and the rating processes. If we are not certain that Council will pass the legislation we will have to wait until the legislation is passed, then we will start the clock ticking. At that point we would likely be 60 to 75 days of the development of a prospectus document, aka your official statement, complete the rating, and then go to the bond market. We establish the rate on the day we sell the bonds, which is typically after the official statement is complete, the rating has been assigned, there is a pre-marketing period of typically 7 to 10 days and then we lock in the rate. Typically, there is a two to three-week period after the rate has been established for final documents, bond counsel prepares certificates and final compliance documents for the investors and for the city that there has been a compliance with federal, state and local law and they give an opinion on that matter.

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Mr. Burgio: So, that can take actually months until you actually make that determination?

Mr. Stuczynski: Sixty to seventy-five days.

Mr. Salvatore: Regarding cost of obtaining financing, the fees for that, are they reflected in the annual debt service and also the projected growth?

Mr. Stuczynski: They are, the total is listed and they are built into the financing.

Mr. Mencini: Explain how you came up with a projection ten years away with a \$23,374.00

Mr. Stuczynski: In Brewer-Garrett's projected project summary they show their anticipated savings in year one and then have assumptions as it relates to increased utility, gas, and operational costs, and model that. They show an increase of savings based on those inflationary increases. He followed their calculation as to what the anticipated growth and savings would be, keeping in mind that they have an obligation to meet that threshold of the performance contract. He took that model, those projected savings, against our anticipated expenses based on interest rates as of today and did simple math, savings less expenses, and came up with the \$23,374. If interest rates move higher, that number will shrink because our debt service will go higher and cost more, no different than your homes, and when you are borrowing from your home. When interest rates go up the cost for your loan that you try to get on a home or car goes up. The same is true in our analysis here. The sensitivity to try to be prepared to go to the bond market to sell muni bonds, we are trying to be ready to go as soon as possible.

Mr. Mencini: What does it mean to make a call?

Mr. Stuczynski: The call feature is a.k.a optional redemption, which is your optional redemption feature. It means that the investor who buys a muni bond is protected up until that optional redemption date. If I buy a bond before that date I am guaranteed to receive that interest rate until such time that optional redemption date occurs. So the investor has a certain amount of protection up until that optional redemption date; in Ohio that has typically been ten years. We can move it lower to a lesser number like a nine or eight year. It typically comes at some cost to you, but it provides you with a little bit of flexibility in refunding the bonds at some point in the future or paying down additional some of the bonds that are outstanding after the optional redemption date. So it is an option redemption for you to give you some flexibility to refund the bonds at that point or pay down some of the bonds at that option redemption date. It is designed to be

Introduction of Ordinances and Resolution: (First Reading): cont.

a protection feature also for the investor. If they buy these bonds they know they are secure in owning them up until that optional redemption date.

Mr. Troyer: Due to rates increasing this needs to get done, but it needs to get done right. Would last year have been a better time to do this?

Mr. Stuczynski: Rates were lower last year.

Mr. Troyer: What is the maintenance contract?

Mr. Stuczynski: I am using Brewer-Garrett's project summary and that is their maintenance contract going forward to maintain the new equipment.

Ms. Horvath: Explained the following amendments to be made: Replace "Board" with "Council"; change "later than" to "not later than"; delete "or may sell the series 2017 energy conservation improvement bonds without a purchase agreement"; delete entire paragraph entitled "Section 6, Appropriation". It would still stay number 6 but would read, "Reserved".

Mr. Astorino: Page 3, letter (h) appears to be the same language as found in Section 15 on page 26. Is it needed twice in the ordinance?

Ms. Horvath: That language is ordinarily at the end of our ordinances and deferred to bond counsel to determine if it was needed in both places.

Motion by Mr. Mencini, supported by Mr. Burgio, to amend the four items as explained by the law director.

ROLL CALL: AYES: Mencini, Burgio, Scott, Salvatore, Troyer, Powers.

NAYS: None. The motion carried.

Mayor Coyne: Called for a special meeting on the 20th for second reading of this legislation. If Council has any particular questions submit them in writing to him and answers will be provided before that meeting along with any additional information that is requested.

Mr. Astorino: Ordinance No. 10058-2016 has already been assigned so we must entertain a motion to change the ordinance number to 10060-2016.

Motion by Mr. Salvatore, supported by Mr. Mencini, to amend the ordinance number to 10060-2016.

ROLL CALL: AYES: Salvatore, Mencini, Powers, Troyer, Burgio, Scott.

NAYS: None. The motion carried.

Mr. Astorino assigned the ordinance to the Finance Committee.

Mayor Coyne: A special meeting was properly called for second reading and there is no need for it to go to committee.

Motion by Mr. Salvatore, supported by Mr. Scott, to place the ordinance on second reading on December 20th.

Mr. Astorino asked if this was being placed on the December 20th Regular Council meeting or the Special Council meeting.

Mr. Salvatore asked if it was already set for 6:00 p.m.

Mr. Astorino said the request was for 6:00 p.m.

Mayor Coyne asked if the Clerk provided Council with a copy of the request for the meeting and showed the memorandum that was sent to Mr. Astorino, the Clerk of Council, and all Members of Council. They did not get this?

Clerk: No.

Mayor Coyne had copies made and provided to Council.

Call the roll on the motion to place this legislation on the Special Council meeting already called.

The clerk called the roll on the motion by Mr. Salvatore, supported by Mr. Scott, to place on the next Special Council meeting agenda already called.

ROLL CALL: AYES: Salvatore, Scott, Burgio, Troyer, Powers, Mencini.

NAYS: None. The motion carried.

Motion by Mr. Salvatore, supported by Mr. Mencini, to adjourn.

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

ABSTENTIONS: Powers.

NAYS: None. The motion carried with a vote of 5-1 and one abstention.

There being no further business to come before the meeting Council President Astorino declared the meeting adjourned at 8:00 p.m.

RESPECTFULLY SUBMITTED *Michelle Blazak*
Michelle Blazak
Clerk of Council

APPROVED *May 2, 2017*

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

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