

**REGULAR COUNCIL MEETING
OF THE COUNCIL OF THE CITY OF BROOK PARK, OHIO
TO BE HELD ON TUESDAY, JUNE 19, 2018**

The meeting was called to order by Council President Vecchio at 7:31 p.m., the clerk called the roll and the following Members of Council answered:

SCOTT, BURGIO, ORCUTT, STEMM, MENCINI, POINDEXTER, SALVATORE

Also in attendance were Mayor Gammella, Law Director Horvath, Finance Director Cingle, Recreation Director Elliott, Service Director Garner and Economic Development Commissioner Adams.

APPROVAL OF MINUTES OF PRECEDING MEETINGS:

1. Special Council meeting held on May 22, 2018.
Motion by Mr. Burgio, supported by Mr. Mencini, to approve as printed.
ROLL CALL: AYES: Burgio, Mencini, Stemm, Poindexter, Salvatore, Scott, Orcutt
NAYS: None. The motion carried.
 2. Special Caucus and Executive Session held on May 29, 2018.
Motion by Mr. Mencini, supported by Mr. Scott, to approve as printed.
ROLL CALL: AYES: Mencini, Scott, Burgio, Orcutt, Stemm, Poindexter, Salvatore
NAYS: None. The motion carried.
 3. Caucus Prior to Council meeting held on June 5, 2018.
Motion by Mr. Scott, supported by Mr. Burgio, to approved as printed.
ROLL CALL: AYES: Scott, Burgio, Orcutt, Stemm, Mencini, Poindexter, Salvatore
NAYS: None. The motion carried.
 4. Regular Council meeting held on June 5, 2018.
Motion by Mr. Mencini, supported by Mr. Burgio, to approve as printed.
ROLL CALL: AYES: Mencini, Burgio, Scott, Orcutt, Stemm, Poindexter, Salvatore
NAYS: None. The motion carried.
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REPORTS OF STANDING COMMITTEES:

Aviation & Environmental Committee – Chairman, Poindexter

Mr. Poindexter stated there have been several residents' complaints about airplane and wind tunnel noise issues. The hotline number for residents to report any noise issues is 216-898-5220. The time and date of noise occurrence is required when calling the hotline number and calls should be responded to in one or two days.

Finance Committee – Chairman, Scott

Mr. Scott stated the Board of Control met earlier and approved 20 items.

Legislative Committee – Chairman, Mencini

Mr. Mencini stated the Legislative Committee has two pieces of legislation and to contact Mr. Mencini for any legislation to be pulled out of committee.

Parks & Recreation Committee – Chairman, Salvatore

Mr. Salvatore stated the next Recreation Commission meeting will be on Thursday, June 21st.

Reports of Standing Committees: cont.

Planning Committee – Chairman, Burgio

Mr. Burgio stated the next Planning Commission meeting will be held July 9th.

Safety Committee – Chairman, Stemm

Mr. Stemm stated no report this evening.

Service Committee – Chairman, Orcutt

Mr. Orcutt stated no report this evening.

Board of Zoning Appeals – Chairman, Scott

Mr. Scott stated the Board of Zoning Appeals will be having a special meeting for Monday, June 26th at 7:00 p.m., with three items on the agenda.

REPORTS OF SPECIAL COMMITTEES:

Southwest General Health Center Trustee, Salvatore

Mr. Salvatore reported the first-year turnover continues to improve and overall retention of new employees is above 95%. Southwest has been voted one of the best places to work in the area. Focus is continuing on patient experience and feedback and improvements have been made in nine of the 12 categories to date this year. The Stroke Awareness Program featured information provided by physicians and caregivers and was very well attended with more than 110 people participating. The center has successfully implemented a program called Team Steps that stands for Team Strategies for adding tools to the enhanced performance and patient safety that is now being expanded into the maternity services and critical care unit. The next meeting will be Wednesday, June 13th.

Berea Board of Education Committee – McDonnell and Poindexter

Mrs. McDonnell stated that a reminder will be given over and over about some upcoming items as far as beginning of the school year. Importantly, residents who live near the construction sites there are going to be Neighborhood Construction Update Meeting where all residents are invited. The next meeting will be held at Brook Park Memorial Elementary School on June 20th at 6:30 p.m. for discussion on the new elementary school and demolition of Ford Intermediate. There are going to be some changes to the district's staff since the treasurer and people's service director; both position will be needed to fill before the new school year starts. For all parents' and guardians' final forms have been opened for updating for the schools to know all safety information for all students. All accounts can be accessed through the public library for people who don't have home computers and assistance will be available at the beginning of the new school year. The 2018-2019 school year on the district's website shows the first official day of school for elementary and middle school students will be August 23rd. The high school will have a different schedule this year due to the fact that 9th graders are going back to the high school. Anyone having a 9th grader they will be going to school August 24th, tenth graders will be going to school on August 23rd and on August 27th all high school students will be starting. There are new start times for all the buildings: the high school hours will be from 7:30 a.m. to 2:30 p.m., Berea Midpark Middle School will have school hours from 8:00 a.m. to 3:00 p.m. and the elementary schools will have the

Reports of Special Committees: cont.

Berea Board of Education Committee – McDonnell

same hours of 9:00 a.m. to 3:45 p.m. Construction updates for Ford Middle School demolition will start July 8th and hope to be finished by July 28th. Currently the school is being referred to as the Brook Park Elementary School but that is not the official name, to date no name has been decided, originally that building was going to be built behind the existing Ford Middle School. Because the auditorium is being kept the former school will be demolished and the new elementary school built on the same footprint with the hope of construction beginning at the end of July with the high school project is going to start in late June. The hope with the former middle school is to have all the construction completed before children return to school and the good news is that Big Creek Middle School, Grindstone and the high school will all have air-conditioning. Unfortunately, until the new elementary school is built Brookview and Brook Park Memorial will be facing one more year of no air-conditioning.

Mr. Vecchio asked if the residents on Sandhurst be receiving mailers from the district informing them of the meeting or expected to hear that from here?

Mrs. McDonnell responded I am going to say that most likely it's posted on the district's website and from hearing it from here. They didn't send anything to the residents surrounding the high school for different meetings.

Mr. Salvatore clarified the meeting date and asked how is the information going to get out?

Mrs. McDonnell will be sending an email on Wednesday to the district's community relations person, not sure who is still working since school is in summer recess, and will find an answer to that question.

Mr. Salvatore asked what is the seating capacity at Brook Park Memorial?

Mrs. McDonnell responded my guess, is the lunch room or library will be used and imagines that everyone will fit.

Mr. Poindexter thanked Mrs. McDonnell for the great report.

REPORTS OF BOARDS AND COMMISSIONS:

INTRODUCTION OF RESOLUTIONS OF COMMENDATION:

1. A PROCLAMATION HONORING GUS AND VICKY KANIS (Mayor Gammella)

Mr. Mencini presented the proclamation to Mr. Kanis and stated the Kanis' have been at Brookgate for 42 years and are currently at the Place to Be for the last 18 years. People visiting the Place to Be will be greeted with a friendly face and somebody to talk and laugh with. Mr. Mencini thanked Gus and Vicky for 42 years of patronage given to the City of Brook Park and residents.

Mr. Kanis commented the pleasure is mine with the support given from the city and the people of this city is much appreciated. This proclamation should go to the city, not to me, because of the support the city has given for so many years.

Mr. Salvatore stated over the years it's been an honor knowing Gus and remembers the one table reserved for Al Castelli, Art Lambros, Jim Sullivan and Chris DiPerna and stated you are an asset to the City of Brook Park.

Mr. Burgio served on the Planning Commission when the Place to Be location was approved and stated Brook Park is business- friendly and likes to see businesses do well in the community that wishes you all the best, continued success.

Mr. Elliott congratulated Mr. & Mrs. Kanis for their many years of service and commented that Gus has outlasted many Councilmembers and Mayors' and continues to serve many people.

Mr. Vecchio thanked Mr. Kanis and family for continued service and hopefully many, more years to come and congratulations.

REPORTS AND COMMUNICATIONS FROM THE MAYOR:

Mayor Gammella thanked Mr. & Mrs. Kanis and stated they've done a lot for the community it is certainly appreciated and wish you all the best. Mayor Gammella continued that with the hot, muggy weather there have been a lot of calls about the pool. The intention is to still open up the pool but we need to be fiscally responsible. The problem I came into with taking office is I was under the impression that it was only the roof that needed to be done. However, the three walls that are contiguous to the recreation center, that are also inside walls, have to be redone and will have to be looked at. We just put \$5.2 million-dollars into the recreation center and want to make it right and are going to make it right, that's why we haven't moved ahead quicker on the pool. There are a few other different things to be done there as well such as modernizing and things of that nature. People are looking at it and that is still an objective of this administration. City Hall will be moving the latter half of July, probably

Reports and communications from the Mayor: cont.

after Home Days and City Council is moving to the community room probably sometime in August as part of the Energy Conservation Project from the previous administration, to go from three building to one building. These buildings will have to be torn down per the agreement and Economic Development Commissioner Adams is working with the county to have that done at no cost to the City of Brook Park; that was not included in the contract and is an add-on. With the airport noise, Councilman Poindexter commented on, there is a little bit more airport noise due to work being done at the airport. Causing some changes in runway and flight patterns that will go on through the summer until about August or September. I will tell you when calling the hotline number, you will get a recording they will get back to you. Many meetings I attended in the past they talked about the calls received from North Olmsted, Brook Park and Cleveland, so it does make a difference when residents call. Mr. Piatak couldn't be in attendance tonight he injured his shoulder and hope that he gets well soon.

Questions to the Mayor:

Mr. Orcutt asked Mayor Gammella how far along is the Roads Program?

Mayor Gammella responded we spoke about the Roads Program in my office the other day and are moving along with it. Mr. Piatak was supposed to bring something this week to review and act upon to move ahead as discussed.

Mr. Orcutt asked if there is any news with what is going on at Ford, there's been some action over there in the last week?

Mayor Gammella responded that's correct, there has been activity at Ford, that's a good thing, hopefully by September 1st there will be good news. I don't want to get anyone's hopes up and as everyone knows I've put a lot of work into that and know Council will support whatever comes out of this.

Mr. Mencini stated is the city going to be doing a city-wide newsletter anytime soon?

Mayor Gammella responded yes and it will be out shortly. Many Councilmembers have contributed articles to the newsletter and it is appreciated very much.

Mr. Mencini asked if the city is on schedule with the upcoming Home Days celebration?

Mayor Gammella responded yes, on schedule and am sure Recreation Director Elliott will be speaking on that during his report.

Mr. Salvatore thanked Mayor Gammella for bringing the well-deserved Proclamation forward honoring Gus and Vicky Kanis and the Place to Be.

REPORTS AND COMMUNICATIONS FROM DEPARTMENTS, COMMISSIONS, AND OTHER PUBLIC OFFICIALS:Finance Director Cingle

Mr. Cingle stated the Administration appreciates Council's consideration for the 2019 Tax Budget on tonight's agenda for approval. So that the County's Budget Commission can begin processing the tax rates for the community. The city is in the final stages of the 2017 audit and hope to have that completed within the next few days with the CAFR (Comprehensive Annual Financial Report) forthcoming to Council, Administration and residents who would like a copy in the next three to four weeks.

Recreation Director Elliott

Mr. Elliott stated to Councilman Mencini that Home Days is on schedule. After four years the Whirlpool, Locker Rooms, Steam Room and Sauna have been opened today. Improvements to the kitchen, community room and snack bar are being finished up and also Friday, June 12th will be the first of three movies at the waterpark, beginning at dusk.

Law Director Horvath

Mrs. Horvath stated Council has been provided with the list of four pending civil cases with everything pretty much status-quo. These then to move slowly and then all of sudden in leaps. Mrs. Horvath noted that the City of Cleveland case has a pre-trial on July 12th and the two foreclosure cases are winding to an end, hopefully those properties will be sold soon. The other pending civil case has a motion to dismiss.

Service Director Gardner

Mr. Gardner reported the period from June 1st to 15th, crews have used 31 ½ tons of asphalt and completed Middlebrook, Brookhaven, Crestway, Eavenson, Sylvia and Sylvia Court. Crews are working on Starlite and then move to Saylor and the west end to wrap up the quadrant of Cedar Point, Norwood, Grayland, Switzer and Lucille. Then come back to the Sandhurst and Cambridge areas. Crews are cutting 14 vacant lots through the Building Department and have stumped 15 tree stumps from previous removals and top soiled those stump removals. There are four outstanding stumps but crews are cutting trees everyday so there will be a few more stumps. Crews are maintaining parks, playgrounds and the ball fields every day. June 11th was Bulk Monday and crews picked up 70-tons of bulk and crews have completed a few projects at the Recreation Center and the new City Hall building exterior. Crews are performing Vactor work and working on trouble mains that are repetitive problems.

Questions to the Directors:

Mr. Burgio thanked Mr. Gardner for the quick response to the memo sent to the Mayor about the sinking tree lawn, the resident is grateful to see that crews are looking into how that can be fixed. Mr. Burgio stated to Mr. Elliott that the Annual Dog Swim is being held later this year, September 8th, what is the reason?

Mr. Elliott responded the plan currently is to keep the waterpark open a little longer, after school starts on the weekends, backing up the dog swim.

Reports and communications from departments, commissions and other public officials:**Questions to the Directors: cont.**

Mr. Burgio thanked Mr. Elliott for implementing the Annual Dog Swim when serving as Mayor it's been a success and people enjoy and look forward to the event every year.

Mr. Salvatore stated to Mrs. Horvath on the airport settlement agreement there is a pre-trial set for July 12th is there any chance to a settlement prior to that date.

Mrs. Horvath responded there is that chance and there has been some discussions and anticipate further discussions. It seems like the old analogy of settling on the courthouse steps may be appropriate here. I anticipate that most of the decision-making on the part of the court will be done based on written briefs. Mrs. Horvath is looking at the pre-trial date as being somewhat significant.

Mr. Salvatore continued in the event of any type of movement in that area, as far as a settlement that may occur or what takes place on July 12th. That will take some Council-matic action for that settlement.

Mrs. Horvath concurred.

Mr. Salvatore stated with the revised schedule on tonight's agenda changing some dates Council would need to be made available for special meetings called, is that a proper statement?

Mrs. Horvath responded I don't know how quickly we could mechanically implement things and know the concern is going into summer session, if something was needed to be done quickly then there could be a special meeting or special executive session. When and if this resolves then further work will be needed to be presented to Council and the Administration.

Mr. Orcutt stated to Mr. Gardner after speaking today I drove past Hummel and Fry Roads and it looks like there is a catch-basin popping up. Crews have cut-out a huge section of the street is there an estimated time that work will be completed.

Mr. Gardner responded yes, crews dug that out today for forming and pinning tomorrow and concrete is due to be here Thursday morning and overlay on Friday. There are also two on Sylvia that have the same situation that crews will be working on as well.

Mr. Mencini thanked Mr. Gardner and service crews for the good work on cutting the grass. With the last bulk Monday that 70 tons is a lot of rubbish to be picked up. On the 14 lots being cut is that not only vacant homes but people not cutting grass also?

Reports and communications from departments, commissions and other public officials:

Questions to the Directors: cont.

Mr. Gardner responded it's my understanding the lots are vacant, abandoned, bank-owned and lien properties.

Mr. Mencini stated with the residential homes that the grass isn't being cut is there an assessment of \$300.00 when city crews have to cut the grass?

Mrs. Horvath responded what the city tries to do is let the service department take care of cutting the grass and then usually beginning early September an invoice is sent from the Building Department to the Law Department indication each home and total amount for various grass cuttings. The next step is the law department files affidavits with the county recorder's office to place a lien on the property. If the properties are bank-owned or in transition when sold through foreclosure the city expects to get those funds back from the proceeds of the sale. The city's goal is to have the city protected for cutting those lawns, the last two or three years' checks were received from title companies reimbursing the city.

Mr. Mencini thanked Mrs. Horvath for her explanation.

**OTHER COMMUNICATIONS AND PETITIONS, AND VERBAL APPROVAL:
(INTRODUCTION OF NEW LEGISLATION):**

New Legislation:

1. An Ordinance authorizing the Consulting Engineer to prepare plans, specifications and authorizing the Mayor to advertise for bids and enter into contracts for the Holland Road Reconstruction Project and declaring an emergency. Introduced by Mayor Gammella. Placed in Service Committee

Verbal Approval:

1. PROPOSED CHANGES TO THE 2018 CAUCUS/COUNCIL MEETINGS & SUMMER SESSION SCHEDULE. **Note:** Moved by motion from the June 5, 2018 Council agenda

Motion by Mr. Scott, supported by Mr. Burgio, to verbally approve.

Mr. Salvatore will be voting no on this, doesn't think the changes are necessary.

ROLL CALL: AYES: Scott, Burgio, Mencini, Poindexter
NAYS: Orcutt, Stemm, Salvatore. The motion carried with a vote of 4-3.

Other Communications and Petitions and Verbal Approval: Introduction of New legislation:

Verbal Approval: cont.

2. 2019 TAX BUDGET

Motion by Mr. Mencini, supported by Mr. Scott, to verbally approve.

ROLL CALL: AYES: Mencini, Scott, Burgio, Orcutt, Stemm, Poindexter, Salvatore

NAYS: None. The motion carried.

3. 2018 SOUTHWEST GENERAL HEALTH CENTER DELEGATE LIST - Amended at the Caucus Prior to meeting to include Councilman Salvatore as the alternate for City Council.

Motion by Mr. Scott, supported by Mr. Burgio, to verbally approve as amended.

ROLL CALL: AYES: Scott, Burgio, Orcutt, Stemm, Mencini, Poindexter, Salvatore

NAYS: None. The motion carried.

MISCELLANEOUS BUSINESS, APPOINTMENTS, CONFIRMATIONS:

REMARKS FROM THE AUDIENCE ON ANY SUBJECT MATTER:

Frank Kosmerl
15942 Paulding Blvd.

Mr. Kosmerl expressed concerns with Delores Blvd. between Cynthia and Snow not being included in the Roads Program; the street having stagnant water after a rain and the street is unsafe. The 7,000 gross vehicle weight limit sign that is posted on Snow Road should also be posted at Holland and Southway. Also, the Dunkin Donuts exit on Delores Blvd. could set up the city for a wrongful death lawsuit.

Liz Sayers
23065 Cedar Point Road

Ms. Sayers expressed concerns with Ward Councilmembers not walking their ward to see how people are not keeping up with their properties. Also, should be checking to make sure that residents are pulling city permits pulled for work being done on the weekends. The gazebo rail is out front is loose and in desperate need of repair.

Mr. Vecchio asked Ms. Sayers to take her complaints to the Directors and/or ward Councilmembers for a starting point to be addressed.

Donna Calvey
15400 Muskingum Blvd.

Ms. Kelly expressed concerns with city personnel in the service and police departments hanging up on her when calling. A few matters are the low hanging branches on Hummel Road that are blocking a speed limit sign. The other issue wants to know where or who to contact for police reports that have been filed and then told they don't exist.

Remarks from the audience on any subject: cont.

Brandy Reynolds
6060 Middlebrook Blvd.

Ms. Reynolds expressed concerns with the very tall grass up to the fence line by the railroad tracks on Middlebrook Blvd.

Ray Peterlin
5811 Wengler Drive

Mr. Peterlin read his manifest into the record and is on file in the Council office for review.

Joan Markusic
13911 Bellbrook Drive

Ms. Markusic appreciates the 'Shop in July' legislation being a wonderful idea and thinks the city needs to get more business in the city to shop; the only places currently are Marc's, Roses, Goodwill and Dollar stores for shopping. Ms. Markusic expressed concerns with the 'Garden Clubs' in the city having the service department crews doing the work; service department crews should be serving the city and not a particular club all residents are important.

Ralph Lohn
15960 Meigs Blvd.

Mr. Lohn commented that Middleburg Hts. recently built a new Cuyahoga County Library and Brook Park puts \$5.2 million-dollars to renovate the Recreation Center and more work is needed. Mr. Lohn expressed concerns with tires on Smith and Sheldon, brush on Meigs after a tree was cut. Mr. Lohn also stated that this Council and Administration are soft and needs to be tougher.

Mr. Salvatore – Point of Order.

Mr. Vecchio – All kidding aside that conversation should be with the Mayor off-camera.

Mr. Lohn continued that Mayor Gammella needs to have an open door policy and more money should be given to the police officers. Also, with the numerous robo-calls for different issues are not necessary.

Donna Calvey
15400 Muskingum

Ms. Kelly asked a second time where she can go for the police reports that are not on record that have been filed for the last 30 years.

Mr. Vecchio interjected to Ms. Calvey to speak with either the law director or Mayor after the meeting or set an appointment up regarding the police reports; Council is not set to provide those answers.

Remarks from the audience on any subject: cont.

Also, Ms. Calvey expressed concerns with Harley-Davidson receiving a \$30,000 tax break that is coming back on the residents; so bringing companies in to flourish in the city won't happen by providing huge tax breaks.

INTRODUCTION OF ORDINANCES AND RESOLUTIONS: (FIRST READING:

1. RESOLUTION NO. 20-2018, URGING ALL RESIDENTS TO SHOP IN THE CITY OF BROOK PARK DURING 'SHOP IN BROOK PARK MONTH' DURING THE MONTH OF JULY AND DECLARING AN EMERGENCY. Introduced by Councilman Mencini, Council as a Whole and Mayor Gammella

Motion by Mr. Mencini, supported by Mr. Burgio, to suspend.

ROLL CALL: AYES: Mencini, Burgio, Scott, Orcutt, Stemm, Poindexter, Salvatore
NAYS: None. The motion carried.

Motion by Mr. Mencini, supported by Mr. Scott, to adopt.

ROLL CALL: AYES: Mencini, Scott, Burgio, Orcutt, Stemm, Poindexter, Salvatore
NAYS: None. Resolution No. 20-2019, has passed under Suspension of the Rules. Adopted.

2. ORDINANCE NO. 11027-2018, AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT FOR THE SALE OF (+-) 3.303 ACRES OF LAND LOCATED AT 16400 AND 16500 BROOKPARK ROAD, PERMANENT PARCEL NOS. 344-30-008 AND 344-30-009 AND DECLARING AN EMERGENCY. Introduced by Mayor Gammella and Councilman Mencini.

Mr. Scott asked if Economic Development Commissioner Adams to come to the podium to answer a few questions.

Motion by Mr. Scott, supported by Mr. Poindexter, for Economic Development Commissioner Adams to speak at the podium.

ROLL CALL: AYES: Scott, Poindexter, Salvatore, Mencini, Stemm, Orcutt, Burgio
NAYS: None. The motion carried.

Scott Adams
Economic Development Commissioner
City of Brook Park
6161 Engle Road

Mr. Scott asked Mr. Adams if there is a contract on this property; or still at the letter of intent?

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

Questions to Economic Development Commissioner Adams

Mr. Adams responded the letter of intent began the process and the ordinance allows the Mayor to enter into contract.

Mr. Scott asked if there were any discussions about the 'Right of First Purchase' if something should happen and the company doesn't follow through.

Mr. Adams responded that will be in the sales contract and completed and filed immediately after the transaction takes place with filing of the deed; the 'Right of First Refusal' will be in the change of title following the transfer. Also, filed as a separate notarized document enforceable in court.

Mr. Scott asked if there is any way to place that in the legislation?

Mr. Adams responded it could be put that it's required in the legislation, if Council would like as an added 'Whereas'. Suggestion, Whereas, Council requests a letter of 'First Right of Refusal' to be part and parcel of the sales contract, something along that line for verbiage.

Mr. Orcutt clarified with Mrs. Horvath if amended that could be added to for the 'First Refusal'.

Mrs. Horvath responded yes, that amendment could be proposed this evening and if passes the legislation would be amended by the law department and sent to the clerk's office.

Mr. Orcutt commented this is a good business and think is something that has the votes for coming into the city; it's just something that is very important that Council add that to the legislation.

Mr. Salvatore stated he is not totally convinced that we're doing the right thing accepting this particular proposal; however, I am very much impressed with the business that wants to come to Brook Park and would like to have them here. Personally, if the concerns are for some adjustments and modifications to a 'letter of intent' which really carries no weight anyway. The best way to handle this would be to have the contract come to Council for approval once put in written form. That probably won't change my opinion but does change the process by making it more palpable. That if there are some concerns they are taken care of prior to the vote and execution of the sale. As one Councilman, I would recommend that Council doesn't arbitrarily authorize the sale of the property and enter into a contract if not comfortable with the terms. The 'First Right of Refusal' is important but most importantly is for the vacant land itself, it's not for after the project is started it's for before. If there's a delay and it goes beyond a specific amount of time, then the property should revert back to the city; for the net

Introduction of Ordinances and Resolutions: (First Reading): cont.Questions to Economic Development Commissioner Adams

dollars the city would be receiving and not the sale price. Those are my concerns and hope the Mayor, Council and the buyer would consider. This is terrific company and as one Councilman I look at Economic Development as a game host representing the city and most importantly to match a company with the right parcel and right zone. To compliment other businesses within that zone for a win-win for everybody. The second game show would the price should be right with enough money for the parcel or the income generated from the income tax should be enough so that it's impossible to say no. If the income from city income tax was \$3,000, \$4,000 or \$5,000 a year I would be saying we have to do this, can't not look at this. Even if the city was donating the property the money to make that happen because money the city would get their money back instantly and have a great future based on that amount of income. To date, I haven't received the amount of money that is going to be generated from the income tax, some numbers were shared but haven't received the finalized number as to what will be brought to the city on an annual basis.

Mayor Gammella stated Mr. Orcutt's suggestion is correct this can be amended for 'First Right of Approval'. I haven't heard one person say this is a terrible business, everyone said this is a great business and the company made a great presentation and have a sterling track record; these are the kinds of businesses that are needed in the City of Brook Park. The property being talked about has remained vacant for 17 years and in the past the city paid \$1.1 million-dollars for this property to buyout a few adult businesses. That was an inflated price but they were right in paying it because it removed those businesses from the city. This parcel sits in an area where another adult business can move in and has been appraised for \$390,000; the city is getting \$405,000 plus a \$2.1 million-dollar improvement. With that money the city can take it and start land-banking in this community and start taking this town back and building structures and doing things for this community that we, as a city, will control. It's absolutely imperative that we pass this tonight because we almost lost this and I give Mr. Adams credit he pulled this company back one more time. Mayor Gammella reiterated that the property has been sitting vacant for 17 years and its time we act and do something to start moving this city forward, this is the first step.

Mr. Poindexter commented that he saw the presentation and have seen all the documentation provided from Mr. Adams. All the things I've seen and read nothing leads me to believe that this company wants to wait to build anything, seems to me they are eager and looking forward to building in this community. I'm eager having them here and support making the amendments to get this going forward.

Mr. Adams stated to answer Mr. Salvatore's questions, I agree and would like to see this locked up tight that if the company doesn't develop, the city gets the 'First Right of Refusal' to purchase the property back before anyone else comes along, perhaps an adult entertainment business. This plan using this 'First Right of Refusal' will be what is

Introduction of Ordinances and Resolutions: (First Reading): cont.**Questions to Economic Development Commissioner Adams**

known as a change of title and will follow the deed and is very much enforceable in court. What that will do is if the company were to sell it in the future and try to bypass that 'First Right of Refusal' and try to do a transfer. What occurs is the title agent would see that, report it to the seller, buyer and agents involved and the city would have to be contacted. Because if the city wasn't contacted and the city either exercises their 'Right of First Refusal' and purchased it or decided not to do that. The city would still have to file a release and without that release that property won't transfer ever again, it's that strong and I state my 17 years in the title industry on that. We have all met the company and I've had the honor of dealing with these honorable men. Even in dispute they bring their 'A Game' forward and do nothing but bring positive to this community and the seed that will grow and help attract other businesses on Brookpark Road.

Mr. Mencini clarified with Mr. Adams the final purchase price would be \$383,000?

Mr. Scott responded no, that is what the city would clear. The final purchase price is \$405,000 and an additional \$5,000 has been negotiated from the buyer paid towards the seller's closing costs; which then reduces an additional \$5,000 bringing the city after costs \$383,882.50. This is time-sensitive on a day transfer and if it transfers earlier then it would be more money because of less costs off the top.

Mr. Mencini stated when reading the Wall Street Journal articles they tell the hard factors before getting to the good factors. When doing business like this that arises and absolutely we want to get this right, appreciate your work on this.

Mr. Burgio stated initially I was apprehensive about the return on the property and tax return. However, Mr. Adams has done a good job working and negotiating with this company. I do feel this company is a good fit for Brookpark Road because it fits in with heavy equipment, cranes, trucking companies and also impressed with the presentation and am more in favor of this now. I think the city should go forward and start more economic development in Brook Park and think this might be an interest for other companies to look at Brook Park especially between the areas of Smith and Engle Roads. I also like the fact to take that money and put it to good use as the Mayor stated.

Motion by Mr. Poindexter, supported by Mr. Mencini, to amend the legislation to read 'First Right of Refusal' for the City of Brook Park to purchase property back.

Mr. Orcutt commented he was planning on making a motion for some security in there for Brook Park taxpayers and think it was a little bit with the buyback at fair market. I think that would be vague with this motion and think verbiage needs to be added that

Introduction of Ordinances and Resolutions: (First Reading): cont.Questions to Economic Development Commissioner Adams

Brook Park has the 'First Right of Refusal of the purchase of the property back at fair market value.

Mr. Salvatore recommended the law director prepare language because fair-market value one year from now could be a lot more than \$383,000 the city is going to net; fair-market value could be the \$600,000 or \$800,000 that would be the price. What I'm trying to accomplish, only in my opinion, is if the company does not perform and doesn't start construction then the property should revert back to the City of Brook Park automatically at the price the city received. If getting into fair-market value, the city will be getting into appraisals that the city will have to pay for and probably end up in court over the price. I think that should be agreed upon in the amendment that should be prepared by the law director to avoid a possible argument in the court room.

Mr. Mencini rescinded his second (support) motion if Council wants to include Councilman Orcutt's amendment.

Mr. Poindexter thinks the amendment is good the way it is, 'First Right of Refusal'. Fair-market value is, in my opinion, assumed at that point if the company doesn't develop the land.

Mr. Vecchio stated there is a rescinding of a second (support) motion so there is no rescinding of a motion; staying currently on the motion.

Mr. Salvatore stated to Mrs. Horvath the amendment as proposed, does it provide the utmost protection for the City of Brook Park based on the value the property will be sold and based on the timeframe for construction of the project?

Mrs. Horvath thinks there is some confusion surrounding what is to be achieved and I would divide it into two separate issues. First, if the buyer doesn't move forward and there isn't construction then there would be a desire to get the property back and have the 'First Right of Refusal'. That is certainly something that we would want to have to protect the city and there have been past instances where the city wished that was in contracts, that would have been very good had the city had that. There is another issue for the future, let's say, five years from now this property comes back up for sale. Then the question is does the city at the end of that five-year period want to have the first right to purchase that property. If so, what would be the purchase price? Supposedly, fair-market value but there would have to be some definition of what that is. So, there are two issues that can be confusing because we keep talking about 'First Right of Refusal' but really are looking at, perhaps, dividing that up into two different parts. Certainly, the city would want the best contract possible for the City of Brook Park and will consider looking at both of those provisions to see if both provisions in the contract, I would say they are separate even though they sound alike.

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Mr. Salvatore appreciated the answer and stated it is condensed and one important thing is. If the company doesn't perform the property should automatically revert back to the City of Brook Park. If they do build a \$2 million-dollar structure on the property, why would the city want a 'First Right of Refusal'? What would the city do with that building if vacated? It won't be built to the city's specifications nor anything the city would want. Once built hopefully the company will be successful and if decides to sell it would be sold to somebody doing that type of work. I think the protection that is most important is the company fulfills their obligation of moving forward on the project, in my opinion.

Mrs. Horvath agreed with Mr. Salvatore and stated obviously we want a building, our intention of selling it is if there be a business established there. I only point out the confusion between the two issues and if Council desire is to look at the 'First Right of Refusal' in conjunction with the construction moving forward with the building being built; that is one amendment. If looking at something down the road that would be a second amendment and possibly put in the contract. Mrs. Horvath commented it would be something very good for the city to have that initial 'First Right of Refusal' in the contract.

Mr. Salvatore suggested that Mrs. Horvath put that language, if not accomplished tonight, then give this legislation First Reading and have the proper language placed in the legislation.

Mr. Stemm stated to Mrs. Horvath, Mr. Orcutt's proposal of fair-market value; wouldn't that cover both ends of the spectrum. If the buyer did not develop and if they did develop? Obviously, if they don't the city is in the same position but if the company spends \$1.2 million-dollars. Obviously, the initial purchase cost wouldn't be in play, so wouldn't fair-market value cover both?

Mrs. Horvath thinks within a short period of time the city would know whether construction is going to start and may want to look at that situation as a rescission of the contract. Where the city would put the parties back in the same position that they were before by making some negotiated amount for the rescission. Which may not be fair-market value but based upon the contract the city enters into. Later down the road, I cannot imagine if the city did have the 'First Right of Refusal' to purchase this property why the buyer would agree to something less than fair-market value. The company may be there ten years and then go to sell and the property may appreciate greatly but the same token it could depreciate. So there would have to be some sort of fair mechanism the parties would agree on. Mrs. Horvath could draft whatever would seem appropriate and thankful any input from Council or the Administration. Mrs. Horvath reiterated as seeing this as two issues of concern. Certainly, the city doesn't want to sell property to have an empty lot, the city wants to make sure the development proceeds. On the

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same token based on where the property is situated the city may wish to have the 'Right of First Refusal' five, eight or ten years down the line in the event the company becomes available. Doesn't mean the city has to buy the property but, nonetheless, the city may want to take that opportunity of option. If the city does, then we would have to be fair with whatever the price may or may not be.

Mr. Stemm stated he would be comfortable with the expiration of five or eight years.

Mr. Poindexter commented after hearing this discussion I think we're just making the amendment to include the 'First Right of Refusal' and puts the city where it wants to be. The city would be protected if the land isn't developed and protected if the land is developed, the city has the right to refuse. I don't foresee an instance the city would want to buy the property back after they built unless it was a great deal. I don't see the city budget having room for a \$2 million-dollar improvement plus \$405,000 for the land. I think adding the First Right of Refusal puts everybody concerns to rest and let's move forward with the motion on the floor.

Mr. Vecchio stated the motion is to amend, the second (support) was retracted, so there is a motion. Mr. Vecchio stated motion dies for a lack of a second.

Mr. Orcutt supports the law director preparing changes to this legislation that include the two stipulations discussed. I believe at the May 15th meeting I agreed with the Mayor of putting in a stipulation if the company did not build. To have those two entities probably would protect the city the most and would support that.

Mr. Scott stated to Mrs. Horvath how quickly can the amended legislation be turned around so that it's both beneficial to the city and the buyers?

Mrs. Horvath clarified the next meeting would be next month (July)?

Mr. Vecchio concurred and stated the next meeting is July 10th.

Mrs. Horvath stated would like to have the amended legislation completed within a week and would note that while these are items the city wants in the contract. There is another party that the city needs to deal with and there should be some give and take of informing them of the city's thought process; to make sure they are in accord with those thoughts. Drafting contracts can be somewhat expensive for the buyer, they would want to make sure they have the meeting of the minds before incurring any legal expense. Safely saying seven to ten days to have the amended legislation drafted.

Mr. Adams interjected looking at Section 1 that is where all that deliberation takes place; there's actually no reason to amend this ordinance. What that does is allow the

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Mayor to negotiate and those negotiations placed on the table. That way the buyer can agree to it or not, if they don't agree the contract doesn't go forward; this legislation only allows the Mayor to enter into negotiations. The amendments would be placed into the sales contract and an agreement gained from the buyer. Of course, Council can review that contract if they choose to do so and the Mayor can move forward with the sale.

Mr. Salvatore stated this Ordinance would authorize the Mayor to enter into a contract as stated in the title.

Mr. Adams understands that but in Section 1 - the Mayor is hereby authorized to negotiate and enter into a contract of sale. Negotiate stands alone as a point, to see if this is a good deal for the city or not. With concurrence of Council as sought then the Mayor can enter into a contract of sale, that's my read on this.

Mr. Salvatore understands Mr. Adams read on this but that's how the title reads if this passes this evening. The Mayor has authorization to enter into a contract and sell the property for \$405,000 with a new return to the City of Brook Park of \$383,000. The terms and conditions that appear in that contract will be non-negotiated by City Council; whatever is in that agreement is what it is and it's over.

Mr. Vecchio made a decision to move forward as to what Council is going to do, whether making an amendment to move the legislation forward or send it back to the law director to be rewritten within seven to ten days, due to another party being involved. Council has a decision to make and one motion was currently defeated, an action is needed or first reading continues.

Motion by Mr. Orcutt, to send the legislation back to the law department for inclusion of those safety stipulations.

Mr. Scott asked Mr. Adams how upset is the buyer going to be?

Mr. Adams responded the buyer agrees to the 'First Right of Refusal' I haven't broached the question about a timeline, as to beginning of construction. On the three-year projection there is verbiage reading upon closing on the property we plan breaking ground between November 2018 and April, 2019, it's weather related. We prefer to use local contractors, labor support, in the build process of National Truck & Equipment Sales in Brook Park. That could be worked in as a type of 'Whereas' language type and I don't think I'll run into a whole lot of objection with that. The second component the buyer is dealing with is he's paying cash for the land and financing the improvement. The lenders looking at the language, so that's why in wisdom of Council and the Mayor

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to remove that as a deed restriction wouldn't fly, he wouldn't be able to get funding. At this point, by doing this as a separate filing their legal team talked to the lenders legal team and said they can go live with the 'First Right of Refusal'. So the city now has to talk to the buyer who, in turn, has to talk to the legal team who has to talk to the lender. To see if that language will interfere with any of this process. Because it's a stipulation of time and if for unseen reason the company doesn't break ground they're in violation of the ordinance. That puts into the lenders' mind that if ground isn't broken I lose control of that property because it goes into 'First Right of Refusal' and the city can take the property. That was the conference call with the lender and the fear they have with moving forward with lending on this \$2.1 million-dollar loan.

Mr. Vecchio stated with the motion that is there the motion would have to be to commit or refer to committee. At that point, would be the Finance Committee and another legislative action needed to pull out of committee and send to the law director.

Mr. Orcutt rescinded his motion to send back to the law department for inclusion of safety stipulations.

Motion by Mr. Scott, supported by Mr. Poindexter, that Ordinance No. 11027-2018, has had its First Reading.

ROLL CALL: AYES: Scott, Stemm, Mencini, Orcutt, Burgio

NAYS: Salvatore

ABSTENTION: Poindexter. The motion carried with a vote of 5-1 with 1 abstention.

Mr. Scott asked Mr. Adams to expedite a phone call to them?

Mr. Vecchio stated Ord. No. 11027-2018, has had its' First Reading.

Mr. Adams responded after the meeting I will be contacting their broker to get going on this first thing in the morning. I understand Council's concerns and support those concerns but we have to be aware of their financing. We will have to come up with a device that will work and do what Council wants it to do, other than just showing up in the legislation itself.

SECOND READING OF ORDINANCES AND RESOLUTIONS:

1. ORDINANCE NO. 11025-2018, ENACTING CHAPTER 1122 OF THE BROOK PARK CODIFIED ORDINANCES ENTITLED 'SHORT TERM LEASES' Introduced by Councilman Mencini

Motion by Mr. Salvatore, supported by Mr. Orcutt, to suspend.

ROLL CALL: AYES: Salvatore, Orcutt, Burgio, Scott, Poindexter, Mencini, Stemm
NAYS: None. The motion carried.

Motion by Mr. Mencini, supported by Mr. Stemm, to adopt.

ROLL CALL: AYES: Mencini, Stemm, Poindexter, Salvatore, Scott, Burgio, Orcutt
NAYS: None. Ordinance No. 11025-2018, has had passed under Suspension of the Rules. Adopted.

THIRD READING OF ORDINANCES AND RESOLUTIONS:

Mr. Salvatore complimented Mr. Orcutt on the recent Ward 3 picnic, that was very well attended and also being asked to lead the Cancer Walk through some streets in Ward 3.

Mr. Orcutt thanked Mr. Salvatore for leading the Cancer Walk.

There being no further business to come before this meeting a **motion** by Mr. Salvatore, supported by Mr. Burgio, to adjourn.

ROLL CALL: AYES: Salvatore, Burgio, Scott, Orcutt, Stemm, Mencini, Poindexter
NAYS: None. The motion carried.

Council President Vecchio declared this meeting adjourned at 9:35 p.m.

RESPECTFULLY SUBMITTED Michelle Blazak
Michelle Blazak
Clerk of Council

APPROVED July 17, 2018

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

8,405 words