

**SPECIAL COUNCIL MEETING
OF THE COUNCIL OF THE CITY BROOK PARK
HELD ON SATURDAY, JUNE 23, 2018**

The meeting was called to order by Council President Vecchio at 8:30 a.m., who read the meeting notice. 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 and Economic Development Commissioner Adams.

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

Jim Astorino

6258 Engle Road

Mr. Astorino supports the legislation on the agenda that would be good for Brook Park and the company to come in. A few concerns I have is with the legislation posted under First Reading is not what was posted for this meeting. My question is how did the legislation gets changed and who made the change? The legislation posted for this agenda has the law director's approval as to legal form and correctness. I'm wondering how that happened mainly because of my term of office as Council President there were many uproars with changing legislation. The legislation changed previously was something introduced into committee and never made to the Council floor. This legislation actually had its First Reading and posted to the public as changed legislation, it's different legislation and identified as the same ordinance. The motion at the last meeting held earlier this week that the legislation had its First Reading, no changes were made. Council has been discussing this legislation, for over a month, the different changes, stipulations and restrictions that Council wants to put in there. No motions were made or nothing passed by Council for any changes, yet the ordinance posted for public review has changes to it. I support the legislation as originally proposed and have listened to the restrictions Council wants to have put in the 'Whereas'. I question I would have to the Finance Director, who is not here, by putting those restrictions in this company does not perform, the city has to come up with money. Whether or not that encumbers the funds from the sale because if Council is saying for the next 24 months this company must do something otherwise the city will buy the property back. Is that money tied-up for the next 24 months because if the company fails to perform and the city is going to buyback the property the monies have to be there for that? So with the restrictions being put on do they restrict the funds that are there? Mr. Astorino doesn't think the changes are necessary and understands Council's concerns but when selling property, property is sold and

Remarks from the audience on subject matter on this agenda only: cont.

someone buying it what happens if he turns around and sells it. What happens if the company doesn't do anything? How is the company going to sell the property because if he can purchase this property to turn around and sell for more money. The city should have been selling this property for the last 16 or 17 years if it's that marketable of property; this property sat empty with no movement or offers. Some of the explanation I heard is that this will bring in close to \$380,000 to the city but is it just going to bring it in and the Finance Director then say no. We can't spend that money because until the city is free and clear of that. Mr. Astorino commented because we learned this in the last two years when resolutions are made, those resolutions being made are being put in the 'Whereas'. We learned through previous legislation that the 'Whereas' language isn't legally binding so if Council is going to make these amendments. My suggestion is to put them in the sections following Therefore, not be in resolved. In the past the 'Whereas' obligations have not been met and Councilmembers were told that the 'Whereas' are not legally binding and just suggestions. One concern I have is not being properly posted the Charter requires that and can't be done based on intention, Council must be very technical with what you do. This posting is posted in a manner in violation with the Charter and if this is a proper meeting. Procedures need to be followed and I don't think they're being followed and have concerns with that.

SECOND READING OF ORDINANCES AND RESOLUTIONS:

1. 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. Salvatore commented I'm glad to see a few amendments made and think they are important amendments and brought them up for the specific reason you learn by your mistakes. Looking at selling a piece of property I'm not changing my position, still not in favor, of selling this parcel for this amount of money; for the amount of income the city receives. I am in favor of the company coming to Brook Park and think they are a great company, I just don't particularly like the way this is but do like the proposed amendments. I think the Performance Clause and 'Right of First Refusal' are very important, in fact, think the city is being a little generous in giving them two years; I would really like to see that to be completed quicker than two years. As for putting that money aside and 'earmarking' to purchase this back I don't think that's necessary but I'm sure Council will do their there will be some safeguards in there and Council will do their due diligence to make sure funds become available in the event of buying the property back;

Second Reading of Ordinances and Resolutions: cont.

Council will be prepared to do that's the case. As far as the postings I asked for those clauses to be in there and the law director was directed by Council to come up with the language for today's meeting, so I don't see anything wrong with that either.

Mr. Scott deferred to Law Director Horvath are these 'Whereas' properly positioned in the legislation?

Mrs. Horvath responded generally 'Whereas' clauses are not considered the operative part of legislation. In other words, it's the sections that are put in the codified not the 'Whereas'. Having said that I would say that, I believe, the two 'Whereas' that were submitted along with the letter of intent. Are appropriate for this matter and certainly gives the Administration direction on how Council wants the contract to be negotiated. I would also note that it's the Mayor's job pursuant to City Charter section 3.03 to negotiate and execute the sale of this property. These two 'Whereas' clauses certainly provide the Mayor direction as to what Council's intention would be. Pursuant to 133.011 (Codified Ordinances) entitled Real Estate Transactions the law director is required to be present at the negotiation and execution of all agreements made by the city with regard to real property. So I think those two 'Whereas' give the Administration direction as to what needs to be in the contract.

Mr. Scott commented nothing is perfect in this world but is this is a good movement? Yes, this is something, I believe, the city needs to move forward and originally was 50/50 on this but am in full support of this now. Council should move forward on this to get it done, to hopefully open the path to more improvements in that area (Brookpark Road).

Mr. Mencini stated my name is attached to this legislation and there was a time in the last two years Council did some grants that people had questions on including myself a little bit. One of the things that I do know is when doing any sale there is nothing perfect and this (property) has been around for 17 years and is the city's property. Do we want to give it away, we don't want to give it away but Council worked hard, studied and covered every base to cover for this. I don't like giving anything away and with this company coming to the city they are well represented and a company on the rise; they deal with fantastic businesses. Would I like to see 200, 300 or 400 people, absolutely, that would be perfect but it's not there. What this company will bring is a lot of good employees with them, good companies doing business with them. They're getting a piece of property right off I-480 and by the airport and can advertise their wares. It's a beautiful building and it's progress that the city has to have on Brookpark Road because there hasn't been a real lot besides car dealerships going over there. I will stand by backing

Second Reading of Ordinances and Resolutions: cont.

this legislation and the next one if just as valid. The other aspect as I stated a previous Council meeting, if there is a recession or something happens it's going to be a whole new ballgame. If we keep delaying other businesses will look at this also and say Brook Park is tough to get through over there and move to Engle Road in Middleburg Hts. or Avon Lake and we don't want that. I always said with those grants we want to welcome businesses to Brook Park, we have to be careful, but welcome businesses to Brook Park.

Mr. Stemm stated I also support this legislation going forward, under Section 1 I think we're okay with the Mayor authorizing the negotiation at the table. Council entrusts him with that decision making for the best interest of the city.

Mr. Poindexter stated I've stated before and will state again, I'm in full support of this legislation and think this should have been done a couple of weeks ago. My only concern is with the issue raised by the resident about proper posting and deferred to Law Director Horvath. If there is anything inappropriate with this meeting and this legislation for this meeting?

Mrs. Horvath responded in looking at what was posted with the notice. It does appear that this is the modified ordinance includes the two 'Whereas' in, the original ordinance presented at the last meeting should have been attached. That may very well be an issue, unfortunately, it looks like the wrong piece of legislation was posted. How do we handle that, obviously, this is more than a resolution or something is at the minor of what Council would do. At the major end this is a sale of real estate and we worry about title and making sure that everything was proper and appropriate. With regards to real estate sales and transactions and I would not want this to come back and haunt the city at a later date. It does appear the wrong piece of legislation was posted, fortunately, we're here today discussing the circumstances of this sale and have another meeting on Tuesday, June 26th.

Mr. Vecchio interjected Madam, Law Director, there is no meeting on June 26th.

Mrs. Horvath thanked Mr. Vecchio for the correction and stated that was on my calendar and not removed. Council may need to do a mulligan to make sure there are no issues that someone can bring forward; perhaps initiate a taxpayer action that would cause the city problems. Do I think that would happen? No, but there is the possibility of that happening and we need to guard against that. I think it's imperative to have more meetings for this sale of real estate that we guard against any possible issues.

Second Reading of Ordinances and Resolutions: cont.

Mr. Poindexter stated I think that ties our hands and wouldn't want to go against the recommendation of the law director to move forward until proper.

Mr. Salvatore stated I wasn't planning on suspending this evening and questioned how did the wrong piece get posted?

Mr. Vecchio stated the legislation piece posted was sent over to the Council office and posted.

The clerk clarified if Council is working off the original piece then amendments need to be made to reflect the changes.

Mr. Vecchio concurred.

The clerk clarified to Mrs. Horvath since the legislation was posted incorrectly, the first piece of legislation that appeared under First Reading should be amended to reflect these changes, correct?

Mrs. Horvath responded that is certainly something that Council could do and feel that the original piece that had First Reading should have been attached to the notice. The second piece was sent over to assist Council as to what the law department thought would be the proper amendments. Somehow that piece was posted rather than the other legislation. The suggestion is Council could make the amendments now or at a subsequent meeting.

Mr. Mencini feels the motions should be made today, since we're here, so we're ready to go for the next meeting.

Mr. Salvatore stated what I'm reading is the real changes were made to the letter of intent attachment.

Mrs. Horvath concurred.

Mr. Salvatore continued how is Council going to amend someone else's signature and amend an attachment?

Mr. Mencini clarified it's the two 'Whereas'.

Mr. Salvatore commented the legislation will need to match the letter of intent. So the 'Whereas' are going to have to be amended, Council can't change the letter of intent. It's not binding but that's what the company intends to do, correct? The legislation must mirror indicating Council wants those amendments in the

legislation and directing the Mayor to see to it when the contract is drafted in final form, the amendments appear.

Mrs. Horvath concurred but it's my understanding that the letter of intent is consistent with the two 'Whereas', so there isn't any discrepancy.

Mr. Salvatore stated there is a new letter of intent with the proposed amendments included.

Mrs. Horvath concurred.

Mr. Vecchio stated the second last page match the 'Whereas' match the proposed amendments listed there for the ordinance also matching the fifth and sixth 'Whereas' in the legislation.

Mr. Salvatore stated that's not how the original legislation was, so this legislation has to be amended to match the letter of intent in order to get to the final document, the contract.

Mrs. Horvath concurred.

Mr. Mencini asked if the two 'Whereas' have to be read.

Mrs. Horvath responded yes.

Motion by Mr. Mencini, supported by Mr. Poindexter, to make the proper amendments.

Mr. Mencini clarified the two 'Whereas' include the Right of Refusal and Performance clause.

The clerk read the two 'Whereas' as amended into the record.

The clerk called the roll on the amendments.

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

Mr. Poindexter stated to Mrs. Horvath, now that the legislation has been amended is there any issue with moving forward with this today or does it have to be moved to another meeting.

Second Reading of Ordinances and Resolutions: cont.

Mrs. Horvath suggested that this respectfully be moved to another meeting because it is real estate. There is nothing more serious that Council other than the buying and selling of real estate. Based on the fact that the wrong legislation was posted I think it would be best to take care of business at another meeting with proper posting.

Mr. Salvatore stated one final point I would like to Council to consider, moving forward, when the legislation gets to final reading. If Council would consider changing the 24 months to 12 months. I've heard a lot of dialogue saying that this property sat dormant for 17 years and Council is adding a clause of the possibility of sitting dormant for two more years. I don't think it sat dormant for 17 years because there was no active movement from any previous administration to get this property sold. There was a different intent at the time and that hasn't changed and think 24 months is way too long to wait if Council is going to pass this.

Mr. Scott stated if I'm not mistaken, the company said they were going to break ground April of next year; don't think it's necessary to change that. 24 months or not I'm all for this.

Mayor Gammella stated under the circumstances and the way we've gone back and forth with this company. I think any change in that would not be a good thing for the city and think we should keep it at the 24 months. Again, that property has been vacant for 17 years and believe this company has every intention of coming into the city. If Council restricts them to 12 months that could mess with their financing and things of that nature, just keep it at 24 months.

Mr. Poindexter stated Mr. Robinson addressed that when making his presentation by making it clear to us that he is not a real estate broker and doesn't buy properties; he fixes up trucks with equipment. I think we should have our next meeting to move forward to let the company do what they do.

Mr. Burgio clarified I thought they said they would be breaking ground between November and April but as early as November.

Mr. Vecchio concurred and stated that is what Mr. Robinson said during his presentation. He said he would like the footers in by November, if possible.

Mr. Vecchio stated that Ordinance No. 11027-2018 has had its Second Reading.

Mayor Gammella asked if another meeting will be scheduled.


After discussion amongst Councilmembers about a special meeting, Mr. Vecchio polled Council and the consensus was Tuesday, June 26th at 7:00 p.m.

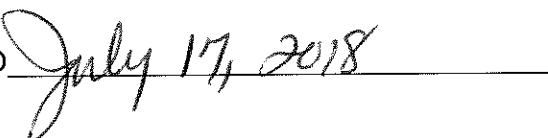
There being no further business to come before this meeting a **motion** by Mr. Scott, supported by Mr. Orcutt, to adjourn.

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

NAYS: None. The motion carried.

Council President Vecchio declared this meeting adjourned at 7:32 p.m.

RESPECTFULLY SUBMITTED 
Michelle Blazak
Clerk of Council

APPROVED 

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

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