

**ITEMS TO BE CONSIDERED  
AT THE CAUCUS PRIOR TO THE COUNCIL MEETING  
TO BE HELD ON TUESDAY, MARCH 5, 2019**

The meeting was called to order by Council President Vecchio at 7:00 p.m., the clerk called the roll and the following Members of Council answered:

**SCOTT, BURGIO, ORCUTT, STEMM, MENCINI, POINDEXTER**

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

Councilman Salvatore was properly excused.  
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**FINANCE COMMITTEE - CHAIRMAN, SCOTT:**

1. AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A CHANGE ORDER BETWEEN BREWER-GARRETT COMPANY AND THE CITY OF BROOK PARK TO CHANGE PLANS IN THE COUNCIL CHAMBERS/COURT AREA AND THE TAX DEPARTMENT IN THE JOHN A POLOYNE COMMUNITY CENTER AND DECLARING AN EMERGENCY. Introduced by Mayor Gammella.

Mayor Gammella stated work was done in the court and the tax department and referred to Finance Director Cingle.

Mr. Cingle stated this work was done last year and was not incorporated in the Ordinance approved in March, 2018 for approximately \$110,000 and after researching found out this was not included in that \$110,000 scope of work. The reason why this Ordinance doesn't read \$23,780 that was proposed in the February 1<sup>st</sup> letter received from Brewer-Garrett outlining the scope of the work. Is because the \$110,000 work done in 2018 came in less so the difference between what was actually spent and what was approved by Council with \$90,000 being spent; the difference between the \$12,470 and total cost of the project is \$23,780 that will be paid from the monies not paid from the \$110,000 legislation. This is work that was done and budgeted in the 2019 budget coming forward.

Mr. Stemm to Mr. Cingle clarified this comes out of the 2019 budget?

Mr. Cingle concurred.

Mr. Mencini stated to Mr. Cingle were these add-ons and not included in the original project? When speaking with Brewer-Garrett is there anything other

**Finance committee - Chairman, Scott: cont.**

change order that might come up later?

Mr. Cingle responded to my knowledge there are no outstanding invoices, this work was not part of the original contract and not part of the ordinance last year. There is a little bit of monies left over from the improvements made last year within that \$110,000 allotment that Council approved so the balance will be paid through this legislation and all outstanding invoices that are part of this project.

Mr. Orcutt stated to Mayor Gammella going back to last year's change order that was for the wall in the tax department for security of documents, the wall mirrors removed to have the ramp installed and drywall as part of that renovation. Then the Clerk of Courts area moved to the back office of the for the amount of \$110,000.

Mayor Gammella concurred.

Mr. Orcutt asked if the work ran over by \$12,470, what is the reason Brewer-Garrett is coming back to the city for that amount?

Mayor Gammella responded obviously, the work ran over.

Mr. Orcutt continued but it was stated that the work ran under and not putting this on the administration. What I'm doing is making sure that Brewer-Garrett when bringing a bid for \$110,000 and then tells the city they didn't use that \$110,000 but wants \$12,000. I'm not understanding and need clarification.

Mr. Cingle responded the \$110,000 ordinance Council approved last year was mainly for renovations to the court area along with the wall in the tax department. The legislation in front of Council now is to pay for the south wall improvements by removing the mirrors and to laminate the existing south wall etc. That cost was \$23,780 that is an outstanding invoice to Brewer-Garrett. The ordinance that Council passed last year for the renovations to the court and tax department the total cost was less than \$110,000, approximately \$100,000 or a little less. There is still a balance left on that purchase order to be used plus the amount included in this ordinance to pay the outstanding invoice of \$23,780.

Mr. Orcutt clarified the work for \$23,780 is completely different from the floor and other things from last March.

Mr. Cingle concurred.

**Finance committee - Chairman, Scott: cont.**

Mr. Stemm stated to Mr. Cingle this money surplus is getting reallocated to this debt.

Mr. Cingle concurred.

Mr. Orcutt asked when did this change order for the wall come up?

Mayor Gammella responded the city has been negotiating with Brewer-Garrett for quite some time, not sure of the exact date.

Mr. Orcutt continued in 2018?

Mayor Gammella concurred.

Mr. Orcutt commented had nothing to do with the change order with the floor, clerk of courts area this is completely separate.

Mayor Gammella responded this is the wall of the community center where the ramp currently is and the tax department wall.

Mr. Mencini stated to Mr. Hurst that as building commissioner you have overseen this project from the beginning. A few things, my understanding, is that monies weren't appropriated for light switches and so forth. The work started in 2017 when a lot of the improvements were done.

Mr. Hurst responded the change for this wall didn't happen until 2018 and was not in the original proposal, design or change order for the new door and hardwood floor. The change came after that when it was realized that there would be a new community room and the 1970's brick, mirrors and balance beams to change the entire section happened in 2018.

Mr. Mencini asked where did the extra monies come from for little extra things i.e. wall sockets and things of that sort? Why didn't Brewer-Garrett bring this change order?

Mr. Hurst responded I don't have the answer for why Brewer-Garrett didn't bring it and am not sure what wall sockets are being talked about.

Mr. Mencini stated in the original plan things like that weren't covered and just wonder who was the person to follow up on some of these things.

Mr. Hurst commented I don't know whether the change order is something that slipped through the cracks either on Brewer-Garrett's end or something

**Finance committee - Chairman, Scott: cont.**

was sent and not picked up but this area was not part of the original change order for the new entrance and floor; nor was it part of the original contract.

Mr. Orcutt stated to Law Director Horvath when the city has a project with a cost of \$5 million dollars+ that was passed for the performance contract. With that change order within that project should there have been some type of Councilmatic action prior to paying this bill, after the work was complete?

Mrs. Horvath responded I view this as true change order and think that after the work began and probably with the change of administrations from 2017 to 2018. There were certain redesign requests made and initially the city had a contract and for some reason things were changed. I seem to remember that there was some sensitivity to the idea of this chamber being used for both Mayor's Court and Recreation Center. I'm not sure if some of these changes relate to making sure that this room could be used for both and do it safely. At some point in time things changed and certainly it would be good to do this contemporaneous with the changes but there is a lot of work that was done with additional labor and materials that were expended on this room, this also takes into account that the city has a little surplus too with this change order.

Mr. Cingle concurred with Mrs. Horvath's statements this is simply work, quite frankly, slipped through the cracks and this proposal should have been added to the \$110,000 ordinance Council approved last year. The city found out about it in late January and Brewer-Garrett removed the mirrors from the south wall and made the necessary improvements and will be properly budgeted for this year and paid in the near future.

**Motion** by Mr. Mencini, supported by Mr. Poindexter, to place on the Council agenda immediately following.

**ROLL CALLS: AYES:** Mencini, Poindexter, Stemm, Burgio, Scott

**NAYS:** Orcutt. The motion carried 5-1.

Mr. Vecchio stated that will appear under M-1 as Ordinance No. 11064-2019.  
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**LEGISLATIVE COMMITTEE - CHAIRMAN, MENCINI:**

1. AN ORDINANCE AMENDING CHAPTER 1333 OF THE BROOK PARK CODIFIED ORDINANCES ENTITLED 'SWIMMING POOLS' AND DECLARING AN EMERGENCY. Introduced by Mayor Gammella.

Mr. Hurst stated language has been cleaned up to define what a pool is, what the different types of pools are and reduced the distance off of the property rear and sidelines for pools. Based on the continued variance requests the department gets for pools every year. In 15 years the Board of Zoning Appeals has never turned down a variance for a pool and if someone comes for a pool variance the department has set a precedence that the city can't deny them; the number has been taken down to five-feet (5') instead of 10'. Hoping that the department can avoid all the trips to the Board of Zoning Appeals an extra \$50.00 for the residents and extra month and a half to get a pool. In most backyards if residents can't get a pool in their backyards with that criteria then the resident is looking to install too big of a pool. So if someone comes and wants a pool variance and want to be two-feet (2') from their fence line the board has a reason to say why? A 27' pool won't fit in the backyard but a 24' pool and the ordinance will be met, there is no hardship to the residents unless they want a massive pool This will help the residents by making it easier and less cumbersome and obviously cleans up the language by identifying what the city is looking for.

Mr. Mencini asked Mr. Hurst if this legislation was cleaned up because of possible state law or has the city received complaints?

Mr. Hurst responded no, it's more about someone going to buy a pool in May and doesn't get approval from the city until possibly the middle of June, the pool is installed in July and closed by the first part of September. As this stands currently if someone came to the city requesting a pool variance the city has a hard time denying that request because the precedence is set; hopefully nobody will need a variance because the five-foot (5') allows people on Remora or Pike room to have a pool in the backyard; it may not be 27' but it's a pool to be enjoyed.

Mr. Orcutt stated to Mr. Hurst this is updating the ordinance by adding 'vinyl' for those pools.

Mr. Hurst responded yes, the word 'vinyl' was added because there are some people think that is not a pool; in the original and this legislation vinyl pools are defined a pool. The pool definition is anything two-feet (2') deep or more and/or a 3 by 5 square-feet of water area, either one, a two by twelve is still considered a pool.

**Legislative Committee - Chairman, Mencini: cont.**

Mr. Orcutt continued now that the word vinyl is being added if anyone has an existing vinyl pool in their yard are they grandfathered in? Do they need to register with the building department?

Mr. Hurst responded if there wasn't an original permit for the pool they are in violation of the original ordinance. It's not the city's position to find pools located in backyards. If there is a problem with a pool and there is no permit it will be addressed, if the city sees the pool there is not much choice.

Mr. Vecchio clarified to Mr. Hurst with the vinyl pools people consider them not permanent and they are now included; i.e. blow up ring pools, vinyl pools that can be taken down at the end of the year are now included.

Mr. Hurst clarified those types of pools were always included, if there was 365 square feet of water or two-feet (2') deep or more it was a pool. The misconception was people thought they weren't pools because they can be purchased from the store and are a bigger headache than most permanent pools because they don't have a filtration system, the department gets more calls on green pools and mosquitoes. As long as people keep abide by the ordinance and keep them clean they should enjoy their pools.

Mr. Poindexter asked Mr. Hurst to speak on the changes to the permit fees.

Mr. Hurst responded the permit fees were changed years ago in the department's permit and building fee schedules but never changed in the ordinance that is in the book; those fees have not changed in the last five years.

Mr. Mencini clarified with those vinyl pools people must follow the ordinance?

Mr. Hurst responded if the pool is two-feet deep (2') or more or has a surface area of 300 square-feet of surface area it is considered a pool and residents must follow the entire ordinance. The only change is how close people can go to their back and side lines.

**Motion** by Mr. Scott, supported by Mr. Poindexter, to place on the Council agenda immediately following.

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

**NAYS:** None. The motion carried.

Mr. Vecchio stated that will appear under M-2 as Ordinance No. 11065-2019.

**Legislative Committee - Chairman, Mencini: cont.**

2. AN ORDINANCE AMENDING ORDINANCE NO. 10094-2017, AUTHORIZING THE MAYOR TO ACCEPT ADDITIONAL FUNDS UP TO \$248,000.00 IN ENVIRONMENTAL GRANT FUNDS FROM THE STATE OF OHIO DEPARTMENT OF DEVELOPMENT SERVICES AGENCY, OFFIC OF COMMUNITY DEVELOPMENT AND/OR THE STATE OF OHIO BUREAU OF UNDERGROUND STORAGE TANK REMOVAL (BUSTR) TO PERFORM AN ENVIRONMENTAL IMPACT STUDY AND/OR TO FACILITATE AND ADMINISTER THE ENVIRONMENTAL REMEDIATION OF THE PROPERTY KNOWN AS 6286 ENGLE ROAD, PPN 342-09-011 AND TO TAKE ALL FURTHER NECESSARY ACTION TO REMEDIATE THE PROPERTY AND DECLARING AN EMERGENCY. Introduced by Mayor Gammella.

**Scott Adams  
Economic Development Commissioner**

Mr. Adams provided a brief explanation by saying that this legislation is an amendment from the original amount of \$99,500 to \$248,000 pass-through grant from the Ohio Department of Development for removal of (underground) tanks.

**Jason Grecco  
BJaam Environmental  
472 Elmridge Avenue  
Canal Fulton, OH**

Mr. Grecco stated in June, 2017 BJaam Environmental partnered with the City of Brook Park and the private owner of 6286 Engle Road to apply for an abandonment gas station grant; to assess property for soil and groundwater contamination, initial grant amount was \$100,000. Approximately \$41,000 was spent to assess that property and determine what was necessary for remediation of the site. In September, 2018 a mediation grant was written and approved in partnership with the City of Brook Park and mediation has started on the property. BJaam is in the process of performing more soil and groundwater testing and requesting additional funds. Project reports are provided to Mr. Adams and after approval from the city the reports are provided to the Ohio Department Development Services (ODSA) agency who release the funds to the city for payment of invoices, that include all sub-contractors at zero-percent (0%) markup. At this time BJaam is trying to get additional funds that have already been approved at the state level, but not at the city level, to continue cleanup. BJaam would like to see this property completely remediated and approved by the Bureau of Underground Storage Tanks regulations for redevelopment.

**Questions:**

Mr. Mencini stated the site was a gas station from 1973-1983.

Mr. Grecco concurred.

Mr. Orcutt stated once the work is complete and signed off by the city this land will be free and clear of any toxic waste and the city should have no other problems.

Mr. Grecco responded the property will be granted a no further action by the Bureau of Underground Storage Tank regulations but also goes through what is called a voluntary action program. Essentially, the property will be free and clear to be utilized for whatever future development use.

Mr. Poindexter stated with the fourth 'Whereas' it states the city will accept the \$248,000 grant but has to pay the same amount. Does that come from the city or from the private owner?

Mr. Grecco responded all the funds flow through the city; the grant pays 100% of the activity flowing through the city with approval of progress reports. If there are additional funds needed BJaam would apply for additional funds to the state up to \$500,000; our contract with the city states that all activities are only paid for by reimbursement from ODSA.

Mr. Mencini asked if BJaam did the soil and other work that was done in 2017 and 2018?

Mr. Grecco responded yes, soil excavation was done in 2018 with 885 tons of soil removed. At this time post evaluation of the groundwater is being done to make sure the groundwater has met the acceptable levels, that could continue for up to ten months in 2019. BJaam will follow all state requirements to reach the goals so there is no future liability on that property for the city and owner.

Mr. Mencini stated what if it's down further from the testing parameters what would be done?

Mr. Grecco responded from a scientific approach, most likely, since the soil has been removed there would be an injection of oxygen reactive compounds or peroxide sulfate; something that would mitigate the ground levels. The grant will pay for all of those and would go through those procedures to get approved at the state level. I don't foresee that at this point but worse case BJaam would look at additional remediation called In-Situ Technology. That

**Legislative Committee - Chairman, Mencini: Questions: cont.**

would be only if there are groundwater concentrations that are not reaching the goals.

Mr. Mencini asked for Mr. Grecco’s thoughts with being onsite in 2017 and 2018.

Mr. Grecco responded last Thursday good news was given to the Mayor of Tallmadge that a no further action was given for a site similar to this and owned by the city. My senses (with this project) that by the end of 2019 there will be a no further action given. What’s dangerous to say by me is post groundwater concentrations to demonstrate to the state that all remediation goals have been met with the worst case scenario of another 24 months.

**Motion** by Mr. Poindexter, supported by Mr. Orcutt, to place on the Council agenda immediately following.

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

**NAYS:** None. The motion carried.

Mr. Vecchio stated this will appear under M-3 as Ordinance No. 11066-2019

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**SERVICE COMMITTEE - CHAIRMAN, ORCUTT:**

1. A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A COOPERATIVE AGREEMENT WITH THE CITY OF MIDDLEBURG HEIGHTS FOR THE RESURFACING OF SHELDON ROAD AND DECLARING AN EMERGENCY. Introduced by Mayor Gammella.

Mr. Mencini asked Mr. Piatak is this the last piece of legislation needed?

Mr. Piatak responded there is one piece on tonight’s Council agenda and this would be the last piece to move forward for this project.

**Motion** by Mr. Poindexter, supported by Mr. Burgio, to place on the Council agenda immediately following.

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

**NAYS:** None. The motion carried.

Mr. Vecchio stated that will appear under M-4 as Resolution No. 1-2019.

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

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

Council President Vecchio declared this meeting adjourned at 7:44 p.m.

RESPECTFULLY SUBMITTED *Michelle Blazak*  
Michelle Blazak  
Clerk of Council

APPROVED *March 19, 2019*

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

3,295 words