

**SPECIAL CAUCUS MEETING
OF THE COUNCIL OF THE CITY OF BROOK PARK, OHIO
HELD ON TUESDAY, FEBRUARY 25, 2020**

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

SCOTT, SCHMUCK, ORCUTT, TROYER, MENCINI, POINDEXTER, SALVATORE

Also in attendance were Mayor Gammella, Law Director Horvath and Finance Director Cingle.

SUBJECT:

FINANCE COMMITTEE - CHAIRMAN, SCOTT:

1. ORDINANCE NO. 11140-2020, AUTHORIZING THE MAYOR TO ADVERTISE FOR REQUESTS FOR QUALIFICATIONS (RFQ) FOR GUARANTEED ENERGY PERFORMANCE CONTRACTORS FOR THE IMPLEMENTATION OF A GUARANTEED ENERGY CONSERVATION PROGRAM AND DECLARING AN EMERGENCY. Introduced by Mayor Gammella.

Mr. Orcutt stated I overlooked something from last week, in the third 'Whereas', fifth line down, lists fire station #9, is that intended for Holland Road or Ruple Parkway.

Mayor Gammella responded would like both included.

Mr. Salvatore commented the legislation is correct where it says basic police-fire headquarters covers both.

Mr. Orcutt mentioned 22530 Ruple Road is fire station #2.

Mrs. Horvath clarified the main station #1 is on Holland Road and the west end fire station is called #2. When switching to a different dispatch system everything had to be renumbered and that's how the Ruple Road fire station acquired #9. Both of the stations are listed, one in conjunction with the police station and #9 is the numeral for dispatch purposes.

Mr. Vecchio mentioned the Ruple Road fire station is now considered #2 and for clarity number #9 should be changed to #2.

Mrs. Horvath concurred, and possibly the easiest way is to designate the fire station on Ruple Road, then the number wouldn't matter.

Finance Committee - Chairman, Scott: cont.

Mr. Scott stated for clarity list as Ruple Road fire station.

Mr. Orcutt mentioned an amendment would be needed for Section 1, second line, to amend to Ruple Road fire station.

Motion by Mr. Orcutt, to amend third 'Whereas' and Section 1 by deleting fire station #9 and insert Ruple Road fire station.

Mr. Salvatore commented this is a workshop and any amendments will have to be made on the Council floor.

Mr. Poindexter asked for a poll of Council to make sure everyone is on board with the change of the Ruple Road fire station.

Mr. Troyer - Point of clarification. The Council rules state that amendments are appropriate at any time.

Mr. Salvatore commented the legislation is under discussion and appeared on a Council agenda for first reading. To make it official I think it should be amended at a Council meeting.

Mr. Scott asked the clerk to **poll Council** to change the name of fire station #9 to Ruple Road fire station.

Clerk - Orcutt - yes, Schmuck - yes, Scott - yes, Salvatore - yes, Poindexter - yes, Mencini - Yes and Troyer - yes.

Mr. Orcutt stated on page two, section one, it reads 'through energy efficiency solutions for fleet acquisitions, fleet fuels sourcing and street lighting. Mr. Orcutt asked Mayor Gammella to elaborate on what type of fleet acquisitions, is the city planning on getting new vehicles?

Mayor Gammella responded the city will need new vehicles and the acquisition would be an ongoing program with every two, three or four years, being a turnover. This will be up to the representatives bringing the RFQ's forward with recommendations and show the cost-savings. At that point, want to make this clear, this Council will make the determination on what RFQ the city goes with.

Mr. Orcutt continued to Mr. Scott were you able to get an answer to who will be writing the RFQ?

Mr. Scott responded never followed through with that question.

Finance Committee - Chairman, Scott: cont.

Mayor Gammella mentioned this is a hotly-debated subject and after speaking with some people, including the law director. I think we should seek outside counsel on this and need a top-shelf legal firm to do that. My personal recommendation would be Squires (Patton-Boggs) law firm. Have this legal firm write up the RFQ's with Council's approval to bring back to Council for review and make the final determinations; then move forward if Council would like but Council is not under any obligation to do this.

Mr. Mencini commented one thing I wanted to say on this is when discussing with my colleagues on certain parts Council will have a say on this. As the Mayor said when all said and done Council will have a say on this. This legislation includes fuel, street lighting and this building. There is also a budget coming up and am very interested to see what's going to be with the budget, hopefully, streets and departmental needs. I would like to see us move ahead on this but don't agree with everything currently. This is for RFQ's only and then a decision can be made at that time.

Mr. Troyer stated an amendment would be needed in the third 'Whereas' by deleting House Bill 420 that changed state-level legislation; the part changed was barely a page in Ohio Revised Code (ORC) 717.02. A short synopsis of the change reads 'establishes statutory competitive bidding and request for proposal (RFP) procedures that a municipal corporation can follow to implement energy conservation measures, in lieu of following procedures set forth in Charter, Ordinances or other existing authority. ORC 717.02 used to be for schools so this amendment makes it now available for municipalities. With what I just read takes away the necessity to go out to bid, in turn, relies on Council to make the decisions moving forward. The next bullet point requires RFP proposals from at least three vendors. The third Whereas instead of reading House Bill 420 should be changed to ORC 717.02. Also, in 717.02 under letter c reads a municipal corporation desiring to implement energy conservation measures may proceed under any of the following methods and lists a, b and c. I would need to know which one of these procedures will be followed because it makes a difference. One procedure allows the city to go out for public bidding with the same benefits and not going against the city's credit; plus other positive things i.e. energy savings and so forth. In my opinion, that should be stated in the legislation which one of these processes will be used.

Mr. Vecchio interjected with the outside legal firm that was talked about having they would handle that portion to provide clarity. Then put into correctness as to what the legal firm says as to what the city is looking for.

Mr. Troyer continued the attorneys will have their say and any of the following methods can be followed; letter a is to go by the bidding process usually used. If using that process then all legislative parts go away, basically, it comes back to the

Finance Committee - Chairman, Scott: cont.

engineer or someone coming up with a scope of the project. Then coming to Council to be sent out for public bidding and then brought back to Council of what those bids were and make a decision. There are three different versions and how does someone vote on something if the procedure is not known. What the legislative branch gets to do is different with the a, b and c processes used.

Mr. Poindexter stated this is step one seeking qualifications from companies giving proposals. This is not binding Council to anybody or anything so, in my opinion, there is no need to have all that laid-out at this point. This is to see what is feasible, affordable and what the city can do. Referencing ORC 717.02 it clearly states in Section C1 that reads a municipal corporation desiring to implement energy conservations measures may proceed under any of the following methods. Letter A says procure the conservation measures in any manner authorized by the municipal corporation's Charter, Ordinances or any other existing authority. This can be done through the bidding process, through the energy conservation or any process under ORC 717.02. Again, the city doesn't have to get to that point now because the city is only seeking qualifications and thinks it would be good to move forward on getting those qualifications.

Mrs. Horvath stated while the language is a little different and looks different the reality is the RFP process referred to in ORC 717.02 isn't different from what the city is used to. Reading through the ORC section it states over and over the words legislative authority but the reality is even though there is no mention of the administration or Mayor; it's unclear in that particular section what the administration's role is. Obviously, it's the same as the Charter section for bidding and using a statutory process because a lot of the elements of the processes have to be delegated by the administration; whether doing the ordinary bidding process something in the Charter or some sort of combination. The way the Council functions is many of these task have to be delegated to the administration. For example, it would be impractical to say that the legislative authority should sit in open meetings and develop an RFP or RFQ and spend the time it would take to have something that would be appropriate to give vendors an idea of what is wanted. I think the Mayor's suggestion to go out and retain someone who is a procurement specialist to help with drafting, not only saves time but is the first step. Mr. Poindexter is correct with the city getting the RFP or RFQ drafted, whatever it is called, and going through the needed steps to complete this. There will be more delegation of tasks and duties to the administration because that's how it is with the bidding process, under Charter and exists for a reason. This is very difficult for Council, for seven people, to perform some of these tasks and when talking about this it is done in a meeting format. The other important piece would be the scoring and thinks the scoring that should also go through the administration to be delegated to an independent party, similar to the way the RFP or RFQ would be. In order for them to come back and say as professionals we've looked at this and here

Finance Committee - Chairman, Scott: cont.

is how we scored it. Council can move forward with vendors coming before you for questions-answers and look at this process to make your determination, as the legislative authority. The steps may look different but really aren't because going along legislation will be drafted allowing the Mayor to accomplish these items; to get to the point of picking whichever vendor.

Mr. Salvatore thanked everyone for getting to this meeting, last week was out of character for some of us and a little heated. Maybe sometimes we need to get to that point of what is hoped to be accomplished. Having this meeting tonight there are questions on the table that will get answers to move in the direction to get where we want to be.

Mr. Troyer thanked Mrs. Horvath for her opinion and stated if proceeding in the way discussed I will be a no again for some of the same reasons with voting a few years ago, it's improper. Reading 717.02 a, b and c are not the same and the part that Councilman Poindexter read, I was going to read, before being interrupted by the Council President. My point is letter a allows us to do it the way it's usually done, it still would be the energy-savings part and wouldn't go against the city's credit. The other ways the procedures need to be followed within 717.02, method C1B requires you to do overall letter b, there are lot of letters and numbers in this. The purpose of evaluating buildings owned by a municipal corporation for energy conservation measures. A legislative authority of a municipal corporation may contract with an architect, professional engineer, energy services company, contractor or other persons experienced in the design and implementation of energy conservation measures for an energy conservation report. The report shall include analysis of energy needs of building; estimates of cost; recommended insulations and estimates in the amount. Things have to be done differently. Letter C1A this would be done by an open bidding process that the city already used. A, B and C have to be followed you can't mix them by taking parts, the simplest is letter A. I'm only one vote and will vote for doing this correct not, for doing it wrong.

Mr. Vecchio clarified this is an RFQ with the city looking to find out what companies, by sending this request, are qualified to give an idea of what can be done; using energy-efficiency program under 717.02, part of House Bill 420, to see if they're qualified; we shouldn't go to letters a, b or c until after. This is to seek an outside legal firm as the Mayor mentioned, that would write the RFQ for Council. The RFQ, at this point, whether Council wants to have the safety building completely upgraded with remodeling and new HVAC (Heating, Ventilation and Air Conditioning) units; along with looking at vehicles, a maintenance program and multiple different things. Nothing is being done as a city other than asking for qualifications, there's no outlay of money or signed agreement, we're just looking to see if a company is qualified to do this. I'm not understanding the discussion of 717.02 when not being at that point and nowhere near getting to that point.

Finance Committee - Chairman, Scott: cont.

The first Whereas reads the Mayor and Council wish to perform a feasibility study to identify projects that will reduce owning and operating costs for the City of Brook Park. That falls under ORC 717.02 and House Bill 420; further outlined as being the local energy conservation act.

Mr. Troyer - Point of clarification, isn't the Council President just supposed to progress the meeting along and not have a lot of opinion, until the end.

Mr. Scott commented there were no other hands up.

Mr. Vecchio stated that was for clarification purposes for an understanding for everybody, including myself.

Mr. Poindexter stated I may have a different ORC 717.02 but it appears in section a just defines the types of projects and upgrades that can be done under the section. It seems that section b allows the legislative authority to contract an architect, engineer, energy services company, or contractor for implementation of an energy conservation measure. Section c then goes into the processes to implement that energy conservation measure. Section d is the payment methods for that process; section e is the financing for that process and section f is the debt-exemption for reporting purposes. Section c is the only item for implementation and you can do several. The previous was C2C where the process was funded because the cost of the project was outweighed by the savings, that's the method used then in theory. The very first step is to enter into a contract, eventually, with someone to develop this energy conservation report to see what can be done, this is step one; to me, it's not any more complicated than that. To Mr. Troyer what is your suggestion to be the first step?

Mr. Troyer clarified when referring to letter a, I was referring to C1A on page 3 what needs to be done. Letter a on the first page is basically definitions and letter b gets into some items that C1B and C1C use. As stated earlier the legislation needs to be changed to read 717.02 because House Bill 420 is not part of the legislation, it amended the legislation. It was a whole myriad of items that were changed, at that time, with House Bill 420. ORC 717.02 is the actual legislation being used but to proceed the ordinance needs to be worded right and would say letters a, b or c need to be picked, to know what procedure is being used. Also, RFQ's and RFP's are not the same thing, not the same thing.

Mr. Mencini clarified to Mayor Gammella with the Squires law firm are there any other law firms being looked at? A lot of cities are looking at doing this right now.

Mayor Gammella responded it is Squires, Boggs and Patton and they are the premium law firm to do something like this. Talking with other people and the law

Finance Committee - Chairman, Scott: cont.

director these are the cream of the crop and with a project of this magnitude this city deserves that. This firm has not been involved with any other recreation center in the past and is kind of giving a fresh start to move ahead.

Mr. Mencini to Mr. Troyer when going back to letters a, b or c, going back to letter a how would Council know on exactly which ones we'll go to?

Mr. Troyer responded a lot of that is up to the administration to decide. The administration wants to have more control and kind of do it like last time, never bid; that would be C1A. Council would be updated along the way and it could be put together and presented to Council and the administration wouldn't have to come back to Council for every step under C1A; on the other ones it states the legislative authority has to do this. We could, again, the committee that's supposed to be chosen, I would like to know who is on that committee, before approving something. I have no problem with the Mayor putting together that committee and Council approve because not all of Council is keen on building and those kinds of things. Council could give the administration permission to do that. Our job if we do C1B or C is to be the legislative authority and vote yes or no along the way and pick the contractor using 717.02.

Mr. Mencini concurred and commented and also believes it is the administration's job to do a lot of this to bring before Council. Don't want to touch on the last project but it seems like you have concerns of going back to that, whether right or wrong. There were 17 HVAC units put on top of the recreation center and don't think it was a wasted project at all. My point to you is I don't think we can look back at that, we need to look at this and if there are any questions talk to the administration. I'm not questioning what you're bringing up but am saying there are some things here. How would we have the answers to and the legislation should be correct but don't want to go to deep.

Mr. Scott commented this is just going around and around.

Mr. Troyer commented I don't want to rehash the past just make this right. I want to do the roof replacement, walls repaired and something done with that area, whether a pool or not. Basically what happened last time is an RFQ was put out and 18 months to two years later Council, was told this is what we're getting. There was no bid process there were books that could be looked at and this can't be done like before; in fact, it's already been done different. In 2015, when Council approved the RFQ there were no companies mentioned, there was no handouts, Council just gave the okay to see what could be found, with things happening much later. The company did a feasibility report with a lot of numbers, that we're not allowed to have, and it looks just like the past RFQ's; just smaller from the companies last time. Also, Council should have a handout from April and going through the RFQ

Finance Committee - Chairman, Scott: cont.

stage it doesn't follow 717.02. I have concerns with this and hope if the administration goes ahead and gets these attorneys to drill this down. To see what is going to happen and present in legislation form to move forward. There are too many things that don't seem right and it's not being done exactly how it was in the past, that's a plus, but it's still not following 717.02. I am not against fixing the roof, walls and doing something with that area just want to make sure it's done right.

Mrs. Horvath emphasized the law department's recommendation to have an independent professional draft the RFP or RFQ, whatever it's called. After proposals are received have an independent professional score those proposals and make Council aware of the scoring process. Perhaps that would be a little bit different than the prior process due to having an independent scoring and comparing the RFQ or RFP, that's the law department's recommendation. Also, the current legislation before Council can be amended to delegate whatever authority Council thinks is appropriate to closely align the specific procedures and requirements to be followed. This is a first step and much more of an independent analysis from previously and doesn't matter whether ORC 717.02 letters a, b or c are picked. The Council and Administration must work together with certain levels of duties delegated back and forth, irregardless of whatever procedure is decided to pursue.

Mr. Salvatore mentioned listening to all the concerns and having different conversations with the Mayor, finance & law departments and several Members of Council. I don't see anything in this legislation that has had first reading that would hinder anything people want to see going forward and making sure done properly. I think it was done properly the last time but think there were some issues that came up and as a result tied up the law and finance departments to find the answers to those problems. In order to make a sound decision the information must be in front of us. Hire the professionals to come in to lay it out, provide options and be prepared to analyze the data coming forward from different companies, is something that needs to be done. There will be some costs in bringing a firm to do this but I'm sure it won't exceed the work that was done by those two departments after the fact.

Mr. Troyer mentioned not once does ORC 717.02 mention RFQ's.

Mr. Scott mentioned coming on Council in 2016 with the RFQ's that were sent out and came back with the committee's recommendation to Council. Council had the sole-authority to approve or disapprove what was presented. This is the same scenario, with having a professional law firm that specializes in this matter come in to do the RFQ and in all respect to Mr. Troyer, these will be legal people with degrees to do this. This is an administrative action for the needed RFQ's, Leopardo Group presented numbers to Council and those must compare apples to

apples by having other companies to make a qualified opinion on who to choose. This RFQ must be moved forward with the few amendments that will be made. This needs to move forward with qualified companies providing numbers to compare against the Leopardo Group. This gives the Mayor authority for RFQ's, bring them back and have an independent committee evaluate and give recommendation to Council. Previously, there were four RFP's for Council's review with all of them having a price, they were in the Council office, that Council had the ability to look at and went with what was recommended. Council has the authority and make the final decisions on everything.

Mr. Orcutt stated since this began I have been in support and something I thought the city was successful with when done previously. The numbers received from the contractor and in speaking with the finance director everything is showing that the city is able to pay for it and earn extra dollars. Mr. Orcutt thanked Mr. Troyer for being a thorough person and appreciate you bringing that to Council and this is something that should be done and very important. At this time, I am still in support.

Mr. Troyer commented doing my best not to get in the past, my understanding was to talk to the law firm and have something drawn up, I cannot support the way this is currently.

Mr. Scott stated the law firm is not doing the ordinance, the law firm is to an RFQ to make sure it is done properly and legal following ORC 717.02, House Bill 420; that's what the law firm is for not for the ordinance.

Mr. Salvatore commented I didn't come here tonight to hire a law firm to change the legislation in front of us? Where did that come from?

Mr. Troyer stated in the discussion it was talked about having the law firm come up with a process.

Mr. Mencini interjected that's part of the process.

Mr. Troyer stated a process is needed, C1A, B, or C, which one? All I can say is last time an RFQ was put out that came back 1½ years later and it was all done; I don't want that to happen this time.

Mr. Salvatore stated to Mayor Gammella when the selection is made for this attorney, working with the city's law department. Some of these concerns will be related to the attorney for implementation into process.

Mayor Gammella concurred and stated I want this to be a collaborative effort, this is not going to be a decision by the Mayor; it will be a decision by the Mayor and this .

Finance Committee - Chairman, Scott: cont.

Council collectively.

Mr. Salvatore commented all the questions and/or concerns discussed this evening will be related to the law firm. This is a big move for the city to take and we want it done right. If we don't like it then we don't vote for it. We're headed in the right direction and hopefully when finishing the process, the city will end up in the right place.

Mr. Mencini commented this is a very big project and everyone is talking about Ford land, the school project what's going to be done with the park, the pool and this will be right there with all of that. I respect Mr. Troyer for doing due diligence, he voted no on the last project and I voted yes. All of us collectively and Council asked a lot of questions and Mayor I hope you're 100% correct this is going to be a hand-in-hand project. I told the Mayor bring it forward we'll see what the public thinks and let's go.

Mr. Orcutt stated this is a good move for the city but think those monies should be 'earmarked' for the roof and wall to finish the project that was started.

Mr. Poindexter commented we don't know what the project is going to be, that's the whole point of this.

Mr. Orcutt continued my point is we finish this energy-savings project to help finish the project started, that's all Councilman Poindexter.

Mr. Poindexter commented we're jumping in to soon we don't know what the project is going to be, we don't know what's going to be in it. Why not get the RFQ's and see what turns out; this could turn out to be the greatest project this city has ever had or fall on its face and don't do anything; right now we need the RFQ's.

Mr. Orcutt stated I've been trying to approve that and have been the minority for the last two years.

Mr. Poindexter interjected the minority, I think everybody supported it.

Mr. Orcutt interjected the Mayor stated he wants ideas from everyone

Mr. Mencini commented I voted for it.

Mr. Troyer stated one more point, the fourth 'Whereas' needs to be amended depending on which process is used, C1 A, B or C. If using C1A the line that reads, select a qualified provider would not be appropriate in the legislation.

Finance Committee - Chairman, Scott: cont.

Mrs. Horvath stated as previously indicated we'd be amending this ordinance to more closely align with the procedures that are delineated. If we're seeking an outside source to do the RFQ's or RFP's, whatever it's called, we probably would be putting that in the legislation. There are other tweak's that, of course, would be made. To get the exact procedure that Council wants to follow to take this through the beginning of the RFQ or RFP process.

Mr. Scott stated all amendments will be made under Second Reading.

Motion by Mr. Salvatore, supported by Mr. Schmuck, to move to the March 3rd Council agenda under Second Reading.

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

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

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

Council President Vecchio declared this meeting adjourned at 7:58 p.m.

RESPECTFULLY SUBMITTED *Michelle Blazak*
Michelle Blazak
Clerk of Council

APPROVED *March 3, 2020*
as amended

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

4,862 words

