

Note: Due to the COVID-19 pandemic for all upcoming Regular or Special meetings Governor DeWine's directive for meetings and social distancing will strictly be enforced:

**ITEMS TO BE CONSIDERED
AT THE CAUCUS PRIOR TO THE COUNCIL MEETING
HELD ON APRIL 28, 2020**

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

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

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

FINANCE COMMITTEE – CHAIRMAN, SCOTT:

1. AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT FOR THE SALE OF PROPERTY LOCATED AT 21388 SHELDON ROAD, PERMANENT PARCEL NO. 341-23-007, AND DECLARING AN EMERGENCY.

Introduced by Mayor Gammella.

Mayor Gammella stated this property has been vacant for some time and was given to the city at no charge; would like to see a home built on the property.

Scott Adams

Economic Development Commissioner

Mr. Adams stated discussions began in March with the potential buyer on the purchase of this property. Apologies with the current situation there wasn't any way to do an executive session so negotiations continued with direction of the Mayor. The original price offer was \$13,000 and countered back at full price of the county value of \$28,000; keep in mind the city didn't pay for this property it as deeded to the city on October 1, 2014 with a subsequent demolition taking place after that date. This property cannot have a basement due to sewer and gas lines near the property. The owner presented the city with a decent offer of \$20,000 to build a residential home on the property, for himself.

Mr. Mencini asked Mr. Adams if any other offers for this property?

Mr. Adams responded no, since being commissioner there has not been one phone call on this property, this is the first person showing an interest and brought forward a contract.

Mr. Troyer asked was this listed, advertised or put on the multiple listing service (MLS)?

Finance Committee – Chairman, Scott: cont.

Mr. Troyer commented 'Whereas' are not binding, should be true but not binding. The home (plans) would have to go through Planning commission and zoned single-family.

Mr. Poindexter clarified with Mr. Adams the interested buyer will build a single-family to live in, correct?

Mr. Adams responded the buyer is to build approximately \$100.00 per square foot and plans to live in it.

Mr. Poindexter has there been any plans shared as to what style of house will be built?

Mr. Adams responded the buyer would like to build a ranch style home on the site because of not being able to have a basement due to proximity to underground sewer and gas lines. Already spoke with Building Commissioner Hurst as to what type of structure can go on the site and willing to comply with city building codes.

Mr. Poindexter continued would definitely like to see something there, not sure if this the right deal but is interesting.

Mr. Salvatore stated to Mr. Adams when and how did the city acquire the property? Mr. Adams the property was deeded to the City of Brook Park from the Cuyahoga County Sheriff's Department on October 1, 2014. What happened is the property owner had either fallen behind or entered into foreclosure with Bank of America back in approximately August, 2013. At that point, the bank took over the home that was in great disrepair. The property was demolished due to not being able to be rehabilitated because of the condition.

Mr. Salvatore asked was there a dwelling on the property when the city took the property over?

Mr. Adams responded I'm not sure if the city did the demolition or the bank had the home demolished. If the city did do the demolition, at that time, the city had a demolition program and that is where the funds would have come from.

Mr. Salvatore expressed concerns with the sale price of the property.

Mr. Orcutt stated I don't think the city needs to sell properties to developers anymore because of the issue with rental properties. One item the Mayor and I have been working on is one company owns dozens of homes in the city and a few residents; specifically on Meigs Boulevard. My biggest concern is selling this

Finance Committee – Chairman, Scott: cont.

property to a developer and don't think the city should do that. The city does need to fill the vacant lots to help the city property tax. Moving forward when these things are done there has to be some type of stipulation; where the owner building on the property there is a time-condition of living in the home for a certain period of time. Also, have a concern with this buyer also showing interest for the Burton property and don't see how the person can live in both homes and curious to see his intentions for the Burton property. Just want to let the Mayor and Mr. Adams know of my concerns of this turning into rental properties in the city.

Mayor Gammella stated all in favor of a new home being built on the lot; the home demolished was deplorable before being torn down and the lot has been vacant for a long time. Also, if listing the property on the MLS the city must pay a commission when the property sells to the agent who found the buyer; believe this is fair price for the property.

Mr. Mencini stated (very hard to understand) at one time the city had around 400 foreclosures and it's on the city to come up with a resolution and want to see building in Brook Park; residential homes. That home was in bad shape for a very long time so to have a stipulation someone live there, absolutely.

Mr. Troyer stated with the MLS the commission on \$20,000 property the commission would be approximately \$1,400 and think, in this case, and most cases the realtor is worth every penny; \$2,000 more the city still makes a profit even with paying a realtor. Second point is when advertising on MLS and getting a realtor everyone knows about the property that are interested. With the CRA (Community Reinvestment Abatement) and building of a house will be almost automatic tax abatement with filling out the paperwork. Mr. Troyer asked Mr. Adams how would that work if the perspective buyer built homes on two lots? If sold would the CRA transfer or keep it for a rental.

Mr. Adams responded to Mr. Troyer the fees would be \$4,000 looking at a ten-percent (10%) plus the closing costs putting the city at about \$3,800 into the situation, at that point. By selling outright without a broker's commission the city saves \$3,000. To answer the question on the CRA abatement the perspective buyer has not applied or asked for it. If he was to do it chances it would be granted on the finished product for a ten-year abatement fully transferable to next buyer for the remainder of that ten-years.

Mr. Troyer mentioned a broker or realtor usually gets seven-percent (7%).

Mr. Adams on land the broker will ask for 10% but could be negotiated down to 7%, that could happen. The city would still be looking at paying \$1,400 to

Finance Committee – Chairman, Scott: cont.

somebody that the city can do itself; and have the contract the city can do it themselves.

Mr. Troyer commented not everyone was given the chance to bid on the property and my concern is the city gets the best, value and profit possible. Would like to see a nice home on the property but want to make sure the city gets what it deserves for it.

Mr. Adams commented to add onto that, the city paid zero-dollars (\$0) for the property with this deal the city gets \$20,000, pretty hefty increase.

Mr. Troyer mentioned it doesn't matter how the city acquired the property it matters what the property is worth currently.

Mayor Gammella commented this is the second property and there will be a third, would Council feel better if Mr. Adams didn't handle these at all and just put the properties on the MLS?

Mr. Mencini stated (hard to understand) as long as the city gets what is right as a few colleagues have stated.

Mayor Gammella continued if I'm hearing everyone and looking for a consensus from Council to put all city properties on the MLS service. This would free up Mr. Adams to do other things is everyone agreeable with that?

Mr. Troyer commented in agreement.

Mr. Orcutt mentioned I believe there was discussion of that matter before, not sure if with this Council but think there was some direction given.

Mayor Gammella commented must have been before I became Mayor. My question is does Council want us to list all city-owned properties on the MLS?

Mr. Salvatore stated doesn't think the question is how the city should sell the property; the question brought up is how does the city get the most money? These properties belong to the residents of the city and it is Council's job is to get the most money possible for the residents of the community; to put money as much money possible into the city coffers. I'm not in favor of selling real-estate, never been in favor of selling assets unless replacing with another asset. I've been a no-vote of probably any other Councilman in the history of Brook Park. I agreed with the second deal for Brookpark Road with the understanding that the city was going to acquire better assets for the community. Speaking for myself, if the city is going to sell property let's get the most possible having exercised all options. This

Finance Committee – Chairman, Scott: cont.

is the best real estate markets I've ever seen with people standing in line trying to buy the same property. Not in favor of coming up with a plan tonight to dispose of city real estate but am in favor of exercising every option to get the most money possible for Brook Park.

Mayor Gammella commented this property has been there since 2014 and \$20,000 is probably the best price because of no basement.

Mr. Poindexter asked is it possible, with remote meetings, to get the perspective buyer in attendance to speak on this?

Mr. Vecchio commented there is a possibility of inviting the buyer to speak via phone.

Mr. Troyer stated no problem with moving to first reading, thinks selling property should have three readings. Should have more information with owner-occupied and believe the city should have residential properties on the MLS, not all properties.

Mr. Poindexter asked Mr. Adams was the property before being demolished, was it rental property?

Mr. Adams responded the transfer shows a single woman.

Motion by Mr. Poindexter, supported by Mr. Troyer, to place on the May 5th Council agenda under First Reading.

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

Mr. Vecchio commented the proposed buyer will be in attendance at the May 5th Caucus Prior to meeting to answer any questions Council may have.

Mr. Salvatore commented he will vote to move the legislation forward but that doesn't mean he supports the end project.

2. AN ORDINANCE RETAINING THE LAW FIRM OF MCDONALD HOPKINS, LLC TO ACT AS CO-COUNSEL WITH THE LAW DIRECTOR IN REAL ESTATE MATTERS AND DECLARING AN EMERGENCY. Introduced by Mayor Gammella.

Mrs. Horvath stated for a long time there has been issues in the city with commercial property i.e. Travelodge on Brookpark Road and (vacant) gas station on Smith Road and a property on Snow Road. The Travelodge has started to deteriorate and in 2016 the city was in litigation with the prosecutor's office, who sold the property and nothing has been done since 2016; the city is to the point must be demolished. The reason the city is asking for co-counsel is because it is expected the law department

Finance Committee - Chairman, Scott: cont.

will diminish in the future, losing an employee to retirement and possibly another employee in the near future. By having very experienced co-counsel to assist the city in getting these properties either demolished or fixed up to be in compliance with city codes; outside counsel is needed to achieve that. I would like to present more information to Council but being unable to have an Executive Session in this format am unable to do so. The intention of this legislation is to address, most importantly, the property on Brookpark Road and subsequent other properties.

Mr. Salvatore stated to Mrs. Horvath I understand the ramifications of not being able to have executive sessions, is there any possibility of setting up meetings with two or three Councilmembers to go over some of these topics?

Mrs. Horvath responded those arrangements can be made and am also looking into some of the executive session issues, sooner or later one will be needed and will need to figure out how to do in Zoom format. If Council is willing small meetings can start this week to go over some of these issues.

Mr. Orcutt echoed Mr. Salvatore's comments about needing to have discussions on some of these matters. Looking at the costs of this law firm some seem high and some are average. One suggestion is if this is to be pushed forward there needs to be a cap, especially with the uncertainty of the future financial issues the city will be facing with COVID-19 pandemic.

Mrs. Horvath responded a cap would be an unusual measure in hourly billing type of scenario; I can talk to co-counsel to get a basic idea of what they think time-wise what the cost may be.

Mr. Orcutt continued I'm sure that is something new just basing this off of what has happened in the past since being on Council I.e. West end lawsuit vs. City of Cleveland.

Mr. Mencini stated Council has to be altogether in Executive Session to hear all the questions asked. Also agrees that caps would be unusual McDonald Hopkins is a reputable law firm for real estate matters.

Mrs. Horvath responded what I wanted to share with Council is some pictures to give the general idea of what this building looks like at this point.

Mr. Salvatore commented one or two people meeting with the law director is not an executive session; that's just sharing information.

Mr. Poindexter suggested if Council wants to do an executive session a special meeting could be called to have an executive session in the gym with the required

Finance Committee – Chairman, Scott: cont.

social distance.

Mr. Troyer stated executive sessions must be from an open livestreamed meeting while distancing to have the executive session. Also, want to state the city has a limit in accordance with code section 131.12 the last line reads special co-counsel shall not be employed except for the specific limited purpose and no open-ended representation shall be authorized. Section one reads including but not limited to those related to the abatement of commercial. The legislation is too vague, too broad and goes against the city ordinances; this ordinance has to specify what co-counsel will be used for. I would have no problem with hiring co-counsel after an executive session but the legislation needs to be in compliance with the codes.

Mrs. Horvath stated as Mr. Poindexter suggested a meeting would be called enabling an executive session. I would also indicate that this legislation mirrors the hiring of labor counsel. I don't think Council wants to have so very narrow that can strict the representation of the person being hired. The legislation does state real estate matters and could probably be tightened up as to what particular areas, think it is sufficient as written. Don't know if it would be good practice to specifically name what parcels of property or specifically name the area getting into, that may be problematic. Of course, if there is an executive session co-counsel would be in attendance.

Motion by Mr. Troyer, supported by Mr. Mencini, to place back in committee.

Mr. Salvatore asked Mrs. Horvath should Council put on first reading or placing back in committee will throw off what is trying to be accomplished?

Mrs. Horvath responded here is the problem the city has with regard to one property in particular. It is has deteriorated to the point where it is considered a health hazard. There is certainly the possibility that someone may go on this property and lose their life, very bad activity that is not getting any better. During this tough economy it is my hope that particular property will not attract drug or other activity that would be detrimental to the city or other people's health and safety. I would think instead of placing back in committee it would behoove Council to, at least, move it forward while working on these other issues, not a good situation. Is something the city needs to act to begin to take care of this health hazard, more than a nuisance it's a health hazard.

Mr. Salvatore continued if this legislation is delayed for one week to have further discussion or dialogue would that mess it up any?

Mrs. Horvath clarified meaning if it's put in committee and brought out in a week?

Finance Committee – Chairman, Scott: cont.

Mr. Salvatore concurred.

Mrs. Horvath continued hopefully that won't be detrimental.

Mayor Gammella stated I concur with the law director the quicker we move on this the better, that a deteriorating situation and would like to see this move forward as soon as possible, as do many Councilmembers.

Mr. Troyer stated there are Ordinances and laws on all different levels and the only way to fix this problem is to buy them out when breaking the law on multiple occasions and issues. I think this is almost a bad precedence and reiterated code section 131.12; we should follow our code and not let the law firm not follow the code.

Mr. Mencini asked (hard to understand) how long has this property been like that; one year, two years, how long?

Mrs. Horvath responded this property has been a problem since February, 2016. The county brought a lawsuit and managed to have the property closed for an entire year. The county agreed to allow certain parties to go ahead and buy the property that probably took place around the end of 2017. Since that purchase virtually nothing has been done regarding this property. Not only does it continue to deteriorate with mold issues there have been people going in and taking copper wiring or other items that can be used, this property needs to be demolished. The city has tried to the city's enforcement power to have the owners, who are out of state, come in and fix things and are now at the point of taking other action. I understand Mr. Troyer's point by wanting to make everything so definitive that the city would in fact be on peace-work. I don't think Council should be straight-jacketed with being pertained to perform very specific tasks and certainly don't do that with labor counsel. Labor counsel is appointed and under Ordinance directed to help the city with those types of cases. Obviously, the city has a finite number of cases in this city that need to be taken care of and part of the way as a city need to react is to hire the appropriate help to move forward and do this. I'm aware of the Ordinance Mr. Troyer is citing, certainly I would like Council to have the opportunity to meet this gentleman. But, as talking about these issues this property continues to deteriorate. Would not be so worried of the perfect wording for this Ordinance being construed so strictly that as other problems develop with a deteriorating economy that the city can't move forward on those other parcels. city should move forward rapidly.

Mr. Mencini (hard to understand) the sooner the better.

Mr. Orcutt asked Mrs. Horvath can legal counsel possibly be at the next meeting?

Finance Committee – Chairman, Scott: cont.

Mrs. Horvath responded not sure but can endeavor to do that.

Mr. Orcutt continued I signed up to be proactive for the community and the law director and I have had many conversations about this property. This is complete nuisance to the community and support whatever needs to be done to have this explained to Council.

Mr. Poindexter commented section one of the legislation is pretty specific on what the law firm will be doing but doesn't give a timetable. Council can always amend the legislation to include a timetable to coincide with code 131.02. Possibly a timetable of six months and then Council can renew the agreement if we wanted to. Suggested an executive session from a special meeting to go over all this and move forward next Tuesday.

Mr. Troyer stated I'm not trying to hold this up want to get these problems fixed but happen to have ordinances to follow like the Charter, laws of the State of Ohio and Council rules. Reiterated the ordinance on the books of special co-counsel must be specific limited purpose; no open-ended representation. In section one the legislation stated included but not limited to those related of abatement of commercial nuisance properties. My opinion, there should be legislation for each property and thought the, law director picked up on that earlier. This isn't me that's how the ordinances read. Would like to get rid of the nuisance properties like everyone else but should be looked at separately, notwithstanding the law. Council should look at them separately because there may be different opinions for each property. Also, I question whether an executive session is needed because if the city is looking to purchase the property and if it was valuable property and wanted to keep the price down then there should be an executive session. The next question is what does the city plan on doing with these properties when acquired?

Mrs. Horvath responded I'm not sure exactly what you're talking about Mr. Troyer; this legislation is not drafted to purchase properties. The city has a couple of properties with serious nuisance issues. The city code says if the properties are not in compliance the city can make them in compliance and probably the best way to do this is to have the property demolished; that's what the city is moving towards and how both properties listed on tonight's agenda were acquired by the city. They were nuisance properties and the city demolished them and placed liens on the

Finance committee – Chairman, Scott: cont.

properties and the city acquired them, that may happen in this case not sure. At this point, what your indication is of purchasing properties that is not what this legislation is for. My opinion, I think it is specific enough and if you look at other legislation hiring other counsel it is certainly more than specific and covers a bit more than other legislation to hire co-counsel. I understand, in your opinion, you think it isn't specific enough and have the ability to vote yes or no on the legislation. What I'm telling you is there is some urgency to this matter and it's drafted appropriately. I understand you wanting to have certainty but what I have to tell you when you enter into negotiation you have no way of knowing how long something may take or how burdensome that litigation is. The legislation is specific enough and Mr. Poindexter also noted the section, you're at the point, something needs to be done and this legislation is drafted appropriately. It's virtually impossible to place a timeframe or cap in and looking at the situation we are in now just about all court activity has come to a halt. I think arguing about the semantics and verbiage of the particular legislation will not help the city and Council has to make the decision of hiring outside co-counsel to handle this matter or not. Understand there are certain concerns with money and finances but to argue about semantics and how legislation is drafted I don't think is appropriate.

Mr. Troyer asked Mayor Gammella if he concurs with the law director of the hiring of this legal firm is not an attempt to purchase any of these properties?

Mayor Gammella responded the intent is to get the properties where the city can do something with them to be a viable part of the community and not a nuisance. All it takes is one person getting hurt on these properties and the city is liable if no action is taken. Do I want to buy the properties not really. Would rather have the places demolished and have someone purchase the properties; there is interest in these properties but not with the current structures on them.

The clerk called the roll by Mr. Troyer, supported by Mr. Mencini, to place back in committee.

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

3. AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT FOR THE SALE OF PROPERTY AT 6538 BURTON DRIVE, PERMANENT PARCEL NO. 341-24-011 AND DECLARING AN EMERGENCY. Introduced by Mayor Gammella.

Mayor Gammella stated vacant lot with person interested to build a house on the property, in favor.

Mr. Adams stated the buyer of Sheldon Road wants to purchase this property to intent is to take care of this family member who will be in close proximity to check

Finance committee – Chairman, Scott:

on them and being able to help with any problems that may come up. The price being offered of \$17,000 is a strong price for the area. The original opening came in at approximately \$12,000 and after back and forth negotiations the final negotiation is \$17,000 and closing costs. The owner spoke with the city's building commissioner and understands the outlying needs of the building codes for the construction plan of the property. The property was demolished and city received the property on February 27, 2019 and for the he property was in back through a foreclosure action by the sheriff's department; the county paid for the dwelling demolition and once demolished transferred to the Brook Park Utilization Program in February, 2019.

Mr. Mencini (hard to understand) I take people for their word but a lot times it's better to get in writing i.e. the problem the city had with property on Smith Road. The interested buyer came to Council that family members would be living in the duplex and upon completion a 'for rent' sign went up. I appreciate all the work in this but would like to get that in writing.

Mr. Orcutt thanked Mr. Adams for the explanation of the family member, that explains a lot. With the perspective buyer to purchase this property and the Sheldon Road property and build homes on both of them. Think it is good to fill the empty lots at the right price, of course. My question is would the proposed buyer have a problem with any deed restrictions?

Mr. Scott commented that would be something the property owner to accept.

Mr. Orcutt continued the reason for asking is as Mr. Mencini mentioned the city has learned from the past that some things do happen. Want to make sure the city is more efficient by restricting developers to come in, build and rent. Would like to see the family come into the city which is a gain but want to make sure some type of stipulation is put in.

Mr. Adams responded will speak to the potential buyer to see if interested. Mr. Troyer stated to Mr. Adams have a big concern about the value and would like to see a stipulation of being a family member. The \$17,000 doesn't make sense because the Sheldon Road property is going for \$20,000 located on a main street and corner. The lot on Burton is a nice lot and probably bigger than 60% off the lots in Brook Park and don't think \$17,000 is enough, seems low and doesn't seem the city is getting fair-market value.

Mr. Adams responded it is a smaller lot by over 1,000 square foot vs the Sheldon Road lot, that's the reason for the lower price.

Finance Committee – Chairman Scott: cont.

Mr. Troyer continued thinks it's is worth because a traffic and street lot are worth less than a nice lot like this.

Mr. Adams commented it will be worth more when a \$200,000 home is built on both of the parcels; there will be a build-out value that will increase, higher property tax rate for the community because the CRA has not been discussed or offered as well as new families bringing tax dollars to the community; currently there are no dollars coming to the city for either of those properties. Also, it is a laborious project for the city with service crews having go cut the grass.

Mr. Troyer understands and would like to see a house built but still thinks a low price for the property but will check on that; again if the city could get some stipulations about not being a rental.

Motion by Mr. Troyer, supported by Mr. Poindexter, to have the interested buyer in attendance at the May 5, 2020 Caucus Prior to agenda and place legislation under first reading for the May 5, 2020 Council agenda.

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

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

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

Council President Vecchio declared this meeting adjourned at 8:27 p.m.

Motion by Mr. Troyer, supported by Mr. Mencini, to take a five-minute recess before beginning the Regular Council meeting.

ROLL CALL: AYES: Troyer, Mencini, Poindexter, Salvatore, Scott, Schmuck, Orcutt
NAYS: None. The motion carried at 8:28 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.

5,043 words