

**SPECIAL MEETING OF THE COUNCIL  
OF THE CITY OF BROOK PARK  
HELD ON JULY 8, 2021**

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**

Also in attendance were Mayor Gammella, Law Director Horvath and Finance Director Cingle. Mr. Salvatore properly excused.

Mr. Troyer stated would like to make a motion to remove the item under letter M, not letter M, just the item.

Mr. Vecchio responded back in November, 2020 there was a special meeting don't know if that is needed.

Mrs. Horvath commented obviously, the Mayor has the right to introduce legislation and call a meeting. Mayor has the right to place under letter M and moving forward whatever Council wants to do with that legislation is up to them i.e. put in committee, first reading and dismiss. Under the Charter the Mayor is allowed to introduce legislation and by placing under letter M that is exactly what the Mayor is doing.

Mr. Vecchio listening to the law director I concur with her and being in summer break Council can't call a meeting. The Mayor is the only person that can call a meeting per Charter and by him calling the meeting is the only person to place items on the agenda. I see that same instance and compromise as the law director laid out with letters J & M, either way it is covered. If Council want to pull it from letter M and reinsert under letter J there is no issue, or Council can leave it the way it is.

Mr. Mencini stated it was always Council to move legislation.

**Motion** by Mr. Troyer, supported by Mr. Mencini, to strike the item under letter M.

**ROLL CALL: AYES:** Troyer, Mencini, Poindexter, Schmuck, Orcutt

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

**Motion** by Mr. Mencini, supported by Mr. Orcutt, to go into Executive Session for Collective Bargaining Matters.

**ROLL CALL: AYES:** Mencini, Orcutt, Schmuck, Scott, Poindexter, Troyer

**NAYS:** None. The motion carried at 7:11 p.m. In attendance:

Councilmembers, Mayor Gammella, Law Director Horvath, Finance Director Cingle and labor attorney Spitzer.

**Motion** by Mr. Mencini, supported by Mr. Troyer, to go back to Regular Order of Business.

**ROLL CALL: AYES:** Mencini, Troyer, Poindexter, Scott, Schmuck, Orcutt

**NAYS:** None. The motion carried at 8:23 p.m.

**OTHER COMMUNICATIONS, PETITIONS AND VERBAL APPROVAL:**

**INTRODUCTION OF NEW LEGISLATION:**

1. AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH THE BROOK PARK FIREFIGHTERS ASSOCIATION, LOCAL 1141, INTERNATIONAL ASSOCIATION OF FIREFIGHTERS, AFL-CIO-CLC AND DECLARING AN EMERGENCY. Introduced by Mayor Gammella.

**Motion** by Mr. Troyer, supported by Mr. Poindexter, to suspend the rules and place under letter M.

**ROLL CALL: AYES:** Troyer, Poindexter, Mencini, Orcutt, Schmuck, Scott

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

**MISCELLANEOUS BUSINESS, APPOINTMENTS, CONFIRMATIONS:**

Miscellaneous business:

1. RESOLUTION NO. 35-2019, TO EXTEND THE MORATORIUM ON THE GRANTING OF BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY FOR ANY BUILDING, STRUCTURE, USE OR CHANGE OF USE THAT WOULD ENABLE THE CULTIVATION, PROCESSING OR RETAIL SALE OF MEDICAL MARIJUANA FOR A PERIOD NOT TO EXCEED TWELVE MONTHS FROM THE EFFECTIVE DATE OF THIS RESOLUTION, IN ORDER TO ALLOW THE CITY ADMINISTRATION, COUNCIL AND THE BROOK PARK PLANNING COMMISSION TO REVIEW APPLICABLE OHIO STATUTES, CRIMINAL CODES AND THE BROOK PARK ZONING CODE RELATIVE TO SUCH USE AND DECLARING AN EMERGENCY. Introduced by Council as a Whole and Mayor Gammella. **Note:** Amended at the November 17, 2020 Council meeting to extend for eight (8) months effective until July 17, 2021.

Mr. Troyer asked is there anything showing how the votes went?

Mr. Vecchio stated don't have it in front of me but can clearly read the dates being eight (8) months.

Mr. Troyer continued per Charter whether a resolution or ordinance the changed legislation requires a separate piece of legislation is required explaining how it used to read and how it will read after passage, that's the proper way of doing this. I believe the city did not have a moratorium on medical marijuana for eight (8) months and by doing this again the city still won't have a moratorium on medical marijuana. As I've said in the past even if this was a new piece of legislation wouldn't vote on it because I won't keep kicking the can down the road. Some members agree with me on this and some say why don't you bring something forward to regulate this, that's what I plan to do. There are some members that want to outlaw it completely, would vote for either one. If Council wanted to outlaw it altogether with no medical marijuana facilities, would vote for that. If Council wanted regulations on it, I would vote for anything except for a moratorium to kick the can down the road. Again, will be a no vote on this tonight.

**MISCELLANEOUS BUSINESS, APPOINTMENTS, CONFIRMATIONS:**

Miscellaneous business:

Mr. Mencini stated when this was discussed months ago it was said we're going to work on this and the only person working on this would have been Mr. Scott. As Mr. Poindexter asked Mr. Cingle what kind of revenue will this bring in, wasn't completely blown away by that and don't want a location in Ward 2. All for medical marijuana but the city has to zone and regulate this and a lot of people want this but it needs to be right. Other communities have this and who has done their homework to bring this forward during the eight (8) months.

Mr. Orcutt stated here we are again with medical marijuana and helping people is a good thing and don't have an issue with that. There has to be some guidelines and haven't heard from any Councilmember they want it outlawed. If it's something important to a Councilmember meet with the administration and the Planning Commission and put in some guidelines for medical marijuana; keep it 500' from a school or 1,000' from a school. There has to be some guidelines on this in order to be able to provide to the residents. Don't think anyone up here would be against medical marijuana from what I understand it's just that guidelines must be put forth. Will vote yes for this and reiterated what I was said eight (8) months' work for this and put some guidelines on this.

Mr. Scott stated I have asked for the last month and a half and have asked both the law director and clerk has anyone asked any questions about this to move it forward. I did do lot of research on this and talked with officials from two (2) other cities. There is a lot to this and can't just say we're going to abandon this moratorium. The question that needs to be asked if do we want this type of establishment at the intersections of Snow and Smith, Sheldon and Smith, Engle or Holland and Engle.

Mr. Troyer - Point of information.

Mr. Vecchio recognized.

Mr. Troyer stated that state law is 500' from any library, public park or playground so the waterpark would be within that 500' of Holland and Engle Roads, can't go there.

Mr. Vecchio commented he's using as examples., no need to split hairs.

Mr. Scott continued the city doesn't know if there are licensing fees and speaking with Mr. Cingle earlier the city will get pennies on the sales tax and payroll taxes. The City of Elyria has five (5) people per three (3) shifts working at their location. Is that a large draw of income tax, no it's not, let's work this out. I will be voting for another moratorium because the city is not ready in any way to move forward on this. We are opening up our city to an establishment to be placed anywhere in the business zone. Not against medical marijuana but must be placed in the right place. There are surrounding cities that have moratoriums still existent. If this is such a lucrative business lucrative cash draw how come the cities of Middleburg Hts, Berea and Parma

**MISCELLANEOUS BUSINESS, APPOINTMENTS, CONFIRMATIONS:**

Miscellaneous business:

Hts. want no part of this? We have to have legislation on this and know what the licensing fees are going to be and what type of security on this. I will vote to extend this moratorium and won't go for another eight (8) months, I wanted 12 months; there has been no movement on this in eight (8) months.

Mr. Vecchio stated there are a lot of children in this city and many people need medical marijuana but don't want this in the heart of Brook Park. Past history this city has put items through Planning and Zoning committees that worked out for the city's adult entertainment industry. This Council should be tasking themselves with something along those same lines. Everyone needs to ask themselves do you want this on a street corner or in the middle of Brookgate (shopping center) or former BP gas station on the corner of Smith and Snow Roads. Additionally, what revenue will this bring to the city, what are the positives and what are the negatives? Positive for the city is looking at revenue and the benefit to just under 19,000 residents.

Mr. Troyer asked Mr. Scott those other cities you talked with were those for moratoriums or legislation outlawing them?

Mr. Scott responded moratoriums.

Mr. Troyer continued at this time would like to ask Mrs. Horvath to do a simple piece of legislation outlawing this until we come up with something to change this, making it illegal for now.

Mrs. Horvath concurred with Mr. Troyer you're asking me to draft legislation outlawing this.

Mr. Troyer concurred.

Mr. Poindexter now on the street corners or heart in the city rite aid in heart of the city. This isn't recreational marijuana that can be sold to children. This is a legal business and we should be able to welcome them as a legal business in our city. Would like to sit down with the law director and Planning Commission to get this figured out. This a legal business that has a right to operate in our city.

Mr. Mencini commented any piece coming forward need to hear what the residents have to say about it; this is a serious issue that residents and Council aren't against this. Why does the city zone differently in certain areas because of noise, lights and sorts. If someone needs medical marijuana, it's available right now. My point on this is if a resident sees this 501' from them say it's a business and the city may not be ready but the establishments are.

**MISCELLANEOUS BUSINESS, APPOINTMENTS, CONFIRMATIONS:**

Miscellaneous business:

Mr. Troyer stated to Mr. Mencini exactly we don't want a snafu and don't think this moratorium is good enough to stop it. That's why I'm asking for a piece of legislation outlawing this until we come up with whatever we want to do with it, ironclad piece of legislation outlawing this until further notice or until Council changes, it's outlawed.

**Motion** by Mr. Scott, supported by Mr. Orcutt, to extend moratorium effective until, September 21, 2021.

Mr. Troyer stated will go along but don't think it's legally binding.

Mr. Scott - Point of clarification, what do you mean you don't think it's binding.

Mr. Vecchio - he doesn't believe it's legally binding.

Mr. Scott - why, we voted on it.

Mr. Vecchio - he's talking in a court of law could be challenged.

Mr. Poindexter - correct me if I'm wrong, Mr. Troyer, don't think we can amend it this way.

Mr. Scott - we've done it twice.

Mr. Vecchio - you can't amend a previous piece of legislation that has a number assigned that's been brought back out, you can't amend?

Mr. Scott - we've amended it twice, already.

Mr. Troyer - the Charter states legislation is needed for the way it currently reads, how it will read with a repeal, that's the way it's supposed to be done. That's why I said this is not even binding we don't have a moratorium on medical marijuana.

Mr. Vecchio asked Mrs. Horvath for an interpretation.

Mrs. Horvath stated to Mr. Vecchio, you're correct this has been done twice before and in other instances even though this is a resolution it's not any different than changing the speed limit to 15 throughout the city. I think, in this case, the most important thing is the speed of Council's decision-making. This has been done twice and think it can be done a third time. Why no one may question it but the faster Council moves the better off we all are. Quite frankly I don't think you have any other choice than to amend this legislation as discussed.

Mr. Mencini - Point of clarification.

**MISCELLANEOUS BUSINESS, APPOINTMENTS, CONFIRMATIONS:**

Miscellaneous business:

Mr. Vecchio recognized.

Mr. Mencini stated to Mrs. Horvath if somebody wanted to challenge this in court, they could do that?

Mrs. Horvath responded anyone can file a lawsuit.

Mr. Mencini continued is there anything in this legislation that could be challenged?

Mrs. Horvath stated this has been twice with this resolution and in other instances something that comes to mind is the same breast cancer legislation. At this point in time I think it's rather unrealistic for someone to come in to challenge between now and whatever date is determined in September. To file a lawsuit because they want to invalidate a moratorium and put something 500' from a elementary school, don't see that being done. I think most likely you would get someone to challenge the outlawing of the use or dispensing of medical marijuana within city limits, would see that as more of a challenge.

Mr. Mencini interjected because the state didn't outlaw it?

Mrs. Horvath continued you may have a group that feels it's unfair or they are not in agreement, therefore, they prefer to challenge something like that. What this moratorium does is saying we're not sure and need to look into this further. Outlawing says we're not going to allow it and think that would draw more people to file a lawsuit, under those circumstances. We're here today using the same procedure that's been used in the past and don't see any other choice Council may have. To guess if this would be validated by a court Council has to remember we are a chartered city giving us more discretion within our borders.

Mr. Troyer commented that the breast cancer legislation was a new piece of legislation and given a different number. This was only done once and said I would be okay but sticking to my guns will vote no on extending. Hopefully, we will get a new piece of legislation that Council will pass.

The clerk called the roll on the motion by Mr. Scott, supported by Mr. Orcutt, to extend to September 21, 2021

**ROLL CALL: AYES:** Scott, Schmuck, Orcutt, Mencini

**NAYS:** Troyer, Poindexter. The motion carried with a vote of 4-2.

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

No one in attendance.

**INTRODUCTION OF ORDINANCES AND RESOLUTIONS: (FIRST READING):**

1. AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH THE BROOK PARK FIREFIGHTERS ASSOCIATION, LOCAL 1141, INTERNATIONAL ASSOCIATION OF FIREFIGHTERS, AFL-CIO-CLC AND DECLARING AN EMERGENCY. Introduced by Mayor Gammella.

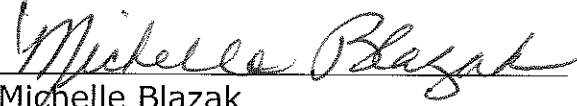
Mr. Vecchio stated Ordinance No. 11205-2021, has had its first reading.

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

**ROLL CALL: AYES:** Mencini, Schmuck, Scott, Orcutt, Troyer, Poindexter

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

Council President Vecchio declared this meeting adjourned at 8:59 p.m.

RESPECTFULLY SUBMITTED   
Michelle Blazak  
Clerk of Council

APPROVED August 24, 2021

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

