

**ITEMS TO BE CONSIDERED
AT THE CAUCUS PRIOR TO THE COUNCIL MEETING
TO BE HELD ON TUESDAY, MAY 2, 2023
7:00 P.M.**

I. ROLL CALL OF MEMBERS:

II. PLEDGE OF ALLEGIANCE:

III. DISCUSSION:

1. SOUTHWEST GENERAL/BILL YOUNG. - Councilman Salvatore- PER COUNCIL PRESIDENT VECCHIO.

2. BOXCAST LIVESTREAM- Councilman Salvatore- PER COUNCIL PRESIDENT VECCHIO.

3. FINANCE DIRECTOR VACANCY.- Councilman Scott- PER COUNCIL PRESIDENT VECCHIO.

4. AN ORDINANCE AMENDING ORDINANCE 11217-2021, PASSED SEPTEMBER 21, 2021, DESIGNATING THE DEPOSITORIES OF THE ACTIVE FUNDS OF THE CITY OF BROOK PARK, OHIO, FOR A PERIOD OF FIVE YEARS BEGINNING OCTOBER 7, 2021, TO INCLUDE CACHE VALLEY BANK, AND DECLARING AN EMERGENCY. Introduced by Mayor Orcutt. - PER COUNCIL PRESIDENT VECCHIO.

IV. ADJOURNMENT

Posted: 4/28/23

**ITEMS TO BE CONSIDERED
AT THE CAUCUS PRIOR TO THE COUNCIL MEETING
HELD ON TUESDAY, MAY 2, 2023**

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:

TROYER, MENCINI, ROBERTS, SCOTT, COYNE, POINDEXTER, SALVATORE

Also in attendance were Mayor Orcutt, Law Director Horvath, Assistant Director of Finance Maykut, Service Director Beyer and Recreation Director Gonzalez.

DISCUSSION:

1. SOUTHWEST GENERAL/BILL YOUNG (Councilman Salvatore).

Mr. Salvatore stated last week a lady came to the microphone making statements about the City of Brook Park and Southwest. I asked Mr. Young to come before Council to give his view to those comments.

**Bill Young
CEO Southwest General
18697 Bagley Road
Middleburg Hts.,**

Mr. Young stated not sure how to respond, am proud of the good work Southwest is doing and is ranked top 50 from CMS for quality and patient safety of care provided. I think Southwest is doing good work for the citizens and gets tremendous support from the communities that Southwest serves, Brook Park being one of them. Am very pleased and thankful for all the support given and open to answering questions, not quite sure how to respond. Did read the statement that Councilman Salvatore shared that mentioned something about ACEs (Adverse Childhood Experience). Emergency personnel are trained in sexual assault and how to recognize that. When individuals come into the emergency room and suspect potential issues the proper authorities are called and Southwest follows-up, on those types of issues. Am proud of the work the emergency personnel do and always being prepared with what comes through the door. There are certifications that Southwest has not received and that are not a standard that Southwest is held to from the hospital association.

Mr. Salvatore stated I didn't want you to answer questions, there was one statement made that the young lady called the hospital and said it's our fault that something isn't being done, that's the only thing I wanted to clear up.

Mr. Young clarified the fault of the City of Brook Park?

Mr. Salvatore concurred.

Discussion: cont.

Someone from the audience stated corporate office told me, after that unable to decipher the statements being made.

Mr. Young asked who is corporate?

Audience member unable to decipher.

Mr. Young stated don't know anything about ACEs.

Mr. Salvatore interjected this isn't for that purpose, I just wanted to clear up one (1) comment. If in fact, that did or did not happen, I don't think it did. Don't think anybody at corporate told anyone that we're blocking.

Audience member hard to decipher.

Mr. Salvatore continued you may have talked to somebody and I won't get into a dialogue, this isn't the proper time for that. I don't believe that anybody said the City of Brook Park is blocking anyone.

Mr. Young stated I can assure Mr. Salvatore, Council and the Mayor everyone is seen that comes through the door; there is no blocking of anybody and not sure where that would have come from.

Mr. Salvatore thanked Mr. Young for coming to clear up any issues.

Motion by Mr. Troyer, supported by Madam Coyne, discussed.

ROLL CALL: AYES: Troyer, Coyne, Scott, Mencini, Roberts. Poindexter, Salvatore
NAYS: Unanimous.

Motion by Mr. Scott, supported by Mr. Roberts, to move item four (4) up to item two (2).

ROLL CALL: AYES: Scott, Roberts, Mencini, Poindexter, Salvatore, Troyer, Coyne
NAYS: Unanimous.

2. AN ORDINANCE AMENDING ORDINANCE NO. 11217-2021, PASSED SEPTEMBER 21, 2021 DESIGNATING THE DEPOSITORIES OF THE ACTIVE FUNDS OF THE CITY OF BROOK PARK, OHIO, FOR A PERIOD OF FIVE YEARS BEGINNING OCTOBER 7, 2021, TO INCLUDE CACHE VALLEY BANK AND DECLARING AN EMERGENCY. Introduced by Mayor Orcutt.

Mayor Orcutt stated this on October 7th, 2021 this legislation allows for depositories to Huntington, PNC and Fifth-Third, this amendment would now include Cache Valley Bank, for programs at the recreation center.

Discussion: cont.

Mr. Gonzalez stated we have been working with the finance department very closely, Mrs. Maykut was a great help. Basically with the arbiter pay that was discussed at the last Caucus meeting; this gives the opportunity for the city to pay officials through direct deposit, rather than checks. We are losing officials at a rapid pace and this would help retain those officials, that would normally go to other places, due to getting paid quicker. This legislation allows for the city to take city funds and deposit them into another bank to be stored; because this is what the arbiter pay requires the city to do and this is the bank used to make those transactions to the officials.

Mr. Troyer stated to Madam Horvath, this deviates from the normal way of amending because it's just an addition, correct?

Madam Horvath responded certainly is an addition, so if you want to use the word deviate, guess you could. In discussions with the former finance director it was determined this would be the easiest way for this to be accomplished. I think it's appropriate, proper and necessary from the what the recreation director indicated to get the different sporting events covered with the officials. Think it's appropriate and discussed with the finance department and it's fine.

Mr. Troyer stated to Madam Maykut, this is just \$10,000.00?

Madam Maykut concurred.

Mr. Poindexter stated to Madam Maykut reading this legislation the estimated amount of \$20 million-dollars could be divided, at will, into any one of those including this one.

Madam Maykut responded but hard to decipher.

Mr. Poindexter continued of the \$20 million-dollars, in the second Whereas, this could be divided into any one of those banks including the one being added?

Madam Maykut responded correct.

Mr. Poindexter stated it this bank account is only going to be used for that \$10,000.00; should the legislation read that only \$10,000.00 goes into this at a time?

Madam Maykut stated don't know what you would do that, the city has contracts with Huntington Bank currently which all the city's operating accounts and everything are in there. This account is only going to be used for the arbiter pay.

Discussion: cont.

Mr. Poindexter stated that isn't specifically stated in here, for my piece of mind, I know Huntington National Bank, PNC and Fifth-Third; never heard of Cache Bank until recently and they are based out of Utah. My concern would be that the other three banks are reputable and have a presence locally and putting half of that money in there and this bank goes out of business the city loses those deposits. To Madam Maykut, should Council add that only \$10,000.00 goes into this account; so the remaining monies stays in the three local banks, that the city has a long standing reputation with. Directed question to Madam Horvath, do you feel that that would be prudent?

Madam Horvath responded I don't see the necessity for it I think the finance department has a long history of making prudent decisions on the city's behalf. I suppose the city can take \$10 million-dollars and put it in Cache bank but can't imagine the finance department every doing that. I think this is adding another entity to be used for operating funds and depositing monies in and just a matter of having some trust in the administration and finance department. To follow the prudent path they have done through the 27 years Mr. Cingle was in office and beyond. This is going to be used for the arbiter pay and if the city could have used the other entities that would have been the city's preference. I can't imagine anybody moving one-million-dollars into that, that's my opinion.

Mr. Mencini stated to Madam Maykut, with the banks the city uses. Were they offered anything or did they offer anything similar to this; did we look into that I assume we did.

Madam Maykut responded the arbiter pay only does it through Cache Valley Bank, they do not go through any other banks. They were the ones who went to Mr. Gonzalez stating this is the bank being used and they don't work with Ohio banks.

Mr. Mencini asked if any other municipalities or corporations locally doing this?

Madam Maykut responded yes, the Cities of Strongsville, North Royalton and Parma Heights.

Mr. Gonzalez interjected the City of North Olmsted.

Madam Maykut continued we checked with those cities prior to going this route about this bank.

Mr. Troyer asked Mr. Gonzalez would there ever be a need to have more than \$10,000.00 in this or would that be the maximum?

Discussion: cont.

Mr. Gonzalez responded hopefully officials don't get paid much more than they do now. No, there would never be a need for more than \$10,000.00, at a time, in the account because the city will pay per sport. To put everyone's mind at ease, a purchase order will be submitted to the finance department every time a deposit is needed into the account. The purchase order will be signed by the Mayor and forwarded to the finance department for approval, there will never be a need for more than \$10,000.00 at a time to go into this account.

Troyer continued with what is going on lately with banks collapsing this is a concern and understand Mr. Poindexter's concern. Also, the finance department is going to be changing a lot and is not as stable as it has been.

Motion by Mr. Troyer, supported by Mr. Poindexter, to amend section one (1), third line, after the word depository add 'for up to \$10,000.00', and continue on for the City of Brook Park active funds.

Mr. Vecchio stated would have to expand on that because it's \$10,000.00 per sport. You are limiting it to \$10,000.00, just in this, and would have to be for arbiter pay?

Mr. Gonzalez stated no, there are multiple sports at the same time so I would just say \$10,000.00 in the account at a time; because those funds are used for multiple sports.

Mr. Troyer stated \$10,000.00, at a time, correct?

Mr. Gonzalez responded correct, no more than \$10,000.00 at a time.

Mr. Salvatore stated to Mayor Orcutt any time monies are transferred to this account must go through Board of Control, correct.

Mayor Orcutt responded absolutely, anything over \$2,500.00

Mr. Salvatore continued to Mayor Orcutt, there are safety valves in place to protect the city from any mishaps.

Mayor Orcutt concurred.

ROLL CALL: AYES: Troyer, Poindexter, Mencini

NAYS: Scott, Coyne, Salvatore, Roberts. The amendment failed.

Motion by Mr. Troyer, supported by Mr. Poindexter, discussed.

ROLL CALL: AYES: Troyer, Poindexter, Roberts, Mencini, Scott, Coyne, Salvatore

NAYS: Unanimous.

Discussion: cont.**2. BOXCAST LIVESTREAM - (Councilman Salvatore).**

Mr. Salvatore stated last week had a problem with the Boxcast so the next day had discussions with Boxcast personnel and the city's IT professional who gave a breakdown of all that happened; scheduled to broadcast at 6:59 p.m. but didn't take place until 7:09 p.m., stopped at 7:10 p.m., with only a black screen. At 7:13 p.m. the system was shut down and restarted and still only a black screen and approximately 19 minutes later the video started at 7:30 p.m. Speaking with the IT professional over the phone and discussing this at length and the IT professional having a lengthy conversation with Boxcast personnel. Sometime at the end of July or early August Boxcast is coming out with a full new product line so would like to wait until after summer session is over look at pricing for new equipment; buying something now is just a new piece of equipment of what we currently have.

Mr. Poindexter agreed with Mr. Salvatore and thanked him for the synopsis. The equipment available is newer but basically what we have now for \$200.00. Paul (IT professional) was here earlier speaking with myself and Mr. Vecchio and he thinks he has a solution figured out. Doesn't think it's an issue with the Boxcast his thinking is syncing abilities and he is working on a possible solution to get us to the point of when the new system will be available.

Mr. Vecchio stated Paul is also purchasing a confidence monitor that can be seen and as long as that monitor is on the Boxcast is working; along with some other components he will test. Over the next few weeks may have an answer and not have to go any further but still could be that the Boxcaster may need replacing.

Mr. Mencini stated my question is if we have the issues that we had, had numerous ones, would we be at this point like when we deal with Boxcast do they send a catalogue or a representative of what is new or what is coming in the future?

Mr. Vecchio stated my 5 1/2 years on Council the only time I've spoken with Boxcast is when I picked up the phone and called them, never seen a catalog or nothing.

Motion by Mr. Troyer, supported by Madam Coyne, discussed.

ROLL CALL: AYES: Troyer, Coyne, Scott, Mencini, Roberts, Poindexter, Salvatore

NAYS: Unanimous.

Discussion: cont.

3. FINANCE DIRECTOR VACANCY - (Councilman Scott)

Mr. Scott stated that Finance Director Cingle stated his last day would be May 1, 2023 so that office is now vacant. A request was made to the law director on how to proceed and I have received five (5) different opinions from five (5) different Councilmembers on how to proceed. Number one (1) is there will be special election so anyone interested can pull petitions and have them to the Board of Elections by June 14, 2023. Charter section 15.03 reads whenever the office of Director of Finance becomes vacant, the vacancy shall be filled for the unexpired term by a majority vote of the Members of Council except if such vacancy occurs more than 120 days prior to a Primary Election date to fill such vacancy for the balance of the unexpired term. According to this the Charter controls the vacancy of an elected office and a special election must be held to fill the vacancy. The question came up is this is an absence or vacancy?

Mr. Poindexter interjected same thing.

Mr. Scott continued this is not an absence, this is a vacancy.

Mr. Vecchio stated if anyone interrupts one more time, let him have the floor so this can be moved forward.

Mr. Scott continued section 15.03 if Council does not fill such vacancy within 30 days the Mayor shall fill by appointment. According to 15.03 this vacancy occurred on May 2nd and with all the different opinions on what to do. We asked the law director and her opinion was that at the time of the vacancy City Council should fill the vacancy by a majority vote of City Council. Therefore, it is the law director's conclusion that due to 15.03 of the Charter this vacancy must be filled by a special election and Council may appoint an interim finance director using methods approved by a majority vote of Council. There is no requirement to advertise and Council may do what is appropriate; Council may not fill the vacancy prior to the date the vacancy occurs.

Madam Horvath responded, yes the previous opinion addressed two issues; the first being how to fill the vacancy and because of the timing of the resignation it's determined that the vacancy has to be filled by special election. Question two is how would you appoint an interim finance director if that's deemed to be necessary and think it's clear that position will be vacant, at least, through September and maybe beyond. This has only happened once in this city that I'm aware of and that was with the appointment of Gregory Cingle who was appointed when there were two (2) officials that resigned and created vacancies. When looking at the November 1, 1995 minutes the appointment of Mr. Cingle was done

Discussion: cont.

by City Council by motion. There isn't any guide on how this was done in the Charter and previously this was Council's appointment; so the easiest answer is to follow the same pattern that was done in November, 1995 and use that method to appoint an interim finance director. Why would Council want to do that is city business must carry on and there is a number of things that only the finance director can do, papers that must be signed and would be prudent to have someone there to do those things before the special election. Today, is the first day to appoint or make the thought of making an appointment and suggest use the previous method sooner than later.

Mr. Scott concurred with the law director's opinion and stated to Mayor Orcutt if there is legislation concerning finances and there is no finance director part of that government will shut down.

Mr. Poindexter stated there is an acting finance director in absence of the finance director per the Charter. The assistant finance director can carry out all duties of the finance director per Charter section 7.03 that reads in the in the absence of the director of finance the assistant director of finance shall perform all duties of the director, whether by illness, vacation or resignation. That spot is now vacant due to resignation so the acting assistant finance director becomes the acting finance director based on the Charter. Charter clearly says less than 120 days prior to a primary (election); if the term exceeds less than one (1) year then Council appoints, doesn't say anything about an interim. Does say in the absence i.e. no finance director to do the duty the assistant finance director, in my opinion, should be the only person to step into that roll; the law director's opinion is heeded. I am willing to appoint the assistant finance director to give the power and all the duties that come with the position but anybody else it would be an endorsement from Council for somebody potentially running for the position; this body should not be endorsing a candidate for something the electors will vote on. I as an individual can make an endorsement but this body should not be making an endorsement and making an appointment is not an endorsement of sorts. It is my belief that currently the assistant finance director is the acting finance director until the special election takes place.

Madam Horvath stated I wish the Charter also said the assistant finance director should take over in the instance of a vacancy. This is an elected office and in the Charter both absence and vacancy are used in various different circumstances. The charter change occurred in 2013 and happened after Mr. Cingle was appointed in 1995. It says absence meaning someone is ill, on vacation or are not in the office for some reason but have not vacated their office. Looking through the Charter there are other circumstances where the word vacancy is used with a procedure to fill that vacancy; so absence and vacancy, in my opinion, are two (2)

Discussion: cont.

different things, having said that it is a legal opinion. If everyone decided that they wanted to make the assistant finance director the interim finance director there is nothing wrong with that. All I'm saying is there is an elected office that is vacant and that is different from an absence.

Mr. Mencini concurred with the law director that there is a difference between vacant and absence. My point on this is when you say the 120 days, the Charter says 30 days from when the finance director left and if not fulfilled the Mayor has a choice. On the opposite if Madam Maykut decides to finish out her time where is the big issue?

Mrs. Horvath responded to answer your question, to a certain extent that was not addressed in the opinion provided. Reading through the Charter and come to the word except whatever happened before is gone. Looking through this think there is certainly a possibility to take the language before the word except that Council has 30 days to appoint; that is certainly a reasonable amount of time to make some sort of decision. The other thing I wanted to note is think it's unfair to the assistant finance director to ask these questions without giving fair warning or opportunity to think about any of these things. This is Council's first time to fill the position and what process should be used and best to talk about what process should be used.

Mr. Mencini stated wants to make sure someone is there and the city is full go on this, think we're beating this up more than really have to, let's get someone in the position and move ahead.

Mr. Vecchio concurred with the statement beating this up, this could go round and round for hours and if we want to continue with this call a special meeting for discussion only of this item, do have another agenda to move forward to and are already well over the time.

Mr. Troyer mentioned think the Council should adjust the Charter this city can't be without someone in that position, appoint Madam Maykut to that position.

Mr. Scott mentioned earlier today I asked Madam Maykut and her answer was yes, to become the interim finance director.

Mr. Poindexter commented I am okay with that and honors what the Charter intended and Madam Maykut is more than capable, former finance director always praised her.

Discussion: cont.

Motion by Mr. Troyer, supported by Mr. Poindexter, to move finance director vacancy to tonight's Council meeting for appointment.


ROLL CALL: AYES: Troyer, Poindexter, Roberts, Mencini, Scott, Coyne, Salvatore
NAYS: Unanimous.

Mr. Vecchio stated that will appear under K-1.

There being no further business to come before this meeting a **motion** by Mr. Troyer, supported by Madam Coyne, to adjourn.

ROLL CALL: AYES: Troyer, Coyne, Scott, Mencini, Roberts, Poindexter, Salvatore
NAYS: Unanimous.

Council President Vecchio declared this meeting adjourned at 7:48 p.m.

RESPECTFULLY SUBMITTED 
Carol Johnson
Clerk of Council

APPROVED May 14, 2023

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