

**ITEMS TO BE CONSIDERED
AT THE CAUCUS PRIOR TO THE COUNCIL MEETING
TO BE HELD ON TUESDAY, MAY 16, 2023
7:00 P.M.**

I. ROLL CALL OF MEMBERS:

II. PLEDGE OF ALLEGIANCE:

III. DISCUSSION:

1. AN ORDINANCE AMENDING ORDINANCE 9891-2014, PASSED FEBRUARY 25, 2014, WHICH AUTHORIZED THE MAYOR TO HIRE THE LAW FIRM OF KAUFMAN AND COMPANY, LLC TO ACT AS CO-COUNSEL WITH THE LAW DIRECTOR, DUE TO A NAME CHANGE OF THE FIRM TO 'ULMER & MERNE LLP' AND DECLARING AN EMERGENCY. Introduced by Mayor Orcutt.
2. AN ORDINANCE AUTHORIZING THE MAYOR TO ADVERTISE FOR BIDS FOR THE WEDO PARK STORM WATER BASIN PROJECT AND DECLARING AN EMERGENCY. Introduced by Mayor Orcutt.
3. AN ORDINANCE AUTHORIZING THE MAYOR TO TRADE-IN THE CITY'S 2007 NEW HOLLAND W170B WHEEL LOADER AND TO PURCHASE A JOHN DEERE 544 P-TIER WHEEL LOADER AND DECLARING AN EMERGENCY. Introduced by Mayor Orcutt. **Note: Exhibit A is attached – this legislation appears on the Council agenda under first reading.**

IV. LEGISLATIVE COMMITTEE – CHAIRWOMAN, COYNE:

1. A RESOLUTION PLACING A TEMPORARY MORATORIUM, NOT TO EXCEED TWELVE (12) MONTHS, ON CARWASH ESTABLISHMENTS WITHIN THE CITY OF BROOK PARK AND DECLARING AN EMERGENCY. Introduced by Mayor Orcutt.

V. SAFETY COMMITTEE – CHAIRMAN, ROBERTS:

1. AN ORDINANCE AUTHORIZING THE POLICE CHIEF TO TRADE-IN POLICE EQUIPMENT AND/OR UNCLAIMED OR FORFEITED PROPERTY NO LONGER NEEDED BY THE BROOK PARK POLICE DEPARTMENT AND DECLARING AN EMERGENCY. Introduced by Mayor Orcutt.
In attendance: Police Chief Powers.

3VI. ADJOURNMENT:

Posted 5/12/23

**ITEMS TO BE CONSIDERED
AT THE CAUCUS PRIOR TO THE COUNCIL MEETING
HELD ON MAY 16, 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:

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

Also in attendance were Mayor Orcutt, Law Director Horvath, Interim Finance Director Maykut, Recreation Director Gonzalez, Service Director Beyer and Engineer Piatak.

Motion by Mr. Salvatore, supported by Mr. Poindexter, to go out of the regular order of business to Safety Committee.

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

SAFETY COMMITTEE - CHAIRMAN, ROBERTS:

1. AN ORDINANCE AUTHORIZING THE POLICE CHIEF TO TRADE-IN POLICE EQUIPMENT AND/OR UNCLAIMED OR FORFEITED PROPERTY NO LONGER NEEDED BY THE BROOK PARK POLICE DEPARTMENT AND DECLARING AN EMERGENCY. Introduced by Mayor Orcutt. **In attendance:** Police Chief Powers.

Mayor Orcutt stated there is cleanup going on at the police department with a lot of inventory that has been taken in over the years; time to purge.

Mr. Powers stated it has been several years since the police department has cleaned up the evidence room, there is an abundance of evidence that needs to be disposed of per the retention schedule.

Mr. Troyer stated retail of a \$1.00, are these being destroyed?

Mr. Powers replied no, will be store credit for the department to purchase new equipment.

Mr. Troyer continued asking is there a value?

Mr. Powers replied that is to be determined

Mr. Troyer continued that we have a huge responsibility that any asset we have we get the most amount of money for it by law. Not having a figure, I did have someone look at the front page and gave me some ideas of values. Legally the city can't say trade-in for value for whatever price the company decides to give the city.

Safety Committee - Chairman, Roberts: cont.

Mr. Vecchio stated have to be evaluated once they get to the company to be assessed. The company will look at the weapons and determine the values could range differently, depending on where someone is looking i.e. EBay, etc. The weapons will have to be evaluated, assessed and probably disassembled and looked at mechanically to see if everything is in good working order, then the dollar amount is determined.

Mr. Powers concurred and stated the company will assess and go from there and wouldn't know that dollar amount from anybody until that process is complete.

Mayor Orcutt stated this is a first-time process for the city with the 144 guns listed they mostly came from residents whose family member had a gun collection the family no longer wants, so the residents turn it into the police department. In the past everything went to the steel mill to be melted down. The Environmental Protection Agency (EPA) has stopped the process of weapons being melted down.

Mr. Mencini stated to Mr. Powers concur with the Mayor with this being a first-time program. The police officers know their firearms and everyone up here wants the officers to have the best equipment. My question is, do you feel uncomfortable doing this, I don't. Could we count on notification of what the city gets for the trade-in value?

Mr. Powers responded yes, we will do the best to get what everything is worth and the store credit will be put back into the department budget. The department is going with this company because they are the experts so there could be a wide range of costs.

Mr. Mencini stated would like to know the trade and credit given.

Mr. Powers responded we can report back to Council.

Mr. Mencini thanked Police Chief for coming.

Mr. Poindexter asked Mr. Powers all these weapons listed, were they all evidence or a mix of evidence and old weapons.

Mr. Powers replied the way the department incurs these firearms is obviously through crimes, maybe not with Brook Park, but the court requires someone to surrender the weapon, since they no longer can legally own the firearm. A lot of the weapons are from people passing away and the family no longer wants them so they bring them to the department.

Mr. Poindexter asked if there are any city weapons listed?

Safety Committee - Chairman, Roberts: cont.

Mr. Powers responded no, nothing that the city currently owns is listed; this is all that's been taken in as evidence, property or forfeited by the courts.

Mr. Salvatore stated with this new method, how were things disposed of in the past, what did the city get for those?

Mr. Powers responded the city received nothing.

Mr. Troyer stated it matters not what the city received in the past; it matters not where they came from. These are assets to the city and we are charged with getting the most possible for any asset disposed of. The Gov-Deals or auctions would not allow this.

Mr. Powers responded no, they will not allow going to auction.

Mr. Troyer stated the city will know what is being offered before being turned in or how will that work?

Mr. Powers responded anything is contingent upon the Mayor's office and Council by passing this legislation, if not passed the department does not proceed.

Mayor Orcutt stated there are 144 pistols and revolvers on this Xcel spreadsheet and that doesn't include the knives, bazookas, tanks or whatever else the department has, the department is still inventorying. To be able to assess the dollar value there are very talented people in the police department and to concentrate on this inventory would cost the city money in overtime and taking officers off the streets to break down these weapons.

Mr. Powers stated when looking at city governments this is the company, through the state, that deals with police departments.

Mr. Mencini clarified to Mr. Powers with the trade-ins and store credit the department will get new equipment?

Mr. Powers concurred.

Mr. Troyer stated everyone wants the best equipment for the departments, this is about getting the most money for that equipment as possible.

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

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

Safety Committee - Chairman, Roberts: cont.

Mr. Vecchio stated this will appear under M-12 as Ordinance No. 11340-2023.

Motion by Mr. Mencini, supported by Mr. Troyer, to go back to the regular order of business.

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

DISCUSSION:

1. AN ORDINANCE AMENDING ORDINANCE NO. 9891-2014, PASSED FEBRUARY 25, 2014, WHICH AUTHORIZED THE MAYOR TO HIRE THE LAW FIRM OF KAUFMAN AND COMPANY, LLC TO ACT AS CO-COUNSEL WITH THE LAW DIRECTOR, DUE TO A NAME CHANGE OF THE FIRM TO ULMER & MERNE, LLP AND DECLARING AN EMERGENCY. Introduced by Mayor Orcutt.

Madam Horvath stated this is basically a housekeeping issue Kaufman & Company has served as co-counsel with the City of Brook Park Vs City of Cleveland case and have now merged with Ulmer & Merne. In order to comply with audits and other issues now making this Ulmer & Berne and would ask Council to consider the urgency to this because this litigation is ongoing.

Mr. Mencini stated to Madam Horvath they are serving as co-counsel with the City of Brook Park Vs City of Cleveland case.

Madam Horvath replied yes, and they have done very diligent work with a number of briefs and so forth that have been given to the court.

Mr. Troyer stated the legislation reads that the finance department can't pay until the name change. To Madam Horvath, Charter 4.08 reads no Ordinance or Resolution shall be revised or amended unless the Ordinance or Resolution superseding it contain the entire ordinance or resolution so revised or amended or the section or sections so revised or amended and the original ordinance, resolution or section or sections shall be expressly repealed. Is the city okay with that section of the Charter?

Madam Horvath responded yes, last time this came up it was described as a change-order and would say this is the equivalent of that by making sure the successor law firm is specifically named in the legislation, as amended.

Mr. Salvatore asked Madam Horvath all the other terms of the contract i.e. hourly rate and other stays the same?

Madam Horvath responded that is correct the city is not changing the contract, just the name.

Discussion: cont.

Motion by Mr. Troyer, supported by Mr. Mencini, this was discussed.

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

NAYS: Unanimous.

2. AN ORDINANCE AUTHORIZING THE MAYOR TO ADVERTISE FOR BIDS FOR THE WEDO PARK STORM WATER BASIN PROJECT AND DECLARING AN EMERGENCY. Introduced by Mayor Orcutt.

Mayor Orcutt stated this Legislation gives the authority to go out for bid, does not enter into any contract.

Mr. Piatak stated this is the next step in moving the project forward to get the bids on the street, get them back, analyze them and come back to Council with another piece of legislation authorizing the execution of the contract.

Mr. Poindexter to Mayor Orcutt, the second Whereas reads the Northeast Ohio Regional Sewer District has indicated that costs incurred for this project is considered reimbursable from the community cost-share account. I was under the impression the city would pay out-of-pocket and the district would help with some of it, has that changed?

Mayor Orcutt responded no, believe actually put a piece of legislation forward to request some of the project paid through the community cost-share account.

Mr. Piatak stated will be brining that piece of legislation forward for the community cost-share agreement; after the bids come in. Will do a breakdown on moving forward and submit to the district the formal application of what will be drawn out of the cost-share account and where the rest of the monies will come from.

Mayor Orcutt stated the city does have the ability to do that and has legislation to pay for the design work with community cost-share funds. The good news is, let's say, this project costs the city \$2 or \$3 million-dollars there is a nice balance in the account and can take a good portion to pay for this project and then fund from other areas. This is a major retention basin and the one going in at Middleburg Heights is a major one, as well, that will help Brook Park.

Mr. Troyer stated I am for this project, would rather have and insist the roof and walls be done in the recreation center, to be made safer. I am not for using all the cost-share monies that is the residents' monies as a fee paid on their sewer bill; that city gets 25% back that can be utilized. I am for using some of that and there have been hybrids where people have used future cost-share money as collateral but am not for depleting that fund. Legislation reads any monies that come from

Discussion: cont.

Fund 459 and no monies have been appropriated for Fund 459 and don't think that will be substantial accept for the advertisement.

Mayor Orcutt responded Fund 459 is just for the advertisement and furthermore would like to rebuttal to your earlier remarks. The engineer, myself and finance director have had discussions that the cost-share fund would not be depleted.

Mr. Mencini concurred with Mr. Troyer with the roof and walls and in time may have to redo the entire recreation center, or maybe collaborating with other communities that are doing these things, this will be major cost. With this retention basin past Ward Three Councilpersons have battled flooding for a very long time and this is a very important piece of legislation and as the engineer has stated this will help but will not solve the problem.

Motion by Mr. Troyer, supported by Mr. Mencini, this was discussed.

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

NAYS: Unanimous.

- 3. AN ORDINANCE AUTHORIZING THE MAYOR TO TRADE-IN THE CITY'S 2007 NEW HOLLAND W170B WHEEL LOADER AND TO PURCHASE A JOHN DEERE 544 P-TIER WHEEL LOADER AND DECLARING AN EMERGENCY. Introduced by Mayor Orcutt.

Mayor Orcutt stated at last week's Caucus meeting that was only for a trade-in value of \$30,000.00. What is being recommended is to amend Ordinance No. 11339-2023, under first reading. Amend the title to read 'and to purchase a John Deere 544 P-Tier wheel loader'. Sections three and four would be for the inserts for this purchase and lastly section six, fourth line, would read 'to purchase a new John Deere 544 P-Tier wheel loader.

Motion by Mr. Mencini, supported by Mr. Troyer, this was discussed.

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

NAYS: Unanimous.

LEGISLATIVE COMMITTEE - CHAIRWOMAN, COYNE:

- 1. A RESOLUTION PLACING A TEMPORARY MORATORIUM, NOT TO EXCEED TWELVE (12) MONTHS ON CARWASH ESTABLISHMENTS WITHIN THE CITY OF BROOK PARK AND DECLARING AN EMERGENCY. Introduced by Mayor Orcutt.

Mayor Orcutt stated this has been done in the past for moratoriums on different businesses. Would need to sit down as a committee to come up with ideas on how to have a variety of businesses on the city's main roads. For example, may want

Legislative Committee - Chairwoman, Coyne: cont.

to include certain distances apart and this legislation allows some time to build the criteria and zoning criteria to be able to welcome a different variety of businesses, along the city's main streets.

Mr. Troyer stated I am for looking into this but am torn on having a moratorium on car washes, businesses are good. To Mayor Orcutt, as Chairman of the Planning Commission you can place this on the agenda to come up with some ideas.

Mr. Mencini concurred with Mr. Troye the competition is good and looking at other cities there are many car washes deli shops and vape shops then business is not so good and they move out leaving an empty building. Think we need to be very cautious on some of the limited spaces the city has for businesses. We have to be smart and that's where zoning and planning come in, I am for this and will work in it.

Mr. Poindexter concurred with Mr. Mencini and stated unlike many businesses; a car wash business changes the look and design of the building. So only a car wash can build at that location and if the car wash fails the city is stuck with the vacant property that only a car wash can go into. Unless someone wants to come in and has major construction costs to open the business, which doesn't help the city. I am good with the moratorium and don't want to discourage businesses from coming to the city, but too much of a good thing is not a good thing.

Mr. Troyer stated there is actually a benefit to having is they come in pull permits, hire people to build a new building and when they leave they still own that building. In most cases, can force them to tear it down which is more money for the building department with pulling permits, as well, as pulling permits for building a new building.

Mayor Orcutt stated one way to look at this is partially assist city business that are in the city. If a certain area gets flooded the city will see businesses fail or close up, don't want that to happen. Want to see businesses succeed and the city is not 100% land-locked on main streets. For example, on Snow Road are seeing a lot of for lease or for sale signs in areas that has never seen that before. Think we need to protect the other car wash businesses that are already in the city and come up with a good plan and possibly get some type of distance involved.

Mr. Troyer stated let's say a company buys the former BP at Brookgate and builds a nice car wash that is a little bit cheaper than other car washes in the city. That may pull people in from the City of Parma or wherever and they Rose's at Brookgate Shopping Center and decides to shop. Could look at this as a positive or negative but it has to be regulated.

Motion by Mr. Poindexter, supported by Mr. Mencini, to place on tonight's Council agenda, under First Reading.

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

Mr. Vecchio stated that will appear under M-13 as Resolution No. 7-2023.

SAFETY COMMITTEE - CHAIRMAN, ROBERTS:

Moved by **motion** to the beginning of the meeting.

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

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

Council President Vecchio declared this meeting adjourned at 7:43 p.m.

RESPECTFULLY SUBMITTED


Carol Johnson
Clerk of Council

APPROVED JUNE 6, 2023

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