

**REGULAR COUNCIL MEETING
OF THE COUNCIL OF THE CITY OF BROOK PARK, OHIO
TO BE HELD ON TUESDAY OCTOBER 3, 2023**

A. ROLL CALL OF MEMBERS:

B. PLEDGE OF ALLEGIANCE:

C. APPROVAL OF MINUTES OF PRECEDING MEETINGS:

1. Caucus Prior to Meeting Minutes held on September 19, 2023.
2. Regular Council Meeting Minutes held on September 19, 2023.

D. REPORTS OF STANDING COMMITTEES:

Aviation & Environmental Committee – Chairman, Poindexter
Finance Committee - Chairman, Scott
Legislative Committee - Chairwoman, Coyne
Parks & Recreation Committee - Chairman, Mencini
Planning Committee - Chairman, Troyer
Safety Committee - Chairman, Roberts
Service Committee - Chairman, Poindexter
Board of Zoning Appeals - Chairman, Salvatore

E. REPORTS OF SPECIAL COMMITTEES:

Southwest General Health Center Trustee, Mencini
Berea Board of Education Representative, Coyne
Technology & Innovation Council Representative, Poindexter

F. REPORTS OF BOARDS AND COMMISSIONS:

G. INTRODUCTION OF RESOLUTIONS OF COMMENDATION:

H. REPORTS AND COMMUNICATIONS FROM THE MAYOR:

**I. REPORTS AND COMMUNICATIONS FROM DEPARTMENTS,
COMMISSIONS, AND OTHER PUBLIC OFFICIALS:**

**J. OTHER COMMUNICATIONS AND PETITIONS, AND VERBAL
APPROVAL: (INTRODUCTION OF NEW LEGISLATION):**

K. MISCELLANEOUS BUSINESS, APPOINTMENTS, CONFIRMATIONS:

L. REMARKS FROM THE AUDIENCE ON ANY SUBJECT MATTER:

M. ORDINANCES AND RESOLUTIONS: (FIRST READING):

N. SECOND READING OF ORDINANCES AND RESOLUTIONS:

1. ORDINANCE NO. 11359-2023
AN ORDINANCE ENACTING A NEW SUB-SECTION OF THE GENERAL OFFENSES CODE OF THE CITY OF BROOK PARK ENTITLED 'DISORDERLY CONDUCT AT SPORTING EVENTS' AND DECLARING AN EMERGENCY. Introduced by Councilman Scott.

O. THIRD READING OF ORDINANCES AND RESOLUTIONS:

P. ADJOURNMENT:

**REGULAR COUNCIL MEETING
OF THE COUNCIL OF THE CITY OF BROOK PARK, OHIO
TO BE HELD ON TUESDAY, OCTOBER 3, 2023**

The meeting was called to order by Council President Vecchio at 7:30 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, Safety Director Sensel, Interim Finance Director Maykut, Recreation Program Coordinator Morgano, Service Director Beyer and Engineer Piatak.

APPROVAL OF MINUTES OF PRECEDING MEETINGS:

1. Caucus Prior to meeting minutes September 19, 2023.
2. Regular Council meeting minutes September 19, 2023.

Motion by Mr. Mencini, supported by Mr. Roberts, to approve.

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

NAYS: Troyer.

REPORTS OF STANDING COMMITTEES:

Aviation & Environmental Committee - Chairman, Poindexter

Mr. Poindexter stated no report.

Finance Committee - Chairman, Scott

Mr. Scott reported Finance committee has nothing on tonight's agenda. The Board of Control met on September 26th with four (4) items on the agenda: Three largest were dispatch maintenance services - \$25,161.00, Christmas trees \$18,617.00 with Nopec reimbursement and city-wide street lighting - \$99,220.00 with Nopec reimbursement. Board of Control met earlier today with six (6) items on the agenda; Gas & Diesel - \$50,000.00; Plan review total - \$15,785.00 and colored lightbulbs - \$2,990.00 with Nopec reimbursement.

Legislative Committee - Chairwoman, Coyne

Madam Coyne reported Legislative committee has one (1) item under second reading.

Parks & Recreation Committee - Chairman, Mencini

Mr. Mencini reported the main gym floor restoration is completed and mini gym is currently being restored. Boo Fest is scheduled for Sunday, October 8th. Women volleyball registrations are being accepted as well as basketball registration.

Recreation center is hosting an October special signup.

Planning Committee - Chairman, Troyer

Mr. Troyer stated no report

Safety Committee - Chairman, Roberts

Mr. Roberts stated no report.

Service Committee - Chairman, Poindexter

Mr. Poindexter stated no report

Reports of standing committees: cont.

Board of Zoning Appeals - Chairman, Salvatore

Mr. Salvatore reported the board met last night with one variance granted for a Fry Road residence.

REPORTS OF SPECIAL COMMITTEES:

Southwest General Health Center Trustee, Mencini

Mr. Mencini reported the board met last Wednesday and finances for the first half of the year, after non-profit gains and losses, were positive at \$6.2 million-dollars compared to \$7.2 million-dollar loss; positive cash-flow is at 1.8%. Southwest has a new system for the nurses, since traveling nurses make good money, nurses at Southwest can now go online to choose their schedule, hours and shifts.

Berea Board of Education Representative, Coyne

Madam Coyne reported next meeting is scheduled for October 9th.

Technology & Innovation Council Representative, Poindexter

Mr. Poindexter stated the next meeting is scheduled for October 11th at 6:00 p.m. in the Council chambers.

REPORTS OF BOARDS AND COMMISSIONS:

INTRODUCTION OF RESOLUTIONS OF COMMENDATION:

REPORTS AND COMMUNICATIONS FROM THE MAYOR:

Mayor Orcutt reported the natatorium bid opening is scheduled for Wednesday, October 4th at 10:00 a.m.; Boo Fest is being held on Sunday, October 8th from 12:00 p.m. to 3:00 p.m. inside the recreation center. The Wedo Park retention basin is coming along and will be an amazing project for the city.

Questions:

Mr. Mencini asked Mayor Orcutt if representatives from the Forward Innovation center could attend an upcoming meeting to see what their plans are.

Mayor Orcutt reported yes, can get someone here from the Forward Innovation center and will say there is a lot of positive traction, hope to have a report from the developers in the next two months.

Mr. Mencini continued possibly have representatives from the Glimcher group to see what the plans are for Brookgate (shopping center).

Mayor Orcutt responded people want stores, restaurants and retail. Over the last few years the storefronts have been filling up, good thing. Glimcher Group is making progress with property maintenance; fixing sidewalks, repairs to the building and parking lot. City does not want to write citations but will if Glimcher does not comply. Could have the Economic Development Commissioner in attendance at a meeting to provide an update on projects going on in the city.

Questions to the Mayor: cont.

With the former BP gas station (Smith and Snow) is not a part of the Glimcher Group or Brookgate shopping center. Cross-America purchased a few BP gas stations in 2009 and the struggle with the former BP station is there is a deed restriction. That the gas station must remain a gas station and if not the new facility cannot sell coffee, doughnuts and so forth. The city and Glimcher Group is currently working through the deed restriction.

Mr. Troyer asked Mayor Orcutt is there any information with the Blue Abyss project?

Mayor Orcutt responded meeting with Blue Abyss representatives tomorrow to discuss timelines and future plans; still doing environmental studies. Will say it's imperative to have this project here due to the importance of sustaining NASA. There is no guarantee that NASA will be located in the city due to being funded by the federal government, also, have been receiving phone calls from investors showing interest in the Blue Abyss project.

Mr. Troyer asked if the Albert Einstein Academy still interested?

Mayor Orcutt responded my take, is they weren't as prepared as they needed to be for the site of the school and the questions from the Planning commission i.e. the layout, playground sound barrier. Have not heard anything from them since that last Planning commission meeting.

REPORTS AND COMMUNICATIONS FROM DEPARTMENTS, COMMISSIONS, AND OTHER PUBLIC OFFICIALS:**Recreation Center Program Coordinator Morgano**

Madam Morgano reported basketball and cheer registrations will be accepted until October 31st; offering the yearly recreation center discounted membership price during month of October; Fall festival activities has been moved inside the recreation center for Sunday, October 8th from 12:00 p.m. to 3:00 p.m.; outside will be food trucks, hay ride and other outside activities.

Service Director Beyer

Mr. Beyer reported bulk week is next week on regular rubbish day; mid-October leaf pickup will commence; Saturday, October 21st will be shred-it day from 10:00 a.m. to 1:00 p.m. and there is one month left for the service yard to be open Monday-Friday. Starting the month of November, the service yard will be open on Saturdays for yard waste drop-off, weather permitting.

Engineer Piatak

Mr. Piatak reported the (former) Brook Park Memorial (School) abatement work continues; the Sheldon Road waterline has 90% of the 12-inch mainline installed should be completed by end of the week. The next step is to pressure-test, chlorinate and continue with the service connections and repair of

Reports and communications from departments, commissions and other public officialsEngineer Piatak: cont.

the roadway. The Hio road project, from two years ago, the contractor is scheduled to be out this week to redo the tree lawns. The Wedo retention basin project mass haul operations are completed and the Shelby and Ashland intersection has been re-opened to normal traffic. Contractors will be working on stoning of the asphalt trail that runs the perimeter of the basin with pipe and junction chambers scheduled for delivery next week.

Law Director Horvath

Madam Horvath reported the focus of the law department's this evening is one topic and that is the City of Brook Park Vs City of Cleveland, longest trending lawsuit for the city filed in December, 2017. On September 21, 2023 the Court of Appeals rendered a decision that the case was reversed and remanded back to Trial Court. The City of Brook Park finally had an opportunity to present arguments that were taken seriously by the Court of Appeals. The case was sent back to Trial Court to determine some matters-of-fact and hopefully render a judgement. The Court of Appeals did a couple of important things eliminating the argument of standing for the City of Cleveland; finding that the City of Brook Park has the official standing of representing residents in this matter. The Court of Appeals also ruled that the City of Brook Park was within the statute of limitations in order to file this; which is an important ruling; basically, going back to Trial Court for fact-finding on the issue of possibility of laches. The City of Cleveland's defense on possibility is that the runway is no longer needed, therefore, City of Cleveland should not be made to purchase these houses, since it's impossible to do so at this time to put a runway there. I believe the City of Brook Park will be able to provide sufficient facts on a basis of refuting that and sufficiently show the damages for that. Laches talks about a party waiting too long to file something and the opposite party is at harm because the first party took so long to present items to the court. The Court of Appeals is having this return to the Trial Court so that some factual determinations can be made with regard to that issue. Very encouraging that the Court of Appeals found that the City of Brook Park was in the statute of limitations. For example, if someone is given eight-years to file something and files within that eight-year timeframe it makes the Laches must harder since it was filed within time of the statute. Those issues and some other factual issues hopefully will be addressed by the Trial Court and there is the possibility that the City of Cleveland will decide to appeal to the Ohio Supreme Court. Of course, that is not an appeal of right because the Ohio Supreme Court has to allow that appeal to come before them. Will probably be waiting another 30-days or so to see what direction this case is headed but can say the law department and co-counsel were very happy that finally someone has looked at this case and taken the city's arguments seriously and given the consideration that the case deserves. Asked Mayor Orcutt to have the full opinion posted on the

Reports and communications from departments, commissions and other public officials:

Law Director Horvath: cont.

city's website and letters will be mailed to (affected) residents tomorrow advising them of the decision.

Safety Director Sensel

Mr. Sensel stated no report.

Interim Finance Director Maykut

Madam Maykut reported the Tax Department is implementing an upgrade of tax software that will include e-filing of tax returns, for this year. A revised tax ordinance will be coming forth for consideration that will be in compliance with current state requirements. The department is in the process of completing the financial (reports) for September that will be posted on the website, by end of week.

Questions:

Mr. Troyer thanked Madam law director for the report, requested information when available. To Mr. Beyer on Parkland at Forestview Circle, southeast corner, work order turned in. You are aware of where the children catch the bus there is a puddle that will freeze in the winter.

Mr. Beyer responded met with the job superintendent and repairs were made to the job; that is not considered a puddle. What has to be done is raise the crosswalk which can't be raised due to being higher than the street. If you would like to talk with the superintendent, as you did the day he was onsite, again that is not a puddle.

Mr. Troyer continued it is a puddle and residents have been complaining where the children catch the bus will freeze in the winter causing unsafe conditions. Talked about cutting some grooves to channel the water to the catch-basins on either side and reposition the crosswalk higher and then resurface the road to match, no standing water.

Mr. Beyer responded it's just diverted somewhere else.

Mr. Troyer commented to the catch-basins on either side.

Mr. Beyer continued will not argue, the professionals came back and did the job asked of them.

OTHER COMMUNICATIONS AND PETITIONS, AND VERBAL APPROVAL: (INTRODUCTION OF NEW LEGISLATION):

New Legislation:

1. A Resolution supporting and authorizing the submission of an application to the Cuyahoga County Department of Development for the 2024 Cuyahoga County Developmental **Municipal** Grant Program to provide financial assistance for improvements to Brook Park Central Park and authorizing the Mayor to accept any awarded grant funds and file all documents and execute all agreements necessary to receive any awarded grant fund and declaring an emergency. Introduced by Mayor Orcutt. Assigned to Finance committee.
2. A Resolution supporting and authorizing the submission of an application to the Cuyahoga County Department of Development for the 2024 Cuyahoga County **Supplemental** Grant Program to provide financial assistance for improvements to Brook Park Central Park and authorizing the Mayor to accept any awarded grant funds and file all documents and execute all agreements necessary to receive any awarded grant fund and declaring an emergency. Introduced by Mayor Orcutt. Assigned to Finance committee.
3. An Ordinance authorizing the Mayor to enter into a contract to convert light fixtures to 'LED' and declaring an emergency. Introduced by Mayor Orcutt and Councilman Poindexter. Assigned to Service committee.

MISCELLANEOUS BUSINESS, APPOINTMENTS, CONFIRMATIONS:

REMARKS FROM THE AUDIENCE ON ANY SUBJECT MATTER:

Robert Robinson
14432 Parkman

Mr. Robinson expressed concerns with water (flooding) problems in all communities being a serious matter; swell near Brookgate (shopping center) not being maintained.

ORDINANCES AND RESOLUTIONS: (FIRST READING):

SECOND READING OF ORDINANCES AND RESOLUTIONS:

1. ORDINANCE NO. 11359-2023
AN ORDINANCE ENACTING A NEW SUB-SECTION OF THE GENERAL OFFENSES CODE OF THE CITY OF BROOK PARK ENTITLED 'DISORDERLY CONDUCT AT SPORTING EVENTS' AND DECLARING AN EMERGENCY.
Introduced by Councilman Scott.

Mr. Troyer stated in 509.03(a)(6) instead of 'engaging in any conduct' could read 'initiating any conduct'. Above section two (2) deleting all the other people, and just have referee, umpire or anybody in similar capacity, generally meaning any umpire or referee that have control of that field or court. Want to clarify something when this was discussed at last Caucus said referring to this legislation

Second Reading of Ordinances and Resolutions: cont.

reminds me of Germany in the 1940's. I did not say the city does some people are misleading people, said legislation reminds me of that, the way it exists.

Mr. Vecchio stated Ordinance No. 11359-2023 has had its second reading.

THIRD READING OF ORDINANCES AND RESOLUTIONS:

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

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

Council President Vecchio declared this meeting adjourned at 8:05 p.m.

RESPECTFULLY SUBMITTED


Carol Johnson
Clerk of Council

APPROVED October 17, 2023

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