

**City of Broadview Heights
Work Session Meeting Minutes
February 11, 2019**

Mr. Boldt called the **WORK SESSION** to order at 7:30 p.m.

Mr. Goodwin led the Pledge of Allegiance.

ROLL CALL

MEMBERS PRESENT:	Mr. Robert A. Boldt	(Ward 4 Councilor, President)
	Mr. Thomas Pavlica	(Ward 1 Councilor)
	Mr. Brian Wolf	(Ward 2 Councilor)
	Mr. George Stelmaschuk	(Ward 3 Councilor, President Pro-Tem)
	Ms. Jennifer A. Mahnic	(Councilor At-Large)
	Mr. Glenn R. Goodwin	(Councilor At-Large)
	Mr. Joe Price	(Councilor At-Large)

OFFICER(S) PRESENT:	Mr. Samuel J. Alai	(Mayor)
	Mr. Vince Ruffa	(Law Director)
	Mr. Gary Yelenosky	(City Engineer)
	Mr. David Schroedel	(Service Director)
	Mr. Dave Pfaff	(Finance Director)
	Mrs. Helen Dunlap	(Clerk of Council)

OFFICER(S) ABSENT:	Mr. Michael Skvasik	(Building Commissioner)
	Mrs. Paula Horner	(Parks & Recreation Director)
	Chief Vizer	(Police Chief)
	Chief Jeffrey Hajek	(Fire Chief)
	Ms. Kristina Sorensen	(Economic Development Director)
	Mrs. Amy Jo Washabaugh	(Human Service Director)

1. Discussion from Council.

a. **Storm water rules from Rules, Ordinance & Franchises. Mr. Price**

Mr. Price stated that the Rules, Ordinance & Franchise Committee met prior to this meeting this evening and they are moving some information to Mr. Ruffa for his review regarding some legal matters when it comes to enforcement of the retention basins and specifically how they relate to Home Owner's Associations.

b. **Healthcare Renewal. Mr. Stelmaschuk**

Mr. Stelmaschuk stated that they discussed this last week in detail.

Mr. Pfaff stated that basically we got our healthcare renewal in and the initial renewal was around 17% and then Mike Troyan went back to Medical Mutual and they agreed to reduce the increase to 12% provided we didn't go out for competitive pricing this year. We did have some competitive pricing last year and Mr.

Troyan felt that it was better to accept the 12% renewal. Also effective March 1 we are anticipating the employee share for all employees will be 7.5% and when you factor that in the net increase to the city this year is 6%. We are also going to roll out the Health Savings Accounts starting March 1. We are starting to have meetings starting tomorrow. Council had previously approved contributions to that of \$1,375 for single and \$3,500 for family with the renewal rates actually if an employee elects to go into the Health Savings Account the city will recognize a small savings of \$195 a year for single and \$516 a year for anyone with family coverage.

Mr. Pavlica stated that as Mr. Pfaff mentioned with the HSA there was a discussion at the Healthcare Meeting last week and that discussion of how much the city would be giving to the employees, the single and family which Mr. Pfaff just mentioned, \$1,375 for single and \$3,500 for family with the savings for the city of roughly \$195 for single and \$516 for family.

2. Discussion from the Service Department. Mr. Schroedel

a. **Accepting NOPEC Energized Community Grant.**

Mr. Schroedel stated that this is accepting a grant from NOPEC. This is the same grant that we received last year for energy efficiency projects. This year's grant amount is \$81,288.

3. Discussion from the Engineering Department. Mr. Yelenosky

a. **Street Light Assessment**

Mr. Yelenosky stated that this is just to ask for council approval to move forward with the street light assessment for 2019.

Add-on

4. Discussion from the Service Department. Mr. Schroedel

a. **Spotlights Theater Fire Suppression System**

Mr. Schroedel stated that this is for the sprinkler system for the Spotlights building. Unfortunately we need a more expensive sprinkler system than what they had first thought because of the ceiling it needs to go up into the ceiling between the drywall and the ceiling and the joist. We received 2 quotes and we tried to solicit more but these were the only 2 that responded. His recommendation is to go with McPhillips. It is a better system and it is less expensive.

5. Discussion from the Finance Department. Mr. Pfaff

a. **Buyansky Bros. Leaf Disposal Invoice**

Mr. Pfaff stated that council may recall at one of the previous Finance Committee Meetings that he mentioned the necessity of having a bills resolution and what the purpose of a bills resolution is for those events where a liability has been incurred by the city of greater than \$3,000 prior to the purchase order being issued. Generally that is just a mechanical issue of like in this case he will give an example of where the Service Department was under the assumption that we had a blanket PO for disposal and he had issued

the blanket PO specifically to Rumpke so when we had a Buyansky invoice show up we didn't have the money encumbered and we took care of one of them at the end of last year by moving the encumbrance from Rumpke to Buyansky. He had a note to do another one at the end of the year to cover this invoice but he forgot to do it so when the invoice came in we didn't have the purchase order so in accordance with the Ohio Revised Code Council has to authorize the payment of that. We will probably end of having a handful of these every year where it is just, usually it is just a director forgets to request a purchase order, sometimes they make the request but maybe the Finance Department takes a day or 2 to issue the PO so it is usually just a timing issue. It is not anything where someone is trying to do something to get away with anything.

COUNCIL OPEN TO THE RESIDENTS

None this evening.

COUNCIL DISCUSSION

Mr. Pavlica stated that there will be a Civil Service Meeting tomorrow morning at 9:00 a.m. in the Elm Room.

Mr. Wolf stated that they had a GPZ Meeting this evening and they forwarded a proposed car wash on Royalton Road to Planning Commission for a subplot consolidation and split.

Mr. Boldt stated that the Planning Commission will meet on Wednesday evening at 7:00 p.m.

Mr. Stelmaschuk stated that the long lost ordinance on Home Owner's Associations has been found.

Mr. Price stated that he asks that the Clerk to get the minutes of the Rules, Ordinance meeting to Mr. Ruffa even though they are not approved as of yet to give him the gist of what was discussed. One of the things that maybe Mr. Ruffa can focus on is the discussion regarding HOA's that were put into place that are now defunked but under the portion of 1334.44 Penalties, the question was asked is that it says there is a \$1,000 fine for not maintaining the ponds. Could each member in that class of the now defunked HOA be responsible for that fine? That was a question that was asked and they would like to see if there is an answer to that or would it have it be divided up equally amongst them.

Mr. Ruffa stated that he is 90% that the answer is no that you can only levy the fine once but he will double check.

Mr. Boldt stated that while he is looking into that, his question is if it is a homeowners responsibility to keep up with the retention basin and they have let it lapse, is that an assessment to the whole neighborhood to get it back into working order.

Mr. Price stated that you can ask that, he guesses that they are going back to the covenant.

Mr. Ruffa stated that it goes back to the ownership too.

Mr. Price stated that they discussed that and that will be in the minutes that there were basically 2 classes, it is either owner or owners and we have to determine which is which. Now one of the things that they brought up when they talked about it was Cherry Hill where the developer assigned it to an owner, 1 parcel

and whether he should have done that or not and would there be any recourse or what are the statues on something like that.

Mr. Boldt stated that he guesses that the law if in 1991 says that you need to have a HOA then everyone is on the hook.

Mr. Ruffa stated that he can answer this question because he has answered it several times. One person owns the pond; one person is responsible for the pond unfortunately. Now if there was something that should have happened with the owner, the developer and the owners and whatnot then the individual who is stuck with the pond would have their recourse would be to go after the developer or the other individuals or what not but the ownership is what controls who is responsible for taking care of the pond. He knows that is what they don't want to hear and he apologizes for that but that is the unfortunate answer and Mr. Larson was here too the one time that explained it as well. He is just talking generally speaking whoever owns the retention basin whether it is an individual or a few individuals whether it is the entire association because there is a HOA and it was deeded to the HOA, whether it is a company, whatever it is, it is the ownership that is responsible for that particular thing and if there is any issues with respect to how that got to that point, then the recourse would be against the people made it get to that point when it shouldn't have gotten to that point, whether it be the developer or the homeowners but our recourse is against the owner. The owners' recourse may be against whoever else might be responsible or not based on how that should have been set up. If that is how it should have been set up we do have a situation in the municipality where one person owns the retention basin and that one person takes care of it on his own and that is what he wants. There are those situations that do exist.

Mr. Price stated that the complication in Cherry Hill is that the original owner went into foreclosure, the bank was notified about the deed restriction so now they had knowledge of it and never contested it with the developer and then sold it again and they had to acknowledge it to that buyer. That buyer has now given up the home and now there is another owner in that property to who can go after the developer. Only the first buyer he would think.

Mr. Ruffa stated but do these individuals have recourse against possibly the bank or who they purchased it from because basically it was something that wasn't disclosed, he doesn't know but he is just saying there might be recourses against other parties that either perpetuated that and should have disclosed that or anything to that effect. So without getting into all of those details, those are issues that they may have but our recourse is against the owner, the current owner whoever that person may or may not be, or persons may or may not be.

Ms. Mahnic stated that Mr. Wolf mentioned in the meeting the penalty section of that ordinance for not complying, not maintaining so could we hypothetically in the Valley Park situation, the 3 owners of that, implement penalty section and fine them.

Mr. Ruffa stated yes but he thinks that has been avoided because ultimately that doesn't solve the problem, it just exacerbates it but let's face it, it is an option.

Ms. Mahnic asked who would enforce that.

Mr. Ruffa stated that ultimately it would be the city and it would be cited into court and that could be the Building Department, that could be Engineering depending but ultimately it is a letter that demands that you take care of something within a certain period of time and if you don't we are going to cite you and

then we cite them generally into Mayor's Court when we have any building or things like that because what we want to do is get compliance. The problem is getting the compliance on that that is something that, is that the really big one that the cost is exorbitant and is born upon 3 people.

Ms. Mahnic stated that is that an excuse to not enforce our ordinance.

Mr. Ruffa stated no but what he is saying is he thinks that some people would rather pay a fine of \$1,000 rather than to come up with \$100,000 to solve the problem.

Ms. Mahnic stated so if they get fined they don't have to comply.

Mr. Ruffa stated no but he is just saying it is exacerbating the problem. It is pulling more money out of them. He doesn't have a problem doing it, don't get him wrong, but he is just warning you that that is going to create a situation where more money is getting thrown out to get them to solve a problem when they don't have the money to begin with to solve the problem so we are kind of piling on. He doesn't have an issue with it and with respect to the citation part of it but everyone needs to be aware of that.

Ms. Mahnic stated she hears him but then why have the ordinance. Why have the penalty if we are not going to enforce it?

Mr. Ruffa stated we can enforce it.

Mr. Boldt stated or the requirement for an HOA.

Mr. Ruffa stated that we can enforce it. He is just saying logically just some of the stuff just needs to be thought through and no one has wanted to take the action of citing these people up until this point but if that has changed that is fine.

Mr. Price stated that part of the reason could be by time we end up paying the prosecutor and everyone else.

Mr. Ruffa stated that sometimes there is a practical factor even though we have that we have to look at things from a practical perspective with respect to and then if the entity is a HOA and the HOA is defuncted and there hasn't been a change in ownership you are going to sue an association that doesn't exist and you are going to get a judgement that cannot be collected upon to do the work so those are all just the practical matters that you have to deal with.

Ms. Mahnic stated that was one of the questions that came up at that meeting like what happens when you have an association that is responsible for it but they are existing anymore so she thinks that is on one of his list of things but she thinks that if Mr. Boldt wants to put it on an agenda somewhere in some committee or Work Session she thinks that we need to have the talk.

Mr. Ruffa stated that he can answer it right now so if the HOA doesn't exist and the HOA is the party that is the owner that is a problem because we are going to sue a party that doesn't exist and we are going to probably win that case because there is no one defending it, so ultimately it is an exercise in futility. If no one is going to accept the ownership of that, these types of things happen a lot in the foreclosure arena so someone won't take care of his home because they are in foreclosure and then going after them becomes pointless because a) they don't have the funds to take care of it, b) they are losing the house and then the

bank gets the house and then trying to track down getting after the bank becomes an issue and then next thing you know the house gets sold so it becomes little things like building maintenance and this doesn't happen in this community but in other suburbs there is more of a problem because tracking down finally, who can we get to get the work done becomes the huge problem.

Ms. Mahnic stated that she thinks that they should have the conversation on implementing the ordinance and put it into action and she thinks what they are going to do with Valley Park and that scenario even if it is just to go through the steps, she thinks that if we are going to say oh well it is not worth it because we are not going to get our money anyways, then why have this on the books if we are not going to make that tough decision to and then the other things is how are we are going to handle the situations where an HOA is responsible for a retention basin and they fall apart and now what. Someone still has to maintain that otherwise you are going to have storm water issues for everybody else.

Mr. Goodwin stated and then in the future the next bill comes to McIntosh and McIntosh says well we are just going to disband.

Mr. Boldt stated correct and you are promoting bad behavior.

Mr. Ruffa stated that suing an entity that doesn't exist doesn't get you anywhere.

Mr. Boldt stated he thinks what they are saying is that there are other ways and does that open it up that if an HOA dissolves and you need to fix the retention basin, are you able to assess that HOA, any land owners in it.

Mr. Ruffa stated to keep in mind that you can do that but as Mr. Larson said, once you go in and assess it it becomes yours. There are a lot of moving parts there so you can do that and you can assess it and you can do the improvement but guess what, now it is yours.


Ms. Mahnic stated that maybe he can figure out another alternative.

ADJOURN

Mr. Boldt stated that with no further business to come before the Council, this meeting is adjourned.

The time was 7:51 p.m.


HELEN DUNLAP, CLERK OF COUNCIL


ROBERT BOLDT, PRESIDENT OF COUNCIL