

## MINUTES OF A REGULAR MEETING

### BROOKLYN CITY COUNCIL

**October 10, 2017**

**7:00 p.m.**

Present: Debbie Tomusko  
Mary Albier  
Kevin Tanski  
Barb Paulitzky  
Ron Van Kirk  
Tony DeMarco

Absent: Kathy Pucci

Pledge of Allegiance.

#### **APPROVAL OF MINUTES:**

**MOTION** by Tanski, second by Van Kirk to approve the minutes of September 25, 2017. **VOTE RESULTED:** *To approve:* Yes: Tomusko, Albier, Tanski, Paulitzky, Van Kirk, DeMarco. No: None. **(APPROVED)**

Pres. Van Kirk asked for a moment of silence for the victims of the Oct. 1<sup>st</sup> of the shooting in Las Vegas, and for peace in the nation.

Pres. Van Kirk said the Agenda needs amended to include Res. #2017-12, Accepting the amounts and rates as determined by the Budget Commission and authorizing the necessary tax levies and certifying them to the County Fiscal Officer. **MOTION** by Tanski, second by Van Kirk to amend the Agenda. **VOTE RESULTED:** *To amend:* Yes: Tomusko, Albier, Tanski, Paulitzky, Van Kirk, DeMarco. No: None. **(AGENDA AMENDED)**

#### **PUBLIC SESSION:**

*Victor Ardito of 7439 Outlook Ave.* learned a Councilman sold his house and moved out of Brooklyn; asked if there is a time limit for a Councilperson to step down after this.

*Kent Cicerchi of 4720 Autumn Ln.* commented on being appalled at a piece of campaign literature sent in the mail by Ron Van Kirk about two candidates he supports, Tanski and Celcherts, and paid for by one. He felt it was misrepresenting and deceiving, and demanded he step down as Council Pres. and resign his Council seat. Added additional thoughts on the letter.

*Steven Herbig of 4402 So Amber Dr.* thanked Police Dept. for response to his call on a person destroying some of his campaign signs. Said Councilman Tanski deceptively placed many of his signs without permission and on vacant or rental properties. Also found the letter by Ron Van Kirk to be an abuse of power, deceptively using Council letterhead and signed as Council President; and touched on some of his quotes in the letter, calling Tanski and Celcherts yes men. Also mentioned qualities of Councilmembers Pucci, Tomusko, Albier. Felt some comments were sexist and borderline misogynistic. Added additional thoughts on the letter. Said Tanski refused to attend a candidates' night and insulted a group.

Pres. Van Kirk asked Dir. Butler in his report to prepare to address Mr. Ardito's concerns.

#### **REPORTS OF COMMITTEES, COMMISSIONS & BOARDS:**

Recreation Board (Councilwoman Albier): The next Bd. mtg. is Oct. 16<sup>th</sup> at 7 p.m. at the Rec Center.

Board of Zoning Appeals (Comm. Kulcsar): The Comm. mtg. of Oct. 19<sup>th</sup> is cancelled due to no applications. The next mtg. is Nov. 16<sup>th</sup> at 6 p.m. in the conference room.

Planning Commission (Councilman DeMarco): The Comm. met Oct. 5<sup>th</sup>: approved a request from Ellwood Ohio Machine for additional parking in front of 9000 Brookpark Rd.; deferred a request from M. Weber for preliminary site plan for four-story, 85 room hotel on Tiedeman Rd.; deferred a request from M. Weber for conditional use for four-story, 85 room hotel at Tiedeman Rd.; deferred a request from M. Weber for lot consolidation approval on Tiedeman Rd.

School Board Liaison (Councilwoman Paulitzky): Read an article from last Thursday's Sun Post regarding the School Report Card, Ohio's testing and school accountability system, and poor school districts having to compete against rich ones, and reporting measures.

Finance Committee (Councilman Van Kirk): He reviewed items to be passed and new on the Agenda: Ord. #65 (3<sup>rd</sup> read/adoption), agreement with Juvenile Diversion Cord. (compensated by the county, not to exceed \$18,000/year); Ord. #74 (2<sup>nd</sup> reading), Amending Ord. 2017-22, Authorizing the Mayor to enter into an agreement with Cost Recovery Corp. LLC for billing and related services attributed to Fire Dept. incidents (detailed list for incident costs on scene); Res #12 (request emergency passage), Accepting the amounts and rates as determined by the Budget Comm. and authorize necessary tax levies and certifying them to the Council Fiscal Officer (continuation of last year's rate, with no changes); Ord. #75 (1<sup>st</sup> reading), Amended annual appropriations; Ord. #76 (1<sup>st</sup> reading), Authorizing the Mayor to enter into a Job Retention and Creation Agreement with HMI Industries (highlighted some items in agreement: est. \$3M payroll, 60 jobs, leasing portion of AG facility; investing \$310,000 in equipment and inventory, beginning 1.1.18, grant of 30% of total income taxes first year, 20% in second, max. to not exceed \$37,500).

### **REPORTS OF COUNCIL:**

**Debbie Tomusko:** Said a Council mtg. is to conduct the business of the City of Brooklyn, not intended to become an arena of personal, political aspirations. Last mtg. a candidate used his time to make a campaign speech; and this highly political letter by Councilman Van Kirk disguised as an official City Council letter must be addressed. She addressed Councilman Van Kirk's complaints of a highly politicized council environment and said he is at the source of much of that as evidenced by this letter. She also objected to his calling for a need for qualified, hardworking people on council; she said we do have qualified, hard working people on council and quickly gave the backgrounds of a few to prove her point. Said he's insulting people because they do not agree with him and vote yes on everything as others do, and asked how all of citizens' interests are being represented. Said he does not have the support of the Council body and is an unelected Council President. She said he owes the Council and citizens an apology for this error in judgment. Asked Dir. Butler to seek an opinion on legality and ethical considerations of the letter. –Said the Fall Festival was wonderful. She enjoyed the craft fair, bakeries from Polaris, and good weather. Thanked all who volunteered. –While walking and campaigning she's noticed many houses have unreadable or visible addresses, which is a concern for public safety personnel to find the address. Asked everyone to look at their house from the street to check for this.

**Mary Balbier:** Saturday the Brooklyn Reformed Church held a Coats for Kids event. She helped and visited. The coats, and other items were all free, and many people came and received what they needed. Thanked the Church and Mr. and Mrs. Bunaisky who coordinated and served in this event. Thanked the several volunteers who assisted. –Issue 2 controversy. She suggests investigating it for yourself. The veterans and AARP are voting no, and Sen. Tom Patton also, along with her daughter (a pharmacist). –Four proposed amendments to the Charter will be on the Nov ballot. One deals with Council's organization, where we have a Pres. not elected to serve in the position; this amendment would ensure the Pres. is elected to the position by the members and not continue indefinitely with the same Pres. (as it is now, there was no kind of voting for him). –Commented on the letter that went out, that she was insulted by it, and the letterhead saying Brooklyn City Council, signed by Councilman Van Kirk as Council Pres. It appeared to be an official statement of Council; it was not. Said it was deceptive and laughable, paid for by a person he is pushing. It was politicizing a person who was elected out. Her duty and desire is to what is in best interest of citizens. Challenged residents to look at voting records of each Councilmember and see the

go-along, get-along people. It's healthy to not agree on everything. Told Councilman Van Kirk he was deceptive to the Council and voters and said 'shame'.

**Kevin Tanski:** Next mtg. he will have a longer report than last time. –Thanked the directors for quick responses to complaints from him and the residents. –Thanked everyone coming to Fall Festival, with plenty of activities for all, food, crafts, vendors, hayrides. Thanked Mayor Gallagher and staff for putting it together, and hope to do again next year. –Supporting Issue 58 for many good reasons (facility repairs, student technology, first increase in 45 years). Urges the school system to bridge the gap and find other avenues of finding revenue instead of tax increases. He's spoken with Supt. Gleichauf on cost-saving measures; and asked for any candidate to share thoughts and ideas for the same, and he will put forth to Council and the Mayor. –Said what Councilwoman Tomusko attacked him on reading last mtg., he did it because she and other candidates said what he did is nothing to be proud of. Asked her to show legislation she has passed, or projects she tried or did, to help the residents. –About candidates' night to Mr. Herbik, he had informed Mr. Slattery he was involved in litigation on the wrongful death of his mother. Said he should have asked him why he couldn't make it, instead of inaccurate information. –Signs on vacant lots of where they should not be: he apologizes if they were misplaced, and asked for addresses so he could get them out. –He'll have a full report next week on everything said.

**Barb Paulitzky:** Enjoyed the Fall Fest. Polaris has delicious pastries, a lot of crafters' choices, Historical Society quilt raffle. –Spoke of a disease killing deer in the last month caused by a midge bite. If anyone sees a deer that looks ill, stay away and notify authorities. –Oct. 15<sup>th</sup> is for those who have Medicare to choose a supplement for 2018. It's a complicated task. As an OSHIP trainee, she spent 30 hours learning the ins and outs, and still doesn't understand it all. She can show options at the Senior Center, or she can get you in contact with someone from the Ohio Dept. of Insurance. Call the Senior Center to set up an appointment.

**Tony DeMarco:** Extended condolences to the Egan family on the passing of Sue Egan, longtime involved in the Democratic Party on the county level. He's known the family over 35 years. –Won't comment too much regarding the letter sent. He agrees on what's been said before, and it's a sad day for Brooklyn. Thinks the residents know what's going on and will make the right decision on voting day, and the city will move forward.

**Ron Van Kirk:** Thanked Mayor Gallagher and her team for an outstanding Fall Festival community event. Gorgeous weather, his family had a blast, his 3-yr old son loved painting pumpkins and hayride. A job well done, making this a great place to live. –Said he usually doesn't address comments, but it was mentioned over and over by residents and Council, he will. He explained the letter is on his personal campaign letterhead he's used for six years. He read the letter verbatim so people would know exactly what was in it, and not have to seek it out. This was just another piece of political mail as people have been inundated with recently. Impugning his character and calling him unethical is unfair and egregious. No one (resident or Council) called him to discuss his letter, so tonight was to politicize it and impugn his character. Repeated that his letter is a political piece, with his own campaign logo on it, and he welcomes anyone to look at it or call him at 216-965-5737. –Elected, un-elected issue has been for two years, as he was elected Pro-Tem prior to becoming Pres.; couldn't come to a decision based upon the Charter for Pres., so he serves in the position. It's not ideal, as he's said before, but any Councilmember can change their vote at any time and move forward with it. –Sexist accusation is ludicrous. –Again, the letter was not to impugn anyone's character, offered his opinion with his campaign logo, and he stands by it.

### **MAYOR'S REPORT:**

**Mayor Gallagher:** Reported she received a letter from Ohio Secretary of State regarding Issue 1 and 2 on the Nov. 7 ballot. More information, including pros and cons, opposing and for views, there's a report "2017 State Issues Report" with everything in one place. –Met with Aspire, a group that works with Cuyahoga branch libraries, who offer GED classes through Brooklyn Branch, and also a bridge program to help with college prep. –Thanked NEORSD, Friends of Big Creek, and General Motors for working with 7<sup>th</sup> grade Brooklyn students recently on stream monitoring events, looking at chemicals in the water. It's a great hands-on event for the students, and thanked the partners who made it possible. –Thanked Safe Routes to School, our Police and Firefighters, walking with our students for Walk with a Hero Day; our officers take a

lot of time out of their day so students can recognize them in our community. It's a great thing the city and school work on together every year. –Fall Festival was a tremendous event this year; she was pleased with the turnout. Great to see young families in our community and neighbors getting together. The past Picnic in the Park and Fall Festival shows that people in the community want to get together, talk to their neighbors, do fun things in our community. Thanked the Committee that did all the work to put it together, the Rec Center and Service Dept. workers. –Coffee with Mayor on Friday at 9 a.m. –Second budget mtg. this Monday at 6 p.m.; to learn more about 2018 budget, it is open to the public. –Reported at Finance Comm. concerns about the Parma Regional Dispatch Center. She, Chiefs Mielke and Zemek are trying to work out kinks happening since last October's implementation. They've gone through three Communication Mgrs., two Safety Directors. We have to decide by February whether we will stay in this relationship with Parma, Parma Hts. and Brook Park as Parma Regional Dispatch. We send all reported problems to them. Slowly and surely we see positive movements. In January when she holds a mtg. with Council, we can make an informed decision on how to proceed. –Goes back and forth how to address comments about the election. It's the duty of leaders to look forward. In her days as Councilmember here, she knows the votes of some people here, how the Mayoral election went, and how it's going right now. This is a divide. What is said on this Council floor affects the future of the city. There will be people who win, and lose. Who you disagree with right now may be the people sitting next to you. We're in the same boat. She can argue with Mr. Herbik, for speaking for her, it doesn't make sense. We're here for the same reason. Each person sitting chose to represent your city, your residents, for the same purpose, hopefully, to make our city better. It's very saddening. This has been the worst part of her job the last year and a half; wait till a Council mtg. to see what she did wrong. No one calls her and tells her they disagree with something she did. Her phone number is public, her cell phone is. These people (and her) represent you. If you have a problem, that's why she makes herself available—schedule a mtg. with her, come to Coffee with the Mayor, she's had several open doors, and neighborhood mtgs. If there are questions on the table, don't listen to someone coming up here saying what their view is supporting someone, or what their view was on Issue 3. If you didn't see the mtg. or you don't know, talk to her – don't listen to anybody secondhand – for every person here. Call them up if you want their viewpoint. Hold them accountable if you think they did something wrong. What's being done on the floor of Council is getting us nowhere, everyone up here. –She had something written up to say, but there's no point to it. If you want to represent the city, come and point out what's going on positive. It's silly and sad. Do we want to be that city in the news that the Council is fighting or can't get along with the Mayor? Hopefully we get to the point where we can move the city forward, because we have problems, that we need to fix -- and we're not fixing them arguing here, or politicizing things, or putting other people down, or rolling their eyes, or sighing. Nothing gets done like that.

### **DIRECTORS REPORTS:**

Finance Dir Schaeffer: Reminded that the city is participating in RITA's non-filer delinquency program, with letters mailed week of Sept. 25<sup>th</sup>. Respond to a letter if you received one. Deadline to respond is Oct. 30<sup>th</sup> or an administrative subpoena will be issued, and you'll report to City Hall week of Oct. 27<sup>th</sup> to provide documentation of historical tax returns filed with the IRS. Easiest way to respond is electronically on their website, [www.ritaohio.com](http://www.ritaohio.com) on the link to e-file previous returns; or instead fax all requested information in the letters to 440-922-3510. –In the Council packet was a two-page overview of change #1 to the 2017 permanent appropriations. He reviewed the changes and updates. –He meets with RITA 10.13.17 to go over revised 2017 projections, which he hopes to send to Council that afternoon, as supporting documents for the budget work session on Mon. 10.16.17 at 6 p.m. in conference room. –Told Council to review documents and contact him with any questions. He hopes change #2 could be the final change for 2017, to be introduced at 12.11.17 Council mtg.

Fire Chief Zemek: Reminded citizens of the Fire Dept. Open House Saturday from 11 a.m. to 3 p.m. Please come.

Service Dir. Verba: Still working on Rodoan, and will be for several more weeks. So people know, the main problem is not the actual work – the workers are out there every day – but it's the communication with the construction company. He e-mailed them this morning for an update for this mtg., and he has not received a response yet. –He spoke to our inspector and as of today: currently working on east side of street, approx. 4451 Rodoan to Memphis; working on under drain rest of week; weather permitting they will attempt to pour the curb on 10.13.17; beginning Monday, the 17<sup>th</sup> will start forming aprons, and Tuesday the 18<sup>th</sup> will

pour aprons. Stressed this is a tentative schedule. He will do his best to communicate with residents immediately affected. He's had to send out several letters to correct certain things. We will do our best to update all the residents that will be immediately affected, and also to update the city website and Facebook. There's a lot more work to be done. In trying to crunch numbers today, still looking for them to be done by Nov. 29. They still have to do the west side of the street, aprons and curbs on west site, storm and sanitary manhole rehabilitation, casting adjustments, and then the final coat will be put down. Restoration will probably take place next year, because no grass will be grown in November. Any other questions he can help with, call him at 216-635-4219.

Econ Dev. Dir. Udris: Reported on Econ. Dev. Comm. mtg. from today: recommended approval of Ord. 2017-76, the Job Creation Tax Credit Agreement with HMI Industries. They are a headquarters operation currently in Strongsville, and manufacture the Filter Queen vacuum cleaners, a longtime Cleveland company; they'd like to relocate in the former AG bldg. in room #12 (one of warehouse locations). The project would generate over \$375,000 in new city income taxes. The request is for \$37,500 to be refunded in order to offset some of the \$76,500 of relocation expenses incurred. The city would receive a net total of \$337,500.

Law Dir Butler: Addressed the comments by Mr. Ardito regarding the residency requirements for Councilmembers. Councilmembers must live in the city under the Charter of the City of Brooklyn (Article 3, Sect. 2). The following section in the Charter provides that the City Council is the judge of the qualifications of its members, which is the Removal provision of the Charter. City Council can conduct hearings and determine the qualifications of their members, based on the qualifications identified in the Charter. Councilwoman Tomusko said she had also asked for an opinion (could be at a later date) on the legality and ethical considerations of that letter having been sent to the community. Dir. Butler said he saw the letter and would respond. He's the Law Dir. for the city. His client is the City of Brooklyn, not any individual members who represent the govt., including the Mayor or any Councilmembers. His chief client contacts are the Mayor, Councilmembers, boards and commission members, directors and chiefs. His interests and obligations are to serve the government of the City of Brooklyn. He said in his role as Law Dir. of the city, he has no concerns that this document (the letter) has any bearing on the operation of the government of the city. To him it looks like a campaign literature, with the appropriate paid for disclaimer at the bottom, Mr. Van Kirk's name at the top, and responded that "Brooklyn City Council" at the top identifies him as a member of Brooklyn City Council, and it often uses the pronoun "I" in the letter. He not only does not have concerns over whether any local laws impacting the operation of the government of the city are implicated by this letter, he also doesn't believe he's the appropriate person to respond to this particular concern. He said anyone with a concern on any campaign literature anywhere in Ohio should appropriately direct that concern to the Ohio Elections Commission, not the Law Dir. of the city. But in role as Law Dir. and being asked for an opinion, he has no concern over this letter impacting the operations of the city government at all. Councilwoman Tomusko said it's consistent with her remarks, that a City Council mtg. is to conduct the business of the city, not to be political. We shouldn't be discussing politics in a City Council mtg. Pres. Van Kirk said this letter was not brought up in City Council by him, but by other individuals so he had to address it. Councilwoman Balbier asked Dir. Butler, in his expertise in the law, could this or could it not be somewhat deceptive? Dir Butler replied it is not a request for legal opinion, that is a request for an opinion; and everyone has an opportunity to form their own opinion on that.

#### **LEGISLATION:**

**RESOLUTION 2017-10**, Approving and adopting the Countywide All-Hazards Mitigation Plan for Cuyahoga County, 2017-2020 Update. **MOTION** by Paulitzky, second by Tanski to adopt. **VOTE RESULTED: To adopt:** Yes: Tomusko, Balbier, Tanski, Paulitzky, Van Kirk, DeMarco. No: None. **(ADOPTED)**

**ORDINANCE 2017-65**, Authorizing the Mayor to enter into an agreement with the Juvenile Diversion Coordinator. **MOTION** by Tanski, second by Paulitzky to adopt. **VOTE RESULTED: To adopt:** Yes: Tomusko, Balbier, Tanski, Paulitzky, Van Kirk, DeMarco. No: None. **(ADOPTED)**

**ORDINANCE 2017-67**, Amending Sect. 1109.01 of the Codified Ordinances of the City of Brooklyn to prohibit the cultivation, processing or dispensing of medical marijuana in the city. Councilwoman Tomusko said she will be voting no, because she is a supporter of medical marijuana, because if it offers help for cancer

or the pain of cancer she supports it and welcomes its use. She offered personal family instance of someone not getting enough pain killers so that they didn't give too much; if medical marijuana would have been available she would have chosen it for her, and would also choose it for herself. She additionally noted that there is a nationwide movement to prescribe medical marijuana in place of oxytocin and Percocet as it is less addictive. **MOTION** by Paulitzky, second by Tanski to adopt. **VOTE RESULTED: To adopt:** Yes: Balbier, Tanski, Paulitzky, Van Kirk, DeMarco. No: Tomusko. **(ADOPTED)**

**ORDINANCE 2017-69**, Amending Sect. 105.04 of the Codified Ordinances of the City of Brooklyn to require minutes of meetings to be posted online. **MOTION** by Tanski, second by Van Kirk to adopt. **VOTE RESULTED: To adopt:** Yes: Tomusko, Balbier, Tanski, Paulitzky, Van Kirk, DeMarco. No: None. **(ADOPTED)**

**ORDINANCE #2017-74**, Amending Ord. 2017-22, Authorizing the Mayor to enter into an agreement with Cost Recovery Corporation LLC for billing and related services attributed to Fire Dept. incidents. Dir Butler said Councilman DeMarco pointed out an error in Sect. 3 of the contract attached, he sent a corrected copy to Council tonight. The correction should read "20% in its entirety" instead of 25%. The current practice is 20% of collections. **MOTION** by Tanski, second by Van Kirk to amend. **VOTE RESULTED: To amend:** Yes: Tomusko, Balbier, Tanski, Paulitzky, Van Kirk, DeMarco. No: None. **(AMENDED, SECOND READING)**

**RESOLUTION 2017-11**, Authorizing the Mayor to enter into a contract with the District Bd. of Health of Cuyahoga County for Health Services for the year 2018. **(FIRST READING)**

**RESOLUTION 2017-12**, Accepting the amounts and rates as determined by the Budget Commission and authorizing the necessary tax levies and certifying them to the County Fiscal Officer. Dir. Schaeffer said the Fiscal Officer sends this, and the property tax rates and where they go to fund the various operations of the government remain the same from 2017 to 2018. He requests it be passed by emergency. **MOTION** by Van Kirk, second by Paulitzky to suspend the rules. **MOTION** by Tanski, second by Van Kirk to adopt. **VOTE RESULTED: To suspend the rules:** Yes: Tomusko, Balbier, Tanski, Paulitzky, Van Kirk, DeMarco. No: None. **To adopt:** Yes: Tomusko, Balbier, Tanski, Paulitzky, Van Kirk, DeMarco. No: None. **(ADOPTED)**

**ORDINANCE 2017-75**, Amended annual appropriations. **(FIRST READING)**

**ORDINANCE 2017-76**, Authorizing the Mayor to enter into a Job Retention and Creation Grant Agreement with HMI Industries, Inc. **(FIRST READING)**

Councilwoman Balbier wanted to clarify a fact with the Brooklyn Acres, that when they asked all the candidates to come, they offered four or five dates to see which would coordinate with everyone's schedule. It's too bad not everybody could have made it.

Councilman Tanski told Councilwoman Balbier there were three dates, which he responded to two of them that he could make. After his response they put out the other date, which he could not make. He responded to Mr. Slattery on why he couldn't make it, and he was told that he announced it at the mtg. If anyone thought different or had a problem they could have come to him for an explanation. His problem is when comments are made behind somebody's back, not knowing the real truth. He had a major problem that night. Councilwoman Balbier said she was going by some administration's thoughts and what they had said, so she said she was sorry he was unable to make it.

There being no further business, **MOTION** by Paulitzky, second by Van Kirk to adjourn. **VOTE RESULTED: To Adjourn:** Yes: Tomusko, Balbier, Tanski, Paulitzky, Van Kirk, DeMarco. No: None. **(ADJOURNED)**

---

Clerk of Council

---

President of Council