

**REGULAR CAUCUS MEETING
OF THE COUNCIL OF THE CITY OF BROOK PARK, OHIO
TO BE HELD ON TUESDAY, DECEMBER 13, 2016**

The meeting was called to order by Council President Astorino at 7:00 p.m. The clerk called the roll and the following Members of Council answered:

SCOTT, BURGIO, SALVATORE, TROYER, POWERS, MENCINI

Also in attendance were Law Director Horvath, Mayor Coyne, Service Director Cayet, Finance Director Cingle, Engineer Piatak, Police Chief Foster.

APPROVAL OF MINUTES OF PRECEDING MEETINGS:

Mr. Astorino stated Councilwoman at Large McCormick submitted her resignation from her position. Her message said, "I hereby resign from my position on Council effective immediately. I have turned in my keys for the doors, drawers and file cabinets. Should you have any questions please feel free to contact me, Julie McCormick."

Mr. Astorino said everyone is aware of what has transpired and she has now resigned her seat. Council will follow the Charter and restrictions on taking actions. Ms. McCormick's insurance coverage was suspended; therefore, her decision was to resign, which is now part of the record.

Mayor Coyne asked Mr. Astorino for a written signed notice by Ms. McCormick that she has resigned for payroll processing.

Mr. Astorino stated information was received from the finance department that will be processed tomorrow.

Mayor Coyne said as chief administrator of the city he requires the resignation in writing.

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

ROLL CALL: AYES: Salvatore, Scott, Burgio, Troyer, Powers, Mencini

NAYS: None. The motion carried.

LEGISLATIVE COMMITTEE - CHAIRMAN, TROYER:

1. AN ORDINANCE ENACTING SECTION 509.15 OF THE BROOK PARK CODIFIED ORDINANCES ENTITLED 'PROHIBITING NUISANCE PARTIES' AND DECLARING AN EMERGENCY. Introduced by Council President Astorino, Council Members Troyer, Powers, McCormick.
Placed in committee 9/20/16; Caucus 10/11/16, Caucus 10/25/16, Caucus 11/15/16. In attendance per Council request: Police Chief Foster

**Police Chief James Foster
17401 Holland Road**

Mr. Mencini asked Chief Foster how much is on the books regarding nuisance parties with the legislation enacting Section 509.15 and 529.022 to which Mr. Foster said there are a good number and he is not in favor of more laws; however, these two pieces of legislation strengthen the department's ability to enforce problems considered nuisance type situations. Not many ordinances other than the individual ones hold the homeowner, or person in charge of the property, responsible for what goes on at the property.

Mr. Mencini asked if the legislation helps the department upon arrival at a party of 50 to 300 people, and would it increase the chances of an arrest or warning, etc. What is different between these and the first party on the west end?

Mr. Foster said upon arrival officers observe the totality of the circumstances, i.e., individual activity, individual crime, what is taking place, and the perpetrator. These are a little different in nature. One is under liquor control by the Mayor and the other is under public peace. These address a situation or large group totally out of control. There is no avenue to hold the homeowner or who is in control of the property or premise. There is not much under city ordinances to hold them responsible for. A warning can be issued, but if the homeowner is not actively participating in the crime, e.g., underage drinking, disorderly conduct or disturbing the peace, we cannot go forward. We are not targeting the homeowner, however, there does have to be a reason to hold them responsible when something is out of control; whether a few rowdy people causing havoc, 100 people totally out of control, or anything in between.

Mr. Mencini stated upon arrival at a situation where there is obviously a big fight or something, the police know what to do. Sometimes they are probably not 100% sure where the party is coming from or where the people are coming from.

Mr. Foster said that was correct. It takes an investigation to find out who is doing what and to put together what the neighbors and people reporting the problem are tell us.

LEGISLATIVE COMMITTEE - CHAIRMAN, TROYER Cont.:

Mr. Mencini stated when the police first arrive they remove them to avoid later conflict or someone getting excited or handcuffed. He said he learned a lot with the ride along with both police and fire, but thought the first priority of the police is to disperse them.

Mr. Foster agreed and said it is for the public and officers' safety and to restore order as soon as possible.

Mr. Burgio asked Chief Foster if there was anything he did not like or would add to the ordinance to which Mr. Foster said regarding Nuisance Ordinance 509.15, the penalty section has not been clarified. He endorsed having a Misdemeanor four (4th) to give officers discretion as to whether or not a physical arrest is necessary when it is out of control. For a Minor misdemeanor a summons of release is issued and the officer does not really have a choice. In this situation, when things are out of control, an M-4 gives the officer the ability to make a physical arrest if necessary. We can also give a summons. It does not make it an automatic physical arrest, but it gives the officer that option.

Mr. Burgio stated this is helpful to the officers to which Mr. Foster agreed as it helps the police curtail problems.

Mr. Salvatore asked Chief Foster what was in the ordinance that cannot be done already besides clarification of the misdemeanor to which Mr. Foster said there are many common problems at a disturbance, i.e., disorderly conduct, illegal open container, unlawful sale, furnishing to minors, possession of drugs and alcohol; things of that nature on the books. We can cite who is committing that type of violation. This legislation enables us to hold the person in control of the property, responsible for the activity taking place if they have knowledge of it going on and allowing it to continue. It allows the department another tool to charge that person if warranted.

Mr. Salvatore stated when an officer is aware of a crime he can cite the person, even without this ordinance, to which Mr. Foster said it is possible but more difficult. The department can cite state ordinances, e.g., when a homeowner is out of state it can be assumed he was unaware of a problem at his house. However, if present with 200 people at the house it is reasonable to suspect he is aware of the disorderly conduct. The police may have already given two warnings and nothing was done. They may not be involved in the disorderly conduct or violation of the ordinances, however, they are responsible for making sure that behavior does not take place at their residence.

Mrs. Powers asked if only a couple of people disturbing neighbors could be considered a nuisance party?

LEGISLATIVE COMMITTEE - CHAIRMAN, TROYER Cont.:

Mr. Foster said this legislation would be used with all other ordinances to determine the appropriate charge. Normally, the police have a sufficient number of ordinances to cite the person disturbing the peace, for littering, or some type of violation. However, if it becomes a bigger problem than what is on the books it may be appropriate to charge them with a nuisance, as far his discretion and what the final outcome is of this ordinance.

Mr. Astorino said Council received a letter from Chief Foster dated October 25th regarding his review of these ordinances and it was his opinion that the nuisance ordinance would be helpful to the police department. Mr. Astorino asked if he had second thoughts, or if he still agreed that both ordinances would be helpful to the department.

Mr. Foster said both were because 529.22 is under liquor control and very specific to underage drinking. It is a separate crime, not a nuisance. He believed there was a state law on the books, but not a city ordinance. That is very specific. The best way to have an ordinance that puts it into perspective and defines it well, so there is not a lot of discretion is, it either is or is not. Prosecutors enjoy that because it is clearly defined with what they are doing.

Mr. Astorino said the letter addresses the officer exercising discretionary judgement, but not required to do things. He can make a judgement call and there are different levels. On a first visit he does certain things and the second time, if a recurring problem, he would exercise this ordinance. If this ordinance is on the books and they are at the scene for the first time, there is nothing requiring them to take action. They can still exercise judgement and talk the homeowner through it.

Mr. Foster said attempting to settle the problem without citing or making arrests is the department's overall philosophy, but sometimes, there is no choice. It is preferable for the officer to issue a warning for disturbing the peace or for a problem that can be resolved by the homeowner and then escalated it from there. Even when an officer does cite, the matter would be reviewed by the prosecutor. If for some reason the police department was overzealous, the prosecutor reviews the matter and determines if the nuisance was or was not warranted. On occasion a higher recommendation is part of the judicial process.

Mr. Troyer stated this is another tool to help, should this issue arise, to which Mr. Foster agreed.

Mr. Troyer asked if Mr. Foster would like this to be a fourth-degree misdemeanor for the first offense to which Mr. Foster said yes. It says \$500 penalty which is a M-3, but it is not defined.

LEGISLATIVE COMMITTEE - CHAIRMAN, TROYER Cont.:

Mr. Troyer stated it says unclassified and says if it happens more than once a year it moves to a misdemeanor, which is \$750 to \$1000.

Mr. Foster said \$1000 would be an M-1. That is the penalty section. It has not been defined yet.

Ms. Horvath said penalties that Council feels appropriate can be included and the chief's suggestion is well-taken. A fourth degree might be a good place to start. The penalty may increase for a second and third time.

Mr. Troyer asked Chief Foster if for the first offense he thought it should be a fourth degree to which Mr. Foster responded an M-4 is fine, which is a \$250 fine maximum or 30 days in jail. It has quite a bite.

Mr. Troyer said instead of it being unclassified it would be an M-4 to which Mr. Foster said the M-4 gives the department the opportunity to make a physical arrest if circumstances warrant.

Mr. Astorino said this has not been introduced at Council and does not have to be changed tonight. He said the chief's recommendation is important. He would be more comfortable if the law director and police chief came up with how they want this. The Mayor's legislation in section 3-C states whoever violates this section is guilty of a misdemeanor of the first degree. If they devise similar language Council can change the ordinance. As sponsor, he was comfortable with the law director and police chief working out the violation based on their experience.

Mr. Foster stated he would arrange an appointment with the law director tomorrow and Ms. Horvath concurred.

Motion by Mrs. Powers, supported by Mr. Burgio, to place on the next Council agenda.

ROLL CALL: AYES: Powers, Burgio, Scott, Troyer, Mencini

NAYS: Salvatore. The motion carried with a vote of 5-1.

2. AN ORDINANCE ENACTING SECTION 529.022 OF THE BROOK PARK CODIFIED ORDINANCES ENTITLED 'UNAUTHORIZED CONSUMPTION BY UNDERAGE PERSON ON PRIVATE PROPERTY' AND DECLARING AN EMERGENCY. Introduced by Mayor Coyne, Council President Astorino and Councilmembers Mencini, Powers, Scott, Burgio and Salvatore
Placed in committee 9/20/16; Caucus 10/11/16, Caucus 10/25/16, Caucus 11/15/16. In attendance per Council request: Police Chief Foster.

LEGISLATIVE COMMITTEE - CHAIRMAN, TROYER Cont.:

Mr. Troyer asked the Mayor if he was accepting co-sponsors to which the Mayor said will you change your mind when going through to suspend the rules, etc., or will stay with me from beginning to end? Is this an appropriate question to ask?

Mr. Troyer stated that depends on how the chief responds to which the Mayor asked if he would rather wait until then?

Mayor Coyne stated provisions are in this legislation for degrees, misdemeanors and for progressive fines under Section C. Was that okay or would he like to talk about how this should be a fourth-degree misdemeanor on the first offense to which Mr. Foster said it was appropriate for this ordinance. Citing the homeowner is not usually a combative situation and a summons is usually appropriate.

Mr. Troyer stated this mirrors the state ordinance to which Mr. Foster said, correct, it used to be called the keg law and basically that is what this is.

Mr. Troyer said having an ordinance mirroring the state law helps the department enforce easier to which Mr. Foster said normally the department tries to cite under city ordinances when someone is being charged.

Motion by Mr. Salvatore, supported by Mr. Mencini, to place on the next Council agenda.

ROLL CALL: AYES: Salvatore, Mencini, Scott, Burgio, Troyer, Powers

NAYS: None. The motion carried.

3. AN ORDINANCE AMENDING CHAPTER 153.06 OF THE BROOK PARK CODIFIED ORDINANCES ENTITLED 'PAYMENT OF HOSPITALIZATION BENEFITS; AND DECLARING AN EMERGENCY. Introduced by Mayor Coyne **Placed in committee 12/6/16**

Mayor Coyne stated the ordinance deals with 'employees generally' and retirees with the exception of the firefighters' contract is still under negotiation. Retiree language has been removed from their contract provisions, therefore, there lacks the ability by ordinance to pay employees' supplemental Medicare reimbursement. When first entertained in the contracts there was an issue of whether spouses were covered by the retiree system and the city wanted to assure that would occur. Since then language is included to, in some cases, provide \$400 a month to a retiree of a supplemental benefit, which costs the city an excess of \$300,000 a year for all various covered employees. Also a group of early retirees by contract is provided for under this auspice. Many employees have long been retired receiving this benefit and some new ones will not get any benefit. The city

LEGISLATIVE COMMITTEE - CHAIRMAN, TROYER Cont.:

wants all people treated equal. He said he was not aware of any community receiving this benefit. Presently the city has approximately 138 employees. This provision would be provided to every person who retires from the city. At age 65 what happens with Ohio Public Employees Retirement System (OPERS) and Police and Fire is that they are kicked onto Medicare and given a supplement. I think the Service Department is \$60 to \$80 and Police and Fire is about \$180 when choosing a supplemental plan. Rather than get rid of this benefit totally, everyone that works for the city and retires should be entitled to this, but we need a fixed cost control. We have a long lasting contract that this is not to exceed that gives the Mayor a wide range of choice that this would be a fixed benefit for age 65 and older, not covered by union contracts, which includes everyone currently, except for firefighters. If a retiree passes away the spouse would be entitled to this benefit for life as long as that is the program offered by their retirement system for supplemental coverage. This is fair and manageable for the city and the administration would like to move forward because there will be more legislation that deals with employees generally. When someone retires they would come under the employees generally, not represented by a union contract, and receive those benefits no matter what division they retire from, except firefighters, as this issue is outstanding at this time.

Mr. Troyer asked for Mr. Cingle's opinion on how this would affect the city's finances.

Mr. Cingle said it would reduce what the city currently pays, which is over \$300,000 annually for retiree health care premium reimbursement. The only change would be to the second last line in 153.06 (f) that starts with "the supplement shall be \$1,200 annually." He recommended changing that to 'hereby amended to read' "the supplement shall not exceed \$1,200 annually" because, depending on the retiree, looking at Medicare Part B reimbursement, if that cost is less than \$100.00 a month or \$1,200 annually it could trigger a taxable event for the retiree. The city does not want that. If the retiree was being charged more than \$1,200 a year for Medicare Part B coverage they would receive \$1,200 a year. If it costs less, then they would receive the amount that they had to pay, which would not trigger a taxable event.

Mayor Coyne said presently retirees in the program submit their expenses to the city and it is reviewed. All the city needs are verification that they were transferred to Medicare, that they are enrolled and receiving a supplement from the retirement system. This simplifies it giving the city cost control. They could reduce our costs by about two-thirds.

Mr. Troyer asked if this was time-sensitive to which Mayor Coyne said it should be approved by January. It took a while since the city wants all employees included,

LEGISLATIVE COMMITTEE - CHAIRMAN, TROYER Cont.:

but one group cannot be at this time due to ongoing negotiations. Once passed and retirees submit reimbursements, this will direct what the city pays.

Mr. Astorino suggested, regarding Mr. Cingle's amendment, for item (f), that the amendment be, "that the amount of the supplement shall be the actual cost or \$1,200, whichever is less." If only \$800 for the year, reimburse is \$800. If it is \$1500, reimburse is \$1200.

Mr. Cingle said the language, "the amount of the supplement shall not exceed \$1200 annually," does that. If something shows a retiree was charged \$1500 for Medicare Part B, we would pay \$1200. If something shows they paid \$500 a year, we pay them \$500.

Mr. Astorino said "it shall not exceed \$1200" almost implies some discretion on the city's part, saying we do not want to provide. It could be a \$1200 thing and the city could say it is not going to exceed that and is giving \$400 this year.

Mr. Cingle said the language could be "to be the amount paid by the retiree, not to exceed \$1200 annually."

Mr. Astorino said his language was that it would be the actual cost or \$1200, whichever is less.

Mayor Coyne said under OPERS and the firefighter pension, people receive a fixed amount and choose the supplemental plan they want. It has nothing to do with submitting costs. If the city matches that supplement, they will get \$1200 a year to supplement their choice under Medicare, just as the pension fund does. He did not want them submitting bills or having to justify anything, other than, they have Medicare Part B, or whatever the government determines in the future, and they will get this supplement.

Mr. Astorino said cost is the contribution retirees make to which the Mayor said they are not related.

Mr. Cingle said if a retiree submits costs of \$500, the reimbursement is \$400 that month. If \$300, reimbursement is \$300. If a \$1200 check, without costs backing it, goes to each retiree it could trigger a taxable event for the retiree. If tied to Medicare Part B costs they are reimbursed \$31 a month. If the city pays them \$100 a month, or \$1200 annually, they have a taxable event of \$90 a month, or \$1080 for the year. The most that can be paid to a retiree is up to \$400 a month, but they submit their actual costs so we see the costs, or what they are being charged, and reimburse them accordingly, not to exceed \$100 a month or \$1200 annually.

LEGISLATIVE COMMITTEE - CHAIRMAN, TROYER Cont.:

Mr. Troyer said in an effort to expedite this could the finance and law directors draft language.

Mayor Coyne said his intension is being misinterpreted. This is a supplement, not a reimbursement. A retiree, from our retirement system, receives a supplement for Medicare Part B. An application indicates this move and they then qualify for this supplement. It has nothing to do with costs. It is not the city's problem if these are Cadillac plans they have to pay taxes on. His intention is not to deal with costs, but to adjust the form so it is signed by retirees and verified. We see their OPERS' benefits, which qualifies them to receive a supplement from the city.

Mr. Astorino said it would be the actual supplement, or whichever is less. If the supplement shall not exceed \$1200 annually it does not necessarily mean to a retiree that they are going to.... if they are paying \$800 it gives the city discretion to say it does not exceed \$1200 but if we go less than that it is ok to them. It should be 100% of the supplement not to exceed \$1200. A limit on it is all he is looking for.

Mayor Coyne said that was not his intent, which is for OPERS and the police and fire pension to receive a uniform settlement for all retirees. When 65 you transfer to Medicare and receive a supplement and he wants the same thing for everyone. The city will give a \$100 supplement, however, that can be done without retirees incurring taxes. They will not reconcile bills; just show they are on the supplemental program.

Mr. Cingle agreed with Mr. Astorino because if we pay each retiree \$1200 annually, without reconciling to a cost, they will receive a 1099 and be taxed.

Motion by Mr. Salvatore to place this item on the next Council agenda, supported by Mr. Mencini.

ROLL CALL: AYES: Salvatore, Mencini, Powers, Troyer, Burgio, Scott.

NAYS: None. The motion carried.

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

ROLL CALL: AYES: Mencini, Troyer, Powers, Salvatore, Burgio, Scott.

NAYS: None. The motion carried.

Mr. Astorino said a special council meeting dealt with the general obligation bonds. It has been assigned to a committee and should be under finance committee.

Mayor Coyne disagreed and said Council voted to place it on the next special caucus meeting.

LEGISLATIVE COMMITTEE - CHAIRMAN, TROYER Cont.:

Mr. Astorino said it does not affect the way it is processed to which the Mayor said it did. Mr. Astorino continued pursuant to rules it is assigned to committee to which Mayor Coyne said that was quashing the Council majority vote.

Mr. Salvatore asked for a point of order and said the motion was to return to the regular order of business, item one under discussion.

Mr. Astorino accepted the point of order and said to proceed that way.

DISCUSSION:

1. CANCELLATION OF THE CAUCUS MEETING TO BE HELD ON TUESDAY, DECEMBER 27, 2016.

Discussion ensued regarding legislation not having to be pulled out of any committee for that agenda and, therefore, everyone favored cancelling the meeting.

Motion by Ms. Powers, supported by Mr. Mencini, to cancel the December 27, 2016 caucus meeting.

ROLL CALL: AYES: Powers, Mencini, Troyer, Salvatore, Burgio, Scott.

NAYS: None. The motion carried.

2. AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF GENERAL OBLIGATION BONDS IN AN MAXIMUM PRINCIPAL AMOUNT OF (\$5,200,000) FOR THE PURPOSE OF PAYING THE COSTS OF INSTALLATIONS, MODIFICATIONS AND REMODELING OF CITY BUILDINGS TO CONSERVE ENERGY AS FURTHER DESCRIBED HEREIN AND TO PAY THE COST OF ISSUANCE FOR SAID BONDS; AND DECLARING AN EMERGENCY.
Introduced by Mayor Coyne and Councilman Mencini

Mr. Astorino said this was assigned to committee and a motion to place it under Finance Committee as No. 4 was in order.

Mayor Coyne said it was not introduced so it does not exist and cannot be placed on an agenda.

Mr. Astorino said it was going to be introduced, but until then it was under discussion. Now that it has been introduced and assigned a number, it is not proper to be under discussion but can be listed on the agenda under Finance Committee.

DISCUSSION: CONT.

Mayor Coyne said this evening he provided Council with information about the operation of this office and he called three meetings for this.

Mayor Coyne continued by saying that Mr. Astorino was determined to assign things to committee and asked what gave him that authority to which Mr. Astorino said Rule 12 (a) deals with introduction of legislation.

Mayor Coyne said it was introduced today, therefore, it did not exist before today.

Mr. Astorino said it was introduced today at the special Council meeting and pursuant to Rule 12, was assigned to committee to which Mayor Coyne said it was not introduced, therefore, Mr. Astorino lacked grounds and authority to do anything. He said pursuant to Charter, he can call a special meeting. Council could have taken action. Something that does not exist cannot be placed on an agenda. He referred Council to his notices that they did not get and to the Clerk's response about shredding the notices. This body needs to review its operations as he never had issues with the Clerk regarding notices or anything until Mr. Astorino became Council President.

Mr. Mencini said the law director ruled on this issue in August, and this is a very important piece of legislation.

Ms. Horvath said there is a timing in place for it to be read by title only on the day introduced, and saw no time frame addressing it having to be referred to committee on the day introduced. It says, "...and shall be referred to committee by the presiding officer." She felt legislation was introduced and could be referred by Council for a second reading. Council may, at some point, desire to place it into a committee. At that point the presiding officer could place it into a committee after a Council majority decides that is what they want to do. She did not see any particular timing mechanism that says it has to be done on the day introduced. Therefore, her reading was the presiding officer would have the ability to do it later and Council, therefore, would be able to control their agenda by a majority.

Mr. Astorino asked if there was anything stopping him from doing it on the day introduced.

Ms. Horvath said the Charter says the Council President runs the meetings, sets the agenda, votes in the event of a tie and he has other administrative duties, but Council controls the agenda and has the ability to move legislation from place to place, meeting to meeting, agenda to agenda, and determines how the legislation should flow. The Council President has the

DISCUSSION: Cont.:

ability to initially set the agenda, but it is Council's prerogative to decide how to control that agenda.

Mr. Astorino said his question was can he refer it to committee on the night introduced to which Ms. Horvath said he may if it is Council's pleasure that he does so. If the Council majority votes to put it in another place she believed they had the authority, because they are voting members, to put it where they want it.

Ms. Powers asked the law director to read Rule 12.

Ms. Horvath read Rule 12 that says, "All ordinance and resolutions shall be read by title only on the day introduced, and shall be referred to committee by the presiding officer." She did not see a specific time mentioned as to when it has to be referred.

Mr. Astorino questioned the comma in the sentence to which Ms. Horvath said she had a comma to correct punctuation. It may not actually exist in the Rule.

Mr. Salvatore said the rule applies to legislation passed up during the course of a meeting that can be assign to committee. Or, in the course of a meeting, under certain items on the agenda when legislation is passed up for future consideration, it would be assign to committee. However, this particular ordinance already had official action taken. It had first reading and was assigned a date and time for second reading. Therefore, this particular item under discussion, unless you want to talk about it again which is what this part of the agenda is for, should be removed from this agenda because it is already in the process for passage or to be voted down. It is already set and going through the proper channels. Putting it into committee does not make sense.

Mr. Troyer said the idea was to vote on whether to do it or not. There is no comma in the rule. It says "and shall" do this. It is not putting it into a committee. It is referring it to committee. Today we are looking to say what committee. He said all ordinances and resolutions "shall" be read by title only "on the day introduced and" (there is no comma) "shall be referred by committee by the presiding officer." Not "maybe". In addition to being read by title only on the day introduced, it shall be referred to committee by the presiding officer, is how it reads.

Mr. Astorino said in January rules were created and the discussion was to proceed in this manner because previous Councils introduced legislation and never placed it in committees. It remained in control of the Council

DISCUSSION: Cont.:

President. Working as a Committee of the Whole legislation introduced would be placed in committees, which does not prohibit it from going other avenues, but it has to have a committee assignment. This practice has been followed all year and was the expressed intent when this rule was devised. It was the language everyone voted to accept.

Mr. Mencini said some things have changed in the Council Rules since the orientation and asked if anything was held up, was illegal or a problem when past presidents did not refer legislation to committee.

Mr. Scott concurred with Mr. Salvatore and echoed his comment.

Mayor Coyne said the law director ruled some time ago that by Charter he has authority to call a special meeting for specific reasons, which he did. Notices have not gone out yet and you can see why. Once the meeting is called then rules of Council apply. Council has the ability to do whatever they choose, i.e., place it back in committee, have it read, defeated, etc. A Council majority voted to place this on the agenda for the next special Council meeting. By Charter the Council President presides over the meeting by what they determine. They took legislative actions to do this. The Mayor said the Council President is usurping his responsibly and authority under the Charter. The majority voted this evening to place it on the next special Council meeting agenda and that prevails.

Mr. Astorino said the Mayor called for three special meetings that will go forward so his authority is not being usurped.

The Mayor said he called the special meetings and Council Rules begin when the meeting starts. There is no logical reason why notices were not sent out for the other two meetings, which were called for specific reasons and do not violate the Charter. The meetings were called to avoid other discussions so Council could get information and move forward. Placing something on an agenda that does not exist because it has not been introduced is what happened previously and is an attempt to impede the project. The majority voted to place it on the next Council agenda and has the right to take different action at the next meeting if they wish. The Council President has no authority to stop them or him from calling that meeting.

Mr. Troyer said if legislation does not exist, you call the first meeting so it exists. You introduce it and then it is under first reading, which happened. If it did not exist or have first reading how can you call special meetings for second and third readings?

DISCUSSION: Cont.:

Ms. Horvath said legislation cannot be in two places at once. It starts somewhere and follows a path. By Charter, the Mayor called the special meeting with his piece of legislation attached to the agenda that he wanted introduced. That is the only place the legislation can be; not in two places at once, not on another agenda. We do not know what path that ordinance will take until Council votes. It was introduced tonight, had its first reading and was referred for second reading to the December 20 special meeting. That is the path the Council majority decided for that legislation. Therefore, there is no ability to place it in committee because the Council majority voted to have it placed on for second reading at that special meeting. They could have done something different, such as, voted to put it in committee tonight, but that is not what they did. She will recirculate her May 3 memo discussing special meetings. She wrote a memo on July 21 discussing second and third readings on certain ordinances and one on June 27 addressing introduction of ordinances and special meetings of Council. She wrote a similar one on August 15 dealing with some issues that came up on August 2. Council controls their agenda after something is introduced and a Council majority decides where the legislation goes.

Mr. Troyer asked how the Mayor can call special meetings for a third reading when it has not had a second reading and for a second reading when it has not had a first reading, to which Ms. Horvath said he can do that by Charter, however, if the Council majority decides after the first reading that they want to do something else with it, then there would not be anything for him to discuss at his second meeting.

Mr. Astorino said according to the Mayor that would be usurping his authority. He said on November 22 at the regular caucus meeting six items were under discussion dealing with financial items. None had been introduced at a Council meeting, but appeared on a caucus meeting under discussion. A motion at the caucus meeting placed it under item J at the next meeting. Tonight we have an ordinance authorizing the general obligation bonds that was not introduced at a Council meeting, but appeared on a caucus agenda under discussion. Tonight the Mayor says that cannot be done when it was done on November 22. Mr. Astorino said he could do further research as sometime legislation drafted by the law director comes to Council prior to it going to a Council meeting. In the event we want to make a change it appears under discussion. Saying he cannot place it under item No. 2 when that was done on November 22, defies common sense and defeats the argument. We are operating within our rights and guidelines.

Mayor Coyne said Council has already taken action and placed it on the next special Council meeting.

DISCUSSION: Cont.:

Messrs. Salvatore and Scott concurred that no official action was necessary unless further discussion was necessary.

Ms. Powers said it was necessary as this deals with five million dollars of taxpayers' money.

Mayor Coyne said he and the directors and engineer were leaving the meeting until Council was ready to seriously conduct city business. Mr. Astorino said pursuant to the law director Council by majority can take action.

Motion by Mr. Mencini, supported by Mr. Scott, to remove item number two from the agenda and to place it on the December 20, special council meeting.

ROLL CALL: AYES: Mencini, Scott, Burgio, Salvatore, Troyer, Powers.
NAYS: None. The motion carried.

FINANCE COMMITTEE - CO-CHAIRMAN, TROYER:

1. AN ORDINANCE PROVIDING FOR A CONTRACT BETWEEN THE CUYAHOGA COUNTY GENERAL HEALTH DISTRICT AND THE CITY OF BROOK PARK, OHIO, AND DECLARING AN EMERGENCY. Introduced by Mayor Coyne **Placed in committee 11/15/16**

Motion by Mr. Scott, supported by Mr. Burgio, to place on the next regularly scheduled Council meeting.

Mr. Astorino said this has to pass tonight.

Mr. Scott withdrew the motion and Mr. Burgio withdrew support.

Motion by Mr. Mencini, supported by Mr. Salvatore, to place this item on tonight's special Council meeting.

ROLL CALL: AYES: Mencini, Salvatore, Powers, Troyer, Scott, Burgio.
NAYS: None. The motion carried.

This item will appear as Ord. No. 10061-2016.

FINANCE COMMITTEE - CO-CHAIRMAN, TROYER Cont.:

2. AN ORDINANCE AUTHORIZING THE HUMAN RESOURCES COMMISSIONER TO PREPARE SPECIFICATIONS FOR AND TO ADVERTISE FOR PROPOSALS ('RFP') FOR THE EXECUTION OF A COMPREHENSIVE JOB AND SALARY STUDY AND FURTHER AUTHORIZING THE MAYOR TO SEEK SUCH PROPOSALS AND DECLARING AN EMERGENCY. Introduced by Council President Astorino. **Note: (Substitution piece)**

Mr. Astorino said some legislation is currently in committee. In November, during discussions, he expressed a compromise to the law director by substituting that legislation by inserting his name and she prepare this legislation. It is on tonight's agenda because he did not know if she wanted it to be a substitution or a separate piece. Between meetings this evening they decided this should be introduced at next week's Council meeting.

Ms. Horvath said that was discussed as well as having new ordinance numbers for these two pieces.

Motion by Ms. Powers, supported by Mr. Scott, to remove this from the agenda.

ROLL CALL: AYES: Powers, Scott, Burgio, Salvatore, Troyer, Mencini.

NAYS: None. The motion carried.

3. AN ORDINANCE AMENDING CERTAIN SECTIONS OF THE ADMINISTRATIVE CODE TO PROVIDE ADJUSTMENTS IN COMPENSATION FOR EMPLOYEES OF THE CITY, OTHER THAN ELECTED OFFICIALS OR THOSE COVERED UNDER NEGOTIATED LABOR CONTRACTS AND DECLARING AN EMERGENCY. Introduced by Council President Astorino **Note: (Substitution piece)**

Motion by Ms. Powers, supported by Mr. Salvatore, to remove this from the agenda.

ROLL CALL: AYES: Powers, Salvatore, Burgio, Scott, Mencini, Troyer.

NAYS: None. The motion carried.

SERVICE COMMITTEE - CHAIRMAN, BURGIO:

1. AN ORDINANCE AUTHORIZING A CHANGE ORDER FOR THE 2016 SIDEWALK REPAIR PROGRAM AND DECLARING AN EMERGENCY. Introduced by Mayor Coyne **Placed in committee 12/6/16**

Mr. Burgio explained the change order.

Mr. Troyer asked the finance director if half of the \$287.00 came from the resident and Mr. Cingle said yes. Mr. Troyer said then only half is from the budget.

SERVICE COMMITTEE - CHAIRMAN, BURGIO: CONT.

Mr. Mencini asked if this was time sensitive to which Mr. Burgio said it could go on the December 20 agenda.

Mr. Astorino said he had questions for the engineer and would address them at the next meeting.

Motion by Mr. Scott, supported by Mr. Mencini, to place on the next Council agenda. All Members of Council voted AYE. The motion carried.

Motion by Mr. Scott, supported by Mr. Mencini, to adjourn.

ROLL CALL: AYES: Scott, Mencini, Salvatore, Troyer, Powers, Burgio.

NAYS: None. The motion carried.

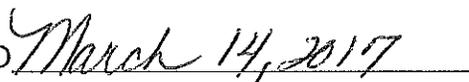
There being no further business to come before the meeting Council President Astorino declared the meeting adjourned at 9:43 p.m.

RESPECTFULLY SUBMITTED



Michelle Blazak
Clerk of Council

APPROVED



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

6892 words