

**SPECIAL COUNCIL MEETING  
OF THE BROOK PARK CITY COUNCIL  
HELD ON TUESDAY, JANUARY 10, 2017**

The meeting was called to order by Council President at 7:12 p.m., who read the meeting notice. The clerk called the roll and the following Members of Council answered:

**SCOTT, BURGIO, SALVATORE, TROYER, POWERS, McCORMICK, MENCINI**

Also in attendance were Mayor Coyne, Finance Director Cingle, Service Director Cayet, Law Director Horvath, Assistant Law Director Sackett, Building Commissioner Hurst, Economic Development Commissioner Dolan.

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Mr. Astorino - we will move to the next item on the agenda which is:

**APPROVAL OF MINUTES OF PRECEDING MEETINGS:**

1. REGULAR COUNCIL MEETING HELD ON DECEMBER 6, 2016.

**NOTE:** MINUTE EXCERPTS FROM THIS MEETING ARE INCLUDED;  
COMPLETE TRANSCRIPTION IS NOT AVAILABLE TO DATE:

Mr. Astorino - Council what is your pleasure?

**Motion** by Mr. Salvatore, supported by Mr. Burgio, to approve the section of minutes that are on tonight's agenda.

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Mr. Astorino - there's a motion to approve properly supported any discussion?

Mr. Troyer - I checked with a few Council Clerks and this is highly irregular to do this; I was told it's not proper to approve minutes, partials or sections of the minutes; especially in this case because it's not even in context. So until we get the whole minutes the whole meeting in one form in one approval, I cannot approve partial minutes of a meeting; I was told not to do it.

Mr. Salvatore - through the chair to the clerk, are these sections of the minutes, are they verbatim.

Clerk - yes they are.

Mr. Salvatore - if I may continue, Mr. Chairman, to the law department.

Mr. Astorino - go ahead.

**APPROVAL OF MINUTES OF PRECEDING MEETINGS: cont.**

1. REGULAR COUNCIL MEETING HELD ON DECEMBER 6, 2016.

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Mr. Salvatore - Madam law director, is it proper to approve a section of minutes?

Ms. Horvath - through the chair to Councilman Salvatore, I don't see an issue with is. Is it unusual yes but we have an unusual situation. We're six months behind in our minutes

and I believe that we a need to look at these excerpts and I think that Council, by majority, would be able to approve them if they deemed it appropriate; so yes I think you have the ability to do that.

Mr. Salvatore - thank you, thank you Mr. Chairman.

Mr. Scott- I move to mark Julie McCormick's absence from all December, 2016 Council meetings as unexcused.

**Motion** by Mr. Scott, supported by Mr. Burgio, to mark Julie McCormick's absences from any and all December, 2016 Council meetings as unexcused.

Mr. Troyer - Mr. Chairman, we already have a motion on the floor.

Mr. Astorino - right I'm trying to sort through that. As Councilman Salvatore asked the clerk if these were verbatim minutes and she responded yes they are. So the minutes that are before you so that the audience is aware of it. The Regular Council meeting that was held on December 6, 2016 it says the meeting was called to order by Council President Astorino and the clerk called the roll. The roll call was Scott, Burgio, Salvatore, Troyer, Powers and Mencini and the minutes just reflect it says Council President Astorino stated that Councilwoman McCormick did contact the Council office and is listed as an excused absence, that reflects what happened at that meeting. So I think if you're going to make a motion Councilman you'd have to make a motion to strike that from the record; saying that it didn't happen. Because the motion before you is to accept the minutes as printed, at least the excerpts as printed. So did you want to amend Mr. Salvatore's motion to adopt.

Mr. Scott - No.

Mr. Astorino - Is there any other discussion?

**APPROVAL OF MINUTES OF PRECEDING MEETINGS: cont.**

1. REGULAR COUNCIL MEETING HELD ON DECEMBER 6, 2016.

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Ms. McCormick - I think it is highly irregular to approve a portion of minutes and I would like to ask the Council Clerk as long as she's worked here has this ever been done; approving just this small portion of Council minutes.

The clerk responded no, it has not.

Ms. McCormick - thank you.

Mr. Mencini - I've seen a lot of things since I've been sitting here this past year that have been highly irregular. I would like to go through the chair to the assistant law director. Have you seen this before Mr. Sackett?

Mr. Sackett - Certainly there are times when six months in the preparation of minutes causes partial minutes to be prepared. I agree with the law director I have no problem with the minutes being accepted as they are noted as the exhibit.

Mr. Mencini - thank you, that's all I have Mr. Chairman.

Mrs. Powers - I do not believe that we should do a partial minutes and if we were to do that then we should go back six months and do the one that has been neglected the longest. As far as being behind in the minutes when you have meetings that last from 6:00 p.m. to midnight it takes a while to get the minutes in order. So that could be an explanation as to why they are longer and yes we do a lot of irregular things up here; to my fellow colleague. That's all I have Mr. President.

Mr. Astorino - Councilman Mencini.

Mr. Mencini - we don't know if its neglect and that's something that we may have to look into being six months behind and you're absolutely right five hour meetings are highly unusual; you're absolutely right Jan. I won't say neglect, could be neglect, that's something that maybe we might have to look into, absolutely. That's all I have to say Mr. Chairman thank you.

Mr. Astorino - Council any other discussion, Councilman Troyer.

Mr. Troyer - thank you Mr. Chairman, Council I would have no problem with approving these minutes in their entirety and complete form at the next Council meeting. But again, I don't agree with approving an excerpt from and out of context from any one meeting. I think we should approve the

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meeting minutes as a whole and I would be happy to do that as soon as we can get them. Thank you.

Mayor Coyne - Mr. Chairman, if I may.

Mr. Astorino - Mr. Mayor.

Mayor Coyne - I think the issue is whether or not that absence was excused, I think that's the issue.

Mr. Mencini - correct.

Mayor Coyne - Because I believe only Council that they object to an absence can do so by entering into their journal or correcting their journal, I think that's what the issue is.

Mr. Astorino - okay, Councilwoman Powers.

Mrs. Powers - it is my understanding that if a Councilperson does not attend a meeting they contact the Council President and ask for an excused absence. In which case that happened and Council President has the authority to give an excused absence. You read it and it's been done, it's legal so I don't see why we should have any further discussion on that. Thank you Mr. Chairman.

Mr. Astorino - I see several hands going up. Mr. Scott.

Mr. Scott - Yes, I chair the Board of Zoning Appeals, okay, and that is just a formality; it's still a miss. You are still not there even though you have an excused absence. That means the person picked up the phone up, called and notified that you weren't there; you were still listed as missing. In this case if you look at the minutes you know that Ms. McCormick was not there on a roll call.

So in my opinion like I said being on the Board of Zoning Appeals it is just a formality saying that the person will not be there and they have contacted you but it is still a missed meeting; still a legal missed meeting. I don't know where in our Charter and/or Council Rules it states what a missed meeting is; what constitutes a missed meeting. Is there anything in the Council Rules and/or Charter that stipulates what a missed meeting is? Who grants the missed meeting and who rules on what a missed meeting is?

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Mr. Astorino - Not that I'm aware of. Actually I'd like to have a point of clarification from the law department if Council would indulge me. The motion before us is to approve these minutes as printed. It's my understanding that all Council is voting on is that this is what was said at the meeting. I don't think this establishes the comments about was it an excused absence or not; that's not what Council is voting on. They're not making a determination they're just simply passing the minutes that this was said at the meeting.

Mayor Coyne - Mr. Chairman, can I state that in?

Mr. Astorino - I've asked for clarification from the law department.

Mayor Coyne - okay.

Mrs. Horvath - I wasn't sure if you were directing to the department or not but as it is phrased now they would be approving that excerpt. I don't know if it's Mr. Scott's intention by way of correction to amend that excerpt and then change excused from not excused, that would be a question that I would have to reserve from him. But my understanding as it is presented now the issue is whether or not for that particular date this excerpt from the minutes would be approved.

Mr. Astorino - so they're just...I mean I don't know if that clarified. it didn't clarify for me. They're basically approving that is what was said at the meeting, is that correct?

Mrs. Horvath - including the roll call yes.

Mr. Astorino - yes, okay thank you.

Mayor Coyne - Mr. Chairman.

Mr. Astorino - Mr. Mayor, go ahead.

Mayor Coyne - thank you, the order is approval of minutes, corrections or deletions to the minutes are in order. The minutes of a Council meeting are an official journal and I think a strong argument can be made that no business is technically approved until Council approves their journal of those meetings. So, therefore, they have the right to delete or correct the minutes. Including the intention if Council feels that, I believe, they are the only ones to have the authority to excuse somebody. They can request an

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excuse, so therefore, I believe if Council so fit sees to approve meeting deleting that and indicating for the record they did not, in fact, approve an excused absence. Therefore, the meeting has been missed and it's not excused and I believe they have the authority to do that. The statement that she was excused was made by the Council President and you're correct there's nothing in the Charter or the rules that give you the authority to excuse anybody. So, therefore, regular practices that occurs but I think Council if so wishes for good reason can determine that they don't want to excuse an absence and, I believe, that's what the discussion should be about.

Mr. Astorino - Councilman Salvatore.

Mr. Salvatore - thank you Mr. Chairman, over the years Council President and I can comfortably say every one of them including myself we always would say out of professional courtesy would say that the individual was properly excused; and the proper excuse came from the fact that someone took the time to make a phone call and say I wasn't going to be there. But that never at any time did it have the intent to say that you were allowed to be absent; it just said you called, or took the time to be professional about it and say that you weren't going to be there. Whether it be a vacation or otherwise, you didn't feel well, something came up. In the event that you were in the hospital that was an all-together situation and in those cases. Then Council would have the right to forgive that absence based on the circumstances but the wording here it says 'excused absence' and in the past it's always been properly excused, which is a big difference, because we're not really excusing the absence. If you can recall in the workplace if you go to work and say I'm not coming in today then they write in the book, okay, you called off and are properly excused but it still goes against your record. It still shows at the end of the year that you called off three times, or you called off seven times it doesn't change anything and I think that's what we're probably trying to accomplish here; we're trying to clarify that. The difference between an excused absence and properly excused. Thank you, Mr. Chairman.

Mr. Astorino - In response, Councilman, I'd say that probably your discussion is just provided some clarity before but the motion before you is to approve whether or not this is what I said at the meeting. Councilwoman McCormick.

**APPROVAL OF MINUTES OF PRECEDING MEETINGS: cont.**

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Ms. McCormick - During our entire term here as a Council no other absence has been questioned, I feel like I'm being singled out and other than the Council President and the Council Clerk. Nobody was informed of the specific reasons for my absence that's due to medical privacy laws, it's not required that I disclose that but they were provided with proper documentation. So I say to tread very carefully on where you're going with this.

Mr. Astorino - Councilman Scott.

Mr. Scott - there was no intent questioning any...I'm well aware of rules and what-not, what-not there was no intent to disparage you or whatever. But it is a fact that at any time anybody calls it seems like there's an excused absence the Charter calls for three consecutive misses, three consecutive meetings without just filing an excuse. Anybody can just call and say I won't be there and then the Council President says the Councilperson is properly excused. Says forth in the charter meetings means nothing because that could be then read into saying that well we don't need and the proper excuse means nothing. We need clarification on this my intent was to find out...not to find out but too change this from an unexcused absence to a...I mean from an excused absence to unexcused absence. Meaning, again, you still were not there the roll call says you weren't there, the minutes says you weren't there. I just want clarification that we...this was not an excused absence, that's all I'm saying. My amendment. I would amend this and say like I said change from an excused absence to an unexcused absence, but a motion has already been made so I don't know what we can do. I would like to make a motion to amend it and change it from an excused absence to an unexcused absence because like I said what is the ground rules...

Mr. Astorino - Hold on, hold on is there to support to that motion?

Mr. Burgio - Support.

**Motion** by Mr. Scott, supported by Mr. Burgio, to amend the minutes from an excused absence to an unexcused absence.

Mr. Astorino - okay, now you can talk to the motion.

**APPROVAL OF MINUTES OF PRECEDING MEETINGS: cont.**

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Mr. Scott - what are the ground...like I said there's nothing in the Charter, nothing in the Council Rules stipulating what an excused absence is, that's all I'm saying. Until we have clarification as to what an excused absence is, like I said, that's a formality. Mr. Salvatore talked about that being a past Council President, me being on the Board of Zoning Appeals chairman it is a common courtesy. So I make an amendment that we withdraw; we change the word from an excused, just totally delete it myself as an absence, that's all. Thank you.

Mr. Astorino - Councilman, you just made two motions I can't allow that. I'll allow you to actually clarify because your first motion was that you were going to change it where it would read Council President Astorino stated that Councilwoman McCormick did contact the Council office and is listed as an unexcused absence, that was your first motion. Now you're saying that you'll just did contact the Council office and is listed as an absence; which one do you prefer?

Mr. Scott - I stated before I want...

Mr. Salvatore - Point of order, Mr. Chairman.

Mr. Astorino - what's your point of order.

Mr. Salvatore - Mr. Chairman, you are correct there are two motions on the floor and we already made a motion that was properly seconded. I think we have to deal with the first motion before us.

Mr. Astorino - thank you, your point is well taken. So the motion before us is to amend the minutes to read that Council President Astorino stated that Councilwoman McCormick did contact the Council office and is listed as an unexcused absence. Any further discussion on the amendment?  
Councilwoman McCormick.

Ms. McCormick - minutes are supposed to be an accurate representation of what was actually said at the meeting; changing the wording would change that sentence to be not factual. It would say that Council President said that it was an unexcused absence; that you can't do it's an inaccurate representation and have conflict with the actual recording of the minutes.

Mr. Astorino - seeing no other discussion we will call the roll on the amendment.

**ROLL CALL: AYES:** Scott, Mencini, Salvatore, Burgio  
**NAYS:** McCormick, Powers, Troyer. The amendment carried 4-3.

Mr. Astorino - the amendment has been approved. Motion is back before you any discussion on the motion as amended. Seeing no further discussion clerk please call the roll on the motion as amended which will read. 'Council President Astorino stated that Councilwoman McCormick did contact the Council office and is listed as an unexcused absence'.

The clerk called the roll on the motion by Mr. Salvatore, supported by Mr. Burgio, to approve the section of minutes that are on tonight's agenda.

**ROLL CALL: AYES:** Salvatore, Burgio, Scott, Mencini  
**NAYS:** McCormick, Powers, Troyer. The motion carried 4-3.

Mr. Astorino - motion carries the Regular Council meeting held on December 6, 2016 the excerpts have been adopted as amended. We will move to item two under approval of minutes.

2. REGULAR COUNCIL MEETING HELD ON DECEMBER 13, 2016.  
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Mr. Mencini - Mr. Chairman, I make a motion to amend.

**Motion** by Mr. Mencini, supported by Mr. Burgio, to amend from Regular Council to Regular Caucus meeting.

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Mr. Astorino - Actually, on the minutes that are provided it says here...

**APPROVAL OF MINUTES OF PRECEDING MEETINGS: cont.**

2. REGULAR COUNCIL MEETING HELD ON DECEMBER 13, 2016.  
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The clerk confirmed that the was on the notice provided and that's the way it was typed.

Mr. Astorino - the sheet you're working of actually says Regular Caucus, on the notice it says Regular Council meeting because that's how it was presented to the clerk and she printed it out the way presented to her.

Mr. Mencini - I just want to clear all the basis

Mr. Astorino - that clarifies it so I would ask that second be removed because we really don't need that motion because the minutes before you actually say Regular Caucus meeting.

**APPROVAL OF MINUTES OF PRECEDING MEETINGS: cont.**

2. REGULAR COUNCIL MEETING HELD ON DECEMBER 13, 2016.

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Mr. Mencini - I rescind that motion.

Mr. Burgio - Remove my support.

Mr. Astorino - the minutes before you Council, what's your pleasure?

**Motion** by Mr. Scott, supported by Mr. Burgio, to adopt.

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Mr. Astorino - is there any discussion on the minutes? Councilwoman McCormick.

Ms. McCormick - I just want to state again that I think it's improper to approve only a portion of minutes, so I will be voting no.

Mr. Mencini - thank you Mr. Chairman, let's try this through the chair to our law director. If we were to have a court case that would pertain to the city's benefit to have a certain transcript from one of our Council meetings pulled out but hasn't been recorded yet. Could that be done?

Mrs. Horvath - okay, let me make sure I understand what it is you're asking me. You're asking within the context of a lawsuit not with regard to whether it's proper to approve an excerpt at a Council meeting.

Mr. Mencini - repeat that, I want to make sure we're on the same page too.

Mrs. Horvath - It gets confusing, I think you're asking me could an excerpt be admitted as evidence in a court case, is that what you're asking me?

Mr. Mencini - Yes, and if the minutes weren't recorded yet can we say, okay, we're going to go back to that one section of the Council meeting and approve those excerpts for that lawsuit; if for emergency purposes.

Mrs. Horvath - I would think the fact that the excerpt is approved would be more important to the court than the fact that it is only a short portion of the minutes. So, I think, the key would probably be the approval of Council rather than the minutes being in entirety.

Mr. Mencini - thank you.

**APPROVAL OF MINUTES OF PRECEDING MEETINGS: cont.**

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Mr. Astorino - Councilwoman McCormick

Ms. McCormick - I think a good lawyer also go to get the actual court confirm that what is written is what was said.

Mr. Astorino - Councilman Troyer.

Mr. Troyer - Again, I just say ditto, I can't vote on partial minutes. I would be happy to vote on the full meeting minutes as soon as they're provided; whether a special meeting or otherwise but will not for partial minutes. Thank you.

Mr. Astorino - Councilwoman Powers go ahead.

Mrs. Powers - thank you Mr. Chairman, I agree partial minutes should not be voted on as accepted. We can wait for the entire minutes to be presented. Thank you Mr. Chairman.

Mr. Astorino - go ahead law director.

Mrs. Horvath - of course it would be preferable to have the entire minutes and present them those but that certainly is not the case and that's not available now and, I believe, that was a hypothetical question that Councilman Mencini asked me. Certainly everyone would wish that these minutes were already transcribed in their entirety.

Mr. Astorino - Councilman Troyer.

Mr. Troyer - thank you Mr. Chairman. I'd also like to state and stipulate that these minutes, as far as the second set of minutes; the first ones have been bastardized. The second set of minutes, I believe, are accurate so I must **stipulate** that I believe these are correct. But I cannot, again, vote to approve them because it should be in the form of the entire meeting.

Mr. Astorino - seeing no further discussion we'll call the roll on adoption.  
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**APPROVAL OF MINUTES OF PRECEDING MEETINGS: cont.**

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The clerk called the roll on the motion by Mr. Scott, supported by Mr. Burgio, to adopt.

**ROLL CALL: AYES:** Scott, Burgio, Salvatore, Mencini

**NAYS:** Troyer, Powers, McCormick. The motion carried with a vote of 4-3.

Mr. Astorino - the minutes for the Regular Caucus meeting held on December 13, 2016 have been adopted.

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Mr. Astorino - that concludes the approval of minutes now we move to Miscellaneous Business - Discussion. We have letter A which is a request for Ms. McCormick to rescind resignation.

**MISCELLANEOUS BUSINESS - DISCUSSION:**

A. REQUEST OF MS. McCORMICK TO RESCIND RESIGNATION

Ms. McCormick - I just want to state that I will not be participating in this particular portion; I've been advised not to.

Mr. Astorino - okay. Councilman Troyer.

Mr. Troyer - thank you Mr. Chairman, I know there's going to be some charge from the audience but I gotta tell you not that I'm confused but I think somebody is confused here. Going over some of the things that happened we just were going over minutes where Councilwoman resigned. Then we have I'm sorry I have the wrong sheet here from my notes, one moment. Anyways you went back and forth with the Councilwoman resigning and then Mayor. The law director and Mayor saying that she didn't resign insufficient to accept her resignation from City Council. Law director asked her immediately to remit a letter of resignation if that was her intent. Later on if it was her intent to resign she needed to inform by email that's what HR told her. Then we had the other meetings the other day now today, now we got four Members of Council calling a meeting and asking her to rescind her resignation. Now I thought she already did that and I think now they're probably going to talk about that they don't want her to do that. So I'm just going to sit back and not comment on this any further because I think a higher legal authority that anybody here needs to make this decision. I think this needs to go to court and figured out by some impartial person so we quit spinning our wheels on this.

Mayor Coyne - Mr. Chairman.

**MISCELLANEOUS BUSINESS - DISCUSSION: cont.****A. REQUEST OF MS. McCORMICK TO RESCIND RESIGNATION**

Mr. Astorino - Mayor, go ahead.

Mayor Coyne - thank you very much I'm glad folks keeping talking about the memorandum that I sent relative to this resignation and I'll refer to you to the employment policy measure. In my view this evening Council passed the minutes recognizing that Councilwoman McCormick, former Councilwoman McCormick did in fact resign. From the Mayor's standpoint, an employees and that's in our employee manual. A resignation in good standing requires that the employee notify his or her department director of the intent to resign no less than two weeks prior to his or her last day of work; she said immediately. That the notice to the department director be in writing. At that Council meeting, we don't have the minutes this evening but there's sufficient tape to show that I, in fact, asked for that; that was never provided by the former member of Council. Once accepted by the appointing authority a resignation is considered to be final and I believe this evening Council did that by approving their minutes. Okay, an employee not complying with things above will not have resigned in good standing and maybe ineligible for future employment with the city. In accordance with the city's attendance policy no employee absent for three consecutive days really does not apply here. An employee who resigns as a result of absence from duty is not considered to have resigned in good standing and will not be eligible for future employment. So, the fact of the matter is, all it would do by this prolonged surety that we have here is that she didn't resign in good standing but she did, in fact, resign. So, therefore, if the minutes would have been made up and Council would have acted on their minutes, therefore, we would have something from the appointing authority. But the fact is there was nothing in writing and it's clear to everybody here that former Member of Council she was paid her final check and for whatever reason she refuses to cash that check, that's for her and her lawyer. As far as anyone threatening any lawsuits we do have a good lawyer in this city and she's a duly elected law director and I think she's proven herself in her short period of time quite capable of defending any lawsuit that this city may have. This wasn't brought about by Council President Astorino, Mayor Tom Coyne or any single Member of Council. This was brought about by an individual, who in my view, is no longer a Member of this City Council and should be removed from this dais accordingly. I think it also is in Council's authority, okay, she said that she was rescinding her resignation; Council doesn't have to accept that. If she was a person of good character in good standing they could consider that, possibly, in a reasonable period of time. It's been done all over the country that doesn't seem to be the fact here, so therefore, I think speaking to Mr. Troyer's concerns. The fact of the matter

**MISCELLANEOUS BUSINESS - DISCUSSION: cont.****A. REQUEST OF MS. McCORMICK TO RESCIND RESIGNATION**

is in order for Council to delete and amend their minutes to reflect that they didn't approve that absence and it is in their authority by accepting their minutes to accept the resignation. It is their authority by this city that they have the right not to accept the rescission of that resignation all is in Council's prevue. Anyone that wants to challenge that in court has the right to do so and I want to suggest to the citizens of this community. That this is more about maybe winning some concessions and some possible plea deal than it is about serving the people of Brook Park. My final statement in this matter is going to be and I'm going to walk off this dais until this person is gone. Is that, the fact of the matter is, this city needs to move on and go forward. As I said at the last meeting there is no good done deed furthering the interest of this city with this individual continuing to occupy a fictitious seat up here and it certainly, I don't believe, does any good for the cause of her family and her future to do so and if it's anyone's peril it's at her peril of her own family and her own future. Thank you Mr. Chairman for allowing me to comment.

Mr. Astorino - go ahead law director.

Mrs. Horvath - Thank you Mr. Chairman, I would call Council's attention to opinion that I had written on January 3rd and basically to paraphrase that and make it very simple. A resignation is two things: the intent to resign and the relinquishment of your office and if you relinquish your office, and then you later decide that you want to withdraw your resignation. You must have your employer-appointing authority- whomever you've got consent to be an employee or a member of. You have to get that group's participation or that's group consent to allow you to return. I would direct your attention to my memo and the case law cited there and my interpretation would be in fact that this office was relinquished due to the fact that keys were turned in; meetings went unattended. So I just wanted to clarify that for the record.

Mr. Astorino - Councilman Mencini.

Mr. Mencini - thank you Mr. Chairman, again through the chair to the law director. Madam, law director are you saying that you know it's kind of like well I basically missed one meeting when I had hip surgery. Just to dispel any rumors or anything like that being a city leader, that I feel that I am, that I thought that I should let you know that I had hip surgery; I felt it was important just in case to kill any secrecy that might be on that. It's almost like when in elementary school excused absence why and probably more so

**MISCELLANEOUS BUSINESS - DISCUSSION: cont.**

A. REQUEST OF MS. McCORMICK TO RESCIND RESIGNATION  
in high school now but my point is should have there been notification as to why of the absence; the reason being why there was an absence. Is that more or less what you're saying?

Mrs. Horvath - through the chair to Councilman Mencini, no I'm making reference to the December 6th absence. Although, usually most people state a reason for an absence you're correct with regard to that. Instead I'm looking at the overall picture where there's an intent to resign on December 9th keys are turned in. There's failure to attend the December 13th meeting and then after receipt from correspondence from the city the failure to attend the December 20th meeting. I look at all of those acts and would interpret that as relinquishing your office, you're clearly not performing your position as a Councilperson and after finding that's interpreted as relinquishing the office then I would say in order to rescind your prior resignation. You would need the body's position to do that and I would also note that the December 9th letter said 'effective immediately'. It didn't say effective January 15th or January 1st or February 2nd it said 'effective immediately'; with the action of turning keys in and subsequent action of missing two meetings. So I'm not really referring to the December 6th meeting, I agree with you it's always nice to note a reason why someone isn't in attendance but I'm starting my timeline from December 9th.

Mr. Mencini - If you worked down at the state house, if you worked in Washington, what would that be then if you missed three meetings; missed three weeks. How would that have been handled?

Mrs. Horvath - Again, I think everything is relative and probably depends on the set of facts. So I do not know the reason for not attendance on December 6th and agree with you that it's always nice to let people know the reason why you are not in attendance. But I'm not looking at that as part of my timeline to determine whether or not the office was relinquished. I'm looking at an immediate resignation, the turning in of keys and missing two subsequent meetings; I imagine there are a variety of reasons we all understand that. Missing a series of meetings, I think it would depend on the body whether it's a statehouse, Congress, City Council to make that determination as to whether you missed a meeting for good reason, or for bad reason or no reason. But I'm not including that in my timeline with regard to my opinion.

Mr. Mencini - that's all I have, thank you Madam law director, thank you Mr. Chairman.

**MISCELLANEOUS BUSINESS - DISCUSSION: cont.**

A. REQUEST OF MS. McCORMICK TO RESCIND RESIGNATION

Mr. Astorino - Since there's a pause in the discussion I'm actually going to if I could just bring something and I'm not going to go through I believe there's plenty of letters, plenty of documentation, we don't necessarily need to go over that. There is something I did want to state and discuss a little bit under this discussion about this. Because it's not something that's actually in the record nor there might only be two people that are in this room that are aware of it; so I'm going to do that. As we all did receive on December 7th a memo from the law director that said please be advised I will be out of town this weekend, December 9th, 10th and 11th. I want to point out that on December 8th I became aware of some of the things that were going on and I placed a text into the law director on December 8th and she did return my call. I talked to her about this situation and discussed the possibility of a resignation coming. So I did have some discussion with the law director on December 8th at that time I will say that it was a brief discussion. I just made her aware of it she told me that, I believe, not sure if you were going to visit your daughter down in Atlanta. The main part I was asking her is when was she going to be on her flight on Friday because if I needed to get in touch with her on Friday I needed to have timeframe there. Because I was getting the feeling that an email might be coming my way but I did have a discussion with her about that; I did not get any direction nor did I ask for any direction on how a resignation might be handled, because at that time there was no resignation to deal with. So I just wanted to point out that there was some discussion between myself and the law director on the evening of December 8th about this situation. Any other discussion, Council. Councilman Troyer.

Mr. Troyer - thank you Mr. Chairman, through the chair to the Finance Director, Mr. Cingle. Just a quick question are all our insurance policies paid up and in full force?

Mr. Cingle - through the chair to Councilman Troyer, yes.

Mr. Troyer - thank you.

Mr. Astorino, Okay, Council pleasure?

**Motion** by Mr. Scott, supported by Mr. Mencini, to reject Julie McCormick's withdrawal of resignation.

Mr. Astorino - okay, is there any discussion on the motion? The motion before you is to reject the letter that was rescinding her resignation, properly supported.

**MISCELLANEOUS BUSINESS - DISCUSSION: cont.**

A. REQUEST OF MS. McCORMICK TO RESCIND RESIGNATION

**ROLL CALL: AYES:** Scott, Mencini...

Mr. Troyer - Point of order.

Mr. Astorino - What's your point of order.

Mr. Troyer - that's not what the Councilman said.

Mr. Scott - I said. My exact words motion to reject Julie McCormick's withdrawal of resignation.

Mr. Astorino - Councilman Scott I'd like to ask you to repeat it one more time before we do the vote so that everybody is aware of it.

**Motion** by Mr. Scott, supported by Mr. Mencini, to reject Julie McCormick's withdrawal of resignation.

**ROLL CALL: AYES:** Scott, Mencini, Salvatore, Burgio

**NAYS:** Troyer, Powers. The motion carried with a vote of 4-2

Mr. Astorino - motion is adopted with a vote of 4-2. That concludes letter A under Miscellaneous Business. We'll move to letter B under Miscellaneous Business which is investigation of Councilmembers and Council office operations.

**MISCELLANEOUS BUSINESS - DISCUSSION: cont.**

B. INVESTIGATION OF COUNCILMEMBERS AND COUNCIL OFFICE OPERATIONS

Mr. Astorino - It's open for discussion.

Mr. Scott- I just wanted to put out that I support something like this. We have to take a look at what's happening; get an overall perspective about everything that is going on with the running of the office. The gross misconduct...possible gross misconduct of some Councilmembers, basically that's why I support something like this.

Mr. Astorino - Councilman Mencini.

Mr. Mencini - I concur, I believe to get the total city's confidence back that there should be a review of that office and also a couple of Councilmembers. I think it's time, again as the Mayor stated, time to move ahead. We can't be having these five-hour meetings and fighting and cat-fights for five and a half hours every Tuesday; for one specific or two specific reasons or three specific reasons. It's time to move ahead and I think this investigation can

**MISCELLANEOUS BUSINESS - DISCUSSION: cont.**

**B. INVESTIGATION OF COUNCILMEMBERS AND COUNCIL OFFICE OPERATIONS**

clear a lot of things; if there's nothing there then we move on. That's all I have Mr. Chairman thank you.

Mr. Astorino - Councilwoman McCormick.

Mrs. McCormick - Is the intention to investigate only specific Councilmembers' or all members and under guidelines...

Mr. Mencini - Point of order.

Mr. Astorino - hold on Councilwoman, there's a point of order. Mr. Mencini what is your point of order.

Mr. Mencini - I don't think she should be speaking; she should be off the dais.

Mr. Cayet - I would say call the police and have her removed; she's got to go.

Mr. Astorino - Mrs. Horvath.

Mrs. Horvath - Obviously the issue is if Council's rejected her request to rescind her resignation I would surmise that she would recuse herself from the dais.

Mr. Astorino - I would ask Mr. Sackett you can talk to her privately but the question I would have for you is last week when this was attempted. When the members were trying to add it to a special meeting and it was inappropriate and I pointed that out as a Charter violation. I had mentioned that also Section 15 is the removal and what I heard from the Councilmen is that if we pass this motion to reject the letter that she rescinded it. It wasn't going to be to remove her it was just to reject the letter; that's what they stated to me last week. Because to remove a Councilperson from office you have to follow the guidelines of Section 15 of the Charter which hasn't been done here tonight.

Mrs. Horvath - Mr. President can I respond to that.

Mr. Astorino - Go ahead.

**MISCELLANEOUS BUSINESS - DISCUSSION: cont.****B. INVESTIGATION OF COUNCILMEMBERS AND COUNCIL OFFICE OPERATIONS**

Mrs. Horvath - Okay, you're right there Charter provisions to remove Council people but that doesn't apply here. Here you have a situation where somebody removed themselves and taken action to relinquish their office and now they're coming before Council saying I want to rescind my resignation. As I said it's Council's option to accept that decision or not. They just voted and said they rejected her withdrawal of her resignation. So this is not a situation where someone is charged with any of the issues that are listed in 15.02 of the Charter; so this is not done pursuant to Charter provision. This basically is a statement by Council that they're not accepting her rescission of a resignation; they did not remove her she removed herself. In doing so they are now saying that they do not wish to have her return I don't think it has anything to do with Section 15.02 of the Charter.

Mr. Astorino - So the question I would have for you then because I'm trying to get this sorted out by the stuff that you said. I think tonight you said something about a resignation, there's two parts to a resignation. One is it being effective and the other is relinquishment of office, is that correct?

Mrs. Horvath - I was referring to my previous opinion where I cited the case of Dory vs Miller which is a 9th District Court of Appeals case and the court stated that an act of resignation requires both the intent to resign and an act of relinquishment and I cite several other cases. Obviously, when you relinquish a position you can't rescind your resignation unless the authority that you issued your resignation to consents to the rescission. There are other issues involved for example there is some case law if like your spot is filled obviously you can't rescind your resignation but that doesn't apply here; I'm looking at a series of basically three cases and rendering that opinion. It's very unusual to have this happen where it actually goes to court there's probably about 12 cases and none of the cases have the circumstances that we have here. Most of the cases involve people resigning because they're going to move or for personal reasons or for retirement and they want to come back. Usually the period between the resignation and their asking to rescind the resignation is much shorter too, it's usually not more than a week. I hope that answers your question.

Mr. Astorino - It does answer part of it but the confusion that I'm having with this is when I announced at the December 13th meeting and I remember the Mayor asking for a signature, I remember that being said but then I have a letter that was sent the very next day by your office. It was sent by you that said the unsigned private email that was published on a third-party Facebook page is insufficient to effect the resignation from City

**MISCELLANEOUS BUSINESS - DISCUSSION: cont.****B. INVESTIGATION OF COUNCILMEMBERS AND COUNCIL OFFICE OPERATIONS**

Council. Then you said upon receipt of this communication that you requested the Councilwoman immediately remit a letter of resignation if that is her desire or otherwise directly communicate the intent to the Mayor. The following week the Mayor signed a letter that came from HR, the HR commissioner, that says if it is your intent to resign your position please confirm your intent, that was sent on the 23rd. On the 28th the Councilwoman says it's not her intent so I'm just going by what's on the record on the 14th and the 23rd. Both your office and the HR office was asking her what was her intent because you didn't see the email as expressing the intent or being able to affect her resignation. Then on January 3rd I know you came out with the opinion on January 3rd but your January 3rd opinion didn't address the opposing view that you had just a little more than two weeks before then. So it's kind of like, you know, I'm just trying to sort this out myself and it's not making much sense because it's like you had an opinion on December 14th and you've changed your opinion on January 3rd.

Mrs. Horvath - Well...

Mr. Astorino - go ahead.

Mrs. Horvath - I didn't mean to cut you off.

Mr. Astorino - no, go ahead.

Mrs. Horvath - Let me explain alright, so we have on December 9th we have an email that is unsigned that is sent, I believe, to you Council President saying effective immediately I'm resigning and I'm turning my keys in; so I think it took a couple of days for that filter through. On December 13th there was a meeting and you had indicated that it was your understanding that there was a resignation and because my job chiefly is to represent the City of Brook Park as a municipal corporation. I sent that letter because I saw after looking at the situation as it existed as it existed December 14th that there might be some issues. I'm sure anybody that has ever worked in a private sector or public sector I know when you resign usually there's a signed letter, that was not the case here. This was an unsigned email from a private email to another private email and then the announcement on December 13th that she had resigned, she was not present at the meeting. So the reason that I on December 14th sent that letter is because I wanted to clear up the issue that there wasn't any signed resignation. Now what changed between the time that I wrote my opinion and December 14th.

**MISCELLANEOUS BUSINESS - DISCUSSION: cont.****B. INVESTIGATION OF COUNCILMEMBERS AND COUNCIL OFFICE OPERATIONS**

First off, there was a certified mail receipt returned to the City of Brook Park on December 19th indicating that Ms. McCormick did, in fact, receive my letter. Then her subsequent action the very next day December 20th where she did not attend the Council meeting. So at that point, on December 20th I interpreted her actions overall as a relinquishment of her office. So the reason that the December 14th letter is asking for the resignation is because, at that point, her actions hadn't shown full relinquishment of her office. But that was the second meeting that she missed, and at that point it was readily apparent that she resigned effective immediately, turned the keys in and missed two meetings. The second meeting being the December 20th meeting and after some discussions with HR, with Finance you will see the second email just kind of says well, just send us an email. It's okay we don't need all the requirements we talked about in the December 14th letter and the reason that we said that is interpreted her actions as a relinquishment of her office. So there really shouldn't be any confusion there's two different parts here. Yes, immediate resignation followed up by actions showing that she's relinquishing her position, she has no intent of coming back and resuming her position. So obviously she relinquished the office before she sent her request to rescind her resignation in so that's the way. That's why my opinion is that way and that explains the change in position from December 14th to January 3rd.

Mr. Astorino - Okay, but you said, I need to go through this. You're using the same words two different days. You're telling me that the December 9th email said it was effective immediately but you're December 14th letter it was effect... it was insufficient to affect her resignation. So can you explain that part?

Mrs. Horvath - Sure, in many of these cases people resign but they say I'm going to resign effective January 15th. So that gives them a period of time where they haven't effectively resigned. The fact that her letter, her email rather of December 9th said effective immediately that is one of the factors that I looked at when determining that she relinquished her office. The reason that the December 14th letter is saying we would like something in writing is because, obviously, it's ordinary and customary and we were looking for some further writing on her part, quite frankly. As I've stated before I know we're in the modern world and people send emails to each other, they don't sign it or they act on emails, I'm sure. Goods are sold, purchased by email, I'm sure people break-up by email but to be official we wanted something in writing and as time passed and there was no response, then a subsequent meeting was missed. At that point it appears that she's

**MISCELLANEOUS BUSINESS - DISCUSSION: cont.**

B. INVESTIGATION OF COUNCILMEMBERS AND COUNCIL OFFICE OPERATIONS

relinquished her office so it's just a progression of steps trying to respond to the situation as it changed through time. The December 14th letter is not inconsistent it was sent immediately after the December 13th Council meeting where her resignation was announced and if you will reread the letter from the Human Resources Commissioner you will see at that point she's saying, well, just email me because she needs to close files out, things administratively need to be done. So I don't see that there's any inconsistency at all.

Mr. Astorino - Okay, so...

Mayor Coyne - Mr. Chairman...

Mr. Astorino - No, I just need one more question to the law director. What is your recommendation to me, as Council President, what am I supposed to do here? I don't want to take an action unless your giving me your official position of the law department. Because if I take an action that's outside of my authority so as a Council President I don't want to be accused of removing some Councilperson from office. If it's your position that that vote removes her from office.

Mrs. Horvath - Here is what I would suggest at this point. That we take a brief recess I have a reply formulated for you at this point which is in effect. I believe Council has already removed her from office but let's take a brief recess.

Mr. Mencini - I will make a **motion** for a recess.

Mr. Troyer - Mr. Chairman.

Mr. Astorino - I want to take a recess.

Mr. Troyer - Can I get something clarified?

Mr. Salvatore - We have a motion on the floor I **support**.

Mr. Astorino - I want a recess we can clarify stuff during the recess or shortly afterwards.

Mr. Troyer - I just want the law director to restate what she just said.

**MISCELLANEOUS BUSINESS - DISCUSSION: cont.**

**B. INVESTIGATION OF COUNCILMEMBERS AND COUNCIL OFFICE OPERATIONS**

Mr. Astorino - No, that's not a clarification that's a repeat. We can clarify it afterwards the recess. So there's a motion on the floor to take a recess. Law director do you have any idea of how long a period we might need?

Mrs. Horvath - probably about five or ten minutes.

**Motion** by Mr. Mencini, supported by Mr. Salvatore to recess.

**ROLL CALL: AYES:** Mencini, Salvatore, Burgio, Scott, Troyer, McCormick  
**NAYS:** Powers. The motion carried 6-1.

Mr. Astorino - we will take a recess sometime between 8:25 p.m. or 8:30 p.m. we will convene.

Mr. Astorino - okay, our recess is over I'm going to call this meeting back to order at 8:31 p.m. After talking with the law director based on the vote that was taken to reject your letter that rescinded your resignation; Councilwoman McCormick I'm going to ask you to leave the dais.

Mrs. McCormick - I wish to remain in my seat up here.

Mayor Coyne - She's refusing to leave.

Mr. Astorino - Her response if you didn't hear she's going to remain in her seat, she's not going to leave the dais.

**Motion** by Mr. Salvatore, supported by Mr. Troyer, to adjourn.

Mayor Coyne - Can I speak to that motion, please.

Mrs. Powers - No.

Mayor Coyne - who said no, you said no. Can I speak to that motion please?  
Mr. Chairman, Members of Council...

Mr. Astorino - Mayor, no you can't.

Mayor Coyne - Oh I can't.

Mr. Astorino - the motion to adjourn is not debatable.

Mayor Coyne - okay, we gotta conduct city business and she's held it up long enough.

**MISCELLANEOUS BUSINESS - DISCUSSION: cont.**

**B. INVESTIGATION OF COUNCILMEMBERS AND COUNCIL OFFICE OPERATIONS**

Mr. Troyer - Point of order.

Mayor Coyne - So if you're going to condone this...

Mr. Astorino - please call the roll.

Mayor Coyne - vote no to adjourn the meeting.

The clerk called the roll on the motion by Mr. Salvatore, supported by Mr. Mencini, to adjourn the meeting.

**ROLL CALL: AYES:** Salvatore, Troyer, Powers, McCormick

**NAYS:** Mencini, Scott, Burgio.

Mr. Mencini -she can't vote.

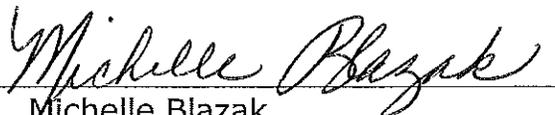
The clerk stated the vote is 3-3 if Julie can't vote.

Mr. Astorino - it's 4-3.

Mr. Powers - she's a Councilmember until this is decided.

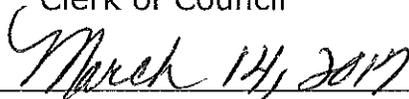
Mr. Astorino - either way it's 4-3, if it's 3-3 because she can't vote I would vote for adjournment so it's 4-3. Meeting is adjourned at 8:33 p.m. Thank you very much.

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.

9,278 words