

**REGULAR CAUCUS MEETING  
OF THE COUNCIL OF THE CITY OF BROOK PARK, OHIO  
HELD ON TUESDAY, JUNE 27, 2017**

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, MCDONNELL, MENCINI**

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

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**APPROVAL OF MINUTES OF PRECEDING MEETINGS:**

1. REGULAR CAUCUS MEETING HELD ON MAY 23, 2017.

**Motion** by Mr. Mencini, supported by Mr. Scott, to approve as printed.

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

**NAYS:** None. The motion carried.

2. REGULAR CAUCUS MEETING HELD ON JUNE 13, 2017.

**Motion** by Mr. Mencini, supported by Mr. Troyer, to approve as printed.

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

**NAYS:** None. The motion carried.

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**DISCUSSION:**

1. 2014-2015 RULES OF COUNCIL – Councilman Salvatore

After a lengthy discussion of past and current Council Rules amongst Council Members.

**Motion** by Ms. McDonnell, supported by Mr. Troyer to place Council rules on the next Caucus agenda under Discussion.

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

**NAYS:** None. The motion carried.

**Motion** by Mr. Troyer, supported by Ms. Powers, that item number one was discussed.

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

**NAYS:** None. The motion carried.

2. AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT WITH AXON ENTERPRISE, INC. WITHOUT PUBLIC BIDDING, THE LEASE/PURCHASE OF 30 NEW POLICE TASERS AND THE TRADE-IN OF 30 USED POLICE TASERS AND DECLARING AN EMERGENCY. Introduced by Mayor Coyne

**James Foster**

**Brook Park Police Department**

**17401 Holland Road**

Chief Foster explained that the departments' Tasers are over the warranty period and three have already failed. The Taser is a unique device for police departments and after research of what vendors are available; Axon is the name of the company of Tasers. Dealing directly with the manufacturer Axon they are giving the city five years lease to own option for the new Tasers along with a onetime credit of \$100.00 for each of the Tasers the department currently has. If purchasing one from a law enforcement dealer the city would pay over \$60,000 in one lump sum. Axon has spread that cost over five

**Discussion: cont.**

years and the first payment would be the credit of the 30 Tasers in the amount of \$3,000.

Ms. McDonnell asked who uses the Tasers in our city? What are the benefits of using them? Is there a hierarchy of tools that the police are supposed to use?

Mr. Foster replied all police officers are trained to use them and they are a less lethal weapon than a firearm; along the lines of a baton or pepper spray. If the police are becoming overpowered, or someone is out of control, the Taser may be used on animals that are out of control.

Ms. McDonnell asked how often should they be used? Does it depend on how often it was used, or is it more time sensitive?

Mr. Foster replied that there is a manufacturer warranty for five years and the department was able to get ten years out of some of the Tasers.

Ms. McDonnell asked if this was a special deal for special customers of because of how long we have used them?

Mr. Foster replied the city is getting the credit because of dealing directly with the manufacturer, not a law enforcement vendor.

Mr. Troyer asked if Taser is Axon. Have we ever used another brand?

Mr. Foster replied that Axon is the manufacturer and sells to law enforcement only; other Taser like devices are made by other manufacturer, but they are not Tasers, the department has never used any other brand.

Mr. Mencini asked Chief Foster if he knew of any other brand being used in the area?

Mr. Foster replied no.

Mr. Mencini asked how effective were the Tasers.

Mr. Foster replied they were very effective; the person is incapacitated for five seconds.

Mr. Burgio asked what are the training cartridges and who is in charge of training the officers?

Mr. Foster responded to be certified the officers are required to fire the Taser twice, normally part of the yearly training. With the manufacturers special, they will provide three cartridges per officer per year, each cartridge costs about \$25.00 apiece. There is a certified instructor on the force trained by Taser that will train the city's police officers.

**Discussion: cont.**

Mr. Burgio stated that will be all included in the purchase?

Mr. Foster responded yes, the officer was trained and continues his instructor license through Taser.

Mr. Burgio asked aside from incapacitating someone, what other effect does that have on a person; such as a person with a bad heart?

Mr. Foster replied the department is told it will not have any other effect, however, the officers take the wellbeing of the person into consideration first.

Ms. Powers asked if there is really a need for 30 Tasers in one purchase? How many police cars does the city have on the streets at one time?

Mr. Foster replied initially the department purchased 12 Tasers about ten or twelve years ago and rotated them around and those are the ones that began to fail after the five years. With law enforcement monies, seed money through drug arrests, the department bought enough for each police officer and the recommended experience from other police departments is if one officer takes care of that Taser it seems to last longer. With rotation of Tasers there is more handling and moving that could cause further problems. Looking of the funding for this purchase half of the monies is from Capital from Council and the other half will be funded by Fund 270.

Ms. Powers asked what is the safest way to Taser someone.

Mr. Foster replied Tasers have been used for decades and would have been outlawed if there was a problem. Usually for a person to be tased is there is something going on biologically and the person is out of control; so once a person is tased the officers have been trained to call the squad immediately so the person can be evaluated.

Ms. Powers stated shouldn't other vendors be looked at because using the same company all the time is like having a no-bid contract; the city doesn't know what else is available of if the five-year warranty the best?

Mr. Foster replied that he attends the International Association of Chief of Police all the vendors from the world attend. After researching the vendors in attendance Taser was clearly the company recommended and in talking with the Cuyahoga County Police Chiefs Association no other vendor has been found or recommended. The five-year contract is the only warranty that the department is offered and is not aware of any other warranties out there. The department would inquire after the five years if a warranty is available a cost-analysis would be done to see if it is worth warranting.

Mayor Coyne stated that a Taser is just like a side-fire arm for police officers and are important because it helps with the safety and reliability of the officer; the city wants to give the police the best equipment to protect themselves and people of the city. The reason to have these lease-warranty agreements is there have been people, including in the jail, that were tasered more than once and kept on coming. So it's important that

**Discussion: cont.**

the Taser functions as well as the firearm; police officers are constantly trained on the Tasers and firearms. The city is delighted with the manufacturer offering this lease-purchase deal with the city and after the five-year period the city owns them and if the Tasers are not functional then new ones will be purchased to replace them. Mayor Coyne thanked Chief Foster for attending events and for researching this matter because otherwise the city would not have been aware of this deal.

Mr. Mencini commented police officers should know their weapons, whether a Taser or firearm, the officers should know every little part of that weapon. If Chief Foster is in favor of the officers have these Tasers, then let's give them the best protection available.

Mr. Astorino stated looking at the list of capital improvements the Tasers were listed at \$20,000 and the body of the legislation doesn't list the cost but is the cost about \$60,000?

Mr. Foster replied over the course of the five-year lease, the total is \$61,875 along with the \$100.00 credit being given for each Taser turned in totaling \$3,000.

Mayor Coyne stated the actual lease payment for each year is less than \$20,000 Capital so it's \$12,000 a year, presently in the Capital there is more than enough to cover the total lease; so the lease payment would be split by \$6,000 from Capital and the Law Enforcement Fund.

Mr. Cingle concurred and stated for this year the amount of \$5,480.00 would come out of the Police Department Capital and \$5,480.00 out of Fund 270 - Law Enforcement Fund. Next year half of the \$12,960.00 would come out of Fund 270 and the other half out of Funds 401 & 412 - Police Department Capital Improvement Fund.

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

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

**NAYS:** None. The motion carried.

3. AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT WITH BOB GILLINGHAM FORD FOR THE PURCHASE OF FOUR (4) NEW 2017 FORD UTILITY INTERCEPTOR SUVs AND DECLARING AN EMERGENCY. Introduced by Mayor Coyne.

Mayor Coyne stated the city looked at other bids with state purchasing and the chief can explain the difficulties the city had with state purchasing last year; so the chief was asked to seek other bids.

Chief Foster stated in 2016 there were four vehicles ordered from the state vendor in the Columbus area and received two and approximately a month or two later received the third one and am still waiting for the fourth one. Sgt. Sulminski is the fleet manager

**Discussion: cont.**

for the police department and the contact person and was told the 2016 vehicle is ready for equipment purchase early next week and turned around in two weeks. After going back and forth between the vendor and Sgt. Sulminski, Chief Foster offered to have a police car taken out of service, remove the equipment, transfer the equipment to Columbus to have the car built. Having a car built means the city buys a vehicle and the light bars, radios, specialized back seats, cameras and all equipment gets transferred over. Automotive dealers don't do this the work is subcontracted out meaning dealing with another vendor and it's been this type of experience throughout. Chief Foster doesn't mind little delays but the last 2016 vehicle was received in March and have waited three months for the fourth to be told get the car ready the vendor is ready for it. the city is the customer and it's not going to work that way because the department will not have a vehicle out of commission during the Fourth of July and the Home Days celebration; so the vendor was told to push the time back. After much dialogue and having to deal with a dealership in Columbus that does fine work and stands behind the product. The vendor in Columbus doesn't have the state purchasing contract any longer the vendor listed at number one on the legislation has the state purchasing contract and is located in Cincinnati and again is a vendor that the city would be dealing with in Cincinnati and the one person at that dealership is the representative for state pricing of the police vehicles has been on medical leave since starting this process; the assistant trying to cover did all they could but is not the person trained to deal in the pricing. So city officials, Finance Department, Mayor, Safety Director are complaining about how the city (the customer) needs a little help with the purchase of vehicles. The decision was made to obtain local bids and talked to City of Berea police department that recently purchased a vehicle from Kowalski Ford, so some of the local dealers can order the police interceptor model and do the changeover. So the city sought local bids, went to Kowalski that did it for Berea but told Brook Park they're not doing it any longer due to issues and trouble with it. So the city then went to Auto Nation and were told the same thing, not in the business. In talking with Brooklyn they received their police vehicles (Fords) from Gillingham Ford and had an outstanding experience with the dealership. So the city sought bids from Gillingham as well as Lebanon Ford and Statewide Ford. Gillingham Ford came out the next day with two representatives asking the right questions and seemed to know what they were doing and had a quote within two days; the department felt this dealership provided outstanding service and will not charge any destination fee for moving of vehicles. It's not the lowest but in my opinion it's the best and can go with Lebanon Ford but will tell you it's going to be a frustrating experience and cannot say when the cars will be received.

Mayor Coyne stated the difference of \$6,800 and recommended Gillingham Ford due to the logistics working out to be best for the city.

Mr. Cingle said that these vehicles will be on a three-year lease, paid for out of the Capital Improvement Fund for the Police Department, so in Section 2 an amendment is needed to delete Fund 270 Law Enforcement Fund. These vehicles are properly budgeted for this year.

**Discussion: cont.**

**Motion** by Mr. Mencini, supported by Mr. Troyer, to amend Section 2 by deleting the words Fund 270 Law Enforcement Fund and.

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

**NAYS:** None. The motion carried.

Mr. Troyer asked if any of the city's vehicles have the twin turbo 3.5 eco-boost and expressed concerns for the police officers running patrol on the interstates.

Mr. Foster responded the eco-boost has a turbo charge that is approximately \$3,000 more accessory per vehicle, however, the city's service mechanic warned that the vehicles have higher maintenance meaning more down time. The current engine is approximately 305HP (horsepower) which is higher than the old police Crown Victoria's. In monitoring, watching and listening to feedback from other agencies Chief Foster believes that the highway patrol has the eco-boost engine, but their duty is on the interstates all day long and made the decision not to have SUV's based on the decisions of both the city's police and service mechanics.

Mr. Troyer asked when will the sedans be replaced?

Mr. Foster responded the city still has two Crown Victoria's that have been recommended by the mechanic to keep in service and both sedans are still reliable with approximately 60,000 miles on them and are not driven as much as the SUV's; the main complaint is with all the police equipment the vehicle is a hair to small.

Ms. Powers asked what the life expectancy of a fleet car as well as the SUV's; how many miles a year to put on a police vehicle?

Mr. Foster responded the officers put approximately 120,000 miles before retiring the vehicles, those are driven miles. The vehicles also have an idle clock on the vehicles to measure idle time, that often exceeds the mileage. Chief Foster stated that instead of painting the black and white police vehicles which is an additional \$1,500 or more, the wrap could be peeled off the vehicles when the city goes to sell or reuse those vehicles.

Mr. Mencini gave a shout-out to the service mechanics for the great maintenance on the city's vehicles.

Mr. Foster concurred and stated the auxiliary cars are 2008's and are working great as patrol cars not used in pursuits, but used currently during the Snow Road Construction Project to keep traffic moving.

Ms. McDonnell asked how much time do officers patrol on the highways?

Mr. Foster responded the Zone Officer balances what needs to be done and in Brook Park, because of the interstates, and the junction and on-off ramps it's not an ideal place and is riskier than a stretch of highway just sitting on the side. Chief Foster credited the officers for being on the interstates and stated I-71 North between Snow

**Discussion: cont.**

Road and the I-480 junction for four years in a row the city had a fatality and since the department emphasizes traffic enforcement there hasn't been any.

Mayor Coyne wished the police were not on the interstates at all, it's dangerous. The city has been replacing about four vehicles a year and hope to keep doing that.

Mr. Troyer asked what were the plans for the four decommissioned vehicles?

Mayor Coyne replied the Service and Building Department need vehicles so the vehicles will be recycled throughout the city where needed, the Ford Expedition from the fire department has been recycled to the Recreation Center.

Mr. Troyer asked who was doing the switch over (bar lights, radios etc.) of the cars?

Mr. Foster replied that is a part of the contract with the Ford dealership that wins the contract is responsible to do that and the pricing is included, that's why there is a difference in cost.

Mr. Troyer asked if Gillingham Ford will be doing it at the dealership or sending it out?

Mr. Foster replied Gillingham Ford is responsible for the work whether done at the dealership or subcontracting the work out. What the city has found in the past if a problem occurs the blame goes back and forth between the vendors. So the department prefers to keep all the work together so if there is a problem the dealer who gets the deal must fix the problems.

Mr. Troyer clarified that once the vehicle is returned service crews will remove the wraps and so on.

Mayor Coyne concurred.

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

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

**NAYS:** None. The motion carried.

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**LEGISLATIVE COMMITTEE – CHAIRMAN, TROYER**

1. AN ORDINANCE APPROVING THE EDITING AND INCLUSION OF CERTAIN ORDINANCES AS PARTS OF THE COMPONENT CODES OF THE CODIFIED ORDINANCES; PROVIDING FOR THE ADOPTION OF NEW MATTER IN THE UPDATED AND REVISED CODIFIED ORDINANCES; PUBLISHING THE ENACTMENT OF SUCH NEW MATTER; REPEALING ORDINANCES AND RESOLUTIONS IN CONFLICT THEREWITH; AND DECLARING AN EMERGENCY. Introduced by Council President Astorino.

Mr. Astorino stated this is the type of action Council takes every year when legislation is passed throughout the year and that information is received from the codifier American Legal. The memo provided by the law director indicates this was not drafted by the law department nor certified by the law department as to correct legal form. When this was introduced on June 6th I made mention that this legislation did not have the correctness and legal form stamp signed by the law department, it was just to get the legislation into committee to begin the process. As in past years a legislation draft is received from American Legal of all the legislation that Council adopted for that year. That legislation is then forwarded to the law department so the law director's statement that the ordinance was not drafted by the law department, that is correct, the legislation was drafted by American Legal. Mr. Astorino noted an error in the legislation received from the law department on page 2 the year should read 2015 and also stated the document that was provided just before tonight's meeting is a copy of the legislation that Council passed last year as Ordinance No. 10022-2016. So I don't understand why there is an issue with doing this in the same manner as previous years with the law director reviewing the legislation from the codifier and signing off on the legislation.

Ms. Horvath replied there's been a process that has been established that the law department drafts legislation and certifies it. Beginning in 2016 that process began to erode with several Ordinances and Resolutions were introduced without the Law Department certification and clearly that is improper. This is a procedure that is in the rules and something that is confusing or meshing of roles; it is the legislative branches job to vote and it is the law departments job to review and certify legislation. There have been instances where someone has drafted legislation on their own and submitted it; i.e. last year Resolution No. 2-2016 and also legislation submitted regarding certain fire regulations that was later defeated, due to not correct to form. Most recently, Ordinance No. 10048-2016 that involved 'Me Too' clauses and whether or not an ordinance was needed and on two occasions memos were provided saying that verbal approval was sufficient; nonetheless, that legislation was introduced and placed on an agenda. The memo this evening addresses item numbers one through five on tonight's agenda and the point being legislation is being introduced without going through the law department and is something that needs to stop. The rules exist for a reason and having legislators draft their own legislation and submit it to Council, contrary to Council Rules actually impedes the work of Council and contributes to a lot of the problems occurring. I could have just gone with this memo and later submit something in regards to the ordinances but in an effort to draft two memos this morning, deal with other issues and try to get Council an ordinance dealing with the codified ordinances my assistant rushed and put this through. If any corrections need to be made the law department will take care of those corrections, that is the law department's job; it is not

**Legislative Committee - Chairman, Troyer: cont.**

the function of the legislative authority to go ahead and draft legislation and submit it without the certification of the law department.

Mr. Troyer asked what is a good turnaround time, when a Councilmember asks for a piece of legislation to be drawn up, especially when an example is given?

Ms. Horvath replied under the old 2014-2015 Council Rules, 14 days that was designated as turnaround time. Under the current rules and with twice as many meetings that turnaround time is down to seven days, really only five days not including Saturdays and Sundays. That is in a perfect world where there are no conflicts, litigation or controversy that cause extra work for my department and other department 14 days would be good, in a perfect world. Since this is not a perfect world the law department often the law department must make choices as to what task takes priority. For example, should a particular ordinance be worked on or ultimately due to a situation should the law department go to a Temporary Restraining Order hearing with regards to the closing of a hotel. Everyday priorities are given as to what should be worked on and what should take priority; such as amending the DUI (Driving Under the Influence) that has been amended by the state so that the city conforms to the state's standards. There are many demands on the law department and the department does their best to balance those demands and will point out that this particular Council obviously has had some issues, certainly has had meeting minutes backed up and at this point in time also has someone in the process of investigating Council administration and a great deal of those issues have caused a tremendous amount of work for the law department; also last year the amount and requests for Ordinances and Resolutions more than doubled along with attendance time for meetings.

Mr. Troyer asked why the Law Department couldn't sign off on the current legislation at was created by American Legal as has been done for many years? Did you find specific errors with it? Why was the document from 2016 sent to us?

Ms. Horvath replied section number seven is a new addition.

Mr. Troyer stated that couldn't have just been added.

Ms. Horvath responded I believe that's what was done.

Mr. Troyer interjected no, last year's was copied and sent out as this year's updates. Also, there was mention before that if the law department needs help, Council should appropriate monies for the law department to get extra clerks. I, for one, have been waiting since January, 2016 for requested legislation that has been talked about a few times and still don't have anything.

Mr. Salvatore asked that the Ordinance presented by the Council President received from American Legal be sent to the Law Department along with the substitute piece to get it ready for the next meeting.

**Legislative Committee - Chairman, Troyer: cont.**

**Motion** by Mr. Salvatore, supported by Ms. McDonnell, to place the corrected version on the next Council meeting.

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Mr. Astorino stated that the item in the packet was not drafted by any legislature, it was drafted by American Legal. The codifier has always drafted this legislation for probably over 20 years and the problem that occurred here is rather than follow the same procedure that has existed for over 20 years, the law director strayed from that procedure with no explanation as to why she decided to do that. Then a document is presented tonight that the law director wanting Council to substitute for replacement that was already adopted by Council last year. If the law department is so overworked even though at Council meetings she states, there is one or two cases for litigation. Council is given an explanation doesn't actually get to why the huge mistake was made it gets into items about Council investigations, minutes in the arrears.

Mayor Coyne - Mr. Chairman, Point of Order, he's not speaking to the amendment.

Mr. Astorino - I will change my discussion on the amendment then and will say simply the way I view this amendment is it tries to gloss over a mistake that was drastically made by the law department. Simply saying, let's do it again when she had three weeks to do it in the first place.

Mr. Troyer reminded Council that this should be a housekeeping item.

Mr. Salvatore said it is a housekeeping item and the law director mentioned that the American Legal legislation did not include section seven.

Mr. Troyer stated sections six and seven have the same meaning in both pieces.

Ms. Horvath did not say that Council that this particular piece of legislation was drafted by a member of this body; what I said is the law department did not draft it and that's an entirely different issue.

Mayor Coyne stated procedures require that legislation drafted by any one must be submitted to the law department prior to Council's consideration and that has been in effect for many years. Finally, let me say this because you allowed this to be said into the record of a criticism of an operation of a city department; for a person who operated a one-and-a-half-person office has never failed the degrees it has legislatively in the history of this city. To try and suggest that the law director is not doing her job properly is criminal and ludicrous.

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The clerk called the roll on the motion by Mr. Salvatore, supported by Ms. McDonnell, to have the legislation corrected and place on the next Council agenda.

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

**Legislative Committee - Chairman, Troyer: cont.**

**Motion** by Mr. Mencini, supported by Ms. McDonnell, for a ten-minute recess.

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

**NAYS:** Salvatore. The motion carried with a vote of 6-1.

After the recess, Council President Astorino stated that long-standing Recreation Department member, Rich Kestranek, passed away and a moment of silence was observed.

2. AN ORDINANCE AMENDING CERTAIN SECTION 153.01 (a) (5) OF THE BROOK PARK CODIFIED ORDINANCES ENTITLED 'VACATIONS' AND DECLARING AN EMERGENCY. Introduced by Council President Astorino.

Mr. Astorino stated the amendment would be 'a city's employee anniversary date of employment shall be the anniversary date of such employees' prior service with the state of any political subdivision; thereof, where the employee has not exercised any type of cash-out for retirement. The purpose of the change is if an employees' that served some other public agency when hired by the City of Brook Park be considered a new employee. Last November, the Assistant Finance Director answered a question that the reasons for some of the increases were due to some directors had five weeks of vacation even though they've only worked for the city for three years. In a verbal legal opinion between the former law director and Mr. Cingle the employee's anniversary date is when they were hired by their previous employer. In a legal opinion provided from the city's labor counsel, Walter & Haverfield, on page three under Section A states 'the city may exclude calculation of prior service credit in determining employment benefits for an employee who retired from public service; pursuant to a retirement plan of the state'. Further down on the same page 9.44 ( c ) of the Ohio Revised Code (ORC) reads 'an employee who has retired in accordance with the provisions of any retirement plan offered by the state and who is employed by the state or any political subdivision of the state on or after June 24, 1987 shall not have prior service with the state, any political subdivision of the state or a regional Council of Government established in accordance with Chapter 167 of the Revised Code for the purpose of computing vacation leave; with emphasis added on the state or any other political subdivision of the state on or after June 24, 1987 in bold. Not sure where the former law director came up with his opinion when this section of the ORC reads 'the employee shall not have his/her prior service with the state or any other public agency counted for the computation of vacation leave'. Mr. Astorino continued this legislation was submitted to the law department of February 28, 2017 with a memo response from the law department for seeking of legal device from the labor attorney with a response received on March 20th and met with the law director to go over that memo and explain in the interpretation and didn't reflect the changes and thought the attorney from Walter & Haverfield misunderstood what I was looking to do. After several email requests for copies of the legislation and was provided a copy, this was not legislation drafted by the legislature, this legislation before Council was drafted by the law department. I'm proposing a change that would be beneficial to this community so that the city doesn't incur liabilities that other cities would be burdened this city with, if employment was with another city and come to Brook Park

**Legislative Committee - Chairman, Troyer: cont.**

the employee will be entitled to certain benefits but don't think the city should be paying for services from another city. The legislation before Council, although, doesn't have the law director's stamp for legal form and correctness is because the law director refuses to do that; she's been asked to do this repeatedly.

Mayor Coyne - Mr. Chairman, Point of Order.

Mr. Troyer - Mayor, what's your point?

Mayor Coyne - Mr. Astorino's comments are not speaking to the legislation and continues assault on the law department and the memorandum from Mr. Hunt says is clear the city may do this. I would like to speak to why the administration thinks this is a benefit to the city. There has been an ongoing attack by this Council President for the two years against the administration.

Mr. Astorino - Point of Order...

Mayor Coyne - now it seems he's going after the law department.

Outburst from a member in the audience addressing Mayor, Council President Astorino and Councilman Troyer regarding being disorderly.

Mr. Troyer asked Law Director Horvath what needs to be done to get this approved as to legal form by your department?

Ms. Horvath replied that is a two-part question, the memo indicates that according to Mr. Hunt of Walter & Haverfield that this amendment can only apply to perspective employees, meaning ones that are hired at a later date. The city cannot in midstream change what the city has for current employees and in my opinion this particular draft does exactly that. There may have been legislation that was drafted for discussion purposes but it was never finalized and when saying the law department did not draft this I'm saying it was not completed and sent over to the Council office. I'm particularly disturbed because this piece of legislation has a purported stamp which is not the law department's stamp. I don't know how that got there and can only assume that the draft legislation completed for discussion purposes somehow was introduced with something that purports to be the law department's stamp. It is patently clear by looking at this piece of legislation that is not the law department's stamp.

Mr. Mencini asked for a point of clarification that the legislation was not done by the law department.

Ms. Horvath concurred and am also saying that the draft was not completed for this particular legislation to be sent over to the Council office. Had the draft been completed the legislation would have been stamped to form and content with my signature. This is not the law department's stamp by looking at the 'Director of Law'. My opinion would be is this piece of legislation and the following pieces should be Read because number one

**Legislative Committee - Chairman, Troyer, cont.**

while the law department had Interoffice drafts of this particular piece of legislation it was not sent over to Council and there appears to be some sort of stamp that is not the law department's stamp and further it is not correct. It is defected because it would imply to current employees and should only apply to new employees. For those reasons I would suggest that this legislation be Read and restart with a brand new piece because there are too many problems and issues with this legislation.

Mr. Troyer thanked Law Director Horvath for her opinion and commented that it is the decision of the seven voting Members of Council and you are really supposed to give a basic opinion and not direct Council how to vote. My question to you, is what does Council have to do to fix this?

Mayor Coyne - you have a forgery, sir, you have a forgery, how do you fix that?

Mr. Astorino - There is no forgery.

Mayor Coyne - yes, there is.

Mr. Astorino - there you go making ludicrous remarks.

Mayor Coyne - who affixed the stamp to it, Mr. President?

Mr. Astorino - the law department.

Mayor Coyne - they did, when? Is this the same stamp you have on the signed piece; I think not Council examine. The question is how did this get here and who put it here.

Mr. Astorino - we will go to the memo from the law department that talks about this being defective. Looking at the memo provided this afternoon, paragraph three that states with regard to item V-2 which is the amendment of Section 153.01 (a) (5) of the Brook Park Codified Ordinances that reads 'the provisions of this proposed amendment are defective as drafted due to conflicts with Brook Park Ordinances 131.01 ( e ) and further does not exclude the current sitting elected officials from its terms'. The only part of that paragraph actually correct is the last sentence that reads this amendment can only apply to perspective employees because there is nothing in this ordinance that deals with the elected officials or current elected officials. It appears to me that this memo was written with that paragraph so intent on finding things defective that the law director is making up false facts. This ordinance has nothing to do with Ordinance 131.01 ( e ) it has to do with non-contractual employees; 131.01 deals with an elected official.

After a back and forth discussion between Mayor Coyne and Council President Astorino, Mr. Troyer, as Chairman, asked for courtesy to hear from the voting Members of Council; Mr. Scott go ahead.

Mayor Coyne - Point of order

**Legislative Committee - Chairman, Troyer, cont.**

Mr. Troyer - Mayor, please...

Mayor Coyne - Point of Order, do your rules preclude legislation from being considered before...

Mr. Astorino - Point of Order, Point of Order, he's asking a question, he can't ask a question .

Mayor Coyne - I'm asking a question who forged this stamp, that's the issue. Because it can't be before Council without certification from the law department and you know that and avoiding the fact.

Mr. Scott - I have three real quick questions. Madam Law Director is this your stamp?

Ms. Horvath - NO.

Mr. Scott - Did you place that stamp on this piece of legislation?

Ms. Horvath - NO.

Mr. Scott - Madam Clerk, is this your stamp?

Clerk - NO.

Mr. Scott - did you place this stamp on this piece of legislation?

Clerk - NO.

Mr. Scott- Council President Astorino is this your stamp?

Mr. Astorino - NO.

Mr. Scott - Did you place this on this piece of legislation?

Mr. Astorino - NO>

Mr. Scott - How did the stamp get on here? This is illegal and Council has a stamp on legislation that nobody claims to it, how did it get here? Bottom line how did it get here? If this is supposed to be legal how did this get here; Law Director didn't do it, Madam Clerk didn't do it and Council President didn't do it, who did it?

Mr. Troyer - Don't know.

Mr. Scott - Then throw this out, this is illegal.

**Legislative Committee - Chairman, Troyer, cont.**

Mr. Troyer - throw this out and try to get another piece?

Mr. Scott - make it legal.

Mr. Troyer - Madam, law director can the law department do that?

Mr. Scott- Point of Order, is that comment necessary?

Mr. Astorino - Yes, yes it is.

Ms. Horvath stated I would send these four pieces to Mr. Hunt and ask him to complete them, I think that would be best. I reviewed his opinion and pointed out the defects that were contained in each one of these drafts and believe these defects were discussed in my meeting with Mr. Astorino. There were drafts that were looked over but there was never anything final that was sent to Council. If I can further speak, due to the situation of last November every time a piece of legislation is taken over to Council, the first page of that legislation is stamped by the Council Clerk. That has been our procedure since about November 22, 2016 and there should be a copy of this legislation stamped on the first page with the date presented if it was sent over by the law department. My understanding and will do further checking and report back to Council that this a duty my Administrative Assistant has undertaken ever since the first problem with the altered legislation in November, 2016; so the law department can keep track when legislation was presented and to make sure that what was presented is in fact what Council has. I will check with my assistant tomorrow to look through the book to see if there is stamped legislation in that book for these four pieces because they were never presented to Council and the stamp that appears on each of these four pieces is not the stamp of the law department. The stamp of the law department stays in the law department in a desk drawer and doesn't go anywhere and we are very careful about locking the office door when leaving. I'm very concerned about all four or these pieces they were not presented by the law department and the stamp on each one of them is not the law department stamp and are not all the same. Based on Mr. Hunt's report there are problems with each one of these pieces because they were never completed and my proposal would be let Mr. Hunt complete them.

Mr. Troyer stated these pieces of legislation are good pieces that should be passed in some form. In this form Council cannot reconcile or fix these, Council should start over?

Ms. Horvath responded I don't think they can be reconciled and would not sign-off on any four pieces.

Mr. Troyer asked can and will the law department take a like-form of this legislation and submit to Mr. Hunt in a timely fashion?

Ms. Horvath responded most certainly.

**Legislative Committee - Chairman, Troyer, cont.**

Mr. Troyer asked what kind of timeframe?

Ms. Horvath responded that depends on Mr. Hunt's and my schedule.

Ms. Donnell stated I actually think with this particular problem a third-party person would be very beneficial to make sure, I agree there is good information that Council needs to discuss, but don't think without the third person Council will have discussion. Ms. McDonnell continued it is my understanding that there is another copy of draft legislation?

Ms. Horvath responded there may be a draft in the computer in the law department that can be forwarded to Mr. Hunt?

Mr. Astorino asked if this does go to Mr. Hunt preferably by motion that way Council can allow myself to communicate with Mr. Hunt also. Because when the law director and I met I expressed how I didn't think his opinion was reflective of my proposal. If questions are given to the law department the response most likely would go back to the law department or the Mayor's office and won't be reflective of my questions and/or concerns.

Ms. McDonnell reiterated couldn't an email be sent and cc the rest of Council because I'm sure all of Council have a great interest in this situation (apologized for speaking for Council) I would like to be cc'd to be able to read everything myself.

After a lengthy discussion between Councilmembers Troyer and McDonnell on four pieces of legislation Ms. Horvath suggested whatever questions Council has should be forwarded to the Law Department to be forwarded to Mr. Hunt for responses.

**Motion** by Mr. Salvatore, supported by Mr. Burgio, to remove items two through five from this agenda.

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Mr. Astorino stated as sponsor of the legislation I am okay with item number four being Read in Committee, I would ask that items two, three and five be placed back in committee because those three pieces of legislation are valid and need a few amendments for passage.

Mr. Troyer asked Ms. Horvath if it is proper to place items two three and five back in committee?

Ms. Horvath responded absolutely not and as I stated earlier I would not sign as to correctness and form and will not certify any of those pieces.

After confusion and discussion regarding the legislation being removed from the agenda and where it goes then Councilman Scott mentioned that the legislation is illegally stamped legislation; with an illegal stamp.

**Legislative Committee - Chairman, Troyer, cont.**

Mr. Troyer asked Mr. Scott to stop beating a dead horse.

Mr. Scott disagreed it's not a moot point because the legislation is illegally stamped.

Mr. Mencini - Point of Order - an illegal stamp is not a moot point.

Mr. Troyer stated what proof is there it is illegally stamped?

Mr. Mencini responded three people...who did it?

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The clerk called the roll on the motion by Salvatore, supported by Mr. Burgio, to remove from agenda.  
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3. AN ORDINANCE AMENDING CERTAIN SECTION 153.01 (e) (2) OF THE BROOK PARK CODIFIED ORDINANCES ENTITLED 'PRIOR SERVICE EMPLOYEE' AND DECLARING AN EMERGENCY. Introduced by Council President Astorino.
4. AN ORDINANCE AMENDING CERTAIN SECTION 153.02 (a) OF THE BROOK PARK CODIFIED ORDINANCES ENTITLED 'SICK LEAVE' AND DECLARING AN EMERGENCY. Introduced by Council President Astorino.
5. AN ORDINANCE AMENDING CERTAIN SECTION 153.02 (c) OF THE BROOK PARK CODIFIED ORDINANCES ENTITLED 'SICK LEAVE' AND DECLARING AN EMERGENCY. Introduced by Council President Astorino

Ms. McDonnell asked if put back in committee how does that resolve getting the issue of having good pieces of legislation?

Mr. Astorino suggested that he would communicate with the law department in written form and copy all Members of Council on what amendments are needed, that hopefully the law director would forward to Mr. Hunt for responses.

Mayor Coyne stated the fact is the Council President had Mr. Hunt's opinion for some time, Council has defeated this form of legislation or some form over the last several months at several times. Mr. Hunt is retained by the administration and all communications go through me and the law director. This legislation should be defeated due to being illegal and improper, Mr. Astorino's drafts can be sent to Mr. Hunt to view but these are not good pieces of legislation. The administration gets the potential employees so this legislation that Mr. Astorino things reflects his opinion would be vetoed by the administration.

After contentious discussion between Mr. Troyer, Mayor Coyne, Mrs. Powers and Council President Astorino Mr. Mencini asked to call the question.

**Legislative Committee - Chairman, Troyer, cont.**

**Motion** by Mr. Mencini, supported by Ms. McDonnell, to call the question.

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

The clerk called the roll on the motion by Mr. Salvatore, supported by Mr. Burgio, to remove items two through five from the agenda.

**ROLL CALL: AYES:** Salvatore, Burgio, McDonnell, Mencini, Troyer, Powers, Scott  
**NAYS:** Scott, McDonnell The motion carried by a vote of 5-2.

6. A RESOLUTION DESIGNATING JUNE 1, 2107 AS THE ANNUAL APPRECIATION DAY FOR BROOK PARK SERVICE WORKERS IN THE CITY OF BROOK PARK AND DECLARING AN EMERGENCY. Introduced by Councilman Salvatore.

**Motion** by Mr. Salvatore, supported by Mrs. Powers, to amend the date to July 28, 2017 throughout the legislation.

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

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

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

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**SAFETY COMMITTEE – CHAIRMAN, SALVATORE:**

1. AN ORDINANCE AMENDING SECTION 141.02 OF THE BROOK PARK CODIFIED ORDINANCES ENTITLED 'COMPOSITION: EXECUTIVE HEAD' AND DECLARING AN EMERGENCY. Introduced by Council President Astorino.

Mr. Salvatore asked how this legislation was placed on the agenda?

Mr. Astorino responded it has been in committee since February.

Mr. Scott mentioned the legislation was placed back in committee on June 13th.

Mr. Salvatore stated that as Chairman, he will not allow any discussion on this legislation because he did not request to have it placed on the agenda.

**Motion** by Ms. McDonnell, supported by Mr. Burgio, to remove from the agenda.

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After discussion between Mr. Astorino and Mr. Salvatore, the clerk called the roll on the motion.

**ROLL CALL: AYES:** McDonnell, Burgio, Scott, Salvatore.

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

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

Mayor Coyne mentioned that there will be a Special Board of Control meeting on July 4th due to having bids for both Sylvia and Middlebrook, the meeting will be held on July 4th at 6:30 p.m. in the Council Chambers.

The clerk called the roll on the motion by Mr. Mencini, supported by Ms. McDonnell to adjourn.

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

Council President Astorino declared this meeting adjourned at 10:14 p.m.

RESPECTFULLY SUBMITTED

  
Michelle Blazak  
Clerk of Council

APPROVED

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

