

**REGULAR CAUCUS MEETING  
OF THE COUNCIL OF THE CITY OF BROOK PARK, OHIO  
HELD ON TUESDAY, OCTOBER 10, 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, TROYER, POWERS, MENCINI**

Also in attendance were Mayor Coyne, Law Director Horvath, Service Director Cayet, Finance Director Cingle, Building Director Hurst. Councilman Salvatore (7:02 p.m.)

Mrs. McDonnell was excused.  
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**APPROVAL OF MINUTES OF PRECEDING MEETINGS:**

1. REGULAR CAUCUS MEETING HELD ON SEPTEMBER 26, 2017.

Mrs. Powers noted, on page 2 the minutes read 'unknown flood zone' and should read 'in a known flood zone'; also on page 3, the NAY vote reads Powers and Powers and should read Powers and Troyer.

Mr. Troyer noted on Page 8, item numbers 8 and 9, he believes he voted yes.

**Motion** by Mr. Mencini, supported by Mr. Troyer, to put on the October 24th Caucus meeting with corrections.

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

**NAYS:** None.

**ABSTAIN:** Salvatore. The motion carried with a vote of 5 and 1 abstention.

2. REVISED SPECIAL COUNCIL MEETING HELD ON SEPTEMBER 12, 2017.

**Note:** (Council by **motion** moved from the October 3, 2017 Council meeting to correct pages 4 and 7.)

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

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

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

1. REQUEST FOR APPROVAL TO CONSOLIDATE PERMANENT PARCEL NUMBER 344-06-016 AND PERMANENT PARCEL NUMBER 344-06-017 AT 5420 WEST 140<sup>TH</sup> STREET 'QUES INDUSTRIES' LOCATED IN THE U5-C ZONE

Mr. Troyer stated this request passed unanimously at the Planning Commission meeting and this company purchased the lot next door, former animal hospital building torn down, and this will allow expansion of their business to be on the same parcel.

**Discussion: (cont.)**

Mrs. Powers asked how this business will be expanded when another business is right next to the lot?

Mr. Troyer clarified this is for West 140<sup>th</sup> Street, not Brookpark Road.

Mr. Mencini asked if a business representative was in attendance at the Planning Commission?

Mr. Troyer replied yes, the owner and a representative from the construction company, the only area of contention was a small section of sidewalk that is required by ordinance, nobody had any issues.

**Motion** by Mr. Troyer, supported by Mr. Mencini to have legislation drafted and placed on the next Council meeting for introduction.

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

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

2. REQUEST FOR PROJECT APPROVAL TO CONSTRUCT AND A CONDITIONAL USE PERMIT TO OPERATE A MULTI-TENANT BUILDING AT PERMANENT PARCEL NUMBER 344-16-008. (Vacant lot at the corner of West 130 Street and Middlebrook Boulevard located in a U3-B zone.) **In attendance: Mr. Abe Abdulla - Property Owner**

Mr. Troyer stated he was the lone negative vote at the Planning Commission meeting, mostly because there is a tentative plan to have a drive-thru next to residential property. Residents in attendance are not happy about a few things on this; the problem is the city is giving a conditional use permit for a reason that is basically zoned for office-type businesses, not retail establishments that are going to wreak havoc on the neighborhood. My biggest problem is with the drive-thru and there are still too many issues that haven't been worked out.

Mrs. Powers stated the strip of land is too narrow and the residents that live in the area stated it is almost impossible to turn onto West 130<sup>th</sup> Street. Also, it is a flooding area and would tax the water and/or drainage system by putting in businesses. Also, the owner stated he would like to put in restaurant type businesses and some restaurant deliveries are at 2:00 a.m. or 3:00 a.m. Also, the lighting will be such that it won't disturb the neighbors, the trucks won't make enough noise to disturb the neighbors. Mrs. Powers commented that the property owner also owns the property on the other side of Plum Market that is a larger lot and access to Snow Road.

Mr. Mencini stated I'm all for bringing business development into the city but know that on Middlebrook and West 130<sup>th</sup> is not a pleasurable place to turn left or right at any given time. Mr. Mencini has questions about the traffic, what businesses are coming and putting in a drive-thru. Mr. Mencini can't imagine putting a Starbucks or a Chipotle in that area, it's not that big of an area.

**Discussion: cont.**

Mayor Coyne disagreed with everything that was just said and thinks the owner should be able to develop his property as long as it's in accordance with the conditional use permit. That would give the city more flexibility to have the owner conform to what problems may exist rather than just in a regular zoning situation. There is no ingress or egress on Middlebrook Boulevard that was changed. The issue relative to flooding is a non-issue because water must be retained on the site. The final recommendation as the plat shows a right-hand turn onto West 130th Street. If a drive-thru restaurant is located there and a problem arises on that parcel, then the owner would have to go to a center driveway for ingress and egress to the property. Mayor Coyne continued in my view the owner has met every request that is reasonable in redeveloping the property and is required in the event that if future development violates the intent of the conditional use permit would be the owner would be in violation and it would be revoked and the owner would have to conform. A desirable development on that corner is probably one that no one is going to like no matter what is there; the city must balance what the concerns of the residents are against the right of property owners to develop their property in a reasonable fashion and thinks this proposal does just that. The city can't deny the right of the property owner to develop his property with reasonable conditions set forth and think this proposal does just that. There will be no traffic light at the intersection because warrants aren't going to allow for that. Dunkin Donuts has insufficient parking but people make it work, the neighborhood makes it work and it's an asset to the community.

Mrs. Powers stated in the memo from Building Commissioner Hurst and quoted item number six (6) regarding lighting and stated that this is right on top of residential housing and item eight (8) regarding a buffer wall that will be connected to the existing wall along the northerly line of this parcel. This parcel is a narrow strip of land with the narrowest section being on Middlebrook and as residents have stated it's almost impossible to get out on Middlebrook and now there will be another driveway. With Middlebrook and Crestway being long streets with a lot of traffic from both those streets and have to compete with traffic coming from this building. As stated the northerly line of the property Middlebrook runs east and west on the south side of this property; so the northerly part of the property would be Snow Road. How can there be parking off of Snow Road when there are already businesses there.

Mr. Burgio asked Mayor Coyne about the 15 points listed by the engineer will the owner have to conform to them.

Mayor Coyne concurred.

Mr. Scott asked if Council can see a new plat map showing the new traffic patterns?

Mayor Coyne noted the original plat map showed ingress and egress on Middlebrook Blvd. that is gone and the issue seems to be making the right-hand turn out of the parcel onto West 130th Street. If there is a drive-thru I believe that would cause a problem. So my suggestion was and the owner accepted it was in the event of having a drive-thru, we don't know if there will be a drive-thru, so there may not be a problem.

**Discussion: cont.**

But, if there is a drive-thru then that driveway has to be closed off and another way must be found to access the property out of there probably in the middle of the parcel or what is there right now on West 130th Street. If that's the case, then the owner would have to come back in and change the plat to provide for that situation.

Mr. Salvatore apologized for being late due to work and stated that he received a few phone calls that he didn't have a chance to return prior to the meeting. There are still a few unanswered questions and a few people uncomfortable with moving forward so this

**Motion** by Mr. Salvatore, supported by Mr. Mencini, to move this to the October 24th Caucus agenda.

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Mr. Troyer asked isn't the updated plat map on the table in the Council Chambers and stated this should not be moved to after the elections.

Mr. Salvatore - Point of Order, Mr. Troyer's statements are totally incorrect and unacceptable the Election is November 7th the motion was to move to the October 24th, before the election.

Mrs. Powers asked if this property owner has any potential business committed to come to this property if and when built? Mrs. Powers is all in favor of businesses but is not in favor of a business that will affect so many residents. The owner has other property on Snow Road so why can't that be developed?

Mr. Astorino stated Mr. Abdullah is in attendance and suggested Council provide a list of questions prior to the next Caucus. Mr. Astorino asked Mr. Abdullah to attend that meeting so those questions can be answered. Mr. Astorino also suggested to the residents in attendance to express their concerns to the Councilmembers.

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The clerk called the roll on the motion by Mr. Salvatore, supported by Mr. Mencini to move to the October 24th Caucus agenda.

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

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

3. INVESTIGATOR'S REPORT. **Note:** (Moved by **motion** from the September 26, 2017 Caucus Meeting.)

Mr. Astorino stated Council under discussion, we received this investigation report of what we requested it. We received in the middle of September; on September 15th. We brought it to the floor for some discussion; I've given some feedback on it. There seems to be still the more I've looked at it the more concerns I have about it. One of the things that I never understood from the beginning is actually what Council was planning on doing with this information. In such, I will tell you right now that I don't think we should accept this report as accurate; there are many flaws as I went through the one time, there are some major flaws with it. After the meeting I did provide all the Members of Council with a short memo from me that kind of gave a list of the major mistakes and the other errors. It can be paired down even more from that because of

**Discussion:**

the list I provided to you after the meeting before contained 12 major errors and six (6) other errors. I would ask that you to be honest with you that you focus on probably five (5) major items that I think are wrong with this, I'll go over them briefly with you. Changing legislation or the evidence or the presentation to me is bogus for a couple of reasons. First off, this was one of the main reasons that you decided to go forward on the investigation and as you read through the report I draw attention that. In May, at the end of May, when the investigator had conducted several interviews he found out information about the changed legislation; the changed document because it actually wasn't legislation as yet, but a changed document. He found out about it in May now if this was, to me, if this was such an important matter I would have expected the investigator to let us know in May but he didn't let us know about it until the middle of September, he waited four months. He was hire to find out about three items; the legislation, he was hired to find out about the website and about the minutes. He found out about the legislation in May, he found out a major factor of it and didn't tell us about it; he didn't tell us about it until September that to me is unacceptable. As far as the minutes, the minutes have been corrected, the minutes that issue has been resolved, it's no longer an issue. Yes, okay it existed it's been solved. In his report than as he was looking at additional stuff. He talked about allegations that have been raised against me. Allegations with I think he used, I don't know if he used parallel agencies but he talked about other agencies. Again, I think that's another bogus thing because I haven't been notified that I've been under investigation for anything. I would think that if there was some sort of thing going on and there's been a complaint filed and there's an actual investigation going on into some of my activities; I would think that state agency would be contacting me. I haven't been contacted by anybody. The other aspect of it was if there was an investigation going on about it why didn't he share that information with us when he gave it to us in September. Instead of just saying, hey, there's something going on. I would think that should have been presented to us then, so that's item number two. The third thing I want you to focus on just, you know, he even reports about it that everybody that looked at it. The police looked at it, the sheriff looked at it, the prosecutor's office looked at it and they all just said well, they just kicked it down the road, the punted it and they said somebody else should be doing it. If at all, just figure it out, yet, when we figure it out we don't tell anybody about it. We figure out something that's going on with the legislation but we hold onto it for four months. Why? I have my concerns about why. We gave four months for this to be hanging over our heads and making things look suspicious when they really aren't suspicious. Then he brings up the case of trying to say that I was trying to get fees reimbursed when all's I was doing was. I was copied on legislation. I was copied on an email that was beginning to talk about it. Nothing ever came of it and it's not even unusual for communities to do such a thing but certainly, at least, start talking about it but he acts like there is something wrong with that. Yet he presented no evidence of anything like that. Then the other part is dealing with the charity funds, he doesn't site anything that is wrong he just sits there and says this needs to be looked into. Everything is just, you know, who's looking...we hire an investigator to gather us facts and all he came back with is questions that you should think about this, you should think about that and why? Why do I think it happened, I think it happened, it became evident today when there were residents that got letters in the mail that are talking about the investigation and things that are going on with me; as if there is something wrong.

**Discussion: cont.**

That's why I think tonight we need to discuss it, there needs to be some sort of action because we need to take a look at this report and say is it a legitimate report; is it something we find acceptable. I think it's just a lot of conjecture, a lot of opinions and we didn't pay him to be giving his conjecture and his opinion. He was paid to find out facts and provide us with those facts and, again, he didn't put a priority on it. Finds out in May what happened to the legislation which everyone, people speaking from the podium during audience participation, people speaking from the dais here expressed deep concerns about this. Yet we find out about in May he does and we don't hear about it for four months. So I'd really like to have some open discussion with it not just everyone saying. Because what I'd like to do is have the Members of Council actually put themselves and say what if this report came out about you; if it came out about each one of you and put yourself in my place. Instead of this just being saying Jim Astorino did this; say Jan Powers did this or Tom Troyer did this or Jim Mencini did this or Rich Scott did this or Carl Burgio did this or Rick Salvatore did this. Anyone of you did this and it's not true. How would you feel? I've heard people up here saying even during audience participation if someone gets to that microphone and says something they don't agree with they want the right to be able to confront them with it. Yet, that's what is happening here we've been handed an investigator's report that has mistakes left and right; not only mistakes left and right but outside of the authority. His authority was limited it was supposed to be business conducted by Brook Park Council past and present. He decides to go into personal behaviors, he decides to go into personal things that are outside of Council and throws them into the report and everyone up here on Council is just saying well, you know, what...They're not even saying what do we do with it your all just sitting quietly. I'll tell you what's going to happen with the report it's going to be used in a political campaign. So your tax dollars that we've authorized generated campaign literature, that's not appropriate, because there's nothing in here. There are so many mistakes in here that the credibility of the report should be debunked. We should reject this report and to be honest with you, I think, we shouldn't even be paying for this; our tax dollars should not pay for this type of behavior, this type of action.

Mr. Scott stated through the chair to the law director, Ms. Law director have you gotten any response about the Council website? That is one of the items on this investigative report so have you had any contact with anything or gotten any information?

Mrs. Horvath stated through the chair to Councilman Scott, yes we received an email yesterday from the legal center. I believe Geek Storage and Domain by Proxy are both connected as part of Go Daddy. We received an email from legal technician by the last name of 'Goff' indicating that they had gathered the information we requested. They also indicated, they were asking us whether we had a criminal or civil subpoena and if, in fact, we indicated it was a civil subpoena. They said they were going to check with their customer to determine whether or not the customer had any objections to the subpoena being answered. So I would indicate that our response back to them was that it is a civil subpoena and we believe that we, the City of Brook Park, are the customer. We also took all of the invoices that had been previously provided to Council and the law department and sent them along with our response. So we do not have any finality with regard to that issue. I don't want to read anything into the email one way or another.

**Discussion: cont.**

Does it seem kind of odd if we were the customer that they would speak about seeing whether or not the customer had any objection to this particular information. They disseminated to us it was my intention to do a follow-up later this week to see if we could prod them to get some more information but all those questions are still outstanding, Mr. Scott.

Mr. Scott stated basically this is still an open issue we have not received anything to be able to close anything on this, correct?

Mrs. Horvath responded yes sir, that is correct.

Mr. Troyer stated so this gets back to whether it deserves any pay of the investigator because he didn't figure out anything with the website. He did figure out way back in May about the legislation and...

Mr. Astorino interjected correction, it's not legislation, it's a document.

Mr. Troyer continued the document, okay, the pre-legislation. And then the minutes he determined, I don't know when he did this, but determined, I believe, that it was because of the more meetings, how many meetings there were and...a little side note on that there were four meetings at the time; Council has since added two meetings to our agenda per month and also that the meetings were long. So the fact that there was four meetings and the meetings were long that's on Council, so that's everybody here, anybody who said anything. I think what we go back to is he didn't find anything out about the website. He found out in May about the documents so what do we owe him for? I mean...any everything was outrageously I don't want to get Mr. Salvatore upset but it is what it is. It was outrageous what he did so, you know, I think at minimum...at maximum I should say we find out when he came to this conclusion about the minutes and pay him up to that point.

Because in May he knew about the documents, when did he know about the minutes? Anybody, I could have, anybody could have told him why the minutes were behind and actually the minutes could have been. If Council would have acted faster, we're all at fault, and hired somebody to do them. It would have got done faster so we wouldn't have been so far behind; we've also corrected some other things with that. So what did he really do, how much of his keep did he really earn? Thank you.

Mrs. Horvath stated I assume Councilman Troyer was directing that question to me?

Mr. Troyer responded, no, that was just in general, I did not...

Mrs. Horvath interjected if Council would permit me I would make a couple of remarks with regard to this issue.

Mr. Troyer interjected go ahead.

**Discussion: cont.**

Mrs. Horvath stated alright, thank you. First of all, obviously that is your opinion Councilman Troyer. As to what you feel the facts were collected and also your opinion as to what you may or may not be willing to pay for the report. I'd like to point out a couple of things here: Number one I assume when you're referring to legislation you're talking about the altered legislation that was introduced November 1st of 2016 and subsequently placed on, I believe, it was a Council meeting agenda on November 15th; then also discussed at a Caucus on November 22nd. Now, you're saying what did he learn? He was able to interview the clerk who gave a statement that indicated that former Councilwoman McCormick was probably the individual who took correction tape and changed those ordinances. That would certainly be the allegation or the conclusion that he would come to. The big problem you have here is that no one has ever determined why those pieces of legislation are missing from the Council office. It's not just a matter of someone just taking correction tape and changed it and, oh well, now we have the answers so there's nothing to see here we can move on. Those pieces are still missing and one of the things that I'm very concerned about is I first wrote Council in a memo directed to Council only, did not make public, that this transpired on November 15th and for an entire week there was no answer forthcoming from Council. Then the following meeting on November 22nd I, again, wrote to Council with the same concerns and it was discussed in open meeting for the first time but, again, there's nothing, no answers that Council had that was forthcoming. No one investigated, no one notified me that they had found anything, no one said oh well this was a mistake, there's a mulligan here. No one had any answers as to why these pieces of legislation are missing; this should not happen per Brook Park ordinance, obviously, the clerk's office is in charge of keeping those pieces. So my comment would be I think it's a little cavalier to say, well, he found out that in May and what else did he learn. I think there's a certain level of cooperation that one must have to go further. He was unable to interview (former) Councilwoman McCormick and I don't believe he was able to get to the bottom of that. But, more importantly I think the question that comes to my mind rather than what did he do, what did he learn is what did Council do at that point in time. Because this should have been taken care of very easily. There should have been some kind of internal audit and from November 15th until maybe the end of the month or beginning of December. Until there was a report made to the Brook Park police and subsequently to the Sheriff's office nothing was done by Council. There was no indication of anyone investigating anything, finding out where these pieces were, what was done in this situation. So, I want to note that...I mean that it...I think the investigator should have an opportunity to finish his report and further answers some of these questions but by the same token we can look at the website and we can see similarities with regard to the website. Many people had asked questions about the website both from the podium and Council people and we still don't know the answers to these questions; they should be something that should be easily discoverable. I initially said well, fine, let's get the user ID and the password; we'll sit down with the city tech person and we'll get these questions answered in about 20 minutes and then you can change your password. That did not transpire. So I think in saying that this gentleman...I think what you're saying is he dragged his feet and you don't feel that he had any sort of appropriate level of workmanship but I would point out to you that Council also in this situation has dragged its feet. Has not internally provided the

**Discussion: cont.**

answers that should be provided. And, I would also perhaps, in your opinion, don't relish the report that has been forthcoming I think you need to give some various serious considerations to the exhibits that are attached to that report. I personally don't feel that we've quite closed the door on this, I think it's important that Council be able to look at these suggestions in the report that he has given. I find that idea that you would have someone work for a very long period of time and when you don't like their conclusions; you should suggest that perhaps they not be paid or not be paid fully, sort of scary. And, that's probably because of anything that should happen with regard that item you would have to deal with that but I don't think this per say is quite done. I know I certainly don't have answers with regard to the website, I don't have answers as to where those two pieces of legislation went which I consider to be more serious than the fact that someone took correction tape and used correction tape on them. It may be that we'll never be able to discover that but certainly we would never have needed an investigation had Council, those who are in charge of Council office, independently taken upon it your duty to find out what happened in this situation. Perhaps, we would have not needed to even have an investigation. So those are my thoughts rightly or wrongly Mr. Troyer and I am happy to be able to express them at this point and if there are any questions I would be happy to entertain those.

Mr. Astorino stated just to clarify, yes the law director brought it forward to us in November and if you read the report that came from the Sheriff's Department they received the request on December 20th; they received a request from the Brook Park Police Department. So when she says Council didn't do anything action was being taken within a month of when she made notice of it. So for her...I got the impression when she was talking is that I get to talk for a while and will get to you when we're done with Mr. Mencini. Mr. Astorino continued okay, but people are out there that are concerned when I make you keep your arm up; so I try to tell you I see your arm up and will get to you when we're done. So it's a case of, you know...the comment I heard, maybe I didn't hear it word for word or remember it word for word. Is that we didn't do anything we were taking our good old time. Something that comes to our attention in November and all of a sudden the police are looking at it and the police give it to the Sheriff's Department in December; that doesn't seem to be like too long of a time considering we meet on a weekly basis. And, what did they do? The Police Department first pushed it to the Sheriff's Department; they didn't find...They're the ones that are paid to do investigations. They didn't seem to find that there was anything criminal about it, in fact they couldn't figure it out. So what is Council supposed to do that the Sheriff's Department can't do. The Sheriff's Department said this is an internal matter with your paperwork, there's nothing that they were concerned of for prosecution. So, where did the two pieces of legislation go we have police, we had law enforcement looking into it. They weren't able to determine it, yet, she doesn't...the law director doesn't seem to have a concern that there's vital information that's found out in May and we don't hear about it of four months. To me, that is unacceptable behavior and I just don't know how you can say it's one in the same when it's one month for us before we actually know that the Sheriff's Department is looking at it, the police are looking at it, the Sheriff's Department are looking at; so we won't really need to do anything on it yet it's four months. So to sit there and say that he was working on things I didn't know...We

**Discussion: cont.**

thought that...I actually thought he was working on things; I thought he was trying to find out stuff. Because he wasn't giving us progress reports, he wasn't telling us. I would have expected, once I read this report and I saw that on May 25th he learned this vital piece of information I would have expected that everybody on Council would have received an email on May 26th. Saying hey, we're looking in this direction now; that's an update. Because then we would have something to work with, instead it was well, I'm looking into this, I'm looking into this. There was no contact coming our way at all. We thought maybe he was...I don't know what anybody else thought but I thought well maybe he was trying to find out certain things. I didn't know that he found out vital things. So where did the two pieces of legislation go the Sheriff's Department and our Police Department that was their job. They looked at it, they didn't figure it out, they didn't say hey you guys need to figure it out. So the concern is...her concern may be legitimate to her but to me law enforcement looked at it and they didn't seem to have any concern about this being something criminal there. Councilman Mencini.

Mr. Mencini stated we say that the police and I do have a question to our law director. When we say that the police and sheriff looked into this. No one interviewed me and I don't want to speak for my two colleagues that have been here for a long, long time; I'm going on my fourth year. I do agree with you November 15th through December and maybe parts of January there should have been an audit, okay, for all the things going on. No one has that kind of experience to deal with that we were dealt. When we got that phone call to tell us with our former colleague what happened and the time. What we went through in November, December, January that was a hard time for all of us, I don't care how much experience you have and I don't care who previously was up here. For anybody to come up here and deal with all that stuff that was a tough, tough time. So I look back now and say maybe I would have did this, or maybe I would have done that, well you can't do that. I've learned a lot through that but my point being is that maybe and through the chair to the law director if the sheriff, the police department if everybody would have scribed to that interview would it have helped? I'm just generally asking if that would have helped if everybody including previous Councilmember that were up here. If everybody went through the interview process with the sheriff, the police, the investigator would that have helped a lot more and would we have come to a faster conclusion, some sort of remedy, something of that sort.

Mr. Astorino stated I know you directed that question to her but I expressed that same question, same comment that you had. When you said nobody interviewed you because when I got this thing about the sheriff's. I called the detective that was doing the investigation and told him nobody interviewed me about this. I thought as Council Clerk...Council President that if there was an investigation going on about the Council office that I would have been interviewed. He explained to me that they discontinued the investigation, they didn't complete the investigation and I think in his report he talks about on January 5th it was determined the issue was discovered and addressed before any loss or harm occurred. So it's not their words, it's my word that they pulled the plug on the investigation from what he kind of told me. So the fact that nobody interviewed you meant that they didn't complete their investigation, they pulled the plug, they stopped it. Because nobody interviewed on me on it either. So now, you

**Discussion: cont.**

referred to her some questions, Mrs. Horvath if you want to answer Mr. Mencini's questions.

Mrs. Horvath stated certainly, I think the first question is why didn't the sheriff's department interview you or perhaps other Members.

Mr. Mencini interjected there's no perhaps, if they would have, they wouldn't have gotten anything out of me I didn't know anything but...

Mrs. Horvath continued obviously, I think it would have been very helpful if (former) Councilwoman McCormick could have been interviewed; I think the investigator attempted to do that. I don't believe that the sheriff's department got quite that far. I think they were working on it and got to a certain point where they needed some guidance from the prosecutor and the prosecutor, at that point, with the changeover had probably been in office maybe a couple of days. And, the organization looked at it and said, well, this is caught and there doesn't seem to be any loss associated but we also have to remember the second part of the recommendation. Which was that there be an internal investigation done. And, that's when, in fact, Council approved and certainly to say, well, someone should have told us about an interview of someone in May while they're still investigating and haven't finished sounds rather peculiar to me. Because from what I know of criminal investigations usually you get all your work in and do everything that you possibly can do before making any conclusions or do anything. So, my recollection the investigator did come to the podium at one point and gave an oral review but I certainly wouldn't fault him for saying oh, I found this one fact out here and I'm still trying to discover where that missing legislation is. So I'm going to disclose this one fact and not, you know, still pursue the other issues; that's not the way that I believe that police usually operate. As far as the timing, I guess my point is, that there was two or three weeks from when this was discovered until such time, maybe the end of November, where there should have been something done within the Council office to determine this and it was not done. That I think is the biggest lesson to learn from this entire process. Here we have an issue which I think is a serious issue and it's simply ignored. To say, well, we were getting around to it and had a lot on our plate, well you know, that's why we're here today because it was ignored. I think there's still some unanswered questions and we've heard the Council President's opinion with regard to the report. We've heard Mr. Troyer's I've indicated to you we still have a piece missing from the website...

Mr. Astorino interjected to his questions, Mrs. Horvath, please.

Mrs. Horvath continued, well, are there any other questions that I did not respond or answer for you, Councilman Mencini.

Mr. Mencini stated no.

Mr. Astorino stated you made a comment about a criminal investigation, this investigation wasn't a criminal investigation. So are you saying that Mr. Slattery was conducting a criminal investigation?

**Discussion: cont.**

Mrs. Horvath responded no, Council President, I was making an analogy to what I know in my experience as to how criminal investigations are conducted. Usually you don't let the cat out of the bag until the end; usually there are certain facts that you want to maintain...

Mr. Astorino interjected that's correct but if the Council has expressed a concern about legislation being altered and he finds out something about it and doesn't say anything about it for four months. It allows that condition to exist for four months, to me, that's negligent. He should have let us know right away and let us be able to deal with it; it's an internal investigation dealing with our procedures and he was allowing our procedures to stay silent. So you may sit there and say, well, in a criminal investigation you have to get all your ducks in a row. But, when you're doing an internal investigation on procedures and you find something out that is one of the primary reasons for you to be hired and you hold onto that information for four months. To me I don't find that acceptable and could care...and would more like to hear from Council people because I know your position on this. But this is a matter of Council has asked for an investigative report and they all sit there looking at like it's okay and when you find out that there's five, six, seven, eight mistakes, other information being withheld. He wasn't hired to give us his conjecture, he wasn't hired to give us his opinion, he was hired to give us his facts and then he just decides to do this. It is what it is, it was taxpayer dollars being used to create campaign material, that's what it is and I don't think we should pay for that.

Mrs. Horvath stated if I may respond.

Mr. Astorino commented I had no question for you Mrs. Horvath, this is Council-Caucus section and you seem to want to make the arguments for...they don't seem to have a problem with it. Council doesn't seem to have a problem with it. Go ahead, if they want to let you talk, go ahead.

Mrs. Horvath responded thank you, I think to make that statement you first ignore the fact that before the investigator got into this, the prosecutor's office indicated that they were not interested in filing any sort of charges. So to say that he held on to an important piece of information that might have resulted in charges I think you have to look at the sheriff's report and, in fact, that the prosecutor decided not to proceed. When you're evaluating that piece of information which basically would make your assumption incorrect.

Mr. Astorino stated the Council were asking questions how could this happen, how did this happen, how did this document get altered; that's what was being asked. He found out how it happened and didn't tell us, he held onto it for four months. In the same time, I don't know what he was doing with it. How did it happen? We knew about it in May how it happened, he knew in May and didn't tell us until September. You find that acceptable that's your opinion, you're entitled to that. I just don't agree with it and think it's the wrong way to look at it. Councilman Scott.

**Discussion: cont.**

Mr. Scott asked are we through with discussion?

Mr. Astorino clarified I'm sorry?

Mr. Scott reiterated are we through with discussion?

Mr. Astorino stated it's still on the agenda for discussion, what do you mean are we through with this?

Mr. Scott stated I want to make a **motion** to place in the Finance Committee to continue the investigation, since there are no conclusions.

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Mr. Astorino clarified place it in the Finance Committee?

Mr. Scott responded yes sir.

Mr. Astorino asked Mr. Scott why would we place it in the Finance Committee?

Mr. Scott responded place it in the Finance Committee because the subpoena went through the Finance Committee and that's part of this investigation. We can place it in any committee we want with approval from the majority of Council.

Mr. Astorino stated that's true, the majority can do what they want but they should usually do something that follows with some sound reason.

Mr. Scott stated it is sound reasoning, the sound reasoning sir, is that it...

Mr. Mencini stated **I'll support it.**

Mr. Scott continued it came through the Finance Committee.

Mr. Astorino stated there's a motion to place in the Finance Committee. The subpoena went through the Finance Committee.

Mr. Scott stated yes sir, that's part of the investigation.

Mr. Astorino continued the subpoena that was requested by Council to generate some evidence that didn't exist.

Mr. Scott stated sir, can you please pull.

Mr. Astorino stated there's a motion to place the investigator's report under the Finance Committee so that it can sit there in limbo for another month or so before something is done.

Mr. Scott interjected sir, that's your opinion. Sir, can you please...we made a motion.

**Discussion: cont.**

Mr. Astorino interjected I'm the chair of this meeting...

Mr. Scott interjected well, then call the roll, thank you.

Mr. Astorino stated you can shout all you want I'm still chairing the meeting. You may not like what I say but I'm saying it. So I'm saying there's a motion to place the investigator's report into the Finance Committee, it's been properly supported. Under discussion.

Mr. Scott commented thank you, you added verbiage under your last statement, sir.

Mr. Astorino stated under discussion. Councilman Salvatore.

Mr. Salvatore stated it's quite obvious and I think everybody understands the fact that City Council has the investigative authority that we could have done this ourselves. Unfortunately, we didn't but certainly had the opportunity but Council opted to bring in a private investigator. By a vote of Council this gentleman was hired whether you like what's in the report or not is entirely up to you. I don't know what's right, what's wrong, don't know if the report is 100% accurate or 90% accurate. I'm not quite sure but I do know the legislation...the missing legislation, not finding out the ownership for the website and the altered legislation; those are all issues that pertain to the Council office that we still haven't really gotten answers too. I really believe before we can conclude this we need to find those answers out. The rest of it however it falls and how it lands that's up to Council but I think those issues need to have answers to them, to finally put this to rest. I will support the motion to place in the Finance Committee and if we don't get those answers then I would recommend that Council take it upon themselves to find a way to get these answers but we have to bring this to a conclusion.

Mr. Astorino asked any other discussion on the motion? Seeing no other discussion, I will ask the clerk to please call the roll.

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

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

Mr. Astorino stated the motion carried 4-2, so the investigator's report has been placed into the Finance Committee to sit in limbo for as long as they want it to.

Mr. Scott stated Point of Order sir, we don't need that comment, that comment was unnecessary, sir.

Mr. Astorino clarified my comment was unnecessary?

Mr. Scott responded that's right, sir.

Mr. Astorino commented okay, that's your opinion Mr. Scott and I don't know why you're speaking out of order.

**Discussion: cont.**

Mr. Salvatore stated Mr. Chairman we could have a reconsideration to make that part of the motion that it sits in limbo forever.

Mr. Astorino stated they've done a pretty good job so far.

Mr. Scott interjected sir let's move on we've already voted on it, sir. Thank you.

4. ORDINANCE NO. 8863-2002, AUTHORIZING THE MAYOR TO WORK WITH CUYAHOGA COUNTY TREASURER TO ISSUE TAX CREDITS TO HOMEOWNERS AND DECLARING AN EMERGENCY. Introduced by Councilmembers Patten and Mooney. (**Note:** Per Section 2, City Council must review this legislation on an annual basis.)

Mr. Astorino asked Mr. Cingle to explain the impacts of this issue and it is my understanding that until Council takes action on this for this year and decide whether or not to give it, those monies must be held back from any type of appropriations.

Mr. Cingle stated the total cost back then was \$250 per household, roughly about \$1.8 million and change. With the two times given, the expenditure was recorded and expensed out of the General Fund and was issued in 2001 and maybe in 2004 or 2005, one of those years. Payment is made to the County Treasurer's Office; they allocate the dollars to homeowners as long as if there are no delinquencies or outstanding tax or building department or something of that sort of issues with the City of Brook Park. It is entirely up to Council if they want to issue the credit and this hasn't been appropriated in this year's budget, but as stated needs to be discussed annually.

Mr. Troyer asked how this effects the city's tax-split. There is the original NASA money, the NASA money that was obtained as part of this when Cleveland gave us this, and there is the extra money that came in later when the Fairview side came in. Is this part of this or are there any give backs to Fairview?

Mr. Cingle replied no reimbursements were made to the City of Fairview Park, when those jobs moved over to Brook Park those tax dollars are collected by Brook Park. To explain the split by using round figures we collect \$20 million dollars a year in city Income Tax and split Income Tax dollars, 80% goes to the General Fund and 20% goes to Capital Improvement. This is done after we account for the operation of the tax department such as salaries, benefits, refunds, any expenses related to the tax department that comes off the \$20 million dollar figure. Then from there a net number is obtained, let's say, \$500,000. So if there is \$19.5 million dollars to split, from there because this ordinance is in place we back off any new NASA dollars. So any new monies coming into NASA, Fairview Park dollars being one of those, they get reduced from the \$19.5 million dollars, let's just say that is \$5 million. So that gives us \$14.5 million dollars to split at the 80%-20%. The \$5 million dollars of new NASA monies goes directly into the General Fund so we split all income tax dollars except for what is being determined or describe as new NASA monies.

**Discussion: cont.**

Mr. Troyer clarified new NASA monies are monies obtained in the Airport deal and Fairview Park that is all NASA money.

Mr. Cingle reiterated any monies that we didn't collect pre-2001 for the agreement with the City of Cleveland, when NASA became part of the City of Brook Park. Any dollars

collected from 2002 forward are deemed to be new NASA monies and per the agreement get allocated 100% directly to the General Fund and don't get split.

**Motion** by Mr. Salvatore, supported by Mr. Burgio to say it was discussed.

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

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

#### 5. 2017 APPROPRIATIONS – PER COUNCIL PRESIDENT ASTORINO.

Mr. Astorino stated he put this out for discussion because we're entering into the fourth quarter of the fiscal year and there have been some discussions about coming back to revisit some items. At a recent meeting the Finance Director and the Mayor stated that they would be making some changes out of the Capital money, that there probably would not be money left over to take care of the HMAP (Home Maintenance Assistance Program) funding or additional crack-sealing. If it cannot be done out of Capital I think those two programs need additional funding for this year and for the beginning of next year. With the HMAP is helping out a lot of residents and when taking a look at the budget at the beginning of the year no decisions could be made or assistance could be assured to the homeowners until the 2017 budget was approved. The thought for consideration of Council is to think about coming up with a certain amount, my thinking is an additional \$50,000 into HMAP. Mr. Astorino thinks those monies are available out of the General Fund with reasons of from what I've seen with the August and September month-end reports the income tax collections seem to be a little above anticipated. For the year it was anticipated about \$19.1 million, and are ahead of schedule a bit. The Bureau of Workers Compensation refunded to the city of \$180,000 was put in the General Fund as revenue and Mr. Astorino thinks there are additional funding for both the HMAP and crack-sealing.

Mr. Salvatore asked the Mayor if there were any applications for HMAP that were unable to be funded last year.

Mayor Coyne replied, no, an application was just processed today.

Mr. Salvatore asked if HMAP is properly funded.

Mayor Coyne replied he believes so and if there is extra money and it is Council's will, we can put it into HMAP. Crack-sealing is done for this year and there is one sewer project that we have a bid on. Mayor Coyne likes to keep some money available in case of emergencies and there is still a second sewer project.

**Discussion: cont.**

Mr. Mencini asked Mayor Coyne if it was too late in the year to get crack-sealing bidding? Can we do this for next year?

Mayor Coyne replied crack-sealing is done every year and the bid has been let out.

Mr. Troyer stated he has mentioned about crack-sealing since the budget and asked for more money in crack sealing.

Mayor Coyne suggested polling Council, so that if there is additional money, it would go to HMAP.

Mrs. Powers is not aware of many people that have used the HMAP because the way it is written is if you are low income, you apply for it and use it. You cannot reapply for seven (7) years. Mrs. Powers stated that she knows two people that have gotten their first HMAP money, and then received another within a year; until we get a handle on this we need to take a second look at this program.

Mayor Coyne asked for clarification, did you say someone got \$5,000 and then get another \$5,000? Can you provide a name before we leave the meeting?

Mrs. Powers replied yes.

Mr. Troyer stated we would know that for sure if the information requested several times was received. We should know who got grants and monies in a form or letter in our mailbox so that we know where the money goes.

Mayor Coyne stated the report shows up on the Board of Control and the Councilwoman made an allegation of something improper going on, therefore, we will look into that. If that's the case that person that applied is in violation of the ordinance.

Mrs. Powers stated that up to ten (10) people can get this at a time and she has never seen more than three people use this; we are not getting informed of ten (10) people getting this, for the record.

Mr. Salvatore asked Council President Astorino if Council is going to be polled for extra monies to be put into the HMAP.

Mr. Astorino stated to Councilman Salvatore, having the most experience up here when you say poll Council, how would you like that to be done?

Mr. Salvatore ask Council if they are in favor of the Mayor's request for additional monies to be added to HMAP.

Mr. Astorino clarified so it's an informal yes or no?

Mr. Salvatore concurred and stated yes, very informal.

**Discussion: cont.**

**Council Poll: Ayes:** Salvatore, Burgio, Scott, Mencini, Troyer.

**Nays:** Powers

**Motion** by Mr. Mencini, supported by Mr. Troyer to say it was discussed.

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

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

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**FINANCE COMMITTEE – CO-CHAIRMAN, TROYER:**

1. AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT FOR THE SALE OF (+-) 3.303 ACRES OF LAND LOCATED AT 16400 BROOK PARK ROAD, PERMANENT PARCEL NUMBERS 344-30-008 AND 344-30-09 AND DECLARING AN EMERGENCY. Introduced by Mayor Coyne. **In attendance: Economic Development Commissioner Dolan.**

Mayor Coyne stated the prospective buyer is no longer interested in buying this parcel.

**Motion** by Mr. Mencini, supported by Mr. Salvatore that this was read in Committee.

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

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

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**RECREATION COMMITTEE – CHAIRMAN, MENCINI:**

1. ORDINANCE NO. 10079-2017, AUTHORIZING AND APPROVING THE MAYOR TO ENTER INTO A CONTRACT WITH ENDLESS POOLS AND RADIANT HEAT SYSTEMS FOR THE PURCHASE AND INSTALLATION OF TWO (2) DUAL PROPULSION ENDLESS POOLS AND SYSTEMS, WITHOUT PUBLIC BIDDING AND DECLARING AN EMERGENCY. Introduced by Mayor Coyne. Placed in Committee 4/18/17 – Recreation, Caucus 4/25/17, 1<sup>st</sup> Reading 5/2/17, Caucus 5/9/17, 2<sup>nd</sup> Reading 5/16/17, 3<sup>rd</sup> Reading 6/6/17, Back to Committee 6/6/17.

Mayor Coyne stated that until we can get the roof issue fixed, we cannot proceed with this and Council will have a final engineering report at Tuesday's Council meeting.

**Motion** by Mr. Scott, supported by Mr. Burgio, to move back to committee.

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Mr. Troyer stated this needs to be put on the next Council to be disposed of because this will free up \$240,000; we should put an end to it.

Mr. Mencini stated we don't know where this is going and I thought the question proposed at the meeting was what do we want to do with these and how do we want to pay for these. We don't know if we're going to put a pool in there or have six pools in there; so my take is let's be a little careful and be smart about this.

Mayor Coyne stated his understanding is this to be part of an all-inclusive packet, notwithstanding that the roof has to come off; I'm assured of that. The tuck-pointing and repairs on the walls is going to cost about \$400,000; we may not be able to wait on

**Recreation Committee - Chairman, Mencini: cont.**

that because the walls might fall in. So when looking at these appropriations what you have today will change; I'm fine with this being read.

Mrs. Powers reminded Council that when this was brought up last spring, she brought in a company that was much less than \$240,000 and now are being told the walls may cave in for a cost of \$500,000.

Mr. Mencini commented maybe we aren't putting them in there, maybe we'll put them in another part of the building, that's to be discussed.

Mrs. Powers asked where would we find another spot in the building for that?

Mr. Mencini interjected there's a million options that can be worked on together in time.

Mr. Troyer stated anyone can tell me anything they want but I see it in writing. Don't quote a report than not show me the report and I don't need to see one report from one person-one company; we need multiple reports. The point is this whole plan was ill-conceived and now a Councilman mentions of putting them in a different room.

Mr. Mencini interjected could, don't know it, could.

Mr. Troyer continued this is an ill-conceived idea and should be read or discussed.

Mayor Coyne asked if he would like to see several engineering reports instead of just one; they are between \$20,000 - \$30,000 apiece. As I stated you will have a final report to look at next Tuesday, it is being finalized now. You can look at it and make your own assumptions and anyone can come up with a proposal for the building that works.

Mr. Mencini stated he does not know what will happen with this and we should work together to put in a nice pool. At that meeting the question was proposed what do you want to do with this and how do you want to pay for this. A million things could happen over there and let's everyone come up with ideas and maybe work together for the beautiful pool area that everyone wants.

The clerk called the roll on the motion by Mr. Scott, supported by Mr. Burgio, to move back to committee.

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

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

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**SERVICE COMMITTEE – CHAIRMAN, BURGIO:**

1. AN ORDINANCE AUTHORIZING FABRIZI TRUCKING AND PAVING COMPANY TO COMPLETE STORM SEWER REPAIRS NEAR 14527 FAYETTE BOULEVARD AND DECLARING AN EMERGENCY. Introduced by Mayor Coyne.

Mayor Coyne stated there is a depression in the street over there for quite some time and a lot of these companies don't want to do these small jobs anymore. The threshold is \$50,000 so proposals were needed to get this repaired and Fabrizzi is the lowest bidder and has done other jobs like this in the city. There is another one on Forestview Circle and hopefully will have the bids by next Tuesday.

Mr. Burgio commented a total of eight requests, with five no-bids and one no response for this small job.

Mayor Coyne concurred.

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

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

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There being no further business to come before this meeting a **motion** by Mr. Salvatore, supported by Mr. Troyer to adjourn.

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

Council President Astorino declared the meeting adjourned at 8:45 p.m.

RESPECTFULLY SUBMITTED   
 Michelle Blazak  
 Clerk of Council

APPROVED 

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