

**ITEMS TO BE CONSIDERED
AT THE CAUCUS PRIOR TO THE COUNCIL MEETING
TO BE HELD ON TUESDAY, OCTOBER 19, 2021**

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

SCOTT, ORCUTT, TROYER, MENCINI, POINDEXTER, SALVATORE

Also in attendance were Law Director Horvath and Service Director Garner.

DISCUSSION:

Mr. Vecchio stated to Council the Mayor is running late or may not be in attendance at all. Secondly, on October 15th a letter of resignation was received from Councilwoman Schmuck resigning her at large- position. Mr. Vecchio asked for a motion to declare Mrs. Schmuck's seat vacant in accordance with Charter section 15.02 (a).

Motion by Mr. Troyer, supported by Mr. Poindexter, to accept the vacated seat. All members of Council voted AYE, none opposed. The motion carried.

Mr. Vecchio continued Charter section 15.03 (a) - Vacancies in elected offices outlines what needs to take place. This vacancy is taking place after the Primary election, therefore, by Charter Council by a majority vote can appoint someone within 30 days, to fill the unexpired term. If Council fails to do so at that point the Mayor can do so within 30 days.

Mr. Troyer stated my preference, probably would vote no on anything else, would be to wait until after the election. Any newcomer elected to at-large, if there is more than one (1) take the highest vote-getter and appoint that person, that way Council is doing what the residents want.

Mr. Mencini concurred with Mr. Troyer and stated always felt should go with what the residents want, vote and speak. Having heard from many on this issue and Mrs. Horvath won't go where I shouldn't. Do want to say that when a lot of people, second time for resignation or stepped aside, during my tenure on Council. Being a Councilperson is not easy, 24/7, job and sometimes people, not saying this in this case, but this is a lot of work. To Mr. Vecchio what is the timeframe for Mrs. Schmuck's resignation, will she be getting paid and what are the dates?

Mr. Vecchio responded as far as her receiving payment that is something to

Discussion: cont.

be decided by both law and finance departments. What I can say is the matter is currently under investigation with information being compiled, at this time. There is information that has conflicting information so both law and finance are looking into this.

Mr. Salvatore asked who is conducting the investigation?

Mr. Vecchio responded through the law department.

Mr. Salvatore asked Mrs. Horvath is your department handling this or bringing someone else in?

Mrs. Horvath responded the department received the resignation on October 15th, basically, that gave two (2) business days to begin to look into this. We no longer need to look into the issue of whether or not Mrs. Schmuck needs to resign or how another person would be appointed, that's been determined. There are some issues involving whether or not there are any Ethics questions and also whether or not there are funds that should be returned to the city; both of those issues are being looked at. Per my conversation with the Board of Elections (BOE) and will be having a conversation with the Ethics board. The city may need to get a couple more facts or information in order to delve into this and would say there are conflicting facts. As to when there was a change of address with the BOE and may also be some conflicting facts as change of address with regards to driver's license; have heard three (3) different dates; so we need to make sure all that is correct. I'm sure it's not that there is any intention to have it this misinformation it's just coming from different sources and places. Would also say that the law department has looked into the case of John Husted vs. Brunner which is a 2012 Supreme Court case that involves whether or not Mr. Husted should have been considered to be a resident of Columbus or a resident of Montgomery County, which is where he was a state representative for the Ohio Legislature. That case has some useful language that talks about what factors would be looked at to determine when someone actually has an address change. The law department is also looking into a past situation involving State Representative, Shirley Smith, who also had a similar situation in Cuyahoga County. The department has started to look into all the factors that need to be considered and once some determinations are made or hear further news. What I probably will do is issue a written memo to Council and everyone involved. Certainly, want to discuss this situation with Mr. Cingle to get his thoughts and don't know if we should touch base with the state auditor will leave that to Mr. Cingle.

Discussion: cont.

Mr. Poindexter stated was shocked to hear about the revelations but had a chance to meet with Mrs. Schmuck a few years back when getting on Council and knowing her better with serving with her. Can tell you she definitely cares about this community and has a big heart for this community. Hope that whatever situation resulted to lead to her resignation and ultimately moving out of the city. Hope she gets that resolved and finds peace and having said that do look forward to the contents of the investigation.

Mr. Orcutt stated I was a little shocked as well and think there were some questions earlier in the year with the information provided to Council is she was still living here. It was unfortunate to find that out last week and do want to take the time to thank everyone involved; there were a few conversations with Mr. Vecchio and the law director last week. My question that came up in conversation is was there any possible votes since the date the BOE provided of September 1st, for the change of address. In the month of September were you able to find where there would be any conflict with the outcome of voting that appeared on the dais?

Mrs. Horvath responded that is being looked into and probably to the point of sitting down with the clerk for what she may have in her records. So far things look good but need to confirm and that would be in a separate memo to the Council clerk.

Mr. Scott concurred with Mr. Troyer how Council moves forward with replacing Mrs. Schmuck. Wish Mrs. Schmuck the best of luck in her future endeavors.

Mr. Mencini stated rumors were going around that someone from Council had moved out of the city, people were doing their own investigations. Did ask on this dais and received no response with my next comment was on with the meeting. Council will do what needs to be done and do it right but can only by what the law and Charter allows us to do. Been through this before and it's not pleasant but again Council it's not easy.

Mr. Troyer stated would like to wish former Councilwoman Schmuck all the great things in life. To Mrs. Horvath can you offer an opinion while looking into this because we discussed briefly, a few months, ago about even though the person put in a change of address are still registered at the old address that was known that was no longer that person's address; this is in general. Whether that is okay if you can move if you're a city-wide position

Discussion: cont.

if you can move within the city but then not change your voting address.

Mrs. Horvath to Mr. Troyer, I think what you're asking is it appropriate to move from one (1) address in the City of Brook Park. Let's say, for example, I don't know Ward 3 and then move to another address in Ward 1 and still maintain the same office, is that what the question is?

Mr. Troyer responded not entirely, you could if you were a city-wide position but what I'm saying is if you did not change your address at the BOE. The address changed, let's say everything legitimate there, for a city-wide position but never changed with the BOE.

Mrs. Horvath stated could look into that but am unaware of those circumstances in this case but will check further.

Mr. Salvatore stated on the appointment of the vacant seat I would be willing to look at it right away, rather than wait. It is in the Charter that Council has a right to do that within 30 days and if not done; it's pretty clear the Mayor makes that choice. I'll be patient and listen to what my colleagues have mentioned but would be willing to make that appointment sooner than later.

Mr. Vecchio put the matter up for a vote on how Council wants to handle the vacant seat.

Mr. Troyer stated again, if Council doesn't wait until after the election and vote the highest vote-getter I will vote on whoever it is, does not look right to give someone running for a position the ability to say re-elect. It's a political move and won't be part of it.

Mr. Salvatore stated wasn't suggesting that Council give the appointment to someone who is running for office. Wouldn't want to give someone a disadvantage but it is our job to make that appointment. It's only for the unexpired term of a two-month appointment.

Mr. Mencini asked Mr. Vecchio if there is a tie the Council President votes?

Mr. Vecchio concurred.

Mr. Poindexter concurred with Mr. Troyer with the election being two (2) weeks away that gives plenty of time. There is a meeting the next day and think if I was getting on Council. Remember, back when getting on Council

Discussion: cont.

it would have been nice to have a jump-start before the term starts, it is a learning curve. Don't think any of the new candidates have any Council experience and would have welcomed the opportunity if provided. Like the idea to give the voters a chance to pick Council's colleague and what Council should do.

Mr. Troyer stated wouldn't literally miss a person except for tonight. Would have the election, know who and appoint them the next day. That seat would be filled except for tonight which can't be changed, think that's the way to go and leave it at that. Would like to thank the Council President and the clerk the way this was handled and sure that Mrs. Horvath was involved, thank you too.

Mr. Vecchio took a poll of Council on how to proceed have heard a few different ways. Those that are in favor of appointing what would be the highest vote-getter of the November 2nd election in the at-large race.

Mr. Salvatore asked how a vote of Council can be taken when it's not on the agenda?

Mr. Vecchio responded first of all this doesn't have to be at the Council meeting., Council is appointing someone it's not a legislative item.

Mr. Orcutt stated Council has two (2) weeks and sounds like a logical thing to do, this is the first open discussion of this matter. Don't think a vote is needed it sounds like there is a majority up here and it's not on the schedule. This all happened over the last few days let's consume what was discussed and will have more discussions and move forward, with a few weeks before the next meeting.

Mr. Mencini thanked Mr. Vecchio, clerk and law department and concur.

Mr. Vecchio stated it's at Council's discretion and sitting here listening to what everyone said and figured it would be a simpler way. If that's Council's wish this is Council's meeting so if that's the way Council would like to go, we can move on. I will take a motion this was discussed.

Motion by Mr. Mencini, supported by Mr. Poindexter, this was discussed.

ROLL CALL: AYES: Mencini, Poindexter, Salvatore, Troyer, Orcutt, Scott

NAYS: None. The motion carried.

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

ROLL CALL: AYES: Troyer, Mencini, Poindexter, Salvatore, Scott, Schmuck
NAYS: None. The motion carried.

Council President Vecchio declared this meeting adjourned at 7:21 p.m.

RESPECTFULLY SUBMITTED *Michelle Blazak*
Michelle Blazak
Clerk of Council

APPROVED *November 3, 2021*

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

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