

MINUTES OF A MEETING OF THE
COUNCIL OF THE CITY OF BRECKSVILLE

HELD June 16, 2020

Page 1

Council was **CALLED TO ORDER** in Regular Session by Council President Mike Harwood at 8:00 P.M. in Ralph W. Biggs Council Chambers.

CALL TO ORDER

Following the **PLEDGE OF ALLEGIANCE**, members of Council answered to **PLEDGE OF ALLEGIANCE**
ROLL CALL as follows:

Members Present: L. Carouse, Jr., D. Caruso, M. Harwood, A. Koepke, J. Petsche, L. Redinger, K. Veras.

ROLL CALL

Members Absent: None.

Others Present: Mayor Jerry N. Hruby, Law Director D. Matty, Assistant Law Director Law Director DiGeronimo:, Engineer G. Wise, Asst. Finance Director M. Johnson, CBO S. Packard, Purchasing Director R. Riser, Fire Chief N. Zamiska, Police Chief W. Goodrich, Recreation Director T. Tupa, Service Director R. Weidig, Council Clerk T. Tabor.

MINUTES OF THE JUNE 2, 2020 REGULAR MEETING: Motion by Carouse, seconded by Redinger, to dispense with the reading of the June 2, 2020 regular meeting minutes and to accept same as presented.

REGULAR MEETING MINUTES OF 6-2-2020 APPROVED

Ayes: Carouse, Caruso, Harwood, Koepke, Petsche, Redinger, Veras.

Nays: None.

MOTION CARRIED 7-AYES, 0-NAYS.

RESOLUTION 5058 re: a Resolution adopting the alternate format Tax Budget for the year 2021; and declaring an emergency, was read by title.

RES. 5058 ADOPTING THE

Motion by Caruso, seconded by Redinger, to suspend the rules and place Resolution 5058 on third and final reading.

ALTERNATE FORMAT TAX BUDGET

Ayes: Carouse, Caruso, Harwood, Koepke, Petsche, Redinger, Veras.

Nays: None.

MOTION CARRIED 7-AYES, 0-NAYS.

Motion by Redinger, seconded by Carouse, to pass Resolution 5058.

Ayes: Carouse, Caruso, Harwood, Koepke, Petsche, Redinger, Veras.

Nays: None.

MOTION CARRIED 7-AYES, 0-NAYS.

RESOLUTION 5059 re: a Resolution affirming all funds from the County Coronavirus Relief Distribution Fund may be expended only to cover costs of the city consistent with the requirements of section 5001 of the CARES Act. Creating the local Coronavirus Relief Fund 211, and increasing estimated resources and appropriation in Fund 211; and declaring an emergency, was read by title.

RES. 5059 FUNDS FROM COUNTY CORONA-VIRUS RELIEF DIST. FUND USED FOR ELIGIBLE EXPENSES & CREATING CORONA-VIRUS RELIEF FUND 211

Motion by Caruso, seconded by Veras, to suspend the rules and place Resolution 5059 on third and final reading.

Ayes: Carouse, Caruso, Harwood, Koepke, Petsche, Redinger, Veras.

Nays: None.

MOTION CARRIED 7-AYES, 0-NAYS.

Motion by Redinger, seconded by Carouse, to pass Resolution 5059.

Ayes: Carouse, Caruso, Harwood, Koepke, Petsche, Redinger, Veras.

Nays: None.

MOTION CARRIED 7-AYES, 0-NAYS.

MINUTES OF A MEETING OF THE

COUNCIL OF THE CITY OF BRECKSVILLE

HELD June 16, 2020

Page 2

RESOLUTION 5060 re: a Resolution accepting the proposal of Chagrin Valley Engineering, Ltd. to provide a Third-Year Permit Compliance Monitoring Report for the Riverview Road Stream Relocation Project; and declaring an emergency, was read by title. Motion by Veras, seconded by Caruso, to suspend the rules and place Resolution 5060 on third and final reading.

Ayes: Carouse, Caruso, Harwood, Koepke, Petsche, Redinger, Veras.

Nays: None.

MOTION CARRIED 7-AYES, 0-NAYS.

Motion by Redinger, seconded by Carouse, to pass Resolution 5060.

Ayes: Carouse, Caruso, Harwood, Koepke, Petsche, Redinger, Veras.

Nays: None.

MOTION CARRIED 7-AYES, 0-NAYS.

**RES. 5060
ACCEPT
PROPOSAL OF
CVE, LTD.
FOR 3RD YEAR
MONITORING
REPORT FOR
RIVERVIEW
STREAM
RELOCATION**

ORDINANCE 5331 re: an Ordinance accepting the bid of Northeastern Refrigeration for the HVAC Piping Replacement Project at Blossom Hill Building 7 Project; and declaring an emergency, was read by title.

Motion by Veras, seconded by Caruso, to suspend the rules and place Ordinance 5331 on third and final reading.

Ayes: Carouse, Caruso, Harwood, Koepke, Petsche, Redinger, Veras.

Nays: None.

MOTION CARRIED 7-AYES, 0-NAYS.

Motion by Redinger, seconded by Carouse, to pass Ordinance 5331.

Ayes: Carouse, Caruso, Harwood, Koepke, Petsche, Redinger, Veras.

Nays: None.

MOTION CARRIED 7-AYES, 0-NAYS.

**ORD. 5331
ACCEPT BID
OF NORTH-
EASTERN
REFRIGERA-
TION FOR
BLOSSOM
HILL BLDG. 7
HVAC**

ORDINANCE 5332 re: an Ordinance accepting the bid of Precision Environmental Company for the City Hall Lower Level Firing Range Decommissioning & Attic Air Handler Replacement Project; and declaring an emergency, was read by title.

Motion by Veras, seconded by Caruso, to suspend the rules and place Ordinance 5332 on third and final reading.

Ayes: Carouse, Caruso, Harwood, Koepke, Petsche, Redinger, Veras.

Nays: None.

MOTION CARRIED 7-AYES, 0-NAYS.

Motion by Redinger, seconded by Carouse, to pass Ordinance 5332.

Ayes: Carouse, Caruso, Harwood, Koepke, Petsche, Redinger, Veras.

Nays: None.

MOTION CARRIED 7-AYES, 0-NAYS.

**ORD. 5332
ACCEPT BID
PRECISION
ENVIRON.
FOR FIRING
RANGE
DECOMMI-
SSION AT
CITY HALL**

BOARD OF ZONING APPEALS: Councilmember Caruso reported Board met by teleconference and has five items to recommend to Council. The next meeting of the Board of Zoning Appeals will be Monday, July 13th at 7:30 P.M.

Motion by Caruso, seconded by Veras, to accept the recommendation of the Board of Zoning Appeals for approval for (1) a variance from Section 1181.11(b), 15 ft. maximum building height to allow 17.2 ft. height, and (2) a variance from Section 1151.25(d)(2)(B) and 1151.25(d)(3)(B), from the maximum 592 sq. ft. to allow 1512 sq. ft. for the construction of a pool house/pavilion located at 7345 Crosswinds Lane, PP# 603-16-016.

Ayes: Carouse, Caruso, Harwood, Koepke, Petsche, Redinger, Veras.

Nays: None.

MOTION CARRIED 7-AYES, 0-NAYS.

**BD. OF
ZONING APP.
APP. 2020-11
7345
CROSSWINDS
LN. POOL
HOUSE/
PAVILION
VARIANCE**

MINUTES OF A MEETING OF THE
COUNCIL OF THE CITY OF BRECKSVILLE

HELD June 16, 2020

Page 3

Motion by Caruso, seconded by Redinger, to accept the recommendation of the Board of Zoning Appeals for approval for a variance from Section 1151.24 from the minimum required 80 ft. rear yard setback to allow 67 ft. for the construction of a deck located at 8697 Hollis Court, PP# 601-37-029.

Ayes: Carouse, Caruso, Harwood, Koepke, Petsche, Redinger, Veras.

Nays: None.

MOTION CARRIED 7-AYES, 0-NAYS.

**APP. 2020-12
8697 HOLLIS
COURT DECK
REAR YARD
SETBACK
VARIANCE**

Motion by Caruso, seconded by Veras, to accept the recommendation of the Board of Zoning Appeals for approval for (1) a variance from Section 1151.25(d)(1) maximum 660 sq. ft. to allow 2224 sq. ft. and (2) a variance from Section 1181.11(b) maximum height 15 ft. to allow 19.5 ft. and (3) a variance from Section 1151.26(1) to allow the construction of a detached garage in the side yard instead of the required rear yard located at 9447 Riverview Road, PP# 606-03-001.

Ayes: Carouse, Caruso, Harwood, Koepke, Petsche, Redinger, Veras.

Nays: None.

MOTION CARRIED 7-AYES, 0-NAYS.

**APP. 2020-13
9447
RIVERVIEW
RD. GARAGE
SIDE YARD
AND HEIGHT
VARIANCE**

Motion by Caruso, seconded by Petsche, to accept the recommendation of the Board of Zoning Appeals for approval for a variance from Section 1151.24 from the minimum required 60 ft. rear yard setback to allow 35 ft. for the construction of a deck on a non-conforming lot located at 9441 Knights Way, PP# 603-13-015.

Ayes: Carouse, Caruso, Harwood, Koepke, Petsche, Redinger, Veras.

Nays: None.

MOTION CARRIED 7-AYES, 0-NAYS.

**APP. 2020-14
9441 KNIGHTS
WAY DECK
SETBACK
VARIANCE**

Motion by Caruso, seconded by Veras, to accept the recommendation of the Board of Zoning Appeals for approval for (1) a variance from Section 1185.03(a) maximum fence height of 4 ft. to allow 6 ft., and (2) a variance from Section 1185.03(a) fences not allowed in the front yard, to allow a driveway gate to be installed in the front yard, and (3) a variance from Section 1119.09(d) not to install the required public sidewalks until such time that the City deems appropriate for a new single family dwelling located at 7777 Parkview Drive, PP# 605-01-027.

Ayes: Carouse, Caruso, Harwood, Koepke, Petsche, Redinger, Veras.

Nays: None.

MOTION CARRIED 7-AYES, 0-NAYS.

**APP. 2020-15
7777
PARKVIEW
DR. FENCE
HEIGHT &
LOCATION
AND
SIDEWALK
VARIANCES**

PLANNING COMMISSION: Council President Harwood reported there are two items recommended to Council from the June 4th Planning Commission meeting or consideration today. The next meeting of the Planning Commission will be June 25th at 7:00 P.M. held by teleconference.

Council President Harwood said Planning Commission members requested a review by the Architect for exterior features. The Architect did provide various options to the Planning Commission which were received very well. The Planning Commission along with the Mayor, City Administration, the Brecksville-Broadview Heights Board of Education and their representatives worked together during those presentations.

Motion by Harwood, seconded by Veras, to accept the Planning Commission recommendation of approval for Final Approval of plans to construct a new Elementary School and Field House at 3500 Oakes Road, Brecksville, Ohio, 44141, for the City of Brecksville and the Brecksville – Broadview Heights City School District as described in the application dated March 9, 2020 and shown in the attached drawings by ThenDesign Architecture, contingent on approval of the City Engineer, the Law Director, and approval by City Council of the following deviations:

**BBHCSD
SCHOOL &
FIELD HOUSE
3500 OAKES
ROAD FINAL
APPROVAL**

MINUTES OF A MEETING OF THE
COUNCIL OF THE CITY OF BRECKSVILLE

HELD June 16, 2020

Page 4

1. A deviation from Section 1183.15(b)(3) for parking areas to have no more than 20 cars in an unobstructed line of sight without an intervening landscape island to allow up to 30.
2. A deviation from Section 1153.31(d)(1) requirement that trash receptacle enclosures be no more than 6 feet high to allow 8 feet.
3. A deviation from Section 1153.31(d)(1) requirement that trash receptacle enclosures have solid masonry walls to allow chain link fence with privacy slats.

And also contingent upon approval of the Board of Zoning Appeals and City Council of the following variances:

1. A variance from Section 1181.11(a) maximum roof area over 30 feet is limited to 10% of ground floor area to allow 26%.
2. A variance from Section 1183.04(c) requirement that parking spaces be 10'x20' to allow 9'x18'.
3. A variance from Section 1119.09(d) to not install the required public sidewalks until such time that the City deems appropriate.
4. A variance from Section 1153.32 minimum 50 foot rear yard building setback required to allow 0 feet for Parcel A.
5. A variance from Section 1153.32 minimum 25 foot rear yard building setback required to allow 0 feet for Parcel B.
6. A variance from Section 1153.32 minimum 50 foot side yard building setback required to allow 42.55 feet for Parcel A.
7. A variance from Section 1153.32 minimum 15 foot side yard setback required to allow 10.18 feet for an open use on Parcel A.
8. A variance from Section 1113.14(c) requirements that zoning lots abut dedicated streets to allow a parcel that does not abut a dedicated street for Parcel B.

Information Submitted:

C100-C109	Civil Plans	3-9-20
	Lot Split Survey	March 2020
C900-C905	Sewer Plans	3-9-20
P1001-P1015	Public Infrastructure Plans	3-9-20
L100	Landscape Plan	3-9-20
TSP 1 and 2	Tree Savings Plan	3-9-20
A100-A102	Floor Plans	3-9-20
A400-A422	Elevations	3-9-20
EP001	Electrical Photometrics	3-9-20
Roof Height Detail and Exterior Finishes – 6 pages		Undated
Geotechnical Subsurface Exploration Report, PSI Inc.		3-8-19

Ayes: Carouse, Caruso, Harwood, Petsche, Redinger, Veras.

Nays: Councilmember Koepke.

MOTION CARRIED 6-AYES, 1-NAYS.

Motion by Harwood, seconded by Petsche, to accept the recommendation of the Planning Commission and grant Final Approval for the removal of an existing tennis court and the replacement of an existing 8 foot fence with a 4 foot fence as described in the application dated March 10 2020, at 6830 Carriage Hill Drive, Permanent Parcel #601-07-039, and contingent on the approval of City Council.

Ayes: Carouse, Caruso, Harwood, Koepke, Petsche, Redinger, Veras.

Nays: None.

MOTION CARRIED 7-AYES, 0-NAYS.

**WOODS OF
BRECKS.
TENNIS
COURT
REMOVAL**

MINUTES OF A MEETING OF THE
COUNCIL OF THE CITY OF BRECKSVILLE

HELD June 16, 2020

Page 5

Motion by Carouse, seconded by Petsche to authorize Carron Asphalt to perform asphalt paving at Creekview Commons during extended hours of 12:00 AM through 4:00 AM.

Ayes: Carouse, Caruso, Harwood, Koepke, Petsche, Redinger, Veras.

Nays: None.

MOTION CARRIED 7-AYES, 0-NAYS.

**AUTH.
CARRON
ASPHALT
NIGHT
PAVING AT
CREEKVIEW
COMMONS**

RECREATION COMMISSION: Council Representative Redinger said the next meeting of the Recreation Commission will be June 22nd at 7:30 P.M.

**RECREATION
COMMISSION**

DEPARTMENT OF HUMAN SERVICES: No Report.

HUMAN SERV

TELECOMMUNICATIONS COMMISSION: Council Representative Carouse reported Secretary K. Holmok will be contacting Commission members to set a date for their meeting.

**TELECOMM
COMMITTEE**

SAFETY-SERVICE COMMITTEE: Council Representative Caruso reported the committee met earlier today. Council Representative Caruso thanked Mayor Hruby, Chief Zamiska and Chief Goodrich for their work during the events of the previous weeks.

**SAFETY-
SERVICE**

STREETS & SIDEWALKS COMMITTEE: Council Representative Carouse reported the committee met earlier today and has no additional items for consideration.

**STREETS &
SIDEWALKS**

UTILITIES COMMITTEE: Council Representative Petsche reported the committee met earlier and thanked Council for the passage of a resolution authorizing Cuyahoga Valley Engineering to complete the third year report for the Riverview Stream Relocation Project.

**UTILITIES
COMMITTEE**

BUILDINGS & GROUNDS COMMITTEE: No Report.

**BUILDINGS &
GROUNDS**

LEGISLATION COMMITTEE No Report.

**LEGISLATION
COMMITTEE**

FINANCE COMMITTEE: - Councilmember Redinger thanked Council for the approval of legislation presented earlier today.

**FINANCE
COMMITTEE**

Council President Harwood asked if Assistant Law Director DiGeronimo would comment on the recent developments and press releases from the prosecutor and the grand jury. "I don't know if Jack, if you wanted to say anything at this point. I was going to turn it over to Sergio (Assistant Law Director DiGeronimo) after that so he can give us an update.

**DISCUSSION
REGARDING
NOTICE TO
COUNCIL-
MEMBER**

Councilmember Petsche: On the advice of my attorneys, no comment and I'm looking forward to my day in court.

**COUNCILME
MBER**

Council President Harwood; Thank you, Jack. Sergio (Assistant Law Director DiGeronimo) can you, understanding there's been a lot going on, if you could update Council on your discussions with the Prosecutor and the grand jury?

**PETSCHE IN
ACCORD-
ANCE WITH
SECTION 4.
OF THE**

Asst Law Director DiGeronimo: Yes. Mr. President and Council, on June 9th after an approximately eight month-long investigation Cuyahoga County Prosecutor presented facts relating to Mr. Councilmember Petsche's involvement with the police station contract as well as the aquatic center contract and presented their case which in part involves the Ohio Ethics Commission's findings presenting those to the grand jury which resulted in four felony charges relating to having in an unlawful interest in a public contract and Mr.

**BRECKS-
VILLE
CHARTER,
NOTICE FOR
REMOVAL**

MINUTES OF A MEETING OF THE
COUNCIL OF THE CITY OF BRECKSVILLE

HELD June 16, 2020

Page 6

President basically it was alleged that on April 17, 2018 Mr. Petsche voted on the sale of notes related to the police station that this is a violation of our Ohio Revised Code 2921.42 having an unlawful interest in a public contract is a fourth degree felony. They also determined that on May 15, 2018 Mr. Petsche voted on the sale of bonds for the police station this is also a violation of the City and the Ohio Revised Code 2921.42 having an unlawful interest in a public contract, also a fourth degree felony. The true bill of indictment was also entered in for conduct on March 5, 2019. That is the date Mr. Petsche voted to increase the guaranteed maximum price for the police station. The grand jury believed this to be a violation of the Ohio Revised Code, having an unlawful interest in a public contract. Finally, a charge was leveled for a solicitation for a bid on the aquatic center which occurred on May 1, 2019. This would be an attempted having an unlawful interest in a public contract a fifth-degree felony. The grand jury presenting their indictment to the trial court as a result Mr. Petsche having his first court appearance on July 22, 2020 he is represented by counsel and thereupon I imagine will be several pre-trials and then a trial on these matters. Mr. President there is a provision in our (Brecksville) Charter for Council to consider provisions in Section 4 and if Council saw fit, based on the recent events to cause Mr. Petsche's removal there is a process by which that's accomplished I can explain that to you.

Council President Harwood: So before we do that, Jack in September and October when we had multiple meetings and one was a public meeting and correct me if I'm wrong Sergio, so correct me if I'm wrong, we now have from the prosecutor and the grand jury, there are indictments of four felonies

Asst. Law Director DiGeronimo: That is correct.

Council President Harwood: And back in September I believe you presented to Council that the Ohio Ethics Commission, they found Councilman Petsche in violation of the law at that point and then it was pushed further up the chain. Council at that point, people asked if Council was going to take action and Jack I believe we asked you and there was a member of the public who asked if you were, if these issues happened, would you resign your position on City Council. I think Councilmember Veras, at a separate meeting, asked the same question with what is currently been presented and knowing that the Ohio Ethics Commission indicated you're in violation of the law. Those are taped discussions and your responses. Are you at this point considering resigning your position on City Council?

Councilmember Petsche: No, I am not. I have not seen the ethics report. I have not seen any of the documents relating to any of this.

Council President Harwood: So you are going to court in July?

Councilmember Petsche: Yes, July 22nd.

Council President Harwood: So Sergio, that being said that is Councilmember Petsche's answer. Can you walk City Council through what the Charter, we need to do this in a public forum as well by the way the charter is functioning.

Asst. Law Director DiGeronimo: That is correct. It has to be conducted in a public forum as we are today.

Council President Harwood: So it would not be in executive session it has to be through the public forum. Could you walk Council through those requirements according to the charter?

Asst. Law Director DiGeronimo: Yes, essentially what Council must do is provide written notice to Mr. Petsche of the charge, as it's called provision. There upon Mr. Petsche he will be entitled to a public hearing under charter after passage of 15 days he's allowed to make statements have counsel he's allowed to have counsel exam witnesses and present evidence

MINUTES OF A MEETING OF THE
COUNCIL OF THE CITY OF BRECKSVILLE

HELD June 16, 2020

Page 7

at this hearing. Council has the authority to vote on his removal or expulsion that would require five votes not merely a majority, but five out of seven. If this were to happen the decision would be final and Mr. Petsche will be removed there upon creating a vacancy on Council, which will be filled by the provisions of our Charter in section 5. At this point if Council were to consider this matter and vote on it, if there was a simple majority vote, it would commence the removal proceedings which would necessitate Mr. Petsche being given a notice which I am prepared to do today if counsel wishes to address this issue tonight. Council President Harwood: What does the notice actually do?

Asst. Law Director DiGeronimo: The notice is in compliance with our charter and it is a written notice which explains the nature of the charge. In this particular instance the charge that Council will be considering for Mr. Petsche's removal relates to his involvement with the Seitz' bid on the aquatic center. If you recall Seitz Builders was the contractor that was being considered as the general contractor for the aquatic center and Mr. Petsche while he was a member of Council solicited a bid. He entered that bid and supplied that bid to Seitz Builders. He later, the minutes will reflect, he acknowledged that on the June 4 meeting 2019 the charge given to Mr. Petsche would allow him to understand why Council is taking this action and allow him to prepare accordingly for the hearing which would occur as I said earlier after 15 days have passed.

Council President Harwood: After 15 days of the notice that you spoke of.

Asst. Law Director DiGeronimo: Correct. Hypothetically if we caused this notice to be delivered to Mr. Petsche today, Council could hear this matter after the passage of 15 days or at its next regularly scheduled meeting July 9.

Council President Harwood: We are entering uncharted waters for most of us. Lou (Councilmember Carouse) is the elder statesman and I don't know if you have gone through this. I'll open it up for Council for questions or comments.

Councilmember Carouse: Mike, In my term of Council, we have had to replace a councilman who had stepped down. Council did have to make that appointment in 30 days before turning it over to the Mayor. We had gone through that before, but not during my 30 years have we had a removal.

Councilmember Redinger: Mr. President if I might comment. When we originally started talking about this issue when we learned of the Ohio Ethics Commission process at that point in time we had this option then and we decided to let this process continue to evolve and I think we are at that point in time we need to make a decision and determine a course of action that would be my recommendation.

Councilmember Veras: It appears to be a violation of the law if it's a Grand Jury indictment and also I would like to ask Jack if I may. Why would you change your mind if you made that previous comment that you would consider to us what you said to us six months ago.

Councilmember Petsche: Other evidence has been presented to me by my attorneys and I have changed my mind and I don't wanna get into it at this time. Also, I'd like to say to do this to me would be premature because what if I am found not guilty and I am entitled to a presumption of innocence and this charge is very similar to, if not identical to one of the charges in the indictment. So, it would be very unfair to me to have to respond to that prior to the trial on the same matter. So, I would ask the Council please table this until after we see the results of the trial. Because what harm is being done? Am I doing harm to Council now? Am I doing harm to the city by doing my job here as a councilman?

Councilmember Carouse: Mike, I would say to Jack regardless the decision of the trial our decision is independent. We have an Ethics Commission review we have a Grand Jury

MINUTES OF A MEETING OF THE
COUNCIL OF THE CITY OF BRECKSVILLE

HELD June 16, 2020

Page 8

review which resulted in four felonies. This is still independent of any decision that could be rendered through the trial

Councilmember Petsche: I understand that Lou, but I don't have an attorney here to advise Council of how this would be unfair and how this would prejudice my case to have to testify in this matter when this matter is going to be the subject of a trial.

Law Director DiGeronimo: Mr. President,

Councilmember Petsche: It isn't fair.

Law Director DiGeronimo: If I could address a couple points here that Mr. Petsche has brought up. First this is merely a notice provision in the Charter, we are not having a hearing today. Merely presenting Mr. Petsche with the formality required in the Charter of a notice, written notice. The hearing could be held after 15 days where upon Mr. Petsche could have Counsel present to discuss his position. The other point I wanted to make briefly was, it is true he is entitled to his day in court. However, our Charter doesn't require only a conviction of a felony for removal it allows for several other reasons. Particularly gross misconduct, malfeasance or nonfeasance in and for disqualification for office. Then it goes on to talk about have you a conviction for a felony, further discusses violation of his oath of office. We know that when you take your oath, you swear to uphold the Charter & Ordinances of the City of Brecksville. The qualifications to be on Council notably, the one that stands out the most is "he shall not directly or indirectly solicit, contract for or receive or be interested in any profit or emolument from or on account of any contract, job, work or service with or for the municipality. And I brought up the point that he offered on June 4, 2019 an admission that he had solicited a bid with Seitz Builders. It is right there in the record. That this would be simply based on that issue alone, it will not prejudice him with regard to any criminal penalty. This is merely an administrative effort to call from Council someone who did not live up to their oath.

Councilmember Petsche: Again, it is the same thing, and it would prejudice me. And my attorney is not here to explain why. So I would ask that you table this until at least you could hear from my attorney, Peter Patakos, who has already addressed this issue with you in a letter. You should hear from him first before taking a vote. At least do that.

Council President Harwood: I'm not sure if you are misunderstanding this, we would not take a vote for the removal, what this would be would to give you that day where your attorney is present and we have those discussions. That is what this is here.

Councilmember Petsche: Well, this is the first step down that road.

Council President Harwood: Correct.

Councilmember Petsche: I would ask that you not take this step until you hear from my attorney. If I had been given notice that this would happen, he would be here tonight. But I was not given notice.

Council President Harwood: Jack, did you call any of us in regards to when you were notified, when the press interviewed you, did you call me as the President of Council or Laura as Vice President, or any Councilmember to indicate to us what was going on?

Councilmember Petsche: I did not answer any calls.

Council President Harwood: No, did you call any of us? Did you reach out to any of us?

Councilmember Petsche: No, I did not Mike.

MINUTES OF A MEETING OF THE
COUNCIL OF THE CITY OF BRECKSVILLE

HELD June 16, 2020

Page 9

Council President Harwood: So, similar in other cases when we've actually asked you, you said that we knew of these things, which we did not. You actually said we should have asked you more questions.

Councilmember Petsche: You and Laura are witnesses. I cannot call you and talk to you about this.

Council President Harwood: No, Jack, I'm not saying you should talk about the detail. Don't you think you should have reached out and said, Mike, this is what's happening? *I've been, you know the Grand Jury has filed an indictment on four felonies to me? I'm just letting you know.*

Councilmember Petsche: I would have like to have done that. However, to my understanding I shouldn't talk to you about it.

Council President Harwood: Okay. So Dominic and Ann, I know Dominic you were in some of the Council meetings, you were part of that. Ann I don't think you were present for some of the Council meetings or even the public meetings. So, I will ask you guys if you have any comments, but I understand your situation, as being new to Council.

Councilmember Caruso: I was at the meeting when Jack said that if wrong doing was found, he would resign. Being a man of his word I would hope he would honor that. This is just giving notice. We all took an oath to uphold the Charter. The Charter has very clear standards, I think we have an obligation to at least give notice. That is my concern.

Councilmember Koepke: I have a question with notice given. If notice is given tonight, he has 15 days with his lawyer who then asks for continuance, does this extend beyond that? Or is this cut and dried next week, no matter what, we take a vote?

Assistant Law Director DiGeronimo: Mr. President, there is nothing in the Charter that describes a continuance. I think that will be entirely up to Council whether or not it wishes to adjourn for a different date. The Charter is silent with regard to process it only spells out that Council shall be the judge of the election and qualifications of its own members. That is the guidance that we are given. So you have plenary authority to make that decision, if you feel that is the right one.

Council President Harwood: Did that answer your question?

Councilmember Koepke: It did, I guess I'm hesitating and I have read the Charter several times on this specifically. I do feel where Jack is coming from, he is innocent until proven guilty, in that court of law. This is not a court of law, I understand that. I do see a potential conflict, just a prejudice there, if we find him guilty, other people might. And, I would hate to do that. So I am hesitant doing this at that point, without thinking more on it.

Councilmember Caruso: In this case whatever we would decide shouldn't play into how the Courts feel. This has to do with our Charter and the standard of the Charter and not whether he broke the law or didn't break the law.

Council President Harwood: Anyone else?

Councilmember Carouse: Mike, Jack if we were to wait for your attorney, what is it that you would think that we would glean from that, that would amend any of the action that we're talking about?

Councilmember Petsche: That I think that he would....

MINUTES OF A MEETING OF THE
COUNCIL OF THE CITY OF BRECKSVILLE

HELD June 16, 2020

Page 10

Councilmember Carouse: Talk us out of it?

Councilmember Petsche: I think that he might, yes. I think that he very well might. Because of the fact that I think you are going to prejudice my case going forward. I'm going to have to, I'm either going to have to remain silent and not defend myself, or say things that will become part of the record, that will be used in the trial.

Councilmember Carouse: One other thing that I could say, Mr. President is, you put Council in a very difficult position here. Like I said we have never had this before. It is not something that we look forward to and it's a responsibility that we all have and we all take very, very seriously. I think we have been very patient with this. A lot of these facts were revealed in the very beginning, there was an opportunity for Council, before anything had played out. The Ethics Commission, or a potential Prosecutor, that Council could have taken action back then. That could have proceeded anything. We decided to be patient and let some of these other things transpire, like the Ethics Commission, which did find cause. And then we waited again for the Grand Jury to render whether or not there were going to be felony charges, or any charges. So, we have gone through all of that and here we are again, and to continue to wait on this is something that puts us in a bad spot with a lot of people. They are wondering "why aren't you taking action, the Charter requires you to." And we have been...

Councilmember Petsche: First of all, Lou, I don't think the Charter requires you.

Councilmember Carouse: Pardon me.

Councilmember Petsche: I don't think the Charter requires you to take action.

Council President Harwood: Good conscience requires you to Jack.

Councilmember Petsche: But it's not a requirement, and secondly, again I'm asking you to please wait and hear from my attorney on this issue before you go down this road. That's all I'm asking. If I had known that this was happening he would have been here tonight and he could have spoken.

Council President Harwood: Well if we were to have Sergio do this, he will be at the next meeting and he will be able to speak. And if we deem necessary to take action or to Ann's point if we felt that we should wait we could. We have that option.

Councilmember Petsche: I'm asking that you hold off giving notice, until you hear from my attorney.

Council President Harwood: Are you done?

Councilmember Carouse: Yes, thank you, Mike.

Council President Harwood: Sergio correct me if I'm wrong. The Ohio Ethics Commission, when we discussed this the last time, they have actually found the issues that were presented to them, that they were severe enough to pass it on to the prosecutor who then went to the Grand Jury. So the Ohio Ethics Commission has literally said it's above their pay grade basically.

Councilmember Petsche: We did not see the Ohio Ethics Commission Report so we don't know what it says.

Council President Harwood: They found you in violation of the law that was read,

Councilmember Petsche: I'm sorry but that, we don't know that.

MINUTES OF A MEETING OF THE
COUNCIL OF THE CITY OF BRECKSVILLE

HELD June 16, 2020

Page 11

Law Director DiGeronimo: The matter was referred to the County Prosecutor, which would only mean they found a violation of law.

Council President Harwood: Correct.

Councilmember Petsche: I think that is a conclusion, to my knowledge they don't find violations of the law. So I don't know what they found. We have not seen the report.

Council President Harwood: Okay. And neither have any of us. And on that topic, so if the Ohio Ethics Commission found it serious enough to take it to the prosecutor, who then went to the Grand Jury, that is three independent groups. That have now come down with these rulings at this point. Four felonies, so when you say that it's about just you. There are 6 other people in here and 13,000 residents in this community that aren't in this room every meeting or have been part of these discussions when you've said certain things that have misrepresented the facts or when we ask you are you willing to step down, it's on tape you said yes.

Councilmember Petsche: I don't think I ever misrepresented any facts.

Council President Harwood: Okay, the bottom line is at that point in time, were the other six up here, people think we are part of this process. If we are condoning an individual that is being charged with four felonies, to Lou's point, how can you ask us to do that?

Councilmember Petsche: Because my, I'm innocent. And we will demonstrate my innocence at trial. If and I believe that will be the case. You will have a ruling from Council prior to the trial having occurred.

Council President Harwood: Again, the Grand Jury, their charges are based on something completely separate than what we are talking about.

Councilmember Petsche: No, Article 4 of the indictment is almost identical to what you are talking about. The 4th indictment is, concerns the same issue, identical to what you're talking about.

Councilmember Veras: Mike, can I ask Mr. Matty to comment please?

Law Director Matty: Mr. Chairman, and I can tell from Councilwoman Koepke's question, Ann this proceeding in front of Council does not to find Mr. Petsche guilty. This is not a guilty standard that he will have to face in trial at Common Pleas Court. That is a criminal standard, it has different terms and it carries different penalties, and they are much stricter than what you have before you. Your Charter has language that simply says a Councilperson shall not directly or indirectly solicit. And from what I understand from my Assistant Law Director that is the charge that he is intending, if by motion of this Council, he is intending to bring to this Council for a decision. That charge of whether Mr. Petsche's solicited or not is the only issue. It does not determine guilt, it does not determine a criminal penalty. It determines whether or not the language of our Charter has been violated. And if it has, then there are certain items for removal that that will fit. And I am sure the Assistant Law Director will present those to Council. It has nothing to do with the trial or the standard of the trial in criminal court in Common Pleas Court. He can be found to be removed here, he can be found to be innocent downtown, he can be found to be guilty downtown. They are not the same standard and not the same process. So, I understand your confusion, but understand that that is what you will be facing and of course you have you'll vote to vote however you wish. But the notice is simply to allow this to go forward to see if, first of all, Council wants to go forward. And secondly to see if proof is presented whether it be in your minutes already or whether or not Asst. Law Director DiGeronimo: has other proof to present to this Council, whatever he sees fit, to meet the standard, has there been a direct or indirect solicitation for the roofing project at the Aquatic Center, by Mr. Petsche. That is the simple issue that would

MINUTES OF A MEETING OF THE
COUNCIL OF THE CITY OF BRECKSVILLE

HELD June 16, 2020

Page 12

be before you, if you, by motion, by a majority vote decide to go forward. And if you do, Sergio (Asst. Law Director DiGeronimo:) will, if that is his call to make, he will read the charge and be ready to go with the charge at your next meeting.

Councilmember Petsche: I'm asking again, we've had two attorneys, Law Director and your Assistant Law Director advising Council. I would ask that you would hear from my attorney prior to voting on this. That is all that I'm asking. And I have stated my reasons and I don't want to have to restate them. But, that is very close to the fourth element of the indictment. Almost identical. So, it would be unfair for me to respond to that. My attorney would be happy to explain why, if you would allow him the opportunity and why can't you wait 'til the next meeting? After you hear from him. I'm just saying. Table it for one time and let him talk to you and let him tell you the reasoning. Because you're not going to take my word over your Law Director or Assistant Law Director but you might consider another attorney who is much more conversant in this than I am. Hear what he has to say. This too one sided of a discussion.

Council President Harwood: But Sergio (Asst. Law Director Law Director DiGeronimo) that's what would happen.

Asst. Law Director DiGeronimo: That is correct Mr. President. This is merely a formality that exists in the Charter to put Mr. Councilmember Petsche on notice that there will be a more elaborate discussion of these facts at a later date.

Council President Harwood: And that affords...

Councilmember Petsche: You didn't even give me notice that this was going to happen or I would have had my attorney here.

Council President Harwood: That is what the 15 day notice is. That's what we are saying. The only motion that we would make is for you to have the document presented to Jack so he has that day where his attorney, because his attorney can't just come in and speak on behalf of this.

Asst. Law Director DiGeronimo: That is correct. The hallmark of due process is notice. We have to give people notice and that is what the Charter requires and that is merely what I am recommending.

Council President Harwood: This allows that day for you and your attorney to speak for you.

Councilmember Petsche: I understand that. I'm asking that you listen to him before you even take this first step.

Council President Harwood: But, can he speak without that notice?

Councilmember Petsche: Of course.

Asst. Law Director DiGeronimo: That would be entirely up to Council. The procedure set forth in the Charter requires notice before a hearing. So, I'm not even going out on a limb, it's required, a mandatory step in order for his attorney to come and present to Council, whatever it is that he wishes we have to have that date set. And that is what this document does. I doesn't have to be 15 days from now, it could be 16 days from now or whatever day Council sees fit.

Council President Harwood: But, Mike, you could hear from my attorney at your pleasure, prior to that and that is what I am asking that you do.

MINUTES OF A MEETING OF THE
COUNCIL OF THE CITY OF BRECKSVILLE

HELD June 16, 2020

Page 13

Council President Harwood: Okay, understood.

Councilmember Koepke: May I ask two questions?

Council President Harwood: Yes.

Councilmember Koepke: One, I guess I'm curious as to why this wasn't put on the agenda, and then my second question is if we can please hear the part of the Charter that we are going to, that we think he violated?

Asst. Law Director DiGeronimo: I actually have it in writing that I can deliver to Councilmembers, wherever you wish, you don't have to vote on it, but I have tangible exhibit.

Council President Harwood: But maybe Ann had the first question. So we did it through the Law Director's report. I have not, just like you, not been given anything from anybody on any notification.

Councilmember Koepke: And I ask that because I'm sure there are a lot of people that potentially might have wanted to come.

Council President Harwood: They would come for that day. Because right now, unfortunately, right, wrong, or indifferent where we field our questions is through people that read all the press clippings on it. And so, I need to bring that up today so at least we know what we are answering.

Councilmember Koepke: I understand, I was just asking, this is all new.

Asst. Law Director DiGeronimo: I would like to answer that question Mr. President. Ann, essentially what I will do is I will cover the topics on the right of the written notice. Pursuant to the Charter of the Municipality of the City of Brecksville, Ohio, this Written notice, effective, if it were to be effective determined by Council, effective this date, given to Councilperson John (Jack) Petsche notifying him of a hearing which will occur on a later date, at this location, this chamber for the charge of gross misconduct, malfeasance, nonfeasance in or disqualification for office. And the allegations are as follows:

- Mr. Petsche was duly elected by the electorate of the City of Brecksville in November 2017, and sworn into the office of Councilperson for said Municipality on January 2, 2018.
- At all times relevant hereto, Mr. Petsche was an elected official acting in the capacity of Councilperson at large for the City of Brecksville.
- At all times relevant hereto, Mr. Petsche was the owner of USA Roofing, Inc., a roofing contractor organized under the laws of the State of Ohio.
- On May 3, 2019, Seitz Builders, Inc. submitted a bid to be the General Contractor for the Aquatic Center Project in the City of Brecksville.
- On or about May 13, 2019, City of Brecksville Purchasing Director Rebecca Riser, discovered that Seitz Builders, Inc. submitted their bid naming USA Roofing, Inc. to be the roofing subcontractor for the Aquatic Center Project in the City of Brecksville.
- On May 23, 2019, Ms. Rebecca Riser, contacted Seitz Builders, Inc. and advised them that their submission could not proceed unless USA Roofing, Inc. was removed as a subcontractor.
- As part of their subsequent resubmission, Seitz Builders, Inc. removed USA Roofing, Inc. as a subcontractor.

MINUTES OF A MEETING OF THE
COUNCIL OF THE CITY OF BRECKSVILLE

HELD June 16, 2020

Page 14

- On May 27, 2019 at a special meeting of the City Council, Ordinance 5244 was adopted by the City Council accepting the bid of Seitz Builders, Inc. for the Aquatic Center Project. That was the Memorial Day Special Meeting.
- On June 4, 2019, at a regular meeting of Brecksville City Council, while discussing a different Ordinance (Ord. 5248) relating to the design and construction of the Aquatic Center Project, Mr. Petsche admitted that he, on behalf of his Company, USA Roofing, Inc., bid on the roof for the Aquatic Center.
- On June 9, 2020, the Cuyahoga County Prosecutor's Office received a True Bill of Indictment from the Cuyahoga County Grand Jury which indicted Mr. Petsche for three (3) counts of having an unlawful interest in a public contract, and one count of attempted having an unlawful interest in a public contract. Each of the foregoing charges are felonies under Ohio Revised Code Section 2921.42.
- One of the four felony charges is the charge of attempted having an unlawful interest in a public contract, which concerns the conduct of Mr. Petsche as it relates to the USA Roofing, Inc. bid to Seitz Builders, Inc. for the Aquatic Center Project.

Based on those foregoing facts, it would be entirely proper for Council to consider whether or not Mr. Petsche should be removed. Because, while duly elected as a Councilperson in the City of Brecksville, directly or indirectly, contracted for, received, or was interested in any profit or emolument from or on account of any contract, job, work, or service with or for the municipality. And, as I explained earlier, that is a contravention to the City Charter (Section 2. Qualifications).

Which I mentioned earlier, which states very specifically and unambiguously, *He shall not, directly or indirectly, solicit, contract for, receive, or be interested in any profit or emolument from or on account of any contract, job, work or service with or for the municipality.* So that is the nature of the charge. And it is very specific and deals only with the Seitz bid. It does not deal at all with anything other which will be heard at trial for Mr. Petsche. So, if Council wishes to I have copies.

Council President Harwood: Sergio (Asst. Law Director DiGeronimo) Is this what you just read?

Asst. Law Director DiGeronimo: Yes, in large part it is. Mr. President you will see that upon affirmative vote by Council were you to decide a particular date and if you were to direct me to serve Mr. Petsche, I would have you execute a copy of this written notice we would deliver a fully executed copy to Mr. Petsche.

Council President Harwood: One last thing, and tell me if I'm asking something I shouldn't ask. In layman's terms, in essence Jack's company submitted a bid to a General Contractor who included their bid to the City of Brecksville and that's what ruled and said they would have to remove him. So we know, we all know we cannot do that. We cannot even bid or talk about it. Jack, I don't know how you want us to respond to that. Outside the felonies and everything, that is fact. And we cannot do that, as a Council Representative in the City of Brecksville. So I think we should make the motion unless you guys tell me otherwise. I mean we are all in this together.

Councilmember Carouse: I'll make one last statement, Jack, because I know you have been trying to convince us to wait for your attorney to be present to make an argument. But what I fail to see is that would be the argument that would be made at the public hearing. I don't know that we need to have an argument made by him prior to the argument at the public hearing.

Councilmember Petsche: Lou, why do I have to be ambushed this way?

MINUTES OF A MEETING OF THE
COUNCIL OF THE CITY OF BRECKSVILLE

HELD June 16, 2020

Page 15

Councilmember Carouse: Pardon Me?

Councilmember Petsche: Why do I have to be ambushed this way? Why wasn't this on the agenda? Why wasn't I given the opportunity to have my attorney here?

Asst. Law Director DiGeronimo: Mr. Petsche you are not being ambushed. You are being given notice of a hearing as required under the Charter. Were you ambushed last week? Last Tuesday when you were indicted? Did you not have knowledge of that indictment through your Counsel? Your Counsel has been intimately involved with the Prosecutor exchanging information. I think it is disingenuous to sit here and pretend like you're being ambushed.

Councilmember Petsche: I am being ambushed by this. I had no notice of this and nobody in the community did either.

Council President Harwood: Community? This is about you.

Councilmember Petsche: Or Council, it's not on the agenda.

Council President Harwood: But I think what Sergio (Asst. Law Director DiGeronimo) just said is that this has been ongoing with you. You have not once...

Councilmember Petsche; If it doesn't have to be on the agenda, and I didn't have to have notice of this and I didn't have to have the opportunity to have my attorney present.

Council President Harwood: You will have the opportunity to have your attorney here. And if what Sergio (Asst. Law Director DiGeronimo) just said is you have been with your attorney in communication while this is developing and you have not once reached out and told any of us this. I'm not asking you to provide details but don't you think you should have called and said *There's a good chance I'm going to be charged?*

Councilmember Petsche: I don't know Mike. I've never been..... I don't know, I would have loved to have reached out and talked to you about it, but since you are going to be a witness, specifically with regard to this issue. We talked about this.

Council President Harwood: You said you bid the job.

Councilmember Petsche: You and I talked about this. You're going to be a witness so I can't just reach out to you.

Council President Harwood: No you could have said *Look Mike, this is what's happening, you're the President of City Council I think this is coming down the line, I want to inform you. I can't speak in regards to the details, I just want to let you know what's happening.*

Councilmember Petsche: And what difference would that have made?

Council President Harwood: Then we would have known what was coming. Because as Sergio (Asst. Law Director DiGeronimo) just said it just happened last Tuesday.

Councilmember Petsche: Right. So, why not give my attorney an opportunity to speak to Council, prior to sending this notice. And prior to going down this road.

Council President Harwood: Because on two separate occasions you said you would step down, you're now saying you're not doing that.

Councilmember Petsche: I would like to tell you why but I don't think I should.

MINUTES OF A MEETING OF THE
COUNCIL OF THE CITY OF BRECKSVILLE

HELD June 16, 2020

Page 16

Council President Harwood: Sergio (Asst. Law Director DiGeronimo) what motion do I need to make?

Asst. Law Director DiGeronimo: I would only ask that Council consider a motion to provide Mr. Petsche with notice as required in Section 4. of the Charter, notice for removal.

Councilmember Carouse: So Moved.

Council President Harwood: Second.

Motion by Carouse, seconded by Harwood, to provide notice to Mr. Petsche with notice as required in Section 4. of the Brecksville Charter, notice for removal.

Ayes: Carouse, Caruso, Harwood, Koepke, Redinger, Veras.

Nays: Councilmember Petsche.

MOTION CARRIED 6-AYES, 1-NAYS.

REPORT OF LAW DIRECTOR: No Report.

LAW

REPORT OF ENGINEER: No Report.

ENGINEER

REPORT OF FINANCE DIRECTOR: No Report.

FINANCE

REPORT OF BUILDING DEPARTMENT: No Report.

BUILDING

REPORT OF SERVICE DIRECTOR: No Report.

SERVICE

REPORT OF PURCHASING DIRECTOR: No Report

PURCHASING

REPORT OF POLICE DEPARTMENT: No Report.

POLICE

REPORT OF FIRE DEPARTMENT: No Report

FIRE

REPORT OF RECREATION DEPARTMENT: No Report.

RECREATION

Council President Harwood relayed a message from BTBA Brecksville Travel Baseball Association President Meg English thanking the recreation department for their work and reported everything is going very well.

REPORT OF THE MAYOR: Mayor Hruby reported the illuminating Company **MAYOR** will be working on the Tree Service Liability program. Trees that may damage or fall onto electrical wires will be removed. The Illuminating Company has contracted with (5) companies to do the 1900 miles in the tree line. Brecksville is one of the communities that will receive this service. When the schedule is received, residents will be notified. Larger trees will be removed or trimmed where needed.

Mayor Hruby said the National Park will close the Tow Path from 7:00 A.M. -4:00 P.M. on June 17th for maintenance.

Saturday recycle will resume on Saturday June 20th. Social distancing will be observed and masks are required to be worn.

Mayor Hruby reported the Kids Quarters Playground has reopened with cleaning being performed throughout the day, hand sanitizing is on site for public use. Notices recommending proper handwashing and preventing the spread of COVID-19 have been posted.

Mayor Hruby commended Police, Fire and all of the City employees that assisted with the BBHHS Graduation Parade.

Mayor Hruby said there have been (3) successful suicides by jumping from the S.R. 82 bridge and one attempted suicide in the community, for which one of the Brecksville Officers was able to talk with the person and stop that tragedy from happening. Mayor Hruby will be

MINUTES OF A MEETING OF THE
COUNCIL OF THE CITY OF BRECKSVILLE

HELD June 16, 2020

Page 17

looking into possible safety equipment or higher fencing along the bridge. Mayor Hruby will work with Sagamore Hills for assistance in working with ODOT.

Mayor Hruby said three demonstrations have been held recently in Brecksville. On June 7th approximately 40-50 people gathered at Public Square, without obtaining a permit. This gathering was peaceful. One Tuesday, June 9th a permit was issued for the Municipal Parking Lot. Mayor Hruby said the organizers expected 100 people. However, it was reported in the media that up to (1000) protesters attended. Mayor Hruby said he received comments the City has too much Police presence. Mayor Hruby said (5) Brecksville Police Officers, in daily patrol gear, were on site to assure the safety of those people in attendance. Several people began to taunt the officers and move from the Municipal Lot out onto sidewalk to demonstrate. Mayor Hruby said when the demonstration moved into S.R. 21 and headed north, in the roadway, toward the business district, the Regional Task force was deployed to assure the safety of the people demonstrating and vehicle traffic did not approach the demonstrators or threaten the safety of bystanders.

The City also had a third demonstration on June 14th with approximately 6 people in attendance promoting Black Lives Matter.

All three events were peaceful and did not cause damage to property. Mayor Hruby said the overtime budget has been increased, the City has also been assisting other communities as the demonstrations continue.

Council President Harwood asked if Councilmembers had an objection to holding the public hearing on July 21st. All Councilmembers agreed to July 21st for the public hearing. Law Director Matty requested a copy of the executed notice to Mr. Petsche be attached to the minutes of this meeting.

Motion by Harwood, seconded by Carouse, to adjourn the regular meeting at 9:15 P.M.

Ayes: Carouse, Caruso, Harwood, Koepke, Petsche, Redinger, Veras.

Nays: None.

MOTION CARRIED 7-AYES, 0-NAYS.



PRESIDENT OF COUNCIL



CLERK OF COUNCIL

IN THE CITY OF BRECKSVILLE, OHIO
CITY COUNCIL

IN RE:	)	CHARTER OF CITY OF BRECKSVILLE
	)	SECTION 4. REMOVAL
CITY OF BRECKSVILLE	)	
CITY COUNCIL	)	EXPULSION OF COUNCILPERSON JOHN
	)	(JACK) PETSCHÉ

NOTICE:

Pursuant to the Charter of the Municipality of Brecksville, Ohio, this Written Notice, effective June 16, 2020, is hereby given by City Council to COUNCILPERSON JOHN (JACK) PETSCHÉ notifying him of a Hearing to occur on 5:00pm 7/21, 2020, in the Ralph W. Biggs Council Chambers, 9069 Brecksville Road, Brecksville, Ohio, for the below described charge of gross misconduct, malfeasance, nonfeasance in or disqualification for office by COUNCILPERSON JOHN (JACK) PETSCHÉ.

CHARGE:

- 1) COUNCILPERSON JOHN (JACK) PETSCHÉ (Mr. Petsche) was duly elected by the electorate of the City of Brecksville in November 2017, and sworn into the Office of Councilperson for said Municipality on January 2, 2018.
- 2) At all times relevant hereto, Mr. Petsche was an elected official acting in the capacity of Councilperson at large for the City of Brecksville.
- 3) At all times relevant hereto, Mr. Petsche was the owner of USA Roofing, Inc., a roofing contractor organized under the Laws of the State of Ohio.
- 4) On May 3, 2019, Seitz Builders, Inc. submitted a bid to be the General Contractor for the Aquatic Center Project in the City of Brecksville.
- 5) On or about May 13, 2019, City of Brecksville Purchasing Director, Rebecca Riser, discovered that Seitz Builders, Inc. submitted their bid naming USA Roofing, Inc. to be the roofing subcontractor for the Aquatic Center Project in the City of Brecksville.
- 6) On May 13, 2019, City of Brecksville Purchasing Director, Rebecca Riser, contacted Seitz Builders, Inc. and advised them that their submission could not proceed unless USA Roofing, Inc. was removed as a subcontractor.
- 7) As part of the resubmission, Seitz Builders, Inc. removed USA Roofing, Inc. as a subcontractor.
- 8) On May 27, 2019 at a special meeting of the Brecksville City Council, Ordinance 5244 was adopted by the City Council accepting the bid of Seitz Builders, Inc. for the Aquatic Center Project.
- 9) On June 4, 2019, at a regular meeting of the Brecksville City Council, while discussing an Ordinance (Ord. 5248) relating to design and construction of the Aquatic Center Project, Mr. Petsche admitted that he, on behalf of his Company, USA Roofing, Inc., bid on the roof for the Aquatic Center.

- 10) On June 9, 2020, the Cuyahoga County Prosecutor's Office received a True Bill of Indictment from the Cuyahoga County Grand Jury which indicted Mr. Petsche for Three (3) Counts of Having An Unlawful Interest in a Public Contract, and One (1) Count of Attempted Having An Unlawful Interest in a Public Contract. Each of the foregoing charges are felonies under Ohio Revised Code Section 2921.42.
- 11) One of the four Felony Charges is the charge of Attempted Having An Unlawful Interest in a Public Contract, which concerns the conduct of Mr. Petsche as it relates to the USA Roofing, Inc. bid to Seitz Builders, Inc. for the Aquatic Center Project.

Based upon the foregoing facts, it is formally alleged that JOHN (JACK) PETSCHKE, while a duly elected councilperson for the City of Brecksville, directly or indirectly, solicited, contracted for, received, or be interested in any profit or emolument from or on account of any contract, job, work, or service with or for the municipality. This is in contravention to the City Charter (Section 2. Qualifications.) which provides:

SECTION 2. QUALIFICATIONS.

Each member of Council shall have been for at least two years immediately prior to the date of his election and during his term of office shall continue to be, a resident in this municipality and qualified elector thereof. Except as otherwise provided in this Charter, no member of Council shall hold any other municipal office or municipal employment in this municipality. He shall not, directly or indirectly, solicit, contract for, receive, or be interested in any profit or emolument from or on account of any contract, job, work, or service with or for the municipality.

CHARTER OF THE MUNICIPALITY OF BRECKSVILLE, OHIO

AUTHORITY:

Council will convene a public hearing on the aforesaid date, on the issue of whether COUNCILPERSON JOHN (JACK) PETSCHKE shall be removed or expelled from the office of Councilperson for the City of Brecksville for gross misconduct or malfeasance or nonfeasance in or disqualification for office. Authority for this action rests in the Charter of the Municipality of Brecksville, Ohio:

SECTION 4. REMOVAL.

The Council shall be the judge of the election and qualifications of its own members. It may expel or remove any member for gross misconduct or malfeasance or nonfeasance in or disqualification for office, or upon conviction while in office of a felony or other crime involving moral turpitude, or for violation of his oath of office, or persistent failure to abide by the rules of Council, or absence without justifiable excuse from three (3) consecutive regular meetings of Council, provided that such expulsion or removal shall be upon the concurrence of five (5) or more members of Council after public hearing upon the charge or charges brought; and provided, further, that the accused member shall have been notified in writing of the charge or charges against him at least fifteen (15) days in advance of such public hearing; and provided,

further that he or his counsel shall have been given an opportunity to be heard, and examine witnesses appearing in support of such charge or charges.

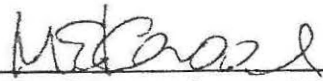
The decision of Council in expelling or removing a member of Council after compliance with this section shall be final and thereupon the office of any such removed or expelled member of Council shall be vacant.

CHARTER OF THE MUNICIPALITY OF BRECKSVILLE, OHIO

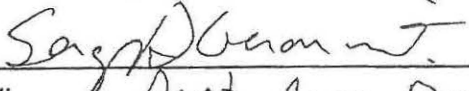
SERVICE OF NOTICE:

THIS NOTICE OF CHARGE READ INTO THE PUBLIC RECORD AND ORDERED TO BE DELIVERED TO COUNCILPERSON JOHN (JACK) PETSCHER THIS 16 DAY OF June, 2020.

City of Brecksville


Michael Harwood, Council President

THIS NOTICE OF CHARGE PERSONALLY SERVED UPON COUNCILPERSON JOHN (JACK) PETSCHER THIS 16 DAY OF June, 2020.


By: Asst. Law Duerksen