

CITY COUNCIL

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TAMMY TABOR, CLERK

MINUTES

Council Committee Meetings

September 17, 2019

Present: Council President M. Harwood, Councilmembers L. Carouse, J. Petsche, L. Redinger, D. Rose, K. Veras, Mayor Jerry N. Hruby, Law Director D. Matty, Assistant Law Director S. DiGeronimo, Engineer G. Wise, Finance Director L. Starosta, Fire Chief N. Zamiska, Police Chief W. Goodrich, Purchasing Director R. Riser, C.B.O. S. Packard, Service Director R. Weidig, J. Mitchell, Brecksville Magazine, Clerk of Council T. Tabor. Councilmember Broski arrived at 7:00 P.M.

Absent: None.

Buildings & Grounds Committee

Chairperson - K. Veras

Committee members - L. Carouse, L. Redinger.

Chairperson Veras called the meeting to order at 6:02 P.M.

Roll Call – Present: Carouse, Redinger, Veras.

Absent - None.

Approval of the September 3, 2019 Buildings & Grounds Committee meeting minutes.

Motion by Veras, seconded by Carouse, to approve the, September 3, 2019 Buildings & Grounds Committee meeting minutes as presented. Ayes: Carouse, Veras, Redinger. Nays: None. Motion carried 3-Ayes, 0- Nays.

Councilmember Veras said a request has been submitted for AF Brock & Co. in the amount of \$3,356.94 for a new gas meter to be installed at 4450 Oakes Road, Building #7 at Blossom Hill. Service Director Weidig said as the buildings are leased, each building will have its own, utility meter. Building No. 7 is the last building needing a gas meter.

- Motion by Veras, seconded by Redinger, to recommend to Council approval of a Purchase Requisition to AF Brock & Co. in the amount of \$3,356.94 for a new gas meter to be installed at 4450 Oakes Road, Building #7 at Blossom Hill. A \$500 contingency amount for hose fittings and pipe is requested as well. The aggregate amount for approval on this project is \$3,856.94. *Account #110161 2603*. Ayes: Carouse, Veras, Redinger. Nays: None. Motion carried 3-Ayes, 0- Nays.



Police Station: Councilmember Veras said the opening and dedication of the New Police Station was held on September 14th. Councilmember Veras said the event was very nice and the building is beautiful.

Adjournment: Motion by Veras, seconded by Redinger, to adjourn the Buildings & Grounds Committee at 6:05 P.M. Ayes: Carouse, Redinger, Veras. Nays: None. Motion carried 3-Ayes, 0-Nays.

Finance Committee

Chairperson - Laura Redinger

Committee members - L. Carouse, D. Rose.

Chairman Redinger called the meeting to order at 6:06 P.M.

Roll Call – Present: Carouse, Rose, Redinger.

Absent - None.

Approval of the September 3, 2019 Finance Committee meeting minutes.

Motion by Redinger, seconded by Rose, to approve the September 3, 2019 Finance Committee meeting minutes as presented. Ayes: Carouse, Redinger, Rose. Nays: None. Motion carried 3-Ayes, 0-Nays.

Fund Transfers: Councilmember Redinger said the third quarter transfers have been submitted by the Finance Director. Councilmember Redinger said the requests for fund transfers are typical.

- Motion by Redinger, seconded by Carouse to recommend to Council approval of a Resolution authorizing the transfer of funds for the fiscal year ending December 31, 2019. Ayes: Carouse, Redinger, Rose. Nays: None. Motion carried 3-Ayes, 0-Nays.

Communications Purchase Order Increase: Councilmember Redinger said the IT Department has requested increases to Blanket Purchase Orders for AT&T Landlines and Time Warner Cable-Northeast for Cable & Internet Service. Purchasing Director Riser said as the end of the year approaches adjustments will be needed to existing purchase orders. Carolyn Jatsek provided a memo detailing the requested changes for phones and internet services.

- Motion by Redinger, seconded by Carouse, to recommend to Council an increase to Blanket Purchase Order #BL199509 in the aggregate amount of \$4,700.00 for the AT&T Land Lines for the following accounts:

Brecksville Center for the Arts	Account #110163 2951	\$1,300.00
Human Services	Account #110330 2951	\$900.00
Community Center	Account #240710 2951	\$2,500.00

Ayes: Carouse, Redinger, Rose. Nays: None. Motion carried 3-Ayes, 0-Nays.

(Finance Committee, Continued)

- Motion by Redinger, seconded by Carouse, to recommend to Council an increase to Blanket Purchase Order #BL199503 in the aggregate amount of \$2,650.00 to Time Warner Cable-Northeast for the City's Cable & Internet Services for the following accounts:

Human Services	Account #110330 2951	\$1,000.00
Community Center	Account #240710 2951	\$1,300.00
City Hall	Account #110166 2951	\$350.00

Ayes: Carouse, Redinger, Rose. Nays: None. Motion carried 3-Ayes, 0-Nays.

Salary Continuation: Councilmember Redinger said a request was made for salary continuation for a Service Department Employee injured on the job. Councilmember Redinger asked what date the employee is expected to return. Mayor Hruby said the expected date of return to work is October 15, 2019. Mayor Hruby said this is the final extension for this employee.

- Motion by Redinger seconded by Rose, to recommend to Council salary continuation for Service Department Employee Phillip Helman. Ayes: Carouse, Redinger, Rose. Nays: None. Motion carried 3-Ayes, 0-Nays.

2017 Delinquent Taxpayer Program: Councilmember Redinger said the delinquent taxpayer program is done every other year. The program is used to collect delinquent funds. Councilmember Redinger said the previous 2016 review was able to recover approximately \$174, 000.00 in tax liability.

- Motion by Redinger, seconded by Carouse to recommend to Council approval of a Purchase Requisition to the Regional income Tax Agency (RITA) in the amount of \$11,120.00 for the 2017 Taxpayer Delinquency Programs. A memo from the Income Tax Administrator is provided for Council's review and consideration. *Account #110145 2122*. Ayes: Carouse, Redinger, Rose. Nays: None. Motion carried 3-Ayes, 0-Nays.

Adjournment: Motion by Redinger, seconded by Carouse, to adjourn the Finance Committee meeting at 6:13 P.M. Ayes: Carouse, Rose, Redinger. Nays: None. Motion carried 3-Ayes, 0-Nays.

Legislation Committee

Chairperson- Dennis Rose

Committee members - J. Petsche, K. Veras

Chairperson Rose called the meeting to order at 6:13 P.M.

Roll Call – Present: Petsche, Veras, Rose.

Absent- None.

Approval of the September 3, 2019 Legislation Committee meeting minutes.

Motion by Rose, seconded by Petsche, to approve the September 3, 2019 Legislation Committee meeting minutes as presented. Ayes: Petsche, Rose, Veras. Nays: None. Motion carried 3-Ayes, 0-Nays.

(Legislation Committee, Continued)

Adjournment: Motion by Rose, seconded by Veras, to adjourn the Legislation Committee meeting at 6:14 P.M. Ayes: Petsche, Veras, Rose. Nays: None. Motion carried 3-Ayes, 0-Nays.

Safety-Service Committee

Chairperson- Louis Carouse

Committee members- G. Broski, K. Veras

Chairperson Carouse called the meeting to order at 6:14P.M.

Roll Call – Present: Carouse, Veras.

Absent: Broski.

Approval of the September 3, 2019 Safety-Service Committee meeting minutes.

Motion by Carouse, seconded by Veras, to approve the September 3, 2019 Safety-Service Committee meeting minutes as submitted. Ayes: Carouse, Veras. Nays: None. Motion carried 2-Ayes, 0-Nays.

Police Department Ammunition Purchase: Councilmember Carouse said an Ordinance has been prepared for tonight authorizing the purchase of ammunition. Police Chief Goodrich said this is for practice ammunition and duty ammunition. Mayor Hruby said Range Officer Coleman is in attendance if there are any questions. Councilmember Carouse asked if there were any changes with the new firing range. Police Chief Goodrich said no, weaponry is still the same. Council President Harwood asked if other members of the Chagrin Valley Dispatch will be utilizing the range and possibly assist in funding operating costs. Police Chief Goodrich said there may be a user fee, each City would be responsible for their own ammunition and equipment. Councilmember Redinger asked what the schedule is for staff moving into the new facility. Police Chief Goodrich said the moving has begun. The entire department should be operating in the new building by mid-October.

- Motion by Carouse, seconded by Veras, to recommend approval of an Ordinance authorizing the purchase of ammunition for use by the Police Department from Vance's Law Enforcement and Kiesler Police Supply, Inc. through the State of Ohio Administrative Services Purchasing Program in the aggregate amount of \$18,604.00 for the annual purchase of duty and practice ammunition. *Account #110210 2209*. Ayes: Carouse, Veras. Nays: None. Motion carried 2-Ayes, 0-Nays.

Adjournment: Motion by Carouse, seconded by Veras, to adjourn the Safety-Service Committee meeting at 6:17 P.M. Ayes: Carouse, Veras. Nays: None. Motion carried 2-Ayes, 0-Nays.

Streets & Sidewalks Committee

Chairperson Gerald Broski

Committee members J. Petsche, L. Redinger.

Vice-Chairperson Redinger called the meeting to order at 6:17 P.M.

Roll Call – Present: Redinger, Petsche.

Absent: Broski.

(Streets & Sidewalks Committee, continued)

Approval of the September 3, 2019 Streets & Sidewalks Committee meeting minutes.

Motion by Redinger, seconded by Petsche, to approve the September 3, 2019 Streets & Sidewalks Committee meeting minutes as presented. Ayes: Petsche, Redinger, Nays: None. Motion carried 2-Ayes, 0-Nays.

Engineer's Report: Engineer Wise reported the S.R. 82 Widening Project with Broadview Heights is continuing with night work. The stormwater and hydrant extensions are currently being done to run the lines from the north side to the south side of the street. The contractor expects to install temporary pavement and change the traffic pattern to cross over the roadway. The south side of the roadway will be closed over the winter to allow work to be done on that roadway.

Council President Harwood said at the previous meeting a resident had a question was asked about Miller Road. The resident sent a thank you to Council, that issue was resolved. Regarding the Tanager Trail Slope Slippage Project, is there a timeline for that project? Engineer Wise said that project is scheduled for inclusion in the budget for next year. If the project went out for bid currently, it is expected to cost more, since the demand is higher right now for paving companies. Engineer Wise said the bid would go out in winter for spring construction. Council President Harwood asked if there is a time line for the work to be completed. Engineer Wise said approximately a month.

Council President Harwood said he received a call asking about the S.R. 82 road condition. Council President Harwood said he explained that the Sanitary Septic Conversion Project is scheduled to begin next year and the road paving project would be done after that, they will be two separate projects. Service Director Weidig said the Service Department has been doing some partial depth paving on S.R. 82. In the area of West Snowville to Barr Road is currently being worked on. Some repairs will also be done between Riverview and Parkside.

Adjournment: Motion by Redinger, seconded by Petsche, to adjourn the Streets and Sidewalks Committee meeting at 6:22 P.M. Ayes: Redinger, Petsche, Nays: None. Motion carried 2-Ayes, 0-Nays.

Utilities Committee

Chairperson Jack Petsche

Committee members G. Broski, D. Rose

Chairperson Petsche called the meeting to order at 6:22 P.M.

Roll Call – Present: Petsche, Rose.

Absent: Broski.

Approval of the September 3, 2019 Utilities Committee meeting minutes.

Motion by Petsche, seconded by Rose, to approve the September 3, 2019 Utilities Committee meeting minutes as presented. Ayes: Petsche, Rose. Nays: None. Motion carried 2-Ayes, 0-Nays.

(Utilities Committee, continued)

Chippewa Rd. Calvin Drive Sanitary Sewer Project: Engineer Wise said the final plans for the Chippewa Road Calvin Drive Sanitary Sewer Project will be needed. Detailed plans, specifications, and contracts are needed. It has become necessary to expand the scope of the project to include the north side storm sewer. Due to the age of the system, as it has been filmed by the County, the condition will continue to deteriorate. Engineer Wise advised Council that there will be additional costs added to the project to include replacing the storm sewer. Approximately \$300,00.00 – \$310,000.00. Additional grant money has been requested to assist our residents.

- an increase to the Purchase Requisition to Donald G. Bohning and Associates, Inc. in the amount of \$41,550.00 for the Chippewa Road and Calvin Drive Sanitary Sewer Project.

Adjournment: Motion by Petsche, seconded by Rose, to adjourn the Utilities Committee meeting at 6:32 P.M. Ayes: Petsche, Rose. Nays: None. Motion carried 2-Ayes, 0-Nays.

Committee of the Whole Meeting: Motion by Harwood, seconded by Carouse, to convene a Committee of the Whole meeting at 6:32 P.M. Ayes: Ayes: Carouse, Harwood, Petsche, Redinger, Rose, Veras. Nays: None. Motion carried 6-Ayes, 0-Nays.

Approval of the September 3, 2019 Committee of the Whole meeting minutes. Councilmember Petsche said he has some items that he would like corrected in the minutes. Motion by Rose, seconded by Redinger, to table the September 3, 2019 Committee of the Whole meeting minutes. Ayes: Carouse, Harwood, Petsche, Redinger, Rose, Veras. Nays: None. Motion carried 6-Ayes, 0-Nays.

Follow up discussion concerning Councilman Petsche's past contract activities for the City of Brecksville projects:

Council President Harwood: Next is the follow up discussion concerning Councilmember Petsche's past contract activities for the City of Brecksville projects. So, just, I'm assuming people in the audience are here for this evening. We have had multiple Council meetings in regards to this discussion. At the last Council there was an agenda item for that, there was members of the public that came and spoke. Again, to start, that we have some items underneath this topic that we need to go through as a Council. We will at the end leave it open for questions or discussion. But we will keep it brief because it looks like, I can't say that everyone has been here before but, we have had this discussion at multiple Council meetings. And so again, I apologize with respect to everybody here though, we meet every other Tuesday our Committees and every other Tuesday for Council on these discussions we sometimes we have to rehash this and I would like rather not have to do that. So we will stick to the facts for this evening. So first Dave (Law Director Matty) if you could run through what the State Law is and the local Charter is and I know that you have sort of pointed this out in multiple meetings. But if you could run through those and what the differences are between the two for Council's benefit.

Law Director Matty: Yes Sir. Mike, if I may, first since I was notified by Tammy or through Tammy late in the day today I want Council to understand that today I was given a letter through Tammy, because the lawyer did not have my correct e-mail, a letter came to me today: Dear Mr.

Matty, I have been retained by Brecksville City Council member Jack Petsche in connection with the suggestion made by certain other Councilmembers at the September 3, 2019 meeting that removal proceedings may be instituted against Mr. Petsche under the City Charter in connection with a contract performed by Mr. Petsche's company, USA Roofing, on the city's Police Station. I notified council publicly of this because I'm not so sure you all had chance to see your e-mail since this came to me at 4:45 this afternoon. I simply want you to know that there has been an attorney retained by Mr. Petsche. Now Mr. Harwood, in response to your direction let me first give all of Council and for members of the audience, both the Ohio Law and what I will call the Brecksville Local Charter and Administrative Law. Under Ohio Law there is a section of the Revised Code. It is section 2921.42 and the title of it is Having an Unlawful Interest in a Public Contract, Section A of that ORC Section reads as follows: and I will just read the pertinent parts to the discussion that's been held over the last three Council meetings, No Public Official shall knowingly do any of the following:

1. Authorized or employ the authority or influence of the public official's office to secure authorization of any public contract in which the public official is a member of, the public officials family or any of the public official's business associates has an interest.
2. Section 4: Have an interest in the profits or benefits of a public contract entered into by, or for, the use of the political subdivision or governmental agency or instrumentality with which the public official is connected. Now there is an exception. There's an exception to this provision 4. An unlawful interest in a public contract that is found in ORC 2921.42 (C) and that reads as follows: This section does not apply to a public contract in which the public official, member of a public officials family or one of the public officials business associates has an interest when all of the following apply: There are four provisions which all must apply.

1. The subject of the public contract is necessary supplies or services for the political subdivision or governmental agency or instrumentality involved.
2. The supplies or services are unattainable elsewhere for the same or lower cost or are being furnished to the political subdivision or governmental agency or instrumentality as part of a continuing course of dealing established prior to the public officials becoming associated with the political subdivision or governmental agency or instrumentality involved.
3. The treatment accorded the political subdivision or governmental agency or instrumentality is either preferential to or the same that is afforded other customers or clients in similar transactions; and finally
4. The entire transaction is conducted at arm's length with full knowledge by the political subdivision or governmental agency or instrumentality involved of the interest of the public official, member of the public officials family, or business associates and the public official takes no part in the deliberations or decisions of the political subdivision or governmental agency or instrumentality with respect to the public contract. Now there has been some discussion as to what is a public contract. Public contract is defined in ORC 2921.42 (1)(a) and (b)

and this reads as follows: as used in this section public contract means any of the following;

- a. Section (a) The purchase or acquisition or a contract for the purchase or acquisition of property or services by, or for, the use of the state, any of its political subdivisions, or any agency or instrumentality of either including the employment of an individual by the state, any of it's political subdivisions or any agency instrumentality of either and
- b. A contract for the design, construction, alteration, repair, or maintenance of any public property.

The other Ohio Revised Code Section that may come into this discussion is ORC 102.03 section D it reads as follows: A public official is prohibited from taking any action formally or informally to secure a thing of value if the thing of value could manifest a substantial and proper influence on a public official with respect to that person's duties. That prohibition includes discussion, deliberating, or taking any action as a city official on any matter involving his business. That would be the State code sections that may apply to this situation. The local Brecksville sections that apply are as follows: one is in the Charter and one is in the Administrative Code. The Brecksville Charter in Article 4, Section 2: The Council and the qualifications of its members reads as follows: And the word "he" at the beginning means Councilman. It reads: 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. The Brecksville Administrative Code Section 121.01, Rules of Council read as follows:

Section (A) Duty to vote. No members shall vote on any question involving his personal or financial interest or personal or private rights. The final section of the Brecksville local provision is in the charter as far as Article 4 Section 4 on removal. The Council shall be the judge of the election and qualification of its own members. It may expel or remove its own members for gross misconduct, or malfeasance or non-feasance 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 consecutive Council meetings provided however that such expulsion or removal shall be upon concurrence of five 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 15 days in advance of such public hearing and provided further that he or his Council shall have been given an opportunity to be heard, present evidence 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 the section shall be final and there upon the office of such removed or expelled member of Council shall be vacant. Since the issue of the Ohio ethics Commission was raised by Mr. Petsche at one of the last meetings, and I can't remember which one, there are also Ohio Ethics Commission Advisory Opinions with certain holdings. One is Ohio Ethics Commission Advisory Opinion 2000-02 and that ethics opinion supports ORC 2921.42 and ORC 102.03 in the prohibition of a public official taking part in the deliberations or decisions with respect to his company's contract. there is also in that there is also an advisory opinion 2002-02 and that includes prohibitions including discussing, deliberating, voting, recommending, or taking any action as a city official on any matter involving his business and using the public position or authority in any way to secure a benefit for his business. The Ohio

Ethics Commission has held that a public official has been deemed to profit from a public contract where;

1. The proceeds from a public contract would be used to compensate the public official; or
2. The public official would otherwise profit from the award of the contract.

So, as a basic summary that would be the Ohio law that I can give Council that is relevant to this issue. Thank you.

Council President Harwood: So, any questions from Council in regard to that?

Kim (Councilmember Veras), do you have any questions on that? Dennis (Councilmember Rose) do you have any questions?

Councilmember Rose: No questions

Harwood: Lou (Councilmember Carouse)?

Councilmember Carouse: No questions.

Council President Harwood: Laura (Councilmember Redinger)?

Councilmember Redinger: No.

Council President Harwood: So as far as the next pieces for all of Council and individuals, whether we all want to make sure that we know the facts to be now. Clearly there is the investigation and Jack you had mentioned that you were interviewed in May and June and I think that Council should discuss what we all believe because there's been a number of meetings and everybody's sort of chimed in and Dave (Law Director Matty) you've given comments. Councilman Petsche's responds to those. Council's asked but I think we all need to clearly understand the facts to this so I would open it up to Council, if you have questions or Dave (Law Director Matty) if you want to identify the facts from the subpoena or whatever information that you can share. I don't know what you can share or not. But if Council wanted to ask any questions I think we should do that at this point. The floor is open to anybody that wants to ask any questions.

Council President Harwood: Kim, (Councilmember Veras) did you have anything?

Councilmember Veras: Well, I think we talked about it and talked about it. It's pretty clear, in light of what's come to our attention repeatedly, Jack's (Councilmember Petsche) pattern of activities, and the Law Director just read all the laws and our Charter, his actions seem to be contrary to that. I was wondering, Jack, if maybe you might think it would be in the City's best interest to not put the City through anything more maybe you might consider resigning from Council.

Councilmember Petsche: Well I'd appreciate the opportunity to say a few words to urge this Council against instituting removal proceedings against me. It's clear the Charter provisions at issue are intended to prohibit Brecksville's public officials from using their government positions to benefit themselves, and I certainly agree with this intent. However, I didn't do that. But here it's also clear that my position on City Council had nothing to do with my company performing this work on the Police Station. To the contrary, my company was hired as a subcontractor for this job by the general contractor before I was ever elected to Council and my company was only hired after we responded to a request for proposals, by submitting a competitive bid for the work. By the time I was elected to Council, my company was already contractually obligated to perform on this contract. As it is, it should be clear for all of Council and the public that no harm was caused by my company completing this job for which we were the low bidder, on a bid that was accepted before I was elected to Council. Thus I ask my colleagues on the Council to consider that the Charter provides for removal in the case of gross misconduct, malfeasance, or nonfeasance in office. Here it's clear enough that there is no such misconduct, malfeasance, or nonfeasance issue here. Let alone, that any such conduct could be considered gross or excessive. While I question whether Council could lawfully resort to the charge, removal provisions under these

circumstances. For present purposes, it should be noted that under the Section 4 of the Charter it is wholly within Council's discretion to decide whether to pursue removal. That is Section 4 is clear the Council may, but need not, institute removal proceedings when circumstances warrant. If Council does decide to seek removal here, despite the absence of any wrong doing, and despite the absence of any harm to the city, it would be an affront to the Brecksville citizens who elected me to this Council. It would also invite the inference that removal proceedings have been instituted for improper political purposes. It is my hope and expectation that my colleagues on this council would wish to avoid such needless waste of time and resources and I am confident that this sentiment would be shared by the public that elected me to this office. Thank you.

Council President Harwood: Thank you Jack. Dave (Law Director Matty), as far as the contract do we need to; I know you've responded to that in the past, and what Jack (Councilmember Petsche) said his contract date and everything. I don't know if that...

Law Director Matty: I don't know I'll give Council the dates that I believe I mentioned before and as it relates to only the Police contract. That is only one issue that we're facing in this unfortunate situation and that is the information that I have been part of having to review. It indicates the following dates and I will only cite the appropriate dates to my knowledge as far as the police subcontractor contract. I won't cite all of the information because that's not necessary here this evening. But the information that I have indicates that there was a proposal or a roof proposal submitted in June 2017 there was a rebid proposal submitted in August of 2017 and the actual contract as represented by Mr. Petsche was signed by him on December 7, 2017. After the election and after the Board of Elections certification of his victory as a Councilman.

That contract that he signed was not signed by Panzica Construction until January 8, 2018, six days after he took the oath of office for his position. That is the information I have on the contract. based on that same contract the information I have thereafter as it relates to Mr. Petsche's activities show at least, as far as the documents that I have reviewed, indicate that in July 2018 and August 2018 which would be six or seven months after he was elected to office, Mr. Petsche himself submitted a change order to Panzica Construction for, and I will give you an approximate amount, \$4812.00. That change order request for additional funds was reviewed by Panzica and Panzica Construction determined that it would not pay that change order for \$4812.00. But through negotiation between Panzica Construction and Mr. Petsche, that change order was reduced to \$2406.00 which Panzica agreed to, based on negotiation with Mr. Petsche. That is the information that I have on the contract and the change order pursuant to the contract and the approximate dates of those occurrences.

Council President Harwood: Thank you, Dave (Law Director Matty).

Councilmember Petsche: I would like to add to that my company had committed in August to the contract amount in September the city received a change order, I believe an amendment to the contract which this council before I was on Council voted on and approved listing USA as the subcontractor for the amount of the contract so I was committed or rather Panzica was committed the general contractor was committed as the subcontractor I was committed as of September to perform for that amount. Once there is an offer, which is what a bid is, and an acceptance that's when the contract is formed. The contract was really formed in August or September of 2017 prior to me being elected. That is the law, construction contract law. Once there has been an offer and acceptance you have a contract.

Council President Harwood: You don't need a signed contract by both parties?

Councilmember Petsche: No.

Law Director Matty: You do need a signed contract by both parties Mr. Harwood. But since Mrs. Veras raised the issue, I do want Council to understand when she used the term “the pattern of conduct.” that is exactly what we have here. Because lo and behold, in May of this year when this Council was considering the Aquatic Center bid and the Aquatics Center Improvement that you have since authorized to be made. When this city opened up those bids in May of this year, the information that I have received through this investigation is that, after those bids were open Mr. Petsche again solicited the roofing contract this time from Seitz Builders and it wasn’t until, and no one on this Council and this Mayor and this Law Director did not know that that was occurring, we received on that project, the preliminary list of subcontractors. And lo and behold USA roofing was on that preliminary list without knowledge by anybody here. And instruction had to be given to our Purchasing Director to inform Mr. Seitz that that subcontractor would not be a contractor that the City would approve. The removal of that contractor was done with the notification to Mr. Seitz that a new roofing company, and I can’t remember the name of it, a new roofing company would be employed to do the roof on the new Aquatic Center. That scenario fits under the same laws that I cited for the Police Station. So when Mrs. Veras refers to a pattern of conduct that’s what she is referring to, I believe. At least that’s how I took it, and Mrs. Veras you can confirm or deny that, but the situation there was even worse because there was a solicitation while he was in office. Not before he was in office for the roofing sub-contract of that project. Now we were fortunate to receive that in advance of any subcontractor approval. Which we had a right to in that scenario. We did not have the same right in the first contract because as you know, Mr. Harwood, that was a construction manager at risk contract and Panzica took care of all of that. We had a choice to make. Do we allow this conduct to continue or do we make the hard choice and follow the law? Which is what we did and we took, we the City took USA Roofing off that preliminary list.

Council President Harwood: So for the Public’s record to what Dave (Law Director Matty) is talking about is that the CM (construction manager) at risk is a different. The aquatics facility was publicly bid where there was a bid opening at City Hall everybody’s bid is open and the low bidder is chosen. It’s a completely different delivery method for the project. Just for a point of clarification.

Law Director Dave Matty: And Mr. Harwood I do not think I need to get into the discussions and deliberations and the votes of Mr. Petsche in the interim on the financing issues for the Police Station. Because you were all there and you all participated in that. And you saw Mr. Petsche participated in that. However, you were unfortunate in that you did not know that part of what you were approving financially was one of his contracts over there. You did not know that, and I do realize that I confirmed that in the past. But I do want that at least be of record so that you can go back and look at the minutes if you wish.

Council Member Petsche: That is incorrect because I told Laura and Mike prior to bidding, voting for the Seitz contract that I had bid on the contract.

Council President Harwood: No, that is false. That is not true. Laura, I’ll take care of that. What happened at that meeting that is why we had to have a special meeting after the parade. What happened at that meeting is we were voting for the Seitz contract.

Councilmember Petsche: Right, right, right.

Council President Harwood: Let me finish, let me finish, Jack.

Councilmember Redinger: You told me you were having discussions with Seitz.

Council President Harwood: Wait, wait stop. What you said after the Council meeting because the vote was screwed up we had to set a special meeting to re-vote it because the vote was screwed

up. You voted yes for suspension and then you abstained for the vote to pass. After the meeting you came down to me and apologized and said "Mike I'm sorry I screwed that up. I bid to Seitz and I'm in the process of negotiating a contract." I asked the Law Director to come down and for you to state that to him. You repeated it. Dave (Law Director Matty) told you to get legal representation.

Councilmember Petsche: Right.

Council President Harwood: And that's when we found out about it for me. Then at the special meeting, following the parade, you informed Laura why you weren't attending the meeting. And you said that you bid that project. So that's how that was told.

Councilmember Petsche: Right.

Councilmember Redinger: You said you were having a discussion you didn't say "I bid" you didn't say specifically I bid the contract.

Councilmember Petsche: Well I thought that I did. But clearly if I'm in discussion I bid.

Councilmember Redinger: But why didn't you tell us in advance of bidding that you were bidding on this? This transparency, Jack.

Councilmember Petsche: Because Laura I didn't know the rule. I thought it would be OK. I'm sorry I did not know the rules. Really, what was the harm, what was the harm? There was no harm because the City undid it. And I withdrew my bid as well before I knew the City undid it.

Council President Harwood: No no, It's disclosure and I'm sorry to say you talk, and I hate to say this word again...

Councilmember Petsche: I'm disclosing now, but I didn't know the rule at the time, Mike, and I wasn't hiding it. I talked to you about it, I talked to Laura about it.

Council President Harwood: Ok so wait a minute, for a quick point of clarification, so we went through the Four Seasons issue you saw that the Law Director made Councilman Veras and myself leave every single discussion. We couldn't even be in the room. We couldn't be in executive session. We couldn't be in the room anytime that was discussed. There was probably over five or six meetings that were held in discussions for that, plus more that we had to leave the room. And the Law Director explained to everyone why that has to happen. So for all the discussions on the Police Station, whether it be for contracts, whether it be for anything that was going on over there. Anytime the administration gave an update in Buildings & Grounds you never left the room.

Councilmember Petsche: That's not true. Dennis and I stood out here.

Council President Harwood: Nope, that was way after the fact, Jack. Way after the fact.

Councilmember Petsche: But did I vote on the thing to put a dime in my pocket? No, I did not.

Council President Harwood: You cannot be in the room during the discussions.

Councilmember Petsche: I did not vote on a thing that put a dime in my pocket.

Council President Harwood: You voted to increase the GMP to Panzica.

Councilmember Petsche: Yeah, for gabion baskets and for the dispatch center.

Council President Harwood: No, no, no. There was an RFC log that had over (45) items that were part of that.

Councilmember Petsche: Dennis did too. No, no, no. There were four items, look at it. There were four items on that GMP.

Council President Harwood: That's not true.

Councilmember Petsche: Well, there were.

Council President Harwood: That's not true there was a log of, how many issues, Dave?

Law Director Matty: For the record Mr. Harwood, for the record, any issue that Mr. Petsche voted on that is not pertinent to either his contract or the financing of that Police Station, which we know

that is the way that the city mortgages a project. It would be like my house, I go get a mortgage so I can buy that house. Those are the pertinent votes that are at stake here and those are the pertinent votes where Mr. Petsche errored. In April of 2018 he voted authorizing the sale of Notes. In May of 2018 he voted for the sale of Bonds. Again those two votes are the most concerning of all the votes and any deliberations on those police contracts. That is, voting so that we can have the money to do those projects. Part of that money was paid to Mr. Petsche through Panzica for his subcontract totaling to date at \$145,000.00. Those are the relevant votes that we have to be concerned with.

Council President Harwood: And Jack so the issue too is that when you state political, that it's a political thing for example, we meet every other Tuesday for City Council. Those meetings are published they are up in front. We receive, as Council Representatives, our package with every agenda the Friday before the meeting. So you didn't inform anyone on Council that any of your intentions to run for another office. You sent your petitions in the day of a City Council meeting that was already scheduled on an agenda that was issued on the Friday before. You knew on that agenda that there was an issue on there that had to do with the Police Station, which was Perspectus' contract increase. So you knew well in advance that that was going to be on that Tuesday meeting.

Councilmember Petsche: No, I was not mindful of that.

Council President Harwood: You have your package

Councilmember Petsche: Right it comes on Friday.

Council President Harwood: Right, Council Meeting is next Tuesday.

Councilmember Petsche: Right.

Council President Harwood: So you didn't read it?

Councilmember Petcher: I did read it and I called Mr. Matty on whether I should recuse that day and he didn't call me back and then I was attacked at this meeting that day.

Council President Harwood: No, no, no. That's the farthest from the truth.

Councilmember Petcher: Yes, I was.

Council President Harwood: That's nonsense.

Councilmember Petcher: That's what happened.

Council President Harwood: What happened is, we asked you "Why are you voting that way?" and you didn't have an answer. And we asked, "Why are you abstaining?" because your voting record you had in the past you already voted to increase Perspectus' contract so why would you be abstaining. There is no after what happened for the Aquatics Facility when we had to table everything, set a special meeting because you didn't know what you were voting for and so now you had a vote that evening. You didn't know how to handle it. You were actually going to vote yes and then we explained that it would affect Panzica's contract because the administration was potentially going to negotiate with Panzica to repay some of that. So then you had to stay in that evening and when we asked why is your voting record why don't you know what you're voting for in this case and then you told us that you're, you had punchlist items. And you are the roofing contractor at the Police Station. That's what happened that evening.

Councilmember Petcher: No.

Council President Harwood: That is not political, that was your job as well as all of ours. We have to do business for the City that Tuesday's City Council meeting required that action.

Law Director Matty: Mr. Harwood if I may. Because I do not want this record to reflect that Mr. Petsche was being treated by the Law Director any different than any other member of this Council. This Council knows that in advance of that August meeting, I had made a request to every Council member to please tell me or tell my assistant, Mr. DiGeronimo, if you were not going to be able

to vote on an issue because of the issue that you talked about, Mr. Harwood. Where we had to reconsider a vote due to the fact that I did not know that two members of this Council could not vote and then Council couldn't proceed. So let's make sure the record is accurate. Mr. Petsche called me on the Friday before the Council meeting at issue and left me a message, as I had requested of Councilmembers, please notify me whether or not or when you are going to abstain from an issue. There was no reason for me to call Mr. Petsche back because he followed my request and I knew we had one Councilmember that would not be able to vote on that issue. What happened at that next meeting was when Mr. Petsche abstained, Council and I had to have him explain why he was abstaining from that architect's contract. Which for the audience, is an extension of ten months, which causes us over \$100,000.00 in costs for punchlist items. Items that are not correct on the Police Station. And for the first time at that meeting the first time in this two-year endeavor, that we've had to go through for the first time when I questioned or someone else question Mr. Petsche why he was abstaining and this Council has the right to that question because of the section on voting in your rules, he stated for the first time in two years, to this Council, that he had punchlist items. And I forget if it was Mr. Broski or someone on that side of the room, who said "How could you have punchlist items on the Police Station?" And for the first time in two years he said, "I have the roofing contract at the Police Station." That's what the record should reflect. That is the accurate facts on what happened with that abstention of his and Perspectus Architects. So if we are going to talk facts we should talk the truth and exactly what happened in those meetings and if anybody has a recollection different than mine please speak up because I remember it that way.

Council President Harwood: That's actually what transpired. And the other thing is, for the last meetings we've talked, I have heard that we should have asked you more questions. We should have asked you repeated questions. That somebody else should have looked into it that. The Building Department should have told us that, the administration should've told us. Yet every other Tuesday we sit in these rooms for two years and you did not feel it was necessary to tell us.

Councilmember Petche: Mike, I thought the City knew.

Council President Harwood: No no. I'm not asking what the City knew. I'm asking for the other six people that work with you every single Tuesday making decisions for this City. You didn't think it was important enough to just tell us? You actually told me on the phone...

Councilmember Petche: I see now that it was. But at the time no, I didn't think so. It's what I do every day, it's my business. And you never talk about your business.

Council President Harwood: Because I was told by two Law Directors, well before Law Director Matty, you shouldn't even take a glass of water.

Councilmember Petche: I wish I would've been told.

Council President Harwood: You were told. We had a course when you and Dennis came on. A refresher course in which the Law Director told everyone about ethics and what can and can't be done. At that point we've already talked about this before, you should've raised your hand and said "Dave (Law Director Matty) I think we have a problem here,"

Councilmember Petche: Would you just like to cut to the chase here and...

Council President Harwood: Well you haven't answered Councilmember Veras's question.

Councilmember Petche: What was the question?

Council President Harwood: She asked if you were willing to resign and before you answer...

Councilmember Petche: I would like a chance to consult with counsel before I answer that question.

Councilmember Redinger: We're right here.

Councilmember Petche: No, I mean legal counsel.

Council President Harwood: So the other thing is before we do that, so Dave (Law Director Matty) and you are the only ones who would know that. Jack, have you heard from the Ethics Commission?

Councilmember Petcher: No.

Council President Harwood: Law Director Matty have you heard anything from the Ethics Commission?

Law Director Matty: The Ethics Commission, the only information I have from the Ethics Commission is from Mr. Petsche and some of his statements that he has made in the last three or four meetings. The Ethics Commission, to my understanding, is working under a particular statute under Ohio Law which keeps their involvement, which keeps the original complaint in this manner which keeps their involvement in their investigation completely confidential, and they will not disclose to anyone whether there is an investigation or there is not, and what the status of that investigation if there is one is, they will not disclose that. They are under State Law, their employees are under State Law, are prohibited from discussion of that matter with anyone. So the answer is no.

Council President Harwood: Jack you've not heard anything either.

Councilmember Petsche: No.

Council President Harwood: Because you said you were interviewed in May and June.

Councilmember Petsche: May or June, one interview.

Council President Harwood: Right, you didn't really declare what that was.

Councilmember Carouse: Mr. Matty just for a point of clarification, the Ohio Ethics Commission is independent of anything that we have to deal with in front of us as far as our Charter explains. Our Charter gives us the directions as to what happens in a situation like this which is independent from anything that the Ethics Commission might look into. Is that correct?

Law Director Matty: As I explained in one of the more recent meetings the Ethics Commission's procedure is set by Ohio Revised Code and is a procedure separate and apart from anything that this Council may or may not decide to do by Charter. This community has a Charter where the rules are actually set in place for this Council to either consider or not consider in this matter. So yes, Councilman, they are two separate paths. We do not, we being the city, do not control any of the process or the timing of the Ohio Ethics Commission. You only control or don't control depending on your decision what is in your Charter as it relates to the qualifications of a Councilman.

Council President Harwood: Anything else on that Lou?

Councilmember Carouse: No, I was just wanting to make sure that we understood that we were talking about two separate and distinct discussions here. One was ours to deal with and the other was outside of our control.

Council President Harwood: Did anybody else have any comments? I was going to open it up to the floor. So again I'll open it up to the public.

Councilmember Broski: I have.

Council President Harwood: Okay, go ahead, Councilman Broski.

Councilmember Broski: The questions presented to Mr. Petsche, he indicated, the question was tendered to Mr. Petsche by Councilman Veras, he indicated that he would prefer to have legal counsel before he makes a decision. Is there any kind of timing or limited timing in which this Council is involved to act on any removals or other?

Law Director Matty: Mr. Broski the only the only timing of this Council is if this Council issues charges against Mr. Petsche, then if this council were to do that you would do that through your

Clerk and through notice to Mr. Petsche and if this Council issues charges against Mr. Petsche, the soonest the hearing can be held is 15 days after his receipt of those charges. So the soonest the Council could address this would be 15 days after he has received notice of those charges there is no timeframe for this Council to consider whether or not charges should be issued, if that answers your question.

Councilmember Broski: Further on that, any charges that could be issued at a Council meeting would be done at a formal council meeting?

Law Director Matty: Yes, the discussion and presentation of charges could be done at a regular Council meeting or a special Council meeting. But as everything else in this process and everything else that I have tried to do at least from an explanation standpoint. My suggestion is you do it publicly so that there is not a limited number of Council members discussing something. It is all discussed publicly. That would be the way that would initiate the situation. Then unfortunately what happens is Council would have to have witnesses come before it to testify about their involvement in whatever conduct Council deems is what they want to investigate. And those witnesses would present to you the information that the City has or the City has had to participate in as to these charges. Mr. Petsche would then have, through his legal counsel, the right to his defense and the right to present his own evidence and cross examine the City's witnesses. Whoever those may be, depending upon what facts or charges you issue. And then Council needs then to make a decision. And if you decide, by a majority or super majority of five, the Charter reads that that decision is final. Whether it be for removal or not, that is up to this Council. That is what the Charter provides and I assume and the Mayor may or may know. But I assume, because of the way it is written that Mr. Grau put that in the Charter, my predecessor as far as these cities own contrast interest rules as it concerns qualifications of a Councilmember.

Councilmember Broski: And a question as far as timing is concerned with do respect to Mr. Petsche's request to seek Counsel whether he should resign or not. Can this Council establish a limitation of time that we would like to have a response as to whether he would choose to resign or not resign? Could we do that at a regular Council meeting?

Law Director Matty: Yes.

Council President Harwood: Dave, since Gerry (Councilman Broski) came in late, you didn't see the letter we received today.

Councilmember Broski: I just read through it now, yes.

Council President Harwood: Okay, so you just saw it, okay.

Councilmember Broski: So Council could in fact invoke a time limitation at tonight's regular Council meeting?

Law Director Matty: Yes, you can.

Councilmember Broski: Even though it's not on the agenda?

Law Director Matty: You can do that by a motion.

Councilmember Broski: By a motion. Thank you.

Council President Harwood: Anything else, Gerry? You're good?

Council President Harwood: Okay, so I can, so if anyone in the audience has a question.

Law Director Matty: If I just may before any of the members of the audience participate, so that the members of the audience understand, if this proceeding does go forward, it is in a public hearing. But, so you understand the residents would not participate in that public hearing. The residents can be in the facility here listening, but it would be a matter of Council questioning individuals about the facts. And then Mr. Petsche presenting his defense and/or his own pleading of the case. So that you all don't get involved with thinking that you are going to be able to ask

Mr. Petsche or Councilmembers questions at that time. That's not the public type of public hearing this would be. Just for your own information. Thank you, Mr. President.

Council President Harwood: Again, if you'd state your name and address, and first and foremost you need to be a Brecksville resident if you want to speak. So just to be clear on that.

Council President Harwood: (to audience member) This gentlemen right here, with the hat on.

David Pristash: I am a Brecksville resident since 1982 and I just have a short thing I'd like to read to Mr. Petsche. Not read, but talk about. In 1965, I graduated from college and very shortly thereafter I was drafted to the army and in that process they decided, for whatever reason, they wanted to make me an officer in the military. So I did and I went through the OCS class, six months of intensive training. During that process there was a thing we called quibbling. Quibbling was if you withheld or gave misleading evidence to the powers that be in the process, if that came to be, you were immediately removed from the class. That instilled in us that we must be honest in all our endeavors and never mislead anybody. I feel that that you did mislead us and I would assume as an attorney you must've had something similar. And I am very disappointed that you did that. That's it.

Mike: (To audience member) Yes Ma'am.

Ellen Kramer: I live on Sunstone Drive in Brecksville. I had emailed City Council about a week and a half ago. My question was, what damage has the City sustained as a result of these alleged ethical violations and Mr. Harwood you didn't answer my question.

Council President Harwood: I did respond to your email.

Ellen Kramer: You did respond to my e-mail but you didn't answer the question. You did reference a subpoena that the city had been served with.

Council President Harwood: Correct.

Ellen Kramer: Please know that I am an attorney and responding to a subpoena is not in any court of law in Ohio considered an element of damage. So you suggested that I show up at this City Council meeting. So I'm here and I'd like to ask the question again. I would like to know what damage the City has sustained by the alleged ethical violations. And if the answer which, from what I know and I certainly don't know every single fact, is the city hasn't been damaged. I'm just asking as a City resident if we could, it just seems to be a waste of time to be spending this much time discussing this issue, when the city hasn't been hurt by it. So I'm asking my question again to all the City Council members, what, what how has the city been injured by this alleged ethical violation?

Council President Harwood: So you're OK with the ethics in this situation, it's acceptable?

Ellen Kramer: I'm asking you a question.

Council President Harwood: That's what I'm asking, you said ethical.

Ellen Kramer: I said there is an alleged ethical violation that's being investigated.

Council President Harwood: So you don't think that we need to take our time to respond to that?

Ellen Kramer: I'm asking a question about what is damaged.

Council President Harwood: You said we're wasting our time and if the Law Director is wasting time. We have to respond to these items.

Councilmember Petsche: She's asking what monetary damage is done.

Ellen Kramer: What damage has the city sustained by this ethical violation if it in fact it occurred. How has the city been hurt?

Councilmember Rose: I was not going to speak in this whole situation is sad. However, I don't see anywhere in the Charter where it says you can have an interest in a contract if it harms the city and Mrs. Kramer I looked in the Charter where it says there has to be damage where it says if we have

the integrity of our Council, integrity of our charter, the integrity of our City, the integrity of our citizens. It's OK no harm no foul? Just tell me where it says no harm, no foul.

Ellen Kramer: Again, I'm asking you a question. If the answer is the city hasn't sustained any damage, then I just ask I am a constituent you represent me. I would just ask that maybe we spend our time as you guys are all busy. This is valuable time that you are spending and you could be solving real problems, things that have actually hurt the city. That's all that I have to say.

Council President Harwood: Thank you.

Councilmember Veras: Ma'am, with all due respect. There is only one person responsible for this situation and that's Councilman Petsche. That is why we're discussing this for weeks and months.

Ellen Kramer: Right, but you have the decision you can just move on Mrs. Veras.

Councilmember Veras: Move on?

Councilmember Rose: Why is no harm, no foul okay?

Ellen Kramer: You have the decision.

Councilmember

Councilmember Veras: We're talking about our Charter.

Councilmember Rose: That's what I don't understand.

Ellen Kramer: If that's how you feel that's how you feel. You represent me other among other people. I would ask that since there has been no foul that we try and move on.

Law Director Matty: Mrs. Kramer if I may to answer your damage question.

Ellen Kramer: Yes.

Law Director Matty: I realize that you are a member of the school board.

Ellen Kramer: Yes.

Law Director Matty: If the school board had a contract for a roof and the roof was leaking and incurred costs because the roof leaking was punchlist items and if the school board incurred costs which this council has for approximately one hundred thousand dollars to address those punchlist items would you consider that damage? Would you consider the expenditure to keep the architect on for ten months because of the punch list items damage?

Ellen Kramer: You know Mr. Matty you're not my City Council person.

Council President Harwood: No, he's the law director so he can respond.

Ellen Kramer: Right go to a school board meeting and asked me that question at a school board meeting when I am there with my other board.

Applause

Council President Harwood: Please, please.

Councilmember Petsche: There were literally hundreds of punchlist items and we had a couple leaks.

Council President Harwood: Jack OK fine.

Councilmember Petsche: Finding and we fix them so that contract was not left open because of roof leaks there were hundreds of punchlist items that had to be finalized.

Council President Harwood: Were there roof leaks?

Councilmember Petsche: There were a couple roof leaks.

Council President Harwood: Yes sir right here.

David Witt: Thank you for permitting me to speak here I want to speak first of all my personal context and what I characterize as the context of this government. My name is David Witt, I'm an attorney I work in the justice center in Downtown.

Council President Harwood: Your address sir.

David Witt: 9962 Gatewood. I've lived in Echo Hills since mid-1980s. Now the other context is

Mayor Jerry Hruby and Councilman Jack Petsche are my very good friends and so intensely friends that I have not advocated for one or the other and I have let the community determine that, but I want to say I have concerns about the context of the city Council as well as government here as well because I see the irony is that this may well be a déjà vu all over again. Now what do I mean by that? Well it was some years ago that Jack's wife saw the ballot issue on something called democracy day and that had a series of public meetings over a number of years and I'll focus on the question of whether wealth was determining the politics of the country or whether individuals were able to invoke and control it. Well the city rejected that, the law director rejected it, said there was no entitlement to a valid issue on that and council agreed there is no valid issue on that and that was in my opinion a defeat of democracy but more than that it was also the essentially the opinion of the Republican in Ohio Supreme Court who return that and permitted the ballot issue and in fact the community then has supported that democracy day issue. Now, and I understand that this is these facts are not completely associated with those, but I want to caution the council that I think with given the great ambiguity over this issue that it would be far better to simply permit the community to make its own determination, and you are free to criticize and free to praise, but I think to force Jack Petsche out of this. This would be seen as a defeat of democracy, so I'm wondering somewhat to the earlier issue I know you can disagree with me but I'm going to tell you it.

Council President Harwood: Please everybody, remember we're going to be respectful. Let Mr. Witt finish.

David Witt: That's it. Thank you for letting me speak.

Council President Harwood: Thank you. I think in the corner.

Applause

Council President Harwood: Name and address please.

Sandy Pear: I'm sorry, 7028 West Cross Creek Trail. Mr. Matty has spent a lot of time going over all of the rules all of the charges that the council has given to act in accordance with those rules. I am disturbed when I hear people say what harm did he do? Well, what harm did it do? Has anybody felt that there was harm was done?

Audience shouting

Council President Harwood: Wait, wait, wait.

Sandy Pear: Public trust, ethics, how about integrity? How about let's have some respect for the law and the law man here. I am a palled that as a lady who represents us as a lawyer, can stand here and say what harm was done. Well the harm that was done was that something was done that was not according to the law. Just think because you can't take that harm and put it in the bank doesn't mean make it right.

Council President Harwood: Please.

Sandy Pear: And I am uncomfortable because of all of us sudden these council people, including Mr. Petsche, have been putting forth a lot of time and discernment to make the proper decision. I think as a mom when I was teaching my children there are rules in this house. You either follow the rules or you live with the consequences. I don't think we do that anymore, and when we sit in a council meeting and say well what harm was done, where is our integrity? Where is our respect for each other? How do you continue to sit here and ask us to trust you if you don't have the courage to do what you know must be done? In the first place Mr. Petsche, I'm sorry, but you're putting this entire council and our city in a very difficult position. Now we've been involved in building for a long, long time and the one thing I know is until you put your name on a contract there ain't no contract. So when you say that you made a bid and they accepted your bid, yes you

had an agreement. An agreement is different than a legal contract, especially when fines are involved. I'm not an attorney but I know it takes much more than common sense and if you can't answer a question about the school board when somebody ask you a question that might be relatable, okay, I respect you for that, that you were honest, but let's all be honest about everything. There is a chart and it's called the rules and if you break the law in Brecksville, I'm going to get a ticket if I do something wrong or I'm gonna end up in front of the mayor or something because I have to stand up to the rule that I broke. And I think that if I had to do that and you had to do that and if you have to do that then we should all have to do that whether we have council name before our name or whether we don't, nobody is above the law and what's the harm? That's the harm. Thank you.

Applause

Council President Harwood: Thank you. Please.

Marilyn Thomas: I've spoken here before my name is Marilyn Thomas. I've been in Brecksville since 1988, I live in the Timbers. It's all about transparency, and perhaps he wasn't as transparent perhaps as he knows he should have been, but the council is guilty itself for not being transparent. You voted, you voted into a fact and increases in employment tax. You changed everything that was going to happen after you already implemented the increase and you didn't go back and say to the citizens I'll give you back your increase in employment tax, you just kept it there. The same with the four seasons, Mrs. Veras lives there, Mr. Harwood lives there, there was not transparency there or the city when that was happening, all of that came out later. I personally feel that I'm sure that there was something that could have done better but I don't place all of the blame on him I place it on you as well for doing your job and running a city.

Council President Harwood: Thank you. You next.

Applause

Mike Berlin: Mike Berlin, 4826 Snowblossom Lane. I'm interpreting a little bit, but I believe what Mrs. Kramer was asking was that just sweep this under the rug, meaning there's no implied harm. Somebody calls a kid a name at school what harm did it do? What emotional damage happened to that child? So I am interpreting for her because that is what I heard her say what harm was done? I agree with the young lady in the front row, it broke the trust of the people of Brecksville, it broke the trust of the other councilmembers, and it broke the law. The charter was written the Charter was stated and not knowing the law doesn't absolve you from the law and I'm sorry if I don't know a better legal term for that, but you know what I didn't know the speed limit was 65 mph when I was going 70 miles an hour. I still get my ticket right? There is no way out. I didn't mean to hurt that person's feelings but I did. I still get called to the principal's office. I may get expelled from the school, although I was defending myself. If there is harm you may not judge it harm, other people may not judge it as harm, but the community as a whole was harmed. I think it is appalling, you as a person that sits on a council for our city would actually say why are we wasting our time to look at an ethics violation. It actually scares me more than anything that has been said in this room in the past year that you as an elected board member of our school district would say why are we wasting our time there may be better things that you could work on in the city. I can't believe it.

Applause

Sharon Bennett: My name is Sharon Bennett, I live on 6166 Oakes Road. I was raised on Mill Road by Pat Miller who served in many previous administrations of Mayor Hruby. I raised my children on Old Royalton Road. I attended the council meeting two weeks ago and I was both shocked and frankly impressed by the organization of the people against Jack. They totally had it

together and they were totally against Jack. Okay, now, as a taxpayer I am totally appalled and I agree with this lady over here. I was shocked to find out that I am not only paying for my own sewer, I'm paying this sewer for four seasons, and I don't understand why all of the council and this administration were hiding that and I had to read it in the paper. So talk about trust, talk about being appalled, that's what appalls me.

Council President Harwood: That's completely not true, but we will move on. This gentleman back here. The green shirt I'm sorry.

Todd Bromance: I'm seeing a lot of attempts to deflect...

Council President Harwood: Name and address please.

Todd Bromance: Todd Bromance, 9504 Greystone Parkway. I've lived here for 32 years. I put two kids through our wonderful school system. I'm in awe this council, with the integrity of this council, except for one person. We are not here tonight not to talk about four seasons we're here to talk about ethics violations on the part of that person. What damages were done you say? Oh yeah, I guess the lawyer lobby is out today isn't it. The reason we're here is Jack. Your actions and your behaviors and your choices on what to do. What damage is public trust? How can I ever vote for someone that has damaged the public trust? I just find out today, tonight there was a roof on the aquatic center. He went through and ethics course, a refresher course in what was it, January 2018 after he was elected it was brought to his attention what the ethics and the obligations under our charter. After that he knowingly submitted a contract up personally self-enrich. You've ran on integrity and transparency. You have a higher obligation to both of those values. You shattered those when you ran, you shattered those when you bid on that contract, and I resent your behaviors and your choices. That's why we are here today not about four seasons, not about anything else, it's what you've done, and I'm sick of it. I can't trust you and I don't want you on this council.

Applause

Council President Harwood: Okay, this gentleman right here in the front.

Samuel Samuel: Samuel Samuel, 6554 Summer Wind Dr. From last year Mr. Petsche split this society into two, the group against four seasons, and the group of four seasons and the group of four seasons, the core of complaint was lack of transparency of the council and now we're talking about the same standards of transparency. Honestly, it seems there are a lot of lawyers in the room, I am a physician. I could put a knee replacement inside your knee but there's no damage happen it's good it's working well but I have to say I own shares in the company for knee replacements. It works perfectly, it works very well, however I'm not ethical. I'm selling you something that I'm profiting from. I think the issue is not with the council, I think the city of Brecksville and the citizens of Brecksville we lost confidence. We are going to vote very soon. (unintelligible) When Mr. Petsche opened the four seasons issue and two things and I'm guessing through social media split the community into two. Two teams against four seasons and we talk about ethics, transparency, contrast of interest, and according to my various knowledge of the law, ignorance does not recuse you from the law.

Kris Hannigan: Hi I'm Kris Hannigan, 6816 Westview. You know there's an ongoing investigation and if Jack was found in violation by the ethics board I'd be the first to ask him to step down. What you guys are trying to do you're trying to speed up the process, you're trying to subvert democracy here. You know during the four seasons a lot of you broke our trust. The rest of you broke our trust during four seasons and one of you I can't remember which one I think it was Broski but I could be wrong, looked at me and said "If you don't like this, vote us out" and that was the recourse we were told we had when you broke our trust. You all broke our trust too

and you told us to vote you out. Well guess what, if Jack broke your trust vote him out. What you guys were trying to do is support democracy.

Council President Harwood: Thank you.

Applause

Council President Harwood: Anyone else? Ma'am, the green shirt I'm sorry.

Jackie Klekner: My name is Jackie Klekner, I live at 8028 Pershing Dr. I've been a very happy resident of the city. I want to endorse whoever here said this is not about four seasons it's about the situation we have here with Jack. I also want to endorse what a number of people have said that other councilmembers besides Jack have broken trust with the residence and citizens of the city of Brecksville. Yes the charter lays out rules that should be followed but I think in it's exercise of discretion, the council should consider the purpose for those rules and the purpose for those rules is to prevent dishonesty and shady dealing and influence peddling by elected officials get beneficial or profitable contracts for themselves and I think that is what Mrs. Kramer was referencing and looking for in her question of what damage has the city suffered, and frankly to say in response to the question about damage, well there's a punch list and it's going to cost us money to get the punch list finished. It's somewhat disingenuous and I might even go so far as to say dishonest because the question was what damage has the cities suffered as a consequence of Jack's alleged ethical violation. The punch list has nothing to do with ethics. The punch list has to do with the quality of work that his "employees provided for the city and they have to fix that and he says they have, I don't know and frankly it doesn't matter if they haven't they'll have to in order for the contract to be completed, Jack performance has to be done, but let's not mix those kinds of issues. What happens on the punch list is not a consequence of an alleged ethical violation and it's a fair question to ask whether or not a rule was violated in the strictest sense of that understanding the first question you asked, but this council has to exercise its discretion and how it should respond if their believes there has been an ethical violation and in the best interest of the city I think maybe removal of Jack Petsche is maybe is a little bit overboard or a lot overboard. Let's just move on Jack didn't make the best decisions. He probably should have paid better attention in the ethical conduct review I hear in January, but he wasn't dishonest in his dealing, he didn't gouge the city, he was wasn't trying to use this position to gain some profiteering advantage. And I think the council should keep that in mind when it exercises its discretion to decide what the next step should be. Thank you.

Council President Harwood: Thank you.

Lisa Payne: Lisa Payne, 7885 Oakhurst Dr. a resident for nearly 29 years and I have a question I would like to know if it is the Ethics Commission's responsibility to decide if something wrong was done here and if so why is the Council not waiting for them to rule and then they can clearly see if there was an affront against the city or not and nobody has raised that. It is not for us to say if he is guilty or not you know we don't know the whole thing but is that their job is that the whole point of that investigation?

Council President Harwood: Dave do you want to respond?

Councilmember Veras: Ma'am I just like to say that it's my understanding that it's two separate things. The people in Columbus are the Ohio Ethics Commission. We are just looking at our Charter and the laws of the State of Ohio very clearly the laws, the unambiguous laws.

Lisa Payne: What laws are they using? The same laws of the State of Ohio?

Councilmember Veras: I don't know. Ethical laws.

Council President Harwood: Dave, will you please respond?

Law Director Matty: The Ohio Ethics Commission is charged with enforcing the laws of the State of Ohio. This Council is charged, as it's been discussed, in their discretion with seeing that the Charter and the Laws and the Ordinances of the City are followed.

Lisa Payne: Right. I understand that. So, my question is if that commission rules that violations were made then it's a done thing, right? Is that right for the Charter violations were made then he broke the law correct. Isn't it a done thing why are you jumping the gun.

Council President Harwood: There's different avenues the state, The Ethics Commission would go. I'm not an expert in that by no means. But there are different avenues they can take they can send it to the prosecutor or rule on their own behalf.

Lisa Payne: Why do you feel you shouldn't wait?

Council President Harwood: Because the behavior is unacceptable. That is it, you can't.. the lady in the audience said dishonest and honest if you work with somebody for two straight years every other Tuesday plus other meetings and you've never conveyed this information is that not dishonest?

Councilmember Veras: Ma'am in our Charter it says under removal it says I'm not a lawyer either but it says malfeasance or nonfeasance malfeasance performance by a public official of an act that's legally unjustified, harmful or contrary to law, wrongdoing, used especially in violation of public trust. Nonfeasance the omission of some act that seems pretty clear

Lisa Payne: I'm just asking the timing. That's all I'm asking, why one rule is (unintelligible).

Council President Harwood: Thank you very much, understood. Any other questions?

Council President Harwood: Ma'am in the back row, I'm sorry Mrs. Petsche.

Rose Petsche: Rose Petsche, 6607 Morningside Dr. I would I would like to speak to the character of my husband. I've been married to him for four years I've been along side him in business for decades. and his dealings with people in a business setting he always has the highest integrity he doesn't try to gouge people. People come to him for bids for their work. Many of the largest contractors in Cleveland. Because they know Jack will do a good job, he'll get the job done. He will be there if there is a problem and the vehemence I'm sensing from this audience. It is just unbelievable. You would think he murdered somebody out there in Council Chambers or maybe pulled an AR-15. I don't know. He is a good man and if he made a mistake because he was new and he thought, and I mean you know, that we worked with Mayor Hruby very well for very many years on Democracy Day. Jack hands out his cards all over town. I know as his wife that he thought people knew. So if he made a mistake if it was malfeasance it wasn't done with any intent to be dishonest. Todd Bromance shaking his head over there I don't know what Jack ever did to do that. But I will say if Jack made a mistake if he leaves Council however this resolves, I just want to say I know Jack and his dealings with people. He's an honorable man. I know he's worked really hard on City Council he's attended every meeting, he's read every word, he's come to every commission that he could. He did care about the Four Seasons issue because he thought the public should know that we were being asked to pay the \$682,000.00 less the \$95,000.00 of tax payer money. He didn't do it to be disrespectful. He felt he was elected to be that kind of Councilman. So I mean, I respect everybody here I understand everybody has their issue. But to my knowledge and to the people that deal with Jack for 23, 25, 28 years, this is a good man. Who, if he made a mistake, it wasn't anything that he did intentionally so that's all I have to say.

Applause

Council President Harwood: Mrs. Petsche, thank you. And I know this is difficult for you and I completely understand that. I would say though at the time of the Four Seasons issue the amount

of misrepresentation that was done on Jack's social media in which we have, as a City Council, asked Councilman Petsche multiple times to retract and represent the facts. He has acknowledged that he doesn't even write that himself. We haven't figured out who that person is that is writing that. So when you talk about deception and representing items and talking about not understanding during the Four Seasons issue we talked about all the projects in which this city has contributed funds for those sanitary septic conversion projects. As a matter of fact the Route 82 project, and if any were in the meeting at the beginning, we're going to have to contribute to that project which is no different. So Jack will either tell the residents they don't get anything or he's going to have to say they do get something. It's no different. So I hope you're all here for that.

Rose Petsche: I did take the Facebook page post down.

Council President Harwood: Thank you very much. Right here in the front, sorry.

Catherine Gallas 6986 Crystal Creek I've lived Brecksville with my husband and my daughter for 51 years. My husband served on the federal bench. And he always felt, he believed that lawyers should always, always be above the law. Never fail us, lawyers should never fail us. Of all people and Jack you failed us.

Applause

Council President Harwood: If we could we are approaching 8:00. I will take a couple more, right here.

Barbara Lustik: 8717 Riverview Rd. in Brecksville and from listening to what his wife had said. I think if he was the man that she's talking about he would step down from Council. That to me would be a(unintelligible)

Applause

Council President Harwood: OK so we have the regular City Council meeting so at this point I need to open up to the Council again and you guys whatever discussion it is or how we want to move forward. So I'd like to hear what City Council, what they would like to do.

Redinger: I think Mr. Harwood we need to establish a time frame in which we give to Mr. Petsche to talk with his counsel to confer with his counsel and then review. And then review.

Councilmember Broski: That was my suggestion.

Councilmember Carouse: I would agree with that. Set a date to hear back from him as to his decision as to whether he wants to step down voluntarily or not.

Councilmember Veras: I agree.

Councilmember Rose: In fairness to Jack I think we should do that, absolutely.

Council President Harwood: So Dave to do that we would need to do a motion in the Council meeting, not in here? Dave: Yes, in the Council meeting under general business.

Council President Harwood: So we don't have to do it first in Council of the Whole?

Law Director Matty: No.

Council President Harwood: Jack does that, we will discuss that in Council then.

Councilmember Jack: Yes.

Committee of the Whole Meeting Adjourned: Motion by Harwood, seconded by Carouse to adjourn the Committee of the Whole at 7:56 P.M. Ayes: Broski, Carouse, Harwood, Petsche, Redinger, Rose, Veras. Nays: None. Motion carried 7-Ayes, 0-Nays.

Committee of the Whole Meeting Adjourned: Motion by Harwood, seconded by Carouse to adjourn the Committee of the Whole at 7:56 P.M. Ayes: Broski, Carouse, Harwood, Petsche, Redinger, Rose, Veras. Nays: None. Motion carried 7-Ayes, 0-Nays.

/tt

cc: Members of Council,
Mayor Jerry N. Hruby,
Law Director D. Matty,
Asst. Law Director
S. DiGeronimo,
Engineer G. Wise,
Department Heads