

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

August 20, 2019

HELD _____

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 ROLL CALL** as follows:

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

ROLL CALL

Members Absent: G. Broski.

Others Present: Mayor Jerry N. Hruby, Law Director D. Matty,
Assistant Law Director DiGeronimo,
Engineer G. Wise, Finance Director L. Starosta,
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 AUGUST 6, 2019 REGULAR MEETING: Motion by Carouse, seconded by Redinger to dispense with the reading of the August 6, 2019 regular meeting minutes and to accept same as presented.
Ayes: Carouse, Harwood, Petsche, Redinger, Rose, Veras.
Nays: None.

REGULAR MEETING MINUTES OF 8-6-2019 APPROVED

MOTION CARRIED 6-AYES, 0-NAYS.

Mayor Hruby recognized the Beautification Committee volunteers. Mayor Hruby said the committee helps with the City's flowerbeds, Christmas decorations and consults with the city departments community gardens, City Hall, Community Center and Human Services buildings.

2019 BEAUTIFICATION COMMITTEE AWARDS

Donna Hulett of the Beautification committee introduced this year's winners. Ms. Hulett said there were 22 nominees for the beautification awards this year.

HULETT, HAIRE,

Donna M. Haire, 9885 Greenhaven. The manicured lawn and a variety of colors, beautiful shrubs, tall flower boxes and a white picket fence complete the look.

SCALZITTI, CHIPPEWA

John and Mary Lou Scalzitti, 6987 Crystal Creek. Three painted bicycles add a touch of whimsy to the well maintained flower bed. The yard has beautiful hosta, hydrangea and begonia plants.

PLACE

Sheldon & Lia Hoffman, 8497 Timber Trail. This home has manicured shrubs, beautiful trees. A stone bench and a beautiful variety of flowers and ferns create a beautiful setting. Chippewa Place. Ellen Nicholson, Director. The entrance is designed and maintained by and an employee and some of the residents. The entry is beautiful and welcoming and includes areas for the residents to sit and enjoy.

RESOLUTION 4965 re: a Resolution authorizing the Mayor to seek financial assistance from the Ohio Public Works Commission for the Chippewa Road Sanitary Sewer Project; and declaring an emergency, was read by title.

RES. 4965 OPWC GRANT APPLICATION

Motion by Veras, seconded by Rose, to suspend the rules and place Resolution 4965 on third and final reading.

FOR CHIPPEWA ROAD

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

Nays: None.

MOTION CARRIED 6-AYES, 0-NAYS.

SANITARY SEWER PROJECT

Motion by Redinger, seconded by Carouse, to pass Resolution 4965.

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

Nays: None.

MOTION CARRIED 6-AYES, 0-NAYS.

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

HELD August 20, 2019

Page 2

ORDINANCE 5259 re: an Ordinance authorizing the purchase of signal heads, hardware, LED's and accessories through the State of Ohio, Department of Transportation; and declaring an emergency, was read by title. **ORD. 5259 AUTH. PURCH TRAFFIC LED**

Motion by Rose, seconded by Veras, to suspend the rules and place Ordinance 5259 on third and final reading. **LIGHTS & EQUIP THROUGH ODOT**

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

Nays: None.

MOTION CARRIED 6-AYES, 0-NAYS.

Motion by Redinger, seconded by Carouse, to pass Ordinance 5259.

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

Nays: None.

MOTION CARRIED 6-AYES, 0-NAYS.

BOARD OF ZONING APPEALS: Councilmember Rose reported the next meeting of the Board of Zoning Appeals will be Monday, September 9th at 7:30 P.M. **BD. OF ZONING APPEALS**

Motion by Rose, seconded by Veras, to accept the recommendation of the Board of Zoning Appeals for approval for (1) a variance from Section 1117.09 requiring that a lot design generally be rectangular to allow the creation of two irregularly shaped lots, and (2) a variance from Section 1151.22 minimum lot width 175 ft. required, to allow 151.2 ft. and 146.3 ft. and (3) a variance from Section 1119.09(d) not to install the required public sidewalks until such time that the City deems appropriate on Parcel B, for a lot split located at 10193 Barr Road, PP# 604-14-012. **VAR. 2019-24 IRREGULAR LOTS AT PP#604-14-012 10193 BARR ROAD**

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

Nays: None.

MOTION CARRIED 6-AYES, 0-NAYS.

Motion by Rose, seconded by Veras, to accept the recommendation of the Board of Zoning Appeals for approval of a variance from Section 1185.03(a) of .5 ft. from the maximum 4 ft. fence height to allow 4.5 ft. located at 8054 Farview Oval, PP# 601-06-037. **VAR. 2019-25 FENCE HEIGHT AT 8054 FARVIEW OVAL**

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

Nays: None.

MOTION CARRIED 6-AYES, 0-NAYS.

PLANNING COMMISSION: Councilmember Harwood reported the next meeting of the Planning Commission will be August 22nd at 7:00 P.M. **PLANNING COMMISSION**

RECREATION COMMISSION: Councilmember Redinger reported the next meeting of the Recreation commission will be held on August 26th in the Community Room at City Hall. **RECREATION COMMISSION**

DEPARTMENT OF HUMAN SERVICES: Council Representative Veras reported the next meeting of the Human Services Advisory Board will be September 12th at 3:00 P.M. A joint health fair will be held at the Broadview Heights Community Center on September 5th. A presentation will be held at the Human Services Building on Gas and Electric rate information presentation on September 26th. **DEPT. OF HUMAN SERVICES**

TELECOMMUNICATIONS COMMISSION: No Report.

TELEC. COM.

SAFETY-SERVICE COMMITTEE: Councilmember Carouse reported the committee met earlier today and thanked Council for the passage of legislation authorizing the purchase of LED Replacement Traffic Bulbs. Councilmember Carouse congratulated the Fire Department for the increased rating by ISO. This rating will cause commercial and property insurance rates to be lessened for the City of Brecksville. **SAFETY-SERVICE**

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

HELD August 20, 2019

Page 3

Motion by Carouse, seconded by Redinger to approve the Blanket Vendor Purchase Requisition in the amount of \$4,435.00 for the repair to the baler and conveyor system in the City's Recycle Center. The replacement conveyor belt would be provided by Power-Pack Conveyor Co. for the amount of \$3,435.00. *Account # 110655 2601.*

**BALER &
CONVEYOR
REPAIR FOR
RECYCLE
CENTER**

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

Nays: None.

MOTION CARRIED 6-AYES, 0-NAYS.

Motion by Carouse, seconded by Redinger, to approve a Purchase Requisition to Howell Rescue Systems in the amount of \$12,255.00 for the sole vendor purchase of a Genesis battery operated combination extrication tool with charger and two batteries. *Account #C450260 3300.*

**AUTH PURCH.
REQUISITION
FOR
EXTRACA-
TION TOOL**

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

Nays: None.

MOTION CARRIED 6-AYES, 0-NAYS.

STREETS & SIDEWALKS COMMITTEE: Councilmember Redinger reported the committee met earlier this evening and has one item for Council consideration.

**STREETS &
SIDEWALKS**

Motion by Redinger, seconded by Petsche, to increase Purchase Order #P170864 in the amount of \$7,131.58 for final engineering plans, bid specifications and contract documents for Tanager Trail Slope Repair Project. *Account #C480171 3501 Project #RD170001.*

**TANAGER
TRAIL SLOPE
REPAIR
PROJECT**

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

Nays: None.

MOTION CARRIED 6-AYES, 0-NAYS.

UTILITIES COMMITTEE: Councilmember Petsche reported the committee met earlier and the committee recommended authorizing legislation to apply for a grant for the Chippewa Road Sewer Project. The committee discussed the Dominion gas line replacement beginning on August 19th in the downtown area. The committee discussed the Bradford Village Pump Station Replacement Project, the County advised another month of construction work to complete the project.

**UTILITIES
COMMITTEE**

BUILDINGS & GROUNDS COMMITTEE: Councilmember Veras reported the Buildings & Grounds Committee met earlier this evening and has nothing additional for Council consideration.

**BUILDINGS &
GROUNDS
COMMITTEE**

LEGISLATION COMMITTEE: Councilmember Rose reported the committee met earlier today and has nothing to report.

**LEGISLATION
COMMITTEE**

FINANCE COMMITTEE: Councilmember Redinger reported the committee met earlier this evening and has one item for Council consideration. The committee discussed Squire Patton Boggs' work on the Tax Increment Financing legislation that will be presented to Council for consideration in September.

**FINANCE
COMMITTEE**

Motion by Redinger, seconded by Carouse, to approve an increase to Purchase Order # BL195630 in the amount of \$2,000.00 for the Sales Tax Payable account held at the Community Center. *Account #240710 2129.*

**INCREASE
PO #BL195630
FOR
COMMUNITY
CTR. SALES
TAX**

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

Nays: None.

MOTION CARRIED 6-AYES, 0-NAYS.

REPORT OF LAW DIRECTOR: No Report.

LAW

REPORT OF ENGINEER: No Report.

ENGINEER

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

HELD August 20, 2019

Page 4

REPORT OF FINANCE DIRECTOR: No Report.

FINANCE

REPORT OF SERVICE DIRECTOR: No Report.

SERVICE

REPORT OF BUILDING DEPARTMENT: No Report.

BUILD DEPT.

REPORT OF PURCHASING DIRECTOR: No Report

PURCHASING

REPORT OF POLICE DEPARTMENT: No Report.

POLICE

REPORT OF FIRE DEPARTMENT: Fire Chief Zamiska thanked Council for the purchase of the extrication tool. Firefighter Max Rapkin passed the testing today and is now a licensed paramedic. The Firefighter's Clambake will be held Saturday September 7th.

FIRE

REPORT OF RECREATION DEPARTMENT: No Report

RECREATION

REPORT OF THE MAYOR: Mayor Hruby said City Hall will be closed in honor of Labor Day September 2nd. School is in session on Wednesday August 21st, please be careful as bell times and classroom locations have changed this year. A meeting of the Central School and Valor Acres Resident Advisory Committees will be meeting Wednesday August 21st at 6:30 in Council Chambers. This meeting is open to the public, all are welcome. Mayor Hruby asked Councilmembers to let him know if they are available September 11th or September 14th for the opening of the Brecksville Police Station.

MAYOR

COMMENTS: Councilmember Petsche congratulated Chief Zamiska and Mayor Hruby for the increased rating on the ISO report and asked Chief Zamiska to explain what that rating is. Fire Chief Zamiska said the ISO report is an Insurance Service Audit. The personnel, equipment and services are thoroughly checked. The scores are rated 1-10 with 1 being the best. The City's rating went from a rating of (4) to a rating of (2). This rating will cause commercial and property insurance rates to be lessened for the City of Brecksville.

COMMENTS

Darrell Kingston, 6982 Crystal Creek Dr.: I have a question about a comment that was made by our Law Director at the August 6th meeting when I was here. Mr. Matty you mentioned something kind of in passing, kind of an exchange, a lot of people were talking back and forth. You said something along the lines that at this point, we're talking about Councilman Petsche, that right now it is between his lawyers and the relevant state agencies. My question is, am I to interpret that there is an investigation currently going on. If so by who, and is this a criminal investigation or an ethics investigation?

Law Director Matty: Mr. Kingston could you read a couple of comments on either side of that quote that you have.

Darrell Kingston: No, I don't have that in my notes.

Law Director Matty: Do you have that Tammy (Council Clerk Tabor), so that I can see what context that was being discussed.

Council President Harwood: Do you have the minutes?

Council Clerk Tabor: Yes.

Council President Harwood: Bear with us here for a second.

Law Director Matty: While they are doing that, did I hear you correctly state that you were at that meeting?

Darrell Kingston: Yes, Sir.

Council President Harwood: I have it right here Dave (Law Director Matty), what were you looking for?

Law Director Matty: The statements before what was the discussion before that statement was made in context and the couple of statements after or if you want to give it to me I'll read it. Where is it at?

Council President Harwood: (To Law Director Matty) Right here in this paragraph.

Law Director Matty: I'd like to read for you Mr. Kingston, so that at least you'll have an understanding of what I'm going to tell you as far as an answer. That was in a discussion, Mayor I don't know if you've read these minutes because you weren't in attendance at the

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

August 20, 2019

HELD _____

Page 5

meeting but that was in a discussion where Mike Harwood first states "that's the farthest from the truth. In the back room, (Council Study) in Committees when you were asked why you were abstaining you said "I have a relationship with Panzica", and Mr. Harwood is referring to Mr. Petsche, "you didn't say I am the roofing contractor for Panzica". Mr. Petsche indicated, Well, you didn't ask a follow-up question. And then there's an unknown audience comment," wow" and Mr. Harwood says that's transparency Councilmember Petsche says I didn't mean to hide it and I am proud that we put the roof on the Police Station and Mr. Harwood says "So Dave (Law Director Matty) can we move on this. because as you know Mr. Kingston as you know at that meeting there was a piece of legislation at that meeting to continue the architects contract over at the police station because they were punch-list items that had to be completed before we can occupy and I believe some of those punch list items were on the roof and then the Purchasing Director was asked, I was asked if they should go forward and the Purchasing Director said if it has to wait until the 20th for this evening, it can wait and Council President Harwood indicates you should talk to the Mayor. Then I interjected "No, for the sake of that project and what the Service Director Weidig and Purchasing Director Riser are involved with and Scott (Building Official Packard) are involved in on a daily basis with get this project that was due in March, that is not going to be done now until October. I personally would not delay a moment if I was this Council I think the record is accurate and that Mr. Petsche has disclosed his personal financial interest for the first time so that Council understands that he is the sole owner as I understand him to say of USA Roofing and USA Roofing has had a contract on the Police Station since January 8, 2018. Mr. Petsche: interjected and said December 12th and I interjected and said you might have signed it on that date but Panzica did not sign it until January 8, 2018 and then I went on to say "If I may, so that there is a contract in place at the police station for an amount, which I believe is \$154,000.00. Purchasing Director Riser's numbers to me show \$145,000.00 has been paid some monies are being retained and if I understand what council is telling me this evening this is August 6, 2019 and each one of you is being told for the first time by Mr. Petsche that he had the subcontract and that he is in fact the sole owner of USA Roofing. If you knew that at that time please tell me if you knew that in January 2018 because I am hearing otherwise and the rest can be handled by Mr. Petsche and his attorneys with the appropriate state agencies as they see fit and we go from there but there is no reason for you not to vote with his recusal on record. And so that Council knows under 121.01 of the Brecksville Code you have a rule and you can look it up it's rule no.(7) drafted way back when. In rule no. (7) it says the following, is captioned "duty to vote" and your role under duty to vote says every member present it at any meeting of Council shall vote on all question presented to council for a vote unless excused by a unanimous consent of Council. And then there is a second sentence which reads that no member shall vote on any question involving personal or financial interest or personal or private rights. I take it this evening that Mr. Petsche is recusing himself from the vote on Perspectus' Third Amendment because he has punch list items either performed or to be performed under a subcontract for the Police Station Project. So that recusal that he has entered is proper and your discussion of what the personal financial interest is proper and if you go forward with him recusing, to me your minutes will reflect consent on going forward with voting because he has disclosed this to you. But I would not hold up the vote on this issue if you have any questions concerning anything in the process up until this time you can either call me or Mr. Petsche and I will try to answer to the best of my knowledge if I have it if not I will direct you to Mr. Petsche. So that's the context of the discussion and your question is what state agencies are involved in is there an investigation.

Darrell Kingston: Correct. What I heard there is a lot of information I'm not a lawyer I heard a lot of lawyer speak. But the way I heard it was I thought when you had said that it was between his attorneys and relative state agencies that we were talking about the fact that Councilman Petsche has entered a public contract after he took office and then that was what you were talking about.

Law Director Matty: I read the dates to the best of my knowledge of when this contract was entered into. I will say this and it's a very serious situation.

Law Director Matty: It's a situation of a confidential criminal investigation. The city has been served with a subpoena concerning this confidential criminal investigation. That is all I am

MINUTES OF A MEETING OF THE

COUNCIL OF THE CITY OF BRECKSVILLE

HELD August 20, 2019

Page 6

going to say, other than I represent the city. I have told Mr. Petsche: three times to seek private legal advice because I cannot advise him on this issue and that my client is the city, the best interest of the city and at this time Mr. Kingston I don't mean to duck your question but when I receive confidential subpoenas served on the city about a criminal investigation I go no further until it is approved by the agency doing the investigation. At this point in time I do not have that authority and I will abide by what I have been told by the agency that is involved. In my statement that I am making tonight has been cleared through that agency and that's all I'll state. I will answer any questions about facts that I know but I will not answer any questions about a confidential criminal investigation underway and I hope you understand that.

COMMENTS

Darrell Kingston: I understand that, thank you sir.

Councilmember Petsche: I'd like to interject here. I cut this deal with the General Contractor in August or September of 2017 prior to me being elected to office. The paperwork filed which is not unusual in construction context so I had already committed to this deal in August or September 2017. Secondly, Panzica Construction notified the City in September 2017 and listed USA Roofing as a subcontractor on this project and, finally my contract is with Panzica, a private company and not with the city. So I expect to be fully vindicated and anybody can file a complaint with the OEC, Ohio Ethics Commission and yes, it would be criminal in nature but anybody can file that complaint. The fact that somebody filed a complaint you should not read anything into that because I am innocent of this and I will be vindicated and you will see that there is really nothing to see here thank you.

Law Director Matty: Before any other questions are asked I will not let this record reflect inaccurate statements of fact. So that whoever is listening to this or whoever picks up these minutes and reads them the City's information and the City's facts are: first on September 13, 2017 the city did receive a preliminary list of the subcontractors on the project. Mr. Petsche's statement that USA Roofing Inc. was indicated on that statement is incorrect and is not true. What is on that statement is a simple USA. Nothing further as to the roofing contract nor is there any indication on that as to who owns USA and what USA is. On the second comment about having a private contract with Panzica, I have gone on record at least twice that that is not the law. The law indicates in 2921.42 (a) and (c) and in the Ohio Ethics Commission's opinions long-standing that if you have a contract with a city like ours, for a facility or for a facility for the use of a city like ours, it is a public contract by law. There is no doubt about that, there is no question about that, and I would not state that if I was not 100% correct on that issue. I told Mr. Petsche this is a serious issue. I take it as a very serious issue and I take it that whatever, whenever this investigation is completed we will all know that it is a serious issue.

Council President Harwood: Yes sir, in the back.

Anthony Vanadia, Wallings Road, I just want to know about the roofing thing and the Councilman working at the Police Station. Is the Councilman registered with the city to be a contractor?

Councilmember Petsche: Yes.

Mr. Vanadia: When did you register? Did you register last year or this year.

Councilmember Petsche: Both last year and this year.

Mr. Vanadia: So you have a license and bonding and everything?

Councilmember Petsche: Correct.

Mr. Vanadia: So the city should have known that you were working on this project.

Councilmember Petsche: Yes

Council President Harwood: Sir, the difference here is what is being talked about is the Council Representatives at this counter we do not get that information we do not get the bid and all that goes through the administration. They manufacturer that so where this all came about in the last council meeting it had to do with a vote for the architectural firms issues. So one of the Council representatives asked Jack (Councilmember Petsche) why he was abstaining, because we have to let each other know why we're doing that. Where the confusion comes in is we've had a couple other occasions where we've had to change the votes because Councilmember Petsche didn't necessarily understand how he had to vote. Where the confusion came in is on three other separate occasions, one (1) is, Jack (Councilmember Petsche) had already voted to increase Perspectus' contract in the past. two

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

HELD August 20, 2019

Page 7

(2) is he had voted in the past for the bonding for the project and three (3) is he voted to increase the GMP (Guaranteed Maximum Price) to Panzica Construction. So where the Council Representatives confusion is in the meetings and committees meetings and on the floor no one was told when we're voting for things it would appear to the residents that we are voting to give dollars to one of our own individuals. So that's why we're asking the questions. How the law director handles it I'm not a lawyer by any means so the whole point of conversation came up why are you up abstaining on this issue tonight because you have voted in the past and then Councilman Petsche disclosed to us that he was the roofing contractor and one of the first questions that was asked to every Council Representative was did Councilmember Petsche tell you guys any of you that he was a roofing contractor and he had not stated that to any of us. So we're voting on issues to award money to people.

COMMENTS

Mr. Vanadia: That doesn't really look like it's on the up and up because if he's voting for more money for the project he benefits from.

Councilmember Petsche: If I did do that than that was a mistake but I thought I recused myself from the increase to the GMP. Are you sure?

Law Director Matty: We are positive we checked the tape, we check the audio and you voted for the GMP and you voted for the notes and you voted for the bonds, which are the financing pieces of that project. You also voted for Perspectus Architect's amendment and you would recused yourself properly and at the August 6th meeting from the third one. And yes you did vote for the GMP, whether it was a mistake or not that was your vote.

Councilmember Petsche: And I did recuse myself on other issues, correct. On other votes regarding Panzica Construction.

Law Director Matty: The other votes that you recused yourself was the change order you negotiated for the same police contract. After you entered the contract, while you were a councilman. You negotiated, actually you submitted a change order for twice the amount that Panzica finally allowed and you voted you recused yourself from the vote and that change order.

Councilmember Petsche: I signed that contract prior to me becoming a Councilmember. I can't control when Panzica decides to sign my contract. But I signed the contract prior to becoming a councilmember.

Councilmember Carouse: Jack (Councilmember Petsche) you were already elected.

Councilmember Petsche: I was elected but I negotiated the deal prior to my being elected I did not intentionally do anything wrong and if I made some technical errors I apologize. And we'll see what the OEC has to say about this. But I certainly did not intentionally do anything wrong I didn't hide the fact, I showed up on the job I met Ron Payto there early on in the project, who is on the Planning Commission. Other members of this administration have seen me on the project I did not intentionally hide anything. And with regard to being listed on September 13th. Mr. Matty admitted USA was listed under roofing contractor. So it didn't say USA Roofing, Inc. I can't control that either. But when I called Ron Sonhault, Kevin Sonhault, who was the project manager for Panzica Construction he told me he sent a list to the city in September 2017 and in fact he did and I know USA was listed as the roofing contractor and in fact many contractors shorten USA Roofing Inc. to USA so I can't control it but nonetheless the City was informed.

Council President Harwood: Sir, in the back.

Chris Hannigan 6816 Westview: You, Jack (Councilmember Petsche) were in a contract with a General Contractor right and then you got elected and down the road you are voting on the continuation of funding for the Police Station. Did any of those votes change what your contract was, did your contract balloon or anything?

Councilmember Petsche: No, it did not.

Council President Harwood: the Law Director just explained that Councilman Petsche negotiated a change order to his contract.

Chris Hannigan: There was a change order.

Councilmember Petsche: Yes, but I didn't vote on it.

Chris Hannigan: You did not vote on the change order to your contract.

Councilmember Petsche: Correct.

Council President Harwood: But you voted on the increase to the GMP to Panzica's contract.

Councilmember Petsche: But that did not include the change order.

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

HELD August 20, 2019

Page 8

Council President Harwood: I couldn't tell you if it did at the time.

COMMENTS

Mr. Hannigan: I'm sure that part will come out. Jack (Councilmember Petsche) will probably know better about that. Sounds like I'm in this talk today speaking in a very honest tone and it seems inappropriate when it sounds like the investigation will take its course and Jack (Councilmember Petsche) sounds pretty confident that it will come back clean. So if that does it's well, this seems like a lot of ominous talk when we don't know exactly what's going on yet.

Diane Spencer 6705 Hidden Lake Tr.: I do know that Jack ran on a full disclosure of transparency but when you got to office it took a long time for you to actually disclose to people that you had an interest in the building. I'm not even in the contracting business and I certainly don't have any of your jobs and I know that's wrong. And if people saw you on the job they probably saw all these people on the job. But they don't have a financial interest the family's don't have a financial interest in that building but you knew that was wrong and even then it took you so many votes to finally disclose you had a financial interest in that building that wasn't a mistake that was a choice. Thank you.

Councilmember Petsche: First of all I didn't hide anything I didn't know it was wrong and secondly I was wearing a hard hat when I was on the job so it's pretty obvious that I was involved in construction of the project and I talked with people there's no doubt that my company was working there.

Council President Harwood: At least from council's perspective we don't see you they were not on the job site we all have positions outside of work as you do. So the people that are voting on all of this and we had a refresher course in January specifically for new councilmembers and old councilmembers. Every department heads spoke, one was the Law Director spoke about what was ethical and what was not and at that point you did not stand up and say you had an issue.

Councilmember Petsche: Honestly I didn't think I needed to and I did not intentionally do anything wrong I did not intentionally hide this. I just didn't know that I would have to notify and make everyone aware of this because I saw it's as a private contract. I saw it as something I negotiated prior to becoming a councilmember and therefore I did not see an issue here and did not try to hide it. And by the way about the same time this was going on I was helping to put on with my own hands the roofs at safety town. They needed a roof at safety town I put up on the website and on my Facebook page that USA Roofing is putting on the roofs at safety town so everyone should understand that I said my company USA Roofing. So that should have been notice to the community that I own USA Roofing I put it out there I have a video of it out there putting shingles on safety town.

Council President Harwood: Again, City Council Representatives do not have all that information. When we get presented the only thing that was provided in Committee Meetings at Buildings and Grounds or at Council was if we had to act on legislation or motion, that's it.

Law Director Matty: So, Mrs. Spencer, if I may, because you raised the question on disclosure. Let me just read you what the law reads in two sections that may answer your question. The law in the one section indicates, and this is the section that describes four conditions which may be an unlawful contract by a public official. One of those sections reads; that type of contract exists when a public official has 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. And the disclosure requirement which is one of the conditions that will take to make that general rule, if you meet this and three other conditions the disclosure requirement is very specific and it says the entire transaction is conducted at an arms length with full knowledge by the political subdivision or governmental agency or instrumentality involved of the interest of the public official, members of his family, or business associate and the public official takes no part in the deliberations or decision of the political subdivision or governmental agency or instrumentality with respect to the public contract. That's the disclosure requirement that is in the law.

Council President Harwood: This gentleman right here.

Jeff Brubaker 6806 Chaffee Court: How many vendors are actually qualified to do that kind of work? It strikes me as a small part. So if there was a technical problem

MINUTES OF A MEETING OF THE

COUNCIL OF THE CITY OF BRECKSVILLE

HELD August 20, 2019

Page 9

Councilmember Petsche: Actually there's a large market. Bidding is open. It was competitively bid so and I was presumably the best and lowest bidder to this general contractor. **COMMENTS**

Jeffery Brubaker: So, it's two separate entities.

Councilmember Petsche: Yes, a subcontractor and a general contractor competitively bid in my subcontract was competitively bid to Panzica.

Law Director Matty: Councilmember Petsche, was your contract competitively bid on the street or did Panzica select a few members of roofers and take bids or quotes from them? Was it in the newspaper like we bid a contract on the street?

Councilmember Petsche: I believe it was published in Builders Exchange so yes I believe it was I'll have to check that.

Laura Pajestka 4845 Valleybrook: I just want to know, when you were talking about disclosure, Jack does anybody know that you sit on the board of directors at Construction Employers Association with all the prime contractors that gives you an in with bids and contract awards because that's not right. My understanding is that you were also bidding on the aquatic center getting some work from some of the contractors in CEA for that.

Councilmember Petsche: First of all I withdrew my bid on the aquatic center. Secondly sitting on the board of the CEA does not give me an in with any contract.

Laura Pajestka: Can you name some of the contractors that sit on the directors board with you of CEA? Is Panzica one of them?

Councilmember Petsche: I don't know currently. I think Tony Panzica. I think he is a past president I don't know about currently.

Laura Pajestka: Was he present when you were doing a negotiation.

Councilmember Petsche: I don't recall. But again it's competitively bid in my experience has been with CEA that it doesn't give you an in because you sit on the board. How it is the low number takes the job. Ninety-nine percent of it.

Council President Harwood: To sit on the board is good for anybody in the industry to me that is not as relevant I know it's similar when Jack (Councilmember Petsche) bid the Aquatic Facility that's when he brought it up to the Law Director and myself and that's when Dave (Law Director Matty) the first time that he needs to seek legal counsel but the Police Station information came out after that.

Law Director Matty: Ma'am so that you know I want the facts to be correct that the information I have on the Aquatic Center is we open the bids for that Aquatic Center and Mr. Petsche solicited the roof for that Aquatic Center and the City rejected his name at that time because by that time you would be talking about just recently we were aware of what USA Roofing was and who owned it and what had occurred over at the Police Station. So the facts will show in that emails will show that the city took his name requested Seitz to take his name off the preliminary sub(contractor) list that we got so that we didn't have round two of the same issue we face in the Police Station.

Councilmember Petsche: I did competitively bid the Aquatic Center with Seitz prior to the city awarding the contract.

Law Director Matty: Yes. You did when you were in office you did that without notice to the City. Your actual submittal came to us from Seitz. It did not come from you telling this Council or this Mayor, who are the decision-makers for this municipality, on these projects. It did not come from you we had to take your name off the list submitted by Mr. Seitz. Which to his credit he did.

Councilmember Petsche: Well, when I called to withdraw my bid from Seitz Construction, Bill Seitz did not tell me that so that this is news to me. But I withdrew my bid from the Aquatic Center when you informed me of the notice requirement. I did not want to run a fowl with that. So I withdrew my bid.

Rose Petsche 6606 Morningside Dr.: So Jack (Councilmember Petsche), how long have you been a roofing contractor, how many years?

Councilmember Petsche: For many years since 1978

Rose Petsche: so you've been with USA Roofing since 1978

Councilmember Petsche: No, USA Roofing since 96.

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

August 20, 2019

HELD _____

Page 10

Rose Petsche: So it seems like everybody on Council didn't know you were USA Roofing until you made that recusal on that bid so everyone of you on Council did not know Jack had a small company named USA Roofing? He ran on in 2015 and he ran in 2017. He has a website he has a Facebook page. I'm sure you've all been out there seen his video. You all act shocked I'm shocked that you are each telling me you did not know until the moment he recused himself that he was on USA Roofing. **COMMENTS**

Council President Harwood: Not that he was the roofing contractor on the Brecksville Police Station.

Rose Petsche: But you knew he was USA Roofing. You knew he had a company USA Roofing.

Councilmember Carouse: No, Mrs. Petsche. I did not know.

Rose Petsche: So you've never seen his Facebook page?

Councilmember Carouse: No I've never been.

Rose Petsche: No? Never? So he's been a roofing contractor for 30 years plus how many years have you been a roofing contractor for Panzica?

Council President Harwood: Again that's not relevant.

Councilmember Petsche: Nearly as long.

Rose Petsche: So he's new to City Council, he bids this before he got on Council you're making it sound. Miss Spencer said he has some nefarious desire to hide it from you. Jack was on the website he was talking to people on the jobsite.

Council President Harwood: Forget the website. That doesn't matter.

Rose Petsche: He wasn't trying to hide anything he was above board he's got it on his Facebook page and on his website that these for USA roofing volunteering his time volunteering one of our roofers so it not as if he was trying to get money he was doing something he thought was good. So being competitively bid having 35 years of experience Brecksville got a pretty good roof.

Council President Harwood Mrs. Petsche, in regards to some of your comments and I understand what your comments are about timeline and everything but will worry committee meetings in the back and Councilman Petsche says to the Law Director I have to abstain and that question from Council Representatives are why do you have to abstain and the answer that is I have a relationship with Panzica could companies not I'm the roofing contractor for the Brecksville Police Station. So why wouldn't he disclose that.

Mrs. Petsche: He did mention that you got notice from Panzica.

Council President Harwood: No one at this counter gets any of that information. It's not required.

Law Director Matty: Mrs. Petsche, the facts will show that this Council in 2019 found out that your husband and his company had the roofing contract for the police station and furthermore I take very, very much offense to your statement that we got a good roof. The roof has leaked consistently and the Building Commissioner can give the detail in more areas than I want to talk about.

Rose Petsche: Jack have we been back, when they called?

Councilmember Petsche: Yes, we repaired it.

Rose Petsche: Well, roofs leak, right?

Law Director Matty: All I will say is when the facts are discussed about the punch list items on the roof you will understand.

Harwood: Thank you. yes Sir.

Samuel Samuel 6554 Summerwind Dr.: We spent about a year ago for a few months in a few sessions, specifically about transparency issue. About the council sewer issue in Four Seasons and this was initiated by Councilman Petsche. That the council was not transparent and here we are involved in transparency. In fact there is conflict of interest on this transparency. That's a legal issue. Look at this carefully.

Mike Berlin 4826 Blossom Lane: Just so I understand what you're talking about one of the dates that I remember September 13 you mention that is a date that Panzica sent something over to the City on or about December 12, 2017 USA Roofing signed a contract with Panzica. And on January 8, 2018 Panzica signed a contract with the city of Brecksville.

Law Director Matty: No, Panzica signed the contract with USA Roofing on January 8, 2018.

Mr. Berlin: When they signed that contract.

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

HELD August 20, 2019

Page 11

COMMENTS

Law Director Matty: Yes sir.

Mr. Berlin: When was the contact contract between the city of Brecksville and Panzica Construction.

Law Director Matty: Way before that. Becki (Purchasing Director Riser) did you have that date?

Mayor: September of (20)17, was it not?

Purchasing Director Riser: The original contract would've been years before that. The GMP was not finalized until September of (20)17. But it was more like (20)14 when we signed the original.

Mr. Berlin: So the original GMP was signed in 2014 Just so I have an idea of the timing Mr. Petsche, Councilmember Petsche took office January 1, 2018.

Councilmember Petsche: Correct.

Mr. Berlin: And the point that you signed the contract with Panzica. You had already known that you were going to run for council in the city of Brecksville and by the time you actually signed the contract in December you had already won the election in 2017. Council for the City of Brecksville. But I don't recall any disclosure being made as part of this transparency initiative that you were planning to submit a bid for some amount of money to be a subcontractor on a Brecksville city project that was going to take place after you were elected. I just want to make sure I understand the timeframe so when somebody asks me. Is the timeframe correct?

Councilmember Petsche: My initial bid was prior to me running in 2017.

Mr. Berlin: But you signed the contract in September 2017, which was approximately six weeks before the election and you failed to disclose on your Facebook page, which is a popular place, that you were probably going to win some work for the City of Brecksville in the tune of \$145-\$154,000.00 bid, is that correct?

Councilmember Petsche: A contract with Panzica Construction. But who I work with quite a lot.

Mr. Berlin: I understand that. You submitted a bid to do work on the Brecksville city building. Because Panzica was the general contractor. Just like a plumber would have done it, an electrician would have done it, a flooring contractor everybody knows where they are going to work. It's not like hey I want you to do a roof, correct?

Councilmember Petsche: Correct.

Mr. Berlin: Then you said you made a mistake you didn't know. In the earlier moments of this meeting you said I think you'll find in the notes you said you didn't know that you need to be transparent about this. But in 2018 everything needed to be transparent. Whenever we are talking about sewers, sewer assessments, special assessments and as we went through that transparency you would have thought that maybe it would have struck, at least it would have struck me. I actually believe transparency is good when you brought up the topic and started talking about Four Seasons, I'm a Four Seasons resident, and I can see both sides of the argument the pluses and minuses and you were pretty adamant that transparency was the key and I think that one of the votes they mentioned, about extending the I think the GMP or a change request happened even after that. Did one for the budget change happen after that? Does anybody know?

Harwood: Yes you mean Panzica's contract?

Mr. Berlin: Yes. Panzica's contract that was voted on for a change request for the GMP. So there is an increase the money that the city of Brecksville was going to pay Panzica regardless of whether that money was earmarked for the roof or not. Jack is a business partner with Panzica and he has been for since at least 1996 and approximately since 1978. So we have a councilperson voting on extensions of money that the city of Brecksville was going to spend for a tight business partner.

Audience member (Mr. Seuss)): Not a business partner.

Mr. Berlin: It's a subcontractor, it is a business partner.

(Mr. Seuss): Not a business partner.

Council President Harwood: Excuse me Sir, let him speak. You'll get your turn.

Mr. Berlin: A business partner because there is a contract signed. In the act of transparency, Jack you've said it, we have to be transparent, it didn't even strike you to say, hey you know

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

August 20, 2019

HELD _____

Page 12

what I kinda screwed up I should've done this before, either when I was running for election or when I signed the first contract, it seems weird. **COMMENTS**

Law Director Matty: So that you understand because I don't want you going out into the neighborhood and not knowing the facts as far as the submittal. As far as I understand the situation to be in June of (20)17 the initial bid by USA Roofing was submitted to Panzica. In August (20)17 a rebid proposal was submitted..

Mr. Berlin: from USA to Panzica?

Law Director Matty: From USA to Panzica. In October (20)17 the contract for the Police Station was sent to Mr. Petsche by Panzica not by the city but by Panzica. Because this was a contract called construction manager at risk, Panzica handled all of that. The city administration was not handling any of this the election occurred Mr. Petsche was elected in November 2017. He signed the contract in December (20) 17 and Panzica signed the contract in January 2018. The change order which was negotiated by Mr. Petsche was done while he was in office as a councilman and negotiated by him and negotiated down by Panzica and then allowed. And then these other votes for financing, four of them and for the GMP all occurred after that and during those votes especially the votes in (20)18 none of these Councilmembers and Councilmembers speak up if I am wrong, because if I'm wrong I need to be corrected. None of these Councilmembers knew that he was the owner of USA Roofing and that he had that project and they're voting and financial issues for that Police Station with Mr. Petsche voting not knowing that they found out in (20)19 and when is change order came up as part of an additional pay order to be paid, this council eliminated the change order so they did not vote for a contract for Mr. Petsche on that issue because they finally knew that he had that contract. That will give you the correct facts as the paperwork will show.

Mr. Berlin: I appreciate your time on that it really helps. Thank you.

Councilmember Redinger: Mr. Matty, If I may just to add a quick comment and to respond to Mrs. Petsche's question. I did know that Mr. Petsche owned a roofing company I did not know that he was the contractor on the roof at the police station. And that is a big difference.

Council President Harwood: Sir in the back, did you have something to say?

Audience member (McNair): No I have nothing to say.

Council President Harwood: You're good?

Jeff Brubaker: Is the change order not being approved? Is that why there is punch list items?

Councilmember Petsche: No, the change order not being approved is just monies that have not been paid to Mr. Petsche. The punch list items still have to be corrected for the roof.

Jeff Brubaker: So we'll owe him money?

Law Director Matty: That's up for debate.

Councilmember Petsche: The punch list items have been taken care of.

Rebecca: I'm just wondering if we're talking a lot about transparency are there any other council members with relationships to contractors involved at either the Police Station or the Aquatic Center have those financial or any other type of relationships been disclosed to other Council members? Are those councilmembers recusing themselves from any relevant votes?

Council President Harwood: Yes, actually so, Dennis (Councilmember Rose) I don't want to speak for you. Part of what started this in the beginning Councilman Rose had to abstain at the same time so at the point of one of the meetings we had a Council representative was absent one day. So, when you make a make a motion for suspension, when Councilmember Petsche voted "yes" Councilmember Rose voted "no" and when it went for passage they both voted "no". So we had to set up a special meeting to revote for that because Councilmember Rose, he's an attorney too by the way, he informed our law director of his reason to abstain because his law firm represents Panzica. Correct Dennis?

Councilmember Rose: Yes, I do not, but one of my partners does have a relationship with Seitz and a relationship with Panzica. So I disclosed that to recuse myself and abstain from any vote on it and do not participate in any discussion, when there is discussion. For that reason, and I make an effort when we are voting to search our system because we have 125 lawyers to make certain that when I'm voting, it's not one of my lawyers. I don't have a relationship I don't know Panzica or Seitz but I recuse myself.

Councilmember Petsche: And I recused myself on the earlier votes that I voted. I wanted the Police Station to be built so I approved the bonds and they say I voted for the GMP

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

HELD August 20, 2019

Page 13

(Guaranteed Maximum Price) increase but however that did not increase my contract. I did not vote to increase my contract or put any money in my pocket and I want you to understand that. **COMMENTS**

Law Director Matty: And the residents should know that the Ohio Ethics Commission has what they call an advisory opinion section so this kind of issue in June 2017 was started. Before this issue was started Mr. Petsche had the availability just like you or I would have the availability if we have an ethics question to present to the ethics commission what he was going to do and they would have told him what the law is and what he would've had to do at that time and part of what they would have told him was disclosure of this issue should be made before he took any efforts in this including submitting of the best bids in June 2017. And that was not done and that was a free service and their legal department will issue those opinions upon request and then the public official as long as he follows what they tell him which includes disclosure, he would not have had this serious issue that he now has.

John Petsche 9225 Stover Lane: Can you clarify that timeline? June of 2017 my father would have needed to guess that he was running for City Council and potentially seek an opinion from the Ohio Ethics Commission.

Law Director Matty: Actually when your father was running for City Council he submitted the rebid while he was running.

John Petsche: Sorry that was not your point, your point was in June of 2017 he would've submitted.

Law Director Matty: He could've done that before he submitted the rebid. He could have indicated that he was submitting a rebid on this project and what his relationship was in running for council before or after he submitted his petitions.

Council President Harwood: Anyone else?

Michael Bandsuh 6602 Greenbrier: Mr. Matty I have a question for you. You indicated earlier in the meeting you alluded to the fact that the city has been issued a subpoena. Am I correct on that?

Law Director Matty: Correct Mr. Bandsuh.

Michael Bandsuh: And you couldn't elaborate on any of that. My question on that is could the outcome of that action put the City or City Council at risk.

Council President Harwood: We haven't really talked about that.

Law Director Matty: The potential action that can follow from that investigation are misdemeanor and felony charges, recovery of the monies in the contract because the law indicates that if this is an unlawful contract of a public official it is null and void and the city has paid \$145,000.00 to USA Roofing to this date. It would take this Council to authorize an action to recover that or it could take a recovery by whatever agencies are involved to recover that. The other action that could result is we do have a Charter section that concerns conduct of the Council or a Council member and that would be up to this Council as far as what action if any would be taken. I hope that answers your question, I can't go further at this time to complete that question if you understand that.

Michael Bandsuh: I do.

Council President Harwood: And just for clarification, I'm assuming there was two articles written from the press and maybe that's where you got your information but Councilmember Broski is not here this evening, the Mayor's daughter got married he was not at the last meeting, so council internally we have not had a chance to be together to talk about this at this point, so again I'm assuming it's from the articles that were written.

Darrell Kingston: Not really a question, maybe it'll help try and wrap things up a bit tonight. Would it be possible to somehow put out to the city on the website the facts as we know them today about what is going on with this, and in addition to that I would also like to see comments from all the councilmembers because several of them are running for re-election here in the next couple months and this seems like it is going to be a pretty big deal and I think in the name of transparency, everybody in the city needs to know what is going on needs to understand the facts to make their own opinions on. We need to know what's going on. So is something like that possible? Can something like that be posted and can the councilmembers somehow distribute their thoughts, their feelings are they involved in this? Are they against it? For it?

Law Director Matty: That's for Council to answer

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

August 20, 2019

HELD _____

Page 14

Councilmember Redinger: Mr. Kingston I made a comment at the last Council meeting that I did not know about Mr. Petsche having a roofing contract. **COMMENTS**

Audience member: Yes you did.

Councilmember Redinger: I just stated to Mrs. Petsche I did know he had a roofing company. I stated then that I am challenged by the lack of transparency and new news on the subpoena we're learning new things all the time. So that's new news for me this evening. I think we need the opportunity to better understand what's at hand, but I had no knowledge and I'm just really challenged by the transparency. Because there were several opportunities to, even if you didn't know initially that you should have disclosed it, you know this has been going on now for several years.

Councilmember Rose: Mr. Kingston, it also is on our website it's called the minutes, which the minutes will show up. The minutes will have comments. My comments that were made at that meeting, there in the minutes the press decided to make one of the quotes from what I said. We have commented, where I think it's appropriate, when we are here in a public body. As opposed to on a Facebook, I don't have a Facebook to do this. Facebook or other places. Read the minutes the minutes from there will be minutes from this meeting, too. The transparency is in the minutes for the City if you read them you know what's going on

Council President Harwood: asked for any other questions or comments from the audience.

Hearing none Council President Harwood continued with a motion to adjourn.

Motion by Harwood, seconded by Carouse, to adjourn the regular meeting at 9:17 **ADJOURN**
P.M.

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

Nays: None.

MOTION CARRIED 6-AYES, 0-NAYS.



PRESIDENT OF COUNCIL



CLERK OF COUNCIL