

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

HELD July 21, 2020

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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., D. Caruso, M. Harwood, A. Koepke, J. Petsche, L. Redinger, K. Veras.

Members Absent: None.

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 Lt. S. Korinek, Recreation Director T. Tupa, Council Clerk T. Tabor.

Teleconference: Service Director R. Weidig, CBO S. Packard.

ROLL CALL

MINUTES OF THE JULY 7, 2020 REGULAR MEETING: Motion by Carouse, seconded by Redinger, to dispense with the reading of the July 7, 2020 regular meeting minutes and to accept same as presented.

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

Nays: None.

MOTION CARRIED 7-AYES, 0-NAYS.

REGULAR MEETING MINUTES OF 7-7-2020 APPROVED

Council President Harwood said Resolution 5062 was passed to Second Reading on July 7, 2020 and asked Law Director Matty to provide additional information regarding Resolution 5062. Law Director Matty said this item was presented along with four additional Ordinances which were being passed to Second Reading. Law Director Matty said in his discussions with Sherwin-Williams, DiGeronimo Developers, and Attorney Greg Daniels, there are no objections to passing this Resolution today. Law Director Matty reported Sherwin Williams will be submitting to Planning Commission and requests Council consider suspension of the three reading rule and vote on Resolution 5062 today.

RES. 5062 COMMENTS

RESOLUTION 5062 re: a Resolution authorizing the Mayor to enter into a First Amendment to Development Agreement between the City of Brecksville, Brecksville Community Improvement Corp and DiGeronimo Development LLC to among other things include additional property as part of the site; and declaring an emergency, was read by title.

Motion by Carouse, seconded by Redinger, to suspend the rules and place Resolution 5062 on third and final reading.

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

Nays: None.

MOTION CARRIED 7-AYES, 0-NAYS.

Motion by Redinger, seconded by Carouse, to pass Resolution 5062.

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

Nays: None.

MOTION CARRIED 7-AYES, 0-NAYS.

RES. 5062 AMEND DEV AGREEMENT BETWEEN BRECKSV. CIC AND DIGERONIMO DEVELOPMENT LLC

ORDINANCE 5335 re: an Ordinance authorizing a Second Amendment and Restated Compensation Agreement with the Brecksville-Broadview Heights City School District; and declaring an emergency, was read by title.

Motion by Carouse, seconded by Veras, to pass Ordinance 5335 to third and final reading.

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

Nays: None.

MOTION CARRIED 7-AYES, 0-NAYS.

ORD. 5335 AUTH. 2nd AMEND & RESTATED COMP AGREE. WITH THE BBHCSD

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- ORDINANCE 5336 re:** an Ordinance establishing a Municipal Public Improvement Tax Increment Equivalent Fund for the deposit of Service Payments; and declaring an emergency, was read by title. **ORD. 5336
EST. MUNI.
PUBLIC IMP
TAX
INCREMENT
EQUIVALENT
FUND**
- Motion by Carouse, seconded by Caruso, to pass Ordinance 5336 to third and final reading.
Ayes: Carouse, Caruso, Harwood, Koepke, Petsche, Redinger, Veras.
Nays: None.
MOTION CARRIED 7-AYES, 0-NAYS.
- ORDINANCE 5337 re:** an Ordinance authorizing a Tax Increment Financing Agreement with the Sherwin-Williams Company to provide for the construction of The Sherwin-Williams Research and Development Facility on a portion of the Valor Acres site and a portion of the Adjacent Dalad Land Site in order to provide for the further redevelopment of those sites and create and retain jobs in the City repealing Ordinance No. 5311 adopted on March 17, 2020; and declaring an emergency, was read by title. **ORD. 5337
AUTH. TAX
INCREMENT
FINANCING
AGREEMENT
WITH
SHERWIN-
WILLIAMS**
- Motion by Carouse, seconded by Redinger, to pass Ordinance 5337 to third and final reading.
Councilmember Petsche asked if the Board of Education has
Ayes: Carouse, Caruso, Harwood, Koepke, Petsche, Redinger, Veras.
Nays: None.
MOTION CARRIED 7-AYES, 0-NAYS.
- ORDINANCE 5338 re:** an Ordinance creating Tax Increment Financing Area encompassing the real property commonly known as the Dalad Property pursuant to Ohio Revised Code Sections 5709.40, 5709.42 and 5709.43, declaring improvements to those parcels of real property to be a public purpose, and requiring the owners of the improvements on such parcels to make service payments in lieu of taxes; and declaring an emergency, was read by title. **ORD. 5338
CREATE TAX
FINANCING
AREA
ENCOMPASS-
ING PROP.
KNOWN AS
THE DALAD
PROPERTY**
- Motion by Carouse, seconded by Redinger, to pass Ordinance 5338 to third and final reading.
Ayes: Carouse, Caruso, Harwood, Koepke, Petsche, Redinger, Veras.
Nays: None.
MOTION CARRIED 7-AYES, 0-NAYS.
- ORDINANCE 5339 re:** an Ordinance accepting the bid of Communication Company for the Access Control System at the new aquatics center; and declaring an emergency, was read by title. **ORD. 5339
ACCEPT BID
OF
COMMUNI-
CATIONS
COMPANY
FOR ACCESS
CONTROL
SYSTEM AT
AQUATICS
FACILITY**
- Motion by Veras seconded by Redinger, to suspend the rules and place Ordinance 5339 on third and final reading.
Ayes: Carouse, Caruso, Harwood, Koepke, Petsche, Redinger, Veras.
Nays: None.
MOTION CARRIED 7-AYES, 0-NAYS.
- Motion by Redinger, seconded by Carouse, to pass Ordinance 5339.
Ayes: Carouse, Caruso, Harwood, Koepke, Petsche, Redinger, Veras.
Nays: None.
MOTION CARRIED 7-AYES, 0-NAYS.
- BOARD OF ZONING APPEALS:** Councilmember Caruso reported the next meeting of the Board of Zoning Appeals will be Monday, August 10th at 7:30 P.M. **ZONING
APPEALS**

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Motion by Caruso, seconded by Veras, to accept the Board of Zoning Appeals recommendation to City Council for approval of a variance from Section 1119.09(d) not to install the required public sidewalks until such time that the City deems appropriate for a new single family dwelling located at 10312 Dewey Road, PP# 605-24-018, and 10306 Dewey Road, PP# 605-24-017.

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

Nays: None.

MOTION CARRIED 7-AYES, 0-NAYS.

Motion by Caruso, seconded by Veras, to accept the Board of Zoning Appeals Board of Zoning Appeals recommendation to City Council for approval of a variance from Section 1151.26(2) to allow a child's play equipment in the front yard on a corner lot, as indicated on the drawing dated 6-16-20, instead of the permitted rear yard located at 9216 Brecksville Road, PP# 603-08-005.

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

Nays: None.

MOTION CARRIED 7-AYES, 0-NAYS.

Motion by Caruso, seconded by Veras, to accept the Board of Zoning Appeals Board of Zoning Appeals recommendation to City Council for approval of a variance from Section 1151.25(d)(2)(B) from the maximum allowed 192 sq. ft. to allow 480 sq. ft. for a horse stable located at 10253 Snowville Road, PP# 605-16-003.

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

Nays: None.

MOTION CARRIED 7-AYES, 0-NAYS.

Motion by Caruso, seconded by Veras, to accept the Board of Zoning Appeals recommendation to City Council for approval for (1) a variance from Section 1326.01 to install (3) air conditioning units in the front yard (not permitted), and (2) a variance from Section 1326.02 to install a generator in the front yard instead of the rear as required by code located at 7777 Parkview Drive, PP# 605-01-027.

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

Nays: None.

MOTION CARRIED 7-AYES, 0-NAYS.

Motion by Caruso, seconded by Veras, to accept the Board of Zoning Appeals Board of Zoning Appeals recommendation to City Council for approval for a variance from Section 1151.24 from the minimum 125 ft. front yard to allow 72 ft. for the construction of an entry deck on a non-conforming house located at 9380 Drive, PP# 603-14-026.

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

Nays: None.

MOTION CARRIED 7-AYES, 0-NAYS.

PLANNING COMMISSION: Councilmember Harwood reported the next meeting of the Planning Commission will be August 6th at 7:00 P.M.

Motion by Harwood, seconded by Carouse, to accept the recommendation of the Planning Commission for approval of a 17.23 sq. ft. permanent, single sided, externally illuminated, ground, subdivision entrance identification sign for The Preserve at Parkside as described in the application dated February 3, 2020, and shown in the attached drawings, contingent on City Council's approval of the following deviation:

- A deviation from the Section 1187.08 requirement that the maximum height of the sign be 5 feet to allow 7.67 feet.

Drawings

Monument Sign, Bronze Atlas

**APP. 2020-09 &
APP. 2020-10
10312 & 10306
DEWEY RD.
TO NOT
INSTALL
SIDEWALK**

**APP. 2020-17
9216 BRECKS-
VILLE RD.
CORNER LOT
CHILDREN'S
PLAY YARD
PLACEMENT**

**APP. 2020-18
10253 SNOW-
VILLE RD.
ALLOW OVER
SIZED HORSE
STABLE**

**APP. 2020-19
7777
PARKVIEW
DR. FRONT
YARD A/C &
GENERATOR
PLACEMENT**

**APP. 2020-20
9380
HIGHLAND
DR. FRONT
ENTRY DECK**

**PLANNING
COMMISSION**

**PRESERVE AT
PARKSIDE
IDENTIFICA-
TION SIGN**

January 18, 2020

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Monument Sign Plan, TGC Engineering January 29, 2020
Illumination Specifications, Kichler Undated
Ayes: Carouse, Caruso, Harwood, Koepke, Petsche, Redinger, Veras.
Nays: None.
MOTION CARRIED 7-AYES, 0-NAYS.

Motion by Harwood, seconded by Carouse, to accept the recommendation of the **6946 OAKES**
Planning Commission for **PRELIMINARY** and **FINAL** approval of a solar panel system **ROAD**
installation at 6946 Oakes Road, Brecksville, Ohio as described in the application dated June **PRELIMIN-**
15, 2020 and attached plans by Better Together Solar contingent on Utility Company **ARY AND**
interconnection approval. **FINAL**

Site Assessment	BT Solar	June 8, 2020	APPROVAL
Street View	Google Map	June 12, 2020	FOR SOLAR
Solar Panel Specifications	Canadian Solar	December 2019	PANEL
Inverter Specifications	Solar Edge	January 2020	INSTALLAT-
Power Optimizer Specifications	Solar Edge	November 2019	ION
Structural Certification	Ironridge	May 18, 2020	

Ayes: Carouse, Caruso, Harwood, Koepke, Petsche, Redinger, Veras.
Nays: None.
MOTION CARRIED 7-AYES, 0-NAYS.

Council President Harwood said the Planning Commission will hold a Public Hearing **PUBLIC**
on Thursday, August 6, 2020, at 7:05 p.m. in the Ralph W. Biggs Council Chambers of **HEARING**
Brecksville City Hall, 9069 Brecksville Road, Brecksville, Ohio, to review conditional use **NOTICE**
of manufacturing facilities and operations in an office laboratory district as permitted under **VALOR**
Section 1157.03 of the Brecksville Planning and Zoning Code at the Valor Acres Property, **ACRES**
located at 10000 Brecksville Road, Brecksville, Ohio 44141. No motion is needed.

RECREATION COMMISSION: Council Representative Redinger reported the **RECREATION**
next meeting will be July 27th and will be held via teleconference. **COMMISSION**

DEPARTMENT OF HUMAN SERVICES: Council Representative Veras **DEPT. OF**
reported the Human Services Center is still closed, essential services including wellness **HUMAN**
calls, drivers, and the food pantry continue. One hundred seventy-five grab and go lunches **SERVICES**
are prepared every Thursday for pick up.

TELECOMMUNICATIONS COMMISSION: Council Representative Carouse **TELEC. COM.**
reported the meeting of the Telecommunications Committee has scheduled a meeting for
July 27th at City Hall.

SAFETY-SERVICE COMMITTEE: Councilmember Caruso reported the **SAFETY-**
committee met earlier today and has no additional items. **SERVICE**

STREETS & SIDEWALKS COMMITTEE: Councilmember Carouse reported **STREETS &**
the committee met earlier today and has no additional items. **SIDEWALKS**

UTILITIES COMMITTEE: Councilmember Petsche reported the committee met **UTILITIES**
earlier today and has no additional items. **COMMITTEE**

BUILDINGS & GROUNDS COMMITTEE: Councilmember Veras reported the **BUILDINGS &**
committee met earlier today and has no additional items. **GROUNDS**

LEGISLATION COMMITTEE: Councilmember Koepke reported the committee **LEGISLATION**
met earlier today and has no additional items. **COMMITTEE**

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FINANCE COMMITTEE: Councilmember Redinger reported the committee met earlier today and has no additional items. **FINANCE COMMITTEE**

REPORT OF LAW DIRECTOR: No Report. **LAW**

REPORT OF ENGINEER: No Report. **ENGINEER**

REPORT OF FINANCE DIRECTOR: No Report. **FINANCE**

REPORT OF BUILDING DEPARTMENT: No Report. **BUILDING**

REPORT OF SERVICE DIRECTOR: No Report. **SERVICE**

REPORT OF PURCHASING DIRECTOR: No Report. **PURCHASING**

REPORT OF POLICE DEPARTMENT: No Report. **POLICE**

REPORT OF FIRE DEPARTMENT: No Report **FIRE**

REPORT OF RECREATION DEPARTMENT: No Report **RECREATION**

REPORT OF THE MAYOR: Mayor Hruby reported the Community Improvement Corporation will meet at City Hall at 4:00 to discuss the Preliminary Phase Development Plan for Valor Acres and the Dalud Crowland Property. Mayor Hruby thanked City Council for passing the pending legislation for the project to third reading and for approving the amendment to the agreement to include the Dalud property. Mayor Hruby reported the Civil Service Commission certified 17 candidates for the position of fire fighter/paramedic. Interviews will take place and a recommendation to City Council will be made. The City of Brecksville and the Brecksville-Broadview Heights School District participated in a groundbreaking ceremony this morning for the Blossom Fieldhouse and Elementary School. Former high School Principal Walter Wisniewski died earlier this month at the age of 100 years.

PUBLIC HEARING: THE EXPULSION OR REMOVAL OF CITY COUNCILMEMBER JACK PETSCH. **PUBLIC HEARING TO DETERMINE THE EXPULSION OR REMOVAL OF CITY COUNCILMEMBER JACK PETSCH.**

ATTACHED TRANSCRIPT PROVIDED BY NANCY MOLNAR, MOLNAR REPORTING SERVICES, LLC HAS BEEN INCLUDED AS PART OF THE MINUTES OF THIS PUBLIC HEARING.

ATTENDANCE: MAYOR JERRY N. HRUBY
PRESIDENT: MICHAEL T. HARWOOD
VICE PRESIDENT: LAURA C. REDINGER
LOUIS N. CAROUSE, JR.
DOMINIC CARUSO
ANN KOEPKE
JACK PETSCH
KIMBERLY A. VERAS
CLERK: TAMMY TABOR

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BRECKSVILLE LAW DIRECTOR: DAVID J. MATTY, ESQ.
BRECKSVILLE ASST. LAW DIRECTOR: SERGIO I. DIGERONIMO, ESQ.
SPECIAL COUNSEL TO CITY COUNCIL: BENJAMIN CHOJNACKI, ESQ.
COUNSEL ON BEHALF OF JACK PETSCH: PETER PATTAKOS, ESQ.
COUNSEL ON BEHALF OF JACK PETSCH: PAUL DAIKER, ESQ.

Council President Harwood read the notice provided for the public hearing regarding the expulsion or removal of City Councilmember Jack Petsch is a quasi-judicial proceeding. No member of the public shall be permitted to speak unless that person is called on as a witness by a party to the proceeding who has relevant, admissible evidence to testify and is placed under oath.

Council President Harwood introduced Benjamin Chojnacki, Special Counsel to Brecksville City Council.

Mr. Chojnacki provided information regarding the procedures of the quasi-judicial proceeding, meaning that council is not acting in a legislative capacity, but is instead acting in a quasi-judicial capacity. Council is essentially acting as a court. And as such, it's appropriate only for Council to consider only evidence that is relevant, admissible, and germane to the charges that have been filed against Councilmember Petsch. Mr. Chojnacki said the burden will be on the City to prove beyond a preponderance of the evidence the charges set forth in the charging document. The City will go first in presenting their case. All persons testifying will be sworn in and present under oath. Mr. Chojnacki said after the City completes its case, Mr. Petsch's legal counsel will have the opportunity to present evidence in rebuttal consistent with what's set forth in the Brecksville Charter. Cross examination will take place by both sides followed by closing arguments.

Mr. Matty, for the City, began with an opening statement.

Mr. Pattakos, for Mr. Petsch, provided opening statements.

Council Clerk T. Tabor was sworn in and examined by Asst. Law Director DiGeronimo.
John A. Petsch III was sworn in and examined by Asst. Law Director DiGeronimo.
Jerry N. Hruba was sworn in and examined by Mr. Pattakos.
Jerry N. Hruba was examined by Asst. Law Director DiGeronimo and again by Mr. Pattakos.
Michael T. Harwood was sworn in and examined by Mr. Pattakos, and then Mr. DiGeronimo.
Louis N. Carouse, Jr. was sworn in and examined by Mr. Pattakos, and then Mr. DiGeronimo.
Laura C. Redinger was sworn in and examined by Mr. Pattakos.
Kimberly A. Veras was sworn in and examined by Mr. Pattakos.

Testimony and Exhibits are attached as part of the attached transcript.

Mr. Matty, for the City, provided a closing statement.

Mr. Pattakos, for Mr. Petsch, provided a closing statement.

Motion by Redinger, seconded by Carouse, to convene an executive session for the purpose of discussion regarding the hearing, the suspension or removal of an elected official.

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

Nays: None.

MOTION CARRIED 7-AYES, 0-NAYS.

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Councilmembers, Carouse, Caruso, Harwood, Koepke, Petsche Redinger and Veras along with special counsel Chojnacki adjourned to executive session at 1:37 A.M. July 22, 2020.

Council reconvened and Council President Harwood called the meeting to order in regular session at 2:59 A.M.

Motion by Carouse, seconded by Redinger to remove City Councilmember Jack Petsche based upon the charges brought and the evidence and testimony submitted into the record at the public meeting.

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

Nays: Koepke, Petsche.

MOTION CARRIED 5-AYES, 2-NAYS.

Motion by Harwood, seconded by Carouse, to authorize Counsel to prepare findings of fact and conclusion of law for formal adoption in a subsequent public meeting.

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

Abstain: Petsche.

Nays: None

MOTION CARRIED 6-AYES, 1- ABSTAIN, 0-NAYS.

Motion by Harwood, seconded by Carouse, to adjourn the regular meeting at 3:02 A.M., July 22, 2020. **ADJOURN**

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

MOTION CARRIED 7-AYES, 0-NAYS.



PRESIDENT OF COUNCIL



CLERK OF COUNCIL