

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

HELD July 7, 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 ALLEGIANCE**
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: Law Director D. Matty, Assistant Law Director DiGeronimo, Engineer G. Wise, Finance Director L. Starosta, Building Insp. S. Synek, Purchasing Director R. Riser, Fire Chief N. Zamiska, Police Lt. R. Johnson, P. Padraik, Council Clerk T. Tabor.

Teleconference: Mayor Jerry N. Hruby, Service Director R. Weidig.

ROLL CALL

MINUTES OF THE JUNE 16, 2020 REGULAR MEETING: Motion by Carouse, seconded by Redinger, to dispense with the reading of the June 16, 2020 regular meeting minutes and to accept same as presented.
Ayes: Carouse, Caruso, Harwood, Koepke, L. Redinger, Veras.
Nays: Petsche.
MOTION CARRIED 6-AYES, 1-NAYS.

REGULAR MEETING MINUTES OF 6-16-2020 APPROVED

RESOLUTION 5061 re: a Resolution accepting the proposal of Walter Haverfield to provide professional services as Legal Counsel to the City of Brecksville City Council for the removal proceedings of City Councilmember Jack Petsche; and declaring an emergency, was read by title.
Motion by Carouse, seconded by Redinger, to suspend the rules and place Resolution 5061 on third and final reading.
Ayes: Carouse, Caruso, Harwood, Koepke, L. Redinger, Veras.
Abstain: J. Petsche.
Nays: None.

RES. 5061 LEGAL COUNSEL TO CITY COUNCIL FOR REMOVAL PROCEEDINGS OF JACK PETSCH

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

Motion by Redinger, seconded by Carouse, to pass Resolution 5061.

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

Abstain: J. Petsche.

Nays: None.

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

ORDINANCE 5333 re: an Ordinance accepting the bid of Capitol Aluminum & Glass Corporation for window replacement at 4450 Oakes Road, Blossom Hill, Building 7; and declaring an emergency, was read by title.

ORD. 5333 ACCEPTING THE BID OF CAPITOL ALUMINUM & GLASS CORP. FOR 4450 OAKES RD. BUILDING 7 WINDOW PROJECT

Motion by Veras, seconded by Caruso, to suspend the rules and place Ordinance 5333 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 5333.

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

Nays: None.

MOTION CARRIED 7-AYES, 0-NAYS.

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ORDINANCE 5334 re: an Ordinance to amend Ordinance No. 5277, making appropriations for current expenses of the City of Brecksville during the fiscal year ending December 31, 2020, making necessary appropriation and revenue adjustments; and declaring an emergency, was read by title.

Motion by Caruso, seconded by Veras, to suspend the rules and place Ordinance 5334 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 5334.

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

Nays: None.

MOTION CARRIED 7-AYES, 0-NAYS.

**ORD. 5334
AMENDING
ORD. 5277
MAKING
APPROPRIA-
TIONS AND
REVENUE
ADJUST-
MENTS.**

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 Veras, seconded by Caruso, to suspend the rules and place Ordinance 5335 on third and final reading.
Ayes: Carouse, Caruso, Harwood, Koepke, Petsche, Redinger, Veras.
Nays: None.

Motion by Redinger, seconded by Carouse, to pass Ordinance 5335.

Law Director Matty asked that this be the first reading of this Ordinance. (The result of which tabled the motion to pass.)

Motion by Redinger, seconded by Carouse, to pass Ordinance 5335 to second reading.

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

Nays: None.

MOTION CARRIED 7-AYES, 0-NAYS.

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.

Motion by Redinger, seconded by Carouse, to pass Ordinance 5336 to second reading.
Ayes: Carouse, Caruso, Harwood, Koepke, Petsche, Redinger, Veras.
Nays: None.

MOTION CARRIED 7-AYES, 0-NAYS.

**ORD. 5336
EST. MUNI.
PUBLIC IMP
TAX
INCREMENT
EQUIVALENT
FUND**

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.

Motion by Redinger, seconded by Carouse, to pass Ordinance 5337 to second reading.
Ayes: Carouse, Caruso, Harwood, Koepke, Petsche, Redinger, Veras.

Nays: None.

MOTION CARRIED 7-AYES, 0-NAYS.

**ORD. 5337
AUTH. TAX
INCREMENT
FINANCING
AGREEMENT
WITH
SHERWIN-
WILLIAMS**

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ORDINANCE 5338 re: an Ordinance creating Tax Increment Financing Area **ORD. 5338**
encompassing the real property commonly known as the Dalad Property pursuant to Ohio **CREATE TAX**
Revised Code Sections 5709.40, 5709.42 and 5709.43, declaring improvements to those **FINANCING**
parcels of real property to be a public purpose, and requiring the owners of the improvements **AREA**
on such parcels to make service payments in lieu of taxes; and declaring an emergency, was **ENCOMPASS-**
read by title. **ING PROP.**

Motion by Redinger, seconded by Caruso, to pass Ordinance 5338 to second reading. **KNOWN AS**
Ayes: Carouse, Caruso, Harwood, Koepke, Petsche, Redinger, Veras. **THE DALAD**
Nays: None. **PROPERTY**

MOTION CARRIED 7-AYES, 0-NAYS.

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

Motion by Redinger, seconded by Carouse, to pass Resolution 5062 to second **BRECKS. CIC**
reading. **AND**
Ayes: Carouse, Caruso, Harwood, Koepke, Petsche, Redinger, Veras. **DIGERONIMO**
Nays: None. **DEVELOP-**
MOTION CARRIED 7-AYES, 0-NAYS. **MENT LLC**

Councilmember Koepke left the meeting briefly.

BOARD OF ZONING APPEALS: Councilmember Caruso reported the next **BD. OF**
meeting of the Board of Zoning Appeals will be Monday, July 13th at 7:30 P.M. **ZONING APP.**

PLANNING COMMISSION: Councilmember Harwood reported the next **PLANNING**
meeting of the Planning Commission will be July 9th at 7:00 P.M. **COMMISSION**

Motion by Harwood, seconded by, Veras, to accept the Planning Commission **HYSON PROD.**
recommendation to approve **PRELIMINARY** and **FINAL** approval, and the Building **PAVILION**
Department issue a permit, for the installation of a 30' x 30' wooden pavilion on a 35'x **10367 BRECKS-**
42'5" concrete pad in the rear yard for Hyson Products, 10367 Brecksville Road, **VILLE ROAD**
Brecksville, Ohio, as described in the application dated March 20, 2020 and attached
information by Dover Concrete and Mark Ruby, Architect. SD-1 Location Ma and Site Plan
dated, 4/7/2020 and A-1 Truss Diagram, Floor Plan and Elevations dated 4/7/2020.
Contingent on approval of the City Engineer and that 1) The project and all its components
must be compliant with ADA requirements, and 2) Should additional parking be required it
will be necessary for Hyson Products, and be their responsibility, to remove the pavilion to
accommodate any needed additional parking.

Ayes: Carouse, Caruso, Harwood, Petsche, Redinger, Veras.
Nays: None.

MOTION CARRIED 6-AYES, 0-NAYS.

Councilmember Koepke returned to the meeting.

Motion by Harwood, seconded by, Veras, to accept the Planning Commission **AT&T**
recommendation to approve **PRELIMINARY** and **FINAL** approval of plans for the **ANTENNA**
removal of 3 antennas, 3 remote radio heads (RRH's), associated power cable, coax, and **MODIFICA-**
conduit and to install 3 new antennas, 6 RRH's, two power trunks, one fiber trunk, and one **TIONS 9001**
conduit on the existing Crown Castle Tower at 9001 Brecksville Road, Brecksville, Ohio **BRECKS-**
44141, for AT&T as described in the application dated May 5, 2020, and the attached **VILLE**
information, contingent on approval by City Council. Councilmember Petsche asked if there
will be a change to the appearance. Council President Harwood said no, this is for a
replacement, going in the same locations.

Ayes: Carouse, Caruso, Harwood, Koepke, Petsche, Redinger, Veras.
Nays: None.

MOTION CARRIED 7-AYES, 0-NAYS.

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Motion by Harwood, seconded by, Veras, to accept the Planning Commission **SOLAR** recommendation to approve a solar panel system installation at 9746 Barr Road, Brecksville, **PANELS, KING** Ohio as described in the application dated June 12, 2020 and attached plans by Power Home **9746 BARR** Solar LLC and contingent on Utility Company interconnection approval and also contingent **ROAD** on City Council's approval.

Picture of proposed installation, undated.

PV-1 Plot Plan and Vicinity Map, PV-2 Roof Plan and Modules, PV-2A String Layout, PV-3 Attachment Detail, PV-4 Electrical Line Diagram, PV-5 Wiring Calculations, PV-6 Solaredge Optimizer Chart, PV7 to PV-10 Equipment Specification, PV-11 A, B,C, Equipment Specification, PV-12 Equipment Specification, all dated 3/6/2020.

PV-12 Side/Elevation Views, dated 3/16/2020. Roof Load Calculations, Wyssling Consulting, dated 3/9/2020.

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

Nays: None.

MOTION CARRIED 7-AYES, 0-NAYS.

RECREATION COMMISSION: Councilmember Redinger reported the next **RECREATION** meeting of the Recreation Commission is scheduled for July 27th at 7:00 P.M. **COMMISSION**

DEPARTMENT OF HUMAN SERVICES: No Report.

**HUMAN
SERVICES**

TELECOMMUNICATIONS COMMISSION: Councilmember Carouse said the **TELEC. COM.** first meeting off 2020 is scheduled for July 27th.

SAFETY-SERVICE COMMITTEE: Councilmember Caruso reported the **SAFETY-** committee met earlier and has one additional item for Council to consider. **SERVICE**

Motion by Caruso, seconded by Petsche, to approve a purchase requisition to Murphy **MURPHY** Tractor & Equipment Co., Inc. in the amount of \$6,470.88 for the leaf machine engine **TRACTOR &** replacement on the City's one-man leaf machine, vehicle #B-42. *Account #110623 2601.* **EQUIP LEAF**

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

Nays: None.

MOTION CARRIED 7-AYES, 0-NAYS.

MACHINE

REPAIR

STREETS & SIDEWALKS COMMITTEE: No Report.

**STREETS &
SIDEWALKS**

UTILITIES COMMITTEE: Councilmember Petsche reported the committee met **UTILITIES** earlier and the Whitewood Aerial Sewer repair project has begun. **COMMITTEE**

BUILDINGS & GROUNDS COMMITTEE: Councilmember Veras reported the **BUILDINGS &** Buildings & Grounds Committee met earlier this evening and has seven additional items for **GROUND** Council consideration. **COMMITTEE**

Motion by Veras, seconded by Redinger, to approve a purchase requisition to HEPA **HEPA ENVIR.** Environmental Services, Inc. in the aggregate amount of \$12,900.00 for the removal and **FOR 4450** disposal of asbestos-containing windows at 4450 Oakes Road, Blossom Hill, Building 7. **OAKES RD.** *Account #C490161 3202. Project #BI200007.*

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

Nays: None.

MOTION CARRIED 7-AYES, 0-NAYS.

**WINDOW
REPLACE
PROJECT**

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Motion by Veras, seconded by Redinger, to approve a blanket vendor purchase requisition in the amount of \$50,000.00 for the City's management of the contingency funding budgeted for the City Hall Roof Replacement & New Air Handlers Project to be used for approved change orders due to Owner, Design, Field or Scope changes encountered during the project. *Account #C490166 3202. Project #BI190003.*

**CITY HALL
ROOF & AIR
HANDLERS
PROJECT
CONTINGEN-
CY MGMT.**

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

Nays: None.

MOTION CARRIED 7-AYES, 0-NAYS.

Motion by Veras, seconded by Redinger, to approve a blanket vendor purchase requisition in the amount of \$11,053.00 for the Community Center Overflow Parking Lot Project budgeted in 2020 capital improvements. *Account #C480171 3501. Project #RD200001.*

**COMMUNITY
CENTER
PARKING
OVERFLOW
PARKING**

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

Nays: None.

MOTION CARRIED 7-AYES, 0-NAYS.

Motion by Veras, seconded by Redinger, to approve a purchase requisition to ABC Fire, Inc. in the amount of \$9,574.00 for a New Fire Alarm System in Old Town Hall. *Account #C490162 3202. Project #BI200003.*

**OLD TOWN
HALL NEW
FIRE ALARM
SYSTEM**

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

Nays: None.

MOTION CARRIED 7-AYES, 0-NAYS.

Motion by Veras, seconded by Redinger, to approve a purchase requisition to Calcom, Inc. in the amount of \$7,550.00 for a New Fire Alarm System in Blossom Cooperative Preschool, Building #10. *Account #C490161 3202.*

**BLOSSOM
COOPERA-
TIVE
PRESCHOOL
FIRE ALARM
SYSTEM**

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

Nays: None.

MOTION CARRIED 7-AYES, 0-NAYS

Motion by Veras, seconded by Redinger, to approve a blanket vendor purchase requisition in the amount of \$9,464.00 for the Brecksville Police Department Concrete Stormwater Drive Project budgeted in 2020 capital improvements. *Account #C490210 3202. Project #BI200001.*

**POLICE DEPT
CONCRETE
STORM-
WATER
DRIVE
PROJECT**

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

Nays: None.

MOTION CARRIED 7-AYES, 0-NAYS.

Motion by Veras, seconded by Redinger, to approve blanket vendor purchase requisition in the amount of \$8,107.00 for the Community Center Sidewalks Project budgeted in 2020 capital improvements. *Account #C490240 3202. Project #BI 200010.*

**COMMUNITY
CENTER
SIDEWALKS
PROJECT**

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

Nays: None.

MOTION CARRIED 7-AYES, 0-NAYS.

LEGISLATION COMMITTEE: No Report.

**LEGISLATION
COMMITTEE**

FINANCE COMMITTEE: Councilmember Carouse thanked Council for the passage of the legislation presented this evening. The Finance Committee is requesting approval of two additional items for Council approval.

**FINANCE
COMMITTEE**

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Motion by Redinger, seconded by Carouse, to approve an increase to Blanket **INCREASE**
Purchase Order #FN200012 in the amount of \$4,500.00 for Tennis Instructors. *Account* **P.O. FOR**
#240744 2102. **TENNIS**

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

Nays: None.

MOTION CARRIED 7-AYES, 0-NAYS

**INSTRUC-
TORS**

Motion by Redinger seconded by Carouse, to approve the payment of bills for **MONTHLY**
professional services, as follows: Matty, Henrikson and & Greve in the amount of \$8,940.83; **BILLS FOR**
Matty, Henrikson and & Greve in the amount of \$1,015.00, Sergio I. DiGeronimo in the **PROFESS-**
amount of \$4,757.50, Roger Wadsworth in the amount of \$350.00; Squire Patton Boggs in **IONAL**
the amount of \$2,797.50, Kulchytsky Architects, LLC in the amount of \$150.00; J Neusser, **SERVICES**
LLC in the amount of \$2,000.00; and Donald J. Bohning & Associates in the amount of
\$25,296.69 and Sixmo in the amount of \$725.00. Total of all invoices \$46,032.52.

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

Abstain: Petsche.

Nays: None.

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

REPORT OF LAW DIRECTOR: Council President Harwood asked if Law **LAW**
Director Matty was able to comment on the e-mail sent to Council today regarding a law **DIRECTOR**
suit. Law Director Matty said he was sent an e-mail at 9:16 P.M. last evening from an **REPORT**
attorney named Pattakos, who indicated that he had filed yesterday a complaint, a Verified
Complaint of Declaratory Relief and a motion for Temporary Restraining Order and
Preliminary Injunction in Cuyahoga County Common Pleas Court on behalf of Jack Petsche.
The defendant is the City of Brecksville. Law Director Matty said he also received today
from a County Employee, through Mr. DiGeronimo, an e-mail that indicated that Judge
Matia had denied the motion for temporary restraining order and that a hearing will be set
on July 17th at 9:00 A.M. in the courtroom on the Motion for Preliminary Injunction.

Council President Harwood asked if anyone was in the audience for this issue. Peter **PETER**
Pattakos said he is the attorney that filed this case on behalf of Mr. Petsche. It's on the **PATTAKOS**
internet anybody can find it easily if they want to look at it. I encourage everybody who is **COMMENTS**
interested in what happens in Brecksville government to read it and review it. Mr. Pattakos
said my website is Pattakos Law Firm website. Pattakos you will see there is a headline,
there is a news section that contains an explanation of why Mr. Petsche filed a law suit. We
believe it is an unconstitutional attack on his elected Council seat. In disregard of clear Ohio
Law that guarantees the citizens the sacred right to elect their elected representatives and
holds that a Councilmember or any elected official can only be removed from public office
for clearly substantial reasons and clear misconduct that would justify conclusions that their
further presence in office would be harmful to the public welfare. And our position is that
what has been alleged against Mr. Petsche is at most an unintentional and harmless violation
that cannot possibly support removal by Council under the circumstances. We intend to
argue that in court and we expect to prevail. Thank you.

Council President asked Law Director Matty and Assistant Law Director **ASST. LAW**
DiGeronimo if Council needs to respond. Asst. Law Director DiGeronimo said the City will **DIRECTOR**
not try this at this time, there is a court case. We will be present and we will address this
issue before the Honorable Judge Matia.

REPORT OF ENGINEER: No. Report.

ENGINEER

REPORT OF FINANCE DIRECTOR: No Report.

FINANCE

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REPORT OF BUILDING DEPARTMENT: Inspector Synek reported in June the **BUILDING** Building Department issued 132 permits with a valuation of \$1.68 million and the total **DEPT.** receipts collected of \$56,845.46.

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: Fire Chief Zamiska reported the Brecksville **FIRE** Fire Department has been notified that the department has been awarded an EMS grant of \$3,099.00. Those funds will be used for a software upgrade and trauma supplies.

REPORT OF RECREATION DEPARTMENT: No Report

RECREATION

REPORT OF THE MAYOR: Mayor Hruby reported the Governor's office issued **MAYOR** an order, beginning on July 8th at 6:00, it will be mandatory for people to wear a mask while in public in Cuyahoga County and several other counties in Ohio. The City of Brecksville has had the position to follow the orders that come from the Governor's office. It's mandated this and has put the enforcement upon the local governments. Mayor Hruby said he will be discussing this topic in the next couple days regarding the enforcement. The City of Brecksville does not have no such law and the Governor has issued this order and is putting it together in a way it could be enforceable. Mayor Hruby said notices will be going out tomorrow to the Community Center and expect our residents that wish to use the Community Center tomorrow after 6:00 PM come to the Community Center wearing a mask. When the resident gets to the machine or swimming pool or some physical activity, they may remove the mask. You will be kept informed of any updates. Mayor Hruby said Human Services Director Dr. Paciorek and Recreation Director Tupa are working to keep residents informed. More information will be provided regarding the enforcement.

Motion by Harwood, seconded by Carouse, to adjourn the regular meeting at 8:33 **ADJOURN**
P.M.

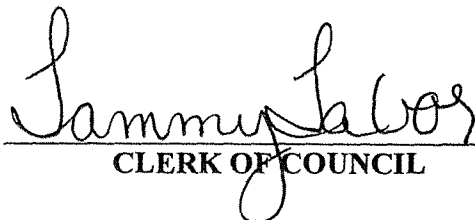
Ayes: Carouse, Caruso, Harwood, Koepke, Petsche, Redinger, Veras.

Nays: None.

MOTION CARRIED 7-AYES, 0-NAYS.



PRESIDENT OF COUNCIL



CLERK OF COUNCIL