

**IN THE CITY OF BRECKSVILLE, OHIO**  
**CITY COUNCIL**

***In re: Removal of John (Jack) Petsche  
from City Council of the City of Brecksville***

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

On July 21, 2020, pursuant to Article IV, Section 4 of the Charter of the City of Brecksville, a public hearing was conducted regarding the charges for removal of City of Brecksville City Councilmember John (Jack) Petsche ("Mr. Petsche") from his office as a Member of City Council of the City of Brecksville. During the public hearing, City Council of the City of Brecksville heard sworn testimony and received evidence submitted by the City of Brecksville and Mr. Petsche. Upon consideration of all such evidence, City Council makes the following findings of fact and conclusions of law.

1. Mr. Petsche was duly elected by the electorate of the City of Brecksville in November 2017 to serve as a member of City Council of the City of Brecksville. On January 2, 2018, Mr. Petsche took an Oath of Office solemnly swearing and affirming that he "shall uphold the Constitution and laws of the State of Ohio, the Charter, Ordinances and Resolutions of the City of Brecksville, and that [he] shall faithfully, honestly and impartially discharge [his] duties as: **A MEMBER OF BRECKSVILLE CITY COUNCIL** during [his] term of office..."
2. Mr. Petsche has received training and education regarding compliance with the City Charter and the laws of the State of Ohio. He is an attorney licensed to practice law in Ohio. In his capacity as a member of City Council, Mr. Petsche received a copy of the City of Brecksville's Employee Handbook describing his obligations and responsibilities pertaining to compliance with the City Charter and Ohio law. Of note, the City of Brecksville's Employee Handbook reads in pertinent part:

***CONFLICT OF INTEREST***

The City requires the highest standards of ethical and legal conduct of every employee. Adherence to this standard is vitally important because the activities of any employee may affect the City's reputation and public confidence in its integrity.

It is each employee's responsibility to recognize and avoid any situation that might involve a conflict of interest. For guidance, the following are examples of typical conflict of interest situations and the City's position on each example. City employees may not dispense special favors or privileges to

anyone, whether or not for financial or personal gain; and may never accept favors or benefits under circumstances which might be construed as influencing the performance of the employee's duties for the City.

Information gained in the performance of City duties may not be used as a means of making private profit, nor may such information be divulged to unauthorized persons.

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***ETHICS***  
**Statement:**

It is the policy of the City of Brecksville to carry out its mission in accordance with the highest ethical standards and to ensure that all city employees conduct themselves in a manner that fosters public confidence in the integrity of the operation of the Brecksville city government.

**General Standard of Ethical Conduct:**

Employees must, at all times, abide by the Ohio's ethics laws, including those contained in Chapters 102 and 2921 of the Ohio Revised Code. Employees must conduct themselves, at all times, in a manner that avoids favoritism, bias, and the appearance of impropriety.

A general summary of the restraints placed upon the conduct of all city employees is listed below. This summary is not, however, exhaustive. City employees shall not:

- Solicit anything of value from anyone doing business with the city;
- Accept anything of value from anyone doing business with the city;
- Use their position with the city to obtain a benefit for themselves, a family member, or anyone with whom the city employee has a business or employment relationship;
- Accept any form of compensation for personal services rendered on any matter, the review or approval of which is before the city or any of its boards or commissions;
- Derive any economic benefit from any contract with, authorized by, or approved by the city;

- Use or disclose any information the confidentiality of which is protected by law.

**For purposes of this policy:**

"Anything of value" includes anything of monetary value, including, but not limited to money, gifts, food or beverages, social event tickets and expenses, travel expenses, golf outings, consulting fees, compensation, or employment.

"Value" means worth greater than de minimis or nominal.

**Penalties:**

Failure of any employee to abide by this city policy or the Ohio Ethics Law or related statutes may result in disciplinary action including dismissal as well as civil or criminal prosecution.

3. Throughout Mr. Petsche's tenure as a member of City Council, he was the owner of USA Roofing, Inc., a roofing contractor organized under the laws of the State of Ohio.

4. Article IV, Section 2, of the Charter of the City of Brecksville provides:

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

5. At all times relevant, Mr. Petsche was aware of and understood this provision of the Charter, Ohio's Ethics Laws, and the provisions of the City of Brecksville Employee Handbook addressing conflicts of interest and ethical conduct. Mr. Petsche was aware of the consequences for failing to comply with the Charter, Ohio's Ethics Laws, and the Employee Handbook.
6. As a member of City Council, Mr. Petsche had knowledge that the City Council of the City of Brecksville was planning to vote to authorize the use of public money to fund the construction of the City of Brecksville's Aquatic Center (the "Aquatic Center Project").
7. Mr. Petsche had knowledge that Seitz Builders, Inc. was submitting a bid proposal to serve as the General Contractor for the Aquatic Center Project.

8. On May 1, 2019, during Mr. Petsche's term as a member of City Council, Mr. Petsche on behalf of USA Roofing, Inc., submitted a bid proposal to Seitz Builders, Inc., to act as a subcontractor on the Aquatic Center Project and install the roof for the City's Aquatic Center for an estimated total of \$243,528.00.
9. On May 3, 2019, Seitz Builders, Inc. submitted a bid proposal to be the General Contractor for the Aquatic Center Project.
10. On May 6, 2019, Mr. Petsche wrote several emails to Seitz Builders, Inc., further soliciting the work as the roofing subcontractor for the Aquatics Center Project, stating that he lived in Brecksville, and stating that he had some "flexibility" in the \$243,528.00 bid proposal he had previously submitted to Seitz Builders, Inc.
11. Seitz Builders, Inc. provided the City of Brecksville with a list of proposed subcontractors for the Aquatics Center Project. The list included USA Roofing, Inc.
12. On or about May 13, 2019, City of Brecksville Purchasing Director, Rebecca Riser, discovered that Seitz Builders, Inc. submitted their bid naming USA Roofing, Inc. as the roofing subcontractor for the Aquatic Center Project.
13. On May 13, 2019, City of Brecksville Purchasing Director, Rebecca Riser, contacted Seitz Builders, Inc. and advised them that their submission could not proceed unless USA Roofing, Inc. was removed as a subcontractor.
14. As part of the resubmission, Seitz Builders, Inc. removed USA Roofing, Inc. as a subcontractor.
15. On May 27, 2019, at a special meeting of the Brecksville City Council, Ordinance 5244 was adopted by the City Council accepting the bid of Seitz Builders, Inc. for the Aquatic Center Project.
16. On June 4, 2019, at a regular meeting of the Brecksville City Council, while discussing an Ordinance (Ord. 5248) relating to design and construction of the Aquatic Center Project, Mr. Petsche admitted that he, on behalf of his company, USA Roofing, Inc., bid on the roof for the Aquatic Center Project.
17. On June 9, 2020, the Cuyahoga County Prosecutor's Office received a true Bill of Indictment from the Cuyahoga County Grand Jury which indicted Mr. Petsche for Three (3) Counts of Having An Unlawful Interest in a Public Contract, and One (1) Count of

Attempted Having An Unlawful Interest in a Public Contract. Each of the foregoing charges are felonies under Ohio Revised Code Section 2921.42.

18. One of the four Felony Charges is the charge of Attempted Having An Unlawful Interest in a Public Contract, which concerns the conduct of Mr. Petsche as it relates to the USA Roofing, Inc. bid to Seitz Builders, Inc. for the Aquatic Center Project.

19. Article IV, Section 4 of the Charter of the City of Brecksville provides:

**REMOVAL.**

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

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

20. On June 16, 2020, Mr. Petsche was personally served with written notice of City Council's intent to conduct a public hearing on July 21, 2020 to expel or remove Mr. Petsche from City Council based upon the alleged conduct described in the charging document that was personally served upon Mr. Petsche.

21. On July 21, 2020 and continuing into the early hours of July 22, 2020, Council conducted a public hearing regarding the expulsion or removal of Mr. Petsche from City Council. The hearing proceeded in accordance with Article IV, Section 4 of the Charter and the Procedures for Hearing of Removal Charges, which were adopted by Council before the removal hearing was conducted. A transcript of the public hearing and all evidentiary

submissions and rulings are fully incorporated into these findings of fact and conclusions of law.

22. After all evidence was heard and submitted to Council in the public hearing, Council adjourned to executive session to deliberate regarding the evidence presented and arguments made by the City and Mr. Petsche during the public hearing. Council returned from executive session and a motion to remove Mr. Petsche from his position as a member of City Council passed by a vote of five yeas in favor of removal of Mr. Petsche to two nays against removal of Mr. Petsche. Thereafter, Council passed a motion instructing legal counsel to memorialize Council's vote with written findings of fact and conclusions of law. The public hearing was then adjourned.
23. Based upon the foregoing findings of fact, and the other evidence and testimony presented at the hearing, the City Council of the City of Brecksville finds and concludes:
  - a. Mr. Petsche, while a duly elected Member of City Council for the City of Brecksville, directly or indirectly, solicited, attempted to contract for, receive, and secure an interest in a profit or emolument from or on account of a contract, job, work, or service with or for the municipality, namely the Aquatics Center Project. By engaging in this conduct, Mr. Petsche violated Article IV, Section 2 of the Charter of the City of Brecksville and is disqualified from holding the elected office of member of City Council of the City of Brecksville. Council has determined that it is therefore appropriate, pursuant to Article IV, Section 4 of the City Charter, to remove Mr. Petsche from City Council.
  - b. Mr. Petsche violated his Oath of Office as a member of City Council of the City of Brecksville, and pursuant to Article IV, Section 4 of the Charter of the City of Brecksville, Mr. Petsche should be removed from office.
  - c. Mr. Petsche's conduct has caused continuing and substantial harm to the City and City Council, including, but not limited to: an erosion of the public's confidence and trust in City Council and the City of Brecksville's government as a whole; substantial reputational harm to City Council and the City of Brecksville's government as a whole; unnecessary and wasteful uses of the time, attention, and resources of City Council and other City employees and officials; a distraction from the many good and positive contributions City Council and the City of Brecksville government are making in the community; and the continuing expenditure of public funds for professional fees and expenses associated with Mr. Petsche's conduct. Lastly, this Council does not wish to set a precedent of allowing outright and significant violations of an elected official's Oath of Office and the City Charter to

be left unaddressed, and to do anything less than remove Mr. Petsche from City Council would be tantamount to supporting Mr. Petsche's violations of his Oath of Office and the City Charter. This Council does not countenance self-dealing and unlawful behavior from Mr. Petsche or any other member of Council.

- d. Mr. Petsche's conduct, as established at the public hearing, constitutes clear and substantial misconduct, and it would be harmful to the public welfare if his presence in office as a member City Council were to continue. Therefore, Mr. Petsche should be removed from office as a member of City Council.

24. Pursuant to Article IV, Section 4, of the Charter of the City of Brecksville, Council is exercising its authority to remove Mr. Petsche from City Council. This decision is final, effective immediately upon the passage of a resolution adopting these findings of fact and conclusions of law as the decision of City Council.

Based upon the foregoing findings of fact and conclusions of law, the following members of City Council of the City of Brecksville affirm their vote in favor of removal of Mr. Petsche from City Council of the City of Brecksville:

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Michael Harwood,  
President of Council

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Laura Redinger  
Vice President of Council

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Lou Carouse, Jr.

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Dominic Caruso

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Kim Veras