

CITY OF BEREA, OHIO

**MINUTES OF A REGULAR COUNCIL MEETING
HELD JANUARY 20, 2009**

Council of the City of Berea, Ohio, met in the Council Chamber on January 20, 2009, and was called to order at 7:30 p.m. by President of Council James J. Brown, with Mary K. Brown, George Capellas, Nick Haschka, Dale A. Lange, Margarette S. Key, Jim Maxwell, Dean W. Van Dress. Absent: none. The Pledge of Allegiance followed.

The Clerk's certificate of compliance with C.O. Section 109 and Section 121.22 of the Ohio Revised Code was filed with Council records in the Clerk's office.

Moved by Capellas, seconded by Haschka that the Minutes of the October 6, 2008 Regular Meeting be approved as circulated. Vote on the motion was all ayes and no nays. The motion carried. Mr. Lange then stated that the minutes needed to be corrected in the **Audience Participation** section. He said Mayors Blomquist and Kleem did not sign the actual petition. President of Council said the minutes would be approved with that correction.

Moved by Key, seconded by Haschka that the Minutes of the November 3, 2008 Regular Meeting be approved as circulated. Vote on the motion was all ayes and no nays. The motion carried.

Moved by Lange, seconded by Key that the Minutes of the January 5, 2009 Regular Meeting be approved as circulated. Vote on the motion was all ayes and no nays. The motion carried.

President of Council said if there was no objection, the order of business would be changed in order for Council to recognize the three Eagle Scouts before the Mayor's Report.

COMMENDING LEGISLATION

The following Resolution was read in full for first reading:

RESOLUTION NO. 2009-3 HONORING AND COMMENDING RYAN M. BROWN FOR HIS ACHIEVEMENT IN ATTAINING THE RANK OF EAGLE SCOUT (1-2)

Moved by Maxwell, seconded by Haschka that the Resolution be approved. Council members and Mayor Kleem commended and congratulated Ryan M. Brown. Vote on the motion to adopt was ayes: Key, Lange, Maxwell, Van Dress, Brown, Capellas, Haschka. Nays: None. Motion carried. Resolution No. 2009-3 was adopted.

On behalf of Council and the Administration, the President of Council presented an official copy of the Resolution to Ryan M. Brown.

The following Resolution was read in full for first reading:

RESOLUTION NO. 2009-4 HONORING AND COMMENDING PETER B. IVCIC FOR HIS ACHIEVEMENT IN ATTAINING THE RANK OF EAGLE SCOUT (1-3)

Moved by Haschka, seconded by Key that the Resolution be approved. Council members and Mayor Kleem commended and congratulated Peter B. Ivcic. Vote on motion to adopt was ayes: Key, Lange, Maxwell, Van Dress, Brown, Capellas, Haschka. Nays: None. Motion carried. Resolution No. 2009-4 was adopted.

On behalf of Council and the Administration, the President of Council presented an official copy of the Resolution to Peter B. Ivcic.

The following Resolution was read in full for first reading:

RESOLUTION NO. 2009-5 HONORING AND COMMENDING MATTHEW J. LAUBERT FOR HIS ACHIEVEMENT IN ATTAINING THE RANK OF EAGLE SCOUT (1-4)

Moved by Lange, seconded by Van Dress that the Resolution be approved. Council members and Mayor Kleem commended and congratulated Matthew J. Laubert. Vote on Motion to adopt was ayes: Key, Lange, Maxwell, Van Dress, Brown, Capellas, Haschka. Nays: None. Motion carried. Resolution No. 2009-5 was adopted.

On behalf of Council and the Administration, the President of Council presented an official copy of the Resolution to Matthew J. Laubert.

MAYOR'S ADMINISTRATIVE REPORT

Mayor Kleem updated Council on the Front Street railroad project by reporting that the City had met last week with representatives from the Ohio Department of

Transportation (ODOT) who will be acting as the inspectors and project managers on this project.

The Mayor also reported that the City had received a bill late last week from ODOT. He referred to information that he had discussed at a previous Council Meeting including announcing that Great Lakes Construction had been awarded the bid on the project and the estimated deficit on the project. Last year the deficit was estimated to be \$10.8 million, but the City was able to negotiate with ODOT to help reduce the amount significantly including waiving their construction management fee of approximately \$1.8 million and also that the bid came in significantly lower than the estimated cost.

Mayor Kleem said there was also some additional federal funding added to the project that is given to the state and the state has added that funding to the project amounting to approximately \$650,000. There is also most likely some balances in other parts of this project in non-construction parts that could be carried over, i.e. engineering and right-of-way. He then said the actual shortfall on the project would be approximately \$97,000 which is a significant change from a year ago, but with the additional funding, the City had anticipated a surplus to start the project of approximately \$600,000 to \$700,000. The surplus would most likely eventually be consumed as the project went on because there is additional engineering that would need to be done and the anticipation of some change orders.

He said the bill from ODOT was for \$545,000 which is one-half of ODOT's management fee. The Mayor said the City had an agreement with ODOT to not have a management fee, but since the project was in a financially better state than it has been in the past, ODOT decided that they would in essence go back on that and charge the City that fee. So instead of having a surplus, now there would be a deficit of approximately \$1.1 million of which one-half would be due in February totaling \$545,000. He said he has discussed his displeasure about this change with ODOT with no success and didn't feel it was a good idea to hold up the project while discussing this issue. The City will pay the \$545,000 and the Mayor will work to do whatever he can to continue to negotiate the fee with ODOT. The City will also be talking with NOACA about helping with some funding for this project. The second half of the payment would not be due until the project is approximately fifty per cent complete.

The Mayor said that after meeting with the project management representatives from ODOT last week, he felt better about working with ODOT on this project. The project is anticipated to be started in March. ODOT and Great Lakes Construction will have a public meeting in late March/early April to discuss the different traffic patterns for this project and other items. They are also looking to coordinate their project with the current Eastland Road project. He said there would also be a website for the public to use before and during the construction project.

In response to Mr. Capellas' concern about the Eastland Road project and this project affecting the businesses between Eastland and Front Street, i.e. the Cleveland Browns, the Mayor said the City had met with representatives from the Cleveland Browns regarding the potential inconvenience. Mayor Kleem said the City's concern is that Eastland Road and First Avenue would be closed at the same time and the City of Berea's portion of First Avenue (Lou Groza Boulevard) would be closed. The City's portion should be closed for approximately fifty days. He said this is one of the things ODOT will be coordinating with the County and their contractor on the Eastland Road project. The City is aware of this issue and traffic has to be maintained at least at one end of that street.

Recreation & Community Services

Mayor Kleem introduced Acting Rec Director Chris Avery to Council. He reported that he had asked Barb Jones to oversee a plan for the Rec Department and help with its implementation of a better run and efficient Rec Department. The Mayor said he anticipated Chris Avery to become the full director by mid-year.

PETITIONS - None

AUDIENCE PARTICIPATION - None

COUNCIL COMMITTEE REPORTS AND COMMITTEE ANNOUNCEMENTS

Woodvale Union Cemetery Board of Trustees

Mr. Capellas announced that effective January 11, 2009, Director Betty McCoy, had resigned from the Cemetery. He thanked Mayor Kleem, Finance Director Dana Kavander and Barb Jones for all their help during this challenging time.

LEGISLATION

The following Ordinance was read by title for first reading:

FINAL ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE TO ENTER INTO ONE OR MORE CONTRACTS WITH THE DIRECTOR OF OHIO DEPARTMENT OF TRANSPORTATION FOR ROAD SALT, APPROPRIATING FUNDS THEREFOR, AND DECLARING AN EMERGENCY. (1-5)

Moved by Lange, seconded by Haschka that the three reading rule be suspended.

In response to Mr. Capellas, Service Director Brown said the City is committing to purchase up to 1500 tons totaling \$112,500. He said the Governor's office had implemented this as a result of so many municipalities not receiving any bids for their salt contracts. Money had been allocated and approved by Council in the 2009 budget which would include this amount. In response to Mr. Maxwell, Mr. Brown said that NEO/SO that the City used for the last two years, received no bids for salt and that there is a salt shortage

Vote on motion to suspend was ayes: Key, Lange, Maxwell, Van Dress, Brown, Capellas, Haschka. Nays: none. The motion carried.

Moved by Capellas, seconded by Haschka that the Ordinance be adopted. Vote on motion to adopt was ayes: Key, Lange, Maxwell, Van Dress, Brown, Capellas, Haschka. Nays: none. Motion carried. Ordinance No. 2009 -6 passed under suspension.

The following Ordinance was read by title for first reading:

AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF BEREA BY REZONING A CERTAIN AREA OF LAND AT 372 FRONT STREET FROM RESIDENTIAL OFFICE (R-O) DISTRICT TO RESIDENTIAL SINGLE FAMILY "B" (RSFB) DISTRICT. (1-6)

In response to Mr. Maxwell, Mr. Sponseller said as he understood it, the College is looking to consolidate the entire area and that two different zoning districts would not be permitted for any conditional use requests. The College owns all the land surrounding this parcel and that surrounding area is already zoned RSFB. The College's plans would be discussed when it comes before the Planning Commission.

Moved by Capellas, seconded by Haschka that the Ordinance be referred to the Municipal Planning Commission. Vote on the motion to refer the Ordinance to the Planning Commission was ayes: Key, Lange, Maxwell, Van Dress, Brown, Capellas, Haschka. Nays: none. The motion carried.

Proposed Ordinance No. 1-6 stands on first reading and is referred to the Municipal Planning Commission.

President of Council Brown said a public hearing before Council regarding this

re-zoning request will be scheduled for March 2nd.

The following Ordinance was read by title for first reading:

AN ORDINANCE ESTABLISHING A UTILIZATION CHARGE FOR EMERGENCY MEDICAL SERVICES PROVIDED BY THE BEREA FIRE DEPARTMENT, AUTHORIZING A COLLECTION POLICY AND PROCEDURES THEREFOR, EXPRESSLY REPEALING ORDINANCE 96-19, AND DECLARING AN EMERGENCY. (1-7)

Proposed Ordinance No. 1-7 stands on first reading.

The following Ordinance was read by title for first reading:

AN ORDINANCE AUTHORIZING THE MAYOR TO MAKE APPLICATION FOR, AND, IF AWARDED, TO ENTER INTO ANY AND ALL AGREEMENTS FOR UTILIZATION OF CERTIFIED LOCAL GOVERNMENT PROGRAM FUNDS MADE AVAILABLE BY THE U. S. SECRETARY OF INTERIOR THROUGH THE OHIO OFFICE OF HISTORIC PRESERVATION, AND DECLARING AN EMERGENCY. (1-8)

In response to Mr. Van Dress' question about the proposed project at the Adam Street Cemetery, Mayor Kleem said he would have details of the proposed project at a later date.

Proposed Ordinance No. 1-8 stands on first reading.

The following Ordinance was read by title for first reading:

AN ORDINANCE ESTABLISHING THE "BEREA WELFARE ASSISTANCE FUND" (NO. 251) AND THE CITY "SPECIAL EVENTS FUND" (NO. 252), AND DECLARING AN EMERGENCY. (1-9)

In response to Mr. Capellas, Mrs. Kavander said she is requesting adoption under suspension of the three reading rule in order to establish the funds which would be part of the companion piece of legislation amending the 2009 appropriations. She explained there is a separate checking account for the Berea Welfare Assistance Fund and it has been part of the Recreation Fund. They wanted to put it in its own fund to make it easier to track the balance on the account. The Special Events Fund is a

new fund to track all of the City's special events, including the Grindstone Festival, the movies, Light Up Berea, etc. She said this is also funded by donations, so they are going to set up a separate checking account in order to better track the balance on this account. Mayor Kleem said the City had received a sizeable donation of \$25,000 for special events and that is why a separate fund was needed.

In response to Mr. Maxwell, Mrs. Kavander said some of these events were paid out of the Recreation Fund or were paid by donations and held in other funds.

Moved by Capellas, seconded by Van Dress that the three reading rule be suspended. Vote on motion to suspend was ayes: Key, Lange, Maxwell, Van Dress, Brown, Capellas, Haschka. Nays: none. The motion carried.

Moved by Capellas, seconded by Lange that the Ordinance be adopted. Vote on motion to adopt was ayes: Key, Lange, Maxwell, Van Dress, Brown, Capellas, Haschka. Nays: none. Motion carried. Ordinance No. 2009 -7 passed under suspension.

The following Ordinance was read by title for first reading:

AN ORDINANCE ESTABLISHING AND RECONSTITUTING FUNDS AND AMOUNTS FOR CERTAIN PETTY CASH AND CHANGE FUNDS, AND EXPRESSLY REPEALING ORDINANCE NO. 2008-11 AND DECLARING AN EMERGENCY. (1-10)

In response to Mr. Lange, Mrs. Kavander reviewed some of the changes in the Petty Cash and Change Funds which were either name changes or responsibility changes. There were no changes in the existing amounts. She did say the Special Events Petty Cash Fund for \$200 is a new account which is managed through the Mayor's department.

Proposed Ordinance No.1-10 stands on first reading.

The following Ordinance was read by title for first reading:

AN ORDINANCE APPROPRIATING FROM THE VARIOUS FUNDS TO INDIVIDUAL ACCOUNTS FOR THE CURRENT EXPENDITURES AND OTHER EXPENSES OF THE CITY OF BEREA FOR THE FISCAL YEAR ENDING DECEMBER 31, 2009, AND EXPRESSLY REPEALING ORDINANCE NO. 2008-78. (1-11)

At the request of Mr. Capellas, Mrs. Kavander highlighted the eight changes

made to the 2009 appropriations. They included a reduction in **Recreation Fund #200-Other** of \$15,000 due to addition of a Active Senior Network Program (\$10,000 increase) and the move of Berea Welfare to its own Fund (Fund 251) in the amount of \$25,000. Mrs. Kavander said the Active Senior Network Program is offset by fees charged through the program and donations. **Municipal Income Tax Fund #205** Transfers increased by \$20,000 due to Capital Projects in the Recreation Capital Fund. **Berea Welfare Fund #251** is a new fund established to record revenues received and expenditures incurred with the Berea Welfare Assistance Program. The appropriations were increased by \$40,000 and are offset by donations. **Special Events Fund #252** is also a new fund established to record revenues received and expenditures incurred dealing with the various special events such as the downtown garage sale, movies, harvest festival and Light Up Berea. The appropriations were increased by \$35,000 and are offset by donations. **Probation Services Fund #284 Other** was increased by \$9,000 due to transfer of funds into the General Fund to help offset Court 2008 deficit per Judge's journal entry. **DUI Fines (Indigent) Fund #285 Other** was increased by \$15,000 due to transfer of funds into the General Fund to help offset Court 2008 deficit per Judge's journal entry. **Recreation Capital Improvement Fund 450 Other** was increased by \$20,000 due to capital projects including improvements to comply with the Virginia Graeme Baker Law. **Neighborhood Improvement Fund #480 Other** was increased by \$10,000 due to addition of the Adopt a Senior Program. The increase is offset by donations.

In response to Mr. Maxwell's question about DUI Fines (Indigent) Fund #285, Mrs. Kavander said those funds are used for indigent treatment programs and funds were transferred to offset the Court's 2008 deficit. She said the document she e-mailed Council and subsequently gave a printed copy tonight shows the loss for the Court for 2008 was approximately \$60,500 after taking into consideration the two transfers. Mrs. Kavander said that amount would be reported to the Court communities to split. Mr. Capellas suggested scheduling a Berea Court Committee meeting to discuss this item.

In response to Mr. Van Dress's question regarding the revised payroll for January, Mrs. Kavander said that could indicate an extra pay period and also include any payment of unused vacation time or comp time.

Moved by Haschka, seconded by Lange that the three reading rule be suspended. Vote on motion to suspend was ayes: Key, Lange, Maxwell, Van Dress, Brown, Capellas, Haschka. Nays: none. The motion carried.

Moved by Lange, seconded by Key that the Ordinance be adopted. Vote on motion to adopt was ayes: Key, Lange, Maxwell, Van Dress, Brown, Capellas, Haschka. Nays: none. Motion carried. Ordinance No. 2009 -8 passed under suspension.

The following Ordinance was read by title for first reading:

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A LICENSE AGREEMENT WITH NORFOLK SOUTHERN RAILWAY COMPANY FOR SEWER AND WATER MAIN CROSSING ON FRONT STREET, AND DECLARING AN EMERGENCY. (1-12)

In response to Mrs. Key, Mr. Sponseller said this covers the Norfolk Southern right-of-way along Front Street to allow the City to use their crossing for the City's utilities and passage of this piece of legislation memorializes that consideration.

Moved by Key, seconded by Lange that the three reading rule be suspended. Vote on motion to suspend was ayes: Key, Lange, Maxwell, Van Dress, Brown, Capellas, Haschka. Nays: none. The motion carried.

Moved by Van Dress, seconded by Key that the Ordinance be adopted. Vote on motion to adopt was ayes: Key, Lange, Maxwell, Van Dress, Brown, Capellas, Haschka. Nays: none. Motion carried. Ordinance No. 2009 -9 passed under suspension.

REPORTS

James J. Brown, President of Council

President of Council Brown said it was good to be back from his business trip to Italy.

Margarette S. Key, Ward 1

Mrs. Key commented that today was an historic moment in her life with the inauguration of Barack Obama as President of the United States.

She also thanked the Mayor and members of Council who attended the breakfast yesterday in honor of Martin Luther King, Jr.

Dale A. Lange, At-Large

Mr. Lange announced the senior luncheons at Berea Lake Towers would be held on February 19th, March 19th and April 16th. The cost of the lunch is \$3.00. Police Chief Schultz will be the guest server at the February luncheon.

Dean W. Van Dress, At-Large

Mr. Van Dress thanked First Baptist Church for again holding their annual prayer

breakfast in honor of Martin Luther King, Jr. He also noted that today was a very historic day.

George Capellas, Ward 4

Mr. Capellas asked the members of the Berea Court Committee to stay after the adjournment of the meeting to determine a date for their committee to meet.

CORRESPONDENCE

The President of Council noted that a listing of correspondence received by Council for the period of January 1, 2009 through January 15, 2009 has been provided to Council and the referenced material is on file in the office of the Clerk and available for public inspection.

OTHER BUSINESS

Chris Schigel, a resident of Berea, and on behalf of the Home Depot Store and "Team Depot" of North Olmsted said he had several picnic tables they would like to donate to the City for its use. He said his group would also like to volunteer their help to our community on any future projects.

There being no further business to come before Council, moved by Capellas, seconded by Haschka to adjourn the meeting. Vote on the motion to adjourn was all ayes and no nays. The motion carried. President of Council Brown declared the meeting adjourned at 8:36 p.m.

James J. Brown
President of Council

Kathleen Russell Olmeda, MMC
Clerk of Council

CERTIFICATE OF COMPLIANCE

The regular meeting of Council of the City of Berea, Ohio, held on the 20th day of January 2009, was conducted in compliance with Codified Ordinances Section 109 and Ohio Revised Code Section 121.22.

Kathleen Russell Olmeda, MMC
Clerk of Council