

CITY OF BEREA, OHIO

**MINUTES OF A REGULAR COUNCIL MEETING
HELD FEBRUARY 17, 2009**

Council of the City of Berea, Ohio, met in the Council Chamber on February 17, 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 Maxwell, seconded by Haschka that the Minutes of the February 2, 2009 Regular Meeting be approved as circulated. Roll Call vote was taken with ayes: Maxwell, Van Dress, Brown, Capellas, Haschka, Key, Lange. Nays: none. The motion carried.

MAYOR'S ADMINISTRATIVE REPORT

Mayor Kleem said he gave his State of the City Report for seniors at the St. Paul's Lutheran Church luncheon last Friday where he discussed the Active Senior Network. He said there were approximately 150 in attendance. Council members Key, Lange, Van Dress and President of Council Brown were also in attendance.

He reported on the progress of the Front Street railroad project by stating that mobilization has started. Minor construction work would begin in the next few days and in March there will be more noticeable construction. Front Street will close sometime in early May for eighteen months and Lou Groza Boulevard will be closed at Front Street in early May for approximately seven to eight weeks for the re-alignment of Lou Groza Boulevard with Depot Street and re-open approximately the week of June 22nd. The actual completion date according to ODOT for the entire project is July 31, 2011. The Mayor said the City would be notifying people of this information as well as any more information they get by publishing it in the City's newsletter. Recommended alternative routes besides using N. Rocky River Drive will also be published. The City is having ongoing meetings with ODOT and they met with them today and another meeting is scheduled for this Friday. Mayor Kleem said he would pass this information onto Council as he received it. The City will be scheduling at least one public meeting with as many as three meetings to discuss this project. Representatives from ODOT will be present at the public meeting to answer any questions.

Dana J. Kavander, Director of Finance

Mrs. Kavander referred to and discussed her February 17, 2009 memo to the Mayors and Council Members of Berea and Middleburg Heights and to the Woodvale Cemetery Board of Trustees regarding services her department has provided Woodvale Cemetery since the resignation of the Cemetery's Treasurer. (A copy of Mrs. Kavander's Memo is attached to the minutes of record.) The Finance Director reviewed: Services Performed to Date; Services Pending; Role of the Fiscal Agent; Costs for Services; and Approval.

In response to Mr. Lange's comments questioning how did the Cemetery get out of kilter, Mr. Capellas said the Board of Trustees had discussed scheduling the audit with the Manager and she was in the process of scheduling that. He emphasized that the books are reconciled and that the Cemetery is in good financial condition. The items performed by the City's Finance Department were done because the Cemetery's Treasurer/Manager abruptly resigned and items needed to be done for year end, i.e. W-2's and payroll and also signing rights for the investment accounts had to be changed. Mr. Capellas said he had asked the Mayor if the City could help the Cemetery with the Treasurer/Manager's function. He stressed the fiscal strength of the cemetery with one million dollars in endowments and the checking account. The Board of Trustees would be looking at different options including a Manager/Treasurer or Fiscal Agent.

R. James Brown, Director of Public Service

Service Director Brown reminded residents that the trash collection company would be picking up trash following their regular schedule even though Monday was Presidents' Day.

COMMENDING LEGISLATION

The following Resolution was read in full for first reading:

RESOLUTION NO. 2009-12 HONORING AND COMMENDING NICHOLAS JAMES HAAS FOR HIS ACHIEVEMENT IN ATTAINING THE RANK OF EAGLE SCOUT. (2-2)

Moved by Maxwell, seconded by Lange that the Resolution be approved. Council members and Mayor Kleem commended and congratulated Nicholas James Haas. Vote on Motion to adopt was ayes: Brown, Capellas, Haschka, Key, Lange, Maxwell, Van Dress. Nays: None. Motion carried. Resolution No. 2009-12 was adopted.

On behalf of Council and the Administration, the President of Council presented an official copy of the Resolution to Nicholas James Haas.

The following Resolution was read in full for first reading:

RESOLUTION NO. 2009-13 HONORING AND COMMENDING ADRIAN MALDONADO FOR HIS SERVICES TO THE CITY OF BEREA AS A MEMBER OF THE CITY COUNCIL. (2-3)

Moved by Haschka, seconded by Key that the Resolution be approved. Council members and Mayor Kleem commended and congratulated Adrian Maldonado. Vote on Motion to adopt was ayes: Brown, Capellas, Haschka, Key, Lange, Maxwell, Van Dress. Nays: None. Motion carried. Resolution No. 2009-12 was adopted.

On behalf of Council and the Administration, the President of Council presented an official copy of the Resolution to Adrian Maldonado.

PETITIONS - None

AUDIENCE PARTICIPATION - None

COUNCIL COMMITTEE REPORTS AND COMMITTEE ANNOUNCEMENTS

Cable TV Committee

Chairman Lange commented on the Council Meetings being televised again. He said he had talked with representatives from Baldwin-Wallace College and stated that radio station BWBC 88.3 FM had been broadcasting the Council Meetings for 25 to 30 years. He they are starting a TV lab at the College and might be interested in televising the meetings as a classroom project some time in the distant future. Mr. Lange said he would keep Council informed of this potential project.

LEGISLATION

The following Ordinance was read by title for third 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)

Moved by Lange, seconded by Van Dress that the Ordinance be adopted. Vote on motion to adopt was ayes: Maxwell, Van Dress, Brown, Capellas, Haschka, Key, Lange. Nays: none. Motion carried. Ordinance No. 2009-14 passed.

The following Ordinance was read by title for third 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)

Moved by Van Dress, seconded by Haschka that the Ordinance be adopted. Vote on motion to adopt was ayes: Maxwell, Van Dress, Brown, Capellas, Haschka, Key, Lange. Nays: none. Motion carried. Ordinance No. 2009-15 passed.

The following Ordinance was read by title for third 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)

Moved by Capellas, seconded by Haschka that the Ordinance be adopted. Vote on motion to adopt was ayes: Maxwell, Van Dress, Brown, Capellas, Haschka, Key, Lange. Nays: none. Motion carried. Ordinance No. 2009-16 passed.

The following Ordinance was read by title for second reading:

AN ORDINANCE AUTHORIZING, RATIFYING AND AFFIRMING THE DIRECTOR OF PUBLIC SERVICE ENTERING INTO A SANITARY SEWER EASEMENT AGREEMENT WITH THE CLEVELAND METROPARKS FOR PURPOSES OF FACILITATING THE PARKWAY DRIVE SANITARY OUTLET SEWER REPLACEMENT PROJECT, APPROPRIATING FUNDS THEREFOR, AND DECLARING AN EMERGENCY. (2-4)

Proposed Ordinance No. 2-4 stands on second reading.

The following Ordinance was read by title for first reading:

AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE TO PURCHASE THROUGH THE ODOT STATE CONTRACT PROGRAM AND/OR THE STATE OF OHIO PURCHASING PROGRAM, OR ALTERNATIVELY, TO ADVERTISE FOR BIDS AND ENTER INTO ONE OR MORE CONTRACT(S) FOR THE PURCHASE OF MOTORIZED VEHICLES, EQUIPMENT, MACHINERY, MATERIALS, SUPPLIES OR OTHER ARTICLES UNDER STATE CONTRACT FOR USE IN ONE OR MORE CITY DEPARTMENTS, AND DECLARING AN EMERGENCY. (2-6)

In response to Mr. Capellas, Service Director Brown said they are looking to possibly replace a big truck with a plow in their fleet and other equipment including a bombardier that does sidewalk snow removal.

Proposed Ordinance No. 2-6 stands on first reading.

The following Ordinance was read by title for first reading:

AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE TO ENTER INTO ANY AND ALL AGREEMENTS WITH THE DIRECTOR OF THE OHIO DEPARTMENT OF TRANSPORTATION FOR THE PURCHASE OF ROCK SALT FOR THE 2009-2010 WINTER SEASON, AND DECLARING AN EMERGENCY. (2-7)

Law Director Sponseller stated that ODOT is requiring that the application be submitted by February 27th in order for them to go out for bids now for next year's contract.

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

Moved by Haschka, seconded by Key that the Ordinance be adopted. Vote on motion to adopt was ayes: Maxwell, Van Dress, Brown, Capellas, Haschka, Key, Lange. Nays: none. Motion carried. Ordinance No. 2009 -17 adopted under suspension.

The following Ordinance was read by title for first reading:

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A COMMUNITY REINVESTMENT AREA ("CRA") AGREEMENT WITH A & F MACHINE PRODUCTS, INC., AND DECLARING AN EMERGENCY. (2-8)

Rebecca Corrigan, Executive Director of the BCDC was present at the meeting to answer any questions from Council along with Messrs. Helwig and Burk from A & F Machine Products, Inc. She explained the project is an approximate 56,000 sq. ft. commercial project on West Bagley Road with an estimated job creation in five years of 88 jobs.

Moved by Van Dress, seconded by Maxwell that the first "Whereas" paragraph in Ordinance No. 2-8 be amended to correct the legislation to read a 56,000 square foot building. Vote on the motion to amend was ayes: Maxwell, Van Dress, Brown, Capellas, Haschka, Key, Lange. Nays: none. The motion carried.

In response to Mr. Van Dress, Mr. Burk of A & F Machine Products, discussed the project which would consist of a retail/office building that would complement the Childrens' Home Childcare Center that will be located in the front building. They are looking at a clothing store, a coffee house and family oriented restaurant to be located here. They have contacted Southwest General Hospital to see if any doctors or dentists would like to relocate their offices to this building which consists of 28,000 square feet of office space along with the retail space. At the request of Mayor Kleem, Mr. Burk discussed the Childcare Center by stating that it would replace the Childcare Center at Loomis School because Baldwin-Wallace College owns the building and wants to use the entire building.

Mr. Sponseller said a notice had been sent to the Superintendent of the Olmsted Falls City School District, the district in which the property lies.

In Mr. Maxwell's question about the 88 new jobs that would be created, Mr. Burk said this number is for the retail building only and does not include the Childcare Center. Mrs. Corrigan further explained that this program is monitored by the State of Ohio Department of Development and gives them a five year window to create these jobs. If for some reason they are unable to do that within the five year period, the City would then ask the Ohio Department of Development to either expand their abatement/job creation or the State would rescind the abatement. She stressed that it would be in the best interest of the City to try to work with small businesses and developers in the City. She also said that the State could rescind the abatement agreement if the developer is delinquent in paying their real estate taxes on other properties that are not abated. She added that Polaris Vocational School had also been notified.

In response to Mr. Maxwell, Mr. Sponseller said that Ordinance 2-11 relates to the same parties but does not relate to this project.

In reply to Mr. Van Dress, the Mayor explained that the tax abatement process needed to be started as soon as possible and that this is one of the projects that got caught in the middle because they already have the foundation in. There were changes in the Tax Abatement Laws in 2008 and now construction cannot start until the legislation is passed for any new Tax Abatement applications. He stressed that it would help because if Council consider suspending the three reading rule because there are contractors ready to start working on this building.

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

Moved by Van Dress, seconded by Lange that the Ordinance be adopted as amended. At the request of Mr. Maxwell, Mrs. Corrigan explained that this abatement is for 49% of the improvement for 589 W. Bagley Road. The existing taxes on the land will be continued to be paid as well as 51% of the increased value. The Olmsted Falls City School District, and Polaris Vocational School and the City of Berea will still receive 51% of the taxes plus the land taxes.

Vote on motion to adopt was ayes: Maxwell, Van Dress, Brown, Capellas, Haschka, Key, Lange. Nays: none. Motion carried. Ordinance No. 2009 -18 was passed as amended under suspension.

The following Ordinance was read by title for first reading:

AN ORDINANCE AUTHORIZING AND DIRECTING THE DIRECTOR OF PUBLIC SERVICE TO ADVERTISE FOR BIDS AND ENTER INTO ONE OR MORE CONTRACTS FOR THE SEMINARY STREET, GRAND STREET, SCHOOL STREET, CENTER STREET, AND W. ALLEY REVITALIZATION PROJECT, APPROPRIATING FUNDS THEREFOR, AND DECLARING AN EMERGENCY. (2-9)

In response to Mr. Lange, Service Director Brown said the total project is estimated to be approximately \$960,000. The City received a CDBG grant for \$325,000 and Baldwin-Wallace College is contributing \$200,000 towards this project.

Proposed Ordinance No. 2-9 stands on first reading.

The following Ordinance was read by title for first reading:

AN ORDINANCE AUTHORIZING THE MAYOR TO MAKE APPLICATION TO, AND, IF AWARDED, TO ACCEPT FROM, THE OHIO DEPARTMENT OF NATURAL RESOURCES FOR GRANT FUNDING FROM THE OHIO NATUREWORKS PROGRAM FOR THE CITY OF BEREA, AND DECLARING AN EMERGENCY. (2-10)

Mrs. Corrigan of the BCDC, explained this a grant application for Coe Lake restrooms for the Coe Lake campus. The estimated cost for this project is between \$75,000 and \$100,000, of which, the City and Coe Lake Reserve Fund will contribute 25%. They are currently looking at the best location for the restrooms which will consist of six stations that will be ADA accessible. She asked Council to consider suspending the three reading rule tonight because the application deadline had been changed from April 1st to March 2nd.

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

Moved by Haschka, seconded by Key that the Ordinance be adopted. Vote on motion to adopt was ayes: Maxwell, Van Dress, Brown, Capellas, Haschka, Key, Lange. Nays: none. Motion carried. Ordinance No. 2009 -19 adopted under suspension.

The following Ordinance was read by title for first reading:

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A PURCHASE AGREEMENT WITH THE ADJOINING PROPERTY OWNER WITHOUT PUBLIC BIDDING FOR THE SALE OF CERTAIN UNIMPROVED PARCELS OF REAL ESTATE NO LONGER NEEDED FOR ANY MUNICIPAL PURPOSE LOCATED NEAR THE BAGLEY ROAD RAILROAD UNDERPASS AND AUTHORIZING THE EXECUTION OF ALL DOCUMENTS NECESSARY TO EFFECTUATE THE SAME. (2-11)

In response to Mr. Maxwell, the Law Director said it was his understanding that they are simply landlocked slivers of land with A & F Machine being the adjacent property owner. There is no real marketable value of these properties. There will be a descriptive map and written legal descriptions available for Council's review and consideration at a future meeting.

Proposed Ordinance No. 2-11 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 BERA FOR THE FISCAL YEAR ENDING DECEMBER 31, 2009, AND EXPRESSLY REPEALING ORDINANCE NO. 2009-8. (2-12)

Mrs. Kavander highlighted the eleven funds that were affected. Planning Other increased by \$3,050 due to the Mayor's membership in First Suburbs Consortium. Recreation Fund Other increased by \$17,041.87 due the transfer of Berea Welfare into its own Fund (Fund 251). Municipal Income Tax Fund #205 Transfers increased by \$1,055,000 due to adjustments for Capital Projects. Community Development Block Grant Fund #260 Other increased by \$150,000 due to receiving 2008 funding in current budget year. Court Computer Research Fund #291 Other increased by \$50,500 due to adjustment for additional revenue projections.

General Improvement Fund #400 Other increased by \$1,095,391.85 due to adjustments for Capital Projects which included prior year encumbrances and various projects consisting of road and bridge improvement projects, asbestos removal relating to tearing down the bowling alley, a sign plotter and updating the City's Zoning Code. Mayor Kleem said the City has applied for CDBG grant to pay for part of the Zoning Code project. He referred to the bowling alley project and said he would like to tear that portion of the building down as soon as possible but the cost for asbestos removal is higher than they had anticipated. Mrs. Kavander stressed that there would be no new borrowings for these projects. He commented on this year's road program by stating that the \$175,000 earmarked for Longfellow might qualify for a CDBG grant and they might consider postponing that to next year. Mr. Sponseller said there would a separate piece of legislation for bids and contracts for the road program for Council's approval.

Safety Capital Improvement Fund #410 Other increased by \$128,621.61 due to adjustment for specific projects Capital Projects. Sewer Capital Improvement Fund #420 Other decreased by \$77,895.78 due to adjustments for specific Capital Projects. Water Capital Improvement Fund #440 Other increased by \$5,741,000.000 due to adjustments for specific Capital Projects including \$5,000,000 for Water Plant Improvements. Recreation Capital Improvement Fund #450 Other increased by \$43,453.00 due to adjustments for Capital Improvements including various kinds of equipment. Court Capital Improvement Fund #470 Other decreased by \$43,000 due to adjustment for a lesser amount advance to the Court by the City.

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

Moved by Capellas, seconded by Haschka that the Ordinance be adopted. Vote on motion to adopt was ayes: Maxwell, Van Dress, Brown, Capellas, Haschka, Key, Lange. Nays: none. Motion carried. Ordinance No. 2009– 20 passed under suspension.

PRESIDENT OF COUNCIL BROWN ANNOUNCED THAT THE FISCAL OFFICER'S CERTIFICATE FOR ORDINANCES NO. 2-13, 2-14 AND 2-15 HAD BEEN FILED WITH COUNCIL PRIOR TO THEIR FIRST READING.

The following Ordinance was read by title for first reading:

AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF \$95,000 NOTES, IN ANTICIPATION OF THE ISSUANCE OF BONDS, TO PAY A PORTION OF THE COSTS OF ACQUIRING EQUIPMENT FOR USE IN CITY DEPARTMENTS, INCLUDING COMPUTERS AND AMBULANCE RELATED AND OTHER FIRE DEPARTMENT EQUIPMENT, AND DECLARING AN EMERGENCY. (2-13)

Mrs. Kavander said all three notes mature in April and will be rolled over. The three notes total one million dollars that had been borrowed last year.

Proposed Ordinance No. 2-13 stands on first reading.

The following Ordinance was read by title for first reading.

AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF \$175,000 NOTES, IN ANTICIPATION OF THE ISSUANCE OF BONDS, TO PAY A PORTION OF THE COSTS OF ACQUIRING CITY VEHICLES FOR USE IN CITY DEPARTMENTS, AND DECLARING AN EMERGENCY. (2-14)

Proposed Ordinance No. 2-14 stands on first reading.

The following Ordinance was read by title for first reading.

AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF \$730,000 NOTES, IN ANTICIPATION OF THE ISSUANCE OF BONDS, TO PAY A PORTION OF THE COSTS OF RESURFACING AND RECONSTRUCTING PORTIONS OF CERTAIN CITY STREETS TO BE APPROVED BY CITY COUNCIL, TOGETHER WITH ALL WORK INCIDENTAL THERETO, AND DECLARING AN EMERGENCY. (2-15)

Proposed Ordinance No. 2-15 stands on first reading.

REPORTS

Jim Maxwell, Ward 3

Mr. Maxwell commented on a recent newspaper article regarding the Cleveland Water Plant which specifically highlighted consumer/customer issues with the Cleveland Water Department. He stated that improving the City of Berea's Water Plant was the right thing to do and commended the Water Department for their good work.

George Capellas, Ward 4

Mr. Capellas commented on the 2008 Department Report of the Building, Engineering, and Planning Department which includes the Division of Housing and Social Services that Council recently received. He said the report gives a good picture of the housing stock in the City including the number of rental properties and foreclosures.

Margarette S. Key, Ward 1

Mrs. Key said the luncheon held last Friday was well attended and very informative. Some questions she received at the luncheon pertained to the signage for the Front Street project and the light at Emerson and N. Rocky River Drive.

Dale A. Lange, At-Large

Mr. Lange said he also attended the Mayor's luncheon last Friday and received many positive comments. He also announced that there is a senior luncheon scheduled for this Thursday at Berea Lake Towers where Police Chief Schultz would be one of the servers.

Lastly, he announced that he and his wife would be chaperoning the seniors on their bus trip to Presque Isles.

CORRESPONDENCE

The President of Council noted that a listing of correspondence received by Council for the period of January 29, 2009 through February 11, 2009 has been provided to Council and the referenced material is on file in the office of the Clerk and available for public inspection.

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. President of Council Brown declared the meeting adjourned at 9:25 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 17th day of February 2009, was conducted in compliance with Codified Ordinances Section 109 and Ohio Revised Code Section 121.22.

Kathleen Russell Olmeda, MMC
Clerk of Council