

CITY OF BEREА, OHIO

**MINUTES OF A REGULAR COUNCIL MEETING
HELD APRIL 6, 2009**

Council of the City of Berea, Ohio, met in the Council Chamber on April 6, 2009, and was called to order at 7:35p.m. by President of Council James J. Brown, with Mary K. Brown, George Capellas, Nick Haschka, Dale A. Lange, Margarettе 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 Lange, seconded by Van Dress that the Minutes of the February 17, 2009 Regular Meeting be approved as circulated. Vote on the motion was all ayes and no nays. The motion carried.

Moved by Haschka, seconded by Key that the Minutes of the March 16, 2009 Regular Meeting be approved as circulated. Vote on the motion was all ayes and no nays. The motion carried.

MAYOR'S ADMINISTRATIVE REPORT

Mayor Kleem announced the City had received a \$25,000 grant from the County for the Senior Safety Program which is a program that helps seniors make their homes safer in preventing falls and other accidents. He said the City also received \$10,000 from the County's Neighborhood Stabilization Program which can be used to raze a nuisance property on Prospect Road in Ward 5.

The Mayor also reported that some of the accessory structures on the property on Center Street that had been declared a nuisance had been razed. The property has been sold and the new owner plans on occupying the home. He said the City did receive money approximately \$8,500 from the bank for the cost of razing the accessory structures.

Gregory M. Sponseller, Director of Law and Prosecutor

Mr. Sponseller said the draft revisions Council has suggested for the ethics ordinance is scheduled to be discussed at next week's Work Session. He will have the

draft to Council no later than Monday.

R. James Brown, Director of Public Service

Director Brown announced that Saturday, May 23rd is the second annual Community Shred Day in the City. It will be held in the back parking lot behind City Hall.

PETITIONS

Rennée Detullio presented a document to the President of Council which included the following language: "*Action petitioned for: We, the undersigned, are concerned citizens of Berea, who urge our leaders to act now to NOT extend the three-year tax abatement.*" The Petition consisted of copies of four pages with 31 signatures and three pages indicating 31 electronic signatures via online petition. (A copy is attached to the minutes of record.)

AUDIENCE PARTICIPATION

Renée Detullio, Paula Young, and Eric Groves from the Sandstone Ridge Development addressed Council with their opposition to the extension of the tax abatement legislation relating to new residential homes that would affect their neighborhood. They are concerned about declining home values and the current number of existing homes for sale in their development and questioned the effect on the two school systems. They urged Council not to pass this piece of legislation.

President of Council indicated that Mayor Kleem was withdrawing his support for consideration of this legislation and discussed several options for this legislation. Law Director Sponseller discussed the procedures that could be used since this legislation has already been introduced and is on the agenda for second reading. There could be a motion to suspend the three reading rule and then the vote on passage could be voted down. Another option would be to refer it to Committee and then it could die in committee.

Mayor Kleem said he understood their concerns about the sale of existing homes, but did not agree with all their statements about tax abatements. He further commented that the City was cash-strapped last year because of the Front Street project and other items and the granting of the tax abatement generated approximately \$300,000 to \$400,000 in building fees last year. He said when he presented this to Council he did not say he supported the legislation, but presented to so it could be discussed. It has been discussed and he has received feedback from residents. He is withdrawing his support for passage because the City is not as cash-strapped as last year. He recommended that Council vote to suspend and then vote down the motion to adopt.

LEGISLATION

The following Resolution was read by title for third reading:

A RESOLUTION URGING THE EXPENDITURE OF FEDERAL ECONOMIC STIMULUS DOLLARS ON PRODUCTS, PARTS AND SERVICES MANUFACTURED OR PERFORMED IN THE UNITED STATES OF AMERICA. (3-2)

Moved by Haschka, seconded by Brown that the Resolution be adopted. Vote on motion to adopt was ayes: Capellas, Haschka, Key, Lange, Maxwell, Van Dress, Brown. Nays: none. Motion carried. Ordinance No. 2009-29 passed.

The following Resolution was read by title for second reading:

A RESOLUTION URGING THE U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) TO TAKE RESPONSIBILITY FOR, AND UTILIZE ITS OWN FUNDS FOR, THE DEMOLISHING AND RAZING OF ABANDONED OR CONDEMNED HUD PROPERTIES. (3-3)

Proposed Resolution No. 3-3 stands on second reading.

The following Ordinance was read by title for second reading:

AN ORDINANCE SUPPLEMENTING ORDINANCE 2008-27 TO PROVIDE FOR A ONE-YEAR EXTENTION OF THE REAL ESTATE TAX ABATEMENT PROGRAM ON QUALIFYING CONSTRUCTION OF SINGLE FAMILY HOMES. (3-4)

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

Moved by Maxwell, seconded by Haschka that the Ordinance be adopted under suspension. Mr. Maxwell discussed his reasons for supporting suspension of the three reading rule and voting on this legislation. He said the intent was good, but there were points that outweighed the good. He did not support passage of this legislation. He further said the Mayor indicated he would veto the adoption of this legislation. Mr. Haschka said he initially supported the tax abatement, but opposed it this time.

Vote on the motion to adopt under suspension was ayes: none. Nays: Capellas, Haschka, Key, Lange, Maxwell, Van Dress, Brown. The motion was defeated and the Ordinance was not passed.

The following Resolution was read by title for first reading:

A RESOLUTION ACKNOWLEDGING APRIL 22, 2009, AS EARTH DAY, AND APRIL 24, 2009, AS ARBOR DAY, AND PROMOTING AND ENCOURAGING ALL RESIDENTS OF THE CITY OF BEREA TO CULTIVATE AND APPRECIATE TREES AND ALL ARBOREAL GIFTS OF NATURE. (4-1)

Director Brown said in recognition of Arbor/Earth Day, the City would be passing out dogwood tree seedlings to first graders this year.

Moved by Lange, seconded by Key that the Resolution be adopted. Vote on motion to adopt was ayes: Capellas, Haschka, Key, Lange, Maxwell, Van Dress, Brown. Nays: none. The motion carried. Ordinance No. 2009-30 passed.

The following Ordinance was read by title for first reading:

AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE TO ADVERTISE FOR BIDS AND ENTER INTO ONE OR MORE CONTRACTS FOR ASPHALT OVERLAYS, CONCRETE REMOVAL AND REPLACEMENT, CRACK SEALING AND BITUMINOUS SURFACE TREATMENTS TO VARIOUS CITY STREETS FOR THE ANNUAL STREET MAINTENANCE AND REHABILITATION PROGRAM, AND DECLARING AN EMERGENCY. (4-2)

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

The following Ordinance was read by title for first reading:

AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE TO ADVERTISE FOR BIDS AND ENTER INTO ONE OR MORE CONTRACTS FOR THE PINEVIEW DRIVE WATER LINE AND RESURFACING PROJECT, APPROPRIATING FUNDS THEREFOR, AND DECLARING AN EMERGENCY. (4-3)

Proposed Ordinance No. 4-3 stands on first reading.

The following Ordinance was read by title for first reading:

AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE TO ADVERTISE FOR BIDS AND ENTER INTO ONE OR MORE CONTRACTS FOR ASBESTOS REMOVAL AT A PORTION OF 451 FRONT STREET, THE CITY OWNED FORMER BOWLING ALLEY FACILITY, APPROPRIATING FUNDS THEREFOR, AND

DECLARING AN EMERGENCY. (4-4)

Proposed Ordinance No. 4-4 stands on first reading.

The following Ordinance was read by title for first reading:

AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE TO ADVERTISE FOR BIDS FOR THE DEMOLITION AND RAZING, INCLUDING BACKFILLING AND GRADING AS NEEDED, OF THE FORMER BEREA FAMILY BOWLING CENTER, LOCATED AT 451 FRONT STREET. (4-5)

Proposed Ordinance No. 4-5 stands on first reading.

The following Ordinance was read by title for first reading:

AN ORDINANCE WAIVING THE APPLICABILITY OF THE CITY'S NOISE ORDINANCE (C.O. SECTION 911.04(h)) TO THE REPAVING PROJECT BY CUYAHOGA COUNTY CONTRACTORS OF BAGLEY ROAD TO ALLOW FOR NIGHT TIME WORK ON THE PROJECT. (4-6)

In response to a W. Bagley Road resident, the Mayor said this would apply only to the County project that had been done previously on W. Bagley Road between N. Rocky River Drive and Lindberg.

Director Brown said this had been requested by the County so that this could be included in their bid documents.

Moved by Lange, seconded by Van Dress that the three reading rule be suspended. In response to Mr. Maxwell's concern about suspending the three reading rule, Director Brown said there would be construction-type noise for approximately one week or less. Mr. Haschka said he had received calls concerning the condition of the roadway. He supported the motion to suspend. Mr. Van Dress said he supported the motion based on the other road projects affecting the City. Vote on the motion to suspend was ayes: Capellas, Haschka, Key, Lange, Van Dress, Brown. Nays: Maxwell. The motion carried.

Moved by Haschka, seconded by Lange that the Ordinance be adopted. Vote on motion to adopt was ayes: Capellas, Haschka, Key, Lange, Maxwell, Van Dress, Brown. Nays: none. The motion carried. Ordinance No. 2009 -31 passed under suspension.

The following Ordinance was read by title for first reading:

AN ORDINANCE AUTHORIZING THE MAYOR TO MAKE APPLICATION FOR AND, IF AWARDED, TO ACCEPT FINANCIAL ASSISTANCE UNDER THE DRUG ABUSE RESISTANCE EDUCATION (“DARE”) LAW ENFORCEMENT GRANTS PROGRAM. (4-7)

Proposed Ordinance No. 4-7 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 A COOPERATION AGREEMENT WITH THE BOARD OF COMMISSIONERS OF CUYAHOGA COUNTY, OHIO, FOR THE UTILIATION OF COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM FUNDS MADE AVAILABLE BY THE HOUSING AND COMMUNITY DEVELOPMENT ACTS OF 1974, 1977, 1980 AND 1983, AS AMENDED, AND DECLARING AN EMERGENCY. (4-8)

Proposed Ordinance No. 4-8 stands on first reading.

The following Ordinance was read by title for first reading:

AN ORDINANCE TO REVISE THE CODIFIED ORDINANCES BY ADOPTING CURRENT REPLACEMENT PAGES, AND DECLARING AN EMERGENCY. (4-9)

Proposed Ordinance No. 4-9 stands on first reading.

The following Resolution was read by title for first reading:

A RESOLUTION DECLARING IT NECESSARY TO IMPROVE THE STREETS OF THE CITY OF BERA BY SUPPLYING THE SAME WITH ELECTRIC LIGHTING, INCLUDING TRAFFIC CONTROL LIGHTING, BY FIXING THE VALUE OF INTERSECTIONS NOT ASSESSED FOR TAXATION, AND AUTHORIZING THE DIRECTOR OF FINANCE TO MAKE AND FILE TENTATIVE ASSESSMENTS TO EFFECT THE SAME, AND DECLARING AN EMERGENCY. (4-10)

Finance Director Kavander asked Council to consider suspension of the three reading rule because of her concern of the length of time it might take the County to provide the information for the street lighting assessments.

Moved by Lange, seconded by Van Dress that the three reading rule be suspended. Vote on motion to suspend was ayes: Capellas, Haschka, Key, Lange, Van Dress, Brown. Nays: Maxwell. The motion carried.

Moved by Lange, seconded by Van Dress that the Ordinance be adopted. Vote on motion to adopt was ayes: Capellas, Haschka, Key, Lange, Maxwell, Van Dress, Brown. Nays: none. The motion carried. Ordinance No. 2009 -32 adopted under suspension.

The following Ordinance was read by title for first reading:

AN ORDINANCE DETERMINING TO PROCEED WITH THE IMPROVEMENT OF THE STREETS IN THE CITY OF BEREA BY SUPPLYING THE SAME WITH ELECTRIC LIGHTING, INCLUDING TRAFFIC CONTROL LIGHTING, AND TO LEVY ASSESSMENTS THEREFOR, AND DECLARING AN EMERGENCY. (4-11)

Moved by Van Dress, seconded by Lange that the three reading rule be suspended. Vote on motion to suspend was ayes: Capellas, Haschka, Key, Lange, Van Dress, Brown. Nays: Maxwell. The motion carried.

Moved by Van Dress, seconded by Lange that the Ordinance be adopted. Vote on motion to adopt was ayes: Capellas, Haschka, Key, Lange, Maxwell, Van Dress, Brown. Nays: none. Motion carried. Ordinance No. 2009 -33 passed under suspension.

REPORTS

James J. Brown, President of Council

Mr. Brown thanked the medical staff at Southwest General Health Care for their care when he had emergency surgery several weeks ago.

George Capellas, Ward 4

Mr. Capellas reported that the contractor on the Eastland Road project has advised the City that on April 13, 2009, they would be starting construction on Section 3 of the project which is Bagley Road to First Avenue.

Nick Haschka, Ward 2

Mr. Haschka thanked the residents of Sandstone Ridge for their calls and for also attending the Council meeting.

Margarette S. Key, Ward 1

Mrs. Key said residents can get information and updates on the Front Street project by visiting ODOT's website at www.odot.state.ohio.us - district 12. She urged everyone to be patient.

Dale A. Lange, At-Large

Mr. Lange reported that there were approximately ten openings for the senior luncheon at Berea Lake Towers.

He announced the Berea City Club would be holding their annual Reverse Raffle on April 18th

Lastly, he presented two checks for \$375 each to the Mayor from the owner of Suburban Clock. One was for the Senior Active Network and the other was for Berea Welfare Assistance. This was in appreciation for the help he had received in obtaining a grant through the BCDC for improvements to the front of his building.

Jim Maxwell, Ward 3

Mr. Maxwell said that the residents can also receive updates from ODOT by visiting the City's web site where there is a link.

CORRESPONDENCE

The President of Council noted that a listing of correspondence received by Council for the period of March 12, 2009 through April 1, 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. The President of Council declared the meeting adjourned at 8:50 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 6th day of April, 2009, was conducted in compliance with Codified Ordinances Section 109 and Ohio Revised Code Section 121.22.

Kathleen Russell Olmeda, MMC
Clerk of Council