

CITY OF BEREA, OHIO

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

Council of the City of Berea, Ohio, met in the Council Chamber on April 20, 2009, and was called to order at 7:30 p.m. by President of Council James J. Brown, with George Capellas, Nick Haschka, Dale A. Lange, Margarette S. Key, Jim Maxwell, Dean W. Van Dress. Absent: Mary K. Brown. 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.

There were no minutes available for approval tonight.

MAYOR'S ADMINISTRATIVE REPORT

Mayor Kleem commented on the tax abatement issue that was before Council two weeks ago by stating that normally that he would not go back and revisit something that is over, but he felt that there was still some level of confusion based on some comments made by some council people in a recent newspaper article.

First, he pointed out that when the tax abatement was discussed last year, the issue of how it affected the schools was explained at great length. When you weigh the issues, tax abatement doesn't have the negative effect on schools as some people would tell you. He said he was a little surprised to hear and read that this issue concerning tax abatement has come up again, especially since Council has approved three or four industrial and commercial abatement for various businesses. He questioned why Council would have unanimously passed these abatements if they felt it would negatively affect the schools.

Secondly, he said he wanted to address the accusations that this was somewhat designed or even indirectly designed to benefit Ferris Kleem. He stressed the tax abatement was in no way shape or form a violation of the proposed ethics law that has been discussed for over one year. Even if it did benefit one person, as the Mayor, he has the authority under existing law to grant tax abatements to townhouses. The Mayor stated that about 45% of the homes being sold at Sandstone Ridge are townhouses and that he has the authority to give 12 year abatements to any townhouse. If there ever was the intention to provide some sort of unethical advantage to anyone or any developer, he would have done it through the abatement of townhouses for 12 years which certainly would have been a much better scenario than a three year abatement. He was surprised why this wasn't an issue last year when the legislation was passed unanimously, but it is this year.

The Mayor further stated that it wasn't his position and didn't feel it was the City's business to go and ask private developers/private businesses what their relationship was with other businesses. However, now that the abatement issue was now behind them, he did go and ask and found that by offering the abatement that it would actually in some ways hurt Ferris Kleem's because of his relationship in the development. The Mayor said that Ferris Kleem does own the parcels before they are sold to NVR which is Ryan Homes. There is an escalator clause in their contract. Every year that goes by, Ferris Kleem makes a \$1,000 more per parcel than he did the previous year. It is to his advantage that these are sold at a slower pace. The faster the homes sell, the less money he makes. The Mayor said he has confirmed this information through Ryan Homes as well.

Mayor Kleem said there is also an \$800,000 security deposit that Ryan Homes (NVR) gave to Ferris Kleem for this development. If this development doesn't get finished, he keeps that security deposit. It is really more to Ferris Kleem's advantage if this development gets built at a slower pace and it is further to his advantage if it doesn't get finished.

Again, the Mayor stressed the tax abatement was not designed to help Ferris Kleem and the information he found is still not an issue. The issue for the Mayor was to do was best for the community and said he made that clear at the meeting and why he withdrew his support. He said it had nothing to do with the signed petitions. He withdrew his support because he felt this issue was going down the wrong path. He didn't want to see the council meetings turning into a side show because of this item and wanted to end the issue as quickly as possible.

Lastly, he hoped that there would be better communication in the future and if there is a question about a particular issue that it should be raised on the Council floor for discussion.

R. James Brown, Director of Public Service

Director Brown reminded everyone that May 23rd is the date of the second annual Community Shred Day and it is now the City's Computer Drop-off Day as well. The hours are 9:00 am. to 1:00 p.m. in the parking lot behind City Hall near Coe Lake. There is a \$10 donation for printers and small electronics with everything else being done for free.

He announced the Cuyahoga County Solid Waste District will be holding their hazardous waste roundup day at the Cuyahoga County Fairgrounds on May 9, 2009, from 9:00 a.m. to 4:00 p.m.

PETITIONS - NoneAUDIENCE PARTICIPATION

Dennis Anderson from the Cuyahoga County Board of Elections Outreach Department discussed some upcoming election information including the reduction of voting precincts in the City of Berea from 21 to 15. Voter location notices have been mailed to the residents notifying them of those changes and their polling location. He said that voting by mail is still open with a deadline of May 2nd by noon to the Board of Elections. Election Day is Tuesday, May 5th with polling hours of 6:30 a.m. to 7:30 p.m. He recommended residents check the Board of Elections website at www.boa.cuyahogacounty.us or call 216-443-3298 if they have any questions. Mr. Anderson said the reduction of the voting precincts is a cost savings to the City of approximately \$15,402 per election.

Joy Franz addressed Council with several questions concerning new signage for her development and the condition of the streets in her development.

The Mayor said he and Director Brown have worked on the signage design with residents of her development and were waiting to hear back from their representatives. Director Brown said he could go over those designs with her.

In response to the conditions of the streets, Director Brown said he was aware that the streets in that development are coming to the end of their life and that he is bringing in an outsource company to look at doing patching in larger areas. They would be looking at this area more next year when discussing the road program. The Mayor added that Councilwoman Mary Brown had received a letter from a resident in that development about the streets. He has spoken with the City Engineer, Tony Armagno. This area had been on a project list for 2012, but the Engineer said it needed to be done sooner. They will be looking at that area next year.

In response to Councilman Jim Maxwell's question about new signage for neighborhood associations in the City, the Mayor said when the Neighborhood Improvement Fund was created, this was one of the types of projects they were considering when they had funds in that Fund. Funds are now available and the Mayor said they would consider each request individually.

LEGISLATION

The following Ordinance was read by title for third 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)

Mr. Lange said this Ordinance was discussed at length at the recent Work Session.

Moved by Lange, seconded by Van Dress that the Ordinance be adopted. Vote on motion to adopt was ayes: Haschka, Key, Lange, Maxwell, Van Dress, Capellas. Nays: none. Motion carried. Ordinance No. 2009-34 passed.

The following Resolution was read by title for third reading:

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)

Mrs. Key said the resolution speaks for itself because HUD's mission is to help build and preserve a healthy community

Moved by Key, seconded by Van Dress that the Ordinance be adopted. Vote on motion to adopt was ayes: Haschka, Key, Lange, Maxwell, Van Dress, Capellas. Nays: none. Motion carried. Ordinance No. 2009-35 was adopted.

The following Ordinance was read by title for second 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)

Moved by Van Dress, seconded by Key that Ordinance 4-2, Section 2 be amended to include the Water Capital Improvement Fund No. 440. Finance Director Kavander explained that OWDA funds would be used to replace the water lines that were damaged as part of the Dorland Road project. Vote on the motion to amend by inner lineation was ayes: Haschka, Key, Lange, Maxwell, Van Dress, Capellas. Nays: none. The motion carried.

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

The following Ordinance was read by title for second 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 second reading.

The following Ordinance was read by title for second 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 second reading.

The following Ordinance was read by title for second 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 second reading.

The following Ordinance was read by title for second 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 second reading.

The following Ordinance was read by title for second 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 UTILIZATION 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)

Law Director Sponseller said the requirements for the grant application require a public hearing and the identification of some specific projects. He suggested that this Ordinance be referred to the Work Session in either May or June in order to give the Administration an opportunity set a public hearing date and finalize the projects which would be included as Exhibit "A".

Moved by Maxwell, seconded by Haschka that Ordinance No. 4-8 be referred to the Coordinating Committee for the May 11, 2009 Work Session. Vote on the motion to refer was ayes: Haschka, Key, Lange, Maxwell, Van Dress, Capellas. Nays: none. The motion carried.

Proposed Ordinance No. 4-8 stands on second reading and is referred to the Coordinating Committee.

The following Ordinance was read by title for second 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 second reading.

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 AFR PROPERTIES AND DECLARING AN EMERGENCY. (4-12)

Rebecca Corrigan, Executive Director for the Berea Community Development Corporation (BCDC), was present at the meeting to discuss the agreement and project. She explained the proposed project is for the construction of a 5,000 sq. ft. medical building at a cost of approximately \$900,000 at the location of the former Marathon gas station at 352 W. Bagley Road and the creation of new jobs. The developer is requesting a 15 year abatement at 100%. She said this project would enhance that part of the W. Bagley corridor. The project and rendering of the building had been discussed by the Municipal Planning Commission at their March 19, 2009 Meeting.

In response to Mr. Maxwell, Mrs. Corrigan said the Berea City School Board would be discussing the tax abatement request at their May 4, 2009 meeting.

Mr. John Kleem said this was the first project for AFR Properties and asked for Council's help in considering the tax abatement because the corporation was looking at several loans in order to complete this project. He distributed copies of the rendering of the proposed building to Council and the Administration.

In response to Mr. Maxwell's question, Mrs. Corrigan explained that the tax on the value of the land would remain and that the request is for tax abatement on the proposed structure. She said the tax abatement goes with the property if the property is sold subject to legislative approval. Mayor Kleem said when considering tax abatement, not all the projects were the same and this location was important because it is part of the W. Bagley Corridor. The Law Director said this was a key location identified in the City's Master Plan

In response to Mr. Van Dress, Mrs. Corrigan said the estimated wages of the new jobs that would be created is approximately \$250,000.

Proposed Ordinance No. 4-12 stands on first reading.

The following Ordinance was read by title for first reading:

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A COOPERATION AGREEMENT WITH THE BOARD OF COMMISSIONERS OF CUYAHOGA COUNTY, OHIO, FOR THE BAGLEY ROAD (LINDBERG TO NORTH ROCKY RIVER DRIVE) RESURFACING PROJECT, AND DECLARING AN EMERGENCY. (4-13)

In response to Mr. Capellas, the Service Director said this is a County project, managed by the County Engineer's office. There had already been a warranty callback on this project and the County Engineer's office was satisfied with the repairs that had been made. Now after another season has passed, there appears to more things wrong and the County is investigating it further. Mr. Sponseller further explained that this is a standard cooperation agreement with the City and County for any project the County utilizes. A specific provision of the agreement is the allocation of the County Motor Vehicle License Tax that is allocated for the benefit of the City to pay for a portion of this project.

Proposed Ordinance No. 4-13 stands on first reading.

The following Ordinance was read by title for first reading:

AN ORDINANCE AUTHORIZING, RATIFYING AND AFFIRMING THE DIRECTOR OF PUBLIC SERVICE ENTERING INTO A STORM SEWER EASEMENT AGREEMENT WITH BALDWIN-WALLACE COLLEGE FOR PURPOSES OF FACILITATING THE SEMINARY STREET IMPROVEMENT PROJECT, AND DECLARING AN EMERGENCY. (4-14)

Proposed Ordinance No. 4-14 stands on first reading.

The following Resolution was read by title for first reading:

A RESOLUTION REQUESTING THAT THE COUNTY AUDITOR CERTIFY CERTAIN INFORMATION TO THE CITY OF BEREA, AND DECLARING AN EMERGENCY. (4-15)

The Law Director suggested that Council consider passage of this Resolution on second reading in order to get the needed information from the County for the companion pieces.

Proposed Resolution No. 4-15 stands on first reading.

The following Resolution was read by title for first reading:

A RESOLUTION DECLARING THE AMOUNT OF TAXES THAT MAY BE RAISED BY A LEVY WITHIN THE TEN (10) MILL LIMITATION AND WITHOUT A VOTE OF THE ELECTORS IN THE CITY OF BEREA TO BE INSUFFICIENT, AND DECLARING AN EMERGENCY. (4-16)

Proposed Resolution No. 4-16 stands on first reading.

The following Ordinance was read by title for first reading:

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT WITH SOUTHWEST GENERAL HEALTH CENTER FOR THE LEVY OF A TAX AND THE PAYMENT OF THE PROCEEDS THEREOF FOR THE MAINTENANCE AND SUPPORT AND AS COMPENSATION FOR THE USE OF SAID HEALTH CENTER, AND DECLARING AN EMERGENCY. (4-17)

Mr. Maxwell explained that the City acts as an agent for the Hospital in order to have the tax levy put on the ballot in order for the electorate to decide whether or not to continue support of the Hospital..

Proposed Ordinance No. 4-17 stands on first reading.

The following Ordinance was read by title for first reading:

AN ORDINANCE AMENDING AND SUPPLEMENTING SECTIONS 197.07, 197.08, 197.09 AND 197.99 OF CHAPTER 197, "STANDARDS OF CONDUCT", OF THE CODIFIED ORDINANCES TO PROVIDE FOR ENHANCED ETHICAL REQUIREMENTS FOR HIGH RANKING PUBLIC CITY OFFICIALS IN THE HIRING AND AWARD OF BID AND NO-BID CONTRACTS OF THE CITY TO GENERAL FAMILY MEMBERS, EXPRESSLY REPEALING ORDINANCE 2008-76, AND DECLARING AN EMERGENCY. (4-18)

Mr. Maxwell said there had been a lot of effort on the part of the Administration and Council in debating this subject. This piece of legislation repeals and replaces, and amends legislation passed previously on hiring practices. The verbiage in the hiring practices legislation was changed in order to make it concurrent with this piece of legislation. Specifically, under definitions, High Ranking Public City Officials was added in reference to bid and no-bid contracts. The High Ranking Public City Officials must remove themselves from consideration of any contract and change order of any contract. He stressed that this subject had been discussed extensively at many meetings and is now in a form that meets the original goal with covering all legalities and concerns.

Proposed Ordinance No. 4-18 stands on first reading.

REPORTS

Nick Haschka, Ward 2

Mr. Haschka announced that the Car shows at Coe Lake would be starting again, weather permitting, on May 3rd. He also said that this car show was mentioned in the car magazine "CRUISIN TIMES" as one of the top car shows in the area last year.

Dale A. Lange, At-Large

Mr. Lange announced that senior luncheons have been scheduled for May 21st and June 18th at Berea Lake Towers. The cost is \$3.00.

He announced a farewell open house will be held at Fairwood Elementary School on Sunday, April 26th from 2:00 to 4:00 p.m.

Lastly, he wished Mrs. Olmeda a happy birthday.

Jim Maxwell, Ward 3

Mr. Maxwell said the construction on Prospect Road was to start today and residents can go to the City's website and link to the ODOT site for updates on the project.

Dean W. Van Dress, At-Large

Mr. Van Dress commented that one of the attributes of the City is its sense of well community and an example of that is the fundraiser held last Sunday. The "Dollars for Dominique" fundraiser was held to help a young girl with cancer. Anyone wanting more information on this worthwhile cause, can call him at 625-1054.

OTHER BUSINESS

President of Council Brown said Councilwoman Mary Brown recently had knee surgery. He had visited her in the hospital and she hopes to be home from the hospital this Thursday. He sent Council's best wishes to her.

CORRESPONDENCE

The President of Council noted that a listing of correspondence received by Council for the period of April 2, 2009 through April 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.

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 declared the meeting adjourned at 8:57 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 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