

CITY OF BEREA, OHIO

**MINUTES OF A REGULAR COUNCIL MEETING
HELD MAY 4, 2009**

Council of the City of Berea, Ohio, met in the Council Chamber on May 4, 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. President of Council Brown announced that Councilwoman Mary Brown was absent tonight because of her recent knee surgery. 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 announced that the portion of Front Street by the railroad tracks closed today. It is projected to be closed for eighteen months while maintaining access to businesses in that area by special signage and other means.

He said the project on Prospect Street just started and is going according to plan. The project should be done shortly, weather permitting.

Lastly, the Mayor said the bid opening for the Parkway Sanitary Sewer project is scheduled for May 29th. The City is still waiting for EPA approval for the project. In response to Mr. Maxwell, Mayor Kleem said this is the normal procedure for EPA approval.

R. James Brown, Director of Public Service

Service Director Brown reminded the residents of the Solid Hazardous Waste Roundup scheduled for Saturday, May 9th at the Cuyahoga County Fairgrounds from 9:00 a.m. to 4:00 p.m.

He also reminded the residents of Computer & Shred Day scheduled for Saturday, May 23rd from 9:00 a.m. to 1:00 p.m. behind City Hall.

Lastly, he announced because of the May 25th Memorial Day holiday, trash would be picked up one day late that week.

PETITIONS - None

AUDIENCE PARTICIPATION - None

LEGISLATION

The following Ordinance was read by title for third 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 Haschka, seconded by Van Dress that the Ordinance be adopted. The Law Director said the legislation had been amended by inner lineation to include Water Capital Improvement Fund 440 in Section 2.

Vote on motion to adopt was ayes: Key, Lange, Maxwell, Van Dress, Capellas, Haschka. Nays: none. Motion carried. Ordinance No. 2009-36 passed.

The following Ordinance was read by title for third 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)

Moved by Lange, seconded by Haschka that the Ordinance be adopted. Vote on motion to adopt was ayes: Key, Lange, Maxwell, Van Dress, Capellas, Haschka. Nays: none. Motion carried. Ordinance No. 2009-37 passed.

The following Ordinance was read by title for third 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)

Moved by Maxwell, seconded by Key that the Ordinance be adopted. Mr. Van Dress suggested that since asbestos was being removed near a residential area that the public be notified within a certain amount of time before and after.

Mayor Kleem said the City had applied for a County grant through the Department of Development who are applying countywide for some stimulus money for Brownfield projects, which are contaminated sites. The City hoped to hear by early July if they qualified for this type of grant.

Vote on motion to adopt was ayes: Key, Lange, Maxwell, Van Dress, Capellas, Haschka. Nays: none. Motion carried. Ordinance No. 2009-38 passed.

The following Ordinance was read by title for third 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)

Moved by Haschka, seconded by Maxwell that the Ordinance be adopted. Vote on motion to adopt was ayes: Key, Lange, Maxwell, Van Dress, Capellas, Haschka. Nays: none. Motion carried. Ordinance No. 2009-39 passed.

The following Ordinance was read by title for third 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)

Moved by Key, seconded by Lange that the Ordinance be adopted. Vote on motion to adopt was ayes: Key, Lange, Maxwell, Van Dress, Capellas, Haschka. Nays: none. Motion carried. Ordinance No. 2009-40 passed.

The following Ordinance was read by title for third reading:

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

Moved by Lange, seconded by Haschka that the Ordinance be adopted. In

response to Mr. Maxwell, Law Director Sponseller explained that the changes are made based on changes approved by Council and also state code changes, primarily in the traffic code.

Vote on motion to adopt was ayes: Key, Lange, Maxwell, Van Dress, Capellas, Haschka. Nays: none. Motion carried. Ordinance No. 2009-41 passed.

The following Ordinance was read by title for second reading:

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A COMMUNITY REINVESTMENT AREA ("CRA") AGREEMENT WITH AFR PROPERTIES AND DECLARING AN EMERGENCY. (4-12)

Moved by Haschka, seconded by Maxwell that the Ordinance be referred to the Building and Zoning Committee at the May 11, 2009 Work Session. Vote on the motion was all ayes and no nays. The motion carried.

Proposed Ordinance No. 4-12 stands on second reading and is referred to the Building and Zoning Committee.

The following Ordinance was read by title for second 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)

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

The following Ordinance was read by title for second 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)

Mayor Kleem requested that Council consider suspending the three reading rule tonight in order for this Baldwin-Wallace College project to not interfere with the City's Seminary Street project. Mr. Lange said he was in favor of this, especially in light of the

\$200,000 contribution from the College to the City's Seminary project.

Moved by Lange, seconded by Key that the three reading rule be suspended. Service Director Brown said the sewer line that is being installed will go to Grand Street, down the sidewalk line on the east side of Seminary Street. He said it makes sense to have the College do their project first and then have the City do their project. In response to Mr. Maxwell, the Service Director said the City was anticipating doing their project in the middle of May, so the College needs to do their project before then. It should have no impact on the Church's moving plans.

Vote on motion to suspend was ayes: Key, Lange, Maxwell, Van Dress, Capellas, Haschka. Nays: none. 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, Capellas, Haschka. Nays: none. Motion carried. Ordinance No. 2009 -42 adopted under suspension.

The following Resolution was read by title for second reading:

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

Moved by Haschka, seconded by Lange that the three reading rule be suspended. The Law Director said in order to certify the question onto the ballot for Southwest General Health Center, it has to be submitted by August to the Board of Elections and certain information is needed from the County Auditor before the other pieces of legislation can be passed.

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

Moved by Haschka, seconded by Lange that the Ordinance be adopted. Vote on motion to adopt was ayes: Key, Lange, Maxwell, Van Dress, Capellas, Haschka. Nays: none. Motion carried. Ordinance No. 2009-43 adopted under suspension.

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

The following Ordinance was read by title for second 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)

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

The following Ordinance was read by title for second 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)

Moved by Van Dress, seconded by Maxwell that Ordinance No. 4-18 be referred to the Coordinating Sub Committee for the May 11, 2009 Work Session. Vote on the motion was all ayes: Key, Lange, Maxwell, Van Dress, Capellas, Haschka. Nays: none. The motion carried.

Proposed Ordinance No. 4-18 stands on second reading and is referred to the Coordinating Sub Committee.

THE PRESIDENT OF COUNCIL ANNOUNCED THAT THE FISCAL OFFICER'S CERTIFICATES FOR ORDINANCES NO. 5-1, 5-2 AND 5-3 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 \$750,000 NOTES, IN ANTICIPATION OF THE ISSUANCE OF BONDS, TO PAY A PORTION OF THE

COSTS OF CONSTRUCTING A NEW MUNICIPAL COURT BUILDING AND ACQUIRING THE REAL ESTATE NECESSARY THEREFOR, AND DECLARING AN EMERGENCY. (5-1)

In response to Mr. Maxwell, the Finance Director said the notes identified in Ordinance 5-1, 5-2 and 5-3 are maturing between July and August and will then be rolled over into new notes. The maturity date will then match the note passed in April.

Proposed Ordinance No. 5-1 stands on first reading.

The following Ordinance was read by title for first reading:

AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF \$1,600,000 NOTES, IN ANTICIPATION OF THE ISSUANCE OF BONDS, TO PAY A PORTION OF THE COSTS CONSTRUCTING A THREE BRIDGE OVERPASS ON FRONT STREET, INCLUDING ALL WORK INCIDENTAL THERETO, AND DECLARING AN EMERGENCY. (5-2)

Proposed Ordinance No. 5-2 stands on first reading.

The following Ordinance was read by title for first reading:

AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF \$2,500,000 NOTES, IN ANTICIPATION OF THE ISSUANCE OF BONDS, TO PAY THE COSTS OF ACQUIRING PROPERTY TO BE USED FOR VEHICLE MAINTENANCE AND STORAGE FOR THE SERVICE DEPARTMENT, THE FRONT STREET RAILGRADE SEPARATION PROJECT AND OTHER MUNICIPAL PROJECTS, AND DECLARING AN EMERGENCY. (5-3)

Proposed Ordinance No. 5-3 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 PERMANENT ACCESS EASEMENT AGREEMENTS WITH A & F MACHINE PRODUCTS CO. FOR CERTAIN PARCELS OF LAND OFF W. BAGLEY ROAD NEAR THE RAIL/GRADE UNDERPASS. (5-4)

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

The following Ordinance was read by title for first reading.

AN ORDINANCE ADOPTING THE "CITY OF BEREA FUND BALANCE POLICY." (5-5)

Moved by Capellas, seconded by Haschka that Ordinance No. 5-5 be referred to the Finance Committee for the May 11, 2009 Work Session. Vote on the motion was all ayes: Key, Lange, Maxwell, Van Dress, Capellas, Haschka. Nays: none. The motion carried.

Proposed Ordinance No. 5-5 stands on first reading and is referred to the Finance Committee.

The following Ordinance was read by title for first reading:

AN ORDINANCE AUTHORIZING THE MAYOR AND CITY ADMINISTRATORS TO SOLICIT PROPOSALS, ADVERTISE FOR BIDS, NEGOTIATE AND ENTER INTO ONE OR MORE CONTRACTS FOR THE PURPOSE OF DRILLING AND OPERATING ONE NATURAL GAS WELL TO BE LOCATED AT THE CITY'S SERVICE GARAGE PROPERTY AT 400 BARRETT ROAD, APPROPRIATING FUNDS THEREFOR, AND EXPRESSLY REPEALING ORDINANCE 2002-6. (5-6)

In response to Mr. Maxwell, Mr. Sponseller said Ordinance 2002-6 was passed by Council when there was some discussion on the utilization of that land by the Berea Animal Rescue Fund (ARF) for the construction of a new facility. However, no agreement was ever signed and it should be repealed to eliminate any doubt that that land cannot be used for any purpose. He said the shelter is still located at the Service garage area.

Mayor Kleem said he and the Service Director had met with representatives from ARF. This would not interfere with their plans as they are not interested in being at this location much longer and the City is helping them look for a new location.

Also in response to Mr. Maxwell, Councilman Van Dress said that he and Councilman Lange had attended a seminar sponsored by the Ohio Department of Natural Resources where they heard that the drilling of natural gas in Cuyahoga County has been very rare. This is mainly because Cuyahoga County is heavily developed. He discussed some of the changes in the law and municipalities drilling for natural gas. There is a twenty acre minimum for drilling a gas well. Mr. Van Dress said there should be no cost to the City and hopefully this is a means to increase revenue and not increase taxes.

Proposed Ordinance No. 5-6 stands on first reading.

REPORTS

James J. Brown, President of Council

President of Council urged everyone to vote tomorrow.

Margarette S. Key, Ward 1

Mrs. Key reported she had attended a meeting at the Northwestern Care Center on N. Rocky River Drive where the residents discussed their concerns, complaints and compliments regarding the City.

Dale A. Lange, At-Large

Mr. Lange announced that Jim Walters' father had passed over the weekend. No funeral arrangements had been publicly announced.

Jim Maxwell, Ward 3

Mr. Maxwell said he had attended the Fairwood Elementary School farewell open house on April 26th.

Also, on May 3rd, he attended another farewell event which was for the United Congregational Church on Seminary Street. Their building has been sold to the College and they will be using the College's Chapel. The Second Mile Shop will be re-opening on May 9th at the former License Bureau location.

Dean W. Van Dress, At-Large

Mr. Van Dress said he has recently observed more senior activity at the Rec Center and credited the newly created "Active Senior Network" for that increased activity.

Nick Haschka, Ward 2

Mr. Haschka reminded everyone of the car shows at Coe Lake which started on May 3rd and will be held through the end of September, weather permitting.

CORRESPONDENCE

The President of Council noted that a listing of correspondence received by Council for the period of April 16, 2009 through April 29, 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 8:37 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 4th day of May, 2009, was conducted in compliance with Codified Ordinances Section 109 and Ohio Revised Code Section 121.22.

Kathleen Russell Olmeda, MMC
Clerk of Council