

**CITY OF BEREA, OHIO**

**MINUTES OF A REGULAR COUNCIL MEETING  
HELD SEPTEMBER 8, 2009**

Council of the City of Berea, Ohio, met in the Council Chamber on September 8, 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, Margarete S. Key, Jim Maxwell. Absent: Dean W. Van Dress. 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.

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Moved by Key, seconded by Maxwell that the Minutes of the June 15, 2009 Regular Meeting be approved as circulated. A Roll Call vote was taken on the motion resulting in ayes: M. Brown, Capellas, Haschka, Lange, Key and Maxwell. Nays: none. The motion carried.

Moved by Haschka, seconded by Maxwell that the Minutes of the August 24, 2009 Special Meeting be approved as circulated. A Roll Call vote was taken on the motion resulting in ayes: M. Brown, Capellas, Haschka, Lange, Key and Maxwell. Nays: none. The motion carried.

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**MAYOR'S ADMINISTRATIVE REPORT**

The Mayor was not present at the meeting tonight.

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**Dana J. Kavander, Director of Finance**

Mrs. Kavander reported she had a copy of the 2008 CAFR e-mailed to Council in order to save copying costs. She announced she has a limited amount of hard copies in her office if any one on Council would like one.

She announced that in July she had been elected as President-elect for the National Association of Public Treasurers Association and will become President next year.

**Gregory M. Sponseller, Director of Law and Prosecutor**

Mr. Sponseller reported that preliminary work has begun on the negotiations of the Collective Bargaining Agreements that expire the end of this year.

He said pending litigation had been discussed at last week's executive session.

Lastly, he said that the Administration was looking to update the City's Zoning Code and will be working on re-vamping the Zoning Code this Fall and Winter.

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PETITIONS - None

AUDIENCE PARTICIPATION

**Jim Longrich**, discussed provisions from his homeowners' association rules and regulations and addressed Council with his objection to the removal of the island at the entrance of his development on Eastland Road because of the Eastland Road project. He presented a copy of a petition from some of the homeowners in his development to Law Director Sponseller. He asked that Mayor Kleem contact the Cuyahoga County Engineer's office to request that the island be installed.

Mr. Sponseller explained that when a subdivision is accepted by the City there is a dedication of a public right-of-way that includes the roadway, the sidewalk and roughly fifteen feet past the curb. His understanding is that the subject island is in the public right-of-way, therefore, the provisions of the homeowners association do not apply. He said he would give the petition to the Mayor.

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LEGISLATION

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 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)

Mr. Sponseller said public hearings had been held to discuss proposed projects including sidewalks for the Polish Village neighborhood. Mr. Maxwell said the public hearings were held on August 3rd and August 17th and one was scheduled for this evening.

Moved by Lange, seconded by Maxwell that the Ordinance be adopted. Vote on motion to adopt was ayes: Brown, Capellas, Haschka, Key, Lange, Maxwell. Nays: none. Motion carried. Ordinance No. 2009-60 passed.

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The following Ordinance was read by title for third reading:

AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE TO ADVERTISE FOR AND SELL AT PUBLIC AUCTION CERTAIN PERSONAL PROPERTY AND VARIOUS ITEMS OF OBSOLETE EQUIPMENT NO LONGER NEEDED FOR ANY MUNICIPAL PURPOSE AND DECLARING AN EMERGENCY. (6-1)

Moved by Haschka, seconded by Lange that the Ordinance be adopted. Vote on motion to adopt was ayes: Brown, Capellas, Haschka, Key, Lange, Maxwell. Nays: none. Motion carried. Ordinance No. 2009-61 passed.

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The following Ordinance was read by title for third reading:

AN ORDINANCE AUTHORIZING AND DIRECTING THE DIRECTOR OF FINANCE TO CERTIFY TO THE AUDITOR OF CUYAHOGA COUNTY UNPAID WATER AND/OR SEWER RENTAL CHARGES AND/OR OTHER MISCELLANEOUS CHARGES FOR LEVY AND COLLECTION ACCORDING TO LAW, AND DECLARING AN EMERGENCY. (6-2)

Moved by Lange, seconded by Key that the Ordinance be adopted. Mr. Sponseller announced that the City had received reimbursement from the County for \$6,600 for the property that had been raised on Prospect.

Mrs. Kavander said she had provided Council with a summarization report of the water/sewer assessment analysis that has been kept since 1989. To date, the City has certified approximately \$5.7 million and has collected approximately \$5.3 million or 92.4% collection rate. She said the number of certified parcels compared to last year was the same with 66% being repeats. The average amount certified is \$1,160.75. The total certified this year was \$676,000 for water and sewer and approximately \$13,000 was certified, mainly for grass cuttings

Vote on motion to adopt was ayes: Brown, Capellas, Haschka, Key, Lange, Maxwell. Nays: none. Motion carried. Ordinance No. 2009-62 passed.

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The following Ordinance was read by title for second reading:

AN ORDINANCE AUTHORIZING THE MAYOR TO MAKE APPLICATION TO, AND IF AWARDED, TO ACCEPT FROM, THE DISTRICT ONE PUBLIC WORKS INTEGRATING COMMITTEE FOR THE DISTRIBUTION OF "ISSUE 2" FUNDS IN CONNECTION WITH THE NEED TO CONDUCT INFRASTRUCTURE INSTALLATION AND REPAIRS IN THE CITY OF BEREA AND DECLARING AN EMERGENCY. (6-4)

Proposed Ordinance No. 6-4 stands on second reading.

The following Ordinance was read by title for first reading:

AN ORDINANCE AUTHORIZING, RATIFYING AND AFFIRMING THE MAYOR ENTERING INTO A REAL ESTATE PURCHASE AGREEMENT FOR THE PURCHASE OF REAL PROPERTY LOCATED AT 757 FRONT STREET, APPROPRIATING FUNDS THEREFOR, AND DECLARING AN EMERGENCY. (9-1)

Proposed Ordinance No. 9-1 stands on first reading.

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The following Ordinance was read by title for first reading:

AN ORDINANCE FINDING AND DECLARING THE EXISTENCE OF NUISANCE CONDITIONS AT 30 SPRAGUE ROAD, BEREA, OHIO, AUTHORIZING AND DIRECTING THE ABATEMENT OF THE SAME, AND DECLARING AN EMERGENCY. (9-2)

Mr. Sponseller said it was the intention of the Building Department to have a Councilmanic hearing at the September 21<sup>st</sup> Council Meeting to discuss the nuisance conditions for this property and the one referred to in Ordinance No. 9-3.

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

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The following Ordinance was read by title for first reading:

AN ORDINANCE FINDING AND DECLARING THE EXISTENCE OF NUISANCE CONDITIONS AT 79 HARTMAN STREET, BEREA, OHIO, AUTHORIZING AND DIRECTING THE ABATEMENT OF THE SAME, AND DECLARING AN EMERGENCY. (9-3)

Proposed Ordinance No. 9-3 stands on first reading.

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The following Ordinance was read by title for first reading:

AN ORDINANCE AMENDING SECTION 181.06 (a), "PART TIME, TEMPORARY AND SEASONAL EMPLOYEES" OF THE PERSONNEL PLAN OF THE CODIFIED ORDINANCES TO PROVIDE FOR COMPENSATION OF TEMPORARY RECREATION DEPARTMENT INSTRUCTORS, AND DECLARING AN EMERGENCY. (9-4)

Mr. Sponseller said the new Recreation Director, Barbara Jones, is trying to

establish some creative programs and was looking to attract instructors for these programs. The City could contract with these instructors or hire them as part-time employees. Presently, the Classification Schedule of the Personnel Plan does not provide for compensation for these types of instructors. He said this would help generate additional revenue for the Rec Department.

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

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The following Ordinance was read by title for first reading:

AN ORDINANCE AMENDING SECTION 175.09, "CLASSIFICATION SCHEDULE" OF THE PERSONNEL PLAN OF THE CODIFIED ORDINANCES TO RE-ESTABLISH AND PROVIDE FOR THE POSITION OF DIRECTOR OF PUBLIC SAFETY, AND DECLARING AN EMERGENCY. (9-5)

Mr. Lange and the Law Director both stated that this position had been inadvertently omitted from the Personnel Plan. Mr. Sponseller said the position is provided for in the Charter and this legislation will update the provisions of the Personnel Plan. He discussed the previous creation of the Service/Safety Director position and the intent of Mayor Biddlecombe in 2002 to be the Safety Director as well.

In response to Mr. Maxwell, Mr. Sponseller said there were no plans to fill this position at this time.

Proposed Ordinance No. 9-5 stands on first reading.

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## REPORTS

### James J. Brown, President of Council

Mr. Brown welcomed everyone back from the summer recess.

### Mary K. Brown, Ward 5

Mrs. Brown said the Economic Development Committee would like to meet at the Work Session on September 14<sup>th</sup> to discuss proposed Ordinance No. 5-6. There would be a guest speaker at the meeting to speak on gas drilling. It was moved by Mrs. Brown and seconded by Mr. Haschka to place Ordinance No. 5-6 on the September 14, 2009 Work Session. The voice vote was all ayes, except one nay from Mr. Maxwell. President of Council Brown said the motion passed.

George Capellas, Ward 4

Mr. Capellas reminded the residents that the City's electric provider as recently changed from First Energy to GEXA Energy through NOPEC.

Nick Haschka, Ward 2

Mr. Haschka announced a benefit movie night will be held on Friday, September 11, 2009 at Coe Lake with proceeds going to Berea Welfare.

Margarette S. Key, Ward 1

Mrs. Key urged everyone to continue to read the updates on the Front Street project and to drive carefully through the construction area.

Dale A. Lange, At-Large

Mr. Lange said several events would be held in the City this month including the Berea Art Fest on Sunday, September 13<sup>th</sup> and the Berea City Club's clam bake on September 27<sup>th</sup>. On September 16<sup>th</sup>, as part of National Assisted Living Week, Berea Lake Towers will be having a rib & chicken dinner with Logan Wells as the entertainment. Anyone interested in attending the dinner can call 243-9050 for more information.

Jim Maxwell, Ward 3

Mr. Maxwell reported that he had attended two Municipal Planning Commission meetings over the summer pertaining to the Fairwood School project.

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CORRESPONDENCE

The President of Council noted that a listing of correspondence received by Council for the period of June 11, 2009 through September 2, 2009 has been provided to Council and the referenced material is on file in the office of the Clerk and available for public inspection.

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OTHER BUSINESS

**John Kickham**, addressed Council with his concerns about the Route 237 and Front Street area where cars are merging from the left into the traffic going south on N. Rocky River Drive. Mr. Sponseller said the City and Police Department are aware of

the problems and at the direction of the Mayor and Police Chief are keeping a special eye on that area because of the merging problems.

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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 8:25 p.m.

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James J. Brown  
President of Council

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Kathleen Russell Olmeda, MMC  
Clerk of Council

#### CERTIFICATE OF COMPLIANCE

The regular meeting of Council of the City of Berea, Ohio, held on the 8<sup>th</sup> day of September 2009, was conducted in compliance with Codified Ordinances Section 109 and Ohio Revised Code Section 121.22.

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Kathleen Russell Olmeda, MMC  
Clerk of Council