

CITY OF BEREA, OHIO

**MINUTES OF A REGULAR COUNCIL MEETING
HELD SEPTEMBER 21, 2009**

Council of the City of Berea, Ohio, met in the Council Chamber on September 21, 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, Dean W. Van Dress. Absent: Margarette S. Key, Jim Maxwell. 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 Capellas, seconded by Lange that the Minutes of the September 8, 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 thanked the Berea City Club for their generosity in contributing \$48,000 to the City for the City's outdoor events this year, the Active Senior Network and Berea Welfare.

R. James Brown, Director of Public Service

Director Brown announced that the obsolete equipment auction is scheduled for Saturday, October 10th at 9:00 a.m. He also announced that the City's annual leaf program will begin on October 12th with a general pickup throughout the City. The leaf pickup schedule will be posted on the City's website.

PETITIONS

Jim Longrich, questioned the Mayor about the decision to remove the island at the entrance to his development. He said he had contacted both the Mayor's office and Service Director's office about scheduling a meeting with his homeowners' association, but did not receive a return phone call. He said he had previously submitted a petition to the City from the homeowners stating that they wanted the island to be re-installed, but has not gotten a response.

Mayor Kleem said this is a private matter between the homeowners and the officers of the homeowners' association. He said the original plans for the street project

included the removal of the island and the City decided to remove it. Law Director Spenseller said this had been discussed two weeks ago and that the island was in the City's right-of-way.

AUDIENCE PARTICIPATION

Tom Goebel, discussed the plans for the re-vitalization of the north end of the City with purchasing additional property when the number of residents is declining at a steady rate per a recent article in the Plain Dealer. He suggested the City offer more amenities to keep people here by enhancing the Rec Center.

Mayor Kleem said this is an issue that cities are experiencing across the country because of urban sprawl. The City has looked at expanding the Rec Center but can't right now because of current projects including the Front Street railroad project. However, they are offering more programs at the Rec Center. He emphasized that the City was looking at the revitalization of the north end as a regional picture.

COUNCIL COMMITTEE REPORTS AND COMMITTEE ANNOUNCEMENTS

Economic Development Committee

Chairwoman Brown said their September 14, 2009 meeting had been cancelled due to the speaker having a family emergency. Mr. David Beck will be making a presentation on gas well drilling at the October 12, 2009 Work Session. BCDC Executive Director, Rebecca Corrigan, will also be at this meeting to discuss her department's annual report.

LEGISLATION

The following Ordinance was read by title for third 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)

Moved by Lange, seconded by Haschka that the Ordinance be adopted. Vote on motion to adopt was ayes: Capellas, Haschka, Lange, Van Dress, Brown. Nays: none. Motion carried. Ordinance No. 2009-63 passed.

The following Ordinance was read by title for second 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)

In response to Mr. Capellas, Mr. Sponseller said Council would be receiving the Real Estate Agreement prior to third reading.

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

The following Ordinance was read by title for second 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)

Law Director Sponseller said Matt Madzy of the Building Department was present at the meeting tonight to discuss both Ordinance Nos. 9-2 and 9-3. Notices had been sent out to the affected property owners giving them the opportunity to be heard this evening. Council had received a copy of the report from the Chief Building Official regarding the request from the Administration for remedial action ordered by Council assuming the finding of nuisance conditions. He asked Mr. Madzy to present that evidence to Council this evening.

In reference to Ordinance No. 9-2, Mr. Madzy said notice was given to the owner of the property which is the Federal National Mortgage Association aka Fannie Mae. Additional notices were sent Mr. Kenneth Myers in Sheffield, Ohio, the real estate agent for Fannie Mae, as well Equity Point Asset Services, Inc. The notices were sent on September 9th, the day after the last Council Meeting, giving the date and time of this evening's meeting. He said he has not had any conversations with any of the parties since that time.

He reported that members of the Berea Building Department viewed the property on August 31, 2009 and found a main dwelling with an attached garage and a detached shed. Some of their findings included: the roof on the western side of the home is very deteriorated; a tarp is covering the roof on the front porch; the ceiling in the front portion of the western side of the home is collapsing and the roof on the rear of the dwelling is deteriorated along with the chimney needing tuck pointing and the paint around the window sills to the rear of the home are peeling. The side walls of the detached shed are deteriorating from the ground up. Also, the chain link fence in the rear yard is damaged.

Based on these code violations, the Chief Building Official determined that the property because of its deterioration of materials, lack of repair and maintenance of the the structure, constitutes a blighting and deteriorating factor on the neighborhood. Additionally, it is the opinion of the Chief Building Official that this property adversely affects the value of the neighboring properties. Considering these findings, the Chief Building Official asked that Council declare the property a nuisance with a recommendation as far as nuisance abatement, that the main structure, the attached garage and detached shed be demolished. He recommended that the damaged fence be repaired or removed.

Mr. Madzy said should Council declare this property a nuisance on third reading of the legislation, the City would give the property owners approximately 45 days to demolish the structures. If they did not, then the City would seek bids from contractors for demolition. It is possible that the City could receive funds for demolition through the County Neighborhood Stabilization Program.

Law Director Sponseller asked that Mr. Madzy officially be sworn in and asked that he re-affirm that the testimony he gave this evening pertaining to Ordinance No. 9-2 had been the truth. Mr. Madzy did affirm that statement.

In response to Mr. Haschka's question about waiting 45 days, Mr. Madzy referred to Section 931 and 1321 of the City's Codified Ordinances. Mr. Sponseller added because of due process reasons they were looking at 45 days, but also in the past with another property, once Council did declare a property a nuisance, the property owner did step forward and make repairs within the timeframe required by Council.

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

The following Ordinance was read by title for second 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)

Mr. Sponseller said that Mr. Madzy had been sworn in with respect to testimony relating to this hearing. Mr. Madzy stated that notice was sent out to the property owners as well as interested parties including Frank Ziemski and Kelly Frisby Ziemski as well as Elizabeth Brashear, HSBC Bank USA, Mortgage Electronic Registration Systems and Deutsche Bank National Trust c/o Chase Home Finance, LLC. They were notified of the meeting to be held this evening including the time and place as well as there would be a presentation of facts concerning this property and the Building Department's intention to have this property declared a nuisance and potential abatement actions which could be required by this Council.

Mr. Madzy said the property at 79 Hartman is currently in foreclosure. The City had talked to Kelly Frisby Ziemski about the need for the house to be painted and also the removal of trash and trimming back some bushes. She is living out of state and indicated that she wasn't going to return to make those repairs. The City also talked to the mortgage company who is foreclosing on the property. They said since they do not own the property at this time, that they do not bear any of the responsibilities to maintain the property up to the City's Code.

Mr. Madzy said the Building Department inspected this property on August 31, 2009, and found that the paint is peeling and flaking on both sides and the rear of the house. There is trash and debris on the rear porch. The paint on the detached garage is also peeling and flaking. The yard area is overgrown with some bushes which are crowding both the garage and home. The Chief Building Official said based on the above, and the fact that the owner is now living out of state, that this structure constitutes a blighting and deteriorating factor on the neighborhood and that it adversely affects the value of the neighboring properties. He recommended that the structures on this property be declared a nuisance and recommended that the main dwelling be scraped and coated with primer and then the entire house be painted. Also, the trash and debris on the rear porch needs to be removed. Additionally, the garage needs to be scraped and coated with primer and painted and the bushes in the yard area need to be trimmed.

Mr. Madzy said should Council declare this property a nuisance and support the abatement measures, the Director of Public Service would give notice to the owner and give the property owner fourteen days to make the repairs. If the property owner is not going to make these repairs, the City would want the opportunity to paint the house this season. The property owner would be billed and if they did not pay the bill, the cost would be assessed to their property taxes. He said there are no funds available through the County Neighborhood Stabilization Program to help with these costs. In response to Mrs. Brown, Mr. Madzy estimated the cost for doing all the repairs would be between \$3,000 and \$4,000.

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

The following Ordinance was read by title for second 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)

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

The following Ordinance was read by title for second 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)

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

The following Ordinance was read by title for first reading:

AN ORDINANCE ENACTING NEW CHAPTER 1362, "ABANDONED RESIDENTIAL PROPERTY REGISTRATION" OF PART THIRTEEN, "BUILDING CODE," OF THE CODIFIED ORDINANCES OF THE CITY TO PROVIDE FOR REGISTRATION, SECURITY, MAINTENANCE AND ABATEMENT OF ABANDONED RESIDENTIAL PROPERTIES. (9-6)

Proposed Ordinance No. 9-6 stands on first reading.

REPORTS

Nick Haschka, Ward 2

Mr. Haschka reported that the first drive-in movie fundraiser held on September 11th raised \$600 which will be donated to Berea Welfare.

Dale A. Lange, At-Large

Mr. Lange announced the Berea High School all-class reunion would be held this Friday at Berea High School.

CORRESPONDENCE

The President of Council noted that a listing of correspondence received by Council for the period of September 3, 2009 through September 16, 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 8:25 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 21st day of September 2009, was conducted in compliance with Codified Ordinances Section 109 and Ohio Revised Code Section 121.22.

Kathleen Russell Olmeda, MMC
Clerk of Council