

**CITY OF BEREA, OHIO**

**MINUTES OF A REGULAR COUNCIL MEETING  
HELD NOVEMBER 16, 2009**

Council of the City of Berea, Ohio, met in the Council Chamber on November 16, 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, Jim Maxwell, Dean W. Van Dress. Absent: Margarette S. Key. 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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No minutes available for approval tonight.

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**MAYOR'S ADMINISTRATIVE REPORT**

The Mayor was not present at the meeting tonight. On behalf of the Mayor, Councilman Lange reminded the residents of the December 5<sup>th</sup> Light-Up-Berea parade. Events will be held at Coe Lake between 1:00 and 3:00 p.m. with the parade beginning at 6:00 p.m.

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**R. James Brown, Director of Public Service**

Director Brown said rubbish collection would be delayed one day due to the Thanksgiving holiday.

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**AUDIENCE PARTICIPATION - None**

**LEGISLATION**

The following Ordinance was read by title for second reading:

RESOLUTION REQUESTING THE COUNTY AUDITOR TO ADVANCE TAXES FROM THE PROCEEDS OF TAX LEVIES PURSUANT TO SECTION 321.34 OF THE OHIO REVISED CODE, AND DECLARING AN EMERGENCY. (11-1)

Proposed Resolution No. 11-1 stands on second reading.

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The following Ordinance was read by title for second reading:

AN ORDINANCE AUTHORIZING THE MAYOR OF THE CITY OF BEREA TO ENTER INTO A CONTRACT WITH THE GENERAL HEALTH DISTRICT OF CUYAHOGA COUNTY, OHIO, PROVIDING FOR HEALTH SERVICES FOR THE CITY OF BEREA FOR THE YEAR 2010 AND DECLARING AN EMERGENCY. (11-2)

Proposed Ordinance No. 11-2 stands on second reading.

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The following Ordinance was read by title for second reading:

AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF BEREA BY REZONING A CERTAIN AREA OF LAND AT 729 PROSPECT ROAD FROM RESIDENTIAL SINGLE FAMILY "B" (RSFB) DISTRICT TO MULTIPLE FAMILY MEDIUM DENSITY (MF-MD) DISTRICT. (11-3)

Moved by Maxwell, seconded by Haschka that the Ordinance be referred to the Building & Zoning Committee for the December 14, 2009 Work Session. Vote on the motion was all ayes and no nays. The motion carried.

Proposed Ordinance No. 11-3 stands on second reading and is referred to the Building & Zoning Committee.

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The following Ordinance was read by title for second reading:

AN ORDINANCE FORMALLY ESTABLISHING AND CONSTITUTING THE CITY OF BEREA COMMUNITY REINVESTMENT AREA HOUSING COUNCIL PURSUANT TO STATE LAW, AND DECLARING AN EMERGENCY. (11-4)

Proposed Ordinance No. 11-4 stands on second reading.

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The following Ordinance was read by title for second reading:

AN ORDINANCE FORMALLY ESTABLISHING AND CONSTITUTING THE CITY OF BEREA TAX INCENTIVE REVIEW COUNCIL PURSUANT TO STATE LAW, AND DECLARING AN EMERGENCY. (11-5)

Proposed Ordinance No. 11-5 stands on second reading.

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The following Ordinance was read by title for first reading:

AN ORDINANCE AUTHORIZING AND RATIFYING THE DIRECTOR OF PUBLIC SERVICE ADVERTISING FOR BIDS AND ENTERING INTO ONE OR MORE CONTRACTS FOR THE PURCHASE OF VARIOUS PRODUCTS AND SERVICES FOR THE DAY-TO-DAY OPERATIONS OF THE CITY OF BEREA'S SERVICE DEPARTMENT. (11-7)

In response to Mr. Capellas, Director Brown said the rock salt is guaranteed to be provided by ODOT this year.

Proposed Ordinance No. 11-7 stands on first reading.

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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 PURCHASE AND/OR LEASE OF OUTDOOR LIGHTING FOR GROZA FIELD NO. 2, APPROPRIATING FUNDS THEREFOR, AND DECLARING AN EMERGENCY. (11-8)

In response to Mr. Maxwell, Service Director Brown explained this would replace the existing lights that are very old. The lease is actually a termed agreement and the Service Director said other equipment has been leased to own over the years.

In response to Mr. Lange, the Service Director said the cost was estimated to be over \$100,000 and would encompass from the poles up, lights and appropriate appurtenances.

Proposed Ordinance No. 11-8 stands on first reading.

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The following Ordinance was read by title for first reading:

AN ORDINANCE TO MAKE TEMPORARY APPROPRIATIONS FOR CURRENT EXPENSES AND OTHER EXPENDITURES FROM THE VARIOUS FUNDS OF THE CITY OF BEREA, STATE OF OHIO, FROM JANUARY 1, 2010, ENDING MARCH 31, 2010. (11-9)

Proposed Ordinance No. 11-9 stands on first reading.

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The following Ordinance was read by title for first reading:

AN ORDINANCE APPROPRIATING FROM THE VARIOUS FUNDS TO INDIVIDUAL ACCOUNTS FOR THE CURRENT EXPENDITURES AND OTHER EXPENSES OF

THE CITY OF BEREA FOR THE FISCAL YEAR ENDING DECEMBER 31, 2009, AND EXPRESSLY REPEALING ORDINANCE NO. 2009-72. (11-10)

Proposed Ordinance No. 11-10 stands on first reading.

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The following Ordinance was read by title for first reading:

AN ORDINANCE ENACTING NEW CHAPTER 194, MOTOR VEHICLE LICENSE TAX, TO THE CODIFIED ORDINANCES OF THE CITY OF BEREA, TO IMPOSE A FIVE DOLLAR (\$5.00) MOTOR VEHICLE REGISTRATION FEE. (11-11)

Mr. Lange said that this provision was made a part of the Ohio Revised Code in 1988 when several cities exercised their option. Ohio Revised Code 405.172 allowed for a \$20 permissive tax on licenses of which the County received \$15. If the City wanted the other \$5, they had to enact legislation through Council to receive it. He reported that 36 of the 59 communities in Cuyahoga County enacted legislation since 1988 to collect this fee. The money collected can only be used for roads and bridges. He estimated that the \$5 additional tax would generate between \$71,000 and \$75,000 based on registration figures from 2008. The filing deadline for this legislation is 7/1/2010 and would go into effect on 1/1/2011 for collecting the tax. Mr. Lange then referred to a letter from Rebecca Corrigan and said that passage of this would give the city points when applying for grants and help in its rating when being considered for grants. He read the memo from Rebecca Corrigan to Mayor Kleem in its entirety.

Mr. Maxwell said he had concerns about similar legislation previously discussed by Council and that commercial vehicles did not apply. Mr. Lange said that anything registered with a license plate would be charged the additional \$5 fee. In response to Mr. Van Dress, this fee would be charged on an annual basis every time you renewed your vehicle license plates.

Mr. Lange referred to Section 194.03 of the proposed legislation that stated the tax would be in effect for the tax year commencing 2010... He said the reason for the 2010 date is to give the leverage to qualify when applying for the 2010 points for grants. Mrs. Brown said she supported the legislation because it will help with the grants.

Mr. Maxwell asked Council to keep in mind that this is a regressive tax and could hurt the lowest income residents of Berea. He understood from the BCDC Director that the City was not successful in receiving a grant earlier in the year because the City did not rate high enough and the loss on that grant was approximately six million dollars.

Proposed Ordinance No. 11-11 stands on first reading.

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The following Ordinance was read by title for first reading:

AN ORDINANCE AMENDING SECTION 183.07, "INSURANCE PROVIDED" AND REPEALING SECTION 183.04, "LONGEVITY", OF CHAPTER 183, "EMPLOYMENT PROVISIONS" OF THE PERSONNEL PLAN OF THE CITY FOR NON-UNION EMPLOYEES TO PROVIDE FOR EMPLOYEE CONTRIBUTION FOR HEALTH CARE INSURANCE AND TO ELIMINATE THE "LONGEVITY" SUPPLEMENTAL BENEFIT, AND DECLARING AN EMERGENCY. (11-12)

In response to Mr. Capellas, Finance Director Kavander said she did not have the exact number of employees that would be affected. She said it would affect the non-union employees, but she wasn't sure if it would affect the Court employees. The Mayor would be talking with Court representatives later this week. There is one healthcare plan that is offered to the employees. Mr. Capellas discussed offering an HMO or other options to the employees. He questioned if there are any concerns from eliminating longevity pay from those employees who were hired with longevity pay as part of their benefit package. Mrs. Kavander said she understood that the Mayor would be sending a memo to Council explaining the reasoning behind this.

In response to Mr. Maxwell, the Finance Director said open enrollment for healthcare for the employees is in November. He said then the City employees that this may affect won't know Council's decision during open enrollment and he was very concerned about that and wished the Mayor and Law Director were present at the meeting tonight to address this subject.

It was then moved by Maxwell and seconded by Haschka that the Ordinance be referred to the Coordinating Committee for the December 14, 2009 Work Session.

Mr. Capellas said some of these issues had been discussed in 2004/2005 when it was changed that any new hires, at that time, contributed 15% of their healthcare premium and were not eligible for longevity pay. Some of the discussion at that time was similar to discussions that they are having right now, such as not including all the employees and just considering new hires. He questioned that if the City is having some financial issues and concerns, wouldn't it be prudent to look at the budget to see if there were other areas where they could make fiscal cuts opposed to cuts in healthcare benefits for the employees.

Mr. Lange said this would make it equal and compared this action to be similar to corporations when they are cutting their costs. Mrs. Kavander said the City does go out for bid every year before January and receives proposals for healthcare for full insurance. That means a fixed amount is paid to the insurance company. Because of the City's union contracts, they are restricted to the types of coverage the City can offer its employees. In response to Mr. Maxwell she said they can choose to "take it or leave it". The employees are also offered dental and vision coverage. The cost is based on actual costs of what is actually spent.

Vote on the motion to refer was ayes: Van Dress, M. Brown, Capellas, Haschka, Maxwell. Nays: Lange. The motion carried.

Proposed Ordinance No. 11-12 stands on first reading and is referred to the Coordinating Committee.

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### REPORTS

#### James J. Brown, President of Council

Mr. Brown wished everyone a happy Thanksgiving.

#### Dean W. Van Dress, At-Large

Mr. Van Dress congratulated the First Baptist Church on their 90<sup>th</sup> anniversary celebration.

He announced the Berea Kiwanis Club would be holding their annual pancake breakfast on Sunday, December 6 from 8:00 a.m. to 2:00 p.m. at Berea High School. Tickets are \$6 and children under six eat free. Anyone needing tickets can call him or the Berea Kiwanis Club.

#### Nick Haschka, Ward 2

Mr. Haschka commented on the Holiday Walk that was held this past weekend and said everyone enjoyed the event.

#### Dale A. Lange, At-Large

Mr. Lange agreed with Mr. Haschka's comments. He announced there were six openings for the Berea Lake Tower luncheon this Thursday.

#### Jim Maxwell, Ward 3

Mr. Maxwell reminded everyone that the Holiday Walk was sponsored in part by the City of Berea and also the Downtown Berea Merchants Associations. He asked the residents to remember the City merchants during the holidays.

In response to Mr. Maxwell, Service Director Brown said the rubbish removal contract is due to be looked at in summer of 2010.

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### CORRESPONDENCE

The President of Council noted that a listing of correspondence received by Council for the period of October 29, 2009 through November 12, 2009 has been provided to Council and the referenced material is on file in the office of the Clerk and available for public inspection.

OTHER BUSINESS

Mr. Van Dress said the gas well ordinance (Ordinance No. 5-6) was discussed at the Work Session last week. There was some information requested by the Committee and the rest of Council regarding the noise level in decibels of the actual drilling process which is predicted to take about a one week. Because it is not known at this time who would be doing the drilling and what kind of equipment they have. Mr. Beck of Beck Energy said they have a Schramm T-130 and Mr. Van Dress said he has that information which he could distribute to the rest of Council. He said he also spoke to an ODNR representative concerning the noise level. The ODNR representative indicated that if you were 300 feet away that it would sound like a lawnmower. He also commented on the proposed location of the well which would be 800 feet back. Lastly, Mr. Van Dress summarized that it appeared that both ARF and the well could co-exist and suggested removing Section 3 of the legislation. He stressed that the goal of the legislation was to generate revenue for the City. He requested that the Economic Development Committee be scheduled to meet at the December 14, 2009 Work Session to discuss the legislation.

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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 8:28 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 16<sup>th</sup> day of November, 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