

CITY OF BEREA, OHIO

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

Council of the City of Berea, Ohio, met in the Council Chamber on December 21, 2009, and was called to order at 7:36 p.m. by President of Council James J. Brown, with Mary K. Brown, Dale A. Lange, Margarette S. Key, Jim Maxwell, Dean W. Van Dress. Absent: George Capellas, Nick Haschka. 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 Key, seconded by Van Dress that the Minutes of the November 2, 2009 Regular Meeting be approved as circulated. Vote on the motion was all ayes and no nays. The motion carried.

Moved by Lange, seconded by Key that the Minutes of the November 11, 2009 Special Meeting be approved as circulated. Vote on the motion was all ayes and no nays. The motion carried.

MAYOR'S ADMINISTRATIVE REPORT

Mayor Kleem did not have a formal report tonight. He wished every one a Merry Christmas and Prosperous New Year and said he was looking forward to working with Council next year.

Gregory M. Sponseller, Director of Law and Prosecutor

Mr. Sponseller reported the City had received the opinion from the Cuyahoga County Court of Appeals on the case regarding Court costs. The Appeal was not timely and the Court affirmed Judge Comstock on other procedural grounds and acknowledged that if someone wanted to take issue with respect to the Court costs that it must be filed by way of an appeal and there is a thirty day time limit in which to file an appeal to the Court of Appeals from a Municipal Court order or judgment in a criminal or traffic matter. He said the City would use this opinion in the Lingo case.

He wished everyone a Merry Christmas and a Happy New Year.

PETITIONS - None

AUDIENCE PARTICIPATION - None

COUNCIL COMMITTEE REPORTS AND COMMITTEE ANNOUNCEMENTS - None

LEGISLATION

The following Ordinance was read by title for third 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)

Moved by Van Dress, seconded by M. Brown that the Ordinance be amended by substitution with Ordinance No. 5-6(a). Mr. Van Dress said the main points in the change would be the removal of any provisions of the former but not yet acted upon ARF agreement. It would also split the bid process out to solicit for bid proposals, however, the Mayor would then present the contract to Council for approval. In response to Mr. Maxwell's question of identifying a timeframe, Mr. Van Dress said the current language is fine. Mr. Lange also said the amended version gives more time to consider this proposed project.

Vote on motion to amend was ayes: Key, Lange, Maxwell, Van Dress, Brown.
Nays: none. Motion carried.

Ordinance No. 5-6(a) was then read by title:

AN ORDINANCE AUTHORIZING THE MAYOR AND CITY ADMINISTRATORS TO SOLICIT PROPOSALS AND ADVERTISE FOR BIDS 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, AND APPROPRIATING FUNDS THEREFOR.

Moved by Van Dress, seconded by M. Brown that the Ordinance be adopted as amended.

Marty Leshner thanked the Council members for being responsive and attentive to some of the issues she has raised about this project.

Mr. Maxwell clarified that amending by substitution Ordinance 5-6 with 5-6(a), it

allows the Administration to go out and seek proposals. The Administration may decide at that point to bring forth an agreement to Council and asked for authorization to enter into an agreement. Ordinance No. 5-6 would have allowed the Administration to seek proposals and enter into an agreement.

Matt Lombardy voiced concerns about health issues for the community and questioned if the price tag was worth it.

Greg Anderson, Alex Popademulus, Nick Jasco supported the legislation as a good source of revenue for the City.

Vote on motion to adopt as amended was ayes: Key, Lange, Van Dress, Brown. Nays: Maxwell. Motion carried. Ordinance No. 2009-79 passed as amended.

The following Ordinance was read by title for third 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 Van Dress, seconded by Maxwell that the Ordinance be adopted.

Mr. Sponseller said a public hearing had been held earlier this evening regarding this legislation. The matter was also referred to the Planning Commission. The Planning Commission recommended approval of the adoption of the legislation.

Vote on motion to adopt was ayes: Key, Lange, Maxwell, Van Dress, Brown. Nays: none. Motion carried. Ordinance No. 2009-80 passed.

The following Ordinance was read by title for third 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 BEREAS SERVICE DEPARTMENT. (11-7)

Moved by Lange, seconded by Van Dress that the Ordinance be adopted. Vote on motion to adopt was ayes: Key, Lange, Maxwell, Van Dress, Brown. Nays: none. Motion carried. Ordinance No. 2009-81 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 PURCHASE AND/OR LEASE OF OUTDOOR LIGHTING FOR GROZA FIELD NO. 2, APPROPRIATING FUNDS THEREFOR, AND DECLARING AN EMERGENCY. (11-8)

Moved by Van Dress, seconded by Key that the Ordinance be adopted. Vote on motion to adopt was ayes: Key, Lange, Maxwell, Van Dress, Brown. Nays: none. Motion carried. Ordinance No. 2009-82 passed.

The following Ordinance was read by title for third 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)

Moved by Maxwell, seconded by Van Dress that the Ordinance be adopted. Mr. Maxwell said the Finance Director had discussed the temporary budget at the December 14th Work Session.

Vote on motion to adopt was ayes: Key, Lange, Maxwell, Van Dress, Brown. Nays: none. Motion carried. Ordinance No. 2009-83 passed.

The following Ordinance was read by title for third 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)

Moved by Maxwell, seconded by Van Dress that the Ordinance be adopted. Mr. Maxwell said this Ordinance had also been discussed at the December 14th Work Session.

Vote on motion to adopt was ayes: Haschka, Key, Lange, Maxwell, Van Dress, Brown, Capellas. Nays: none. Motion carried. Ordinance No. 2009-84 passed.

The following Ordinance was read by title for third 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)

Moved by Lange, seconded by Van Dress that the Ordinance be adopted.

Mr. Van Dress said this Ordinance had been discussed at length in the past. Some of the highlights were that this would bring a kind of fairness and equality of all of the contribution rates through all the employees of the City of Berea. He said he supported the Ordinance because it was fair and reasonable.

Mr. Maxwell said in theory this piece of legislation makes sense, but he would like to see a graduated approach taken.

Vote on motion to adopt was ayes: Key, Lange, Maxwell, Van Dress, Brown. Nays: none. Motion carried. Ordinance No. 2009-85 passed.

The following Ordinance was read by title for third reading:

AN ORDINANCE ESTABLISHING THE "RESERVE FUND OF THE GENERAL FUND (NO. 105) AND "WORKERS COMPENSATION FUND" (FOR RETROSPECTIVE RATING PROGRAM) (NO. 620), AND DECLARING AN EMERGENCY. (12-1)

Moved by Lange, seconded by Van Dress that the Ordinance be adopted. Vote on motion to adopt was ayes: Key, Lange, Maxwell, Van Dress, Brown. Nays: none. Motion carried. Ordinance No. 2009-86 passed.

The following Ordinance was read by title for second reading:

AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE TO ENTER INTO ONE OR MORE CONTRACTS FOR THE DEMOLITION AND RAZING, INCLUDING BACKFILLING AND GRADING AS NEEDED, OF THE FORMER BEREA FAMILY BOWLING CENTER, LOCATED AT 451 FRONT STREET. (12-2)

Proposed Ordinance No. 12-2 stands on second reading.

REPORTS

James J. Brown, President of Council

Mr. Brown wished everyone a Merry Christmas and Happy New Year. He wished Mr. Haschka a speedy recovery.

Margarette S. Key, Ward 1

Mrs. Key wished everyone Happy Holidays.

Dale A. Lange, At-Large

Mr. Lange also wished everyone Merry Christmas and Happy Holidays and Healthy and Prosperous New Year.

Jim Maxwell, Ward 3

Mr. Maxwell thanked Mrs. Brown for her time on Council

Dean W. Van Dress, At-Large

Mr. Van Dress reported that he has traveled northbound on Front Street all the way to the first part of the new bridge. He commented that the project is coming along nicely. The Mayor said the project is on time and on budget.

He also commented and thanked Mrs. Brown's for her knowledge and talent while serving on Council.

He wished everyone Happy Holidays and Merry Christmas.

Mary K. Brown, Ward 5

Mrs. Brown reported that the Fair Street pump station project was going along nicely, but is not completed as anticipated. Service Director Brown said there was a delay because of waiting for electricity from First Energy, but the project is now moving along.

She thanked Council and the Administration for all their help during her time on Council.

Mrs. Brown wished everyone Merry Christmas and Happy New Year.

CORRESPONDENCE

The President of Council noted that a listing of correspondence received by Council for the period of December 3, 2009 through December 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.

OTHER BUSINESS

President of Council Brown announced the Council Inauguration would be held on January 3, 2010 at 1:00 p.m. with the Organizational Meeting to be held thereafter. He asked the members of Council to indicate what Committee assignments they would like.

There being no further business to come before Council, moved by M. Brown, seconded by Van Dress 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 8:04 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 December, 2009, was conducted in compliance with Codified Ordinances Section 109 and Ohio Revised Code Section 121.22.

Kathleen Russell Olmeda, MMC
Clerk of Council