

CITY OF BEREA, OHIO

**MINUTES OF A REGULAR COUNCIL MEETING
HELD MARCH 1, 2010**

Council of the City of Berea, Ohio, met in the Council Chamber on March 1, 2010, and was called to order at 7:30 p.m. by President of Council James J. Brown, with Cheryl A. Banaszak, Nick Haschka, Dale A. Lange, Richard T. Malott, 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.

There were no minutes available for approval tonight.

MAYOR'S ADMINISTRATIVE REPORT

Mayor Kleem thanked the Service Department employees and Director Brown for keeping up with the snow removal this past couple of weeks.

PETITIONS - None

AUDIENCE PARTICIPATION - None

COUNCIL COMMITTEE REPORTS AND COMMITTEE ANNOUNCEMENTS

Southwest Health Care Center

Mr. Van Dress said he had attended the February 24, 2010 Southwest Health Care Center Board Meeting. Some items discussed included the changeover to electronic medical records and complete updating of paper to electronics. This is mandated by the American Recovery and Stimulus Act that was passed by the federal government last year. Also in the future there will be discussions about Southwest's partnership with University Hospitals.

LEGISLATION

The following Ordinance was read by title for third reading:

**AN ORDINANCE APPROVING AND RATIFYING A THREE-YEAR
COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF BEREA**

AND THE BEREA FIREFIGHTERS REPRESENTED BY LOCAL 1836 OF THE INTERNATIONAL ASSOCIATION OF FIREFIGHTERS, PURSUANT TO CHAPTER 4117 OF THE OHIO REVISED CODE, AND DECLARING AN EMERGENCY. (1-2)

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

Mayor Kleem discussed the main changes in the contract included a 6% pay raise over three years with 1% in the first year, 2% in the second year and 3% in the third year. The firefighters will be paying 15% of their healthcare premium beginning with 5% in the first year, 10% in the second year and 15% in the third year. Upon retirement, the employee will be paid one-third of their accumulated sick time over three years. The definition of funeral leave was broadened.

Vote on motion to adopt was ayes: Malott, Maxwell, Van Dress, Banaszak, Haschka, Lange. Nays: none. Motion carried. Ordinance No. 2010-10 passed.

The following Ordinance was read by title for third 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 ACQUIRING REAL ESTATE FOR MUNICIPAL FACILITIES, AND DECLARING AN EMERGENCY. (2-3)

Mr. Lange said this and the next two pieces are renewals.

Moved by Lange, seconded by Haschka that the Ordinance be adopted. Vote on motion to adopt was ayes: Malott, Maxwell, Van Dress, Banaszak, Haschka, Lange. Nays: none. Motion carried. Ordinance No. 2010-11 passed.

The following Ordinance was read by title for third 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. (2-4)

Moved by Haschka, seconded by Banaszak that the Ordinance be

adopted. Vote on motion to adopt was ayes: Malott, Maxwell, Van Dress, Banaszak, Haschka, Lange. Nays: none. Motion carried. Ordinance No. 2010-12 passed.

The following Ordinance was read by title for third reading:

AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF BONDS IN THE PRINCIPAL AMOUNT OF \$2,725,000 TO PAY A PORTION OF THE COSTS OF (i) ACQUIRING EQUIPMENT FOR USE IN CITY DEPARTMENTS, INCLUDING COMPUTERS AND AMBULANCE RELATED AND OTHER FIRE DEPARTMENT EQUIPMENT, (ii) ACQUIRING CITY VEHICLES FOR USE IN CITY DEPARTMENTS, (iii) RESURFACING AND RECONSTRUCTING PORTIONS OF CERTAIN CITY STREETS TO BE APPROVED BY CITY COUNCIL, AND (iv) CONSTRUCTING A THREE BRIDGE OVERPASS ON FRONT STREET, INCLUDING ALL WORK INCIDENTAL THERETO, AND DECLARING AN EMERGENCY. (2-5)

Moved by Van Dress, seconded by Haschka that the Ordinance be adopted. Vote on motion to adopt was ayes: Malott, Maxwell, Van Dress, Banaszak, Haschka, Lange. Nays: none. Motion carried. Ordinance No. 2010-13 passed.

The following Ordinance was read by title for second reading:

AN ORDINANCE SUPPLEMENTING ORDINANCE NO. 2008-69 (WHICH AUTHORIZED A COOPERATION AGREEMENT WITH THE BOARD OF COMMISSIONERS OF CUYAHOGA COUNTY FOR THE REHABILITATION OF WEST BRIDGE STREET BRIDGE NO. 256) REQUESTING THE COUNTY ENGINEER TO PROCEED WITH THE REHABILITATION OF THE WEST BRIDGE STREET BRIDGE NO. 256, AND PROVIDING THAT THE CITY OF BEREA SHALL BE RESPONSIBLE FOR 100% OF THE ENGINEERING AND CONSTRUCTION COSTS FOR A NEW WATERLINE FOR THE PROJECT, AND DECLARING AN EMERGENCY. (2-7)

In response to Mr. Maxwell, Service Director Brown said the proposed project should begin with utility work no later than this spring. It will go out to bid with the construction project beginning starting sometime in June. He anticipated that the project would take approximately one year to complete. The Service Director said this was not a repair project but was a complete replacement of the bridge down to the abutments.

Proposed Ordinance No. 2-7 stands on second reading.

The following Ordinance was read by title for second 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, 2010, AND EXPRESSLY REPEALING ORDINANCE NO. 2009-83. (2-8)

Moved by Lange, seconded by Van Dress that proposed Ordinance No. 2-8 be referred to the Finance Committee for the March 8, 2010 Work Session. Vote on the motion was all ayes and no nays. The motion carried.

Proposed Ordinance No. 2-8 stands on second reading and is referred to the Finance Committee.

The following Resolution was read in its entirety for first reading:

A RESOLUTION RECOGNIZING AND COMMENDING HANSON HOUSE TRAUMATIC BRAIN INJURY CLUBHOUSE OF BEREA FOR ITS WORK WITH AND FOR PERSONS WHO HAVE SUFFERED TRAUMATIC BRAIN INJURIES (3-1)

Mr. Malott asked to be added as a sponsor to this resolution.

JoAnn Boggs thanked the City for its support and discussed the purpose of Hanson House. **Paul Richards**, Program Director for the Hanson House, also thanked the City for its support including the residents and businesses in the City of Berea. **Bob Norton** discussed the importance of Hanson House when he suffered a traumatic brain injury in 1994.

Moved by Malott, seconded by Maxwell that the Resolution be adopted. Vote on motion to adopt was ayes: Malott, Maxwell, Van Dress, Banaszak, Haschka, Lange. Nays: none. Motion carried. Resolution No. 2010-14 was adopted.

The following Resolution was read in its entirety for first reading:

A RESOLUTION RECOGNIZING MARCH AS BRAIN AWARENESS MONTH AND HONORING AND COMMENDING THE NEUROSCIENCE PROGRAM AT BALDWIN-WALLACE COLLEGE AND THE SOCIETY FOR NEUROSCIENC (3-2)

Moved by Maxwell, seconded by Van Dress that the Resolution be adopted. Vote on motion to adopt was ayes: Malott, Maxwell, Van Dress,

Banaszak, Haschka, Lange. Nays: none. Motion carried. Resolution No. 2010-15 was adopted.

The following Ordinance was read by title for first reading:

AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE TO ENTER INTO ANY AND ALL AGREEMENTS WITH THE DIRECTOR OF OHIO DEPARTMENT OF TRANSPORTATION FOR THE PURCHASE OF ROCK SALT FOR THE 2010-2011 WINTER SEASON, AND DECLARING AN EMERGENCY. (3-3)

Moved by Lange, seconded by Van Dress to suspend the three reading rule because of the March 26 deadline for filing with ODOT. In response to Mr. Maxwell, Service Director Brown said this is a housekeeping type of agreement and is similar to the agreement for this winter's salt needs. Vote on the motion to suspend was ayes: Malott, Maxwell, Van Dress, Banaszak, Haschka, Lange. Nays: none. The motion carried

Moved by Van Dress, seconded by Lange that the Ordinance be adopted. Vote on the motion to adopt was ayes: Malott, Maxwell, Van Dress, Banaszak, Haschka, Lange. Nays: none. The motion carried. Ordinance No. 2010-16 was passed under suspension.

The following Ordinance was read by title for first reading:

AN ORDINANCE ACCEPTING AND APPROVING THE SUBDIVISION AND DEDICATION PLAT OF THE SANDSTONE RIDGE (SOUTH) SUBDIVISION PHASE 3B AND DECLARING AN EMERGENCY. (3-4)

Mr. Maxwell asked if the City had any concerns regarding the radon issues that were presented at a past Council meeting by residents. He questioned whether this should be delayed and used as leverage for the contractor to change his business practices regarding this issue.

Mr. Van Dress said he looked into the issue of radon by talking with the residents who brought the issue to Council's attention. He explained that radon is caused naturally and was not caused by anything the contractor would have done. He said only two cities in the state of Ohio have mitigation-type ordinances. The City of Berea follows the State of Ohio Building Code which does not have any provisions regarding this issue. Mr. Van Dress said this somewhat a gray area and was not sure if the Council would want to delay the acceptance of this section of the subdivision.

Mayor Kleem added that Ryan Homes does address this issue in their contract with the homeowners. The homeowners do sign off regarding the section in their contract that discusses the radon issue including giving some suggestions as to where the homeowner can get radon testing and the threats of radon. He said they sign off in the contract and by doing so take responsibility for the potential of radon gas as they do with other issues as well out of the builder's control. The Mayor said he is comfortable following the Ohio Building Code and deviating from that might create some issues for the City. He stated that the radon issue is not an issue for the City of Berea but for each individual homeowner.

Proposed Ordinance No. 3-4 stands on first reading.

The following Ordinance was read by title for first reading:

AN ORDINANCE AMENDING THE ZONING MAP FOR A PORTION OF THE WEST BAGLEY ROAD CORRIDOR AREA BY ESTABLISHING A NEW ZONING CLASSIFICATION DISTRICT, "THE WEST BAGLEY ROAD COMMERCIAL DISTRICT," AND RE-ZONING AFFECTED PARCELS THEREIN FROM "LIGHT INDUSTRIAL" DISTRICT TO THE NEW "WEST BAGLEY ROAD COMMERCIAL DISTRICT". (3-5)

Moved by Lange, seconded by Maxwell that proposed Ordinance No. 3-5 be referred to the Municipal Planning Commission. Law Director Sponseller stated that public hearings regarding this proposed legislation are scheduled before the Municipal Planning Commission on March 18th and before Berea City Council on April 5th. He said the City is not aware of any adult-oriented businesses that are being considered moving into the City at this time. This will comply with constitutional requirements and protect the City by establishing affirmatively a varied limited district.

Vote on the motion was ayes: Malott, Maxwell, Van Dress, Banaszak, Haschka, Lange. Nays: none. The motion carried.

Proposed Ordinance No. 3-5 stands on first reading and is referred to the Municipal Planning Commission.

The following Ordinance was read by title for first reading:

AN ORDINANCE AMENDING SECTIONS 300.2, "PURPOSE OF COMMERCIAL DISTRICT CLASSIFICATIONS," 301.7, "CONDITIONAL USES IN COMMERCIAL DISTRICTS," 401.4, "CONDITIONAL USES IN INDUSTRIAL DISTRICTS," AND ENACTING NEW SECTION 301.5.1, "PRINCIPAL USES IN

THE WEST BAGLEY ROAD COMMERCIAL DISTRICT,” OF THE ZONING CODE OF THE CITY OF BEREA TO PROVIDE FOR PRINCIPAL AND CONDITIONAL USES OF PROPERTIES LOCATED IN THE WEST BAGLEY ROAD COMMERCIAL DISTRICT (BR•CD) ZONING CLASSIFICATION. (3-6)

Moved by Lange, seconded by Banaszak that proposed Ordinance No. 3-6 be referred to the Municipal Planning Commission. Vote on the motion was ayes: Malott, Maxwell, Van Dress, Banaszak, Haschka, Lange. Nays: none. The motion carried.

Proposed Ordinance No. 3-6 stands on first reading and is referred to the Municipal Planning Commission.

The following Ordinance was read by title for first reading:

AN ORDINANCE ENACTING NEW CHAPTER 581, “ADULT-ORIENTED BUSINESS,” OF PART FIVE, BUSINESS REGULATIONS CODE, OF THE CODIFIED ORDINANCES OF THE CITY OF BEREA, OHIO, AND DECLARING AN EMERGENCY. (3-7)

Proposed Ordinance No. 3-7 stands on first reading.

REPORTS

Richard T. Malott, Ward 5

Mr. Malott announced that the 20th annual Kiwanis/Polaris Family Fair would be held on Saturday, March 20th from 10:30 a.m. to 2:30 p.m. at Polaris Vocational School in Middleburg Heights.

Cheryl A. Banaszak, Ward 4

Mrs. Banaszak announced the Berea Baseball Association is currently accepting registrations for the 2010 baseball season on-line or at the Rec Center any Saturday in March. She also announced the B.B.A. would be holding their annual reverse raffle on Saturday, March 27th, at the Berea Fairgrounds.

Nick Haschka, Ward 2

Mr. Haschka thanked the employees of the Service Department and Director Brown for the great job they did in removing snow the past couple of weeks.

CORRESPONDENCE

The President of Council noted that a listing of correspondence received by Council for the period of February 11, 2010 through February 24, 2010 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

Moved by Van Dress, seconded by Haschka for Council to confirm the appointments by Mayor Kleem of Barbara Draves and Jim Rump to the Tax Incentive Review Council. Vote on the motion was ayes: Banaszak, Haschka, Lange, Malott, Maxwell, Van Dress. Nays: none. The motion carried.

There being no further business to come before Council, moved by Van Dress, seconded by Haschka to adjourn the meeting. Vote on the motion to adjourn was all ayes and no nays. President of Council Brown adjourned the meeting at 8:23 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 1st day of March, 2010, was conducted in compliance with Codified Ordinances Section 109 and Ohio Revised Code Section 121.22.

Kathleen Russell Olmeda, MMC
Clerk of Council