

CITY OF BEREA, OHIO

**MINUTES OF A REGULAR COUNCIL MEETING
HELD MARCH 15, 2010**

Council of the City of Berea, Ohio, met in the Council Chamber on March 15, 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, Margarette S. Key, Richard T. Malott, Jim Maxwell, Dean W. Van Dress. Absent: none. 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 Malott, seconded by Van Dress that the Minutes of the February 16, 2010 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 reported that he and Finance Director Dana Kavander were in Chicago recently to meet with the Moody's representatives. Moody's has re-affirmed the City's double "a" bond rating again this year. Several things led Moody's to re-affirm the City's bond rating including the City's overall good debt portfolio and debt management. They considered some of the issues the City of Berea faced, the sluggish economy, the growth in the City's General Fund balance, some of the policies the City has recently adopted, as well as the direction the City is going with negotiations. The Mayor thanked Finance Director Dana Kavander for her efforts and technical information.

Gregory M. Sponseller, Director of Law and Prosecutor

Mr. Sponseller said the signed Dispatchers contract has been received and they continuing with negotiations on the remaining Collective Bargaining Agreements.

COMMENDING LEGISLATION

The following Resolution was read in full for first reading:

RESOLUTION NO. 2010-8 HONORING AND COMMENDING MARY K. BROWN FOR HER SERVICES TO THE CITY OF BEREA AS A MEMBER OF THE CITY COUNCIL.
(3-8)

Moved by Lange, seconded by Haschka that the Resolution be approved. Vote on the motion to adopt was ayes: Maxwell, Van Dress, Banaszak, Haschka, Key, Lange, Malott. Nays: None. The motion carried. Resolution No. 2010-17 was adopted.

On behalf of Council and the Administration, the President of Council presented an official copy of the Resolution to Mary K Brown.

The following Resolution was read in full for first reading:

RESOLUTION NO. 2010-9 HONORING AND COMMENDING GEORGE CAPELLAS FOR HIS SERVICES TO THE CITY OF BEREA AS A MEMBER OF THE CITY COUNCIL. (3-8)

Moved by Maxwell, seconded by Haschka that the Resolution be approved. Vote on the motion to adopt was ayes: Maxwell, Van Dress, Banaszak, Haschka, Key, Lange, Malott. Nays: None. The motion carried. Resolution No. 2010-18 was adopted.

Mr. Capellas was not able to attend the meeting. An official copy of the Resolution will be delivered to him on behalf of Council and the Administration.

PETITIONS

Jamie Sanders presented Council with the following petition entitled, *We the undersigned urge our representatives of our City of Berea to bring back diagonal parking with two (2) handicapped spaces on the south-west side of Front St. between N. Rocky River Dr. and West Center St.* (The petition consisted of ten pages with a total of 198 signatures.) A copy of said petition will be filed with the minutes of record. Ms. Sanders said the petition was being presented because a disabled woman who goes to CURVES which is located in this area has difficulty finding a parking place close enough to CURVES.

In response, Mayor Kleem said he has been in discussions with the City Engineer about the parking area referenced in the petition. Currently, the parallel parking configuration would not accommodate a handicap parking spot and the City has to look into the removal of the bike lane. He will be asking Council for some input on changing the parking situation in that area.

AUDIENCE PARTICIPATION

Jim Sperk addressed Council to discuss the NOPEC program and the switching of his gas bill from Columbia Gas for his rental property. Law Director Sponseller explained that you have to "opt-out" if you do not want to go with the supplier approved by NOPEC and that the homeowner is notified with a postcard.

Tim Brown commented on the inspection requirements for rental properties in the City but some of the owner-occupied homes near his rental property on W. Fifth Street are in worst condition. Councilman Maxwell said he had received calls about this similar issue and explained that there is a point of sale inspection requirement and also rental property legislation requiring regular inspections. There are also sidewalk inspections that are done by the exterior maintenance department that identifies violations. Mayor Kleem and Law Director Sponseller confirmed that sidewalk inspections are conducted and point of sale inspections are also done. The Mayor said the City is doing three times the number of inspections that were done just a few years ago on owner-occupied properties.

COUNCIL COMMITTEE REPORTS AND COMMITTEE ANNOUNCEMENTS

Mr. Lange reported that he and Councilwoman Cheryl Banaszak had met with representatives of the horse barns at the fairgrounds to discuss complaints about horse feces being deposited on public streets in the City. Mayor Kleem stressed that the horse owners needed to take responsibility for cleaning up after their animals. If not, he suggested that Council consider passing tougher laws that will enforce bags on the horses or not allow horses on streets at all.

LEGISLATION

The following Ordinance was read by title for third 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)

Moved by Haschka, seconded by Maxwell that the Ordinance be adopted. Vote on motion to adopt was ayes: Maxwell, Van Dress, Banaszak, Haschka, Key, Lange, Malott. Nays: none. The motion carried. Ordinance No. 2010-19 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, 2010, AND EXPRESSLY REPEALING ORDINANCE NO. 2009-83. (2-8)

Mr. Lange said this legislation was discussed at length at the recent Work Session. He discussed some of the highlights which included a surplus last year of \$1.4 million and a projected surplus of \$942,000 for 2010. This includes the designated fund. Revenue from taxes is down approximately \$559,000 this year compared to \$427,000 last year. \$300,000 in Inheritance Tax revenue was received in 2009, but they are estimating a flat amount of \$150,000 in revenue which is the normal figure. The Court summary indicated the Court showing a profit of \$19,000 last year and are projected a \$24,000 profit in 2010. The Rec Department subsidy has gone down as a percentage of the Issue 9 income tax revenue. In 2008, the Rec Department was subsidized by \$576,000 and it is projected to be down to \$430,000 in 2010. The Service Department is budgeted for over \$7 million with an increase of \$267,000.

In response to Mr. Maxwell, Mrs. Kavander said the increase for part-time staff in the Court's budget is for additional staff to scan some of their documents to help reduce some of their storage needs. Mayor Kleem added that this project should take several years and would help with the need for storage space at City Hall.

Moved by Lange, seconded by Van Dress that the Ordinance be adopted. Vote on motion to adopt was ayes: Maxwell, Van Dress, Banaszak, Haschka, Key, Lange, Malott. Nays: none. The motion carried. Ordinance No. 2010-20 passed.

The following Ordinance was read by title for second 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)

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

The following Ordinance was read by title for second 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)

In response to Mr. Maxwell, Mr. Sponseller said this Ordinance is on the March 18th Municipal Planning Commission agenda and there will also be a public hearing

before Council on April 5, 2010. A recommendation will come back from the Planning Commission to adopt or reject the legislation. In addition, there will be a report from the Chief Building Official and the City's consultant. The minutes of the Planning Commission will not have been approved by the next Council meeting, but the action of the Planning Commission will have been taken and Council will be notified of those results.

Proposed Ordinance No. 3-5 stands on second reading.

The following Ordinance was read by title for second 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)

Proposed Ordinance No. 3-6 stands on second reading.

The following Ordinance was read by title for second 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)

Mr. Sponseller noted there was a correction to page 23 and that no formal motion was needed.

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

The following Ordinance was read by title for first reading:

AN ORDINANCE ESTABLISHING THE "SENIOR SERVICES FUND" (No. 253) AND DECLARING AN EMERGENCY. (3-10)

Mr. Lange explained that this account was included in the 2010 budget with an amount of \$40,000 which came from the Social Services Department for the Active Senior Network and \$4,000 for the Adopt-a-Senior Program which came from the

Neighborhood Improvement Fund. He said the reason for this new fund is for better control by segregating these funds from other City funds because of donations. Mrs. Kavander clarified that this fund is only for donations and any other expenses will come out of the Social Services account or Neighborhood Improvement account. Mr. Maxwell added that Mrs. Kavander had discussed the need for this new account at the recent Work Session.

Moved by Lange, seconded by Van Dress that the three reading rule be suspended. Vote on motion the motion suspend was ayes: Maxwell, Van Dress, Banaszak, Haschka, Key, Lange, Malott. Nays: none. The motion carried.

Moved by Lange, seconded by Haschka that the Ordinance be adopted. Vote on motion to adopt was ayes: Maxwell, Van Dress, Banaszak, Haschka, Key, Lange, Malott. Nays: none. The motion carried. Ordinance No. 2010-20 passed.

The following Ordinance was read by title for first reading:

AN ORDINANCE ESTABLISHING THE CITY OF BEREA'S JOB CREATION TAX CREDIT. (3-11)

Mrs. Banaszak explained that the purpose of this legislation is to create a job creation tax credit to help expand the City's tax base through job creation. This would be offered to new companies relocating into the City or existing companies that are expanding with a minimum of five jobs of \$100,000. The agreement would not exceed ten years. She said a few local municipalities offer similar programs and include Hamilton, Orrville, Kent and Bedford. Mrs. Banaszak said this would help in keeping the City of Berea moving forward in economic development.

In response to Mr. Maxwell, Mayor Kleem said this program is very similar to the Vacant Building Grant Program with the difference being that it addresses new jobs and it does not have to be in a vacant building. This information is verified through RITA records to check what their payroll amounts are for the quarter and how many employees they have.

Mr. Van Dress recognized Mrs. Banaszak and Rebecca Corrigan for their work on this Ordinance and said he was proud to be a co-sponsor of the legislation. He said that Exhibit "A" points out that up to a 60% tax credit could be approved by the Council and encouraged that Bereans be considered for those job positions.

Mrs. Key said she was proud to also be a sponsor of this legislation. She said this would be very attractive for all of Berea, but especially for the north end of the City when the bridge is completed.

Mayor Kleem pointed out that if Council adopts this legislation it is only adopting the program guidelines and any agreements will still have to be approved by Council as

well.

Proposed Ordinance No. 3-11 stands on first reading.

The following Resolution was read by title for first reading:

A RESOLUTION AFFIRMING THE CITY'S INTEREST IN PARTICIPATING AND PURSUING THE DEVELOPMENT AND FINANCIAL PLANNING TO CREATE A REGIONAL FIRE AND EMERGENCY MEDICAL SERVICE (EMS) DISPATCH CENTER TO IMPROVE THE STANDARD OF CARE, IMPROVE SAFETY OF OUR CITIZENS, IMPROVE SAFETY OF OUR FIREFIGHTERS, AS AN INITIAL ACTION TOWARDS POSSIBLE REGIONALIZED FIRE AND EMS SERVICES.

(3-12)

In response to Mr. Van Dress, Mayor Kleem said the study done by Baldwin-Wallace College last year was generated by the City of Parma Heights for a regional fire district among ultimately seven cities. This would be for an EMS dispatch center at Southwest General Healthcare Center, so the scope would be much smaller and is a much more focused study. It would include the cities in the Southwest General Healthcare Center's tax district.

In response to Mr. Maxwell, the Mayor said probably the police and other issues will be discussed as the study goes on.

Mr. Van Dress referred to a provision of the legislation regarding grants. Mayor Kleem concurred that generally when you apply for a grant with other partners, including the hospital as a partner, you have a greater likelihood of receiving the grant. He said since this includes other cities, they would have to jointly apply for the grant.

Proposed Resolution No. 3-12 stands on first reading.

REPORTS

Jim Maxwell, Ward 3

Mr. Maxwell announced and recognized Officer Haas on his retirement from the City's Police Department.

Nick Haschka, Ward 2

Mr. Haschka announced that a benefit car show is scheduled for Father's Day, on June 20th. This car show will benefit the Berea Welfare.

Dale A. Lange, At-Large

Mr. Lange announced that Berea Lake Towers would be holding their monthly senior luncheons in April, May and June. A fish fry will be held on June 10th to benefit the City's Adopt-a-Senior program.

He extended condolences to the Patton family on the recent loss of their family member, Thomas Patton, Jr.

CORRESPONDENCE

The President of Council noted that a listing of correspondence received by Council for the period of March 11, 2010 through March 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 Malott, seconded by Maxwell that the Coordinating Committee recommends that proposed Ordinance No. 1-3 be placed on the April 5, 2010 Regular Council Meeting agenda. Vote on the motion was ayes: Maxwell, Van Dress, Banaszak, Haschka, Key, Lange, Malott. Nays: none. The motion carried.

There being no further business to come before Council, moved by Malott, 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 8:50 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 15th 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