

MINUTES OF A REGULAR COUNCIL MEETING
May 16, 2022 – 7:30p.m.

Council of the City of Berea, Ohio, met in regular session in the Council Chamber on May 16, 2022 and the meeting was called to order by President of Council Jim Maxwell at 7:30p.m. Present: Mary K. Brown, Erika Coble, Leon Dozier, Rick Skoczen, Lisa Weaver and Gene Zacharyasz. Absent: Chris McManis. Also present via Zoom: Director of Public Works Tony Armagno, Director of Law and Public Safety Barb Jones and Director of Finance Andrea Morris.

The Pledge of Allegiance followed.

This meeting was held in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code and Chapter 109 of the Codified Ordinances of the City of Berea. The certificate of compliance is on file in the Clerk's office.

Moved by Mr. Dozier, seconded by Mr. Skoczen, that the minutes from the April 18, 2022 meeting be approved. Vote on the motion was all ayes and no nays. The motion carried.

MAYOR'S ADMINISTRATIVE REPORT AND COMMENTS

Mayor Kleem was not present.

REPORT AND COMMENTS BY THE OFFICERS OF THE ADMINISTRATION:

Andrea Morris – Director of Finance:

Mrs. Morris had no report.

Barb Jones – Director of Law & Public Safety:

Mrs. Jones stated that major vandalism was committed against Coe Lake, with damage being done to the pavilion and restrooms. The vandals were determined to be 8 kids and their Parents are being informed that they will be required to pay restitution. Officers are making frequent patrols of the area, but with the warmer weather bringing more people to Coe Lake, Mrs. Jones asked people to keep their eyes open and say something if they see something.

Mr. Maxwell reminded people that if they possess security cameras and are willing to share footage with the Police, they can volunteer to have their cameras logged at the Station. Mr. Dozier encouraged people to cooperate and allow the Police access.

Mrs. Coble asked about the cabin vandalism and Mrs. Jones replied that it may have been the same kids but that is only a working theory at this point. Mrs. Coble asked if cameras could be placed back in the woods, but Mr. Armagno responded that there is no power back in the woods and no WIFI either, so it would be a challenge all around.

Mrs. Weaver asked where the new treehouse will be located, and Mr. Armagno said that it is proposed to be near the amphitheater and not hidden in the woods like the cabin.

Tony Armagno – Director of Public Service:

Mr. Armagno informed Council that the Barberrry project will be beginning this week, with waterline and sewer work occurring over the next few months, and then the road repairs will commence through next year with the entire project taking approximately 18-20 months to complete. He noted that the public meeting was held last week and was well attended.

Mr. Armagno stated that the South Rocky River Drive project is being advertised for bids which will be opened on June 3, 2022.

Mr. Armagno concluded his report by explaining that Columbia Gas will begin their project on Karen, Nancy and North Rocky River Drive this week.

Mr. Skoczen stated that, similar to last year, the grass around the power towers is not being cut and coyotes are hiding in the long brush that abuts the Metroparks. Mr. Armagno responded that some areas are too wet to mow now, but he will reach out to First Energy to discuss the issue. He acknowledged that both he and Mr. Maxwell reached out to them last year and they responded promptly.

Marty Compton – Director of Recreation:

Mr. Compton was not present.

COMMENDATIONS: NONE

PETITIONS: NONE

AUDIENCE PARTICIPATION:

Tom Brazee provided Council with a brief summary of H.B. 563 which would prohibit Cities from regulating short term rentals and all but eliminate the notion of Home Rule. This bill, if adopted, would add parking issues, Police calls, nuisance situations and traffic problems, all at the City's expense. The only benefit will go to the State and the City will lose local control. Mr. Brazee continued by stating that the bill is being pushed by Americans for Prosperity which is advertised as a grassroots effort but funded by the Koch Brothers. Mr. Brazee asked that an opposition be organized, a Resolution opposing the bill be passed, and encouraged everyone to reach out to State Representative Tom Patton and State Senator Matt Dolan.

Mr. Maxwell acknowledged that Home Rule does need to be maintained and while a Resolution can not be voted on tonight, something can be crafted for the next meeting. Mr. Brazee encouraged Council to send a letter to Columbus because the House is moving this piece along quickly.

Eydie Lott referenced an article in Cleveland.com and inquired about the replacement of a section of old clay pipe under the roadway so it better connects to newer home pipes. Mr. Armagno responded that while not familiar with the article, this refers to 27 houses and the lining of a section of clay pipe that is in the right-of-way on Shelley and Emerson. The description

does not reflect what was explained at the North End meeting, and Mr. Armagno added that nothing has changed with regard to the plans discussed.

Mrs. Lott asked if a list of streets for the 2022 Road Program has been publicized and if Emerson or Grayton are on the list. Mr. Armagno responded that the road list has been publicized but neither street will be done this year. Mrs. Lott requested that the potholes from Shelley to North Rocky River be addressed. Mr. Armagno said that the Service Department will take a special look at the area, adding that Emerson is in need of repair, but The Burns was determined to be more at risk. Mrs. Lott stated her understanding but said that she thinks the roads that are more frequently travelled should be considered first.

COUNCIL COMMITTEE REPORTS AND ANNOUNCEMENTS:

Berea Shade Tree Commission – Gene Zacharyasz & Erika Coble

Mr. Zacharyasz stated that new members were sworn in this evening prior to a very productive meeting. He noted that the main focus of the Commission is to update the Shade Tree Master Plan list and map out new plantings for Woodmere and Lynn.

Woodvale Union Cemetery Board of Trustees – Jim Maxwell

Mr. Maxwell informed Council that Woodvale hired a new grounds crew member and are looking to hire another. He added that the cemetery is feeling the effects of the economy because people are not planning ahead, thus revenue is below what was expected and expenses are being closely monitored.

LEGISLATION – THIRD READING:

ORDINANCE NO. 4-5: AN ORDINANCE APPROVING AND RATIFYING A THREE-YEAR COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF BEREA AND THE UTILITY WORKERS UNION OF AMERICA, LOCAL 270, PURSUANT TO CHAPTER 4117 OF THE OHIO REVISED CODE, AND DECLARING AN EMERGENCY.

The Clerk read the title of the Ordinance.

Moved by Mrs. Brown, seconded by Mr. Dozier, that Ordinance No. 4-5 be adopted. Vote on the motion was ayes: Brown, Coble, Dozier, Skoczen, Weaver and Zacharyasz. Nays: None. The motion carried.

ORDINANCE NO. 4-8: AN ORDINANCE AMENDING SECTION 931.02(a), CRIMINAL ACTIVITIES AS A NUISANCE; ABATEMENT, PROCEDURE AND COSTS OF ENFORCEMENT, AND SECTION 1331.05(a), NUISANCE CONDITIONS AT LEASED PROPERTIES PROHIBITED – PROCEDURES – NUISANCE HEARING OFFICER, OF THE CODIFIED ORDINANCES OF THE CITY OF BEREA TO ADD VIOLATIONS OF CHAPTER 1519, FIREWORKS, AS QUALIFYING INCIDENTS TO A NUISANCE DECLARATION, AND DECLARING AN EMERGENCY.

The Clerk read the title of the Ordinance.

Moved by Mr. Skoczen, seconded by Mr. Zacharyasz and Mrs. Brown, that Ordinance No. 4-8 be adopted. Vote on the motion was ayes: Brown, Coble, Dozier, Skoczen, Weaver and Zacharyasz. Nays: None. The motion carried.

ORDINANCE NO. 4-9: AN ORDINANCE AMENDING SECTION 1519.99, PENALTY, OF CHAPTER 1519, FIREWORKS, OF PART FIFTEEN, FIRE PREVENTION CODE, OF THE CODIFIED ORDINANCES OF THE CITY OF BEREA, AND DECLARING AN EMERGENCY.

The Clerk read the title of the Ordinance.

Moved by Mrs. Brown, seconded by Mr. Zacharyasz, that Ordinance No. 4-9 be adopted. Vote on the motion was ayes: Brown, Coble, Dozier, Skoczen, Weaver and Zacharyasz. Nays: None. The motion carried.

LEGISLATION – SECOND READING:

ORDINANCE NO. 4-10: AN ORDINANCE AMENDING SECTION 100.03, ANNEXATION, OF CHAPTER 100, PURPOSE AND INTENT, OF THE ZONING CODE OF THE CITY OF BEREA, TO ESTABLISH THE APPLICABLE ZONING DISTRICT OF ANY PROPERTY THAT MAY BE ANNEXED TO THE CITY OF BEREA.

The Clerk read the title of the Ordinance.

Mrs. Brown stated that she received question from residents in Sandstone Ridge and encouraged them to bring questions to Council or email them if they can't come in person.

Mr. Maxwell reminded Council that Planning Commission will consider this Ordinance on Thursday, and residents may also pose questions at that meeting.

Proposed Ordinance No. 4-10 stands on second reading.

ORDINANCE NO. 5-1: AN ORDINANCE AMENDING SECTION 327.03, CREATION OF A SHADE TREE COMMISSION, OF CHAPTER 327, TREES AND WEEDS, OF TITLE FIVE, OTHER PUBLIC SERVICES, IN PART 3, STREETS, UTILITIES, AND PUBLIC SERVICES CODE, OF THE CODIFIED ORDINANCES OF THE CITY OF BEREA TO CHANGE THE NUMBER OF MEMBERS SERVING ON THE SHADE TREE COMMISSION, AND DECLARING AN EMERGENCY.

The Clerk read the title of the Ordinance.

Mrs. Brown commended Mr. Zacharyasz and Mrs. Coble for bringing new people aboard the Commission, especially Mr. Anzalone.

Mr. Zacharyasz requested suspension so that new members can be added on as soon as possible.

Moved by Mr. Zacharyasz, seconded by Mrs. Brown, that the three-reading rule be suspended for Ordinance No. 5-1. Vote on the motion was ayes: Brown, Coble, Dozier, Skoczen, Weaver and Zacharyasz. Nays: None. The motion carried.

Moved by Mr. Zacharyasz, seconded by Mrs. Brown, that Ordinance No. 5-1 be adopted. Vote on the motion was ayes: Brown, Coble, Dozier, Skoczen, Weaver and Zacharyasz. Nays: None. The motion carried.

RESOLUTION NO. 5-5: A RESOLUTION SUBMITTING TO THE VOTERS OF THE CITY OF BEREA, OHIO, THE QUESTION OF THE RENEWAL OF THE 1.4 MILL TAX LEVY FOR THE PURPOSE OF PROVIDING FOR IMPROVEMENTS TO THE CITY'S WATER PLANT AND THE CONSTRUCTION AND ACQUISITION OF OTHER PERMANENT IMPROVEMENTS RELATING TO THE CITY'S WATER SYSTEM, PURSUANT TO OHIO REVISED CODE SECTION 5705.191 AND ITEM XI-3 OF THE CHARTER OF THE CITY OF BEREA.

The Clerk read the title of the Resolution.

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

ORDINANCE NO. 5-6: AN ORDINANCE ESTABLISHING THE COMMON TRENCH IMPROVEMENT PARTNERSHIP PROGRAM TO ADDRESS THOSE PROPERTIES IN THE CITY OF BEREA SERVED BY COMMON TRENCH SEWERS, WHEREBY THE CITY WILL COMMIT TO IMPROVING THE PORTION OF THE LATERAL SEWER LINE LOCATED ON PUBLIC PROPERTY WHEN THE OWNER OF THE PROPERTY SERVED BY THE COMMON TRENCH SEWER MAKES THE NECESSARY IMPROVEMENTS TO THE LATERAL SEWER LINE ON PRIVATE PROPERTY, AND DECLARING AN EMERGENCY.

The Clerk read the title of the Ordinance.

Moved by Mr. Zacharyasz, seconded by Mr. Dozier, that Ordinance No. 5-6 be amended by the substitution of Ordinance No. 5-6a. Vote on the motion was ayes: Brown, Coble, Dozier, Skoczen, Weaver and Zacharyasz. Nays: None. The motion carried.

Honestor Davidson asked who sponsored this Resolution and Mr. Maxwell explained that he called every Member of Council and asked who wanted to be a sponsor. Several Members signed on and some were unsure, but Members are able to sign on or remove their name throughout the process.

Mr. Davidson said that a committee was set up to formulate ideas and he listened to these meetings and none of the things proposed by 1 committee member were included in this Ordinance. He asked how many of the sponsors were on the Committee and how many of them have basements. He said that there was no partnership formed for Fair Street, and reiterated that it is not right to ignore and shut out a committee member.

Mrs. Lott asked when work will begin, and Mr. Armagno said that until the Ordinance is approved, nothing will officially start, but a list is currently being compiled of properties that meet the requirements of the Ordinance, in anticipation of its adoption.

Mrs. Lott asked what would happen if a prior owner did not inform a new owner about lateral issues or repairs and wondered if the City has documentation of work done. Mr. Maxwell said that permit records can be checked and scopes can be performed. Mr. Armagno added that

digital permits are already being reviewed, then paper files can be examined, and lines can also be televised.

Mrs. Lott next inquired as to how people will be alerted to the fact that they qualify and if there are loan options available. Mr. Maxwell said that home improvement loan information will be provided.

Mrs. Lott asked if a repair or lining will be mandated by the City, and Mr. Maxwell and Mr. Armagno agreed that both lining and replacement are valid improvements to decrease I&I, so it will be left to residents' discretion.

Mrs. Brown asked if past televised images are saved and for how long. Mr. Armagno stated that televised images, as well as dye tested results, are saved, and there are dye test results from 2011 on file.

Mrs. Lott asked what streets will benefit from this proposal, and Mr. Armagno responded that everyone in the sewer shed will benefit regardless of where the cap or connection is placed because there will be less flow in both sewer sheds. The streets that benefit will be Riveredge, Shelley, Shakespeare, Bryant, Thacker, and parts of Emerson, The Mall, North Rocky River, Front, Sheldon, and possibly a couple others. The City is planning to apply for funding through NEORS to perform this program that will help all the streets he named.

In response to a question from Mrs. Lott, Mr. Armagno explained that intercepting the sewer system part way through and taking some flow directly to the Sewer District interceptor will allow the same amount of flow to go toward two different outlets. NEORS has provided the City with a planning level recommendation, but it is up to the City to go through a detailed preliminary engineering study, and then a formal engineering study to determine actual flow and the best design approach. Flow monitoring will be conducted over the next few months and that data will be used to design a project that will most benefit the area. While based on a model, the City will soon have actual data and be able to confirm flow, which will help to determine the specifications of the project and be able to determine where properties should be redirected.

Mr. Davidson referenced the town hall meeting that was proposed by Mrs. Brown for Ward 1, and hoped at that meeting residents in the area can provide their input with regard to this issue. He again questioned the sponsorship of this Ordinance and said he doesn't understand what is going on with this partnership.

Mrs. Coble asked for confirmation as to whether or not the City knows which properties need to be addressed, and Mr. Maxwell stated that while the City does not know, there are ways to find out, but he encouraged property owners to take this responsibility upon themselves, and to start by calling the Building Department.

Mr. Armagno explained that, currently, the City is responsible for fixing laterals in the right-of-way if there is a known structural issue restricting flow, such as a collapsed pipe or protruding root. A pipe may be televised and found to be in good condition, but still be experiencing I&I because of the deterioration of the clay material and joints. Through this program, the City is committing to replace more based on the material of clay, rather than

problems with the clay, which is different and better than what is being done now, and will specifically help to reduce I&I that is the cause of basement flooding.

Proposed Ordinance No 5-6 stands on second reading.

ORDINANCE NO. 5-7: AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF BONDS IN THE MAXIMUM PRINCIPAL AMOUNT OF \$7,330,000 FOR THE PURPOSE OF PAYING COSTS OF (i) ACQUIRING REAL ESTATE FOR MUNICIPAL FACILITIES, (ii) ACQUIRING PROPERTY TO BE USED FOR VEHICLE MAINTENANCE AND STORAGE FOR THE SERVICE DEPARTMENT, THE FRONT STREET RAILGRADE SEPARATION PROJECT AND OTHER MUNICIPAL PROJECTS, (iii) RESURFACING CERTAIN CITY STREETS TO BE APPROVED BY COUNCIL, (iv) CONSTRUCTING IMPROVEMENTS AT COE LAKE, INCLUDING AN AMPHITHEATER AND POOL SHELTER, (v) RESURFACING CERTAIN CITY STREETS TO BE APPROVED BY COUNCIL (THE 2016 STREET PROGRAM) AND TO PAY COSTS OF RECONSTRUCTING STREETS, INCLUDING IN THE BLUEGRASS DEVELOPMENT AREA, (vi) RESURFACING CERTAIN CITY STREETS TO BE APPROVED BY COUNCIL (THE 2017 STREET PROGRAM) AND TO PAY COSTS OF RECONSTRUCTING A PORTION OF NORTH ROCKY RIVER DRIVE AND JANANNA, VIVIAN AND KAYE DRIVES AND (vii) MAKING IMPROVEMENTS TO THE CITY'S WATER PLANT, INCLUDING REPLACING A PORTION OF THE FILTRATION SYSTEM, AND DECLARING AN EMERGENCY.

The Clerk read the title of the Ordinance. The Fiscal Officer's Certificate is on file in the Clerk's Office.

Proposed Ordinance No. 5-7 stands on second reading.

ORDINANCE NO. 5-8: AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF BONDS IN THE MAXIMUM PRINCIPAL AMOUNT OF \$4,935,000 FOR THE PURPOSE OF PAYING COSTS OF IMPROVING THE CITY-OWNED ADMINISTRATIVE OFFICES, TRAINING FACILITY AND SURROUNDING GROUNDS LEASED TO THE CLEVELAND BROWNS FOOTBALL COMPANY LLC, AND DECLARING AN EMERGENCY.

The Clerk read the title of the Ordinance. The Fiscal Officer's Certificate is on file in the Clerk's Office.

Proposed Ordinance No. 5-8 stands on second reading.

LEGISLATION – FIRST READING:

ORDINANCE NO. 5-9: AN ORDINANCE REVISING THE CODIFIED ORDINANCES OF THE CITY OF BEREA BY ADOPTING CURRENT REPLACEMENT PAGES, AND DECLARING AN EMERGENCY.

The Clerk read the title of the Ordinance.

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

RESOLUTION NO. 5-10: A RESOLUTION ADOPTING THE TAX BUDGET OF THE CITY OF BEREA FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2023, AND SUBMITTING THE SAME TO THE CUYAHOGA COUNTY FISCAL OFFICER.

The Clerk read the title of the Resolution.

Mrs. Morris explained that this is an annual Ordinance, as each year the City must adopt a Tax Budget. It is due to the County by July 20, 2022 for the year 2023, and a Public Hearing will be held on third reading.

Proposed Resolution No. 5-10 stands on first reading.

REPORT AND COMMENTS BY THE PRESIDENT OF COUNCIL

Mr. Maxwell stated that last week the high school held a three hour concert as a farewell to Dan Barth who is retiring after 34 years in the district. Students, both past and present, performed and there were presentations and awards. Mr. Barth has been an integral part of the music program and it was a really impressive evening. He will certainly be missed.

REPORTS AND COMMENTS BY THE MEMBERS OF COUNCIL

Mrs. Coble stated that a meeting was held regarding the resurfacing of South Rocky River Drive with Mr. Armagno and Mr. Theberge, adding that it was well attended. She stated that she also attended the public meeting regarding the Barberry project and was surprised to learn that everything was being completely removed and replaced.

Mrs. Coble noted that there is a member of the community interested in revisiting the three unrelated tenant limit at rental properties, and this would be welcomed in her Ward. Mrs. Jones explained that this restriction was found to violate the Ohio Constitution, and while some limitations may be possible, the Ohio Constitution provides greater protections than the US Constitution when it comes to private property rights, thus on its face the requirement is unconstitutional.

Mr. Maxwell stated that it seems like the rule may be doable but risky because the Courts could impose some form of retribution. He encouraged those interested to connect with Mrs. Jones and get something drafted so that it can be considered at a Committee meeting or Work Session.

Mr. Dozier stated that a resident in his Ward was concerned about the rental properties surrounding him, as he may be forced to move, so he asked to be a part of the conversation referenced by Mrs. Coble.

Mr. McManis was not present.

Mr. Skoczen stated that his Ward 5 bulletins and Ward meetings will recommence, following the pause caused by the pandemic.

Mrs. Weaver stated that the Court Committee met with Judge Comstock, Clerk of Court Ray Wohl and others, and it was very informative. They will be meeting once again in July, and perhaps more regularly than in the past.

Mr. Zacharyasz explained that his business flooded due to a watermain break, and although it was all clean water, it reached 5-6 inches in the basement where thousands of baseball uniforms were printed and in need of numbering. His wife posted about this on Facebook and people began showing up in order to take uniforms home to dry. All of the uniforms were inspected and none were ruined and, thanks to this amazing community, the deadline for the baseball season will be met. He expressed his appreciation to the entire City.

Mrs. Brown had no report.

CORRESPONDENCE

The April 28, 2022 – May 12, 2022 Correspondence is available in the Clerk's office.

OTHER BUSINESS:

Mrs. Esson reminded Council Members to file their Financial Disclosures and wished all Moms – and especially her amazing Mom – a Happy belated Mother's Day!

Mr. Brazee referenced his question regarding the legality of electric bikes in the City and expressed his appreciation for the information as there were recently two incidents on East Bridge Street. Mr. Zacharyasz responded that additional information is being gathered and a report is forthcoming.

There being no further business before Council, it was moved by Mrs. Brown, and seconded by Mr. Zacharyasz, that the Regular Council Meeting be adjourned. Vote on the motion was all ayes and no nays. The motion passed and President Maxwell declared the meeting adjourned at 9:01p.m.

Jim Maxwell
President of Council

Alycia Esson
Clerk of Council

CERTIFICATE OF COMPLIANCE

The regular meeting of Council of the City of Berea, Ohio, held on the 16th day of May, 2022, was conducted in compliance with Codified Ordinances Section 109 and Ohio Revised Code Section 121.22.

Alycia Esson
Clerk of Council