

MINUTES OF A REGULAR COUNCIL MEETING
September 3, 2019 – 7:30p.m.

Council of the City of Berea, Ohio, met in the Council Chamber on September 3, 2019 and was called to order by Council President Mary K. Brown at 7:30p.m. Present: Cheryl A. Banaszak, Bill DeVito, Nick Haschka, Margarette S. Key, Jim Maxwell, Rick Skoczen and Gene Zacharyasz. Also present: Mayor Cyril M. Kleem, Director of Public Service Paul Anzalone, 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. Haschka, seconded by Mrs. Key, that the minutes from the June 17, 2019 Public Hearing be approved. Vote on the motion was all ayes and no nays. The motion carried and the minutes were approved.

Moved by Mr. Haschka, seconded by Mrs. Key, that the minutes from the June 17, 2019 Regular Council Meeting be approved. Vote on the motion was all ayes and no nays. The motion carried and the minutes were approved.

Moved by Mrs. Key, seconded by Mr. Haschka, that the minutes from the August 7, 2019 Special Council Meeting be approved. Vote on the motion was all ayes and no nays. The motion carried and the minutes were approved.

Moved by Mr. Haschka, seconded by Mrs. Key, that the minutes from the August 19, 2019 Special Council Meeting be approved. Vote on the motion was all ayes and no nays. The motion carried and the minutes were approved.

MAYOR'S ADMINISTRATIVE REPORT AND COMMENTS

Mayor Kleem had no report.

REPORT AND COMMENTS BY THE OFFICERS OF THE ADMINISTRATION:

Andrea Morris – Director of Finance:

Mrs. Morris announced that she distributed copies of the audit report, which awarded the City an unqualified, good and clean opinion regarding internal control over financial reporting and compliance, as well as an unqualified, good and clean opinion regarding the City's federal program audit, which was necessary due to the funds received for the new ladder truck. Mrs. Morris noted that the accompanying management letter suggested that all Court reports go to BCI and that employees utilize the electronic time tracking clocks, which should be occurring within the next few months.

Barb Jones – Director of Law & Public Safety:

Mrs. Jones announced that Srg. Dan Clark has been appointed the City's new Chief of Police and will be sworn in on September 17th at 6:30pm at the pavilion, rain or shine.

Paul Anzalone – Director of Public Service:

Mr. Anzalone informed Council that the Kraft Street project is moving along well as all underground infrastructure is complete and the pavement removal has begun. Trash will still be collected, as the concrete is replaced, and the majority of work will be done by the end of October.

Mr. Anzalone stated that the first phase of the renovation of the office of the Clerk of Court is complete, and phase two has begun. This latter phase should be completed in 45 days, after which time lobby and staircase work will commence.

The road program, Mr. Anzalone explained, will be entering its final phase in two weeks, as paving commences, and due to the Labor Day holiday, trash collection will occur on Saturday rather than Friday this week.

In response to a question from Mrs. Brown, Mr. Anzalone stated that he will contact the Route Supervisor at Republic with regard to the issue of streets being missed during trash collection, but added that there is a high turnover at Republic, and substitute drivers are not always familiar with the City. Republic has, however, been good about collecting things they miss as soon as possible, and typically the next day.

Mrs. Brown informed Mr. Anzalone about a pothole, and Mr. Skoczen asked how to go about having utility light pole lights replaced. Mr. Anzalone suggested Mr. Skoczen call the Service Garage.

Marty Compton – Director of Recreation:

Mr. Compton was not present.

COMMENDATIONS: **None**

PETITIONS: **None**

AUDIENCE PARTICIPATION:

Jeff Dettmer informed Council that he has noticed several issues with the Front Street bridge including, but not limited to, crumbling curbs, sidewalk cracks and other concrete issues. While he is not an engineer, would like to bring the issues to light since the project was extremely expensive, and the bridge not that old. He wondered if that bridge, in particular, is inspected as part of the ODOT bridge inspection program and if the City has been putting money away for bridge maintenance.

Mayor Kleem stated that ODOT funds are utilized for bridge repairs, and Mr. Anzalone informed Mr. Dettmer that the City Engineer would have information regarding the scope of the bridge inspections, offering to get back to him with an answer.

David Spann, a member of the Riverside Gardens Homeowners' Association, was present this evening to discuss a potential change to the Association's bylaws. He explained that the bylaws were established in 1999, and the template utilized by the developer included a lot of information that was inappropriate for Riverside Gardens. A couple of years ago, an issue came up that caused the Board to reconsider the leasing stipulation, but any change requires approval by City Council. In response to an inquiry from Mr. Maxwell, Mr. Spann noted that a homeowner wanted to sell his townhouse, but the buyer could not move in immediately, and thus the possibility of a short lease emerged. The lawyers for the Association stated that the bylaws should be reviewed, as several changes were recommended and the Association desired to remain compliant.

In response to an inquiry from Mr. Maxwell, Mrs. Jones stated that the City was instrumental in providing the developer with land on which to build the townhouses, and intentionally added the stipulation that any change to the owner occupancy restriction accompany the consent of Council. In a legal sense, this was part of the overall contract.

General discussion commenced concerning the legality of the clause and whether its intention could be continued, should a change be made to the bylaws. Mrs. Jones stated that the Council could require that future changes come back before Council.

Mr. Maxwell asked how this policy change would be monitored, and Mr. Spann stated that homeowners would have to come before the Board, and the Board would be responsible for enforcement. Mr. Spann added that the homeowners take their partnerships with each other and the store owners on the triangle very seriously. There are only 12 homeowners and he does not foresee any manipulation, should the bylaw change be approved.

Mrs. Brown asked if, currently, the Parent or Child of an owner can lease a unit, and Mr. Spann responded in the negative. General discussion commenced concerning the leasing program in the City and its effect on the bylaw change.

Mayor Kleem, Councilwoman Banaszak and Councilman Maxwell expressed interest in sponsoring the Ordinance approving of the leasing change.

Randy Walton, a resident on East Grand Street, explained to Council that he recently installed solar panels, and his permit fee was extremely high and not at all in line with surrounding cities. He thought that eliminating this excess or fee altogether may offer an incentive to residents concerned about sustainability.

Mayor Kleem explained that the issue of sustainability goes far beyond just the installation of solar panels and felt proper time should be allowed to explore other ways of promoting energy efficiency. Mrs. Brown noted that Mr. Walton brought this issue forward at the end of April and this is the first time something has been brought before Council. She thanked Mr. Walton for the research he had conducted and the information he had provided.

Dennis Worthem suggested that the City consider amending non-residential solar panel installation permit fees as well, in order to encourage community solar projects. Mrs. Brown stated that she had drafted that Ordinance, but a bit more research is necessary.

Mayor Kleem noted that Ordinance No. 9-4, if approved, would not even take effect until October. The moratorium proposed in Ordinance No. 9-5, which includes non-residential facilities, could begin immediately and within the next few months something comprehensive could be presented to Council.

General discussion commenced concerning solar panel installation, energy sources, and how the panels work. Mr. Walton added that his rate of return is 7 years.

Mr. Worthem inquired as to whether or not Mr. Walton's permit fees could be refunded. Mayor Kleem stated that Mrs. Jones could research that question.

COUNCIL COMMITTEE REPORTS AND ANNOUNCEMENTS:

Woodvale Union Cemetery Board of Trustees – Jim Maxwell

Mr. Maxwell announced that the Board has decided to transfer investment accounts from Edward Jones to Raymond James, and is working with the same man who originally assisted Woodvale with its investment policies.

Mr. Maxwell informed Council that the Joint Council meeting regarding Woodvale Cemetery is scheduled for October 9, 2019 at 7:30p.m., at which time there will be further discussion about expansion plans and a subsequent financial proposal that hopefully requires little or no money from each City.

LEGISLATION – THIRD READING:

ORDINANCE NO. 6-2: AN ORDINANCE AUTHORIZING AND DIRECTING THE DIRECTOR OF FINANCE TO CERTIFY TO THE FISCAL OFFICER OF CUYAHOGA COUNTY UNPAID WATER AND/OR SEWER RENTAL CHARGES AND/OR OTHER MISCELLANEOUS CHARGES FOR LEVY AND COLLECTION ACCORDING TO LAW, AND DECLARING AN EMERGENCY.

The Clerk read the title of the Ordinance.

Moved by Mr. Maxwell, seconded by Mr. Haschka, that Ordinance No. 6-2 be adopted. Vote on the motion was ayes: Banaszak, DeVito, Haschka, Key, Maxwell, Skoczen and Zacharyasz. Nays: None. The motion carried.

ORDINANCE NO. 8-1: AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT WITH WALLMACK PROPERTIES, LLC. TO PROVIDE DESIGN-BUILD SERVICES FOR THE IMPROVEMENT AND RENOVATION OF THE RESIDENTIAL STRUCTURE LOCATED AT 115 SEMINARY STREET, PERMANENT PARCEL NO. 364-11-038, AND DECLARING AN EMERGENCY.

The Clerk read the title of the Ordinance.

Moved by Mr. Haschka, seconded by Mrs. Banaszak, that Ordinance No. 8-1 be adopted. Vote on the motion was ayes: Banaszak, DeVito, Haschka, Key, Maxwell and Skoczen. Nays: Zacharyasz. The motion carried.

ORDINANCE NO. 8-2: AN ORDINANCE FOR BRIDGE INSPECTION SERVICES ENACTED BY THE COUNCIL OF THE CITY OF BERA, CUYAHOGA COUNTY, OHIO, HEREINAFTER REFERRED TO AS THE LOCAL PUBLIC AGENCY (LPA), AND DECLARING AN EMERGENCY.

The Clerk read the title of the Ordinance.

Moved by Mr. Haschka, seconded by Mrs. Key, that Ordinance No. 8-2 be adopted. Vote on the motion was ayes: Banaszak, DeVito, Haschka, Key, Maxwell and Skoczen. Nays: Zacharyasz. The motion carried.

LEGISLATION – SECOND READING:

ORDINANCE NO. 6-3: AN ORDINANCE APPROPRIATING FROM THE VARIOUS FUNDS TO INDIVIDUAL ACCOUNTS FOR THE CURRENT EXPENDITURES AND OTHER EXPENSES OF THE CITY OF BERA FOR THE FISCAL YEAR ENDING DECEMBER 31, 2019, AND EXPRESSLY REPEALING ORDINANCE NO. 2019-24.

The Clerk read the title of the Ordinance.

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

LEGISLATION – FIRST READING:

RESOLUTION NO. 9-1: A RESOLUTION ACCEPTING THE AMOUNTS AND RATES AS DETERMINED BY THE BUDGET COMMISSION AND AUTHORIZING THE NECESSARY TAX LEVIES AND CERTIFYING THEM TO THE COUNTY FISCAL OFFICER.

The Clerk read the title of the Resolution.

Mrs. Morris reminded Council that this is the companion piece to the Tax Budget, certifying that the tax rates are correct and it is due by the end of September.

Moved by Mr. Haschka, seconded by Mr. Maxwell, that the three-reading rule be suspended for Resolution No. 9-1. Vote on the motion was ayes: Banaszak, DeVito, Haschka, Key, Maxwell, Skoczen and Zacharyasz. Nays: None. The motion carried.

Moved by Mr. Haschka, seconded by Mr. Maxwell, that Resolution No. 9-1 be approved. Vote on the motion was ayes: Banaszak, DeVito, Haschka, Key, Maxwell, Skoczen and Zacharyasz. Nays: None. The motion carried.

ORDINANCE NO. 9-2: AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE TO APPLY FOR AND, IF AWARDED, EXECUTE ALL NECESSARY CONTRACTS TO PARTICIPATE IN THE OHIO PUBLIC WORKS COMMISSION STATE CAPITAL IMPROVEMENT AND/OR LOCAL TRANSPORTATION IMPROVEMENT PROGRAM(S), AND DECLARING AN EMERGENCY.

The Clerk read the title of the Ordinance.

Mr. Anzalone explained that the project in question is a complete reconstruction of Barberry Drive, Woodlawn Circle, Maple Avenue (from Fifth to Barberry) and Fourth Avenue (from Beech to Eastland), similar to what occurred on Fair Street. The project includes new roads, sidewalks and watermains, as well as sanitary and storm sewer improvements. Mr. Maxwell inquired as to what will happen if the City does not receive the grant. Mayor Kleem stated that the entire project is over \$3 million, and without the grant, will likely have to be done in phases. Mrs. Morris noted that the grant would cover nearly 50% of the overall cost of the project.

Mr. Maxwell asked about the application deadline, and Mr. Anzalone stated that it is September 12, 2019. Mr. Skoczen stated that any opportunity for financial assistance is very much appreciated.

Moved by Mr. Maxwell, seconded by Mrs. Banaszak, that the three-reading rule be suspended for Ordinance No. 9-2. Vote on the motion was ayes: Banaszak, DeVito, Haschka, Key, Maxwell, Skoczen and Zacharyasz. Nays: None. The motion carried.

Moved by Mr. Maxwell, seconded by Mr. Haschka, that Ordinance No. 9-2 be adopted. Vote on the motion was ayes: Banaszak, DeVito, Haschka, Key, Maxwell, Skoczen and Zacharyasz. Nays: None. The motion carried.

ORDINANCE NO. 9-3: AN ORDINANCE AUTHORIZING THE MAYOR, OR HIS DESIGNEE, TO MAKE APPLICATION FOR, AND, IF AWARDED, TO ENTER INTO A COOPERATION AGREEMENT WITH THE NORTHEAST OHIO AREAWIDE COORDINATING AGENCY AND THE FEDERAL TRANSIT ADMINISTRATION FOR ENHANCED MOBILITY FOR SENIORS AND INDIVIDUALS WITH DISABILITIES PROGRAM FUNDS, AND DECLARING AN EMERGENCY.

The Clerk read the title of the Ordinance.

In response to questions from Mr. Maxwell, Mr. Anzalone explained that this grant would replace the older bus, and be similar to the model that the City received a grant for last year. Mayor Kleem added that the City has 5 vehicles and Mr. Anzalone said that the transits and van are utilized most days, and the others are used in emergency situations.

Proposed Ordinance No. 9-3 stands on first reading.

ORDINANCE NO. 9-4: AN ORDINANCE AMENDING SECTION 1312.06, RESIDENTIAL ELECTRICAL PERMITS, OF CHAPTER 1312 RESIDENTIAL CONSTRUCTION AND INSPECTION FEE SCHEDULE, IN PART THIRTEEN, BUILDING CODE, OF THE CODIFIED ORDINANCES OF THE CITY OF BEREA, AND DECLARING AN EMERGENCY.

The Clerk read the title of the Ordinance.

Mrs. Brown explained that she brought this Ordinance before Council after meeting with several residents and attending summer meetings regarding sustainability. The average cost of permitting and inspecting solar panel installation was researched, and Mr. Walton conducted a lot of research on his own.

General discussion commenced concerning necessary clerical changes in the exhibits.

Proposed Ordinance No. 9-4 stands on first reading.

RESOLUTION NO. 9-5: A RESOLUTION TO ENACT A MORATORIUM ON THE IMPOSITION OF ALL BUILDING AND/OR ZONING FEES ASSOCIATED WITH THE INSTALLATION OF SOLAR PANELS, AND DECLARING AN EMERGENCY.

The Clerk read the title of the Resolution.

Mr. Haschka was intrigued by the information he heard this evening, and agreed with Mayor Kleem that the City should take the time to explore other ways the City can encourage sustainability. He was willing to suspend the three-reading rule on this Resolution.

Mr. Anzalone stated that if Council agrees to the moratorium, the public will still need to receive a permit and all necessary inspections will continue to be performed, but there will be no associated fee. Mr. Zacharyasz inquired about the loss to the City, if the inspections are still being performed. Mr. Anzalone said that he can't put a definitive cost on it, but noted that the Inspector will typically spend about 8 hours on the project. Mayor Kleem reminded Council that this moratorium may provide an incentive, but he does not expect a massive influx of residents immediately seizing the opportunity to install solar panels.

Mr. Maxwell asked how many houses in the City currently utilize solar panels, seeing as how the cost of their installation is quite high. Mayor Kleem stated that a handful of permits have been acquired within the last 4 years. Mrs. Brown added that some people may be waiting to see what the City does with regard to the permit cost.

Mr. Skoczen felt that the City should do all it can to encourage sustainability, noting the long-term cost savings and betterment of the environment.

Moved by Mr. Maxwell, seconded by Mr. Haschka, that Resolution No. 9-5 be amended in Section 1 and Section 2 so that the three-month stipulation is removed and the words "through December 31, 2019 from the effective date of this Resolution" are added. Vote on the motion was ayes: Banaszak, DeVito, Haschka, Key, Maxwell, Skoczen and Zacharyasz. Nays: None. The motion carried.

Moved by Mr. Haschka, seconded by Mr. Skoczen, that the three-reading rule be suspended for Resolution No. 9-5. Vote on the motion was ayes: Banaszak, DeVito, Haschka, Key, Maxwell, Skoczen and Zacharyasz. Nays: None. The motion carried.

Moved by Mr. Haschka, seconded by Mrs. Key, that Resolution No. 9-5 be approved, as amended. Vote on the motion was ayes: Banaszak, DeVito, Haschka, Key, Maxwell, Skoczen and Zacharyasz. Nays: None. The motion carried.

REPORT AND COMMENTS BY THE PRESIDENT OF COUNCIL

Mrs. Brown welcomed everyone back and offered thoughts and prayers to those affected by the recent mass shooting in Texas, as well as those that have occurred over the summer months.

REPORTS AND COMMENTS BY THE MEMBERS OF COUNCIL

Mr. Haschka had no report.

Mrs. Key had no report.

Mr. Maxwell had no report.

Mr. Skoczen expressed his hope that everyone had a good summer and happy Labor Day, encouraged the Administration to move quickly on the other rental properties owned by the City, and inquired about the Berea School District's Tree of Knowledge sculpture that is being moved from the high school. Mayor Kleem responded that there have been discussions about the placement of the tree, and he will be looking for input now that Council has returned.

Mr. Zacharyasz had no report.

Mrs. Banaszak had no report.

Mr. DeVito had no report.

CORRESPONDENCE

The June 15, 2019 – August 29, 2019 Correspondence is available in the Clerk's office.

OTHER BUSINESS

Mrs. Esson welcomed everyone back!

Moved by Mr. Haschka, seconded by Mrs. Banaszak, that the September 9, 2019 Council Work Session be cancelled. Vote on the motion was all ayes and no nays. The motion carried.

There being no further business before Council, it was moved by Mr. Haschka and seconded by Mrs. Key, that the Regular Council Meeting be adjourned. Vote on the motion was all ayes and no nays. The motion passed and Council President Brown declared the meeting adjourned at 9:13p.m.

Mary K. Brown
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 3rd day of September, 2019, was conducted in compliance with Codified Ordinances Section 109 and Ohio Revised Code Section 121.22.

Alycia Esson
Clerk of Council