

**CITY OF BEREA, OHIO**

**MINUTES OF A COUNCIL WORK SESSION  
OCTOBER 10, 2022 – 7:30p.m.**

A Work Session of Berea City Council was held in the Council Chamber on October 10, 2022 and was called to order at 7:30p.m. by President of Council Jim Maxwell with the following members present: Mary K. Brown, Erika Coble, Leon Dozier, Chris McManis, Lisa Weaver and Gene Zacharyasz. Absent: Rick Skoczen. Also present was Mayor Cyril M. Kleem. Present via Zoom were Director of Law and Public Safety Barb Jones and Director of Economic Development Matt Madzy.

All who were able rose for the Pledge of Allegiance.

This meeting was open to the public in accordance with all legal requirements including C.O. Section 109 and Section 121.22 of the Ohio Revised Code.

**COORDINATING COMMITTEE**

**Chair: Jim Maxwell; Members: All Members of Council**

Mr. Maxwell called the meeting of the Coordinating Committee to order at 7:31p.m., and asked the Clerk to read the title of proposed Ordinance No. 9-1, which is as follows:

**ORDINANCE NO. 9-1: AN ORDINANCE AMENDING THE PURCHASE AGREEMENT WITH DMARK DEVELOPMENT, LLC, APPROVED IN ORDINANCE NO. 2021-62, FOR THE SALE OF PERMANENT PARCEL NUMBERS 362-02-003, 362-02-009, 362-02-011, 362-02-012, 362-02-014, 362-03-002, 362-03-013, and 362-03-014, WHICH ARE NO LONGER NEEDED FOR MUNICIPAL PURPOSES, FOR THE SUM OF THREE HUNDRED THOUSAND DOLLARS (\$300,000.00) AND AUTHORIZING THE EXECUTION OF ALL DOCUMENTS NECESSARY TO EFFECTUATE THE SAME, AND DECLARING AN EMERGENCY.**

Mr. Maxwell reminded everyone that this Ordinance would extend the Purchase Agreement, not the MOU, and turned the meeting over to Mayor Kleem. Mayor Kleem's presentation is included at the conclusion of these minutes.

Mr. Zacharyasz inquired about the North End Sewer New Flow Connection project, and Mrs. Jones stated that legislation regarding the program will be introduced at the next Regular Council meeting, adding that the agreement begins on January 1, 2023. Mr. Zacharyasz asked if suspension would be helpful, and Mayor Kleem felt that was a good suggestion.

Mrs. Brown asked if TIF money can be used to pay down debts accumulated in the North End and while Mr. Madzy was not certain, Mayor Kleem thought that it could be used to pay off debt service on the project. Mrs. Brown then requested a list of what TIF money could be used for, and while Mr. Madzy committed to emailing information, he noted 12 different areas: Roads; Parking; Water/Sewer; Environmental; Health; Utilities; Stormwater; Demolition; Parks; Streetscape/Landscape; Real Estate; and Professional Services. He added that the money can be used to build, maintain and repair.

Mr. McManis revisited the issue of the sale price for the residential property. Mayor Kleem explained that the price was negotiated.

In response to a question from Mrs. Weaver, Mayor Kleem clarified that the MOU came first, which is the agreement with DMark. DMark is able to market all City-owned property contained in the MOU, which is about 11 acres or so. The Purchase Agreement is for 5 of those acres.

Mr. McManis asked why the MOU and Purchase Agreement do not end at the same time. Mayor Kleem stated that if the Purchase Agreement was set to expire at the same time as the MOU, the PUD would likely have to be brought in soon, which would not allow many of the discussions that so many people desire.

Mrs. Brown stated that she is concerned by the fact that, if this project moves forward, the occupants of the townhouses will be looking out their windows at a used car lot. Mr. Maxwell suggested that any discussion pertaining to the potential buying or selling of property should be done in executive session.

Mr. Dozier asked if TIF funds could be used for private property improvements, and Mr. Madzy responded in the affirmative. Mr. McManis asked for a commitment to use some of those funds to support those who have experienced flooding, as well as for flood prevention. Mayor Kleem replied that the intention is to do just that, however he would like to narrow the scope of who could be financially assisted. This would be best done in the TIF or accompanying legislation, as the cost of such an endeavor would likely exceed the TIF funds, and other funding sources should be discussed.

Mrs. Brown asked how long the City would have to use TIF funds, and Mayor Kleem explained that money would likely be collected for 15 years and spent throughout those 15 years. Any longer and the City may have to negotiate with the County for their share.

Mrs. Brown asked if permit fees go in to the General Fund, and Mayor Kleem responded in the affirmative.

Mr. McManis asked that Mrs. Jones summarize the memo she sent to Council late last week, and Mrs. Jones explained that after the last meeting, she was concerned that there was confusion between the MOU and Purchase Agreement, as some people seemed to suggest altering the terms of the MOU. She continued by stating that the MOU is a stand alone document and is not a part of the request to extend the Purchase Agreement. DMark is the City's exclusive marketing agent, and they were given what amounts to marching orders from the City to go out and market City owned properties, within a certain price range. Unless both parties come together to amend this agreement, the contract can not be altered.

Mrs. Brown asked when the MOU and Purchase Agreement expire, and Mr. Madzy responded that the MOU expires on June 7, 2023 and the current Purchase Agreement expires on October 18, 2022. If extended, the latter would expire on October 18, 2023.

General discussion commenced about the old J&J Appliance property and how the City came to acquire this piece of land.

Mr. McManis asked if any remediation has been done on the 5 acres in question, and Mr. Madzy stated that some of Phase 1 and Phase 2 were conducted with grant money, and the City is working on a grant application that would remove the tank on the sliver of land between the car lot and Dunkin Donuts.

Mrs. Brown asked if extending the Purchase Agreement means the townhouses are a done deal. Mr. Maxwell explained that the extension of the Purchase Agreement authorizes the next steps of the process, namely the commencement of the PUD application. Meanwhile, the MOU remains in effect and the remaining City owned properties included within it can be marketed by DMark. Mayor Kleem added that the land will not be transferred until the PUD is approved. If the PUD is not approved, there will be no project, and no sale, and the City will have to start over.

Mr. McManis expressed his concern that the MOU is all encompassing. He would prefer to have the MOU be specific to these 5 acres of land, and then commence discussion on whether or not to continue with DMark in the future. Mr. Maxwell asked if Mr. McManis wants one solution for all the properties, and Mr. McManis clarified that he thinks the MOU already suggests that. Mr. Maxwell disagreed, explaining that the MOU engages DMark to find other development between now and June 7, 2023. They may bring something else to the City and they may not. Either way, the City can re-evaluate the partnership next summer.

Mayor Kleem closed by stating that the Purchase Agreement is a good agreement and he sees no reason to jeopardize it because it does not encompass all the parcels contained in the MOU. He referenced the assessment memorandum from David Dixon, a fellow of the American Institute of Architects. Mr. Dixon concluded that an aesthetically pleasing project of this scale, conducted by a national builder, sends a message to other investors, and this can not be discounted.

Moved by Mr. Dozier, seconded by Mr. Zacharyasz, that Ordinance No. 9-1 be placed on the October 17, 2022 Regular Council Meeting agenda for third reading. Vote on the motion was all ayes and no nays. The motion carried.

Seeing no further business before the Coordinating Committee, Mr. Maxwell declared the meeting adjourned at 8:54p.m.

**OTHER BUSINESS:            NONE**

With no further business before Council, adjournment was moved by Mrs. Brown, and seconded by Mr. Zacharyasz. Vote on the motion was all ayes and no nays, and thus the Work Session adjourned at 8:55p.m.

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Alycia Esson  
Clerk of Council

CERTIFICATE OF COMPLIANCE

The Work Session of the Council of the City of Berea, Ohio, held on the 10<sup>th</sup> day of October, 2022, was conducted in compliance with Codified Ordinances Section 109 and Ohio Revised Code Section 121.22.

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Alycia Esson  
Clerk of Council