

**MINUTES OF A REGULAR COUNCIL MEETING**  
**February 16, 2021 – 7:30p.m.**

Council of the City of Berea, Ohio, met in regular session via Zoom in the Council Chamber on February 16, 2021 and the meeting was called to order by Council President Jeff Dettmer at 7:31p.m. Present: Leon Dozier, Jim Maxwell, Chris McManis, Rick Skoczen, Kim Smith and Gene Zacharyasz. Bill DeVito arrived at 7:34p.m., after having some technological difficulties. Also present: 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.

**MAYOR'S ADMINISTRATIVE REPORT AND COMMENTS**

Mayor Kleem was not present, but Mrs. Jones announced the birth of his daughter, Evelyn Rose, adding that everyone is happy and healthy! She wished them all congratulations!

**REPORT AND COMMENTS BY THE OFFICERS OF THE ADMINISTRATION:**

**Andrea Morris – Director of Finance:**

Mrs. Morris stated that the annual audit will commence the first week of March.

**Barb Jones – Director of Law & Public Safety:**

Mrs. Jones congratulated Dan Hughes and wished him a happy retirement, having served as a firefighter with the City for 33 years!

**Paul Anzalone – Director of Public Service:**

Mr. Anzalone stated that the Service Department successfully dealt with several watermain breaks over the weekend, and did a good job with snow removal.

Mr. Maxwell thanked the Service crews, adding that the City had the best roads of all he travelled that day, and asked that his appreciation be conveyed. Mr. McManis, Mr. Skoczen and Mrs. Smith echoed these sentiments.

Mr. McManis asked Mr. Anzalone to advise his crews about a mailbox that keeps getting hit by the snowplows, and Mr. Anzalone committed to doing as such.

In response to another inquiry from Mr. McManis, Mr. Anzalone explained that standing water in the rear yards of Side Saddle is likely due to snow melt, and will probably occur a lot over the course of the Spring because the water table has, thanks to the total amount of snowfall, risen. He noted that this is not uncommon and will likely occur City-wide.



Mr. Skoczen added his thanks to Sustainable Berea and Mr. Anzalone, noting that Dr. Melampy was a wealth of knowledge and the information was both interesting and intriguing!

### **Finance Committee – Jim Maxwell, Chair**

Mr. Maxwell announced that over the weekend he received an email from the Finance Director that advised him that the budget exhibit will not be ready for first reading, but will be distributed by second reading, along with highlighted areas of concern, and the Ordinance should be able to be approved at the March 15, 2021 Regular Meeting, if Council deems it appropriate.

### **Woodvale Union Cemetery Board of Trustees**

Mr. Maxwell announced that Woodvale is proceeding with expansion plans, but noted that legislation is forthcoming due to the fact that the City of Berea owns three parcels of land in Middleburg Heights that are landlocked between I-71 and the cemetery. The Board is asking that the City relinquish ownership of the land and grant it to Woodvale. Should such an Ordinance be adopted, the Board will propose a lot consolidation to the Council of Middleburg Heights, and consolidate several parcels as a further step in the expansion process.

Mr. Maxwell noted that the new computer software install is underway, and concluded by thanking the entire Council and the Administration for their continued support.

### **LEGISLATION – THIRD READING:**

#### **ORDINANCE NO. 1-2: AN ORDINANCE AMENDING ORDINANCE NO. 2001-78 TO PERMIT THE CITY OF BEREA TO EXPEND PUBLIC FUNDS IN THE SANDSTONE RIDGE DEVELOPMENT FOR THE LIMITED AND EXCLUSIVE PURPOSE OF PROVIDING STREET LIGHTING IN THE AREA DESIGNATED AS SANDSTONE RIDGE SOUTH PHASE 3B.**

The Clerk read the title of the Ordinance.

Mr. McManis stated that he does not think the City should expend money for the lights, but should, instead, offer the Homeowners Association the opportunity to install the lights themselves. He stated that he reached out to the President of the HOA for a definitive date of installation, and a commitment was made that the lights will be in by mid-May. Mr. McManis stated that he is encouraged by the fact that the HOA has already reached out and made contact with CEI, and does not want to create a negative precedent by using taxpayer dollars to pay for the lights.

Mr. McManis continued by acknowledging that this issue has gone back and forth for quite some time, and it needs to be resolved. He asked that the Administration assist both himself and the HOA in meeting the deadline of mid-May, and suggested that the Ordinance be tabled.

Mr. Maxwell asked if a mid-May deadline seems reasonable, and Mr. Anzalone said that, depending on work load, it should only take about a month, but stated that the City will need to be involved because a right-of-way permit and bond will be required. Nothing has, as of yet, been received by the City.

Mr. McManis clarified that he asked the President of the HOA for the worst-case scenario with regard to an install date, and did not want it to appear as if the HOA was not being efficient.

Mr. Skoczen asked if it would be prudent for the City to request a commitment in writing, and Mrs. Jones stated that it would only serve to enhance Council's comfort level. It would not be a binding document.

Mr. Maxwell stated that everyone wants these lights installed, adding that he would support spending the money, but would prefer the HOA expend their funds instead. He wondered if Mr. McManis could reach out once again and get a commitment in writing. Mr. McManis agreed to request correspondence from the Management Company, and Mr. Zacharyasz stated that he would be comfortable with that and with tabling the Ordinance. Mrs. Smith asked if the HOA could also provide a hard date from CEI.

General discussion commenced concerning whether to table the Ordinance or let it stand, and Mrs. Jones clarified that if it stands, it will be on the next meeting agenda automatically. If it is tabled, it will need to be removed from the table at the next meeting and placed on the following meeting's agenda, thus causing a delay.

In order to assist in facilitating the install, Mr. McManis requested some information about the permitting process from the City Engineer.

Proposed Ordinance No. 1-2 stands on third reading.

**ORDINANCE NO. 1-3: AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF \$7,760,000 OF NOTES, IN ANTICIPATION OF THE ISSUANCE OF BONDS, 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.

Moved by Mr. Maxwell, seconded by Mr. Skoczen, that Ordinance No. 1-3 be adopted. Vote on the motion was ayes: DeVito, Dozier, Maxwell, McManis, Skoczen, Smith and Zacharyasz. Nays: None. The motion carried.

**LEGISLATION – SECOND READING:****ORDINANCE NO. 2-1: AN ORDINANCE AUTHORIZING ALL ACTIONS NECESSARY TO ACCEPT NORTHEAST OHIO PUBLIC ENERGY COUNCIL (NOPEC) 2021 ENERGIZED COMMUNITY GRANT(S) FUNDS, AND DECLARING AN EMERGENCY.**

The Clerk read the title of the Ordinance.

Proposed Ordinance No. 2-1 stands on second reading.

**LEGISLATION – FIRST READING:****RESOLUTION NO. 2-3: A RESOLUTION OPPOSING APPLICATION NO. 200LMT-ZC008, TO REZONE 7617 LEWIS ROAD, ALSO KNOWN AS PERMANENT PARCEL NUMBER 261-20-003, LOCATED IN OLMSTED TOWNSHIP, OHIO, FROM RURAL RESIDENTIAL ZONING TO PLANNED RESIDENTIAL DEVELOPMENT ZONING, AND DECLARING AN EMERGENCY.**

The Clerk read the title of the Resolution. Mr. McManis was added as a sponsor to this Resolution.

Mrs. Jones explained that the City's attorney was present at the Township Zoning Board hearing, and he suggested that Council approve an official statement opposing the rezone and subsequent new development. The two salient reasons for objection are because of traffic concerns and congestion at the Nobottom, Bagely and Barrett intersection, and the fact that the new development would have to tap in to the City of Berea's sewer system, which would require permission, and the City will not grant such permission. She noted that the Northeast Ohio Regional Sewer District has confirmed that the City of Berea owns the sewers.

Mrs. Jones continued by explaining that the meeting of the Township Trustees has not yet been announced, but she suggested Council act on the Resolution this evening so that it could be in the Trustees' hands before they hear the proposal. She noted that the Township's equivalent of Berea's Planning Commission did hear the request and recommended that the Trustees not approve the rezone.

Mr. Skoczen asked what will happen if the rezone is voted down, and Mrs. Jones explained that, under current zoning laws, 16 houses could be constructed. With a lesser zoning change, 32 houses could be constructed. If the current proposed rezone goes through, 162 houses could be constructed. The lesser zoning change may simply not be viewed as profitable to the builder.

Moved by Mr. Maxwell, seconded by Mr. Dozier, that Resolution No. 2-3 be approved. Vote on the motion was ayes: DeVito, Dozier, Maxwell, McManis, Skoczen, Smith and Zacharyasz. Nays: None. The motion carried.

**ORDINANCE NO. 2-4: AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE TO AMEND A CONTRACT WITH THE CUYAHOGA COUNTY DEPARTMENT OF PUBLIC WORKS TO EXTEND THE TERM OF THE CONTRACT AND TO INCREASE THE MAXIMUM FEES IN PROVIDING CERTAIN SERVICES RELATIVE TO THE CITY SEWERS, AS DETERMINED FROM TIME-TO-TIME, TO FURTHER ADVANCE THE CITY'S SANITARY AND STORM SEWER MAINTENANCE PROGRAM, AND DECLARING AN EMERGENCY.**

The Clerk read the title of the Ordinance.

Mr. Anzalone reminded Council that this is the fifth amendment to this contract, and with it the City is able to continue to take advantage of services, including the lining of the sanitary sewer system on the North End and some lining in the Barberrry neighborhood, as well. He noted that the Department of Public Works has been very responsive in emergency situations and offers televising services, which is extremely beneficial in some situations.

Proposed Ordinance No. 2-4 stands on first reading.

**ORDINANCE NO. 2-5: AN ORDINANCE AMENDING THE COMMUNITY REINVESTMENT AREA ("CRA") AGREEMENT WITH PETRASEK PROPERTIES, LLC.**

The Clerk read the title of the Ordinance.

In response to a question from Mr. Maxwell, Mrs. Jones stated that Petrasek Properties will remain the owner of the property, but Sandstone Animal Hospital has become the tenant.

Both Mrs. Smith and Mr. McManis declared that they must recuse themselves from discussions pertaining to this Ordinance.

Proposed Ordinance No. 2-5 stands on first reading.

**ORDINANCE NO. 2-6: AN ORDINANCE AMENDING SECTION 931.02(b) and (c), CRIMINAL ACTIVIES AS A NUISANCE, ABATEMENT, PROCEDURE AND COSTS OF ENFORCEMENT, OF CHAPTER 931, NUISANCE ABATEMENT, IN TITLE FIVE, LOCAL PROVISION, OF PART NINE, GENERAL OFFENSES, AND SECTION 1331.05(b) and (c), NUISANCE CONDITIONS AT LEASED PROPERTIES PROHIBITED – PROCEDURES – NUISANCE HEARING OFFICER, OF CHAPTER 1331, RESIDENTIAL RENTAL PROPERTY PERMITS, IN TITLE FIVE, LOCAL PROVISION, OF PART THIRTEEN, BUILDING CODE, OF THE CODIFIED ORDINANCES OF THE CITY OF BEREA TO INCREASE THE LOOK-BACK PERIOD FOR NUISANCE DECLARATIONS AND TO PROVIDE CONSISTENCY BETWEEN SECTIONS 931.02 AND 1331.05.**

The Clerk read the title of the Ordinance, and Mrs. Smith and Mr. Zacharyasz were added as co-Sponsors.

Mrs. Jones stated that at the request of Mayor Kleem and Mrs. Smith, this Ordinance increases the look-back period with regard to the declaration of a nuisance from one year to two years. It also creates consistency between the nuisance rules that govern rental properties and owner-occupied properties. Currently, rental properties can be declared a nuisance on their second offense, but owner-occupied properties can not be declared as such until their third

offense. In short, this Ordinance allows the City to declare a rental or owner-occupied property a nuisance upon a third offense, but extends the look-back period from 24 months to 48 months.

Mr. McManis asked if the tenant of the property can be cited, or if the citation would fall solely on the owner. Mrs. Jones responded that the tenants can be cited for the offense, but the nuisance will be brought against the homeowner.

Mr. Dettmer wondered if there was a way to prohibit the nuisance fee from being passed on to tenants, and Mrs. Jones responded in the negative, because the government can not regulate a private party contract. Mr. Dettmer stated his concern that students may sign a lease and fail to understand the consequences of all provisions of the lease, especially the fact that they could be signing a lease for a property that already has nuisance offenses against it, which seems unfair. Mrs. Smith stated that she would reach out to Baldwin Wallace President Bob Helmer, as well as Baldwin Wallace employee and community member Julie Candela, for their help educating students of this change in the law.

General discussion commenced regarding the consistency between owner occupied and rental property nuisance laws, and Mr. Zacharyasz questioned if the time to correct such offences has been altered. Mrs. Jones clarified that the time period is irrelevant for nuisance offenses, because the timeline commences from the date of the notice of violation.

Proposed Ordinance No. 2-6 stands on first reading.

**ORDINANCE NO. 2-7: AN ORDINANCE ENACTING NEW SECTION 183.22, PAID PARENTAL LEAVE, OF THE CODIFIED ORDINANCES OF THE CITY OF BEREA TO PROVIDE PAID PARENTAL LEAVE BENEFITS FOR FULL-TIME AND PART-TIME EMPLOYEES OF THE CITY OF BEREA.**

The Clerk read the title of the Ordinance.

Mrs. Jones explained that Mayor Kleem has become quite passionate about foster care and adoption and the necessity of employees to be provided the opportunity to bond with their children. FMLA provides up to 12 weeks of leave, but often times this leave is unpaid and is, therefore, not taken because people simply can not afford to go without a paycheck. It has been found that those who need the leave the most are the ones most frequently unable to take leave. The federal government has begun demanding that some paid leave be offered, and Cities are starting to act in places States have not. Lakewood, for example, introduced similar legislation recently, and Mayor Kleem would like Berea to be an example for our area. The proposal would allow two weeks of paid leave to full time employees, and similar, though pro-rated, leave to regular part-time employees. The time could be used before employees will be required to use their vacation and/or sick time. The time can also be used prior to the placement of a child or the adoption of a child, in cases where there may be Court hearings to attend.

Mr. McManis clarified that this Ordinance will not take effect until June 1, 2021, and Mrs. Jones confirmed as such. She noted that it is coincidental that Mayor Kleem's baby girl was born today, but he will not be eligible for the two weeks of paid leave.

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

**ORDINANCE NO. 2-8: 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, 2021, AND EXPRESSLY REPEALING ORDINANCE NO. 2020-63.**

The Clerk read the title of the Ordinance.

Mrs. Morris stated that the exhibit will be ready by the next regular meeting.

Proposed Ordinance No. 2-8 stands on first reading.

**REPORT AND COMMENTS BY THE PRESIDENT OF COUNCIL**

Mr. Dettmer thanked Tracy Wheeler and Mike Draves for extending an invitation to give Council Members a tour of the new high school. The tour has been scheduled, and he thanked Mr. Skoczen for his role in facilitating this, as well.

Mrs. Smith inquired as to when Council will meet again in person. Mr. Dettmer stated that while some reports are encouraging, he is discouraged by news of various other strains of the virus. While he would like to get everyone back sooner rather than later, the new camera system has been installed which will help to facilitate a hybrid approach, but the Chamber will be undergoing some renovations for the next several weeks, thus causing further disruptions. He, therefore, has no concrete answer.

Mrs. Smith asked if a list of indicators could be prepared by next meeting, but Mr. Dettmer said that with so many factors to consider, the discussion can continue but no concrete timeframe can be provided, at present.

Mr. McManis questioned the Chamber renovations, and Mr. Dettmer explained that Mr. Anzalone is using money from his Service budget to replace the carpet, blinds and light fixtures, as well as make other repairs to the first floor of the building.

Mr. Skoczen stated that a resident asked him why Council is not meeting in person when he is back to work in person. He noted that he understands everyone is at a different point, but if there is anything he can do to help facilitate getting people back in person, he is willing to assist in any way.

Mr. Dettmer reminded everyone that this has been a challenging time for us all, and everyone is making decisions based on their own thoughts, opinions and news sources. While he wants to get everyone back, there remain a few challenges that are being worked out, but he committed to speaking with both Mr. Anzalone and the Clerk and reassessing the situation in about a month and a half.

Mr. Dettmer reminded Council and the listening public that the front doors are open and members of the public have attended meetings, but the large sign still hangs on the front door that says “by appointment only”, which may intimidate some residents. He thought that, perhaps, the sign could be softened, to make the building more inviting. He also agreed that Council should be moving toward getting everyone back.

**REPORTS AND COMMENTS BY THE MEMBERS OF COUNCIL**

Mr. McManis had no report.

Mr. Skoczen encouraged everyone, with the extremely cold temperatures, to check in on elderly residents and offer assistance, where needed.

Mrs. Smith welcomed the Mayor’s daughter, Evelyn Rose!

Mr. Zacharyasz had no report.

Mr. DeVito had no report.

Mr. Dozier extended his congratulations to Mayor Kleem and his growing family!

Mr. Maxwell had no report.

**CORRESPONDENCE**

The January 28, 2021 – February 11, 2021 Correspondence is available in the Clerk’s office.

**OTHER BUSINESS:**

Mrs. Esson issued a reminder about financial disclosures and offered her congratulations to Mayor Kleem and his family!

There being no further business before Council, it was moved by Mr. DeVito, 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 Dettmer declared the meeting adjourned at 9:05p.m.

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Jeff Dettmer  
President of Council

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Alycia Esson  
Clerk of Council

**CERTIFICATE OF COMPLIANCE**

The regular meeting of Council of the City of Berea, Ohio, held on the 16<sup>th</sup> day of February, 2021, 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