

**MINUTES OF A REGULAR COUNCIL MEETING**  
**September 19, 2022 – 7:30p.m.**

Council of the City of Berea, Ohio, met in regular session in the Council Chamber on September 19, 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. Chris McManis was present via Zoom. Also present Mayor Cyril M. Kleem. Present via Zoom: Director of Public Works Tony Armagno, Director of Finance Andrea Morris and Director of Economic Development Matt Madzy.

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 Mrs. Brown, seconded by Mr. Skoczen, that the minutes from the September 6, 2022 Regular Council meeting be approved. Vote on the motion was all ayes and no nays. The motion carried.

**MAYOR'S ADMINISTRATIVE REPORT AND COMMENTS**

Mayor Kleem began by stating that Matt Madzy, as well as Dave Cerny and Mark Jablonski, were present to discuss the extension of the purchase agreement that Council is considering as Ordinance No. 9-1. He explained that beginning in the late 1990s, two railways merged and the City was experiencing 140 trains a day, which prompted the need for two grade separation projects, one on Bagley Road and one on Front Street. The idea at the time was to divert traffic off North Rocky River to Front Street, and take the RTA down Front Street to the Fairgrounds. The thought was that the City would own all the land on the triangle, including the site of the former Burger King, the gas station at the point, the auto mall and Tabor Ridge Apartments. Concepts for development were mostly commercial, due to the large scope of land that totaled approximately 11 acres. For this Ordinance, however, the City is talking about a 5 acre piece of land, which limits development possibilities.

Mr. Madzy continued by explaining that in 2014-2015, the City retained David Hart who conducted a planning study for the properties on the North End. This study included the input of residents, business owners, Council and Planning Commission Members, and representatives from large City stakeholders, namely the Browns, Baldwin Wallace and the Berea City School District. The meetings went on for months with the initial thought toward large commercial development. The report that emerged, however, recommended residential housing options. The report also suggested that the City should look to purchase other land on the North End and do a soft introduction to developers. It discussed how the land could be transferred and a developer secured, but cautioned against an auction sale because the City would be in a position where the highest bid would win, and there was no way to ensure the City had any say over an end user. The recommendation was, instead, to send out a Request for Qualifications and thus be able to retain some control.

Following the release of this report, the City did negotiate the purchase and sale of some land, brought in Dunkin Donuts, and secured demolition grants from the County Land Bank and Department of Development to demolish three buildings and clean up the site of the former gas station at 838 Front Street.

With regard to a soft introduction to developers, the City had very productive conversations with the Columbus Blue Jackets, as the hockey team was seeking a grant from the NHL that would help to expand the game. The idea was to introduce DIII hockey in Ohio, and the Blue Jackets met with President Helmer, Mayor Kleem and the Cleveland Monsters to discuss the idea of building an ice hockey training facility in Berea. The Blue Jackets, however, were unsuccessful in their grant attempt, and thus the discussions concluded.

Mr. Madzy continued that, in 2017, the City sent out a Request for Qualifications for the revitalization of underutilized properties, and while it was advertised in local media and sent to 30 developers, only 2 replied and they were Liberty and what became DMark Development. The City signed an MOU with DMark, who felt that the notion of a hotel on this property was attainable. In 2019, DMark did find an interested hotel developer, and secured an agreement for an extended stay hotel. Shortly thereafter, the pandemic began. In August of 2020, there was a meeting to discuss how the project was impacted by covid. In October of 2020, the Purchase Agreement was cancelled because Staybridge was not willing to give the green light. In 2021, the City reconsidered what direction these properties should take. There were discussions about light industrial, but they did not seem right for the entrance to the City. The other option was residential, which harkened back to Mr. Hart's report. The intent was to utilize the residential piece as an anchor for commercial development.

In March of 2021, the idea of the townhouse project was introduced, and letters were sent to 247 property owners in the North End area. Residents were informed that the hotel idea was out, but during a video conference, were presented with the concept of multi-family housing or townhouses. The townhouse idea was preferred, and two residential developers presented preliminary proposals. The MOU was then amended to include price ranges for the sale of residential properties, and at the end of 2021, a purchase agreement was signed with Knez and Triban. The PUD process began, but is now paused, and should the purchase agreement be extended, the City has asked the developers to reinitiate the PUD process, beginning with Stage I. Mr. Madzy reminded Council that if the PUD is, ultimately, approved, it needs to be substantially started within 2 years or it is null and void.

Mr. Madzy then presented some figures meant to illustrate that the City benefits financially after the sale of the property. He proposed three different scenarios including standard taxes, a 15-year tax abatement and a TIF District.

With regard to standard taxes, and considering an average sale price of \$350,000, Mr. Madzy concluded that the taxable base for the townhouse development would be \$19,000,000 and the total annual property taxes would be \$461,000. Of that, the School District would receive \$261,000 and the City would receive \$66,000. He also estimated that the City would receive \$69,000 a year in income tax, along with \$621,000 in permitting fees for the project.

If there was a 15-year residential tax abatement on the 69 townhouse properties, taxes would be incurred on the land. On a yearly basis, the School would get \$47,000, and the City,

\$12,000, plus the addition of the annual income tax of \$69,000, for a total of approximately \$81,000 a year.

In a Tax Increment Financing District (TIF), the City's percentage of taxes jumps from 14% to 40%, and the yearly property tax would be \$186,000, plus the additional \$69,000 in income taxes for a total of \$225,000 annually.

Mr. Madzy noted that, unlike the sale of a typical residential property by a homeowner, these properties would benefit the City long after the sale of the property.

Mayor Kleem explained that the City makes its revenue off of taxes and permit fees. A higher sale price could trigger a tax abatement, but a range has been set in the MOU and the purchase is for the higher end of that range. The sale price of the land is of less concern than the ultimate amount of taxes the City could receive for years to come.

Dave Cerny stated that both he and Mark Jablonski have been in real estate for decades and he was responsible for the Sandridge Apartments which are over 95% leased, and sold the land on Sheldon for the senior living complex that is 75% pre-leased. Mr. Cerny added that they were able to secure a Staybridge Suites until covid hit and altered the hotel industry, thus prompting a change of direction toward residential townhouses. Two local developers with national financial ties are interested in building in Berea, which should be a source of pride for the City. This housing type is unique and will create a nice demand in the North End and be an anchor for further development.

Mr. Jablonski continued by noting that "Retail follows rooftops", and that has been proven in his banking and development experience. If they can densify the area with residential, other properties become more highly marketable for smaller commercial enterprises, like restaurants, and things that will play upon the earning potential of the people living in the townhouses. There are 4+ acres left open for development on Front and Thacker, and there is a good outlook for these properties, if a large scale development does go in across the street.

Mr. Cerny noted that the Master Plan and Zoning Code stress a need for diversity in housing, and these townhouses fit that need in the North End, as well as serve as a catalyst for future development in the area.

Mayor Kleem cautioned that there are no perfect development plans, and if this piece is broken down in to smaller slices, for tiny commercial developers, stormwater management requirements may be able to be avoided because the lots will not be 1 acre in size. He hopes to avoid this.

Mr. Cerny concluded by stating that the old PUD is no longer valid and they are now able to get further design ideas from Council and the community before introducing the next PUD, and these designs will include the green concepts Mrs. Coble has been asking about. The developers understand the concerns and they make sense, as does the townhouse development on the North End.

**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 was not present.

Mr. Skoczen asked that a speed limit sign be posted on Hartman.

**Tony Armagno – Director of Public Service:**

Mr. Armagno stated that the South Rocky River resurfacing project should be completed within a few weeks, and the Road Program is now entering the concrete repair portion and streets will receive their final asphalt layer in October.

Mrs. Coble inquired as to whether the City performs regular maintenance to the gazebo, entrance and bridge area by the Riverside Townhouses. Mr. Armagno responded that while there is no regular maintenance cycle, work is done, as needed, and if there are issues, Service crews can take a look at them. With regard to the pedestrian bridge, a structural assessment was conducted about 5 or 6 years ago.

Mr. McManis asked about the new Sunoco and paint repairs, and Mr. Armagno stated that the City is looking in to a material order with Sherwin-Williams, but there is no specific timeframe on when the work will be conducted.

Mr. McManis asked if a speed limit sign could be placed on Nobottom.

**Marty Compton – Director of Recreation:**

Mr. Compton was not present.

**COMMENDATIONS:            NONE**

**PETITIONS:                    NONE**

**AUDIENCE PARTICIPATION:**

Andy Fay announced that almost 11,000 people attended the 32<sup>nd</sup> Berea Arts Fest, and he thanked the Service Department for their assistance with set up and tear down, adding that he is so proud of their work each and every year.

Gail Grizzell asked if a speed limit sign could be placed on The Mall. School children get in and off the bus on this street, and because the road has been repaved, cars have been speeding. She asked for the sign to keep kids safe.

Randy Baun, a resident on Edgewood, raised a concern about feral cats in his neighborhood, explaining that a neighbor feeds and shelters them, and while Officer John Kilkenny and the Animal Warden in Middleburg Heights have tried to assist and told the neighbor not to feed the cats, no resolution has come and the neighbor will not obey. Traps are brought daily, but to no avail, and one cat is pregnant again, with the neighbor in question stating that no one can do anything to stop her. Mr. Baun explained that his dog became sick because of cat feces, and the smell of urine in his yard is so strong that he can't entertain guests outdoors, which is both frustrating and embarrassing. He asked for help from Council and the City.

Mayor Kleem stated that he is aware of the situation and knows the Animal Control Officers have attempted to assist, but not successfully. There are a multitude of factors, besides the cats, that relate to the neighbor in question, and Mayor Kleem stated that he will follow up with Mrs. Jones and get information to Mr. Baun. He apologized for the frustration this situation is causing him.

Lisa Emling, another resident on Edgewood, stated that when the most recent batch of cats were just kittens, she posted on Facebook and was able to find homes for them, but couldn't get help to trap them, especially since the neighbor feeding them won't stop. She added that it breaks her heart because these cats could've gone to good homes.

#### **COUNCIL COMMITTEE REPORTS AND ANNOUNCEMENTS:**

##### **Woodvale Union Cemetery Board of Trustees – Jim Maxwell**

Mr. Maxwell announced that the Joint Council Meeting will take place on Wednesday, October 12, 2022 at 7:30p.m. in the Berea Council Chamber.

##### **Shade Tree Commission – Erika Coble & Gene Zacharyasz**

Mrs. Coble stated that the Shade Tree Commission will be meeting soon to update the Master Tree Plan for the City.

##### **Council Court Committee – Chris McManis, Chair**

Mr. McManis explained that there have been discussions with the Court about sponsoring a Chamber improvement project regarding the audio system, and the Court has agreed to pay for the upgrade, so it will not be a burden to tax payers. Mr. Maxwell stated that there will be more discussion about this later in the meeting, but he appreciates the support of the Court, as the upgrade will include a new audio mixer, speakers, microphones and a handicapped accessible option for the podium.

**LEGISLATION – THIRD READING:            NONE**

**LEGISLATION – SECOND READING:**

**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.**

The Clerk read the title of the Ordinance.

Mrs. Coble asked for a breakdown of the tax figures that Mr. Madzy presented, and Mayor Kleem stated that he can get that information to her.

In response to a question from Mr. Skoczen, Mayor Kleem recounted a brief history of how the City came to own the former Williams-Ford site, explaining that the company was still in business when the bridge project was beginning and there was a price discrepancy in 3/10s of one acre strip of land that the City needed to purchase and own as right-of-way. The strip of land ranged in price from \$1,000,000 to \$2,000,000, but when he came in to office, he negotiated the sale of the entire 5 acre site, as well as land across Front Street, for \$3,000,000. \$1.5 million in grant money was used for this purchase, and the City saved \$1.8 million by not having to construct a retaining wall and access road. This helped with the hefty deficit he inherited on the project and allowed the City to own the land for redevelopment purposes.

Mrs. Brown asked if the Administrations has initiated any communication with North End residents regarding what they would like to see constructed on this property, other than the initial video conferences. Mayor Kleem responded that that is something that could be done in future steps.

Mrs. Brown inquired about the City-owned properties across the street and whether they are a part of the MOU. Mayor Kleem stated that they are, but this Ordinance is with regard to solely the purchase agreement, which does not include all properties contained in the MOU. Mr. Maxwell added that until the MOU expires, DMark is still exploring options for the other properties, and Mayor Kleem stated that the MOU is not set to expire until the middle of 2023.

Mr. Maxwell explained that once the MOU expires, the City can either choose to extend the MOU or, perhaps, put out another RFQ, and start all over.

Mr. McManis expressed a concern about taking properties off the market for an extended period of time, and asked if the City could sell the property to a different purchaser. Mayor Kleem stated that until the expiration of the MOU, the City can not sell the properties without the input of DMark, adding that the MOU is legally binding.

Mr. McManis asked if DMark could bring a commercial element to the table simultaneously so that Council can see the full scope of the project. Mayor Kleem explained that the City went to 30 different developers for commercial proposals and got none, thus prompting them to move toward residential housing. Mr. Madzy added that if this purchase agreement is

extended, DMark will be able to work on bringing other things along with the notion of the townhouse development, but the development is critical to bringing others to the table.

Mr. McManis asked if there has been any commercial interest as of yet, and Mr. Cerny stated that they are focused on two large parcels on the eastern side of Front Street, with the primary site being the 1.5 acre piece on Front and Thacker. The pandemic halted all development for at least a year, and the North End sewer issues have caused another delay in their recruitment efforts to bring in commercial developments. They are working to create a long term plan that will spark interest, and both the townhouse development and the recent addition of national players including Dunkin Donuts and Tim Hortons will help with this. Currently, while he has had conversations about these properties, there have been no offers.

Mrs. Brown asked for a ballpark of when North End development of these parcels could realistically occur, and Mr. Cerny stated that DMark knows what the City is looking for and it is not a marginal tenant. The townhouse construction will occur in two phases, with a 3-year sell out, and then the two major commercial sites will hopefully follow. Mrs. Brown asked what will happen if the first phase is a failure, and Mr. Cerny stated that there are protections in the PUD for just such a case.

Mrs. Brown asked if the senior living development is 75% sold already, and Mr. Cerny stated that all he did was sell that land to Clover, but he has heard that 75% are pre-leased. Mr. Dozier confirmed that people have begun moving in to the building.

Proposed Ordinance No. 9-1 stands on second reading.

**ORDINANCE NO. 9-3: AN ORDINANCE AMENDING AND RECONSTITUTING SECTION 181.07, AUXILIARY SAFETY FORCES, OF CHAPTER 181, COMPENSATION AND CLASSIFICATION OF SPECIFIC POSITIONS, OF THE CODIFIED ORDINANCES OF THE CITY OF BEREA TO PROVIDE AN INCREASE IN WAGES FOR AUXILIARY SAFETY FORCES, EXPRESSLY REPEALING EXISTING SECTION 181.07, AND DECLARING AN EMERGENCY.**

The Clerk read the title of the Ordinance.

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

**ORDINANCE NO. 9-4: 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 a question from Mrs. Coble, Mayor Kleem stated that the cost of the 12 passenger van, including the 10% contingency, is just shy of \$150,000. The County program is currently available at an 80/20 split, but these program funds are not guaranteed in the future so the City is trying to take advantage of it now. To put things in perspective, the cost to the City of the last minivan purchased was \$15,000, which the City Club generously covered. The cost of this 12 passenger van with a lift will be \$30,000.

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

**LEGISLATION – FIRST READING:**

**RESOLUTION NO. 9-6: A RESOLUTION ADOPTING THE CUYAHOGA COUNTY 2022-2027 ALL-HAZARDS MITIGATION PLAN AS THE OFFICIAL HAZARD MITIGATION PLAN OF THE CITY OF BEREA, AND AUTHORIZING THE OFFICIALS AND AGENCIES IDENTIFIED IN THE IMPLEMENTATION STRATEGY TO IMPLEMENT THE RECOMMENDED ACTIVITIES ASSIGNED THERETO.**

The Clerk read the title of the Resolution.

Proposed Resolution No. 9-6 stands on first reading.

**ORDINANCE NO. 9-7: 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, 2022, AND EXPRESSLY REPEALING ORDINANCE NO. 2022-10.**

The Clerk read the title of the Ordinance.

Mr. Maxwell explained that one reason for this amendment is the audio upgrade in the Chamber, reiterating that the Court will reimburse the City at some point in the future, thus provoking the need for another budget amendment.

Mrs. Morris noted changed to the General Fund #100, Recreation Fund #200, Municipal Income Tax Fund #205, S.C.M.R. Fund #220, General Capital Improvement Fund #400 and the Water Revenue Fund #510. Mrs. Morris stated that most of the changes in this amended budget are due to inflation and increasing costs of fuel, materials and supplies. While the City is up in income tax collection over this same time last year, she cautioned a conservative approach through the year's end.

Mrs. Brown questioned if the transferred money offsetting deficits is coming from savings, and Mrs. Morris replied that the money is coming from an increased amount of tax revenue, mainly due to the Browns signings and payroll. The Administration is diligent about keeping the beginning balance intact, which helps the City maintain its good bond rating.

Mayor Kleem noted that while Mrs. Morris is correct that the City likes to maintain a healthy balance in the general fund, should a good project emerge, he is not opposed to dipping in to those funds, especially since the balance was \$4,000,000 higher than normal at the beginning of the year.

Moved by Mr. Skoczen, seconded by Mr. Dozier, that the three-reading rule be suspended for Ordinance No. 9-7. Vote on the motion was ayes: Brown, Coble, Dozier, McManis, Skoczen, Weaver and Zacharyasz. Nays: None. The motion carried.

Moved by Mrs. Brown, seconded by Mr. Zacharyasz, that Ordinance No. 9-7 be adopted. Vote on the motion was ayes: Brown, Coble, Dozier, McManis, Skoczen, Weaver and Zacharyasz. Nays: None. The motion carried.

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

Mr. Maxwell had no report.

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

Mrs. Weaver inquired about the shade tree program for those who want to plant trees now. Mr. Armagno stated that the Master Tree Plan review will include discussion about the reimbursement program. No updates to that program will be brought to Council during this planting season, so those who wish to take advantage of the program will simply have to follow the current process.

Mrs. Weaver asked that the Recreation Department take steps now to ensure that an outdoor swim program will take place next summer, as this program fills a critical need and needs to happen, even if it is only for Berea residents. She added that she will happily help with the recruiting process.

Mr. Zacharyasz had no report.

Mrs. Brown congratulated Dennis Kushlak, the 2022 Grindstone Award Winner, noting that the Grindstone Banquet was held at the Aviator Club and it was a spectacular venue and event. She thanked Mr. Dozier, Mr. Zacharyasz, Mrs. Coble and Mrs. Weaver for attending, and also congratulated Fireman Allen Scott, who was a Courtesy Award recipient, and his son, Andy Scott, who won the Future Leader Award.

Mrs. Coble explained that she is working on a project with the HOAs in Ward 4, so that residents of those HOAs understand what services they receive from the City and what services they do not.

Mr. Dozier thanked everyone for their support in the Special Election, recognizing several people who worked particularly hard to ensure his victory, and noted that it is important to exercise one's right to vote in every election. He stated that, as a Councilman, he will work hard to communicate more effectively, and announced an upcoming Ward 1 meeting.

Mr. McManis had no report.

Mr. Skoczen reminded residents in Ward 5 of the Ward Meeting on October 23, 2022 at 5:00pm at Malone Park's stone pavilion. Should there will inclement weather, there will be signs posted that notify people of the location change.

Mr. Skoczen stated that after several years of exterior maintenance issues, the Court made some decisions and, with the assistance of the new Code, a property that has been a major nuisance has been abated and looks the best it has in years. The Code is working.

**CORRESPONDENCE**

The September 2, 2022 – September 15, 2022 Correspondence is available in the Clerk’s office.

**OTHER BUSINESS:**

Mrs. Esson had no report.

Mr. Maxwell announced that a meeting of the Coordinating Committee will take place on Monday, September 26, 2022 at 7:30pm for the purpose of hearing an informal presentation of possible development of land for annexation to the City of Berea.

There being no further business before Council, it was moved by Mrs. Brown, and seconded by Mr. Dozier, 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 9:33p.m.

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Jim Maxwell  
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 19<sup>th</sup> day of September, 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