

MINUTES OF A REGULAR COUNCIL MEETING
May 17, 2021 – 7:30p.m.

Council of the City of Berea, Ohio, met in regular session via Zoom in the Council Chamber on May 17, 2021 and the meeting was called to order by President of Council Jeff Dettmer at 7:30p.m. Present: Bill DeVito, Leon Dozier, Chris McManis, Rick Skoczen, Kim Smith and Gene Zacharyasz. Absent: None. Jim Maxwell joined the meeting at 8:22p.m. Also present: Mayor Cyril M. Kleem, Director of Public Service 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. Skoczen, seconded by Mr. McManis, that the minutes from the May 3, 2021 meeting be approved. Vote on the motion was all ayes and no nays. Mr. Maxwell had not yet arrived and thus did not cast a vote. The motion carried.

MAYOR'S ADMINISTRATIVE REPORT AND COMMENTS

Mayor Kleem explained that the Administration continues to monitor the orders from the State with regard to lifting some covid restrictions, and announced that the City will host at least 4 summer concerts, as well as a 2-day Grindstone Festival, complete with a parade on July 3, 2021 at 4:00p.m. The Office of Veteran's Outreach is, in addition, sponsoring a Father's Day Car Show, and details of the outdoor pool's opening are forthcoming.

REPORT AND COMMENTS BY THE OFFICERS OF THE ADMINISTRATION:

Andrea Morris – Director of Finance:

Mrs. Morris stated that several members of the staff are participating in a virtual training session regarding the American Rescue Plan, presented by the Ohio Budget Management Office, which will provide details about how the City can spend the federal funding coming our way.

Barb Jones – Director of Law & Public Safety:

Mrs. Jones had no report.

Mr. Dozier inquired about the policy for parking campers at residential properties, and Mrs. Jones stated that restrictions are listed in the City's Zoning Code.

Tony Armagno – Director of Public Service:

Mr. Armagno announced that the City's Road Program is underway, and the asphalt portion will begin next week. All Star Striping has begun working on pavement markings, and the City met with the contractor to go over restoration plans relating to the Wyleswood project, and all resident concerns have been addressed.

Marty Compton – Director of Recreation:

Mr. Compton was not present.

COMMENDATIONS: NONE

PETITIONS: NONE

AUDIENCE PARTICIPATION:

Tim Carrig, a business owner at 421 Front Street, explained that he is petitioning the City for the rezone of his property from Commercial Center to Single Family Residential. While he has been at the property for 9 years, his business has undergone some financial trouble which was only enhanced by the pandemic, and they are struggling to stay afloat. On April 15, 2021, he put the property up for sale, since selling it and working remotely is the only way he can foresee the business getting back on its feet, and though he has worked with Matt Madzy and Tom Norton, no one is interested in the property for commercial purposes. Residential real estate, however, is selling well, and since the house is beautiful, he hopes that Council will rezone the property so that it can be sold to a family.

Mr. Dozier asked if Mr. Carrig would be renting the house, and Mr. Carrig stated that he is only looking to sell.

Tom Braze asked if there is a place on the website to view proposed or replacement legislation, and Mr. Dettmer stated that proposed legislation is posted on the bulletin board in the lobby, but Mr. Brazee can be added to the distribution list, if it is more convenient.

Mr. Brazee continued by stating that, while he wishes the owner well, the house at 421 Front Street, if rezoned, will become a college rental property.

Holly Porter stated that Mr. Carrig may be interested in a deed restriction, as he would like to sell the property so that it is owner occupied.

Mrs. Porter continued by asking if Mayor Kleem plans to market the City's summer events to everyone, or restrict ticket sales to Berea residents. Mayor Kleem responded that the goal is to bring people to Berea for economic development purposes, so there will be no restrictions. The purpose of these events is to make Berea a destination City, at least a few days out of every year, and we have achieved that and it has brought people to the City and helped local businesses. In addition, the City received a lot of regional money and County grants to redevelop the Coe Lake area with the intention of making it a regional entertainment venue. He intends to honor that.

Mrs. Porter thanked him for his thorough explanation.

COUNCIL COMMITTEE REPORTS AND ANNOUNCEMENTS: None

LEGISLATION – THIRD READING:

ORDINANCE NO. 4-10: AN ORDINANCE AMENDING SECTION 931.02(a), CRIMINAL ACTIVITIES 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 SECTIONS 1331.05(a), (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 BERA TO REMOVE PARKING OFFENSES AS QUALIFYING INCIDENTS TO A NUISANCE DECLARATION AND TO PROVIDE CONSISTENCY BETWEEN OWNER-OCCUPIED AND NON-OWNER-OCCUPIED NUISANCE PROPERTIES.

The Clerk read the title of the Ordinance.

Mr. Zacharyasz informed Council that the Building and Zoning Committee met and discussed both Ordinances 2-6 and 4-10, and while there remain some outstanding questions, Ordinance 4-10 was placed back on the agenda, but will likely need to stand a bit longer while some final issues are addressed. He asked if Mayor Kleem had a chance to speak to Mrs. Jones about potential alterations.

Mayor Kleem responded that he spoke with Mrs. Jones, but still needs to speak with Chief Dan Clark about the parking issues. He noted that there seems to be some consensus that the look-back period should be 24 months, not the 12 months stated in Ordinance No. 4-10. Mayor Kleem added that he does want to further investigate the tiered approach to fines that was suggested by Mr. Brazee.

Mr. Zacharyasz stated that individuals must be held responsible for multiple offenses, but the property owner needs to bare some responsibility, as well.

Mrs. Smith explained that the Committee discussed restorative justice as opposed to fines, and wondered if this would have to be at the discretion of the Judge, or if something could be put down in legislative form. Mrs. Jones responded that it depends if the property is owner occupied or a rental, and whether the State statute cites any stipulations. She reminded Council that, currently, the City's nuisance law goes after property owners, thus the City can not include restorative justice options in the Ordinance. She noted that she will get some revised language to the Mayor, and Council can proceed forward from there.

Mayor Kleem stated that restorative justice options can happen concurrently, as they do with underage drinking violations and current diversion programs.

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

LEGISLATION – SECOND READING:

ORDINANCE NO. 4-6: AN ORDINANCE VACATING FRANKLIN STREET, WHICH IS NO LONGER NEEDED FOR MUNICIPAL PURPOSES, BUT RETAINING PUBLIC UTILITIES EASEMENTS THEREIN.

The Clerk read the title of the Ordinance.

Mrs. Smith asked why the City would sell this land when it could be developed in to 9 separate lots that could produce income taxes. She sees no harm in leaving it undeveloped, but does not understand the motive in giving it up.

Renee Tribble, the resident petitioning for the street vacation and owner of 235 Dorland Avenue, was present this evening. She explained that the surrounding property owners have been maintaining the grass and area for decades, and the City has shown no interest in the land. She would simply like to make things official, because the neighbors do not want development, but like living next to the park and enjoying the wildlife. She noted that Franklin does not go through to Ellen Drive.

Renee Tribble's daughter added that a lot consolidations have already occurred, thus 9 lots would not be able to be developed, and one owner has a shed on his property that would have to be torn down if he decided to sell the land. No one is looking for development in this area.

Mr. Dettmer confirmed that Franklin is not a pavement street, and Mrs. Tribble stated that the area is completely grassed over.

Mrs. Smith reiterated that the area could be developed, and since the City has very little opportunity for development, she was not sure the land should be given away. Mrs. Tribble said that the City has shown no interest in the land for 50 years, and Mrs. Smith responded that if the City should be maintaining it, then the City should start doing so.

Mr. Armagno explained that, in his review, he had no objection to the street vacation for a couple of reasons. First, the right of way was dedicated back when Dorland was being installed with the intention of connecting it to the neighborhood to the North. This never happened, but according to the Fire Code, the street, if developed, would have to become a cul-de-sac large enough to accommodate emergency vehicles and school bus turn arounds. This would limit the amount of land that could be developed. Second, the City can not sell land that has been designated as dedicated right-of-way. The City can give it away, but since the ownership belongs to the public, the land can not be sold. Third, the City will continue to maintain the waterline and utility easement, so no City services will be disturbed with the vacation. Fourth, the City has never maintained this land, thus there is a case to be made for adverse possession since the surrounding owners have maintained it for so long. Mr. Armagno concluded by stating that the land is simply not needed for any municipal purpose.

General discussion commenced concerning development in the area and whether or not a future property owner could choose to develop the land. Mrs. Tribble noted that all houses reside on Dorland. Mr. McManis stated that he is a proponent for redevelopment, but some areas in the City have a better potential for redevelopment than this area being discussed.

Proposed Ordinance No. 4-6 stands on second reading.

ORDINANCE NO. 5-1: AN ORDINANCE ESTABLISHING AND RECONSTITUTING FUNDS AND AMOUNTS FOR CERTAIN PETTY CASH AND CHANGE FUNDS AND EXPRESSLY REPEALING ORDINANCE NO. 2018-43, AND DECLARING AN EMERGENCY.

The Clerk read the title of the Ordinance.

Proposed Ordinance No. 5-1 stands on second reading.

RESOLUTION NO. 5-2: A RESOLUTION SUBMITTING TO THE VOTERS OF THE CITY OF BERE, OHIO, THE QUESTION OF THE RENEWAL OF THE 4.1 MILL TAX LEVY FOR THE PURPOSE OF PROVIDING FOR THE CURRENT EXPENSES OF THE CITY OF BERE, PURSUANT TO OHIO REVISED CODE SECTION 5705.191.

The Clerk read the title of the Resolution.

Mrs. Jones explained that Resolution No. 5-2a is being proposed because the City is able to submit the Resolution, in advance, to the Board of Elections for review, and they suggested some minor changes, most specifically, the inclusion of references to the City's Charter.

Moved by Mr. Zacharyasz, seconded by Mr. Dozier, that Resolution No. 5-2 be amended by the substitution of Resolution No. 5-2a. Vote on the motion was ayes: DeVito, Dozier, Maxwell, McManis, Skoczen, Smith and Zacharyasz. Nays: None. The motion carried.

Proposed Resolution No. 5-2a stands on second reading.

ORDINANCE NO. 5-3: AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH DMARK DEVELOPMENT, LLC. FOR THE DEVELOPMENT OF MUNICIPALLY OWNED PROPERTY IN THE NORTH END OF BERE, AND DECLARING AN EMERGENCY.

The Clerk read the title of the Ordinance.

Proposed Ordinance No. 5-3 stands on second reading.

LEGISLATION – FIRST READING:

ORDINANCE NO. 5-4: AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF BERE BY REZONING PERMANENT PARCEL NUMBER 362-13-047 FROM COMMERCIAL CENTER (CC) DISTRICT TO RESIDENTIAL SINGLE-FAMILY B (R-SF-B) DISTRICT.

The Clerk read the title of the Ordinance.

Moved by Mr. Skoczen, seconded by Mrs. Smith, that Ordinance No. 5-4 be referred to the Municipal Planning Commission for review and recommendation. Vote on the motion was ayes: DeVito, Dozier, Maxwell, McManis, Skoczen, Smith and Zacharyasz. Nays: None. The motion carried.

Moved by Mr. Skoczen, seconded by Mr. Dozier, that Ordinance No. 5-4 be placed on the June 7, 2021 Regular Council meeting agenda for second reading. Vote on the motion was ayes:

DeVito, Dozier, Maxwell, McManis, Skoczen, Smith and Zacharyasz. Nays: None. The motion carried.

ORDINANCE NO. 5-5: AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE TO ADVERTISE FOR BIDS AND ENTER INTO ONE OR MORE CONTRACTS FOR CONSTRUCTION OF A WEIGHT ROOM AT THE FIRE STATION, AND DECLARING AN EMERGENCY.

The Clerk read the title of the Ordinance.

Mrs. Jones explained that the City's Fire Station is one of only a few local Stations that does not have a weight or fitness room. As these men are climbing ladders and transporting patients, fitness is of the utmost importance, and this would provide them the opportunity to maintain their fitness level in a safe manner.

Mr. Skoczen asked if this would have any impact on insurance premiums, and Mrs. Jones responded in the negative.

Mr. McManis asked for the dimensions of the weight room, and Mrs. Jones estimated that it would be approximately 15' x 20', which Mr. Dettmer determined to be a bit smaller than a 2-car garage.

Mrs. Smith asked for an estimated cost, and Mr. Armagno stated that they expect the cost to come in under the bid limit of \$50,000, but want to be prepared in case it does not. The cost of materials is very volatile right now, but the Administration hopes to have a better estimate soon.

Mr. McManis suggested contacting the School District to see if they have any old high school equipment, and Mrs. Smith wondered if covid funds could be used to foot some of this bill for our paramedics. Mr. Skoczen offered the idea of reaching out to the Cleveland Browns, as they have helped the schools with equipment in the past.

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

ORDINANCE NO. 5-6: AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A COMMUNITY REINVESTMENT AREA ("CRA") AGREEMENT WITH RED CEDAR COFFEE CO., LLC. AND BAGLEY ROAD PROPERTY 1, LLC., AND DECLARING AN EMERGENCY.

The Clerk read the title of the Ordinance.

Mrs. Jones stated that Red Cedar Coffee wants to expand its business by building a 4,200 square foot addition on vacant property. They intend to hire 4 full time equivalent employees with a payroll of \$109,000. They are asking for a tax abatement, and the School Districts have been notified. Mrs. Jones added that because the property sits on the corridor, the Olmsted Falls School District was made aware of this request, not the Berea School District.

Proposed Ordinance No. 5-6 stand on first reading.

ORDINANCE NO. 5-7: AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A COMMUNITY REINVESTMENT AREA (“CRA”) AGREEMENT WITH 1085 BAGLEY PROPERTIES, LLC., AND DECLARING AN EMERGENCY.

The Clerk read the title of the Ordinance.

Mrs. Jones explained that a new, 12,000 square foot building is being proposed, with up to 20 full time equivalent hires and a payroll of approximately \$600,000. The purpose of the building will be mixed use, with both retail and office space.

Mr. McManis inquired as to whether this will be owner occupied real estate or if this is an investment property, because the Westpointe Building is in this same area and is vacant. If this new development is similar in size and purpose to that building, perhaps it is an indication that the area is not suited for that particular type of development. He wondered if the owner could be asked to show proof of pre-emptive lease signings prior to this agreement taking effect.

General discussion commenced concerning the property mentioned by Mr. McManis.

In response to a question from Mrs. Smith, Mrs. Morris confirmed that the abatement is offered to get vacant land developed with the hopes of bringing business to the City. The agreement is reviewed every year to ensure requirements are being met. If they are not met, the abatement could be lost.

Mayor Kleem stated that a relative of his, John Kleem, owns this property and the tax abatement is 49%, not 100%, for a period not to exceed 10 years. These agreements must be reviewed every year to ensure compliance, and reports are provided to City Council. If they are not fulfilling their part of the agreement, Council has the authority to amend or revoke the abatement. This has happened before.

Mr. Maxwell stated that while he understands the hesitation, it is not Council’s place to favor one type of development over another. Council has the ability to review the agreements, and he is appreciative that there is someone willing to invest in the City.

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

ORDINANCE NO. 5-8: AN ORDINANCE PROVIDING FOR THE SUBMISSION TO THE ELECTORS OF THE CITY OF BEREA, OHIO AN AMENDMENT TO THE CHARTER OF THE CITY OF BEREA BY AMENDING THE PREAMBLE, AND DECLARING AN EMERGENCY.

The Clerk read the title of the Ordinance.

Dean Van Dress, who served as ex-officio to the Charter Review Commission, was present to discuss proposed Charter Amendments. This initial amendment compliments the prior amendment made to the back of the Charter and states that when the male pronoun is used, it reflects all persons and not just males.

Mr. Maxwell thanked Mr. Van Dress for his work with the Commission, as it is very time consuming indeed. He asked for clarification as to the similar previous amendment, and Mr. Van

Dress responded that when the male gender is used, it encompasses females too. This amendment would be even more inclusive.

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

ORDINANCE NO. 5-9: AN ORDINANCE PROVIDING FOR THE SUBMISSION TO THE ELECTORS OF THE CITY OF BEREA, OHIO AN AMENDMENT TO THE CHARTER OF THE CITY OF BEREA BY AMENDING ITEM XIII-6, AND DECLARING AN EMERGENCY.

The Clerk read the title of the Ordinance.

Mr. Van Dress stated that in 2016, residents voted to approve a Charter amendment that made City elections non-partisan. There was at that time, however, no mechanism put in place for how a non-partisan candidate would be replaced. This amendment would mandate that a candidate select a committee of 5 people who would be able to replace him or her if they had to drop out of the race for reasons ranging from ethics violations to death. A new candidate would have to be selected by this committee of 5 at least 60 days prior to the election. This change would not affect the write-in candidate process.

Mr. Maxwell clarified Mr. Van Dress's description of the amendment and Mr. Van Dress stated that the new candidate would have to accept the candidacy and it would be up to the committee of 5 to inform the Board of Elections of the change. The burden would, therefore, be on the committee, not the Board of Elections.

General discussion commenced concerning whether the committee of 5 could forcibly remove a candidate. Mr. Van Dress stated that it could result in litigation, but stated that the declaration would come from the Board of Elections. Mayor Kleem recalled two elections where candidates were declared ineligible by the Board of Elections, and both times the opposing candidate was the one to bring forth the case for ineligibility.

Mr. Skoczen asked how the procedure of replacing a candidate works now, and Mr. Van Dress replied that it is a bit of a gray area for non-partisan Cities. There is no current requirement to file a committee of 5. Under State law, there is no mechanism for how a candidate in a nonpartisan election be replaced.

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

ORDINANCE NO. 5-10: AN ORDINANCE PROVIDING FOR THE SUBMISSION TO THE ELECTORS OF THE CITY OF BEREA, OHIO AN AMENDMENT TO THE CHARTER OF THE CITY OF BEREA BY AMENDING ITEM X-8(b), AND DECLARING AN EMERGENCY.

The Clerk read the title of the Ordinance.

Mr. Van Dress explained that the Commission spent a great deal of time discussing ethics, morality and justice, all of which are being debated in this day and age. The Administration originally proposed opening up the Board of Ethics so that people from outside the City could serve as a member, thus ensuring a broader pull of candidates. This discussion led to the idea of

an Ombudsman or Director of the Board of Ethics, who would have particular training and be able to fully utilize what has been a relatively quiet Board of Ethics.

Mr. Van Dress continued that this proposal would mean that the Board has 3 members, all of whom are residents of the City, and a Director with particular training and talents that will be able to implement the core duties of the Board of Ethics and conduct, when necessary, investigations into Council, the Mayor, Department heads, employees and Officers. The Board is very powerful, and should be given the tools to do their job effectively, while ensuring a level of independence. The person selected as the Director will not have accountability to any elected Official.

Mr. Maxwell inquired as to what this particular individual would do on a daily basis to justify the salary and benefits that would be afforded to them. Mr. Van Dress responded that the Director will serve the Board of Ethics and have no other role with the City. The Administrative Code dictates that the Board of Ethics do a variety of things, including writing advisory opinions, proposing legislation, conducting investigations and making recommendations on many other things. In addition, in a town of 19,000 people, there exist certain allegiances, and some people may be afraid to speak up or make a complaint, but if complaints made to the Board are confidential and residents could speak to an impartial Director, they might not fear reprisal. He noted that, if adopted, Council and the Mayor would be giving up power to the people.

Mr. Maxwell stated that the 3 members of the Board should, in theory, act without fear, but that is rather uncertain. These 3 people would then interview and hire a Director. He wondered if the amendment should not have more meat to ensure independence. For example, the Director should not be housed in the same building as other Administrators, if truly meant to be impartial.

General discussion commenced concerning whether or not the Director position should be full time, and Mayor Kleem stated that the Board Members could determine that. He explained that the Board of Ethics is hardly every used, and the last time he went to them was ten or eleven years ago when two of the three members didn't want to address the issue at hand, having no expertise in the area. Currently, there are no members on the Board of Ethics. Even though they are, arguable, the most powerful body in the Charter, they have also been the most ineffective.

Mayor Kleem continued by explaining that without a strong Board of Ethics, there is no assurance that internal investigations are being done fairly and impartially, and while some things should be taken to this Board for, at minimum, investigatory purposes, people who are appointed do not often have experience in contract law or human resources. This proposal would allow members to be appointed by the Mayor, with Council approval, and then allow a person from within or outside the community, who has greater expertise and less chance of personal relationships with elected officials, to be appointed to the position of Director. This does reduce the Mayor's power, as well as the power of the Law Director and City Prosecutor, thus giving it to someone who would be perceived as independent.

Mayor Kleem stated that he has many examples of things he would have taken to the Board of Ethics for investigation, but was unable to because there is, currently, no mechanism to conduct such investigations. When situations arise, investigations are done internally, which does not offer an appearance of independence. Furthermore, there does exist a recent incident

involving a high-ranking official that was turned over to an outside investigator, but the investigation took months. These situations take time and expertise, and by adopting this amendment, the City is telling the residents that ethics is on the forefront of our priorities, and we want a person as independent and neutral as possible to take the lead.

Mayor Kleem suggested that everyone take time to read the Charter section on the Board of Ethics. While there is power there, there is no current implementation process.

Mr. DeVito asked if any surrounding suburb has a Director of their Ethics Commission, and Mayor Kleem responded that he is not aware of any.

Mr. Maxwell asked how the City of Cleveland handles this topic, and Mr. Van Dress responded that it depends on the subject matter. Police issues are handled by the Department of Internal Affairs. At the County level, a Prosecutor is elected. In Berea, the Prosecutor is appointed by the Mayor.

Mr. Van Dress continued by explaining that the Charter Review Commission felt it was important to retain residents as members of the Board, but this is in a volunteer capacity. They would likely not have the time or expertise to handle investigations or implement the powers of the Board. Mr. Van Dress advised Council to look at Chapters 197 and 198 of the Code of Ethics, as well as all other Sections referenced in this proposal. The amendment would bring a heightened level of ethics to the City.

Mr. Maxwell expressed concerns about the logistics and the execution of such a change, without seeing it in writing. Mr. Dettmer felt this change had long term implications that should be considered and investigated. Mr. DeVito felt that it sounded like a complicated job, with a necessary and extensive skill set.

Mr. Van Dress clarified that the Board of Ethics already exists and the powers they are granted in the proposal are endowed to them by the current Charter and Code. With respect to Mr. DeVito's comment, the Director's job would be very complicated as he or she would have to investigate a variety of potential offenses including employee theft, union disagreements, embezzlement, and a host of other things. In the past, the Board was comprised of members of the Clergy, but their training was not in an investigatory capacity. The purpose of the Director is to provide Board Members with an aide who is capable of conducting complex investigations that Members would have neither the time nor expertise to handle on their own. He noted that this proposal would clarify that the Director has all the same powers that the Members currently have in the existing Charter and Code. The most salient change is the level of independence that this Director would be afforded.

Mr. Zacharyasz felt that this position is needed, but it should be someone elected by the people of Berea and not those appointed by someone in power. For example, the City Prosecutor could fill this role, but if that were to happen, then the City Prosecutor/Director of the Board of Ethics should be an elected position. Mayor Kleem responded that the Charter Review Commission did discuss that idea, but was concerned about creating another politician who would fill such a crucial role. As is the case for Prosecutors and Judges, they are sometimes viewed as not being impartial because they are trying to be re-elected, and thus beholden to

special interests. In addition, a person could run for the position and win, but not possess all the qualifications necessary to fulfill their duties.

Mayor Kleem noted that this amendment was passed unanimously by the Charter Review Commission, and encouraged Council to conduct their own research and help the Board of Ethics be able to do their job.

Mr. Skoczen asked what the ballot language would look like, should this amendment go forward to the voters of the City. The change is profound, and residents should know what exactly it is that they are voting on before casting a vote. Mr. Van Dress stated that, according to the Ohio Revised Code, at least 15 days before the general election, ballot language must appear in a newspaper of general circulation. This must happen twice. The other option is the City could mail ballot language out to all registered voters. The actual language is being worked on with the Board of Elections and will appear in English and Spanish.

Mr. McManis confirmed that no one currently sits on the Board of Ethics. He then suggested that, perhaps, members of the Board of Ethics be voted on by the public, and then those elected select a Director, thus encouraging multiple unbiased voices and a Director who is not a politician. Mayor Kleem stated that this suggestion was discussed, but while, in theory, Members would be independent, in practicality, they will ask for endorsements and forfeit their impartiality. If appointed, they can not be removed for their entire term, and thus retain some impartiality.

Mayor Kleem continued by reminding Council that this position has no additional power not already afforded to the current Board of Ethics. This change is simply correcting a practical problem in that the members of the Board will likely neither have the time nor the expertise to carry out investigations, and thus need someone to help them. This person should, in addition, be as independent as possible.

Mr. McManis stated that, to him, it sounds like the Mayor would appoint the Members, and those Members would appoint the Director, thus the Mayor would be appointing the Director, which creates the conflict trying to be avoided. Mayor Kleem clarified that the members are not appointed by one person, but rather by the Mayor and all Council Members. Once appointed, they can not be removed for their entire term in office. The Director is then appointed by the 3 Board members. While there is no foolproof way to go about this, adding more politicians doesn't achieve the goal.

Mr. McManis asked, if this Board is so vital, why there are not 3 Members currently serving, as this makes him question their necessity. He wondered if we are now in violation of the Charter. Mayor Kleem responded that, when the Board Members were asked to assist in the past, they have said no. He noted that the Planning Commission does a lot of work, but they are provided with experts to help them, such as the City Engineer, Law Director, and a Chairman who is an attorney. The Members rely on the experts for information, but ultimately make the final decision. The Director of the Board of Ethics would provide similar expertise.

Mr. McManis asked if there is an outside company that provides this type of service and Mayor Kleem stated that the Board of Ethics could hire a contracted City Director. That idea

could certainly be discussed. Mr. Van Dress stated that the City has hired consultants to assist with situations in the past.

General discussion commenced on whether or not the Director position would need to be a full-time job.

Mr. Van Dress noted that, with regard to an outside company, he is unaware of any that conduct this type of assistance. He reiterated that, if approved, this amendment does remove power from the Mayor and Council, and in politics, power is often something that is not willingly relinquished.

Mayor Kleem added that if the City hired an outside investigator, it would still be up to the City to make that hire. If there was a serious criminal offense alleged against an employee, it would be up to the City to investigate, and Mayor Kleem stated that the City would do so. However, looking down the road to other Administrations and Councils, it is critical for the public to believe their local government is as impartial, just and honest as possible.

Mrs. Smith wondered if there was a way to collaborate with Brook Park and Middleburg Heights on this issue, because if we are struggling, they likely are as well. Mayor Kleem cautioned that, while all ideas should be considered, this deals with a Charter change, and our Charter is different than the Charters in other Cities. Our Ethics Board already has this authority, but the Boards in other Cities may not.

Mrs. Smith asked if the intent is to have the Director not be a resident of the City. Mr. Van Dress stated that this was not discussed, but the Director could be selected from within the City or outside of the City.

Mr. Van Dress stated that the Board's mission is not to get people in trouble, but to ensure things run smoothly. The Board is tasked with serving an advisory role that could help avoid problems.

Mr. Maxwell declared that no one is against transparency or fairness, but he is concerned about the execution of such a position. There is no guidance offered to the members of the Board, at least not at present. In addition, there is no way to capture the essence of this change in a couple sentences or brief ballot language. Proposing an independent Director of the Board of Ethics is something that, on its surface, no one would object to, but there is much more involved. He stated that this amendment should continue to be worked on, perhaps even in Committee, and, if need be, worked on well in to the future.

Mr. Zacharyasz felt that what is currently in place is probably good enough. If an employee or elected official does something truly egregious, it will likely be against the law and an investigation can ensue. Mayor Kleem responded that, often times, employee misconduct does not rise to the level of an illegal act, but victims have, at present, nowhere to turn, unless they have full trust in their Director or want to take an issue to Court, which many people do not. In addition, if someone is at the top of the chain, they may have no place to take an issue except to Court. This board would provide them a suitable option.

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

RESOLUTION NO. 5-11: A RESOLUTION ADOPTING THE TAX BUDGET OF THE CITY OF BERA FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2022, AND SUBMITTING THE SAME TO THE CUYAHOGA COUNTY FISCAL OFFICER.

The Clerk read the title of the Resolution.

Mrs. Morris stated that this is an annual piece of legislation. The tax budget produces the certificate of estimated resources which allows the City to participate in the collection of local government funds.

Proposed Resolution No. 5-11 stands on first reading.

ORDINANCE NO. 5-12: AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF \$5,250,000 OF NOTES, IN ANTICIPATION OF THE ISSUANCE OF BONDS, 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.

Mrs. Morris stated that this is a yearly Note rollover, and the City intends to pay down \$350,000 on the balance. Interest rates are at 1% or less, and while these Notes don't come due until October, the Administration is getting a head start on this legislation so as to provide time for some inquires into private placement with a bank or large investor.

Proposed Ordinance No. 5-12 stands on first reading.

ORDINANCE NO. 5-13: AN ORDINANCE REVISING THE CODIFIED ORDINANCES OF THE CITY OF BERA BY ADOPTING CURRENT REPLACEMENT PAGES, AND DECLARING AN EMERGENCY.

The Clerk read the title of the Ordinance.

Mrs. Jones explained that the City is under contract with Walter Drane and they provide an annual update of our Ordinances, making all changes necessitated by City and State law.

Proposed Ordinance No. 5-13 stands on first reading.

ORDINANCE NO. 5-14: AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE TO ADVERTISE FOR BIDS AND TO ENTER INTO ONE OR MORE CONTRACTS FOR THE DEMOLITION OF THE WEST CENTER STREET BRIDGE, AND DECLARING AN EMERGENCY.

The Clerk read the title of the Ordinance.

Mr. Armagno stated that this Ordinance is for bids and contracts to demolish the bridge over Valley Parkway. The bridge will be completely removed and the park properties restored. Utility work will also be included. The demolition will likely begin in the fall.

Proposed Ordinance No. 5-14 stands on first reading.

ORDINANCE NO. 5-15: AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE OR HIS DESIGNEE TO ADVERTISE FOR BIDS AND CONTRACTS AND TO ENTER INTO ONE OR MORE CONTRACTS FOR THE PURPOSE OF REMOVING SLUDGE WASTE FROM THE MAIN LAGOON AND SECONDARY OVERWATERING LAGOON LOCATED AT THE SERVICE GARAGE, AND DECLARING AN EMERGENCY.

The Clerk read the title of the Ordinance.

Mr. Armagno explained that there is a sludge lagoon by the Service Garage that takes byproduct from the Water Treatment Plant. The lagoon allows the solids to settle and the overflow runs to the sewer system. The lagoon is reaching capacity and the sludge needs to be removed. While \$25,000 - \$50,000 is budgeted annually for continual maintenance, a larger project is now needed.

Proposed Ordinance No. 5-15 stands on first reading.

ORDINANCE NO. 5-16: AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE TO ENTER INTO AN AGREEMENT WITH CUYAHOGA SOIL AND WATER CONSERVATION DISTRICT TO PROVIDE TECHNICAL ASSISTANCE IN IMPLEMENTING SOIL AND WATER CONSERVATION MEASURES, AND DECLARING AN EMERGENCY.

The Clerk read the title of the Ordinance.

Mr. Armagno explained that the services presented as part of this MOU would preserve soil and water quality as it relates to construction and post-construction sites around the City. The Soil and Water Conservation District, as required by the EPA, would review plans for construction projects, conduct inspections, review detention basins and take enforcement action. They provide these services for many municipalities, and have a particular expertise that would be a benefit to Berea. The City does have Northeast Ohio Regional Sewer District funding to help support this partnership, and the cost would likely be \$13,000 for the remainder of 2021.

Mr. Armagno added that suspension has been requested, as the implementation period takes a month or two, and the City would like to begin utilizing these services as soon as possible.

Moved by Mr. Maxwell, seconded by Mr. DeVito, that the three-reading rule be suspended for Ordinance No. 5-16. Vote on the motion was ayes: DeVito, Dozier, Maxwell, McManis, Skoczen, Smith and Zacharyasz. Nays: None. The motion carried.

Moved by Mr. Dozier, seconded by Mrs. Smith, that Ordinance NO. 5-16 be adopted. Vote on the motion was ayes: DeVito, Dozier, Maxwell, McManis, Skoczen, Smith and Zacharyasz. Nays: None. The motion carried.

ORDINANCE NO. 5-17: AN ORDINANCE REPEALING AND REPLACING SECTION 327.22, TRESS, GRASS, WEEDS AND OTHER CONDITIONS AS A NUISANCE; ABATEMENT, OF CHAPTER 327, GRASS AND WEEDS, OF PART THREE, STREETS, UTILITIES AND PUBLIC

SERVICES, OF THE CODIFIED ORDINANCES OF THE CITY OF BEREA, AND DECLARING AN EMERGENCY.

The Clerk read the title of the Ordinance.

Mrs. Jones explained that both the Law Department and the Housing Department found that the current Ordinances are too vague to be enforceable, most specifically due to a lack of definitions and the fact that there does exist disagreement over what constitutes a weed. Back in February, she proposed several different approaches and potential remedies to Council. She recently spoke with Mr. Skoczen and collectively came up with an approach that might better address specific issues and obstacles. She explained that the tree section has not been altered. Definitions have, however, been added for “weeds”, “turf grass”, “noxious weeds”, and “poisonous weeds and vines”, as well as a clarification added of what it means to have a cultivated flower or garden, which are permitted. The new definition for weeds would include unmanaged and/or overgrown plants, and while the definition of a nuisance was not changed, a portion was added to require specific maintenance of bushes and shrubs so that, if neglected, they could constitute a nuisance.

Mrs. Jones stated that further changes include the condition that turf and ornamental grass can not encroach on the public right-of-way, and there exists a safety standard that must be met. If bushes or plantings are creating sight issues for motorists, pedestrians or bikers, the Police will have the ability to declare a safety hazard. The final change deals with treelawn gardens. While those in existence will be allowed to remain, should the City need access to underground utilities, the plants must be removed at the homeowner’s expense, and they may not be replanted.

Mrs. Jones noted that her review of the Codified Ordinances continues, as she ensures complete consistency with all Sections, and added that further amendments might be forthcoming.

Mr. Skoczen expressed his excitement that repeat offenses may, at long last, be put to rest and thanked Mrs. Jones for her time and effort in crafting these changes. He further thanked Council and President Dettmer for allowing this Ordinance to get on to the agenda, as growing season has begun. He asked anyone with additional ideas to reach out to him.

Proposed Ordinance No. 5-17 stands on first reading.

REPORT AND COMMENTS BY THE PRESIDENT OF COUNCIL

Mr. Dettmer thanked Mr. Anzalone for working with him so tirelessly to address the audio and sound issues in the Chamber. They are both much improved, with some work to go. He appreciated Mr. Anzalone’s time and expertise.

Mr. Dettmer continued by referencing recent information from the CDC and Governor DeWine. Some orders may be lifted as of June 2, 2021, and thus he is optimistic that Council will be back in the Chamber before summer recess. He noted that more details are forthcoming.

REPORTS AND COMMENTS BY THE MEMBERS OF COUNCIL

Mr. Maxwell apologized for being late, but added that he had a really good reason! His daughter is a senior at Berea Midpark High School, and she participates in Project Lead the Way, which is an engineering program offered at many schools. She started the program 4 years ago with 60 students. Out of those 60, only 12 completed the program, and they presented their capstone projects this evening to a panel of engineers who provided them with critiques and reviews. Mr. Maxwell congratulated this very special group of students and expressed his immense pride in his spectacular daughter!

Mr. McManis invited everyone to the Memorial Day rib-cookoff!

Mr. Skoczen acknowledged both Armed Services Day and Memorial Day, expressing his gratitude to all who have served in the Armed Forces, to those who are currently serving, and to those who gave the ultimate sacrifice.

Mrs. Smith stated that this Memorial Day will not be the same without Tom Goebel, but thanked all who have given the ultimate sacrifice.

Mr. Zacharyasz had no report.

Mr. DeVito had no report.

Mr. Dozier wished everyone a safe Memorial Day.

CORRESPONDENCE

The April 29, 2021 – May 12, 2021 Correspondence is available in the Clerk's office.

OTHER BUSINESS:

Mrs. Esson offered a sincere and heartfelt thank you to all Veterans!

There being no further business before Council, it was moved by Mr. Maxwell and seconded by Mr. McManis, 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 10:32p.m.

Jeff Dettmer
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 17th day of May, 2021, was conducted in compliance with Codified Ordinances Section 109 and Ohio Revised Code Section 121.22.

Alycia Esson, Clerk of Council