

MINUTES OF A REGULAR COUNCIL MEETING
September 20, 2021 – 7:30p.m.

Council of the City of Berea, Ohio, met in regular session in the Council Chamber on September 20, 2021 and the meeting was called to order by President of Council Jeff Dettmer at 7:44p.m. Present: Bill DeVito, Leon Dozier, Jim Maxwell, Chris McManis, Rick Skoczen, Kim Smith and Gene Zacharyasz. Absent: None. Also present via Zoom: Director of Public Works Tony Armagno, Director of Finance Andrea Morris and Assistant Law Director Danielle Swisher.

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. Maxwell, that the minutes from the June 21, 2021 Public Hearing #1 be approved. Vote on the motion was all ayes and no nays. The motion carried.

Moved by Mr. Skoczen, seconded by Mr. McManis, that the minutes from the June 21, 2021 Public Hearing #2 be approved. Vote on the motion was all ayes and no nays. The motion carried.

Moved by Mr. McManis, seconded by Mrs. Smith, that the minutes from the June 21, 2021 Public Hearing #3 be approved. Vote on the motion was all ayes and no nays. The motion carried.

Moved by Mr. McManis, seconded by Mrs. Smith, that the minutes from the June 21, 2021 Regular Council Meeting be approved. Vote on the motion was all ayes and no nays. The motion carried.

Moved by Mr. Skoczen, seconded by Mr. Dozier, that the minutes from the August 9, 2021 Special Meeting be approved. Vote on the motion was all ayes and no nays. The motion carried.

Moved by Mr. Zacharyasz, seconded by Mr. Smith, that the minutes from the September 13, 2021 Special Meeting be approved. Vote on the motion was all ayes and no nays. Mr. Dozier and Mr. McManis abstained from the vote. The motion carried.

MAYOR'S ADMINISTRATIVE REPORT AND COMMENTS

Mayor Kleem was not present.

REPORT AND COMMENTS BY THE OFFICERS OF THE ADMINISTRATION:

Andrea Morris – Director of Finance:

Mrs. Morris stated that the City has received \$974,656.23, the first half of the American Rescue Plan grant, and the money is able to be used for revenue lost or to improve infrastructure. The money must be encumbered within the next 4 years, and projects need to be completed within the next 6 years. The second half of the grant will arrive in the first or second quarter of 2022.

Barb Jones – Director of Law & Public Safety:

Mrs. Jones was absent but Assistant Law Director, Danielle Swisher, was present in her place. She announced that the City swore in 2 new Police Officers earlier this afternoon.

In response to a question from Mr. McManis regarding grading and flooding issues in Berea that stem from a property in Olmsted, Mr. Armagno stated that the City has spoken to a resident off of Holly Drive and been in contact with CEI. The situation is complicated, as it involves multiple communities and properties, but he is hopeful that with the help of CEI, the matter can be resolved. Both Mr. McManis and Mr. DeVito asked if they could be brought in to the email chain in order to update the residents that have posed concerns to them.

Mr. McManis inquired as to whether the City could send notices to residents when roads will be closed for race events like the one that occurred recently.

Tony Armagno – Director of Public Service:

Mr. Armagno stated that the annual road program is progressing nicely, adding that Manning and Miles will be done this fall. The Woodmere project should begin next week and take 34 weeks to complete, and Columbia Gas is wrapping up its gas line project and moving in to final restoration work.

Mr. Armagno continued that bids will be going out soon to remove the West Center Street Bridge, and the City has experienced a few delays due to coordination with the Metroparks. Work should be done over the winter months, and completion of the project should occur next Spring.

Mrs. Smith asked if Mr. Armagno would check the safety of the Center Street Bridge, as the fencing looks like it has been disturbed. Mr. Armagno agreed to do as such.

Mr. Maxwell asked if the Woodmere project would include sidewalk repair, and Mr. Armagno responded that sidewalk repair will be included anywhere there has not already been improvements.

General discussion commenced concerning deficiencies in past Columbia Gas restoration work, and Mr. Armagno stated that he is aware of the issues but the gas company has committed to making sure those types of problems are avoided and there is a successful restoration this time around.

Marty Compton – Director of Recreation:

Mr. Compton was not present.

COMMENDATIONS:**NONE****PETITIONS:**

Mr. Dettmer asked if any petitions had been submitted, and Mrs. Esson responded in the affirmative, reading the petition in to the record and announcing that it is on file and has been distributed to members of Council and the Administration. The title of the petition reads as follows: **Stop Basement Flooding in the North End of Berea.**

AUDIENCE PARTICIPATION:

Gail Grizzell, a resident on The Mall, stated that, on behalf of Ward 1, she wanted to thank Mayor Kleem, members of the Administration and Council Members who attended the Ward 1 meeting at People's Community Church at the beginning of the month. She further thanked those who signed the petition, and Council for accepting it in to the record. She then referenced the \$1.9 million dollar American Rescue Plan grant, noting that guidance has been released that says the funds can be used for stormwater infrastructure projects, including privately owned infrastructure. While Administration officials has said back on September 1st that guidelines were unavailable and no American Rescue Plan funds could be used for private properties, this is simply not the case and the document stating as such can be found on the U.S. Department of the Treasury's website. She also has a copy on hand.

In reference to the North End sewer committee that Mayor Kleem committed to forming, Ms. Grizzell asked who will be coordinating this effort, if members have been selected and when the first meeting date is scheduled. She suggested that her neighbor, who is an engineer and also very familiar with the issues on Rocky River Drive and Shakespeare, would be a beneficial member of the committee. With regard to the engineering firm that Mayor Kleem wants to hire to study the Emerson, North Rocky River and Shelley Parkway area, she suggested Jack Thomason be approached.

Mrs. Grizzell noted that in a recent article, it stated that the Administration is researching funding programs that may be able to financially assist residents with regard to flooding issues, but she reiterated that the American Rescue Plan funds may be earmarked for just this type of work, so that is one avenue the Administration can pursue.

Mr. Maxwell asked if anyone from the Administration had responses to Ms. Grizzell's questions, and seeing none, asked that those questions be taken back to the Mayor and Directors so that responses could be provided to both the residents in the North End, as well as Council. He further stated that, to his knowledge, no committee has been formed, but acknowledged that conversation could be happening that he is unaware of, but the questions are certainly justified.

Another resident (who did not provide her name) stated that she is very concerned about the new Senior living facility on Riveredge and additional construction on the North End. She can't imagine how talk of construction can be happening when all of these flooding issues have not been addressed.

Mr. Armagno stated that the City has a stormwater ordinance that was not in place for a lot of previous North End development, and this ordinance requires any development to have structures, such as underground detention basins, to control runoff post-construction. Run off must be less than or equal to runoff pre-construction, and companies are legally required to abide by this rule.

With regard to the stormwater ordinance, Mr. McManis asked how often that legislation is reviewed to ensure its requirements are adequate. Mr. Armagno responded that the EPA requires a review every 5 years, and the City is required to remain in compliance. Mr. McManis wondered if, perhaps, the City should look to add requirements that are more intense than the baselines mandated by the EPA. He wondered if anyone has ever studied the issue. Mr. Armagno replied that standards are set specifically for new development that is over an acre; for properties under an acre, the rules are less stringent.

Daune Jaynes, a member of the audience, in reference to Ordinance No. 6-4, asked what the City still owes on the properties. Mrs. Morris responded that the City owes a combined total of \$1.2 million. Mrs. Jaynes noted that the Ordinance allows the property to be sold for \$300,000.

Dennis Knowles, a Ward 1 resident, thanked members of Council and the Administration that showed up to the community meeting at People’s Community Church, reiterating that funding is available to assist Ward 1 residents, and asking if someone on Council would consider introducing legislation that would set aside some of the American Rescue Plan money for North End sewer investigation, repair, and pipe replacement. He does not want to appear as if he is complaining, but he wants the issue resolved and the problem fixed. It is evasive to say that the issue will only be resolved once every private property problem is repaired, because once that happens and flooding continues, the blame will go on and go.

Mr. Knowles concluded by stating that he would be happy to serve on the sewer committee, but he would really appreciate some help from Council to get the issue resolved.

COUNCIL COMMITTEE REPORTS AND ANNOUNCEMENTS:

Woodvale Union Cemetery Board of Trustees – Jim Maxwell

Mr. Maxwell announced that the Joint Council Meeting will take place at 7:30p.m. on the evening of October 20, 2021, here in the Council Chamber. He asked anyone who can not attend to let he or the Clerk know, so a quorum can be assured.

LEGISLATION – THIRD READING:

ORDINANCE NO. 6-2: AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE TO PARTICIPATE IN THE JOINT MUNICIPAL IMPROVEMENT CONSORTIUM FOR THE PURCHASE OF ROAD SALT AND OTHER DEICING MATERIALS, AND DECLARING AN EMERGENCY.

The Clerk read the title of the Ordinance.

Moved by Mr. Skoczen, seconded by Mr. Maxwell, that Ordinance No. 6-2 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. 6-4: AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A PURCHASE AGREEMENT WITH DMARK DEVELOPMENT LLC. 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 THREE HUNDRED THOUSAND DOLLARS (\$300,000) AND AUTHORIZING THE EXECUTION OF ALL DOCUMENTS NECESSARY TO EFFECTUATE THE SAME, AND DECLARING AN EMERGENCY.

The Clerk read the title of the Ordinance.

Mr. McManis, acknowledging the recent and frequent discussions concerning North End flooding, stated that he can no longer support the sale of this property. He has outstanding questions about runoff, and has not been convinced that sufficient protections are in place that will prevent further flooding issues for these North End residents.

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

ORDINANCE NO. 6-5: AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF BERA BY REZONING PERMANENT PARCEL NUMBERS 364-04-006, 364-04-007 AND 364-04-030 FROM COMMERCIAL CENTER (CC) DISTRICT TO MULTIPLE FAMILY (MFR) DISTRICT.

The Clerk read the title of the Ordinance.

Proposed Ordinance No. 6-5 stands on second reading.

LEGISLATION – FIRST READING:

RESOLUTION NO. 9-1: A RESOLUTION PROUDLY ACCEPTING THE DESIGNATION OF THE CITY OF BERA AS A PURPLE HEART CITY.

The Clerk read the title of the Resolution.

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

ORDINANCE NO. 9-2: AN ORDINANCE REPEALING AND RECONSTITUTING SECTION 183.10, HOLIDAY LEAVE, OF CHAPTER 183, EMPLOYMENT PROVISIONS, OF TITLE VIII, PERSONNEL PLAN, OF THE CODIFIED ORDINANCES OF THE CITY OF BERA, TO DESIGNATE JUNE 19 AS AN OFFICIAL CITY HOLIDAY.

The Clerk read the title of the Ordinance.

Mrs. Swisher explained that this Ordinance would amend the Personnel Plan to include Juneteenth as a holiday.

Proposed Ordinance No. 9-2 stands on first reading.

ORDINANCE NO. 9-3: AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH THE CITY OF MIDDLEBURG HEIGHTS FOR THE

ESTABLISHMENT OF AN OFF-LEASH DOG PARK, APPROPRIATING THE FUNDS THEREFORE, AND DECLARING AN EMERGENCY.

The Clerk read the title of the Ordinance.

In response to an inquiry from Mr. Maxwell, Mrs. Swisher replied that while Brook Park is not included in this agreement, Brook Park has their own MOU with Middleburg Heights, and thus they will be included as a part of this dog park, as was the original intent.

Mr. Maxwell, noting that the dog park is declared to be for the exclusive use of residents, asked how this would be enforced. Mrs. Swisher stated that she is not aware how enforcement will be conducted, but will get an answer.

Mr. Skoczen questioned liability and insurance risks, and Mrs. Swisher stated that Middleburg Heights will hold adequate insurance, and the Cities of Berea and Brook Park shall reimburse their proportionate shares.

Mr. DeVito stated that it seems to be a good deal for Berea, and Mr. McManis noted that, due to the location, Berea residents will likely have to drive to the park, as there is no easy walking path.

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

ORDINANCE NO. 9-4: AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE OR HIS DESIGNEE TO ADVERTISE FOR BIDS AND TO ENTER INTO ONE OR MORE CONTRACTS FOR THE REPLACEMENT OF THE RECREATION CENTER ROOF, AND DECLARING AN EMERGENCY.

The Clerk read the title of the Ordinance.

Mr. Armagno noted that this section of barrel roof is over the old roller rink, and while repairs have been conducted, it is now in need of replacement.

Mr. Dettmer inquired about the age of the other parts of the roof, and Mr. Armagno stated that various improvements have been made, thus the age of the roof varies.

Mr. Zacharyasz asked about the cost of the repair, and Mr. Armagno estimated that it will be about \$300,000.

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

ORDINANCE NO. 9-5: AN ORDINANCE AUTHORIZING THE MAYOR TO GRANT A NON-EXCLUSIVE REVOCABLE LICENSE TO THE CLEVELAND BROWNS FOOTBALL ORGANIZATION, LLC, FOR THE PURPOSE OF CONSTRUCTING AND MAINTAINING A MEDIA PLATFORM ON A PORTION OF PERMANENT PARCEL NO. 362-25-002, AND DECLARING AN EMERGENCY.

The Clerk read the title of the Ordinance.

Mrs. Swisher explained that this platform would provide media members, who currently stand in the City-owned parking lot, with a safer space above the traffic in which to operate.

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

RESOLUTION NO. 9-6: A RESOLUTION ACCEPTING THE AMOUNTS AND RATES AS DETERMINED BY THE BUDGET COMMISSION AND AUTHORIZING THE NECESSARY TAX LEVIES AND CERTIFYING THEM TO THE COUNTY FISCAL OFFICER.

The Clerk read the title of the Resolution.

Mrs. Morris stated that this Resolution has to be to the County by September 30, 2021, and thus she is requesting suspension. She noted that this resolution is required to comply with County law and receive funds.

Moved by Mr. Maxwell, seconded by Mr. McManis, that the three-reading rule be suspended for Resolution No. 9-6. Vote on the motion was ayes: DeVito, Dozier, Maxwell, McManis, Skoczen, Smith and Zacharyasz. Nays: None. The motion carried.

Moved by Mr. Zacharyasz, seconded by Mr. Maxwell, that Resolution No. 9-6 be approved. Vote on the motion was ayes: DeVito, Dozier, Maxwell, McManis, Skoczen, Smith and Zacharyasz. Nays: None. The motion carried.

ORDINANCE NO. 9-7: 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.

Mrs. Swisher noted that the proposed vehicle will replace a non-ADA compliant minivan, and Mrs. Morris estimated that the cost would be \$63,000, of which the City would pay \$12,600.

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

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

ORDINANCE NO. 9-8: AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A LICENSE AGREEMENT WITH THE BOARD OF PARK COMMISSIONERS OF THE CLEVELAND METROPOLITAN PARK DISTRICT TO PROVIDE THE CITY USE OF A CERTAIN PORTION OF THE CLEVELAND METROPARKS PROPERTY FOR THE PURPOSE OF ACCESS, CONSTRUCTION, CONTINUING MAINTENANCE, REPAIR AND REMOVAL OF EXISTING

PAVEMENT OF WEST CENTER STREET AND PLACEMENT OF A NEW SIDEWALK ON HENRY STREET FOR ANY PRESENT OR FUTURE NEEDS, AND DECLARING AN EMERGENCY.

The Clerk read the title of the Ordinance.

Mr. Armagno explained that there has been a lot of coordination with the Metroparks with regard to this demolition, and it has been determined that the right-of-way off Henry Street was not recorded properly back when the original road and bridge were constructed. The Metroparks owns a part of the right-of-way, which neither they nor the City knew, and this Ordinance would allow the contractor to work within the area in question, as the Metroparks has agreed to allow the City to do the necessary work. The area in question is 123' x 3' in area, and the City will, once work is complete, put the sidewalk, treelawn and curb back, as intended.

Mr. Armagno noted that suspension will be requested on second reading.

In response to a question from Mr. Skoczen, Mr. Armagno replied that the City has received funding for Fiscal Year 2024 or 2025, that will repave Rt. 237 from Bagley Road to West Street. The bridge removal does not include much pavement, thus the scopes of work do not really overlap.

Ordinance No. 9-8 stands on first reading.

ORDINANCE NO. 9-9: AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH PAUL M. ANTCZAK, THOMAS P. ANTCZAK, DAVID J. ANTCZAK, FRANCES M. PITTS AND VICTORIA K. USCHOLD (GRANTORS), AND ACCEPTING AN EASEMENT PERMITTING THE CITY TO CONSTRUCT, RECONSTRUCT, OPERATE, MAINTAIN, REPAIR, REPLACE AND/OR REMOVE ANY SANITARY AND/OR STORM SEWERS ON THE EASEMENT, AND DECLARING AN EMERGENCY.

The Clerk read the title of the Ordinance.

Mr. Armagno explained that earlier this year, the Antczak Family came to Planning Commission to consolidate parcels in this area, creating 2 large ones. As there are no sewers on Cross Street, this legislation would allow the sewer main to be extended, thus providing sewer access and an opportunity for potential houses to be constructed. The work would be done at no cost to the City, but the City would take ownership of the easement and sewers once completed.

Mr. DeVito felt this was a win-win for the City, and Mr. Armagno clarified that there are 3 vacant lots, but the potential for more than 3 houses to be built depending how the lots are split. He added that there has been a lot of interest in this property over the years.

General discussion commenced concerning no vehicular access to Savage Street and whether there is physical access to all of these properties from Cross Street. To the latter, Mr. Armagno replied in the negative.

In response to questions from Mr. Dettmer, Mr. Armagno stated that two of the vacant lots have access to a waterline on Cross Street, and said that the storm and sanitary sewers are not in the same trench, as the EPA requires separation.

Mr. Zacharyasz questioned why the land on Savage could not be improved to allow for construction, and Mr. Armagno stated that the developer would be required to pay what would certainly be hefty improvement costs, and the residents on Savage like the greenspace.

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

ORDINANCE NO. 9-10: 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. 2021-28.

The Clerk read the title of the Ordinance.

Mrs. Morris explained that most of the changes are due to an increase in health insurance costs, as there have been several large claims this year, as well as increases in fuel and material prices. She noted that the City did receive a grant for the Dinner to Door program, and those funds are included in this budget amendment. She noted that the amendment also includes the grant from the American Rescue Plan, and for transparency, the Administration will return with details concerning how this money is used before encumbered, which will give Council the opportunity to approve where the money is going.

Mrs. Morris referenced changes to the following funds: the General Fund - Fund #100, The Muni Court Operations Fund – Fund #181, the Recreation Fund – Fund #200, the S.C.M.R. Fund – Fund #220, the Probation Services Fund – Fund #284, the Court Computer Research Fund – Fund #291, the Court Special Projects Fund – Fund #293, the Neighborhood Improvement Fund – Fund #480, the Water Revenue Fund – Fund #510, the Medial Benefits Fund – Fund #600 and the Prop/Liability Insurance Fund – Fund #610.

In response to an inquiry from Mr. Maxwell, Mrs. Morris stated that employees' health care costs are charged to employees' departments.

Moved by Mr. Maxwell, seconded by Mr. Dozier, that the three-reading rule be suspended for Ordinance No. 9-10. Vote on the motion was ayes: Dozier, DeVito, Maxwell, McManis, Skoczen, Smith and Zacharyasz. Nays: None. The motion carried.

Moved by Mr. Maxwell, seconded by Mr. McManis, that Ordinance No. 9-10 be adopted. Vote on the motion was ayes: Dozier, DeVito, Maxwell, McManis, Skoczen, Smith and Zacharyasz. Nays: None. The motion carried.

REPORT AND COMMENTS BY THE PRESIDENT OF COUNCIL

Mr. Dettmer congratulated those involved with the Berea Arts Fest on an excellent event, and thanked Judge Mark Comstock for his cooperation, as the Court did purchase the new executive office and audience chairs that are now in use in the Chamber.

REPORTS AND COMMENTS BY THE MEMBERS OF COUNCIL

Mrs. Smith congratulated the Berea Kiwanis Club on its 100th Anniversary, adding that they do so much to help the community. She further noted that Baldwin Wallace University is back in session and things have been managed nicely.

Mr. Zacharyasz had no report.

Mr. DeVito congratulated the new Police Offices that were sworn in this afternoon, adding that he was very pleased to see two residents added to the Force.

Mr. Dozier stated that long-time Ward 1 resident, Bertha Dotson, passed away, and he offered his condolences to her family. He further thanked the residents in Ward 1 who have shared their flooding issues and concerns with Council, ensuring that the City is working toward a solution.

Mr. Maxwell had no report.

Mr. McManis had no report.

Mr. Skoczen had no report.

CORRESPONDENCE

The June 18, 2021 – September 15, 2021 Correspondence is available in the Clerk's office.

OTHER BUSINESS:

Mrs. Esson thanked Mr. Armagno and the Service Department for all of their assistance in moving the old chairs out of the Chamber, even on short notice!

There being no further business before Council, it was moved by Mr. McManis, and seconded by Mr. Skoczen, 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 9:24p.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 20th day of September, 2021, was conducted in compliance with Codified Ordinances Section 109 and Ohio Revised Code Section 121.22.

Alycia Esson, Clerk of Council