

## **MINUTES OF A REGULAR COUNCIL MEETING**

**March 2, 2015 - 7:30p.m.**

Council of the City of Berea, Ohio, met in the Council Chamber on March 2, 2015 and was called to order by President of Council Mary K. Brown at 7:30p.m. Present: Cheryl A. Banaszak, Nick Haschka, Richard T. Malott, Jim Maxwell and Gene Zacharyasz. Absent: Margarette S. Key and Dale A. Lange. Also present: Mayor Cyril M. Kleem, Director of Safety and Service Barb Jones, Director of Finance Dana Kavander and Director of Law James N. Walters III.

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. Malott, seconded by Mrs. Banaszak, that the minutes from the February 17, 2015 Regular Council Meeting be approved. Vote on the motion was all ayes and no nays. The motion carried and the minutes were approved.

### **MAYOR'S ADMINISTRATIVE REPORT AND COMMENTS**

Mayor Kleem had no report.

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

#### **Dana Kavander - Director of Finance:**

Mrs. Kavander was pleased to announce that the bond anticipation notes went to the note market where the City received a .28% interest rate, which was better than anticipated. She continued by explaining that the City made their annual presentation to Moody's and, citing prudent financial management and a strong institutional tax base, Moody's reaffirmed the City's AA2 bond rating. The City will next head to the Bond Market.

#### **James N. Walters III - Director of Law:**

Mr. Walters reported that WOW Cable has altered their payment structure and will now charge a \$5.00 fee for payments taken by phone, and a \$2.00 fee for payments made in person.

#### **Barb Jones - Director of Public Safety and Service:**

Mrs. Jones had no report.

### **COMMENDATIONS:**

**RESOLUTION NO. 3-1: A RESOLUTION HONORING AND COMMENDING THE BEREA POLICE, FIRE AND 911 DISPATCHERS FOR YEARS OF VALUABLE AND DEVOTED SERVICE TO THE CITY OF BEREA, OHIO, THANKING THEM FOR THEIR DEDICATION TO THE SAFETY AND WELLBEING OF COMMUNITY RESIDENTS AND WISHING THEM MUCH HAPPINESS AND SUCCESS AS THEY TRANSITION TO THE SOUTHWEST EMERGENCY DISPATCH CENTER IN STRONGSVILLE, OHIO, OR EMBARK ON OTHER CAREER PURSUITS AND PERSONAL ENDEAVORS.**

The Clerk read the Resolution in full.

Moved by Mr. Maxwell, seconded by Mr. Haschka, that Resolution No. 3-1 be approved. Vote on the motion was ayes: Banaszak, Haschka, Malott, Maxwell and Zacharyasz. Nays: None. The motion carried and the Resolution was thus approved.

Mrs. Brown thanked the seven Dispatchers who have, for years, held the City together in terms of public safety. She noted that they were always so courteous and helpful, and personally thanked them for their dedication to the City of Berea.

Mayor Kleem thanked the Dispatchers, stating that he appreciated their many years of service to the City.

Chief Grecol thanked Council and the Mayor for taking the time to recognize the Dispatchers. He then acknowledged the Dispatchers for their selflessness, saying that in all the years he has worked with the City, he always knew they had his back. He personally thanked all seven Dispatchers, adding that they will be missed.

Chief Kaufhold also expressed his gratitude, echoing the notion that the Dispatchers always had the firefighters' backs, and stating that even though they are working out of a different community, the City should be comforted to know that they are only a phone call away. Chief Kaufhold concluded his comments by declaring that there is now great help in the Strongsville Dispatch Center.

Mr. Zacharyasz optimistically stated that the Dispatchers are not gone, but are simply transitioning to another building. He added that their talents, which have exclusively been enjoyed by Berea residents, will now be shared with other communities who are lucky to have them. He thanked the Dispatchers so very much.

Mrs. Esson thanked the Dispatchers and wished them much luck, adding that the City will miss them so much.

Mr. Walters, speaking as a longtime Berea resident, personally thanked the Dispatchers for all they have done for Berea, and for all they will continue to do for Berea.

Mrs. Brown expressed sincere gratitude to the Dispatchers, wished them luck and thanked them for attending the meeting.

Mrs. Brown then asked if the non-emergency number is still functional. Mrs. Jones stated that the non-emergency line will be answered in Strongsville. Mrs. Brown requested that Council be kept in the loop as the Dispatcher transition progresses.

Mrs. Banaszak added that a resident had to use the new phone in the Police Station to call over to the regional dispatch center, and reported that everything was easy to use and everyone was very helpful

**PETITIONS:**

**None**

**AUDIENCE PARTICIPATION:**

Don Keller, a member of the audience, thanked Council for the opportunity to speak before them. He stated that his neighbor feeds and houses feral cats. These cats defecate on his property, and while he and his wife have spoken to her about this issue on several occasions, nothing has changed. He continued by stating that he has left messages for the Animal Control Officer, but received no response, and is very frustrated. He noted that he loves animals, but this many cats are utterly intolerable. Mr. Keller added that his neighbor claims the cats are feral, and she only feeds them because the City says the cats are not their problem. He feels, however, that the food and housing enables them and keeps them coming around.

Mrs. Banaszak asked how many cats his neighbor cares for, and Mr. Keller said he has witnessed up to 6 in her yard. Mrs. Brown asked if the City has ever considered placing a limit on the number of cats a person can own, and Mrs. Jones responded in the negative.

Mr. Haschka declared that he has spoken with both the neighbor and the Animal Warden regarding this issue, and Mrs. Jones informed Mr. Keller that Sgt. Greenhill will contact him shortly to follow up on the situation.

Tammy Mallett, a member of the audience, had a question regarding the proposed poultry ordinance. She wondered, if the legislation is adopted, how long she will have to find a place for her roosters. Mr. Walter responded that the legislation will take effect 30 days after its adoption and approval by the Mayor. The roosters will need to be gone by that time.

**COUNCIL COMMITTEE REPORTS AND COMMITTEE ANNOUNCEMENTS:****Woodvale Union Cemetery Board of Trustees – Jim Maxwell**

Mr. Maxwell complimented the Woodvale staff for the wonderful work they are doing, despite horrible weather conditions. He announced that the Veterans Memorial has been ordered, adding that Middleburg Heights City Council adopted legislation that will pay a portion of the cost, and it is his understanding that similar legislation is being drafted in Berea. He noted his sincere appreciation, and stated that the hope is to have the Memorial in place by Memorial Day Weekend. A formal dedication will follow later in the year.

Mr. Maxwell next expressed his gratitude to the Middleburg Heights Service Department for coming to Woodvale's aid when their snow plow broke down. The machine has since been repaired.

**LEGISLATION – THIRD READING:**

**ORDINANCE NO. 9-3a: AN ORDINANCE ENACTING SECTION 905.03.1, POULTRY, OF PART NINE, ANIMAL CONTROL, OF THE CODIFIED ORDINANCES OF THE CITY OF BEREА, AND DECLARING AN EMERGENCY.**

The Clerk read the title of the Ordinance.

Mr. Walters informed Council of two additional changes that could be implemented before the final Ordinance is adopted. The first change would remove the emergency clause, and

thus allow poultry owners an additional 30 days to come in to compliance with the new regulations. The second change would allow poultry owners with more than the allowable limit of poultry to maintain their current number of coups until they come in to compliance with the permitted number of poultry, and no later than January 1, 2017.

Mr. Maxwell cited no issue with removing the emergency clause, but inquired as to whether the Administration had an issue with the change involving number of coups. Mr. Walters stated that, from an enforcement perspective, the additional 30 days would be beneficial. The coup exemption is also an appropriate change.

Mr. Haschka wondered how the rooster restriction would be enforced. Mr. Walters responded that the City will follow-up with property owners who are known to own roosters. In the future, should the City be made aware of roosters at a particular property, an inspection will be done at that time. Mr. Walters noted that the prohibition on roosters will go in to effect the same day that the Ordinance goes in to effect.

Mrs. Banaszak supported the idea of allowing current coups to be maintained for poultry owners who register with the City and have more than the allowable number of birds. She felt that the health and safety of the animals would be well served by having appropriate and adequate housing.

In response to a question from Mr. Maxwell, Mr. Walters clarified that the Ordinance will go in to effect 30 days after its adoption and approval by the Mayor. Anyone who does not register with the City, on or before April 15, 2015, will be presumed to have an appropriate number of poultry. If any property owner is later found to be in violation of the Ordinance, they can be cited.

Mr. Maxwell asked if an appropriate registration process is in place, and Mr. Walters stated that the City will have a registration process ready shortly.

Moved by Mr. Malott, seconded by Mrs. Banaszak, that proposed Ordinance No. 9-3a be amended by the substitution of proposed Ordinance No. 9-3b. Vote on the motion was ayes: Banaszak, Haschka, Malott, Maxwell and Zacharyasz. Nays: None. The motion carried.

Moved by Mr. Haschka, seconded by Mr. Malott, that Ordinance No. 9-3b be adopted. Vote on the motion was ayes: Banaszak, Haschka, Malott, Maxwell and Zacharyasz. Nays: None. The motion carried and the Ordinance was thus adopted.

**ORDINANCE NO. 12-2a: AN ORDINANCE AMENDING THE ZONING CODE OF THE CITY OF BEREA AT SECTION 305.02(C), SECTION 309.05 AND CHAPTER 400, DEFINITIONS, OF THE ZONING CODE OF THE CITY OF BEREA, OHIO, AS ADOPTED MAY 7, 2012 AND AS AMENDED THEREAFTER, TO MODIFY THE STANDARDS FOR SWIMMING POOLS AS RESIDENTIAL ACCESSORY USES.**

The Clerk read the title of the Ordinance.

Moved by Mrs. Banaszak, seconded by Mr. Haschka, that Ordinance No. 12-2a be adopted. Vote on the motion was ayes: Banaszak, Haschka, Malott, Maxwell and Zacharyasz. Nays: None.

The motion carried and the Ordinance was thus adopted.

**ORDINANCE NO. 12-3a: AN ORDINANCE AMENDING SECTION 1323.02, LOCATION AND AREA, OF CHAPTER 1323, SWIMMING POOLS, IN TITLE FIVE, LOCAL PROVISIONS, OF PART THIRTEEN, BUILDING CODE, OF THE CODIFIED ORDINANCES OF THE CITY OF BEREA.**

The Clerk read the title of the Ordinance.

Moved by Mrs. Banaszak, seconded by Mr. Haschka, that Ordinance No. 12-3a be adopted. Vote on the motion was ayes: Banaszak, Haschka, Malott, Maxwell and Zacharyasz. Nays: None. The motion carried and the Ordinance was thus adopted.

**ORDINANCE NO. 2-1: AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A COMMUNITY REINVESTMENT AREA (“CRA”) AGREEMENT WITH CLOVEQUIP PROPERTIES OF OHIO, L.L.C., AND DECLARING AN EMERGENCY.**

The Clerk read the title of the Ordinance.

Moved by Mrs. Banaszak, seconded by Mr. Haschka, that Ordinance No. 2-1 be adopted. Vote on the motion was ayes: Banaszak, Haschka, Malott, Maxwell and Zacharyasz. Nays: None. The motion carried and the Ordinance was thus adopted.

**LEGISLATION – SECOND READING:**

**ORDINANCE NO. 2-3: 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, 2015, AND EXPRESSLY REPEALING ORDINANCE NO. 2015-6.**

The Clerk read the title of the Ordinance.

Mrs. Kavander noted that Council should have Exhibit “A” by the week’s end.

Proposed Ordinance No. 2-3 stands on second reading.

**ORDINANCE NO. 2-4: AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A COMMUNITY REINVESTMENT AREA (“CRA”) AGREEMENT WITH JMJ REAL ESTATE COMPANY, INC., AND CONRAD’S TIRE SERVICE, INC., AND DECLARING AN EMERGENCY.**

The Clerk read the title of the Ordinance.

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

**LEGISLATION – FIRST READING:**

**ORDINANCE NO. 3-2: AN ORDINANCE AMENDING SECTION 127.02(C), OF CHAPTER 127, DEPARTMENT OF PUBLIC SAFETY, OF TITLE FIVE, ADMINISTRATIVE, OF PART ONE, ADMINISTRATIVE CODE, OF THE CODIFIED ORDINANCES OF THE CITY OF BEREA, TO PROVIDE FOR THE ADDITION OF ONE LIEUTENANT IN THE DIVISION OF FIRE TO WORK A FORTY-HOUR WEEK IN THE DUAL CAPACITY OF FIREFIGHTER AND FIRE PREVENTION**

**OFFICER, AND DECLARING AN EMERGENCY.**

The Clerk read the title of the Ordinance.

Mr. Zacharyasz questioned if this position is simply a replacement for the former role of Assistant Fire Chief. Mayor Kleem explained that, during the debate over whether or not to eliminate the position of Assistant Fire Chief, he had promised the Firefighters that he would revisit the issue of an Assistant Fire Chief once the City was on more solid financial footing. He continued by stating that this position had been offered at that time, but was not supported by the Union representatives. During the systematic review of City departments, however, the recommendation to revisit this issue emerged, and while the person in this Lieutenant position would support the Chief, they would also oversee inspections. Mayor Kleem informed Council that the City is seriously considering commencing annual fire inspections for all businesses in Berea, and that could mean up to 1,000 additional inspections each year. He concluded by stating that should the City move forward with this position, an additional firefighter would be hired to fill the vacated spot in the department.

Mr. Maxwell inquired as to the reasoning behind the decision that this Lieutenant would work a 40 hour week, rather than a Firefighter's standard 53 hour work week. Mrs. Jones informed Mr. Maxwell that a Memorandum of Understanding will have to be signed between the City and the Union, and the position would garner no change in salary, due to the collective bargaining agreement.

Mayor Kleem clarified that this Lieutenant would work a 5 day, 40 hour, work week, because much of the job would entail conducting business inspections. Even though the hours are reduced, the salary will remain consistent. Mrs. Jones added that the Lieutenant will still be eligible for overtime, and will simply be paid a higher hourly rate.

Mr. Zacharyasz inquired as to whether there was any advantage to deeming this position as Lieutenant and not Assistant Fire Chief. Mrs. Jones noted that a Lieutenant will remain in the collective bargaining unit, which could potentially offer additional protections. This Lieutenant will also be prohibited from assisting the Chief on some matters reserved for non-bargaining positions. Finally, this Lieutenant would spend a significant amount of time on building inspections.

Mayor Kleem concluded the discussion by explaining that, should this Ordinance be adopted, the Union will gain a member, and the City will have been given a few extra years in which to re-evaluate the issue and put the proper position in place.

Proposed Ordinance No. 3-2 stands on first reading.

**ORDINANCE NO. 3-3: AN ORDINANCE AUTHORIZING, RATIFYING AND AFFIRMING THE CITY OF BEREA ENTERING INTO A REAL ESTATE PURCHASE AGREEMENT FOR THE PURCHASE OF REAL PROPERTY IDENTIFIED AS PERMANENT PARCEL NUMBER 362-01-012, APPROPRIATING FUNDS THEREFORE, AND DECLARING AN EMERGENCY.**

The Clerk read the title of the Ordinance.

Mr. Maxwell asked if Mr. Walters could elaborate on this property acquisition. Mr. Walters explained that the City was able to come to an agreement with the owner of the property. This agreement allows the owner to maintain ownership of the property until his tenants' leases are up. The title transfer would, therefore, take effect in 2018. The City benefits from this agreement in that the City can purchase the property with several small payment installments over time.

In response to a question from Mr. Maxwell, Mrs. Esson clarified that the property will be purchased over the course of 4 years. \$66,500.00 will be paid the first three years (2015, 2016, and 2017), while 18,600.00 will be paid the final year. The total cost to the City is \$284,600.00.

Mr. Maxwell wondered if the property owner was local, and Mr. Walters answered that the company is out of greater Cleveland.

Mrs. Brown inquired as to whether or not an acceleration clause had been incorporated in to the Agreement. Mr. Walters responded in the affirmative, adding that both the Ordinance and contract exhibit can be amended.

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

**ORDINANCE NO. 3-4: AN ORDINANCE DESIGNATING CERTAIN FINANCIAL INSTITUTIONS AS DEPOSITORIES FOR ACTIVE, INTERIM AND INACTIVE FUNDS OF THE CITY OF BEREA FOR THE FIVE (5) YEAR PERIOD COMMENCING MARCH 15, 2015, AUTHORIZING DEPOSITORY AGREEMENTS WITH SAID INSTITUTIONS, AND DECLARING AN EMERGENCY.**

The Clerk read the title of the Ordinance.

Mrs. Kavander informed Council that this is a five year term piece of legislation and, per the O.R.C., the City must have depository agreements. The City includes all of the banks in Berea, as well as STAR Ohio, as possible depositories.

Moved by Mrs. Banaszak, seconded by Mr. Zacharyasz, that a Special Meeting of Council be held on Monday, March 9, 2015 in order to discuss proposed Ordinance No. 3-4, which will be on the agenda for second reading.

Proposed Ordinance No. 3-4 stands on first reading.

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

President Brown had no report.

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

Mr. Malott had no report.

Mr. Maxwell had no report.

Mr. Zacharyasz congratulated longtime Berea resident and friend, Jack Draves, on becoming Strongsville's new Fire Chief.

Mrs. Banaszak announced that the Berea Baseball Association has opened their summer league registrations for both baseball and softball. Registration can be done at bbabaseball.com, or every Saturday in March at the Berea Recreation Department. She added that March 28, 2015 will be the annual reversal raffle fundraiser at the Fairgrounds. Doors open at 6:30p.m.

Mr. Haschka had no report.

Mrs. Key was not present.

Mr. Lange was not present.

**CORRESPONDENCE**

The February 13, 2015 – February 26, 2015 Correspondence is available in the Clerk’s office.

**OTHER BUSINESS:**

Mrs. Esson asked Council to fill out their Financial Disclosure forms, and reminded Council about the Education Foundation Auction on March 12, 2015.

Moved by Mr. Haschka, seconded by Mrs. Banaszak, that the March 9, 2015 Council Work Session be cancelled. Vote on the motion was all ayes and no nays. The motion passed.

There being no further business before Council, moved by Mr. Haschka, seconded by Mrs. Banaszak, that the Regular Council Meeting be adjourned. Vote on the motion was all ayes and no nays. The motion passed and President Brown declared the meeting adjourned at 8:29p.m.

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Mary K. Brown  
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 2<sup>nd</sup> day of March, 2015, 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