

## **CITY OF BEREA, OHIO**

### **MINUTES OF A COUNCIL WORK SESSION MAY 23, 2016 – 7:30p.m.**

A Work Session of Berea City Council was held in the Council Chamber on May 23, 2016 and was called to order at 7:30p.m. by President of Council Mary K. Brown with the following members present: Cheryl A. Banaszak, Bill DeVito, Nick Haschka, Margarete S. Key, Jim Maxwell, Rick Skoczen and Gene Zacharyasz. Also present were Mayor Cyril M. Kleem, Director of Planning, Engineering and Zoning Matt Madzy and City Engineer Tony Armagno.

All who were able rose for the Pledge of Allegiance.

This meeting was open to the public in accordance with all legal requirements including C.O. Section 109 and Section 121.22 of the Ohio Revised Code.

#### **COORDINATING COMMITTEE**

**Chair: President Mary K. Brown; Members: All of Council**

Mrs. Brown called the meeting of the Coordinating Committee to order at 7:31p.m. She stated that the purpose of this meeting was to first hear a presentation regarding proposed angled parking on East Bridge Street, and then discuss the amendments proposed by the 2016 Charter Review Commission. Ordinances 5-10, 5-11, 5-12, 5-13 and 5-14 would all be open for debate and consideration.

#### **ENGINEERING DEPARTMENT PRESENTATION: ANGLED PARKING ON EAST BRIDGE STREET**

Mrs. Brown introduced Mr. Armagno, who was present to discuss a proposal that would create angled parking on East Bridge Street.

Mr. Armagno informed Council that a portion of East Bridge Street is being resurfaced as part of the 2016 Road Program, and this offers the City an opportunity to make any necessary improvements, whether they are in regards to traffic flow, parking, vehicular and pedestrian safety, or various other issues. There are, currently, two lanes of one-way eastbound traffic from South Rocky River Drive to Seminary Street, as well as 12 parallel parking spaces. After reviewing parking statistics and accident reports in this area, speaking with local business owners and exploring different possible improvements, Mr. Armagno announced that the administration is proposing converting the southern-most lane of traffic in to angled parking spaces, thus creating one lane of eastbound traffic from South Rocky River Drive to Seminary Street. This improvement would include a curb extension by South Rocky River Drive which would protect the first few parking spaces and force motorists to align in a single lane for passage through this area. Both traffic and pedestrian signage would be updated, and a drop-off zone for business deliveries would be established in front of McKelevey Park.

Mr. Armagno next turned Council's attention to the benefits of this proposal. He explained that this plan would create a total of 28 parking spaces in an area where only 12 currently exist. The number of handicapped spaces would increase from 1 to 2, which is ADA compliant. The proposal would also have a traffic calming effect, as two lanes of traffic will be minimized down to one lane, which will inevitably dictate a decrease in speed through this smaller section of

roadway. Motorists would, in addition, be required to merge in to the proper lane in a more efficient manner.

Mr. Armagno added that local businesses approve of this proposal because a safe and properly signed delivery drop-off area will be designated, and patrons will have more parking options.

Should the administration decide to move forward with this proposal, work will commence after the 4<sup>th</sup> of July Parade and conclude around the Berea Arts Fest. He emphasized that this area will be accessible during the Arts Fest, even if the project is not completely finished. He acknowledged that notice of the change would go out to all business owners in the area, and also be published in the City Newsletter. Signage informing motorists of the new traffic pattern and alignment is also required to be posted, and will remain a bit longer than normal to ensure everyone is aware of the change.

Mr. Haschka expressed a few concerns, the most salient being the difficulty to back out of angled parking spaces and his fear that those exiting Huntington's back lot would not be watching for cars moving out of parking spaces, thus increasing the chance of accidents in this area. He was also skeptical that delivery trucks could fit in the designated drop-off area in front of McKelevey Park.

Mr. Armagno responded by stating that different signage is being considered in order to properly inform motorists to watch for oncoming traffic, as well as parked cars exiting their spaces. He noted that reports have been studied, but very few accidents have occurred in or around the area in question, and while it is, at times, difficult to back out of the angled parking by the Post Office, this situation is different because Seminary Street permits two-way traffic. The portion of East Bridge in question, will not.

Mrs. Brown wondered if East Bridge would have to be closed at any point during the construction, and Mr. Armagno responded in the negative.

Both Mrs. Key and Mr. Maxwell questioned the number of handicapped parking spaces, and Mr. Armagno stated that there is required to be 1 handicapped parking space for every 25 parking spaces, and since 28 parking spaces will be created, the administration determined it is appropriate to reserve 2 spaces in this manner.

Mr. Skoczen was concerned about the shortness of the proposed curb extension that is meant to act as a buffer for the first few parking spaces nearest South Rocky River Drive. Mr. Armagno responded that the curb extension is believed to be a suitable size for its purpose, and Mayor Kleem noted that this curb extension would also create a buffer for any outdoor seating area that may, one day, be positioned in front of the former Bucci's property. He added that bumping out the curb does contribute to slowing traffic.

Mr. Maxwell felt it was important to encourage employees of the local businesses not to utilize these spaces, as they should be reserved for business patrons. Mr. Armagno stated that the administration could review parking time limits with the Police Department.

Mrs. Brown thanked Mr. Armagno for his presentation.

## **CHARTER REVIEW COMMISSION PRESENTATION**

Mrs. Brown introduced Assistant Law Director Dean Van Dress, who informed Council that the Charter Review Commission meets every 5 years and is comprised of 9 people, all of whom are appointed by the Mayor. Their duty is to review the Charter and recommend changes to Berea City Council. Members of the 2016 Charter Review Commission include Tony Betts, Susie Colvin, Kevin Jaynes, Sharon Johnson, Ken Mantifel, Terrance Nageotte, Rev. Patrick Hunt, Georgie Rohde and Kim Smith. Ed Gibbs served as advisor to the Commission that met during the months of February, March and April, and presented Council with 6 proposed Charter Amendments, all of which require a 2/3s vote of Council in order to be adopted and subsequently placed on the November ballot. Mr. Van Dress requested that Ordinance No. 5-14 be discussed first.

### **ORDINANCE NO. 5-14: AN ORDINANCE PROVIDING FOR THE SUBMISSION TO THE ELECTORS OF THE CITY OF BERA OF AN AMENDMENT TO THE CHARTER OF THE CITY OF BERA TO EXPAND THE POWER OF THE PLANNING COMMISSION TO ALLOW AREA, USE AND OTHER VARIANCES, AND DECLARING AN EMERGENCY.**

The Clerk read the title of the Ordinance.

Mr. Van Dress advised Council that he neither proposed, nor voted upon, any of the amendments, but noted that this change would limit both Council and the Mayor's ability to resolve issues involving land use.

Mr. Madzy, Chairman of the Municipal Planning Commission, while first acknowledging the intensity of the Charter Review process and the diligent work conducted by this year's Commission Members, also expressed his concern with this proposed amendment. He began by explaining the difference between Area Variances and Use Variances, stating that area variances include a numerical designation and can be approved by the Planning Commission, according to the authority provided in the City's Zoning Code. Use Variances deal with how properties are able to be used, and can not be unilaterally altered by the Planning Commission.

Mr. Madzy reminded the Commission that the Zoning Code differentiates Zoning Districts throughout the City, and every parcel of land falls in to one specific district. Within each district are permitted uses and conditional uses, the latter requiring Planning Commission approval and often including additional restrictions and stipulations. There are also stated uses that are not permitted in certain zoning districts, uses that are not permitted in any zoning district, and uses that are not found in the Code and, therefore, not permitted anywhere within the City limits.

Mr. Madzy continued by explaining that what this amendment would do is allow the Planning Commission to hear applications for Use Variances, and while they are a strong group of individuals and would likely stop any nonsensical use from becoming a reality, Planning Commission decisions are able to be challenged in the Court of Common Pleas, and thus there are, currently, businesses in the City that have not been approved by the Commission but were allowed because of Court rulings. In other words, Mr. Madzy declared, this amendment would make it possible for any use to be allowed in any zoning district.

Mr. Madzy proceeded to identify some examples of situations and incompatible uses that could end up side by side should this amendment be approved. He also advised Council that, if

approved, this amendment would give applicants no incentive to go through the legislative process in order to alter the Zoning Code. Zoning Code text and map amendments would, likely, not undergo the normal, rigorous and time consuming process in which legislation is brought before Council, referred to Planning Commission, discussed in a Public Hearing and then voted upon by Council without the ability to suspend or add an emergency clause. Applicants could, instead, simply request a Use Variance and proceed through the Planning Commission process. Mr. Madzy believed the process was intense because input from the public is critical in these matters. He also felt that Use Variances could be deemed as a sort of spot zoning. For all of these reasons, he conveyed his opposition to the proposed amendment.

Mr. Haschka concurred, declaring that it took years to craft an appropriate Zoning Code, and this amendment would basically nullify the effectiveness of the one that was adopted.

Mr. Maxwell wondered what compelling arguments were made in support of this amendment. Mr. Van Dress responded that property rights were discussed, reminding Council that Charter Review Commission Members were asked to suggest amendments.

Moved by Mr. Maxwell, seconded by Mr. Haschka, that proposed Ordinance No. 5-14 be tabled. Vote on the motion was all ayes and no nays. The motion passed.

**ORDINANCE NO. 5-10: AN ORDINANCE PROVIDING FOR THE SUBMISSION TO THE ELECTORS OF THE CITY OF BEREA OF AN AMENDMENT TO THE CHARTER OF THE CITY OF BEREA TO MODIFY THE PETITION DEADLINE AND NUMBER OF SIGNATURES NEEDED FOR PETITIONS, BY ESTABLISHING ONLY NON-PARTISAN ELECTIONS, AND DECLARING AN EMERGENCY.**

The Clerk read the title of the Ordinance.

Mr. Van Dress explained that this amendment focuses on a uniformity of rules for all candidates. Non-partisan elections would mean a consistent submittal deadline, and this Ordinance also addresses setting a fixed number of petition signatures for both Ward and At-Large candidates. Signatures, however, would no longer need to be collected by voters registered for a specific party. All valid electors would be eligible to sign candidate petitions in non-partisan elections.

Mr. Van Dress stated that only a handful of cities in the County have partisan elections, and Berea is one of them. The most salient benefit of non-partisan elections is that they create a political atmosphere centered on ideas for what is best for the community, instead of party ideology.

Mr. Van Dress noted that while Cities that conduct non-partisan elections have either a primary based system or a run-off procedure, the Charter Review Commission recommended a primary based system for Berea simply because of timing and transition concerns. They felt it was important to establish clear winners in November so a smooth transition could occur at the beginning of January.

General discussion commenced concerning the differences between primary based and run off systems, and the benefits of the former as opposed to the disadvantages of the latter.

Mr. Zacharyasz, while supportive of the concept of non-partisan elections, felt that the candidate petition deadline should be 60, rather than 90, days before the primary election. Mr. Maxwell agreed.

Mr. Zacharyasz also questioned the necessary number of petition signatures, and felt it was a bit too high. Mr. Maxwell disagreed, stating that if someone wants the important job of an elected official, they should have to work for the honor of the position.

Mr. DeVito felt that the Charter Amendment was really wordy and a little confusing, and general discussion commenced concerning how these proposed amendments would be communicated to the general public. Mayor Kleem answered that information is put in the City Newsletter, and has, in the past, also been mailed out to residents. Mr. Van Dress added that the amendments are published in a newspaper of general circulation and posted appropriately.

Mr. Maxwell inquired about the “RESERVED” Sections, and Mr. Van Dress responded that there exists a sequence in the current Charter, and had the section not been marked “RESERVED”, all of the proceeding subsections would have had to be amended and renumbered.

Mr. Maxwell confirmed that the ballot language would, effectively, remove what is currently in the Charter and replace it with the amended portions.

Moved by Mr. Maxwell, seconded by Mrs. Banaszak, that proposed Ordinance No. 5-10 be placed on the June 6, 2016 Regular Council Meeting agenda for second reading. Vote on the motion was all ayes and no nays. The motion passed.

**ORDINANCE NO. 5-11: AN ORDINANCE PROVIDING FOR THE SUBMISSION TO THE ELECTORS OF THE CITY OF BEREA OF AN AMENDMENT TO THE CHARTER OF THE CITY OF BEREA BY CREATING FOUR YEAR TERMS FOR COUNCIL, AND DECLARING AN EMERGENCY.**

The Clerk read the title of the Ordinance.

Mr. Van Dress explained that this amendment would extend the Council term to 4 years, effectively aligning the Council election with the Mayoral election, and removing the cost of an entire election cycle. He noted that while the vote was not unanimous, the Commission focused on the effectiveness of Council Members, their job performance and the desire to allow Council time to focus on their plans and proposals rather than spending so much effort running for re-election. He added that one of the disadvantages debated was the fact that electors will only be able to select their representatives every 4 years, rather than every 2 years.

Mr. Maxwell inquired about the cost of an election, and Mr. Van Dress replied that, depending on how many other issues are on the ballot, the cost could be anywhere from \$25,000 to \$60,000.

General discussion and consent occurred, as all of Council seemed supportive of this amendment.

Moved by Mr. Maxwell, seconded by Mr. Skoczen, that proposed Ordinance No. 5-11 be placed on the June 6, 2016 Regular Council Meeting agenda for second reading. Vote on the motion was all ayes and no nays. The motion passed.

**ORDINANCE NO. 5-12: AN ORDINANCE PROVIDING FOR THE SUBMISSION TO THE ELECTORS OF THE CITY OF BEREA OF AN AMENDMENT TO THE CHARTER OF THE CITY OF BEREA TO MODIFY THE MANNER IN WHICH NOTICE OF MEETINGS MAY BE GIVEN, AND DECLARING AN EMERGENCY.**

The Clerk read the title of Ordinance No. 5-12.

Mr. Van Dress explained that this amendment would allow Council to set forth, by Ordinance, the manner in which they are informed of Special Meetings. The Commission felt that Council should, ultimately, be in charge of their own proceedings, and thus deferred to Council's desired method of notification.

Moved by Mr. Maxwell, seconded by Mr. Zacharyasz, that proposed Ordinance No. 5-12 be placed on the June 6, 2016 Regular Council Meeting agenda for second reading. Vote on the motion was all ayes and no nays. The motion passed.

**ORDINANCE NO. 5-13: AN ORDINANCE PROVIDING FOR THE SUBMISSION TO THE ELECTORS OF THE CITY OF BEREA OF AN AMENDMENT TO THE CHARTER OF THE CITY OF BEREA TO CLARIFY THE USE OF GENDER IN THE CHARTER, AND DECLARING AN EMERGENCY.**

The Clerk read the title of the Ordinance.

Mr. Van Dress referenced the fact that the Charter utilizes the male pronoun "he" throughout its 36 pages. While there is, near the end, an item that discusses this use of gender, some Commission Members felt it prudent to place this section near the front of the Charter, rather than at the end.

General discussion commenced concerning whether or not this change was necessary since an item noting gender usage is already included in the Charter. Mr. Maxwell asked if the designation could be placed in the Editor's Note, so that the change does not have to go on the ballot for the voters to decipher. He, as well as the rest of Council and the Mayor, acknowledged that the voters already have a lot of items to review and amendments to contemplate.

Mr. Zacharyasz asked how much each amendment costs, and Mr. Van Dress noted that each one is, approximately, \$10,000.

Mr. Maxwell thanked all of those who served on the Charter Review Commission, and recognized Mr. Jaynes, who was present in the audience.

Moved by Mr. Maxwell, seconded by Mrs. Banaszak, that proposed Ordinance No. 5-13 be tabled. Vote on the motion was all ayes and no nays. The motion passed.

Seeing no further business before the Coordinating Committee, Mrs. Brown declared the meeting adjourned at 9:16p.m.

**OTHER BUSINESS**

Mrs. Esson reminded Council of the Public Hearing on June 6, 2016 at 7:25p.m.

With no further business before Council, adjournment was moved by Mr. Haschka, and seconded by Mrs. Key. Vote on the motion was all ayes and no nays, and thus the meeting adjourned at 9:17p.m.

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Alycia Esson  
Clerk of Council

CERTIFICATE OF COMPLIANCE

The Work Session of the Council of the City of Berea, Ohio, held on the 23rd day of May, 2016, 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