

MINUTES OF A REGULAR COUNCIL MEETING
February 6, 2023 – 7:30p.m.

Council of the City of Berea, Ohio, met in regular session in the Council Chamber on February 6, 2023 and the meeting was called to order by President of Council Jim Maxwell at 7:30p.m. Present: Mary K. Brown, Erika Coble, Leon R. Dozier, Sr., Chris McManis, Rick Skoczen, Lisa Weaver and Gene Zacharyasz. Also present: Mayor Cyril M. Kleem. Present via Zoom: Director of Public Works Tony Armagno, Director of Law and Public Safety Barb Jones, Director of Finance Andrea Morris, Director of Economic Development Matt Madzy and the City's Zoning Consultant, Jay Stewart.

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. McManis, seconded by Mr. Dozier, that the minutes from the January 9, 2023 Work Session be approved. Vote on the motion was all ayes and no nays. The motion carried.

Moved by Mr. Dozier, seconded by Mr. McManis, that the minutes from the January 17, 2023 Regular Council Meeting be approved. Vote on the motion was all ayes and no nays. The motion carried.

MAYOR'S ADMINISTRATIVE REPORT AND COMMENTS

Mayor Kleem stated that while a couple meetings have been held with regard to the townhouse project, it is time to get back at it even though flow monitoring results have not yet been received and post construction information is not yet available. Nevertheless, it is important for the committee work to proceed, and at some point a developer will likely be back with a new Planned Unit Development (PUD) proposal. The PUD process is beneficial to the City and, ultimately, puts authority in to the hands of Council, but it is also rather complicated, thus he has asked Mr. Madzy and Mr. Stewart to explain the process this evening.

Mr. Stewart began by explaining that a PUD should be a win-win in that it involves a negotiation between the City and the applicant, and affords the latter with the flexibility to go outside of normal regulations to create a project that is beneficial to the City overall. Most projects require variances, but the PUD process streamlines everything in to one, and requires Council approval. There are 3 stages of the PUD process. Stage I is the concept level which goes before Planning Commission. The Commission is not voting on whether they like the project or not, but rather if the applicant has checked all necessary boxes to make sure Code items are included. This phase is intended to get a dialogue started.

Mr. Stewart continued that Stage II is reviewed by Planning Commission and Council, and includes a public hearing before Council, as well. Preliminary plans are reviewed and details such as aesthetics, amenities, open spaces, parking, color controls, and various other things are discussed. To help assist Council and Planning Commission, there is a section of the Code that

deals with review criteria. This is the stage at which Council gets their chance to approve or not approve the project.

Mr. Stewart stated that Stage III is back before Planning Commission, and the Commission is tasked with ensuring that all criteria has been met.

Mrs. Brown asked what the option would be if an applicant didn't want to go through the PUD process, and Mr. Stewart explained that it would be the straight zoning process. The PUD zoning is an overlay district, good for mixed-use development, and a great economic development tool. Mayor Kleem clarified that while zoning can be viewed as standard, a PUD is tailor made and allows for adjustments, gives and takes.

Mr. Stewart emphasized that PUDs make for better developments, but added that Council should not give up anything they are not comfortable forging. The proposal should be reasonable.

Mr. Stewart stated that a sophisticated developer approaching the City with a PUD will likely have had several meetings prior to the Stage I submittal. Once submitted, he recommends the information be shared with Council, simply so that members are kept in the loop.

Mrs. Brown asked if the public should be informed immediately, as well, and Mr. Stewart noted that there are two mandatory public hearings built in to the PUD process, but public input could be encouraged before Stage I, in some cases.

Mr. Madzy noted that as part of the last 3 PUDs the City reviewed, public notice was provided with regard to Stage I, and this is not a requirement. The City has, however, entertained public comment in order to better shape Stage II. Mayor Kleem added that there have been several projects in which the Administration surveyed neighborhoods, sent out letters or held community meetings prior to the introduction of said projects. At times, the public showed its disapproval, and the recommendation was made to developers that they not move forward.

Mr. McManis was curious as to how many PUDs would have to be introduced before the City considered an actual amendment to the Zoning Code. Mr. Madzy stated that most changes are noticed in the regular zoning process and the Code is periodically cleaned-up.

With regard to Ordinance No. 2-4, Mr. Madzy explained that the proposed change is due to a specific project, that being the development of the former St. Mary's School on Front Street. This project did not come as a PUD because the building was already built-out, but it did require a rezone and, at the time, the developer realized that while the three floors of classrooms could be easily converted to living space, the back gym, kitchen and loading dock were a different story. Discussions regarding a mixed-use space were begun, but the Code allows residential on upper floors and retail below. In this case, the residential portion would be on the Front Street side, and mixed-use potential on the other. The Code does not allow for this, thus the definition of mixed-use is proposed to be modified to allow this type of use in the MFR when commercial center is located on all four sides of the property. Commercial uses are also limited to art studios and offices, with an event center being a Conditional Use.

Mr. Madzy emphasized that this is not a pro-active modification, but rather case specific, and, currently, there is only one property in the City that fits the proposed requirements. Mr. Stewart confirmed that both he and Mr. Madzy discussed this change and kept the modifications limited.

Mr. Maxwell asked how this is not considered spot zoning, and Mr. Madzy explained that the property was already rezoned to MFR, and the only change is to the text of what is allowed to occur there.

Mr. McManis asked what the original plan for the back part of the building in question was, and Mr. Madzy stated that it was unknown, and the developer actually came back before Planning Commission and gave an informal presentation about possible potential uses.

Mr. McManis expressed his hesitation at things being altered after the zoning was already changed, and Mr. Madzy noted that the number of dwelling units is the same and this allows a great old building to remain operational in Berea, and begins to expand people's understanding of the downtown area.

REPORT AND COMMENTS BY THE OFFICERS OF THE ADMINISTRATION:

Andrea Morris – Director of Finance:

Mrs. Morris had no report.

Barb Jones – Director of Law & Public Safety:

Mrs. Jones had no report.

Tony Armagno – Director of Public Service:

Mr. Armagno announced that the City is still in the funding range for the OPWC grant for the Adrian, Pattie and Girard reconstruction project. The grant is for \$3.5 million dollars, with an additional \$500,000 loan, and will now be reviewed by the State. Assuming all goes well, the money will become available on July 1, 2023, at which time design and engineering would begin. The schedule will be similar to that of the Barberry project, and likely include 1 year of design and 2 years of construction.

Mr. Armagno continued by explaining that last year the City identified properties that met the criteria for the North End lateral sewer program. 15 houses qualified and the replacement of lines is underway. There has been interest from others, so more work is expected, but it will likely not occur over the winter. The number of replacements so far has been manageable, thus City crews are doing the work in-house.

Mrs. Brown asked if the replacements have produced any results, and Mr. Armagno replied that only a few are completed and most of the repairs were on properties that do not have flooding issues. He continued that there have been no flooding issues in the district since the creation of this program, so it is hard to say if there is any improvement. He concluded that he feels it is simply a piece in the larger puzzle.

Mr. Zacharyasz asked for an update on the new tie-in to the County sewer, and Mr. Armagno stated that MCIP funding became available on January 1, 2023, and negotiations are underway with the engineering firm. The design phase should take between 3 and 4 months, and the plans must go through the Ohio EPA and the sewer district. The earliest construction would begin in the third quarter of this year.

Mr. Skoczen inquired about the water caps and surrounding pavement on Prospect, as residents have expressed concern for their tires. He asked what will be done to address the issue come Spring. Mr. Armagno replied that City crews must be aware of these when plowing, but they do not present a concern for other vehicles or the general public. Repairs will, however, be made in the Spring.

In response to a question from Mrs. Coble, Mrs. Morris stated that residents over 65 who qualify for the homestead exemption from the County can apply for a discount on their water bill. There is an adjusted gross income of \$36,100 that must be met, and residents should contact the Water Billing Department if they are approved. The Department will, however, try to get a list and cross reference it to ensure that no one is overlooked.

Mr. McManis asked about some recent issues at Tower in the Park, and Mr. Armagno stated that he has additional information for him, as does Rebecca Cate in the Mayor's Office.

Marty Compton – Director of Recreation:

Mr. Compton was not present.

COMMENDATIONS: NONE

PETITIONS: NONE

AUDIENCE PARTICIPATION:

Paul Popovich, a resident on Stone Ridge Way, speaking with regard to the proposed annexation of land, asked if the City could rezone the area in question so that lot minimums are 2 acres. He felt this was a compromise he could live with because it would maintain the rural residential feel of the land and save the farms. In addition, because money is the most salient objective in the annexation debate, he asked that the City simply make it not profitable for them to come to Berea.

Mayor Kleem responded that Council already adopted legislation that reduces the number of houses that could be constructed, and noted that Berea can not rezone land in the township. In addition, acting on this suggestion, creative as it may be, could be viewed as retaliatory and the City would very likely be sued and not be victorious.

Mr. McManis noted that this idea was discussed a while ago, as well, and the City is doing the best it can do for the moment.

Kim Hyde asked why native trees, like the Black Walnut, are being banned in the City. Mrs. Coble responded that a resident complained that walnut trees cause debris along the sidewalk

areas, and while most banned species are invasive, this is specifically related to the walnut droppings. Mr. Armagno noted that walnut trees were already on the prohibited tree list, and were reviewed to see if they should be kept on the list. It was determined that they should because the droppings create safety and nuisance concerns.

Ms. Hyde then inquired as to who decides if a tree is blighted and in need of removal. Mr. Armagno responded that the City does not have a licensed arborist on staff, but would contract out for those services.

COUNCIL COMMITTEE REPORTS AND ANNOUNCEMENTS:

Berea Shade Tree Commission – Erika Coble and Gene Zacharyasz

Mrs. Coble asked if Shade Tree meetings are publicized and open to the public and, if so, if there is a better way to advertise these meetings. Mr. Armagno responded that, from a timing standpoint, the meeting announcements are not able to be publicized in the Berea newsletter, but they are open to the public.

Finance Committee – Rick Skoczen, Chair

Mr. Skoczen announced that the Finance Committee will hold a meeting on February 16, 2023 at 7:30pm.

Southwest General Health District Board of Directors – Chris McManis

Mr. McManis stated that the hospital continues to work through financial issues, is focused on recruitment and retention, and is continuing insurance continuance negotiations. He announced that the hospital earned a Top Workplace in the USA award, and that is something that should be celebrated.

LEGISLATION – THIRD READING: NONE

LEGISLATION – SECOND READING:

ORDINANCE NO. 1-3: AN ORDINANCE REPEALING AND REPLACING SECTION 327.06, STREET TREE SPECIES TO BE PLANTED; CERTAIN TREES PROHIBITED, OF CHAPTER 327, TREES AND WEEDS, OF THE CODIFIED ORDINANCES OF THE CITY OF BERA, AND DECLARING AN EMERGENCY.

The Clerk read the title of the Ordinance.

Mrs. Coble asked if a resident could request an exemption if they wanted to plant a prohibited tree on their treelawn, and both Mr. Armagno and Mrs. Jones agreed that no exemption process is permissible.

Proposed Ordinance No. 1-3 stands on second reading.

ORDINANCE NO. 1-4: AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE TO RENEW 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.

Proposed Ordinance No. 1-4 stands on second reading.

LEGISLATION – FIRST READING:

RESOLUTION NO. 2-1: A RESOLUTION CONFIRMING THE APPOINTMENT OF PAULA WANCATA TO THE MUNICIPAL PLANNING COMMISSION TO FILL THE UNEXPIRED TERM OF SUSIE COLVIN, ENDING DECEMBER 31, 2025, AND DECLARING AN EMERGENCY.

The Clerk read the title of the Resolution.

Mayor Kleem explained that there are two vacancies on Planning Commission and he is appointing Paula Wancata and Bob Colvin. Planning Commission terms are 5 years, the group meets twice a month and there is a lot of work involved and no pay. While he does not go out and advertise the positions, he does, from time to time, receive requests from those who wish to be considered for the Commission. When an opening occurs, he goes back to those who have expressed interest to confirm they will commit the time. While he knows his appointees from groups and events around the City, he does not know how they will vote on specific matters, and assesses his appointments by deciding if those with interest are willing to commit the time, are reasonable and good listeners, and if they will study and ask good questions. Mrs. Wancata and Mr. Colvin, he feels, will do these things. Mr. Colvin has asked for years to be included, but as his wife was already a member, Mayor Kleem said he did not want them both on at the same time. Mrs. Wancata, while relatively new to Berea, has become very active and already serves on Shade Tree and the Civil Service Commission.

In response to a question from Mr. Maxwell, Mayor Kleem replied that Mrs. Colvin is leaving on good terms, and her unexpired term will be filled by Mrs. Wancata. Mrs. Wancata will then be able to serve 2 full 5-year terms.

Mrs. Brown and Mr. Dozier agreed that Planning Commission is certainly a commitment, but it prepares those who may be interested in elected positions with insight in to local government.

Moved by Mr. Dozier, seconded by Mrs. Brown, that Resolution No. 2-1 be approved. Vote on the motion was ayes: Brown, Coble, Dozier, McManis, Skoczen, Weaver and Zacharyasz. Nays: None. The motion carried.

RESOLUTION NO. 2-2: A RESOLUTION CONFIRMING THE APPOINTMENT OF ROBERT COLVIN TO THE MUNICIPAL PLANNING COMMISSION FOR A FIVE-YEAR TERM COMMENCING JANUARY 1, 2023, AND DECLARING AN EMERGENCY.

The Clerk read the title of the Resolution.

Moved by Mr. Dozier, seconded by Mrs. Brown, that Resolution No. 2-2 be approved. Vote on the motion was ayes: Brown, Coble, Dozier, McManis, Skoczen, Weaver and Zacharyasz. Nays: None. The motion carried.

ORDINANCE NO. 2-3: AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE TO ENTER INTO A CONTRACT WITH THE CUYAHOGA COUNTY DEPARTMENT OF PUBLIC WORKS TO PROVIDE CERTAIN SERVICES RELATIVE TO THE CITY SEWERS, AS DETERMINED FROM TIME-TO-TIME, TO FURTHER ADVANCE THE CITY'S SANITARY AND STORM SEWER MAINTENANCE PROGRAM, APPROPRIATING THE FUNDS THEREFORE, AND DECLARING AN EMERGENCY.

The Clerk read the title of the Ordinance.

Mr. Armagno explained that this is the seventh renewal of a very successful program that supplements the Service Department's maintenance services for City sewers.

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

ORDINANCE NO. 2-4: AN ORDINANCE AMENDING SECTION 304.06, SPECIFIC STANDARDS FOR EACH CONDITIONAL USE, AND REPEALING AND REPLACING SECTION 203.02, PERMITTED USES, SECTION 200.07, LAND USE MATRIX (TABLE 1), AND CHAPTER 400, DEFINITIONS, OF THE ZONING CODE OF THE CITY OF BEREA TO ALLOW LIMITED COMMERCIAL ACTIVITIES IN A MULTI-FAMILY RESIDENTIAL ZONING DISTRICT AND TO ESTABLISH A MIXED-USE EVENT VENUE IN A MULTI-FAMILY RESIDENTIAL ZONING DISTRICT.

The Clerk read the title of the Ordinance.

Mrs. Brown asked how the City will know if the use is permissible, and Mrs. Jones stated that a person will have to go through the occupancy permit process, at which time zoning is verified. The Building Department will, however, likely be involved even earlier on in the process.

In response to a question from a resident, Mr. Maxwell explained that Zoning Code amendments are not able to include an emergency clause, but noted that the Ordinance is not being voted on this evening. The vote will simply be to refer the legislation to the Planning Commission.

Moved by Mrs. Brown, seconded by Mr. Skoczen, that Ordinance No. 2-4 be referred to the Municipal Planning Commission for review and recommendation. Vote on the motion was all ayes and no nays. The motion carried.

REPORT AND COMMENTS BY THE PRESIDENT OF COUNCIL

Mr. Maxwell announced that a purchase order has been issued for the Chamber's audio upgrade, and with the leadership of Mr. McManis, the Court has agreed to pay for it out of their Court Construction Fund. The cost is approximately \$17,350.

REPORTS AND COMMENTS BY THE MEMBERS OF COUNCIL

Mrs. Brown asked if the City has an emergency plan in place in the event of a train derailment like the one that occurred in East Palestine. She also asked that everyone keep the people of Turkey and Syria in mind following the recent devastating earthquake.

Mrs. Jones stated that the Fire Department has specialized training in the event that a train derailment occurs, and added that the City can not regulate what materials are transported on the railways because of federal interstate commerce laws.

Mrs. Coble stated that she helped organize a meeting with the watershed representatives that was held at the library and well attended. A problem was uncovered in Ward 4 and plans are underway to fix the issue, which shows what can happen when people work together.

Mrs. Coble announced that there will be a meeting with Baldwin Wallace Residence Life on Wednesday at 11:15am in the Union, and all are welcome to join.

Mr. Dozier announced that there will be a Doctor discussing wellness tips at Mt. Zion Baptist Church on Saturday, February 25, 2023 from 10:30am to noon. All are welcome to attend.

Mr. McManis asked that motorists be mindful of the speed limit along Nobottom and Barrett as it changes at the Township line.

Mr. Skoczen had no report.

Mrs. Weaver had no report.

Mr. Zacharyasz had no report.

CORRESPONDENCE

The January 12, 2022 – February 1, 2023 Correspondence is available in the Clerk's office.

OTHER BUSINESS:

Mrs. Esson wished Eleanor Long a very Happy 99th Birthday, and announced that William Warren, the youngest student to ever enroll at Baldwin Wallace, will attend the March 6, 2023 Council Meeting to receive a commendation. She also reminded everyone to file their financial disclosure.

Moved by Mrs. Brown, seconded by Mr. Dozier, that the February 13, 2023 Work Session be cancelled. Vote on the motion was all ayes and no nays. The motion carried.

There being no further business before Council, it was moved by Mrs. Brown, 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 Maxwell declared the meeting adjourned at 9:24p.m.

Jim Maxwell
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 6th day of February, 2023, was conducted in compliance with Codified Ordinances Section 109 and Ohio Revised Code Section 121.22.

Alycia Esson
Clerk of Council