

**MINUTES OF A SPECIAL COUNCIL MEETING**  
**June 26, 2023 – 6:00p.m.**

Council of the City of Berea, Ohio, met in special session in the Council Chamber on June 26, 2023 and the meeting was called to order by President of Council Jim Maxwell at 6:00p.m. Present: Mary K. Brown, Erika Coble, Leon Dozier, Chris McManis, Rick Skoczen, Lisa Weaver and Gene Zacharyasz. Also present: Mayor Cyril M. Kleem. Present via Zoom: Director of Public Works Tony Armagno and Director of Law and Public Safety Barb Jones.

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.

**LEGISLATION – FIRST READING:**

**ORDINANCE NO. 6-3: AN ORDINANCE OBJECTING TO THE ANNEXATION OF 72.5520 ACRES OF LAND TO THE CITY OF BEREA, ADDRESSING THE NON-PROVISION OF SERVICES TO THE PROPOSED TERRITORY TO BE ANNEXED, ADDRESSING THE ISSUE OF INCOMPATIBILITY OF USES OF THE PROPOSED TERRITORY TO BE ANNEXED UNDER THE CITY OF BEREA AND OLMSTED TOWNSHIP ZONING REGULATIONS, AND DECLARING AN EMERGENCY.**

The Clerk read the title of the Ordinance.

Mr. Maxwell explained that this Ordinance is before Council because the property owners, through their agent, filed an Expedited Type 2 Annexation petition on June 16, 2023. Ohio Revised Code mandates that a statement of services be adopted by this Council within 20 days of receipt of the petition, and consent or objection be provided within 25 days. Ordinance No. 6-3 has been drafted in the negative which means, should it be adopted, the City will not provide services and will object to the annexation. This Special meeting is being held in order to discuss the Ordinance and adopt it or amend it, if deemed necessary. Mr. Maxwell added that, due to the State's overly aggressive timeline, he hopes something will be adopted this evening, if possible, regardless of which direction Council chooses to go.

Mr. Maxwell reminded the audience that this annexation petition was brought to the City and not solicited *by* the City, and this Council has very few avenues by which to challenge or object to the proposal.

Mr. Zacharyasz began by stating that he was very excited when the prospect of annexation emerged, however, the sewer issue causes him great concern and he simply can't support the proposal with the current state of the infrastructure. He will not gamble with peoples' houses.

Mr. Skoczen explained that it was the 2011 City-wide flood that caused him to run for office, thus the fact that 6 of the 15 sewer connections are not to Code causes him immense concern. The traffic impact study also revealed existing issues and possible remedies, but many of the recommendations are not even possible given the structure, Metropark land, train tracks and river. A new development would, therefore, simply compound existing issues.

Mrs. Brown noted that she lives on Nobottom and witnesses traffic issues and delays on a daily basis. Adding another 100 cars a day will only increase the frustration of those living in the area. The prospect of new single-family houses, while exciting, must be weighed against the sewer and traffic challenges that already exist and will only get worse.

Mr. McManis stated that while he is a big promoter of development, one of the issues that caused him to run for office was the congestion at Bagley, Barrett and Nobottom. He can't support something that will make that situation even worse.

Mrs. Coble added that she is opposed to the annexation for the sake of current, as well as future, residents of the City.

Todd Hunt, the City's legal representative, was present this evening. He emphasized that under the Ohio Revised Code, Council has complete discretion as to whether or not to approve an annexation.

Mayor Kleem advised Council that, the way the Ordinance was drafted, those who want to oppose annexation should vote in the affirmative. He simply wanted this clarified, for the record.

Thomas Ritzert, the lawyer for the developer, who is the Hollo Family's agent, was present this evening. He explained that the only issue before Council this evening is whether or not the land should be annexed. There is, currently, no development plan, and while he understands there are issues with the sewers and traffic, the developers are willing to continue discussing potential remedies, and have been more than willing to provide requested information and studies thus far.

He continued that while he respects Mr. Hunt, from his perspective the Ohio Revised Code provides a set of factors that can be considered when discussing annexation, and these are the services provided to the annexed property, as well as the road maintenance issues. With regard to the former issue, the provision of services, the Ohio Revised Code requires a declaration of what services will be provided. Saying no services will be provided is not a legitimate basis for objection. Council can, through adoption of an Ordinance, declare that no services will be provided, but that is a separate box that still needs to be checked.

With respect to the road issue, Lewis Road is a County road, and this Ordinance does not specify which roads are of concern. This could, therefore, be subject to a challenge in Court. He suggested that Council amend this Ordinance by substitution and merely address the provision of services.

Mr. Maxwell emphasized that the only issue before Council this evening is whether or not to approve of the annexation.

Mr. Hunt referenced relevant case law, noting that the County Council has to make a decision as to whether or not to approve of the annexation, and they will do so. Council's vote this evening is not the end of this issue, but should the County Council approve of the annexation, the issue will, once again, return to the municipality for approval. It is a long process.

Dan Neff, the engineer and surveyor for the property owner and developer, stated that he has had many discussions with Mr. Armagno on ways to assist with the improvement of infrastructure. The velocities are present, and there seem to be only 2 segments that could be problematic, based on water consumption.

Mr. Maxwell noted that the \$1,000 assessment per house was a nice option and idea, and Mrs. Brown inquired about 100 year rains and the need for larger lines. Mr. Neff responded that the storm sewer needs to be out of the sanitary sewer because there is too much infiltration during storm events. The idea of a 1 to 100 year event is all about probability. When there is more water coming in, there is a higher volume of water, and a surcharge to the system allows water to be pushed through.

Mr. Maxwell stated that while public comment is not required at Special Meetings, he will allow some time if members in the audience wish to speak. He asked all in attendance to remember that two lengthy meetings have been held to discuss this annexation, and Council has received a plethora of calls and emails, in addition to the petition received today. If there are comments, thoughts or issues that have not been expressed, Mr. Maxwell encouraged people to share them. If the comments are merely a reiteration of what has been expressed, or what Council Members have stated this evening, he cautioned restraint.

Jenny Cholley, a resident on Falling Rock Way, asked what will happen if this annexation is denied by the County Council. Mr. Hunt responded that the statute is clear that no appeal is allowed, thus the issue will be concluded.

Paul Anzalone, a former member of the Administration, cautioned that this annexation was reviewed while he was the Director of Public Service and he did not support it then, and does not support it now. Approving of the annexation will mean a lot more maintenance and service responsibility, and the Service Department's plate is already full. He encouraged Council to continue working for current residents and serving them well.

Colleen Carter, a resident on Slate Drive, explained that she went door to door, hitting as many houses as she could these last 5 days, and every single person she spoke with was opposed to the annexation. She could easily receive a thousand more signatures on the petition she presented, but she has 300 so far and these are residents of the City that this Council represents.

Lisa Zver, an Olmsted Township Trustee, informed Council that the Board of Trustees in the Township will be, this very week, reviewing and voting on a Resolution opposing this annexation. Mr. Maxwell asked her to forward a copy to Council.

Mr. Maxwell thanked everyone in attendance this evening for being here and heeding his request.

Moved by Mr. Dozier, seconded by Mr. McManis, that the three-reading rule be suspended on Ordinance No. 6-3. Vote on the motion was ayes: Brown, Coble, Dozier, McManis, Skoczen, Weaver and Zacharyasz. Nays: None. The motion carried.

Moved by Mrs. Brown, seconded by Mr. Skoczen, that Ordinance No. 6-3 be adopted. Vote on the motion was ayes: Brown, Coble, Dozier, McManis, Skoczen, Weaver and Zacharyasz. Nays: None. The motion carried.

**OTHER BUSINESS:**

Moved by Mr. Skoczen, seconded by Mr. McManis, that the Special Meeting which was scheduled for June 27, 2023 be cancelled. Vote on the motion was ayes: Brown, Coble, Dozier, McManis, Skoczen, Weaver and Zacharyasz. Nays: None. The motion carried.

There being no further business before Council, it was moved by Mrs. Brown, and seconded by Mr. Dozier, that the Special 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 6:40p.m.

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Jim Maxwell  
President of Council

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Alycia Esson  
Clerk of Council

**CERTIFICATE OF COMPLIANCE**

The special meeting of Council of the City of Berea, Ohio, held on the 26<sup>th</sup> day of June, 2023, 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