

Brookville City Council  
Regular Meeting  
April 4, 2017

The Regular Meeting of the Brookville City Council was called to order by Mayor Seagraves at 7:30 p.m. on April 4, 2017 in the Brookville Council Chambers. The Pledge of Allegiance was recited. Members Apgar, Cantrell, Duncan, Henry, Kirklin and Letner; Fire Chief Fletcher, Finance Director Keaton, Law Director Stephan, and Clerk Wheeler were present. City Manager Burkholder and Police Chief Jerome were absent.

Mayor Seagraves stated the Meeting is being recorded, if anyone needs to speak amongst themselves to please excuse themselves.

Mayor Seagraves reminded the Public Hearing for Ordinance No. 2017-05 will begin at 8:00 p.m. tonight.

Roll Call by Clerk Wheeler.

Motion by Duncan, second by Cantrell to approve the Agenda as presented. All yeas, motion carried.

Motion by Cantrell, second by Kirklin to approve the Regular Council Meeting Minutes of March 21, 2017. Member Apgar abstained, motion carried with six yeas and one abstention.

Mayor Seagraves informed Manager Burkholder is absent tonight. His report has been provided to Council and if anyone has any questions, to please give him a call.

Finance Director Keaton presented the Fund Balance for March 31, 2017 for Council review and approval.

Motion by Duncan, second by Kirklin to accept the Fund Balance as presented. All yeas, motion carried.

Finance Director Keaton informed the new VIP Software was installed on their computers and the server on March 20. She reported they had two days of in-house training on March 21 and 22. The new software is windows based, which is completely different from the old software. She informed Software Solutions, Inc. will continue to work with them on training needs and assistance when needed.

Member Cantrell stated the new reports are so much easier to read and makes so much more sense.

Finance Director Keaton reported in March, she submitted two Montgomery County Solid Waste Recycling Incentive Grants. The first grant would be to purchase eight City of Brookville signs that will be placed in the right-of-way on various streets when entering Brookville and one Ward Park sign. She informed the signs are made of recycled materials with a 20 plus year outdoor life expectancy. The total project cost is \$18,072 with the City requesting \$12,650 in grant funds and the City contributing \$5,422, which is 30% of the total project cost. She stated Envirosigns, is the company she has located for these signs and they are located in Marshallville, Ohio.

Finance Director Keaton informed the second grant is for purchasing recycling promotional items such as mini recycling toters, recycled material blue stadium cups and 100% recycled shopping totes. She reported the total project cost is \$10,377 with the City requesting \$7,264 in grant funds and the City contributing \$3,113, which is 30% of the total project cost. Finance Director Keaton informed the the Montgomery County Solid Waste Management Policy Committee will award the contracts later this month and we should be notified later this month or early May.

Finance Director Keaton informed the Vandalia Income Tax Department assisted 53 taxpayers on Friday, March 31 and 30 on Saturday, April 1 with their local tax returns in our City Building. She informed this was an increase of 25 taxpayers compared to last year. She reminded the filing deadline for filing local income tax returns is Tuesday, April 18, 2017.

Fire Chief Fletcher presented the March Operations Report. He stated it again reflects very busy activity for the Fire Department. He reported fire activity was up. He stated he and the Police Chief will have some more information in the days to come, but three of the fire responses were related to set fires. He informed through some excellent work, as a result of our Detective, an arrest has been made in those set fires and hopefully more information will be released soon. Chief Fletcher stated that if anyone sees something that doesn't make sense or someone looks to not belong, please report it to the Police Department. If you see something, say something. He stated that is what our Officers are on patrol and ready to do. He stated through good information gathering and detective work and before that situation got too far out of hand, an arrest was made. Chief Fletcher stated hats off to Detective Swigart on this particular case.

Fire Chief Fletcher reported fires are still down within our jurisdiction but his Department has helped our neighbors recently with about four different fires.

Fire Chief Fletcher informed an assignment the Department Heads have been working on is their Capital Improvement Plans. He stated they have a draft deadline of mid-April and he has completed his draft early and the City Manager asked him to present it to Council. The draft plans reflects anticipated capital improvement expenditures for the Fire Department that relate to apparatus, major equipment and facility expenditures as anticipated over the next five years. He informed none of it is set in stone, but it helps with what can be anticipated for by where things are now and where we expect them to be. He informed one thing that has been done, that has not been done in the past, but is certainly important, is to identify a schedule that puts us in the ball park of anticipation that certain equipment is expected to last a certain amount of time. He stated one of the biggest advantages we have is that we have a very aggressive maintenance program and a mechanic dedicated to fleet maintenance. He stated not every Fire Department can enjoy that, but we certainly do. Chief Fletcher informed the benefit of that is we are able to stretch life on tools and equipment because we have someone who can keep the cost down on repairs and maintenance. He informed that sometimes it can be so expensive to send things out for repair and cheaper to just buy new. He stated if Council has any questions to please let the City Manager know and they will work through them as a Staff but Council should be seeing drafts from the other Department Heads soon.

Mayor Seagraves asked Fire Chief Fletcher to explain under Old Business the reason for the need of a motion to extend the Clay Township Fire Contract on a month-to-month basis.

Fire Chief Fletcher explained at the last Council Meeting, Council authorized the City Manager to extend the Fire Contract with Clay Township which expired March 31, 2017. He informed we are in the process of working through a document that was commissioned by the Clay Township Trustees that took a look at all of Clay Township and a study was done with regard to jurisdictional boundaries and where those suggested boundaries should fall. There was a recommendation for some changes. He informed we have met with all Departments involved and the Trustees. The Trustees are taking the necessary steps forward to implement those changes, but it would certainly not make sense for us to enter into a contract that would then need to be re-opened 30 or 60 days later as it would be affected by these changes. He informed Clay Township needs a short amount of time to meet with the Councils of Phillipsburg and Verona and once they work out some housekeeping items, we will be back to working on our contract renewal based upon these adjusted jurisdictional boundaries.

Motion by Apgar, second by Kirklin to authorize the City Manager to extend the Clay Township Fire Contract on a month-to-month basis. All yeas, motion carried.

Member Duncan asked what is PPE?

Fire Chief Fletcher informed personal protective equipment.

Mayor Seagraves informed Police Chief Jerome is on vacation but he did provide a report to Council.

Law Director Stephan advised the Market Street Extension Project Bids have been received by Montgomery County TID. Brumbaugh Construction, Inc. is the low bidder on the base bid and the alternates. This bidding process included three alternates. He provided Council with an analysis of the SIB loan and the Brumbaugh bids. He informed Alternate 1 is for the construction of the sidewalk for the extension of Market Street and the cost would be \$75,411. Alternate 2 is the reconstruction of the existing Market Street from Salem Street to the terminus of the existing Market Street with a cost of \$236,712. This would allow us to reconstruct the area and get new curbs, gutters and sidewalks and to improve the appearance and potential for economic development. Alternate 3, as amended, is for the installation of hardscape in the regional detention area that is being established as a part of this project. He informed the remainder of Alternate 3, which was tree planting in the area of the regional detention area, would be deferred and not completed at this time. He stated the cost for this would be \$44,435.

Law Director Stephan stated we would be moving certain excavation work costs that were initially going to be done under the Fire Station Project to the Market Street Extension Project. The net cost to the City of moving this excavation work from the Fire Station Project to this project will be zero.

Law Director Stephan stated it is the recommendation of Steve Stanley with the Montgomery County Transportation Improvement District (MCTID) and the City Staff that we proceed with Alternate 1 and 2, and amended Alternate 3. He stated as the attached analysis demonstrates, the SIB loan of \$1,976,000 is sufficient to pay for the base bid and the proposed alternates.

Law Director Stephan stated we received a very good bid from Brumbaugh Construction for this project and the bid is well below the engineer's estimate.

Law Director Stephan requested City Council approve by motion Alternate Bids 1 and 2, and amended Alternate Bid 3 for the Market Street Extension Project, and to authorize the City Manager to execute all necessary documents to proceed with this Project and the alternate bids.

Member Duncan asked what was the total engineer's estimate?

Law Director Stephan stated on the base bid it was \$1,751,737 and Brumbaugh's bid was \$1,395,492.

Member Cantrell stated at first we weren't sure if we would be able to do the sidewalks but she was hoping we would be able to.

Member Duncan stated that is \$400,000 cheaper.

Law Director Stephan stated it is good news for the project and good news to not only be able to do the new portion of the street but to be able to reconstruct the old portion of the street from Salem Street to its current terminus.

Mayor Seagraves state the old portion needs reconstructed dearly.

Motion by Cantrell, second by Kirklin to approve Alternate Bids 1 and 2 and amended Alternate Bid 3 for the Market Street Extension Project, and to authorize the City Manager to execute all necessary documents. All yeas, motion carried.

Law Director Stephan advised the Ohio Department of Transportation (ODOT) has requested that City Council approve an amended Resolution for the Arlington Road Bridge Project. On October 4, 2016, City Council passed Resolution No. 16-25 which authorized the submittal of an application to Miami Valley Regional Planning Commission (MVRPC) for a grant for lighting on the Arlington Road Bridge. He reported MVRPC did approve the grant in the amount of \$323,600, with a local match by the City of Brookville in the amount of \$138,685.56, which is 70% of the total cost being paid for by MVRPC.

Law Director Stephan informed ODOT is now requesting an amended Resolution that indicates that the lighting will be part of the project, and specifies how the lighting will be funded.

Law Director Stephan requested that City Council dispense with the second and third reading of this Resolution for the reason that ODOT is requesting that this Resolution be returned to their office by April 24, 2017.

Motion by Cantrell, second by Henry to read proposed Resolution No. 17-21. All yeas, motion carried.

Motion by Cantrell, second by Apgar to accept the first reading, dispense with the second and third readings and adopt Resolution No. 17-21 entitled, "A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE OHIO DEPARTMENT OF TRANSPORTATION TO COMPLETE PROGRAMMING ON THE ARLINGTON ROAD BRIDGE PROJECT." All yeas, motion carried.

Law Director Stephan informed Ordinance No. 2017-06 will apply tax increment financing to certain parcels adjacent to the Market Street Extension. Payment received by the City under this Ordinance will be used to assist in the payments for the costs of the Market Street Extension improvements. He informed the Ordinance provides for a 10-year, 75% exemption that will commence when improvements are constructed on the parcel

Law Director Stephan requested Council dispense with the second and third readings of the Ordinance so that the application can be submitted to the Ohio Development Services Agency for approval of this TIF area, and can be promptly made prior to commencement of the Market Street Extension Project.

Law Director Stephan informed he and Manager Burkholder had a Meeting with School Superintendent, Mr. Hopkins, the school treasurer and the assistant school treasurer and discussed thoroughly with them why we were doing this, and that we were moving forward with the TIF Ordinance.

Motion by Cantrell, second by Kirklin to read proposed Ordinance 2017-06. All yeas, motion carried.

Motion by Duncan, second by Apgar to accept the first reading, dispense with the second and third readings and adopt proposed Ordinance No. 2017-06 entitled, "AN ORDINANCE DECLARING THE IMPROVEMENT OF CERTAIN PARCELS OF REAL PROPERTY TO BE A PUBLIC PURPOSE AND EXEMPT FROM TAXATION, ESTABLISHING A TAX INCREMENT EQUIVALENT FUND, SPECIFYING THE PUBLIC INFRASTRUCTURE IMPROVEMENTS DIRECTLY BENEFITING THE PARCELS." All yeas, motion carried.

Law Director Stephan advised on tonight's Agenda under Old Business there is a request to table the Council Rules. He stated he is working with the City Manager on the draft set of Council Rules and they will be forthcoming soon.

Motion by Cantrell, second by Kirklin to continue to table the Council Rules. All yeas, motion carried.

Motion by Duncan, second by Apgar to recess at 8:00 p.m. and go into the Public Hearing on proposed Ordinance No. 2017-05. All yeas, motion carried.

Law Director Stephan advised tonight's Public Hearing is to receive public testimony on this Ordinance. He stated proposed Ordinance No. 2017-05 would prohibit Medical Marijuana cultivators, processors and retail dispensaries in the City of Brookville. He informed notice of the hearing was published in the Brookville Star. Law Director Stephan stated under Section 4.11 of the City Charter, it states City of Brookville Public Hearings shall be held on amendments to the text of a Zoning Ordinance. This is a joint Public Hearing with City Council and Planning Commission to hear public testimony on the proposed Ordinance and anyone who wishes to participate in the hearing will need to be sworn in. He stated he will give a brief presentation and then anyone who wishes to speak will have a chance.

Law Director Stephan informed the Ohio Medical Marijuana Law was signed into effect in June 2016 and effective on September 8, 2017, it is codified in Chapter 3796 of the Ohio Revised Code and that establishes the Ohio Medical Marijuana Control Program. He informed Ohio revised Code 3796.29 specifically authorizes the legislative authority of a Municipal Corporation to adopt an Ordinance to prohibit or limit the number of cultivators, processors or retail dispensaries with a Municipal Corporation. He informed the Ordinance tonight would be acting under that Revised Code Section which authorizes us to prohibit these entities within the City. He informed Ohio Revised Code Section 3796.30 prohibits cultivators, processors, retail dispensaries and testing facilities from being within 500 feet of the boundaries of a parcel of a school, church, public library, playground, or public park.

Law Director Stephan advised the Ohio Medical Marijuana Control Program is in the process of developing rules for these various types of entities that are going to participate in the Medical Marijuana Program. He informed the cultivator rules are supposed to be finished on May 6, 2017. The processor and dispensary rules, the testing rules, patient and care-giver rules, and physician certification rules are to be finished on September 8, 2017. The program is to be fully implemented on September 8, 2018. Law Director Stephan stated it is important to note that these rules may be amended and are still being reviewed in Columbus through the program and various state agencies that are also involved. He informed they are still taking public comments, on the issue, so it is still possible for these rules to change in the future. The cultivator rules are being developed by the Ohio Department of Commerce. Level 1 cultivators will operate up to a 25,000 square foot area that is known as a Medical Marijuana Cultivation Area; Level 2 operators will operate a 3,000 square foot Medical Marijuana Cultivation Area. He informed a Medical Marijuana Cultivation Area is an enclosed area in which the medical marijuana is cultivated during the vegetation stage and flowering stage of the cultivation process. He informed up until September 8, 2018 there will be twelve Level 1 Cultivators Licenses, and twelve Level 2 Cultivators Licenses. After that date, the Agency could determine to issue more if there is a need for additional cultivators.

Law Director Stephan advised there are a large number of rules for security, maintenance, and financial responsibility. They do have to post bonds and there are very significant fees for application.

Law Director Stephan informed it was proposed to have 40 processors licensed with no more than 10 licenses in a particular designated territory. After September 8, 2018 additional licenses could be added based upon the need. He stated the processors have extensive requirements for application. They have to have a business plan, security plan, operations plan, quality assurance plan and a financial plan. He informed processors have to post a \$750,000 bond. Their roles in the system is to provide a consistent supply of Medical Marijuana to retail dispensaries.

Law Director Stephan informed the retail dispensary rules are being done by the Board of Pharmacies and as of right now it is being proposed for 60 retail dispensaries. After September 8, 2018 the Board could issue additional licenses if needed. He stated there are an enormous amount of rules for retail dispensaries. All employees and support personnel must be licensed by

the Board of Pharmacies, are required to undergo a criminal background check and a licensing procedure. He informed each dispensary is required to have a Clinical Director. Proposed hours of operation are 7:00 a.m. to 9:00 p.m. and that is the maximum time they can be opened. They have to be open at least 35 hours per week. He stated there has to be at least two employees physically present at the dispensary during operation. They are required to have an alarm and video surveillance systems. There are significant rules limiting their ability for advertising and signage. For example, right now they are saying that external signage cannot be larger than 16 inches in height by 18 inches in width unless it is attached to the building. There are also limitations on their abilities to advertise and print in TV media. He stated there are very specific rules being developed through the various State Agencies.

Law Director Stephan asked for any public testimony.

Law Director Stephan stated if there is no public testimony, the Public Hearing can be closed.

Motion by Duncan, second by Henry to close the Public Hearing on proposed Ordinance 2017-05 at 8:06 p.m. All yeas, motion carried.

Mayor Seagraves reported the Park Cleanup went great, probably the largest turnout ever with probably 45-50 people. He informed it was nice to see so many come out to help, it went very smoothly. He asked Park Board President, Dave Monnin if he had any comments on the Park Cleanup.

Dave Monnin, of the Brookville Park Board, informed the Park Cleanup did go very well and it probably was the best turnout we have ever had. He stated it helped the weather was very nice. He thanked Mayor Seagraves for helping to cook the hotdogs.

Mr. Monnin gave an update on the upcoming Memorial Dedication to be held at Gateway Park. The last Memorial has been put into place for Police, Fire and EMTs. It is a unique sculpture that was put up last Friday in the rain. He informed a few minor details are still being worked out for the event on May 20, but the event is definitely coming together. He informed Fire Chief Fletcher is helping him on a few things. Mr. Monnin stated this event will be a very, very big deal with some dignitaries present from throughout the state. He hoped Council has received their invitations and will be in attendance.

Mayor Seagraves stated Old Business and New Business has already been covered in the reports of Law Director Stephan and Fire Chief Fletcher.

Mayor Seagraves welcomed members in the audience. He stated if anyone would like to speak to please identify themselves with their name and address.

Bruce Garber, of 434 Sycamore Street, stated he was absent at the last Council Meeting. He asked Member Letner if he received an answer to his question on the pressure at Payless?

Member Letner stated he did as far as the pressure they had at hydrant 108 across from Payless. The actual number going into Payless is still being figured out.

Mr. Garber asked if the City is good going into Payless then?

Member Letner stated yes, in his opinion.

Mr. Garber asked if the pump is necessary to achieve that? He asked if the pump runs all of the time?

Member Letner stated the pump runs as needed, on demand.

Mr. Garber asked if there were a fire at Payless, would someone have to go start the pump or open or close a valve?

Member Letner stated he does not want to get involved in that, he is not the engineer that designed or installed it and does not want to speak on those terms.

Mr. Garber stated he is trying to figure out if the pump is even necessary because he knows it costs a lot of money each month.

Member Letner stated that would be a question for the engineer that designed it or the City Manager since he is spearheading the operation.

Motion by Duncan, second by Kirklin to adjourn. All yeas, motion carried.



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Meghan Wheeler, Clerk



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David E. Seagraves, Mayor