

Brookville City Council
Regular Meeting
August 15, 2017

The Regular Meeting of the Brookville City Council was called to order by Mayor Seagraves at 7:30 p.m. on August 15, 2017 in the Brookville Council Chambers. The Pledge of Allegiance was recited. Members Apgar, Cantrell, Duncan, Henry, and Letner; City Manager Burkholder, Fire Chief Fletcher, Police Chief Jerome, Finance Director Keaton, Law Director Stephan and Clerk Wheeler were present. Member Kirklin was absent.

Mayor Seagraves informed Member Kirklin is absent tonight due to business.

Roll Call by Clerk Wheeler.

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

Motion by Duncan, second by Cantrell to approve the Regular Council Meeting Minutes of August 1, 2017. Mayor Seagraves abstained, motion carried with five yeas and one abstention.

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

Gerald Peters, Perry Township Trustee, informed he is here tonight to address City Council and inform them Perry Township will be placing a 1.5 mil additional levy on the upcoming November Ballot for Fire and EMS Services. He stated they feel it is very important to continue the good Fire and EMS Services provided not only to the City of Brookville but the rural areas as well. He requested City Council endorse and/or support their upcoming levy.

Mayor Seagraves asked if this would be the same as what Clay Township is doing. He stated Dave Vore presented for Clay Township recently.

Mr. Peters stated both Clay and Perry Townships will have an upcoming Fire Levy on the ballot. He stated Fire Chief Fletcher and his Department provide excellent services and have an excellent EMS Service.

Mayor Seagraves clarified that the purpose of the levy is for services only and has nothing to do with the new firehouse.

Mr. Peters stated that is correct.

Motion by Cantrell, second by Apgar to endorse the proposed Perry Township 1.5 mil additional levy for Fire and EMS Services. All yeas, motion carried.

Steve Stanley, Director of the Montgomery County Transportation Improvement District, presented a Power Point Presentation on the Market Street Project to give Council a progress report on the project. Copy of presentation attached to Meeting Minutes.

Mayor Seagraves thanked Mr. Stanley for presenting and for his Staff's work on this project.

Manager Burkholder stated Mr. Stanley gave an excellent overview of the Market Street Project. He provided Council Members with a copy of his report. He stated on the back of his report that he provided to Council, he has included some recent photos of the current construction at the new Fire Station, which is moving along as scheduled.

Finance Director Keaton requested Council approval to authorize the City Manager to sign Appendix B to our Full Service Street Lighting Agreement with Miami Valley Lighting. She

informed Appendix B is for special lighting equipment that will be installed on the existing Market Street from Salem Street to AMVETS. There will be four new Phillips Lumec Metroscape fixtures on 14 foot poles. She stated pursuant to the terms of the Full Service Street Lighting Agreement, in the event the City requests lighting not listed in Appendix A to the Agreement, the parties will negotiate independent pricing for these lights. She stated the total monthly costs for these four street lights is \$142.20.

Motion by Cantrell, second by Apgar to authorize the City Manager to sign Appendix B to our Full Service Street Lighting Agreement with Miami Valley Lighting. All yeas, motion carried.

Fire Chief Fletcher presented the July Operations Report. He stated there have been a series of traumatic injuries over the last 10 days. He stated his Department has the most outstanding paramedics that they could hope to have. Chief Fletcher thanked Gerald Peters for his kind words earlier in the Meeting.

Fire Chief Fletcher reported the Fire Hydrant Maintenance Program is in progress. He informed Hyper Reach is being used to notify people in the areas being tested. He informed this is the 5th year the Fire Department has taken an active role in preventative maintenance. Chief Fletcher reported the testing is being done in the evenings, for the first time this year, which has resulted in a lot less complaints from citizens on discolored water.

Fire Chief Fletcher reported progress at the new fire station is going well. He stated the frame work is in place and it is an interesting time to walk through. He invited Council Members if they would like a guided tour to please let him know.

Police Chief Jerome reported the Brookville Police Department handled 484 Reportable Incidents year-to-date, compared to 410 during this same time last year. Chief Jerome reported Citations are down a total of 9 Citations year-to-date, for a total of 321 Citations issued year-to-date. There were 158 traffic stops for July compared to 111 during July 2016.

Police Chief Jerome informed his Department has been busy wrapping up some investigations and he will report more details in the near future, once they are officially closed.

Police Chief Jerome reminded school starts next week. He reminded drivers to please slow down and be careful. He informed the City is working on various cross walks and painting them to be more visible. He reported his Department has met with the school already on a few different items prior to the start of the school year. He stated they are being very proactive and will have a strong presence around the schools including foot patrols to help welcome everyone. He stated he hopes for a successful school year.

Police Chief Jerome presented the Overdose Report for the week of August 7 to August 13, 2017.

Police Chief Jerome stated with reports now being sent out to Council Members earlier, so that they have them on Fridays, the reports will have a few days less information but the Overdose Report always comes out on the Monday before a Council Meeting.

Police Chief Jerome informed that last night he gave testimony on behalf of the Montgomery County Sheriff's Office for their accreditation. He informed when they go through a re-accreditation they ask for people to give testimony in support. He stated they are a well run Agency that deserve accreditation and he gave examples of the things they have done to help our City and how the different aspects of their Department have benefited our City.

Law Director Stephan had no report.

Mayor Seagraves thanked Vice-Mayor Cantrell for filling in for him at the last Council Meeting.

Law Director Stephan had no report.

Mayor Seagraves thanked Vice-Mayor Cantrell for filling in for him at the last Council Meeting.

Motion by Cantrell, second by Henry to recess the Regular Council Meeting for the Public Hearing on proposed Ordinances No. 2017-07 and 2017-08. All yeas, motion carried.

Mayor Seagraves requested the reading of Ordinance No. 2017-07 by Clerk Wheeler.

Ordinance No. 2017-07 entitled, "AN ORDINANCE AMENDING SECTIONS 503.05 THROUGH 503.08 OF THE CODE OF ORDINANCES OF THE CITY OF BROOKVILLE, OHIO TO REGULATE TREES AND SHRUBS IN OR ADJACENT TO THE PUBLIC RIGHT OF WAY."

Law Director Stephan advised this is a Public Hearing for proposed Ordinance No. 2017-07 to regulate trees and shrubs in or adjacent to the public right of way. He informed this Public Hearing was advertised in the Brookville Star. He informed this proposed Ordinance was presented to Planning Commission and it was their recommendation to move forward. He stated this is a joint Public Hearing with Planning Commission and City Council to consider public testimony on the proposed Ordinance. He stated anyone wishing to comment tonight must be sworn in.

Law Director Stephan informed this proposed Ordinance would amend our current Ordinance on trees and shrubs in or adjacent to the right of way. He stated our current Ordinance only addresses trees and shrubs more than 12 feet but the new Ordinance would address any tree or shrub located in or adjacent to the public right of way, provide regulations for trimming if blocking a public sidewalk or alley, and provides a procedure for assessment after formal notice to remove a dead or fallen tree. He informed the current Ordinance prohibits trees between the curbs and sidewalks but there has been an informal policy of allowing certain trees to be planted in the area but now the City has taken the position to not allow any trees to be planted between the curbs and sidewalks.

Law Director Stephan asked if there is anyone who would like to testify?

Member Duncan asked does adjacent to the right of way mean both sides of the sidewalk?

Law Director Stephan informed adjacent was said because if tree branches are low enough that people could be hit when walking down the sidewalk, then the City could notify the owner to trim the branches.

Member Duncan stated in newer developments, people have large utility boxes in there front yards and people like to try to cover them with bushes or flowers. He asked if this will no longer be allowed?

Law Director Stephan informed the discussion from Planning Commission was that flowers would be permitted but not shrubs. He stated that is something that could be modified if Planning Commission and Council would like.

Member Duncan stated the problem with flowers is they are only seasonal and people want to have the utility boxes covered up all year long.

Manager Burkholder stated the utility boxes are not in the right of way.

Member Duncan stated the Ordinance says adjacent to the right of way though.

Manager Burkholder stated this came up because of dead trees between the curbs and sidewalks or dead trees on the other side of the sidewalk in a yard. He asked how do we deal with dead trees that could pose a public safety hazard? He informed after this was recently brought up, Staff revisited the City's current policy. He informed he has also had some complaints about trees that the City has actually planted encroaching the sidewalks, and in the way of line of sight. He stated the intent of this is not to limit the planting of flowers but to focus on dead or fallen trees and shrubs.

Member Duncan stated if it says adjacent, someone could come back later and say flowers around a utility box is adjacent to the right of way. He asked if there is some way to differentiate?

Law Director Stephan stated we are only prohibiting the planting of trees and shrubs from the sidewalk to the curb, if a box is behind a sidewalk you can have landscaping around it. He stated this Ordinance does not prevent landscaping behind a sidewalk.

Law Director Stephan swore in members of the audience who would like to speak during the Public Hearing.

Kim Duncan, stated she resides at 333 Maple Street and she has been sworn in. Ms. Duncan informed she lives on Maple Street where there are a ton of trees and trees can be a nuisance, with all of the leaves but she hopes Council will not take away the trees. She informed if you drive to the City of Oakwood or Kettering, you will see all of the trees in their right-of-ways. She stated she understands trees can be a nuisance and can require a lot of maintenance, but she loves the trees, and how they bring shade to her home and help it to be much cooler. She informed she recently had another tree planted and the nursery that planted it told her about a program other communities have called the Johnny Appleseed Program where a City will split the cost with a homeowner to plant a new tree in the right of way. She stated she understands that won't necessarily happen in our community but she asked Council to please reconsider prohibiting any trees from being planted in the right of the way. She stated she knows some people do not maintain their trees but could that be something the Zoning Department could enforce? Ms. Duncan stated she gets the shrubs being prohibited because they look tacky in the right of way but the trees look beautiful. She stated we need to consider how we want Brookville to look. She informed if you go to Columbus, they are a very green City and pride themselves on planting trees.

Member Henry stated homeowners don't have to take down their existing trees if in the right-of-way.

Ms. Duncan stated she understands that but if her tree dies, she would like to replace it.

Mayor Seagraves stated he too lives on Maple Street and has had some neighbors comment to him about their concerns of not being able to replace a tree if it dies and are worried of decreased property values. He informed some of the trees along Maple Street are 100 years old. He stated he thinks there is some valid conversations that should take place on the replacement of existing trees. He stated he can see new builds being one thing and he has to be careful with this because he lives on Maples Street but he does understand the citizens' concerns who live there about replacement value on a tree that is down, and only wanting to replace the tree they have lost.

Ms. Duncan stated she had heard that trees add property values.

Law Director Stephan swore in other members of the audience who would like to speak during the Public Hearing.

Bruce Garber, of 434 Sycamore, stated in certain lots there are certain easements for utilities, if the easement on the lot runs from front to back yard does that mean no one can plant on an easement? He asked if this Ordinance apply to utility easements?

Law Director Stephan stated this Ordinance does not address utility easements, only right-of-way between the curb and sidewalk.

Jean Lathrop, of 222 Maple Street, stated she is very against this proposed Ordinance. She stated she understands the purpose but why be a Stepford Community, trees bring character to a community. She stated she would rather walk on a tree lined street than a bare street. She stated every resident knows if they have a tree, they have to maintain it or fix any damages caused by it. Ms. Lathrop informed the City of Englewood also has a policy where they will help to pay for a tree if in the right of way because they want their City to be green. She informed in Oregon, they will fine a homeowner if a tree dies and isn't replaced. She stated she thinks other communities should plant trees to help beautify. She stated some people in our City do not have a yard big enough to plant a tree and their only option is to plant a tree in the right-of-way. Ms. Lathrop stated she is against this Ordinance and thinks we should be green.

Member Cantrell clarified that we always have had this policy in our Ordinance.

Law Director Stephan informed the current Ordinance states trees should not be planted between the curb and sidewalk.

Ms. Lathrop stated it says that in our Ordinance but it has not ever been enforced.

Law Director Stephan stated it has not been enforced. He informed indirectly there was an office policy of a list of trees recommended to property owners but it was not consistent with the Ordinance. He stated the reason we need to work through this is to reach a decision of what our policy is going to be and then get it consistent with the Ordinance.

Member Duncan stated we have violated our own Ordinance. He stated there were trees planted along Arlington Road near the pond. He stated we need to enforce the rules.

Member Apgar stated the Ordinance came up in the 1970's because the trees were going into the water lines. He stated we need to figure a way around the utilities.

Member Cantrell stated we aren't trying to prohibit anyone from planting trees anywhere else in their yards, only the right-of-ways to help prevent damage.

Law Director Stephan informed this was discussed with Planning Commission and Staff to try to get to a consistent decision and policy set.

Mayor Seagraves asked if there would be consideration for replacement? He stated he doesn't see ill will in replacing an existing tree.

Ms. Duncan informed when the water lines were replaced last year on Maple Street, she had a tree damaged from the work done because they dug so deep and exposed the roots for days and the tree will probably only live a few more years.

Member Cantrell stated that is part of the problem with having trees in the right-of-way.

Ms. Duncan stated some homes do not have the frontage that allows enough room to plant a tree.

Member Apgar stated we need to work more on the limitations and maintenance than just not allowing trees to be planted at all. He stated we should consider what kind of trees would be best in the area.

Ms. Lathrop stated Englewood and Oakwood have a list of approved trees that are available online.

Manager Burkholder stated he has worked with other communities that do this and he suggested a permitting process in addition to an approved tree list, to help as a control feature, to help with inspections and to ensure anyone planting a tree comes in and absolutely adheres to the recommended list. Manager Burkholder stated that as Member Apgar previously stated we will have a number of areas that have trees that will need to come down and be replaced and we need to have a policy in force on how we will handle it.

Member Duncan stated new developments would look bare if there are no trees planted. He stated this proposed policy needs to be looked at especially for those who want to plant around utility boxes.

Manager Burkholder stated on newer developments look at the lot size. He informed a lot of developments have a small area between the curb and sidewalk and when a tree is planted in that area, they quickly become out of control. He stated sometimes if the lot sizes can be changed in advanced to have a larger setback it can then accommodate larger trees.

Mayor Seagraves stated the intent tonight was not to take anything away from residents but the need to clarify. He stated we have an Ordinance but if it is going to be enforced, we need to make sure it's proper and fair.

Member Letner stated this needs to go back to Planning Commission to start fresh and then be re-presented.

Member Duncan stated the proposed Ordinance states that trees or shrubs shall not obstruct free passage of a street light. He asked what free passage means?

Law Director Stephan stated that is how it is worded in the existing Ordinance. He stated he would suppose that this would be in case someone had a tree right up against a street light that blocked the light, that would be a problem but that instance hasn't been an enforcement issue for us.

Mayor Seagraves stated Council would like the proposed Ordinance to go back to Planning Commission for review. He reminded the next Planning Commission Meeting is Thursday, August 17 and the Tree Ordinance will be discussed.

Law Director Stephan informed Staff can develop a list of trees that could be used between the curb and sidewalk, then Planning Commission can review and he can prepare a revised Ordinance that would address some of the concerns that have been discussed.

Mayor Seagraves encouraged those that spoke during the Public Hearing to attend the next Planning Commission. He thanked citizens and Council Members for their input. He stated Council is not trying to make things more difficult and appreciates everyone's thought process.

Motion by Cantrell, second by Apgar to close the Public Hearing on proposed Ordinance No.2017-07. All yeas, motion carried.

Motion by Seagraves, second by Cantrell to open the Public Hearing on proposed Ordinance No. 2017-08 entitled, "AN ORDINANCE AMENDING SECTION 1163.03 (b)(26) OF THE CODE OF ORDINANCES OF THE CITY OF BROOKVILLE, OHIO TO REGULATE MOBILE PRODUCE VENDORS." All yeas, motion carried.

Law Director Stephan informed proposed Ordinance 2017-08 amends our Zoning Code to regulate Mobile Produce Vendors. He informed we currently have regulations for Mobile Food Vendors, these regulations would extend to Mobile Produce Vendors. A Mobile Produce Vendor is defined as a person selling vegetables or produce from a temporary structure, wagon, cart or vehicle located on a property within the City of Brookville. The proposed Ordinance would require a person to come to Planning Commission to obtain a Special Use Permit and approval

for the site they plan to sell from. He informed the proposed Ordinance also amends Section 7, that states the regulations do not apply to mobile vendors that supply food or beverages at a charitable event that does not exceed five consecutive days in duration. He stated the current rule just stated five days, so five consecutive days was added. He stated for example, the Farmers Market held by the Chamber on Fridays throughout the summer, by adding the word consecutive, the Chamber will be considered an exception to this so their vendors would not need a Special Use Permit. He stated this proposed Ordinance applies to someone who locates here off and on or for a summer then they would have to come in and obtain a permit to sell their produce.

Mayor Seagraves stated for clarity, the Community Picnic would be an exception also.

Law Director Stephan stated the Community Picnic would be covered by this exception.

Law Director Stephan swore in members of the audience who would like to speak during the Public Hearing.

Justin Powell, of 9422 State Route 722 in Laura, Ohio, stated 15 years ago he started setting up his produce stand in the parking lot of the Brookside Plaza. He informed he was the oldest of seven children and his dad said he was going to teach them how a business works. He described they raised 15 acres of produce and would get up early to pick produce and then come to town on Tuesday's and Saturday's. He informed when he went to college he had to stop the market about four years ago. He stated he moved away, did some traveling and is now back living in Darke County and working for a marketing company. He stated he is here tonight for his little sister, who has decided she would like to run her own Farmer's Market. He presented pictures of his sister running her Farmer's Market this summer and read from a recent Facebook post he shared about his experience watching her this summer run her own market. Mr Powell stated he has lived in big cities all over the place, but Brookville has something special and shouldn't grow up too fast with too many rules.

Law Director Stephan advised this proposed Ordinance would mean vendors would have to apply for a Special Use Permit. He informed they would submit an application and if approved, their permit would be good for a year.

Mr. Powell stated he understands about having a process, but what about in the future when the current Council is no longer here and other people are in charge? He stated this Ordinance is giving others the power to say someone can or cannot set up in Brookville.

Law Director Stephan advised the proposed Ordinance has a very specific set of rules that state if the requirements are met then the application will be approved.

Karen Powell, of 8315 State Route 722, asked what those requirements would be?

Law Director Stephan advised the requirements state Planning Commission would have to approve the specific location, on an approved lot, the vendor has a proper food license if needed, and adequate parking is available. He informed once approved, the application would expire one year from issuance.

Mr. Powell stated all of those requirements are good, but what keeps the Planning Commission from saying there isn't adequate parking?

Law Director Stephan advised if a person believes Planning Commission is acting unfairly, improperly or not following the rules, there are legal remedies. He stated the City is not doing this to discourage anyone from coming and we love having produce vendors here in the City as it is a great service. He stated the City just wants to have a process and a permit to know who is here and would also help if we have a problem with a particular vendor. He stated this is not intended to be a difficult process.

Mr. Powell stated has had an awful lot of problems with other communities that just keep tightening and tightening their rules.

Member Letner stated Planning Commission will look at the applications on a case by case basis and are not going to discriminate against anybody.

Mayor Seagraves informed if there are issues then it would come to Council and it would have to be explained as to exactly why something was not approved. He stated this process is nothing more than a formality and trying to avoid the people that just run in off the highway, in and out and gone, the community does not benefit from that. Mayor Seagraves stated he appreciates Mr. Powell's thoughts but we have to start somewhere and he doesn't see this as any sort of discriminatory process.

Member Apgar stated there is only good intent with creating these regulations.

Ms. Powell thanked the people of Brookville. She stated her family has received an amazing welcome and it has been a very neat experience for her children. She thanked Council for the opportunity.

Member Cantrell stated the goal of this is to continue Mobile Produce Vendors, just to help control.

Stephan Crane, of 847 Flanders Avenue, asked if there would be a fee to obtain a permit?

Law Director Stephan stated he is not sure of the cost at this point, he believes currently a Special Use Permit is \$50.

Allan Myer, of 11991 Temple Road, stated he has lived in Brookville all of his life and has raised fruit since 1974 with a good following of people. He informed he had to let his orchard go but is now growing some fruit in his yard. He informed he has been going to the Brookside Plaza in the fall to sell his produce. He stated Brookville is a great place to live.

Mayor Seagraves stated all they are asking is that he goes through a process and notify the Zoning Officer to fill out an application.

Motion by Apgar, second by Henry to close the Public Hearing on Proposed Ordinance No. 2017-08. All yeas, motion carried.

Motion by Duncan, second by Henry to go back into the Regular Council Session. All yeas, motion carried.

In Old Business,

Manager Burkholder informed Finance Director Keaton has provided some additional information to Council in response to some of the questions raised on the Rumpke Trash Services at the last Meeting and a Rumpke representative is present tonight.

Mayor Seagraves stated he had two residents contact him asking about limb pickup and he advised they would still call the City Office for the next available date for pickup.

Manager Burkholder informed it seems to be the consensus to keep picking up limbs as a service to residents. He informed Rumpke can and will pick up limbs if placed out with trash and meets their four foot requirement but if a resident puts out a bigger stack of limbs the City will still pick up but the current policy of charging after the first ten minutes of work is being reviewed and will possibly be adjusted to ensure we are charging enough to cover the cost of labor and the equipment involved. He stated picking up limbs requires two people on the truck. He stated he

recently received a complaint that people are placing their limbs that need picked up on other private property. He requested anyone in the vicinity of Hill Street not to cut any limbs down and pile them on the school's property. He stated there is a whole row of limbs and trash that have been dumped on the School's property on Hill Street. He stated that is illegal dumping and he would like to try to tighten that up and also better define what the City will and will not pick up.

Mayor Seagraves stated this has happened in the past as well, the issues seems to go in phases and is nothing new. He stated contractors should take their mess with them when cutting down a tree but they don't always do that and we have no choice but to try to enforce this issue. He asked if someone mulches their yard waste, do we still provide lawn bags that residents can buy and return to the trailer by the Service Department?

Manager Burkholder stated that is our intent to continue. He informed he was told today that we can no longer take those bags to the City of Union, as we have been doing because they can no longer handle the limbs and yard waste. He stated we will end up with extra costs to dispose of those bags by having to take to the incinerator. He stated we will still sell the lawn bags in the City Office. Rumpke will help provide flexibility to the City and help us to continue some of our services. He stated the City will keep the newer trash truck because we have a two-year lease left and we could use that for special events or to pick up trash within our parks.

Mayor Seagraves stated he feels a concern was that because Brookville has always done such a great job recycling and then to not continue with the mulching of limbs that would encourage people just to throw them in the trash. He stated but this isn't a new change, the City can't control what everyone does and if someone chooses to not recycle and just throw their yard waste in their trash can, the City would still end up picking it up under the current procedure. He stated the City is not trying to take anything away or deter anything from the citizens, just trying to have a more efficient way of handling trash and to utilize three extra workers.

Mayor Seagraves stated a lot of residents have a mindset of recycling. He informed that the City of Brookville has eaten the cost of recycling for years because it costs the City approximately \$50,000 per year out of the General Fund for the Recycling Program and the City has never asked the citizens to pay anything for it.

Member Duncan stated the Rumpke contract calls for yard waste. He asked why can't Rumpke supply a trailer at the Service Department for yard waste that they would then come pick up instead of us having to haul away?

Kyle Aughe, Rumpke Regional Sales Manager, informed that is something that could be built into the specifications, but was not in our original bid specifications. He stated Rumpke could certainly provide a large roll off container placed at the Service Department, if desired. He informed most communities have strayed away from having separated large waste collections. He stated it is admirable we still have separated collections but after studying the topic, most communities have noticed that the footprint of having three separate trucks running through a town for the amount being picked up didn't make much environmental sense.

Mr. Aughe stated he wanted to clarify that the size for limbs to be picked up are suggested to be a 2x4 bundle but the truck drivers are not going to get out a tape measure and measure them, so if they aren't exactly 2x4 they will still get picked up. He stated Rumpke services Brookville's surrounding communities, Englewood, Trotwood, Vandalia, Union, Harrison Township, and Perry Township. In addition, they have done Brookville's recycling for several years.

Member Duncan asked if there is only one guy running the recyclable truck, what about a trash truck, how many guys are on a trash truck?

Mr. Aughe stated one person on a trash truck, the driver.

Member Duncan asked what if a large couch or another large item is out?

Mr. Aughe informed the driver would handle it or if there is something too large for one person to handle, the driver would make an arrangement with a supervisor for additional help. He stated the item would still be picked up the same day though. He informed Brookville's current days of collection would remain the same and bulk trash would be picked up on the same day as regular trash.

Member Letner asked if toters are only rented or can they be purchased?

Mr. Aughe informed Rumpke prefers to rent toters incase there is any problems with them, the wheels become broken etc. it is easier to just replace the toter for the resident. He informed it helps eliminate debate in the future and the toters are replaced free of charge.

Member Letner asked if Rumpke will pick up Brookville's existing toters?

Mr. Aughe informed yes because Rumpke has already been doing our recycling for year, the drivers are very familiar with streets and current trash cans in Brookville.

Member Cantrell asked if it has to be a toter or could it just be a large trash bag placed out?

Mr. Aughe informed that is fine, residents can used a container of their choice. He stated they do not recommend bags only because of animals but if a bag is out, they will pick it up.

Member Duncan asked how long of a contract with Rumpke?

Manager Burkholder informed there is a three-year contract with an option for a fourth and fifth year at an additional cost or there is a five year contract with a locked in price for five years.

Member Cantrell asked if Rumpke has ever switched anyone from City run trash services to Rumpke and then they chose to go back to being City run?

Mr. Aughe stated no. He informed Brookville is one of very few communities that still do their own trash. He informed Lewisburg is also one of the few and they are currently considering the switch to Rumpke also.

Member Henry stated we would save money by doing the five-year contract.

Member Duncan asked how soon this would this take affect?

Manager Burkholder informed it would begin January 1, 2018.

Mr. Aughe stated services would begin January 1, 2018 and there would be a communication process to begin soon to notify residents in advance.

Member Duncan stated he wants to notify commercial accounts in advance.

Ralph Dove, of 939 Calmer Ernst, asked if we do a five-year contract then it wouldn't it be cheaper in the long run since the rate would be locked in for five years?

Member Cantrell stated since it will save residents money, it would be best to go with the five-year contract.

Motion by Cantrell, second by Henry to allow the City Manager to enter into a five- year contract with Rumpke for trash services beginning January 1, 2018. All yeas, motion carried.

In New Business,

Manager Burkholder informed our Fire Contract with Clay Township to provide Fire and EMS Services has expired and we have been renewing on a month-by-month basis by Council approval until the jurisdictional boundary lines were revised and they have now been worked out. He stated he has spoken with Clay Township Trustees on the contract and they would like to have us on the same contract renewal schedule as Phillipsburg and Verona. We have previously been on a one year contract with Clay Township but in order to be on the same contract renewal schedule as Phillipsburg and Verona, we would be renewing the Fire Contract for three years, which would put us to December 31, 2019. He stated it would be retroactive to January 1, 2017. He informed the three-year contract would be helpful when the Finance Director annually has to put together an Official Statement for the bonds on the firehouse that report our revenue streams and what our contracts are for fire services with both Clay and Perry Townships. He stated a three-year contract shows more financial stability because by contract we have a revenue stream guaranteed for the length of the contract.

Member Cantrell asked if there was anything odd or out of the ordinary in the contract?

Manager Burkholder stated the main thing was the jurisdictional boundaries.

Fire Chief Fletcher informed when the Dispatch Center changed in 2013, he had residents approach him asking if they could be serviced by Brookville instead of Verona or Philipsburg. He stated the boundaries in the contracts are absolutely a Trustee decision. He informed after review and a study being done, it was decided to square up the boundaries. He stated the number one difference for us is we have moved from the US40 boundary line, where lots of incidents take place, to the north. He stated there are no longer roadways split between jurisdictions, entire roads will be in the same area now because all of the Departments have a different dispatch center and it has been a nightmare with sections of roads being in different jurisdictions. He informed in the Wengarlawn Road area, they will now be in our jurisdiction compared to before being in Phillipsburg and instead of having to wait for an ambulance to come from one side of the Township to the other to be reached, an ambulance from Brookville can be there about four to five minutes quicker. He stated for public safety the squaring up of the boundaries was needed. Chief Fletcher informed they do not expect any impact monetarily with these changes. He stated on a fire call, all three jurisdictions would respond anyway.

Member Duncan asked what percentage?

Manager Burkholder informed it is still the 60% to Brookville, 35% Phillipsburg and 5% to Verona. He informed this contract renewal has been going on for the last two years going back and forth to negotiate this. He stated one of things he and Chief Fletcher wanted to see changed two years ago was the jurisdictional lines be cleaned up, which have been done and will help improve the service. He informed the reason the contract was being done month by month is because we were waiting on jurisdictional boundaries and changes. He stated the boundary changes had to go before all three Departments. He stated it has really taken a coming together of all three Departments to make this happen.

Member Apgar asked if the jurisdiction is the only change since the last contract?

Mayor Seagraves stated plus the length of the term.

Fire Chief Fletcher stated the jurisdictions as defined and the length of term are the changes.

Mayor Seagraves reminded the Contract is retroactive back to January 1, 2017 once approved.

Motion by Cantrell, second by Apgar to approve the Clay Township Fire Contract for a three year period from January 1, 2017 to December 31, 2019. All yeas, motion carried.

Motion by Cantrell, second by Henry to read proposed Resolution No. 17-33. All yeas, motion carried.

Member Duncan asked why an emergency?

Law Director Stephan advised for the project to be completed in the fall, we need to have a timely passage of this Resolution to notify residents. He informed this is the same process as used in other street reconstruction areas that provide a property owner notice that requires them to construct a curb or the City will be doing as part of the project and they will be assessed.

Member Duncan stated in the past, Special Meeting have been held with property owners involved in street reconstructions so that they can see the street plans and have input.

Law Director Stephan informed those Special Meetings are typically only done for whole street reconstructions but this situation is on small sections of curbs as part of the street repaving project.

Mayor Seagraves stated it would be nice to get done before winter.

Manager Burkholder informed it was double checked and the same process was done recently for the curbs on Market Street, passed in emergency format. He informed there is a 30-day period for property owners to decide if they would like to do on their own or not and they can contact the City Office with questions or an estimate on what costs will be.

Member Henry asked if there will be a letter of notification sent out to residents on the specified streets?

Manager Burkholder informed yes.

Member Cantrell asked if this is for Crosswell and Vine Streets?

Manager Burkholder stated yes.

Member Letner asked about the work just done on Sycamore Street, how will we assess that work or are we eating the cost?

Manager Burkholder informed we found out there is more bad curb and gutter than anticipated on Vine and Crosswell. It was planned to do the entire project last week but once it was realized how bad the other streets were, Sycamore was already torn up and we couldn't really roll it back. We were able to work with the contractor to push the other streets out 30 days. He stated because of the additional costs on Vine and Crosswell, it was thought to be proper the City not eat the costs of all three street projects. He stated he will be upfront that we did not get that in time and we do not want to hold up the other projects in other areas. He stated that in the future, he would like to get far enough ahead on evaluating streets for street repaving where we have a list of projected streets and have time to do an investigation on the sanitary, the water and the storm sewer. He stated it will take time since we will have to look at the city-wide underground infrastructure and will be a lot of work researching and gathering all of the information. He stated GIS, the Water Study and the Wastewater Study is all a part of it. This to help get the true determination of what is underground and what needs to be repaired.

Member Cantrell asked when the street inventory will be done?

Manager Burkholder stated it should be done in the next month or so. He stated there is so much curb work needed in the City and it would have been nice to do a total curb replacement on Vine and Crosswell, but it would have added an extra \$160,000. He stated the recent street levy would have helped in a situation like this because it would have given extra funding to have working capital to be able to do those types of projects. He stated you can assess the property owners

once the improvement is done, but the City has to have the money up front to pay the contractors and then the residents can either pay at the time of improvements or have added to their taxes. If added to their taxes, then it could take up to five years for the City to recoup their original investment.

Motion by Cantrell, second by Letner to accept the first reading, dispense with the second and third reading, declare an emergency and adopt Resolution No. 17-33 entitled, "A RESOLUTION DECLARING THE NECESSITY OF CONSTRUCTING CERTAIN CURBS AND GUTTERS IN THE CITY OF BROOKVILLE, OHIO, AND DECLARING IT AN EMERGENCY." Member Duncan voted nay, motion carried with five yeas and one nay.

Mayor Seagraves informed there has been a request to allow the Urban Lane neighborhood to hold a block party on Saturday, September 9, 2017 from 5:00 to 8:00 p.m.

Police Chief Jerome informed the neighborhood does this Block Party annually.

Motion by Cantrell, second by Apgar to allow the Urban Lane Block Party on Saturday, September 9, 2017 from 5:00 to 8:00 p.m. All yeas, motion carried.

Mayor Seagraves reminded the next Planning Commission Meeting will be Thursday, August 17 at 7:30 p.m.

Member Cantrell informed Feed Brookville will be starting on September 16 and she is happy to say it has been reported that in the last 8 1/2 years, they have served 21,000 meals. She stated the events are held on Saturdays at 11:30 at the Brookville Board of Education Office.

Dave Monnin, President of the Brookville Park Board, thanked the City Manager and Staff for all of the work they do for the parks. He stated there are always cars sitting in Gateway Park or people enjoying the picnic tables there. He stated our park system is a crucial part to what brings people to our town. He presented a video presentation of the May 20, 2017 Memorial Dedication held at Gateway Park.

Mayor Seagraves thanked President Monnin and the Park Board Members for all of their hard work and all they do.

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

Josiah Kirchofer, of 321 Sycamore Street, stated he wanted to again request hens to be allowed within the City limits. He informed hens can provide citizens and their families with education on where there produce comes from and would be a great opportunity citizens could really enjoy.

Carl Godsey, of 76 Urban Lane, informed there is a detention area behind his back yard that hasn't drained in a year in a half. He stated the mosquitos are so bad he can't even go out in his back yard. He stated there is dumping from Vine Street into the detention area. He stated he has been citizen here a long time and no one would want to live like he it, he cannot go into his backyard because the mosquitos will eat him up.

Manager Burkholder stated Mr. Godsey has come into the City Office and complained and the area is on the list to do, however the Service Department has been dealing with other priorities and have been short on Staff. He stated the City owns the property being discussed, it is a common area along Urban Lane and does have some brush that needs cleaned out. He described it is a concrete channel that has a depression inside that holds water. He informed it has been looked at by the Service Department but it needs to still be determined if another concrete channel needs to be poured.

Mr. Godsey stated it has always held water there and when the plat was put it, they made a mistake by putting in this drain tile.

Mayor Seagraves asked how long he has lived in his home?

Mr. Godsey informed he has lived there since 1993.

Manager Burkholder stated there is a similar problem at the Meadows of Brookville but it is still being determined who owns the land, but these type of problems are a challenge to the City. He agreed with Mr. Godsey that this needs addressed and it is a documented problem for the Service Department to address.

Member Duncan asked if we should look into contracting out?

Manager Burkholder stated the Service Department could probably do the trees but maybe we could look into contracting out the rest. He stated he wants to make sure the problem is fixed right the first time so we really need to find the correct solution. He stated it was probably a design flaw from the beginning.

Member Letner asked what kind of access is there to the area?

Mr. Godsey informed there is an right alley behind it. He stated it has never been cleaned out since it was put in and now it's accumulating and has no place to go.

Mayor Seagraves asked what a fair turnaround time for him would be?

Mr. Godsey stated it has been going on for so long, he just wants it addressed so he can use his backyard.

Mayor Seagraves stated it is City property and it needs to get addressed.

Manager Burkholder suggested having it looked at by an engineer before just going in there with a backhoe and making the problem even worse.

Mayor Seagraves agreed since it probably wasn't put in right in the first place.

Member Cantrell agreed.

Member Letner stated we need to get the vegetation out of there first.

Mr. Godsey stated he thinks if it was cleaned out deep enough it might work for a while.

Mayor Seagraves stated this needs to be addressed soon.

Manager Burkholder stated we will have to have the Staff to start with the brush clearing.

Mayor Seagraves requested for this to be please be addressed.

Bruce Garber, of 434 Sycamore Street, stated he thinks charging family type mobile vendors a fee of \$50 seems like a lot. He stated he understands the need of having a form but \$50 is a lot to charge and would require a lot of corn be sold for the vendor to make that cost up.

Ron Ullery, of 560 West Westbrook Road asked for details on the upcoming Johnsville Brookville Road Project.

Manager Burkholder informed it is a planned project that will begin in fall. He informed it will begin at Brookville Pymont Road up to Westbrook Road to repair some of the soft spots in the

road and it will all be re-paved. The City received some surface transportation funding from the federal program to strictly resurface roads.

Mr. Ullery asked if sidewalks will be included in the project?

Manager Burkholder stated no because we do not have jurisdiction in that area. He informed it was looked into because the City would like to have sidewalks there but because we do not have jurisdiction of the right-of-way we would not be able to assess the work done. He stated it is a heavily traveled area and the needs for sidewalks is a safety issue.

Mr. Ullery stated the area is very hazardous for kids walking to and from school and the library. He thought years ago it was approved with the Township to have access in that area. He stated if the road doesn't belong to us then why are we putting money into without finding a way to have access to the property to put sidewalks in for the people that go to the library and walk to and from school.

Manager Burkholder stated we do not have the authority to put in sidewalks in that area.

Law Director Stephan advised the City boundary line ends at the right-of-way line and where the sidewalks would be constructed is not within City boundaries and if we did the project we would not be permitted by the Revised Code to construct sidewalks outside of our boundary lines and assess the property owners in our City. He stated it will have to be a joint project between us, the County and the Township. He stated he feels the Staff, City Manager and himself all agree this is a good project and should be done. He stated we will have to work with Montgomery County and Perry Township because they are the jurisdictions that will have to mandate the sidewalk be constructed and assess the property owners and this will have to be a mutual project.

Mr. Ullery stated this should be a priority.

Law Director Stephan advised if the design could be worked out, we could potentially acquire the right-of-ways from the property owners at an expense, and then build within the City Limits. He stated when the City originally met with engineers, the problem was the design was to build into the existing right-of-way which belongs to the County not the City.

Mr. Ullery stated that is something the City should look into instead of resurfacing other streets that aren't really necessary. He stated the safety of children is what is important.

Manager Burkholder stated he wanted to clarify after he started here two years ago, that was something he started looking into and even had cost estimates done but then found out we didn't have the jurisdiction. He informed the STP funds received for the repaving of the road are very limited funds that can only be used for certain things. He stated the sidewalks will have to be a separate project. He has been looking into other routes that we can go with this and has found the Safe Routes to School Program. He stated he has spoken with Mr. Hopkins and Mr. Requarth at the school because we need data from the school in order to move forward to help show that we qualify and could then put together a Safe Routes to School Plan to receive grant money for the construction of sidewalks. He stated that area would be the number one area for the need of sidewalks. Manager Burkholder stated he wanted to be clear that the City has been working on this and appreciate the importance of doing this but it isn't as easy as it might seem it would be to add the sidewalks.

Mr. Ullery asked who's property is the fire hydrants on because we have access to those?

Law Director Stephan stated at some point we had a water line installed for the hydrants. He stated we can have a discussion with Perry Township but it will ultimately be a Montgomery County Engineering decision.

Member Cantrell stated Council agrees with Mr. Ullery that there is a need for sidewalks and have thought that since the school was built.

Mayor Seagraves stated it is dangerous for children walking especially in bad weather.

Member Cantrell as what the estimates were to put in sidewalks?

Manager Burkholder informed \$50,000. He stated the cost is not what the hold up was it was the legal authority.

Law Director Stephan stated when this was looked into last time the Montgomery County Engineer's office stated the sidewalks were in their jurisdiction and asked if we had the legal authority to assess the property owners, which we did not. He stated to recoup the cost that will have to come through Montgomery County. He stated we can revisit this project but we will have to have a cooperative agreement with Montgomery County and the cost will most likely be our cost and they probably won't contribute funds.

Mayor Seagraves stated there could be possible funding available though.

Manager Burkholder suggested maybe speaking with the schools to see if they would be willing to contribute any money.

Mr. Ullery stated he appreciates the concern.

Manager Burkholder stated it has been a concern, there are a lot of children that travel that way, that is why the City has been trying to review the options.

Bonnie Cordes, of the Brookville Park Board, asked if the school could produce a crossing guard?

Mayor Seagraves stated the problem is there is no cross walk and no sidewalks.

Ms. Cordes suggested the use of tape.

Mayor Seagraves thanked everyone for coming.

Motion by Cantrell, second by Apgar to adjourn. All yeas, motion carried.



Meghan Wheeler, Clerk



David E. Seagraves, Mayor