

Brookville City Council
Regular Meeting
December 19, 2017

The Regular Meeting of the Brookville City Council was called to order by Mayor Seagraves at 7:30 p.m. on December 19, 2017 in the Brookville Council Chambers. The Pledge of Allegiance was recited. Members Cantrell, Duncan, Henry, and Letner; City Manager Burkholder, Finance Director Keaton, Fire Chief Fletcher, Police Chief Jerome, Law Director Stephan and Clerk Wheeler were present. Members Apgar and Kirklin were absent.

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

Mayor Seagraves informed both Members Apgar and Kirklin are ill this evening and unable to attend.

Roll Call by Clerk Wheeler.

Mayor Seagraves stated on behalf of Staff and Council condolences to Law Director Stephan on the passing this morning of his father, Bill Stephan and also to Council-Elect Curt Schreier on the passing of his father-in-law. He thanked Law Director Stephan for making tonight's Meeting.

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

Motion by Letner, second by Cantrell to approve the Regular Council Meeting Minutes of December 5, 2017.

Mayor Seagraves informed Proclamations have been prepared for each of the three outgoing Council Members. He thanked Members Apgar and Duncan for their many years of service and thanked Member Henry for all she has done in the last two years. He wished them all the best.

Member Duncan thanked his wife and kids for putting up with him during the last 44 years while he served 12 years on the Fire Department and 32 years on City Council. He thanked the past and present people he has worked with and stated they were all good people, supportive and truly cared about this City. He thanked the citizens for giving him the privilege of serving on Council for all these years and if not for the people he would not be here.

Member Henry thanked Council for selecting her two years ago. She stated it has certainly been a learning experience, but she has really enjoyed working with the Staff and her fellow Council Members. She stated that from the bottom of her heart, she wanted to congratulate the newly elected Council Members. She informed the newly elected candidates will come to find out that not everything can be done as easily as one may think. She encouraged them to be excited and that when tough decisions come, to please make sure they make the decision not from a personal agenda but for the betterment of the community.

Member Cantrell stated it has been a pleasure working with Member Duncan over the last 11 years since she has been on Council. She wished him the best in his future. She thanked Member Henry for stepping in two years ago when someone was needed. Member Cantrell stated Member Henry has done a great job and she knows it has been an extremely interesting learning process.

Mayor Seagraves thanked Member Apgar, who could not be here tonight. Mayor Seagraves stated Member Apgar has dedicated a lot of years to this City and it is very appreciated.

Manager Burkholder stated Council has been provided with a copy of his Report and if anyone has any questions to please let him know. He stated that when comments are made in a public forum and are slanderous to Staff or Council Members then he thinks the record should be corrected. Manager Burkholder stated at the previous Council Meeting it was said that this Staff uses engineer's because they do not know what they are doing and previously to him, the Administration never had to use engineer's because they knew what they are doing. He stated those are absolutely false statements and he would like to provide a brief history and an update on the water situation and water projects the City has going on. He stated it is very important for everyone to know that a lot of unanimous decisions have been made by this Council on how we deal with the inadequate flow that we have throughout the City and also the NorthBrook Industrial Park.

Manager Burkholder informed he has done some research. He informed in 2013, prior to the current Administration, the City contracted with Hazen and Sawyer Professional Engineers for \$268,700 to do engineering services for the City. He stated that contract made sense because it was for the improvement at the WWTP which was initiated with this contract in 2013 and completed in 2015. He informed he also asked the Finance Director to run an Audit Trail on checks paid to engineering firms over the last several years. He stated the comment that the City has never used engineers is absolutely false, the City has used engineers for decades to help construct many capital improvement projects because the City does not have their own City Engineer.

Manager Burkholder provided Council Members and Council-Elects with a document of all the work done by engineers over the years including a letter from Woolpert in 1994; a letter from 2001 from the former Brookville City Manager to City of Dayton Water Department expressing concern over the water being received from Dayton to Brookville once the City of Clayton taps in and questioning if it would affect our flow in anyway; documentation that the NorthBrook Industrial Park was borderline for adequate flow in the event of a fire. He informed it has been found that starting in 2007 and for several years in a row, the water flow tests came back with the exact same number of 2,510 gallons, which engineers have said is virtually impossible to get the same readings off of the system under varying conditions. He stated back in 2007, we were marginal at that time and 3,700 gallons was actually the desired number. He stated for years, there had been concerns on our water flow.

Manager Burkholder explained that in 2016, the City was notified of a major problem with the water flow at the Industrial Park. He explained the City was advised the fire tests were no longer coming in at 2,500 gallons, which was the minimum standard. That was when it was realized that we have a major problem and is when a year long investigation began of what is going on including various meetings and tests including digging up Arlington Road where mismatched sizes of pipes were discovered. He informed a Water Modeling Study was done in 2016. He stated the bottom line is that the run up to the NorthBrook Industrial Park is a dead end loop and there is not enough volume. He asked what do you do to correct that problem? He stated the administration highly criticized for spending the money on the Water Modeling Study but had that Study not been done, we would never have found a solution. He informed we needed to install a booster pump as a temporary solution to actually boost the water up to the NorthBrook Industrial Park. He stated that was not a cheap fix but was needed to correct a problem that was critical to the Park and to the operation of those businesses in which the City does have a duty to provide those services. He informed the long term solution was to construct a 200,000 gallon elevated water tank. He informed it was unanimously decided by the current Council Members to construct a 200,000 gallon water tower at the NorthBrook Industrial Park to improve the flow to the businesses and also in the future when the undeveloped land develops. Manager Burkholder explained the Water Tower will be Phase 1 of a three phase project. He explained the second needed phase is the Arlington Road Water Loop, which has actually been talked about for many years and estimates were even obtained because it would increase the volume and flow. He informed with the help of the Finance Director, the City has applied for grants, which we would not have to pay back to help pay for Phase 2 in combination with a 0% loan. He stated Staff will know more information on the grant after the first of the year.

Manager Burkholder informed the third phase will be to construct a water loop under I-70 to help increase the flow even more, which will obviously be a more complicated and expensive project. He informed once the City started working with Montgomery County and they were aware of the situation, our City received last year an \$80,000 CDBG Grant and then this year an additional \$115,000 in funds to add to this critical nature. He stated when the development was done in the area of the NorthBrook Industrial Park, the City borrowed a lot of money, the City has since then paid off some of that money which is good, it made for a great investment but the City still owes \$660,000 at the NorthBrook Industrial Park. If we have a business leave, similar to what happened in 2015, that is a major negative impact to this community. If those businesses aren't there, we have no revenue coming in and we also share our revenue with the school system so they would be out revenue as well but yet, we would still have to be making the payments on the \$660,000 we owe. He stated this has been a long, tough journey but he wanted everyone to know all of the steps on how we have gotten to where we are.

Member Letner asked if the City Manager has formed a response to RTA who is planning to cancel their routes in Brookville?

Manager Burkholder informed he has called RTA and left a message, but has not received a phone call back. He informed he planned to attend their Meeting today but was informed it was not a Public Meeting.

Mayor Seagraves informed a similar situation happened a few years ago with RTA. He stated there are a lot of disabled individuals and workers at Payless and other businesses who depend on that transportation.

Manager Burkholder contacted Erik Collins and Gwen Eberly of the Montgomery County Economic Development Department to express his concerns and they plan to follow up with RTA as well.

Finance Director Keaton requested Council approval to enter into a contract with the Montgomery County Public Defender for 2018. She informed the Agreement is the same as this year with the exception of a 2% rate increase. The rate will be \$170.39 per case and to date we've had two cases.

Member Duncan asked if the way a case is filed means whether or not we use the Prosecutor's Office or not?

Police Chief Jerome explained if it is a fourth degree misdemeanor or above, they file it with the State per the Ohio Revised Code so that we do not have to pay for housing of them or the situation but if a minor misdemeanor is filed and the person is indigent then we end up paying for their defense.

Member Duncan asked if they do usually try to file the higher charge?

Police Chief Jerome stated if they can.

Motion by Duncan, second by Henry to enter into a contract with the Montgomery County Public Defender for 2018 at a 2% increase with a rate for 2018 of \$170.39 per case. All yeas, motion carried.

Finance Director Keaton stated back in 2016, Council authorized Amendment #3 to our Generation Supply Agreement with DPL Energy Resources. She informed at that time, the contract was extended to December 2019 and we took advantage of lower rates. She explained IGS Energy acquired DPL Energy Resources earlier this year and Brian Humphress, Executive Director of the Miami Valley Communications Council, has been working with IGS on getting a lower rate than what is included in our current contract. She informed electricity market rates for current and future use are at this time lower than what the bids we received last year, due to a

relatively mild winter last year and a relatively mild summer this year, both have reduced the expected cost of natural gas, the major source for electricity generation. IGS is willing to provide the consortium with a lower rate, but they want an 18-month extension to do so. Finance Director Keaton provided Council with a spreadsheet that shows the communities that are participating in this consortium, our usage, our current rate, the proposed rate, the annual savings and the approximate savings for the term of the Agreement. She informed the approximate annual savings for the City is \$2,264.78 and the term savings is approximately \$7,329.03. She requested Council authorize the City Manager to sign the amendment to our Generation Supply Agreement that will provide lower rates and extend the Agreement for an additional 18 months.

Manager Burkholder informed this was recently discussed at the Managers Roundtable Meeting and Mr. Humphress did a nice job putting together all of the information for the surrounding cities and this is a positive savings for us.

Motion by Cantrell, second by Duncan to authorize the City Manager to enter into an Agreement with IGS Energy with a lower rate and 18-month extension. All yeas, motion carried.

Finance Director Keaton informed we received Change Order #3 for our OPWC Wastewater Treatment Plant Project that extends the substantial completion date from December 14, 2017 to February 12, 2018 and this was due to the Contractor being held up by equipment manufacturers. She requested Council approval to accept Change Order #3.

Manager Burkholder informed the Change Order is for the rehab of the main lift station at the WWTP, which was a top priority we are now moving forward with.

Motion by Cantrell, second by Henry to approve Change Order #3 for the OPWC Wastewater Treatment Plant Project that extends the substantial completion date from December 14, 2017 to February 12, 2018 due to the Contractor being held up by equipment manufacturers. All yeas, motion carried.

Finance Director Keaton requested Council approval to receipt 90% of the revenue from EMS Billing into the General Fund for operations of the Fire Department and 10% of the revenue from EMS Billing into the Fire Capital Improvement Fund for 2018, the same as in 2017.

Motion by Cantrell, second by Duncan to authorize the Finance Director to receipt 90% of the revenue from EMS Billing into the General Fund for operations of the Fire Department and 10% of the revenue from EMS Billing into the Fire Capital Improvement Fund for 2018, the same as in 2017. All yeas, motion carried.

Finance Director Keaton requested Council approval to set the labor rate for the Service Department Mechanic at \$45 per hour for 2018, for work performed on the City Fleet.

Motion by Cantrell, second by Letner to set the labor rate for the Service Department Mechanic at \$45 per hour for 2018, for work performed on the City Fleet. All yeas, motion carried.

Finance Director Keaton requested Council approval to allow her to issue Super Blanket Purchase Order Certificates in 2018 for recurring monthly and quarterly expenditures.

Motion by Cantrell, second by Duncan to allow Finance Director Keaton to issue Super Blanket Purchase Order Certificates in 2018 for recurring monthly and quarterly expenditures. All yeas, motion carried.

Finance Director Keaton reminded refuse pickup changes to Rumpke beginning January 2, 2018. She informed with January 1 being a holiday, refuse and recycling pickup will be delayed one day for this entire week.

Fire Chief Fletcher had no report. He wished everyone a Merry Christmas.

Police Chief Jerome reported the Brookville Police Department handled 731 Reportable Incidents year-to-date, compared to 647 during this same time last year. Chief Jerome reported Citations were up a total of 73 Citations year-to-date, for a total of 489 Citations issued year-to-date. He reported 177 Traffic Stops year-to-date.

Police Chief Jerome presented the Overdose Report. He informed there hasn't been a death since July. He stated there is still concern but things seem to be leveling out. He reported December is the lowest month for 2017, and they hope to see it continue to decrease.

Police Chief Jerome informed his Department is working on their Annual Report.

Police Chief Jerome informed his Department is finishing up Toys for Tots and the final pickup will be tomorrow. He commended our community and businesses for their generosity. He informed they had more volunteers to adopt families than they had local families. He wished everyone a Merry Christmas.

Law Director Stephan had no report.

Member Duncan asked when it comes to the Charter, isn't it a legal document on how things are supposed to be done within the City and cannot be changed without a vote of the citizens?

Law Director Stephan stated that is correct.

Member Duncan stated after reviewing the Charter he noticed that Council and the City Manager unwilling violated the Charter by approving the severance package recently for the City Manager's Agreement. He stated the charter states the City Manager is allowed four months of severance pay.

Law Director Stephan informed that question has been posed and he has been reviewing it. He stated it is his recommendation that the severance pay be reduced from six months to four months. He stated there are some issues or gray area with interpretation with the Charter and certain areas of the Charter. He stated he feels the appropriate step and safe legal approach would be to reduce the amount of time.

Manager Burkholder stated he supports the reduction in time of severance pay. He consulted with Law Director Stephan as well on the issue and because of the gray area he absolutely supports a motion to reduce the pay from 6 months back to four months.

Motion by Cantrell, second by Letner to reduce the severance pay in the City Manager's Agreement from six months back to four months. Motion carried with three yeas and two nays. Members Duncan and Letner voted no.

Member Letner gave his condolences to Law Director Stephan.

Mayor Seagraves wished Merry Christmas and Happy New Year.

In Old Business,

Motion by Cantrell, second by Duncan to read proposed Resolution No. 17-42. All yeas, motion carried.

Motion by Cantrell, second by Kirklin to accept the third reading and adopt Resolution No. 17-42 entitled, "A RESOLUTION AUTHORIZING THE REQUEST FOR AN ADVANCE OF TAXES COLLECTED IN 2018 FOR TAX YEAR 2017. All yeas, motion carried.

Manager Burkholder informed after the last Council Meeting, City Staff had a Staff Meeting and discussed the pay Resolutions for a 5% increase. Manager Burkholder stated he and the Department Heads request an Amendment to the pay Resolutions so the increase would only be the 3% as originally discussed and the same amount every City employee will receive in line with the Police Contract. He stated the extra 2% would have been a merit increase for the Department Heads. Manager Burkholder stated he would like to clarify a comment made at the last Meeting that wasn't accurate. He stated it seems there is a misconception that other City employees do not get merit and that is simply not true. He informed the other Departments do have step increases established by the City that employees are eligible for based upon employee evaluations. He stated some employees get the 3% plus a step increase based upon their evaluation. He stated the misconception seemed to be that everyone just gets 3% and management was the only ones to receive extra and that isn't true.

Motion by Cantrell, second by Henry to amend Resolution No. 17-45, 17-46, 17-47, 17-48 and 17-49 from a 5% to 3% increase. All yeas, motion carried.

Member Cantrell stated the Fire and Police Chiefs, the City Manager, the Finance Director and the Law Director, those are the ones the extra 2% was intended for and those are who all go above and beyond the call of duty for this City. She informed a merit increase was well deserved. She explained the extra 2% merit increase for the City Manager would have only been \$78 every two weeks; for the Finance Director it would have been \$65 every two weeks; for the Fire and Police Chiefs it would have been \$63 every two weeks; and a small amount for the Law Director as well. She stated the grand total for the annual expense would have been \$7,009, which is money but given the fact that the Finance Director was able to get new software implemented which saves money and time; the City Manager saved the City \$38,000 on the WWTP; the Police Chief who has made sure all of the cruisers now have computers and software in them to increase efficiency; the Fire Chief who has went above and beyond with everything going on with the building of the new firehouse and the Law Director who works day and night for this City those increases were more than appropriate and they deserved an increase. She stated in light of the fact that a lot of people in the community that think Council is spending money for no reason, they are doing away with the 2% increase this and maybe next year things will be a little different. Member Cantrell thanked the Department Heads for all their hard work and all they do for the City.

Motion by Cantrell, second by Duncan to read proposed Resolution Nos. 17-45; 17-46; 17-47; 17-48 and 17-49. All yeas, motion carried.

Motion by Cantrell, second by Henry to accept the second reading of proposed Resolution No. 17-45 entitled, "A RESOLUTION ESTABLISHING THE COMPENSATION OF THE CITY MANAGER." Resolution No. 17-46 entitled, "A RESOLUTION ESTABLISHING THE COMPENSATION OF THE DIRECTOR OF FINANCE." Resolution No. 17-47 entitled, "A RESOLUTION ESTABLISHING THE COMPENSATION OF THE DIRECTOR OF FIRE." Resolution No. 17-48 entitled, "A RESOLUTION ESTABLISHING THE COMPENSATION OF THE DIRECTOR OF POLICE." Resolution No. 17-49 entitled, "A RESOLUTION ESTABLISHING THE COMPENSATION OF THE DIRECTOR OF LAW." All yeas, motion carried.

Motion by Cantrell, second by Duncan to read proposed Resolution No. 17-51. All yeas, motion carried.

Finance Director Keaton requested Council accept the second reading, dispense with the third reading and adopt Resolution No. 17-51. She explained she usually has this Resolution in place by the end of the year to allow money to be spent in the next year, starting January 1, 2018.

Motion by Cantrell, second by Duncan to accept the second reading, dispense with the third reading and adopt Resolution No. 17-51 entitled, "A RESOLUTION TO MAKE APPROPRIATIONS FOR THE CURRENT EXPENSES AND OTHER EXPENDITURES OF THE CITY OF BROOKVILLE, DURING THE FISCAL YEAR ENDING DECEMBER 31, 2018." All yeas, motion carried.

Motion by Cantrell, second by Henry to read proposed Ordinance No. 2017-15. All yeas, motion carried.

Finance Director Keaton informed at the last Council Meeting she provided Council with spreadsheets of information on the Water, Sewer and Refuse Funds. She provided Council with a new spreadsheet containing information on residential consumption, current rate, proposed rate and the difference per quarter in a dollar amount. She also provide similar information for commercial accounts. She informed a number of neighboring communities are also raising their rates as well. She requested Council accept the second readings, dispense with the third readings and adopt Ordinances No. 2017-15, 2017-16 and 1017-17.

Motion by Duncan, second by Cantrell to accept the second reading, dispense with the third reading and adopt Ordinance No. 2017-15 entitled, "AN ORDINANCE AMENDING THE CODE OF ORDINANCES PART 9, TITLE 3, SECTION 931.09 TAPPING PERMIT, SECTION 931.20(a), 931.20(b), 931.20(e)(2) FIXING THE RATES AND CHARGES AND 931.21(c) BILLING; SHUT-OFF FOR NONPAYMENT, RECONNECTION FEE TO ALL WATER CUSTOMERS IN THE CITY OF BROOKVILLE, OHIO." All yeas, motion carried.

Motion by Letner, second by Cantrell to read proposed Ordinance No. 2017-16. All yeas, motion carried.

Motion by Cantrell, second by Henry to accept the second reading, dispense with the third reading and adopt Ordinance No. 2017-16 entitled, "AN ORDINANCE AMENDING THE CODE OF ORDINANCES PART 9, TITLE 3, SECTION 935.13(f) DEFINITIONS, SECTION 935.14(c)(1), SECTION 935.14(j)(2) FIXING THE RATES AND CHARGES TO ALL SEWER CUSTOMERS AND SECTION 935.15 TAP-IN FEES, IN THE CITY OF BROOKVILLE, OHIO." All yeas, motion carried.

Motion by Cantrell, second by Henry to read proposed Ordinance No. 2017-17. All yeas, motion carried.

Motion by Cantrell, second by Letner to accept the second reading, dispense with the third reading and adopt Ordinance No. 2017-17 entitled, "AN ORDINANCE AMENDING THE CODE OF ORDINANCE PART 9, TITLE 5, SECTION 957.06(a) FIXING THE RATES AND CHARGES, AND AMENDING SECTION 957.06(e)(2) TO ALL REFUSE CUSTOMERS SERVICED BY THE CITY OF BROOKVILLE, OHIO, AND TO REPEAL SECTION 957.03(c) AND SECTION 957.06(d)." All yeas, motion carried.

In New Business,

Motion by Duncan, second by Letner to read proposed Resolution No. 17-52. All yeas, motion carried.

Finance Director Keaton advised proposed Resolution No. 17-52 amends the 2017 Estimated Resources and 2017 Appropriations. She explained Section I amends our Certificate of Estimates Resources and she is increasing the General Fund as she found out yesterday that income tax receipts are higher this month than she anticipated. She informed the Street, Water and Sewer Funds on both the revenue and expense side is to account for the Market Street Project. She reported she decreased the revenue in the Park as building rentals have not generated revenue this month and she decreased the Fire Capital Improvement Fund as the reimbursement request for the Safety Grant will not be posted until 2018.

Finance Director Keaton reported Section III is decreasing engineering costs in the Street M&R Fund and Section IV are transfers from one group of appropriations to another group of appropriations within the same Department/Funds.

Motion by Letner, second by Cantrell to accept the first reading, dispense with the second and third readings and adopt Resolution No. 17-52 entitled, "A RESOLUTION AMENDING THE 2017 APPROPRIATIONS, AS SET FORTH BELOW, PURSUANT TO SECTION 5705.40 OF THE OHIO REVISED CODE, AND SECTION 12.35 OF THE OHIO ADMINISTRATIVE CODE AND APPROVING THE AMENDMENT TO THE CERTIFICATE OF ESTIMATED RESOURCES, AS SET FORTH BELOW." All yeas, motion carried.

Motion by Cantrell, second by Letner to allow the Council Name Plates of the outgoing Council members to be given to those Members. Motion carried with 3 yeas and 2 abstentions. Members Duncan and Henry abstained.

Manager Burkholder informed he recently attend the Perry Township Trustee Meeting and most people may know this but Trustee Peters will be retiring, so he wished Trustee Peters well on behalf of the entire City and City Council and thanked him for his service. He informed our Fire/EMS Contract with Perry township expires December 31, 2017. There is a grace period beyond that, he did deliver an updated contract at their Meeting for them to review. He stated he would like to do similar to what we did with Clay Township by approving a month-to-month contract until the official contract is agreed upon, which hopefully will not take too long. He stated he will bring the final contract back to Council for approval.

Fire Chief Fletcher informed he has reviewed the draft so far and feels it is right where it needs to be. He informed they have noticed a small increase in call volume in Perry Township but it is consistent with the increase seen in Clay Township and our City and those numbers will be reflected in his Annual Report.

Motion by Duncan, second by Cantrell to renew the Perry Township Fire and EMS contract on a month-by-month basis. All yeas, motion carried.

Mayor Seagraves informed the Planning Commission Meeting for this week has been cancelled.

Dave Monnin, President of Brookville Park Board, thanked outgoing Council Members for their service. He thanked Bob Apgar for serving as the Park Board Liaison for many years and has been very helpful and is truly dedicated to this City. He stated right now is the best our park systems have looked in the last 30 years since he has been on Park Board. He thanked his fellow Park Board Members for all their work this year. He stated he has a great group of fellow Members to work with. He thanked Council for all their help and wished everyone a Merry Christmas.

Mayor Seagraves welcomed members of 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 as the City Manager rightly stated the City has always used consulting engineering services like Choice One, however he did say the City got rid of Choice One even though they were a highly competent, sought out, well respected firm. He stated he does not know why the City would have gotten rid of them.

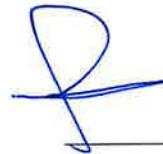
Member Duncan stated the last couple of years have been very trying for the community and Council and people have lost friendships they've had over the turmoil going on. He recently read about someone talking about getting rid of a family member just because they are on Council. He agreed with the City Manager that there are a lot of misconceptions of things going on and what is being said. He stated one misconception being the past Administration didn't do anything but if you look at the City Manager said tonight about what was done back in 2007, you

can see things did get done. He reminded Council that the past Administration included Council Members not just City Staff and Council is supposed to tell Staff what needs to be done, so if things didn't get done over the years, it is Council's fault, not the City Manager's fault. The term Administration means a whole lot of people and he feels people want to blame the past Administration by blaming the former City Manager but that's not fair. He stated John Wright served the City for a lot of years. Member Duncan stated his hope is since it's Christmas, everyone can forgive each other and with new Council Members coming on, he hopes the new Members and the existing Members can come together and bring this community back to the way it should be.

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



Meghan Wheeler, Clerk



David E. Seagraves, Mayor