

Brookville City Council  
Regular Meeting  
March 7, 2017

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

Roll Call by Clerk Wheeler.

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

Vice-Mayor Cantrell welcomed everyone and stated Mayor Seagraves is absent tonight. She reminded everyone the meeting is being recorded and if anyone needs to talk to please step out of the room.

Motion by Apgar, second by Kirklin to approve the Regular Council Meeting Minutes of February 21, 2017. All yeas, motion carried.

Manager Burkholder reported he attended the Ohio City County Management conference in Columbus and also attended the pre-conference session presented by Gordon Graham entitled: The Seven Rules of Admiral Hyman Rickover & The Five Concurrent Themes for Success.

Manager Burkholder informed he attended the Service Department Safety Meeting with a presentation on confined spaces. He stated the Service Department now holds monthly Safety Meetings.

Manager Burkholder reported the IT servers have been delivered and installed and upgrades continue to be phased in.

Manager Burkholder informed he attended the Miami Valley Regional Planning Commission Board Meeting and the Board voted to fund Brookville's Arlington Road Pedestrian Lighting Project.

Manager Burkholder reported he attended the March 6th Clay Township Trustee Meeting and requested a Work Session to discuss our Fire Contract and the recently completed Fire District Analysis Report. Finance Director Sonja Keaton provided the 2016 Brookville Fire Department revenues and expenses plus the fire levy collection report.

Manager Burkholder requested a motion by Council to extend the Clay Township Fire Contract until the end of April. He informed the current Contract expires at the end of March. He explained one of the reasons the contract has not been renewed yet is because Clay Township recently had conducted a Fire District Analysis Report as far as adjusting some of the boundaries covered by Brookville in cooperation with Verona and Phillipsburg so that we can achieve the maximum response times and for safety reasons a few adjustments were needed. He stated the study is done and we have received a copy as well as the other Fire Districts. He would like to see if we can incorporate the recommendations from the Study into our upcoming contract. He informed he sent correspondence about four or five weeks ago to the Trustees advising them he was going to delay approving the Fire Contract until we can take consideration of the recommendations that came from the Fire District Analysis Report. He stated he sent an email out today to Steve Woolf, Trustee President, to request a Work Session with them as soon as their next Meeting in two weeks and has not heard back yet.

Member Duncan asked if Shelter #2 will have a ramp to be handicap accessible?

Manager Burkholder informed there will be a ramp in the front of the Shelter. The front will now be handicap accessible from the parking lot, rather than entering Shelter #2 from the end that you would now, the building will actually be rotated so that it is parallel with the parking lot.

Member Duncan asked if the back of the Shelter will be facing the pond?

Manager Burkholder stated yes.

Motion by Duncan, second by Kirklin to extend the Clay Township Fire Contract to April 30, 2017. All yeas, motion carried.

Finance Director Keaton presented the Fund Balance for February 28, 2017.

Motion by Duncan, second by Apgar to approve the Fund Balance as of February 28, 2017 as presented. All yeas, motion carried.

Finance Director Keaton requested Council authorization to issue two checks this week prior to switching over to the new VIP Software. She informed the invoices just came in this week. She reported the payments would be to Fifth Third Bank in the amount of \$4,043.52 for a legal notice we had to publish in the Dayton Daily News for two weeks and a payment to Miami Valley Lighting in the amount of \$6,590 for the LED light changeout.

Motion by Kirklin, second by Apgar to authorize Finance Director Keaton to issue payments to Fifth Third Bank in the amount of \$4,043.52 for a legal notice we had to publish in the Dayton Daily News for two weeks and a payment to Miami Valley Lighting in the amount of \$6,590 for the LED light changeout. All yeas, motion carried.

Member Letner asked if Miami Valley Lighting is a completed project now?

Finance Director Keaton stated yes, they had three lights to come back to and fix and she recently checked those and they have been completed.

Public Service Director Williamson reported the plumbing and HVAC inspection passed for 269 Foothill Drive. He informed the electrical and framing inspections are scheduled to be done this week and he fully expects those to pass as well, which will then lead to the rest of the interior finishes.

Public Service Director Williamson informed the existing Shelter #2 demolition will begin after the asbestos survey is performed. He stated it was a slight slowdown but we are required to do an asbestos survey prior to taking down the building.

Public Service Director Williamson reported the Emergency Action Plan training/table top exercise is scheduled for Thursday, March 9. This is another requirement by the Ohio EPA to go through this exercise once a year. He stated the training is timely as it will help fulfill the EPA requirement as well as perform the exercise of simulating the contamination of our water system. The training exercise will include himself, about 20 other operators from around the area and Emergency Response Teams from Montgomery and Preble Counties.

Public Service Director Williamson stated the Lead Mapping will be submitted Wednesday, March 8 to the Ohio Department of Health, Job and Family Services, and the Ohio EPA. This mapping identifies areas of potential lead contamination based on the age of construction. He stated just by the survey done in house they believe there are no service lines that are lead but that lead is present in sodder and fixtures because that is how things were constructed back in the day. He informed it was not until 2014 that lead was completely eliminated from both sodder

and fixtures so any water meters, valves anything with brass prior to 2014 had a certain amount of lead in it. This mapping project is a way to help identify those areas that could have a potential contamination. He informed we also do our water sampling that tests for lead and we have always come back well under the regulatory side of things but mapping is just another safeguard the legislation has put in place to help ensure public safety. He reported the testing has always been done every three years but will now be required annually.

Public Service Director Williamson informed at the Wastewater Treatment Plant the Variable Frequency Drive replacement was installed for the influent pump. He reported the engineering drawings for the Ohio Public Works Project are in the design development stage and will be done by later this spring and ready to bid so that construction will be ready to begin by July 1, 2017. He stated we can't start before July 1 because of the grant funds but will be ready to go come July 1.

Public Service Director Williamson reported the Service Department has been street sweeping and the areas recently swept were: Wolf Creek, W. Westbrook, Arlington, Hill, Harshman, Cusick, Hay(partial), Albert (partial), Sycamore, Western, Rock(partial), Church, Brookside, Leisure, Karland, and Upper-Lewisburg Salem (partial). He stated twelve new street signs were installed during the month of February. Most of them were replacements to ensure our compliance with the reflectivity standard. He informed they did put up some new signs to help address nuisances with littering and dog feces, in a few areas of town where there have been some problems. Signs were put up that stated the Ordinance and the penalty in hopes that people will see and adjust their behavior.

Public Service Director informed he held a Service Department Safety Meeting last week on confined space requirements. He informed one item that came up was some additional requirements for personal protective equipment. He informed the Fire Department has some gas monitors that are essential when entering a confined space. He reported the Service Department will be obtaining a gas monitor for their use as well. He stated there are also some harnesses and other safety equipment in his Department that he is looking at to make sure they are not outdated and everything is where it should be.

Public Service Director Williamson reported February :

Solid Waste	150.5 ton
Recycling	30.5 tons
Limbs	15 tons

Public Service Director Williamson wanted to publicly acknowledge his Staff in the Service Department who day in and day out take pride in providing excellent service to our community. He has a group of very hardworking employees and he is very proud to work alongside of them.

Member Cantrell thanked the Service Department also for their hard work.

Member Cantrell asked if there is a date scheduled for the demolition of Shelter #2?

Public Service Director Williamson informed we will be pulling the samples this weeks, it usually takes a few days to have them analyzed and then RAPCA requires a 10 day waiting period once they receive the results before work can begin. He stated hopefully it will be ready in about 2-3 weeks for demolition.

Member Cantrell asked if there is asbestos in the building?

Public Service Director Williamson stated he would be surprised if asbestos was really found in the Shelter.

Member Cantrell asked if we have to have it tested?

Public Service Director Williamson stated yes, it is a regulatory requirement.

Fire Chief Fletcher presented the February Operations Report. He stated February was a very busy month, and a very identical level of service from February 2017 to February 2016. He stated something he has never ever seen before is although January was not an identical month in comparison from last year to this year but through the first two months of the year we have hit the exact same number of incidents as the first two months of last year. He checked his math and found out there were 29 days in February last year. He stated we are right on the same path as last year. Chief Fletcher informed for the second month in a row, we have had zero dollars related to fire loss. He stated he will not be able to report that for next month because we already had one for March. He informed through the winter time it is a little noteworthy only because they usually have a heating appliance of some sort that causes a fire for loss somewhere.

Police Chief Jerome reported the Brookville Police Department handled 128 Reportable Incidents year-to-date, compared to 112 during this same time last year. Police Chief Jerome reported Citations are down a total of 2 Citations year-to-date, for a total of 85 Citations issued year-to-date. There were 152 traffic stops for February compared to 144 during February 2016.

Police Chief Jerome informed there were only eight arrests since the last Council Meeting. He provided Council with the Overdose Report from the County. He reported that again February exceeded January in total overdose calls in the County by 372. He stated at the last Council Meeting we hadn't had any overdoses but we did have an overdose in the last two weeks since the last Meeting, the person did live.

Law Director Stephan advised earlier this evening the Planning Commission met and approved the McGregor Subdivision, Section Two. He provided Council with a copy of the proposed Record Plan and requested their approval. He informed this is a plan he has been working on with the property owner for many months. He informed that as part of the fire station project, the City of Brookville will be constructing the extension of Market Street from its current terminus to Upper Lewisburg-Salem Road. The City of Brookville and Beverly McGregor have reached an Agreement to provide for a regional detention area for the McGregor Subdivision that will provide storm water detention for the fire station property owned by the City as well as a portion of the remainder of the McGregor Subdivision owned by Beverly McGregor. He informed the regional detention area will be built as part of the Market Street Extension Project, and the design of the fire station site is dependent upon the establishment of this regional detention area. Law Director Stephan advised the McGregor Subdivision, Section Two Record Plan establishes eight new lots along Market Street. The lot designated as the regional detention area will be donated to the City of Brookville by Beverly McGregor, and a detention area will be established by the City of Brookville on this lot. The remainder of the lots that are being platted all exceed the minimum size requirements for GB and I-1 Zoning Districts that are the applicable Zoning Districts for this area. He stated this is the next step needed for both the new fire station and the Market Street Extension Project.

Member Duncan asked if we will be responsible for the detention pond?

Law Director Stephan advised yes we will maintain under the Agreement. He informed the way this detention pond is being designed it will not be deep at all, it will be very shallow and is being designed to be landscaped. He stated they have worked hard at trying to make this easily maintainable.

Member Duncan stated he knows we have had trouble in other areas with detention ponds.

Member Cantrell stated in other areas it was other people's responsibility and when they didn't we ended up having to take care of them. She asked if this one will be a grassy and mowable area?

Law Director Stephan stated yes for the most part this will be a grassy, mowable area.

Motion by Duncan, second by Kirklin to approve the Record Plan for the McGregor Subdivision, Section Two. All yeas, motion carried.

Law Director Stephan requested Council to authorize the City Manager to enter into an Agreement with Beverly McGregor. The Agreement provides for donation of the regional detention area to the City and provides for the platting of this area. He stated also as discussed, it provides for the storm water detention area without assessment to these lots.

Member Cantrell asked if she is donating these lots?

Law Director Stephan stated yes.

Member Cantrell stated the rest of the lots will take advantage of it without assessments so Council is approving for the City to maintain the lots.

Motion by Apgar, second by Letner to authorize the City Manager to enter into an Agreement with Beverly McGregor for donation of the regional detention area to the City and providing for the platting of this area as well as the storm water detention area without assessment to these lots. All yeas, motion carried.

Law Director Stephan advised that Ohio Senate Bill 331 was passed in December 2016 and included provisions designed to promote the deployment of Small Cell Facilities in Ohio. The Bill restricts the ability of cities to regulate these Small Cell Facilities through zoning.

Law Director Stephan informed a group of Ohio cities are planning to challenge this law through litigation. He provided Council with an email from Patrick Titterington, City Manager of Troy, requesting that Miami Valley communities join in this litigation. He informed the funding commitment sought from the City of Brookville is \$2,000.00. Law Director Stephan advised that Section 2.04 authorizes City Council to approve agreements with other jurisdictions for joint action.

Law Director Stephan requested Council approve by motion the expenditure of \$2,000.00 in support of the litigation in challenging SB331 provisions on Small Cell Facilities.

Member Letner asked if these are for personal or commercial use?

Law Director Stephan advised these are for commercial use. He informed this bill was promoted by AT&T but all the major companies will be using these and if this bill stands, you will see these all over Ohio in a very short amount of time.

Member Duncan asked if they can put these on our building without asking.

Law Director Stephan advised the Ohio Municipal League was actually able to have that provision removed from the bill. He informed on their website is a summary of the bill and a summary of what they were able to have removed from the bill. He stated the Ohio Municipal League did a really good job in December under tremendous time pressure to remove some of the worst elements of this, one of the worst elements being that they could come and put up one of their antennas on our building and we would have no control over it. He stated the Ohio Municipal League was able to get rid of that and did a good job pushing back on a few other elements also but the basic law was still passed. The basic law is we cannot do anything through zoning. We currently have zoning rules now for big towers but will not be able to do anything zoning wise for the small cell facilities.

Member Cantrell asked if this law will allow citizens to place these towers in their yards or on their homes.

Law Director Stephan informed he does not think private citizens will be able to do that, it will have to be in a right-of-way which will be controlled by the utilities.

Member Duncan asked what will they do if local communities do not help support financially?

Law Director Stephan informed he thinks they have sufficient funds from the Columbus jurisdictions that this litigation will move forward but they are looking for the Dayton jurisdictions to contribute. He stated he is not sure where some of the other Dayton jurisdictions are at at this point because this issue has just been presented to the Dayton jurisdictions. He stated the Columbus jurisdictions are definitely moving forward.

Member Apgar stated they need a range of \$150,000 to \$200,000, but anything not used will end up coming back to the local communities.

Motion by Apgar, second by Kirklin to authorize the expenditure of \$2,000 in support of the litigation in challenging SB331 provisions on Small Cell Facilities. All yeas, motion carried.

Law Director Stephan stated Council has Ordinance No. 2017-05 before them tonight. He informed this Ordinance would prohibit Medical Marijuana cultivators, processors and retail dispensaries in the City of Brookville. He advised at the last Planning Commission Meeting, Planning Commission reviewed this issue. He stated we need to start through a process to have a first reading of an Ordinance so that we can then hold a Public Hearing to consider public comments. He advised that the Planning Commission's recommendation was for him to prepare an Ordinance for a total ban on these uses in the City of Brookville and present to Council for a first reading. He stated Council would need to pass a motion tonight to schedule a Public Hearing for the first Meeting in April, which is April 4, 2017 at 8:00 p.m. He informed the state law allows local jurisdictions to make the decision to allow cultivators, processors and retail dispensaries in the City, to limit their number, choose which Zoning District they are allowed to be in or prohibit the uses all together. He informed under the direction of the Planning Commission, we would be starting this process by prohibiting all of the uses but again there would be a Public Hearing in April and after public testimony is heard, Planning Commission would make a final recommendation and then it would come back to City Council for two more readings.

Law Director Stephan advised after hearing public comments, it is possible for Planning Commission or City Council could amend this Ordinance. He requested a motion to schedule a Public Hearing for April 4, 2017 at 8:00 p.m.

Motion by Duncan, second by Apgar to read proposed Ordinance No. 2017-05. All yeas, motion carried.

Motion by Duncan, second by Apgar to approve the first reading of proposed Ordinance No. 2017-05 entitled, "AN ORDINANCE TO PROHIBIT MEDICAL MARIJUANA CULTIVATORS, PROCESSORS AND RETAIL DISPENSARIES IN THE CITY OF BROOKVILLE, OHIO." All yeas, motion carried.

Motion by Apgar, second by Kirklin to schedule a joint Public Hearing with City Council and Planning Commission on Tuesday, April 4, 2017 at 8:00 p.m. All yeas, motion carried.

In Old Business,

Motion by Apgar, second by Kirklin to read Resolution No. 17-17. All yeas, motion carried.

Motion by Duncan, second by Apgar to approve the second reading and suspend the third reading of Resolution No. 17-17 entitled "A RESOLUTION OPPOSING THE PROVISION WITHIN THE STATE OF OHIO GOVERNOR'S PROPOSED 2018-2019 BUDGET, WHICH PROPOSES CENTRALIZED COLLECTION OF NET PROFIT TAX RETURNS." All yeas, motion carried.

Member Duncan stated the reason Council is suspending the third reading is so that we can get the Resolution to the State as soon as possible before they vote on the Governor's proposed 2018-2019 Budget.

Member Cantrell informed the Council Rules will remain tabled as they are being reviewed.

In New Business,

Motion by Apgar, second by Kirklin to read proposed Resolution No. 17-18. All yeas, motion carried.

Finance Director Keaton requested Council adopt proposed Resolution No. 17-18, which amends the 2017 Appropriations and 2017 Estimated Resources. She informed Section I increases the Land Reutilization Fund revenue by \$2,500 for the transfer that is requested in Section III. She informed Section I also increases revenue in the Bond Retirement and Fire Capital Improvement Fund for the interest that we are receiving for the Fire Station Bonds. She reported the interest rate continues to be up for Star Ohio. She stated Section II amends the General Fund expense transfer line item for the Land Reutilization Fund.

Motion by Duncan, second by Apgar to accept the first reading, dispense with the second and third readings and adopt resolution No. 17-18 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, AND DECLARING IT AN EMERGENCY." All yeas, motion carried.

Vice-Mayor Cantrell welcomed members in the audience.

Motion by Duncan, second by Apgar to enter into Executive Session per Ohio Revised Code 121.22 (G)(1) to consider the appointment, employment, dismissal, discipline, promotion, demotion, or compensation of a public employee or official, or the investigation of charges or complaints against a public employee, official, licensee, or regulated individual. All yeas, motion carried.

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



Meghan Wheeler, Clerk

  
Margo Cantrell, Vice-Mayor