

Brookville City Council
Regular Meeting
August 2, 2016

The Regular Meeting of the Brookville City Council was called to order by Vice Mayor Cantrell at 7:30 p.m. on August 2, 2016 in the Brookville Council Chambers. The Pledge of Allegiance was recited. Members Apgar, Duncan, Henry, Kirklin and Letner; City Manager Burkholder, Finance Director Keaton, Clerk Wheeler, Police Chief Jerome, Fire Chief Fletcher, Law Director Stephan and Public Service Director Williamson were present. Mayor Seagraves was absent.

Roll Call by Clerk Wheeler.

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

Motion by Apgar, second by Henry to approve the July 19, 2016 Regular Meeting Minutes. All yeas, motion carried.

Member Cantrell welcomed the members of the audience. She informed anyone that would like to speak should stand, identify themselves with their name and address. She stated everyone who wishes to speak will have five minutes each and Council and Staff will try to answer everyone's questions tonight and if a question cannot be answered, we will find out the answer and respond back at a later date.

Tom Brandt, of 183 Brooke Woode Drive, stated the petition may not have passed all of the requirements of the City Charter but he did come back with a lot of feedback from citizens that he received while he was going door to door. He stated that no one he spoke to was in favor of what Council is doing and people described what they are doing as sneaky, underhanded, shady, and many asked, "how can they do this?"

Mr. Brandt stated he is personally asking Council to reconsider and instead he proposed Council consider a .25% tax increase and stated that would be more admirable and he would be a major advocate for a .25% increase.

Bruce Garber, of 434 Sycamore, stated the Ohio Revised Code (ORC) was quoted in the denial of the initiative petition. He asked what part of the ORC was cited as the reason in the denial of the initiative petition to repeal Ordinance No. 2016-08.

Manager Burkholder stated he is unsure we should be giving out legal advice.

Member Cantrell stated a reason was listed and included the Ohio Revised Code that was used in a letter represented to the Committee that presented the Initiative Petitions. She stated the City has hired a City attorney to represent the City and for us to give legal advice would be conflict. This is why a letter was mailed out.

Mr. Garber stated City Council is setting up a scenario of Council vs the residents. It started when the 3rd reading was passed as an emergency and in his opinion, Council is turning away from the citizens and he does not know why.

Law Director Stephan stated he will read page 2 of his letter sent to the committee. He informed the Committee was served a copy of his letter by the Clerk of Council.

Law Director Stephan read page 2 of his letter addressed to the Committee regarding the Initiative Petition. The letter stated:

The Committee failed to file a pre-circulation copy of petition with the City Auditor. The Charter of the City of Brookville is silent on the matter of pre-circulation filing requirements but does set forth post-circulation procedures. When a City's Charter is silent on the subject of pre-circulation requirements, then the procedures in R.C. 731.32 apply. *State ex rel. Julnes v.s. Euclid City Council*, 130 Ohio St. 3d 6, 2011-Ohio-4485. Ohio Revised Code 731.32 provides that:

Whoever seeks to propose an Ordinance or measure in a Municipal corporation by initiative petition or files a referendum petition against any Ordinance or measure shall, before circulating such petition, file a certified copy of proposed Ordinance or measure with the City Auditor or the Village Clerk. As used in this section, "certified copy" means a copy containing a written statement attesting that it is a true and exact reproduction of the original proposed Ordinance or measure or of the original Ordinance or Measure.

The Ohio Supreme Court has held that there must be strict compliance with the requirement to file a copy of proposed Ordinance with City Auditor. *State ex res. Columbus Coalition for Responsive Government v. Blevins*, 140 Ohio St. 3rd. 294, 2014-Ohio-3745. He noted that on the petitions forms used by the committee, the following statement appears: "Prior to circulation of an initiative petition proposing an Ordinance or measure, a certified copy of such Ordinance or measure must be filed with the City Auditor, Village Clerk or Township Fiscal Office (home rule township)." I am recommending that you refuse to certify that the initiative petition because a certified copy of the proposed Ordinance was not filed with City Auditor or City Clerk prior to circulation of the petition as required by Ohio Revised Code 731.32.

Mr. Garber asked if Law Director Stephan has always been consistent in prior initiative petitions when requiring these guidelines or has he gone both ways?

Law Director Stephan informed he has been with the City since 1992 and does not recall any other initiative petitions like this in the past. He recalled a referendum petition related to a proposed water park and he recommended to Council that the petition be rejected and Council chose to have it then listed on the ballot.

Member Duncan informed there was a charter amendment a few years ago that went around that was drawn up on regular paper and signed and passed around for citizens to vote on the Mayor. He informed himself and other Council Members took the paper around for signatures.

Law Director Stephan stated his recollection was City Council put the Charter Amendment on the ballot and he remembers preparing the document.

Member Duncan stated he verified with another former Council Member and they are sure the Charter amendment was passed around for signatures.

Member Cantrell asked Member Duncan if what he is referencing to was on the ballot?

Law Director Stephan stated the issue was on the ballot and he specifically remembers preparing the Charter amendment and Council voting on it.

Kim Cheatham, of 565 Adrian Court, informed she appreciated the last set of approved minutes being posted the next day after the last Council Meeting. She stated she hopes that Manager Burkholder has some answers to her questions from the last Council Meeting on the property at 269 Foothill Drive. She stated she did look up the property at 269 Foothill Drive on the County Website and it was listed as purchased in August 2015 and on the website under Property it is listed under current year special assessment and coded 315.00 as weeds, mowing/clean-up for \$321.30. She would like clarification on what this means.

Ms. Cheatham asked for an EPA update. She also asked about the proposed sidewalks on Johnsville-Brookville Road and if the sidewalks have been approved by the County since they are in the County's jurisdiction? If it is a County jurisdiction road and our City has approved to pay the \$12,000 for resurfacing the road, why would we approve that without knowing if the sidewalks would be in place?

Ms. Cheatham asked if there has been any development on the ad that was placed for the Firehouse Construction Manager at Risk?

Ms. Cheatham wanted to know the job description of David Whitehair, the part-time Construction Inspector. She stated that in her mind a Construction Inspector probably does some of the same jobs as Public Service Director Williamson, Manager Burkholder and Zoning Officer Snedeker.

Member Cantrell asked Ms. Cheatham how come when she approached her a while back about running for City Council, that Ms. Cheatham did not want to run? Member Cantrell stated she thinks Ms. Cheatham is asking good detailed questions and would have made a good Council Member. She stated that she does not recall Ms. Cheatham ever coming to Council Meetings in the past when she was having any problems and that she would just call the prior City Manager. Member Cantrell stated that some of Ms. Cheatham's questions could be directed towards the

City Manager and Staff during regular office hours any day of the week. Member Cantrell thanked Ms. Cheatham for her attendance at the Meeting and her questions.

Ms. Cheatham stated she is coming because at the June 7, 2016 Council Meeting, comments were made that citizens never come to meetings. She informed she did not want to be a Council Member and deal with what is currently going on.

Member Cantrell stated it is great that she is coming to Meetings.

Ms. Cheatham stated it is good for public knowledge and since it is tax dollars being spent on the Foothill Project, she wants to know how much total is being spent on the project.

Manager Burkholder stated he will answer some of Ms. Cheatham's question in his report and Service Director Williamson should have the EPA answers in his report and Finance Director Keaton has a spreadsheet on the costs on the Foothill Project.

Ms. Cheatham asked if there is a projected budget since it has been discussed that the whole inside still needs to be done.

Manager Burkholder stated there is no projected total at this time until we actually sign contracts for the work to be done. He informed we did not receive the \$50,000 loan until late fall last year, before the project was even underway, which made it impossible to tell the total projected cost until we were able to get inside and start examining the true state of the house. He stated we do have what has been spent to date. It is required by the Landbank Program to keep total costs spent documented.

Ms. Cheatham stated just so everyone is aware, she will be coming to every single Council Meeting in the future and asking the same questions.

Member Cantrell stated residents can always go online and view every check that is written out from the City and all money being spent.

Ms. Cheatham stated she does not understand how there is no projected total.

Member Cantrell stated the City is trying to obtain estimates so that we can determine an estimated total for the project.

Mr. Brandt asked if the numbers included City employee's time spent working on the project?

Manager Burkholder stated the City has to track City Employee's time spent at the property as a part of the Landbank Program.

Manager Burkholder reported the City continues to move forward with the Firehouse project with follow-up regarding the road and site plan. Recently toured the Kettering Station 32 which was very informative relative to design, specific equipment and the construction process and challenges.

Manager Burkholder reported he attended the Dayton Development Coalition breakfast at the Schuster Center with a very informative panel discussion on workforce development.

Manager Burkholder stated he met with the Transportation Improvement District to discuss the extension of Market Street. They are currently researching access onto Upper Lewisburg Salem Road.

Manager Burkholder informed he attended the Perry Township Trustee meeting and presented a rendering of the new fire station to the Board and answered questions. He advised we would like the township to be a collaborative partner with the City in application for a State of Ohio Public Safety Grant. It was a very positive meeting. Chief Fletcher and the City Manager also conveyed to the Board the City's efforts to refute the misleading statements made by a few City residents regarding the townships' financial contributions to the Brookville Fire Department via the fire levies.

Manager Burkholder informed the Parker Avenue (Sakura Drive) extension project is progressing and the street curbs were poured this week.

Manager Burkholder met with GGC Engineering regarding the submission of an OPWC application for the rehab of the influent lift station at the Wastewater Treatment Plant. This is a much needed improvement and we will be applying for the grant to help with the approximate cost of \$150,000 to rehab the lift station.

Manager Burkholder informed there is now a vacancy on Park Board and that City Staff recommends Council select a replacement for the recent resignation from Park Board.

Manager Burkholder described Staff had another webinar with CivicPlus who is developing our new web site. Staff will be scheduling a photo shoot with Council Members and Staff in the near future in preparation for the new website and the 2017 City Calendar.

Manager Burkholder reported on the Foothill Drive Project and informed the HVAC duct work has been installed, the air conditioning and furnace will be set after the install of the drywall, the plumbing is next. He informed the lawn and landscaping has been contracted and will begin forthwith. He will be reviewing the remaining proposals for the rest of the finish work.

Manager Burkholder advised the City sign code was submitted to Planning Commission for review and comment. Staff recommends a work session for the Commission.

Manager Burkholder informed the review of the Personnel Manual continues. The draft is in a Word Perfect format which will be converted to a Word format. Finance Director Keaton is comparing it to another model we have and it will continue to be reviewed and then submitted to the Labor Counsel for final review.

Manager Burkholder stated the Pre-construction meeting was held for the Maple Street Waterline Replacement Project and written notices will be hand delivered to the residents affected by the construction.

Manager Burkholder reported the comprehensive sign replacement program continues with positive results. Golden Gate Park has been the focus in preparation for the Community Picnic. A special thanks goes out to the Service Department for an exceptionally well done job. Staff also wants to thank our many sponsors who donated materials and labor to make improvements to the park.

Manager Burkholder advised the average cost of materials for a sign replacement is \$79. This varies according to the type of sign. He stated that additional research revealed the City Sign Shop was established in 2012. He stated to date for 2016, approximately 100 signs have been replaced. He referred to a large STOP sign that was just replaced and the old sign was in the Council Chambers as an example of some of the old and damaged signs throughout town. He stated a complaint was made about some low tree branches hanging and while looking into the complaint, this Stop sign was noticed.

Manager Burkholder informed the drainage problems at the Meadows at Brookville subdivision remain under review by the Law Director. The City received another citizen complaint from Urban Lane regarding the maintenance of that detention pond. He thought the detention area would have been maintained by the homeowners association or the original developer but after a little bit of research, it was determined the detention area actually belongs to the City of Brookville. He informed the land was transferred to the City in 1997. He is not sure why the land would have ever been transferred to the City but now we are spending City resources to maintain the land and keep it cleaned up. He described these type of situations will be an ongoing challenge, as we have a lot of wide open areas of land throughout the City and we will need to research to see who is responsible for the maintenance of these areas.

Manager Burkholder informed there is no update on sidewalks on Johnsville-Brookville Road from Blue Pride Drive to Westbrook Road, he will follow-up with the County Engineer to see how to best approach this project since the proposed sidewalk would be situated in the County right-of-way.

Manager Burkholder reported we are in the process of finalizing the 2016 resurfacing plan which includes an examination of the base of the prospective roads selected for repaving.

Manager Burkholder stated we are in discussion with the consulting engineer regarding the application for an Ohio Local Government Innovation Grant in order to complete a comprehensive transportation improvement plan for the entire city. He stated we are in the beginning stages to see if we can qualify.

Manager Burkholder informed the City continues to work with the Montgomery County Economic Development Department, the Dayton Development Coalition and Site Seekers regarding prospective economic development projects in Brookville.

Manager Burkholder reported he recently met with MKSK to discuss the lighting, railing, and landscape plan for the Arlington Road Bridge Bridge Replacement Project.

Manager Burkholder congratulated Finance Director Keaton for receiving the Ohio Auditor of State Award.

Member Letner asked if we have owned the area at Urban Lane since 1997 then how has the land not been maintained?

Manager Burkholder informed the City is currently maintaining the land, but he cannot answer if we have been mowing it since 1997. He informed it is not in bad shape but there are walnut trees lined along the area and he is not sure if the trees are on our property or the neighbors and before any trees are cut down we need to verify the property line. He described it will hold water when there is a big rain event and then eventually clear out, the concrete channel and both ends where the tile is, there is grass growing that needs cleaned out. He stated we will clean up what we need to.

Member Letner stated that for the last 19 years someone has had to maintain the area or it would be a forrest.

Manager Burkholder stated he has no idea how long the detention area has been maintained by the City. He spoke with Zoning Officer Snedeker and was told that the City purchased the land in 1997 for \$1.00.

Member Letner stated the concrete detention pond should just need to be cleaned up and shouldn't take much time or be costly.

Manager Burkholder informed the ditch near Urban Lane is different than the one in the Meadows of Brookville. At the Meadows of Brookville there are trees growing in the ditch and there is erosion on the back side. He stated another example is the fact that we are still investigating if all of the ditch on Parker Avenue belongs to the City or Green Tokai. With the new construction of Parker Avenue that whole ditch up to the pond now has to be cleaned out. The water is flat and probably needs to be regraded to drain into the pond and the area is overgrown with trees and brush. These are the types of storm water management issues the City

needs to take care of. He stated that during construction, a 30 inch drain pipe was added to the side of the street as part of the project to help drain the property but also for future development. He stated it now has to be cleaned out all the way down to the pond.

Member Letner asked when it goes to the retention pond, is there no discharge?

Manager Burkholder stated there is a discharge but it also has all sorts of growth there, like cat tails, and trees growing. He stated that these are the things that can be gotten away with for a while but eventually they all have to be cleaned up and maintained on a regular basis.

Manager Burkholder informed the channel at Urban Lane is much smaller than the one at the Meadows of Brookville and should be an easy job and done quickly. He will be checking on all of these areas to see if it is our responsibility or private developer or a Homeowners Association who is responsible. He stated sometimes in subdivisions, this is why it is ideal to have a Homeowner's Association to help with these type of problems.

Member Letner stated if these areas belong to the City then they should be maintained on a regular basis and not on an emergency basis and by looking at some pictures he's seen, cleaning out the area should only be a day or half day job.

Manager Burkholder asked which area he is referencing to?

Member Letner stated the area that was pictured in Manager Burkholder's report at the June 7, 2016 Council Meeting.

Manager Burkholder stated those pictures were the Meadows of Brookville and that is more than a day's worth of work. He stated the concrete channel there could be cleaned out in probably a day but that is not the whole project. As his pictures showed in his presentation at the June 7 Council Meeting, there is a phase two that consists of clearing off the bridge and the street and cleaning up all of the overgrown trees. He indicated that the detention pond on Urban Lane can probably be done in a day depending on what is done with the walnut trees, but we are still spending assets and time to mow the area, which is a pretty big area to mow.

Manager Burkholder informed the common area at the Meadows of Brookville is being mowed by the City even though the City doesn't even own the land and has been that way for years. He stated that he and Law Director Stephan are investigating the area at the Meadows of Brookville and the possibility of a nuisance abatement to get the owner of the land to take over mowing and maintenance issues. He advised he will continue to look into the other common areas that the City is maintaining to verify if they are City owned or not and if someone else should be maintaining.

Member Letner asked if the City is maintaining the Meadows of Brookville.

Manager Burkholder stated it has been that way for years and he recently found out about it when he received a citizen complaint. He asked the citizen if there was a Homeowner's Association and he was told no, so he began looking into who was maintaining the land and that is when he discovered it was the City.

Member Letner asked if we know who the land is deeded to?

Law Director Stephan informed the Meadows of Brookville detention area that is close to Heckathorn Road is owned by Moorman Development.

Member Letner asked if they are still in existence?

Law Director Stephan stated the answer to that is still under review and essentially we are looking into the ownership and will then be able pursue a nuisance abatement. The goal with that process will be to get the developer to establish a Homeowners' Association or have the homeowners take responsibility for costs to maintain. He stated the short term legal remedy is against the current property owner and currently there is no Homeowners Association.

Member Letner stated if the Meadows of Brookville has been around since 1997 or so, how can we ask them now to form a Homeowners Association?

Law Director stated that is probably not going to happen because the discussion has taken place already and there has been resistance from the residents to form a Homeowner's Association.

Member Cantrell asked why are taxpayers paying for the grass to be cut in one area but others are paying for their own.

Member Apgar stated this should have been done years ago.

Manager Burkholder stated he has some past experience with Homeowner's Associations. He was the head of his own Homeowner's Association for three years and fought with the developer and owner of the property to maintain common areas and even went to court over issues of having to pay for things in a common area that the developer should be paying for. He stated he will not look the other way, this has to be researched and handled somehow. Homeowners Associations can be formed after the fact and can be in the best interest of the homeowner's for what it costs to handle those common areas.

Member Kirklin stated we cannot force anyone to start a Homeowners Association.

Manager Burkholder stated no we cannot, but if not handled then maybe we can maintain the areas and then assess the homeowners. That method will not be for certain though until he and Law Director Stephen research the situation a little more.

Member Cantrell stated she has a Homeowner's Association where she lives and Law Director Stephen has actually revised it for them a years ago and they do try to keep up to date with revisions.

Member Kirklin asked from a zoning standpoint as we have future developments can we require a Homeowners Association in subdivisions.

Law Director Stephan advised we have tried to start doing that from a Staff level with respect to subdivisions and require the developer to have one started or the subdivision will not be approved. He informed that most of the more recent subdivisions are doing that, some have not and those are the ones we are seeing the most problems with.

Member Cantrell stated the Ohio Local Government Innovation Grant for the Comprehensive Transportation Plan is good news and many years ago and a few times since she has suggested the idea of bike paths to be included in our roads if the opportunity arises. She stated people use the bike paths a lot and this would be very successful.

Manager Burkholder informed if we can qualify that would be something we can look at.

Finance Director Keaton presented the July 31, 2016 Fund Balance.

Motion by Duncan, second by Kirklin to approve the July 31, 2016 Fund Balance. All yeas, motion carried.

Finance Director Keaton requested Council adopt proposed Resolution No. 16-17 which allows us to request reimbursement for any costs the City incurs on the Maple Street Waterline Replacement Project, from the Ohio Public Works Commission. She reported to date, the City has paid engineering costs and the legal bid notice that we are eligible for reimbursement and the reason for the emergency measure, is for timely return of the adopted Resolution to the Ohio Public Works Commission.

Motion by Kirklin, second by Apgar to read proposed Resolution 16-17. All yeas, motion carried.

Motion by Duncan, second by Apgar to accept the first reading, dispense with the second and third reading and adopt proposed Resolution No. 16-17 entitled, " A RESOLUTION DECLARING THE OFFICIAL INTENT AND REASONABLE EXPECTATION OF THE CITY OF BROCKVILLE ON BEHALF OF THE STATE OF OHIO (THE BORROWER) TO REIMBURSE ITS WATER FUND FOR THE MAPLE STREET WATERLINE REPLACEMENT PROJECT CD27T WITH THE PROCEEDS OF TAX EXEMPT DEBT OF THE STATE OF OHIO, AND DECLARING IT AN EMERGENCY." All yeas, motion carried.

Finance Director Keaton informed the Montgomery County Commissioners approved the recommendations of the Community Development Advisory Committee for the CDBG projects that were submitted earlier this year. She stated Brookville received approval for the continuation of our Sidewalk Ramp Improvement Project where we will receive \$40,000 in CDBG funds and we also received approval of our Shelter #2 Handicap Restroom and Sidewalk Project where we will receive \$75,000 in CDBG funds. She informed both of these projects will be scheduled for 2017. She reported that nineteen projects were submitted that totaled \$1,461,374 and there was only \$804,000 available this year, so we are very pleased both of our projects received funding.

Finance Director Keaton reported our audited 2015 Basic Financial Report has been released and is available on the Auditor of State Website. She was pleased to announce the City of Brookville received a clean audit.

Finance Director Keaton provided Council with a Tax Scam notice that she received from the Ohio Department of Taxation.

Finance Director Keaton reported the City has received notification from the Bureau of Workers' Compensation that they approved our application for a Safety Intervention Grant for the Brookville Fire Department. The grant is for two power cots with accessories that totals \$59,615.06. The Bureau will provide \$40,000 in grant assistance with the City contributing \$19,615.06.

Fire Chief Fletcher provided Council with a copy of the letter received from the Ohio Bureau of Workers' Compensation detailing the funds awarded and the equipment approved under this grant to be purchased. He anticipates moving forward with this over the next four to six weeks and then cots will be in service.

Finance Director Keaton thanked Chief Fletcher for his help while working on this grant.

Member Cantrell asked if we had any money budgeted in 2016 for the purchase of the cots?

Fire Chief Fletcher stated we did have money budgeted for the cots and actually had rolled funds from 2015 over because we knew we would have to purchase a new cot for our third ambulance. He stated he was hoping we would receive funds from the BWC which is why we borrowed a third cot from a neighboring community as a temporary contingency plan until we knew if we would receive funds from BWC for sure.

Member Duncan stated he has seen on the news and citizens have asked him about why the City does not receive any casino money.

Finance Director stated no, we do not receive any money from the casinos. She stated that mainly the larger cities in Ohio like, Cleveland, Cincinnati and a few others receive the funds, but the City of Brookville does not receive any money from the Casinos.

Member Duncan stated the cities are Akron, Canton, Columbus, Cleveland, Cincinnati, Dayton, Toledo and Youngstown that receive money from the Casinos in Ohio.

Finance Director informed schools receive money from the Lottery proceeds.

Member Duncan stated people just see and hear how casino money is passed along to the Cities and people don't understand that our City does not see any of that money.

Member Cantrell congratulated Finance Director Keaton on the Auditor of the State Award. She stated it is very nice to see Brookville displayed in a positive light in the Dayton Daily News.

Public Service Director Williamson reported the clean-up following the 2016 Community Picnic was successful.

Public Service Director Williamson reported mowing and grounds maintenance continues.

Public Service Director Williamson informed he attended the MVRPC Technical Advisory Committee Meeting and it was very informative.

Public Service Director Williamson reported the Parker Avenue Extension Project progresses with the curb placed this week and continued roadbed preparation. He informed that David Whitehair is the part-time Construction Inspector for the project and his job duties are very typical. He is to be onsite to observe all construction activities to make sure they conform with specifications and design. We do not have the man power to monitor this project as much as it is needed. Since we would only have two to three months of construction activity that requires inspection, it makes sense to have a part-time person on hand so that we do not have to use our own resources in that way. He stated that Mr. Whitehair works on an as needed basis.

Member Cantrell clarified that Mr. Whitehair doesn't come in on a regular basis, and that he only works as needed?

Public Service Director Williamson stated yes, he comes in when activities take place that need observed, for example, Mr. Whitehair only worked about 1-2 hours today.

Member Cantrell asked if by having a construction inspector, if it will protect us down the road if there are any issues with the construction done.

Public Service Director Williamson stated yes.

Manager Burkholder informed you do have to inspect and have observations, mistakes can be made and decisions have to be made. He informed the original estimate done for the project had 200 square yard of geo-grid, which is a webbing put down to stabilize the ground. The question was posed if the entire roadway should be done like that and he said absolutely. He informed this is the only chance we have at this road and we need to do it correctly, we do not want to put \$150,000 into a road improvement to later find out we have an unstable base and then have to repair after the fact. Manager Burkholder informed he found out today, that the existing road on Parker Avenue is not as thick as it should be and you can actually see a lot of spider cracks. There is not much we can do now, but he fears that we may face future costs associated with maintaining the old section of Parker Avenue. He stated that having the onsite inspection to deal with issues that arise or was not on the original plan, which we have come across a few already on this project, is very beneficial. Mr Whitehair has been able to notify Public Service Director Williamson right away on any problems and he is our eyes and ears on the project to make sure we receive a quality project and it is money extremely well spent. Manager Burkholder informed Mr. Williamson was correct that having a Construction Inspector helps to not take Staff away from daily work but also the expertise that a Construction Inspector has is very valuable. He stated that if anyone would like to know the job duties or specifics of his position, there is a job description available for this position from Finance Director Keaton.

Member Letner asked if Mr. Whitehair is taking pictures of the progress of the project as it moves along and uploading to the GIS System?

Public Service Director Williamson stated Mr. Whitehair is taking pictures throughout the process.

Manager Burkholder stated he is unsure if the pictures can upload into our current GIS system, but he will look into to see if possible. He stated that is something he would like to be able to do especially with water main breaks.

Manager Burkholder informed he is gathering information and quotes on a water modeling study which would include locating all of our valves and everything relative to GIS and being able to upload them. As of right now, we do not have this capability to mark stuff with GIS but we can take those as built plans and put the information on all new construction. He would like to see in the future when our guys go out on a water main break, they would be able to view the area and see the lats and the longs on a map, it would help out so much with repairs. The water modeling would help identify problems and we are currently experiencing a real challenge on identifying where our valves are and which lines they open up.

Member Letner asked if Mr. Whitehair also supervised the pressure test of the new water line and did it pass?

Public Service Director Williamson stated Mr. Whitehair did supervise the new water line pressure test and it did pass, the water, sewer and sanitary all passed inspection.

Member Cantrell asked if having a Construction Inspector replaces any engineering cost we might incur?

Manager Burkholder informed having our own Construction Inspector was cheaper than what the engineering firm would have charged. He stated in the future when applications are done for infrastructure projects and estimates are received, he would like to have added to the original estimates the cost of construction management, that when applying for grants at least an estimate is listed for the construction management to help give a better idea of the total cost. He stated in the past, construction management has been time and expense. Manager Burkholder stated he does not like it done after the fact where it is not quantified, he would rather have it as part of the original application that way we have some idea of how many hours it may take to manage a project on-site and what the cost will be. He informed it hasn't always been done like this in the past but we want to start incorporating that into our applications and hopefully grant money can apply to some construction management.

Member Cantrell stated that makes good sense.

Public Service Director Williamson provided a Memo to Members of Council explaining the NPDES Permit and the EPA notification procedure.

Member Cantrell asked if we have to stipulate what we plan to do to fix the violation?

Public Service Director Williamson informed the plan to correct the violation is part of the plan of action.

Member Kirklin asked if the notification of a violation will notify the City Manager as well as the Service Director.

Public Service Director Williamson stated the notification is now set up to notify both himself and Manager Burkholder.

Member Cantrell asked if it was not set up like that before?

Public Service Director Williamson stated he does not know if it did before but since he has been here he has requested for both him and Manager Burkholder to be notified as part of the protocol. He informed that as an extra step he has added to the process, he will personally be reviewing the reports and the data collected and received. He informed some of the data can be automated, right now it is done manually. He stated some computerization would help out and make some data points faster to discover.

Member Cantrell asked if right now everything is being done by hand?

Public Service Director Williamson stated primarily everything is done by hand. Some of the raw data that comes back has to be converted to the proper units for recording purposes and that is all being done by hand.

Member Cantrell asked Manager Burkholder if he has looked into any sort of software to help the guys out?

Manager Burkholder informed software specific to the WWTP is being looked into.

Member Kirklin stated some sort of software with a macro built into an Excel spreadsheet to program mathematical formulas.

Public Service Director Williamson agreed and stated you would plug in numbers and come up with a concentration, it is not difficult math but can be very tedious by hand and something that could be very easily automated.

Public Service Director Williamson reported the Maple Street Waterline Replacement Project is scheduled to start this week and to expect approximately a two month construction time frame. He informed letters were distributed to the residents on Maple Street today and he personally made contact with about 60% of the residents.

Public Service Director Williamson informed recent water main break repairs on Brookville-Johnsville Road and another one on Westbrook Road. He reported the break on Westbrook Road was a large break, there were two breaks within about 100 yards apart and a valve failure as well. Crews were on site from noon to midnight on Westbrook Road. He informed the repair done on the valve is strictly a temporary fix. He stated this area has been a constant problem; there have been multiple breaks in that area over the last few years and it looks like we can expect more in the future there as well.

Member Cantrell asked if this will add additional costs.

Manager Burkholder informed yes, it will add additional costs. It took four men twelve hours to work on this water main break. He informed this is a primary example of why we need to do the water modeling, we need to evaluate the entire water system throughout the City. He stated he has learned that some of the mapping isn't correct and layers needed to be added to the GIS system. He stated this investment is not a luxury but a necessity in order to get ahead of our aging infrastructure and to make it more reliable. He described the water modeling study as the technical, scientific study that will help us to identify everything. We have received a proposal but not yet an estimate on a total cost. Manager Burkholder stated that these type of incidents underscore the necessity for this kind of data to help us put together a comprehensive plan and capital improvements plan to help plan for the future. He stated we do not know what is in the

ground or the liability for this City in the ground and the water modeling, taking pictures and adding to the GIS will help us to have a much more organized approach to rebuilding the infrastructure of this City.

Member Henry asked how old are the pipes?

Chief Fletcher stated some date back to the 1950's.

Chief Fletcher stated the condition of our water pipes are a huge part of the Fire Department's ISO rating. When ISO does the rating process they ask if we have a water modeling system and since we do not, we lost points in our ISO rating.

Member Cantrell asked that since we did not have a water modeling system, it affected our rating?

Fire Chief Fletcher stated it did affect the rating for the Fire Department, a huge part of the ISO rating relates to the Water Department.

Member Cantrell asked if other communities have done a water modeling system?

Chief Fletcher stated most cities have some type of water modeling system in place or those communities that rely on Dayton or Montgomery County for their water service as an entirety would count on them.

Member Cantrell asked if Dayton would not do ours?

Fire Chief Fletcher stated no because we have our own water infrastructure.

Member Cantrell asked if Englewood, Union and Vandalia all have some sort of water modeling system?

Fire Chief Fletcher stated Englewood and Union do and Vandalia relies on Dayton for their water system.

Member Cantrell stated it sounds like a good idea.

Member Apgar stated it is a necessity.

Public Service Director Williamson informed Lead and Copper sampling is to be performed in August. This sampling is performed every three years and we should have the results back by the end of the month.

Public Service Director Williamson informed Refuse numbers were 149 Tons of solid waste, 60 tons of chipped limbs and 19 tons yard waste were hauled away. He reported he has no numbers from Rumpke as to date because our contact has been out of town, but he should have some numbers soon.

Member Cantrell asked if we charge for limb pick up.

Finance Director Keaton informed the first ten minutes are free. We ask the residents to properly stack the limbs to help with time, after the first 10 minutes, the cost is \$0.70 a minute and with a \$10.00 minimum.

Public Service Director Williamson informed his staff keeps track of the time spent on picking up limbs and reports back to the City office if any one needs to be charged.

Member Henry stated the park looked beautiful for the Community Picnic and everything was mowed and looked great. She informed that she drove through the park on Sunday, the day after the picnic, and there was no trash anywhere.

Public Service Director Williamson thanked the Chamber of Commerce for their help. They did a great job helping pick up trash.

Member Apgar agreed with Member Henry and stated the Service Department did a great job.

Member Kirklin thanked Public Service Director Williamson for his help with removing some skunks from the theatre.

Member Letner asked if there is an estimated time frame for the water main break on Brookville-Johnsville Road.

Public Service Director Williamson stated he hopes to have it addressed the end of the week.

Fire Chief Fletcher stated he normally has an end of month report to present but did not have all of the information ready and will have to send out soon in an email.

Fire Chief Fletcher stated the Fire Department has had a successful transition to mobile EMS reporting. He stated that is part of their paperless initiatives which was a major bullet point in their 2016 capital improvements list. They are able to now capture information from iPads. Personnel were handwriting info in the field and then coming back to the station and entering into the computer which made for a lot of duplication. He stated there are signatures that crews are required to obtain, especially if refusing care or for billing, which has been a cumbersome task. He stated that now someone can just use their finger to sign the iPad, EKG's can easily be linked. Fire Chief Fletcher reported the program has been very successful so far.

Fire Chief Fletcher reported the Hydrant Maintenance Program continues on. The program is our fire fighters are out in the community making sure we do not have fire hydrant damage, that the valves on the hydrants are open, and discolored water is being taken off of the system. He informed this will continue into August as crews work their way into flow testing.

Fire Chief Fletcher informed a new Traffic Safety Trailer has been placed into service as a new resource. The need for this unit has been evident during a few special events and also during recent severe weather events where multiple traffic hazards existed around our response areas. It will be a shared trailer between Police, Fire and Service Department and the trailer will be maintained by the Fire Department. He informed the unit is a 6' x 8' utility trailer and has custom-built equipment holders.

Member Apgar asked if this could be used in the event of a water main break?

Fire Chief Fletcher advised it could be but under normal circumstances the Service Department has traffic control devices for normal everyday construction. However, in the event of a major water main break and their equipment is tied up with that and then another significant need for traffic control devices somewhere else in the City are needed, then this serves as our insurance policy. The trailer is loaded up and ready go when needed. He informed he built something similar in Englewood a few years ago and it has worked out great.

Police Chief Jerome reported the Brookville Police Department handled 392 Reportable Incidents year-to-date, compared to 345 during this same time last year. Police Chief Jerome reported Citations are down a total of 47 Citations year-to-date, for a total of 296 Citations issued year-to-date. There were 111 traffic stops for July compared to 143 during July 2015.

Police Chief Jerome informed Coffee with a Cop will be held on August 5, 2016 from 7:30 to 8:30 a.m at Brookhaven.

Police Chief Jerome stated the first day of school is August 17 and the Police Department will have a heavy presence around the schools and citizens need to adhere to speed limits. The Police Department wants children and parents to feel comfortable while getting on and off the school buses.

Police Chief Jerome reported the Police Department will participate in the Pastors Appreciation Breakfast/Breakfast with the Chief that is held annually on October 7. It is a great event for religious leaders in the community to meet with local law enforcement and they usually have a lot of mutual interest and collaboration from churches in the community. This event will be held at Brookhaven.

Police Chief Jerome informed Ghostly Night Out is currently in the planning stages and is scheduled to be held on October 29, 2016 at Golden Gate Park and Trick or Treat will be held on

October 31. He stated the Police and Fire Departments will have a big presence city wide during the night of Trick-or-Treat.

Police Chief Jerome stated that back by popular demand will be another female self defense class on November 5, 2016. He will be getting information out to the Brookville Star and the first 25 people signed up will fill the class. He informed the class usually fills up very quickly.

Police Chief Jerome informed the Veterans Day lunch will be held again this year at Rob's Restaurant on November 11, 2016. He informed that all donated funds take care of the lunch bills and anyone can volunteer to help work the event. It is usually a huge event that feeds several hundred veterans to help show our appreciation to our Armed Forces. He also informed the Feed Brookville event for Thanksgiving lunch will be November 12. Feed Brookville is when officers and their families serve Thanksgiving lunch and donate their time and give back to the community.

Police Chief Jerome informed that in December, Toys for Tots, will kick off. He informed the Police Department will have presence at the tree lighting ceremony on November 30, 2016.

Member Cantrell stated Community Policing has become quite the buzz word these days and she thanked Police Chief Jerome for already working on that over the last few years.

Law Director Stephan reported the City has received three petitions from citizens opposing the recent adoption of Ordinance No. 2016-08. He provided Council with the text of each petition received. He advised the initiative petition proposing the repeal of Ordinance No. 2016-08 is an initiative petition subject to Section 10.01 of the Charter. The other two petitions are proposed Charter amendments subject to Section 11.06 of the Charter.

Law Director Stephan informed the initiative petition to repeal Ordinance No. 2016-08 was filed with the Clerk of Council on July 18, 2016. He advised Section 10.01 (A) provides that an initiative petition must be signed by electors equal in number to ten percent of the number of votes cast in the last preceding regular municipal election. The petition was submitted to the Montgomery County Board of Elections to determine the number of required signatures, and whether the petition contained sufficient signatures to meet the requirement of 10.01 (A). The Montgomery County Board of Elections determined the number of required signatures was 202, and that the petition contains at least 218 valid signatures which meets the threshold of 202 required signatures. He noted that the Montgomery County Board of Elections suspended counting signatures on this petition when the threshold of signatures was reached.

Law Director Stephan reported the Certificate of the Clerk of Council has found, based on his legal opinion, that the petition does not conform to all requirements of the Charter, and applicable state law. Under Section 10.01 (D) of the Charter, the petitioners have the right to file an amendment of their petition within ten days after the date of the Certificate of Council.

Law Director Stephan advised the City received an initiative petition from a citizen group proposing an Ordinance entitled The Brookville Compassionate Cannabis Care Ordinance. He provided Council with the text of the proposed Ordinance. He advised Section 10.01 (A) provides that an initiative petition must be signed by electors equal in number to ten percent of the number of votes cast in the last preceding regular municipal election. The petition was submitted to the Montgomery County Board of Elections to determine the number of required signatures, and whether the petition contained sufficient signatures to meet the requirement of 10.01 (A). The Montgomery County Board of Elections determined the number of required signatures was 202. The Montgomery County Board of Elections found that the petition contained only 179 valid signatures and failed to meet the threshold of 202 required signatures. Law Director Stephan stated the committee was notified by us with a certificate from the Clerk of Council and his opinion letter regarding the initiative petition that it failed to contain sufficient signatures and that the petition did not conform to all of the requirements of the Charter.

Law Director Stephan informed the City also received two petitions for Charter amendment. He provided Council with copies of the proposed amendments to limit the terms of City Council and to amend the provisions to declare emergency on certain legislations. Those petitions are governed by a different process than the initiative petitions. The initiative petitions are governed by Section 10.01 of the City Charter and there is a very specific procedure that must be complied with and then moved through the various steps to have those petitions added to the ballot. The Charter amendments are governed by a different procedure. Section 11.06 of the Charter provides the Charter may be amended or repealed by the voters as provided by the Constitution of Ohio.

Law Director Stephan advised the Ohio Constitution Article XVIII, Section 9 sets forth the process for amendments to Municipal Charters. The City Council shall forthwith put a charter amendment on the ballot when it receives a valid petition containing sufficient signatures. He stated the Ohio Constitution Article XVIII, Section 14 provides: All elections and submissions of questions provided for in this article shall be conducted by the election authorities prescribed by general law. The percentage of electors required to sign any petition provided for herein shall be based upon the total vote cast at the last preceding general municipal election. The Ohio Supreme Court has determined that the standard for the percentage of electors required to sign the petition as set forth in Article XVIII, Section 14 is applicable to charter amendments under Article XVIII, Section 9. For example, Huebner v. West Jefferson Village Council and Wilen v. City of Kent they found that Section 14 controls as far as the number of signatures required. The petitions for Charter amendment were submitted to the Montgomery County Board of Elections to determine the number of valid signature. The number of required signatures was 202, which is ten percent of the votes cast in the last regular municipal election. On the Charter amendment petition that proposes term limits. The Montgomery County Board of Elections found 304 valid signatures. On the Charter amendment petition that proposes limits on the declaration of emergency. The Montgomery County Board of Elections found 217 valid signatures. He noted that the Montgomery County Board of Elections suspended counting signatures on this petition when the threshold of signatures was reached. Law Director Stephan stated that therefore, both

petitions for Charter amendments have sufficient valid signatures to meet the requirement of ten percent of the votes cast in the last regular municipal election. He advised that under the provision of Ohio Constitution, Article XVIII, Section 9, a petition proposing a Charter amendment must be submitted to the legislative authority, and it is the duty of the legislative authority to determine the validity of the petition. He stated the Ohio Constitution, Article XVIII, Section 8 and 9 prevail over conflicting Charter provisions as to the date of an election on a proposed amendment, and they require a municipal legislative authority to place the amendment on the ballot whenever sufficient petitions are filed. The Ohio Constitution, Article XVIII, Section 8 also provides that the legislative authority of a City that receives a petition for Charter amendment shall adopt an Ordinance to submit the proposed Charter amendment to the electors at the next regular municipal election if one shall occur not less than sixty nor more than one hundred and twenty days after its passage; otherwise it shall provide for the submission of the question at a special election to be called and held within the time aforesaid.

Law Director advised the petitions for Charter amendment have been submitted to City Council tonight and there are sufficient signatures from electors in the city to have the Charter amendments added to the ballot. He stated he plans to bring an Ordinance to Council at the next meeting to pass and place these items on the ballot at a Special Election. He is currently checking with Montgomery County Board of Elections as to when we can place this on the ballot for a Special Election.

Member Duncan asked why can't we have it on the November ballot?

Law Director Stephan advised if Council would like to schedule a Special Meeting, he can prepare an Ordinance and if at least five people vote on it as an emergency, then it could be placed on the November General Election Ballot.

Member Duncan does not want to pay to hold a Special Election.

Law Director Stephan informed he has been told the cost of a Special Election is approximately \$1,500 per precinct, so we would be looking at about \$6,000.

Member Cantrell stated it does not make sense to have an emergency vote on something that is stating we don't want emergency votes. She suggested having a Public Hearing.

Member Duncan stated we have already had a Public Hearing by all of these signatures received on the petitions. He stated Council has caused this problem by thinking they are "holier than the citizens"

Member Cantrell disagreed.

Member Duncan stated Council has already passed two things in emergency knowing the citizens were against it. He stated some members of Council have brought this on themselves

and we now have a chance to put this on the November ballot and save money instead of spreading it out.

Member Cantrell stated it could be put on the ballot in February.

Member Apgar asked if the citizens were told at the time of the petitions being passed around who was affected by the income tax?

Multiple members of the audience stated yes.

Member Duncan wanted to clarify that the marijuana petition has nothing to do with the group that was formed and has submitted the other three petitions?

Mr. Garber stated the the petition for emergency legislation is only for financial issues and not all issues.

Member Henry asked how that can be clarified?

Member Duncan stated right now, everything can be passed in emergency format.

Member Cantrell stated she has no problem with either of the proposed Charter Amendments. She stated it is a welcome addition for the idea of new blood on Council. Member Duncan has been on Council for 38 years and she has been on Council for the last ten years only because no one has run against her.

Member Apgar agreed that no one ever runs against him either.

Member Cantrell stated she thinks it is a great idea but no one new ever runs for City Council.

Member Apgar stated there should be a stipulation that those who signed the petitions, if nobody runs, then they can be chosen for City Council.

Member Cantrell stated that it is being proposed to amend the Charter of this City and there have been very few amendments made to the Charter and she appreciates what the committee is trying to do and gets that they want current members of Council out. She stated she does not care that they want to try and change the term limits or change the Charter, they are welcome to try and do that but she feels these are changes that needs some thought and cannot just be done willy nilly.

Mr. Brandt asked if she really thinks this has been done willy nilly?

Member Cantrell stated the committee is a small portion of the people that live in this community.

Member Kirklin asked the audience how many residents live in our City?

A audience member shouted maybe 3,000 people are in the City.

Member Kirklin stated that is way off.

Mr. Brandt stated they weren't required to have every citizen sign.

Member Kirklin stated that is not the point; two hundred some signatures is only a small percent of the total amount of residents in Brookville.

Member Cantrell stated we should allow other citizens to come in and hear about what is going on and she asked why are they so anxious to do this, are they afraid?

Uproar in audience.

Motion by Duncan to place the Charter amendments on the November ballot.

Member Cantrell stated she does not think it is fair to make that type of decision without Mayor Seagraves being present.

Member Kirklin stated there is a motion on the floor but no second.

Member Apgar asked Law Director Stephan if Council can propose additional Charter amendments?

Law Director Stephan advised Council can propose separate Charter amendments. For example, it has been discussed to change the number of members on Park Board. City Council can add these type of proposed amendments to the ballot. We currently only have four members on Park Board and if someone is absent then there is no quorum which is why he has been looking at bringing forth an Ordinance to change that and he can do that soon if Council would like that on the next ballot.

Law Director Stephan informed he has some real concerns with the proposed text of the Charter amendments and we are very limited to the changes that can be made. He stated that unfortunately, the way the law reads, when a Charter amendment is presented you have very limited discretion to change that text. He stated that Council can have whatever Public Hearing they want or can take whatever public comments they want but he would like to make it clear to Council that they have very little discretion to make changes.

Member Apgar asked if one can be added?

Law Director Stephan stated you can add or create and submit a new one with changes. He is looking at the legal remedies for the proposed text and he would like to discuss in more detail at the next meeting. He has issues with respect to the emergency clause and when it would apply but essentially what they have presented has valid signatures.

Member Cantrell asked if an Ordinance has to be prepared for Council to move forward.

Law Director Stephan advised an Ordinance has to be presented to Council to determine a date this will go on the ballot. He is currently in discussion with the Board of Elections. He informed if we are going to have this on the General Election Ballot in November we would have to have this in to the Board of Elections by 4:00 p.m. on August 10. If it is not there by August 10, then we will have to designate a day for a Special Election.

Member Duncan asked if we do a Special Election, do we set up a date of our choosing?

Law Director stated there is a specific window of time to choose from.

Member Duncan stated then we could pick a date in 2017 or 2018.

Law Director Stephan stated you could not choose a date in 2018. The latest date it could be is the Primary Election date which would be May 2017. If Council chooses to hold a Special Election then it would have to be between November and May.

Ms. Cheatham asked if it is put on the May ballot does it cost the tax payers \$ 6,000?

Law Director Stephan stated no, May is a regular primary election, so all of these items could be put on the ballot in May and since it is a regular election you may have a better turnout of voters compared to a special election.

Member Duncan asked what if the committee comes back with a certified initiative petition?

Law Director Stephan stated that is a completely separate process.

Member Duncan asked if we can set up a committee to look at the petitions and then present to the committees ways to be changed.

Law Director Stephan stated that is in the initiative process but not in the Charter Amendment process and that is why he believes we have very little discretion. He sees a number of legal and administrative issues that will be generated from this and a number of them are unforeseen but may cause a lot of problems in the future. We will have to work through exactly what that will mean.

Member Cantrell asked if we had a Public Hearing on these subjects and Law Director Stephan presented these thoughts, could the committee then change the text?

Law Director Stephan stated no.

Member Cantrell stated we would have to prepare our own Ordinances to protect the City. She stated that these citizens that have created these petitions need to know what type of problems they are causing and what types of future problems that Law Director Stephan sees with the emergency legislative amendment.

Law Director Stephan stated he could talk for a while on the potential problems that he sees with the emergency legislative amendment. His first thought is what does involving taxation mean? For instance, every year the City mows yards on vacant properties and then assess the property owners at the end of the year but due to deadlines they pass it as an emergency every year. As a lawyer, to him that is related to taxation. We will have to work around all of these issues and it may require more Council Meetings.

Law Director Stephan stated the Charter amendment on emergency legislation is clearly in conflict with Section 4.11 of the Charter on zoning amendments. Under Section 4.11 Council may, after a public hearing, can dispense with a second and third reading and declare an emergency. We will then have Charter provisions conflicting with each other.

Law Director Stephan stated it will also open us up to more lawsuits from property owners. There is a distinction in Ohio Law between administrative and legislative acts. This Charter amendment opens up citizens to be able to file referendums on administrative acts which will cause problems. He stated he could go on and on on the various issues these Charter amendments would propose. He understands what they were trying to do with these amendments but he wishes they were much more narrow and the taxation clause dealt with just increased rates of taxation on individuals. He can foresee a citizen group in the future having a problem with a particular project going on and arguing that "involving taxation" includes expenditures of taxpayer funds, and if that interpretation is correct, that means virtually everything we do is not going to be able to be done in an emergency, which will present a real problem to the City.

Stephan Crane stated taxation is very broad.

Law Director Stephan stated taxation is very broad and as a lawyer for the City, everything we do in the future, we will have to evaluate to see if it fits in this category. He understands what the committee was trying to do to address major issues like changes in tax rates or major re-zoning issues like the fairgrounds. He stated for every one or two things that have happened out the last 10-20 years that were controversial, there have probably been thousands passed in emergency on routine run of the mill things and nothing will be routine run of the mill in the future.

Law Director Stephan advised that with the term limits, his only concern is do prior terms count? He has read it three times and it is not very clear, however, that can be sorted out at the beginning of the year with the Board of Elections or Ohio Attorney General. He informed it is the other set of provisions related to taxation that will create a never-ending line of problems and the City is looking at legal remedies. We may go into the court system and attempt to have it declared invalid. For example, the City of Union, had a Charter amendment that limited their ability for annexation, it passed and the City of Union went to court and stated it was in conflict with State Law, and the courts sided with the City of Union. He is not saying this is what we are going to do but we are evaluating all of our options. He stated that these are his concerns as a lawyer for the community and he really wishes these amendments were more narrowly tailored.

Mr. Crane stated now that he has heard these concerns, he wishes the committee would have looked at this a little differently but unfortunately they looked at it as best they could and he apologized for future problems. maybe everyone should have worked together.

Member Duncan asked if the committee can withdraw their petitions.

Member Cantrell stated we cannot make them do that but they could offer.

Member Apgar stated it would have to be up to the committee and their attorney.

Member Duncan stated he was not telling them to do, he just wanted to know if it were possible.

Law Director Stephan stated he would be happy to speak with the committee's legal counsel to see if any sort of agreement could be reached.

Member Letner stated he has not seen any of the initiative petitions and he does not know what any of them say.

Law Director Stephan advised his memorandum was forwarded today.

Member Letner stated he received today at 1:00p.m. He would like to see the initiative and know what they said.

Member Cantrell stated everyone on Council received the information today at the same time.

Member Letner stated the petition was submitted July 18 and he just received a reply yesterday stating a reply was sent in response to the petitions and he did not know anything about and asked who responded.

Manager Burkholder stated the Administration which includes the Clerk of Council, City Manager and Law Director researched and responded to all four petitions received. He stated the Law Director has been working very hard on these matters and even worked on Sunday to prepare everything within the deadline. He realizes Council did not have a lot of review time but it was sent out as quick as possible based upon when the petitions were submitted.

Member Cantrell stated that according to the City Charter Staff followed the proper protocol.

Member Burkholder stated Staff did follow procedure.

Member Cantrell stated the Charter states the procedure was followed, once the Clerk received a petition the Clerk has ten days to certify the petition. If it is not certified, City Council does not even have to see it and if it is certified then it must be presented to Council at the next meeting and that is tonight's meeting. So technically, Staff did what was to be done according to the Charter.

Law Director Stephan advised that in our responses to both committees we followed the Charter in order to be consistent and at least one objection was the same to both committees. He stated when we are in a situation where we have more than one committee submitting initiative petitions we need to have a consistent legal response to what is presented back to each committee. He made a decision as the Lawyer for this City that this is what we need to do in order to follow the rules.

Member Letner stated he understands that but he only received the information today in the afternoon and that gives him very little to prepare any questions or have any sort of response.

Member Henry stated that it was not just Member Letner it was everyone on Council.

Member Duncan informed he was asked on the street by two people as to why the petitions were rejected.

Member Cantrell stated it was done just like the Charter states.

Member Duncan stated people knew on the streets about the petitions before Council did.

Member Cantrell stated that it had to have come from the committee, and that it did not come from anyone in the City.

Ms. Cheatham stated at the last Council Meeting it was stated that the City received petitions in Manager Burkholder's Report.

Member Cantrell thanked Law Director Stephan for his hard work on dealing with the petitions.

Member Cantrell stated if the Mayor were here he would probably say how great the Picnic turned out, he was out at the picnic with City Manager Burkholder and gave the welcoming speech. She stated the picnic went off with out a hitch.

Member Cantrell reminded Feed Brookville will be starting soon for anyone who would like to participate, it will be starting end of August, easy September at the Board of Education Office.

No Old Business

In New Business,

Motion by Apgar, second by Kirklin to read Proposed Resolution No. 16-18. All yeas, motion carried.

Motion by Duncan, second by Apgar to accept the first reading, dispense with the second and third and accept proposed Resolution No. 16-18 entitled, " A RESOLUTION AUTHORIZING THE CITY OF BROCKVILLE TO PREPARE AND SUBMIT AN APPLICATION TO PARTICIPATE IN THE OHIO PUBLIC WORKS COMMISSION STATE CAITAL IMPROVEMENT AND/OR LOCAL TRANSPORTATION IMPROVEMENT PROGRAM (S) AND TO EXECUTE CONTRACTS AS REQUIRED, AND DECLARING IT AN EMERGENCY." All yeas, motion carried.

Member Cantrell stated there was a resignation on Park Board.

Manager Burkholder stated no appointment for the vacancy tonight ,but since Council recently interviewed for an open seat on Park Board, he asked if they would like more interviews or to choose from the other letters received last time.

Member Apgar suggested Council choose the next Park Board Member from the letters already received from the last resignation which was just a few months ago.

Member Henry agreed.

Member Duncan asked if Council should discuss with Park Board President.

Manager Burkholder suggested checking with Park Board President Monnin to see if he has a second choice and will then forward that information to Council.

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



Meghan Wheeler, Clerk



Margo Cantrell, Vice Mayor