

Brookville City Council
Regular Meeting
November 15, 2016

The Regular Meeting of the Brookville City Council was called to order by Vice-Mayor Cantrell at 6:30 p.m. on November 15, 2016 in the Brookville Council Chambers. The Pledge of Allegiance was recited. Members Apgar, Duncan, Henry, Kirklin and Letner; City Manager Burkholder, Police Chief Jerome, Fire Chief Fletcher, Law Director Stephan, Clerk Wheeler and Public Service Director Williamson were present. Mayor Seagraves and Finance Director Keaton were absent.

Roll Call by Clerk Wheeler.

Motion by Apgar, second by Kirklin to recess the Regular Meeting of Council in order for the Public Hearing for proposed Ordinance No. 2016-14 to repeal Ordinance No. 2016-08 to begin. All yeas, motion carried.

Motion by Kirklin, second by Duncan to open the Public Hearing for proposed Ordinance No. 2016-14 to repeal Ordinance No. 2016-08. All yeas, motion carried.

Law Director Stephan began the Public Hearing at 6:32 p.m. on proposed Ordinance No. 2016-14 to repeal Ordinance No. 2016-08.

The Public Hearing was recorded and is on file with the Clerk at the Municipal Offices.

Law Director Stephan administered the Oath of Witness to those who expressed an interest in presenting their testimony.

A complete transcript of the Public Hearing was made by Christy Gallagher, of Mike Mobley Reporting; the transcript of the Public Hearing is available in the City Offices.

Motion by Kirklin, second by Apgar to close the Public Hearing. All yeas, motion carried.

Motion by Apgar, second by Kirklin to recess until 7:30 p.m. for the Regular Council Meeting. All yeas, motion carried.

Motion by Apgar, second by Kirklin to re-open the Regular Council Meeting. All yeas, motion carried.

Fire Chief Fletcher arrived at 7:30 p.m. for the Regular Council Meeting.

Motion by Apgar, second by Kirklin to approve the Agenda. Members Apgar, Cantrell, Henry, Kirklin, and Letner voted yea. Member Duncan voted nay. Motion carried with five yeas and one nay.

Member Duncan stated in the past when a Public Hearing was held, the Ordinance related to the Public Hearing was on the Agenda the same night to be voted on. He stated Ordinance No. 2016-14 is not on the Agenda and asked why?

Member Cantrell stated she does not know why it is not on the Agenda but personally she would like a little time to digest and review before voting.

Member Duncan stated there is time between now and the third reading.

Member Cantrell stated the Mayor would probably like to be present for the next reading.

Law Director Stephan advised Section 10.01 of the Charter states Council has up to 30 days after the Public Hearing to accept recommendations from the committee as a whole before the second reading. He informed the plan is for the second reading to be done at the first meeting in December.

Motion by Apgar, second by Kirklin to approve the Regular Council Meeting Minutes of November 1, 2016. All yeas, motion carried.

In Old Business,

Motion by Henry, second by Kirklin to read proposed Ordinance No. 2016-16. All yeas, motion carried.

Motion by Duncan, second by Apgar to approve the third reading and adopt Ordinance No. 2016-16 entitled, "AN ORDINANCE ESTABLISHING A COMMUNITY REINVESTMENT AREA." All yeas, motion carried.

Member Duncan stated in light of the recent election on the two issues on the ballot, the results sent a good reflection of the concerns of the citizens. Member Duncan recommended Council set up a committee of Council Members and citizens to review a draft charter amendment to replace the one that was just passed for emergency legislation to help make the amendment to be better for both sides. He stated before the citizens were not protected and now they are but now it makes it much harder for City Council.

Law Director Stephan stated a charter amendment on the charter amendment that was recently passed is legally possible and Council has every ability to form a Charter Review Committee.

Member Cantrell clarified that until that happens the amendment that was just passed will be in effect.

Law Director Stephan advised the amendment passed will go into effect once the election is certified.

Member Cantrell stated Council has had a discussion in the past to create a Charter Review Committee. She remembers giving out a book to Council Members that discussed the methodology of reviewing a Charter in a thorough and beneficial way.

Member Apgar stated there are a lot of possible charter amendments that could be made.

Member Duncan stated Council has known there are other things that need reviewed within the City Charter but right now the focus should be on the emergency legislation amendment.

Member Cantrell stated she does not have a problem with establishing a Charter Review Committee. She asked if City Staff would be who would begin the process?

Manager Burkholder informed Staff can start the process with consultation from the Law Director.

Member Kirklin stated this is probably a good example of where the whole picture was not really understood in the beginning. She asked Member Duncan if he feels if our inability to pass under emergency fashion the way the amendment was written places a burden on Council?

Member Duncan stated all of Council seems to agree on that.

Member Kirklin stated that working together with the citizens would help to ensure there is a full understanding of the whole picture and not just pieces and parts. She agreed with Member Duncan that partnering is a great idea.

Member Cantrell stated she wrote a letter to the editor, and the need of a full and thorough review of our City Charter was one thing she wrote about. She asked when our City Charter was written?

Law Director Stephan informed the Charter was written around 1979 or 1980.

Member Cantrell stated there has been a lot of change since 1980 and if we are going to call ourselves "Proud and Progressive" then to be progressive it is not a bad idea to review the Charter.

Motion by Duncan, second by Kirklin to set up a Charter Review Committee with Staff direction. All yeas, motion carried.

Member Cantrell suggested Council Members look back through their emails last year to see if they still have the information she sent them on organizing a Charter Review Committee. She stated she remembers the book listed ideas on how to reach out to the business community to help.

Member Kirklin suggested if maybe folks are willing to commit, they could contribute a few hours a week because it will be a deep dive and having the time for the review will be critical.

In New Business,

Motion by Kirklin, second by Apgar to read proposed Resolution No. 16-29. All yeas, motion carried.

Member Duncan asked if Resolution No. 16-29 has nothing to do with taxation then it is ok to pass as an emergency?

Law Director Stephan stated Resolution No. 16-29 does not relate to taxation and is requested by the Ohio Department of Transportation (ODOT) and has been requested to be returned as soon as possible.

Motion by Duncan, second by Kirklin to accept the first reading, dispense with the second and third reading and adopt proposed Resolution No. 16-29 entitled, "A RESOLUTION TO RENEW THE MUNICIPAL BRIDGE INSPECTION PROGRAM FOR 2017, 2018 AND 2019, AND DECLARING IT AN EMERGENCY." All yeas, motion carried.

Manager Burkholder reported an update on the Fire House Project. He informed a Coordination Meeting was recently held with App Architecture, the Construction Manager and other fire house consultants. He informed the recent ground breaking ceremony for the new Fire Station was very nice.

Manager Burkholder informed he went on a Economic Development trip to Michigan with Montgomery County Commissioner, Dan Foley and Montgomery County Economic Development Director, Erik Collins. He stated it was a very good trip and included a visit with the Vice President of Wolverine Worldwide.

Manager Burkholder stated he attended the recent Manager's Roundtable Meeting.

Manager Burkholder informed there will be a Change Order before Council tonight on the Maple Street Waterline Project and Public Service Director Williamson will discuss further in his report.

Manager Burkholder asked Council to check their availability as Staff would like to schedule a Budget Work Session to present the 2017 Draft Budget.

Member Kirklin asked Manager Burkholder if he was looking at the week of December 5th for the Budget Work Session?

Member Apgar asked about November 29th?

Clerk Wheeler informed November 29th was being considered but Finance Director Keaton does not believe that will be enough time for the draft budget to be ready.

Manager Burkholder informed the Capital Improvements Plans still needs folded into each Department. There are also other Capital Improvement funding and grants that need to be figured in also.

Member Cantrell asked if the Work Session can be after the first Council Meeting in December?

Manager Burkholder stated it can be after the Council Meeting.

Member Cantrell asked if December 13 would work for everyone?

Clerk Wheeler stated that Tuesday would be a Park Board Meeting.

Member Duncan stated we do not want to get too far into December due to the holidays and everyone's schedules get busy.

Member Cantrell asked about Wednesday, December 7?

Members of Council all agreed that Wednesday, December 7, 2016 would work for a Budget Work Session on the 2017 budget.

Member Cantrell stated the Budget Work Session will tentatively be scheduled on December 7, 2016 from 6:00 to 8:00 p.m.

Clerk Wheeler stated she will send out a confirmation email to Council and Staff with the date and time for the Budget Work Session.

Member Duncan asked if there has been any word on the old Library building that is for sale.

Manager Burkholder stated no. He informed Zoning Officer Snedeker is off for a little while. There is a realtor handling the building for sale and anyone that were to inquire about the building would be put in touch with the realtor.

Member Cantrell informed Finance Director Keaton is absent tonight.

Public Service Director Williamson requested Council approval for Change Order #3 on the Maple Street Project. He informed since the last Council Meeting a few changes were incorporated in order to make a final pay request and to close out the project. Additional work was performed including some service line work. He informed there were additions totaling \$30,196.50 and deductions of \$11,410.50 for a total net change of \$18,786, changing the contract price from \$238,335.03 to \$257,121.03.

Member Cantrell stated at the last Council Meeting Staff was going to review over the Change Orders for the Maple Street Project. She asked if that was done?

Public Service Director Williamson stated yes, the orders were reviewed and approved. This would be the final Change Order to finish the project up.

Member Cantrell asked the total amount of the final Change Order?

Public Service Director Williamson stated the total amount for Change Order #3 is \$18,786.

Member Letner asked what the items were that were not done?

Public Service Williamson informed concrete paving, and curb replacements that were in the original contract in the event of accidental damage were the two biggest costs but also some sanitary lateral work that ended up not being required. He explained the deductions mainly came from a few unforeseen items placed in the original agreement as a precautionary or worst case scenario that we did not need in the end.

Member Letner asked if any of the deductions had anything to do with the waterlines?

Public Service Williamson stated no.

Member Cantrell asked if the increase of the \$30,196.50 were due to service lines being added to houses that were not included on the original drawings.

Public Service Williamson informed that is correct.

Motion by Duncan, second by Kirklin to approve Change Order #3 on the Maple Street Project as presented. All yeas, motion carried.

Public Service Director Williamson reported masonry work was performed and cracked brick was replaced with mortar tuck-point at the 269 Foothill Drive Project. Rough-in electrical and plumbing is also scheduled for later this week.

Public Service Director Williamson informed four additional trees were planted through the Memorial Tree Program. He stated the Service Department has also begun winterizing the various facilities in the parks, for example the concessions, rest rooms, etc.

Public Service Director Williamson informed the City will be hosting a training session sponsored by the Ohio Rural Water Association on Thursday, November 17, 2016.

Member Kirklin stated that is a great networking opportunity.

Public Service Director Williamson reported leaf pickup continues throughout the City.

Public Service Director Williamson stated a conference call with Miami Valley Regional Planning Commission (MVRPC) and the Ohio Department of Transportation (ODOT) was recently held for the resurfacing projects on Wolf Creek Street and Brookville Johnsville Road. He informed the Projects remain on track for 2017.

Public Service Director Williamson informed Dukes Root control performed treatment on Salem Street, sections of Sycamore Street and sections of Arlington Road sewer lines.

Member Kirklin asked what drives the determination of what streets are treated for root control and when.

Public Service Director Williamson informed they look at what areas were treated in the past and Duke's offers a warranty of three years. He stated we try to target the areas as their warranty expires.

Member Kirklin asked if there is a plan in place and are there areas that have not been treated in the past?

Public Service Director Williamson informed they have rotated around the City, he cannot say for sure that there is no area that has not been treated but trouble spots have been hit and as a

certain area's warranty comes up every three years then the area is treated again.

Member Kirklin proposed a more detailed plan for specific areas being treated for roots other than when the area comes up for warranty after three years. She would like to see a list of which areas have been treated, a time frame since treatment and the timing of when to be treated again in order to help take a look at things from a more strategic standpoint.

Fire Chief Fletcher reported he recently met with several other Fire Chiefs, Zoning Officers and County personnel involved with building permits, planning submittals and any type of new construction. He informed that about 18 months ago, Montgomery County was the recipient of the Lean Ohio Grant and the goal of that process is to help streamline certain government processes. The product of their grant work and efforts over the last 18 months is they have laid out some very helpful checklists to make it very helpful for someone who is looking for information. It has helped streamline the process to ensure everyone is giving out the same information and the correct information. It has helped improve communication between cities, inspectors, residents, builders etc. He stated we have the information available to us now and he will bring to fellow Staff Members and we should be able to take advantage of the information and help streamline our process. He will bring forward additional updates as they come in the future.

Police Chief Jerome informed he was contacted by Rodney Stark with the Boy Scouts and there is another young man in our community who has reached the goal of Eagle Scout. He stated to reach Eagle Scout is a tremendous achievement which is why he would like to present the Chief Leadership Award tonight. Chief Jerome presented Jared Horvath with the Chief Leadership Award. Jared is a Junior at Brookville High School who has reached the level of Eagle Scout for his hard work on designing and constructing composting bins at the Community Garden. Jared has been in the Scouts since 3rd grade, he is an avid outdoorsman and a teacher of all things nature. He has participated in two high adventure trips including ten days camping in New Mexico with only a backpack and a seven day trip canoeing 58 miles from Canada. Jared also volunteers for the Five Rivers Metro Park.

Jared Horvath thanked City Council Members and both Chiefs, and stated he is very honored and proud to have reached Eagle Scout. He presented a pin from his rank advancement kit to his father, mother and his mentor, his grandfather for all of their love and support.

Police Chief Jerome congratulated Jared on all of his achievements.

Member Cantrell congratulated Jared on behalf of City Council and Mayor Seagraves. She stated she has enjoyed getting to know him at school over the last five years and has enjoyed watching him grow up into a very fine young man.

Member Kirklin stated Jared's family has been a tremendous part of our community for decades. His achievement is a wonderful testament to his family and congrats to him and his family.

Motion by Apgar, second by Kirklin to recess the Regular Council Meeting in order for the Public Hearing for proposed Ordinance No. 2016-15 to amend Chapter 1161 of the Code of Ordinances to begin. All yeas, motion carried.

Motion by Kirklin, second by Henry to open the Public Hearing on proposed Ordinance No. 2016-15 to amend Chapter 1161 of the Code of Ordinances. All yeas, motion carried.

Law Director Stephan began the Public Hearing on proposed Ordinance No. 2016-15 to amend Chapter 1161 of the Code of Ordinances at 8:03 p.m.

Law Director Stephan advised the Public Hearing tonight is a joint Public Hearing between City Council and Planning Commission, which there are several Planning Commission Members present for the Public Hearing. He stated the Public Hearing is being held to receive public

comments on Ordinance 2016-15 which will amend Chapter 1161 of the Code of Ordinances. Chapter 1161 is our Sign Code, and it contains all of our regulations for signs in the City of Brookville. He informed this new Sign Code is intended to address several issues with our current Sign Code.

Law Director Stephan informed in 2015, the United States Supreme Court in the case of Reed et al. v. Town of Gilbert, Arizona, found that a content based sign code in the Town of Gilbert, Arizona was unconstitutional. Their sign code defined categories of temporary, political and ideological signs on the basis of their messages, and then subjected each category to different restrictions. Because their sign code regulations were dependent on the content of the sign, the regulations were subject to strict scrutiny and could only be justified if the government proved that the regulations were narrowly tailored to serve compelling state interests. He informed our current Sign Code is a content based Sign Code. For example, we have a number of different rules for temporary signs that are based on the content of the signs. Our new code is designed to be content neutral. It is based on a similar content neutral code that has been adopted by the City of Kettering. The new code eliminates references to the content on the sign.

Law Director Stephan stated our other major goal with this new proposed Sign Code is to clarify our rules and make our Code more user friendly. Our current Code contains a number of rules that are difficult to interpret and apply. This new Code includes tables for each type of sign that includes the rules related to those signs. These tables should make the Code easier to administer for City Staff and more user-friendly for applicants.

Law Director Stephan advised the new Code incorporates most of our current sign sizes for each zoning district. The new Code also incorporates our current rules for electronic message centers. It is anticipated that most of our current signs will be in compliance with our new code.

Law Director Stephan asked if anyone would like to testify, comment or question the proposed new Sign Code?

Member Cantrell asked if the proposed new Sign Code will be revisited at the next Planning Commission Meeting for further discussion and review.

Law Director Stephan stated after the hearing, the proposed new Code will be presented at the next Planning Commission Meeting for additional review and then a final recommendation that will come back to City Council for two additional readings.

Member Cantrell asked Law Director Stephan to review the area of the Code on Conservation Districts that state no ground signs. She is wondering about cemeteries and churches and if a Special Use would allow them to have ground signs?

Law Director Stephan stated that is an area we need to make sure is correct because the Conservation District also includes our parks.

Member Cantrell noticed in the section on the Community Center, it states no ground signs but with the way the Community Center exists now, that would be highly improbable. However, with some new rules passed in the General Assembly to help empower Cities to create Downtown Re-Development Districts, we may want to allow ground signs in the future. Should we include this now or wait until the time comes?

Law Director Stephan advised it could be incorporated now. It has been looked at in the Community Center District but especially along Market Street, there is very little space for ground signs.

Member Cantrell stated it would be something to think about if the configuration of the streets were to change and Market Street was extended because then perhaps we would want to have ground signs and manage them by certain size requirements.

Law Director Stephan stated we would want ground signs on the Market Street Extension and this is one of the things being looked at, what is our vision for the Market Street Extension. He informed this has been discussed with property owners involved and is something that will eventually come back to Planning Commission and City Council. The current zoning there is a different zoning than the old part of Market Street. The old part of Market Street is Community Center Zoning and the new part of Market Street where the extension would be, would primarily be zoned General Business District. He stated we could look at including ground signs for the future though.

Member Cantrell stated she noticed a few other discrepancies that can be discussed at the next Planning Commission Meeting, for instance, some areas said six square feet for window signs and other said eight square feet. She stated that in the section for commonly found materials, she would prefer cardboard to be left out. If we want signs to be neat and professional in appearance, cardboard can be affected by the weather.

Member Cantrell stated she thinks the vacant building signs need to be addressed, some of the window signs can be pretty big.

Motion by Kirklin, second by Apgar to close the Public Hearing on Ordinance 2016-15. All yeas, motion carried.

Motion by Apgar, second by Kirklin to go back into the Regular Council Meeting. All yeas, motion carried.

Police Chief Jerome reported the Brookville Police Department handled 579 Reportable Incidents year-to-date, compared to 538 during this same time last year. Police Chief Jerome reported Citations are down a total of 40 Citations year-to-date, for a total of 389 Citations issued year-to-date. There were 95 traffic stops for October compared to 99 during October 2015.

Police Chief Jerome thanked all of the donors and sponsors for the Veteran's Day lunch at Rob's Restaurant. He stated it could not have been done without the MVCTC students. The event fed 375 veterans. There were eight World War II Veterans at the lunch and he was able to talk with all of them and always loves to hear their stories. There were some repeat guests and they always seem to request photos each year and like to compare the photos to the previous year, which is very cool. Chief Jerome informed the lunch was completely paid for by local businesses.

Police Chief Jerome informed the very next day after the Veteran's Lunch was the Feed Brookville event. He informed Manager Burkholder and Vice-Mayor Cantrell helped out during the event. He stated the event fed 150 people from the community. He thanked the Brookville IGA for their generous donation of donating all of the turkeys. He again thanked the MVCTC students for all of their hard work and informed the Police Department will plan to do it again next year.

Police Chief Jerome reported Toys for Tots will be underway soon. Steve Whitaker works closely with the schools and the needs of the community and last year we sponsored 28 families. He informed people can contact the Police Department for more information or if anyone would like to sponsor a family. Chief Jerome stated this program is a joint effort to help local families and to help the Marines with their Toys for Tots program. The kick-off for the event will be held at the Tree Lighting Ceremony with the Marines and they will have a box present for donations.

Member Cantrell thanked Police Chief Jerome and his Department for all they did last week.

Law Director Stephan had no Report.

Member Cantrell thanked citizens for voting in the past election.

Member Cantrell informed Roger Moeller, a long time citizen, has passed away. She stated he was a great contributor to our community and gave her condolences to his family.

Member Cantrell reminded the Miami Valley Planning & Zoning Workshop will be held on December 2, 2016.

Member Cantrell informed the Chamber's Annual Tree Lighting will be on November 30, 2016.

Member Duncan asked Park Board President, Dave Monnin, if there will be some sort of memorial held for the new War Memorial at Gateway Park? He stated the Memorial looks great so far.

Mr. Monnin informed the Memorial is not quite finished yet but some sort of dedication will be held, he is unsure of an exact date at this time.

Bruce Garber, of 434 Sycamore Street, stated he brought up at the last Council Meeting the generator being down at the Wastewater Treatment Plant and that we would have been in a world of hurt if DP&L would have lost power. He stated he wanted to bring up the adverse consequences that could have been if raw sewage were to leak onto Wolf Creek. Sewage could have leaked into Trotwood, Dayton, the Great Miami River, EPA fines, bad publicity, and ill will of our neighbors.

Mr. Garber informed he spoke with Public Service Director Williamson the next day and had a really good conversation on contingency plans and spare parts availability in order to minimize the outage time of the generator.

Mr. Garber stated he also spoke with Public Service Director Williamson about the tree at his house that is leaning over. He thanked Public Service Director Williamson for addressing the situation and informing him that it seems to be in no danger of falling over.

Mr. Garber stated he would like the rules defined for Public Comments at Council Meetings.

Mr. Garber stated he is unsure why there is a proposed second water tower needed in the City? He asked if it is due to pressure? He stated pressure is defined by the height of the water, so if the new tower is the same height as the old tower it would not increase the pressure. If it is needed because of flow, it could be done cheaper by increasing the amount of loops. He asked if we are receiving backflow from the City of Clayton and if so, that would be their responsibility then to build a new tower. Mr. Garber stated he would like to have reasons for the need of a second water tower.

Kim Cheatham, of 565 Adrian Court, thanked the Service Department for fixing Arlington Road. She thanked Police Chief Jerome for Ghostly Night Out, it brought in thousands of people to our community and it was a great event. She thanked his Department for the way they handled the recent unfortunate incident in town. She stated it just shows how great our Police force truly is. Ms. Cheatham also thanked Member Duncan for his suggestion to create a committee to review the City Charter. She hopes that Council is serious with the idea of including citizens to help serve on this committee. She feels the message from voters was a strong message that citizens are dissatisfied with the way things have been handled and she hopes that is taken into consideration.

Ms. Cheatham thanked Member Letner for standing up and stating it as it is. She has lived here her entire life and has never seen the community as divided as it is now and she thanked him for stating that. She informed the recent election showed how the citizens truly feel and she hopes the wounds heal and friendships can be mended in time and that everyone can move forward.

Ed Kirklin, of 239 Crosswell, stated everyone is making a big deal of the recent election and how everyone voted for term limits to pass. If everyone were as excited to run for Council as they were to vote we wouldn't even be in this situation. He stated this whole situation is ridiculous and the reason some Council Members have been on Council as long as they have is because no one ever runs against them. If other people ever ran for Council then the citizens would never had to have voted for term limits in the first place. He stated there has been a lot of ignorance and half truths that have scared people and now we will be in trouble because once this is over with and done, half of the people that are complaining so much will be gone and there will be no one to fill the empty Council seats because the people that wanted them can't because of the term limits. Nobody has cared about term limits until now, when it has reached their wallets and everyone should quit hiding what it is really all about, it's about the money. Mr. Kirklin stated it all comes down to money, either the citizens feel the City needs money or not. If you don't want certain Council Members on City Council then get out and run against them because technically there have always been term limits but nobody has cared to run. People want to get mad and spread their half truths but once it's over with they are gone.

Motion by Kirklin, second by Apgar to go into Executive Session per ORC 121.22 (G)(6) to discuss details relative to the security arrangements and emergency response protocols for a public body or a public office. All yeas, motion carried.

Vice-Mayor Cantrell called Council back into Regular Session.

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


Meghan Wheeler, Clerk


Margo Cantrell, Vice-Mayor