

**BROOKVILLE CITY COUNCIL
REGULAR MEETING
December 6, 2011**

The Regular Meeting of the Brookville City Council was called to order by Mayor Seagraves at 7:30 p.m. on December 6, 2011 in the City Council Chambers. The Pledge of Allegiance was recited. Members Apgar, Cantrell, Duncan, Garber, Letner and Ullery; Fire Chief Nickel, Police Chief Preston, Manager Wright, Law Director Stephan and Assistant Manager/Finance Director/Clerk Keaton were present.

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

Motion by Apgar, second by Cantrell to accept the November 15, 2011 Regular Meeting Minutes as presented. All yeas, motion carried.

Mayor Seagraves announced that the Brookville Fire Department selected two Fire Department members to be sworn in as Lieutenants this evening. Mayor Seagraves stated he knows both men personally and professionally and they are fine young men. The community of Brookville and the Brookville Fire Department are better off because of each of them.

Fire Chief Nickel stated the two new Lieutenants were the highest scoring applicants in the selection process. Both men were in the Cadet Program as youths, graduated from Brookville High School and reside in the community; they are each Level II Firefighter Paramedic/Inspectors. Tyler Ullery is a career firefighter for the City of Riverside and Dan Wolfe is working hard to become a career firefighter.

Mayor Seagraves administered the Oath of Office to both Tyler Ullery and Dan Wolfe as new Lieutenants for the Brookville Fire Department.

Member Ullery commented that today's firefighters have to go through a lot more than he had to when he was going through the ranks; and commended both men for the time that they dedicate to the Brookville Fire Department. Member Ullery stated he is very proud and happy to have both men as Lieutenants.

Member Duncan stated as another ex-firefighter, he would like to thank the families present for supporting the men, as he knows the duties of a dedicated firefighter can be a big strain on the family.

Manager Wright requested approval to enter into a contract with the Montgomery County Public Defender for 2012. The fee will increase \$4.26 per case to cover standard inflationary increases in cost.

Motion by Cantrell, second by Ullery to authorize Manager Wright to enter into a contract with the Montgomery County Public Defender for 2012, at a cost of \$146.21 per case, for which the Public Defender provides representation, as recommended by Manager Wright. All yeas, motion carried.

Manager Wright requested authorization and approval for two Change Orders on the Nutrition Way Project, the first for repairs to the asphalt on Collective Way, near Nutrition Way.

Motion by Duncan, second by Apgar to authorize and approve Change Order #1 on the Nutrition Way Project, increasing the amount by \$903.74 for repairs to the asphalt on Collective Way near Nutrition Way, changing the contract price from 471,571.00 to \$472,474.74 as recommended by Manager Wright. All yeas, motion carried.

Manager Wright reported Change Order #2 is a decrease in monies budgeted for field adjustments to quantities made by both the City and the contractor.

Motion by Apgar, second by Cantrell to authorize and approve Change Order #2 on the Nutrition Way Project, decreasing the amount by \$6,628.75 for field adjustments to quantities, changing the contract price from \$472,474.74 to \$465,845.99 as recommended by Manager Wright. All yeas, motion carried.

Manager Wright reported Medicare has released the 2012 Ambulance Inflation Factor and will be increasing the allowable EMS transport payment by 2.4%, starting January 1, 2012. Manager Wright stated MED3000 recommends that we increase our rates by 2.4% to maintain with this inflation increase. Manager Wright reported there was no EMS transport rate increase for 2011 and recommended Council authorize this increase.

Motion by Apgar, second by Garber to adjust the ambulance transportation fees for 2012 as recommended by Manager Wright and MED3000. All yeas, motion carried.

Manager Wright reported that curbside leaf collection will finish up this week. Residents with any remaining leaves can place them in their trash or they can put them in yard bags.

Manager Wright invited Council Members to attend our annual employee carry-in luncheon that will be held on December 13, 2011 at 11:30 a.m.

Member Garber inquired whether the WWTP has been able to handle the recent large amount of rain.

Manager Wright reported our pumps were able to keep up with no problems.

Member Ullery commented the Christmas lights and decorations around town look really nice.

Fire Chief Nickel reported the Brookville Fire Department Annual Awards Banquet was held this weekend, with Chad Ferguson receiving the EMS Person of the Year Award and Jim Hart receiving the Firefighter of the Year Award.

Member Letner commended Fire Chief Nickel on the recent officer selection process, stating the two men promoted to Lieutenant were fine candidates and well deserving of the promotions.

Police Chief Preston presented the Brookville Police Department Incident Log Report for November 1 through November 30, 2011, which shows there were 61 new cases for investigation with 56 closed and 5 pending further investigation. One of these pending cases may have been cleared today. The Brookville Police Department closed 23 of these cases by arrest.

Police Chief Preston reported the Brookville Police Department responded to 564 calls in November, which brought in 61 cases for investigation, 23 arrests, 171 traffic stops and 240 vacation house checks. Police Chief Preston reported there were 830 foot patrols of the businesses with 170 foot patrols through the banks. Police Chief Preston commented the Thanksgiving holiday went by smoothly.

Law Director Stephan stated he has some comments on proposed Ordinance No. 2011-06 and asked Assistant Manager/Finance Director Keaton to read Planning Commission's recommendation to Council.

Assistant Manager/Finance Director Keaton advised Planning Commission did review proposed Ordinance No. 2011-06 and discussed it at length at the last Planning Commission meeting. A motion was made by Claggett, second by Cantrell to recommend to Council to adopt proposed Ordinance No. 2011-06 with the amendments as outlined in Sections 1353.09(a), 1353.09(a)(6) and 1353.09(c)(3) as presented by Law Director Stephan to Planning Commission. All yeas, motion carried.

Law Director Stephan advised in Section 1353.09(a) a sentence was added stating "Maintenance shall be required when the detention basin, retention pond or other drainage improvement is not adequately disposing of subsurface and surface water, and is not operating as originally designed and approved pursuant to the Subdivision design criteria of the City of Brookville." Law Director Stephan stated the concept of adding that provision is that maintenance items are specifically tied to maintaining the original design of the drainage facility and if it is not operating properly, the maintenance items need to be addressed. Law Director Stephan stated the second amendment is in 1353.09(a)(6) where the reference to an amount of sedimentation that is greater than 25% of the original depth was removed. The reason for removing that is that we are tying this specifically to the drainage improvement

not operating properly as originally designed. Therefore sedimentation would only be required to be removed if the drainage improvement was not operating properly so there would not be a specific depth requirement. Law Director Stephan reported the third change was to 1353.09(c)(3) where the following was added: "In the event that an association of owners is legally required to maintain a detention basin, retention pond or other drainage improvement, and the association of owners has failed to pay the costs incurred for abatement of the nuisance, then the Finance Director may assess the costs to all property owners of the lots in the recorded subdivision plat in which the detention basin, retention pond or drainage improvement is located." The language was changed to indicate that property owners in a particular subdivision would only be assessed for maintenance costs if an association was legally required to maintain the drainage improvement. If a developer is the responsible party then the costs would not be passed on to the property owners. This addressed the concerns raised by residents of the Meadows of Brookville where no legal establishment of an association was required.

Mayor Seagraves commended Law Director Stephan for his time and extensive effort on this proposed Ordinance.

Member Garber stated he likes the changes to the proposed Ordinance and suggested changing the wording in Section 1353.09(a) from "and is not operating as originally designed" to "or is not operating as originally designed". This would clarify that either situation would require maintenance when the drainage improvement is not adequately disposing of subsurface and surface water.

Law Director Stephan replied that it could be changed to "or" but the second part of the sentence is essentially restating the first part of the sentence and adding the reference to the subdivision design criteria.

Motion by Cantrell, second by Apgar to read proposed Ordinance 2011-06. All yeas motion carried.

Motion by Duncan, second by Cantrell to accept the second reading of proposed Ordinance No. 2011-06. All yeas, motion carried.

Assistant Manager/Finance Director Keaton presented the November 30, 2011 Fund Balance for Council review and approval.

Motion by Duncan, second by Apgar to approve the November 30, 2011 Fund Balance as presented. All yeas, motion carried.

Assistant Manager/Finance Director Keaton requested Council approval to adopt proposed Resolution No. 11-24, which amends the 2011 Appropriations and Certificate of Estimated Resources.

Motion by Apgar, second by Cantrell to read proposed Resolution No. 11-24. All yeas, motion carried.

Motion by Duncan, second by Apgar to accept the first reading, dispense the second and third reading and adopt Resolution No. 11-24 entitled "A RESOLUTION AMENDING THE 2011 APPROPRIATIONS, AS SET FORTH BELOW, PURSUANT TO SECTION 5705.40 OF THE OHIO REVISED CODE AND SECTION 12.35 OF THE OHIO ADMINISTRATIVE CODE AND APPROVING THE AMENDMENT TO THE CERTIFICATE OF ESTIMATED RESOURCES, AND DECLARING IT AN EMERGENCY." All yeas, motion carried.

Assistant Manager/Finance Director Keaton requested Council approval to adopt proposed Resolution No. 11-25, which allows an advance on taxes collected by the Montgomery County Treasurer in 2012 for tax year 2011. This Resolution allows the city to receive advances on tax dollars collected for Real Estate and Estate Taxes from February to April and again from July to September. Assistant City Manager/Finance Director Keaton advised if this is not requested in advance, we would just receive two distributions, one in April and the other in September.

Motion by Apgar, second by Cantrell to read proposed Resolution No. 11-25. All yeas, motion carried.

Motion by Duncan, second by Apgar to accept the first reading, dispense with the second and third reading and adopt Resolution No. 11-25 entitled "A RESOLUTION AUTHORIZING THE REQUEST FOR AN ADVANCE OF TAXES COLLECTED IN 2012 FOR TAX YEAR 2011, AND DECLARING IT AN EMERGENCY." All yeas, motion carried.

Assistant Manager/Finance Director Keaton requested Council authorization to receipt 90% of the revenue from EMS billing into the General Fund for operations of the Fire Department and 10% of the revenue from EMS billing into the Fire Capital Improvement Fund for 2012.

Motion by Garber, second by Letner to authorize 90% of the revenue from EMS billing to be deposited into the General Fund for operations of the Fire Department and 10% of the revenue from EMS billing into the Fire Capital Improvement Fund for 2012. All yeas, motion carried.

Assistant Manager/Finance Director Keaton requested Council authorization to designate two of its members to sit on the Volunteer Firefighters' Dependent Fund for 2012. Over the last five years, Member Duncan and Member Ullery were appointed to this board. Member Duncan has indicated that he would like to continue to serve on this Board. Since Member Ullery did not seek reelection, Council needs to appoint another Council Member along with Member Duncan to serve as Legislative Board Members on this Fund for 2012.

Member Letner volunteered to sit on the Volunteer Firefighters' Dependent Fund for 2012.

Motion by Duncan, second by Letner to appoint Members Duncan and Letner to sit on the Volunteer Firefighters' Dependent Fund for 2012. Cantrell yea, Garber yea, Letner abstained, Ullery yea, Apgar yea, Duncan abstained and Seagraves yea. Motion passes with five yeas and two abstentions.

Assistant Manager/Finance Director Keaton advised Council should have a copy of a letter from the Governor's Office confirming receipt of Resolution No. 11-12, passed by City Council regarding opposition to the centralization of municipal income tax collection. A copy of that same Resolution was sent to State Representative Henne, Senator Lehner and Lieutenant Governor Mary Taylor. Assistant Manager/Finance Director Keaton advised Council should also have a copy of the most recent edition of the Ohio Municipal League Bulletin where the main article reads, "Legislation imposing changes to municipal tax operations appear imminent."

Assistant Manager/Finance Director Keaton reported all of the projects that were awarded funding for the Downtown Revitalization Project, Phase 3 have completed their projects. Our CDBG representative has indicated that Phase 4 of our Downtown Revitalization Project received HUD approval. Assistant Manager/Finance Director Keaton advised we will begin the application process for this phase in early spring.

Assistant Manager/Finance Director Keaton reported the City of Brookville 2010 audit was completed and submitted to the Auditor of State in October. The City was awarded an Ohio Auditor of State Award for exemplary reporting in accordance with Generally Accepted Accounting Principles, or GAAP, for the year 2010. Assistant Manager/Finance Director Keaton advised a copy of our audited 2010 Financial Report is available for review in the City Office.

Member Garber complimented Assistant Manager/Finance Director Keaton on this audit award.

Mayor Seagraves complimented Assistant Manager/Finance Director Keaton and her staff on a job well done.

Member Apgar stated Assistant Manager/Finance Director Keaton has done a fabulous job.

Assistant Manager/Finance Director Keaton thanked the front office staff for their assistance.

Mayor Seagraves reminded everyone of his Annual Prayer Breakfast scheduled for January 5, 2012 at 7:30 a.m. at K's Banquet Center and encouraged everyone to attend.

Mayor Seagraves reminded Council of the Budget Work Session on December 20, 2011 at 6:00 p.m.

Gary Horstman, of the Brookville Historical Society, stated the City Inspector was very helpful during their Downtown Revitalization Project and expressed his appreciation for the grants monies received to complete the project.

Motion by Duncan, second by Garber to read proposed Resolution No. 11-16 through Resolution No. 11-22. All yeas, motion carried.

Motion by Duncan, second by Apgar to accept the second reading of proposed Resolution No. 11-16 through Resolution No. 11-22. All yeas, motion carried.

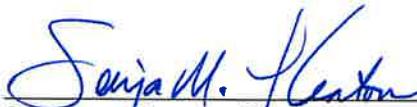
Motion by Garber, second by Ullery to read proposed Resolution No. 11-23. All yeas, motion carried.

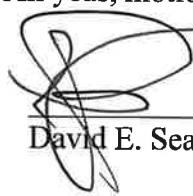
Motion by Garber, second by Cantrell to accept the second reading of proposed Resolution No. 11-23. All yeas, motion carried.

In Old Business, Member Ullery thanked Gary Horstman and the other members of the Historical Society Board for maintaining their buildings and artifacts. Member Ullery stated he doesn't think they get enough credit and stated he appreciates the time and effort they and all the other volunteers put in.

There was no New Business.

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


Sonja M. Keaton, Clerk


David E. Seagraves, Mayor