

BROOKVILLE CITY COUNCIL  
REGULAR MEETING  
May 18, 2010

The Regular Meeting of the Brookville City Council was called to order by Mayor Seagraves at 7:30 p.m. on May 18, 2010 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, Law Director Stephan and Interim Asst. City Manager/Director of Finance/Clerk Keaton were present. Manager Wright was absent.

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

Motion by Ullery, second by Apgar to accept the May 4, 2010 Regular Meeting Minutes as presented. All yeas, motion carried.

Mayor Seagraves stated Interim Assistant City Manager/Finance Director/Clerk Keaton will be reporting for Manager Wright as he is absent this evening.

Finance Director Keaton reported we received notification that the Montgomery County Engineers will be paving Brookville Salem Road from the city limits to Route 49 in the near future. Finance Director Keaton requested Council approval, per Section 8.02(B)(5) of the Municipal Charter, to allow the County to pave the section of Salem Street in the city limits in conjunction with their project. This will be a part of our annual repaving program this year. In the past, we have allowed the County to pave a portion of our roadways if they were paving in the area. This will save the city money in that the County is able to obtain lower pricing due to the quantities that they bid. Section 8.02(B)(5) of the Charter states contracts may be awarded without competitive bidding, if approved by a motion adopted by Council. Finance Director Keaton stated the County Engineers advised the cost will be approximately \$32,000 to \$35,000 depending on quantities.

Motion by Garber, second by Cantrell to allow the Montgomery County Engineers to pave the section of Salem Street from Albert Road to the corporation limit, at a cost not to exceed \$36,000, per Section 8.02(B)(5) of the Municipal Charter. All yeas, motion carried.

Finance Director Keaton reported we recently received notification from the Montgomery County Solid Waste District that our 2010 Incentive Grant application to purchase recycled content playground equipment and play surface for Golden Gate Park was approved. This was a 50% matching grant, our share will be \$14,568 and we will receive \$14,567 from the Solid Waste District. The playground equipment will be constructed on the east side of the Pee Wee Football Concession Stand. The Solid Waste District received 29 applications requesting \$376,541 and approved 19 applications totaling \$150,000. Finance Director Keaton stated we are very pleased to be a part of this funding.

Finance Director Keaton advised they should have a copy of a letter received today that states the Montgomery County Commissioners approved extending the ED/GE funding in the amount of \$2,000,000 for 2011.

Finance Director presented a copy of an email today from Stephanie Rogers of BrookHaven, about the Wellness Program, specifically the Brookville Walk-About. Finance Director Keaton inquired whether Council wants to move forward with holding a Walk-About, and if so, are there any suggestions on a date? Discussion followed. No date was set at this time.

Finance Director Keaton stated Community Garage Sales will be advertised with maps in the Brookville Star for four consecutive weeks, beginning the first week of June, at a cost of \$500. Finance Director Keaton advised the garage sales will also be promoted on the city website and she is working to get them in the Neighborhood Section of the Dayton Daily News.

Finance Director Keaton presented a report regarding the Revenue Stream for the new Fire Station. The first revenue stream is a bond levy. Finance Director Keaton stated the analysis made by our underwriters advised the average annual debt payment for a 25-year municipal bond using projected market analysis would be between \$202,000 to \$209,000 and for a 30-year municipal bond would be between \$188,000 and \$197,000, not including the annual auditor fees of \$3,000 to \$4,000. Finance Director Keaton presented the projected revenue based on a 2 mil and a 2.5 mil levy. This option would have to be placed on the ballot for voters to approve or disapprove.

Finance Director Keaton stated the second revenue stream option is to increase the income tax rate for a specific term, rate and purpose. Based on an average of the 2008-2009 income tax withholding, a .25 percent rate increase would generate \$250,000 per year. Examples of how this would affect taxpayers based on their annual salaries were presented. This option also would have to be placed on the ballot for voters to approve or disapprove.

Finance Director Keaton advised the third revenue stream option is to fund the new firehouse by reducing or eliminating the income tax credit provided for taxpayers who work in a municipality who's tax rate is equal to or greater than our income tax rate. This option can be adopted by Council or can be placed on the ballot for voters to approve or disapprove.

Finance Director Keaton advised Council if they want to present one of the proposed revenue sources for a new fire station to the voters on the November 2, 2010 ballot, they need to take action by the end of June.

Mayor Seagraves stated he would like to get citizen input, preferably by survey, before Council makes a decision. Discussion followed.

Finance Director Keaton stated the City of Clayton will not be hosting a household Hazardous Waste Pick-Up Day this year and advised she will be contacting the Montgomery County Solid Waste District for more information on whether there are any disposal events near us or how to host a disposal day for our residents.

Fire Chief Nickel reported the Brookville Fire Department will be cooking chicken dinners this weekend for the IHS outreach community lunch and invited Council to help serve. The Brookville Fire Association is paying all costs associated with this event.

Fire Chief Nickel presented the Brookville Fire Department Monthly Activity Log for the month of April. The report shows the Brookville Fire Department responded to 116 fire and ambulance calls in the month April. The Brookville Fire Department Incident Log for May 5 through May 18, 2010 shows the Brookville Fire Department responded to 49 calls during this time period.

Police Chief Preston presented the Brookville Police Department Call Analysis Report for the month of April. Police Chief Preston reported there were 717 calls for service in this time period. The Brookville Police Department Incident Log from May 1 through May 17, 2010 shows there were 34 new cases for investigation, 27 cases have been closed out and 7 are still pending further investigation. The Brookville Police Department had 20 arrests for this time period.

Police Chief Preston reported the Brookville Police Department participated in the Optimist Club Bike Rodeo held on May 15, 2010 at Westbrook School. Police Chief Preston advised there were 74 kids registered, making it a great success.

Police Chief Preston reported there has been a series of lawn ornament thefts recently. Police Chief Preston stated that in the past, stolen lawn ornaments usually turn up in someone else's lawn, suggesting that it is juveniles pulling pranks. Police Chief Preston advised those in attendance they may want to put their lawn ornaments away for a while as none of the lawn ornaments stolen recently have been recovered.

Police Chief Preston reported the Westbrook School first graders will be touring the Police Department this week.

Police Chief Preston stated he met with Manager Wright about the issue with Brookville youth that came up at the last Council meeting. Police Chief Preston stated the problem with the youth is now more of a perception problem than an actual problem. Police Chief Preston stated the problem began in 2001 with skateboarders in the downtown area and skating on the streets. The skate park was put in behind the Police Department, but the equipment was wood and did not hold up well. In 2003, the skate park was updated with metal equipment. Over the next few years, the amount of kids skating on the streets multiplied and by the year 2007, Market Street had become the hangout spot for many youth in Brookville. With the number of kids that were hanging out there, problems developed with issues such as broken windows, damage to steps and buildings from skateboarding, and people being harassed on the sidewalks and bikeway. Police Chief Preston stated the Police Department tried to mediate and work with the kids and move them up to the bikeway. The Brookville Police Department arrested 19 youths in 2007.

Police Chief Preston stated that in 2008, mediation was no longer working with the groups of 30 or more kids that would gather together on Market Street, on the bikeway and in private business lots. Police Officers were finding evidence of drinking and smoking by the kids in the Market Street area, and kids from other communities were coming to Brookville to hang out as well. Brookville Police Officers made their presence known by parking 15 minutes of every hour in the Market Street area to watch the youth. The year 2008 ended with 57 juveniles arrested.

Police Chief Preston reported in 2009, the Police Department was under public ridicule for not dealing with the youth problem in town. Issues on Market Street continued and some youths were charged for possession of marijuana, drug paraphernalia and underage drinking. Some vandalism occurred on picnic tables and such. Police Chief Preston stated at that time the relationship was defiant between the Police Department and the youth. There were reports of drugs being sold in the Market Street area and the Police Department adopted a zero tolerance stance. Police Officers were still making their presence known for a minimum of 15 minutes each hour. Additional Officers were also put in the area for extended periods of time, and the ATV and the golf cart were used by Police Officers to patrol the bikeway. Graffiti was discovered on an old building adjacent to the bikeway. Police Chief Preston stated he believes the graffiti was not done by local youth. Recently a group of individuals have been traveling along the bikeway "tagging" or painting graffiti on buildings in numerous communities. In 2009, 70 juveniles were arrested in Brookville, as well as an individual who was allegedly the kingpin of the drug trafficking on Market Street. This subject has been convicted and is serving an eight year sentence for drug trafficking.

Police Chief Preston reported that once the major drug trafficker was arrested, things settled down. To date in 2010, the Police Department has only received one complaint about the youth on Market Street or the bikeway. The number of youths near the bikeway on Market has dropped from 30+ kids at any given time last year to just six or seven at a time this year. The Police Department has also tried to divide the groups by pushing the kids 12 and under toward the parks. Only 10 juveniles have been arrested to date this year. Police Chief Preston reported these are examples of some successes.

Police Chief Preston stated that along with smoking, drinking and drug laws, the Police Department has also been able to use our curfew ordinance to keep minors off the streets at night. Our curfew ordinance mirrors the Ohio Revised Code pertaining to juveniles and the hours they are allowed to drive. Police Chief Preston stated that the Police Department does not use the ordinance prohibiting loitering because when challenged by other communities, the Supreme Court has not upheld this law and has ruled it unconstitutional, stating it violates our First Amendment Right to assemble peacefully.

Police Chief Preston stated that a disorderly conduct charge is often used to move kids along as it covers a wide array of offenses such as fighting, threatening harm to persons or property, violent behavior, unreasonable noise, grossly abusive language, insulting, taunting, and challenging other people, hindering or preventing the movement of persons on a public street, road, highway, or right of way or to or from or within public or private property. The sidewalks and bikeway are public right of ways, making this law an effective way to motivate kids to find somewhere else to congregate.

Police Chief Preston stated that there are many times now when there are no kids downtown at all in the evenings, which is a drastic change from several years ago. Police Chief Preston advised that the Police Department is now working with the kids to steer them in the direction of cooperation with the City. Police Chief Preston stated that we have to move away from constantly telling the youth where they cannot be to providing some other options for them. The Police Department held a meeting yesterday with about 16 kids and Police Chief Preston stated he was pleasantly surprised with the outcome. Most of the kids in attendance are not happy with the way things are going right now and they are interested in working with the Police Department and the City.

Police Chief Preston advised we can start with making the skate park more attractive to the youth. Police Chief Preston gave several examples showing that skateboarding is popular nationwide, not just in the City of Brookville. Skateboarding has even been added to the curriculum in our schools. The youth suggested changing the layout of the skate park and volunteered to help with the changes. Switching the ramps around changes the way the skateboarders must ride, which will make the park seem new again.

Mayor Seagraves inquired if there was any conversation in the meeting regarding picnic tables or shelters?

Police Chief Preston replied the youth did request a shelter and he is working with Manager Wright and Service Department Superintendent Brandt to see if adding a shelter, along with maybe one piece of equipment and additional lighting is feasible with current budget constraints.

Member Ullery inquired whether vending machines could be placed in the skate park so the kids would not have to go downtown to get refreshments?

Police Chief Preston stated that electric is not available in the skate park and the Police Department has also had problems with vandalism of vending machines at Golden Gate Park.

Member Letner inquired if the no bicycle rule was being enforced in the skate park?

Police Chief Preston advised that the Police Department has enforced this rule in the past, however, the youth at yesterday's meeting asked if bicycles could be allowed on the skate park equipment. Chief Preston stated now that all of our ramps and other equipment are metal, there shouldn't be a problem with the bikes damaging the equipment. Police Chief Preston stated that he is going to allow bikes in the skate park as long as the equipment is not damaged.

Police Chief Preston reported that the youth also requested regular meetings to keep communication open with the Police Department and the City and to prevent further problems.

Mayor Seagraves commented that along with moving the skate park equipment around, we should look at installing picnic tables and a shelter to show the youth we are willing to follow through and work with them.

Police Chief Preston stated that he discussed with the youth the vandalism about town and the types of behavior that some people find disorderly or potentially destructive. Police Chief Preston advised he also discussed with the youth what language is and is not acceptable. Police Chief Preston stated that times have changed, and language that was not socially acceptable 30 years ago is now heard daily on television, so the Police Department must adapt with the times.

Member Letner inquired if the youth were receptive to policing themselves?

Police Chief Preston stated the older youth are more receptive to policing each other and he has discussed this with the youth at length.

Member Ullery suggested letting the youth help build a shelter or paint equipment in the skate park. Member Ullery stated involving the youth would help them take ownership in the skate park and make them want to preserve and protect it.

Police Chief Preston advised that if we implement some of these suggestions, there will probably always be youth congregating somewhere in town because that is just what kids do, but he feels these suggestions are worth a try to alleviate some of the problems we have faced in the past. Police Chief Preston stated again he feels that most of the questions or concerns Council and Park Board have received lately are perception problems and the situation is well in hand compared to several years ago.

Member Cantrell thanked Police Chief Preston for his presentation and stated it will help Council answer any questions they may receive from citizens.

Member Letner inquired whether Park Board will have to rescind the no bicycle rule?

Law Director Stephan replied that it is a skate park rule, not an ordinance that was adopted. The rule was adopted primarily because the ramps were wooden. Park Board can change the rule.

Member Ullery commented the rules should state bikes are permitted, providing they are not tearing up the equipment.

Law Director Stephan presented a Memorandum regarding the revised proposed ordinance concerning mobile food vendors, which addresses questions raised by Council and Planning Commission. A copy of the revised proposed ordinance was also attached. Law Director Stephan stated the first question is whether the number of vendors should be limited to five to prevent an overpopulation of these vendors, given that there is no specific lot size required for approval of a permit. Law Director Stephan advised another way to limit the number of vendors in a particular area is to establish a required minimum distance between vendors.

Law Director Stephan reported the proposed ordinance as drafted would permit the issuance of permits upon application and approval by Planning Commission. Law Director Stephan advised it has been suggested that there be a lottery for the available permits at the beginning of each year in the event that we have more applicants than available permits. Law Director Stephan stated the proposed ordinance would issue permits for a year and would not prohibit winter operations.

Law Director Stephan advised the proposed ordinance as drafted permits mobile food vendors in the GB, HS, I-1 and I-2 zoning districts. The question is whether the proposed ordinance should permit temporary food vendors in the Community Center District. Law Director Stephan stated Council needs to address whether mobile food vendors should be allowed on city owned property due to liability concerns.

Law Director Stephan also stated the basic question is whether we should even permit mobile food vendors, or should we only allow food vendors to operate as restaurants from traditional buildings on lots that meet the zoning requirements?

Member Garber inquired whether farmers bringing produce to the city to sell would be considered mobile food vendors?

Law Director Stephan replied that the traditional Farmers Markets we have had in Brookside Plaza would not be included in this ordinance.

Member Duncan inquired whether Singer's mobile food cart and the ice cream truck would need a permit under the proposed ordinance?

Law Director Stephan advised neither of these would need a permit because they are not located on a specific site.

Member Garber stated there are locations on city property that would be good sites for mobile food vendors. Member Garber inquired about the liability issue raised for mobile food vendors on city property?

Law Director Stephan replied it would not significantly increase liability issues for the city to allow mobile food vendors on city property as it is not that different from use of a sidewalk by the public. However Council should be aware that when we allow someone to use city property for business purposes, there is some potential risk of liability.

Member Ullery inquired whether vendors set up to sell for short term events such as an auction would be required to get a permit?

Law Director Stephan replied the proposed ordinance is drafted to state that if a mobile food vendor is not set up for more than five days in duration for a special public event or a charitable event, they are not required to have a permit.

Member Letner inquired whether transferring permits is addressed in the proposed ordinance?

Law Director Stephan stated that every new applicant would be required to get a permit. If an applicant changed the type of food they were selling but everything else remained the same, they would not have to apply for a new permit.

Member Garber commented it will be difficult to know whether a vendor who has been issued a permit is still in business.

Member Cantrell stated that is why the proposed ordinance should not limit the number of permits. This will eliminate vendors selling their permit to other vendors.

Member Apgar inquired whether the temporary mobile food vendor license applies to vendors on private property, or would those vendors just apply for a regular zoning permit?

Law Director Stephan advised that the temporary food vendor license does apply to vendors on private property.

Member Ullery inquired about the exclusion of permits required for mobile food vendors that operate for five days or less. Does this mean five consecutive days?

Law Director Stephan stated the proposed Ordinance reads that the temporary mobile food vendor permit is not required for vendors that supply food and/or beverages during any special public or charitable event that does not exceed five (5) days in duration.

Member Garber stated he is against limiting the number of mobile food vendor permits that can be issued in one year. Every vendor's financial success or failure should self limit.

Member Cantrell agreed the number of permits should not be limited.

Mayor Seagraves advised that Planning Commission will take Council's comments into consideration and will discuss the mobile food vendor issue at their next meeting.

Mayor Seagraves advised that the Mayors and Managers Association has set the date for Beggar's Night as October 30, 2010.

Motion by Duncan, second by Garber to set Beggar's Night in the City of Brookville as October 30, 2010 from 6:00 to 7:30 p.m. All yeas, motion carried.

Member Ullery inquired whether anyone knows what is going on with the old Lee's Famous Recipe Chicken location?

Finance Director Keaton stated she will check with Zoning Enforcement Officer Snedeker as plans for the building have changed several times.

Member Cantrell reported that BrookHaven Nursing Home was awarded the Integrity Award for the Dayton Business Journal and stated we are fortunate to have this business in the City of Brookville.

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



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Sonja M. Keaton, Clerk



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David E. Seagraves, Mayor