

BROOKVILLE CITY COUNCIL  
REGULAR MEETING  
February 17, 2009

The Regular Meeting of the Brookville City Council was called to order by Mayor Seagraves at 7:30 p.m. on February 17, 2009 in the City Council Chambers. The pledge of allegiance was recited. Members Cantrell, Duncan, Garber, Letner and Reel; Manager Wright, Assistant Manager Sewert, Law Director Stephan, Fire Chief Nickel, Police Chief Preston and Director of Finance/Clerk Keaton were present. Member Ullery was absent.

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

Motion by Reel, second by Garber to accept the February 3, 2009 Regular Meeting Minutes as presented. All yeas, motion carried.

Garnett Buckley, of 31 March Avenue, commented that the Chamber of Commerce was involved with the Christmas Knights light display, she got the information out of the Brookville Star. Ms. Buckley asked if this was the end of the light display?

Mayor Seagraves stated we do not know. We will try and find out.

Fire Chief Nickel introduced and recognized Tonya Godsey-Marshall as "EMT of the Year" and Tyler Ullery as "Firefighter of the Year." Fire Chief Nickel stated Tonya and Tyler joined the local department in 2002. Fire Chief Nickel stated Tonya is a Firefighter/Paramedic and Tyler is a Firefighter/EMT and is currently training to become a Paramedic.

Fire Chief Nickel recognized Ed Ullery, Captain of the Brookville Fire Department, for being named "Firefighter of the Year" by the Dayton Antioch Shrine.

Mayor Seagraves congratulated Fire Chief Nickel for receiving the annual "Firefighter of the Year" award from the Greater Montgomery County Fire Chief's Association.

Mayor Seagraves commended and thanked the Fire Department personnel for all of their commitment and dedication to the department, especially now with all of the training requirements that are mandated.

Manager Wright acknowledged and congratulated Fire Chief Nickel on his award. It is well deserved.

Manager Wright requested authorization to purchase two replacement vehicles for the Fire Department.

Motion by Cantrell, second by Garber to authorize Manager Wright to purchase a 2009 Ford Expedition for \$25,688 to replace the Fire Chief's staff vehicle and a 2009 Dodge pickup truck for \$22,118 to replace Utility 77 in the Fire Department under the State of Ohio Purchasing Program as recommended by Manager Wright. All yeas, motion carried.

Fire Chief Nickel thanked everyone for the recognition.

Fire Chief Nickel reported on February 7, 2009, the Brookville Fire Department conducted ice rescue training and it went very well. Ten personnel received their ice rescue certification.

Fire Chief Nickel reported he recently completed major inspections of the Stride Rite addition at Payless. Fire Chief Nickel reported a final inspection of the Nanco facility will be conducted tomorrow so a final Occupancy permit can be issued.

Fire Chief Nickel presented an Incident Type Summary report by district from January 1 through February 17, 2009. The report indicates the Brookville Fire Department responded to a total of 217 total calls. Overall average response time from February 4 through 17 was 7:17 minutes.

Police Chief Preston presented the Brookville Police Department Call Analysis for January 2009. Police Chief Preston reported the Brookville Police Department responded to 98 Priority 1 calls, 296 Priority 2 calls and 90 Priority 3 calls. The number of reportable incidents are down 18 reports or 33% and total calls handled are down 145 or 23% from this same time last year. Police Chief Preston presented the Brookville Police Department Incident Log from February 3 through February 16, 2009. Police Chief Preston reported there were 20 new cases for investigation with 15 of those closed and five pending further investigation.

Police Chief Preston reported the Brookville Police Department along with other local law enforcement agencies conducted a drug sweep of the Brookville High and Intermediate Schools and nothing was found.

Police Chief Preston reported Council has a copy of a letter that was sent to Weaver's Towing from the recent incident that was brought before Council at the last Council Meeting. Police Chief Preston stated the letter basically put's Weaver's Towing on notice that his towing service will be cancelled if he does not comply with our Towing Contract.

Mayor Seagraves congratulated Police Chief Preston for serving as President of the Montgomery County Association of Police Chiefs for 2009.

Law Director Stephan had no report.

Director of Finance/Clerk Keaton requested Council authorization to set up a Special Revenue Fund for FEMA money that the City will be receiving for regular wages and use of equipment in the Service Department for debris removal from the windstorm of September 14, 2008. We will also receive reimbursement for overtime costs and use of equipment in the Police Department and Paid-on-Call wages and use of equipment in the Fire Department for security measures during this windstorm. The City will be reimbursed 75% of the costs associated with this windstorm.

Motion by Garber, second by Letner to allow Director of Finance/Clerk Keaton to set up a Special Revenue Fund for FEMA money that the City will be receiving for debris removal and security measures during the windstorm of September 14, 2008 as requested. All yeas, motion carried.

Director of Finance/Clerk Keaton presented a water and sewer rate proposal for Council review. The proposal shows an approximate increase of 3.2% for water and 5.8% for sewer. Director of Finance/Clerk Keaton announced the City of Dayton will be increasing their water rates 4.2% beginning with the June billing for water consumed from March 1 to June 1. The proposal indicates a water increase of \$3.55 and a sewer increase of \$3.60 for water consumption of 3,000 cubic feet per quarter for a total quarterly increase of \$7.15, or \$28.60 per year, or \$2.38 per month. The last water rate increase was in 2006 and the last sewer rate increase was in 2005. Director of Finance/Clerk Keaton asked Council to review the packet and discussion would continue at the next Council Meeting.

Mayor Seagraves recessed the Regular Meeting of Council at 8:00 p.m. for the Public Hearing, which is a combined meeting with Council and Planning Commission, on proposed Ordinance No. 2009-02, which considers the rezoning of 533 Western Avenue, Parcel ID# L54 00303 0002, Lot 2087, of the revised and consecutive numbers of lots of the City of Brookville, Ohio from its present zoning classification of "R-1B" Urban Residential District to the new classification of "PC" Planned Commercial Development.

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

Finance Director/Clerk Keaton announced a Legal Notice was published in the February 4<sup>th</sup> and 11<sup>th</sup> editions of the Brookville Star; certified letters were mailed to 14 contiguous property owners and it was posted on the City's website advising of this Public Hearing. The City Office did not receive any phone calls, nor did anyone stop in the office to review the proposed Ordinance.

Law Director Stephan stated the property located at 533 Western Avenue has a large blue storage building located thereon. The shaded area on the map, on the overhead projector, is the lot that is being considered for rezoning. It is adjacent to Brookville High School. This hearing is to consider the application of Mike Roberts of Bath Creations to change the zoning of this property to Planned Commercial Development for the purpose of using the large storage building on the property for storage of supplies for his business. The current zoning of R-1B does not permit storage or warehousing facilities for business use. Law Director Stephan stated there is R-1B zoning on the same side of the street as the storage barn and directly across from the barn is R-1C zoning. If the rezoning is approved by Planning Commission and City Council, the staff would recommend that the use be restricted to storage use solely for this business, and that retail sales would be strictly prohibited at this property.

Mayor Seagraves remarked if Mr. Roberts decides to sell the property down the road, it must come back to Planning Commission and Council for reapproval.

Law Director Stephan stated any change in use would have to be reapproved by Planning Commission and City Council.

Member Reel stated he wanted to verify that the business would be monitored to make sure that he is storing items in there as requested.

Law Director Stephan stated that is correct. We will make periodic inspections through our Zoning Inspector.

Member Duncan commented since this would be a warehouse facility, but right now we are looking at specific products being stored there. If something different would be stored there, such as something hazardous or petroleum products, will they be required to come back. Do we have any protection there?

Law Director Stephan stated in his opinion, any change of use, including any new purchaser, and even if it is being used for storage, the new use would have to be reapproved by Planning Commission and City Council. Law Director Stephan commented that he also wants Mr. Roberts to clearly understand that we are putting a fairly severe restriction on use of this property if he does acquire it.

Mr. Roberts stated absolutely.

Mike Roberts, with Bath Creations, stated that is exactly what they are going to use the building for, warehouse facility, no retail, none whatsoever. We are in the bath business, plumbing, building products and cabinetry. Mr. Roberts stated they have been in Brookville for a good while. They are located on N. Wolf Creek Street. They have made property improvements to their current building. They take great pride in the building and property and they sorely need more warehousing. Mr. Roberts commented that he wants to stay in Brookville. Mr. Roberts stated he has looked several years for a warehouse facility, one came available through Tim Via. Mr. Roberts stated trucks being at this facility will vary from week to week. Mr. Roberts stated it would be box trucks that would come and go. Once or twice a week there would be a semi making deliveries.

Clerk Keaton administered the Oath of Witness.

Mr. Roberts stated there will be limited traffic at this site. Their employees will load up in the mornings. Mr. Roberts reiterated that the truck traffic will differ from week to week. Usually there will be two to three trucks loading up in the morning between 7:00 and 8:00 a.m. Normally the trucks are parked at their employees homes in the evenings. At times, depending on what time they return, they could be parked there. It would be limited traffic. There will be no business transactions at this site, strictly loading and unloading.

Lowell Petry, of 542 Western Avenue, stated he lives right across the street from the blue barn and he thinks this is a bad situation. With the traffic that they have there early in the morning with kids being dropped off at the school, it's hectic for him to get in and out of his driveway. Kids use that field to cut across to school and again coming home. If a semi was in there, there

is great possibility of some danger to the kids. Kids are really curious. They may climb onto the equipment parked there. Mr. Petry commented that he has been in his house for 52 years. It has always been residential and he would really hate to see it go otherwise.

Joanne Leeth Skidmore, of 548 Western Avenue, stated she lives next door to Mr. and Mrs. Petry and she doesn't want it either. She agrees with Mr. Petry, children are walking across the field and sitting on whatever is out there.

Leann Dalton, of 515 Western Avenue, asked how easily does it go back to residential, once he sells it, can it go from commercial back to residential?

Mayor Seagraves stated it would be the same process, it would go through a rezoning process.

Ms. Skidmore asked what's going to stop somebody else coming in and wanting to put something in.

Law Director Stephan stated we are only zoning this lot. Secondly, this zoning is specifically Planned Commercial Development. It's not a general zoning where we are saying any business will work there. This is a Planned Commercial Development, which means the zoning is specifically being approved for this use, and this use only. Any changes in the future would have to be reapproved by Planning Commission and City Council with another Public Hearing. If he wants to sell to some other business, they are going to have to come back for reapproval. Any other area around the barn would have to be rezoned, which requires a Public Hearing.

Mrs. Petry stated when she wants to go away in the morning, she gets up at 7:00 a.m. to get the car out of the garage to back it back in, so when she wants to get out, she can get out, otherwise she can't. That is all we need is more traffic.

Mr. Roberts stated there is no hidden agenda here; it is going to be a warehouse, no retail. Mr. Roberts stated we are trying to keep jobs in Brookville, he doesn't want to lose jobs in Brookville.

Member Duncan inquired if there is enough room for a semi to turn around in the driveway.

Zoning Officer Snedeker, stated it would be tight, but it could happen.

Mayor Seagraves stated there is no water or sewer service to this property.

Tim Via, of 12171 Wolf Creek Pike, stated he owns the property. When Mr. Roberts approached him several months ago about the building, he had his own concerns about it, since he is the property owner although he doesn't live there: Mr. Via stated he attended the Planning Commission Meeting with Mr. Roberts to see what the whole thing was going to be about. Mr. Via stated he went over to the school to do his own due diligence. There are well over 100 school buses a day that drive in front of those houses. You probably have half a dozen trucks that service the school in a week. At first he thought it was going to be an impact to talk about two to three trucks and maybe a semi a week going in there. But, after he heard about the other traffic, he personally doesn't see how much more of an impact that could be. Secondly, he thinks it would be a better situation if people were continually at this location servicing this property. Mr. Via commented, as far as semis off the road, he thought Mr. Roberts would have plenty of room there if he were to expand the blacktop.

Member Cantrell commented she is next door to Bath Creations and she has seen these trucks all these years. There has never been any loud noise, never any problems. Their trucks are currently coming in and off of Wolf Creek and there are people walking and she has never seen a pedestrian injured. It is going to be minimal, from what she has seen from day to day.

Member Garber expressed concern if a semi was pulling along Western and then backing toward the storage barn to unload. If the driveway were to be expanded, the semi could pull into the driveway to unload. That is his only concern.

Ms. Skidmore commented that when people pick their children up after school, you have them sitting all the way down the street and in front of her house.

Member Cantrell inquired if they can control their deliveries.

Tom Jones with Bath Creations, of 306 Arlington, stated in the last two weeks they have had zero semis. Most of the delivery calls are directed to him and delivery time is usually between noon and 2:00 p.m. As far as the school time letting out, their guys are in the field until 4:00 or 5:00 p.m. They normally drive their vehicles home.

Member Garber commented it sounds like most of the deliveries are through school hours.

Mr. Jones stated most of the deliveries are between noon and 2:00 p.m.

Mr. Roberts stated compared to the truck traffic that the schools currently have, their traffic would be minimal.

Ms. Skidmore inquired if there was some place else in Brookville that could work as a warehouse other than the blue barn.

Mr. Roberts stated he is not looking to rent, he wants to own.

Mr. Petry stated there is quite a bit of after-school activity that goes on, such as Cross Country running up and down Western Avenue. That is usually between 4:00 and 5:00 p.m.

Mayor Seagraves stated you are going to have that regardless on who buys the property.

Mr. Petry stated yes, that is what he is saying, he disagrees with that being a commercial building.

Motion by Garber, second by Duncan to close the Public Hearing. All yeas, motion carried.

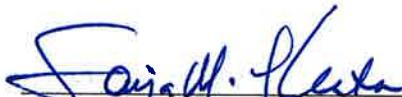
Mayor Seagraves announced Payless will hold their Open House on February 27, 2009 from 9:00 to 11:00 a.m.

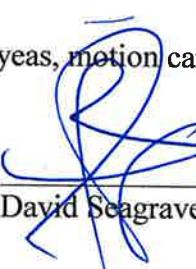
Motion by Duncan, second by Reel to read proposed Resolution No. 09-02. All yeas, motion carried.

Motion by Reel, second by Duncan to accept the third reading and adopt Resolution No. 09-02 entitled "A RESOLUTION DECLARING THE NECESSITY OF CONSTRUCTING CERTAIN SIDEWALKS IN THE CITY OF BROOKVILLE, OHIO." All yeas, motion carried.

There was no Old Business.

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

  
Sonja M. Keaton, Clerk

  
David Seagraves, Mayor