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BROOKVILLE CITY COUNCIL
REGULAR MEETING
January 20, 2009

The Regular Meeting of the Brookville City Council was called to order by Mayor Seagraves at 7:30 p.m. on January 20, 2009 in the City Council Chambers. The pledge of allegiance was recited. Members Cantrell, Duncan, Garber, Letner, Reel and Ullery; Manager Wright, Assistant Manager Sewert, Law Director Stephan, Fire Chief Nickel, Police Chief Preston and Director of Finance/Clerk Keaton were present.

Motion by Duncan, second by Reel to accept the Agenda with an addition. All yeas, motion carried.

Motion by Reel, second by Cantrell to accept the January 6, 2009 Regular Meeting Minutes as presented. All yeas, motion carried.

Manager Wright requested Council authorization to enter into an Outside Agency Agreement with the Montgomery County Sheriff's Office for participation with their regional training center.

Police Chief Preston reported the County Sheriff's Office offers nine firing ranges for training, and this is a way for the County to recoup some of their costs for these firing ranges. The cost is \$100 per day, per range. Police Chief Preston stated the Brookville Police Department has consolidated their firearms training into five separate sessions throughout the year, which would cost \$500.

Motion by Duncan, second by Reel to authorize Manager Wright to enter into an Outside Agency Agreement with the Montgomery County Sheriff's Office for the Brookville Police Department to participate with the Montgomery County Sheriff's Office Small Arms Range at a cost of \$100 per day. All yeas, motion carried.

Manager Wright reported Assistant Manager Sewert received a request from Jean Johnson, of Therapeutic Massage, for a handicap parking space. Manager Wright reported he examined the area and noticed that, that particular block receives a lot of walk-in traffic. Manager Wright recommended that we add a handicap parking space in the first parking space in front of the Brookville Aluminum store.

Member Garber commented we currently have a handicap parking space in our parking lot on Sycamore Street and he thought there was another handicap parking spot next to Miss Margaret's Dance Studio.

Manager Wright stated we do have a handicap parking space in our parking lot off of Sycamore Street. He will check and see if the other handicap parking space is still next to Miss Margaret's Dance Studio. Manager Wright stated adding an additional handicap space will benefit those businesses on that side of the street.

Manager Wright reported the Service Department has been busy the last seven days with snow removal efforts and repairing water main breaks. Manager Wright reported we've experienced two water main breaks over the weekend and two more today. The cold weather is catching up with us. Manager Wright stated the Service Department has worked diligently repairing these leaks to alleviate disruption of water service. Manager Wright asked the citizens to please be patient during these water main breaks. Service will be restored as quickly as possible.

Manager Wright reported he is currently looking at replacing a dump truck in the Service Department and he found one on GovDeals that fits our needs perfectly. The truck has 23,000 miles on it and it has all the equipment that we need. Manager Wright reported the dump truck is located near London, Ohio and he and the Service Department Mechanic had a chance to take a look at it. Manager Wright requested Council authorization to allow him to place a maximum bid of \$31,000 to purchase the dump truck on GovDeals.

Motion by Garber, second by Cantrell to allow Manager Wright to place a maximum bid of \$31,000 on a used dump truck on GovDeals as requested. All yeas, motion carried.

Manager Wright reported he received a request from Fire Chief Nickel to exercise his right to retire and be rehired by the City of Brookville. Manager Wright reported Fire Chief Nickel has indicated a retirement date of January 30, 2009 with a rehire date of February 2, 2009. Manager Wright stated it would be his recommendation that Council rehire James Nickel as Fire Chief at his current salary and benefits that are on file.

Motion by Ullery, second by Garber to reappoint James Nickel as Fire Chief effective February 2, 2009 with Fire Chief Nickel to receive his current salary and benefits on file with the Department of Finance, per the Policy for the Re-Employment of a Retiree. All yeas, motion carried.

Member Letner inquired if we are going to sell our old refuse truck.

Manager Wright stated he hopes to have it listed on GovDeals soon. We need to empty the truck and clean it up first.

Member Garber stated he noticed that there is an unsightly board mid way up on a building in the 200 block of Market Street, in the same area where the September windstorm knocked down an awning.

Assistant Manager Sewert stated we can take a look at that, but due to winter conditions, it might be awhile.

Fire Chief Nickel reported the Brookville Fire Department has experienced 74 total runs since the last Council Meeting with 64 of those calls EMS related and 10 fire related. Fire Chief Nickel reported he received three cases of frozen pipes in businesses, and he expects more with the weather warming up.

Police Chief Preston presented the Brookville Police Department Call Analysis for November and December 2008 and the Incident Log from January 6 through January 18, 2009. The Call Analysis Report for 2008 shows the Brookville Police Department handled a total of 7,737 calls, or an increase of 4.8% compared to 2007 and total reportable incidents are up 116, or 19.6% compared to 2007. Police Chief Preston reported there were 12 new cases for investigation with 11 of those closed and one pending further investigation.

Police Chief Preston reported his officers have noticed a decrease in people driving to and from school since Brookville Schools implemented bus pickup after the holiday break.

Police Chief Preston announced that he is the Police Chiefs' Association President for 2009.

Member Cantrell thanked Police Chief Preston for his letter to the Montgomery County Engineer requesting they look at the concerns expressed by City Council about the intersection of Salem Street and Upper Lewisburg-Salem Road. Member Cantrell asked Police Chief Preston if he has received any response from the letter?

Police Chief Preston stated he has not.

Law Director Stephan commented proposed Ordinance No. 2009-02, which was added to the Agenda this evening, is for the rezoning of Lot 2087 which is currently zoned R-1B, Urban Residential to a new classification of PC, Planned Commercial District. Law Director Stephan reported Mike Roberts, owner of Bath Creations, attended last weeks Planning Commission Meeting for a Pre-Application Conference for the possible rezoning of 533 Western Avenue, which currently houses a large storage building on it. Mr. Roberts would like to purchase the lot for storage for his business.

Member Duncan asked what would happen with the zoning should he decide to sell the lot down the road?

Law Director Stephan stated the rezoning for 533 Western will have certain restrictions that the new property owner would have to adhere to; if they do not, they will have to come back before Planning Commission and City Council for reapproval.

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Member Garber asked if the house was on that lot?

Law Director Stephan stated the house would remain on a separate lot as residential.

Member Garber inquired if there was any vacant building in our Mosier Industrial Park for Bath Creations to use for storage.

Assistant Manager Sewert commented Mr. Roberts is currently leasing space in a building in the Mosier Industrial Park, but, Mr. Roberts is interested in purchasing a building for storage use, and there is no building available to purchase in the Mosier Industrial Park.

Motion by Cantrell, second by Garber to read proposed Ordinance No. 2009-02. All yeas, motion carried.

Motion by Garber, second by Cantrell to accept the first reading of proposed Ordinance No. 2009-02. Cantrell yea, Duncan yea, Reel abstained, Ullery yea, Letner yea, Garber yea and Seagraves yea. Motion carried with six yeas and one abstention.

Mayor Seagraves set a Public Hearing on proposed Ordinance No. 2009-02 for February 17 at 8:00 p.m.

Member Garber asked Law Director Stephan if he was able to research any regulation legislation on wind turbines and solar panels.

Law Director Stephan commented that he has not found a lot of regulations that address wind turbines and solar panes. He is hoping to have some information before Planning Commission and Council in February. Most of the information that he has found addresses height regulations and setbacks.

Finance Director/Clerk Keaton requested authorization to transfer \$50,000 into the Street M&R Fund, \$25,000 into the Park & Recreation Fund, and \$25,000 into the Note Retirement-NorthBrook Fund as appropriated in 2009.

Motion by Reel, second by Duncan to authorize the transfer of \$50,000 into the Street M&R Fund, \$25,000 into the Park & Recreation Fund, and \$25,000 into the Note Retirement-NorthBrook Fund as appropriated and requested by Finance Director Keaton. All yeas, motion carried.

Finance Director/Clerk Keaton requested authorization to set the labor rate of \$45 per hour for the Service Department Mechanic to charge for work performed on the City fleet.

Motion by Cantrell, second by Garber to set the labor rate of \$45 per hour for the Service Department Mechanic to charge for work performed on the City fleet in 2009. All yeas, motion carried.

Finance Director/Clerk Keaton reported as a follow-up to our budget discussion on our 2008 Note, she and Law Director Stephan have had several conference calls with both Bond Counsel and the Underwriter regarding our 2008 Note and the \$500,000 we received from the State of Ohio 629 Grant last year. During discussions and review, Finance Director/Clerk Keaton recommended that we move forward and pay \$199,279.51 toward our 2008 Note, which will eliminate the portion of the Note for the costs of acquiring real estate and all interest on the Note. Finance Director/Clerk Keaton recommended that a new Note in the amount of \$1,085,000 be issued to pay off the remainder of the 2008 Note. Finance Director/Clerk Keaton recommended that we pay approximately \$300,720.49, which is the remainder of the \$500,000 grant money, toward the NorthBrook 20-year variable rate debt that was issued in late 2006. Finance Director/Clerk Keaton reported the variable rate debt can be paid down any time during 2009 without any penalty and with a 30-day notice. Finance Director/Clerk Keaton stated if Council is in agreement of this proposal, a Note Ordinance can be prepared by Bond Counsel.

The consensus of Council is they are in favor of Finance Director/Clerk Keaton's recommendations as presented.

Mayor Seagraves announced the Chamber of Commerce will be holding a ribbon cutting at Eye Docs tomorrow at 5:30 p.m. in the rear of Clark's Pharmacy. Council is invited to attend.

Mayor Seagraves extended a thank you to our Service Department for all of their hard work during this cold weather.

Member Cantrell thanked Mayor Seagraves for a nice Prayer Breakfast.

Member Garber stated he had a comment on the shared congregate housing approval given by Planning Commission for a property on Timberwolf Way. Member Garber asked if the surrounding homeowners were notified of this request. Were letters mailed out to the neighbors?

Mayor Seagraves stated Planning Commission approved a Special Use for 109-111 Timberwolf Way with a condition that they not exceed four people living in each unit. The individuals living there would receive 24-hour care.

Fire Chief Nickel commented that this type of housing seems to be the wave of the future. The Brookville Fire Department is aware of a similar situation in Perry Township.

Member Duncan commented it seems that we sometimes get lax when we should have sent out notices or held a Public Hearing before Planning Commission approved a Special Use. We have heard that on several occasions throughout the years. Member Duncan stated he feels we should have notified the neighbors before Planning Commission gave approval.

Member Garber commented if no Public Hearing is required, we should have at least notified the neighbors as a courtesy after the approval was given.

Member Reel stated we should have had a Public Hearing. This area is zoned residential.

Law Director Stephan commented this area of the subdivision is zoned R-2, where shared and congregate housing is a Special Use. Special Use approval by Planning Commission does not require a Public Hearing. Planning Commission may schedule a Public Hearing on a case-by-case basis if Planning Commission needs additional input in order to make a decision. They have held Public Hearing's on Special Use's in the past.

Member Cantrell stated Planning Commission reviewed the facts and circumstances of the proposal and asked numerous questions during the presentation. The individual moving into 111 Timberwolf Way is a relative of the applicant.

Member Ullery stated if the Special Use is not followed, or they change the use, the Special Use can be revoked.

Member Duncan reiterated that in the future, we should notify surrounding neighbors before Special Use approval is given.

Member Garber reiterated that he would like to see letters mailed out to those surrounding neighbors after approval is given. This is a good gesture.

Member Cantrell commented some responsibility needs to be put on the citizen to know what their zoning district is before they move in.

The consensus of Council is to discuss this further with Planning Commission at their February meeting.

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

Motion by Garber, second by Letner to accept the first reading of proposed Resolution No. 09-02. All yeas, motion carried.

Motion by Duncan, second by Garber to read proposed Resolution No. 09-03. All yeas, motion carried.

Motion by Duncan, second by Garber to accept the first reading, dispense with the second and third reading and adopt Resolution No. 09-03 entitled "A RESOLUTION AUTHORIZING THE CITY MANAGER TO DISPOSE OF SURPLUS PROPERTY EITHER AT A PUBLIC AUCTION, A PRIVATE SALE, OR BY INTERNET AUCTION, AND DECLARING IT AN EMERGENCY." All yeas, motion carried.

Motion by Duncan, second by Garber to read proposed Ordinance No. 2009-01. All yeas, motion carried.

Motion by Duncan, second by Garber to accept the first reading, dispense with the second and third reading and adopt Ordinance No. 2009-01 entitled "AN ORDINANCE LEVYING ASSESSMENTS FOR THE CUTTING AND REMOVAL OF WEEDS, VINES, GRASS AND/OR OTHER VEGETATION DURING THE YEAR 2008 IN THE CITY OF BROOKVILLE, OHIO, AND DECLARING IT AN EMERGENCY." All yeas, motion carried.


In Old Business, Member Duncan commented that we need to take a look at our zoning text to see if it addresses the number of vehicles that are permitted on a property as long as they meet the setback requirements.

Law Director Stephan stated we have several areas in our zoning text that address the parking of vehicles and recreational vehicles, but as long as the vehicles are parked according to our zoning regulations, we do not have any regulation that addresses the number of vehicles that can be parked on a property.

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



Sonja M. Keaton, Clerk



David Seagraves, Mayor