

BROOKVILLE CITY COUNCIL
REGULAR MEETING
April 1, 2008

The Regular Meeting of the Brookville City Council was called to order by Mayor Seagraves at 7:30 p.m. on April 1, 2008 in the City Council Chambers. The pledge of allegiance was recited. Members Cantrell, Duncan, Garber, Letner, Reel and Ullery; Manager Wright, Assistant Manager Sewert, Fire Chief Nickel, Police Chief Preston, Law Director Stephan and Director of Finance/Clerk Keaton were present.

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

Motion by Reel, second by Garber to accept the March 18, 2008 Regular Meeting Minutes as presented. All yeas, motion carried.

Wayne Ward, of 951 Calmer Ernst Blvd., thanked Assistant Manager Sewert for his assistance in getting a street light fixed in his development.

Manager Wright requested authorization to advertise for bids for the demolition and restoration of the Mulberry Street property that the City recently acquired through a CDBG Project. Manager Wright reported the City recently applied for a Solid Waste Grant to provide amenities, such as recycled content picnic tables and benches for this area.

Motion by Duncan, second by Ullery to allow Manager Wright to advertise for bids for the demolition and restoration of the Mulberry Street property next to the bikeway. All yeas, motion carried.

Manager Wright reported Council should have copies of the 2008 Water and Sewer Rate Survey prepared by the City of Oakwood. Manager Wright reported this survey is very extensive in that 68 entities were surveyed for water rates and 63 entities were surveyed for sewer rates. Manager Wright reported the City of Brookville ranked fifth lowest on the sewer survey, 57th on the water survey and 23rd on water and sewer rates combined.

Fire Chief Nickel presented the Fire/EMS Monthly Activity Report for 2008. Fire Chief Nickel reported we should come close to 400 total calls through March, which is on average.

Police Chief Preston presented the Brookville Police Department Incident Log from March 18 through March 31, 2008. Police Chief Preston reported there were 20 new cases for investigations with all of those closed out.

Police Chief Preston reported the City took delivery of a second new police cruiser today, which should be in service in approximately two weeks.

Law Director Stephan reported proposed Resolution No. 08-17 and Resolution No. 08-19 are accepting the recommendation of the Tax Incentive Review Council for continuance of the two Enterprise Zone Agreements for Green Tokai and proposed Resolution No. 08-18 is accepting the recommendation of the Tax Incentive Review Council for continuance of the Enterprise Zone Agreement for I.M.I. Norgren. Law Director Stephan stated both companies are meeting and/or exceeding the number of employees pledged and the pledged investments that are required by the Enterprise Zone Agreements.

Motion by Duncan, second by Garber to read proposed Resolution No. 08-17, Resolution No. 08-18 and Resolution No. 08-19. 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. 08-17 entitled "A RESOLUTION ACCEPTING THE RECOMMENDATION OF THE TAX INCENTIVE REVIEW COUNCIL FOR CONTINUATION OF THE ENTERPRISE ZONE AGREEMENT OF GREEN TOKAI CO. LTD., AND DECLARING IT AN EMERGENCY"; Resolution No. 08-18 entitled "A RESOLUTION ACCEPTING THE RECOMMENDATION OF THE TAX INCENTIVE

REVIEW COUNCIL FOR CONTINUATION OF THE ENTERPRISE ZONE AGREEMENT OF I.M.I. NORGREN, INC., AND DECLARING IT AN EMERGENCY” and Resolution No. 08-19 entitled “A RESOLUTION ACCEPTING THE RECOMMENDATION OF THE TAX INCENTIVE REVIEW COUNCIL FOR CONTINUATION OF THE ENTERPRISE ZONE AGREEMENT OF GREEN TOKAI CO. LTD., AND DECLARING IT AN EMERGENCY.” All yeas, motion carried.

Law Director Stephan reported at the last Council Meeting, Council authorized the City Manager to exercise the option to purchase 15.035 acres from Henry Joe Walker, and that purchase was completed on March 26.

Finance Director/Clerk Keaton presented the March 31, 2008 Fund Balance for Council review and approval.

Motion by Duncan, second by Cantrell to approve the March 31, 2008 Fund Balance as presented. All yeas, motion carried.

Finance Director/Clerk Keaton reported last April, Council adopted two Ordinances which provided for the issuance of Notes totaling \$2,285,000 to pay for costs of acquiring real estate and for the construction of a new street in the NorthBrook Industrial Park for the Payless Project. The Note was dated April 26, 2007 with a maturity date of April 25, 2008. Proposed Ordinance No. 2008-04, which is before Council tonight, authorizes the issuance of Notes in an amount not to exceed \$2,285,000 to retire the City’s outstanding Notes on April 25, 2008. Council should have a copy of a signed Fiscal Officer’s Certificate that reads the estimated life or period of usefulness of the Improvements is at least five years, and the estimated maximum maturity is 25 years. The maximum maturity of the Notes is April 26, 2027, which is 20 years from the original Notes issued for these purposes. The new Notes will be dated April 24, 2008 and will mature on April 23, 2009. The Notes will bear interest at a rate or rates not to exceed 5½%. Finance Director/Clerk Keaton stated the reason for this Ordinance to be in emergency fashion is for the timely retirement of the Outstanding Note.

Motion by Garber, second by Ullery to read proposed Ordinance No. 2008-04. 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. 2008-04 entitled “AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF NOTES IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$2,285,000, IN ANTICIPATION OF THE ISSUANCE OF BONDS, TO PAY COSTS OF ACQUIRING REAL ESTATE AND CONSTRUCTING A NEW STREET IN THE NORTHBROOK INDUSTRIAL PARK, TOGETHER WITH ALL NECESSARY APPURTENANCES, AND DECLARING AN EMERGENCY.” Duncan yea, Garber yea, Letner yea, Ullery yea, Reel yea, Cantrell yea and Seagraves yea. All yeas, motion carried.

Finance Director/Clerk Keaton requested Council approval to adopt proposed Resolution No. 08-16, which amends the 2008 Appropriations.

Motion by Garber, second by Ullery to read proposed Resolution No. 08-16. All yeas, motion carried.

Motion by Reel, second by Duncan to accept the first reading, dispense with the second and third reading and adopt Resolution No. 08-16 entitled “A RESOLUTION AMENDING THE 2008 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 DECLARING IT AN EMERGENCY.” All yeas, motion carried.

Finance Director/Clerk Keaton reminded Council if they have not completed and mailed their 2007 Financial Disclosure Statements, they have until April 15 to do so.

Mayor Seagraves had no report.

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. 2008-03, which rezones Lots 2267-2272 of the revised and consecutive numbers of lots of the City of Brookville, Ohio, from its present zoning classification of "R-2(PD)," Urban Residential Planned Development Overlay District, to the new classification of "R-1B" Urban Residential District, pursuant to the zoning ordinances of the City of Brookville, Ohio.

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

Clerk Keaton announced a Legal Notice was published in the March 12th and 19th editions of the Brookville Star and it was posted on the City's website advising of this Public Hearing. The City Office received one telephone call from an individual that asked where the lots were located. No one stopped in the office to review the proposed Ordinance.

Law Director Stephan stated this is a rezoning of Lots 2267-2272. Law Director Stephan stated these lots were rezoned last year to R-2(PD), for a two-family unit project. The developer has now requested that plan be withdrawn and that it be returned to R-1B zoning, which is the zoning that was there previously and that it be returned to the original plan of Golden Gate Estates, Section Three, which is the currently recorded subdivision plan at Montgomery County. There would be no changes in that subdivision plan. Council and Members of Planning Commission that are here tonight have received a letter dated March 31, 2008 from Kevin L. Harshberger, the Majority Member and Developer of this Section. Law Director Stephan commented Mr. Harshberger was not able to attend the Public Hearing tonight. Law Director Stephan stated in the letter, Mr. Harshberger explains his reasons for requesting this rezoning and he has asked that this letter be made a part of the public record for this Hearing. Law Director Stephan stated that Mr. Harshberger has a representative here tonight, Dave Reynolds, who is an associate of his, and he can address any questions. Law Director Stephan reported he also received a letter dated March 31, 2008 from Kelly A. Kopf, Secretary of the Golden Gate Estates Homeowners Association, which was read aloud. The letter was addressed to Council and reads "In lieu of the Golden Gate Estate Homeowners Association's attendance at the City Council meeting on April 1, 2008, please accept this letter as our support for Kevin Harshberger's request to rezone Section 3 to single-family dwellings. Thank you for your immediate attention and consideration to this letter." This letter was also made a part of the public record at this Hearing.

Member Duncan commented that he is not against this rezoning, but it is another example of where we have approved something and the developers have come in with some big ideas, and then they come back six months later and they want to change it. Member Duncan stated he remembers reading these same concerns in the Planning Commission Minutes and wanted to know how we can stop this or how we can let the developers know when they come in, this is what they are going to have.

Member Garber stated sometimes things change, and not just the market. Member Garber commented that it is required once in awhile, but he agrees with Member Duncan.

Law Director Stephan commented certainly we can look at the fees we charge for zoning applications. Law Director Stephan stated our fees are on the low end compared to other communities. One reason for that is that we try to be proactive in terms of attracting businesses and making ourselves be user friendly. There are pros and cons to increasing fees.

Member Duncan inquired if we could implement a penalty clause, such as a higher fee, if you come back a second time.

Law Director Stephan commented he understands the frustration on both Planning Commission and City Council when we have changes in previously approved plans, Council and Planning Commission certainly has the right to vote no on changes to previously approved plans.

Law Director Stephan stated there are always going to be changes that are driven by the market. Zoning is not going to prevent changes. What zoning is designed to do is to create a situation where you are putting compatible land uses together so you have a community that looks good and works well together. In the current market, we are seeing a slow down in our residential development due to market conditions. Several approved sections are not moving forward due to market conditions, and may need to obtain reapproval of their subdivision plan.

Member Duncan stated this development came in with twin homes and now he says he cannot sell them; Member Duncan stated he hasn't seen a twin home back there. Have they even tried to sell a twin home back there?

Member Seagraves commented that Planning Commission voiced the same frustration and concerns. In this particular situation, one of the things that was driving this rezoning was that the developer and the contractor had faced some complications.

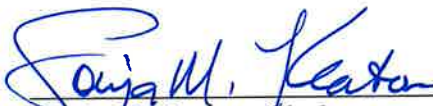
Dave Reynolds commented that in conversations with the Golden Gate Homeowner's Association, modifications were made. Golden Gate Development III has agreed to additional restrictive covenants regarding exterior home materials in Section Three that will protect the investments of homeowners in Sections One and Two. In addition, all of the lots in Golden Gate Estates, Section Three, as well as those in Section Two, have joined the existing Homeowner's Association of Golden Gate Estates, Section One.

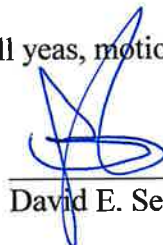
Kirby Hinds, Vice President of the Golden Gate Homeowners, remarked that they concur 100% with this zoning change. Mr. Hinds stated they are in a learning process with Mr. Harshberger.

Motion by Reel, second by Cantrell to close the Public Hearing. All yeas, motion carried.

Mayor Seagraves called Council back into Regular Session.

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


Sonja M. Keaton, Clerk


David E. Seagraves, Mayor