

**BROOKVILLE CITY COUNCIL  
REGULAR MEETING  
June 5, 2007**

The Regular Meeting of the Brookville City Council was called to order by Mayor Seagraves at 7:30 p.m. on June 5, 2007 in the City Council Chambers. The pledge of allegiance was recited. Members Cantrell, Duncan, Hanos, 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. Member Garber was absent.

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

Motion by Reel, second by Ullery to accept the May 24, 2007 Special Youth-In-Government Council Meeting Minutes as presented. All yeas, motion carried.

Dottie Watkins, of 112 Maple Street, stated as a citizen of the City, she would like to offer her thanks to Council and the Administrative Staff for their efforts in bringing Payless ShoeSource to the community.

Manager Wright reported in response to Council Member Sarah O'Neal's request, at the Youth-In-Government Special Council Meeting, that a speed limit sign be placed on both sides of Albert Road between Brookville-Salem Road and Upper Lewisburg-Salem Road, the request will be filled this week. Manager Wright stated the speed limit signs will be posted this week.

Manager Wright requested authorization and approval for a Change Order on the NorthBrook Industrial Park Expansion Project for the installation of storm sewer that was originally to be installed by the City, but due to the cost of renting the equipment to install the storm sewer and the bid coming in far below the Engineers project estimate, it would be his recommendation to allow Kelchner, Inc. to install the storm sewer.

Motion by Duncan, second by Hanos to authorize and approve Change Order #1 on the NorthBrook Industrial Park Expansion Project, increasing the amount by \$29,586.14 for the installation of storm sewer, changing the contract price from \$586,724.24 to \$616,310.38 as recommended by Manager Wright. All yeas, motion carried.

Manager Wright requested an Executive Session on a Real Estate Matter.

Fire Chief Nickel announced the 800 MHz radio equipment is in and should be installed in the vehicles in the very near future.

Fire Chief Nickel announced he recently completed his National Incident Management Systems (NIMS) training.

Police Chief Preston presented an overview of the Incident List and Brookville Police Department Time Analysis from May 15 to June 4, 2007. Police Chief Preston reported there were 379 calls for service in this time period. The number of reportable incidents are down 55 reports or 19.5% and total calls handled are down 332 or 10.6% from this same time last year. The average response time was 1.84 minutes.

Police Chief Preston announced the Brookville Police Department recently arrested and charged an individual with felonious assault when he attacked and choked his girlfriend until she passed out.

Police Chief Preston announced the Brookville Police Department recently arrested and charged an individual with three counts of Gross Sexual Imposition and is currently being held in the Montgomery County Jail. Police Chief Preston stated the case was presented to the Grand Jury and is still under investigation.

Police Chief Preston announced that the Brookville Police Department recently hired Steve Whiteaker as a part-time Patrol Officer.

Police Chief Preston announced the Emergency Call Box has been installed and will be activated once the Brookville Dispatch Center closes, which is tentatively set for June 27, 2007.

Police Chief Preston stated the Spring Fling event, sponsored by the Brookville Chamber of Commerce, went well. Police Chief Preston thanked the Chamber for an excellent job.

Police Chief Preston stated he wanted to reiterate the statement that was made at the Youth-In-Government Council Meeting under the Police report. Police Chief Preston commented that he received a letter from Tim Hopkins, Brookville Schools Superintendent, and the letter stated that Brookville Schools will no longer fund the School Resource Officer Program due to the failure of their recent operating levy.

Member Hanos inquired on the status of those entities that we currently contract with on Dispatching.

Police Chief Preston stated all of the entities, except for Phillipsburg Fire and Perry Township Police have left. Phillipsburg Fire will leave when we go with the Montgomery County Sheriff's Dispatch and Perry Township will be leaving any day now. All of the businesses on the alarm panel have now left.

Member Reel inquired if the Police Department has received any complaints on skateboarders.

Police Chief Preston stated he is not aware of any complaints.

Law Director Stephan presented a brief overview of proposed Ordinance No. 2007-13 that is before Council tonight for a first reading. Proposed Ordinance No. 2007-13 changes the name of Brookville Drive to Payless Way. Law Director Stephan stated the City did close with CRG-OH, LLC on May 30 and construction of the new roadway and the installation of the infrastructure has commenced. Law Director Stephan stated that under the terms of the Agreement with CRG-OH, LLC, Payless could request that the street be named after their company. Payless has requested Payless Way as the street name.

Motion by Duncan, second by Ullery to read proposed Ordinance No. 2007-13. All yeas, motion carried.

Motion by Duncan, second by Cantrell to accept the first reading, dispense with the second and third reading and adopt Ordinance No. 2007-13 entitled "AN ORDINANCE RENAMING BROOKVILLE DRIVE TO PAYLESS WAY IN THE CITY OF BROOKVILLE, OHIO, AND DECLARING IT AN EMERGENCY." All yeas, motion carried.

Law Director Stephan requested an Executive Session on a Real Estate Matter.

Finance Director/Clerk Keaton presented the May 31, 2007 Fund Balance for Council review and approval.

Motion by Duncan, second by Reel to approve the May 31, 2007 Fund Balance as presented. All yeas, motion carried.

Finance Director/Clerk Keaton requested Council authorization to transfer \$150,000 to the Street M&R Fund from the General Fund as appropriated.

Motion by Hanos, second by Cantrell to authorize the transfer of \$150,000 to the Street M&R Fund from the General Fund as appropriated and requested by Finance Director/Clerk Keaton. All yeas, motion carried.

Finance Director/Clerk Keaton requested Council adopt proposed Resolution No. 07-16, which amends the 2007 Appropriations.

Motion by Reel, second by Duncan to read proposed Resolution No. 07-16. 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. 07-16 entitled "A RESOLUTION AMENDING THE 2007 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 requested Council authorization to setup a new Investment Account with Star Ohio, also known as the State Treasury Asset Reserve of Ohio, to invest our Bond proceeds and to setup a new Investment Account to invest the proceeds from the sale of the NorthBrook lot. Finance Director/Clerk Keaton also requested Council authorization to set up a new Interest on Investments Revenue line item in the Capital Improvement Fund for these two new accounts, with the revenue from the investments to be used toward paying our Note debt off next year.

Motion by Duncan, second by Hanos to allow Finance Director/Clerk Keaton to setup two new investment accounts with Star Ohio, one for the Bond proceeds and the other for the revenue received from the NorthBrook Industrial Park, and to authorize Finance Director/Clerk Keaton to set up a new Interest on Investments Revenue line item in the Capital Improvement Fund to allow for the investment deposits from these two new accounts to be used toward paying the Note debt off in 2008. All yeas, motion carried.

Finance Director/Clerk Keaton announced Time Warner Cable did have a construction issue in the Arlington Woods Subdivision, and the problem has been resolved.

Finance Director/Clerk Keaton announced the City's 2006 Financial Audit is complete, and the City once again received an excellent audit.

Finance Director/Clerk Keaton announced Council should have copies of the certified Clay Township Fire levy results by precinct as requested by Member Duncan at the last Council meeting. Copies of the precinct maps are also included.

Finance Director/Clerk Keaton announced the June Park Board Meeting has been cancelled.

Finance Director/Clerk Keaton requested an Executive Session for the possible appointment on the Board of Zoning Appeals.

Mayor Seagraves commended the Brookville Chamber of Commerce for an excellent spring event and to the Brookville Corvette Club for their annual car show, with both being a big success.

Mayor Seagraves thanked Council and the City Staff for all of their hard work on bringing Payless to the City of Brookville. Mayor Seagraves announced the groundbreaking for Payless will be held on June 21 at 10:00 a.m.

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. 2007-11, which zones Lot #2529 of the revised and consecutive numbers of lots of the City of Brookville, Ohio consisting of 96.688 acres along W. Westbrook Road, to the zoning classification of R-1A(PD), "Suburban Residential Planned Development Overlay District."

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

Clerk Keaton advised a Legal Notice was published in the May 16 and 23 editions of the Brookville Star advising of this Public Hearing. The City Office did not receive any telephone calls nor did anyone come into the Municipal Office to review the proposed Ordinance.

Law Director Stephan stated it is the recommendation of Staff that the area be zoned R-1A with Planned Development Overlay. This was the zoning that was originally discussed with the property owner, Teresa Denlinger. This is the City's highest residential zoning classification. It fits with the zoning on the same side of the road in the area that was annexed directly east of this property as well as the zoning in Arlington Woods, which is across the road. Law Director

Stephan commented that he has had communication with Marilyn Eson, who is the owner of the property due west of this property. She has had some concerns about the annexation and the zoning. Law Director Stephan indicated she is present tonight to participate in this Public Hearing and that he has also communicated with her attorney regarding the same.

Clerk Keaton administered the Oath of Witness to Marilyn Eson of 10650 Hopping Road, Harrison, Ohio.

Ms. Eson stated she is the owner of the property directly to the west of the Denlinger property that is in question here. Ms. Eson asked if there would be any buffering and what type of buffering would there be along the annexed property and hers?

Law Director Stephan stated the annexation law requires us to adopt a resolution that indicates that Planning Commission and City Council will make a decision whether a buffer is required. The law requires that if a zoning classification is adopted by the City that is clearly incompatible with the township zoning, then a buffer is definitely required. We can also consider a buffer and consider this property owner's concerns. At the time a zoning decision is made, Planning Commission and City Council will be making a decision if a buffer is required. Law Director Stephan stated it has typically been our position that this type of zoning is not incompatible with the township residential zoning - Agricultural Zoning, that's next to this zoning.

Ms. Eson stated she would ideally like to see some type of buffering whether it is trees or some type of mounding.

Ms. Eson asked what is the density of this property?

Law Director Stephan stated it is typically three homes per acre.

Ms. Eson asked if these will be single-family homes?

Law Director Stephan commented that single-family is the only permitted use. The minimum square footage in this zoning classification is 1,800 square feet for floor area. This does not mean that they can't build bigger, but they cannot build smaller than 1,800 square feet. Law Director Stephan stated we are also doing Planned Development on this property, which means that the developer will have to bring in their proposed building materials, their proposed building designs, their covenants and restrictions and any plans for a homeowners' association, all that will have to be presented before any development will occur. We will be approving all of this and the development will have to take place in accordance with that plan for the project.

Ms. Eson inquired if the adjacent property owners will be notified when those meetings will take place.

Law Director Stephan stated yes, they will be contacted. At this time there is no specific project that he is aware of for this property.

Ms. Eson inquired what is the minimum distance that homes could be built adjacent to her property.

Law Director Stephan stated it would depend on how the lots are laid out. The minimum rear yard requirement is 40' and the minimum side yard is 15' for this zoning classification, unless there is a buffer, which means it would be further away.

Ms. Eson expressed concern about drainage and the impact it may have on the property owners.

Law Director Stephan stated the City has surface water regulations. We require all surface water runoff to be detained on the property either through detention ponds or running directly into our storm sewer system. Any proposed development would have to have a plan that would be reviewed by our City Engineer to address surface water runoff.

Ms. Eson stated she has been in touch with Mr. Stephan for the past few months with a concern that she was not properly notified about the annexation process. The information was apparently

sent to the property address and not her mailing address. She was not aware of any of this until the annexation had already been passed. Ms. Eson stated she still does not understand what the mixup was, but she was not notified.

Law Director Stephan stated her tax mailing address, right now, is the address that she gave tonight to this Hearing. Her position is that the notice should have been sent to her tax mailing address. Law Director Stephan indicated the responsibility in the statute indicates that the agent for the petitioner, which in this case was himself, is to send a regular United States mail notice to all adjoining property owners. Law Director Stephan stated we researched County records and we sent out 24 notices to adjoining property owners in this case. The notice was sent to the Crawford-Toms Run address, which is the property address. Her assertion is that the notice should have been mailed to her current tax mailing address.

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

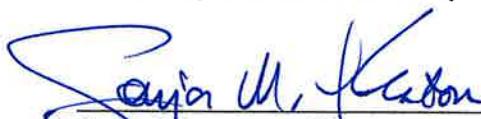
In Old Business, Member Hanos inquired if the City has heard back from The Pines of Wolf Creek Developer.

Assistant Manager Sewert stated the Construction Drawings are in front of our City Engineer for review.

Motion by Cantrell, second by Duncan to adjourn into Executive Session on a Real Estate Matter as requested by Manager Wright, a Real Estate Matter as requested by Law Director Stephan and for the possible appointment on the Board of Zoning Appeals as requested by Finance Director/Clerk Keaton. All yeas, motion carried.

Mayor Seagraves called Council back into Regular Session.

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



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Sonja M. Keaton



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David E. Seagraves, Mayor