

BROOKVILLE CITY COUNCIL
REGULAR MEETING
March 21, 2006

The Regular Meeting of the Brookville City Council was called to order by Vice Mayor Ullery at 7:30 p.m. on March 21, 2006 in the City Council Chambers. The pledge of allegiance was recited. Members Garber, Hanos, Reel and Sanders; Assistant Manager Sewert, Law Director Stephan, Fire Chief Nickel, Police Chief Preston and Director of Finance/Clerk Keaton were present. Manager Wright and Mayor Seagraves arrived later; Member Duncan was absent.

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

Motion by Sanders, second by Garber to accept the March 7, 2006 Regular Meeting Minutes as presented. All yeas, motion carried.

Chris D'Amico, of 10798 Wolf Creek Pike, stated she has been working with Brookville, Trotwood and Clayton on finding ways and funding to resolve flooding issues along Wolf Creek. Ms. D'Amico commented Brookville has been very supportive throughout these various meetings. Ms. D'Amico asked Assistant Manager Sewert how the City addresses detention ponds?

Assistant Manager Sewert stated when Construction Drawings are submitted for a development, they are reviewed by our City Engineer, Choice One Engineering. Assistant Manager Sewert commented, in 1999 Council adopted Subdivision Regulations, Construction Standards and Drawings Design Criteria, which address drainage improvements. Assistant Manager Sewert mentioned these regulations are updated as necessary.

Ms. D'Amico commented she did not see any detention pond(s) in the Final Plat of Meadows of Brookville, Section Five.

Assistant Manager Sewert stated there is a detention pond on the Final Plat for Meadows of Brookville, Section Five, and it did take into consideration the previous sections of Meadows of Brookville and the watershed across the street on Westbrook Road. The detention basin on the Final Plat is named "Reserve Area."

Glenna Jaques, stated she was here this evening to present a mini-walk that she is conducting to raise funds for Cystic Fibrosis in Brookville on April 29, 2006. Ms. Jaques mentioned cystic fibrosis affects the lungs and digestive system. Ms. Jaques stated there is a local girl that has cystic fibrosis, and she looked into how she could help this individual and cystic fibrosis. Ms. Jaques commented she contacted the Cystic Fibrous Foundation and they allowed her to hold this mini-walk. The walk will begin at the new Brookville School complex on Western Avenue, proceed down Rock Street and Brookside Drive to Wolf Creek Street. From there they will walk to Arlington Road and end at Golden Gate Park. Ms. Jaques commented she is asking those who wish to participate to either walk or donate to this cause. Ms. Jaques stated she is still looking for volunteers to assist her with this walk. Ms. Jaques mentioned she will not need police assistance, as they will be walking on the sidewalks. Park Board has granted them free use of the Leiber Center to provide food and entertainment to those individuals that participate with the walk.

Law Director Stephan requested Final Plat approval for 19 N. Orchard Street, which was reviewed and approved by Planning Commission. Law Director Stephan stated currently this lot is divided into a number of parcels. We are combining those parcels into a single parcel and assigning it a new city lot number. This was discussed with the property owner, he is pleased as this will allow the property owner to receive one tax bill versus several tax bills. We are also receiving additional right-of-way from the property owner. This will allow us to have a full and normal through street, which will extend Church Street down to Orchard Street. We really don't have that at this point in time. This will clean this up legally. This will create a single lot. The alley to the west is being maintained. We are not vacating that alley. The City will be moving the fire hydrant that affects the driveway for the adjoining property owner. At the time of the rezoning, that particular homeowner requested this be moved. The public alley will remain as access both to this property and potentially to the rear of this duplex.

Member Garber inquired if the proposed duplex meets the setback requirements.

Law Director Stephan indicated Planning Commission approved the duplex as a Special Use in the R-2 zoning district. It meets the front and side yard setbacks for R-2 zoning and Planning Commission approved the rear yard setback which averages out to a 27' setback.

Member Hanos asked if we need to take a look at and amend our zoning regulations so we can be more specific when it comes to corner lot setback requirements so we can be consistent, versus using an average?

Assistant Manager Sewert commented we can take a look at that.

Law Director Stephan commented the rear yard setback was discussed during the rezoning Public Hearing, and it was also addressed in the Agreement.

Motion by Garber, second by Sanders to approve the Final Plat for 19 N. Orchard Street as presented. All yeas, motion carried.

Karen Braund, of 15 Heckathorn Road, stated she has copies of all the Planning Commission minutes where Tim Taylor and Mike Oxner made reference to the dollar values of the proposed homes that will be constructed in Meadows of Brookville, Section Five, which is considerably less than what her house is valued at the County Auditor's Office. Mrs. Braund stated her house will be devalued because these new homes will have a smaller square footage. Mrs. Braund also commented if the City did not allow the homes to be built facing Westbrook Road, the developer would not have to widen Westbrook Road.

Member Garber stated the widening of Westbrook Road, along with the installation of sidewalks, curbs and gutters were always a part of the plans.

Member Ullery stated he attended the last Planning Commission Meeting where the developer's engineer stated the covenants and restrictions for the Meadows of Brookville, Section Five will be identical to the covenants and restrictions of the other sections of this subdivision. The developer's engineer also confirmed the houses along Westbrook Road will be built first.

Mrs. Braund informed Council that she obtained signatures from 50 of the residents of the Meadows of Brookville, who are not in favor of the changes that are taking place in Section Five.

Mrs. Braund reiterated the same concerns that she expressed at the March 7, 2006 Council Meeting and the other residents of the Meadows of Brookville subdivision expressed at the March 16, 2006 Planning Commission Meeting, regarding green space, safety and their covenants and restrictions.

Member Hanos asked for an explanation of the variance that was granted in this Section Five.

Law Director Stephan stated there are four lots on the curve of Brooke Woode that was granted a side yard variance of 7½', which is consistent with the side yard setbacks of the previous sections of that development. Law Director Stephan indicated a 30' rear yard variance was granted for those houses facing Westbrook Road. In exchange for the rear yard variance, the developer has increased the width of the lots, which will accommodate a 1,500 square foot or a 1,700 square foot home, which their covenants and restrictions currently require as a minimum.

Member Hanos stated she did express her concerns on the speed limit issue and the backing out onto Westbrook Road at previous Council Meetings. Member Hanos stated her vote was based on the comments that were made that the City would have the speed limit reduced, and now she knows the speed limit can only be reduced with a request to the Ohio Department of Transportation.

Member Sanders commented the City can have the speed limit reduced through annexation of the roadway, which the City is pursuing.

Member Garber commented Stroop Road has the same setup as we are proposing for Westbrook Road. They have residents that back out onto an extra lane that is not a part of the roadway. Member Garber reminded everyone that Westbrook Road will have an additional lane that those residents can back out onto, before entering Westbrook Road.

Mrs. Braund stated with this particular development there are currently three accident points alongside this development, and now with the 13 houses going in along Westbrook Road, that will increase to 16.

Law Director Stephan commented with respect to the covenants and restrictions, the covenants and restrictions have been applied and filed in Montgomery County on each section that has been filed. There are no covenants and restrictions on Section Five right now. The developer's engineer has indicated he will be imposing the same covenants and restrictions on Section Five. Law Director Stephan stated where we are at right now, as far as covenants and restrictions, there are no covenants and restrictions on this particular property until this Final Plat is recorded with covenants and restrictions. Law Director Stephan commented with respect to the 67% rule in the existing covenants and restrictions, it doesn't really address plat approval. It addresses modifications in the covenants and restrictions. Law Director Stephan indicated covenants and restrictions are a legal agreement between a property owner and the developer, not zoning. We have a zoning decision that has been made here.

Mrs. Braund asked what takes precedence, their covenants and restrictions, or City zoning?

Law Director Stephan stated that city zoning establishes the minimum requirements for a particular zoning district. If the covenants and restrictions are less restrictive than the zoning requirements, the zoning requirements take precedence. Covenants and restrictions can be more restrictive than what the city zoning regulations requires.

Del Braund asked if this is a done deal?

Member Hanos stated she is not comfortable with her decision.

Mr. Braund stated he doesn't think all of the information was presented to Council correctly. He feels that Council had a learning process at their expense.

Member Sanders explained the notification process that is required of the City, which applies to rezoning issues only.

Member Ullery commented he sees their concerns, but Council and Planning Commission abided by the zoning. Maybe we need to table this right now for Law Director Stephan to review.

Member Garber asked the Braunds what the other residents concerns are?

Mrs. Braund stated they have the same concerns, green space, square footage and safety.

Discussion continued.

Law Director Stephan stated he will review the issues and report back at the next Council Meeting.

Member Hanos stated she wanted to go on the record that she was presented with one side of the issue and she was given incomplete information.

Member Sanders commented that the City is following the process, we did discuss the speed limit issue at the February 7, 2006 Council Meeting. Member Sanders read the Council Minutes where Manager Wright pointed out the City could request Montgomery County Engineers to reduce the speed limit in this area. Manager Wright did not say he would reduce the speed limit.

Member Sanders stated the original developer requested Planning Commission allow him to develop duplexes in this area, and Planning Commission voted it down.

Assistant Manager Sewert presented highlights of the various departments under the direction of the Service Department, Planning, Community Development, Economic Growth and Grants portion of the 2005 Annual Report with questions and discussion.

Manager Wright arrived.

Finance Director/Clerk Keaton presented highlights of the Finance and Administration, Personnel, Enterprise Funds and Clerk of Council portion of the 2005 Annual Report with questions and discussion.

Mayor Seagraves arrived.

Police Chief Preston presented highlights of the Police and Communication Departments portion of the 2005 Annual Report with questions and discussion.

Fire Chief Nickel presented highlights of the Fire/EMS Department portion of the 2005 Annual Report with questions and discussion.

Manager Wright thanked the Department Heads for their reports and presentation.

Mayor Seagraves and Council thanked the Administrative Staff for their reports and presentation.

Manager Wright reported the Administrative Staff recently held a public information meeting with those township residents that border the Hunter's Run development along Golden Gate Lane.

Mayor Seagraves thanked the Administrative Staff for holding that meeting, and commented the City is trying to do good things in Brookville.

Member Sanders commented that he read in the Park Board minutes about a band concert that may be held in the Leiber Center this summer, and wanted to know what the City had in place such as permits and to make the Police Department aware of the situation.

Manager Wright stated Park Board asked this individual to attend a future Park Board Meeting, which he will do in April, so the renter can present his or her ideas and plans to Park Board. If an individual or group rents a shelter in the park, they have to obtain a permit, which has rules on the back. If the rental party breaks anything or requires an additional cleanup, they are invoiced. Manager Wright stated in most cases, the rentals do not require police assistance.

Member Sanders mentioned he saw in the Park Board minutes that we are looking at other options for the pond, and asked Manager Wright to explain.

Manager Wright reported he has reviewed the upgrade of the pond at Golden Gate Park at great length. Manager Wright indicated he has also met with several contractors on the proposed project along with their projected costs. Manager Wright expressed concern for dredging the pond as initially planned, due to the mess and odor that is created when dredging. Manager Wright commented he held discussions last week with a contractor and our Engineer on upgrading the pond, and both have worked on similar ponds and water ways in northern communities. Manager Wright stated he is looking at the option of raising the pond 18" to 24" to increase the depth, which will eliminate some of the problems and costs associated with dredging. Manager Wright commented he has also studied the seawall issue. Manager Wright stated we would have problems with using a vinyl seawall due to our clay dirt. The vinyl seawall would have to be braced on the back side of the seawall with wood brackets, which of course would disintegrate later. Manager Wright commented a steel seawall is not attractive; it eventually rusts and costs are still high. A suggestion was made that we install concrete barriers, similar to the sound barriers along the highway. This concrete barrier will be placed between I-beams and buried four to six feet in the ground. Manager Wright commented those could be placed along the west side of the pond first to raise the water level. Manager Wright stated he needs to research this idea more and obtain cost estimates. Discussion continued.

Member Hanos asked if it was more cost effective to work on the existing pond or dig a new pond in another location?

Manager Wright stated it is more cost effective to work on the existing pond. Currently there is not another location for a pond in Golden Gate Park.

Chief Nickel had no report.

Chief Preston had no report.

Law Director Stephan reported Resolution No. 06-04 and Resolution No. 06-06 are accepting the recommendation of the Tax Incentive Review Council for continuation of the two Enterprise Zone Agreements for Green Tokai and Resolution No. 06-05 is accepting the recommendation of the Tax Incentive Review Council for continuation of the Enterprise Zone Agreement for I.M.I. Norgren. Law Director Stephan commented both companies are meeting and/or exceeding the number of employees and the pledged investments that are required by the Enterprise Zone Agreements. Law Director Stephan indicated the Montgomery County Auditor's Office was very pleased with our Agreements, as many other municipalities are having companies that are not in compliance with their agreements. Discussion followed.

Motion by Sanders, second by Ullery to read proposed Resolution No. 06-04 through Resolution No. 06-06. All yeas, motion carried.

Motion by Sanders, second by Ullery to accept the first reading, dispense with the second and third reading and adopt Resolution No. 06-04 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. 06-05 entitled "A RESOLUTION ACCEPTING THE RECOMMENDATION OF THE TAX INCENTIVE REVIEW COUNCIL FOR CONTINUATION OF THE ENTERPRISE ZONE AGREEMENT OF I.M.I. NORNGREN, INC., AND DECLARING IT AN EMERGENCY.", and Resolution No. 06-06 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 the City is moving ahead with litigation against Mr. Shellabarger for the uncompleted log cabin next to Interstate 70. A court date has not been set.

Finance Director/Clerk Keaton requested Council approval to authorize the signing of a Depository Agreement with The Huntington National Bank, which recently merged with Unizan Bank. The terms of the Agreement are identical to the Depository Agreement already on file, which expires December 31, 2006.

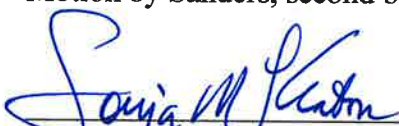
Motion by Ullery, second by Garber to authorize the signing of the Depository Agreement with The Huntington National Bank for the deposit of public funds, for active, inactive and interim funds through December 31, 2006 as requested by Finance Director/Clerk Keaton. ~~All yeas, motion carried.~~ Ullery yea, Hanos yea, Garber yea, Reel abstain, Sanders yea and Seagraves yea. Motion carried with five yeas and one abstention.

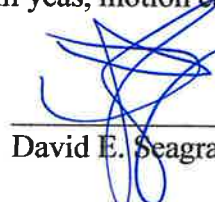
Finance Director/Clerk Keaton announced Brookville Park Board will be holding their 6th Annual Community Park Cleanup Day on Saturday, April 8 from 9:00 a.m. to noon at all city parks. Hot dogs and refreshments will be served at noon in Shelter #3 at Golden Gate Park.

Finance Director/Clerk Keaton reminded everyone that the Vandalia Income Tax Department will have a representative at the City Building on Friday, April 7 from 8:00 a.m. to 4:30 p.m. and again on Saturday, April 8 from 8:00 a.m. to noon to assist citizens with their local income tax return, free of charge.

Mayor Seagraves thanked the Board and Commissions for their hard work and efforts.

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


Sonja M. Keaton, Clerk


David E. Seagraves, Mayor