

BROOKVILLE CITY COUNCIL  
REGULAR MEETING  
August 1, 2006

The Regular Meeting of the Brookville City Council was called to order by Mayor Seagraves at 7:30 p.m. on August 1, 2006 in the City Council Chambers. The pledge of allegiance was recited. Members Duncan, Garber, Hanos, Reel, Sanders and Ullery; Assistant Manager Sewert, Fire Chief Nickel, Police Chief Preston, Law Director Stephan and Director of Finance/Clerk Keaton were present. Manager Wright was absent.

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

Motion by Sanders, second by Reel to accept the July 18, 2006 Regular Meeting Minutes as presented. All yeas, motion carried.

Assistant Manager Sewert reported bids were recently opened for the "2006 Asphalt Resurfacing and Pavement Removal Project" and recommended that Council accept the lowest and best bid from Barrett Paving Materials, Inc.

Motion by Ullery, second by Reel to accept the low bid of \$49.50 per ton for approximately 1,010 tons of 448 Asphalt concrete overlay, \$62.00 per ton for approximately 1,400 tons of 448 Type 1H, 70-22 Polymer Asphalt overlay and \$1.25 per square yard for pavement removal, Contractor keeps materials from Barrett Paving Materials, Inc. for the "2006 Asphalt Resurfacing and Pavement Removal Project" as recommended by Assistant Manager Sewert. All yeas, motion carried.

Assistant Manager Sewert thanked the Brookville Police and Fire Departments and the Service Department for their assistance throughout the picnic and cleanup. Assistant Manager Sewert also thanked Council for the fireworks display.

Mayor Seagraves congratulated the Brookville Chamber of Commerce for an exceptional picnic. Mayor Seagraves thanked the Brookville Police and Fire Departments and all of the City employees for their assistance throughout the picnic. The Community Picnic was a great success.

Assistant Manager Sewert reported the Salem Street Project is progressing on schedule. The waterline is being installed at this time and should be completed in two weeks. Once the waterline is installed, work will begin on the storm sewer.

Assistant Manager Sewert reported the aeration system is installed in the pond at Golden Gate Park. Assistant Manager Sewert reported the City has received many compliments on the aeration system. The VFW Post will be donating funds for an additional aeration system on the north end of the pond.

Assistant Manager Sewert reported Council previously granted approval for the Brookville FFA Chapter to hold their 1<sup>st</sup> Annual FFA Bull Jam in a portion of the NorthBrook Industrial Park on September 23, 2006. Assistant Manager Sewert commented the FFA needs to change the date to October 14, 2006, due to a scheduling conflict.

Motion by Reel, second by Hanos to change the date for the Brookville FFA Chapter's 1<sup>st</sup> Annual Bull Jam from September 23, 2006 to October 14, 2006 as requested. All yea, motion carried.

Assistant Manager Sewert reported he recently spoke with his contact person at Green Tokai. Assistant Manager Sewert indicated Green Tokai's business should increase with the Honda plant that is locating in Indiana. A representative from Green Tokai will attend a future Council Meeting.

Assistant Manager Sewert reported at the last Council Meeting discussion was held on continuing the School Resource Officer (SRO) program on a full time basis with reduced

funding from the Brookville Schools and review the situation for the 2007 budget year, or reduce the hours of the SRO to part time at the schools and part time on road coverage for the Brookville Police Department. The issue was tabled at the last Council Meeting.

Police Chief Preston commented school starts in three weeks. Police Chief Preston stated the City made a commitment in January to participate with the SRO program for 2006. If Council is interested in continuing the SRO program on a part time basis, he will have to make adjustments to the Department's schedules. Police Chief Preston recommended the SRO program continue on a full time basis through 2006.

Mayor Seagraves agreed.

Member Hanos stated with good faith bargaining and all that, Brookville Schools has already pulled out of the Agreement. Member Duncan and Sanders agreed.

Member Sanders commented it is his opinion that the schools would benefit with a part time SRO for the whole school year, versus a full time SRO for the first four months of the school year.

Member Hanos commented that is why she is interested in seeing the SRO program go to a part time position from the beginning of the 2006/2007 school year. Member Hanos stated she would like to see if the SRO program can continue to work on a part time basis.

Member Duncan agreed with Member Hanos. He would like to see the SRO program continue on a part time basis. How will we know if it will work on a part time basis, if we don't try it.

Member Ullery stated he understands the position of Police Chief Preston and the scheduling issues he may face; we need to consider the Chief's position. Member Ullery stated he would like to see the SRO program continue on a full time basis through December 2006.

Discussion continued.

Member Duncan inquired if the school indicated that they would resume the SRO program on a full-time basis if their ballot issue passes.

Police Chief Preston stated yes.

Member Garber stated he felt the SRO program would be inefficient should it continue on a part time basis. He would like to see it continue on a full time basis through 2006.

Member Sanders reiterated his opinion is it would be better to have a part time program for a full school year versus a full time program for four months.

Member Reel asked what impact would it have on the Police Department if we do away with the SRO program all together?

Police Chief Preston stated the City will have to absorb the position.

Motion by Duncan, second by Sanders to continue the SRO program on a part time basis with Brookville Schools and part time road coverage for the Police Department. Hanos yea, Ullery nay, Reel nay, Duncan yea, Sanders yea, Garber nay and Seagraves nay. The vote was four nays and three yeas. Motion denied.

Motion by Garber, second by Ullery to continue the SRO program on a full time basis with the City paying the full cost of the SRO program for the remainder of 2006 and to review the SRO position for 2007. Ullery yea, Reel nay, Duncan nay, Sanders nay, Hanos nay, Garber yea and Seagraves yea. The vote was four nays and three yeas. Motion denied.

Motion by Reel, second by Duncan to do away with the SRO program entirely. Reel yea, Duncan nay, Sanders nay, Ullery nay, Hanos nay, Garber nay and Seagraves nay. The vote was six nays and one yea. Motion denied.

Mayor Seagraves adjourned 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. 2006-05, which considers amending Section 1151.15 of the Code of Ordinances to establish Planned Development District regulations that will require plan development in the district and maintain the underlying zoning of the 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 July 19<sup>th</sup> and 26<sup>th</sup> edition of the Brookville Star advising of the Public Hearing. The City Office did not receive any telephone calls nor did anyone come into the Municipal Office to review the proposed Ordinance. Clerk Keaton asked Law Director Stephan for a staff report.

Law Director Stephan reported Planning Commission has spent several meetings and a Work Session regarding building materials and other issues relating to development of residential and commercial properties within the City of Brookville. After reviewing all of the information they recommended that an Ordinance for planned development overlays be presented for consideration. Law Director Stephan presented highlights of the proposed Ordinance. The purpose of the Ordinance is to maintain the existing zoning districts, but to overlay planned development on top of that district. For example, if a district was zoned R-1A and then had a planned development overlay placed on top of that, the underlying zoning for R-1A would remain in place and all of the requirements of the R-1A zoning would need to be complied with unless they were specifically modified by Planning Commission and Council. Chapter 1151.15 also provides that the site development regulations for the underlying district would be maintained, which includes setbacks, building heights and other regulations that we currently have within our existing residential zoning. Planned development would also require a planned development be presented, and Planning Commission would have to make certain findings for approval. Law Director Stephan stated those findings for approval are set forth in 1151.15(f), which consists of the following: (1) That the proposed planned development is a permitted use within the underlying zoning district, or is a special use within the underlying zoning district and has been approved as a special use pursuant to the requirements for special use approval set forth in Chapter 1163; (2) That the proposed planned development complies with the site development regulations for the underlying zoning district, unless specifically modified or waived by Planning Commission and City Council for the proposed planned development; (3) That the proposed planned development is compatible with the surrounding neighborhood and adjacent properties; (4) (4) That the proposed planned development demonstrates superior architecture and use of high quality building materials, building fixtures, and architectural treatments and amenities; (5) That the proposed planned development demonstrates that a diversity of building designs will be employed to avoid monotony in the design of structures within the planned development; (6) That the proposed planned development has open space that is designed in a manner where the open space is functional and is grouped in a manner that maximizes the appearance and use of open space; (7) That the proposed planned development provides a plan for landscaping and maintenance of common areas, including maintenance of storm detention areas and any required buffers, and that the long term care of common areas shall be addressed through establishment of a homeowners association or other organization within the planned development; (8) That the proposed planned development provides for restrictions and covenants on the subdivision plat or by separate dedication that will provide for control of land use and buildings within the planned development and promote consistent and unified development; and (9) That the proposed planned development complies with all applicable subdivision requirements of the City of Brookville, and the construction of public improvements in the proposed planned development are consistent with the Design Criteria and Construction Standards and Drawings of the City of Brookville. Law Director Stephan stated the way this would work, is that once the district would be applied to a particular property, then a planned development would have to be submitted and as part of that planned development and as part of that approval process there would be a subdivision filing. There would also be filings relating to building design, restrictions and covenants and other issues that the City would request in the application to address these findings. Planning Commission and Council would be specifically approving those items. Any modifications would have to be represented to Planning Commission and Council for reapproval. Law Director Stephan indicated this is a two-step process. We are adopting these regulations at this time. The second step of the process is to decide where these regulations should be applied. Law Director Stephan stated this is going to be very useful for newly annexed territory, and then we have to look at whether it would apply to existing properties within the City that are undeveloped.

Member Duncan stated he feels this will stop a lot of problems that we have had over the years.

Discussion continued with Council Members asking questions of proposed Ordinance #2006-05 with Law Director Stephan.

Member Hanos expressed concern for proposed Ordinance No. 2006-05 being too ambiguous.

Law Director Stephan commented it was also a concern of several Planning Commission Members. It is a legitimate concern. The bottom line is, if we want to adopt specific standards which state a particular material is a superior material, we can put that in the Ordinance. The majority of Planning Commission felt that the best thing to do was to weigh each project independently and have the flexibility to make a decision at that time.

Member Hanos expressed concern with standard number three in proposed Ordinance No. 2006-05, in that it would be Planning Commission's decision to determine what is compatible with the surrounding area. Who is going to say what is compatible?

Law Director Stephan stated the purpose of this standard is for Planning Commission and also for City Council when they are looking at a particular plan, to be cognizant of what is around a particular project and weigh whether a project will fit with the adjoining neighborhood.

Member Garber inquired if we can include the word diversity within standard number four to prevent a subdivision from having all of the same type home, such as an all brick, or an all siding development.

Law Director Stephan stated the word diversity could be included in standard number four if Council so desires.

Law Director Stephan stated what he envisions is when we approve a planned development, the developer is bringing in a series of proposed building designs and we would be approving that group of designs so that we would know there are a multiple number of designs. By going through this process, this should eliminate a single design house within a subdivision.

Member Ullery inquired if this would be approved by sections or the development as a whole.

Member Duncan and Member Sanders commented they would like to see this apply to the whole development and not by sections.

Clerk Keaton administered the Oath of Witness to those four individuals who wished to speak.

Mike Watkins, developer of the Sterling Meadows Subdivision, expressed concern for applying the planned overlay district to a whole development from the beginning. What if things change over the years? He does not want to go in and spend a lot of money for a number of lots, and then all of a sudden things change, but he still has to provide the same homes he received prior approval for, and now he is stuck and can't sell homes. Is this an architectural type of approval or is this more of a material type of approval?

Law Director Stephan indicated he does not envision requiring reapproval of a plan development if a developer has a minor change in design, or to bring in new designs for a section, provided that the new designs fit within the original plan development including covenants and restrictions that apply to building materials and building design. When a plan development is filed, we will receive covenants and restrictions addressing the materials a builder is going to use, and we are asking for a series of designs up front to make sure that the developer has a multiple set of designs and we are not faced with a situation that a developer is coming in with one particular design for a development. Law Director Stephan indicated we are going to keep all of our basic zoning and setbacks unless they are specifically modified for a particular plan.

Karen Braund, of 15 Heckathorn Road, stated that maybe her situation could be used as a basis for future developments of what not to do. If what Council is passing will safeguard that and protect the future people of Brookville, she is all for that.

Law Director Stephan stated proposed Ordinance No. 2006-05 will prevent what happened with the Meadows of Brookville development, where one developer sold the remaining development to a new developer and changes were made to the original Preliminary Plat, which was significantly modified without a full public hearing.

Randy Etter, representing Buildings by Design and one of the developers of Hunter's Run Development, inquired if he goes into a subdivision with several custom homes, as he does both productions and customs, what criteria are they going to have to meet if they present 10 to 15 building plans and now all of a sudden they have 10 to 15 customers that have custom homes, will they, at that point, have to submit the prints to the City for approval.

Law Director Stephan commented that is an issue we are going to have to work through. Law Director Stephan stated he envisions if a developer has an initial design and brought in the initial prints for review, then if these new designs fit within the covenants and restrictions and they were not significantly different from what they were building there in terms of building materials, that they could move forward with those buildings without plan development reapproval.

Mr. Etter stated it sounds like we are not going to get so involved where the City is dictating certain colors and things like that. Mr. Etter stated he just wants to get a good idea on where we are going with this proposed Ordinance, or how far are we going with this Ordinance, or if this is just an issue of vinyl siding or to prevent a situation such as Ms. Braund experienced with her development. Where are we headed with this? Mr. Etter indicated he has three phases for the Hunter's Run Subdivision, are they ok to continue on with all three phases? Mr. Etter inquired what parameters are the City going to use for what is going where.

Member Ullery stated one of the City's main concerns was a quality product, using a quality material with quality installers. Member Ullery commented all the City is looking for is quality material, quality craftsmanship and to make our community proud of what you put in here. We want a little variety; we do not want cookie cutters.

Law Director Stephan commented what his idea on this proposed Ordinance is, is that our Zoning Inspector and our Building Inspector would take a look at a particular house and say yes this fits within what was submitted with the original plan development approval in terms of covenants and restrictions, in terms of proposed materials and if it is a minor change in design, he does not see it coming back in front of these Boards and go through a six-month process. Law Director Stephan stated maybe we need to look at including additional language on some of the concerns expressed this evening.

Mayor Seagraves expressed concern that we need to be more definitive with the definition of diversity when it relates to building materials within a subdivision.

Mr. Watkins stated the development issue within the proposed Ordinance is right on, but, he would like to see more black and white definitive wording regarding plan design and materials. Currently that area is too vague. It is scary for the small developer who has an interest in the community.

Mr. Etter agreed, the proposed Ordinance is too vague.

Law Director Stephan stated it sounds like Mr. Etter is concerned with the City's control of design down the road and how intrusive that is going to be on material and design. Law Director Stephan inquired if they opposed requiring reapproval of a plan development if the developer desired to modify the covenants and restrictions for a development.

The consensus of those developers present, is they did not object to requiring reapproval of a plan development if there were modifications to approved covenants and restrictions.

Gary Horstman, of 11465 Upper Lewisburg-Salem Road, asked if the planned development overlay would address the downtown business district?

Law Director Stephan stated this plan development overlay could potentially be used for business districts. We are currently not looking at applying this overlay to an existing business district. It could be used, for example, on the undeveloped Highway Service area. Planning Commission has been focusing primarily on the residential side.

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

Mayor Seagraves continued the Regular Meeting with discussion on the SRO program.

Motion by Duncan, second by Reel to continue the SRO program on a part time basis with Brookville Schools and part time road coverage for the Police Department. Hanos yea, Ullery nay, Reel yea, Duncan yea, Sanders yea, Garber nay and Seagraves nay. Motion carried with four yeas and three nays.

Member Garber offered a suggestion that more trash receptacles are placed around the park for the Community Picnic. He noticed there was a lot of trash lying on the ground around the trash receptacles that were in place.

Member Hanos inquired on where the funding was coming from for the sidewalk and fountain at the pond at Golden Gate Park.

Assistant Manager Sewert indicated the City is receiving funding from the VFW Post and the Brookville Chamber of Commerce. The City received pond restoration donations from a dance that was held in 2004 that is going toward the project.

Mayor Seagraves expressed condolences to Fire Chief Nickel and his family on the passing of his mother-in-law.

Fire Chief Nickel reported he was contacted by the State Fire Marshall regarding a request from British Petroleum (BP) for a six-month extension on the removal of the storage tanks for the abandoned BP Station located on Arlington Road. Fire Chief Nickel indicated Council can express their denial of this six-month extension request. Fire Chief Nickel commented the State Fire Marshall representative indicated to him that there may be a potential buyer for this property since they requested a six-month extension. Normally these companies request a year extension.

Member Hanos commented that she has done some research on E85 fuel, or otherwise known as an alternative fuel intended for use in flexible fuel vehicles. E85 is a motor fuel blend of 85% ethanol and 15% gasoline. Member Hanos stated she would like to see the City require the next fueling station in Brookville to have at least one pump with this E85 fuel, as now you can only get this E85 fuel on Wright Patterson Air Force Base, but civilians cannot purchase the fuel on the base.

Discussion continued.

Motion by Duncan, second by Seagraves to grant a six-month extension for the removal of the storage tanks for BP Station at 801 Arlington Road. Hanos nay, Ullery yea, Garber yea, Reel yea, Duncan yea, Sanders yea and Seagraves yea. Motion carried with six yeas and one nay.

Fire Chief Nickel reported the Monthly Activity Report for Fire and EMS runs shows a combined total of 910 runs through July.

Police Chief Preston presented an overview of the Incident List and Brookville Police Department Time Analysis from July 18 to July 31, 2006. Police Chief Preston reported there were 414 calls for service in this time period. The number of reportable incidents are down 60 reports or 12.9% and total calls handled are down 227 or 4.7% from this same time last year. The average response time was 1.49 minutes.

Police Chief Preston reported the Brookville Police Department charged an individual with Aggravated Robbery and Kidnapping during a recent robbery that occurred in Brookville on July 27, 2006. The individual was identified and arrested four hours after the robbery occurred.

Mayor Seagraves congratulated the Brookville Police Department on a job well done.

Law Director Stephan had no report, but gave an update on the Log Cabin project. Law Director Stephan stated he had a conference call with Mr. Shellabarger and he indicated that 70% of the stone has been installed on the foundation and the roof should be delivered in approximately one week. Mr. Shellabarger has obtained a water permit for plumbing.

Member Hanos stated hats off to Law Director Stephan for all of his hard work to bring this project to fruition.

Finance Director/Clerk Keaton presented the July 31, 2006 Fund Balance for review and approval.

Motion by Garber, second by Duncan to approve the July 31, 2006 Fund Balance as presented. All yeas, motion carried.

Finance Director/Clerk Keaton requested Council authorization to transfer \$125,000 to the Street M&R Fund, \$25,000 to the Park Fund and \$200,000 to the Capital Improvement Fund.

Motion by Garber, second by Sanders to authorize the transfer of \$125,000 to the Street M&R Fund, \$25,000 to the Park Fund and \$200,000 to the Capital Improvement Fund as appropriated and requested by Finance Director/Clerk Keaton. All yeas, motion carried.

Mayor Seagraves had no report.

Motion by Duncan, second by Sanders to read proposed Ordinance No. 2006-04. All yeas, motion carried.

Motion by Duncan, second by Ullery to accept the third reading and adopt Ordinance No. 2006-04 entitled "AN ORDINANCE AMENDING THE ASSESSMENT POLICY OF THE CITY OF BROOKVILLE, OHIO." All yeas, motion carried.

Motion by Sanders, second by Garber to read proposed Ordinance No. 2006-06. All yeas, motion carried.

Motion by Reel, second by Hanos to accept the third reading and adopt Ordinance No. 2006-06 entitled "AN ORDINANCE DEDICATING AND NAMING CERTAIN RIGHT OF WAY AS CHURCH STREET IN THE CITY OF BROOKVILLE, OHIO." All yeas, motion carried.

Member Duncan requested an Executive Session on a Personnel Matter and a Legal Matter.

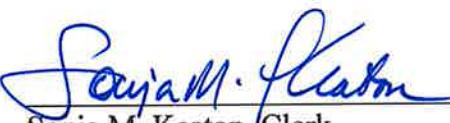
Gary Horstman commented he was surprised to see a furniture truck parked at the former BP Station on Arlington Road selling furniture.

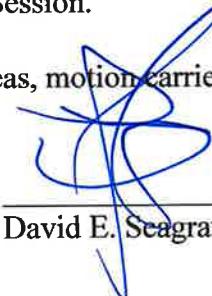
Assistant Manager Sewert stated he would look into the situation.

Motion by Garber, second by Duncan to go into Executive Session on a Personnel and Legal Matter as requested by Member Duncan. All yeas, motion carried.

Mayor Seagraves called Council back into Regular Session.

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

  
Sonja M. Keaton, Clerk

  
David E. Seagraves, Mayor