

BROOKVILLE CITY COUNCIL
REGULAR MEETING
July 16, 2002

The Regular Meeting of the Brookville City Council was called to order by Mayor Imler at 7:30 P.M. on July 16, 2002 in the City Council Chambers. The Pledge of Allegiance was recited. Members Duncan, Garber, Sanders, Seagraves, Trimble and Ullery; Manager Wright, Assistant Manager Sewert and Law Director Stephan were present.

Motion by Seagraves, seconded by Duncan to accept the Agenda as presented. All yeas, motion carried.

Motion by Duncan, seconded by Sanders to accept the July 2, 2002 Regular Meeting Minutes as presented. All yeas, motion carried.

Eric Dolan, of 10727 Westbrook Road, commended City Council for Brookville's plan for industrial growth in Brookville. Mr. Dolan expressed concern for the noise and noxious odors that are coming from the Mosier Industrial Park next to his home. He stated he feels some of the businesses are in violation of the City of Brookville's zoning code. Mr. Dolan also expressed concern for the recent decline in the reevaluation of his property, and he felt that was due to the 45' tall building that was built by D.G. Equipment a couple of years ago. Mr. Dolan indicated that Assistant Manager Sewert helped him with the situation when he first expressed concern a year ago, but the noise and odor are still continuing. Discussion followed. Law Director Stephan advised he will research Mr. Dolan's concerns, review the City of Brookville's code enforcement ordinance and respond to Mr. Dolan by letter.

Dave Monnin, representing the Chamber of Commerce, gave an update on the Brookville Community Picnic. He thanked the City workers for their participation in helping set up for the picnic, and City Council for their support of the fireworks exhibit.

Dave Monnin, representing the Muscular Dystrophy Association (MDA), requested authorization to block off streets for the 14th Annual O'Riley's Chili Cook-off, Auction and Car Show that benefits the MDA. Mr. Monnin advised that Mulberry Street will be left open for emergency vehicles. Discussion followed.

Motion by Duncan, seconded by Seagraves to approve the request to block off Market Street from Wolf Creek Street to Sycamore Street, Wolf Creek Street from Hay Avenue to Main Street, Western Avenue from Hill Street to Wolf Creek Street and Walnut Street from alley to alley on Sunday, August 18, 2002 from 9:00 a.m. to 7:00 p.m. for the 14th Annual O'Riley's Chili Cook-off, Auction and Car Show. All yeas, motion carried.

Garnet Buckley, of 31 March Avenue, asked if the Municipality of Brookville Charter has ever been amended? Law Director Stephan stated the Charter was adopted in 1978 and went into effect January 1979. He is not aware of any amendments.

Carl Snedeker, of 827 Shaney Lane, thanked the City for their assistance in getting sidewalks replaced, the relocation of the standing water problem and the upkeep of mowing in the Arlington Woods subdivision. Mr. Snedeker stated there is still a problem with dead trees that were planted in Section One and erosion around the ponds. Discussion followed. Law Director Stephan stated he would like to receive a list of the items that are still an issue to see if it is the responsibility of the Homeowner's Association and/or the developer's responsibility to resolve the issues. Law Director Stephan stated he will review the plans and review the Homeowner's Association document. Once a determination is made, Law Director Stephan will draft a response letter.

Member Duncan reported the standing water problem has been eliminated some what, but it looks like the water is coming from a sump pump out of a basement. Law Director Stephan stated the Municipality of Brookville Subdivision Standards were adopted in April 1999. Prior to this date there was not a standard in place for the disposal of water from sump pumps. Law Director Stephan advised if homeowners wish to alleviate the improper disposal of water through a sump pump, they should contact the City Office for specifications, but the homeowner would be responsible for all costs involved.

Member Seagraves reported a brand-new house located at 516 Patricia Faye Court needs code enforcement attention. Member Seagraves stated there is a storage trailer that has been located in the rear of the property for a year now. Assistant Manager Sewert stated he will have Zoning Officer Summers look into the situation.

Member Duncan reported he has heard that an individual desires to purchase a lot in Arlington Woods, but that person wants a bigger lot. Member Duncan stated the individual has been told that he cannot have a bigger lot. Discussion followed. Law Director Stephan stated the individual needs to present his request, for a larger lot, to Planning Commission for consideration and approval.

Manager Wright reported the Community Map and Newsletter project, which was a joint effort between the City of Brookville and the Brookville Chamber of Commerce, is now complete. Manager Wright thanked Clerk Keaton for her work in bringing this project to realization and to the participating businesses for their support of the project. Clerk Keaton reported each city residence and the surrounding rural residences will receive a copy of the map and newsletter.

Manager Wright reported Brookville received a lot of press recently in a Letter to the Editor that was published in the Brookville Star. The letter stated the family had experienced criminal activities over the last six months in Brookville. Manager Wright clarified the criminal activities occurred in Perry Township and not in the City of Brookville.

Manager Wright reported the City received four bids on the Arlington Road Improvement Project. Manager Wright stated due to the bids exceeding the Engineer's estimate and revenues down this year, he recommended the bids be rejected and to table the project until next spring. Manager Wright stated this would be an excellent Issue Two project where the City would receive assistance from the state on such a project.

Motion by Seagraves, seconded by Trimble to reject all bids on the Arlington Road Improvement Project and to delay the project until 2003. All yeas, motion carried.

Manager Wright commended the BBC for a successful tournament that was recently held.

Manager Wright reported the Cusick Avenue Sanitary Relief Project will begin soon.

Manager Wright requested an Executive Session on a Personnel Matter.

Law Director Stephan reported pursuant to Council's request for an appropriate amendment to the Charter on the direct election of the Mayor, Ordinance No. 2002-07 was drafted. Law Director Stephan stated it takes the affirmative vote of at least two thirds of the members of Council to place the Ordinance on the November ballot. Much discussion was held. Member Duncan reported he conducted a survey of citizens to see if they would prefer to see the Mayor elected by the citizens versus selected by Council. Member Duncan stated he collected 158 signatures with 157 stating they would like see the Mayor elected by citizens with one stating they are not interested in seeing the Mayor elected by citizens. Mayor Imler stated we're jumping into amending the Charter without a lot of thought. She would like to see more research conducted. Member Trimble commented that Member Duncan conducted a survey, and Law Director Stephan did a good job and structured the Ordinance well, he stated its time to make a move toward amending the Charter. Member Seagraves stated he agrees with Carol. He want's the Mayor selected by the Council members as it is currently done. Member Garber reported he thought he would receive phone calls after the article, on the proposed amendment to the Charter appeared in a recent addition of the Dayton Daily News, and he stated he received none. He stated we currently don't have a strong mayor form of government, why change the Charter. Mayor Imler stated she would like to see petitions circulated versus adopting the Ordinance, that way she would know if the general public is interested in a change. She indicated there is a difference between obtaining signatures for a survey than a petition.

Motion by Seagraves, seconded by Garber to read proposed Ordinance No. 2002-07. All yeas, motion carried.

Motion by Duncan, seconded by Trimble to accept the first reading, dispense with the second and third reading and adopt Ordinance No. 2002-07 entitled "AN ORDINANCE TO PROVIDE FOR THE SUBMISSION OF PROPOSED CHARTER AMENDMENTS TO THE ELECTORS OF THE CITY OF BROOKVILLE, AND DECLARING IT AN EMERGENCY." Ullery yea, Seagraves nay, Trimble yea, Garber nay, Sanders yea, Duncan yea and Imler nay. The motion failed with four yeas and three nays. The Ordinance does not pass due to a lack of an affirmative vote of at least two thirds of the members as required by the Ohio Constitution and the Municipal Charter.

Law Director Stephan reported on the recent Supreme Court decision on door-to-door solicitation. Law Director Stephan indicated a permit system is unconstitutional. He stated the City of Brookville does not require a permit nor do we require registration prior to soliciting. Prior registration is done on a voluntary basis. Law Director Stephan reported the City currently limits the hours a solicitor may go door-to-door. Law Director Stephan stated at this time we do not need to amend the current Ordinance on door-to-door solicitation.

Law Director Stephan reported on a recent Ohio Supreme Court decision which held that Ohio cities do not have sovereign immunity for fireworks displays, and that the city would be liable if it was negligent in failing to follow fireworks safety codes and an injury resulted from the fireworks displays

Director of Finance/Clerk Keaton gave her report with the following action taken.

Motion by Duncan, seconded by Garber to waive a hearing before the Montgomery County Budget Commission on the 2003 Tax Budget. All yeas, motion carried.

Mayor Imler had no report but commended BBC for an excellent tournament this past weekend.

Motion by Duncan, seconded by Seagraves to read proposed Resolution No. 02-19. All yeas, motion carried.

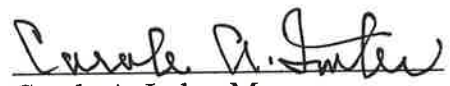
Motion by Duncan, seconded by Sanders to accept the first reading, dispense with the second and third reading and adopt Resolution No. 02-19 entitled "A RESOLUTION DECLARING THE NECESSITY OF CONSTRUCTING, REPLACING OR REPAIRING CERTAIN SIDEWALKS IN THE CITY OF BROOKVILLE, OHIO, AND DECLARING IT AN EMERGENCY." All yeas, motion carried.

Motion by Duncan, seconded by Seagraves to go into Executive Session on a Personnel Matter as requested by Manager Wright. All yeas, motion carried.

Mayor Imler called Council back into Regular Session.

Motion by Duncan, seconded by Seagraves to adjourn. All yeas, motion carried.


Sonja M. Keaton, Clerk


Carole A. Imler, Mayor