

BROOKVILLE CITY COUNCIL
REGULAR MEETING
December 7, 2004

The Regular Meeting of the Brookville City Council was called to order by Mayor Seagraves at 7:30 p.m. on December 7, 2004 in the City Council Chambers. The pledge of allegiance was recited. Members Duncan, Garber, Hanos, Sanders and Ullery; Manager Wright, Assistant Manager Sewert, Law Director Stephan, Fire Chief Nickel, Police Chief Preston and Director of Finance/Clerk Keaton were present. Member Reel was absent.

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

Motion by Sanders, second by Ullery to accept the November 16, 2004 Regular Meeting Minutes as presented. All yeas, motion carried.

Montgomery County Sheriff Dave Vore presented an 800 MHz Digital Radio Proposal for the City of Brookville to Council and those in attendance. Sheriff Vore presented the benefits, capabilities and several pricing proposals for converting to an 800 MHz radio system, as projected by the Montgomery County Sheriff. Discussion followed with no action taken.

Garnett Buckley, of 31 March Avenue, expressed concern for a recent encounter with a door-to-door salesman. Police Chief Preston commented our current ordinance outlines specific time frames when individuals can solicit. Police Chief Preston stated we cannot require these individuals to register with the City nor can we dictate their hours. The ordinance is unconstitutional, due to a recent Supreme Court case. Law Director Stephan stated there is a difference between a solicitor representing a commercial company and a solicitor representing a non-profit organization. Law Director Stephan commented the solicitation ordinance needs to be addressed.

Manager Wright requested approval to enter into a contract with the Montgomery County Public Defender for 2005.

Motion by Garber, second by Duncan to authorize Manager Wright to enter into a contract with the Montgomery County Public Defender for 2005, at a cost of \$113.17 per case for which the Public Defender provides representation, as recommended by Manager Wright. All yeas, motion carried.

Manager Wright requested approval to adjust the ambulance transportation fees for 2005. Manager Wright reported the Federal government has issued cost-of-living increases to the allowable reimbursements for ambulance transport.

Motion by Duncan, second by Sanders to adjust the ambulance transportation fees for 2005 as recommended by Manager Wright. All yeas, motion carried.

Manager Wright reported the City received approval for the Albert Road Storm Sewer Issue Two Grant, in the amount of \$80,000 or 50 percent.

Manager Wright reported the City will once again be a net recipient from the government equity fund in the approximate amount of \$10,366 in 2005.

Manager Wright requested approval to purchase a log cabin kit and accessories from Kuhn's Bros. Log Homes in January 2005, to replace the Caretaker cabin located at Golden Gate Park. Manager Wright commented there is a limited market for log cabins and dealers in the area and due to the cost savings on a particular model, competitive bidding is not practicable in this instance. Section 8.02(B)(3) of the City Charter states contracts, where competition is not practicable, may be awarded without competitive bidding.

Motion by Ullery, second by Seagraves to authorize Manager Wright to purchase a log cabin kit from Kuhn's Bros. Log Homes, Brookville, Ohio, per Section 8.02(B)(3) of the City Charter, as requested by Manager Wright. All yeas, motion carried.

Manager Wright reported the administering of income tax collection with the City of Vandalia, will continue as currently administered for 2005. There will be no change in collections; the Joint Venture is on hold. We will continue to explore options with CORA in 2005.

Manager Wright reported leaf collection will end on December 10.

Manager Wright reported all of the Christmas decorations are up, including new decorations for Gateway Park.

Manager Wright requested an Executive Session on Contract Negotiations and a Personnel matter.

Fire Chief Nickel had no report.

Police Chief Preston presented an overview of the Incident List and the Brookville Police Department Time Analysis from November 16, through December 6, 2004. Chief Preston reported there were 474 calls for service in this time period. Chief Preston reported the number of reportable incidents are down 16 reports or 2% and the total calls handled are up 1,628 or 23% from this same time last year. The average response time was 2.24 minutes.

Law Director Stephan reported there are three proposed ordinances before Council, which updates the building and property maintenance codes. The proposed ordinances have been reviewed, and our building inspection company, National Inspection Company and the Administrative Staff recommend that Council adopt all three ordinances.

Law Director Stephan provided Council with a Memorandum on "Withdrawal from Townships." Law Director Stephan asked Council to review the information, and it will be discussed at the next regular Council Meeting.

Law Director Stephan reported several comments were recently submitted regarding the pending income tax ordinance. Law Director Stephan reviewed the comments and presented a Memorandum on the comments and his opinions. Most of the issues are being addressed in the proposed income tax ordinance are due to the recent state law changes. Law Director Stephan indicated there were two comments on issues which Council could change, if they desire. Law Director Stephan reported the proposed ordinance states if the tax due is \$50.00 or less, such person need not file a declaration. The suggestion has been made to increase the threshold for filing the declaration to \$100.00. The other suggestion made is to include additional language under proposed Section 193.10(a), Misdemeanor Penalty, which clearly indicates intentional fraud that causes a gross understatement of tax liability. Law Director Stephan indicated additional language could be added to further clarify the intent of this provision. The consensus of Council is to change the threshold for filing a declaration to \$100 and to include additional language in Section 193.10(a). Discussion was held on the suggestion that was made to permit net operating loss carryforward deductions. Law Director Stephan stated several of the communities in the Cincinnati area allow this deduction. There is no city in the surrounding area that allows this deduction. Law Director Stephan commented this deduction would impact revenue greatly if we allowed net operating loss carryforward. There is no recapture ability, should a company close during the years of the carryforward. The consensus of Council is to maintain this part of the proposed ordinance as written, which does not allow this deduction.

Finance Director/Clerk Keaton requested Council approval to designate two of their members to sit on the Volunteer Fire Fighters' Dependents Fund for 2005.

Motion by Garber, second by Sanders to appoint Member Duncan and Member Ullery to the Volunteer Fire Fighters' Dependents Fund for 2005. All yeas, motion carried.

Finance Director/Clerk Keaton presented the November 30, 2004 Fund Balance for review and approval.

Motion by Duncan, second by Ullery to approve the November 30, 2004 Fund Balance as presented with transfers to the Park and Street M&R Funds as appropriated. All yeas, motion carried.

Finance Director/Clerk Keaton requested approval to transfer \$5,000 to the Park Fund and \$40,000 to the Sewer Fund from the General Fund as appropriated. All yeas, motion carried.

Motion by Duncan, second by Sanders to approve the transfers as appropriated. All yeas, motion carried.

Finance Director/Clerk Keaton requested approval for the renewal of our membership with the Miami Valley Regional Planning Commission (MVRPC) for 2005.

Motion by Duncan, second by Sanders to approve the renewal of our membership with the MVRPC, and to appoint Mayor Seagraves as Member and Manager Wright as Alternate to the MVRPC Board and Manager Wright as Member and Assistant Manager Sewert as Alternate to the Technical Advisory Committee for 2005. All yeas, motion carried.

Finance Director/Clerk Keaton announced there will be a work session on 2005 Appropriations following the next Council meeting.

Motion by Garber, second by Duncan to read proposed Ordinance No. 2004-16. All yeas, motion carried.

Motion by Duncan, second by Ullery to accept the second reading of proposed Ordinance No. 2004-16. All yeas, motion carried.

Motion by Duncan, second by Sanders to read proposed Resolution No. 04-22. All yeas, motion carried.

Motion by Duncan, second by Sanders to accept the first reading, dispense with the second and third reading and adopt Resolution No. 04-22 entitled "A RESOLUTION AUTHORIZING AN AGREEMENT WITH MONTGOMERY COUNTY TO PROVIDE EMERGENCY PREPAREDNESS, HOMELAND SECURITY AND EMERGENCY MANAGEMENT SERVICES FOR THE CITY OF BROOKVILLE, OHIO AND DECLARING IT AN EMERGENCY." All yeas, motion carried.

Motion by Sanders, second by Duncan to read proposed Ordinance No. 2004-17. All yeas, motion carried.

Motion by Sanders, second by Garber to accept the first reading of proposed Ordinance No. 2004-17. All yeas, motion carried.

Motion by Sanders, second by Duncan to read proposed Ordinance No. 2004-18. All yeas, motion carried.

Motion by Sanders, second by Duncan to accept the first reading of proposed Ordinance No. 2004-18. All yeas, motion carried.

Motion by Sanders, second by Duncan to read proposed Ordinance No. 2004-19. All yeas, motion carried.

Motion by Duncan, second by Sanders to accept the first reading of proposed Ordinance No. 2004-19. All yeas, motion carried.

In Old Business, Member Ullery asked for an update on proposed HB 175, which is a bill that would establish statewide residential building codes for Ohio. Assistant Manager Sewert commented the proposed HB 175 is still in committees. The earliest the Governor would see the bill would be in March or April 2005.

Member Duncan stated he would like to set up a joint work session with Council and Planning Commission. Mayor Seagraves stated a work session could be scheduled some time after the first of the year.

Member Sanders stated he would like to hold a work session on Economic Development. Mayor Seagraves stated this could also be scheduled in 2005.

Motion by Duncan, second by Ullery to go into Executive Session on Contract Negotiations and a Personnel matter as requested by Manager Wright. All yeas, motion carried.

Mayor Seagraves called Council back into Regular Session.

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


Sonja M. Keaton


David Seagraves, Mayor