

Brookville City Council  
Regular Meeting  
December 19, 2023

The Regular Meeting of the Brookville City Council was called to order by Mayor Letner at 7:30 p.m. on December 19, 2023. The meeting was held in the City Council Chambers and virtually using the Cisco Webex application. The Pledge of Allegiance was recited. Members Crane, Fowler, Kristof, Schreier, Wilder and Zimmerlin; Manager Keaton, Finance Director Brandt, Law Director Stephan, Fire Chief Fletcher, Police Chief Jerome and Clerk Duncan were present.

Roll Call by Clerk Duncan.

Motion by Fowler, second by Zimmerlin to adopt the Agenda as presented. All yeas, motion carried.

Motion by Zimmerlin, second by Schreier to accept the December 5, 2023 Regular Meeting Minutes as presented. Crane yea, Fowler abstained, Zimmerlin yea, Schreier yea, Wilder abstained, Kristof yea, Letner yea. Motion carried with five yeas and two abstentions.

Motion by Wilder, second by Fowler to approve the December 5, 2023 Work Session Minutes as presented. Fowler abstained, Zimmerlin yea, Schreier yea, Wilder abstained, Kristof yea, Crane yea, Letner yea. Motion carried with five yeas and two abstentions.

Manager Keaton provided Council with information on House Bill 33, which was included in the 2023 biennium budget bill, which provides funds for the Water and Wastewater Infrastructure Grant program. The grant application period is open from November 28, 2023 to January 17, 2024. Manager Keaton stated she applied to construct a 16" water main from the dead end of Calmer Ernst Boulevard to Walker Court via boring under Interstate 70. This project will loop our water distribution within the City. Currently, the area north of Interstate 70 receives water through a single 12" water main. If we encounter any interruption in that line, this leaves no supply for fire protection. This second feed into the area north of I-70 would increase available flow, and permit isolation of system problems without compromising supply. This new water main will also help the areas south of I-70 as the remainder of the distribution system would benefit from being tied into the elevated water tank on Nutrition Way. This connection will significantly improve fire protection across the entire distribution system. Manager Keaton advised the preliminary construction cost estimate for this project is \$1,204,975 and she applied for grant funding totaling \$1,024,975. If the project is approved for grant funding, the City would pay the balance of the construction and engineering costs out of our Water Fund.

Manager Keaton reported she attended the December MVRPC Board Meeting and learned that 11 STP resurfacing projects were submitted in October requesting \$6.8M in funding, and MVRPC has \$5M available for resurfacing projects. The projects are currently being reviewed and scored by MVRPC and will be before the MVRPC Board in March for a vote. Manager Keaton provided Council with a copy of the projects submitted.

Manager Keaton provided a brief update on the Hay Avenue, Phase 2 Project. Bids were opened last Friday. Three of the five bids submitted were below the Engineer's Estimate of \$888,030. Manager Keaton advised we are currently reviewing references of the apparent low bidder. Manager Keaton advised she will bring this back to Council in January for approval.

Manager Keaton reported our Wolf Creek Waterline Replacement loan through Ohio EPA was approved last Thursday. The loan amount is \$482,714, which includes a \$6,430 application fee. The interest rate is 3.11% payable over 25 years. This loan, along with the \$1,007,065 grant received from the Ohio Department of Development, will allow us to replace the 4" and 6" waterline on Wolf Creek from Arlington Road to Western Avenue. That project is scheduled to begin in late February.

Manager Keaton requested Council authorization for Change Order #1 on the City Park Improvements CDBG Walking Path Project at a decrease of \$2,543.75. Change Order #1 is an adjustment to quantities used for the project. The original Contract price was \$134,996.75, and with Change Order #1, the new and final Contract price is \$132,453.00. The City Park Improvements CDBG Walking Path project is now complete.

Motion by Zimmerlin, second by Schreier to approve Change Order #1 on the City Park Improvements CDBG Walking Path Project at a decrease of \$2,543.75, which brings the final Contract price to \$132,453.00. All yeas, motion carried.

Manager Keaton advised proposed Resolution No. 23-42 is the Final Resolution for the STP N. Wolf Creek Resurfacing Project that runs from Arlington Road to Western Avenue. This project was submitted and approved as a Coronavirus Response and Relief Supplemental Appropriations Act Project through MVRPC in 2021. The sale date for this project is February 8, 2024. Our signed documents and payment need to be submitted to ODOT by January 26, 2024.

Motion by Wilder, second by Fowler to read proposed Resolution No. 23-42. All yeas, motion carried.

Motion by Zimmerlin, second by Kristof to accept the first reading of proposed Resolution No. 23-42. All yeas, motion carried.

Manager Keaton wished everyone a very Merry Christmas and a happy, healthy, and safe 2024!

Finance Director Brandt requested Council authorization to receipt 90% of the revenue received from EMS Billing into the General Fund for operations of the Fire Department and 10% of the revenue from EMS Billing into the Fire Capital Improvement Fund for 2024, as done in 2023.

Motion by Schreier, second by Zimmerlin to authorize Finance Director Brandt to receipt 90% of the revenue received from EMS Billing into the General Fund for operations of the Fire Department and 10% of the revenue from EMS Billing into the Fire Capital Improvement Fund for 2024. All yeas, motion carried.

Finance Director Brandt requested Council authorization to receipt 70% of the revenue received from Fire Contracts into the General Fund for operations of the Fire Department and 30% of the revenue from Fire Contracts into the Fire Capital Improvement Fund for 2024. This is a 5% increase from 2023 to the Capital Fund.

Motion by Zimmerlin, second by Fowler to authorize Finance Director Brandt to receipt 70% of the revenue received from Fire Contracts into the General Fund for operations of the Fire Department and 30% of the revenue from Fire Contracts into the Fire Capital Improvement Fund for 2024. All yeas, motion carried.

Finance Director Brandt requested Council approval to set the labor rate for the Service Department Mechanic at \$50 per hour for 2024, for work performed on the city fleet. This is the same rate as last year.

Motion by Wilder, second by Kristof to set the labor rate for the Service Department Mechanic at \$50 per hour for 2024, for work performed on the city fleet. All yeas, motion carried.

Finance Director Brandt requested Council approval to issue Super Blanket Purchase Order Certificates in 2024 for recurring monthly and quarterly expenditures.

Motion by Zimmerlin, second by Fowler to authorize Finance Director Brandt to issue Super Blanket Purchase Order Certificates in 2024 for recurring monthly and quarterly expenditures. All yeas, motion carried.

Finance Director Brandt requested Council accept the first reading and dispense with the second and third reading of proposed Resolution No. 23-39, which amends the 2023 Appropriations and Estimated Resources.

Motion by Zimmerlin, second by Schreier to read proposed Resolution No. 23-39. All yeas, motion carried.

Motion by Kristof, second by Fowler to accept the first reading, dispense with the second and third reading and adopt Resolution No. 23-39 entitled "A RESOLUTION AMENDING THE 2023 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 APPROVING THE AMENDMENT TO THE CERTIFICATE OF ESTIMATED RESOURCES, AS SET FORTH BELOW." All yeas, motion carried.

Finance Director Brandt requested Council accept the first reading and dispense with the second and third reading to adopt proposed Resolution No. 23-40 as provided in 4.07(A)(1) of the Charter of the City.

Motion by Zimmerlin, second by Schreier to read proposed Resolution No. 23-40. All yeas, motion carried.

Motion by Kristof, second by Fowler to accept the first reading, dispense with the second and third reading and adopt Resolution No. 23-40 entitled "A RESOLUTION TO MAKE APPROPRIATIONS FOR THE CURRENT EXPENSES AND OTHER EXPENDITURES OF THE CITY OF BROOKVILLE, STATE OF OHIO, DURING THE FISCAL YEAR ENDING DECEMBER 31, 2024. All yeas, motion carried.

Finance Director Brandt requested Council accept the first reading and dispense with the second and third reading to adopt proposed Ordinance No. 2023-14, which relates to the passage Ohio HB 33, which requires several changes to the income tax ordinance, including an alternative apportionment method supporting remote workers and mandating wording changes regarding filing requirements.

Motion by Wilder, second by Kristof to read proposed Ordinance No. 2023-14. All yeas, motion carried.

Motion by Fowler, second by Kristof to accept the first reading, dispense with the second and third reading and adopt Ordinance No. 2023-14 entitled "AN ORDINANCE AMENDING SECTIONS 194.062(A), 194.062(D), 194.062(I), 194.091(A)(1), 194.094 AND 194.10(C)(4) OF THE CODIFIED ORDINANCES OF THE CITY OF BROOKVILLE, CONCERNING REQUIRED UPDATES PASSED IN OHIO HOUSE BILL 33." All yeas, motion carried.

Member Zimmerlin inquired if this means remote workers will pay where they work?

Law Director Stephan advised the summary of HB 33 states that instead of apportioning payroll sales of property to the remote work location employees, businesses can allocate these amounts to a designated reporting location. The reporting location can be anyplace owned or controlled by the employer. Law Director Stephan stated it appears that it applies to the net profit tax but not to withholding.

Fire Chief Fletcher reported the Fire Department has had a very busy December. If they continue at this pace, they could set a record for the year.

Fire Chief Fletcher reported five employees have successfully completed their paramedic training and are working to pass their state and national certifications.

Police Chief Jerome commended Police Department Administrative Assistant Ronda Dittrock and part-time Administrative Assistant Brittany Ferguson for their work coordinating Christmas meals and gifts from local businesses and individuals for 14 kids and their families who were in need of assistance.

Police Chief Jerome reported the Police Department recently participated in a gingerbread decorating event at the school, sponsored by Barton Mallow.

Police Chief Jerome reported a new full-time Police Officer will begin her employment with the Brookville Police Department on January 2, 2024.

Law Director Stephan reported on December 15, 2023, a petition for annexation of 71.701 acres to the City of Brookville from Perry Township, Ohio was filed with the Montgomery County Board of County Commissioners. Proposed Resolutions Nos. 23-41, 23-43 and 23-44 are before City Council tonight regarding this annexation. Proposed Resolution Nos. 23-41 provides a statement of municipal services to be provided by the City of Brookville to the annexation territory if the annexation is approved. Proposed Resolution Nos. 23-43 requires the establishment of a buffer in the event the annexed territory is zoned by the City of Brookville in a manner that permits uses that are clearly incompatible with uses permitted under existing county or township zoning regulations in adjacent land remaining in the township. Proposed Resolution Nos. 23-44 provides that the City of Brookville consents to the proposed annexation. This annexation is filed as an expedited Type 2 annexation under Ohio Revised Code 709.023. Under ORC 709.023, the annexation territory is not excluded from the township and will remain subject to property taxes to be paid to Perry Township after annexation to the City of Brookville. Law Director Stephan requested that these proposed Resolutions be passed as an emergency to permit timely filing with Board of County Commissioners as required by Ohio Revised Code Section 729.023 for expedited Type 2 annexations.

Motion by Zimmerlin, second by Fowler to read proposed Resolution No. 23-41. All yeas, motion carried.

Motion by Kristof, second by Fowler to accept the first reading, dispense with the second and third reading and adopt Resolution No. 23-41 entitled "A RESOLUTION REGARDING MUNICIPAL SERVICES TO BE PROVIDED TO THE TERRITORY CONTAINED IN A PROPOSED ANNEXATION OF 71.701 ACRES, MORE OR LESS, FROM PERRY TOWNSHIP TO THE CITY OF BROOKVILLE, OHIO IF ANNEXATION OF SAID TERRITORY IS APPROVED BY THE BOARD OF COUNTY COMMISSIONERS OF MONTGOMERY COUNTY, OHIO, AND DECLARING IT AN EMERGENCY." All yeas, motion carried.

Motion by Zimmerlin, second by Schreier to read proposed Resolution No. 23-43. All yeas, motion carried.

Motion by Fowler, second by Kristof to accept the first reading, dispense with the second and third reading and adopt Resolution No. 23-43 entitled "A RESOLUTION REQUIRING THE ESTABLISHMENT OF A BUFFER WHEN MANDATED BY OHIO REVISED CODE SECTION 709.023 IN THE EVENT THAT THE PROPOSED ANNEXATION OF 71.701 ACRES, MORE OR LESS, FROM PERRY TOWNSHIP TO THE CITY OF BROOKVILLE, OHIO IS APPROVED, AND DECLARING IT AN EMERGENCY." All yeas, motion carried.

Motion by Zimmerlin, second by Wilder to read proposed Resolution No. 23-44. All yeas, motion carried.

Motion by Kristof, second by Schreier to accept the first reading, dispense with the second and third reading and adopt Resolution No. 23-44 entitled "A RESOLUTION CONSENTING TO THE PROPOSED ANNEXATION OF 71.701 ACRES, MORE OR LESS, FROM PERRY

TOWNSHIP TO THE CITY OF BROOKVILLE, OHIO AND DECLARING IT AN EMERGENCY.” All yeas, motion carried.

Law Director Stephan reported proposed Ordinance No. 2023-13 will authorize the City Manager to execute a Tax Increment Financing (TIF) Agreement for the Harper Creek Incentive District. Arbor Homes is building single-family homes in the district located on Upper Lewisburg Salem Road and Albert Road. The TIF Agreement provides for payment of a portion of the cost of the public improvements for the project from money deposited into the TIF Fund as a result of payments in lieu of taxes by the property owners in the district. The maximum amount of reimbursements for the developers for infrastructure cost is \$800,000. The city shall not have any obligation to pay this reimbursement from its General Fund. The proposed Ordinance also provides for approval of an economic development plan, which specifies that this project is part of our Comprehensive Land Use Plan and that we do need to construct public infrastructure to successfully build this project. Law Director Stephan requested that Council dispense with the second and third reading and approve this as an emergency in order to make a timely submission to the Ohio Department of Development.

Motion by Zimmerlin, second by Fowler to read proposed Ordinance No. 2023-13. All yeas, motion carried.

Motion by Kristof, second by Fowler to accept the first reading, dispense with the second and third reading and adopt Ordinance No. 2023-13 entitled “AN ORDINANCE APPROVING AND AUTHORIZING THE EXECUTION OF A TAX INCREMENT FINANCING AGREEMENT AND APPROVING RELATED MATTERS.” All yeas, motion carried.

Mayor Letner thanked the Daniel Cooper Chapter of the Daughters of the American Revolution for placing over 800 wreaths at Arlington Cemetery.

Mayor Letner reported he recently had the pleasure of attending the swearing in ceremony of Trotwood Mayor Yvette Page.

Mayor Letner wished everyone a Merry Christmas and a Happy New Year.

Mayor Letner thanked the Council Members for taking on the task of hiring a new City Manager. Mayor Letner also thanked city staff for a great 2023.

Motion by Fowler, second by Zimmerlin to read proposed Resolution No. 23-38. All yeas, motion carried.

Motion by Kristof, second by Wilder to accept the third reading and adopt Resolution No. 23-38 entitled “A RESOLUTION AUTHORIZING THE REQUEST FOR AN ADVANCE OF TAXES COLLECTED IN 2024 FOR TAX YEAR 2023.” All yeas, motion carried.

Motion by Fowler, second by Zimmerlin to approve an Employment Agreement with John Kuntz for the position of City Manager. All yeas, motion carried.

Mayor Letner congratulated Mr. Kuntz and welcomed him to Brookville. Mayor Letner stated this has been extensive process, with 23 applicants. Mayor Letner stated Council and city staff did their due diligence in this hiring process. Mr. Kuntz was the shining star of the pool of applicants. Mayor Letner thanked Mr. Kuntz’s family for attending the meeting.

Mr. Kuntz thanked everyone, stating the future is bright and he is excited to get started in his new position and working with the team.

Member Fowler stated he would like to discuss placing the issue of whether or not we will allow the sale of marijuana on the ballot to see what our citizens want.

Law Director Stephan stated it is conceivable that we could put an initiative Ordinance on whether to authorize permits and place it on the ballot. It may be uncertain territory as this is a new law and it may not fit with how the State Legislature will regulate it going forward.

Member Schreier asked how enforceable this would be?

Law Director Stephan replied we are in a very uncertain situation at this time relating to what the State Legislature may do. The law has allowed local jurisdictions to make the decision as to whether they are going to permit businesses to operate in the community. We have already prohibited medical marijuana dispensaries. We could put an Ordinance on the ballot which would become part of our zoning code, which would allow citizens to vote on whether to allow these types of businesses to operate in the community.

Member Fowler stated he does not want this to be a Council decision. He would like the residents to decide whether or not to allow it.

Member Zimmerlin inquired if we know how our citizens voted on Issue 2?

Manager Keaton replied she can get a breakdown from the Board of Elections website and provide to it Council at the next meeting.

Mayor Letner commented that was one of the reasons we placed the 180-day moratorium on this issue so that we can see how the State Legislature is going to respond before we make a decision.

Member Zimmerlin commented we are the second exit from the Indiana state line, which means if we allow it, many transients will want to cross the border just to buy marijuana.

Member Fowler, Park Board Liaison, reported he was not able to attend the Park Board meeting.

Manager Keaton reported the Christmas in the Park Kick-off event was a success with \$333 collected in donations. Metronet donated an additional \$500 this week towards next year's event.

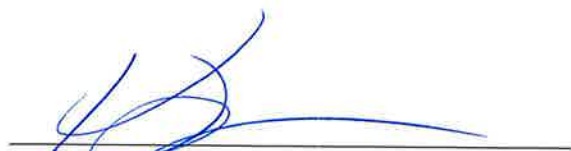

Member Schreier, Planning Commission Liaison, had no report.

Ron Ullery, of 560 W. Westbrook Road, stated the Christmas lights at the park look great and he is proud to be a citizen of Brookville.

Member Kristof commented this is the last Council meeting of his term and thanked everyone for the opportunity. Member Kristof stated it has been an honor to serve and wished his successor the best of luck.

Mayor Letner thanked Member Kristof for stepping up to the plate and serving. Mayor Letner stated he appreciates Member Kristof's interest in the City of Brookville, and hopes he continues to serve in some capacity.

Motion by Fowler, second by Zimmerlin to adjourn. All yeas, motion carried.

  
Kimberly Duncan, Clerk  
Charles Letner, Mayor