

Brookville City Council
Regular Meeting
March 7, 2023

The Regular Meeting of the Brookville City Council was called to order by Mayor Letner at 7:30 p.m. on March 7, 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, Requarth, Schreier and Zimmerlin; Manager Keaton, Finance Director Brandt, Law Director Stephan, Fire Chief Fletcher, Police Chief Jerome and Clerk Duncan were present. Member Wilder arrived later.

Roll Call by Clerk Duncan.

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

Motion by Fowler, second by Zimmerlin to approve the February 21, 2023 Regular Meeting Minutes. All yeas, motion carried.

Gale Colston, representing the Pink Ribbon Girls, regretfully informed Council that they are not able to hold the Block Party Event in August. The 5K walk will go on as planned. Ms. Colston advised they may hold the Block Party next year, but there were too many schedule conflicts and other details to work out this year. She thanked Council and City Staff for their continued support of the Pink Ribbon Girls.

Mayor Letner thanked Ms. Colston for keeping Council updated and wished her the best of luck with the 5K Walk.

Manager Keaton reported last week, the Miami Valley Regional Planning Commission Board approved the recommended Surface Transportation Program Projects, which includes our two West Westbrook Road resurfacing projects. Manager Keaton provided Council with a copy of the approved projects.

Manager Keaton reported the City recently sold the 18-acre parcel along Albert and E. Upper Lewisburg-Salem Roads to Clayton Properties Group, Inc., dba Arbor Homes.

Manager Keaton reported Council should have a copy of the Electric and Gas Aggregation questions that will be on the May 2, 2023 Ballot for the City of Brookville. Manager Keaton advised we will be holding an information meeting for the public on Tuesday, April 4 from 6:30 to 7:30 p.m. on these two ballot questions. The meeting will be held in our Council Chambers and will also be broadcast live via WebEx.

Manager Keaton reminded everyone to mark their calendar for our Annual Park Cleanup Day scheduled for Saturday, March 25 from 10:00 a.m. to noon. Manager Keaton stated this year, she has secured the Montgomery County Community Pride Cleanup Supply Trailer, which is stocked with tools and materials to help volunteers remove debris and pick up litter. Park Board will be serving hot dogs and refreshments in Shelter #3 after cleanup.

Manager Keaton advised a Keep Montgomery County Beautiful Grant was recently submitted on behalf of the Leaf & Blossom Garden Club to purchase flowers for our Market Street planters.

Manager Keaton reported last year at this time, the USDA Natural Resources Conservation Service Office awarded the Wolf Creek Tree Removal Project behind the WWTP, and that project was completed in April. The City's 25% share of that project totaled \$20,344, and to date, the City has not been invoiced for this project. Last Thursday, we received a check for \$20,344 from the Ohio Emergency Management Agency. Manager Keaton advised after several phone calls; she learned the State was paying 100% of the local match as a result of the May 2019 tornado. We should be receiving our invoice for this project soon.

Manager Keaton reported the debris at the intersection of Arlington and W. Upper Lewisburg-Salem Roads was cleaned up last week by the property owner.

Manager Keaton advised she will be attending the opening of the new Western Division Municipal Court in Trotwood with Police Chief Jerome this Friday afternoon.

Manager Keaton reported last Spring, we applied for and were awarded a \$10,000 grant that was funded by a grant from the Del Mar Healthcare-Dayton, Inc. Fund of the Dayton Foundation. We received \$5,000 to begin the Assessment stage of the AARP Livable, Age-Friendly Communities multi-year planning effort. The initial funds were allocated for a community survey. Our community survey will be mailed out soon and will also be available to complete online. The Community Survey touches on some of the eight domains of AARP's livability framework, Housing and Economic Development, Mobility, Parks & Recreation, Utilities, Public Safety and General questions. We are looking at ways to improve our community for all ages and allow residents to continue to live and thrive within our community as they age, so we encourage all residents to respond to the survey. This survey will also assist the City in updating its Comprehensive Land Plan.

Manager Keaton advised the Main Street Waterline Replacement Project is progressing nicely. The contractor is currently working in the block between Mulberry and Walnut Streets.

Manager Keaton reported Barry Goforth, with Brookville VFW Post #3288, is requesting permission to hang military banners from AES poles around Brookville. Hanging banners from AES poles requires a governmental entity to complete an application for approval. The banners are 30" x 60" and will be displayed from mid-May to mid-November, a maximum of 180 days. The family of military members paid for the banners and the VFW is paying for the brackets to install the banners. The banners will be displayed on Arlington Road, Westbrook Road, Albert Road, E. Upper Lewisburg-Salem Road, and a portion of Wolf Creek Street. Manager Keaton advised she is waiting on approval to hang some on Carr Drive, near the VFW. Manager Keaton stated Council approval is needed to move forward with the application.

The consensus of Council is to approve moving forward with the necessary application for the military banner project.

Manager Keaton requested Council accept the second reading, dispense with the third reading, and adopt proposed Resolution No. 23-03 as she needs to return a copy of the adopted Resolution to ODOT by March 17.

Motion by Zimmerlin, second by Schreier to read proposed Resolution No. 23-03. All yeas, motion carried.

Motion by Requarth, second by Fowler to accept the second reading, dispense with the third reading and adopt Resolution No. 23-03 entitled "A RESOLUTION ENACTING LEGISLATION TO COOPERATE WITH THE DIRECTOR OF TRANSPORTATION ON THE MARKET STREET RESURFACING PROJECT." All yeas, motion carried.

Manager Keaton reported the Ohio House of Representatives is currently considering House Bill 33, the States Biennial Operating Budget, and it will soon go to the Senate. In 2011, the Local Government Fund (LGF) was reduced by 50% from 3.68% to its current level of 1.66%. In Governor DeWine's proposed budget, the Local Government Fund is proposed to be slightly increased. In light of the state's robust financial position, based on state revenues and a historically high rainy-day fund, now is the time for the state to reinvest in local governments. Proposed Resolution No. 23-07 strongly urges the Governor and Members of the General Assembly to restore the Local Government Fund to pre-recession levels. Manager Keaton requested Council accept the first reading, dispense with the second and third reading and adopt Resolution No. 23-07 so she can send copies of the adopted Resolution to our State Reps.

Member Fowler inquired how much this would affect us financially?

Manager Keaton replied back in the early 2000's, we received a considerable amount of funds through LGF. In 2011 or 2012, the funds were frozen for a time period, then the LGF was cut in half.

Finance Director Brandt advised the City received \$120,000 in LGF funds in 2022.

Motion by Fowler, second by Zimmerlin to read proposed Resolution No. 23-07. All yeas, motion carried.

Motion by Fowler, second by Schreier to accept the first reading, dispense with the second and third reading and adopt Resolution No. 23-07 entitled "A RESOLUTION STRONGLY URGING THE OHIO GOVERNOR AND MEMBERS OF THE OHIO GENERAL ASSEMBLY TO RESTORE THE LOCAL GOVERNMENT FUND TO PRE-RECESSION LEVELS." All yeas, motion carried.

Manager Keaton applauded the Service Department for their efforts checking lift stations and our WWTP during the heavy rains last Friday.

Member Fowler asked what the sale price was for the parcel along Albert Road and E. Upper Lewisburg-Salem Road?

Manager Keaton replied we receipted \$222,339.50 for the sale of this property.

Finance Director Brandt presented the February 28, 2023 Fund Balance report.

Motion by Fowler, second by Requarth to approve the February 28, 2023 Fund Balance as presented. All yeas, motion carried.

Finance Director Brandt presented the 2023 City Wide Garage Sale Map and Schedule for Council approval.

Motion by Fowler, second by Requarth to approve the 2023 City Wide Garage Sale Map and Schedule as presented. All yeas, motion carried.

Finance Director Brandt requested Council authorization to advance \$200,000 from the Capital Improvement Fund to the General Fund. These funds were advanced to purchase the parcel on Albert and E. Upper Lewisburg-Salem Roads and can now be moved back due to the sale of the land.

Motion by Schreier, second by Fowler to approve the advance of \$200,000 from the Capital Improvement Fund to the General Fund. All yeas, motion carried.

Captain Ferguson reported the Fire Department responded to 145 calls for service in the month of February, which is slightly above their average.

Captain Ferguson reported iPads have been added to all of the larger Fire Department vehicles. The iPads are cheaper than the tablets used in the past and allow personnel to communicate with dispatch and to use the Active 911 program.

Captain Ferguson reported the monthly tornado sirens were tested and everything appears to be working properly.

Captain Ferguson reported in addition to the Red Cross Smoke Detector Program currently in place, the Fire Department recently learned we will be receiving carbon monoxide detectors from the Firefighter & Company Credit Union for distribution to local citizens.

Police Chief Jerome reported the Police Department put out some new flyers outlining the rules and regulations for parking campers and trailers and regarding placing injurious materials or obstructions- such as mulch, gravel and portable basketball hoops- on the streets. Police Chief Jerome stated we are one of a few communities that allow residents to place portable basketball hoops in the right-of-way between sidewalk and the curb. Police Chief Jerome reported we also published a flyer regarding golf cart safety and how to ensure a golf cart is street legal. These flyers have been published on Facebook and will also be published on our website.

Mayor Letner called for a motion to open the Public Hearing before City Council and Planning Commission, which is a combined Public Hearing to consider proposed Ordinance No. 2023-05, an Ordinance establishing the zoning classification of lots 2749, 2750 and 2751 of City of Brookville, Ohio.

Motion by Requarth, second by Fowler to open the combined Public Hearing on proposed Ordinance No. 2023-05. All yeas, motion carried.

Planning Commission Chairperson Henderson, Member Dittrick and Member Kristof were present.

Clerk Duncan announced this Public Hearing is to consider proposed Ordinance No. 2023-05, an Ordinance establishing the zoning classification of lots 2749, 2750 and 2751 of the City of Brookville, Ohio. A Legal Notice was published on the City of Brookville's website and in the February 22 and March 1 editions of the Brookville Star advising of the Public Hearing. Letters were mailed to the property owners within, contiguous to and directly across the street from the affected parcels. The City Office did not receive any inquiries regarding the Public Hearing. Clerk Duncan asked if any Council or Planning Commission Member needs to abstain from participating in this Public Hearing?

No one indicated the need to abstain.

Law Director Stephan reported proposed Ordinance No. 2023-05 will provide zoning classifications for property that was recently annexed into the City of Brookville. The property is approximately 59.401 acres located on Brookville Phillipsburg Road and Upper Lewisburg Salem Road. The proposed zoning would provide approximately 23.4 acres of General Business District Zoning (GB) and the remainder of approximately 35.5 acres would be zoned R-1B Urban Residential District. R-1B is single-family housing, with minimum square footage of 1,600 square feet. General Business would allow general business uses and office uses. The proposed Ordinance would require a buffer to be placed around any adjacent properties in the township with a zoning that is incompatible with these uses.

Clerk Duncan announced the floor is open for discussion and asked anyone who would like to speak to indicate so at this time.

Clerk Duncan administered the Oath of Witness to Ray Corder, of 7420 Brookville Phillipsburg Road, Brookville, Ohio 45309.

Mr. Corder stated he is here with his wife, Sue Corder. He inquired what the property recently annexed into the city at Albert Road and Upper Lewisburg Salem Road is zoned?

Law Director Stephan replied it is zoned R-1B Planned Development. There is an approved single-family housing project for that site.

Mr. Corder asked how the zoning is determined for an annexed property?

Law Director Stephan replied the city considers the property owner's request. In this situation, the property owner's first choice of zoning would be industrial. City staff advised them that is not an appropriate choice for that area. The proposed zoning was reviewed with the Planning Commission and the Comprehensive Land Use Plan and other uses in the area were reviewed.

Mr. Corder stated he appreciates the fact that the proposed zoning across from his property is residential, however he does wish the city would consider zoning it R-1A, as his home and those surrounding him sit on larger properties. Mr. Corder stated he knows they are not within the city limits, so he does not know how much their input means as township residents.

Mayor Letner replied the City always strives to be a good neighbor.

Mr. Corder stated he knew eventually there would be development across from him and he is just happy that it is residential.

Mayor Letner commented that the City does not aggressively try to annex property. We wait for the landowner to come to us.

Clerk Duncan administered the Oath of Witness to Mark Smoot, of 7400 Brookville Phillipsburg Road, Brookville Ohio 45309.

Mr. Smoot stated he agrees with Mr. Corder's concern on the size of houses that will be constructed on the annexed property. Mr. Corder stated he and his four siblings own property across the road and he wonders if this property would become partly zoned GB and partly residential.

Mayor Letner replied we would not solicit annexing the property, but if the City was approached by the owners, our staff and engineers would evaluate the best use of the land. Mayor Letner stated if he had to speculate, he would say it would be similarly zoned, but he will defer this question to Law Director Stephan.

Law Director Stephan advised we would consider the property owners input and have our Planning Commission and City Council evaluate it. With the current design, we are trying to have some GB areas closer to the road and single-family residential up against most people living in the township.

Mr. Smoot asked where the driveway will be to go in and out of the R-1B area?

Law Director Stephan replied the city does control the driveways and access points. Typically, the preferred design is to have limited driveways going out onto the main road. This is a well trafficked road so that is our intent, but it would depend on the design of the subdivision.

Mr. Smoot stated his concern is having car lights shine into their house every time someone comes in and out.

Mr. Corder asked if there is a layout of a proposed development?

Member Fowler replied there is no developer at this time.

Member Zimmerlin commented once it gets to that point, there is a whole process of planning, approvals and public hearings.

Mr. Smoot stated they have concerns about their property value with the zoning of R-1B Urban Residential with the minimum square footage being only 1,600 square feet.

Member Fowler replied this is the same zoning as the new homes on Westbrook Road, and most of them are much larger than 1,600 square feet.

Law Director Stephan advised almost all of the new homes in Hunters Run and the Meadows of Brookville are over 2,000 square feet and some are close to 3,000 square feet. The R-1B minimum is 1,600 square feet.

Member Fowler commented there is not much price difference between constructing a 2,000 square foot home and a 1,600 square foot home, so most people choose the larger option.

Mr. Smoot asked if the homes would be all brick, or just brick on the front?

Member Fowler replied that is determined by Planning Commission. when a developer proposes a plan. We have a lot of say and control over that.

Member Requarth commented that in the Meadows of Brookville, the builder had a rule that you could not build the same type of home next to each other. This prevents the development from looking like cookie cutter homes.

Mr. Corder inquired who is responsible for maintaining that side of the road, now that this property is annexed?

Law Director Stephan replied Brookville Phillipsburg Road would still be maintained by Montgomery County. There is a section of Upper Lewisburg Salem Road that is completely within the city now that we would maintain. We would work together with the County to maintain the roadway.

Motion by Fowler, second by Zimmerlin to close the Public Hearing. All yeas, motion carried.

Motion by Zimmerlin, second by Schreier to go back into Regular session. All yeas, motion carried.

Mayor Letner thanked the Planning Commission Members for attending the Public Hearing.

Law Director Stephan reported the City of Brookville Tax Incentive Review Council recently met at the Montgomery County Auditor's Office to review the performance of our Tax Incentive Agreements. The Tax Incentive Review Council found that all the Agreements were in compliance and recommended the continuance of the Agreement with Green Tokai, dated March 25, 2016 which is referenced in proposed Resolution No. 23-04; the Giant Ohio LLC Agreement from June 21, 2017, which is referenced in proposed Resolution No. 23-05; and the General Motors LLC Agreement from September 17, 2019, which is referenced in proposed Resolution No. 23-06. Law Director Stephan requested Council approve these proposed Resolutions, which would adopt the recommendation of the Tax Incentive Review Council finding that these Agreements are in compliance and recommending these Agreements continue for another year. Law Director Stephan requested that Council dispense with the second and third readings in order to get the report filed this month.

Motion by Zimmerlin, second by Fowler to read proposed Resolution No. 23-04. All yeas, motion carried.

Motion by Fowler, second by Requarth to accept the first reading, dispense with the second and third reading and adopt Resolution No. 23-04 entitled "A RESOLUTION ACCEPTING THE RECOMMENDATION OF THE TAX INCENTIVE REVIEW COUNCIL FINDING THAT THE ENTERPRISE ZONE AGREEMENT OF GREEN TOKAI CO. LTD. DATED MARCH 25, 2016 IS IN COMPLIANCE AND THAT THE ENTERPRISE ZONE AGREEMENT BE CONTINUED." All yeas, motion carried.

Motion by Zimmerlin, second by Crane to read proposed Resolution No. 23-05. All yeas, motion carried.

Motion by Fowler, second by Wilder to accept the first reading, dispense with the second and third reading and adopt Resolution No. 23-05 entitled "A RESOLUTION ACCEPTING THE RECOMMENDATION OF THE TAX INCENTIVE REVIEW COUNCIL FINDING THAT THE COMMUNITY REINVESTMENT AREA #2 AGREEMENT OF GIANT OHIO LLC DATED JUNE 21, 2017 IS IN COMPLIANCE AND THAT THE COMMUNITY REINVESTMENT AREA AGREEMENT BE CONTINUED." All yeas, motion carried.

Motion by Zimmerlin, second by Fowler to read proposed Resolution No. 23-06. All yeas, motion carried.

Motion by Fowler, second by Wilder to accept the first reading, dispense with the second and third reading and adopt Resolution No. 23-06 entitled "A RESOLUTION ACCEPTING THE RECOMMENDATION OF THE TAX INCENTIVE REVIEW COUNCIL FINDING THAT THE COMMUNITY REINVESTMENT AREA #1 AGREEMENT OF GENERAL MOTORS, LLC DATED SEPTEMBER 17, 2019 IS IN COMPLIANCE AND THAT THE COMMUNITY REINVESTMENT AREA AGREEMENT BE CONTINUED." All yeas, motion carried.

Mayor Letner reminded everyone to set their clocks forward by one hour on March 12, 2023.

Mayor Letner reminded everyone that St Patrick's Day is next Friday, March 17, 2023.

Motion by Zimmerlin, second by Fowler to read proposed Ordinance No. 2023-06. All yeas, motion carried.

Motion by Schreier, second by Fowler to accept the second reading of proposed Ordinance No. 2023-06. All yeas, motion carried.

Motion by Zimmerlin, second by Fowler to read proposed Ordinance No. 2023-07. All yeas, motion carried.

Motion by Schreier, second by Fowler to accept the second reading of proposed Ordinance No. 2023-07. All yeas, motion carried.

Member Requarth inquired about the status of the old Brookville Lube & Service building that is in disrepair?

Law Director Stephan replied we are working on that and will try to get it done this year.

Member Requarth asked if the city should board up the broken windows?

Law Director Stephan replied we can look at getting that done.

Member Fowler, Park Board Liaison, had no report.

Member Schreier, Planning Commission Liaison, had no report.

Motion by Zimmerlin, second by Fowler to go into Executive Session for O.R.C. 121.22(G)(8) to consider confidential information of an applicant for economic development assistance to be provided under O.R.C. 3735.67 - 3735.70 and finding the Executive Session is necessary to protect the interests of the applicant. All yeas, motion carried.

Motion by Zimmerlin, second by Fowler to go into Executive Session for O.R.C. 121.22(G)(2) to consider the purchase of property for public purposes. All yeas, motion carried.


Motion by Zimmerlin, second by Fowler to go into Executive Session for O.R.C. 121.22(G)(1) to consider employment of a public employee. All yeas, motion carried.

Motion by Zimmerlin, second by Schreier to go back into Regular Session. All yeas, motion carried.

Law Director Stephan requested a motion to authorize the City Manager to bid for the purchase of County Auditor Parcel #C05 00202 0024 in an amount not to exceed \$40,000.

Motion by Fowler, second by Zimmerlin to authorize the City Manager to bid for the purchase of County Auditor Parcel #C05 00202 0024 in an amount not to exceed \$40,000. All yeas, motion carried.

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



Kimberly Duncan, Clerk

Charles Letner, Mayor