

Brookville City Council
Regular Meeting
April 5, 2022

The Regular Meeting of the Brookville City Council was called to order by Mayor Letner at 7:30 p.m. on April 5, 2022. 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, Schreier, Requarth, 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 Zimmerlin, second by Fowler to adopt the Agenda as presented. All yeas, motion carried.

Motion by Zimmerlin, second by Schreier to approve the March 15, 2022 Regular Meeting Minutes as presented. All yeas, motion carried.

Police Chief Jerome presented a Declaration from the House of Representatives to Commander Paul Griffith, recognizing VFW Post #3288 and Commander Griffith as a community partner who demonstrated a level of civic concern and involvement that has greatly benefitted the area. Police Chief Jerome also presented an engraved award to Commander Griffith for the VFW's generous donation to purchase body worn cameras for the Brookville Police Department.

Mayor Letner thanked Commander Griffith and the VFW for their generosity.

Commander Griffith thanked the Police Department, the Fire Department, and city officials for their recent participation in the Veterans Memorial Service recently held. Commander Griffith stated we have the best Police and Fire Department you could ask for.

Police Chief Jerome presented the 2021 Officer of the Year Award to School Resource Officer Zach Snell and the 2021 Peer Nominated Officer of the Year Award to Officer Tim Beaver. Both Officers were recognized by State Representatives Cupp and Creech for their service to the Brookville community.

Mayor Letner congratulated each of the award recipients and thanked them for their service to the City of Brookville.

Due to technical difficulties, Manager Keaton's virtual report was temporarily delayed.

Fire Chief Fletcher reported the Fire Department had a busy March, with 184 calls for service. Three major weather events occurred; included flooding, straight line winds and sustained winds that did damage throughout the fire district. The Fire Department also had the honor of attending the Vietnam Veterans Day Program in the Park and participating in Superintendent Tim Hopkin's retirement recognition.

Member Requarth asked if both new pieces of fire apparatus are in service?

Fire Chief Fletcher replied they are not in service yet but crews are training on both vehicles. Fire Chief Fletcher stated he anticipates putting them in service by the end of the month once they take delivery of the necessary tools and equipment to outfit them.

Manager Keaton thanked the volunteers that assisted with our Park Cleanup. It was a huge success despite the cold temperatures Saturday morning. She also thanked Montgomery County Solid Waste and the Keep Montgomery County Beautiful Program for their donation of trash bags, gloves, and trash pickers for our cleanup.

Manager Keaton reported the RETREET Program, scheduled for April 30, 2022, will be staged at Trinity Lutheran Church located on the corner of W. Westbrook and Wolf Creek. Volunteers will

be planting approximately 100 trees that day for residents of Brookville, Perry Township, Clayton, Englewood, Vandalia, Butler Township, and a portion of Trotwood. Manager Keaton advised of the 100 trees that will be planted, approximately 50 of those will be planted in Brookville and Perry Township. The event will begin at 9:00 a.m. Lunch will be served at the church following the planting. If anyone is interested in volunteering to plant trees and/or lay mulch around the trees, there is a link on our website and Facebook page where you can sign up.

Manager Keaton reported the Wolf Creek Tree Removal Project is complete. A final walkthrough was completed last week, and Risner's Tree Service did an excellent job. There may be a price equitable adjustment on this project due to the increase in fuel prices after Risner's were awarded the bid in January. Manager Keaton reported she should learn soon if USDA approves their adjustment request.

Manager Keaton reported the 2021 Annual Report is complete. Section 5.03 (A)(4) of the City Charter requires the Manager to submit to Council an annual report of the activities of the City and the report needs to be made available to the public no later than March 31. The report is an overview of events and information that took place last year in our Finance, Fire, Police, Service, Zoning and Economic Development Departments. Council has a copy of the report, and it is posted on our website.

Manager Keaton reported a pre-construction meeting was held on our Sludge Processing Facility. Submittals are currently being reviewed by LJB, our engineers on this project. Construction should commence in late April or early May as there are long lead times on the overhead garage doors and the air blower pump.

Manager Keaton advised a pre-construction meeting is scheduled this Wednesday on the Safe Routes to School Project and next week, we have a Scope Meeting with ODOT and our engineers on our two STP Projects.

Manager Keaton reported the Hay Avenue Roadway Improvement Project is progressing. The waterline is installed, and service connections are complete. The old water main was capped off yesterday. Brumbaugh will be completing the installation of the storm line next, followed by removal of any remaining curb and sidewalk, installation of new curb and sidewalk, and lastly paving of the new roadway. The project is scheduled to be completed by the end of May, sooner if the weather cooperates. Wolf Creek Street, between Western and McKinley Street received a base coat of asphalt today and the final coat should be applied tomorrow.

Manager Keaton stated she is pleased to report that Brookville now has its second Gaga Ball Pit thanks to Ryan Clemons. Mr. Clemons completed his Eagle Scout Project last week at Westbrook Park and as you can see by the photo he provided, it is already getting used. Manager Keaton thanked Ryan Clemons for his time and effort in securing funding and completing the Gaga Ball Pit as his Eagle Scout Project.

Manager Keaton advised the CERT vehicle is currently listed for sale on GovDeals. Within 24 hours of listing the vehicle we had 13 bids. As of 4:30 p.m. today, we have 36 bids, and the auction bid is at \$4,050. The auction ends on April 13.

Manager Keaton reported we recently sent a Return Activated Sludge pump out to be rebuilt at a cost of \$7,300. This pump is three years old and out of warranty. A new pump would have been at least double the cost of this repair.

Manager Keaton reported a double-sided 10-bike rack was ordered and will be installed on the sidewalk at the corner of Market and Sycamore Street.

Finance Director Brandt presented the March 31, 2022 Fund Balance report.

Motion by Requarth, second by Fowler to accept the March 31, 2022 Fund Balance as presented. All yeas, motion carried.

Finance Director Brandt advised Council has a copy of the Annual Water & Sewer Rate Cost Survey done by the City of Piqua. The report shows Brookville ranks 36 of 67 entities on the combined surveys.

Police Chief Jerome reported the Brookville Police Department has responded to 118 Reportable Incidents year to date, compared to 207 during the same time period last year.

Police Chief Jerome reported he attended the retirement recognition for School Superintendent Tim Hopkins. The interim Superintendent is now in place. Police Chief Jerome reported the 7th and 8th grade students left for the annual Washington D.C. trip last night.

Member Zimmerlin asked if there has been an increase in auto thefts or attempted auto thefts? There was a social media post regarding this recently.

Police Chief Jerome reported he saw that media post and the Police Department did respond but did not locate any suspects. There has not been a rash of this type of activity recently.

Law Director Stephan reported proposed Ordinance No. 2022-03 is before Council tonight for a first reading. Law Director Stephan reported Substitute House Bill 172, passed by the Ohio General Assembly, amended Ohio Revised Code 3743.45. Ohio Revised Code 3743.45, effective July 1, 2022, allows persons authorized to possess consumer grade fireworks to discharge, ignite or explode fireworks on their property, or if permitted, on another person's property, on ten designated days of the year. The bill permits local jurisdictions to exercise their home rule authority to restrict the number of days and times that a person may discharge consumer grade fireworks, or the jurisdiction may impose a complete ban on the use of consumer grade fireworks. Law Director Stephan advised it is the recommendation of the City Staff to continue to prohibit the possession, selling and discharge of consumer grade fireworks in the City of Brookville to promote public safety and quiet enjoyment of the properties in residential neighborhoods in Brookville. Proposed Ordinance 2022-03 is before Council for a first reading to continue to ban the possession, selling, or discharging fireworks in the City of Brookville. Law Director Stephan advised Council needs to review the proposed Ordinance and make a decision.

Fire Chief Fletcher stated he has already communicated to Council that he has some real concerns about the extremely liberal distribution of fireworks and the removal of restrictions. The Ohio Fire Chiefs Association recommended against this Bill. Fire Chief Fletcher stated his concerns for Brookville are specifically how close properties are together. In the right areas, there is nothing wrong with fireworks. However, fireworks are classified as explosives and not much good can result from many people displaying fireworks in a congested area.

Mayor Letner called for a motion to suspend the Regular Meeting and begin the Public Hearing.

Motion by Fowler, second by Schreier suspend the Regular Meeting and begin the Public Hearing. All yeas, motion carried.

Clerk Duncan announced this Public Hearing is to consider a Preliminary Planned Development Plan for a proposed R-1B(PD) single family residential housing development on Part Lot 1743 (County Auditor Parcel C05 00109 0020) located at 10400 Upper Lewisburg-Salem Road in the City of Brookville. A Legal Notice was published on the City of Brookville website and in the March 23 and March 30 editions of the Brookville Star advising of the Public Hearing. Letters were mailed out to all property owners within 200 feet of the applicant address of 10400 Upper Lewisburg Salem Road, advising of the Public Hearing. The City Office received one request for a copy of the Preliminary Planned Development map. Clerk Duncan asked if any Council Member needs to abstain from participating in this Public Hearing?

No Council Members indicated the need to abstain.

Law Director Stephan reported Arbor Homes has submitted a Preliminary Planned Development Plan for single-family housing on the 18-acre parcel on Albert Road and Upper Lewisburg Salem Road. The zoning for the project is R-1B Planned Development Overlay District. The

proposed plan meets all of the R-1B site development regulations for single-family housing and provides 43 lots for that housing. The Planned Development Plan complies with the requirements for approval set forth in 1153.03 and 1151.16(f) of the Code of Ordinances. The plan addresses landscaping and maintenance of common areas. The plan provides covenants and restrictions and an anti-monotony rule to provide diversity of building structures. The Staff finds that the plan meets all of the applicable subdivision requirements of the city. The plan provides a schedule for the development. The developer, Arbor Homes, is providing commitments for landscaping the perimeter of the project and the construction of sidewalk on the perimeter of the project. Planning Commission held a Public Hearing on this plan on March 17, 2022. Upon completion of the Public Hearing, Planning Commission unanimously recommended approval of the Preliminary Development Plan with the condition that the Fire Chief review the Preliminary Development Plan. Council has a copy of a letter dated March 24, 2022 from Fire Chief Fletcher indicating that he has reviewed the plan and finds that the streets meet city specifications and that he has no issues with street layout or dimensions. In addition, a condition of Planning Commission's approval is that the developer would be paying for the cost of the sidewalk on the property of Kevin and Beth Reed to connect the sidewalks on Albert Road and Upper Lewisburg Salem Road that would be constructed as a part of this project. The City Manager did provide a letter to Kevin and Beth Reed confirming this commitment regarding sidewalk construction. Planning Commission also required that the front elevation of the houses contain some element of masonry or brick façade. Law Director Stephan stated this is a brief summary of the project and Planning Commission recommendations and we can now have testimony from the applicant.

Clerk Duncan administered the Oath of Witness to Clayton Sears, of DDC Management, 3601 Rigby Road, Miamisburg, Ohio.

Mr. Sears stated he was representing Arbor Homes and is here to present a straight zone plan of R-1B with 43 lots on an 18-acre parcel. The lot sizes are 85 feet, which gives them a density of 2.38. The open space is seven percent. Law Director Stephan did a great job presenting an overview of the project. Mr. Sears asked if there were any questions?

Member Zimmerlin inquired if we have a commitment that there will not be the same elevation right next to each other, similar to the Meadows of Brookville?

Mr. Sears replied there is an anti-monotony rule.

There were no comments from those present in the audience or online.

Motion by Fowler, second by Requarth to return to Regular Session. All yeas, motion carried.

Fire Chief Fletcher commented we have had restrictions on fireworks in the past and allowing people to buy them here and not use them here has been difficult to enforce. Fire Chief Fletcher recommended we follow through with the proposed Ordinance Law Director Stephan has drafted.

Police Chief Jerome agreed, stating it is difficult to enforce on just the 4th of July. The House Bill provides 12-15 holidays that people are allowed to shoot off fireworks.

Law Director Stephan stated the holidays provided for in the House Bill are as follows: January 1, Chinese New Year, May 5, the last Monday in May, and the Saturday and Sunday preceding that day, the 19th of June, July 3-5, the first Friday, Saturday and Sunday before and after the 4th of July, the first Monday of September and the Saturday and Sunday preceding that day, Diwali and the 31st day of December.

Police Chief Jerome commented as a Police Department, they used to fret for the 4th of July and that weekend, because they knew they would have a lot of calls and possible damage to property. He said can you imagine elevating that to this many days? It is a real concern for the Police

Department. He recommended people shoot fireworks off in the townships where there is more room, not in the city.

Member Requarth asked if we have had a lot of problems in the past with fireworks complaints?

Police Chief Jerome replied typically only during 4th of July weekend.

Member Fowler asked what the harm would be in designating just one day that people can shoot off fireworks, rather than a blanket statement of no fireworks in the city.

Fire Chief Fletcher replied that does not change the congestion or address the effect of fireworks on animals.

Member Fowler stated there are other cities that do allow it that are just as congested as Brookville.

Fire Chief Fletcher replied that is correct, but he does not know if those communities are held in the same high regard as Brookville, where people say it's a great place to live.

Member Zimmerlin asked how they define fireworks on the new Bill regulations?

Law Director Stephan replied this is 1.4G fireworks.

Fire Chief Fletcher stated anything that pops, fires or travels.

Member Zimmerlin asked what about ground fireworks?

Fire Chief Fletcher stated snakes, smoke bombs and sparklers are not 1.4G fireworks.

Member Requarth inquired who lobbied for this Bill?

Fire Chief Fletcher replied much of it is driven by the people who sell fireworks.

Member Schreier commented if we allowed just some days, it could become a management nightmare to know which days were included.

Police Chief Jerome stated no matter what is decided, we will have to advertise to the public what the rules are within the City of Brookville.

Member Requarth inquired how other communities are handling this?

Police Chief Jerome commented many are just waiting to see what happens and will pass legislation if it becomes an issue.

Fire Chief Fletcher stated the City of Dayton was one of the first communities in Ohio to pass legislation.

Member Zimmerlin inquired what the punishment is for those who do not adhere to the fireworks regulations?

Police Chief Jerome replied it is a first-degree misdemeanor, which is what our current Ordinance is. Usually when you tell people they could go to jail if they do not stop, they will comply without the police having to take further action.

Member Requarth inquired whether we should pass this as an emergency in order to have it passed before the end of May?

Law Director Stephan replied the state law does not go into effect until July 1, so we have time to have three readings. Council has several options: do nothing, pass an ordinance that allows just one or two days, or continue the current ban on fireworks.

Member Requarth commented he supports the proposed Ordinance. He used to run fire and rescue and once saw someone killed by fireworks.

Member Schreier stated if we pass the proposed Ordinance we will be in the exact same spot we are now from an enforcement standpoint. There will still be some people who shoot off fireworks on certain days, regardless of our local law.

Member Zimmerlin stated he would like to table the proposed Ordinance for now so they have time to do more research and consider the issue. He agrees with Member Requarth's safety concerns, however, there are a lot of responsible adults who just want to celebrate the 4th of July. Member Zimmerlin stated he thinks small ground fireworks displays would be okay.

Member Fowler agreed, stating he is not interested in a blanket no statement to fireworks. He is interested in finding out what the citizens of Brookville would like and suggested taking a poll. He stated he realizes it is not a good time for animals.

Member Zimmerlin stated we set off fireworks at the Community Picnic and get the exact same complaints from a noise perspective.

Fire Chief Fletcher stated there are many people who take their animals and leave town during the fireworks.

Member Fowler commented 99% of the people are responsible.

Member Wilder stated the fireworks also affect veterans who have PTSD.

Member Requarth commented it is always the few who do not respect the law or their neighbors that ruin it for everyone. There can be significant injuries and property loss with fireworks.

Member Zimmerlin stated he thinks there needs to be some constrictions, but he would like to review this more before they vote on it.

Motion by Zimmerlin, second by Fowler to table proposed Ordinance No. 2022-03 to allow Council time to review all the information. All yeas, motion carried.

Member Requarth inquired if Council passed the proposed Ordinance, would there be a thirty-day waiting period before the law takes effect?

Law Director Stephan stated Council could dispense with readings and pass an Ordinance as an emergency, but he feels there is sufficient time to have three readings before the state law goes into effect on July 1. Law Director Stephan stated we need to have legislation in place by July 1 or the state law will control it.

Member Zimmerlin inquired if HOA's have rules regarding fireworks?

Law Director Stephan replied most HOA's probably do not address it. They may have noise provisions but likely do not specifically address fireworks. The HOA would not be an effective method to control fireworks.

Member Fowler commented he is not in favor of allowing fireworks on all the days provided for in the Bill. He would be in favor of allowing it on one or two days max in Brookville.

Law Director Stephan requested a motion to approve the Preliminary Development Plan of Arbor Homes, for R-1B(PD) Overly District single-family housing on Part Lot 1743, County Auditor Parcel C05 00109 0020, and adopting the conditions set by Planning Commission that the front elevation of the houses will have some form of masonry façade; and that the City of Brookville and Arbor Homes will pay for the cost of the sidewalks installed around the Reed property; and the approval of ingress and egress for fire equipment by the Fire Chief; and providing for all the

other conditions and stipulations set forth in the Preliminary Development Plan that has been filed by Arbor Homes.

Member Requarth asked what the policy is for sidewalks installed on a corner lot?

Manager Keaton replied our Ordinance states a corner resident will pay for fifty percent of both sides or one side if only one side is being constructed.

Member Requarth stated so Arbor Homes is picking up the cost of what the Reed's would have to pay for.

Manager Keaton stated that is correct.

Member Fowler commented some brick façade is pretty arbitrary and asked if we should we require a percentage of brick or masonry?

Law Director Stephan replied the Planned Development Agreement is going to reference the specific models contained in the Planning Commission packet.

Member Crane inquired if all the lots do not sell and another developer comes in after a few years, would they be required to follow the same design?

Law Director Stephan replied the elevations will be incorporated in the Planned Development Agreement. Another developer would have to apply for a modification if they wanted to change the design. The City would need to be reasonable if it were similar to the other designs.

Motion by Zimmerlin, second by Fowler to approve the Preliminary Development Plan of Arbor Homes, for R-1B(PD) Overly District single-family housing on Part Lot 1743, County Auditor Parcel C05 00109 0020, and adopting the conditions set by Planning Commission that the front elevation of the houses will have some form of masonry façade; and that the City of Brookville and Arbor Homes will pay for the cost of the sidewalks installed around the Reed property; and the approval of ingress and egress for fire equipment by the Fire Chief; and providing for all the other conditions and stipulations set forth in the Preliminary Development Plan that has been filed by Arbor Homes. All yeas, motion carried.

Mayor Letner thanked everyone who participated in the Park Clean-up, including the Scouts and Nick Wright and his students. There was a lot accomplished, and the park looks good.

Mayor Letner reported he and Fire Chief Fletcher will be attending the Englewood City Council meeting next week to properly thank them for donating the ladder truck to our Fire Department and show them what we did with it. Mayor Letner stated we are not in the collaborative with Englewood, but we do run mutual aid for them, and they return the favor.

Mayor Letner thanked all the department heads for their work on the Annual Report. Mayor Letner encouraged everyone to read it as it contains a lot of good information.

Member Requarth thanked Manager Keaton for purchasing a bike rack to install near What's the Scoop.

Member Fowler, Park Liaison had no report. He stated the soccer fields are in full use.

Member Schreier, Planning Commission Liaison, had no report.

Jo Wilder, of 54 Urban Lane, asked what determines whether you put your trash in front of your home or in an alley behind your home. A Rumpke truck recently almost hit their fence and pushed mud against the fence so they cannot open the gate.

Mayor Letner replied each section of town is different and it was laid out that way for various reasons for a number of years. We tried to change the routes in the past, and there was an uproar.

Member Wilder asked who would be responsible for it someone takes out her fence?

Mayor Letner replied if Rumpke would take out the fence, they would be responsible for repairing it. Mayor Letner encouraged Ms. Wilder to contact the City Office, who will reach out to Rumpke to get her issue remedied.

Member Requarth inquired about getting the trash picked up on our exit and entrance ramps. He stated it is a poor reflection on the City of Brookville.

Manager Keaton replied that is on her list of things to do. She will work on it this week.

Mayor Letner stated most of the trash is from the trucks that park along the ramps.

Police Chief Jerome stated he has requested a prisoner work crew, however the courts have been releasing non-violent offenders so the jail currently does not have any work crews. Police Chief Jerome stated the Police Department is on the truck drivers constantly about this issue.

Ronda Dittrick, of 845 Kimmel Trail, suggested calling the Montgomery County Probation Department and asking whether they have anyone who needs to do community service.

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

Kimberly Duhean, Clerk

Charles Letner, Mayor