

Brookville Planning Commission  
Regular Meeting  
February 16, 2017

The Regular Meeting of the Brookville Planning Commission was called to order by Chairperson Henderson at 7:30 p.m. on February 16, 2017 in the City Council Chambers. The Pledge of Allegiance was recited. Members Boose, Claggett, and Schreier; Clerk Wheeler, Law Director Stephan, Manager Burkholder and Zoning Officer Snedeker were present. Mayor Seagraves, Members Cantrell and Bailey were absent.

Motion by Claggett, second by Schreier to approve the Agenda as presented. All yeas, motion carried.

Motion by Claggett, second by Henderson to approve the January 19, 2017 Regular Meeting Minutes as presented. All yeas, motion carried.

Zoning Officer Snedeker welcomed new Planning Commission Member, Curt Schreier and stated he looks forward to working with him.

Zoning Officer Snedeker reported the Dayton Development Coalition (DDC) has launched a new Site Seeking Program called Zoom Prospector. He informed he has been collecting data over the last year on gas lines, flood zones, water lines, meter lines, etc. He stated all of this information goes into this new program and this will be a national site seeking program. He informed if someone is looking for a General Industrial zoned (I2) area, they would plug it into this site and our NorthBrook Industrial Park would pop up with all of the gas lines, utilities and a history of the property. He stated so far he has added in thirteen properties and has four more to add. He stated they will eventually be adding in buildings, including pictures of the vacant buildings. Zoning Officer Snedeker suggested Members check it out online and he would be happy to answer any questions. He thinks it is a great idea for Economic Development and it is backed by the DDC and the Montgomery County Economic Development.

Zoning Officer Snedeker reported there is a lot of land for sale zoned C, which is conservation. He stated there are not a lot of uses for this land. He stated he has been contacted by someone who would like to change this land to residential but they would have to change the zoning to residential. Zoning Officer Snedeker stated he would like for Members to think of ways the land could be used and let him know any thoughts they may have on this land.

Member Schreier asked if the new software program gives past uses for what the building used to be used for?

Zoning Officer Snedeker informed for the buildings there will be information in the program for past uses, and will include all of the HVAC, gas lines, power, and fiber information.

Manager Burkholder presented renderings of the Arlington Road Bridge Project. He reported the project is scheduled for construction to begin in March 2018.

Manager Burkholder reported City Council has approved the extension of Market Street. He stated we will receive financing from the State Infrastructure Bank and we will be working with the Montgomery County Transportation Improvement District (TID). He stated a good relationship with the TID has helped us fast track this project. The importance of the Market Street Extension Project is that it has always been a part of the new Firehouse Project. The extension will help give access to the new fire station. He stated the reason the land was purchased and platted to begin with was to help with fast, easy access to downtown after the firehouse was relocated. He informed the City hopes to break ground late March, early April 2017.

Manager Burkholder informed he had a meeting last week to finalize more specific details and types of materials to be used on the interior of the new fire house. He stated they had a three in half hour meeting with architect to discuss these details.

Manager Burkholder reported the renovation of Shelter #2 is moving forward. He informed the same architect designing the new fire station will be working on the new Shelter #2. He informed in a recent meeting they went over the site plan and how to get the utilities over to the Shelter. He stated the Shelter has never had any water. Manager Burkholder described the new Shelter will have handicap accessible restrooms. He informed we were awarded \$75,000 in CDBG funding for the handicap accessible restrooms. He stated right now no matter what the weather is outside if you rent shelter #2 and have to go to the bathroom, you would have to walk to the Leiber Center to use the restroom. He stated in addition, the new Shelter will have a covered deck which will further enhance the use of the shelter.

Manager Burkholder stated the great thing about these meetings is communication and it gives him and Staff a chance to be able to update everyone on what's going on.

Manager Burkholder reported he met with staff and the director, Brian Martin, of the Miami Valley Regional Planning Commission (MVRPC) regarding a Land Use Plan. He stated he will have another follow up meeting with them in March. He informed they went over what other communities are doing. They suggested we apply for a grant through the Montgomery County Landbank Planning Grant Program. He reported the MVRPC would assist us with writing the request for proposals and what might be best for Brookville. If awarded the money we could use the money to put together a strategic plan and we would have a 25% match. He stated he has learned that some communities spend a year or two putting together a thick plan and then it ends up sitting on a shelf and not getting a lot of use. He stated it seems the more modern thing to do a slightly less thick plan but more of a strategic plan that allows you to react in a more timely fashion. A good plan can be used and looked at easily and engages people.

Manager Burkholder stated he felt very excited after the Meeting. He informed Mayor Seagraves attended the Meeting also because he is a full-time member on the MVRPC board. Manager Burkholder stated he serves on the Technical Advisory Committee (TAC) and that committee talks about various funding sources and resources that can be used within the cities. He stated it seems the timing was great on this and Finance Director Keaton has already printed out the application process for the land use grant. He stated he should be able to report back more information at the next Planning Commission Meeting. Manager Burkholder stated with all of the various projects going on it makes sense to get started on this now.

Member Schreier stated he remembered from the presentation given on the Market Street Extension that the application amount was to be \$1.976 million, and a sizable contingency was built into the amount. He asked what is the potential of us coming in under budget on the project? He stated it seems the contingency was almost 30% which seemed high.

Manager Burkholder explained there is always a certain percentage built in as a contingency plan. He explained part of the amount was administrative fees to the TID for the management of the project. He stated there are two components, because they did several alternate plans. He informed the \$2.4 million plan included doing the old Market Street from Salem Street to where the new road would begin, but because of the concern of the cost and the maximum amount we could receive from the State Infrastructure Bank, we put in an alternate so if it comes far below that then we can look at the reconstruction of old Market Street. He explained the figure may come down if we do not execute on the alternates. He explained another alternate was for us to not put in the street lights and sidewalks on Market Street. Since most of the area is not developed yet, we wouldn't bear the cost at this time because they would likely get torn up when development does occur. He stated the other thing is we can't commit to it, but hopefully the bids end up coming in lower than originally estimated. He informed the cost seems like a high number but the estimate was figured conservatively, and it is better to ask for too much than not enough and come up short.

Member Schreier asked when bidding goes out will the third lane actually be an absolute necessity at that time or will it be broken up since the third lane could be for future use of a turn lane?

Manager Burkholder stated no, it will not be broken up. He informed in early conversations on the project it was discussed to whether it should be a two or three lane road. He stated it is very difficult to add a third lane after two lanes have already been constructed. He informed the other consideration is part of the southeast corner of the property, next to McGregor's is zoned Industrial, so there was always talk about getting trucks and commercial traffic in there. Manager Burkholder stated since we do not know how the corridor will develop, it was thought that as far as traffic flow is concerned, if there was a center turn lane then traffic will still be able to travel north and south but if you make it a two lane road and people are trying to get in and out of whatever develops there, for instance retail, it may then stop the traffic flow. He stated looking at it from a safety perspective, if a fire engine is heading south then they could be

restricted. He stated the decision was made early on that if we are going to spend that kind of money, we need to build it now because to try and go in after the fact and try to add the third lane would be very cost prohibitive. He stated it was determined in the beginning that it would be a three lane extension project engineered and funded accordingly.

Member Boose asked if the BMX Park is no more?

Manager Burkholder informed Park Board made the decision and Staff supported their recommendation. He stated there was a considerable amount of money and work needed to keep up the BMX Park and it seemed the resources couldn't be justified anymore. He informed they had trouble getting volunteers to help out. He informed the tentative plan is to use some of the extra topsoil from the new firehouse site to level the hills. He stated the hills will be filled in and reconditioned and then seeded for a short term fix. Manager Burkholder stated exactly how the land will be used in the future is still to be determined. He informed he would really like to see the area cleaned up. It has been hard for the Service Department workers in the past to keep it mowed and the BMX Association did not have the resources to take care of it and could not keep it maintained. He informed the City tried to help them out with moving dirt but the number of loads of dirt needed were a lot and the amount of participation was down so even though it was at one time a thriving activity, it could no longer be justified to continue spending money on. Manager Burkholder reported on December 31, 2017 the BMX Association's contract expired and was not renewed and their sign was taken down. He informed the Public Service Director was recently able to finally get inside the building at the BMX Track. Park Board would like to tare down the empty building since they are in no condition to be reused. He stated there are some dead trees that need to come down near the BMX Track and close to the Theatre. It has also been discussed as to what to do with the lights and speakers at the BMX Park and if they can be repurposed. He stated this is an area the City would like to focus on moving forward with and he is open to suggestions and all thoughts are welcome.

Member Henderson stated the dog park idea seems to intrigue a lot of people

Manager Burkholder stated he would like to see an overall review and planning process for all of the parks, a more planned and incorporated plan for developing the parks. He stated he would like to have an arborist come in and review the dead trees we have and then suggest ideas of what would be best to replace them. He would like to obtain a comprehensive approach and then from there be able to enhance. Park Board has a tentative list of possible capital improvements but this way the list could be enhanced, defined and more estimates gathered. He stated there are a lot of ideas of what to do, but it is just having the time and resources to execute. He stated this is a good time to let everyone know of thoughts and ideas moving forward and of course ideas are always welcome from our Board and Commission Members.

Member Boose asked if there are any long term plans for Ward Park?

Manager Burkholder informed that just came up at the last Council Meeting. He stated there has been talk about adding a basketball court. There will be a second basketball court added due to grant money the City received. He informed there is some cleanup work needed at Ward Park. He informed at the last Park Board Meeting feedback was received from a citizen on the skate park and its current condition. It seems we have had some problems with vandalism at several of our parks. He has received complaints of the lack of a water fountain at Golden Gate Park but the reason the fountain has not been replaced is because the fountain keeps getting broken every time it is fixed or replaced. He informed there was a young man interested in getting corporate sponsors for Ward Park to help add a basketball court there, but we have not heard back from him.

Member Claggett stated there is a section along the bike path that the locals used to call Hollywood. He asked how much land the City owns back there?

Zoning Officer Snedeker informed he can get him a map and highlight the area. He stated there used to be a piece of property that had a house sitting back there and the house was up for sale for a while but we couldn't figure out how to get to it. There are water and sewer lines that run back there.

Law Director Stephan stated the Sign Code has been on hold for a few months. We had a Public Hearing on the Sign Code and Member Cantrell raised a few issues on the Draft version of the Sign Code. He stated the Code is ready to move forward to a final recommendation from Planning Commission and then it would go back to City Council for two readings. He informed the primary point Member Cantrell raised at the Public Hearing was permitting ground signs in the Community Center District, which the current draft and our current Sign Code does not allow. He stated the thought process was if Market Street was ever redeveloped in a way where there was room for ground signs then we would have it in the Code. He stated there were a few other minor drafting issues Member Cantrell raised, but he can address those with her to make sure they are in the final version. Law Director Stephan stated Members can move forward with a final recommendation or set it aside another month.

Member Henderson stated he read in the draft that ground signs shall be set back at least ten feet from every right-of-way line and at least 20 feet from every side or rear lot. He stated it does appear the ground signs would be allowed but probably wouldn't be able to do because of the set back.

Law Director Stephan stated essentially that is why there are not any there now because it is all right-of-way and buildings.

Member Schreier asked if it can it be amended in the future?

Law Director Stephan stated yes, it's always amendable.



Member Boose asked if there is anything related to signage in the Medical Marijuana Law and does anything in our revised draft of the Sign Code conflict with the new law?

Law Director Stephan stated his plan would be to specifically address signage for any medical marijuana use in the proposed Medical Marijuana Ordinance and probably in that language if there was any conflict, that provision specifically adopted for the Medical Marijuana use would override anything or amend this current Code. He stated there are some specifications regarding signage that we will need to get into the Medical Marijuana Code, so we will need to coordinate the two uses and potentially amend this when we get there.

Member Schreier asked if a business on Market Street has some sort of special event going on and puts up a foldable sign out in front of their business, is that considered signage or a temporary sign?

Law Director Stephan stated that would be temporary sign and this Code addresses that, but we do have some requirements in the Code as to how businesses can use temporary signs and for how long they can have them out.

Member Boose stated the sign shop that used to be on Market Street would put out a few signs each day and then bring them in at the end of the day, and that seemed like a good advertisement for his business.

Law Director Stephan stated as Zoning Officer Snedeker can tell everyone, addressing the temporary sign issue is not easy.

Zoning Officer Snedeker informed during the recession, businesses were losing customers so sometimes they would put out temporary signs and everyone kind of looked away and nobody was bothered by doing so. He stated he feels we have crept out of the recession and now need to get back more of a strong arm on temporary signs. He stated sometimes it is hard to be in Economic Development and a Zoning Officer with a strong arm.

Member Boose proposed since Member Cantrell is absent and Members Schreier and Bailey are new, they should put off a final recommendation until next month because it would give the two new Members a chance to review further.

Law Director Stephan stated we are behind the normal schedule but since we have new Members it makes sense to allow them time to review it and then hopefully move forward next month.

Motion by Boose, second by Claggett to table the recommendation to City Council on the the new Sign Code until the next Planning Commission Meeting. All yeas, motion carried.

Law Director Stephan informed the most recent set of rules that have been adopted by the Ohio Medical Marijuana Control Program for dispensaries, cultivators and retail dispensaries for Medical Marijuana were sent to Members and they were quite lengthy. He stated he also sent a copy of the presentation given by the Law firm of Pickel, Schafer and Ebeling from the December Miami Valley Planning and Zoning Workshop. He informed the presentation is a little outdated since some of the rules have been modified but it will still give everyone some interesting information about the program and some of the ways that the product will be distributed. He stated as discussed at the last Meeting, we have to start this process. Our normal zoning process for a text amendment is to have a first reading of the proposed Ordinance by City Council and then schedule a joint Public Hearing with Planning Commission and City Council Members, which would normally be during a Council Meeting during the next month and then would come back to Planning Commission for a final recommendation and after that it would go back to City Council for a second and third reading. He stated at some point we have to start that process and have an initial proposed Ordinance. He stated we can ban any or all uses from the community, or under the statute we have the legal authority to permit, but limit the number, or specify what Zoning District they would be located in. He stated we can also put other conditions on the use for instance, lighting and signage restrictions etc. He stated also under the statute these uses cannot be located within 500 feet of a public park, school or church so there are radius restrictions on these uses. We need to start through the process to propose some sort of text amendment to either ban the uses altogether or possibly permit them in a particular district and we would be able to hold a Public Hearing to receive public comments. He stated public comments can be considered before a final decision is made. Law Director Stephan informed Member Boose had asked him what some other communities are doing and he has been researching what other communities have done. He is trying to put some information together. He stated he has not found any sort of summary from the Dayton Area Manager's Association or the Miami Valley Regional Planning Commission yet of what other communities are doing. He informed Troy has had an interesting process, their Planning Commission eventually recommended prohibiting cultivators and processors but permitting three retail dispensaries in their Highway Service District, which would be like our area by the interstate. He informed their City Council overruled their recommendation by a four to three vote, so now they are back to considering what they are going to do. He informed the City of Oakwood's Planning Commission has recommended banning all three in their community and it doesn't look like Englewood, Vandalia or Centerville has made a decision yet. He stated everyone is trying to work through this process and as he noted at the last Meeting, the rule making has to be completed by September 8, 2017 and when that occurs, he thinks there will be businesses trying to seek sites for these facilities and trying to begin the process to obtain a license under Ohio Law and we need to be prepared for that. He stated we need to start with a proposed Ordinance to Council with an initial proposed text amendment. He asked if Members would like to move forward tonight or to wait another month, but he is hoping to get to the point within the next month two of starting the process to schedule a Public Hearing. He stated he thinks we need to be prepared before the end of the summer with a decision. Law Director Stephan reported City Council did approve the extension of the Moratorium so we will have a Moratorium in place as we move through this process.

Law Director Stephan stated if Members do not want to make an initial recommendation as a body or take a vote on it, they could direct him to move forward and he will put an Ordinance together to take in front of City Council just to get the process started. He stated he understands this is a hard decision to make.

Member Boose asked if they have to have a recommendation to Council before the Public Hearing or can we have the Public Hearing first?

Law Director Stephan advised we don't necessarily have to have a recommendation in the sense that Planning Commission could just direct him to move forward but he has to have some sort of text amendment in Ordinance form to present to City Council so that they can do a first reading. They would have to decide if the Ordinance would be for a complete ban or provide for some use. He stated if Planning Commission does not give him any direction, he will probably put together an Ordinance for a complete ban and then once the first reading is done, it would be scheduled for a Public Hearing and after the Public Hearing, Planning Commission Members could make amendments to the text. He stated if Members would like to take one more month to consider before moving forward they can, but this will be a three to four month process and Council can no longer declare an emergency on zoning measures due to the Charter Amendment and there will be 30 days after we get through the entire process before it is effective.

Member Claggett asked what the other members think, he stated for him, it's a complete ban.

Members Henderson stated he agrees with Member Claggett and there are a lot of things to consider. He stated Economic Development is very important to him and this could be an opportunity to bring that to Brookville but he feels the community's attitude is definitely something that they have to consider and he does not think they will be in favor of it. He stated he thinks it will lead to security problems and he has lots of concerns with kids in the community. He stated he is in favor of moving forward with a complete ban.

Member Schreier also agreed. He stated going in with a more conservative approach would probably be the best start especially if we can change the text after the Public Hearing. He stated the longer they delay they are just delaying the inevitable, they have to make a decision.

Member Boose asked if at some point in time if a majority of the state bans it, can the state of Ohio legislature come back down the road and try to change some of the law to take away a community or township's ability to completely ban? He stated similar to a few years back with the adult entertainment facilities. He stated if most communities are doing a total ban then where are these places going to legally be allowed to go?

Member Claggett informed he thinks the big cities like Columbus, Dayton and Springfield will all have store fronts. He stated even though Ohio is fairly Republican, Franklin County is fairly solidly democrat and the City of Dayton is the same way. He doesn't think there will be a total



ban in Ohio but there will be places to go within about a 100 mile radius in any direction. He stated his biggest concern is that the Fed's are against this and we are just inviting issues into our community.

Member Henderson stated so is a Schedule 1 drug, but it's not being enforced due to budget cuts.

Member Boose stated his concern is what if we have people in the community that need it medicinally. He asked if it is fair to ask someone to drive 100 miles for medicine that they need? He stated he agrees with the other Members, but is just trying to consider all sides. He informed his mother-in-law had to have medicinal Marijuana and does not think it would have been fair to make her drive 100 miles for a medication she needed. He informed his mother-in-law had to have her doctor go with her to the pharmacy to attest that she needed the medicine in order to fill her prescription.

Member Henderson stated his concern is that someone with severe pain can get a prescription for medical marijuana and from what he has read only 35% of doctors actually recommend marijuana for medicinal use so it is not like the entire medical community is supporting this. He stated he understands people might need it and does not want to discourage that but maybe Brookville is not the best place to get it.

Member Schreier stated with the current opioid state, if there was real usage for pain management that would be a definite alternative to an opioid since we have such a crisis everywhere. He stated citizens comments would definitely help and could influence the long term decision, which is why he thinks the most conservative approach is the best place to start.

Member Henderson stated sales are estimated to be two hundred million to four hundred million dollars in Ohio, which would generate approximately \$23 million in sales tax revenue. He stated that is not chump change. They are also limiting the quantity so the likelihood of Brookville being chosen is small.

Member Boose agreed with the other members on a total ban but he does hate to see citizens of the community have to drive a distance if they really do need it for a medical condition.

Member Claggett asked if our local pharmacies stock medical marijuana?

Member Boose stated no. His mother-in-law got her prescription filled at the pharmacy located at the same place as where she saw the doctor.

Law Director Stephan stated it would be a stand alone pharmacy.

Member Claggett asked if we go with a total ban, can we amend it in six months?

Law Director Stephan stated yes.

Member Boose asked Law Director Stephan if he has any feel of Council's opinion on this?

Law Director Stephan stated he has very little idea, he briefly discussed it with Member Cantrell and she seemed to be open to citizen comments. He stated other than that he has not had a lot of feedback from City Council at this point. He stated he did speak with Police Chief Jerome and he does have some concerns with retail dispensaries and what Police management issues may be created as a result.

Member Claggett suggested we could watch the cities that do it over the next one to two years and see how it goes and then always change our complete ban in the future to allow something.

Member Boose asked if a motion is needed?

Law Director Stephan advised Members to do a motion if they would to direct him to move forward with preparing an Ordinance to ban the uses of dispensaries, processors and cultivators from the community and he will present to City Council for a first reading and then a Public Hearing before coming back to Planning Commission for a final recommendation. He reminded that after the Public Hearing and listening to public comments, Members can decide if they would like to make changes in the proposed Ordinance they can make a recommendation with changes.

Motion by Claggett, second by Schreier to allow Law Director Stephan to move forward with preparing a proposed Ordinance to ban medical marijuana dispensaries, cultivators and processors in the City of Brookville. All yeas, motion carried.

There was no Old Business.

In New Business, Member Boose informed he bought a book at the last Zoning and Planning Workshop about the development of abandoned buildings in a community. He informed half of the book is for developers and the other half is for everyone else. He passed it around for members to look at and stated there are some really good ideas and information in the book. He informed the authors of the book spoke at the Planning and Zoning Workshop and described a re-vamp of an area they did in Covington, Kentucky. They took an old abandoned building and redid the parking lot and started bringing in social events. They took an area that was known for drug trafficking and prostitution and turned it into an area the community started visiting by cleaning it up and adding food trucks and music. He stated the book has some very interesting ideas and maybe this could give them ideas or tools for what we could use downtown. He suggested the other Members take turns reading the book and pass it around from month to month. He informed Brookville may not have any areas in as much disarray as in the book but it might be helpful coming up with new ideas for Market Street.

Member Claggett stated it looks like the Fitness Center is moving fast.

Zoning Officer Snedeker informed they had a little bit of trouble with the building permit but it was received yesterday and is now moving forward again.

Member Claggett asked how is the old Vindale thing going?

Zoning Officer Snedeker informed very slowly but it is moving. He stated he was there yesterday and it looks a lot better than it did. He does not understand their concept of slapping paint on a wall while insulation is still hanging from the ceiling and they are complaining about their heat bill. He explained their headquarters are in Vancouver so the owner doesn't get down here that much, so they have three full-time employees who are getting it ready for industrial. The pieces you see out front is what they will be manufacturing once they get going.

Member Schreier asked about the old BP station?

Zoning Officer Snedeker informed we are working on a CRA for the area, so we are in limbo until all of the paperwork is finished. He was contacted by the owner to see if McDonald's would sell any of there land, which is a good sign they are looking at doing something with the land.

Member Boose asked about the semi trailers that sit along the bike path down from where the old grain mill used to be?

Zoning Officer Snedeker informed they have been there forever.

Member Boose stated they have been there forever. He asked if the owner has a business there or uses them for privacy?

Zoning Officer Snedeker stated he uses them for privacy, they have been there since before zoning was even put into place.

Member Boose stated he has seen piles of rocks there and didn't know if he owned some sort of business.

Motion by Claggett, second by Boose to adjourn. All yeas, motion carried.



Meghan Wheeler, Clerk



Ryan Henderson, Chairperson

