

Brookville Planning Commission  
Regular Meeting  
June 15, 2017

The Regular Meeting of the Brookville Planning Commission was called to order by Chairperson Henderson at 7:30 p.m. on June 15, 2017 in the City Council Chambers. The Pledge of Allegiance was recited. Mayor Seagraves; Members Bailey, Claggett, and Schreier; Clerk Wheeler, Law Director Stephan, Manager Burkholder and Zoning Officer Snedeker were present. Members Boose and Cantrell were absent.

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

Motion by Claggett, second by Seagraves to approve the minutes of the May 18, 2017 Regular Planning Commission Meeting. Member Schreier abstained. Motion carried with three yeas and one abstention.

Zoning Officer Snedeker reported since the introduction of the GIS Intern, Adrian Nieto, we have located and marked over 611 water valves which accounts for over 16 miles of road way. He informed he has worked with Adrian over the past month to get him familiar with the City of Brookville and for safety reasons due to heavy traffic areas. He stated from here on Adrian will be working in less traffic areas of town on his own gathering the information and then adding it to a layer on the City's Arc Map. Zoning Officer Snedeker reported Fire Chief Ron Fletcher has been stopping in the office to check on Adrian's progress.

Zoning Officer Snedeker reported since January 1, 2017, a total of 129 property violations have been issued to date and out of those violations, only 20% have been from a citizen contacting him with a complaint. He stated the rest he has personally observed.

Zoning Officer Snedeker reported Community Civil Engineers LLC Company, contracted by Giant Dayton, the old BP site, was working hard to be able to show Planning Commission the new site layout this month, but was unable to get all the information together. He informed they plan to bring the information to Planning Commission hopefully next month.

Manager Burkholder reported he spoke with Martin Kim from the Miami Valley Regional Planning Commission (MVRPC) and informed him that Planning Commission has reviewed the draft Strategic Plan and would like to move forward with it. Mr. Kim advised the next step would be 1.) for the City to finalized project goals and objectives 2.) to allocate budget for the project and apply for additional funding like Montgomery County Land Bank Planning Grant if needed and 3.) develop a draft request for proposal that incorporates the scope and any other languages that the City uses in the RFP document.

Manager Burkholder informed he will be in contact with the City of Clayton, who recently with through this process with the MVRPC and Mr. Kim has already spoken with Clayton and they know that he will be contacting them, to request a copy of their proposal for us to use as a template.

Manager Burkholder asked Members to think about what they want Brookville to become? What kind of businesses do we want to attract? What do we want for our Industrial Park? With the construction of the Market Street Extension, how will that impact us, not only the existing area but the types of businesses that could be added in one of the eight new commercial lots which the new extension of Market Street will create. He stated he can send out a plat mat to Members prior to the next Meeting so that they can review the layout of the new Market Street. He suggested doing something similar to what was done with City Council towards the end of 2015 by doing a Strategic Visioning Session to discuss what are our strengths are, what do we want to continue to capitalize on and are our biggest weaknesses. He stated by having general concepts and visions, it will help us when we get into the mechanics of the plan. He stated he thinks it would be appropriate for Planning Commission to consider the parks as well and consider any kind of expansion or re-purposing especially, with the leveling of the BMX Park and what that area may be in the future.

Manager Burkholder informed Law Director Stephan will report tonight on the Tree Ordinance. He informed some concerns have been brought up at previous Council Meetings on dead trees and who is responsible for them, so Law Director Stephan has been doing some research.

Manager Burkholder informed there have also been some parking concerns from businesses downtown and also lighting issues. He stated he asked for these items to be on the Agenda so as we plan and talk about downtown we will have some information and feedback from merchants and residents. He informed he spoke to the Chamber of Commerce about speaking to the businesses that are Chamber Members who are business owners downtown to see if they have any suggestions on possible parking ideas.

Member Henderson suggested Members do some homework before the next Meeting and to come up with ideas of what they want to see and different strategies. He stated we have a big opportunity with the extension of Market Street and the eight lots it will create. He stated we need to consider who we are marketing to and what do we want the area to become, because Market Street will be the gateway to the community. He stated right now you can't get into our downtown area very easily, with the new extension being close to the park, will have a unique opportunity and he thinks we should capitalize on it and really put some thought into it.

Member Schreier stated any documents that can be sent out to Members electronically would be helpful, especially if MVRPC sends out any updates.

Manager Burkholder stated absolutely and that would also give Members time to review the documents prior to the next Meeting.

Law Director Stephan reported at the May Planning Commission Meeting, the issue of temporary mobile food vendors was discussed. The City currently has a provision in the Section 1163.03(b)(26) that regulates mobile food vendors and requires mobile food vendors to be approved by Planning Commission for a special use permit prior to operation. He provided Members with a copy of the code section:

Section 1163.03(b)(26)(B)(7) provides that the regulations do not apply to mobile food vendors that supply food and/or beverages during any special public or charitable event that does not exceed five (5) days in duration.

Law Director Stephan advised in his opinion, the current mobile food vendor code does not regulate vendors that are selling farm products such as fruit and vegetables during the summer. The code section on mobile food vendors could be amended to include vendors selling fruit and vegetables during the summer and require them to have a Special Use Permit to operate.

Law Director Stephan stated with respect to the exception for special or charitable events, this exception was included in the Code to permit events like the Community Picnic to have mobile food vendors participate without going through the Special Use Permit process. In the event that Planning Commission recommends that this regulation be amended to include vendors selling farm products, then he would recommend that this same charitable event exception apply. In particular, the current Farmers Market sponsored by the Chamber of Commerce would need this exception to apply to their vendors selling fruits and vegetables.

Member Schreier stated he wondered about the arts and craft type booths next to food booths at the Farmers Market. He agreed the Farmers Market is a special event and the City is trying to help grow a community event and that the food vendors at the farmers market should not be added into the Ordinance and be required to obtain a Special Use Permit.

Law Director Stephan stated we have had some temporary vegetable and fruit sellers and currently they are not regulated.

Member Schreier asked if that would include the guy selling oranges?

Law Director Stephan stated yes.

Member Henderson stated he likes the idea of knowing who is out there selling and what but does not to make them come in for a Special Use Permit if they aren't going to be out selling for a long period of time.

Law Director Stephan where the exception for community and special events would would allow that to occur.

Member Henderson asked if Law Director Stephan needs a recommendation from Planning Commission to present this to City Council?

Law Director Stephan stated yes.

Motion by Schreier, second by Claggett to recommend to City Council an amendment to Section 1163.03(b)(26)(B)(7) of the City Charter to regulate Mobile Food Vendors to include fruits and vegetable during the summer. All yeas, motion carried.

Law Director Stephan informed City Staff is currently reviewing the policies of the City with respect to trees located in the right of way between the curb and the sidewalk. He provided Members with a copy of his memo to City Council dated May 22, 2017 on the City's current Ordinances related to trees in the right-of-way. He informed that our current Ordinance prohibits trees from being located between the curb and sidewalk, but there has been an informal City policy of permitting certain types of trees to be planted between the curb and sidewalk. The City is looking at ending this City policy of permitting certain trees to be planted in the area between the curb and sidewalk.

Law Director Stephan stated as he noted in his May 22, 2017 memo, he is recommending amending the current Ordinance to provide for a more specific notice process to owners related to dead or broken trees in the right-of-way and assessment of the costs of removal if the property owner does not remove the tree within a certain time period. He stated that in addition, it has been suggested by Council Member Cantrell that we consider prohibiting new trees or shrubs from being planted within a certain distance of a sidewalk to protect the sidewalk from damage from root growth. This concept would essentially be a vegetation setback in the front yard from the back of the sidewalk. He stated the City has never had this before but, could be added into the Zoning Code to add a buffer. He stated in some areas of Brookville that could be difficult if the front yard is small. He stated if a setback is added, we might want to add only a small distance.

Law Director Stephan stated he is seeking the input of Planning Commission Members.

Member Schreier stated the Section isn't really being amended but actually enforced.

Law Director Stephan stated it does need to be enforced. He informed there was a specific list of trees put together a while ago by City Staff that permitted those types of trees to be replanted if a home owner removed a dead tree, particularly during a street reconstruction then the owner would be allowed to plant one of those trees specified on the list. He stated there has been some conflict between what is in the Code and what has been policy and that is what he would like to see corrected.

Member Schreier asked if any trees currently in the right-of-way would be grandfathered in?

Law Director Stephan stated the current trees would be grandfathered in, the City is not going to go out removing a bunch of trees, but if a tree dies or falls down in a storm then it would be removed and nothing replanted in its place.

Member Henderson stated he agrees with not allowing the planting of trees between the curbs and sidewalks due to utilities and disruption to the sidewalks. He stated we need to preserve the sidewalks all we can even though trees do beautify our neighborhoods. He stated it might be hard to determine exactly how far away from a sidewalk a tree should be. He stated if he had to make a recommendation it would be five feet but as Law Director Stephan mentioned there are cases in the City that would not be possible. He stated it could be taken into consideration though with the building of new homes.

Member Henderson stated he noticed that in Section 503.06 on over hanging branches, there are two sentences that somewhat contradict themselves. The Section states that trees have to be trimmed to 13 in half feet to the lowest branch over top of a street, alley or sidewalk. Then the next sentence states the tree has to be trimmed to not obstruct a normal passage. He stated he does not know too many people who are 13 in half feet tall. He suggested that area may need to be cleaned up. He suggested the 13 in half feet should apply to roadways and not sidewalks.

Member Bailey stated he thinks it is a good idea to prohibit trees from being planted in the right-of-ways but he does not know if it is a good idea to restrict the distance a tree can actually be planted from the sidewalk. He stated if you look at the root system when the tree grows to how far out the tree branches grow, then a lot of trees might be eliminated, which would do away with shade on the sidewalks. He stated if a tree is within a certain distance to the sidewalk then it should be the parcel owner's responsibility if damage occurs.

Member Henderson stated that is normally how it is anyway.

Member Bailey stated if a tree uproots a sidewalk then the homeowner has to fix it.

Mayor Seagraves stated if you walk down Maple Street, the sidewalks are like a rollercoaster. He stated he is not opposed to the trees on Maple Street, he likes the trees, but the grass strip down the street is very narrow and becomes a complication.

Member Claggett asked if they should ban having anything between the curb and the sidewalk except grass, including even flowers?

Manager Burkholder stated on Sycamore Street flower planters have been placed between the sidewalk and the curb. He informed he has seen modern shopping areas plant bushes and then they grow too tall and blocks the view of drivers. He stated he prefers a more strict standard. He informed we do not have a lot of wide strips, especially in the older part of town, most are narrow. He stated part of this came about because the question came up of who is responsible for a dead tree? After that question came up, Law Director Stephan looked into it and found we

have a policy but it needs cleaned up. The Zoning Officer can send a violation letter to the property owner because it is a public safety issue. He stated we will have this problem for a few years but his concern is the trees he sees that are dead and not being taken care of. He is afraid of large dead trees falling on something.

Member Schreier stated he thinks it would be too hard to enforce nothing being planted between the curb and sidewalk. He stated he would be more inclined to limit heights instead. He stated small flowers and stones would be more reasonable.

Member Henderson agreed. He stated a lot of people like to plant flowers or have stones around their mailboxes.

Member Schreier stated people like do like to add decorative things around their mailboxes like stones. He stated if we aren't going to allow anything besides grass, that really limits the options people have as residents

Member Claggett stated he was thinking more about allowing no bushes. He informed he and his wife walk a lot around town and notice bushes overgrown all the time. He asked if the City enforces people to cut back their bushes?

Zoning Officer Snedeker informed he sends out a violation letter. He stated he drives around in a car, so if someone is out walking and sees something to please let him know.

Member Schreier stated he agrees there shouldn't be anything overhanging the sidewalk and a restriction on the height on things between the sidewalk and road would probably be best.

Member Henderson stated he does not think we should limit someone from planting things around their mailbox.

Member Schreier stated he thinks prohibiting the planting of anything besides grass would be hard to enforce especially, on homes located on a corner lot.

Mayor Seagraves stated he lives on a corner lot and trucks go down Gaines and then realizes they can't make the turn and then just drive through his yard. He has constant tractor trailer marks in his yard. He has put things there on the corner in the past to try to prevent that from happening except the trucks just drove over it anyway.

Law Director Stephan asked if Planning Commission supports the City's position to prohibit trees and shrubs from being planted in right-of-ways. He stated it is not in the Zoning Code Section but wanted Planning Commission's thoughts. He informed he will be providing an Ordinance to City Council to clarify the Code Section and the process for requiring a dead tree to be removed. He informed he thinks it will be difficult to enforce but wanted to present it and see what Planning's thought process was on vegetation setbacks. He stated if you look at older

homes in Brookville it would be difficult for a lot of them to have anything planted in their front yard and not be within five feet of the sidewalk.

Member Schreier asked if other communities have any Ordinances like this ?

Law Director Stephan stated he has not seen it before in any other Ordinances having a vegetation setback. He informed you may see set backs in the front yard but not on plantings being prohibited in the front yard.

Member Schreier stated Zoning Officer Snedeker may end up with a lot of additional violations he will have to deal with if no one can plant a tree with in five feet of a sidewalk.

Law Director Stephan stated Chapter 503 is a right-of-way Code Section, not a Zoning Code Section. He thanked Members for their input and informed he will be presenting an Ordinance to City Council.

Member Schreier asked if shrubs will have a height limitation?

Law Director Stephan stated we may need to come up with a specific definition of a shrub.

Member Schreier stated in the tree section, it does not include shrubs that do not grow higher than 12 feet, but we do not want a shrub six foot tall between the sidewalk and the street.

Law Director Stephan stated he thinks we do not want any shrubs between the curb and sidewalk. He stated he will work on the specific language to prohibit trees but allow flowers. He stated going back to the previous comments on the trimming of trees, is the thought process that the trees do not need to be trimmed to 13 feet high.

Member Henderson suggested just normal passage on a sidewalk.

Motion by Schreier, second by Bailey to make a recommendation to City Council that Section 503.08 be enforced and no trees or shrubs be allowed to be planted within the sidewalk and curb within the Municipality. All yeas, motion carried.

Law Director Stephan reported it was raised at the last Council Meeting by Member Cantrell about adopting a Dark Skies Ordinance. He informed a Dark Skies Ordinance would regulate light from residential and business districts in the evening hours. He stated he is working on putting information together for the next Meeting and he has been reviewing other Dark Skies Ordinances, which seem to be primarily adopted in western states. He informed he thinks we need to really review this and how it would affect our community. He stated he thinks the primary goal would be to have some type of light standard that could be applied in purely residential districts if we have an issue with a particular resident or a particular group of residents

that have excessive lighting at night. He stated that would be the primary concern but he is still preparing material for Planning Commission.

Member Schreier stated it sounds like it would be difficult to enforce.

Member Henderson stated actually it isn't as hard as it sounds. It would go by property lines and go with a light meter reading and see what it is on the property line.

Law Director Stephan stated he thinks it would be a matter of buying a light meter and then having someone go out there. He advised we need to be cautious about a carefully crafted Ordinance and not applying in commercial areas because it can effect economic development if you have to rigid of standards. He stated he will provide Members with more information.

Member Henderson stated for safety it might be best to not have in a commercial distrtic because if you limit light levels then certain security type cameras on buildings may not operate how they are intended to.

Member Schreier asked if the Ordinance would apply for the entire City or just specific residential districts?

Law Director Stephan informed it would be drafted to have standards specifically for residential districts and if going to be applied to certain commercial districts, it would be different and a lower standard or higher levels of light. He stated we need to be very cautious about drafting because of areas that have residential and business usage mixed in, like Market Street.

Mayor Seagraves informed we had to make changes in the past regarding led lights and signage because after certain peak times, the excessive lighting can be too bright. He stated some now go off after 10:00 p.m. or lower the brightness.

In New Business,

Manager Burkholder informed Police Chief Jerome has done some surveying and traffic counts on the parking issue complaints that had been received on Market Street. He stated it appears the problem is not as bad as some thought it was. He stated there is additional parking in the Municipal Lot. He suggested maybe some extra signage might be helpful. He wanted the issues to be on Planning Commission's radar.

Member Schreier stated Police Chief Jerome did a good job explaining the issues at the last Council Meeting.



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



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Meghan Wheeler, Clerk



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Ryan Henderson, Chairperson

