

BROOKVILLE CITY COUNCIL  
REGULAR MEETING  
June 1, 2010

The Regular Meeting of the Brookville City Council was called to order by Mayor Seagraves at 7:30 p.m. on June 1, 2010 in the City Council Chambers. The Pledge of Allegiance was recited. Members Apgar, Cantrell, Duncan, Garber, Letner and Ullery; Manager Wright, Fire Chief Nickel, Law Director Stephan and Interim Asst. City Manager/Director of Finance/Clerk Keaton were present. Police Chief Preston was absent.

Motion by Duncan, second by Letner to accept the Agenda as presented. All yeas, motion carried.

Motion by Apgar, second by Duncan to accept the May 18, 2010 Regular Meeting Minutes as presented. All yeas, motion carried.

Member Ullery thanked Member Cantrell for attending several functions that he as Vice Mayor and Mayor Seagraves were unable to attend.

Mayor Seagraves agreed and stated he received compliments on how well Member Cantrell handled the event with the cyclists from the National Veterans Awareness Ride.

Member Cantrell stated it is an honor to represent the city.

Mayor Seagraves congratulated both Member Garber and Law Director Stephan on the birth of their new grandchildren.

Manager Wright reported that the ARRA Stimulus Project that involves paving Wolf Creek Street is almost finished. The roadway will be striped soon. Manager Wright advised city crews have also been working on some large patch work to repair pavement failures on Arlington and Upper Lewisburg Salem Roads.

Manager Wright stated the split rail fence has been completed around the BMX track. City crews have also begun work at Gruenig Park on Market Street. Manager Wright stated he will obtain estimates to install pavers in the park.

Manager Wright reported the Brookville Police Department along with the Montgomery County Sheriff's Office held a D.U.M.P. (Dispose of Unused Medications Properly) Program today. Approximately 25-30 citizens dropped off 13,000 pills from 1,550 prescriptions for disposal. Officers also collected 202 over the counter drugs, 30 inhalers and some needles.

Manager Wright reminded everyone that the Chamber of Commerce is holding their Annual Block Party next Saturday, June 12, and encouraged everyone to attend.

Manager Wright advised after listening to the tape of discussions from the last Council Meeting, he would like to make the following comments and recommendations with reference to the proposed fire station funding.

Manager Wright reported we need approximately \$200,000 annually to make payments on a new fire station; a quarter percent (¼%) increase in our current income tax will generate just over that amount, based on current financial data. If a surplus is generated, he suggested holding that surplus to offset any shortfalls we may experience in the future, with respect to income tax collections. Manager Wright encouraged a cap on any surplus amount and if we exceed that cap, the surplus could be used to either pay down the debt or for other general fund uses. Manager Wright advised to keep in mind that we have not asked for any new revenue from our citizens since 1978, which is 32 years. Unfortunately, there is no funding mechanism available that allows us to determine and generate an exact amount.

Manager Wright stated he agrees with comments made at the last Council meeting that this is probably not the best time to ask for new money, but asked is there ever really a good time?

Manager Wright advised we are not trying to rush anything through at this time. We have been working on and discussing this particular issue for more than five (5) years. In the meantime our current facilities continue to deteriorate and become less efficient. Manager Wright advised in his opinion, we need to move forward. We do not have funds available within our current budget to accomplish the financing.

Manager Wright advised in regard to the Clay Township levy issue, he believes it has no bearing on this matter. We have a fire protection contract with the Clay Township Trustees. We negotiated that contract and Council approved it. How Clay Township gets the revenue to pay for it is their business. The fire levy is a Township levy. You vote on that levy as a citizen of Clay Township, which you are. If as a citizen you don't like it, you are entitled to vote against it. If as a Council we don't like it, we can secede from the Township and not be included in the levy. We don't spend the City's entire budget in one neighborhood and I'm pretty sure the Township doesn't want to spend all of theirs in one city. Manager Wright stated putting all that aside, the levies don't generate enough money to build a new station and continue operations no matter how the monies are divided. We still have a significant operating budget to satisfy, not to mention half million dollar pieces of equipment to purchase.

Manager Wright advised with all that said, it is his recommendation to Council that a quarter percent (¼%) increase in our local earnings tax be put on the ballot this year to go into effect January 1, 2011.

Mayor Seagraves advised he recently met with a Clay Township Trustee, who stated the trustees are prepared to meet and discuss the allocation of levy monies once their audit is completed.

Member Duncan stated that he believes the Township levy monies generated from Brookville residents should stay in Brookville and questioned how we can ask citizens to pay more money in taxes when we are giving their levy money away to other communities? Member Duncan stated it is time to renegotiate with Clay Township or secede from the Township. Member Duncan stated he has voted no on the fire levy a couple of times, and has encouraged residents to do so, but that is only hurting ourselves. Member Duncan stated in his opinion if more residents knew how their fire levy monies were allocated, they would not vote to approve the fire levy.

Member Cantrell stated we should not put the new fire station on hold because of a disagreement over levy monies.

Mayor Seagraves stated the issue with the fire levy monies is a small amount that would not make a difference.

Member Duncan responded it would be \$40,000 to \$50,000 and Council should try to renegotiate to get it to make a point and try to make progress on this issue. Member Duncan stated he has always been the lone wolf on this issue but when he brought it up at the last Council meeting, Mayor Seagraves even stated he had a valid point. Suddenly now he does not have a valid point.

Mayor Seagraves responded Member Duncan does have a valid point. However, he will not hold up proceeding with the new firehouse due to the issue of township fire levy monies. Mayor Seagraves stated he would like to resolve the issue on funding the fire station tonight and recommended making a motion for Council to vote on whether to move forward with it or not.

Member Letner stated that Council should let the two representatives from Council that have been meeting with Clay Township over the fire levy issue continue their negotiations before we make a motion to resolve anything tonight.

Mayor Seagraves stated we owe Clay Township Trustees the respect to come to some conclusion based off their report. Mayor Seagraves agreed we should put whatever monies we receive from the Clay Township fire levy towards the purchase of fire equipment or a new fire truck, but we shouldn't let the issue hold us up on making a decision in funding the construction of a new firehouse.

Member Duncan responded the citizens could hold us up when they cast their votes.

Member Cantrell advised we have a time frame to get this issue on the ballot.

Member Letner inquired when the deadline is for us to get this on the ballot?

Finance Director/Clerk Keaton responded the deadline is August 19, 2010.

Member Letner inquired whether it could be passed in emergency fashion?

Law Director Stephan replied that Council can declare it an emergency and pass it to get it on the ballot.

Mayor Seagraves advised he does not want it to be done by an emergency motion because he would like to have input from citizens.

Member Duncan stated he thinks that citizens will not vote in favor of an income tax increase or the other proposed funding measures as long as we are giving money away to Clay Township.

Member Cantrell stated Council needs to make a decision whether to go with a property tax increase or an income tax increase so that citizens will be able to give feedback before we put it on the ballot. Member Cantrell advised we are going to do one or the other whether the fire levy issue gets resolved or not.

Member Apgar inquired whether any of the other Council members feel we are moving forward with the new firehouse a year early due to the economic climate? Member Apgar stated that even if voters approve a ¼% income tax increase, there may be so many jobs lost in the next year that we still won't have enough to cover the debt.

Mayor Seagraves responded that if the income tax levy passes and we don't generate enough monies from that to cover the debt payment of \$200,000, we could then negotiate with Clay Township to get an extra \$40,000 towards the debt.

Member Apgar stated if the economy continues to decline and jobs in Brookville are lost, we won't have enough to cover our debt. Member Apgar inquired what Council's plan would be in that situation?

Manager Wright advised even if we didn't move forward with the new firehouse, we would still have bills we need to pay. We cannot predict what the economy is going to do.

Member Apgar responded he thinks if Council waits a year to take action, the economy may be better, or we may at least be better able to predict which way the economy is headed.

Member Duncan inquired how much money would be generated if we seceded from the Township?

Finance Director/Clerk Keaton advised it would be approximately \$31,972 based on 2009 figures.

Member Ullery inquired if we put the income tax levy on the ballot and it was approved by voters, how long would we have to accumulate funds before we would have to start construction on the new firehouse?

Finance Director/Clerk Keaton responded that as part of issuing debt we could do a construction loan for the first year or two.

Mayor Seagraves advised Council needs to be careful with the citizens. If we tell citizens we need them to pass an income tax levy because there is a need for a new firehouse, and they pass the levy, then we need to act on it.

Member Garber agreed and stated we can't tell citizens we need them to approve a tax but we aren't going to spend it for a year or two.

Member Duncan inquired whether the ¼% income tax increase would be indefinite, or would it end in a specified amount of time after the new firehouse is paid for?

Law Director Stephan replied that Manager Wright is proposing a permanent ¼% increase. However, it is possible to put an income tax increase on the ballot for a period of time to expire.

Member Letner inquired whether we have exhausted all of our opportunities for grant money towards the new firehouse?

Manager Wright replied all that he is aware of.

Fire Chief Nickel stated we have applied for all that he is aware of also.

Member Letner inquired what kind of impact a ¼% income tax increase would have on a household with the median family income?

Finance Director/Clerk Keaton stated that for a family with a median income of \$100,000, the tax increase would be \$250.

Member Duncan inquired how many residents in the city the income tax would really affect?

Finance Director/Clerk Keaton stated there is no way of knowing unless the City of Vandalia actually pulled and audited all the W-2's filed with them.

Member Duncan stated quite a few people would not be affected by an income tax increase because all of their income is retirement income. Member Duncan stated there would be more non-residents who work here that would be affected by the tax increase than residents.

Member Garber commented that some businesses choose to locate in Brookville because our income tax rate is lower than other communities. Member Garber stated he does not want Brookville to appear unattractive to new businesses because our income tax rate is too high. Member Garber stated another thing he doesn't like about the income tax increase is he personally will not have to pay a dime towards the new firehouse as he works in another city with a higher tax rate.

Manager Wright advised that we are one of only two cities in the entire county that have not voted millage. This is also a selling point on bringing businesses into the community, because of the reduction of property tax.

Member Garber stated he feels both the property tax increase and income tax increase are bad.

Mayor Seagraves stated that he wants to respond to the question Member Garber raised at the last meeting about what we have internally that we could use to fund the firehouse project. Mayor Seagraves stated he has discussed this with Manager Wright and Finance Director Keaton and there is literally nothing. Mayor Seagraves stated we need to decide whether we need a new firehouse or not. There is never a good time unless your house is on fire. Mayor Seagraves stated he knows citizens will ask him whether we really need a firehouse and he wants to be able to answer the question.

Member Cantrell inquired if the proposed income tax increase would affect corporate earnings also?

Finance Director/Clerk Keaton confirmed that it would include corporate earnings.

Member Duncan stated Council has a lot of decisions to make.

Mayor Seagraves responded he thinks that is the point Manager Wright is trying to make is that Council needs to stay focused and make a decision.

Manager Wright advised we are spending a lot of time on the fire station project. If the project is not going to move forward then we are just spinning our wheels. We have preliminary infrastructure work that we wanted to do this year. We need to know whether this is going to go forward or not, before we do this work.

Member Ullery stated Council needs to decide whether to put it on the ballot as a property tax or an income tax. Once that is decided, it goes before the citizens and they have the opportunity to vote yea or nay. If they approve it, we can go ahead with it. If they don't approve it, we will need to look at another avenue of financing.

Mayor Seagraves commented that we need to get the facts to our citizens as there are misconceptions that need to be cleared up. If we need a new fire station, we need to say we need a new fire station. Mayor Seagraves asked Fire Chief Nickel to respond to whether we need a new fire station or not.

Fire Chief Nickel stated we are at a critical juncture. Throwing money into our existing facilities will only last a few years at the most. We have people manning the stations on the weekend who have to sleep on the floors. We have no shower facilities. Recently one of our medics was on a routine call and got blood on himself. Fortunately he lived in town because he had to go home to clean up. A new fire station would have allowed him to shower and clean up without going home.

Fire Chief Nickel advised this is a great time to build. Contractors and laborers are eager for work and the prices and rates are coming in better than we could ever expect. Chief Nickel commented if the economy turns around, we can forget about getting a reasonably priced fire station. Fire Chief Nickel invited anyone to come to the firehouse on a Saturday night to see where people are sleeping and to see the conditions of the current firehouse. We have some dedicated people providing service under austere conditions and he is not sure how long they will be willing to continue to do this. Fire Chief Nickel advised this is not a threat; one of the difficulties of his job is maintaining quality people, so yes we need a fire station.

Member Cantrell stated that Member Garber's comment about being competitive to bring businesses to Brookville is important. However, she believes a new fire station will offset it when a large company like a Payless or a Nanco comes into our community and takes a tour of our facilities. They will see how we are operating our fire service and know that we are protecting those buildings they are investing millions of dollars in.

Member Garber replied there are a lot of considerations, for example a new firehouse will affect residential insurance rates.

Member Letner stated that Fire Chief Nickel has a point about the way contractors are bidding right now to try and stay in business. Member Letner inquired if there was an estimate on how much cheaper we can get the fire station built now as compared to the engineer's estimate?

Manager Wright replied he does not have an exact number but he would estimate, based on an engineer or architect's estimate, we could get it built 20-25% below estimate.

Member Duncan stated we need to meet with Clay Township to see if we can get the money back from the portion on the fire district that is outside of town. Member Duncan commented that he agreed with Member Garber's comments about residents that work out of town. It doesn't seem fair that they get the benefit and don't have to pay anything.

Mayor Seagraves replied that the Township Trustees are waiting on the results of an audit, and may not be ready to meet with us until fall. We need to move forward on this issue now.

Member Apgar stated Council should have three readings of a proposed Ordinance to increase the income tax in order to get it on the November ballot, and give citizens the opportunity to comment.

Law Director Stephan stated there could be one reading in June and two in July.

Motion by Cantrell, second by Apgar to draft an Ordinance directing the Montgomery County Board of Elections to place on the ballot at the General Election to be held November 2, 2010 the question of increasing the income tax rate ¼% for a continuing period of time for the purpose of paying the debt to construct a new fire station. Cantrell yea, Garber nay, Letner nay, Ullery yea, Apgar yea, Duncan nay and Seagraves yea. Motion carried with four yeas and three nays.

Member Garber stated the ordinance should have an end date if the income tax increase is to specifically build the new fire station. As far as inflation, as salaries increase the city will receive more revenue. Once the firehouse is constructed, it should be more efficient and not increase operating expenses for the city.

Finance Director/Clerk Keaton advised that Council has the authority to draft another Ordinance to remove the ¼% tax increase in the future.

Member Cantrell inquired if the proposed Ordinance could state that the levy would be used for the facility; for the purpose of police and fire emergency medical services including restoration of staffing levels; the purchase of equipment; renovations; replacement of fire equipment including emergency medical service ambulances; and reconstructing, resurfacing and repairing local streets, thoroughfare streets and alleys.

Finance Director/Clerk Keaton replied it could be worded in this manner if Council chooses. Council does need to specify a purpose for the levy monies.

Member Apgar inquired how many years it will take to pay for the new fire station.

Manager Wright advised it will take 20-25 years to pay for a new fire station.

Member Apgar stated the proposed Ordinance should stipulate that after the fire station is paid off, Council has the authority to change what the income tax levy monies are used for.

Mayor Seagraves inquired if Member Duncan voted nay on the previous motion because of the issue with Clay Township? If so, he reiterated the fact that Clay Township is not able to do anything until after their audit is completed in August, which will be too late to get our issue on the November ballot.

Member Duncan stated Council should talk to the Clay Township Trustees as a group to see if they can get a commitment from them earlier.

Member Apgar advised we need to move forward with the proposed Ordinance to give the citizens a chance to respond at a Public Meeting.

Mayor Seagraves stated this is a difficult and critical decision for Council and the community and he wants Council to feel they are being fair about this decision.

Member Letner stated he is 100% in favor of constructing a new fire station. Member Letner stated he also feels the bid to construct the new fire station is going to come in lower due to the economy. Council should put a limit on how long the income tax levy will last, so that the money is spent on what the citizens vote for.

Member Cantrell asked Member Letner if he would have voted in favor of the proposed Ordinance if it was to stipulate an end to the income tax increase after the new fire station was paid for?

Member Letner responded that he probably would have voted in favor of the proposed Ordinance if it had a time limit on it because he speculates the bid to construct it is going to come in much lower than anticipated and the firehouse could be paid for in 10 or 15 years.

Mayor Seagraves stated that Council is in agreement that a new firehouse is needed. The proposed ordinance could state that once the firehouse is paid for the ¼% increase on the local income tax rate to construct the firehouse would be rescinded.

Member Cantrell inquired if she could rescind the previous motion?

Member Apgar commented all Council is doing at this time is trying to come to an agreement on how the proposed Ordinance is to be written.

Member Duncan stated that putting a time limit on the income tax levy does not solve his issue with Clay Township or Member Garber's concern that he and other citizens that work outside of Brookville will benefit from the new firehouse but will not contribute any tax monies towards it.

Member Garber advised he is aware that not everyone that will benefit from the new fire station will help pay for it. His main concern is that the proposed Ordinance should state that the income tax increase will only last until the fire station is paid for.

Motion by Cantrell, second by Apgar to rescind the previous motion. All yeas, motion carried.

Motion by Cantrell, second by Apgar to draft an Ordinance directing the Montgomery County Board of Elections to place on the ballot at the General Election to be held November 2, 2010 the question of increasing the income tax rate ¼% for the purpose of paying the debt to construct a new fire station with the income tax rate to revert back to 1.75% after the entire debt for the new fire station is paid off. All yeas, motion carried.

Manager Wright asked Finance Director Keaton to present the Clay Township Fire Levy information from 2008 and 2009.

Finance Director Keaton presented Clay Township property tax values broken down by districts for the time period of 2007/2008 compared to 2008/2009 as well as a comparison of the estimated revenue generated by Clay Township Fire Levies in the same time periods.

Member Garber inquired by value of properties protected by Brookville Fire Department, Brookville should receive 70% of tax collected.

Finance Director Keaton advised Brookville currently receives 57%.

Member Duncan stated the Brookville Fire Department should get all of the tax revenue generated from our fire response area.

Finance Director Keaton stated the report shows that property values in our fire response area have decreased by nearly \$30,000 overall.

Manager Wright advised if property values continue to decline, it may come to the point where we lose money.

Member Duncan replied what is generated in the Brookville response district should stay in the Brookville response district.

Manager Wright stated the fact is, it is a Township levy and people who live outside our corporation limits are not our citizens.

Member Duncan replied he was only referring to citizens within the corporation, not everyone in our fire response district.

Finance Director Keaton replied if Member Duncan is referring to those in the corporation limits, we have received our money and more. The Brookville taxing district in 2009 generated approximately \$276,677 and we received approximately \$365,207 from the Clay Township fire levy.

Manager Wright stated what we are trying to do is speak for the residents of Clay Township that are in our fire response district and that is not what we should be doing.

Member Cantrell reiterated that this means our citizens who are governed by the City of Brookville have paid in \$276,677 in 2009 and we are getting back \$365,207.

Member Duncan replied that approximately \$406,304 was raised in our fire response district.

Members Cantrell and Ullery responded that includes the unincorporated area of the Township.

Member Duncan stated our Fire Department is the one running out there to protect them and we are paying for the members on call and we are paying Fire Chief Nickel's wages. If we didn't have to protect it we wouldn't have to pay the members on call.

Member Ullery stated we are getting part of it back.

Member Cantrell stated this is the first time in the numerous times Council has discussed this issue that she can actually see what the issue is.

Member Duncan inquired where the \$5,000 paid to Clay Township for administration fees is showing in the fire levy.

Finance Director replied the administrative fees are in the contract with Clay Township because whenever a taxing district adds a levy it causes auditor and advertising fees.

Member Duncan asked if these auditor fees could come back to us?

Finance Director Keaton responded if we were to secede from the Township, we would still have to pay the auditor fees.

Finance Director Keaton stated she is waiting on a call back to set a meeting with the Clay Township Trustees.

Member Cantrell asked if it is stipulated what the funds are to be used for when the fire levies are put on the ballot?

Finance Director Keaton replied the ballots are specific that the funds are to be used for fire protection.

Member Garber inquired whether property values in Perry Township decreased as they did in Clay Township?

Finance Director Keaton replied she has not really looked at it but she would assume that to be true.

Mayor Seagraves asked Member Duncan if he wanted the amount Clay Township received from the Brookville Corporation limits reduced to zero?

Member Duncan stated whatever is raised in the Brookville response area should stay in the Brookville response area.

Member Cantrell asked what Clay Township used the fire levy monies for?

Mayor Seagraves replied the money is distributed between Brookville, Verona and Phillipsburg.

Member Cantrell stated it is only fair that Clay Township reimburse the other communities also and asked Member Duncan why should we take it all?

Member Duncan replied he wants what is raised in our fire response area.

Member Apgar commented in order to do that there would have to be three fire levies, one for Phillipsburg, one for Verona, and one for Brookville.

Manager Wright responded the current fire levy is for the whole Township. The fire levy monies collected are distributed per contracts that have been negotiated with the Clay Township Trustees.

Member Apgar stated we cannot take all the levy money from Clay Township. The only way we could get it all is if we covered the whole district.

Finance Director Keaton advised the Township would not survive if we took it all from them.

Member Duncan responded Verona is getting help from Preble County plus Harrison Township because they are split between two counties and townships. Verona and Phillipsburg should have to generate their fire levy money inside. Member Duncan stated we are not representing Verona and Phillipsburg - whatever monies are raised in the Brookville response area should stay in the Brookville response area. If we don't want to do it that way, let the township have their own levy and have another levy inside Brookville. Then we could charge our people 2 mils rather than 5 mils and still raise the same amount of money. Member Duncan stated there are other ways to look at it rather than to ask for the whole percentage. We could put our own fire levy on without seceding and still give our citizens a break.

Member Apgar asked how Verona generated fire levy monies?

Member Duncan responded they have a Village levy, plus the Township levy.

Member Apgar inquired if Verona charges the Township for the fire service?

Fire Chief Nickel advised Verona Fire Department and Phillipsburg Fire Department have a contract similar to ours with Clay Township.

Member Apgar stated that means they pay for their portion with levy monies.

Member Duncan advised no, the township is giving Verona and Phillipsburg levy money and they also raise their own levy money inside the villages.

Manager Wright commented so does the City of Brookville.

Member Garber inquired whether the difference between the total approximated dollars generated by Brookville Corporation and the amount received from Clay Township is the money we received to protect the unincorporated areas of Clay Township?

Finance Director Keaton stated that is correct. The approximated dollars generated are based on the values of the homes in this area.

Member Duncan inquired how much money 2 mils generates on a home worth \$100,000?

Finance Director Keaton responded 2 mils on a \$100,000 home will generate approximately \$61.20 per year.

Member Duncan responded \$61 is not a lot to take off their taxes but to him it is the principal of it.

Mayor Seagraves thanked Finance Director Keaton for the fire levy information presented tonight.

Member Letner inquired whether the Bible Baptist Church was still offering to maintain Greunig Park downtown?

Manager Wright stated the church offered to help with the landscaping of the park, not to maintain it. Manager Wright stated we are looking at installing pavers, and the church members are going to plant some flowers.

Member Letner complimented Barrett Paving on the job they did repaving Wolf Creek Street.

Fire Chief Nickel stated he realizes the new fire station is an important decision and thanked Council for the time and effort they have put towards the project now and in the future.

Fire Chief Nickel presented the Fire Department Alarm Incident Report for May 19, 2010 through June 1, 2010 which indicated the fire department responded to 76 calls during this time period. Fire Chief Nickel reported the Memorial Day holiday weekend was very busy, with an average of 8 calls per day with several minor structure fires.

Fire Chief Nickel inquired whether Council had any questions on the memo he had given them in response to a recent letter to the editor concerning the new fire station project.

Mayor Seagraves thanked Fire Chief Nickel for the memo and stated that he has no problem with letters to the editor; however, he wished citizens would come to Council and give them the opportunity to address any concerns. Mayor Seagraves stated this would also give citizens the opportunity to get the facts straight before they submitted a letter to the editor.

Fire Chief Nickel agreed and commented his memo is in response to a letter received from a local professional and he also would like the opportunity to sit down with this person one on one and discuss the facts.

Mayor Seagraves restated that any citizen is welcome to come to Council and discuss their questions and concerns.

Law Director Stephan commented on proposed Ordinance No. 2010-06 entitled "AN ORDINANCE ESTABLISHING CERTAIN REGULATIONS FOR MOBILE FOOD VENDORS IN THE CITY OF BROOKVILLE, OHIO". Law Director Stephan reported there have been several changes to the proposed Ordinance based on input from Planning Commission and Council. Law Director Stephan reported limiting the number of mobile food vendors has been removed and the Community Center District has been added as an area where mobile food vendors would be permitted. It also specifies that Planning Commission can approve a mobile food vendor both on a private property with an existing business or potentially on property owned by the City of Brookville but not within a city park. Law Director Stephan advised Planning Commission did not want to have any mobile food vendors competing with charitable groups that are providing concessions within the parks.

Law Director Stephan advised tonight will be the first reading, we will then have a Public Hearing on the proposed Ordinance.

Member Apgar inquired whether the City would be liable if a subject became ill after eating food from a mobile food vendor since we issued the permit?

Law Director Stephan replied we would not be liable for food safety issues provided we have verified the mobile food vendor has a valid food license. If the mobile food vendor's food license were to be revoked, then our Zoning Officer would shut them down. Law Director Stephan advised we are not issuing the food vendor license, we are issuing a permit to set up in a location within a zoning district. The food vendor license will be issued by Montgomery County.

Member Apgar inquired whether a disclaimer should be added stating we are not responsible for the food quality?

Law Director Stephan advised the City is not responsible for the food. A mobile food vendor permit is comparable to the Zoning Permits issued to any restaurant in Brookville. If we receive notice from Montgomery County Board of Health that a particular institution has a health problem our Zoning Officer will be made aware of that immediately and he will terminate their Zoning Permit and issue an order stating the business has to close.

Member Garber inquired if we have the control to make sure the mobile food vendor applicant does have a food permit license before we issue the permit?

Law Director Stephan stated that Planning Commission will review each application before issuing a permit. A food vendor permit must be submitted with the application. Planning Commission will deny the permit if they don't feel a certain location will work.

Motion by Duncan, second by Garber to read proposed Ordinance No. 2010-06. All yeas, motion carried.

Motion by Duncan, second by Apgar to accept the first reading of Ordinance No. 2010-06. All yeas, motion carried.

Mayor Seagraves set a Public Hearing for Ordinance No. 2010-06 for July 6, 2010 at 8:00 p.m.

Finance Director/Clerk Keaton presented the May 31, 2010 Fund Balance for Council review and approval.

Motion by Cantrell, second by Ullery to approve the May 31, 2010 Fund Balance as presented. All yeas, motion carried.

Finance Director/Clerk Keaton requested Council authorization and approval to issue a check in the month of June to the Ohio Water Development Authority for our WWTP upgrade. July 1 is our last payment on this 20 year debt. Finance Director/Clerk Keaton also requested authorization to issue checks in the month of June to Treasurer State of Ohio for our OPWC loans for the remainder of our Water & Sewer debt and the West Westbrook Road Project; Ohio Police & Fire Pension Fund for the first quarter payment for the employer's portion of the Police & Fire Pension; and Dayton Power & Light for our monthly utility payment.

Motion by Garber, second by Duncan to allow the Finance Director to issue checks to the Ohio Water Development Authority, Treasurer State of Ohio, Ohio Police & Fire Pension Fund and Dayton Power & Light as requested. Garber abstained, Letner yea, Ullery yea, Apgar yea, Cantrell yea, Duncan yea and Seagraves yea. Motion carried with six yeas and one abstention.

Finance Director/Clerk Keaton requested Council approval to transfer \$100,000 into the Street M&R Fund, \$25,000 into the Park Fund and \$25,000 into the Note Retirement-NorthBrook Fund. These are partial transfers as appropriated.

Motion by Garber, second by Apgar to transfer \$100,000 into the Street M&R Fund, \$25,000 into the Park Fund and \$25,000 into the Note Retirement-NorthBrook Fund as appropriated. All yeas, motion carried.

Mayor Seagraves thanked the Council members and management staff for attending the elementary school ribbon cutting and commented that the new elementary school will be a nice addition to our community.

Mayor Seagraves thanked our AmVets and VFW for the fantastic Memorial Day Service.

In Old Business, Member Letner advised Council there is a pilot program going on now with a few cities in the area through the Humane Society. If a cat is caught and taken to the Humane Society, they will spade or neuter the animal and take it back to the area where they were captured. The cost of this is \$20 per animal, which is then billed to the city.

Motion by Duncan, second by Apgar to adjourn. All yeas, motion carried.

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Sonja M. Keaton, Clerk

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David E. Seagraves, Mayor