

BROOKVILLE CITY COUNCIL
REGULAR MEETING
July 5, 2011

The Regular Meeting of the Brookville City Council was called to order by Mayor Seagraves at 7:30 p.m. on July 5, 2011 in the City Council Chambers. The Pledge of Allegiance was recited. Members Apgar, Cantrell, Duncan, Garber, Letner and Ullery; Fire Chief Nickel, Police Chief Preston, Manager Wright, Law Director Stephan and Assistant Manager/Finance Director/Clerk Keaton were present.

Motion by Duncan, second by Cantrell to accept the Agenda with the addition of the June 30, 2011 Fund Balance. All yeas, motion carried.

Motion by Apgar, second by Duncan to accept the June 21, 2011 Regular Meeting Minutes as presented. All yeas, motion carried.

Fire Chief Nickel requested authorization to hold their Annual Brookville Fire Prevention Parade and Festival and downtown community garage sales on October 8, 2011. The parade will follow the usual route, beginning at 2:00 p.m. and the traditional chicken barbeque will be available at Station 1.

Motion by Ullery, second by Apgar to allow the Brookville Fire Department to hold their Annual Brookville Fire Prevention Parade and Festival on Saturday, October 8, 2011 with the parade to begin at 2 p.m. and to block streets as in past years. All yeas, motion carried.

Carl Snedeker, of 857 Shaney Lane, inquired about the recent sale of one of our dump trucks. Mr. Snedeker stated an article in the Brookville Star reported the dump truck recently sold by the City on Gov Deals was in great shape. Mr. Snedeker asked why the dump truck needed to be replaced if it was in such great shape?

Manager Wright responded the dump truck was purchased used and had been part of our rolling stock for 12 years. It was time to rotate the vehicle out as we were beginning to have minor problems with it. Manager Wright stated the City saves a lot of money by purchasing used equipment and rotating it out as needed.

Member Garber advised the price differential between the old and new stock was \$13,000.

Member Letner stated the purchaser may have paid more for the old dump truck because they are located near Joplin, Missouri and equipment is needed in that area of the country due to the recent devastating tornado.

Brian Combs, of 35 Shoreline Drive, stated he and others he has spoken with feel as though they are being harassed by the Brookville Police Department. Mr. Combs stated he was pulled over approximately three weeks ago for a cracked windshield and during the traffic stop, the Police Officer threatened him with four tickets and with towing his vehicle. Mr. Combs stated the way he was treated by the Police Officer was inexcusable. Mr. Combs stated he is currently working at an \$8 per hour job, paying child support and making a house payment. The fine for his cracked windshield was \$120. Mr. Combs stated he explained to the Police Officer that he is working for minimum wage and was only going to use the vehicle for a few months. Mr. Combs stated there are people in town that are struggling financially and he feels several of the Police Officers in town need to have their actions reviewed. Mr. Combs stated not only was he treated rudely, but the Police Officer failed to turn on his DVD recorder, making it impossible for Police Chief Preston or Council to review the traffic stop. Mr. Combs also stated that his 17 year old female cousin was recently taken out of a vehicle by Brookville Police Officers because she had been drinking. Mr. Combs stated when his cousin asked if she could call her mother she was told by one of the Police Officers to shut up.

Mayor Seagraves stated that Mr. Combs had already come to him with this complaint and that he had not gotten back with him on this issue because he was out of town. Mayor Seagraves stated that he met with Police Chief Preston and Manager Wright about Mr.

Combs complaints. Mayor Seagraves stated when Mr. Combs came to him with this complaint he said nothing about receiving a warning prior to receiving the ticket for his cracked windshield.

Mr. Combs stated that was true but the warning he received was not for the cracked windshield, it was for the muffler on the same vehicle. Mr. Combs stated that he came to the Brookville Police Department to speak with Police Chief Preston but he was not available. Mr. Combs advised he did speak with Police Officer Simon and another Police Officer and explained to them that he recently lost almost everything he owns in a divorce, and although he has a college degree, he is working a minimum wage job trying to get back on his feet. Mr. Combs stated his complaint was not just about the ticket for the cracked windshield, rather the way he was threatened by the Police Officer with more tickets and towing his vehicle if he didn't go along with signing the ticket. Mr. Combs stated he is here to stand up for himself and others in Brookville that are being harassed by the Police Department and are too afraid to come forward for fear of being targeted. Mr. Combs stated he should not be targeted by the Police Department for a cracked windshield; there should be a valid reason for him to be pulled over. Mr. Combs stated he does not feel he was driving an unsafe vehicle and that he is only driving this vehicle until he can get his other vehicle repaired. Mr. Combs stated Council probably has no idea what it is like to have a college degree and not be able to find work other than a minimum wage job because of the economy. Mr. Combs said the Police Officer that issued his citation stated he works two jobs and that maybe Mr. Combs should do the same.

Mr. Combs inquired whether it is mandatory for Police Officers to turn on their DVD recorders each time they make a traffic stop and whether the Police Officer who stopped him as well as the Police Officers involved in the incident with his female cousin were disciplined for not recording the incidents? Mr. Combs then thanked Council for hearing his complaint and told Police Chief Preston he had nothing against him, he just wanted to stand up for himself.

Police Chief Preston reported he did speak with Mr. Combs about the incident when he came to his residence the day he received his citation. Police Chief Preston stated he instructed Sgt. Miller to check into the incident. Sgt. Miller spoke with the Police Officer who issued the citation and found the traffic stop was not recorded. Police Chief Preston advised he held a department meeting and all Police Officers were instructed on how and when to use the DVD recorders. Police Chief Preston also advised the incident with Mr. Combs' cousin has been fully investigated and regardless of the public's impression there was no excessive force used in the incident. Police Chief Preston stated several Police Officers were disciplined for procedural errors.

Police Chief Preston advised he also investigated Mr. Combs' complaint of Police Officers harassing him and following him around town for no reason. Police Chief Preston reported that Mr. Combs' muffler on the vehicle in question was missing, his turn signals did not work and the windshield was cracked; which are all valid reasons to make a traffic stop. Police Chief Preston stated that most Police Officers tend to watch for a vehicle after they have issued a warning for an equipment violation to ensure that the vehicle is repaired. If the vehicle is not repaired in a timely manner, the Police Officer will probably issue a citation. Police Chief Preston stated the issuance of the citation is purely the Police Officer's discretion; there is nothing in written procedure that dictates when the Police Officer is to issue a citation. The citation that was issued to Mr. Combs was for an unsafe vehicle and listed not only the cracked windshield but also the non-working turn signals and no muffler.

Mr. Combs stated he was pulled over during daylight hours and he was using hand signals, which is legal in Ohio.

Police Chief Preston replied that the law requires operating turn signals for every vehicle manufactured after 1984.

Police Chief Preston advised Police Officers cannot make decisions on whether to issue citations based on a person's income level.

Mr. Combs stated he understands that but he feels as though he was treated like a criminal. Mr. Combs stated he has not received a ticket since he was 18 years old. He has been pulled over a few times but not issued a citation. Mr. Combs stated not all Police Officers in Brookville are like the one that issued him a citation. Mr. Combs stated that he and others in town are working and trying to better themselves. With the economy the way it is, he feels the Police Officers should take a step back and look at the entire situation before issuing a citation. Mr. Combs stated he is a hard working person and he understands the law should be followed, but he feels that some laws are archaic and need to be reviewed in today's economy. Mr. Combs stated he makes \$600 a month which is less than the estimate to complete his muffler repairs. Mr. Combs asked Council to imagine making \$600 per month and fixing a muffler and a cracked windshield while being harassed and stalked by the Police for driving a broken down vehicle. Mr. Combs stated there are a lot of poor people in Brookville.

Mayor Seagraves stated he hears what Mr. Combs is trying to say and that he has used his allotted speaking time for the evening. Mayor Seagraves stated he feels the message is loud and clear to both Police Chief Preston and Council.

Police Chief Preston reported that the Brookville Police Department Citation Log for the month of June shows there were 212 traffic stops, with 65 resulting in citations and 147 warnings. Police Chief Preston stated that there were 23 citations for speeding, 14 for driving under suspension and 6 for stop sign violations.

Mayor Seagraves advised he thought the incident involving Mr. Combs' cousin was water under the bridge but he will follow through with Mr. Combs' aunt involving the incident with his cousin.

Mr. Combs replied that his aunt was afraid of becoming a target if she spoke up for herself.

Member Cantrell asked Mr. Combs for his address?

Mr. Combs replied he lives at 35 Shoreline Drive in Brookville Lake Estates.

Bruce Moler, of 712 Albert Road, introduced himself and stated he was born and raised in Brookville. Mr. Moler owns and operates Moler Appliance Repair. Mr. Moler stated he feels as though his son and other kids are being targeted by the Brookville Police Department. Mr. Moler recently contacted the Brookville Police Department to report that his son is being harassed by an individual with violent threats on Facebook. Mr. Moler stated the Brookville Police Officer he spoke with said, "What do you want us to do about it?" Mr. Moler stated his son is afraid to fill out a report for fear he will be harassed.

Mr. Moler also stated his son was pulled over and searched several weeks ago by a Brookville Police Officer on a Friday, and then followed and pulled over and searched again by a different Brookville Police Officer on the following Sunday. Nothing was found during the search on either incident.

Mr. Moler stated he knows his son is not an angel, but he has had problems coping since he contracted an illness several years ago and was left with the life changing effects of the illness.

Mayor Seagraves expressed concern for Mr. Moler's son and asked Police Chief Preston to comment.

Police Chief Preston stated he is not aware of the Facebook issue and stated the Police Department can conduct an investigation and take action if needed. The individual will need to be a willing participant and will have to be the one to file a report since he is the victim. Police Chief Preston advised Mr. Moler's son was not the driver, nor was it his vehicle, in either of the recent traffic stops that Mr. Moler is referring to. Police Chief Preston stated the Police Officers were probably not even aware that this person was a passenger before they made either traffic stop.

Mr. Moler stated the Police Officers are fully aware of which kids hang out together. Mr. Moler asked why the Police Department does not deal with the drugs on the street by cutting the snake off at the head and getting the big guys instead of chasing all the little guys?

Police Chief Preston stated the Police Department is more than willing to deal with the big guys if someone will inform them who the big guys are.

Mayor Seagraves stated he appreciates both Mr. Moler's and Mr. Combs' concerns and that they are doing the right thing by coming to Council. Mayor Seagraves advised Council typically does not get involved in policing. Mayor Seagraves expressed Council's concern for Mr. Moler's son and does not want to downplay the situation, but the only thing Council can do is listen and direct the Police Chief to work with each of them to try to get the situation resolved.

Police Chief Preston asked Mr. Moler to call him tomorrow to set up a meeting with him and his son.

Manager Wright reported he attended a meeting today with Brookville Schools Superintendent Tim Hopkins and a tentative date was set for July 19, 2011 at 6:30 p.m. for Council's tour of the new elementary building.

The consensus of Council was to tour the building at the recommended date and time.

Manager Wright reported the City has received tentative approval for an Ohio 629 Grant through the Ohio Department of Development in the amount of \$100,000 to be used for the new roadway named Nutrition Way in the NorthBrook Industrial Park. Manager Wright requested Council authorization to allow him to advertise for bids for this project.

Motion by Cantrell, second by Apgar to allow Manager Wright to advertise for bids for the construction of Nutrition Way and all infrastructures for the project. All yeas, motion carried.

Manager Wright commented that he worked with Police Chief Preston for an entire day on the concerns that Mr. Combs brought to the meeting tonight. Manager Wright stated other than the minor procedural issues that Police Chief Preston mentioned everything was handled appropriately. Manager Wright stated that most of the information we are getting from Mr. Combs and others is second, third or fourth hand, and that things are not always as we are hearing it. Manager Wright stated in his opinion most of the complaints are invalid.

Mayor Seagraves reported that he spoke with both Manager Wright and Police Chief Preston about the concerns Mr. Combs brought to Council this evening. Mayor Seagraves assured Council that there are two sides to every story, and Police Chief Preston has already dealt with most of the concerns raised this evening.

Mayor Seagraves reported concerns have been brought up regarding the stagnant retention pond near Brookville National Bank. Mayor Seagraves stated this property is privately owned, not by the Brookville National Bank, and we have rules and regulations regarding grass height and noxious weeds but no ordinances regarding the maintenance of retention ponds.

Member Cantrell stated the same issue concerning this retention pond came up at the last Planning Commission Meeting. Member Cantrell suggested that although the City does not own the property, maybe we should invest some money by treating the pond and possibly installing an aeration device as the condition of the pond affects the public's perception of the City.

Law Director Stephan stated the issue we have is that our Ordinance addresses erosion control and how a retention pond should be constructed but there is nothing in our Ordinance that requires aeration. Unless there was a specific plan at the time the site plan was presented, we cannot require the property owner to put the fountain back in and maintain it unless Council adopts an Ordinance to regulate the situation. Law Director Stephan advised not every retention pond requires an aeration system. Law Director Stephan advised he can look

into modifying our Ordinance to address either aeration or treating the retention ponds in Brookville.

Darrell Reel, of 784 Randy Sue, commented if the City picks up the bill for maintaining the retention ponds, then at least minimally the developer's name should be put into the paper's front page saying that he has neglected to take care of the pond, and that taxpayers have been forced to assume the responsibility.

Mayor Seagraves commented he is not opposed to taking care of the retention pond in question, however if the City does so, what prevents the various Homeowners Associations from not maintaining the ponds in their developments and leaving the maintenance up to the City?

Law Director Stephan stated if we adopt an Ordinance that requires aeration or chemical treatment, the owner can be assessed if they are not in compliance.

Member Letner proposed Manager Wright contact the property owner of the retention pond to see if he will donate the land to the City.

Manager Wright stated the owner of that property only owns the pond and nothing else in the immediate area, so they have no reason to be concerned about the condition of the pond.

The consensus is to have Law Director Stephan work with Planning Commission to review the possibility of adopting an Ordinance regulating retention pond maintenance.

Fire Chief Nickel presented the Brookville Fire Department Incident Type Summary by District Report for June 29, 2011 through July 5, 2011, which indicated the Brookville Fire Department responded to 22 calls for service during this time period. Fire Chief Nickel reported 14 of the calls were within the City of Brookville, 3 in Clay Township and 3 in Perry Township.

Fire Chief Nickel reported he will be spending Friday at the new school facility doing final inspections.

Police Chief Preston reported the Brookville Police Department Citation Log for the month of June, 2011 shows the Brookville Police Department made 212 traffic stops, with 65 citations issued and 147 warnings given. Police Chief Preston stated the Brookville Police Department averages a 70% warning rate, which he does not feel is overly aggressive or enforcement heavy.

Police Chief Preston reported the Brookville Police Department Incident Log from June 22 through July 4, 2011 shows 28 new cases for investigation with 23 closed and 5 pending further investigation. The Brookville Police Department closed 19 of these cases by arrest.

Police Chief Preston reported the Fourth of July holiday was uneventful for the Brookville Police Department.

Mayor Seagraves asked Police Chief Preston to share with Council some of his comments regarding the economy and the public's behavior.

Police Chief Preston reported there is a theory that is shared by other police chiefs in the area that an aggressive traffic campaign does two different things for your community. Number one is that the visibility gets the attention of drivers and people start slowing down and obeying traffic signals and accident rates decrease. Police Chief Preston stated the Brookville Police Department has about 65 traffic crashes annually, which is a very low rate. We used to have about 120 crashes in a year. The other effect of the high visibility is the message it sends to the criminals, which drives that element out of our community and reduces our crime rate. Police Chief Preston reported we had 10 burglaries last year in the City compared to three miles north of us, in the southern end of Miami County, where there were 125 burglaries in a three month period.

Police Chief Preston stated some people like Mr. Combs who came in this evening, don't agree with high visibility. Police Chief Preston stated Mr. Combs has been driving his car around town with no muffler, no turn signals and a cracked windshield and then wonders why the police are following his loud, unsafe vehicle. Police Chief Preston stated Mr. Combs was not harassed and was only pulled over twice. The first time he was given a warning about his vehicle with plenty of time to repair it. Mr. Combs chose to flagrantly ignore it, stating the car wasn't worth fixing. Police Chief Preston advised that Mr. Combs became belligerent with the Police Officer who stopped him. The Police Officer advised him he was trying to give him a break as he could tow the vehicle and issue more citations for the other problems with his vehicle.

Police Chief Preston stated the DVD recorders on the police cruisers help to resolve complaints like the incident with Mr. Combs and his cousin. The problem with the recorders not being turned on was due to failure to change out the DVD's when they are full. Police Chief Preston reported this has been addressed and two Police Officers were disciplined as a result.

Fire Chief Nickel commented that the Police Department has a responsibility to make sure vehicles on the road are safe. Fire Chief Nickel stated the Brookville Fire Department responds to many accidents in which the victims need to be cut out of their vehicles, and he would not want to be following a vehicle that did not have any turn signals.

Law Director Stephan had no report.

Assistant Manager/Finance Director Keaton presented the June 30, 2011 Fund Balance for Council review and approval. Assistant Manager/Finance Director Keaton also presented the mid-year Detail Trial Balance, which shows the year-to-date revenues and expenditures compared to the 2011 budget.

Motion by Duncan, second by Apgar to approve the June 30, 2011 Fund Balance as presented. All yeas, motion carried.

Assistant Manager/Finance Director Keaton requested Council adopt proposed Resolution No. 11-09 which is before Council this evening.

Motion by Apgar, second by Cantrell to read Resolution No. 11-09. All yeas, motion carried.

Motion by Duncan, second by Apgar to accept the first reading, dispense with the second and third reading and adopt Resolution No. 11-09 entitled "A RESOLUTION AMENDING THE 2011 APPROPRIATIONS, AS SET FORTH BELOW, PURSUANT TO SECTION 5705.40 OF THE OHIO REVISED CODE AND SECTION 12.35 OF THE OHIO ADMINISTRATIVE CODE AND APPROVING THE AMENDMENT TO THE CERTIFICATE OF ESTIMATED RESOURCES, AND DECLARING IT AN EMERGENCY." All yeas, motion carried.

Assistant Manager/Finance Director Keaton advised the summer newsletters were mailed recently.

There was no Old Business.

In New Business, Member Duncan requested an Executive Session on a Real Estate Matter.

Motion by Duncan, second by Garber to go into Executive Session on a Real Estate Matter as requested by Member Duncan. All yeas, motion carried.

Mayor Seagraves called Council back into Regular Session.

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