

BROOKVILLE CITY COUNCIL  
REGULAR MEETING  
August 2, 2011

The Regular Meeting of the Brookville City Council was called to order by Vice Mayor Ullery at 7:30 p.m. on August 2, 2011 in the City Council Chambers. The Pledge of Allegiance was recited. Members Apgar, Cantrell, Duncan, Garber and Letner; Police Chief Preston, Fire Chief Nickel, Law Director Stephan and Assistant Manager/Finance Director/Clerk Keaton were present. Manager Wright and Mayor Seagraves were absent.

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

Motion by Duncan, second by Apgar to accept the July 19, 2011 Regular Meeting Minutes as presented. All yeas, motion carried.

Vice Mayor Ullery welcomed everyone to the Council Meeting.

There were no Citizens' Comments.

The Manager's Report was given by Assistant Manager/Finance Director Keaton.

Assistant Manager/Finance Director Keaton reported Council should have a copy of a letter from Bible Baptist Fellowship Church, which is located in the old Brookville National Bank building on Market Street. Assistant Manager/Finance Director Keaton stated she wanted to share this letter with Council as the letter announces good, positive news about our Brookville Police Department. As the last sentence reads, "It's not every day that the police receive positive attention for good community relations. Thank you for a job well done."

Assistant Manager/Finance Director Keaton reported Council should have a copy of an e-mail message that was sent to the City's e-mail address late on Saturday evening following the fireworks display at the Community Picnic. The individual stated he "loved, loved, loved the fireworks" and we did a good job.

Assistant Manager/Finance Director Keaton gave a brief update on the possible construction of a walkway from the Golden Gate Estates Subdivision to Golden Gate Park and stated the City is still obtaining cost estimates to construct a walkway from where the sidewalk currently ends at Golden Gate Estates on East Upper Lewisburg-Salem Road going west along the next two properties and ending just across the exit at Golden Gate Park. Additional information will be presented at a later Council Meeting.

Assistant Manager/Finance Director reported the City recently purchased new banners for Market Street; the banners are very colorful, display the City logo and also announce Market Street as the Downtown Business District.

Assistant Manager/Finance Director Keaton stated Council should have a copy of a letter from RFK&K Group LLC that addresses comments raised at past Council Meetings regarding the retention pond at the corner of Arlington and W. Upper Lewisburg-Salem Roads and opened the floor for Council discussion. Assistant Manager/Finance Director Keaton informed Council that maintenance of retention/detention ponds was discussed at great length at the last Planning Commission Meeting, which Council should have a copy.

Motion by Apgar, second by Letner to table discussion on the letter received from RFK&K Group LLC until the next Council Meeting, which will allow Council Members time to go over the Planning Commission Meeting Minutes. Apgar yea, Duncan nay, Cantrell yea, Letner yea, Garber yea, Ullery yea. Motion carried with five yeas and one nay.

Member Garber stated that he voted yes so that City Staff has time to research annual maintenance costs.

Assistant Manager/Finance Director Keaton stated that Law Director Stephan will be giving a brief overview of the Planning Commission Meeting and proposed Ordinance under his report, which will give Council additional information to review.

Member Garber stated he would like to mention the picnic and that he thought it went well, but was concerned about the number of trash cans, or frequency of trash pick-up.

Assistant Manager/Finance Director Keaton stated they will discuss the trash issue at the Staff Meeting tomorrow.

Member Garber suggested to also speak with the employees who clean-up to see if they have ideas.

Assistant Manager/Finance Director Keaton stated they can do that.

Dottie Watkins stated she would like to see recycling containers at the picnic along with trash containers.

Fire Chief Nickel presented the Brookville Fire Department Incident Type Summary by District Report for July 20 through August 2, 2011 which indicated the Brookville Fire Department responded to 45 calls. This same report shows there were 122 calls for the month of July and reported that the Fire Department is maintaining the activity level.

Fire Chief Nickel stated Council should have a copy of his letter to Mayor Seagraves announcing his retirement. Fire Chief Nickel read his letter aloud.

Vice Mayor Ullery stated that he is accepting this letter with deepest regret, and spoke of his respect for Chief Nickel.

Member Duncan responded that he was here when Fire Chief Nickel was hired and knows that Council made the right decision in doing so. He wished Fire Chief Nickel the best of luck in his retirement.

Police Chief Preston presented the Brookville Police Department Incident Log and Arrest Log from July 19 through August 1, 2011. During that time there were 36 new cases for investigation, 27 of those cases are closed with 9 still pending further investigation; 16 of those cases were closed out by arrest.

Police Chief Preston announced the weekend news reported a missing juvenile from Brookville, the juvenile was found in Huber Heights. This is the fourth run-away incident with this juvenile.

Police Chief Preston reported that on July 22 several storage sheds were broken into in the Meadows of Brookville Subdivision; some weed eaters and leaf blowers were stolen. On July 25 the front glass door of the Great Wall Restaurant was kicked in and a tip jar was stolen from the counter.

Member Garber asked Fire Chief Nickel if there were any heat related incidents at the Community Picnic and were there any issues with the fireworks display.

Fire Chief Nickel stated all went well with the fireworks display. There were only a few minor injuries throughout the picnic, which were treated by the CERT people.

Police Chief Preston reported his department experienced very little problems. After the drawing about one-third of the people left, and when the crowd thins out like that, it really helps out the Police Department.

Vice Mayor Ullery congratulated Police Chief Preston on the letter he received from the church and Police Department for their cooperation.

Law Director Stephan reported that Council should have two Memorandums that were presented to the Planning Commission at their last meeting. The first Memorandum has an attached draft of a proposed Ordinance to address maintenance of detention basins, retentions areas & other drainage improvements in the City of Brookville that would set a specific set of standards for maintenance and create a procedure whereby the Property Maintenance Officer

could take action to seek abatement of any situation that would not meet these standards. Planning Commission's primary comment was that they wanted to adopt language which would address that if the developer or property owner of the pond or the association was set up to maintain a pond and were not properly taking action or not available to take action that we could potentially assess all the other property owners in a particular subdivision for the cost of this maintenance. Law Director Stephan stated he will work on language to be presented at the next Planning Commission meeting for further discussion.

Member Garber asked if this would be similar to violations now in place for property maintenance that if not paid, will be assessed.

Law Director Stephan said yes, it is the same mechanism for assessment. The only difference in the procedure would be that if you have a developer or an association that is established by the original subdivision filing, that in the long term should be maintaining the pond or other basin and they are not doing that and are not in place legally, then we could pass that assessment on to individual property owners within a particular subdivision. Law Director Stephan advised Council to review the Planning Commission Minutes, if there are any questions they can review them at the next Council Meeting.

Member Duncan inquired about Section A of the proposed Ordinance that states an owner of any lot that retains a retention basin, and he knows that there are some retention basins that are covered by homeowners associations but some of those ponds are on someone's lot and questioned who would be responsible then, the lot owner or the association?

Law Director Stephan replied we would be looking at either. Usually the developer will initially own the lot where the pond/basin is located, then when a certain number of lots are sold it is turned over to the association. By that time the association should be up and running and the association would then maintain that lot. Normally the developer will deed that lot to the association, so we would be looking at pursuing the association if in place.

Member Duncan stated that some of the property lines in Arlington Woods go right through the pond. Where does that leave them?

Law Director Stephan stated they should not be fully responsible; and that is Planning Commission's direction, that if the association is not doing what they should be doing, either not formed or not taking the appropriate action then the City needs to take action and the City is looking at passing the costs along to all the lots that are benefiting from that particular drainage facility, so the costs are equally shared and hopefully minimal for everyone. Law Director Stephan stated that most ponds are on a separate lot.

Member Garber inquired about the "Management of Vegetation", if that meant if a trees dies will it be replaced? Does maintain mean maintain the current level of landscaping or basically taking care of what is currently there?

Law Director Stephan stated what we are currently looking for is to try to make sure that the pond or basin is working properly, so if there is vegetation blocking a channel, plugging an inlet or outlet pipe, these are the items that need to be addressed. All ponds work differently and our goal is to keep them working properly. There are not a lot of Ordinances that address these issues.

Law Director Stephan stated the other Memorandum simply addresses the Arlington Road retention pond with respect to ownership and whether or not an association was established. Law Director Stephan provided a copy of the declaration of covenants and conditions and restrictions that were filed at the time the subdivision was originally created and the pond was created and has noted in the Memorandum there is a proposed association under this declaration that will eventually take over the management of this retention pond; but until the last lot is sold the developer named in the declaration is primarily responsible for the maintenance of the retention pond. This type of declaration gives a general idea of how a retention pond is eventually turned over to an association.

Member Duncan asked how many lots were yet to be sold.

Law Director Stephan added that there are three lots and there is some undeveloped area on the other side of Meadow Glen. There are three platted lots counting the retention pond in the first phase and then there was to be a second phase to the west to be served by this facility.

Assistant Manager /Finance Director Keaton presented the July 31, 2011 Fund Balance for Council review and approval.

Motion by Cantrell, second by Garber to approve the July 31, 2011 Fund Balance as presented. All yeas, motion carried.

Assistant Manager/Finance Director Keaton requested Council approval to transfer \$100,000 from the General Fund to the Capital Improvement Fund as appropriated.

Motion by Apgar, second by Cantrell to approve the transfer of \$100,000 into the Capital Improvement Fund as appropriated and requested. All yeas, motion carried.

Assistant Manager/Finance Director Keaton requested Council approval to accept and authorize the signing of the Agreements for Depositories with Brookville National Bank, Fifth/Third Bank, US Bank and Huntington Bank for a five year period beginning September 1, 2011, and that is for the deposit of public funds for active, inactive and interim funds. Our current agreement with US Bank expires October 31, 2011 and the other three expire at the end of December 2011. Currently short term investments are non-existent and she cannot get short term investment rates.

Motion by Apgar, second by Duncan to accept and authorize the signing of the Agreements for Depositories with Brookville National Bank, US Bank, Fifth Third Bank and Huntington Bank for a five-year period beginning September 1, 2011 for the deposit of public funds for active, inactive and interim funds as recommend by Assistant Manager/Finance Director Keaton. All yeas, motion carried.

Assistant Manager/Director of Finance Keaton requested Council adopt proposed Resolution No. 11-10, which allows the City Manager to prepare and submit an Ohio Public Works Grant and to execute contracts as required by the Ohio Pubic Works Commission. Assistant Manager/Finance Director Keaton stated we are planning to resubmit the Waste Water Treatment Plant Aeration Rehab Project, the same project that we submitted last year that did not receive funding.

Motion by Garber, second by Cantrell to read proposed Resolution No. 11-10. 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. 11-10 entitled "A RESOLUTION AUTHORIZING THE CITY MANAGER TO PREPARE AND SUBMIT AN APPLICATION TO PARTICIPATE IN THE OHIO PUBLIC WORKS COMMISSION STATE CAPITAL IMPROVEMENT AND/OR LOCAL TRANSPORTATION IMPROVEMENT PROGRAM(S) AND TO EXECUTE CONTRACTS AS REQUIRED, AND DECLARING IT AN EMERGENCY". All yeas, motion carried.

Vice Mayor Ullery stated he understands that the Community Picnic went well.

Member Garber presented a handout of the DP&L Maintenance Program and stated DP&L will be in Brookville clearing trees for the next couple of weeks.

Assistant Manager/Finance Director Keaton added that a representative of a tree company that was hired by DP&L was in the office today stating that they will be clearing out the back driveway fence line at Golden Gate Park.

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