

BROOKVILLE CITY COUNCIL
REGULAR MEETING
February 5, 2013

The Regular Meeting of the Brookville City Council was called to order by Mayor Seagraves at 7:30 p.m. on February 5, 2013 in the City Council Chambers. The Pledge of Allegiance was recited. Members Apgar, Cantrell, Duncan, Garber and Howard; Police Chief Jerome, Fire Chief Fletcher, Law Director Stephan, Assistant Manager/Finance Director/Clerk Keaton, and Manager Wright were present. Member Letner was absent.

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

Motion by Apgar, second by Cantrell to accept the January 15, 2013 Regular Meeting Minutes as presented. All yeas, motion carried.

Fire Chief Fletcher introduced the recipients of the 2012 Brookville Fire Department's Annual awards and had each one introduce their families in attendance. Fire Chief Fletcher announced FF/EMT Dave Schmitt was chosen to receive the EMS Provider of the Year Award because of his dedication and commitment to the Brookville Fire Department. FF/EMT Schmitt goes to great lengths to perform his duties and to step up and take extra shifts whenever needed.

Mayor Seagraves presented the 2012 EMS Provider of the Year Award to FF/EMT Dave Schmitt and thanked him for an outstanding year.

Fire Chief Fletcher introduced FF/EMT Josh Rawlins, whose dedication and commitment to the Fire Department earned him the 2012 Firefighter of the Year award. FF/EMT Rawlins is a homegrown Brookville firefighter and also serves on the Trotwood and Butler Township Fire Departments.

Mayor Seagraves presented FF/EMT Josh Rawlins with the 2012 Firefighter of the Year Award and thanked him for his service and commitment to the community.

Fire Chief Fletcher introduced Captain Mike Hensley, who was chosen as the 2012 Officer of the Year, and advised he has been a member of the Brookville Fire Department for 23 years. His dedication and commitment to the Department and the community is second to none. Captain Hensley also coordinates the continuing education of our Fire Department. Fire Chief Fletcher commented that while we have an outstanding group of Fire Officers and it was a tough decision, he cannot think of anyone more deserving than Captain Hensley.

Mayor Seagraves presented Captain Mike Hensley with the 2012 Officer of the Year Award and thanked him for his service and commitment.

Manager Wright reminded Council and citizens that tomorrow is the changeover from the Montgomery County Regional Dispatch Center to the Englewood Dispatch Center. Manager Wright reported both the Fire Chief and the Police Chief have been working very hard on this changeover and he feels we are ready. The changeover will occur at 10:00 a.m. Manager Wright commented that Fire Chief Fletcher has done an excellent job as the liaison between the City of Brookville and the City of Englewood.

Member Garber inquired whether any test calls have been made?

Fire Chief Fletcher advised test calls cannot be made until the official switchover of the 911 system, but everything that can be tested to this point has been done. Fire Chief Fletcher advised he and his crew will start verification phone calls at 10:01 a.m.

Member Garber inquired whether we should anticipate a peak of calls from citizens wanting to test the 911 system?

Fire Chief Fletcher replied he does not expect any 911 calls because the number has not changed. Fire Chief Fletcher stated the 833-HELP number has gotten a little bit of activity.

Fire Chief Fletcher advised he has met with the Englewood dispatchers and they are anticipating questions from the public. The dispatchers also came to our Fire Department for a tour and have done some ride-a-longs with our Police Department.

Member Garber commented he heard a 911 call on the news that reported a school bus rollover in another community. Member Garber stated the first thing the dispatcher said to the caller, before asking any questions, was that an ambulance was on the way. Member Garber stated we have made a good move.

Manager Wright commented the technology and the service are two of the things we are hanging our hats on. He has been impressed with the dedication that the City of Englewood has put toward this and he is confident this is a good move.

Manager Wright presented a property tax rate survey which shows that Brookville has the lowest city property tax rate in Montgomery County, because we have no voted millage. Manager Wright stated this will give Council information to consider in how we go about creating new revenues. Manager Wright said this information provides a good response to people who say they are moving out of Montgomery County because the taxes are so high.

Manager Wright commented the Service Department has been busy with weather related issues such as plowing snow, water main breaks and illness.

Fire Chief Fletcher thanked Council for recognizing the award recipients this evening as it means a lot to the firefighters and their families.

Fire Chief Fletcher presented the January 2013 Operations Report, which shows the Fire Department responded to 34 Fire Incidents and 138 EMS Incidents during the month. Fire Chief Fletcher stated January was the busiest month ever for EMS calls and the second busiest month overall in our history. Fire Chief Fletcher stated many of the EMS calls can be attributed to the flu and we had to rely on mutual aid more than usual. Historically, we are a department that gives more than we receive from neighboring Fire Departments, but it could not be avoided. Fire Chief Fletcher advised it was not a staffing issue; we just did not have enough ambulances to handle the call volume.

Police Chief Jerome advised all of the key alarms that ring into the dispatch center have been switched over and the Police Department will be testing them tomorrow.

Police Chief Jerome reported the Brookville Police Department handled 58 Reportable Incidents for the month of January, which is up by 10 incidents over this same time last year; Citations are down 31 from this same time last year for a total of 36 and 142 Traffic Stops were made in the month of January.

Police Chief Jerome advised the new server is installed and the department is further along technology wise than it has been in years. Police Chief Jerome reported the Police Department will be hosting "Coffee with a Cop" this Saturday from 9:00 a.m. until 10 a.m. at the Villas of Brookville. This will give the public an opportunity to interact with our Police Officers in a social atmosphere. There will also be a short Identity Theft program for the residents of the Villas.

Member Garber inquired why the number of Traffic Stops for the month of January is half of what it was last January?

Police Chief Jerome advised several people have been off sick recently, which could be a contributing factor, but the biggest reason is that we have changed how we operate. Police Chief Jerome stated we have taken away the minimum stop per shift theory and are taking more of a crime prevention approach. We are also taking on more projects, spending time walking more businesses and spending more time in the schools. We have changed the focus from a traffic enforcement model to a crime prevention model. Police Chief Jerome advised the community in general is receptive and the results have been positive.

Law Director Stephan commented on proposed Ordinance 2013-03, which will assist the City with addressing any costs incurred when repairing, removing or securing fire damaged

buildings and other structures after a fire loss. The Ohio Revised Code (ORC) Chapter 3929.86 permits municipal corporations and townships to pass an Ordinance or Resolution to adopt the procedures in ORC Chapters 3929.86(c) and 3929.86(d) for fire loss claims. The procedure is when a fire loss exceeds 60% of the aggregate limits of liability in all fire insurance policies on the building or structure, the insurance company or companies shall transfer to the designated Officer of the City an amount equal to \$2,000 for each \$15,000 of the claim, or if the insured has submitted a contractor's signed estimate for the cost of removing, repairing or securing the building or structure, the insurance company shall transfer to the City the amount specified in the estimate. The City then notifies the named insured that the City has received the insurance proceeds and the following procedure will be followed.

Mayor Seagraves recessed the Regular Meeting of Council at 8:00 p.m. for a Public Hearing, which is a combined meeting with Council and Planning Commission on proposed Ordinance No. 2013-02, which establishes regulations for Accessory Buildings.

The Public Hearing was recorded and is on file with the Clerk at the Municipal Offices.

Assistant Manager/Finance Director Keaton announced the Public Hearing tonight is on proposed Ordinance No. 2013-02, to consider amendments to the zoning regulations for Accessory Buildings in the City of Brookville, Ohio. A Legal Notice was published in the January 22, 2013 edition of the Brookville Star and it was also posted on the City's website advising of this Public Hearing. The City Office did not receive any phone calls, nor did anyone stop in the City Office to review the proposed Ordinance. Clerk Keaton turned the Public Hearing over to Law Director Stephan for a staff report.

Law Director Stephan stated proposed Ordinance No. 2013-02 will make the following changes to our current accessory building regulations: the Ordinance will add the term storage shed to the text; the current rule permits two storage sheds with each shed restricted to 120 square feet in size, the proposed Ordinance will permit one shed up to 199 square feet in size; the Ordinance would amend the current requirement for driveways to require them to be constructed of concrete, pavement or pavers. Law Director Stephan stated he will take the previous request, by Council Member Duncan to add the word asphalt, to Planning Commission at their next meeting. The proposed Ordinance reorganizes section 1157.03 to specify three categories of accessory buildings in residential districts, specifically storage sheds, detached garages and attached garages. The proposed Ordinance eliminates references to building permits in Section 1157.04 for patios, porches, carports and canopies. The Building Code in effect at the time of construction will determine whether a permit is required. By taking this reference to building permits out of the zoning text, any changes to the building code will not require changes to the zoning text.

Clerk Keaton inquired whether there were any comments or questions from Council? There were none.

Clerk Keaton opened the floor for public comment and stated if anyone would like to speak or otherwise participate in the Public Hearing should stand and be sworn in. There was no one present to speak at the Public Hearing.

Motion by Duncan, second by Apgar to close the Public Hearing. All yeas, motion carried.

Law Director Stephan resumed his comments on proposed Ordinance 2013-03, stating once the City has received the insurance proceeds and notified the named insured that the funds have been received, the funds will be returned to the named insured or insureds when repairs, removal or securing of the building or other structure has been completed, the required proof has been received by the designated Officer of the City and if the City has not incurred any costs for the repairs, removal or securing of the building or other structure. The funds shall be returned no later than 60 days after the designated Officer receives the required proof of completion of repairs to the property or completion of demolition of the property; if the City has incurred costs for repairs, removal or securing of the building or other structure, the cost shall be paid from the fund and if any excess funds remain the City shall transfer, no later than 60 days after all such costs have been paid, the remaining funds to the named insured or insureds. The statute also permits the City and the named insured or insureds to enter into an

agreement that permits transfer of the funds to the named insured or insureds if some other reasonable disposition of the damaged property has been negotiated. Law Director Stephan stated the essence of the proposed Ordinance is the following: when a fire loss occurs, if the property owner does the repairs or demos the property, takes care of those costs and the City does not incur any costs, the funds received by the City would be paid back to the property owner or the named insured. If the property owner, for whatever reason, does not do that, this Ordinance would help us recoup some of the costs we could be faced with if we have to do demolition of the property. Law Director Stephan reported this has been reviewed by Fire Chief Fletcher, Zoning Officer Snedeker, Manager Wright and Assistant Manager/Finance Director Keaton and they are recommending this Ordinance would be appropriate for the City to adopt. As noted before, it is set out in the Ohio Revised Code that any municipal corporation or township can adopt this procedure by passing an Ordinance or Resolution. It is then submitted to the Ohio Superintendent of Insurance. Once the Ordinance is submitted to the Ohio Superintendent of Insurance, any fire loss claim in the City of Brookville would be subject to this procedure.

Member Garber asked Law Director Stephan to walk thru an example of the procedure, saying if someone has a kitchen fire and the fire department puts it out, what is the procedure?

Law Director Stephan stated a small fire would not trigger this statute. If the fire loss exceeds 60%, the insurance company will check with the Ohio Department of Insurance and see that we have this Ordinance in place. They will then contact us and make the deposit of either \$2,000 per \$15,000 worth of coverage, or the amount of the contractor's estimate for repair or removal of the structure. Our designated Officer, the City Manager, would put these funds in a separate escrowed account. We then notify the policy holder we have received the funds. If the property is to be repaired, the policy holder can move forward and when the work is completed, we will do an inspection and transfer the funds to the policy holder or to the contractor. In a situation where the property owner walks away and we have to go through our nuisance abatement process and have the property demolished, we could then reimburse ourselves for the costs that we have incurred for the demolition. This reimbursement only kicks in if the property owner does not take action to repair the property or have the property demolished, and the City incurs cost for repairs or demolition.

Member Garber asked if we would have to submit a claim to the insurance company for any expenses we incur to repair or demolish a property?

Law Director Stephan replied no, the money is deposited with us and we can reimburse ourselves out of those funds if we incur expenses to repair or demolish the property.

Member Garber asked if we are needlessly inserting ourselves into the insurance claim process?

Member Cantrell asked if we have had situations where we have had to repair something that has burned?

Law Director Stephan stated we are facing this type of situation right now.

Mayor Seagraves commented if the homeowner just walks away, why should the City be responsible?

Manager Wright advised the point is being missed. The City is not going to repair a burned out structure. For example, if there is a house that has 80% fire damage, and the insurance company cuts the homeowner a check, the homeowner can just take the money and go build a house somewhere else. The City is stuck with the burned out structure and have to go through the property maintenance code in order to demolish the property, which is a lengthy court process. This speeds the process for structures that are 60% or more damaged, that homeowners have abandoned.

Member Garber asked why the City cannot file a claim on the property?

Member Apgar stated that is what this is.

Member Garber replied no, with this we are getting money that we have to hold and release. Member Cantrell stated we cannot file a claim; we are not the property owners.

Fire Chief Fletcher advised this is not a new ordinance for him and he has found it to be very successful from the standpoint of instead of the insured being handed all of their money, the City gets to hold part of it to make sure our interests are addressed, versus having to go after the property owner to get money back out of them. The insurance company is saying here is the money, but the City is going to hold part of it until you meet your obligations of abating the hazard. It may not be a walk away situation, it may be one where the property owner wants to fix it on their time frame and drags it out about three years, making the City go through the process of chasing them. The proposed Ordinance gives us a mechanism to protect our monetary interests.

Member Garber stated if the property owner is going to fix it themselves, the City has no expense other than the initial fire suppression.

Member Duncan stated then they get their money back. It is an insurance policy for the City. For example, if Bruce Garber's house burns and he has a \$100,000 insurance policy, which he collects and then leaves the country and the City has to pay \$50,000 to tear the house down, where is the City going to get the \$50,000?

Member Garber replied that example is a little extreme.

Member Duncan stated it is the same thing.

Member Garber stated if you get into a car accident, you exchange information with the other driver and put in a claim to their insurance company to get your money back.

Member Duncan stated the City cannot do that as we do not have a legal right to claim it. We are not the property owner.

Member Apgar stated the City did not cause the fire so we cannot make a claim. Member Apgar asked Member Garber if you have an insurance policy on your home and it burns, who gets the money?

Member Garber replied he would get the money because it is his responsibility to fix it.

Member Apgar then said if you do not do it, then the City has to go after you and sue you for it. This way, the City gets part of it up front, the homeowner gets the balance and if it is not done we do not have to take anyone to court to get our money back.

Fire Chief Fletcher stated the proposed Ordinance is truly a motivator to the property owner because they want their money. They want to abate the hazards and meet the inspections because they have a vested interest to make it right versus just walking away with the money.

Member Garber stated it seems like we are getting into the middle of it, and it is a lot of extra bureaucratic work.

Fire Chief Fletcher commented the Fire Department loses a lot of authority over a fire scene once the last unit leaves the scene. Ohio law says we have a ton of authority at the scene of every fire as long as we are at the scene. The moment we walk away and the last unit clears, we lose a lot of our ability and have to fight to get certain things done. Without this mechanism, if we were to go back to the insurance company and say your insured stuck us with a mess and we would like you to help pay the cost of this, the insurance company is going to say there is already a mechanism in Ohio law that provides for that and you need to take advantage of that because we have paid the claim. Fire Chief Fletcher stated we want to make sure we get our portion of that money set aside, until the right things get done.

Motion by Duncan to read proposed Ordinance No. 2013-03.

Member Howard stated she has a few questions first. Member Howard asked if this would automatically trigger on all losses where 60% of the value of the property is impacted?

Law Director Stephan replied this would trigger on all fire losses.

Member Garber asked how it is triggered? How is the percentage of loss determined and who determines it?

Law Director Stephan advised the statute states when the loss is agreed to, by the named insured(s) and the company or companies, equals or exceeds 60% of the aggregate limits of liability on all fire policies covering the building or structure then the process is triggered. Law Director Stephan stated if you have \$100,000 in coverage and the company has determined they are going to pay at least \$60,000, it is triggered. When that threshold is reached, the insurance company looks to the Ohio Superintendent of Insurance and asks if this City has this Ordinance. The insurance companies know if the City has this Ordinance in place, they need to follow it. If the City does not have this Ordinance, the insurance company can move forward with the settlement.

Member Garber asked in this situation, is this in addition to the payment to the insured or is this a part of the settlement?

Mayor Seagraves stated for every \$15,000 of damage, the City will receive \$2,000 to hold in escrow.

Member Garber stated he understands that but no one told him if that was an additional \$2,000 for every \$15,000 of coverage.

Member Apgar replied it is part of the \$15,000.

Member Garber asked how the other Council Members know about this? Did they get information he did not get?

Member Cantrell replied Law Director Stephan explained it initially.

Member Garber said Law Director Stephan did not say whether the \$2,000 is in addition or part of the \$15,000.

Member Cantrell stated he did say that it was part of the \$15,000. Member Cantrell stated the only person that would really be affected by this in the case of a loss, is someone who does not have a mortgage. If you have a mortgage, your lender is going to ensure that the property is fixed accordingly. This will probably only benefit the City when there is no outstanding lien holder on the property and a person can walk away with the insurance proceeds and not fix the property. In this case the City is going to have to pay to tear it down, or the property is going to become rat infested or inhabited by people that are homeless or what have you. Member Cantrell said this is in our best interest as a City; it is not going to affect those of us who have a mortgage.

Member Garber said he does not want to start a lot of bureaucratic paperwork nonsense.

Fire Chief Fletcher said statistically speaking a 60% type of loss occurs one time a year within the City.

Mayor Seagraves stated there is a motion on the floor to read proposed Ordinance 2013-03, and called for a second.

Member Apgar seconded the motion. All yeas, motion carried.

Motion by Duncan, second by Apgar to accept the first reading of proposed Ordinance No. 2013-03. All yeas, motion carried.

Assistant Manager/Finance Director Keaton presented the January 31, 2013 Fund Balance for Council review and approval.

Motion by Duncan, second by Apgar to approve the January 31, 2013 Fund Balance as presented. All yeas, motion carried.

Assistant Manager/Finance Director Keaton reported the City of Vandalia Income Tax Department will once again have representatives at our City Building to assist our residents with the preparation of their local income tax returns. The representatives will be here on Friday, April 5, from 8:00 a.m. to 4:30 p.m. and again on Saturday, April 6, from 8:00 a.m. to noon.

Assistant Manager/Finance Director Keaton advised Park Board has set Saturday, March 23 as our Annual Community Park Cleanup Day. Cleanup will be from 10:00 a.m. to noon. Trash bags and equipment will be provided at Golden Gate Park, Ward Park and the Westbrook Soccer Complex. Park Board and the City of Brookville will serve hot dogs and refreshments at noon in Shelter #3 at Golden Gate Park following cleanup.

Assistant Manager/Finance Director Keaton stated Council should have their 2012 Financial Disclosure packets completed and submitted with the \$35.00 fee to the Ohio Ethics Commission by May 15, 2013.

Assistant Manager/Finance Director Keaton provided a copy of the street layout for the City Wide Garage Sales and inquired whether Council would like to hold the garage sales again this year. The consensus was to allow the City Wide Garage Sales in June of 2013.

Member Garber inquired what Montgomery County's response was to waiving the \$25,000 portion of Brookville's Outstanding Liability.

Assistant Manager/Finance Director Keaton replied Montgomery County is not waiving the fee, as they say it is a part the debt that is owed.

Member Cantrell asked what the total payout is?

Assistant Manager/Finance Director Keaton advised it is the \$176,663 amount that was included in our 2013 budget.

Mayor Seagraves thanked Manager Wright and staff for the extra effort with the snow removal.

Mayor Seagraves encouraged everyone to attend the Mayor's Benefit Dance on February 15, 2013 from 7:30 p.m. until 11:30 p.m. at the Brookville VFW Post 3288. All monies raised will benefit needy Brookville families.

Member Cantrell asked to be excused from the next Council meeting.

The consensus was to excuse Member Cantrell from the February 19, 2013 Council Meeting.

Motion by Duncan, second by Howard to read proposed Resolution No. 13-02. All yeas, motion carried.

Motion by Duncan, second by Apgar to accept the second reading of proposed Resolution No. 13-02. All yeas, motion carried.

There was no Old Business.

There was no New Business.

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