

BROOKVILLE CITY COUNCIL
REGULAR MEETING
March 3, 2009

The Regular Meeting of the Brookville City Council was called to order by Mayor Seagraves at 7:30 p.m. on March 3, 2009 in the City Council Chambers. The pledge of allegiance was recited. Members Cantrell, Duncan, Garber, Letner and Reel; Manager Wright, Assistant Manager Sewert, Law Director Stephan, Fire Chief Nickel, Police Chief Preston and Director of Finance/Clerk Keaton were present. Member Ullery was absent.

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

Motion by Reel, second by Duncan to accept the February 17, 2009 Regular Meeting Minutes as presented. All yeas, motion carried.

Valerie Thorn, of 13674 Westbrook Road, stated she was present tonight to address some issues with the Police Department and share her concerns with Council. Ms. Thorn stated her first concern is the treatment her daughter received when she was pulled over and was arrested by Brookville Police. Her daughter was placed in handcuffs for a long period of time and was not told why she was being arrested. In the meantime, her daughter was having an asthma attack and was having difficulty breathing. At that time she was finally notified about her daughter. Ms. Thorn reported her daughter had a number of bruises on her wrists, arms and back. Ms. Thorn stated she feels her daughter is being targeted because of the reputation of her older brother. Ms. Thorn commented the Police Officers are supposed to be a mentor and someone the children can be comfortable going to if they need help. Ms. Thorn stated this is not the case in Brookville. Ms. Thorn stated the kids have no trust or respect for most of the officers. She said if the kids receive respect from the Police Department, they would receive respect from the kids.

Mayor Seagraves stated this is a personnel issue that is being reviewed by the Police Chief, City Manager and Law Director. A letter addressing her concerns will be mailed out soon by the Police Chief.

Member Duncan stated Council is aware of several issues that took place last summer, namely people being bullied by a group of kids along the bikeway, and we have a lot of concerns with kids riding their skateboards in the downtown area and in the streets in an unsafe manner. We received numerous complaints last summer from individuals, Township Trustees and Five Rivers Metro Park officials on complaints that they received from individuals walking on the bikeway. Maybe we need to form a parent's group to help monitor kids. We have done that in the past with providing movies and dances, but after while, the parent volunteers go by the wayside and it falls through.

Charlotte Szabo, of 404 Mound Street, stated it sounds to her that we are making excuses, Ms. Thorn's kid was abused. Ms. Szabo commented the Police Department follows her one grandson around, because the other grandson was a troublemaker. Ms. Szabo stated on a couple of occasions she was accosted by Brookville Officers.

Matt Caylor, of 212 S. Wolf Creek Street, stated he was approached by a group of kids along the bikeway while he was jogging. On two occasions an individual from the group stopped him to ask for his jogging gloves and he felt threatened by the group.

Chad Wakefield, of 39 E. McKinley Street, stated he works at the Brookville Party Supply & Drive Thru and normally closes up around midnight. One evening as he was riding his bike home from work about 14 kids started running after him and he assumes it was the kids that always hang around the bikeway along Market Street.

Mr. Caylor stated last summer as he was leaving one of the businesses on Market Street, he got hit by a girl on a bike. He was not hurt.

Mayor Seagraves reiterated that we will address the personnel issues of the Brookville Police Department.

Anne Banta, of 339 Maple Street, stated she has been taking notes during this discussion tonight and it seems to her that there is a rift between the youth of the community and the Brookville Police Department. We need to bridge the discontent between the youth and Police Department.

Dave Monnin, President of Park Board, commented that Park Board is here to provide the youth of the community with various venues, such as a skate park and various sports activities within our parks. We see vandalism on a daily basis in our skate park. We try and do our best to provide the youth of the community with activities with the money that we have.

Erin Lipinski, of 429 W. Westbrook Road, stated with the incident that happened with Ms. Thorn's daughter, her son and his friend were the two boys in the vehicle when the girl was pulled over. Her son and his friend were told to walk home wearing shorts and a sweatshirt in 25 degree weather. Doesn't common sense and decency tell you it would have been a better idea to call their parents to come pick them up, or better yet, drive them the short distance home?

Mayor Seagraves stated those two boys should not have been told to walk home in the cold, and he apologized for that. Mayor Seagraves stated a new procedure is in place so this type of situation does not occur in the future. Mayor Seagraves thanked everyone for their comments and stated they will be taken under advisement. Since this is a personnel issue, it will be addressed and a letter will be forwarded to the Thorn family.

Manager Wright reported the Miami Valley Regional Planning Commission (MVRPC) has solicited local government entities to submit new transportation projects for funding consideration through the Federal American Reinvestment and Recovery Act, or what is commonly known as the federal stimulus bill. One of the submittal requirements is Council approval of the Resolution before Council tonight. The project is Wolf Creek Street Mill and Resurfacing Project. Passage of this Resolution allows the City to submit this project through the Miami Valley Regional Planning Commission.

Motion by Cantrell, second by Letner to read proposed Resolution No. 09-05. All yeas, motion carried.

Motion by Duncan, second by Cantrell to accept the first reading, dispense with the second and third reading and adopt Resolution No. 09-05 entitled "A RESOLUTION AUTHORIZING STAFF TO SUBMIT AN APPLICATION FOR FEDERAL AMERICAN REINVESTMENT AND RECOVERY ACT OF 2009 FUNDS THROUGH THE MIAMI VALLEY REGIONAL PLANNING COMMISSION, AND DECLARING IT AN EMERGENCY." Garber nay, Letner yea, Reel yea, Duncan yea, Cantrell yea and Seagraves yea. Motion carried with five yeas and one nay.

Manager Wright reported there are numerous funding request areas of this stimulus bill. Two of the areas the City is reviewing are - funding for a new fire station and the hiring of a new Police Officer through the former COPS Grant.

Manager Wright reported proposed Resolution No. 09-04, which is before Council tonight, authorizes the City to contract with Montgomery County to provide one weather siren and control at a cost not to exceed \$10,232, which is 50% of the costs associated with a new weather siren and control. Montgomery County was awarded a 50/50 2008 FEMA Weather Alert Grant. The siren will replace an older siren in Golden Gate Park.

Motion by Duncan, second by Garber to read proposed Resolution No. 09-04. All yeas, motion carried.

Motion by Reel, second by Duncan to accept the first reading, dispense with the second and third reading and adopt Resolution No. 09-04 entitled "A RESOLUTION AUTHORIZING THE CITY MANAGER TO PURCHASE ONE WEATHER SIREN AND CONTROL, AND DECLARING IT AN EMERGENCY." All yeas, motion carried.

Manager Wright reported the City recently sold the old refuse truck on GovDeals for \$10,100. In 2008, the City sold assets totaling \$37,431.67 on GovDeals.

Manager Wright reported the 2008 Annual Report will be presented at the next Council Meeting.

Fire Chief Nickel reminded everyone to move their clock ahead one hour this weekend and to remember to replace the batteries in their smoke detectors.

Fire Chief Nickel presented a Response Time Analysis Report for the Brookville Fire Department. The report shows an average response time of six minutes and thirty-eight seconds. This response time was up due to a mutual aid call to Butler Township and two mutual aid calls to Trotwood. The report indicates we received a total of three mutual aid calls for our department, two from Lewisburg and one from New Lebanon. The report shows a total of 50 alarm calls from February 18 through March 3, 2009.

Police Chief Preston passed on his report, and asked Council if they had any questions, which they did not.

Law Director Stephan reported Council should have a copy of a letter from Time Warner Cable dated February 23, 2009, that is a notice of commencement of service by a video service provider. In 2007, the Ohio General Assembly enacted Amended Substitute Senate Bill 117, which provides for the issuance of state video service authorizations through the Ohio Department of Commerce. This law went into effective on September 24, 2007. Time Warner Cable recently applied and the Ohio Department of Commerce issued Time Warner Cable its authorization for video service in the City of Brookville under the new law. Ohio Revised Code Section 1332.23(B)(2)(d) states upon the effective date of this video service authorization Time Warner's franchise with the City terminates. Ohio Revised Section 1332.27(A) provides that Time Warner Cable's state video service authorization (VSA) goes into effect 10 days following receipt of their letter. The letter goes on to say since the City currently collects a 3% cable franchise fee, we will still be able to collect this revenue under the VSA during the current quarter. Law Director Stephan reported in order to continue receiving revenue from cable services, Council must adopt an ordinance establishing a video service provider fee (VSP Fee). Council can adopt a VSP Fee from zero to 5% of gross revenues, and Council can include or exclude advertising revenues in this VSP Fee. We currently do not receive advertising revenue under our existing franchise agreement. In order to collect a VSP Fee from any other video service provider in our community, we must provide them with timely written notice of the appropriate percentage of gross revenue to be paid. Discussion followed.

Motion by Reel, second by Garber to authorize Clerk Keaton to prepare an Ordinance, which establishes a 3% Video Service Provider Fee without advertising revenues, for the next Council Meeting. All yeas, motion carried.

Finance Director/Clerk Keaton presented the February 28, 2009 Fund Balance for Council review and approval.

Motion by Duncan, second by Reel to approve the February 28, 2009 Fund Balance as presented. All yeas, motion carried.

Finance Director/Clerk Keaton reported Park Board will be holding their Annual Community Park Cleanup Day on Saturday, March 21 from 9:00 a.m. to noon at all City parks. If we experience inclement weather it will be held on March 28. Hot dogs and refreshments will be served at noon at Shelter #3 in Golden Gate Park.

Finance Director/Clerk Keaton reported the City of Vandalia will once again have representatives at the Brookville City Building on Friday, April 3 from 8:00 a.m. to 4:30 p.m. and again on Saturday, April 4 from 8:00 a.m. to noon to assist our citizens with the completion of their local income tax return at no charge.

Finance Director/Clerk Keaton went over the proposed water and sewer rate increases with Council. Finance Director/Clerk Keaton presented examples of what the proposed water and sewer rate increases would be for a household using 3,000 and 1,000 cubic feet. The proposed water and sewer rate increases would increase approximately \$7.15 per quarter, or \$28.60 per year for a household using 3,000 cubic feet of water. The proposed water and sewer rate increases would increase approximately \$3.05 per quarter, or \$12.20 per year for a household using 1,000 cubic feet of water. Discussion followed.

Members Duncan and Reel expressed concern for increasing our sewer rates since we have control over those rates since we own the Waste Water Treatment Plant. They both understood that we have to increase the water rates since Dayton is increasing their rates to us.

Finance Director/Clerk Keaton reminded Council that when we do a road reconstruction project that involves the replacement of water and sewer lines, those construction costs associated with the installation of new lines comes out of the respective Funds. We need to maintain a balance for future capital improvement projects along with debt payments and maintenance and lab fees, which increase on a regular annual basis. We have not experienced a water rate increase since 2006 and a sewer rate increase since 2005. Finance Director/Clerk Keaton reported based on last years sewer sales, this increase would generate approximately \$24,000 to \$25,000 in additional revenue in the Sewer Fund.

Member Garber stated the Water and Sewer Funds are Enterprise Funds, and they should be self-sustaining. They should not rely on transfers out of the General Fund.

Motion by Duncan, second by Garber to authorize Finance Director/Clerk Keaton to prepare an Ordinance to increase water rates as submitted to Council with residents seeing an approximate water rate increase of 3.2%. All yeas, motion carried.

Motion by Garber, second by Letner to authorize Finance Director/Clerk Keaton to prepare an Ordinance to increase sewer rates as submitted to Council with residents seeing an approximate sewer rate increase of 5.77% increase. All yeas, motion carried.

Mayor Seagraves thanked those on Council and Staff who were able to attend the Payless Grand Opening. Mayor Seagraves stated Matt Rubel, CEO of Collective Brands, Inc., was in attendance and gave a brief presentation. Congressman Mike Turner, State Representative Seth Morgan and County Officials were also in attendance.

Mayor Seagraves commented that he sees a lot of good throughout this community. Just this past weekend, In-His-Service served more than 80 lunches to Brookville residents, and the pancake benefit that was held at a local restaurant on Saturday was very successful.

Mayor Seagraves requested an Executive Session on a Personnel Matter.

Chairperson Watkins, of the Brookville Planning Commission, read Planning Commission's recommendation that Council accept and adopt proposed Ordinance No. 2009-02 which considers the rezoning of 533 Western Avenue, Parcel ID# L54 00303 0002, Lot 2087, of the revised and consecutive numbers of lots of the City of Brookville, Ohio from its present zoning classification of "R-1B" Urban Residential District to the new classification of "PC" Planned Commercial Development. Further, Planning Commission requests that a Site Plan be submitted to Staff and that the Site Plan address signage, lighting, expansion of the driveway and a buffer as necessary to be presented to Planning Commission and Council prior to final action by Council and with the restriction that this site can only be used for storage by Bath Creations, and no other use, including retail use, is permitted. All yeas, motion carried.

Law Director Stephan stated Mr. Roberts recently met with Staff to go over Planning Commission's recommendation that a Site Plan be submitted that addresses signage, lighting, expansion of the driveway and a buffer as necessary.

Member Duncan expressed concern if Mr. Roberts buys both the lot with the barn and the lot with the house that eventually he may want to move his business into the house. Member Duncan also expressed concern of the proposed fenced in dumpster that is on the Site Plan. That was never mentioned before.

Member Reel stated he has a real problem with degrading the current zoning to another lower status that would again start another haphazard zoning issue. He thinks we need to keep our current zoning structure the way it is. We have been attempting to make our zoning a more structured situation with businesses here, homes here and apartments here. We have the opportunity to reject this rezoning.

Member Letner stated he agrees with Member Duncan, the placement of a dumpster was never discussed and Member Letner expressed concern for the dumpster possibly being emptied in the early morning and waking up the neighbors. Bath Creations should take their scrap lumber offsite.

Law Director Stephan commented the dumpster is a new element that has not been discussed in the prior public meetings and arose when the Staff met with the applicant after the Planning Commission Meeting to discuss the Site Plan. Planning Commission and Council were not aware of the dumpster before tonight.

Motion by Duncan, second by Letner to table the second reading of proposed Ordinance No. 2009-02 until Planning Commission has had a chance to review and approve the Site Plan. All yeas, motion carried.

Motion by Duncan, second by Garber to go into Executive Session on a Personnel Matter as requested by Mayor Seagraves. All yeas, motion carried.

Mayor Seagraves called Council back into Regular Session.

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

Sonja M. Keaton, Clerk

David Seagraves, Mayor