BROOKVILLE CITY COUNCIL
REGULAR MEETING
March 16, 2010

The Regular Meeting of the Brookville City Council was called to order by Vice Mayor Ullery at 7:30 p.m. on March 16, 2010 in the City Council Chambers. The Pledge of Allegiance was recited. Members Apgar, Cantrell, Duncan, Garber and Letner; Manager Wright, Fire Chief Nickel, Police Chief Preston and Interim Asst. City Manager/Director of Finance/Clerk Keaton were present. Law Director Stephan arrived later, and Mayor Seagraves was absent.

Motion by Duncan, second by Cantrell to accept the Agenda with the addition of proposed Ordinance No. 2010-04. All yeas, motion carried.

Law Director Stephan arrived.

Motion by Cantrell, second by Apgar to accept the March 2, 2010 Regular Meeting Minutes as presented. All yeas, motion carried.

Manager Wright presented a request from Brookville Baseball Club to hold their annual Opening Day Parade on May 1, 2010 at 11:00 a.m. Lineup will begin at 10:00 a.m. on Carr Drive and the parade route will be the same as in previous years.

Motion by Garber, second by Letner to allow BBC to hold their Opening Day Parade on May 1, 2010 as requested. All yeas, motion carried.

Manager Wright presented the 2009 Annual Report and encouraged Council to review it. Manager Wright advised any questions or comments can be directed to him or the Department Heads and commented that the report is public and anyone wishing to review it can contact the City Office for a copy.

Manager Wright advised that our street light contract expires later this year. The Miami Valley Cable Council is attempting to put together a consortium of communities in Montgomery, Green and Miami Counties so that a unified contract on street light maintenance costs and energy costs can be negotiated. Manager Wright stated he has attended several of the Cable Council's meetings and will bring further details at a later meeting. Discussion followed.

Manager Wright stated that he wanted to dispute the recent paid advertisement in the Brookville Star. Manager Wright advised that after much discussion, Council and staff felt a factual response was warranted with a written report which will be on record.

Manager Wright stated that the Brookville City Council is aware that we are in a recession and have taken the appropriate steps with the 2010 Budget. City revenue was not down 12.1% as the paid advertisement indicated. Income tax revenues alone were down 12.1%. General Fund revenue was down 6.9% at the end of 2009. Total City revenue was down 6.7% compared to 2008. In 2008, the City received a one-time grant totaling $500,000. If you take that figure out of the equation, our total revenue for 2009 would have been down $93,037, or 1.1%. The 2010 Budget was not cut by $800,000. The 2010 Appropriations are down $622,455 compared to the 2009 Appropriations. This decrease in appropriations is due to a debt reduction payment and the pay-off of one of our Sewer debts. We also lost one management position mid 2009, and we did not hire another individual to fill that position. The duties of that position have been divided between two current employees. The 2010 Capital Improvement Appropriations were cut 32% from the 2009 Appropriations, but we only spent $883,895 of the original $1,133,000 that was appropriated in 2009 for Capital Improvements. The difference between what was appropriated and what was spent is due to bids coming in lower than expected. The annual street asphalt overlay program will continue in 2010 along with our Community Development Block Grant for downtown Brookville. We've implemented some cost-saving measures that in no way resulted in cuts.

Manager Wright continued, stating we were bound by contract to grant a 3.5% pay increase to our Police Officers. It was not considered at all fair not to reflect that increase on all employees. We did not, and do not, plan any cuts in services to our residents.

Member Duncan said that Council did not mind bad press but they want it to be accurate and that whoever put the ad in the paper must not really believe what they are saying or want to take responsibility for it. Member Duncan said if they would put their name with the ad it would give us a chance to respond to that person directly. If the person who placed the ad believed that strongly in a subject, they ought to be able to put their name with it and stand by it.

Member Duncan also responded to a recent letter to the Brookville Star Editor printed a few weeks ago in reference to tax abatements. Member Duncan advised if we had not received the income tax from the two companies that were given abatements last year that we would really be hurting. He stated that if the public wanted to know something, they should come to a Council Meeting or speak with a Council Member and they will be given the facts.

Member Cantrell then stated that there are truth in advertising laws that all business owners have to abide by as listed by the FTC, and she would hope that the Brookville Star would consider these laws before printing anymore advertisements that don't divulge the name of the company or group that has purchased the ad in order to be fair to the citizens as well as to the City Staff and to Council.

Manager Wright stated there was a second advertisement in this week's Brookville Star addressing the proposed new fire station and he would like to respond to that. Manager Wright advised we did not design for 12"fire engines". We currently have 11 pieces of rolling stock within the Fire Department, and the design includes room for some expansion as the life span of a fire station is approximately 50 years.

Manager Wright advised that in reference to the overwhelming majority of residents who said no to a survey concerning a new fire station, the overwhelming majority really said nothing. We received 146 responses, of which 60% said no, but that accounts for less than 3% of the Brookville residents, not to mention that some citizens outside of Brookville participated in the survey.

Manager Wright stated that he did say last year that the City could not afford to build a new fire station, and at this moment we still cannot. However, we as a staff are committed to finding the funds to make this a reality, not because we want to, but because we need to. Manager Wright said we are still waiting on the results of a Federal Grant application we submitted, which if it comes through, the new fire station would cost the City very little.

Manager Wright advised that almost two years ago he asked for, and received from Chief Nickel, a justification study for a new facility. He stated that he would be more than happy to discuss it with anyone who has an interest, and that it is the City's opinion that the current facilities are both insufficient and inadequate.

Manager Wright closed his comments by stating he is not going to debate, but he would prefer that at least the public record reflect the correct facts.

Vice Mayor Ullery reminded everyone that Council would recess at 8:00 p.m. for a Public Hearing and would resume the Regular Meeting after the Hearing.

Fire Chief Nickel presented the year to date Fire Department Alarm Incident Report showing that the fire department responded to 117 calls in January, 111 calls in February and 59 calls to date in March, making the monthly average over 100 calls.

Chief Nickel commented that all of the funds spent to date on the purchase of the land and studies toward the new firehouse have been a requirement in order to qualify for the Federal Grant as it requires the land to be shovel ready.

Police Chief Preston presented the Brookville Police Department Call Analysis for February 2010. Police Chief Preston reported the Brookville Police Department responded to 209 Priority 1 calls, 45 Priority 2 calls and 178 Priority 3 calls. The number of reportable incidents are up 11 calls or 14.4% and total calls handled are down 19 calls or 2% from this same time last year. Police Chief Preston presented the Brookville Police Department Incident Log from March 4 through March 14, 2010. Police Chief Preston reported there were 24 new cases for investigation with 18 of those closed and six pending further investigation.

Member Garber inquired with the spring weather upon us whether the Police Department had a program to teach check-out people to screen for underage individuals trying to buy alcohol.

Chief Preston replied that the Police Department normally contacts businesses and provides training a few weeks before prom. Chief Preston also advised with the warm weather that the activity on Market Street has picked up. He is hoping for a quiet summer.

Law Director Stephan advised the Tax Incentive Review Council met on March 15, 2010 to review certain Enterprise Zone Agreements entered into by the City of Brookville. Resolution No. 10-09 is to accept the review by the Review Council that the Enterprise Zone Agreement entered into on April 21, 1998 with Green Tokai is expired. Resolution No.10-10 is to continue the Enterprise Zone Agreement entered into with I.M.I. Norgren dated February 19, 2002 as the Review Council has determined that I.M.I. Norgren is in compliance. Resolution No. 10-11 states the Review Council also found that the Enterprise Zone Agreement entered into with Green Tokai on August 3, 2009 is in compliance and should be continued without modification.

Law Director Stephan stated that the continued agreements are on personal property tax and that the tax on personal property has been phased out. There were zero tax dollars abated in 2009 with these agreements. The reasons for continuing the agreements are to have them in place in the event that the personal property tax were re-imposed, if there was some sort of audit or reconsideration of prior years, or if the business would leave their facility and move to another community. Law Director Stephan stated the reason for declaring the Resolutions an emergency is that the deadline to file them without penalty with the Ohio Department of Development is March 31, 2010.

Motion by Garber, second by Apgar to read proposed Resolution No. 10-09, 10-10, and 10-11. All yeas, motion carried

Motion by Duncan, second by Letner to accept the first reading, dispense with the second and third reading and adopt Resolution No. 10-09 entitled "A RESOLUTION ACCEPTING THE RECOMMENDATION OF THE TAX INCENTIVE REVIEW COUNCIL FINDING THAT THE ENTERPRISE ZONE AGREEMENT OF GREEN TOKAI CO. LTD DATED APRIL 21, 1998 HAS EXPIRED, AND DECLARING IT AN EMERGENCY."; Resolution No. 10-10 entitled "A RESOLUTION ACCEPTING THE RECOMMENDATION OF THE TAX INCENTIVE REVIEW COUNCIL FOR CONTINUATION OF THE ENTERPRISE ZONE AGREEMENT OF I.M.I. NORGREN, INC., AND DECLARING IT AN EMERGENCY."; and Resolution No. 10-11 entitled "A RESOLUTION ACCEPTING THE RECOMMENDATION OF THE TAX INCENTIVE REVIEW COUNCIL FOR CONTINUATION OF THE ENTERPRISE ZONE AGREEMENT OF GREEN TOKAI CO. LTD, AND DECLARING IT AN EMERGENCY." All yeas, motion carried.

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

Clerk Keaton announced a Legal Notice was published in the March 3rd and 10th editions of the Brookville Star and it was also posted on the City's website. The City Office did not receive any phone calls, nor did anyone stop in the office to review the proposed Ordinance.

Law Director Stephan advised proposed Ordinance No. 2010-02 is an ordinance which would amend certain requirements for parking lots and driveways within the City of Brookville. The major change is amending Section 1159.03 so that for new construction, gravel or compacted material will not be a permitted material for parking lots and driveways.

Section II of the proposed Ordinance amends Section 1353.02 to add the term "parking lots" so that the Zoning Officer has the ability to address unsafe conditions in parking lots.

Member Letner inquired whether the Ordinance needed to stress that this applies to new construction. Law Director Stephan replied this is drafted in a manner to apply to new construction so existing gravel parking lots would not be affected by this ordinance.

There were no citizen comments.

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

Member Garber asked Law Director Stephan to comment on the recent publicity concerning the City of Englewood's solicitation law and court challenge. Law Director Stephan commented that if it is upheld, it could be a definitive opinion for other cities' to use because it covers so many issues. Discussion followed.

Finance Director/Clerk Keaton advised 16 application packets for the "Downtown Brookville Business Improvement Program", Phase II have been distributed. Applications from businesses seeking financial assistance for exterior and/or interior improvements are due back in the office by April 15th. Five of the seven applicants from Phase I of this project have completed their projects and they have been reimbursed just under $62,000.

Finance Director/Clerk Keaton reminded everyone that the Community Park Cleanup Day is this Saturday from 10 a.m. until noon. Hot dogs, chips and refreshments will be served in Shelter #3 at noon. In case of inclement weather, the event will be rescheduled for Saturday, March 27, 2010 at the same time.

Finance Director/Clerk Keaton reported the City of Vandalia will have representatives at the City Building on March 26, 2010 from 8:00 a.m. until 4:30 p.m. and again on March 27, 2010 from 8:00 a.m. until noon to assist residents with the preparation of their local income tax returns. There is no fee for this service.

Finance Director/Clerk Keaton requested Council adopt proposed Resolution No. 10-08, which amends the 2010 Appropriations and Estimated Resources.

Motion by Garber, second by Apgar to read proposed Resolution No.10-08. All yeas, motion carried.

Motion by Duncan, second by Letner to accept the first reading, dispense with the second and third reading and adopt Resolution No. 10-08 entitled "A RESOLUTION AMENDING THE 2010 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.

Finance Director/Clerk Keaton requested Council adopt proposed Ordinance No. 2010-04, which amends Miscellaneous Water Fees of the Codified Ordinance.

Motion by Cantrell, second by Letner to read proposed Ordinance No. 2010-04. All yeas, motion carried.

Motion by Duncan, second by Letner to accept the first reading, dispense with the second and third reading and adopt Ordinance No. 2010-04 entitled "AN ORDINANCE AMENDING THE CODE OF ORDINANCES PART 9, TITLE 3, SECTION 931.17(a), INSTALLATION FEE, SECTION 931.22(a), FIRE LINE SERVICE CHARGES, SECTION 931.23, CHARGES FOR REPAIRS, SECTION 931.24, METER TEST FEES, ADDING SECTION 931.17(c), REPEALING SECTION 931.25, RENUMBERING SECTION 931.26 IN THE CITY OF BROOKVILLE, OHIO, AND DECLARING IT AN EMERGENCY." Apgar yea, Duncan yea, Cantrell yea, Garber nay, Letner yea, Ullery yea. Motion carried with five yeas and one nay.

Vice Mayor Ullery reminded everyone of the Mayors Ball and again of the Community Park Cleanup Day both on March 20, 2010. He also wished everyone a safe and happy St. Patrick's Day.

In New Business, Member Letner said he had received his 2010 Census form in the mail and reminded everyone to fill it out and send it in.

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

Sonja M. Keaton, Clerk

Ron Ullery, Vice Mayor