



CITY COUNCIL
Tuesday, December 19, 2023, 7:30 PM
301 SYCAMORE STREET, BROOKVILLE, OHIO 45309
937-833-2135
www.brookvilleohio.com

Join online: <https://brookvilleoh.webex.com/brookvilleoh/j.php?MTID=m35fad1e4c41a9c2cd48d75288932c58f>

Meeting number: 2632 108 8237 Password: dNeJ73MWNb7

Join by phone: +1-415-655-0001 US Toll Access code: 263 210 88237

Agenda

I. Opening of Regular Council Meeting

- a. Call to Order
- b. Pledge of Allegiance
- c. Roll Call

II. Adoption of Agenda

III. Approval of Minutes

- a. Approval of December 5, 2023 Regular Meeting Minutes
- b. Approval of December 5, 2023 Work Session Minutes

IV. Reports of Municipal Officers

- a. City Manager
- b. Finance Director
- c. Fire Chief
- d. Police Chief
- e. Law Director
- f. Mayor Chuck Letner

V. Old Business

- a. Third reading of Resolution No. 23-38 entitled "A RESOLUTION AUTHORIZING THE REQUEST FOR AN ADVANCE OF TAXES COLLECTED IN 2024 FOR TAX YEAR 2023."

VI. New Business

- a. First reading of proposed Resolution No. 23-39 entitled "A RESOLUTION AMENDING THE 2023 APPROPRIATIONS, AS SET FORTH BELOW, PURSUANT TO SECTION

Mayor Chuck Letner • Vice Mayor James Zimmerlin
Council Members: Stephen Crane • JD Fowler • Damian Kristof • Curt Schreier • Kim Wilder



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, AS SET FORTH BELOW."

- b. First reading of proposed Resolution No. 23-40 entitled "A RESOLUTION TO MAKE APPROPRIATIONS FOR THE CURRENT EXPENSES AND OTHER EXPENDITURES OF THE CITY OF BROOKVILLE, STATE OF OHIO, DURING THE FISCAL YEAR ENDING DECEMBER 31, 2024."
- c. First reading of proposed Resolution No. 23-41 entitled "A RESOLUTION REGARDING MUNICIPAL SERVICES TO BE PROVIDED TO THE TERRITORY CONTAINED IN A PROPOSED ANNEXATION OF 71.701 ACRES, MORE OR LESS, FROM PERRY TOWNSHIP TO THE CITY OF BROOKVILLE, OHIO, IF ANNEXATION OF SAID TERRITORY IS APPROVED BY THE BOARD OF COUNTY COMMISSIONERS OF MONTGOMERY COUNTY, OHIO, AND DECLARING IT AN EMERGENCY."
- d. First reading of proposed Resolution No. 23-42 - "A RESOLUTION ENACTING LEGISLATION PROPOSING COOPERATION WITH THE DIRECTOR OF TRANSPORTATION ON THE WOLF CREEK STP RESURFACING PROJECT."
- e. First reading of proposed Resolution No. 23-43 entitled "A RESOLUTION REQUIRING THE ESTABLISHMENT OF A BUFFER WHEN MANDATED BY OHIO REVISED CODE, SECTION 709.023 IN THE EVENT THAT THE PROPOSED ANNEXATION OF 71.701 ACRES, MORE OR LESS, FROM PERRY TOWNSHIP TO THE CITY OF BROOKVILLE, OHIO. IS APPROVED, AND DECLARING IT AN EMERGENCY."
- f. First reading of proposed Resolution No. 23-44 entitled "A RESOLUTION CONSENTING TO THE PROPOSED ANNEXATION OF 71.701 ACRES, MORE OR LESS, FROM PERRY TOWNSHIP TO THE CITY OF BROOKVILLE, OHIO AND DECLARING IT AN EMERGENCY."
- g. First reading of proposed Ordinance No. 23-13 entitled "AN ORDINANCE APPROVING AND AUTHORIZING THE EXECUTION OF A TAX INCREMENT FINANCING AGREEMENT AND APPROVING RELATED MATTERS."
- h. First reading of proposed Ordinance No. 23-14 entitled "AN ORDINANCE AMENDING SECTIONS 194.062(A), 194.062(D), 194.062(I), 194.091(A)(1), 194.094, AND 194.10(C)(4) OF THE CODIFIED ORDINANCES OF THE CITY OF BROOKVILLE CONCERNING REQUIRED UPDATES PASSED IN OHIO HOUSE BILL 33."

VII. Reports of Boards and Commissions

- a. JD Fowler - Park Board
- b. Curt Schreier - Planning Commission

VIII. Public Comments (5 minutes per speaker)

IX. Motion for Adjournment

Mayor Chuck Letner • Vice Mayor James Zimmerlin
Council Members: Stephen Crane • JD Fowler • Damian Kristof • Curt Schreier • Kim Wilder



Please note: Council welcomes the comments and input of the public during Council Meetings. In order to provide an orderly fashion in which all interested parties have an opportunity to address Council, Council has adopted the following procedure for citizen's comments during any portion of the Council Meeting or Public Hearing.

Any citizen who wishes to address Council should state their name, address and then their comments. Speakers should not approach Council Members without first obtaining permission. After completion of their comments, Council would request that the speakers return to their seat so that any other interested persons could then be recognized and address Council.

The purpose of this procedure is to afford the maximum opportunity for citizen input without any type of disruption of the Council proceedings. While others are addressing Council from the podium, Council requests that audience members not make comments to Council or to other individuals to prevent any potential confusion or disruption.

Mayor Chuck Letner • Vice Mayor James Zimmerlin
Council Members: Stephen Crane • JD Fowler • Damian Kristof • Curt Schreier • Kim Wilder

Brookville City Council
Regular Meeting
December 5, 2023

The Regular Meeting of the Brookville City Council was called to order by Mayor Letner at 7:30 p.m. on December 5, 2023. The meeting was held in the City Council Chambers and virtually using the Cisco Webex application. The Pledge of Allegiance was recited. Members Crane, Kristof, Schreier and Zimmerlin; Manager Keaton, Finance Director Brandt, Law Director Stephan, Fire Chief Fletcher and Clerk Duncan were present. Members Fowler and Wilder; and Police Chief Jerome were absent.

Roll Call by Clerk Duncan.

Motion by Zimmerlin, second by Kristof to adopt the Agenda as presented. All yeas, motion carried.

Motion by Zimmerlin, second by Schreier to accept the November 16, 2023 Special Meeting Minutes as presented. Crane abstained, Zimmerlin yea, Schreier yea, Kristof yea, Letner yea. Motion carried with four yeas and one abstention.

Motion by Zimmerlin, second by Kristof to approve the November 21, 2023 Special Meeting Minutes. All yeas, motion carried.

Motion by Zimmerlin, second by Kristof to accept the November 21, 2023 Regular Meeting Minutes as presented. All yeas, motion carried.

Manager Keaton reported the kickoff of the Christmas in the Park lighting display was a success and thanked Park Board for their vision and for tirelessly working on this event. Manager Keaton thanked the Brookville Area Chamber of Commerce for their generous donation and the other donors that allowed Park Board to build upon the light display. Manager Keaton thanked Cub Scout Pack 47 for their grand display this year, the various groups that set up their displays throughout the park, the Service Department and volunteers that assisted with setup, and all that drove through the park last Friday evening and donated funds to better the project. Manager Keaton reported we received \$333.76 in donations.

Manager Keaton thanked the Brookville Area Chamber of Commerce for their Christmas tree lighting event on November 29. They had a great turnout for the tree lighting and many people visited the Market Street businesses.

Manager Keaton reported she has received the agenda and packet for tomorrow's OPWC meeting and unfortunately, neither one of our projects will be funded in this round. Thirteen of the 36 State Capital Improvement Projects submitted will be funded, with seven of those thirteen projects being Montgomery County projects, Manager Keaton provided Council a copy of the scoring sheet which shows how competitive this funding opportunity is.

Manager Keaton reported in June, she submitted two Community Development Block Grant applications. The first application was for \$200,000 for an inclusive playground, and the second application was for \$22,500 to demolish the former LCNB drive-thru building. Manager Keaton advised in July, she submitted a Montgomery County Solid Waste Grant application for \$87,500 for the same inclusive playground. The total project cost for the inclusive playground was \$425,000. Twenty-three CDBG applications were submitted requesting \$2,160,302 and they were only able to fund projects totaling \$924,887. The City was awarded \$75,000 for the inclusive playground and our demolition project was not funded. The City was awarded \$75,000 from Solid Waste for the inclusive playground, as they too received a lot of applications and only had \$200,000 to distribute. Manager Keaton advised she reached out to her contact with Midstates Recreation, who was able to redesign the inclusive playground to cut the total project cost to \$200,000, with the ability to add additional equipment in future years by applying for grant assistance. Manager Keaton provided

Council with a picture of the entire inclusive playground, and pictures displaying phase one and phase two of the inclusive playground if we construct the playground over time. Manager Keaton opened the floor for discussion to see if this project is something that Council would like to pursue.

Member Zimmerlin inquired whether the cost of the parking lot is included?

Manager Keaton replied that cost is not included in the first phase of the project. The first phase is for the large piece of playground equipment only. Manager Keaton advised she has been approached by a local businessperson who is interested in building an open-air shelter. That is why she did the proposed layout. The proposed parking lot, where the gravel driveway is, would be expanded in the future, some of which could be completed in-house.

Member Zimmerlin asked if we have to construct the parking lot?

Manager Keaton replied we do not have to. The parking lot would be for proximity and accessibility.

Discussion followed regarding project funding, constructing the project in phases and past park playground projects.

The consensus is to have Manager Keaton accept the grant funds and move forward with the inclusive playground project.

Manager Keaton reported our Clerk of Council advertised the open Planning Commission seat over the last two weeks and received no letters of interest.

The consensus is to continue to advertise the open Planning Commission seats on the website and Facebook.

Manager Keaton reported the Brookville Historical Society is requesting Council consideration for any financial assistance that can be granted to them in 2024. Council has copies of their revenues and expenditures from January 1 through November 30, 2023. A representative of the Brookville Historical Society will attend the first Council meeting in January.

Member Zimmerlin inquired whether financial assistance for the Brookville Historical Society is included in the 2024 budget?

Finance Director Brandt Keaton replied funding is in the 2024 budget for the Brookville Historical Society.

Manager Keaton announced the annual Employee Christmas Carry-in lunch is scheduled for next Monday, December 11 from 11:30 to 1:00 at Fire Station 76. Council is invited to attend this luncheon.

Finance Director Brandt presented the November 30, 2023 Fund Balance for Council review and approval.

Motion by Schreier, second by Zimmerlin to accept the November 30, 2023 Fund Balance as presented. All yeas, motion carried.

Fire Chief Fletcher reported the number of calls for service during the month of November was average.

Fire Chief Fletcher reported the Fire Department recently responded to an equipment fire at Brubaker Grain. The equipment was valued at over \$200,000. The damage was done before the Fire Department arrived.

Fire Chief Fletcher reported the Fire Department also completed some final flow testing on our distribution system and some routine pump testing, which is part of our routine fleet maintenance.

Fire Chief Fletcher reported the Fire Association held the annual Fire Department Christmas Party this past Saturday evening. He thanked the Mayor and his wife, the City Manager and the Finance Director for attending. Fire personnel were recognized and received commendations for their service throughout the year.

Law Director Stephan reported he was directed by Manager Keaton to review some issues related to the enactment of Issue 2 passed in the November 2023 election, which enacted Chapter 3780 of the Ohio Revised Code, entitled Adult Use Cannabis Control. This new law will become effective on December 7, 2023. There are a lot of elements to this new law. A number of jurisdictions have enacted moratoriums related to the issuance of zoning permits or business permits for the cannabis operator. Law Director Stephan advised in the State of Ohio, jurisdictions are permitted to prohibit medical marijuana dispensaries. The City of Brookville currently has an Ordinance which prohibits medical marijuana dispensaries. We will have the same option under this new law to prohibit businesses that would sell cannabis. We can also have the option to allow the sale of cannabis and to limit the number of businesses that can sell cannabis. The law will be reviewed by the State Legislature. There could be changes to the law. The City of Kettering and other jurisdictions have enacted a moratorium to allow for study and time to make a determination as to what is appropriate for their community. Law Director Stephan asked Council if they knew which direction they wanted to go or if they would like to enact a moratorium to allow time to study this new law and determine which direction we want to go with respect to issuing zoning permits for a business to sell cannabis within the City of Brookville.

Member Zimmerlin asked if we would have to pass a moratorium before the law goes into effect on December 7?

Law Director Stephan replied the law goes into effect on December 7, but they are talking about at least a six-month period before any operators are going to be licensed for the sale of cannabis and the State Legislature may change things.

Member Zimmerlin asked what is the negative side of not adopting a moratorium?

Law Director Stephan replied the negative would be the possible application for a Zoning Permit to operate a business that sells cannabis, which we could potentially have to allow if it was in a business zoned district. This would be in conflict with our prohibition of medical marijuana dispensaries within the city.

Member Zimmerlin commented commercial cultivation could not be restricted under our current ordinance or under a moratorium.

Law Director Stephan stated that is correct.

The consensus is to move forward with a moratorium to give Council time to study the new law and any changes made to the new law in the next six months.

Motion by Crane, second by Zimmerlin to enact a six-month moratorium to prohibit the issuance of permits for dispensaries, cultivators or processors of adult-use cannabis within the City of Brookville, Ohio. All yeas, motion carried.

Mayor Letner reported the Christmas in the Park display looks beautiful and the kick-off event was well received. The Chamber of Commerce Downtown Tree Lighting also went well and was well attended.

Mayor Letner thanked Fire Chief Fletcher for inviting him to the Fire Department Christmas party. Mayor Letner stated seeing the camaraderie among the Fire Department personnel is something he never tires of.

Motion by Zimmerlin, second by Kristof to read proposed Resolution No. 23-38. All yeas, motion carried.

Motion by Zimmerlin, second by Kristof to accept the second reading of Resolution No. 23-38. All yeas, motion carried.

Member Kristof announced the library has partnered with the Brookville Historical Society to host a Victorian Parlor Games event that will take place in the Historical Society's Exhibit Building on December 19 at 6:00 p.m. Member Kristof invited everyone to attend.

Mayor Letner called for a motion to open the Public Hearing to consider proposed Ordinance No. 2023-12, which would establish the zoning classification of Lots 2802 and 2803 of the City of Brookville, Ohio.

Motion by Zimmerlin, second by Schreier to recess the Regular Meeting and open the Public Hearing. All yeas, motion carried.

Clerk Duncan announced this Public Hearing is to consider proposed Ordinance No. 2023-12, an Ordinance establishing the zoning classification of Lots 2802 and 2803 of the City of Brookville, Ohio. A Legal Notice was published on the City of Brookville website and in the November 22 and November 29 editions of the Register Herald advising of the Public Hearing. Letters were mailed to the property owners within, contiguous to and directly across the street from the affected parcels. The City Office did not receive any inquiries regarding the Public Hearing. Clerk Duncan inquired whether any Council Member would need to abstain from participating in this Public Hearing?

No Council Members indicated the need to abstain.

Law Director Stephan reported proposed Ordinance No. 2023-12 is designed to establish the zoning district for the newly annexed territory of 113.562 acres. This property is located on Heckathorn Road, and is adjacent to the city bikeway, which runs from Westbrook Road to Heckathorn Road. The proposed zoning is R-1A, which is single-family residential zoning. It is our highest category of residential zoning, in terms of requiring the largest lots and the largest square footage for homes to be built in that area. Also included in that zoning category are some Special Uses, specifically churches and other buildings for purposes of religious worship. This property is adjacent to another R-1A area to the west and to the north it is adjacent to the Meadows of Brookville, which is zoned R-1C and R-3. It is adjacent to township residential and farm property to the south and to the east. Planning Commission made a preliminary recommendation of R-1A zoning. After the Public Hearing, this will go back to Planning Commission for a final recommendation, then come back to City Council for two readings. The property owner has indicated that they have no plans to do any residential development at this time. They do have a plan to use seven to ten acres to construct a church meeting center. This would be a Special Use that would come to Planning Commission at a later date for approval.

Clerk Duncan administered the Oath of Witness to James Brown, of 301 Brooke Woode Drive, Brookville, Ohio 45309.

Mr. Brown commented he does not understand why someone would want to annex and pay taxes on 113 acres if all they want to build is a church. The tax rate would be much higher than the rate he is paying in the township.

Law Director Stephan replied the property owner will continue to farm most of the property and continue to receive CAUV (Current Agricultural Use Value). The purpose of the annexation is to

tap into city water and sewer for the proposed church meeting center. Our lowest density residential zoning category is being assigned, which allows for 100-foot lots and a required minimum square footage of 1,800 square feet.

Mr. Brown stated the annexed lots show 7 acres pointing directly to the bike trail. He asked what the property owner has to do with the bike trail?

Law Director Stephan replied the city owns the bike trail from Westbrook Road to the center line of Heckathorn Road. For purposes of completing this annexation, the bike trail was included within the annexed area.

Mr. Brown stated he has maintained that entrance to the bike trail for 23 years, and asked if the City of Brookville is going to take over the mowing and maintenance? Mr. Brown stated the Metro Parks District currently mows that area. If the City would mow there when they mow the other open spaces in the area, it would get mowed more often. Mr. Brown stated as long as he lives there, he has no problem with mowing that entrance. However, he has gone on vacation for several months in the past, and the grass has not been mowed.

Law Director Stephan replied we do have an agreement with Metro Parks to maintain the bikeway. We could certainly take a look at having our Service Department mow it more often.

Mr. Brown commented it is possible down the road that this property could be established as a residential development.

Law Director Stephan replied that is a possibility in the future. However, the property owner has indicated he has no intention of doing that at this time.

There were no other proponent or opponent comments.

Motion by Zimmerlin, second by Kristof to close the Public Hearing.

Motion by Zimmerlin, second by Kristof to go back into Regular Session.

Member Schreier had no report.

Mayor Letner called for a motion to go into Executive Session regarding O.R.C 121.22(G)(1) to consider the appointment of a Public Official.

Motion by Crane, second by Zimmerlin to go into Executive Session regarding O.R.C 121.22(G)(1) to consider the appointment of a Public Official. All yeas, motion carried.

Motion by Kristof, second by Zimmerlin to go back into Regular Session. All yeas, motion carried.

Motion by Zimmerlin, second by Kristof to adjourn. All yeas, motion carried.

Kimberly Duncan, Clerk

Charles Letner, Mayor

Brookville City Council
Budget Work Session
December 5, 2023

The Budget Work Session of the Brookville City Council was called to order by Mayor Letner at 6:00 p.m. on December 5, 2023. The meeting was held in the City Council Chambers and virtually using the Cisco Webex application. The Pledge of Allegiance was recited. Members Crane, Kristof, Schreier and Zimmerlin; Manager Keaton, Finance Director Brandt, and Fire Chief Fletcher were present. Members Fowler and Wilder; and Police Chief Jerome were absent.

Roll Call by Clerk Duncan.

Motion by Zimmerlin, second by Kristof to adopt the Agenda as presented. All yeas, motion carried.

Manager Keaton thanked City Council, Department Heads, and employees for leading Brookville through a successful 2023. Twenty twenty-three seemed like old times where we saw an increase in income tax, motel tax, local government funds, zoning permits and interest on investment receipts in the General Fund, which is allowing us to increase our 2023 Unexpended Balance, which then becomes our 2024 Beginning Balance. Manager Keaton stated Council will find during the 2024 Budget Presentation that Finance Director Brandt is projecting 4M in income tax revenue, which is an increase of \$500,000 from 2023's budgeted income tax revenue. Manager Keaton stated she is confident that we will hit that projection. If so, it will be the first time in history that Brookville receives 4M in income tax receipts. Manager Keaton advised income tax accounts for 71% of our General Fund Revenue. The City's greatest growth in the city's budget has been in personnel costs, which is the greatest cost to most cities. Payroll and benefits account for 31% of the 2024 Budget. Our capital projects and equipment will be up in 2024, with the purchase of several new vehicles, a mobile lift, radios, pumps for the Wastewater Treatment Plant, the Wolf Creek Water Main Replacement Project, Street Resurfacing and the Hay Avenue Phase II Project. In 2024, Council will find an increase in our transfers out of the General Fund. Council will also find a 5% rate increase in our Sanitary Sewer Fund and a 2% Increase in our Water Fund. These rate adjustments are needed to ensure sustainability of our water distribution and sanitary sewer collection and treatment systems. Manager Keaton announced at this time she will turn the 2024 Budget Presentation over to Finance Director Brandt.

Finance Director Brandt presented a Power Point Presentation of the 2024 Budget. A copy of the presentation is attached to the minutes.

Finance Director Brandt explained the City has 15 Funds. This is one less fund than last year. The FEMA fund has been eliminated as we do not expect to receive any Safer Funds this year.

Finance Director Brandt provided a brief explanation of the General Fund and the projected 2024 Revenues and Expenditures from the General Fund.

Finance Director Brandt reported in 2024, she plans to increase the portion of the revenue from the fire protection contracts that goes into the Fire Capital Fund so we can build up funds for a new ambulance and eventually a new fire truck in the future.

Finance Director Brandt presented the 2024 Police Department Budget.

Finance Director Brandt projected a 7.25% increase over 2023 Appropriations, as the Police Department would like to get back to the staffing they had in 2018. Finance Director Brandt advised it is increasingly difficult to find part-time employees to give the City the police coverage that we need.

Member Zimmerlin inquired if the increase includes adding a full-time Officer and converting one part-time Officer to full-time?

Finance Director Brandt replied that is correct.

Member Schreier inquired if the 7.25% increase includes the employee benefit costs for additional full-time employees?

Finance Director Brandt replied it covers payroll, benefits and insurance costs. Finance Director Brandt advised the Capital Outlay includes a new cruiser and the upfitting that goes along with a new cruiser.

Member Crane inquired whether a camera system is in the budget for 2024?

Finance Director Brandt replied a camera system is not in the 2024 budget. There are more pertinent costs for 2024. She and Police Chief Jerome are in agreement that adding more police personnel is more important at this time. This should help to mitigate crime. If our income tax revenue increases, we can add the cameras into the budget at a later date.

Discussion followed regarding the GM expansion and the need for cameras increasing as that project and the Casey's Market project come to fruition.

Finance Director Brandt presented the 2024 Fire Department Budget.

Finance Director Brandt reported the Fire Department has requested another full-time employee as part-time employees are becoming harder to find. The 27.4% increase over 2023 Appropriations is mainly to cover the salary of a new full-time employee, plus benefits. The employer contribution share of the Ohio Police & Fire Pension for a firefighter is the highest of all the pension systems.

Finance Director Brandt reported another portion of the increase is rehabbing two vehicles in the Fire Department fleet.

Fire Chief Fletcher advised FEMA funds have been diverted to the largest cities in the country that we had anticipated using to purchase a new ladder truck, which is roughly \$2 million. He stated this has caused us to reevaluate and decide it makes more sense to invest in our current fleet. This also allows us to bypass the emission requirements in place for new equipment.

Discussion followed regarding purchasing new equipment and refurbishing existing equipment.

Member Schreier asked how much we had to increase the General Fund to offset some of the additional funding needed for an additional full-time employee?

Finance Director Brandt replied she has made a slight change to the distribution of the fire contract funds from a 75/25 split to a 70/30 split. This will allow us to build up capital for the Fire Department.

Discussion followed regarding fire contract funds and the logistics of hiring an additional full-time employee(s).

Finance Director Brandt presented the 2024 Government and Administration Budget.

Finance Director Brandt reported there is a 19.2% increase over 2023 Appropriations, which includes transfers for debt service payments, transfers the Street Department to purchase several pieces of equipment, increased payroll and pension costs, the City Manager's retirement cash-out and the cost of hiring a new City Manager.

Finance Director Brandt presented the 2024 Service Department Budget. This includes the Street M&R, Park, Water, Sewer, Refuse and Stormwater Funds.

Finance Director Brandt reported the Street Fund includes a 12.21% increase. This includes a new pick-up truck, a dump truck, a gas storage tank, the Hay Avenue Phase II Project, the Wolf Creek Resurfacing Project and the Curb Replacement Program for Maple Street and Mound Street.

Discussion followed regarding buying new or used, and possibly re-purposing a Fire Department pick-up truck for the Service Department.

Finance Director Brandt advised another large expenditure will be the purchase of a mobile lift to allow our Fleet Mechanic to lift equipment heavier than 7,500 pounds.

Finance Director Brandt presented the 2024 Park and Recreational Budget.

Finance Director Brandt reported the increase in expenditures are for the purchase of new mowers, a portion of a dump truck and a gas tank to refill the mowers and other equipment. Park shelter rental rates were increased for 2024 to help offset maintenance costs.

Finance Director Brandt advised there is no change from last year in the 2024 Land Reutilization Revenues and Expenditures.

Finance Director Brandt reported we expect to receive approximately \$5,000 in Ohioone Opioid Revenue Funds this year.

Finance Director Brandt presented the 2024 Law Enforcement Revenues & Expenditures Fund.

Finance Director Brandt presented the 2024 Local Fiscal Recovery Fund, which includes the Wolf Creek Watermain Project and the Maple & Mound Resurfacing Projects.

Finance Director Brandt presented the 2024 Bond Retirement Revenues & Expenditures Fund and the 2024 Note Retirement Revenues & Expenditures Fund.

Finance Director Brandt presented the 2024 Capital Improvement Fund.

Finance Director Brandt presented the 2024 Fire Capital Improvement Fund.

Finance Director Brandt presented the 2024 Water Fund.

Finance Director Brandt reported we will increase our water rates by 2% and sewer rates by 5% this year. Council agreed last year to increase the rates in small increments each year so it is not such a big hit to residents. The water increase will cover the City of Dayton water rate increase and help to pay for infrastructure maintenance.

Manager Keaton commented that we are almost in the final phase of getting our Ohio EPA funding approved, which has been a long, tedious process.

Finance Director Brandt presented the 2024 Sewer Fund.

Finance Director Brandt presented the 2024 Stormwater Fund and 2024 Refuse Fund.

Finance Director Brandt presented a comparison of 2024 Budget Totals compared to 2023 Budget Totals and 2023 Revenues and Expenditures.

Mayor Letner commended Finance Director Brandt for all the work she put into the budget process, stating she is doing a great job in her fourth year as the Finance Director. Mayor Letner also thanked Fire Chief Fletcher for his input during the meeting.

Manager Keaton stated in closing, she would like to reiterate to Council that for 2024, just like during 2023 and every other year, Staff will constantly monitor expenditures and receipts and keep Council informed. By law, cities must keep a balanced budget. Staff will continue to focus on economic development and bringing more jobs to Brookville.

Manager Keaton thanked Finance Director Brandt for an excellent 2024 Budget Presentation.

Motion by Zimmerlin, second by Schreier to adjourn. All yeas, motion carried.

Kimberly Duncan, Clerk

Charles Letner, Mayor

To: Mayor & Council
From: Sonja M. Keaton, City Manager
RE: Manager's Report
Date: 12/18/2023

House Bill 33, which was included in the State of Ohio 2023 biennium budget bill, provides funds for the Water and Wastewater Infrastructure Grant program to help Ohio communities make necessary investments in water and wastewater infrastructure. The program is being administered by the Ohio Department of Development in partnership with Ohio EPA. Projects must be shovel-ready to be completed by October 2026. The grant application period is open from November 28, 2023 to January 17, 2024. I submitted a grant application to construct a 16" water main from Calmer Ernst Blvd. to Walker Ct. via boring under Interstate 70. This project will loop our water distribution within the City. The area north of Interstate 70 receives water through a single 12" water main. If we encounter any interruption in that line, this leaves no supply for fire protection. The proposed second feed into the area north of I-70 would increase available flow, and permit isolation of system problems without compromising the supply. This new water main would also help the areas south of I-70 as the remainder of the distribution system would benefit from being tied into the elevated water tank on Nutrition Way. This connection will significantly improve fire protection across the entire distribution system. The preliminary construction cost estimate for this project is \$1,204,975 and I applied for grant funding totaling \$1,024,975. The City would contribute \$180,000 and the engineering costs out of our Water Fund if we receive this grant.

I attended the December MVRPC Board Meeting and learned that 11 STP resurfacing projects were submitted in October requesting \$6.8M in funding, and MVRPC has \$5M available for resurfacing projects. The projects are currently being reviewed and scored by MVRPC and will be before the MVRPC Board in March for a vote.

Proposed Resolution No. 23-42 is before Council for a first reading. This is the Final Resolution for the N. Wolf Creek Resurfacing Project that runs from Arlington Road to Western Avenue. This project was submitted and approved as a Coronavirus Response and Relief Supplemental Appropriations Act Project through MVRPC in 2021. The sale date for this project is February 8, 2024. Our signed documents and payment need to be submitted to ODOT by January 26, 2024.

I am requesting Council authorization for Change Order #1 on the City Park Improvements CDBG Walking Path Project at a decrease of \$2,543.75. Change Order #1 is an adjustment to quantities used for the project. The original Contract price was \$134,996.75, and with Change Order #1 the new and final Contract price is \$132,453.00. The City Park Improvements CDBG Walking Path project is now complete.

Over the last two weeks, the Service Department performed the following:

- Cut down all prairie grass at Station 76, Market St. retention, Soccer, Gateway, Castle playground
- Cold patched potholes
- Finished leaf pick-up
- Placed parking blocks in front of new sidewalk @ Diamond 1 concession
- Removed irrigation pump at soccer and installed new lock on equipment room
- Located and flagged all irrigation heads at soccer
- Power washed batwing mower for winter storage
- Cleaned and organized Service Garage

Memo

To: Mayor and Council

From: Michelle Brandt, Finance Director

Date: December 19, 2023

Subject: Finance Report

- I am requesting Council authorization to receipt 90% of the revenue received from EMS Billing into the General Fund for operations of the Fire Department and 10% of the revenue from EMS Billing into the Fire Capital Improvement Fund for 2024, this is the same as what was done in 2023.
- I am requesting Council authorization to receipt 70% of the revenue received from Fire Contracts into the General Fund for operations of the Fire Department and 30% of the revenue from Fire Contracts into the Fire Capital Improvement Fund for 2024, this is a 5% increase to the Capital fund than what was done in 2023.
- I am requesting Council approval to set the labor rate for the Service Department Mechanic at \$50 per hour for 2024, for work performed on the city fleet.
- I am requesting Council approval to allow me to issue Super Blanket Purchase Order Certificates in 2024 for recurring monthly and quarterly expenditures.
- I am requesting Council accept the first reading and dispense with the second and third reading to adopt proposed Resolution 23-39 that amends the 2023 Appropriations and Estimated Resources. This Resolution shall take effect immediately after passage of this Resolution as provided in 4.07(A)(1) of the Charter of the City.
- I am requesting Council accept the first reading and dispense with the second and third reading to adopt proposed Resolution 23-40 as provided in 4.07(A)(1) of the Charter of the City.



City of **BROOKVILLE** **POLICE**

Chief Douglas Jerome

djerome@brookvilleohio.com



Council Meeting Agenda December 19, 2023

Reportable Incidents

1/1/2022 – 12/15/2022 = 458

1/1/2023 – 12/15/2023 = 536

Citations

1/1/2022 – 12/15/2022 = 144

1/1/2023 – 12/15/2023 = 451

Traffic Stops

December 2022 - 93

December 1, 2023 to date - 49

Brookville Police Department

Incident Arrest Blotter

Arrest Date	Time	Suspect's Name	Address, Charges(s)	Incident ID
12/06/2023	01:28 AM	** JUVENILE **	3202 E 5TH ST, DAYTON, OH 45403 215102: Juvenile offenses	2023-00518
12/07/2023	03:59 AM	CHRISTOPHER S. BALI	4069 BARONSMERE CT, DAYTON, OH 45415 35: WARRANT ARREST	2023-00520
12/07/2023	05:13 PM	JAY W. STIDHAM	403 MARKET APT 5, BROOKVILLE, OH 45309 35: WARRANT ARREST	2023-00521
12/07/2023	06:45 PM	GLENN D. JOHNSON	372 LEISURE APT 3, BROOKVILLE, OH 45309 35: WARRANT ARREST	2023-00522
12/07/2023	08:35 PM	DUSTIN A. LARGE	6140 LORIMER ST, DAYTON, OH 45417 451119A1: DUI - alcohol/drugs	2023-00523
12/10/2023	04:05 AM	DAWN ELIZABETH LAF	616 RONA PKWY, BROOKVILLE, OH 45309 291925A: Domestic violence - knowingly cause physical harm	2023-00530
12/13/2023	02:50 PM	BRANDON A. AKERS	212 DEEM ST APT 1, EATON, OH 45320 291732A3: Making false alarms - law enforcement agency	2023-00539

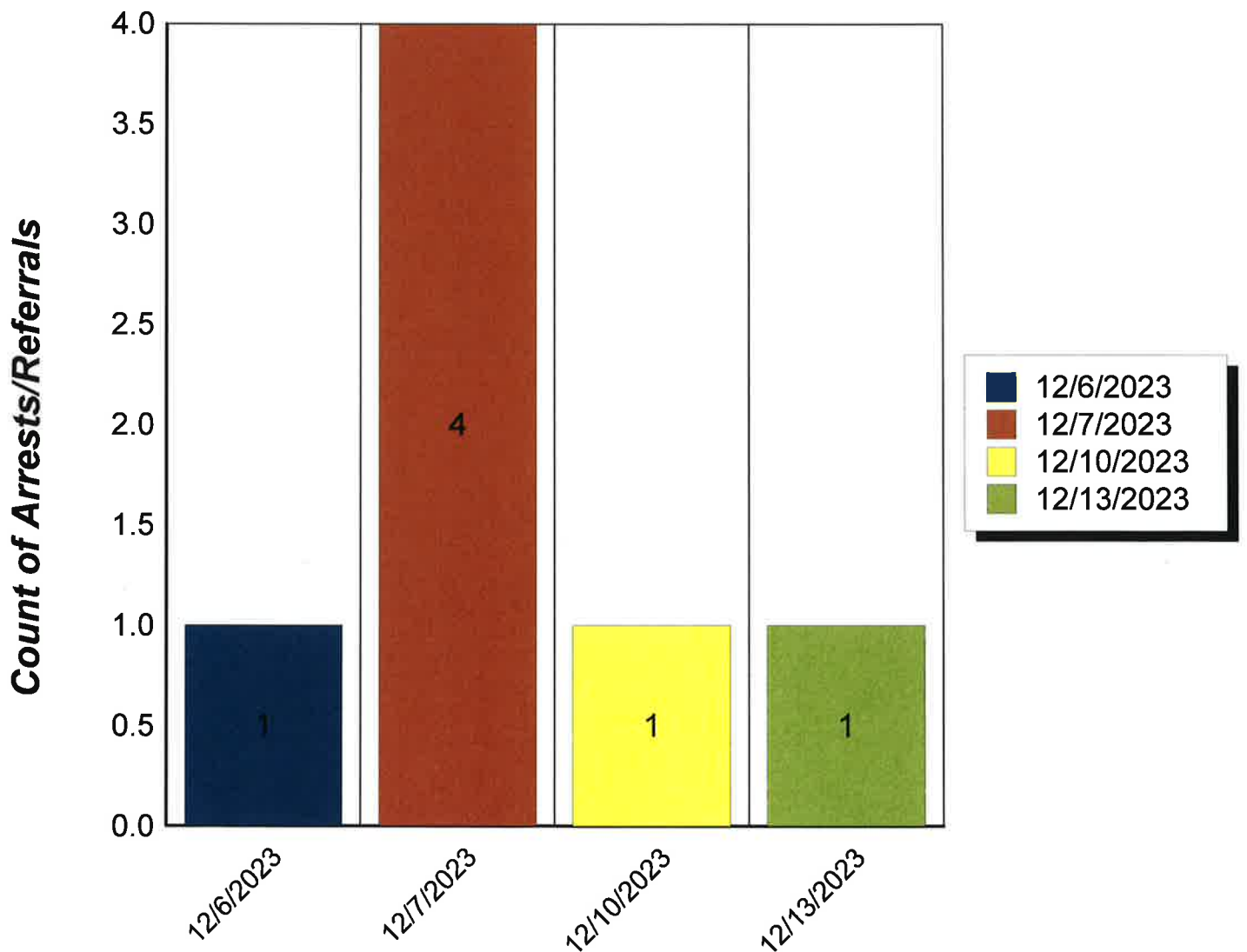
Total Selected = 7

Brookville Police Department

Arrest Log by Date

Arrest Date	Total Arrests
December 06, 2023	1
December 07, 2023	4
December 10, 2023	1
December 13, 2023	1
Total Selected = 7	

Arrest Log by Date

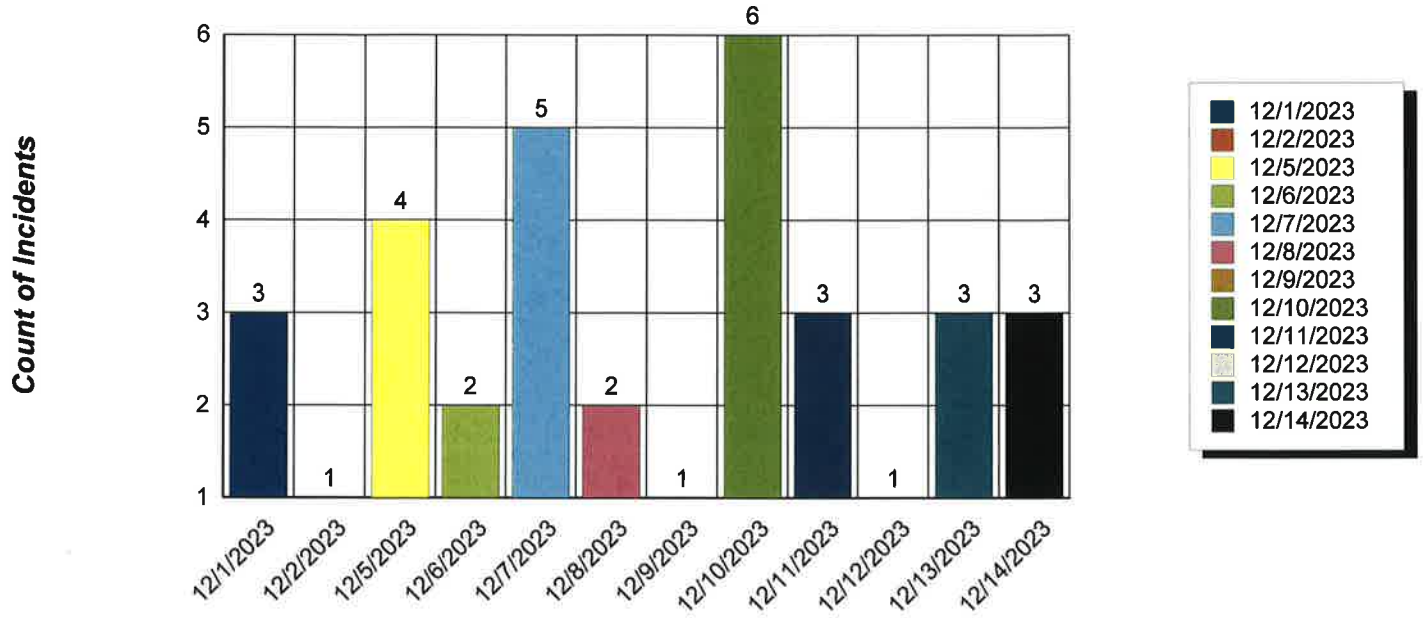


Brookville Police Department

Incident Log by Date Reported

Date Reported	Day of Week	Total Reported
12/01/2023	Friday	3
12/02/2023	Saturday	1
12/05/2023	Tuesday	4
12/06/2023	Wednesday	2
12/07/2023	Thursday	5
12/08/2023	Friday	2
12/09/2023	Saturday	1
12/10/2023	Sunday	6
12/11/2023	Monday	3
12/12/2023	Tuesday	1
12/13/2023	Wednesday	3
12/14/2023	Thursday	3
Total Selected = 34		

Incident Log by Date Reported



Brookville Police Department

Incident Log by Date Reported

Incident ID	Location, Area	Description	Date Occurred	Cleared Date	Status
December 01, 2023					
2023-00510	2 BLUE PRIDE DRIVE BROOKVILLE PD	SIGNAL 26O - TELECOMMUNICATIONS HARASSMENT	12/01/2023	12/01/2023	EXCEPTIONALLY CLEARED
Offenses UCR Offense Description 1 02 291721A1 - Telephone harassment - knowingly					
2023-00509	WESTBROOK @ WESTERN BROOKVILLE PD	SIGNAL 53A - PROPERTY DAMAGE CRASH	12/01/2023	12/01/2023	EXCEPTIONALLY CLEARED
Offenses UCR Offense Description 1 N/A 53A - PROPERTY DAMAGE TRAFFIC CRASH					
2023-00511	372 LEISURE DRIVE APT 3 BROOKVILLE PD	SIGNAL 26I - APPLICATION FOR EMERGENCY ADMISSION	12/01/2023	12/01/2023	EXCEPTIONALLY CLEARED
Offenses UCR Offense Description 1 N/A 26I - APPLICATION FOR EMERGENCY ADMISSION					
Total Incidents Reported for Date: 3					

December 02, 2023

2023-00512	903 SALEM STREET BROOKVILLE PD	SIGNAL 55 - EXPIRED REGISTRATION	12/02/2023	12/02/2023	EXCEPTIONALLY CLEARED
Offenses UCR Offense Description 1 N/A 33510(a) - EXPIRED LICENSE PLATE					
Total Incidents Reported for Date: 1					

December 05, 2023

2023-00515	780 ARLINGTON RD BROOKVILLE PD	SIGNAL 26I - FOUND PROPERTY	12/05/2023	12/05/2023	EXCEPTIONALLY CLEARED
Offenses UCR Offense Description 1 02 26I - INFORMATION REPORT					
2023-00514	301 SYCAMORE ST BROOKVILLE PD	SIGNAL 26A - ASSIST OTHER AGENCY	12/05/2023	12/07/2023	EXCEPTIONALLY CLEARED
Offenses UCR Offense Description 1 02 26A - ASSIST ANOTHER AGENCY/OFFICER					
2023-00516	301 SYCAMORE STREET BROOKVILLE PD	SIGNAL 26I - FOUND PROPERTY	12/05/2023	12/05/2023	EXCEPTIONALLY CLEARED

Brookville Police Department

Incident Log by Date Reported

Incident ID	Location, Area	Description	Date Occurred	Cleared Date	Status
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December 05, 2023

Offenses UCR Offense Description
1 02 26I - INFORMATION REPORT

2023-00517	1 BLUE PRIDE DRIVE BROOKVILLE PD	SIGNAL 53A - PROPERTY DAMAGE ACCIDENT	12/05/2023	12/05/2023	EXCEPTIONALLY CLEARED
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Offenses UCR Offense Description
1 N/A 53A - PROPERTY DAMAGE TRAFFIC CRASH

Total Incidents Reported for Date: 4

December 06, 2023

2023-00518	115 SYCAMORE ST APT B BROOKVILLE PD	Signal 46 - Juvenile Complaint	12/06/2023	12/07/2023	ARREST
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Offenses UCR Offense Description
1 02 215102 - Juvenile offenses

2023-00519	610 RAMBLEWOOD DR BROOKVILLE PD	SIGNAL 07 - AUTO THEFT	12/06/2023		OPEN CASE
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Offenses UCR Offense Description
1 07 291302B5 - Auto Theft

Total Incidents Reported for Date: 2

December 07, 2023

2023-00520	ARLINGTON RD & N. WOLF CREEK ST BROOKVILLE PD	SIGNAL 35 - WARRANT ARREST	12/07/2023	12/07/2023	ARREST
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Offenses UCR Offense Description
2 N/A 35 - WARRANT ARREST
N/A 451012 - DRIVING WITHOUT VALID LICENSE

2023-00521	403 MARKET ST BROOKVILLE PD	SIGNAL 35F - FELONY WARRANT	12/07/2023	12/07/2023	ARREST
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Offenses UCR Offense Description
1 N/A 35 - WARRANT ARREST

2023-00522	372 LEISURE APT 3 BROOKVILLE PD	SIGNAL 35M - MISDEMEANOR WARRANT	12/07/2023	12/07/2023	ARREST
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Brookville Police Department

Incident Log by Date Reported

Incident ID	Location, Area	Description	Date Occurred	Cleared Date	Status
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December 07, 2023

Offenses UCR Offense Description 1 N/A 35 - WARRANT ARREST					
2023-00523	801 ARLINGTON BROOKVILLE PD	SIGNAL 21 - OVI	12/07/2023	12/07/2023	ARREST
Offenses UCR Offense Description 2 02 291711B1 - Disorderly conduct - intoxicated annoy or alarm 02 451119A1 - DUI - alcohol/drugs					
2023-00524	780 ARLINGTON ROAD BROOKVILLE PD	SIGNAL 260 - MAKING FALSE ALARMS	12/07/2023	12/14/2023	EXCEPTIONALLY CLEARED
Offenses UCR Offense Description 1 02 291732A1 - Making false alarms - initiate report or warning					
Total Incidents Reported for Date: 5					

December 08, 2023

2023-00525	W.CAMPUS BLVD & COLLECTIVE WAY BROOKVILLE PD	SIGNAL - 53 HIT AND RUN	12/08/2023	12/08/2023	EXCEPTIONALLY CLEARED
Offenses UCR Offense Description 1 N/A 53H&R - HIT & RUN CRASH					
2023-00526	7698 BROOKVILLE SALEM BROOKVILLE PD	SIGNAL 26I - INFORMATION REPORT	12/08/2023	12/12/2023	EXCEPTIONALLY CLEARED
Offenses UCR Offense Description 1 02 26I - INFORMATION REPORT					
Total Incidents Reported for Date: 2					

December 09, 2023

2023-00527	1 MCMAKEN LN BROOKVILLE PD	SIGNAL 26I - FOUND PROPERTY	12/09/2023	12/09/2023	EXCEPTIONALLY CLEARED
Offenses UCR Offense Description 1 02 26I - INFORMATION REPORT					
Total Incidents Reported for Date: 1					

December 10, 2023

Brookville Police Department

Incident Log by Date Reported

Incident ID	Location, Area	Description	Date Occurred	Cleared Date	Status
December 10, 2023					
2023-00528	494 E.WESTBROOK RD BROOKVILLE PD	SIGNAL 260 - ATTEMPTED AUTO THEFT	12/10/2023		OPEN CASE
Offenses UCR Offense Description 2 07 291302B5 - Auto Theft N/A 54506 - UNAUTHORIZED USE OF A VEHICLE; VEHICLE TRESPASS					
2023-00529	WESTBROOK & MOSIER BROOKVILLE PD	SIGNAL 26I - STOLEN RECOVERED	12/10/2023	12/10/2023	EXCEPTIONALLY CLEARED
Offenses UCR Offense Description 1 02 26I - INFORMATION REPORT					
2023-00530	60 RIDGE RD APT 17 BROOKVILLE PD	SIGNAL 20 - DOMESTIC VIOLENCE	12/10/2023	12/10/2023	ARREST
Offenses UCR Offense Description 1 02 291925A - Domestic violence - knowingly cause physical harm					
2023-00531	482 E.WESTBROOK RD BROOKVILLE PD	SIGNAL 7 - AUTO THEFT	12/10/2023		OPEN CASE
Offenses UCR Offense Description 1 07 291302B5 - Auto Theft					
2023-00532	1 BLUE PRIDE DRIVE BROOKVILLE PD	SIGNAL 26I - INFORMATION REPORT	12/10/2023	12/10/2023	EXCEPTIONALLY CLEARED
Offenses UCR Offense Description 1 02 26I - INFORMATION REPORT					
2023-00533	126 CHURCH ST BROOKVILLE PD	SIGNAL 24 - DISORDERLY CONDUCT	12/10/2023	12/10/2023	EXCEPTIONALLY CLEARED
Offenses UCR Offense Description 1 02 291711 - Disorderly conduct					
Total Incidents Reported for Date: 6					

December 11, 2023

2023-00534	301 SYCAMORE ST BROOKVILLE PD	SIGNAL 14 - CRIMINAL DAMAGING	12/11/2023	12/11/2023	EXCEPTIONALLY CLEARED
Offenses UCR Offense Description 1 01 290906 - Criminal damaging/endangering					
2023-00535	428 N. WOLF CREEK BROOKVILLE PD	SIGNAL 26O - CRIMINAL TRESSPASS	12/11/2023	12/11/2023	EXCEPTIONALLY CLEARED

Brookville Police Department

Incident Log by Date Reported

Incident ID	Location, Area	Description	Date Occurred	Cleared Date	Status
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December 11, 2023

Offenses UCR Offense Description
1 02 291121 - Criminal trespass

2023-00536	1 MCMAKEN LANE BROOKVILLE PD	SIGNAL 260 - CRIMINAL TRESSPASS	12/11/2023	12/11/2023	EXCEPTIONALLY CLEARED
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Offenses UCR Offense Description
1 02 291121 - Criminal trespass

Total Incidents Reported for Date: 3

December 12, 2023

2023-00537	1 MCMAKEN LN BROOKVILLE PD	SIGNAL 260 - CRIMINAL TRESPASS	12/12/2023	12/12/2023	ARREST
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Offenses UCR Offense Description
1 02 291121 - Criminal trespass

Total Incidents Reported for Date: 1

December 13, 2023

2023-00538	285 CUSICK BROOKVILLE PD	SIGNAL 14 - CRIMINAL DAMAGING	12/13/2023	12/14/2023	EXCEPTIONALLY CLEARED
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Offenses UCR Offense Description
1 01 290906 - Criminal damaging/endangering

2023-00539	1139 PREBLE DRIVE BROOKVILLE PD	SIGNAL 35 - WARRANT ARREST	12/13/2023	12/13/2023	ARREST
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Offenses UCR Offense Description
1 02 291732A3 - Making false alarms - law enforcement agency

2023-00540	428 N WOLF CREEK STREET BROOKVILLE PD	SIGNAL 55 - DRIVING UNDER SUSPENSION	12/13/2023	12/13/2023	EXCEPTIONALLY CLEARED
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Offenses UCR Offense Description
2 N/A 451121 - SPEEDING
N/A 451016 - FRA SUSPENSION

Total Incidents Reported for Date: 3

December 14, 2023

Brookville Police Department

Incident Log by Date Reported

Incident ID	Location, Area	Description	Date Occurred	Cleared Date	Status
December 14, 2023					
2023-00541	2 BLUE PRIDE DRIVE BROOKVILLE PD	SIGNAL 46 - JUVENILE TOBACCO VIOLATION	12/14/2023		OPEN CASE
Offenses UCR Offense Description 1 N/A 215187 - Juv. tobacco prohibition:					
2023-00542	379 ALBERT RD BROOKVILLE PD	SIGNAL 260 - MENACING	12/14/2023		OPEN CASE
Offenses UCR Offense Description 1 04 290322 - Menacing					
2023-00543	637 VINE ST BROOKVILLE PD	SIGNAL 55 - TRAFFIC VIOLATION	12/14/2023	12/14/2023	EXCEPTIONALLY CLEARED
Offenses UCR Offense Description 1 N/A 33510(a) - EXPIRED LICENSE PLATE					
<i>Total Incidents Reported for Date: 3</i>					

Total Selected = 34

MEMORANDUM:

DATE: DECEMBER 18, 2023

TO: CITY OF BROOKVILLE CITY COUNCIL

FROM: RODNEY L. STEPHAN, LAW DIRECTOR

RE: ANNEXATION OF 71.701 ACRES, PERRY TOWNSHIP

On December 15, 2023, a petition for annexation of 71.701 acres to the City of Brookville from Perry Township was filed with the Montgomery County Board of County Commissioners. A map of the area to be annexed is attached to this memorandum.

Resolutions 23- 41, 23-43, and 23-44 are before City Council regarding this annexation. Resolution 23-41 provides a statement of municipal services to be provided by the City of Brookville to the annexation territory if the annexation is approved. Resolution 23-43 requires the establishment of a buffer in the event the annexed territory is zoned by the City of Brookville in a manner that permits uses that clearly incompatible with uses permitted under existing county or township zoning regulations in adjacent land remaining in the township. Resolution 23-44 provides that the City of Brookville consents to the proposed annexation.

This annexation is filed as an expedited Type 2 annexation under Ohio Revised Code 709.023. Under ORC 709.023, the annexation territory is not excluded from the township and will remain subject to property taxes to be paid to Perry Township after annexation to the City of Brookville.

It is requested that these resolutions be passed in emergency to permit timely filing with Board of County Commissioners as required by Ohio Revised Code Section 729.023 for expedited type 2 annexations.

PROPOSED ANNEXATION TO THE CITY OF BROOKVILLE

SECTION 4, T 5, R 4 E,
PERRY TOWNSHIP, OHIO
MONTGOMERY COUNTY, OHIO
CONTAINING 71.701 ACRES TOTAL

ANNEXATION NOTE:
PERIMETER OF ANNEXATION AREA=7435.34 FT.
CONTIGUOUS BOUNDARY WITH CITY=520.00 FT.

DENNIS E. MEYER &
TERESA D. MEYER, CO-TRUSTEES
OF THE DENNIS AND TERESA MEYER TRUST
IR DEED 21-00381
19.222 ACRES

MANA J. SHANNON
IR DEED 11-03161
1.289 ACRES

LISA ANN CHILDERS
IR DEED 14-00942
1.21 ACRES

0.338 ACRES REMAINING
IN PERRY TOWNSHIP

LOT 800
REGINA WILSON HUGHES &
MICHAEL WILLIAM HUGHES
IR DEED 10-08172
14.7 ACRES

①
LOT 2086
71.701 ACRES

THOMAS N. MEYER
IR 09-081235 - 1/3 INT.
DENNIS E. MEYER
IR 09-081235 - 1/3 INT.
J & M MEYER FARMS, LLC
IR 12-083487 - 1/3 INT.
72.36 ACRES DEED

71.701 ACRES TOTAL
TO BE ANNEXED

THOMAS N. MEYER
IR 09-081235 - 1/3 INT.
DENNIS E. MEYER
IR 09-081235 - 1/3 INT.
J & M MEYER FARMS, LLC
IR 12-083487 - 1/3 INT.
64.040 ACRES

0.067 ACRES REMAINING
IN PERRY TOWNSHIP

DENNIS L. CASSELL, TRUSTEE
OF THE DENNIS L. CASSELL LIVING TRUST &
OF THE CHRISTINA L. CASSELL LIVING TRUST
IR DEED 14-00942
18.410 ACRES

20.008 ACRES



VICINITY MAP

THE BEARING OF 185°24'17\"



ADJOINING OWNERS INDEX & TAX MAILING ADDRESS

- KENNETH W. EAGLE &
KATHA EAGLE
10305 AIR HILL RD.
BROOKVILLE, OH 45309
IR DEED 14-00942
L55-027-04-0090
- ②
RICHARD C. JACOBS, TRUSTEE
P.O. BOX 40 ON 45308
BROOKVILLE, OH 45308
IR DEED 17-02832
L55-027-08-0046
L55-027-08-0046
L55-027-08-0046
- ③
RUSSELL S. COOPERSTINE &
CAROL L. COOPERSTINE
8550 BROOKVILLE-PINMONT RD.
BROOKVILLE, OH 45309
IR DEED 14-00942
L55-027-04-0019
L55-027-04-0019
- LISA ANN CHILDERS
10305 AIR HILL RD.
BROOKVILLE, OH 45309
IR DEED 14-00942
L55-027-04-0090
L55-027-04-0090
L55-027-04-0090
- MANA J. SHANNON
8442 BROOKVILLE-PINMONT RD.
BROOKVILLE, OH 45309
IR DEED 11-03161
L55-027-04-0081
L55-027-04-0081
- J & M MEYER FARMS, LLC
8555 MONTGOMERY CO. LINE RD.
BROOKVILLE, OH 45309
IR DEED 12-083487
L55-027-04-0086
L55-027-04-0086
- REGINA WILSON HUGHES &
MICHAEL WILLIAM HUGHES
10305 AIR HILL RD.
BROOKVILLE, OH 45309
IR DEED 10-08172
L55-027-04-0090
L55-027-04-0090
- CYNTHIA L. MORAN, TRUSTEE
OF THE ROBERT L. ZIZERT
TRUST
IR DEED 21-00382
IR DEED 21-00382
37.817 ACRES

OCCUPATION STATEMENT

THE LINES OF OCCUPATION WHERE EXISTING IN
GENERAL AGREE WITH PROPERTY LINES.
PROPERTY LINES CALCULATED FROM EXISTING
MONUMENTATION AND SURVEYS OF RECORD.

CERTIFICATION

THIS CERTIFICATE WAS PREPARED IN ACCORDANCE WITH
THE O.R.C. CHAPTER 433.37 STANDARD OF PRACTICE FOR
D.A.C. CHAPTER 433.37 STANDARD OF PRACTICE FOR
CONFORMING TO THE O.R.C. CHAPTER 433.37 STANDARD OF PRACTICE FOR
CONDUCTED UNDER MY DIRECT SUPERVISION AND BASED ON ACTUAL
SURVEY DATA. I CERTIFY THAT THE INFORMATION CONTAINED HEREIN IS
CORRECT AND MONUMENTS ARE SET OR TO BE SET AS SHOWN.

PERTINENT INFORMATION

- ①
THOMAS N. MEYER
IR 09-081235 - 1/3 INT.
DENNIS E. MEYER
IR 09-081235 - 1/3 INT.
J & M MEYER FARMS, LLC
IR 12-083487 - 1/3 INT.
J & M MEYER FARMS, LLC
IR 12-083487 - 1/3 INT.
10955 MONTGOMERY CO. LINE RD.
BROOKVILLE, OH 45309
L55-027-04-0015

ANNEXATION OWNERS INDEX

- ①
THOMAS N. MEYER
IR 09-081235 - 1/3 INT.
DENNIS E. MEYER
IR 09-081235 - 1/3 INT.
J & M MEYER FARMS, LLC
IR 12-083487 - 1/3 INT.
J & M MEYER FARMS, LLC
IR 12-083487 - 1/3 INT.
10955 MONTGOMERY CO. LINE RD.
BROOKVILLE, OH 45309
L55-027-04-0015

PREPARED BY:

DATE:

03-31-2023

DRAWN BY:

RMF

JOB NUMBER:

MOTBRO2301

SHEET NUMBER

1 OF 1



WESLEY D. GOUBEUX, P.S. #8254
DATE 03/31/2023

WESLEY D. GOUBEUX, P.S. #8254

No. **RESOLUTION NO. 23-38**

Passed

Yr. _____

A RESOLUTION AUTHORIZING THE REQUEST FOR AN ADVANCE OF TAXES COLLECTED IN 2024 FOR TAX YEAR 2023.

WHEREAS: It is in the best interest of citizens of the City of Brookville, Ohio that a request be made for advance taxes collected in 2024 for year 2023.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BROOKVILLE, OHIO, THAT:

SECTION I: Authorization is granted to the Director of Finance of the City of Brookville, Ohio to make a request for an advance of taxes collected by the Treasurer of Montgomery County, Ohio, not to exceed the amount allotted by the Ohio Revised Code for the year 2023.

SECTION II: This Resolution shall therefore take effect and be enforced from and after its passage by the members of Council pursuant to the Charter of the City of Brookville, Ohio.

PASSED this _____ day of _____ 2023.

ATTEST:

Kimberly Duncan, Clerk

Charles Letner, Mayor

CERTIFICATE

The undersigned, Clerk of the City of Brookville, Ohio does hereby certify that the foregoing is a true and correct copy of Resolution No. 23-38 passed by the Council of said City on the _____ day of _____ 2023.

Kimberly Duncan, Clerk

CERTIFICATE OF POSTING

The undersigned, Clerk of Council of the City of Brookville, Ohio, hereby certifies that the foregoing Resolution No. 23-38 was posted at the City Building, U.S. Post Office and the Brookville Branch of the Montgomery County Public Library, Brookville, Ohio, on the _____ day of _____ 2023, to the _____ day of _____ 2023, both days inclusive.

Kimberly Duncan, Clerk

Resolution No. 23-40

ANNUAL APPROPRIATION RESOLUTION.

A Resolution to make appropriations for the Current Expenses and other Expenditures of the City of Brookville, State of Ohio, during the fiscal year ending December 31, 2024.

SECTION 1. BE IT RESOLVED by the Council of the City of Brookville, State of Ohio, that, to provide for the current expenses and other expenditures of the said City of Brookville, during the fiscal year ending December 31, 2024, the following sums be and they are hereby set aside and appropriated as follows, viz.

SECTION 2. That there be appropriated from the GENERAL FUND:

POLICE DEPARTMENT:

211	Salaries/Wages	<u>\$1,118,000</u>	
212	Employee Benefits	<u>\$ 539,000</u>	
230	Contractual Services	<u>\$ 260,050</u>	
240	Supplies and Materials	<u>\$ 78,800</u>	
250	Capital Outlay	<u>\$ 66,000</u>	
	Other (Uniforms & Travel)	<u>\$ 19,500</u>	
	TOTAL POLICE DEPARTMENT:		<u>\$ 2,081,350</u>

FIRE DEPARTMENT:

211	Salaries/Wages	<u>\$1,163,500</u>	
212	Employee Benefits	<u>\$ 234,500</u>	
230	Contractual Services	<u>\$ 381,550</u>	
240	Supplies and Materials	<u>\$ 125,000</u>	
	Other (Uniforms & Travel)	<u>\$ 20,000</u>	
	TOTAL FIRE DEPARTMENT:		<u>\$ 1,924,550</u>

GOVERNMENT & ADMINISTRATIVE DEPARTMENT:

211	Salaries/Wages	\$ <u>550,500</u>
212	Employee Benefits	\$ <u>161,500</u>
230	Contractual Services	\$ <u>769,290</u>
240	Supplies and Materials	\$ <u>44,000</u>
250	Capital Outlay	\$ <u>125,000</u>
270	Transfers/Advances	\$ <u>1,418,800</u>
	Other (Uniforms & Travel)	\$ <u>1,750</u>

TOTAL GOVERNMENT & ADMINISTRATIVE DEPARTMENT: \$ 3,070,840

SECTION 3. That there be appropriated from the GENERAL FUND for contingencies for purposes not otherwise provided for, to be expended in accordance with the provisions of Section 5705.40 R.C., the sum of

\$ 5,000

GRAND TOTAL GENERAL FUND APPROPRIATION: \$ 7,081,740

SECTION 4.**STREET MAINTENANCE & REPAIR FUND:**

211	Salaries/Wages	\$ <u>420,000</u>
212	Employee Benefits	\$ <u>181,800</u>
230	Contractual Services	\$ <u>153,700</u>
240	Supplies and Materials	\$ <u>155,800</u>
250	Capital Outlay	\$ <u>865,500</u>
	Other (Uniforms & Travel)	\$ <u>4,200</u>
260	Debt Service	\$ <u>124,100</u>

TOTAL STREET MAINTENANCE & REPAIR FUND: \$ 1,905,100

SECTION 5.**PARK & RECREATION FUND:**

211	Salaries/Wages	\$ <u>79,500</u>	
212	Employee Benefits	\$ <u>34,100</u>	
230	Contractual Services	\$ <u>117,350</u>	
240	Supplies and Materials	\$ <u>37,100</u>	
250	Capital Outlay	\$ <u>55,000</u>	
	Other (Uniforms & Travel)	\$ <u>1,900</u>	
TOTAL PARK & RECREATION FUND:			\$ <u>324,950</u>

SECTION 6.**LAND REUTILIZATION FUND:**

230	Contractual Services	\$ <u>0</u>	
240	Supplies and Materials	\$ <u>0</u>	
260	Debt Service	\$ <u>0</u>	
TOTAL LAND REUTILIZATION FUND:			\$ <u>0</u>

SECTION 7.**OHIOONE OPIOID FUND:**

230	Contractual Services	\$ <u>0</u>	
240	Supplies and Materials	\$ <u>0</u>	
TOTAL OHIOONE OPIOID FUND:			\$ <u>0</u>

SECTION 8.**LOCAL FISCAL RECOVERY FUND:**

250	Capital Outlay	\$ <u>1,159,934</u>	
TOTAL LOCAL FISCAL RECOVERY FUND:			\$ <u>1,159,934</u>

SECTION 9.**LAW ENFORCEMENT FUND:**

	Other (Law Enforcement Misc., D.U.I. & R.I.F.)	\$ <u>1,100</u>	
TOTAL LAW ENFORCEMENT FUND:			\$ <u>1,100</u>

SECTION 10.

FEMA FUND:

240	Contractual Services	\$ <u>0</u>	
270	Transfer/Advance Out	\$ <u>0</u>	
	TOTAL FEMA FUND:		\$ <u>0</u>

SECTION 11.

BOND RETIREMENT FUND:

260	Debt Service	\$ <u>375,800</u>	
	TOTAL BOND RETIREMENT FUND:		\$ <u>375,800</u>

SECTION 12.

NOTE RETIREMENT-NORTHBROOK FUND:

260	Debt Service	\$ <u>93,000</u>	
	TOTAL NOTE RETIREMENT-NORTHBROOK FUND:		\$ <u>93,000</u>

SECTION 13.

CAPITAL IMPROVEMENT FUND:

250	Capital Outlay	\$ <u>175,000</u>	
	TOTAL CAPITAL IMPROVEMENT FUND:		\$ <u>175,000</u>

SECTION 14.

FIRE CAPITAL IMPROVEMENT FUND:

230	Contractual Services	\$ <u>51,720</u>	
250	Capital Outlay	\$ <u>273,500</u>	
	TOTAL FIRE CAPITAL IMPROVEMENT FUND:		\$ <u>325,220</u>

SECTION 15.

WATER FUND:

211	Salaries/Wages	\$ <u>170,000</u>	
212	Employee Benefits	\$ <u>75,000</u>	

230	Contractual Services	\$ <u>1,131,750</u>	
240	Supplies and Materials	\$ <u>15,600</u>	
250	Capital Outlay	\$ <u>1,728,565</u>	
	Other (Uniforms & Travel)	\$ <u>1,800</u>	
260	Debt Service	\$ <u>104,900</u>	
	TOTAL WATER FUND:		\$ <u>3,227,615</u>

SECTION 16.

SANITARY SEWER FUND:

211	Salaries/Wages	\$ <u>200,000</u>	
212	Employee Benefits	\$ <u>89,100</u>	
230	Contractual Services	\$ <u>290,200</u>	
240	Supplies and Materials	\$ <u>31,200</u>	
250	Capital Outlay	\$ <u>144,500</u>	
	Other (Uniforms & Travel)	\$ <u>1,800</u>	
260	Debt Service	\$ <u>117,300</u>	
	TOTAL SANITARY SEWER FUND:		\$ <u>874,100</u>

SECTION 17.

STORMWATER FUND:

211	Salaries/Wages	\$ <u>21,000</u>	
212	Employee Benefits	\$ <u>11,500</u>	
230	Contractual Services	\$ <u>58,600</u>	
240	Supplies and Materials	\$ <u>3,500</u>	
250	Capital Outlay	\$ <u>155,000</u>	
	Other (Uniforms & Travel)	\$ <u>500</u>	
260	Debt Service	\$ <u>4,600</u>	
	TOTAL STORMWATER FUND:		\$ <u>254,700</u>

SECTION 18.

REFUSE FUND:

211	Salaries/Wages	\$ <u>39,000</u>	
212	Employee Benefits	\$ <u>18,500</u>	

230	Contractual Services	\$ <u>544,700</u>	
240	Supplies and Materials	\$ <u>1,500</u>	
	Other (Uniforms & Travel)	\$ <u>0</u>	
	TOTAL REFUSE FUND:		\$ <u>603,700</u>

GRAND TOTAL ALL APPROPRIATIONS:	\$ <u>16,401,959</u>
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SECTION 19.

Due to an unforeseen loss in revenue caused by businesses leaving the city and the continuation of the national Coronavirus Pandemic, it is estimated that the City will end 2024 with a balance well below that required in the City's General Fund Carryover Balance Policy. Based on the policy the City, should carry forward a minimum of six month of the previous years' operating expenses, which is equal to \$2,639,670. Based on the estimated Ending Fund Balance for 2024 the City will only carry over \$383,310. Through the new developments, new business prospects, and continued reduction of expenditures the City hopes to be in compliance by December 2025.

SECTION 20.

This Resolution shall take effect immediately after passage of this Resolution as provided in 4.07(A)(1) of the Charter of the City of Brookville, Ohio.

And the Director of Finance is hereby authorized to draw warrants on the City Treasury for payments from any of the foregoing appropriations upon receiving proper certificates and vouchers therefore, approved by the board or officers authorized by law to approve the same, or an ordinance or resolution of council to make the expenditures; provided that no warrants shall be drawn or paid for salaries or wages except to persons employed by authority of and in accordance with law or Ordinance. Provided further that the appropriations for contingencies can only be expended upon appeal or two-thirds vote of Council for items of expense constituting a legal obligation against the city, and for purposes other than those covered by other specific appropriations herein made.

Passed _____

Approved:

Charles Letner, Mayor

Attest:

Kimberly Duncan,
Clerk of Council

CERTIFICATE

Section 5705.39, R.C. – "No appropriation measure shall become effective until the county auditor files with the appropriation authority.....a certificate that the total appropriations from each fund taken together with all other outstanding appropriations, do not exceed such official estimate or amended official estimate. When the appropriation does not exceed such official estimate, the

county auditor shall give such certificate forthwith upon receiving from the appropriating authority a certified copy of the appropriation measure.....”

The State of Ohio Montgomery County, ss.

I, Michelle Brandt, Director of Finance of the City of Brookville in said County, and in whose custody the Files, Journals, and Records are required by the Laws of the State of Ohio to be kept, do hereby certify that the foregoing Annual Appropriation Resolution is taken and copied from the original Resolution now on file with said City, that the foregoing Resolution has been compared by me with the said original and that the same is a true and correct copy thereof.

Witness my signature, this _____ day of _____ 2023.

Director of Finance of the City of
Brookville, Montgomery County,
Ohio

CERTIFICATE OF POSTING

The undersigned, Clerk of Council of the City of Brookville, Ohio, hereby certifies that the foregoing Resolution No. 23-40 was posted at the City Building, U.S. Post Office and the Brookville Branch of the Montgomery County Public Library, Brookville, Ohio on the _____ day of _____ 2023 to the _____ day of _____ 2024 both days inclusive.

Kimberly Duncan
Clerk of Council

No.

RESOLUTION 23-41

Passed

Yr.

A RESOLUTION REGARDING MUNICIPAL SERVICES TO BE PROVIDED TO THE TERRITORY CONTAINED IN A PROPOSED ANNEXATION OF 71.701 ACRES, MORE OR LESS, FROM PERRY TOWNSHIP TO THE CITY OF BROOKVILLE, OHIO IF ANNEXATION OF SAID TERRITORY IS APPROVED BY THE BOARD OF COUNTY COMMISSIONERS OF MONTGOMERY COUNTY, OHIO, AND DECLARING IT AN EMERGENCY.

WHEREAS, a petition for annexation was filed with the Clerk of the Board of County Commissioners of Montgomery County, Ohio on December 15, 2023 seeking annexation of 71.701 acres, more or less, from Perry Township to the City of Brookville; and

WHEREAS, the petition for annexation was filed under the special annexation procedure provided in Ohio Revised Code Section 709.023; and

WHEREAS, Ohio Revised Code Section 709.023(C) requires that upon receipt of notice of a proposed annexation, the Council shall adopt a statement indicating what services, if any, the municipal corporation shall provide to the territory proposed for annexation upon annexation to the City within twenty days after the filing of the petition; and

WHEREAS, Ohio Revised Code Section 709.023(C) requires that this resolution be approved by City Council and filed with the Board of County Commissioners within twenty (20) days after the filing of the petition for annexation.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF BROOKVILLE, OHIO THAT:

SECTION I: The City of Brookville shall provide the following services to the territory of 71.701 acres, more or less, in Perry Township, upon approval of the annexation of the territory to the City of Brookville by the Board of County Commissioners of Montgomery County, Ohio:

(A) Police: Police services shall be provided on a twenty-four (24) hour basis immediately upon approval of the annexation of the territory to the City of Brookville. Brookville currently employs 11 full time sworn police officers as well as reserve officers and support personnel.

(B) Fire: The City of Brookville is presently providing fire protection and emergency medical services to the territory proposed for annexation pursuant to the contract between the City of Brookville and Perry Township. Therefore, fire protection and emergency medical services shall continue immediately upon approval of the annexation of the territory to the City of Brookville. The City of Brookville provides fire protection and emergency services on a twenty-four hour basis by the Fire Department consisting of approximately forty (40) trained personnel.

(C) Street Maintenance: The City of Brookville shall provide street maintenance immediately upon approval of annexation of the territory to the City of Brookville. This street maintenance shall include emergency repairs, and routine preventive maintenance of roads and streets in the territory. Snow and ice control and removal shall be provided upon approval of the annexation of the territory to the City. The City of Brookville hereby agrees, as a condition of the proposed annexation, that if a street or highway will be divided or segmented by the boundary line between the township and the City as to create a road maintenance problem, the City of Brookville shall assume maintenance of that street or highway or to otherwise correct the problem, as required by Ohio Revised Code Section 709.023(E)(7).

(D) Waste Collection: The City of Brookville shall provide waste collection services to residential properties in the territory proposed for annexation upon immediately upon approval of the annexation of the territory to the City of Brookville. Services are provided for waste collection by the City of Brookville through contract with Rumpke.

(E) Water: The City of Brookville shall provide water services to the territory proposed for annexation immediately upon approval of the annexation of the territory to the City of Brookville. The cost of any improvements, necessary to provide water service to the territory proposed for annexation, may be assessed to the property owners in the territory by the City of Brookville.

(F) Sanitary Sewer: The City of Brookville shall provide sanitary sewer services to the territory proposed for annexation immediately upon approval of the annexation of the territory to the City of Brookville. The cost of any improvements, necessary to provide sanitary sewer service to the territory proposed for annexation, may be assessed to the property owners in territory by the City of Brookville.

(G) Other Public Improvements: The City of Brookville shall provide any other necessary public improvements to the territory proposed for annexation immediately upon approval of the annexation of the territory to the City of Brookville, including street and road improvements, sidewalk and curbs, storm sewer improvements, street lighting, and other public improvements.

SECTION II: The Clerk of the Council of the City of Brookville shall cause a certified copy of this Resolution to be filed with the Board of County Commissioners of Montgomery County, Ohio within twenty (20) days after the date of filing of the petition for annexation as required by Ohio Revised Code Section 709.023(C).

SECTION III: This Resolution is hereby declared to be an emergency measure to meet an emergency in the government of the City, which is the timely filing of this Resolution with the Board of County Commissioners within twenty (20) days after the filing of the petition for annexation as required by Ohio Revised Code Section 709.023(C). This Resolution shall take effect immediately upon passage of this Resolution as provided by the Charter of the City of Brookville, Ohio.

No. _____

Passed _____

Yr. _____

PASSED this _____ day of _____, 2023.

ATTEST:

Kimberly Duncan, Clerk

Charles Letner, Mayor

CERTIFICATE

The undersigned, Clerk of the City of Brookville, does hereby certify that the foregoing is a true and correct copy of Resolution No. 23-41, passed by the Council of the City of Brookville, Ohio, on the _____ day of _____, 2023.

Kimberly Duncan, Clerk

CERTIFICATE OF POSTING

The undersigned, Clerk of the City of Brookville, Ohio, hereby certifies that the foregoing Resolution No. 23-41 was posted at the City Building, US Post Office and the Brookville Branch of the Montgomery County Public Library, Brookville, Ohio, on the _____ day of _____, 2023, to the _____ day of _____, 2024, both days inclusive.

Kimberly Duncan, Clerk

FINAL RESOLUTION

The following Final Resolution enacted by the City of **Brookville**, Ohio, hereinafter referred to as the Legislative Authority/Local Public Agency or "LPA", in the matter of the stated described project.

WHEREAS, on the **18th day of April 2023**, the LPA enacted legislation proposing cooperation with the Director of Transportation for the described project:

The project consists of improvements to Wolf Creek Street from Arlington Road to Western Avenue, including pavement planing, pavement repair, resurfacing, and pavement markings, lying within the City of Brookville; and

WHEREAS, the LPA shall cooperate with the Director of Transportation in the above described project as follows:

The City agrees to assume and bear one hundred percent (100%) of the entire cost of the improvement within the city limits, less the amount of Federal-Aid funds set aside by the Director of Transportation for the financing of this improvement from funds allocated by the Federal Highway Administration, U. S. Department of Transportation.

The share of the cost of the LPA is now estimated in the amount of **Eighty-Seven Thousand Nine Hundred Twelve and - - - 00/100 Dollars, (\$87,912.00)**, but said estimated amount is to be adjusted in order that the LPA's ultimate share of said improvement shall correspond with said percentages of actual costs when said actual costs are determined; and

WHEREAS, The Director of Transportation has approved said legislation proposing cooperation and has caused to be made plans and specifications and an estimate of cost and expense for improving the above described highway and has transmitted copies of the same to this legislative authority; and

WHEREAS, The LPA desires the Director of Transportation to proceed with the aforesaid highway improvement.

NOW, THEREFORE, be it resolved:

- I. That the estimated sum, of **Eighty-Seven Thousand Nine Hundred Twelve and - - - 00/100 Dollars, (\$87,912.00)** is hereby appropriated for the improvement described above and the fiscal officer is hereby authorized and directed to issue an order on the treasurer for said sum upon the requisition of the Director of Transportation to pay the cost and expense of said improvement. We hereby agree to assume in the first instance, the share of the cost and expense over and above the amount to be paid from **Federal** funds.
- II. That the LPA hereby requests the Director of Transportation to proceed with the aforesaid highway improvement.
- III. That the LPA enter into a contract with the State, and that the **City Manager** be, and is hereby authorized to execute said contract, providing for the payment of the LPA the sum of money set forth herein above for improving the described project.
- IV. That the LPA transmit to the Director of Transportation a fully executed copy of this Resolution.

This is to certify that we have compared the foregoing copy of Resolution with the original record thereof, found in the record of the proceedings of the LPA, and which Resolution was duly passed by the LPA on the _____ day of _____, 20____, and that the same is a true and correct copy of the record of said Resolution and the action of said LPA thereon.

We further certify that said Resolution and the action of said LPA thereon is recorded in the journal of said LPA in Volume _____, at Page _____, and under date of _____, 20____.

Legislative Authority of the
City of **Brookville**, Ohio

City Manager

SEAL
(If Applicable)

Clerk (Secretary Ex-Officio)

FISCAL OFFICER'S CERTIFICATE
(Chapter 5521 and Section 5705.41, Ohio Revised Code)

I hereby certify to that the money, to wit: **\$87,912.00** required for the payment of the cost other than that thereof assumed by the **Federal** Government, for the improvement of that portion of **Wolf Creek Street**, lying within the corporate limits of the City of **Brookville**, more particularly described as follows:

The project consists of improvements to Wolf Creek Street from Arlington Road to Western Avenue, including pavement planing, pavement repair, resurfacing, and pavement markings, lying within the City of Brookville; and

has been lawfully appropriated for such purpose and is in the treasury to the credit of, or has been levied placed on the duplicate and in process of collection for the appropriate fund, and not appropriated for any other purpose; or is being obtained by sale of bonds issued on account of said improvement, which bonds are sold and in process of delivery.

I further certify that this certificate was made, sealed and filed with the legislative authority of the City of **Brookville**, Ohio, after said legislative authority passed the final resolution in connection with the within described project; and that this certificate was forthwith recorded in the record of the proceedings of said legislative authority, namely:

Legislative Authority's Journal, Volume _____, at Page _____,

IN WITNESS WHEREOF, I have hereunto set my hand and official seal as said fiscal officer, this _____ day of _____, 20____.

(Fiscal Officer's Seal)
(If Applicable)

Fiscal Officer of the City of
Brookville, Ohio

CONTRACT
(Chapter 5521, Ohio Revised Code)

This contract is made by and between the State of Ohio, Department of Transportation, acting through its director (hereinafter referred to as the "STATE"), 1980 West Broad Street, Columbus, Ohio 43223, and the City of **Brookville**, (hereinafter referred to as the legislative authority/Local Public Agency or "LPA").

WITNESSTH:

WHEREAS, Chapter 5521 of the Ohio Revised Code provides that the legislative authority may cooperate with the STATE in a highway project made by and under the supervision of the Director of Transportation; and

WHEREAS, through the enactment of preliminary legislation, the LPA and the STATE have agreed to cooperate in the highway project described below; and

WHEREAS, through the enactment of final legislation, the LPA has committed to pay an estimated amount of money as its share of the total estimated cost and expense of the highway project described below; and

WHEREAS, the fiscal officer of the LPA has filed with the LPA a certificate stating that sufficient moneys are available, as required by Chapter 5521 and Section 5705.41 of the Ohio Revised Code. A duplicate certificate is attached hereto; and

WHEREAS, in accordance with the final legislation, the LPA hereby enters into this contract with the STATE to provide for payment of the agreed portion of the cost of the highway project and any additional obligations for the highway project described below.

NOW, THEREFORE, in consideration of the premises and the performances of mutual covenants hereinafter set forth, it is agreed by parties hereto as follows:

SECTION I: **RECITALS**

The foregoing recitals are hereby incorporated as a material part of this contract.

SECTION II: **PURPOSE**

The purpose of this contract is to set forth requirements associated with the highway project described below (hereinafter referred to as the "PROJECT") and to establish the responsibilities for the administration of the PROJECT by the LPA and the STATE.

SECTION III: LEGAL REFERENCES

This contract is established pursuant to Chapter 5521 of the Ohio Revised Code.

SECTION IV: SCOPE OF WORK

The work to be performed under this contract shall consist of the following:

The project consists of improvements to Wolf Creek Street from Arlington Road to Western Avenue, including pavement planing, pavement repair, resurfacing, and pavement markings, lying within the City of Brookville.

SECTION V: FINANCIAL PARTICIPATION

1. The STATE agrees to provide the necessary funds as enumerated in this section and allowed by law for the financing of this project.
2. The STATE may allocate the money contributed by the LPA in whatever manner it deems necessary in financing the cost of construction, right-of-way, engineering, and incidental expenses, notwithstanding the percentage basis of contribution by the LPA.
3. The total cost and expenses for the project are only an estimate and the total cost and expenses may be adjusted by the STATE. If any adjustments are required, payment of additional funds shall correspond with the percentages of actual costs when said actual costs are determined, and as requested, by the Director of Transportation.
4. The LPA agrees to pay to the STATE its share of the total estimated cost expense for the above highway project in the amount of **Eighty-Seven Thousand Nine Hundred Twelve and - - - 00/100 Dollars, (\$87,912.00).**
5. **The City agrees to assume and bear one hundred percent (100%) of the entire cost of the improvement within the city limits, less the amount of Federal-Aid funds set aside by the Director of Transportation for the financing of this improvement from funds allocated by the Federal Highway Administration, U. S. Department of Transportation.**
6. The LPA agrees to assume and bear One Hundred Percent (100%) of the cost of any construction items required by the LPA on the entire project, which are not necessary for the improvement, as determined by the State and Federal Highway Administration.

7. The LPA agrees that change orders and extra work contracts required fulfilling the construction contracts shall be processed as needed. The STATE shall not approve a change order or extra work contract until it first gives notice, in writing, to the LPA. The LPA shall contribute its share of the cost of these items in accordance with other sections herein.

SECTION VI: RIGHT-OF-WAY AND UTILITIES

1. The LPA agrees that all right-of-way required for the described project will be acquired and/or made available in accordance with current State and Federal regulations. The LPA also understands that right-of-way costs include eligible utility costs.
2. The LPA agrees that all utility accommodation, relocation, and reimbursement will comply with the current provisions of 23 CFR 645 and the ODOT Utilities Manual, including that:
 - A. Arrangements have been or will be made with all utilities where facilities are affected by the described PROJECT, that the utilities have agreed to make all necessary removals and/or relocations to clear any construction called for by the plans of this PROJECT, and that the utilities have agreed to make the necessary removals and/or relocations after notification by the LPA or STATE.
 - B. The LPA shall, at its own expense, make all removals and/or relocations of publicly-owned utilities which do not comply with the reimbursement provisions of the ODOT Utilities Manual. Publicly-owned facilities which do comply with the reimbursement provisions of the ODOT Utilities Manual will be removed and/or relocated at project expense, exclusive of betterments.
 - C. The removals and/or relocation of all utilities shall be done in such a manner as not to interfere with the operation of the contractor constructing the PROJECT and that the utility removals and/or relocations shall be approved by the STATE and performed in accordance with the provisions of the ODOT Construction and Materials Specifications.

SECTION VII: ADDITIONAL PROJECT OBLIGATIONS

1. The STATE shall initiate the competitive bid letting process and award the PROJECT in accordance with ODOT's policies and procedures.
2. The LPA agrees:
 - A. To keep said highway open to traffic at all times;
 - B. To maintain the PROJECT in accordance with the provisions of the statutes relating thereto,

- C. To make ample financial and other provisions for such maintenance of the PROJECT after its completion;
- D. To maintain the right-of-way and keep it free of obstructions in a manner satisfactory to the STATE and hold said right-of-way inviolate for public highway purposes;
- E. To place and maintain all traffic control devices conforming to the Ohio Manual of Uniform Traffic Control Devices on the project in compliance with the provisions of Section 4511.11 of the Ohio Revised Code;
- F. To regulate parking in accordance with Section 4511.66 of the Ohio Revised Code, unless otherwise controlled by local ordinance or resolution.

SECTION VIII: DISPUTES

In the event that any disputes arise between the STATE and LPA concerning interruption of or performance pursuant to this contract, such disputes shall be resolved solely and finally by the Director of Transportation.

SECTION IX: NOTICE

Notice under this contract shall be directed as follows:

City of Brookville
301 Sycamore Street, P.O. Box 10
Brookville, Ohio
45309

Ohio Department of Transportation
Office of Contract Sales & Estimating
1980 West Broad Street, MS 4110
Columbus, Ohio 43223

SECTION X: FEDERAL REQUIREMENTS

1. In carrying out this contract, LPA shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, disability, or age. LPA will ensure that applicants are hired and that employees are treated during employment without regard to their race, religion, color, sex, national origin (ancestry), disability, genetic information, or age (40 years or older), sexual orientation, or military status (past, present, future). Such action shall include, but not be limited to, the following: Employment, Upgrading, Demotion, or Transfer; Recruitment or Recruitment Advertising; Layoff or Termination; Rates of Pay or other forms of Compensation; and Selection for Training including Apprenticeship.

2. To the extent necessary under Ohio law, LPA agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause. LPA will, in all solicitations or advertisements for employees placed by or on behalf of LPA, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, national origin (ancestry), disability, genetic information, age (40 years or older), sexual orientation, or military status (past, present, future). If applicable, the LPA shall incorporate the foregoing requirements of this paragraph in all of its contracts for any of the work prescribed herein (other than subcontracts for standard commercial supplies or raw materials) and will require all of its subcontractors for any part of such work to incorporate such requirements in all subcontracts for such work.
3. LPA agrees to fully comply with Title VI of the Civil Rights Act of 1964, 42 USC Sec. 2000. LPA shall not discriminate on the basis of race, color, or national origin in its programs or activities. The Director of Transportation may monitor the Contractor's compliance with Title VI.

SECTION XI: GENERAL PROVISIONS

1. This contract constitutes the entire contract between the parties. All prior discussions and understandings between the parties are superseded by this contract.
2. Neither this contract nor any rights, duties or obligations described herein shall be assigned by either party hereto without the prior express written consent of the other party.
3. Any change to the provisions of this contract must be made in a written amendment executed by both parties.
4. This contract and any claims arising out of this contract shall be governed by the laws of the State of Ohio. Any provision of this contract prohibited by the law of Ohio shall be deemed void and of no effect. Any litigation arising out of or relating in any way to this contract or the performance thereunder shall be brought only in the courts of Ohio, and the LPA hereby irrevocably consents to such jurisdiction. To the extent that the STATE is a party to any litigation arising out of or relating in any way to this contract or the performance thereunder, such an action shall be brought only in a court of competent jurisdiction in Franklin County, Ohio.
5. All financial obligations of the State of Ohio, as provided in this contract, are subject to the provisions of Section 126.07 of the Ohio Revised Code. The financial obligations of the State of Ohio shall not be valid and enforceable unless funds are appropriated by the Ohio General Assembly and encumbered by the STATE. Additionally, it is understood that this financial obligation of the LPA shall not be valid and enforceable unless funds are appropriated by the LPA's legislative body.

6. This contract shall be deemed to have been substantially performed only when fully performed according to its terms and conditions and any modification thereof.
7. LPA agrees that it is currently in compliance and will continue to adhere to the requirements of Ohio Ethics law as provided by Section 102.03 and 102.04 of the Ohio Revised Code.

SECTION XII: SIGNATURES

Any person executing this contract in a representative capacity hereby warrants that he/she has been duly authorized by his/her principal to execute this contract on such principal behalf.

Any party hereto may deliver a copy of its counterpart signature page to this Agreement via fax or e-mail. Each party hereto shall be entitled to rely upon a facsimile signature on any other party delivered in such a manner as if such signature were an original.

IN WITNESS THEREOF, the parties hereto have caused this contract to be duly executed in duplicate.

SEAL
(If Applicable)

**OHIO DEPARTMENT OF
TRANSPORTATION**

LOCAL PUBLIC AGENCY
City of **Brookville**

Director of Transportation

City Manager

Date

Approved:
Dave Yost
Attorney General of Ohio

By: _____
Corinna Efke
Unit Coordinator, Transportation
Executive Agencies Section

No.

RESOLUTION 23-43

Passed

Yr.

A RESOLUTION REQUIRING THE ESTABLISHMENT OF A BUFFER WHEN MANDATED BY OHIO REVISED CODE SECTION 709.023 IN THE EVENT THAT THE PROPOSED ANNEXATION OF 71.701 ACRES, MORE OR LESS, FROM PERRY TOWNSHIP TO THE CITY OF BROOKVILLE, OHIO IS APPROVED, AND DECLARING IT AN EMERGENCY.

WHEREAS, a petition for annexation was filed with the Clerk of the Board of County Commissioners of Montgomery County, Ohio on December 15, 2023 seeking annexation of 71.701 acres, more or less, from Perry Township to the City of Brookville; and

WHEREAS, the petition for annexation was filed under the special annexation procedure provided in Ohio Revised Code Section 709.023; and

WHEREAS, Ohio Revised Code Section 709.023(C) requires that if the territory proposed for annexation is subject to zoning regulations, adopted under either Chapter 303 or 519 of the Ohio Revised Code at the time the petition is filed, the legislative authority of the municipal corporation to which the annexation is proposed shall adopt an ordinance or resolution stating that if the territory is annexed and becomes subject to zoning by the municipal corporation and that municipal zoning permits uses in the annexed territory that the municipal corporation determines are clearly incompatible with the uses permitted under current county or township zoning regulations in the adjacent land remaining within the township from which the territory was annexed, the legislative authority of the municipal corporation will require, in the zoning ordinance permitting the incompatible uses, the owner of the annexed territory to provide a buffer separating the use of the annexed territory and the adjacent land remaining within the township; and

WHEREAS, Ohio Revised Code Section 709.023(C) requires that this resolution be approved by City Council and filed with the Board of County Commissioners within twenty (20) days after the filing of the petition for annexation.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF BROOKVILLE, OHIO THAT:

SECTION I: In the event that the petition for annexation of 71.701 acres, more or less, from Perry Township to the City of Brookville is approved by the Board of County Commissioners of Montgomery County, Ohio, and the territory becomes subject to zoning by the City of Brookville, and in the event that the zoning ordinance of the City of Brookville permits uses in the annexed territory that the City of Brookville determines are clearly incompatible with the uses permitted under current county or township zoning regulations in the adjacent land remaining within the township from which the territory was annexed, the owner of the annexed territory shall be required to provide a buffer separating the use of the annexed territory and the adjacent land remaining within the township. For the purposes of this Resolution, the term "buffer" shall include open space, landscaping, fences, walls, and other structured elements, streets, and street rights of ways, and bicycle and pedestrian paths and sidewalks, as specified in Ohio Revised Code Section 709.023(C).

SECTION II: The Clerk of the Council of the City of Brookville shall cause a certified copy of this Resolution to be filed with the Board of County Commissioners of Montgomery County, Ohio within twenty (20) days after the date of filing of the petition for annexation as required by Ohio Revised Code Section 709.023(C).

SECTION III: This Resolution is hereby declared to be an emergency measure to meet an emergency in the government of the City, which is the timely filing of this Resolution with the Board of County Commissioners within twenty (20) days after the filing of the petition for annexation as required by Ohio Revised Code Section 709.023(C). This Resolution shall take effect immediately upon passage of this Resolution as provided by the Charter of the City of Brookville, Ohio.

PASSED this _____ day of _____, 2023.

ATTEST:

Kimberly Duncan, Clerk

Charles Letner, Mayor

CERTIFICATE

The undersigned, Clerk of the City of Brookville, does hereby certify that the foregoing is a true and correct copy of Resolution No. 23-43, passed by the Council of the City of Brookville, Ohio, on the _____ day of _____, 2023.

Kimberly Duncan, Clerk

CERTIFICATE OF POSTING

The undersigned, Clerk of the City of Brookville, Ohio, hereby certifies that the foregoing Resolution No. 23-43 was posted at the City Building, US Post Office and the Brookville Branch of the Montgomery County Public Library, Brookville, Ohio, on the _____ day of _____, 2023, to the _____ day of _____, 2024, both days inclusive.

Kimberly Duncan, Clerk

No.

RESOLUTION 23-44

Passed

Yr.

A RESOLUTION CONSENTING TO THE PROPOSED ANNEXATION OF 71.701 ACRES, MORE OR LESS, FROM PERRY TOWNSHIP TO THE CITY OF BROOKVILLE, OHIO, AND DECLARING IT AN EMERGENCY.

WHEREAS, the Clerk of Council of the City of Brookville was served on December 18, 2023 with a notice of filing of petition for annexation of 71.701 acres, more or less, from Perry Township to the City of Brookville, said petition having been filed with Clerk of the Board of County Commissioners of Montgomery County, Ohio on December 15, 2023;

WHEREAS, pursuant to Ohio Revised Code Section 709.023(D), the Council of the City of Brookville may adopt and file with the Board of County Commissioners of Montgomery County, Ohio, an ordinance or resolution consenting to the proposed annexation within twenty-five days after the date the petition was filed; and

WHEREAS, the Council of the City of Brookville has determined that this petition for annexation will benefit the territory proposed for annexation and the City of Brookville, and therefore, the Council desires to submit this Resolution to the Montgomery County Board of County Commissioners to indicate its consent to this petition for annexation.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF BROOKVILLE, OHIO THAT:

SECTION I: The Council of the City of Brookville consents, pursuant to 709.023(D) of the Ohio Revised Code, to the proposed annexation of 71.701 acres, more or less from Perry Township, to the City of Brookville.

SECTION II: The City of Brookville hereby agrees, as a condition of the proposed annexation, that if a street or highway will be divided or segmented by the boundary line between the township and the City of Brookville as to create a road maintenance problem, the City of Brookville shall assume maintenance of that street or highway or to other correct the problem, as required by Ohio Revised Code Section 709.023(E)(7).

SECTION III: The Clerk of the Council of the City of Brookville shall cause a certified copy of this Resolution to be filed with the Board of County Commissioners of Montgomery County, Ohio within twenty-five (25) days after the date of filing of the petition for annexation as required by Ohio Revised Code Section 709.023(C).

SECTION IV: This Resolution is hereby declared to be an emergency measure to meet an emergency in the government of the City, which is the timely filing of this Resolution with the Board of County Commissioners within twenty-five (25) days after the filing of the petition for annexation as required by Ohio Revised Code Section 709.023(D). This Resolution shall take effect immediately upon passage of this Resolution as provided by the Charter of the City of Brookville, Ohio.

PASSED this _____ day of _____, 2023.

ATTEST:

Kimberly Duncan, Clerk

Charles Letner, Mayor

CERTIFICATE

The undersigned, Clerk of the City of Brookville, does hereby certify that the foregoing is a true and correct copy of Resolution 23-44, passed by the Council of the City of Brookville, Ohio, on the _____ day of _____, 2023.

Kimberly Duncan, Clerk

CERTIFICATE OF POSTING

The undersigned, Clerk of the City of Brookville, Ohio, hereby certifies that the foregoing Resolution No. 23-44 was posted at the City Building, US Post Office and the Brookville Branch of the Montgomery County Public Library, Brookville, Ohio, on the _____ day of _____, 2023, to the _____ day of _____, 2024, both days inclusive.

Kimberly Duncan, Clerk

RECORD OF ORDINANCES

BEAR GRAPHICS 800-325-8094 FORM NO. 30043

Ordinance No. 2023-13 Passed , 20

AN ORDINANCE APPROVING AND AUTHORIZING THE EXECUTION OF A TAX INCREMENT FINANCING AGREEMENT AND APPROVING RELATED MATTERS.

WHEREAS, pursuant to Ordinance No. 2023-03 (the “TIF Ordinance”) adopted by this City Council (the “Council”) of the City of Brookville, Ohio (the “City”) on January 3, 2023, the City created the Harper Creek Incentive District TIF Site (the “District”) and declared certain public improvements (the “Public Improvements”) to be a public purpose necessary for the further development of the District, all as further described in the TIF Ordinance; and

WHEREAS, pursuant to the TIF Ordinance, the City exempted from real property taxation the incremental value of the real property within the District (the “Exempted Property”) as further described in the TIF Ordinance; and

WHEREAS, pursuant to the TIF Ordinance, owners of the Exempted Property within the District are required to make service payments in lieu of taxes (the “PILOTS”) directly to the County Treasurer based in the increased value of the Exempted Property; and

WHEREAS, in accordance with the TIF Ordinance and Ohio Revised Code (“ORC”) Section 5709.42, this Council established the Harper Creek Incentive District TIF Site Public Improvement Tax Increment Equivalent Fund (the “TIF Fund”), into which the PILOTS are to be deposited; and

WHEREAS, at the request of Clayton Properties Group, Inc., or an entity related thereto (the “Developer”), the City desires to use PILOTS to pay a portion of the costs (the “Costs”) of certain Public Improvements located within the City by entering into a Tax Increment Financing Agreement (the “TIF Agreement”) with the Developer; and

WHEREAS, ORC Section 5709.40(A)(5)(f) requires that an economic development plan evidence that the public infrastructure serving the District is inadequate to meet the development needs of the District but for the construction of the Public Improvements;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BROOKVILLE, MONTGOMERY COUNTY, STATE OF OHIO, THAT:

SECTION I. The form of TIF Agreement on file with this Council providing for the design and construction of the Public Improvements and the payment of a portion of the Costs of those Public Improvements by the City from money deposited into the TIF Fund, is hereby approved and authorized with changes and completions thereto that are not inconsistent with this Ordinance, not substantially adverse to the City and approved by the City Manager. The City Manager, for and in the name of the City, is hereby authorized to execute and deliver the TIF Agreement in substantially that form along with any changes or completions thereto, provided that the approval of such changes and completions thereto by the City Manager, and the character of those changes and completions as not being substantially adverse to the City, will be evidenced conclusively by the signature of the City Manager.

For the avoidance of doubt, the Costs paid by the City shall be in the maximum aggregate amount of \$800,000 and shall constitute a special obligation of the City payable solely from money deposited into the TIF Fund as described in the TIF Agreement. No other funds are pledged to the payment of the Costs, and neither the Developer nor any other beneficiary of the payment of the Costs has a right to have taxes levied for the payment of the Costs. All money hereafter deposited in the Fund is hereby appropriated to pay the Costs as set forth in the TIF Agreement, and the Fiscal Officer is hereby authorized to make payments in satisfaction of the Costs in accordance with the TIF Agreement.

RECORD OF ORDINANCES

Ordinance No. _____ Passed _____, 20_____

SECTION II. This Council hereby authorizes and directs the City Manager, or other appropriate officers of the City to make such arrangements as are necessary and proper for the payment of the Costs. This Council further hereby authorizes and directs those officers to prepare and sign all agreements and instruments and to take any other actions as may be appropriate to implement this ordinance.

SECTION III. This Council adopts the Economic Development Plan for the District now on file with the Clerk of this Council and accepts and adopts the City engineer’s certification that the Public Improvements described in the Economic Development Plan are necessary to meet the development needs of the District.

SECTION IV. This Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this ordinance were taken in an open meeting of this Council or any of its committees, and that all deliberations of this Council and any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law including ORC Section 121.22.

SECTION V. This Ordinance shall take effect at the earliest date allowed by law.

PASSED this _____ day of December 2023.

Attest:

Kimberly Duncan, Clerk

Charles Letner, Mayor

CERTIFICATE

The undersigned, Clerk of the City of Brookville, does hereby certify that the foregoing is a true and correct copy of Ordinance No. 2023-_____, passed by the Council of the City of Brookville, Ohio, on the _____ day of _____ 2023.

Kimberly Duncan, Clerk

CERTIFICATE OF POSTING

The undersigned, Clerk of the City of Brookville, Ohio, hereby certifies that the foregoing Ordinance No. 2023-_____ was posted at the City Building, US Post Office and the Brookville Branch of the Montgomery County Public Library, Brookville, Ohio, on the _____ day of _____ 202_, to the _____ day of _____ 2024, both days inclusive.

Kimberly Duncan, Clerk

RECORD OF ORDINANCES

Ordinance No. 2023-14 Passed , 20

AN ORDINANCE AMENDING SECTIONS 194.062(A), 194.062(D), 194.062(I), 194.091(A)(1), 194.094, AND 194.10(C)(4) OF THE CODIFIED ORDINANCES OF THE CITY OF BROOKVILLE CONCERNING REQUIRED UPDATES PASSED IN OHIO HOUSE BILL 33.

WHEREAS, pursuant to Ordinance 2015-06, passed December 15, 2015, in conjunction with the mandates of House Bill 5, the City enacted a new Chapter 194 dealing with municipal income tax which included Section 194.062 dealing with net profit tax and apportionment, Section 194.091 dealing with return and payment of tax, Section 194.094 dealing with the extension of time to file, and Section 194.10 dealing with penalties, interests, fees and charges; and

WHEREAS, the Code did not include an alternative apportionment method for remote workers under Section 194.062, contained unclear wording regarding return and payment of tax under Section 194.091(A)(1), the extended due date of individual and non-individual filers was the fifteenth day of the tenth month after the last day of the taxable year under Section 194.094, and the penalty for late filing was twenty-five dollars per month not to exceed one hundred fifty dollars under 194.10(C)(4); and

WHEREAS, the passage of Ohio House Bill 33, effective July 4, 2023 requires several changes to the income tax ordinance, including adding an alternative apportionment method supporting remote workers under Section 194.062 of the Brookville Code, mandates wording changes regarding filing requirements under Section 194.091(A)(1) of the Brookville Code, requires an extension for non-individual filers to be the fifteenth day of the eleventh month after the last day of the taxable year and penalties imposed on the city if an extended filer is contacted before the extended due date under Section 194.094 of the Brookville Code, and reduces the late filing penalty to twenty-five dollars total with required abatement for the first late infraction under Section 194.10(C)(4) of the Brookville Code;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BROOKVILLE, MONTGOMERY COUNTY, OHIO THAT:

SECTION I: Chapter 194 "Municipal Income Tax" Section 194.062, Net Profit; Income Subject to Net Profit Tax; Alternative Apportionment, sub sections (A) and (D) of the Codified Ordinances of the City of Brookville are hereby amended to read as follows:

- (A) Except as otherwise provided in sections (B) and (I) of this section, net profit from a business or profession conducted both within and without the boundaries of the Municipality shall be considered as having a taxable situs in the Municipality for purposes of Municipal income taxation in the same proportion as the average ratio of the following:
- (D) For tax years beginning on and after January 1, 2018, for the purposes of division (A)(3) of this section, and except as provided in division (I) of this section, receipts from sales and rentals made and services performed shall be sitused to a municipal corporation as follows:

SECTION II: Chapter 194 "Municipal Income Tax" Section 194.062, Net Profit; Income Subject to Net Profit Tax; Alternative Apportionment of the Codified Ordinances of the City of Brookville is hereby amended to add a new sub section (I) to read as follows:

- (I) As used in this section:
 - (1) "Qualifying remote employee or owner" means an individual who is an employee of a taxpayer or who is a partner or member holding an ownership interest in a taxpayer that is treated as a partnership for federal income tax purposes, provided that the individual meets both of the following criteria:
 - (a) The taxpayer has assigned the individual to a qualifying reporting location.
 - (b) The individual is permitted or required to perform services for the taxpayer at a qualifying remote work location.

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BEAR GRAPHICS 800-325-8094 FORM NO. 30043

Ordinance No. _____

Passed _____, 20____

2) "Qualifying remote work location" means a permanent or temporary location at which an employee or owner chooses or is required to perform services for the taxpayer, other than a reporting location of the taxpayer or any other location owned or controlled by a customer or client of the taxpayer. "Qualifying remote work location" may include the residence of an employee or owner and may be located outside of a municipal corporation that imposes an income tax in accordance with this chapter. An employee or owner may have more than one qualifying remote work location during a taxable year.

(3) "Reporting location" means either of the following:

(a) A permanent or temporary place of doing business, such as an office, warehouse, storefront, construction site, or similar location, that is owned or controlled directly or indirectly by the taxpayer;

(b) Any location in this state owned or controlled by a customer or client of the taxpayer, provided that the taxpayer is required to withhold taxes under Section 884.05 of this Ordinance, on qualifying wages paid to an employee for the performance of personal services at that location.

(4) "Qualifying reporting location" means one of the following:

(a) The reporting location in this state at which an employee or owner performs services for the taxpayer on a regular or periodic basis during the taxable year;

(b) If no reporting location exists in this state for an employee or owner under division (I)(4)(a) of this section, the reporting location in this state at which the employee's or owner's supervisor regularly or periodically reports during the taxable year;

(c) If no reporting location exists in this state for an employee or owner under division (I)(4)(a) or (b) of this section, the location that the taxpayer otherwise assigns as the employee's or owner's qualifying reporting location, provided the assignment is made in good faith and is recorded and maintained in the taxpayer's business records. A taxpayer may change the qualifying reporting location designated for an employee or owner under this division at any time.

(5) For tax years ending on or after December 31, 2023, a taxpayer may elect to apply the provisions of this division to the apportionment of its net profit from a business or profession. For taxpayers that make this election, the provisions of divisions (A) through (H) of this section apply to such apportionment except as otherwise provided in this division (I).

A taxpayer shall make the election allowed under this division in writing on or with the taxpayer's net profit return or, if applicable, a timely filed amended net profit return or a timely filed appeal of an assessment. The election applies to the taxable year for which that return or appeal is filed and for all subsequent taxable years, until the taxpayer revokes the election.

The taxpayer shall make the initial election with the tax administrator of each municipal corporation with which, after applying the apportionment provisions authorized in this division, the taxpayer is required to file a net profit tax return for that taxable year. A taxpayer shall not be required to notify the tax administrator of a municipal corporation in which a qualifying remote employee's or owner's qualifying remote work location is located, unless the taxpayer is otherwise required to file a net profit return with that municipal corporation due to business operations that are unrelated to the employee's or owner's activity at the qualifying remote work location.

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BEAR GRAPHICS 800-325-8094 FORM NO. 30043

Ordinance No. _____ Passed _____, 20____

After the taxpayer makes the initial election, the election applies to every municipal corporation in which the taxpayer conducts business. The taxpayer shall not be required to file a net profit return with a municipal corporation solely because a qualifying remote employee's or owner's qualifying remote work location is located in such municipal corporation.

Nothing in this division prohibits a taxpayer from making a new election under this division after properly revoking a prior election.

(6) For the purpose of calculating the ratios described in division (A) of this section, all of the following apply to a taxpayer that has made the election described in division (I)(5):

(a) For the purpose of division (A)(1) of this section, the average original cost of any tangible personal property used by a qualifying remote employee or owner at that individual's qualifying remote work location shall be situated to that individual's qualifying reporting location.

(b) For the purpose of division (A)(2) of this section, any wages, salaries, and other compensation paid during the taxable period to a qualifying remote employee or owner for services performed at that individual's qualifying remote work location shall be situated to that individual's qualifying reporting location.

(c) For the purpose of division (A)(3) of this section, and notwithstanding division (d) of this section, any gross receipts of the business or profession from services performed during the taxable period by a qualifying remote employee or owner for services performed at that individual's qualifying remote work location shall be situated to that individual's qualifying reporting location.

(7) Nothing in this division prevents a taxpayer from requesting, or a tax administrator from requiring, that the taxpayer use, with respect to all or a portion of the income of the taxpayer, an alternative apportionment method as described in division (B) of this section. However, a tax administrator shall not require an alternative apportionment method in such a manner that it would require a taxpayer to file a net profit return with a municipal corporation solely because a qualifying remote employee's or owner's qualifying remote work location is located in that municipal corporation.

(8) Except as otherwise provided in this division, nothing in this division is intended to affect the withholding of taxes on qualifying wages pursuant to Section 194.05 of this Ordinance.

SECTION III: All other provisions of Chapter 194 “Municipal Income Tax” Section 194.062, Net Profit; Income Subject to Net Profit Tax; Alternative Apportionment not amended or added to hereby shall remain in full force and effect;

SECTION IV: Chapter 194 “Municipal Income Tax” Section 194.091, Return and Payment of Tax, sub section (A)(1) of the Codified Ordinances of the City of Brookville is hereby amended to read as follows:

(A)(1) An annual Municipal income tax return shall be completed and filed by every taxpayer for each taxable year for which the taxpayer is subject to the tax, whether or not a tax is due thereon.

SECTION V: All other provisions of Chapter 194 “Municipal Income Tax” Section 194.091, Return and Payment of Tax not amended hereby shall remain in full force and effect;

SECTION VI: Chapter 194 “Municipal Income Tax” Section 194.094, Extension of Time to File of the Codified Ordinances of the City of Brookville is hereby amended to read as follows:

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BEAR GRAPHICS 800-325-0094 FORM NO. 30043

Ordinance No. _____ Passed _____, 20____

(A) Any taxpayer that has duly requested an automatic six-month extension for filing the taxpayer's Federal income tax return shall automatically receive an extension for the filing of a Municipal income tax return. The extended due date of the Municipal income tax return shall be the fifteenth day of the tenth month after the last day of the taxable year to which the return relates. For tax years ending on or after January 1, 2023, the extended due date of the Municipal income tax return for a taxpayer that is not an individual shall be the fifteenth day of the eleventh month after the last day of the taxable year to which the return relates. A copy of the federal extension request shall be included with the filing of the Municipal income tax return.

(B) A taxpayer that has not requested or received a six-month extension for filing the taxpayer's Federal income tax return may request that the Tax Administrator grant the taxpayer a six-month extension of the date for filing the taxpayer's Municipal income tax return. If the request is received by the Tax Administrator on or before the date the Municipal income tax return is due, the Tax Administrator shall grant the taxpayer's requested extension.

(C) If a taxpayer receives an extension for the filing of a Municipal income tax return under division (A) or (B) of this section, the Tax Administrator shall not make any inquiry or send any notice to the taxpayer with regard to the return on or before the date the taxpayer files the return or on or before the extended due date to file the return, whichever occurs first.

If a Tax Administrator violates division (C) of this section, the municipal corporation shall reimburse the taxpayer for any reasonable costs incurred to respond to such inquiry or notice, not to exceed one hundred fifty dollars (\$150.00).

Division (C) of this section does not apply to an extension received under division (A) of this section if the Tax Administrator has actual knowledge that the taxpayer failed to file for a federal extension as required to receive the extension under division (A) of this section or failed to file for an extension under division (B) of this section.

(D) An extension of time to file under this section is not an extension of time to pay any tax due unless the Tax Administrator grants an extension of that date.

(E) If the State Tax Commissioner extends for all taxpayers the date for filing State income tax returns under division (G) of Ohio R.C. 5747.08, a taxpayer shall automatically receive an extension for the filing of a Municipal income tax return. The extended due date of the Municipal income tax return shall be the same as the extended due date of the State income tax return.

SECTION VII: Chapter 194 "Municipal Income Tax" Section 194.10, Penalty, Interest, Fees, and Charges, sub section (C)(4) of the Codified Ordinances of the City of Brookville is hereby amended to read as follows:

(4) (a) For tax years ending on or before December 31, 2022, with respect to returns other than estimated income tax returns, the Municipality shall impose a monthly penalty of twenty-five dollars (\$25.00) for each failure to timely file each return, regardless of the liability shown thereon for each month, or any fraction thereof, during which the return remains unfiled regardless of the liability shown thereon. The penalty shall not exceed a total of one hundred fifty dollars (\$150.00) in assessed penalty for each failure to timely file a return.

(b) For tax years ending on or after January 1, 2023, with respect to returns other than estimated income tax returns, the Municipality shall impose a penalty not exceeding twenty-five dollars (\$25.00) for each failure to timely file each return, regardless of the liability shown thereon, except that the Municipality shall abate or refund the penalty assessed on a taxpayer's first failure to timely file a return after the taxpayer files that return.

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Ordinance No. _____ Passed _____, 20____

SECTION VIII: All other provisions of Chapter 194 “Municipal Income Tax” Section 194.10, Penalty, Interest, Fees, and Charges not amended hereby shall remain in full force and effect.

SECTION IX: Nothing herein shall be deemed an acquiesce to any other provision relating to Ohio Revised Code Chapter 718.

SECTION X: It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and of any of its Committees that resulted in such formal action were in meetings open to the public and in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

SECTION XI: This Ordinance shall take effect at the earliest date allowed by law.

Passed this _____ day of December, 2023.

ATTEST:

Kimberly Duncan, Clerk Charles Letner, Mayor

CERTIFICATE

The undersigned, Clerk of the City of Brookville, does hereby certify that the foregoing is a true and correct copy of Ordinance No. 2023-14, passed by the Council of the City of Brookville, Ohio, on the _____ day of _____, 2023.

Kimberly Duncan, Clerk

CERTIFICATE OF POSTING

The undersigned, Clerk of the City of Brookville, Ohio, hereby certifies that the foregoing Ordinance No. 2023-14 was posted at the City Building, US Post Office and the Brookville Branch of the Montgomery County Public Library, Brookville, Ohio, on the _____ day of _____, 2023, to the _____ day of _____, 2024, both days inclusive.

Kimberly Duncan, Clerk

RECORD OF ORDINANCES

BEAR GRAPHICS 800-325-3084 FORM NO. 30043

Ordinance No. _____ *Passed* _____, 20____