

**CITY OF BROOKSVILLE
REGULAR CITY COUNCIL MEETING
COUNCIL CHAMBERS
201 HOWELL AVENUE
MINUTES**

December 21, 2009

7:00 P.M.

Brooksville City Council met in regular session with Mayor Lara Bradburn, Vice Mayor Richard E. Lewis and Council Members Joseph E. Johnston, III, Joe Bernardini and David Pugh present. Also present were Jennifer C. Rey, City Attorney; T. Jennene Norman-Vacha, City Manager; Janice L. Peters, City Clerk; Steve Baumgartner, Finance Director; Mike Walker, Parks and Recreation Director; Bill Geiger, Community Development Director; Richard Radacky, Interim Director of Public Works; George Turner, Police Chief and Tim Mossgrove, Fire Chief. Members of the Hernando Today and Hernando Times were also present.

The meeting was called to order by Mayor Bradburn, followed by an invocation and Pledge of Allegiance.

COUNCIL MEMBER RECOGNITION

Mayoral Plaque to Joe Bernardini for 2009.

Mayor Bradburn, on behalf of City Council, presented outgoing Mayor Joe Bernardini with a Mayoral Plaque for his service as Mayor for 2008/09.

CERTIFICATES, PROCLAMATIONS AND PRESENTATIONS

Beautification Board - Holiday Decoration Contest

Recognition of annual decoration contest winners for best City of Brooksville Residential and Commercial Displays for the 2009 Holiday Season.

Beautification Board Chair, Sally Sperling and Council Member Bernardini presented plaques and prizes with the "Best Residential Christmas Decoration of 2009" to George Conklin, Jr., 417 Ederington Drive, and the "Best Commercial Christmas Decoration of 2009" to Paul Kinney, Maintenance Director for Tangerine Cove, 307 Howell Avenue, Honorable Mentions in the Residential category were presented to Alan Watrous, 122 South Brooksville Avenue and in the Commercial Category to Fred Taylor for Hometown Cloverleaf, LLC, 900 North Broad Street.

Purchase of Christmas Wreaths

Recognition to Flagstone Pavers, Inc. as a Platinum Sponsor.

Mayor Bradburn reviewed the Christmas Wreath Program, noting Jeff Bond sponsored two (2) wreaths for the program. The certificate will be delivered.

Donation of Art to the City

Acceptance of paintings from Dr. John Gracy depicting various Brooksville and Hernando County scenes.

John Tucker read the bio of Dr. John Gracy and, on behalf of Dr. Gracy, presented paintings to Brooksville City Council.

APPROVED BY BROOKSVILLE

CITY COUNCIL

ON 3/01/10 INITIALS JP

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Motion:

Motion was made by Vice Mayor Lewis and seconded by Council Member Bernardini for acceptance of the donation. Motion carried 5-0.

Nature Coast High School Culinary Arts - Christmas Cookie Bake-off Winners

Presentation of Certificates of Recognition for 1st, 2nd and 3rd place winners.

Rhonda Hancock, Art Gallery Curator presented Certificates of Recognition to Peter Diulio, Culinary Arts teacher on behalf of first place winner Christina Abarno, second place winner Paige Kuhn and third place winner Elias Perez.

CITIZEN INPUT

Mayor Bradburn asked for public input; there was none.

CONSENT AGENDA

Mayor Bradburn asked that the items be voted on separately.

Jasmine Drive Tracts A & B Easements – Contract for Sale

Consideration of contract for sale and authorization for the Mayor to sign closing documents, as well as approval of 08/09 Budget amendment.

Motion:

Motion was made by Council Member Bernardini and seconded by Council Member Johnston for approval of Consent Agenda. Motion carried 5-0.

Online Fluoride Analyzer Bid Award

Consideration of bid award to Hach Company for the not-to-exceed amount of \$15,910.17.

Motion:

Motion was made by Council Member Pugh and seconded by Vice Mayor Lewis for approval of Consent Agenda. Motion carried 4-1 with Mayor Bradburn voting in opposition.

Mayor Bradburn reiterated her vote against is due to her long-standing stance that Fluoride in the water provides an overtoxication of Fluoride to our children as demonstrated by the EPA Scientific Union as well as 14 Nobel Prize winners in Medicine and Science have come out against Fluoridation because of the overtoxication as a neurotoxin.

PUBLIC HEARINGS

- Entry of Proof of Publication into the Record

Due to a conflict of interest, Council Member Johnston indicated he will not be voting on this item and will file the appropriate form with the Clerk. (Attachment A)

****Ordinance No. 759-A - Majestic Oaks Development**

Consideration of request to allow a 2-year extension to the dates required for submission of construction plans and final plats for Phase I & II of the Majestic Oaks Development.

City Planner, Steve Gouldman reviewed the specifics of the petition.

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Mayor Bradburn indicated that those wishing to speak or offer testimony must be sworn in. Mr. Gouldman was sworn in by City Clerk Peters and was recognized by Council as an expert witness in the field of planning. A polling of Council showed no ex-parte communication on this matter.

Motion:

Motion was made by Council Member Pugh and seconded by Council Member Lewis for approval.

Mr. Gouldman clarified the authorizing agent is the petitioner who will be responsible for notifying the Water Management District and Environmental Protection Agency.

Mayor Bradburn pointed out all previous discussions and approvals are the same except for extension of the time period. The second reading is scheduled for the January 4, 2010, meeting of Council.

City Clerk Peters read Ordinance No. 759-A by title, as follows:

AN ORDINANCE PROVIDING A ZONING CLASSIFICATION OF PDP (PLANNED DEVELOPMENT PROJECT) WITH A SPECIAL EXCEPTION USE FOR A COMBINED PLANNED DEVELOPMENT PROJECT (CPDP), CONSISTING OF RESIDENTIAL, COMMERCIAL AND RECREATIONAL USES FOR CERTAIN REAL PROPERTY DESCRIBED HEREIN; PROVIDING FOR AMENDMENTS TO THE CONDITIONS STATED IN SECTION 1, SUB-SECTION 1.A. MODIFYING THE TIME PERIOD FOR COMPLIANCE; AND PROVIDING AN EFFECTIVE DATE.

Motion carried 4-1 upon roll call vote, as follows:

Council Member Johnston	Abstain
Council Member Pugh	Aye
Council Member Bernardini	Aye
Vice Mayor Lewis	Aye
Mayor Bradburn	Aye

REGULAR AGENDA

Ordinance No. 782 – Adequate Public Facilities Code Amendment

Consideration of request to amend Chapter 101 of the Code of Ordinances relating to concurrency requirements for public school facilities and modifies the standards and methodology to assess transportation impacts of new development on roadway level of service.

City Planner, Steve Gouldman reviewed the amendment. The Parks & Recreation requirements on page 19 were discussed.

Motion:

Motion was made by Council Member Bernardini and seconded by Council Member Pugh for approval.

City Clerk Peters read Ordinance No. 782 by title, as follows:

AN ORDINANCE OF THE CITY OF BROOKSVILLE, FLORIDA, APPROVING AMENDMENTS TO SUBPART B, LAND

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DEVELOPMENT CODE, CHAPTER 101 (GENERAL ADMINISTRATIVE), ARTICLE V (ADEQUATE PUBLIC FACILITIES) OF THE CITY OF BROOKSVILLE CODE OF ORDINANCES; PROVIDING FINDINGS; AMENDING LAND DEVELOPMENT REGULATIONS REGARDING ADEQUATE PUBLIC FACILITIES AND CONCURRENCY; ADDING PROVISIONS PERTAINING TO PUBLIC SCHOOL FACILITIES; ADDING PROVISIONS IMPLEMENTING PUBLIC SCHOOL CONCURRENCY AND INCORPORATING SCHOOL CONCURRENCY INTO THE CITY'S LAND DEVELOPMENT REGULATIONS; MODIFYING LAND DEVELOPMENT REGULATIONS FOR TRANSPORTATION CONCURRENCY METHODOLOGY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

Motion carried 5-0 upon roll call vote, as follows:

Council Member Pugh	Aye
Council Member Bernardini	Aye
Council Member Johnston	Aye
Vice Mayor Lewis	Aye
Mayor Bradburn	Aye

Good Neighbor Trail Right-of-Way

Request for council to accept deed of right-of-way for Good Neighbor Trail provisions from Majestic Oaks Partners, LLC.

Due to a conflict of interest, Council Member Johnston indicated he will not be voting on this item and will file the appropriate form with the Clerk. (Attachment A)

City Attorney Rey reviewed the item and supplements provided to Council before the meeting. She proposed alternative language to the third paragraph as follows:

Together with an easement across and over that certain portion of Grantor's property, as more fully described in Exhibit B and appropriated herein, it is also located within twenty-five(25) feet of the perimeter of the Trail ("Easement Parcel"), for drainage or sloping on the condition that specific exercise of such easement rights shall not interfere with the Grantor's development plan.

Bill Geiger, Director of Community Development added with the recent completion of Phase I, Florida Department of Transportation indicated Phase II is eligible for funds.

Mayor Bradburn commended all who have been involved in making this project a success.

Motion:

Motion was made by Vice Mayor Lewis and seconded by Council Member Bernardini for approval with modifications stated by Legal. Motion carried 5-0.

Impact Fee Ordinance – Issues & Timeline

Review of current interlocal agreements relating to impact fees and discussion of issues and timelines necessary to move forward.

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City Attorney Rey reviewed Council's options.

Bill Geiger, Director of Community Development reviewed the fees and notice requirements as outlined in the staff report. Extensive discussion ensued regarding the pros and cons of the City adopting its own impact fee ordinance.

Motion:

Motion was made by Council Member Bernardini to continue to move forward with the proposal for impact fees and rely on the data from the County's 2005 study. Motion died for lack of a second.

Motion:

Motion was made by Council Member Pugh and seconded by Vice Mayor Lewis to stay under the County's umbrella concerning Impact Fees Ordinance No. 2009-14. Motion failed 2-3 with Council Member Bernardini, Council Member Johnston and Mayor Bradburn voting in opposition.

Motion:

Motion was made by Council Member Johnston and seconded by Vice Mayor Lewis to maintain the current interlocal agreement with the County with the provision that by June 1st staff come back with a recommendation on what the County is doing in relation to the impact fee study and present to Council at that point and set up a new timeline. Motion carried 5-0.

Intergovernmental, Board Assignments and Organizations - City Council Member Appointments

Board appointments were as follows:

City Boards/Committees

Beautification Board
Brooksville Cemetery Advisory Board
CDBG Citizens Task Force (Inactive)
Good Neighbor Trail Advisory Committee
Parks and Recreation Advisory Board

Representative

Joe Bernardini
Richard E. Lewis
Joe Johnston
Lara Bradburn
Joe Bernardini

External Boards/Committees

Anti Drug Coalition
Brooksville Business Alliance
Committee Against Assault on LEO
Community Alliance
Florida League of Cities Legislative Action Committees:
 Intergovernmental Committee
 Energy & Environmental Committee
 Finance & Taxation Committee
 Growth Management & Transportation
 Urban Administration Committee
Metropolitan Planning Organization
Take Stock in Children
Tourist Development Council
Withlacoochee Regional Planning Council
Withlacoochee Regional Water Supply Authority
Youth and Family Alternatives

Representative

Richard E. Lewis
Lara Bradburn
OPEN
Check for inactivity
Joe Johnston
No Representative
No Representative
Lara Bradburn
No Representative
Lara Bradburn
Richard E. Lewis
Richard E. Lewis
Joe Johnston
Joe Bernardini
No Representative

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Advisory Board Appointments

Appointment of Beautification Board Student Representative and advisory board members whose terms expire December 31, 2009.

Mayor Bradburn asked that Council Members individually rank their choices of appointees to be tallied by the Clerk. The results were as follows:

Beautification Board – Student Representative

Consideration of appointment of student representative.

Chelsea Anne Crawford (1 Vote)

Levi Joseph Hancock (4 Votes)

Tiffany Rose Lufcy

Motion:

Motion was made by Council Member Pugh and seconded by Council Member Johnston for acceptance of voting tabulations. Motion carried 5-0.

Cemetery Advisory Committee

Three (3) positions to fill 4-year terms of office through December 31, 2013. Board members must be city residents or have a documented connection to the Cemetery. (David Merritt not reapplying.)

Charles P. Brewer (5 Votes)

Current Member Reapplying

Clarke “Doug” Davis (4 votes)

Current Member Reapplying

Joseph Merritt (2 Votes)

New Applicant

Jamielove Miller (4 Votes)

New Applicant (Volunteers at Cemetery and owns lots therein.)

Motion:

Motion was made by Council Member Pugh and seconded by Council Member Bernardini for acceptance of voting tabulations. Motion carried 5-0.

Parks and Recreation Advisory Board

Two (2) positions to 4-year terms of office through December 31, 2013.

Mark S. Blanton

Current Member Reapplying

William “Ernie” Chatman, Jr.

Current Member Reapplying

Motion:

Motion was made by Council Member Bernardini and seconded by Council Member Johnston for acceptance of voting tabulations. Motion carried 5-0.

Planning & Zoning Commission

One (1) Alternate position to fill an expiring 4-year term of office through December 31, 2013

One (1) Alternate position to fill an unexpired 4-year term of office through December 31, 2011

One (1) Full board position to fill a 4-year term of office through December 31, 2013.

Shannon R. (Pettry) Dempsey

A4 (2013) F1

Current Alternate Reapplying

Ronald H. Lawson

A4 (2011) F1

New Applicant

Anthony D. Pedonesi

A2 F3 (2013)

New Applicant

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Motion:

Motion was made by Council Member Pugh and seconded by Council Member Johnston for acceptance of voting tabulations. Motion carried 5-0.

City Manager Evaluation

Discussion and review of City Manager Performance Evaluation.

Mayor Bradburn explained the packet handed out on the City Manager Performance Evaluation included a listing all of the rankings by category and the comments contained on each segment; a category for accomplishments, strengths and areas for development; evaluation letters from Mayor Bradburn and Council Member Bernardini; and all forms submitted by Council. She also provided copies to the media. She commended the City Attorney for a much improved form. She pointed out that the overall rating is 3.73 exceeding the “meet expectations” category.

Council Member Pugh asked is there any performance criteria with the contract that is in place and are there any monetary increases. Attorney Rey replied this evaluation takes into account the duties set forth in the code for the City Manager and any performance obligations that are specifically set forth in the City Manager’s contract. There is no requirement in the contract that City Council has to take a particular action as a result of an evaluation. Monetary consideration is subject to Council review on an annual basis but it is not tied to particular process. Mayor Bradburn pointed out there are provisions for it in the contract and Council is six (6) months tardy of completing the evaluation process. She also pointed out last year employees were granted a two-percent (2%) increase.

City Manager Norman-Vacha stated the contract reads “increase will be given in conjunction with evaluation as provided to regular employees”.

Council Member Bernardini pointed out with the management of City assets and requirement to sign a contract is not part of the evaluation process. City Attorney Rey indicated when the process was established there was no basis for determining what functions to evaluate on. Those responsibilities that were set forth in the code and any specific achievable objectives that were noted in the evaluation are incorporated here. Any suggestions or modifications Council desires can be incorporated into the evaluation process. The original term of the agreement was from June 7, 2007 through June 7, 2009 with an automatic renewal provision of one-year with the same terms and conditions. Mayor Bradburn pointed out there is an option to update and rewrite the contract.

Council consensus was to bring back this item on January 4, 2010 for final decisions on compensation and contract renegotiations.

ITEMS BY COUNCIL

David Pugh, Jr., Council Member

Former Mayor Bernardini

Council Member Pugh shared appreciation for Council Member Bernardini’s service.

Joe Johnston, Council Member

Employee Bonuses

Council Member Johnston asked for clarification from Council if it was their intention to give the employee bonus to Council Members. Mayor Bradburn stated the motion indicated the bonus would also go to Council. He and Council Member Pugh expressed that they would like to donate it back since that was not their understanding of the motion.

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Happy Holiday Season

He wished everyone a Merry Christmas and a happy and safe holiday season.

Jennifer C. Rey, City Attorney

Merry Christmas & Happy New Year

She wished everyone a Merry Christmas and a Happy New Year on behalf of the Hogan Law Firm.

Joe Bernardini, Council Member

Appreciation to staff

Council Member Bernardini expressed appreciation to staff for their support during his term as Mayor. He also wished everyone a Merry Christmas.

Walk with the Mayor

He thanked Applebee's for their donations.

Richard E. Lewis, Vice Mayor

Merry Christmas

He wished everyone a Merry Christmas including citizens, employees and staff.

Art Gallery

He attended the Art Reception on December 17, 2009 and there was good attendance along with the Christmas Cookie Bakeoff.

Thanks to previous Mayor

He thanked Council Member Bernardini for his work during time as Mayor.

T. Jennene Norman-Vacha, City Manager

Workshop

She requested February 8, 2010, workshop approval for Mr. Gene Boles and Gail Easley to present the University of Florida Study and discussion with Community Development staff. Council consensus was to set the workshop for 6:00 pm.

Thanks to Directors and staff

She thanked the Directors and staff for their hard work this year.

Lara Bradburn, Mayor

Commendations

Vice Mayor Bradburn commended all for the accomplishments of the past year.

Walmart Plants

She thanked Rich and Jamie for distributing potted plants to the City employees.

Swales and Culverts

She indicated it is a good time to address swales and culverts within the City during this dry season.

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Angel Food Ministries.com

She indicated it is an outstanding program that is pertinent to the economy that is open to anyone. She invited all to participate at a cost of \$30 per month.

New Year

She thanked everyone for a wonderful year and looks forward to a new year that is even more prosperous and to enjoy family and friends and have a Blessed Christmas and Hanukah Celebration.

CITIZEN INPUT

Mayor Bradburn asked for public input.

Pierre Desjardins

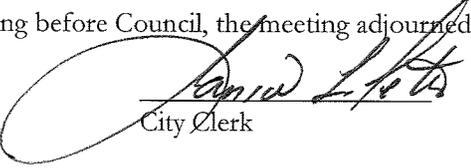
Thanked Council and staff for a year well done and wished all a Merry Christmas.

Anthony Pedonesi

Thanked Council for their vote of confidence in working with the City.

ADJOURNMENT

There being no further business to bring before Council, the meeting adjourned at 9:13 p.m.


City Clerk

Attest:


Mayor

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME Johnston III, Joseph E.	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE Brooksville City Council
MAILING ADDRESS PO Box 63	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF:
CITY Brooksville	<input checked="" type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY
COUNTY Hernando	NAME OF POLITICAL SUBDIVISION:
DATE ON WHICH VOTE OCCURRED	MY POSITION IS: <input checked="" type="checkbox"/> ELECTIVE <input type="checkbox"/> APPOINTIVE

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies equally to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing the reverse side and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which inures to his or her special private gain or loss. Each elected or appointed local officer also is prohibited from knowingly voting on a measure which inures to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent organization or subsidiary of a corporate principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

* * * * *

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

* * * * *

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you otherwise may participate in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on other side)

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Joseph E. Johnston III, hereby disclose that on December 21, 2009:

(a) A measure came or will come before my agency which (check one)

- inured to my special private gain or loss;
- inured to the special gain or loss of my business associate, _____;
- inured to the special gain or loss of my relative, _____;
- inured to the special gain or loss of _____, by whom I am retained; or
- inured to the special gain or loss of _____, which is the parent organization or subsidiary of a principal which has retained me.

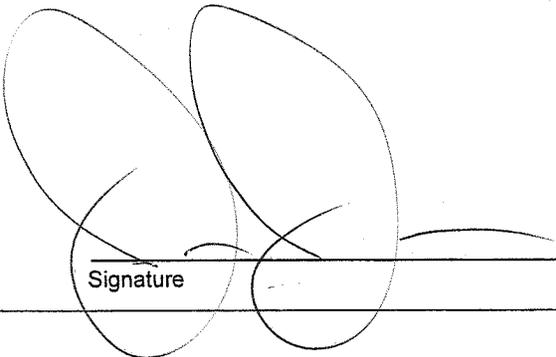
(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

Item G-1 and Item H-2

which involves Majestic Oaks Partners, LLC, in which a corporation which I have an interest, owns shares

12/22/09

Date Filed



Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.