

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

**AMENDED  
AGENDA**

June 21, 2010

7:00 P.M.

A. **CALL TO ORDER**

B. **INVOCATION AND PLEDGE OF ALLEGIANCE**

C. **CERTIFICATES, PROCLAMATIONS AND PRESENTATIONS**

1. **Margaret R. Ghiotto Beautification Award - Commercial Award**

Recognition of improvements to the property owned by Bobby Meadows, located at 100 S. Main Street, occupied by the business known as Bobby Meadows Printing & Antiques.

Presentation: Sally Sperling, Beautification Board  
Chair and Mayor

Attachments: Award Certificate; Letter from  
Beautification Board Chair dated  
05/19/10

2. **Beautification Board Student Member Certificate of Appreciation**

Presentation to the Beautification Board's student member, Levi Hancock for his dedication and commitment to the board from December 2009 to June 2010.

Presentation: Mayor & Beautification Board Chair

Attachments: Certificate

3. **Progress Energy Presentation of Rebate**

Presentation of second rebate check for energy efficient light retrofits the City has installed.

Presentation: Gary Renfro, Senior Account  
Executive

Attachments: Memo from Director of Parks,  
Facilities & Recreation dated  
05/19/10

4. **Parks & Recreation Month Proclamation**

Proclamation recognizing July as Parks & Recreation month.

Presentation: Mayor

Attachments: Proclamation

**REGULAR COUNCIL MEETING AGENDA - June 21, 2010**

5. **Probation, Parole & Community Supervision Week Proclamation**  
Proclamation recognizing community corrections professionals during the week of July 18-24, 2010.

Presentation: Mayor  
Attachments: Proclamation

6. **Status Update – Impact Fees**  
Update and direction from Council regarding pursuit of impact fees.

Presentation: City Attorney  
Attachments: Memo from City Attorney dated 05/27/10

**D. CITIZENS INPUT**

**E. CONSENT AGENDA**

1. **Minutes**  
May 17, 2010 Regular Meeting
2. **City Welcome Sign Bid No. GG2010-02 Award**  
Consideration of award to Wolf Contracting, Inc. for an amount not-to-exceed \$7,829 and authorize the Mayor to sign the agreement after Legal Counsel review.
3. **Budget Amendment – Fund 109 and Fund 502**  
Consideration of budget amendments and expenditures for the Police Department.
4. **Department of Corrections - Work Crew Contract #WS557 Amendment**  
Consideration of Inmate Work Squad Contract #WS557 for an amount not-to-exceed \$56,467.
5. **2010 Federal Edward Byrne Memorial Justice Assistance Grant (JAG) Program Funds**  
Consideration of agreement to the allocation of JAG Program funds and authorize the Mayor to sign required letters of approval to FDLE.
6. **Good Neighbor Trail Phase 2B Professional Services Budget Amendment**  
Consideration of budget amendment in the amount of \$23,250 for Coastal Engineering Associates, Inc. to furnish professional services in connection with the Good Neighbor Trail Phase 2B project.

CONSENT AGENDA APPROVAL (√)

Recommendation: Approval of Consent Agenda  
Action: Motion to Approve  
Attachments: 1) Minutes; 2) Memo from Director of Public Works dated 06/08/10, Bid Certification form, Bid Opening Minutes, picture of signage; 3) Memo from Chief of Police dated 06/17/10; 4) Memo from Director of Parks, Facilities & Recreation dated 06/08/10, Proposed Contract; 5) Memo from Substance Abuse Policy Advisory Board Chair dated 06/10/10; 6) Memo from Director of Public Works and Director of Finance dated 06/11/10

F. PUBLIC HEARINGS

- Entry of Proof of Publication into the Record

1. **Ordinance No. 758-A – Traffic Light Safety Amendment.**

Consideration of changes to the ordinance per newly adopted Florida Statutes concerning red light cameras.  
[First Hearing 06/07/10]

Presentation: City Attorney  
Recommendation: Approval of **Second Reading** of Ordinance No. 758-A upon roll call vote  
Attachments: Memo from Chief of Police and City Attorney dated 06/14/10; Proposed Ordinance

G. REGULAR AGENDA

1. **Ordinance No. 809 - Utilities Deposit Refund**

Consideration of ordinance authorizing the refund of meter deposits for residential customer accounts with a good credit history.

Presentation: Steve Baumgartner, Director of Finance  
Recommendation: Approval of **First Reading** of Ordinance No. 809 upon roll call vote and schedule second reading for 07/19/10  
Attachments: Memo from Director of Public Works and Director of Finance dated 06/11/10; Proposed Ordinance

**REGULAR COUNCIL MEETING AGENDA - June 21, 2010**

2. **Ordinance No. 810 – Elections Code Amendment - Qualifying**  
Consideration of ordinance replacing emergency ordinance amending the City's Election Code Section 30-5.

Presentation: City Attorney  
Recommendation: Approval of **First Reading** of Ordinance No. 810 upon roll call vote and schedule second reading for 07/19/10  
Attachments: Memo from City Attorney dated 06/14/10; Proposed Ordinance

3. **Ordinance No. 811 – Moratorium for Pain Clinics**  
Consideration of ordinance establishing a moratorium on pain clinics to allow staff time to review the matter and make further recommendations to Council as to specific amendments or modifications to the City's Land Development Code.

Presentation: City Attorney  
Recommendation: Approval of **First Reading** of Ordinance No. 811 upon roll call vote and schedule second reading for 07/19/10  
Attachments: Memo from City Attorney dated 06/14/10; Proposed Ordinance

4. **Citizen's Advisory Task Force for the Community Development Block Grant Program (CDBG) Board Appointments**  
Consideration of appointments to the CDBG board.

Presentation: Director of Community Development  
Recommendation: Appointment of Board Members  
Attachments: Applications to be provided at Council Meeting

I. CITIZEN INPUT

J. ITEMS BY COUNCIL

K. ADJOURNMENT

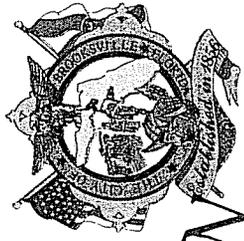
**CORRESPONDENCE TO NOTE**

*Meeting agendas and supporting documentation are available from the City Clerk's office, and on line at [www.cityofbrooksville.us](http://www.cityofbrooksville.us). Persons with disabilities needing assistance to participate in any proceedings should contact the City Clerk's office 48 hours in advance of the meeting at 352/540-3810.*

*Any person desiring to appeal any decision with respect to any matter considered at this meeting, may need a record of the proceedings including the testimony and evidence upon which the appeal is to be based, and therefore must make arrangements for a court reporter to ensure that a verbatim record of the proceedings is made.*

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*Margaret R. Giotto*



# CERTIFICATE OF RECOGNITION

*City Council and the Beautification Board for the City of Brooksville, Florida  
recognize and honor the named recipient for improvements and beautification to  
their property located within the City*

**BOBBY MEADOW'S PRINTING & ANTIQUES**

*100 S. Main Street, Brooksville, Florida 34601*

*Presented this 21st day of June, 2010*

\_\_\_\_\_  
*Mayor*

\_\_\_\_\_  
*City Clerk*

# City Of Brooksville



May 19, 2010

Bobby Meadows Printing & Antiques  
100 S. Main Street  
Brooksville, FL 34601

Dear Mr. Meadows:

The City of Brooksville Beautification Board is pleased to advise you that you have been selected to receive the monthly Margaret R. Ghiotto Commercial Beautification Award for beautifying your business at 100 S. Main Street.

The Certificate of Recognition and "rotating" outdoor sign will be presented to you by the Beautification Board Chairman at the next regular City Council Meeting to be held Monday, June 21, 2010 at 7:00 p.m. in the City Hall Council Chambers at 201 Howell Avenue. Please call the Beautification Board Secretary, Lindsay Morgan, and let her know, no later than Friday, June 4, 2010 by 5:00 p.m. if you will or will not be able to attend this meeting. If you have any further questions or concerns, please contact Lindsay at (352) 540-3856 or via email at [lmorgan@cityofbrooksville.us](mailto:lmorgan@cityofbrooksville.us).

We extend our appreciation for your outstanding efforts in improving and beautifying not only your property but the City of Brooksville.

Sincerely,

A handwritten signature in cursive script that reads 'Sally Sperling' followed by a circular mark.

Sally Sperling, Chairman  
Beautification Board

cc: Janice Peters, City Clerk

AGENDA ITEM NO. C-2  
6/21/10

*City of Brooksville  
Beautification Board*

*Certificate of Appreciation*



*Presented To*

**Levi Hancock**

*For your dedication and commitment to the  
Brooksville Beautification Board  
as a member from December 2009 to June 2010.*

*Presented this 21st day of June 2010.*



*Sally Sperling*  
Chairman

*Scott Renz*  
Vice Chairman



AGENDA ITEM NO. C-3  
6/21/10

## AGENDA ITEM MEMORANDUM

TO: HONORABLE MAYOR AND CITY COUNCIL MEMBERS  
VIA: T. JENNENE NORMAN-VACHA, CITY MANAGER   
FROM: MIKE WALKER, PARKS, FACILITIES & RECREATION DIRECTOR   
**SUBJECT: Progress Energy Rebate Incentive Check**  
DATE: May 19, 2010

### GENERAL SUMMARY/BACKGROUND:

The City of Brooksville has been working diligently on moving forward with Council direction to become more energy efficient. Over the last year and a half the Park/Facilities Department has completed installing new energy efficient light fixtures throughout all city facilities. The City has worked closely with Progress Energy through an audit process of our facilities to provide us with the necessary pre-approved lighting technology to complete these projects and to be eligible for rebate incentives.

In July 2009, the City was presented with an incentive rebate check from Progress Energy in the amount of \$582 for the completion of JBCC and Police Department projects, the projects at the Fire Department and City Hall have now been completed and Progress Energy has approved our incentive rebate for those two projects, the amount being presented is \$1,343.00.

### BUDGET IMPACT:

The City will receive an incentive rebate check in the amount of \$1,343.00 from Progress Energy which will go to the General Fund Miscellaneous Revenues, #001-000-369-48890.

*City of Brooksville*  
*Proclamation*

**WHEREAS**, the **City of Brooksville** recognizes the benefits derived from parks and recreation resources and that they are an integral part of the **City of Brooksville** as well as communities throughout this country; and,

**WHEREAS**, our parks and recreation are vitally important to establishing and maintaining the quality of life in our communities by providing programs that help build healthy, active communities that aid in the prevention of chronic disease, provide therapeutic recreation services for those who are mentally or physically disabled, and improve the mental and emotional health of all citizens, offering free and low-cost opportunities to get out and play; and,

**WHEREAS**, parks and recreation programs give children a chance to learn life lessons, such as how to be part of a team, to experience successes early and to dream big, building future leaders by giving them an opportunity to lead and experience personal achievements; and,

**WHEREAS**, parks and recreation programs increase a community's economic prosperity through increased property values, expansion of the local tax base, increased tourism, the attraction and retention of businesses, and crime reduction; and,

**WHEREAS**, parks and natural recreation areas improve water quality, protect groundwater, prevent flooding, improve the quality of the air we breathe, provide vegetative buffers to development, produce habitat for wildlife and are fundamental to the environmental well-being of our community, as well as ensure the ecological beauty of our community and provide a place for children and adults to connect with nature and recreate outdoors; and,

**WHEREAS**, The City of Brooksville and its Park properties are proud to be a part of the State of Florida's Recreation and Park system. The City's park properties offer playgrounds, softball fields, walking/running/bike/skate trails, basketball, tennis, racquetball and shuffle board courts, baseball and softball batting cages and a nine hole executive golf course, along with youth and adult recreational programs and events, all being promoted with the "It Starts in Parks" monthly informational television broadcast.

**NOW, THEREFORE, ON BEHALF OF THE CITY COUNCIL FOR THE CITY OF BROOKSVILLE, FLORIDA, I, LARA BRADBURN, Mayor, recognize July as**

*Parks & Recreation Month*

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused the seal of the City of Brooksville to be affixed this 21<sup>st</sup> day of June, 2010, A.D.

**CITY OF BROOKSVILLE**

*Lara Bradburn*  
Lara Bradburn, Mayor

*Richard E. Lewis*  
Richard E. Lewis, Vice Mayor

*Frankie Burnett*  
Frankie Burnett, Council Member

*Joe Bernardini*  
Joe Bernardini, Council Member

*Joseph E. Johnston, III*  
Joseph E. Johnston, III, Council Member

ATTEST: *Janice L. Peters*  
Janice L. Peters, CMC, City Clerk

*City of Brooksville*  
**Proclamation**

**WHEREAS**, community corrections is an essential part of the justice system wherein corrections professionals uphold the law with dignity while recognizing the right of the public to be safe-guarded from criminal activity; and,

**WHEREAS**, community corrections professionals are trained professionals, supervising adult and juvenile offenders in the community and working in partnership with community agencies and groups to provide services and referrals for offenders as well; and,

**WHEREAS**, community corrections professionals work to promote prevention, intervention and advocacy while providing services, support and protection for victims; and,

**WHEREAS**, community corrections professionals advocate community and restorative justice and are a true Force for Positive Change in their communities.

**NOW, THEREFORE, BE IT RESOLVED THAT ON BEHALF OF THE CITY COUNCIL FOR THE CITY OF BROOKSVILLE, FLORIDA, I, LARA BRADBURN, Mayor, do hereby proclaim July 18 – 24, 2010 as**

*Probation, Parole and Community Supervision Week*

and encourage all citizens to honor these community corrections professionals and to recognize their achievements.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused the seal of the City of Brooksville to be affixed this 21<sup>st</sup> day of June, 2010, A.D.

**CITY OF BROOKSVILLE**

*Lara Bradburn*  
Lara Bradburn, Mayor

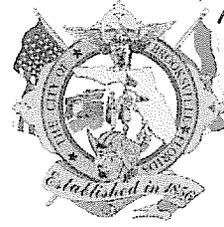
*Richard E. Lewis*  
Richard E. Lewis, Vice Mayor

*Joe Bernardini*  
Joe Bernardini, Council Member

*Frankie Burnett*  
Frankie Burnett, Council Member

*Joseph E. Johnston, III*  
Joseph E. Johnston, III, Council Member

ATTEST: *Janice L. Peters*  
Janice L. Peters, CMC, City Clerk



**AGENDA ITEM**  
**MEMORANDUM**

**TO:** HONORABLE MAYOR AND CITY COUNCIL

**VIA:** T. JENNENE NORMAN-VACHA   
CITY MANAGER

**FROM:** JENNIFER C. REY, ESQ.   
THE HOGAN LAW FIRM, LLC  
AS CITY ATTORNEY  
&  
WILLIAM GEIGER   
COMMUNITY DEVELOPMENT DIRECTOR

**SUBJECT:** STATUS UPDATE - IMPACT FEE ORDINANCE; ISSUES AND  
TIMELINE

**DATE:** MAY 27, 2010

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**GENERAL SUMMARY:** At its meeting on November 10, 2009, the County Commission approved Ordinance 2009-14 for the purpose of temporarily reducing impact fee rates. The reduced rates were effective December 1, 2009; and, if the Commission takes no further action, the reduced rates are set to expire as of November 30, 2010. The City currently opts-in to the County's impact fee structure through various interlocal agreements; therefore, the City's impact fee rates were reduced effective December 1, 2009. At its Regular Meeting on November 16, 2009, the City Council gave staff direction to move forward in preparing the City to adopt its own impact fee ordinances independent of the County. Staff brought the matter back before Council at its regular meeting on December 21, 2009 and Council directed staff to monitor the County's action and to report back to the City Council in June 2010 with a status update.

To date, the County has taken no action on impact fees other than to adopt an ordinance to extend the use of pre-paid impact fees until June 2, 2012. Unless some further action is taken by the Board of County Commissioners, as of December 1, 2010 the current pre-2005 rates will revert back to the rates in effect prior to the adoption of Ordinance 2009-14.

In recent discussion with County staff, no action is planned in the near term to update the database or methodology for the existing impact fees. It is anticipated that the County may address the issue at a Board level later in the 2009-2010 fiscal year. Staff will continue to monitor activity in this regard and will report back to the City Council on said activity.

New construction activity has been minimal through the current fiscal year. Impact fees collected from October 1, 2009 through April, 30 2010 total \$8,196.

*HS*  
**BUDGET NOTE:** Our 10/11 Budget impact fees will be projected based on the impact fee rates set by City Council and the City's forecast of construction activity.

**LEGAL NOTE:** The City currently has six (6) different interlocal agreements with either the Hernando County Commission or the Hernando County School Board relating to impact fees which sets City impact fees in accordance with County ordinances. Under the existing Interlocal Agreements, the County has agreed to provide for any necessary legal defense in the event that the County impact fee ordinance is challenged in a legal action. If the City proceeds with adopting its own ordinance, the City risks incurring all the legal costs associated with defending the impact fee ordinance and the basis for the impact fee rates established therein. At this point, whether or not the City can properly use the County study to support impact fee rates for the City is unclear.

**STAFF RECOMMENDATION:** Staff seeks direction from the City Council as to what actions it desires to pursue regarding impact fees.

**ATTACHMENTS:** None.

**CITY OF BROOKSVILLE  
REGULAR CITY COUNCIL MEETING  
COUNCIL C HAMBERS  
201 HOWELL AVENUE  
MINUTES**

May 17, 2010

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 Frankie Burnett 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.

**CERTIFICATES, PROCLAMATIONS AND PRESENTATIONS**

**Employee Wellness Program**

2<sup>nd</sup> Quarter Winner for the Biggest Loser weight challenge.

Mike Walker, Director of Parks & Recreation/Facilities, reviewed the 2<sup>nd</sup> quarter presentation and presented a gift basket to Melissa Locke, the winner.

Mayor Bradburn, with Council consensus, added an item at the end of the agenda for an emergency purchase.

**Small Business Week Proclamation and Recognition of Brooksville's latest Small Businesses**

Consideration of proclamation recognizing May 23 - 29, 2010 as Small Business Week.

Mayor Bradburn read the proclamation in its entirety and presented it to Dennis Wilfong, the City's Ambassador of Commerce and Employment. Dr. Wilfong reviewed the results of his team's efforts to bring new businesses into the area. He indicated they will be hosting a breakfast for new businesses on Friday, May 28 and encouraged Council to attend.

**2010 Hurricane Season Update**

Cecilia Patella, Director of Emergency Management, to give an update of the upcoming hurricane season.

Cecilia Patella, Director of Emergency Management, gave an update of the 2010 hurricane season. She indicated the forecast, according to the April update, calls for an above average hurricane season with fifteen (15) named storms and eight (8) major hurricanes. She reviewed areas in which her agency is working with the City of Brooksville.

Director Patella advised that Parrott Middle School now has two (2) impact hurricane shelters, one of which will allow pets (cats and dogs). She congratulated the City on their efforts in bringing the Hernando County Enrichment Center/Hurricane Shelter to fruition.

She indicated Hernando High School has been approved for a grant to complete a solar project, and lastly that Emergency Management is actively working the oil spill in the gulf and monitoring the events.

## REGULAR COUNCIL MEETING MINUTES – MAY 17, 2010

### Energy Systems Group (ESG)

Presentation of Energy Efficiency Feasibility Study review.

Chris Summers, Regional Director, after giving an overview of his company, gave a Power Point presentation covering the results and recommendations of the Feasibility Study (Attachment A), as well as projected savings, done in conjunction with the City Manager and staff. He indicated the program proposed to be implemented here is called performance contracting. The City would be leveraging the savings from the projects installed financed by a tax-exempt municipal lease which the savings will pay for over a period of time. Per statutes, ESG is required to guarantee the savings.

He congratulated the City Manager and staff for an excellent job in reducing the operational budget and proceeded to review possible improvements which included exterior lighting, water conservation, air conditioning system replacement, automated meter reading and natural gas conversions. The estimated annual savings to the City were as follows:

- Energy Savings           \$ 3,000 - \$4,500
- Water Savings           \$ 750 - \$1,000
- AMR Revenue Recovery \$40,000 - \$60,000
- Operational Savings   \$40,000

City Manager Norman-Vacha gave a status of the radio read meter project and the City Hall air unit funding. The cost savings were discussed, along with the efficiency of using natural gas.

Melanie Anthony, Tampa Branch Manager of TECO Gas, was present and indicated the new Fire Department is being fitted for natural gas. Vice Mayor Lewis asked if there were rebate incentives for switching to gas, which Melanie covered.

Chris Summers further elaborated on the benefits of their services, indicating the next step would be for the City to submit a letter of intent.

### Motion:

Motion was made by Vice Mayor Lewis and seconded by Council Member Johnston to move forward with the letter of intent.

Council Member Burnett recommended the process come back to Council after the letter of intent to move forward thereafter.

Motion carried 4-1 with Council Member Bernardini voting in opposition. Since staff has already been implementing energy savings he does not see how this study is telling them anything new. City Manager Norman-Vacha further elaborated on the intent of the feasibility study to produce an in-depth analysis of advanced energy technology.

### **CITIZENS INPUT**

Mayor Bradburn asked for public input; there was none.

### **CONSENT AGENDA**

#### Minutes

March 15, 2010 Regular Meeting  
April 5, 2010 Regular Meeting

REGULAR COUNCIL MEETING MINUTES – MAY 17, 2010

**City Hall Retaining Wall Bid No. GG2010-01 Award**

Consideration of award to SV III General Contractors, Inc., for an amount not-to-exceed \$47,835 and authorize a budget amendment and the Mayor to sign the agreement after review by Legal Counsel.

**Dumpster Supply Purchase**

Consideration of piggybacking the City of Boynton Beach's Bid for the purchase of dumpsters from Wastequip Manufacturing Company for a cost not to exceed \$22,500 and authorization to surplus aging dumpsters by sale to a recycling center.

**Motion:**

Motion was made by Vice Mayor Lewis and seconded by Council Member Bernardini for approval of the Consent Agenda.

Council Member Bernardini asked if the dumpsters could be used in the recycling program. Director Radacky indicated that the dumpsters cannot be used in the recycling program but will be sold for scrap metal. Motion carried 5-0.

**PUBLIC HEARINGS**

Entry of Proof of Publication into the Record

Mayor Bradburn called for proof of publication. City Clerk Peters indicated Item F1 was published on Friday, May 7, 2010, in the Hernando Today legal section of the Tampa Tribune and there is a copy of the affidavit for the record.

**Ordinance No. 790 – Capital Improvements Element Update**

Consideration of approval of ordinance amending the Comprehensive Plan and transmittal to the Florida Department of Community Affairs (DCA) and associated review agencies.  
**[First Hearing 05/03/10]**

Bill Geiger, Director of Community Development, indicated F.S. Chapter 163 Subsection II requires communities update the Capital Improvements Element of the Comprehensive Plan at least once each year. He pointed out a sign-in sheet was available for those wishing to receive information from the State concerning the amendment.

Since the last meeting he has met with the City Manager to review the individual departments' Capital Improvement Plans for consistency.

Mayor Bradburn asked for public input; there was none. She commended staff on the updated list.

**Motion:**

Motion was made by Council Member Burnett and seconded by Council Member Johnston for approval.

City Clerk Peters read Ordinance No. 790 by title, as follows:

**AN ORDINANCE OF THE CITY OF BROOKSVILLE, FLORIDA, APPROVING A CAPITAL IMPROVEMENTS UPDATE AMENDMENT TO THE TEXT OF THE CITY OF BROOKSVILLE COMPREHENSIVE PLAN; PURSUANT TO COMPREHENSIVE PLAN AMENDMENT PROCEDURES ESTABLISHED IN SECTIONS 163.3161 THROUGH 163.3215, FLORIDA STATUTES; PROVIDING SEVERABILITY; REPEALING ALL ORDINANCES IN CONFLICT; AND PROVIDING AN EFFECTIVE DATE.**

REGULAR COUNCIL MEETING MINUTES – MAY 17, 2010

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

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

**REGULAR AGENDA**

**Olive Street Cemetery Acquisition**

Consideration of acquisition of Olive Street Cemetery.

Director Walker, indicated this has been an ongoing struggle to work through the legal descriptions and owners.

Jennifer Rey, City Attorney, reviewed the proposed acquisition.

Council Member Johnston indicated his law office handled the quiet title action on the parcel but is not involved in the preparation of the deeds. He questioned whether or not the First Baptist Church is incorporated and City Attorney Rey stated she will look into it further.

**Motion:**

Motion was made by Council Member Bernardini and seconded by Vice Mayor Lewis for approval with the correct corporate entity as identified by legal counsel. Motion carried 5-0.

**Motion:**

Motion was made by Council Member Bernardini and seconded by Council Member Burnett for approval of the Grant of Easement. Motion carried 5-0.

**Great Brooksvillian of the Year**

Appointment of screening committee members and approval of timelines for the celebration.

Janice Peters, City Clerk, indicated she contacted previously appointed committee members as well as the Historical Society. The recommendations for this year's committee are John Tucker, W. Addison Sullivan and Maxine Matilainen.

Council Member Burnett suggested increasing the committee to five (5) members. Staff will bring back an amended Policy 3-2008 for consideration.

**Motion:**

Motion was made by Council Member Bernardini and seconded by Council Member Johnston for approval of the appointments recommended by staff. Motion carried 5-0.

**Emergency Purchase – Quarry Golf Course Irrigation Well**

Consideration of the emergency purchase from West Coast Well Drilling in the amount of \$18,495 from the Multi-Capital Project Accumulation Fund (308).

Director Walker reviewed the failure of the well and the need for the emergency purchase of the pump to include a surge protector in the amount of \$1,275 for a total of \$19,770.

Council Member Bernardini asked if the surge protector was necessary since the pump has a digital flow sensor. Shawn Kessler, Parks, Recreation and Facilities Supervisor, clarified the digital flow sensor is a digital form of a water meter which is currently part of the manifold and does serve the

## REGULAR COUNCIL MEETING MINUTES - MAY 17, 2010

same purpose. Mayor Bradburn suggested Mr. Kessler consult with Mr. Wilfong regarding the surge protector.

### **Motion:**

Motion was made by Council Member Johnston and seconded by Council Member Burnett for approval of the purchase to include the purchase of the surge protector for a total amount of \$19,770. Motion carried 5-0.

## CITIZEN INPUT

Mayor Bradburn asked for public input; there was none.

## ITEMS BY COUNCIL

### **Frankie Burnett, Council Member**

#### Great Brooksvillian

Council Member Burnett reminded all that the City is accepting nominations and the deadline for submission is Friday, June 25, 2010.

#### Murder of Sarah Davis

He would like a Resolution from City Council to present to her family.

### **Motion:**

Motion was made by Council Member Burnett and seconded by Vice Mayor Lewis for approval of presenting a Resolution to the Davis Family. Motion carried 5-0.

### **Joe Bernardini, Council Member**

#### Grant for Enrichment Center

Council Member Bernardini asked the reason this was on correspondence to note and did not come before Council. City Manager Norman-Vacha indicated the Enrichment Center is the recipient of the funds and the Notice of Federal Interest requires approval from the City as the property owner. City Attorney Rey clarified there is an additional provision in the previously approved agreement for signing of other documents as necessary.

#### Relay For Life

He thanked all for their participation in the American Cancer Society Relay for Life.

### **Janice L. Peters, City Clerk**

#### Sarah Davis Resolution

City Clerk Peters asked for clarification on Council Member Burnett's request since a Resolution would have to come back to Council. Mayor Bradburn, with Council consensus, stated a Proclamation could be done in lieu of a Resolution to expedite the process.

### **T. Jennene Norman-Vacha, City Manager**

#### Carwash

City Manager Norman-Vacha announced that on Saturday, June 5, 2010, the Beautification Board will be holding a carwash from 11:00 a.m. to 1:00 p.m. at Coney Island to help fund Downtown Christmas Decorations refurbishment.

#### Next Council Meeting

She indicated the June 7, 2010, agenda packets on the Comprehensive Plan Amendments will be published this week to give Council sufficient time to review the material. The ordinances will be considered under the Local Planning Agency and then as City Council. Mayor Bradburn, anticipating

REGULAR COUNCIL MEETING MINUTES – MAY 17, 2010

considerable discussion, recommended scheduling the meeting at 6:00 p.m. Council consensus was to convene the LPA meeting at 6:00 p.m.

Director Geiger indicated the first five ordinances received the most feedback and recommended getting through them during the LPA, adjourning the LPA, opening the Council Meeting at 7:00 then reconvening the LPA after discussion of those five items by Council. Mayor Bradburn requested Derrill McAteer of the Hogan Law Firm be at the meeting since he attends the Planning and Zoning Commission meetings.

**Lara Bradburn, Mayor**

Enrichment Center/Special Needs Shelter Groundbreaking

Mayor Bradburn commended the unprecedented teamwork involved in this event.

Small Business Appreciation

She reminded everyone of the event planned for Friday, May 28, 2010, at City Hall honoring small business owners in the City of Brooksville.

Excessive weeds

She asked for some attention to the excessive weeds on Broad Street, Jefferson Street and Howell Avenue.

**ADJOURNMENT**

There being no further business to bring before Council, the meeting adjourned at 9:05 p.m.

\_\_\_\_\_  
City Clerk

Attest: \_\_\_\_\_  
Mayor

AGENDA ITEM NO. C-4  
5/17/10

**City of Brooksville**

**May 17, 2010**

- Headquarters in Clearwater
- Offices in Orlando, Jacksonville, Panama City
- \$85 Million FL Energy Services Contracts
- Locally based Team of 17 Dedicated and Experienced Energy Professionals
  - 1 Florida Building Contractor License Holder
  - 7 Engineers (3 Registered Florida PEs)
  - 1 Licensed Marine Engineer
  - 7 Advanced Degree Holders
  - 8 Certified Energy Managers
  - 2 Project Managers
  - 1 Certified Sustainable Development Professional
  - 1 Certified Energy Auditor

ESG Clearwater Office

**ESG's Background and Qualifications**

Dedicated Energy Services Company

- Founded in 1994
- Subsidiary of Vectren Corporation
- \$3.8B in assets, [www.vectren.com](http://www.vectren.com)
- 1 Billion + in completed projects
- Over 300 Customers
- Numerous award-winning projects

Executive Team

Corporate Office

**Florida Strategic Partnerships**

- Qualified State of Florida Energy Services Company - State Term Contract No. 973-320-08-01
- Selected Energy Services Partner for TECO Peoples Gas / TECO Partners and Gulf Power for Federal UESC Program Offerings
- Selected Energy Services Partner for the Florida Municipal Power Association (FMPPA)

**200+ Employees in 18 States**

We Are

- Developers
- Engineers
- Construction Managers
- Maintenance Techs

**Florida Customers**

- FL Dept of Management Services
- Sanford International Airport
- Jacksonville Naval Air Station
- FL Fish & Wildlife Conservation Commission
- Pinellas Co. Schools
- Marion County Schools
- Pensacola Naval Air Station
- Naval Warfare Center Panama Beach
- City of Gulf Breeze
- City of Hollywood

**ESG** Energy Services Group **Performance Contracting**

Performance contracting (PC) enables the immediate funding of energy efficiency and capital improvement projects. We design projects which generate energy and operational savings over time - In fact *we guarantee the savings*. Banks perceive low risk, and provide low interest financing. The savings pay for the loan payments.

BEFORE ENERGY EFFICIENCY

AFTER ENERGY EFFICIENCY

7

**ESG** Energy Services Group **Lighting & Water System Retrofit**

**Lighting Recommendations**

- Convert Warehouse Lighting from Incandescent to Fluorescent
- Convert Exterior Lighting to LED/Induction Lighting Fixtures
- Utilize Daylight Harvesting

**Water Recommendations**

- Convert All Fixtures From Manual to Automatic Valves
- Install New Sink Aerator
- Install Low Flow Shower Heads

10

**ESG** Energy Services Group **Benefits of PC**

- Ability to Leverage Future Savings to Implement Capital Improvements Today
- Risk Mitigation for the Owner
  - Encouraged by State Legislation & Federal legislation
  - Expands procurement options
  - Fixed price - guaranteed Return on Investment
  - Single-point accountability
- Compressed Project Implementation
  - Concept to construction, 4 to 6 months
  - PC projects are "shovel ready"
- Reduced Carbon Footprint = Positive
  - Environmental Impact - visible commitment

8

**ESG** Energy Services Group **HVAC System Replacement**

**Recommendations**

- Replace City Hall's Condensing Units.
- Install Geo-Thermal Heat Pump Unit.
- Replace Older Split System Units
- Install Demand Control Ventilation Sequence to Optimize Outside Air Intake

11

**ESG** Energy Services Group **Feasibility Study Review**

- Ability to Leverage Future Savings to Implement Capital Improvements Today
- Risk Mitigation for the Owner
  - Encouraged by State Legislation & Federal legislation
  - Expands procurement options
  - Fixed price - guaranteed Return on Investment
  - Single-point accountability
- Compressed Project Implementation
  - Concept to construction, 4 to 6 months
  - PC projects are "shovel ready"
- Reduced Carbon Footprint = Positive
  - Environmental Impact - visible commitment

9

**ESG** Energy Services Group **Install Natural Gas Equipment**

**Recommendations**

- Replace Electric DHW Heater with Natural Gas Fired Unit at the Fire Station.
- Convert Appliances to Natural Gas at the Fire Station

12



# CITY OF BROOKSVILLE MEMORANDUM

**To:** The Honorable Mayor and City Council Members

**Via:** T. Jennene Norman-Vacha, City Manager 

**From:**  Richard W. Radacky, Director of Public Works

**Date:** June 8, 2010

**Re:** Bid Award of City Entrance Welcome Sign- Bid No. GG2010-02

**Background:**

A bid opening was held at 3:00 p.m., Friday, April 23, 2010, in the City Hall Council Chambers for constructing a City Entrance Welcome Sign, Bid No. GG2010-02. As a result, five (5) bids were received, as follows:

WOLF CONTRACTING	SV III GENERAL CONTRACTORS, INC.	GROSZ CONSTRUCTION CO., INC.	DOWLING SIGNS	INTERNATIONAL SIGN CO.
BID: \$7,829.00	BID: \$7,880.00	BID: \$8,459.00	BID: \$10,121.30	BID: \$14,765.00

Staff has reviewed the bids and determined that Wolf Contracting is the most reasonable and responsive bidder. They also submitted a complete bid package. Wolf Contracting has worked for the City previously and their work has been satisfactory. Staff has also met with Wolf Contracting to review their bid to ensure they will meet project specifications.

**Financial Impact:** *LB*

The bid amount for the City Entrance Welcome Sign is \$7,829. Staff recommends to utilize the Multi-Capital Accumulation Fund (308) for the City Entrance Welcome Sign. In the Fiscal Year 2010 Budget, \$530,794 was budgeted in Capital Outlay in the Multi-Capital Project Accumulation Fund for various projects that would be approved by City Council as the City's General Fund critical capital needs were assessed. A budget amendment is not necessary if Council approves the City Entrance Welcome Sign as eligible for a capital expenditure from the Multi-Capital Accumulation Fund.

**Legal Impact:**

Pursuant to the City's Charter, Article V, Sec. 5.04. Competitive Bidding, City Council is authorized to approve the award for procurement of personal property or services via the bid process within the statutory categories and limits established pursuant to F.S.Chapter 287. Only after all additional documents are received, reviewed and approved by Legal Counsel will the City sign an Agreement for Contractor Services.

**Staff Recommendation:**

Based on the above, staff recommends that the Council approve bid award for the City Entrance Welcome Sign to Wolf Contracting for \$7,829 and authorize the Mayor to sign an Agreement for Contractor Services when all documents have been approved by the City Attorney.

**City of Brooksville BID/CERTIFICATION FORM**  
**CITY ENTRANCE WELCOME SIGN**  
**BID NO. GG2010-02**

**BIDDERS CERTIFICATION TO THE CITY OF BROOKSVILLE:**

1. The undersigned warrants that: (A) this Bid is submitted in response to, and is in compliance with, all terms and conditions applicable thereto as set forth in the Advertisement, General Instructions and Conditions, Special Instructions and Conditions, Bid/Certification Forms and (if any), the Minimum Technical Specifications, Plans, Addendum, Exhibits, Agreement, Bonds and Insurance requirements, each of which has been carefully examined, (B) Bidder or Bidder's representative has made such investigation as is necessary to determine the character and extent of the work and their capability to perform the work, and (C) agrees that if the Bid is accepted by the City, Bidder will provide the necessary labor, materials, machinery, equipment, tools or apparatus, and perform all the work or services required to complete the assignment and/or contract within the time specified according to the requirements of the City as herein and hereinafter set forth, and (D) he/she is authorized to legally execute binding contracts for and on behalf of the Bidder.
  
2. Please check one:  
 Bidder declares that the only person, persons, company or parties interested in this Bid are named in the Bid.  
  
 Bidder, or one or more of bidder's officers, principals, or any owner of more than 5% in or of bidder, or members of their immediate families: (A) have a financial interest in another company, project, or property that could benefit financially from this proposed project; and/or (B) another individual or business will be compensated by (or on behalf of bidder) if bidder is selected by the City to bid the requested services. (Attach a detailed explanation for either.)
  
3. Bid Bond - If the Bid is accepted by the City, it will become a binding contract on both parties. If a Bid Bond or Cashiers Check/Certified Check is required, it shall be submitted with the Bid. If the undersigned shall fail to deliver or perform, or if applicable, execute a Contract as stated herein, then the City may, at its option, determine that the undersigned has abandoned the Award/Contract, and thereupon such Bid and/or Award shall be null and void, and any Cashiers Check/Certified Check or Bond accompanying this Bid shall be forfeited to and become the property of the City, and the full amount of said check, or if a Bid Bond, the full amount of such bond, shall be paid to the City as partial liquidated damages; otherwise, any Bond or Cashiers Check/Certified Check accompanying this Bid shall be returned to the undersigned within 30 calendar days from the date of Award, or if provisions for a Notice to Proceed are included, from the date of the Notice to Proceed.
  
4. Bidder proposes and agrees to provide all materials, services or equipment required for the CITY ENTRANCE WELCOME SIGN, for the Total Bid Sum of Seven thousand EIGHT Hundred Dollars (\$ 7829.00). (Must reflect same total as itemized below.)  
twenty nine.

Bidder/Company Name: Wolf Contracting  
INC

5. Number of days from date of Notice to Proceed that will be required for the final completion of all work as described herein and as shown on the plans.

(Maximum 120 Calendar Days)

6. The City reserves the right to accept any or all prices itemized in any combination that best serves the interests of the City. The City further reserves the right to accept or reject any of the components of this Bid, including alternates.

7. BIDDER HEREBY ACKNOWLEDGES RECEIPT OF THE FOLLOWING ADDENDUMS:

\_\_\_\_\_  
\_\_\_\_\_

<Remainder of Page Left Intentionally Blank>

Bidder/Company Name: Wolf Contracting INC.

Name of Bidder: Wolf Contracting INC

Business structure:  Corporation, ( ) Partnership, ( ) Individual, ( ) Other \_\_\_\_\_

If a Partnership:

Name(s) of Partner(s): \_\_\_\_\_

If a Corporation:

Incorporated in State of: Florida Date of Incorporation 1988

Business Address: 7060 Thistlebrook Lane

City, State, Zip: Brooksville State FL Zip 34602

Telephone Number: 352 799-1277 Fax 352 799-3773

Submitted By: (Print) Karl J Wolf Title: Owner

Signature: \_\_\_\_\_

ATTEST: Secretary

By: \_\_\_\_\_

Print Name Karl J Wolf

Affix Corporate Seal  
(If Corporation)

State of Florida  
County of Hernando

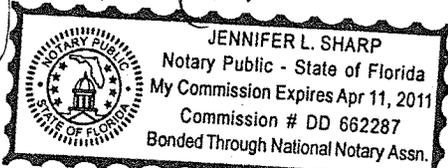
The foregoing instrument was acknowledged before me this 21 day of April, 2010, by Karl J Wolf, who is personally known to me or who presented as identification, and who (did) (did not) take an oath.

Jennifer L Sharp  
[Signature of Notary Public]

Jennifer L. Sharp

[Printed, typed or stamped name of Notary Public]

DD662287  
[Commission Number of Notary Public]



**NOTE: BIDS MAY BE REJECTED IF ALL DOCUMENTS ARE NOT COMPLETE AND EXECUTED, AND THE NUMBER OF COPIES SPECIFIED/REQUESTED OF EACH ARE NOT SUBMITTED WITH THE BID.**

**BID OPENING MINUTES  
CITY ENTRANCE WELCOME SIGN  
BID NO. GG2010-02**

April 30, 2010

3:00 p.m.

A Bid Opening was held at approximately 3:00 p.m. on Friday, April 30, 2010, in the City Hall Council Chambers for the **CITY ENTRANCE WELCOME SIGN BID NO. GG2010-02**. Janice L. Peters, City Clerk and Kim Harsin, Recording Secretary were in attendance.

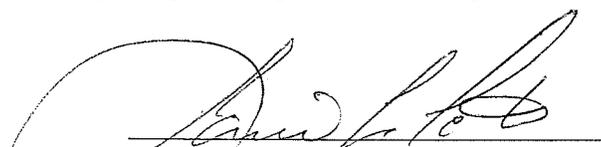
City Clerk Peters advised that an Invitation to Bid was published in the Friday, April 9, 2010, edition of the Hernando Today with a closing date and time set for 3:00 p.m. on Friday, April 30, 2010.

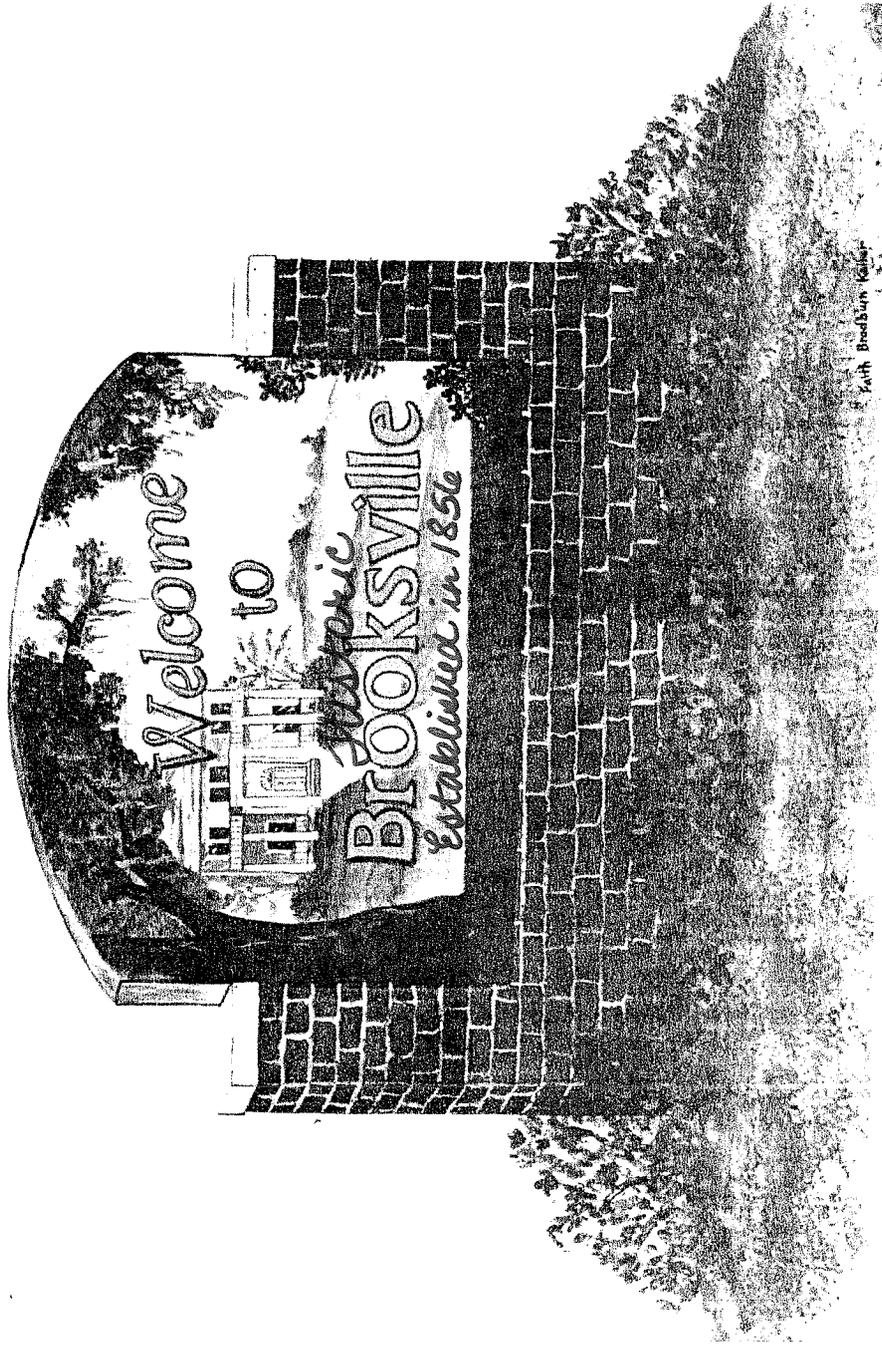
As a result, three (3) sets of bids were received, all properly sealed and notated. The bids were to include a Bid Certification Form with equipment list, State of Florida Contractor's License, Bid Bond or Certified Check in the amount of 5% of bid, List of Subcontractors with Name, Address & Phone Numbers, Three (3) current references for same or similar work with contact information, Public Entity Crime Statement, Drug-Free Workplace Certification and one (1) notarized original with two (2) full copies.

The following company's submitted bids, which were opened in no particular order, and the results read as follows:

1. **Wolf Contracting, Brooksville, FL** **BASE BID \$7,829.00**  
Enclosed original only, with no copies; Drug Program Implemented  
Did not indicate calendar day notice to proceed
  
2. **Grosz Construction Co., Inc., Tampa, FL** **BASE BID \$8,459.00**  
All required documentation included; Drug Program Implemented  
30 calendar day notice to proceed
  
3. **International Sign Company, Largo, FL** **BASE BID \$14,765.00**  
Did not include a bid bond; Drug Program Implemented  
120 calendar day notice to proceed
  
4. **Dowling Signs, Gainesville, FL** **BASE BID \$10,121.30**  
Did not fill out proper city forms; no bid bond; no references;  
Drug Program Implemented.  
Did not indicate calendar day notice to proceed
  
5. **SVIII General Contractors, Inverness, FL** **BASE BID \$7,880.00**  
All required documentation included; Drug Program Implemented  
Indicated no subcontractors needed  
90 calendar day notice to proceed

City Clerk Peters informed bidders that the bid packets would be reviewed by staff and the results posted on the City's website. The bid opening meeting closed at 3:10 p.m.

  
Janice L. Peters, CMC, City Clerk



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**AGENDA ITEM**  
**MEMORANDUM**



**TO:** HONORABLE MAYOR AND CITY COUNCIL  
**VIA:** T. JENNENE NORMAN-VACHA, CITY MANAGER  
**FROM:** GEORGE TURNER, CHIEF OF POLICE  
**SUBJECT:** BUDGET AMENDMENT, Fund 109 and Fund 502  
**DATE:** June 17, 2010

**GENERAL SUMMARY:** On October 19, 2009 the City Council approved specific deposits and expenditures from Fund 109. This approval was specific for deposit of revenues received from the sale of surplus property during the November 07, 2009 auction, and the expenditures to cover the costs of replacement weapons/ammunition, and vehicle/equipment purchases. In the Budget Impact section of the approved October 19, 2009 memorandum, the necessary budget amendment authorization was omitted, thereby requiring this budget amendment request as follows:

- 1) Approval of expenditure from Fund 109 in the amount of \$ 7,218.86 (revenue from sale of surplus at the November '09 auction) used to off-set vehicle equipment purchases that were approved by Council on October 19, 2009. The cost of the additional vehicle from the Vehicle Replacement Fund that exceeded our 09 10 approved budget was \$12,049. Also, there was revenue from the sale of Police fixed assets in Vehicle Replacement. Police vehicles sold at auction brought in \$11,318 to Vehicle Replacement at the November 09 auction. The difference between the \$11,318 and the actual cost over the original budget will be offset by interest earnings within Vehicle Replacement. Finance's estimate is approximately \$1,076 was earned by Police within Vehicle Replacement for this fiscal year.
- 2) Approval of expenditure of \$ 2,901 from Fund 109 for the purchase of .45 caliber ammunition as approved by Council on October 19, 2009. The \$ 2,901 was revenue from the sale of surplus .40 caliber ammunition to the City of Waldo Police Department received on October 30, 2009. This revenue was then used to purchase new .45 caliber ammunition as authorized by City Council.

In addition to the above, request a budget amendment to approve the expenditure of \$5,900 from fund 109 for the purchase and construction of the fence for the Brooksville Police Department Secure Parking/Impound Yard, **AND** an expenditure of approximately \$5,999 for the construction of an Interview Room within the present Police Department building.

Total budget amendment request for Law Enforcement Investigative Trust is \$14,800 (ammunition: \$2,901: fencing and interview room \$11,899); Total budget amendment request for Vehicle Replacement is \$12,049.

**BUDGET IMPACT and 09/10 BUDGET AMENDMENT:** City Council had previously approved the expenditure listed above in items #1 and # 2 prior to the November auction. The additional expenditure of \$11,899.00 for the improvements to the buildings and grounds of the Police Department are necessary and funds are available from "revenues greater than expected into Fund 109." The 09/10 Budget amendments including "increased revenues" requested are as follows:

Increase Fund 109 Law Enforcement Investigative Trust Improvements Other than Buildings (109 000 521 55630) in the amount of \$5,900 (fencing).

Increase Fund 109 Law Enforcement Investigative Trust Building & Improvements (109 000 521 55620) in the amount of \$5,999 (interview room)

Increase Fund 109 Law Enforcement Ammunition expense (109 013 521 54910) in the amount of \$2,901.

Increase Fund 109 Law Enforcement Investigative Trust Misc. Revenues (109 000 369 48896) in the amount of \$35,000.

Increase Fund 109 Law Enforcement Proceeds of the Sale of Fixed-Assets-Government (109 000 346 48840) in the amount of \$3,329

Increase Fund 109 Law Enforcement Sale of Surplus Property (109 000 365 48850) in the amount of \$3,890

Increase Fund 502 Vehicle Replacement Machinery & Equipment (502 000 166 19037) in the amount \$12,049 (2010 Dodge Charger)

Increase Fund 502 Vehicle Replacement Proceeds of the Sale of Fixed Assets-Proprietary (502 000 364 48845) in the amount of \$11,318.

**LEGAL REVIEW:** City Council has the authority to authorize budget amendments as needed, and, per City Code Section 2.15, approve added expenditures if "revenues are greater than expected."

**STAFF RECOMMENDATION:** Staff recommends approval of the listed budget amendments and authorize City Finance to make the necessary budget changes.

**Attachments:** October 19, 2009 Memorandum to Mayor and City Council.

**AGENDA ITEM**  
**MEMORANDUM**

**TO: HONORABLE MAYOR AND CITY COUNCIL**  
**VIA: T. JENNENE NORMAN-VACHA, CITY MANAGER**  
**FROM: GEORGE TURNER, CHIEF OF POLICE**  
**SUBJECT: SURPLUS / TRADE PROPERTY/PURCHASE VEHICLES**  
**DATE: October 19, 2009**

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**GENERAL SUMMARY: SURPLUS/AUCTION:** The Brooksville Police Department is in possession of seized property, unclaimed evidence and used police vehicles. It is the intent of the Police Department to sell the following at the public auction November 07, 2009. (estimated revenue \$ 15,000 – \$17,000)

- 1) 2003 Yamaha Scooter, vin# JYASA17A63A011320
- 2) Unk. yr, Alpha Sports Scooter, vin# RF3AE06C43R04337.
- 3) Unk.yr, Yamaha four wheeler, altered vin. Engine Vin# 3GG186735
- 4) Unk.yr, Wildgoose Scooter, vin# LXYPCDL0440M21054.
- 5) 1996 Mitsubishi vin# JA3AA11A5TU014910. Case#2009-002038
- 6) Unit 145, 2000 Ford vin# 2FAFP71W1YX199404.(patrol car)
- 7) Unit 146, 2000 Ford vin# 2FAFP71WXYX175697.(patrol car)
- 8) Unit 157, 2003 Ford vin# 2FAFP71W63X210910.(patrol car)
- 9) Unit 149, 2003 Ford, vin#2FAFP71W43X101541(patrol car)
- 10)Unit 124, 1993 Chev,vin# 1GCEG25H2PF319354 (evidence van)
- 11) Unit 131, 1998 Chev, vin# 2G1WW12M2W9216602 (unmarked Detective)

**GENERAL SUMMARY/WEAPON SURPLUS/TRADE:** The Brooksville Police Department requests to surplus/trade 28 Sig Sauer 226 firearms to off-set the cost of the new Glock 21SF firearms approved for purchase in the 2009/2010 budget (Fund 109). The Sig Sauer(s) will be traded to Crowder Hardware, the Federally Licensed Firearms Dealer providing the new weapons. Further, surplus and trade our the Sig holsters for the new Glock holsters and our in stock .40 cal ammunition for .45 cal ammunition to facilitate our firearms transition from the .40 caliber handgun to .45 caliber handgun.

**GENERAL SUMMARY: VEHICLE PURCHASE:** The Brooksville Police Department requests approval to proceed with the purchase of vehicles allocated within the 2009/2010 budget, funded by the PATROL VEHICLE REPLACEMENT PROGRAM 2009 Recovery Act Edward Bryne Memorial JAG Program. (see attached JAG Grant and Grant Adjustment Notice) This grant includes monies for the purchase of four replacement marked patrol vehicles and one new marked patrol vehicle (for the additional Cops Grant position.) The vehicles will be Ford Crown Victoria(s) and will be purchased from Bobby Jones Ford on State Bid. Equipment to be supplied and installed by Emergency Vehicle Supply (piggy-back; Martin County). Apollo Camera System to be purchased through the sole source provider Law Enforcement Supply. Also request approval to proceed with the vehicle purchase approved in the 2009/2010 budget, fund 502. This vehicle will be a Dodge Charger and purchased from Maroone Chrysler/Dodge/State bid. (\$ 31,117 was allocated. Actual vehicle cost due to negotiated deals on emergency equipment is only \$ 24,167, leaving a balance of \$ 6,950 in Fund 502) This vehicle will be assigned to replace the Chevrolet Tahoe (unit 163). The Tahoe will be transferred to the Evidence Division to replace the Chevrolet Van ( unit 124 ) that is being sent to auction.

**GENERAL SUMMARY: VEHICLE PURCHASE/SURPLUS MONIES:** The Brooksville Police Department requests approval to utilize the above surplus monies and Fund 502 savings ( \$15,000 /\$ 6,950 ) and Fund 109 monies to purchase a replacement Detective Vehicle. This vehicle will be a replacement for the Chevrolet Monte Carlo (unit 131 ) that is being sent to the auction. The replacement will be a State Bid purchase, make/model yet to be determined.

**BUDGET IMPACT:** Funds received after surplus and auction of items # 1 - # 11 with the additional \$ 6,950 savings from Fund 502 vehicle purchase to be utilized towards the purchase of a State Bid *replacement* Detective vehicle. (any shortage taken from Fund 109).

The Firearm purchase has been approved in 2009/2010 budget, fund 109. Trades of our Sig Sauer(s) will reduce the costs of new handguns by \$ 10,325. Total expenditure from fund 109 for the new Glock 21Sf will be \$ 3,240.

**LEGAL REVIEW:** City Council has the authority to authorize the surplus, trade and purchases with monies within the FY 2009/2010 budget for vehicles and other equipment.

**STAFF RECOMMENDATION:** Staff recommends approval to surplus, sell and trade of City owed property as well as to proceed with the Patrol Vehicle Replacement Program/JAG Grant as set forth above. Staff further recommends the utilization of the proceeds from the auction sale of Item # 1 - # 11 towards the purchase of a replacement unmarked Detective vehicle, shortages to be paid from fund 109.

Attachments: Patrol Vehicle Replacement Program Jag Grant w/Adjustment Notice, Bobby Jones Ford proposal invoice, E.V.S. proposal invoice, Maroone Dodge proposal invoice, Crowder Hardware proposal invoice, Law Enforcement Supply invoice for holsters, and Law Enforcement Supply Apollo Camera Systems invoice.



**AGENDA ITEM  
MEMORANDUM**

**TO: HONORABLE MAYOR AND CITY COUNCIL MEMBERS**

**VIA: T. JENNENE NORMAN-VACHA, CITY MANAGER**

**FROM: MIKE WALKER, PARKS, FACILITIES & RECREATION DIRECTOR**

**SUBJECT: Contract WS 557 Amendment #1 - Inmate Work Squad Contract**

**DATE: June 8, 2010**

---

**GENERAL SUMMARY/BACKGROUND:**

Attached is the annual renewal inmate work squad contract WS557 Amendment #1, from the Florida Department of Corrections. The agreement has no changes from this year's current agreement and is for one of three (3) work squads the city utilizes to maintain Park/Facilities and the street right-of- ways. The contract will provide the city with one (1) correctional officer and up to five (5) inmates. This program is a very important part of the Park and Facilities workforce.

**BUDGET IMPACT:** The agreement is for a total of \$56,467.00, which is the same as the current year contract and has been budgeted in the proposed Park and Facilities 10/11 Budget, in line item 001-020-572-53400, Other Contractual Services.

**LEGAL REVIEW:** The City Council has Home Rule Authority (Art. VIII, 2(b), Fla. Const. /Section 166.011, F.S.) to consider and take action on matters of fiscal benefit.

**STAFF RECOMMENDATION:** Staff recommends that Council approve the proposed inmate work squad contract with the Florida Department of Corrections, Contract #WS557, not to exceed \$56,467.00.



FLORIDA  
DEPARTMENT of  
CORRECTIONS

05-26-10 P01:37 IN

Governor  
**CHARLIE CRIST**

Secretary  
**WALTER A. MCNEIL**

*An Equal Opportunity Employer*

2601 Blair Stone Road • Tallahassee, FL 32399-2500

<http://www.dc.state.fl.us>

May 20, 2010

Ms. T. Jennene Norman-Vacha, City Manager  
City of Brooksville  
201 Howell Avenue  
Brooksville, Florida 34601

Subject: Contract No. WS557 – City of Brooksville

Dear Ms. Norman-Vacha:

Contract WS557 between the Department of Corrections and the City of Brooksville will expire on November 4, 2010. Accordingly, I am enclosing a draft Amendment for renewal, and a draft Addendum A for your review and a Contract Expiration Notification (CEN) Form.

After your review of the draft, please complete and return the Contract Expiration Notification Form to me by Friday, June 18, 2010, noting any corrections to the contract.

Once the completed CEN is received from both you and Hernando CI, a final contract will be forwarded for signature.

If you have any questions, please feel free to contact me at (850) 410-4573.

Sincerely,

Emily M. Phelps  
Correctional Services Consultant

/emp  
Enclosures

*5-26-10  
2 copy:  
M.F.  
M. McWallen  
Stella Baumgartner  
Please review  
if advise  
Thank!*

DEPARTMENT OF CORRECTIONS  
BUREAU OF PROCUREMENT & SUPPLY  
CONTRACT EXPIRATION NOTIFICATION

**DATE:** May 20, 2010  
**TO:** T. Jennene Norman-Vacha, City Manager  
**FROM:** Emily M. Phelps, Correctional Services Consultant  
**RE:** Contract WS557: Hernando CI – City of Brooksville  
Work Squad: 1 Correctional Officer, 5 Inmates  
Expires: November 4, 2010

---

**NOTE:** The above-referenced contract will expire on the above listed date.

Please advise as to your preference:

- Do not renew. **Note:** Contract will expire on date specified.  
 Process renewal of contract.

1. Did the Work Squad provide services (according to the scope of service) outlined in the above-referenced contract:
- a. were necessary reports provided in the required timeframe?  Yes  No  N/A
  - b. were invoices submitted in the required timeframe?  Yes  No  N/A
  - c. were services delivered in accordance with the terms & conditions?  Yes  No

2. Please explain any “negative” responses and attach documentation, if applicable.

3. Rate the overall performance of service as outlined in the Scope of Service under the contract identified above:

\_\_\_\_\_ Excellent      \_\_\_\_\_ Good      \_\_\_\_\_ Satisfactory      \_\_\_\_\_ Unacceptable  
90% or better compliance      89%-75% compliance      74%-60% compliance      59% or below

If Unacceptable is checked, you are requested to provide an explanation.

SIGNED: \_\_\_\_\_ (Date)  
Agency Representative

If you have any questions, please contact Emily Phelps at (850) 410-4573.

**PLEASE RETURN THIS FORM AS SOON AS POSSIBLE TO:**  
*Emily Phelps, Bureau of Institutional Support Services*  
2601 Blair Stone Road  
Tallahassee, Florida 32399-2500

**DRAFT**

**CONTRACT AMENDMENT BETWEEN  
THE DEPARTMENT OF CORRECTIONS  
AND  
CITY OF BROOKSVILLE**

This is an Amendment to the Contract between the Florida Department of Corrections (“Department”) and City of Brooksville (“Agency”) to provide for the use of inmate labor in work programs.

This Amendment:

- renews the Contract for one (1) year pursuant to **Section I., B., Contract Renewal**;
- revises the end date of the Contract referenced in **Section I., A., Contract Term**; and
- replaces Addendum A with Revised Addendum A, effective November 5, 2010.

Original contract period: November 5, 2009 through November 4, 2010

In accordance with **Section V., CONTRACT MODIFICATIONS**, the following changes are hereby made:

1. **Section I., A., Contract Term**, is hereby revised to read:

A. This Contract began November 5, 2009 and shall end at midnight on November 4, 2011.

This Contract is in its final renewal year.

2. Pursuant to **Section III., Compensation, A., 5**, the rate of compensation is amended to reflect the rates indicated in Revised Addendum A. Addendum A is hereby replaced with Revised Addendum A, effective November 5, 2010

All other terms and conditions of the original Contract remain in full force and effect.

This Amendment shall begin on the date on which it is signed by both parties.

**BALANCE OF PAGE INTENTIONALLY LEFT BLANK**

IN WITNESS THEREOF, the parties hereto have caused this Amendment to be executed by their undersigned officials as duly authorized.

**AGENCY: CITY OF BROOKSVILLE**

SIGNED BY: DRAFT - DO NOT SIGN  
NAME: \_\_\_\_\_  
TITLE: \_\_\_\_\_  
DATE: \_\_\_\_\_  
FEID #: \_\_\_\_\_

**DEPARTMENT OF CORRECTIONS**

**Approved as to form and legality,  
subject to execution.**

SIGNED BY: \_\_\_\_\_  
NAME: **Richard D. Davison**  
TITLE: **Deputy Secretary  
Department of Corrections**  
DATE: \_\_\_\_\_

SIGNED BY: \_\_\_\_\_  
NAME: **Kathleen Von Hoene**  
TITLE: **General Counsel  
Department of Corrections**  
DATE: \_\_\_\_\_

**Revised Addendum A**  
**Inmate Work Squad Detail of Costs For City of Brooksville**  
**Interagency Contract Number WS557 EFFECTIVE November 5, 2010**  
**\*\*\*ENTER MULTIPLIERS IN SHADED BOXES ONLY IF TO BE INVOICED TO AGENCY\*\*\***

**I. CORRECTIONAL WORK SQUAD OFFICER SALARIES AND POSITION RELATED-EXPENSES TO BE REIMBURSED BY THE AGENCY:**

	# Officer	Multiplier	Per Officer Annual Cost	Total Annual Cost
Officers Salary	1		\$ 52,729.00 **	\$ 52,729.00
Salary Incentive Payment			\$ 1,128.00	\$ 1,128.00
Repair and Maintenance			\$ 121.00	\$ 121.00
State Personnel Assessment			\$ 398.00	\$ 398.00
Training/Criminal Justice Standards			\$ 200.00	\$ 200.00
Uniform Purchase			\$ 400.00	\$ 400.00
Uniform Maintenance			\$ 350.00	\$ 350.00
Training/Criminal Justice Standards *			\$ 1,500.00	\$ 391.00
Technology Fee			\$ 391.00	\$ 391.00
<b>TOTAL - To Be Billed By Contract To Agency</b>			<b>\$ 57,217.00</b>	<b>\$ 55,717.00</b>

\*Cost limited to first year of contract as this is not a recurring personnel/position cost.

\*\* Annual cost does not include overtime pay.

IA. The Overtime Hourly Rate of Compensation for this Contract is \$32.51, if applicable. (The Overtime Hourly Rate of Compensation shall include the average hourly rate of pay for a Correctional Officer and the average benefit package provided by the department, represented as time and one half for purposes of this Contract.)

**II. ADMINISTRATIVE COSTS TO BE REIMBURSED BY THE AGENCY:**

Costs include but may not be limited to the following:

Rain coats, staff high visibility safety vest, inmate high visibility safety vest, fire extinguisher, first aid kit, personal protection kit, flex cuffs, warning signs, handcuffs, Igloo coolers, portable toilets, insect repellants, masks, vaccinations, and other administrative expenses.

**TOTAL - To Be Billed By Contract To Agency**

Number Squads	Total Annual Cost
1	\$ 750.00
	<b>\$ 750.00</b>

**III. ADDITIONAL AGENCY EXPENSES:**

Tools, equipment, materials and supplies not listed in Section II above are to be provided by the Agency.

CELLULAR PHONE WITH SERVICE REQUIRED: YES  NO   
ENCLOSED TRAILER REQUIRED: YES  NO

**Revised Addendum A**  
**Inmate Work Squad Detail of Costs For City of Brooksville**  
**Interagency Contract Number WS557 EFFECTIVE November 5, 2010**

**IV. OPERATING CAPITAL TO BE ADVANCED BY AGENCY:**

Hand Held Radio           MACOM \$4318.00       
 Vehicle Mounted Radio    MACOM \$4414.00     

**TOTAL Operating Capital To Be Advanced By Agency**

Per Unit Cost	Number of Units
	1

Total Cost	Bill To Agency	Provided By Agency	Already Exists
\$ -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
\$ -	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
\$ -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**V. TOTAL COSTS TO BE ADVANCED BY AGENCY:**

1. Operating Capital - from Section IV.
2. **Grand Total - To Be Advanced By Agency At Contract Signing:**

Total Cost
\$0.00
\$0.00

**VI. TOTAL COSTS TO BE BILLED TO AGENCY BY CONTRACT:**

1. Correctional Officer Salaries and Position-Related Expenses - from Section I.
2. Other Related Expenses and Security Supplies - from Section II.
3. **Grand Total - To Be Billed To Agency By Contract:**

Total Cost
\$55,717.00
\$750.00
\$56,467.00

**VII. TOTAL OF ALL COSTS ASSOCIATED WITH CONTRACT:**  
 (Total of Sections V. and VI.)

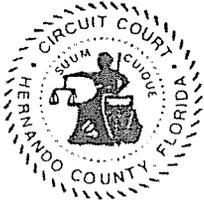
\$56,467.00
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**VIII. OVERTIME COSTS:**

if the contracting Agency requests overtime for the work squad which is approved by the Department, the contracting Agency agrees to pay such costs and will be billed separately by the Department for the cost of overtime.

**Addendum A - INSTRUCTIONS**  
**Inmate Work Squad Detail of Costs For City of Brooksville**  
**Interagency Contract Number WS557 EFFECTIVE November 5, 2010**

- Section I.** Costs in this section are determined each fiscal year by the Budget and Management Evaluation Bureau and are fixed. By entering the number of Officers required for this contract, the spreadsheet will automatically calculate the "Total Annual Cost" column. If this Work Squad is beyond the first year of existence, enter a zero (0) in the "Total Annual Cost" column for "Training/Criminal Justice Standards" after you have entered the "# Officers Multiplier".
- Section II.** Safety and environmental health procedures require safety measures such as the use of safety signs, vests, and clothing. The Department's procedure for Outside Work Squads requires that all Work Squad Officers be responsible for ensuring their squad is equipped with a first aid kit and a personal protection equipment (PPE) kit. Section II identifies such required equipment. A new squad must be sufficiently equipped and an on-going squad must be re-supplied when needed. Type in the number of squads used for this contract and the spreadsheet will automatically calculate the fixed annual expense of \$750.00 per squad and place the total in Section VI.
- Section III.** Check "Yes" or "No" to indicate whether a Cellular Phone with Service and/or an Enclosed Trailer is required by the Contract Manager.
- Section IV.** The Department's procedure for Outside Work Squads requires that they have at least one (1) primary means of direct communication with the Institution's Control Room. Communication via radio and/or cellular phone is appropriate. It is preferred that a backup, secondary means of communication also be available. It is the Agency's responsibility to provide them. If the Department purchases a radio(s), the Agency must fund the purchase at the time the Contract is signed. Check the box for the type of radio and fill in the Per Unit Cost for the type of radio, Number of Units, and Total Cost columns. Leave the Total Cost column blank if a radio(s) is not being purchased at this time. Check applicable boxes ("Bill to Agency", "Provided by Agency" and "Already Exists") for each radio.  
**NOTE:** All radio communication equipment owned or purchased by the Agency that is programmed to the Department's radio frequency and used by the work squad(s), whether purchased by the Department or the Agency, shall be IMMEDIATELY deprogrammed by the Department at no cost to the Agency upon the end or termination of this Contract.
- Section V.** The total funds the Agency must provide at the time the contract is signed will be displayed here when the form is properly filled out.
- Section VI.** The total funds the Agency will owe contractually, and pay in equal quarterly payments, will be displayed here.
- Section VII.** The total funds associated with the Contract, to be paid by the Agency as indicated in Sections V. and VI., will be displayed here.
- Section VIII.** Any agreement in this area will be billed separately as charges are incurred.



AGENDA ITEM NO. E-5  
6/21/10

## KAREN NICOLAI

CLERK OF CIRCUIT COURT - HERNANDO COUNTY, FLORIDA

20 N. MAIN STREET  
BROOKSVILLE, FLORIDA 34601-2800

TO: BROOKSVILLE CITY COUNCIL

FROM: KAREN NICOLAI, CHAIRMAN *KN*  
SUBSTANCE ABUSE POLICY ADVISORY BOARD

SUBJECT: 2010 FEDERAL EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE  
GRANT (JAG) PROGRAM FUNDS

DATE: JUNE 10, 2010

The Substance Abuse Policy Advisory Board (SAPAB) has approved the allocation of \$111,748 in Federal Fiscal Year 2010 Edward Byrne Memorial Justice Assistance Grant (JAG) Program funds.

Attached for your review and signature is a letter (four originals) to the Florida Department of Law Enforcement in which the City Council agrees to the allocation of 2010 Federal Fiscal Year Edward Byrne Memorial JAG Program funds as follows: City of Brooksville Marked Patrol Vehicle Purchase Program in the amount of \$55,874; and Hernando County Sheriff's Office Airborne FLIR System in the amount of \$55,874. The total amount of grant funding available is \$111,748.

The letter is required as part of the grant applications.

**RECOMMENDATION:** The Substance Abuse Policy Advisory Board recommends that the Brooksville City Council agree to the allocation of Federal Fiscal Year 2010 Edward Byrne Memorial JAG Program funds and authorize the Mayor to sign the attached letters for submittal to the Florida Department of Law Enforcement.

KN:JSK:s

Attachments



June 21, 2010

Mr. Clayton H. Wilder  
Administrator  
Office of Criminal Justice Grants  
Department of Law Enforcement  
2331 Phillips Road  
Tallahassee, Florida 32308

Dear Mr. Wilder:

In compliance with State of Florida *Rule 11D-9*, F.A.C., the City of Brooksville approves the distribution of \$ 111,748 of Federal Fiscal Year 2010 Edward Byrne Memorial Justice Assistance Grant (JAG) Program – JAG Countywide funds for the following projects within Hernando County:

Subgrantee	Title of Project	Dollar Amount
<u>(City or County)</u>		<u>(Federal Funds)</u>
City of Brooksville	Marked Patrol Vehicle Purchase Program	\$55,874
Hernando County	Hernando County Sheriff's Office Drug Airborne FLIR System	\$55,874

Sincerely,

Lara Bradburn, Mayor  
City of Brooksville



**REGULAR AGENDA ITEM**  
**MEMORANDUM**

**To:** The Honorable Mayor and City Council Members  
**VIA:** T. Jennene Norman-Vacha, City Manager *T. Jennene Norman-Vacha*  
**From:** Richard W. Radack DPW Director and  
Stephen J Baumgartner, Finance Director *SB*  
**RE:** Good Neighbor Trail Phase 2B Professional Services Budget  
Amendment  
**Date:** June 11, 2010

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**SUMMARY**

The City has negotiated a Professional Consultant Services Agreement with Coastal Engineering Associates, Inc. to furnish professional services in connection with the Good Neighbor Trail, Phase 2B project. A 09/10 Budget amendment is requested in the amount of \$23,250.

**GENERAL INFORMATION**

Coastal Engineering will assist the City with the design, permitting, and land ownership coordination of the Good Neighbor Trail Phase 2B. This agreement will produce engineering plans allowing the City to have a "shovel ready" project and therefore eligible for Florida Department of Transportation funding.

**BUDGET AMENDMENT** *SB*

Staff is requesting a 2009/2010 Budget amendment as follows:

- A transfer of \$23,250 from Multi-Capital Project Accumulation Fund No. 308 to the Good Neighbor Trail Fund No. 120;
- **Debit: General Ledger No. 308 020 581 56120 \$23,250 (Transfer Out to Good Neighbor Trail Fund); and**
- **Credit: General Ledger No. 120 000 381 49308 \$23,250 (Transfer In from Multi-Capital Project Fund).**

The second part of the request is to amend the 09/10 Budget for the Engineering Services capital expenditure as follows:

- **Debit: General Ledger No. 120 000 572 55630 \$23,250 (Improvements Other than Buildings).**

**BUDGET IMPACT**

There are sufficient funds in the Multi-Capital Fund to transfer to the Good Neighbor Trail Fund. The City Council budgeted in 09/10 \$530,794 for capital projects in the Multi-Capital Fund. At this time we have designated (of the \$530,794) approximately \$80,000 for improvements to the City Hall Wall, emergency Quarry irrigation well, and

the new signage along SR 41. Finance estimates an ending Cash balance in the Multi-Capital Fund of approximately \$545,000 before the requested transfer of \$23,250. The Good Neighbor Trial Fund has a cash balance of \$2,138 so it does not have sufficient reserves to fund the expenditure.

**LEGAL REVIEW**

The City Council has home-rule authority (Art. VII, (2) Fla. Const. and §166.011 Fla. Stat.) to consider matters of fiscal and intergovernmental benefit. Ordinance No. 778 which set the Fiscal Year 09/10 Budget provides for budget amendments and transfer of funds. Pursuant to Section IV of Ordinance No. 778, "Consent and approval of the City Council may be given during a duly called and constituted session of said Council identifying said budget amendments or adjustments."

**STAFF RECOMMENDATION**

We recommend approval of proposed Budget Amendments to 2009/10 Budget.

**AGENDA ITEM  
MEMORANDUM**



**TO:** HONORABLE MAYOR AND CITY COUNCIL

**VIA:** T. JENNENE NORMAN-VACHA  
CITY MANAGER

**FROM:** GEORGE TURNER  
POLICE CHIEF

JENNIFER REY  
THE HOGAN LAW FIRM, LLC  
AS CITY ATTORNEY

**SUBJECT:** PROPOSED REVISED RED LIGHT TRAFFIC SAFETY ORDINANCE  
NO. 758-A.

**DATE:** JUNE 14, 2010

**GENERAL SUMMARY:** Council, at its June 7, 2010 meeting, approved the first reading of Ordinance No. 758-A to comply with House Bill 325 which is titled the "Mark Wandall Traffic Safety Act" passed by the legislature and signed by the Governor on May 14, 2010. The Act becomes effective as of July 1, 2010. The Act makes significant changes to the use of unmanned cameras for enforcement of red light signal violations. The City's current ordinance requires certain modifications to bring it into compliance with the new law. Attached is a proposed revised ordinance which is intended to amend and restate in its entirety the relevant portions of the code which are noted in the ordinance.

We have had one initial meeting with ATS, the City's current vendor, to discuss contract modifications to comply with the new legislation. A final revised contract has not yet been secured and we are contemplating going out to bid to obtain a new vendor.

**BUDGET IMPACT:** There is a significant financial impact based on House Bill 325. Presently, the City receives \$85.00 and ATS \$40.00 for each \$125.00 paid violation. House Bill 325 lowers the violation received by the City to \$75.00. From the \$75.00 share the City will be remitting to ATS a fee which is not yet determined. Also, the Red Light Traffic tickets issued are very likely to be less; this reduction is based on the House Bill allowing right-hand turns without stopping on red if the driver was making the turn in a careful and prudent manner. The 10/11 Budget will reflect revenue estimates based on staff's projections and those will be submitted during our budget workshops.

**LEGAL NOTE:** The City is vested with home rule authority pursuant to Article VII, Section 2 of the Constitution of the State of Florida and Chapter 166, Florida Statutes, to enact ordinances; and pursuant to section 1.03 and Section 2.13 of the Charter, the City has the power to enable it to conduct municipal functions and to adopt ordinances to carry out those function. The City is also authorized under Fla. Stat. 316 to enact an ordinance to implement the Mark Wandall Traffic Safety Act.

**STAFF RECOMMENDATION:** Staff recommends that the City Council adopt the proposed ordinance to amend and restate the City's Code of Ordinances regarding red light traffic safety.

**ATTACHMENT:** Proposed Ordinance 758-A

## ORDINANCE NO. 758-A TRAFFIC LIGHT SAFETY

AN ORDINANCE OF THE CITY OF BROOKSVILLE, FLORIDA, AMENDING ORDINANCE 758 RELATING TO TRAFFIC LIGHT SAFETY; PROVIDING FOR LEGISLATIVE FINDINGS AND PURPOSE; ESTABLISHING DEFINITIONS; ESTABLISHING AN ENFORCEMENT PROGRAM WITHIN THE CITY; AUTHORIZING THE CITY TO PERMIT AND IMPLEMENT THE USE OF TRAFFIC CONTROL SIGNAL MONITORING SYSTEM FOR RED LIGHT INFRACTIONS; PROVIDING ENFORCEMENT PROCEDURES, INCLUDING NOTICE, APPEAL HEARINGS, PENALTIES, IMPOSITION OF ADMINISTRATIVE CHARGES AND COLLECTION; PROVIDING FOR EXCEPTIONS; PROVIDING FOR DIRECTIONS TO THE CITY CLERK; PROVIDING FOR REFERRAL OF APPEALS TO HEARING OFFICERS AND MATTERS RELATING THERETO; PROVIDING FOR CODIFICATION, CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE.

**WHEREAS**, the City of Brooksville is vested with home rule authority pursuant to Article VII, Section 2 of the Constitution of the State of Florida and Chapter 166, Florida Statutes, to enact ordinances;

**WHEREAS**, pursuant to Section 1.03 and Section 2.13 of the Charter of the City of Brooksville, the City has the power to enable it to conduct municipal functions and to adopt ordinances; and,

**WHEREAS**, the City of Brooksville is located in a high density traffic area and regularly experiences traffic incidents related to the failure of motorists to obey duly erected traffic control devices, exposing its citizens to the dangers of personal injury and property damage;

**WHEREAS**, the City is concerned with the violation of State statutes and local ordinances concerning traffic signals, including the running of red lights;

**WHEREAS**, apprehending violators of traffic signals through law enforcement observance, chase and citation is difficult, dangerous and expensive and requires the City to commit an extreme amount of personnel that would not be necessary with the use of automated traffic infraction detectors with image capture technologies (unmanned cameras);

**WHEREAS**, local governments in different parts of the State and Nation have demonstrated that the combination of traffic infraction detectors with traditional traffic law enforcement methods enhances vehicular and pedestrian safety;

**WHEREAS**, the use of traffic infraction detectors is an effective means of enforcing traffic signal control laws;

**WHEREAS**, the City desires to reduce the number of violations of traffic light signals within the City by installing and implementing traffic infraction detectors and corresponding enforcement procedures;

**WHEREAS**, this ordinance is authorized by the Mark Wandall Traffic Safety Act, as set forth in Section 316 Florida Statutes, which recognizes the rights of municipalities to utilize traffic infraction detectors to regulate municipal traffic; and,

**WHEREAS**, the City of Brooksville finds that implementation of the enforcement program set forth in this ordinance will promote, protect and improve the health, safety and welfare of its citizens, consistent with the authority of and limitations on the City pursuant to the Constitution of the State of Florida and the Florida Statutes.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BROOKSVILLE, FLORIDA:**

**Section 1. Legislative Findings and Purposes.**

- (a) The foregoing recitals are hereby adopted as the legislative findings of the City Council of the city of Brooksville and incorporated into this Ordinance as if set forth in haec verba.
- (b) The purpose of this ordinance is to authorize the use of traffic infraction detectors to promote compliance with red light signal directives, and to adopt a civil enforcement system for red light signal violations, all in accord with general law.
- (c) This ordinance will supplement law enforcement personnel in the enforcement of red light signal violations and shall not prohibit law enforcement officers from issuing a citation for a red light signal violation in accordance with normal statutory traffic enforcement techniques.

**Section 2. Definitions.**

- (a) *Careful and Prudent Manner* shall mean having regard for width, grade, curves, corners, traffic, actual and potential hazards, and all other attendant circumstances so as not to endanger pedestrians, other motor vehicles, or the property of another, while progressing at a rate of speed that does not exceed five (5) mph.
- (b) *Intersection* means the area embraced within the prolongation or connection of the lateral curb line; or if none, then the lateral boundary lines, of the roadways of two roads which join or intersect one another at, or approximately at, right angles; or the area within which vehicles traveling upon different roads joining at any other angle may come in conflict.
- (c) *Motor vehicle* means the meaning set forth in the definition in Fla. Stat. §316.003(21) or its successor provision.
- (d) *Notice of Violation* means a notice issued for a Red Zone Infraction.
- (e) *Owner* means the person or entity identified by the Florida Department of Highway Safety and Motor Vehicles, or other state vehicle registration office, as the registered

owner of a vehicle. Such term shall also mean a lessee of a motor vehicle pursuant to a lease of six months or more.

- (f) *Recorded images* means images recorded by a traffic infraction detector including but not limited to photographic images, electronic images, or streaming video images.
- (g) *Red zone infraction* means a traffic offense whereby a traffic infraction detector established that a motor vehicle entered an intersection controlled by a duly erected traffic control signal at a time when the traffic control signal for such motor vehicle's direction of travel was emitting a steady red signal.
- (h) *Traffic control signal* means a device exhibiting different colored lights or colored lighted arrows, successively, one at a time, or in combination, using only the colors green, yellow, and red which indicate and apply to drivers of motor vehicles as provided in F.S. § 316.075.
- (i) *Traffic infraction detector* means a vehicle sensor installed to work in conjunction with a traffic control signal and a camera or cameras synchronized to automatically record two or more sequenced photographic or electronic images or streaming video of only the rear of a motor vehicle at the time the vehicle fails to stop behind the stop bar or clearly marked stop line when facing a traffic control signal steady red light.
- (j) *Traffic infraction enforcement officer* means the City Police Department employee designated, pursuant to Section 7 herein, to review recorded images and issue notices of violation based on those images.

**Section 3. Adherence to Red Light Traffic Control Signals.** A motor vehicle facing a traffic control signal's steady red light indication shall stop before entering the crosswalk on the near side of an intersection or, if none, then before entering the intersection and shall remain standing until a green indication is shown on the traffic control signal; provided, however, the driver of a motor vehicle facing a traffic control signal's steady red light may make a right-hand turn in a careful and prudent manner at an intersection where right-hand turns are permissible.

**Section 4. Use of Traffic Infraction Detectors.** The City shall utilize recorded images from traffic infraction detectors as a supplemental means of monitoring compliance with the laws related to traffic control signals and as an ancillary deterrent to traffic control and red zone infractions. This ordinance shall not supersede, infringe, curtail or impinge upon any state laws related to red light signal violations or conflict with such laws.

**Section 5. Introductory Period.** The City may establish by resolution a period of time defined as the Introductory Period. During the Introductory Period, red zone infractions captured on recorded images by a traffic infraction detector shall not be assessed a penalty. The owner of the motor vehicle shall receive a courtesy notice of the violation. Infractions of traffic control signals including red zone infractions may be enforced at any time in accordance with normal traffic enforcement techniques and citations from a law enforcement officer.

**Section 6. Penalties for Failure to Adhere to Red Light Traffic Control Signals.** A violation of Section 3 of this ordinance (adherence to red light traffic control signals) established by a traffic infraction detector (red zone infraction) shall be enforced and assessed a penalty as set forth in Fla. Stat. §316.003, as may be amended from time to time.

**Section 7. Enforcement of Adherence to Red Light Control Signals Using Traffic Infraction Detectors.** Commencing on the effective date of this ordinance:

- (a) The chief of police or one or more designees shall serve as a traffic infraction enforcement officer. The traffic infraction enforcement officers shall be responsible for the accuracy and the integrity of the recorded images and the proper functioning of the traffic infraction detectors at the time recorded images are captured.
- (b) Recorded images will be taken of motor vehicles who commit a red zone infraction.
- (c) The City's traffic infraction enforcement officer shall review the recorded images to determine if (i) there exists reasonable and probable grounds to believe that a red zone infraction has been committed; (ii) the license tag number on the motor vehicle is visible in the recorded images and (iii) after taking into account all relevant facts, a Notice of Violation should be issued.
- (d) If the traffic infraction enforcement officer is satisfied that the above criteria has been met, a Notice of Violation shall be sent, via first class mail no later than thirty (30) days after the red zone infraction occurs, to the owner of the motor vehicle at the address on record with the Florida Department of Highway Safety and Motor Vehicles or any other state vehicle registration office. The recorded image shall be sufficient grounds to issue a Notice of Violation.
- (e) If an owner of a motor vehicle receives a Notice of Violation and fails to pay the penalty imposed by Fla. Stat. §316.0083, or to provide an affidavit that complies with this ordinance and the provisions of Fla. Stat. §316.0083 within thirty (30) days of the date the Notice of Violation is issued, then a Uniform Traffic Citation shall be issued to the owner of the motor vehicle. The Uniform Traffic Citation shall be issued no later than sixty (60) days after the red zone infraction occurs.

**Section 8. Notice of Violation.** Notices of Violations shall include at a minimum:

- (a) The name and address of the owner of the motor vehicle;
- (b) The license plate number and registration number of the motor vehicle;
- (c) The make, model, and year of the motor vehicle;
- (d) The statute violated;
- (e) The location of the intersection where the violation occurred;
- (f) The date and time of the red zone infraction;
- (g) Notice that the recorded images relating to the motor vehicle are evidence of a red zone infraction;
- (h) A signed statement by the traffic infraction enforcement officer that, based on inspection of recorded images, the motor vehicle was involved in a red zone infraction;

- (i) A statement that the owner of the motor vehicle has the right to review, either in person or remotely, the recorded images and that the recorded images constitute a rebuttal presumption against the owner of the motor vehicle;
- (j) A statement of the time and place or internet location where the evidence may be observed;
- (k) Images depicting the violation;
- (l) A statement that the owner must pay a penalty to the City, or provide an affidavit that complies with this ordinance and Fla. Stat. §316.0083 within thirty (30) days of the date the Notice of Violation is issued in order to avoid court fees, costs and the issuance of Uniform Traffic Citation;
- (m) Instructions on all methods of payment of the penalty; and,
- (n) A statement specifying the remedies available under Fla. Stat. §318.14.

**Section 9. Affidavit of Non-responsibility.**

- (a) Penalties for violations of this ordinance will be assessed against the motor vehicle owner unless the motor vehicle owner establishes that:
  1. The motor vehicle passed through the intersection in order to yield right-of-way to an emergency vehicle or funeral procession;
  2. The motor vehicle passed through the intersection at the direction of a law enforcement officer;
  3. The motor vehicle was, at the time of the violation, in the care, custody and control of another person; or
  4. A uniform traffic citation was issued by a law enforcement officer to the driver of the vehicle for the same violation.
- (b) If the motor vehicle was in the care, custody and control of another person, the affidavit must include the name, address, date of birth, and, if known, the driver's license number of the person who leased, rented or otherwise had care, custody or control of the motor vehicle at the time of the violation.
- (c) If the vehicle was stolen at the time of the violation, the affidavit must include the police report indicating that the vehicle was stolen.
- (d) If a Uniform Traffic Citation was issued by a law enforcement officer for the violation, then the affidavit must include the serial number of the Uniform Traffic Citation issued.
- (e) The affidavit must be executed in the presence of a notary, and include the following language immediately above the signature line: "Under penalties of perjury, I declare that I have read the foregoing affidavit and that the facts stated in it are true. I understand that submission of a false affidavit is a misdemeanor of the second degree and punishable as provided in Fla. Stat. §775.082 or §775.083."

**Section 10. Signage.** When the City installs a traffic infraction detector at an intersection, it shall erect signage at the intersection sufficient to notify the public that a traffic infraction detector may be in use at the intersection and the signage shall include specific notification of traffic infraction detector enforcement of right hand turns. Signage shall meet the specifications for uniform signals and devices adopted by the Department of Transportation pursuant to Fla. Stat. §316.0745.

**Section 11. Authority of City Manager to Promulgate Rules and Procedures to Implement this Ordinance.** The City Manager is authorized to implement the provisions and requirements of the Mark Wandall Traffic Safety Act within the jurisdiction of the City in coordination with the Chief of Police or other designee. The City Manager shall have authority to promulgate policies and procedures to implement this ordinance and the Mark Wandall Traffic Safety Act, including installing and implementing traffic infraction detectors and promulgating the form of the Notice of Violation and the Affidavit of Non Responsibility.

**Section 12. Admissibility of Recorded Images in Enforcement Proceedings.** The recorded images attached to or referenced in a Notice of Violation or Uniform Traffic Citation are evidence that a red zone infraction has occurred, are admissible as evidence in any proceeding to enforce this ordinance, and raise a rebuttable presumption that the motor vehicle identified in the recorded images and named on the Notice of Violation was used in violation of Section 3.

**Section 13. Severability.** If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or application hereof, is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion or application shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

**Section 14. Amendment to Code.** This Ordinance shall be and become a part of the Code of the City of Brooksville, Florida, to amend and restate in its entirety Chapter 74 – Streets, Sidewalks, and other Public Places, Article V – Traffic Light Safety, Section 74-201 through Section 74-214.

**Section 15. Conflicts and Repealer.** This Ordinance shall be cumulative of all provisions of the ordinances of the City of Brooksville, Florida, except where provisions of this Ordinance are in direct conflict with the provisions of such ordinance, which event all ordinances or parts thereof in conflict with this Ordinance are hereby repealed to the extent of such conflict.

**Section 16. Codification.** The provisions of this Ordinance, including its recitals, shall become and be made a part of the *Code of Ordinances of the City of Brooksville, Florida* and the Sections of this Ordinance may be renumbered or re-lettered to accomplish such intention and the word “Ordinance”, or similar words, may be changed to “Section,” “Article”, or other appropriate word; provided, however, that Sections 13, 14, 15, 16, and 17 shall not be codified. The Code codifier is granted liberal authority to codify the provisions of this Ordinance.

Section 17. Effective Date. This Ordinance shall take effect the 1<sup>st</sup> day of July, 2010.

**CITY OF BROOKSVILLE, FLORIDA**

Attest: \_\_\_\_\_  
Janice Peters, City Clerk

By: \_\_\_\_\_  
Lara Bradburn, Mayor/Chair

PASSED on First Reading \_\_\_\_\_

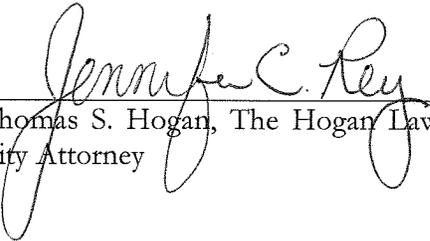
NOTICE Published on \_\_\_\_\_

PASSED on Second & Final Reading \_\_\_\_\_

Approved as to form for the reliance of the City  
of Brooksville only:

VOTE OF COUNCIL:

- Bernardini \_\_\_\_\_
- Bradburn \_\_\_\_\_
- Burnett \_\_\_\_\_
- Johnston \_\_\_\_\_
- Lewis \_\_\_\_\_

  
\_\_\_\_\_  
Thomas S. Hogan, The Hogan Law Firm, LLC,  
City Attorney



**REGULAR AGENDA ITEM  
MEMORANDUM**

**To:** The Honorable Mayor and City Council Members  
**VIA:** T. Jennene Norman-Vacha, City Manager *[Signature]*  
**From:** Richard W. Radacky DPW Director and  
Stephen J Baumgartner, Finance Director *[Signature]*  
**RE:** Ordinance No. 809  
**Date:** June 11, 2010

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**GENERAL INFORMATION**

The City Council has expressed an interest in refunding meter deposits for residential customer accounts with good credit history. Staff has drafted the attached proposed Ordinance No. 809 which will change the current code to allow for refunds.

In addition, the proposed ordinance will allow cycle billing so utility bills will be able to be billed at different monthly cycles (for example the 5th and the 20th of the month). Cycle-billing will allow better efficiencies in our Customer Service division. Cycle billing also allows staff to be able to provide better services to our utility customers by spreading their workload more evenly over the month.

At the July 19, 2010 City Council meeting, prior to the August 1, 2010 effective date of Ordinance No.809, staff will bring forward to City Council a Resolution that will outline the new policies that will implement key provisions of the proposed Ordinance, the resolution will provide staff with clear direction as to the new policies and procedures based on City Council direction and approval.

Because utility revenues are pledged as collateral on several of the City's municipal bonds, staff sought review of the proposed ordinance from the City's Bond Counsel. The City obtained a formal legal opinion from our Bond Counsel concerning the refund of utility deposits. Bond Counsel Foley & Lardner, LLP advised the City, in a letter dated May 19, 2010 which is attached, that there was no prohibition for water and sewer deposit refunds.

**BUDGET IMPACT** *[Signature]*

We believe these recommendations are prudent, fair to our customers, and will have very minimal budget impact. The City earns no revenue from the utilities deposits. However, the utilities deposit is a safety net for the City in case a customer does not maintain a good payment history.

**LEGAL REVIEW** *[Signature]*

The City is vested with home rule authority pursuant to Art. I, Section 2 of the Fla. Const. and Chapter 166, Fla. Stat., to enact ordinances; and pursuant to Section 1.03 and Section 2.13 of the Charter, the City has the power to enable it to conduct municipal functions and to adopt ordinances to carry out those functions.

**STAFF RECOMMENDATION**

We recommend approval of Ordinance No. 809 on first reading.

**ORDINANCE NO. 809**

**AN ORDINANCE AMENDING CHAPTER 86 "UTILITIES", OF THE CODE OF ORDINANCES; AMENDING ARTICLE III, "SEWERS", DIVISION 1. GENERALLY, BY DELETING SECTION 86-106; AMENDING ARTICLE IV, "SERVICE RATES, CHARGES AND BILLING", DIVISION 1. GENERALLY, SECTION 86-186 TO PROVIDE FOR CYCLE BILLING; AMENDING ARTICLE IV, "DEPOSITS", DIVISION 2. GENERALLY SECTION 86-211 THROUGH 89-221 TO PROVIDE FOR REFUND OF DEPOSITS; PROVIDING FOR CONFLICT, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.**

**WHEREAS**, the City of Brooksville is vested with home rule authority pursuant to Article VII, Section 2 of the Constitution of the State of Florida and Chapter 166, Florida Statutes, to enact ordinances;

**WHEREAS**, pursuant to Section 1.03 and Section 2.13 of the Charter of the City of Brooksville, the City has the power to enable it to conduct municipal functions and to adopt ordinances;

**WHEREAS**, Fla. Stat. §180 defines and sets forth the methods for the administration of municipal public utility services, establishing rates, and collection of deposits;

**WHEREAS**, Fla. Stat. §366 defines and sets forth the methods of establishing rates, adjustments, penalties and exemptions for water and wastewater systems; and,

**WHEREAS**, the City desires to amend Chapter 86 to more effectively address the methods to be used for the monthly utility billing, utility payments in default, establishing the use of deposits and the retention of deposits.

**NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BROOKSVILLE, FLORIDA**, as follows:

**SECTION 1. AMENDMENT TO CHAPTER 86, UTILITIES, ARTICLE III, "SEWERS" DIVISION 1.** Section 86-106. Deposit Required is hereby deleted in its entirety, reserving the section number.

Sec. 86-106. ~~Deposit required.~~ Reserved.

(a) ~~The owner, tenant or occupant of each lot or parcel of land within the city, who may become obligated to pay the sewer services charges set forth in this chapter, shall deposit, simultaneously with the finance department, an amount prescribed by the city council, by resolution, as reasonable and equitable, to ensure payment of such sewer service charges as the same become due and payable.~~

(b) ~~Such deposit shall be held by the city until final settlement of the user's account and shall be subject to application by the finance department to the payment of such sewer charges as are billed against such user, if and when delinquent, and upon final settlement of the user's account. Any unused balance of the deposit shall upon final settlement be refunded to the user, without interest.~~

~~(c) If the applicant for sewer service is already served by the city's water system, the water meter and security deposit required in section 86-211 shall be deemed sufficient. If the applicant for sewer service is served by his own private water system, the applicant shall deposit, simultaneously with the filing of an application, an amount equal to the water meter and security deposit required in section 86-211, which deposit shall be applied as described in subsection (b) of this section.~~

~~(d) The city reserves the right to analyze a customer's account and payment record to determine the amount of deposit required to ensure payment of any and all sums due and owing to the city for such service. If additional deposits are required, such deposits shall be made in that additional amount to be determined as appropriate in accordance with those procedures stipulated in section 86-211.~~

**SECTION 2. AMENDMENT TO CHAPTER 86, UTILITIES, ARTICLE IV, "SERVICE RATES, CHARGES AND BILLING," DIVISION 1. GENERALLY. SECTION 86-186.** Section 86-186 is amended as follows:

**Sec. 86-186. When bills payable; penalty for delinquency; ~~water~~ service subject to discontinuance.**

~~(a) Bills for the monthly charges and fees mentioned in this article shall be submitted and shall be payable on the 20th day of each month~~ calendar day after the billing date and, if such monthly bill shall be and remain unpaid on or after the 20th day of any month for such service calendar day after the billing date, a penalty of ten percent shall be imposed and be added to the bill, and, the ~~water~~ service ~~(both potable water, sewer, and irrigation water, and solid waste collection, if applicable)~~ to the customer shall be subject to discontinuance and shall not be reconnected or resumed after discontinuance until all past due ~~water bills and sewage disposal~~ fees are fully paid, together with the discontinuance and reconnection charge as provided in Section 86-187. If the 20<sup>th</sup> calendar day after the billing date falls on a date in which the City is closed, the monthly charges and fees shall be payable on the next business day in which the City.

~~(b) If separate bills for monthly charges and fees are sent to the same customer for any combination of water, sewer and irrigation water service provided at the same location, such bills shall be considered as one account and shall be considered to be delinquent and subject to a delinquency penalty and to possible discontinuance of water service, as provided in subsection (a) of this section, if any part of any such bill remains unpaid after the 20th day of any month. Unless otherwise specified herein, monthly bills for charges and fees for water service, sewer service and solid waste collection shall be mailed, or transmitted electronically, to all utility account holders. Where water, sewer or solid waste collection services are furnished to a single account, all charges for said services shall be included on one bill rendered by the City; provided, however, that each such bill shall show water, sewer or solid waste collection charges and fees separately. A monthly bill for an amount less than an administratively determined minimum billable amount, which may be established by the City Manager, shall not be required, and the balance due on any such account shall be added without penalty to the next billing.~~

**SECTION 3. AMENDMENT TO CHAPTER 86, UTILITIES, ARTICLE IV, "DEPOSITS" DIVISION 2. GENERALLY SECTIONS 86-211 THROUGH 86-221.** Sections 86-211 through 86-240 are amended as follows:

**Sec. 86-211. Deposits Required.**

~~(a) There shall be required with respect to each new residential or commercial water and sewer service connection and from the customer applicant therefor, whether owner or tenant, a deposit as~~

~~fixed by the city council by resolution. Such deposits shall be posted with the finance department and a receipt obtained therefor before any such service connection is made to either city water or sewer services.~~

(a) The owner, tenant or occupant of each lot or parcel of land within the City, who may become obligated to pay for water, sewer or solid waste collection services, and from the customer applicant therefor, shall pay a deposit as established by the City Council by resolution, as reasonable and equitable, to ensure payment of such water, sewer or solid waste collection fees and charges as the same become due and payable. Such deposits shall be posted with the Finance Department and a receipt obtained therefor before any such service is made to either City water, sewer or solid waste collection services.

(b) The city reserves the right to analyze a customer's account and payment record to determine the amount of deposit required, to ensure payment of any and all sums which may be or become due and owing to the City for such water, sewer or solid waste collection service. If additional deposits are required, such deposits shall be made in that additional amount to be determined in accordance with procedures established by City Council and set forth by resolution. ~~amount which is equal to two month's average water and sewer service billing for the previous service year or service period, whichever is the lesser.~~

(c) If an applicant for new or additional water, sewer or solid waste collection service is already served by one of the City's water, sewer or solid waste systems, the deposit required for the existing account shall be deemed sufficient, unless an additional deposit may be required pursuant to Sec. 86-211(b).

#### **Sec. 86-212. Certificate of Receipt for deposit.**

For each deposit a ~~certificate of deposit receipt~~ shall be prepared in duplicate, the original to be delivered and provided to the depositor and the City shall retain a record of such deposit. ~~the copy to be retained by the finance department. Such certificate shall show the name of the depositor, the date of issue, and shall accurately identify the premises to be served with water, sewer or solid waste disposal service by the connection applied for. Such certificate shall also state briefly the purpose of the deposit, the conditions under which it may be refunded, the rate of interest allowed by law, and shall require the production of the original when making demand for refund.~~

#### **Sec. 86-213. Credit to ~~meter~~ deposit fund; interest.**

All deposits shall, ~~immediately~~ upon receipt, be credited to the respective water, sewer or solid waste collection meter deposit fund and shall be held, in trust, until date of refund or until date of default, if any, in payment of bills. The accrued interest on any ~~previously issued interest-bearing certificate of deposit~~ shall be payable from the respective meter deposit fund upon date of refund of deposit, or upon date of default, if any, in payment of bills, as authorized by the City Manager, or as otherwise required by law.

#### **~~Sec. 86-214. Retention until discontinuance of service or default in bill.~~**

~~Each deposit shall be retained until the service applied for is permanently discontinued at the request of the depositor, unless in the meantime default shall be made in the payment within the prescribed time limit, of any bill legally due the city by reason of the service or service connection for~~

~~water supplied through the service connection. However, at the customer's request, each additional deposit collected pursuant to section 86-211(b) shall be refunded, upon having obtained a consecutive 12-month nondelinquent payment history since the last reconnection of service following a termination of service resulting from customer's default.~~

~~(Code 1988, § 17-154)~~

**~~Sec. 86-2154. Refunded of deposits, to customer upon discontinuance of service.~~**

~~(a) If all bills are promptly paid and no default shall occur, then such deposit shall be refunded in full to the depositor upon permanent discontinuance of service at his or her request, together with accrued interest, if any; or~~

~~(b) If all bills are promptly paid and no default shall occur, the City may determine to issue a refund of such deposit for water, sewer or solid waste collection accounts that meet certain criteria. Said criteria shall be established and set forth by resolution of the City Council. Refunds provided under this provision shall be credited to the eligible water, sewer or solid waste collection accounts.~~

**~~Sec. 86-2165. Procedure for refund.~~**

~~(a) Upon demand for or authorization of refund of any deposit, and interest accrued thereon, and provided that there is at the time no outstanding bill or charge legally secured thereby, the finance department shall make such refund forthwith of both principal and interest, ~~if any, taking up the original certificate and plainly marking it paid and canceled, and retaining it as his voucher for the corresponding expenditure from the meter deposit fund.~~~~

~~(b) Upon demand for or authorization of refund, when not accompanied by the original certificate, such demand shall be in each case presented to the finance department for consideration and action in like manner as other claims for miscellaneous payments.~~

**~~Sec. 86-217. Notation of refund or charge against deposit.~~**

~~(b) In all cases of refund, or partial refund after charging a deposit with sums due and secured thereby, or in case of complete exhaustion of any such deposit by reason of such charges, notation shall be made on the appropriate city records to the end that such copy may at all times show what charges, if any, have been made against it, and what refund, if any, has been made on account thereof.~~

**~~Sec. 86-2186. Requests to discontinue service; subsequent customers.~~**

~~(a) In every case where a customer ceases to require water, sewer or solid waste collection service, whether by reason of ceasing to occupy the premises served or for any other reason, whether or not such customer shall have been required to post a deposit in accordance with the provisions of this division relating to deposits, such customer shall promptly notify the City ~~treasurer~~ and request that service be disconnected.~~

~~(b) In every case where such request for disconnection is not made as provided in this section, the regular charges for water, sewer or solid waste collection service will continue to be made against such customer and shall be collectible from him, including charges for water consumed, if any, through such service connection, whether such consumption is by such customer, or by any successor in occupancy, or otherwise, and whether such consumption is with the knowledge and consent of such customer or not.~~

(c) Notwithstanding the foregoing provisions of this section, but in addition thereto, each person, before beginning to use water or sewer service from any service connection or solid waste collection services, shall first comply with the provisions of section 86-211 even in those cases, if any, where he may find such service already ~~turned~~ on and available for use or being provided.

~~Sec. 86-219. Present customers exempt from deposit unless in default of payment of bill.~~

~~No present customer of water shall be required to make a deposit, unless and until there is default on the part of such customer in the payment, within the prescribed time limit, of any bill legally due the city by reason of the service connection serving such customer, or for water supplied through such service connection.  
(Code 1988, § 17-159)~~

**Sec. 86-22017. Deposit required for water used in construction.**

All contractors or builders shall post a minimum meter deposit for construction water. If the final water bill is greater than the amount of deposit, the bill must be paid in full before any further connections will be allowed.

**Sec. 86-2218. Transfer fee for meter deposits.**

Any user of the City's solid waste collection, water or sewer system, whether residential or commercial, who wishes to transfer the deposit as required for such service, for any reason permitted by the city, shall be charged a transfer fee, which shall be fixed by the City Council by resolution.

**Secs. 86-22219--86-240. Reserved.**

**SECTION 4. SEVERABILITY.** If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or application hereof, is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion or application shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

**SECTION 5. CONFLICTS AND REPEALER.** This Ordinance shall be cumulative of all provisions of the ordinances of the City of Brooksville, Florida, except where provisions of this Ordinance are in direct conflict with the provisions of such ordinance, which event all ordinances or parts thereof in conflict with this Ordinance are hereby repealed to the extent of such conflict.

**SECTION 6. AMENDMENT TO CODE.** This Ordinance shall be and become a part of the Code of the City of Brooksville, Florida, to amend and supplement Chapter 86, formerly Chapter 17, 1988 Code, as directed herein.

**SECTION 7. CODIFICATION.** The provisions of this Ordinance, including its recitals, shall become and be made a part of the *Code of Ordinances of the City of Brooksville, Florida* and the Sections of this Ordinance may be renumbered or re-lettered to accomplish such intention and the word "Ordinance", or similar words, may be changed to "Section," "Article", or other appropriate word; provided, however, that Sections 4, 5, 6, 7 and 8 shall not be codified. The Code codifier is granted liberal authority to codify the provisions of this Ordinance.

**SECTION 8. EFFECTIVE DATE.** This Ordinance shall take effect the 1<sup>st</sup> day of August 2010.

**CITY OF BROOKSVILLE**

Attest: \_\_\_\_\_ By: \_\_\_\_\_  
Janice L. Peters, CMC, City Clerk Lara Bradburn, Mayor

PASSED on First Reading \_\_\_\_\_  
NOTICE Published on \_\_\_\_\_  
PASSED on Second & Final Reading \_\_\_\_\_

APPROVED AS TO FORM FOR THE RELIANCE  
OF THE CITY OF BROOKSVILLE ONLY:

VOTE OF COUNCIL:  
Bernardini \_\_\_\_\_  
Bradburn \_\_\_\_\_  
Burnett \_\_\_\_\_  
Johnston \_\_\_\_\_  
Lewis \_\_\_\_\_

\_\_\_\_\_  
Thomas S. Hogan, The Hogan Law Firm, LLC  
City Attorney



FOLEY & LARDNER LLP

ATTORNEYS AT LAW

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904.359.2000 TEL  
904.359.8700 FAX  
foley.com

May 19, 2010

CLIENT/MATTER NUMBER  
015328-0107

Mr. Steve Baumgartner  
Finance Director  
City of Brooksville, Florida  
201 Howell Avenue  
Brooksville, FL 34601-2041

Re: Refund of Water and Sewer Utility Deposits

Dear Steve:

We served as bond counsel in connection with the issuance of \$6,680,000 City of Brooksville, Florida Water & Sewer Revenue Bonds Series 1999A and Series 1999B dated Dec. 3, 1999 and \$6,610,000 City of Brooksville, Florida Water & Sewer Revenue Refunding Bonds Series 2002, each issued pursuant to Resolution No. 2002-22 adopted by the City Council on October 7, 2002 (the "Senior Bond Resolution"), and \$1,558,655 City of Brooksville Subordinated Water and Sewer Revenue Note, Series 2008, issued pursuant to Resolution No. 2008-14 adopted by the City Council on July 21, 2008 (the "Note Resolution") and the Loan Agreement dated as of July 23, 2008 between the City and Hancock Bank (the "Loan Agreement").

You have advised us that Ordinance No. <sup>809</sup>791 (in the form attached hereto, the "Ordinance") is under consideration by the City Commission, which, among other things, will amend existing City code provisions relating to water and sewer utility customer deposits in order to provide that such deposits shall be refunded to customers who meet established criteria. You have requested that we determine whether the provisions contained in the Ordinance pertaining to refund of such deposits actions will violate covenants contained in the Senior Bond Resolution, the Note Resolution or the Loan Agreement (the "Bond Documents"). We have reviewed the Bond Documents and the Bond Documents, in and of themselves, do not prohibit the City from enacting the Ordinance with respect to water and sewer utility customer deposit refunds.

If you have any questions, please do not hesitate to call me.

Best regards,

Emily F. Magee

Enclosures

BOSTON  
BRUSSELS  
CHICAGO  
DETROIT

JACKSONVILLE  
LOS ANGELES  
MADISON  
MIAMI

MILWAUKEE  
NEW YORK  
ORLANDO  
SACRAMENTO

SAN DIEGO  
SAN DIEGO/DEL MAR  
SAN FRANCISCO  
SHANGHAI

SILICON VALLEY  
TALLAHASSEE  
TAMPA  
TOKYO  
WASHINGTON, D.C.

**AGENDA ITEM  
MEMORANDUM**

**TO:** HONORABLE MAYOR AND CITY COUNCIL

**VIA:** T. JENNENE NORMAN-VACHA  
CITY MANAGER 

**FROM:** JENNIFER C. REY, ESQ., THE HOGAN LAW FIRM, LLC  
AS CITY ATTORNEY 

**SUBJECT:** Ordinance No. 810 – Amending the City’s Election Code Section 30-5

**DATE:** June 14, 2010

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**GENERAL SUMMARY:**

At the City Council meeting on Monday, June 7, 2010, Council adopted Emergency Ordinance No. 808, updating the language of Section 30-5 of the elections code relating to candidate qualifying for office.

The City’s Charter calls for an automatic repeal of emergency ordinances sixty (60) days after adoption, therefore, Ordinance No. 810 is being brought forward for consideration under the standard procedure of the adoption of ordinances.

**BUDGET IMPACT/BUDGET AMENDMENT**

There is no budget impact in approving the proposed ordinance.

**LEGAL REVIEW:** The City is vested with home rule authority pursuant to Article VII, Section 2, Fla. Const. and Chapter 166, Fla. Stat. Pursuant to Section 1.03 of the Charter, the City has all governmental, corporate, and proprietary powers to enable it to conduct municipal government, perform municipal functions, and render municipal services to include matters or fiscal and legal impact. Due to the automatic repeal of emergency ordinances sixty (60) days after adoption as set forth in Sec. 2.13 of the Charter, Ordinance No. 810 is being brought forward for consideration using the standard procedure for adoptions of ordinances.

**RECOMMENDATION:**

Staff recommends approval of the attached ordinance revising the City’s elections code.

**ATTACHMENTS:** Proposed Ordinance 810

**ORDINANCE NO. 810**

**AN ORDINANCE FOR PERMANENCE OF THE CHANGES PROVIDED IN EMERGENCY ORDINANCE 808 AMENDING THE CODE OF THE CITY OF BROOKSVILLE, FLORIDA, CHAPTER 30, "ELECTIONS;" AMENDING SECTION 30-5 CANDIDATE QUALIFYING FOR OFFICE; PROVIDING FOR CODIFICATION, CONFLICTS, REPEALING, SEVERABILITY AND AN EFFECTIVE DATE.**

**WHEREAS**, the City of Brooksville, Florida is vested with home rule authority pursuant to Article VII, Section 2 of the Constitution of the State of Florida and Chapter 166, Florida Statutes, to enact ordinances; and,

**WHEREAS**, the City Council has previously adopted Ordinance No. 553, Ordinance No. 546, Ordinance No. 553, Ordinance No. 546-A, Resolution 2000-15, Ordinance No. 546-B, Ordinance No. 761 and Ordinance No. 772 relating to municipal elections; and,

**WHEREAS**, the City Council discussed and contemplated, at its regular meetings on various dates including July 7, 2008, July 21, 2008, August 4, 2008, August 18, 2008, and October 6, 2008, amendments to the City's Election Code including amendments to candidate qualifying period provisions; and,

**WHEREAS**, the amendments were inadvertently omitted from Ordinance No. 772; and,

**WHEREAS**, the City adopted Resolution No. 2009-01 designating the Hernando County Supervisor of Elections as the City's designated election official for municipal elections; and,

**WHEREAS**, the City negotiated and adopted a Municipal Elections Cooperative Agreement with the Hernando County Supervisor of Elections to conduct municipal elections; and,

**WHEREAS**, the Municipal Elections Cooperative Agreement provides for the candidate qualifying period for municipal elections to run concurrent with those of County elections; and,

**WHEREAS**, the City Council at its June 7, 2010 meeting adopted emergency ordinance 808 amending Chapter 30 Section 30-5, Candidate Qualifying for Office; and,

**WHEREAS**, emergency ordinances are automatically repealed sixty (60) days after adoption as set forth in Sec. 2.13 of the Charter; and

**WHEREAS**, the City Council of the City of Brooksville, Florida desires to amend its Code of Ordinances, relating to municipal elections, in order to clarify the municipal election candidate qualifying period.

**NOW THEREFORE BE IT ORDAINED BY THE COUNCIL MEMBERS OF THE CITY OF BROOKSVILLE, AS FOLLOWS:**

**SECTION 1. AMENDMENT TO SECTION 30-5.** The Code of the City of Brooksville, Florida, Chapter 30, "Elections", Section 30-5 Candidate Qualifying is hereby amended and restated as to read as follows:

**Sec. 30-5. Candidate qualifying for office**

(a) Each person who seeks election to office as a city councilmember must meet the qualifications set forth in F.S. §99.012, and the Charter of the city.

(b) The first day of qualifying for each person seeking election is any time after noon on the 71st day prior to the municipal election date, but not later than noon of the 67th day prior to the municipal election date. Should the 67th day fall on a day that the designated election official's office is closed, the next working day will be considered the closing day for the purposes of this subsection. However, if the City appoints a designated election official who is responsible for countywide elections, the candidate qualifying period for municipal elections shall run concurrent with the qualifying period for countywide elections, or as otherwise scheduled by the designated election official. The qualification papers shall be filed with the election official, as designated or appointed by the City, and a qualifying fee and election assessment paid at that time.

(c) Each person who qualifies for election to office as a write-in candidate shall file the qualification papers with the designated election official at any time after noon of the first day for qualifying, but not later than noon of the seventh day following the end of the qualifying period for the office sought. Any person who is seeking election as a write-in candidate shall not be required to pay a qualifying fee or any election assessment. A write-in candidate shall not be entitled to have his name printed on any ballot; however, space on the ballot will be provided for the name to be written in. No person may qualify as a write-in candidate if he has also otherwise qualified for nomination or election to such office.

(d) Each person who qualifies must designate the city council seat for which he seeks election to and shall take and subscribe to an oath or affirmation in writing before the designated election official, substantially in the form specified in F.S. § 99.021, which will also designate the official name of the candidate as it will appear on the ballot. A statement of financial interests pursuant to F.S. § 112.3145, must also be filed with the designated election official at the time of qualifying, together with the documents required in F.S. ch. 106, campaign financing.

(e) A candidate may be required to resign to run prior to qualifying for a city council seat pursuant to F.S. § 99.012.

**SECTION 2. SEVERABILITY.** If any section, subsection, sentence, clause, phrase or portion of this Ordinance, or application hereof, is for any reason held invalid, unlawful or unconstitutional by any court of competent jurisdiction, such portion or application shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

**SECTION 3. CONFLICTS AND REPEALER.** All ordinances or parts thereof in conflict with this ordinance are hereby repealed to the extent of such conflict.

**SECTION 4. AMENDMENT TO CODE.** This Ordinance shall be and become a part of the Code of the City of Brooksville, Florida, to amend and supplement Chapter 30 "Elections" as directed herein.

**SECTION 5. CODIFICATION.** It is the intention of the City Council of the City of Brooksville that the provisions of this Ordinance shall become and be made part of the Code of Ordinances of the City of Brooksville, Florida and the word "ordinance," or similar words may be changed to "section," "article," or other appropriate word or phrase and the sections of the ordinance may be renumbered or re-lettered to accomplish such intention; provided, however, that Sections 2, 3, 4, 5, and 6 shall not be codified. The Code codifier is granted liberal authority to codify the provisions of this Ordinance.

**SECTION 6. EFFECTIVE DATE.** This Ordinance shall take effect immediately upon its adoption by the Brooksville City Council.

**CITY OF BROOKSVILLE**

Attest: \_\_\_\_\_  
Janice L. Peters, CMC, City Clerk

By: \_\_\_\_\_  
Lara Bradburn, Mayor

PASSED on First Reading \_\_\_\_\_

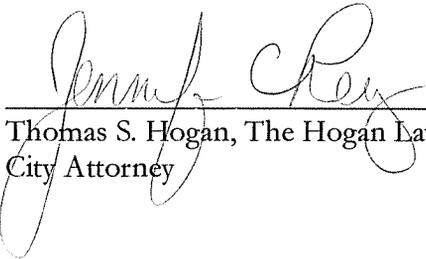
NOTICE Published on \_\_\_\_\_

PASSED on Second & Final Reading \_\_\_\_\_

APPROVED AS TO FORM FOR THE RELIANCE  
OF THE CITY OF BROOKSVILLE ONLY:

VOTE OF COUNCIL:

- Bernardini \_\_\_\_\_
- Bradburn \_\_\_\_\_
- Burnett \_\_\_\_\_
- Johnston \_\_\_\_\_
- Lewis \_\_\_\_\_

  
\_\_\_\_\_  
Thomas S. Hogan, The Hogan Law Firm, LLC  
City Attorney

**AGENDA ITEM  
MEMORANDUM**



**TO:** HONORABLE MAYOR AND CITY COUNCIL

**VIA:** T. JENNENE NORMAN-YACHA  
CITY MANAGER

**FROM:** JENNIFER C. REY, ESQ., THE HOGAN LAW FIRM, LLC  
AS CITY ATTORNEY

**SUBJECT:** ORDINANCE NO: 811; MORATORIUM ON PAIN MANAGEMENT CLINICS

**DATE:** JUNE 14, 2010

**GENERAL SUMMARY:** At its regular meeting on June 7, 2010 the City Council voted to approve a moratorium on pain management clinics. In order to properly establish a moratorium, an ordinance must be adopted using the standard procedures for enactment of zoning ordinances and other land development and use regulations.

Attached is a proposed ordinance which seeks to establish a moratorium to allow Staff time to review the matter and make further recommendations as to specific amendments or modifications to the City's Land Development Code to address the potential negative impact of unlawful use and distribution of controlled substances associated with certain types of pain management clinics.

**BUDGET NOTE:** There is no known budget impact in adopting this Ordinance.

**LEGAL NOTE:** The City is vested with home rule authority pursuant to Article VII, Section 2, Fla. Const. and Chapter 166, Fla. Stat. Pursuant to Section 1.03 of the Charter, the City has all governmental, corporate, and proprietary powers to enable it to conduct municipal government, perform municipal functions, and render municipal services to include matters or fiscal and legal impact. Moratoriums are to be established by ordinance which must be adopted with due public notice and opportunity to be heard; this can be achieved by adopting ordinances using the standard method for zoning and other land development regulations as set forth in Fla. Stat. §166.041.

**ATTACHMENT:** Proposed Ordinance No. 811

**ORDINANCE NO. 811**

**AN ORDINANCE OF THE CITY OF BROOKSVILLE, FLORIDA; DECLARING ZONING IN PROGRESS AND A MORATORIUM AS TO THE FILING AND/OR RECEIVING OF ANY PETITION OR ANY APPLICATION FOR THE ESTABLISHMENT OF PAIN MANAGEMENT CLINICS AS DEFINED HEREIN; PROVIDING THAT ZONING IN PROGRESS AND THE MORATORIUM SHALL BE IN EFFECT FOR A PERIOD OF ONE (1) YEAR OR WHICH SHALL TERMINATE ON THE EFFECTIVE DATE OF THE CITY'S ADOPTION OF LAND USE AND DEVELOPMENT REGULATIONS TO REGULATE PAIN MANAGEMENT CLINICS; PROVIDING FOR LEGISLATIVE FINDINGS, INTENT AND PURPOSE; PROVIDING FOR A DEFINITION OF PAIN MANAGEMENT CLINIC; PROVIDING FOR THE BOUNDARIES SUBJECT TO THE MORATORIUM; PROVIDING FOR CONFLICT AND SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, pursuant to Article VII, Section 2 of the Florida Constitution and Chapter 166, of the Florida Statutes, the City of Brooksville is authorized and required to protect the public health, safety and welfare of its citizens and has the power and authority to enact regulations for valid governmental purpose that are not inconsistent with general or special law; and

**WHEREAS**, pursuant to Section 1.03 and 2.13 of the Charter of the City of Brooksville, the City has the power to enable it to conduct municipal functions and to adopt ordinances; and

**WHEREAS**, this Ordinance shall be considered for adoption in a manner consistent with the requirements for zoning ordinances and other land development regulations, as required by Fla. Stat. 166; and

**WHEREAS**, the Florida Legislature has identified concerns regarding the increased use and frequency of injury and deaths occurring through use of pain management clinics by persons obtaining prescription drugs for improper purposes and enacted the Prescription Drug Monitoring Program scheduled to take effect December 1, 2010; and

**WHEREAS**, the Prescription Drug Monitoring Act, which requires physician's and other persons dispensing prescription drugs through pain management clinics, facilities or officers, to register with the State Department of Health in order to conduct such business; and

**WHEREAS**, various law enforcement agencies in the surrounding communities report that a pattern of unlawful drug use and distribution has been linked to pain management clinics operating in the central Florida area; and

**WHEREAS**, the City Council has recently been made aware by news reports that a pattern of unlawful use and distribution of certain drugs has been associated with some pain management clinics in Florida which dispense narcotic drugs on site; and

**WHEREAS**, the Tampa Tribune and other newspapers have published numerous articles in recent months describing the “pipeline” trafficking of drugs from Florida pain management clinics to users from other states; and

**WHEREAS**, various counties and municipalities in Florida have established new regulations on pain management clinics to curb negative impacts created by these clinics, such as illegal prescription drug trafficking and sales of illegal drugs around the clinics, loitering by pain management clinic customers while waiting in lines to receive drugs and loitering in areas surrounding the clinics; and

**WHEREAS**, other cities and counties, including those on Florida’s west coast have enacted or are enacting a moratorium pertaining to pain management clinics and, as a result, the City could become a target for the location of pain management clinics if these other jurisdictions are not available for these uses during the moratorium period; and

**WHEREAS**, the threat of illegal narcotic activity and increased crime associated with pain management clinics has created an urgent situation requiring immediate action to reduce the threat to the health, safety, and welfare of citizens within the City; and

**WHEREAS**, the City hereby directs staff to analyze the effects and potential effects of any pain management clinics in the City to determine whether additional standards should be incorporated into the City’s land development regulations and to evaluate the process for the issuance of development permits, business licenses, or other approvals regulating the location of pain management clinics within the City which would further and promote public health, safety, and general welfare; and

**WHEREAS**, to provide the City staff with sufficient time to undertake its analysis it is necessary to establish a moratorium which prohibits the granting of development permits, business licenses or other approvals for pain management clinics; and

**WHEREAS**, it is not the intent of this moratorium to interfere with legitimate medical clinics nor the legal use of controlled substances; and

**WHEREAS**, the City has determined that the moratorium furthers a valid public purpose; and

**WHEREAS**, the City finds and declares a need to temporarily suspend the further issuance of development permits, business licenses, tax certificates, or other approvals for pain management clinics seeking to develop or open for business within the City until such time as the City can review its land development regulations to specifically address the proliferation of pain management clinics.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BROOKSVILLE, FLORIDA, AS FOLLOWS:**

**Section 1. Legislative Findings, Intent and Purpose.** The foregoing whereas clauses are true and correct and are incorporated herein in haec verba, and they represent the legislative findings of the City Council. It is the purpose and intent of this Ordinance to promote the health, safety, and

general welfare of the residents and businesses of the City through the analysis of any impacts from pain management clinics and through consideration of criteria for the location of pain management clinics within the City.

**Section 2. Definitions.** For purposes of this Ordinance, the following definitions apply:

- A. "Pain Management Clinic" is defined as a privately-owned pain management clinic, facility or office, which advertises in any medium for any type of pain management services, or employs one or more physicians who are primarily engaged in the treatment of pain by prescribing or dispensing controlled substance medications, and is required to register with the Florida Department of Health pursuant to Sec. 458.309 or Sec. 459.005, Fla. Stat. (2009). Expressly exempt from this definition are hospitals, nursing homes, ambulatory surgical care centers, hospice, or intermediate care facilities for the disabled, or clinics which are affiliated with an accredited medical school at which training is provided for medical students, residents or fellows.
- B. A physician shall be considered primarily engaged in the treatment of pain by prescribing or dispensing controlled substance medications when the majority of the patients seen are prescribed or dispensed controlled substance medications for the treatment of chronic nonmalignant pain.
- C. Chronic nonmalignant pain is pain unrelated to cancer which persists beyond the usual course of the disease or the injury that is the cause of the pain for more than ninety (90) days after surgery.

**Section 3. Moratorium Declared.**

- A. The City Council hereby imposes a moratorium upon the application of any development permit applications, business licenses, business licensing tax certificates, or any other approvals which might facilitate the opening or development of new, or expansion of, pain management clinics, in whole or in part within the City unless the pain management clinic is registered with the Florida Department of Health as required by Sections 458.309(4) or 459.005(3), Florida Statutes (2009) and is owned and operated by a physician who holds an active Florida Board of Medicine license and who is board certified (or board eligible with board certification to be obtained within twelve (12) months of filing for any application, licenses, certifications or approvals from the City) by either an American Board of Medical Specialties recognized board or a Florida Board of Medicine recognized specialty board.
- B. The moratorium shall expire upon the earlier of the following: one (1) year from the date of passage of this Ordinance or upon the effective date of amendments to the City's Code or Land Use and Development Regulations, or both, dealing with pain management clinics. This moratorium has been established for the minimum time period necessary for the City to complete an analysis of the impact from pain management clinics and consider criteria for the location of pain management clinics within the City of Brooksville.

C. The moratorium shall not apply if:

- (1) The majority of the physicians who provide services in the clinic, facility, or office primarily provide surgical services;
- (2) The clinic, facility or office is licensed as a facility under the provisions of Chapter 395, Florida Statutes; or
- (3) The clinic, facility or office is owned or operated by a Chiropractic physician licensed under Chapter 460, Florida Statutes, and does not contract or employ a physician licensed under Chapter 458 or Chapter 459, Florida Statutes, who is primarily engaged in the treatment of pain by prescribing or dispensing controlled substance medications for the treatment of chronic nonmalignant pain.

**Section 4. Disputing Classification as Pain Management Clinic.** In the event that any applicant disputes that its operation is a pain management clinic, subject to this Ordinance, it may apply to the City Manager, or designee, for relief from the moratorium. The City Manager, or designee, may consider the following: whether major medical insurance is accepted; whether the owner is a physician; whether the medical director is board certified in pain medicine; whether the owner is convicted of or has plead guilty or nolo contendere to an offense that constitutes a felony or a misdemeanor the facts of which relate to the distribution or illegal prescription of a narcotic; and the percentage of patients residing out-of-state; or any other relevant factor. Any decision by the Director to grant or deny the application for a waiver may be appealed to the City Council provided such appeal is filed within thirty (30) days of the City Manager's, or designee's, decision.

**Section 5. Boundaries.** This Ordinance shall apply to all properties located within the boundaries of the City of Brooksville.

**Section 6. Severability.** If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

**Section 7. Conflicts and Repealer.** All Ordinances or parts of Ordinances in conflict herewith are hereby repealed to extent of such conflict.

**Section 8. Codification.** The provisions of this Ordinance, including its recitals, shall become and be made a part of the Code of Ordinances of the City of Brooksville, Florida and the Sections of this Ordinance may be renumbered or re-lettered to accomplish such intention and the work "Ordinance", or similar words, may be changed to "Section," "Article," or other appropriate word; provided, however, that Sections 6, 7, 8, and 9 shall not be codified. The Code codifier is granted liberal authority to codify the provisions of this Ordinance.

**Section 9. Effective Date.** This Ordinance shall take effect immediately upon adoption.

**ADOPTED IN REGULAR SESSION THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2010, A.D.**

**CITY OF BROOKSVILLE**

By: \_\_\_\_\_  
Lara Bradburn, Mayor

Attest: \_\_\_\_\_  
Janice L. Peters, CMC, City Clerk

PASSED on First Reading \_\_\_\_\_

NOTICE Published on \_\_\_\_\_

PASSED on Second & Final Reading \_\_\_\_\_

APPROVED AS TO FORM FOR THE RELIANCE  
OF THE CITY OF BROOKSVILLE ONLY:

VOTE OF COUNCIL:

Bernardini \_\_\_\_\_  
Bradburn \_\_\_\_\_  
Burnett \_\_\_\_\_  
Johnston \_\_\_\_\_  
Lewis \_\_\_\_\_

\_\_\_\_\_  
Thomas S. Hogan, The Hogan Law Firm, LLC  
City Attorney

**CORRESPONDENCE-TO-NOTE**  
**REGULAR COUNCIL MEETING – June 21, 2010**

1.     **TYPE:**                     Letter  
       **DATE:**                 June 11, 2010  
       **RECEIVED FROM:**     The Hogan Law Firm  
       **ADDRESSED TO:**     Foster & Fuchs, P.A.  
       **SUBJECT:**             Hernando County Fair Association Zoning & Land Use Matter
  
2.     **TYPE:**                     Letter  
       **DATE:**                 June 11, 2010  
       **RECEIVED FROM:**     Southern Hills Plantation I Community Development District (CDD)  
       **ADDRESSED TO:**     City Manager  
       **SUBJECT:**             Proposed Budget for FY2010/11 for the Southern Hills Plantation I CDD
  
3.     **TYPE:**                     Letter  
       **DATE:**                 June 11, 2010  
       **RECEIVED FROM:**     Southern Hills Plantation II Community Development District (CDD)  
       **ADDRESSED TO:**     City Manager  
       **SUBJECT:**             Proposed Budget for FY2010/11 for the Southern Hills Plantation II CDD
  
4.     **TYPE:**                     Letter  
       **DATE:**                 June 11, 2010  
       **RECEIVED FROM:**     Southern Hills Plantation III Community Development District (CDD)  
       **ADDRESSED TO:**     City Manager  
       **SUBJECT:**             Proposed Budget for FY2010/11 for the Southern Hills Plantation III CDD

# THE HOGAN LAW FIRM®

*We mean business*<sup>SM</sup>

June 11, 2010

John Fenn Foster, Esquire  
Foster & Fuchs, P.A.  
7108 Fairway Drive, Suite 200  
Palm Beach Gardens, Florida 33418

*Via Certified Mail Return Receipt 7007 3020 0001 9505 3529*

RE: *Hernando County Fair Association Zoning and Land Use Matter*

Dear Mr. Foster:

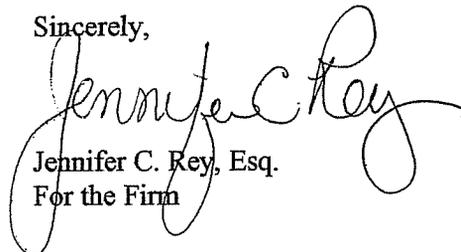
At its Regular Meeting on June 15, 2009, the City Council agreed to allow The Fair Association to proceed with its proposed activities under the authority of Fla. Stat. §616 for up to 12-months. That agreement was set to expire as of June 16, 2010. However, at its Regular Meeting on June 7, 2010 the City Council agreed to authorize a ninety (90) day extension, such that The Fair Association will be allowed to proceed under the authority of Fla. Stat. §616 through September 13, 2010.

Please note that all the terms and conditions of the original agreement continue to apply and they must be met as part of the ongoing agreement. This extension, in addition to the Council's original actions, in no way establishes a precedent or waiver of any rights the Council has in enforcing its Land Development Code; and The Fair Association continues to waive any right to allege eligibility for grandfathering of the uses of the property based on the Council's current action.

If you and your client do not agree to the terms and conditions set forth in this letter and in the June 2009 agreement, please notify me in writing, immediately. The Fair Association was represented at the June 7<sup>th</sup>, 2010 City Council meeting by its Board Chairperson, Ms. Nicholson. The minutes of said meeting will reflect the fact that The Fair Association voiced no objection to the above agreement including its waiver of precedent.

If you should have any questions, please feel free to contact me.

Sincerely,



Jennifer C. Key, Esq.  
For the Firm

JCR/kks

cc: T. Jennene Norman-Vacha, City Manager ✓  
Lara Bradburn, Mayor  
Sandra Nicholson, Fair Association

CTN  
JAV

# SOUTHERN HILLS PLANTATION I COMMUNITY DEVELOPMENT DISTRICT

DISTRICT OFFICE • 3434 COLWELL AVENUE • SUITE 200 • TAMPA, FLORIDA 33614

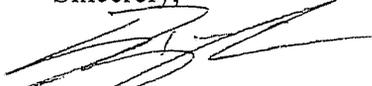
June 11, 2010

Ms. Jennene Norman-Vacha  
City Manager  
City of Brooksville  
201 Howell Avenue  
Brooksville, FL 34601-2041

Dear Sir/Madam:

Attached please find the proposed budget for Fiscal Year 2010/2011 for the Southern Hills Plantation I Community Development District. A public hearing to consider the adoption of this item has been scheduled for August 12, 2010, at 1:30 p.m. at the Southern Hills Clubhouse, located at 4200 Summit View Drive, Brooksville, FL 34601. This budget is being submitted to your office pursuant to Chapter 190, Florida Statutes.

Sincerely,



Scott Brizendine  
District Manager

Enclosures: FY 10-11 Proposed Budget

CTM  
CTM

# SOUTHERN HILLS PLANTATION II COMMUNITY DEVELOPMENT DISTRICT

DISTRICT OFFICE • 3434 COLWELL AVENUE • SUITE 200 • TAMPA, FLORIDA 33614

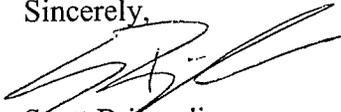
June 11, 2010

Ms. Jennene Norman-Vacha  
City Manager  
City of Brooksville  
201 Howell Avenue  
Brooksville, FL 34601-2041

Dear Sir/Madam:

Attached please find the proposed budget for Fiscal Year 2010/2011 for the Southern Hills Plantation II Community Development District. A public hearing to consider the adoption of this item has been scheduled for August 12, 2010, at 1:30 p.m.(or immediately thereafter the adjournment of the Southern Hills III meeting) at the Southern Hills Clubhouse, located at 4200 Summit View Drive, Brooksville, FL 34601. This budget is being submitted to your office pursuant to Chapter 190, Florida Statutes.

Sincerely,



Scott Brizendine  
District Manager

Enclosures: FY 10-11 Proposed Budget

CTN  
5/11/10

# SOUTHERN HILLS PLANTATION III COMMUNITY DEVELOPMENT DISTRICT

DISTRICT OFFICE • 3434 COLWELL AVENUE • SUITE 200 • TAMPA, FLORIDA 33614

June 11, 2010

Ms. Jennene Norman-Vacha  
City Manager  
City of Brooksville  
201 Howell Avenue  
Brooksville, FL 34601-2041

Dear Sir/Madam:

Attached please find the proposed budget for Fiscal Year 2009/2010 for the Southern Hills Plantation III Community Development District. A public hearing to consider the adoption of this item has been scheduled for August 12, 2010, at 1:30 p.m. (or immediately thereafter the adjournment of the Southern Hills I meeting.) at the Southern Hills Clubhouse, located at 4200 Summit View Drive, Brooksville, FL 34601. This budget is being submitted to your office pursuant to Chapter 190, Florida Statutes.

Sincerely,

  
Scott Brizendine  
District Manager

Enclosures: FY 10-11 Proposed Budget

06-14-10 FUS:45 IN

CTA  
MM