

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

AGENDA

December 5, 2011

7:00 P.M.

A. CALL TO ORDER

B. INVOCATION AND PLEDGE OF ALLEGIANCE

C. SELECTION OF OFFICERS

1. Selection of Mayor
2. Selection of Vice Mayor

Attachments:

Charter Section 2.03

D. CITIZEN INPUT

E. CONSENT AGENDA

1. Minutes

- a) August 1, 2011 Regular Meeting
- b) August 15, 2011 Regular Meeting
- c) August 22, 2011 Special Meeting

2. Road/Sidewalk Pavement Management Program

Consideration of approval of Program with Civil-Tech Consulting Engineers, Inc. in the amount of \$91,184 and authorize the Mayor to sign the Agreement.

CONSENT AGENDA APPROVAL (√)

Recommendation: Approval of Consent Agenda

Action: Motion to Approve

Attachments: 1) Minutes; 2) Memo from Director of Public Works dated 11/17/11

REGULAR COUNCIL MEETING – December 5, 2011

F. REGULAR AGENDA

1. **Ordinance No. 770-B – Police Officer’s Retirement Trust Fund Amendments**
Consideration of approval of ordinance amending City of Brooksville Police Officer’s Retirement Trust Fund.

Presentation: Police Chief
Recommendation: Approval of the **First Reading** of Ordinance No. 770-B upon roll call vote and schedule second reading for the December 19, 2011 meeting
Attachments: Memo from Chief of Police dated 11/17/11, Letter from Board Attorney dated 08/24/11, Proposed Ordinance, Actuarial Impact Statement

2. **Intergovernmental, Board Assignments and Organizations - City Council**
Appointments to various Boards and Committees.

City Boards/Committees

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

Current Council Representative

Joe Bernardini
Frankie Burnett
Joe Johnston
Lara Bradburn
Joe Bernardini

External Boards/Committees

Anti Drug Coalition
Brooksville Business Alliance
Community Alliance
Florida League of Cities Legislative Action Committees:
Intergovernmental Committee
Energy & Environmental Committee
Finance & Taxation Committee
Growth Management & Transportation
Urban Administration Committee

Current Council Representative

Frankie Burnett
Lara Bradburn
Kevin Hohn
Joe Johnston
Kevin Hohn
Frankie Burnett
Lara Bradburn
Joe Bernardini

Metropolitan Planning Organization
Take Stock in Children
Tourist Development Council
Withlacoochee Regional Water Supply Authority
Youth and Family Alternatives

Lara Bradburn
Joe Johnston, Alternate
Frankie Burnett
Joe Johnston
Joe Johnston
Frankie Burnett

Presentation: City Clerk
Recommendation: Appointments
Attachment: Memo from City Clerk dated 11/16/11

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3. **Adopt-a-Trail Program**

Consideration to implement a program to allow volunteers to contribute in maintaining and providing a litter-free trail system along the Good Neighbor Trail.

Presentation: Director of Parks, Facilities & Recreation
Recommendation: Approval
Attachment: Memo from Director of Parks, Facilities & Recreation dated 11/18/11

4. **First Time Violation Warning with Traffic Infraction Detection and Enforcement Program**

Council direction concerning a violation warning to first time offenders.

Presentation: Chief of Police
Recommendation: Direction to Staff
Attachment: Memo from Chief of Police dated 11/23/11

G. CITIZEN INPUT

H. ITEMS BY COUNCIL

I. ADJOURNMENT

CORRESPONDENCE TO NOTE

In accordance with the Americans with Disabilities Act, persons with disabilities needing a special accommodation to participate in this proceeding should contact the City Clerk's office 48 hours in advance of the meeting at (352) 540-3853. Meeting agendas and supporting documentation are available from the City Clerk's office and on line at www.cityofbrooksville.us.

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.

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

August 1, 2011

7:00 P.M.

Brooksville City Council met in regular session with Mayor Frankie Burnett, Vice Mayor Joseph E. Johnston, III, Council Members Joe Bernardini and Lara Bradburn present. Also present were Thomas S. Hogan, Jr., 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 Burnett, followed by an invocation and Pledge of Allegiance.

CERTIFICATES, PROCLAMATIONS AND PRESENTATIONS

Police Department Accreditation Recognition

Police Chief George Turner gave a brief review of the timeline of their accreditation and played a short film on the process. This starts a 3-year period for re-accreditation. He presented Council and the City Manager with certificates. Accreditation Manager Sergeant Robert Dixon then presented Chief Turner with a certificate of appreciation. Council Member Bradburn, who attended the accreditation ceremony, elaborated on the process as well. City Attorney Hogan indicated he attended the ceremony and thanked Chief Turner for the invitation. All of Council expressed appreciation and pride to Chief Turner and his staff for their accomplishment.

Police Department Phoenix Gun Range Proclamation

Police Chief George Turner advised the Phoenix Gun Range has allowed the Police Department to use their facility and he wanted to recognize them. Sergeant Jason Brough indicated they allow the Police Department use of the range two (2) days a week without charge. The proclamation will be presented to the Phoenix Gun Range.

CITIZEN INPUT

Mayor Burnett asked for public input.

Code Enforcement Officer Mark Caskie commented on the proposed vacation policy accrual reduction and requested Council leave the policy as is.

CONSENT AGENDA

Minutes

April 18, 2011 Regular Meeting
May 2, 2011 Regular Meeting

Vice Mayor Johnston referenced April 18th Minutes on Page 8 Items by Council and pointed out Emory Pierce, Vice Mayor needed to be changed to "Council Member" Pierce.

Council Member Bernardini asked that Item 5 be removed for discussion, which was moved to the first item on the regular agenda.

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Energy Systems Group (ESG) Change Order No. 1

Consideration of reduction of the ESG Agreement in the amount of \$1,094,876 and authorize the Mayor to sign the change order.

CDBG - Neighborhood Revitalization Water Improvement Grant

Consideration of budget amendment for an estimated expenditure of up to \$50,000 of grant funds during the FY2010/11 Budget.

Dumpster Supply Purchase

Consideration of approval to purchase replacement dumpsters for commercial accounts via piggybacking on the City of Largo's bid award to Iron Container for an amount not-to-exceed the \$12,360 approved by Council in the FY2010/11 Budget.

Motion:

Motion was made by Council Member Bradburn and seconded by Vice Mayor Johnston for approval of Consent Agenda Items 1-4 and the correction to the April 18th Minutes. Motion carried 4-0.

PUBLIC HEARINGS

Entry of Proof of Publication into the Record

Mayor Burnett called for proof of publication. City Clerk Peters indicated Items F1 and F2 were published on Friday, July 22, 2011, and Item F3 was published on Wednesday, July 27, 2011, in the Hernando Today legal section of the Tampa Tribune and there is a copy of the affidavits for the record.

Ordinance No. 819 - Sign Regulations Chapter 125 of the Code of Ordinances

Staff report and consideration of options relating to the Code of Ordinances Chapter 125 regarding signs.

[First Reading 7/18/11]

Motion:

Motion was made by Council Member Bradburn and seconded by Vice Mayor Johnston to postpone any action on this item until September 19th regular meeting of Council. Motion carried 4-0.

Ordinance No. 820 – Economic Development Incentive

Consideration of approval of an Ordinance setting forth guidelines and criteria to implement the tax exemption referendum included on the August 2010 Primary Election Ballot.

[First Reading 7/18/11]

Director of Community Development Bill Geiger briefly reviewed incentives reflected in the ordinance such as jobs creation, ad valorem tax exemption, building permitting and impact fees. All incentives would be tied to budgetary processes for allocated funding with Council review and approval. He further explained the City will enter into a contract with the entity for permitting and impact fees. The ad valorem tax exemption will be tied to the requirements established and any deviation would be brought to Council for consideration.

Council Member Bernardini pointed out those performance standards “must” be met to receive these incentives. Council Member Bradburn stated the last applicant was not at fault for not meeting the standards because of many other unperceived factors involved, including City actions and Council has since reduced the standards on a pro rata basis. She suggested Council use the criteria outlined in the Ordinance and Director Geiger confirmed that was one of the added provisions. Council concurred that criteria in the contract should be met.

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Motion:

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

Mayor Burnett asked for public input; there was none.

City Clerk Peters read Ordinance No. 820 by title, as follows:

AN ORDINANCE OF THE CITY OF BROOKSVILLE, FLORIDA, PROVIDING FOR ECONOMIC DEVELOPMENT INCENTIVES; ESTABLISHING REQUIREMENTS FOR IMPLEMENTING THE AD VALOREM PROPERTY TAX ABATEMENT REFERENDUM; CREATING INCENTIVES FOR TARGETED INDUSTRY JOB CREATION AND ECONOMIC DEVELOPMENT GROWTH; PROVIDING FOR SEVERABILITY, CONFLICTS, REPEAL, AND CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

Motion carried 4-0 upon roll call vote, as follows:

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

Ordinance No. 822 – Encore Construction, Inc.

Consideration of contract amendment Encore Construction Inc., for water reuse storage and transmission at the Cobb Road Water Reclamation Facility.

City Attorney Jennifer Rey stated it was approved at the last Council meeting for staff to move forward with negotiations with Encore Construction Company, the existing construction company under contract with the bankrupt developer, Hampton Ridge Developers, for the wastewater treatment plant reuse facility. In order to move forward, based on that direction, it is necessary for the City to adopt the proposed ordinance, which sets timeline and history of this project and the basis with which the City is moving forward with Encore as the contractor for this project. This is a first reading and a final contract will be an amended and restated agreement with Encore will come back to Council at the next meeting upon approval for the not to exceed amount of \$3,285,000.

Council Member Bradburn advised it is important for continuity to support this item for purpose of planning and operations. The City is still negotiating financial items for the amended and restated agreement that will be back before Council at the next meeting. Public Works Director Radacky confirmed, adding staff will have it back before Council within the next two (2) scheduled meetings after an extensive change order review of the cost.

Vice Mayor Johnston referenced Page 4 of the Ordinance and stated there is no publication date indicated. City Clerk Peters confirmed this item was published on Wednesday, July 27, 2011 to give more notice and will be changed on Page 5 from July 29th on the second reading.

Council Member Bernardini questioned why this item was not done by the competitive bidding process and is not in favor of the procedure used here.

City Attorney Rey explained there is a statutory provision in public construction works projects that allows for Council to determine, under unique substantive criteria, to proceed with a contractor who is currently under contract to perform that work without competitive bidding. It applies under certain procedural requirements such as two (2) public meetings of an ordinance by this Council to proceed absent competitive bids. She assured this is following a statutorily prescribed process by

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proceeding with a contractor under these types of circumstances. This process protects funding that the City is under contract to either receive or return in the event the project is not completed on time. Also there is a recommendation from the engineer of record to proceed with this contractor.

Mayor Burnett asked for public input.

John Grandoff, representing James and Paula Holliday, advised part of the wreckage left behind by Land Mar includes Phase 3-1-A of Southern Hills Plantation. In April 2008 his clients purchased two (2) lots in this phase and would like to build their homes with completion of Real Tree Lane. He requested this road project be priority. He then distributed a resolution to Council for their consideration. He indicated the proposal sets realistic parameters by which his client may have reassurance to build their home. He referenced City Ordinance which he believes indicates the road has to be built before a plat can be accepted or the contractor has to post a bond, which was done but went into default and \$2.6 million dollars was recovered. He indicated when a bond is recovered the City is obligated within twelve (12) months to proceed with the work and hold the owner of the bonding company jointly responsible for cost. He asked that the City confirm that construction to build Real Tree Lane will begin by September 1, 2011. He then asked that the City Manager be directed to give a report on the progress of construction by the next City Council Meeting on August 15, 2011. Next, he requested there be no disbursement of bond funds from the utility account without written consent from Mr. Holliday and his attorney's firm. Lastly, he requested that the City Manager provide updates to the City Council at its first meeting of every month until Real Tree Lane is complete.

Robert Buckner, owner of two (2) lots on Real Tree Lane in Southern Hills Plantation, concurred that it was his understanding that the road would be built and seeks resolution of the same.

Motion:

Motion was made by Council Member Bradburn and seconded by Vice Mayor Johnston for approval of the first reading of the Encore Contract Amendment, Ordinance No. 822, and the scheduling of the second reading for August 15, 2011.

City Clerk Peters read Ordinance No. 822 by title, as follows:

AN ORDINANCE OF THE CITY OF BROOKSVILLE, FLORIDA, AUTHORIZING A CONTRACT AWARD TO ENCORE CONSTRUCTION COMPANY WITHOUT COMPETITIVE SELECTION FOR THE COMPLETION OF THE WATER REUSE FACILITY; ESTABLISHING CRITERIA FOR THE AWARD; PROVIDING FOR SEVERABILITY, CONFLICTS, REPEAL, AND CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

Motion carried 3-1 upon roll call vote, as follows:

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

City Attorney Hogan indicated a resolution had been adopted directed to the purposes of the bond recovered from the lawsuit be used for construction of the infrastructure at Southern Hills Plantation. He advised another resolution must be adopted to further restrict the funds.

Vice Mayor Johnston requested for the next meeting a copy of the adopted resolution regarding completion of the infrastructure along with a status report to address matters presented to Council tonight.

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Council Member Bernardini also asked for all roads not complete be brought forward to Council before taking any action on this matter. City Manager Norman-Vacha confirmed information requested will be included in the staff report for the August 15, 2011 meeting.

Attorney Grandoff indicated this bond was specifically posted for this phase. He asked for a copy of the resolution, which will be provided by the City Attorney's Office.

A second reading is scheduled for August 15, 2011.

REGULAR AGENDA

Personnel Policy Amendments

Consideration of updates to the Personnel Policy with amendments as directed by Council at their meeting of 7/18/11.

5.03 E-mail & Computer Usage

Motion:

Motion was made by Vice Mayor Johnston and seconded by Council Member Bradburn for approval.

Council Member Bernardini asked if this policy applies to a personal computer used for work instead of the City computer. City Manager Norman-Vacha advised that City work done on personal computers of employees for City business would be subject to public record law. Council Member Bernardini felt no personal computers should be used for City business. Mayor Burnett pointed out computer, email and internet use policy references Public Records on Page 3 of 6 Item E. "Release of electronic records pursuant to a request for public information is governed by Chapter 119, Florida Statutes and should be referred to the City Clerk's office."

City Manager Norman-Vacha further explained conducting personal business on personal computers is addressed under the City's Code of Conduct policy.

Vice Mayor Johnston felt when computers are issued to personnel it should be explained that it is to be used for City business only and/or any personal computer used for City business would both be subject to public record.

City Attorney Hogan confirmed the information in the computer is subject to public records if it pertains to city business, whether it is a City computer or a personal computer, according to Florida Statute 119.

Council Member Bradburn stated it is similar to a court order for a journalist to turn over information no matter what it is documented on. She was hesitant to cause fear in employees that their personal belongings would be subject to search at any time and felt there has to be a compelling reason to need a specific piece of public documentation.

Motion carried 4-0.

7.01 Vacation Leave

Council Member Bernardini referenced there was a change in the chart previously discussed and his suggestion of unpaid leave was not supported as indicated on Page 2 of 5. Vice Mayor Johnston felt using all vacation time before unpaid leave during the year controls it to a minimum.

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Council Member Bernardini referenced Page 3 of 5 C. 1. Scheduling Leave for vacation reads “chain of command” and he suggested sick leave verbiage be the same. City Manager Norman-Vacha indicated it would be changed accordingly per direction by Mayor Burnett.

Council Member Bernardini referenced Page 3 of 5 C.5. and asked that verbiage be added that the department director’s decision be made within a reasonable amount of time or a shortened time depending on the request. Mayor Burnett agreed to have it added in the verbiage.

City Manager Norman-Vacha suggested adding verbiage “The decision will be made known to the employee in a reasonable period of time” would best fit under Section C.5. Mayor Burnett felt “reasonable period of time” was not clear enough. Council Member Bradburn did not agree that five (5) days notice for employees to submit requests to the employer was a sufficient amount of time but agreed that a quick response to the request could be done. City Attorney Rey clarified five (5) days is the minimum standard but allows for more time. Vice Mayor Johnston felt five (5) days would probably be an emergency situation but most leave would be requested six (6) months to a year in advance.

City Manager Norman-Vacha advised against setting a number of days to a decision on requested leave and felt management has been very responsible in that regard. Council Member Bernardini felt being proactive now could avoid a problem in the future. He gave an example where an employee may book travel and would need to know a decision within a certain time period.

City Attorney Hogan felt “reasonable” is appropriate used in the context of this policy and would change according to how much time an employee had given notice of a request for leave. He suggested when employees request leave they should notate when they need to know a decision by.

City Manager Norman-Vacha reviewed Council request as follows: Section 5. Approval of Leave Requests is in the sole discretion of the Department Director or designee; notice of decision will be provided to the employee in a reasonable time.

City Manager Norman-Vacha clarified the current policy regarding personal leave.

Council Member Bernardini stated he was in favor of the staff recommended increased accrual rates from July 18, 2011 meeting due to employees taking a 3% pay cut due to the State changing the Florida Retirement System contribution, no pay raise in four (4) years and they have also been asked to do more with less. He pointed out this is a benefit that increases with years of service and an incentive for employees.

City Manager Norman-Vacha reviewed proposed rates for a four (4) tier system for a forty (40) hour work week employee; less than three (3) years of service - eighty (80) hours per year, three (3) up to but not including seven (7) - one hundred twenty (120) hours, seven (7) up to but not including fifteen (15) - one hundred sixty (160) hours and fifteen (15) or more - two hundred (200) hours. She pointed out there is a maximum hours cap so unfunded liability to the City would remain the same.

Mayor Burnett was in favor of long time employees with fifteen (15) or more years of service rewarded with an increase in vacation leave.

Vice Mayor Johnston was not in favor of three (3) weeks vacation after three (3) years of service and proposed rates for a four (4) tier system for a forty (40) hour work week employee; one (1) to four (4) years of service – eighty (80) hours per year, five (5) to eight (8) – one hundred twenty (120) hours, nine (9) to fourteen (14) – one hundred sixty (160) hours and fifteen (15) or more – two hundred (200) hours.

Council Member Bradburn also did not favor three (3) weeks vacation after three (3) years of service. She reminded Council that money had to be cut from the budget and staff had been

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directed to review and lessen vacation accrual rates last year. She pointed out private sector employers have had layoffs, furloughs and reduction in benefits. She proposed rates for a four (4) tier system for a forty (40) hour work week employee; date of hire to end of fifth (5th) year – eighty (80) hours per year, from start of sixth (6th) year to end of seventh (7th) year – two (2) and a half (1/2) weeks, start of eighth (8th) year to end of tenth (10th) year – one hundred twenty (120) hours and eleven (11) plus years – one hundred sixty (160) hours.

Mayor Burnett proposed rates for a four (4) tier system for a forty (40) hour work week employee; one (1) to five (5) years of service – forty (40) hours per year, six (6) to ten (10) – eighty (80) hours, eleven (11) to fifteen (15) – one hundred twenty (120) hours and sixteen (16) plus – one hundred sixty (160) hours.

City Manager Norman-Vacha reviewed, for clarification, vacation accrual rates from July 18, 2011 with Council changes to proposed rates and then Council changes to those rates from tonight's meeting.

Council Member Bradburn felt five (5) years of service should be the first tier of an increase in vacation accrual. Mayor Burnett felt the same and referenced his recommendation which is in line with the private sector. Vice Mayor Johnston also agreed and pointed out his recommendation gives an increase on the fifth year.

Council Member Bradburn did not support five (5) weeks of vacation leave because it would impact shift coverage in police, fire and garbage collection and indirectly affects the budget.

Vice Mayor Johnston pointed out there are not many employees with fifteen (15) or more years of service and felt the greatest impact was accrual payout for retirement but is being addressed with maximum cap hours. He felt this was an alternative increase for time off to employees in lieu of pay increases. Mayor Burnett was in favor of Vice Mayor Johnston's recommendation.

Council Member Bradburn asked how many employees have fifteen (15) or more years of service. City Manager Norman-Vacha stated there are fourteen (14) employees in this status; including three (3) who are in the DROP Program.

Council Member Bernardini referenced page 5 of 5 Return to Work Following Approved Vacation Leave and page 3 of 7 Sick Leave and did not favor "failure to return to work as scheduled may be deemed a voluntary resignation" and recommended a time limit of three (3) days to give ample time for approval after a fitness for duty certification is issued by a doctor. Vice Mayor Johnston pointed out it was changed from "shall" to "may" and felt this gives more flexibility. He stated an employee would only need to call in and let their supervisor know they will not be in to work as scheduled.

City Manager Norman-Vacha explained the difference between employees out due to a personal illness or injury opposed to Worker's Compensation or new hires physical examinations. Council Member Bernardini was concerned that employees with a doctor's note to return to work would have to wait several days without pay awaiting response from management. City Manager Norman-Vacha explained typically a delay would be due to insufficient information on the doctor's note such as any work restrictions. She stated clarification is required to protect the City's liability. Council Member Bernardini recommended a standard fitness for duty form be issued with the required information for better communication in the future. City Manager Norman-Vacha indicated there is a prescribed federal medical certification form for employees on Family Medical Leave Act extended illness status. She felt any form not issued by a doctor is difficult to get them to complete.

Motion:

Motion was made by Vice Mayor Johnston and seconded by Council Member Bernardini for approval of amended vacation to reflect 1-4 years 2 weeks, 5-8 years 3 weeks, 9-14 years 4 weeks, 15+ years 5 weeks and amended paragraphs C.1. and C.5. Motion carried 4-0.

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City Manager Norman-Vacha reviewed amendments; C.1. “Employees are to request vacation leave using the established leave procedure” and C.5. “Approval of leave requests in the sole discretion of department directors or designee; notice of decision will be provided to the employee in a reasonable time”.

7.02 Sick Leave

Motion:

Motion was made by Vice Mayor Johnston and seconded by Council Member Bradburn for approval.

Council Member Bernardini felt the language was too harsh under sick and vacation leave that states “Employees failing to appropriately notify and report his or her absence to his or her Department Director or designee shall be considered to have voluntarily resigned from employment with the City”.

Motion carried 3-1 with Council Member Bernardini voting in opposition.

Ordinance No. 821 – Firearms Code Change

Consideration of approval of an Ordinance setting forth guidelines and criteria to implement the tax exemption referendum included on the August 2010 Primary Election Ballot.

City Attorney Jennifer Rey reviewed the changes to the code and resolution due to the legislature adopting amendments to Florida Statutes effective October 1, 2011 preempting the regulation of firearms.

Vice Mayor Johnston preferred the changes be effective October 1st to coincide with State regulations. Council concurred.

Council Member Bernardini asked what the penalty on government, elected officials and staff is. City Manager Norman-Vacha replied the fine attached to violations on enforcements is \$5,000.

Motion:

Motion was made by Vice Mayor Johnston and seconded by Council Member Bradburn for approval as amended.

Mayor Burnett asked for public input; there was none.

City Clerk Peters read Ordinance No. 821 by title, as follows:

AN ORDINANCE AMENDING THE CODE OF THE CITY OF BROOKSVILLE, FLORIDA, CHAPTER 22, “CIVIL EMERGENCIES,” AMENDING ARTICLE II SECTION 36; PROVIDING FOR CODIFICATION, CONFLICTS, REPEALING, SEVERABILITY AND AN EFFECTIVE DATE.

Motion carried 4-0 upon roll call vote, as follows:

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

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Resolution No. 2011-02 – Parks & Recreation Rules

Consideration of approval of a Resolution amending the Parks & Recreation Rules regarding the usage of firearms in the City's parks.

City Attorney Jennifer Rey reviewed the changes to the code and resolution due to the legislature adopting amendments to Florida Statutes effective October 1, 2011 preempting the regulation of firearms.

Vice Mayor Johnston preferred the changes be effective October 1st to coincide with State regulations. Council concurred.

Motion:

Motion was made by Vice Mayor Johnston and seconded by Council Member Bernardini for approval of Resolution No. 2011-02 as amended.

Mayor Burnett asked for public input; there was none.

City Clerk Peters read Resolution No. 2011-02 by title, as follows:

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
BROOKSVILLE, FLORIDA, AMENDING THE RULES AND
REGULATIONS FOR THE MANAGEMENT AND OPERATION
OF THE PARKS OR RECREATIONAL AREAS; AND
PROVIDING FOR AN EFFECTIVE DATE.**

Motion carried 4-0 upon roll call vote as follows:

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

Adoption of Current Year Proposed Millage rate for FY2011/12 Budget

Announcement of rolled-back rate of 7.1055 and establish the first budget hearing for Wednesday, September 14, 2011, at 6:00 p.m.

Finance Director Steve Baumgartner stated the Property Appraiser has to be notified on Thursday of the tentative millage rate.

City Manager Norman-Vacha advised the tentative budget has a shortfall based on 6.37 mills and advised Council would need to adopt a millage rate of 7.465 mills for a balanced budget. She suggested 7.5 mills for the TRIM Notice.

Council Member Bernardini, Vice Mayor Johnston and Mayor Burnett were in favor of setting a tentative millage rate of 7.5 mills while Council Member Bradburn felt a lower tentative millage rate would give more incentive to make cuts to cover the \$405,000 budget shortfall. She reiterated ad valorem taxes had a 39% decrease in the last four (4) years with another 11% anticipated decrease in revenue for the next year. She pointed out the current millage rate is 20% less than it was four (4) years ago and there has been an elimination of thirty-one (31) positions through attrition and consolidation of services. She felt there is nowhere else to cut and the only choices are elimination of services or less favored increase in taxes. She felt the public would panic at a 7.5 tentative millage rate and would favor setting a lower rate of 7.4 mills.

Vice Mayor Johnston explained he is in favor of 7.5 mills for the TRIM Notice only and there would have to be extraordinary circumstances for him to approve the final budget at that rate.

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Council Member Bernardini felt there was no room to cut from the budget with several necessities recently discussed such as deteriorating roads and asked what is being asked of him to cover the budget shortfall.

Mayor Burnett stated he would like staff to make recommendations to City Council based on discussions during the budget workshops or Council could make their own recommendations during budget hearings.

Motion:

Motion was made by Vice Mayor Johnston and seconded by Council Member Bradburn for approval of announcing a 7.5 proposed millage and set the second Budget Hearing for Wednesday, September 14, 2011. Motion carried 3-1 with Council Member Bernardini voting in opposition.

Filling Council Vacancy Seat Group 4 Discussion

Council consensus was to advertise for letters of interest with resumes for seven (7) days. Council Member Bradburn informed the candidates should be ready to serve the night of selection for the August 15th meeting.

Motion was made by Vice Mayor Johnston and seconded by Council Member Bradburn to set deadline for applications/resumes for Monday, August 8, 2011 at 5:00 p.m. Motion carried 4-0.

City Manager Norman-Vacha asked for Council direction on the appointment to the vacancy. Council concurred to allow each candidate to speak for three (3) minutes maximum and Council will use ballots to pick top three (3).

CITIZEN INPUT

Mayor Burnett asked for public input.

Christina Marie Tucci owner of Christina's Hotdogs since 1994 felt she has had poor locations due to Code Enforcement setback regulations resulting in a negative impact to her income. Vice Mayor Johnston asked for information on the City's code on food vendors to address Ms. Tucci's situation and allow more visibility. City Manager Norman-Vacha will gather the information with copies for all of Council.

Jay Thompson felt that as a tax payer he does not have a problem seeing an increase in the millage rate since it is necessary to improve the public safety of the City and indicated it would actually be a decrease in his tax bill due to decreased property appraisal.

Jason Sager of 915 Hammock Road wanted to submit his name for consideration to fill Seat Number 4 on City Council and asked where to obtain the application. City Manager Norman-Vacha explained the process is to submit a letter of interest with a resume to the City Clerk.

ITEMS BY COUNCIL

Jennifer C. Rey, City Attorney

Executive Session on August 15th

City Attorney Rey requested an Executive Session on August 15th at 6:00 p.m. for approximately thirty (30) minutes. Council concurred.

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T. Jennene Norman-Vacha, City Manager

Meeting Reminders

August 9th at 6:00 p.m. - Budget Workshop on All Other Funds

August 23rd at 6:00 p.m. - Second Budget Workshop on General Fund

Joe Bernardini, Council Member

Grievance Policy

Council Member Bernardini felt an impartial board would be well served in the grievance procedure that would make their recommendation to the City Manager who would then have the final decision on the matter.

Vehicle Take-Home Policy

He requested a review to address out-of-county employees. Council concurred to be addressed at the budget workshop on August 23rd.

Lara Bradburn, Council Member

Water Quality Testing

Council Member Bradburn asked for information at the next budget workshop on how much it costs for annual water quality testing along with Council action on fluoridation.

Firefighters' Schedules

She clarified a proposal for changes to firefighters' schedules did not include elimination of positions.

Downtown Post Office Proposed Closing

She requested a Resolution be considered at the next meeting to the U.S. Postal Service and to Congress to protect the downtown post office that serves the County seat. Council concurred.

Historic Designation for Broad Street Bridge

She stated the Florida Department of Transportation's engineer stated there has been attempts made to designate the Broad Street Bridge for historic designation and she requested a resolution be considered at the next meeting to save it from destruction and to protect historic nature of downtown. Council concurred.

Joe Johnston, Vice Mayor

Main Street Traffic Lights

Vice Mayor Johnston announced the street lights are back in sync and thanked Public Works Director Radacky for his efforts. He reminded him of installing a countdown light on Broad and Jefferson. City Manager Norman-Vacha assured the County is working on it.

Red Light Runner

He announced there was one red light runner at the hilltop on Jefferson Street.

Frankie Burnett, Mayor

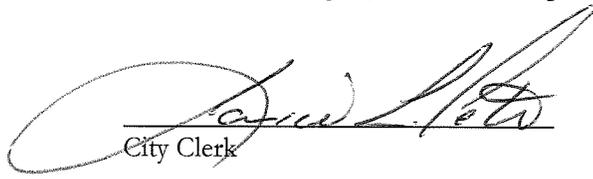
Police Department Accreditation

Mayor Burnett announced his appreciation and pride to the police department for accreditation along with the rest of city staff, department directors and the City Manager.

REGULAR COUNCIL MEETING MINUTES – August 1, 2011

ADJOURNMENT

There being no further business to bring before Council, the meeting adjourned at 9:59 p.m.



City Clerk

Attest: _____
Mayor

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

August 15, 2011

6:00 P.M.

Brooksville City Council met in regular session with Mayor Frankie Burnett, Vice Mayor Joseph E. Johnston, III, Council Members Joe Bernardini and Lara Bradburn present. Also present were Thomas S. Hogan, Jr., 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 Burnett, followed by an invocation and Pledge of Allegiance.

Mayor Burnett announced the Executive Session and the regular Council meeting was adjourned.

EXECUTIVE SESSION PURSUANT TO F.S. CHAPTER 286.011

Attending the meeting were Frankie Burnett, Mayor; Joe Johnston, Vice Mayor; Council Members Joe Bernardini and Lara Bradburn; Attorney's for the City of Brooksville, Thomas S. Hogan, Jr., Debbie Hogan and Jennifer Rey; City Manager, T. Jennene Norman-Vacha; and court reporter C. Gail Donato of Carolyn F. Engle & Associates. The meeting was expected to last approximately sixty minutes.

The regular Council meeting reconvened at 7:00 pm.

Temporary Appointment of Council Member to fill Seat #4

Selection and appointment of Council Member.

Mayor Burnett stated Council must establish the process of selection and recommended two (2) rounds of voting; first to pick top three (3) candidates and then to select the final candidate from the top three (3).

City Manager Norman-Vacha explained at the last meeting there was nothing decisive on the process and discussion was each Council Member vote to select a first person and also about narrowing the vote down to a final candidate. An interview would only be done should there be a tie vote.

City Attorney Hogan stated the ordinance allows Council to establish procedures by consensus.

Consensus was to check three (3) choices and in the case of a tie to keep voting until the tie is broken.

The first round produced a three-way tie between Robert Battista, Kevin Hohn and Darren McKethan.

The second round produced a two-way tie between Robert Battista and Kevin Hohn.

REGULAR COUNCIL MEETING MINUTES – August 15, 2011

Council Member Bradburn thanked all candidates for their interest in applying for the vacant Council seat. She advised she supports Mr. Hohn because he has a broad eclectic background on both private and public sector, has overseen hundreds of employees and managed millions of dollars in budgets. He has a firm grasp of law enforcement perspective by helping to successfully prosecute members of the Mafia who were delinquent on their taxes, successfully. She felt he has a good grasp on what it takes to make payroll, to pay bills and meet obligations and also felt he would continue with the progress Council has made in the past few years, but with a new perspective. She felt Robert Battista, with 6-years experience as the City Attorney and his experience in Citrus County has helped him grow personally and professionally, which is why supported him to serve as a member of the Planning and Zoning Board. But, the City is in a mode of progress, which she would like to see continue and is the reason she supports Kevin Hohn.

Council Member Bernardini stated he has never met Mr. Hohn but felt his resume was impressive. He supported Mr. Battista because he served as the City Attorney, County Attorney, he lives in the City of Brooksville and his wife worked for the City in the past. He has shown commitment by attending meetings and has been involved in the community. He pointed out the other applicants have not shown an interest in volunteering on one of the City's advisory boards.

Vice Mayor Johnston reiterated Council Member Bernardini's comments in support of Mr. Battista due to his background in government. Although he felt Mr. Hohn's background in the private sector was impressive he would prefer service in government prior to serving on Council.

Mayor Burnett supported Mr. Hohn because he felt he shares his vision for the future of the City.

The third round again produced a two-way tie between Robert Battista and Kevin Hohn.

Motion:

Motion was made by Vice Mayor Johnston and seconded by Council Member Bernardini for approval to add an item to the agenda to set a procedure on a tie-breaker. Motion carried 3-1 with Council Member Bradburn voting in opposition.

Discussion continued of options. All were in favor of a special meeting to interview the two (2) finalists with a five (5) to ten (10) minute presentation from each on Monday, August 22nd at 7:00 p.m. The Hogan Law Firm will provide other options in case of a tie breaker.

CERTIFICATES, PROCLAMATIONS AND PRESENTATIONS

Proclamation Phoenix Gun Range

Consideration of a proclamation in recognition of Phoenix Gun Range and their contributions to the City of Brooksville Police Department.

Mayor Burnett read the proclamation in its entirety to be presented to the club in November by Chief Turner.

Proclamation – National Preparedness Month

Consideration of a proclamation designation the month of September as National Preparedness Month.

Vice Mayor Johnston read the proclamation in its entirety and presented it to Chief Mossgrove.

REGULAR COUNCIL MEETING MINUTES – August 15, 2011

Great Brooksvillian Selection

Review and selection of nominations for the 2010 award nominees as recommended by the Screening Committee.

Screening Committee Chair John Tucker briefly reviewed the recommendation of Dorothy Mason after introducing the committee members that were present.

Council Member Bradburn elaborated on the committee's recommendation in support of Ms. Mason.

Motion:

Motion was made by Council Member Bradburn and seconded by Council Member Bernardini for approval. Motion carried 4-0.

CITIZEN INPUT

Mayor Burnett asked for public input.

Christina Marie Tucci stated she would like to relocate her hot dog wagon near Coney Island but she does not have the money to pay the \$100 fee.

CONSENT AGENDA

Minutes

August 24, 2010 Special Meeting
May 16, 2011 Regular Meeting
June 6, 2011 Regular Meeting
June 20, 2011 Regular Meeting

Award of PD Parking Lot and Impound Lot Paving Bid No. PR2011-11

Consideration of award of bid to B.R.W. Contracting, Inc., for the not-to-exceed amount of \$47,424.

Cemetery Mower Purchase and Budget Amendment

Consideration for purchase of one (1) mower for the Cemetery for the not-to-exceed price of \$5,263.80 and approval of budget amendment.

Motion:

Motion was made by Council Member Bradburn and seconded by Vice Mayor Johnston for approval of the Consent Agenda. Motion carried 3-1 with Council Member Bernardini voting in opposition.

PUBLIC HEARINGS

Entry of Proof of Publication into the Record

Mayor Burnett called for proof of publication. City Clerk Peters indicated Items H1 and H2 were published on Friday, August 5, 2011, in the Hernando Today legal section of the Tampa Tribune and there is a copy of the affidavits for the record.

REGULAR COUNCIL MEETING MINUTES – August 15, 2011

Ordinance No. 821 – Firearms Code Change

Consideration of approval of an Ordinance setting forth guidelines and criteria to implement the tax exemption referendum included on the August 2010 Primary Election Ballot.

[First Reading 08/01/11]

City Attorney Jennifer Rey stated this ordinance is being revised to remove any potential violations to the State Statute Firearms Regulations.

Vice Mayor Johnston pointed out the dates on page 2 of 2 of the ordinance need to be changed from “Passed on First Reading October 1st and Notice Published on October 5th” to “August 1st and August 5th”.

Mayor Burnett asked for public input; there was none.

Motion:

Motion was made by Vice Mayor Johnston and seconded by Council Member Bradburn for approval.

City Clerk Peters read Ordinance No. 821 by title, as follows:

**AN ORDINANCE AMENDING THE CODE OF THE CITY OF
BROOKSVILLE, FLORIDA, CHAPTER 22, “CIVIL EMERGENCIES,”
AMENDING ARTICLE II SECTION 36; PROVIDING FOR
CODIFICATION, CONFLICTS, REPEALING, SEVERABILITY AND
AN EFFECTIVE DATE.**

Motion carried 4-0 upon roll call vote, as follows:

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

Ordinance No. 822 – Encore Construction Company

Consideration of contract amendment with Encore Construction Company, for water reuse storage and transmission at the Cobb Road Water Reuse Facility.

[First Reading 08/01/11]

City Attorney Jennifer Rey stated this ordinance addresses the statutory foundations for proceeding in negotiating a contract with Encore Construction Company.

Mayor Burnett asked for public input; there was none.

Motion:

Motion was made by Vice Mayor Johnston and seconded by Council Member Bradburn for approval.

City Clerk Peters read Ordinance No. 822 by title, as follows:

**AN ORDINANCE OF THE CITY OF BROOKSVILLE, FLORIDA,
AUTHORIZING A CONTRACT AWARD TO ENCORE
CONSTRUCTION COMPANY WITHOUT COMPETITIVE**

REGULAR COUNCIL MEETING MINUTES – August 15, 2011

SELECTION FOR THE COMPLETION OF THE WATER REUSE FACILITY; ESTABLISHING CRITERIA FOR THE AWARD; PROVIDING FOR SEVERABILITY, CONFLICTS, REPEAL, AND CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

Motion carried 3-1 upon roll call vote, as follows:

Council Member Bradburn	Aye
Council Member Bernardini	Nay (for reasons stated at the last meeting)
Vice Mayor Johnston	Aye
Mayor Burnett	Aye

REGULAR AGENDA

Ordinance No. 823 – Florida Department of Environmental Protection Permit Requirements

Consideration of ordinance establishing the legal authority and adopting an ordinance that meets the requirements of National Pollutant Discharge Elimination System and MS4 permit for the City of Brooksville for compliance with FDEP.

Director of Public Works Richard Radacky introduced Jon Dowler who reviewed the ordinance.

Public Works Project Coordinator Jon Dowler stated the Clean Water Act was enacted by Congress in the 1970's and implemented by the U.S. Environmental Protection Agency to improve surface waters to swimmable and fishable conditions and included addressing storm water discharge into lakes, streams and estuaries developed as the National Pollutant Discharge Elimination System (NPDES). The Florida Department of Environmental Protection (FDEP) was empowered through delegation to enforce the EPA rules. Originally a permit was required for larger municipalities until 2003 when smaller jurisdictions were also required to obtain permit coverage. Brooksville was issued a permit from FDEP on August 2, 2004 that was renewed on August 18, 2010. FDEP conducted an audit on April 4, 2011 and directed Brooksville to meet minimum control measures and adopt an ordinance to establish legal authority to prohibit and enforce illicit discharges to the City's storm water system. Staff is currently evaluating the City's storm water management plan by implementing minimum control measures such as public education, staff training, street sweeping and debris removal to meet the NPDES permit requirements.

Council Member Bradburn asked for the reason the City does not satisfy storm water requirements. Mr. Dowler explained the City cannot enforce any of the rules without an ordinance in place. Public Works Director Radacky further explained there have been no records kept on violations because the City has had no legal authority for enforcement. He indicated the NPDES program is on the City's website for public information.

Council Member Bradburn expressed her concern of illicit discharges that have clogged swales and ditches throughout the City. Mr. Dowler explained Streets staff is being trained to recognize illicit discharges and are documenting them for cleaning and maintenance. He indicated approximately 30% of storm water drains are mapped by GIS. Council Member Bradburn stated Southwest Florida Water Management District has more detailed maps of the City's storm water system.

Public Works Director Radacky indicated the City has a construction policy in place for erosion control in conjunction with the NPDES program. Mr. Dowler explained silt fences and debris from residential construction commonly ends up on an adjacent property and this ordinance will allow the City to legally enforce this issue.

REGULAR COUNCIL MEETING MINUTES – August 15, 2011

Vice Mayor Johnston confirmed with Mr. Dowler this program includes all governmental entities, not just municipalities.

City Attorney Rey noted Section 11; Exemptions; letter A; numbers 18 and 21 are duplicative and number 21 should be stricken.

Motion:

Motion was made by Council Member Bradburn and seconded by Vice Mayor Johnston for approval.

City Clerk Peters read Ordinance No. 823 by title, as follows:

AN ORDINANCE PROVIDING FOR DEFINITIONS; RELATING TO THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS; PROVIDING FOR CONTROL OF STORMWATER DISCHARGES; PROVIDING FOR THE PROHIBITION OF ILLICIT DISCHARGES AND ILLICIT CONNECTIONS; PROVIDING FOR RIGHT OF ENTRY, INSPECTION, MONITORING, AND MAINTENANCE OF THE SYSTEM; PROVIDING FOR EXEMPTIONS; ESTABLISHING PENALTIES AND FINES; PROVIDING FOR CODIFICATION, CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE.

Motion carried 4-0 upon roll call vote, as follows:

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

Ordinance No. 824 – Competitive Bidding and Purchasing

Consideration of an ordinance amending Chapter 2 of the City's Code.

Director of Finance Steve Baumgartner reviewed, stating competitive bidding limits are being changed from \$6,000 to \$20,000 to coincide with other municipalities. He confirmed the emergency purchasing limit is being increased from \$15,000 to \$50,000.

Council Member Bernardini did not support an increase in spending limits because then Council is not fully aware of expenditures. He felt this to be an exorbitant increase.

Council Member Bradburn felt the increase will alleviate loss of cost-saving opportunities. She also felt although emergency purchasing does not happen often, the increase will give better flexibility.

Vice Mayor Johnston felt the increase is more in line with today's costs and provides more staff efficiency. Although he agreed with Council Member Bernardini's concerns with raising the limits he felt that he could trust staff with doing the right thing.

Motion:

Motion was made by Council Member Bradburn and seconded by Vice Mayor Johnston for approval.

City Clerk Peters read Ordinance No. 824 by title, as follows:

REGULAR COUNCIL MEETING MINUTES – August 15, 2011

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF BROOKSVILLE, FLORIDA, CHAPTER 2 ADMINISTRATION, AMENDING ARTICLE VI FINANCE, SECTION 2-303 “EMERGENCY PURCHASES AND DECLARATION PROCEDURE” AND SECTION 2-304 “COMPETITIVE BIDDING”; PROVIDING FOR EXPENDITURE AUTHORITY AND LIMITATIONS; PROVIDING FOR CODIFICATION, CONFLICTS, REPEALING, SEVERABILITY AND EFFECTIVE DATE.

Motion carried 3-1 upon roll call vote, as follows:

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

Resolution No. 2011-05 – E. Fort Dade Post Office

Consideration of a resolution in opposition of closing the Post Office at 207 E. Fort Dade Avenue.

City Clerk Janice Peters stated that because efforts to cut costs of the United States Postal Service has issued a list of additional 2,000 post offices scheduled to close that are operating in a deficit, including the downtown Brooksville post office. Upon approval, this resolution will be mailed to the office of the Inspector General in Arlington, Virginia as well as elected officials representing Brooksville and Hernando County.

Council Member Bradburn suggested an enclosure letter from the Mayor stressing that Brooksville is the County Seat in the midst of revitalization efforts and it is vital to have a post office downtown for those efforts. She advised if the post office is not operating as efficiently as it once did it is because they have mandated that most of the business entities move their business outside City to the truck route.

Mayor Burnett encouraged citizens to express their interest for keeping the post office open.

Motion:

Motion was made by Vice Mayor Johnston and seconded by Council Member Bernardini for approval of Resolution No. 2011-05.

Mayor Burnett asked for public input.

City Clerk Peters read Resolution No. 2011-05 by title, as follows:

A RESOLUTION OF THE CITY OF BROOKSVILLE, FLORIDA, OPPOSING AND PROTESTING THE CLOSURE OF THE POST OFFICE LOCATED AT 207 E. FORT DADE AVENUE, BROOKSVILLE, FLORIDA 34601.

Motion carried 4-0 upon roll call vote as follows:

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

REGULAR COUNCIL MEETING MINUTES – August 15, 2011

Resolution No. 2011-06 – Public Records Costs

Consideration of a resolution amending the City's copy charges/processes to comply with the updated Chapter 119 of the Florida Statutes.

City Clerk Janice Peters stated this resolution is to revise Resolution Number 2007-12 in accordance with statutory and interpretive changes.

Motion:

Motion was made by Council Member Bradburn and seconded by Vice Mayor Johnston for approval of Resolution No. 2011-06.

Mayor Burnett asked for public input.

City Clerk Peters read Resolution No. 2011-06 by title, as follows:

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
BROOKSVILLE, REPEALING & RESTATING CHARGES TO BE
ASSESSED AND COLLECTED FOR COPIES OF PUBLIC RECORDS;
AND PROVIDING AN EFFECTIVE DATE.**

Motion carried 4-0 upon roll call vote as follows:

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

Encore Construction Company (ECC) Amended and Restated Agreement

Consideration of amended and restated agreement with ECC for the price of \$3,177,000.

Director of Public Works Richard Radacky reviewed the amendments.

Council Member Bernardini asked if painting and electrical would still need to be done. Utilities Superintendent Will Smith stated the electrical plan has been revised and the price was reduced by \$108,000. He advised the facility needs to be painted every two (2) or three (3) years. Council Member Bradburn felt priming the surface and treating appropriately would give a lifetime guarantee on the paint. She also felt the price could be further negotiated at a lesser cost because of the economy. Public Works Director Radacky felt it was a fair price. He expressed concern that the Southwest Florida Water Management District grant money of \$1 million dollars will be lost if the project does not move forward soon.

Motion:

Motion was made by Council Member Bradburn and seconded by Vice Mayor Johnston for approval.

Attorney John Grandoff asked when the Southwest Florida Water Management District grant expires. City Manager Norman-Vacha stated it expires April 2012.

Attorney Grandoff asked what the source of the funds is for the remaining amount. City Manager Norman-Vacha replied \$1 million dollars from connection fees for utilities and distribution system in addition to the grant amount of \$1.135 million dollars and bond settlement funds.

REGULAR COUNCIL MEETING MINUTES – August 15, 2011

Attorney Grandoff confirmed with City Manager Norman-Vacha that the Southwest Florida Water Management District funds will be spent on the project before April 2012 when the grant expires.

Attorney Grandoff asked how this project is prioritized among other Public Works projects throughout the City. City Manager Norman-Vacha explained this project was scheduled to be completed by the developer of Southern Hills Plantation and since the bankruptcy the City has taken on the role of developer and collected on the bonds to complete the project.

Motion carried 3-1 with Council Member Bernardini voting in opposition.

Southern Hills Plantation (SHP) Development Project

Status update on incomplete infrastructure and maintenance issues and recommended priorities in utilizing bond proceeds.

Director of Community Development Bill Geiger reviewed the project status update for outstanding maintenance and work to be done within the Southern Hills Plantation subdivision. He entered the staff report into the record as if it were read (Attachment A).

He stated the first and second phase's infrastructure has been completed but there are some maintenance issues with asphalt on Southern Hills Boulevard and felt it could be resolved by resurfacing problem areas.

He indicated the third phase infrastructure is nearly complete; a second lift of asphalt needs to be added and some common area sidewalks need to be installed.

He then reviewed the final phase; it has been platted but no improvements have been done to date. There was a construction cost estimate of approximately \$800,000 to complete the infrastructure in this phase of the project. He indicated construction plans were submitted for permitting but he was uncertain of the final status on the permits.

Next, he addressed Real Tree Lane in Phase 3 and stated it is an eight hundred forty (840) linear foot planned road that has not yet been constructed and indicated Mr. Holliday and Mr. Buckner own lots that front on either side of this future road.

He indicated that as a result of a meeting last week with the owners of GreenPointe Communities, LLC and the engineer of record Coastal Engineering, they committed to providing a cost analysis to the City on the deficiencies that exist in the different phases and then staff will be able to prioritize projects. He suggested a public/private partnership agreement with GreenPointe Communities, LLC to complete the improvements.

He stated there are high priorities staff would be putting forth to City Council for consideration; upgrading the wastewater treatment plant to reuse capacity due to a grant funding deadline of April 2012 and infrastructure for the final phase. He pointed out the City has been looking to provide reuse water not only to Southern Hills Plantation but to other potential customers.

Mayor Burnett agreed with the priorities set forth by Director Geiger.

Attorney Hogan advised staff needs direction on how to proceed as developer of this project; either hire a general contractor or pursue a private/public partnership with GreenPointe as the project manager. He reminded Council adopted a resolution on August 24, 2010 giving staff some direction on how to proceed with the project.

REGULAR COUNCIL MEETING MINUTES – August 15, 2011

Council Member Bradburn stated that issues with this project has been ongoing for many years and will not be resolved in short term but the goal has always been to see Southern Hills Plantation prosper. She agreed a cost analysis would be needed in order to adequately set priorities and should be done quickly.

Vice Mayor Johnston asked as the developer, is the City considered the Board of Directors of the Community Development District? Attorney Rey replied that as subsequent owner, GreenPointe is representing the Community Development District.

Vice Mayor Johnston stated the priorities are set, next is getting the cost analysis then preferred partnering with GreenPointe if that is the most cost effective approach to getting the project done. Council concurred.

Attorney Grandoff, representing the Hollidays and SunTrust Bank, asked Council to prioritize construction of Real Tree Lane ahead of the wastewater treatment plant in accordance with the resolution adopted on August 24, 2010 and referenced bond number 82133490 in the amount of \$996,000, which was placed by the developer for the construction of Real Tree Lane.

Attorney Hogan stated the funds from the proceeds are in the City's Utility Account and the process of building the road is underway.

Attorney Grandoff asked Attorney Hogan and City Manager Norman-Vacha when the Real Tree Lane project will commence. They both replied an exact date cannot be given this evening.

Attorney Grandoff, on behalf of his client Mr. Holliday, asked that the funds be segregated so as to be spent only for construction of this road. Attorney Hogan stated there is no procedure under the City Finance Policy that mandates funds be segregated as requested but assured that the process towards building the road are underway and the road will be built. City Manager Norman-Vacha concurred.

Request to be heard by John B. Grandoff, III on behalf of James W. Holliday

Item was withdrawn.

CITIZEN INPUT

Mayor Burnett asked for public input.

Kojack Burnett asked has the issue with Christina's Hot Dog Cart \$100 fee been resolved and stated he would donate \$25. Mayor Burnett replied Council sets policies that staff has to enforce and must treat people equally.

ITEMS BY COUNCIL

T. Jennene Norman-Vacha, City Manager

Leadership Hernando Government Day

City Manager Norman-Vacha announced this Thursday, August 18th is Leadership Hernando Government Day.

REGULAR COUNCIL MEETING MINUTES – August 15, 2011

Upcoming Council Meetings

She reminded Council of their next meetings on August 22nd at 7:00 p.m. and August 23rd Budget Workshop.

Joe Bernardini, Council Member

Mowing of right-of-ways

Council Member Bernardini pointed out the City needs to maintain mowing of the right-of-ways. Mike Walker indicated there were no inmate crews available for mowing last week. Mayor Burnett requested the mowing be done by Monday before the start of school.

Joe Johnston, Vice Mayor

Red Light Runners

Vice Mayor Johnston stated he has not seen any red light runners lately.

Wastewater Runoff

He asked are most of the storm drains cleaned out that were filled with dirt; in front of the old City Hall building, at the corner of Bell Street and Fort Dade Avenue, and one or two (2) going down Liberty Street. Public Works Director Radacky stated he would look into the status of the cleaning tomorrow.

Walk Signal Countdown Timers

He asked for the status on installing countdown timers on the one-way streets. Public Works Director Radacky stated he has informed the County of the request.

Council Member Bernardini pointed out the countdown timer near Golden Corral does not work properly all of the time.

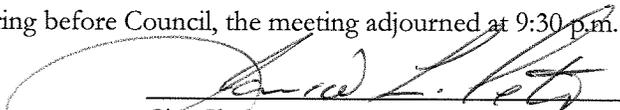
Council Member Bradburn indicated the light timing for turn lanes on US41 heading south seem to be changing more rapidly lately. Public Works Director Radacky stated he was not aware that has been changed but would check with the County.

Frankie Burnett, Mayor

Mayor Burnett thanked City staff and Council Members for their dedication and hard work.

ADJOURNMENT

There being no further business to bring before Council, the meeting adjourned at 9:30 p.m.



City Clerk

Attest: _____
Mayor



AGENDA ITEM
MEMORANDUM

TO: HONORABLE MAYOR AND CITY COUNCIL

VIA: T. JENNENE NORMAN-VACHA 
CITY MANAGER

FROM: BILL GEIGER, COMMUNITY DEVELOPMENT DIRECTOR & 
JENNIFER REY, THE HOGAN LAW FIRM, LLC, AS CITY ATTORNEY

SUBJECT: SOUTHERN HILLS PLANTATION DEVELOPMENT PROJECT -
STATUS UPDATE ON INCOMPLETE INFRASTRUCTURE AND
MAINTENANCE ISSUES.

DATE: AUGUST 9, 2011

GENERAL SUMMARY: At the August 1, 2011 meeting, City Council requested staff to provide information on the status of uncompleted improvements and maintenance issues that remain within the Southern Hills Plantation subdivision.

Resolution No. 2010-14, adopted by the City Council on August 24, 2010, provides a policy statement establishing commitments related to the Southern Hills Plantation (SHP) development project. The Resolution further outlines the bonds involved with the project. Specifically, bonds associated with the SHP project were intended to secure the completion of infrastructure obligations associated with the project, including the Cobb Road Wastewater Reclamation Facility (Cobb Road WRF), SHP Phase One (which includes Southern Hills Boulevard), SHP Phase Two/Two A, SHP Phase Three and SHP Phase Three A-1.

The following is a summary of the status of improvements which were secured by particular bonds:

- **Cobb Road Water Reuse Facility (WRF).** Bond No. 82036733 was posted in the original amount of \$7,821,600.00 which was subsequently reduced to \$7,331,253.60. Distribution lines and retention ponds have been installed or constructed. However, the distribution lines do not connect to the plant or the retention ponds. Certain equipment valued at \$1,387,976 has been purchased and is in storage in various places. Construction at the plant and the installation of the equipment for reuse capabilities has not occurred.
- **Phase One.** Phase One includes 287 residential lots on 224.011 acres. Bond No. 104332127 was originally posted in the amount of \$19,757,345.00 and was subsequently reduced to \$6,038,718.60 based on partial completion of improvements. Phase One infrastructure is complete; however, the bond amount was not further reduced by the Developer to reflect the completed improvements. There are outstanding warranty issues regarding road base failures in several areas along Southern Hills Boulevard (public access portion) and interior private roadways within Phase One. Approximately 60 homes have been constructed in Phase One.

- **Phase Two/Phase Two A.** Phase Two/Phase Two A includes 398 residential lots on 354.66 acres. Bond No. 10455710 was posted in the amount of \$9,587,962.00. Bond No. 10455710 was subsequently released and replaced with maintenance Bond No. 82133509, in the amount of \$592,486.70. Phase Two/Two A infrastructure is complete; however, there are outstanding warranty issues regarding road base failures in several areas along interior private roadways within Phase Two/Two A. Approximately 10 homes have been constructed in Phase Two/Two A.
- **Phase Three.** Phase Three includes 115 residential lots on approximately 86 acres. Bond No. 104720158 was posted in amount of \$5,181,847.50. Phase Three infrastructure is in a partial state of completion; however, the bond amount was never reduced by the developer to reflect the completed improvements. Roads are constructed and utility lines are installed; however, a final lift of asphalt is still needed on a percentage of the interior private road surfaces, and sidewalks have not been installed along common areas. Approximately 61 lots have been conveyed and 1 home has been constructed.
- **Phase Three A-1.** Phase Three A-1 includes 13 lots on 33.5 acres. Bond No. 82133490 was posted in the amount of \$996,192.13. No infrastructure has been installed to date. Status of construction plan preparation and permitting (FDEP, SWFWMD, etc.) is currently unknown. In 2007, the estimated cost for infrastructure improvements (including roadway/earthwork, storm drainage, water distribution, reclaimed water distribution and sanitary sewer) for this phase was \$796,953.70. This is the only phase that requires full road construction (Real Tree Lane/840+/- LF & an extension of Summit View Drive/964+/- LF). At least three lots have been conveyed; however, no homes have been constructed.

In the matter of Travelers, Chubb & Duke Energy, the net bond settlement of \$2,625,000 was received by the City at or around June 23, 2011. The following is the tentative action plan for addressing required improvements:

1. Establish a direct contract between the City and the Cobb Road WRF contractor (Encore) and negotiate a change order for a reduced scope of work to improve the Cobb Road WRF to the extent that the city will be able to provide re-use water to end-customers. Under the *Cooperative Funding Agreement*, the City has been reimbursed in the amount of \$1,238,295.26 by SWFWMD for certain improvements for the Cobb Road Plant Reclamation and Reuse Capacity which have been completed; an additional \$1,354,453 is potentially available under the remaining grant funds.
2. Meet with representatives from Greenpointe Communities, LLC, and the Engineer-of-Record (EOR) for the Southern Hills Plantation project. The purpose in meeting with these entities will be to obtain more detailed information concerning existing maintenance issues, the status of plans for Phase 3A-1 (plans, permits, etc.) and to obtain engineering cost estimates to address the full cost of repair and installation of infrastructure (including engineering design, permitting and construction phase management). Additionally, the City anticipates that it may be able to coordinate with these entities to effect some or all of the improvements associated with the Southern Hills Plantation development project in a manner similar to the recent improvements that were completed in the Cascades at Southern Hills Phase One subdivision. If the City cannot obtain the noted information from Greenpointe Communities or the EOR, an independent engineer may need to be retained to evaluate the project and provide cost estimates to address the necessary improvements.

3. Once the City obtains the cost information to address maintenance items and new construction required for the Cobb Road WRF and for each phase of the Southern Hills Plantation development project, a priority list and timeline to complete the project(s) may be prepared and brought back to the City Council for consideration.

At this time it would appear that the best course of action would be to proceed with the construction and upgrade of the Cobb Road WRF to leverage currently approved SWFWMD funds with City funds allocated for that project. Priority should also be given to the construction of SHP Phase Three A-1 infrastructure to provide infrastructure/services to the lots located within that platted area. The bond proceeds are expected to adequately fund the completion of these two priorities. The balance of funds remaining from the bond proceeds after these two priorities are completed should be allocated to address maintenance issues associated with Southern Hills Boulevard and SHP Phases One, Two/Two A and Three.

BUDGET IMPACT: The budget impact for completing improvements and maintenance issues within the Southern Hills Plantation development is unknown at this time as final costs-to-complete or costs-to-repair have not yet been ascertained and the specific allocation of available funding from bond settlement proceeds and available grant dollars has not yet been determined. Subsequent Budget Amendments may be necessary with future direction to Staff from City Council.

LEGAL NOTE: The City Council has home-rule authority (Article VIII, 2(b), Florida Constitution, Section 166.011, Florida Statutes) to consider fiscal matters and to establish priorities for construction projects.

STAFF RECOMMENDATION: This is a status report on deficiencies that remain within the Southern Hills Plantation subdivision/development project. Authorization from City Council is requested for staff to move forward in coordinating with Greenpointe Communities, LLC and the Engineer of Record to obtain current engineering cost estimates for each of the areas/phases requiring maintenance or construction as identified within this report. Once the estimated costs have been determined, a priority list and timeline to complete the project(s) may be prepared and brought back to the City Council for consideration. As stated earlier in this report, staff recommends that the Cobb Road WRF and Phase Three A-1 infrastructure installation be given high priority in the timeline for completion.

ATTACHMENTS:

1. Resolution No. 2010-14
2. SHP Project Map
3. Phase Three A-1

RESOLUTION NO: 2010-14

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BROOKSVILLE, FLORIDA, ADOPTING A POLICY STATEMENT AND ESTABLISHING COMMITMENTS RELATED TO SOUTHERN HILLS PLANTATION PLANNED DEVELOPMENT PROJECT; DIRECTING STAFF TO MAKE DEMAND ON SURETY BONDS; PROVIDING FOR USE OF BOND PROCEEDS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Brooksville granted certain approvals to establish and authorize a planned development project, more commonly known as Southern Hills Plantation Planned Development Project (the PROJECT); and,

WHEREAS, the City, Hampton Ridge Developers, LLC, LandMar Group, LLC, and LandMar Management, LLC entered into a development agreement dated May 28, 2003, and titled *City of Brooksville Florida Development Agreement for Hampton Ridge Project* (the DEVELOPMENT AGREEMENT) which is recorded in the public record at Book 1855 Page 1059; and,

WHEREAS, the Development Agreement requires Hampton Ridge Developers, LLC, LandMar Group, LLC, and LandMar Management, LLC (collectively, the DEVELOPER) to provide various public facilities including potable water, sanitary sewer capacity and service, over-sizing of certain utility lines, transportation system requirements, reservation of property for a school, and other public facilities; and,

WHEREAS, the Development Agreement was subsequently amended by the *First Amendment to the City of Brooksville Florida Development Agreement for Hampton Ridge Project* (the FIRST AMENDMENT) dated October 18, 2004, and recorded in the public record at Book 1916 Page 1719 and by the *Second Amendment to the City of Brooksville Florida Development Agreement for Hampton Ridge Project* (the SECOND AMENDMENT) dated November 29, 2004, and recorded in the official public record at Book 1938 Page 1758 and by the *Third Amendment to the City of Brooksville, Florida Development Agreement for Hampton Ridge Project* (the THIRD AMENDMENT) dated May 5, 2008 and recorded in the official public record book at Book 2565 Page 508; and,

WHEREAS, the City and Hampton Ridge Developers, LLC entered into that certain *Agreement Between the City of Brooksville and Hampton Ridge Developers, LLC to facilitate Cooperative Funding Provided by the Southwest Florida Water Management District for the Construction of Reclaimed Water Storage, Pumping, Transmission and Distribution Systems*, (the SUPPLEMENTAL AGREEMENT), dated May 17, 2004, and amended on July 12, 2005, which is recorded in the public record at Book 1870 Page 1517 to 1524; and,

WHEREAS, the City and Hampton Ridge Developers, LLC subsequently entered into the *Cobb Road WRF Agreement* dated December 21, 2006, and recorded in the public record at Book 2404 Page 782 (the WRF AGREEMENT). The WRF AGREEMENT was subsequently amended and restated by the *Amended and Restated Cobb Road WRF Agreement* (the AMENDED WRF AGREEMENT), dated April 21, 2008, and recorded in the public record at Book 2569 Page 432; and,

WHEREAS, the City accepted Bond No. 82036733 in the amount of \$7,821,600.00, posted by the Developer, as principal, with Federal Insurance Company, as surety, and the City as the named obligee to secure completion of the infrastructure obligations set forth in the WRF and AMENDED WRF AGREEMENTS; and,

WHEREAS, the City and the Southwest Florida Water Management District (the SWFWMD) entered into that certain *Cooperative Funding Agreement No. 04CON000079*, (the COOPERATIVE FUNDING AGREEMENT) dated June 1, 2004, as subsequently amended, for additional funding for the WRF; and,

WHEREAS, the City and Hampton Ridge Developers, LLC also entered into a *Utility Infrastructure Agreement* (the UIA), dated June 10, 2004, which is recorded in the public record at Book 1855 Page 1041; and,

WHEREAS, the DEVELOPMENT AGREEMENT, the SUPPLEMENTAL AGREEMENT, the WRF AGREEMENT, the AMENDED WRF AGREEMENT, the COOPERATIVE FUNDING AGREEMENT and the UIA are collectively referred to as the Project Agreements (the PROJECT AGREEMENTS);

WHEREAS, the final plat for Phase One of the PROJECT is recorded in the Official Public Record in Plat Book 35, Page 1 and Plat Book 38, Page 4 and the plat has been exercised, construction has commenced and individual lots have been conveyed to third parties; and,

WHEREAS, the final plat for Phase Two of the PROJECT is recorded in the Official Public Record in Plat Book 36, Page 40 and the plat has been exercised, construction has commenced and individual lots have been conveyed to third parties; and,

WHEREAS, the final plat for Phase Two A of the PROJECT is recorded in the Official Public Record in Plat Book 36, Page 68 and the plat has been exercised, construction has commenced and individual lots have been conveyed to third parties; and,

WHEREAS, the final plat for Phase Three of the PROJECT is recorded in the Official Public Record in Plat Book 37, Page 45 and the plat has been exercised, construction has commenced and individual lots have been conveyed to third parties; and,

WHEREAS, the final plat for Phase Three A-1 of the PROJECT is recorded in the Official Public Record in Plat Book 39, Page 46 and the plat has been exercised and construction has commenced; and,

WHEREAS, the final recorded and exercised plats for Phase One, Phase Two, Phase Two A, Phase Three, and Phase Three A-1 are collectively referred to as the Approved Final Plats (the APPROVED FINAL PLATS); and,

WHEREAS, pursuant to Chapter 129 of the City's Code of Ordinance, public works and infrastructure (the PROJECT IMPROVEMENTS) in support of the APPROVED FINAL PLATS must be completed prior to final plat approval; however, in lieu of completing PROJECT IMPROVEMENTS, the DEVELOPER may post performance bonds with the City as obligee to secure the completion of the PROJECT IMPROVEMENTS; and,

WHEREAS, the City accepted Bond No. 104332127 in the amount of \$19,757,345.00 posted by the DEVELOPER, as principal, with Traveler's Casualty & Surety Company of America, as surety, and the City named as obligee to secure the PUBLIC IMPROVEMENTS for the Southern Hills

Plantation – Phase One, and the bond amount was subsequently reduced to \$6,038,718.60 based on partial completion of the improvements; and,

WHEREAS, the City accepted subdivision Bond No. 10455710 in the amount of \$9,587,962.00 posted by the DEVELOPER, as principal, with Traveler’s Casualty & Surety Company of America, as surety, and the City named as obligee to secure the PUBLIC IMPROVEMENTS for the Southern Hills Plantation – Phase Two/Two A, and the City having accepted portions of completed improvements for Phase Two, the subdivision bond was subsequently released and replaced with maintenance Bond No. 82133509 in the amount of \$592,486.70; and,

WHEREAS, the City accepted performance Bond No. 104720158, in the amount of \$5,181,847.50, posted by the DEVELOPER, as principal, with Traveler’s Casualty & Surety Company of America, as surety, and the City named as obligee to secure the PUBLIC IMPROVEMENTS for the Southern Hills Plantation – Phase Three Infrastructure; and,

WHEREAS, the City accepted subdivision improvement Bond No. 82133490, in the amount of \$996,192.13 posted by the DEVELOPER, as principal, with Federal Insurance Company, as surety, and the City named as obligee to secure the PUBLIC IMPROVEMENTS for the Southern Hills Plantation – Phase Three A – CEA Job No. 05416; and,

WHEREAS, on June 10, 2009, the DEVELOPER and their affiliated companies (“LANDMAR DEBTORS”) filed for protection under Chapter 11 of the U.S. Bankruptcy Code in Austin, Texas (the “BANKRUPTCY COURT”); and,

WHEREAS, as of the commencement date of the bankruptcy petition, June 10, 2009, an automatic stay from enforcement against the LANDMAR DEBTORS or property of their estate is imposed by Sec. 362 of the U.S. Bankruptcy Code; thereby preventing the City from taking any action against the LANDMAR DEBTORS until the stay is lifted; and,

WHEREAS, the LANDMAR DEBTORS have filed a plan of reorganization and have sought permission from the BANKRUPTCY COURT to assume portions of the PROJECT AGREEMENTS, and to assign these portions to GreenPointe Communities, LLC (“GREENPOINTE”); and,

WHEREAS, GREENPOINTE has requested that the City enter into negotiations to amend and restate the DEVELOPMENT AGREEMENT; and,

WHEREAS, GREEN POINTE has represented that it is not interested in assuming all of the obligations under the PROJECT AGREEMENTS.

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BROOKSVILLE, FLORIDA, that:

SECTION 1. INCORPORATION OF RECITALS. The aforementioned recitals are true and accurate and are incorporated herein as if set forth in haec verba.

SECTION 2. PUBLIC IMPROVEMENT PRIORITIES. The City establishes the following priorities for completion of public improvements in support of the Southern Hills Plantation Planned Development Project:

- A. Outstanding, incomplete infrastrucutre improvements which were to have been completed prior to final plat approval shall be completed.

- B. Outstanding, incomplete infrastructure improvements required under the PROJECT AGREEMENTS and any other CITY APPROVALS for the PROJECT are essential public infrastructure necessary for the health, safety and welfare of all City residents and shall be completed as set forth in the various PROJECT AGREEMENTS, APPROVED FINAL PLATS and CITY APPROVALS for the PROJECT.

SECTION 2. DEMAND FOR BOND PAYMENTS. Where public improvements contemplated by the PROJECT AGREEMENTS, the APPROVED FINAL PLATS, CITY APPROVALS and approved construction plans remain incomplete as a result of the pending bankruptcy, the City shall make demand for payment on each of the surety bonds which secure the respective improvements.

SECTION 3. USE OF BOND PROCEEDS. Where proceeds are received from a particular surety bond, those proceeds shall be used to complete the improvements specifically secured by the respective bonds.

SECTION 4. CONFLICT. Any resolution or policy of the City, or any portion thereof, in conflict with the provisions of this Resolution, is hereby repealed to the extent of such conflict.

SECTION 5. SEVERABILITY. In the event that any portion or section of this Resolution is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of this Resolution, which shall remain in full force and effect.

SECTION 6. EFFECTIVE DATE. This resolution shall be effective upon adoption by the City Council of the City of Brooksville, Florida.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF BROOKSVILLE, FLORIDA, THIS 24th DAY OF AUGUST, 2010.

CITY OF BROOKSVILLE

BY: s/Lara Bradburn
Lara Bradburn, Mayor

ATTEST: s/Janice L. Peters
Janice L. Peters, CMC, City Clerk

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

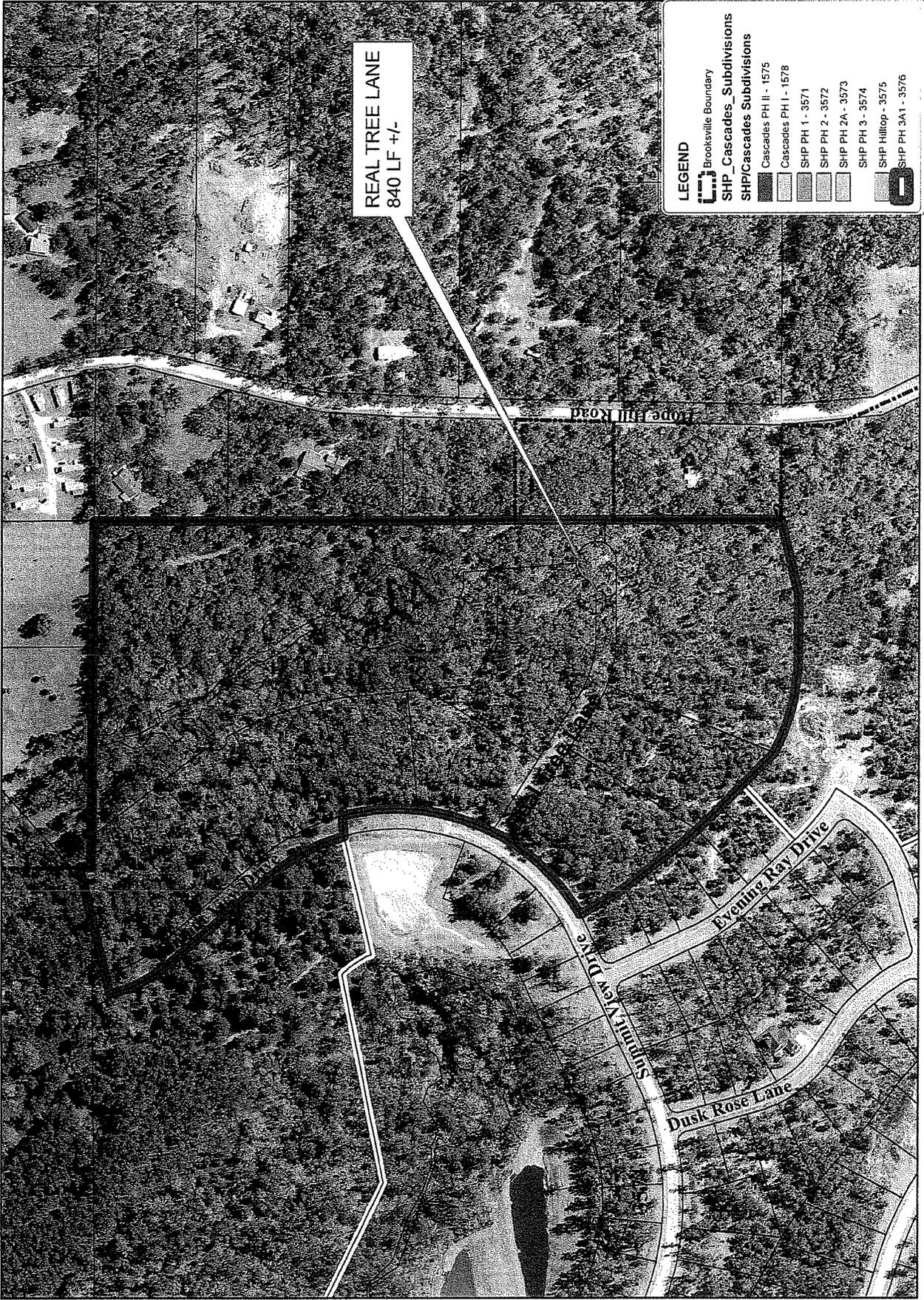
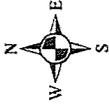
VOTE OF CITY COUNCIL

Bernardini	<u>AYE</u>
Bradburn	<u>AYE</u>
Burnett	<u>AYE</u>
Johnston	<u>AYE</u>
Lewis	<u>AYE</u>

s/Thomas S. Hogan, Jr.
Thomas S. Hogan, Jr., The Hogan Law Firm, LLC
City Attorney



SHP SUBDIVISION PHASE 3A1



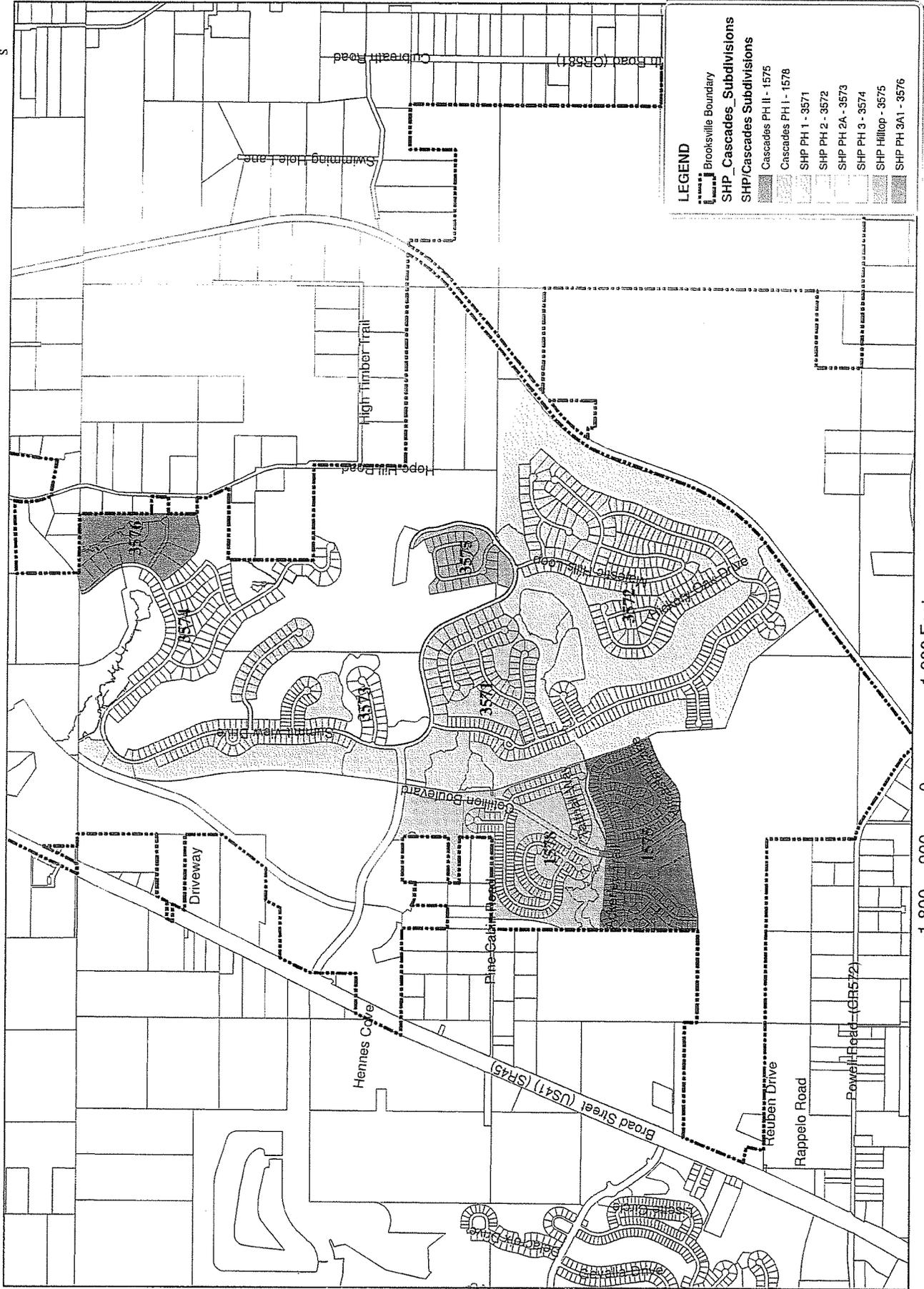
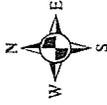
REAL TREE LANE
840 LF +/-

LEGEND

- Brooksville Boundary
- SHP Cascades Subdivisions
- SHP/Cascades Subdivisions
- Cascades PH II - 1575
- Cascades PH I - 1578
- SHP PH 1 - 3571
- SHP PH 2 - 3572
- SHP PH 2A - 3573
- SHP PH 3 - 3574
- SHP Hilltop - 3575
- SHP PH 3A1 - 3576

330 165 0 330 Feet

SHP - CASCADES Subdivisions



LEGEND

- Brooksville Boundary
- SHP Cascades Subdivisions**
- SHP/Cascades Subdivisions**
- Cascades PH II - 1575
- Cascades PH I - 1578
- SHP PH 1 - 3571
- SHP PH 2 - 3572
- SHP PH 2A - 3573
- SHP PH 3 - 3574
- SHP Hilltop - 3575
- SHP PH 3A1 - 3576

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

August 22, 2011

7:00 P.M.

Brooksville City Council met in special session with Mayor Frankie Burnett, Vice Mayor Joseph E. Johnston, III, Council Members, Joe Bernardini and Lara Bradburn present. Also present were Thomas S. Hogan, Jr. and Jennifer C. Rey, City Attorneys; 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, 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 Burnett, followed by an invocation and Pledge of Allegiance.

City Attorney Rey began by reviewing the procedures for breaking tie-votes. She indicated that Section 2.12 of the Charter of the City of Brooksville provides that City Council shall determine its own rules and that the Mayor shall set the order of business for each meeting. She also cited Section 100.061 of the Florida Statutes, which provides that if two or more candidates for a seat receives equal highest number of votes for the same office, such candidates shall draw lots to determine which candidate is nominated. She further reviewed possible methods for drawing lots, which are included in the following Resolution for Council consideration. City Attorney Rey also indicated another entity could be appointed for tie-breakers such as the Planning & Zoning Commission.

She indicated Council should also decide if this Resolution will be for all tie-votes in the future or just for this vacancy. Council Member Bernardini indicated he would just want the tie-breaker for tonight's conflict. Vice Mayor Johnston agreed and Council concurred.

Mayor Burnett asked if it could be added to the resolution to go to the third highest vote getter to see if Council would agree for appointment. City Attorney Rey indicated that is not necessarily a tie-breaking procedure.

Vice Mayor Johnston and Council Member Bernardini recommended waiting on the Resolution until after the candidates are heard to see if it is still needed.

Motion:

Motion was made by Vice Mayor Johnston and seconded by Council Member Bernardini for approval to table Resolution No. 2011-04 until after the presentations. Motion carried 4-0.

Council Member Bernardini asked if the candidates should not be in the room when the other is being interviewed. It was clarified that it was set at the last meeting that the candidates would present to Council up to 10 minutes; it was not to be an interview process. Mayor Burnett stated one would be in Chambers at a time since Council wanted to be able to ask questions.

Council concurred to see each candidate alphabetically and Council will be able to ask questions.

SPECIAL COUNCIL MEETING MINUTES – AUGUST 22, 2011

Presentations of Finalists Interested in Filling Council Seat #4

Robert B. Battista

Mr. Battista addressed Council, stating his background of being born in Gainesville and serving in the Air Force. He moved to Brooksville in 1989, just out of law school. He worked for Citrus County for nine (9) years and was also Attorney for the City of Brooksville and feels he will be a very quick study for sitting on the Council. He further reviewed his legal credentials and indicated he intended to pursue part-time work but would be readily available for meeting. He indicated he has a keen understanding of where the City needs to go in regards to revitalization and capital improvements.

Mayor Burnett advised Mr. Battista used sixteen (16) minutes so the next candidate would have the same amount of time.

Council Member Bradburn thanked Mr. Battista for applying for the seat. She asked again for a timeline of his work history. He advised Mr. Snow made the offer in the latter part of December 1988 and he arrived in Brooksville in early January 1989. He left the employment of Mr. Snow in 1995 to work for the City of Brooksville until March 2001, then Citrus County until June 30, 2010. He acknowledged he worked for both Johnston & Sasser Law Firm and the City simultaneously. She asked why he wanted to sit on Council. He advised he still has a lot to offer the community and has the right mindset. She asked his opinion of the role of Council. He answered they are the policy makers. She asked what the role of Council is not. He advised it is not to handle the day to day running of the City, which is the role of the City Manager or to handle the legal aspects of running the City, which is the role of the City Attorney.

Council Member Bradburn then asked what he thought of where the City is today. He answered favorably. She asked what he perceived to be the weakness and strength of the City right now. He felt the weakness to be lack of funds and strength to be the Council itself.

Regarding the Building Codes, which are currently being updated, Council Member Bradburn asked Mr. Battista did he not see a need to change them before? He advised he had not been directly involved in the previous code as far as implementing, it was handled by staff. Council Member Bradburn then asked about his involvement in the personnel policies. Mr. Battista advised Council establishes the personnel policies and would have directed staff regarding those. She then asked about his involvement working directly with staff during his previous tenure with the City. Mr. Battista advised that if it did happen it was at the acquiescence of the City Manager.

She asked what he thought of the job the City Manager and City Attorney were doing and if he aspired to be City Attorney again. From an outside perspective he sees no problems with their performance and reiterated that he does not aspire to be the City Attorney again.

Council Member Bernardini asked how he has been involved with the City as a resident. Mr. Battista indicated he is involved in a local church, a member of the Planning and Zoning Commission, the Air Force Association and the Rotary Club.

Vice Mayor Johnston thanked him for his interest in serving on Council.

Mayor Burnett thanked him as well.

SPECIAL COUNCIL MEETING MINUTES – AUGUST 22, 2011

Kevin S. Hohn

Mr. Hohn addressed Council, stating his address in the Southern Hills subdivision. He confirmed that he is indeed a political newcomer but is not new to politics, having served with the Internal Revenue Service and impacting legislative processes overseas. He is committed to the community and even though he has only lived here four (4) years, he has been coming to Brooksville for the last thirty (30) years.

Council Member Bradburn thanked Mr. Hohn. She asked that he elaborate on some of the budget experience he has, which he indicated was mostly with the Internal Revenue Service. She asked his perceived role of Council. Mr. Hohn indicated it is a policy making board representing the citizens of the City of Brooksville. Council Member Bradburn asked his opinion of the City's budget. He stated the budget is being managed properly but questioned how it would be sustained and grown in the future. He felt the most positive aspect the City has done is to grow the business community and must continue for the future. He also felt a seat on City Council would bring better communication of City services provided to the residents of Southern Hills Plantation. Council Member Bradburn asked what he thought was the role of the City Manager. Mr. Hohn felt the primary purpose was to carry out budget procedures established by City Council and to execute all City policies. Council Member Bradburn asked is there anything he would like to see the City change or pursue for next year. Mr. Hohn felt there are a lot of opportunities for growth, internships and vehicle maintenance by looking at every departmental spending and how it can be more efficient or a better way to deliver services provided.

Council Member Bernardini asked how he has been involved in the community as a resident. He advised he spends a lot of money in the community but has not had the opportunity to get involved until now. Council Member Bernardini asked what strength he brings to the City. He advised he is a fact gatherer and a good decision maker. Council Member Bernardini asked his opinion on Red Light Cameras. He stated he has not yet made a decision on the matter until he knows all the facts.

Vice Mayor Johnston thanked Mr. Hohn for his interest. He asked about the fact that Mr. Hohn supervises field representatives in fifteen (15) Midwestern states. Mr. Hohn indicated he works from home for the most part.

Mayor Burnett thanked Mr. Hohn as well.

Council took a 5-minute break.

Temporary Appointment of Council Member to fill Seat #4

Selection and appointment of Council Member.

Council was given the voting ballot by City Clerk Peters, who then tallied the votes, stating a tie vote still exists.

Resolution No.: 2011-04 – Council Tie-Breaker Procedures

Consideration of resolution dictating procedures for breaking tie-votes of Council.

Council Member Bradburn indicated the Resolution lists four (4) options (Coin Toss, Drawing Names from a Container, Drawing Numbers from a Container, and Picking from a Deck of Cards), with but felt there are seven (7). The other three (3) options are negotiating a contract; re-solicit applications; a special election. She favored option number 3.

City Attorney Rey advised it is Council's decision on how to choose the appointment.

SPECIAL COUNCIL MEETING MINUTES – AUGUST 22, 2011

Vice Mayor Johnston felt the drawing of lots and flipping the coin is his favored option. He does not support a special election due to budgetary constraints.

Council Member Bernardini felt there is a distinct difference between the two (2) candidates. He favored a special election but is open for further discussion. He did not favor option number 3 since they have already chosen the top two (2) candidates. He favored a candidate who has experience and knowledge of the City and City Council.

Council Member Bradburn stated she supports Mr. Hohn due to his wealth of professional experience. He has intellect and has articulate knowledge of policy making. He has the ability to be a fact finder and deliberate accordingly.

Mayor Burnett supports Mr. Hohn as a representative of Southern Hills Plantation. He felt both candidates are competent to serve on City Council. He supports choosing one of the tie-breaker procedures as listed on the resolution to appoint a candidate or going with the third candidate. He did not support a lotto or special election.

Council Member Bernardini favored having a special election.

Vice Mayor Johnston, due to budgetary restraints, did not support a special election. He favored the coin toss or drawing of the names.

Mayor Burnett asked if the candidates were ok with either of those options; they were. He advised he was in favor of Option No. 2. (Drawing Names from a Container).

Motion:

Motion was made by Vice Mayor Johnston and seconded by Council Member Bernardini for approval of Resolution No. 2011-04 and Option No. 2. and applies only to tonight's tie-breaker.

Council Member Bernardini asked if Council Member Bradburn was in opposition of a special election. She indicated she did not support a special election due to insufficient time to educate the public on the candidates. She was in favor of going with candidate number three and letting the two who are tied run in the next election.

City Clerk Peters read Resolution No. 2011-04 by title, as follows:

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
BROOKSVILLE, FLORIDA, ESTABLISHING TIE-BREAKING
PROCEDURES FOR TIE VOTES OF THE CITY COUNCIL;
PROVIDING FOR CONFLICT, SEVERABILITY AND AN
EFFECTIVE DATE.**

Motion carried 3-1 upon roll call vote as follows:

Council Member Bradburn	Nay
Council Member Bernardini	Aye (for only tie-breaking the current issue)
Vice Mayor Johnston	Aye
Mayor Burnett	Aye

City Clerk Peters gave each candidate an identical piece of paper to write their names on that was drawn by a neutral party from the audience; Sam McCall of 3077 Dothan Avenue, Spring Hill, Florida.

SPECIAL COUNCIL MEETING MINUTES – AUGUST 22, 2011

Mayor Burnett, after being viewed by all Council Members, announced the name drawn was Kevin Hohn.

Resolution No.: 2011-07 – Designation of Council Member to fill Seat #4

Consideration of resolution filling the vacant Seat #4 until the next regular or special election.

Mayor Burnett announced the next regular election will be in November 2012.

Vice Mayor Johnston pointed out change in the date on the resolution from August 15, 2011 to August 22, 2011 and insert the name of “Kevin Hohn”.

Motion:

Motion was made by Vice Mayor Johnston and seconded by Council Member Bernardini for approval of Resolution No. 2011-07.

City Clerk Peters read Resolution No. 2011-07 by title, as follows:

**A RESOLUTION OF THE CITY COUNCIL OF BROOKSVILLE,
FLORIDA DESIGNATING THE APPOINTMENT TO VACANT CITY
COUNCIL SEAT No.4, SPECIFYING THE TERM OF APPOINTMENT
AND PROVIDING AN EFFECTIVE DATE.**

Motion carried 4-0 upon roll call vote as follows:

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

Swearing in of New Council Member

New Council Member to be sworn in by The Honorable Kurt Hitzemann.

Judge Hitzemann proceeded with swearing in of new Council Member Kevin Hohn.

Vice Mayor Johnston

Vice Mayor Johnston stated the telephone list at City Hall needs to be updated. He also requested the flashing sign at the end of Fort Dade Avenue be removed since the work has been completed.

Council Member Bernardini

Council Member Bernardini asked that the grass be mowed on Oak Street. He welcomed Mr. Hohn and thanked all who applied.

Council Member Bradburn

Council Member Bradburn welcomed Council Member Hohn and thanked all who applied. She told Mr. Battista that she appreciated his forthright answers. She thanked Mr. McKethan for making himself available.

Council Member Hohn

Council Member Hohn thanked all.

SPECIAL COUNCIL MEETING MINUTES – AUGUST 22, 2011

City Attorney Hogan

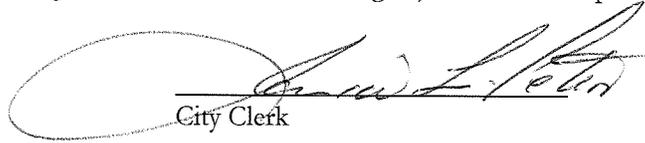
City Attorney Hogan filed with City Clerk Peters the other ballot name from the draw. He welcomed Council Member Hohn. He stated his appreciation to Mr. Battista for being willing to serve and being a good friend through their years of private practice.

City Manager Norman-Vacha

City Manager Norman-Vacha indicated there is a budget document available for Council Member Hohn for tomorrow night's meeting at 6:00 p.m.

ADJOURNMENT

There being no further business to bring before Council, the meeting adjourned at 9:28 p.m.


City Clerk

Attest: _____
Mayor



CONSENT AGENDA ITEM MEMORANDUM

TO: THE HONORABLE MAYOR AND CITY COUNCILMEN
VIA: T. JENNENE NORMAN-VACHA, CITY MANAGER *T. Jennene Norman-Vacha*
FROM: *Richard W. Radacky* RICHARD W. RADACKY, PUBLIC WORKS DIRECTOR
SUBJECT: ROAD/SIDEWALK PAVEMENT MANAGEMENT PROGRAM
DATE: NOVEMBER 18, 2011

GENERAL SUMMARY/BACKGROUND: Roadways represent an immense taxpayer investment. It is essential that this investment is maintained at the highest level possible taking into consideration safety and available funding.

Sidewalks represent a significant liability if not constructed and maintained properly. Considering the age of the City, its topography and legislation, such as the Americans with Disabilities Act, Brooksville's sidewalks present a unique and complex rehabilitation challenge.

An ongoing maintenance program will also be developed and implemented to not only rehabilitate roadways and sidewalks, but, to keep these assets in a safe and sound state of repair. The overall goal of a Pavement Management Program is to determine the correct rehabilitation strategy, to the correct road/sidewalk, at the right time, and at the right price.

The City Council, at its Budget Workshop of August 23rd, was presented with a proposal by Civil-Tech Consulting Engineers, Inc., to survey and inventory the City's roads and sidewalks. The program will identify pavement condition, the type of rehabilitation or reconstruction needed, and the costs to bring roads (including brick streets) and sidewalks to a safe and acceptable level. The program will also prioritize and rank road and sidewalk needs, taking into consideration available funding.

The program will also train City personnel to evaluate various roadway and sidewalk conditions and to make repair effectively and timely. The cost of program development will be \$91,184.

Staff believes that Civil-Tech Engineers, Inc., is uniquely qualified to complete this project for the following reasons:

- The President and co-owner of Civil-Tech is Alan Garman. Alan formed Civil-Tech 23 years ago. He has represented many developers and individuals in planning, zoning and constructing developments within Hernando County. He also is a Brooksville native.

- The Vice President and co-owner is Lyle Robert Titterington. Lyle is a Registered Professional Engineer in Florida and has completed numerous road construction, inventory and management programs throughout Northwest Central Florida. He also was Public Works Director and City Engineer for the City of Brooksville and past County Engineer for Marion County, Florida.
- The Chief Designer of Civil Engineering for this project is Larry Boone. Larry is a Registered Professional Engineer in Florida and has overseen the construction and maintenance of a tremendous amount of road, drainage and sidewalk projects. He recently retired from the Florida Department of Transportation as Regional Director for an area which included Hernando County. He also has been a City of Brooksville resident since 1966.
- Civil-Tech is a local engineering firm in Brooksville. The project team is intimately aware of Brooksville roadways, sidewalks and drainage which will reduce the costs to complete our pavement management project. If future questions arise, it would be convenient for staff to bring these matters before the firm.

§ **BUDGET IMPACT:** Funding for the program is available from Fund No. 308 (Multi-Year Capital Projects Accumulation Fund). The Pavement Management Program is currently budgeted in Fiscal Year 2011/12 for \$300,000.

§ **LEGAL REVIEW:** City Council has home-rule authority (Art. VIII, 2(b), Fla Const./Section 166.011, F.S.) to consider matters of fiscal and intergovernmental benefit. Pursuant to Section 5.04 of the City Charter, competitive bidding is required except to the extent that Council authorizes otherwise by ordinance. Pursuant to Section 2-304 (a) (1) and (2) of the Code of Ordinances, the amount of expenditure for which the City may obligate itself without competitive bidding by the City is increased provided: (1) the City Manager recommends to the City Council that a specific purchase be made by piggybacking on an award by another governmental entity's competitive bidding process; and (2) the other governmental entity's competitive bidding process provides substantially equivalent guarantees of fairness and competitiveness to those of the City.

STAFF RECOMMENDATION: Staff recommends Council approval of the Road/Sidewalk Inventory and Pavement Management Program with Civil-Tech Consulting Engineers, Inc., in the amount of \$91,184, and authorize the Mayor to sign the Professional Services Agreement on behalf of the Council.

ATTACHMENTS:

Professional Services Agreement
Task Order 1

**CITY OF BROOKSVILLE
HERNANDO COUNTY, FLORIDA
PROFESSIONAL SERVICES AGREEMENT**

THIS AGREEMENT, made and entered into this ____ day of _____, 2011, by and between the CITY OF BROOKSVILLE, 201 Howell Ave., Brooksville, Florida, a municipality incorporated under the laws of the State of Florida, hereinafter called the CITY and Civil-Tech Consulting Engineers, Inc., duly authorized to conduct business in the State of Florida, hereinafter called the PROFESSIONAL.

WITNESSETH:

SECTION 1. The CITY does hereby retain the PROFESSIONAL to furnish certain services in connection with:

PAVEMENT/SIDEWALK MANAGEMENT SYSTEM

SECTION 2. The PROFESSIONAL and the CITY mutually agree to furnish, each to the other, the respective services, information and terms as described in Exhibit "A", attached hereto and made a part hereof.

Before any additions or deletions to the work described in Exhibit "A", and before undertaking any changes or revisions to such work, the parties shall negotiate any necessary cost changes and shall enter into a supplemental written AGREEMENT covering such modifications and the compensation to be paid therefore.

Reference herein to this Agreement shall be considered to include any supplemental thereto.

Reference herein to City Manager shall mean the City Manager, or designee.

SECTION 3. The services indicated in Exhibit "A", to be rendered by the PROFESSIONAL shall be commenced, subsequent to the execution of this AGREEMENT, upon written notice from the City Manager, and shall be completed with 365 days from the date of Notice to Proceed, and receipt of all required survey documents.

SECTION 4. The PROFESSIONAL agrees to provide Project Schedule progress reports in a format acceptable to the CITY, either monthly or at intervals established by the CITY. The CITY will be entitled at all times to be advised, at its request, as to the status of work being done by the PROFESSIONAL and of the details thereof. Coordination shall be maintained by the PROFESSIONAL with representatives of the CITY. Either party to the Agreement may request and be granted a conference.

SECTION 5. In the event there are delays on the part of the CITY as to the approval of any of the materials submitted by the PROFESSIONAL, as if there are delays occasioned by circumstances beyond the control of the PROFESSIONAL which delay the project schedule completion date, the CITY shall grant to the PROFESSIONAL, by "Letter of Time Extension" an extension of the contract time, equal to the aforementioned delays, provided there are no changes in compensation or scope of work, except those changes that may be agreed upon between the parties hereto.

It shall be the responsibility of the PROFESSIONAL to ensure at all times that sufficient contract time remains within which to complete all services on the project. In the event there have been delays which would affect the project completion date, the PROFESSIONAL shall submit a written request to the CITY which identifies the reason(s) for the delay and the amount of time related to each reason. The CITY shall timely review the request and make a determination as to granting all or part of the requested extension.

In the event contract time expires and the PROFESSIONAL has not requested, or if the CITY has denied an extension of the completion date, partial progress payments will be stopped on the date time expires. No further payment for the project will be made until a time extension is granted or all work has been completed and accepted by the CITY.

Liquidated damages, as determined below, up to the actual compensation paid to the PROFESSIONAL under this Agreement, shall be assessed by the CITY until the PROFESSIONAL'S work is complete. Liquidated damages, should they apply, are to be calculated by taking the days of delinquency divided by the total days of Tasks resulting in a percentage which is then multiplied by the actual compensation paid to the PROFESSIONAL. Liquidated damages shall apply only to delinquency in completing the scope within 36 5 days. The foregoing liquidated damages shall not be assessed if the PROFESSIONAL is delayed by the CITY or is delayed for causes beyond the PROFESSIONAL'S control. IN ANY LITIGATION ARISING FROM THIS AGREEMENT, THE PARTIES SHALL BEAR THEIR OWN COSTS AND ATTORNEY'S FEES.

SECTION 6. The PROFESSIONAL shall maintain an adequate and competent professional staff within the State of Florida and may associate with Specialists, Sub-Professionals and/or other Professionals, for the purpose of its services hereunder, without additional cost to the CITY. Should the PROFESSIONAL desire to utilize other Specialists, Sub-Professionals and/or Professionals in the performance of the work, the PROFESSIONAL shall be responsible for satisfactory completion of all such Specialists', Sub-Professionals' and/or other Professionals' work, and may not assign or transfer work under this Agreement to other Specialists, Sub-Professionals or Professionals unless approved in writing by the CITY. It is agreed that only Specialists, Sub-Professionals and/or other Professionals which have been approved by an authorized representative of the CITY will be used by the PROFESSIONAL. It is also agreed that the CITY will not, except for services so designated herein, or as may be approved by the CITY, if applicable, permit or authorize the PROFESSIONAL to perform less than the total contract work

with other than its own organization.

SECTION 7. All final plans, documents, reports, studies and other data prepared by the PROFESSIONAL will bear the endorsement of a person in the full employ of the PROFESSIONAL and duly registered in the appropriate professional category.

- a) After the CITY'S acceptance of final plans and documents, a reproducible mylar of the PROFESSIONAL'S drawings, tracings, plans and maps will be provided to the CITY. Upon completion of construction by the contractor, the PROFESSIONAL shall furnish acceptable field verified "record drawings" of full size prints. The PROFESSIONAL shall signify, by affixing an appropriate endorsement, on every sheet of the record sets, that the work shown on the endorsed sheets was reviewed by the PROFESSIONAL. With the tracings and the record sets of prints, the PROFESSIONAL shall submit three (3) final sets of operation and maintenance manuals.
- b) The PROFESSIONAL shall not be liable for use by the CITY of said plans, documents, studies or other data for any purpose other than stated in the Scope of Services, Exhibit "A" of this Agreement.

SECTION 8. All tracings, plans, specifications, maps, surveys, field survey notes, and/or reports prepared or obtained under this Agreement shall be considered works made for hire and shall become the property of the CITY restricted to the terms of (7) above; and reproducible copies shall be made available, upon request, at direct printing costs, to the CITY at any time during the period of this Agreement. The CITY will have the right to visit the site for inspection of the work and the drawings of the PROFESSIONAL at any time. Unless changed by written agreement of the parties, said site shall be address of firm. Records of cost incurred under terms of this Agreement shall be maintained and made available upon request of the CITY at all times during the period of this Agreement and for five (5) years after final payment is made. Copies of these documents and records shall be furnished to the CITY upon request at direct printing cost.

Records of cost incurred includes the PROFESSIONAL project accounting records, together with supporting documents and records of the PROFESSIONAL and all Specialists, Sub-Professionals and/or other Professionals performing work on the project, and all other records of the PROFESSIONAL and Specialists, Sub-Professionals and/or other Professionals considered necessary by the CITY for a proper audit of project costs.

Whenever travel costs are included in Exhibit B, the provisions of Section 112.061, Florida Statutes, shall govern as to reimbursable costs.

The PROFESSIONAL shall furnish to the CITY at direct printing cost all final work documents, papers and letters, or any other such materials which may be subject to the provisions of Chapter 119, Florida Statutes, made or received by the PROFESSIONAL in conjunction with this project.

Failure by the PROFESSIONAL to provide such records shall be grounds for immediate unilateral cancellation of the Agreement by the CITY.

SECTION 9. The PROFESSIONAL shall comply with all federal, state and local laws and ordinances applicable to the work or payment thereof, and shall not discriminate on the grounds of race, color, religion, sex or national origin in the performance of work under this Agreement.

SECTION 10. The CITY agrees to pay the PROFESSIONAL compensation as detailed in Exhibit B, attached hereto and made a part hereof. Unless otherwise agreed to, this is a lump sum contract. No additional fees or expenses will be paid.

SECTION 11. The PROFESSIONAL is employed to render a professional service only and that payments made to the PROFESSIONAL are compensation solely for such services rendered and recommendations made in carrying out the work. The PROFESSIONAL shall perform and complete all work in a workmanlike manner to the best of its abilities and in accordance with sound engineering and professional consulting practices and principles.

In performing construction phase services, the PROFESSIONAL may be requested to act as agent of CITY. The PROFESSIONAL'S review or supervision of work prepared or performed by other individuals or firms employed by the CITY shall not relieve those individuals or firms of complete responsibility for the adequacy of their work.

SECTION 12. The CITY may terminate this Agreement in whole or in part at any time the interest of the CITY requires such termination.

- a) If the CITY reasonably determines that the performance of the PROFESSIONAL is not satisfactory, the CITY shall have the option of:
 - 1) immediately terminating the Agreement and paying the PROFESSIONAL for work reasonably satisfactorily performed hereunder through the date of termination;
 - 2) notify the PROFESSIONAL of the deficiency, with a requirement that the deficiency be corrected within a reasonable specified time, otherwise the Agreement will be so terminated at the end of such time, and the PROFESSIONAL shall be paid for work satisfactorily completed to such specified date.

- b) If the CITY requires termination of the Agreement for reasons other than unsatisfactory performance of the PROFESSIONAL, the CITY shall notify the PROFESSIONAL of such termination and specify the state of work at which time the Agreement is to be terminated, and the PROFESSIONAL shall be entitled to receive payment of all work reasonably satisfactorily performed hereunder through the date of termination. An allowance for satisfactory work in progress but not yet completed shall be made.
- c) If the Agreement is terminated before performance is completed, the PROFESSIONAL shall be paid for work satisfactorily performed. Payment is to be on the basis of substantiated costs, not to exceed an amount which is the same percentage of the estimated contract price as the amount of work performed is a percentage of the total work called for by the Agreement.

SECTION 13. Adjustment of compensation and contract time because of any major changes in the work that may become necessary or desirable as the work progresses shall be left to the absolute discretion of the CITY and supplemental agreement(s) of such a nature as required may be entered into by the parties in accordance herewith.

SECTION 14. All words used herein in the singular form shall extend to and include the plural. All words used in the plural form shall extend to and include the singular. All words used in any gender shall extend to and include all genders.

SECTION 15. The PROFESSIONAL shall procure and maintain professional liability insurance for protection from claims arising out of performance of professional services caused by a negligent error, omission or act for which the insured is legally liable; such professional liability insurance will provide coverage in the amount of \$ 1,000,000.00 (\$500,000 min). Proof of insurance shall be provided to the CITY upon execution of this Agreement.

The PROFESSIONAL will also cause professional Specialists and/or Sub-Professionals retained by PROFESSIONAL for the project to procure and maintain comparable professional liability insurance coverage. Before commencing the work, the PROFESSIONAL shall furnish the CITY a certificate(s) showing compliance with this paragraph. Said policy shall show CITY as additionally insured and reference project name. Said certificate(s) shall provide that policy(s) shall not be changed or canceled until 30 days prior written notice has been given to the CITY.

SECTION 16. The PROFESSIONAL warrants that he has not employed or retained any company or person, other than a bona fide employee working solely for the PROFESSIONAL, to solicit or secure this Agreement, and that he has not paid or agreed to pay any person, company, corporation, individual or firm any fee, commission, percentage, gift or any other consideration, contingent upon or resulting from the award or making of this Agreement. It is understood and agreed that the term "fee" shall also include brokerage fee, however denoted.

- a) For the breach of violation of Paragraph (16) the CITY shall have the right to terminate this Agreement without liability and, at its discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift or consideration.

SECTION 17. Unless otherwise required by law or judicial order, the PROFESSIONAL agrees that it shall make no statements, press releases or publicity releases concerning the Agreement or its subject matter or otherwise disclose or permit to be disclosed any of the data or other information obtained or furnished in compliance with this Agreement, or any particulars thereof, during the period of the Agreement, without first notifying the CITY and securing its consent in writing. The PROFESSIONAL also agrees that it shall not publish, copyright or patent any of the site specific data furnished in compliance with this Agreement; it being understood that, under Paragraph (8) hereof, such data or information is the property of the CITY.

This does not include materials previously or concurrently developed by the PROFESSIONAL for "In House" use. Only data generated by PROFESSIONAL for work under this Agreement shall be the property of the CITY.

SECTION 18. Standards of Conduct - Conflict of Interest - The PROFESSIONAL covenants and agrees that it and its employees shall be bound by the standards of conduct provided in Florida Statutes 112.313 as it relates to work performed under this contract, which standards is hereby incorporated and made a part of this contract as though set forth in full. The PROFESSIONAL agrees to incorporate the provisions of this paragraph in any subcontract into which it might enter with reference to the work performed.

SECTION 19. The CITY reserves the right to suspend, cancel or terminate the Agreement in the event one or more of the PROFESSIONAL'S Corporate Officers is indicted or has a direct information issued against him for any crime arising out of or in conjunction with any work being performed by the PROFESSIONAL for or on behalf of the CITY under this Agreement without penalty. It is understood and agreed that in the event of such termination, that reproducible copies of all tracings, plans, specifications, maps, and data prepared or obtained under this Agreement shall immediately be turned over to the CITY in conformity with the provisions of Paragraph (8) hereof. The PROFESSIONAL shall be compensated for its services rendered up to the time of any such termination in accordance with Paragraph (12) hereof. The CITY also reserves the right to terminate or cancel this Agreement in the event the PROFESSIONAL shall be placed in either voluntary or involuntary bankruptcy or an assignment be made for the benefit of creditors. The CITY further reserves the right to suspend the qualifications of the PROFESSIONAL to do business with the CITY upon any such indictment or direct information. In the event that any such person against whom any such indictment or direct information is brought shall have indictment or direct information dismissed or be found not guilty, such suspension on account hereof shall be immediately lifted by the CITY Administrator.

SECTION 20. The PROFESSIONAL agrees to indemnify, defend, save, and hold the CITY and all of its agents or employees harmless from liability arising out of the negligent errors or negligent omissions of the PROFESSIONAL, its agents, employees, officers, directors, Specialists and/or Sub-Professionals, or

representatives in the performance of PROFESSIONAL'S duties under this Agreement.

SECTION 21. All notices required to be served on the PROFESSIONAL shall be served by Registered or Certified mail, Return Receipt Requested, to PROFESSIONAL'S address and all notices required to be served upon the CITY shall be served by Registered or Certified mail, Return Receipt Requested, addressed to the CITY Manager, City of Brooksville, 201 Howell Avenue, Brooksville, FL 34601.

SECTION 22. The CITY reserves the privilege of auditing a vendor's records, by a representative of the CITY, as such records relate to equipment, goods or services and expenditures therefor, with respect to any express or implied agreement between the CITY and said vendor. Such records include, but are not limited to: all books, records, and memoranda of every description, pertaining to work under contract. The CITY further reserves the right to reproduce any of the aforementioned documents pertaining to the work under contract.

SECTION 23. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.

SECTION 24. Attachments:
Exhibit "A" Scope of Services
Exhibit "B" Compensation & Method of Payment

IN WITNESS WHEREOF, the parties hereto have caused these present to be executed, the day and year first above written.

(SEAL)

CITY OF BROOKSVILLE
HERNANDO COUNTY, FLORIDA

MAYOR

Attest: _____
Janice Peters

(SEAL)

NAME, TITLE OF PROFESSIONAL

Alan Garman, President

Alan K. Garman

Civil-Tech Consulting Engineers, Inc.
FIRM NAME

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY
BY _____
City Attorney

EXHIBIT “A”

SCOPE For Pavement Management System Components

The Consultant shall act as the City’s agent to inventory the entire City street network. Utilize existing mapping and modify as necessary to create a database of the following:

1. Right-of-Way widths
2. Pavement Widths
3. Open or Closed drainage
4. Surface condition
5. Detectable base condition
6. Presence of sidewalks
7. Condition of Sidewalks
8. Length of all streets
9. Signage
10. Any additional data that the Consultant deems useful in establishing a database.

Street / Sidewalk Network Inventory

STEP 1: STREET / SIDEWALK NETWORK INVENTORY

The inventory is a listing of street names with their corresponding length and width. Surface type (i.e. paved or unpaved) should be included in the initial survey. In addition, a system for dividing the road network into manageable segments must be devised. A simple approach is to designate sections which correspond to intersections or to changes in pavement condition. Sections can be identified by house number, street name or any other device, provided the landmark is permanent. In addition to the streets, sidewalks on one or both sides of the roadway shall be included in this scope.

STEP 2: PAVEMENT CONDITION SURVEY

The Consultant shall physically inspect all components of the inventory to provide a complete survey of the condition of the streets.

The pavement condition survey should collect the information needed to identify:

- a. streets which need no immediate maintenance and therefore no immediate expenditures.
- b. streets which require minor or routine maintenance and immediate expenditures.
- c. streets which require preventive maintenance activities such as asphalt overlay, seal, etc.
- d. streets which need major rehabilitation or reconstruction. These roads have deteriorated to the point that maintenance is no longer cost-effective and more-major work is required to raise the condition to an acceptable level.”

Develop a PCI number or pavement condition index of each street to be used in classification of current level.

Project Ranking

The Consultant shall once the database is created, manage the rankings of the inventory as to the recommended maintenance and associated costs.

STEP 3: PROJECT RANKING

When the pavement survey is complete and maintenance needs have been determined, the next step is to rank the recommended maintenance actions for specific street segments. The philosophy of project ranking reflects both the worst-first and best-first concepts. Clearly the pavements in the poorest condition have high priority; these sections cause unnecessary wear and tear to vehicles and are expensive to maintain, and may be hazardous (potholes). Yet, the best roads, those which are well built and in good condition, represent an investment, which should be protected against normal deterioration.

To satisfy this need to set dual priorities, the worst-first criterion is applied within each type of maintenance: rehabilitation and reconstruction. (No priorities are set for routine maintenance, presumably accomplished within adequate force accounts). Then, the best-first criterion is used in the programming stage (STEP 4), to assure that routine and preventive maintenance is not short-changed in favor of the more conspicuous reconstruction projects. A separate list of prioritized projects will be developed for each type of maintenance. The trade-offs between these two categories will be a matter of policy, set in programming (STEP 4). Again, routine maintenance will not be prioritized and should be funded as a group before any other projects.

Programming

STEP 4: PROGRAMMING

Having listed maintenance needs and their relative priorities within each, type of maintenance project, the time has come to bite the bullet to decide where to spend the limited funds available and whether additional funds should be appropriated.

First, the cost of each project must be estimated. In this planning stage, approximate unit costs will be sufficient.

Each community should make a short list of unit costs for treatments used recently in that community. This will avoid confusion concerning the procedure being estimated, changing costs over time, and local price differences. It may be convenient to specify average unit costs per mile for specific procedures, such as crack sealing, 1 1/2" overlay, reconstruction to 12", etc. These costs are then easily applied to the road segments measured in STEP I to yield rough estimates of the project costs.

Project costs will be summed within each maintenance category to estimate total dollar needs. Comparison of these dollar needs with currently available funds will raise the necessary programming questions such as:

Can additional funds be allocated to the program? and

Over how many years can this program spread?

Implementation and Record-Keeping

STEP 5: IMPLEMENTATION AND RECORD-KEEPING

The feedback process is important in pavement management. The first list of maintenance needs developed by the superintendent must respond to fiscal limitations. Then repeated adjustments are required to achieve the program which will buy the most in terms of long-term pavement service with the resources the local government has allocated.

The approved program will then be implemented. Further adjustments may be necessary due to delays in contract work, unforeseen maintenance problems and so forth. In any case, the program should be updated every year or two to reflect both work completed and further deterioration of pavements.

An essential part of the updating process is keeping good records. A street-by-street file for tracking pavement condition and maintenance actions over the years should include a record for each street segment. Maintenance should be recorded as it is performed. Data on pavement conditions can be updated as staff time is available.

Once the programming process is established, updating the data and recommendations can be a routine function.



AGENDA ITEM MEMORANDUM

TO: HONORABLE MAYOR AND CITY COUNCIL MEMBERS

VIA: JENNENE NORMAN-VACHA, CITY MANAGER *Jennene Norman-Vacha*

FROM: GEORGE B. TURNER, CHIEF OF POLICE *George B. Turner*

SUBJECT: ORDINANCE NO. 770-B - PROPOSED AMENDMENTS TO THE BROOKSVILLE POLICE OFFICER'S RETIREMENT PLAN AND TRUST

DATE: NOVEMBER 17, 2011

GENERAL SUMMARY/BACKGROUND: This is the first reading of the proposed amendment which incorporates revisions to the Florida Statutes which were passed into law by the Florida Legislature as Chapter 2011-216 (SB 1128). This law excludes accumulated sick and vacation leave earned after July 1, 2011 from the definition of compensation for pension purposes. Additionally, after July 1, 2011, overtime included in the pension must be limited to 300 hours. The law made no changes to time earned before July 1, 2011.

Article 2.23 – Salary/Compensation has been modified to include this new language.

SB **BUDGET IMPACT:** Foster & Foster Actuarial Consultants have reviewed the proposed ordinance changes and provided the accompanying Actuarial Impact Statement comparing the impact on the Total Required Contribution (per Florida Statutes Chapter 112), and the required City contribution, resulting from the implementation of the changes.

BB **LEGAL REVIEW:** Pursuant to Fla.Stat.185.06(4), the sole and exclusive administration of, and he responsibility for, the proper operation of the retirement trust fund and for making effective the provisions of the statute are vested in the board of trustees of the plan; however, nothing within the statute shall empower a plan's board of trustees to amend the provisions of a retirement plan without the approval of the municipality. Therefore, the City Council has the authority to consider for approval ordinance changes which amend provisions of the retirement plan. The City Attorney has reviewed the proposed Ordinance 770-B and finds it in good legal form.

STAFF RECOMMENDATION: Staff recommends that the City Council approve said amendments to the Brooksville Police Officers Retirement Plan and Trust.

ATTACHMENTS: 1. Letter from Board Attorney dated 08/24/11
2. Actuarial Impact Statement

ORDINANCE NO. 770-B

AN ORDINANCE OF CITY COUNCIL OF THE CITY OF BROOKSVILLE, FLORIDA, AMENDING THE CITY OF BROOKSVILLE POLICE OFFICERS RETIREMENT TRUST FUND ADOPTED PURSUANT TO ORDINANCE NO. 770, AS SUBSEQUENTLY AMENDED; AMENDING ARTICLE 2.23, SALARY/COMPENSATION; ADOPTING AN AMENDED AND RESTATED PLAN DOCUMENT; PROVIDING FOR CONFLICT, REPEAL AND SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Brooksville has an established Retirement Plan and Trust for the Police Officers of the City of Brooksville; and

WHEREAS, the City Council and the Trustees of the City of Brooksville Police Officers Pension Plan desire to amend, clarify and restate the provisions of the Retirement Plan and Trust for the Police Officers of the City of Brooksville.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF BROOKSVILLE, FLORIDA, that:

SECTION 1. AMENDED PROVISIONS. The City of Brooksville Retirement Plan and Trust for the Police Officers, adopted pursuant to Ordinance No. 770, is hereby amended as follows:

Article 2.23 Salary/Compensation.

“Compensation” or “salary” means the total cash remuneration paid to a Police Officer for services rendered including overtime payments which are limited to not more than 300 hours per calendar year, but not including any payments for extra duty or a special detail work performed on behalf of a second party employer. No hours of unused sick or vacation leave which are earned on and after July 1, 2011 will be included the final average salary calculation; any unused sick and vacation leave earned before July 1, 2011 which are paid after that date may be included as pensionable. For time earned before July 1, 2011, the ~~The 300 hour limitation on overtime shall not apply in the event that the municipality declares an emergency (for example, hurricane, tornado, tropical storm or other natural or man-made emergency);~~ after July 1, 2011, the 300 hour overtime limitation is applied in all cases. The changes to the definition of “Salary/Compensation” effective July 1, 2011 are not applicable to any participants who are eligible for normal retirement on July 1, 2011. Compensation in excess of the limitations set forth in Section 401(a)(17) of the Code shall not be included as salary/compensation for purposes of the Plan. Beginning with salary/compensation after December 31, 2008, and pursuant to Internal Revenue Code Section 414(u)(7), the definition of salary/compensation includes amounts paid by the City as differential wages to members who are absent from employment while in qualified military service.

SECTION 2. AMENDED AND RESTATED PLAN. Ordinance No. 770 of the City of Brooksville, as amended by SECTION 1 of this Ordinance, is hereby amended and restated as set forth in the document attached as Exhibit A entitled "Brooksville Police Pension Fund Pension Plan Document."

SECTION 3. CONFLICT AND REPEALER. All Ordinances or parts of thereof in conflict with this Ordinance are hereby repealed to the extent of such conflict.

SECTION 4. SEVERABILITY. If any article, section, subsection, sentence, clause or phrase 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 and distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 5. EFFECTIVE DATE. This Ordinance shall take effect immediately upon its adoption.

CITY OF BROOKSVILLE

By: _____
Frankie Burnett, 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 _____
Hohn _____
Johnston _____

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

Insertions indicated by **Bold/Double Underline**
Deletions indicated by ~~Strikethrough~~

THE LAW OFFICES OF
PERRY & JENSEN, LLC

ANN H. PERRY
aperry@perryjensenlaw.com

BONNI SPATARA JENSEN
bsjensen@perryjensenlaw.com

August 24, 2011

VIA EMAIL

T. Jennene Norman-Vacha, City Manager
City of Brooksville
201 Howell Avenue
Brooksville, Florida 34601-2041

Re: Retirement Plan and Trust for the Police Officers
of the City of Brooksville
Proposed Amendment: SB 1128
Our File No.: 0233.0050

Dear Ms. Norman-Vacha:

On behalf of the Board of Trustees of the Retirement Plan and Trust for the Police Officers of the City of Brooksville, enclosed is a proposed amendment to the Pension Plan. The amendment incorporates revisions to the Florida Statutes which were passed into law by the Florida Legislature as Chapter 2011-216 (SB 1128). This law excludes accumulated sick and vacation leave earned after July 1, 2011 from the definition of compensation for pension purposes. Additionally, after July 1, 2011, overtime included in the pension must be limited to 300 hours. The law made no changes to time earned before July 1, 2011.

Article 2.23 has been modified to include this new language.

Enclosed is an actuarial impact statement dated August 16, 2011, which shows that, as a result of these changes, the cost of the Plan has decreased. Please place this amendment on the next City Council Agenda.

If you have any questions regarding this or any other matter, please do not hesitate to contact my office.

Sincerely yours,



Bonni S. Jensen

BSJ/ks
Enclosure
ECopy to: Board of Trustees

CITY OF BROOKSVILLE
POLICE OFFICERS' RETIREMENT PLAN AND TRUST

ACTUARIAL IMPACT STATEMENT

August 16, 2011
(Page 1)

Attached hereto is a comparison of the impact on the Total Required Contribution (per Chapter 112, Florida Statutes), and the Required City Contributions, resulting from the implementation of the following changes:

- 1.) Eliminate the inclusion of lump sum sick and vacation payouts attributable to service after July 1, 2011 in the definition of pensionable compensation.
- 2.) Eliminate the inclusion of overtime in excess of 300 hours per year after July 1, 2011 in the definition of pensionable compensation.

The cost impact, determined as of October 1, 2010, as applicable to the plan/fiscal year ending September 30, 2011, is as follows:

	<u>Current</u>	<u>Proposed</u>
Total Required Contribution % of Total Annual Payroll	39.4%	37.5%
Less Member Cont.	1.0%	1.0%
Equals Required City & State % of Total Annual Payroll	38.4%	36.5%
Estimated State Contribution % of Total Annual Payroll	123,439 12.9%	123,439 12.9%
Balance From City % of Total Annual Payroll	25.5%	23.6%

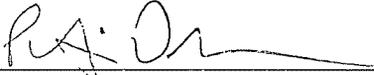
* In order to determine the impact of Item 1 above, we needed to make a couple of assumptions. The first assumption is whether the "amount of accrued unused sick and vacation leave" is a dollar amount or a number of hours. The assumption made in this Impact Statement is that it is the number of hours. The second assumption relates to the number of hours of leave time that will be payable at the time each Police Officer retires. In order to make this determination, the accrued sick and vacation time for each Police Officer was provided to us as of July 1, 2011. The assumption made in this Impact Statement is that when each individual retires at a future date, their projected pensionable compensation will be increased by the current number of sick and vacation hours on the books. Previously, the expected amount of sick and vacation payout was 25% of the final year's salary. With the proposal, the amount is estimated on an individual basis. Please note that, if necessary, we will update the projected payouts each year when we prepare the actuarial valuation report.

CITY OF BROOKSVILLE
POLICE OFFICERS' RETIREMENT PLAN AND TRUST

ACTUARIAL IMPACT STATEMENT

August 16, 2011
(Page 2)

The changes presented herein are in compliance with Part VII, Chapter 112, Florida Statutes and Section 14, Article X of the State Constitution.

 8/16/11

Patrick T. Donlan EA, MAAA
Enrolled Actuary #11-6595

STATEMENT OF PLAN ADMINISTRATOR

The prepared information presented herein reflects the estimated cost of the proposed improvement.

Chairman, Board of Trustees

Comparative Summary of Principal Valuation Results

	<u>New Benefits</u> <u>10/1/2010</u>	<u>Old Benefits</u> <u>10/1/2010</u>
A. Participant Data		
Number Included		
Actives	21	21
Service Retirees	0	0
Beneficiaries	0	0
Terminated Vested	6	6
Disability Retirees	0	0
DROP Retirees	0	0
Total	27	27
Valuation Annual Payroll	\$959,684	\$959,684
Covered Annual Payroll	959,684	959,684
Annual Rate of Payments to:		
Service Retirees	0	0
Beneficiaries	0	0
Terminated Vested	0	0
Disability Retirees	0	0
DROP Retirees	0	0
B. Assets		
Actuarial Value	3,102,669	3,102,669
Market Value	3,013,630	3,013,630
C. Liabilities		
Present Value of Benefits		
Active Members		
Retirement Benefits	3,657,072	3,775,647
Disability Benefits	164,115	169,622
Death Benefits	76,261	76,568
Termination Benefits	491,651	507,859
Service Retirees	0	0
Beneficiaries	0	0
Terminated Vested	2,940	2,940
Disability Retirees	0	0
DROP Retirees	0	0
Excess State Monies Reserve	9,465	9,465
Contribution Surplus Account	1,156,325	1,156,325
Total	5,557,829	5,698,426

	New Benefits <u>10/1/2010</u>	Old Benefits <u>10/1/2010</u>
C. Liabilities - (Continued)		
Present Value of Future Salaries	7,792,855	7,792,855
Present Value of Future Member Contributions	77,929	77,929
Sponsor Normal Cost (Aggregate Cost Method)	292,754	310,069
Present Value of Future Normal Costs (Entry Age Normal)	N/A	N/A
Actuarial Accrued Liability	N/A	N/A
Unfunded Actuarial Accrued Liability (UAAL)	N/A	N/A
D. Actuarial Present Value of Accrued Benefits		
Vested Accrued Benefits		
Inactives	2,940	2,940
Actives	645,682	663,418
Member Contributions	40,377	40,377
	<hr/>	<hr/>
Total	688,999	706,735
Non-vested Accrued Benefits	519,313	534,689
	<hr/>	<hr/>
Total Present Value Accrued Benefits	1,208,312	1,241,424
Increase (Decrease) in Present Value of Accrued Benefits Attributable to:		
Plan Amendments	(23,690)	
Method Changes	0	
New Accrued Benefits	0	
Benefits Paid	0	
Interest	0	
Other	0	
	<hr/>	
Total:	(23,690)	

Valuation Date Applicable to Fiscal Year Ending	New Benefits 10/1/2010 <u>9/30/2011</u>	Old Benefits 10/1/2010 <u>9/30/2011</u>
E. Pension Cost		
Sponsor Normal Cost (with interest) % of Projected Annual Payroll*	31.6	33.5
Administrative Expense (with interest) % of Projected Annual Payroll*	4.9	4.9
Payment Required to Amortize Unfunded Actuarial Accrued Liability over 30 years (as of 10/1/10) % of Projected Annual Payroll*	0.0	0.0
Sponsor Required Contribution % of Projected Annual Payroll*	36.5	38.4

* Contributions developed as of 10/1/10 are expressed as a percentage of projected annual payroll at 10/1/10 of \$959,684

ACTUARIAL ASSUMPTIONS AND FUNDING METHODS
(Page 1)

Assumptions

Mortality Rates

RP 2000 Combined Healthy Mortality Table. Disableds set forward 5 years.

Termination Rates

Select Rates

Year	<u>1</u>	<u>3</u>	<u>5</u>	<u>7</u>	<u>9</u>
Male	15.0%	8.5%	6.0%	5.2%	4.3%
Female	10.0%	8.5%	7.0%	5.7%	4.7%

Ultimate Rates

Age	<u>25</u>	<u>35</u>	<u>45</u>	<u>55</u>
Male	4.28%	3.12%	2.88%	0
Female	5.41%	4.03%	3.67%	0

Disability Rates

Age	<u>25</u>	<u>35</u>	<u>45</u>	<u>55</u>
Male	0.07%	0.12%	0.46%	1.00%
Female	0.04%	0.12%	0.43%	0.84%

Retirement Rates

	Age	<u>50</u>	<u>51</u>	<u>52</u>	<u>53</u>	<u>54</u>	<u>55</u>
Hired After Age 35		15%	15%	15%	15%	15%	100%
Hired at 34		15%	15%	15%	15%	40%	100%
Hired at 33		15%	15%	15%	40%	15%	100%
Hired at 32		15%	15%	40%	15%	15%	100%
	Service	<u>20</u>	<u>21</u>	<u>22</u>	<u>23</u>		
Hired Before 32		50%	20%	20%	100%		

Interest Rate

7.5% per year, compounded annually, gross of investment related expenses.

ACTUARIAL ASSUMPTIONS AND FUNDING METHODS
(Page 2)

Assumptions

<u>Salary Increases</u>	Year	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5 & Up</u>
		8.0%	7.0%	6.0%	5.5%	5.20%

Final Average Salary is increased individually to account for additional non-regular compensation.

Payroll Increase

N/A.

Cost of Living Adjustments

3.0% per year from age 55 to 65, for Normal and Early Retirees only.

Administrative Expenses

\$45,100 annually.

Termination Benefit Assumptions

Vested Participants are assumed to elect a deferred benefit, except that Participants that are under age 40 or have less than 15 years of service are assumed to elect a refund of contributions with interest.

In-Line-of-Duty Death Rate

75% of all deaths are assumed to be in the line of duty.

Funding Method

Aggregate Actuarial Cost Method.

SUMMARY OF PLAN PROVISIONS
(Through 770)

<u>Date of Latest Restatement</u>	October 3, 2005
<u>Eligibility</u>	Employees who are classified as full-time Police Officers hired after January 1, 1996, shall participate in the System as a condition of employment.
<u>Credited Service</u>	Total years and fractional parts of years of service with the City as a Police Officer.
<u>Salary</u>	W-2 Earnings, plus tax deferred, tax sheltered and tax exempt income (overtime limited to not less than 300 hours per calendar year).
<u>Average Final Compensation</u>	Average Salary for the best 5 years during the 10 years immediately preceding retirement or termination.
<u>Member Contributions</u>	1.0% of Salary.
<u>City and State Contributions</u>	Remaining amount required in order to pay current costs and amortize unfunded past service cost, if any.
<u>Normal Retirement</u>	
Date	Earlier of age 55 and 6 years of Credited Service, or 20 years of Credited Service regardless of age.
Benefit	4.0% of Average Final Compensation times Credited Service
Form of Benefit	Ten Year Certain and Life Annuity (options available).
<u>Early Retirement</u>	
Eligibility	Age 50 and 6 Years of Credited Service.

Benefit	Accrued benefit, reduced 3% per year.
<u>Cost of Living Adjustment</u>	3% increase each January 1 from age 55 through age 65.
<u>Vesting</u>	
Schedule	100% after 6 years of Credited Service.
Benefit Amount	Member will receive the vested portion of his (her) accrued benefit payable at the otherwise Normal Retirement Date.
<u>Disability</u>	
Eligibility	
Service Incurred	Covered from Date of Employment.
Non-Service Incurred	10 years of Credited Service.
Exclusions	Disability resulting from use of drugs, illegal participation in riots, service in military, etc.
Benefit	Benefit accrued to date of disability, but not less than 42% of Average Final Compensation (Service Incurred).
Duration	Payable for life, with 120 payments guaranteed, or until recovery (as determined by the Board; options available).
<u>Death Benefits</u>	
Pre-Retirement	
Line-of-Duty	
Vested	Maximum of monthly accrued benefit or 75% of Salary payable to designated beneficiary for life of beneficiary.
Non-Vested	75% of Salary payable for life of beneficiary.

Non Line-of-Duty

Vested

Monthly accrued benefit payable to designated beneficiary for 10 years at member's otherwise Normal, or Early (reduced), Retirement Date.

Non-Vested

Refund of accumulated contributions, without interest.

Post-Retirement

Benefits payable to beneficiary in accordance with option selected at retirement.

Board of Trustees

- a. Two Commission appointees,
- b. Two Members of the Department elected by the active members of the Plan, and
- c. Fifth Member elected by other 4 and appointed by Commission.

Deferred Retirement Option Plan

Eligibility

Satisfaction of Normal Retirement requirements.

Participation

Not to exceed the earlier of 60 months or the completion of 25 years of service with the City as a Police Officer.

Rate of Return

At Member's election: 6.5% or Net Investment Return

Distribution

Cash lump sum (options available) at termination of employment.



**AGENDA ITEM
MEMORANDUM**

TO: HONORABLE MAYOR AND CITY COUNCIL MEMBERS

VIA: T. JENNENE NORMAN-VACHA, CITY MANAGER

FROM: JANICE L. PETERS, CITY CLERK

**SUBJECT: BOARD ASSIGNMENTS AND ORGANIZATIONS – CITY
COUNCIL**

DATE: NOVEMBER 16, 2011

GENERAL SUMMARY/BACKGROUND:

Annually City Council appoints or ratifies Council Member representation on various city boards, intergovernmental agencies and outside organizations or the fiscal year 2012.

Attached is a list of the current boards, noting the current member representative, and the usual meeting date, time, and place. Please review and determine which boards or agencies you may be able to sit on for appointment by City Council.

BBUDGET IMPACT:
None.

BLEGAL REVIEW:
Council has the authority, pursuant to Sec. 2-261 of the City's Code of Ordinances to appoint any advisory board composed of persons who shall be deemed qualified to act in an advisory capacity. Official Policy 4-2008, adopted by City Council, sets forth the procedure for creation, appointments, replacements, and removal from office for advisory board members.

STAFF RECOMMENDATION:

Staff seeks direction from Council and requests discussion and confirmed appointment of Council representatives for each board/organization

ATTACHMENTS: List of Boards

**OUTSIDE AGENCIES, BOARDS AND COMMITTEES APPOINTED BY COUNCIL
MEETING DATES AND TIMES**

<p><u>ANTI-DRUG COALITION</u> 7074 Grove Road Daycare Behavioral House Theresa (ACenaps Corp 596-8000 or 540-9335) hernandoantidrug.org Frankie Burnett</p>	<p>Last Wed of each month at 3:30 pm</p>
<p><u>BROOKSVILLE BUSINESS ALLIANCE</u> Lisa Callea PO Box 313 Brooksville FL 34605 Lara Bradburn, Council Member</p>	<p>2nd Thurs of each month at 5:30 pm at Rising Sun Café</p>
<p><u>CHILDREN'S ADVOCACY CENTER/COMMUNITY ALLIANCE</u> 880 Kennedy Boulevard PO Box 896 Janice Roy 754-8809 Kevin Hohn, Council Member</p>	<p>2nd Thursday bi-monthly at 10:00 am Mid-Florida Services Building Community Alliance at 9:00 am</p>
<p><u>COMMITTEE AGAINST ASSAULTS ON LAW ENFORCEMENT OFFICERS</u> Mickey Cook 797-9102 1030 Cloverleaf Circle Brooksville FL 34601</p>	<p>1st Wed of each month from 5:30-6:30 pm at Brooksville Police Dept. (Reorganizing at Present)</p>
<p><u>FLORIDA LEAGUE OF CITIES INC</u> (Action Committees) Fiscal Stewardship Legislative Council Rene Flowers, President 301 S Bronough St Suite 300 PO Box 1757 Tallahassee FL 32302-1757 850-222-9684 (fax 850-222-3806) www.flcities.com Intergovernmental Committee Energy & Environmental Committee Finance & Taxation Committee Growth Mgmt & Transportation Urban Administration Committee</p>	<p>Varies; notices are mailed</p>
<p><u>METROPOLITAN PLANNING ORGANIZATION</u> 20 N Main Street, Room 262 Brooksville FL 34601 Tina 754-4057 ext 28032 Lara Bradburn, Council Member Joe Johnston, Alternate</p>	<p>4th Tues of Jan-Jul, Sept-Oct 3rd Tues of Aug No Meeting in Nov 2nd Tues of Dec at John Law Ayers County Comm Chambers</p>
<p><u>TAKE STOCK IN CHILDREN</u> Pasco-Hernando Community College Eva Davis 797-5108 11415 Ponce de Leon Boulevard Brooksville FL 34601 Frankie Burnett, Mayor</p>	<p>Held Quarterly on the 1st Wed of the designated month at North Campus at 5:30 pm</p>
<p><u>TOURIST DEVELOPMENT COUNCIL</u> 26 S Brooksville Avenue Brooksville FL 34601 Joe Johnston, Vice Mayor</p>	<p>4TH Thurs of each month at 3:00 pm at I-75 Best Western Tourist Development Office</p>

**OUTSIDE AGENCIES, BOARDS AND COMMITTEES APPOINTED BY COUNCIL
MEETING DATES AND TIMES**

<u>WITHLACOOCHEE REGIONAL PLANNING COUNCIL</u> 1241 SW 10 th Street Ocala FL 34474-2798 Joe Johnston, Vice Mayor	3 rd Thurs of each month in Ocala Executive Board of 6:30 pm Full Board at 7:00 pm
<u>WITHLACOOCHEE REGIONAL WATER SUPPLY AUTHORITY</u> Jackson E. Sullivan, Executive Director 1107 Shalimar Drive, Tallahassee, FL 32312 Joe Johnston, Vice Mayor **Travel & Per Diem reimbursed by WRWSA to Member	3 rd Wed of each month at 4:30 pm Held in alternating places: Ocala, Hernando, Citrus and Sumter 2011 SCHEDULE ATTACHED
<u>YOUTH AND FAMILY ALTERNATIVES</u> Gloria Gorby 727-835-4166 ext 304 18377 Sheriff Mylander Way, Brooksville FL 34601 Frankie Burnett, Mayor	Leadership Council Meeting 1 st Wed. of each month at noon

CITY BOARDS/COMMITTEES

BEAUTIFICATION BOARD Joe Bernardini	2 nd Tues of each month at 5:30 pm in Council Chambers
BROOKSVILLE CEMETERY ADVISORY COMMITTEE Frankie Burnett	As announced in Council Chambers
CDBG CITIZENS TASK FORCE Joe Johnston	As Announced
GOOD NEIGHBOR TRAIL ADVISORY COMMITTEE Lara Bradburn	As necessary
PARKS AND RECREATION ADVISORY BOARD Joe Bernardini	As announced in Council Chambers

CITY BOARDS/COMMITTEES – NON-COUNCIL REPRESENTATIVES

BROOKSVILLE HOUSING AUTHORITY	3 rd Tues of each month at 6:00 pm (regular meetings) in COB Council Chambers
FIREFIGHTERS' PENSION TRUST FUND BOARD OF TRUSTEES	Required to meet quarterly, but no set date or time. Held more frequently if needed in Council Chambers
POLICE PENSION TRUST FUND BOARD OF TRUSTEES	Required to meet quarterly 3 rd Wed in Feb., May, Aug., & Nov. 2011 in Council Chambers
PLANNING AND ZONING COMMISSION	2 nd Wed of each month in Council Chambers



AGENDA ITEM MEMORANDUM

TO: HONORABLE MAYOR AND CITY COUNCILMEN

VIA: T. JENNENE NORMAN-VACHA, CITY MANAGER

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

SUBJECT: ADOPT-A-TRAIL PROGRAM

DATE: NOVEMBER 18, 2011

GENERAL SUMMARY/BACKGROUND: The Good Neighbor Trail Committee and the Brooksville Parks and Recreation Advisory Board, at their November 2011 meetings, have reviewed and are recommending that the City Council consider approval of an Adopt-A-Trail Program. This would allow volunteers to contribute their efforts in maintaining and providing a litter free trail system along the Good Neighbor Trail. This information has been provided to you as "Attachment 1".

The Adopt-A-Trail program will allow for individuals or organizations to sign up to maintain and be responsible for the litter control of a designated area or section of the city's trail system. It will be required for those groups to adopt a section of trail that is a minimum of one-quarter (1/4) mile in length. Litter or debris pick up must be a minimum of six (6) times a year and a two (2) year commitment is required.

The city will provide the necessary clean up and safety equipment needed, as well as providing two (2) Adopt-A-Trail signs recognizing the individual or organizations for their participation throughout the term of their agreement.

BUDGET IMPACT: The budget impact will be signage and safety materials for the individuals and groups. These items will be covered in the Park/Facilities FY2011-12 Budget line item for Operating Supplies, #55210 001 020 572.

LEGAL REVIEW: 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. 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.

STAFF RECOMMENDATION: Staff recommends Council approval to move forward with the Adopt-A-Trail Program.

ATTACHMENTS: Adopt-A-Trail Program Information

How Do I Adopt A Trail In the City of Brooksville, Florida?

First, read through this brochure to find out what is involved in adopting a trail. If you're interested, please fill out the *Registration Form* on the back page and return to the Parks and Recreation Department. Please be sure to complete the form in full. A representative for the program will contact you if there are any questions, and/or to schedule an appointment for you and your group to be trained.

The training process takes about a half an hour and usually takes place at the Parks and Recreation Department in Brooksville. If necessary, special arrangements can be made to accommodate your group's schedule.

What Are The Requirements For Adopting A Trail?

- You must adopt a trail or section of trail at least one-quarter (1/4) mile in length and be willing to commit to that trail for two years.
- A minimum of six (6) cleanups per year is required to keep your trail.
- You need to receive safety training prior to starting your cleanup duties. This training will be provided free of charge at the Parks and Recreation Department.
- Notify the Parks and Recreation Department when you have done a cleanup so they can schedule a crew to pick up your bags.

Who Can Participate In Trail Cleanups?

A "group" can consist of one individual, a family or a large organization. It is mandatory that responsible individuals participate in any trail cleanup. Children under the age of 7 must have a ratio of 2:1 adult to child.

Is There A Cost Involved?

NO! Trash bags, safety vests, gloves, safety training, two 'Litter Crew Ahead' signs and your group's two Adopt-A-Trail signs are provided free of charge by the Parks and Recreation Department.

Safety Comes First - ALWAYS

- Place the "Litter Crew Ahead" signs at both ends of the work area before you start your cleanup.
- Wear your safety vest, gloves, and other protective clothing to ensure your safety. Do cleanups during daylight hours for good visibility.
- Keep your group together, pace yourselves, and bring plenty of liquids.
- Be alert for snakes, noxious weeds and biting or stinging insects.
- STAY ALERT. Be aware of traffic and what is going on around you and your group.

What Do I Get for Adopting A Hernando County Trail?

Your commitment to keep your trail litter free is acknowledged by the posting of two Adopt-A-Trail signs, one at each end of your cleanup area. These signs display your group's name and announce that you are responsible for that particular section of trail. *Most importantly, you get the satisfaction of knowing that you play an integral part in keeping the City of Brooksville Beautiful!*



THIS SECTION MAINTAINED BY:

ADOPT-A-TRAIL

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THIS SECTION MAINTAINED BY:

SOBET-A-TRAIL

**CITY OF BROOKSVILLE, FLORIDA
ADOPT-A-TRAIL
AGREEMENT**

The City of Brooksville, Florida, Parks and Recreation Department, hereinafter called the "Department" and _____, hereinafter called the "Group", recognize the need and desirability of well-maintained and debris-free trails, and are entering into this Agreement to permit the Group to contribute towards the effort of maintaining the Good Neighbor Trail (GNT).

BY SIGNATURE BELOW, THE GROUP ACKNOWLEDGES THE NATURE OF THE WORK AND AGREES TO THE FOLLOWING TERMS AND CONDITIONS:

1. Any participant eighteen (18) years of age or younger shall be subject to the same safety rules and regulations as those for participants over eighteen (18) years of age. That at least one adult supervisor (over 18) is required for each five participants who are eighteen (18) years of age or younger. Children under seven (7) years of age must be at a ratio of 2:1.
2. Each Group shall attend at least one safety meeting per year. This meeting will be conducted by the Department prior to each Group participating in any trail cleanup.
3. Groups shall adopt a section of trail that is a minimum of one-quarter (1/4) mile in length.
4. The Group shall be required to adopt such section for a minimum of two (2) years.
5. The Group shall pick up debris a minimum of six (6) times per year, with additional clean-up as needed.
6. The Group shall obtain the required supplies and materials from the Department during regular business hours, unless previously provided.
7. The Group shall wear orange safety vests in order to be more visible to trail users. The Group Coordinator is responsible for all safety equipment.
8. The Group shall place filled trash bags at specified locations at the adopted site for pickup and disposal by the Department on the next work day or as soon as possible.
9. Unused materials and supplies furnished by the Department shall be stored for the next clean-up by the Group Coordinator.
10. The Group shall remove debris during daylight hours only.
11. The Group shall remove debris during good weather conditions only.
12. The Group must advise the Department of the proposed clean-up day and must do so for all subsequent clean-up days (phone call is sufficient).
13. The Group covenants and agrees that it will indemnify and hold harmless the Department and all of the Department's officers, agents, and employees from any claim, loss, damage, cost or expense arising out of any act, neglect or omission by the Group during the performance of the contract whether direct or

indirect, and whether to any person or property to which the Department or said parties may be subject.

- 14. This agreement is nontransferable and non-assignable in whole or in part without the written consent of the Department.

THE DEPARTMENT AGREES TO ACCOMPLISH THE FOLLOWING:

- 1. Erect a sign at each end of the adopted section with the Group's name or acronym displayed. All signs to be uniform.
- 2. Provide reflective vests and trash bags.
- 3. Remove trash filled bags as soon as possible after the clean-up day.
- 4. Remove debris from the adopted section only under unusual circumstances, i.e., when large, heavy or hazardous items are found.
- 5. Provide safety seminars either through the Department or other qualified means.

If, in the sole judgment of the Department, it is found that the Group is not meeting the terms and conditions of this agreement, upon thirty (30) days written notice, the Department may terminate the adoption agreement and remove adoption signs.

The Department recognizes the Group as the adopting organization for the Good Neighbor Trail, from _____ to _____, and the Group accepts the responsibility of picking up debris on this section of the trail and promoting such efforts in the community for a period beginning _____,20__ and ending _____,20__ (minimum 2 years).

Name of Group

Department Representative

Group's President (Representative)

Adopt-A-Trail Chairperson

Address

Address

Phone

Phone

**CITY OF BROOKSVILLE, FLORIDA
ADOPT-A-TRAIL
SAFETY RECOMMENDATIONS**

1. PARTICIPANT PREPARATIONS

- A. Crews should be in good physical condition, able to walk several miles which include frequent bending and lifting; with a weight that increases as you go. Do not attempt to lift anything too heavy, the Parks and Recreation Department staff will do that.
- B. Wear appropriate clothing, sun protection, shoes, gloves and hat.
- C. Bring plenty of drinking water.
- D. Bring whatever allergy relief or other medications necessary.

2. SAFETY PROCEDURES

- A. Group leaders will instruct all participants of rules and obligations.
- B. Vests must be worn at all times during the clean-up.
- C. Be alert for oncoming traffic (bicycle or pedestrian).
- D. When working off-trail be careful for drop-offs or uneven terrain.
- E. Park at established trail heads or pre-arranged site to minimize vehicles.
- F. Do not congregate on bridges or overpasses.
- G. Report any problems or unusual conditions to the Parks and Recreation Department.

3. SPECIAL RULES

- A. Think and work smart to prevent accidents.
- B. Avoid over exertion and hydrate frequently.
- C. Place debris-filled bags at least eight feet off trail. If at all possible, leave bags in one location for easy removal by the Parks and Recreation Department. Notify the Department as soon as possible for pick-up.
- D. All participants must be over 18 years of age or supervised at a ratio of 5:1 (minor: adult). Children under 7 at a ratio of 2:1.
- E. All crews should have a first aid kit and transportation available.

4. HAZARDOUS MATERIALS

- A. If it looks hazardous, it probably is. Avoid any suspect toxic/hazardous substances. Learn what poison ivy and oak or other noxious weeds look like.
- B. Avoid areas where herbicides have been recently applied.
- C. Avoid areas where snakes, fire ants or other dangerous species may be located.

5. RECYCLING

- A. Groups may wish to recycle some of the debris picked up. This can be coordinated within the Group itself and the local recycling center.
- B. Place recyclable material in separate bags and remove from area in order to prevent the Parks and Recreation Department staff from picking up by mistake.



A G E N D A I T E M
M E M O R A N D U M

TO: HONORABLE MAYOR AND CITY COUNCILMEN
VIA: T. JENNENE NORMAN-VACHA, CITY MANAGER
FROM: GEORGE TURNER, POLICE CHIEF
ROBERT BATTISTA, HOGAN LAW
SUBJECT: FIRST TIME VIOLATION WARNING WITH TRAFFIC
INFRACTION DETECTION AND ENFORCEMENT PROGRAM
DATE: NOVEMBER 23, 2011

GENERAL SUMMARY/BACKGROUND: On October 17, 2011, City Council directed that staff review the requirements for changing the manner in which Traffic Infraction Detection and Enforcement (utilizing Red Light Cameras) violations are issued allowing for a “warning” notice to all first time offenders.

The City Attorney has reviewed the City’s existing Red Light Camera Ordinance and has issued the attached legal memorandum (Attachment 1). The legal memorandum states that if City Council is desirous of issuing a “warning” notice to all first time offenders, and because this process is not addressed in the existing ordinance, an amendment to the current code would be required.

If the City Council directs to amend the current Red Light Camera Ordinance to allow for a “warning” to all first time offenders, the existing contract with Sensys America, Inc. would require renegotiation, as well as respective changes to the projected/approved budget for the program.

Staff (inclusive of the City Attorney) has contacted Sensys America, Inc. in this regard and they have advised that the cameras are not designed to filter out first time offenders. Accordingly, the City would have to pay for software development that would provide this functionality. Sensys further advises that if the City makes this substantial change to the program, we would have to revise the contract such that it would almost certainly be a net cost to the City rather than revenue neutral.

If the City Council does not take action, then staff will continue to proceed forward with existing City Code and contract with Sensys America, Inc. which would not include the first time offender “warning” notice.

BUDGET IMPACT: If Council approves to move forward with changes to the existing Code to provide for “warning” notices to all first time offenders, a budget amendment would need to be approved after the ordinance changes and contract renegotiations. The impact is not determinable at this time.

On October 17, 2011 City Council approved a FY 2011/12 Budget Amendment on the Traffic Infraction Detection and Enforcement Program recommended by staff. This amendment was approved, but Vice Mayor Johnston recommended that the allocation of the monies from the infractions could be discussed during the City Council's Budget Workshops. Since the impact of the warning notices is unknown at this time; the budget impact on the waiver of the first violation could be discussed during our budget workshops and a subsequent budget amendment approved if needed.

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 seeks Council's direction.

Attachment

THE HOGAN LAW FIRM®

We mean businessSM

MEMORANDUM

TO: T. JENNENE NORMAN-VACHA, CITY MANAGER

**FROM:  ROBERT B. BATTISTA, ESQ.
THE HOGAN LAW FIRM, AS CITY ATTORNEY**

**CC: THOMAS S. HOGAN, ESQ.
CHIEF GEORGE TURNER**

RE: RED LIGHT CAMERA – FIRST TIME VIOLATION WARNING

DATE: OCTOBER 26, 2011

ISSUE

Should the City of Brooksville amend its Red Light Camera Ordinance to implement a first time violation warning with a public awareness campaign?

DISCUSSION

The current City Code only addresses the authority of the council to establish an introductory period after the installation of red light cameras. Should the Council desire to proceed with a warning for all first time violations, such would be the subject of an amendment adding that process to the existing code.

The actual warnings/citations are issued to registered owners of the vehicles involved at the time of the violation and not to the actual driver. Should the Council decide to proceed with a first time violation warning it would be given to the registered owner of the vehicle.

In a discussion with Brian Haskell of Sensys America, Inc., he indicated that if the City implemented a first time violation warning, it would significantly affect their

company's revenue assumptions and would require a renegotiation of the contract between Sensys America, Inc. and the City of Brooksville.

CONCLUSION

If the City chooses to amend its Red Light Camera ordinance to provide for a first time violation warning with an accompanying public awareness campaign, the current contract with Sensys America, Inc. will have to be renegotiated and the City will likely have to amend its budget accordingly for the difference as well as the costs of the public awareness campaign.

CORRESPONDENCE-TO-NOTE
REGULAR COUNCIL MEETING – December 5, 2011

1. **TYPE:** Letter
 DATE RECEIVED: November 16, 2011
 RECEIVED FROM: Florida Department of Law Enforcement
 ADDRESSED TO: Mayor
 SUBJECT: Contract No. 2011-JAGC-HERN-2-B2-065



Florida Department of
Law Enforcement

Gerald M. Bailey
Commissioner

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Pam Bondi, Attorney General
Jeff Atwater, Chief Financial Officer
Adam Putnam, Commissioner of Agriculture

NOV 16 2011

The Honorable Frankie Burnett
Mayor
City of Brooksville
201 North Howell
Brooksville, FL 34601

Re: Contract No. 2011-JAGC-HERN-2-B2-065

Dear Mayor Burnett:

This letter confirms our receipt and acceptance of all financial and programmatic reports applicable to the referenced project. While this concludes active administration of the subgrant agreement by the Florida Department of Law Enforcement, you are reminded that all supporting records must be maintained for a period of not less than three years from termination date for audit and examination. An audit performed in accordance with OMB Circular No. A-133 must also be conducted and submitted to the Office of Criminal Justice Grants, Florida Department of Law Enforcement, 2331 Phillips Road, Tallahassee, Florida 32308.

All non-expendable property acquisitions must be accounted for and maintained for as long as the equipment is in service. The Department must be notified prior to any disposition of non-expendable property and must be advised immediately of any lost or stolen items.

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CTN
12-05-11
cc: Chief George Turner
State Baumgartner
JAV