

CITY OF BROOKSVILLE
SPECIAL COUNCIL MEETING - 6:30 P.M.
REGULAR CITY COUNCIL MEETING - 7:00 P.M.
COUNCIL CHAMBERS
201 HOWELL AVENUE

AGENDA

October 20, 2008

See Above

- A. CALL TO ORDER
- B. INVOCATION AND PLEDGE OF ALLEGIANCE

***** ADJOURN & RECONVENE AS SPECIAL MEETING *****

- C. SPECIAL MEETING - PUBLIC HEARING

***1. Appeal of Planning & Zoning Commission (P&Z) Decision - SE2008-05
Special Exception Use Petition -611 N. Broad St.**

Consideration of appeal of the P&Z Decision rendered 09/10/08 to deny Petition for Special Exception Use to allow a "Heating Fuel" establishment, specifically providing for the dispensing of off road diesel fuel and kerosene in a C3 Commercial District .

Presentation:	Director of Development Petitioner Richard Wilkes, Hernando Oil, Inc.
Recommendation:	Motion to either affirm or modify the decision of the Planning & Zoning Commission
Attachments:	Memo from Director of Community Development dated 10/07/08

***** ADJOURN & RECONVENE AS REGULAR MEETING *****

- D. CONSENT AGENDA

- 1. **Minutes**

August 5, 2008	Budget Workshop
August 12, 2008	Budget Workshop

- 2. **2009 Annual Holiday and Meeting Schedule**

Review and consideration of proposed meeting and holiday schedule for 2009, including tentative budget workshop and public hearing dates, including Fire District & CRA Meetings, pursuant to City Code & Policy. Dates are consistent with county and school board holiday schedules.

- 3. **Fire Department Emergency Vehicle Purchase**

Authorization to purchase Emergency Medium Duty Squad Vehicle and ancillary cascade system equipment from Pierce Mfg. Inc. under the St. Johns County Contract #07-53, together with trade in of Vehicle 211 to vendor, in the not to exceed amount of \$184,111. Budgeted funds available in Account #502 000 166 19037.

REGULAR COUNCIL MEETING AGENDA - OCTOBER 20, 2008

4. **Sewer Rehab Phase 2A Bid No. UD2008-08 - Sections 2.0 and 3.0 Award - Pre-installation Cleaning of Service Laterals and Cured-in-Place Pipe Lining of Laterals**
Consideration of awarding the bid to LMK Pipe Renewal, LLC, for the not to exceed amount of \$215,586 with funding via CIP Account #404-000-169-19049, Project 1999-UT-14, approval of applicable budget amendment and authorization for the Mayor to sign an Agreement for Contractor Services when all documents have been reviewed by the City Attorney.
5. **Sewer Rehab Phase 2A Bid No. UD2008-08 - Section 4.0 - Manhole Chimney Seal**
Consideration of awarding the bid to USSI, LLC for the not to exceed amount of \$232,669 with funds available in CIP Account #404-000-169-19049, Project 1999-UT-14, and authorize the Mayor to sign an Agreement for Contractor Services when all documents have been reviewed by the City Attorney.
6. **Surplus Equipment/Transfer of Vehicles**
Consideration of declaring two Public Works Department Vehicles surplus for disposal via the County auction process and authorize transfer of third vehicle from the Streets Division to the Maintenance Shop Division.
7. **Cost Recovery Corporation**
Approval of one year agreement with automatic one year renewals with Cost Recovery Corporation for recovery services of costs associated with providing law enforcement, fire and emergency/medical services.
8. **Auditor's Agreement for F/Y Ending 9/30/08, 9/30/09 & 9/30/10**
Consideration of three year agreement with Oliver & Joseph, PA for audit services as negotiated by the City Attorney.

CONSENT AGENDA APPROVAL (√)

Recommendation: Approval of Consent Agenda
Action: Motion to Approve
Attachments: 1) Minutes; 2) Memo from City Clerk dated 09/25/08 & proposed calendar 3) Memo from Fire Chief dated 10/20/08; 4) Memo from Director of Public Works dated 10/14/08; 5) Memo from Director of Public Works dated 10/14/08; 6) Memo from Director of Public Works dated 10/07/08; 7) Memo from Police & Fire Chiefs dated 10/20/08 & Proposed Agreement; 8) Memo from Director of Finance dated 10/09/08 [Note - Proposed Agreement will be distributed separately]

REGULAR COUNCIL MEETING AGENDA - OCTOBER 20, 2008

E. CERTIFICATES, PROCLAMATIONS AND PRESENTATIONS

1. Brooksville Kiwanis Club - Annual Christmas Parade Fee Waiver

Consideration of request to partially waive fees to in the amount of \$2,822.24 to offset costs to conduct their 34th Annual Christmas Parade on Saturday, December 13, 2008.

Presentation: Ron Wheelles, Club President, &
Robert Watts, Committee Chair
Recommendation: Direction to Staff
Attachments: Letter from Kiwanis President
dated 10/08/08; Application

2. Eagle Scout Daniel R. S. Keyes Proclamation

Proclamation in recognition of efforts of Eagle Scout Daniel R. S. Keyes

Presentation: Mayor
Attachment: Proclamation

F. PUBLIC HEARING

1. Ordinance No. 767 - Flood Prevention and Protection

Consideration of ordinance amending Chapter 113, "Flood Prevention and Protection" of the City of Brooksville code.

[First Reading 09/15/08 - Second Reading Continued 10/06/08]

Presentation: Director of Community
Development
Recommendation: Approval of the second and final
reading of Ordinance No. 767
upon roll call vote
Attachments: Memo from Director of Community
Development dated 09/17/08;
Proposed Ordinance, as amended
10/06/08

G. REGULAR AGENDA

1. Resolution No. 2008-26 - 2008/09 Utility Rates

Consideration of resolution formalizing City Council decision on October 6, 2008 to "hold constant" the existing water and sewer rates for the Brooksville utility district customers.

Presentation: City Manager
Recommendation: Approval of Resolution upon roll
call vote
Attachment: Memo from City Manager dated
10/12/08; Proposed Resolution

REGULAR COUNCIL MEETING AGENDA - OCTOBER 20, 2008

2. Resolution No. 2008-27 - Options to Amend Rate Adjustments and Set 3% Modifier Cap

Consideration of resolutions proposing 3% cap on rate increases setting provisions for future rate increases based on Tampa-St. Petersburg-Clearwater MSA CPI. Alternative option is provided as a "conservation" measure beginning with FY 2008-09 rates and repealing prior resolution.

[Action Continued from 10/06/08]

Presentation: Director of Public Works
Recommendation: Selection of Option A or Option B and Subsequent Approval of Appropriate Resolution upon roll call vote
Attachment: Memo from Director of Public Works and Director of Finance dated 10/12/08; Resolution #2004-01; Proposed Resolutions - Options A & B

3. Ordinance No. 769-A - 2008-09 Budget Amendment

Consideration of ordinance providing for revenue reduction and reserve revisions as a result of \$102,000 decrease in utility revenue due to adoption of Resolution No. 2008-27 (replacing Resolution No. 2004-1).

Presentation: Director of Finance
Recommendation: Approval of Ordinance No. 769-A upon roll call vote and set second and final reading for 11/03/08
Attachments: Memo from Director of Finance dated 10/14/08; Proposed Ordinance

4. Resolution No. 2008-20 - Building Division/Community Development Department Service Fees

Staff update on potential contractor relocation to City Hall and other cost reduction measures for consideration of resolution amending the current Permitting, Inspection, and Administrative & Development Fee Schedule.

[Continued from 09/15/08]

Presentation: Director of Community Development
Recommendation: Hold consideration of Resolution No. 2008-20 in abeyance until the current lease issue is resolved
Attachments: Memo from Director of Community Development

REGULAR COUNCIL MEETING AGENDA - OCTOBER 20, 2008

5. Ordinance No. 766-A - Amendment to Law Enforcement, Fire and
Emergency Medical Services Cost Recovery Ordinance

Consideration of ordinance amending Section 4, paragraph (f) of Ordinance No. 766 providing for cost recovery measures for emergency service response to commercial or commercial carrier motor vehicle incidents and amending Section 10 to establish a separate cost recovery fund and to clarify use of cost recovery receipts.

Presentation: City Attorney
Recommendation: Approval of Ordinance No. 766-A
upon roll call vote and set
second and final reading for
11/03/08
Attachments: Memo from City Attorney Rey
dated 10/13/08; Proposed
Ordinance

H. ITEMS BY COUNCIL

I. CITIZEN INPUT

J. ADJOURNMENT

CORRESPONDENCE TO NOTE

MEMORANDUM

To: Honorable Mayor & City Council Members
Via: T. Jennene Norman-Vacha, City Manager 
From: Bill Geiger, Community Development Director 
Appellant: Richard Wilkes
Subject: Appeal of the Planning & Zoning Commission decision to deny Petition Ref. No. SE2008-05 (Special Exception Use Petition request to allow a "Heating Fuel" Establishment; specifically providing for the dispensing of off road diesel fuel and kerosene in a C3 Commercial District)
Location: 611 N. Broad Street (Ref. HCPA Parcel Key #00009047)
Date: October 7, 2008

GENERAL INFORMATION - HISTORY

As noted above, the Appellant has filed an appeal to the Planning & Zoning Commission's decision to deny a Special Exception Use petition that would have provided for the operation of a "Heating Fuel" establishment within a C3 commercial zoning district for property located at 611 N. Broad Street. The specific reasons for the appeal are stated by the appellant in the NOTICE OF APPEAL (enclosed).

On September 10, 2008, the Special Exception Use (SEU) Petition No. 2008-05 was presented to the Planning & Zoning Commission for consideration (Note- A Special Exception Use is defined in City Code as "a use which is essential or would promote the public health, safety or welfare in one or more districts, but which would impair the integrity and character of the district in which it is located or in adjoining districts unless restrictions or conditions on location, size, extent and character of performance are imposed in addition to those imposed in this ordinance."). The staff recommended conditional approval of the Special Exception Use Petition, as follows:

"Approve the Special Exception Use petition SE2008-05, allowing for a "Heating Fuel" establishment (Specifically providing for the dispensing of Diesel Fuel and Kerosene) in a C3 Commercial District on the property identified by Hernando County Property Appraisal Key #00009047 (611 N. Broad Street), subject to the following conditions:

1. The main ingress/egress for the dispensing station shall be from the existing property driveway connection to Broad Street. Access from Museum Court shall be used for office personnel only.
2. The pumping station is to be completely enclosed with a Type "C" buffer. The type "C" buffer shall completely surround the dispensing tanks and equipment and shall consist of a continuous, 100% opaque wall at least six (6) feet in height constructed of masonry, wood, or other material as may be approved by the Community Development Department. If the wall is constructed of cement block, the side facing the abutting use shall be faced with stucco or another similar decorative finish. In addition, one (1) tree shall be planted adjacent to the wall every twenty-five (25) feet, or portion thereof.
3. Within 45 days of September 10, 2008, the petitioner shall provide documentation indicating all conditions contained herein have been satisfied.
4. Failure to comply with conditions associated with this Special Exception Use approval will result in the revocation of said approval and subject the property lessee/owner to code enforcement sanctions as may be applicable.

5. The developer must meet all applicable Local, State and Federal performance standards and permitting requirements that pertain to this type of business.
6. The scope of the proposed use will be limited to two (2) aboveground storage tanks not-to-exceed one thousand (1,000) gallons of total fuel storage on the site.” *(Note: This condition was added at the hearing).*

After hearing testimony from staff, the petitioner and two members of the public, a motion was made by the Planning and Zoning Commission to approve staff recommendation. This motion died for lack of a second. A subsequent motion was then made to deny the staff recommendation and, as a result, deny the petition. This motion was seconded and carried with a 3-2 vote. The Commissioners voiced the following primary concerns during the hearing:

1. Concerns over potential safety issues related to the proximity of the proposed use to old, historic properties.
2. The potential for fuel leakage.

APPEAL PROCESS

Section 137-43(d) of the City of Brooksville Code of Ordinances specifies the requirements of the appeal process. Enclosed with this memorandum is a copy of the Notice of Appeal, the agenda package for the SE2008-05 petition from the September 10, 2008 Planning & Zoning Commission meeting, the draft minutes from said meeting, a copy of the referenced code section that applies to the appeal process and Official Policy 9-1997 that provides the meeting procedures for hearing appeals. Additionally, a copy of the audio recording for the September 10, 2008 Planning & Zoning Commission meeting is available through the City Clerk’s office.

BUDGET IMPACT

Fees are assessed to and paid by the appellant to cover the costs associated with hearing an appeal.

LEGAL STATEMENT

City Council has the legislative authority to hear an appeal of an action taken by the Planning & Zoning Commission. The Council should follow the City’s Official Policy No. 9-1997 in hearing the appeal. Based on the referenced Policy, testimony is limited to staff and appellant presentations followed by a questioning period by the City Council with rebuttal time being afforded to the presenters. City Policy No. 9-1997 does not provide for nor authorize public input as part of the appeal process.

ACTION ITEM

After following the process outlined in the City of Brooksville’s Official Policy No. 9-1997, a motion, second and vote should be taken to either (a) affirm the Planning & Zoning Commission’s decision to deny Special Exception Use Petition SE2008-05; or (b) modify the Planning & Zoning Commission’s decision to deny Special Exception Use Petition SE2008-05.

- Enclosures*:
- (1) Notice of Appeal
 - (2) Agenda package for the SE2008-05 petition from the 9/10/2008 Planning & Zoning Commission meeting
 - (3) Draft minutes from the September 10, 2008 Planning & Zoning Commission meeting

Page 3
Appeal Hearing for SE2008-05
Richard Wilkes - 611 N. Broad Street
October 20, 2008

- (4) Section 137-43(d), City of Brooksville Code of Ordinances
- (5) City of Brooksville's Official Policy No. 9-1997

***A copy of the audio recording for the September 10, 2008 Planning & Zoning Commission meeting is available through the City Clerk's office.**

F:\Bgeig\SEU's\Appeal cc10202008 SE2008-05 611 N Broad St .doc

NOTICE OF APPEAL

In accordance with Section 137-43() of the City of Brooksville Code, I do hereby file with the City Clerk this Notice of Appeal regarding the decision made by the City of Brooksville Planning & Zoning on September 10, 2008, concerning the matter of Petition # SE2008-05

Appellant's Name: Richard Wilkes

Board/Individual whose Decision is being Appealed: Planning & Zoning Commission
Petition Reference Number: SE2008-05

Petitioner: Richard Wilkes

Subject of Petition: Special Exception use for Heating / Diesel / Kerosene Fuel Establishment in a C-3 zoning district.

Location of Petition Request: 611 N. Broad Street

Action Being Appealed: Denial of Special Exception

Specific Reasons for Appeal: The 500 gal Diesel Tank should not be included in this Special Exception. It is off-Rd. Diesel Tank used for Agriculture and construction purposes. This only should include the 300 gal kerosene tank. You have not shown due cause to deny the sale of kerosene.

Appellant Affidavit: The information provided in this NOTICE OF APPEAL is in all respects true and correct to the best of my knowledge and belief.

Signature of Appellant: Richard J. Wilkes

(For office use only below this line)

Date Notice of Appeal filed with City Clerk: 9/19/08

Date scheduled for City Council Consideration: 10/06/08

Date for Special Meeting for Appeal (if approved by City Council): _____

MEMORANDUM

To: Planning & Zoning Commission Members
Via: Bill Geiger, Community Development Director *Bl*
From: Patricia J. Jobe, Planning & Zoning Coordinator *P. Jobe*
Petitioner: Richard Wilkes
Subject: SE2008-05 Special Exception Use Petition request to allow a "Heating Fuel" Establishment (Specifically providing for the dispensing of Diesel Fuel and Kerosene) in a C3 Commercial District - Ref. HCPA Parcel Key #00009047
Location: 611 N. Broad Street
Date: September 10, 2008

SUMMARY OF REQUEST

The Petitioner is requesting approval of a Special Exception Use within an existing C-3 Commercial District to allow for a "Heating Fuel" establishment that would allow the dispensing of Diesel Fuel and Kerosene. The subject property for this Special Exception Use process is approximately 1.01 acres \pm . The property is located at 611 North Broad Street (Formerly Creative Environmental Solutions and Charlie's Plumbing before that).

STAFF FINDINGS:

CURRENT LAND USE/ZONING

There is an existing structure located on the subject property which has been occupied by several other small businesses. This structure was built in 1978. This property is zoned C3 (Commercial). A "Heating Fuel" establishment (dispensing diesel fuel and kerosene) is classified as a Special Exception Use in a C3 zoning district. The property is designated Commercial on the City's Comprehensive Plan Future Land Use Map.

Properties located to the north are zoned R2 (Residential) with a City Comprehensive Plan Future Land Map (FLUM) designation of Commercial; properties to the south, east and west are all zoned C3 (Commercial) with a City Comprehensive Plan Future Land Map designation of Commercial.

FACTUAL INFORMATION

1. The subject property is approximately 1.01 acres \pm in size. The existing primary structure is approximately 1,500 sq. ft. in size.
2. The proposed fueling station will be located on the south side of the existing structure and will only be accessible from Broad Street.
3. The subject property is zoned C3, which provides for consideration of a Diesel Fuel and Kerosene pumping station (under the Heating Fuel and Ice Establishment Classification) as a Special Exception Use.
4. The site contains adequate parking for the proposed use.

FINDINGS OF FACT

The subject property is approximately 1.01 acres and contains a structure that is 1,500 sq. ft. in size. City Code provides for the Special Exception Use consideration for Heating Fuel and Ice Establishment (Pumping of Diesel Fuel and Kerosene) within commercial zoning districts. The subject property is located in a C3 Commercial Zoning District and has Commercial FLUM designation.

The petitioner has submitted information from the Hernando County Property Appraiser's web site that contains information regarding the site and building layout. Heating Fuel and Ice Establishments require 1.5 parking spaces per person regularly employed on the premises. There will be a maximum of three (3) employees at this location at any given time. There is adequate parking under the City code standards to support the proposed use of the property.

Adequate public services and facilities are available to support the proposed Special Exception Use.

NOTE: The Special Exception Use review process is a land use determination which does not constitute a permit for either construction on or use of the property. Nor is this action considered a Certificate of Concurrence. Prior to use of or construction on the property, the petitioner must receive approvals from the appropriate City Departments and/or other governmental agencies that may have regulatory authority over the proposed use/development.

This report does not include the perspective of adjacent landowners, who may be present at the public meeting to address and present questions and comment.

STAFF RECOMMENDATION:

Staff recommend that the Planning & Zoning Commission conditionally approve the Special Exception Use petition SE2008-05, allowing for a "Heating Fuel" establishment (Specifically providing for the dispensing of Diesel Fuel and Kerosene) in a C3 Commercial District on the property identified by Hernando County Property Appraisal Key #00009047 (611 N. Broad Street), subject to the following conditions:

1. The main ingress/egress for the dispensing station shall be from the existing property driveway connection to Broad Street. Access from Museum Court shall be used for office personnel only.
2. The pumping station is to be completely enclosed with a Type "C" buffer. The type "C" buffer shall completely surround the dispensing tanks and equipment and shall consist of a continuous, 100% opaque wall at least six (6) feet in height constructed of masonry, wood, or other material as may be approved by the Community Development Department. If the wall is constructed of cement block, the side facing the abutting use shall be faced with stucco or another similar decorative finish. In addition, one (1) tree shall be planted adjacent to the wall every twenty-five (25) feet, or portion thereof.
3. Within 45 days of September 10, 2008, the petitioner shall provide documentation indicating all conditions contained herein have been satisfied.
4. Failure to comply with conditions associated with this Special Exception Use approval will result in the revocation of the said approval and subject the property lessee/owner to code enforcement sanctions as may be applicable.
5. The developer must meet all applicable Local, State and Federal performance standards and permitting requirements that pertain to this type of business.
6. The scope of the proposed use will be limited to two (2) above-ground storage tanks not-to-exceed one thousand (1,000) gallons of total fuel storage on the site. *(Note: This condition was added at the hearing)*

Enclosures: (1) Special Exception Use Petition
(2) Petitioner's Cover Letter date stamped September 4, 2008
(3) Site Maps and Property Appraiser Data & petition support documents
(4) Location Map

PETITION FOR SPECIAL EXCEPTION USAGE

TO THE CITY OF BROOKSVILLE, FLORIDA
PLANNING & ZONING COMMISSION

The undersigned Petitioner/Property Owner hereby submits this Petition for a Special Exception Usage at the following described property, to wit: (insert typewritten legal description)

ALL of Block 8, SAXON'S ADDITION TO BROOKSVILE, as per plat thereof
Recorded in plat book 3, page 1, public records of Hernando County, Florida

Subject Property Street Address:

611 N. BROAD Street
BROOKSVILLE, FL 34603

PETITIONER IS SPECIFICALLY REQUESTING SPECIAL EXCEPTION USAGE FOR THE FOLLOWING:

Pumping OFF ROAD Diesel Fuel (Ag Fuel) & Kerosine in Winter months.

Property future land use is: COMMERCIAL
Current land use is: COMMERCIAL
Property is zoned: C-3

Petitioner requests that said Special Exception Usage be permitted so that the Owner may utilize the above said property to its highest and best use.

It is in the opinion of the Petitioner that the granting of a Special Exception Use of said property will not be materially detrimental to the Public Welfare, nor to the persons or properties located in the immediate area.

Wherefore, the Petitioner requests that the City of Brooksville, Florida, Planning and Zoning Commission convene to hear and take jurisdiction over the subject matter of this petition.

Petitioner's Name: Richard Wilkes / HANAWAD Oil, Inc.

Street Address: 6011 N. BROAD Street

City/State/Zip: Brooksville, FL 34603

City/State/Zip: Brooksville, FL

Daytime Phone: 352-796-7638

Signature: Richard J Wilkes

OWNER OR AGENT AFFIDAVIT

CITY OF BROOKSVILLE
COUNTY OF HERNANDO
STATE OF FLORIDA

I, Richard Wilkes, being duly sworn, hereby depose and say
Hilltop Partners LLC is the owner of the herein described property to-wit:

(Insert Legal Description Below)

All of Block 8, Saxon's Addition
To Brooksville, As per Plat thereof Recorded
in Plat Book 3, Page 1, Public records of
Hernando County, Florida.

ACKNOWLEDGMENT

All information submitted within this Petition is in all respects true and correct to the best of my knowledge and belief.

Witness Signature: Joy Wilkes

Owner/Agent Signature: Richard D. Wilkes

STATE OF FLORIDA
COUNTY OF Hernando

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS 31
DAY OF July, 2007 BY THE ABOVE PERSON(S) _____
WHO IS PERSONALLY KNOWN TO ME OR WHO HAS PRODUCED
_____ AS IDENTIFICATION AND WHO (DID) (DID NOT) TAKE AN
OATH.

Karen L. Dzafic
SIGNATURE OF NOTARY

KAREN L. DZAFIC
PRINTED NAME OF NOTARY



APPOINTMENT OF AGENT

CITY OF BROOKSVILLE
COUNTY OF HERNANDO
STATE OF FLORIDA

I, Hilltop Partners, LLC, the owner(s) in fee simple of the below described real property hereby appoint Richard Wilkes as my (our) agent to file required petitions, sign required documents, make representations as to issues of fact and to appear, as may be necessary, before the appropriate City of Brooksville authority. My agent shall also have the authority to commit myself as owner to the necessary future performance conditions as may be directed by the appropriate City authority as a condition of granting my petition. *ONLY AS IT PERTAINS TO 611 N. BROAD ST.*
(Insert Legal Description Below)

Dated: 7/30/08

Signed in the presence of:

WITNESSES:

Signature JAMES W. CARMAN
Print Name JAMES W. CARMAN
Signature Kathleen Warrington
Print Name Kathleen WARRINGTON

Signature _____
Print Name _____

Signature _____
Print Name _____

LANDOWNER(S):

Signature J. Thomas Brown
Print Name J. THOMAS BROWN

Signature _____
Print Name _____

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SEP 04 2008

COVER LETTER

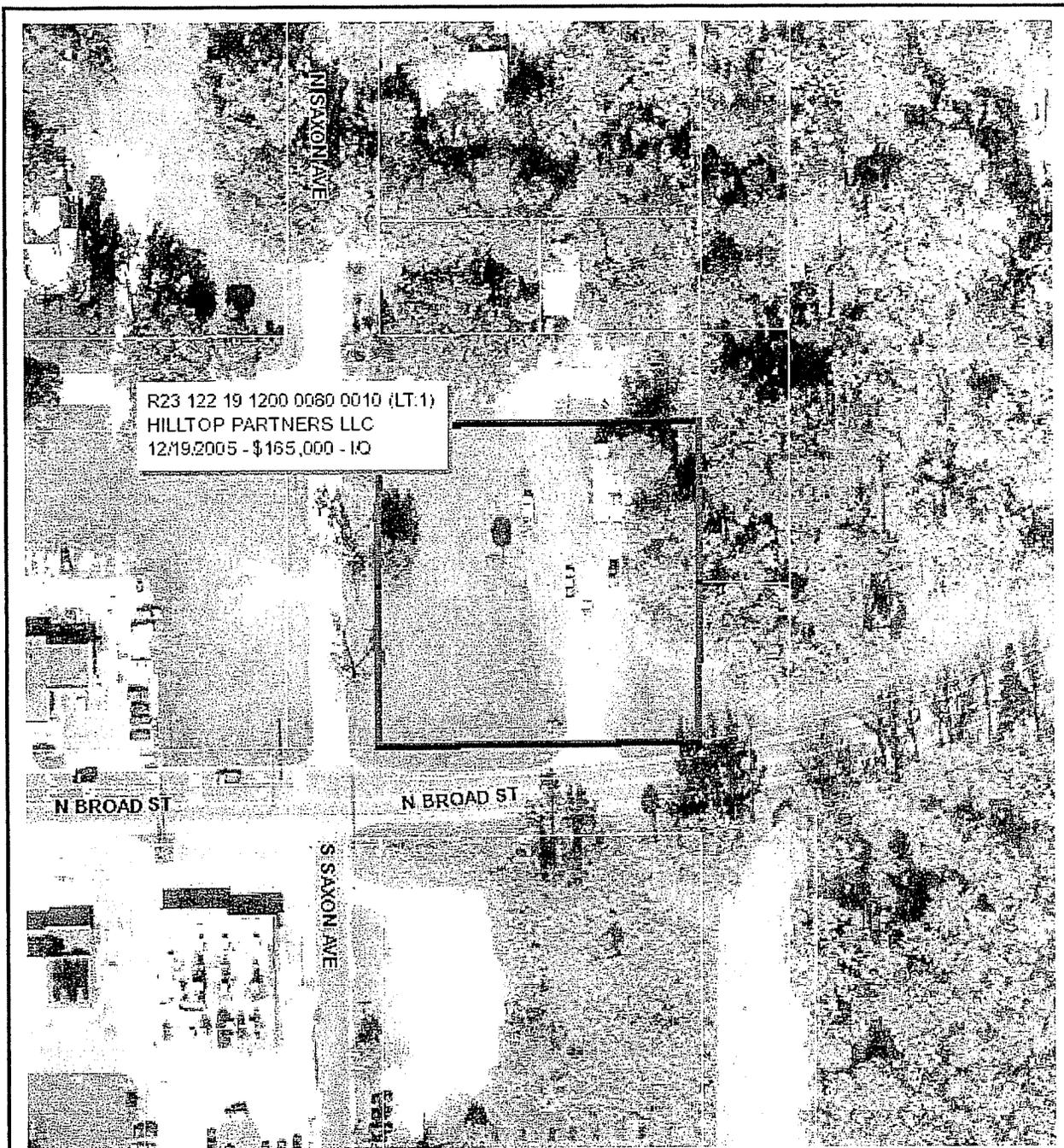
TO: CITY OF BROOKSVILLE PLANNING & ZONING

The purpose of this letter is to request a special use exemption to pump off road diesel fuel, and kerosene. Tanks are above ground and both have containment around them. We will construct fence around tanks upon approval of the special use exemption.

Sincerely,

A handwritten signature in cursive script, appearing to read "Richard Wilkes".

Richard Wilkes
Hernando Oil Company, Inc.

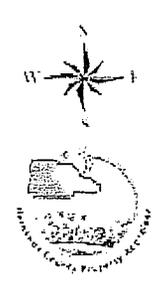
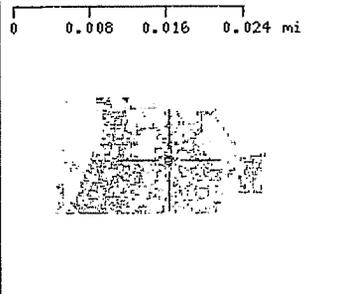


Hernando County Property Appraiser
Alvin R. Mazourek CFA - Brooksville, Florida - 352-754-4190

PARCEL: R23 122 19 1200 0080 0010 | KEY: 00009047

SAXONS ADD TO BROOKSVILLE ALL OF BLK 8

Name: HILLTOP PARTNERS LLC	LandVal	\$110,250.00
Site: 611 N BROAD ST	BldgVal	\$54,275.00
Mail: 24060 DEER RUN RD	JustVal	\$168,152.00
 BROOKSVILLE FL 34601-4548	Assd	\$168,152.00
Sales 12/19/2005 \$165,000.001 (Q)	Exmpt	\$0.00
Info 4/24/2002 \$165,000.001 (Q)	Taxable	\$168,152.00
12/17/1998 \$100.001 (D)		



This information was derived from data which was compiled by the Hernando County Property Appraiser Office solely for the governmental purpose of property assessment. This information should not be relied upon by anyone as a determination of the market value, ownership, or zoning of the property. Zoning information should be obtained from the Hernando County Development Department. No warranties, expressed or implied, are provided for the accuracy of the data herein, its use, or its interpretation. Although it is periodically updated, this information may not reflect the data currently on file in the Property Appraiser's office. The assessed values are NOT certified values and therefore are subject to change before being finalized for ad valorem assessment purposes.

Data Updated: 7/18/2008 | GIS Map Updated: 7/18/2008 | © Copyright 2003 All Rights Reserved - Hernando County Property Appraiser

DRAFT

CITY OF BROOKSVILLE
PLANNING AND ZONING COMMISSION MEETING
Regular Meeting

September 10, 2008

6:30 P.M.

George Rodriguez, Elmer Korbus, Louise Taylor, Ernie Wever and Shannon Andras-Petty were present. Also attending were Bill Geiger, Community Development Director, Derrill McAteer, City Attorney, and Patricia Jobe, Planning & Zoning Coordinator/Recording Secretary. Don Varn and John Wanat were absent.

The meeting was called to order at 6:30 p.m. by Chairman Rodriguez, followed by the invocation and pledge of allegiance.

APPROVAL OF MINUTES

August 13, 2008

Motion:

Motion was made by Member Wever, seconded by Member Korbus to approve minutes. Motion carried 5-0.

** SE2008-05 - RICHARD WILKES - HERNANDO OIL - 611 N. BROAD STREET

Request for a Special Exception Use to enable petitioner to operate a Diesel Fuel and Kerosene Pumping Station in a C-3 Commercial Zoned District.

The City Attorney explained that this is a quasi-judicial proceeding and asked anyone who would like to be recognized as an intervening party to the proceeding or who would like to be sworn as an expert witness to come forward.

Chairman Rodriguez took a poll of the members for any ex-parte communication on the subject matter. Member Wever stated he received a telephone call from the petitioner's mother but referred her to the City Attorney. All other members responded nay.

Commission accepted Bill Geiger by consensus as an expert witness in land use planning, development, and zoning, and his qualifications are on file in the Community Development Department.

Director Geiger requested that the staff report be entered into the record in its entirety, as follows:

SUMMARY OF REQUEST

The Petitioner is requesting approval of a Special Exception Use within an existing C-3 Commercial District to allow for a "Heating Fuel" establishment that would allow the dispensing of Diesel Fuel and Kerosene. The subject property for this Special Exception Use process is approximately 1.01 acres ±. The property is located at 611 North Broad Street (Formerly Creative Environmental Solutions and Charlie's Plumbing before that).

STAFF FINDINGS:

CURRENT LAND USE/ZONING

There is an existing structure located on the subject property which has been occupied by several other small businesses. This structure was built in 1978. This property is zoned C3 (Commercial). A "Heating Fuel" establishment (dispensing diesel fuel and kerosene) is classified as a Special Exception Use in a C3 zoning district. The property is designated Commercial on the City's Comprehensive Plan Future Land Use Map.

Properties located to the north are zoned R2 (Residential) with a City Comprehensive Plan Future Land Map (FLUM) designation of Commercial; properties to the south, east and west are all zoned C3 (Commercial) with a City Comprehensive Plan Future Land Map designation of Commercial.

FACTUAL INFORMATION

1. The subject property is approximately 1.01 acres ± in size. The existing primary structure is approximately 1,500 sq. ft. in size.
2. The proposed fueling station will be located on the south side of the existing structure and will only be accessible from Broad Street.
3. The subject property is zoned C3, which provides for consideration of a Diesel Fuel and Kerosene pumping station (under the Heating Fuel and Ice Establishment Classification) as a Special Exception Use.
4. The site contains adequate parking for the proposed use.

FINDINGS OF FACT

The subject property is approximately 1.01 acres and contains a structure that is 1,500 sq. ft. in size. City Code provides for the Special Exception Use consideration for Heating Fuel and Ice Establishment (Pumping of Diesel Fuel and Kerosene) within commercial zoning districts. The subject property is located in a C3 Commercial Zoning District and has Commercial FLUM designation.

The petitioner has submitted information from the Hernando County Property Appraiser's web site that contains information regarding the site and building layout. Heating Fuel and Ice Establishments require 1.5 parking spaces per person regularly employed on the premises. There will be a maximum of three (3) employees at this location at any given time. There is adequate parking under the City code standards to support the proposed use of the property.

Adequate public services and facilities are available to support the proposed Special Exception Use.

NOTE: The Special Exception Use review process is a land use determination which does not constitute a permit for either construction on or use of the property. Nor is this action considered a Certificate of Concurrency. Prior to use of or construction on the property, the petitioner must receive approvals from the appropriate City Departments and/or other governmental agencies that may have regulatory authority over the proposed use/development.

This report does not include the perspective of adjacent landowners, who may be present at the public meeting to address and present questions and comment.

STAFF RECOMMENDATION:

Staff recommends that the Planning & Zoning Commission conditionally approve the Special Exception Use petition SE2008-05, allowing for a "Heating Fuel" establishment (Specifically providing for the dispensing of Diesel Fuel and Kerosene) in a C3 Commercial District on the property identified by Hernando County Property Appraisal Key #00009047 (611 N. Broad Street), subject to the following conditions:

1. The main ingress/egress for the dispensing station shall be from the existing property driveway connection to Broad Street. Access from Museum Court shall be used for office personnel only.
2. The pumping station is to be completely enclosed with a Type "C" buffer. The type "C" buffer shall completely surround the dispensing tanks and equipment and shall consist of a continuous, 100% opaque wall at least six (6) feet in height constructed of masonry, wood, or other material as may be approved by the Community Development Department. If the wall is constructed of cement block, the side facing the abutting use shall be faced with stucco or another similar decorative finish. In addition, one (1) tree shall be planted adjacent to the wall every twenty-five (25) feet, or portion thereof.
3. Within 45 days of September 10, 2009, the petitioner shall provide documentation indicating all conditions contained herein have been satisfied.
4. Failure to comply with conditions associated with this Special Exception Use approval will result in the revocation of the said approval and

subject the property lessee/owner to code enforcement sanctions as may be applicable.

5. The developer must meet all applicable Local, State and Federal performance standards and permitting requirements that pertain to this type of business.

Mr. Geiger stated he would recommend one addition condition as number six to read as follows "That the scope of the proposed use will be limited to two (2) above ground storage tanks not to exceed one thousand (1,000) gallons of total fuel storage on the site".

Member Wever asked if there was anyone that can tell him whether or not the State or Federal laws require that these storage tanks be placed on a concrete pad so that it will contain any spillage.

Director Geiger replied it was his understanding, and the petitioner can probably speak to this more directly since he has established this use in other locations, that there is containment storage required under and around the tanks so if there is any fuel spillage it would capture that. But you may want to question him in more detail on that. Our Fire Department normally reviews the projects from those perspectives and would be able to better answer that question. But my understanding is that there is containment requirements for above ground storage tanks that would apply whether it is double wall or not, I'm not sure about that.

Member Korbus asked to back up to number six, two above ground storage tanks...how big.

Director Geiger replied the largest of the two (2) storage tanks that the petitioner is proposing to use is five hundred gallons and we are recommending that the total fuel storage on the site based on this condition would not exceed a one thousand gallon total, just to basically put a limitation on the scope of what the potential operation could be under this approval process. If they want to go larger than that, they would have to come back through board review in order to establish a higher scope.

Attorney McAteer stated "Bill, I have a question and then a suggestion on the conditions." The question is regarding the type C buffer. I see that wood is an option and how is the City interpreting the word "wall" versus the word "fence". If it is an opaque fence would that be enough for him to do.

Director Geiger replied an opaque fence would be acceptable under that standard. It is an either/or type recommendation as far as whether it would be a masonry wall, wood or other type of similar composite material that would be acceptable. We would review what would be proposed and either approve it or not approve it accordingly.

Attorney McAteer stated "I wanted that clarification on the record just for the applicant's benefit and for the Board's benefit." And also should we, in light of Mr. Wever's question perhaps with number six state "with a concrete flooring or pad compliant with State and Federal regulation". Something like that, it may be somewhat redundant, but.

Director Geiger replied that, State and Federal requirements, as it relates to above ground storage tanks, I know that it is required to have containment. But it could be another material other than concrete that may be the case.

Chairman Rodriguez asked would number five cover that when you say that "The developer must meet all applicable Local, State and Federal performance standards..."

Director Geiger replied it would.

Chairman Rodriguez asked, "I am a little confused, now this property got

zoned for development, is this still part of that development?"

Mr. Geiger replied no, this has nothing to do with what was previously proposed. There was a mixed use project that was proposed for this property. They had to go through a process where they were requesting a vacation of right-of-way. That was not approved at the City Council level as far as the vacation of the right-of-way. The petitioner stepped back and said we are not proposing to do this at this time. Mr. Wilkes saw the vacant property and he contacted the property owner, wanted to establish this as a temporary use on this property understanding that they will not be there forever and that at some point in time when the property owner comes back with a proposed master plan use for the property, that its use of the property would end at that point.

Chairman Rodriguez asked when they came to the Commission, we approved the project...was it disapproved by the Council.

Director Geiger replied the project was not disapproved but the vacation of right-of-way was not approved.

Attorney McAteer stated maybe it was a condition precedent that was not able to be satisfied therefore the project, for the lack of a better term "died" at the moment.

Chairman Rodriguez asked if they come back again with the same project with the three 3-story buildings that was part of this property would this property still be used for that purpose.

Director Geiger replied it would be up to the property owner. When they come in with a petition they could come in with something similar with what they were proposing before which would include this property. Or they could come in with something different that would perhaps only pertain to the adjacent property. We have no control over that as far as what they might come in and ask for.

Chairman Rodriguez asked, "I did not go to the meeting but did City Council overturn or deny the whole project or just the vacation of the street?"

Director Geiger replied they denied the vacation of the street, not the project itself. The Council expressed support for the intent of the overall project as a mixed use project. They were very supportive of that, but they did not feel it was appropriate to vacate a public street right-of-way.

Chairman Rodriguez asked then this does not really mix with the original project.

Director Geiger replied it does not, it has no relationship to it other than it is part of that property.

Attorney McAteer stated I would point out to the Board that the underlying fee owner of the properties remain the same. This gentleman is leasing the property and he has filled out an affidavit of agent in the record for the underlying property owner as for this use so this parcel has not been split off from that original ownership group. This is a lease situation with this gentleman acting as agent in this application.

Member Korbus asked can we put a limitation on this as far as a time limit.

Director Geiger replied we did discuss that at a staff level as far as the appropriateness of attaching a time limit or time constraint to a project. Under conditional use permitting you can, under special exception use permitting it is not a typical thing to do. We are providing a time limit for them to meet appropriate conditions for the use of the property. But beyond that as far as putting a time limit to say that you are approved for a one year period or a two year period and after that it reverts back unless

you come back and get approved again I would defer to our City Attorney as far as the appropriateness.

Attorney McAteer replied you are thinking more of a temporary use permit than a special exception. Special Exception uses generally do not have a timer on them. I do not know off the top of my head, the mechanism of the code that specifically allows us to do that. So I would have some caution, some real reservation about that being done. If that answers your question.

Member Korbus stated I was thinking since he only had a temporary use of the property and it is leased for a certain period of time that we could tie that into the lease.

Director Geiger replied that it was understood that this is a month-to-month lease. So the property owner at any given time...there is probably like a thirty or sixty day provision in their lease that says you need to find another location.

Member Andras-Pettry asked, I noticed on number three "within forty five days of September 10, 2009", you said when you were reading it forty five days from today so I was just making sure that was correct. It is a year and forty five days then from today's date.

Director Geiger replied it should be 2008, that is a correction, thank you for catching that.

Chairman Rodriguez asked, "Can the petitioner please come forward." Please state your name for the record.

Mr. Wilkes replied, "Richard Wilkes."

Chairman Rodriguez asked do you have anything else to add to the staff report.

Mr. Wilkes replied none other than there is containment underneath both (tanks) that will hold more than the amount that is in the tanks. There is a five hundred gallon tank and a three hundred gallon tank with the same under both right now.

Attorney McAteer asked Mr. Wilkes I just have to ask for the record have you been sworn.

Mr. Wilkes replied yes.

Ms. Andras-Pettry asked are these the two (2) that are already existing, that are sitting there on the property now.

Mr. Wilkes replied yes.

Chairman Rodriguez asked is this going to be like anybody can drive in and out to buy this fuel.

Mr. Wilkes replied, my main customers are small farmers and people who use small piercing heater during the winter time. They drive in and usually, five to ten gallons at a time is what they get. Farmers get maybe a hundred, tops, a hundred and fifty. There are some construction companies and that is just too little of an amount for me to deliver off my big truck so that is why they come to my business to get that.

Chairman Rodriguez asked do you have a number of people in and out. Is it daily.

Mr. Wilkes replied not really. It is probably daily but I would say some weeks I may go through as much as three tanks of fuel which would be fifteen hundred gallons. Some weeks I may only go through five hundred or less. It

just depends on how many of those customers come by to get 150 to 200 gallons at a time that wipes out the storage so I have to refill them. Most of my customers come in smaller than 100 gallons.

Ms. Andras-Pettry asked are you going to have, I do not know anything about the fuel so you will have to excuse me, are they going to be bringing in tanker trucks to fill these tanks, you know, big semi trucks in there to fill the tanks.

Mr. Wilkes replied I have one truck that I fill up with and it is a 4,200 gallon truck so that is what I refill it with and no I do not park that truck at the location. It is only there when I am at the office which is very rare and to refill that tank.

Ms. Andras-Pettry asked are you on a month to month lease.

Mr. Wilkes replied yes.

Chairman Rodriguez asked if there were any other questions from staff. Any other questions for us, sir.

Mr. Wilkes stated one more comment, that the 4,200 gallon truck that is on there, it does not necessarily mean I am carrying 4,200 gallons of fuel in the truck. It has three compartments and nine times out of ten I am not fully loaded (inaudible).

Chairman Rodriguez asked if anybody in the audience had any questions for the petitioner at this time. If you do, please come forward and state your name, please.

My name is Mary Hogeland.

Chairman Rodriguez asked, "have you been sworn."

Ms. Hogeland replied I own the house across the street, I am sorry, I am hard of hearing.

Chairman Rodriguez replied, "I said state your name and say that you have been sworn in."

Ms. Hogeland replied, "no I have not been sworn in today."

Ms. Jobe asked, "do you swear the testimony you are about to give will be the truth."

Ms. Hogeland replied, "yes I do, most certainly."

Chairman Rodriguez said "state your name and address for the record."

My name is Mary Hogeland and I own the property at 705 Museum Court which is directly across from the building that is in question, the property that is in question. I have had that property for well over 20 years. I guess my first question would be why did the Zoning Board even consider this since Hernando County has so much property that is available that is already equipped for this kind of business. I would like to specify that where this property is located we have the Christmas House, we have the Museum, we have historic homes right across the street. Everybody has worked real hard and downtown Brooksville has worked real hard in getting our City up to that kind of par. I have known Mr. Wilkes for many years, actually my father started in Spring Hill and then he started with his father out there with the oil business back then and I know that you were located there on the by-pass and your father was and actually your brother lived right down the road from me. But you know I understand him needing a variance but I do not understand why this kind of variance needs to be put here. Why with the Comprehensive Plan

we have established in Hernando County and the City of Brooksville to keep random zoning and random variances to keep the neighborhoods all in a similar compatibility. I just feel that this type of business in this area is inappropriate. And I do feel that the Museum, the Christmas House, the residents in the historic division set a precedent over this type of business in that area. I do know that there are two gas stations sitting empty right there on 98 and 50 that he could move into and not have a variance. And I know there is property on 98 and there is industrial property and there is so much available that I hate to see a random variance going at this direction.

Attorney McAteer clarified at this time, I certainly do not mean to be rude to you, ma'am, I seek to advise the speaker that this is not a variance petition. A variance petition is a higher standard that requires a whole list of conditions of the code one of which is a hardship. This is a permitted special exception under the zoning code meaning while it is not a delineated permitted use the applicant can come in through a hearing process such as this, obtain that use, and it would be appropriate, under the existing C-3 zoning so the zoning is already there. There is nothing being proposed here that is a variance. It is a special exception in the sense that they are required to come in and do an extra hearing even though the property is already entitled because it is, in some theories, a little bit more intense use than some of the delineated permitted uses under the zoning category that is already attached to the property. I just wanted to make that clear for the record because she did say variance and there is a very big difference between variance and special exception.

Ms. Hogeland stated but still, we are looking at a special exception to be able to run this kind of business on this currently zoned property.

Attorney McAteer replied it was the opinion of staff and looking at Schedule E, Permitted Uses and Special Exception Uses for non-residential districts under Section 137-87 of the Brooksville Code that because of some of the home heating elements and some of the specifics of Mr. Wilkes business, he needed to go through the Special Exception Use process. If he wanted put a regular old gas station in, he can do it without even coming to see us because he is already under C-3 zoning, in my opinion.

Ms. Hogeland asked could you tell me when this was zoned in a C-3 zoning.

Director Geiger replied it would have been probably back in 1969.

Ms. Hogeland asked C-3, because I always understood it to be a C-2.

Director Geiger replied yes, C-2 and C-3 are exactly identical as far as permitted and special exception use.

Ms. Hogeland stated okay so it is actually zoned as C-2, is it not. Can I clarify that, is it zoned as C-2 or C-3.

Director Geiger replied C-3.

Ms. Hogeland stated it is zoned as C-3, because I was just in the other day and I was told it was zoned as C-2. I just thought it had to do with a little heavier commercial.

Director Geiger replied no.

Ms. Hogeland stated all I am saying is we are just trying to look at the area that is there and how it will effect everybody that is around that area.

Director Geiger stated let me respond to that too, this Board does not have any control over what petitions are presented to it. The petitions are presented on behalf of the property owner, in this case, the lessee and the content of the petitions are evaluated by this board based on the current criteria that has been established for Special Exception Use. Generally, the

Special Exception Use, as the attorney indicated is a use that would normally be approved although it may be of a type or intensity that might require some special consideration in its approval. What this board's obligation to do is to make sure that anything that might be construed as an adverse impact to the neighborhood, to the properties in the vicinity, that those types of issues are properly addressed in conditionally approving the petition. They are doing that with the conditions that are being recommended as far as buffering and addressing what could be otherwise considered an aesthetic eye sore with above ground storage tanks and such. Those things are being addressed in the conditions that are being recommended. At this point if there were any other things, from a permanent adjacent property owner's point of view that you would recommend the Board could certainly take that into consideration.

Ms. Hogeland asked so basically I could take it that you are recommending six (6) foot high fences around the property.

Director Geiger replied not around the property, around the storage and distribution facility.

Ms. Hogeland asked would that include big pods, big trucks, big dumpsters. May I ask would that include all that, big trucks coming in and out. Big dumpsters, big ipods for storage. Would that office look like it just has a few cars pulling up for the office from, you know, from the office and then all the other things be behind that fence or is that just going to be for the 50-gallon drums and storage tanks. The whole appearance of it makes a total difference in that whole area and I am not just speaking for myself, I am concerned about the museum. I am concerned about everything that we have put into this area. I was on the board of the museum twenty (20) years ago. We have put a lot of work into the museum and we have worked real hard in this area and downtown Brooksville has worked real hard. So I am just saying are you going to be able to control that with your stipulations. I have watched a lot of industry and commercial come in and out of Hernando County and I have watched a lot of stipulations going. Do you really think that you can get a beautiful control situation that is going to complement surrounding areas.

Director Geiger replied the conditions are addressing the scope of the operation that can go there. Obviously the petitioner has their established office operation there. They want to be able to do the small scale distribution as well. The conditions are all geared towards addressing that so that you do not have frequent delivery vehicles coming in and out or outdoor storage that is just random around the property. The intent is to address those kinds of concerns. The petitioner indicated that they have a small truck that they use to come in and refill the storage tanks and that should really be the largest vehicle that you will see coming in and off that property.

Ms. Hogeland stated but other trucks like dumpster trucks and dump trucks are going to come in and out. It is going to happen.

Director Geiger stated they can do that now, Mary, trucks are allowed to come in and off that property now, it is zoned Commercial.

Ms. Hogeland stated okay, I do want to mention too that when we came up with (inaudible) a few months ago when they put the development up and they had a beautiful scene area set up with restored buildings and (inaudible) like New Orleans, and it was complementing the whole neighborhood, the museum, and they did not get their road and now this is what is happening and I almost feel like, you know, that it is not fair. Okay, so, I have said my piece and I thank you very much for listening.

Chairman Rodriguez stated thank you, does the board members have any questions for the lady. Anybody else in the audience have anything at this point, please come forward if you do.

Attorney McAteer stated Mr. Chairman, the applicant has a right to rebuttal if he wants to.

Chairman Rodriguez asked does the petitioner have anything else to add to what he already told us if you do please come forward, or any response to the lady who just spoke.

Mr. Wilkes replied I would just like to add that I am a very small business. This was kind of an emergency move to this property. I do not plan on being there for the rest of my life. I cannot tell you how long I will be there but it will not be the rest of eternity so I would just like to add that I am a very small business and you are not going to have a huge amount of traffic coming in and out of that property. That is basically all I have.

Chairman Rodriguez stated thank you, sir. Since nobody else in the audience or the board have any questions for the petitioner at this time or for staff...

Member Korbis asked, Bill, on this, is it because it is fuel, does the City Fire Department have to give any type of approval or anything for it.

Director Geiger replied yes, they would do the review of plans and inspection of the above ground storage distribution facility itself.

Member Korbis asked but do they give any approval ahead of time like now, at this point in time. Do they say that is a compatible area or something like that.

Director Geiger replied no, they do not get into that.

Member Korbis asked so it is not a recommendation from the Fire Department until it is actually somewhat constructed.

Director Geiger replied they go in and make sure that they adhere to all the applicable codes and requirements associated with the type of use but they do not get involved with the use aspect which is what you are dealing with now.

Member Andras-Petty stated my biggest concern is the safety issue for the historical sites. We have a lot of old homes there, we have the museum and I am very concerned about the diesel fuel being stored there next to the museum. I mean, it is not next to it but very close to it. I wish that the Fire Department could have reviewed this and let us know.

Director Geiger replied let me speak to that a little bit too. You have oil tanks inside residential homes that provide heat for homes in the winter time in other areas around the country. Obviously, we do not need that kind of storage here but as far as the kerosene and the diesel fuel, they are less flammable than the other types of fuels that are out there, gasoline you use in your car is definitely more flammable than these types of fuels that they will have on this site.

Member Andras-Petty stated but that is eighteen (18) gallons versus close to a thousand.

Director Geiger replied no actually a lot of the fuel oil tanks that people have in their homes can be in excess of a hundred gallons.

Chairman Rodriguez asked any other questions for staff or the petitioner.

Member Korbis asked when they build this site they will put the tanks up and they put these things in to contain it, and things like that. Is there any way that it could possibly leak and reach down in...because this is going from the top of the hill, one of the highest hills in Brooksville and it is going downhill and because of the difference in elevation, if it leaked it is

going to go down real fast and it is going to spread real fast. If it leaked, it could possibly do a lot of damage. And for a temporary business to come in there and something just happened it would do a lot more damage than...

Director Geiger replied as Mr. Wilkes indicated, the containment is required to equal the size of the tanks themselves so any fuel that may be spilled with regard to the tanks should be captured and contained. Any spills that do occur have reporting requirements and they need to be taken care of immediately. You do not have fuel spills that are allowed to just sit there and to the point where they would create great environmental damage. There is always risk when it comes to dealing with fuels. That is a given but as far as when you look at the other types of permitted uses that are allowed on this property that are actually under the permitted use schedule that could be considered to be of higher risk than the scope of what is being proposed by this business.

Chairman Rodriguez asked in those uses, let us say I want to put a gas station in, I do not have to come in front of anybody at this point because it is zoned for the property, just go ahead and build a gas station, with underground tanks and everything else at this point...

Member Korbus asked but a gas station would have to have underground tanks, would it not, they cannot have above ground tanks anymore.

Director Geiger replied I do not know that they have to have underground tanks. It is just more cost effective for them to have underground tanks. It takes above ground space to have above ground tanks and usually space is a premium on a piece of property and most will choose to go with an underground tank.

Chairman Rodriguez asked any other questions. If not,...you will have to come forward to the microphone, state your name again.

Richard Wilkes stated in regards to that last question, it is required if you store gasoline that it has to be underground. Diesel fuel you do not have to because it is not explosive like gasoline.

Chairman Rodriguez stated thank you, sir, for clarification. Anybody else have a question, please come forward and state your name.

David Mango, stated I have been sworn, we live directly behind the petitioner on the west northwest at 701 Museum Court. Obviously the gas station could go there and you have no recourse. I would just ask the Board and the petitioner be sensitive to the historic environment that is there. We live in over a hundred year old home and the museum is even older than that. Our neighbor to the east is an older home as well. So we would ask that the Board be sensitive to that environment, the residential environment and parcels that are just to the north of this commercial property and whatever would go there I am sure we would be back to express that same concern of sensitivity towards the two (2) residential and commercial locations.

Chairman Rodriguez stated thank you, sir. Anybody else, any comments. This is the last time I am going to ask, so...if nobody else has any comments, I bring it back to the board. I need a motion then.

Motion was made by Member Wever to approve the staff report subject to the added condition of number six.

Attorney McAteer stated just a note for the record to clarify Mr. Wever's motion, that it is including all staff recommended conditions including recommendation six, is that correct, Mr. Wever, thank you.

Chairman Rodriguez stated I need a second, if I do not get a second, it is going to die. The motion dies for lack of a second. I need a motion still.

Motion:

Motion was made by Member Korbus to deny staff recommendations (and subsequently, the petition), seconded by Member Taylor. Motion carried 3-2 with Member Wever and Chairman Rodriguez voting in opposition.

Attorney McAteer asked are we clear on the record as to who...do you want to poll the board.

Recording Secretary Jobe stated no, I have it.

Chairman Rodriguez stated the motion has been denied 3-2. Thank you very much. Chairman Rodriguez then clarified, "Oh, sorry, the petition has been denied for approval."

**PP2008-01 AND FP2008-01 PRELIMINARY AND FINAL SUBDIVISION RE-PLAT FOR OAKS TOWNE CENTRE - 55 PONCE DE LEON BOULEVARD - PRESENTED BY BILL RAIN, PRESIDENT, METRO BAY DEVELOPMENT

Director Geiger requested that the staff report be entered into the record in its entirety, as follows:

SUMMARY OF REQUEST - GENERAL INFORMATION

The Petitioner is requesting Preliminary and Final Subdivision Re-Plat approval for the "Oaks Towne Centre" property. The subject property is 11.00 acres \pm , currently zoned CPDP (Combined Planned Development Project) and is located on west of Ponce De Leon Boulevard, south of DeSoto Avenue, north of Benton Avenue and east of Veterans Avenue (See attached location map). On May 9, 2007 the Planning and Zoning Commission reviewed and recommended that City Council approve rezoning the property from R-3 (Multi-Family Residential) to Planned Development Project (PDP) with a Special Exception Use for a Combined Planned Development Project (CPDP). On June 4, 2007 the City Council approved Ordinance No. 747 rezoning this property from R-3 (Multi-Family Residential) to PDP with a Special Exception Use for a Combined Planned Development Project (CPDP) with the following conditions:

- a. Permitted uses associated with this Combined PDP include an assisted living facility, government offices, general offices, retail stores, restaurant and an educational facility. Future outparcel development may include a bank, offices and a restaurant, subject to meeting all applicable performance standards. The "REZONING PLAN FOR OAKTOWNE CENTRE" dated 4/25/07 is subject to modification to address subdivision platting and city code performance standards.
- b. Within two years of the City Council's approval of this Combined Planned Development Project (Combined PDP) zoning, the petitioner/developer will need to initiate the subdivision process, providing preliminary plat plans that address infrastructure needs, construction plans that reflect the preliminary plat (once approved) and a final plat (all being consistent with the requirements of the City's subdivision regulations).
- c. The petitioner/developer must obtain all required permits and meet all applicable land development regulations for construction or use of the property.
- d. Landscaping/Buffers - The detailed development/redevelopment plans for this property will be required to reflect and adhere to the standards of the City's Landscaping, Buffer and Tree Protection code (Chapter 109, City Code). This portion of the City code encourages the preservation of existing trees on the site, and the developer will be required to give due consideration to this in the design and final plan layout.
- e. Traffic - Any modifications to existing access points that may

be proposed in conjunction with this property's redevelopment will be subject to meeting City performance standards, including frontage road setbacks and requirements. A traffic analysis showing the capacity of the road network impacted by this proposed development/redevelopment is to be completed and submitted to the City prior to or in conjunction with the preliminary plat plan submittal.

- f. Sidewalks - The developer will be required to install appropriate pedestrian amenities including sidewalks in areas adjacent to public road rights-of-way and internal to the project, as applicable, and crosswalks where deemed appropriate, all being subject to approval through the subdivision plat review process. All facilities must meet ADA standards.
- g. Drainage - Proposals for outparcel or parking lot development that increase the existing impervious surface area of the project will be subject to meeting all applicable standards and permit requirements established by the Southwest Florida Water Management District and the City of Brooksville. To this extent, The developer will be required to construct an on-site storm water drainage control system that meets the design and performance standards as specified by the technical requirements for open and closed basins in the *Environmental Resource Permitting Information Manual, latest edition*, as published by the Southwest Florida Water Management District. The proposed stormwater plan associated with this project must comply with all applicable federal, state and local standards. The developer will be required to coordinate with the City's Department of Public Works and Community Development to properly plan for and address drainage.
- h. Infrastructure & Services - The developer will be required to enter into a utility service agreement with the City of Brooksville for water and sewer services.
- i. Sanitation - Solid waste collection services will be provided by the City. Special solid waste services (such as compactor service) are subject to city approval.
- j. Subdivision Requirements - To accommodate this project, the property must be platted in accordance with the City's subdivision regulations. Individual use areas will be further delineated and platted consistent with the City's standards.
- k. City Concurrency Standards - The developer will be required to provide a "Statement of Impact - Concurrency Application" with each phase of development for this project that will be reviewed to ensure that level-of-service standards are being maintained within their adopted levels.
- l. Unless specifically addressed to the contrary by conditions referenced herein, City ordinance regulations which apply with regard to zoning district classification shall be applied to this PDP as though it were zoned C2.
- m. Future actions required in conjunction with the redevelopment of this property include subdivision platting, rights-of way vacation and construction plan approval. Renovations to the existing structure may be initiated prior to receiving final plat approval.

LAND USE/ZONING

The subject property is zoned CPDP (Combined Planned Development Project) with a City Comprehensive Plan Future Land Use (FLU) designation of Public Facilities and Land. Property located on the north side of DeSoto Avenue is C2 (Commercial) and R3 (Multi-Family Residential) with a FLU designation of Commercial, and properties to the south, east and west are all C-2 Commercial, with a FLU designation of Commercial.

STAFF FINDINGS:

FACTUAL INFORMATION

1. The subject is zoned CPDP (Combined Planned Development Project).
2. The subject property is approximately 11.00 acres ±.
3. The subject property is being re-platted into three (3) lots. 55 Ponce De Leon, LLC is the owner for lot 1, the Grande, LLC is the owner of lot 2, and Hernando County Board of County Commissioners are the owners of lot 3. This portion of the Halemont Addition Section 2 plat currently has 45 platted lots with street rights-of-way going through it.
4. Construction plans have been reviewed to ensure that all applicable City code standards are being met.
5. Hendricks Street from Veterans Avenue to Lamar Avenue and a portion of Lamar Avenue from Hendricks Street to Veterans Avenue will be vacated with this subdivision re-plat.

This final Re-Plat has been reviewed by City staff to ensure that all conditions and requirements have been met prior to being submitted to the Commission for consideration. Staff comments are as follows:

1. The Final subdivision re-plat appears to be consistent overall with City and State regulatory standards.
2. Pursuant to Chapter 177, Florida Statutes, the City has employed a surveyor to review the proposed Re-Plat for compliance with technical surveying requirements specified by State law. The City's surveyor is in the process of reviewing the plat document at the time of writing this report. Final plat approval is subject to revision based on the city's review surveyor's determination.
3. Sub-Section 1.1.e. of the zoning ordinance requires that the subdivider provide a traffic analysis showing the capacity of the road network impacted by this proposed development/redevelopment either prior to or in conjunction with the preliminary plat plan submittal. This analysis has not yet been provided. Since this project is a redevelopment/remodeling of the existing building, the required analysis may be deferred to the timing of when a permit/certificate of use is being established for the building. It is anticipated that the future uses associated with this project will be comparable to the prior use of the property as a hospital site. If the required analysis demonstrates an equal to or lower than prior use impact, no mitigation will be required. If the analysis demonstrates a higher impact, mitigation would be required in the form of impact fees or road improvements.
4. The subdivider is in the process of coordinating with the various utility companies on establishing separate easement documents for the existing utilities that are on the subject property. These easements need to be executed and recorded prior to the City's signature of the final plat document.

BUDGET IMPACT: The Petitioner is assessed fees for the costs associated with the processing of this petition.

LEGAL REVIEW: The preliminary plat process is quasi-judicial and the final plat/replat process is legislative. Plat documents will be reviewed for legal form and sufficiency.

NOTE: The Preliminary Plat/Final subdivision re-plat review/approval process is a land use determination which does not constitute a permit for either construction on or use of the property. Nor are these actions considered a Certificate of Concurrency. Prior to use of or construction on the property, the petitioner must receive construction plan approval from the appropriate

city and/or other governmental agencies that have regulatory authority over the proposed development.

The granting of this land use determination does not protect the owner from civil liability for recorded deed restrictions which may exceed any City land use ordinances. Homeowner associations or architectural review committees may require submission of plans for their review and approval. The applicant for this petition request should contact the local association (if there is one) and review the Public Records for all restrictions that may be applicable to this property.

This report does not include the perspective of adjacent landowners, who may be present at the public meeting to address and present questions and comments.

STAFF RECOMMENDATION:

Staff recommends that the Planning and Zoning Commission conditionally approve the preliminary plat and Final Replat labeled as "Oaks Towne Centre", prepared by ArcPoint Surveying and Mapping, LLC, date stamped September 2, 2008, authorize the Chairman to sign the final Replat documents, and recommend that the City Council approve the same, subject to the following conditions and statements:

- A. Development of this property will be subject to meeting all applicable federal, state and local agency permitting requirements.
- B. Developer is required to provide a "Statement of Impact - Concurrency Application" with each phase of development for this project that will be reviewed to ensure that level-of-service standards are being maintained within their adopted levels. Additionally, the developer of this property is required to provide a traffic analysis showing the capacity of the road network impacted by this proposed development/redevelopment prior to the city issuing a certificate of use for the building. If impacts are established that are higher than the impacts associated with the prior use of the property, mitigation may be required that could include the payment of impact fees and/or improvements to infrastructure within the impact area.
- C. Unless conditioned and stated otherwise, all provisions stipulated within zoning Ordinance No. 747 continue to be applicable to the use of this property.
- D. Final plat approval is subject to revision based on the city review surveyor's determination and direction.
- E. All applicable easements need to be executed and recorded prior to the City's signature of the final plat document.
- G. The developer is required to provide the City with three original copies of the approved Oaks Towne Centre Preliminary Plat that are signed, dated and sealed by a Florida registered Land Surveyor. Once the Final Replat is recorded, the developer must provide the City with one recorded mylar and two copies, plus one (1) 11' X 17" copy.

Director Geiger stated developers and property owners will provide easements to the utility companies that have any of their facilities located within the existing platted road right-of-way to ensure their interests are secure and being addressed.

Discussion ensued regarding regulatory authority of the easements.

Bill Rain presented the board members with a visual presentation to address some of the issues brought up about the easements.

Motion:

Motion was made by Member Korbus to approve staff recommendations and for City Council to approval final replat with conditions, seconded by Member Taylor. Motion carried 5-0.

ADJOURNMENT

As there was no further business to come before the Commission, the meeting was adjourned at 7:28 p.m.

Patricia J. Jobe
Recording Secretary

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Sec. 137-43. Additional duties of planning and zoning commission.

- (a) *Generally.* The commission shall have the following additional powers and duties:
- (1) To hear and decide appeals where it is alleged there is an error in an order or determination made by the administrative official in the enforcement of the land use/zoning regulations of the city.
 - (2) To hear and decide special exception petitions to the land use/zoning regulations of the city.
 - (3) To hear and decide petitions seeking variances from the land use/zoning regulations of the city. No such variance will be granted unless the facts presented show that a literal interpretation and enforcement of the regulations would result in an unnecessary hardship to the petitioner. No variance will be granted for a condition which was caused by the petitioner.
- (b) *Decision of the commission.* In the exercise of its powers and duties, the commission shall have all of the powers of the administrative official. The concurring vote of a majority of the commission shall be required to approve a variance or special exception request. Written confirmation of the decision of the commission shall be mailed to the applicant within two business days of the hearing on such decision.
- (c) *Appeals.* Appeal of a decision of the administrative official may be taken to the commission by any person affected by such decision. Any appeal must be taken within 21 calendar days from the date the decision is rendered by the administrative official. Written notice of the appeal shall be delivered to the administrative official or his authorized representative. The administrative official will publish in a newspaper of local circulation (as defined in F.S. ch. 50) a notice of hearing at least seven calendar days prior to the hearing. The cost of such publication will be paid by the petitioner. The hearing before the commission shall be conducted pursuant to the rules and procedures established for such proceedings by the city council.
- (d) *Appeals of a commission decision.* Anyone may appeal a decision of the commission to the city council. In order to appeal a decision, the petitioner must deliver a notice of appeal to the city clerk within ten calendar days of the date of the commission's decision. The notice of appeal must specify the decision being appealed and the specific reasons for the appeal. The notice of appeal shall be placed as an item on the next available regular agenda of the city council. No discussion of the merits of the appeal will be permitted; the mayor will request a vote of the council to determine if it wishes to hear the appeal. If a majority of the council votes to hear the appeal, a hearing at a special meeting of the city council will be scheduled within 21 days of the vote by the council. The city clerk will publish in a newspaper of local circulation (as defined in F.S. ch. 50) a notice of hearing at least three calendar days prior to the hearing. The cost of such publication will be paid by the petitioner. The hearing before the council shall be conducted pursuant to the rules and procedures established for such proceedings by the city council.
- (e) *Stay of proceedings.* An appeal to the commission of a decision of the administrative official or an appeal to the city council of a decision of the commission shall cause all matters relating to the appeal to be stayed until the conclusion of the appeal process. However, after receipt of the notice of appeal, the stay may be lifted by the administrative official if, in his opinion, the facts in the notice of appeal would cause imminent peril to life or property.

(Code 1988, pt. III, subpt. B, § 53)

**CITY OF BROOKSVILLE
OFFICIAL POLICY
9-1997**

APPEAL PROCEEDINGS

This meeting procedure is to be used whenever an appeal is brought before the City Council pursuant to City Ordinance No. 562.

Procedure:

1. The Chairperson will call the meeting to order.
2. Notice of publication will be read into the record.
3. Representatives of the parties will be sworn in by the City Attorney.
4. Staff presentation. (4 minutes)
5. Council questions of staff.
6. Appellant presentation. (5 minutes)
7. Council questions of appellant.
8. Staff rebuttal. (1 minute)
9. Additional questions of staff/appellant.
10. Council discussions.
11. Council motion, second, vote.

General

1. Additional time may be allotted to the staff/appellant so long as the time available is fairly apportioned. Time made available under this section will be printed on the Council Agenda and would supersede the standard times listed on the foregoing procedure.

**CITY OF BROOKSVILLE
BUDGET WORKSHOP**

AGENDA

AUGUST 5, 2008

6:00 P.M.

Brooksville City Council met in workshop session with Mayor David Pugh, Vice Mayor Frankie Burnett and Council Members Joe Bernardini, Lara Bradburn and Richard E. Lewis. Also present were Jennifer Rey, City Attorney; T. Jennene Norman-Vacha, City Manager; Karen M. Phillips, City Clerk/Director of Administration; Janice L. Peters, Deputy City Clerk; Steve Baumgartner, Finance Director; Mike Walker, Parks and Recreation Director; Bill Geiger, Community Development Director; Emory Pierce, Director of Public Works; Lt. Rick Hankins, Police Dept. and Tim Mossgrove, Fire Chief.

The meeting was called to order by Mayor Pugh.

FY2008/09 GENERAL FUND BUDGET

Review of preliminary General Fund projections for FY2008/09.

City Manager Norman-Vacha and Steve Baumgartner, Director of Finance, reviewed the proposed general fund budget. Director Baumgartner presented Council an overview of the budget by Power Point presentation. (Attachment A)

Parks Revenue

Council Member Bernardini asked why revenue is going down for the Parks. Mike Walker, Director of Parks & Recreation, indicated this is due to the fact that during the first 3 years of The First Tee some large grant dollars were received as well as a drop in revenues of other Parks areas.

Communication Revenue

Council Member Lewis asked how the Department of Revenue knows when our boundaries expand to include services. Steve Baumgartner indicated there is a semi-annual report the City submits to update that information.

Public Service Tax

Council Member Lewis asked if anyone is exempt from this tax. Director Baumgartner indicated the postal service and county entity is exempt. City Manager Norman-Vacha will check into the matter.

Building Permits

Council Member Bernardini asked how much the City was previously paying the County. Director Baumgartner advised it was the same, 80%. Bill Geiger, Director of Community Development, advised the County also kept a portion of the impact fees for administrative costs, which PDCS does not.

Council Member Lewis expressed concern that the City is not collecting all the taxes it is due.

Council Member Bernardini asked why the County was charging the City a percentage of collecting the building permits if municipalities are not supposed to make a profit. Director Geiger reviewed the Building Divisions contract relating to revenue, which was discussed.

City Manager Norman-Vacha gave a PowerPoint presentation on the General Fund from a historical perspective over the last 10-years. (Attachment B) The importance of not relying on ad valorem taxes was discussed.

BUDGET WORKSHOP MINUTES - AUGUST 5, 2008

Capital Outlay projects were discussed, during which City Manager Norman-Vacha advised that she has asked staff to put together capital outlay projects for Council to consider. She advised that part of the money the Property Appraiser's office pays the City for rent should be put aside for maintenance on the building, which is 40 years old.

Council Member Bradburn thanked City Manager Norman-Vacha for putting together the presentation.

A 5-minute recess was taken.

Council Member Lewis asked if the City is in the process of working with the Enrichment Center for moving to the JBCC. City Manager Norman-Vacha indicated the issue is on the next agenda.

Council Member Bradburn brought up the issue of having a list of charities to which the City will waive fees for the use of the JBCC, which was discussed. Mayor Pugh advised he is leary about having an actual list. City Manager Norman-Vacha offered to bring back a report on the entities who request this and the amounts for the next budget workshop.

Page 5 General Fund Revenue

Brooksville Housing Authority PILOT

Council Member Lewis asked if the City is collecting any back money owed the City by the Brooksville Housing Authority. City Manager Norman-Vacha advised steps are being taken to resolve this with a new PILOT Agreement, which she and Attorney Jennifer Rey are working on with the Brooksville Housing Authority Board Chairman.

Hydrant Fees

Council Member Lewis pointed out that the Hydrant Fees for Contractual Services with the County has decreased from the time it was instituted; meanwhile, his personal water fees have increased. He suggested reevaluating the number of hydrants, especially relating to Township 22.

Director Baumgartner advised that those fees are only for maintenance as the fees for water are in Water and Sewer. The revenue is split, based on the Interlocal Agreement, between General Fund and Water and Sewer.

Emory Pierce, Director of Public Works, clarified that the County pays a set amount, \$88 per year per hydrant, and the revenue amount has gone down because annexation has reduced the number of hydrants. This fee includes unlimited use of water.

Fire Chief Mossgrove added that the \$88 is broken down and allocated for parts and maintenance.

Council Member Lewis advised, and Mayor Pugh agreed, that the process needs to be re-evaluated to calculate water usage.

Page 6 School Board - Tom Varn Park

Council Member Lewis asked about the fees charged to the schools for use of the fields. Mike Walker, Director of Parks & Recreation, indicated a cost analysis had been done and felt \$20,000 is sufficient.

BUDGET WORKSHOP MINUTES - AUGUST 5, 2008

Adult Fees - JBCC

Council Member Bradburn asked why the adult fees went down from \$2000 to \$100. Director Walker thought it was in place for daily walk-ins for basketball. Gym availability is not really there right now due to increased scheduled activities.

Page 7 CRA Service/TIF

Council Member Bradburn asked what the service fees cover. Director Baumgartner indicated it is based on the millage and the taxable values within the CRA District. Director Geiger briefly reviewed the fees. Discussion followed of TIF loans and projects it was used for.

Council Member Bradburn indicated the original CRA loan to the City was inappropriate and recommended the fund be returned to its intended use. Director Geiger reviewed the loan and what it was used for. Discussion followed.

Mayor Pugh requested detailed information on the funds. City Manager Norman-Vacha will work with staff to get a full accounting.

Page 18 City Council

Advertising Activities

Vice Mayor Burnett asked if all meetings have to be advertised. City Clerk Phillips clarified that only public hearings are advertised.

Page 19

Clothing/Uniforms

Vice Mayor Burnett asked about the zero balance to supply new Council Members with shirts because he thought new Council members would get two shirts upon being elected.

Training & Education

Council Member Bernardini asked if there is money for going to meetings and conferences. City Clerk Phillips indicated there is \$1,500 in Training and Education and \$1,500 in Travel and Per Diem. No increases have been made. City Manager Norman-Vacha advised it can be increased if Council wishes.

Page 17 General Government

Machinery & Equipment (Telephones)

Council Member Bernardini asked what is wrong with the phones in City Hall. City Clerk Phillips indicated they are over 12 years old and in need of replacement. City Manager Norman-Vacha advised a new system is being considered which would encompass all extensions city-wide and eliminate extra lines.

Mayor Pugh asked for additional information as to what could be saved by replacing the system. City Manager Norman-Vacha advised she is working on a full-cost accounting with Technology Services.

Page 6 Capital Purchases

Council Member Bernardini asked why there is so much money for copiers. City Manager Norman-Vacha explained that it is cheaper to network copiers

BUDGET WORKSHOP MINUTES - AUGUST 5, 2008

and is looking at a 3-year lease opportunity through a state contract bid which includes maintenance and cartridges but not paper.

Director Walker reviewed his printer/copier expenses.

Page 20 Administrative Dept.

Council Member Bradburn suggested eliminating two secretarial clerks and redirect the money to someone who can take on the special projects and tasks they would like to see accomplished, such as researching alternative funding and sources of revenue.

Council Member Bernardini recommended the City Manager bring recommendations to Council.

Jim Delach, Assistant Finance Director, explained the salary increases reflected in the budget, which was briefly discussed along with a review of positions.

City Manager Norman-Vacha advised that this is the projected budget, she will entertain suggestions from Council to cut back if they so wish. Council Member Bradburn requested the City Manager explore a special projects person and elaborated on the need for that person to pursue grants, etc., which was further discussed.

Page 24 Human Resource Dept.

City Manager Norman-Vacha advised that she is planning to cut the HR Director position in light of the fact that she works with the City Attorney's office for legal services and they can handle a lot of the issues. Discussion followed.

Page 27 Community Development

Other Contractual Services

Director Geiger indicated the \$214,000 directly reflects the agreement with Page Dixon Chandler Smith, LLC (PDCS) the Building Official, Code Enforcement Hearing Officer and general planning needs.

Council Member Bradburn advised that the University of Florida has a program that specializes in working with communities on planning needs. She indicated they have offered to visit with the City to come up with a priority list which they can help with at a reasonable cost. She requested a line-item be added to cover that.

Mayor Pugh felt this to be what the Planner was hired for, to eliminate the need for contractual services. Director Geiger elaborated on the need for prioritizing planning and finding the funds to proceed. Discussion continued of needed capital improvements and funding.

Mayor Pugh was not in favor of a line-item for added planning assistance at this time. Discussion continued of priorities.

Page 30 & 31 Police Department

Administrative Specialists

Council Member Bernardini asked why the PD has two Administrative Specialists. City Manager Norman-Vacha indicated one does records, one does payroll, answers PD phones and does other activities and reallocated responsibilities.

BUDGET WORKSHOP MINUTES - AUGUST 5, 2008

Reserve Part-time

City Manager Norman-Vacha advised that \$12,000 doesn't cover 15 FTE's (Full Time Equivalents) so right now there is only one.

Unscheduled Overtime

Council Member Bernardini asked about the increase in unscheduled overtime from \$36,500 to \$72,000. Jim Delach indicated some was transferred from the Drug-Enforcement line item. City Manager Norman-Vacha further elaborated. Discussion continued of scheduling and ammunition. Council Member Lewis requested figures on fuel pricing since officers are allowed to take home their vehicles. City Manager Norman-Vacha advised that there has been a substantial increase in cost with minimal increase in actual mileage.

Institutional Items

Council Member Bernardini pointed out increases in Travel and Per Diem, Operation and Institutional Items, but noted that postage went down. Lt. Hankins elaborated.

The subject of a consolidated ordering of office supplies for cost efficiency was discussed.

HRA Funding Acct.

Council Member Bernardini asked for an explanation of the HRA Funding Account. City Manager Norman-Vacha explained that it is a Health Reimbursement Account which allows each employee \$1,000 for deductible reimbursement. The dental program was explained as well.

Page 33 Fire Dept.

Council Member Bradburn inquired of the Jaws of Life as to how much life is left on them. Fire Chief Mossgrove indicated they have two and the life expectancy is only as good as the annual testing. District Chief Stan Mettinger indicated 5-10 years. Chief Mossgrove advised MAST Medical Anti Shock Trousers are not allowed because the medical field has determined through studies that it does not really benefit the patient but that all first response vehicles have defibrillators, which Council Member Bradburn encouraged throughout the City.

Council Member Bradburn asked if the cooperative effort of the joint station is impacting the budget. Chief Mossgrove indicated not at this time.

Council Member Bradburn felt the Fire Department needs an ALS person on staff and suggested the budget reflect the cost of training, which was discussed.

Page 35 Park & Recreation

Equipment

Council Member Bradburn asked if the equipment Parks has is used within the Buildings and Grounds Division. Director of Parks & Recreation Mike Walker indicated that Building and Grounds transferred from Public Works last year with their own equipment. Extensive discussion followed of the cutting of the right of ways and the use of equipment.

BUDGET WORKSHOP MINUTES - AUGUST 5, 2008

Page 43 Public Works Department

Director Pierce advised that the Streets & Drainage budget encompasses the elimination of one position, the Streets Foreman, whose duties will be taken over by the Public Works Supervisor, and the downgrade of a vacant position.

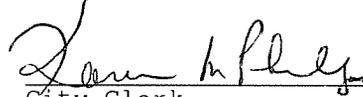
He indicated he would like to contract with the county for street patching, with his crew still doing the prep work. This will free up about 1000 hours for his crew to do other work.

He recommended one prison crew come back to Public Works to help with right-of-way mowing, advising that the weed eater is the preferred tool for them to use.

Mayor Pugh asked if the position being eliminated is currently filled. Director Pierce said yes and that individual will be able to apply to relocate within the City.

ADJOURNMENT

There being no further business to bring before Council, the meeting adjourned at 10:30 p.m.



City Clerk

Attest: _____

**CITY OF BROOKSVILLE
BUDGET WORKSHOP
COUNCIL CHAMBERS
201 HOWELL AVENUE**

AGENDA

AUGUST 12, 2008

6:00 P.M.

Brooksville City Council met in workshop session with Mayor David Pugh, Vice Mayor Frankie Burnett and Council Members Joe Bernardini, Lara Bradburn and Richard E. Lewis. Also present were Thomas S. Hogan, Jr., City Attorney; T. Jennene Norman-Vacha, City Manager; Karen M. Phillips, City Clerk/Director of Administration; Janice L. Peters, Deputy City Clerk; Steve Baumgartner, Finance Director; Mike Walker, Parks and Recreation Director; Bill Geiger, Community Development Director; Emory Pierce, Director of Public Works; Will Smith, Utilities Superintendent; George Turner, Police Chief and Tim Mossgrove, Fire Chief. A represent from the Hernando Times was also present.

The meeting was called to order by Mayor Pugh.

FY2008/09 BUDGET

Review of preliminary budget projections for FY2008/09.

City Manager Norman-Vacha distributed replacement pages for the previously distributed budget. The changes were reviewed by Assistant Finance Director Jim Delach and City Manager Norman-Vacha.

Council Member Lewis, referring to line item 8 on page 36 of the previous budget packet, thought it should be \$40,071 instead of \$4,071. Jim Delach indicated it should be \$40,710.

Special Revenue Funds - Pages 1-24

Page 4

Council Member Bernardini indicated the asterisks on column 4 need to be clarified.

Page 22 CDBG Commercial Revitalization Grant

Vice Mayor Burnett asked if the amount is just moved forward each year. Steve Baumgartner, Director of Finance, indicated it is part of a loan the Community Redevelopment Agency owes to the City and is therefore booked as a receivable.

Total Capital Projects Fund

Page 25

Council Member Bradburn suggested taking the \$40-45,000 left in the fund to put toward a new A/C unit. This was discussed and a recommendation made of putting 1 mill in reserves for capital improvements, specifically in fund 306 with a designation.

Page 36 Enterprise Fund

Water, Sewer & Solid Waste

Finance Director Baumgartner gave an overview of rates, pointing out that there are resolutions that govern increases, which he felt could be 4-5% based on the revenue stream the City is getting today. Discussion followed

BUDGET WORKSHOP MINUTES - AUGUST 12, 2008

which included bond covenants. Mayor Pugh requested Finance check with legal counsel concerning the covenants.

City Manager Norman-Vacha indicated Council would have to take action during a regular meeting to not go forward with the adopted resolutions and ordinances which automatically takes the Tampa Bay Metropolitan Statistical Area (MSA) and applies the CPA. The revenue Council is seeing today does not apply that 4-5% Consumer Price Index (CPI). She guessed the 5% last year would suggest a 6-7% this year with the price of fuel and consumables. She requested direction from Council.

Council Member Bradburn advised she would not be in favor of a rate increase at this time due to the economy. Council Member Lewis requested staff supply CPI comparisons with projections.

Utilities Supervisor Will Smith gave an overview of the expenses in this budget, which includes a 5-year plan on page 43.

Contract Labor Services

Director Pierce advised that the contract labor services could be replaced with regular employees in utilities and sanitation due to the private labor companies getting lax with background checks. City Manager Norman-Vacha elaborated on the subject and the liabilities associated with the services.

Vice Mayor Burnett commended the Public Works Department on supplying the 5-year plan.

Council Member Bradburn asked for the difference between the Construction Project Manager and the Inspector/Technician, which Director Pierce explained.

Referring to Crew Leaders, Vice Mayor Burnett requested a breakdown of multiple salaries for the same titles. City Manager Norman-Vacha indicated it could reflect turnovers versus long-time employees. Director Pierce will provide an explanation.

Page 37 Public Works

Line 61

Council Member Bradburn asked about the reduction of connection supplies. Utilities Superintendent Smith indicated it reflects fees from new connections which are down, which City Manager Norman-Vacha elaborated on.

Lines 40-41

Council Member Bernardini asked about the projected increases in repair and maintenance and sewer apparatus. Utilities Superintendent Smith elaborated and will provide breakdowns to Council.

Line 18 Unemployment Compensation

Council Member Lewis asked about the increased amount from \$0 to \$10,869. City Manager Norman-Vacha reviewed the issues related to unemployment.

Page 38 Capital Outlay

Council Member Bradburn asked for an explanation of the Capital Outlay, which Finance Director Baumgartner reviewed and indicated are broken down on page 40 and 42.

BUDGET WORKSHOP MINUTES - AUGUST 12, 2008

Page 39 Flouride

Council Member Bradburn recommended not putting fluoride in the water in order to cut expenses, which amounts to just under \$7,000 for chemicals only, plus costs for distribution, monitoring and other tasks. She indicated that even the least expensive toothpaste on the market contains fluoride, which the American Dental Association advises is sufficient.

Council Member Bernardini, Vice Mayor Burnett and Council Member Lewis supported the recommendation.

Superintendent Smith advised it is a public health issue and will find out the requirements necessary to discontinue and report back. Council Member Lewis recommended Superintendent Smith submit his findings to the City Manager to run by legal. Mayor Pugh agreed it could be a potential savings and requested information on the equipment being used as to whether it is specialized and the cost.

Page 45 Solid Waste

Council Member Bradburn asked if new garbage trucks are needed. Director Pierce indicated they are. He currently has six. When a new one is acquired a spare is surplus. Finance Director Baumgartner suggested that cash be paid for one or both. The issues of rates and administrative costs were discussed.

Council Member Bradburn requested the utility trucks be touched up with paint. Director Pierce will see to it.

Page 51 Fleet Maintenance

Council Member Bradburn requested an analysis of whether three people are needed in Fleet Maintenance. Outsourcing was discussed. Director Pierce observed that the guys have to ferry vehicles and some repairs are outsourced. Normal sick and vacation times need to be covered and it is more than one person can handle. Council Member Bradburn offered that a secretary could do a lot of the coordinating and handling of services. She requested an analysis of the staffing which Director Pierce will provide.

Page 52 Health Reimbursement Account

Line 10

Council Member Lewis advised that it looks like the amount on line 10 has been moved to line 54. He asked what the amount is based on. Jim Delach advised that the \$500 per person is an average.

Page 53 Internal Service Vehicle Replacement Fund

Director Baumgartner indicated the Vehicle Replacement Fund is being split from Vehicle Maintenance (Fund 501) and \$1,250,000 is being moved into Fund 502.

Page 54 General Fund Fleet Vehicle Replacement

Council Member Bradburn asked the reason for the various life expectancies of the vehicles, which was explained by Jim Delach as it relates to whether it is paid off or not. The regular vehicles have a 7-year life.

Page 57 Solid Waste Fleet Vehicle Replacement

Council Member Bradburn asked about the life expectancy of the garbage trucks and the age of the ones being replaced. Director Pierce indicated the two being replaced are spares and are not listed. Director Baumgartner indicated that the plan is to start funding for a new truck at the end of

BUDGET WORKSHOP MINUTES - AUGUST 12, 2008

10 years each time a new one is purchased. Director Pierce will bring back details on the second truck being replaced.

Page 62 Cemetery Costs

Council Member Bradburn asked what the \$300,000 in reserve is for. Director Walker indicated it is for upkeep of the cemetery once it is filled to capacity and no additional revenue is being generated.

GIS System

Council Member Bradburn, referring to the GIS system, advised the sooner it is on-line the better.

Capital Improvement Plans

Mayor Pugh would like to look at the Fire District fee assessment issue with a cost benefit, which was discussed. City Manager Norman-Vacha will bring back suggestions.

Mosquito Control

Director Pierce indicated the County comes through the City periodically and they are aware of the City's flood-prone areas. Council Member Bradburn indicated she would like to see coordination between the City and County to make the process more efficient, which Director Pierce will check into.

Solid Waste Annual Increase

Discussion followed of the annual rate increase for solid waste, which Director Baumgartner reviewed. City Manager Norman-Vacha will provide Council with a projection and sources for funding. Council Member Bernardini indicated he agrees with Council Member Lewis in that ½ mill should be taken from reserves for contingencies.

Mayor Pugh would like to see a capital improvement list then figure out how to pay for the projects with an emphasis on tax relief for citizens. Discussion continued.

Council Member Bradburn indicated she would like to dedicate a recurring amount to be set aside for capital projects, such as the rental amount paid by the Property Appraiser's Office and is looking forward to the City Manager coming up with a list of alternatives. She would like to see 10-12% in reserves.

WAIVER OF FEES

Discussion and review of fees waived by Council for various non-profit agencies.

Mayor Pugh advised he would like to see a cap on the amount allocated for waivers. Vice Mayor Burnett recommended allocating \$5,000 for that purpose. Council Member Lewis recommended allocating \$5,000 just for JBCC and \$5,000 for other activities to take place downtown.

Director Pierce advised that, with regard to the Christmas parade, the rental of billboard signs alone is around \$4,000.

Council Member Bernardini recommended a total amount be set aside that is inclusive of all requests.

Vice Mayor Burnett asked that the actual amount waived for the last few years be tallied and submitted for reference. City Manager Norman-Vacha will provide.

BUDGET WORKSHOP MINUTES – AUGUST 12, 2008

ADVISORY BOARD MODIFICATION PROCESS

Discussion of term limits for City Advisory Boards with the possibility of staff taking some of the responsibilities.

City Manager Norman-Vacha indicated the report reviews staff time involved in working with the boards. Council direction was requested for expiration dates and term limits.

The requirements of having the various boards were discussed. City Manager Norman-Vacha indicated the law requires the pension boards for police and fire pension funds as well as statutes that require the City to have a Housing Authority Board. The P&Z is required unless there is a Hearing Officer. All others are advisory in nature and at the discretion of Council, i.e., Cemetery, Beautification, Parks & Recreation.

Council Member Bernardini indicated he is in favor of the same expiration for all members and is in favor of term limits only if there is a disclaimer allowing the reappointment of a member if no one else applies.

Council Member Lewis indicated he would like to see staggered term limits. City Manager Norman-Vacha recommended staggered December 31st expirations with Council to hear expirations at the 2nd meeting in December.

Council Member Bradburn indicated she supports term limits and would like to consider a hearing officer from outside the County as an alternate to the Planning & Zoning Board. Council Member Lewis agreed. Director Geiger indicated it would probably cost around \$200 per hour for a hearing officer.

Council Member Bernardini asked for information on how many meetings are cancelled because of no quorum.

Vice Mayor Burnett stressed the importance of appointing people to boards who have the knowledge to be on the boards.

Mayor Pugh stated he is in favor of staggering the term limits but not limiting terms. He stressed the importance to appointing people who are qualified to serve on the boards. Discussion continued.

City Clerk Phillips pointed out that in the report provided to Council, Attachment B is the history of the original appointment dates of all the current seated members. The report from the July 21st meeting, Attachment 2 reflects their latest appointment dates.

City Manager Norman-Vacha advised that she and staff will look at tweaking the staggering of the expiration dates and bring a policy back to Council for a final decision on term limitations and adopting policy.

ELECTION PROCESS

Discussion of the possibility of turning over the entire elections process to the County Supervisor of Elections office.

City Attorney Angeliadis briefly reviewed the item, noting the ordinance dealing with changing the verbiage to "designated election official" will be coming up for 2nd reading.

Council Member Lewis reaffirmed that he is not in favor of turning the process over to the Supervisor or Elections office.

Mayor Pugh indicated he is prepared to move forward on the issue and requested it be on the next agenda. Council Members Bernardini and Bradburn were in favor of moving forward with the item. Vice Mayor Burnett indicated he needs to further review the issue.

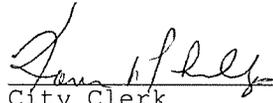
BUDGET WORKSHOP MINUTES - AUGUST 12, 2008

FAIR ASSOCIATION FEES

Council Member Bernardini requested City Manager Norman-Vacha send a letter to the Fair Association board reminding them of their commitment to do something different with the dumpster issue at the next fair and the possibility that the City may not be able to waive fees this year so they have ample time to make other arrangements. City Manager Norman-Vacha will follow-up.

ADJOURNMENT

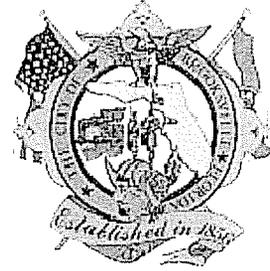
There being no further business to bring before Council, the meeting adjourned at 9:15 p.m.



City Clerk

Attest: _____
Mayor

CITY OF BROOKSVILLE MEMORANDUM



To: Honorable Mayor and City Council Members

Via: T. Jennene Norman-Vacha, City Manager

From: Karen M. Phillips, City Clerk

Subject: 2009 Holiday/Meeting Schedule

Date: September 25, 2008

Pursuant to Section 5.00 of the Personnel Policies, the attached is the list of employee holidays for 2009, together with the regular council meeting, potential workshop meeting (10/1/07 minute excerpt attached), tentative budget workshop/public hearing schedule (all beginning at 6:00 p.m.) and annual Fire District and CRA Board meeting dates. The regular council meetings have been scheduled on the first and third Monday's of the month, unless there is a conflict with a holiday in the month, which results in only one regular meeting in the months of January, February and September in 2009.

We have been advised that the holiday list is consistent with the employee holidays that will be observed by Hernando County Board of County Commissioners and the School Board (through June 2009).

The budget workshops and public hearing dates are tentative (reflected as beginning at 6:00 p.m. based on comments made during the hearing cycle in 2008), and final dates will be announced when the Finance Director completes his budget calendar next year. It should also be noted that the FLC Conference is scheduled for August 13-15, 2009 in Orlando next year so the workshop date in August should be okay.

Budget Impact

The holiday pay and overtime compensation have been budgeted.

Legal Impact

The meeting and holiday schedule meets code and policy requirements.

Staff Recommendation

Council approval of these schedules, or amendments thereto, is requested.

REGULAR CITY COUNCIL MINUTES - OCTOBER 1, 2007

Withlacoochee Regional Planning Council Annual Renewal Agreement for Professional Services

Consideration of approval of renewal and authorize Mayor to execute.

USDA Funding for City Wide Radio Read Meter Installation

Consideration of approval of staff request to seek funding assistance from USDA in the amount of \$1,458,000.

City of Brooksville Computer Licensing

Consideration of approval of the purchase of licensing for City of Brooksville computers.

Misc. Valve & Fire Hydrant Replacement Project UD 2007-03

Consideration of canceling award of bid to Chilton Construction Inc. for failure to return Agreements and proof of insurance and awarding bid to next lowest bidder, Mueller Services Company, for the not-to-exceed amount of \$59,100.

Council Member Bradburn requested the Executive Session minutes of July 31, 2006 and the August 29, 2007, Special Workshop/City Attorney Interviews minutes be pulled for separate votes.

Vice Mayor Burnett recommended and Mayor Pugh concurred that the Annual Holiday and Meeting Schedule reflect possible workshops on the 2nd Monday of every month. Council consensus was to schedule the 2nd Monday of every other month starting in January 2008.

Motion:

Motion was made by Vice Mayor Burnett and seconded by Council Member Bernardini for approval of the Consent Agenda with the removal of the minutes of July 31, 2006 and August 29, 2007 and the amendment to the Holiday & Meeting Schedule.

Mayor Pugh, referencing D-8, the Misc. Valve & Fire Hydrant Replacement Project, asked what prevents our own employees from performing the linestopper work and would it be any cost savings to the City.

Emory Pierce, Director of Public Works, advised that it takes more manhours than he has available and that Mueller can handle the job.

Motion carried 5-0.

July 31, 2006 Executive Session

Council Member Bradburn indicated there were nine condemnations included in the Executive Session and requested an update on the items from the Attorney. She pointed out the paragraph on page 29, wherein the Mayor, in regards to Southern Hills, reminded Council that ultimately they are getting transportation impact fee credits which would be used throughout the City and felt this should be stressed in the minutes.

She then asked Attorney Hogan, because the minutes were from a previous Council and she cannot verify their accuracy, if she is required to vote on them. Attorney Hogan advised that she can make the record clear that she was not there, but if she has no reason to object she can vote to accept them.

2009

City of Brooksville Meeting & Holiday Schedule

January						
S	M	T	W	T	F	S
					①	2 3
4	⑤	6	7	8	9	10
11	⑫	13	14	15	16	17
18	⑰	20	21	22	23	24
25	26	27	28	29	30	31

JANUARY

- 1 New Year's Day
- 5 7:00 PM Council Meeting
Fire Dist Ann Mtg
- 12 6:00 PM Potential Wkshp
- 19 Dr. M.L.K.'s Birthday

February						
S	M	T	W	T	F	S
1	②	3	4	5	6	7
8	9	10	11	12	13	14
15	⑮	17	18	19	20	21
22	23	24	25	26	27	28

FEBRUARY

- 2 7:00 PM Council Meeting
- 16 President's Day

March						
S	M	T	W	T	F	S
1	②	3	4	5	6	7
8	⑨	10	11	12	13	14
15	⑮	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

MARCH

- 2 7:00 PM Council Meeting
- 9 6:00 PM Potential Wkshp
- 16 7:00 PM Council Meeting

April						
S	M	T	W	T	F	S
5	⑥	7	8	9	⑩	11
12	13	14	15	16	17	18
19	⑳	21	22	23	24	25
26	27	28	29	30		

APRIL

- 6 7:00 PM Council Meeting
- 10 Good Friday
- 20 7:00 PM Council Meeting

May						
S	M	T	W	T	F	S
3	④	5	6	7	8	9
10	⑪	12	13	14	15	16
17	⑱	19	20	21	22	23
24	⑳	26	27	28	29	30
31						

MAY

- 4 7:00 PM Council Meeting
- 11 6:00 PM Potential Wkshp
- 18 7:00 PM Council Meeting
- 25 Memorial Day

June						
S	M	T	W	T	F	S
	①	2	3	4	5	6
7	8	9	10	11	12	13
14	⑮	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

JUNE

- 1 7:00 PM Council Meeting
- 15 7:00 PM Council Meeting
- 3 Independence Day
- 6 7:00 PM Council Meeting

JULY

- 13 6:00 PM Potential Wkshp
- 20 7:00 PM Council Meeting

AUGUST

- 3 7:00 PM Council Meeting
- 11 6:00 PM Budget Wkshp
- 17 7:00 PM Council Meeting
- 25 6:00 PM Budget Wkshp

July						
S	M	T	W	T	F	S
5	⑥	7	8	9	10	11
12	⑬	14	15	16	17	18
19	⑰	20	21	22	23	24
26	27	28	29	30	31	

SEPTEMBER

- 7 Labor Day
- 9 6:00 PM Budget Hearing
- 14 6:00 PM Potential Wkshp
- 21 7:00 PM Council Meeting
- 23 6:00 PM Budget Hearing
CRA Budget Mtg

August						
S	M	T	W	T	F	S
2	③	4	5	6	7	8
9	10	⑪	12	13	14	15
16	⑰	18	19	20	21	22
23	24	⑳	26	27	28	29
30	31					

OCTOBER

- 5 7:00 PM Council Meeting
- 19 7:00 PM Council Meeting

September						
S	M	T	W	T	F	S
6	⑦	8	⑨	10	11	12
13	⑭	15	16	17	18	19
20	⑰	22	⑳	24	25	26
27	28	29	30			

NOVEMBER

- 2 7:00 PM Council Meeting
- 9 6:00 PM Potential Wkshp
- 11 Veteran's Day
- 16 7:00 PM Council Meeting
- 26 Thanksgiving Holiday
- 27 Thanksgiving Holiday

October						
S	M	T	W	T	F	S
4	⑤	6	7	8	9	10
11	12	13	14	15	16	17
18	⑰	20	21	22	23	24
25	26	27	28	29	30	31

DECEMBER

- 7 7:00 PM Council Meeting
- 21 7:00 PM Council Meeting
- 24 Christmas Holiday
- 25 Christmas Holiday

November						
S	M	T	W	T	F	S
1	②	3	4	5	6	7
8	⑨	10	⑪	12	13	14
15	⑮	17	18	19	20	21
22	23	24	25	⑳	㉑	28
29	30					

December						
S	M	T	W	T	F	S
6	⑦	8	9	10	11	12
13	14	15	16	17	18	19
20	⑰	22	23	⑳	㉑	26
27	28	29	30	31		



**CONSENT AGENDA ITEM
MEMORANDUM**

TO: HONORABLE MAYOR AND CITY COUNCILMEN
VIA: T. JENNENE NORMAN-VACHA, CITY MANAGER
FROM: TIMOTHY A. MOSSGROVE, FIRE CHIEF
SUBJECT: EQUIPMENT PURCHASE / MEDIUM DUTY SQUAD
DATE: OCTOBER 20, 2008

[Handwritten signature of T. Jennene Norman-Vacha]
[Handwritten signature of Timothy A. Mossgrove]

GENERAL SUMMARY/BACKGROUND:

Brooksville Fire Department currently has two light duty squad trucks, vehicle 208 purchased in 99/00 and Vehicle 211 purchased in the 00/01 each with a life service expectancy of seven years. Currently vehicle 208 has been in service for nine years and vehicle 211 for eight years. Vehicle 208 has reached its limit as being used as a first out piece of equipment for everyday use and will be reassigned as the brush truck to replace vehicle 255 purchased in 1986. Vehicle 255 will be declared surplus when delivery is received of the new truck.

Vehicle 211 would be traded-in as part of the purchase of the new vehicle, along with a discount of \$6,000.00 available for pre-payment outlined in the purchase price (Attachment 1) and with approval, within 30 days after the award of the contract a 100% performance bond will be issued (Attachment 2). Enhancing our fleet with a medium duty squad will combine equipment currently on two vehicles and establish a portable cascade system on this unit with the ability to fill bottles on site at emergency scenes as needed. Reallocating this equipment to one apparatus will reduce the overall cost of fuel, maintenance and insurance while putting in-service a unit that is multipurpose.

BUDGET IMPACT AND AMENDMENT: Funds were budgeted in the amount of \$185,000.00 in the 08/09 budget currently available in the internal service vehicle replacement fund No. 502. 000 166 19037 (Vehicle Replacement Machinery and Equipment). The total outlay of cash for the squad truck is \$184,111 which is under out \$185,000 capital expenditure amount in the 08 09 Budget. However, the trade-in creates an accounting issue. Here is the recap of the purchase:

Cash Outlay of Squad Truck	
Squad Truck purchase price	\$190,156
Less Trade-in	-\$17,500
Cash Outlay of Squad Truck	\$172,656
Cascade System	\$11,455
Total Cash Outlay to purchase and equip Truck	\$184,111

Squad Truck Capital Asset Value calculation	
Squad Truck purchase price	\$190,156
Cascade System	\$11,455
Total Capital Value of Squad Truck	\$201,611

Budget Amendment Request

Total Capital Value of Squad Truck	\$201,611
The 08 09 Vehicle Replacement Budget	-\$185,000
Budget amendment requested for accounting purposes	\$16,611

Based on the value of the Squad Truck including the trade-in and the Cascade System, we are requesting a budget amendment of \$16,611. The 08 09 Budget included only the cash outlay of \$184,111 which is below the Budgeted capital amount of \$185,000. However, since the real value of the squad truck includes the trade-in we are requesting this budget amendment for clarification. We request the 08 09 Vehicle Replacement Fund Machinery and Equipment line (502 000 166 19037) amount be increased by \$16,611 based on this accounting issue. No cash reserves are affected by this amendment. The offsetting entries will be made through our fixed assets accounts.

LEGAL REVIEW: The City Attorney has reviewed the information as to content and form and has determined that it is in good legal form.

STAFF RECOMMENDATION: Staff recommends council approval of trade-in of vehicle 211 and file the appropriate documents and, to purchase vehicle outlined and approved in the 08/09 budget for the amount of \$172,656.00 from the St. Johns County Contract #07-53 being sole source (Attachment 3) and, approval of purchasing necessary equipment to establish the cascade system in the amount of \$11,455.00 (Attachment 4) for an overall cash price of \$184,111.00.

Pc: Karen Phillips, City Clerk

Attachment

1

PROPOSAL FOR FURNISHING FIRE APPARATUS

September 30, 2008

Brooksville Fire Department
85 Veterans Avenue
Brooksville, Florida 34601

The undersigned is prepared to manufacture for you, upon an order being placed by you, for final acceptance by Pierce Manufacturing, Inc., at its home office in Appleton, Wisconsin, the apparatus and equipment herein named and for the following prices:

Table with 2 columns: Description and Price. Includes items like 'One (1) Pierce Encore Rescue per the attached specifications' for \$196,156.00, 'TOTAL DISCOUNTS' for (\$23,500.00), and a final 'Total \$ 172,656.00'.

Said apparatus and equipment are to be built and shipped in accordance with the specifications hereto attached, delays due to strikes, war, or intentional conflict, failures to obtain chassis, materials, or other causes beyond our control not preventing, within about 170 working days after receipt of this order and the acceptance thereof at our office at Appleton, Wisconsin, and to be delivered to you at Brooksville, Florida.

The specifications herein contained shall form a part of the final contract, and are subject to changes desired by the purchaser, provided such alterations are interlined prior to the acceptance by the company of the order to purchase, and provided such alterations do not materially affect the cost of the construction of the apparatus.

The proposal for fire apparatus conforms with all Federal Department of Transportation (DOT) rules and regulations in effect at the time of bid, and with all National Fire Protection Association (NFPA) Guidelines for Automotive Fire Apparatus as published at the time of bid, except as modified by customer specifications. Any increased costs incurred by first party because of future changes in or additions to said DOT or NFPA standards will be passed along to the customers as an addition to the price set forth above.

Unless accepted within 30 days from date, the right is reserved to withdraw this proposition.

PIERCE MANUFACTURING, INC.

By: Tim Outlaw [Signature]
SALES REPRESENTATIVE



Attachment

2



PERFORMANCE BOND

Pierce Manufacturing shall provide, within thirty (30) days after award of contract, and along with a signed copy of the contract, a performance bond, which guarantees performance of all terms and conditions of the contract and of the Basic One (1) Year Limited Warranty agreement. The performance bond will specifically cover the performance of the contract according to its terms and conditions, as well as payment of all related bills and encumbrances. This performance bond shall be issued by a surety company who is listed by the U.S. Treasury Department's list of approved sureties, as published in Circular 570, as of the bid date. The performance bond shall be issued in an amount equal to 100% of the contract amount and shall be dated concurrent to, or subsequent to, the date of the contract.

Notwithstanding any document or assertion to the contrary, any surety bond related to the sale of a vehicle shall apply only to the Basic One (1) Year Limited Warranty for such vehicle. Any surety bond related to the sale of a vehicle shall not apply to any other warranties that are included within this bid (OEM or otherwise) or to the warranties (if any) of any third party of any part, component, attachment or accessory that is incorporated into or attached to the vehicle. In the event of any contradiction or inconsistency between this provision and any other document or assertion, this provision shall prevail.

Attachment

3

Pierce Manufacturing Inc.

AN OSHKOSH CORPORATION COMPANY • ISO 9001:2000 CERTIFIED



2600 AMERICAN DRIVE
POST OFFICE BOX 2017
APPLETON, WISCONSIN 54912-2017
920-832-3000 • FAX 920-832-3208
www.piercemfg.com

April 17, 2008

To Whom It May Concern:

RE: Pricing Certification for St. John County, Florida Contract for Fire Apparatus and Special Application Vehicles Awarded Per RFP 07-53

For this contract Pierce Manufacturing Inc. established a verifiable and justifiable price point with St. John's County, by establishing a pricing level equal to GSA Federal Supply Schedule 23 in relation to Pierce Fire Fighting vehicles plus 3% dealer markup as in effect at the time of this bid. The GSA price point, as established for this bid, is equal to our current Pierce dealer cost as detailed through the software programs known as "Pride" and "Spark". This is illustrated on the last page of each component list as "net due Pierce". This would include any Pierce offered options and accessories. All models offered by Pierce Manufacturing Inc. are available under this contract with pricing generated through the "Pride" and "Spark" pricing configurators. The pricing software is maintained by Pierce Manufacturing Inc. and all numbered options are price controlled by the manufacturer. Local dealer has no control over the numbered option pricing. Charges over and above this pricing level would be equal to those allowed by GSA for training, delivery, and inspections. Pierce agrees to maintain this level pricing point for the term of the contract.

Pricing provided by the local dealer for loose firefighting equipment and supplies (hose, nozzles, tools) shall confirm to the discount schedule as supplied in the St. Johns County contract for these loose items.

Proposals may only be submitted by the local dealer representing Pierce Manufacturing Inc. The local dealer is responsible for complete administration of the contract, delivery if required, training, service and warranty repairs. If any further clarification is needed, please feel free to contact me. We greatly appreciate your consideration of our products.

Respectfully,
Pierce Manufacturing, Inc.

A handwritten signature in black ink, appearing to read "Jeff Resch", written over a horizontal line.

Jeff Resch
Vice President, National Sales

ST. JOHNS COUNTY, FLORIDA
Board of County Commissioners



Office of the Purchasing Department

2740 Industry Center Road
Saint Augustine, FL
32084

PHONE (904) 209-0154
FAX (904) 209-0155

TO: Robert Boggus DATE: March 2, 2007
Pierce Manufacturing, Inc.
P. O. Box 2017 BID NO.: 07-53
Appleton, WI 54912-2017

PROJECT DESCRIPTION: RFP NO: 07-53

Fire Apparatus and Special Application Vehicles

Please find enclosed the executed contract agreement for the above referenced project.

Purchase Orders will be issued for the purchase of equipment.

If you have any questions, please call me at 904-209-0154. Thank you for doing business with St. Johns County.

Sincerely,

A handwritten signature in cursive script that reads "Leigh Daniels".

Leigh Daniels
Buyer III
St. Johns County Purchasing

cc: Fire Rescue Department
Finance
Master File

JN
3/1/07

**CONTRACT AGREEMENT
FOR
RFP NO. 07-53
Fire Apparatus and Special Application Vehicles**

THIS AGREEMENT is made this 1st day of March 2007 by and between ST. JOHNS COUNTY, hereinafter called "OWNER", and Pierce Manufacturing Inc., P. O. Box 2017, Appleton, WI 54912, (920) 832-4273 hereinafter called "CONTRACTOR".

WITNESSETH: That for and in consideration of the payment and agreements hereinafter mentioned;

1. The CONTRACTOR will supply fire apparatus and special application vehicles to St. Johns County Fire Rescue listed on General Services Administration, GSA Federal Supply Schedule 23, Contract # GS-30F-1045D in accordance with RFP No. 07-53.

2. The CONTRACTOR agrees to provide the item(s) as described in the CONTRACT DOCUMENTS for a five-year term beginning March 1, 2007 and ending February 28, 2012 unless extended. The County will be invoiced at a pricing level equal to current GSA Federal Supply Schedule 23 in relation to Pierce Fire Fighting vehicles plus 3% dealer markup. A Purchase Order will be issued for each purchase.

Any future price adjustments to fire apparatus and special application vehicles pricing will be in accordance and equal to adjustments made to GSA Federal Supply Schedule 23.

Owner agrees to allow other municipalities or agencies to access its contract for fire apparatus and special application vehicles. An access fee in the amount of 1/2 of 1% of the sale price of each unit purchased off the contract by an outside agency will be credited back to the Owner to be applied to the next purchase.

The contract will be for an initial period of five (5) years. The contract may be extended, upon mutual agreement of the Owner and Contractor, for up to five (5) years. This agreement does not require that the owner meet or exceed a minimum purchase quantity.

3. The term CONTRACT "DOCUMENTS" means and includes the following:

- (1) ADVERTISEMENT FOR BIDS AND INSTRUCTION TO BIDDERS
- (2) RFP PROPOSAL - COST PROPOSAL
- (3) RFP SPECIFICATIONS & CONDITIONS & ADDENDUM # 1
- (4) CONTRACTOR'S PROPOSAL DATED 1/16/2007

(5) CONTRACT AGREEMENT

4. The Contract Agreement shall be binding upon all parties hereto and their respective heirs, executors, administrators, successors and assigns. IN WITNESS WHEREOF, the parties hereto have executed or caused to be executed by their duly authorized officials, this Agreement, five (5) copies of which shall be deemed an original on the date first above written.

CONTRACTOR:

OWNER:

PIERCE MFG. INC. Seal

St. Johns County Board of County Commissioners Seal

BY: Robert F. Boggus
Signature

BY: Joe Burch
Signature

NAME: ROBERT F. BOGGUS
Printed Name & Title

NAME: Joe Burch, Purchasing Manager
Printed Name & Title

ADDRESS: 2600 AMERICAN DR. 3-1-07
APPLETON, WI 54915 Date of Execution

PHONE (920) 832-3231

FAX (920) 832-3084

Cheryl Strickland, Clerk of Courts

By: Patricia K. Strickland
Deputy Clerk

3-1-07
Date of Execution

ST. JOHNS COUNTY



COST PROPOSAL



RFP NO. 07-53

BY

PIERCE MANUFACTURING INC.



AND

TEN-8 FIRE EQUIPMENT INC.



January 18, 2007

**ST. JOHNS COUNTY
COST PROPOSAL
RFP NO. 07-53**

Pierce Manufacturing Inc. is pleased to present a competitive and comprehensive pricing proposal. Our intent with this proposal is to provide the fairest and most competitive price possible, with the highest level of service and parts support available in the market. This can only be accomplished with the support of a highly successful sales and service organization such as Ten-8 Fire Equipment Inc.

As a verifiable and justifiable price point, we propose to offer St. Johns County a pricing level **equal to** current GSA Federal Supply Schedule 23 in relation to Pierce Fire Fighting vehicles **plus 3% dealer markup**. For the term of the contract, the pricing level shall be tied to the GSA applicable Supply Schedule and Contract in effect at the time of purchase with dealer mark-up as described. This would include any Pierce offered options. All the models requested by the County are available and represented in the attachments. Any additional models available from Pierce or its subsidiaries through Ten-8 Fire Equipment Inc., not represented on the schedule, will be offered at the same discount level as pricing granted GSA plus 3% dealer mark-up. Terms will be net payment due upon delivery and acceptance of the apparatus by the customer.

Charges over and above this pricing level would be equal to those allowed by GSA for training, delivery, and inspections. The complete Authorized Federal Supply Schedule Price List is attached for your review and comparison.

Any future price adjustments to apparatus pricing will be in accordance and equal to adjustments made to Federal GSA Schedule 23.

The costs of standard warranties are built into the selling price of our apparatus. The cost of extended warranties varies according to the type of apparatus purchased and the configuration of the apparatus. These extended warranties will be made available to St. John County at 3% above GSA price levels. Extended warranties are quoted for the specified apparatus.

Discounts available on Pierce fire apparatus include, but are not limited to, chassis progress payments, contract pre-funding, multiple order discounts, and lease-purchase benefits. Leasing opportunities include straight municipal leasing, turn-in leasing, and walk-away leasing, which may offer pre-funding discounts and reductions in apparatus total cost of ownership.

We have also provided a list of the equipment vendors represented by Ten-8 Fire Equipment Inc. The related selling prices for fire fighting equipment purchases are also included. Ten-8 Fire Equipment Inc. shall be the prime contractor on loose equipment sales and Pierce Manufacturing Inc. shall be the prime contractor on any apparatus sales.

As an additional enhancement to our proposal, should St. Johns County allow other municipalities to access its contract for fire apparatus, an access fee in the amount of ½ of 1% of the sale price of each unit purchased off the contract by an outside agency will be credited back to the County. This credit may be used towards the future purchase of Pierce fire apparatus or fire fighting equipment supplied by Ten-8 Fire Equipment Inc. A quarterly report will be prepared and submitted within 30 days after the end of each calendar quarter.

PRICING PER ST. JOHNS COUNTY SPECIFICATIONS 07-53

Pierce Enforcer 1250 GPM Triple Combination Pumper

\$339,962.00 per unit delivery to St. Johns County, Florida

Optional extended warranties

2-year \$4,648.00

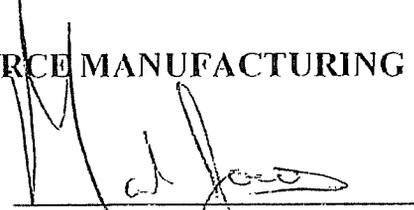
3-year \$6,017.00

4-year \$7,822.00

5-year \$10,169.00

This proposal for fire apparatus conforms to all Federal Department of Transportation (DOT) rules and regulations in effect at time of bid, and all National Fire Protection Association (NFPA) guidelines published at the time of the bid.

PIERCE MANUFACTURING INC.

By: 

Mark Jones

Authorized Sales Representative

January 16, 2007

FIRE EQUIPMENT AND SUPPLIES PRICING

MANUFACTURERS	DISCOUNT FROM MANUFACTURERS LIST PRICE	MARK-UP FROM MANUFACTURERS DEALER'S COST
A.H. Stock	10%	-
Action	20%	-
Akron Brass Co.	35%	-
Alco-Lite	5%	-
Angus Fire Armour Corp.	40%	-
California Mountain/CMC	5%	-
Carns & Brother	25%	-
Circle D	15%	-
Clifford B. Hannay @ Son, Inc.	5%	-
Code 3	25%	-
Collins Dynamics	10%	-
Council Tools	10%	-
Cutter's Edge	5%	-
Duo Safety Ladder Corp.	5%	-
Edwards Reel	5%	-
Elkhart Brass Mfg. Co. Inc.	30%	-
Extenda-A-Lite	30%	-
Federal Signal Corp.	25%	-
Fire Hooks Unlimited	5%	-
Fire Research	10%	-
Firedex	30%	-
Firequip, Inc.	-	25%
Fol-Da-Tank	15%	-
GFE Mfg.	30%	-
Gemtor	10%	-
Hannay Reels	5%	-
Harrington, Inc.	20%	-
Havis Shields	10%	-
Hebert Hose Clamps	-	25%
Holmatro, Inc.	5%	-
Junkin Safety Appliicance Co., Inc.	5%	-
K Tool Mfg.	10%	-
Kochek Co. Inc.	25%	-
Koehler Mfg. Co.	20%	-
Kussmaul	5%	-
Kwik Raze (Havis Shields)	10%	-
MC Products	20%	-
MSA Breathing Apparatus	25%	-
MSA Instruments	15%	-

Mag Instruments	-	25%
Milwaukee Strap, Inc	-	20%
Nupla	10%	-
PMI	5%	-
Paratech	10%	-
Partner	10%	-
Pelican	15%	-
Pigeon Mountain Ind.	5%	-
Public Safety/Code 3	25%	-
R&B Fabricating	-	20%
Ranger Rubber	10%	-
Red Head Brass, Inc.	20%	-
Rescue Technology Equipment	5%	-
Rice Hydro	5%	-
Servus Boots	10%	-
Sound Off	20%	-
South Park	-	34%
Star Products	20%	-
Streamlight, Inc.	35%	-
Super Vacuum Mfg. Co., Inc.	20%	-
Superior Flamefighter	20%	-
Task Force Tips	5%	-
Team Equipment	10%	-
Tempest	20%	-
Thorogood Boots	20%	-
Tomar Electronics	20%	-
Turtle Plastics	5%	-
Waterous Parts & Pumps	10%	-
Wehr	5%	-
Weldon	10%	-
Whelen Engineering Co., Inc.	15%	-
Will Burt	10%	-
Ziamatic Corp.	20%	-
Zico Products	20%	-

Attachment

4



October 9, 2008

Chief Tim Mossgrove
 Brooksville Fire Department
 85 Veterans Drive
 Brooksville, FL 34601
 Quote # 101Q5683B

Dear Tim, Per our telephone conversation earlier today and your request for an updated proposal, please see the following information.

Mako Model # MCFS2-4H, Two SCBA Fill, Mobile Containment Fill Station (complete with two SBA fill adapters with bleeder & control valves).

✓ Price Each \$ 5,100.00

Model # FP-4C, Customized, Powder Coated, 4 Bank Cascade Control, Fill Panel (complete with 0-6000 PSI regulator, inlet & outlet pressure gauges, bank control valves with gauges (4), inlet fill port, regulated auxiliary outlet port with QD, one master fill valve with gauge, & booster/cascade fill valve).

✓ Price Each \$ 2,800.00

Hydraulics International, Model # HIHPG-27003, 6000 PSI, Air Driven, Booster Pump.

Price Each \$ 6,201.00 (NOT GETTING)

Model # HC-60, 6000 PSI, DOT, Storage Bottle (complete with 702 nut & nipple).

✓ Price Each \$ 1,145.00

✓ Installation \$ 1,960.00

✓ Storage Hose For 4 bank Cascade Operation \$ 450.00

As was discussed, the fill panel that was used in Rescue 3 is a bulk fill panel. This means that the storage bottles (3 or 4) would be pigtailed together and each time you chose to cascade the air, an operator would need to manually open & close the bottle valves. The above outlined fill panel would eliminate this by controlling the cascading from the front of the panel. If budgeting will not allow for the purchase of the cascade control panel,

received
 10/9/08

then please note that we can use the old panel. The current cost of updating the panel would be ~~\$150.00~~ (NOT NEEDED)

If you decide to use the current panel, please note that you can leave the bottle valves open and use the bulk fill option until you equalize the system and then switch the booster valve on and continue filling SCBAS. I would highly recommend that if you go with this option that you definitely purchase the fourth storage bottle.

Installation of the above outlined equipment will need to be at CIC. The truck will need to be delivered to Ocala by BFD personnel. Training will be at pick up.

Tim, I will close by saying thank you for your time.

We here at Channel Innovations trust that the above outlined information will be suitable for the purchasing needs of the Brooksville Fire Department and further trust that should you need any additional information or assistance with this project, that you contact us.

May we be of service?

Terms: Net 30 Days
F.O.B. Delivered
Lead Time: 4-6 Weeks ARO
Quote Valid: 30 Days

Sincerely,



Dan Moates
Channel Innovations

TOTAL INSTALL INCLUDING
MATERIALS AND LABOR

✓ \$ 11,455.00

CITY OF BROOKSVILLE

MEMORANDUM

To: Honorable Mayor and City Council Members
 Via: T. Jennene Norman-Vacha, City Manager
 From: Emory H. Pierce, Director of Public Works
 Date: 10/14/2008
 Re: Sewer Rehab Ph 2A Recommendation to Award Section 2.0 Pre Installation Cleaning of Service Laterals and 3.0 Cured-In-Place Pipe (CIPP) of Laterals

On Friday, August 29, 2008, the City opened sealed bids for the Sewer Rehab Ph 2A Project. The bid was separated into 5 sections because the total project covers a wide variety of different types of work. At this time we are prepared to move forward with the award for Section 2.0 Pre Installation Cleaning of Service Laterals and 3.0 Cured-In-Place Pipe (CIPP) of Laterals.

Sections 2.0 and 3.0 bids were as follows:

	US Sewer and Drain, Inc	LMK Pipe Renewal, LLC	Video Industrial Services	American Infrastructure Technologies Corp.	Envirowaste Services Group, Inc
Section 2.0, Pre-installation Cleaning of Service Laterals	\$5,950	\$7,300	\$21,527	\$30,500	\$32,400
Section 3.0, Cured in Place Pipe (CIPP) Lining of Laterals	\$187,500	\$208,286	\$257,018.75	\$362,750	\$374,400
	\$193,450	\$215,586	\$278,545.75	\$393,250	\$406,800

U.S. Sewer and Drain, Inc., the apparent low bidder, is disqualified for submitting a non-responsive bid. Paragraph (4) of the General Instructions and Conditions of Request for Bids for Bid No. UD2008-06 provides that "bids/proposals may be considered non-responsive, at the sole option of the City, and may be rejected if they include omissions, alterations of form, additions not called for, conditions or limitations, unauthorized alternative bids/proposals, submission of less than the number of bid packages requested, or other irregularities of any kind."

The bid submitted by US Sewer failed to comply with the bid bond requirement of submitting a 5% bid bond, or cashier's check/certified check; instead, a personal check was submitted. In addition, US Sewer and Drain, Inc.'s foreign corporation registration with the Florida Department of State Division of Corporations is inactive and was administratively dissolved for failing to file an annual report as of September 14, 2007. Furthermore, the contractor's license submitted with the packet is not issued to U.S. Sewer and Drain, Inc. or any of the parties named in the bid. The license is issued to Mr. Richard Holden of Mr. Rooter West Palm Beach which is a registered fictitious name of Holden Plumbing Corporation. Holden Plumbing Corporation is also administratively dissolved as of September 14, 2007, per the Division of Corporations records.

Each of the other bidders were properly registered with the Florida Department of State Division of Corporations.

The next low bidder, LMK Pipe Renewal, LLC, was in complete conformance with all bid requirements.

Financial Impact

The City has funds available for the project in the CIP account #404-000-169-19049, project # 1999-UT-14.

At the time we were preparing the budget, a final payment had not been made on a previous part of the project and the WAP grant funds available were conservatively estimated at \$400,000; which is shown in the FY2008/2009 budget. Since then we have processed that final payment and we actually have \$626,000 in WAP grant funds available. Therefore we are requesting a budget amendment to increase Other State Grant Funds account #404-000-334-44900 by \$226,000 and also account #404-000-169-19049 (project #1999-UT-14, Sewer System Rehab Program) by the same amount to a total of \$626,000.

Legal Impact

The City Attorney has reviewed the bid documents and concurs with staff's recommendation.

Staff Recommendation

Based on the above, staff recommends Council awarding the bid for Section 2.0 and 3.0 to LMK Pipe Renewal, LLC for the not to exceed amount of \$215,586 and authorization for the Mayor to sign an Agreement for Contractor Services when all documents have been reviewed by the City Attorney, together with the applicable budget amendment referenced herein.

**BID OPENING MINUTES
SEWER REHAB PHASE II-A
BID NO. UD2008-06**

August 29, 2008

3:00 p.m.

A Bid Opening was held at approximately 3:00 p.m. on Friday, August 27 2008, in the City Hall Council Chambers for the SEWER REHAB PHASE II-A **BID NO. UD2008-06**. Karen M. Phillips, City Clerk, Emory Pierce, Director of Public Works, Laureen Busacca, Department of Public Works Project Manager and Janice L. Peters, Deputy City Clerk/Recording Secretary were in attendance.

City Clerk Phillips advised that an Invitation to Bid was published in the Saturday, July 19, 2008 and Friday, July 25, 2008, editions of the Hernando Today with a closing date and time set for 3:00 p.m. on Friday, August 22, 2008. Due to weather conditions caused by Tropical Storm Fay, some carriers were closed; therefore, the closing date was delayed until Friday, August 29, 2008. A mandatory pre-bid meeting was held on Wednesday, July 30, 2008, at the Department of Public Works. Three addendums were issued during the course of the bid.

As a result, fourteen (14) sets of bids were received, all properly sealed and notated. The bids were to include a Bid Certification Form, 5% Bid Bond or Cashiers Check, Public Entity Crime Statement, Drug-Free Workplace Certification, Proof of License Certification, Product literature as per the Minimum Technical Specifications, Complete list of Subcontractors (if applicable) one (1) signed original with eight (8) signed copies and acknowledgement of receipt of addendums I-III.

The following companies submitted bids, which were opened and the results read as follows:

1. **Hinterland Group, Cocoa, FL**
 All required documentation included; Drug Program Implemented 60 Days

Subtotal Section 1.0, Open Cut Service Laterals	\$
Subtotal Section 2.0, Pre-Installation Cleaning of Service Laterals	\$
Subtotal Section 3.0, Cured-in-Place Pipe	\$
Subtotal Section 4.0, Manhole Chimney Seal	\$163,800.00
Subtotal Section 5.0, Manhole Sealing	<u>\$14,130.00</u>
Total Bid Amount (total of all subtotals)	\$177,930.00

2. **U.S. Sewer & Drain, Langhorne, PA**
 All required documentation included; Drug Program Implemented Check \$9,572.50 60 Days
 Their sections were not pre-totaled.

Subtotal Section 1.0, Open Cut Service Laterals	\$
Subtotal Section 2.0, Pre-Installation Cleaning of Service Laterals	\$5,950.00
Subtotal Section 3.0, Cured-in-Place Pipe	\$187,500.00
Subtotal Section 4.0, Manhole Chimney Seal	\$
Subtotal Section 5.0, Manhole Sealing	<u>\$</u>
Total Bid Amount (total of all subtotals)	\$193,450.00

3. **National Pipe Services, Palmetto, FL**
 All required documentation included; Drug Program Implemented 90 Calendar Days
 Bid Check \$1,574.50 Alternate bids to be reviewed by Staff.

Subtotal Section 1.0, Open Cut Service Laterals	\$
Subtotal Section 2.0, Pre-Installation Cleaning of Service Laterals	\$
Subtotal Section 3.0, Cured-in-Place Pipe	\$
Subtotal Section 4.0, Manhole Chimney Seal	\$
Subtotal Section 5.0, Manhole Sealing	<u>\$31,490.00</u>
Total Bid Amount (total of all subtotals)	\$31,490.00

SEWER REHAB PHASE II-A UD2008-06 BID OPENING – AUGUST 29, 2008

4.	<u>Love Construction Group, Inc., Brooksville, FL</u> All required documentation included; NO Drug Program Implemented Bond	120 Days	
	Subtotal Section 1.0, Open Cut Service Laterals		\$86,416.20
	Subtotal Section 2.0, Pre-Installation Cleaning of Service Laterals		\$
	Subtotal Section 3.0, Cured-in-Place Pipe		\$
	Subtotal Section 4.0, Manhole Chimney Seal		\$
	Subtotal Section 5.0, Manhole Sealing		<u>\$</u>
	Total Bid Amount (total of all subtotals)		\$86,416.20
5.	<u>Sealing Systems, Inc., Loretto, MN</u> All required documentation included; Drug Program Implemented Alternate Bid Proposal - \$164 each 5% Bid Bond	90 Days	
	Subtotal Section 1.0, Open Cut Service Laterals		\$
	Subtotal Section 2.0, Pre-Installation Cleaning of Service Laterals		\$
	Subtotal Section 3.0, Cured-in-Place Pipe		\$
	Subtotal Section 4.0, Manhole Chimney Seal		\$236,037.50
	Subtotal Section 5.0, Manhole Sealing		<u>\$</u>
	Total Bid Amount (total of all subtotals)		\$236,037.50
6.	<u>LMK Pipe Renewal, LLC, Ft. Lauderdale, FL</u> All required documentation included; Drug Program Implemented Bid Bond 5%	120 Days	
	Subtotal Section 1.0, Open Cut Service Laterals		\$
	Subtotal Section 2.0, Pre-Installation Cleaning of Service Laterals		\$7,300.00
	Subtotal Section 3.0, Cured-in-Place Pipe		\$208,286.00
	Subtotal Section 4.0, Manhole Chimney Seal		\$
	Subtotal Section 5.0, Manhole Sealing		<u>\$</u>
	Total Bid Amount (total of all subtotals)		\$215,586.00
7.	<u>Utility Sealing Services, Inc., Venice, FL</u> All required documentation included; Drug Program Implemented Bid Bond 5%	42 Days	
	Subtotal Section 1.0, Open Cut Service Laterals		\$
	Subtotal Section 2.0, Pre-Installation Cleaning of Service Laterals		\$
	Subtotal Section 3.0, Cured-in-Place Pipe		\$
	Subtotal Section 4.0, Manhole Chimney Seal		\$232,669.00
	Subtotal Section 5.0, Manhole Sealing		<u>\$</u>
	Total Bid Amount (total of all subtotals)		\$232,669.00
8.	<u>American Infrastructure Tech, Hanceville, AL</u> All required documentation included; Drug Program Implemented Copy licenses for Lauren 5% Bid Bond	120 Days	
	Subtotal Section 1.0, Open Cut Service Laterals		\$243,700
	Subtotal Section 2.0, Pre-Installation Cleaning of Service Laterals		\$30,500
	Subtotal Section 3.0, Cured-in-Place Pipe		\$362,750
	Subtotal Section 4.0, Manhole Chimney Seal		\$465,000
	Subtotal Section 5.0, Manhole Sealing		<u>\$29,950</u>
	Total Bid Amount (total of all subtotals)		\$1,131,900

SEWER REHAB PHASE II-A UD2008-06 BID OPENING – AUGUST 29, 2008

9.	<u>Brooksville Civil Site Service, LLC, Brooksville, FL</u> All required documentation included; Drug Program Implemented Bid Bond 5%	120 Days	
	Subtotal Section 1.0, Open Cut Service Laterals		\$94,155
	Subtotal Section 2.0, Pre-Installation Cleaning of Service Laterals		\$
	Subtotal Section 3.0, Cured-in-Place Pipe		\$
	Subtotal Section 4.0, Manhole Chimney Seal		\$
	Subtotal Section 5.0, Manhole Sealing		<u>\$</u>
	Total Bid Amount (total of all subtotals)		\$94,155
10.	<u>Video Industrial Services, Deerfield Beach, FL</u> All required documentation included; Drug Program Implemented Bid Bond 5%	120 Days	
	Subtotal Section 1.0, Open Cut Service Laterals		\$
	Subtotal Section 2.0, Pre-Installation Cleaning of Service Laterals		\$21,527.00
	Subtotal Section 3.0, Cured-in-Place Pipe		\$257,018.75
	Subtotal Section 4.0, Manhole Chimney Seal		\$309,750.00
	Subtotal Section 5.0, Manhole Sealing		<u>\$19,400.00</u>
	Total Bid Amount (total of all subtotals)		\$607,695.75
11.	<u>Envirowaste Services Group, Miami, FL</u> All required documentation included; Drug Program Implemented Bid Bond 5%	120 Days	
	Subtotal Section 1.0, Open Cut Service Laterals		\$
	Subtotal Section 2.0, Pre-Installation Cleaning of Service Laterals		\$32,400.00
	Subtotal Section 3.0, Cured-in-Place Pipe		\$374,400.00
	Subtotal Section 4.0, Manhole Chimney Seal		\$205,400.00
	Subtotal Section 5.0, Manhole Sealing		<u>\$10,960.00</u>
	Total Bid Amount (total of all subtotals)		\$623,160.00
12.	<u>Atlantic Construction, Tarpon Springs, FL</u> All required documentation included; Drug Program Implemented Bid Bond 5%	No calendar days listed.	
	Subtotal Section 1.0, Open Cut Service Laterals		\$206,920.00
	Subtotal Section 2.0, Pre-Installation Cleaning of Service Laterals		\$
	Subtotal Section 3.0, Cured-in-Place Pipe		\$
	Subtotal Section 4.0, Manhole Chimney Seal		\$
	Subtotal Section 5.0, Manhole Sealing		<u>\$</u>
	Total Bid Amount (total of all subtotals)		\$206,920.00
13.	<u>Infrastructure Restoration, Inc., Palm Harbor, FL</u> All required documentation included; Drug Program Implemented 5% Bid Bond	120 Days	
	Subtotal Section 1.0, Open Cut Service Laterals		\$
	Subtotal Section 2.0, Pre-Installation Cleaning of Service Laterals		\$
	Subtotal Section 3.0, Cured-in-Place Pipe		\$
	Subtotal Section 4.0, Manhole Chimney Seal		\$352,087.50
	Subtotal Section 5.0, Manhole Sealing		<u>\$27,997.50</u>
	<u>Alternate Bid Sealing chimney manholes</u> \$		
	Total Bid Amount (total of all subtotals)		\$380,085.00

SEWER REHAB PHASE II-A UD2008-06 BID OPENING – AUGUST 29, 2008

14. **Cardinal Contractors, Sarasota, FL**

All required documentation included; Drug Program Implemented
Bid Bond 5% Additional Pricing.

Subtotal Section 1.0, Open Cut Service Laterals	\$
Subtotal Section 2.0, Pre-Installation Cleaning of Service Laterals	\$
Subtotal Section 3.0, Cured-in-Place Pipe	\$
Subtotal Section 4.0, Manhole Chimney Seal	\$232,514.00
Subtotal Section 5.0, Manhole Sealing	<u>\$15,158.20</u>
<u>Alternate bid \$100 per foot negotiated less than 4'</u>	
Total Bid Amount (total of all subtotals)	\$247,672.20

City Clerk Phillips informed bidders that the packets would be reviewed by staff and submitted to Council in September and October, the agendas of which can be accessed at the City's website at www.ci.brooksville.fl.us. The bid opening meeting closed at 3:40 p.m.

Tammy with Love Construction asked for the total of US Sewer, which will be verified by staff and posted to the website in the minutes. City Clerk Phillips read the amounts for each section into the record.

John Maggart of Brooksville Civil Site Service asked if Section 1 calls for a General Contractors License. Lauren Busacca indicated it does.

/s/Janice L. Peters

Janice L. Peters

Deputy City Clerk

CITY OF BROOKSVILLE

MEMORANDUM

To: Honorable Mayor and City Council Members, Date: 10/14/2008
 Via: T. Jennene Norman-Vacha, City Manager
 From: Emory H. Pierce, Director of Public Works
 Re: Sewer Rehab Ph 2A Recommendation to Award Section 4.0, Chimney Seal

On Friday, August 29, 2008, the City opened sealed bids for the Sewer Rehab Ph 2A Project. The bid was separated into 5 sections because the total project covers a wide variety of different types of work. At this time we are prepared to move forward with the award for Section 4.0, Chimney Seal.

Section 4.0 bids were as follows:

	Hinterland Group, Inc.	Envirowaste Services Group, Inc	Video-Industrial Services, Inc.	Cardinal-Contractors, Inc	USSI, LLC	Sealing Systems, Inc.	Infrastructure Restoration, Inc	American Infrastructure Technologies, Inc
4.0, Manhole Chimney Sealing	\$163,800	\$205,400	\$309,750	\$232,514	\$232,669	\$236,037.50	\$352,087.50	\$465,000

Hinterland Group, Video Industrial and Cardinal Contractors all submitted non-conforming bids. They proposed using products that did not meet our product specifications for an aromatic urethane. We specified an aromatic urethane in our minimum technical specification after researching chimney sealing, then visiting the City of Tavares that is using it and recommended it. Envirowaste Services Group submitted a product that met our minimum specifications, but they did not have any references for the application of this type of product and therefore they do not meet our minimum requirements. Relevant copies of correspondence from this firm are attached. Therefore USSI, LLC is the lowest conforming and responsive bidder.

Financial Impact

The City has funds available for the project in the CIP account #404-000-169-19049, project # 1999-UT-14, in excess of \$600,000.

Legal Impact

The City Attorney has reviewed the bid documents and concurs with staff's recommendation but is relying on staff's interpretation of their technical specifications.

Staff Recommendation

Based on the above, staff recommends Council awarding the bid for Section 4.0, Manhole Chimney Sealing, which includes inflow dishes, manhole condition reports and GPS locations, to USSI, LLC for the not to exceed amount of \$232,669.00. We are also requesting authorization for the Mayor to sign an Agreement for Contractor Services when all documents have been reviewed by the City Attorney.



October 06, 2007

Ms. Lauren Busacca
Brookesville, Public Works Department

RE: Bid for Manhole Sealing & Chimney Sealing

Dear Ms Busacca:

I am hereby writing you this letter on behalf of Envirowaste Services Group, Inc.(ESG) to officially inform you that ESG does not have a historical record of using the Permaform materials submitted for either the Manhole Sealing or Chimney Sealing. Per our conversation, we understand your reluctance to recommend ESG for award and apologize for any inconvenience we have put you through.

Sincerely,

Joe Ferré
Vice-President

Unknown

From: jlferre@aol.com
Sent: Friday, October 03, 2008 12:38 PM
To: Laureen Busacca
Subject: Oct 1, 2008 Letter RE: Requested Information

Dear Ms. Busacca.

ESG will pass on this opportunity. Thank you for your consideration.

Joe Ferre
Vice President

McCain or Obama? Stay updated on coverage of the Presidential race while you browse - [Download Now!](#)

**BID OPENING MINUTES
SEWER REHAB PHASE II-A
BID NO. UD2008-06**

August 29, 2008

3:00 p.m.

A Bid Opening was held at approximately 3:00 p.m. on Friday, August 27 2008, in the City Hall Council Chambers for the SEWER REHAB PHASE II-A **BID NO. UD2008-06**. Karen M. Phillips, City Clerk, Emory Pierce, Director of Public Works, Laureen Busacca, Department of Public Works Project Manager and Janice L. Peters, Deputy City Clerk/Recording Secretary were in attendance.

City Clerk Phillips advised that an Invitation to Bid was published in the Saturday, July 19, 2008 and Friday, July 25, 2008, editions of the Hernando Today with a closing date and time set for 3:00 p.m. on Friday, August 22, 2008. Due to weather conditions caused by Tropical Storm Fay, some carriers were closed; therefore, the closing date was delayed until Friday, August 29, 2008. A mandatory pre-bid meeting was held on Wednesday, July 30, 2008, at the Department of Public Works. Three addendums were issued during the course of the bid.

As a result, fourteen (14) sets of bids were received, all properly sealed and notated. The bids were to include a Bid Certification Form, 5% Bid Bond or Cashiers Check, Public Entity Crime Statement, Drug-Free Workplace Certification, Proof of License Certification, Product literature as per the Minimum Technical Specifications, Complete list of Subcontractors (if applicable) one (1) signed original with eight (8) signed copies and acknowledgement of receipt of addendums I-III.

The following companies submitted bids, which were opened and the results read as follows:

1.	<u>Hinterland Group, Cocoa, FL</u>		
	All required documentation included; Drug Program Implemented	60 Days	
			\$
	Subtotal Section 1.0, Open Cut Service Laterals		\$
	Subtotal Section 2.0, Pre-Installation Cleaning of Service Laterals		\$
	Subtotal Section 3.0, Cured-in-Place Pipe		\$
	Subtotal Section 4.0, Manhole Chimney Seal		\$163,800.00
	Subtotal Section 5.0, Manhole Sealing		<u>\$14,130.00</u>
	Total Bid Amount (total of all subtotals)		\$177,930.00
2.	<u>U.S. Sewer & Drain, Langhorne, PA</u>		
	All required documentation included; Drug Program Implemented	Check \$9,572.50	60 Days
	Their sections were not pre-totaled.		
			\$
	Subtotal Section 1.0, Open Cut Service Laterals		\$
	Subtotal Section 2.0, Pre-Installation Cleaning of Service Laterals		\$5,950.00
	Subtotal Section 3.0, Cured-in-Place Pipe		\$187,500.00
	Subtotal Section 4.0, Manhole Chimney Seal		\$
	Subtotal Section 5.0, Manhole Sealing		<u>\$</u>
	Total Bid Amount (total of all subtotals)		\$193,450.00
3.	<u>National Pipe Services, Palmetto, FL</u>		
	All required documentation included; Drug Program Implemented	90 Calendar Days	
	Bid Check \$1,574.50	Alternate bids to be reviewed by Staff.	
			\$
	Subtotal Section 1.0, Open Cut Service Laterals		\$
	Subtotal Section 2.0, Pre-Installation Cleaning of Service Laterals		\$
	Subtotal Section 3.0, Cured-in-Place Pipe		\$
	Subtotal Section 4.0, Manhole Chimney Seal		\$
	Subtotal Section 5.0, Manhole Sealing		<u>\$31,490.00</u>
	Total Bid Amount (total of all subtotals)		\$31,490.00

SEWER REHAB PHASE II-A UD2008-06 BID OPENING – AUGUST 29, 2008

4.	<u>Love Construction Group, Inc., Brooksville, FL</u> All required documentation included; NO Drug Program Implemented Bond	120 Days	
	Subtotal Section 1.0, Open Cut Service Laterals		\$86,416.20
	Subtotal Section 2.0, Pre-Installation Cleaning of Service Laterals		\$
	Subtotal Section 3.0, Cured-in-Place Pipe		\$
	Subtotal Section 4.0, Manhole Chimney Seal		\$
	Subtotal Section 5.0, Manhole Sealing		\$
	Total Bid Amount (total of all subtotals)		\$86,416.20
5.	<u>Sealing Systems, Inc., Loretto, MN</u> All required documentation included; Drug Program Implemented Alternate Bid Proposal - \$164 each 5% Bid Bond	90 Days	
	Subtotal Section 1.0, Open Cut Service Laterals		\$
	Subtotal Section 2.0, Pre-Installation Cleaning of Service Laterals		\$
	Subtotal Section 3.0, Cured-in-Place Pipe		\$
	Subtotal Section 4.0, Manhole Chimney Seal		\$236,037.50
	Subtotal Section 5.0, Manhole Sealing		\$
	Total Bid Amount (total of all subtotals)		\$236,037.50
6.	<u>LMK Pipe Renewal, LLC, Ft. Lauderdale, FL</u> All required documentation included; Drug Program Implemented Bid Bond 5%	120 Days	
	Subtotal Section 1.0, Open Cut Service Laterals		\$
	Subtotal Section 2.0, Pre-Installation Cleaning of Service Laterals		\$7,300.00
	Subtotal Section 3.0, Cured-in-Place Pipe		\$208,286.00
	Subtotal Section 4.0, Manhole Chimney Seal		\$
	Subtotal Section 5.0, Manhole Sealing		\$
	Total Bid Amount (total of all subtotals)		\$215,586.00
7.	<u>Utility Sealing Services, Inc., Venice, FL</u> All required documentation included; Drug Program Implemented Bid Bond 5%	42 Days	
	Subtotal Section 1.0, Open Cut Service Laterals		\$
	Subtotal Section 2.0, Pre-Installation Cleaning of Service Laterals		\$
	Subtotal Section 3.0, Cured-in-Place Pipe		\$
	Subtotal Section 4.0, Manhole Chimney Seal		\$232,669.00
	Subtotal Section 5.0, Manhole Sealing		\$
	Total Bid Amount (total of all subtotals)		\$232,669.00
8.	<u>American Infrastructure Tech, Hanceville, AL</u> All required documentation included; Drug Program Implemented Copy licenses for Lauren 5% Bid Bond	120 Days	
	Subtotal Section 1.0, Open Cut Service Laterals		\$243,700
	Subtotal Section 2.0, Pre-Installation Cleaning of Service Laterals		\$30,500
	Subtotal Section 3.0, Cured-in-Place Pipe		\$362,750
	Subtotal Section 4.0, Manhole Chimney Seal		\$465,000
	Subtotal Section 5.0, Manhole Sealing		<u>\$29,950</u>
	Total Bid Amount (total of all subtotals)		\$1,131,900

SEWER REHAB PHASE II-A UD2008-06 BID OPENING – AUGUST 29, 2008

9.	<u>Brooksville Civil Site Service, LLC, Brooksville, FL</u> All required documentation included; Drug Program Implemented Bid Bond 5%	120 Days	
	Subtotal Section 1.0, Open Cut Service Laterals		\$94,155
	Subtotal Section 2.0, Pre-Installation Cleaning of Service Laterals		\$
	Subtotal Section 3.0, Cured-in-Place Pipe		\$
	Subtotal Section 4.0, Manhole Chimney Seal		\$
	Subtotal Section 5.0, Manhole Sealing		<u>\$</u>
	Total Bid Amount (total of all subtotals)		\$94,155
10.	<u>Video Industrial Services, Deerfield Beach, FL</u> All required documentation included; Drug Program Implemented Bid Bond 5%	120 Days	
	Subtotal Section 1.0, Open Cut Service Laterals		\$
	Subtotal Section 2.0, Pre-Installation Cleaning of Service Laterals		\$21,527.00
	Subtotal Section 3.0, Cured-in-Place Pipe		\$257,018.75
	Subtotal Section 4.0, Manhole Chimney Seal		\$309,750.00
	Subtotal Section 5.0, Manhole Sealing		<u>\$19,400.00</u>
	Total Bid Amount (total of all subtotals)		\$607,695.75
11.	<u>Envirowaste Services Group, Miami, FL</u> All required documentation included; Drug Program Implemented Bid Bond 5%	120 Days	
	Subtotal Section 1.0, Open Cut Service Laterals		\$
	Subtotal Section 2.0, Pre-Installation Cleaning of Service Laterals		\$32,400.00
	Subtotal Section 3.0, Cured-in-Place Pipe		\$374,400.00
	Subtotal Section 4.0, Manhole Chimney Seal		\$205,400.00
	Subtotal Section 5.0, Manhole Sealing		<u>\$10,960.00</u>
	Total Bid Amount (total of all subtotals)		\$623,160.00
12.	<u>Atlantic Construction, Tarpon Springs, FL</u> All required documentation included; Drug Program Implemented Bid Bond 5%	No calendar days listed.	
	Subtotal Section 1.0, Open Cut Service Laterals		\$206,920.00
	Subtotal Section 2.0, Pre-Installation Cleaning of Service Laterals		\$
	Subtotal Section 3.0, Cured-in-Place Pipe		\$
	Subtotal Section 4.0, Manhole Chimney Seal		\$
	Subtotal Section 5.0, Manhole Sealing		<u>\$</u>
	Total Bid Amount (total of all subtotals)		\$206,920.00
13.	<u>Infrastructure Restoration, Inc., Palm Harbor, FL</u> All required documentation included; Drug Program Implemented 5% Bid Bond	120 Days	
	Subtotal Section 1.0, Open Cut Service Laterals		\$
	Subtotal Section 2.0, Pre-Installation Cleaning of Service Laterals		\$
	Subtotal Section 3.0, Cured-in-Place Pipe		\$
	Subtotal Section 4.0, Manhole Chimney Seal		\$352,087.50
	Subtotal Section 5.0, Manhole Sealing		<u>\$27,997.50</u>
	<u>Alternate Bid Sealing chimney manholes</u> \$		
	Total Bid Amount (total of all subtotals)		\$380,085.00

SEWER REHAB PHASE II-A UD2008-06 BID OPENING – AUGUST 29, 2008

14. **Cardinal Contractors, Sarasota, FL**

All required documentation included; Drug Program Implemented
Bid Bond 5% Additional Pricing.

Subtotal Section 1.0, Open Cut Service Laterals	\$
Subtotal Section 2.0, Pre-Installation Cleaning of Service Laterals	\$
Subtotal Section 3.0, Cured-in-Place Pipe	\$
Subtotal Section 4.0, Manhole Chimney Seal	\$232,514.00
Subtotal Section 5.0, Manhole Sealing	<u>\$15,158.20</u>
<u>Alternate bid \$100 per foot negotiated less than 4'</u>	
Total Bid Amount (total of all subtotals)	\$247,672.20

City Clerk Phillips informed bidders that the packets would be reviewed by staff and submitted to Council in September and October, the agendas of which can be accessed at the City's website at www.ci.brooksville.fl.us. The bid opening meeting closed at 3:40 p.m.

Tammy with Love Construction asked for the total of US Sewer, which will be verified by staff and posted to the website in the minutes. City Clerk Phillips read the amounts for each section into the record.

John Maggart of Brooksville Civil Site Service asked if Section 1 calls for a General Contractors License. Lauren Busacca indicated it does.

s/Janice L. Peters

Janice L. Peters

Deputy City Clerk

CITY OF BROOKSVILLE
MEMORANDUM

To: Honorable Mayor and City Council Members Date: October 7, 2008

Via: T. Jennene Norman-Vacha, City Manager

From: Emory H. Pierce, Director of Public Works

Re: SURPLUS and TRANSFER of VEHICLES

The Department of Public Works requests that the following vehicles be declared surplus and authorize staff to sell them via the County Auction process:

Utility Division Vehicle # 129 1996 Crown Victoria w/110,784 miles
Vin # 2FALP71W9VX120558

Maintenance Shop/Division Vehicle # 521 1989 Ford F150 w/53,538 miles
Vin # 1FTEF15N8KNA80829

We request that vehicle # 693 a 2006 Ford F350 w/21,055 miles be transferred from the Streets Division to the Maintenance Shop/Division to replace vehicle # 521

Budget Impact

Minor increase in revenue will result from sale

Legal Impact

None

Staff Recommendation

Approval

EHP/mh

F:\Emory\2008\091808 surplus vehicle.doc



Utility Veh # 129

1996 Crown Victoria



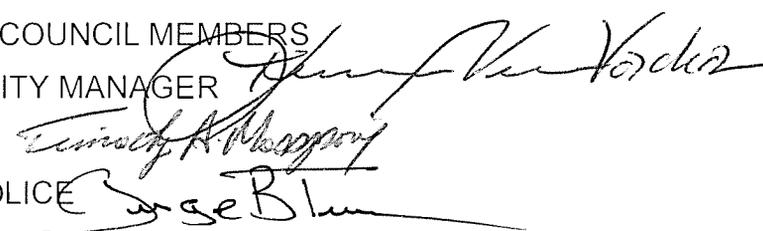
Maintenance Veh # 521

1989 Ford F150

Agenda Item

MEMORANDUM

TO: HONORABLE MAYOR AND CITY COUNCIL MEMBERS
VIA: T. JENNENE NORMAN-VACHA, CITY MANAGER
FROM: TIM MOSGROVE, FIRE CHIEF
GEORGE TURNER, CHIEF OF POLICE
DATE: OCTOBER 20, 2008
SUBJECT: PROTECTIVE SERVICES COST RECOVERY CONTRACT



GENERAL SUMMARY: City staff presented a proposal for a Protective Services Cost Recovery Ordinance which allowed for the recovery of specific costs associated with fire, emergency medical and police services. This Protective Services Cost Recovery proposal was approved by Council at the first reading on September 15, 2008, and on second reading October 6, 2008. Upon approval, Council authorized staff to move forward, in conjunction with the city attorney, in negotiations for contractual agreement as required for the implementation of the program. Attached is the proposed contract between the City of Brooksville and the Cost Recovery Corporation, 6450 Poe Ave., Suite 401, Dayton, Ohio.

BUDGET IMPACT: There is no negative budget impact associated with the Protective Services Cost Recovery Ordinance/Program. The City Council has specified that the costs recovered as a result of the program will be directed back into the emergency service department(s) providing the services.

LEGAL REVIEW: The City Attorney has reviewed the proposed contract between the City of Brooksville and the Cost Recovery Corporation and have found it within legal compliance and in good legal form.

STAFF RECOMMENDATION: Staff recommends approval of the Protective Services Cost Recovery contract between the City of Brooksville and the Cost Recovery Corporation as submitted.

COST RECOVERY SERVICES AND BUSINESS ASSOCIATES AGREEMENT

This Agreement is made as of _____, 2008, by and between **COST RECOVERY CORP**, an Ohio company (**CRC**), and the City of Brooksville, Florida, a municipal corporation, ("City").

RECITALS

WHEREAS, the City provides Safety Services for their community; and,

WHEREAS, the City adopted ordinance No. 766 on October 6, 2008, establishing its authority to implement cost recovery measures; and,

WHEREAS, Ordinance No. 766 Section 6(b), provides for the City to undertake the engagement of a third party billing and revenue recovery contract with a professional services company; and,

WHEREAS, CRC provides cost recovery services to Fire Departments, EMS Departments, Police Departments, Sheriff Departments and Hospitals; and,

WHEREAS, the City desires to retain CRC to provide cost recovery services needed by the City.

NOW THEREFORE, IN CONSIDERATION OF THE MUTUAL TERMS AND PROMISES AND CONVENANTS TO BE COMPLIED WITH, THE PARTIES HEREBY CONTRACT AND AGREE AS FOLLOWS:

STATEMENT OF AGREEMENT

The parties agree as follows:

1. **Recitals.** The above recitals are true and correct and incorporated into this Agreement as if set forth in haec verba.
2. **Services.** The City retains CRC to provide cost recovery services for the City to include billing, invoicing, and collection of payments.
3. **Liability.** CRC shall not be responsible for any expenses or liabilities of the City except as specifically provided in this Agreement. The City shall likewise not be responsible for CRC's expenses or liabilities.
4. **Authority.** The City grants to CRC all of the authority and power to carry out its obligations under this Agreement in accordance with any regulatory requirements to which the City is bound and in accordance with all applicable laws.
5. **Health Insurance Portability and Accountability Act (HIPAA).** The Parties hereby acknowledge that they are bound by HIPAA and the Regulations enacted thereunder by the Department of Health and Human Services ("DHH") regarding the use and disclosure of Information pertaining to the past present or future physical or mental

health or condition of an individual, the provision of health care to an individual, or the future payment for the provision of health care to an individual (the "Information"). CRC shall be restricted in the use of any Information provided to it by City. Such Information shall include, but not be limited to, patient demographics and City's charges and coding. CRC is restricted to only using the Information for the provision of the billing provided under this Agreement unless such other use of the Information is specifically permitted below. CRC shall not disclose patient's Information to anyone other than City or the patient unless such other disclosure of the Information is specifically permitted below.

- a. CRC may also use information of the serviced parties of the City (i) for the proper management and/or administration by CRC, or (ii) to carry out any legal responsibilities of CRC.
 - b. CRC may also disclose a patient's Information if (i) the disclosure is required by law, or (ii) CRC obtains reasonable assurances from the person or entity to whom the Information is disclosed that the Information will be held confidentially and used or further disclosed only as required by law or for the purpose to which it was disclosed to the person or entity and the person or entity notifies CRC of any instances of which the person or entity is or becomes aware in which the confidentiality of the Information has been breached.
 - c. Should CRC become aware of any use or disclosure of the Information which has not been provided for in this Agreement, CRC shall give notice to City regarding such use or disclosure.
6. **CRC's Service Fee.** CRC shall bill and collect their fee for services direct from the payer. The City shall not be billed nor be required to pay for any services provided by CRC.
 7. **Term of Agreement.** The initial term of this Agreement is one (1) year and shall commence on _____, 2008 and shall terminate on September 30, 2009. This Agreement shall automatically be renewed for successive 1-year terms, unless prior to 90 days before the end of the initial term or any succeeding renewal term, either party to this Agreement notifies the other party in writing that it does not desire to renew this Agreement. In the event of such notification, this Agreement and any right to automatic renewals shall terminate at the end of the then current term. Either party may terminate this Agreement for cause upon providing 90 days written notice to the other party.
 8. **Warranty.** Except as otherwise provided in this contract, CRC makes for its services rendered no warranty of merchantability and no warranty of fitness for any particular purpose, nor does CRC make any other warranty, expressed or implied of any nature, whatsoever, except that CRC shall warrant that its system software is fit for the purpose of fee billing and insurance filing and that CRC will exercise reasonable care in the handling and storage of the input and output of patient and billing information. CRC shall reconstruct available data from hard copy back up as required for IRS compliance and to the best of its ability, recover any loss or damage to input. CRC shall be responsible for consequences arising from direct and willful negligence or willful, intentional, or malicious misconduct or fraud in loss of City' files.

9. **Damages.** Neither party shall be liable for any damages, including consequential, special, or punitive damages for any delay or failure in the performance of its obligations hereunder caused by strikes or other labor disputes, riots or other public disorders, accidents, acts of God, prohibitions, governmental or legal regulations, fire or other casualty, electrical, hardware, mechanical failure, or other cause beyond such party's control.
10. **Hold Harmless.** Each party shall hold harmless the other party from and against any and all liability and expense of any kind, including costs and reasonable attorney fees, arising from injuries or damages to persons or property in connection with the operation of the City or activities under this Agreement, unless such liability and expense shall be solely the result of the direct and willful negligence, or willful, intentional, or malicious misconduct or fraud of such party or its employees or agents.
 - a. CRC employees shall be bonded in the amount of \$50,000 and maintain liability insurance in the amount of \$500,000.
 - b. Documents evidencing the coverage required and identified in 11(a) shall be provided to the City within 30 days of the date of this Agreement.
11. **Taxes.** City shall pay any federal, state, and local taxes, fees, or assessments, however designated, which are levied or based on the income earned from services performed by City under this Agreement, pursuant to applicable law. CRC shall pay such federal, state and local taxes, fees and assessments, as based on the income to CRC pursuant to the terms of this agreement, in accordance with applicable law. Each party shall pay fees or assessments relating to taxes in accordance with their respective tax liability under this Agreement.
12. **Florida Law.** This Agreement shall be governed by the laws of the State of Florida. Any action or proceeding seeking to enforce any provision of, or based on any right arising out of, this Agreement may be brought against any of the parties only in the County or Circuit Court in and for Hernando County, Florida or the U.S. District Court for the Middle District of Florida, Tampa Division, Hillsborough County, Florida and each of the parties irrevocably consents to the jurisdiction of such court (and of the appropriate appellate courts) in any such action or proceeding and waives any objection to venue laid therein. Process in any action or proceeding referred to in this paragraph may be served on any party anywhere in the world.
13. **Consent & Waiver.** No consent or waiver, expressed or implied, by either party hereto, to or of any breach of any obligation to the other shall be construed as a consent or waiver to or of any breach of the same or any other obligation.
14. **Assignment & Modification.** This Agreement shall inure to the benefit of and be binding upon the parties and their respective successors, assigns, heirs, and administrators, as the case may be. This Agreement shall not be abrogated, changed, or modified without the written consent of both parties. This Agreement may not be assigned, transferred, or pledged by either party without the other parties written consent. Nothing in this

agreement is intended to confer upon any other person any rights or remedies under or by this Agreement.

15. **Payments.** All receipts resulting from claims filed to insurance companies will be received in a trust bank lock box managed by a trustee, Couchot, Hogenkamp & Associates, Certified Public Accountants of Centerville, Ohio. At the end of each month, management reports and adjudication of receipts will be generated for all transactions and the City's funds for that month will be wire transferred to the City's designated bank.
16. **Default.** Neither party shall declare the other in default of any provisions of this Agreement without giving the other party at least thirty (30) days advance written notice of its intention to do so, during which time the other party shall have the opportunity to remedy the default. The notice shall specify the default with particularity.
17. **Notice.** All notices, demands, and other writings required under this Agreement shall be deemed to have been fully given or made or sent when (i) mailed in writing and deposited in the United States Mail, postage pre-paid, and addressed to the parties at the addresses noted in this Agreement or (ii) delivered by nationally recognized courier, receipt of recipient acknowledged by signature. Any notice or disclosures required under this Agreement and any changes to addresses shall be made in accordance with this notice provision. Notices shall be sent to:

Cost Recovery Corporation
5450 Poe Avenue, Suite 401
Dayton, Ohio 45414

City of Brooksville
201 Howell Avenue
Brooksville, Florida 34601

With a Copy To:
The Hogan Law Firm, LLC
20 S. Broad Street
Brooksville, Florida 34601

18. **Severability.** Whenever possible each provision and term of this Agreement will be interpreted in a manner to be effective and valid but if any provision or term of this Agreement is held to be prohibited or invalid, then such provision or term will be ineffective only to the extent of such prohibition or invalidity, without invalidating or affecting in any manner whatsoever the remainder of such provision or term or the remaining provisions or terms of this Agreement.
19. **Attorney's Fees.** If any action is commenced to construe or enforce this Agreement or the rights and duties created hereunder, then each party shall be responsible for its own attorney's fees and costs.
20. **General.** The parties agree to sign all such documents and do all such things as may be necessary or desirable to completely and effectively carry out the terms and conditions of this Agreement. Time shall be of the essence of this Agreement. This Agreement constitutes the entire Agreement among the parties and supersedes all prior agreements, whether oral or written. Paragraph headings are provided as an

organizational convenience and are not meant to be construed as material provisions of this Agreement.

BUSINESS ASSOCIATE CONTRACT

1. CRC shall carry out its obligations under this Agreement in compliance with the privacy regulations pursuant to Public Law 104-191 of August 21, 1996, known as the Health Insurance Portability and Accountability Act of 1996, Subtitle F – Administrative Simplification, Sections 261, *et seq.*, as amended (“HIPAA”), to protect the privacy of any personally identifiable protected health information (“PHI”) that is collected, processed or learned as a result of the legal services provided to City by CRC. In conformity therewith, CRC agrees that it will:

- a. Not use or further disclose PHI except as permitted under this Agreement or required by law;
- b. Use appropriate safeguards to prevent use or disclosure of PHI except as permitted by this Agreement;
- c. To mitigate, to the extent practicable, any harmful effect that is known to CRC of a use or disclosure of PHI by the CRC in violation of this Agreement;
- d. Report to City any use or disclosure of PHI not provided for by this Agreement of which CRC becomes aware;
- e. Ensure that any agents or subcontractors to whom CRC provides PHI, or who have access to PHI, such as other consulting companies, agree to the same restrictions and conditions that apply to CRC with respect to such PHI;
- f. Make PHI available to City and to the individual who has a right of access as required under HIPAA;
- g. Incorporate any amendments to PHI when notified to do so by the City;
- h. Provide an accounting of all uses and disclosures of PHI made by CRC as required under the HIPAA privacy rule;
- i. Make its internal practices, books, and records relating to the use and disclosure of PHI available to the Secretary of the Department of Health and Human Services for purposes of determining CRC’s and City’s compliance with HIPAA; and,
- j. At the termination of this Agreement, return or destroy all PHI received from, or created or received by CRC on behalf of City, and if return is infeasible, the protections of this Agreement will extend to such PHI.

2. The specific uses and disclosures of PHI that may be made by CRC on behalf of City include, but are not limited to:

- a. The review of patient Information in providing advice to City concerning a particular accident incident;

- b. The review of patient Information and other records and submission of that Information to insurers, and other payers with respect to CRC assisting City in an insurance audit or other similar action;
- c. The review of patient Information with respect to providing City with business and operational advice generally;
- d. The review of patient information in the course of CRC conducting compliance assessment activities;
- e. Other uses of disclosures of PHI as permitted by the HIPAA privacy rule.

3. Notwithstanding any other provisions of this Agreement, this Agreement may be terminated by City, in its sole discretion, if City determines that CRC has violated a provision of this Agreement pertaining to City's obligations under the HIPAA privacy rule, or if CRC engages in conduct which would, if committed by City, would result in a violation of the HIPAA privacy rule by City.

IN WITNESS WHEREOF, the parties hereto have set their hands this _____ day of _____, 2008, executed this Agreement on the day and year first above written.

COST RECOVERY CORP

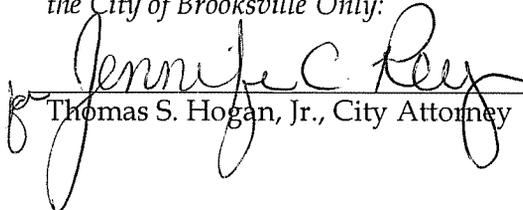
CITY OF BROOKSVILLE, FLORIDA

By: _____
 Terry Henley
 Title: CEO
 Address:
 6450 Poe Avenue, Suite 401
 Dayton, Ohio 45414
 Tele. No. 888-921-4598
 FAX No. 866-282-1451

By: _____
 Print Name: David Pugh
 Title: Mayor
 Address:
 201 Howell Avenue
 Brooksville, Florida 34601
 Tele. No. 352-544-5400

Attested to by City Clerk, Karen Phillips

Approved as to form and content for the reliance of the City of Brooksville Only:



 Thomas S. Hogan, Jr., City Attorney

CITY OF BROOKSVILLE FINANCE DEPARTMENT

Date: October 9, 2008

To: Honorable Mayor and City Council Members

VIA: T. Jennene Norman-Vacha, City Manager

From: Stephen J Baumgartner, Finance Director

RE: Audit Services Contract



SUMMARY

At this writing, the City Attorney is working with Oliver and Joseph, P.A. to complete the audit services contract. We expect the contract to be completed for the Council meeting of October 20, 2008.

GENERAL INFORMATION

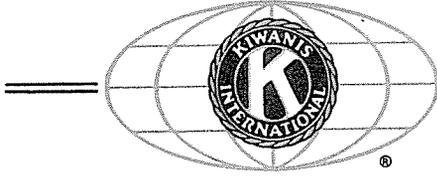
Council chose Oliver & Joseph at the October 6, 2008 Council meeting to serve as the City's Auditors for the fiscal years 07/08, 08/09, and 09/10. Our City Attorney was instructed to negotiate an audit services contract with the firm.

BUDGET IMPACT

The 08 09 Budget has \$60,000 budgeted for accounting and auditing services. If the auditing services contract exceeds \$60,000, a future budget amendment will be brought forward to City Council for adjustment. At this writing, we do not know if it is necessary to amend the 08 09 Budget.

STAFF RECOMMENDATION

Approval of the audit services contract as negotiated by the City Attorney is requested.



KIWANIS CLUB
OF BROOKSVILLE, INC.

MEETS TUESDAY
NIGHT 6:00 P.M.

POST OFFICE BOX 685
BROOKSVILLE, FL. 34605-0685

October 8, 2008

The City of Brooksville
201 Howell Avenue
Brooksville FL 34601

RE: Christmas Parade - December 13, 2008

Dear Karen Phillips:

In view of the current conditions of fiscal conservation, the Kiwanis Club of Brooksville in their endeavor to keep the tradition of providing the community the joy of the annual Christmas parade, understand that the cost of providing police protection for the parade route needs to be addressed. We wish to have this issue placed on the next City agenda.

The Kiwanis Club of Brooksville wishes to request a partial waiver of any fees that might be incurred. The Club is willing to pay a cap amount of \$1,000.00 to assist in paying for any expenses that might be needed. As we are working together with other non-profit groups, we do not wish to place the full burden upon the City or other groups. The parade route will be expanded the same as last year to provide greater exposure to downtown Brooksville.

I look forward to having an answer soon so that we may proceed with the final plans of providing the parade to the community.

Sincerely

Ron Wheelles, President

CITY OF BROOKSVILLE

APPLICATION FOR TEMPORARY STREET CLOSURE

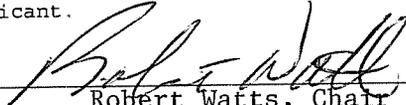
201 Howell Avenue, Brooksville, FL 34601
(352) 544-5407

INSTRUCTIONS: Complete top portion of form and return to Clerk's Office, 201 Howell Avenue, Brooksville, FL 34601. A broad form type events coverage or other insurance policy acceptable to the City is required to protect the City from any and all claims for injuries, or damages occurring during or resulting from this event in an amount of not less than \$100,000 for each individual and \$300,000 for event. Applicant will be notified of estimated cost; receipt of the deposit and the Certificate of Insurance are required not later than three (3) business days before the event. Certificate Attached - Yes No (W/B obtained after 11/08)

Name or Organization Brooksville Kiwanis Club		Event 34th Annual Brooksville Christmas Parade	
Person in Charge Robert Watts, Committee Chair		Address 34605-0685 P O Box 685, Brooksville FL	Telephone 352-796-2926
If unavailable (Alternate Name) Ron wheeles, President		Address Same	Telephone 352-796-7225
Date of Event 12/13/08	Starting Time 7 am set up	Ending Time (approx) 12:30 pm	Estimated Number of Participants 1000+

Proposed Route (include Street, Avenue, and each intersection map)
10 am parade start
(See Attached map) - from Hernando County School Board grounds from Oakwood, south on Howell to east on Broad St. (ends at Bell Ave.)

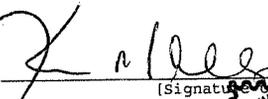
I/We Brooksville Kiwanis Club assume responsibility for reimbursing the City's cost as estimated below, and all liability for injuries and damages and will hold the City harmless from any claims arising directly or indirectly from the event, including or as a result of the City's closure of the street(s) to facilitate the event. If applicant is a corporation, association, or partnership, the undersigned warrants he/she is authorized to execute binding contracts on behalf of the applicant.


Signature Robert Watts, Chair

NOTE: INS CERT W/B
AVAILABLE AFTER
ORG. FISCAL YEAR
START 11/08
PER EVENT
CHAIR KP

State of Florida
County of Hernando

The foregoing instrument was acknowledged before me this 16th day of September, 2008, by ROBERT WATTS, who is personally known to me or who presented _____ as identification, and who (did) (did not) take an oath.



Karen M. Phillips

(Printed, typed or stamped name of Notary Public)



NOTICE: PERMIT NOT VALID UNLESS APPROVED BY DESIGNATED CITY REPRESENTATIVE.

Total Deposit \$ _____ Received By: _____ Date _____

Police Chief	Date	City Manager	Date
--------------	------	--------------	------

Distribution: Original to Applicant; Copies to Chief of Police, Director of Public Works, City Manager and City Clerk

NOTE: A LIST OF STREETS BEING CLOSED WITH DATES AND TIMES WILL BE RELEASED TO THE PRESS NO LESS THAN 5 DAYS PRIOR TO THIS EVENT.

CITY OF BROOKSVILLE

STREET CLOSURE

COST PROJECTION

201 Howell Avenue, Brooksville, FL 34601
(352) 544-5407

Event: Kiwanis Christmas Parade - 12/13/08
Starting: 10:00 am End: 12:30 pm

Police Department

SEE ATTACHED

Personnel	_____	@	\$ _____	=	\$ _____
Equipment	_____	@	\$ _____	=	\$ _____
	_____	@	\$ _____	=	\$ _____
	_____	@	\$ _____	=	\$ _____
	_____	@	\$ _____	=	\$ _____

POLICE DEPARTMENT TOTAL \$ 2,508

Fire Department

OVT RATE

Personnel	<u>Chief 10 hr</u>	@	\$ <u>- 0 -</u>	=	\$ <u>0</u>
Equipment	<u>De Captain 5hr</u>	@	\$ <u>28.79</u>	=	\$ <u>143.94</u>
	<u>Lt 5hr</u>	@	\$ <u>20.39</u>	=	\$ <u>101.95</u>
	<u>AVG 5 FF 5hr</u>	@	\$ <u>18.82</u>	=	\$ <u>470.50</u>
	_____	@	\$ _____	=	\$ _____

FIRE DEPARTMENT TOTAL \$ 716.39

Public Works

Personnel	<u>AVG 4 Staff 8hr</u>	@	\$ <u>17.14</u>	=	\$ <u>548.45</u>
Equipment	<u>2 Vehicle</u>	@	\$ <u>25.00</u>	=	\$ <u>50.00</u>
	_____	@	\$ _____	=	\$ _____
	_____	@	\$ _____	=	\$ _____
	_____	@	\$ _____	=	\$ _____

PUBLIC WORKS TOTAL \$ 598.45

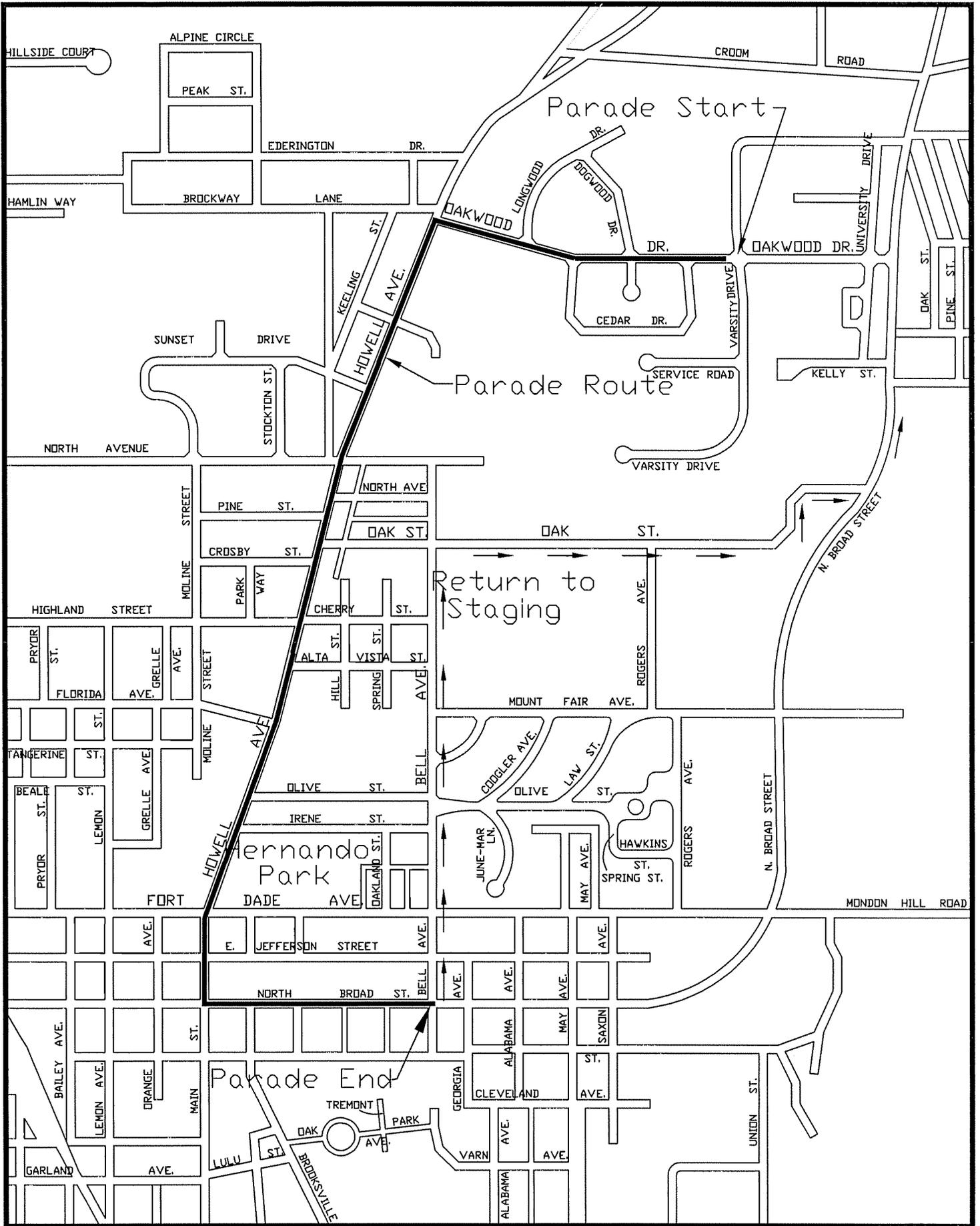
ESTIMATED TOTAL DUE CITY \$ 3,822.84

TOTAL Actual Costs \$ _____ Billed \$ _____

Payment Received By: _____

Police Department Christmas Parade Overtime Cost Estimate

Position	Rate of Pay	No. of Hours	Total
Police Chief	\$0.00	\$0.00	\$0.00
Lieutenant	\$44.06	\$8.00	\$352.51
Detective	\$36.89	\$6.00	\$221.37
Detective	\$33.84	\$6.00	\$203.01
Sergeant	\$38.73	\$7.00	\$271.10
Sergeant	\$38.73	\$5.00	\$193.64
Sergeant	\$33.15	\$5.00	\$165.73
Patrolman x 3	\$23.88	\$6.00	\$143.25
Patrolman x 2	\$23.88	\$5.00	\$119.38
Patrolman	\$22.76	\$5.00	\$113.82
Patrolman x 2	\$15.93	\$4.00	\$63.74
Evidence Techn	\$18.34	\$4.00	\$73.38
Dispatch Serg	\$29.17	\$4.00	\$116.68
TOTALS	\$359.36	\$65.00	\$2,037.59



PROCLAMATION

WHEREAS, the Boy Scouts of America is one of the oldest and largest youth organizations in the United States dedicated to assist in building character, developing morals, ethics, survival skills and other positive attributes forever engrained in the hearts and minds of its youth; it should be well-publicized and documented that **Daniel R.S. Keyes** attained the rank of **Eagle Scout**, the highest level achievable in the Boy Scouts of America;

WHEREAS, **Eagle Scout Daniel R.S. Keyes** committed himself to complete the tasks and/or requirements and pass the Board of Review necessary to achieve the rank of Eagle Scout, it is fitting and proper that it be acknowledged that there were others who guided and reassured him, including his family, friends and most assuredly his Boy Scout family, that his abilities and determination made his quest attainable;

WHEREAS, **Eagle Scout Daniel R.S. Keyes** in choosing to become a Boy Scout and pursue the highest rank achievable in the organization, we know that Brooksville, Hernando County, and the country has another young citizen that will always be honorable, selfless and patriotic toward others and his country;

WHEREAS, the citizens of Brooksville and all Hernando County join in extending their congratulations and well-deserved recognition to **Eagle Scout Daniel R.S. Keyes** on a such a tremendous personal achievement.

NOW, THEREFORE, ON BEHALF OF THE CITY COUNCIL FOR THE CITY OF BROOKSVILLE, FLORIDA, I, DAVID PUGH, MAYOR, do hereby join the Eagle Scout Court of Honor to proclaim the observance of Sunday, November 9, 2008 as Eagle Scout Daniel R.S. Keyes Day in Brooksville, Florida.

IN WITNESS WHEREOF, we have hereunto set our hand and caused the seal of the City of Brooksville to be affixed.

CITY OF BROOKSVILLE

David Pugh, Mayor

Frankie Burnett, Vice Mayor

Joe Bernardini, Council Member

Lara Bradburn, Council Member

Richard E. Lewis, Council Member

ATTEST: _____
Karen M. Phillips, City Clerk

MEMORANDUM

To:	Honorable Mayor and City Council
Via:	T. Jennene Norman-Vacha, City Manager <i>Jennene Norman-Vacha</i>
Via:	Bill Geiger, Community Development Director <i>Bill Geiger</i>
From:	Steve Gouldman, AICP, Planner, Community Development <i>Steve Gouldman</i>
Subject:	Amendment to Code of Ordinances-Chapter 113, Flood Prevention and Protection (Ref. Ord. No. 767)
Petitioner:	City of Brooksville
Location:	Citywide
Date:	September 17, 2008 (Ord. No.767 scheduled for 2 nd Reading on October 6, 2008 and continued to October 20, 2008)

Introduction & Background Information:

Adopted in 1986 and later modified in 1988, the City of Brooksville’s Flood Prevention and Protection regulations are designed to ensure that new buildings will be protected from the flood levels shown on the Flood Insurance Rate Map (FIRM) and that development will not increase the severity of potential flood hazards. As the regulations are enforced through time, exposure to flood damage is anticipated to be reduced, as the stock of older pre-FIRM buildings is replaced by post-FIRM buildings. Additionally, Federally-guaranteed flood insurance is made available in communities that agree to regulate development in their mapped floodplains. If communities do their part in making sure future floodplain development meets certain criteria, the Federal Emergency Management Agency-authorized National Flood Insurance Program will allow property owners in floodplains to obtain flood insurance.

The City’s existing regulations were developed subsequent to the 1986 publication of the Federal Emergency Management Agency’s (FEMA) Flood Insurance Study and the related floodplain maps. FEMA, in a cooperative effort involving the Southwest Florida Water Management District (SWFWMD), Hernando County and the City of Brooksville, initiated a multi-year project to re-examine flood zones and develop detailed digital flood hazard maps. In the process of re-examining the flood zones, a copy of the City’s regulations was provided to FEMA to review for compliance with the minimum standards of the National Flood Insurance Program (NFIP) set forth in 44 Code of Federal Regulations Part 60.3. FEMA staff, in their compliance review, identified a few deficiencies in the regulations and recommended modifications.

Regulatory Framework

As recommend by FEMA to all Florida communities, the proposed regulations are based on the Florida State Model Ordinance, which is designed to ensure that the minimum requirements of the NFIP are met. The attached proposed regulations will bring the City's current Flood Prevention and Protection Ordinance into conformance with Title 44 of the Code of Federal Regulations, as administered by the Federal Emergency Management Agency and the Federal Insurance Administration, and Chapter 163 of the Florida Statutes which mandates that communities enact regulations addressing development in areas subject to seasonal and periodic flooding.

The proposed regulations will not increase the amount or extent of construction currently allowed in floodplains, but rather will provide additional guidance relative to how construction can proceed.

The modifications to the existing regulations include:

- Elimination of all references to the Coastal High Hazard Area;
- Definitions of: Accessory structures; Base Flood Elevation; Encroachment; Existing construction; Existing manufactured home park or subdivision; Expansion to existing manufactured home park or subdivision; Flood Boundary and Floodway Map; Floodplain; Floodplain management; Flood-proofing; Floodway fringe; Freeboard; Hardship; Historic Structure; Lowest adjacent grade; Lowest floor; Manufactured home park or subdivision; New manufactured home park or subdivision; North American Vertical Datum; Public safety and nuisance; Recreational vehicle; Regulatory floodway; Riverine; Substantial damage; Watercourse; and Water surface elevation;
- Limitations on alterations, repairs, improvements or reconstruction to structures not in compliance with the regulations;
- Requirements for obtaining applicable Federal, State and local permits;
- Specific regulations for development in A3 zones and AO zones;
- Standards for development in A zones without established base flood elevations and regulatory floodways;
- Standards for manufactured homes and recreational vehicles; and
- Limitations and prohibitions for development near streams with established base flood elevations without regulatory floodways.

Budget Impact:

The modifications contained in the Ordinance will have no financial impact.

Legal Review:

Adoption of the Ordinance will allow property owners in floodplains to continue to obtain flood insurance. The City Attorney will review the Ordinance for legal sufficiency prior to presentation to City Council.

Planning and Zoning Commission/Staff Recommendation/City Council Action:

At their meeting on August 13, 2008, the Planning and Zoning Commission concurred with staff to recommend City Council approval of the proposed amendments to Chapter 113 of the City of Brooksville Code of Ordinances. On September 15, the City Council approved the first reading of Ordinance No. 767 to amend Chapter 113 of the City of Brooksville code of ordinances, authorizing the second and final reading of the Ordinance to be advertised for October 6, 2008 at 7:00 p.m.

At the second and final reading on October 6, 2006, the Council continued the public hearing to the October 20, 2008 meeting at 7:00 p.m. Council directed staff to remove from the proposed Ordinance the reference to mangrove stands and to delegate the appeal process to City Council rather than to the Planning and Zoning Commission. Those changes have been accomplished and are shown in the Ordinance in strikethrough/underline format.

The City Council also discussed anchoring requirements for manufactured homes and asked that information be provided for their consideration at the October 20, 2008 meeting related to the differences between the South Florida Building Code and the current code standard. Research indicates that the South Florida Building Code and the Florida Building Code specifically defer to the Florida Department of Highway Safety and Motor Vehicles regulations as those applicable to manufactured homes.

According to the Florida Department of Highway Safety and Motor Vehicles, all mobile/manufactured homes must be constructed in accordance with regulations of the U.S. Department of Housing and Urban Development (HUD) which are titled the "Manufactured Housing Construction and Safety Standards." These regulations were amended in 1994 to better ensure that mobile/manufactured homes can withstand strong winds. In addition, all mobile/manufactured homes must be installed in accordance with Rule Chapter 15C-1 Florida Administrative Code (F.A.C). A copy of Rule Chapter 15C-1 FAC is available in the City Council office. The document may also be viewed on-line at: <http://www3.hsmv.state.fl.us/Intranet/dmv/Forms/BMHRV/15C1Finl.pdf>

No mobile/manufactured home can be set-up in Florida unless it was built in accordance with the standards that apply to the Wind Zone applicable to the county in which is to be located. In order to ensure that mobile/manufactured homes survive the threats of hurricanes and other storms, the U.S. Department of Housing and Urban Development developed Wind Zone construction standards for these homes. Homes may be placed only in counties where they meet the Wind Zone construction standards that apply to that county. Wind Zone I homes have the least stringent construction standards and Wind Zone III homes have the most stringent construction standards. All but 14 of Florida's 67 counties, including Hernando County, are designated as Wind Zone II counties. There are 14 Wind Zone III counties, all of which are located on the coasts. As a result of the above, no change has been made to the language within the ordinance relative to anchoring of manufactured homes.

No one from the general public addressed the item at the August 13, 2008 Planning and Zoning Commission meeting, the September 15, 2008 City Council meeting or the October 6, 2008 City Council meeting. No correspondence has been received for or against the ordinance.

Attachment: 1) Flood Prevention and Protection Ordinance No. 767

ORDINANCE NO. 767

AN ORDINANCE OF THE CITY OF BROOKSVILLE, FLORIDA, REPEALING ORDINANCE NO. 437 AND AMENDING THE CODE OF ORDINANCES OF THE CITY OF BROOKSVILLE, FLORIDA, CHAPTER 113, "FLOOD PREVENTION AND PROTECTION," BY REPEALING THEREIN ARTICLE I, "IN GENERAL," ARTICLE II, "ADMINISTRATION," AND ARTICLE III, "PROVISIONS FOR FLOOD HAZARD REDUCTION" AND REPLACING HEREWITH ARTICLE I, "IN GENERAL," ARTICLE II, "DEFINITIONS," ARTICLE III, "GENERAL PROVISIONS," ARTICLE IV, "DESIGNATION AND DUTIES OF BUILDING OFFICIAL," ARTICLE V, "ADMINISTRATION," ARTICLE VI, "PROVISIONS FOR FLOOD HAZARD REDUCTION," AND ARTICLE VII, "VARIANCES;" PROVIDING FOR CONFLICT AND SERVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS Chapter 113 of the Code of Ordinances of the City of Brooksville contains provisions for flood prevention and protection to minimize public and private losses due to flood conditions in specific areas; and

WHEREAS it is the desire and intent of the Brooksville City Council to modify Chapter 113 as contained herein to provide regulations in compliance with the minimum standards of the National Flood Insurance Program set forth in 44 Code of Federal Regulations Part 60.3; and

WHEREAS Florida Statute § 163.3202(1)(d) mandates that development regulations regulate areas subject to seasonal and periodic flooding; and

WHEREAS this ordinance is not inconsistent with the minimum standards of the National Flood Insurance Program set forth in 44 Code of Federal Regulations Part 60.3; and

WHEREAS this ordinance is not inconsistent with the City of Brooksville Comprehensive Plan;

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

SECTION 1. Ordinance Number 437 is hereby repealed.

SECTION 2. The Code of Ordinances of the City of Brooksville, Florida, Chapter 113, "Flood Prevention and Protection," is hereby amended by repealing therein Article I, "In General," Article II, "Administration," and Article III, "Provisions for Flood Hazard Reduction" and replacing herewith Article I, "In General," Article II,

"Definitions," Article III, "General Provisions," Article IV, "Designation and Duties of Building Official," Article V, "Administration," Article VI, "Provisions for Flood Hazard Reduction," and Article VII, "Variances:"

CHAPTER 113. FLOOD PREVENTION AND PROTECTION

ARTICLE I. IN GENERAL

Sec. 113-1. Statement of purpose.

It is the purpose of this chapter to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1. Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, which result in damaging increases in erosion or in flood heights and velocities;
2. Require that uses vulnerable to floods including facilities which serve such uses be protected against flood damage throughout their intended life span;
3. Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
4. Control filling, grading, dredging and other development which may increase erosion or flood damage; and
5. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

Sec. 113-2. Objectives.

The objectives of this chapter are to:

1. Protect human life, health and to eliminate or minimize property damage;
2. Minimize expenditure of public money for costly flood control projects;
3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. Minimize prolonged business interruptions;
5. Minimize damage to public facilities and utilities such as water

and gas mains, electric, telephone and sewer lines, roadways, and bridges and culverts located in floodplains;

6. Maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas; and
7. Ensure that potential home buyers are notified that property is in a flood hazard area.

ARTICLE II. DEFINITIONS

Sec. 113-3. Generally.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

Sec. 113-4. Definitions.

Accessory structure (Appurtenant structure) means a structure that is located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Accessory structures should constitute a minimal investment, may not be used for human habitation, and be designed to have minimal flood damage potential. Examples of accessory structures include detached garages, carports, storage sheds, pole barns, and hay sheds.

Appeal means a request for a review of the building official's interpretation of any provision of this chapter or a request for a variance.

Area of shallow flooding means a designated AO or AH Zone on the community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of special flood hazard is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This term is synonymous with the phrase "special flood hazard area."

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year.

Base Flood Elevation means the water-surface elevation associated with the base flood.

Basement means that portion of a building having its floor sub-grade (below ground level) on all sides.

Breakaway wall means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

Building - see **Structure**.

Datum A reference surface used to ensure that all elevation records are properly related. The current national datum is the National Geodetic Vertical Datum (NGVD) of 1929, which is expressed in relation to mean sea level, or the North American Vertical Datum (NAVD) of 1988.

Development means any man-made change to improved or unimproved real estate, including, but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or storage of materials or equipment.

Elevated building means a non-basement building built to have the lowest floor elevated above the ground level by foundation walls, posts, piers, columns, pilings, or shear walls.

Encroachment means the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

Existing Construction means, for the purposes of floodplain management, structures for which the start of construction commenced before the date of the initial Flood Insurance Rate Map (FIRM). Existing construction means, for the purpose of determining rates, structures for which the start of construction commenced before the effective date of the FIRM or before February 21, 1975, for FIRMs effective before that date. This term may also be referred to as existing structures.

Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the FIRM

or before February 21, 1975 for FIRMs effective before that date.

Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Flood or flooding means:

1. A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - a. The overflow of inland or tidal waters.
 - b. The unusual and rapid accumulation or runoff of surface waters from any source.
 - c. Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph 1.a. of this definition and are akin to a river of liquid and flowing mud on the surface of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
2. The collapse or subsidence of land along a shore of a lake or other body of water as the result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph 1.a. of this definition.

Flood Boundary and Floodway Map (FBFM) means the official map of the community on which the Federal Emergency Management Agency (FEMA) has delineated the areas of special flood hazard and regulatory floodways.

Flood Hazard Boundary Map (FHBM) means an official map of the community, issued by FEMA, where the boundaries of the areas of special flood hazard have been identified as only Approximate Zone A.

Flood Insurance Rate Map (FIRM) means an official map of the community, issued by FEMA, which delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

Flood Insurance Study (FIS) is the official hydraulic & hydrologic

report provided by FEMA. The study contains an examination, evaluation, and determination of flood hazards, and, if appropriate, corresponding water surface elevations, or an examination, evaluation, and determination of mudslide (i.e., mudflow) and other flood-related erosion hazards. The study may also contain flood profiles, as well as the FIRM, FHBM (where applicable), and other related data and information.

Floodplain means any land area susceptible to being inundated by water from any source (see definition of "flooding").

Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

Floodplain management regulations means this chapter and other zoning chapters, subdivision regulations, building codes, health regulations, special purpose chapters and other applications of police power which control development in flood-prone areas. This term describes Federal, State or local regulations in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

Flood-proofing means any combination of structural and non-structural additions, changes, or adjustments to structures, which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Floodway fringe means that area of the floodplain on either side of the regulatory floodway where encroachment may be permitted without additional hydraulic and/or hydrologic analysis.

Freeboard means the additional height, usually expressed as a factor of safety in feet, above a flood level for purposes of floodplain management. Freeboard tends to compensate for many unknown factors such as wave action, bridge openings and hydrological effect of urbanization of the watershed that could contribute to flood heights

greater than the height calculated for a selected frequency flood and floodway conditions.

Functionally dependent use means a use that cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

Hardship as related to variances from this chapter means the exceptional hardship associated with the land that would result from a failure to grant the requested variance.

Highest adjacent grade means the highest natural elevation of the ground surface, prior to the start of construction, next to the proposed walls of a structure.

Historic Structure means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register:
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic structure or a district preliminarily determined by the Secretary to qualify as a registered historic district:
3. Individually listed on the Florida inventory of historic places, which has been approved by the Secretary of the Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - a. By the approved Florida program as determined by the Secretary of the Interior, or
 - b. Directly by the Secretary of the Interior.

Lowest adjacent grade means the lowest elevation, after the completion of construction, of the ground, sidewalk, patio, deck support, or basement entryway immediately next to the structure.

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage, in an area other than a basement, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the

structure in violation of the non-elevation design standards of this chapter.

~~**Mangrove Stand** means an assemblage of mangrove trees which are mostly low trees noted for a copious development of interlacing adventitious roots above ground and which contain one or more of the following species: Black mangrove (Avicennia Nitida); red mangrove (Rhizophora mangle); white mangrove (Languncularia Racemosa); and buttonwood (Conocarpus Erecta).~~

Manufactured home means a building, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers, and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into 35 or more manufactured home lots for rent or sale.

Market value means the building value, which is the property value excluding the land value and that of the detached accessory structures and other improvements on site (as agreed to between a willing buyer and seller) as established by what the local real estate market will bear. Market value can be established by an independent certified appraisal (other than a limited or curbside appraisal, or one based on income approach), Actual Cash Value (replacement cost depreciated for age and quality of construction of building), or adjusted tax-assessed values.

Mean Sea Level means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of this chapter, the term is synonymous with National Geodetic Vertical Datum (NGVD) of 1929, or North American Vertical Datum (NAVD) of 1988.

National Geodetic Vertical Datum (NGVD) of 1929 means a vertical control used as a reference for establishing varying elevations within the floodplain.

New Construction means, for floodplain management purposes, any structure for which the start of construction commenced on or after February 21, 1975. The term also includes any subsequent improvements to such structures. For the purposes of determining rates, new construction means structures for which the start of construction commenced on or after June 1, 1982 and includes any subsequent improvements to such structures.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of this chapter.

North American Vertical Datum (NAVD) of 1988 means a vertical control used as a reference for establishing varying elevations within the floodplain.

Public safety nuisance means anything which is injurious to safety or health of the community, a neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, river, bay, stream, canal, or basin.

Recreational vehicle means a vehicle that is:

1. Built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Remedy a deficiency or violation means to bring the regulation, procedure, structure or other development into compliance with State, Federal or local floodplain management regulations; or if this is not possible, to reduce the impacts of its noncompliance. Ways the impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of this chapter or otherwise deterring future similar

violations, or reducing Federal financial exposure with regard to the structure or other development.

Riverine means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Shallow flooding means the same as area of shallow flooding.

Special flood hazard area means the same as area of special flood hazard.

Start of construction For other than new construction or substantial improvements under the Coastal Barrier Resources Act P. L. 97-348, includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation or placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main building.

Storm cellar means a place below grade used to accommodate occupants of the structure and emergency supplies as a means of temporary shelter against severe tornadoes or similar windstorm activity.

Structure means for floodplain management purposes a walled and roofed building, including gas or liquid storage tank that is principally above ground, as well as a manufactured home.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures that have incurred substantial damage regardless of the actual repair work performed. This term does not, however, include any repair or improvement of a structure to correct existing violations of State or local health, sanitary, or safety code specifications, which have been identified by the local code enforcement official prior to the application for permit for

improvement, and which are the minimum necessary to assure safe living conditions.

Substantially improved existing manufactured home parks or subdivisions is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

Variance is a grant of relief from the requirements of this chapter.

Violation means the failure of a structure or other development to be fully compliant with the requirements of this chapter. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this chapter is presumed to be in violation until such time as that documentation is provided.

Watercourse means a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

Water surface elevation means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 or the North American Vertical Datum (NAVD) of 1988, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

ARTICLE III. GENERAL PROVISIONS

Sec. 113-5. Lands to which this chapter applies.

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the City.

Sec. 113-6. Basis for establishing the areas of special flood hazard.

The areas of special flood hazard identified by the Federal Emergency Management Agency in its Flood Insurance Study dated September 18, 1986, as amended, with accompanying maps and other supporting data, and any revision thereto, are adopted by reference and declared to be a part of this chapter.

Sec. 113-7. Compliance.

No structure or land shall hereafter be located, extended, converted

or structurally altered without full compliance with the terms of this chapter and other applicable regulations.

Sec. 113-8. Abrogation and greater restrictions.

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

Sec. 113-9. Interpretation.

In the interpretation and application of this chapter all provisions shall be:

1. Considered as minimum requirements;
2. Liberally construed in favor of the City; and
3. Deemed neither to limit nor repeal any other powers granted under State statutes.

Sec. 113-10. Warning and disclaimer of liability.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the City or by any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

Sec. 113-11. Penalties for violation.

Violation of the provisions of this chapter or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be punished as provided in Section 1-7 of this Code. In addition to all other fines, the person shall be required to pay all costs and expenses involved in the case. Nothing contained in this section shall prevent the City from taking such

other lawful action as is necessary to prevent or remedy any violation.

ARTICLE IV. DESIGNATION AND DUTIES OF BUILDING OFFICIAL.

Sec. 113-12. Designation of building official.

The Building Official is appointed to administer and implement the provisions of this chapter.

Sec. 113-13. Duties and responsibilities of building official.

Duties and responsibilities of the Building Official shall include, but not be limited to:

1. Review all building permit applications to assure that the permit requirements of this chapter have been satisfied;
2. Advise applicant that additional Federal, State or local permits may be required, and if such additional permits are necessary, require that copies of such permits be provided and maintained on file with the building permit;
3. Notify adjacent communities, the Department of Community Affairs, Division of Emergency Management, the Southwest Florida Water Management District, the Federal Emergency Management Agency and other Federal and/or State agencies with statutory or regulatory authority prior to any alteration or relocation of a watercourse;
4. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained;
5. Verify and record the actual elevation, in relation to mean sea level, of the lowest floor, including basement of all new or substantially improved buildings, in accordance with Subsection 113-15.2.;
6. Verify and record the actual elevation, in relation to mean sea level, to which the new or substantially improved buildings have been flood-proofed, in accordance with Subsection 113-15.2.;
7. The Building Official shall review certified plans and specifications for compliance. When flood-proofing is utilized for a particular building, certification shall be obtained from a registered engineer or architect certifying that all areas of the building below the required elevation are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy in compliance with Subsection 113-17.2.

8. When base flood elevation data or floodway data have not been provided in accordance with Section 113-6., the Building Official shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or any other source, in order to administer the provisions of Article VI;
9. Coordinate all change requests to the FIS, FIRM and FBFM with the requester, State and FEMA, and
10. Where Base Flood Elevation is utilized, obtain and maintain records of lowest floor and flood-proofing elevations for new construction and substantial improvements in accordance with Article VI, Subsections 113-17.1. and 113-17.2., as applicable.

ARTICLE V. ADMINISTRATION.

Sec. 113-14. Building permit required.

A building permit shall be required in conformance with the provisions of this chapter prior to the commencement of any development activities.

Sec. 113-15. Procedures.

Application for a building permit shall be made to the Building Official on forms furnished by him prior to any development activities, and may include, but not be limited to, the following plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill, storage of materials or equipment, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

1. Application Stage:
 - a. Elevation in relation to mean sea level of the proposed lowest floor (including basement) of all buildings;
 - b. Elevation in relation to mean sea level to which any non-residential building will be flood-proofed;
 - c. Certificate from a registered professional engineer or architect that the non-residential flood-proofed building will meet the flood-proofing criteria in Subsection 113-17.2.; and
 - d. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

2. Construction Stage:

Upon placement of the lowest floor, or flood-proofing by whatever construction means, or bottom of the lowest horizontal structural member it shall be the duty of the permit holder to submit to the Building Official a certification of the NGVD or NAVD elevation of the lowest floor or flood-proofed elevation, or bottom of the lowest horizontal structural member as built, in relation to mean sea level. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When flood proofing is utilized for a particular building said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The Building Official shall review the lowest floor and flood-proofing elevation survey data submitted. The permit holder immediately and prior to further progressive work being permitted to proceed shall correct violations detected by such review. Failure to submit the survey or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project.

ARTICLE VI. PROVISIONS FOR FLOOD HAZARD REDUCTION.

Sec. 113-16. General standards.

In all areas of special flood hazard, all development sites including new construction and substantial improvements shall be reasonably safe from flooding, and meet the following provisions:

1. New construction and substantial improvements shall be designed or modified and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
2. Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable State requirements for resisting wind forces;
3. New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;

4. New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
5. Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities, including duct work, shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
6. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
7. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;
8. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;
9. Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this chapter shall meet the requirements of new construction as contained in this chapter;
10. Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provisions of this chapter, shall be undertaken only if said non-conformity is not furthered, extended, or replaced;
11. All applicable additional Federal, State, and local permits shall be obtained and submitted to the Building Official. Copies of such permits shall be maintained on file with the building permit. State permits may include, but not be limited to the following:
 - a. Southwest Florida Water Management District: in accordance with Chapter 373.036 Florida Statutes, Section (2)(a) - Flood Protection and Floodplain Management.
 - b. Department of Community Affairs: in accordance with Chapter 380.05 F.S. Areas of Critical State Concern, and Chapter 553, Part IV F.S., Florida Building Code.
 - c. Department of Health: in accordance with Chapter 381.0065 F.S. Onsite Sewage Treatment and Disposal Systems.

12. Standards for Subdivision Proposals and other Proposed Development (including manufactured homes):

- a. All subdivision proposals shall be consistent with the need to minimize flood damage;
- b. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage;
- c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.

Sec. 113-17. Specific standards.

In all A3 Zones where base flood elevation data have been provided as set forth in Article III, Section 113-6., the following provisions shall apply:

1. Residential Construction. All new construction or substantial improvement of any residential building (including manufactured home) shall have the lowest floor, including basement, elevated to no lower than one foot above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate automatic equalization of flood hydrostatic forces on both sides of the exterior walls shall be provided in accordance with standards of Article VI, Subsection 113-17.3. below.
2. Non-Residential Construction. All new construction or substantial improvement of any commercial, industrial, or non-residential building (including manufactured home) shall have the lowest floor, including basement, elevated to no lower than one foot above the base flood elevation. All buildings located in A Zones may be flood-proofed, in lieu of being elevated, provided that all areas of the building components below the base flood elevation plus one foot are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied using the FEMA Floodproofing Certificate. Such certification along with the corresponding engineering data, and the operational and maintenance plans shall be provided to the Building Official.
3. Elevated Buildings. New construction or substantial improvements of elevated buildings that include fully enclosed areas formed by

foundation and other exterior walls below the lowest floor elevation shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.

a. Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:

1. Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

2. The bottom of all openings shall be no higher than one foot above foundation adjacent interior grade (which must be equal to or higher in elevation than the adjacent exterior grade); and

3. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they contain the required net area of the openings and permit the automatic flow of floodwaters in both directions.

b. Fully enclosed areas below the lowest floor shall solely be used for parking of vehicles, storage, and building access. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door), limited storage of maintenance equipment used in connection with the premises (standard exterior door), or entry to the living area (stairway or elevator); and

c. The interior portion of such enclosed area shall not be finished or partitioned into separate rooms.

4. Standards for Manufactured Homes and Recreational Vehicles

a. All manufactured homes that are placed, or substantially improved within Zones A3, A5 and AH on sites in a new manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or in an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as the result of a flood, the lowest floor must be elevated on a permanent foundation to no lower than one foot above the base flood elevation and be securely anchored to an adequately anchored

foundation system to resist flotation, collapse, and lateral movement.

b. All manufactured homes to be placed or substantially improved in an existing manufactured home park or subdivision within Zone AH that are not subject to the provisions of paragraph 4.a. above, must be elevated so that either:

1. The lowest floor of the manufactured home is elevated to no lower than one foot above the base flood elevation, or
2. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least an equivalent strength that are no less than 36 inches in height above the grade and securely anchored to an adequate foundation system to resist flotation, collapse, and lateral movement.

c. All recreational vehicles placed on sites within Zones A3, A5 and AH must either:

1. Be on the site for fewer than 180 consecutive days,
2. Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions), or
3. Meet all the requirements for new construction, including anchoring and elevation requirements in accordance with Subsections 113-17.4.a. and 113-17.4.b.

5. Adequate drainage paths around structures shall be provided on slopes to guide water away from structures.

6. Standards for streams with established base flood elevations, without regulatory floodways.

If located within the areas of special flood hazard established in Section 113-6 where streams exist for which base flood elevation data has been provided by the Federal Emergency Management Agency without the delineation of the regulatory floodway (Zones A3 and A5), the following additional provisions shall also apply:

a. Until a regulatory floodway is designated, no new construction, substantial improvements, or other development including fill shall be permitted within the areas of special flood hazard, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point within the community.

b. Development activities which increase the water surface elevation of the base flood by more than one foot may be allowed, provided that the developer or applicant first applies for a conditional FIRM revision, and receives the approval of the Federal Emergency Management Agency.

7. Floodways. Located within areas of special flood hazard established in Section 113-6. are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and have significant erosion potential, the following additional provisions shall also apply:

a. Prohibit encroachments, including fill, new construction, substantial improvements and other developments within the regulatory floodway unless certification (with supporting technical data) by a registered professional engineer is provided through hydraulic and hydrologic analyses performed in accordance with standard engineering practice demonstrating that encroachments would not result in any increase in flood levels during occurrence of the base flood discharge.

b. Prohibit the placement of manufactured homes (mobile homes), except in an existing manufactured homes (mobile homes) park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring standards of Subsection 113-16.2, the elevation standards of Subsection 113-17.1. and 113-17.2., and the encroachment standards of Subsection 113-17.7.a. are met.

c. Development activities including new construction and substantial improvements that increase the water surface elevation of the base flood by more than one foot may be allowed, provided that the developer or applicant first applies for a conditional FIRM revision, and receives the approval of FEMA.

d. When fill is proposed, in accordance with the permit issued by the Florida Department of Health, within the regulatory floodway, the development permit shall be issued only upon demonstration by appropriate engineering analyses that the proposed fill will not increase the water surface elevation of the base flood in accordance with Subsection 113-17.7.a.

Sec. 113-18. Specific standards for A-zones without base flood elevations and regulatory floodways.

Located within the areas of special flood hazard established in Section 113-6., where there exist A Zones for which no base flood elevation data and regulatory floodway have been provided or designated by the Federal Emergency Management Agency, the following provisions shall apply:

1. Require standards of Section 113-16.
2. The Building Official shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State of Florida, or any other source, in order to administer the provisions of this chapter. When such data is utilized, the provisions of Section 113-17. shall apply. The Building Official shall:
 - a. Obtain the elevation (in relation to the mean sea level) of the lowest floor (including the basement) of all new and substantially improved structures,
 - b. Obtain, if the structure has been flood-proofed in accordance with the requirements of Subsection 113-17.2., the elevation in relation to the mean sea level to which the structure has been flood-proofed, and
 - c. Maintain a record of all such information.
3. Notify, in riverine situations, adjacent communities, the Department of Community Affairs, NFIP Coordinating Office, and the Southwest Florida Water Management District prior to any alteration or relocation of a watercourse, and submit copies of such notifications to FEMA.
4. Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
5. Manufactured homes shall be installed using methods and practices that minimize flood damage. They must be elevated and anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.
6. When the data is not available from any source as in Subsection 113-18.2., the lowest floor of the structure shall be elevated to no lower than three feet above the highest adjacent grade.
7. Require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than 50 lots or 5 acres, whichever is the

lesser, include within such proposals base flood elevation data.

Sec. 113-19. Standards for AO Zones.

Located within the areas of special flood hazard established in Section 113-6. are areas designated as shallow flooding areas. These areas have flood hazards associated with base flood depths of one to three feet, where a clearly defined channel does not exist and the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply:

1. All new construction and substantial improvements of residential structures in all AO Zones shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the Flood Insurance Rate Map. If no flood depth number is specified, the lowest floor, including basement, shall be elevated to no less than two feet above the highest adjacent grade.
2. All new construction and substantial improvements of non-residential structures shall:
 - a. Have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the Flood Insurance Rate Map. If no flood depth number is specified, the lowest floor, including basement, shall be elevated to at least two feet above the highest adjacent grade, or
 - b. Together with attendant utility and sanitary facilities be completely flood-proofed to that level to meet the flood-proofing standard specified in Subsection 113-17.2.
 - c. Adequate drainage paths around structures shall be provided on slopes to guide water away from structures.

ARTICLE VII. VARIANCES.

Sec. 113-20. Variance procedures.

The Planning and Zoning Commission, as established by the City, shall hear and decide ~~appeals~~ and requests for variances from the requirements of this chapter. The Planning and Zoning Commission shall also hear and provide to City Council a recommendation regarding appeals to administrative decisions relative to the administration and/or enforcement of the regulations contained herein. Appeals shall be permitted when it is alleged there is an error in any requirement, decision or determination made by the Building Official in the enforcement or administration of this

chapter. Any person aggrieved by the decision of the Planning and Zoning Commission ~~or any taxpayer~~ relative to a variance request may appeal such decision to the City Council. The decision of the City of Brooksville City Council is final and may be challenged by any person in circuit court, as provided in F.S. § 163.3243.

1. Variances may be issued for the reconstruction, rehabilitation or restoration of buildings listed on the National Register of Historic Places or the state inventory of historic places, without regard to the procedures set forth in the remainder of this Section, except for Subsections 113-21.1. and 113-12.4., and provided the proposed reconstruction, rehabilitation or restoration will not result in the building losing its historical designation.
2. In acting upon such applications, the Planning and Zoning Commission shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:
 - a. The danger that materials may be swept onto other lands to the injury of others;
 - b. The danger of life and property due to flooding or erosion damage;
 - c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - d. The importance of the services provided by the proposed facility to the community;
 - e. The necessity to the facility of a waterfront location, where applicable;
 - f. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - g. The compatibility of the proposed use with existing and anticipated development;
 - h. The relationship of the proposed use to the Comprehensive Plan and floodplain management program for the area;
 - i. The safety of access to the property in times of flood for ordinary and emergency vehicles;

- j. The expected heights, velocity, duration, rate of rise, and sediment of transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
 - k. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
4. Upon consideration of the factors listed in Subsection 113-20.2. above, the Planning and Zoning Commission may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.
 5. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

Sec. 113-21. Conditions for variances.

1. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief; and in the instance of a historical building, a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the building.
2. Variances shall be only issued upon: a showing of good and sufficient cause; a determination that failure to grant the variance would result in exceptional hardship; and a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
3. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the building is to be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
4. The Building Official shall maintain the records of all variance actions, including justification for their issuance or denial, and report upon request to FEMA and the State.

SECTION 3. Inclusion in Code. This ordinance shall be and become a part of the Code of the City of Brooksville, Florida, pursuant to Sections 1-4 and 1-5 thereof.

SECTION 4. Conflict. Any ordinance or code of the City, or any portion thereof, in conflict with the provisions of this ordinance,

is hereby repealed to the extent of such conflict.

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

SECTION 6. Effective Date. This ordinance shall take effect immediately upon its adoption by the Brooksville City Council.

ADOPTED IN REGULAR SESSION THIS _____ DAY OF _____, 2008.

CITY OF BROOKSVILLE

By: _____
David Pugh, Mayor

Attest: _____
Karen M. Phillips, City Clerk

PASSED on First Reading _____

NOTICE Published on _____

PASSED on Second & Final Reading _____

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

VOTE OF COUNCIL:
Bernardini _____
Bradburn _____
Burnett _____
Lewis _____
Pugh _____

Thomas S. Hogan, Jr., City Attorney



**AGENDA ITEM
MEMORANDUM**

TO: HONORABLE MAYOR AND CITY COUNCILMEN
FROM: T. JENNENE NORMAN-VACHA, CITY MANAGER
SUBJECT: RESOLUTION 2008-26
DATE: OCTOBER 12, 2008

GENERAL SUMMARY/BACKGROUND: At the last Regular Session on the Brooksville City Council, through motion Council elected to “hold constant” the existing water and sewer rates for the Brooksville Utility district customers.

Currently, as discussed by Council, in place is Resolution No. 2004-1 that contains a provision that states that rates will be “automatically increased or decreased based on the change in the Consumer Price Index...etc.”.

The attached Resolution (No: 2008-26) that will formalize Council’s decision at its last meeting.

BUDGET IMPACT: This action will reduce the Water and Sewer revenues by approximately \$102,000 which will require the same reduction on the expense side. A budget amendment necessary for this action will follow in a separate item on Council’s agenda for October 20, 2008.

LEGAL REVIEW: Legal has prepared and reviewed the attached Resolution and finds it to be in good legal form and within the authority of the City Council to act.

STAFF RECOMMENDATION: Staff recommends the approval the attached Resolution No. 2008-26.

RESOLUTION NO: 2008-26

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BROOKSVILLE, FLORIDA, MODIFYING WATER AND SEWER SERVICE CHARGES AND RATES; AND PROVIDING FOR CONFLICT, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, Ordinance No. 558 authorizes the establishment of monthly service charges, rates, and fees for water and sewer services by resolution; and,

WHEREAS, Resolution No. 2004-01, adopted on February 2, 2004, provided for an automatic annual increase in water and sewer rates as of October 1 each year; and,

WHEREAS, the City Council desires to withhold the automatic increase in the water and sewer rates set forth in Resolution No. 2004-01 and the City Council desires to reconsider water and sewer rates for fiscal year 2008/2009.

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

SECTION 1. WATER AND SEWER RATES. Water and sewer rates will remain the same as provided for in Resolution No.2004-01 and effective for fiscal year 2007 - 2008, without any increase as of October 1, 2008, until such time as the City Council amends or modifies Resolution No. 2004-01.

SECTION 2. 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 3. 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 4. EFFECTIVE DATE. Upon adoption by the City Council of the City of Brooksville, Florida, this resolution shall be retroactively effective and take effect as of October 1, 2008.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF BROOKSVILLE, FLORIDA, THIS ____ DAY OF _____, 2008.

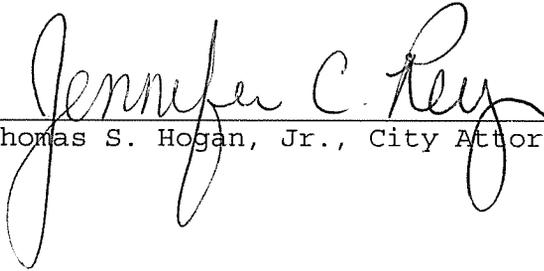
CITY OF BROOKSVILLE

By: _____
David Pugh, Mayor

ATTEST: _____
Karen M. Phillips, City Clerk

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

VOTE OF CITY COUNCIL
Bernardini _____
Bradburn _____
Burnett _____
Lewis _____
Pugh _____



Thomas S. Hogan, Jr., City Attorney

F:\WP_WORK\ClerkOffice\RESOL\2008-26 - Holding Utility Rates Flat Until Revised Rates (00110344)
Rev.DOC



**AGENDA ITEM
MEMORANDUM**

TO: HONORABLE MAYOR AND CITY COUNCILMEN
VIA: T. JENNENE NORMAN-VACHA, CITY MANAGER
FROM: EMORY PIERCE, PUBLIC WORKS DIRECTOR
SUBJECT: RESOLUTION 2008-27 – WATER & SEWER RATES
DATE: OCTOBER 12, 2008

T. Jennene Norman-Vacha
Emory Pierce

GENERAL SUMMARY/BACKGROUND: At the last Regular Session on the Brooksville City Council, through motion Council elected to “hold constant” the existing water and sewer rates for the Brooksville Utility district customers.

Currently, as discussed by Council, in place is Resolution No. 2004-1 (provided as Attachment 1) that contains a provision that states that rates will be “automatically increased or decreased based on the change in the Consumer Price Index (CPI)...” In addition to not increasing the rates for FY 2008-09, Council has stated that they are interested in capping all future increases based on the CPI to a maximum of three percent (3%) in a single year.

Staff has prepared the attached Resolution (No: 2008-27) makes four (4) changes to the prior Resolution (No. 2004-1):

1. Does not increase or modify the existing water and sewer rates.
2. Revises the “adjustment formula” beginning in fiscal year 2009-10 to limit or “cap” any increase in rate adjustment based on the Tampa-St. Petersburg-Clearwater Metropolitan Statistical Area (MSA) CPI to a 3% maximum in a fiscal year.
3. Includes language from the Brooksville City Code Section 86-182 that requires water and sewer customers outside the City limits to be subject to the same rates and charges for corresponding levels of water and sewer services as City customers with a twenty-five percent (25%) surcharge.

4. Minor clarification language has been made to Section 2. C. II.

Resolution No: 2008-27 is attached as Attachment 2 and presented/labeled as “Option A.”

ALTERNATIVE PROPOSAL: Following the last Regular Session of City Council, Councilman Joe Bernadini asked that staff prepare and include an Alternative Resolution for Council’s consideration that includes provisions for conservation efforts within the Water and Sewer Rate Structure for fiscal year 2008-09. This Alternative Resolution (presented and labeled as Option B) is provided as Attachment 3 for review and consideration. This Resolution provides one (1) distinct difference in the charges and rates that are found in Section 2. B. The water and sewer charges and rates *other than* the “minimum monthly charge” have been increased by the 3% maximum adjustment allowance beginning this fiscal year (2008-09).

The charges and rates that have been increased are for monthly water usage only when the customer/user consumes or uses more than 3,000 gallons and when sewer usage exceeds 2,400 gallons.

BUDGET IMPACT: Council’s adoption of Resolution 2008-27, Option A will reduce the Water and Sewer revenues as adopted by the City Council during the 2008-09 Budget Hearings by approximately \$102,000 which will require the same reduction on the expense side. Option B of the Resolution will reduce the Water and Sewer revenues by less than \$102,000 per year. At the time of this items submission, staff is still calculating the estimated revenue impact. We will present the projected difference during the Council meeting. A budget amendment necessary for this action will follow in a separate item on Council’s agenda for October 20, 2008.

LEGAL REVIEW: Legal has prepared and reviewed the attached Resolution and finds it to be in good legal form and within the authority of the City Council to act.

STAFF RECOMMENDATION: Staff recommends the approval the attached Resolution No. 2008-27, designating Council’s preference for Option A or Option B.

Attachment 1

RESOLUTION NO. 2004-01

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BROOKSVILLE, FLORIDA, READOPTING AND SUPPLEMENTING WATER AND SEWER SERVICE CHARGES AND RATES; PROVIDING FOR CONFLICT AND SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, Ordinance No. 558 authorizes the establishment of monthly service charges, rates and fees for water and sewer services by resolution; and

WHEREAS, on August 4, 1997 City Council adopted Resolution No. 97-22, which established the above mentioned rates and fees; which rates were modified by Resolution No. 99-16 adopted on September 13, 1999, and by Resolution No. 2003-13 adopted on August 19, 2003; and

WHEREAS, the City Council wishes to adopt rates and charges for irrigation only water service and for temporary utility service; and

WHEREAS, the City Council wishes to readopt all utility rates and charges in one resolution for ease of reference;

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

SECTION 1. Resolutions Nos. 97-22, 99-16 and 2003-13 are hereby repealed.

SECTION 2. The following utility fees, rates and charges are hereby readopted:

A. UTILITY INSTALLATION FEES

I. **WATER SERVICE INSTALLATION FEES:** Prior to the issuance of a building permit, each request for water service shall be submitted on a form provided by the city, with an installation fee based on the size of the meter, as follows:

<u>Meter Size</u>	<u>Installation Fee</u>
5/8" x 3/4"	\$ 320.00
1"	\$ 410.00
1 1/2"	\$ 625.00
2"	\$ 900.00

Larger than 2": Actual cost to the city of such installation.

In other than city maintained rights-of-way: Actual cost to the city of such installation

II. **SEWER SERVICE INSTALLATION FEES:** Prior to the issuance of a building permit, each applicant for residential, commercial or industrial sewer service shall pay an installation fee based on the actual cost of such installation to the city.

B. MONTHLY SERVICE CHARGES AND RATES

I. **RATES FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2003, AND ENDING SEPTEMBER 30, 2004:**

(a) **ALL WATER USERS INSIDE THE CITY LIMITS:**

- 1. Minimum monthly charge
(Includes 0-3,000 gallons.) \$16.25

- 2. Monthly charge per 1,000 gallons, or part thereof, for 3,001 to 8,000 gallons \$ 1.80
- 3. Monthly charge per 1,000 gallons, or part thereof, for over 8,000 gallons \$ 2.40

(b) ALL SEWER USERS INSIDE THE CITY LIMITS WITH WATER SERVICE (Sewer flows are equal to 80% of water meter flows):

- 1. Minimum monthly charge (Includes 0-2,400 gallons of sewer flow.) \$18.50
- 2. Monthly charge per 1,000 gallons of sewer flow, or part thereof, for over 2,400 gallons \$ 3.75

(c) SEWER ONLY CUSTOMERS SHALL be charged in accordance with sewer flows as estimated by the city, but no less than \$20.83 per month per ERU for sewer.

(d) USERS WITH INOPERATIVE WATER METERS SHALL be charged for water and or sewer service based on an assumed minimum consumption of 10,000 gallons of water per month for each month that the City determines the meter was inoperative unless there is adequate usage history for the City to project consumption rates based on a six (6) month average of consumption prior to the inoperative period.

(e) USE OF WATER FOR CONSTRUCTION PURPOSES shall be charged according to the following rates. The monthly bill shall be determined by multiplying the total number of gallons used in that month from all meters assigned to any one entity by the applicable rate for that volume of use (plus any other applicable charges):

<u>Gallons Used Per Month</u>	<u>Rate Per 1,000 Gallons, or Part Thereof</u>
0 - 10,000	\$ 2.50
10,001 - 20,000	\$ 2.60
20,001 - 30,000	\$ 2.70
30,001 - 40,000	\$ 2.80
40,001 - 50,000	\$ 2.90
50,001 - 100,000	\$ 3.00
100,001 - 200,000	\$ 4.00
200,001 - 300,000	\$ 5.00
300,001 - 400,000	\$ 6.00
400,001 - 500,000	\$ 7.00
500,001 and over	\$10.00

II. RATES FOR SUBSEQUENT FISCAL YEARS: Beginning with the billing for the fiscal year starting October, 2004, the rates and charges hereby established shall be automatically increased or decreased based on the change in the Consumer Price Index - All Urban Consumers - All Items for the Tampa-St. Petersburg-Clearwater, FL area, as published by the U.S. Department of Labor, Bureau of Labor Statistics. The base index shall be the index for the first half of calendar year 2003, and rates for each fiscal year shall be determined based on the index for the first half of the calendar year in which such fiscal year begins. As an

example, the rates for the fiscal year starting in October, 2006, shall be the rates established in this resolution multiplied by the index number for the first half of calendar year 2006 and divided by the index for the first half of calendar year 2003.

C. MISCELLANEOUS DISCONNECT/RECONNECT AND SPECIAL CHARGES

I. SERVICE CHARGE FOR VOLUNTARY DISCONTINUANCE AND RECONNECTION OF SERVICE:
The customer shall be charged the following service charges for disconnection and reconnection of service:

Disconnection of service during regular working hours:	\$12.50
Disconnection of service after regular working hours:	\$25.00
Reconnection of service during regular working hours:	\$12.50
Reconnection of service after regular working hours:	\$25.00

II. SERVICE CHARGE FOR INVOLUNTARY DISCONTINUANCE AND RECONNECTION OF SERVICE: If a customer's service is discontinued for default in payment of any water, sewer or garbage charge levied by the city, the customer shall be charged the following service charges for reconnection of service:

Reconnection during regular working hours:	\$25.00
Reconnection after regular working hours:	\$50.00

III. SPECIAL CHARGES FOR METER TAMPERING AND UNAUTHORIZED CONNECTIONS: In addition to any civil or criminal action taken for damage to city property and applicable disconnect and reconnect charges, a special service charge of \$100.00 or the city's costs for parts, labor, repair and replacement, whichever is higher, will be assessed for vandalized meters or valves and for unauthorized connections or modifications of meters or valves. The customer will also be charged for water (and sewer, if applicable), based on the city's estimate of water used, which shall not be less than the daily average determined by pro-rating the highest monthly consumption during the preceding 2 years. Service will not be restored until all special service and other amounts due are paid.

D. DEPOSITS AND TRANSFER FEE

I. RESIDENTIAL SERVICE CONNECTION DEPOSIT: New residential service connections shall be charged a deposit of \$150.00.

II. NON-RESIDENTIAL SERVICE CONNECTION DEPOSIT: A new non-residential service connection shall be charged a deposit based on meter size, as follows:

<u>Meter Size</u>	<u>Deposit</u>
5/8" x 3/4"	\$ 150.00
1"	\$ 250.00
1 1/2"	\$ 350.00
2"	\$ 450.00
3"	\$ 600.00
4"	\$ 900.00
6"	\$1,500.00

III. **DEPOSIT REDUCTIONS AND INCREASES:** A customer may request a deposit reduction if the existing deposit exceeds the total of the three highest bills for water (and sewer, if applicable) during the preceding twelve-month period, provided that the deposit shall not be less than \$150.00.

If periodic review of an account determines the deposit is less than three times the average billing for the previous twelve-month period, the required deposit may be increased accordingly or if service has been discontinued for non-payment, the total deposit required will be increased by 50%. The customer will have the option of providing any additional deposit due in three equal monthly installments.

IV. **FEE FOR TRANSFER OF DEPOSITS:** A fee of \$25.00 shall be charged for any permitted transfer of deposit for solid waste, water and/or sewer service.

SECTION 3. The City Council hereby adopts the following new fees, rates and charges for irrigation only water service and for temporary utility service:

A. **IRRIGATION ONLY WATER SERVICE:**

I. **SERVICE INSTALLATION FEES:** For irrigation only water service inside city limits, the installation fee shall be \$410.00 for the installation of a 5/8" meter and a reduced pressure zone backflow prevention device. If a private plumber is used by the property owner to install the meter and backflow prevention device, the installation fee shall be \$200.00 to cover the cost of the meter and backflow prevention device supplied by the city. The cost of installation for a larger meter, or for parts supplied by the city if a private plumber is used by the property owner to install the meter and backflow prevention device, shall be the actual cost to the city, as determined by the city manager. Such charges shall be subject to the provisions of subsection 2.B.II of this Resolution

II. **MONTHLY SERVICE CHARGES AND RATES:** Irrigation only water service inside city limits shall pay the following monthly service charges and rates and shall be subject to the provisions of subsections 2.B.I.(d) and 2.B.II of this Resolution:

- (a) Minimum monthly charge
(In addition to the following water charges) \$ 3.00
- (b) Monthly charge per 1,000 gallons, or part thereof, up to 8,000 gallons \$ 1.80
- (c) Monthly charge per 1,000 gallons, or part thereof, for over 8,000 gallons \$ 2.40

III. **MISCELLANEOUS DISCONNECT/RECONNECT AND SPECIAL CHARGES:** Irrigation only water service shall be subject to the same disconnect/reconnect and special charges as are set out in subsection 2.C of this Resolution.

IV. **DEPOSITS AND TRANSFER FEE:** Irrigation only water service shall be subject to one-half of the required deposits and the same deposit transfer fee as are set out in subsection 2.D of this Resolution.

B. **TEMPORARY UTILITY SERVICE:** An existing utility customer whose account is current and who desires temporary utility services for up to thirty (30) days at a different location, in order to facilitate such things as cleaning and renovations between tenants, may be provided such service on the terms and conditions set out herein:

I. **CHARGES AND FEES FOR SERVICE:** Temporary service as provided for herein shall be subject to the same monthly service charges and rates as are set out in subsections 2.B.I.(a) through (d) and 2.B.II of this Resolution, as well as service charges for solid waste collection, and the same reconnect/disconnect charges as are set out in subsection 2.C.I of this Resolution.

II. **DEPOSIT:** No deposit shall be required for temporary service as provided herein, provided there is a deposit for the customer's current account of at least \$150.00. If the deposit for the customer's current account is lower than \$150.00, the customer may receive temporary service by increasing such deposit to \$150.00, which increase shall be credited to the customer's account after the temporary service has been discontinued and all charges therefor have been paid.

III. **DISCONTINUANCE:** Temporary service as provided herein shall be terminated upon the earliest of the following occurrences:

- (a) The customer requests termination; or
- (b) Thirty (30) days has passed since the temporary service was turned on; or
- (c) The end of the billing cycle during which the temporary service was turned on or, if the next meter reading is scheduled within seven (7) days after the temporary service was turned on, the end of the subsequent billing cycle.

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 take effect immediately upon its adoption by the Brooksville City Council.

PASSED AND ADOPTED this 2nd day of February, 2004.

CITY OF BROOKSVILLE, FLORIDA

BY: s/ Mary A. Staib
Mary A. Staib, Mayor

ATTEST: s/ Karen M. Phillips
Karen M. Phillips, CMC, City Clerk

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

s/ David LaCroix
David La Croix, City Attorney

VOTE OF COUNCIL:

Bernardini	<u>AYE</u>
Johnston	<u>AYE</u>
Lewis	<u>AYE</u>
Staib	<u>AYE</u>
Wever	<u>AYE</u>

Attachment 2

RESOLUTION NO. 2004-01 ~~2008-27~~ - OPTION A

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BROOKSVILLE, FLORIDA, REPEALING AND READOPTING WATER AND SEWER SERVICE CHARGES AND RATES; PROVIDING INCLUSION OF ALL WATER & SEWER CUSTOMERS IN ANY RATE INCREASES; PROVIDING FOR A CAP ON SERVICE CHARGES AND RATE INCREASES; PROVIDING FOR CONFLICT AND SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Ordinance No. 558 authorizes the establishment of monthly service charges, rates and fees for water and sewer services by resolution; and

WHEREAS, on February 2, 2004 the City Council adopted Resolution No. 2004-01, setting the above rates and provisions for annual rate increases; and,

WHEREAS, the City Council wishes to repeal the above resolution to amend water and sewer rates and charges beginning with the 2008-09 fiscal year; and,

WHEREAS, the City Council wishes to provide for automatic annual increases thereafter based on Consumer Price Index (CPI) subject to a 3% cap on increases; and,

WHEREAS, the City Council further wishes to make provisions to indicate that all utility users will be charged the rates and charges as established within this Resolution, including those customers outside the City limits.

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

SECTION 1. REPEALER. Resolution No. 2004-01 is hereby repealed in its entirety. This repeal shall not be construed to revive any or part thereof that was repealed by Resolution 2004-01.

SECTION 2. UTILITY FEES. The following utility fees, rates and charges hereby apply:

A. UTILITY INSTALLATION FEES

I. WATER SERVICE INSTALLATION FEES: Prior to the issuance of a building permit, each request for water service shall be submitted on a form provided by the City, with an installation fee based on the size of the meter, as follows:

<u>Meter Size</u>	<u>Installation Fee</u>
5/8" x 3/4"	\$ 320.00
1"	\$ 410.00
1 1/2"	\$ 625.00
2"	\$ 900.00

Larger than 2": Actual cost to the City of such installation.

In other than City maintained rights-of-way: Actual cost to the City of such installation.

II. **SEWER SERVICE INSTALLATION FEES:** Prior to the issuance of a building permit, each applicant for residential, commercial or industrial sewer service shall pay an installation fee based on the actual cost of such installation to the City.

B. **MONTHLY SERVICE CHARGES AND RATES**

I. **RATES FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2008, AND ENDING SEPTEMBER 30, 2009:**

(a) **ALL WATER USERS INSIDE THE CITY LIMITS:**

1. Minimum monthly charge
(Includes 0-3,000 gallons.) \$18.86
2. Monthly charge per 1,000 gallons,
or part thereof, for 3,001 to 8,000 gallons \$ 2.09
3. Monthly charge per 1,000 gallons, or part
thereof, for over 8,000 gallons \$ 2.79

(b) **ALL SEWER USERS INSIDE THE CITY LIMITS
WITH WATER SERVICE** (Sewer flows are equal to
80% of water meter flows):

1. Minimum monthly charge
(Includes 0-2,400 gallons of sewer flow.) \$21.47
2. Monthly charge per 1,000 gallons of sewer flow,
or part thereof, for over 2,400 gallons \$ 4.35

(c) **SEWER ONLY CUSTOMERS SHALL** be charged in accordance with sewer flows as estimated by the City, but no less than \$21.47 per month per ERU for sewer.

(d) ALL WATER AND SEWER USERS OUTSIDE THE CITY LIMITS SHALL be subject to the rates and charges for corresponding levels of water and sewer services and automatic annual rate increases provided for in Section 2, paragraph B.II and assessed an additional twenty five (25%) percent surcharge as per Brooksville City Code Section 86-182, SURCHARGE.

(de) USERS WITH INOPERATIVE WATER METERS SHALL be charged for water and/or sewer service based on an assumed minimum consumption of 10,000 gallons of water per month for each month that the City determines the meter was inoperative unless there is adequate usage history for the City to project consumption rates based on a six (6) month average of consumption prior to the inoperative period.

(ef) USE OF WATER FOR CONSTRUCTION PURPOSES shall be charged according to the following rates. The monthly bill shall be determined by multiplying the total number of gallons used in that month from all meters assigned to any one entity by the applicable rate for that volume of use (plus any other applicable charges):

<u>Gallons Used Per Month</u>	<u>Rate Per 1,000 Gallons, or Part Thereof</u>
0 - 10,000	\$ 2.89
10,001 - 20,000	\$ 3.02
20,001 - 30,000	\$ 3.13
30,001 - 40,000	\$ 3.24
40,001 - 50,000	\$ 3.37
50,001 - 100,000	\$ 3.47
100,001 - 200,000	\$ 4.62
200,001 - 300,000	\$ 5.79
300,001 - 400,000	\$ 6.95
400,001 - 500,000	\$ 8.11
500,001 and over	\$11.58

II. Adjustment Formula

Beginning with fiscal year 2009-10, utilizing the Consumer Price Index-All Urban Consumers-All Items for the Tampa-St. Petersburg-Clearwater, FL Metropolitan Statistical Area (MSA), Base Period 1987=100, as published by the U.S. Department of Labor, Bureau of Labor Statistics, the rate(s) will be determined by multiplying the then current service charges by the Index for the first six (6) months of the calendar year in which a rate change is to be made, and dividing by the Index for the same period for the preceding year. As an example, the rates for the fiscal year starting in October, 2009, shall be the September 2009 rates multiplied by the index; except that in no case shall any increase exceed 3.0%.

C. MISCELLANEOUS DISCONNECT/RECONNECT AND SPECIAL CHARGES

I. SERVICE CHARGE FOR VOLUNTARY DISCONTINUANCE AND RECONNECTION OF SERVICE: The customer shall be charged the following service charges for disconnection and reconnection of service:

Disconnection of service during regular working hours:	\$12.50
Disconnection of service after regular working hours:	\$25.00
Reconnection of service during regular working hours:	\$12.50
Reconnection of service after regular working hours:	\$25.00

II. SERVICE CHARGE FOR INVOLUNTARY DISCONTINUANCE AND RECONNECTION OF SERVICE: If a customer's service is discontinued for default in payment of any water, sewer or garbage charge levied by the City, the customer shall be charged the following total service charges for disconnection and reconnection of service:

<u>Disconnection of service for default of payment:</u>	<u>\$25.00</u>
Reconnection of involuntary disconnected service during regular working hours (and in addition to involuntary disconnection fee):	<u>\$12.50</u>
Reconnection of involuntary disconnected service after regular working hours (and in addition to involuntary disconnection fee):	<u>\$37.50</u>

III. SPECIAL CHARGES FOR METER TAMPERING AND UNAUTHORIZED CONNECTIONS: In addition to any civil or criminal action taken for damage to City property and applicable disconnect and reconnect charges, a special service charge of \$100.00 or the City's costs for parts, labor, repair and replacement, whichever is higher, will be assessed for vandalized meters or valves and for unauthorized connections or modifications of meters or valves. The customer will also be charged for water (and sewer, if applicable), based on the city's estimate of water used, which shall not be less than the daily average determined by pro-rating the highest monthly consumption during the preceding 2 years. Service will not be restored until all special service and other amounts due are paid.

D. DEPOSITS AND TRANSFER FEE

I. RESIDENTIAL SERVICE CONNECTION DEPOSIT: New residential service connections shall be charged a deposit of \$150.00.

II. NON-RESIDENTIAL SERVICE CONNECTION DEPOSIT: A new non-residential service connection shall be charged a deposit based on meter size, as follows:

<u>Meter Size</u>	<u>Deposit</u>
5/8" x 3/4"	\$ 150.00
1"	\$ 250.00
1 1/2"	\$ 350.00
2"	\$ 450.00
3"	\$ 600.00
4"	\$ 900.00
6"	\$1,500.00

III. DEPOSIT REDUCTIONS AND INCREASES: A customer may request a deposit reduction if the existing deposit exceeds the total of the three highest bills for water (and sewer, if applicable) during the preceding twelve-month period, provided that the deposit shall not be less than \$150.00. If periodic review of an account determines the deposit is less than three times the average billing for the previous twelve-month period, the required deposit may be increased accordingly, or if service has been discontinued for non-payment, the total deposit required will be increased by 50%. The customer will have the option of providing any additional deposit due in three equal monthly installments.

IV. FEE FOR TRANSFER OF DEPOSITS: A fee of \$25.00 shall be charged for any permitted transfer of deposit for solid waste, water and/or sewer service.

SECTION 3. The City Council hereby adopts the following new fees, rates and charges for irrigation-only water service and for temporary utility service:

A. IRRIGATION ONLY WATER SERVICE:

I. SERVICE INSTALLATION FEES: For irrigation-only water service inside City limits, the installation fee shall be \$410.00 for the installation of a 5/8" meter and a reduced pressure zone backflow prevention device. If a private plumber is used by the property owner to install the meter and backflow prevention device, the installation fee shall be \$200.00 to cover the cost of the meter and backflow prevention device supplied by the City. The cost of installation for a larger meter, or for parts supplied by the City if a private plumber is used by the property owner to install the meter and backflow prevention device, shall be the actual cost to the City, as determined by the City Manager. Such charges shall be subject to the provisions of subsection 2.B.II of this Resolution.

II. MONTHLY SERVICE CHARGES AND RATES: Irrigation-only water service inside City limits shall pay the following monthly service charges and rates and shall be subject to the provisions of subsections 2.B.I.(d) and 2.B.II of this Resolution:

- (a) Minimum monthly charge
(In addition to the following water charges) \$ 3.00
- (b) Monthly charge per 1,000 gallons, or part thereof, up to 8,000 gallons \$ 2.09
- (c) Monthly charge per 1,000 gallons, or part thereof, for over 8,000 gallons \$ 2.78

III. MISCELLANEOUS DISCONNECT/RECONNECT AND SPECIAL CHARGES: Irrigation only water service shall be subject to the same disconnect/reconnect and special charges as are set out in subsection 2.C of this Resolution.

IV. DEPOSITS AND TRANSFER FEE: Irrigation-only water service shall be subject to one-half of the required deposits and the same deposit transfer fee as are set out in subsection 2.D of this Resolution.

B. TEMPORARY UTILITY SERVICE: An existing utility customer whose account is current and who desires temporary utility services for up to thirty (30) days at a different location, in order to facilitate such things as cleaning and renovations between tenants, may be provided such service on the terms and conditions set out herein:

I. CHARGES AND FEES FOR SERVICE: Temporary service as provided for herein shall be subject to the same monthly service charges and rates as are set out in subsections 2.B.I.(a) through (d) and 2.B.II of this Resolution, as well as service charges for solid waste collection, and the same reconnect/disconnect charges as are set out in subsection 2.C.I of this Resolution.

II. DEPOSIT: No deposit shall be required for temporary service as provided herein, provided there is a deposit for the customer's current account of at least \$150.00. If the deposit for the customer's current account is lower than \$150.00, the customer may receive temporary service by increasing such deposit to \$150.00, which increase shall be credited to the customer's account after the temporary service has been discontinued and all charges therefore have been paid.

III. **DISCONTINUANCE:** Temporary service as provided herein shall be terminated upon the earliest of the following occurrences:

- (a) The customer requests termination; or
- (b) Thirty (30) days has passed since the temporary service was turned on; or
- (c) The end of the billing cycle during which the temporary service was turned on or, if the next meter reading is scheduled within seven (7) days after the temporary service was turned on, the end of the subsequent billing cycle.

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 take effect immediately upon its adoption by the Brooksville City Council.

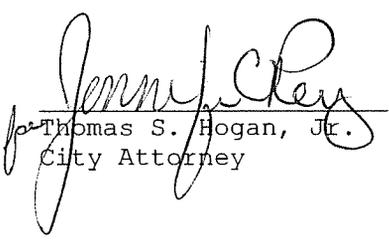
PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF BROOKSVILLE, FLORIDA, this ____ day of October, 2008.

CITY OF BROOKSVILLE, FLORIDA

BY: _____
David Pugh, Mayor

ATTEST: _____
Karen M. Phillips, City Clerk

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


Thomas S. Hogan, Jr.
City Attorney

VOTE OF COUNCIL:

- Bernardini _____
- Bradburn _____
- Burnett _____
- Lewis _____
- Pugh _____

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

Attachment 3

RESOLUTION NO. 2004-01 2008-27 - OPTION B

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BROOKSVILLE, FLORIDA, REPEALING AND READOPTING WATER AND SEWER SERVICE CHARGES AND RATES WITH PROVISIONS FOR CONSERVATION EFFORTS; PROVIDING INCLUSION OF ALL WATER & SEWER CUSTOMERS IN ANY RATE INCREASES; PROVIDING FOR A CAP ON SERVICE CHARGES AND RATE INCREASES; PROVIDING FOR CONFLICT AND SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Ordinance No. 558 authorizes the establishment of monthly service charges, rates and fees for water and sewer services by resolution; and

WHEREAS, on February 2, 2004 the City Council adopted Resolution No. 2004-01, setting the above rates and provisions for annual rate increases; and,

WHEREAS, the City Council wishes to repeal the above resolution to amend water and sewer rates and charges beginning with the 2008-09 fiscal year; and,

WHEREAS, the City Council wishes to establish incentives for the conservation of water usage by instituting a rate differential for water and sewer use in excess of the minimum established volume, for use of water for construction purposes and for irrigation-only service beginning with the 2008-09 fiscal year; and,

WHEREAS, the rate differential would include a 3% increase of fiscal year 2008-09 rates for water usage beyond the minimum monthly volume of 3,000 gallons and for sewer usage beyond the minimum monthly volume of 2,400 gallons; and,

WHEREAS, the City Council wishes to provide for automatic annual increases thereafter based on Consumer Price Index (CPI) subject to a 3% cap on increases; and,

WHEREAS, the City Council further wishes to make provisions to indicate that all utility users will be charged the rates and charges as established within this Resolution, including those customers outside the City limits.

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

SECTION 1. REPEALER. Resolution No. 2004-01 is hereby repealed in its entirety. This repeal shall not be construed to revive any or part thereof that was repealed by Resolution 2004-01.

SECTION 2. UTILITY FEES. The following utility fees, rates and charges hereby apply:

A. UTILITY INSTALLATION FEES

I. **WATER SERVICE INSTALLATION FEES:** Prior to the issuance of a building permit, each request for water service shall be submitted on a form provided by the City, with an installation fee based on the size of the meter, as follows:

<u>Meter Size</u>	<u>Installation Fee</u>
5/8" x 3/4"	\$ 320.00
1"	\$ 410.00

1 1/2" \$ 625.00

2" \$ 900.00

Larger than 2": Actual cost to the City of such installation.

In other than City maintained rights-of-way: Actual cost to the City of such installation.

II. SEWER SERVICE INSTALLATION FEES: Prior to the issuance of a building permit, each applicant for residential, commercial or industrial sewer service shall pay an installation fee based on the actual cost of such installation to the City.

B. MONTHLY SERVICE CHARGES AND RATES

I. RATES FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2008, AND ENDING SEPTEMBER 30, 2009:

(a) ALL WATER USERS INSIDE THE CITY LIMITS:

1. Minimum monthly charge
(Includes 0-3,000 gallons.) \$18.86
2. Monthly charge per 1,000 gallons,
or part thereof, for 3,001 to 8,000 gallons \$ 2.15
3. Monthly charge per 1,000 gallons, or part
thereof, for over 8,000 gallons \$ 2.87

**(b) ALL SEWER USERS INSIDE THE CITY LIMITS
WITH WATER SERVICE (Sewer flows are equal to
80% of water meter flows):**

1. Minimum monthly charge
(Includes 0-2,400 gallons of sewer flow.) \$21.47
2. Monthly charge per 1,000 gallons of sewer flow,
or part thereof, for over 2,400 gallons \$ 4.48

(c) SEWER ONLY CUSTOMERS SHALL be charged in accordance with sewer flows as estimated by the City, but no less than \$21.47 per month per ERU for sewer.

(d) ALL WATER AND SEWER USERS OUTSIDE THE CITY LIMITS SHALL be subject to the rates and charges for corresponding levels of water and sewer services and automatic annual rate increases provided for in Section 2, paragraph B.II and assessed an additional twenty five (25%) percent surcharge as per Brooksville City Code Section 86-182, SURCHARGE.

(de) USERS WITH INOPERATIVE WATER METERS SHALL be charged for water and/or sewer service based on an assumed minimum consumption of 10,000 gallons of water per month for each month that the City determines the meter was inoperative unless there is adequate usage history for the City to project consumption rates based on a six (6) month average of consumption prior to the inoperative period.

(ef) **USE OF WATER FOR CONSTRUCTION PURPOSES** shall be charged according to the following rates. The monthly bill shall be determined by multiplying the total number of gallons used in that month from all meters assigned to any one entity by the applicable rate for that volume of use (plus any other applicable charges):

Gallons Used Per Month

0 - 10,000	\$ 2.89
10,001 - 20,000	\$ 3.02
20,001 - 30,000	\$ 3.13
30,001 - 40,000	\$ 3.24
40,001 - 50,000	\$ 3.37
50,001 - 100,000	\$ 3.47
100,001 - 200,000	\$ 4.62
200,001 - 300,000	\$ 5.79
300,001 - 400,000	\$ 6.95
400,001 - 500,000	\$ 8.11
500,001 and over	\$11.58

II. Adjustment Formula

Beginning with fiscal year 2009-10, utilizing the Consumer Price Index-All Urban Consumers-All Items for the Tampa-St. Petersburg-Clearwater, FL Metropolitan Statistical Area (MSA), Base Period 1987=100, as published by the U.S. Department of Labor, Bureau of Labor Statistics, the rate(s) will be determined by multiplying the then current service charges by the Index for the first six (6) months of the calendar year in which a rate change is to be made, and dividing by the Index for the same period for the preceding year. As an example, the rates for the fiscal year starting in October, 2009, shall be the September 2009 rates multiplied by the index; except that in no case shall any increase exceed 3.0%.

C. MISCELLANEOUS DISCONNECT/RECONNECT AND SPECIAL CHARGES

I. **SERVICE CHARGE FOR VOLUNTARY DISCONTINUANCE AND RECONNECTION OF SERVICE:** The customer shall be charged the following service charges for disconnection and reconnection of service:

Disconnection of service during regular working hours:	\$12.50
Disconnection of service after regular working hours:	\$25.00
Reconnection of service during regular working hours:	\$12.50
Reconnection of service after regular working hours:	\$25.00

II. **SERVICE CHARGE FOR INVOLUNTARY DISCONTINUANCE AND RECONNECTION OF SERVICE:** If a customer's service is discontinued for default in payment of any water, sewer or garbage charge levied by the City, the customer shall be charged the following **total** service charges for **disconnection and** reconnection of service:

Disconnection of service for default of payment: \$25.00

Reconnection of involuntary disconnected service during regular working hours (and in addition to involuntary disconnection fee): \$12.50

Reconnection of involuntary disconnected service after regular working hours (and in addition to involuntary disconnection fee): \$37.50

III. SPECIAL CHARGES FOR METER TAMPERING AND UNAUTHORIZED CONNECTIONS: In addition to any civil or criminal action taken for damage to City property and applicable disconnect and reconnect charges, a special service charge of \$100.00 or the City's costs for parts, labor, repair and replacement, whichever is higher, will be assessed for vandalized meters or valves and for unauthorized connections or modifications of meters or valves. The customer will also be charged for water (and sewer, if applicable), based on the city's estimate of water used, which shall not be less than the daily average determined by pro-rating the highest monthly consumption during the preceding 2 years. Service will not be restored until all special service and other amounts due are paid.

D. DEPOSITS AND TRANSFER FEE

I. RESIDENTIAL SERVICE CONNECTION DEPOSIT: New residential service connections shall be charged a deposit of \$150.00.

II. NON-RESIDENTIAL SERVICE CONNECTION DEPOSIT: A new non-residential service connection shall be charged a deposit based on meter size, as follows:

<u>Meter Size</u>	<u>Deposit</u>
5/8" x 3/4"	\$ 150.00
1"	\$ 250.00
1 1/2"	\$ 350.00
2"	\$ 450.00
3"	\$ 600.00
4"	\$ 900.00
6"	\$1,500.00

III. DEPOSIT REDUCTIONS AND INCREASES: A customer may request a deposit reduction if the existing deposit exceeds the total of the three highest bills for water (and sewer, if applicable) during the preceding twelve-month period, provided that the deposit shall not be less than \$150.00. If periodic review of an account determines the deposit is less than three times the average billing for the previous twelve-month period, the required deposit may be increased accordingly, or if service has been discontinued for non-payment, the total deposit required will be increased by 50%. The customer will have the option of providing any additional deposit due in three equal monthly installments.

IV. **FEE FOR TRANSFER OF DEPOSITS:** A fee of \$25.00 shall be charged for any permitted transfer of deposit for solid waste, water and/or sewer service.

SECTION 3. The City Council hereby adopts the following new fees, rates and charges for irrigation-only water service and for temporary utility service:

A. **IRRIGATION ONLY WATER SERVICE:**

I. **SERVICE INSTALLATION FEES:** For irrigation-only water service inside City limits, the installation fee shall be \$410.00 for the installation of a 5/8" meter and a reduced pressure zone backflow prevention device. If a private plumber is used by the property owner to install the meter and backflow prevention device, the installation fee shall be \$200.00 to cover the cost of the meter and backflow prevention device supplied by the City. The cost of installation for a larger meter, or for parts supplied by the City if a private plumber is used by the property owner to install the meter and backflow prevention device, shall be the actual cost to the City, as determined by the City Manager. Such charges shall be subject to the provisions of subsection 2.B.II of this Resolution.

II. **MONTHLY SERVICE CHARGES AND RATES:** Irrigation-only water service inside City limits shall pay the following monthly service charges and rates and shall be subject to the provisions of subsections 2.B.I.(d) and 2.B.II of this Resolution:

- (a) Minimum monthly charge
(In addition to the following water charges) \$ 3.00
- (b) Monthly charge per 1,000 gallons, or part thereof, up to 8,000 gallons \$ 2.09
- (c) Monthly charge per 1,000 gallons, or part thereof, for over 8,000 gallons \$ 2.78

III. **MISCELLANEOUS DISCONNECT/RECONNECT AND SPECIAL CHARGES:** Irrigation only water service shall be subject to the same disconnect/reconnect and special charges as are set out in subsection 2.C of this Resolution.

IV. **DEPOSITS AND TRANSFER FEE:** Irrigation-only water service shall be subject to one-half of the required deposits and the same deposit transfer fee as are set out in subsection 2.D of this Resolution.

B. **TEMPORARY UTILITY SERVICE:** An existing utility customer whose account is current and who desires temporary utility services for up to thirty (30) days at a different location, in order to facilitate such things as cleaning and renovations between tenants, may be provided such service on the terms and conditions set out herein:

I. **CHARGES AND FEES FOR SERVICE:** Temporary service as provided for herein shall be subject to the same monthly service charges and rates as are set out in subsections 2.B.I.(a) through (d) and 2.B.II of this Resolution, as well as service charges for solid waste collection, and the same reconnect/disconnect charges as are set out in subsection 2.C.I of this Resolution.

II. **DEPOSIT:** No deposit shall be required for temporary service as provided herein, provided there is a deposit for the customer's current account of at least \$150.00. If the deposit for the customer's current account is lower than \$150.00, the customer may receive temporary service by increasing such deposit to \$150.00, which increase shall be credited to the customer's account after the temporary service has been discontinued and all charges therefore have been paid.

III. **DISCONTINUANCE:** Temporary service as provided herein shall be terminated upon the earliest of the following occurrences:

- (a) The customer requests termination; or
- (b) Thirty (30) days has passed since the temporary service was turned on; or
- (c) The end of the billing cycle during which the temporary service was turned on or, if the next meter reading is scheduled within seven (7) days after the temporary service was turned on, the end of the subsequent billing cycle.

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 take effect immediately upon its adoption by the Brooksville City Council.

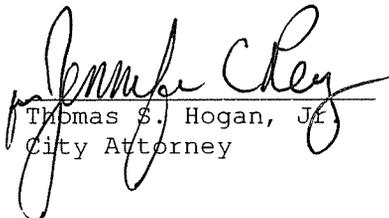
PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF BROOKSVILLE, FLORIDA, this _____ day of October, 2008.

CITY OF BROOKSVILLE, FLORIDA

BY: _____
David Pugh, Mayor

ATTEST: _____
Karen M. Phillips, City Clerk

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


Thomas S. Hogan, Jr.
City Attorney

VOTE OF COUNCIL:

Bernardini _____
Bradburn _____
Burnett _____
Lewis _____
Pugh _____

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

CITY OF BROOKSVILLE FINANCE DEPARTMENT

Date: October 14, 2008
To: Honorable Mayor and City Council Members
VIA: T. Jennene Norman-Vacha, City Manager
From: Stephen J Baumgartner, Finance Director
RE: 08/09 Budget reduction due to Rate Freeze



SUMMARY

On October 6, 2008 City Council made the decision to freeze water and sewer rates and not raise rates 3% that were included in the 08 09 Budget (adopted September 17, 2008). As a result we will need to reduce our water and sewer revenues and offset expenditures or reserves.

GENERAL INFORMATION

The 3% increase that was rescinded has a \$102,000 impact on the Water & Sewer Revenues. We will need to reduce our Water Revenues (401 000 343 48330) by \$53,000 and our Sewer Revenues (401 000 343 48350) by \$49,000.

Public Works Director Emory Pierce is recommending lowering Reserves by \$102,000 to offset the corresponding loss in revenues. City Attorney has advised that an Ordinance should be adopted to reflect these changes. Reserves for Contingencies was estimated at 9 30 09 to be \$1,176,554. As a result of this action, this would be lowered \$102,000. Water and Sewer has other Reserves estimated at 9 30 09 totaling \$2,652,274 which includes Sinking and R&R Funds, Connection Reserves, and Capital Improvement Reserves.

BUDGET IMPACT

We are lowering our Water and Sewer Revenues by \$102,000 and also lowering Reserves for Contingencies by \$102,000.

STAFF RECOMMENDATION

We recommend approval of Ordinance.

sjb

ORDINANCE NO. 769-A

AN ORDINANCE AMENDING APPROPRIATIONS OF CERTAIN MONIES FOR THE GENERAL OPERATIONS OF THE CITY OF BROOKSVILLE, FLORIDA, FROM ITS WATER AND SEWER FUND FOR THE TWELVE MONTH PERIOD BEGINNING OCTOBER 1, 2008 AND ENDING SEPTEMBER 30, 2009.

WHEREAS, on September 17, 2008 City Council of the City of Brooksville, Florida adopted Ordinance No. 769 appropriating certain monies for the general operations of the City of Brooksville, Florida for the twelve month period beginning October 1, 2008 and ending September 30, 2009;

WHEREAS, said appropriations ordinance included revenue for an increase in the water and sewer rates for utility customers; and,

WHEREAS, on October 6, 2008 City Council rendered that no rate increase shall be initiated for the 2008-2009 fiscal year water and sewer rates;

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

I. GENERAL APPROPRIATIONS FOR FISCAL YEAR 2008/2009: That the sums estimated as revenues, expenditures and fund balances for the fiscal year beginning October 1, 2008 and ending September 30, 2009 for the Public Works Water & Wastewater Proprietary Fund budget are hereby repealed and restated as follows:

d) Proprietary Fund Funds

Public Works - Water & Wastewater (ALL)	
Fund Balance October 1	\$ 4,946,949
Revenues	5,875,020
TOTAL AVAILABLE FOR APPROPRIATION	<u>\$10,821,969</u>
Expenditures	\$ 6,447,976
Reserves	4,373,993
TOTAL APPROPRIATIONS	<u>\$10,821,969</u>

<u>Public Works - Water & Wastewater (ALL)</u>	
<u>Fund Balance October 1</u>	<u>\$ 4,946,949</u>
<u>Revenues</u>	<u>5,773,020</u>
<u>TOTAL AVAILABLE FOR APPROPRIATION</u>	<u>\$10,719,969</u>
<u>Expenditures</u>	<u>\$ 6,447,976</u>
<u>Reserves</u>	<u>4,271,993</u>
<u>TOTAL APPROPRIATIONS</u>	<u>\$10,719,969</u>

II. **EFFECTIVE DATE:** This Ordinance shall become effective immediately upon its adoption as required by the Code of the City of Brooksville, Florida and applicable State Law.

VIII. **REPEALER:** All Ordinances, or parts of Ordinances, in conflict herewith are hereby expressly repealed.

CITY OF BROOKSVILLE

By: _____
David Pugh, Mayor

Attest: _____
Karen M. Phillips, City Clerk

PASSED on First Reading _____
NOTICE Published on _____
PASSED on Second & Final Reading _____

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

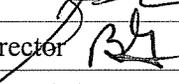
VOTE OF COUNCIL:
Bernardini _____
Bradburn _____
Burnett _____
Lewis _____
Pugh _____

Thomas S. Hogan, Jr., City Attorney

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

MEMORANDUM



To:	Honorable Mayor & City Council Members
Via:	T. Jennene Norman-Vacha, City Manager 
From:	Bill Geiger, Community Development Director 
Subject:	Resolution No. 2008-20, Amending the Permitting, Inspection, Administrative & Development Fee Schedule
Date:	October 10, 2008

UPDATE: At the September 15, 2008 meeting, City Council directed that this item be deferred to the October 20, 2008 meeting. In doing so, Council directed staff to coordinate with PDCS, LLC to see if the Building Division operation could be relocated to City Hall from their current location at 25 E. Liberty Street. The intent of this would be to reduce costs for the Company with the understanding that the fees could be reduced from their proposed amounts accordingly.

PDCS staff have indicated that they are very willing to move to city hall and pass on the savings by reducing certain fee amounts from the proposed rates. PDCS is currently locked-in to a one-year lease agreement (From September 1, 2008 to August 31, 2009) and are obligated for the rent and utility fees through the full term. PDCS staff are currently communicating with their landlord to determine if they can modify their lease agreement to either shorten the term or go to a month-to-month arrangement. Although the landlord has indicated that he would work with them, at the time of writing this update, nothing has been formalized in writing. Until the lease issue is addressed to where we can plan for the relocation and adjust the fees, it is recommended that consideration of the fee resolution be held in abeyance.

RECOMMENDATION: Hold consideration of Resolution No. 2008-20 in abeyance until the current lease issue is resolved.



**AGENDA ITEM
MEMORANDUM**

TO: HONORABLE MAYOR AND CITY COUNCIL

VIA: T. JENNENE NORMAN-VACHA, CITY MANAGER

FROM: JENNIFER REY, ESQ., THE HOGAN LAW FIRM, LLC

CC: TOM S. HOGAN, JR.

SUBJECT: COST RECOVERY ORDINANCE AMENDMENT

DATE: OCTOBER 13, 2008

Handwritten signatures of Tom S. Hogan, Jr. and Jennifer Rey, written in black ink over the typed names in the 'VIA' and 'FROM' fields.

GENERAL SUMMARY: On October 6, 2008, City Council adopted Ordinance No. 766 establishing authority for the City to engage in cost recovery measures for emergency and public safety services. After the first reading of the ordinance and based on Council discussion and direction, a revision was added clarifying incidents involving commercial or commercial carrier motor vehicles; this revision was contained in Section 4 paragraph (f) of the ordinance. However, in the draft of the ordinance submitted to Council for second reading on October 6, 2008, the provision for commercial or commercial carriers was inadvertently omitted. Therefore, Ordinance No. 766-A contains the provision addressing commercial or commercial carriers and is being proposed to amend Ordinance No. 766 at Section 4, Paragraph (f). In addition, Section 10 is being amended to establish a separate cost recovery fund and to clarify use of cost recovery receipts.

BUDGET IMPACT: None.

LEGAL REVIEW: Legal staff has reviewed the proposed ordinance and has approved it as to form and content.

STAFF RECOMMENDATION: Staff recommends that the Council adopt Ordinance No. 766-A amending Section 4, paragraph (f) of Ordinance No. 766 providing for cost recovery measures for emergency service response to commercial or commercial carrier motor vehicle incidents and amending Section 10 to establish a separate cost recovery fund and to clarify use of cost recovery receipts.

ATTACHMENTS: Ordinance No. 766-A Cost Recovery Amendment

ORDINANCE No.766-A

AN ORDINANCE OF THE CITY OF BROOKSVILLE AMENDING ORDINANCE NO. 766 RELATING TO COST RECOVERY OF CERTAIN POLICE, FIRE, EMERGENCY AND RESCUE SERVICES; PROVIDING FOR COMMERCIAL OR COMMERCIAL CARRIER INCIDENTS; AMENDING THE USE OF REVENUE PROVISION; AND PROVIDING FOR CODIFICATION, CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City of Brooksville adopted Ordinance No. 766 on October 6, 2008; and,

WHEREAS, paragraph (f) of Ordinance No. 766 relates to commercial or commercial carrier incidents and provides no guidance as to such incidents; and,

WHEREAS, the City intended to address such incidents separate and distinct from other vehicle incidents; and,

WHEREAS, the City desires to amend Ordinance No. 766.

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

SECTION 1. COMMERCIAL CARRIER AMENDMENT. Ordinance No. 766 Section 4 Liability for Emergency Services Costs, paragraph (f) is amended to read as follows:

(f) Commercial or Commercial Carrier Motor Vehicle Incidents. Commercially operated or owned motor vehicles shall not be eligible for any exemption from the Emergency Services Charges and Fees. Commercial or commercial carrier motor vehicle owners shall respond freely and cooperatively to inquiries regarding their insurance coverage. Commercial property owners shall be notified at the time a claim is filed, and at the time a claim is paid. Commercial property owners shall be invoiced directly under the terms of this Ordinance if they do not carry insurance sufficient to cover the impact to the City of Brooksville's loss of capital or material.

SECTION 2. USE OF REVENUE AMENDMENT. Ordinance No. 766 Section 10 Use of Revenue Collected is amended and restated as follows:

Charges and fees collected, under the provisions of this Ordinance, shall be deposited in the ~~City's General Fund~~ a separate fund established for cost recovery revenue and shall be used to defray the costs of continuance, maintenance, enhancement or improvement of emergency services within the City, ~~and no part of such revenues shall be used for any other city purposes.~~ Such funds shall be allocated,

during the budget process, to departments providing emergency service response, including police, fire, EMS, and other departments responding to cost recovery incidents.

SECTION 3. SEVERABILITY.

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

SECTION 4. CONFLICTS AND REPEALER.

All ordinances or parts thereof in conflict with this ordinance are hereby repealed to the extent of such conflict.

SECTION 5. AMENDMENT TO CODE.

This Ordinance shall be and become a part of the Code of the City of Brooksville, Florida, to amend and supplement Chapter 34 and 46 of the City of Brooksville Code of Ordinances as directed herein.

SECTION 6. CODIFICATION.

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

SECTION 7. EFFECTIVE DATE.

This Ordinance shall take effect immediately upon its adoption by the Brooksville City Council.

PASSED on FIRST READING this ____ day of _____, 2008.

NOTICE Published on _____.

ADOPTED on the SECOND READING AFTER DUE PUBLIC NOTICE AND HEARING, CITY OF BROOKSVILLE this ____ day of _____, 2008.

CITY OF BROOKSVILLE, FLORIDA

David Pugh, Mayor

ATTEST:

Karen Phillips, City Clerk

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

Thomas S. Hogan, Jr., City Attorney

VOTE OF COUNCIL:

Bernardini _____
Bradburn _____
Burnett _____
Lewis _____
Pugh _____

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CORRESPONDENCE-TO-NOTE
REGULAR COUNCIL MEETING - OCTOBER 20, 2008

1. TYPE: Letter
 DATE:
 RECEIVED FROM: Hernando Historical Museum Association
 ADDRESSED TO: Karen Phillips
 SUBJECT: Donation of the old fire siren to the Historical
 Museum.

2. TYPE: Letter
 DATE: September 26, 2008
 RECEIVED FROM: Mike McDaniel, Department of Community Affairs
 ADDRESSED TO: Mayor David Pugh
 SUBJECT: Confirmation of review of propose Comprehensive Plan
 Amendment (DCA No. 08-2ER) with an outline of their
 finding/concerns.

NOTE: COPIES OF ALL CORRESPONDENCE ON FILE IN THE OFFICE OF THE CITY CLERK



09-29-08 10:35:59 AM

STATE OF FLORIDA

DEPARTMENT OF COMMUNITY AFFAIRS

"Dedicated to making Florida a better place to call home"

CHARLIE CRIST
Governor

THOMAS G. PELHAM
Secretary

September 26, 2008

The Honorable David Pugh, Mayor
City of Brooksville
201 Howell Avenue
Brooksville, Florida 34601

Dear Mayor Pugh:

The Department has completed its review of the proposed Comprehensive Plan Amendment for the City of Brooksville (DCA No. 08-2ER), which was received on July 30, 2008. Based on Chapter 163, Florida Statutes, we have prepared the attached report, which outlines our findings concerning the amendment. It is particularly important that the City address the objections set forth in our review report so that these issues can be successfully resolved prior to adoption. We have also included a copy of local, regional and state agency comments for your consideration. Within the next 120 days, the City should act by choosing to adopt, adopt with changes, or not adopt the proposed amendment. For your assistance, our report outlines procedures for final adoption and transmittal.

The issues identified in the report include: an incorrect adoption by reference, unclear planning timeframe, and expansion of the allowable uses within the Public Facilities Land Use category without appropriate planning, guidelines and standards.

The Department is committed to working with the City in addressing the concerns detailed in the report. If you have any questions, or if we may be of further assistance as you formulate your response, please contact Ashley Porter, Planner, at (850) 921-4818.

Sincerely,

Mike McDaniel, Chief
Office of Comprehensive Planning

MM/ap

Enclosures: Review Agency Comments,
Objections, Recommendations and Comments Report

cc: Mr. Michael Moehlman, Executive Director, Withlacoochee Regional Planning Council
Mr. Bill Geiger, Community Development Director, City of Brooksville

2555 SHUMARD OAK BOULEVARD ♦ TALLAHASSEE, FL 32399-2100
850-488-8466 (p) ♦ 850-921-0781 (f) ♦ Website: www.dca.state.fl.us

♦ COMMUNITY PLANNING 850-488-2356 (p) 850-488-3309 (f) ♦
♦ HOUSING AND COMMUNITY DEVELOPMENT 850-488-7956 (p) 850-922-5623 (f) ♦

CTN
10.20.08

Hernando Historical Museum Association

P. O. Box 10572
Brooksville, FL 34603
Phone: 352-799-0129
Fax: 352-799-2842

City of Brooksville
Attn: Karen Phillips
201 Howell Av
Brooksville, FL 34601

We understand you still have the old fire siren. We respectfully, request consideration of the donation of this item to The Hernando Historical Museum for display at our Train Depot on Russell Street.

The Association is working on a project to secure a permanent place for the old fire truck at the train depot and the siren would be an added bonus.

Respectfully,

Virginia Jackson
Executive Director
Hernando Historical Museum

NOTE - APPROVED BY
CITY COUNCIL
9/15/08

CTN
10-20-08
PC. JND
LARRY
STEVE
JILL