

**CITY OF BROOKSVILLE
REGULAR CITY COUNCIL MEETING
COUNCIL CHAMBERS
201 HOWELL AVENUE
BROOKSVILLE, FL 34601**

AGENDA

July 1, 2013

7:00 P.M.

A. CALL TO ORDER

B. INVOCATION AND PLEDGE OF ALLEGIANCE

C. CERTIFICATES, PROCLAMATIONS AND PRESENTATIONS

1. Proclamation - Hernando High School Baseball Program

Consideration of Proclamation in honor of the Hernando High Leopards' advancement to the Florida High School Athletic Association's Semi-finals.

Presentation: Mayor
Attachments: Proclamation

2. Proclamation - Christian Arroyo Day

Consideration of Proclamation proclaiming July 1, 2013, Christian Arroyo Day.

Presentation: Mayor
Attachments: Proclamation

3. Proclamation - Parks & Recreation Month

Presentation and Proclamation recognizing July as Parks & Recreation month.

Presentation: Director Parks, Recreation & Facilities
and Mayor
Attachments: Proclamation

4. Margaret R. Ghiotto Improvement Award – Residential Award

Recognition of improvements to the property of Bryan Araniecke, located at 251 Pryor Street.

Presentation: Scott Renz, Beautification Board
Chair and Mayor
Attachments: Letter from Beautification Board
Chair dated 06/07/13; Award
Certificate

REGULAR COUNCIL MEETING – JULY 1, 2013

5. **Margaret R. Ghiotto Improvement Award - Commercial Award**

Recognition of improvements to the property of Gregory & Dorothea Stephens, located at 200 S. Saxon Avenue.

Presentation: Scott Renz, Beautification Board Chair and Mayor

Attachments: Letter from Beautification Board Chair dated 06/07/13; Award Certificate

6. **2013 Hurricane Season Update**

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

Presentation: Cecilia Patella, Director of Emergency Management

D. CITIZEN INPUT

E. CONSENT AGENDA

1. **Brooksville Housing Authority Advisory Board Appointment**

Mayoral appointment of board member with Council Consensus.

2. **Council Workshop and Meeting Schedule for July, August and September**

Approval of amended schedule for Council workshops and meetings for July through September.

CONSENT AGENDA APPROVAL (√)

Recommendation: Approval of Consent Agenda

Action: Motion to Approve

Attachments: 1) Memo from City Clerk dated 06/18/13, Applications; 2) Memo from City Manager dated 06/24/13

F. PUBLIC HEARINGS

- Entry of Proof of Publication into the Record

1. **Ordinance No. 837 – Synthetic Drugs**

Consideration of an Ordinance prohibiting the possession, sale, or manufacture of synthetic drugs. **[First Reading 06/17/13]**

Presentation: Chief of Police

Action: Approval of Ordinance upon **second reading** upon roll-call vote and schedule second reading 07/01/13

Attachments: Memo from Chief of Police dated 07/01/13, Ordinance, City Code Article VIII, Section 8-1.5.G

REGULAR COUNCIL MEETING – JULY 1, 2013

G. REGULAR AGENDA

1. Ordinance No. 834-A – Cross Connection

Consideration of an amending Ordinance correcting verbiage from the original Cross Connection Control Program referencing the frequency of Low Risk water users.

Presentation: Director of Public Works
Recommendation: Approval of Ordinance No. 834-A upon roll-call vote and schedule second reading for 07/15/13
Attachments: Memo from Director of Public Works dated 06/17/13

2. Florida League of Cities Voting Delegate

Consideration of designating one official to be the voting delegate of the Florida League of Cities 87th Annual Conference.

Recommendation: Direction regarding Florida League of Cities request for designation of one official to be the voting delegate at the Annual Business Session.
Attachments: Letter from Florida League of Cities dated 05/29/13

H. CITIZEN INPUT

I. ITEMS BY COUNCIL

J. ADJOURNMENT

CORRESPONDENCE TO NOTE

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

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

Proclamation

Whereas, the City of Brooksville would like to take this opportunity to recognize the hard work and determination of the youth of this community; and,

Whereas, the Hernando High School Baseball team with a record of 24-6, were the 5A-8 District Champions, the 5A-Region II Runner-Up Champions and for the 4th straight year, the Hernando County Champions ; and,

Whereas, the Hernando Leopards, have had four straight Elite 8 Regional Final appearances in the 124-year history of the school; and,

Whereas, over the last 20 years the Hernando High School Baseball program has had a record 70 of 132 Seniors advance to participate in collegiate baseball, with six of nine Seniors accomplishing that feat, this year.

Now Therefore, We the Undersigned, as City Council for and on Behalf of the City of Brooksville, do hereby recognize the accomplishments of the following Hernando High School Leopard Coaches and Players:

- | | | | |
|-----------------|--|---|--|
| COACHES: | TIM SIMS
BUDDY KEEGAN
MATT BLANTON | BERT SNOW
DONNIE WHITEHEAD
JEFF LAING | LEE SULLIVAN
HARRY TIMMONS JR. |
| PLAYERS: | TYLER ALLEN
DAVID FLOWERS
BRANDON LAWSON
ELOY RAMIREZ
AUSTIN TREVERTON
ANDREW ZABRISKIE | CHRISTIAN ARROYO
JAKE JOHNSON
BRENDAN LITWINSKY
TRAE RATLIFF
GARRET TREVERTON | BARRY CHADWELL
KYLE KILBOURNE
BRADLEY PLATT
BROOKS TIMMONS
RICH WILKES |

Further, we extend our congratulations and express our deep pride to our hometown team.

In Witness Whereof, We have hereunto set our hand and caused the seal of the City of Brooksville to be affixed this 1st day of July, 2013.

City of Brooksville

Lara Bradburn, Mayor

Kevin Hohn, Vice Mayor

Joe Bernardini, Council Member

Frankie Burnett, Council Member

Joseph E. Johnston, III, Council Member

Attest: _____
Janice L. Peters, CMC, City Clerk

City of Brooksville

Proclamation

Whereas, Christian Arroyo excelled in sports and academics throughout his elementary and high school years, as a Senior he batted .524 with 35 RBI's, 42 runs scored and 11 homeruns, while also maintaining a 4.4 GPA at Hernando High School where he was the graduating class Salutatorian; and,

Whereas, Christian was chosen as the Florida Dairy Farmers Class 5A Player of the Year and was the runner up for the state's Mr. Baseball Award; and,

Whereas, Christian not only represented the United States in the under-18 World Championships in Korea last September, but he was the tournament's Most Valuable Player with a .387 batting average and guided the United States to the Gold Medal; and,

Whereas, immediately following his graduation from Hernando High School in 2013, he became the first high school player in Hernando County history to be drafted in the first round when the San Francisco Giants picked him with the 25th overall pick in the June Major League Baseball Amateur Draft.

Now Therefore, We the Undersigned as City Council for and on Behalf of the City Of Brooksville, do hereby proclaim, Monday, July 1, 2013, as

"Christian Arroyo Day"

in Brookville and encourage all citizens to rally behind and show their admiration for this fine young sports role model.

Further, we offer our sincere respect to **Christian** for the achievements he has reached and acknowledge the outstanding ambassadorial benefits he has bestowed upon our community.

In Witness Whereof, we have hereunto set our hand and caused to be affixed the seal of the City of Brooksville this 1st day of July, 2013.

City of Brooksville

Lara Bradburn, Mayor

Kevin Hohn, Vice Mayor

Joe Bernardini, Council Member

Frankie Burnett, Council Member

Joseph E. Johnston, III, Council Member

Attest: _____
Janice L. Peters, CMC, City Clerk

City of Brooksville
Proclamation

AGENDA ITEM NO. C-3
7/1/13

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

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

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

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

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

Whereas, The City of Brooksville and its Park properties are proud to be a part of the State of Florida's Recreation and Park system. The City's park properties offer playgrounds, softball fields, walking/running/bike/skate trails, basketball/tennis/racquetball/horseshoe/volleyball courts, a nine-hole executive golf course, Enrichment and Community Centers along with youth and adult recreational programs and events.

Now Therefore, We the Undersigned as City Council for and on Behalf of the City Of Brooksville, do hereby proclaim July as

Parks & Recreation Month

In Witness Whereof, I have hereunto set my hand and caused the seal of the City of Brooksville to be affixed this 1st day of July, 2013, A.D.

City of Brooksville

Lara Bradburn, Mayor

Kevin Hohn, Vice Mayor

Joe Bernardini, Council Member

Frankie Burnett, Council Member

Joseph E. Johnston, III, Council Member

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



June 7, 2013

Mr. Bryan Araniecke
251 Prior Street
Brooksville, FL 34601

Dear Mr. Araniecke:

The City of Brooksville Beautification Board is pleased to advise you that you have been selected to receive the monthly Margaret R. Ghiotto Residential Improvement Award for beautifying the property located at 251 Prior Street.

The Certificate of Recognition and "rotating" outdoor sign will be presented to you by the Beautification Board Chairman at the next regular City Council Meeting to be held Monday, July 1, 2013 at 7:00 p.m. in the **BROOKSVILLE CITY HALL COUNCIL CHAMBERS LOCATED AT 201 HOWELL AVENUE**. Please contact City Clerk Janice Peters, and let her know, no later than Friday, June 28, 2013 by 5:00 p.m. if you will or will not be able to attend this meeting to accept your award. If you have any further questions or concerns, please contact Ms. Peters at (352) 540-3853 or email at jpeters@cityofbrooksville.us.

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

Sincerely,

Scott Renz, Chairman
Beautification Board

Margaret R. Ghiotto



CERTIFICATE OF RECOGNITION

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

BRYAN ARANIECKE

251 Pryor Street, Brooksville, FL 34601

Presented this 1st day of July, 2013.

Mayor

City Clerk



June 7, 2013

Gregory & Dorothea Stephens
309 Hayes Road
Lutz, FL 33549-6101

Dear Mr. & Mrs. Stephens:

The City of Brooksville Beautification Board is pleased to advise you that you have been selected to receive the monthly Margaret R. Ghiotto Commercial Improvement Award for beautifying the property located at 200 S. Saxon Avenue.

The Certificate of Recognition and "rotating" outdoor sign will be presented to you by the Beautification Board Chairman at the next regular City Council Meeting to be held Monday, July 1, 2013 at 7:00 p.m. in the **BROOKSVILLE CITY HALL COUNCIL CHAMBERS LOCATED AT 201 HOWELL AVENUE**. Please contact City Clerk Janice Peters, and let her know, no later than Friday, June 28, 2013 by 5:00 p.m. if you will or will not be able to attend this meeting to accept your award. If you have any further questions or concerns, please contact Ms. Peters at (352) 540-3853 or email at jpeters@cityofbrooksville.us.

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

Sincerely,

Scott Renz, Chairman
Beautification Board

Margaret R. Ghitto



CERTIFICATE OF RECOGNITION

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

Gregory & Dorothea Stephens

200 S. Saxon Avenue, Brooksville, FL 34601

Presented this 1st day of July, 2013.

Mayor

City Clerk



AGENDA ITEM NO. E-1
7/1/13

**CONSENT AGENDA ITEM
MEMORANDUM**

TO: HONORABLE MAYOR AND CITY COUNCIL MEMBERS

VIA: T. JENNENE NORMAN-VACHA, CITY MANAGER

FROM: JANICE L. PETERS, CMC, CITY CLERK

SUBJECT: BROOKSVILLE HOUSING AUTHORITY BOARD MEMBERS

DATE: June 18, 2013

GENERAL SUMMARY/BACKGROUND: The following advisory board position is subject to Mayoral appointment, with Council consensus, due to an expiring term. The vacancy was posted on the City's website as well as to the media.

As a result, the following applications were submitted for consideration of appointment:

Brooksville Housing Authority

One (1) full-time position to fill an expiring 4-year term of office through June 30, 2017.

Richard Howell	New Applicant
Cliff Manuel	Current Member

Mayor Bradburn has selected Cliff Manuel for appointment and requests Council consensus of appointment.

BUDGET IMPACT: There will be no budget impact.

LEGAL REVIEW: Pursuant to Florida Statutes §274.05 Public Housing, the Mayor, with consensus of Council, has the authority and discretion to appoint members to the Brooksville Housing Authority Board.

STAFF RECOMMENDATION: The Mayor has selected Cliff Manuel to the Brooksville Housing Authority Board. A motion and second to approve the Consent Agenda will constitute Council consensus.

ATTACHMENTS: Applications



CITY OF BROOKSVILLE

Application for Volunteer Board Positions

201 Howell Avenue
Brooksville, Florida 34601-2041
Telephone: (352) 540-3810
Facsimile: (352) 544-5424
Web: www.cityofbrooksville.us

New Application Re-application

- Beautification Board (4 year terms – 7 members)
- Brooksville Housing Authority (4 year terms – 5 members & 1 alternate)
- CDBG Citizen's Advisory Task Force (4 year terms – 5 members & 1 alternate)
- Cemetery Advisory Committee (4 year terms – 7 members – city residency or documented tie to Cemetery)
- EZDA Advisory Board (4 year terms – 11 members)
- Firefighters Pension Trust Fund Board of Trustees* (4 year terms – 5 members)
- Good Neighbor Trail (Non-Expiring Terms – 10 members)
- Parks & Recreation Advisory Board (4 year terms – 7 members & 2 alternates)
- Planning & Zoning Commission* (4 year terms – 5 members & 2 alternates)
- Police Officers Pension Trust Fund Board of Trustees* (4 year terms – 5 members)
- Other _____

Name: HOWELL (Last), RICHARD (First), L (Middle)

Address: 603 HANA - ARC
Brooksville, FL 34601

Mailing Address (if different): _____

Business Address: SAMC

Occupation: RET. Computer Technology

Business Phone: _____ Home Phone: 352-476-7414

Email address: SABEAUTYAO@JOL.COM

Do you reside within the City limits? Yes No

Are you a Registered Voter in Hernando County? Yes No Voter ID # P

Please rank your board preference(s):
1. Brooksville Housing Authority
2. EZDA Advisory Board
3. _____

* These positions require City Residency and that a Financial Disclosure Statement be filed with the Supervisor of Elections Office within 30 days of appointment and then subsequently on a yearly basis.

Have you ever served on a volunteer board or in a volunteer capacity with the City of Brooksville before? Yes No If yes, please indicate name of board and dates of service: _____

Why would you like to serve on this board? ^{to} Represent the Citizen of South Brooksville, where the board lacks representation for citizens of South Brooksville.

What special skills would you bring to this position? Long time resident of the City of Brooksville, specifically a resident of South Brooksville for many years.

List fields of work experience: Computer Technology, Community Development, Charitable Organizations.

List any licenses and/or degrees (location & year): _____

- Local References (Please list three (3)):
1. FRANKIE BURNETT
 2. KDJACK BURNETT
 3. LESTER BROWN

Would you have a problem with the meeting dates and times for the board/agency?
 Yes No
If yes, please explain: _____

Signed: Richard J. Howell Date: 3/20/2013

SCHEDULE OF BOARD MEETINGS
[Note – Balance of Boards meet quarterly or as needed]

BEAUTIFICATION BOARD	2 nd TUES of each MONTH – 5:30 PM in Council Chambers
BROOKSVILLE HOUSING AUTHORITY	3 rd TUES of each MONTH – 6:00 PM in Council Chambers
PLANNING & ZONING COMMISSION	2 nd WED of each MONTH – 5:30 PM in Council Chambers



CITY OF BROOKSVILLE

Application for Volunteer Board Positions

201 Howell Avenue
Brooksville, Florida 34601-2041
Telephone: (352) 540-3810
Facsimile: (352) 544-5424
Web: www.cityofbrooksville.us

New Application

Re-application

- Beautification Board (4 year terms – 7 members)
- Brooksville Housing Authority (4 year terms – 5 members & 1 alternate)
- CDBG Citizen's Advisory Task Force (4 year terms – 5 members & 1 alternate)
- Cemetery Advisory Committee (4 year terms – 7 members – city residency or documented tie to Cemetery)
- EZDA Advisory Board (4 year terms – 11 members)
- Firefighters Pension Trust Fund Board of Trustees* (4 year terms – 5 members)
- Good Neighbor Trail (Non-Expiring Terms – 10 members)
- Parks & Recreation Advisory Board (4 year terms – 7 members & 2 alternates)
- Planning & Zoning Commission* (4 year terms – 5 members & 2 alternates)
- Police Officers Pension Trust Fund Board of Trustees* (4 year terms – 5 members)
- Other _____

Name: Manuel, Jr., Clifford E.
(Last) (First) (Middle)

Address: 966 Candlelight Blvd.

Brooksville, FL 34601

Mailing Address (if different): _____

Business Address: Coastal Engineering Associates, Inc. 966 Candlelight Blvd.

Brooksville, FL 34601

Occupation: Civil Engineer

Business Phone: (352) 796-9423 Home Phone: (352) 799-3303

Email address: cliff@coastal-engineering.com

Do you reside within the City limits? Yes No

Are you a Registered Voter in Hernando County? Yes No Voter ID # 104423153

Please rank your board preference(s):
1. Brooksville Housing Authority
2. _____
3. _____

* These positions require City Residency and that a Financial Disclosure Statement be filed with the Supervisor of Elections Office within 30 days of appointment and then subsequently on a yearly basis.

Have you ever served on a volunteer board or in a volunteer capacity with the City of Brooksville before? Yes No If yes, please indicate name of board and dates of service: Brooksville Housing Authority 12/19/07-Present

Why would you like to serve on this board? Longtime resident of Hernando County and the City of Brooksville

What special skills would you bring to this position? Knowledge of Housing and Property Market as well as professional business practices.

List fields of work experience: Civil Engineering

List any licenses and/or degrees (location & year): _____

Local References (Please list three (3)):

1. Jim Kimbrough 754-5505
2. Robert Buckner 796-4544
3. John Ehlenbeck 799-1048

Would you have a problem with the meeting dates and times for the board/agency?

Yes No

If yes, please explain: _____

Signed: _____

Date: 5/23/13

SCHEDULE OF BOARD MEETINGS

[Note - Balance of Boards meet quarterly or as needed]

BEAUTIFICATION BOARD

2nd TUES of each MONTH - 5:30 PM in Council Chambers

BROOKSVILLE HOUSING AUTHORITY

3rd TUES of each MONTH - 6:00 PM in Council Chambers

PLANNING & ZONING COMMISSION

2nd WED of each MONTH - 5:30 PM in Council Chambers



**CONSENT AGENDA ITEM
MEMORANDUM**

TO: HONORABLE MAYOR AND CITY COUNCILMEN
FROM: T. JENNENE NORMAN-VACHA, CITY MANAGER
SUBJECT: APPROVAL/CONFIRMATION OF COUNCIL WORKSHOP & MEETING SCHEDULES FOR JULY, AUGUST AND SEPTEMBER
DATE: JUNE 24, 2013

GENERAL SUMMARY/BACKGROUND: On November 19, 2012 the City Council adopted its annual Council Meeting and Holiday Schedule for 2013. Included in the adopted schedule were dates for both “potential workshops” and “budget workshops/hearings”. This memorandum is requesting Council’s approval/confirmation for upcoming workshops and budget hearings for the months of July, August and September.

We are interested in establishing a workshop for Council with the Community Development Department and the Hogan Law Firm team to provide an update on Growth Management and Quasi Judicial procedures. The update will include information on statutory, regulatory and recent case law developments. We want to establish this workshop for July 9th (Tuesday), beginning at 6:30 pm.

The balance of the workshops and hearings that are needed for discussions and adoption of the fiscal year 2013-14 City budget. The following are requested for approval/confirmation:

- July 23rd starting at 6:00 pm-Budget Workshop, General Fund & Fire Assessments
- July 30th starting at 6:00 pm-Special Meeting for Millage and Assessment Rate Establishment
- August 13th starting at 6:00 pm-Budget Workshop, Other Funds
- August 27th starting at 6:00 pm-Budget Workshop (*if Council determines need*)
- September 11th starting at 6:30 pm-Public Budget Hearing
- September 25th starting at 6:30 pm-Public Budget Hearing

BUDGET IMPACT: This item does not have a budget impact.

Page 2 of 2

June 24, 2013

RE: Approval/Confirmation of Council Workshop & Meeting Schedules for July, August and September

LEGAL REVIEW: The proposed schedule is consistent with Article II Legislative Procedures, Section 2.12 Procedure, of the City's code regarding meetings of Council.

STAFF RECOMMENDATION: Staff recommends approval for the above workshop/meeting schedule as outlined above, including July 9th, 23rd. and 30th; and August 13th, and 27th; and September 11th and 25th.



**AGENDA ITEM
MEMORANDUM**

TO: HONORABLE MAYOR AND CITY COUNCILMEN

VIA: T. JENNENE NORMAN-VACHA, CITY MANAGER

FROM: GEORGE TURNER, POLICE CHIEF

SUBJECT: ORDINANCE 837 - SYNTHETIC DRUGS

DATE: July 01, 2013

GENERAL SUMMARY/BACKGROUND: Staff presents for second reading, proposed ordinance 837, prohibiting the possession, sale, or manufacture of synthetic drugs; providing a statement of intent; providing for a title; providing for definitions; providing for determination of a product which constitutes a synthetic drug; providing for prohibited acts; providing for laboratory analysis; providing for enforcement and providing for severability and applicability; providing for inclusion in the City of Brooksville Code of Ordinances; providing for filing of the ordinance and an effective date, and providing for amendment by resolution.

According to the Drug Enforcement Administration (DEA), synthetic cannabinoids, also known as "Spice" or "K2", are mixtures of herbs and spices that are typically sprayed with a synthetic compound chemically similar to THC, the psychoactive ingredients in marijuana. These products are available for purchase in various retail outlets, tobacco shops, head shops, and over the internet. The products are often marketed as "incense" that can be smoked. The product sometimes resembles potpourri, but can also be found in liquid form to be smoked in electronic cigarettes, or as a food additive. These products produce psychological effects similar to those of marijuana and other narcotics, and include paranoia, panic attacks, and giddiness. The physiological effects include increased heart rate and increased blood pressure; long term physiological effects are unknown.

The DEA has placed a number of synthetic cannabinoids into Schedule I (the class of substances that carry a high potential for abuse and have no currently accepted medical use) of the Controlled Substances Act (CSA), 21 USC §§ 81 et seq.), finding that placement into Schedule 1 was necessary to prevent an imminent hazard to the public safety.

The State of Florida has added into Chapter 893 several dozen of the chemicals and or chemical compounds used in the manufacture of synthetic drugs, but due to the ability to make slight changes in the molecular structure of these synthetic drugs, charging under the state statute is hampered/difficult. Therefore, the intent of this proposed ordinance is to prohibit the use, sale and manufacture of synthetic substances as defined in the proposed ordinance, which when consumed, mimic the effects of marihuana, narcotics or other controlled substances.

Staff believes it to be in the best interests of citizens and residents to prohibit the possession, sale, and distribution of illicit synthetic drugs and misbranded drugs.

On June 17, 2013, upon first reading of said ordinance 837, City Council requested that the enforcement/penalty provisions be made available for review. This is completed by the attachment of Art VIII, Sec 8-1.5G, Hearing Officer.doc which is attachment # 2.

IMPACT: There is no negative budget impact as a result of this ordinance.

LEGAL REVIEW: Pursuant to home rule authority provided for by Article VII, Section 2 of the Constitution of the State of Florida, Chapter 166, Florida Statutes, and Section 1.03 of the Charter of the City of Brooksville, the City Council has the power to conduct municipal functions and to adopt ordinances.

STAFF RECOMMENDATION: Staff recommends approval of Ordinance No. 837 upon second reading.

ATTACHMENT:

1. Ordinance No. 837 – Synthetic Drugs
2. City Code Article VIII, Section 8-1.5.G

Attachment 1

ORDINANCE NO. 837

AN ORDINANCE OF THE CITY OF BROOKSVILLE, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE CITY OF BROOKSVILLE, FLORIDA, CHAPTER 58, "OFFENSES AND MISCELLANEOUS PROVISIONS," BY ADDING ARTICLE III, "SYNTHETIC DRUGS"; PROHIBITING THE POSSESSION, SALE, OR MANUFACTURE OF SYNTHETIC DRUGS; PROVIDING A STATEMENT OF INTENT; PROVIDING FOR A TITLE; PROVIDING FOR DEFINITIONS; PROVIDING FOR DETERMINATION OF A PRODUCT WHICH CONSTITUTES A SYNTHETIC DRUG; PROVIDING FOR PROHIBITED ACTS; PROVIDING FOR LABORATORY ANALYSIS; PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING FOR CONFLICTS OF LAW; PROVIDING FOR SEVERABILITY AND APPLICABILITY; PROVIDING FOR INCLUSION IN THE CITY OF BROOKSVILLE CODE OF ORDINANCES; PROVIDING FOR FILING OF THE ORDINANCE AND AN EFFECTIVE DATE; PROVIDING FOR AMENDMENT BY RESOLUTION.

WHEREAS, the City of Brooksville, Florida is vested with home rule authority pursuant to Article VIII, Section 2(b) of the Constitution of the State of Florida and Chapter 166, Florida Statutes, to enact ordinances in order to protect the health, safety, and welfare of the City's citizens; and

WHEREAS, synthetic drugs are commonly marketed for sale to young adults and teenagers as a safe and legal alternative to marijuana or other controlled substance; and

WHEREAS, the City of Brooksville City Council has been advised by the City of Brooksville Police Chief of a significant increase in the use of synthetic drugs and substances in the City by young adults and teenagers; and

WHEREAS, synthetic cannabinoids, bath salts, and other dangerous chemicals, commonly referred to as synthetic drugs, are being added by producers and manufacturers to products in an effort to mimic the effects of illegal drugs when ingested into the human body; and

WHEREAS, due to the manner in which these substances are marketed, the manufacture or production of synthetic drugs is not regulated by the Federal Drug Administration; and

WHEREAS, due to the absence of FDA testing and regulation, the long term health effects of synthetic drug products are unknown, have not undergone human clinical testing, and their manufacturing and production process has no regulatory oversight; and

WHEREAS, synthetic drugs may be more potent and dangerous than the controlled substances they are designed to mimic due to the unapproved chemicals and chemical compounds contained in them; and

WHEREAS, ingestion of synthetic drugs has been known to produce undesired and dangerous side effects such as headaches, agitation, nausea, vomiting, hallucinations, loss of consciousness, elevated blood pressure, tremors, seizures, paranoid behavior, anxiety, increased heart rate, and even death; and

WHEREAS, according to the American Association of Poison Control Centers, exposure to, or ingestion of synthetic drugs resulted in 2,906 emergency medical calls to poison control centers across the United States in 2010, 6,959 calls in 2011, and 1,901 calls in the first three months of 2012; and

WHEREAS, the manufacture, sale, and use of synthetic drugs has become a major problem that is negatively affecting the health, safety, and welfare of the citizens of the City of Brooksville; and

WHEREAS, the State of Florida, in an attempt to curtail the marketing, sale, and consumption of synthetic drugs has added in Chapter 893, Florida Statutes, several dozen of the chemicals and chemical compounds used in the manufacture of synthetic drugs as controlled or prohibited substances; and

WHEREAS, it has been determined that the manufacturers and producers of synthetic drugs can slightly alter the molecular make-up of the chemicals or chemical compounds to avoid regulation under the state statutes; and

WHEREAS, due to the ease of making slight molecular alterations of these chemicals or chemical compounds, law enforcement agencies have found it extremely difficult to bring criminal charges against the manufacturers, producers, and marketers of synthetic drug products; and

WHEREAS, investigations by the City of Brooksville Police Department into the manufacture, marketing, sale, use, and consumption of synthetic drugs have proven to be lengthy, costly, and manpower intensive; and

WHEREAS, the City of Brooksville Police Department has indicated that continued enforcement of synthetic drugs under the state statutes has been, and will be, hampered merely by the slight changing of the molecular make-up or recipe of the chemicals or chemical compounds used in the manufacture of synthetic drugs in order to defeat law enforcement investigations; and

WHEREAS, it is not the intent of this ordinance to interfere with legitimate actions and conduct of individuals which are protected under the constitutions and laws of the United States and the State of Florida.

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

SECTION 1. INCORPORATION OF RECITALS. The recitals above are acknowledged as true and correct and are incorporated herein as legislative findings of fact.

SECTION 2. APPLICABILITY. This ordinance shall apply to all incorporated and annexed areas of the City of Brooksville.

SECTION 3. CODE OF ORDINANCES. The Code of Ordinances of the City of Brooksville, Florida, Chapter 58, "Offenses and Miscellaneous Provisions," is hereby amended by including therein the following Article III, "Synthetic Drugs:"

CHAPTER 58. OFFENSES AND MISCELLANEOUS PROVISIONS

ARTICLE III. SYNTHETIC DRUGS

Sec. 58-41. Title.

This article shall be known and may be cited as the "City of Brooksville Synthetic Drug Ordinance."

Sec. 58-42. Intent.

It is the intent of the City of Brooksville City Council to protect the health, safety, and welfare of its citizens by prohibiting the possession, use, sale, and manufacture of synthetic substances as defined herein which, when consumed, mimic the effects of marijuana, narcotics, or other controlled substances.

Sec. 58-43. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Synthetic Chemical or Synthetic Chemical Compound refers to a chemical or chemical compound whose molecular make up is similar to those substances listed as controlled substances in Chapter 893, Florida Statutes, and whose intended primary use when introduced into the human body is to mimic the effects of a controlled substance.

Synthetic Drugs means both "synthetic cannabinoids" and "bath salts" as defined in this ordinance.

Synthetic Cannabinoids means any herbal or plant material which has been soaked, sprayed, or otherwise enhanced with a synthetic chemical or synthetic chemical compound that enables the herbal or plant material, or the smoke emitted from its burning, to mimic or simulate the effects of a controlled substance when inhaled, ingested, or otherwise introduced into the human body. Any herbal or plant material described above shall be considered a synthetic cannabinoid regardless of the labeling posted on the packaging for the material and regardless of whether the labeling states that its contents are "not for human consumption", "not for smoking", or contains some other similar statement. The fact that a herbal or plant material, packaged and advertised as a food additive, plant food, insect repellent, potpourri, incense, etc..., has been soaked, sprayed, or otherwise enhanced with a synthetic chemical or synthetic chemical compound which has no legitimate relation to the advertised use of the product may be considered in determining whether the product is considered a synthetic cannabinoid. This term specifically does not include any herbal or plant material containing synthetic chemicals or chemical compounds which: (1) require a prescription; (2) are approved by the United States Food and Drug Administration; and (3) are dispensed in accordance with Florida and federal law.

Bath Salts means any granular, powdered, stick, or block material which has been treated, or otherwise enhanced with a synthetic chemical or synthetic chemical compound that enables the material, or the smoke emitted from its burning, to mimic or simulate the effects of a narcotic or other controlled substance when inhaled, ingested, or otherwise introduced into the human body. Any material described above shall be considered a synthetic drug regardless of the labeling posted on the packaging for the material and regardless of whether the labeling states that its contents are "not for human consumption", "not for smoking", or contains some other similar statement. The fact that a material, packaged and advertised as a cleaning agent, food additive, therapeutic bath crystals, plant food, insect repellent potpourri, incense, etc..., has been soaked, sprayed, or otherwise enhanced with a synthetic chemical or synthetic chemical compound which has no legitimate relation to the advertised use of the product may be considered in determining whether the product is considered a synthetic drug. This term specifically does not include any material containing synthetic chemicals or chemical compounds which: (1) require a prescription; (2) are approved by the United States Food and Drug Administration; and (3) are dispensed in accordance with Florida and federal law.

Controlled Substance means any substance defined or listed in schedule I, II, III, or IV of section 893.03, Florida Statutes, as amended including any isomers, esters, ethers, salts, and salts of isomers, esters, and ethers of such substances.

Sec. 58-44. Determination of a Product as a Synthetic Drug.

The following factors, taken in the totality of the circumstances, may be considered in determining whether a product, substance, or other material should be classified as a synthetic drug. For the purposes of enforcement pursuant to section 58-47 of this article, the establishment of two or more of these factors shall constitute *prima facie* evidence that the product is a synthetic drug.

- A. Marketing: A product routinely advertised to be a substance for which it is rarely, if ever, suitable to be used for (i.e. – incense, potpourri, food additive, therapeutic bath crystals, plant food, insect repellant, iPod cleaner, glass cleaner, etc...).
- B. Sales Location: Products displayed and sold in businesses such as liquor stores, smoke shops, and gas/convenience stores where such advertised products are not typically sold.
- C. Labels and Packaging:
 - 1. Products marketed as common non-consumable products which contain warnings not normally found on such products. The warnings may be similar, but not limited to, "not for human consumption", "not for purchase by minors", etc..., or
 - 2. Products containing notices on the package not normally found on similar products such as, but not limited to, "does not contain any chemical compounds prohibited by state law", "contains no prohibited chemicals", "product is in accordance with State and Federal laws", "product is in compliance with new Florida Law HB 1175", "does not contain AM2201 or any DEA banned substance", "legal herbal substance", "100% compliant guaranteed", "100% chemical free", "100% synthetic free", etc....
 - 3. Products whose package labeling suggests the user will achieve a "high", euphoria, relaxation, mood enhancement, or that the product has other effects on the body.
- D. Price: The price of the advertised product is much more expensive than other products marketed in the City of Brooksville for the same or similar use.
- E. Misleading Directions: The product contains directions for the product's use, which is not consistent for the type of product advertised (Example: "Place caplet over door to enhance mood.").
- F. Similarity to Illicit Street Drugs:
 - 1. Products designed to make the substance appear similar to illicit street drugs (such as a white powder made to resemble cocaine, or an herbal substance dyed green to resemble marijuana); and/or
 - 2. Products advertised using brand names and packaging designed to make the product appear similar to illicit street drugs, or labeled with names similar to commonly used street slang for illicit drugs, which names or labeling has no relation to the advertised use of the product being sold. (Common brand names currently being used include, but are not limited to, "AK-47", "Aroma", "Atomic", "Aura", "Aurora Incense", "Barely In", "Black Mamba", "Black Rob", "Bliss", "Blizzard", "Blue Silk", "Bonzai Grow", "Boombay Blue", "Brain Storm", "Bullet", "Buzz", "California Dreams", "Charge Plus", "Charlie", "Chill X", "Chronic Spice", "Cloud 9", "Dank", "Daylights", "Dead Man Walking", "Demon", "Diablo Botanical Incense", "Dragons Fire", "Drone", "D-ZL", "Earth Impact", "Earthquake", "Eight Balls", "Energy-I", "Euphoria", "Fake Weed", "Fuzzy Wuzzy", "G-13", "G-20", "Galaxy Gold", "Genie", "Grape Ape Herbal Incense", "Green Buddha", "Guerrilla Warfare", "Hayze", "Hypnotig", "Hurricane", "Hurricane Charlie", "Hush", "Ivory Wave", "Jazz", "Joker", "K-2", "K-3", "K-3 Legal", "Kryptonite", "Kush", "Kush Mania", "Lovely Dovey", "Lucid", "Lunar Wave", "Maddie", "Mad Hatter", "Makes

Scents", "Man of Steel", "Matrix", "Maui Wowie", "MCAT", "MDPV", "MDPK", "Meow Meow", "Meph", "Mind Trip", "Moon Rocks", "Mr. Happy", "Mr. and Mrs. Marley", "Mr. Nice Guy", "MTV", "Mystery", "Nightlights", "Ocean", "Ocean Blue", "Ocean Burst", "OMG", "O-Zone", "Peeve", "Pineapple Express", "Pixie Dust", "Posh", "Pot-Pourri", "Puff", "Pulse", "Pure Ivory", "Purple Haze", "Purple Wave", "PV", "Red Dove", "Scarface", "Scooby Snax", "Scope", "Sence", "Serenity", "Skunk", "Sky High", "Smoke", "Snow Leopard", "Solar Flare", "Soul Sence", "Space Truckin", "Spice", "Spice 99", "Spice Gold", "Spice Silver", "Stardust", "Stinger", "Sugar Sticks", "Supper Coke", "Three Monkey Incense", "Tiger Shark", "Vanilla Sky", "Voodoo", "Voodoo Child", "White Dove", "White Knight", "White Lightening", "Zohai", and a group of products marketed as from "The Spice Guy".)

- G. Ingredients: A product which has been enhanced with a synthetic chemical or synthetic chemical compound that has no legitimate relation to the advertised use of the product but mimics the effects of a controlled substance when the product, or the smoke from the burned product, is introduced into the human body.
- H. Verbal or Written Representations: Verbal or written representations made at the place of sale or display regarding the purpose, methods, use, or effect of the product.

Sec. 58-45. Prohibited Acts

- A. The possession, use, sale, distribution, production, or manufacture of synthetic drugs, as defined in this ordinance, is prohibited in the City of Brooksville.
- B. The display for sale or marketing of synthetic drugs, as defined in this ordinance, on retail store shelves is prohibited in the City of Brooksville.
- C. The advertisement of synthetic drugs, as defined in this ordinance, is prohibited in the City of Brooksville.
- D. The display for sale, marketing, advertisement, or other offer for sale of any product described in section 58-44 above is prohibited in the City of Brooksville.

Sec. 58-46. Laboratory Analysis

Any laboratory analysis of suspected synthetic drug products shall be conducted by a state certified private laboratory, competent to provide expert testimony in a court of law as to the chemical contents of the product and to the effect such contents may have if introduced into a human body. Upon the administrative determination of a violation, costs for such analysis and expert testimony shall be assessable against the person or entity charged with the violation.

Sec. 58-47. Enforcement and Penalties

Primary responsibility for the enforcement of this ordinance shall be with the City of Brooksville Police Department. Any law or code enforcement officer designated by the City is hereby empowered to initiate enforcement proceedings when, based upon personal investigation, the officer has reasonable cause to believe that the person has committed a violation of this provision. This ordinance may be enforced as a violation of the City of Brooksville Code of Ordinances pursuant to Article VIII, Section 8-1.5.G. of the City of Brooksville Land Development Code. For the purposes of enforcement of this ordinance, a separate code violation shall be considered to occur each day the original violation continues. This ordinance is enforceable against any natural person, business entity, trust, partnership, corporation, lessee, or property owner. Due to the dangerous medical and health effects the products prohibited by this ordinance can have on the user of the product, each violation shall be considered a serious threat to the public health, safety, and welfare of the citizens of the City of Brooksville.

SECTION 4. CONFLICT WITH STATE LAW. Nothing in this ordinance is intended to conflict with the provisions of the Florida Constitution or any Florida Statute. In the event of a direct and express conflict between this ordinance and either the Florida Constitution or the Florida Statutes, then the provisions of the Florida Constitution or Florida Statutes, as applicable, control.

SECTION 5. SEVERABILITY. If any section, subsection, sentence, clause, phrase, or provision of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not be construed to render the remaining provisions of this ordinance invalid or unconstitutional.

SECTION 6. INCLUSION IN THE CITY OF BROOKSVILLE CODE. The provisions of this ordinance shall be included and incorporated in the City of Brooksville Code of Ordinances, as an addition or amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the City of Brooksville Code of Ordinances.

SECTION 7. FILING OF ORDINANCE AND EFFECTIVE DATE. In accordance with the provisions of §166.041, Florida Statutes, governing city ordinances, a copy of this ordinance shall be recorded in a book kept for that purpose. This ordinance shall be effective upon adoption by the City Council of the City of Brooksville, Florida.

SECTION 8. AMENDMENT BY RESOLUTION

Section 58-44.F.2. of this article concerning common brand names used to market synthetic drugs may be amended by resolution of the City of Brooksville City Council.

CITY OF BROOKSVILLE

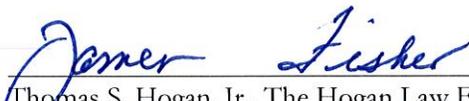
By: _____
Lara Bradburn, Mayor

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

PASSED on First Reading June 17, 2013
NOTICE Published on June 21, 2013
PASSED on Second & Final Reading _____

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

VOTE OF CITY COUNCIL
Bernardini _____
Bradburn _____
Burnett _____
Hohn _____
Johnston _____



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

Attachment 2

City of Brooksville Code of Ordinances

Article VIII, Section 8-1.5.G.

G. Code Enforcement Hearing Officer

Pursuant to F.S. Chapter 162, the City Council shall appoint at least one Code Enforcement Hearing Officer, and may appoint others as necessary. A Hearing Officer shall be an Attorney, licensed to practice law within the state, whose practice is substantially in the area of administrative, governmental, zoning, land use, or real estate law. A Hearing Officer shall not hear any matter in which the Hearing Officer has a conflict of interest. If such a conflict exists, the Hearing Officer shall request that the City Council designate another Hearing Officer, who may be appointed on a temporary basis to hear the case. A Hearing Officer shall serve at the pleasure of the City Council and may be removed from service at any time, without cause, by a majority vote of the City Council. A Hearing Officer shall not be a City employee, but shall enter into an agreement to provide professional services at a rate established by the City Council. A Hearing Officer shall be entitled to reimbursement for such travel, mileage, and per diem expenses as may be authorized in the agreement with the City.

1. Prosecution of cases.

- a. The City Attorney shall represent the City and the Code Enforcement Officers before the Hearing Officer.
- b. The City Attorney shall present the City's case on all formal hearings and shall have prosecutorial discretion including, but not limited to, the right to negotiate a settlement with a violator and present that settlement to the Hearing Officer for approval, and to recommend the disposition of a case to the Hearing Officer.
- c. If an appeal is taken from a decision of a Hearing Officer, the City Attorney shall represent the City in such proceedings.

2. Jurisdiction.

- a. The Hearing Officer shall have jurisdiction to hear and decide alleged violations of all codes and ordinances in force in the City.
- b. The jurisdiction of the Hearing Officer shall not be exclusive. Any alleged violation of any of the aforesaid codes and ordinances may be pursued by appropriate remedy in court at the option of the administering official whose responsibility it is to enforce that respective code or ordinance. Nothing contained in this Code shall prohibit the City from enforcing its codes and ordinances by any other means.

3. Powers of Hearing Officer.

The Hearing Officer shall have power to:

- a. Adopt rules for the conduct of hearings.
- b. Subpoena alleged violators, witnesses, and evidence to hearings. Subpoenas may be served by the county sheriff or other sheriffs of the state.
- c. Take testimony under oath.
- d. Issue orders having the force of law to command whatever steps are necessary to bring a violation into compliance.

4. Notices.

- a. Notice of each hearing of the Hearing Officer shall be given in compliance with the requirements of due process and the Florida Open Meetings Law.
- b. In addition, all notices to alleged violators required by this division shall be by one of the following methods:
 - i. Certified mail, return receipt requested;
 - ii. Hand delivery by the sheriff, or other law enforcement officer, the Code Enforcement Officer, or other person designated by the City Council;
 - iii. By leaving the notice at the violator's usual place of residence with any person residing therein who is above 15 years of age and informing such person of the contents of the notice; or
 - iv. In the case of commercial premises, leaving the notice with the manager or other person in charge.
- c. In lieu of providing notice as set forth in Subsection b. of this Section, at the option of the Hearing Officer, notice may also be served by publication or posting, as follows:
 - i. Notice shall be published once during each week for four consecutive weeks (four publications being sufficient) in a newspaper of general circulation in the City. The newspaper shall meet such requirements as are prescribed under F.S. Chapter 50, for legal and official advertisements. Proof of publication shall be made as provided F.S. §§ 50.041 and 50.051.

- ii. In lieu of publication as described in Subsubsection c.i. of this Section, notice may be posted for at least ten days in at least two locations, one of which shall be the property on which the violation is alleged to exist and the other of which shall be at City hall. Proof of posting shall be by affidavit of the person posting the notice, which affidavit shall include a copy of the notice posted and the date and places of its posting.
- iii. Notice by publication or posting may run concurrently with, or may follow, an attempt to provide notice by hand delivery or by mail as required pursuant to Subsection b. of this Section.
- iv. Evidence that an attempt has been made to hand-deliver or mail notice as provided in Subsection b. of this Section, together with proof of publication or posting as provided in Subsection c. of this Section, shall be sufficient to show that the notice requirements of this section have been met, without regard to whether or not the alleged violator actually received such notice.

5. Enforcement procedure.

- a. It shall be the duty of the Code Enforcement Officer to initiate enforcement proceedings of the various codes and ordinances. The Hearing Officer shall not have the power to initiate such enforcement proceedings.
- b. Except as provided in Subsections c. and d. of this Section, if a violation of the codes or ordinances is found, the Code Enforcement Officer shall first notify the violator and give such person a reasonable time to correct the violation. Should the violation continue beyond the time specified for correction, the Code Enforcement Officer shall notify the Hearing Officer and request a hearing. The Hearing Officer shall schedule a hearing and, through the clerical staff of the City, provide notice of the hearing as required herein. If the violation is corrected and then recurs, or if the violation is not corrected by the time specified for correction by the Code Enforcement Officer, the case may be presented to the Hearing Officer even if the violation has been corrected prior to the hearing, and the notice shall so state.
- c. If a repeat violation is found, the Code Enforcement Officer shall notify the violator, but is not required to give the violator a reasonable time to correct the violation. The Code Enforcement Officer, upon notifying the violator of a repeat violation, shall notify the Hearing Officer and request a hearing. The Hearing Officer shall schedule a hearing and, through clerical staff of the City, provide notice as required herein. The case may

be presented to the Hearing Officer even if a repeat violation has been corrected prior to the hearing and the notice shall so state.

- d. If the Code Enforcement Officer has reason to believe a violation or a condition causing the violation presents a serious threat to the public health, safety, or welfare, or if the violation is irreparable or irreversible in nature, the Code Enforcement Officer shall make a reasonable effort to notify the violator and may immediately notify the Hearing Officer and request a hearing.

6. Conduct of hearing.

- a. Upon request of a Code Enforcement Officer, or at such other time as may be necessary, the Hearing Officer shall set hearings.
- b. Every effort shall be made to set hearings within 30 days of the Hearing Officer receiving a request for hearing from the Code Enforcement Officer. In general, the Hearing Officer shall endeavor to set hearings, and move matters to conclusion, as expeditiously as possible, allowing for notice as required herein.
- c. Upon scheduling a hearing, the Hearing Officer shall cause notice thereof to be furnished to the alleged violator as provided herein. Such notice of hearing shall contain the date, time, and place of the hearing, and shall state the nature of the violation and reference to the appropriate code or ordinance.
- d. At the hearing, the burden of proof shall be upon the Code Enforcement Officer to show, by a preponderance of the evidence, that a violation exists or occurred.
- e. All testimony shall be under oath and shall be recorded. The Hearing Officer shall take testimony from the Code Enforcement Officer and alleged violator and from such other witnesses as may be called by the respective sides.
- f. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern such proceedings. All relevant evidence shall be admitted if, in the opinion of the Hearing Officer, it is the type of evidence upon which reasonable and responsible persons would normally rely in the conduct of business affairs, regardless of the existence of any common law or statutory rule which might make the evidence inadmissible over objections in civil actions. The Hearing Officer may exclude irrelevant or unduly repetitious evidence. Hearsay evidence may be accepted for the purpose of supplementing or explaining any direct evidence, but such hearsay evidence shall not in and of itself be

considered sufficient to support a finding or decision unless the evidence would be admissible over objections in a civil action.

- g. The Hearing Officer may inquire of any witness before the Hearing Officer. The alleged violator, or his attorney, and the attorney representing the City shall be permitted to inquire of any witness before the Hearing Officer and shall be permitted to present brief opening and closing statements.
- h. The Hearing Officer may, for good cause shown, postpone or continue a formal hearing.
- i. At the conclusion of the hearing, the Hearing Officer shall issue findings of fact based on evidence in the record and conclusions of law, and shall issue an order affording the proper relief consistent with the powers granted herein and by F.S. Chapter 162. The order shall be stated orally at the meeting and shall be reduced to writing and mailed to the alleged violator within ten days after the hearing. The order may include a notice that it must be complied with by a specified date, and that a fine may be imposed if the order is not complied with by said date.
- j. A certified copy of such order may be recorded in the public records of the county and shall constitute a notice to any subsequent purchasers, successors in interest, or assigns, if the violation concerns real property, and the findings therein shall be binding upon the violator and, if the violation concerns real property, any subsequent purchasers, successors in interest, or assigns. If an order is recorded in the public records pursuant to this subsection and the order is complied with by the date specified in the order, the Hearing Officer shall issue an order acknowledging compliance that shall be recorded in the public records. A hearing is not required to issue such an order acknowledging compliance.

7. Penalties.

- a. The Hearing Officer may, upon notification by the Code Enforcement Officer that an order of the Hearing Officer has not been complied with by the set time, or upon finding that a repeat violation has been committed, order the violator to pay a fine in an amount specified in this section for each day the violation continues past the date set by the Hearing Officer for compliance, or, in the case of a repeat violation, for each day the repeat violation continues, beginning with the date the repeat violation is found to have occurred by the Code Enforcement Officer. If a finding of a violation or a repeat violation has been made as provided for in this division, a hearing shall be necessary for issuance of the order imposing the fine, but notice of such hearing shall be sufficient if given by regular mail to the violator's last known mailing address.

- b. A fine imposed pursuant to this section shall not exceed \$250.00 per day for a first violation and shall not exceed \$500.00 per day for a repeat violation. If the Hearing Officer finds a violation to be irreparable or irreversible in nature, the Hearing Officer may impose a fine not to exceed \$5,000.00 per violation. In determining the amount of the fine, if any, the Hearing Officer shall consider the following factors:
 - i. The gravity of the violation;
 - ii. Any actions taken by the violator to correct the violation; and
 - iii. Any previous violations committed by the violator.
- c. If a repeat violation is corrected prior to a hearing, the Hearing Officer may conduct a hearing to determine costs and impose the payment of reasonable enforcement costs upon the repeat violator.
- d. The Hearing Officer shall award the City all costs incurred in prosecuting a case before the Hearing Officer if the City prevails and requests that it recover its costs incurred. Such costs may include the fees paid by the City to its City Attorney and to the Hearing Officer and the hourly pay and corresponding benefits paid to the Code Enforcement Officer for time spent on the violation.
- e. The Hearing Officer may reduce a fine imposed pursuant to this section and may execute a satisfaction or release of lien entered pursuant to this section.
- f. A certified copy of an order imposing a fine may be recorded in the public records of the county, and shall constitute a lien against the land on which the violation exists and upon any other real or personal property owned by the violator. Upon petition to the circuit court, such order may be enforced in the same manner as a court judgment by the sheriff's office of the state, including levy against the personal property, but such order shall not be deemed otherwise to be a judgment of a court except for enforcement purposes.
- g. A fine imposed pursuant to this division shall continue to accrue until the violator comes into compliance or until judgment is rendered in a suit to foreclose on a lien filed pursuant to this section, whichever occurs first. If, after three months from the filing of any such lien, the lien remains unpaid, the Hearing Officer may authorize the City Attorney to foreclose on the lien. No lien created pursuant to the provisions of this division may be foreclosed on real property which is a homestead under Section 4, Article X, of the Florida Constitution.

- h. Pursuant to Chapter 55, F.S., no lien provided for in this division shall continue for a period longer than 20 years after the certified copy of an order imposing a fine has been recorded unless, within that time, an action to foreclose on the lien is commenced in a court of competent jurisdiction. In an action to foreclose on a lien, the prevailing party is entitled to recover costs, including a reasonable attorney's fee, incurred in the foreclosure. The City shall be entitled to collect all costs incurred in a recording and satisfying a valid lien. The continuation of the lien affected by the commencement of the action shall not be good against creditors or subsequent purchasers for valuable consideration with notice, unless a notice of *lis pendens* is recorded.

8. Appeals.

- a. An aggrieved party, including the City Council, may appeal a final administrative order of the Hearing Officer to the circuit court. Any such appeal shall be filed as a petition for writ of certiorari within 30 days of the execution of the order to be appealed.
- b. Such an appeal shall not be a hearing de novo, but shall be limited to appellate review of the record created before the Hearing Officer.
- c. The appealing party shall pay the costs for preparation of the record to be appealed, based on the City's usual charges for copies of public records.



AGENDA ITEM MEMORANDUM

TO: THE HONORABLE MAYOR AND CITY COUNCIL MEMBERS
VIA: T. JENNENE NORMAN-VACHA, CITY MANAGER
FROM:  RICHARD W. RADACKY, PUBLIC WORKS DIRECTOR
SUBJECT: Ordinance No. 834-A - Cross Connection Ordinance Amendment
DATE: June 17, 2012

GENERAL SUMMARY/BACKGROUND: On January 7, 2013, Council adopted Cross Connection Control Ordinance No. 834 to comply with the Federal Safe Drinking Water Act, and the Florida Department of Environmental Protection (FDEP), to implement a Cross Connection Control Program (CCCP). Upon that second reading, staff recommended specifying an inspection schedule for High and Low Risk water users in Section 8.

Section 8.3(a) refers to Low Risk water users and it was recommended their systems be inspected every 2 years, however, the verbiage used was biannual and should have been biennial. The City Attorney, after investigation of the matter advises that case law indicates that a ministerial change would be one that changes the plain meaning of the ordinance. The difference between biannual and biennial is significant; therefore, staff presents an amended ordinance with changes as follows:

8.3 The Consumer is required to provide an inspection report of their backflow prevention assembly to the City at a frequency as follows. Inspections are to be performed by a Certified Backflow Prevention Assembly Tester as defined herein.

- a) For High Risk water users, the City's Public Works Department will provide a notice to the consumer when an annual inspection of their backflow prevention assembly is becoming due. The notice will be mailed to the billing address on file for the water account.

For Low Risk water users, the City's Public Works Department will provide a notice to the consumer when a ~~bi-annual~~ biennial (every two [2] years) inspection of their backflow prevention assembly is becoming due. The notice will be mailed to the billing address on file for the water account.

BUDGET IMPACT: There is no budget impact relating to the amendment.

 **LEGAL REVIEW:** The requirement for a Cross Connection Control Program is a State-mandated rule. The City Council has Home Rule Authority (Article VIII, 2(b), Florida Constitution, Section 166.011, Florida Statutes) to consider and take action on matters of fiscal benefit.

STAFF RECOMMENDATION: Staff recommends that the Brooksville City Council approve the change to the verbiage of the ordinance.

ATTACHMENTS: Cross Connection Control Ordinance 834-A

ORDINANCE NO. 834-A

AN ORDINANCE OF THE CITY OF BROOKSVILLE, FLORIDA, PROVIDING FOR LEGAL AUTHORITY AND ADMINISTRATION; PROHIBITING CROSS CONNECTIONS; PROVIDING FOR INSPECTION MONITORING AND MAINTENANCE OF SYSTEMS; PROVIDING FOR EXEMPTIONS; PROVIDING FOR ENFORCEMENT AND PENALTIES FOR VIOLATION; PROVIDING FOR SEVERABILITY, INCLUSION IN THE CODE, AND CERTAIN EXCEPTIONS; AND FOR AN EFFECTIVE DATE.

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

SECTION 1. GENERAL PROVISIONS

A. Title: This ordinance shall be known as the City of Brooksville "CROSS CONNECTION CONTROL Ordinance."

B. Purpose and Intent:

1. This ordinance is enacted under the home rule power of the City to ensure the health, safety, and general welfare of the users of the City of Brooksville water service area by protecting the public potable water supply from the possibility of contamination or pollution by isolating actual or potential cross connections in the water distribution system.
2. In compliance with the Federal Safe Drinking Water Act, the City of Brooksville has been designated to enforce state and federal regulations.
3. This designation requires the City of Brooksville to develop and implement a cross connection control program which will systematically and effectively prevent the contamination or pollution of the City's water distribution system.

C. Applicability: This ordinance shall apply to all water consumers and all properties connected to the City's water distribution system.

D. Responsibility: The City shall be responsible for the protection of the public potable water distribution system from contamination or pollution due to the backflow of contaminants or pollutants through the water service connection. If, in the judgment of the City's Public Works Department an approved backflow prevention assembly is required for the safety of the water system, the Public Works Department shall give written notice to the consumer to install an approved backflow prevention assembly on his/her premises. The consumer shall immediately install such approved assembly at his/her own expense; and, failure, refusal, or inability on the part of the consumer to install, have tested, and maintain said assembly shall constitute grounds for discontinuing water service to the premises until such requirements have been satisfactorily met. If water service is discontinued, the consumer will be subject to all charges to reinstate service.

SECTION 2. Definitions

Approved Cross Connection Control Measure shall reference an air-gap separation, a double check-valve assembly, a reduced-pressure principle backflow prevention assembly or other backflow prevention assemblies or methods that meet the requirements of state and federal regulations.

Auxiliary Water Supply shall mean any water supply on or available to the premises other than the water purveyor's approved public potable water supply. These auxiliary water supplies may include other potable water supplies, wells, ponds, pools, canals, receiving tanks, retention areas, reclaimed or reuse water supply, or any other natural or manmade water source.

Backflow shall mean the undesirable reversal of water flow or mixtures of water and other liquids, gases or other substances into the distribution pipes of the potable water system from any source or sources as defined by state and federal regulations.

Backflow Prevention Assembly shall mean an assembly or device that has been manufactured in full conformance with American Water Works Association (AWWA) Standard C506-69 or latest version, and be approved by the City's Public Works Department. Backflow prevention assemblies must also meet the laboratory and field performance specifications of the Foundation for Cross Connection Control and Hydraulic Research of the University of Southern California, or other approved agency and shall also meet the requirements of state and federal regulations.

Backflow Prevention Assembly Type shall mean any effective assembly used to prevent backflow into a potable water system. The type of device or assembly used shall be based on the degree of hazard either existing or potential. Acceptable types are:

- Double Check Valve Assembly,
- Double Detector Check Valve Assembly,
- Reduced Pressure Principle Assembly,

Certified Backflow Prevention Assembly Tester shall mean a person who can prove competency in testing backflow prevention assemblies to the satisfaction of the City's Public Works Department. The tester shall have attended and successfully completed an AWWA approved course for Backflow Prevention Assembly Testers, or a similar course endorsed by the AWWA, or other programs or training acceptable to the City's Public Works Department. A certified Backflow Prevention Assembly Maintenance and Repair Specialist as defined herein can also perform testing.

Certified Backflow Prevention Assembly Maintenance and Repair Specialist shall mean a person who can prove competency in repairing backflow prevention assemblies to the satisfaction of the City's Public Works Department. The maintenance and repair specialist shall have attended and successfully completed an AWWA approved course for Backflow Prevention Assembly Maintenance and Repair, or a similar course endorsed by the AWWA. All Backflow Prevention Assembly Maintenance and Repair Specialists shall be licensed plumbers registered with the City's Building Department, or other programs or training acceptable to the City's Public Works Department.

City shall refer to the designees having authority to enforce rules and regulations as set forth by the City in accordance with state and federal requirements for protecting the City's public water supply from a cross connection.

Consumer shall mean the property owner, user or customer who receives water from the City of Brooksville's potable water system.

Cross Connection shall mean a connection or potential connection between any part of a potable water system and any other environment containing other substances in a manner that, under any circumstances would allow such substances to enter the potable water system. Other substances may be gases, liquids, or solids, such as chemicals, waste products, steam, water from other sources (potable or non-potable), or any matter that may change the color or add odor to the water.

Double Check Valve Assembly shall mean an assembly consisting of two (2) internally loaded check valves, either spring loaded or internally weighted, installed as a unit between two (2) tightly closing resilient-seated shutoff valves and fittings with properly located resilient-seated test cocks. This assembly shall only be used to protect against a non-health hazard.

Double Detector Check Valve Assembly shall mean a specifically designed assembly composed of an approved double check valve assembly with a specific bypass water meter and an approved double check valve assembly all properly sized. The meter shall register accurately for low flow rates and shall total all flows. This assembly shall be permitted on fire lines only to protect against a non-health hazard.

Health Hazard shall mean an actual or potential threat of contamination to the public potable water system that could cause illness or such effects.

High-risk shall mean any residence, facility or business where backflow into the potable water system would be considered a health hazard.

Low-risk shall mean any residence, facility or business where backflow into the potable water system would be considered a non health hazard with the potential to become a health hazard.

Non Health Hazard shall mean an actual or potential threat of contamination to the public potable water system that would not be a health hazard, but would constitute a nuisance or be aesthetically objectionable.

Reduced Pressure Principle Backflow Prevention Assembly shall mean an assembly containing two (2) independently acting approved check valves together with a hydraulically operating, mechanically independent pressure differential relief valve, located between the check valves and at the same time below the first check valve. These units are located between two (2) tightly closing resilient-seated shutoff valves as an assembly and equipped with properly located resilient-seated test cocks. This assembly shall be designed to protect against a health hazard.

Reuse Water shall mean the deliberate application of reclaimed water; water that has received at least secondary treatment and basic disinfection from a wastewater treatment facility.

SECTION 3. Technical Reference

Technical issues, references and applications not more specifically covered in this ordinance will be subject to the recommendations and specifications contained in the American Water Works Association, Manual of Water Supply Practices, M14, Recommended Practice for Backflow Prevention and Cross Connection Control or derivatives thereof.

SECTION 4. Cross Connection with Private or Reuse Water Supply Prohibited

- 4.1 It shall be unlawful for any person to connect or cause to be connected to the City's water pipes, by any means whatsoever, other pipes containing water from any water supply other than the potable water supply of the City's water distribution system.
- 4.2 If any person shall connect or cause to be connected to the City's water supply other than the supply of potable water furnished by the City, and also have upon the same property a water supply furnished by any other source, the property shall have and is hereby required to have a dual system of pipes, one system of pipes being for potable water supplied by the City, and the other system of pipes being for the supply of water from the private or reuse supply, and it shall be unlawful for the two (2) systems to be connected together in any manner whatsoever.
- 4.3 Any property connected to the City water lines and that also has an auxiliary water supply other than the supply of potable water furnished by the City shall have a backflow prevention assembly installed, in accordance with this ordinance.
- 4.4 The City may adopt policies to regulate cross connections and shall enforce such adopted policies as if fully set out herein.

SECTION 5. Backflow Prevention Assemblies

- 5.1 Each single-family residence, multi-family residence not individually metered, non-residential or commercial premises connected to the City water lines where a potential cross connection exists, shall have a backflow prevention assembly installed, in accordance with the City's specifications, inspection, and approval. Any such backflow prevention assembly shall be operated, maintained and tested by the consumer in accordance with City policies and may be inspected at any time by the City.
- 5.2 Several kinds of premises fall into the classification of a health hazard and require premises isolation from the City's potable water system by means of a backflow prevention assembly and some are noted as follows:
 - Premises with an auxiliary water supply;
 - Hospitals, mortuaries, medical / dental clinics and so forth;
 - Laboratories;
 - Sewage treatment plants and sewage pump stations;
 - Food and beverage processing plants;
 - Chemical plants using a water process;
 - Metal plating plants;
 - Car washing facilities; and commercial laundry facilities;
 - Premises with reuse water systems;

5.3 Notice of time limit. In the event that any consumer does not install the backflow prevention assembly required hereunder, or whenever the City's Public Works Department reasonably determines that a hazard to public health and safety exists by virtue of the absence of such backflow prevention devices at any establishment or premises, the consumer shall be required to install an appropriate backflow prevention assembly for the protection of the potable water system. Written notice of the requirement to install a backflow prevention assembly shall be mailed to the consumer's address as it appears on the City records. The notice shall state:

- a) The fact that a backflow prevention assembly is required.
- b) The type of backflow prevention assembly required to be installed.
- c) The fact that the assembly is required to be installed within the designated time limit from the date of the notice.
- d) The date that an inspection of the premises will occur to verify the installation of the backflow prevention assembly.
- e) The date on, and after, which delivery of water shall be discontinued to the premises if the assembly has not been installed.

SECTION 6. Change of occupancy or land use

6.1 At such times as a change of occupancy or land use occurs, the City shall have the right to review the new occupancy or land use and if, in the opinion of the City's Public Works Department, a different type of backflow prevention assembly is required due to an increased possibility of a potential hazard to the health and safety of potable water users, the consumer shall be responsible for the installation of the new assembly.

SECTION 7. Installation and Location of Backflow Prevention Assemblies

7.1 Backflow prevention assemblies shall be installed by properly licensed personnel. Installers shall consider potential pressure control issues caused by the location and installation of the backflow prevention assembly.

7.2 Backflow prevention assemblies shall be installed at the property line on the service line for the property downstream of the meter discharge and upstream of any other connection. All assemblies shall have an inlet and outlet valve separate to the shut off of the water line being serviced.

7.3 Alternate installation locations may be considered for existing connections to existing structures. All alternate installations must be downstream of the meter and upstream of any connection.

7.4 All installation locations are subject to approval by the City's Public Works Department.

7.5 A Double Detector Check Valve Assembly shall be used on all unmetered fire supply lines.

- 7.6 A Double Check Valve Assembly may be used on metered fire lines and residential properties without an auxiliary water supply or irrigation system.
- 7.7 A Reduced Pressure Principle Backflow Prevention Assembly shall be used on all non-residential properties and all residential properties with an auxiliary water supply or irrigation system. Reduced pressure principle backflow prevention assemblies shall be installed twelve (12) inches minimum above the ground or higher if the area is subject to flooding. All freeze control must be provided for the free flow from the relief of the assembly.
- 7.8 A Reduced Pressure Principle Backflow Prevention Assembly shall be used on all irrigation systems with water supplied from the City's potable water system.
- 7.9 All backflow prevention assemblies that automatically vent water shall have some means of controlling ground erosion caused by discharge of the assembly.

SECTION 8. Inspections

- 8.1 The City shall be allowed access to perform inspections and make an operational test(s) on any premises where backflow prevention assemblies are installed.
- 8.2 The City shall be allowed reasonable access to any property receiving water service from the City to perform inspections for cross connections within the property or to comply with any other regulatory requirement of law.
- 8.3 The Consumer is required to provide an inspection report of their backflow prevention assembly to the City at a frequency as follows. Inspections are to be performed by a Certified Backflow Prevention Assembly Tester as defined herein.
- a) For High Risk water users, the City's Public Works Department will provide a notice to the consumer when an annual inspection of their backflow prevention assembly is becoming due. The notice will be mailed to the billing address on file for the water account.
- For Low Risk water users, the City's Public Works Department will provide a notice to the consumer when a ~~bi-annual~~ biennial (every two [2] years) inspection of their backflow prevention assembly is becoming due. The notice will be mailed to the billing address on file for the water account.
- b) The Consumer will be given a designated time limit from the date of the notice to have their backflow assembly inspected and repaired, as necessary, by a Certified Backflow Prevention Assembly Repair Specialist as defined herein.
- 8.4 Where inspection or testing demonstrates a significant hazard to potable water users, the City's Public Works Department may perform or require inspections and tests at intervals more frequently.
- 8.5 Backflow prevention assemblies shall be repaired, overhauled, or replaced whenever such devices are found to be so defective as to present an increased likelihood of a potential hazard to the health and safety of potable water users. Records of such repairs, overhauls or replacements shall be submitted to the City's Public Works Department.

- 8.6 Any backflow prevention assembly which does not meet the requirements of this section but was an approved device for the purposes described herein at the time of installation and which has been properly maintained shall be inspected by the City's Public Works Department as it deems appropriate. Such device shall not be subject to the requirements of this section so long as the City's Public Works Department is assured such device will satisfactorily protect the public potable water supply system. Wherever the existing device is moved from the present location, or requires more than minimum maintenance, or constitutes a hazard to the health and safety of potable water users, the device shall be replaced by a backflow prevention assembly meeting the requirements of this section.

SECTION 9. Enforcement

- 9.1 The City's Public Works Department shall cause the water service to the premises to be immediately terminated for a cross connection until the consumer has corrected the condition in conformance with this ordinance in any of the following situations:
- a) When it becomes known that a condition such as a cross connection, plumbing, structural or health hazard, or other violation of this ordinance is present.
 - b) In those cases of extreme emergency, and where an immediate threat to life or public health is found to exist.
- 9.2 The City shall cause the water service to the premises to be terminated when the installation, testing, repairs, or replacement of backflow prevention assemblies or any other requirement within this ordinance is not performed in accordance with this ordinance. The City's Public Works Department shall provide written notice specifying the requirements needed.
- a) First Notice: The City's Public Works Department will provide written notice and be given thirty (30) days to comply with the requirements of this ordinance.
 - b) Second Notice: After the first thirty day notice period has expired, the City's Public Works Department will provide a second written notice extending the compliance period an additional fifteen (15) days.
 - c) Termination for Non Compliance: If the consumer has not complied after the expiration of the second-notice period, the City's Public Works Department shall terminate water service to the premises and service will not be restored until the deficiencies cited in the written notice are corrected. Termination of service is subject to the same charges for discontinuance of service for default payment of bill as established by City Code.

SECTION 10. Consumer Responsibility

- 10.1 It shall be the consumer's responsibility to prevent contaminants and pollutants from entering the public water supply system by means of a cross connection from his premises. All costs associated with testing, installation, repairs and maintenance of backflow prevention assemblies on his property is the sole responsibility of the consumer.

SECTION 11. Severability

11.1 The provisions of this ordinance are severable. If any portion of this ordinance is held by a court of competent jurisdiction to be invalid or unenforceable for any reason, such determination shall not affect the validity of the remainder of the ordinance or its application to any other ordinance.

SECTION 12. Conflicts and Repealer

All ordinances, or parts thereof, and resolutions in conflict with this ordinance are hereby repealed to the extent of such conflict.

SECTION 13. Amendment to Code

This ordinance shall be and become a part of the Code of the City of Brooksville, Florida.

SECTION 14. 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. The Code codifier is granted liberal authority to codify the provisions of this Ordinance.

SECTION 15. Effective Date

This Ordinance shall take effect immediately upon its adoption by the Brooksville City Council.

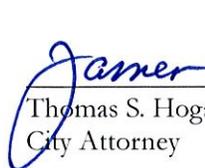
CITY OF BROOKSVILLE

Attest: _____
Janice L. Peters, CMC, City Clerk

By: _____
Lara Bradburn, Mayor

PASSED on First Reading _____
NOTICE Published on _____
PASSED on Second & Final Reading _____

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

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



VOTE OF COUNCIL:

Bernardini _____
Bradburn _____
Burnett _____
Hohn _____
Johnston _____



06-03-13 P12:52 IN

AGENDA ITEM NO. G-2
7/1/13

301 South Bronough Street • Suite 300 • P.O. Box 1757 • Tallahassee, FL 32302-1757 • (850) 222-9684 • Fax (850) 222-3806 • www.floridaleagueofcities.com

TO: Municipal Key Official

FROM: Michael Sittig, Executive Director 

DATE: May 29, 2013

SUBJECT: 87th Annual FLC Conference – “Great Cities Make a Great State”
VOTING DELEGATE AND RESOLUTION INFORMATION
August 15-17, 2013 – World Center Marriott, Orlando

As you know, the Florida League of Cities’ Annual Conference will be held at the World Center Marriott, Orlando, Florida on August 15-17. This year we are celebrating Great Cities Make a Great State which will provide valuable educational opportunities to help Florida’s municipal officials serve their citizenry more effectively.

It is important that each municipality designate one official to be the voting delegate. Election of League leadership and adoption of resolutions are undertaken during the business meeting. One official from each municipality will make decisions that determine the direction of the League.

In accordance with the League’s by-laws, each municipality’s vote is determined by population, and the League will use the Estimates of Population from the University of Florida for 2012, which are the same as the 2012 Census.

Registration materials will be sent to each municipality the week of June 1st. Materials will also be posted on-line. Call us if you need additional copies. The League adopts resolutions each year to take positions on commemorative, constitutional or federal issues. We have attached the procedures your municipality should follow for proposing resolutions to the League membership. A resolution is not needed to become a voting delegate. If you have questions regarding resolutions, please call Allison Payne at the League at (850) 701-3602 or (800) 616-1513, extension 3602. Proposed resolutions must be received by the League no later than July 10, 2013.

If you have any questions on voting delegates, please call Gail Dennard at the League (850) 701-3619 or (800) 616-1513, extension 3619. Voting delegate forms must be received by the League no later than August 12, 2013.

Attachments: Form Designating Voting Delegate
Procedures for Submitting Conference Resolution

**Procedures for Submitting Resolutions
Florida League of Cities' 87th Annual Conference
World Center Marriott
Orlando, Florida
August 15-17, 2013**

In order to fairly systematize the method for presenting resolutions to the League membership, the following procedures have been instituted:

- (1) Proposed resolutions must be submitted in writing, to be received in the League office by July 10, 2013, to guarantee that they will be included in the packet of proposed resolutions that will be submitted to the Resolutions Committee.
- (2) Proposed resolutions will be rewritten for proper form, duplicated by the League office and distributed to members of the Resolutions Committee. (Whenever possible, multiple resolutions on a similar issue will be rewritten to encompass the essential subject matter in a single resolution with a listing of original proposers.)
- (3) Proposed resolutions may be submitted directly to the Resolutions Committee at the conference; however, a favorable two-thirds vote of the committee will be necessary to consider such resolutions.
- (4) Proposed resolutions may be submitted directly to the business session of the conference without prior committee approval by a vote of two-thirds of the members present. In addition, a favorable weighted vote of a majority of members present will be required for adoption.
- (5) Proposed resolutions relating to state legislation will be referred to the appropriate standing policy committee. Such proposals will not be considered by the Resolutions Committee at the conference; however, all state legislative issues will be considered by the standing policy councils and the Legislative Committee, prior to the membership, at the annual Legislative Conference each fall. At that time, a state Legislative Action Agenda will be adopted.

Municipalities unable to formally adopt a resolution before the deadline may submit a letter to the League office indicating their city is considering the adoption of a resolution, outlining the subject thereof in as much detail as possible, and this letter will be forwarded to the Resolutions Committee for consideration in anticipation of receipt of the formal resolution.

**87th Annual Conference
Florida League of Cities, Inc.
August 15-17, 2013
Orlando, Florida**

It is important that each member municipality sending delegates to the Annual Conference of the Florida League of Cities, designate one of their officials to cast their votes at the Annual Business Session. League By-Laws requires that each municipality select one person to serve as the municipalities voting delegate. Municipalities do not need to adopt a resolution to designate a voting delegate.

Please fill out this form and return it to the League office so that your voting delegate may be properly identified. Voting delegate forms must be received by the League no later than August 12, 2013.

Designation of Voting Delegate

Name of Voting Delegate: _____

Title: _____

Municipality of: _____

AUTHORIZED BY:

Name

Title

Return this form to:
Gail Dennard
Florida League of Cities, Inc.
Post Office Box 1757
Tallahassee, FL 32302-1757
Or Fax to Gail Dennard at (850) 222-3806

Important Dates

May 24, 2013

Notice to Local and Regional League Presidents and Municipal Associations
regarding the Resolutions Committee

June 22

Appointment of Resolutions Committee Members

July 10

Deadline for Submitting Resolutions to the League office

August 15

League Legislative Policy Committee Meetings
Resolutions Committee Meeting
Voting Delegates Registration

August 17

Immediately Following Breakfast – Pick Up Voting Delegate Credentials
Followed by Annual Business Session

CORRESPONDENCE-TO-NOTE
REGULAR COUNCIL MEETING – July 1, 2013

1. **TYPE:** Letter
 RECEIVED: June 13, 2013
 RECEIVED FROM: Southern Hills Plantation II Community Development District
 ADDRESSED TO: City Manager
 SUBJECT: FY2013/14 Proposed Budget

2. **TYPE:** Letter
 RECEIVED: June 10, 2013
 SENT BY: City Manager
 ADDRESSED TO: Leonard Sossamon, County Administrator
 SUBJECT: County Ordinance 2013-14 – Fire Rescue Services MSTU

SOUTHERN HILLS PLANTATION II COMMUNITY DEVELOPMENT DISTRICT

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

06-17-13 P01:35 IN

June 13, 2013

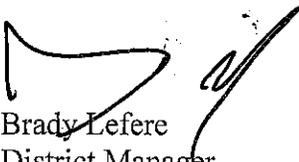
City Manager
City of Brooksville
201 Howell Avenue
Brooksville, FL 34601-2041

Dear Sir/Madam:

Enclosed please find the Fiscal Year 2013/2014 budget (the "Proposed Budget") approved by the Board of Supervisors of the Southern Hills Plantation II Community Development District (the "Board") for the purpose of setting a hearing to consider public comment and testimony on same. The public hearing on the Proposed Budget has been scheduled for **August 15, 2013, at 10:00 a.m.** at the **Southern Hills Plantation Clubhouse located at 4200 Summit View Drive, Brooksville, FL 34601.** Transmittal of the enclosed Proposed Budget is being made for purposes of disclosure and information, in accordance with the requirement set forth in Section 190.008(b), *Florida Statutes*, a digital copy of the budget will also be posted on the Hernando County website (at least two days prior to the public hearing) pursuant to Section 189.418(4), *Florida Statutes*.

Should you have any questions, please do not hesitate to contact me at your earliest convenience.

Sincerely,


Brady Lefere
District Manager

Enclosures: FY 12-13 Budget

CTN
07-01-13


**Southern Hills Plantation II
Community Development District
General Fund
Fiscal Year 2013/2014**

Chart of Accounts Classification	Budget for 2013/2014
REVENUES	
Interest Earnings	
Interest Earnings	\$ -
Special Assessments	
Tax Roll*	\$ 95,849
Off Roll*	\$ -
TOTAL REVENUES	\$ 95,849
Balance Forward from Prior Year	\$ -
TOTAL REVENUES AND BALANCE FORWARD	\$ 95,849
EXPENDITURES - ADMINISTRATIVE	
Legislative	
Supervisor Fees	\$ 800
Travel Reimbursement	\$ 140
Financial & Administrative	
District Management	\$ 18,000
District Engineer	\$ 5,000
Disclosure Report	\$ 5,000
Trustees Fees	\$ 3,500
Auditing Services	\$ 3,400
Arbitrage Rebate Calculation	\$ 650
Public Officials Liability Insurance	\$ 3,427
Legal Advertising	\$ 500
Bank Fees	\$ 450
Dues, Licenses & Fees	\$ 175
Legal Counsel	
District Counsel	\$ 4,000
Foreclosure Expenses	\$ 2,000
Administrative Subtotal	\$ 47,042
EXPENDITURES - FIELD OPERATIONS	
Electric Utility Services	
Street Lights	\$ 16,664
Stormwater Control	
Aquatic Maintenance	\$ -
Lake/Pond Bank Maintenance	\$ -
Other Physical Environment	
General Liability Insurance	\$ 485
Entry & Walls Maintenance	\$ 600
Landscape Maintenance	\$ 18,600
Irrigation Repairs & Maintenance	\$ 3,000
Landscape Replacement Plants, Shrubs, Trees, Mulch	\$ 5,000
Contingency	
Miscellaneous Contingency	\$ 4,458
Field Operations Subtotal	\$ 48,807
Contingency for County TRIM Notice	
TOTAL EXPENDITURES	\$ 95,849
EXCESS OF REVENUES OVER EXPENDITURES	\$ -

Budget Template
Southern Hills Plantation II Community Development District
Debt Service
Fiscal Year 2013/2014

Chart of Accounts Classification	Series 2004	Budget for 2013/2014
REVENUES		
Special Assessments		
Net Special Assessments ^{(1) (2)}	\$ 46,910.51	\$ 46,910.51
TOTAL REVENUES	\$ 46,910.51	\$ 46,910.51
EXPENDITURES		
Administrative		
Financial & Administrative		
Bank Fees		0
Debt Service Obligation	\$ 46,910.51	\$ 46,910.51
Administrative Subtotal	\$ 46,910.51	\$ 46,910.51
TOTAL EXPENDITURES	\$ 46,910.51	\$ 46,910.51
EXCESS OF REVENUES OVER EXPENDITURES	0	0

Collection and Discount % applicable to the county: 8.0%

Gross assessments \$ 50,989.68

Notes:

Tax Roll Collection Costs for Hernando County is 8.0% of Tax Roll. Budgeted net of tax roll assessments. See Assessment Table.

⁽¹⁾ Maximum Annual Debt Service less Prepaid Assessments received.

⁽²⁾ Amounts reduced to reflect acceleration of certain assessments.



June 10, 2013

Leonard Sossamon, County Administrator
Hernando County Board of County Commissioners
20 North Main Street, Room 263
Brooksville, Florida 34601

RE: County Ordinance 2013-14 – Fire Rescue Services Municipal Service Taxing Unit

Dear Mr. ^{Leu}Sossamon:

On Tuesday, May 14, 2013, the Hernando County Board of County Commissioners adopted Ordinance 2013-14, creating the Hernando County Fire Rescue Municipal Services Taxing Unit (MSTU) and modifying the Emergency Medical Services (EMS) Municipal Services Taxing Unit, originally created by Ordinance 2002-08.

Ordinance 2013-14, under Section 1, amends the geographical boundaries of the existing Hernando County EMS MSTU. A description of the geographical boundaries was provided within "Appendix A" of said Ordinance. Appendix A is a map that depicts the entire county, including the City of Brooksville, within the County's EMS MSTU. Review of Ordinance 2002-08, also showed inclusion of the incorporated boundaries of the City of Brooksville in the County's EMS MSTU.

As you are aware, §125.01(1) (q), Florida Statutes, provides that the boundaries of an MSTU may include all or part of the boundaries of a municipality, *"Subject to the consent by ordinance of the governing body of the affected municipality given either annually or for a term of years, the boundaries of a municipal service taxing or benefit unit may include all or part of the boundaries of a municipality."*

Accordingly, it appears that Hernando County's inclusion of the City of Brooksville within the geographical boundaries of the County's EMS MSTU would be subject to the City adopting an ordinance consenting to said inclusion prior to the adoption of the MSTU. While the City of Brooksville has historically agreed to be included within the boundaries of the County's EMS MSTU initially created through County Ordinance 2002-08, the City's consent is conditional to an annual renewal (City Ordinance 789, Section 4). Also, the City's consent will automatically revoke if a millage levied by the County exceeds 0.67 mils (City Ordinance 789, Section 3).

It is our understanding, from communications between the City and County Attorneys, the County's position that the City of Brooksville may "opt-out" of the EMS MSTU. As indicated above, the Florida Statutes state that the City must consent to its inclusion into an MSTU by ordinance. Consent for inclusion within the boundaries of the County's EMS MSTU, recently amended through County Ordinance 2013-14, has not yet been presented to the Brooksville City Council for consideration. Therefore, at this time, a City ordinance has not been prepared consenting to the City's inclusion in the EMS MSTU with its amended geographical boundaries.

CTN
07-01-13

Page 2 of 2

June 10, 2013

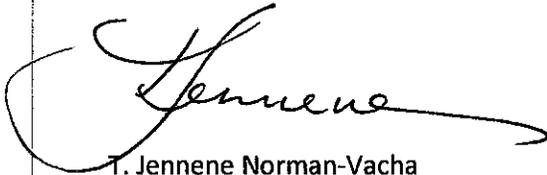
RE: County Ordinance 2013-14 – Fire Rescue Services Municipal Service Taxing Unit

We are concerned that the inclusion of the City of Brooksville within the current boundaries of the EMS MSTU will cause the Hernando County Property Appraiser and Tax Collector to include City residents/businesses when calculating this tax despite the fact that the City has not yet consented to inclusion with County Ordinance 2013-14, or may "opt-out" in the future.

To accurately reflect the legal, jurisdictional provisions of the County and the City, it may be beneficial to all involved for the County to amend Appendix A, provided in Ordinance 2013-14, by removing the incorporated boundaries of the City of Brooksville. This would allow the City's consent for inclusion within the EMS MSTU to be legally and appropriately handled by the City Council as outlined within the Florida Statutes.

Please advise as to the official position of Hernando County on this matter, so that we may take appropriate action.

Regards,



T. Jennene Norman-Vacha
City Manager

cc: Brooksville City Council
Thomas S. Hogan, Jr., City Attorney
John Emerson, Hernando County Property Appraiser
Sally Daniel, Hernando County Tax Collector