

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

**MINUTES**

**June 10, 2014**

**7:00 P.M.**

Brooksville City Council met in special session with Mayor Kevin Hohn, Vice-Mayor Frankie Burnett, Council Members Joe Bernardini, Lara Bradburn and Joseph E. Johnston, III present. Also present were Clifford Taylor, City Attorney; T. Jennene Norman-Vacha, City Manager and Ryan Timothy, Deputy City Clerk.

The meeting was called to order at 7:01 p.m. by Mayor Hohn followed by an invocation and Pledge of Allegiance.

Mayor Hohn welcomed everyone and called for public comment.

Shirley Miketinac reviewed some dates pertaining to the petitions submitted for the removal of the red light cameras, as well as details about newly received petitions.

Pat Miketinac spoke against the red light cameras and requested Council give people the opportunity to vote.

Stanley Jacob spoke against the red light camera and water fluoridation.

Andrew Caamano discussed the events leading to his red light ticket, and while he understands the financial benefit, he questions whether it's a service to the public. He requested the procedure for getting his violation details. Mayor Hohn directed him to speak with Chief Turner.

Dan Patrick would like to see the red light cameras come down as was done in the past.

Michael Angelo Gordon asked that the cameras be taken down.

Angel Ortiz believes businesses will lose business since people will not come to the city because of the red light cameras. He stated police officers should be at those intersections and the red light cameras are not needed.

Amy Williams, a single mom with two kids, discussed her three red light tickets. She stated she is not a dangerous driver and it's very important to remove the red light cameras because of the effect they are having on people.

Karlene Nordgren told Council they need to let the people speak and listen to them.

**REGULAR AGENDA**

**Petition for Charter Amendment for Upcoming Election**

Attorney Taylor, referencing the Certification from the Supervisor of Elections, discussed the role and functions of the Supervisor and advised she does not weigh in on the legal sufficiency of the city charter amendment or state laws. The charter instructs that the issue now goes to Council and by resolution it shall go on the ballot, but certain criteria must be met.

Pointing out section 2.01 of the City Charter, it defines its purpose as being to establish an organic structure of government, not to place ordinance within the structure of our charter. He noted the petition itself is labeled as a charter amendment, but it doesn't act as a vehicle for a charter amendment, it is really an ordinance. He discussed the difference between charter amendment and referendum, and the different procedures for both.

If referendum, you must follow the recall statute by establishing a political action committee and gathering all petitions within 30 days, which was not done. The charter prohibits any proposed ordinance that extends to the budget, the capital improvement program or emergency ordinances, or ordinances relating to the apportionment of money, levy of taxes, or salaries of city officers and employees. There are existing contracts and budgets associated with the current ordinance. These are all reasons why this measure would not qualify, even if under referendum.

Attorney Taylor indicated that instead of this proposal putting a vote to the people, yes or no, it says to place it in the charter as a permanent prohibition against any red light camera program, and lists a vague and overbroad reference to the Florida Uniform Traffic Control Law. It is also important to have a severability clause in case any part is found unworkable or unconstitutional; that portion may then be segregated out. This proposal does not have a severability clause.

It is a permanent prohibition which binds the hands of future Council members from conducting regular city business. The only way a program may be considered is by putting it back on the ballot as a charter amendment. Reciting some of the language in the proposal, he stated that The City of Brooksville would be obligated to fight the State of Florida or any agency having jurisdiction within Brooksville. That creates problems with preemption law because the city does not have the right to do that. This proposal is dictating how the city will conduct itself in the future, and the language is so broad that it can be interpreted in many different ways beyond the jurisdiction of what exists.

Attorney Taylor does not think the city can forward this on in its form to the Supervisor of Elections, because a resolution cannot be created from it. He recommended they authorize the law firm to file a Declaratory Action to get guidance from a judge. He also advised them they can place a non-binding measure before the people for guidance, under Chapter 166.

Council Member Johnston confirmed with Attorney Taylor that the Declaratory Judgment is filed under the circuit court.

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Mayor Hohn asked if a radar gun would be considered an automated traffic infraction detector system. Attorney Taylor said this is an example of an argument due to the vague language.

Council Member Bernardini feels this is a last minute ditch to destroy the electorate's position and he does not want to thwart the will of the people. He asked if the red light camera radar unit has to be certified per uniform traffic laws. Attorney Taylor said if you were issuing a speeding ticket that would be correct, but it is still up to the hearing officer to look at it, per the criteria in Florida Statutes 316.0083.

Mayor Hohn clarified the petition certification was just issued on June 2, 2014, and it could not have been discussed until it was certified. Council Member Bernardini felt that the people should have been told there was a problem with it before they wasted their time and efforts.

Council Member Bradburn, referencing the contract the city has with the vendor, asked what the city obligation would be if the petition goes forward. Attorney Taylor said it would be another violation of city charter. Council Member Bradburn confirmed that meant legally and financially.

Attorney Taylor indicated that the State doesn't give a legal pass on proposals to change state Constitution either, only form, and after it gets to form it goes to voters and the Attorney General's Office and Supreme Court may intercede if it violates rule. When sufficient signatures are gathered to petition a state amendment there has to be a financial report on the impact. The city does not have a like procedure, but it may be good to have a procedure if proposed. At the point we were handed a blank sheet of paper you have to make sure that all of the positions are exactly the same, which was done when the petitions were certified.

Council Member Johnston does not believe there are any provisions within our ordinances as to the Council's responsibility to the certified petition prior to submission. He believes they have the responsibility to make sure the petition is in proper form. The language is up to those preparing the petition and submitting it. At the point it is submitted, it's the Council's responsibility that the language proposed to be submitted to the public is legally sufficient and does not create a burden on future Councils. He has no problem with a referendum.

Council Member Bradburn stated she appreciates Attorney Taylor's comments and feels he raised some very strong legal points that must be heeded.

Vice-Mayor Burnett does not agree with the language on the petition, but like Council Member Johnston, feels it should go to referendum with a yay or nay on it.

Mayor Hohn asked Attorney Taylor if Council has to act on this petition. Attorney Taylor advised that even if a referendum was placed on the ballot, they would still have to go forward with the Declaration because of the mandatory language in the charter saying that you shall place this on a resolution and over to the elections office for the ballot. He confirmed language cannot be negotiated and the petition must go forward as it is, or to

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judgment. He has no issue with the referendum, but the language of the petition puts the city at risk and he believes it's wrong to change the Charter.

Mayor Hohn wanted to address some of the public comments. He stated that the City of Brooksville has seen a 3% increase in sales tax, which doesn't tell him the red light cameras are having much effect on business. The Police Department went without raises for four or five years and received the exact same salary raise that every other city employee received. The cost of tickets is mandated by the state and we receive very little from it. He reminded everyone that the state law regarding right on red, if there was not a camera there, is zero and you must come to a complete stop. He also commented that there was a light study conducted before any of the red light cameras were put up and those were the sights determined to be most in need.

Council Member Johnston confirmed with Attorney Taylor that if they file for Declaratory Judgment and it goes before the judge, and the judge says there is no problem with the language, then we're required to put it on the ballot as is. He asked what the options would be if it goes before the judge and he says there are problems with it. Attorney Taylor advised they do nothing, it is a dead issue. Council Member Johnston asked about the length of the process and Attorney Taylor indicated it is supposed to be expedited, but it can depend on opposition and judge's availability. Council Member Johnston asked that if it comes back that it is not approved by Declaratory Judgment how far in advance do they have to get a referendum on the ballot, and what the process would be.

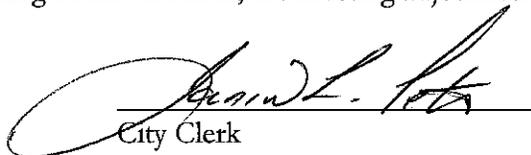
City Manager Norman-Vacha said it would put them around August or September to reach the Supervisor of Elections. A resolution would need to be adopted by Council.

**Motion:**

Motion was made by Council Member Johnston and seconded by Council Member Bradburn to submit to the court for Declaratory Judgment on the legal sufficiency of the submitted language for the referendum for the charter amendment as soon as possible, requesting expeditious treatment. Motion carried 3-2, with Vice-Mayor Burnett and Council Member Bernardini voting in opposition.

**ADJOURNMENT**

There being no further business to bring before Council, the meeting adjourned at 7:57 p.m.

  
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City Clerk

Attest:   
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Mayor