

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

**November 2, 2015**

**7:00 P.M.**

Brooksville City Council met in regular session with Frankie Burnett, Mayor, Natalie Kahler, Vice Mayor and Council Members Robert Battista and Betty Erhard. Also present were Clifford A. Taylor, City Attorney; T. Jennene Norman-Vacha, City Manager; Mike Walker, Director of Parks, Facilities & Recreation Director, George Turner, Police Chief; Tannette Gayle, Finance Director; David Freda, Interim Fire Chief; Richard Radacky, Public Works Department; Steve Gouldman, City Planner; Bill Geiger, Community Development Director; Jennifer J. Battista, Acting Deputy City Clerk; and citizens.

The meeting was called to order by Mayor Burnett, followed by an Invocation and Pledge of Allegiance.

**CERTIFICATES, PROCLAMATIONS AND PRESENTATIONS**

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

Recognition of improvements of PC Cycles located at 209 Ponce de Leon Boulevard.

Beautification Board Chairman Renz presented the award to Paul Clark of PC Cycles.

**Margaret R. Ghiotto Improvement Award - Residential Award**

Recognition of improvements at residence located at 312 South Brooksville Avenue, home of Martin and Donna Campbell.

The Beautification Board Chairman presented the award to Martin and Donna Campbell.

**CITIZEN INPUT**

**Red Light Cameras**

Pat Miketnac spoke against the red light cameras and the settlement agreement included in the City Council packet.

Shirley Miketnac spoke against the red light cameras and the settlement agreement.

Joe Swilley spoke against the red light cameras and the settlement agreement.

Sherri Pedonesi spoke against the red light cameras and felt that it was important that the City was looking at an ending date contained in the settlement agreement.

Joe Bernardini questioned and the Mayor agreed that he would allow input when the Sensys Agreement comes up for discussion later in the meeting.

**Water Pressure in Southern Hills**

Violet Langieri, 3128 Evening Ray Dr., Phase III in Southern Hills, complained about the low water pressure. The City Manager would contact her.

## REGULAR COUNCIL MEETING MINUTES – November 2, 2015

### CONSENT AGENDA

#### Garbage Dumpster Purchase

Consideration to approve purchase of replacement dumpsters for commercial solid waste accounts, not to exceed cost of \$20,000 as budgeted within the FY2016 City Budget.

#### Passenger Van Purchase

Consideration to approve purchase of replacement Passenger Van, not to exceed cost of \$30,663.50 as budgeted within the FY2016 City Budget.

#### Appointment of Alternate Board Member to Public Risk Management of Florida Board

Consideration to approve appointment of Finance Director to serve as the City's Alternate Member on the Public Risk Management of Florida Board.

#### MedFleet, Inc. Application for Renewal for Certificate of Public Convenience & Necessity (COPCN)

Consideration for Council to recommend that Hernando County Board of County grant renewal of COPCN for MedFleet, Inc. to provide advanced life support helicopter ambulance services within Hernando County.

#### Motion:

Motion was made by Battista and seconded by Kahler to approve the November 2, 2015 Consent Agenda. Motion carried 5-0.

### ADJOURNMENT TO LOCAL PLANNING AGENCY (LPA) MEETING

### RECONVENE TO COUNCIL MEETING

#### PUBLIC HEARINGS

#### Ordinance No.850 – Comprehensive Plan Amendment (CPA) – Housing Trust Group, LLC

Consideration of an Ordinance for a Small-Scale Amendment to amend City of Brooksville's Comprehensive Plan Future Land Use Map designation from Commercial to Multi-Family Residential for a 8.3 acre tract located on the east side of Hale Avenue, approximately 607 feet north of Cortez Boulevard.

Mayor Burnett offered his opinion that perhaps Council should hold a workshop to refresh them on the procedures of how the Council functions as the LPA.

Steve Gouldman, City Planner, came forward to present the petition, stating that he would like all information given at the LPA meeting to be a part of this record.

Sherry Pedonesi came forward and received clarification from Community Development Director Geiger that should this ordinance pass 1<sup>st</sup> and 2<sup>nd</sup> Reading, it would create a future land use designation of the property as multi-family. Subsequent action would then come back to Council for a rezoning request of multi-family and details of the development would be addressed. Don Lacey stated that at the time of the rezoning request, they would be presenting a Planned Development District Project which will consist of a conceptual plan and will incorporate all recommendations by Staff after their review.

Council Member Kemerer offered his opinion that commercial abutting against single family residential creates a problem and that the multi-family would be more of a transitional use. He agreed that a multi-family land use would give more flexibility in dealing with the environmentally

## REGULAR COUNCIL MEETING MINUTES – November 2, 2015

sensitive land issues. Commercial would destroy more trees. He added, however, if there are large oaks on the property, he would like to see the developer go out of their way to protect them.

Vice Mayor Kahler advised that after reading the material and visiting the site, her voting no is to show the applicant that she sees a problem with the land use. She would like concerns addressed before the 2<sup>nd</sup> Reading.

### Motion:

Motion was made by Battista and seconded by Kemerer to approve 1<sup>st</sup> Reading of Ordinance No. 850 and schedule 2<sup>nd</sup> and Final Reading for November 16, 2015.

Acting Deputy City Clerk Battista read Ordinance No. 850 by headnote only, as follows:

AN ORDINANCE OF THE CITY OF BROOKSVILLE, FLORIDA, APPROVING A SMALL-SCALE AMENDMENT TO THE FUTURE LAND USE MAP OF THE CITY OF BROOKSVILLE COMPREHENSIVE PLAN; PURSUANT TO PROCEDURES ESTABLISHED IN SECTION 163.3187, FLORIDA STATUTES; PROVIDING SEVERABILITY; REPEALING ALL ORDINANCES IN CONFLICT; AND PROVIDING AN EFFECTIVE DATE

Motion carried 3-2 by roll call vote:

Battista	Aye
Erhard	Nay
Kemerer	Aye
Kahler	Nay
Burnett	Aye

### Ordinance No.851 – Comprehensive Plan Amendment (CPA) – Ten (10) year Water Supply Facilities Work Plan

Consideration of an Ordinance for Amendment of the Infrastructure Element and the Intergovernmental Element of the Comprehensive Plan, modifying the Comprehensive Plan to adopt the updated 10-year Water Supply Facilities Work Plan.

Community Development Director Geiger came forward to present the petition, stating that he would like all information given at the LPA meeting, as well as the agenda back-up material, to be a part of this record.

### Motion:

Motion was made by Kahler and seconded by Battista to approve 1<sup>st</sup> Reading of Ordinance No. 851 and authorize transmittal to the appropriate agencies for review.

Acting Deputy City Clerk Battista read Ordinance No. 851 by headnote only, as follows:

AN ORDINANCE OF THE CITY OF BROOKSVILLE, FLORIDA, APPROVING TEXT AMENDMENTS TO THE INFRASTRUCTURE AND INTERGOVERNMENTAL COORDINATION ELEMENTS OF THE CITY OF BROOKSVILLE COMPREHENSIVE PLAN; PURSUANT TO COMPREHENSIVE PLAN AMENDMENT PROCEDURES ESTABLISHED IN SECTIONS 163.3161 THROUGH 163.3215,

## REGULAR COUNCIL MEETING MINUTES – November 2, 2015

**FLORIDA STATUTES; PROVIDING SEVERABILITY;  
REPEALING ALL ORDINANCES IN CONFLICT; AND  
PROVIDING AN EFFECTIVE DATE**

Motion carried 5-0 by roll call vote:

Erhard	Aye
Kemerer	Aye
Battista	Aye
Kahler	Aye
Burnett	Aye

### **Ordinance No.852 – Comprehensive Plan Amendment (CPA) – Five (5) year Schedule of Capital Improvements**

Consideration of an Ordinance for Amendment of the 5-year Schedule of Capital Improvements Element, modifying the City of Brooksville Comprehensive Plan to adopt the updated 5-year Capital Improvements Element.

City Planner, Steve Gouldman, came forward to present the petition, stating that he would like all information given at the LPA meeting, as well as the agenda back-up material, to be a part of this record.

#### Motion:

Motion was made by Battista and seconded by Kemerer to approve 1<sup>st</sup> Reading of Ordinance No. 852 and scheduled 2<sup>nd</sup> and Final Reading for November 16, 2015.

Acting Deputy City Clerk Battista read Ordinance No. 852 by headnote only, as follows:

**AN ORDINANCE OF THE CITY OF BROOKSVILLE,  
FLORIDA, AMENDING THE FIVE-YEAR SCHEDULE OF  
CAPITAL IMPROVEMENTS SET FORTH IN TABLE 8-2 OF  
THE CAPITAL IMPROVEMENTS ELEMENT OF THE CITY  
OF BROOKSVILLE COMPREHENSIVE PLAN PURSUANT TO  
PROCEDURES ESTABLISHED IN SECTION 163.3177(3)(b),  
FLORIDA STATUTES; PROVIDING SEVERABILITY;  
REPEALING ALL ORDINANCES IN CONFLICT; AND  
PROVIDING AN EFFECTIVE DATE**

Motion carried 5-0 by roll call vote:

Kemerer	Aye
Battista	Aye
Erhard	Aye
Kahler	Aye
Burnett	Aye

### **REGULAR AGENDA**

#### **Fogle Petition for De-Annexation**

Consideration to approve two parcels located at 125 Sawdust Lane to be contracted from the City (de-annexation), as requested by the owners.

City Attorney, Cliff Taylor, presented the City's position on the deannexation petition. He advised

## REGULAR COUNCIL MEETING MINUTES – November 2, 2015

that based on the criteria in Florida Statutes 107.051 on contractual annexation, it is staff's recommendation not approve this petition as it would interfere in future annexation plans of the City and could also create an enclave. It is also not compatible with the City's Comprehensive Plan. He added that if Council voted in support of the deannexation, they would have to show a reason that the property does not qualify to be annexed. It does still qualify, so that reason for approving the deannexation does not work.

The petitioners were not present.

### **Motion:**

Motion was made by Kahler and seconded by Battista to deny the petition as it would interfere with making the City's boundary lines clear as well as the confusion over whether it is legally allowed to be deannexed. Carried 5-0.

### **Settlement of Case 2015-CA-0466, City of Brooksville v. Sensys America, Inc.**

Consideration to approve Settlement Agreement for Case 2015-CA-0466, City of Brooksville v. Sensys America, Inc.

As background information, Cliff Taylor, City Attorney, advised that the City is in a contract with Sensys America, Inc. for 15 traffic cameras. The dispute over contract termination is not just over the date, but profits over the discontinuation of the program and particularly over costs and whether the contract should be extended due to the additional intersection that is not installed today but which the City requested and Sensys did process permitting and engineering. That amount for that one intersection was originally unknown but now Sensys has advised that it is \$118,250.00. The contract asserts that any suit, where the prevailing party wins a judgment, there is an attorney's fees award granted. It is the City Attorney's opinion that the City was always liable for some costs on that intersection. In order for the City to verify that cost of \$118,250 and other details of the liability of that intersection, the attorney's office would have to be authorized to hire an expert which would be another cost incurred.

It is Sensys' opinion that because the City had asked for the permitting on that one intersection, they should be entitled to extend it into 2017. Taylor advised that while he does not agree with that stance, he cannot guarantee if the monies expended by Sensys for that additional intersection would be enough to allow a judge to extend the contact. Mr. Taylor advised that Sensys would definitely be entitled to some costs and an attorney fee award if this litigation continues.

Attorney Cliff Taylor advised that the City Attorney's office and staff have met with Sensys on several occasions. The City proposed December 31, 2015 as the termination date. Sensys countered with December 31, 2017. Subsequently, Sensys advised that they would agree to one of two options 1) termination on December 31, 2015 with the City paying them \$500,000.00 or 2) December 31, 2016 with no costs. Sensys has subsequently agreed to October 31, 2016 with no costs. City Attorney Taylor advised that it his opinion that this is the best negotiation that can be done without incurring much more in attorney's fees, expert costs, possible mitigation costs, etc.

Joe Bernardini discussed details of the contract such as the time period in the general summary, his disappointment that the Hogan Law Firm did not catch a potential problem with the contract termination date language, the lack of answer from Sensys on the Declaratory Judgment, the use of the words "amicably resolved" in the contract, and the fact that he felt that this is was about their lost profits, not safety. In response to his question, Attorney Taylor pointed out that the cost for the additional intersection was \$118,250.00. Addressing a specific part of the contract, Mr. Bernardini

## REGULAR COUNCIL MEETING MINUTES – November 2, 2015

stated that he would not expect the City Manager to write a letter that outlined that Sensys performance was satisfactory without it coming to Council for approval. He further hoped that Council completely understands the terms of the contract before signing it.

Sherri Pedonesi advised that she knows that there has been a lot of emotions on the red light camera issue but implored Council to mediate, get to the best solution and save the taxpayers as much money as possible.

Shirley Mikenac brought up for discussion the mediation process that she felt should have been pursued.

Colleen Norgren offered her opinion that through the petition process, the red light cameras have made people afraid to come into Brooksville. She opposed the settlement without going through the mediation process.

Council Member Erhard thanked all for attending. She stated that she is against the red light cameras, adding that she believes that they have created a negative environment and marketing for the City of Brooksville. She felt that all options have not been exhausted. She agreed with Mr. Bernardini that any letter offering support of performance should be brought back to Council for approval. She advised that she had previously questioned who authorized the City Attorney to file a law suit but had never received an answer to that. She stated that she is glad that the City is getting closer to a termination date, but felt that October 31, 2016 date is no guarantee.

Council Member Kemerer thanked all for attending. He summarized that Council voted to end the contract and now there is a contract dispute. Fifteen cameras were installed and Council agreed to stop the installation of the 16<sup>th</sup> camera, and that interruption is not covered by the contract which causes the contract dispute. He advised that from his perspective two things must be accomplished 1) the cameras have to come down 2) must be minimized out of pocket costs. He stated that Sensys has determined their costs. The City could perhaps lower those costs but would have pay attorney's fees, expert fees, mediation costs, deposition costs, discovery costs and witnesses to challenge that. Council Member Kemerer advised that the mediation process offers no solution as there is no decision made by a mediator. The demand from Sensys that the City pay \$500,000 for a December 31, 2015 date compared to their offer terminate the contract for no costs on October 31, 2016 must be looked at. He supported the termination date of October 31, 2016 at no costs.

Council Member Battista advised that Council had spent many hours in Executive Sessions, discussing options and concerns. The verbatim transcripts will become public records once the case is officially dismissed. He invited everyone to read those transcripts to see how this process evolved adding that they will clearly show that he felt this issue could have proceeded differently to terminate the cameras more timely. He stated that once it was learned that Sensys was going to refute the City's position of a December 31, 2015 termination and it became necessary to file litigation, it was obvious that the desired date would not happen. He stated that after expert witnesses, requests for production and different motions filed, it would be summer of 2016 before even getting before a judge. He stated that the transcripts will show that he doesn't like the settlement but he will support this because there is no optional. This settlement is at no cost to the City other than the attorney's fees already expended.

Vice Mayor Kahler advised that while it was difficult to have to hold the Executive Sessions in private, it was a necessary for this process. She offered that in her opinion, this was the best date for closure due to the expense of fighting this longer and the uncertain time frame for termination that

## REGULAR COUNCIL MEETING MINUTES – November 2, 2015

would be involved. She stated that this Council is aware of their fiscal responsibility to their taxpayers and, as much as she appreciates input from non-City residents, they are not the taxpayers who would have to pay for legal expenses if this litigation continues. She felt that continuing with the lawsuit wherein the outcome, expenses and timeline are all unknown but would certainly be an insurmountable amount, would be the height of irresponsibility. What is best for the taxpayers is to approve this settlement agreement, have an end date and bring this to a close in a way that will cost the least amount of money.

Mayor Burnett informed those present that from the beginning, he was against red light cameras and had voted in opposition. It is important to him to do what the citizens want, which is to get rid of the red light cameras. His opinion is not to keep litigating, mediating and negotiating an issue that could last for years, when the termination date proposed in this settlement could be less than a year away. If they decided to continue this fight, next year's budget could possibly involve raising taxes, increasing fire assessments and going up on the rollback millage rate to pay for this legal fight. He advised that if he were to ask citizen's if they would want the City to continue to fight this, which may cost hundreds of thousands of dollars with a possibility of an increase of taxes, he does not believe that it would get a lot of support. He offered support of the settlement agreement, worked out by City staff and the City Attorney, with a termination date of October 31, 2016. He encouraged everyone to read the transcripts from the Executive Sessions. He offered his guarantee that the cameras will definitely come down on October 31, 2016.

### Motion:

Motion was made by Kahler and seconded by Kemerer to approve settlement of Case 2015-CA-0466, City of Brooksville vs. Sensys America Inc. Motion carried 4-1, with Erhard voting in opposition.

## **CITIZEN INPUT**

### Red light Cameras

Pat Mikenac addressed Council regarding his continued opposition to the settlement agreement.

### Stop Bars

Shirley Mikenac expressed her desire that Council request FDOT to add the .6 of yellow to the light timing. She added that the stop bars locations, which she stated the City requested at the time of the camera installations, need to be looked at Wiscon and Broad Street and at Broad Street and E. Jefferson Street. She stated that standard stop bars are about 5 feet from the pedestrian cross walk and these two particular intersections are much further back.

### Camera Agreement

Bruce Cameron stated that Pasco had an incident where no one was getting tickets and it starved the camera company out and wondered if the City had anything in the contact that addresses that.

### Red Light Camera

Kojack Burnett his support of Council's action on the settlement agreement and will hold Council to the termination date of October 31, 2016.

## **ITEMS BY COUNCIL**

### City Manager

City Manager Norman-Vacha advised Council of the following dates:

- November 9, 2015 at 3:00 p.m. – Fee Waiver Workshop
- November 12, 2015 at 5:30 p.m. (subsequently changed to 6:00 p.m.) – Great Brooksvillian

## REGULAR COUNCIL MEETING MINUTES – November 2, 2015

### Ceremony

- November 14, 2015 at 9:00 a.m. – line up for Veteran’s Parade which is at 10:00 a.m.
- November 16, 2015 at 6:45 p.m.– Council picture
- December 14, 2015 at 3:00 p.m. – Ethics Training for those needing the required hours.
- January 11, 2016 at 3:00 p.m. – Business Development Workshop
- February 29, 2016 – Budget Workshop

### **William Kemerer**

He advised that the Municipal’s Elected Official’s Conference which he attended in October was very good. He felt that in the future, Council Members should be scheduled to attend different courses due to Sunshine Law restrictions.

Concerning the meeting in Washington, D.C. of local leaders who met with legislators to express the concerns of municipalities that Vice Mayor attended in October, Council Member Kemerer questioned if she had found it to be worthwhile. The Vice Mayor responded that it was a good experience but due to the expense, she would not recommend Council’s attendance in the future.

### **Council Member Erhard**

She thanked all for attending.

### **Council Member Battista**

Council Member Battista reminded all of recycling.

He called attention to previously requested quarterly reports as it relates to the budget and expenditures and he would like to receive those reports, or perhaps receive that in the form of a presentation by the City Manager. The City Manager stated that those reports should be in the Council Office but would check on it. She added that an “executive summary” could be included on CTN. Mayor Burnett advised that he has not seen it the Council Office in a while.

Council Member Battista brought up for discussion the .6 yellow light length and advised that the City did send a letter and request that of the County.

Regarding an item brought up by a citizen on the stop bar locations, Council Member Battista expressed concern that the City, who does not have a City engineer, would have directed the State on where to place a stop bar on a State road.

The City Manager advised that the City had received correspondence back from the County Engineer’s office advising that they had coordinated with FDOT that all lights were at maximum timing but would request that the County/State recertify that fact. She further advised that no one at the City directed where stop bars would be located and she would check with the County on that as well. Mayor Burnett requested that the information be provided back to Council in a high priority manner.

### **Vice Mayor Kahler**

The Vice Mayor advised that the Council did go through the Sensys settlement agreement line by line in the Executive Sessions so this Council has read and thoroughly understand the agreement.

She mentioned a limb over Howell Ave. which she has received complaints that it obstructs the traffic light.

## REGULAR COUNCIL MEETING MINUTES – November 2, 2015

The Vice Mayor advised that her historic fact is regarding the Brooksville Telegraph Company established here in 1884 with Frank Saxon as president. The train depot museum has more information on that.

### Mayor Burnett

Mayor Burnett advised that the railroad crossing on M.L.K., Jr., Boulevard is very rough and requested staff contact the railroad company to check on that.

He thanked all for attending and expressed his appreciation for the work that staff does.

### ADJOURNMENT

The meeting adjourned at 9:46 p.m.

  
Acting Deputy City Clerk

Attest:   
Mayor

