

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

November 2, 2009

7:00 P.M.

Brooksville City Council met in regular session with Mayor Joe Bernardini, Vice Mayor Lara Bradburn and Council Members Richard E. Lewis and David Pugh present. Also present were Thomas S. Hogan, Jr., City Attorney; T. Jennene Norman-Vacha, City Manager; Janice L. Peters, City Clerk; Steve Baumgartner, Finance Director; Mike Walker, Parks and Recreation Director; Bill Geiger, Community Development Director; Richard Radacky, Interim Director of Public Works; George Turner, Police Chief and Tim Mossgrove, Fire Chief. Members of the Hernando Today and Hernando Times were also present. Council Member Johnston was absent.

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

**REQUESTS FOR WAIVERS**

**Kiwanis Club of Brooksville – Annual Christmas Parade Fee Waiver**

Consideration of request to partially waive fees in the amount of \$3,822.34 with a commitment from Kiwanis to pay \$1,000 to offset costs to hold the 35<sup>th</sup> Annual Christmas Parade on Saturday, December 12, 2009.

Robert Watts, Committee Chair, addressed Council on behalf of the Kiwanis Club of Brooksville.

**Motion:**

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

**Humane Society of the Nature Coast - 2<sup>nd</sup> Annual Fur Fest**

Consideration of request to waive fees in the amount of \$275 to offset costs to hold the 2nd Annual Fur Fest in Tom Varn Park on Saturday, November 14, 2009.

Emilia Raia, Volunteer Coordinator for the Humane Society of the Nature Coast, addressed Council regarding the waiver and thanked the City of Brooksville for its generosity in letting them use Tom Varn Park. She indicated they are working with Hernando County Animal Services to find homes for homeless pets.

**Motion:**

Motion was made by Council Member Lewis and seconded by Council Member Pugh for approval. Motion carried 4-0.

**CERTIFICATES, PROCLAMATIONS AND PRESENTATIONS**

**American Indian Heritage Month**

Proclamation in honor of American Indian Heritage Month to be presented to the Weida Liguori, representing the Daughters of the American Revolution.

Mayor Bernardini read the proclamation in its entirety and presented it to Weida Liguori, representing the Daughters of the American Revolution.

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CONSENT AGENDA

Minutes

August 25, 2009 Budget Workshop

Department of Public Works Surplus Equipment/Vehicles

Consideration to surplus equipment/vehicles that is no longer of use.

Lift Station Telemetry Equipment Purchase

Consideration of sole-source purchase of telemetry system for the amount of \$37,199 plus shipping and applicable taxes.

Purchase of Rear-loader Garbage Truck

Consideration of the purchase of rear-loader garbage truck via from Florida Sheriffs Association, Association of Counties and Fire Chiefs Association Bid List for an amount not-to-exceed \$178,857.

Motion:

Motion was made by Vice Mayor Bradburn and seconded by Council Member Pugh for approval of Consent Agenda. Motion carried 4-0.

PUBLIC HEARINGS

Entry of Proof of Publication into the Record

Mayor Bernardini called for proof of publication. City Clerk Peters indicated Items F1, F2 & F3 were published on Friday, October 23, 2009, in the Hernando Today legal section of the Tampa Tribune and there is a copy of the affidavits for the record.

Ordinance No. 779 - Burn Permits

Consideration of an ordinance to establish and provide necessary requirements for the process of public burning and fireworks displays.

Fire Chief Mossgrove indicated this to be the second reading of the ordinance and clarified the specifics of the ordinance.

Mayor Bernardini asked for public input; there was none.

Motion:

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

City Clerk Peters read Ordinance No. 779 by title, as follows:

**AN ORDINANCE PROVIDING FOR PERMITS TO BE REQUIRED FOR PUBLIC BURNING AND FIREWORKS DISPLAYS; ESTABLISHING PENALTIES AND FINES; PROVIDING FOR CODIFICATION, CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE.**

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

Council Member Johnston	Abs
Council Member Pugh	Aye
Council Member Lewis	Aye
Vice Mayor Bradburn	Aye
Mayor Bernardini	Aye

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**Ordinance No. 780 - Fire Prevention**

Consideration of an ordinance regulating fire prevention and safety matters affecting the health, safety and welfare city residents.

Fire Chief Mossgrove indicated this to be the second reading of the ordinance.

Mayor Bernardini asked for public input; there was none.

**Motion:**

Motion was made by Council Member Lewis and seconded by Council Member Pugh for approval.

City Clerk Peters read Ordinance No. 780 by title, as follows:

**AN ORDINANCE AMENDING CHAPTER 46 OF THE CODE OF ORDINANCES; AMENDING FIRE CODE STANDARD PUBLICATIONS AND EDITIONS; ADOPTING SPECIFIC REFERENCE MATERIALS; AND PROVIDING FOR CONFLICT, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.**

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

Council Member Lewis	Aye
Council Member Pugh	Aye
Council Member Johnston	Abs
Vice Mayor Bradburn	Aye
Mayor Bernardini	Aye

**Ordinance No. 772 – Municipal Elections Qualifying Fees**

Consideration of an ordinance amending Section 30-6 Qualifying Fees of the Code.

City Attorney Rey indicated this to be the second reading of the ordinance.

Mayor Bernardini asked for public input; there was none.

**Motion:**

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

City Clerk Peters read Ordinance No. 772 by title, as follows:

**AN ORDINANCE AMENDING THE CODE OF THE CITY OF BROOKSVILLE, FLORIDA, and CHAPTER 30, "ELECTIONS;" AMENDING SECTION 30-6 QUALIFYING FEES; PROVIDING FOR CODIFICATION, CONFLICTS, REPEALING, SEVERABILITY AND AN EFFECTIVE DATE.**

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

Council Member Lewis	Nay
Council Member Johnston	Abs
Council Member Pugh	Aye
Vice Mayor Bradburn	Aye
Mayor Bernardini	Aye

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### REGULAR AGENDA

**\*\* Ordinance No. 781 – Innovators Investment Group, LLC Property Re-Zoning**

Consideration of the re-zoning of a 7.76 acre ± parcel of land located north of Cortez Blvd. (S.R. 50), west of Hale Avenue and east of Mildred Avenue to the classification of Planned Development Project (PDP) with a Special Exception Use for a Combined Planned Development - consisting of General Commercial and residential.

Mayor Bernardini read the Quasi-Judicial Hearings procedures into the record.

Those wishing to give testimony rose and were sworn by City Clerk Peters.

Steve Gouldman, City Planner, having been sworn, reviewed the request for rezoning in detail and entered the entire staff report into the record (Attachment A). He stated that the P&Z Commission, at the October 14, 2009, meeting concurred with staff to recommend that City Council approve an ordinance rezoning the property from County OP-PDP, PDP-R, and R1C to a planned development project with a special exception use approval for a combined use PDP consisting of Highway Commercial and Residential uses subject to a list of conditions as laid out in the report and ordinance. He clarified that there is one exception not listed in the staff report concerning the lighting, which will be required to be either directional or full cut off fixtures.

City Attorney Rey indicated Mr. Gouldman is the City Planner and his credentials are on file. Council may recognize and qualify him as an expert either through consensus or motion. Council recognized and qualified him through consensus.

Mayor Bernardini asked for conflicts of interest disclosure or ex parte communications. There were none.

Council Member Lewis asked if it was stipulated with an exception for a future access road when the property was annexed into the City. Mr. Geiger, having been sworn, replied there was no specific provision but would be required for a future redevelopment plan.

City Attorney Rey indicated Mr. Geiger is the Community Development Director and his credentials are on file and Council may recognize and qualify him as an expert either through consensus or motion. Council recognized and qualified him through consensus.

Mike Gaylor, Gaylor Engineering, having been sworn, indicated he is the engineer of record for the project and briefly reviewed the history of the rezoning request.

Council Member Lewis referred to Tract C (residential) fencing and asked if it would conflict with current code at the front of the property to Mildred Avenue. Mr. Geiger clarified that it would be on the Commercial portion of the property only.

Vice Mayor Bradburn thanked Mr. Gaylor for reviewing the Mildred Avenue portion of the rezoning and commended Steve Gouldman for his work on the petition. She pointed out that the Mildred Avenue property “stair steps” so as not to be an aesthetic hindrance. She also supports the landscape buffer, directional lighting and privacy fencing. She reported that the MPO recently passed a long range plan for frontage roads, including the truck route, which conforms to this plan.

Mayor Bernardini asked for public input of intervening parties.

Jeff Werner, of 1031 South Mildred Avenue, having been sworn, expressed concern for the buffer, the building height and setbacks, (which Bill Geiger, having been sworn, clarified) and lighting.

Mayor Bernardini indicated the Board should vote on whether or not to allow Mr. Werner to intervene as a party.

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### Motion:

Motion was made by Vice Mayor Bradburn and seconded by Council Member Pugh to allow the testimony of Jeff Werner as an intervening party. Motion carried 4-0.

Council Member Pugh asked for an explanation of what will happen next should Council approve this Ordinance. Steve Gouldman indicated the next step would be for the petitioner to submit a detailed plan which will be reviewed by staff.

Council Member Pugh indicated he does not support parking off a frontage road and would rather see a connection across the front of the property. His concern is the frontage road being all on one property and not having consideration for another parcel being developed in the future with access. He suggested a cross access agreement instead of a frontage road requirement.

Mr. Gouldman indicated that moving access to the south would encroach on the southeast corner parcel due to the depth and specified it would cause stacking problems with limited distance between State Road 50 and the frontage road.

Council Member Lewis suggested continuing west to east with the access road across Tract A to existing C2 property which is to be redeveloped in the future. His concern is that when the property is developed and a frontage road is constructed, there will never be another frontage road across the other property.

Mr. Geiger clarified that the item before Council is a concept plan. A more detailed plan will be submitted closer to construction of the property. He advised should the southeast corner property be redeveloped first, a shared frontage road on the north end would then be discussed. He assured Council that whenever the tract is redeveloped, a frontage road standard would apply for connectivity and if this project builds first they will be required to provide stub-outs to get to that property.

Vice Mayor Bradburn stated the City was remiss in previous years by not having connectivity in the US 41 area that should have applied. She does not support parking along a frontage road. The County's long range plan is to resume the frontage road program in order to alleviate traffic problems on the major roads. She supports a frontage road in this project as outlined in the conceptual plan that will have connectivity as development occurs.

Mike Gaylor explained the need for parking as proposed since it is a relatively small parcel.

Council Member Lewis supports access off truck by-pass from the westerly corner to the existing property with a stub-out as proposed on the conceptual design.

Council Member Pugh suggested Council needs to have discussion on the frontage road process since the petitioner has the opportunity for a variance that could come before Council. Vice Mayor Bradburn agreed that Council needs a vision for its frontage road system.

### Motion:

Motion was made by Vice Mayor Bradburn and seconded by Council Member Lewis for approval of staff recommendation.

City Clerk Peters read Ordinance No. 781 by title, as follows:

**AN ORDINANCE PROVIDING A ZONING CLASSIFICATION OF PDP (PLANNED DEVELOPMENT PROJECT) WITH A SPECIAL EXCEPTION USE FOR A COMBINED USE PLANNED DEVELOPMENT PROJECT (PDP-CU), CONSISTING OF HIGHWAY COMMERCIAL AND RESIDENTIAL USES FOR CERTAIN REAL PROPERTY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE.**

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

Council Member Johnston	Abs
Council Member Pugh	Aye
Council Member Lewis	Aye
Vice Mayor Bradburn	Aye
Mayor Bernardini	Aye

**Resolution No. 2009-12 to Florida Dept. of Transportation (FDOT) – Annual Christmas Parade Route**

Consideration of approval of resolution supporting annual Kiwanis Christmas Parade route and closing of SR50/Jefferson St. & US41/Broad St., with authorization for Police Chief and Public Works Director to sign FDOT permit application.

Richard Radacky, Interim Public Works Director, addressed Council and pointed out there is also a parade detour route included that was approved by staff.

**Motion:**

Motion was made by Vice Mayor Bradburn and seconded by Council Member Lewis for approval of Resolution No. 2009-12.

Mayor Bernardini asked for public input; there was none.

City Clerk Peters read Resolution No. 2009-12 by title, as follows:

**RESOLUTION OF THE CITY OF BROOKSVILLE, FLORIDA  
SUPPORTING A REQUEST TO CLOSE JEFFERSON STREET  
AND BROAD STREET BETWEEN MAIN STREET AND BELL  
AVENUE IN DOWNTOWN BROOKSVILLE ON DECEMBER 12,  
2009; PROVIDING FOR SEVERABILITY, CONFLICTS AND AN  
EFFECTIVE DATE.**

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

Council Member Pugh	Aye
Council Member Lewis	Aye
Council Member Johnston	Abs
Vice Mayor Bradburn	Aye
Mayor Bernardini	Aye

*A 2-minute break was taken.*

**Enrichment Center/Quarry Project Construction & Occupancy Agreement**

Consideration and approval of proposed agreement.

Mike Walker, Director of Parks, Facilities & Recreation reviewed the proposed agreement.

City Attorney Rey reviewed terms of default as well as the sub-grant agreement between the ECI and the State of Florida as referenced on page 1, lines 36 through 39 and on page 9, lines 1 through 10. She asked that it be attached as part of the agreement. She clarified on page 3, lines 1 through 6, refers to an exhibit of the leased land which is yet to be defined; the only diagram is the facility layout that has been provided to Council. The exhibit of leased land will come later when a survey has been done based on proposed construction plans. She referred to the change in paragraph 2 line 4.

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Concerning the Exhibit, Attorney Joe Mason would agree to the change in paragraph 2 to read “EXHIBIT to be attached hereto”. He recommended the sub-grant agreement not be attached to the subject agreement, the pros and cons of which were discussed. Council consensus was to attach the sub-grant agreement to the subject agreement and record with the City sharing recording costs.

Mayor Bernardini indicated he does not support the term of 40-years and would rather it be 20-years with three (3) 20-year renewal terms. Attorney Mason is opposed to any term under 30-years since long-term financing would not accept anything less than that. He stated that, even though there is no financing involved in this project, investing the funds for a guarantee of only 20-years is a risk.

Mayor Bernardini referred to page 4, line 36 “Common Space” and asked for clarification on “both all public access points”. Attorney Mason explained there are two (2) items; public access points and hallways, walkways and stairwells. It is not double access point which defines as “both this and that” in other words.

Mayor Bernardini referred to page 5, line 26 “Approval of Future Improvements” and suggested approval come before Council (under Consent Agenda) be written into the agreement. Council Member Lewis stated he would expect the City Manager to bring an item of significance before Council pointing out the agreement states “future improvements are subject to prior written approval by the City Manager”. Attorney Mason indicated that change would cause every mundane issue to come before Council. Council Member Pugh pointed out this section refers to expansion of the building and could affect potential growth within the City for DRA and SWFWMD issues. He also noted this section refers to “structural” as defined as load bearing, exterior doors or windows. City Manager Norman-Vacha pointed out current procedures in the City’s Purchasing Policy states an improvement over \$6,000 would come before Council. She suggested changing the language to read “approved by the City Manager within the limits authorized through City Purchasing Policy otherwise to Council approval”.

Council consensus was to change from “City Manager” to “City Council”.

Mayor Bernardini referred to page 6, line 18 and pointed out there is no waiving fees for insurance. Attorney Mason confirmed ECI has insurance that covers rental fees.

Mayor Bernardini referred to page 7, line 15 “Event set up” and clarified that when the City has an event they are responsible for set up, tearing down and clean up; when ECI has an event they would be responsible for the same. Attorney Mason agreed.

Mayor Bernardini referred to the “Premises Maintenance Fund”, and asked if this fund would cover utilities and maintenance for rental to a third party; and if there is no money in the fund then would the cost would be shared by the City and ECI. Attorney Mason confirmed to both and affirmed any agreement can be amended based on changed circumstances should the City no longer be using the facility, which is improbable, and would not be obliged to cover half the cost.

Mayor Bernardini referred to page 10 “Termination for Cause” and suggested a clause for “Termination for No Cause”. Attorney Mason agreed and stated that has been a concern of ECI all along and the intent of this agreement was to insure both parties got along.

Council consensus noted two (2) changes to the agreement; number 2, page 3 “ECI and City agreement to be attached here unto” and page 5 (H) change the “City Council” from “City Manager”.

Attorney Mason noted the documents to come before Council for signatures will have two (2) non-material, non-subject changes in it; the paragraph numbering will be taken off and there will be notarization added at the end since the agreement will be a recorded document.

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### **Motion:**

Motion was made by Council Member Lewis and seconded by Council Member Pugh for approval with stated changes.

Council Member Lewis reported this agreement first came before Council on November 17, 2008 and was completed in approximately one (1) year.

For the record, Mayor Bernardini stated he is opposed to the 40-year agreement.

Nick Morana indicated the Enrichment Center will provide the shovels for the ground-breaking.

Motion carried 4-0.

### **CITIZEN INPUT**

Mayor Bernardini asked for public input.

Walter Reid stated his concern with a tree over a house on MLK Boulevard. Vice Mayor Bradburn indicated the tree is on private property which is in foreclosure and the bank has asked that the City not intervene until they finish their legal process.

#### Sidewalks

Mr. Reid stated his concern for lack of sidewalks from Mitchell Road to US41. Mayor Bernardini suggested Mr. Reid meet with Mr. Geiger to address his concern.

#### Red Light Cameras

Mr. Reid suggested red light cameras be installed at US41 and SR50 and felt the current cameras at Martin Luther King Boulevard to be a trap for senior citizens on fixed income who cannot afford the tickets.

### **ITEMS BY COUNCIL**

#### **Lara Bradburn, Vice Mayor**

##### Sidewalk

She indicated Jefferson Street sidewalks do not connect to Rooster's Café and suggested that be put into the sidewalk plan. Council Member Pugh and Mayor Bernardini supported installing ten (10) feet of sidewalk at that location.

#### **Joe Bernardini, Mayor**

##### Code Enforcement at Dryden Place

He asked when this property will be addressed by Code Enforcement since it attracts vagrants and crime. City Manager Norman-Vacha indicated staff has taken a number of steps and in the process of addressing it further will bring to Council in the near future. Bill Geiger stated USDA is foreclosing on the property and if the process is expedited the City will be able to address it sooner. He indicated there is an adjacent property owner that is interested in making renovations.

##### Impact Fees

Mayor Bernardini asked if the City's Impact Fees would be reduced based on County action. City Manager Norman-Vacha indicated staff has been discussing the issue and it will be brought to the next Council meeting for discussion. There are several legal documents between the City and County that need to be analyzed to formulate where the City could be impacted. The County Commissioners will be meeting on November 10, 2009 to discuss. Vice Mayor Bradburn pointed out the City adopted the County's rate schedule but not as authority over changing the City's rates. City Attorney Rey stated the structure of the agreement will have to be looked at for other terms and

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conditions that address this sort of situation. Mr. Geiger specified he was notified by the County today of the proposed change. His recollection of the inter-local agreements was that the City chose to opt into the County Impact Fees when they were introduced initially. The agreements would have to be updated to address current day and time issues unless the City were to set up its own fees. He indicated the fees would be lower due to less roads and lower infrastructure cost in the City.

Vice Mayor Bradburn stated there is no empirical data justifying the County lower the fees in order to have a positive impact on the economy. The facts of the data show building infrastructure, which is funded by Impact Fees, improves the economy. She would welcome the County presenting Council with data to justify lowering the fees. City Manager Norman-Vacha stated the City has an ordinance to follow the County's adopted rate structure but the inter-local agreement will have to be studied further. The County will put in place formal documents sometime in December and Council would determine whether to remain in the current relationship with the County or spend dollars for methodology and justification through a separate study. Vice Mayor Bradburn verified this study would be quite expensive and the City would not be able to afford the cost. She asked for the City Manager and Director Geiger to attend the meetings and voice the City's concern over this issue to the County Commission as to how it will affect the other entities.

Mayor Bernardini indicated he does not support lowering the Impact Fees. Council Member Pugh suggested sending a letter from Council signed by the Mayor addressing the issues and ask that it be read into the record. City Manager Norman-Vacha indicated staff will draft a letter, with copies to each Council member, for the Mayor to sign asking that it be formally read into the record.

### Walk with the Mayor

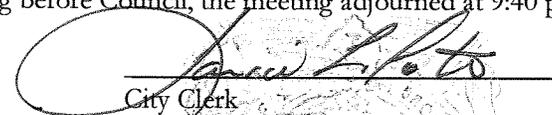
Mayor Bernardini indicated the walk on December 5, 2009, at 8:00 a.m. at Tom Varn Park is for Breast Cancer/Cancer Research and read the Mayoral Pancreatic Cancer Proclamation in its entirety.

## ADJOURNMENT

There being no further business to bring before Council, the meeting adjourned at 9:40 p.m.

Attest:

  
\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
City Clerk

