

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

August 15, 2011

6:00 P.M.

Brooksville City Council met in regular session with Mayor Frankie Burnett, Vice Mayor Joseph E. Johnston, III, Council Members Joe Bernardini and Lara Bradburn 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.

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

Mayor Burnett announced the Executive Session and the regular Council meeting was adjourned.

EXECUTIVE SESSION PURSUANT TO F.S. CHAPTER 286.011

Attending the meeting were Frankie Burnett, Mayor; Joe Johnston, Vice Mayor; Council Members Joe Bernardini and Lara Bradburn; Attorney's for the City of Brooksville, Thomas S. Hogan, Jr., Debbie Hogan and Jennifer Rey; City Manager, T. Jennene Norman-Vacha; and court reporter C. Gail Donato of Carolyn F. Engle & Associates. The meeting was expected to last approximately sixty minutes.

The regular Council meeting reconvened at 7:00 pm.

Temporary Appointment of Council Member to fill Seat #4

Selection and appointment of Council Member.

Mayor Burnett stated Council must establish the process of selection and recommended two (2) rounds of voting; first to pick top three (3) candidates and then to select the final candidate from the top three (3).

City Manager Norman-Vacha explained at the last meeting there was nothing decisive on the process and discussion was each Council Member vote to select a first person and also about narrowing the vote down to a final candidate. An interview would only be done should there be a tie vote.

City Attorney Hogan stated the ordinance allows Council to establish procedures by consensus.

Consensus was to check three (3) choices and in the case of a tie to keep voting until the tie is broken.

The first round produced a three-way tie between Robert Battista, Kevin Hohn and Darren McKethan.

The second round produced a two-way tie between Robert Battista and Kevin Hohn.

APPROVED BY BROOKSVILLE
CITY COUNCIL
ON 12/5/11 INITIALS R

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Council Member Bradburn thanked all candidates for their interest in applying for the vacant Council seat. She advised she supports Mr. Hohn because he has a broad eclectic background on both private and public sector, has overseen hundreds of employees and managed millions of dollars in budgets. He has a firm grasp of law enforcement perspective by helping to successfully prosecute members of the Mafia who were delinquent on their taxes, successfully. She felt he has a good grasp on what it takes to make payroll, to pay bills and meet obligations and also felt he would continue with the progress Council has made in the past few years, but with a new perspective. She felt Robert Battista, with 6-years experience as the City Attorney and his experience in Citrus County has helped him grow personally and professionally, which is why supported him to serve as a member of the Planning and Zoning Board. But, the City is in a mode of progress, which she would like to see continue and is the reason she supports Kevin Hohn.

Council Member Bernardini stated he has never met Mr. Hohn but felt his resume was impressive. He supported Mr. Battista because he served as the City Attorney, County Attorney, he lives in the City of Brooksville and his wife worked for the City in the past. He has shown commitment by attending meetings and has been involved in the community. He pointed out the other applicants have not shown an interest in volunteering on one of the City's advisory boards.

Vice Mayor Johnston reiterated Council Member Bernardini's comments in support of Mr. Battista due to his background in government. Although he felt Mr. Hohn's background in the private sector was impressive he would prefer service in government prior to serving on Council.

Mayor Burnett supported Mr. Hohn because he felt he shares his vision for the future of the City.

The third round again produced a two-way tie between Robert Battista and Kevin Hohn.

Motion:

Motion was made by Vice Mayor Johnston and seconded by Council Member Bernardini for approval to add an item to the agenda to set a procedure on a tie-breaker. Motion carried 3-1 with Council Member Bradburn voting in opposition.

Discussion continued of options. All were in favor of a special meeting to interview the two (2) finalists with a five (5) to ten (10) minute presentation from each on Monday, August 22nd at 7:00 p.m. The Hogan Law Firm will provide other options in case of a tie breaker.

CERTIFICATES, PROCLAMATIONS AND PRESENTATIONS

Proclamation Phoenix Gun Range

Consideration of a proclamation in recognition of Phoenix Gun Range and their contributions to the City of Brooksville Police Department.

Mayor Burnett read the proclamation in its entirety to be presented to the club in November by Chief Turner.

Proclamation – National Preparedness Month

Consideration of a proclamation designation the month of September as National Preparedness Month.

Vice Mayor Johnston read the proclamation in its entirety and presented it to Chief Mossgrove.

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Great Brooksvillian Selection

Review and selection of nominations for the 2010 award nominees as recommended by the Screening Committee.

Screening Committee Chair John Tucker briefly reviewed the recommendation of Dorothy Mason after introducing the committee members that were present.

Council Member Bradburn elaborated on the committee's recommendation in support of Ms. Mason.

Motion:

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

CITIZEN INPUT

Mayor Burnett asked for public input.

Christina Marie Tucci stated she would like to relocate her hot dog wagon near Coney Island but she does not have the money to pay the \$100 fee.

CONSENT AGENDA

Minutes

August 24, 2010 Special Meeting
May 16, 2011 Regular Meeting
June 6, 2011 Regular Meeting
June 20, 2011 Regular Meeting

Award of PD Parking Lot and Impound Lot Paving Bid No. PR2011-11

Consideration of award of bid to B.R.W. Contracting, Inc., for the not-to-exceed amount of \$47,424.

Cemetery Mower Purchase and Budget Amendment

Consideration for purchase of one (1) mower for the Cemetery for the not-to-exceed price of \$5,263.80 and approval of budget amendment.

Motion:

Motion was made by Council Member Bradburn and seconded by Vice Mayor Johnston for approval of the Consent Agenda. Motion carried 3-1 with Council Member Bernardini voting in opposition.

PUBLIC HEARINGS

Entry of Proof of Publication into the Record

Mayor Burnett called for proof of publication. City Clerk Peters indicated Items H1 and H2 were published on Friday, August 5, 2011, in the Hernando Today legal section of the Tampa Tribune and there is a copy of the affidavits for the record.

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Ordinance No. 821 – Firearms Code Change

Consideration of approval of an Ordinance setting forth guidelines and criteria to implement the tax exemption referendum included on the August 2010 Primary Election Ballot.

[First Reading 08/01/11]

City Attorney Jennifer Rey stated this ordinance is being revised to remove any potential violations to the State Statute Firearms Regulations.

Vice Mayor Johnston pointed out the dates on page 2 of 2 of the ordinance need to be changed from “Passed on First Reading October 1st and Notice Published on October 5th” to “August 1st and August 5th”.

Mayor Burnett asked for public input; there was none.

Motion:

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

City Clerk Peters read Ordinance No. 821 by title, as follows:

AN ORDINANCE AMENDING THE CODE OF THE CITY OF BROOKSVILLE, FLORIDA, CHAPTER 22, “CIVIL EMERGENCIES,” AMENDING ARTICLE II SECTION 36; PROVIDING FOR CODIFICATION, CONFLICTS, REPEALING, SEVERABILITY AND AN EFFECTIVE DATE.

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

Council Member Bernardini	Aye
Council Member Bradburn	Aye
Vice Mayor Johnston	Aye
Mayor Burnett	Aye

Ordinance No. 822 – Encore Construction Company

Consideration of contract amendment with Encore Construction Company, for water reuse storage and transmission at the Cobb Road Water Reuse Facility.

[First Reading 08/01/11]

City Attorney Jennifer Rey stated this ordinance addresses the statutory foundations for proceeding in negotiating a contract with Encore Construction Company.

Mayor Burnett asked for public input; there was none.

Motion:

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

City Clerk Peters read Ordinance No. 822 by title, as follows:

AN ORDINANCE OF THE CITY OF BROOKSVILLE, FLORIDA, AUTHORIZNG A CONTRACT AWARD TO ENCORE CONSTRUCTION COMPANY WITHOUT COMPETITIVE

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SELECTION FOR THE COMPLETION OF THE WATER REUSE FACILITY; ESTABLISHING CRITERIA FOR THE AWARD; PROVIDING FOR SEVERABILITY, CONFLICTS, REPEAL, AND CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

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

Council Member Bradburn	Aye
Council Member Bernardini	Nay (for reasons stated at the last meeting)
Vice Mayor Johnston	Aye
Mayor Burnett	Aye

REGULAR AGENDA

Ordinance No. 823 – Florida Department of Environmental Protection Permit Requirements

Consideration of ordinance establishing the legal authority and adopting an ordinance that meets the requirements of National Pollutant Discharge Elimination System and MS4 permit for the City of Brooksville for compliance with FDEP.

Director of Public Works Richard Radacky introduced Jon Dowler who reviewed the ordinance.

Public Works Project Coordinator Jon Dowler stated the Clean Water Act was enacted by Congress in the 1970's and implemented by the U.S. Environmental Protection Agency to improve surface waters to swimmable and fishable conditions and included addressing storm water discharge into lakes, streams and estuaries developed as the National Pollutant Discharge Elimination System (NPDES). The Florida Department of Environmental Protection (FDEP) was empowered through delegation to enforce the EPA rules. Originally a permit was required for larger municipalities until 2003 when smaller jurisdictions were also required to obtain permit coverage. Brooksville was issued a permit from FDEP on August 2, 2004 that was renewed on August 18, 2010. FDEP conducted an audit on April 4, 2011 and directed Brooksville to meet minimum control measures and adopt an ordinance to establish legal authority to prohibit and enforce illicit discharges to the City's storm water system. Staff is currently evaluating the City's storm water management plan by implementing minimum control measures such as public education, staff training, street sweeping and debris removal to meet the NPDES permit requirements.

Council Member Bradburn asked for the reason the City does not satisfy storm water requirements. Mr. Dowler explained the City cannot enforce any of the rules without an ordinance in place. Public Works Director Radacky further explained there have been no records kept on violations because the City has had no legal authority for enforcement. He indicated the NPDES program is on the City's website for public information.

Council Member Bradburn expressed her concern of illicit discharges that have clogged swales and ditches throughout the City. Mr. Dowler explained Streets staff is being trained to recognize illicit discharges and are documenting them for cleaning and maintenance. He indicated approximately 30% of storm water drains are mapped by GIS. Council Member Bradburn stated Southwest Florida Water Management District has more detailed maps of the City's storm water system.

Public Works Director Radacky indicated the City has a construction policy in place for erosion control in conjunction with the NPDES program. Mr. Dowler explained silt fences and debris from residential construction commonly ends up on an adjacent property and this ordinance will allow the City to legally enforce this issue.

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Vice Mayor Johnston confirmed with Mr. Dowler this program includes all governmental entities, not just municipalities.

City Attorney Rey noted Section 11; Exemptions; letter A; numbers 18 and 21 are duplicative and number 21 should be stricken.

Motion:

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

City Clerk Peters read Ordinance No. 823 by title, as follows:

AN ORDINANCE PROVIDING FOR DEFINITIONS; RELATING TO THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS; PROVIDING FOR CONTROL OF STORMWATER DISCHARGES; PROVIDING FOR THE PROHIBITION OF ILLICIT DISCHARGES AND ILLICIT CONNECTIONS; PROVIDING FOR RIGHT OF ENTRY, INSPECTION, MONITORING, AND MAINTENANCE OF THE SYSTEM; PROVIDING FOR EXEMPTIONS; 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 Bradburn	Aye
Council Member Bernardini	Aye
Vice Mayor Johnston	Aye
Mayor Burnett	Aye

Ordinance No. 824 – Competitive Bidding and Purchasing

Consideration of an ordinance amending Chapter 2 of the City's Code.

Director of Finance Steve Baumgartner reviewed, stating competitive bidding limits are being changed from \$6,000 to \$20,000 to coincide with other municipalities. He confirmed the emergency purchasing limit is being increased from \$15,000 to \$50,000.

Council Member Bernardini did not support an increase in spending limits because then Council is not fully aware of expenditures. He felt this to be an exorbitant increase.

Council Member Bradburn felt the increase will alleviate loss of cost-saving opportunities. She also felt although emergency purchasing does not happen often, the increase will give better flexibility.

Vice Mayor Johnston felt the increase is more in line with today's costs and provides more staff efficiency. Although he agreed with Council Member Bernardini's concerns with raising the limits he felt that he could trust staff with doing the right thing.

Motion:

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

City Clerk Peters read Ordinance No. 824 by title, as follows:

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AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF BROOKSVILLE, FLORIDA, CHAPTER 2 ADMINISTRATION, AMENDING ARTICLE VI FINANCE, SECTION 2-303 “EMERGENCY PURCHASES AND DECLARATION PROCEDURE” AND SECTION 2-304 “COMPETITIVE BIDDING”; PROVIDING FOR EXPENDITURE AUTHORITY AND LIMITATIONS; PROVIDING FOR CODIFICATION, CONFLICTS, REPEALING, SEVERABILITY AND EFFECTIVE DATE.

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

Council Member Bernardini	Nay
Council Member Bradburn	Aye
Vice Mayor Johnston	Aye
Mayor Burnett	Aye

Resolution No. 2011-05 – E. Fort Dade Post Office

Consideration of a resolution in opposition of closing the Post Office at 207 E. Fort Dade Avenue.

City Clerk Janice Peters stated that because efforts to cut costs of the United States Postal Service has issued a list of additional 2,000 post offices scheduled to close that are operating in a deficit, including the downtown Brooksville post office. Upon approval, this resolution will be mailed to the office of the Inspector General in Arlington, Virginia as well as elected officials representing Brooksville and Hernando County.

Council Member Bradburn suggested an enclosure letter from the Mayor stressing that Brooksville is the County Seat in the midst of revitalization efforts and it is vital to have a post office downtown for those efforts. She advised if the post office is not operating as efficiently as it once did it is because they have mandated that most of the business entities move their business outside City to the truck route.

Mayor Burnett encouraged citizens to express their interest for keeping the post office open.

Motion:

Motion was made by Vice Mayor Johnston and seconded by Council Member Bernardini for approval of Resolution No. 2011-05.

Mayor Burnett asked for public input.

City Clerk Peters read Resolution No. 2011-05 by title, as follows:

A RESOLUTION OF THE CITY OF BROOKSVILLE, FLORIDA, OPPOSING AND PROTESTING THE CLOSURE OF THE POST OFFICE LOCATED AT 207 E. FORT DADE AVENUE, BROOKSVILLE, FLORIDA 34601.

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

Council Member Bradburn	Aye
Council Member Bernardini	Aye
Vice Mayor Johnston	Aye
Mayor Burnett	Aye

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Resolution No. 2011-06 – Public Records Costs

Consideration of a resolution amending the City's copy charges/processes to comply with the updated Chapter 119 of the Florida Statutes.

City Clerk Janice Peters stated this resolution is to revise Resolution Number 2007-12 in accordance with statutory and interpretive changes.

Motion:

Motion was made by Council Member Bradburn and seconded by Vice Mayor Johnston for approval of Resolution No. 2011-06.

Mayor Burnett asked for public input.

City Clerk Peters read Resolution No. 2011-06 by title, as follows:

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
BROOKSVILLE, REPEALING & RESTATING CHARGES TO BE
ASSESSED AND COLLECTED FOR COPIES OF PUBLIC RECORDS;
AND PROVIDING AN EFFECTIVE DATE.**

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

Council Member Bernardini	Aye
Council Member Bradburn	Aye
Vice Mayor Johnston	Aye
Mayor Burnett	Aye

Encore Construction Company (ECC) Amended and Restated Agreement

Consideration of amended and restated agreement with ECC for the price of \$3,177,000.

Director of Public Works Richard Radacky reviewed the amendments.

Council Member Bernardini asked if painting and electrical would still need to be done. Utilities Superintendent Will Smith stated the electrical plan has been revised and the price was reduced by \$108,000. He advised the facility needs to be painted every two (2) or three (3) years. Council Member Bradburn felt priming the surface and treating appropriately would give a lifetime guarantee on the paint. She also felt the price could be further negotiated at a lesser cost because of the economy. Public Works Director Radacky felt it was a fair price. He expressed concern that the Southwest Florida Water Management District grant money of \$1 million dollars will be lost if the project does not move forward soon.

Motion:

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

Attorney John Grandoff asked when the Southwest Florida Water Management District grant expires. City Manager Norman-Vacha stated it expires April 2012.

Attorney Grandoff asked what the source of the funds is for the remaining amount. City Manager Norman-Vacha replied \$1 million dollars from connection fees for utilities and distribution system in addition to the grant amount of \$1.135 million dollars and bond settlement funds.

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Attorney Grandoff confirmed with City Manager Norman-Vacha that the Southwest Florida Water Management District funds will be spent on the project before April 2012 when the grant expires.

Attorney Grandoff asked how this project is prioritized among other Public Works projects throughout the City. City Manager Norman-Vacha explained this project was scheduled to be completed by the developer of Southern Hills Plantation and since the bankruptcy the City has taken on the role of developer and collected on the bonds to complete the project.

Motion carried 3-1 with Council Member Bernardini voting in opposition.

Southern Hills Plantation (SHP) Development Project

Status update on incomplete infrastructure and maintenance issues and recommended priorities in utilizing bond proceeds.

Director of Community Development Bill Geiger reviewed the project status update for outstanding maintenance and work to be done within the Southern Hills Plantation subdivision. He entered the staff report into the record as if it were read (Attachment A).

He stated the first and second phase's infrastructure has been completed but there are some maintenance issues with asphalt on Southern Hills Boulevard and felt it could be resolved by resurfacing problem areas.

He indicated the third phase infrastructure is nearly complete; a second lift of asphalt needs to be added and some common area sidewalks need to be installed.

He then reviewed the final phase; it has been platted but no improvements have been done to date. There was a construction cost estimate of approximately \$800,000 to complete the infrastructure in this phase of the project. He indicated construction plans were submitted for permitting but he was uncertain of the final status on the permits.

Next, he addressed Real Tree Lane in Phase 3 and stated it is an eight hundred forty (840) linear foot planned road that has not yet been constructed and indicated Mr. Holliday and Mr. Buckner own lots that front on either side of this future road.

He indicated that as a result of a meeting last week with the owners of GreenPointe Communities, LLC and the engineer of record Coastal Engineering, they committed to providing a cost analysis to the City on the deficiencies that exist in the different phases and then staff will be able to prioritize projects. He suggested a public/private partnership agreement with GreenPointe Communities, LLC to complete the improvements.

He stated there are high priorities staff would be putting forth to City Council for consideration; upgrading the wastewater treatment plant to reuse capacity due to a grant funding deadline of April 2012 and infrastructure for the final phase. He pointed out the City has been looking to provide reuse water not only to Southern Hills Plantation but to other potential customers.

Mayor Burnett agreed with the priorities set forth by Director Geiger.

Attorney Hogan advised staff needs direction on how to proceed as developer of this project; either hire a general contractor or pursue a private/public partnership with GreenPointe as the project manager. He reminded Council adopted a resolution on August 24, 2010 giving staff some direction on how to proceed with the project.

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Council Member Bradburn stated that issues with this project has been ongoing for many years and will not be resolved in short term but the goal has always been to see Southern Hills Plantation prosper. She agreed a cost analysis would be needed in order to adequately set priorities and should be done quickly.

Vice Mayor Johnston asked as the developer, is the City considered the Board of Directors of the Community Development District? Attorney Rey replied that as subsequent owner, GreenPointe is representing the Community Development District.

Vice Mayor Johnston stated the priorities are set, next is getting the cost analysis then preferred partnering with GreenPointe if that is the most cost effective approach to getting the project done. Council concurred.

Attorney Grandoff, representing the Hollidays and SunTrust Bank, asked Council to prioritize construction of Real Tree Lane ahead of the wastewater treatment plant in accordance with the resolution adopted on August 24, 2010 and referenced bond number 82133490 in the amount of \$996,000, which was placed by the developer for the construction of Real Tree Lane.

Attorney Hogan stated the funds from the proceeds are in the City's Utility Account and the process of building the road is underway.

Attorney Grandoff asked Attorney Hogan and City Manager Norman-Vacha when the Real Tree Lane project will commence. They both replied an exact date cannot be given this evening.

Attorney Grandoff, on behalf of his client Mr. Holliday, asked that the funds be segregated so as to be spent only for construction of this road. Attorney Hogan stated there is no procedure under the City Finance Policy that mandates funds be segregated as requested but assured that the process towards building the road are underway and the road will be built. City Manager Norman-Vacha concurred.

Request to be heard by John B. Grandoff, III on behalf of James W. Holliday

Item was withdrawn.

CITIZEN INPUT

Mayor Burnett asked for public input.

Kojack Burnett asked has the issue with Christina's Hot Dog Cart \$100 fee been resolved and stated he would donate \$25. Mayor Burnett replied Council sets policies that staff has to enforce and must treat people equally.

ITEMS BY COUNCIL

T. Jennene Norman-Vacha, City Manager

Leadership Hernando Government Day

City Manager Norman-Vacha announced this Thursday, August 18th is Leadership Hernando Government Day.

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Upcoming Council Meetings

She reminded Council of their next meetings on August 22nd at 7:00 p.m. and August 23rd Budget Workshop.

Joe Bernardini, Council Member

Mowing of right-of-ways

Council Member Bernardini pointed out the City needs to maintain mowing of the right-of-ways. Mike Walker indicated there were no inmate crews available for mowing last week. Mayor Burnett requested the mowing be done by Monday before the start of school.

Joe Johnston, Vice Mayor

Red Light Runners

Vice Mayor Johnston stated he has not seen any red light runners lately.

Wastewater Runoff

He asked are most of the storm drains cleaned out that were filled with dirt; in front of the old City Hall building, at the corner of Bell Street and Fort Dade Avenue, and one or two (2) going down Liberty Street. Public Works Director Radacky stated he would look into the status of the cleaning tomorrow.

Walk Signal Countdown Timers

He asked for the status on installing countdown timers on the one-way streets. Public Works Director Radacky stated he has informed the County of the request.

Council Member Bernardini pointed out the countdown timer near Golden Corral does not work properly all of the time.

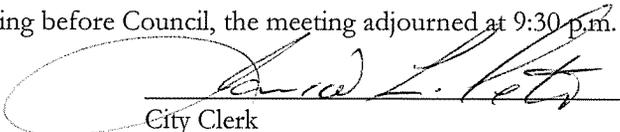
Council Member Bradburn indicated the light timing for turn lanes on US41 heading south seem to be changing more rapidly lately. Public Works Director Radacky stated he was not aware that has been changed but would check with the County.

Frankie Burnett, Mayor

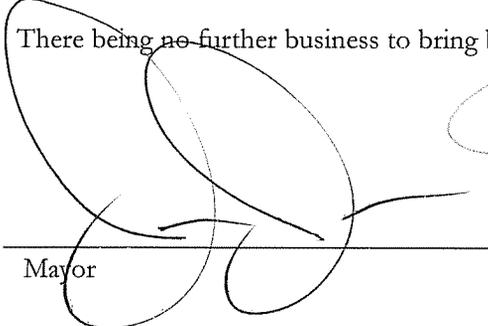
Mayor Burnett thanked City staff and Council Members for their dedication and hard work.

ADJOURNMENT

There being no further business to bring before Council, the meeting adjourned at 9:30 p.m.


City Clerk

Attest:


Mayor





**AGENDA ITEM
MEMORANDUM**

TO: HONORABLE MAYOR AND CITY COUNCIL

VIA: T. JENNENE NORMAN-VACHA 
CITY MANAGER

FROM: BILL GEIGER, COMMUNITY DEVELOPMENT DIRECTOR & 
JENNIFER REY, THE HOGAN LAW FIRM, LLC, AS CITY ATTORNEY

SUBJECT: SOUTHERN HILLS PLANTATION DEVELOPMENT PROJECT -
STATUS UPDATE ON INCOMPLETE INFRASTRUCTURE AND
MAINTENANCE ISSUES.

DATE: AUGUST 9, 2011

GENERAL SUMMARY: At the August 1, 2011 meeting, City Council requested staff to provide information on the status of uncompleted improvements and maintenance issues that remain within the Southern Hills Plantation subdivision.

Resolution No. 2010-14, adopted by the City Council on August 24, 2010, provides a policy statement establishing commitments related to the Southern Hills Plantation (SHP) development project. The Resolution further outlines the bonds involved with the project. Specifically, bonds associated with the SHP project were intended to secure the completion of infrastructure obligations associated with the project, including the Cobb Road Wastewater Reclamation Facility (Cobb Road WRF), SHP Phase One (which includes Southern Hills Boulevard), SHP Phase Two/Two A, SHP Phase Three and SHP Phase Three A-1.

The following is a summary of the status of improvements which were secured by particular bonds:

- **Cobb Road Water Reuse Facility (WRF).** Bond No. 82036733 was posted in the original amount of \$7,821,600.00 which was subsequently reduced to \$7,331,253.60. Distribution lines and retention ponds have been installed or constructed. However, the distribution lines do not connect to the plant or the retention ponds. Certain equipment valued at \$1,387,976 has been purchased and is in storage in various places. Construction at the plant and the installation of the equipment for reuse capabilities has not occurred.
- **Phase One.** Phase One includes 287 residential lots on 224.011 acres. Bond No. 104332127 was originally posted in the amount of \$19,757,345.00 and was subsequently reduced to \$6,038,718.60 based on partial completion of improvements. Phase One infrastructure is complete; however, the bond amount was not further reduced by the Developer to reflect the completed improvements. There are outstanding warranty issues regarding road base failures in several areas along Southern Hills Boulevard (public access portion) and interior private roadways within Phase One. Approximately 60 homes have been constructed in Phase One.

- **Phase Two/Phase Two A.** Phase Two/Phase Two A includes 398 residential lots on 354.66 acres. Bond No. 10455710 was posted in the amount of \$9,587,962.00. Bond No. 10455710 was subsequently released and replaced with maintenance Bond No. 82133509, in the amount of \$592,486.70. Phase Two/Two A infrastructure is complete; however, there are outstanding warranty issues regarding road base failures in several areas along interior private roadways within Phase Two/Two A. Approximately 10 homes have been constructed in Phase Two/Two A.

- **Phase Three.** Phase Three includes 115 residential lots on approximately 86 acres. Bond No. 104720158 was posted in amount of \$5,181,847.50. Phase Three infrastructure is in a partial state of completion; however, the bond amount was never reduced by the developer to reflect the completed improvements. Roads are constructed and utility lines are installed; however, a final lift of asphalt is still needed on a percentage of the interior private road surfaces, and sidewalks have not been installed along common areas. Approximately 61 lots have been conveyed and 1 home has been constructed.

- **Phase Three A-1.** Phase Three A-1 includes 13 lots on 33.5 acres. Bond No. 82133490 was posted in the amount of \$996,192.13. No infrastructure has been installed to date. Status of construction plan preparation and permitting (FDEP, SWFWMD, etc.) is currently unknown. In 2007, the estimated cost for infrastructure improvements (including roadway/earthwork, storm drainage, water distribution, reclaimed water distribution and sanitary sewer) for this phase was \$796,953.70. This is the only phase that requires full road construction (Real Tree Lane/840+/- LF & an extension of Summit View Drive/964+/- LF). At least three lots have been conveyed; however, no homes have been constructed.

In the matter of Travelers, Chubb & Duke Energy, the net bond settlement of \$2,625,000 was received by the City at or around June 23, 2011. The following is the tentative action plan for addressing required improvements:

1. Establish a direct contract between the City and the Cobb Road WRF contractor (Encore) and negotiate a change order for a reduced scope of work to improve the Cobb Road WRF to the extent that the city will be able to provide re-use water to end-customers. Under the *Cooperative Funding Agreement*, the City has been reimbursed in the amount of \$1,238,295.26 by SWFWMD for certain improvements for the Cobb Road Plant Reclamation and Reuse Capacity which have been completed; an additional \$1,354,453 is potentially available under the remaining grant funds.

2. Meet with representatives from Greenpointe Communities, LLC, and the Engineer-of-Record (EOR) for the Southern Hills Plantation project. The purpose in meeting with these entities will be to obtain more detailed information concerning existing maintenance issues, the status of plans for Phase 3A-1 (plans, permits, etc.) and to obtain engineering cost estimates to address the full cost of repair and installation of infrastructure (including engineering design, permitting and construction phase management). Additionally, the City anticipates that it may be able to coordinate with these entities to effect some or all of the improvements associated with the Southern Hills Plantation development project in a manner similar to the recent improvements that were completed in the Cascades at Southern Hills Phase One subdivision. If the City cannot obtain the noted information from Greenpointe Communities or the EOR, an independent engineer may need to be retained to evaluate the project and provide cost estimates to address the necessary improvements.

3. Once the City obtains the cost information to address maintenance items and new construction required for the Cobb Road WRF and for each phase of the Southern Hills Plantation development project, a priority list and timeline to complete the project(s) may be prepared and brought back to the City Council for consideration.

At this time it would appear that the best course of action would be to proceed with the construction and upgrade of the Cobb Road WRF to leverage currently approved SWFWMD funds with City funds allocated for that project. Priority should also be given to the construction of SHP Phase Three A-1 infrastructure to provide infrastructure/services to the lots located within that platted area. The bond proceeds are expected to adequately fund the completion of these two priorities. The balance of funds remaining from the bond proceeds after these two priorities are completed should be allocated to address maintenance issues associated with Southern Hills Boulevard and SHP Phases One, Two/Two A and Three.

BUDGET IMPACT: The budget impact for completing improvements and maintenance issues within the Southern Hills Plantation development is unknown at this time as final costs-to-complete or costs-to-repair have not yet been ascertained and the specific allocation of available funding from bond settlement proceeds and available grant dollars has not yet been determined. Subsequent Budget Amendments may be necessary with future direction to Staff from City Council.

LEGAL NOTE: The City Council has home-rule authority (Article VIII, 2(b), Florida Constitution, Section 166.011, Florida Statutes) to consider fiscal matters and to establish priorities for construction projects.

STAFF RECOMMENDATION: This is a status report on deficiencies that remain within the Southern Hills Plantation subdivision/development project. Authorization from City Council is requested for staff to move forward in coordinating with Greenpointe Communities, LLC and the Engineer of Record to obtain current engineering cost estimates for each of the areas/phases requiring maintenance or construction as identified within this report. Once the estimated costs have been determined, a priority list and timeline to complete the project(s) may be prepared and brought back to the City Council for consideration. As stated earlier in this report, staff recommends that the Cobb Road WRF and Phase Three A-1 infrastructure installation be given high priority in the timeline for completion.

ATTACHMENTS:

1. Resolution No. 2010-14
2. SHP Project Map
3. Phase Three A-1

RESOLUTION NO: 2010-14

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BROOKSVILLE, FLORIDA, ADOPTING A POLICY STATEMENT AND ESTABLISHING COMMITMENTS RELATED TO SOUTHERN HILLS PLANTATION PLANNED DEVELOPMENT PROJECT; DIRECTING STAFF TO MAKE DEMAND ON SURETY BONDS; PROVIDING FOR USE OF BOND PROCEEDS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Brooksville granted certain approvals to establish and authorize a planned development project, more commonly known as Southern Hills Plantation Planned Development Project (the PROJECT); and,

WHEREAS, the City, Hampton Ridge Developers, LLC, LandMar Group, LLC, and LandMar Management, LLC entered into a development agreement dated May 28, 2003, and titled *City of Brooksville Florida Development Agreement for Hampton Ridge Project* (the DEVELOPMENT AGREEMENT) which is recorded in the public record at Book 1855 Page 1059; and,

WHEREAS, the Development Agreement requires Hampton Ridge Developers, LLC, LandMar Group, LLC, and LandMar Management, LLC (collectively, the DEVELOPER) to provide various public facilities including potable water, sanitary sewer capacity and service, over-sizing of certain utility lines, transportation system requirements, reservation of property for a school, and other public facilities; and,

WHEREAS, the Development Agreement was subsequently amended by the *First Amendment to the City of Brooksville Florida Development Agreement for Hampton Ridge Project* (the FIRST AMENDMENT) dated October 18, 2004, and recorded in the public record at Book 1916 Page 1719 and by the *Second Amendment to the City of Brooksville Florida Development Agreement for Hampton Ridge Project* (the SECOND AMENDMENT) dated November 29, 2004, and recorded in the official public record at Book 1938 Page 1758 and by the *Third Amendment to the City of Brooksville, Florida Development Agreement for Hampton Ridge Project* (the THIRD AMENDMENT) dated May 5, 2008 and recorded in the official public record book at Book 2565 Page 508; and,

WHEREAS, the City and Hampton Ridge Developers, LLC entered into that certain *Agreement Between the City of Brooksville and Hampton Ridge Developers, LLC to facilitate Cooperative Funding Provided by the Southwest Florida Water Management District for the Construction of Reclaimed Water Storage, Pumping, Transmission and Distribution Systems*, (the SUPPLEMENTAL AGREEMENT), dated May 17, 2004, and amended on July 12, 2005, which is recorded in the public record at Book 1870 Page 1517 to 1524; and,

WHEREAS, the City and Hampton Ridge Developers, LLC subsequently entered into the *Cobb Road WRF Agreement* dated December 21, 2006, and recorded in the public record at Book 2404 Page 782 (the WRF AGREEMENT). The WRF AGREEMENT was subsequently amended and restated by the *Amended and Restated Cobb Road WRF Agreement* (the AMENDED WRF AGREEMENT), dated April 21, 2008, and recorded in the public record at Book 2569 Page 432; and,

WHEREAS, the City accepted Bond No. 82036733 in the amount of \$7,821,600.00, posted by the Developer, as principal, with Federal Insurance Company, as surety, and the City as the named obligee to secure completion of the infrastructure obligations set forth in the WRF and AMENDED WRF AGREEMENTS; and,

WHEREAS, the City and the Southwest Florida Water Management District (the SWFWMD) entered into that certain *Cooperative Funding Agreement No. 04CON000079*, (the COOPERATIVE FUNDING AGREEMENT) dated June 1, 2004, as subsequently amended, for additional funding for the WRF; and,

WHEREAS, the City and Hampton Ridge Developers, LLC also entered into a *Utility Infrastructure Agreement* (the UIA), dated June 10, 2004, which is recorded in the public record at Book 1855 Page 1041; and,

WHEREAS, the DEVELOPMENT AGREEMENT, the SUPPLEMENTAL AGREEMENT, the WRF AGREEMENT, the AMENDED WRF AGREEMENT, the COOPERATIVE FUNDING AGREEMENT and the UIA are collectively referred to as the Project Agreements (the PROJECT AGREEMENTS);

WHEREAS, the final plat for Phase One of the PROJECT is recorded in the Official Public Record in Plat Book 35, Page 1 and Plat Book 38, Page 4 and the plat has been exercised, construction has commenced and individual lots have been conveyed to third parties; and,

WHEREAS, the final plat for Phase Two of the PROJECT is recorded in the Official Public Record in Plat Book 36, Page 40 and the plat has been exercised, construction has commenced and individual lots have been conveyed to third parties; and,

WHEREAS, the final plat for Phase Two A of the PROJECT is recorded in the Official Public Record in Plat Book 36, Page 68 and the plat has been exercised, construction has commenced and individual lots have been conveyed to third parties; and,

WHEREAS, the final plat for Phase Three of the PROJECT is recorded in the Official Public Record in Plat Book 37, Page 45 and the plat has been exercised, construction has commenced and individual lots have been conveyed to third parties; and,

WHEREAS, the final plat for Phase Three A-1 of the PROJECT is recorded in the Official Public Record in Plat Book 39, Page 46 and the plat has been exercised and construction has commenced; and,

WHEREAS, the final recorded and exercised plats for Phase One, Phase Two, Phase Two A, Phase Three, and Phase Three A-1 are collectively referred to as the Approved Final Plats (the APPROVED FINAL PLATS); and,

WHEREAS, pursuant to Chapter 129 of the City's Code of Ordinance, public works and infrastructure (the PROJECT IMPROVEMENTS) in support of the APPROVED FINAL PLATS must be completed prior to final plat approval; however, in lieu of completing PROJECT IMPROVEMENTS, the DEVELOPER may post performance bonds with the City as obligee to secure the completion of the PROJECT IMPROVEMENTS; and,

WHEREAS, the City accepted Bond No. 104332127 in the amount of \$19,757,345.00 posted by the DEVELOPER, as principal, with Traveler's Casualty & Surety Company of America, as surety, and the City named as obligee to secure the PUBLIC IMPROVEMENTS for the Southern Hills

Plantation – Phase One, and the bond amount was subsequently reduced to \$6,038,718.60 based on partial completion of the improvements; and,

WHEREAS, the City accepted subdivision Bond No. 10455710 in the amount of \$9,587,962.00 posted by the DEVELOPER, as principal, with Traveler’s Casualty & Surety Company of America, as surety, and the City named as obligee to secure the PUBLIC IMPROVEMENTS for the Southern Hills Plantation – Phase Two/Two A, and the City having accepted portions of completed improvements for Phase Two, the subdivision bond was subsequently released and replaced with maintenance Bond No. 82133509 in the amount of \$592,486.70; and,

WHEREAS, the City accepted performance Bond No. 104720158, in the amount of \$5,181,847.50, posted by the DEVELOPER, as principal, with Traveler’s Casualty & Surety Company of America, as surety, and the City named as obligee to secure the PUBLIC IMPROVEMENTS for the Southern Hills Plantation – Phase Three Infrastructure; and,

WHEREAS, the City accepted subdivision improvement Bond No. 82133490, in the amount of \$996,192.13 posted by the DEVELOPER, as principal, with Federal Insurance Company, as surety, and the City named as obligee to secure the PUBLIC IMPROVEMENTS for the Southern Hills Plantation – Phase Three A – CEA Job No. 05416; and,

WHEREAS, on June 10, 2009, the DEVELOPER and their affiliated companies (“LANDMAR DEBTORS”) filed for protection under Chapter 11 of the U.S. Bankruptcy Code in Austin, Texas (the “BANKRUPTCY COURT”); and,

WHEREAS, as of the commencement date of the bankruptcy petition, June 10, 2009, an automatic stay from enforcement against the LANDMAR DEBTORS or property of their estate is imposed by Sec. 362 of the U.S. Bankruptcy Code; thereby preventing the City from taking any action against the LANDMAR DEBTORS until the stay is lifted; and,

WHEREAS, the LANDMAR DEBTORS have filed a plan of reorganization and have sought permission from the BANKRUPTCY COURT to assume portions of the PROJECT AGREEMENTS, and to assign these portions to GreenPointe Communities, LLC (“GREENPOINTE”); and,

WHEREAS, GREENPOINTE has requested that the City enter into negotiations to amend and restate the DEVELOPMENT AGREEMENT; and,

WHEREAS, GREEN POINTE has represented that it is not interested in assuming all of the obligations under the PROJECT AGREEMENTS.

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

SECTION 1. INCORPORATION OF RECITALS. The aforementioned recitals are true and accurate and are incorporated herein as if set forth in haec verba.

SECTION 2. PUBLIC IMPROVEMENT PRIORITIES. The City establishes the following priorities for completion of public improvements in support of the Southern Hills Plantation Planned Development Project:

- A. Outstanding, incomplete infrastrucutre improvements which were to have been completed prior to final plat approval shall be completed.

- B. Outstanding, incomplete infrastructure improvements required under the PROJECT AGREEMENTS and any other CITY APPROVALS for the PROJECT are essential public infrastructure necessary for the health, safety and welfare of all City residents and shall be completed as set forth in the various PROJECT AGREEMENTS, APPROVED FINAL PLATS and CITY APPROVALS for the PROJECT.

SECTION 2. DEMAND FOR BOND PAYMENTS. Where public improvements contemplated by the PROJECT AGREEMENTS, the APPROVED FINAL PLATS, CITY APPROVALS and approved construction plans remain incomplete as a result of the pending bankruptcy, the City shall make demand for payment on each of the surety bonds which secure the respective improvements.

SECTION 3. USE OF BOND PROCEEDS. Where proceeds are recieved from a particular surety bond, those proceeds shall be used to complete the improvements specifically secured by the respective bonds.

SECTION 4. CONFLICT. Any resolution or policy of the City, or any portion thereof, in conflict with the provisions of this Resolution, is hereby repealed to the extent of such conflict.

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

SECTION 6. EFFECTIVE DATE. This resolution shall be effective upon adoption by the City Council of the City of Brooksville, Florida.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF BROOKSVILLE, FLORIDA, THIS 24th DAY OF AUGUST, 2010.

CITY OF BROOKSVILLE

BY: s/Lara Bradburn
Lara Bradburn, Mayor

ATTEST: s/Janice L. Peters
Janice L. Peters, CMC, City Clerk

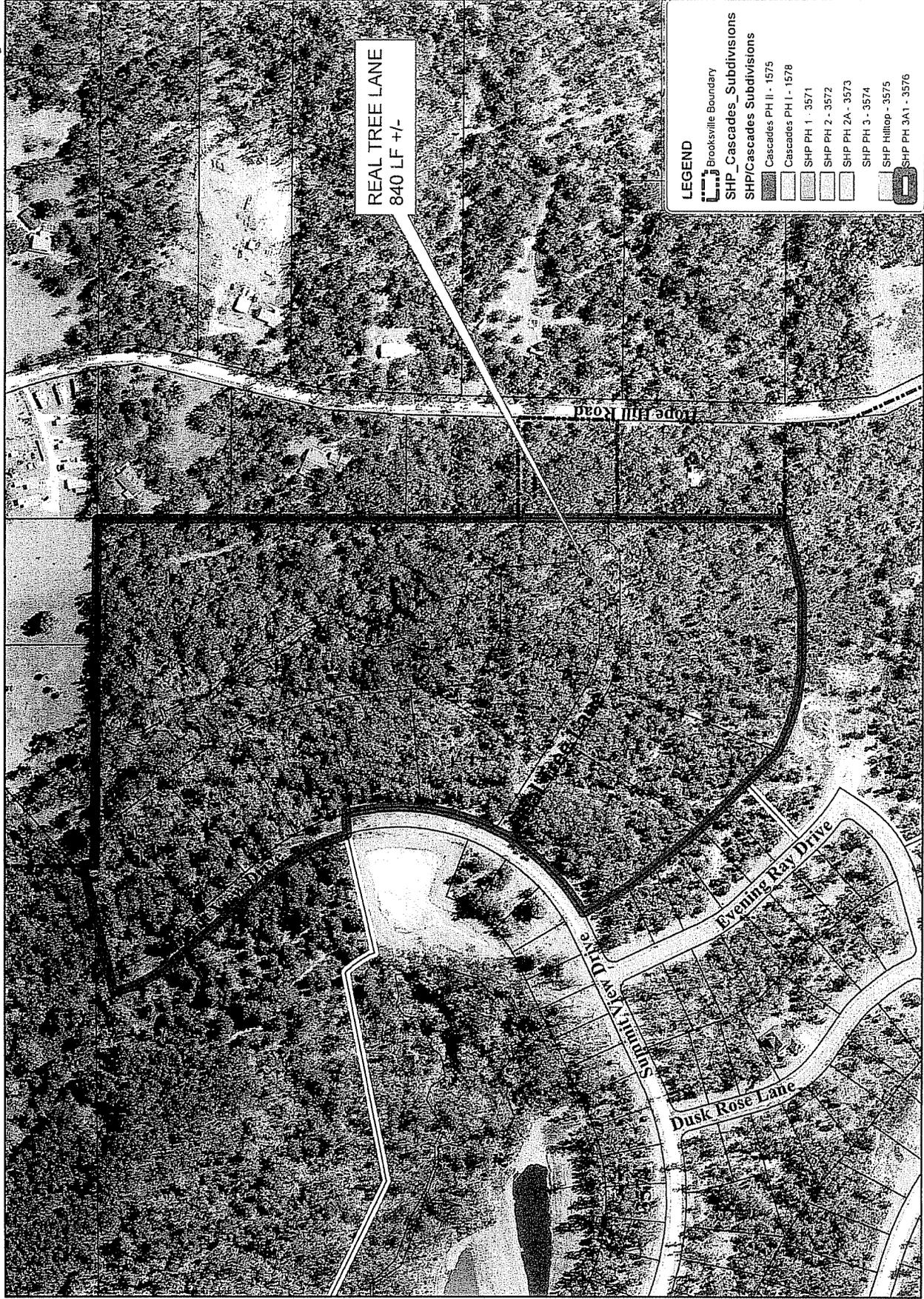
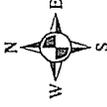
APPROVED AS TO FORM FOR THE RELIANCE
OF THE CITY OF BROOKSVILLE ONLY:

VOTE OF CITY COUNCIL
Bernardini AYE
Bradburn AYE
Burnett AYE
Johnston AYE
Lewis AYE

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



SHP SUBDIVISION PHASE 3A1

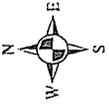


REAL TREE LANE
840 LF +/-

LEGEND

- Brooksville Boundary
- SHP_Cascades_Subdivisions
- SHP/Cascades Subdivisions
- Cascades PH II - 1575
- Cascades PH I - 1578
- SHP PH 1 - 3571
- SHP PH 2 - 3572
- SHP PH 2A - 3573
- SHP PH 3 - 3574
- SHP Hilltop - 3575
- SHP PH 3A1 - 3576





SHP - CASCADES Subdivisions



LEGEND

- Brooksville Boundary
- SHP_Cascades_Subdivisions
- SHP_Cascades_Subdivisions
- Cascades PH II - 1575
- Cascades PH I - 1578
- SHP PH 1 - 3571
- SHP PH 2 - 3572
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