

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

March 7, 2011

7:00 P.M.

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

PRESENTATION AND REQUEST FOR WAIVERS

Generator Request – Relay for Life

Consideration of request to waive fees in the amount of \$150 for use of the City's trailer-mounted generator for the Relay for Life campaign on May 6 & 7, 2011.

Fire Chief Mossgrove reviewed the request for waiver.

Motion:

Motion was made by Council Member Pierce and seconded by Council Member Bernardini for approval. Motion carried 5-0.

Week of the Young Child

Consideration of waiving fees in the amount of \$465 for the Week of the Young Child (WYC) event at JBCC on Saturday, April 2, 2011.

Committee Member Penny Oliver reviewed the request for waiver. She indicated this is the 22nd year of the event and it is free to the community. Council Member Bernardini indicated he has attended this event in the past and it is always well received.

Motion:

Motion was made by Council Member Bernardini and seconded by Vice Mayor Johnston for approval. Motion carried 5-0.

CERTIFICATES, PROCLAMATIONS AND PRESENTATIONS

Margaret R. Ghitto Beautification Award - Residential Award

Recognition of improvements to the property located at 216 E. Liberty Street, previously owned by Mikel Hannigan and Christine Lawter.

Beautification Board Chair Scott Renz reviewed the award. The recipients were not in attendance for acceptance and the award will be sent to them.

Mr. Renz indicated that prospective Beautification Board Member Isha McCarty was in attendance.

Proclamation – Florida Hospital Patient Protection

Consideration of Proclamation supporting Florida nurses in their efforts to protect patients by providing minimum safe RN-to-patient ratios.

APPROVED BY BROOKSVILLE

CITY COUNCIL

ON 5/7/12 INITIALS [Signature]

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Council Member Pierce read the proclamation in its entirety which was then presented by Mayor Burnett.

Council Member Bradburn indicated she does not support the proclamation because it is not the authority of the legislature to mandate staffing ratios upon private enterprise as it raises costs of service. It is up to private enterprise to determine clients' needs and thus fulfill that. However, she agrees that higher staffing levels translates to better patient care.

Gwen Collins of Gulfport stated she respects Council Member Bradburn's opinion but explained they are bedside nurses and they see firsthand patient outcomes as well as nurse turnover and the burnout. She appreciates the City's acknowledgement of their profession and the dire need for a higher ratio as they were forced to approach the issue in this manner.

Proclamation – Florida Bicycle Month

Consideration of Proclamation supporting March as Florida Bicycle Month and March 18, 2011, as Bike to Work Day.

Council Member Bradburn introduced Steve Diez who serves as a representative to the Metropolitan Planning Organization and Chairman to the Good Neighbor Trail Committee. She read the proclamation in its entirety, which was then presented by Mayor Burnett. Mr. Diez reviewed the Bike to Work Day event and presented Council with tokens of his appreciation for their support.

Council Member Bradburn indicated March 19th will be a Good Neighbor Trailhead workday to eradicate plants that do not belong there and welcomed all to participate.

Olive Street Cemetery Presentation

Brooksville Cemetery Advisory Board Report of Olive Street Cemetery.

Cemetery Advisory Board Vice Chairman Pat Brewer indicated Richard Estabrook was present to review the results of his investigation as well as how the ground penetrating process works. He indicated the report is not finished but will be submitted when it is complete.

Discussion of the findings thus far was discussed.

Chairman Brewer indicated Mr. Estabrook's work was done at no cost to the city. He briefly reviewed the history of the cemetery back to 1870 with the first burial being a child, Thomas Howell Law, and the last burial being in 1974. He indicated as far as they have been able to ascertain there has never been a history of the cemetery. There are burials there but they have never been marked. It was originally part of the Mickler's 160-acre farm. In 1907 part of the property, which did not include the cemetery, was sold to the Brooksville Catholic Mission. Over the years the cemetery became derelict. He indicated there were two issues, one being the transfer of the property to the Catholic Diocese and the second being the use of the property.

Chairman Brewer made the following recommendations:

1. The Olive Street Cemetery is kept as the common name;
2. the Brooksville sexton is responsible for care and upkeep;
3. no further burials are allowed without special permission by City Council since space left is questionable;
4. the large R.J. Mickler monument in the middle of the cemetery needs to be straightened and requested City maintenance handle that;
5. the Historical Society of Hernando is allowed to place an historical marker as the first burial was over one hundred and forty (140) years ago.

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Motion:

Motion was made by Council Member Bernardini and seconded by Vice Mayor Johnston for approval of the five (5) recommendations of the Cemetery Advisory Board. Motion carried 5-0.

City Manager Norman-Vacha thanked Mr. Brewer and the Cemetery Board for all their work.

Mr. Brewer commented that the only ulterior motive of the Cemetery Board was to get the cemetery in the best shape possible.

Council Member Bradburn stated she appreciates the information given to preserve the history of the cemetery.

CITIZEN INPUT

Mayor Burnett asked for public input.

Hamilton Hansen of Weeki Wachee brought a copy of the U.S. Constitution for all, commenting on Article I Section 8 which limits the Federal Government to specific activities/actions and gives all other non-specified actions/rights/abilities to the citizens. He referenced a conflict of interest between the money received from the Federal Government and the original Constitution. Council Member Bradburn advised an historical copy of the Constitution was given to Council Members recently by the Hogan Law Firm.

Jason Patrick Sager of Brooksville asked to speak on the fire assessment at this time. He indicated government was formed and taxes laid upon the people for the necessities. He asked that if it will be another tax upon the people then to let the people decide.

Sun Fiberglass Pools President Curt Prystupa indicated he has seen a tremendous drop in his business revenue from the local community. He implored Council to reconsider fire fees and to be fair and balanced. He recommended merging the Brooksville Fire Department with the County.

Radio Talk Show Host Bob Penrod pointed out that he has covered hundreds of hours of government meetings and indicated Jennene Norman-Vacha is a very good and knowledgeable City Manager. He indicated the City is lucky to have her and urged City Council Members to consider renewal of her contract.

Assistant City Ambassador Michael Heard also spoke on behalf of the City Manager.

Dan Patrick of Brooksville advised the City Manager and Police Department have all been a problem for him over the last year. Letters to the city have gone unanswered.

Council Member Bernardini stated his appreciation to the nurses who were in attendance for the work that they do.

CONSENT AGENDA

Council Member Bradburn asked that the August 10, 2010, Budget Workshop Minutes be pulled for further processing and that Item 4, Underwood Family Trust Property Donation be discussed. Council Member Bernardini would like to discuss Item 3 Progress Energy Distribution Easement Agreement at Quarry Golf Course.

Motion:

Motion was made by Council Member Bradburn and seconded by Council Member Bernardini for removal of the August 10, 2010 Minutes. Motion carried 5-0.

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Minutes

August 10, 2010 Budget Workshop
September 8, 2010 Special Meeting
September 20, 2010 Regular Meeting
October 18, 2010 Regular Meeting
November 15, 2010 Regular Meeting
December 6, 2010 Regular Meeting
December 20, 2010 Regular Meeting

Award of Bid – Installation of Remote Control Fire Suppression Nozzle for Brush Truck 61 – FR2010-10

Consideration of bid award to Elite Fire & Safety Equipment, Inc., for the not-to-exceed amount of \$9,910.

Progress Energy Distribution Easement Agreement at Quarry Golf Course

Consideration of easement for the existing lines at the Quarry Golf Course.

Council Member Bernardini asked for specifics of this request from Progress Energy. Director Walker advised Progress Energy is trying to clean up what has already been done. They cannot find the existing easement agreement for the line that is already there. City Attorney Rey noted there is a copy of the Hogan Law Firm's correspondence on the consent agenda item.

Underwood Family Trust Property Donation

Consideration of donation of property to the City by the Underwood Family Trust.

Council Member Bradburn asked for the location of the property. Council Member Johnston indicated it is an interior lot and the property lines in that area are not accurate. Council Member Bradburn asked if there is drainage problems in the area as it could be used for that purpose. Discussion of the possibility to use the property for drainage ensued. Vice Mayor Johnston was not aware of any problems and it was not recommended to be used for drainage by Director Radack. Director Geiger indicated the lot does not meet the zoning requirements for building purposes.

Council Member Bradburn thanked the Underwood family for the offer but was not in favor of accepting the donation at this time.

Further discussion of surrounding properties ensued.

Motion:

Motion was made by Council Member Bradburn and seconded by Council Member Pierce rejecting the donation of the Underwood Family property and approval of the remainder of the Consent Agenda. Motion carried 5-0.

PUBLIC HEARINGS

Ordinance No. 816 – Water Restrictions

Consideration of ordinance to amend Chapter 90 of the Brooksville code and repeal of Resolution 2007-03. [First Reading 02/07/11]

Director Geiger reviewed the ordinance and the changes therein. He indicated restrictions are being relayed to new customers, which apply only to watering systems, not hand watering as needed.

Mayor Burnett asked for public input; there was none.

Motion:

Motion was made by Council Member Johnston and seconded by Council Member Bernardini for approval.

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City Clerk Peters read Ordinance No. 816 by title, as follows:

AN ORDINANCE AMENDING THE CODE OF THE CITY OF BROOKSVILLE, FLORIDA, CHAPTER 90, "WATER RESOURCES," AMENDING ARTICLE I AND ARTICLE II; PROVIDING FOR CODIFICATION, CONFLICTS, REPEALING, SEVERABILITY AND AN EFFECTIVE DATE.

Motion carried 5-0 upon roll call vote, as follows:

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

Mayor Burnett adjourned the Council Meeting and convened as the Fire District at 8:15 p.m. and reconvened at 8:45 p.m.

REGULAR AGENDA

Fire Assessment

Consideration of alternative for fire assessment.

Mark Lawson of Bryant, Miller and Olive indicated they planned to work effectively with the City and to share the risk to validate its constitutionality. They also planned to develop the approach then explain the fees required of each entity based on readiness to serve. He explained their process in determining cost analysis.

Council Member Pierce asked if this will be validated by the State Supreme Court. Mr. Lawson clarified it will be submitted for validation to the local court. He will structure the City's budget to have a Capital component to legitimately prepare a financing arrangement. The general law allows local governments to ask the local court whether or not they have the power to issue that type of obligation. He stated the matters supporting that pledge of revenue, which are the assessments, would also be before the local court. If it is appealed it goes directly to the Florida Supreme Court. The court has made it clear that special assessments can be done for fire but this process is to assure that someone would not challenge it.

Attorney Hogan confirmed with Mr. Lawson aspects of the readiness to serve methodology have been court tested, such as lowering of insurance costs, but the basic premise proposed here in regard to a viable fee has not. Mr. Lawson further elaborated that all of the base methodology has been court tested. Other programs that were based upon demand have been contested subsequently and have upheld. He has confidence that this more logical approach would be even easier to validate. He would not suggest going forward if Council is subjected by the public's opinion that the City is wrong and threatens to sue. He would not encourage Council to impose assessments and collect them until it has been validated.

Mr. Lawson explained \$30,000 pays for an expended amount of effort to get a role in place as a decision making tool for workshop discussions but does not include validation; which will entail additional fees if successful.

Attorney Hogan explained contingency fee work is only paid if the validation is successful in Circuit Court and taxpayers and business owners could appeal to the State Supreme Court. Should it be successful in State Supreme Court then that would create legal precedence and Brooksville would be famous for developing and enacting this procedure. He suggested adding a cap to the contingency fee work due to unknown circumstances that could arise. The cost of \$30,000 is only for the study,

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which would allow a logical process by which to present to the court system as a way to assess citizens and business owners for fire service.

Mr. Lawson stated one of the reasons they have done this is because one of the trade associations for local governments asked them to look at that because once it is done it does not require the type of maintenance and services that the other programs require and should be able to implement and used within a broad budget range. He stated it also has flexibility within the context of whether it is funded partly or mostly with taxes.

Further discussion of the process of appeals ensued.

Council Member Pierce asked about the fees in paragraphs 3(a) and 3(b). Mr. Lawson advised estimated fees are \$75,000 to \$110,000 which is for professional services by consultants, legal, economic analysis and data manipulation. He further explained the initial \$25,000 will be credited towards professional services fees. He stated he is willing to minimize travel cost. Council Member Pierce would like to put this on hold until after the workshop.

Council Member Bradburn referenced when the County did an impact fee study and Bystre Lake Watershed, they paid thousands of dollars in fees but never implemented any of it. She stated she is ready to move forward tonight but understands if others need more time and information.

Vice Mayor Johnston agreed with Council Member Bradburn but Council Member Pierce has questions that could be addressed during the process. It must be determined whether this is a methodology that is worth pursuing and if it is, then it can be started and have efficiencies built into the model when it is presented. He also supports a workshop to address issues that should be incorporated into a final product.

Council Member Bernardini stated he supports going either way by making a decision tonight or waiting until after a workshop.

Mr. Lawson welcomes input from Council Members either individually or collectively as long as he gets the information to build into a model.

CITIZEN INPUT

Mayor Burnett asked for public input.

Jason Sager spoke specifically against the Fire Assessment Contract, pointing out that it does not specify a cap or what the final product will be. He also does not support lowering the millage by increasing fees or spending \$30,000 for an idea that comes with risk. Mayor Burnett assured Mr. Sager that the City Attorney reviews all contracts before the City enters into them. Council Member Bradburn clarified it is an educated risk based on the methodology examples presented in depth by Mr. Lawson and his group. Having extensive knowledge on fire assessments, she stated this is more appropriate for the City of Brooksville than any other of the methodologies explored because it is fair and balanced. Attorney Hogan stated the work order is incorporated into the document in paragraph 2. Negotiated fee or legal services shall include scope of services and fee structure authorized by the City in writing. He stated there would be some adjustments in the contract with adding standard language that goes into all vendor contracts.

Pierre Desjardins recommended sending a fair survey to the citizens at a cost of about \$4,200 asking what level of service they want and expect as he wants a fair and equitable assessment for the citizens of this community. He does not support investing \$100,000 plus staff time in an effort to implement a new assessment system and questions the amount of time it will take to recuperate that additional expense. He supports a workshop as a wise and prudent move on Council's part.

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Curt Prystupa stated the loss of revenue mentioned by Council Member Bradburn was not the fault of the citizens but the legislature that put the Homestead Exemption at \$50,000. He questioned spending \$30,000 at the cost of a firefighter's annual salary. He understands this is the cost of doing business but with a multitude of fixed incomes countywide it is not fair to assess a fee onto those with a tax exemption and suggested a sales tax adjustment instead. He stated implementing an assessed fee that is not in other communities will deter businesses from locating here. He indicated it is not easy doing business in this area and has explored going to other areas. He suggested a workshop with the County since cost of fire services is a countywide problem. He stated it is too expensive to taxpayers to be a test base and suggested reevaluating the Fire Department and the entire City budget.

Hamilton Hansen stated the business community is looking for new ideas and new thoughts to spread risk among as many people as possible but this idea is a private enterprise action with taxpayer money of an undisclosed amount.

Motion:

Motion was made by Council Member Pierce and seconded by Council Member Bernardini for delay of contract pending an internal workshop to discuss fire service. Motion carried 5-0.

City Manager Norman-Vacha asked for clarification of information Council is requesting from staff for a fire assessment workshop. She would also like to set dates for workshops for Land Use, Quarry Golf Course for the Bobby Weed Design Group report. Council set the following workshop dates:

- March 29, 6:00 p.m. - Fire Assessment Workshop
- April 11, 6:00 p.m. - Land Use Code Workshop
- April 12, 6:00 p.m. - Quarry Golf Course; the Bobby Weed Group and balance of Financial Workshop items; pension expenses, utility enterprise funds, fuel cost and economic development

Mayor Burnett requested all Council members have their questions, recommendations and/or concerns to the City Manager no later than this Friday, March 11th at 4:00 p.m. for the Fire Assessment Workshop on March 29th.

Beautification Advisory Board Appointment

Appointment of Advisory Board Member to the Beautification Board to fill one (1) Vacant Full-Time Position for a 4-year term of office through December 31, 2011.

Cecil Davis	New Applicant
Isha Marie McCarty	New Applicant

City Clerk Peters reviewed the two (2) applications submitted for the vacant Beautification Advisory Board member position.

Motion:

Motion was made by Council Member Bernardini and seconded by Council Member Bradburn for approval of Isha Marie McCarty. Motion carried 5-0.

Vice Mayor Johnston clarified that this appointment is for the balance of a 4-year term of office which expires at the end of this year.

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City Manager Contract Renewal

Discussion and review of City Manager's Contract.

Council Member Bernardini referred to Section 5 of the contract and stated the performance review is supposed to be done by May 21st and felt Council needs to abide by the schedule or remove it. He advised the contract should be brought forward on a January agenda for discussion.

Council Member Bernardini asked if the city is providing a vehicle or is there mileage reimbursement. City Manager Norman-Vacha indicated she uses her personal vehicle and does not charge the City for mileage. Council Member Bernardini stated it should be removed from the contract if it is not being utilized.

Attorney Hogan reminded Council that before they represented Council they represented Mrs. Norman-Vacha in negotiating a contract and she has signed a waiver of conflict since then. He referenced Section 9 of the contract which allows for the City Manager to waive the use of a city-owned vehicle or an alternative if the employee so elects. She may release the City from the requirement to provide a vehicle and receive mileage reimbursement pursuant to city travel policy for the official use of her private vehicle. She has not elected to do that and that would go from year to year, however it can be detailed further. Vice Mayor Johnston pointed out that she can sign a waiver of rights at year's end and that would be sufficient.

Council Member Bernardini referenced page 7 "Employee is terminated for cause..." and then refers to the City Personnel Policy in effect on May 21, 2007; he requested it be attached to the contract for reference.

Council Member Bernardini indicated the issue of punctuality has been addressed but he still has concerns with other matters that need improvement as indicated in his evaluation. He supports renewal of her employment contract but there are some necessary changes if she is agreeable to those.

Mayor Burnett felt perceived problems should be addressed directly to the City Manager.

Council Member Pierce distributed a memorandum and stated several areas of concern. He expressed concern for the process he has to go through to get most information about city business, which he felt to be cumbersome and unacceptable. He also felt personnel practices, such as hiring and firing practices to be inconsistent, resulting in additional unnecessary legal and engineering consulting fees. Council Member Pierce acknowledged being upset that he, as a city employee, had been fired by the City Manager and does not support extension of her employment contract.

Council Member Bradburn referenced the letter in her evaluation wherein she references savings and accomplishments by the City Manager, noting the City Attorney works under Council. She commended the City Manager for doing a phenomenal job and felt short and long term goals should continue to be addressed.

Vice Mayor Johnston felt the City Manager is doing a good job and there are always areas for improvement, and that applies to everyone. He was in favor of renewal of the contract.

Mayor Burnett also felt there is always room for improvement but felt overall she has the City at heart and problems have been addressed. He supports renewal of her employment contract.

Council Member Bradburn suggested distributing evaluation forms in January to be ready to review the employment contract prior to the ninety (90) day clause. She pointed out long distance travel should be reimbursed.

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City Attorney Hogan suggested then that there be a motion to renew the contract subject to the amendments; Section 9 to include a sentence that requires that an annual waiver of any fees which gives an option as this would address Council concern that the unclaimed mileage compiles over time. Annually, the City Manager would waive any collection of unspecified fees at that point. The other amendment was to Section 13, which would state that the personnel policy in effect at the time of termination would be applicable. Council Member Bernardini stated that addresses both of his concerns. City Attorney Hogan also indicated the evaluation forms process is procedural and not part of the contract.

A 5 minute recess was taken to change the tape.

Motion:

Motion was made by Vice Mayor Johnston and seconded by Council Member Bradburn for approval to renew the City Manager employment contract with the following amendments; Paragraph 5 based on an annual salary performance review shall be made no less than 90-days prior to June 7th each year, Paragraph 9 the City Manager to annually waive travel reimbursements not claimed during the year and Paragraph 13 and any other areas of contract will be amended according to the City personnel policy in effect at the time of the event. Motion carried 4-1 with Council Member Pierce voting in opposition.

CITIZEN INPUT

Mayor Burnett asked for public input.

Dan Patrick advised he pays \$130 a day to the government and stated he does not get along with the current City Manager but has not had problems with any of the previous managers. He reviewed personal matters he has had, including some of his family members.

Pierre Desjardins asked where the progress energy money is. He thanked the City Manager for her refusal of reimbursement of travel expenses and indicated he has had nothing but great interactions with her. He thanked Council for renewing her employment contract.

Dennis Wilfong felt the City to be fortunate to have the City Manager and he has nothing but great respect for her and enjoys working with her. He defended her tardiness to meetings advising it has never been due to personal matters, but due to City business.

Kojak Burnett thanked Council for extending the City Manager contract since she has been the first to get the budget under control. He praised City Council members for showing support for Mayor Burnett during the MLK parade.

Tim Mossgrove thanked Council for their sympathies for his mother passing away.

ITEMS BY COUNCIL

Emory Pierce, Vice Mayor

City Personnel Policy

Council Member Pierce asked if the City Attorney completed revisions to the City Personnel Policy. City Manager Norman-Vacha indicated there is only a few policies left and are scheduled to come before City Council. He requested it be finalized sometime in May.

Reuse Plan

He would like to see a reuse plan in the future. City Attorney Hogan indicated he could provide an update of progress during Executive Session that involves litigation the City is involved in. He also indicated he could provide information to Council Members individually if they would like to stop by his office. Mayor Burnett requested an Executive Session be scheduled in May for this purpose.

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Joe Bernardini, Council Member

Vandalism and Theft at Park

Council Member Bernardini stated illegal activity in the park needs to be reported to the Police Department. He referenced recently witnessed incidents of gang graffiti in the park. City Manager Norman-Vacha stated she has directed that police reports be made and will readdress the matter.

Mayor Burnett asked for Council consensus on the matter that police investigate any illegal activity, including toilet paper thefts. Council Member Pierce and Vice Mayor Johnston supports a report to the Police Department, Council Member Bradburn supports a report for vandalism and graffiti but felt theft of toilet paper does not warrant police action.

Joe Johnston, Vice Mayor

Next Meeting

Vice Mayor Johnston stated he will not be in attendance for the March 21st meeting.

Countdown lights

He was very pleased with the results of installing countdown lights heading south on US41 at Martin Luther King Boulevard but still witnessed two (2) vehicles running red lights in the same day.

Frankie Burnett, Mayor

Russell Street Park

Mayor Burnett stated the bathrooms are open all the time and he would like them locked after a certain time. City Manager Norman-Vacha stated the same issue has been brought up regarding Tom Varn Park and staff will address.

City Manager Contract

He congratulated City Manager Norman-Vacha on approval of her employment contract extension and looks forward to her continued hard and dedicated work.

ADJOURNMENT

There being no further business to bring before Council, the meeting adjourned at 11:25 p.m.

Attest:


Mayor


City Clerk