

CITY OF BROOKSVILLE
MINUTES OF THE COMMUNITY REDEVELOPMENT AGENCY
JOSEPH E. JOHNSTON III COUNCIL CHAMBERS
201 HOWELL AVENUE
3:00 pm

October 19, 2020
ORDER OF BUSINESS
CALL TO ORDER

The CRA Vice Chairman read the following:

Good evening everyone. My name is Pat Brayton. I am the Vice Chairman of the Community Redevelopment Agency (CRA) of the City of Brooksville and I welcome you to the virtual public meeting of the CRA meeting. I'd like to call this meeting to order on October 19, 2020 at 3:00 p.m.

I would ask everyone's patience as we hold tonight's meeting, as it will be held entirely virtually for everyone's safety. This is being done to comply with social distancing guidelines so our citizens can participate in the meetings in their own safe environment.

The public is advised to check the City website for up-to-date information on any changes to the manner in which future meetings will be held and the location

Please be advised that this meeting is NOT live streamed. The Zoom link will be uploaded on the Hernando County Government Broadcasting website at www.hernandocounty.us the day after the meeting, or as soon thereafter as possible. Pursuant to Executive Order No. 20-69, issued by the Office of Governor Ron DeSantis on March 20, 2020, municipalities may now conduct meetings of their governing boards without having a quorum of its members physically present at a specific location by utilizing communications media technology such as telephones or video conferencing platforms.

The City of Brooksville uses a Zoom virtual platform to hold its virtual public meetings. Zoom is a cloud platform for video and audio conferencing, which allows for collaboration, chats, and the delivery of webinars across mobile devices, desktops, telephones, and room systems. The Zoom platform selected by the City does NOT require the public to purchase any software or special equipment to participate in this meeting. The Zoom app can be downloaded to mobile devices or desktops for convenience. More detailed instructions on how to download Zoom is available on the City's website, on the public meeting notice and on the published agenda.

As in our regular in-person meetings, the public will be allowed to participate and may speak at certain times during the meeting. When it is time for public comment and input, you will be asked to click the "Raise Hand" button on the bottom of the Zoom Meeting Screen and wait to be recognized by the Vice Chairman. If you are participating by telephone (AUDIO) only, before Citizen's Input is over, the City Clerk will recognize your number as an attendee and ask you to unmute your line by pressing *6 if you wish to speak.

As with any Citizen's input, when you are recognized, please speak clearly and state your name and we ask you to state your address for the record before proceeding with your comments. As in our regular meeting, public comments are limited to 3 minutes.

In addition, if the City Clerk received public comments prior to the meeting by email or regular mail, your comments will be read into the record right before the Citizen's Input and the email must be no longer than 3 minutes.

This meeting is being recorded. By continuing to participate in the meeting by electronic means, all those who speak are consenting to the recording of this meeting and all comments. A link to an audio recording of the meeting will be provided the next day, or as soon as possible thereafter, on the Hernando County Broadcasting portal at www.hernandocounty.us. Anyone wishing to appeal any decision made by the Community Redevelopment Agency for any matter considered at this meeting may need a verbatim record of the item.

If we experience any technical issues, I will ask for a short recess of the virtual meeting or ask for a continuance of the meeting if it appears to be needed. If you experience technical issues, you can send a brief note by the chat button.

Please be aware that as of this meeting date, City facilities are open Monday through Friday from 8:00 a.m. – 5:00 p.m. However, social distancing guidelines will be adhered to and a sign-in sheet at City Hall is maintained

The City Clerk advised it had been posted on the website, sent to the press and posted at City Hall. She made one correction in that the meeting was being live-streamed.

The CRA Board attendance was called as follows:

Board Member Battista
Board Member Erhard
Board Member Kemerer
Vice Chair Brayton
CRA Chairman Bernardini

The Vice Chairman continued: I'd like to note also that present is Mr. Kutney, City Manager and Becky Vose, City Attorney, who are both participating virtually in this public meeting. Also present is City Clerk, Jennifer Battista, who is acting as co-host of the meeting.

CITIZEN'S INPUT

Veterans Banners

Duane Chichester requested that the CRA consider changes to the CRA regulations as they relate to allowing banners in the downtown area to honor veterans.

Natalie Kahler, Executive Director of the Main Street Program, advised that she also met with Mr. Chichetser and Dennis Wilfong and she supported any changes to the CRA regulations to allow the banners.

CRA Commercial Improvement Façade Grant Program

Robert Buckner, City resident and City business owner, questioned if this meeting's agenda would include discussion of the CRA Façade Grant program and whether it could be expanded to include items that are not just exterior improvements.

RESPONSE BY CITY MANAGER AND STAFF/CRA MEMBERS

City Manager Kutney advised Council on the meeting he had with Mr. Chichester and Mr. Wilfong on the Veteran banner program. Regarding the CRA Façade grant program, City Manager Kutney stated that is not on the agenda, but could be discussed at a future CRA meeting.

DISCUSSION OF SUPREME COURT CASE AND CRA SIGNS

Reed v. Town of Gilbert

DISCUSSION OF BANNERS ON WAYFINDING SIGNAGE POLES

(Combined discussion of the above two items)

“Welcome to Historic Downtown Brooksville” Banners

Discussion of installation of (11) banners entitled, Welcome to Historic Downtown Brooksville, approximately 2 feet by 4 feet in size, on existing ‘way finding’ signs within the City. The application was submitted by Historic Shed, part of the design team of the Main Street Program. The CRA is asked to make a recommendation to City Council to be considered at the October 19, 2020 meeting.

City Attorney Vose stated that she was asked to report on constitutional issues related to sign issues and how they may impact signs on City property and in the CRA area. She reported on a 2015 Supreme Court Case concerning sign regulations in the municipality of Gilbert, Arizona. In this case, a church would be put out signs indicating where they would be meeting that week. The Supreme Court said that whatever the sign said could not be the basis for the regulation. If the regulation is based on content, the Court determined those would not be allowed. She stated the safest thing to do is to not allow private entities to put up signs on public property. The

City or the CRA could put up the signs themselves and have control over it. If the City allows a private entity to do it, the City loses content control because of the First Amendment and the 2015 Supreme Court case that says content cannot be controlled.

CRA Board Member Erhard questioned if the City Attorney's recommendation would be for the City to maintain control of the signs. City Attorney Vose stated if the private entity is in control of the sign, the City cannot then turn around and demand that they get the City's permission. She recommended that the City maintain control of the signs but be open to any requests, and if the City thinks it is appropriate, the City can do it themselves.

CRA Board Member Battista brought up a request from a private entity who has requested a decorative banner on the wayfinding signs that says something like "Welcome to Brooksville". If the City allows the private entity to do that and another private entity comes along and the City grants approval to that entity as well, the City cannot regulate content, which Vose confirmed. She reiterated her recommendation to not turn over signage to private entities and stated that the City could put up the signs themselves.

Board Member Kemerer questioned if there was any difference between City right of way and City land, to which Vose stated that there was none as it is all public property. He further asked if a City could enter into a joint venture with a private entity on signs, and the City Attorney advised that she would not recommend that. The City can ask a private organization to design a sign, but it needs to be approved and controlled by the CRA and City Council. She clarified that whoever owns the property, the CRA or the City, should do it. Volunteers could be used.

CRA Chairman Bernardini asked if an entity like BMS could give the signs to the City to install. City Attorney Vose suggested that the City purchase the signs so control is clear. He asked if the City could contract with a private entity to put up signs for maybe a year. City Attorney Vose stated that is possible but may not be safest route. She offered a hypothetical situation if an inappropriate group comes in, they may request the same kind of contract and the City would then be in the position of judging which contracts to enter into and which not to. City Attorney Vose stated that private entities could donate money to the City for sign needs.

Chairman Bernardini wondered how other towns install signs. City Attorney Vose stated that the City puts them up themselves. In one City, the Main Street actually owns the poles that the signs go on. Chairman Bernardini did not see the difference between a private entity donating a sign or a private entity giving money to the City for signs. The City Attorney confirmed his statement that litigation would only come into play if there is a legal challenge.

City Attorney Vose summarized that if the City allows private groups to put up signs on public property under an agreement for a certain time period, the City could not control the content. She cited her previous example of an inappropriate organization that may want an agreement with the City to advertise in the same manner. The City would have to let them keep it up there for their time limit. She reiterated a previous statement that the City should not allow private groups to do this. If a racists organization comes in and wants to have the same right as the veterans group who posted banners, the City would probably tell them no and if there was a lawsuit, she stated that the City would probably lose that lawsuit.

Chairman Bernardini brought up for discussion the Hernando High School banners the City allowed to be installed on light poles and whether that action has already set a precedent to allow banners inappropriately. City Attorney Vose stated that the regulation from the City would be “from now on”.

Chairman Bernardini expressed his opinion that there was too much regulation on allowing banners or signs and it was penalizing organizations based on “what ifs”. City Attorney Vose offered her agreement that the Supreme Court case was very prohibitive, but nonetheless, it is enforceable if the City is challenged by allowing a private entity to control signage.

Regarding the banners at the High School, Board Member Kemerer pointed out that Duke Energy owns the utility poles and the poles are on public property that Duke Energy has an easement to use, he would think the agreement would be between Duke Energy and the School. Vose stated she would need to look at the agreement the City has with Duke Energy for the easement. The City Attorney stated that Duke Energy is not bound by the same government restrictions, adding that they may be leased poles.

City Planner Gouldman stated that the power poles are owned by Duke Energy and the 15 foot light poles downtown are owned by the City. Duke does not have any say on content for what goes on the poles but Duke has to give permission to mount them.

City Manager Kutney recounted his understanding that the City cannot regulate content and the City should maintain control. He felt the City should not regulate content. City Attorney Vose stated that on City property, the city can control what it does as long as it is not regulating other entities based on content.

Vice Chairman Brayton stated that he believes this issue will need to be readdressed.

Board Member Kemerer brought up for discussion a scenario in which by granting someone's request and then a second request comes in and the City denies it, he questioned if the City would be open for a lawsuit. City Attorney Vose stated that the City would need to be careful of crossing a line beyond honoring veterans, conserve water, happy holidays, etc.

Motion:

Motion was made by Kemerer and seconded by Erhard to adopt staff's recommendation which is for the CRA to not approve the installation and to forward that recommendation to City Council.

Public Comment:

Duane Chichester questioned if this item is addressing banners, which Vice Chairman Brayton confirmed. Mr. Chichester asked if it would be acceptable that the banners be purchased by the City and Brayton voiced his opinion that they could be. Mr. Chichester asked if the City could ask for volunteers to put them up and maintain them. It was the Vice Mayor's understanding that volunteers could do that, which the City Attorney voiced agreement. The City Attorney added that the City would want the volunteers to sign indemnifications.

Mr. Chichester recounted his understanding that this discussion will result in changes to the CRA regulations.

Motion carried 4-1, as follows:

Kemerer	Aye
Battista	Aye
Erhard	Aye
Brayton	Aye
Bernardini	Nay

MERMAID TRAIL SIGNS/STENCILS

Consideration of recommendations by the CRA to City Council regarding the installation of Mermaid Trail directional stencils/signage on sidewalks/Street Sign posts along the Mermaid Trail. (some areas within the CRA district).

Public Works Director Booth stated that it is staff's recommendation not to approve the request based on the City Attorney's discussion. City Planner Gouldman stated the Land Development Regulations (LDRs) defines signs and any graphic representation is considered a sign. The City cannot regulate content and the City must be even handed in regulating all signs.

Regarding signs or depictions on sidewalks such as this mermaid sign request, City Attorney Vose stated that if the City determines it is a good idea, then the City can do it.

Chairman Bernardini informed those present that he feels the Mermaid Trail has been a success. He did not have a problem with the City doing it. Council Member Kemerer felt that should be decision made by City Council.

Motion:

Motion was made by Bernardini to move for approval to City Council. The motion died for a lack of a second.

Motion:

Motion was made by Battista and seconded by Erhard for the CRA to approve staff's recommendation which is not recommend approval to City Council.

Public Input:

There was no public input.

Motion carried 4-1, as follows:

Battista	Aye
Erhard	Aye
Kemerer	Aye
Brayton	Aye
Bernardini	Nay

DISCUSSION - CRA PLAN

City Manager Kutney stated that the CRA plan and the sign ordinance will need amending. City Planner Gouldman offered his suggestion that staff would meet with the City Attorney and work through the issues and regulations. He stated that there are portions of the LDR that do not meet the test of the Supreme Court decision of *Reed v Gilbert* which became obvious when reviewing the banner request issue. He stated that the entire LDR needs to be revised accordingly. Considering or allowing one specific deviation from the sign code or CRA plan based on a request will only jeopardize the City from a legal standpoint. Regarding the veterans banner request, Gouldman advised that temporary banners are addressed in the code on a City-wide basis and not specific to the CRA.

City Planner Gouldman stated that the take away from the Supreme Court case in 2015 is that the City cannot regulate content. He stated that he is not the CRA director or the City Manager, but he would recommend that City staff and the City Attorney get together and hash these things out and bring it back to a CRA in a workshop and then to City Council. Vice Chair Brayton and Board Member Battista offered agreement. Vice Chair Brayton asked that this be looked at as quickly as possible.

Regarding the CRA plan, City Planner Gouldman pointed out that it allows banners with a theme on the backside of the wayfinding signs but that is content based and that is not allowed per the Supreme Court. There are no regulations for signs specific to the CRA area and that would need to be looked at.

MURALS (VERBAL)

MINI-MURALS (VERBAL)

City Planner Gouldman discussed the LDRs that state that commercial businesses have the ability to have 10 percent of the façade of the building be sign face. If the business wants more than the 10 percent, it would have to seek a Variance. Per the code, if you want to paint a mural, and that mural has civic, historic or cultural content and no commercial message, City Council can approve it and a variance is not needed. However, these issues involve content regulations which is not allowed.

Board Member Kemerer questioned if the existing murals would be grandfathered in, to which Gouldman advised they would be.

CITIZEN INPUT [NOTE: LIMITED TO 3 MINUTES PER SPEAKER.]**Historic Preservation Board/Murals**

Joanne Peck, Committee Member, Brooksville Main Street, recalled that the City's code states that the Historic Preservation Board could approval murals. She added that the City does not have a Historic Preservation Board and she requested Council to look at during this overall review.

City Planner Gouldman stated that the regulation Ms. Peck is referring to applies properties that have been designed as historic landmarks. The City has not activated that ordinance, therefore there are no historic landmarks as defined by the code.

Mermaid Trail designations

Natalie Kahler, Executive Director, BMS, made an official request that the City install that signage.

RESPONSE BY CITY MANAGER AND STAFF/CRA MEMBERS

None necessary.

ITEMS BY CITY ATTORNEY

No items to report

ITEMS BY CITY MANAGER

No items to report

STAFF UPDATES (IF ANY)

None

ITEMS BY COMMUNITY REDEVELOPMENT AGENCY MEMBERS**BOARD MEMBER ERHARD**

She thanked City Planner, Steve Gouldman, for his valuable input.

BOARD MEMBER BATTISTA

He felt it was a good meeting.

BOARD MEMBER KEMERER

He agreed it was a good meeting.

CRA CHAIRMAN BERNARDINI

No items to report

CRA VICE CHAIRMAN BRAYTON

He encouraged all organizations to be patient as the City works through these issues.

ADJOURNMENT

There being no further business to consider, motion was made by Kemerer and seconded by Erhard to adjourn the meeting at 4:40 p.m. Motion carried 5-0, as follows:

Battista	Aye
Erhard	Aye
Kemerer	Aye
Brayton	Aye
Bernardini	Aye



Jennifer J. Battista

 Jennifer J. Battista, CMC, City Clerk

Attest: *Pat Brayton*

 Pat Brayton, CRA Vice Chair