

**CITY COUNCIL MEETING
July 15, 2009**

**APPROVED BY
August 12, 2009
CITY COUNCIL**

The City of Bradenton City Council met in regular session in the City Hall Council Chamber, 101 Old Main Street, Bradenton, Florida on July 15, 2009 at 8:30 a.m.

Present: Mayor Wayne Poston; Councilman Ward I Gene Gallo; Councilwoman Ward II Marianne Barnebey; Councilman Ward III Patrick Roff; Vice Mayor and Councilman Ward IV Bemis Smith and Councilman Ward V Harold E. Byrd, Jr.

City Officials: Carl Callahan, City Clerk and Treasurer; Claude Tankersley, Public Works Director; William Lisch, City Attorney; Mark Souders, Fire Chief; Michael Radzilowski, Police Chief; Tim Polk, Department of Planning and Community Development Director, and Carolyn Moore, Human Resources Director.

Press: The Herald and The Bradenton Times.

The meeting was called to order by Mayor Poston.
Ecumenical invocation was led by Reverend Tony Miller, Church of the Nazarene.
Pledge of Allegiance was led by Mayor Poston.
Staci Cross, Information Technology Director was excused from the meeting.

PROCLAMATIONS

WOMEN'S EQUITY DAY – AUGUST 22, 2009

FIREFIGHTER APPRECIATION MONTH – AUGUST, 2009

Mr. Callahan administered the oath to any individuals who wished to speak on any non-agenda items and during the public hearings.

CITIZEN COMMENTS

No one came forward.

CONSENT AGENDA

- a) Minutes of June 24, 2009.
- b) Resolution 09-44-SHIP reconstruction contract – Diane Schwendtner.**(pulled for discussion)**
- c) Resolution 09-45-SHIP reconstruction contract – Ralph Hamilton.**(pulled for discussion)**
- d) Resolution 09-50-Adopting CDBG CAPER for January 1, 2009 – April, 30, 2009.
- e) Resolution 09-52-EV.09.0004 canal easement vacation Riverdale subdivision.
- f) Resolution 09-53-Update Statewide Mutual Aid Agreement.
- g) Bid Recommendation Award to Close Construction, Inc.
- h) MB.09.0039 Request for a PDP one-year extension of time for 1201 27th Street East, South Braden Castle Camp.

MOTION TO APPROVE Consent Agenda Items a, and d through H and remove items b and c for discussion was made by Councilman Gallo, seconded by Vice Mayor and Councilman Smith and passed 5-0 for approval.

BUSINESS/ADVERTISING, PETITIONS, HEARINGS AND COMMUNICATIONS

FIRST READING OF PROPOSED ORDINANCE NO. 2907

AN ORDINANCE OF THE CITY OF BRADENTON, FLORIDA, MAKING CERTAIN FINDINGS OF FACT; PROVIDING FOR AMENDMENT TO THE CITY OF BRADENTON COMPREHENSIVE PLAN (LARGE SCALE DEVELOPMENT ACTIVITY AMENDMENT CP.08.0024) EVALUATION AND APPRAISAL REPORT (EAR) BASED AMENDMENTS TO THE COMPREHENSIVE PLAN, INCLUDING THE DESIGN ELEMENT, FUTURE LAND USE ELEMENT, TRANSPORTATION ELEMENT, COASTAL MANAGEMENT ELEMENT, HOUSING ELEMENT, PUBLIC FACILITIES ELEMENT, RECREATION AND OPEN SPACE ELEMENT, HISTORIC PRESERVATION ELEMENT, INTERGOVERNMENTAL COORDINATION ELEMENT, AND CAPITAL IMPROVEMENTS ELEMENT; PROVIDING FOR APPLICABILITY; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

MOTION TO APPROVE the first reading and set the second reading and public hearing of Proposed Ordinance No. 2907 for September 9, 2009 was made by Councilman Roff, seconded by Vice Mayor and Councilman Smith and passed 5-0 for approval.

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**SECOND READING OF PROPOSED ORDINANCE NO. 2906** **PUBLIC HEARING**

AN ORDINANCE OF THE CITY OF BRADENTON, FLORIDA, AMENDING SECTION 18-240 AND SECTION 18-241 OF THE CODE OF ORDINANCES OF THE CITY OF BRADENTON BY ADOPTING THE 2009 EDITION OF THE INTERNATIONAL PROPERTY MAINTENANCE CODE AND REVISING SECTION 112.4 OF SAID CODE TO READ \$75.00 AND \$250.00; PROVIDING AN EFFECTIVE DATE.

The public hearing was opened, anyone in favor please come forward, no one came forward.

Anyone in opposition, please come forward, no one came forward, the public hearing was closed.

Tim Polk gave the Planning and Community Development staff report with staff recommendation for approval to adopt the 2009 Edition of the International Property Maintenance Code.

**MOTION TO APPROVE Ordinance No. 2906 with the recommendation for approval by the Planning and Community Development staff was made by Vice Mayor and Councilman Smith, seconded by Councilman Byrd and passed 5-0 for approval.**

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SA.09.0014 WARD 5 NEIGHBORHOOD 7.02B RS **PUBLIC HEARING**

Request of David Bishop of Ugarte & Associates, agent for United Community Center and the City of Bradenton, owner, for a Special Use Amendment to increase the size of the Norma Lloyd Park and provide for certain park amenities for the property located at 1024 24th Street East. (zoned R-1C).

The public hearing was opened, anyone in favor please come forward, no one came forward.

Anyone in opposition, please come forward, no one came forward, the public hearing was closed.

Tim Polk gave the Planning and Community Development staff report with staff and the Planning Commission's recommendation for approval with three (3) stipulations as follows:

- 1. Landscape material proposed for installation would meet or exceed minimum size requirements as specified in the Land Use Regulations.

2. The area proposed for the United Community Center and construction of the facility was approved in its entirety.
3. The remainder of Phase 2 is approved subject to purchase of the State owned land identified on the aerial provided by the City of Bradenton and identified as Exhibit "H".

MOTION TO APPROVE SA.09.0014 with the recommendation for approval by the Planning and Community Development staff and Planning Commission with three (3) stipulations was made by Councilman Byrd, seconded by Councilman Roff and passed 5-0 for approval.

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**SU.08.0059 WARD 2 NEIGHBORHOOD 12.02 RS & TC PUBLIC HEARING**

Request of William Robinson of Blalock Walters Held & Johnson, agent for Episcopal Day Private School, owner, for a Special Use to allow a drive-thru restaurant for the property located at 3816 Manatee Ave. West (zoned C-3).

The public hearing was opened, anyone in favor please come forward.

Bill Lisch, City Attorney stated his recommendation was to continue SU.09.0059 as the Planning and Community Development staff had not had time to review the revised site plan which had been requested by the Planning Commission but not received until yesterday, July 14, 2009.

**Will Robinson**, representing the applicant Episcopal Day Private School objected to the continuance and displayed the site plan Mr. Lisch referred to with the two (2) changes as requested by the Planning Commission as follows:

1. The FPL transformer would be relocated north of its current location.
2. To relocate the dumpster from the easement.

Discussion: The cross access easement owned by St. Stephens which Smitty's and Smoothie King had been granted permission to use.

**Kevin Hennessey**, representing Smoothie King, objected to the continuance and requested to move forward as the issue requested by the Planning Commission essentially had already been addressed during this morning's discussion. He displayed the 7-14-09 site plan and gave an overview of the changes for the use of the cross access easement.

**Patricia Petriff**, representing Salmar LLC aka Smitty's Pub submitted and displayed using the site plan which basically was the site plan shown at the Planning Commission meeting, depicted the elimination of the Smoothie King eastern parking spaces, then making a dedicated drive through lane with flexible delineators. She stated that Smoothie King wanted to make the cross access easement one-way to accommodate only Smoothie Kings patrons, which would not allow Smitty's patrons use of the easement.

Ms. Petriff requested the continuance as recommended by Bill Lisch, as this issue had been on-going since December, 2008 and she wished to give the staff more time to review the proposed changes.

Lengthy discussion: The issues of the dumpster pad, FPL transformer, drive through lane and eastern parking spaces within the cross access easement.

**MOTION TO CONTINUE SU.08-0059 to September 9, 2009 was made by Councilwoman Barnebey, seconded by Councilman Gallo and passed 4-1 with Vice Mayor and Councilman Smith in opposition of the continuance.**

**SU.09.0062 WARD 3 NEIGHBORHOOD 1.01 RS**

**PUBLIC HEARING**

Request of Robert Woodring, agent for the Arthritis Foundation, owner, for a Special Use to allow a lounge on the property located at 406 12<sup>th</sup> Street West (zoned C-1A).

The public hearing was opened, anyone in favor please come forward.

**Robert Woodring** stated he had plans to purchase the building and renovate the interior to accommodate a larger Lost Kangaroo Lounge.

**Doris Blattner**, neighbor next to the building, requested clarification of the outdoor lounge as she had concerns about noise.

Robert Woodring addressed Doris Blattner’s questions and stated the new facility would be just as it was now at the current location down the street with tables outside and no outside sound system. He stated the hours would remain the same with closing time at 2:30 a.m. He stated with the purchase of the building, the facility would also acquire a parking lot for patrons.

Anyone in opposition, please come forward no one came forward, the public hearing was closed.

Tim Polk gave the Planning and Community Development staff report with the staff and Planning Commission recommendation for approval with two (2) stipulations as follows:

1. The sidewalks would be maintained and cleaned as needed, not less than once per week.
2. Hours of operation would be the same as those mandated by the State of Florida in accordance with the Alcoholic Beverage License.

**MOTION TO APPROVE SU.09.0062 with the recommendations made by the Planning and Community Development staff and Planning Commission with two stipulations was made by Councilman Roff, seconded by Vice Mayor and Councilman Smith and passed 5-0 for approval**

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AB.09.0015 WARD 3 NEIGHBORHOOD 1.01 RS

PUBLIC HEARING

Request of Robert Woodring, agent for the Arthritis Foundation, owner, for a 4-COP alcoholic beverage license and outdoor seating for a lounge on the property located at 406 12th Street West (zoned C-1A).

The public hearing was opened, anyone in favor please come forward, no one came forward.

Anyone in opposition, please come forward no one came forward, the public hearing was closed.

Councilwoman Barnebey reiterated that Robert Woodring had addressed Ms. Blattner’s questions and stated the new facility would be just as it was now at the current location down the street with tables outside and no outside sound system. He stated the hours would remain the same with closing time at 2:30 a.m. He stated with the purchase of the building, the facility would also acquire a parking lot for patrons.

MOTION TO APPROVE AB.09.0015 was made by Councilman Roff, seconded by Vice Mayor and Councilman Gallo and passed 5-0 for approval.

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**(Two items b & c pulled from Consent Agenda for discussion)**

**Resolution 09-44–SHIP reconstruction contract – Diane Schwendtner.  
Resolution 09-45–SHIP reconstruction contract – Ralph Hamilton.**

**Jon Anthony DeLuzio**, President of Carmel Capital LLC stated he opposed the bid recommendations given to T. L. Hill Construction, LLC, and stated the bidding process lacked clarification.

Bill Lisch referred to a letter dated July 8, 2009 written by Tim Polk to Mr. Jon Anthony DeLuzio. Mr. Lisch stated in this letter that Mr. Polk had clearly explained, in detail, that both homeowners had required a 2 bedroom, 2 bathroom home. The specifications went out with this requirement, and Mr. DeLuzio's bids came in on a 3 bedroom, 2 bathroom home with about the same square footage. He stated Mr. DeLuzio did not meet the requirements requested by the homeowners.

He recommended approval of the bid as awarded to T.L. Hill Construction, LLC.

General discussion by the Council, Mr. DeLuzio, and Bill Lisch regarding the specification requirements and the bidding process.

**Travis Hill**, TL Construction, stated that the specifications clearly stated what to bid, how to bid and when to supply the bid. He stated it was his understanding that if a bid was under the published bid amount, then the final choice was made by the homeowner who would live in the home.

Lengthy discussion: What were the specifications, what were the requirements?

For the record, Councilman Roff and Vice Mayor and Councilman Smith stated they did not know either Mr. DeLuzio or Mr. Hill and that there was no preferential treatment in the process. It was suggested that the city should review the process and tighten the qualifications.

Tim Polk stated that the procedures had to be approved by the state and the city followed these procedures.

**MOTION TO APPROVE RESOLUTION 09-44 AND RESOLUTION 09-45 based on the recommendation of Mr. Lisch was made by Councilman Byrd, seconded by Councilman Roff and passed 5-0 for approval.**

#### NEW BUSINESS BY DEPARTMENT HEADS, CITY ATTORNEY AND COUNCIL

Carolyn Moore

#### **2009-2010 Employee Health Insurance**

Mrs. Moore gave an overview of the proposed 2009-2010 Great West Health Plan with three changes. She stated that the deductible would increase, the co-insurance would go back to 90%, and a four-tier prescription plan would be added. She stated that with these changes, the preferred plan, which most of the employees carried would save approximately \$408,000 in claims. In the primary plan, a projected potential savings of \$74,420 was possible.

Mrs. Moore stated this would be the first year for Health and Wellness Credits. She stated the Employees Health Fair would be held July 29, 2009 in the city auditorium where employees can receive a full physical by Pinnacle doctors.

She stated that the rates for the Reliance Standard Dental and Vision plan, would remain the same.

Mrs. Moore requested approval of the City of Bradenton Health plan, for the fiscal year 2009-2010.

Councilman Gallo stated it had been a pleasure sitting in on the Insurance Committee meetings and stated the committee had worked long and hard to make the plans work.

**Kelly Swan**, Great West Insurance, explained the Preferred Plan's new four-tier co-pay special pharmacy plan.

**MOTION TO APPROVE THE 2009-2010 Employee Health Insurance Plan was made by Councilman Gallo, seconded by Councilman Byrd and passed 5-0 for approval.**

Carl Callahan

**BRIGHT HOUSE BANNERS**

**Tim McCann**, Public Relations Officer, displayed a rendering and gave an overview of the request made by the Bright House Cable Company to place banners, with no expense to the city, on six downtown light poles to promote WIFI access in the downtown area. Pole locations were as follows:

1. Near City Hall parking lot off Old Main Street.
2. At the entrance to Mattison's.
3. East corner of Old Main Street and Barcarrota Boulevard.
4. East corner of Manatee Avenue and Old Main Street at the courthouse square.
5. Old Main Street in front of Robin's Downtown.
6. 1000 block of Old Main Street in the Village of the Arts.

**Amy Van Del** and **Brian Sounders**, Bright House representatives gave a brief report of the WIFI service offered and the free web sites promoting the city, county and other agencies.

**MOTION TO APPROVE the request from Bright House to hang six (6) banners at the specific listed locations and to come back for any additional locations was made by Councilman Gallo, seconded by Councilman Roff and passed 5-0 for approval.**

Tim Polk

**REVISED NEIGHBORHOOD STABILIZATION PROGRAM GRANT APPLICATION**

Tom Cookingham stated that after discussions with the Department of Community Affairs (DCA), it was found that the rental assistance program required the purchase of property for certain income groups.

He stated based on meetings with the DCA, the city's initial Neighborhood Stabilization Program (NSP) application had been revised to include: the designation of \$1,101,109 for the acquisition and rehabilitation and/or demolition and construction of seven units for rent to individuals with earnings at or below 50% area median income. The costs would be \$517,000 for purchase and \$584,190 for rehabilitation and/or construction. He stated there would be no financial impact to the city.

**REQUEST APPROVAL TO AUTHORIZE Mayor Poston to execute the Revised Neighborhood Stabilization Program Grant Application for submittal to the DCA with Resolution 09-54.**

No discussion followed.

**MOTION TO APPROVE the request for execution of Resolution 09-54 was made by Councilman Gallo, seconded by Councilwoman Barnebey and passed 5-0 for approval.**

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ADDITIONS TO THE AGENDA

BID RECOMMENDATION

RECOMMENDATION MADE BY Public Works and Utilities to award Bid No. 02-08 to Superior Asphalt in the amount of \$84,927.00, the low bidder.

The three bids received and the corresponding bid amounts were as follows:

APAC-Southeast, Inc.	\$128,113.75
Gator Grading and Paving, LLC	\$ 99,953.70
Superior Asphalt, Inc.	\$ 84,927.00

MOTION TO APPROVE the awarding of Bid No. 02-08 to Superior Asphalt, Inc. with the recommendation made by Public Works and Utilities was made by Councilman Gallo, seconded by Councilman Byrd and passed 5-0 for approval.

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**WORK SQUAD CONTRACT #WS480, AMENDMENT #1**

**RECOMMENDATION MADE BY Carl Callahan to approve the Work Squad Contract #WS480, AMENDMENT #1 between the Department of Corrections and the City of Bradenton effective October 3, 2009 for one year.**

No discussion followed.

**MOTION TO APPROVE the Work Squad Contract #WS480, Amendment #1 with the recommendation made by Carl Callahan was made by Councilman Gallo, seconded by Councilwoman Barnebey and passed 5-0 for approval.**

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2009 ASSISTANCE FOR FIREFIGHTERS GRANT APPLICATION

Carl Callahan gave a brief overview of the 2009 Assistance for Firefighters Grant through the Recovery Act to rebuild Fire Station 3. He stated the request was for \$2.6 million for the building with a \$275,000 match potential, with the evaluation process to begin within 60 days, to receive notification on or before September 10, 2010. He stated that it was a collaborative effort within a short period of time to gather information for the grant application to meet the deadline prior to this council meeting. He stated the Council had the option to withdraw the application now or reject the award should that occur.

NO ACTION WAS TAKEN-The Council agreed to continue with the grant application process.

BUDGET UPDATE AND PUBLIC COMMENTS

Carl Callahan presented the Budget Message and displayed charts depicting the status of the city in terms of revenue and expenses. He stated it was a daunting task due to the loss of approximately \$4.5 million in revenue over the past three years and with the ever increasing cost of expenditures and cost in running the city in these difficult economic times.

RECOMMENDATION REQUEST BY Carl Callahan to set the rollback rate at 4.6758 for the tentative millage rate.

Discussion: A difficult task in this economy having to approach the budget process as a business and still having to provide the essential services to the citizens.

MOTION TO SET the tentative millage rate at the rollback rate of 4.6758 with the recommendation made by Carl Callahan was made by Councilman Gallo, seconded by Councilman Harold Byrd and passed 4-1 for approval with Councilman Roff in opposition.

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**REQUEST BY CARL CALLAHAN to have two budget hearings on September 9, 2009 and September 23, 2009 both at 5:01 p.m.**

No discussion followed.

**MOTION TO APPROVE the request to have two public budget hearings on September 9, 2009 and September 23, 2009 both at 5:01 p.m. was made by Councilman Roff, seconded by Councilman Gallo and passed 5-0 for approval.**

COUNCIL REPORTS

**Councilman Gene Gallo, Ward I:** Thanked Fire Marshal Langston for his patience in directing traffic during the July 4<sup>th</sup> fireworks display downtown.

Councilman Gallo stated several people had asked him why the light turned red after the green left turn lane arrow signal at 59<sup>th</sup>, 67<sup>th</sup>, and 75<sup>th</sup> Streets as this caused traffic to back up. He stated that at 26<sup>th</sup>, 39<sup>th</sup>, 43<sup>rd</sup> and 51<sup>st</sup> Streets intersections, after the green left turn lane arrow, the light then turned full green which allowed cars to continue turning left where traffic back up was not an issue.

**Councilman Gallo requested Claude Tankersley to ask FDOT to conduct a survey on Manatee Avenue, State Road 64 West as to allowing the need for all the turn left traffic signals be consistent from 26<sup>th</sup> Street to 75<sup>th</sup> Street.**

No discussion followed.

**MOTION TO REQUEST FDOT to conduct a survey on Manatee Avenue West from 26<sup>th</sup> Street to 75<sup>th</sup> Street was made by Councilman Gallo, seconded by Vice Mayor and Councilman Smith and passed 5-0 for approval.**

**Councilwoman Marianne Barnebey, Ward II:** Stated she would be attending a Metropolitan Planning Organization (MPO) meeting in Polk City on Friday. On Monday she would be attending a meeting presented by Congressman Buchanan with US Transportation Secretary Ray LaHood as the guest speaker.

**Councilman Patrick Roff, Ward III:** Commended the Bradenton Police Department for their presence at the July 4<sup>th</sup> fireworks display. He had observed the officers mingling throughout the crowd and stated he and his wife had recently attended a street fair event in St. Petersburg and had not seen any police presence even when as the crowd became unruly.

Councilman Roff thanked Mike Kennedy and the DDA Board for the approval of DDA/CRA funds for **Realize Bradenton**. He stated the board also approved the Police Sub Station that would give noticeable police presence on 14<sup>th</sup> Street.

**Vice Mayor and Councilman Bemis Smith, Ward IV:** Sited a newspaper article that reported Bradenton as the nation's ninth meanest city regarding care of the homeless. He stated the article did not take into account the One-Stop Service Center which had been constructed with the help of the City to assist the homeless population.

**Councilman Harold Byrd, Jr., Ward V:** Nothing to report.

**Mayor Wayne Poston:** Nothing to report.

#### DEPARTMENT HEADS

**Carl Callahan:** Thanked everyone involved in the task of getting the Budget Message together for today's presentation.

**Chief Souders:** Nothing to report.

**Carolyn Moore:** Reminded everyone the City Hall employee blood draw would be held on Thursday, July 16<sup>th</sup>, with the results to be handed out to the employees at the Health Fair.

**Chief Radzilowski:** Nothing to report.

**Claude Tankersley:** Nothing to report.

**Tim Polk:** Information regarding inspections was now posted on the city's website.

**Bill Lisch:** Nothing to report.

**Staci Cross:** Excused from the meeting.

#### ADJOURNMENT

There being no further business, Mayor Poston adjourned the meeting at 12:45 p.m.

NOTE: This is not a verbatim record. An audio CD or DVD recording of the meeting is available for a fee upon request.