

**CITY COUNCIL MEETING  
February 8, 2006**

The City of Bradenton City Council met in regular session in the City Hall Council Chamber, 101 Old Main Street, Bradenton, Florida on February 8, 2006 at 8:30 a.m.

**Present:** Vice Mayor and Councilman Ward I Gene Gallo; Councilwoman Ward II Marianne Barnebey; Councilman Ward III Patrick Roff; Councilman Ward IV Bemis Smith and Councilman Ward V James T. Golden.

**City Officials:** Wayne Poston, Mayor; Carl Callahan, City Clerk and Treasurer; John Cumming, Public Works Director; William Lisch, City Attorney; Mark Souders, Fire Chief; J.J. Lewis, Police Major; Tim Polk, Department of Planning and Community Development Director; Staci Cross, Information Technology Director, and Carolyn Moore, Human Resources Director.

**Press:** Bradenton Herald and Manatee Herald Tribune

The meeting was called to order by Mayor Poston.  
Ecumenical invocation was led by Pastor Joey Mimbs, Bethel Baptist Church.  
Flag salute was led by Mayor Poston.

### PRESENTATIONS

#### **Public Works Recognitions**

Employees of the Month:

January	<b>Terrell Smith</b> , Storm Drainage Department
February	<b>Mark Elzey</b> , Water Distribution Department

Honorable Mention:

**Steve Sibert**, Engineering Department  
**Anthony Moore**, Storm Drainage Department

*Mr. Callahan administered the Oath to any individuals who wished to speak during the public hearings.*

### CITIZEN COMMENTS

No one came forward.

Carl Callahan stated that the Pirates Booster Club funded the new "Bradenton" sign at McKechnie Field.

### COUNCIL REPORTS

**Vice Mayor and Councilman Gene Gallo, Ward I:** Stated that the past Election Run-off had cost the City approximately \$30,000. Vice Mayor Gallo reported that he had sent a letter to all 67 counties in the state requesting to complete a Run-off Election survey. Vice Mayor Gallo stated of the counties that responded, the majority of votes won the election and not by percentage of the votes.

Vice Mayor Gallo asked Bill Lisch to draft an ordinance to bring back to Council in March to amend the City's Code regarding not having to do a Run-off Election.

Mr. Lisch indicated that he would also review as to whether this process could be changed solely by ordinance or if it must be changed by referendum.

**Councilwoman Marianne Barnebey, Ward II:** Reported that the Manatee High School Orchestra had participated in a county-wide competition, which had included a sight reading test, and had received all superior marks.

**Councilman Patrick Roff, Ward III:** Thanked Mayor Poston, Mr. Lisch and the City staff who accompanied him to a meeting at the Bradenton Tropical Palms Mobile Park. He stated that the park residents were quite confused about what was going on at the park regarding its possible sale.

**Councilman Bemis Smith, Ward IV:**

**REQUESTED APPROVAL of Resolution 06-23** urging the Florida Legislature to fully fund the State and Local Housing Trust Funds for fiscal year 2006 – 2007.

**MOTION TO APPROVE Resolution 06-23 was made by Councilman Smith/Councilwoman Barnebey and carried 5-0 for approval.**

**Councilman James Golden, Ward V:** Stated that the City was recognized for sponsorship funding of \$287,000 toward the Homeless Coalition efforts.

**Mayor Wayne Poston:** Reminded everyone that the Pittsburgh Pirates games would begin in March.

## CONSENT AGENDA

**Approval of minutes for January 25, 2006.**

**MOTION TO APPROVE the minutes for January 25, 2006 was made by Vice Mayor Gallo/Councilman Smith and carried 5-0 for approval.**

## BUSINESS/ADVERTISING, PETITIONS, HEARINGS AND COMMUNICATIONS

### **FIRST READING OF PROPOSED ORDINANCE 2818**

*AN ORDINANCE AMENDING ORDINANCE NO. 2670, CODE OF ORDINANCES OF THE CITY OF BRADENTON, FLORIDA WHEREAS THE CODE SHALL READ "THE MOST CURRENT VERSION OF" THE FLORIDA BUILDING CODE, THE FLORIDA PLUMBING CODE AND THE FLORIDA MECHANICAL CODE.*

**MOTION TO APPROVE the first reading of Ordinance 2818 and set the second reading and public hearing on February 22, 2006 was made by Councilman Smith/Councilman Golden and carried 5-0 for approval.**

### **FIRST READING OF PROPOSED ORDINANCE 2819**

*AN ORDINANCE AMENDING ORDINANCE NO. 2616, CODE OF ORDINANCES OF THE CITY OF BRADENTON, FLORIDA HEREBY ADOPTING THE NATIONAL ELECTRICAL CODE, 2005 EDITION, PROVIDING AN EFFECTIVE DATE.*

**MOTION TO APPROVE the first reading of Ordinance 2819 and set the second reading and public hearing on February 22, 2006 was made by Councilman Smith/Councilman Golden and carried 5-0 for approval.**

**SECOND READING OF PROPOSED ORDINANCE 2815**

**PUBLIC HEARING**

*AN ORDINANCE OF THE CITY OF BRADENTON, FLORIDA GRANTING A NON-EXCLUSIVE FRANCHISE TO VERIZON OF FLORIDA, INC., ITS SUCCESSORS AND ASSIGNS AND PROVIDING A CABLE FRANCHISE AGREEMENT FOR VERIZON OF FLORIDA, INC.; INCORPORATING WITHIN THIS ORDINANCE THE TERMS OF THE FRANCHISE AGREEMENT ALLOWING VERIZON FLORIDA, INC. TO OCCUPY MUNICIPAL STREETS AND RIGHTS OF WAYS AS MEANS OF PROVIDING CABLE SERVICES INCLUDING THE VARIOUS TERMS, CONDITIONS AND PENALTIES FOR VIOLATIONS OF ITS PROVISIONS AND SEVERABILITY OF PROVISIONS; PROVIDING AN EFFECTIVE DATE.*

The public hearing was opened, those in favor.

**Steve Mixson**, Verizon External Affairs Director, presented two videos that explained Verizon FiOS television, a service which uses fiber optic terminals mounted on customers' homes, making a virtual direct connection to a home base where the signal is broadcast.

He requested approval of the Verizon Franchise Agreement as it would create a competitive alternative to cable by enhancing consumer choice of, not only the television and video marketplaces, but for internet and wireless services as well.

Those in opposition.

**Greg Porges**, attorney representative of Bright House Networks, voiced his opposition to the terms in the franchise agreement. He referred to several letters written by him to the city attorney addressing some of the concerns. He distributed handouts which defined the Cable System Act and outlined a list of stipulations as to the terminologies and definitions that excused Verizon from being defined as a true cable provider.

Mr. Porges stated that the franchise agreement would grant Verizon certain network privileges that the city's agreement with Bright House did not allow. He went on to say that Verizon should be required to provide the same services in the same manner as Bright House.

Rebuttal.

**Allison Hift**, attorney for Verizon, addressed several claims made by Mr. Porges and stated that Verizon's fiber optic network was unique because it carried data, voice, television, and wireless services. She defined the federal cable laws and stated that Verizon was consistent with the federal laws. She explained how they applied to the fiber-to-the-premises network, with only one portion of the network being a television network.

Lengthy discussion regarding jurisdictional issues, permitting issues, improvements of public rights-of-way, current cable regulations with federal laws that should be changed due to new technology.

The public hearing was closed.

Bill Lisch stated that the claims made by Mr. Porges were remote issues and were not critical to the city.

Mr. Callahan stated that he and Mr. Lisch had discussed, at length, this agreement and various other options with Verizon and Bright House. He stated that the City's agreement was consistent with the Manatee County agreement, and since Manatee County surrounded the City, it only made sense to have a similar agreement.

He recommended approval of the agreement as submitted.

Vice Mayor Gallo stated that he understood both sides of this issue, but based on the Manatee County agreement and the recommendation by Bill Lisch and Carl Callahan, he would support the motion for approval.

Councilman Smith stated that he would support the motion, as the provision for a competitive environment in the market would result in better service and better prices for our citizens.

Councilman Roff stated that in the best interest of the community he concurred with Councilman Smith as competition was a good thing.

Councilwoman Barnebey stated that Bright House had been a good corporate neighbor in the community. She stated that she would hope that Verizon would also be as involved in the community.

Councilman Golden thanked Mr. Porges for his honesty and efforts in making the Council members aware of the issues and trusted that Mr. Porges would maintain vigilance over the cable services in the community in the future.

**MOTION TO APPROVE Ordinance 2815 with the Verizon of Florida, Inc. Franchise Agreement was made by Vice Mayor Gallo/Councilman Golden and carried 5-0 for approval.**

**CP.05.0013 WARD 2 NEIGHBORHOOD 5.01 MM**

Request of Ron Travis and Dave Coupland, owners, for a Small Scale Comprehensive Plan Amendment from Residential-10 to Commercial for property located at 602 30<sup>th</sup> Street West

**FIRST READING OF PROPOSED ORDINANCE #2816**

*AN ORDINANCE OF THE CITY OF BRADENTON, FLORIDA, PERTAINING TO PROPERTY LOCATED AT 602 30<sup>TH</sup> STREET WEST, BRADENTON, FLORIDA MAKING CERTAIN FINDINGS OF FACT; PROVIDING FOR AMENDMENT TO THE CITY OF BRADENTON COMPREHENSIVE PLAN FUTURE LAND USE ELEMENT/FUTURE LAND USE MAP SMALL SCALE DEVELOPMENT ACTIVITY LAND USE ELEMENT/FUTURE LAND USE MAP (**SMALL SCALE DEVELOPMENT ACTIVITY AMENDMENT CP.05.0013**) CHANGING THE FUTURE LAND USE DESIGNATION FROM RESIDENTIAL-10 TO COMMERCIAL; PROVIDING FOR APPLICABILITY; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE*

**LU.05.0023 WARD 2 NEIGHBORHOOD 5.01 MM**

Request of Ron Travis and Dave Coupland, owners for Land Use Atlas Amendment from R1C to C2 for property located at 602 30<sup>th</sup> Street West

**FIRST READING OF PROPOSED ORDINANCE #2817**

*AN ORDINANCE AMENDING ORDINANCE NO. 2627, CODE OF ORDINANCES OF THE CITY OF BRADENTON, FLORIDA BY A **LAND USE ATLAS AMENDMENT** TO CHANGE THE DESIGNATION FROM R1-C TO C-2 FOR THE PROPERTY LOCATED AT 602 30<sup>TH</sup> STREET WEST AND LEGALLY DESCRIBED.*

**MOTION TO APPROVE the first reading of Ordinance 2816 and Ordinance 2817 and set the second reading and public hearing for February 22, 2006 was made by Councilwoman Barnebey/Councilman Smith and carried 5-0 for approval.**

**SU.05.0019 WARD 4 NEIGHBORHOOD 7.02B RS PUBLIC HEARING**

Request of Cyrix Engineering, Inc., agent for Pinnacle Storage Services, LLC, owner for Special Use approval for outdoor storage for property located at 2330 Manatee Avenue East (Zoned C3)

The public hearing was opened, those in favor come forward.

**Dale Reaume**, Cyrix Engineering, Inc. gave a brief overview of the request for outdoor storage. He stated that the Department of Planning and Community Development and Planning Commission had recommended that a six-foot finished masonry wall be installed around the outdoor storage area. He voiced his disapproval of this recommendation as the cost associated with a masonry wall was around \$40,000. He stated there were other options to buffer the area such as PVC or vinyl fencing with a lot less maintenance required than a masonry wall.

He stated that the applicant was in agreement with the setbacks, landscaping and irrigation requirements.

**Louis Edmundson**, owner of Pinnacle Storage Services, LLC displayed photographs and described the existing landscaping in front of the storage facility. He requested to continue with the same landscaping consisting of a large hedge paralleling with the chain length fence.

Councilwoman Barnebey stated her choice for a buffer would be a thick attractive hedge versus a wall which could be a magnet for graffiti.

Those in opposition, no one came forward, the public hearing was closed.

Tim Polk stated that the Department of Planning and Community Development staff recommended approval with five stipulations and the Planning Commission concurred with staff with the underline revision to stipulation one (1) as follows:

1. A six-foot finished masonry wall or pre-cast concrete wall would be installed on the east, west and south sides around the outdoor storage area. On the east side, the wall would be recessed 15 feet and a

landscaped buffer, approved by the Department of Planning and Community Development Director, would be installed.

2. Trees would be installed 25 feet on center on the south side.
3. No existing trees would be removed.
4. Install non-compacted shell within the storage area.
5. Low sodium lighting would be utilized in the storage area, and directed away from the residences.

**Ruth Seewer**, Development Review Manager addressed the concerns regarding the wall versus a landscaping hedge. She stated the issue was the outside storage for trailers and boats.

Ms. Seewer described the concerns with the property line encroachment into a residential neighborhood.

Discussion: Types of fence material that would be attractive and yet low maintenance. Set backs from inside the fence.

Stipulations 7 and 8 were added with 1 revised by City Council indicated with underlined and are as follows:

1. A six-foot solid PVC fence would be installed on the east, west and south sides around the outdoor storage area. On the east side, the wall would be recessed 15 feet and a landscaped buffer, approved by the Department of Planning and Community Development Director, would be installed.
2. Trees would be installed 25 feet on center on the south side.
3. No existing trees would be removed.
4. Install non-compacted shell within the storage area.
5. Low sodium lighting would be utilized in the storage area, and directed away from the residences.
6. No storage allowed within 10 feet of the inside of the fence on the abutting residential property.
7. Storage would be limited to boats, recreational trailers, and recreational vehicles.
8. More palm trees would be planted on the west.

**MOTION TO APPROVE SU.05.0019 as recommended by the Department of Planning and Community Development staff and Planning Commission with eight stipulations with revisions was made by Councilman Smith/Councilman Golden and carried 5-0 for approval.**

**AB.05.0013 WARD 1 NEIGHBORHOOD 4.07 RS PUBLIC HEARING**

Request of Kevin Parker, agent for Westport Holdings Bradenton LP, d/b/a Freedom Village, for Alcoholic Beverage License Application at 6601 17<sup>th</sup> Avenue West (Zoned PDP)

The public hearing was opened, those in favor, come forward.

**Kevin Parker**, Executive Director of Freedom Village gave a brief overview of the request to sell beer and wine in conjunction with the on-site dining facilities at the Landings Building which had no residential housing.

Those in opposition, hearing none, the public hearing was closed.

Tim Polk stated that the Department of Planning and Community Development staff and Planning Commission recommended approval with one stipulation as follows:

1. The sale of alcoholic beverages was approved in conjunction with the dining facilities. If the dining facilities were eliminated, additional review and consideration by the City Council would be required.

**MOTION TO APPROVE AB.05.0013 as recommended by the Department of Planning and Community Development staff and Planning Commission with one stipulation was made by Vice Mayor Gallo/Councilwoman Barnebey and carried 4-1 for approval with Councilman Golden in opposition.**

NEW BUSINESS BY DEPARTMENT HEADS, CITY ATTORNEY AND COUNCIL

Carl Callahan

**BID 07109-211-04, LIFT STATIONS 6, 7, 19, 20, 21 AND 41 IMPROVEMENTS**

Mr. Callahan briefly discussed the allocation of funding from the budget for the lift station improvements and the continued higher cost of material for these projects.

He recommended approval, as recommended by Harold Bridges with Jones Edmunds, to **TLC Diversified, Inc. for a total alternative base bid of \$2,533,605.00.**

Discussion: Construction and cost of the water tank on 48<sup>th</sup> Street Court East.

**MOTION TO APPROVE as recommended by Carl Callahan was made by Vice Mayor Gallo/Councilwoman Barnebey and carried 5-0 for approval.**

**RIGHT-OF-WAY AND LIFT STATION EXCHANGE AGREEMENT WITH TROPICANA PRODUCTS, INC.**

Bill Lisch referred to a memorandum dated February 1, 2006 which gave a detailed explanation for the requested exchange. The memorandum referred to various rights-of-way previously outside and were now within the perimeter of the Tropicana plant site.

**MOTION TO APPROVE the request for right-of-way and Lift Station Exchange Agreement with Tropicana Products, Inc. was made by Vice Mayor Gallo/Councilwoman Barnebey and carried 5-0 for approval.**

Tim Polk

**BRADENTON VILLAGE SENIOR HOUSING BUILDING REVISIONS AND PARKING FACILITIES**

Mr. Polk gave a brief summary of a revised site plan and stated that the proposed building had been scaled down by removing the administrative office for the Housing Authority, which alleviated the need for additional parking. He stated that the proposal could be approved administratively through the PDP upon filing of the final PDP plan.

Discussion: The access easement and drive aisle.

**MOTION TO APPROVE the revision of the Bradenton Village Senior Housing building and parking facilities was made by Councilman Golden/Councilman Roff and carried 3-2 for approval with Vice Mayor Gallo and Councilman Smith in opposition.**

John Cumming

**RESOLUTION NO. 06 - 22**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRADENTON, FLORIDA, APPROVING A LOCAL AGENCY PROGRAM (LAP) AGREEMENT WITH THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT; PROVIDING AN EFFECTIVE DATE.

John Ormando gave a brief description of the LAP agreement with funds that were supplied by the State Enhancement Program to construct two (2) restroom facilities within the Palma Sola Scenic Highway area. He stated one restroom facility would be located on the Palma Sola Causeway and the other within KingFish Boat Ramp in the City of Holmes Beach.

Discussion: That Holmes Beach was against the current location of the restroom facility at Kingfish Boat Ramp and if they could not work out a plan then all the funds could be used for the Palma Sola Causeway facility.

**MOTION TO APPROVE Resolution 06-22 was made by Vice Mayor Gallo/Councilman Golden and carried 4-0 for approval.** Councilman Smith was absent during the vote.

**REUSE FEASIBILITY PROJECT – L515**

John Cumming gave a brief overview of the Cooperative Funding Agreement for the City of Bradenton Reuse Feasibility Study Project (L515) with the Southwest Florida Water Management District (SWFWMD) Agreement No. 06C0000073.

He recommended the authorization execution by Mayor Poston for this agreement.

**MOTION TO AUTHORIZE Mayor Poston to execute the Cooperative Funding Agreement for the City of Bradenton Reuse Feasibility Study Project (L515) was made by Councilwoman Barnebey/Councilman Roff and carried 5-0 for approval.**

**WARES CREEK MAINTENANCE EASEMENTS**

Mr. Cumming stated that the Wares Creek Improvements pursued by Manatee County and the Corps of Engineers required easements to access and maintain the drainage systems.

He recommended donating to Manatee County and give the Corps of Engineers access and maintenance to parcel no. W239.2 located on 22<sup>nd</sup> Avenue West on the west side of the creek valued at \$6,500 and parcel no. W259.2 located on the west side of the creek just to the south of the 18<sup>th</sup> Avenue Bridge valued at \$300.

Discussion: Donating the parcels for the good of Wares Creek.

**MOTION TO APPROVE the Wares Creek Maintenance Easements as recommended by John Cumming was made by Councilman Roff/Councilman Golden and carried 5-0 for approval.**

**UTILITY IMPACT FEES**

Mr. Callahan and Mr. Cumming gave a brief summary of the Water and Sewer Impact Fees as a part of the Jones Edmunds study. They stated the existing fees had not been increased since 1979, and that the proposed fees would require new developments to pay their way for new facilities needed to serve resulting growth.

The Impact fees, existing and proposed were for a typical single-family living unit as follows:

	<u>Existing</u>	<u>Proposed</u>
Water	\$ 828	\$ 1,183
Sewer	\$ 579	\$ 1,546

Mr. Lisch stated that impact fees could not be used for existing maintenance but had to be used for expansion and new facilities.

Councilman Smith voiced his concern about increasing impact fees and providing affordable housing.

Discussion: To have the City staff work on finding some relief for development of affordable housing.

**MOTION TO DIRECT the city attorney to draft an ordinance for the increase Utility Impact Fees to bring back to Council for a first reading in March was made by Councilman Golden/Councilman Roff and carried 4-1 for approval with Councilman Smith in opposition.**

**DEPARTMENT HEADS**

**Carl Callahan:**

**REQUEST FROM** the Central Community Redevelopment Agency for approval on four (4) property acquisitions. They were as follows:

William Armstead property – 922 24<sup>th</sup> Street East,  
Contract price - \$225,000, appraised value - \$225,000

Loren McMaster Property – 1015 East 6<sup>th</sup> Court East  
Contract price - \$49,900, appraised value \$48,000

John & Sesh Granger – 1009 6<sup>th</sup> Street East  
Contract price - \$146,900, appraised value \$169,000

William Eunice – 413 10<sup>th</sup> Avenue East  
Contract price - \$135,000, appraised value - \$135,000

Lengthy discussion: The duties of the Council on authority for approval versus waiving the Council veto power.

Vice Mayor Gallo stated that in order for him to support these types of requests, he would like to see at least, two appraisals for future parcel requests.

Mr. Callahan stated that the Central Community Redevelopment Agency had budgeted for such items and recommended approval.

**MOTION THAT THE CITY COUNCIL not object to purchasing the four parcels as indicated by the Central Community Redevelopment Agency as recommended by Carl Callahan was made by Councilwoman Barnebey/Councilman Golden and carried 4-1 for approval. Vice Mayor Gallo was in opposition.**

Bill Lisch requested that, in the future, the Central Community Redevelopment Agency would give the City Council copies of the appraisals, well in advance, prior to coming before Council.

**Sherod Halliburton**, Executive Director of the Central Community Redevelopment Agency, agreed to the request.

**Chief Souders:** Nothing to report.

**Staci Cross:** Nothing to report.

**Chief Radzilowski:** Nothing to report.

**John Cumming:** Nothing to report.

**Tim Polk:** Nothing to report.

**Bill Lisch:** Nothing to report.

**Carolyn Moore:** Nothing to report.

#### ADJOURNMENT

There being no further business, Mayor Poston adjourned the meeting at 12:35 p.m.

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