

**CITY COUNCIL MEETING
March 12, 2008**

APPROVED BY
March 26, 2008
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 March 12, 2008 at 8:30 a.m.

Present: Mayor Wayne Poston; 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 Harold E. Byrd, Jr.

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

Press: The Herald, the Herald-Tribune and Bay News 9.

The meeting was called to order by Mayor Poston.
Ecumenical invocation was led by Councilman Byrd.
Pledge of Allegiance was led by Mayor Poston.

PRESENTATIONS

BRADENTON POLICE DEPARTMENT

Officer of the Month – Master Patrol Officer Sean O’Leary

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.

COUNCIL REPORTS

Vice Mayor/Councilman Gene Gallo, Ward I: Nothing to report.

Councilwoman Marianne Barnebey, Ward II: Invited everyone to attend the festivities in the Village of the Arts for the inaugural St. Patrick’s Day Parade on Saturday, March 15th starting at 11:00 a.m.

Councilman Patrick Roff, Ward III: Stated that as the result of a joint effort between “Better Manatee Day” and the Kiwanis Club, the Bradenton Women’s Club had received a new fresh coat of paint in a bright new color.

Councilman Roff congratulated Mr. and Mrs. John Taylor for the grand opening of “The Londoner Bed and Breakfast” at 304 15th Street West.

Councilman Bemis Smith, Ward IV: Nothing to report.

Councilman Harold Byrd, Jr., Ward V: Announced that the Village of the Arts was holding the 4th annual “Movie and a Martini” night on Friday, March 14th followed by the St. Patrick’s Parade on Saturday, March 15th.

Councilman Byrd announced that there would be an anti-crime walk in the Washington Park neighborhood on Saturday, March 15th.

Councilman Byrd stated that the Ward V community meeting was held on March 6th where it was decided to extend the community survey until the end of this month with another meeting set for April 3rd to discuss the concerns of the Ward V community.

Mayor Wayne Poston: Stated the Arts Center of Manatee recently held the American Water Color Show with approximately 500 people in attendance which was more than the New York City showing.

CONSENT AGENDA

Approval of Minutes of February 27, 2008.

SF.07.0009 WARD 4 NEIGHBORHOOD 20.03 RS

Request of WilsonMiller, Inc., agent for WCI Communities, Inc., owner, for final plat approval for a subdivision known as "**Mariner Estates**" located at 501 48th Street Court NE. (Zoned PDP)

RESOLUTION NO. 08-20

A RESOLUTION OF THE CITY OF BRADENTON, FLORIDA, ADOPTED PURSUANT TO SECTION 171.093 OF THE FLORIDA STATUTES ELECTING TO ASSUME ALL FIREFIGHTING RESPONSIBILITIES AND RELATED ACTIVITIES INCLUDING EMERGENCY MEDICAL SERVICES **(EMS) (FIRST RESPONDER)** FOR THAT PROPERTY ANNEXED BY THE CITY OF BRADENTON LOCATED AT 4455 STATE ROAD 64 EAST, BRADENTON, FLORIDA AND MORE FULLY DESCRIBED IN THE CITY OF BRADENTON ORDINANCE NO. 2823 PASSED ON APRIL 26, 2006; PROVIDING AN EFFECTIVE DATE.

RESOLUTION NO. 08-21

A RESOLUTION OF THE CITY OF BRADENTON, FLORIDA, ADOPTED PURSUANT TO SECTION 171.093 OF THE FLORIDA STATUTES ELECTING TO ASSUME ALL FIREFIGHTING RESPONSIBILITIES AND RELATED ACTIVITIES INCLUDING EMERGENCY MEDICAL SERVICES **(EMS) (FIRST RESPONDER)** FOR THAT PROPERTY ANNEXED BY THE CITY OF BRADENTON LOCATED AT 4915 1ST AVENUE EAST, BRADENTON, FLORIDA AND MORE FULLY DESCRIBED IN THE CITY OF BRADENTON ORDINANCE NO. 2824 PASSED ON APRIL 26, 2006; PROVIDING AN EFFECTIVE DATE.

RESOLUTION NO. 08-22

A RESOLUTION OF THE CITY OF BRADENTON, FLORIDA, ADOPTED PURSUANT TO SECTION 171.093 OF THE FLORIDA STATUTES ELECTING TO ASSUME ALL FIREFIGHTING RESPONSIBILITIES AND RELATED ACTIVITIES INCLUDING EMERGENCY MEDICAL SERVICES **(EMS) (FIRST RESPONDER)** FOR THAT PROPERTY ANNEXED BY THE CITY OF BRADENTON LOCATED AT 245 48TH STREET COURT EAST, BRADENTON, FLORIDA AND MORE FULLY DESCRIBED IN THE CITY OF BRADENTON ORDINANCE NO. 2826 PASSED ON APRIL 26, 2006; PROVIDING AN EFFECTIVE DATE.

RESOLUTION NO. 08-23

A RESOLUTION OF THE CITY OF BRADENTON, FLORIDA, ADOPTED PURSUANT TO SECTION 171.093 OF THE FLORIDA STATUTES ELECTING TO ASSUME ALL FIREFIGHTING RESPONSIBILITIES AND RELATED ACTIVITIES INCLUDING EMERGENCY MEDICAL SERVICES **(EMS) (FIRST RESPONDER)** FOR THAT PROPERTY ANNEXED BY THE CITY OF BRADENTON LOCATED AT 4915 1ST AVENUE EAST, BRADENTON, FLORIDA AND MORE FULLY DESCRIBED IN THE CITY OF BRADENTON ORDINANCE NO. 2829 PASSED ON JUNE 28, 2006; PROVIDING AN EFFECTIVE DATE.

RESOLUTION NO. 08-25

A RESOLUTION APPOINTING **SAM WADE SEARS** TO THE TREE & LAND PRESERVATION BOARD FOR THE CITY OF BRADENTON, FLORIDA AND DEFINING HIS TERM.

PUBLIC EVENT

The First Baptist Church of Bradenton is requesting to hold their **Annual Wild Game Dinner** on Thursday, April 17, 2008 with a street closure at the intersection of 13th Street West and 3rd Avenue West to raise funds for their outreach program.

PUBLIC EVENT

Care Net Manasota Pregnancy Center is requesting to hold their "**Walk For Life 2008**" on Saturday, May 3, 2008 to begin and end in Rossi Park to raise funds to benefit the center.

RESOLUTION NO. 08-26

A RESOLUTION SUPPORTING FLORIDA FOREVER AND SUCCESSOR PROGRAM.

MOTION TO APPROVE THE CONSENT AGENDA consisting of the minutes of February 27, 2008, Resolutions 08-20 through 08-23, Resolutions 08-25 and 08-26 and public events requested by First Baptist Church of Bradenton for their Annual Wild Game Dinner and Care Net Manasota Pregnancy Center's "Walk for Life" was made by Vice Mayor and Councilman Gallo seconded by Councilwoman Barnebey and passed 5-0 for approval.

BUSINESS/ADVERTISING, PETITIONS, HEARINGS AND COMMUNICATIONS

SU.07.0044 WARD 4 NEIGHBORHOOD 7.03 RS

PUBLIC HEARING

Request of Darrell L. Reha, owner, for **Special Use approval** for a hotel known as the Riverpark Grande for property located at 309 10th Street West. (Zoned C1/UCBD)

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

Those 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 recommendation for approval with five (5) stipulations and the Planning Commission accepting the staff recommendation with the same five (5) stipulations as follows:

1. The 3-tier parking garage would be constructed prior to issuance of the Certificate of Occupancy as per the plans approved by the Architectural Review Board. Any deviation in the plans determined to be significant by the Building Official would require additional review by the Architectural Review Board.
2. The applicant would work with City staff for design and construction to incorporate their proposed water amenities with the city docking facility located east of the railroad tracks.
3. The approval was for 140 rooms or suites.
4. The owner/developer would make every attempt to encourage franchise retail establishments.
5. Provide planters, to be approved by the Planning and Community Development Director, along the existing building frontages on 10th Street and 4th Avenue.

Councilman Smith voiced his concerns regarding the city's code requirements for historical preservation. He stated he wanted to see hotels in the downtown area but was not satisfied with the request as presented today in relation to the vision he had for the future of downtown.

Vice Mayor and Councilman Gallo voiced his concern that there was not enough parking for 140 rooms and asked if this request could be changed into an Adult Congregate Living Facility (ACLF).

Lengthy discussion: There was a need for ACLF's but not in the vision the city had for the downtown development.

Ruth Seewer stated that to operate an ACLF the applicant would have to apply for a state license with the Planning and Community Development having to approve it.

Bill Lisch read into the record an added stipulation regarding historical preservation that was attached to the condominium approval:

6. The building would maintain the historical significance or would require resubmittal.

MOTION TO TABLE SU.07.0044 until such time that the concerns as discussed today was addressed was made by Councilman Smith seconded by Vice Mayor and Councilman Gallo and failed 3-2 with Councilwoman Barnebey, Councilman Roff and Councilman Byrd in opposition.

MOTION TO APPROVE SU.07.0044 with the recommendations made by the Planning and Community Development staff and Planning Commission with five stipulations and one additional stipulation #6 regarding historical preservation was made by Councilman Roff seconded by Councilman Byrd and passed 3-2 for approval. Councilman Smith and Vice Mayor and Councilman Gallo in opposition.

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**MA.08.0021 WARD 4 NEIGHBORHOOD 1.01 RS PUBLIC HEARING**

Request of Bradenton Riverfront Partners II, LLC, owner, for approval of a Planned Development Major Amendment for an **updated mix of uses** for a project known as Promenade at Riverwalk located at 714 3rd Avenue West. (Zoned PDP)

The public hearing was opened; those in favor please come forward.

**Ed Vogler**, a partner and representative of Bradenton Riverfront Partners II, LLC (BRP), gave a brief history of the “sandpile” development and an overview of the project known as the Promenade at Riverwalk. He stated that BRP had a long-term commitment to achieving specific goals for the riverfront.

**Ron Allen**, partner of BRP displayed the site plan and gave a brief overview of the planned phases of the project to include the Manatee Players, Art Center, a hotel, retail stores and residential communities.

Lengthy discussion: Public parking spaces available in the project.

**Nina Richardson**, president-elect of the Manatee Players representing the Players, stated they were 100% in support of the project with the changes.

Those 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 recommendation for approval with 14 stipulations. The Planning Commission recommendation for approval was to remove stipulation #14, add a new stipulation #14, and add one additional stipulation #15 as follows:

1. The Building 8 setback area shall be planted with enhanced landscaping to assure compatibility with the adjacent waterfront park. The exterior of Building 8 shall be approved by the Administrative Official in his/her reasonably exercised discretion for exterior building finishes, materials, and articulation of elevations.
2. Building 8 shall be used for independent living, senior residential housing only. The use may only be changed upon demonstration to the Administrative Official and receipt of his/her approval that not less than 2.1 parking spaces per unit are provided. During the period that Building 8 is used for independent living, senior residential housing only, Building 8 shall provide not less than one (1) parking space per unit or one-hundred forty-eight (148) parking spaces.
3. Landscape treatments shall exceed the minimum requirements of the LUDR and meet the approval of the Administrative Official and would be required around all building footprints and the perimeter of the project. A final landscape plan shall be submitted with construction drawings for approval.
4. A hurricane evacuation plan has been submitted. Prior to issuance of a building permit for any individual residential building, the hurricane evacuation plan must be approved by Emergency Management.
5. Sewer and water utility manholes and valves shall not be located under parking spaces. To the extent possible (excluding existing), sewer and water utility lines shall not be located under

parking spaces. Drainage pipes and conveyances shall be permitted to be constructed under parking spaces.

6. The hotel pool and deck area along 3<sup>rd</sup> Avenue West shall maintain a setback of not less than ten (10) feet from the south property line.

7. Non-internal dumpster locations for each building shall be approved as part of the site improvement permit. Location and configuration of dumpster sites must provide reasonable collection vehicle access.

8. The fire protection systems for Building 8 shall be enhanced in lieu of providing additional access through the park. Such systems shall be approved by the fire marshal as part of the issuance of a building permit.

9. A temporary stabilized emergency access with controlled access barrier shall be provided through the cul de sac area with connection to 9<sup>th</sup> Street West. Such connection may be removed when other acceptable emergency circulation is established to the satisfaction of the fire marshal.

10. The parking area south of Building 11 shall be redesigned to provide 9 x 18 parking spaces with a stop or curb, and a minimum aisle width of 24 feet.

11. An access drive shall be provided on the east side of the parking garage adjacent to the sewer lift station to provide access for service to the sewer lift station.

12. The proposed parking garage would be co-designed with the residential building.

13. The park acreage would be removed, or identified as "Park Easement Area".

14. A total of 980 on-site parking spaces would be provided. This constitutes a 25% reduction of required parking and an additional reduction of 163 units for the senior housing. All vehicles owned by residents of the senior housing facility would be identified by decal and would be prohibited from parking in those spaces identified for public parking including the city parking lot located east of the railroad tracks.

15. The proposed parking garage would be engineered to accommodate two additional tiers if future development or change of occupancy for the senior housing facility necessitates additional parking spaces.

**MOTION TO APPROVE MA.08.0021 with the recommendations made by the Planning and Community Development staff and Planning Commission with 15 stipulations was made by Vice Mayor and Councilman Gallo seconded by Councilman Roff and passed 5-0 for approval.**

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MB.08.0020 WARD 4 NEIGHBORHOOD 7.03 RS

Request of Leigh Kellett Fletcher, Esq., Stearns Weaver Miller, et al, agent for Riviera Southshore Ventures, LLC, owner, for a **five-year Extension of Time** for Planned Development Project known as Riviera Southshore located at 1203 Manatee Avenue East. (Zoned R1B, C1A, C1 and PDP)

Leigh Fletcher, representing Wells Fargo Bank, stated that Wells Fargo was not the property title holder as yet and that Riviera Southshore Venture, LLC was currently in foreclosure proceedings.

She stated she was requesting approval for a five-year Extension of Time to maintain the status quo while working through the foreclosure process.

Tim Polk stated that the Planning and Community Development staff recommended a one-year extension as general policy per Council setting precedence for only a one-year extension. Mr. Polk referred to the previous development approval and referred to stipulation #11 *“for maintenance of property, which required that the entire area be regularly mowed with vegetation trimmed on a proactive basis.”*

Lengthy Discussion: That the properties held by Riviera Southshore Venture, LLC was not being properly maintained and what, recourse the city had.

Council all agreed that a 5-year extension was not an option because Riviera Southshore was not maintaining the property and it was a code enforcement issue.

Leigh Fletcher urged the Council to approve at least a one-year extension as it was not in the best interest of the city to let the PDP expire. She stated the properties should go back to Wells Fargo Bank with the one-year extension which would encourage the bank to follow through with maintaining the properties.

Lengthy discussion: As to whether the PDP made a difference in this current real estate market.

Councilman Smith stated that he would not give any kind of extension as it would put the city’s property on hold and would not allow the city to move forward with the development of Glazier Park or any improvements needed on the streets in this neighborhood.

Councilman Byrd, Vice Mayor and Councilman Gallo and Councilwoman Barnebey agreed with Councilman Smith as it was not in the best interest of the city to give any kind of extension at this time and to allow the PDP to expire and to have this property go back to Wells Fargo.

Councilman Roff stated he would support a one-year extension as he was confident that Wells Fargo Bank, given the opportunity, would come back and do the right thing by cleaning up this neighborhood.

Les Atwood, 1010 Riverside Drive East voiced his concerns that there was a homeless man living on the old Spears property (now a vacant lot). He stated it took a lot to get the vagrant off the property, as no one knew who owned the property.

MOTION TO DENY the request of MB.08.0020 was made by Councilman Smith seconded by Councilman Byrd and passed 4-1 with Councilman Roff in opposition.

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**SECOND READING OF PROPOSED ORDINANCE 2885/MR PUBLIC HEARING**

AN ORDINANCE OF THE CITY OF BRADENTON, FLORIDA, AMENDING CHAPTER 50 OF THE CODE OF ORDINANCES OF THE CITY OF BRADENTON, BY CREATING A NEW ARTICLE III, ENTITLED “THE CITY OF BRADENTON TRAFFIC LIGHT SAFETY ACT”; AND NEW SECTIONS 50-81 THROUGH 50-95 PROVIDING FOR INTENT AND DEFINITIONS; ESTABLISHING AN ENFORCEMENT PROGRAM WITHIN THE CITY; AUTHORIZING AN ENFORCEMENT PROGRAM WITHIN THE CITY; AUTHORIZING THE CITY TO PERMIT AND IMPLEMENT THE USE OF UNMANNED CAMERAS/MONITORING DEVICES FOR **RED LIGHT INFRACTIONS**; PROVIDING ENFORCEMENT PROCEDURES, INCLUDING NOTICE, APPEAL HEARINGS, PENALTIES, IMPOSITION OF ADMINISTRATIVE CHARGES AND COLLECTION; PROVIDING FOR EXCEPTIONS; PROVIDING FOR DIRECTIONS TO THE CITY CLERK; PROVIDING FOR CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE.

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

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

Bill Lisch stated that Manatee County was considering a similar ordinance and wanted to know if the city would want to piggy back on the county ordinance. Mr. Lisch stated he advised the county that the city would probably want to follow through with the city’s own ordinance.

Councilman Smith distributed a report from the Washington Post, a safety evaluation from the U.S. Department of Transportation and a study done by the University of South Florida (USF) that indicated red light cameras increased insurance costs and did not prevent accidents. He stated he was in opposition to this proposal.

Police Chief Radzilowski stated that he would be glad to provide information from studies that indicated that red light cameras did reduce speeders and T-bone intersection accidents. He stated in meeting after meeting the citizens have complained about red light runners. He stated that he was not in this to make money but was following through with what the community had indicated was a public safety issue.

Councilwoman Barnebey stated that at every neighborhood meeting she had ever attended, speeders were one of the major complaints. She referred to an on-line poll given by the Bradenton Herald where the majority of the citizens wanted to have red light cameras.

Councilwoman Barnebey stated that the Sarasota/Manatee MPO was also in favor of passing red light camera ordinances.

Councilman Roff stated that the Florida League of Cities recommended lobbying for red light cameras. He referred to a study showing cities that had installed red light cameras, had a reduction of red light runners, not only at intersections where there were cameras, but also at intersections that had no cameras installed.

Discussion between Bill Lisch and Chief Radzilowski regarding the process for vendor selection. That there was a possibility that cities that had their own ordinances could be "grandfathered in" prior to a bill to be heard by legislature this year.

**MOTION TO APPROVE ORDINANCE 2885 was made by Councilwoman Barnebey seconded by Councilman Roff and passed 4-1 in favor with Councilman Smith in opposition.**

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FIRST READING OF PROPOSED ORDINANCE 2886

AN ORDINANCE OF THE CITY OF BRADENTON, FLORIDA, AMENDING CHAPTER 8, SECTION 8-2 OF THE CODE OF ORDINANCES OF THE CITY OF BRADENTON BY REAPPORTIONING AND CHANGING WARD BOUNDARIES; PROVIDING AN EFFECTIVE DATE.

No discussion followed.

MOTION TO APPROVE the first reading and set the second reading and public hearing of proposed ordinance 2886 for March 26, 2008 was made by Councilman Roff seconded by Vice Mayor and Councilman Gallo and passed 5-0 for approval.

NEW BUSINESS BY DEPARTMENT HEADS, CITY ATTORNEY AND COUNCIL

Tim Polk

DEMOLITION AT 1632 BALLARD PARK DRIVE

Volker Reiss, Code Compliance Manager, gave a brief history of a house that was now deteriorated and unsalvageable. He stated many complaints had been reported regarding safety issues and unwanted activity going on in the house. He displayed photographs taken yesterday of the structure.

Darin Cushing, Building Official, referred to the photographs and gave an overview of the poor condition of the subject property with termites and exposure to weather creating a safety hazard.

Bill Lisch asked if it would be less expensive to tear down the existing structure and rebuild.

Mr. Cushing answered absolutely, there was not much to salvage and it would take a lot to bring it up to code.

Mr. Reiss stated that it would be cost efficient to use the Hardee County prisoners with the city paying landfill cost. He stated all parties had been legally notified and that this property had been a problem for many years.

Mr. Lisch asked if there was anyone in the audience to speak on this issue to please come forward, no one came forward.

MOTION TO APPROVE the demolition of property located at 1632 Ballard Park Drive was made by Councilman Roff seconded by Councilwoman Barnebey and passed 5-0 for approval.

DEPARTMENT HEADS

Carl Callahan: Nothing to report.

Chief Souders: Nothing to report.

Staci Cross: Nothing to report.

Chief Radzilowski: Nothing to report.

John Cumming: Referred to a letter distributed to Council from American Acquisition Group, LLC regarding the Ware's Creek/Cedar Hammock Control Project located at the Gulfcoast Girl Scout Council, Inc. at 1801 17th Avenue West. He stated the letter was requesting a permanent easement and a temporary construction easement for maintenance on the creek between the 17th Avenue tennis courts and the Girl Scout house.

MOTION TO APPROVE two easement agreements was made by Councilman Roff, seconded by Councilwoman Barnebey and passed 5-0 for approval.

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 12:00 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.