

APPROVED BY
June 12, 2002
CITY COUNCIL

**CITY COUNCIL MEETING
May 8, 2002**

The City of Bradenton City Council met in regular session in the City Hall Council Chambers, 101 Old Main Street, Bradenton, Florida on May 8, 2002 at 8:30 a.m.

Present: Councilman Ward I Gene Gallo
Councilwoman Ward II Marianne Barnebey
Vice Mayor and Councilwoman Ward III Michele Weaver
Councilman Ward IV Bemis Smith
Councilman Ward V James T. Golden

Also Present: Carl Callahan, City Clerk and Treasurer
John Cumming, Public Works Director
William Lisch, City Attorney
Mark Souders, Fire Chief
Al Hogle, Police Chief
Jerry West, Planning Director

Press: Bradenton Herald
Manatee Herald Tribune

The meeting was called to order by Mayor Poston.

Prayer to be led by Pastor Paul Scheele, Congregational United Church of Christ Church.

Flag salute was led by Councilman Golden.

PROCLAMATION:

NATIONAL SAFE BOATING WEEK PROCLAMATION

Representatives from Manatee Sail and Power Squadron, US Power Squadron, Anna Maria Island Power Squadron and from the US Coast Guard Auxiliary Flotilla 81 accepted the proclamation and thanked the City of Bradenton with urging public awareness for safe boating.

POLICE WEEK PROCLAMATION

Mr. Callahan read the proclamation proclaiming the week of May 12, 2002 through May 18, 2002 as Police Week and to encourage all residents to join with their law enforcement officers in appropriate ceremonies recognizing not only those who had died, but those past and present who had served this city and county and its inhabitants maintaining their peace, tranquility and security.

NATIONAL PUBLIC WORKS WEEK PROCLAMATION

Mr. Callahan read the proclamation proclaiming May 19, 2002 through May 25, 2002 as National Public Works Week declaring this year's theme as "Working in the Public Interest."

John Cumming and John Ormando introduced the "Employee of the Month" as Johnie Jones in the Storm Drainage Department and the "Supervisor of the Quarter" as Don Payne in the Solid Waste Department. He introduced last month's "Employee of the Month" Ken Moore.

PRESENTATION:

Chief Souders introduced "Freckles the Fire Dog" and "Patches the Pumper" computerized robots which were used in the Fire Prevention and Public Education Programs.

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

PUBLIC COMMENTS:

Helen Mitchell, Pinebrook Condominiums thanked the Public Works Department for the quick service in cleaning up trash in her condominium complex.

COUNCIL REPORTS:

Councilman Gene Gallo, Ward I:

Councilman Gallo stated that there would be two Palma Sola Causeway Committee workshops to discuss the causeway with suggestions for obtaining county, city and state funds for a designated scenic highway.

Councilman Gallo requested the City Clerk to draw up a policy for hanging banners across Manatee Avenue to authorize the banner at the City Clerk level and to bring it back to Council for review.

Motion to approve the request was made by Councilman Gallo, seconded by Vice Mayor Weaver and carried 5-0 for approval.

Councilwoman Marianne Barnebey, Ward II:

Councilwoman Barnebey thanked the Public Works Department for their quick response to placing stop signs at the four way stop intersection at 39th Street West and 13th Avenue West.

Vice-Mayor Michele Weaver, Ward III

Vice Mayor Weaver stated she attended the Arbor Day Celebration and the Prayer Breakfast with many people in attendance.

Councilman Bemis Smith, Ward IV:

Nothing to report.

Councilman James Golden, Ward V:

Nothing to report.

Mayor Poston:

Mayor Poston stated that the city's reservoir level was approximately 2.07 feet above sea level with the water quality categorized as "good".

Mayor Poston requested the Council to select a member of the Council to serve as a chairperson on the Manatee County Transportation Disadvantage Local Coordinating Board for a two year term.

Mayor Poston stated that in "The Accord", a Joint Planning Commission Board would be formed with a representative from the City of Bradenton and the City of Palmetto along with the island communities. Mayor Poston asked the Council to nominate a member of the Council to represent the City of Bradenton to serve on the Joint Planning Commission Board.

Vice Mayor Weaver nominated Councilman Gallo.

Motion to approve the nomination was made by Vice Mayor Weaver, seconded by Councilman Golden and carried 5-0 for approval.

BUSINESS/ADVERTISING, PETITIONS, HEARINGS AND COMMUNICATIONS:

Mr. Callahan read the following:

**P\PDP-02-08 WARD-4 NEIGHBORHOOD 20.04 PUBLIC HEARING
Request of Betsy Benac of WilsonMiller, as agent for William Manfull, for preliminary Planned Development Project for a six-unit residential development on Walker's Island located at 3516 State Road 64 East (Zoned PDP).**

Mayor Poston opened the public hearing and requested anyone wishing to speak in favor of the request to please come forward.

Betsy Benac, Planning Manager with WilsonMiller presented the proposed preliminary site plan for a six unit development on Walker Island.

Discussion: The site plan within the upland areas, access to the project, the dock and the existing bridge.

Mike Burton, Environmental Affairs Consultant gave a brief overview of the site regarding wildlife habitat stating there was no negative impact on the environment.

Patricia Petruff legal counsel for William Manfull commented on the legal issues regarding the development project.

(Tape 1, Side B)

Discussion: Questions & answers regarding encroachment, septic tanks and the overall development site.

Arlene Flisik, West Bradenton resident spoke as an individual and gave a few suggestions for stipulations regarding septic tanks and the conservation area. She suggested that perhaps the developer could donate the conservation property to an environmental organization, in good faith, that no other development would occur on this site.

Discussion: To consider adding a stipulation or to change the verbiage regarding the maintenance of the bridge. And to strongly encourage the donation of conservation property to an environmental organization.

Further discussion: To add another stipulation that the development must tie into the city's sewer system even though it was stated in the plan.

Mayor Poston requested anyone wishing to speak in opposition of the request to please come forward.

Karen Ciemnecki, 12700 Upper Manatee River Road submitted a letter, for the record, that she represented and was a member the Manatee-Sarasota Conservation Committee. She gave a brief summary of environmental concerns the committee had not only on the Braden River area but also along the Gulf of Mexico estuaries. She requested clarification regarding the thirty-five (35) foot buffer with adequate containment for storm water drainage and flooding concerns. She requested two additional stipulations regarding no extra storage buildings on the site which could be a hazard to the river and to post "Manatee Warning Signs".

Patricia Petruff in rebuttal defined the term "conservation area" as a thirty-five (35) foot buffer from a two foot (2) contour line. She stated she had no objection to the "Manatee Warning Signs" posted. She commented on the Federal Emergency Management Agency (FEMA) elevation regarding building units in a flood water area. She gave suggestions for verbiage changes regarding the various stipulations of concern.

Discussion: To change dumpster pickup to curbside pickup would have to come back as a special exception to the Council.

Millard Yoder, WilsonMiller Engineer displayed a rendering of the open swell on Walker Island which was located south of the buildings.

Discussion: The city standards regarding the maintenance of the bridge and roads. The postal service and landscaping around the units.

Patricia Petruff stated that the bridge would be resurfaced to meet the City standards but it was the width which could not meet the City standards.

Mayor Poston closed the public hearing.

Jerry West stated that the Planning Commission recommended approval of the request with the Planning Staff supporting the recommendation with the **following twelve (12) stipulations** with changes underlined:

1. A permit from the Southwest Florida Water Management District would be required with the submittal of the civil engineering drawings, and prior to submittal of the final PDP plan.
2. A permit from the Department of transportation would be required with the submittal of the civil engineering drawings, and prior to submittal of the final PDP plan.
3. No-rise certificates for all structures, including the dock and approved by Federal Emergency Management Agency (FEMA) would be required with the submittal of the civil engineering drawings and prior to submittal of the final PDP plan.

4. The parking area would be landscaped in accordance with Schedule 301.D.5.
5. No other upland area included within the projects legal description would be developed.
6. The condominium documents would declare that the maintenance of the bridge shall be the responsibility of the property owners and an annual certification would be done by a professional building engineer.
7. The developer shall maintain the existing private bridge up to maintenance standards as per the Building Department and the Public Works Department.
8. The dock could only be used for this development.
9. The dumpster was to be relocated to the east island in accordance with the Public Works Department.
10. The gate was to be relocated on the private property.
11. Additional pavement would be required on the eastern island in accordance with the Fire Department.
12. The developer would install “geoweb” or other system as specified by the Fire Department to provide a stabilized drive area. (in lieu of paver blocks)
- ~~13. These drawings would be revised prior to the city council meeting. (withdrawn as the drawings were revised)~~

Additional stipulations:

13. All dwelling units shall be connected to city water and city sewer.
14. Any further building encroachment beyond that depicted on the preliminary development plan into the city’s conservation area shall not be authorized without City Council approval.
15. All vessels utilizing the dock shall have a draft of 12 inches (12”) or less.

No action was taken regarding no further storage buildings on the site.

Councilman Gallo quoted the following from negotiations with Bill Manfull to which Mr. Manfull agreed. “That Walker Island must stand on its own and that it had absolutely nothing to do with the negotiations with Pine Island”.

Motion to approve the request with the above named 15 stipulations was made by Councilman Smith, seconded by Councilman Golden and carried 5-0 for approval.

(15 minute recess)

Carl Dyer, Executive Director for the Home Builders Association stated that the Association requested the Council to consider not raising the fees from what the original fees were in the ordinance. He voiced his concern as to who was the cause for “impact fees” and requested to look upon the Home Building Industry as a “friend” who could help provide adequate affordable homes for people who chose to live and work here.

Mayor Poston requested anyone wishing to speak in opposition of the request to please come forward. No one came forward.

Mayor Poston closed the public hearing.

(Tape 2, Side 2)

Larry Frey requested clarification on the following various issues in the ordinance.

* To consider changing the payment due date for impact fees to time of Final Inspection request or Certificate of Occupancy issuance.

* To consider whether residential detached garages should be subject to impact fees and consider accessory uses.

* To consider the percentage of credit up to 100% that may be applicable to a property, where credit was requested.

* To consider the Park Benefit Districts.

* To consider a grace period up to 30 days for pending development contracts, whereby impact fees would not be assessed.

* To consider the effective date for the proposed impact fee program to begin.

* To ensure that all modifications, if any, are reflected in the proposed ordinance language.

Discussion: The Parks and Recreation Impact Fee Ordinance with **two stipulations** changes underlined:

1. Page 6, Section 9A The fee payer shall pay the Parks and Recreation Impact Fee required by this ordinance to the Administrative Official as his/her designee prior to the issuance of the temporary certificate of occupancy, certificate of occupancy or other final approval.
2. Page 4, Section 6G “Square Footage” shall be measured in terms of gross floor area. Gross floor area shall be defined as the total area of all floors of a building, as measured to the outside surfaces of exterior walls, and including, but not limited to halls, stairways and elevator shafts. Garages and permanently open structures such as screened porches and screened pool enclosures shall not be included as part of this measurement.

Councilwoman Barnebey stated she would not support the motion if garages were taken out entirely if percentage of credits were not taken into consideration.

Discussion: Consider percentage of credits.

Councilman Smith voiced his concern with the fee amounts of the impact fees which would make a serious problem in affordable housing.

Discussion: Dealing with separate issues and voting on each ordinance separately.

Councilman Gallo voiced his concern for not including garages in the ordinance.

Motion to approve the Parks & Recreation Ordinance with the two stipulations was made by Councilman Golden, seconded by Vice Mayor Weaver and carried 3-2 with Councilman Gallo and Councilwoman Barnebey in opposition.

(Tape 3, Side 1)

Discussion: The Public Safety Impact Fee Ordinance with **one stipulation** with changes underlined:

Page 5, Section 9A The fee payer shall pay the Public Safety Impact Fee required by this ordinance to the Administration Official or his/her designee prior to the issuance of the temporary certificate of occupancy, certificate of occupancy or other final approval. The Garages would remain in the ordinance.

Motion to approve the Public Safety Ordinance with the one stipulation was made by Councilman Golden, seconded by Councilman Gallo and carried 5-0 for approval.

Larry Frey recommended forty-five (45) days as a grace period for pending development contracts.

Discussion: By Council to issue the effective date as July 1, 2002 and to leave the percentage of credit up to 100%.

Motion to approve the recommendation of forty-five (45) days as a grace period with the effective date as July 1, 2002 was by Councilman Golden, seconded Vice Mayor Weaver 5-0 for approval.

Mr. Callahan read the following:

**SE-02-06 WARD-5 NEIGHBORHOOD 1.03\1.04 PUBLIC HEARING
Request of Alex Abbott, as agent for Russell Schmidt, for special exception approval to operate an automotive repair establishment for the property located at 2416 9th Street West (Zoned C-3).**

Mayor Poston opened the public hearing and requested anyone wishing to speak in favor of the request to please come forward.

Alex Abbott requested approval for an automotive repair establishment.

Discussion: No outside repairs or outside storage.

Councilman Smith voiced his concern with the special exception for car sales which had been previously approved and asked if it could be eliminated. He requested a stipulation for withdrawing the previous special exception should this special exception be approved. He requested that should the auto repair operation not begin then a time frame requirement should be set to void this special exception.

Bill Lisch stated that in his opinion the concerns Councilman Smith had would be better addressed in the Land Use Development Regulations as an amendment to provide a specified period of time for the special exception uses.

Alex Abbott stated that he would not agree to a stipulation stating that there would be a time frame which would cause him to start the process again for the same request should he not meet the deadline.

Discussion: Concerns with the location to place a fence for a sound barrier and concerns for the time of operation.

Added **stipulation:** To change the hours of operation to work on vehicles from 8:00 a.m. to 5:00 p.m.

Mayor Poston requested anyone wishing to speak in opposition of the request to please come forward. No one came forward.

Mayor Poston closed the public hearing.

Jerry West stated that the Planning Commission recommended approval of the request with the following **stipulations:**

1. Parking and landscaping would be brought up to code.
2. Reduce the 9th Street West entrance drive to 36 feet.
3. No outside storage or outside work on vehicles. The work would be confined to the building or under the carports.
4. The hours of operation are 8:00 a.m. to 6:30 p.m. Monday through Friday and Saturday 8:00 a.m. to 3: 00 p.m.
5. The dumpster would be located a per Public Works design criteria.

Jerry West stated that with the Planning Staff supporting the recommendation with the following **stipulations:**

1. There would be no outdoor repairs.
2. Hours of operation would be limited to Monday through Friday, 8:00 to 6:30 p.m. and Saturday 8:00 a.m. to 3:00 p.m.
3. A landscape buffer approved by the Administrative Office would be installed on the west side of the property.
4. The landscape buffer along the east side of the fence would be upgraded to meet current code.

Motion to approve the request with the Planning Commission recommendation and the Planning Staff with the one added stipulation was made by Councilman Golden, seconded by Vice Mayor Weaver and carried 4-1 with Councilman Smith in opposition.

Mr. Callahan read the following:

SE-02-07 WARD-4 NEIGHBORHOOD 7.02B PUBLIC HEARING
Request of Maureen Avila, attorney for Yolanda Grijalva and as agent for Ken McKeithen, for special exception approval to operate a grocery\convenience store on the property located at 2416 Manatee Avenue East (Zoned C-3).

Mayor Poston opened the public hearing and requested anyone wishing to speak in favor of the request to please come forward.

Councilman Smith stated that he had no financial gains with this request and stated that his business partner personally owned the building which housed the grocery/convenience store.

Michael Perry attorney representing the applicant answered questions regarding service of food.

Councilman Smith stated that he would like the same stipulation with this special exception regarding time frame requirement be set.

Mayor Poston requested anyone wishing to speak in opposition of the request to please come forward. No one came forward.

Mayor Poston closed the public hearing.

Jerry West stated that the Planning Commission recommended approval of the request with the Planning Staff supporting the recommendation.

Motion to approve the request was made by Councilman Smith, seconded by Councilwoman Barnebey and carried 5-0 for approval.

Mr. Callahan read the following:

ESE-02-08 WARD-4 NEIGHBORHOOD 7.02B PUBLIC HEARING
Request of Marla Hough, as agent for Geri Pasquarella, Executive Director of Manatee County Nursery Schools, for special exception approval to expand the existing day care center located at 2601 7th Avenue East (Zoned R-2A).

Mayor Poston opened the public hearing and requested anyone wishing to speak in favor of the request to please come forward.

Marla Hough, agent for applicant gave a brief description of the request for two additional portables on the site and the revised plans.

Councilman Gallo exited the Chambers.

Mayor Poston requested anyone wishing to speak in opposition of the request to please come forward. No one came forward.

Mayor Poston closed the public hearing.

Jerry West stated that the Planning Commission recommended approval of the request with the following three stipulations:

1. Relocate the buildings adjacent to portable #5.
2. Widen the existing turn radius from 30 feet to 50 feet and stabilize by paving.
3. Provide a revised plan before the City Council meeting.

Jerry West stated the Planning Staff supported the recommendation.

Motion to approve the request with the three stipulations was made by Councilman Smith, seconded by Councilwoman Barnebey and carried 4-0 for approval. Councilman Gallo was absent from voting.

Mr. Callahan read the following:

M-CPA-02-01 WARD-4 NEIGHBORHOOD 20.03 FIRST READING OF ORDINANCE Request of Tom McCollum of Zoller Najjar & Shroyer, representing Diocese of Venice and Erie Road Corporation for approval of a Comprehensive Plan Amendment to change the future Land Use Designation from County Res-6 to City Commercial and Conservation for the property located at 5101 State Road 64 East.

AN ORDINANCE OF THE CITY OF BRADENTON, FLORIDA, AMENDING THE COMPREHENSIVE PLAN, ORDINANCE 2436, AS AMENDED BY ORDINANCE 2619; PERTAINING TO PROPERTY LOCATED AT 5101 STATE ROAD 64 EAST, MAKING CERTAIN FINDINGS OF FACT; PROVIDING FOR AMENDMENT TO THE CITY OF BRADENTON COMPREHENSIVE PLAN FUTURE LAND USE ELEMENT/FUTURE LAND USE MAP (DIOCESE OF VENICE M-CPA-02-01); PROVIDING FOR APPLICABILITY; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

No discussion followed.

Motion to approve the first reading and set the second reading and public hearing for May 22, 2002 was made by Vice Mayor Weaver, seconded by Councilman Golden and carried 5-0 for approval.

(Tape 3, Side 2)

Mr. Callahan read the following:

R-02-01 WARD-4 NEIGHBORHOOD 20.03 FIRST READING OF ORDINANCE Request of Tom McCollum of Zoller Najjar & Shroyer, representing Diocese of Venice and Erie Road Corporation for a Zoning Atlas Amendment approval to change the designation from County A-1 (Agriculture) to City PDP for the property located at 5101 State Road 64 East.

AN ORDINANCE AMENDING ORDINANCE NO. 2627, CODE OF ORDINANCES OF THE CITY OF BRADENTON, FLORIDA BY A ZONING ATLAS AMENDMENT TO CHANGE THE ZONING DESIGNATION FROM COUNTY A-1 TO PDP OR OTHER APPROPRIATE ZONE FOR THE PROPERTY LOCATED AT 5101 STATE ROAD 64 AND LEGALLY DESCRIBED.

No discussion followed.

Motion to approve the first reading and set the second reading and public hearing for May 22, 2002 was made by Vice Mayor Weaver, seconded by Councilman Golden and carried 5-0 for approval.

NEW BUSINESS BY DEPARTMENT HEADS, CITY ATTORNEY AND COUNCIL:

Mr. Callahan read the following:

The Hernando DeSoto Historical Society, Inc. is requesting to hang a banner over Manatee Avenue on Wares Creek from September 30, 2002 to October 7, 2002.

No discussion followed.

Motion to approve the request was made by Councilman Gallo, seconded by Vice Mayor Weaver and carried 5-0 for approval.

Jerry West

Request to purchase the east 10 feet of the right-of-way on 7th Street West between Manatee Avenue and 6th Avenue for \$14,000 from the Bradenton Surgical Center.

Discussion: Cost to relocate the light poles would be a part of the street construction.

Motion to approve the request was made by Councilman Golden, seconded by Councilman Gallo and carried 5-0 for approval.

STATE ROAD 64 RIVER BOAT RAMP

Jerry West referred to a memorandum dated May 8, 2002 requesting approval to use city owned land by the golf course below the three (3) foot contour line for mitigation to replace the approved mitigation at the SR 64 Braden River Boat Ramp. He stated the parking at the boat ramp would be eliminated without the transfer of the mitigation.

No discussion followed.

Motion to approve the request was made by Councilman Gallo, seconded by Vice Mayor Weaver and carried 5-0 for approval.

15th STREET EAST IMPROVEMENT PROJECT

Pierre Abadjian referred to a memorandum dated May 3, 2002 which gave a brief overview of the process to place the proposed improvement project for 15th Street East on the Metropolitan Planning Organization (MPO) 5-year Project Prioritization list for the next year's cycle.

Discussion: MPO requirements for a "conceptual design", the cost of the project and deadlines which had to be met.

ACTION: For Jerry West to bring back to Council a completed report with an attached map with a cost estimate.

John Cumming

CONCEPTUAL DESIGN STUDIES FOR 9th AND 13th AVENUES

Mr. Cummings referred to a memorandum dated May 1, 2002 which gave a brief detail of two conceptual designs for streetscape improvements for 9th Avenue and 13th Avenue West.

Discussion: Priority of the studies, proposed cost of the studies, impact on the areas. Improvements desired by the Community Redevelopment Agency.

Vice Mayor Weaver suggested that a member from the Central Community Redevelopment Agency Board come before Council to address their desires and concerns for these projects.

Councilman Smith, Liaison for the Central Community Redevelopment Agency Board stated that at a previous meeting the board voiced their desire by voting to bring these two projects before Council.

ACTION: Jerry West as Executive Director of the Central Community Redevelopment Agency would represent the Central Community Redevelopment Agency Board should none of the Board members not able to attend the next Council meeting.

Motion to table the request until the Central Community Redevelopment Agency Board comes to the Council to address their desires was made by Councilman Golden, seconded by Councilman Gallo and carried 4-1 for approval with Councilman Smith in opposition.

Mr. Cumming stated that the seawall at 24th Street East was under reconstruction.

Discussion: Spending funds for redevelopment criteria (i.e.) City's responsibility versus economic development.

(Tape 4, Side A)

DEPARTMENT HEADS:

Chief Hogle

Chief Hogle voiced his appreciation for the passing of the Public Safety Impact Fee Ordinance.

Chief Hogle wished Bud Howell a School Crossing Guard a speeding recovery.

Chief Hogle stated that the new speed trailer was working great. The speed trailer is set up to flash the speed of on-coming cars. It records and stores the number of cars and the speed of each car passing.

Bill Lisch

Nothing to report.

Carl Callahan

Mr. Callahan reminded the Department Heads to start considering any new projects or issues that may be coming up in the next fiscal year and to place them in the current budget process now.

Chief Souders

Nothing to report.

ADJOURNMENT

There being no further business, Mayor Poston adjourned the meeting at 1:30 p.m.

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