

**CITY COUNCIL MEETING  
January 9, 2008**

**APPROVED BY  
February 13, 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 January 9, 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: ABC Channel 7

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

**PROCLAMATIONS**

**FLORIDA ARBOR DAY PROCLAMATION – January 18, 2008**

**PRESENTATIONS**

**BRADENTON POLICE DEPARTMENT**

- Officer of the Month – **Officer Carlos Houston**
- Two Sergeant Promotions – **Sergeant Brian Thiers** and **Sergeant William Knight**

**P.R.I.D.E. AWARDS**

Community Service – **Chris Chybowski, Barbara Hogan, Sandy Markman, Cheryl Landers, Ricardo Ramos, Calvert White, and Jessie Crespo**  
Heroism Award – **Officer Jay Gow, Officer Josuha Small, Officer Lixa Arostegui, and Officer Michael Kreibel**  
Team Player Award - **René Raymond**  
Leadership Award - **Claude Tankersley**  
Mayor's Award – **Bradenton Police Detective Keith Davis**

*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:** Announced that the Manatee Players would be holding their “Guess Who’s Coming To Dinner?” fundraiser this weekend. Anyone interested in participating in this event please contact Janene at 749-1111.

Councilwoman Barnebey stated she looked forward in attending the Martin Luther King festivities coming up at the end of this month.

**Councilman Patrick Roff, Ward III:** Gave a brief update on the Wares Creek issue stating that President Bush had passed a bill at the end of 2007 to allocate 4.7 million dollars for the Wares Creek project. Councilman Roff stated that many people have asked him why this project had taken so long. He stated that he had been diligently chasing these awarded funds from early in his term in January, 2006. He stated that he had found out via a July, 2007 memorandum that there was a federal spending monitoring device called **903 Spending Limits**. He explained that the **903 Spending Limits** was a safety net for Congress that automatically halted any project which ran 10% over the projected budgeted. At that point the Corp of Engineers would be directed to stop all work. He stated the July memorandum had also stated that the Wares Creek project was dangerously close to the 10% cutoff and commented that work would have stopped before it got started.

Councilman Roff stated that normal turn around time for congressional reauthorization was about two-years. He stated that due to good working relationships between Senator Nelson, Senator Martinez and Congressman Buchanan the two-year delay had been avoided and was able to include the reauthorization into the 2007 bill, thus saving the project a two-year delay.

Councilman Roff stated that Congressman Buchanan would be addressing the Wares Creek issue at a meeting to be held Monday, January 14, 2008 at the Women's Club on Manatee Avenue and Virginia Drive.

Councilman Roff stated he would like to nominate Vice Mayor and Councilman Gallo to again serve as Vice Mayor for 2008.

**MOTION TO REAPPOINT Vice Mayor and Councilman Gallo as Vice Mayor for 2008 was made by Councilman Roff second by Councilman Smith passed 4-0 for approval. Vice Mayor and Councilman Gallo abstained from voting.**

**Councilman Bemis Smith, Ward IV:** Nothing to report.

**Councilman Harold Byrd, Jr., Ward V:** Thanked the council for their welcome as the newly elected Councilman of Ward V.

Councilman Byrd stated he looked forward to involving resident's participation by holding ongoing community meetings in Ward V with plans to schedule two meetings within the next 30 days.

Councilman Byrd stated that one of the topics he wanted to address in the future was the reconfiguring of the boundaries of each ward. Following a census of the registered voters in each ward, it was noted that there was noticeable difference in population among the wards.

**Mayor Wayne Poston:** Welcomed Councilman Byrd and stated that there would be financial challenges to face in 2008. Mayor Poston stated he looked forward to having a good year in which to continue to make things happen.

Mayor Poston stated that he and Mr. Lisch reviewed the ward boundaries each year to look at any population changes and to stay within the state laws which allow no more than a 20% difference in population totals. Mayor Poston stated that they would continue to monitor this issue.

## CONSENT AGENDA

Approval of Minutes of December 12, 2007.

Approval of Minutes of January 2, 2008.

Resolution 08-02 } First Responder for annexed property 5300 Manatee Avenue West.

Resolution 08-03 } First Responder for annexed property 5412, 5520, 5526 and 5530 State Road 64 East.

Resolution 08-04 } **Jeff Ragan** reappointment to the Code Enforcement Board.

Resolution 08-05 } **Walter “Charlie” Grace** appointment to the Housing Authority Board.

Resolution 08-07 } **Peter Keenan, Linda Perez, Robert Egolf and Lucile Capo-Miller** reappointment to the Tree and Land Preservation Board.

Budget Adjustments for MLK Roadway Improvement project.

Public Event – Pirate Fest requested by Pittsburgh Pirates at McKechnie Stadium on March 8, 2008 with a street closure on 9<sup>th</sup> Street West.

**MOTION TO APPROVE the Consent Agenda consisting of the Approval of the Minutes of December 12, 2007, and January 2, 2008, Resolution 08-02, Resolution 08-03, Resolution 08-04, Resolution 08-05, Resolution 08-07, the Budget Adjustments and the Public Event was made by Councilwoman Barnebey second by Councilman Smith passed 5-0 for approval.**

## BUSINESS/ADVERTISING, PETITIONS, HEARINGS AND COMMUNICATIONS

### **CP.07.0023 WARD 4 NEIGHBORHOOD 7.08/8.03 RS**

Request of Michael Pendley, agent for School Board of Manatee County, owner, for a Large Scale Comprehensive Amendment to change the Future Land Use designation from County IL (Industrial Light) to City I (Industrial) for property located at 2802 27<sup>th</sup> Street East.

### **RESOLUTION 08-01**

### **PUBLIC HEARING**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRADENTON, FLORIDA, TRANSMITTING TO THE DEPARTMENT OF COMMUNITY AFFAIRS PROPOSED COMPREHENSIVE PLAN AMENDMENTS TO THE CITY'S COMPREHENSIVE PLAN; MAKING CERTAIN FINDINGS OF FACT; AUTHORIZING TRANSMITTAL OF COMPREHENSIVE PLAN AMENDMENT **APPLICATION CP.07.0023, SCHOOL BOARD OF MANATEE COUNTY**, AMENDING THE FUTURE LAND USE ELEMENT (FUTURE LAND USE MAP); PROVIDING FOR APPLICABILITY AND EFFECT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

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

**Mike Pendley** gave a PowerPoint presentation of the request for a Comprehensive Plan Amendment CP.07.0023. He gave a brief background on the 37.3 acre property which had been annexed into the city November, 2007. He stated that the complex was primarily an Industrial type development for governmental use by the Manatee County School Board and that the current complex was a very outdated facility.

Those in opposition, hearing none 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 no stipulations.

**MOTION TO APPROVE CP.07.0023, Resolution 08-01 was made by Councilman Smith second by Councilman Roff passed 5-0 for approval.**

### **SU.07.0043 WARD 5 NEIGHBORHOOD 1.03/1.04 RS**

### **PUBLIC HEARING**

Request of Yumicsey Hernandez, d/b/a West Coast Seafood, Inc., owner for Special Use approval for a grocery store for property located at 2201 14<sup>th</sup> Street West in the Bantam Shopping Center. (Zoned C-3)

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

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

Tim Polk gave the Planning and Community Development staff report with the staff recommendation for approval with four (4) stipulations as follows:

1. There would be no deliveries prior to 7:00 a.m. or after 6:00 p.m. Monday through Saturday, and no deliveries on Sunday.
2. A grease trap must be installed.

3. Landscaping along the 14<sup>th</sup> Street corridor must be upgraded, missing landscape materials or materials in poor condition must be replaced with materials of comparable size.
4. No alcoholic beverages would be sold due to the proximity of the day care facility to the south.

The Planning Commission recommended approval with the same four stipulations by staff with one additional stipulation for a total of five (5) stipulations as follows:

5. All refuse must be double bagged.

John Cumming stated that there were several concerns that had been corrected by the applicant.

**MOTION TO APPROVE SU.07.0043 with the recommendations made by the Planning and Community Development staff with four (4) stipulations and the Planning Commission with five (5) stipulations was made by Councilman Byrd second by Councilman Roff passed 5-0 for approval.**

**SU.07.0048 WARD 5 NEIGHBORHOOD 1.01 RS**

**PUBLIC HEARING**

Request of Ralf Heseler, agent, for Manatee County Board of County Commissioners through Manatee County Area Transit, owner, for Special Use approval for intermodal transit facility for property located at 1301-1313 8<sup>th</sup> Avenue West. (Zoned C-1/UCBD)

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

**Ralf Heseler** gave an overview of the special use permit to place clear definition of the intended use of the property located at 1301-1313 8<sup>th</sup> Avenue West for a MCAT transit facility.

Points of interest voiced by Mr. Heseler for the site: Seeking at least  $\frac{3}{4}$  of an acre for the facility with this site being just under an acre. Six sites were reviewed and studied; most were much smaller and could not accommodate a facility and several buses. There were no land use concerns as the site was already paved and had no trees. That this site was a perfect location for a downtown bus hub and trolley system.

Lengthy discussion: The size and location of the proposed site and preserving the historic Penn Cash grocery store.

Those in opposition.

**Patricia Petruff** attorney for Dye, Deitrich, Petruff & St. Paul law firm representing two adjacent property owners, Anne Weichel and Bradenton Insurance, stated, for the record, that a public transportation terminal was listed as a special use in the city's land use code. She requested that this special use request be denied because the location was inadequate and a site plan was required not a conceptual idea. She stated that this issue was not supposed to come back later to present all details of a site plan. The proposed plan as submitted did not meet the city's land development code due to lack of access for driveways, no landscaping, and inadequate parking. She stated there were no sidewalks, no traffic study, no adequate survey, no handicap parking space indicated, no stacking shown for eight buses with flow for traffic circulation. She stated all these issues needed to be reviewed before making a decision to see if this special use was compatible with the neighborhood.

Questions and answers were given regarding six other site locations that had been studied for the transit facility. Further discussion also covered a proposed trolley system to the beach and a need for a parking facility for a park and ride system.

**Jim Dye** attorney for Dye, Deitrich, Petruff & St. Paul law firm representing Garpair Inc. distributed an "Old School" site plan of the subject property. He gave a brief overview reiterating what Ms. Petruff stated regarding the numerous reasons why the request did not meet the city's land use code. He stated what had been presented to the Council in the application packet was not what MCAT plans were for placing on the subject property. He stated that there were grounds for denying this request as people would have to drive on his client's property in order to access the parking spaces. He stated he could find no easement in the public record as stated in the site plan.

**Mike Carter**, Carter Construction, 435 12<sup>th</sup> Street West, stated that as a professional contractor his office had submitted many site plans. He stated that this site was very poor and presented multiple compliance issues. He stated in his opinion the facility could not be accommodated on this small piece of property.

**Anne Weichel** and **Alden Weichel** voiced their concerns and reiterated concerns previously stated by their attorney.

**Ralf Heseler** in rebuttal stated that MCAT had done what was directed of them to present this plan and assured the Council that MCAT would meet every county and city requirements and codes. He stated that it was not possible to move forward with the purchase of the property with its intended use if this request was not approved.

The public hearing was inadvertently closed; however, the public hearing was continued by approval of motion to continue.

Tim Polk stated that in defense of the Planning and Community Development department the staff had tried to work with the county because of the time restraints involved. He recommended continuing this public hearing for two weeks as there had been too many factors presented today and it would be necessary to discuss this issue with the Weichels and the county's Historic Preservation Commission.

**MOTION TO CONTINUE the public hearing for SU.07.0048 to February 13, 2008 was made by Councilwoman Barnebey second by Councilman Roff passed 5-0 to continue.**

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**LU.07.0041 PROPOSED LAND USE REGULATIONS TEXT AND ATLAS AMENDMENTS**

Request of Tim Polk, agent, for City of Bradenton, owner, to change the Land Use Atlas designation from C-1A/UCBD to C-1/UCBD in the Ballard Park neighborhood and text amendments relating to the ARB, Health Services, Outdoor Display and Storage, Sheds, and Definitions for the Land Use Regulations of the City of Bradenton.

**FIRST READING ORDINANCE NO. 2884 RS**

**FIRST PUBLIC HEARING**

AN ORDINANCE OF THE CITY OF BRADENTON, FLORIDA, PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR AMENDMENTS TO THE CITY OF BRADENTON LAND USE AND DEVELOPMENT REGULATIONS PERTAINING TO ATLAS AMENDMENT FOR BALLARD PARK NEIGHBORHOOD FROM C-1A/UCBD TO C-1/UCBD, TEXT AMENDMENTS PERTAINING TO PROCEDURES FOR TECHNICAL REVIEW BY THE ARCHITECTURAL REVIEW BOARD, HEALTH SERVICES, OUTDOOR DISPLAY AND STORAGE, UTILITY SHEDS UNDERS 120 SQUARE FEET AND DEFINITIONS; PROVIDING FOR REPEAL OF PROVISIONS OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

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

Tim Polk stated he would give a presentation at the next public hearing.

Carl Callahan stated that there was a conflict for the next public hearing scheduled for the January 23, 2008 night Council meeting due to the scheduled 40<sup>th</sup> anniversary Pittsburgh Pirates' event on the same night. He stated the second reading and public hearing had to be scheduled for a night meeting and suggested the public hearing be moved to the February 27, 2008 night meeting.

Vice Mayor and Councilman Gallo referred to section 501.B3 regarding sheds and asked Mr. Lisch to clarify the dimensions of sheds.

Mr. Lisch stated that the requirements needed to be changed to 120 feet or less.

**MOTION TO APPROVE the first reading and set the second reading and public hearing for February 27, 2008 was made by Councilman Smith second by Councilman Roff passed 5-0 for approval.**

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

No new business was presented.

### DEPARTMENT HEADS

**Carl Callahan:** Stated he was proud of Rene Raymond and pleased that the City Clerk's Department was the recipient of the Team Player Award for two years in a row.

**Carolyn Moore:** Reported that the Information Technology Department was in the process of purchasing three computers to be placed in certain areas of the city to be used by employees to access their benefits and the Florida Retirement System (FRS) files.

**Chief Souders:** Nothing to report.

**Staci Cross:** Stated that the city had on-going problems with the Laserfiche and Eden systems due to rapidly changing technology. She stated that the two systems had been updated, and stated that additions and changes were being made every day to keep up with the technological advances.

Ms. Cross stated that a pilot program was being installed today to enable police to fax forms directly from their squad cars to the jail during prisoner transport instead of having to stop at the police station, fill out the forms, fax them to the port and then transport. She stated this technology could also be used throughout the city.

**Major Lewis:** Nothing to report.

**John Cumming:** Reported that bids had been previously taken last year for the Palma Sola Scenic Highway and had come in way over budget. He stated that the highway committee had worked diligently with the landscape architect to bring the cost down to better fit the funds that were available.

**Claude Tankersley** stated this was a 100% grant with a deadline for funds to be spent. He stated the original bid had come in at \$439,000, which was significantly higher than the budgeted amount. He stated that following much negotiation with the FDOT the price had been reduced to \$250,000.

Mr. Tankersley requested authorization to award the contract of \$249,037.50 with a \$35,000 contingency to complete the project, to JC Tree and Landscape.

General discussion: Maintenance of the trees would be minimal due to the plants chosen for that area.

Ingrid McClellan, Executive Director of Keep Manatee Beautiful noted that 9500 yards of sand had been placed on the causeway just prior to Christmas.

**MOTION TO APPROVE the award bid to the low bidder of JC Tree and Landscape with the concurrent change order adjusting the contact award amount to \$249,037.50 contingent upon approval of FDOT was made by Vice Mayor and Councilman Gallo second by Councilwoman Barnebey passed 5-0 for approval.**

**Tim Polk:** Nothing to report.

**Bill Lisch:** Nothing to report.

### ADJOURNMENT

There being no further business, Mayor Poston adjourned the meeting at 11:15 a.m.

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