

**CITY COUNCIL MEETING  
July 16, 2008**

APPROVED BY  
August 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 July 16, 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; Claude Tankersley, Public Works Director; William Lisch, City Attorney; Mark Souders, Fire Chief; Michael Radzilowski, Police Chief; Tim Polk, Department of Planning and Community Development Director; Staci Cross, Information Technology Director, and Carolyn Moore, Human Resources Director.

**Press:** The Herald and the Herald-Tribune.

The meeting was called to order by Mayor Poston.  
Ecumenical invocation was led by Father Julio Rivero, Sacred Heart Church.  
Pledge of Allegiance was led by Councilman Roff.

**PROCLAMATIONS**

CHILDREN'S SUMMIT DAY PROCLAMATION – August 9, 2008

**PRESENTATIONS**

**CITY CLERK'S DEPARTMENT**

Service Award and Retirement of **Gloria Powell**, Auditorium Manager

Mr. Callahan presented Gloria with a plaque to acknowledge her 17 years of service to the city and stated that Gloria would have been the auditorium manager for 10 years as of November, 2008.

Everyone wished her well in her retirement.

**BRADENTON POLICE DEPARTMENT**

Officer of the Month – Master Patrol Officer **Kenneth B. Magown, Jr.**

Major Lewis stated that Master Patrol Officer Kenneth Magown, Jr. assisted by his K-9 partner had done an outstanding job in apprehending suspects in an armed home invasion.

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

**CITIZEN COMMENTS**

**Kevin French** referred to a letter written by Laurie Osgood, which had been sent to each councilmember regarding possible layoffs of two employees at the water treatment plant due to budget cuts. He stated he was the husband of one of the water treatment lab technicians and asked that these two jobs be saved as it would devastate their family.

**COUNCIL REPORTS**

**Vice Mayor/Councilman Gene Gallo, Ward I:** Thanked Tim Polk and Ruth Seewer of the Planning and Community Development Department for working out details with staff members who would need to make arrangements in childcare accommodations as the city adopts a four-day work week starting July 28, 2008.

**Councilwoman Marianne Barnebey, Ward II:** Reminded everyone of the Gold Star Club's "Caribbean Night" to be held in the Bradenton Auditorium on July 26, 2008 with proceeds raised to reimburse the capital crime fund for crime against children through Crimestoppers.

**Councilman Patrick Roff, Ward III:** Attended the Tampa Bay Regional Planning Council meeting which featured a presentation by an energy consultant regarding the energy crisis we are facing today. He stated that the consensus was to promote new urbanism in the community.

Councilman Roff stated that the City of Bradenton was already actively working toward new urbanism for future projects which would reduce the need for transportation as people would live, work and play in one area.

**Councilman Bemis Smith, Ward IV:** Thanked the Planning and Community Development Department for addressing concerns of the builders to coordinate and streamline the technical permitting process to make it faster and easier.

Councilman Smith stated that Mr. French's concern stated during citizen comments brings the reality closer to home and how unfortunate it is that the passing of Amendment One affects our employees due to necessary budget cuts. He stated that the city employee count was already down from previous years with fewer employees doing more.

**Councilman Harold Byrd, Jr., Ward V:** Stated that he had reviewed many budgets in the past and in his opinion, this was one of the first budgets that had to be looked at from all avenues. He stated it was not going to be a good budget if employees had to be let go. He stated he would do the best he could to minimize the affects as he had received numerous letters from other concerned employees regarding their positions with the city.

Councilman Byrd stated there had been some issues that had to be addressed with the Kaboom Playground Equipment placement at Norma Lloyd Park. He appreciated the public-private sectors coming together to make this happen and stated the equipment was scheduled to be installed on August 21, 2008.

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

## CONSENT AGENDA

- a) Approval of Minutes of June 25, 2008 and Special Minutes of July 2, 2008.
- b) Resolution 08-57: Appointing Marc Feldman and Curtis Hamlin to the Affordable Housing Advisory Committee.
- c) Amendment to SWFWMD Wares Creek Bridge Replacement Agreement (L200).
- d) Verizon Wireless Lease Agreement.

**MOTION TO APPROVE the Consent Agenda (a-d) with the minutes of June 25, 2008 and July 2, 2008, Resolution 08-57, SWFWMD Wares Creek Bridge Replacement Amended Agreement and the Verizon Wireless Lease Agreement was made by Councilman Smith seconded by Councilman Byrd and carried 5-0 for approval.**

## BUSINESS/ADVERTISING, PETITIONS, HEARINGS AND COMMUNICATIONS

### **SECOND READING OF PROPOSED ORDINANCE 2893**

### **PUBLIC HEARING**

AN ORDINANCE OF THE CITY OF BRADENTON, FLORIDA, AMENDING PART 1, CHARTER AND RELATED LAWS, SUBPART B, RELATED LAWS, ARTICLE IV, POLICE OFFICERS' RETIREMENT SYSTEM, OF THE CODE OF ORDINANCES OF THE CITY OF BRADENTON, FLORIDA; AMENDING SECTION 6, BENEFIT AMOUNTS AND ELIGIBILITY; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING AN EFFECTIVE DATE.

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

Mr. Callahan gave a brief explanation of the ordinance regarding the cost-of-living allowance with the recommendation for approval and referred to a provision stating that the cost-of-living allowance would be determined by the plan actuary so that payment of the cost-of-living allowance resulted in no increase in cost to the city or to police officers.

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

**MOTION TO APPROVE Ordinance 2893 was made by Vice Mayor and Councilman Gallo, seconded by Councilman Roff and carried 5-0 for approval.**

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**RV.08.0023 WARD 4 NEIGHBORHOOD 1.01 RS PUBLIC HEARING**  
Request of Jamie Ebling, Esquire, agent for B & G Uptown, LLC, owner, for right-of-way vacation of 8<sup>th</sup> Street West from the south side of 3<sup>rd</sup> Avenue West, south approximately 159 feet. (Zoned C-1/UCBD)

**RESOLUTION NO. 08-54**

A RESOLUTION PURSUANT TO SECTIONS 200.G and 200.J.6, CITY LAND USE REGULATIONS, RIGHT-OF-WAY VACATION OF 8<sup>TH</sup> STREET WEST FROM THE SOUTH SIDE OF 3<sup>RD</sup> AVENUE WEST, SOUTH APPROXIMATELY 159 FEET, AND LEGALLY DESCRIBED.

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

**Greg Guinta**, B & G Uptown, LLC owner, referred to a letter previously submitted and gave a brief overview of the history listing past problems of crime and vagrancy in this area. He requested approval to vacate a small portion of 8<sup>th</sup> Street West to link their properties on 8<sup>th</sup> Street West to make it attractive for development to come in to develop the property.

No questions were asked.

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

Tim Polk gave the Planning and Community Development staff report with the staff recommendation based upon the General Standards and Regulations requirements pursuant to Section 202.G., of the Land use and Development Regulations with the Planning Commission recommendation to accept the staff recommendation with the following two stipulations:

1. That the area proposed for vacation be designated as an access and utility easement with utility relocation as necessary and approved by the City of Bradenton Public Works Department, Fire Department and Planning and Community Development.
2. A fence and 16-foot gate would be installed at the south property line along the 8<sup>th</sup> Street right-of-way and may be installed around the perimeter of the property.

Mr. Polk read two conditions suggested by B & G with the recommendation for approval by the staff as follows:

1. The right-of-way vacation reversion in three (3) years, if an approved development plan was not in place.
2. Maintenance of pedestrian access and conformance to the Master Plan.

Lengthy discussion: Concerns for vacating this right-of-way and not knowing what kind of development would be built. Relating this vacation request with the vacation approval for Riviera Southshore which had been reverted back to the city.

Councilwoman Barnebey stated she had concerns regarding the current problems and that this area had a potential for decay. She stated that if Council did nothing about this area the expense of city resources as well as public safety would be in jeopardy. She stated she would be in favor of the right-of-way vacation because of its location to the proposed future developments of The Promenade and Metro Marque.

Councilman Smith stated he agreed with Councilwoman Barnebey as it would benefit the city, but he had concerns about creating precedence for other developer's also requesting a rights-of-way based on eliminating crime.

Discussion: An additional stipulation was made that a future development plan for the property would assume the cost of relocating the utilities.

Councilman Roff stated that each case was different and needed to be treated independently. He stated that in the past he had voted no to a right-of-way as no valid plan had been presented and he would continue to vote that same way.

Councilman Byrd stated that he would support this vacation due to the location. He stated he did not believe this would set precedent.

**MOTION TO APPROVE RV.08.0023, RESOLUTION 08-54 with the recommendations made by the Planning and Community Development staff and Planning Commission with two stipulations, two conditions made by the applicant and one additional stipulation was made by Councilman Smith, seconded by Councilwoman Barnebey and carried 3-2 with Councilman Roff and Vice Mayor and Councilman Gallo in opposition.**

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**CP.08.0024 AMENDMENTS TO EAR BASED COMPREHENSIVE PLAN/TC**

Request of the City of Bradenton for approval of Resolution No. 08-55 for transmittal of the EAR based text and map amendments to the City of Bradenton Comprehensive Plan to the Department of Community Affairs for an Objections, Recommendations, and Comments Report

**RESOLUTION NO. 08-55**

**PUBLIC HEARING**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRADENTON, FLORIDA, TRANSMITTING TO THE DEPARTMENT OF COMMUNITY AFFAIRS PROPOSED (LARGE SCALE) AMENDMENTS TO THE CITY'S COMPREHENSIVE PLAN; MAKING CERTAIN FINDINGS OF FACT; AUTHORIZING TRANSMITTAL OF COMPREHENSIVE PLAN AMENDMENT **APPLICATION CP.08.0024, CITY OF BRADENTON**, AMENDING THE FUTURE LAND USE ELEMENT, TRANSPORTATION ELEMENT, CAPITAL IMPROVEMENTS ELEMENT, RECREATION AND OPEN SPACE ELEMENT, HOUSING ELEMENT, HISTORIC PRESERVATION ELEMENT AND PROPOSED NEW DESIGN ELEMENT; PROVIDING FOR APPLICABILITY AND EFFECT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

The public hearing was opened.

Carl Callahan stated that because there had been no quorum at the last Planning Commission meeting, a request was made to continue to the next City Council meeting in August so it could go before a special Planning Commission meeting on July 30, 2008.

**MOTION TO CONTINUE THE PUBLIC HEARING OF CP.08.0024, RESOLUTION 08-55 to August 13, 2008 was made by Councilman Smith, seconded by Councilman Byrd and carried 5-0 for approval.**

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

Tim Polk

**2008 CDBG Substantial Amendment to the Consolidated Plan and Annual Action Plan Project adoption of:**

**RESOLUTION 08-56**

**PUBLIC HEARING**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRADENTON, FLORIDA ADOPTING THE CITY OF BRADENTON'S COMMUNITY DEVELOPMENT 2008 SUBSTANTIAL AMENDMENT TO THE CONSOLIDATED PLAN AND ANNUAL ACTION PLAN PROJECTS.

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

Tim Polk stated that the staff had met with many of the CDBG recipients after sending out letters, and explained that this amendment was a mandate from the Department of Housing and Urban Development (HUD).

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

Discussion: That Council was not happy having to approve this reduction amendment but they had no choice.

**MOTION TO APPROVE RESOLUTION 08-56 was made by Councilman Smith, seconded by Councilman Roff and carried 5-0 for approval.**

Chief Souders

### **2008 City of Bradenton Emergency Management Plan**

Chief Souders thanked all those who had participated in creation of the Emergency Management Plan and gave a brief overview of the plan's operation.

**MOTION TO APPROVE THE 2008 CITY OF BRADENTON EMERGENCY MANAGEMENT PLAN was made by Vice Mayor and Councilman Gallo, seconded by Councilwoman Barnebey and carried 5-0 for approval.**

### BUSINESS BY APPOINTMENT

#### **SU.05.0017 COMMUNITY COALITION ON HOMELESSNESS**

Request of Fawley Bryant Architects, Inc. for a landscaping and parking amendment to the Special Use permit for the Community Coalition on Homelessness, 701 17th Avenue West.

**Rick Fawley**, Fawley Bryant Architects, representing the Community Coalition on Homelessness gave, a brief overview of the request to change a detail of the approved special use permit SU.05.0017 with the two reasons for the change as follows:

1. To delete trees in the northernmost parking lot islands as the trees would create shade that would attract people who would gather in an already tight parking lot area congested with vehicular traffic.
2. Maintaining good sight-lines from the street to the building entrance. The multi-use facility would serve clientele ranging from the homeless to single mothers with children who may not feel comfortable using the facility, thus compromising the programs that the facility offered. Clear sight-lines were a fundamental principal of Crime Prevention Through Environmental Design (CPTED).

Tim Polk gave the Planning and Community Development staff report with the recommendation for denial of the request and stated that the previous plan that was approved had provided the minimal landscaping compliance. He stated an approval from Council was needed for a waiver to allow a development that did not comply with the minimal upgrade of landscape which was a requirement by code.

Councilman Roff asked if palms could replace the shade trees.

Rick Fawley stated that at this time, due to the concerns regarding public safety, palms would not be considered.

Vice Mayor and Councilman Gallo stated he would support the request as this was a special circumstance.

Councilman Byrd stated he supported the cause but worried about setting precedent for others and asked to study other alternatives.

Councilman Smith stated he understood the need for this facility but stated he did not think that this was the right location due to the plans to build an elementary school across the street and with the future expansion of the Boys and Girls Club down the street. He stated now we are being asked to strip the landscape because we don't want anyone to congregate there. He stated that the problems on 14<sup>th</sup> Street were only going to be transferred to 9<sup>th</sup> Street. He stated he had a lot of concerns about approving this request.

**Ron Allen**, NDC Corporation, Construction Manager of the project, stated that the importance of the request was to protect the visual corridor. He stated it was important to move individuals quickly and direct them into the building. He stated by eliminating the shade, the attraction for people to congregate outside the building would be lessened.

Councilwoman Barnebey stated that she concurred with Mr. Fawley and also understood the decision made by the Planning and Community Development staff in that the request did not comply with the city's guidelines; however, this was a unique situation.

Councilman Roff stated that this center was something that was greatly needed and that what has happened on 14<sup>th</sup> Street was due to lack of a plan. He stated that this development had been given thorough consideration and he did not have a problem supporting the motion even if the trees had to be omitted.

Mr. Polk stated that the main concerns of the Planning and Community Development staff was not just the violation of the landscape code, but also that they could not support the removal of the landscape islands.

**MOTION TO APPROVE SU.05.0007 was made by Vice Mayor and Councilman Gallo, seconded by Councilwoman Barnebey and carried 3-2 with Councilman Smith and Councilman Byrd in opposition.**

#### DEPARTMENT HEADS

**Carl Callahan:** Nothing to report.

**Chief Souders:** Nothing to report.

**Staci Cross:** Nothing to report.

**Major Lewis sitting in for Chief Radzilowski:** Nothing to report.

**Claude Tankersley:** Nothing to report.

**Tim Polk:** Nothing to report.

**Bill Lisch:** Referred to the approval of RV.08.0023 and stated that after the title exams, a request would most likely have to come back to council for approval.

**Carolyn Moore:** Nothing to report.

#### ADJOURNMENT

There being no further business, Mayor Poston adjourned the meeting at 10:15 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.