

**CITY COUNCIL MEETING
January 27, 2010**

**APPROVED BY
February 10, 2010
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 27, 2010 at 6:00 p.m.

Present: Mayor Wayne Poston; Councilman Ward I Gene Gallo; Councilwoman Ward II Marianne Barnebey; Councilman Ward III Patrick Roff; Councilman Ward IV Bemis Smith and Vice Mayor and Councilman Ward V Harold E. Byrd, Jr.

City Officials: Carl Callahan, City Clerk and Treasurer; William Lisch, City Attorney; Mark Souders, Fire Chief; Michael Radzilowski, Police Chief; Tom Cookingham, Planning and Community Development Assistant Director; Staci Cross, Information Technology Director, and Carolyn Moore, Human Resources Director.

Press: The Herald and The Bradenton Times.

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

Claude Tankersley, Public Works Director, and Tim Polk, Department of Planning and Community Development Director were excused from the meeting.

PROCLAMATIONS

HAPPY 90TH BIRTHDAY MONTH – LEAGUE OF WOMEN VOTERS USA PROCLAMATION

Rosalie Shaffer representative for the League of Women Voters accepted the proclamation.

BRADENTON GECKOFEST PROCLAMATION

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

CITIZEN COMMENTS

Former Manatee County Commissioner **Jane von Hahman** encouraged everyone to participate in a free class on politics entitled "The Basics of the Legislative Process" on Thursday, January 28, 2010 at 7:00 PM at the Braden River High School Auditorium.

CONSENT AGENDA

- a) Minutes of January 13, 2010.
- b) Bradenton Riverwalk Signs – Learning Stops.
- c) Surplus of Fire Apparatus Truck 31 – 1983.

MOTION TO WITHDRAW item b for discussion and approve items a and c was made by Councilman Gallo, seconded by Councilwoman Barnebey and passed 5-0 to approve.

Johnette Isham, Executive Director of Realize Bradenton, Inc. gave an overview of the placement of four prospective signs along the Riverwalk intending to attract tourists, students, children and families to visit downtown Bradenton and learn more about the city's history, natural environment, and night sky. A toll free number would also be listed to encourage people to call for additional information. The information on the signs would be changed every three months to encourage repeat visits.

MOTION TO APPROVE Item b was made by Councilman Roff, seconded by Councilwoman Barnebey and passed 5-0 to approve.

BUSINESS/ADVERTISING, PETITIONS, HEARINGS AND COMMUNICATIONS

LU-09-0044

Request of the City of Bradenton for certain Land Use Regulation amendments based on the Comprehensive Plan EAR Based amendments, including but not limited to land use atlas designations, development standards, tree protection, level of service standards, design and compatibility standards, public art murals, lighting, signage, food and ice vending, and definitions.

FIRST READING OF ORDINANCE 2913 RS

PUBLIC HEARING

AN ORDINANCE OF THE CITY OF BRADENTON, FLORIDA, PROVIDING FOR THE ADOPTION OF LAND USE REGULATIONS AND LAND USE ATLAS; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR CHANGES IN THE PERMITTED, CONDITIONAL OR PROHIBITED USES OF VARIOUS LAND USE ATLAS DISTRICTS/CATEGORIES; PROVIDING FOR ADOPTION OF THE OFFICIAL LAND USE ATLAS; PROVIDING FOR GENERAL PROVISIONS; PROVIDING FOR ADMINISTRATION AND PROCEDURES, PROVIDING FOR DISTRICT REGULATIONS; PROVIDING FOR GENERAL REGULATIONS; PROVIDING FOR ACCESSORY USES AND STRUCTURES; PROVIDING FOR SIGNAGE; PROVIDING FOR DESIGN GUIDELINES; PROVIDING FOR LIGHTING GUIDELINES; PROVIDING FOR DEFINITIONS; PROVIDING FOR AUTHORITY TO PROMULGATE RULES AND REGULATIONS IMPLEMENTING AND INTERPRETING THE LAND USE REGULATIONS; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

The public hearing was opened. Those wishing to speak on this issue, please come forward.

Lars Hafner, representing the neighborhood to the north of St. Stephen's School surrounding the school's athletic fields, voiced concerns regarding certain language in the ordinance. He referred to pages 12-15 on tree removal and pages 135-139 Chapter 7.7 on lighting, which would allow St. Stephen's School to move forward to petition for a permit making it easier for them to acquire lighting placement on the athletic fields at the next meeting of the Planning Commission.

Ruth Seewer, Development Review Manager, stated that regardless of this ordinance, St. Stephens School was in the process to go forth to request a special use to get permission for lights on the athletic fields, and this comprehensive plan change would not alter the requirements for the special use permit.

She referenced Page 138, Section 7.7 of the ordinance to revising the language to state "Commercial Stadium and Public Recreation Lights."

Ms. Seewer stated that the city currently had no lighting standards so the intent was to change the code because of McKechnie Field and the stadium lights. She stated this ordinance had nothing to do with the special use that St. Stephen's School was bringing forth.

Mr. Hafner stated the language revision would be a comfort language for the neighborhood and not a general use of interpretation. Ms. Seewer stated the ordinance was more restrictive on tree replacement changing the ratio from 2 to 1 to 10 to 1 and including Laurel Oaks with Live Oaks.

Any other persons wishing to speak on this issue, no one came forward; the public hearing was closed.

Tom Cookingham gave the Planning and Community Development staff report with the staff recommendation for approval to set the second reading and public hearing on February 10, 2010 with the language change as amended on page 138, Section 7.7 to place Commercial in front of stadium lights and Public Recreation Lights and in 7.7.2 adding with the exception of Commercial Stadiums.

A motion to table was made and seconded; however more discussion was expressed regarding the large cost in advertisement, therefore the motion was withdrawn.

MOTION TO ACCEPT the first reading and set the second reading of Ordinance 2913 for February 10, 2010 with the language change as indicated by staff was made by Councilwoman Barnebey, seconded by Vice Mayor and Councilman Byrd and passed 5-0 for approval.

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**FIRST READING OF ORDINANCE 2914**

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; AMENDING SECTIONS 1 THROUGH 29 INCLUSIVE OF THE CODE OF ORDINANCES OF THE CITY OF BRADENTON, FLORIDA; PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING AN EFFECTIVE DATE.

**MOTION TO APPROVE the first reading and set the second reading and public hearing of Ordinance 2914 for February 10, 2010 was made by Councilman Gallo, second reading by Councilwoman Barnebey and passed 5-0 for approval.**

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SECOND READING OF ORDINANCE NO. 2910 TW PUBLIC HEARING

AN ORDINANCE OF THE CITY OF BRADENTON, FLORIDA, AMENDING PART 1, CHARTER AND RELATED LAWS, SUBPART B, RELATED LAWS, ARTICLE III, FIREFIGHTERS' RETIREMENT SYSTEM, OF THE CODE OF ORDINANCES OF THE CITY OF BRADENTON, FLORIDA; AMENDING SECTION 1, DEFINITIONS; AMENDING SECTION 4, FINANCES AND FUND MANAGEMENT; AMENDING SECTION 5, CONTRIBUTIONS; AMENDING SECTION 6, BENEFIT AMOUNTS AND ELIGIBILITY; AMENDING SECTION 7, PRE-RETIREMENT DEATH; AMENDING SECTION 8, DISABILITY; AMENDING SECTION 10, OPTIONAL FORMS OF BENEFITS; AMENDING SECTION 15, MAXIMUM PENSION; AMENDING SECTION 16, MINIMUM DISTRIBUTION OF BENEFITS; AMENDING SECTION 17, MISCELLANEOUS PROVISIONS; AMENDING SECTION 18, REPEAL OR TERMINATION OF SYSTEM; AMENDING SECTION 19, DOMESTIC RELATIONS ORDERS, RETIREE DIRECTED PAYMENTS, EXEMPTION FROM EXECUTION, NON-ASSIGNABILITY; AMENDING SECTION 21, FORFEITURE OF PENSION; AMENDING SECTION 25, DIRECT TRANSFERS OF ELIGIBLE ROLLOVER DISTRIBUTIONS; AMENDING SECTION 27, PRIOR FIRE SERVICE; AMENDING SECTION 29, DEFERRED RETIREMENT OPTION PLAN; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING AN EFFECTIVE DATE.

The public hearing was opened, anyone wishing to speak in favor or opposition please come forward. No one came forward.

No discussion followed.

MOTION TO APPROVE ORDINANCE 2910 was made by Vice Mayor and Councilman Byrd, seconded by Councilman Gallo and passed 5-0 for approval.

RESOLUTION NO. 10 – 05

PUBLIC HEARING

A RESOLUTION ENTERING INTO A STIPULATED SETTLEMENT AGREEMENT WITH THE FLORIDA STATE DEPARTMENT OF COMMUNITY AFFAIRS TO RESOLVE A NOT-IN COMPLIANCE FINDING FOR THE CITY OF BRADENTON’S COMPREHENSIVE PLAN AMENDMENT.

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

Tom Cookingham gave an overview of the resolution that in a Statement and Notice of Intent issued by the Department of Community Affairs (DCA) found Amendment 09-1ER not in compliance because the level of service (LOS) standards for roadways had been deleted from the Transportation and Capital Improvements Elements of the Amendment. He stated the DCA challenged the amendment to avoid litigation and to resolve the not-in-compliance finding. He stated that authorizing the Mayor to sign the resolution would bring the City in agreement with the provisions of the Stipulated Settlement Agreement to take effect on January 27, 2010.

Anyone wishing to speak in opposition, please come forward. No one came forward. The public hearing was closed.

MOTION TO APPROVE RESOLUTION 10-05 authorizing the Mayor to sign the Stipulated Settlement Agreement was made by Councilman Smith, seconded by Councilman Roff and passed 5-0 for approval.

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**SECOND READING OF ORDINANCE NO. 2911 RS**

**PUBLIC HEARING**

AN ORDINANCE OF THE CITY OF BRADENTON, FLORIDA, MAKING CERTAIN FINDINGS OF FACT; PROVIDING FOR AMENDMENT TO THE CITY OF BRADENTON COMPREHENSIVE PLAN EAR BASED AMENDMENTS, ADOPTED NOVEMBER 18, 2009, PROVIDING FOR TEXT AMENDMENTS RE-ESTABLISHING THE LEVEL OF SERVICE STANDARDS FOR ROADWAYS IN THE TRANSPORTATION AND CAPITAL IMPROVEMENTS ELEMENTS, PROVIDING FOR CONSISTANCY WITH THE STATE COMPREHENSIVE PLAN; PROVIDING FOR APPLICABILITY; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Tom Cookingham stated Ordinance 2911 would add stipulations that we just agreed to in Resolution 10-05, with the exact words that were originally in the ordinance, nothing more was added or deleted.

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

Anyone wishing to speak in opposition, please come forward. No one came forward. The public hearing was closed.

**MOTION TO APPROVE ORDINANCE 2911 was made by Vice Mayor and Councilman Byrd, seconded by Councilman Roff and passed 5-0 for approval.**

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SECOND READING OF ORDINANCE NO. 2912

PUBLIC HEARING

AN ORDINANCE OF THE CITY OF BRADENTON, FLORIDA, AMENDING THAT ORDINANCE TITLE “THE CITY OF BRADENTON TRAFFIC LIGHT SAFETY ACT” AS SET FORTH IN CHAPTER 50 OF THE CODE OF ORDINANCES OF THE CITY OF BRADENTON, FLORIDA, INCREASING TIME FOR NOTICES AND TIME FOR APPEALS FROM TWENTY-ONE TO THIRTY-ONE DAYS; PROVIDING FOR A SPECIAL MASTER TO HEAR APPEALS IN LIEU OF CODE ENFORCEMENT BOARD; PROVIDING FOR TRANSFER OF NOTICE OF INFRACTIONS FROM OWNER TO DRIVER OF MOTOR VEHICLE; PROVIDING AN EFFECTIVE DATE.

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

Volker Reiss, Code Enforcement Compliance Manager, stated that the Traffic Light Safety Ordinance had resulted in a large volume of appeals being brought before the seven-members Code Enforcement Board.

He stated due to this large volume, it could take several months to a year to hear a case. He stated after discussing this with City Attorney Bill Lisch it was suggested that it would be more efficient for the public to be served by a Special Master to hear the appeals and serve justice more quickly.

Discussion: Cost of a Special Master, perhaps finding a retired judge or attorney to volunteer.

Anyone wishing to speak in opposition, please come forward. No one came forward. The public hearing was closed.

MOTION TO APPROVE ORDINANCE 2912 was made by Councilman Roff, seconded by Vice Mayor and Councilman Byrd and passed 5-0 for approval.

NEW BUSINESS BY DEPARTMENT HEADS, CITY ATTORNEY AND COUNCIL

Chief Souders

Leasing of Bradenton Fire Station #3 for EMS use

Chief Souders gave a brief overview of a memorandum he received from Manatee County Director of Public Safety Bill Hutchison requesting to lease Fire Station 3 for a County EMS crew and one ambulance in the south end offices of the 59th Street station. He referred to the memorandum outlining the 5-year lease with certain details to be worked out at a rental rate of \$1500 a month.

Chief Souders stated this half of the station had been vacant for some time and requested to move forward with this request.

No discussion followed.

MOTION TO APPROVE the request to move forward with a lease for EMS to utilize half of Fire Station #3 was made by Vice Mayor and Councilman Byrd, seconded by Councilman Gallo and passed 5-0 for approval.

Carl Callahan

Public Event - Revision of March Get Down Downtown from Thursday, March 18th to Wednesday, March 17th to celebrate St. Patrick's Day with extension of hours.

Chuck Reedy, representing the Old Main Street Merchants Association requested to move the usual third Thursday Get Down Downtown event from Thursday, March 18th closing the street from 2 pm to 10 pm to Wednesday, March 17th from 2 pm to midnight with the music stopping at 10 pm. He stated that observation of St. Patrick's Day would garner even more attendees than a Get Down event.

Discussion: Concerns having Old Main Street closed from 2 pm to midnight with the music stopping at 10 pm. Having the barricades closing the street till midnight would help eliminate any public safety issues that resulted from people standing around after the music stopped.

MOTION TO APPROVE the request to revise the March, 2010 Getdown Downtown to Wednesday, March 17th in celebration of St. Patrick's Day and allowing the street to be closed down from 2:00 p.m. to midnight with music stopping at 10:00 p.m. was made by Councilman Gallo, seconded by Councilman Smith and passing 5-0 for approval.

COUNCIL REPORTS

Councilman Gene Gallo, Ward I: Gave a PowerPoint presentation on the intersection of 71st Street and 29th Avenue, the site of a home which had been struck by vehicles five times. He stated the Safety Council had placed a red flashing light, warning people they were approaching the intersection.

Councilman Gallo stated he had also received numerous phone calls and emails of a problem at the intersection of 29th Avenue and 27th Avenue which was located at the entrance of The Crossings apartment complex. He stated the Safety Council had recently had a three-way stop sign placed at that intersection.

He stated now there were problems in the Morningside Complex as residents were parking large trucks on the severely curved city street, causing a visibility hazard which could result in physical harm. He was seeking answers as to what to do to keep these large trucks away from the curve and off the street.

Discussion: Morningside Complex next to the Crossings showed no concerns about the situation.

Chief Radzilowski stated he would advise the Traffic Unit to look into this issue and to bring back its findings to Council.

Councilwoman Marianne Barnebey, Ward II: Reminded everyone about the fundraiser "Take Stock in Children" prayer breakfast on Thursday, February 4th at the Bradenton Municipal Auditorium featuring Bobbi Bowden, Former FSU Football coach as the guest speaker.

Councilwoman Barnebey stated she would be representing the City of Bradenton and the Sarasota Manatee (MPO) Thursday, January 28th at the Statewide MPO meeting in Orlando with topics to include the Sun Rail and stimulus money.

Councilwoman Barnebey stated she was excited about joining a group this Saturday, at the MacDill Air force Base to fly to Ft. Hood, Texas to learn more about the National Guard and Reserves and how employers could assist employees who belonged to those worthy organizations.

Councilman Patrick Roff, Ward III: Nothing to report.

Councilman Bemis Smith, Ward IV: Nothing to report.

Vice Mayor and Councilman Harold Byrd, Jr., Ward V: Nothing to report.

Mayor Wayne Poston: Nothing to report.

DEPARTMENT HEADS

Carl Callahan: Nothing to report.

Chief Souders: Nothing to report.

Staci Cross: Nothing to report.

Chief Radzilowski: Nothing to report.

Claude Tankersley: Excused from the meeting.

Carolyn Moore: Nothing to report.

Tom Cookingham: Nothing to report.

Bill Lisch: RESOLUTION 10-06 - A resolution of the City Council of the City of Bradenton, Florida, opposing an amendment to the Florida Constitution that would force voters to decide all changes to a City or County's Comprehensive Plan; providing an effective date.

Councilman Smith questioned if we were expressing our voice with no money involved.

Bill Lisch answered that was correct.

Councilman Roff stated he received an email from the Tampa Bay Regional Planning Council which stated "Florida's economic dynamism would be lost which would permanently impact the economic growth potential for Florida, causing a steady decline in the standard of living of all Florida residents and would permanently impact employment and growth within major industries and job-generating activities and would likely affect 267,247 Florida jobs."

MOTION TO APPROVE RESOLUTION 10-06 was made by Councilman Smith, seconded by Councilman Roff and passed 3-2 with Councilwoman Barnebey and Vice Mayor and Councilman Byrd in opposition.

Mr. Lisch gave an overview of a dock located at 1908 Riverside Drive East stating that upon the purchase of the property, the owners **David and Suzana Zaccagnino** needed a one-foot easement before a repair could be made to a dock associated with the property.

REQUEST FOR A GRANT OF EASEMENT AT 1908 RIVERSIDE DRIVE EAST

MOTION TO APPROVE A GRANT OF EASEMENT AT 1908 RIVERSIDE DRIVE EAST FOR A ONE-FOOT EASEMENT of that property owned by David and Suzanna Zackanino was made by Councilwoman Barnebey, seconded by Councilman Roff and passed 5-0 for approval.

ADJOURNMENT

There being no further business, Mayor Poston adjourned the meeting at 7:30 p.m.

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