

**CITY COUNCIL MEETING
February 23, 2005**

**APPROVED BY
March 9, 2005
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 February 23, 2005 at 6:00 p.m.

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

City Officials: Wayne Poston, Mayor, Carl Callahan, City Clerk and Treasurer, John Cumming, Public Works Director, William Lisch, City Attorney, Mark Souders, Fire Chief, Michael Radzilowski, Police Chief, Larry Frey, Development Services Director, Staci Cross, Information Technology Director and Carolyn Moore, Human Resources Director.

Press: Bradenton Herald and Manatee Herald Tribune

The meeting was called to order by Mayor Poston.
Ecumenical invocation was led by Councilman Reverend Golden.
Flag ceremony was led by Girl Scout Troops #602 and Daisy Troop #105.

APPROVAL OF MINUTES:

APPROVAL OF MINUTES FOR FEBRUARY 9, 2005.

No discussion followed.

MOTION TO APPROVE the February 9, 2005 minutes was made by Vice-Mayor Smith/Councilwoman Weaver and carried 4-0 for approval. (Councilman Gallo was absent from the Chamber.)

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

CITIZEN COMMENTS:

Ernest Ellis, representing several residents of Shorewalk Condominiums, 4610 47th Avenue West, voiced his concerns regarding zoning violations and stated that the Shorewalk Condominiums owners were operating a commercial business by allowing a hotel resort atmosphere offering weekly accommodations.

Mr. Ellis indicated that the zoning only allowed residential accommodations and requested that the City look into these violations.

Discussion: That Larry Frey and Bill Lisch were currently investigating the laws regarding this issue.

Chief Souders stated he would have his staff investigate for any fire code violations.

Mayor Poston asked for future updates on this issue.

COUNCIL REPORTS:

Councilman Gene Gallo, Ward I: Voiced his concerns regarding problems with repeated graffiti on the walls of businesses on 14th Street.

Lengthy discussion: How to prevent this problem from occurring and what materials could be used to help prevent paint from adhering to the building.

Councilman Gallo suggested the City provide an assistant program for some special type of material to use to stop paint from adhering or to have the Village of the Arts artists paint murals on the walls.

Councilwoman Marianne Barnebey, Ward II: Stated that Miller Receptions had met with the Westfield Neighborhood Association to discuss plans to upgrade the unnamed park behind the water tower.

She stated that the association may come forward in the future to request a contest to name this park.

Councilwoman Barnebey asked to have the Department Heads Retreat be held in Bradenton due to a strict budget this year.

Lengthy discussion: Excellent training for the Department Heads with funds well spent with no accommodations in town that could adequately provide the needs for the retreat.

MOTION to keep the 2005 Department Head Retreat in Bradenton with a cap of \$300.00 on the retreat and that Council receive a written report on the outcome of the retreat was made by Councilwoman Barnebey. Motion died for a lack of second.

Councilman Gallo stated that after discussing this issue the message had been sent; therefore, he withdrew his second.

Councilwoman Weaver, Ward III: Stated that the Tamiami Trail Business District Group expressed their gratitude for the renaming of 14th Street to Tamiami Trail.

Councilwoman Weaver requested Chief Radzilowski to report on the upcoming press conference.

Chief Radzilowski announced that there would be a press conference in the Council Chamber on Thursday, February 24, 2005, regarding the problems of prostitution and related crimes in the 14th Street corridor.

He stated the press conference was the result of a collaborated effort between the Bradenton Police Department and the Manatee County Sheriff Office.

He stated that, with the assistance of the district attorney's office, a hearing judge would be requested to rule for geographical displacement, defined as "The violator could not go back to the same location in which they were arrested."

Councilwoman Weaver invited Bill Theroux, Executive Director of the Downtown Development Authority (DDA), to discuss plans for a park near the shuffleboard courts on 14th Street West.

Bill Theroux stated that on March 12, 2005 the Kiwanis Club, DDA, Ballard Park Group, Better Manatee and the City of Bradenton would be redoing the small park in front of the shuffleboard courts. He stated dying trees would be replaced with newer trees, colorful landscaping and park benches would be added. He stated that in the middle of the park artwork would be put on display for the public to enjoy and replaced every six months with a new piece.

Vice Mayor Bemis Smith, Ward IV: Nothing to report.

Councilman James Golden, Ward V: Stated he was privileged to have been the main speaker at an annual meeting held for Our Daily Bread at the Trinity Lutheran Church.

Mayor Wayne Poston: Stated he had received a letter from the president of the Art Council and Mike Carter thanking the City for the \$100,000 donation to assist in the completion of the planetarium renovation at the South Florida Museum.

BUSINESS/ADVERTISING, PETITIONS, HEARINGS AND COMMUNICATIONS:
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7a) FIRST READING OF PROPOSED ORDINANCE 2776

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 1, DEFINITIONS; AMENDING SECTION 5, CONTRIBUTIONS; AMENDING SECTION 6, BENEFIT AMOUNTS AND ELIGIBILITY; PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING AN EFFECTIVE DATE.

Mr. Callahan gave a brief explanation of three items proposed in the actuarial report.

1. Changing the normal eligibility from age 47 to 45 with 20 years of service.
2. Increasing the supplemental benefit from \$7.00 to \$10.00 per year for those retiring with greater than 20 years of service.
3. Increasing the member contribution rate from 5.5% to 6%.

Lengthy discussion: Cost factors and benefits for the police and fire retirees who had given so much of their lives to the City.

MOTION TO APPROVE Ordinance 2776 for the first reading and set the second reading and public hearing for March 9, 2005 was made by Councilman Gallo/Councilwoman Barnebey and carried 5-0 for approval.

7b) CP.04.0001 WARD 1 NEIGHBORHOOD 4.05/4.06 MM

Request of Stephen Thompson, agent for Trotzale Properties, owner for approval of a small scale Comprehensive Plan Map Amendment to change the Future Land Use Map Designation from County Residential 3 to Professional, or other appropriate designation for the property located at 5716 21st Avenue West (Zoned County Professional Medium) (PRM)

CP 04-0001 FIRST READING OF PROPOSED ORDINANCE 2777

AN ORDINANCE OF THE CITY OF BRADENTON, FLORIDA, PERTAINING TO PROPERTY LOCATED AT 5716 21ST AVENUE WEST, BRADENTON, MAKING CERTAIN FINDINGS OF FACT; PROVIDING FOR AMENDMENT TO THE CITY OF BRADENTON COMPREHENSIVE PLAN FUTURE LAND USE ELEMENT/FUTURE LAND USE MAP (SMALL SCALE DEVELOPMENT ACTIVITY AMENDMENT CP.04.0001) CHANGING THE FUTURE LAND USE DESIGNATION FROM COUNTY RESIDENTIAL 3 TO CITY PROFESSIONAL; PROVIDING FOR APPLICABILITY; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

MOTION TO APPROVE CP 04-0001, Ordinance 2777 for the first reading and set the second reading and public hearing for March 9, 2005 was made by Councilman Gallo/Vice-Mayor Smith and carried 5-0 for approval.

7c) LU.04.0004 WARD 1 NEIGHBORHOOD 4.05/4.06 MM

Request of Stephen Thompson, agent for Trozale Properties, owner for approval of a Land Use Atlas Amendment to change the designation from County PRM to Professional, or other appropriate designation for the property located at 5716 21st Avenue West (Zoned County Professional Medium) PRM).

LU.04.0004 FIRST READING OF PROPOSED ORDINANCE 2778

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 PRM TO CITY PROFESSIONAL FOR THE PROPERTY LOCATED AT 5716 21ST AVENUE WEST AND LEGALLY DESCRIBE:

BEGIN AT THE NORTHWEST CORNER OF LOT 27 OF WYMAN AND BAUM SUBDIVISION, GO THENCE EASTERLY ALONG THE NORTHERLY BOUNDARY OF SAID LOT, 130.0 FEET TO A POINT; THENCE SOUTHERLY PARALLEL TO THE WEST BOUNDARY LINE OF SAID LOT, 300.0 FEET TO A POINT; THENCE WESTERLY 130.0 FEET TO THE WESTERLY BOUNDARY LINE OF SAID LOT; THENCE NORTHERLY ALONG THE WESTERLY BOUNDARY LINE OF SAID LOT TO THE POINT OF BEGINNING AS DESCRIBED IN DEED BOOK 354, PAGE 442 OF THE PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA, SUBDIVISION OF THE SE ¼ WYMAN AND BAUM SUBDIVISION.

MOTION TO APPROVE LU 04-0004, Ordinance 2778 for the first reading and set the second reading and public hearing for March 9, 2005 was made by Councilman Gallo/Councilwoman Weaver and carried 5-0 for approval.

7d) AX-04-0004 WARD 4 NEIGHBORHOOD 20.03 LF

Request of Cedarwood Development, Inc, Agent for Southern Hospitality Associates, L.L.C., owner, for an annexation of 26 acres located at 5055 3rd Ave East (Zoned County A1)

SECOND READING OF PROPOSED ORDINANCE NO. 2774 PUBLIC HEARING

AN ORDINANCE ANNEXING TO THE CITY OF BRADENTON, FLORIDA, CERTAIN LAND CONTIGUOUS THERETO, LOCATED AT 5055 3RD AVENUE EAST.

Public hearing opened those in favor.

Stephen Thompson, attorney representing the applicant, gave a detailed report of the 26 acre property located adjacent and south of the McClure property.

Mr. Thompson stated he accepted the Department of Development Services staff report but did not accept stipulation #3 which proposed an impact fee equivalency requirement as defined in Section 4.B (5) of the Accord. He stated that it was unnecessary in an annexation approval for the development because this parcel would be required to make off-site improvements including a two-lane divided roadway and intersection improvement.

Lengthy discussion: Impact fee equivalency as defined in the Accord.

Those in opposition.

Jane von Hahmann, Manatee County Commissioner representing the Manatee County Board of Commissioners referred to a letter dated February 16, 2005 from Manatee County Commissioner Chairman Ron Getman stating that approval of this annexation may create an enclave of the Riverdale and The Inlets subdivisions.

Commissioner von Hahmann submitted a map depicting recent City annexations with a clear transfer of the two proposed annexations AX04-0004 and AX 05-0006 and stated, in her opinion, this created an enclave.

Mr. Callahan read the following letter from Manatee County Sheriff Charles B. Wells:

“Dear Mr. Callahan,

Pursuant to your correspondence of February 17, 2005, and after having reviewed the area in question, I do not see that there is a problem or any confusion for our agency to respond to calls for service in the Riverdale Subdivision located at 4800 State Road 64 East, and adjacent area which would remain as part of the unincorporated Manatee County. “

Mayor Poston stated that the City’s fire service already provided an automatic first response system in the County through the mutual aid agreement.

Chief Souders indicated that with plans to construct a new City fire department they would be the first responder to arrive through the mutual aid agreement.

Jim Minnix, Manatee County Attorney discussed at length his interpretation of what he considered an enclave was and that, by approving these two annexations an enclave would indeed be created.

Lengthy discussion between Mr. Minnix and Mr. Lisch referring to the Florida Statutes as to the definition of what may be the creation of an enclave.

Mr. Lisch stated that State Road 64 was in the County, not the City and, therefore, Riverdale and The Inlets property was not surrounded by the City and had access without having to enter into the City limits.

Mr. Lisch clarified a concern of the County regarding a Florida Statute referendum that had not passed, and which had proposed that small parcels of 10 acres or less could be annexed subject to the agreement of the City and County.

Kathleen Thompson, Manatee County Planner, stated that the County’s impact fees could only be used on thoroughfare roads, and not on local roads. She stated that 48th Street Court East was not considered a thoroughfare road but that State Road 64 was a thoroughfare road.

Discussion: The Impact fee credits could be used at the intersection of State Road 64 and 48th Street Court East. The County used impact fee credits in the areas where they were paid but not specifically on a road leading into a development.

Councilman Gallo gave a brief report on the Joint Planning Committee (JPC) meeting stating there were two concerns of the County: 1) That the annexation created an enclave. 2) The equivalency of the impact fees. He stated that the School Board and the Island communities had no concern as to the enclave issue.

Councilman Gallo stated that both the City and County decided to leave the decision up to their attorneys regarding the enclave issue and impact fee equivalency.

Larry Frey gave a brief report on the AX 04-0004 annexation and stated that it was an additional parcel associated with the Aurora Foundation. He stated that by adopting this annexation an enclave would not be created, but that the next annexation AX 05-0006 may create an enclave by County standards.

Lengthy discussion: How would the impact fee equivalency be collected and distributed by the City.

Bill Lisch reiterated that, in his opinion, this annexation AX04-0004 and the following annexation AX 05-0006 would not be an enclave as State Road 64 was serviced by the County.

Stephanie Nolan, 331 Bow Lane, representing the Riverdale Action Group, voiced her concern that by annexing these two parcels into the City an enclave would be created. She stated that this could then force Riverdale to be annexed into the City and that they did not want to become part of the City.

Jay Grafton, 4620 4th Avenue N.E., Riverdale resident, point person for the Riverdale Action Group, voiced the group's concern regarding the possibility that the legislature was setting the stage for involuntary annexations.

Isabel Wetz, 303 48th Street Court East stated that she was in the process of acquiring a piece of property by adverse possession and that Cedarwood Development was making her sell her home and this property. She stated that if the developer forced her out of her home they would have to provide her with a home exactly like the home she was currently living in.

Stephen Thompson stated that Isabel Wetz owned lot #18 in Virginia Heights which was under a sales contract but was not a part of the annexation. He stated that there was a private road that she did not own that she was using for access to her property and that the road was included in the annexation's legal description.

Discussion: Maps reviewed showing Isabel Wetz's property and the annexation property.

Isabel Wetz reiterated that she had gone to several County agencies requesting that a section of the roadway which she stated no one owned be vacated. She stated there was another section of the road that was a County right-of-way.

Kathleen Thompson, Manatee County Planner, gave a brief description of the questionable property she called 3rd Avenue East. She stated the twenty-five foot easement was not a County road but was at one time owned by a private individual.

Public hearing closed.

Larry Frey stated that the Department of Development Services staff recommended approval with two stipulations:

1. Future development of the subject properties were subject to the requirements of the ACCORD, including but not limited to impact fee equivalency as defined in the ACCORD, Section 4.B (5);

NOTE: Manatee County staff recommends the following language instead:

"The owners or developers of said annexed land shall contribute to the City an amount at least equivalent to the impact fees in effect for the County at the time development occurs on said property. Equivalence shall take into account (as a deduction) current impact fees or related fees (such as facility investment fees) paid to the City with regard to the development. All such monies contributed to the City would remain monies of the City, and shall be used in a manner similar to the categories of such impact fees to benefit the entire citizenry. If an equivalency fee was collected for impacts for which only the County provides the service, then such portion of the fee collected shall be provided to the County provided such service or facilities would be reasonably provided in the subject impact fee district for the benefit of the applicable land and its occupants. The developer and owners of the property being annexed shall have the right to credits

against such equivalency sum for the costs of improvements made by them that are deemed to be for the public benefit (e.g. impact fee creditable).”

2. Future development of the subject properties may require certain land use studies and analysis as part of any preliminary or final development approvals, as determined by the Department of Development Services Director.

Discussion: Distribution of impact fees collected.

Stephen Thompson, in rebuttal, stated no one fully understood how the impact fees would be distributed. He requested that this issue be a requirement with the PDP to be developed by the Department of Development Services for impact fee equivalency.

MOTION TO APPROVE AX 04-0004, Ordinance 2774 as recommended with the language of the Department of Development Services staff with two stipulations was made by Councilman Golden and failed for lack of a second.

MOTION TO APPROVE AX 04-0004, Ordinance 2774 as recommended by the Department of Development Services staff with two stipulations with stipulation #2 reading as followed: That the future development of the subject property may require certain land use studies and analysis as part of any preliminary or final development approvals and would require review of impact fee equivalency in accordance with the definition of the Accord as determined by the Department of Development Services Director subject to City Council approval was made by Vice-Mayor Smith/Councilman Golden and failed 3-2 with Councilman Gallo, Councilwoman Barnebey and Councilwoman Weaver to deny.

7e) AX-05-0006 WARD 4 NEIGHBORHOOD 20.03 LF

Request of White Oak Development, Inc, Agent for Mark Heller, Rosa Heller, Walt Eppard, David McNabb and Florida Coast Development, owners for an annexation of 49.16 acres located at 101 48th St Ct NE (Zoned County A1)

SECOND READING OF PROPOSED ORDINANCE NO. 2775 PUBLIC HEARING
AN ORDINANCE ANNEXING TO THE CITY OF BRADENTON, FLORIDA, CERTAIN LAND CONTIGUOUS THERETO, LOCATED AT 101 48TH STREET COURT NORTHEAST.

Public hearing opened.

Stephen Thompson requested a continuance to April 13, 2005 to address some issues regarding this annexation.

MOTION TO CONTINUE AX 05-0006, Proposed Ordinance 2775 public hearing to April 13, 2005 was made by Councilwoman Barnebey/Councilwoman Weaver and carried 5-0 for approval.

7f) RESOLUTION NO. 05 - 12

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRADENTON, URGING THE 2005 FLORIDA LEGISLATURE TO ADOPT LEGISLATION DURING THIS LEGISLATIVE SESSION WHICH AUTHORIZES LOCAL GOVERNMENTS TO USE PHOTOGRAPHIC TRAFFIC CONTROL SYSTEMS IN THE ENFORCEMENT OF RED LIGHT RUNNING VIOLATIONS; PROVIDING FOR THE READING OF THIS RESOLUTION BY TITLE ONLY; AND PROVIDING FOR AN EFFECTIVE DATE.

No discussion followed.

MOTION TO APPROVE Resolution 05-12 was made by Councilwoman Barnebey and failed for lack of a second.

NEW BUSINESS BY DEPARTMENT HEADS, CITY ATTORNEY AND COUNCIL:

Carl Callahan

8a) GULFCOAST GIRL SCOUT COUNCIL FIVE-YEAR LEASE AGREEMENT

No discussion followed.

MOTION TO APPROVE the Gulfcoast Girl Scout Council five-year lease agreement was made by Councilwoman Weaver/Councilwoman Barnebey and carried 5-0 for approval.

8b) RESOLUTION 05-11

A RESOLUTION SUBMITTING **NANCY GRANTHAM** AND **ELMER CLAUSSEN** FOR CONSIDERATION FOR APPOINTMENT TO THE CITIZENS ADVISORY COMMITTEE OF THE METROPOLITAN PLANNING ORGANIZATION (MPO) FOR THE CITY OF BRADENTON, FLORIDA.

Councilwoman Barnebey stated she would support the submission of the two names and was pleased to have Bradenton represented at the MPO meetings.

MOTION TO APPROVE Resolution 05-11 was made by Councilwoman Weaver/Councilman Gallo and carried 5-0 for approval.

8c) VEHICLE FOR HIRE - EBS SUNCOAST OF FLORIDA, INC.

Florence Simon, 1007 Manatee Avenue East owner of EBS Suncoast of Florida, Inc. requested approval stating that they would be transporting patients to and from doctors.

MOTION TO APPROVE the Vehicle for Hire was made by Councilwoman Barnebey/Councilman Golden and carried 5-0 for approval.

8d) TWO BID RECOMMENDATIONS

- 1. Bid #01-05 Miscellaneous Road Construction Materials**
- 2. Bid #02-05 Uniform Rental Service**

Mr. Callahan recommended approval for Superior Asphalt, Inc. and Oneco Concrete and Asphalt as respective bidders.

MOTION TO APPROVE Bid#01-05 as recommended by Mr. Callahan was made by Councilwoman Weaver/Vice-Mayor Smith and carried 5-0 for approval.

Mr. Callahan recommended the low bidder of Van Dyne Crotty.

MOTION TO APPROVE Bid #02-05 as recommended by Mr. Callahan was made by Councilwoman Weaver/Vice-Mayor Smith and carried 5-0 for approval.

John Cumming

8A) SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT (SWFWMD) CHAMP PROGRAM

Seth Kohn, Stormwater Manager Special Projects Engineer gave a brief report of the SWFWMD Champ Program which requested local governments that were water suppliers, to participate in water conservation programs that targeted hotels and motels.

REQUEST BY Seth Kohn to contribute \$2,500 for materials and advertisements encouraging area hotels and motels to conserve water.

John Cumming recommended approval of the request.

MOTION TO APPROVE as recommended by John Cumming was made by Councilwoman Barnebey/Councilwoman Weaver and carried 5-0 for approval.

DEPARTMENT HEADS:

Carl Callahan:

RESOLUTION 05-13

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRADENTON, FLORIDA, AUTHORIZING THE CITY CLERK AND TREASURER TO PROCEED WITH THE REFINANCING OF THE 1995A UTILITY REVENUE BONDS, INCLUDING ENTERING INTO AGREEMENTS WITH BANK OF AMERICA TO PROVIDE THE FINANCING TRANSACTION AND PROVIDING THE NECESSARY DOCUMENTATION.

Mr. Callahan stated that the City's financial advisor and bond council recommended approval foreseeing a savings of over \$401,000 in interest payments up to maturity.

MOTION TO APPROVE Resolution 05-13 as recommended by the financial advisor and bond council to refinance the 1995A Utility Revenue Bonds was made by Councilman Gallo/Councilwoman Weaver and carried 5-0 for approval.

Chief Souders: Nothing to report.

Staci Cross: Reported that the Bradenton Police phone system should be installed in the next few weeks as there were some issues that remained to be addressed.

Ms. Cross stated that the Utility Billing system was scheduled to go online in eight days.

Chief Radzilowski: Nothing to report.

John Cumming: Reported on the 10th Avenue Drainage Project stating that the design was 50% completed with plans to go out to bid sometime in late April or May, 2005. He stated construction was planned to begin in July, 2005.

Larry Frey: 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 9:43 p.m.

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