



**CITY COUNCIL MEETING
April 9, 2003**

The City of Bradenton City Council met in regular session in the City Hall Council Chambers, 101 Old Main Street, Bradenton, Florida on April 9, 2003 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
Michael Radzilowski, Police Chief
Larry Frey, Planning Services Director
Staci Nelms, Information Technology Director

Press: Bradenton Herald
Manatee Herald Tribune

The meeting was called to order by Vice Mayor Weaver.

Vice Mayor Weaver stated that Mayor Poston could not attend the meeting.

Prayer was led by Councilman Golden.

Flag salute was led by Councilman Gallo.

MINUTES:

Minutes for March 12, 2003 and March 20, 2003.

No discussion followed.

Motion to approve the March 12, 2003 and March 20, 2003 minutes was made by Councilman Gallo, seconded by Councilman Smith and carried 5-0 for approval.

PROCLAMATION:

2003 BIBLE READING MARATHON PROCLAMATION

Jr. Bishop Lawrence Livingston accepted the proclamation and gave a brief description of the Bible Marathon that would be held on the Manatee County Courthouse lawn beginning Wednesday, April 30, 2003 at 8:00 p.m. to be on-going ending Sunday, May 4, 2003.

Discussion: That the Bible Reading Marathon public event needed no approval from the City Council as it was on County property.

NATIONAL ARBOR DAY PROCLAMATION

Ingrid McClellan, Executive Director, Keep Manatee Beautiful Inc. accepted the proclamation and invited everyone to the ribbon cutting for Phase II at the Martin Luther King Boulevard Park on April 25, 2002 at 11:00 a.m.

PRESENTATION:

PUBLIC WORKS EMPLOYEES OF THE MONTH

John Ormando awarded the "April Employee of the Month" to Aimie Johnson, from the Water Treatment Plant. "Supervisor of the Quarter" to Mitchell Brown, from the Roads & Street Department and "Team of the Quarter" to the Concrete Crew from the Roads & Street Department.

Palma Sola Causeway Beautification

Ross Weaver part owner of Bongo's Bayside Grille & Bar presented a \$1,000 check to Ingrid McClellan, Executive Director and John Ormando, Chairman of Keep Manatee Beautiful to be used to beautify Palma Sola Causeway.

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

PUBLIC COMMENTS:

No one came forward.

COUNCIL REPORTS:

Councilman Gene Gallo, Ward I:

Councilman Gallo stated that he recently had the privilege to lobby for several bills for the Florida League of Cities in Tallahassee.

Councilman Gallo asked Larry Frey about the plans Manatee County had regarding the Judicial Center and jail site.

Larry Frey stated that the Judicial Center was currently going through the Special Exception process which was a discretionary review process. He stated that it would be first heard by the Planning Commission then to the City Council for the final decision. He stated that Special Exceptions could have stipulations attached to it.

Councilman Gallo adamantly opposed the location of the jail in downtown Bradenton and voiced his concern stating that this also was not favorable with the Judicial Committee, the Clerk of Court, the Downtown Development Authority and the Attorney Association of Manatee County.

Councilman Gallo encouraged the citizen's of Bradenton to call their Councilperson to voice their opinion regarding the jail location.

Councilwoman Marianne Barnebey, Ward II:

Nothing to report.

Vice-Mayor Michele Weaver, Ward III

Vice Mayor Weaver stated that the Public Mayor Program for Ward III would be held on April 14, 2003 at 7:00 p.m.

Councilman Bemis Smith, Ward IV:

Councilman Smith thanked the City of Bradenton staff for their help and support with the "Spring Fling" event at the United Methodist Church held by the Old Neighborhood Association.

Councilman Smith distributed from the Public Works Department a "cost estimate" on materials for the 15th Street East and 4th Avenue East improvements. He stated that the Public Works Department would provide the labor and requested approval for John Cumming to move forward with this project.

John Cumming stated that the brick work would be contracted out.

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

Councilman James Golden, Ward V:

Councilman Golden thanked everyone for the opportunity to represent the City of Bradenton on "Legislative Day" in Tallahassee.

Mayor Poston:

Excused absence.

BUSINESS/ADVERTISING, PETITIONS, HEARINGS AND COMMUNICATIONS:

Mr. Callahan read the following:

ABL-03-01 WARD 2 NEIGHBORHOOD 5.01 PUBLIC HEARING

Request of Cheng Dong Yang, for Publix Supermarkets, Inc. owner for alcoholic beverage approval for a 2COP License (sale of beer and wine for consumption on premises) on the property **located at 3901 Manatee Avenue West/Westgate Shopping Center** (Zoned C-2).

Vice Mayor Weaver opened the public hearing and requested anyone wishing to speak in favor of the request to please come forward. No one came forward.

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

Vice Mayor Weaver closed the public hearing.

No discussion followed.

Motion to approve the request was made by Councilwoman Barnebey, seconded by Councilman Smith and carried 3-2 with Councilman Golden and Councilman Gallo in opposition.

Mr. Callahan read the following:

M-LUDR-02-15

FIRST READING OF AN ORDINANCE

Request of the City of Bradenton for an amendment to the Land Use and Development Regulations regarding incentives for redevelopment, errata and general amendments affecting Land Use Regulations.

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; PROVIDING FOR REPEAL OF PROVISIONS OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

No discussion followed.

Motion to approve the first reading and set the second reading for public hearing on April 23, 2003 was made by Councilman Golden, seconded by Councilman Smith and carried 5-0 for approval.

Mr. Callahan read the following:

FIRST READING OF AN ORDINANCE

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, TO AMEND THE DEFINITION OF "AVERAGE FINAL COMPENSATION"; AMENDING SECTION 8, DISABILITY; AMENDING SECTION 10, OPTIONAL FORMS OF BENEFITS; AMENDING SECTION 15, MAXIMUM PENSION, SECTION 27, PRIOR FIRE SERVICE; PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING AN EFFECTIVE DATE.

No discussion followed.

Motion to approve the first reading and set the second reading for public hearing on April 23, 2003 was made by Councilman Smith, seconded by Councilwoman Weaver and carried 5-0 for approval.

Mr. Callahan read the following:

SECOND READING OF AN ORDINANCE

PUBLIC HEARING

CPA-M-03-02 WARD 4 NEIGHBORHOOD 20.03

Request of Maurice and Renee Healey, owner for a small scale Comprehensive Plan Map Amendment to change the Future Land Use Map Designation from ROR (County-Suburban Agriculture) to Commercial for the property located at 404 39th Street East (Zoned A-1)

AN ORDINANCE OF THE CITY OF BRADENTON, FLORIDA, PERTAINING TO PROPERTY LOCATED AT 404 39th STREET EAST, 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 CPA-M-03-01) CHANGING THE FUTURE LAND USE DESIGNATION FROM COUNTY ROR (LARGE RETAIL/OFFICE/WHOLESALE USES) TO COMMERCIAL; PROVIDING FOR APPLICABILITY; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

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

(Tape 1, side 2)

Dr. Maurice Healey distributed photographs and gave a brief overview of the property and requested approval of the land use designation change to Commercial.

Questions were asked and answers given as to the difference between Commercial versus Professional designation.

Councilman Gallo asked if Dr. Healey would agree to a Professional designation instead of a Commercial.

Dr. Healey stated he would agree to a Professional land use designation.

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

Peter Lykiardopoulos, 3902 3rd Avenue East, (distributed photographs) **Harald Bottke**, 4022 3rd Avenue East, **Charles McCaffrey** 3906 3rd Avenue East (*Tape 2, side 1*), **Chuck Hindelang**, 330 36th Street N.E., **Bill Vlasak**, 3723 2nd Drive N.E. all voiced their opposition for the designation change to commercial or professional due to increased traffic flow with safety concerns for the neighborhood children. Concerns that commercial designation would decrease property values and that Commercial was not the best use of the land because of the residential homes surrounding this property.

Larry Frey stated that the Planning Commission and Planning Staff recommended approval to designate the requested property to Commercial for the Future Land Use Map.

Vice Mayor Weaver closed the public hearing.

Motion to approve the land use designation to Professional was made by Councilman Smith, seconded by Councilman Golden and carried 5-0 for approval.

Mr. Callahan read the following:

SECOND READING OF AN ORDINANCE

PUBLIC HEARING

LUR-AA-03-02 WARD 4 NEIGHBORHOOD 20.03

Request of Maurice and Renee Healey, owner for a Zoning Atlas Amendment to change the designation from A-1 (County-Suburban Agriculture) to C-3 (Commercial) for the property **located at 404 39th Street East** (Zoned A-1).

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 C-3 OR OTHER APPROPRIATE ZONE FOR THE PROPERTY LOCATED AT 404 39TH STREET EAST AND LEGALLY DESCRIBED.

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

Dr. Maurice Healey stated that he would work with the neighboring community to make his project as nice as possible.

Discussion: Changing the designation to Professional.

Dr. Healey stated he would agree to a Professional zoning change.

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

Peter Lykiardopoulos, 3902 3rd Avenue East, **Linda McCaffrey** 3906 3rd Avenue East, **Bill Vlasak**, 3723 2nd Drive N.E., **Chuck Hindelang**, 330 36th Street N.E., **Stephanie Lykiardopoulos**, 3902 3rd Avenue East, **Harald Bottke**, 4022 3rd Avenue East distributed a map of the site and asked if the applicant would consider completely buffering off 39th Street. They voiced their concern for increased traffic flow with safety concerns and the 39th Street access. A petition was submitted with seventy-six names and addresses from the surrounding community in opposition of the applicants request.

Larry Frey stated that the Planning Commission and Planning Staff recommended an amendment from C-3 (Heavy Commercial) to City P (Professional).

In rebuttal Dr. Healey stated he did not think that there would not be an increase in traffic and stated that the traffic problem was an existing problem with no solution but commented that he would work with the neighbors.

Vice Mayor Weaver closed the public hearing.

(Tape 2, side 2)

Councilman Gallo voiced his concern that no traffic study had been done and that after hearing the concerns from the neighbors he could not support this request.

Discussion: Existing code regulations for Professional zoning.

Motion to approve the Planning Commission and Planning Staff recommendation to Professional Zoning was made by Councilman Smith, seconded by Councilman Golden and carried 4-1 with Councilman Gallo in opposition.

Mr. Callahan read the following:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRADENTON, FLORIDA, ESTABLISHING VARIOUS FEES AND CHARGES TO ADDRESS THE EXPENSES AND COSTS OF ADMINISTERING AND DETERMINING APPLICATIONS FOR DEVELOPMENT PERMITS AND DEVELOPMENT ORDERS PURSUANT TO THE CITY'S LAND USE AND DEVELOPMENT REGULATIONS.

Larry Frey stated that after an extensive review of the fees and charges he had found some discrepancies with some existing charges and some added services with no current fees. He stated that he had amended the fee schedule to be adopted by a resolution and requested approval.

Discussion: Review of the Schedule of Fees.

Further discussion: To create a policy for annual reviews for fees.

(Tape 3, side 1)

Councilman Smith voiced his concern that this was just another form of taxing the citizens.

Motion to approve the resolution was made by Councilman Golden, seconded by Councilwoman Barnebey and carried 4-1 with Councilman Smith in opposition.

Mr. Callahan read the following:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRADENTON, FLORIDA, AUTHORIZING A MODIFICATION AGREEMENT AMONG THE CITY, BANK OF AMERICAN, N.A. AND MANATEE SCHOOL OF ARTS AND SCIENCES, INC. RELATING TO THE CITY'S INDUSTRIAL DEVELOPMENT REVENUE BOND ISSUED FOR THE BENEFIT OF MANATEE OF ARTS AND SCIENCES, INC.; AND PROVIDING AN EFFECTIVE DATE.

Carl Callahan recommended approval to adopt the resolution which modified and lowered the interest rate with Bank of America. He requested authorizing Mayor Poston to sign the resolution and commented that there was no obligation financially to the City.

Motion to approve and to authorize Mayor Poston to sign the resolution was made by Councilman Gallo, seconded by Councilman Golden and carried 5-0 for approval.

NEW BUSINESS BY DEPARTMENT HEADS, CITY ATTORNEY AND COUNCIL:

Mr. Callahan read the following:

2003 City of Bradenton Election

Carl Callahan stated that Bob Sweat, Supervisor of Elections had recommended December 2, 2003 as the day for an election run-off should there be a need for one and requested approval.

Mr. Callahan requested approval of the following polling locations:

Town & Country Perico Clubhouse, Village Green Clubhouse, Freedom Village The Landings Lounge, G.T. Bray Park Gymnasium, Manatee River Garden Center, Calvary Baptist Church, First Church of God, Ironwood Recreation Hall #2, Southside Baptist Church, Tropical Palms Queen Palm Room, River Trace Senior Apartments, Carlton Arms Recreation Hall, River Isles Recreation Hall, Faith United Church of Christ, Manatee County Safety Council and Rogers Memorial Church.

No discussion followed.

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

Mr. Callahan read the following:

A RESOLUTION REAPPOINTING THOMAS P. NOLAND AND RICHARD GROSS TO THE ENTERPRISE ZONE BOARD FOR THE CITY OF BRADENTON, FLORIDA AND DEFINING THEIR TERM.

No discussion followed.

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

Bill Lisch

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRADENTON, FLORIDA, AMENDING THE RULES AND REGULATIONS OF THE MERIT PERSONNEL SYSTEM OF THE CITY OF BRADENTON BY COORDINATING SECTION 2-161 OF THE CODE OF ORDINANCES RELATING TO EXEMPTIONS FROM THE MERIT PERSONNEL SYSTEM WITH PROVISIONS OF SECTION 4-3 OF THE PERSONNEL RULES AND REGULATIONS RELATING TO EXEMPTIONS FROM CAREER SERVICE APPEALS FOR EMPLOYEES AND POSITIONS AND BY ADDING THERETO THE POSITIONS OF POLICE LIEUTENANTS AS AN EXEMPT EMPLOYEE; PROVIDING AN EFFECTIVE DATE.

Councilman Gallo asked should this resolution be passed would it allow a Lieutenant to be discipline or terminated without being heard by the Merit Board.

Bill Lisch stated "yes" that it would place Lieutenant's in the same category with the Deputy Chief's, Major's and Captain's.

Councilman Gallo asked Chief Souders if Captain's and Lieutenant's were not exempt in the Fire Department.

Chief Souders answered that Captain's and Lieutenant's were not exempt in the Fire Department.

Councilman Gallo stated that he would not support this resolution as the Fire Department and Police Department should be consistent.

Discussion: That the Personnel Manual and collective bargaining did not include Lieutenant's in the Police Department.

Motion to approve the resolution was made by Councilman Golden, seconded by Councilman Smith and carried 4-1 for approval with Councilman Gallo in opposition.

Chief Radzilowski

Chief Radzilowski requested expenditures from the Forfeiture Funds to purchase less lethal crowd control and long guns for emergency situations at a cost of \$64,327.51.

No discussion followed.

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

DEPARTMENT HEADS:

Carl Callahan

Nothing to report.

Mark Souders

Nothing to report.

Staci Nelms

Nothing to report.

Chief Radzilowski

Nothing to report.

John Cumming

John Cumming stated that the Local Agency Program- L.A.P. grant for 3.6 million dollars had been finalized. He stated that this grant would be improving Manatee Avenue from First Street to 15th Street West.

John Cumming stated that the east site drainage project had begun.

Larry Frey

Nothing to report.

Bill Lisch

Nothing to report.

Larry Frey gave an update on the Monk Building.

ADJOURNMENT

There being no further business, Mayor Poston adjourned the meeting at 11:55 a.m.

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