

CITY OF BRADENTON
CITY COUNCIL MEETING
August 17, 2016
8:30 A.M.
MINUTES

The City of Bradenton City Council met in regular session in the City Hall Council Chamber, 101 Old Main Street, Bradenton, Florida, at 8:30 a.m. on Wednesday, August 17, 2016.

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

City Officials: Carl Callahan, City Administrator; Catherine Hartley, Planning and Community Development Director; Chuck Edwards, Fire Chief; Melanie Bevan, Police Chief; David Beauchamp, Asst. Public Works & Utilities Director; and Bill Lisch, City Attorney.

The pre-meeting invocation was led by **Rev. Dee Graham, Manatee Unitarian Universalist Fellowship.**
(The City does not endorse the religious beliefs of any speaker.)

The Pledge of Allegiance was led by Mayor Poston.

PROCLAMATIONS: Breastfeeding Awareness Month – August, 2016

The proclamation was accepted on behalf of **Lactation Love, Hold Me Closer, Suncoast La Leche League, Healthy Start Coalition of Sarasota County, and Breastfeeding Advocates of Sarasota.**

PRESENTATIONS: None.

Carl Callahan administered the oath to anyone wishing to speak on any non-agenda items or during the public hearings.

CITIZEN COMMENTS: None.

CONSENT AGENDA

- A. Water Main Improvements Year 3 - Award of Construction Contract
- B. Village of the Arts Lighting Improvements Phase II- Award of Construction Contract
- C. METV contract for 2016-17
- D. Agreement with PJ Goldman Painting for traffic equipment painting
- E. Minutes: July 13 special City Council meeting
- F. Minutes: July 20 City Council meeting
- G. Minutes: July 26 special City Council meeting
- H. 3rd Quarter Budget Adjustments – Public Works Department
- I. Public Events: Main Street Live 2016-17 season
- J. Public Event: Tribute to Heroes Memorial Service on Sept. 12 at Riverwalk
- K. Public Event: DeSoto half marathon on Oct. 15

MOTION TO APPROVE CONSENT AGENDA ITEMS A-K was made by Councilman Roff, seconded by Councilman Byrd, and approved 5:0.

BUSINESS/ADVERTISING, PETITIONS, HEARINGS & COMMUNICATIONS

RESOLUTION NO. 16-43

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRADENTON, FLORIDA, APPROVING THE STATE HOUSING INITIATIVE PARTNERSHIP HOUSING REHABILITATION PROJECT FUNDING AND PROVIDING AN EFFECTIVE DATE.

MOTION TO APPROVE RESOLUTION 16-43 was made by Councilman Byrd, seconded by Councilman Roff, and approved 5:0

RESOLUTION NO. 16-44

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRADENTON, FLORIDA, APPROVING THE STATE HOUSING INITIATIVE PARTNERSHIP MULTIFAMILY RESIDENTIAL PROJECT FUNDING AND PROVIDING AN EFFECTIVE DATE.

MOTION TO APPROVE RESOLUTION 16-44 was made by Councilman Byrd, seconded by Councilman Roff, and approved 5:0

SU.16.1840, WARD 5, NEIGHBORHOOD 1.01 PUBLIC HEARING

Request by Nathan Lee, P.E. of Kimley-Horn and Associates, Inc., agent for Bradenton 14, LLC., owner, for a Special Use for a Service Station (gas station) on 1.356 acres zoned T5, Urban Center, located at 115 Manatee Avenue West, Parcel Identification Number 3252400159.

Appeal of PCD Director's Denial of Adjustments to the Form Based Code: Adjustment case number 16.3098 PUBLIC HEARING

Pursuant to Section 1.10.5 of the Form Based Code: Request by Nathan Lee, P.E. of Kimley-Horn and Associates, Inc., agent for Bradenton 14, LLC., owner, for an appeal to the PCD Director's denial of administrative adjustments to the Form Based Code to the shop front frontage requirements, minimum and maximum front and side setbacks, required paving from the front setback to the public sidewalk, special regulations, on 1.356 acres zoned T5, Urban Center, located at 115 Manatee Avenue West, Parcel Identification Number 3252400159.

The Public Hearing was opened. Those in favor were invited to come forward.

Catherine Hartley, Planning & Community Development Director, stated this was an unusual situation which City Council had not previously encountered. Formerly, adjustments had been addressed administratively and did not go to public hearing. In this case, the Planning Commission had heard the Special Use request and had made a motion for approval which had died for lack of a second, and no further action was taken and no recommendation was made. Ms. Hartley had denied the request of the applicant for adjustments to the Form Base Code and for the Special Use; therefore, the applicant had the option to appeal her decision to City Council. She stated that Special Use requests were reviewed on a case-by-case basis. Criteria for special use approval include safe vehicular & pedestrian access, parking & loading adequacy, comprehensive plan consistency, environmental & economic impact, and compatibility.

In a PowerPoint format, among her reasons for denial, she cited the following:

- The request was inconsistent with policies in the comprehensive plan.
- The property was classified for high density & intensity, multi-story use, up to 5 stories.
- The subject property was designated as a Health and Wellness District.
- She felt a gas station was inconsistent with the goals of a Health and Wellness District.
- The site in question was in an area designated as a "priority" location within the City.
- The applicant had declined to comply with FBC requirements.

Bill Lisch, City Attorney, stated that Ms. Hartley's report to City Council and her synopsis of the case dated August 10, 2016, would be entered into the public record. The PowerPoint copy of today's presentation would be submitted as well.

Ronald Weaver, Stearns Weaver Miller, et al., P.A., representing Thornton's, presented their appeal. He referred to City Council minutes from 3 ½ years ago when Form Base Code was adopted and quoted statements of Council that it was to be a tool to spur development but which may not be applicable to all areas of the City. He felt this area fell into that category. He then stated that Thornton's would meet all five requirements of Form Based Code in this location:

- Remain consistent with density, be community oriented, and provide retail and service needs
- Accommodate vehicular and pedestrian traffic
- Provide a wide, healthy variety of food offerings within walking distance to the 7,500 residents, 14,000 employees, and 1,000 businesses located within a mile
- Fulfill purposes of land use and tax base growth
- Physically align with existing structures

Mr. Weaver said the parcel formerly occupied by Checker's had been vacant for six years. He felt that only Thornton's would work in the setting and could return the property to the tax rolls. He asserted that Thornton's would provide superior amenities than Wawa which was located along the same roadway and had been approved by Council. He displayed renderings of the layout of the proposed development which had been physically and strategically designed for success and safety in the models of the convenience store industry.

Jode Ballard, Senior Manager of Development, Thornton's, said that Thornton's had been interested in the property three years ago but had stepped back to permit the property owner the opportunity to market to other types of users. The property owner had again contacted Thornton's due to the lack of interest from others. Mr. Ballard said that due to the cumbersomeness of Form Based Code, any other developers would also need to request adjustments. Thornton's had voluntarily conducted a community outreach meeting to acquire input from the public. He said Thornton's was prepared to exceed requirements and go well beyond what Wawa had done. That would mean adding additional landscaping, extra wide sidewalks, a guard wall, hedgerow, two-ply screening and buffering, ornamental architecture on the Manatee Avenue side, fit in with local architecture via use of real brick and stone and/or addition of faux hurricane shutters, prohibit parking along frontages, require delivery at rear, meet sign ordinance requirements, and exceed the clear glazing requirement along US 41.

Mr. Ballard said the proposed site layout was in keeping with nationally established principles for increased visibility which lend to greater safety for the public and employees. To accommodate the surrounding community, more new and robust food choices would be offered at all locations.

Ronald Oxtal, MAI, state certified real estate appraiser from CapRight, Tampa, emphasized that the proposed Thornton's development did not pose any threat of adverse impact upon surrounding properties. Rather, he asserted it was a complimentary use and would provide additional real estate income, generate further development, create new jobs, and provide convenience goods to the daily workforce and residents. A study had been conducted of 21 different intersections in the Tampa Bay area at which a Thornton's or Wawa had been built to determine how property values had moved. In summary, there were no changes – which led to the conclusion that there were no adverse impacts to the surrounding area.

Ken Metcalf, AICP, Director of Planning, Stearns Weaver Miller, et al., P.A., presented a PowerPoint summary of the proposed adjustments to the development: locate building at center of site, locate fuel pumps and parking between building and US 41, and waive 60% glazing/fenestration on Manatee Avenue. He reviewed the criteria for adjustments: the development promotes same level of land use compatibility as standard, will not materially affect adjacent land use and character of vicinity, will be consistent with purpose and intent of FBC & existing regulations. He provided responses to the staff report: this is not an infill; health & wellness district conflicts with requirement for retail use; code standard states compatibility with adjacent uses which are also setback from the road, fenestration/glazing is provided on US 41 – adjustment is for storage building; CPTED cannot be achieved without adjustments on building/fuel pump placement. He presented a video of moving traffic on the streets surrounding the subject property and stated that realistically, it was not walkable due to traffic intensity. Mr. Metcalf stated that it was consistent with the Comprehensive Plan and listed policies supporting that standpoint. Lastly, he presented a video depicting the presentation of the wide variety of food amenities Thornton's offers as a food retailer.

In summary, **Ron Weaver** presented a letter of support from Harry Bakker, President, HJB Properties, stating his belief was that Thornton's was consistent with the comprehensive plan and would aid in revitalization by providing necessary amenities to enable downtown Bradenton to flourish. Lastly, Mr. Weaver exhibited a draft of a proposed "*Welcome to Bradenton*" sign which would be custom designed and displayed on the development site.

Councilman Smith questioned if gas stations could be considered retail. Mr. Weaver responded that the area was zoned as T5, one of only two districts which allowed gas stations. The need for special use request was due to the proximity to a daycare, to determine if there would be any adverse impact to the surrounding areas, and to be consistent with current setbacks of the surrounding businesses. Mr. Smith stated that the surrounding businesses had been developed prior to the adoption of FBC, thus their setback requirements had been different than the current requirements.

Mr. Smith asked if the building layout could be reconfigured to comply with Form Based Code and still not conflict with property rights issues. Joe Ballard reiterated that, similarly to ATM machines, visibility was extremely important for safety. He said the layout also aided in efficiency for backroom supply and delivery and that the model was based on 40 years of industry experience in crime prevention. The City Comprehensive Plan also called for safety of developments, so Thornton's felt it held them to a higher tier of responsibility to design the layout as they had. Additionally, failure to follow industry safety standards could leave them open for liability issues.

Catherine Hartley refuted the implications that property rights issues were being denied and that safety considerations were incompatible with adherence to FBC. She further said that the comprehensive plan was in place to maintain compatibility with future developments, not with developments that were already on the ground and don't conform today.

Discussion: Future vs. past developments and property owner rights to meet business models versus meeting new code requirements.

Vice Mayor Gallo expressed his concern about the intensity of the intersection and lack of acceleration/deceleration lanes for access into and out of the facility. Joe Ballard said that they would build as large of a turn lane as possible and would donate the right-of-way to do so. Mr. Gallo felt that having only one entrance/exit off of US 41 would cause problems and said he would prefer to see an exit only and an entrance only. Mr. Ballard said the entrance was 30-36 feet wide and should be very comfortable for ingress and egress.

John Wentz, 9312 65th Ave. E., broker for the sale of property sold by **Faith United Church of Christ** to Thornton's on SR 64. He read two letters of recommendation written by **Rev. Brian Bagley-Bonner** and **Judy Wetter, former Church Moderator**, stating that Thornton's had proved to be a good, respectful, and helpful neighbor.

Tim Baron, representative of **Bradenton 14**, a family partnership and development company, had worked for three individual owners interested in developing generational products in Bradenton. Bradenton 14 had purchased the subject property in 2013-2014 and had invested \$100,000 in cash and more in lost income in an attempt to bring the vision of a Class A office building to fruition. He stated that to date there was still no interest in such a development. He felt the current proposal was the best proposal for this site laid out exactly as had been presented by the Thornton's spokespeople.

Anthony Busciglio, 1604 18th Street West, said he supported the Thornton's development as its location would be very convenient for residents west of US 41/301 and north of Manatee Avenue/SR 64.

Those in opposition were asked to come forward.

Caryl Ponder, Chairman, Bradenton Tree and Land Preservation Board, expressed her support for adherence to Form Base Code and for denial of the Special Use.

Ingrid McLellan, Executive Director, Keep Manatee Beautiful, said she supported denial of this Special Use request as Form Based Code sets the standards which were expressly desired by the community.

Tim Polk, former Bradenton Planning and Community Development Director, said that this particular application had been one of the last that had come before him prior to his retirement. At that time, he had said that he did not think this was the proper site for this use as a lot of change was taking place in the downtown area. He said he had expressed that he felt a medical facility would be more ideal in that location. Regarding Wawa, Mr. Polk said it had been viewed as a retail food venue which did not require a Special Use Request; therefore, it had been approved administratively by staff. As Thornton's primarily deals with auto service and did not wish to conform to Form Based Code, he agreed with Catherine Hartley's denial.

Councilman Roff asked Mr. Polk to confirm for the record that the Wawa development had not come before City Council, but instead had been approved administratively. Mr. Roff also asked for confirmation that the SR 64 Thornton's had come before City Council as a Special Use request. Mr. Polk confirmed both statements were accurate. Mr. Roff stated that this Special Use request was in a completely different category.

Catherine Hartley rebutted several statements made by the presenters about the A-grid vs. infills, arcade requirements, and future compatibility, and cited policies 1.10.1 and 1.10.2 for her reasons for denial.

Councilman Roff asked Ms. Hartley if installation of gas storage tanks would ultimately result in the creation of a Brownfield site and she said they would.

Ken Metcalf restated this was not a community infill plan, that the arcade requirement allowed a number of choices including cantilevered awnings over the sidewalk area, and that expecting pedestrians to window shop on US 41 didn't make sense. Regarding compatibility and non-conformance, the entire purpose of a Special Use application was to take

into consideration the unique standards of a particular property. He further said that the current code was adopted to be consistent with the Comprehensive Plan, so if existing conditions of a property could not be taken into consideration, the code would be inconsistent with the Comprehensive Plan. Interpretation of the code needed to allow for flexibility of unique conditions of a particular site. The unique condition of this site was the fact that it was on the most intense intersection in the entire T5 district.

Jode Ballard, in response to the Brownfield concern, stated that Thornton's far exceeds requirements for environmental protection in fuel storage systems, and in no way would a Brownfield be created.

In summation, Ron Weaver reminded all that the property had been vacant for 4-6 years after Checkers had failed. He felt that a retail facility located in the current office building requiring parking in a parking garage on site would be physically inaccessible to drivers and would fail. He felt Thornton's was the only option for success in that location.

The Public Hearing was closed.

MOTION TO DENY SU.16.1840 was made by Councilman Byrd, seconded by Councilman Roff, and passed 3:2 with Vice Mayor Gallo and Councilman Brown in opposition.

In explanation of his vote, Councilman Roff stated that, having been involved in numerous studies and plans, the vision for downtown was to bring in New Urbanism, not suburbanism to retain small town charm. He also felt the City had enough gas stations and that this site was the gateway to the City and should be developed with much forethought.

Vice Mayor Gallo explained his opposition by saying that the perception of the community was that City Council approved anything they wished east of 1st Street: Wawa, Thornton's, a used car sales lot. He stated that the entrance to the city was, in actuality, beyond 48th Street Court East. Mr. Gallo said that if he was a businessman, the location in question was the last place he would want to locate due to the high intensity of motorized traffic. He felt a service station was needed on that corner as the downtown was underserved. He said Thornton's would add convenience to drivers and bring competition to Wawa, and he supported the appeal.

MOTION TO DENY THE APPEAL was made by Councilman Byrd, seconded by Councilman Roff, and passed 3:2 with Vice Mayor Gallo and Councilman Brown in opposition.

NEW BUSINESS BY DEPARTMENT HEADS, CITY ATTORNEY AND COUNCIL

City Administrator Carl Callahan
Red Light Cameras Contract

Mr. Callahan said that the red light camera contract expired effective 8/16/19. A 30-day extension was in place. He requested a decision as to whether or not Council would like to renew the contract with Xerox. If Council chose to renew the contract, final terms of the new agreement would need to be worked out by Mr. Lisch and Mr. Callahan. If Council chose not to renew the contract, details would need to be worked out regarding the particulars of discontinuing the red light cameras.

Melissa Wandall, originator of the Mark Wandall Traffic Safety Act, in honor of her husband who was killed by a red light runner 13 years ago, two weeks prior to the birth of their child, stressed the importance of retraining drivers to stop again to prevent additional injuries and deaths due to careless decisions. She said, in conjunction with education, advocacy, law enforcement, and camera installations, many tragedies had been prevented for both drivers and victims. She hoped that Council would continue to keep this effort working.

Vice Mayor Gallo asked why the City had not gone out for bid to seek another camera vendor. He also asked for confirmation that the state sets the fines. Chief Bevan and Carl Callahan confirmed that the fines were set by the state. Mr. Gallo also asked who selected the intersections in which the cameras were placed as he felt certain intersections were not proper locations. It was stated that the locations had been determined by the city and the vendor using traffic statistics available at the time. Mr. Gallo said that he felt other locations would be better served. He stressed that the cameras were not there for punishment, but for public safety.

Discussion: General consensus supporting red light cameras; dissatisfaction with current vendor and current camera

placements; improved technology available and should be sought; statistics offer insufficient information that cameras have been effective; the timing of lights as determined by state; need to stop on red before making right turn; tickets on right given only for taking turn going over 17 miles an hour; desire to seek other vendors; gap in coverage.

MOTION TO PERMIT THE CURRENT RED LIGHT CAMERA CONTRACT TO EXPIRE was made by Councilman Smith, seconded by Councilman Roff, and failed 3:2. (Opposed: Councilmen Gallo, Brown, & Byrd)

MOTION TO CONDUCT RFP'S FOR A NEW RED LIGHT CAMERA VENDOR AND DETERMINE PLACEMENT OF THE CAMERAS was made by Vice Mayor Gallo, seconded by Councilman Byrd, and approved 4:1 with Councilman Smith in opposition.

Mr. Lisch stated that effective today, no additional red light tickets would be issued.

BUSINESS BY APPOINTMENT - None scheduled.

COUNCIL REPORTS

Vice Mayor Gene Gallo, Ward I – Nothing to report.

Councilman Gene Brown, Ward II – Councilman Brown commended Fire & Police Department personnel for making the start of the new school year successful. They had been visibly out in the community during the first week of school updating drivers that school was back in session and urging them to use caution. Mr. Brown said the Manatee High School football team would kick off a new season on Friday night by playing one of the top teams in the country. The game would be televised on Bright House TV.

Councilman Patrick Roff, Ward III – Councilman Roff stated that immediately following this meeting he would be heading to Hollywood, Florida, to attend the Florida League of Cities' annual conference for the last time as a member of the FLC Board of Directors. Mr. Roff had voluntarily stepped down to devote more attention to Bradenton's 14th Street corridor. He was pleased that today Council had approved the Village of the Arts Lighting Improvements construction contract and the 55+ multifamily residential project on 14th.

Councilman Bemis Smith, Ward IV – Councilman Smith reminded everyone there would be a public charrette tonight at 6:00 at Marriage & Family Works, 1001 Manatee Ave. E., to garner design input on the Riverwalk Park extension project.

Councilman Harold Byrd, Jr., Ward V – Nothing to report.

Mayor Wayne Poston - Nothing to report.

DEPARTMENT HEAD REPORTS

Carl Callahan: Mr. Callahan stated that the Insurance Committee had recently met and had recommended that medical insurance rates remain the same as last year for employer/employee contributions.

MOTION TO APPROVE MEDICAL INSURANCE RATES for fiscal year 2016-2017 was made by Councilman Brown, seconded by Councilman Roff, and approved 5:0.

MOTION TO APPROVE KITCHNER & PIERRO TO WORK FOR BLUE CROSS/BLUE SHIELD TO SUPPLEMENT THE CITY'S HEALTH INSURANCE PLAN AT NO COST TO THE CITY was made by Councilman Brown, seconded by Councilman Byrd, and approved 5:0.

Mr. Callahan referred to tonight's charrette and informed everyone that, to prevent unauthorized dumping or camping, peppers, overgrowth, and undergrowth was being removed on the property designated for the Riverwalk extension. He wished to emphasize that no trees were being removed.

There were no other Department Head reports.

There being no further business, Mayor Poston adjourned the meeting at 12:00 p.m.

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