

CITY OF BRADENTON
CITY COUNCIL MEETING
August 15, 2012
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 15, 2012.

Present: Vice Mayor/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 Byrd, Jr.

City Officials: Carl Callahan, City Clerk & Treasurer/Chief of Staff; Michael Radzilowski, Police Chief; Claude Tankersley, Public Works Director; William Lisch, City Attorney; Chuck Edwards, Fire Chief; and Tim Polk, Department of Planning & Community Development Director.

Mayor Wayne Poston was delayed by a previous commitment.

Ecumenical invocation was led by Rev. Fidel Diaz of First Hispanic Baptist Church.

Pledge of Allegiance was led by Vice Mayor/Councilman Gallo.

The meeting was called to order by Vice Mayor/Councilman Gallo.

PROCLAMATIONS:

- **National Breastfeeding Month – August 2012**
The proclamation was accepted by **Jacqueline Dezelski & Healthy Start.**
- **Women’s Equity Day – August 25, 2012**
The proclamation was accepted by **Kim Middleton** on behalf of her mother, **Mrs. Dorothy Middleton**, and **Vicky Waters**, Manatee Commission on Status of Women and the League of Women Voters.

PRESENTATIONS:

- **The American Society of Landscape Architects, Florida Chapter**
Chris Hice, Kimley-Horn & Associates, presented plaques to the City and the Tree and Land Preservation Board for their cooperative efforts in creating the *Urban Forestry Master Plan*.

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

CITIZEN COMMENTS:

Johnette Isham, Realize Bradenton Executive Director, requested participation from the City of Bradenton to join with 114 other groups and individuals in creating a community ribbon for the Riverwalk Grand Opening Ceremony on October 18th. This ribbon would break the Guinness Book of Work Records for the number of community organizations involved in creating a ribbon for a ribbon cutting ceremony. The ribbon is needed by September 4th and will be held up by the people who come to the ceremony.

Thirty-eight events have been scheduled to be held at the Riverwalk in the Grand Opening season – 3/4 of which are being sponsored by other Manatee County community groups. They will include a wide-ranging variety of events which will offer something for everyone.

To further activate community engagement, the Downtown Ambassadors program, currently composed of 100 volunteers, is looking for 100 additional volunteers. Anyone who volunteers to help will receive a special “Downtown Ambassador” tee-shirt.

CONSENT AGENDA:

- a) Approval of Resolution 12-31 relating to the State Revolving Fund loan program and approval of the loan application.
- b) Third Quarter Budget Adjustments.
- c) Authorization to execute annual agreement with METV.
- d) Department of Corrections – Work Squad Contract renewal.
- e) Minutes: July 18 City Council meeting.
- f) Minutes: July 25 Budget Preview meeting.
- g) Public Event: Downtown Farmers' Market every Saturday from Oct. 6-May 25 on Old Main St.
- h) Public Event: Reels at Rossi every third Friday from Oct. 19-Sept. 19.
- i) Public Event: Yoga in the Park every Saturday from Oct. 20-Dec. 8.
- j) Public Event: Manatee River Garden Club flowers and antique car show for Saturday, Oct. 20 at Lewis Park.
- k) Public Event: Riverwalk Fishing College on Sunday, Oct. 21 at Riverwalk's amphitheater and pier.
- l) Public event: Drum Circle every Sunday from Oct. 21-Nov. 25 at Riverwalk's Regatt Plaza.
- m) Public Event: Music in the Park w/Sarasota Pops Orchestra and Village of the Arts Sampler on Thursday, Oct. 25.
- n) Public Event: Youth Theater & Pump Boys and the Dinettes on Saturday, Oct. 27 at Riverwalk's amphitheater.
- o) Public Event: Music in the Park on Thursdays Nov. 1, 8 and 15.
- p) Public Event: Pioneer Roundup Sunday, Nov. 4 at Riverwalk's Tower Plaza.
- q) Public Event: Riverwalk Open Air Painting on Thursday, Nov. 15.
- r) Public Event: Rain date for ArtSlam – Nov. 17. (ArtSlam already approved for Nov. 10)
- s) Public Event: Blues Appetizer Concert on Friday, Nov. 30 at Riverwalk's Pavilion and Family Fun Zone.
- t) Public Event: Downtown Hanukkah Celebration for Monday, Dec. 10 in front of Manatee Players.
- u) Approval of the Tidewater Preserve Phase 2 final subdivision plat.
- v) Approval of the Cottages of San Casciano final subdivision plat.
- w) Public Event: Canes Cross Country Classic 5K run on Monday, Sept. 3, at GT Bray Park.
- x) Street Closure: Temporary closing of 14th Ave. W. just east of 14th St. W. from 7:30 a.m. to 6 p.m. Aug. 25-27 for the hanging of a mural on the side of the Bradenton Police Substation.

Mr. Callahan stated that there was one caveat to the blanket approval of the long-term recurring events which would leave an option open to allow additional review if a conflicting event arose.

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

BUSINESS/ADVERTISING, PETITIONS, HEARINGS AND COMMUNICATIONS

RESOLUTION 12-32

A RESOLUTION OF THE CITY OF BRADENTON, FLORIDA, IN SUPPORT OF RESTORING AND MAINTAINING FUTURE STATE FUNDING FOR THE TAMPA BAY REGIONAL PLANNING COUNCIL; AND PROVIDING FOR AN EFFECTIVE DATE.

MOTION TO APPROVE RESOLUTION 12-32 was made by Councilman Roff, seconded by Councilman Byrd, and approved 5:0.

RV.12.0028 WARD 2 NEIGHBORHOOD 5.01 BMW PUBLIC HEARING

Request of **Michael Pendley**, agent, for the School Board of Manatee County, owner, for a Right-of-Way Vacation of 32nd Street West, from 9th Avenue West to 11th Avenue West located at 902 33rd Street Court West (R1 zoning).

The Public Hearing was opened, and those who wished to speak in favor were asked to come forward.

Due to a conflict of interest, Councilwoman Barnebey recused herself from the hearing and left the room.

Mark Barnebey, Blalock Walters, P.A., attorney representing the School Board of Manatee County, presented renderings of the street and surrounding area, and expressed the need for greater security for the safety of students and staff from

unsafe members of society and vehicle drivers. Vacation of this street would create a more unified campus and provide a better, safer, and more aesthetic area around the school. Drivers and students would no longer be subject to inconsistent street closure times and dangers of accidents. Mr. Barnebey stated that the drawback would be that access to properties south of 11th Avenue may be more inconvenienced by having to travel 2 additional blocks.

Tim McGonegal, Superintendent, School Board of Manatee County, stressed that the MHS campus sits on a site that is 1/3 that of a comparatively sized school of today. The campus is open and active 24/7 and often requires that students cross campus in short time frames. There has been confusion on the parts of both students and drivers in whether or not the road is opened or closed as it currently varies – this change would eliminate that confusion.

Robert Gagnon, former Principal of Manatee High School, said that MHS is the only school that has a right-of-way in the middle of the campus, and because of that, a student had been injured by a vehicle. While the street had been closed consistently for 2 years during construction of the Davis Building, the risk of accident had not existed. Since the street had been reopened approximately 4 months ago, the risk of accident had been increasing.

Chris Peters, teacher and athletic trainer at MHS, had been called upon to aid the student who had been hit by the vehicle at the time of the incident. It had been very upsetting for the student and the driver. Mr. Peters had also been present when a Southeast High School student had suffered a grand mal seizure on 32nd Street following a varsity game. Due to the congestion on the street, the EMT had been delayed. While the street had been closed for the Davis Building, there had been no emergency service delays to the surrounding neighborhood. Mr. Peters also said that drivers had been seen driving the wrong way on 32nd Street thus increasing the danger greatly.

Joneen Nielsen, 2717 6th Ave. West, attested that traffic was often seen going in the wrong direction and going fast - creating a very dangerous situation. As a member of the community, she expressed her support for the community schools and was in favor of the vacation.

Those who wished to speak in opposition were asked to come forward.

Adron Walker, Barnes Walker, located at intersection of 32nd Street and Manatee Ave., and speaking on behalf of 62 signed petitioners, stated that per the City's own land use regulations, a vacation must not be detrimental to safety, welfare, or convenience of the citizens. He felt that the vacation would add additional distance to reach some of the neighborhoods and would be detrimental to safety, welfare, and convenience as it would increase emergency response, create more chances of rear-end collisions while drivers slowed to turn corners, and result in less ease of access.

Alan McMurray, 1115 32nd St. West, stated that the neighborhood was already inconvenienced just by being in proximity to a high school. Currently, safety is greatly compromised during football games due to traffic and crowd congestion blocking all of the area streets. He felt the closure of 32nd Street would only increase the difficulties and danger for the area.

Discussion: Balance needed in weighing benefits to school versus inconvenience to community; "No Parking" signs and "One-way" signs not being observed or enforced; public streets and sidewalks are open to public – a vacation would allow school to determine who is allowed in that area.

No additional speakers came forward. The public hearing was closed.

Tim Polk, Planning and Community Development Director, gave the staff and Planning Commission recommendation:

STAFF RECOMMENDATION (UPDATED July 16, 2012): APPROVAL with the following 2 stipulations:

1. The School Board of Manatee County shall provide an easement for emergency access within a portion of the existing 32nd Street West right-of-way lying between the south right-of-way line of 9th Avenue West and the north right-of-way line of 11th Avenue West. Such easement shall be a minimum of 15 feet wide and shall be subject to review and comment of the Bradenton Fire and Police Departments. The easement shall be recorded concurrent with the recording of the right-of-way vacation.

2. The School Board of Manatee County shall provide an easement for installation, operation and maintenance of public utilities within the existing 32nd Street West right-of-way lying between the south right-of-way line of 9th Avenue West and the north right-of-way line of 11th Avenue West. Such easement shall be subject to review and comment of the Bradenton Public Works Director. The easement shall be recorded concurrent with the recording of the right-of-way vacation.

PLANNING COMMISSION RECOMMENDATION (June 19, 2012): CONTINUED at the request of the applicant to the July 16, 2012 Planning Commission hearing.

PLANNING COMMISSION RECOMMENDATION (July 16, 2012): APPROVAL with the following 2 stipulations:

1. The School Board of Manatee County shall provide an easement for emergency access within a portion of the existing 32nd Street West right-of-way lying between the south right-of-way line of 9th Avenue West and the north right-of-way line of 11th Avenue West. Such easement shall be a minimum of 15 feet wide and shall be subject to review and comment of the Bradenton Fire and Police Departments. The easement shall be recorded concurrent with the recording of the right-of-way vacation.
2. The School Board of Manatee County shall provide an easement for installation, operation and maintenance of public utilities within the existing 32nd Street West right-of-way lying between the south right-of-way line of 9th Avenue West and the north right-of-way line of 11th Avenue West. Such easement shall be subject to review and comment of the Bradenton Public Works Director. The easement shall be recorded concurrent with the recording of the right-of-way vacation.

MOTION TO APPROVE RV.12.0028 WARD 2 NEIGHBORHOOD 5.01 BMW with the recommendations made by the Planning and Community Development staff and Planning Commission with 2 stipulations was made by Vice Mayor/Councilman Gallo, seconded by Councilman Roff, and approved 3:1 with Councilman Byrd dissenting. Councilwoman Barnebey did not vote due to a conflict of interest.

SU.12.0094 WARD 3 NEIGHBORHOOD 1.01 BMW PUBLIC HEARING

Request of Judy Susie, agent, for Winter, Inc., owner, for a Special Use Permit allowing for on-premise outdoor sales and consumption of alcoholic beverages on the south and east of the existing Old Main Pub lounge located at 313 Old Main Street (T5 zoning).

The Public Hearing was opened, and those who wished to speak in favor were asked to come forward.

Judy Susie, 313 Old Main Street, owner, expressed her hopes to Council that they would approve the request.

J.D. Good, 417 Old Main Street, Winter, Inc., owner, stated that per the Planning Commission's recommendations, there had been revisions to the initial request which now created a smaller patio area, relocated the dumpster and outdoor bar, and changing the proposed fence perimeters. The new plan had been provided in the agenda packet. Mr. Good addressed concerns that had been expressed in the Bradenton Herald by the Dye, Deitrich Law Firm and stated they wanted to be good neighbors and would work with the area businesses to keep the peace. He said that he had not been aware of the issues that had been published in the paper as no one had come directly to him.

Those who wished to speak in opposition to the request were asked to come forward.

Patricia Petruff, 1111 3rd Ave. West, Dye Deitrich Law Firm, submitted photos and expressed her concerns about the Special Use. She referred to a letter of objections previously sent:

1. City code seems to say there must be a landscape buffer - staff is not requiring one
2. Dumpster relocation is unacceptable right next to the Riverview Center parking area
3. Property trespass & loitering on Old Main Street continue to be issues – illegal parking, broken pavement, repeatedly broken gate, etc.
4. Parking lot of Riverview Center has been consistently used and trashed
5. There are six bars on 2 blocks and insufficient parking
6. The Planning Department's recommended stipulations are very vague and lack parameters and definitions

(i.e. "busy times but not daily")

7. Music is interruptive for surrounding working environment and should be prevented during working hours
8. The recommended fencing is not sufficient and should be extended; current wood fencing is deplorable and vinyl should be required.
9. The property in question is too small to accommodate more capacity

David Deitrich, Riverview Center Assoc., and owner of the adjoining property, expressed his support for a mix of uses, but said all uses were not 100% compatible. He felt that a cooperation of businesses must be had. He said that the property in question would be expanding to the end of its borders which would be an overly intense use and would cause further frictions to its neighbors. He called upon the Council to exercise their oversight functions to regain balance.

In response, **J.D. Good** reaffirmed that the Old Main Pub wanted to be a good neighbor and address concerns. The proposed plan would not be an expansion to the business but would maintain the layout which had been used for many years with only minor changes in dumpster location and fencing. He said the plan was to improve the building and draw a different crowd. He said that the Pub had been approved by the State ATF to sell/serve outdoors. Mr. Lisch stated that it was a zoning matter and needed to receive City approval.

Councilwoman Barnebey stated the proposed bar location could leave it as a temptation for criminal activity and stated that the police had been called to the Old Main Pub 157 times in the last 2 years and 52 times to date this year.

Discussion about the current dumpster location with Fire Marshal Langston's clarification that it would need to be moved approximately 2' further away from the building as it blocks egress from the rear door. The new proposed location would be preferable for egress. Ms. Petruff said that her preference would be that the dumpster not be moved onto the property line as being proposed. She said extension of the fencing would perhaps make the relocation acceptable, but was not being required.

No additional speakers came forward. The public hearing was closed.

Tim Polk, Planning and Community Development Director, gave the Planning Commission and staff recommendation:

PLANNING COMMISSION RECOMMENDATION (June 19, 2012): CONTINUED to July 16, 2012.

PLANNING COMMISSION RECOMMENDATION (July 16, 2012): APPROVED 5-1 (Barcus dissenting) with 10 stipulations:

1. Outdoor seating and beverage consumption area shall be allowed south, and east of the building. Outdoor seating and beverage consumption shall be allowed on the east side of the building only during "high traffic times", special events, or weekends, but not daily.
2. Fencing along the south and north sides shall be transparent for visibility. Fencing along the east side shall be opaque to restrict visibility to the adjacent building transparent for visibility and a landscaping buffer shall be provided (minimum of 5 feet wide, minimum 3 feet in height not to exceed 4 feet in height) along the interior fence line to increase physical distance from the adjacent building.
3. During busy hours and special events, but not daily, the proposed gate along Old Main Street shall provide primary ingress/egress to site. Front door ingress should be restricted and used for emergency egress only. Patrons should enter site via gate and enter building only through the south side door. Doorman should be present at this location to count for occupancy.
4. During busy hours and special events, but not daily, applicant's mobile bar can be used and located as far to the rear of property as possible to allow for employee surveillance of area behind building.
5. East side (rear) door shall not allow access to enclosed outdoor seating area.
6. Hours of operation for the outdoor seating area shall be from 11:00 AM to 2:30 AM daily.
7. Dumpster area relocated adjacent to building shall be sprinkled.
8. Provide lighting plan for outdoor seating area.
9. Applicant shall be responsible for cleaning and maintaining the area around the subject property on a daily basis.
10. No outdoor amplified music after 10 PM, except during special events.

(UPDATED August 6, 2012) STAFF RECOMMENDATION: APPROVAL with 10 stipulations:

1. **Outdoor seating and beverage consumption area shall only be allowed south of the existing Old Main Pub building, and east of the building.** ~~Outdoor seating and beverage consumption shall be allowed on the east side of the building only during "high traffic times", special events, or weekends, but not daily.~~
2. **Fencing along the south and north sides shall be transparent for visibility.** ~~Fencing along the east side shall be opaque to restrict visibility to the adjacent building transparent for visibility and a landscaping buffer shall be provided (minimum of 5 feet wide, minimum 3 feet in height not to exceed 4 feet in height) along the interior fence line to increase physical distance from the adjacent building.~~
3. **During busy hours and special events, but not daily, the proposed gate along Old Main Street shall provide primary ingress/egress to site. Front door ingress should be restricted and used for emergency egress only. Patrons should enter site via gate and enter building only through the south side door. Doorman should be present at this location to count for occupancy.**
4. **During busy hours and special events, but not daily, applicant's mobile bar can be used and located as far to the rear of property as possible to allow for employee surveillance.** ~~of area behind building.~~
5. ~~East side (rear) door shall not allow access to enclosed outdoor seating area.~~
6. **Hours of operation for the outdoor seating area shall be from 11:00 AM to 2:30 AM daily.**
7. **Dumpster area relocated adjacent to building shall be sprinkled.**
8. **Provide lighting plan for outdoor seating area.**
9. **Applicant shall be responsible for cleaning and maintaining the area around the subject property on a daily basis.**
10. **No outdoor amplified music after 10 PM, except during special events.**

MOTION TO APPROVE SU.12.0094 WARD 3 NEIGHBORHOOD 1.01 BMW with the recommendations made by the Planning and Community Development staff and Planning Commission with 10 stipulations was made by Councilman Roff, seconded by Councilman Smith, and failed 1:4 with Councilman Roff in favor.

SU.12.0022 WARD 4 NEIGHBORHOOD 20.04 PUBLIC HEARING

Request of Joe Vallor, agent for Richard Bennett of Bradenton 64, Inc., owner, for Special Use amendment to allow for outdoor seating and beverage consumption for a sports bar/lounge located at 5254 State Road 64 East (zoned Suburban Commercial Corridor).

The Public Hearing was opened, and those in favor were asked to come forward.

Joseph Vallor, owner/operator of Joe's Bar located at 5254 E. SR 64, stated that he had complied with all city regulations and requests and hoped that the Council would be agreeable to approving this Special Use amendment.

Councilwoman Barnebey said she had reviewed the record of police responses to Joe's Bar and there had been two. One was noted as "close patrol" which meant that an officer had been in the vicinity and had looked things over; the other was noted as "police service call" which meant that an officer had been called to come out with no specific category.

Those who wished to speak in opposition to the request were asked to come forward. None came forward. The Public Hearing was closed.

Tim Polk, Planning and Community Development Director, gave the staff and Planning Commission recommendation:

STAFF RECOMMENDATION: APPROVAL with the following 3 stipulations:

1. Minimum six (6) foot wide path for pedestrian traffic shall remain unobstructed.
2. Outdoor drinking area shall be physically contained using fencing or other type of barrier.
3. Signage indicating limits of outdoor drinking area shall be present.

PLANNING COMMISSION RECOMMENDATION (July 16, 2012): APPROVAL with the following 4 stipulations:

1. Minimum six (6) foot wide path for pedestrian traffic shall remain unobstructed.
2. Outdoor drinking area shall be physically contained using fencing or other type of barrier.
3. Signage indicating limits of outdoor drinking area shall be present.
4. ~~Provide a sealed seating plan indicating all clearances and access to Planning Staff by August 6, 2012.~~
Applicant submitted required seating plan on August 6, 2012. This condition has been satisfied.

MOTION TO APPROVE SU.12.0022 WARD 4 NEIGHBORHOOD 20.04 upon the recommendation of the Planning and Community Development staff and Planning Commission with 3 stipulations was made by Councilman Smith, seconded by Councilwoman Barnebey, and approved 4:0 with Vice Mayor/Councilman Gallo out of the room.

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

Other Post-Employment Benefits Retiree Healthcare Changes – Carl Callahan

Mr. Callahan said the Insurance Committee had unanimously adopted the proposed plan, which had been in discussion for two years. It was the intent of the City to take care of long-term employees of 20+ years and pay them a subsidy of \$300.00. In the future, any plan cost increase will be the responsibility of the employee, not the City. This change had greatly reduced the City's liability from \$100 million to potentially \$21 million. The annual cost had gone from \$8 million annually down to \$1 million and leaving only \$300,000-\$400,000 being unfunded each year.

The goal was to reduce costs, make plans available at reasonable rates, help employees take care of themselves, and be accountable to taxpayers.

Mr. Callahan requested approval of the plan changes which would take effect Oct. 1, 2012.

MOTION TO APPROVE THE CHANGES TO THE OTHER POST-EMPLOYMENT BENEFITS RETIREE HEALTHCARE PLAN was made by Councilwoman Barnebey, seconded by Councilman Roff, and approved 4:0 with Councilman Smith out of the room.

BUSINESS BY APPOINTMENT - None scheduled.

COUNCIL REPORTS

Vice Mayor/Councilman Gene Gallo, Ward I: Nothing to report.

Councilwoman Marianne Barnebey, Ward II: Reminded all that school would start on Monday, August 20th, and asked that everyone drive safely and stay aware.

Councilwoman Barnebey also offered condolences to the family of David Gigliotti.

Councilman Patrick Roff, Ward III: The 9th Avenue bridge replacement project has begun with very little inconvenience being experienced at this time.

Councilman Bemis Smith, Ward IV: Nothing to report.

Councilman Harold Byrd, Ward V: Announced that there would be a retirement celebration for a long-time neighborhood barber, Mr. Ben Lincoln, will be observed on Saturday, August 18th, from 10:00 a.m. – 2:00 p.m. and which will include a school supplies give-away.

Councilman Byrd also congratulated the winners of the primary election that had been held yesterday and for the approval of the City referendum which would eliminate the need for run-off elections.

Mayor Wayne Poston: Apologized for arriving late to the meeting as he had been in attendance at the grand opening ceremony of Fresh Market, a new business which has created 90 new jobs.

DEPARTMENT HEADS

Carl Callahan: Mr. Callahan requested Council's approval to allow him or Mayor Poston to execute a partial Guaranteed Maximum Price (GNP) contract with NDC Construction to begin the redevelopment of McKechnie Field as soon as possible. The final GNP will come before City Council at a later date in September.

MOTION TO APPROVE Mayor Poston or Carl Callahan to execute the partial GNP for McKechnie Field was made by Councilman Roff, seconded by Councilman Byrd, and approved 5:0.

Chief Edwards: Said that fire trucks with flashing lights would be present in school zones on Monday to remind people to slow down.

Claude Tankersley: Nothing to report.

Tim Polk: Nothing to report.

Bill Lisch: Nothing to report.

There being no further business, Mayor Poston adjourned the meeting at 11:50 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.