

CITY OF BRADENTON
CITY COUNCIL MEETING
June 22, 2011
6:00 P.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 6:00 p.m. on June 22, 2011.

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

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

Ecumenical invocation was led by Pastor Jim La Duke, Loving Hands Ministries.
Pledge of Allegiance was led by Councilman Smith.

The meeting was called to order by Mayor Poston.

PROCLAMATIONS

None

PRESENTATIONS

Chief Charles Edwards presented to Mayor Poston a memorial plaque designed in honor of Chief Mark Souders by request of fellow firefighters throughout the state. The plaque will be placed in City Hall to honor Chief Souders' life and dedication to the city and identical plaques will also hang in each of the city's three fire stations. Councilman Gene Gallo will represent the city at a memorial service to be held in Chief Souders' honor on July 19th in Naples, Florida.

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

Mayor Poston expressed his thanks and appreciation to retiring Deputy City Clerk, Beverly Chapin, for her outstanding service to the city as this was her last City Council meeting.

CITIZEN COMMENTS

No one came forward.

CONSENT AGENDA

- a) Minutes of May 25, 2011
- b) Minutes of June 8, 2011
- c) Resolution 11-38 Approving the modification of Subgrant Agreement between the Department of Community Affairs and the City of Bradenton contract extension/TC

- d) Public Event – Bradenton Gospel Tabernacle is requesting to hold the “Big Apple Adventure Parade” to kickoff Vacation Bible School on Friday, July 15, 2011, with a street closure from 12th to 14th Streets East on 7th Avenue East.
- e) Public Event – Realize Bradenton is requesting to resume the Downtown Bradenton Farmers’ Market season on Old Main Street beginning October 1, 2011 and ending May 26, 2012.
- f) Public Event – Realize Bradenton is requesting to hold ARTSLAM on Saturday, October 15, 2011, on Old Main Street from 3 pm – 11 pm. The request includes a rain date alternate of October 22, 2011.
- g) Public Event – Realize Bradenton is requesting to hold the Downtown Bradenton Craft Festival on Saturday & Sunday, October 29 & 30, 2011 on Barcarrota Boulevard from 12th - 15th Streets West.

City Clerk Carl Callahan requested to withdraw items e-g until a later meeting to allow the Fire Marshal to review the site plans with the organizers.

MOTION TO APPROVE Consent Agenda items a-d was made by Councilwoman Barnebey, seconded by Councilman Byrd, and approved 5:0.

MOTION TO APPROVE Consent Agenda items e-g with a stipulation that all concerns of the Fire Marshal would be met by September 1, 2011 was made by Councilwoman Barnebey, seconded by Vice Mayor Roff, and approved 5:0.

BUSINESS/ADVERTISING, PETITIONS, HEARINGS AND COMMUNICATIONS

Carl Callahan excused himself from the room and Assistant City Clerk, Sharon Beauchamp, brought forth the below-listed agenda item.

a) RV.11.0027 WARD 4 NEIGHBORHOOD 1.01/RS PUBLIC HEARING

Request by R. Scott Tibbetts and Carl Callahan, owners, for vacation of right-of-way for a portion of the alley located between 702 manatee Avenue West and 703 4th Avenue West, and legally described as: A portion of that certain 20-foot wide platted alley lying between Lots 4 and 5, Block B, H.C. Price’s Addition to Bradenton, as per plat thereof recorded in Plat Book 1, Page 110-1/2 of the Public Records of Manatee County, Florida, said alley being bounded on the north by the south line of said Lot 4, bounded on the east by the west right-of-way line of 7th Street West, bounded on the south by the north line of said Lot 5, and bounded on the west by the northerly extension of the west line of said Lot 5 (zoned UC, Urban Core).

RESOLUTION 11-37

A RESOLUTION PURSUANT TO SECTION 2.2.7, CITY OF BRADENTON LAND USE REGULATIONS, RIGHT-OF-WAY VACATION OF A PORTION OF THE ALLEY ABUTTING 7TH STREET WEST BETWEEN MANATEE AVENUE WEST AND 4TH AVENUE WEST AND LEGALLY DESCRIBED.

The public hearing was opened to those in favor.

Stephen Thompson, attorney, Porges, Hamlin, Knowles, Prouty, Thompson & Najmy, representing the applicants seeking the vacation, expressed that the neighbors who border this property did not wish to join in on this request. Public utility companies and the City’s Public Works Department have no objections to the vacation of this alley as it is essentially a dead-end road which is no longer used for the purposes of utility access or by the general public as it had been formerly when this was a neighborhood area many years ago. The Griffith-Cline Funeral Home adjoins the property, but has six alternative entrances. This vacation is being sought to combine two properties to allow for a more impactful development.

Scott Tibbetts, applicant, was sworn in by Assistant City Clerk, Sharon Beauchamp.

Mr. Tibbetts gave the history of the former uses of the vacant building on the site. Due to the size of the building and the limited parking, it is very difficult to find the right tenant. With the vacation of the alleyway, a much larger professional medical facility could be created with adequate parking which would fit in well with the surrounding businesses. Mr. Tibbetts provided a conceptual site plan of the proposed facility.

Those in opposition were asked to come forward.

Nelton Kirkland, attorney, Harrison, Kirkland, Pratt, and McGuire, representing Griffith-Cline Funeral Home, reminded the Council that the Planning Commission had recommended denial of this vacation request as the alleyway does serve a public purpose to allow exit from the funeral home and the post office. Mr. Kirkland stated that if this alleyway is vacated, it would greatly encumber the traffic flow.

Clarification of how the traffic flow would be impacted was discussed in detail.

O.M. (Buster) Griffith, owner, Griffith-Cline Funeral Home, explained how this alleyway has helped expedite exiting of funeral home traffic as Manatee Avenue is a one-way street. Closure of this alleyway would make exiting very difficult. He further stated that there is a natural gas line on this property and that the garbage trucks still do use it to gain access to the dumpsters.

Stephen Thompson, in rebuttal, emphasized that even without this access, there remain six different accesses to the property. He restated that this property meets the criteria for vacation and also offers a valuable redevelopment opportunity for the community and the area.

The public hearing was closed.

Tim Polk gave an overview of the June 15, 2011 Planning Commission Recommendation for DENIAL, indicating they felt the alley served a public purpose. He then gave the Planning and Community Development Staff recommendation for APPROVAL with the stipulation that the area proposed for vacation be designated a utility easement.

Bill Lisch, City Attorney, inquired about the location of the gas line.

Scott Tibbetts stated he had contacted Peoples Gas which has a gas line located a little to the north side of the alleyway which serves the funeral home from the 8th Street side. He referred to the most recently completed survey of the property which shows it is one foot into the alleyway on the north corner of the lot. Peoples Gas said the line could be relocated at the expense of the property owners.

MOTION TO APPROVE RESOLUTION 11-37 RV.11.0027 was made by Councilman Smith, seconded by Councilman Gallo, and passed 4:1, with Councilwoman Barnebey in opposition.

b) **SU.11.0089 WARD 3 & 4 NEIGHBORHOOD 1.01 & 7.03 RSPUBLIC HEARING**

Request of James Pankonin of Kimley-Horn and Associates, agent for City of Bradenton, owner, for special use approval for redevelopment of the Anthony T. Rossi Park located at 101 9th Street West and expansion of the Riverwalk and Waterfront Park, extending from 10th Street West to 2nd Street East along the Manatee River (zoned UCBD & PDP).

The public hearing was opened to those in favor.

Dale Weidmiller, Riverwalk Project Development Team, reported that it was decided that it would be best to obtain a special use permit, which is now in process. The Planning Commission has given unanimous approval, and the presentation is available to all who may wish to review the project.

The public hearing was opened to those in opposition. No one came forward; the public hearing was closed.

Tim Polk gave the Planning and Community Development staff recommendation for APPROVAL with the following seven (7) stipulations:

1. Emergency access to all areas will be addressed on the construction plans and subject to approval by the Fire Marshal.
2. Provide standpipes for the day dock, one at the beginning and one 100 feet from the end. The FDC must be located by Riverdance with the hydrant.
3. All buildings will be constructed with non-combustible materials.
4. Utility connections are subject to approval of the Public Works Department.
5. Improvements west of 9th Street, excluding the underpass and connection to Barcarotta Blvd., may be administratively approved in the future if it is determined that the land area is available for park use.
6. Any major deviation from the approved plan (City of Bradenton Exhibit "K") as determined by the PCD Director, will require a special use amendment.
7. Comments from the meetings between staff and applicant as noted in this report will be considered at the time of construction plan approval regarding signage, refuse, hours of operation, retention, and river accessibility as it pertains to the seawall, bioswale and tidal pool.

PLANNING COMMISSION RECOMMENDATION (June 15, 2011): APPROVAL with the recommended stipulations:

1. Emergency access to all areas will be addressed on the construction plans and subject to approval by the Fire Marshal.
2. Provide standpipes for the day dock, one at the beginning and one 100 feet from the end. The FDC must be located by Riverdance with the hydrant.
3. All buildings will be constructed with non-combustible materials.
4. Utility connections are subject to approval of the Public Works Department.
5. Improvements west of 9th Street, excluding the underpass and connection to Barcarotta Blvd., may be administratively approved in the future if it is determined that the land area is available for park use.
6. Any major deviation from the approved plan (City of Bradenton Exhibit "K") as determined by the PCD Director, will require a special use amendment.
7. Comments from the meetings between staff and applicant as noted in this report will be considered at the time of construction plan approval regarding signage, refuse, hours of operation, retention, and river accessibility as it pertains to the seawall, bioswale and tidal pool.

MOTION TO APPROVE SU.11.0089 with seven stipulations made by the Planning Commission and Department of Planning and Community Development was made by Vice Mayor & Councilman Roff, seconded by Councilman Byrd, and passed 5:0.

NEW BUSINESS BY DEPARTMENT HEADS, CITY ATTORNEY AND COUNCIL

Carl Callahan

2011 Justice Assistance Grant Application

PUBLIC HEARING

Mr. Callahan gave a brief overview of the grant application with a recommendation for approval.

The public hearing was opened to those in favor. No one came forward.

The public hearing was opened to those in opposition. No one came forward; the public hearing was closed.

MOTION TO accept the grant application and, after completion of the required comment period, forward the grant to the Dept. of Justice, was made by Councilman Byrd, seconded by Councilman Smith, and passed 4:0 with Councilman Roff absent during the vote.

Claude Tankersley

Update on Reclaimed Water in Evers Watershed

Mr. Tankersley reminded everyone that about a year ago, Manatee County had changed its comprehensive plan to allow the beneficial re-use of reclaimed water from Evers Watershed conditioned upon the establishment of a monitoring program that would be agreed up by both the county and city. In addition, it was also dependent upon the condition that it would be favorable for the city to buy the reclaimed water. All of the agreements are nearing finalization. It is anticipated that 3 agreements will be brought before Council at the July 20th meeting: (1.) The agreement for the City & County Monitoring Program (2.) The agreement between the City and Braden River Utilities which transfers the monitoring responsibilities to Braden River Utilities under terms of agreement between the City and County (3.) A 20-year agreement between Braden River Utilities and the City of Bradenton for provision for reclaimed water (i.e. volumes, responsibilities, and rates).

COUNCIL REPORTS

Councilman Gene Gallo, Ward I: Claude Tankersley displayed a map of Palma Sola Causeway and discussed the impact of horses upon the water quality. Manatee County does weekly water testing. The outcomes of the tests have required that the Causeway has needed to be closed three times in the last year due to high counts of fecal chloroforms, once on the north side, twice on the south. Although not generally harmful to humans, higher counts can represent greater risks. The state's Best Management Practices as cited in the March 2011 edition, recommends that horses be kept from natural water sources as much as possible to prevent bank erosion, excessive muddy conditions, water pollution, and grass destruction at waters' edge. Current water testing cannot absolutely determine that the fecal chloroforms are coming from the horses. Specific tests to identify the source(s) are extremely expensive.

Councilman Smith questioned the likelihood that the high counts of fecal chloroforms had come from horses. He wondered about the possibility that it was more likely to have come from humans and/or dogs. Mr. Tankersley respectfully disagreed as bathrooms are provided on the Causeway for humans, and dogs generally do not eliminate waste in water.

Councilman Gallo pointed out that Manatee County runs the water tests on the south side of the Causeway, not the north where the horses are located. Mr. Tankersley felt that it was very likely that if the water was tested on the north side, fecal chloroform counts would be even higher.

Further discussion about the public safety of motorists on the heavily travelled Causeway and the small children who play on the beaches. The apparent growth of “horse surfing” as a tourist attraction would only make the risk factors higher.

Councilman Smith adamantly felt that going in the direction of banning horses on the Causeway was dead wrong.

Councilwoman Barnebey asked if Manatee County allows horses on their beaches. The answer was a definite no.

MOTION TO REQUEST City Attorney Bill Lisch to research the possibility of drafting an ordinance to prohibit horses on the Causeway was made by Councilman Gallo, seconded by Councilman Byrd, and passed 4:1, with Councilman Smith in opposition.

Councilwoman Marianne Barnebey, Ward II: Wished everyone a happy and safe 4th of July. She cautioned all to be careful in the personal use of fireworks during this dry season.

Vice Mayor and Councilman Patrick Roff, Ward III: Expressed appreciation to Deputy City Clerk, Beverly Chapin, and said she will be greatly missed.

Councilman Bemis Smith, Ward IV: Also expressed thanks to Beverly Chapin and said he has appreciated working with her throughout the years.

Councilman Harold Byrd, Jr., Ward V: Sent well-wishes to Beverly Chapin and wished her much joy in her retirement.

Mayor Wayne Poston: Had just attended a special celebration on the occasion of the 10th anniversary of the Central CRA.

Mayor Poston also announced that a luncheon had been held recently to express thanks to the Public Works employees who had gone above and beyond the call of duty in responding to a recent water treatment line break. They had repaired the break in a fraction of the amount of time which other entities had taken in similar situations.

Mayor Poston expressed well-wishes to the retiring Beverly Chapin.

DEPARTMENT HEADS

Carl Callahan: Thanked Beverly Chapin for her years of service and her dedication to both the City and to the City Clerks' Association across southwest Florida.

The Fire Department has requested permission to take some irreparable hose out of service and allow it to be properly disposed of.

MOTION TO APPROVE removal of hose from service was made by Councilman Byrd, seconded by Councilwoman Barnebey, and passed 5:0.

A public event request by **Jumpy King** to place two bounce houses in Rossi Park for enjoyment by the public on the 4th of July.

Discussion: Questions about propriety of allowing for-profit endeavors to utilize public parks. Clarification was offered that this is not an unusual request.

MOTION TO APPROVE the request by Jumpy King was made by Councilman Smith, but died for lack of a second.

Carl Callahan announced that the PBA contract had been ratified after having reached agreement on various points.

MOTION TO AUTHORIZE the mayor to execute the PBA contract once official notification has been received from PBA, was made by Councilman Smith, seconded by Councilman Byrd, and passed 5:0.

Chuck Edwards: The Fire Department will, as in years past, monitor the firework situation on the waterfront on the 4th of July.

Chief Radzilowski: Thanked Council for their participation in the swearing-in ceremony of the new officers.

Claude Tankersley: Made mention of his daughter who turned 14 today.

Tim Polk: Expressed appreciation to Bev and said that the cleanup of the 3rd Avenue Apartments is going well and the site is much improved.

Bill Lisch: Had the final word to thank Beverly Chapin for all her work and conscientiousness in public record retention. He said she has personally kept him informed of many issues that she had heard about via the Southwest Florida Association of City Clerks with which she was affiliated.

ADJOURNMENT

There being no further business, Mayor Poston adjourned the meeting at 8:06 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.