

CITY OF BRADENTON
CITY COUNCIL MEETING
January 23, 2013
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 Wednesday, January 23, 2013.

Present: Mayor Wayne Poston; Vice Mayor/Councilman Ward I 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 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.

The ecumenical invocation was led by Dr. Joey Mimbs of Bethel Baptist Church.

The Pledge of Allegiance was led by Mayor Poston.

The meeting was called to order by Mayor Poston.

PROCLAMATIONS:

Earned Income Tax Credit Awareness Day – January 25, 2013

The proclamation was accepted by **Mike Kennedy**, 610 19th Street West, Bradenton, FL 34205.

PRESENTATIONS: None Scheduled.

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

CITIZEN COMMENTS: None.

CONSENT AGENDA:

- A. Minute: Jan. 9, 2013 City Council Meeting
- B. Chamber of Commerce Sublease
- C. Public Event: Don Vautrinot Panther Prowl 5K Run on Saturday, Jan. 26
- D. Public Event: Music in the Park every Friday in March at the Amphitheater
- E. Public Event: Request to block parking spaces on 10th St. W. for South Florida Museum's "Couture in the Courtyard" on Monday, March 4
- F. Line Item Adjustment for Streets Department
- G. Request from Bradenton Police Department to use forfeiture funds to purchase equipment
- H. Request for one-year extension of time for Magnolia Lakes PDP, 418 48th St. Ct. E.
- I. Resolution 13-06: Appointing Deputy Chief Keith Davis to the Grievance Board
- J. Public Event: YMCA Healthy Kids Day on April 20
- K. Execution of Southwest Florida Water Management District agreement

MOTION TO APPROVE Consent Agenda Items A–K was made by Vice Mayor/Councilman Gallo, seconded by Councilman Smith, and approved 5:0.

BUSINESS/ADVERTISING, PETITIONS, HEARINGS AND COMMUNICATIONS – None.

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

ORDINANCE #2945 SECOND READING & PUBLIC HEARING

AN ORDINANCE OF THE CITY OF BRADENTON, FLORIDA, CREATING A NEW SECTION 54-14 OF THE CITY CODE OF ORDINANCES ESTABLISHING A PROCESS FOR THE ISSUANCE OF TRESPASS WARNINGS ON PUBLIC PROPERTY; PROVIDING NOTICE REQUIREMENTS FOR TRESPASS WARNINGS; ESTABLISHING AN APPEAL PROCESS FOR TRESPASS WARNINGS; PROVIDING FOR A SPECIAL MAGISTRATE TO HEAR APPEALS FROM ISSUED TRESPASS WARNINGS; PROVIDING FOR THE SEVERABILITY OF PARTS HEREOF; PROVIDING AN EFFECTIVE DATE.

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

Robert Cox, City employee, spoke in favor of the ordinance as a personal witness to recurring problems of trespassing which have persistently occurred in the Manatee County Judicial Parking Garage. Without this ordinance, little has been able to be done to prevent repeat offenders from immediately returning once being asked to leave. Mr. Cox stressed that without proper enforcement, hygiene, safety, and even public use of the facility was being jeopardized.

Those opposed were asked to come forward.

Charles B. Smith, Chairman of the Sarasota-Manatee Chapter of the Southern Christian Leadership Conference (SCLC), stated that he was not opposed to the concept of the ordinance, but that the verbiage of Ordinance #2945 was unconstitutional, dangerously vague, open to misinterpretation, discrimination, and misuse. He was concerned that free speech and political activity could even be threatened. He stated that an ordinance should be passed, but that this one was not the right one. He urged Council to protect the citizens and look more deeply into the creation of a better ordinance or use laws that were currently in place, such as filing injunctions against offenders.

Mary McDonald Hamilton & Geneva Presha, members of SCLC, also expressed concern that the ordinance was so vague that it sounded like anyone could issue a trespass warrant to anyone else for any reason. They stated they feared negative consequences would be experienced by youth who would be subjected to the criminal justice system for minor infractions.

Alvin Levie, 2925 Rivertrace, said that he had been so pleased to see such a fine park created for the youth of the community. He felt that the problems were not large enough to warrant creation of an ordinance and urged Council to keep the community friendly and going forward.

The Public Hearing was closed.

Bill Lisch clarified that political activity and free speech would not be impacted by this ordinance. He also said that the suggestion of filing injunctions against offenders was an expensive process and required that attorneys be involved. He said that issues which had been raised in court challenges in other cities had not been regarding intent or content, but had been regarding the lack of an appeal process. Ordinance #2945 included an appeal process and seemed legally sound. He said that details of the length of the appeal process could be altered if desired.

MOTION TO APPROVE ORDINANCE #2945 WITH CHANGES TO ITEM J1 to extend the appeal process from 10 days to 20 days and to ITEM J4 to include a 40-day extension option was made by Councilman Smith, seconded by Councilman Brown, and approved 4:1 with Councilman Byrd in opposition.

MOTION TO CONDUCT A SIX-MONTH REVIEW on July 17, 2013 of how Ordinance #2945 had been applied and what the results had been was made by Councilman Smith, seconded by Councilman Brown, and approved 5:0.

NEW BUSINESS BY DEPARTMENT HEADS, CITY ATTORNEY, AND COUNCIL – None scheduled.

BUSINESS BY APPOINTMENT - None scheduled.

COUNCIL REPORTS

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

Councilman Gene Brown, Ward II: Thanked the department heads and board members who have been helping him learn the ropes and get familiar with his new position. Councilman Brown also extended good wishes to Binnie Williams who was recovering from a medical condition.

Councilman Patrick Roff, Ward III: Councilman Roff said that he continues to observe positive growth and rehabilitation in Ward 3, and many problem properties have been eliminated.

Councilman Bemis Smith, Ward IV: Nothing to report.

Councilman Harold Byrd, Ward V: Councilman Byrd said that he had been pleased to see Reverend Waters, new pastor of Gethsemane Missionary Baptist Church, in attendance at tonight's meeting.

Mayor Wayne Poston: Mayor Poston invited the new manager of the Southwest Water Management District, **Tara Polton**, to come forward to introduce herself. As the representative for Sarasota, Charlotte, DeSoto, and Manatee counties, Ms. Polton said she looked forward to working with everyone.

DEPARTMENT HEADS

Carl Callahan: Mr. Callahan stated that he would ask that the 6-month review of Ordinance #2945 be placed on the agenda for the July 17th City Council meeting.

Deputy Chief Ezell: Nothing to report.

Chief Radzilowski: Stated that the Bradenton police contingency which had provided security for the presidential inauguration had returned safely, and paperwork for reimbursement of expenses had been completed.

Claude Tankersley: Thanked everyone for attending the ribbon-cutting ceremony of the reopening of the 9th Avenue bridge and said that there would be a public information meeting on February 6th to address citizen questions/concerns about the upcoming closing and replacement of the 12th and 14th Avenues bridges. Mr. Tankersley also announced that 30+year employee, Lynn Meier, city electrician, would be retiring on 1/25/13 and thanked her for all her contributions to the city.

Tim Polk: Confirming what Councilman Roff had said about growth, stated that the Planning Department had been very busy with many new projects as well as redevelopment projects.

Bill Lisch: As part of the passing of Ordinance #2945, he recommended consideration of Mr. Alan Prather for the position of special magistrate.

MOTION TO APPROVE ALAN PRATHER as special magistrate was made by Councilman Gallo, seconded by Councilman Roff, and approved 4:0. (Councilman Brown had to leave early for a previous engagement.)

There being no further business, Mayor Poston adjourned the meeting at 7:15 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.