

CITY OF BRADENTON
CITY COUNCIL MEETING
March 27, 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, March 27, 2013.

Present: Mayor Wayne Poston; Vice Mayor/Councilman Ward 1 Gene Gallo; Councilman Ward II Gene Brown; Councilman Ward III Patrick Roff; and Councilman Ward IV Bemis Smith.

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

Councilman Ward IV Harold Byrd, Jr. was out with an excused absence.

The ecumenical invocation was led by Gail Cox, First Church of the Nazarene.

The Pledge of Allegiance was led by Mayor Poston.

The meeting was called to order by Mayor Poston.

PROCLAMATIONS:

Fair Housing Month – April 2013 The proclamation was accepted by Tim Polk, Planning & Community Development Director.

National Tartan Day – April 6, 2013 The proclamation was accepted on behalf of The New Caledonians, The New World Celts, The Scottish Heritage Society, and The St. Andrews Society of Sarasota.

PRESENTATIONS: None.

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

CITIZEN COMMENTS:

Janene Witham, Executive Director of the Manatee Players, came forward to thank the Mayor, Council, and the many City employees for their efforts in making the new Manatee Performing Arts Center a reality. She specifically thanked Carl Callahan, City Clerk and Treasurer, for his invaluable aid in helping her become more business savvy and for being a fervent believer in the quality of life in Bradenton.

CONSENT AGENDA:

- a) Minutes: Feb. 13 City Council meeting.
- b) Minutes: Feb. 27 City Council meeting.
- c) Minutes: March 13 City Council meeting.
- d) Public Event: Sustainable Shindig on May 5 at Riverwalk pavilion.
- e) Public Event: Bradenton Blues Fest on Dec. 6-7 at Riverwalk pavilion.
- f) Line item adjustment for Mechanical Division for emergency repairs at Lift Station #20.
- g) Resolution 13-11: Extending the temporary suspension of impact fees.
- h) Resolution 13-12: Approving a conservation easement for Southwest Florida Water Management District.
- i) Road closure: Request to close 3rd Ave. W. between 9th-10th Avenues on May 4-5 and 11-12 installation/connection of two sanitary sewer lines for Hampton Inn (Pink Palace).
- j) Downtown Bradenton Farmers' Market 1-day relocation on April 6 to Village of the Arts.
- k) Maintenance agreement with Florida Department of Transportation.

Vice Mayor/Councilman Gallo requested that Item J be pulled from the Consent Agenda for further discussion.

MOTION TO APPROVE CONSENT AGENDA items A-I and K with Item J being excluded was made by Councilman Roff, seconded by Councilman Brown, and approved 4:0. (Councilman Byrd was excused.)

Discussion about whether or not allowing the Farmers' Market to take place in the Village of the Arts for one day would set a bad precedence while historically prohibiting other such types of sales events from being held on city streets. As the Village is a special overlay district, it was deemed an exception which would not set precedent.

MOTION TO APPROVE ITEM J was made by Councilman Roff, seconded by Vice-Mayor/Councilman Gallo, and approved 4:0. (Councilman Byrd was excused.)

BUSINESS/ADVERTISING, PETITIONS, HEARINGS AND COMMUNICATIONS

ORDINANCE 2946 SECOND READING AND PUBLIC HEARING

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRADENTON, FLORIDA, ADDING A SECTION 18-243 TO THE CODE OF ORDINANCES OF THE CITY OF BRADENTON BY PROVIDING FOR THE ADOPTION OF RULES AND REGULATIONS PERTAINING TO THE CLEAN UP AND ABATEMENT OF PUBLIC HEALTH HAZARDS RESULTING FROM CLANDESTINE DRUG LAB SITES OR ASSOCIATED DUMPSITE; PROVIDING FOR DEFINITIONS; PROVIDING FOR ADMINISTRATION; PROVIDING FOR OWNER'S RESPONSIBILITY AND COLLECTION OF COSTS; PROVIDING FOR CLEANUP STANDARDS; PROVIDING FOR CERTIFIED LABORATORY TESTING; PROVIDING FOR RECOVERY OF CITY COSTS; PROVIDING FOR DISCLOSURE; PROVIDING FOR APPEALS; PROVIDING AN EFFECTIVE DATE.

The Public Hearing was opened. Those in favor were asked to come forward. None came forward. Those in opposition were asked to come forward. None came forward. The Public Hearing was closed.

Bill Lisch explained that the ordinance would aid in the repair of houses that had been used for drug manufacturing purposes by forcing owners to clean up their property of the hazardous waste.

MOTION TO APPROVE ORDINANCE 2946 was made by Vice Mayor/Councilman Gallo, seconded by Councilman Roff, and approved 4:0. (Councilman Byrd was excused.)

ORDINANCE 2947 SECOND READING AND PUBLIC HEARING

AN ORDINANCE OF THE CITY OF BRADENTON, FLORIDA, CREATING A NEW SECTION 62-80, OF CHAPTER 62 OF THE CODE OF ORDINANCES OF THE CITY OF BRADENTON, FLORIDA, FOR THE PURPOSE OF ESTABLISHING REGULATIONS RELATING TO THE LOCATION AND DESIGN OF PRIVATE ROADS; ESTABLISHING MINIMUM STANDARDS AND SPECIFICATIONS TO CONSTRUCT PRIVATE ROADS; ESTABLISHING REVIEW AND APPROVAL PROCEDURES FOR PRIVATE ROADS; ESTABLISHING POLICIES FOR THE DEDICATION OF PRIVATE ROADS TO PUBLIC OWNERSHIP; PROVIDING FOR DEFINITIONS; PROVIDING FOR PROCEDURES; PROVIDING FOR VARIANCES; PROVIDING FOR PENALTY FOR VIOLATIONS; PROVIDING AN EFFECTIVE DATE.

The Public Hearing was opened. Those in favor were asked to come forward. None came forward. Those in opposition were asked to come forward. None came forward. The Public Hearing was closed.

Claude Tankersley explained that the ordinance would provide for more effective management of private streets.

MOTION TO APPROVE ORDINANCE 2947 was made by Councilman Brown, seconded by Vice Mayor/Councilman Gallo, and approved 4:0. (Councilman Byrd was excused.)

PR.13.00043 WARD 4 NEIGHBORHOOD 20.04 PUBLIC HEARING

Request of Kimley-Horn & Associates, agent for Faith United Church, owner, for Preliminary Planned Development Project approval of a convenience store and service station located at 4850 State Road 64 East (zoned PDP).

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

Jode Ballard, 655 N. Franklin Street, Tampa, FL, representing the applicant, stepped forward to display renderings of the flow of traffic into and out of the proposed facility and neighborhood. He said that the concerns and requests of the residents of Braden River Lakes had been addressed and accommodated:

- Access was restricted onto 48th Street Court East with left out for ease of access for residents.
- With the reconfiguration of SR 64 being done by FDOT, he felt that many of the safety issues would be corrected by the proposed reduced speed limit, enhanced lighting, wider lanes, extension of the westbound turn lane, better signalization, the addition of a second eastbound turn lane, a second southbound turn lane, and installation of sidewalks and bike lanes.
- The appearance of the building would be lowered in intensity and additional landscaping would be added for screening.
- Two "NO OUTLET" signs would be added for unfamiliar drivers.
- Had agreed with all stipulations of the Planning Commission and Staff and had made the recommended changes.
- The church driveway would be rebuilt to continue to accommodate school buses as it currently does and three bike racks would be relocated to allow the buses to exit in a safe manner.

Vice Mayor/Councilman Gallo stated that for approval of the project, FDOT should be asked to include an acceleration lane. Mr. Ballard said he would begin that conversation with FDOT.

Councilman Smith inquired if this project was being treated in the same manner as others in maintaining frontage and entrance requirements of projects of similar nature. The original PDP for Faith United Church of Christ had included four acres, but now only one piece was being sold due to financial problems being experienced by the church.

Mr. Ballard explained that changes to SR 64 had changed the spacing and entrance requirements so the project met those requirements.

M. R. Lembright, Fred Damianos, and Pastor Brian Bagley-Bonner, of Faith United Church of Christ, spoke of the need to sell the property to maintain the existence of the church following hard financial times and with an aging population. Thornton's had been the only offer received. The church would be pleased to sell it to Thornton's as it was a reputable, well-run business which had been responsive to the concerns of the community. They said that if the sale was not approved, the church property would be repossessed by the bank and sold as an entire property to any type of business, some of which could be much less desirable. In addition, with the sale of the entire property, the long-standing relationship between the church, the neighborhood, and the school buses would be eliminated.

Those in opposition were asked to come forward.

Timothy Calpin, Patricia Kopke, Sydney Hinton, Prakash Shah, Neena Shah, Rita Fligiel, Stephen Kopke, Chuck Binkley, Juy Patel, and Stephen Kopke, Braden River Lakes residents, voiced their opposition to the project for the following reasons:

- Quality of life would be lowered
- Safety of children
- Overabundance of gas stations in area – economic distress for current establishments
- Dangerousness of State Road 64 and potential for more accidents
- Sale of alcohol in family area where children congregate
- Threat of leakage; increased litter
- Diminishment of home values
- Access of emergency vehicles may be compromised
- Danger of delivery trucks intermingling with bikers and pedestrians
- Potential for catastrophic occurrence with only one exit/entrance into residential complex of 1,000 people

Mayor Poston asked Deputy Chief Davis for statistics of accidents in that vicinity. DC Davis stated that since 2005, there had been 4 fatalities.

Thomas Petty, Braden River Lakes resident and former Bradenton police officer, came forward to challenge the premise that access to the emergency gate was accessible by the Fire or Police Departments. Vice Mayor/Councilman Gallo took offense to his statement and said that every fire truck was equipped with bolt cutters. Mr. Petty said that during his term as a police officer, he had never had a key to the gate. He showed photos of the gate and said they are in disrepair and may not be operational.

Joe Ballard returned to the microphone to reiterate that most of the concerns that had been expressed would be addressed by FDOT's changes to State Road 64. In addition, Thornton's had analyzed a route of travel for fuel trucks which would work best to avoid road and curb damage. He also stated that an 8' fence stipulation would be met per the neighborhood's request.

Eric Zoph, Vice President of Construction for Thornton's, said that he had been with the company for 23 years and was very proud of the company and how it does things. Every attempt had been made to work through all of the issues raised by the residents as the company treats its neighbors with respect. He felt this area was a good location for the store. As Thornton's maintains its properties extremely well, it would be a good influence for competing stations.

The Public Hearing was closed.

Tim Polk gave the Staff and Planning Commission recommendation for approval with the following stipulations:

STAFF RECOMMENDATION: (UPDATED 3/20/2013)

APPROVAL of PR.13.00043 with the following 11 stipulations:

1. Hours of operations: 24 hours, daily.
2. No commercial cooking without hood system approved by City.
3. Shield exterior lights to prevent off-site illumination.
4. Install bollards to protect propane tank enclosure.
5. Signage erected per city standards.
6. Landscaping to exceed city code minimum standards and enhanced to provide a visual buffer.
7. Site to be regularly maintained, cleaned, and cleared of debris/litter on a daily basis.
8. Consult with FDOT regarding traffic signalization at State Road 64 E and 48th Street Court NE. **The applicant consulted with FDOT and has provided construction plans indicating improvements to signalization and roadway capacity at State Road 64 E and 48th Street Court E. This stipulation has been satisfied and should be eliminated.**
9. Erect 6-foot tall privacy fence with masonry wall columns along rear boundary for screening.
10. Secondary access of 48th St Ct E will be right-in/right-out/left out with accompanying signage and pavement markings.
11. Install "No Outlet" signs along southbound 48th St Ct E.
12. Eliminate decorative building treatment on west side of building.

PLANNING COMMISSION RECOMMENDATION (February 20, 2013): TABLED to March 20, 2013

PLANNING COMMISSION RECOMMENDATION (March 20, 2013): APPROVAL of PR.13.00043 with the following 11 stipulations:

1. Hours of operations: 24 hours, daily.
2. No commercial cooking without hood system approved by City.
3. Shield exterior lights to prevent off-site illumination.
4. Install bollards to protect propane tank enclosure.
5. Signage erected per city standards.
6. Landscaping to exceed city code minimum standards and enhanced to provide a visual buffer.
7. Site to be regularly maintained, cleaned, and cleared of debris/litter on a daily basis.
8. Erect 6 8-foot tall privacy fence with masonry wall columns along rear boundary for screening. **Fence panel material to be approved by PCD at permitting.**
9. Secondary access of 48th St Ct E will be right-in/right-out/left out with accompanying signage and pavement markings.
10. Install "No Outlet" signs along southbound 48th St Ct E.
11. Eliminate decorative architectural building treatment on west side of building, **which is along 48th Street Court East. The aforementioned decorative architectural building treatment being excluded is the red archway over the windows, the louvered accent within the archway, and the Thorntons signage. The windows along the west side of building will remain.**

MOTION TO APPROVE PR.13.00043 WARD 4 NEIGHBORHOOD 20.04 with the recommended stipulations was made by Councilman Brown, seconded by Vice Mayor/Councilman Gallo, and approved 4:0. (Councilman Byrd was excused.)

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

BUSINESS BY APPOINTMENT - None scheduled.

COUNCIL REPORTS

Vice Mayor/Councilman Gene Gallo, Ward I: Offered condolences to Murray Keston and family in the loss of his mother.

Councilman Gene Brown, Ward II: Also offered his sympathies to the Keston family. He then commended the Pittsburgh Pirates on a very successful spring training season.

Councilman Patrick Roff, Ward III: Reported that on March 18th, he had attended the 3rd meeting of the Village of the Arts / USF / New College / Dr. David Brain work study which was exploring possible enhancements to the Village. He looked forward to the next presentation on April 29th. Councilman Roff had also observed the 100-year anniversary of the Bradenton Womens' Club in a recent celebration gathering.

Councilman Bemis Smith, Ward IV: Extended his congratulations to the Pirates on their exciting new park and growth in attendance. Along with McKechnie and the Riverwalk, he said the city is moving toward the future. Councilman Smith then displayed an award he had received from Realize Bradenton for his efforts in creating the skate park. Created by a local artist as 1 of 12, it was in the likeness of a manatee made from old skateboards. Each plaque included a personalized story of a skate boarder. Mr. Smith said that the most common cause of serious injury to a skateboarder was due to altercations with vehicles, and the skate park was a much safer environment.

Mayor Wayne Poston: Mayor Poston displayed the 1st Place *Future of the Region Award* that the City of Bradenton had been presented by the Tampa Bay Regional Planning Council for the creation of the Bradenton Riverwalk. Bradenton had also been the recipient of the award last year for the CareerEdge Program and stood a chance of winning next year for McKechnie. He said that the Pittsburgh Pirates had enjoyed a record attendance season. The mayor reminded all that the Marauders' season was poised to begin on April 5th.

DEPARTMENT HEADS

Carl Callahan: Said that he, too, congratulated the Pirates and thanked them for their cooperation in the redevelopment of the park and for embracing the fan-friendly concept. Mr. Callahan said that the comments heard from the fans were very rewarding.

Chief Edwards: Announced that the new fire engine was due for delivery tomorrow, March 28th.

Deputy Chief Davis: Said he looked forward to the return of Chief Radzilowski who was on vacation.

Claude Tankersley: Told everyone that he had a key to the Braden River Lakes emergency gate and it is opened and checked at least annually. Per Councilman Roff's request, a crew will be sent to inspect it and do any maintenance deemed necessary.

Tim Polk: Said that he is extremely proud to be working for such a progressive city which had accomplished so much in such a short time: Riverwalk, McKechnie, the Manatee Performing Arts Center, and soon-to-be started Riversong Apartments and restaurant to adjoin the Manatee Performing Arts Center.

Bill Lisch: Nothing to report.

There being no further business, Mayor Poston adjourned the meeting at 8:25 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.