

MINUTES OF THE REGULAR WORKSHOP MEETING  
CITY COUNCIL  
BOCA RATON, FLORIDA  
MONDAY, APRIL 13, 2009  
1:30 PM

The Workshop Meeting of the City Council of the City of Boca Raton, Florida was called to order by Mayor Susan Whelchel at 1:30 p.m.

ATTENDING THE MEETING WERE:

Mayor Susan Whelchel  
Deputy Mayor Susan Haynie  
Council Member Anthony Majhess  
Council Member Michael Mullaugh  
Council Member Constance Scott

Also attending the meeting were:

City Manager Leif J. Ahnell  
City Attorney Diana Grub Frieser  
City Clerk Sharma Hagerty

**PROCLAMATIONS:**

Fair Housing Month – April 2009

Community Improvement Administrator Teresa McClurg accepted the proclamation on behalf of the Fair Housing Center and those City staff members, who work in the City's housing assistance programs.

National Telecommunicators Week – April 12 through April 18, 2009

Police Chief Dan Alexander accepted the proclamation on behalf of the City's telecommunicators.

National Volunteer Week – April 19 through April 25, 2009

Volunteer Coordinator Catherine Vanden Broeck accepted the proclamation on behalf of the City's volunteers.

**1. BOARD INTERVIEWS:**

- a. Boca Raton Advisory Board for People with Disabilities – five (5) vacancies.

Mayor Whelchel advised that Shawn Friedkin indicated a desire to be reappointed but was unable to attend today's meeting.

Joseph Bensmihen and Gary Susser asked to be reappointed; Lisa Hamilton-Johnson interviewed for a position on the Board.

- b. Environmental Advisory Board – two (2) vacancies.

No one came forward to interview.

- c. Financial Advisory Board – two (2) vacancies.

Mary Jane Evans and Thomas Dunne interviewed for positions on the Board.

- d. North Federal Highway Steering Committee – one (1) vacancy.

No one came forward to interview.

## **2. PUBLIC REQUESTS:**

John Stetz opined on a number of items including, but not limited to, the proposed ice skating rink, windfarm technology, a sandbar in the Boca Raton Inlet, the downtown library, and installing a transmitter on the roof of City Hall.

Betty Grinnan and Judith Teller Kaye, with the Committee to Support a New Downtown Library, gave a PowerPoint presentation in support of immediately beginning construction on a new downtown library. Arlene Owens and Betty Cash also advocated immediate construction of a new downtown library.

Art Grossman, a member of the Marine Advisory Board, distributed a marine informational brochure and suggested that businesses be solicited for donations to print same. The City Manager advised that the City's Citizen's Pedestrian and Bikeway Advisory Board engaged in a similar endeavor regarding a Bicycle Suitability Map; staff would be in contact with the Marine Advisory Board to work out the details.

Herman Hammer, a County resident, advocated increasing the salary of the Mayor and Council and then voiced opposition to the fees charged to County residents for using City facilities, particularly the Spanish River Library.

William Deans, a Pennsylvania resident and business owner looking to relocate, acknowledged that he knew nothing of the Prestige Limousine issue (which would be heard by Council tomorrow night) but voiced opposition to the City's decision not to award a certificate.

Esther Dance supported immediate construction of a new downtown library and questioned how much remained of the \$20 million in bond money. She then mentioned the CRA and the TIF (Tax Increment Financing) paid by downtown property owners, which is being applied to the debt service for Mizner Park; however, she noted that excess money is not being reimbursed to City taxpayers for the \$21 million owed them by the CRA. Last of all, Ms. Dance advocated a definite time for CRA meetings as opposed to having the meeting begin immediately following the Workshop.

In response, the City Manager advised that there was \$9.8 million remaining of the bond money; estimates to build, equip, furnish and open a new downtown library are approximately \$12 million to \$13 million. Regarding the CRA, Mr. Ahnell explained that the CRA owes the City approximately \$23 million and there are plans for the CRA to reimburse the City to help with the operating budget going forward, as the City can no longer provide funding for the CRA. He added that, for the last two years, the CRA collected more revenues than the actual debt service; that money was set aside and it was anticipated the money would be paid back to the City beginning October 1, 2009.

Lenore Wachtel advised that she wished to know the total amount of money paid to Ray Gindroz and Urban Design Associates, where the money came from, how it was approved, and who approved it. She also wanted to see mailed notices written in "ordinary" language. Ms. Wachtel then referred to the City's firefighters, stating that she was nervous about the increasing cost to the City to afford them; she suggested bringing in an outside efficiency expert to review fire-rescue operations and the use of equipment. Last of all, Ms. Wachtel referred to a report made last month regarding the City's economic development partners, asking who they are, where they meet, how they are chosen, whether meetings are open to the public, and so on.

Robert DuKate, representing Save Boca Raton Green Space, asked Council to reverse the Boca Teeca (Ocean Breeze) ordinances, saying they were still being challenged at the Department of Community Affairs (DCA) by his group. He stated this was still an open case and the Comprehensive Plan amendments were not finalized at this time.

Les Stevens, an attorney, referred to Ordinance No. 5077 (related to the LIRP zoning district) and objected to the required 50% of appraised value for "A" rated buildings, stating that "A" level buildings were being penalized; details were provided. He asked that language be included to allow for an appeal procedure in regard to the 50% of appraised value.

## **3. REVIEW OF REGULAR AGENDA ITEMS:**

a. Questions relating to the agenda.

(Consent Agenda Item No. 3.b. – Resolution No. 50-2009 / Fourth Amendment to Agreement 02PB1, with the Florida Department of Environmental Protection for reimbursable funding for the Central Boca Raton Beach Restoration Project) Deputy Mayor Haynie asked why the date was being moved and what the impact would be to the City. Mr. Ahnell explained that the contract was being extended by one year, and a new project manager being assigned by DEP on the State's side. In addition, monitoring reimbursement was being increased by \$21,000; details were provided.

(Consent Agenda Item No. 3.c. – Resolution No. 51-2009 / Grant application to the U.S. Department of Justice for the 2009 COPS Hiring Recovery Program {CHRP}) Deputy Mayor Haynie questioned whether this would provide for five additional police officers or supplement the salaries of existing staff. The City Manager advised that this did not relate to additional personnel but would fund five positions and supplement existing salaries.

Mayor Whelchel referred to beach renourishment, reporting that Virginia Beach would be taking the lead on the lack of money for beach renourishment in the stimulus package. She advised that she planned to bring up this topic tomorrow night.

b. Ordinance No. 5091 (*Regular Agenda Item No. 4*), approving modifications to the previously approved Universal Conditional Approval (Ordinance No. 5066), for construction of a 3,320 square foot bank facility with three (3) drive-up teller lanes and a drive-up ATM lane

Development Services Planner Daryl Johnson gave the PowerPoint presentation. Location, zoning, and future land use designation were provided. He then reviewed the site plan that was approved by Council in October 2008, as part of Yamato Crossings master plan, and advised that the petitioner wished to modify same to reduce the square footage of the bank building and modify the drive-up teller lanes. Vehicle access would remain the same. Mr. Johnson advised that the Planning and Zoning Board reviewed this request in February 2009 and unanimously recommended approval, as did staff. Responding to Council, Mr. Johnson advised that the conditions previously incorporated into the resolution for the Yamato Crossings project, in order to protect the Boca Pinar neighbors, remained unchanged. He also confirmed that there was no change in parking. Again responding to Council, Mr. Johnson advised that Information on whether the driveway from Yamato Road could support this modification would be provided tomorrow evening. He then provided additional information to Council, as requested, related to improved circulation on site.

c. Ordinance No. 5077 (*Regular Agenda Item No. 5*), amending the list of permitted uses and the criteria applicable to authorize professional office uses in the Light Industrial and Research Park Zoning District.

The City's Property Specialist/Appraiser Lynn Bodor gave the PowerPoint presentation and reviewed background information on a prior ordinance (No. 4998), which provided amendments to the LIRP zoning district to allow flexibility in the occupancy and development of LIRP-zoned land. Included in that ordinance was an amendment allowing professional office use, subject to various conditions, including a condition that any building (the entire building - not just the portion for professional office use) proposed for office use must be new or refurbished to substantially improve its appraised value. Consequently, reconstruction standards were also included in the prior amendment to implement that condition. Specifically, new language would provide a timeframe for the refurbishment of a building containing professional office uses; these buildings must have been reconstructed or refurbished after September 1, 2004. Ms. Bodor explained that this date mirrored the existing timeframe for the CO (Certificate of Occupancy) of new buildings that contain professional office uses. The date is significant in that it is also the effective date of the 2004 Florida Building Code, which contains the most stringent hurricane-resistant design provisions in the country, requiring – among other things – that all buildings and structures be designed and constructed to withstand very high windloads.

Referring to the first public hearing on this ordinance wherein concerns were raised as to the September 1, 2004 cutoff date, which would eliminate opportunities for professional office use in buildings constructed or refurbished prior to that date, Ms. Bodor explained that staff was considering language

that would allow older buildings to benefit from the opportunity for professional office use, as long as those buildings could demonstrate compliance with the 2004 Florida Building Code standards. Referring to a third-party benchmark, as defined by the Urban Land Institute Office Development Handbook, contained within the reconstruction standards, Ms. Bodor advised that said benchmark could be subject to continual revisions due to fluctuations in market standards; passage of this ordinance would eliminate the benchmark and clarify the remaining language of the original amendment. Additional language would also clarify that "appraised," rather than "assessed," value would be the standard for determining the value of reconstructed buildings. Also, the date of the appraisal must be prior to, but within six months of, the commencement of reconstruction. Ms. Bodor advised that the Code amendment is not inconsistent with any portion of the City's Comprehensive Plan.

Responding to Council's query regarding an appeal process, Mr. Ahnell advised that staff would review the language in the ordinance.

#### **4. FUTURE AGENDA MATTERS/ITEMS OF COUNCIL/PUBLIC CONCERN:**

##### **a. Regulation of Establishments Serving Alcoholic Beverages**

Police Chief Dan Alexander gave the PowerPoint presentation on Ordinance No. 5093, advising that this was an update of a presentation provided to Council approximately one year ago. He defined the problems associated with Alcoholic Beverage Establishments (ABEs), including large crowds, underage drinking, disturbances such as fighting and noise, vandalism, trash, and people relieving themselves and regurgitating on private property. The ensuing demands, primarily at the expense of the City, on Police Services, Fire-Rescue, Code Enforcement, and the State of Florida Alcohol, Beverage and Tobacco agency were also noted; these agencies must provide crowd control at closing times, as well as provide a continuous patrol of these businesses at the expense to the rest of the City. Chief Alexander then compared the increase in arrests from January 2008 to March 2009 of minors in possession of alcohol (from 6 to 179, with 70% of arrestees living outside the City), calls for service increased by 50% in 2008, and pro-active police response increased by 120%, also in 2008. He also provided facts connected with two gang-related shootings, which took place at ABEs in the first quarter of 2008 and noted that another issue is minors being victimized while under the influence of alcohol and/or drugs.

Upon reviewing best practices put into effect by other municipalities such as New York City, the City of West Palm Beach, Palm Beach County, and Broward County, Chief Alexander recommended the following amendments to Chapter 4 of the City Code: 1) definitions for "Alcoholic Beverage Establishment" and "nightclub," 2) require that outside areas of ABEs be clean and free from trash and debris, 3) restrict admission to ABEs of people under the age of 21 between 10:00 pm and 8:00 am with exceptions: a) the nightclub does not serve alcohol where beverages are secured from access, b) members of the armed services with appropriate identification, c) persons legitimately working at the nightclub, and d) persons accompanied by either of their parents or legal guardian. Further restrictions for nightclubs include the following: 1) security personnel after 10:00 pm; 1 person for every 150 occupants or any portion thereof; and 2) a camera system with signage notifying patrons of same; interior and exterior video images at all hours, covering exits and entrances at a minimum, with videos being retained for a 30-day period. Details were provided on all the above.

Chief Alexander concluded his presentation by advising that if the ordinance is introduced, letters would be sent to affected businesses, proposed changes would be posted on the Internet, and staff would be available to meet with citizens to discuss concerns or questions.

Responding to Council, Chief Alexander advised that restaurants with "SRX" licensing were excluded from the equation; details were provided. In response to another query, additional information was provided regarding the security cameras.

##### **b. Wireless Communication Antennas Regulations (Cell Tower)**

Deputy City Manager George Brown gave the PowerPoint presentation on proposed Ordinance No. 5095, which was anticipated to be introduced at tomorrow night's Council meeting. He explained that this ordinance would update the City's Wireless Telecommunications Facilities Code, which was originally

adopted in 1999. This new Code would be in conformance with State and Federal law and apply to towers and antennas. Information regarding the purpose and applicability of the ordinance was provided, as was information including, but not limited to, definitions, collocation of facilities, permit requirements, prohibitions, preferred zoning districts for locating facilities, construction and development standards, reconstruction or modification of existing facilities, and violations. Mr. Brown concluded his presentation by advising that the proposed schedule for consideration of the ordinance provided for introduction tomorrow evening, a public hearing before the Planning & Zoning Board on April 23, 2009, the first public hearing before Council on April 28, 2009, with the second and final public hearing scheduled for May 12, 2009.

Responding to Council, Mr. Brown provided additional information related to grandfathering, schools and sovereign immunity, stealth incentives, alternative locations and cooperation with the City. Mayor Whelchel confirmed with Mr. Brown that this ordinance provides the City with a method to minimize impacts while at the same time providing service.

## **5. CITY MANAGER REPORTS:**

### **a. MMTD (MultiModal Transportation District) Overview & Update**

Planning, Zoning, and Development Director Julia Trevarthen began the PowerPoint presentation on the MMTD, which is essentially a methodology the City is engaging in to alleviate traffic congestion by utilizing alternative/multiple methods of transportation beyond the automobile. She provided background information on southeastern Florida, and Boca Raton in particular, regarding growth, employment, and educational opportunities/facilities. She also spoke to the existing market status in terms of regional business space. Additional background information was provided related to findings in the 2005 EAR (Evaluation & Appraisal Report) report in connection with rising levels of traffic and the need for strategies to mitigate same. Ms. Trevarthen then outlined changes taking place at the State level to encourage traffic solutions and then focused on mobility in Boca Raton. She concluded her portion of the presentation by stating that MMTD has been identified by the State as a way to mitigate traffic.

At this time, Ms. Trevarthen answered questions from Council related to Senate Bill 360, which, if passed, might make it more difficult to mitigate traffic. Responding to additional queries, Ms. Trevarthen advised that other cities interested in the MMTD program had been in contact with staff and, in fact, viewed Boca Raton as leading the way in a creative approach to traffic mitigation. Council Member Majhess voiced concern over amending the City's land use code and possible concurrency exemptions. Ms. Trevarthen advised that no one was being exempted from concurrency; the focus of the MMTD was to improve transit options within the City that are now very limited. Ms. Trevarthen, Mr. Ahnell, and Community Development Director Jorge Camejo provided details on all the above.

Mr. Camejo picked up the presentation, at this point, and spoke to challenges of the existing roadway network; roadways currently over capacity; and those LOS (Level Of Service) roadways projected to fail by 2030. He then gave the floor to the City's Traffic Engineer Douglas Hess.

Mr. Hess reviewed regional roadway and transit projects, as well as regional transportation constraints. There followed detailed information on the TCEA (Traffic Concurrency Exception Areas), CRALLS (Constrained Roadways At Lower Level of Service), and Palm Beach County Concurrency and Traffic Performance Standards (TPS); examples of concurrency exemption strategies were given. Mr. Hess explained that in Boca Raton, the City is using creative TPS trip generation reductions, such as TDM (Traffic Demand Management) plans and multimodal plans as opposed to simply adding and/or widening roads. He then compared the TPS system (which is roads only) with MMTD (comprised of transit, pedestrian, and bicycle facilities; parking strategies; and urban design).

Whit Blanton, with Renaissance Planning Group, reviewed the project vision and various mobility strategies, before delineating five proposed subdistricts within the City. He indicated that the proposed MMTD program would establish the five subdistricts and reflect the travel markets and needs within the City by centering on a major community focal point, such as Lynn University in the Northwest District or Boca Raton Community Hospital in the Central District. These would be intermodal gathering points for multiple transportation options as a new way to achieve concurrency; each of the districts was outlined.

Mr. Blanton reviewed an inclusive process, which included key stakeholders, government agencies, and the public and private interests; based on the input received, a multimodal plan was created. Mr. Blanton then gave the floor to Ms. Trevarthen, who outlined the next steps in the process, involving many meetings with the public, government agencies, and advisory boards, before coming back again to Council for consideration.

Responding to queries from Council, Mr. Blanton advised that there would be no more increases in density than what is currently seen today; increases in the MMTD program related to development proximity and mix of uses. Extensive details were provided. Mr. Camejo and Mr. Ahnell also provided additional information as requested.

#### **6. CITY ATTORNEY REPORTS:**

The City Attorney had nothing to report at this time.

#### **7. MAYOR AND COUNCIL MEMBER REQUESTS AND REPORTS:**

Council Member Majhess distributed paperwork to Council and, referring to the Ocean Breeze project, asked for support to negate Ordinance No. 4991 until the MMTD program is better defined. He indicated that he planned to add this ordinance to the agenda tomorrow evening for introduction. Council Member Haynie asked the City Attorney about the legal implications of this proposal. Ms. Frieser explained that she prepared this ordinance, at Mr. Majhess' request; the ordinance would make the policy in the City's Comprehensive Plan not available, prospectively. Basically, no other applicants could come forward to request that they be added to this policy. Details were provided.

Ms. Frieser went on to explain that the Council adopted Ordinance No. 4491 unanimously and the DCA (Department of Community Affairs) found it in compliance; consequently, the City, the DCA, and the developer believe that all required procedures were followed. The recommended order from the law judge, after a full administrative hearing, was that all grounds were discounted; all actions by the City and the DCA were proper and that's the recommended order that was given to the DCA. In regard to the long delay in obtaining the DCA's decision, Ms. Frieser indicated that they may not have believed there was urgency in the matter since the same project was subject to a referendum appeal, which was only resolved approximately two and a half weeks ago.

Deputy Mayor Haynie advised that she received an email from a Boca Square resident objecting to an automated trash pickup program; she asked for clarification of same. The City Manager stated that notices were sent out and explained how the program would work, saying that an automated arm picks up the trash, thereby reducing the number of sanitation workers on the truck from three to one. He added that the notice advised citizens they could choose the size of container(s) they wished to use for this pilot program. Responding to Council, Mr. Ahnell stated that the City had not tried this program before but it had been very successful elsewhere. He concluded by advising that staff would follow up on the email.

The regular workshop meeting of the City Council of the City of Boca Raton, Florida, adjourned at approximately 5:00 p.m. on Monday, April 13, 2009.

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Vanessa Hines, Assistant City Clerk