

MINUTES OF THE REGULAR WORKSHOP MEETING
CITY COUNCIL
BOCA RATON, FLORIDA
MONDAY, JUNE 22, 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 3:02 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

PROCLAMATION:

Recreation and Parks Month – July 2009

The proclamation was accepted by Recreation Services Director Mickey Gomez.

PRESENTATION:

Citizens' Pedestrian & Bikeway Advisory Board Report

Chairman Jim Sumislaski gave a summary of the Board's actions and accomplishments. He advised that the Board wished to re-establish the City of Boca Raton as a Bicycle Friendly City and then spoke to bicycle safety; crash records for bikes and pedestrians; the El Rio Trail; and decorative bike racks. Mr. Sumislaski explained that his Board also worked with the City's People with Disabilities Board to raise awareness of bicyclists with disabilities. There followed information regarding bicycle suitability maps and increasing the pathway network throughout the City. Mr. Sumislaski concluded his report by asking if there was anything further the Board might do and then responded to questions from Council. It was suggested that the Board attend public meetings regarding the extension of a bike lane on SW 18th Street, which might be controversial, in order to speak with the neighbors and obtain input.

1. BOARD INTERVIEWS:

- a. Community Appearance Board – one (1) vacancy.

Mark Jacobsen and Krsto Stamatovski expressed interest in the position.

- b. Community Relations Board – two (2) vacancies.

No one came forward to interview.

- c. Education Advisory Board – three (3) vacancies.

George Gershon interviewed for a position; Fred Schwartz and Jeff Snow expressed interest in reappointment.

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

No one came forward to interview.

- e. Zoning Board of Adjustment – one (1) vacancy.

Kerry Koen interviewed for the position.

2. PUBLIC REQUESTS:

Betty Grinnan, representing Friends of the Library, advised that they were waiting for the City Manager to provide information on possible locations for the downtown library; therefore, they were taking no position at this time. She also advised that her group had toured the former Cartoon Museum building and then reiterated comments made at prior Council meetings. Specifically, Friends of the Library wished to see the downtown library listed as a priority for the coming year, the bonds used and completed, and a plan for community participation regarding space priorities. In short, they wished to be included in all aspects of library construction and to see “a shovel in the ground next April.”

At this point, Ms. Grinnan and Bob Keltie, both representing Friends of the Library, gave a PowerPoint presentation, covering their criteria for the new downtown library, which included the following: 1) a minimum of 30,000 square feet, expandable to 50,000 square feet; 2) adequate, convenient, and safe parking for all patrons; 3) adequate community space for adult and children programs; 4) integral, outdoor space for library programs; and 5) a “green” building. They urged issuance of the remaining \$9.8 million in bond money to build the library and then spoke to operating costs, indicating that the following proposed measures should cover same: 1) utilizing of green initiatives for energy use (resulting in built-in self sufficiency), 2) increased use of volunteers, 3) use of technology to increase efficiency of all functions, and 4) funding from the Beach & Parks District.

Nancy Liu, a resident of Sun & Surf near Red Reef Park; opposed installation of parking meters at the beach areas and spoke to park safety, advocating the retention of guard gates at the parks. Mr. Ahnell noted that a full presentation on parking meters would be given this afternoon, explaining that this issue was studied and the City received a recommendation not to install meters along the beach areas. In addition, the City did not plan to remove the guard gates.

Pam Oldfield, President of the Riviera Homeowners Association, confirmed with the City Manager that the guards would be retained in the parks and then questioned whether meters would be installed along Palmetto Park Road and Spanish River Boulevard, voicing concern over aesthetics. Mr. Ahnell answered her question affirmatively and advised that centralized parking meters would be used; again, the presentation this afternoon would cover same.

Betty Cash, another member of Friends of the Library, reiterated earlier comments made by Ms. Grinnan and Mr. Keltie. She then voiced appreciation for the transparency of this process and noted that Friends of the Library were ready to provide their insight and planned to have a “seat at the table.”

Anastasia Shower voiced support of a new downtown library and the criteria put forward by Friends of the Library and then commented on the current lack of parking at the library.

Jim Wood spoke to “positioning” of the downtown library and supported building same.

3. REVIEW OF REGULAR AGENDA ITEMS:

- a. Questions relating to the agenda.

Council had no questions.

- b. Resolution No. 92-2009 (*Consent Agenda Item No.3.i.*), approving and adopting the report of the Goal Setting Session of April 29-30, 2009, and the 2009-2024 Strategic Plan.

Assistant to the City Manager, Susan Saxton, gave the PowerPoint presentation, reviewing last year’s strategic plan and providing updates as of April 30, 2009, in the categories of top priorities, high priorities, and goals, which were as follows: Top Priorities: 1) operate with a balanced budget, 2) maintain essential services, 3) downtown vision and plan, 4) FAU strategy/hospital project/I-95 interchange, and

5) retirement/pension cost containment strategy; High Priorities: 1) Multimodal Transportation District (MMTD) citywide mobility strategy, 2) North Federal Highway development project and beautification, and 3) establish partnerships for economic development; and Goals: 1) employee recruitment/retention/career planning, 2) comprehensive environmental initiative, 3) annexation, 4) integrated technology strategy, 5) branding, and 6) the Wildflower property direction and alternatives; details were provided on all the above.

Ms. Saxton then reviewed the City's strategic plan for 2009 – 2010, based on the goal setting sessions that took place in May 2009, and identified four top priorities and seven high priorities, which were as follows: Top Priorities: 1) downtown library (direction), 2) downtown spine (City plan and working with property owners), 3) budget direction (revenue and services), and 4) waterways (desired outcome, direction, and action); and High Priorities: 1) user fees for non-residents (comprehensive evaluation and direction), 2) transparent City government (definition, evaluation, strategy, and actions), 3) annexation (evaluation and direction), 4) rental housing strategy (evaluation, direction and actions), 5) City financial support for the arts and culture (direction), 6) MMTD (direction and actions, including EAR {Evaluation and Appraisal Report} amendments), and 7) FAU strategy and actions. Details were provided on all the above.

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

a. Alternative Revenue-Producing Programs Discussion

1. Red Light Cameras

Assistant Police Chief Edgar Morley gave a PowerPoint presentation explaining why red light cameras are used (for safety and revenue), how the program would work, what constitutes an infraction and who views it, the enforcement process, appeals, vehicle/owner affidavit of non-responsibility, system settings, who uses red cameras, studies/findings, common criticisms, the per violation revenue design, the per approach revenue design, the potential deployment list (locations), and the next steps. Chief Morley advised that, should Council choose to proceed, an ordinance could be enacted to enable the process by October 2009; an RFP process would take place by December 1, 2009; the contract award/negotiation would be completed by January 31, 2010, followed by a 30-day public information campaign, which would run from January 31 to March 1, 2010. The system would be activated with a 30-day warning period from March 1 to March 31, 2010 and enforcement would begin on April 1, 2010. Chief Morley concluded his presentation and answered questions from Council regarding foreign violators, which jurisdiction had the most experience with this program, and whether revenue forecasts were accurate.

Attention turned to crash data, with Council voicing concern over rear end collisions. Further discussion focused on whether the State would allow cameras in their rights-of-way. The City's Traffic Engineer Doug Hess explained that FDOT was contacted; they would not permit equipment in their rights-of-way. However, Mr. Hess advised that passage of a State law regarding red light cameras was anticipated next year, at which time FDOT would allow the equipment. There followed additional questions as to how many man-hours this program would eliminate, whether cameras would be put on separate poles with signage, and who came up with the criticisms, as outlined earlier by Chief Morley.

2. Paid Parking

Municipal Services Director Bob DiChristopher advised that staff looked at installing parking meters along certain city roads and facilities. Consequently, Stanley Consultants and the firm of Carl Walker Inc. were retained to study the issue; focus was given to appropriate placement of meters, the number of parking spaces that would be available, the current use of those spaces as well as the expected use of those spaces, and parking turnover; parking rates, revenue, and technology were also studied. At this time, Mr. DiChristopher thanked staff for their assistance in

this endeavor and then introduced Freddie Vargas with Stanley Consultants and John Nolte with Carl Walker, Inc.

Mr. Vargas, the project manager for Stanley Consultants, gave a summary of their findings via an extensive PowerPoint presentation. He provided background information and delineated the purpose of the study, which was to: 1) identify current parking needs, 2) verify the City's parking inventory, 3) measure utilization of downtown parking, 4) evaluate the utilization of beach parking areas, 5) develop a Request for Proposal (RFP) to establish and operate the City's parking system, 6) identify parking system features and operational alternatives, 7) develop a parking meter location plan, 8) estimate revenue projections, and 9) evaluate parking management implementation options. There followed a review of the study areas, parking areas, downtown parking zones, parking inventory, utilization and turnover, parking rates used in projections, and on-street revenue projections. Details were provided on all the above. Mr. Vargas then gave the floor to Mr. Nolte.

Mr. Nolte continued the presentation, focusing on program revenue projections and advising that, although paid parking at beach parks was originally considered in the overall analysis, they no longer recommended same, as it would not generate sufficient revenue. Details were provided; essentially, it was expected that overall revenues would reach approximately \$2.8 million per year. Mr. Nolte then compared three parking management strategies for implementing a paid parking program, specifically, a City operated system, a turnkey operation system, and a contracted system. A financial analysis of each system followed, along with projected revenues. The in-house City-run system was recommended; there followed information on proposed technology to implement the parking meter program, which was expected to make compliance as easy and convenient as possible. Mr. Nolte concluded his presentation by noting again that beach parks should not have metered parking and then answered questions from Council. Attention focused on capital costs and the actual revenue that could be expected and whether downtown merchants and employees in the downtown would suffer from metered parking. It was suggested that this information be presented to the downtown merchants in order to obtain their input. The City Manager advised that this item would be brought up at the Council meeting tomorrow night that staff might obtain direction in terms of preparing the budget.

5. CITY MANAGER REPORTS:

a. Community Renewal Act – Senate Bill 360 Update

Development Services Principal Planner Jennifer Hofmeister gave a presentation on this legislation, advising that Governor Crist signed this bill on June 1, 2009; it becomes effective in July 2009. She stated that the bill amended Chapter 163 (the Growth Management Policy), Chapter 380 (Development of Regional Impacts) and Chapter 159 (the Housing Policy) in the Florida Statutes. Ms. Hofmeister explained that this would be an initial presentation focusing on Chapters 163 and 380, wherein the most significant changes have occurred; specifically, exemption from transportation concurrency standards and Development of Regional Impact (DRI) review. Amendments to the Housing Policy would be presented to Council at a subsequent workshop.

Changes to Chapter 163 were reviewed first. Specifically, the new legislation changes terms; a municipality with 1,000 people per square mile and a population of at least 5,000 is now called a DULA (Dense Urban Land Area), of which the City of Boca Raton is one. As such, DULAs qualify as TCEAs (Transportation Concurrency Exemption Areas), and affect approximately half of the State. The legislation mandates mobility planning within TCEAs; a long-term support system for funding mobility is also required. In addition, a Statewide mobility fee is being proposed to replace the transportation concurrency fee. Details were provided on all the above. It was noted that development of a mobility fee was not guaranteed and no other State funding was being provided to implement mobility. Ms. Hofmeister explained it is staff's opinion that, during these constrained economic times, it will be very difficult for local governments to begin funding mobility right away. In addition, the legislation removes the developers' role in funding mobility; they are no longer responsible for paying their fair share. Also, while the bill contains language apparently intended to support local governments' home rule power, other language seems to contradict same. Ms. Hofmeister then reviewed amendments to Capital Improvement

Element provisions, School Concurrency Element provisions, and Intergovernmental Element provisions. There followed information regarding a modification to the impact fee regulations, as well as a new section related to standards for security devices. Details were provided on all the above.

Changes to Chapter 380 were then reviewed. Basically, the legislation modified the current list of DRI exemptions and extended certain types of development permits for two years. Ms. Hofmeister focused on Section 14, related to building permit extensions, indicating that this was another very controversial piece of the bill. Specifically, it states the following:” in recognition of 2009 real estate market conditions, any permit issued by the Department of Environmental Protection or a water management district pursuant to part IV of Chapter 373 FS, that has an expiration date of September 1, 2008 through January 1, 2012, is extended and renewed for a period of two years following its date of expiration. This extension includes any local government issued development order or building permit. The two-year extension also applies to build out dates including any build out date extension previously granted under Chapter 380 FS. This section shall not be construed to prohibit conversion from the construction phase to the operation phase upon completion of construction. The commencement and completion dates for any required mitigation associated with a phased construction project shall be extended such that mitigation takes place in the same timeframe relative to the phase as originally permitted. The holder of a valid permit or other authorization that is eligible for the two-year extension shall notify the authorizing agency in writing no later than December 31, 2009, identifying the specific authorization for which the holder intends to use the extension and the anticipated timeframe for acting on the authorization.”

Ms. Hofmeister stated that there were many interpretations of this language and then read Secretary Tom Pelham’s (with the Department of Community Affairs-DCA) corrected/final statement, as of June 16, 2009, in regard to same: “This Department has received numerous inquiries about this agency’s interpretation of the above-quoted provisions. The extension of permits issued by the Department of Environmental Protection, water management districts, and local governments for non-DRI related development orders and building permits are not within the jurisdiction of the DCA. Accordingly, the Department has no authority to issue binding interpretations of the statutory language pertaining to permits issued by those agencies. Local governments will have to determine the scope of the statutory extension for local government-issued development orders or building permits except for those that pertain to developments of regional impact. The DCA does have jurisdiction over local development orders that pertain to DRIs, including local actions which approve extension of build out dates pursuant to Section 380.06(19)(C) FS. The Department interprets the above quoted statutory provisions as granting a two-year extension of the expiration date and build out date for any local government issued DRI development order and related building permits which have an expiration date of September 1, 2008 through January 1, 2012.”

Ms. Hofmeister explained that many people believe a correct interpretation of the language would only be achieved through litigation. Meanwhile, staff preliminarily determined that overall DRIs with an expiration date between September 1, 2008 and January 1, 2012 may be granted a two-year extension. However, staff was unsure as to whether this would apply to all the development orders within the DRIs or any building permit within the City that would otherwise expire during this period. She then advised that a DCA Growth Management workshop was planned on June 24 and 25, 2009 in Orlando, Florida; staff would be attending in an attempt to gain a better understanding and more clarification of this legislation.

At this time, the City Attorney distributed a handout to Council, indicating that many cities are analyzing the new Statute in an effort to understand all the implications. The City of Weston, however, recently passed a resolution asking other cities to join them in proceeding with litigation to challenge the validity of the bill. Referring to the memo from the City of Weston and an attachment from their counsel, Weiss Serota et al, Ms. Frieser pointed out the primary concerns Weston had in regard to the Statute, advising that there were two procedural bases for challenge: 1) the bill is a violation of the Constitution as it relates to unfunded mandates, and 2) it is a violation of the single-subject rule. She stated that there are many issues with this bill, not the least of which is lack of clarity as to how local governments are to implement same. Ms. Frieser explained that Weston would fund the bulk of the litigation; they are asking other cities to join them and contribute approximately \$2,500 each. She advised that this item may be discussed today and any action could be taken tomorrow evening. Ms. Frieser concluded her comments by stating

that there is a tremendous amount of uncertainty about this Statute; she suggested that Council might wish to wait for further clarification before making any decisions on this issue at this time.

The City Attorney and Ms.Hofmeister answered questions from Council, focusing on the proposed mobility fee, what it means to be a TCEA, and how TCEAs are designated. The City Manager also provided additional information as to who is responsible for road improvements, in accordance with this bill. Overall, the Mayor and Council voiced opposition to the new Statute, indicating that it was hastily prepared and a terrible piece of legislation. Council Member Majhess asked that Boca Raton join Weston in the litigation now; however, the Mayor and remaining Council advocated waiting, not only for more clarification but to determine what the Palm Beach County League of Cities proposed to do.

At this time, Mayor Whelchel noted that Deborah Carman wished to come forward to interview for the Community Relations Board; Ms. Carman expressed her interest in retaining a position on the Board.

6. CITY ATTORNEY REPORTS:

The City Attorney had nothing to report at this time.

7. MAYOR AND COUNCIL MEMBER REQUESTS AND REPORTS:

Neither the Mayor nor Council Members had anything to report at this time.

The regular workshop meeting of the City Council of the City of Boca Raton, Florida, adjourned at approximately 6:15 p.m. on Monday, June 22, 2009.

Vanessa Hines, Assistant City Clerk