

MINUTES OF THE REGULAR MEETING
CITY COUNCIL
CITY OF BOCA RATON, FLORIDA
TUESDAY, SEPTEMBER 23, 2008
6:00 PM

The Regular Meeting of the City Council of the City of Boca Raton, Florida was called to order by Mayor Susan Whelchel at 6:00 p.m.

INVOCATION:

Council Member Haynie gave the invocation.

PLEDGE OF ALLEGIANCE TO THE FLAG:

ROLL CALL:

Mayor Susan Whelchel
Deputy Mayor Peter R. Baronoff
Council Member M. J. Mike Arts
Council Member Bill Hager
Council Member Susan Haynie

AMENDMENTS TO THE AGENDA:

Motion was made by Council Member Haynie, seconded by Council Member Hager, to amend the agenda to add Resolution Nos. 130-2008 and 131-2008 to the Consent Agenda as Item Nos. 3.p. and 3.q. Motion carried unanimously on a voice vote; Mayor Whelchel, Deputy Mayor Baronoff, Council Members Arts, Hager and Haynie voting yes.

MINUTES:

Minutes of the Regular Workshop Meeting of September 8, 2008
Minutes of the Regular Meeting of September 9, 2008
Minutes of the Tentative Budget Meeting of September 15, 2008

Motion was made by Council Member Arts, seconded by Council Member Hager, to approve the minutes as presented. Motion carried unanimously on a voice vote; Mayor Whelchel, Deputy Mayor Baronoff, Council Members Arts, Hager and Haynie voting yes.

PROCLAMATIONS/RECOGNITIONS/AWARDS:

Proclamation - Gordon J. Gilbert – Greater Boca Raton Beach & Parks District Commissioner

Mayor Whelchel presented the proclamation to Gordon Gilbert in honor of his 30 years of service to the City of Boca Raton.

Proclamation - 2008 Florida Under 15 Girls State Soccer Champions

The girls soccer team players and their coaches were honored and congratulated on attaining the State championship in the 12-state Southern Regional Tournament held in Raleigh, North Carolina in June 2008.

Recognition – Boca Raton Police Services Department designation as a Flagship Agency by the Commission on Accreditation for Law Enforcement Agencies (CALEA).

Sylvester Daughtry, Jr., Executive Director for CALEA, provided commentary on the CALEA designation. He acknowledged Chief of Police Services Dan Alexander for his leadership, congratulating him and the Boca Raton Police Services Department for attaining this designation.

REGULAR BUSINESS - PART I:

1. Appointments to the following boards:

There were no positions advertised.

2. Responses to Workshop Information Requests:

The City Manager advised that answers to questions from yesterday's workshop meeting would be provided in tonight's presentations.

3. Consent Agenda:

Mayor Whelchel provided an opportunity for anyone from the public to comment on the Consent Agenda; no one came forward to speak.

Motion was made by Council Member Arts, seconded by Council Member Hager, to approve the Consent Agenda as amended. Motion carried unanimously; Mayor Whelchel, Deputy Mayor Baronoff, Council Members Arts, Hager and Haynie voting yes.

a. Sole Source – FY 07/08

- | | | |
|----|--|----------|
| 1) | Installation of Fiber Ring
Requested by City Manager
Bell South d/b/a AT&T | \$65,555 |
|----|--|----------|

b. Competitive Sealed Proposal – FY 08/09

- | | | |
|----|---|-----------|
| 1) | Public Entity Excess Liability Insurance
Requested by Financial Services
Arthur J. Gallagher Risk Management Services, Inc. | \$217,580 |
|----|---|-----------|

c. Intergovernmental Agreements – FY 08/09

- | | | |
|----|---|-----------|
| 1) | Maintenance, Repair and Operation Supplies (MRO)
Requested by City Wide
Home Depot, Inc., Grainger, Inc., MSC Industrial Supply | \$325,000 |
| 2) | Office Supplies
Requested by City Wide
Office Depot | \$275,000 |
| 3) | Corrosion and Odor Control Products
Requested by Utility Services
Siemens Water Technologies | \$461,000 |

d. Sole Source – FY 08/09

- | | | |
|----|---|-----------|
| 1) | Motorola Radio System Maintenance
Requested by Police Services
Motorola | \$252,102 |
| 2) | H.T.E. Software Maintenance
Requested by City Manager
Sungard Public Sector, Inc. | \$126,916 |

3) Public Safety Software Maintenance
Requested by City Manager
Sungard Public Sector, Inc. \$236,501

e. Waiver of Procurement Procedures

1) Diesel and Unleaded Fuel
Requested by Municipal Services
Amerada Hess Corporation and BV Oil \$3,400,000

f. Resolution No. 87-2008

A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute a contract with Rudolph and Kelly A. Larcada for purchase by the City of a Utility Easement over certain lands located at 127 NW 3rd Court; providing for severability; providing for repealer; providing an effective date

g. Resolution No. 114-2008

A resolution of the City of Boca Raton revising the travel/per diem expense policy of the City of Boca Raton; providing for severability; providing for repealer; providing an effective date

h. Resolution No. 122-2008

A resolution of the City of Boca Raton authorizing the City Manager to approve administrative changes and amendments to all Local Agency Program (LAP) Agreements and Joint Participation/Project Agreements (JPA) with the Florida Department of Transportation; authorizing and directing the City Manager to comply with the terms and conditions of the administrative changes and amendments, if accepted; providing for severability; providing for repealer; providing an effective date

i. Resolution No. 123-2008

A resolution of the City of Boca Raton approving and accepting an Easement Deed from Aki Makela and Kristi Makela, as trustees of the Aki and Kristi Makela Revocable Trust Agreement dated April 15, 1997, over certain lands located at 1080 N.W. 1st Avenue; providing for severability; providing for repealer; providing an effective date

j. Resolution No. 124-2008

A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to renew an interlocal agreement for law enforcement services between Palm Beach County Department of Environmental Resources Management and the City of Boca Raton for the purpose of an interlocal agreement to increase the law enforcement presence in the Palm Beach County's waterways to provide greater manatee protection; providing for severability; providing for repealer; providing an effective date

k. Resolution No. 125-2008

A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute an agreement with Emerald Transportation Corporation and an agreement with Vrchota Corp. for the purpose of vehicle towing and storage services on a rotating basis; providing for severability; providing for repealer; providing an effective date

l. Resolution No. 126-2008

A resolution of the City of Boca Raton authorizing a waiver of procurement procedures, authorizing the Mayor and City Clerk to execute an agreement with Waste Management Inc. for the collection of residential solid waste; providing for severability; providing for repealer; providing an effective date

m. Resolution No. 128-2008

A resolution of the City of Boca Raton authorizing the City Manager to execute Work Order No. 4 with Mathews Consulting, Inc. for the purpose of providing professional engineering services for the Boca Raton Heights Infrastructure Improvements Capital Project; providing for severability; providing for repealer; providing an effective date

n. Resolution No. 129-2008

A resolution of the City of Boca Raton authorizing the City Manager to execute Work Order No. 2 with Applied Technology and Management Inc., for the purpose of pre-construction, construction and post-construction biological and physical monitoring for the South Boca Raton Beach Renourishment Project; providing for severability; providing for repealer; providing an effective date

o. Receive and File Board Minutes – September 23, 2008

- 1) Builders' Board of Adjustment and Appeals
July 24, 2008
- 2) Community Appearance Board
August 5, 2008
August 12, 2008
- 3) Education Advisory Board
July 28, 2008
- 4) General Employees' Pension Board
July 10, 2008
July 25, 2008
- 5) Library Advisory Board
June 11, 2008
- 6) Marine Advisory Board
June 4, 2008
- 7) Planning and Zoning Board
June 19, 2008
- 8) Police & Firefighters' Pension Board
July 24, 2008

p. Resolution No. 130-2008

A resolution of the City of Boca Raton updating the pay and classification plan; establishing a merit pay plan and a Cost of Living Adjustment (COLA) for certain employees for Fiscal Year 2008-2009; providing for severability; providing for repealer; providing an effective date.

q. Resolution No. 131-2008

A resolution of the City of Boca Raton authorizing the City Manager to adopt a revised Executive Benefit Plan; providing for severability; providing for repealer; providing an effective date.

REGULAR BUSINESS – PART II-A – QUASI-JUDICIAL CONSENT AGENDA:

There were no items for consideration.

REGULAR BUSINESS – PART II-B – QUASI-JUDICIAL AND RELATED PUBLIC HEARINGS:

4. Resolution No. 93-2008

A resolution of the City of Boca Raton considering Conditional Use Approval and approval of a new Master Plan for Boca Raton Community Church and Christian School located at 470 Northwest 4th Avenue; providing for severability; providing for repealer; providing an effective date (CA-05-05)

5. Ordinance No. 5048

An ordinance of the City of Boca Raton providing for the vacation and abandonment of a portion of N.W. 4th Street located adjacent to 470 N.W. 4th Avenue, as more specifically described herein; approving and accepting a Public Utility Easement Deed from Bibletown Community Church, Inc., over certain lands located adjacent to 470 N.W. 4th Avenue; providing conditions for vacation and abandonment; providing for severability; providing for repealer; providing an effective date (AB-06-05)

6. Ordinance No. 5060

An ordinance of the City of Boca Raton providing for the vacation and abandonment of a portion of a Utility Easement, located at 470 N.W. 4th Avenue, as more specifically described herein; providing for severability; providing for repealer; providing an effective date (EA-06-08)

The public hearings on Item Nos. 4 through 6 were conducted contemporaneously; however, each item was voted on separately.

The City Attorney reviewed the quasi-judicial procedures to be followed; the City Clerk administered the oath to those who indicated they wished to speak. Under ex parte disclosures, Council Member Arts and Deputy Mayor Baronoff advised that they spoke with Mr. Mueller and Mr. Trivasos; Council Member Hager advised that he spoke with "everyone in town;" Council Member Haynie advised that she spoke with Carolyn O'Brien, Bob Mueller, Scot Adams, and Pam Martyna; Mayor Whelchel advised that she spoke with Bob Mueller and Al Trivasos. Mayor and Council also advised that they had received hundreds of emails as well.

Development Services Principal Planner Jennifer Hofmeister gave the PowerPoint presentation, advising that answers to the questions raised at yesterday's workshop meeting would be provided in the presentation. She then explained that the subject site, which is approximately 22 acres, is bifurcated by NW 4th Avenue and lies within several residential zoning districts. Information on zoning and land use designations was provided, as was background information and details related to the original master plan, which was approved in 1979.

The new Master Plan incorporates Boca Raton Community Church and Christian School into one plan and involves relocating the high school from Camino Real to the main campus and arranging that the church and pre-school facilities will be located on the west side of NW 4th Avenue; all school related uses will be located on the east side, including kindergarten through high school. Also included in the petition

is the following: 1) 54,900 square feet of additional church uses, 2) two new school classroom buildings, 3) a three-story classroom building, 4) one- and two-story additions to the existing school (in order to accommodate an increased total student enrollment of up to 950), 5) a new pre-school to be located along a new sanctuary center, proposed next to the church on the west side of 4th Avenue, 6) the elimination of the First Care Center, 7) a new multi-purpose recreational field with 70- and 80-foot tall light structures, 8) a new 60-foot school tower, 9) a new softball field and new tennis courts, and 10) relocated basketball courts and pool. Other improvements include closing three of the existing entryways, updating walkways, expanding the grass play area and other open areas.

A right-of-way abandonment is proposed for a portion of 4th Street, between Crawford Boulevard and NW 3rd Court, to provide a safer pickup and drop-off vehicle circulation pattern. If approved, the abandonment will also be incorporated into an area proposed for a new softball field. Ms. Hofmeister advised that all City departments and all franchised utilities were contacted; they all support the abandonment. However, the City is retaining a utility easement over the entire area of abandonment. In addition, the Development Services Department has conditioned the approval upon obtaining a Unity of Title to join the abandonment area with the remainder of the school property. Last of all, an easement abandonment has been requested to eliminate the remaining segment of a previously abandoned public utility easement that would interfere with the proposed site plan. Staff supported this last easement abandonment with no conditions imposed.

Ms. Hofmeister explained that two phases of development were proposed. Phase I, which was reviewed by the Planning & Zoning Board (P&Z) and was being considered by Council tonight, is comprised of modifications to the uses on the east side of NW 4th Avenue associated with the school expansion; details were provided as to the facilities proposed for the first phase. Attention then turned to three technical deviation requests related to driveway dimensions and reservoir lanes. Two driveways are located along NW 4th Street and one is located along Crawford Boulevard; these driveways function primarily as drop-off and pickup points for students. Ms. Hofmeister then gave the floor to the City's Traffic Engineer, Doug Hess, after advising that Mr. Hess supported the technical deviations.

Mr. Hess explained that Phase I contemplated two pickup and drop-off areas, one on the west side with 755 feet of stacking (queuing) and one on the east side with 500 feet of stacking; Phase II would eliminate the eastern pickup and drop-off point. The school proposed to have staggered start and release times for the multiple grades so that the stacking would work at the drop-off and pickup points. Thirty minute intervals were proposed between each of the start and release times; details were provided. Mr. Hess then touched on the proposed drop-off and pickup schedule for Phase II, cautioning that Phase II was not being considered this evening. At this time, the City Attorney and Mr. Hess answered questions from Council related to the proposed abandonment of 4th Street and traffic control. He then continued his presentation, focusing on traffic counts, advising that Palmetto Park Road currently operates at level-of-service "D;" NW 4th Avenue currently operates at level-of-service "C."

The floor was then given back to Ms. Hofmeister, who spoke to parking, trip generations, and conditions for sound and lighting impacts. These conditions are listed in the resolution as Conditions 9 through 12 and are as follows:

(9) Use of recreational fields for outdoor sports including football, soccer and baseball shall be limited to no later than 9:30 p.m. Sunday through Thursday and 10:00 p.m. Friday and Saturday for a total of 24 games per school year. All other uses are limited to no later than 8:00 p.m. Sunday through Saturday.

(10) The same restrictions above apply to lighting. Specialty lighting for these areas shall be designed specifically for the use and shall meet the requirements of the City Code.

(11) Amplified sound systems must comply with applicable City Code requirements for minimizing sound spillage onto adjacent property. The sound systems shall be turned off no later than 9:30 p.m. Sunday through Thursday and 10:00 p.m. Friday and Saturday for football, soccer and baseball games. Sound systems shall be turned off at 8:00 p.m. for other outdoor school activities Sunday through Saturday.

(12) Recreational facilities and fields located adjacent to residential areas must provide additional landscaping.

Ms. Hofmeister noted that a landscape plan had been submitted to the City today and would be made a part of the resolution. She then advised that the Planning & Zoning Board reviewed this petition in September 2008 and recommended approval with conditions.

Referring to yesterday's workshop meeting, Ms. Hofmeister reviewed three new proposed conditions created in response to Council's comments: a) use of the athletic fields would be limited to only Boca Raton Christian School athletic events and programs which include participation by Boca Raton Christian School students, b) prior to issuance of a main use building permit, the petitioner shall execute a Unity of Control in Lieu of a Unity of Title for the two parcels that comprise the entire campus, which is separated by NW 4th Avenue, and c) prior to issuance of a main use building permit, a parking management plan shall be submitted and approved by City staff responsible for Public Works Review.

There followed a comparison of lighting structures (poles) at various parks and the corresponding distances to the nearest single-family home, which ranged from 25 feet to 300 feet. It was noted that, regarding Boca Christian, the distance of a pole to the nearest single-family home is 110 feet. Ms. Hofmeister then directed attention to a handout comparing the operational restrictions and requirements at Pine Crest School with those proposed at Boca Raton Christian School. At this time, Ms. Hofmeister concluded her presentation, advising that staff recommended approval of the petitions, subject to the additional conditions, and then answered questions from Council.

Ellie Zachariades, an attorney with Siemon & Larsen, and representing Boca Raton Christian School, gave a PowerPoint presentation, advocating support of the petitions and covering much of the same material. Bob Tenney, Headmaster at Boca Raton Christian School, also gave a PowerPoint presentation, again, in support of the petitions.

Mary Dorst, Robert Mueller, who advised he represented many Spanish Village residents, Carolyn O'Brien, Jo Durgee, Sara Hughs, Pamela Martyna, James Banyan, Katherine Salvoto, Evelyn Miller, John Benicy, Jacque Houston, Tiffany Miller, Katie Barr, Gary Greenbert, Rudy Larcada, Lauren Leitkowski, Steve Schardt, Veronica Risko, Harold Buirke, John Stetz, and Stanley Czajka voiced opposition to the petitions; emphasis was placed on increased traffic, the 4th Street abandonment, and noise and lighting associated with athletic games.

Wendy Stapleton, Beverly Zielske, Wilbur Miller, Bill Hood, Al Travazos, Les Wilson, Jess Sowards, Ron Rickerts, Virginia Braga, Kirsten Hood, Danielle Sherbondy, Amy Barnhill, Carolyn Hanes, Steven Gallo, Bill Harper, Kenna Emanuel, Joanne Young, Tom Slagle, Frank Ludlow, Harris Pollock, James Nolette, Bill Mitchell, Rudy Havelka, Ryan Maranges, Billy Hood, Sharon Williams, Don Colley, and Pastor Jonathan Burnham voiced support.

(The meeting was recessed at 9:58 p.m. and reconvened at 10:00 p.m. in order to change the recording disc.)

During the course of the public hearing, Charles Siemon, of Siemon & Larsen, and representing the petitioner, advised that some compromise had been reached in discussions outside the Chamber with residents in opposition. Specifically, a maximum of six football games would be held each year, all football games would end by 9:30 p.m., 15 of the 24 games would be scheduled on Fridays, landscaping would be installed as soon as possible and a year's growth allowed before lighting is installed and night games begin, and bands would only play at half-time during football games – no bands would play during

soccer or baseball games. At a later point in the public hearing, Mr. Siemon advised that, due to the amount of opposition to the proposed abandonment of a portion of NW 4th Street, his client agreed to withdraw the petition for the abandonment.

Motion was made by Council Member Hager, seconded by Council Member Haynie, to adopt Resolution No. 93-2008.

The City Attorney noted there were a number of amendments; Council agreed to address the amendments related to the conditional use first and then those related to the site plan. The following two amendments related to the conditional use.

Motion was made by Council Member Hager, seconded by Deputy Mayor Baronoff, to amend Resolution No. 93-2008, as follows: Page 3, Lines 21 through 24, deleting Section (5); adding a new Section (5), using language generally consistent with the following, "No airhorns or similar devices shall be permitted;" adding new sections, using language generally consistent with the following, a) "Boca Christian shall notify all residents of game dates and field usage schedules as soon as possible;" b) "Boca Christian School officials shall meet to discuss with the residential neighbors to the north and the south of the school no less frequently than once per quarter. Boca Christian shall provide facilities for such meetings on campus and representatives of Boca Christian School shall be responsible for, and shall coordinate, each quarterly meeting with the neighbors;" c) "During night events, bands shall only perform at football games and only during half-time;" and amending Page 3, Line 16, Condition (4) to read, " Student enrollment for the school shall not exceed 900 students during Phase I and shall not exceed 950 students during Phase II grades Preschool through 12." Motion carried unanimously on a voice vote; Mayor Whelchel, Deputy Mayor Baronoff, Council Members Arts, Hager and Haynie voting yes.

Motion was made by Council Member Hager, seconded by Council Member Haynie, to amend Resolution No. 93-2008, to include two staff recommendations as follows: "Prior to the issuance of a main use building permit, the petitioner shall execute a Unity of Control in Lieu of a Unity of Title for the two parcels that comprise the entire campus that are separated by NW 4th Avenue;" and "Prior to the issuance of a main use building permit, a parking management plan shall be submitted and approved by City Staff responsible for Public Works Review." Motion carried unanimously on a voice vote; Mayor Whelchel, Deputy Mayor Baronoff, Council Members Arts, Hager and Haynie voting yes.

The City Attorney explained that the conditional use approval (Resolution No. 93-2008) has imbedded within it, the site plan, which is listed as Exhibit A (the Planning & Zoning Board Resolution No 08-25). The following amendment relates to that proposed site plan.

Motion was made by Council Member Arts, seconded by Council Member Hager, to amend the site plan, as amended, and attached to the conditional use approval, to add new conditions, using language generally consistent with the following: a) "The hedge shown for NW 4th Diagonal shall be increased from four feet to six feet;" b) "Boca Christian shall install temporary No Parking signs on NW 4th Diagonal prior to evening games;" c) "The landscape plan shall be installed consistent with Exhibit A;" d) "Boca Christian shall notify residents in advance of any testing to take place of any sound system or amplified sound equipment;" modifying Page 4, Line 81, Condition (9) to read, " ...a total of 24 games per ~~school~~ year. Within the 24 game limitation, a maximum of six games shall be football games and all such games shall end by 9:30 p.m. No more than 15 of the 24 of the night events shall be held on a Friday. All other outdoor school activities....;" adding a new condition using language generally consistent with the following: "Boca Christian will install landscape materials as soon as possible after the date of approval and will allow approximately one year of growth of landscaping prior to installation of lights and sound system to provide sufficient buffer;" deleting Conditions (7), (13), and (15); adding new conditions using language generally consistent with the following: a) "The softball field located in the southeast corner of the site plan and any other improvements shown in the plan for the proposed area of abandonment shall not be permitted;" and b) "Prior to issuance of a building permit, any changes to traffic

circulation or lane markings on the site or NW 4th Street or NW Crawford Boulevard shall be approved by the Public Works Review staff." Motion carried unanimously on a voice vote; Mayor Whelchel, Deputy Mayor Baronoff, Council Members Arts, Hager and Haynie voting yes.

Motion was made by Council Member Haynie, seconded by Mayor Whelchel, to amend the site plan to ensure that all lighting poles not exceed 40 feet in height. Motion failed 1-4; Council Member Haynie voting yes. Mayor Whelchel, Deputy Mayor Baronoff, Council Members Arts and Hager voted no.

The vote to adopt Resolution No. 93-2008, as amended, passed unanimously; Mayor Whelchel, Deputy Mayor Baronoff, Council Members Arts, Hager and Haynie voting yes.

The City Attorney stated that Ordinance No. 5048, which related to the NW 4th Street abandonment, was withdrawn by the petitioner; therefore, no action was necessary in regard to same.

Motion was made by Council Member Hager, seconded by Mayor Whelchel, to adopt Ordinance No. 5060. Motion carried unanimously; Mayor Whelchel, Deputy Mayor Baronoff, Council Members Arts, Hager and Haynie voting yes.

Motion to Extend the Meeting

Motion was made by Council Member Hager, seconded by Mayor Whelchel, to extend the meeting beyond 11:00 p.m. Motion carried unanimously on a voice vote; Mayor Whelchel, Deputy Mayor Baronoff, Council Members Arts, Hager and Haynie voting yes.

Council Member Hager left the meeting at approximately 11:00 p.m.

7. Resolution No. 118-2008

A resolution of the City of Boca Raton considering conditional use approval to allow the construction of a new 7,500 square foot restaurant for the Glades Road Commercial Center on a parcel of land located at 2006 N.W. Executive Center Circle; providing for severability; providing for repealer; providing an effective date (CA-08-05)

Mayor Whelchel advised that quasi-judicial procedure would govern the hearing; the City Clerk administered the oath to those who indicated they wished to speak. There were no ex parte disclosures.

Development Services Senior Planner Susan Lesser gave the PowerPoint presentation. Referring to the site plan, she explained that the petitioner was requesting approval for a new one-story, 7,500-square foot restaurant, approximately 22 feet in height, and a one-story, 5,925-square foot retail building, approximately 30 feet in height. She advised that the proposed development met or exceeded all zoning district regulations, including setbacks, building height, and floor area ratio (FAR) and then provided information related to vehicular access, the traffic analysis, and parking.

In August 2008, the Planning & Zoning Board unanimously approved the site plan and recommended approval of the conditional use. In conclusion, staff also recommended approval.

Paul Slattery, of Slattery & Associates, the architect for the project, made himself available for questions.

Seeing no one else come forward to speak, the public hearing was closed.

Motion was made by Council Member Arts, seconded by Council Member Haynie to adopt Resolution No. 118-2008. Motion carried 4-0; Mayor Whelchel, Deputy Mayor Baronoff, Council Members Arts and Haynie voting yes.

8. Ordinance No. 5059

An ordinance of the City of Boca Raton rezoning, pursuant to Article VI, Chapter 23, Code of Ordinances, a parcel of land consisting of 1.08 acres more or less, located at 600 North Federal Highway, from General Business (B4) to Professional, Office and Institutional (PO&I); providing for severability; providing for repealer; providing an effective date (UC-08-02/ZC)

Development Services Senior Planner Susan Lesser gave the PowerPoint presentation, stating that this was a request for universal conditional approval, a rezoning, and site plan approval for Sterling Bank to construct a four-story office building with a 3,770-square foot bank, two drive-through teller lanes, and a two-story parking garage. This request also included two technical deviations for reductions in driveway reservoir distances and one technical deviation for off-site vehicular circulation and maneuvering. Information regarding location, zoning (current and proposed), and land use designation was provided. Ms. Lesser added that in June 2008, the Zoning Board of Adjustment granted a variance to decrease the setbacks within the PO&I (Professional, Office and Institutional) zoning district to allow the proposed site plan configuration. Parking, a site-specific traffic study, trip generations, and vehicular access were also reviewed.

Ms. Lesser then turned attention to the technical deviations. The first request was to allow a 19-foot reduction in the driveway reservoir distance for the north driveway on North Federal Highway; the second request was to allow a 10-foot reduction in the driveway reservoir distance for the south driveway. The third, and last, technical deviation request was to allow seven of the on-site parking spaces, located in the southeast corner of the site, to be oriented such that the spaces would be accessed through the eastern cross-access and adjacent drive-aisle east of the property. Based on the information and justification provided, the City's Traffic Engineer supported the technical deviations.

In August 2008, the Planning & Zoning Board approved the site plan and recommended approval of the universal conditional approval. In conclusion, staff also recommended approval of the ordinance, subject to the conditions included in the Planning & Zoning Board's resolution.

Ellie Zachariades, an attorney with Siemon & Larsen, and representing the petitioner, made herself available for questions.

Seeing no one else come forward to speak, the public hearing was closed.

Motion was made by Council Member Haynie, seconded by Deputy Mayor Baronoff, to adopt Ordinance No. 5059. Motion carried 4-0; Mayor Whelchel, Deputy Mayor Baronoff, Council Members Arts and Haynie voting yes.

REGULAR BUSINESS – PART III – REGULAR PUBLIC HEARINGS:

9. Ordinance No. 5051

An ordinance of the City of Boca Raton amending Architectural Design Policy 1.2 contained in the Amended Downtown Plan (a Community Redevelopment Plan); inserting additional architectural design policies allowing, in certain cases, an increase in height for a portion of the building or buildings on the site to a maximum height with modifications to the building setbacks, contingent upon satisfaction of specified criteria, and related policy amendments; providing for severability; providing for repealer; providing for codification; providing an effective date (SC-08-05)

Motion was made by Council Member Haynie, seconded by Deputy Mayor Baronoff, to open the public hearing and continue same to the Council meeting of October 15, 2008. Motion carried 4-0 on a voice vote; Mayor Whelchel, Deputy Mayor Baronoff, Council Members Arts and Haynie voting yes.

10. Ordinance No. 5052

An ordinance of the City of Boca Raton amending the Boca Raton Downtown Development of Regional Impact Development Order by adding quality downtown development regulations and related definitions; allowing, in certain cases, an increase in height for a portion of the building or buildings on a site, to a maximum height with modifications to the building setbacks contingent upon satisfaction of specified criteria; providing amendments related thereto; determining that the amendments are not subject to review as a Notice of Proposed Change; providing for severability; providing for repealer; providing an effective date (SC-08-06)

Motion was made by Council Member Haynie, seconded by Mayor Whelchel, to open the public hearing and continue same to the Council meeting of October 15, 2008. Motion carried 4-0 on a voice vote; Mayor Whelchel, Deputy Mayor Baronoff, Council Members Arts and Haynie voting yes.

11. Ordinance No. 5056

An ordinance of the City of Boca Raton providing for the vacation and abandonment of a platted right-of-way located at 7598 N.W. 6th Avenue, as more specifically described herein; providing for severability; providing for repealer; providing an effective date (AB-08-03)

12. Ordinance No. 5057

An ordinance of the City of Boca Raton considering the vacation and abandonment of non-access lines, located at 7598 N.W. 6th Avenue, as more specifically described herein; providing for severability; providing for repealer; providing an effective date (EA-08-06)

13. Ordinance No. 5058

An ordinance of the City of Boca Raton considering the vacation and abandonment of a portion of a Utility Easement, located at 7598 N.W. 6th Avenue, as more specifically described herein; approving and accepting a Utility Easement Deed from USF Propco I, LLC, over certain lands located at 7598 N.W. 6th Avenue; providing conditions for vacation and abandonment; providing for severability; providing for repealer; providing an effective date (EA-08-04)

The public hearings on Ordinance Nos. 5056, 5057, and 5058 were held contemporaneously. Property Specialist/Appraiser Lynn Bodor gave a PowerPoint presentation, advising that these three petitions for abandonment lie within the US Foodservice site, located at 7598 NW 6th Avenue. The first request is for abandonment of a small 800-square-foot right-of-way, which was dedicated to accommodate a portion of a cul de sac; the Planning & Zoning Board approved Resolution No. 08-12 to amend the Foodservice site plan, which resulted in the repositioning of the cul de sac to the north, thereby eliminating the need for this easement. The second request is for abandonment of a portion of a 12-foot wide public utility easement that is in conflict with the amended site plan. The third request seeks abandonment of a platted non-access line along unimproved NW 6th Avenue; in June 2008, Council adopted an ordinance, which abandoned NW 6th Avenue at this location, thereby eliminating the need for the non-access line.

All appropriate City departments and all franchised utilities were contacted regarding each petition; they all support the abandonments. It was noted that the Utility Services Department imposed one condition in regard to the easement abandonment; specifically, the water distribution mains must be relocated and a new easement must be obtained from the petitioner, which has been provided.

The Planning & Zoning Board recommended approval of the right-of-way abandonment in August 2008; the other two abandonments do not require Board recommendations. In conclusion, staff recommended approval of the ordinances.

Jeff Evans, with Evans Consulting, and representing US Foodservice, made himself available for questions.

Seeing no one else come forward to speak, the public hearing was closed.

Motion was made by Council Member Arts, seconded by Deputy Mayor Baronoff, to adopt Ordinance No. 5056. Motion carried 4-0; Mayor Whelchel, Deputy Mayor Baronoff, Council Members Arts and Haynie voting yes.

Motion was made by Council Member Haynie, seconded by Deputy Mayor Baronoff, to adopt Ordinance No. 5057. Motion carried 4-0; Mayor Whelchel, Deputy Mayor Baronoff, Council Members Arts and Haynie voting yes.

Motion was made by Council Member Haynie, seconded by Mayor Whelchel, to adopt Ordinance No. 5058. Motion carried 4-0; Mayor Whelchel, Deputy Mayor Baronoff, Council Members Arts and Haynie voting yes.

14. Resolution No. 127-2008

A resolution of the City of Boca Raton implementing an electric service surcharge on water, wastewater, and reclaimed water rates and charges; providing for severability; providing for repealer; providing an effective date

The City Manager advised that Florida Power & Light (FPL) has increased its rates by 18%, which equates to an \$800,000 annual increase in the cost of operating the water and sewer plants. Therefore, staff was recommending a 2% surcharge for electric only to be passed onto customers. Mr. Ahnell explained that, should FPL reduce their rates, the surcharge would also be reduced or eliminated. He then answered questions from Council.

The public hearing was opened and, seeing no one come forward to speak, closed.

Motion was made by Council Member Haynie, seconded by Deputy Mayor Baronoff, to adopt Resolution No. 127-2008. Motion carried 4-0; Mayor Whelchel, Deputy Mayor Baronoff, Council Members Arts and Haynie voting yes.

15. Resolution No. 117-2008

A resolution of the City of Boca Raton adopting an amended and restated Boca Raton Municipal Facilities and Services User Fee Schedule; providing for severability; providing for repealer; providing an effective date

The City's Treasurer, Carol Himes Hannigan, gave a PowerPoint presentation on the revisions proposed for the User Fee Schedule, which would be effective October 1, 2008. She drew attention to the handouts distributed in response to questions raised at the workshop meeting yesterday, related to the wide range of fees charged by Development Services, and provided details regarding same. Ms. Hannigan then reviewed proposed changes to existing fees and proposed new fees for each City department, beginning with Development Services. She advised that an additional change in Development Services fees related to postage for public notice mailings for the Builders' Board of Adjustment & Appeals; specifically, mailings would be sent certified instead of first class. There followed a number of fee changes for false alarms in connection with Police Services and Fire/Rescue Services. Referring to another question raised at the workshop meeting, Ms. Hannigan directed attention to a handout delineating the billing process for false alarms before reporting on a new Fire/Rescue fee related to street name changes. Proposed changes to existing fees and new fees for Recreation Services and Utility Services were then reviewed and details provided.

The public hearing was opened and, seeing no one come forward to speak, closed.

Under discussion, Council Member Arts opined that the Recreation Services impact fees were too expensive and should be revisited in the future.

Motion was made by Council Member Haynie, seconded by Deputy Mayor Baronoff, to adopt Resolution No. 117-2008. Motion carried 4-0; Mayor Whelchel, Deputy Mayor Baronoff, Council Members Arts and Haynie voting yes.

REGULAR BUSINESS – PART IV – REGULAR PUBLIC HEARINGS/SETTLEMENTS:

There were no items for consideration.

REGULAR BUSINESS – PART V - INTRODUCTION OF ORDINANCES:

16. Ordinance No. 5064

An ordinance of the City of Boca Raton amending Chapter 12 of the Code of Ordinances relating to the Police and Firefighters' Retirement System relating to voluntary after tax DROP self contributions; providing for severability; providing for repealer; providing for codification; providing an effective date

Council Member Haynie introduced the ordinance.

17. Ordinance No. 5065

An ordinance of the City of Boca Raton providing for the vacation and abandonment of a portion of a Water and Sewer Easement, located at 2700 St. Andrews Boulevard, as more specifically described herein; approving and accepting a Water Easement Deed from Pine Crest Preparatory School, Inc., over certain lands located at 2700 St. Andrews Boulevard; providing conditions for vacation and abandonment; providing for severability; providing for repealer; providing an effective date (EA-08-08)

Council Member Haynie introduced the ordinance.

18. Ordinance No. 5066

An ordinance of the City of Boca Raton rezoning, pursuant to Article VI, Chapter 23, Code of Ordinances, a parcel of land consisting of 1.24 acres, more or less, located at 4805 NW 2nd Avenue (NW Boca Raton Blvd), from Professional Office & Institutional (PO&I) to Commercial (C-1); providing for severability; providing for repealer; providing an effective date (UC-99-02R1/SPA)

Council Member Haynie introduced the ordinance.

REGULAR BUSINESS - PART VI - PUBLIC REQUESTS:

Lenore Wachtel advised she was pleased that consideration of Ordinance Nos. 5051 and 5052 had been postponed and then voiced opposition to the allocation of \$50,000 in the CRA budget for a public relations consultant, indicating that it would do no good as this tactic had been tried many times before and the tenants are so very different that a consensus cannot be reached.

Gene Scanlon spoke in opposition to a boatlift variance granted to his neighbor, Rick Limegrover, by the Builders' Board of Adjustment & Appeals and urged Council to support him and his neighbors in this conflict, which is currently in court. Dr. Erickson, Michael Ross, Becky Davis, Kristine Cherepy, and Michael Margolies came forward and spoke in support of Mr. Scanlon.

The City Attorney explained that she received a letter from Mr. Scanlon's attorney, Mr. Hrivnack, and a response would be sent out shortly. She then provided background information on this City Code issue, advising that the homeowner (Mr. Limegrover) sought a variance from the Builders' Board of Adjustment & Appeals. The ensuing public hearing was properly noticed and properly heard by that Board whose members voted to grant the variance. Soon after, Council amended the Code to provide for appeal to City Council in those types of marine issues. However, at the time the public hearing for the variance occurred, there was no such procedure. Therefore, the issue is now before the court and pending judicial review. Ms. Frieser advised that the dock had not been removed because Mr. Limegrover received the variance; it is lawful subject to the appeal. Should the appellate court reverse the decision, then the dock would have to be removed. Ms. Frieser also spoke to the Limegrover's briefing, which was adopted by the City Attorney's Office, and stated that this was a common practice; details were provided. She added that a supplemental motion was also filed by the City to bring certain matters before the court that were uniquely municipal. Ms. Frieser concluded her comments by reiterating that Council did not have the jurisdiction to hear this matter; the decision was made pursuant to the City Code in existence at that time. It was a final order appealable to the court and Mr. Scanlon has filed with the court; therefore, jurisdiction is vested in the court for a decision to be rendered. Ms. Frieser then provided additional information to Council as requested.

REGULAR BUSINESS - PART VII- RESOLUTIONS AND OTHER BUSINESS:

There were no items for consideration.

QUASI-JUDICIAL PUBLIC HEARING – REQUEST FOR VARIANCE FROM CHAPTER 24 – SIGN CODE:

19. Resolution No. 119-2008

A resolution of the City of Boca Raton considering a variance from the provisions of Section 24-118, Code of Ordinances, to permit a project sign to exceed the maximum permitted sign face to be located at 1000 South Ocean Boulevard; providing for severability; providing for repealer; providing an effective date (SCV-08-05)

Mayor Whelchel advised that quasi-judicial procedure would govern the hearing; the City Clerk administered the oath to those who indicated they wished to speak. There were no ex parte disclosures.

Development Services Principal Planner Jennifer Hofmeister gave the PowerPoint presentation, advising that this was a request to install a temporary sign that exceeds the permitted maximum sign face size of 32 square feet; the proposed sign would be 200 square feet. The Community Appearance Board reviewed this request and recommended denial. The petitioner's justification for the variance is that the project site is separated from view by the Boca Raton Inlet. The project sign is 389 to 657 feet from viewing locations, and a sign face of 32 square feet would not be visible from the roadway. Ms. Hofmeister reiterated that this sign would be temporary and, in fact, the petitioner advised at the Community Appearance Board meeting that it would be removed by April 30, 2009; this condition was written into the resolution. In conclusion, staff recommended approval of the variance.

Robert Eisen, the attorney representing the petitioner, confirmed that the sign would be taken down by April 30, 2009, and provided additional commentary related to same.

Seeing no one else come forward to speak, the public hearing was closed.

Motion was made by Deputy Mayor Baronoff, seconded by Council Member Haynie, to adopt Resolution No. 119-2008, as amended, to reflect on Page 3, Condition (5), Line 6, language generally consistent with the following: "This variance shall expire on April 30, 2009 and is subject to an acceptable sign permit for the sign permitted by this resolution." Motion carried 4-0; Mayor Whelchel, Deputy Mayor Baronoff, Council Members Arts and Haynie voting yes.

20. Resolution No. 120-2008

A resolution of the City of Boca Raton amending Resolution 33-2003 which granted a variance from the provisions of Section 24-96(f), Code of Ordinances, to permit one (1) multiple story building sign that results in a building identity which is different from an existing sign, located at 301 Yamato Road; providing for severability; providing for repealer; providing an effective date (SCV-08-06)

Mayor Whelchel advised that quasi-judicial procedure would govern the hearing; the City Clerk administered the oath to those who indicated they wished to speak. There were no ex parte disclosures.

Development Services Principal Planner Jennifer Hofmeister gave the PowerPoint presentation, explaining that Council had previously approved a variance to permit an additional multiple building sign with a tenant name different from an existing sign on the same building. However, that variance also approved a specific sign for a specific tenant, who has since vacated the building. This request relates to that same sign location and seeks to modify the prior approval but without a specific sign design; the specific sign design would be prepared in the future when a new tenant occupies the building. At that time, the proposed signage would go before the Community Appearance Board for approval. The dimensions of the sign are limited as a condition of this approval.

The public hearing was opened and, seeing no one come forward, closed.

Motion was made by Council Member Arts, seconded by Council Member Haynie, to adopt Resolution No. 120-2008. Motion carried 4-0; Mayor Whelchel, Deputy Mayor Baronoff, Council Members Arts and Haynie voting yes.

21. Resolution No. 121-2008

A resolution of the City of Boca Raton considering a variance from the provisions of Section 24-96(b)(1) and 24-121(2)(d), Code of Ordinances, to allow one (1) freestanding sign to exceed the sign face area of 72 square feet and the 18 foot length requirement, and ten (10) directory signs that exceed the 7 foot height requirement, for the Boca Corporate Center and Campus, located at 5000 T-Rex Avenue; providing for severability; providing for repealer; providing an effective date (SCV-08-03)

Mayor Whelchel advised that quasi-judicial procedure would govern the hearing; the City Clerk administered the oath to those who indicated they wished to speak. There were no ex parte disclosures.

Development Services Director Jorge Camejo gave the PowerPoint presentation, explaining that this variance relates to the main entry sign identifying the property and ten directional signs to be found throughout the site. He advised that the entry sign significantly exceeds what is allowable by City Code, due to the size of the campus, but was in keeping with signage for other comparable entities, such as Arvida Park of Commerce. Each of the directional signs would follow the same format and would exceed the Code by one foot and one inch.

Mr. Camejo advised that staff and the petitioner had worked together over an extended period of time to reach this juncture. He noted that the Community Appearance Board had reviewed this petition and recommended approval of same, as did staff.

The public hearing was opened and, seeing no one come forward to speak, closed.

Motion was made by Council Member Haynie, seconded by Deputy Mayor Baronoff, to adopt Resolution No. 121-2008. Motion carried 4-0; Mayor Whelchel, Deputy Mayor Baronoff, Council Members Arts and Haynie voting yes.

CITY MANAGER RECOMMENDATIONS AND REPORTS:

The City Manager had nothing to report at this time.

CITY ATTORNEY REPORTS:

The City Attorney had nothing to report at this time.

MAYOR AND COUNCIL MEMBER REPORTS:

Neither the Mayor nor Council had any reports at this time.

ADJOURNMENT:

Motion was made by Council Member Arts, seconded by Council Member Haynie, to adjourn the meeting. Motion carried 4-0 on a voice vote; Mayor Whelchel, Deputy Mayor Baronoff, Council Members Arts and Haynie voting yes.

The regular meeting of the City Council of the City of Boca Raton adjourned at approximately 11:57 p.m. on Tuesday, September 23, 2008.

Susan Whelchel, Mayor

ATTEST:

Sharma Hagerty, City Clerk