

MINUTES OF THE REGULAR MEETING
CITY COUNCIL
CITY OF BOCA RATON, FLORIDA
WEDNESDAY, MAY 28, 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 6:05 p.m.

INVOCATION:

Council Member Arts 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 Deputy Mayor Baronoff, to amend the agenda to add Ordinance No. 5040 as Item No. 12.a. under "REGULAR BUSINESS – PART V - INTRODUCTION OF ORDINANCES." Motion carried unanimously on a voice vote; Mayor Whelchel, Deputy Mayor Baronoff, Council Members Arts, Hager and Haynie voting yes.

MINUTES:

Minutes of the Special Meeting of April 21, 2008 (Walking Tour – Mizner Park)
Minutes of the Goal Setting Sessions of May 1 and May 2, 2008
Minutes of the Regular Workshop Meeting of May 12, 2008
Minutes of the Regular Meeting of May 13, 2008

Motion was made by Council Member Arts, seconded by Council Member Haynie, 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:

Recognition of Teachers of the Year for 2008 – Education Advisory Board

Mayor Whelchel and Tom Vinci, Chairman of the Education Advisory Board, joined in awarding certificates to 11 recipients of the "Teacher of the Year" award, as identified by each principal of those public schools located inside the City of Boca Raton. Congratulations were tendered and recognition was also extended to the Rotary Club of Boca Raton, the organization that originated and has perpetuated this program for the last 15 years.

PRESENTATION:

Senator Ted Deutsch – 2008 Legislative Session Update

Senator Deutsch gave an update on the last legislative session, advising that the budget passed by the State was approximately \$7 billion less than last year, due to the slowdown of the economy; he noted that cuts to health care, education, and services would be forthcoming across the State. Senator Deutsch also explained that grading of students would be changed, based on legislation just approved. In

addition, he spoke to other legislative provisions relating to signage at schools, FAU (Florida Atlantic University) funding, autism funding, property insurance, and property taxes; details were provided. Senator Deutsch then answered questions from Council regarding the ongoing solvency of Citizens Insurance Company, Florida Department of Transportation funding for the I-95 Interchange, (paid advertising) signage at schools, a cigarette tax to fund education, and Tri-Rail.

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 included 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. Motion carried unanimously; Mayor Whelchel, Deputy Mayor Baronoff, Council Members Arts, Hager and Haynie voting yes.

a. Sealed Bid

- | | |
|---|-----------|
| 1) Advance Traffic Management System Implementation:
Video Detection System Expansion
Requested by Municipal Services
The Signal Group, Inc. | \$438,205 |
|---|-----------|

b. Change Order

- | | |
|---|-----------|
| 1) Advance Traffic Management System Implementation:
CCTV Expansion
Requested by Municipal Services
Precision Contracting Services, Inc. | \$111,300 |
|---|-----------|

c. Resolution No. 68-2008

A resolution of the City of Boca Raton approving the nomination of Michael Righetti, Land Development Coordinator, to serve as the representative for the City of Boca Raton on the Metropolitan Planning Organization, Technical Advisory Committee (MPO-TAC); providing for severability; providing for repealer; providing an effective date

d. Resolution No. 69-2008

A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute the Second Amendment to the Joint Participation Agreement with the State of Florida Department of Transportation for the purpose of incorporating Federal and State requirements; providing for severability; providing for repealer; providing an effective date

e. Resolution No. 71-2008

A resolution of the City of Boca Raton approving and adopting the Goal Setting Session Report of May 1 and 2, 2008, and the 2008-2009 Strategic Plan (including Action Plans for 2008-2009); providing for severability; providing for repealer; providing an effective date

f. Resolution No. 72-2008

A resolution of the City of Boca Raton authorizing the City Manager to apply for a grant from the Palm Beach County Department of Public Safety, Division of Emergency Management, Office of Emergency Medical Services, for the purchase of medical/rescue cardiac equipment for the Fire Rescue Services Department; authorizing the acceptance of said grant, if awarded; authorizing and directing the City Manager to comply with the terms and conditions of said grant, if awarded; providing for severability; providing for repealer; providing an effective date

g. Resolution No. 73-2008

A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute an agreement with Ultimate Catering, LLC for the purpose of providing concession services to the City of Boca Raton Spanish River Library and Community Center; providing for severability; providing for repealer; providing an effective date

h. Resolution No.74-2008

A resolution of the City of Boca Raton authorizing the City Manager to apply for a grant from the Florida Department of Transportation pursuant to the Public Transit Service Development Program; authorizing the acceptance of said grant, if awarded; authorizing the expenditure of matching funds for said grant, if awarded; authorizing and directing the City Manager to comply with the terms and conditions of said grant, if awarded; providing for severability; providing for repealer; providing an effective date

i. Receive and File Board Minutes – May 28, 2008

- 1) Community Appearance Board
April 22, 2008
- 2) Education Advisory Board
February 25, 2008
- 3) Executive Employees' Retirement Board
February 27, 2008
- 4) Library Advisory Board
February 20, 2008
- 5) Marine Advisory Board
April 2, 2008
- 6) Parks and Recreation Board
April 3, 2008
- 7) People With Disabilities
April 3, 2008

- 8) Special Master
March 12, 2008
- 9) Zoning Board of Adjustment
March 13, 2008

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. 67-2008

A resolution of the City of Boca Raton considering a request to amend and restate the existing Conditional Use Approval for Pine Crest School on a parcel of land located at 2700 St. Andrews Boulevard; providing for severability; providing for repealer; (including the repeal of Resolution Nos. 174-94, 212-98, 153-99 and 66-2003); providing an effective date (CA-07-17)

The City Attorney reviewed the quasi-judicial procedure that would govern this public 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, advising that this petition included demolition and construction of new buildings, additions to existing buildings and ancillary development; a new lower school building; and a new main administration building with covered loggia. It was noted that enrollment would remain at 1,000 students. Location, surrounding properties, acreage, zoning information, and land use designation were identified.

The new lower school building would be located at the center of the campus; details were provided. Six existing tennis courts would be relocated east of their current location, adjacent to the Timbercreek residential subdivision, with lighting proposed for evening games. Following completion of the lower school building, the new main administration building would be constructed. Ms. Lesser advised that both new buildings would include the necessary designs to become LEEDS certified facilities, which is the national standard for developing high-performance and sustainable green buildings. Expansion of the maintenance building and athletic building was also proposed; a new structure would be located at the northeast corner and eastern property line, respectively. Athletic program improvements are proposed for the southeast corner, north of the L-45 Canal, and include a training track, field bleachers, a concessions building, and a new scoreboard. Vehicular access, site circulation, a traffic study, and parking were also delineated.

This petition was reviewed by the Planning & Zoning Board in April 2008; members unanimously recommended approval with conditions. Those conditions, which were included in the resolution, are as follows: 1) Removal of the proposed six-foot high wall along the north and east property lines, 2) no additional outdoor amplified sound systems, 3) campus construction permitted pursuant to Section 10-64 of the City Code, 4) lighting restrictions for the tennis courts and pool, 5) additional landscaping, 6) use of pool and tennis courts limited to Pine Crest students, 7) 50-foot setback on the north and east property lines to be used for landscaping and limited to the running track only, and 8) visual screening of the new scoreboard; details were provided on all the above.

Ms. Lesser advised that staff met with representatives of the Timbercreek Homeowners Association (THOA) and Pine Crest School on May 22, 2008, to discuss existing conditions and, possibly, resolve outstanding issues. As a result of the meeting, Condition Nos. 11 and 12 were amended. Specifically, the following language was added to Condition No. 11, "No outdoor construction work shall occur on Sundays or legal Federal holidays;" Condition No. 12(a) was deleted since the playgrounds are already shown on a site plan. She then focused on those issues that the THOA indicated were still outstanding at

this time. They are as follows: 1) Campus to be limited to pre-kindergarten through eighth grade {as provided for previously in Resolution No. 66-2003, Condition No. 3}, 2) Lighting for tennis courts to be limited to no later than 8:00 p.m. {Resolution No. 66-2003, Condition No. 8 provides for 9:30 p.m.}, 3) Relocation of the dumpster should take place immediately, 4) Relocation of the maintenance building should be revised, and 4) Revise the existing 50-foot setback to reflect 70 feet on the north and east property lines {see Resolution No. 66-2003, Condition No. 12}; details were provided on all the above. Responding to a query from yesterday's workshop meeting, Ms. Lesser advised that she could find no other reference to the 70-foot setback requirement for the dance studio beyond the language found in the 1999 resolution relating to Pine Crest. She then concluded her presentation and answered questions from Council regarding the dumpster, the setback for the new maintenance building, and spillage of the lighting from the tennis courts.

Mark Gilbert, Chairman of the Corporate Board for Pine Crest School, gave a PowerPoint presentation, reviewing a conceptual master plan for the school and addressing each of the issues brought forward by Timbercreek. He advised that the school agreed to move the dumpster; it was simply an issue of timing at this point. He also stated that, although the school was willing to build a buffer wall, Timbercreek residents did not want a wall. Mr. Gilbert then explained why the proposed maintenance building would be beneficial not only to the school but to Timbercreek residents as well. At this time, attention focused on the athletic building addition, the athletic training track, and the lighting for the tennis courts. Mr. Gilbert noted that the lights had been reduced from six to four and were now positioned at 90-degree angles to ensure that no light would spill over into the 50-foot setbacks. He confirmed that the school would not lease the tennis courts and further agreed to reduce the length of time the lights could remain on from 9:30 p.m. to 8:30 p.m. Details were provided on all the above. Mr. Gilbert then concluded his presentation and answered questions from Council; focus was given to tennis court lighting and the maintenance building. It was noted that the existing maintenance building had a 220-foot setback from the eastern property line; the new maintenance building would have a 50-foot setback. Jose Murguido, the architect for the project, confirmed the above.

At this time, Mayor Whelchel suggested that the following conditions be included in the resolution: 1) representatives of Pine Crest and the Timbercreek HOA will meet on a quarterly basis, 2) Pine Crest will advise the Timbercreek HOA at least 10 days in advance, in writing, of any CAB review of campus improvements, and 3) there would be no structured seating located east of the soccer field.

Mr. Murguido responded to Council's queries regarding the reasoning behind the proposed setback for the new "acoustically-designed," 6,000 square foot maintenance building. Specifically, all external equipment, including tractors, trailers, forklifts, and vehicles, would be contained in the new building, which would be built of heavy construction and sand-filled walls; the shops would be inside the building as well, thereby cutting down on work noise. He advised that four levels of mitigation were proposed: 1) noisy activities would take place inside the building, 2) enclose the courtyard with walls to help contain the noise, 3) design the building to be compatible with the residential area, and 4) surround the area with dense vegetation. Responding to Council's query as to whether the building could be constructed with a 70-foot setback, Mr. Murguido indicated that there would be insufficient space to contain the vehicles and the maintenance yard. Discussion focused on the setback; Mr. Gilbert answered additional questions from Council.

Pamela Kane, an attorney with Sachs & Sax representing Timbercreek HOA, stated that Timbercreek agreed with the Planning & Zoning Board's resolution and the conditions listed with some modifications. She then outlined a number of concerns: 1) require the same limitation on relocation of the dumpster as exists for the landscaping (within 180 days of pulling the first building permit), 2) reinstate the Pre-K through Grade 8 limitation in the Development Order (She voiced concern over expanding the campus to include a high school), 3) require a limitation on the hours of construction (no construction on Sundays or Federal holidays), 4) limit the use of the redesigned pool and the tennis courts to Pine Crest students only (At this time, it was noted that Ms. Kane's fourth condition was already included in the resolution as Condition 18. However, Ms. Kane did not believe the condition to be restrictive enough.), 5) eliminate lighting for the tennis courts, barring that, limit use of lighting to 8:00 p.m., 6) limit the location of all the amenities to 70-foot setbacks. Ms. Kane gave particular attention to the proposed setback for the 6,000

square foot maintenance building, requesting a 70-foot setback, additional landscaping, and sound buffering. She also asked for a condition in the Development Order to perform all activities inside the maintenance building. At this time, Mayor Whelchel again suggested a wall buffer; Ms. Kane indicated that, given 20 minutes, she might have an answer.

The meeting was recessed at approximately 8:05 p.m. and reconvened at 8:35 p.m.

Jeff Hollander and Robert Pickup voiced support for the resolution; Robert Armstrong and Tom Auer voiced opposition.

Peter Sachs, the attorney for the Timbercreek HOA, advised that consensus was reached on five out of six issues; there was no agreement in regard to the maintenance building, which he described as an intrusive, non-educational building.

Hiroshi Printz, Bryan Sepulveda, Ava Clark, Alexander Waldman, Jeffery Roberts, Marc Bell and Graciela Sepulveda voiced support for the project. Gretchen Sadorf, Matthew Green, Kevin Loughney, Alan Niese, and Vicki Kemish (phonetic) voiced opposition.

Mr. Gilbert rebutted comments made by those who spoke and, again, indicated the school's willingness to work the Timbercreek residents. He noted that, previously, the school had voluntarily given up three acres of land in the form of large setbacks; the setback proposed now for the maintenance building is what is currently required by City Code. Mr. Gilbert also stated that, if Timbercreek residents desired it, the school would install 14-foot walls around the courtyard area of the maintenance building, as they did for the chiller, to cut down on noise even more. He concluded his comments by advising that the school would abide by everything listed in the resolution, noting that the maintenance building was necessary, and thanked everyone for their time. Mr. Gilbert then answered questions from Council.

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 Resolution No. 67-2008.

Motion was made by Council Member Haynie, seconded by Deputy Mayor Baronoff, to amend Resolution No. 67-2008, Condition No. 11, by adding language generally consistent with the following: "No outdoor construction work shall occur on Sundays or Federal legal holidays," and amending Condition 12(a) to strikethrough the existing language and adding language generally consistent with the following as the new Condition No. 12, "Lighting for the tennis courts and swimming pool shall be utilized to illuminate athletic events or for security purposes and no other purpose." 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 Council Member Hager, to amend Resolution No. 67-2008, to add language generally consistent with the following: "The existing dumpster on the northern perimeter of the Pine Crest campus shall be relocated to the location reflected on the approved site plan within 180 days of the issuance of the main use building permit. Upon completion of the installation of the dumpster at the new location, all use of the existing dumpster shall cease and, in all events, all use of the existing dumpster shall cease 180 days after the issuance of the first main use building permit. 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 Arts, seconded by Council Member Haynie, to amend Resolution No. 67-2008, Condition No. 3, to add language generally consistent with the following: "Student enrollment shall be limited to pre-school and kindergarten through 8th Grade." 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 Council Member Arts, to amend Resolution No. 67-2008, Page 5, Condition No. 18, to add the word, "athletic," before the words, "events," and, "programs." 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. 67-2008, Page 3, Condition No. 4, to modify the time listed in the last sentence of the Condition to reflect, "8:00 p.m.," as opposed to, "9:30p.m." Motion carried 4-1; Mayor Whelchel, Council Members Arts, Hager and Haynie voting yes. Deputy Mayor Baronoff voted no.

Motion was made by Council Member Hager, seconded by Council Member Haynie, to amend Resolution No. 67-2008, to add a new Condition No. 24, using language generally consistent with the following: "The Timbercreek Homeowners' Association and Pine Crest School shall meet to review and discuss any issues in question no less frequently than once per quarter. Pine Crest School shall provide facilities for such meetings on campus and representatives of Pine Crest School shall be responsible for, and shall coordinate, each quarterly meeting with the President of the Timbercreek Homeowners' Association. 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 Arts, seconded by Deputy Mayor Baronoff, to amend Resolution No. 67-2008 to add a new Condition, using language generally consistent with the following: "Pine Crest School shall advise Timbercreek Homeowners' Association in writing at least 10 days in advance of any review by the Community Appearance Board of any improvements to be located on the Pine Crest School campus." 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 Deputy Mayor Baronoff, to amend Resolution No. 67-2008 to add a new Condition, using language generally consistent with the following: "Bleachers or any type of seating shall not be located east of the soccer field (multi-purpose field), as reflected on the site plan." Motion carried unanimously on a voice vote; Mayor Whelchel, Deputy Mayor Baronoff, Council Members Arts, Hager and Haynie voting yes.

There followed discussion of proposed amendments in regard to the maintenance building and its setbacks. Ultimately, the suggestions were consolidated into the following proposed condition.

Motion was made by Council Member Haynie, seconded by Council Member Hager, to amend Resolution No. 67-2008 to add a new Condition, using language generally consistent with the following: "The maintenance building shall be relocated so as to be situated 60 feet from all property boundaries, subject to review and approval by staff. In addition, two walls shall be installed to enclose the courtyard and constructed with all appropriate noise reduction panels at a minimum of 14 feet high. Furthermore, no equipment, material, or other items may be stored, disposed of, or otherwise located, whether on a temporary or permanent basis, behind the maintenance building in the setback area or adjacent thereto." Motion carried unanimously on a voice vote; Mayor Whelchel, Deputy Mayor Baronoff, Council Members Arts, Hager and Haynie voting yes.

The vote on the main motion to adopt Resolution No. 67-2008, as amended, carried unanimously; Mayor Whelchel, Deputy Mayor Baronoff, Council Members Arts, Hager and Haynie voting yes.

The meeting was recessed at approximately 10:10 p.m. and reconvened at 10:15 p.m.

5. Resolution No. 65-2008

A resolution of the City of Boca Raton considering a request for Conditional Use Approval for an additional use at the Fifth Avenue Shops, specifically a 2,133 square foot restaurant and incorporating previously approved Conditional Use Approvals (CA-85-28, CA-85-28R1, CA-87-05, and CA-06-05), all on a parcel of land located at 1944 NE 5th Avenue; providing for severability; providing for repealer; providing an effective date (CA-07-14)

The City Attorney reviewed the quasi-judicial procedure that would govern this public 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 Jim Bell gave the PowerPoint presentation. Location, surrounding properties, zoning and acreage information was provided. He advised that the applicant wished to convert a 3,162 square foot retail use and a 2,134 square foot office use to a restaurant use of over 2,000 square feet and a retail use of over 3,000 square feet; the customer service area would be 1,400 square feet. The total square footage of the shopping center would remain the same.

Other proposed revisions, previously approved by the Planning & Zoning Board (P&Z Board), included a new CVS pharmacy, two new drive-through pickup lanes on the south side of the building, conversion of a 1,500 square foot restaurant to a retail bay, and inclusion of over 1,000 square feet of storage area use for electrical and fire rooms. Other changes included adding 21 new parking spaces to the shopping center and adding two new trash compactors; also, new sidewalks and sidewalk connections would be modified/added, and existing curb cut connections would be modified as well; details were provided.

Attention turned to the request for a technical deviation from Chapter 23 for the driveway reservoir distance for the western NE 24th Street driveway. A 50-foot reservoir is required; a 28-foot reservoir would be provided. Mr. Bell reviewed the justification for the technical deviation, which was supplied by the applicant's traffic engineer. The City's Engineer supported same and the P&Z Board approved the technical deviation based on proposed changes to the driveway. Mr. Bell then spoke to a previous technical deviation for parking, as well as proposed parking and trip generations; it was noted that although an increase of 74 trips was anticipated, morning and evening peak hour trips would decrease. Elevations of the site were then outlined.

The P&Z Board reviewed this application and recommended approval of the site plan with the technical deviation, subject to conditions and approval of the conditional use. The P&Z Board also added a new Condition #8 which states: "Any outdoor seating on the site will require an amendment to the conditional use approval prior to commencement." Mr. Bell advised that he understood the applicant would request an amendment to this condition and concluded his presentation by stating that staff recommended approval.

Derek Vander Ploeg, the architect for the project, distributed a handout to Council regarding suggested amendments to Conditions 1 and 8; referring to same, he spoke to the parking in relation to the outdoor seating. He then concluded his presentation and answered questions from Council.

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

Council clarified with Mr. Bell that staff and the City Attorney had reviewed the proposed amendments.

Motion was made by Council Member Hager, seconded by Vice Chairman Baronoff, to adopt Resolution No. 65-2008.

At this time, the City Attorney read the proposed amendments to Condition Nos. 1 and 8 into the record. Council Members Haynie and Hager offered them as amendments to the resolution; there were no objections.

The vote on the main motion to adopt Resolution No. 65-2008, as amended, carried unanimously; Mayor Whelchel, Deputy Mayor Baronoff, Council Members Arts, Hager and Haynie voting yes.

6. Resolution No. 66-2008

A resolution of the City of Boca Raton considering the request of Lennar Homes LLC, for extension to Building Permit Numbers 05-3710, 05-3714, 05-5406 and 05-6505 located in the Lennar Central Park Townhome Project located at 822 N.W. 82nd Lane; providing for severability; providing for repealer; providing an effective date

The City Attorney reviewed the quasi-judicial procedure that would govern this public hearing; the City Clerk administered the oath to those who indicated they wished to speak. There were no ex parte disclosures.

Development Services Building Official Mike Fichera gave the PowerPoint presentation, advising that this was a request for permit extensions for the last four buildings of the Lennar Central Park Townhome Project, which is located within Peninsula Corporate Center. He explained that City Code provides for three time extensions on building permits; the third and final extension may only be approved by City Council. Mr. Fichera gave a brief history of the project and a timeline of the extensions provided to date, stating that, should the request be approved, the expiration dates for three of the permits would be extended to August 22, 2008; the expiration date for Permit Number 05-6505 would be extended to November 4, 2008.

Rick Greene, a Vice President with Lennar Homes in charge of plans, permitting and purchasing, stated that 20 of 29 buildings had been completed; however, due to market conditions, they had difficulty with sales. They reduced the sale price on many of the homes and, in connection with an aggressive marketing campaign, are now trying to complete the remaining buildings; details were provided. Responding to Council, Mr. Greene spoke to Lennar's currently outstanding obligations, which the company was to have completed when it took on the project; specifically, a second lift of asphalt and remediation of the lake. He indicated that an agreement had been reached with affected parties and Lennar was committed to completing these obligations.

Sharon Caputo, President of the Central Park Association, advised that the issues had been addressed and an agreement was reached. Work is to commence on or about 120 days hence.

Jim Knight, a real estate broker with the Knight Group, indicated that a number of annual reports have not been submitted; in addition, an unresolved issue appears to be a determination as to who is actually the master developer of the project. He indicated his desire that the project succeed and asked that a condition be added wherein Lennar must finish the annual reports and complete the traffic studies that they might be submitted to the City, the Treasure Coast Regional Planning Council, and the Department of Community Affairs. He then answered questions from Council.

Bill Knight voiced agreement with comments made by Jim Knight.

Craig Ehrnst, President of Peninsula Corporate Center Association, advised that the Association and Lennar reached tentative agreement in principle and are working to resolve outstanding issues; the agreement is nearly complete and should be signed shortly.

Gerald Knight, an attorney representing Lennar, stated that the objections raised tonight did not relate to this request for extension of permits. He advised that Lennar had not received assignment of the developer's rights under the Development Order (DRI) or assignment of the declarance rights under the Declaration, which would provide Lennar with the right or obligation to resolve some of the issues brought forward. Therefore, Mr. Knight objected to making the amendments, as suggested by Jim Knight, part of the approval. He concluded his comments by stating that his client was willing to meet with Mr. Knight and the Association to address these issues.

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

Motion was made by Council Member Arts, seconded by Council Member Hager, to adopt Resolution No. 66-2008.

Responding to Council, the City Attorney explained that the amendments requested by Jim Knight were DRI (Development of Regional Impact) conditions. Staff was now aware of these issues and would monitor same to ensure compliance with those conditions. Ms. Frieser then indicated agreement with Gerald Knight that the issue regarding the master developer was not relevant to the extension request before Council; the request for extension of the building permits was a separate issue. Details were provided.

The motion to adopt Resolution No. 66-2008 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 Arts, seconded by Council Member Haynie, 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.

REGULAR BUSINESS – PART III – REGULAR PUBLIC HEARINGS:

7. Ordinance No. 5035

An ordinance of the City of Boca Raton amending Sections 16-31 and 16-33 of the Boca Raton Code of Ordinances to provide for parking enforcement in City, County and State parking facilities located within the City of Boca Raton; providing for severability; providing for repealer; providing for codification; providing an effective date

Chief Building Code Administrator Mike Berkman gave the PowerPoint presentation. He explained that approval of the ordinance would amend Section 16-31 to prohibit stopping, standing, or parking in any State, County, or City-operated parking facility in violation of any lawfully posted restriction. Section 16-33 relates to towing of unauthorized vehicles from private property. This Code Section would be modified to eliminate the word, "private," to clarify that when the City is acting in accordance with an agreement between the City and any public or private property owner, it is exempt from the provisions therein. However, he noted that State law would still apply to any such agreement. Details were provided on all the above.

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

Motion was made by Council Member Arts, seconded by Council Member Hager, to adopt Ordinance No. 5035. Motion carried unanimously; Mayor Whelchel, Deputy Mayor Baronoff, Council Members Arts, Hager, and Haynie voting yes.

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

8. Resolution No. 70-2008

A resolution of the City of Boca Raton authorizing the settlement of a claim for Louise Crutchley (GL05-OO16-MS) for \$85,000; providing for severability; providing for repealer; providing an effective date

Motion was made by Council Member Hager, seconded by Deputy Mayor Baronoff, to adopt Resolution No. 70-2008. Motion carried unanimously; Mayor Whelchel, Deputy Mayor Baronoff, Council Members Arts, Hager and Haynie voting yes.

REGULAR BUSINESS – PART V - INTRODUCTION OF ORDINANCES:

9. Ordinance No. 5036

An ordinance of the City of Boca Raton amending Sections 21-2, Definitions and 21-57, Specific Construction and Improvements Standards, Code of Ordinances; providing for severability; providing for repealer; providing for codification; providing an effective date (AM-08-01)

The ordinance was introduced by Council Member Haynie.

10. Ordinance No. 5037

An ordinance of the City of Boca Raton providing for the vacation and abandonment of a portion of unimproved right-of-way for N.W. 6th Avenue adjacent to 7598 N.W. 6th Avenue, as more specifically described herein; approving and accepting a utility easement deed, an access easement deed and right-of-way warranty deeds from USF Propoco I, LLC, over certain lands located at 7598 N.W. 6th Avenue; approving appropriate real property instruments to establish a bicycle and pedestrian path; providing conditions for vacation and abandonment; providing for severability; providing for repealer; providing an effective date (AB-07-02)

The ordinance was introduced by Council Member Hager.

11. Ordinance No. 5038

An ordinance of the City of Boca Raton amending the Fiscal Year 2007-2008 budget through the second quarterly budget amendment; providing for severability; providing for repealer; providing an effective date

The ordinance was introduced by Deputy Mayor Baronoff.

12. Ordinance No. 5039

An ordinance of the City of Boca Raton amending Chapter 23 of the City Code of Ordinances; creating Division 2 (Housing) of Article IV, Chapter 23, Code of Ordinances, pursuant to Chapter 420, Florida Statutes, pertaining to the State Housing Initiatives Partnership (SHIP) Program; providing for severability; providing for repealer; providing for codification; providing an effective date

The ordinance was introduced by Council Member Arts.

12.a. Ordinance No. 5040

An ordinance of the City of Boca Raton amending Chapter 28, Code of Ordinances, providing a definition for "Places of Worship" and "Places of Public Assembly"; amending the list of permitted and conditional uses in most zoning districts to establish a consistent treatment of Places of Worship and Places of Public Assembly; limiting Places of Worship in residential districts to sites with direct vehicular access to an arterial or collector road; replacing references to "Church" and "Places of Worship of God"; providing for Places of Worship as a permitted use in the R-3-A and R-3-C zoning districts; deleting the definition of "Private Clubs, Lodges, Fraternities and Similar Private Uses" and including said category, as well as "Theaters and Auditorium", in the definition of Places of Public Assembly; modifying the parking requirements for Places of Public Assembly and deleting parking requirements for uses included within said category; deleting the category of "Institutions of an Educational, Philanthropic or Religious Character"; deleting "Private Clubs and Community Service Organizations" from the PUD Commercial Node and "Private Clubs" and related uses from the M-3 District and the LIRP Commercial Node; deleting "Movie Theaters" in the LIRP District; deleting "Drive-In Theaters" in the M-1 District; providing a non-conforming use

provision; and making such amendments and revisions, as appropriate, to establish a consistent treatment for Places of Public Assembly and Places of Worship; providing for severability; providing for repealer; providing for codification; providing an effective date

The ordinance was introduced by Mayor Whelchel.

REGULAR BUSINESS - PART VI - PUBLIC REQUESTS:

Anthony Majhess referred to the ordinance introduced this evening regarding places of worship and places of public assembly, stating that he was not here to speak to that ordinance. Instead, he wished to speak in regard to a project scheduled to come before the Planning & Zoning Board for consideration, related to a house of worship proposed for construction in a residential area, specifically, Boca Villas.

At this time, the City Attorney advised that, as a standing policy, she would direct Council not to comment on any discussion regarding what could potentially be a quasi-judicial matter, pending or anticipated.

Mr. Majhess then provided commentary on the project previously mentioned, voicing opposition to same, as did Mike Majhess, Darold Hurlbert, Gerald Christensen, Bjorn Anderson, Patty Dervishi, and Patrick Bliss.

REGULAR BUSINESS - PART VII- RESOLUTIONS AND OTHER BUSINESS:

There were no items for consideration.

QUASI-JUDICIAL PUBLIC HEARING – APPEAL OF BOARD DECISION:

13. Resolution No. 55-2008

A resolution of the City of Boca Raton considering an appeal of the decision of the Planning and Zoning Board (Resolution No. 08-05) denying a site plan amendment with conditions and a technical deviation to the previously approved site plan (Resolution No. 06-11) for Boca Colonnade Phase II located at 777 Yamato Road and 750 Park of Commerce Boulevard; providing for severability; providing for repealer; providing an effective date (SPA-05-26R1)

The City Attorney reviewed the quasi-judicial procedure that would govern this public 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 Jim Bell gave an abbreviated PowerPoint presentation, advising that the Planning & Zoning (P&Z) Board voted 3-2 to deny the request of the applicant to modify the site plan approval with the technical deviation to delay construction of a northbound right-turn lane on Congress Avenue to Phase III, instead of constructing same during Phase II. The applicant submitted justification for the request; the City's Engineer agreed with the justification, based on the Transportation Demand Management Program. Mr. Bell then explained the reasoning behind the P&Z Board's denial; details were provided. At this time, Mr. Bell gave closing comments and indicated that staff recommended approval of the applicant's request and repeal of the P&Z Board's decision.

Andy Petry, employed by Liberty Property Trust and speaking on behalf of the developer, explained that construction of the turn lane would require premature removal of mature trees; in addition, based on the traffic studies, the turn lane was really not necessary until commencement of Phase III. Details were provided.

Juan Caycedo, the architect for the project, added that, should Council wish to take this into consideration, the traffic study from the County did not require that a turn lane be constructed.

Motion was made by Council Member Arts, seconded by Council Member Haynie, to adopt Resolution No. 55-2008, to grant the appeal and reverse the decision of the Planning & Zoning Board, subject to the conditions as proposed by staff. Motion carried unanimously; Mayor Whelchel, Deputy Mayor Baronoff, Council Members Arts, Hager 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:

Council Member Haynie referred to the Eden Condominium site plan modifications, which would be considered at an upcoming Planning & Zoning (P&Z) Board meeting, and asked what the appeal process would be at the conclusion of the P&Z Board's public hearing. The City Attorney referred to the City Code and advised that, pursuant to Code Section 28-56, if an applicant or the Development Services Director was aggrieved by a decision of the Board, they could bring an appeal before the City Council.

ADJOURNMENT:

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

The regular meeting of the City Council of the City of Boca Raton adjourned at approximately 11:47 p.m. on Wednesday, May 28, 2008.

Susan Whelchel, Mayor

ATTEST:

Sharma Hagerty, City Clerk