

MINUTES OF THE REGULAR MEETING
CITY COUNCIL
CITY OF BOCA RATON, FLORIDA
TUESDAY, JANUARY 13, 2009
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 Mullaugh gave the invocation.

PLEDGE OF ALLEGIANCE TO THE FLAG:

ROLL CALL:

Mayor Susan Whelchel
Council Member M. J. Mike Arts
Council Member Bill Hager
Council Member Susan Haynie
Council Member Mullaugh

AMENDMENTS TO THE AGENDA:

The agenda was amended to add a plaque presentation from the Boca Raton Symphonia to the City of Boca Raton. There were no objections.

MINUTES:

Minutes of the Regular Workshop Meeting of December 8, 2008
Minutes of the Regular Meeting of December 9, 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, Council Members Arts, Hager, Haynie and Mullaugh voting yes.

PROCLAMATIONS/RECOGNITIONS/AWARDS:

Proclamation: Douglas Heizer Day – January 13, 2009

Mayor Whelchel and Steve Laine, representing the Boca Raton Sunset Rotary Club, gave the proclamation to Douglas Heizer in recognition of his service to the community.

REGULAR BUSINESS - PART I:

1. Appointments to the following boards:

- a. Boca Raton Advisory Board for People with Disabilities – one (1) vacancy.

Motion was made by Council Member Haynie, seconded by Council Member Hager, to appoint Marianna O'Brien to the Boca Raton Advisory Board for People with Disabilities. Motion carried unanimously on a voice vote; Mayor Whelchel, Council Members Arts, Hager, Haynie and Mullaugh voting yes.

Ms. O'Brien was appointed to the Board.

- b. Citizens' Pedestrian and Bikeway Advisory Board – two (2) vacancies.

Motion was made by Council Member Arts, seconded by Council Member Hager, to reappoint Antonio Quesada to the Citizens' Pedestrian and Bikeway Advisory Board. Motion carried unanimously on a voice vote; Mayor Whelchel, Council Members Arts, Hager, Haynie and Mullaugh voting yes.

Mr. Quesada was reappointed to the Board.

- c. Code Enforcement Board – one (1) vacancy.

There were no applicants.

- d. Community Relations Board – one (1) vacancy.

Dawn Alexander interviewed for the position.

Motion was made by Council Member Haynie, seconded by Council Member Hager, to appoint Dawn Alexander to the Community Relations Board. Motion carried unanimously on a voice vote; Mayor Whelchel, Council Members Arts, Hager, Haynie and Mullaugh voting yes.

Ms. Alexander was appointed to the Board.

- e. Historic Preservation Board – one (1) vacancy (Historical Society designee).

Motion was made by Council Member Hager, seconded by Council Member Haynie, to appoint Bonnie Dearborn, the Historical Society's designee, to the Historic Preservation Board. Motion carried unanimously on a voice vote; Mayor Whelchel, Council Members Arts, Hager, Haynie and Mullaugh voting yes.

Ms. Dearborn was appointed to the Board.

- f. Pearl City Blue Ribbon Committee – one (1) vacancy.

There were no applicants.

PROCLAMATIONS/RECOGNITIONS/AWARDS: (cont'd)

Boca Raton Symphonia

Dr. Robert Green presented Mayor Whelchel with a plaque on behalf of the Boca Raton Symphonia in recognition of the City's contribution to this local, non-profit organization. The Mayor and Council were also recipients of programs from the Symphonia's December 7, 2008 concert, CDs of performances at the Symphonia, and copies of reviews.

2. Responses to Workshop Information Requests:

(Consent Agenda Item No. 3.b.2. – Laptop Computers / Replacement) A memo was provided. The City Manager explained that the lowest price the City could find on the Internet was \$4,370 for each computer. He compared this to the \$3,879 price tag the City received by piggybacking on a contract out of Fairfax County, Virginia. Mr. Ahnell then gave a breakdown of costs for added improvements to the computers, which included but was not limited to 1 GB memory upgrade, docking station for mounting the computer in a vehicle, power adapter, and 3-year protection plan.

The City Manager also reported that Resolution No. 6-2009 (Consent Agenda Item No. 3.f.) had been revised to reflect suggestions made at yesterday's workshop meeting and then reviewed the changes.

3. Consent Agenda:

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

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

a. Sealed Bid

- | | | |
|----|--|----------|
| 1) | Body Work Repairs
Requested by Police Services
Brinks Auto Body Painting | \$90,000 |
|----|--|----------|

b. Intergovernmental Agreements

- | | | |
|----|---|-----------|
| 1) | Microsoft Office Software Licenses
Requested by City Manager
Software House International | \$126,833 |
| 2) | Laptop Computers - Replacement
Requested by City Manager
GTSI | \$101,484 |

c. Resolution No. 1-2009

A resolution of the City of Boca Raton announcing the regular election to be held in and for the City of Boca Raton on the 10th day of March 2009; providing for publication; providing for severability; providing for repealer; providing an effective date

d. Resolution No. 4-2009

A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute a Memorandum of Understanding with the Florida Department of Highway Safety and Motor Vehicles in order to maintain online access to the Driver and Vehicle Information Database (DAVID), providing for severability; providing for repealer; providing an effective date

e. Resolution No. 5-2009

A resolution of the City of Boca Raton authorizing the City Manager to execute Work Order No. 11 with Mathews Consulting, Inc. for the purpose of providing professional engineering services for the Reclaimed Watermain Extension Project; providing for severability; providing for repealer; providing an effective date

f. Resolution No. 6-2009 (Revised 1/13/09)

A resolution of the City of Boca Raton approving the City's Year 2009 State Legislative and Funding Priorities; providing for severability; providing for repealer; providing an effective date

- g. Resolution No. 7-2009
A resolution of the City of Boca Raton approving the City's Year 2009 Federal Legislative and Funding Priorities; providing for severability; providing for repealer; providing an effective date
- h. Resolution No. 8-2009
A resolution of the City of Boca Raton authorizing the City Manager to execute an Agreement with Boca Raton Champions Golf Charities, Inc. d/b/a Allianz Championship for the purpose of providing a PGA Champions Tour Golf Tournament in Boca Raton; providing for severability; providing for repealer; providing an effective date
- i. Resolution No. 9-2009
A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute an Interlocal Agreement with Palm Beach County for the purpose of reimbursable funding for improvements to the Boca Raton Inlet during FY 2008/09; providing for severability; providing for repealer; providing an effective date
- j. Resolution No. 10-2009
A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute the Second Amendment to Agreement 05PB3 with the Florida Department of Environmental Protection for the purpose of reimbursable funding for the design and permitting, construction and monitoring of the South Boca Raton Beach Nourishment Project; providing for severability; providing for repealer; providing an effective date
- k. Resolution No. 11-2009
A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute the Fourth Amendment to Agreement 03PB1, with the Florida Department of Environmental Protection, for the purpose of reimbursable funding related to the North Boca Raton Beach Nourishment Project; providing for severability; providing for repealer; providing an effective date
- l. Receive and File Board Orders
 - 1) SM(G) Case No. 08-2640
 - 2) SM(G) Case No. 08-2641
 - 3) SM(G) Case No. 08-2824
 - 4) SM(G) Case No. 08-00002898
 - 5) SM(G) Case No. 08-00003399
 - 6) SM(C) Case No. 08-00003856
 - 7) SM(C) Case No. 08-00004032
 - 8) SM(G) Case No. 08-00004081
- m. Receive and File Board Minutes – January 13, 2009
 - 1) Affordable Housing Advisory Committee
October 22, 2008
October 29, 2008

- 2) Citizen's Pedestrian and Bikeway Advisory Board
March 10, 2008
April 14, 2008
September 8, 2008
November 10, 2008
- 3) Community Appearance Board
October 28, 2008
November 18, 2008
November 25, 2008
December 2, 2008
- 4) Downtown Boca Raton Advisory Committee
November 5, 2008
- 5) Education Advisory Board
October 27, 2008
- 6) Financial Advisory Board
September 8, 2008
- 7) General Employees' Pension Board
October 15, 2008
- 8) Library Advisory Board
October 15, 2008
November 19, 2008
- 9) Marine Advisory Board
November 5, 2008
- 10) North Federal Highway Steering Committee
October 7, 2008
- 11) Parks and Recreation Board
September 9, 2008
November 18, 2008 (Public Meeting)
- 12) Pearl City Blue Ribbon Committee
July 24, 2008
- 13) People With Disabilities
November 6, 2008
- 14) Planning and Zoning Board
September 18, 2008
- 15) Police and Firefighters' Pension Board
October 23, 2008
November 7, 2008 (Disability Review Committee with Gen. Emp. Pension Bd.)
- 16) Special Master
September 10, 2008
October 22, 2008
November 12, 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. 2-2009 (Revised 1/13/09)

A resolution of the City of Boca Raton considering conditional use approval to allow finger piers and dolphins in the R-5 zoning district pursuant to Chapter 22, Article III, docks and other mooring facilities, Code of Ordinances, on a parcel of land located at 725 South Ocean Boulevard; providing for severability; providing for repealer; providing an effective date (CA-08-08)

The City Attorney reviewed the quasi-judicial procedure to be followed; the City Clerk administered the oath to those who indicated they wished to speak. Under ex parte disclosures, Council Members Haynie and Hager advised that they were in contact with the petitioner's legal counsel, Wendy Larsen. Mayor Whelchel advised that she also spoke with Ms. Larsen as well as Jamie Telchin, President of Development of Luxury Resorts with the Boca Raton Resort and Club (BRRRC). Council Member Arts indicated that he spoke with everyone.

Mayor Whelchel also disclosed that, on various occasions, her nephew has worked with the BRRRC and asked the City Attorney whether she needed to recuse herself from the vote. Citing the Attorney General's Opinion, Ms. Frieser advised that there was not a conflict and under Florida Rules, the obligation to vote remained.

Development Services Principal Planner Jennifer Hofmeister gave the PowerPoint presentation. She advised that this petition would provide for construction of nine finger piers and dolphins in the R-5 zoning district to be accessible to the residents of the Boca Beach Club Lake Parcel condominium and the members and guests of the Boca Raton Resort & Club. Ms. Hofmeister then explained that the Boca Beach Club is comprised of two separate parcels, Parcel A and Parcel B; Parcel B, the subject of this petition, is referred to as the Lake Parcel. Location, acreage, zoning and future land use map designation was provided, as was information on site plan approval for the proposed 36-unit Lake Parcel Condominium, which was approved by the Planning and Zoning Board last month, and Conditional Use Approval for the finger piers and docks.

Ms. Hofmeister then referred to the revised resolution provided to Council yesterday and outlined changes to Condition Nos. 3, 4, and 5. Generally, Condition No. 3 related to a statement from the design engineer, or other appropriate professional, that the proposed facilities and boat traffic were compatible with the inlet, the bridge, and currents. In addition, certification is to be provided to the City Engineer, as required by the US Army Corps of Engineers, that the docks have been built in accordance to the building permit. Condition No. 4 provides that boats using the docks and mooring facilities are restricted to no more than 45 feet in length, excluding the dive platform and bow pulpit and rail. Condition No. 5 restricts the use of the docks and mooring facilities to residents of the future residential condominium and members and guests of the BRRRC. Ms. Hofmeister advised that the Planning and Zoning Board approved the site plan and recommended approval of the conditional use, with the conditions listed in the resolution, as did staff. She then answered questions from Council regarding jurisdiction over submerged lands, a submerged land lease, and whether the finger piers would obstruct the public fishing easement.

Wendy Larsen, the attorney representing the BRRRC, explained that permits from the Army Corps of Engineers and the DEP (Department of Environmental Protection) had been obtained. She then gave a PowerPoint presentation and answered questions related to a submerged land lease, saying that it was not yet executed but had been negotiated. Ms. Larsen provided details on the submerged land lease, the fishing easement, and an environmentally-sensitive area. She noted that the setback was increased substantially from the docks, due to this environmental area, and provided additional information to Council as requested.

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

Motion was made by Council Member Haynie, seconded by Council Member Arts, to adopt Resolution No. 2-2009, as revised. Motion carried unanimously; Mayor Whelchel, Council Members Arts, Hager, Haynie and Mullaugh voting yes.

REGULAR BUSINESS – PART III – REGULAR PUBLIC HEARINGS:

5. Ordinance No. 5076

An ordinance of the City of Boca Raton amending Section 17-161, Code of Ordinances, authorizing the City Manager to set payment terms on impact fees due upon connection to the water and sewer system for existing building(s) and structure(s); providing for severability; providing for repealer; providing for codification; providing an effective date

Utility Services Director Chris Helfrich gave the presentation, explaining that this amendment was part of an ongoing strategy to install central sewers throughout the City. He stated that, in 2000, staff developed an inventory of all properties and existing structures still on septic tanks. Council authorized staff to begin implementation of sewer installation in those areas and take the septic tank systems offline. As part of the installation, Council also developed terms and conditions for repayment of the construction costs and the impact fee; the impact fee is paid by all residents that hook up to the central sewer system. Payment terms would be determined by the City Manager, customers would be notified, and payments would be made over a certain period of time, perhaps 15 years.

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

Motion was made by Council Member Haynie, seconded by Council Member Hager, to adopt Ordinance No. 5076. Motion carried unanimously; Mayor Whelchel, Council Members Arts, Hager, Haynie and Mullaugh voting yes.

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

There were no items for consideration.

REGULAR BUSINESS – PART V - INTRODUCTION OF ORDINANCES:

6. Ordinance No. 5078

An ordinance of the City of Boca Raton considering the vacation and abandonment of a portion of a public utility easement, located at 855 N.W. 6th Avenue, as more specifically described herein; providing for severability; providing for repealer; providing an effective date (EA-06-06)

The ordinance was introduced by Council Member Haynie.

7. Ordinance No. 5079

An ordinance of the City of Boca Raton providing for the vacation and abandonment of a water and sewer easement, located at the Boca West Convenience Center, as more specifically described herein; providing conditions for vacation and abandonment; providing for severability; providing for repealer; providing an effective date (EA-08-09)

The ordinance was introduced by Council Member Mullaugh.

8. Ordinance No. 5080

An ordinance of the City of Boca Raton amending the Fiscal Year 2008-2009 budget through the First Quarterly Budget Amendment; providing for severability; providing for repealer; providing an effective date

The ordinance was introduced by Council Member Arts.

9. Ordinance No. 5081

An ordinance of the City of Boca Raton repealing Chapter 18, Code of Ordinances, relating to Vehicles for Hire; amending Chapter 8, Code of Ordinances, adding special business regulations for Vehicle for Hire companies; amending Chapter 16, Code of Ordinances, adding traffic regulations for Vehicle for Hire pickup and discharge of passengers; providing for severability; providing for repealer; providing for codification; providing an effective date

The ordinance was introduced by Council Member Hager.

REGULAR BUSINESS - PART VI - PUBLIC REQUESTS:

Donovan Holmes, 1610 NW 8th Street, advised that for the last two years, parents have been picking up children from Boca Raton Middle School, which is near his home, and blocking both sides of the streets at NW 15th Avenue and NW 8th Street. He noted that at any given time, approximately 40 cars could be parked along the streets, in the swales, and in front of stop signs and fire hydrants, making it difficult for families living on these streets to access their homes. In addition, drivers have come close to hitting children as they dart out into the streets to reach their parents. Mr. Holmes suggested that signage be installed, "No parking, stopping, or standing." He also stated that he had spoken with various entities, including the City and the School District, and he understood this to be an issue for the police. Mr. Holmes then answered questions from the City Manager. In conclusion, Mayor Whelchel provided Mr. Holmes with School Board Representative Frank Barbieri's name and phone number, advising him to call and report the problem. She also indicated that the City Manager would follow up as well.

REGULAR BUSINESS - PART VII- RESOLUTIONS AND OTHER BUSINESS:

There were no items for consideration.

CITY MANAGER RECOMMENDATIONS AND REPORTS:

10. Confirmation of Palm Beach County League of Cities Delegates.

Mr. Ahnell referred to the City's delegates to the Palm Beach County League of Cities and advised that since former Deputy Mayor Peter Baronoff was the principle alternate, a new principle alternate would need to be named. Council Member Hager would remain as the City's delegate and the City Manager, Mayor Whelchel, and Council Members Arts and Haynie would continue as secondary alternates.

Motion was made by Council Member Arts, seconded by Mayor Whelchel, to appoint Council Member Mullaugh as the principle alternate. Motion carried unanimously on a voice vote; Mayor Whelchel, Council Members Arts, Hager, Haynie and Mullaugh voting yes.

Use of the City Seal

Mr. Ahnell referred to the Florida Institute for the Commercialization of University Technology (a State- and City-sponsored program) and the Enterprise Development Corporation (housed at Florida Atlantic University and a partner with the City), explaining that they had asked to use the City's Seal in their marketing and promotional materials. Mr. Ahnell indicated that the goal was to promote science and technology in the Florida educational system and then make contacts in the private sector to bring products to market; initial meetings would be held in Boca Raton.

Motion was made by Council Member Arts, seconded by Council Member Hager, to allow the use of the City Seal in marketing materials provided by the Florida Institute for the Commercialization of University Technology and the Enterprise Development Corporation. Motion carried unanimously on a voice vote; Mayor Whelchel, Council Members Arts, Hager, Haynie and Mullaugh voting yes.

Economic Stimulus Projects

The City Manager referred to a draft letter and a list of economic stimulus projects, distributed to Council this evening, and advised that he was seeking authorization to have the Mayor sign same; staff could then submit the documents to the City's State and Federal legislative representatives. He explained that the City projects were listed in four categories: 1) Community Sustainability, 2) Water/Sewer Infrastructure, 3) Other Infrastructure (such as roads and bridges), and 4) Public Safety, at a cost of approximately \$617 million. In addition, the City was seeking another \$500 million on behalf of Boca Raton Community Hospital in order to move forward with the proposed teaching and research hospital.

Motion was made by Council Member Arts, seconded by Council Member Hager, to approve the City Manager's request to forward a letter, signed by the Mayor, and a list of economic stimulus projects to the City's State and Federal legislative representatives. Motion carried unanimously on a voice vote; Mayor Whelchel, Council Members Arts, Hager, Haynie and Mullaugh voting yes.

CITY ATTORNEY REPORTS:

The City Attorney requested authorization from Council to schedule an Executive Session in the pending litigation of the case entitled, "SFCS vs. City of Boca Raton, Harvard Jolly and City of Boca Raton vs. Traveler's Insurance and Surety," (Case No. 50 2006CA002837 XXXXMBAO).

Motion was made by Council Member Hager, seconded by Council Member Haynie, to schedule an Executive Session in the aforementioned case. Motion carried unanimously on a voice vote; Mayor Whelchel, Council Members Arts, Hager, Haynie and Mullaugh voting yes.

MAYOR AND COUNCIL MEMBER REPORTS:

Council Member Haynie reported that the President of the Palm Beach Farms HOA contacted her in regard to construction of a cell tower at an FPL substation, located in Palm Beach Farms, and indicated that there were no public hearings over same; she asked the City Manager to follow up.

Ms. Haynie then asked that the City Manager explain the procedure followed by the City of Boca Raton as it relates to bond underwriting. Mr. Ahnell explained that there are essentially two types of bond issuances in terms of how bonds are sold – a bid process or a negotiated bond. The City engages in the bid process, which is open to everyone and seeks the lowest rates. When negotiating a bond, one is seeking a firm to sell the bonds, not a rate. The City Manager advised that, to his knowledge, only once has Boca Raton engaged in a negotiated bond and that was the initial Mizner Park bonds. Details were provided on all the above. Mr. Ahnell noted that out of approximately 50 to 75 bond issues, there was only the one negotiated bond; the bid process was used for all others.

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, Council Members Arts, Hager, Haynie and Mullaugh voting yes.

The regular meeting of the City Council of the City of Boca Raton adjourned at approximately 7:11 p.m. on Tuesday, January 13, 2009.

Susan Whelchel, Mayor

ATTEST:

Sharma Hagerty, City Clerk