

MINUTES OF THE REGULAR MEETING
CITY COUNCIL
CITY OF BOCA RATON, FLORIDA
TUESDAY, JANUARY 27, 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 Arts gave the invocation.

PLEDGE OF ALLEGIANCE TO THE FLAG:

ROLL CALL:

Mayor Susan Whelchel
Council Member M. J. Mike Arts
Council Member Bill Hager (arrived at approximately 6:05 p.m.)
Council Member Susan Haynie
Council Member Mullaugh

AMENDMENTS TO THE AGENDA:

Motion was made by Council Member Haynie, seconded by Council Member Mullaugh, to delete Regular Agenda Item No. 9 (Ordinance No. 5081) from the agenda. Motion carried unanimously on a voice vote; Mayor Whelchel, Council Members Arts, Hager, Haynie and Mullaugh voting yes.

MINUTES:

Minutes of the Regular Workshop Meeting of January 12, 2009
Minutes of the Regular Meeting of January 13, 2009

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

PROCLAMATIONS/RECOGNITIONS/AWARDS:

There were no proclamations, recognitions, or awards.

REGULAR BUSINESS - PART I:

1. Appointments to the following boards:
 - a. Builders' Board of Adjustment & Appeals – four (4) vacancies; one electrical contractor, one mechanical contractor, and two at-large members.

Motion was made by Council Member Hager, seconded by Council Member Haynie, to reappoint George Horton (electrical contractor), Pedro Riera (mechanical contractor), Roy Christie (at-large) and Angelo Gasparri (at-large) to the Builders' Board of Adjustment & Appeals. Motion carried unanimously on a voice vote; Mayor Whelchel, Council Members Arts, Hager, Haynie and Mullaugh voting yes.

Mr. Horton, Mr. Riera, Mr. Christie, and Mr. Gasparri were reappointed to the Board.

2. Responses to Workshop Information Requests:

The City Manager advised that answers to yesterday's workshop meeting, pertaining to tonight's agenda, would be provided in the presentations; otherwise, staff would follow up on same in memo form.

3. Consent Agenda:

Mayor Whelchel provided an opportunity for any member of the public to comment on the Consent Agenda.

Rick Versace, the owner of Arrow Security Guard Services, referred to Item No. 3.a.3. and, citing various reasons, indicated his objection to the awarding of the bid to Responsible Security, Inc..

The City Manager confirmed with Mr. Versace that no appeals were filed in regard to this matter.

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

a. Sealed Bids

- | | | |
|----|---|-------------|
| 1) | Advance Traffic Management System Implementation:
Network Expansion
Requested by Municipal Services
Precision Contracting Services, Inc. | \$698,910 |
| 2) | Reclaimed Water Storage and Pumping Facility
Requested by Utility Services
Florida Design Contractors, Inc. | \$4,306,409 |
| 3) | Security Guard Services
Requested by Police Services / Utility Services
Responsible Security, Inc. | \$220,922 |

b. Intergovernmental Agreement

- | | | |
|----|--|----------|
| 1) | Fire Hydrants
Requested by Utility Services
Ferguson Enterprises, Inc. | \$70,000 |
|----|--|----------|

c. Resolution No. 12-2009

A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute a revocable license agreement with Nicholas DiLorenzo and Carmela DiLorenzo for a dock placed in the City owned El Rio Canal adjacent to 490 N.W. 14th Street; providing for severability; providing for repealer; providing an effective date

d. Resolution No. 14-2009

A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute a revocable license agreement with the Spanish River Villas Association, Inc. for the purpose of placing a monument sign and decorative landscaping in City right-of-way adjacent to Spanish River Villas (A.K.A. Estoville, Tract B); providing for severability; providing for repealer; providing an effective date

e. Resolution No. 15-2009

A resolution of the City of Boca Raton adopting the identity theft prevention program; providing for severability; providing for repealer; providing an effective date

f. Resolution No. 16-2009

A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute an agreement with the State of Florida, Division of Emergency Management for the purpose of receiving Federal Emergency Management Agency and State funds for Tropical Storm Fay preparation and recovery; providing for severability; providing for repealer; providing an effective date

g. Receive and File Board Minutes – January 26, 2009

- 1) Community Appearance Board
December 9, 2008
December 16, 2008
- 2) Elder Affairs Advisory Board
April 2, 2008
December 3, 2008
- 3) Environmental Advisory Board
March 15, 2007
- 4) General Employees' Pension Board
November 19, 2008
- 5) Marine Advisory Board
December 3, 2008
- 6) Parks and Recreation Board
November 5, 2008
December 2, 2008
- 7) Planning and Zoning Board
October 23, 2008
November 6, 2008
November 20, 2008
December 4, 2008
December 15, 2008 (Special)
- 8) Police and Firefighters' Pension Board
November 20, 2008

REGULAR BUSINESS – PART II-A – QUASI-JUDICIAL 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 Haynie, seconded by Council Member Hager, to approve the Quasi-Judicial Consent Agenda. Motion carried unanimously; Mayor Whelchel, Council Members Arts, Hager, Haynie and Mullaugh voting yes.

4. Resolution No. 13-2009

A resolution of the City of Boca Raton granting tentative plat approval to the proposed Biordi subdivision plat, subject to conditions; providing for severability; providing for repealer; providing an effective date (SUB-08-01)

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

5. Resolution No. 3-2009

A resolution of the City of Boca Raton considering a conditional use approval for a wholesale laundry facility on a parcel of land located at 1081 Holland Drive in the South Congress Office-Industrial Park contiguous to Clint Moore Road; providing for severability; providing for repealer; providing an effective date (CA-08-09)

The City Attorney reviewed the quasi-judicial procedure that would govern the hearing; the City Clerk administered the oath to those who indicated they wished to speak. Under ex parte disclosures, Council Members Arts and Mullaugh advised that they had spoken with Wendy Larsen; Council Member Hager indicated that he received an email from Ms. Larsen.

Development Services Senior Planner Susan Lesser gave a PowerPoint presentation. Acreage, location, zoning, and future land use map designation was provided; it was noted that the property is subject to the South Congress Industrial Center Master Plan Development Order. Ms. Lesser explained that the applicant wished to convert 58,806 square feet of existing warehouse space and 16,521 square feet of office space to a 75,327 square foot wholesale laundry facility. No modifications were proposed to the existing building footprint. However, the applicant planned to make improvements to the site to bring it into compliance with City Code. Information was then provided related to consistency with City Code, access, trip generations (there would be a reduction), and parking.

Ms. Lesser advised that the Planning and Zoning Board reviewed this petition and unanimously recommended approval of same. Staff also recommended approval with the following conditions, as found in the resolution: 1) existing handicapped parking spaces shall be brought up to current Code requirements, 2) two additional handicapped parking spaces shall be provided for a total of four on site, 3) a five-foot wide concrete accessible sidewalk shall be provided from the street frontage to the building entrance to be in conformance with the Americans with Disabilities Act, 4) a bike rack shall be provided, and 5) prior to the issuance of the Certificate of Completion, water and sewer upgrades required by the Fire Department shall be reviewed and approved by City staff responsible for Public Works Review.

Wendy Larsen, the attorney for the petitioner, Crown Linen LLC, advised she was authorized to state that her client could not comply with any of the conditions put forward by City staff, especially Condition 7, which related to water and sewer upgrades; due to the economy, it was not financially feasible for her client to do so.

There followed queries directed to the City Attorney regarding Council's options at this point as to the petition before them tonight. It was noted that the applicant had not chosen to withdraw the application. Ms. Frieser advised that Council could grant the petition, grant the petition with conditions, or deny the petition; details were provided.

At the request of Council, Fire Chief Tom Wood provided testimony as to Condition 7 of the ordinance related to the water and sewer upgrades. Chief Wood explained that the issue is the fire sprinkler system and the fire pump that feeds it. Unfortunately, the fire pump was poorly maintained; details were provided. He indicated that he was doubtful as to whether the pump would even work and questioned the integrity of the well and the system, itself. Chief Wood also reported that there is an outstanding Code discrepancy with the current owner; specifically, the in-rack sprinkler system was disassembled. He suggested that the best scenario would be to have the system re-engineered and hooked up to the City's water system to eliminate dependency on the well and a pump that has not been maintained.

Council Member Hager questioned the City Attorney as to why an applicant would ask Council to vote “no” on an application versus withdrawing the application. Ms. Frieser advised that she could only assume that it was more advantageous to them to have a denial as opposed to a withdrawal. Beyond that, she had no additional knowledge or information. Council Member Hager voiced concern that the integrity of the approval process was being misused for some unknown goal of the applicant.

Tom Laird, President of the South Congress Industrial Property Owners Association, advised that he came here to support the petition. However, he stated there are 17 other buildings near this building, which is very large, and the concern was that, should this building catch fire, the other buildings would go up as well, due to the faulty well and pump system. He noted that the other owners, who have built since the annexation, have changed from wells and pumps to fire sprinkler systems and lines. Therefore, Mr. Laird asked Council to support the conditions, indicating that neither he nor the other property owners wanted to risk damage to their buildings.

Ron Kent, with Coldwell Banker, advised that he represented the sellers of the property, and stated he believed that Crown Linen, due to economic conditions, was looking for a way out of the contract by using Council to deny the application. He then answered questions from Council.

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

Motion was made by Council Member Haynie, seconded by Council Member Hager, to adopt Resolution No. 3-2009. Motion carried unanimously; Mayor Whelchel, Council Members Arts, Hager, Haynie and Mullaugh voting yes.

REGULAR BUSINESS – PART III – REGULAR PUBLIC HEARINGS:

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 City’s Property Specialist/Appraiser Lynn Bodor gave the presentation. She explained that the petitioner wished to construct a pool and spa, the placement of which conflicted with a 10-foot wide portion of the easement. Therefore, the petitioner desired to abandon that portion of the easement encumbered by those improvements. All appropriate City departments and franchised utilities were contacted and all supported the abandonment with no conditions imposed. Ms. Bodor also noted that Code violations exist on this property related to the current placement of the pool within the easement; this abandonment would assist in resolving those violations. In conclusion, staff recommended approval.

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. 5078. Motion carried unanimously; Mayor Whelchel, Council Members Arts, Hager, Haynie and Mullaugh voting yes.

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 City's Property Specialist/Appraiser Lynn Bodor gave the presentation. She advised that this was a request to abandon a 12-foot wide water and sewer easement at the Boca West Convenience Center, which was deeded to the City in 1976. Following the recording of the easement, the water and sewer lines were taken out of use; however, the easement was never abandoned. Boca West Country Club now proposed to construct administrative offices on the site, which would conflict with the easement. Therefore, abandonment of same was being requested.

Ms. Bodor explained that although the easement was deeded for water and sewer purposes, the grantor reserved the right to place additional utilities within the easement area. Therefore, all franchised utilities and the Directors of Municipal and Utility Services were contacted. They all supported the abandonment; however, the Utility Services Department requested that the petitioner submit water and sewer construction plans for the administrative offices and that they dispose of any abandoned mains that may exist in the area of the proposed buildings or structures, prior to construction. In conclusion, staff recommended approval, subject to the conditions listed in the ordinance. Ms. Bodor 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 Arts, seconded by Council Member Mullaugh, to adopt Ordinance No. 5079. Motion carried unanimously; Mayor Whelchel, Council Members Arts, Hager, Haynie and Mullaugh voting yes.

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

Office of Management and Budget Director Sharon McGuire gave the presentation. She advised that this ordinance would amend the Fiscal Year 2008-2009 Budget by recognizing: 1) revenues and expenditures in the General Fund of \$91,700, 2) funding from reserves in the Law Enforcement Trust Fund of \$150,000, 3) funding from reserves in the State Forfeiture Fund of \$36,900, 4) revenues and expenditures in the Federal Grant Fund of \$88,000, 5) revenues and expenditures in the Greater Boca Raton Beach and Park District Fund of \$551,200, and 6) revenues and expenditures in the Capital Improvements Fund of \$610,000. The grand total of additional revenues and expenditures for the First Quarterly Budget Amendment Ordinance is \$1,340,900.

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. 5080. 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:

10. Ordinance No. 5082

An ordinance of the City of Boca Raton exempting the City from the early voting provisions of Section 101.657, Florida Statutes, for the March 10, 2009 regular election; providing for severability; providing for repealer; providing an effective date

The ordinance was introduced by Council Member Arts.

REGULAR BUSINESS - PART VI - PUBLIC REQUESTS:

No one came forward to speak.

REGULAR BUSINESS - PART VII- RESOLUTIONS AND OTHER BUSINESS:

There were no items for consideration.

CITY MANAGER RECOMMENDATIONS AND REPORTS:

11. Selection of Canvassing Board Member for 2009 Election

Motion was made by Council Member Arts, seconded by Council Member Hager, to appoint the City Manager as a member of the Canvassing Board for the March 2009 election. Motion carried unanimously on a voice vote; Mayor Whelchel, Council Members Arts, Hager, Haynie and Mullaugh voting yes.

CITY ATTORNEY REPORTS:

The City Attorney had nothing to report at this time.

MAYOR AND COUNCIL MEMBER REPORTS:

Council Member Arts referred to correspondence from the Florida Turnpike Enterprise and reported on a public information meeting scheduled for Tuesday, February 17, 2009, wherein potential locations for interchanges in the Boca Raton area would be discussed. These locations include Palmetto Park Road, Yamato Road, and Clint Moore Road, with, possibly, half interchanges at two of those locations. Advising that he and Council Member Haynie had seen a presentation on this, Mr. Arts suggested that the Florida Turnpike Enterprise be invited to make this same presentation at the Council workshop meeting of February 9, 2009, prior to the public information meeting. Council agreed with no objections.

Council Member Hager referred to Ordinance No. 5082 and asked whether the City made information available to citizens as to alternative locations or methodologies for early voting. The City Manager provided information on absentee ballots and ballots-on-demand, which can be obtained from the Supervisor of Elections Office. Responding to Mr. Hager, Mr. Ahnell confirmed that this information could be made available on the City's website.

Council Member Haynie reported that today at 3:30 p.m. in the Community Center, the South Florida East Coast Corridor Transit Analysis Study conducted a public meeting; another meeting was scheduled for 6:00 p.m. The topic of discussion is passenger travel on the FEC railway. She advised that she is on the Corridor Coalition, which will be meeting tomorrow as well.

Ms. Haynie also referred to the First Presbyterian Church on Camino Real, advising that in the rear parking lot, an AT&T generator has been running 24/7 for a couple of weeks. Some of the abutting neighbors have complained about same and Ms. Haynie questioned why it was there. The City Manager is to follow up.

Ms. Haynie then reported that she and Council Member Mullaugh were guest speakers at the Golden Harbor Homeowners Association meeting recently and, at that meeting, a Mr. William Kaylen reported an issue with a vacant lot at 551 NE 14th Street. It has been vacant since 2004 and he is concerned that it is becoming a dumping ground. The City Manager is to follow up.

Mayor Whelchel referred to how long passenger travel on the FEC has been an initiative and advised that having passengers travel on the FEC was her major campaign issue in 1995.

ADJOURNMENT:

Motion was made by Council Member Hager, seconded by Council Member Mullaugh, 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 6:50 p.m. on Tuesday, January 27, 2009.

Susan Whelchel, Mayor

ATTEST:

Sharma Hagerty, City Clerk