

MINUTES OF THE REGULAR MEETING
CITY COUNCIL
CITY OF BOCA RATON, FLORIDA
TUESDAY, JULY 28, 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 Majhess gave the invocation.

PLEDGE OF ALLEGIANCE TO THE FLAG:

ROLL CALL:

Mayor Susan Whelchel
Deputy Mayor Susan Haynie
Council Member Anthony Majhess
Council Member Michael Mullaugh
Council Member Constance Scott

AMENDMENTS TO THE AGENDA:

Motion was made by Deputy Mayor Haynie, seconded by Council Member Mullaugh, to amend the agenda to delete Item No. 5, Ordinance No. 5100. Motion carried unanimously on a voice vote; Mayor Whelchel, Deputy Mayor Haynie, Council Members Majhess, Mullaugh, and Scott voting yes.

MINUTES:

Minutes of the Regular Workshop Meeting of June 22, 2009
Minutes of the Regular Meeting of June 23, 2009

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

PROCLAMATIONS/RECOGNITIONS/AWARDS:

26th Annual National Night Out - August 4, 2009

Jorge Alfert accepted the proclamation on behalf of Citizens' Crimewatch of Boca Raton.

REGULAR BUSINESS - PART I:

The agenda was reordered to make appointments to the Green Living Task Force following all other Board appointments.

1. Appointments to the following boards:

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

Candace Rosenthal interviewed for a position on the Board.

Motion was made by Deputy Mayor Haynie, seconded by Mayor Whelchel, to appoint Candace Rosenthal to the Community Relations Board. Motion carried unanimously on a voice vote; Mayor Whelchel, Deputy Mayor Haynie, Council Members Majhess, Mullaugh, and Scott voting yes.

Ms. Rosenthal was appointed to the Board.

- c. Financial Advisory Board – (2) vacancies.

Motion was made by Deputy Mayor Haynie, seconded by Mayor Whelchel, to reappoint David Birkman and Thomas Dunne to the Financial Advisory Board. Motion carried unanimously on a voice vote; Mayor Whelchel, Deputy Mayor Haynie, Council Members Majhess, Mullaugh, and Scott voting yes.

Mr. Birkman and Mr. Dunne were reappointed to the Board.

- d. Library Advisory Board – (2) vacancies.

Motion was made by Deputy Mayor Haynie, seconded by Council Member Mullaugh, to reappoint Elizabeth Grinnan and Robert Keltie to the Library Advisory Board. Motion carried unanimously on a voice vote; Mayor Whelchel, Deputy Mayor Haynie, Council Members Majhess, Mullaugh, and Scott voting yes.

Ms. Grinnan and Mr. Keltie were reappointed to the Board.

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

There were no applicants.

- f. Parks and Recreation Board – (3) vacancies.

Henry Kreh and Ronald Betters expressed interest in reappointment.

Mayor Whelchel advised that Dennis Frisch was also interested in reappointment; however, he was out of town and unable to interview.

Motion was made by Council Member Scott, seconded by Deputy Mayor Haynie, to reappoint Henry Kreh, Ronald Betters, and Dennis Frisch to the Parks and Recreation Board. Motion carried unanimously on a voice vote; Mayor Whelchel, Deputy Mayor Haynie, Council Members Majhess, Mullaugh, and Scott voting yes.

Mr. Kreh, Mr. Betters, and Mr. Frisch were reappointed to the Board.

a. Green Living Task Force (new) – (9) members.

Robert Bettinger, Susan Clemmons, Laura Castanza, Robert Miron, Traci Scheppske, Monica Mayotte, Craig Ash, Charles Mishner, Vaughan Lazar, Virginia Erwin, Harry Valentine, Alvin Natkin, Maggie Barszewski, Erin Wright, Michele Peel, Sheldon Gillinov, Alexander VanMecl, Tobin Hindle, Cynthia Papadoyianis, Evan Rosenblatt, and Jeff Evans interviewed for positions on the Task Force.

At this time, Mayor Whelchel suggested that all candidates be deemed nominated; Council had no objections.

In the voting: Deputy Mayor Haynie voted for Robert Bettinger, Laura Castanza, Susan Clemmons, Evaggelia Hatzimanolis, Vaughn Lazar, Cynthia Papadoyianis, Erin Wright, Ken Hirsch, and Alexander VanMecl.

Council Member Scott voted for Robert Bettinger, Laura Castanza, Susan Clemmons, Evaggelia Hatzimanolis, Vaughn Lazar, Monica Mayotte, Cynthia Papadoyianis, Erin Wright, and Ken Hirsch.

Mayor Whelchel voted for Robert Bettinger, Laura Castanza, Virginia Erwin, Tobin Hindle, Monica Mayotte, Alvin Natkin, Cynthia Papadoyianis, Erin Wright, and Alexander VanMecl.

Council Member Majhess voted for Maggie Barszewski, Robert Bettinger, Laura Castanza, Susan Clemmons, Tobin Hindle, Vaughn Lazar, Monica Mayotte, Alvin Natkin, and Alexander VanMecl.

Council Member Mullaugh voted for Robert Bettinger, Susan Clemmons, Simon Hahessy, Silvia Hall, Evaggelia Hatzimanolis, Monica Mayotte, Michele Peel, Craig Ash, and Ken Hirsch.

Robert Bettinger, Laura Castanza, Susan Clemmons, and Monica Mayotte were appointed to the Green Living Task Force. A second round of voting was conducted to appoint five more members from the pool of six candidates (Evaggelia Hatzimanolis, Vaughn Lazar, Cynthia Papadoyianis, Erin Wright, Ken Hirsch, and Alexander VanMecl) who received three or more votes previously.

In the second round of voting: Deputy Mayor Haynie and Council Member Scott voted for Evaggelia Hatzimanolis, Vaughn Lazar, Cynthia Papadoyianis, Erin Wright, and Alexander VanMecl.

Mayor Whelchel voted for Evaggelia Hatzimanolis, Vaughn Lazar, Cynthia Papadoyianis, Ken Hirsch, and Alexander VanMecl.

Council Member Majhess voted for Vaughn Lazar, Cynthia Papadoyianis, Erin Wright, Ken Hirsch, and Alexander VanMecl.

Council Member Mullaugh voted for Evaggelia Hatzimanolis, Vaughn Lazar, Cynthia Papadoyianis, Erin Wright, and Alexander VanMecl.

Evaggelia Hatzimanolis, Vaughn Lazar, Cynthia Papadoyianis, Erin Wright, and Alexander VanMecl were appointed to the Green Living Task Force.

2. Responses to Workshop Information Requests:

The City Manager advised that the response to a question raised at yesterday's Workshop meeting, regarding Ordinance No. 5095, would be covered in tonight's presentation.

3. Consent Agenda:

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

Joe Pinella advocated support for the SW 18th Street Bike Lanes, Sidewalks and Water Mains (Consent Agenda Item No. 3.a.3.) and suggested that El Rio Park, which is located along 18th Street, could be "tidied up" at the same time. The City Manager advised that FPL is doing some work in that area and once they're finished, the City will restore same with fencing, sod, trees, and landscaping of berms.

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

a. Sealed Bids

- | | | |
|----|---|-------------|
| 1) | Pressure Cleaning Medians and Decorative Sidewalks
Requested by Municipal Services
Roof Painting by Hartzell, Inc. | \$70,000 |
| 2) | Sand Pine Park Improvements
Requested by Recreation Services & Development Services
Brang Construction, Inc. | \$1,489,598 |
| 3) | S.W. 18th Street Bike Lanes, Sidewalks and Water Mains
Requested by Municipal Services & Utility Services
Budget Construction Co., Inc. | \$1,093,937 |

b. Intergovernmental Agreements

- | | | |
|----|--|-----------|
| 1) | Horticultural Chemicals
Requested by Recreation Services & Utility Services
Agro Distribution d/b/a Pro Source One, BWI Companies, Inc.,
DeAngelo Brothers, Inc., Diamond R Fertilizer Co., Inc.,
d/b/a Atlantic FEC Fertilizer, Helena Chemical Co., Lesco, Inc.,
Regal Chemical Company, Tampa Turf and Supply,
Univar USA | \$107,260 |
| 2) | Vehicle Leasing Services
Requested by Police Services
Enterprise Leasing Company | \$125,250 |
| 3) | Laptop Computers
Requested by City Manager
CDW Government, Inc. | \$77,514 |
| 4) | Cartridge Filters
Requested by Utility Services
Waco Associates, Inc. | \$122,550 |

c. Resolution No. 102-2009

A resolution of the City of Boca Raton approving and accepting an Easement Deed from Boca 54 North, LLC, over certain lands located at 6600 North Military Trail; providing for severability; providing for repealer; providing an effective date

d. Resolution No. 103-2009

A resolution of the City of Boca Raton authorizing the submission of an Annual Consolidated Action Plan for Program Year 2009-10 to the United States Department of Housing and Urban Development; designating the City Manager as the Chief Executive Officer for the purpose of the Community Development Block Grant Program; authorizing the City Manager to execute all applications, certifications and documents related to said program; providing for severability; providing for repealer; providing an effective date

e. Resolution No. 104-2009

A resolution of the City of Boca Raton authorizing substantial amendments to the Community Development Block Grant Program Five-Year Consolidated Plan for 2005-06 through 2009-10 and Annual Consolidated Action Plans for 2008-09, 2007-08 and 2006-07; authorizing the City Manager to execute a certification for the amendments; authorizing the Community Improvement Administrator to submit the amendments to the United States Department of Housing and Urban Development; providing for severability; providing for repealer; providing an effective date

f. Resolution No. 107-2009

A resolution of the City of Boca Raton authorizing the City Manager to execute Work Order No. 14 with the Land Stewardship Company for the purpose of renovations to Gumbo Limbo Nature Center; providing for severability; providing for repealer; providing an effective date

g. Resolution No. 108-2009

A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute an Interlocal Agreement with Palm Beach County and Mizner Park Cultural Arts Association, Inc. for the purpose of providing funding of a Black Box Theater in the Mizner Park Cultural Arts Center; providing for severability; providing for repealer; providing an effective date

h. Resolution No. 109-2009

A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute the Emergency Services Agreement for mutual assistance and automatic aid with the City of Deerfield Beach for the purpose of providing and receiving emergency fire rescue services assistance; providing for severability; providing for repealer; providing an effective date

i. Resolution No. 110-2009

A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute the Emergency Services Agreement for mutual assistance and automatic aid with the City of Delray Beach for the purpose of providing and receiving emergency fire rescue services assistance; providing for severability; providing for repealer; providing an effective date

j. Resolution No. 111-2009

A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute the Emergency Services Agreement for mutual assistance and automatic aid with the City of Boynton Beach for the purpose of providing and receiving emergency fire rescue services assistance; providing for severability; providing for repealer; providing an effective date

k. Resolution No. 112-2009

A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute the Emergency Services Agreement for mutual assistance and automatic aid with Palm Beach County for the purpose of providing and receiving emergency fire rescue services assistance; providing for severability; providing for repealer; providing an effective date

l. Resolution No. 113-2009

A resolution of the City of Boca Raton authorizing the City Manager to execute Work Order No. 14 with Mathews Consulting, Inc. for the purpose of providing professional engineering services for the Boca West Reclaimed Watermain Extension Project; providing for severability; providing for repealer; providing an effective date

m. Board Resignations

- 1) Resignation of Connie Packman from the Community Relations Board

n. Receive and File Board Orders

- 1) BBAA-09-2609
- 2) BBAA-09-2612

o. Receive and File Board Minutes – July 28, 2009

- 1) Builders' Board of Adjustment and Appeals
March 26, 2009
- 2) Community Appearance Board
May 26, 2009
June 2, 2009
June 9, 2009
June 16, 2009
- 3) Community Relations Board
May 18, 2009
- 4) Downtown Boca Raton Advisory Committee
June 3, 2009
- 5) Education Advisory Board
April 27, 2009
- 6) Executive Employees' Retirement Plan
April 22, 2009

- 7) General Employees' Pension Board
 March 12, 2009
 April 9, 2009
 April 20, 2009 (Investment Committee)
 May 20, 2009
 June 11, 2009
 June 11, 2009 (Investment Committee)
- 8) Historic Preservation Board
 April 21, 2009
- 9) North Federal Highway Steering Committee
 March 3, 2009
- 10) Parks and Recreation Board
 June 2, 2009
- 11) Pearl City Blue Ribbon Committee
 January 22, 2009
- 12) People With Disabilities
 May 7, 2009
- 13) Planning and Zoning Board
 April 23, 2009
- 14) Police & Firefighters' Pension Board
 February 23, 2009 (Investment Committee)
 February 26, 2009
 March 26, 2009
 April 8, 2009 (Investment Committee)
 April 23, 2009
- 15) Special Master
 February 25, 2009

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:

There were no items for consideration.

REGULAR BUSINESS – PART III – REGULAR PUBLIC HEARINGS:

4. Ordinance No. 5095 (Revised 7/21/09 – Public Hearing continued from 6/23/09 meeting)

An ordinance of the City of Boca Raton repealing existing Division 13 of Article XV of Chapter 28, City Code of Ordinances, entitled "Telecommunications Towers and Facilities" and creating a new Division 13 of Article XV of Chapter 28, City Code of Ordinances, entitled "Wireless Communications Facilities" relating to telecommunications towers and antennas; providing for severability; providing for repealer; providing for codification; providing an effective date

a. Resolution No. 68-2009 (Revised 7/20/09)

A resolution of the City of Boca Raton amending the Boca Raton Municipal Facilities and Services User Fee Schedule; establishing fees relating to applications for required approvals for wireless communications facilities; providing for severability; providing for repealer; providing an effective date

Deputy City Manager George Brown identified the handouts distributed by the City Clerk and then proceeded to give a PowerPoint presentation. He explained the purpose of the ordinance and advised that this ordinance had been revised extensively since it was first introduced, based on input from all affected parties. Mr. Brown began by summarizing the key provisions of the ordinance, which included prohibition of towers and antennas in residential areas/districts with specified exceptions; implementation of a preferred zoning district hierarchy with Industrial/Commercial as the most preferred and Residential the least preferred; and maximum tower heights based on minimum collocation requirements; details were provided on all the above.

At this time, Mr. Brown drew attention to a map outlining tower locations and heights within the City; he identified one tower not contained within the City's GIS (Geographic Information System) data and advised that this is a work in progress, which is why the ordinance requires that applicants provide an inventory of existing sites within the area of their proposals to ensure that staff knows where everything is and that it is property permitted.

Mr. Brown continued his summation of key provisions, related to antennas and collocations; antennas on utility poles in rights-of-way; non-conforming towers; as well as a number of revisions and clarifications; details were provided. It was noted that an industry recommendation regarding antennas on poles was incorporated into the ordinance to allow 12-foot high antennas on poles, the goal of which is to provide more coverage with fewer locations.

There followed an overview of industry comments related to unreliable vs. no coverage as well as the industry's proposed changes to the ordinance, which included eliminating the minimum search area, excluding poles in rights-of-way from the zoning district hierarchy, weakening the requirement to demonstrate a need for facilities in residential areas, and eliminating the process/review procedures, including the cooperation process. Staff's response to these suggestions, including the industry's objection to the term, "state-of-the-art," were reviewed. At this time, Mr. Brown reiterated that the reason for the search area radius and the inventory of the towers is to ensure that all available alternatives are explored before a tower is sited.

Overall, staff believed the revisions to the ordinance would clarify that an applicant may seek approval for facilities that provide reliable and feasible services based on best practices using the least intrusive means reasonably available; this would require an engineering demonstration of need, not simply an assertion of need.

In regard to the fee schedule, Mr. Brown explained that it also contained revisions resulting from input from all parties and certain of the fees that were included in the previous schedule were eliminated. He added that a mailed notice would be required to be sent to properties located within a 1,000 foot radius for applications requiring a public hearing. Staff recommended the 1,000 foot radius, as opposed to a 500 foot radius, due to the potential height and the visibility of new wireless facility installations. At this point, Mr. Brown concluded his presentation and answered questions from Council.

Perry Adair, an attorney with Becker & Poliakoff and representing T-Mobile, voiced opposition to the ordinance, voicing concern over E911 service and the ability to provide first class service. He referred to his letter to the City, which outlined these and other concerns. Responding to Council, Mr. Brown explained that staff reviewed revisions to the ordinance suggested by Mr. Adair and it

appeared that the applicant, not the City, would set the standards for any review. He then referred to the revised ordinance and provided additional clarifications to Council.

Janna Lhota, an attorney with Holland & Knight and representing Verizon Wireless, referred to her letter to the City, voicing concern over, among other things, the term, "state-of-the-art," and the proposed regulations for collocations of antennas. Essentially, she expressed opposition to the ordinance.

Joseph Verdone, a planner with the law firm of Carlton Fields, distributed a handout containing suggested language for the ordinance, as it relates to Section 28-1628 (Q.) "Modification of Development Standards."

At Council's request, Mr. Brown rebutted statements made by Mr. Verdone, explaining that the engineering demonstration of need should be included in any justification submitted, not contained within the ordinance, itself. He also rebutted statements by Ms. Lhota and explained that the City was not looking at how the facilities are deployed but where the facilities are deployed; details were provided on all the above.

Brian Bibbee, President of the Palm Beach Farms Homeowners Association, voiced support of the ordinance, stated that it balanced good cell service with neighborhood integrity.

Steve Kain, a resident of Palm Beach Farms, indicated support for the ordinance and asked for, and received, clarification on several points from Mr. Brown.

Gene Folden provided a PowerPoint presentation in opposition to the ordinance.

At this time, Mr. Brown provided additional information and clarification to Council as requested.

Motion was made by Council Member Mullaugh, seconded by Council Member Scott, to adopt Ordinance No. 5095, as revised 7/21/09. Motion carried unanimously; Mayor Whelchel, Deputy Mayor Haynie, Council Members Majhess, Mullaugh, and Scott voting yes.

Motion was made by Deputy Mayor Haynie, seconded by Council Member Mullaugh, to adopt Resolution No. 68-2009, as revised 7/20/09. Motion carried unanimously; Mayor Whelchel, Deputy Mayor Haynie, Council Members Majhess, Mullaugh, and Scott voting yes.

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

6. Resolution No. 106-2009

A resolution of the City of Boca Raton authorizing the settlement of the claims of Daniel Elan (AL02-0004-PS) and Sonel Saint Fort (AL02-0003-PS); providing for severability; providing for repealer; providing an effective date

The City Manager advised that staff recommended approval of this resolution and made himself available for questions.

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

Motion was made by Deputy Mayor Haynie, seconded by Council Member Mullaugh, to adopt Resolution No. 106-2009. Motion carried unanimously; Mayor Whelchel, Deputy Mayor Haynie, Council Members Majhess, Mullaugh, and Scott voting yes.

REGULAR BUSINESS – PART V - INTRODUCTION OF ORDINANCES:

7. Ordinance No. 5101

An ordinance of the City of Boca Raton repealing Division 13, Article III, Chapter 2, Code of Ordinances, relating to the Telecommunications Advisory Board; providing for severability; providing for repealer; providing for codification; providing an effective date

The ordinance was introduced by Mayor Whelchel.

8. Ordinance No. 5102

An ordinance of the City of Boca Raton amending the Code of Ordinances related to expense reimbursement for members of City boards and commissions; deleting Section 2-53, Code of Ordinances and amending Sections 2-174, 2-259, 2-272(b), 19-69, and Section 28-230, Code of Ordinances, as provided herein; providing for severability; providing for repealer; providing for codification; providing an effective date

The ordinance was introduced by Council Member Mullaugh.

REGULAR BUSINESS - PART VI - PUBLIC REQUESTS:

Robert DuKate, Mary LaFuente, and Marcella and Stanley Taylor advocated reversal of Council's decision related to the Boca Teeca/Ocean Breeze project, which was rendered in 2007; specifically, they asked that Council seek suspension of the DCA (Department of Community Affairs) review. Mr. DuKate gave a PowerPoint presentation on the matter and submitted a packet to Council in support of his position.

Dionna Brahs, representing the Realtors' Association of the Palm Beaches, asked that Council retain the existing millage rate and not raise taxes.

Dave Freudenberg echoed Ms. Brahs' request regarding the millage rate, advocated abatements of liens on bank foreclosures, and then referred to Item No. 9 (Resolution No. 105-2009), encouraging Council to seek reimbursement of only actual costs incurred by the City in regard to the subject property.

Michael and Dani Noell advised they were in the news recently as the couple that was bitten by a rabid fox while walking in Red Reef Park and advocated more public awareness of rabies, suggesting the City install signage in parks and provide brochures on the subject.

REGULAR BUSINESS - PART VII- RESOLUTIONS AND OTHER BUSINESS:

There were no items for consideration.

PUBLIC HEARING – REQUEST FOR REDUCTION OF CODE ENFORCEMENT LIEN:

9. Resolution No. 105-2009

A resolution of the City of Boca Raton considering the application of Citibank, NA Trustee for a reduction in the amount of the Code Enforcement Liens imposed in Special Master Case Numbers 07-5357 and 07-5383; providing for severability; providing for repealer; providing an effective date

Council Member Scott recused herself from the proceedings in this matter, due to a voting conflict.

Community Development Director Jorge Camejo gave the presentation, explaining that this matter involved two separate cases related to the property located at 728 Dover Street. At the time the violations

occurred, Christopher White was the owner of the property. The first violation related to installation of doors, windows, and decking without a permit. At the violation hearing on January 24, 2008, a fine of \$100 per day was imposed for every day that the violation continued after February 5, 2008. The second case involved a stagnant pool and failure to provide an appropriate barrier to same. As this involved a public safety issue, the time allotted to come into compliance with Code was shortened; a fine of \$200 per day was imposed for every day that the violations continued beyond January 28, 2008. The property was not brought into compliance by the deadlines and the fines continued to accumulate for 99 days and 107 days, respectively, resulting in a total lien amount of \$31,728, including administrative costs and the lot clearing.

At this time, the City Attorney indicated that quasi-judicial procedure would be followed for this public hearing; the City Clerk administered the oath to Mr. Camejo and those who indicated they wished to speak.

Gregory Taylor, an attorney representing the current owner of the property, Citibank, provided a timeline of events and indicated that the bank did not take ownership of the property until December 2008; the property was then brought into compliance in May 2009. He advised that the bank had a judgment on this property for \$1.245 million, which was going to be sold for \$465,000, and asked for some leeway, noting that everyone was "taking a hit." Mr. Taylor stated he did not expect the City to abate the lien entirely. He understood the City's costs to be approximately \$15,000, in relation to this property, and asked that the lien be reduced accordingly. At this time, Mr. Taylor concluded his comments and answered questions from Council regarding pre-foreclosure and foreclosure proceedings. Council Member Mullaugh pointed out the City's position that it is left with a deteriorating property containing a potential safety hazard (the unfenced, stagnant pool) and suggested that, once a property owner is no longer making payments the bank should take steps to determine whether the property has been vacated and if so, secure same. Mr. Taylor stated that the bank cannot enforce its rights before it owns the property; details were provided. He also provided additional information to Mr. Ahnell as requested. Responding to Mr. Ahnell, staff outlined the City's actual cost.

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

Motion was made by Deputy Mayor Haynie, seconded by Mayor Whelchel, to reduce the total amount of the lien to \$10,000 in the aggregate to resolve both cases.

Council Member Mullaugh noted that \$15,000 appeared to be acceptable. In addition, this matter was only now being addressed two years after the owner stopped paying Citibank; he advised that someone had to be making money on the property during that time. Consequently, a new motion was put forward.

Motion was made by Deputy Mayor Haynie, seconded by Council Member Mullaugh, to adopt Resolution No. 105-2009, as revised, to reduce the total amount of the lien to \$15,000. Motion carried unanimously; Mayor Whelchel, Deputy Mayor Haynie, Council Members Majhess, Mullaugh, and Scott voting yes.

CITY MANAGER RECOMMENDATIONS AND REPORTS:

10. Fire Services Assessment Fee

Mr. Ahnell referred to a report being distributed by the City Clerk and advised that staff recommended the annual assessment fee for residents be raised from \$30 to \$40 per year. He explained that notice of this charge would be included in the tax bills sent out later this year.

Motion was made by Council Member Mullaugh, seconded by Council Member Scott, to increase the Fire Services Assessment Fee from \$30 to \$40 per year. Motion carried unanimously; Mayor Whelchel, Deputy Mayor Haynie, Council Members Majhess, Mullaugh, and Scott voting yes.

11. Millage Notification to the Property Appraiser and the Tax Collector

The City Manager recommended that the operating millage for the City remain the same at 3.02 mills. The debt service would be .3211 for a total tax rate next year of 3.3282 mills. Consequently, he advised that due to property tax reductions, this would result in 9.26% less in property taxes for operations. Mr. Ahnell then reminded those present that the tentative budget hearing would be held September 14, 2009 at 6:00 p.m. in the Council Chamber in City Hall. This tax information would be provided to the Property Appraiser that people might be notified of same via their upcoming property tax bills. Mr. Ahnell confirmed with Council that the City was not raising taxes.

Motion was made by Deputy Mayor Haynie, seconded by Council Member Scott, to set the millage rate as delineated by the City Manager and not raise taxes. Motion carried unanimously; Mayor Whelchel, Deputy Mayor Haynie, Council Members Majhess, Mullaugh, and Scott voting yes.

Council noted that many cities, counties, and agencies are raising their taxes – some substantially – despite the current state of the economy and, unfortunately, Boca Raton, gets “lumped in” with them. Responding to Mayor Whelchel, Mr. Ahnell advised that the City sends out a budget advisory in advance of the tax notices, outlining tax rates, what they pay for, and providing a comparison of Boca Raton’s rates with those of other cities.

CITY ATTORNEY REPORTS:

Ms. Frieser requested authorization from Council to schedule two separate executive sessions in order to obtain advice concerning the following pending litigation: 1) SFCS Inc. vs. the City of Boca Raton (commonly referred to as the western library construction litigation), Case No. 50-2006-CA-002837, and 2) Christine Ferrigan vs. the City of Boca Raton, Case No. 50-2008-CA-041456XXXXMB. The City Attorney explained that staff would attempt to schedule these sessions around the August Council meeting; however, one of the sessions might be delayed slightly, depending on the status of the trial calendar.

Motion was made by Council Member Mullaugh, seconded by Council Member Scott, to authorize the scheduling of two separate Executive Sessions in the cases identified by the City Attorney. Motion carried unanimously; Mayor Whelchel, Deputy Mayor Haynie, Council Members Majhess, Mullaugh, and Scott voting yes.

MAYOR AND COUNCIL MEMBER REPORTS:

Deputy Mayor Haynie reported on the recent MPO (Metropolitan Planning Organization) meeting wherein she obtained an update on funding for the FAU interchange. She advised that although Congressmen Klein and Wexler were able to obtain an additional \$1 million for the project from an appropriations committee, bringing the amount set aside for this endeavor to approximately \$9.7 million; the present day cost to construct same is \$125 million. However, Ms. Haynie noted that the Department of Transportation is working on a design build criteria package, which should be completed in March 2011; at that point, more Federal funding might be available. Ms. Haynie then clarified for Council that the money set aside now is not being used for the design criteria. She also noted that surplus dollars connected with stimulus funding had been allocated for the Palmetto Park interchange at the turnpike; details were provided.

Council Member Scott announced the first of three jazz concerts would be held Thursday, July 30, 2009, at 6:30 p.m. at Plaza Real South; saxophonist Jesse Jones, Jr. will perform.

ADJOURNMENT:

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

The regular meeting of the City Council of the City of Boca Raton adjourned at approximately 9:52 p.m. on Tuesday, July 28, 2009.

Susan Whelchel, Mayor

ATTEST:

Sharma Hagerty, City Clerk