

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

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

INVOCATION:

Council Member Hager gave the invocation.

PLEDGE OF ALLEGIANCE TO THE FLAG:

ROLL CALL:

Mayor Steven L. Abrams
Deputy Mayor Susan Whelchel (arrived at approximately 6:03 p.m.)
Council Member M. J. Mike Arts
Council Member Peter R. Baronoff (arrived at approximately 6:26 p.m.)
Council Member Bill Hager

Also attending the meeting were:

City Manager Leif J. Ahnell
City Attorney Diana Grub Frieser
City Clerk Sharma Hagerty

AMENDMENTS TO THE AGENDA:

Motion was made by Council Member Arts, seconded by Council Member Hager, to amend the agenda to add Resolution No. 16-2008 to the Consent Agenda as Item No. 3.g.. Motion carried 3-0 on a voice vote; Mayor Abrams, Council Members Arts and Hager voting yes.

MINUTES:

Minutes of the Regular Workshop Meeting of January 7, 2008
Minutes of the Regular Meeting of January 8, 2008

Motion was made by Council Member Hager, seconded by Council Member Arts, to approve the minutes as presented. Motion carried 4-0 on a voice vote; Mayor Abrams, Deputy Mayor Whelchel, Council Members Arts and Hager voting yes.

PROCLAMATIONS/RECOGNITIONS/AWARDS:

2-1-1 Awareness Week – February 11 through February 18, 2008

No one was present to receive the proclamation.

Wear Red Day – January 23, 2008

The proclamation was accepted by Nicole Flier, South County Chair of “County Goes Red,” for the American Heart Association.

REGULAR BUSINESS - PART I:

1. Appointments to the following boards:

- a. Builders' Board of Adjustment & Appeals – five (5) vacancies; one architect, one professional engineer, one general contractor, and two at-large members.

Nicole Flier and Jaime Plana expressed interest in retaining their positions on the Board.

Motion was made by Deputy Mayor Whelchel, seconded by Council Member Hager, to reappoint Nicole Flier, Jaime Plana, Matt Spence, Joseph Sullivan, and Stephen Walsh to the Builders' Board of Adjustment & Appeals. Motion carried 4-0 on a voice vote; Mayor Abrams, Deputy Mayor Whelchel, Council Members Arts and Hager voting yes.

Ms. Flier, Mr. Plana, Mr. Spence, Mr. Sullivan, and Mr. Walsh were reappointed to the Board.

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

There were no applicants.

- c. Code Enforcement Board – two (2) vacancies.

Motion was made by Council Member Arts, seconded by Deputy Mayor Whelchel, to appoint Angelo Gasparri to the Code Enforcement Board. Motion carried 4-0 on a voice vote; Mayor Abrams, Deputy Mayor Whelchel, Council Members Arts and Hager voting yes.

Mr. Gasparri was appointed to the Board.

- d. Elder Affairs Advisory Board – two (2) vacancies.

Motion was made by Deputy Mayor Whelchel, seconded by Council Member Hager, to reappoint David Levy to the Elder Affairs Advisory Board. Motion carried 4-0 on a voice vote; Mayor Abrams, Deputy Mayor Whelchel, Council Members Arts and Hager voting yes.

Mr. Levy was reappointed to the Board.

- e. Pearl City Blue Ribbon Committee – one (1) vacancy; must be a resident of Dixie Manor, Pearl City, or Lincoln Court.

There were no applicants.

2. Responses to Workshop Information Requests:

(Consent Agenda Item No. 3.c. – Resolution No. 13-2008 / Submittal of three applications on behalf of the Boca Raton Community Hospital for a grant from the Florida Division of Emergency Management for the Pre-Disaster Mitigation Program) A memorandum was provided. Mr. Ahnell explained that the deadline for submittal of the applications is January 31, 2008. A short list was expected in March with the official notification of award anticipated in June.

3. Consent Agenda:

Mayor Abrams provided an opportunity for anyone from the public to comment on the Consent Agenda. Palm Beach County Commissioner Mary McCarty spoke to Item No. 3.b. (Resolution No. 8-2008) and thanked the City for entering into a partnership with the County to install streetlights on this particular section of Congress Avenue.

Motion was made by Deputy Mayor Whelchel, seconded by Council Member Hager, to approve the Consent Agenda as amended. Motion carried 4-0 on a voice vote; Mayor Abrams, Deputy Mayor Whelchel, Council Members Arts and Hager voting yes.

a. Intergovernmental Agreements

- | | | |
|----|---|-----------|
| 1) | Automobiles and Light Trucks
Requested by Municipal Services
Alan Jay Chevrolet, Beck Auto Sales Inc., and
Duval Ford | \$673,800 |
| 2) | Sewer Cleaner Trucks (1 New & 1 Replacement)
Requested by Utility Services & Municipal Services
Sterling Western Star Trucks of Tampa | \$475,770 |

b. Resolution No. 8-2008

A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute a reimbursement agreement with Palm Beach County for the purpose of the installation of street lighting on Congress Avenue from Clint Moore Road to Delray Beach City limits; providing for severability; providing for repealer; providing an effective date

c. Resolution No. 13-2008

A resolution of the City of Boca Raton authorizing the City Manager to submit three applications on behalf of the Boca Raton Community Hospital for a grant from the Florida Division of Emergency Management for the Pre-Disaster Mitigation Program; 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

d. Resolution No. 14-2008

A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute Amendment No.1 to the State of Florida Department of Transportation locally funded agreement for the continuation of the Transportation Management Initiative; providing for severability; providing for repealer; providing an effective date

e. Board Resignations

- 1) Resignation of John Johnson from the Marine Advisory Board

f. Receive and File Board Minutes – January 23, 2008

- 1) Community Appearance Board
November 27, 2007
- 2) Downtown Boca Raton Advisory Committee
September 19, 2007

- 3) Elder Affairs Advisory Board
November 7, 2007
- 4) Marine Advisory Board
November 7, 2007
- 5) Parks and Recreation Board
December 11, 2007
- 6) People With Disabilities
December 6, 2007
- 7) Planning and Zoning Board
September 20, 2007
October 4, 2007
November 8, 2007

3.g. Resolution No. 16-2008

A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute an agreement with the Countess de Hoernle Foundation, Inc. for the acceptance of a donation for the Spanish River Library and Community Center, and the dedication of a portion of the Spanish River Library and Community Center in honor of the Countess; providing for severability; providing for repealer; providing an effective date

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

There were no items for consideration.

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

4. Ordinance No. 5023 (Revised 12/20/07.) (Second of two public hearings.)

An ordinance of the City of Boca Raton approving an Amended and Restated Memorandum of Agreement with the Boca Raton Airport Authority; establishing conditional uses for non-aviation land at the Boca Raton Airport; providing for severability; providing for repealer; providing an effective date

Mayor Abrams advised that quasi-judicial procedure would be followed for this hearing; the City Clerk administered the oath to those who indicated they wished to speak.

Deputy City Manager George Brown gave the PowerPoint presentation, advising that this was the second public hearing for the above ordinance. He reviewed substantive changes in the agreement, which included conversion of 4.67 acres of aviation land to non-aviation land; approval of a new airport layout plan; establishment of land development parameters for the airport; and establishment of allowable conditional uses for non-aviation land at the airport. All non-aviation development will be conditional uses pursuant to the Memorandum of Agreement (MOA) and must meet concurrency. A list of allowable conditional uses was then reviewed; details were provided. Mr. Brown advised that these uses were consistent with the prior agreement between the City and the Airport Authority, the City's Comprehensive Plan, and the settlement with Premier Aviation that was entered into in 2003. It was noted that non-aviation land improvements would require conditional use approval, according to the specified list previously reviewed, and building heights would be 50 feet or less. Mr. Brown added that the conditional uses outlined in the MOA would allow the Airport Authority to seek proposals for the non-aviation land; proponents offering proposals would know which uses were permitted and that they would be required to go through the conditional use approval process in order to obtain final approval. The new agreement

would also approve the new airport layout plan and clarify/update language found in the agreements between the City and the Airport Authority.

Mr. Brown stated that the Planning and Zoning Board reviewed this matter and unanimously recommended approval. He then concluded his presentation by advising that the first public hearing for this ordinance was conducted on January 8, 2008; this was the second of two required public hearings and staff recommended approval. Mr. Brown then answered questions from Council regarding ownership of the land and use of generated income. He also confirmed that there were no plans currently pending.

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

Motion was made by Deputy Mayor Whelchel, seconded by Council Member Hager, to adopt Ordinance No. 5023, as revised. Motion carried 4-0; Mayor Abrams, Deputy Mayor Whelchel, Council Members Arts and Hager voting yes.

5. Resolution No. 3-2008

A resolution of the City of Boca Raton granting conditional use approval for Columbus Networks USA fiber-optic facility (telecommunications) use on a parcel of land located at 6520 W. Rogers Circle, providing for severability; providing for repealer; providing an effective date (CA-07-15)

Mayor Abrams advised that quasi-judicial procedure would be followed for this hearing; the City Clerk administered the oath to those who indicated they wished to speak.

Development Services Planner Daryl Johnson gave the PowerPoint presentation. Information related to zoning, Future Land Use designation, and location for the subject site was provided, as was background information regarding a previous site plan approval granted by the Planning & Zoning Board. He noted that a condition of that site plan approval required the petitioner to obtain conditional use approval should the warehouse use be changed to that of telecommunications. Referring to Resolution No. 1-85, Mr. Johnson advised that telecommunication uses are permitted in the South Congress Industrial Center, which is where this parcel is located, provided conditional use approval is obtained from City Council. In accordance with City Code, no additional parking or modifications would be required as a result of this change in use.

In January 2008, the Planning & Zoning Board reviewed the project and unanimously recommended approval of the fiber-optic use; staff also recommended approval.

Richard Brooks, the architect for the project, provided commentary related to the process involved in bringing this item forward.

Paul Scott, representing Columbus Networks USA, reviewed information about the company and the service it provides. He then answered questions from Council as to how fiber-optic telecommunication actually works, and why Boca Raton was the site chosen.

(Council Member Baronoff arrived at approximately 6:26 p.m.)

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

Motion was made by Deputy Mayor Whelchel, seconded by Council Member Arts, to adopt Resolution No. 3-2008. Motion carried unanimously; Mayor Abrams, Deputy Mayor Whelchel, Council Members Arts, Baronoff and Hager voting yes.

REGULAR BUSINESS – PART III – REGULAR PUBLIC HEARINGS:

6. Ordinance No. 5025

An ordinance of the City of Boca Raton providing for the vacation and abandonment of a Public Utility Easement, located at 1071 N.W. 4th Street, as more specifically described herein; providing conditions for vacation and abandonment; providing for severability; providing for repealer; providing an effective date (EA-07-08)

Property Specialist/Appraiser Lynn Bodor gave a PowerPoint presentation, advising that this was a petition for abandonment of a 6-foot wide public utility easement located on the northern and eastern boundaries of Lot 9, Block 6 of Lake Floresta Park, which is also known as 1071 N.W. 4th Street. The easement interferes with the placement of a proposed addition to the current residence and, therefore, requires abandonment. All franchised utility companies and all appropriate City departments were contacted; they all support the petition. However, Florida Power & Light required an easement over a portion of the proposed abandonment area; the petitioner has already provided same. In conclusion, staff recommended approval of the ordinance.

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

Motion was made by Deputy Mayor Whelchel, seconded by Council Member Hager, to adopt Ordinance No. 5025. Motion carried unanimously; Mayor Abrams, Deputy Mayor Whelchel, Council Members Arts, Baronoff and Hager voting yes.

7. Ordinance No. 5026

An ordinance of the City of Boca Raton providing for the vacation and abandonment of a Public Utility Easement, located at 48 East Royal Palm Road, as more specifically described herein; providing conditions for vacation and abandonment; providing for severability; providing for repealer; providing an effective date (EA-06-09)

Property Specialist/Appraiser Lynn Bodor gave a PowerPoint presentation, advising that this was a petition for abandonment of a 10-foot by 135-foot public utility easement located on six lots that comprise the preponderance of the Victoria Square mixed-use project that spans the current addresses of 51 through 75 South Federal Highway and 48 East Royal Palm Road. The easement interferes with placement of the redevelopment building and, therefore, requires abandonment. Ms. Bodor noted that the Victoria Square project was approved yesterday by the Community Redevelopment Agency (CRA), subject to the abandonment of this easement. All franchised utility companies and all appropriate City departments were contacted; they support the abandonment conditioned upon the relocation of their respective facilities. In conclusion, staff recommends approval, subject to the conditions outlined in the ordinance.

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

Responding to a question from Council, the City Attorney explained that the CRA had no authority over the easement, advising that it was fee-owned by the City; details were provided. Ms. Bodor indicated that a revised exhibit was available on the dais.

Motion was made by Deputy Mayor Whelchel, seconded by Council Member Hager, to adopt Ordinance No. 5026. Motion carried unanimously; Mayor Abrams, Deputy Mayor Whelchel, Council Members Arts, Baronoff and Hager voting yes.

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

There were no items for consideration.

REGULAR BUSINESS – PART V - INTRODUCTION OF ORDINANCES:

8. Ordinance No. 5027

An ordinance of the City of Boca Raton providing for the vacation and abandonment of portions of unimproved right-of-way for Juana Road, located adjacent to 2185 and 2198 Juana Road; providing conditions for vacation and abandonment; providing for severability; providing for repealer; and providing an effective date (AB-06-01)

The ordinance was introduced by Council Member Arts.

9. Ordinance No. 5028

An ordinance of the City of Boca Raton amending the Fiscal Year 2007-2008 budget through the First Quarterly Budget Amendment; providing for severability; providing for repealer; and providing an effective date

The ordinance was introduced by Council Member Baronoff.

REGULAR BUSINESS - PART VI - PUBLIC REQUESTS:

Craig Peschl, resident of Boca Villas, indicated that construction workers associated with the 200 East project at the corner of Mizner Boulevard and Palmetto Park Road were taking over public parking in and around Mizner Park as well as parking on private property, creating hazards and obstructions, generating a lot of foot traffic through Mizner Park and elsewhere, and, at times, making inappropriate gestures and statements. He provided Council with copies of color photos in support of his comments and questioned why a private entity is utilizing both public and private parking, which included vacant lots in Boca Villas. Noting that construction parking was once available at a designated area on 5th Avenue, he asked for Council's assistance in resolving this issue.

The City Manager explained that when the 200 East project first began construction, a parking arrangement was created whereby workers parked in a paved area across the street from the project on Palmetto Park Road. Apparently, the arrangement is no longer in existence. Mr. Ahnell is to follow up.

(At Council's request, the City Attorney provided her report at this time on the referendum petition related to Ocean Breeze.)

CITY ATTORNEY REPORTS:

10. Referendum Petition – Ocean Breeze

The City Attorney distributed her memorandum, dated January 23, 2008, with attachments, regarding the above topic. She reiterated her position that the petitions submitted by Save Boca Raton Green Space were not proper subjects of referendum; therefore, unless otherwise directed by Council, she would maintain that legal position and the direction to the City Clerk not to process the petitions. Additional details were provided.

Jane Antal, a member of Save Boca Raton Green Space, opined on Council's decision-making abilities in terms of development within the City.

Robert DuKate, also a member of Save Boca Raton Green Space, provided statements in opposition to the City Attorney's findings and legal opinion. He urged Council to follow the process in regard to this issue; otherwise, legal action would be forthcoming.

Richard McFarland, an attorney with Broad & Cassel and representing Ocean Breeze Golf & Country Club, advised that he concurred with the City Attorney's analysis of the State law.

Responding to Council, the City Attorney clarified her position related to the parcels; details were provided. At this time, the Mayor and Council indicated that they supported the City Attorney's opinion.

REGULAR BUSINESS - PART VII- RESOLUTIONS AND OTHER BUSINESS:

There were no items for consideration.

QUASI-JUDICIAL PUBLIC HEARING – APPEAL OF BOARD DECISION:

There were no items for consideration.

CITY MANAGER RECOMMENDATIONS AND REPORTS:

The City Manager reminded those present of the Grand Opening this Saturday of the Spanish River Library.

MAYOR AND COUNCIL MEMBER REPORTS:

Council Member Baronoff reminded those present that next Tuesday is Election Day wherein citizens would have the opportunity to vote on the proposed property tax referendum.

Council Member Hager observed that a substantial number of people had already voted at the Community Center; he then asked Mr. Ahnell to circulate a list of those lobbyists that have registered with the City.

Mayor Abrams advised that the Republican Presidential Debate would be held at FAU (Florida Atlantic University) tomorrow night, noting that major Republican candidates would be holding rallies.

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 Abrams, Deputy Mayor Whelchel, Council Members Arts, Baronoff and Hager voting yes.

The regular meeting of the City Council of the City of Boca Raton adjourned at approximately 6:55 p.m. on Wednesday, January 23, 2008.

Steven L. Abrams, Mayor

ATTEST:

Sharma Hagerty, City Clerk