

MINUTES OF THE REGULAR MEETING
CITY COUNCIL
CITY OF BOCA RATON, FLORIDA
TUESDAY, AUGUST 26, 2008
6:00 PM

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

INVOCATION:

Council Member Arts gave the invocation.

PLEDGE OF ALLEGIANCE TO THE FLAG:

A flag ceremony was conducted by the Boca Raton High School Naval Junior ROTC.

ROLL CALL:

Mayor Susan Whelchel
Deputy Mayor Peter R. Baronoff
Council Member M. J. Mike Arts
Council Member Bill Hager
Council Member Susan Haynie

PRESENTATION:

Rep. Adam Hasner – 2008 Legislative Update

Rep. Hasner indicated that the State Legislature reduced its budget from \$72 billion to \$66 billion with no tax increases. Commentary focused on the economy, education, renewable energy, property insurance, property relief/tax reform, and three issues wherein he was instrumental in passing legislation, specifically: 1) anti-gang legislation, 2) elimination of ocean outfall, and 3) mandated insurance coverage for children with autism. He then concluded his comments and answered questions from Council related to proposed Amendments 1 and 5, the FCAT, smaller school districts, and tax reform. Discussion also focused on the disparity between the enormous amount of tax money sent to Tallahassee from South Florida and the small amount of money that is returned for education, infrastructure, and so forth.

AMENDMENTS TO THE AGENDA:

Motion was made by Council Member Hager, seconded by Deputy Mayor Baronoff, to add an item (3.k.) for consideration immediately following the Consent Agenda, specifically, "Airport Authority – Non-aviation Land Update." Motion carried unanimously on a voice vote; Mayor Whelchel, Deputy Mayor Baronoff, Council Members Arts, Hager and Haynie voting yes.

MINUTES:

Minutes of Downtown Walking Tour of July 21, 2008
Minutes of the Regular Workshop Meeting of July 21, 2008
Minutes of the Regular Meeting of July 22, 2008

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

PROCLAMATIONS/RECOGNITIONS/AWARDS:

Proclamation - Firefighter Appreciation Month – August 2008 (Muscular Dystrophy Assn)

Fire/Rescue Chief Tom Wood and Captain Mike LaSalle, Vice President of the IAFF (International Association of Firefighters), Local 1560, accepted the proclamation from Mayor Whelchel and Randi Miller, a representative with the Muscular Dystrophy Association.

Proclamation - M.J. Mike Arts

Mayor Whelchel presented Council Member Mike Arts with a proclamation in recognition of his being honored with the Lifetime Achievement Award by the Boca Raton Chamber of Commerce.

REGULAR BUSINESS - PART I:

1. Appointments to the following boards:

There were no positions advertised.

2. Responses to Workshop Information Requests:

The City Manager advised that responses to questions from yesterday’s workshop meeting would be included in tonight’s presentations.

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 Arts, seconded by Council Member Hager, to approve the Consent Agenda, as amended, minus Item 3.a.8., which was considered separately under, “Part VII- Resolutions and Other Business.” Motion carried unanimously; Mayor Whelchel, Deputy Mayor Baronoff, Council Members Arts, Hager and Haynie voting yes.

a. Sealed Bids

- | | | |
|----|---|-----------|
| 1) | IBM Storage Area Network Upgrade - Replacement
Requested by City Manager
Champion Solutions Group | \$104,304 |
| 2) | Automotive, Light and Heavy Duty Truck After Market Parts
Requested by Municipal Services Fire Rescue Services
Cold Air Distributors Warehouse of Florida, Inc.; Bennett Auto
Supply, Inc.; Atlantic Trucks Center; L&L Distributors;
Total Truck Parts, Inc. | \$274,600 |
| 3) | Landscape Maintenance Services for South
Requested by Recreation Services
Maia Lawn & Landscape Services, Inc. | \$211,483 |
| 4) | Spanish River Park Pavement Resurfacing
Requested by Recreation Services
Weekley Asphalt Paving, Inc. | \$432,972 |
| 5) | Anaerobic Digester Cleaning
Requested by Utility Services
Containment Services, Inc. | \$168,584 |

- | | | |
|----|--|-----------|
| 6) | Equipment Testing and Analysis
Requested by Utility Services
Florida Bearings, Inc. | \$54,440 |
| 7) | Washwater Recovery Pump and Motor - Replacement
Requested by Utility Services
Florida Bearings, Inc. | \$159,000 |
| 8) | On-Site Sodium Hypochlorite Generation Equipment - Replacement
Requested by Utility Services
Odyssey Manufacturing Company | \$139,500 |
- b. Intergovernmental Agreements
- | | | |
|----|---|-----------|
| 1) | Emergency Mobile Intensive Care Vehicles - Replacement
Requested by Fire Rescue Services
Hall-Mark Fire Apparatus | \$672,000 |
| 2) | Fertilizer Chemicals
Requested by Recreation Services Utility Services
Agro Distribution d/b/a Pro Source One, Diamond R Fertilizer
d/b/a Atlantic FEC Fertilizer, Lesco, Inc. | \$93,035 |
- c. Change Order
- | | | |
|----|---|-----------|
| 1) | Building Renovations for Various Parks
Requested by Recreation Services
Hartzell Construction, Inc. | \$206,000 |
|----|---|-----------|
- d. Resolution No. 95-2008
- A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute a Memorandum of Understanding with the Center for Law Enforcement Technology, Training, & Research (LETTR) to participate in the Florida Information Network for Data Exchange and Retrieval (FINDER) program, providing for severability; providing for repealer; providing an effective date
- e. Resolution No. 99-2008
- A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute an agreement with the Florida Department of Transportation for the purpose of Enhancement and Operations of the Traffic Control Signal System; providing for severability; providing for repealer; providing an effective date
- f. Resolution No. 100-2008
- A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute an agreement with Applied Technology and Management Inc., for the purpose of providing continuing professional services for Coastal Engineering to continue to preserve the City of Boca Raton's shorelines; providing for severability; providing for repealer; providing an effective date
- g. Board Resignations
- | | | |
|----|---|--|
| 1) | Resignation of Fenil Patel from the Builders' Board of Adjustment & Appeals | |
|----|---|--|

- h. Receive and File – Employee Election Certification
 - 1) Election of Jeff Ross to the Board of Trustees of the Police and Firefighters' Retirement System – term to expire March 29, 2010.

- i. Receive and File Board Orders
 - 1) Special Master:
 - a) SM(C) Case No. 06-2340
 - b) SM(C) Case No. 07-4547
 - c) SM(C) Case No. 07-4825
 - d) SM(C) Case No. 08-00001142
 - e) SM(C) Case No. 08-00001470
 - f) SM(C) Case No. 08-00001500
 - g) SM(C) Case No. 08-1552
 - h) SM(C) Case No. 08-1617
 - i) SM(C) Case No. 08-1826
 - j) SM(C) Case No. 08-00001864
 - k) SM(C) Case No. 08-00001891
 - l) SM(C) Case No. 08-00002294
 - m) SM(C) Case No. 08-00002363

 - 2) Builders' Board of Adjustment & Appeals:
 - a) BBAA Case No. 08-1966
 - b) BBAA Case No. 08-3331

- j. Receive and File Board Minutes – August 26, 2008
 - 1) Builders' Board of Adjustment and Appeals
June 30, 2008

 - 2) Community Appearance Board
June 24, 2008
July 1, 2008
July 8, 2008
July 15, 2008
July 22, 2008

 - 3) Downtown Boca Raton Advisory Committee
April 16, 2008
July 8, 2008

 - 4) Education Advisory Board
May 19, 2008

 - 5) Executive Employees' Retirement Plan
June 10, 2008

 - 6) General Employees' Pension Board
June 12, 2008

 - 7) Library Advisory Board
May 21, 2008

- 8) Parks & Recreation Board
June 3, 2008
- 9) People With Disabilities
April 9, 2008 (Program & Special Events Committee)
June 5, 2008
July 10, 2008 (Program & Special Events Committee)
July 10, 2008
- 10) Planning and Zoning Board
May 22, 2008
June 5, 2008
- 11) Police & Firefighters' Pension Board
April 21, 2008 (Joint Adm. Comm. P&FF/Gen Emp)
June 19, 2008
- 12) Special Master
June 11, 2008
June 25, 2008
July 9, 2008
- 13) Zoning Board of Adjustment
June 12, 2008

3.k. Airport Authority – Non-aviation Land Update

Council Member Baronoff reported on his attendance at the most recent Airport Authority meeting and voiced concern over the conduct of a public hearing, and the decision made, in connection with an item on their agenda. He then tendered questions to the City Manager and the City Attorney in regard to same. Mr. Ahnell and Ms. Frieser provided information to Council as requested. Following brief discussion, staff was asked to redistribute information and material previously submitted to Council regarding the project in question.

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. 82-2008

A resolution of the City of Boca Raton considering the modification of the Conditional Use Approval for Spanish River Presbyterian Church, to allow the construction of seminary classrooms, a performing arts center, a youth center and pre-post function additions to the sanctuary on a parcel of land located at 2400 NW 51st Street; providing for severability; providing for repealer (including the repeal of Resolution Nos. 36-94 and 203-94); providing an effective date (CA-07-18)

The City Attorney reviewed the quasi-judicial procedures to be followed; the City Clerk administered the oath to those who indicated they wished to speak. There were no ex parte disclosures.

Daryl Johnson, Development Services Planner, gave the PowerPoint presentation. Acreage, zoning, and future land use designation was reviewed. Mr. Johnson then explained what was provided for in the existing Master Plan, advising that this private school is vested for a maximum enrollment of 493 students. He noted there was no request for an increase in enrollment. There followed a review of the

proposed modifications to the Master Plan, which included: 1) a 2,420 square foot addition to the performing arts center, 2) a 790 square foot addition to the youth center, 3) a 15,587 square foot addition to the sanctuary for seminary classrooms on the second floor, and 4) an 8,424 square foot addition to the sanctuary for the pre/post function areas located on the first and second floor. The sanctuary addition would be constructed to a maximum height of 50 feet; the youth center and the performing arts center would be constructed to a maximum height of 25 feet.

It was noted that parking requirements are based on the most intense use of the site; in this case, it is the sanctuary. Per Code, 500 parking spaces are required; 593 spaces are provided, including 387 grass spaces. A site-specific traffic study was provided by the petitioner and indicated an increase of 175 daily trips. The Palm Beach County Traffic Engineer reviewed same and determined that the proposed development meets the traffic performance standards of the County.

Mr. Johnson advised that the Planning and Zoning Board reviewed this request in May 2008 and voted unanimously to recommend approval of same; he then concluded his presentation by stating that staff also recommended approval with the conditions included in the resolution.

Paul Slattery, with Slattery and Associates, the architect for the project, answered questions from Council related to concerns voiced by the adjacent homeowners association regarding a generator, chiller, and pump room. Mr. Slattery advised that a mutually beneficial resolution had been reached.

Ron Tobias, Executive Pastor for Spanish River Presbyterian Church, explained that this issue related to existing equipment; specifically, the homeowners association asked that the running time for the equipment be changed, and the church agreed. Consequently, the matter was addressed to the satisfaction of all parties.

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

Motion was made by Council Member Arts, seconded by Council Member Haynie, to adopt Resolution No. 82-2008. Motion carried unanimously; Mayor Whelchel, Deputy Mayor Baronoff, Council Members Arts, Hager and Haynie voting yes.

5. Resolution No. 94-2008

A resolution of the City of Boca Raton considering a request for modifications to the previously approved master plan for the Gardens at Memorial Park to permit the development of Phase 4A which includes constructing Building "A" and a temporary parking area for construction equipment, incorporating the previously approved master plan (SC-04-02), all on a parcel of land located at 4103 Military Trail, subject to the conditions; providing for severability; providing for repealer; providing an effective date (SC-08-02)

The City Attorney reviewed the quasi-judicial procedures to be followed; the City Clerk administered the oath to those who indicated they wished to speak. There were no ex parte disclosures.

Daryl Johnson, Development Services Planner, gave the PowerPoint presentation. Location, acreage, zoning, and future land use designation was provided. Mr. Johnson explained that the previously approved master plan was comprised of Phases 3 through 7; Phase 4 consisted of development of Building "A," in the form of a 150-seat chapel and mausoleum. The petitioner proposed to modify the master plan to include a new Phase 4-A, consisting of developing Building "A" and a new temporary parking area for construction vehicles and equipment. The temporary parking area is located where Building "K" would be constructed during Phase 7. A condition has been included to require removal of any construction equipment associated with the project within 30 days of continuous stoppage of construction activity.

In terms of parking, City Code requires 106 parking spaces for all phases of the project and 108 spaces will be provided upon completion of the master plan. Adequate parking for the affected phase of this petition, Phase 4-A, is included in those numbers.

The Planning and Zoning Board reviewed this request in June 2008 and unanimously recommended approval; in conclusion, staff also recommended approval of the master plan and site plan. Mr. Johnson then answered questions from Council related to the condition for removal of construction equipment within 30 days.

Gregory Miklos, the architect for the project, provided additional information related to the project.

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. 94-2008. Motion carried unanimously; Mayor Whelchel, Deputy Mayor Baronoff, Council Members Arts, Hager and Haynie voting yes.

REGULAR BUSINESS – PART III – REGULAR PUBLIC HEARINGS:

6. Ordinance No. 5045 (First public hearing) (Revised)

An ordinance of the City of Boca Raton amending Chapter 28, Code of Ordinances, to provide supplemental regulations for nonresidential structures and uses in single-family residential zoning districts, including landscaping requirements, dumpster location requirements, limiting vehicular access to only arterial or collector roads, and additional regulations; and supplemental regulations for nonresidential structures and uses in multifamily zoning districts, including limiting vehicular access only to arterial or collector roads, and additional regulations; providing for severability; providing for repealer; providing for codification; providing an effective date (AM-08-03)

7. Ordinance No. 5040 (Second public hearing) (Revised)

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

Development Services Director Jorge Camejo gave the PowerPoint presentation on the above ordinances. He began by explaining that Ordinance No. 5040 attempted to provide uniformity and consistency with how Places of Public Assembly are treated in the zoning code. Among other things, Places of Public Assembly would be allowed in business and commercial districts as permitted uses, in general; Places of Worship would be allowed in single-family residential districts as conditional uses; in multi-family districts, Places of Worship would be identified as permitted uses. Mr. Camejo explained that Ordinance No. 5040 also provides for uniform parking requirements for all Places of Public Assembly; he

then read into the record the most recent definition of the parking requirement for same, which was as follows: "1 motor vehicle parking space for each 3 seats, plus one motor vehicle parking space for each 25 square feet of additional, gross floor area provided for public assembly purposes. If places of public assembly include accessory and/or related public assembly uses for which parking is required pursuant to this Section 28-1655, parking shall be provided for all square footage, including square footage utilized for accessory or additional uses on the parcel; provided, however, if such uses operate non-concurrently, minimum parking shall be determined based upon the maximum parking demand created by the non-concurrent use with the greatest parking requirement." Examples of hypothetical non-concurrent parking situations were also provided in connection with a Place of Worship, an elementary school, and a gymnasium, all located on the same parcel.

Mr. Camejo advised that the Planning and Zoning Board heard Ordinance No. 5040 at their June 19, 2008 meeting; at that meeting, several issues were raised by the public, which related to supplemental development issues such as placement of dumpsters, landscaping, setbacks and so forth. Based on the Board's direction, staff created Ordinance No. 5045, which addresses the issues raised, including limitations on direct vehicular access from arterial and collector roads for non-residential uses in residential zoning districts.

The Planning and Zoning Board reviewed Ordinance Nos. 5040 and 5045 in August 2008, recommending approval of both, including the revised parking language, which deleted the reference to a functional analysis requirement. The Board also provided advisory recommendations, suggesting that a public information forum be held; it is tentatively scheduled for September 2, 2008 at the Boca Raton Community Center. Another suggestion was implementation of a decal program to regulate parking in affected neighborhoods. In conclusion, staff recommended approval of the ordinances.

Anthony Majhess, Darold Hurlbert, John Clarke, James Wood, Bonnie Dorn, David Warburton, Heidi Klier, Bill Trinka, Gerald Christiansen, Patricia Dervishi, Bjorn Anderson, and Andrea O'Rourke voiced concern at the possibility of cars being parked along their streets, swales, and in their driveways, despite conditions and/or cross parking agreements; much concern focused on future technical deviations that might be granted.

Ralf Brookes, the attorney representing the Golden Triangle Neighborhood Association, which included many of the people who previously spoke, gave closing comments. He urged Council to provide clear direction regarding parking requirements and to "close the loopholes" now to ensure that technical deviations would not damage the integrity of neighborhoods later.

Seeing no one else come forward to speak, the public hearing was closed. Mr. Camejo responded to questions previously raised by the public regarding how the City calculates maximum peak parking. He also answered additional questions from Council regarding cross parking and technical deviations.

Mayor Whelchel reminded those present that a public forum on this topic was tentatively scheduled for September 2, 2008; in addition, the final public hearing on these items was scheduled for September 9, 2008 at which time Council would vote on same.

Responding to Council, Mr. Camejo is to provide information related to, historically, how many technical deviations have been granted in terms of required parking/off-site parking and what comprised those variances.

The meeting was recessed at 8:31 p.m. and reconvened at approximately 8:36 p.m.

8. Ordinance No. 5043

An ordinance of the City of Boca Raton amending Rule 1.17 of Section 2-27, Code of Ordinances, to provide that a legally required public hearing regarding an ordinance may be held at the same City Council meeting at which the ordinance has been introduced; providing for severability; providing for repealer; providing for codification; providing an effective date

The City Attorney provided a brief presentation, advising that the ordinance was brought forward at the request of Council Member Arts and would delete the condition that a public hearing for an ordinance could not be held at the same Council meeting at which the ordinance was introduced.

Responding to Council, Ms. Frieser clarified that this ordinance impacts those cases where two public hearings are required, advising that the introduction and the first noticed public hearing could be held at the same meeting; a second noticed public hearing would be held subsequently. In response to another query, Ms. Frieser explained that she was not aware of any other City that prohibits a public hearing at the time of introduction. Noting that Boca Raton complies with all public hearing requirements, she stated that the same number of public hearings would be required and conducted. In addition, there is no reduction or change in regard to public notice. Ms. Frieser then provided additional information as requested by Council.

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

Motion was made by Council Member Arts, seconded by Deputy Mayor Baronoff, to adopt Ordinance No. 5043. Motion carried 3-2; Mayor Whelchel, Deputy Mayor Baronoff and Council Member Arts voting yes. Council Members Hager and Haynie voted no.

9. Ordinance No. 5044

An ordinance of the City of Boca Raton approving standard forms of petition related to initiative and referendum petitions; providing for severability; providing for repealer; providing an effective date

The City Attorney provided a brief presentation, advising that there is a provision in the City Charter that requires the City adopt by ordinance, standard forms of petition. For reasons unknown, the City had not previously done that. Therefore, the Clerk's Office had prepared these forms for Council's consideration. Ms. Frieser 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 Haynie, to adopt Ordinance No. 5044. Motion carried unanimously; Motion carried unanimously; Mayor Whelchel, Deputy Mayor Baronoff, Council Members Arts, Hager and Haynie voting yes.

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

10. Resolution No. 92-2008

A resolution of the City of Boca Raton authorizing the settlement of a claim for Alberto and Melanie Aletto (GL03-OO34-MS); providing for severability; providing for repealer; providing an effective date

The City Manager advised that staff recommended approval of the settlement.

Motion was made by Council Member Haynie, seconded by Deputy Mayor Baronoff, to adopt Resolution No. 92-2006. Motion carried unanimously on a voice vote; Mayor Whelchel, Deputy Mayor Baronoff, Council Members Arts, Hager and Haynie voting yes.

REGULAR BUSINESS – PART V - INTRODUCTION OF ORDINANCES:

11. Ordinance No. 5046

An ordinance of the City of Boca Raton providing for the vacation and abandonment of a portion of a Water Easement, located at 10 East Boca Raton Road, as more specifically described herein; providing for severability; providing for repealer; providing an effective date (EA-07-06)

The ordinance was introduced by Council Member Haynie.

12. Ordinance No. 5047

An ordinance of the City of Boca Raton providing for the vacation and abandonment of portions of Utility Easements, located at 181 N.W. 20th Street, as more specifically described herein; providing conditions for vacation and abandonment; providing for severability; providing for repealer; providing an effective date (EA-08-05)

The ordinance was introduced by Council Member Hager.

13. Ordinance No. 5049

An ordinance of the City of Boca Raton amending the Boca Raton Downtown Development of Regional Impact Development Order to modify transportation related conditions and improvements; determining that the amendments do not constitute a substantial deviation requiring further Development of Regional Impact review in compliance with Section 380.06, Florida Statutes; providing for severability; providing for repealer; providing an effective date (SC-08-04)

The ordinance was introduced by Council Member Arts.

14. Ordinance No. 5050

An ordinance of the City of Boca Raton relating to the review process for Individual Development Approvals within the Downtown Redevelopment Area; amending Section 2-135, Powers and Duties of the Community Appearance Board; amending Section 2-265, Powers and Duties of the Planning and Zoning Board; providing for severability; providing for repealer; providing for codification; providing an effective date

The ordinance was introduced by Deputy Mayor Baronoff.

15. Ordinance No. 5053

An ordinance of the City of Boca Raton relating to the Civil Service Board; amending Section 2-67, Code of Ordinances, to clarify the qualifications for membership; providing for severability; providing for repealer; providing for codification; providing an effective date

The ordinance was introduced by Mayor Whelchel.

16. Ordinance No. 5054

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

The ordinance was introduced by Council Member Haynie.

REGULAR BUSINESS - PART VI - PUBLIC REQUESTS:

Margaret Cohen, a resident of Boca Colonnade, distributed a petition to Council and advocated installation of a camera at the entrance to her subdivision, indicating that this camera would allow for more neighborhood security. She advised that residents of Boca Colonnade were willing to pay for the camera and had been working with the City for months on an agreement, which was now at a stalemate over an indemnification clause, which the City's legal department insisted upon. Ms. Cohen felt the indemnification clause was unfair and appealed to Council to intercede.

Charles Jaffee, Bill Crutchley, Ben Cohen, Jim Miller, and William Andrews, also residents of Boca Colonnade, provided commentary in line with that of Ms. Cohen. Mr. Andrews also commented on the City's investment strategy, opining that it was overly conservative; he then spoke to his new business related to alternative energy.

In regard to comments made related to the Colonnade, Mayor Whelchel stated that Council would take this information under advisement; however, no decision would be forthcoming this evening as it would be inappropriate to do so.

REGULAR BUSINESS - PART VII- RESOLUTIONS AND OTHER BUSINESS:

17. Resolution No. 96-2008

A resolution of the City of Boca Raton expressing concerns over the large population of green iguanas in the City and requesting that the Florida Fish and Wildlife Conservation Commission enact regulations governing the possession, distribution and release of green iguanas within the State; providing for severability; providing for repealer; providing an effective date

Council Member Arts referred to the large number of iguanas in the City and encouraged Council to approve the resolution.

Motion was made by Council Member Hager, seconded by Council Member Haynie, to adopt Resolution No. 96-2008. Motion carried unanimously on a voice vote; Mayor Whelchel, Deputy Mayor Baronoff, Council Members Arts, Hager and Haynie voting yes.

- 17.a. (Consent Agenda Item No. 3.a.8) On-Site Sodium Hypochlorite Generation Equipment – Replacement
Requested by Utility Services
Odyssey Manufacturing Company \$139,500

Council Member Haynie advised that she pulled this item that staff might respond to concerns over the bid process. Specifically, the low bidder is a plumbing contractor, not a general contractor; as such, the plumbing contractor might not be able to address all the disciplines required in replacing the equipment.

Robert Hochberg, owner of Center for Corporate Leadership, advised that he was speaking on behalf of the supplier for the three general contractors who bid on this item. Essentially, he made the argument that the bid process was flawed; also, the plumbing contractor was not a responsive bidder and not qualified to lawfully do the work, which he stated should be performed by a general contractor; details were provided.

Utility Services Director Chris Helfrich rebutted each of the comments made by Mr. Hochberg and explained that this installation was no different from replacing a hot water heater in a residence. He also advised that staff reviewed the equipment on the market, noting that this equipment (PSI) has been available for a while and had been installed in California, New Mexico, and Colorado; staff called those companies/municipalities and stated that the reviews were very good. In addition, some of those companies converted from Chlor-Tech to PSI since the cost is less. Mr. Helfrich concluded that staff was

satisfied with their research and the product the City was getting, noting that a general contractor was not required for the project, which would only serve to mark up the price by approximately 20% to 30%.

Motion was made by Council Member Arts, seconded by Council Member Hager, to approve Consent Agenda Item No. 3.a.8. (aka 17.a.). Motion carried unanimously; Mayor Whelchel, Deputy Mayor Baronoff, Council Members Arts, Hager and Haynie voting yes.

CITY MANAGER RECOMMENDATIONS AND REPORTS:

18. Board Attendance Report (January – June 2008)

Mr. Ahnell referred to the material provided and advised that, per Ordinance No. 4585, which Council adopted in 2001, any Board Member absent from 30% or more of regularly scheduled meetings or three or more consecutive meetings was considered as having inadequate attendance. He noted that 5 Board Members fell into this category over the last year and then outlined three options available to Council at this time, which were as follows: 1) take no immediate action and direct staff to continue to monitor their attendance, 2) invite members to attend a public hearing in regard to their Board attendance, or 3) remove members without additional notice. Mr. Ahnell concluded his comments by advising that staff sought Council's direction.

Council decided to take no action at this time pending receipt of a Board consolidation report from the City Manager, which was expected later this year.

CITY ATTORNEY REPORTS:

The City Attorney introduced Linda MacLaren, the new Deputy City Attorney, to Council and those present.

MAYOR AND COUNCIL MEMBER REPORTS:

Council Member Arts questioned whether Council might be able to "react better" so people can leave the meeting with answers. Comments touched on the proposed cameras at Boca Colonnade (a topic brought forward by several members of the public under, "Public Requests") and a tree issue at Boca Lake. Mr. Ahnell advised that the City would contact the appropriate Colonnade representative(s) on this matter; in addition, an update would be forthcoming to Council regarding the Boca Lake tree issue.

Council Member Baronoff advocated a review of the policy on telephonic attendance at meetings and suggested a change to allow telephonic participation and voting by Council members unable to physically attend meetings. The City Attorney referred to the Attorney General's Opinion, which acknowledges a medical emergency or medical situation as the exemption for allowing telephonic participation. Following further commentary and noting advancements in technology, Ms. Frieser advised that she would re-evaluate the issue.

Council Member Haynie reported that she was appointed to the Palm Beach County Green Task Force by County Commissioner Mary McCarty.

Council Member Hager referred to the lobbyist registration legislation and questioned whom Council should advise if members are lobbied by someone they know is not registered with the City. Ms. Frieser indicated that Council should refer the issue to the administration for review at the administrative level, initially.

Mayor Whelchel suggested that letters be sent to various entities with whom she had previously met, such as Lynn University, Florida Atlantic University, Palm Beach Community College, and the Chamber of Commerce, to discuss green initiatives, advocating establishment of partnerships to begin the process of serving the community in this regard.

ADJOURNMENT:

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

The regular meeting of the City Council of the City of Boca Raton adjourned at approximately 9:50 p.m. on Tuesday, August 26, 2008.

Susan Whelchel, Mayor

ATTEST:

Sharma Hagerty, City Clerk