

MINUTES OF THE REGULAR MEETING
CITY COUNCIL
CITY OF BOCA RATON, FLORIDA
TUESDAY, SEPTEMBER 9, 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 Haynie gave the invocation.

PLEDGE OF ALLEGIANCE TO THE FLAG:

ROLL CALL:

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

AMENDMENTS TO THE AGENDA:

Motion was made by Council Member Arts, seconded by Deputy Mayor Baronoff, to amend the agenda to add Ordinance No. 5063 as Item No. 22 under, "Part V - Introduction of Ordinances." Motion carried unanimously on a voice vote; Mayor Whelchel, Deputy Mayor Baronoff, Council Members Arts, Hager and Haynie voting yes.

MINUTES:

Minutes of the Regular Workshop Meeting of August 25, 2008
Minutes of the Downtown Special Assessment Meeting of August 25, 2008
Minutes of the Budget Workshop Meeting of August 25, 2008
Minutes of the Regular Meeting of August 26, 2008

Motion was made by Council Member Hager, seconded by Deputy Mayor Baronoff, 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:

United States Constitution Week – September 17 through 23, 2008

The proclamation was accepted by members of the Daughters of the American Revolution (DAR).

REGULAR BUSINESS - PART I:

1. Appointments to the following boards:

- a) Builders' Board of Adjustment & Appeals – one (1) vacancy.

Motion was made by Council Member Haynie, seconded by Council Member Hager, to appoint Angelo Gasparri to the Builders' Board of Adjustment & Appeals. Motion carried unanimously on a voice vote; Mayor Whelchel, Deputy Mayor Baronoff, Council Members Arts, Hager and Haynie voting yes.

Mr. Gasparri was appointed to the Board.

- b) Citizens' Pedestrian and Bikeway Advisory Board – one (1) vacancy.

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

Mr. Woods was appointed to the Board.

- c) Code Enforcement Board – three (3) vacancies.

Pamela Martyna expressed interest in reappointment.

Motion was made by Council Member Haynie, seconded by Council Member Hager, to reappoint Jeff Evans, Michael Kokol, and Pamela Martyna to the Code Enforcement Board. Motion carried unanimously on a voice vote; Mayor Whelchel, Deputy Mayor Baronoff, Council Members Arts, Hager and Haynie voting yes.

Mr. Evans, Mr. Kokol, and Ms. Martyna were reappointed to the Board.

- d) Community Appearance Board – five (5) vacancies.

Motion was made by Council Member Haynie, seconded by Council Member Arts, to reappoint Linda Baumann, Juan Caycedo, Larry Cellon, Joe Peterson, and Grant Thornbrough to the Community Appearance Board. Motion carried unanimously on a voice vote; Mayor Whelchel, Deputy Mayor Baronoff, Council Members Arts, Hager and Haynie voting yes.

Ms. Baumann, Mr. Caycedo, Mr. Cellon, Mr. Peterson, and Mr. Thornbrough were reappointed to the Board.

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

There were no applicants.

2. Responses to Workshop Information Requests:

(Agenda Item No. 12 – Resolution No. 105-2008 / Imposing Fire Services Assessments) A memo with attachments was provided, regarding public comments in connection with the proposed increase.

Mr. Ahnell responded to a question raised at yesterday's workshop meeting in regard to Consent Agenda Item No. 3.b.2. (Wastewater Biosolids Hauling and Disposal), advising that the new biosolid pelletization plant should be operational by early 2009.

3. Consent Agenda:

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

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

- a. Sealed Bids
 - 1) Supply and Install Vehicle Graphics
Requested by Police Services
Graphic Design International, Inc. \$113,824
 - 2) Wastewater Collection System Rehabilitation
Requested by Utility Services
Madsen Barr, Centerline Utilities, Miller Pipeline,
Lanzo Lining Services, Inc. \$1,261,029

- b. Intergovernmental Agreements
 - 1) Staff Augmentation Services for Information Technology
Requested by City Manager
TEKSystems \$52,000
 - 2) Wastewater Biosolids Hauling and Disposal
Requested by Utility Services
H & H Liquid Sludge Disposal, Inc. \$338,000

c. Resolution No. 103-2008
 A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute an agreement with CorVel Corporation for the purpose of Third Party Administrative services (TPA) for the workers' compensation program; providing for severability; providing for repealer; providing an effective date

d. Resolution No. 104-2008
 A resolution of the City of Boca Raton authorizing a waiver of procurement procedures, authorizing the Mayor and City Clerk to execute an agreement with Alcalde and Fay, Ltd., for the purpose of providing Federal government affairs consulting services; providing for severability; providing for repealer; providing an effective date

e. Resolution No. 106-2008
 A resolution of the City of Boca Raton authorizing the City Manager to execute Work Order No. 27 with Hazen and Sawyer, P.C. for the purpose of providing professional engineering services for the final clarifiers refurbishment and improvement project at the wastewater treatment facility; providing for severability; providing for repealer; providing an effective date

f. Resolution No. 107-2008
 A resolution of the City of Boca Raton authorizing the City Manager to execute Work Order No. 4 with Mock, Roos and Associates, Inc., (D/B/A Mock●Roos) for the purpose of engineering stormwater improvements; providing for severability; providing for repealer; providing an effective date

g. Resolution No. 108-2008

A resolution of the City of Boca Raton supporting the beach and coastal management programs of the Florida Department of Environmental Protection, subject to the City's regulatory authority and Code of Ordinances; advising the State that the City will have the ability to provide the local funding share necessary to implement any State beach and coastal management program in which the City elects to participate; authorizing the City Manager to forward a long-term beach funding plan to the State; providing for severability; providing for repealer; providing an effective date

h. Resolution No. 109-2008

A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute agreements with Bank of America for the purpose of providing banking services; providing for severability; providing for repealer; providing an effective date

i. Resolution No. 110-2008

A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute the Third Amendment to Agreement with Allen, Norton & Blue, P.A.; providing for severability; providing for repealer; providing an effective date

j. Resolution No. 111-2008

A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute the Second Amendment to Agreement with Weiss Serota Helfman Pastoriza Cole & Boniske, P.A.; providing for severability; providing for repealer; providing an effective date

k. Resolution No. 112-2008

A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute the Second Amendment to Agreement with Lewis, Longman & Walker, P.A.; providing for severability; providing for repealer; providing an effective date

l. Resolution No. 113-2008

A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute an agreement with Data Transfer Solutions, LLC, for the purpose of professional consulting services for Geographical Information Systems software development and maintenance; providing for severability; providing for repealer; providing an effective date

m. Resolution No. 115-2008

A resolution of the City of Boca Raton authorizing Work Order Number Three, with Urban Design Associates, P.C., for the purpose of developing a Pattern Book for downtown design guidelines; providing for severability; providing for repealer; providing an effective date

n. Receive and File Board Orders/Resolutions

- 1) Zoning Board of Adjustment
 - a) Resolution No. BA-08-03
 - b) Resolution No. BA-08-04
 - c) Resolution No. BA-08-05

- o. Receive and File Board Minutes – September 9, 2008
 - 1) Community Appearance Board
July 29, 2008
 - 2) Financial Advisory Board
June 9, 2008
 - 3) Parks & Recreation Board
July 1, 2008
 - 4) Zoning Board of Adjustment
July 10, 2008

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

There were no items for consideration.

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

There were no items for consideration.

REGULAR BUSINESS – PART III – REGULAR PUBLIC HEARINGS:

- 4. Ordinance No. 5045 (Second 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)

- 5. Ordinance No. 5040 (Third 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; 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; 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 (AM-07-05)

Development Services Director Jorge Camejo gave the PowerPoint presentation, explaining that this was the sixth public presentation in regard to issues associated with the above items.

Ordinance No. 5040 would provide consistency with the way Places of Public Assembly are treated in the Zoning Code. Specifically, Places of Public Assembly would be a permitted use in Business and Commercial Districts, a conditional use in Single-Family Districts with regard to Places of Worship only, and a permitted use in Multi-Family Districts, again, with regard to Places of Worship. The ordinance also provides for uniform parking requirements. Mr. Camejo referred to the parking requirement for Places of Public Assembly, stating that the most significant change had been to delete the functional and operational analysis, which was a requirement in the previous regulations. He then reviewed an amendment proposed for incorporation into this ordinance regarding parking, specifically, one parking space is required for every three seats and one parking space is required for every additional 25 square feet provided for public assembly purposes; details were provided.

On the topic of non-concurrent parking, Mr. Camejo explained that staff identifies the use that generates the greatest peak hour parking demand. Using a hypothetical example wherein there are multiple functions on the same site, each with different timeframes and operating non-concurrently with each other, the function that generates the greatest number of parking spaces needed determines how many spaces are required; that figure should be in excess of what's required by the other functions on the site.

Mr. Camejo turned attention to Ordinance No. 5045, which would provide supplemental regulations, such as landscaping requirements, dumpster location requirements, and restricting direct vehicular access to Places of Public Assembly in residential zoning districts to arterial and collector roads, thereby prohibiting access via local streets. Referring to a public forum held last week, Mr. Camejo then reviewed issues that were raised and noted whether or not staff recommended same; details were provided on all of the following:

- 1) Ordinance No. 5040 should be modified to address non-assembly use areas that could be included as ancillary to Places of Public Assembly at a reduced parking rate of 1 space per 50 square feet for those non-assembly uses. Staff did not recommend same as the ordinance provides for consistent overall treatment.
- 2) Ordinance No. 5045 should be modified to include provisions allowing for access from local streets under certain circumstances. Staff did not recommend same since the ordinance was designed to address non-residential impacts.
- 3) Grandfathering provisions addressing nonconforming locations created as a result of the adoption of these ordinances should be included; these provisions should clearly state how these locations will be treated and to what extent they may be modified or expanded. It was noted that staff would research and address grandfathering provisions comprehensively on a Citywide basis.
- 4) Parking demand created by activities that exceed normal parking demand anticipated by the City Code for nonresidential uses in residential areas should be addressed. Mr. Camejo indicated that this last item related to special events, such as festivals and art shows, and advised that these activities are currently handled through the special event process and/or the conditional use process.

Regarding the issue of placing a "ceiling" on technical deviations, Mr. Camejo explained that the technical deviation process is intended to address unusual or extraordinary situations and, therefore, staff did not recommend changing that provision. He then concluded his comments by advising that the Planning & Zoning Board and staff recommended approval of Ordinance Nos. 5045 and 5040.

The City Manager clarified that, in addition to review of grandfathering provisions related to nonconformity, staff would also comprehensively review technical deviations and the parking process on a Citywide basis; recommendations would be forthcoming soon. Mr. Ahnell then provided additional information to Council as requested.

At this point, the public hearing was opened, during which time many citizens came forward to speak. However, they were not always clear as to whether they were for or against the proposed ordinances;

many issued caveats, stating they would be in support should certain language, pertaining to parking and/or safety, be included in the ordinances. Others focused on an alleged lack of parking at Mizner Park and/or the Chabad (synagogue) proposed for construction in the Golden Triangle neighborhood, neither of which was the subject of the ordinances currently being considered; this was pointed out by Mayor Whelchel in an effort to bring everyone back to the subject at hand.

David Warburton, Darold Hurlbert, Lisa Smith, Mark Griffith, Andrea O'Rourke, and Anthony Majhess were apparently in support of the ordinances; Benjamin Goldberg, Andrew Hagen, Charles Siemon, Daniele Newman, and Derek Vander Ploeg appeared to be in opposition. Others who also provided commentary during the public hearing were Patricia Dervishi, Morris Hakim, Sim Gershon, Robert DuKate, John Stetz, Tim Lenz, Robert Moran, Peter Sosin, Wayne Barton, Aaron Meyerowitz, Pam Oldfield, Michael Ackerman, Steve Griffith, Bjorn Anderson, Tom Reid, Craig Valvo, Michael Feldman, George O'Rourke, Jane Levy, Elliot Shapiro, Paul Koklis, and Frona Ross.

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

At Council's request, the City Attorney provided additional information regarding grandfathering in connection with nonconformity and technical deviations. In addition, Mr. Camejo referred to a memorandum included in the agenda, with a cover letter from the City Manager, related to technical deviations and parking and advised that no technical deviations had been granted for reduced parking for a non-residential use in a residential area in the last five years; details were provided. At this time, the City Attorney also answered questions tendered by residents during the public hearing.

Motion was made by Council Member Arts, seconded by Council Member Hager, to adopt Ordinance No. 5045, as revised. Motion carried unanimously; Mayor Whelchel, Deputy Mayor Baronoff, Council Members Arts, Hager and Haynie voting yes.

Motion was made by Council Member Haynie, seconded by Council Member Hager, to adopt Ordinance No. 5040, as revised and amended, to reflect the parking requirement. Motion carried unanimously; Mayor Whelchel, Deputy Mayor Baronoff, Council Members Arts, Hager and Haynie voting yes.

The meeting recessed at approximately 8:40 p.m. and reconvened at approximately 8:50 p.m. At this time, Deputy Mayor Baronoff left the meeting.

6. 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)

Property Specialist/Appraiser Lynn Bodor gave the PowerPoint presentation, explaining that this was a request to abandon an approximate 4-foot by 12-foot portion of a water easement, which was deeded to the City in 2001 to serve the Republic Security Bank project and to maintain water service to the car rental office site to the north. The Old Town Tavern restaurant was approved and constructed on the former car rental site; "as built" surveys revealed that the restaurant improvements encroach slightly into the eastern edge of the easement. Ms. Bodor advised that the abandonment would not interfere with current water facilities located outside the area of abandonment.

The Utility Services and Municipal Services Departments were contacted, as was Code Enforcement; they all supported the abandonment with no conditions imposed. 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 Council Member Hager, seconded by Council Member Haynie, to adopt Ordinance No. 5046. Motion carried 4-0; Mayor Whelchel, Council Members Arts, Hager and Haynie voting yes.

7. 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)

Property Specialist/Appraiser Lynn Bodor gave the PowerPoint presentation, explaining that this was a petition to abandon a 10-foot by 10-foot portion of a platted utility easement and an approximate 10-foot by 100-foot section of a deeded utility easement, both of which conflict with placement of a new showroom/warehouse building for Smith and DeShields.

Ms. Bodor advised that appropriate City departments and all franchised utilities were contacted. They all support the abandonment; however, AT&T Florida has underground telecommunication cables within the deeded easement and has conditioned their approval upon the relocation of those lines. In conclusion, staff recommended approval of the ordinance, subject to the condition contained therein.

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. 5047. Motion carried 4-0; Mayor Whelchel, Council Members Arts, Hager and Haynie voting yes.

8. 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)

Development Services Principal Planner Jim Bell gave the PowerPoint presentation, advising that this Notice of Proposed Change, which is the fourth amendment to the DDRI (Downtown Development of Regional Impact), would modify four conditions from the Downtown Development Order that relate to transportation. The first modification would amend Condition 31(a) related to intersection improvements at Dixie Highway and Camino Real; specifically, these improvements would not be necessary if Palm Beach County adopted a CRALLS designation for the intersection, which is a lower level of service designation, or the City adopts and implements a Multimodal Transportation District. The second modification deletes Condition 33(b) related to required intersection improvements at Dixie Highway and Hillsboro Boulevard. The third modification deletes Condition 35, related to a traffic monitoring requirement for certain roads located in the downtown. The fourth and last modification deletes Condition 36, requiring a traffic monitoring report.

Mr. Bell then delineated staff's justification for these changes, advising that, due to the significant nature of the reduction of actual traffic generated by the DDRI in comparison with the original Downtown Development Order, and due to almost all of the mitigation having been completed for the traffic projected in the original application, the modifications proposed will not cause any adverse impacts to the roadway network or any other levels of service standards.

The proposed changes were reviewed by the Treasure Coast Regional Planning Council, the Department of Community Affairs, the Florida Department of Transportation, and Palm Beach County; all agencies

determined that the proposed modifications would not create any regional impacts. The Planning & Zoning Board also reviewed this ordinance and recommended approval of same. Mr. Bell concluded his presentation by advising that staff recommended approval of this request for a Notice of Proposed Change; he then provided clarification to Council and the City Attorney, as requested, in regard to the CRALLS language.

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

Motion was made by Council Member Haynie, seconded by Council Member Hager, to adopt Ordinance No. 5049. Motion carried 4-0; Mayor Whelchel, Council Members Arts, Hager and Haynie voting yes.

9. 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

Deputy City Manager George Brown gave the presentation. He explained that this ordinance enacts the changes adopted by the Community Redevelopment Agency (CRA) on August 25, 2008. These changes streamline and improve the development review process by: 1) eliminating the role of the Planning & Zoning Board and the Community Appearance Board (CAB) in the Individual Development Approval (IDA) stage of review; 2) retaining the role of the CAB with respect to review of signs and minor improvements; and 3) clarifying the CAB's role in determining consistency between the IDA and the building permit plan set. He then concluded his presentation and answered questions from Council, clarifying that the site design, and other elements affected by the downtown rules and guidelines, would be reviewed by staff through the consultant, Urban Design Associates.

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. 5050. Motion carried 4-0; Mayor Whelchel, Council Members Arts, Hager and Haynie voting yes.

10. 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

Deputy City Manager George Brown gave the presentation, explaining that employees in the City's classified service that are full-time employees and those in the unclassified service, comprised of the City Manager's Office, the City Attorney's Office, department heads, and division heads may not serve on the Civil Service Board. He noted that management employees and employees with access to the Civil Service Board should not be able to serve on the appeals board that hears such appeals.

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. 5053. Motion carried 4-0; Mayor Whelchel, Council Members Arts, Hager and Haynie voting yes.

11. 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

Office of Management and Budget Director Sharon McGuire gave the presentation. She provided information relating to revenues and expenditures in various funds. Ms. McGuire offered details in support of the figures listed, stating that the grand total of additional revenues and expenditures for the Third Quarterly Budget Amendment Ordinance is \$9,773,800 and then concluded her presentation. Ms. McGuire and Mr. Ahnell provided additional clarification to Council, as requested, in regard to the figures presented and the City's standing on reserves.

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

Motion was made by Council Member Haynie, seconded by Council Member Hager, to adopt Ordinance No. 5054. Motion carried 4-0; Mayor Whelchel, Council Members Arts, Hager and Haynie voting yes.

12. Resolution No. 105-2008

A resolution of the City of Boca Raton imposing fire services assessments against assessed property located within the City for the fiscal year beginning October 1, 2008; approving the Fiscal Year 2008-2009 Rate of Assessment; approving the Fiscal Year 2008-2009 Assessment Roll; providing for severability; providing for repealer; providing an effective date

Assistant City Manager Mike Woika gave the presentation. He referred to Ordinance No. 4956, which was enacted in 2006 and established an annual Fire Services Assessment for all properties within the City. He noted that each year there is a separate resolution that sets the assessment rate for the following year and advised that the recommended total assessment is approximately \$2.4 million or 15% of the total cost to the City to provide Fire Rescue Services. A Fire Services Assessment report was included in the agenda package and contained details related to the assessment methodology and process. Mr. Woika then concluded his comments by explaining that this public hearing was advertised and notice was mailed to all property owners.

Council referred to the phone calls received by the City in regard to the proposed assessment and asked for additional details. Mr. Woika stated that many people had questions about how the assessment would be billed and/or they did not understand the need for – or the reasoning behind – the assessment. Staff explained to the callers that costs associated with Fire Rescue have increased over the last few years and the assessment was a means of allocating some of those costs, based on the number of calls received in certain categories; details were provided. It was noted that the annual cost to residents would be \$30, which is substantially less than what residents pay in neighboring communities. Mr. Woika added that, although some individuals remained in opposition to the fee, they understood the need for same and did not disagree with the assessment, itself, but were against raising any fees or taxes in the current economic climate.

Responding to Mayor Whelchel, Mr. Woika explained that the total cost to the City to provide Fire Rescue Services is approximately \$17 million; the proposed 15% assessment would help to defray the rising costs to provide these services. The City Manager provided additional clarification and noted that the City is paying the balance of approximately \$14.5 million via ad valorem taxes. Responding to more queries from Council, Mr. Woika and Mr. Ahnell provided further information as to whether there were exemptions to the assessment fee.

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

Motion was made by Council Member Hager, seconded by Council Member Arts, to adopt Resolution No. 105-2008. Motion carried 4-0; Mayor Whelchel, Council Members Arts, Hager and Haynie voting yes.

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

There were no items for consideration.

REGULAR BUSINESS – PART V - INTRODUCTION OF ORDINANCES:

13. Ordinance No. 5048

An ordinance of the City of Boca Raton providing for the vacation and abandonment of a portion of N.W. 4th Street located adjacent to 470 N.W. 4th Avenue, as more specifically described herein; approving and accepting a Public Utility Easement Deed from Bibletown Community Church, Inc., over certain lands located adjacent to 470 N.W. 4th Avenue; providing conditions for vacation and abandonment; providing for severability; providing for repealer; providing an effective date (AB-06-05)

The ordinance was introduced by Council Member Hager.

14. Ordinance No. 5051

An ordinance of the City of Boca Raton amending Architectural Design Policy 1.2 contained in the Amended Downtown Plan (a Community Redevelopment Plan); inserting additional architectural design policies allowing, in certain cases, an increase in height for a portion of the building or buildings on the site to a maximum height with modifications to the building setbacks, contingent upon satisfaction of specified criteria, and related policy amendments; providing for severability; providing for repealer; providing for codification; providing an effective date (SC-08-05)

The ordinance was introduced by Council Member Arts.

15. Ordinance No. 5052

An ordinance of the City of Boca Raton amending the Boca Raton Downtown Development of Regional Impact Development Order by adding quality downtown development regulations and related definitions; allowing, in certain cases, an increase in height for a portion of the building or buildings on a site, to a maximum height with modifications to the building setbacks contingent upon satisfaction of specified criteria; providing amendments related thereto; determining that the amendments are not subject to review as a Notice of Proposed Change; providing for severability; providing for repealer; providing an effective date (SC-08-06)

The ordinance was introduced by Council Member Hager.

16. Ordinance No. 5055

An ordinance of the City of Boca Raton considering the vacation and abandonment of a portion of unimproved alley right-of-way adjacent to 16 S.E. 4th Street, as more specifically described herein; approving and accepting a Utility Easement Deed from Southeast 4th Associates, L.L.C., over certain lands located at 16 S.E. 4th Street; providing conditions for vacation and abandonment; providing for severability; providing for repealer; providing an effective date (AB-08-02)

The ordinance was introduced by Council Member Hager.

17. Ordinance No. 5056

An ordinance of the City of Boca Raton providing for the vacation and abandonment of a platted right-of-way located at 7598 N.W. 6th Avenue, as more specifically described herein; providing for severability; providing for repealer; providing an effective date (AB-08-03)

The ordinance was introduced by Council Member Hager.

18. Ordinance No. 5057

An ordinance of the City of Boca Raton considering the vacation and abandonment of non-access lines, located at 7598 N.W. 6th Avenue, as more specifically described herein; providing for severability; providing for repealer; providing an effective date (EA-08-06)

The ordinance was introduced by Council Member Arts.

19. Ordinance No. 5058

An ordinance of the City of Boca Raton considering the vacation and abandonment of a portion of a Utility Easement, located at 7598 N.W. 6th Avenue, as more specifically described herein; approving and accepting a Utility Easement Deed from USF Propoco I, LLC, over certain lands located at 7598 N.W. 6th Avenue; providing conditions for vacation and abandonment; providing for severability; providing for repealer; providing an effective date (EA-08-04)

The ordinance was introduced by Council Member Hager.

20. Ordinance No. 5059

An ordinance of the City of Boca Raton rezoning, pursuant to Article VI, Chapter 23, Code of Ordinances, a parcel of land consisting of 1.08 acres more or less, located at 600 North Federal Highway, from General Business (B4) to Professional, Office and Institutional (PO&I); providing for severability; providing for repealer; providing an effective date (UC-08-02/ZC)

The ordinance was introduced by Council Member Haynie.

21. Ordinance No. 5060

An ordinance of the City of Boca Raton providing for the vacation and abandonment of a portion of a Utility Easement, located at 470 N.W. 4th Avenue, as more specifically described herein; providing for severability; providing for repealer; providing an effective date (EA-06-08)

The ordinance was introduced by Council Member Hager.

22. Ordinance No. 5063

An ordinance of the City of Boca Raton amending Chapter 12, Code of Ordinances, relating to the Police and Firefighters' Retirement System relating to optional forms of retirement benefits; providing for severability; providing for repealer; providing for codification; providing an effective date

The ordinance was introduced by Council Member Arts.

REGULAR BUSINESS - PART VI - PUBLIC REQUESTS:

Rick Limegrover referred to a pending court case between him and his neighbor, Gene Scanlon, in regard to a boatlift variance granted by the Builders' Board of Adjustment & Appeals (BBAA). He noted that Mr. Scanlon wanted to bring this issue before the BBAA to be heard again. Mr. Limegrover provided details as to what transpired during the public hearing before the BBAA, stating that the problem is Mr. Scanlon's large vessel, for which he wants unfettered access. Advising that this issue had been ongoing for three years, Mr. Limegrover also stated that he desired closure and requested that the City release the final permit for his boatlift. He also urged Council to let the courts decide this matter.

The City Attorney indicated that she had issued a memo to Council and all affected parties in regard to this case and generally explained that there was no administrative process available for bringing this issue back to the City. The case would have to go through the judicial process and, unfortunately, the City could not render a final permit at this time while the variance remains pending.

REGULAR BUSINESS - PART VII- RESOLUTIONS AND OTHER BUSINESS:

There were no items for consideration.

CITY MANAGER RECOMMENDATIONS AND REPORTS:

Mr. Ahnell advised that the City was working with the County and the Chamber of Commerce to promote economic development. He reported that he was in attendance at a County Commission meeting this morning where members approved a job incentive grant of \$40,000 for Biotest Pharmaceuticals (formerly known as Nabi Pharmaceuticals), the largest pharmaceutical company in Florida, to add 50 additional jobs in the City of Boca Raton; the City Manager explained that a matching component would be forthcoming from the State as well. Responding to queries from Council, he added that these jobs should be established within approximately 24 months; salaries are expected to be nearly \$80,000 per job. In addition, Biotest planned to add more square footage to their existing building.

CITY ATTORNEY REPORTS:

The City Attorney had nothing to report at this time.

MAYOR AND COUNCIL MEMBER REPORTS:

Council Members Arts and Hager commended staff on their efforts related to Ordinance Nos. 5045 and 5040, which staff had been working on diligently for approximately 10 months.

ADJOURNMENT:

Motion was made by Council Member Arts, seconded by Council Member Hager, to adjourn the meeting. Motion carried 4-0 on a voice vote; Mayor Whelchel, Council Members Arts, Hager and Haynie voting yes.

The regular meeting of the City Council of the City of Boca Raton adjourned at approximately 9:27 p.m. on Tuesday, September 9, 2008.

Susan Whelchel, Mayor

ATTEST:

Sharma Hagerty, City Clerk