

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

**PLEDGE OF ALLEGIANCE TO THE FLAG:**

**ROLL CALL:**

Mayor Susan Whelchel  
Council Member M. J. Mike Arts  
Council Member Bill Hager  
Council Member Susan Haynie

**AMENDMENTS TO THE AGENDA:**

The agenda was amended to add Resolution No. 170-2008 to the Consent Agenda as Item No. 3.j. and to acknowledge revisions to Ordinance No. 5072; Council voiced no objections.

**MINUTES:**

Minutes of the Regular Workshop Meeting of November 24, 2008  
Minutes of the Regular Meeting of November 25, 2008

*Motion was made by Council Member Arts, seconded by Council Member Haynie, to approve the minutes as presented. Motion carried 4-0; Mayor Whelchel, Council Members Arts, Hager, and Haynie voting yes.*

**SPECIAL CONSIDERATION:** Council Candidate Interviews and Consideration

Council requested that all candidates for Council Seat B answer three questions during the course of their interviews. Specifically, candidates were asked to: 1) address their ability to devote the necessary time required to serve; 2) indicate whether there was intent to run for the open seat in March 2009; and 3) state their positions on financial solvency and keeping the budget in balance. Mayor Whelchel also noted that whoever was appointed would be sworn in tomorrow morning.

Brett Burkey, Emil Danciu, Omid Ghaffari, Glenn Gromann, Mark Munro, Gunther Rincon, Constance Scott, and Gerry Ulled then interviewed for the vacant position. Seeing no other applicants come forward, the interview process was closed.

*Motion was made by Council Member Hager, seconded by Council Member Arts, to appoint Michael Mullaugh to Council Seat B. Motion carried 4-0; Mayor Whelchel, Council Members Arts, Hager, and Haynie voting yes.*

Mr. Ahnell advised those present that Mr. Mullaugh had interviewed the day before at the City Council Workshop meeting. Mr. Mullaugh was then asked to stand and be recognized.

**PROCLAMATIONS/RECOGNITIONS/AWARDS:**

There were no proclamations, recognitions, or awards.

**REGULAR BUSINESS - PART I:**

1. Appointments to the following boards:

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

There were no applicants.

2. Responses to Workshop Information Requests:

The City Manager advised that answers 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 Haynie, seconded by Council Member Arts, to approve the Consent Agenda, as amended. Motion carried 4-0; Mayor Whelchel, Council Members Arts, Hager and Haynie voting yes.*

a. Sealed Bid

- 1) Bus Shelter Maintenance  
Requested by Municipal Services  
Roof Painting by Hartzell, Inc. \$55,000

b. Sole Source

- 1) 75' Mid Ship Aerial Ladder Truck - Replacement  
Requested by Fire-Rescue Services  
Sutphen Corporation \$697,600

c. Intergovernmental Agreements

- 1) Athletic Field Lighting - Replacement  
Requested by Recreation Services  
Musco Sports Lighting, LLC \$525,000
- 2) Sodium Hydroxide  
Requested by Utility Services  
Allied Universal Corp. \$153,000
- 3) Emergency Mobile Intensive Care Vehicles - Replacement  
Requested by Fire-Rescue Services  
Hall-Mark Fire Apparatus \$471,000

- 4) Electrical Supplies  
Requested by Municipal Services Utility Services  
American Plumbing & Electrical Supply, Inc.; Biko, Inc.; Gexpro;  
Graybar Electric; HD Supply; Interline Brands, Inc./DBA Sexauer;  
ITW, Inc./DBA AAA Tool & Supply; Mayer Electric Supply;  
Mercedes Electric Supply; Palm Beach Battery Ventures, LLC;  
Peninsula; Electric Distributors; Southern Electric/DBA Rexel;  
World Electric Supply
- \$250,000

d. Resolution No. 164-2008

A resolution of the City of Boca Raton extending the term of the Downtown Boca Raton Advisory Committee for an additional 2-year period; providing for severability; providing for repealer; providing an effective date

e. Resolution No. 167-2008

A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute the First Amendment to an Agreement with Navarro Security Group, Inc. for the purpose of extending the term of the contract to February 20, 2009; providing for severability; providing for repealer; providing an effective date

f. Resolution No. 168-2008

A resolution of the City of Boca Raton accepting the November 19, 2008 Affordable Housing Advisory Committee Recommendation Report, pursuant to Chapter 420, Florida Statutes, pertaining to the State Housing Initiatives Partnership (SHIP) Program; providing for severability; providing for repealer; providing an effective date

g. Resolution No. 169-2008

A resolution of the City of Boca Raton authorizing the City Manager to accept a grant from the Department of Homeland Security for the Assistance to Firefighters Grants Program; authorizing the expenditure of matching funds for said grant; authorizing and directing the City Manager to comply with the terms and conditions of said grant; providing for severability; providing for repealer; providing an effective date

h. Board Resignations

- 1) Resignation of Albert Jackman from the Historic Preservation Board
- 2) Resignation of Ruth A. Weiss from the Elder Affairs Advisory Board
- 3) Resignation of Bryan Meisel from the Community Relations Board

i. Receive and File Board Minutes – December 9, 2008

- 1) Community Appearance Board  
November 4, 2008
- 2) Education Advisory Board  
September 22, 2008
- 3) Executive Employees' Retirement Plan  
September 24, 2008

- 4) General Employees' Pension Board  
September 11, 2008
- 5) Historic Preservation Board  
June 17, 2008  
September 16, 2008
- 6) Planning and Zoning Board  
September 4, 2008
- 7) Police and Firefighters' Pension Board  
September 25, 2008  
September 25, 2008 (Joint Administrative Comm. Gen Emp and P&FF)

j. Resolution No. 170-2008

A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute a settlement and release agreement with Lumbermens Mutual Casualty Company for the purpose of resolving remaining claims arising from a construction contract executed with Megan South Inc. for downtown beautification; providing for severability; providing for repealer; providing an effective date

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

4. Resolution No. 145-2008

A resolution of the City of Boca Raton accepting and approving the final plat known as the Glades/Rox subdivision plat, and authorizing the Mayor and City Clerk to execute the plat; providing for severability; providing for repealer; providing an effective date (SUB-04-06)

*Motion was made by Council Member Arts, seconded by Council Member Hager, to adopt Resolution No. 145-2008. Motion carried 4-0; Mayor Whelchel, Council Members Arts, Hager and Haynie voting yes.*

5. Resolution No. 166-2008

A resolution of the City of Boca Raton accepting and approving the final plat known as the Glades/Rox North subdivision plat, and authorizing the Mayor and City Clerk to execute the plat; providing for severability; providing for repealer; providing an effective date (SUB-04-07)

*Motion was made by Council Member Haynie, seconded by Council Member Hager, to adopt Resolution No. 166-2008. Motion carried 4-0; Mayor Whelchel, Council Members Arts, Hager and Haynie voting yes.*

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

6. Resolution No. 162-2008

A resolution of the City of Boca Raton granting tentative plat approval to the proposed Sugar Sand Park Phase 4 subdivision plat, subject to conditions; providing for severability; providing for repealer; providing an effective date (SUB-07-03)

7. Resolution No. 161-2008

A resolution of the City of Boca Raton considering conditional use approval and a master plan modification to the Sugar Sand Park Master Plan on a parcel of land located at 300 South Military Trail; providing for severability; providing for repealer; providing an effective date (CA-08-03)

The City Attorney advised that quasi-judicial procedure would be followed for this contemporaneous public hearing. The City Clerk administered the oath to those who indicated they wished to speak. There were no ex parte disclosures.

Development Services Planner Daryl Johnson gave the PowerPoint presentation, advising that this request would provide for development of additional amenities at Sugar Sand Park, including an interactive water feature and plaza, a community pavilion and picnic pavilions, and a parks operation center and storage. Acreage, location, on-site uses, zoning, and future land use designation were reviewed, as was information related to parking and vehicle access. Mr. Johnson advised that Palm Beach County requested additional right-of-way be provided along Military Trail for a right-turn lane; a condition was included to provide for future development of this lane. There followed additional information and details related to the proposed master plan and the traffic study.

Mr. Johnson concluded his presentation by advising that the Parks and Recreation Board recommended approval of these petitions, as did staff, with the conditions listed in the resolutions.

Robert Langford, representing the Greater Boca Raton Beach and Park District, answered questions from Council related to the proposed water feature and two turn lanes into the site.

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. 162-2008. Motion carried 4-0; Mayor Whelchel, Council Members Arts, Hager and Haynie voting yes.*

*Motion was made by Council Member Arts, seconded by Council Member Haynie, to adopt Resolution No. 161-2008. Motion carried 4-0; Mayor Whelchel, Council Members Arts, Hager and Haynie voting yes.*

### **REGULAR BUSINESS – PART III – REGULAR PUBLIC HEARINGS:**

#### **8. Ordinance No. 5075**

An ordinance of the City of Boca Raton amending Exhibit A of Ordinance No. 4859 of the City of Boca Raton previously amended by Ordinance No. 4916, which ordinance amended the future land use category of certain property located at 1601 Clint Moore Road, as more specifically described herein, from Light Industrial to Commercial; providing for severability; providing for repealer; providing an effective date (UC-04-10R3)

Development Services Principal Planner Jennifer Hofmeister gave the PowerPoint presentation, explaining that this request would modify the approved Universal Conditional Use Approval and Site Plan Approval with a technical deviation, related to parking, to construct a new 30,000 square foot medical office addition with an attached parking structure located at 1601 Clint Moore Road. Acreage, zoning, and future land use designation was provided, as was information on prior modification requests. The proposed building would provide emergency medical services, radiation/oncology services, and additional medical offices.

A technical deviation was requested to allow for a reduction in the number of required parking spaces from 561 to 428. As justification for same, the project's traffic consultant, Kimley-Horn and Associates, conducted a parking accumulation study that determined a site-specific need for only 425 spaces, including a surplus of 15% for turn over. Consequently, the site plan provided 428 spaces, which is three spaces greater than the anticipated demand. The City's Traffic Engineer reviewed the study and supported the technical deviation.

Ms. Simon advised that the petitioner was also requesting elimination of a prior condition of approval to construct a westbound right turn lane into the site. She explained that, per the traffic analysis submitted,

the turn lane was no longer deemed necessary, due to traffic volumes and distributions derived from the actual counts. In addition, the City determined that it is not financially feasible to construct the lane due to substantial costs associated with relocation of utilities. There followed information related to AM and PM trip generations and traffic concurrency. It was also noted that the Planning and Zoning reviewed this petition and unanimously recommended approval of same.

Referring to a black-lined copy of Exhibit A to the ordinance, Ms. Hofmeister explained that Conditions 3 and 4 were removed, as they related to the right turn lane, which is no longer required. Condition 5 was also stricken since the requirements had been met, as had the requirements for Condition 10, which was removed as well. Ms. Hofmeister then concluded her comments and advised that staff recommended approval.

Richard Brooks, the architect for the project, distributed pictures of the existing facility that Council might see how the proposed addition would fit on the site. He then answered questions from Council regarding rear access, the possibility of a signage program to direct pedestrians, and the right turn lane.

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

*Motion was made by Council Member Arts, seconded by Council Member Haynie, to adopt Ordinance No. 5075. Motion carried 4-0; Mayor Whelchel, Council Members Arts, Hager and Haynie voting yes.*

9. Ordinance No. 5071

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

Financial Services Deputy Director Linda Davidson gave the presentation and explained that this ordinance, revised November 25, 2008, reflected changes made to the collective bargaining agreement between the City and IAFF (International Association of Firefighters). Specifically, there are changes to the benefit plan and revisions to when the cost-of-living adjustment is provided to those members who retire or enter the DROP on or after December 9, 2008. These changes would reduce the actuarial long-term accrued liability by approximately \$596,000. An impact statement reflecting same was attached to the ordinance. Ms. Davidson concluded her presentation by advising that the ordinance was reviewed by the Police and Firefighter Pension Board; those members unanimously recommended adoption.

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 Ordinance No. 5071, as revised 11/25/08. Motion carried 4-0; Mayor Whelchel, Council Members Arts, Hager and Haynie voting yes.*

10. Ordinance No. 5072

An ordinance of the City of Boca Raton related to health and sanitation; amending Chapter 14, Code of Ordinances; providing for additional definitions and administrative procedures; providing regulations for pre-collection and collection procedures for the collection and disposal of solid waste, vegetative waste, bulk waste and recyclable materials; providing for fees and charges for solid waste collection services; amending Section 16-31, Code of Ordinances, to prohibit the obstruction of solid waste collection vehicles; providing for severability; providing for repealer; providing for codification; providing an effective date

Municipal Services Director Robert DiChristopher gave the PowerPoint presentation. He explained that the main thrust of the ordinance was to create an enterprise fund for solid waste collection and noted that, previously, the City had paid for same via ad valorem; this ordinance proposed a fee-based system. The

companion legislation, Resolution No. 163-2008, (Item No. 13) would establish the fee schedule; that presentation would be given by the City's Treasurer later this evening. Mr. DiChristopher stated that this proposed amendment would change the City's service provisions; he then briefly provided information related to the pilot program for automated collection. In general, the ordinance would clean up language and clarify/add definitions, confirm the City's authority to collect solid waste, allow for the automated containerized service, establish the enterprise fund and framework for the fees and charges to be levied, assist the City with reimbursement from FEMA in cases of disaster, and provide rules for residential composting; details were provided on all the above. Mr. DiChristopher added that the only two cities in Palm Beach County that do not have an enterprise fund for solid waste collection are Boca Raton and the Town of Palm Beach. There followed a review of the cost to provide service, proposed charges for residential service, and a comparison of other cities' collection charges. Mr. DiChristopher also explained how the multi-family charge for pickup was calculated and compared same with other cities of similar size. He concluded his presentation and then answered questions from Council regarding bulk pickup and fees for multi-family residences.

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

*Motion was made by Council Member Haynie, seconded by Mayor Whelchel, to adopt Ordinance No. 5072, as revised 12/9/08. Motion carried 4-0; Mayor Whelchel, Council Members Arts, Hager and Haynie voting yes.*

11. Ordinance No. 5073

An ordinance of the City of Boca Raton amending the Code of Ordinances relating to Fire Prevention and Fire Protection; repealing current Chapter 7, Code of Ordinances, in its entirety; adopting a revised, updated Chapter 7, Code of Ordinances; adopting the Florida Fire Prevention Code; providing for local amendments to the Florida Fire Prevention Code; providing for severability; providing for repealer; providing for codification; providing an effective date

Deputy City Manager George Brown gave the PowerPoint presentation. He explained that Chapter 7 was being repealed and readopted by this ordinance; specifically, it would adopt a new City Fire Prevention Code, which incorporates the Florida Fire Prevention Code, and readopt updated local requirements. There followed a review of those local requirements, which included fire equipment and system standards, building and site design standards, elevators, fire flow and hydrants, fireworks, alarm and sprinkler system standards, and AED standards. The ordinance would also update definitions and references. If approved, legislation would be effective January 1, 2009. Mr. Brown concluded his comments and then provided additional clarification, regarding local standards, to Council, as requested.

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. 5073, as revised 12/9/08. Motion carried 4-0; Mayor Whelchel, Council Members Arts, Hager and Haynie voting yes.*

12. Ordinance No. 5074

An ordinance of the City of Boca Raton amending the Code of Ordinances relating to police and fire alarms; repealing Article II of Chapter 9, Code of Ordinances in its entirety; creating and adopting a new Article II of Chapter 9, Code of Ordinances, relating to police and fire alarms; providing definitions and regulations; providing requirements for alarm user and alarm, monitoring company registrations; providing for fees and penalties; providing an appeals process; amending Section 2-113, Code of Ordinances, to provide that violations of Chapter 9, Code of Ordinances, shall be within the jurisdiction of the special master; providing for severability; providing for repealer; providing for codification; providing an effective date

Deputy City Manager George Brown gave the PowerPoint presentation, advising that this ordinance adopts a new Police and Fire Alarm Code; it repeals the existing Code regarding burglar and fire alarms, provides updated definitions, consolidates and clarifies requirements and procedures, and improves service and response in connection with alarms. Mr. Brown then provided more detailed information related to registration for commercial and residential alarm systems, standards for alarm monitoring companies, false alarm penalties, and the procedure for appeals and enforcement. He concluded his presentation and answered questions from Council regarding notification to citizens of the registration requirements.

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. 5074, as revised 12/9/08. Motion carried 4-0; Mayor Whelchel, Council Members Arts, Hager and Haynie voting yes.*

13. Resolution No. 163-2008

A resolution of the City of Boca Raton amending the Boca Raton Municipal Facilities and Services User Fee Schedule; amending fees for solid waste collection services; amending Police Alarm and Fire Alarm fees; providing for severability; providing for repealer; providing an effective date

The City's Treasurer, Carol Himes-Hannigan, gave the PowerPoint presentation and outlined proposed changes to the User Fee Schedule, which would become effective December 10, 2008, if approved. She provided an overview of the changes related to Police and Fire Alarms, which included registration information and fees, and schedules of false alarm fees for Police Services and Fire Rescue Services, respectively. She also reviewed the new solid waste fees proposed by Municipal Services. Details were provided on all the above.

The City Manager, Fire Chief Tom Wood, and Police Chief Dan Alexander answered questions from Council related to false alarms and false alarm fees.

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 Resolution No. 163-2008. 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:**

14. Ordinance No. 5076

An ordinance of the City of Boca Raton amending Section 17-161, Code of Ordinances, authorizing the City Manager to set payment terms on impact fees due upon connection to the water and sewer system for existing building(s) and structure(s); providing for severability; providing for repealer; providing an effective date

The ordinance was introduced by Council Member Arts.

**REGULAR BUSINESS - PART VI - PUBLIC REQUESTS:**

No one came forward to speak.

**QUASI-JUDICIAL PUBLIC HEARING – APPEAL OF BOARD DECISION:**

15. Resolution No. 165-2008

A resolution of the City Council of the City of Boca Raton considering an appeal of the decision of the Community Appearance Board to deny Permit 07-2958, for the replacement of the awning at Count de Hoernle Train Pavilion located at 747 S. Dixie Highway; providing for severability; providing for repealer; providing an effective date

It was noted that quasi-judicial procedure would be followed for this public hearing; the City Clerk administered the oath to those who indicated they wished to speak. There were no ex parte disclosures.

Development Services Planner Daryl Johnson gave the PowerPoint presentation. He explained that staff proposed to install the subject awning in the same location as the original awning that was damaged during Hurricane Wilma; the awning would be of similar design and color to the original as well. However, the Community Appearance Board (CAB) denied the permit, citing two concerns; specifically, they objected to the rounded style of the posts, requesting that they be square. The CAB also expressed concern regarding the historical location of the awning and whether the structure was permanent. Mr. Johnson then concluded his comments by advising that staff recommended approval of the appeal to reverse the decision of the CAB and approve the permit, as submitted.

Grant Thornbrough, Chairman of the CAB, explained that two basic issues existed. First, the CAB believed the awning should be more consistent with the roofline of the building and more in keeping with the architecture. Second, concern focused on the strength of the posts, which the CAB did not believe to be substantial enough. Referring to the staff memorandum, Mr. Thornbrough stated he did not believe that the cost to change the posts would be approximately \$12,000.

Responding to a query from Council, Mr. Johnson explained that the \$12,000 estimate to replace the posts was supplied by the company providing the awning. Commentary then focused on the posts.

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 approve Resolution No. 165-2008, as amended, to grant the appeal. Motion carried 4-0; Mayor Whelchel, Council Members Arts, Hager and Haynie voting yes.*

**REGULAR BUSINESS - PART VII- RESOLUTIONS AND OTHER BUSINESS:**

There were no items for consideration.

**CITY MANAGER RECOMMENDATIONS AND REPORTS:**

Mr. Ahnell reminded those present that the holiday parade was scheduled for Wednesday, December 10, 2008, and the boat parade was scheduled for Saturday, December 20, 2008. He then reported that completion of Fire Station #5 was anticipated in April of 2009; it would be the City's first official LEED-certified building.

**CITY ATTORNEY REPORTS:**

The City Attorney had nothing to report at this time.

**MAYOR AND COUNCIL MEMBER REPORTS:**

Council Member Haynie provided positive commentary on the Fire Explorers' award ceremony, which she and Mayor Whelchel recently attended, and commended Fire Rescue Services Public Information Officer Frank Correggio for his oversight of the program.

The Mayor and Council joined in congratulating Michael Mullaugh on his appointment to City Council Seat B and also wished everyone happy holidays.

**ADJOURNMENT:**

*Motion was made by Council Member Hager, seconded by Council Member Haynie, 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 7:55 p.m. on Tuesday, December 9, 2008.

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Susan Whelchel, Mayor

ATTEST:

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Sharma Hagerty, City Clerk