

MINUTES OF THE REGULAR MEETING  
CITY COUNCIL  
CITY OF BOCA RATON, FLORIDA  
TUESDAY, MAY 12, 2009  
6:00 PM

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

On behalf of those present, Mayor Whelchel welcomed Palm Beach County Commissioner Steven Abrams to the meeting.

**INVOCATION:**

The invocation was given by Council Member Scott.

**PLEDGE OF ALLEGIANCE TO THE FLAG:**

**ROLL CALL:**

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

**AMENDMENTS TO THE AGENDA:**

*Motion was made by Deputy Mayor Haynie, seconded by Council Member Mullaugh, to amend the agenda to add Resolution Nos. 69-2009, 70-2009, and 71-2009 to the Consent Agenda as Item Nos. 3.f., 3.g., and 3.h., respectively. Motion carried unanimously on a voice vote; Mayor Whelchel, Deputy Mayor Haynie, Council Members Majhess, Mullaugh, and Scott voting yes.*

**MINUTES:**

Minutes of the Regular Workshop Meeting of April 27, 2009  
Minutes of the Regular Meeting of April 28, 2009

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

**PROCLAMATIONS/RECOGNITIONS/AWARDS:**

**Introduction - Palm Beach County Commissioner Steven Abrams**

Commissioner Abrams formally introduced himself, advising that he was visiting the 12 municipalities that he represents. He then reported on some of the recent actions that he supported, such as reallocation of funds for the black box theater in the former Cartoon Museum building at Mizner Park, and allocation of funding for dredging of the Boca Raton Inlet. Commissioner Abrams then answered questions from Council related to Tri-Rail funding.

**Recognition - Teachers of the Year for 2008 – Education Advisory Board**

Fred Schwartz, Chairman of the Education Advisory Board, and Frank Barbieri, representing the Rotary Club, joined the Mayor in recognizing the 11 top teachers from each of the 11 schools located within the City of Boca Raton.

Proclamation - National Boating Safety Week, May 16 through 22, 2009

The proclamation was accepted by three members of the Coast Guard Auxiliary Flotilla 36 of Boca Raton.

**REGULAR BUSINESS - PART I:**

1. Appointments to the following boards:

- a. Airport Authority – two (2) vacancies; (1) resident residing west of I-95 and (1) resident residing east of I-95.

David Garayua, Kristen Hughes, and David Freudenberg expressed interest in the position of resident residing west of I-95.

*Motion was made by Mayor Whelchel, seconded by Council Member Majhess, to reappoint Bruce Benefield to the Airport Authority in the category of resident residing east of I-95. Motion carried unanimously on a voice vote; Mayor Whelchel, Deputy Mayor Haynie, Council Members Majhess, Mullaugh, and Scott voting yes.*

Mr. Benefield was reappointed to the Authority.

The floor was opened for nominations related to the vacancy for a resident residing west of I-95. Mayor Whelchel nominated Kristen Hughes; Deputy Mayor Haynie nominated David Freudenberg. Nominations were then closed without objection.

In the voting: Mayor Whelchel, Council Members Majhess and Mullaugh voted for Ms. Hughes; Deputy Mayor Haynie and Council Member Scott voted for Mr. Freudenberg.

Kristen Hughes was reappointed to the Airport Authority in the category of resident residing west of I-95.

- b. Builders' Board of Adjustment & Appeals – one (1) vacancy for an architect.

*Motion was made by Deputy Mayor Haynie, seconded by Mayor Whelchel, to appoint Steve Torp to the Builder's Board of Adjustment & Appeals in the category of architect. Motion carried unanimously on a voice vote; Mayor Whelchel, Deputy Mayor Haynie, Council Members Majhess, Mullaugh, and Scott voting yes.*

Mr. Torp was appointed to the Board.

2. Responses to Workshop Information Requests:

The City Manager advised that responses would be forthcoming in memo form.

3. Consent Agenda:

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

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

a. Sealed Bid

- 1) Fire Support Training Facility Site Improvement  
Requested by Fire Rescue Services  
All-Rite Paving Contractors, Inc. \$239,842

b. Intergovernmental Agreement

- 1) Traffic Signal Installation at Dixie Highway and Hidden Valley Blvd.  
Requested by Municipal Services  
Signal Technology, Inc. \$302,790

c. Resolution No. 67-2009

A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute a Right of Way Warranty Deed, Embankment Easement, and Temporary Construction Easement to convey City owned property to Palm Beach County to allow roadway improvements to Boca Rio Road adjacent to Boca Raton Humane Society Animal Care Center and Pet Cemetery; providing for severability; providing for repealer; providing an effective date

d. Board Resignations

- 1) Resignation of C. Glen Ged from the North Federal Highway Steering Committee
- 2) Resignation of Nina Rivera from the Community Relations Board
- 3) Resignation of Neil M. Schiller from the Planning & Zoning Board

e. Receive and File Board Minutes – May 12, 2009

- 1) Community Appearance Board  
April 7, 2009
- 2) Historic Preservation Board  
February 17, 2009
- 3) Library Advisory Board  
February 18, 2009
- 4) Zoning Board of Adjustment  
September 11, 2008

3.f. Resolution No. 69-2009

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

3.g. Resolution No. 70-2009

A resolution of the City of Boca Raton authorizing the City Manager to apply for a grant from the U.S. Department of Justice for the 2009 Recovery Act: Edward Byrne Memorial (JAG) Formula Program: Local Solicitation; authorizing the acceptance of said grant, if awarded; authorizing and directing the City Manager to comply with the terms and conditions of said grant, if awarded; providing for severability; providing for repealer; providing an effective date

3.h. Resolution No. 71-2009

A resolution of the City of Boca Raton canceling and rescheduling certain workshop and regular meetings in 2009, as described more particularly herein; providing for severability; providing for repealer; providing an effective date

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

There were no items for consideration.

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

There were no items for consideration.

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

4. Ordinance No. 5095 (Revised 4/23/09 - Second of three public hearings.)

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

Deputy City Manager George Brown gave the PowerPoint presentation, explaining that the purpose of the ordinance was to provide technical clarifications as well as balanced regulations to protect the community, provide wireless service, and promote collocation on existing sites. Mr. Brown advised that towers and antennas would be prohibited in residential areas/districts and that there were preferred zoning districts for locating wireless communications facilities; details were provided.

Mr. Brown then reviewed a proposed revision related to maximum tower height. Specifically, a tower 100 feet tall would require a minimum of three different users; a 120-foot tower requires a minimum of four different users; a 140-foot tower requires a minimum of five different users. Additional details were provided as to required approvals and setbacks. Mr. Brown also spoke to antennas located on utility poles in rights-of-way and then reviewed a proposed revision regarding non-conforming towers.

It was noted that the second public hearing was being held this evening; dialogue between the residents, the industry, and staff would continue, as would revisions. The Planning and Zoning Board would consider this ordinance at its meeting of May 21, 2009, and the third public hearing before Council would take place on May 27, 2009. Mr. Brown concluded his presentation and answered questions from Council related primarily to tower height; Council Member Mullaugh also voiced concern as to the footprints of the towers.

Peter Greenblatt referred to Page 15 of the revised ordinance, Section 28-1627 A(3), and voiced concern that a cell tower could be constructed on City property, located near Woodfield Country Club where he resides.

Neil Schiller, an attorney with Becker and Poliakoff representing T-Mobile, advised that he and his client would continue to work with all parties on this ordinance.

Joe Pinella, representing Palm Beach Farms, spoke positively in regard to the dialogue thus far between all parties and indicated that he believed the ordinance to be "on track."

Jan Alloda, an attorney with Holland and Knight representing Verizon Wireless, also voiced the desire to continue working with all parties on this ordinance.

Seeing no one else come forward to speak, the public hearing was closed. Mayor Whelchel advised that a third public hearing would be held on May 27, 2009.

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

There were no items for consideration.

**REGULAR BUSINESS – PART V - INTRODUCTION OF ORDINANCES:**

5. Ordinance No. 5097

An ordinance of the City of Boca Raton rezoning a parcel of land consisting of 4.997 acres, located at 6100 Park of Commerce Boulevard, from Warehouse (W-1) to Light Industrial Research Park (LIRP); providing for severability; providing for repealer; providing an effective date (ZC-08-02)

The ordinance was introduced by Council Member Mullaugh.

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

Doug White and Lauren White referred to the Addison Park project and voiced opposition to the change from an upscale townhome community to what was termed, "student rentals." Ms. White specifically indicated concern over the change in usage, the physical appearance of the project, and the City's procedure for allowing changes to approved projects.

Robert DuKate, representing Save Boca Raton Green Space, gave a PowerPoint presentation comparing the Boca Teeca (Ocean Breeze) project, which was approved by Council, to the Hidden Valley project. He noted that the Planning & Zoning Board recently reviewed that project and recommended denial. He concluded his remarks by again asking that Council reverse the decision related to Ocean Breeze.

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

6. Resolution No. 65-2009

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 08-7634, for the installation of one (1) "Mobil 1 Lube Express" electric sign at 90 West Spanish River Boulevard; providing for severability; providing for repealer; providing an effective date

The petitioner, Richard Listro, came forward and asked for a postponement, advising that he believed the issue could be resolved through the Community Appearance Board.

*Motion was made by Deputy Mayor Haynie, seconded by Council Member Scott, to open the public hearing and continue same to the Council meeting of June 9, 2009. Motion carried unanimously on a voice vote; Mayor Whelchel, Deputy Mayor Haynie, Council Members Majhess, Mullaugh, and Scott voting yes.*

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

There were no items for consideration.

**CITY MANAGER RECOMMENDATIONS AND REPORTS:**

Mr. Ahnell referred to the summer meeting schedule and asked Council whether they wished to make any changes. Following discussion, it was determined that the workshop and regular Council meetings of July 13 and 14, 2009; August 10 and 11, 2009; and September 8 and 9, 2009 would be cancelled. The City Manager advised that a resolution, outlining those changes, would be forthcoming.

**CITY ATTORNEY REPORTS:**

The City Attorney had nothing to report at this time.

**MAYOR AND COUNCIL MEMBER REPORTS:**

Deputy Mayor Haynie reported that Palm Beach County was crafting a vicious dog ordinance for implementation Countywide. She also noted that the Green Task Force for Palm Beach County was meeting tomorrow and planned to send a packet to the County outlining green initiatives; Ms. Haynie would provide a copy of same to Council, prior to the County submission, with the goal of possibly "piggybacking" some of the City's sustainability initiatives.

Council Member Scott expressed appreciation to the Broken Sound community for hosting the PAL (Police Athletic League) golf outing, which was very successful.

Council Member Majhess questioned when Urban Design Associates (UDA) would provide a presentation to the CRA. Mr. Ahnell advised that UDA was available for either the first or second June CRA meeting; arrangements were being made.

Mayor Whelchel asked the City Manager to, over the next two or three months, investigate potential opportunities for building an urban library. She also asked for Council's support of same, which she received. Mr. Ahnell stated that staff could analyze available properties in the downtown over the summer and present that information during the budget process in September. At that point, Council could provide direction as to whether the library would be located in the core of downtown or on the Causeway Lumber site.

**ADJOURNMENT:**

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

The regular meeting of the City Council of the City of Boca Raton adjourned at approximately 8:00 p.m. on Tuesday, May 12, 2009.

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Susan Whelchel, Mayor

ATTEST:

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Sharma Hagerty, City Clerk