

MINUTES OF THE REGULAR MEETING
CITY COUNCIL
CITY OF BOCA RATON, FLORIDA
TUESDAY, JUNE 9, 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.

INVOCATION:

Council Member Mullaugh gave the invocation.

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:

There were no amendments to the agenda.

MINUTES:

Minutes of the Regular Workshop Meeting of May 26, 2009
Minutes of the Regular Meeting of May 27, 2009

Motion was made by Council Member Mullaugh, seconded by Deputy Mayor Haynie, 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:

There were no proclamations, recognitions, or awards.

REGULAR BUSINESS - PART I:

1. Appointments to the following boards:
 - a. Community Relations Board – one (1) student vacancy.

Motion was made by Deputy Mayor Haynie, seconded by Council Member Scott, to appoint Holden Schroeder to the Community Relations Board. Motion carried unanimously on a voice vote; Mayor Whelchel, Deputy Mayor Haynie, Council Members Majhess, Mullaugh, and Scott voting yes.

Mr. Schroeder was appointed to the Board.

- b. Education Advisory Board – one (1) “ex officio” student vacancy.

Motion was made by Council Member Mullaugh, seconded by Council Member Scott, to appoint Julia Berger to the Education Advisory Board. Motion carried unanimously on a voice vote; Mayor Whelchel, Deputy Mayor Haynie, Council Members Majhess, Mullaugh, and Scott voting yes

Ms. Berger was appointed to the Board.

- c. Historic Preservation Board – three (3) vacancies.

Rex Nichols expressed interest in reappointment.

Motion was made by Deputy Mayor Haynie, seconded by Council Member Scott, to reappoint Rex Nichols and Bonnie Dearborn (Historical Society’s designee), and to appoint Arlene Owens, to the Historic Preservation Board. Motion carried unanimously on a voice vote; Mayor Whelchel, Deputy Mayor Haynie, Council Members Majhess, Mullaugh, and Scott voting yes.

Mr. Nichols and Ms. Dearborn were reappointed to the Board; Ms. Owens was appointed.

2. Responses to Workshop Information Requests:

The City Manager advised that responses to questions from yesterday’s Workshop meeting would be covered in tonight’s presentations or provided in memo form, if unrelated to the agenda.

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. Motion carried unanimously; Mayor Whelchel, Deputy Mayor Haynie, Council Members Majhess, Mullaugh, and Scott voting yes.

a. Intergovernmental Agreement

- 1) Submersible Pumps - Replacment
Requested by Utility Services
Florida Bearing, Inc. and ITT Water and
Wastewater, Florida, LLC \$101,889

b. Sole Source

- 1) Radio Controlled Irrigation Equipment System Upgrades
Requested by Recreation Services
Contemporary Controls and Communications, Inc. \$176,485

c. Resolution No. 77-2009

A resolution of the City of Boca Raton establishing the time regular City Council workshop meetings shall commence; providing for severability; providing for repealer; providing an effective date

d. Resolution No. 78-2009

A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute an agreement with the JTS Association, Inc. for the purpose of providing assessment center, practical exam, and written exam services for a promotional process for positions in Fire Rescue Services on an as needed basis; providing for severability; providing for repealer; providing an effective date

e. Resolution No. 79-2009

A resolution of the City of Boca Raton authorizing the City Manager to execute Work Order No. 2 with Data Transfer Solutions, LLC for the purpose of GIS programming services; providing for severability; providing for repealer; providing an effective date

f. Resolution No. 80-2009

A resolution of the City of Boca Raton authorizing the City Manager to execute Work Order No. 5 with Mathews Consulting, Inc. for the purpose of providing engineering services for Lake Wyman Shores infrastructure improvements; providing for severability; providing for repealer; providing an effective date

g. Resolution No. 81-2009

A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute a grant agreement with Palm Beach County for a citywide bus shuttle system; providing for severability; providing for repealer; providing an effective date

h. Resolution No. 82-2009

A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute an interlocal agreement with Florida Atlantic University regarding the reimbursement of funding to the City for the continuation of the Palm Tran Route 94 Demonstration Project service; providing for severability; providing for repealer; providing an effective date

i. Board Resignations

- 1) Resignation of Kevin McGinnis (student member) from the Education Advisory Board

j. Receive and File Board Orders

- 1) SM(C) Case No. 08-00003328
- 2) SM(C) Case No. 08-00003595
- 3) SM(C) Case No. 08-4520
- 4) SM(C) Case No. 08-00005024
- 5) SM(C) Case No. 09-00000269
- 6) SM(C) Case No. 09-00000452
- 7) SM(C) Case No. 09-00000467
- 8) SM(C) Case No. 09-00000687
- 9) SM(C) Case No. 09-00000707

k. Receive and File Board Minutes – June 9, 2009

- 1) Community Appearance Board
April 28, 2009
May 5, 2009

- 2) Community Relations Board
April 20, 2009
- 3) Downtown Boca Raton Advisory Committee
April 1, 2009
April 15, 2009
- 4) Financial Advisory Board
March 31, 2009
- 5) Pearl City Blue Ribbon Committee
September 25, 2008
October 23, 2008
- 6) People With Disabilities
February 5, 2009 (Program and Special Events Committee)
April 2, 2009

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. 75-2009

A resolution of the City of Boca Raton considering conditional use approval to allow the construction of a new fast food restaurant for Wendy's restaurant on a parcel of land located at 865 N. Federal Highway, as described more particularly herein; providing for severability; providing for repealer; providing an effective date (CA-07-11)

The City Attorney reviewed the quasi-judicial procedure that would govern the public hearing; the City Clerk administered the oath to those who indicated they wished to speak. There were no ex parte disclosures.

Development Services Principal Planner Jim Bell gave the PowerPoint presentation, explaining that this item included a request for site plan approval with technical deviations to allow for a reduction in the reservoir length for the Federal Highway driveway and a modification to the required driveway design, which would allow for the absence of a 4-foot median. Information regarding location, acreage, zoning, and land use designation was provided. Mr. Bell advised that the applicant proposed to demolish the existing Wendy's restaurant, which sustained roof damage from Hurricane Wilma, and construct a new one-story building with slightly less square footage than the current building. Access to and from Dixie Highway would remain the same; however, access to and from Federal Highway would be reconfigured. Consequently, two technical deviations were required. Specifically, a 25-foot reservoir distance was being requested, as opposed to constructing the required 50-foot reservoir. In addition, the applicant wished to eliminate a 4-foot median, as required by Code, at that driveway. Mr. Bell noted that trip generations would basically remain the same.

The Planning and Zoning Board (P&Z Board) reviewed this project in November 2008 and recommended approval. At that hearing, a condition was included in the P&Z Board resolution providing for a bus shelter; subsequently, the applicant had concerns about same. Staff worked with the applicant and agreement was reached to provide that the applicant contribute \$15,000 to the City in lieu of construction of the bus shelter on the site. Due to this change, two revised conditions were proposed, which Mr. Bell reviewed before providing information related to elevations.

At this point, the City Attorney asked Mr. Bell to read the revised conditions for Exhibit A (Resolution No. 08-36) into the record. They were as follows: Page 4, Condition (5), Line 9, deleting the sentence, which reads, "Should the property owner to the north (Cole Animal Clinic) contribute funding towards the bus shelter, then the petitioner shall be eligible to receive these funds," and adding, "In lieu of the above requirements, the property owner may, alternatively, (and prior to the issuance of a main use building permit), contribute \$15,000 towards transit improvements." Page 3, Condition (1), Line 16, adding the following language after "...September 9, 2008. However, prior to Public Works Review by City staff, the site plan shall be amended by the applicant to include a notation next to the sidewalk connection to the southern side of the building stating: "City staff responsible for Public Works Review may remove this sidewalk connection." Also, if the applicant opts to contribute the amount specified in Condition 5 in lieu of providing a bus shelter on the site then prior to Public Works Review by City staff, the site plan shall be amended by the applicant to remove the bus shelter notation." Mr. Bell then answered questions from Council.

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

Motion was made by Deputy Mayor Haynie, seconded by Council Member Mullaugh, to adopt Resolution No. 75-2009, as revised. Motion carried unanimously; Mayor Whelchel, Deputy Mayor Haynie, Council Members Majhess, Mullaugh, and Scott voting yes.

REGULAR BUSINESS – PART III – REGULAR PUBLIC HEARINGS:

5. Ordinance No. 5098

An ordinance of the City of Boca Raton amending the Fiscal Year 2008-2009 Budget through the Second Quarterly Budget Amendment; providing for severability; providing for repealer; providing an effective date

Office of Management & Budget Director Sharon McGuire gave the presentation, describing proposed revisions to certain budgeted revenues and expenditures in the General Fund, the Community Development Block Grant Fund, the State Housing Initiatives Partnership Fund, the Federal Grant Fund, the Greater Boca Raton Beach & Park District Fund, and the General Liability Fund. She then concluded her presentation by stating that the total of additional revenues and expenditures in the Second Quarterly Budget Amendment was \$1,572,800.

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

Motion was made by Council Member Mullaugh, seconded by Council Member Majhess, to adopt Ordinance No. 5098. Motion carried unanimously; Mayor Whelchel, Deputy Mayor Haynie, Council Members Majhess, Mullaugh, and Scott voting yes.

6. Ordinance No. 5099

An ordinance of the City of Boca Raton amending Section 23-189, Code of Ordinances, modifying the limitations for the number of driveways permitted in certain residential plots and providing for the opportunity to seek a technical deviation in case of special considerations and exceptions in single family districts; providing for severability; providing for repealer; providing for codification; providing an effective date

Community Development Director Jorge Camejo gave the presentation, explaining that the Code currently limits driveways to two, with the exception of corner lots, despite the amount of linear frontage. In some cases, three lots have been combined to construct one large home and although the total number of existing driveways could be six, the Code currently limits the new, larger home to two driveways, regardless of the amount of linear frontage, which could exceed 300 linear feet. This amendment would allow for three curb cuts where there is an excess of 200 linear feet and also allow for the same rights and privileges under the technical deviation process that is allowed for commercial properties. Mr. Camejo

then concluded his presentation by advising that staff recommended approval of the proposed amendment.

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

Motion was made by Deputy Mayor Haynie, seconded by Council Member Mullaugh, to adopt Ordinance No. 5099. Motion carried unanimously; Mayor Whelchel, Deputy Mayor Haynie, Council Members Majhess, Mullaugh, and Scott voting yes.

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

There were no items for consideration.

REGULAR BUSINESS – PART V - INTRODUCTION OF ORDINANCES:

There were no items for consideration.

REGULAR BUSINESS - PART VI - PUBLIC REQUESTS:

Chuck Weldon asked a number of questions related to environmental analysis and increased traffic in connection with downtown development to which the City Manager responded. Ultimately, Mr. Weldon voiced concern over increased traffic in the downtown and, specifically, on NE 5th Avenue from Palmetto Park Road to NE 20th Street, as well as traffic within the Golden Triangle residential area and suggested that Council have stop signs installed every two blocks. The City Manager advised that, should Council provide the direction, staff could look into it.

REGULAR BUSINESS - PART VII- RESOLUTIONS AND OTHER BUSINESS:

There were no items for consideration.

CITY MANAGER RECOMMENDATIONS AND REPORTS:

7. Recommendation regarding Addison Park

Mr. Ahnell advised that this item was included on the agenda in error. He would bring forward recommendations regarding Addison Park to the next Council meeting.

CITY ATTORNEY REPORTS:

The City Attorney had nothing to report at this time.

MAYOR AND COUNCIL MEMBER REPORTS:

Council Member Majhess asked the City Manager to have staff review the possibility of traffic calming in the neighborhood of NE 5th Avenue between Palmetto Park Road and NE 20th Street.

Deputy Mayor Haynie mentioned that there is a DOT (Department of Transportation) project scheduled in the "out years" to close off 5th Avenue at 20th Street and reroute traffic to Federal Highway; she asked the City Manager for an update on same. Ms. Haynie then offered condolences to the Danciu family, noting that services would be held Friday, June 12th at St. Joan of Arc for former Mayor Emil Danciu; City flags would be flying at half-mast. Last of all, she reported that the Pearl City Historic Walk was scheduled for this Saturday, June 13, 2009, at 10:00 am.

Mayor Whelchel supported having staff review traffic calming for NE 5th Avenue and also offered condolences to the Danciu family. In addition, she extended condolences to Joe Hauck, a City firefighter who recently lost his daughter. Mayor Whelchel then asked the City Manager to report on Senate Bill 360 (SB 360), which was recently passed.

Mr. Ahnell advised that SB 360 was signed by the Governor on June 2 and will be effective on July 1. Essentially, the bill allows developers to now build with no traffic concurrency requirements; it is up to the local governments i.e. the taxpayers to fund / mitigate the traffic impacts. Specifically, local governments / agencies will have two years to create a plan promoting feasible transportation mobility. Mr. Ahnell then referred to Senate Bill 380 (SB 380), which was also signed (effective July 1), related to DRIs (Developments of Regional Impact), advising that these projects would be afforded the same protections found in SB 360; in addition, building permits would be extended another two years. Details were provided on all the above. Responding to Council, Mr. Ahnell stated that, allegedly, these bills were passed to promote economic development.

Deputy Mayor Haynie advised that the League of Cities would be studying this legislation and providing a "white paper" to all the municipalities as to the total impacts. Council Member Mullaugh stated that prior, cities and counties had some ability to plan and manage traffic and development in their areas; now, that has been taken away by the State. It appears that local citizens will no longer have control over what development occurs in their City. Council Member Majhess questioned whether the City could pass legislation to adopt the same rules that applied under concurrency for the County for a period of, perhaps, six months until a determination can be made as to the direction the City will take. The City Attorney indicated that this option was being discussed; details were provided. Responding to another query from Mr. Majhess, the City Manager advised that there would likely be multiple presentations on these bills in order to ensure that everyone understands the implications. Ms. Frieser advised that a Webinar was being sponsored by the DCA (Department of Community Affairs) on Friday, June 12, 2009; she advised that she would send an email to Council as to how to log in. Additional commentary was provided by Mr. Ahnell as to the huge number of people and governments affected by this legislation.

ADJOURNMENT:

Motion was made by Deputy Mayor Haynie, seconded by Council Member Majhess, 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 6:48 p.m. on Tuesday, June 9, 2009.

Susan Whelchel, Mayor

ATTEST:

Sharma Hagerty, City Clerk