

MINUTES OF THE REGULAR WORKSHOP MEETING
CITY COUNCIL
BOCA RATON, FLORIDA
MONDAY, JULY 27, 2009
*1:30 PM

*The Workshop Meeting of the City Council of the City of Boca Raton, Florida was called to order by Mayor Susan Whelchel at 3:28 p.m.

ATTENDING THE MEETING WERE:

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

Also attending the meeting were:

City Manager Leif J. Ahnell
City Attorney Diana Grub Frieser
City Clerk Sharma Hagerty

RECOGNITION: ClinCon BLS Competition (1st Place) – Ocean Rescue

J.D. Varney, Recreation Superintendent, introduced the Beach Lifeguards, Captain Tim Fry, [Lieutenant Frank Ganley](#), and [Ocean Lifeguards Jack Luka and Steve Fabian](#), who won this competition for the fourth year in a row. Captain Fry provided commentary on the competition and advised that this team will retire and train a new team.

1. BOARD INTERVIEWS:

Mayor Whelchel advised that the candidates for the Library Advisory Board asked to be interviewed first as they have been here since 1:00 pm; Council had no objections.

d. Library Advisory Board – (2) vacancies.

Bob Keltie and Betty Grinnan expressed interest in reappointment.

a. Green Living Task Force (new) – (9) members.

Evaggelia Hatzimanolis, Russell Spadaccini, Silvia Hall, Dr. Gary Burns, Julie Lundin, Simon Hahessy, and Ken Hirsh interviewed for a position on the Task Force.

b. Community Relations Board – (2) vacancies.

No one came forward to interview.

c. Financial Advisory Board – (2) vacancies.

No one came forward to interview.

e. North Federal Highway Steering Committee – (1) vacancy.

No one came forward to interview.

f. Parks and Recreation Board – (3) vacancies.

No one came forward to interview.

2. PUBLIC REQUESTS:

Lenore Wachtel spoke positively regarding the Dixie Manors subdivision and the CATS Program, advising that she tutors children on their multiplication and division tables. Ms. Wachtel encouraged the City to provide a tutoring program over the summer for math and reading at the City camps; she indicated that high school students or college students could volunteer to tutor children at no cost to the City.

Paul Carmen, President of the Boca Raton Museum of Art, and Joseph Borrow, Treasurer for the Boca Raton Museum of Art, asked for \$100,000 in grant funding from the City, advising that they bring more people into the downtown than any other cultural institution; Mr. Borrow then provided statements in support of his claim.

Charles Siemon referred to Ordinance No. 5100 and the Addison Park project, stating that the ordinance was moving in the wrong direction. Indicating opposition to the ordinance as written, Mr. Siemon suggested that Council consider sending it to the Planning & Zoning Board for further deliberation.

Clint Oster, a member of the Citizens' Pedestrian and Bikeway Advisory Board, expressed support in connection with the SW 18th Street project.

Mayor Whelchel advised that due to time constraints, Kelly Smallridge asked to come forward next to provide the presentation by the Business Development Board; Council had no objections.

4. FUTURE AGENDA MATTERS/ITEMS OF COUNCIL/PUBLIC CONCERN:

- a. Business Development Board – Incentive Programs

Kelly Smallridge, President and CEO of the Business Development Board (BDB) of Palm Beach County, gave a PowerPoint presentation. She began by delineating the partnership between the City, the Chamber of Commerce, and the BDB, and then reviewed the following: 1) a business retention and visitation program, 2) success stories, 3) prospective entities looking to locate in Boca Raton, 4) services the BDB provides to companies wishing relocate to Boca Raton, and 5) marketing and research information. Ms. Smallridge explained how successful cities compete in the economic development world by instituting incentives such as flexible policies, expedited permitting, and abatement of impact fees. Noting that the “live, work, learn, and play” package was very important to companies today, she thanked the City for its partnership and then answered questions from Council.

3. REVIEW OF REGULAR AGENDA ITEMS:

- a. Questions relating to the agenda.

(Consent Agenda Item No. 3.1. – Resolution No. 113-2009 / Work Order No. 14 with Mathews Consulting re: engineering services for the Boca West Reclaimed Watermain Extension Project) Council Member Haynie asked the City Manager to share the positive fiscal impact of this project with those present. Mr. Ahnell spoke first to the positive environmental impacts of using reclaimed water and then explained that new users of reclaimed water can either pay up front for the cost of the expansion or include those costs in the rates they will be charged. Ultimately, they pay for the infrastructure costs and the City profits and offsets the cost of the total reclaimed system in the future. Also, by attaining 100% reclaimed water usage, the City can stop using the ocean outfall system.

- b. Sealed Bid (Consent Agenda Item No. 3.a.3.) - S.W. 18th Street Bike Lanes, Sidewalks and Water Mains.

Moe Morrell, the City's Civil Engineer, gave a PowerPoint presentation, advising that construction would take place along SW 18th Street, beginning at SW 12th Avenue and ending at North Federal Highway. The purpose of the project is to provide a safe route for pedestrians and bicyclists and provide service for future water demand. There followed a timeline related to public involvement, beginning September 1, 2001, up to and including June 1, 2009, when an open house plan review was conducted. Mr. Morrell

then reviewed a conceptual design of what the improvements would look like and outlined key project features. Information on costs and the project schedule followed; construction was anticipated to begin in October 2009 with a completion date of July 2010. At this time, Council Member Haynie advised that the lion's share of funding came to the City through the MPO (Metropolitan Planning Organization) process.

- c. Ordinance No. 5095 & Resolution No. 68-2009 (*Regular Agenda Item Nos.4 & 4.a*)
Repealing the existing Code Section entitled "Telecommunications Towers and Facilities" and creating a new Code Section, entitled "Wireless Communications Facilities," relating to telecommunications towers and antennas; and amending the Boca Raton Municipal Facilities and Services User Fee Schedule; establishing fees relating to applications for required approvals for wireless communications facilities, respectively.

Deputy City Manager George Brown gave the PowerPoint presentation, explaining that the purpose of this ordinance, revised 7/21/09, was to enhance the ability to provide reliable services based on best practices, promote collocation on existing sites, provide a clear regulatory framework, and address community issues, aesthetics, land use priorities, setbacks, and other impacts. He explained that the revised ordinance (7/21/09) currently before Council was based on previous input from Council, the Planning & Zoning Board, residents, and industry representatives.

There followed a review of the basic provisions of the ordinance, which included technical clarifications, prohibition of towers and antennas in residential areas/districts, except where authorization is provided upon receipt of documented proof of the need to site the facility in the residential district and after cooperation with the City to find an alternative site. Mr. Brown then spoke to a preferred zoning district hierarchy to provide for locations of facilities, ranging from Industrial, which is the most preferred, to Residential, which is the least preferred. Maximum tower heights were also reviewed. Essentially, all towers, regardless of height, must have a minimum of two different providers. The maximum height in residential districts/areas is 100 feet; additional details were provided as to required approvals and setbacks. There followed information on: 1) antennas and collocations of same (it was noted that stealth antennas were preferred for all locations); 2) antennas on utility poles in rights-of-way; 3) non-conforming towers; and 4) revisions and clarifications. Details were provided on all the above.

Mr. Brown explained that staff incorporated a recommendation from the industry into the ordinance regarding antennas on poles. Specifically, the ordinance provided for 12-foot high antennas on poles since less visible equipment is required and more coverage is provided with fewer locations. He then referred to three letters received from attorneys for the industry; one letter was included in the agenda book and copies of two others were distributed to Council, as they were only received this afternoon. Mr. Brown pointed out that the letter from Perry Adair, an attorney with Becker & Poliakoff, focused on "unreliable vs. no coverage" or "spotty coverage vs. a gap in coverage" and indicated that staff found the industry's recommendations went too far when attempting to rectify same. Specifically, they proposed to eliminate the minimum search area, exclude poles in rights-of-way from the zoning district hierarchy, weaken the requirement to demonstrate a need for the facilities in residential areas, and eliminate certain process/review procedures. Staff's response was that revisions made to the ordinance clarified that an applicant may seek approval for facilities that provide for reliable and feasible services using the least intrusive means reasonably available. It also continued to require an engineering demonstration of need. At this time, Mr. Brown concluded his presentation and answered questions from Council.

Responding to Council in reference to the letters received from the industry's attorneys, Mr. Brown confirmed that staff believed the revisions to the ordinance addressed issues that were identified to them. He also confirmed with Council that the issues outlined in the letters were not new to staff. Council then questioned whether prior concerns regarding E911 coverage had been addressed. Mr. Brown indicated that the revised language, "...reliable services based on best practices..." addressed all issues of public health, safety, and welfare, in connection with the use of these systems. Responding to Council, he clarified that the term, "state-of-the-art" remained in the ordinance, advising that "state-of-the-art" and "best practices" are complementary; they do not supersede one another. Responding to another query from Council regarding minimum service, Mr. Brown explained what State law provides, the industry's interpretation of same, and how staff addressed the issue in this ordinance.

At this time, Deputy Mayor Haynie asked whether there was a map available, showing where these structures are currently located within the City. Mr. Brown advised that staff was working on an accurate map of same; Ms. Haynie requested a copy for tomorrow night.

Council Member Majhess spoke to E911 coverage, advising that, per his research, E911 coverage works as long as any phone can find a tower with any company. On the topic of reliable vs. spotty coverage, Mr. Majhess advised that these companies appear to have the choice of either building more towers or purchasing more bandwidth. If a company chose not to invest in bandwidth, he questioned whether it was the City's responsibility to make up for a business plan that might be lacking in certain areas by compromising the ordinance.

5. CITY MANAGER REPORTS:

The City Manager had nothing to report at this time.

6. CITY ATTORNEY REPORTS:

The City Attorney had nothing to report at this time.

7. MAYOR AND COUNCIL MEMBER REQUESTS AND REPORTS:

Council Member Scott advised that a jazz festival was scheduled for this Thursday, July 30, 2009, at 6:30 p.m.

Council Member Majhess referred to the red light camera program, which was recently presented to Council, and asked for the status. Mr. Ahnell explained that staff received direction to proceed with the project, which would come back to Council at a later date for approval of ordinances and implementation of the project. Details were provided; the City Manager indicated that it would be approximately one year before everything is ready and in place.

The regular workshop meeting of the City Council of the City of Boca Raton, Florida, adjourned at approximately 5:10 p.m. on Monday, July 27, 2009.

Vanessa Hines, Assistant City Clerk