

MINUTES OF THE REGULAR MEETING
CITY COUNCIL
CITY OF BOCA RATON, FLORIDA
TUESDAY, JANUARY 8, 2008
6:00 PM

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

INVOCATION:

Council Member Hager gave the invocation.

PLEDGE OF ALLEGIANCE TO THE FLAG:

ROLL CALL:

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

Also attending the meeting were:

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

AMENDMENTS TO THE AGENDA:

Motion was made by Deputy Mayor Whelchel, seconded by Council Member Hager, to amend the agenda to add Resolution No. 7-2008 as Consent Agenda Item No. 3.j.. Motion carried unanimously on a voice vote; Mayor Abrams, Deputy Mayor Whelchel, Council Members Arts, Baronoff and Hager voting yes.

MINUTES:

Minutes of the Regular Workshop Meeting of December 10, 2007
Minutes of the Regular Meeting of December 11, 2007

Motion was made by Council Member Hager, seconded by Council Member Arts, to approve the minutes as presented. Motion carried unanimously on a voice vote; Mayor Abrams, Deputy Mayor Whelchel, Council Members Arts, Baronoff and Hager voting yes.

PROCLAMATIONS/RECOGNITIONS/AWARDS:

There were no proclamations, recognitions, or awards.

REGULAR BUSINESS - PART I:

1. Appointments to the following boards:

There were no positions advertised.

2. Responses to Workshop Information Requests:

(Consent Agenda Item No. 3.f. – Resolution No. 5-2008 / Agreement with Documed Systems, Inc. for purchase of a license for Emergency Pro, EMS reporting software) The City Manager confirmed the information previously provided to Council at yesterday’s workshop meeting.

3. Consent Agenda:

Mayor Abrams 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 Hager, seconded by Council Member Arts, to approve the Consent Agenda, as amended, to remove Item No. 3.g. (Resolution No. 6-2008) and to add Resolution No. 7-2008 to the Consent Agenda as Item No. 3.j.. Motion carried 5-0; Mayor Abrams, Deputy Mayor Whelchel, Council Members Arts, Baronoff, and Hager voting yes.

a. Sealed Bids

- | | | |
|----|---|-------------|
| 1) | Water Treatment Plant
Gravity Filters Rehabilitation
Requested by Utility Services
Cardinal Contrators, Inc. | \$5,074,800 |
| 2) | Laptops – Replacement
Requested by City Manager
Prosys Information Systems | \$ 350,588 |

b. Intergovernmental Agreement

- | | | |
|----|---|------------|
| 1) | Anaerobic Digester Cleaning
Requested by Utility Services
Settled Solids Management, Inc. | \$ 378,000 |
|----|---|------------|

c. Resolution No. 1-2008

A resolution of the City of Boca Raton announcing the regular election to be held in and for the City of Boca Raton on the 11th Day of March 2008; providing for publication; providing for severability; providing for repealer; providing an effective date

d. Resolution No. 2-2008

A resolution of the City of Boca Raton authorizing the City Manager to execute an agreement with Boca Raton Champions Golf Charities, Inc. d/b/a Allianz Championship for the purpose of providing a PGA Golf Champions Tour Golf Tournament in Boca Raton; providing for severability; providing for repealer; providing an effective date

e. Resolution No. 4-2008

A resolution of the City of Boca Raton authorizing the City Manager to execute Work Order No. 7 with Eckler Engineering, Inc. for the purpose of providing professional engineering services for the design, and construction phases for the expansion of reclaimed water at the Water Treatment Plant; providing for severability; providing for repealer; providing an effective date

f. Resolution No. 5-2008

A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute an agreement with Documed Systems International, Inc., for the purpose of purchasing a license for Emergency Pro, EMS reporting software; providing for severability; providing for repealer; providing an effective date

h. Receive and File Board Orders

Special Master

- 1) SM(C) 06-3977
- 2) SM(G) 07-00003645
- 3) SM(C) 07-00005422

i. Receive and File Board Minutes – January 8, 2008

- 1) Community Appearance Board
November 13, 2007
November 20, 2007
- 2) Community Relations Board
November 19, 2007
- 3) Education Advisory Board
October 22, 2007
November 26, 2007
- 4) Elder Affairs Advisory Board
October 3, 2007
- 5) Executive Employees' Retirement Plan
August 21, 2007
- 6) General Employees' Pension Board
November 7, 2007 (Disability Committee Meeting)
November 8, 2007 (Regular Meeting)
- 7) Historic Preservation Board
October 16, 2007
November 20, 2007
- 8) Parks and Recreation Board
November 6, 2007
- 9) Pearl City Blue Ribbon Committee
October 25, 2007

- 10) People With Disabilities
November 1, 2007
- 11) Police & Firefighters' Pension Board
October 25, 2007
- 12) Special Master
November 14, 2007

3.j. Resolution No. 7-2008

A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute the second amendment to Agreement 03PB1, with the Florida Department of Environmental Protection, for the purpose of reimbursement funding for design and permitting, construction and monitoring of the North Boca Raton Beach Nourishment Project; providing for severability; providing for repealer; providing an effective date

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

There were no items to consider.

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

4. Ordinance No. 5023 (Revised 12/20/07.) (First of two public hearings.)

An ordinance of the City of Boca Raton approving an Amended and Restated Memorandum of Agreement with the Boca Raton Airport Authority; establishing conditional uses for non-aviation land at the Boca Raton Airport; providing for severability; providing for repealer; providing an effective date

Mayor Abrams advised that quasi-judicial procedure would be followed; the City Clerk administered the oath to those who indicated they wished to speak.

Deputy City Manager George Brown gave the PowerPoint presentation and reviewed substantive changes in the agreement, which included conversion of 4.67 acres of aviation land to non-aviation land, establishment of a new airport layout plan, and establishment of allowable conditional uses for non-aviation land at the airport; details were provided. A list of allowable conditional uses was then reviewed. Mr. Brown advised that these uses were consistent with the prior agreement between the City and the Airport Authority, the City's Comprehensive Plan, and the settlement with Premier Aviation that was entered into in 2003. It was noted that non-aviation land improvements would require conditional use approval, according to the specified list previously reviewed, and building heights would be 50 feet or less. The new agreement would also approve the new airport layout plan and clarify/update language regarding impact fees, payment of taxes, and related housekeeping items.

The Planning and Zoning Board reviewed this matter and unanimously recommended approval of same, as did staff. Mr. Brown concluded his presentation by advising that this was the first of two required public hearings and then answered questions from Council regarding revenues and uses.

Dawn Meyers, an attorney representing the Boca Raton Airport Authority, made herself available for questions.

Seeing no one else come forward to speak, the public hearing was closed. The second and final public hearing for Ordinance No. 5023 is scheduled for January 23, 2008.

REGULAR BUSINESS – PART III – REGULAR PUBLIC HEARINGS:

5. Ordinance No. 5014 (*First of two public hearings.*)

An ordinance of the City of Boca Raton amending Chapter 28, Code of Ordinances to provide for uniform treatment of places of public assembly; adding places of worship as permitted uses in single family zoning districts; providing for severability; providing for repealer; providing for codification; providing an effective date (AM-07-04)

Mayor Abrams provided opening comments, indicating that a presentation and public hearing would be conducted this evening. However, he asked for Council's input as to having the City Manager research how other communities locate places of worship. In addition, he suggested that the item be sent back to the Planning & Zoning Board for additional review; Board members could then report back to Council prior to the second public hearing.

Planning and Zoning Director Carmen Annunziato gave the PowerPoint presentation. He explained that this item was being brought forward to provide consistency in the treatment of places of public assembly and to ensure that the current City Code is compatible and consistent with Federal law. The ordinance would amend the Code by: 1) providing a definition of Places of Public Assembly, 2) changing the approval procedure for Places of Worship and limiting location, 3) modifying the parking requirement for Places of Assembly, and 4) allowing Places of Worship made non-conforming by this ordinance to expand up to 25% for a period of ten years; details were provided. Attention then focused on a map, which outlined existing places of assembly and places of worship. At this time, Mr. Annunziato answered questions from Council. He then concluded his comments by advising that the Planning and Zoning Board reviewed this item at a public hearing and recommended approval, as did staff.

Responding to Council, the City Attorney explained why this ordinance was created. She advised that over the last several years, there have been numerous decisions on the Federal level that have been significantly unfavorable to local governments in connection with places of worship. Recently, a clearer consensus has developed, which indicates that considering places of assembly through a discretionary review procedure by local government is either disfavored or unlawful. Therefore, the conditional use process used by many local governments has been deemed too discretionary. As this is a sensitive Constitutional use, the Court decided that the conditional use process is not a proper procedure for places of worship. Consequently, the City was attempting to ensure that City Code conforms as much as possible to the current state of Federal law, based on decisions handed down. Ms. Frieser then answered questions from Council and provided information including, but not limited to, review criteria, what comes before Council for review, and appeals of Planning & Zoning Board decisions. Ms. Frieser was asked to provide, at a later date, examples of cases wherein this issue has been challenged locally.

Anthony Majhess, Robert Lim, Patricia McMechan, Jorge Fernandes, Dan Nolan, and John Stetz voiced opposition to the ordinance. Robert Muller asked for clarification as to ancillary uses, such as a religious school. Ms. Frieser explained that a religious school associated with a place of worship would still be required to follow the existing conditional use process; additional information and details were provided as requested by Council.

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

Motion was made by Mayor Abrams, seconded by Deputy Mayor Whelchel, directing the City Manager to have staff review how other communities locate their places of worship, with particular reference to residential versus commercial, and have the Planning and Zoning Board hold a public hearing to review the matter again; staff's findings and the Planning and Zoning Board's recommendation would be reported back to the City Council by the second public hearing, which will occur between 60 and 90 days hence; those members of the public, who filled out comment cards would be notified of the hearing date. Motion carried unanimously on a voice vote; Mayor Abrams, Deputy Mayor Whelchel, Council Members Arts, Baronoff, and Hager voting yes.

6. Ordinance No. 5022

An ordinance of the City of Boca Raton establishing the process and procedure for early voting for the March 11, 2008 regular election; providing for severability; providing for repealer; providing an effective date

Deputy City Manager George Brown gave the presentation. He explained that the early voting period would commence on Saturday, March 1, 2008, and continue from Monday through Saturday, March 3 through March 8, 2008, from 8:30 a.m. through 5:30 p.m. at the Boca Raton Community Center on Crawford Boulevard. This would be the third regular City election in which the City has offered early voting. Responding to Council, Mr. Brown advised that two additional days of early voting were being provided.

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. 5022. Motion carried unanimously; Mayor Abrams, Deputy Mayor Whelchel, Council Members Arts, Baronoff and Hager voting yes.

7. Ordinance No. 5024

An ordinance of the City of Boca Raton amending the Code of Ordinances relating to the Police and Firefighters' Retirement System by amending Section 12-132, "Optional Forms of Retirement Benefits"; providing for severability; providing for repealer; providing for codification; providing an effective date

The City Manager advised that a letter had been received from the Police and Firefighters' Retirement System, requesting a continuance. Consequently, he suggested that the public hearing be opened and continued to the February 12, 2008 Council meeting.

Motion was made by Council Member Arts, seconded by Council Member Hager, to open the public hearing and continue same to the February 12, 2008 regular Council meeting. Motion carried unanimously on a voice vote; Mayor Abrams, Deputy Mayor Whelchel, Council Members Arts, Baronoff and Hager voting yes.

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

There were no items for consideration.

REGULAR BUSINESS – PART V - INTRODUCTION OF ORDINANCES:

8. Ordinance No. 5025

An ordinance of the City of Boca Raton providing for the vacation and abandonment of a Public Utility Easement, located at 1071 N.W. 4th Street, as more specifically described herein; providing conditions for vacation and abandonment; providing for severability; providing for repealer; providing an effective date (EA-07-08)

The ordinance was introduced by Deputy Mayor Whelchel.

9. Ordinance No. 5026

An ordinance of the City of Boca Raton providing for the vacation and abandonment of a Public Utility Easement, located at 48 East Royal Palm Road, as more specifically described herein; providing conditions for vacation and abandonment; providing for severability; providing for repealer; providing an effective date (EA-06-09)

The ordinance was introduced by Council Member Hager.

REGULAR BUSINESS - PART VI - PUBLIC REQUESTS:

No one came forward to speak.

REGULAR BUSINESS - PART VII- RESOLUTIONS AND OTHER BUSINESS:

10. Selection of Canvassing Board Member for March 11, 2008 Election

Mr. Ahnell explained that the Canvassing Board is comprised of the City Clerk, the Supervisor of Elections, and a member of City Council. He referred to the City Attorney's memorandum and indicated that a non-active participant in a campaign was being sought. It was determined that the Mayor and all members of Council would be active participants in a campaign for the 2008 election. Therefore, Section (2) of the memo would apply, meaning that Council must select an elector of the City to serve as a replacement on the Canvassing Board.

Motion was made by Deputy Mayor Whelchel, seconded by Council Member Hager, to appoint the City Manager, Leif Ahnell, to sit on the Canvassing Board for the March 11, 2008 election. Motion carried unanimously on a voice vote; Mayor Abrams, Deputy Mayor Whelchel, Council Members Arts, Baronoff, and Hager voting yes.

3.g. Resolution No. 6-2008

A resolution of the City of Boca Raton affirming the decision of the City Manager to offer a reward in the amount of \$350,000 in connection with a recent homicide case; authorizing the City Manager to offer additional rewards in cases as determined necessary by the City Manager; requiring the City Manager to inform the City Council after offering such rewards; providing for severability; providing for repealer; providing an effective date

The City Manager gave the presentation, explaining that this resolution affirms his decision to offer a \$350,000 reward associated with the December 12, 2007 homicide that took place at Town Center Mall. It would also authorize the City Manager, with proper notification to Council, to offer a reward in this case, or future cases, of up to \$500,000. Responding to Council, the City Attorney indicated that, if adopted, this resolution establishes an ongoing policy until subsequently changed.

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

Motion was made by Deputy Mayor Whelchel, seconded by Council Member Hager, to adopt Resolution No. 6-2008.

Referring to comments made at yesterday's workshop meeting, Mayor Abrams clarified that after the homicide at Town Center Mall, he spoke with the mall's manager, Joe Cilia, who indicated that Town Center Mall wished to participate in the reward and discussed same with the police department. However, a satisfactory arrangement was never firmed up. The City's focus then was to identify the reward money and disseminate it as quickly as possible with the knowledge that this matter would be revisited later. He confirmed with the City Manager that this resolution did not prohibit addressing issues that may arise in the future in terms of another entity wishing to fund the reward.

Council Member Baronoff reported that he received a call from an executive with the Simon Group in Indianapolis, who asked him to express that they view the video surveillance as 100% their responsibility; they do not want nor would they accept funds from the City. In addition, a proposal from the Boca Raton Police Services Department is forthcoming to Simon Group for increased police presence at the mall, which Simon Group plans to pay for as well. Last of all, mall representatives expressed that the safety of everyone on their property is of the utmost priority and an invitation was extended to Council and the public to view the new surveillance system and police substation, when completed.

The vote on Resolution No. 6-2008 carried unanimously; Mayor Abrams, Deputy Mayor Whelchel, Council Members Arts, Baronoff and Hager voting yes.

QUASI-JUDICIAL PUBLIC HEARING – APPEAL OF BOARD DECISION:

There were no items for consideration.

CITY MANAGER RECOMMENDATIONS AND REPORTS:

The City Manager reported on several topics. First, the RFP (Request For Proposal) for the Ice Rink had been issued; he noted that Council would be updated as responses are received. Second, the grand opening for the Spanish River Library and Community Center is scheduled for Saturday, January 26, 2008, at 10:00 a.m.; press releases have been sent out. Last of all, anyone needing information in regard to the January 29 ballot question relating to property taxes may access links providing same via the City's website.

CITY ATTORNEY REPORTS:

The City Attorney had nothing to report at this time.

MAYOR AND COUNCIL MEMBER REPORTS:

On the topic of the relocation of valet parking at Town Center Mall, Deputy Mayor Whelchel referred to an article by the Palm Beach Post related to findings by Rosemary Erickson, a security consultant with Athena Research Group, who determined that one of the most dangerous times, at a location such as a large mall, is when a child is being put in a car seat. In addition, if a valet is located further out in the perimeter areas and away from the entrances, a great deal of activity is generated out in the parking lot. Ms. Whelchel asked that this information be included in the letter to be sent to the mall, requesting that the valet and car wash areas be moved to another location.

ADJOURNMENT:

Motion was made by Council Member Hager, seconded by Council Member Arts, to adjourn the meeting. Motion carried unanimously on a voice vote; Mayor Abrams, Deputy Mayor Whelchel, Council Members Arts, Baronoff and Hager voting yes.

The regular meeting of the City Council of the City of Boca Raton adjourned at approximately 7:20 p.m. on Tuesday, January 8, 2008.

Steven L. Abrams, Mayor

ATTEST:

Sharma Carannante, City Clerk