

MINUTES OF THE REGULAR MEETING  
CITY COUNCIL  
CITY OF BOCA RATON, FLORIDA  
TUESDAY, FEBRUARY 12, 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 Hagerty

**AMENDMENTS TO THE AGENDA:**

*Motion was made by Council Member Arts, seconded by Council Member Hager, to amend the agenda to add Ordinance No. 5029 for consideration under, "Part V – Introduction of Ordinances." 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 January 22, 2008  
Minutes of the Regular Meeting of January 23, 2008

*Motion was made by Deputy Mayor Whelchel, seconded by Council Member Hager, 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:**

- a) Recognition of Heroic Act - Dr. Terry Cohen  
Mayor Abrams and Fire Chief Tom Wood presented an award to Dr. Terry Cohen in recognition of his lifesaving efforts in performing CPR on an 11-month-old baby on Christmas Day.
- b) Recognition of Heroic Act - Mr. Andy Henderson  
Mayor Abrams and Fire Chief Tom Wood presented an award to Mr. Andy Henderson, a coach at a local gym, in recognition of his efforts in saving a 7-year-old girl, who was choking, by using the Heimlich maneuver and CPR.

**REGULAR BUSINESS - PART I:**

1. Appointments to the following boards:

There were no positions to consider.

2. Responses to Workshop Information Requests:

The City Manager indicated that answers to questions raised at yesterday's Workshop meeting would be provided in tonight's presentations.

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 Arts, seconded by Council Member Baronoff, to approve the Consent Agenda, as amended, to remove Item No. 3.j. (Resolution No. 21-2008) for seaparate consideration under "Part VII – Resolutions and Other Business." Motion carried unanimously; Mayor Abrams, Deputy Mayor Whelchel, Council Members Arts, Baronoff, and Hager voting yes.*

a. Intergovernmental Agreements

- |    |   |          |
|----|---|----------|
| 1) | Sodium Hydroxide<br>Requested by Utility Services<br>Allied Universal Corp. | \$63,600 |
| 2) | Coagulant Aid<br>Requested by Utility Services<br>Tropichem Enterprises     | \$50,700 |

b. Resolution No. 9-2008

A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute a Project Agreement with Kaufman Lynn, Inc. General Contractors for the purpose of providing pre-construction services for the Downtown Library; providing for severability; providing for repealer; providing an effective date

c. Resolution No. 10-2008

A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute a Project Agreement with Kaufman Lynn, Inc. General Contractors for the purpose of providing pre-construction services for Fire Station #5; providing for severability; providing for repealer; providing an effective date

d. Resolution No. 11-2008

A resolution of the City of Boca Raton authorizing the City Manager to execute Work Order No. 3 with Bermello Ajamil & Partners, Inc. for the purpose of providing architectural design and construction administration services of the new Downtown Library; providing for severability; providing for repealer; providing an effective date

e. Resolution No. 12-2008

A resolution of the City of Boca Raton authorizing the City Manager to execute Work Order No. 29 with Robert G. Currie Partnership, Inc. for the purpose of providing architectural, engineering and construction administration services for Fire Station #5; providing for severability; providing for repealer; providing an effective date

f. Resolution No. 17-2008

A resolution of the City of Boca Raton urging the governor and the members of the Florida Legislature to support certain issues during the 2008 Legislative Session; providing for severability; providing for repealer; providing an effective date

g. Resolution No. 18-2008

A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute an Interlocal Agreement with Palm Beach County for the purpose of providing funding for equipment for the City's Governmental Television Channel; providing for severability; providing for repealer; providing an effective date

h. Resolution No. 19-2008

A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute a Memorandum of Agreement with the Florida Department of Corrections, Region IV, Circuit 15, Community Corrections, for the purpose of improving the administration of criminal justice in Palm Beach County; providing for severability; providing for repealer; providing an effective date

i. Resolution No. 20-2008

A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute the interlocal agreement for law enforcement services between Palm Beach County Department of Environmental Resources Management and the City of Boca Raton for the purpose of an interlocal agreement to increase the law enforcement presence in the Palm Beach County's waterways to provide greater manatee protection; providing for severability; providing for repealer; providing an effective date

k. Resolution No. 22-2008

A resolution of the City of Boca Raton terminating the Interlocal Agreement approved by Resolution No. 123-2002; authorizing the Mayor and City Clerk to execute a replacement Interlocal Agreement with Palm Beach County related to the use of Pondhawk Natural Area, establishing restrictions on the use of the property and providing for the City's right to repurchase the property under certain conditions; providing for severability; providing for repealer; providing an effective date

l. Resolution No. 23-2008

A resolution of the City of Boca Raton authorizing the City Manager to apply for a grant from the Florida Department of Health, Bureau of Emergency Medical Services Matching Grant Program for the purchase of Automated External Defibrillators; 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

m. Resolution No. 24-2008

A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute the Agreement between the City and the Fraternal Order of Police, Lodge 35; providing for severability; providing for repealer; providing an effective date

n. Resolution No. 25-2008

A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute the First Amendment to Agreement with Thomas G. Tomasello, P.A. for the purpose of providing professional legal services and amending certain terms thereof; providing for severability; providing for repealer; providing an effective date

o. Receive and File – Employee Election Certification

- 1) Election of John Reilly to the General Employees' Pension Board – term to expire on March 29, 2011
- 2) Election of Michael Barbera to the Police and Firefighters' Retirement System – term to expire on March 29, 2010
- 3) Election of Chris Somers to the Police and Firefighters' Retirement System – term to expire on March 29, 2010

p. Receive and File Board Orders

- 1) Special Master
  - a. SM(C) Case No. 06-2340
  - b. SM(C) Case No. 07-4903
  - c. SM(C) Case No. 07-00001521
  - d. SM(C) Case No. 07-00004536
  - e. SM(C) Case No. 07-00004021
  - f. SM(C) Case No. 07-00004808
  - g. SM(C) Case No. 07-00004868
  - h. SM(C) Case No. 07-5422
  - i. SM(C) Case No. 07-00005357
  - j. SM(C) Case No. 07-00005383
  - k. SM(C) Case No. 07-00005753
  - l. SM(C) Case No. 07-00005755

q. Receive and File Board Minutes – February 12, 2008

- 1) Builders' Board of Adjustment and Appeals  
May 30, 2006
- 2) Community Appearance Board  
December 4, 2007  
December 11, 2007  
December 18, 2007  
January 8, 2008
- 3) Community Relations Board  
December 17, 2007
- 4) North Federal Highway

- 5) March 6, 2007  
Planning and Zoning Board  
October 18, 2007
- 6) Telecommunications Advisory Board  
September 4, 2007

**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. 15-2008

A resolution of the City of Boca Raton considering Conditional Use Approval for the Bova Ristorante outside dining area on a parcel of land located at 1450 North Federal Highway, providing for severability; providing for repealer; providing an effective date (CA-06-11)

Mayor Abrams advised that quasi-judicial procedure would be followed for this 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 was a request for conditional use approval and site plan approval to construct an outside dining area with technical deviations from Chapter 23 (Off-Street Parking Facilities) and Chapter 28 (Off-Street Parking Spaces). Location, acreage, zoning, and land use designation were provided and surrounding properties and uses identified. Mr. Bell then reviewed the proposed site plan, including the 588 square-foot outdoor dining area advising that, if approved, the total square footage of the restaurant would be a little over 7,000 square feet. There followed a brief history of the original restaurant that was approved on the subject site, with emphasis placed on the customer service area; Mr. Bell advised that the Code uses customer service areas for restaurants in determining parking requirements. At this time, he also advised that with the increase in intensity from the previous conditional use, a new conditional use and site plan approval is required.

With the additional dining area, 99 parking spaces are required; 86 are being provided on site and are in compliance with Code. Another 13 valet spaces, which are not Code-compliant, are being proposed at the Miracle Car Wash site, located to the south of this parcel. Consequently, the applicant is requesting technical deviations from Chapter 23 (Off-Street Parking Facilities) and Chapter 28 (Off-Street Parking Spaces). Mr. Bell noted that valet parking spaces cannot count toward required parking; additional details were provided related to the technical deviations.

Since the site is adjacent to single-family residential areas to the north and east, staff recommended extending an existing 6-foot wall on the eastern boundary. In addition, a future cross access connection to the Miracle Car Wash site, at a location to be determined by Public Works Review, was also being recommended. The traffic analysis was then briefly reviewed; a slight increase in morning and afternoon peak hour trips is anticipated. At this time, Mr. Bell advised that the applicant has agreed to provide a bus shelter at the northern portion of the site.

Due to the presentation given at yesterday's Workshop related to valet parking, staff recommended a new condition regarding signage for valet parking. In addition, staff was recommending that Condition 13 be amended to reflect recording of the easement related to the 13 valet parking spaces.

The Planning & Zoning Board reviewed the petition and unanimously recommended approval of the site plan with the technical deviations and the conditional use. Staff also recommended approval subject to conditions. Mr. Bell then answered questions from Council regarding prior complaints of noise from neighbors located near Bova Ristorante and whether an outdoor dining area was already being utilized.

Michael Marshall, an attorney with Siemon and Larsen, provided a handout to Council and then, referring to the conditions and citing City Code, indicated that his client did not wish to provide the extension to the existing 6-foot wall, nor did his client wish to provide the cross access connection; details were provided. Last of all, Mr. Marshall requested that his client be given more time to construct the bus shelter; he asked for 8 to 12 weeks to obtain approval of the bus shelter plans. He concluded his comments and then answered questions from Council.

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

Mr. Bell responded to the first two requests made by Mr. Marshall, providing clarification and answering questions from Council throughout. The City's Traffic Engineer, Douglas Hess, provided information related to the bus shelter, as requested by Council.

*Motion was made by Deputy Mayor Whelchel, seconded by Council Member Hager, to adopt Resolution No. 15-2008, as amended, to include the revised Condition 13 (recording of the easement) and a new Condition 19 (valet parking signage).*

*Motion was made by Council Member Arts, seconded by Council Member Baronoff, to amend Resolution No. 15-2008, Condition 8, Line 31, using language generally consistent with the following: Deleting, "Prior to the issuance of a certificate of occupancy," and adding, "Within 120 days after notification from the City to the property owner that the adjacent property is subject to redevelopment pursuant to which a joint vehicular access can be accommodated, a 24-foot wide pavement area..." Motion carried unanimously on a voice vote; Mayor Abrams, Deputy Mayor Whelchel, Council Members Arts, Baronoff, and Hager voting yes.*

*Motion was made by Council Member Baronoff, seconded by Council Member Arts, to amend Resolution No. 15-2008, Condition 10, Line 39, using language generally consistent with the following: Deleting, "Prior to the..." and adding, "No later than 90 days from establishment of the outside dining area use..." Motion carried 4-1 on a voice vote; Mayor Abrams, Deputy Mayor Whelchel, Council Members Arts and Baronoff voting yes. Council Member Hager voted no.*

At this time, and at the behest of Council, Mayor Abrams asked whether any neighbors of Bova Ristorante were in the audience and wished to speak in regard to the 6-foot wall.

Robert Phillips, 400 NE 15 Terrace, advised that he preferred to retain the existing tall and lush landscaping, which now extends from the wall as opposed to tearing out the landscaping and replacing it with the proposed extension. He indicated that the current landscaping was probably 20 feet tall and a much better boundary than the proposed 6-foot wall extension.

*Motion was made by Council Member Arts, seconded by Council Member Hager, to amend Resolution No. 15-2008, Condition 4, Line 15, using language generally consistent with the following: Deleting, "Prior to the establishment of the outside dining area use, appropriate plans shall be amended to indicate that the..." and adding, "The applicant shall not be required to extend a 6 foot high concrete wall..." and on Line 17, adding, "...of the property subject to retention of adequate landscaping generally consistent with the landscaping in effect as of 2/12/08." Deleting, "...and constructed as unpierced and finished on both sides." Motion carried unanimously on a voice vote; Mayor Abrams, Deputy Mayor Whelchel, Council Members Arts, Baronoff, and Hager voting yes.*

*The vote on the main motion to adopt Resolution No. 15-2008, as amended, carried unanimously; Mayor Abrams, Deputy Mayor Whelchel, Council Members Arts, Baronoff, and Hager voting yes.*

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

5. Ordinance No. 5024 (Revised 12/18/07) (Continued from the Council meeting of 1/8/08)

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 was received from the chairman of the police and fire pension board, requesting that consideration of this item be postponed. Consequently, Mr. Ahnell suggested that the hearing be opened and continued to the June 10, 2008 Council meeting.

The public hearing was opened; no one came forward to speak.

*Motion was made by Deputy Mayor Whelchel, seconded by Council Member Hager, to continue the public hearing on Ordinance No. 5024 to the June 10, 2008 Council meeting. Motion carried unanimously on a voice vote; Mayor Abrams, Deputy Mayor Whelchel, Council Members Arts, Baronoff, and Hager voting yes.*

6. Ordinance No. 5027

An ordinance of the City of Boca Raton providing for the vacation and abandonment of portions of unimproved right-of-way for Juana Road, located adjacent to 2185 and 2198 Juana Road; providing conditions for vacation and abandonment; providing for severability; providing for repealer; and providing an effective date (AB-06-01)

Property Specialist/Appraiser Lynn Bodor gave the PowerPoint presentation, explaining that the subject site at Juana Road is an 80-foot wide, platted thoroughfare extending south from SW 21 Lane to the north line of the Hillsboro Canal. Of the 80-foot width, 20 feet is improved with asphalt that provides vehicular and pedestrian access to a cul-de-sac adjacent to the canal. The remaining 60 feet (30 feet on each side of the pavement) was the subject of this petition. The dimensions of the western and eastern 30-foot portions were then reviewed. Ms. Bodor advised that in 1991, Council approved a similar request just to the south of the current petition and abutting 2200 Juana Road; details were provided. The portions of right-of-way proposed for abandonment appear as grassy and landscaped areas with some driveway improvements. If the abandonment is approved, the paved area and the access it provides will remain in place; therefore, the proposed abandonment will not be detrimental to traffic circulation or canal access.

All appropriate City departments and all franchised utilities were contacted, as was South Florida Water Management District (SFWMD). They all support the abandonment; however, Florida Power & Light and the City's Utility Services Department requested easements over their respective facilities. Municipal Services, Recreation Services, and SFWMD chose to retain access to the canal, which is accomplished by not abandoning the center 20 feet of pavement. Ms. Bodor concluded her presentation by stating that the Planning and Zoning Board reviewed this petition and unanimously recommended approval, as did staff with the conditions outlined in the ordinance. Responding to Council, the City Attorney provided additional clarification regarding the easement area. Ms. Bodor and Mr. Ahnell also provided additional information to Council as requested.

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

*Motion was made by Deputy Mayor Whelchel, seconded by Council Member Hager, to adopt Ordinance No. 5027. Motion carried unanimously; Mayor Abrams, Deputy Mayor Whelchel, Council Members Arts, Baronoff, and Hager voting yes.*

7. Ordinance No. 5028

An ordinance of the City of Boca Raton amending the Fiscal Year 2007-2008 budget through the First Quarterly Budget Amendment; providing for severability; providing for repealer; providing an effective date

Office of Management and Budget Director Sharon McGuire gave the presentation. She advised that this ordinance would amend the Fiscal Year 2007-2008 Budget by recognizing revenues and expenditures in 1) the General Fund (\$45,900), 2) the State Grant Fund (\$20,700), 3) the Greater Boca Raton Beach and Park District Fund (\$25,000), 4) funding of \$100,000 from Reserves in the Downtown Infrastructure Fund, 5) revenues and expenditures in the Cemetery/Mausoleum Fund of \$60,000, 6) funding of \$90,000 from Reserves in the Information Service Fund, and 7) funding of \$60,000 from Reserves in the Mausoleum Perpetual Care Fund; details were provided on all of the above. The grand total of additional revenues and expenditures for the First Quarterly Budget Amendment Ordinance is \$151,600.

Ms. McGuire provided clarification to Council as requested in regard to Sections 5 and 7, advising that one was the operating fund for the mausoleum; the other is the perpetual care fund.

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

*Motion was made by Council Member Arts, seconded by Deputy Mayor Whelchel, to adopt Ordinance No. 5028. Motion carried unanimously; 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:**

7.a. Ordinance No. 5029

An ordinance of the City of Boca Raton amending certain sections of the Code of Ordinances relating to the Police and Firefighters' Retirement System; implementing provisions of the collective bargaining agreement between the City of Boca Raton and the Fraternal Order of Police concerning police pensions; providing for severability; providing for repealer; providing for codification; providing an effective date

The ordinance was introduced by Deputy Mayor Whelchel.

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

Christopher Knapp, representing Boca Raton Charter School, advised that he was returning tonight to provide Council with answers to questions tendered at yesterday's Workshop meeting about the charter school. He again advocated a partnership with the City and suggested a small portion of Countess de Hoernle Park be set aside for the school's use. Mayor and Council advised Mr. Knapp that no decisions would be made at this time; he should continue to work with City staff, as was suggested at yesterday's Workshop.

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

3.j. Resolution No. 21-2008

A resolution of the City of Boca Raton accepting the Downtown Boca Raton Master Plan Update as a framework for an updated vision for Downtown Boca Raton; designating the Downtown Boca Raton Advisory Committee as the Downtown Master Plan Steering Committee; providing for severability; providing for repealer; providing an effective date

The City Manager advised that a world-renowned architect was hired to update the framework for improvements to be made to the downtown. This resolution would give the Steering Committee, which was appointed by City Council, the responsibility of providing recommendations on implementation of the Downtown Master Plan update.

*Motion was made by Deputy Mayor Whelchel, seconded by Council Member Arts, to approve Resolution No. 21-2008. Motion 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:**

8. Request for Use of the City Seal – Boca Raton Garden Club

Mr. Ahnell advised that a request had been received from the Boca Raton Garden Club to incorporate the City Seal in the design of their 15<sup>th</sup> annual commemorative holiday ornament. Responding to Council, the City Manager advised that, at one time, discussion had focused on creating a City logo. He noted that many cities have a City Seal and a City logo; the Seal is used for official documents; the logo is perhaps more representative of their community.

*Motion was made by Deputy Mayor Whelchel, seconded by Council Member Baronoff, to authorize the use of the City Seal for production of an annual ornament by the Boca Raton Garden Club. Motion carried unanimously; Mayor Abrams, Deputy Mayor Whelchel, Council Members Arts, Baronoff, and Hager voting yes.*

200 East - Parking

Mr. Ahnell advised that the issue related to construction workers at 200 East parking on public and private property had been resolved; a new parking agreement had been signed to provide a specified area for construction parking.

**CITY ATTORNEY REPORTS:**

The City Attorney had nothing to report at this time.

**MAYOR AND COUNCIL MEMBER REPORTS:**

Congratulations were extended to Deputy Mayor Whelchel (Mayor-elect) and Council Member Baronoff (returning for a second term) for being unopposed in the 2007 election.

Council Member Hager thanked Mr. Ahnell for the updated list of lobbyists and asked that staff also check this list, as they are lobbied. The City Manager advised that staff has been informed to do so.

**ADJOURNMENT:**

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

The regular meeting of the City Council of the City of Boca Raton adjourned at approximately 7:15 p.m. on Tuesday, February 12, 2008.

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Steven L. Abrams, Mayor

ATTEST:

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Sharma Hagerty, City Clerk