

MINUTES OF THE REGULAR MEETING
CITY COUNCIL
CITY OF BOCA RATON, FLORIDA
TUESDAY, AUGUST 28, 2007
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 Arts gave the invocation.

PLEDGE OF ALLEGIANCE TO THE FLAG:

Telephonic Participation:

Motion was made by Deputy Mayor Whelchel, seconded by Council Member Arts, to allow Council Member Hager to participate in the meeting telephonically, as there is a physical quorum present and the Sunshine Law is satisfied. Motion carried unanimously on a voice vote; Mayor Abrams, Deputy Mayor Whelchel, Council Members Arts, Baronoff and Hager voting yes.

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 (attended telephonically)

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 Arts, to amend the agenda to add Resolution No. 101-2007 to the Consent Agenda as Item No. 3.g. 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 June 11, 2007
Minutes of the Regular Meeting of June 12, 2007
Minutes of the Regular Workshop Meeting of August 13, 2007
Minutes of the Regular Meeting of August 14, 2007

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

Haven Heroes – Presentation of Pins

Representatives from the Haven were not in attendance; the presentation would be rescheduled.

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.a.1. – Emergency Medical Supplies) An email was provided. The City Manager explained that Fire-Rescue EMS requires specific products for their inventory. Therefore, a sealed bid purchase was utilized, since piggybacking on an intergovernmental agreement would not provide all the specified products needed.

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 Deputy Mayor Whelchel, seconded by Council Member Arts, to approve the Consent Agenda as amended. Motion carried 5-0; Mayor Abrams, Deputy Mayor Whelchel, Council Members Arts, Baronoff, and Hager voting yes.

a. Sealed Bids

- 1) Emergency Medical Supplies
Requested by Fire Rescue Services
Alliance Medical, Bound Tree Medical,
Moore Medical, Matrix Medical,
Southeastern Emergency Medical, and
Tri-Anim Health Services, Inc. \$140,000
- 2) Building Renovations for Various Parks
Requested by Recreation Services
Hartzell Construction, Inc. \$323,400

b. Intergovernmental Agreement

- 1) Police Boat (Replacement)
Requested by Police Services
Intrepid Southeast, Inc. \$94,503

c. Resolution No. 89-2007

A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute a Maintenance Memorandum of Agreement with the State of Florida Department of Transportation for beautification restoration of North Federal Highway (State Road 5); at the entrance to Boca Raton; providing for severability; providing for repealer; providing an effective date

d. Resolution No. 95-2007

A resolution of the City of Boca Raton naming Fire Station One at Glades Road and Federal Highway in honor of John G. Withrow, Retired Fire Chief, to commemorate his 30 years of dedicated service to the City; providing for severability; providing for repealer; providing an effective date

e. Resolution No. 96-2007

A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute a Quit Claim Deed to Palmetto Promenade, LLC, over certain lands located at 401 East Palmetto Park Road; providing for severability; providing for repealer; providing an effective date

f. Receive and File Board Minutes – August 28, 2007

- 1) Community Appearance Board
July 24, 2007
July 31, 2007
- 2) Financial Advisory Board
April 23, 2007
- 3) Library Advisory Board
June 20, 2007
- 4) Physically and Mentally Challenged Board
June 7, 2007

g. Resolution No. 101-2007

A resolution of the City of Boca Raton authorizing the City Manager to execute an agreement with the Florida Department of Environmental Protection for the purpose of a grant award for the construction of Hillsboro/El Rio Park; 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:

4. Resolution No. 79-2007

A resolution of the City of Boca Raton authorizing the City Manager to execute the release of Declaration of Covenants and Restrictions for the Tropic Gardens Luxury Townhomes, located at 7901 North Federal Highway, as more specifically described herein; providing conditions for termination; providing for severability; providing for repealer; providing an effective date (SC-07-02)

Mayor Abrams noted that this was a quasi-judicial matter. The City Clerk administered the oath to those who indicated they wished to speak. There were no ex parte disclosures.

Property Specialist/Appraiser Lynn Bodor gave the presentation, explaining that the project known as Tropic Gardens Luxury Townhomes received Council approval in 2003, which included a condition to

record a declaration of covenants and restrictions, prior to obtaining the building permit; this instrument was drafted and recorded. However, Tropic Gardens was never constructed and the approvals lapsed.

In February 2006, a 20-acre master plan for North Boca Village Center was approved by Council; this acreage encompassed the former Tropic Gardens site. Consequently, the developers of North Boca Village Center are requesting that the declaration of covenants and restrictions connected with the prior approval be terminated. Ms. Bodor advised that a condition in the document states that any amendment, including termination, requires a public hearing before Council. She concluded her comments by stating that the Development Services and Municipal Services Departments reviewed the request and both agree to the termination.

Wendy Larsen, the attorney representing the applicant, made herself available for questions. Seeing no one else come forward, the public hearing was closed.

Motion was made by Council Member Arts, seconded by Deputy Mayor Whelchel, to adopt Resolution No. 79-2007. Motion carried 5-0; Mayor Abrams, Deputy Mayor Whelchel, Council Members Arts, Baronoff, and Hager voting yes.

REGULAR BUSINESS – PART III – REGULAR PUBLIC HEARINGS:

5. Ordinance No. 4994

An ordinance of the City of Boca Raton providing for the vacation and abandonment of a portion of S.W. 15th Street, west of Addison Avenue; providing conditions for vacation and abandonment; providing for severability; providing for repealer; providing an effective date (AB-06-02)

Property Specialist/Appraiser Lynn Bodor gave the PowerPoint presentation, advising that this was a request to abandon a 50-foot wide by 120-foot long unimproved portion of S.W. 15th Street, extending west of Addison Avenue and east of the eastern boundary line of Buttonwood Park. The right-of-way site is comprised of 6,000 square feet and appears as a grassy area with underbrush and some pine trees. The two petitioners, who abut the property, would incorporate same into their respective properties for the purpose of landscaping and maintaining the area.

All franchised utility companies and pertinent City departments were contacted. They all support the abandonment as there are no current or contemplated utilities in the subject area and it does not serve any traffic need. In addition, Recreation Services confirmed that development of Buttonwood Park would not require the use of the right-of-way. Ms. Bodor advised that the only condition of approval was a filing of a Unity of Title, by both petitioners, for incorporation of the land into the adjacent lots. The Planning and Zoning Board reviewed this petition in May 2007 and unanimously recommended approval of same with the condition that the petitioners, at their sole expense, continue the neighborhood sidewalk within the area of abandonment. In conclusion, staff recommended approval of the ordinance, subject to the conditions contained therein.

Responding to Council, Mr. Ahnell advised that there were no imminent plans, or funding, to develop Buttonwood Park; however, it is still reflected in the CIP (Capital Improvements Program) for planning purposes only.

In response to another query, Ms. Bodor explained that, due to a recent Code amendment, the petitioner is no longer required to pay for a right-of-way; however, an application fee is required and that fee has been increased. The City Attorney added that the Code was changed to be consistent with State law and in this particular case, where the City has not effectuated a use of the right-of-way, State law dictates that the City cannot collect funds in this context. Additional discussion followed.

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 Ordinance No. 4994. Motion carried 5-0; Mayor Abrams, Deputy Mayor Whelchel, Council Members Arts, Baronoff, and Hager voting yes.

6. Ordinance No. 4995

An ordinance of the City of Boca Raton amending Ordinance No. 4909 for certain property generally located between Dixie Highway and U.S. 1, north of Hidden Valley Boulevard and south of the City limits of the City of Boca Raton; to revise certain conditions relating to the Dixie Highway northernmost driveway, the Federal Highway mid-driveway, the roadway concurrency build out date, and conditions previously approved by Planning and Zoning Board Resolution No. 06-16; providing for an 18 month extension to the multiple building project permit date, providing for severability; providing for repealer; providing an effective date (UC-05-04R2)

Development Services Principal Planner Jennifer Simon gave the PowerPoint presentation, advising that this was a request for modification to the approved universal conditional approval for the North Boca Village Center mixed-use project. Acreage, zoning, land use designation, and the precise location were provided. Ms. Simon then referred to the approved master plan, which included a condition requiring that the three driveways proposed on Dixie Highway be planned and constructed to provide for a southbound left turn lane into the site. Speaking to the northernmost Dixie Highway driveway, she explained that during the design phase, it was determined there was insufficient reservoir area to construct this left turn lane, due to the proximity of the existing two-lane bridge crossing the C-15 Canal to the north. Ultimately, the solution reached was to redesign the driveway as a right-in/right-out driveway, with a channelized left out configuration; no left turn lane into the site would be permitted.

Ms. Simon explained that the petitioner was also requesting an 18-month extension to the original expiration date and an extension to the roadway concurrency build out date. She noted that the Palm Beach County Traffic Engineer supports the request to extend the roadway concurrency vesting until December 31, 2009. Lastly, the Planning and Zoning Board reviewed this petition in June 2007 and recommended approval, as did staff, with the amended conditions contained within the ordinance.

Wendy Larsen, the attorney representing the applicant, responded to Council's queries, advising that this was the first extension being requested for this project. She explained that she did not know when the project would be moving forward, as there were many parties with which to coordinate and this was a very complicated project. In answer to another question, Ms. Larsen indicated that the gala for the Caldwell Theater was scheduled for December 7, 2007; their opening is projected for December 2, 2007.

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

The City Attorney indicated that, upon Council's approval, this development order would expire on February 28, 2009, which is prior to the roadway concurrency date of December 31, 2009, as reflected on Page 6, Condition 11 of the ordinance. She clarified that nothing in the language should imply that the development order is extended beyond the February 28, 2009 date.

Motion was made by Deputy Mayor Whelchel, seconded by Council Member Baronoff, to adopt Ordinance No. 4995. Motion carried 5-0; Mayor Abrams, Deputy Mayor Whelchel, Council Members Arts, Baronoff, and Hager voting yes.

7. Ordinance No. 4997

An ordinance of the City of Boca Raton amending Section 28-337, Code of Ordinances, to provide clarification and to allow certain lots to develop and redevelop in conformance with prior zoning regulations; providing for severability; providing for repealer; providing for codification; providing an effective date

Property Specialist/Appraiser Lynn Bodor gave the PowerPoint presentation, explaining that this proposed amendment would provide for a uniform neighborhood development standard by extending the current code protection to lots and unplatted parcels that were previously developed, or could have been developed, in conformance with prior zoning regulations. Additional information was provided, using examples found in Royal Palm Yacht and Country Club. Ms. Bodor advised that building sites that met the prior platted regulations, but where the sites did not contain one whole platted lot, were not eligible for prior platted status upon redevelopment and many could not be redeveloped under the current code. She also noted that lots that never conformed to the prior platted standards would still be non-conforming. In addition, the requirement for a replat if a lot has been split more than once would still apply.

The Planning and Zoning Board reviewed this amendment in August 2007 and recommended approval of same, as did staff. Ms. Bodor concluded her presentation and, responding to Council, provided information as to why all lots were not being brought into conformance.

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. 4997. Motion carried 5-0; 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. 4996

An ordinance of the City of Boca Raton amending the Fiscal Year 2006-2007 budget through the Third Quarterly Budget Amendment; providing for severability; providing for repealer; providing an effective date

The ordinance was introduced by Council Member Baronoff.

9. Ordinance No. 4998

An ordinance of the City of Boca Raton amending Sections 28-977 and 28-981, Code of Ordinances, relating to the Light Industrial and Research Park zoning district; providing for severability; providing for repealer; providing for codification; providing an effective date (AM-07-02)

The ordinance was introduced by Council Member Arts.

REGULAR BUSINESS - PART VI - PUBLIC REQUESTS:

No one came forward to speak.

REGULAR BUSINESS - PART VII- RESOLUTIONS AND OTHER BUSINESS:

There were no items for consideration.

CITY MANAGER RECOMMENDATIONS AND REPORTS:

The City Manager had nothing to report at this time.

CITY ATTORNEY REPORTS:

Ms. Frieser requested authority to schedule an executive session, stating that in accordance with F.S. 286.011, the City Attorney's Office and outside counsel desire advice in regard to the litigation entitled, Jeffery O. et al vs. the City of Boca Raton, Case #03-80178.

Motion was made by Council Member Baronoff, seconded by Deputy Mayor Whelchel, to schedule an executive session concerning the above mentioned case, also known as the "sober house" case. Motion carried unanimously on a voice vote; Mayor Abrams, Deputy Mayor Whelchel, Council Members Arts, Baronoff, and Hager voting yes.

MAYOR AND COUNCIL MEMBER REPORTS:

Council Member Baronoff referred to yesterday's discussion regarding the downtown library and advised that the Boca Raton Rotary Club, of which he and Council Member Arts are members, made a \$50,000 contribution to the City library in December 2006, as part of a two-year fund raising commitment. He noted that proceeds from last year's Buccaneer Bash were donated to the library and proceeds from this year's Buccaneer Bash would be donated as well. On a separate matter, Mr. Baronoff reported that this Saturday, FAU (Florida Atlantic University) would take on Middle Tennessee State in a football game beginning at 4:00 p.m. at Lockhart Stadium in Ft. Lauderdale. He then provided 30 tickets to the City Manager for distribution to employees at his discretion, advising that ticket holders were also invited to the Owl Club tailgate party.

Deputy Mayor Whelchel referred to yesterday's discussion regarding the downtown library and asked the City Manager to provide information as to how much space in the Spanish River Library is actually devoted to the library, itself, and how much it would cost to build the same amount of new library space downtown. Mayor Abrams followed up by referencing a question tendered yesterday as to why the Spanish River Library was substantially increased in size from the original plan. He explained that the City tried to incorporate community space into the Spanish River Library to accommodate other amenities, as no other buildings in that area exist for that purpose. It was noted that the downtown library exists in an area where there is already community space, specifically, the Boca Raton Community Center. Mr. Ahnell is to follow up on the first two items.

Mayor Abrams referred to a memo received from the Boca Raton Advisory Board for the Physically and Mentally Challenged wherein Board members requested a name change to the Boca Raton Advisory Board for People with Disabilities. The City Manager was asked to bring forward the appropriate documentation that Council might consider same.

ADJOURNMENT:

Motion was made by Council Member Hager, seconded by Deputy Mayor Whelchel, 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 6:31 p.m. on Tuesday, August 28, 2007.

Steven L. Abrams, Mayor

ATTEST:

Sharma Carannante, City Clerk