

MINUTES OF THE REGULAR MEETING
CITY COUNCIL
CITY OF BOCA RATON, FLORIDA
TUESDAY, SEPTEMBER 28, 2004
6:00 PM

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

INVOCATION:

Council Member Haynie gave the invocation.

PLEDGE OF ALLEGIANCE TO THE FLAG:

ROLL CALL:

Mayor Steven L. Abrams
Deputy Mayor Bill Hager (arrived at approximately 6:05 p.m.)
Council Member Dave Freudenberg
Council Member Susan Haynie
Council Member Susan Whelchel

Also attending the meeting were:

City Manager Leif J. Ahnell
City Attorney Diana Grub Frieser
Assistant City Clerk Vanessa Hines

AMENDMENTS TO THE AGENDA:

There were no amendments to the agenda.

MINUTES:

Minutes of the Special Meeting of August 23, 2004 (Downtown Special Assessments)
Minutes of the Special Meeting of September 8, 2004 (Tentative Budget Public Hearing)
Minutes of the Special Meeting of September 8, 2004 (Proposed Annexation)
Minutes of the Regular Workshop Meeting of September 13, 2004
Minutes of the Regular Meeting of September 14, 2004

Motion was made by Council Member Whelchel, seconded by Council Member Haynie, to approve the minutes as presented. Motion carried 4-0; Mayor Abrams, Council Members Freudenberg, Haynie and Whelchel voting yes.

PROCLAMATIONS:

There were no proclamations.

REGULAR BUSINESS - PART I:

1. Appointments to the following boards:

There were no positions advertised.

2. Responses to Workshop Information Requests:

(Consent Agenda Item 3.f.1. – Fire Hydrants) A memo was provided. Mr. Ahnell explained that 200 fire hydrants have been replaced, beginning with the oldest ones first, since the replacement program began. The City has approximately 5,000 fire hydrants. The life span of a hydrant is 30 to 40 years; most of the City's hydrants are well within that age period. Currently, 80 to 100 hydrants are replaced per year and the City will continue to do so.

(Consent Agenda Item No. 3.k. – Resolution No. 175-2004 / Tentative Plat Approval related to the proposed Summit Boca Raton subdivision plat) An e-mail was provided. Mr. Ahnell explained that the only transaction the City was aware of related to the sale from Kapwin, Inc. to Summit Realty; the City had no knowledge of a recent sale.

3. Consent Agenda:

Motion was made by Council Member Freudenberg, seconded by Council Member Whelchel, to approve the Consent Agenda as revised. Motion carried unanimously; Mayor Abrams, Deputy Mayor Hager, Council Members Freudenberg, Haynie and Whelchel voting yes.

a. Sealed Bid – FY 03/04

- | | | |
|----|--|-----------|
| 1) | Reclaimed Water Pump Station Variable Frequency Drives Replacement
Requested by Utility Services
Electron Corp. of South Florida | \$248,500 |
|----|--|-----------|

b. Sealed Bid – FY 04/05

- | | | |
|----|--|-----------|
| 1) | Plant Material Services
Requested by Recreation Services
Conco Horticultural, Inc. | \$165,700 |
|----|--|-----------|

c. Competitive Sealed Proposal Renewals – FY 04/05

- | | | |
|----|---|-----------|
| 1) | Custodial Maintenance Services - Renewal
Requested by City Wide
Sunshine Cleaning Systems, Inc. | \$327,882 |
| 2) | Excess Insurance - Renewal
Requested by Financial Services
Arthur J. Gallagher & Co./State National Insurance Company | \$179,300 |
| 3) | Inland Marine Insurance - Renewal
Requested by Financial Services
The Beacon Group Inc. | \$67,627 |

d. Sealed Bid Renewals – FY 04/05

- | | | |
|----|---|----------|
| 1) | Lawnmower / Groundskeeping Parts and Supplies - Renewal
Requested by Recreation Services, Municipal Services,
Utility Services, Fire Rescue Services
Able South, Inc
Boca Raton Small Engines, Inc.
Kilpatrick Turf Equipment, Inc.
Precision Small Engine Co., Inc.
Tesco South, Inc. d/b/a Hector Turf | \$95,000 |
|----|---|----------|

2)	Landscape Maintenance for Police and Fire Stations - Renewal Requested by Recreation Services Lucky Lawns	\$45,442
3)	Hauling and Disposal of Spent Lime - Renewal Requested by Utility Services Soil Tech Distributors, Inc.	\$75,000
4)	Landscape Maintenance for I-95 Interchanges at Yamato Road - Renewal Requested by Recreation Services Complete Property Services	\$26,145
e.	<u>Intergovernmental Agreement – FY 03/04</u>	
1)	Vehicle (Replacement) Requested by Municipal Services Atlantic Truck Center and Tesco Equipment LLC	\$85,938
f.	<u>Intergovernmental Agreements – FY 04/05</u>	
1)	Fire Hydrants Requested by Utility Services Ferguson Underground	\$88,720
2)	Laboratory Supplies Requested by Utility Services Fisher Scientific Company	\$44,000
3)	Corrosion & Odor Control Products Requested by Utility Services U.S. Filter/Davis Process	\$382,050
4)	Personal Computer and Printer Replacement Program Requested by City Manager IBM Direct, Hewlett-Packard Company, Pomeroy, Insight Public Sector, Prosys Information Systems, CompUSA, PC Universe, Netlink Technologies, Champion Solutions Group	\$355,000
5)	Network Infrastructure Upgrades Requested by City Manager IBM Direct, Hewlett-Packard Company, Pomeroy, Insight Public Sector, Presidio, Netlink Technologies, CompUSA, Prosys Information Systems, PC Universe, Champion Solutions Group	\$350,000
6)	Laptop Replacement Program Requested by City Manager IBM Direct, Pomeroy, Insight Public Sector, Prosys Information Systems, CompUSA, PC Universe	\$300,000
7)	Office Supplies Requested by City Wide Office Depot	\$450,000

- g. Sole Source – FY 03/04
- 1) Ethernet Switches
Requested by Municipal Services
Etherwan Systems \$50,116
 - 2) Traffic Signal Controllers
Requested by Municipal Services
Naztec Inc. \$75,000

- h. Sole Source – FY 04/05
- 1) eLabor Software Maintenance
Requested by City Manager
ADP, Inc. \$26,281
 - 2) HTE Software Maintenance
Requested by City Manager
HTE Inc. \$105,290
 - 3) Infinium Payroll/Personnel Software
Maintenance and Support
Requested by City Manager
SSA Global \$41,099
 - 4) Maintenance for the IBM AS/400 and Related Equipment
Requested by City Manager
IBM Corporation \$35,000
 - 5) Lift Station Pumps and Repairs
Requested by Utility Services
Florida Bearings, Inc. \$100,000
 - 6) Water Meters & Parts
Requested by Utility Services
Badger Meter, Inc. \$450,000

- i. Exempt
- 1) Leadership Development Training
Requested by City Manager
The Goldner Group \$43,380

j. Resolution No. 173-2004

A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute an agreement with the Boca Raton Housing Authority for the purpose of assisting with operating costs of the “CATS” after school and summer camp programs; providing for severability; providing for repealer; providing an effective date

k. Resolution No. 175-2004

A resolution of the City of Boca Raton granting tentative plat approval to the proposed Summit Boca Raton subdivision plat, subject to conditions; providing for severability; providing for repealer; providing an effective date (SUB-04-03)

l. Resolution No. 176-2004

A resolution of the City of Boca Raton to extend the terms of appointment for the membership of the Downtown Visions Committee; providing for severability; providing for repealer; providing an effective date

m. Resolution No. 177-2004 (Revised)

A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute the First Amendment to the Agreement with the Boca Raton Housing Authority ("Authority") terminating the Agreement for Administrative and Management Services with the Authority; providing for severability; providing for repealer; providing an effective date

n. Resolution No. 179-2004

A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute an agreement with the Junior League of Boca Raton, Inc., a Florida not for profit corporation, for the purpose of assisting with costs of the Community Resource Center; providing for severability; providing for repealer; providing an effective date

o. Board Resignations

1) Resignation of D.W. (Douglas) Archibald from the Marine Advisory Board

p. Employee Election Certifications

1) Certification of the election of Barbara Smith as a trustee, replacing Carol Himes on the General Employees' Pension Board for the term to expire on March 29, 2007.

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

4. Resolution No. 140-2004

A resolution of the City of Boca Raton granting a Planned Commercial Development with a Master Plan for the proposed Sanctuary Square, subject to conditions; granting a technical deviation for driveway design; providing for severability; providing for repealer; providing an effective date (PCD-04-01)

Mayor Abrams advised that this was a quasi-judicial matter. The Assistant City Clerk administered the oath to those who indicated they wished to speak on this petition. There were no ex-parte communications disclosed.

Development Services Senior Planner Alejandro Zurita gave the PowerPoint presentation and explained that the petitioner was requesting approval for a Planned Commercial Development (PCD) master plan with a technical deviation for a driveway design to allow for the construction of a 9,975 square foot retail building, located at 5099 North Federal Highway. The approximate 1.17-acre site, now vacant, was previously occupied by a Shell oil facility consisting of a gas station, car wash and convenience store. Zoning and land use designation was provided, as was information related to setback modifications. Mr. Zurita advised that this request was consistent with policy direction provided by Council for the North Federal Highway Corridor area via Resolution No. 103-2004, which was adopted June 8, 2004; details were provided.

This one-story retail building, approximately 30 feet in height, was designed using a 1950s art deco architectural style. Details were provided regarding setbacks along the property lines and frontages, vehicular access, a driveway, parking, and trip generations.

A technical deviation was being requested to reduce the width and reservoir of the proposed driveway along NE 50th Street. Based on the driveway analysis conducted, the City's Traffic Engineer supported this deviation.

The Environmental Advisory Board and the Planning and Zoning Board unanimously recommended approval of the project, with the conditions as recommended by staff. The North Federal Highway Steering Committee also unanimously approved the project. Mr. Zurita explained that review by the Planning and Zoning Board included site plan approval; the site plan is also subject to every condition contained in the proposed PCD master plan and would take effect upon adoption of the resolution by Council.

Mr. Zurita then distributed a handout to Council, which provided answers to questions raised at the workshop yesterday, related to permitted and conditional uses. He also spoke to the issue of required site cleanup, due to any contamination from the now-defunct gas station. Mr. Zurita summarized his comments and concluded his presentation by stating that staff recommended approval, subject to the conditions as listed in the resolution. Council provided commentary related to the area of Federal Highway between Yamato Road and Glades Road, suggesting that a review of the vicinity might be appropriate, as it is the "gateway" into the North Federal Highway Corridor. Council then tendered questions to staff regarding uses for the subject building, concern over whether precedent would be set related to elevation and design, and review of the project by the Community Appearance Board.

Derek Vander Ploeg, the architect for the project, spoke in support of the architectural design and provided additional information to Council, as requested. Council voiced concern that the design was not in keeping with the architectural style as determined by the North Federal Highway charrette; other buildings approved for construction in that area followed the desired design. Much commentary focused on the architecture of the building and compatibility with the area. Attention also touched on a revised Condition (7) regarding a bus shelter.

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

Motion was made by Deputy Mayor Hager, seconded by Mayor Abrams, to adopt Resolution No. 140-2004.

Motion was made by Council Member Freudenberg, seconded by Council Member Haynie, to continue consideration of Resolution No. 140-2004 to the next regularly scheduled Council meeting on October 26, 2004. Motion failed 2 –3 on a voice vote; Council Members Freudenberg and Haynie voting yes; Mayor Abrams, Deputy Mayor Hager and Council Member Whelchel voted no.

Motion was made by Council Member Haynie, seconded by Council Member Freudenberg, to amend Resolution No. 140-2004, Page 3, Condition (7), Lines 10 and 11, to read as follows: "...bus stop amenities within Federal Highway right-of-way:..." deleting, "adjacent to" and adding, "right-of-way." Additional wording to be added to the end of Condition (7) on Line 16 would read as follows: "Notwithstanding the foregoing, in the event approval of the bus stop amenities as contemplated herein cannot be obtained from FDOT, the petitioner shall, prior to the issuance of a building permit, contribute \$15,000.00 toward the construction of a transit shelter at a location to be determined by the City and Palm Tran. The monetary contribution toward the future transit shelter shall be held in an account established by the City." Motion carried unanimously on a voice vote; Mayor Abrams, Deputy Mayor Hager, Council Members Freudenberg, Haynie and Whelchel voting yes.

Motion was made by Council Member Haynie, seconded by Council Member Whelchel, to amend Resolution No. 140-2004 to add a new Condition (8), using language generally consistent with the following: "The Community Appearance Board shall review the architectural style of the proposed project with special emphasis on the slanted roof elevation to ensure architectural compatibility and appropriateness of the structure. Motion carried 3-2; Mayor Abrams, Council

Members Haynie and Whelchel voting yes. Deputy Mayor Hager and Council Member Freudenberg voted no.

The vote on the main motion to adopt Resolution No. 140-2004, as amended, carried 4-1; Mayor Abrams, Deputy Mayor Hager, Council Members Haynie and Whelchel voting yes. Council Member Freudenberg voted no.

5. Resolution No. 169-2004

A resolution of the City of Boca Raton granting a modification of the site plan for an expansion to the square footage at the Town Center at Boca Raton Mall; located at 6000 Glades Road; providing for severability; providing for repealer; providing an effective date (SC-04-07)

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

Development Services Senior Planner Chris Kerr gave the PowerPoint presentation and explained that the petitioner was requesting Special Case approval to permit a 25,439 square foot expansion to the Town Center at Boca Raton mall, located at 6000 Glades Road. In December 2003, this property was annexed into the City as part of a larger annexation area from Palm Beach County. Mr. Kerr advised that the property would retain the County's land use designation and zoning district until such time as the property owner or the City amended same. In accordance with the annexation agreement, the City would review the petition pursuant to the County's guidelines at the time of the annexation. Discussion with the petitioner and the County resulted in a determination that the parallel City reviews for the proposed changes to the mall should include a recommendation from the Planning and Zoning Board and final approval from Council. Location, acreage, and the existing County land use designation and zoning information were then provided.

Mr. Kerr advised that the proposed expansion would be located within the existing Sak's Fifth Avenue store and within the space previously occupied by Lord & Taylor; Neiman Marcus was expected to occupy that space. Details were provided as to the opening of "decommissioned" areas in the mall, which would be made available to the public. Mr. Kerr explained that the proposed expansion would fall entirely within the building footprint of the existing mall. No additional parking would be required. In conclusion, the Planning and Zoning Board reviewed this project and recommended approval, as did staff, with the conditions as listed in the resolution.

Tom Marsicano, the authorized representative for Simon Property Group, spoke in support of the project, as did John Albright, Vice President of Development with the Simon Property Group. Additional information was provided to Council as requested.

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

Motion was made by Council Member Whelchel, seconded by Deputy Mayor Hager, to adopt Resolution No. 169-2004. Motion carried unanimously; Mayor Abrams, Deputy Mayor Hager, Council Members Freudenberg, Haynie and Whelchel voting yes.

6. Ordinance No. 4802

An ordinance of the City of Boca Raton amending the Future Land Use Map of the Comprehensive Plan by redesignating certain property consisting of 3.1776 acres, more or less, located at 6900 Congress Avenue, as more specifically described herein, from IM (Manufacturing) to C (Commercial); providing for the appropriate revisions of the Future Land Use Map; providing for severability; providing for repealer; providing an effective date (UC-04-04 SC/ZC/SPA)

7. Ordinance No. 4803

An ordinance of the City of Boca Raton relating to rezoning; providing for the rezoning of a parcel of land consisting of 3.1776 acres, more or less, located at 6900 Congress Avenue, as described more particularly herein, from M-3 (Manufacturing) to C-1 (Commercial); providing for the appropriate revisions of the zoning district map; providing for severability; providing for repealer; providing an effective date (UC-04-04 SC/ZC/SPA)

Mayor Abrams advised that this was a quasi-judicial matter. The Assistant City Clerk administered the oath to those who indicated they wished to speak on this matter.

Development Services Senior Planner Alejandro Zurita gave the PowerPoint presentation on both ordinances. The petitioner was requesting approval for a veterinary facility, known as Calusa Veterinary Center, located at 6900 Congress Avenue. Information regarding acreage, location, access, and surrounding businesses was provided. This petition met the requirements for a small-scale development; details were outlined in regard to approval of same by Council and subsequent transmittal to the Department of Community Affairs (DCA).

The proposed amendment met the City's standards as they relate to consistency, compatibility, and concurrency; details in each category were provided. Regarding the site plan, Mr. Zurita explained that development parameters were offered as a condition of approval for the requested amendment. Additional details were provided related to the building, which would consist of one-story and 9,331 square feet. Building setbacks, parking, structural improvements, vehicular access, and an interior service road were identified.

Although not required, Community Appearance Board performed a preliminary review of the project, which resulted in favorable comments. The project was also reviewed by the Planning and Zoning Board, whose members recommended approval of same with the conditions as outlined by staff. Mr. Zurita then answered questions raised at yesterday's workshop regarding permitted uses and conditional uses for the C-1 zoning district and use of open space. He noted that the applicant was required to plat the property, as a condition under the current approval, which would allow the inclusion of a conservation easement to preserve the "Tree Relocation Meadow" open space area, should Council desire to do so. Consequently, staff was suggesting a modification to Condition (4) in regard to same. Mr. Zurita then summarized his presentation and concluded by advising that staff recommended approval of the ordinances with the conditions listed therein.

Bob Basehart, representing the applicant, and Dr. Andy Turkell, a practicing veterinarian, spoke in support of the project and answered questions from Council related to whether this building would be an emergency shelter for animals during hurricanes, whether boarding services would be offered, and the types of animals to be treated, exotic or otherwise. Additional information was provided as requested by Council.

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

Motion was made by Deputy Mayor Hager, seconded by Council Member Haynie, to adopt Ordinance No. 4802.

Motion was made by Council Member Haynie, seconded by Council Member Freudenberg, to amend Ordinance No. 4802, Condition (4), Line 12, to add the following language: "The petitioner shall dedicate on the final plat an approximately 0.30 acre perpetual conservation easement over and across the "Tree Relocation Meadow" are, located to the east of the driveway along Congress Avenue, as depicted on the site plan referenced in City Council Resolution No. 120-96 (CA-95-10R1), and provide for perpetual maintenance by the property owner." Motion carried unanimously on a voice vote; Mayor Abrams, Deputy Mayor Hager, Council Members Freudenberg, Haynie and Whelchel voting yes.

The vote on the main motion to adopt Ordinance No. 4802, as amended, carried unanimously; Mayor Abrams, Deputy Mayor Hager, Council Members Freudenberg, Haynie and Whelchel voting yes.

Motion was made by Deputy Mayor Hager, seconded by Council Member Haynie, to adopt Ordinance No. 4803. Motion carried unanimously; Mayor Abrams, Deputy Mayor Hager, Council Members Freudenberg, Haynie and Whelchel voting yes.

REGULAR BUSINESS – PART III – REGULAR PUBLIC HEARINGS:

8. Ordinance No. 4804

An ordinance of the City of Boca Raton amending the Code of Ordinances relating to the General Employees' Pension Plan ("Plan"); creating Subsection 12-96(4), Code of Ordinances, relating to transfers from the Plan for employees of the Boca Raton Housing Authority; providing for severability; providing for repealer; providing for codification; providing an effective date

9. Ordinance No. 4805 (Revised 9/28/04)

An ordinance of the City of Boca Raton amending the Code of Ordinances relating to the Executive Employees' Retirement Plan ("Plan"); creating a new Section 12-180, Code of Ordinances, relating to transfers from the Plan for employees of the Boca Raton Housing Authority; providing for severability; providing for repealer; providing for codification; providing an effective date

Office of Management and Budget Director Linda Davidson gave a combined presentation on both Ordinance Nos. 4804 and 4805.

Ordinance No. 4804 provides for employees of the Boca Raton Housing Authority to transfer their benefits to a new, separately-designated plan for the Housing Authority, effective October 1, 2004. Impact statements were prepared and filed with the City Clerk and the Division of Retirement; the impact is zero. The trustees of the General Employees' Pension Board reviewed this ordinance and recommended approval of same. At this time, Ms. Davidson answered questions from Council related to liability; details were provided.

Ordinance No. 4805 allows for executive employees of the Boca Raton Housing Authority to transfer their benefits from the Executive Employees' Retirement Plan to a new, separate plan. Impact statements were prepared and filed with the City Clerk and the Division of Retirement. The trustees of the Executive Employees' Retirement Plan reviewed this ordinance and recommended approval of same. Ms. Davidson then concluded her presentation.

No one wished to speak at the public hearing.

Motion was made by Deputy Mayor Hager, seconded by Council Member Whelchel, to adopt Ordinance No. 4804. Motion carried unanimously; Mayor Abrams, Deputy Mayor Hager, Council Members Freudenberg, Haynie and Whelchel voting yes.

Motion was made by Council Member Freudenberg, seconded by Council Member Whelchel, to adopt Ordinance No. 4805, as revised. Motion carried unanimously; Mayor Abrams, Deputy Mayor Hager, Council Members Freudenberg, Haynie and Whelchel voting yes.

10. Ordinance No. 4808 (Revised 9/28/04)

An ordinance of the City of Boca Raton providing for the vacation and abandonment of all the platted rights-of-way within the Spanish River Woods Plat, as more specifically described herein; providing conditions for vacation and abandonment; providing for severability; providing for repealer; providing an effective date (AB-03-04)

11. Ordinance No. 4809

An ordinance of the City of Boca Raton providing for the vacation and abandonment of all platted limited access, utility and drainage easements, located in the Spanish River Woods Plat, as more specifically described herein; providing conditions for vacation and abandonment; providing for severability; providing for repealer; providing an effective date (EA-03-08)

Development Services Property Specialist/Appraiser Lynn Bodor gave a combined Powerpoint presentation on Ordinance Nos. 4808 and 4809. The precise location of the proposed abandonments was outlined; the total area proposed to be abandoned was 6.53 acres. The total rights-of-way comprise 3.926 acres and would be incorporated into the Villas at Spanish River project that was unanimously approved by Council on April 8, 2003. Approval was conditioned on abandoning the existing rights-of-way and easements. The developer will dedicate acreage for the new N.W. 6th Way to provide an alternate route to N.W. 5th Avenue, north of N.W. 35th Street; the developer will be responsible for all costs related to the new road. This new road would assist in facilitating traffic flow and route traffic away from single-family residential development.

All franchised utility companies were notified, as was Utility Services, Recreation Services, and the City's Civil Engineer; all agreed to the abandonment. BellSouth and Adelphia requested relocation of their lines in new easements over the relocated facilities. Utility Services and Municipal Services also conditioned their approval of the abandonment; details were provided. The developer agreed to these conditions.

The Planning and Zoning Board recommended approval of the abandonment, as did staff, subject to the conditions listed in the ordinances. At this time, Ms. Bodor drew attention to the modified right-of-way abandonment ordinance (No. 4809) and delineated the changes. She then concluded her presentation.

Helen O'Grady and Peter Ross requested additional information in regard to the proposed new roadway, known as N.W. 6th Way.

Motion was made by Council Member Whelchel, seconded by Deputy Mayor Hager, to adopt Ordinance No. 4808, as revised. Motion carried unanimously; Mayor Abrams, Deputy Mayor Hager, Council Members Freudenberg, Haynie and Whelchel voting yes.

Motion was made by Deputy Mayor Hager, seconded by Council Member Whelchel to adopt Ordinance No. 4809. Motion carried unanimously; Mayor Abrams, Deputy Mayor Hager, Council Members Freudenberg, Haynie and Whelchel voting yes.

12. Ordinance No. 4812

An ordinance of the City of Boca Raton repealing Ordinance No. 4594 which designated the Lofty Fig Trees in the north parking lot of City Hall as Historic Trees pursuant to Section 27-44, Code of Ordinances; providing for severability; providing for repealer; providing an effective date

Council indicated that this item might be postponed indefinitely. Mayor Abrams noted that several members of the public wished to speak and then opened the public hearing.

Chris Lockhart, who advised that she is a plant ecologist, spoke in support of the tree removal, citing safety concerns, and advocated the planting of native trees. Bob Jennings, Chairman of the Beautification Committee, spoke in opposition to the ordinance.

Mr. Ahnell stated that the decision to cut the trees was a very difficult one and only two trees were being removed. He explained that, due to the state of emergency and the threat of a Category 3 hurricane striking the City, it was determined that the trees must be cut. Crews were on standby Friday night; on Saturday morning, they were given direction to remove the two trees closest to City Hall. This decision was made based on a number of considerations including the barometric pressure, the direction of the storm, the width of the eye, and the force of the winds. In addition, the City's arborist reported that the trees sustained some damage from the first hurricane three weeks earlier. The soggy ground

and the proximity to city facilities, City Hall and the Community Center, in particular, figured prominently in the decision. Mr. Ahnell advised that the phone system, the fiber optic system, and the mainframe and network computer systems for the City could have been taken out, along with the backup generator system for City Hall and the Community Center and a 1,000-gallon fuel tank. An event such as this would hamper the City's ability to render assistance, just when residents would need assistance the most. Since the Community Center is also utilized as a shelter during emergency situations, there was the potential loss of life. Millions of dollars of damage could have resulted, had the trees either toppled over or branches broke loose to violate nearby structures.

Mr. Ahnell explained that enough branches were cut on Saturday to ensure that if the trees came down, they would not jeopardize critical facilities. Currently, the City is in the process of removing the rest of the two trees; new trees will be planted in their place.

Marti French, Vice Chairman of the Beautification Committee, spoke in opposition to the ordinance.

Motion was made by Council Member Freudenberg, seconded by Council Member Whelchel, to indefinitely postpone consideration of Ordinance No. 4812. Motion carried unanimously; Mayor Abrams, Deputy Mayor Hager, Council Members Freudenberg, Haynie and Whelchel voting yes.

13. Ordinance No. 4818

An ordinance of the City of Boca Raton amending the Fiscal Year 2003-2004 budget through a budget amendment relating to Hurricane Frances; providing for severability; providing for repealer; providing an effective date

Office of Management and Budget Director Linda Davidson gave the presentation, explaining that this item recognized additional expenditures from reserves in the General Fund of approximately \$5.4 million for Hurricane Frances related costs, including City personnel, fuel, emergency preparedness and debris related costs. Additional expenditures from reserves in the Cemetery Fund of \$2,000 were also recognized. The total of additional revenues and expenditures of the budget amendment ordinance was \$0, as it is being funded from reserves.

No one wished to speak at the public hearing. Council provided positive commentary related to the removal of vegetative debris within the City.

Motion was made by Council Member Whelchel, seconded by Council Member Haynie, to adopt Ordinance No. 4818. Motion carried unanimously; Mayor Abrams, Deputy Mayor Hager, Council Members Freudenberg, Haynie and Whelchel voting yes.

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

14. Resolution No. 178-2004

A resolution of the City of Boca Raton authorizing the settlement of a claim, Timothy Farrington vs. City of Boca Raton, 15th Judicial Circuit Court No: CA02-352-AG, CBR NO: EL98-0001-PS; providing for severability; providing for repealer; providing an effective date

Risk Manager Pam Gardner provided details related to the settlement of this case and recommended adoption of the resolution.

No one wished to speak at the public hearing.

Motion was made by Council Member Whelchel, seconded by Deputy Mayor Hager, to adopt Resolution No. 178-2004. Motion carried unanimously; Mayor Abrams, Deputy Mayor Hager, Council Members Freudenberg, Haynie and Whelchel voting yes.

REGULAR BUSINESS – PART V - INTRODUCTION OF ORDINANCES:

15. Ordinance No. 4813

An ordinance of the City of Boca Raton providing for the vacation and abandonment of the non-vehicular access line of the Mizner Park Plat, as more specifically described herein; providing for severability; providing for repealer; providing an effective date (EA-04-05)

The ordinance was introduced by Deputy Mayor Hager.

16. Ordinance No. 4814

An ordinance of the City of Boca Raton providing for the vacation and abandonment of an anchor easement, located at 382 Yamato Road, as more specifically described herein; providing conditions for vacation and abandonment; providing for severability; providing for repealer; providing an effective date (EA-03-12)

The ordinance was introduced by Council Member Haynie.

17. Ordinance No. 4815

An ordinance of the City of Boca Raton providing for the vacation and abandonment of a utility easement, located at 300 and 316 Yamato Road, as more specifically described herein; providing conditions for vacation and abandonment; providing for severability; providing for repealer; providing an effective date (EA-03-13)

The ordinance was introduced by Council Member Freudenberg.

18. Ordinance No. 4816

An ordinance of the City of Boca Raton providing for the vacation and abandonment of portions of public utility easements, located at 1330 North Military Trail in the Fairfield Gardens Plat, as more specifically described herein; providing conditions for vacation and abandonment; providing for severability; providing for repealer; providing an effective date (EA-04-01)

The ordinance was introduced by Deputy Mayor Hager.

19. Ordinance No. 4817

An ordinance of the City of Boca Raton amending Ordinance No. 4296 relating to the use of excise tax upon public services and the collection and depositing of such funds; providing for severability; providing for repealer; providing an effective date

The ordinance was introduced by Council Member Haynie.

REGULAR BUSINESS - PART VI - PUBLIC REQUESTS:

No one came forward to speak.

REGULAR BUSINESS - PART VII- RESOLUTIONS AND OTHER BUSINESS:

20. Resolution No. 172-2004

A resolution of the City of Boca Raton adopting an amended and restated Boca Raton Municipal Facilities and Services User Fee Schedule; providing for severability; providing for repealer; providing an effective date

Financial Services Treasurer Carol Himes gave the PowerPoint presentation. She explained that user fees are paid by all users, including those exempt from property taxes; they are also paid by non-residents. In addition, the fees assist in avoiding General Fund subsidization for services not being provided to the general public. Ms. Himes then provided details regarding user fee changes and/or charges as they relate to each City department. Closing remarks were offered and the presentation was concluded.

No one wished to speak at the public hearing.

Motion was made by Deputy Mayor Hager, seconded by Council Member Haynie, to adopt Resolution No. 172-2004. Motion carried unanimously; Mayor Abrams, Deputy Mayor Hager, Council Members Freudenberg, Haynie and Whelchel voting yes.

CITY MANAGER RECOMMENDATIONS AND REPORTS:

The City Manager advised that, although a budget amendment was adopted for Hurricane Frances, the total costs for recovery are still being tabulated due to Hurricane Jeanne, which struck the area shortly after Frances. Once final cost figures related to both hurricanes are obtained, the City Manager is to report back to Council. Responding to Council, Mr. Ahnell opined that expenses for Frances would be approximately \$10 million to \$12 million, due to the duration of the storm, which caused significant beach erosion among other things. Costs related to Jeanne are estimated to be between \$1 million to \$2 million.

CITY ATTORNEY REPORTS:

The City Attorney had nothing to report at this time.

MAYOR AND COUNCIL MEMBER REPORTS:

21. Designation of Voting Delegate and Alternate Voting Delegate
Annual Congress of Cities, December 2004, Indianapolis, Indiana

No one was delegated to attend the conference.

Council Member Whelchel referred to newspaper articles related to the hurricanes and their effect on the City's beach renourishment efforts. According to professionals now evaluating the beaches, it appears that they fared much better having been renourished prior to the storms.

Deputy Mayor Hager requested a memorandum from the City Manager regarding the City's contract with Adelphia. Mr. Ahnell explained that the contract had expired several years ago and the City had been renegotiating with them since that time. The cable company claimed bankruptcy in the interim and the City has not had any leverage. Once the company comes out of bankruptcy, the City may be able to move forward. Mr. Ahnell advised that there is no competition; a memorandum will be forthcoming.

Council Member Haynie asked that copies of the opinion written by the City's arborist, in regard to the ficus trees in the City's parking lot, be distributed to members of the Beautification Committee. She suggested that, once Committee members read the document, they might better understand that a real potential for danger existed in regard to damage and loss of life. Council Member Freudenberg voiced concern that the remaining trees should be monitored to ensure that they have not been compromised. The City Manager advised that significant trimming of the trees took place after the first storm. At this time, the City had no intention of removing the remaining trees. Additional discussion ensued.

Council Member Freudenberg confirmed that vegetative debris would be picked up in the City, sector by sector, and suggested that Channel 20 be used to notify residents in advance when pickup would take place in their particular area. The City Manager agreed that notification could be provided a day or two in advance. Mr. Freudenberg then advised that the Federation of Homeowners Association had scheduled a meeting for next Tuesday and, based on whether the County EOC closed by Friday, the guest would be

Tony Newbold from Florida Power & Light (FPL). He suggested that Council Members might wish to attend in order to address issues and promote a better working relationship in the future.

Council Member Whelchel suggested that a second meeting take place after the scheduled Town Hall meeting on October 25, 2004, to meet with citizens wherein they might discuss FPL and provide suggestions and/or constructive criticisms related to power restoration efforts.

ADJOURNMENT:

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

The regular meeting of the City Council of the City of Boca Raton adjourned at approximately 8:35 p.m. on Tuesday, September 28, 2004.

Steven L. Abrams, Mayor

ATTEST:

Sharma Carannante, City Clerk