

MINUTES OF THE REGULAR MEETING
CITY COUNCIL
CITY OF BOCA RATON, FLORIDA
TUESDAY, MAY 10, 2005
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 Haynie gave the invocation.

PLEDGE OF ALLEGIANCE TO THE FLAG:

ROLL CALL:

Mayor Steven L. Abrams
Deputy Mayor Susan Whelchel
Council Member Peter Baronoff
Council Member Bill Hager
Council Member Susan Haynie

AMENDMENTS TO THE AGENDA:

Motion was made by Council Member Haynie, seconded by Council Member Hager, to add Resolution No. 94-2005 as Item No. 19.a for consideration under, "Public Hearing – Request for Reduction in Code Enforcement Lien." Motion carried unanimously on a voice vote; Mayor Abrams, Deputy Mayor Whelchel, Council Members Baronoff, Hager and Haynie voting yes.

MINUTES:

Minutes of the Regular Workshop Meeting of April 25, 2005
Minutes of the Regular Meeting of April 26, 2005

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 Baronoff, Hager and Haynie voting yes.

PROCLAMATIONS:

Caitlin Schaub Day – May 10, 2005

Mayor Abrams presented the proclamation to Caitlin Schaub for her accomplishment in winning the Rising Star competition.

K-12 Task Force - acknowledging contribution to City

Mayor Abrams and Deputy Mayor Whelchel presented the proclamation to Chairman Gerald Damsky, who accepted same on behalf of the K-12 Task Force.

Safe Boating Week - May 21 to May 27, 2005

Mayor Abrams presented the proclamation a representative of the U.S. Coast Guard Auxiliary.

Emergency Medical Services Week – May 15 to May 21, 2005

Mayor Abrams presented the proclamation to Fire-Rescue Services Deputy Chief Tom Wood and EMS Division Chief Cindy Metcalf.

AWARDS / PRESENTATIONS:

Paramedic of the Year – Jamie Smith
Distinguished Service for Education in EMS – Craig Montgomery

EMS Division Chief Cindy Metcalf presented a plaque to Jamie Smith for Paramedic of the Year and recognized his recent life-saving efforts in treating an elderly man, who suffered a severe heart attack at Town Center Mall. Chief Metcalf then acknowledged Paramedic Craig Montgomery with the Distinguished Service for Education in EMS award for his education efforts and noted that he volunteers his time to train EMS staff.

REGULAR BUSINESS - PART I:

1. Appointments to the following boards:

- a. Airport Authority – two (2) vacancies due to term expirations of Bruce Benefield (resident east of I-95), and Helen Nerod (resident west of I-95) whose terms expire 06/01/05.

Motion was made by Council Member Haynie, seconded by Council Member Hager, to reappoint Bruce Benefield to the Airport Authority in the category of "resident east of I-95." Motion carried unanimously on a voice vote; Mayor Abrams, Deputy Mayor Whelchel, Council Members Baronoff, Hager and Haynie voting yes.

Mr. Benefield was reappointed to the Airport Authority.

Motion was made by Deputy Mayor Whelchel, seconded by Council Member Hager, to appoint Kristen Hughes to the Airport Authority in the category of "resident west of I-95." Motion carried unanimously on a voice vote; Mayor Abrams, Deputy Mayor Whelchel, Council Members Baronoff, Hager and Haynie voting yes.

Ms. Hughes was appointed to the Airport Authority.

2. Responses to Workshop Information Requests:

(Consent Agenda Item No. 4.c. – Resolution No. 83-2005 / Contract with One North Ocean, LLC for subdivision improvements to the Meridian at One North Ocean) A memo was provided. The City Manager advised that the \$100,000 escrowed from a lien settlement years ago still remains in the City's escrowed funds and will be used for traffic calming measures, as requested by the affected neighborhood; details were provided.

3. Consent Agenda /Quasi-Judicial Approvals:

The public was provided an opportunity to speak on any Consent Agenda items listed under Item Nos. 3 and 4. No one came forward to speak.

Motion was made by Deputy Mayor Whelchel, seconded by Council Member Hager, to approve the Consent Agenda/Quasi-Judicial Approvals (Items 3.a. and b.) and the regular Consent Agenda (Items 4.a. through 4.l.). Motion carried unanimously; Mayor Abrams, Deputy Mayor Whelchel, Council Members Baronoff, Hager and Haynie voting yes.

a. Resolution No. 82-2005

A resolution of the City of Boca Raton accepting and approving the final plat known as the Meridian at One North Ocean subdivision plat, and authorizing the Mayor and City Clerk to execute the plat; providing for severability; providing for repealer; providing an effective date (SUB-04-05)

b. Resolution No. 84-2005

A resolution of the City of Boca Raton accepting and approving the final plat known as the Gardens at Memorial Park Subdivision Plat, and authorizing the Mayor and City Clerk to execute the plat; providing for severability; providing for repealer; providing an effective date (SUB-04-01)

4. Consent Agenda:

a. Sealed Bid

1) Water Treatment Plant Color Reduction Chemical Requested by Utility Services Stockhausen, Inc.	\$76,440
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b. Sole Source

1) Multi-Conductor TV Inspection System Vehicle – Replacement Requested by Utility Services Cues Inc.	\$128,900
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c. Resolution No. 83-2005

A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute a contract for construction of required improvements with One North Ocean, L.L.C., for the purpose of ensuring timely and complete construction of subdivision improvements to the Meridian at One North Ocean; providing for severability; providing for repealer; providing an effective date

d. Resolution No. 87-2005

A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute a mutual aid agreement with the City of Fort Lauderdale for the purpose of combined operational assistance and voluntary cooperation; providing for severability; providing for repealer; providing an effective date

e. Resolution No. 88-2005

A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute the First Amendment to the Agreement with the Florida Department of Environmental Protection for the purpose of providing reimbursement to the City for costs which will be incurred for the design and construction of the Spanish River Park Boat Dock and related amenities; providing for severability; providing for repealer; providing an effective date

f. Resolution No. 89-2005

A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute the Second Amendment to an Agreement with Palm Beach County for the purpose of funding for development and construction of the Spanish River Park Boat Dock; providing for severability; providing for repealer; providing an effective date

g. Resolution No. 90-2005

A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute an agreement with the Solid Waste Authority of Palm Beach County for the purpose of securing an efficient, long-term and environmentally sound method to recycle biosolids; providing for severability; providing for repealer; providing an effective date

h. Resolution No. 91-2005

A resolution of the City of Boca Raton amending Resolution No. 168-2004 to authorize the City Manager to execute the agreement with Siemens Financial Services, Inc. for the purpose of leasing telephone switching equipment; providing for severability; providing for repealer; providing an effective date

i. Resolution No. 92-2005

A resolution of the City of Boca Raton authorizing the City Manager to execute a renewal of, and amendments to, the Agreement with Grant Thornton LLP for the purpose of providing internal audit services; amending Article 12 and Attachments A and B of the Agreement, deleting Articles 6 and 22 of the Agreement; providing for severability; providing for repealer; providing an effective date

j. Board Resignation

1) Resignation of Lynda L. Leixner from the Community Relations Board.

k. Receive and File Board Orders

Special Master:

- 1) SM (G) Case No.03-268
- 2) SM (G) Case No. 04-00003642
- 3) SM (G) Case No. 04-00003680
- 4) SM (G) Case No. 05-00000262
- 5) SM (G) Case No. 05-00000630

l. Receive and File Board Minutes – May 10, 2005

- 1) Community Appearance Board
April 12, 2005
- 2) Education Advisory Board
March 28, 2005
- 3) Executive Employees” Retirement Plan
February 24, 2005
- 4) Financial Advisory Board
March 28, 2005
- 5) Historic Preservation Board
March 15, 2005
- 6) K-12 Education Task Force
December 1, 2004

- 7) Library Advisory Board
March 16, 2005
- 8) Planning and Zoning Board
March 3, 2005
March 17, 2005
- 9) Special Master
February 23, 2005
March 23, 2005
- 10) Telecommunications Advisory Board
Mach 7, 2005
- 11) Zoning Board of Adjustment
November 10, 2004

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

5. Resolution No. 77-2005

A resolution of the City of Boca Raton granting conditional use approval for Boca Raton Middle School, an I.T.V. Tower, and technical deviations regarding driveway design and parking stall size, on a parcel of land located at 1251 Northwest Eighth Street, as described more particularly herein; providing for severability; providing for repealer; providing an effective date (CA-04-09)

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

The City Manager recommended that this item be continued to the meeting of May 24, 2005. He explained that the City had reached a verbal understanding with the Palm Beach County School Board, which was formalized into a written document. Then the City received a call from the School Board, advising that they had changed their position on the agreement. Consequently, the City was in the process of redrafting the documents.

Originally, the School Board was to construct the turn lanes necessary to remodel the school and the intersection improvements. The revised agreement would provide for the City to install the intersection improvements at the same time as the turn lane, with the School Board providing reimbursement. The documents are expected to be ready for Council review and approval by the next meeting. Responding to Council, Mr. Ahnell advised that, if the School Board were to make the improvements, the construction would be completed sooner than the City would be able to complete same. He explained that the School Board already has a contractor out there who could do the work; the City will need time to design the project, bid the project, award the project, and then begin the work. The explanation for the change in the School Board's position, as given to the City Manager, is that the School Board is in the business of building schools, not roads.

Richard Kruse opposed this petition, voicing concern over increased traffic in his neighborhood, specifically, on NW 8 Street. He also addressed a lack of parking for after-hours school programs, for athletic fields, and for parents picking up children, saying they're currently parking in neighborhood swales, sidewalks, and driveways. He then spoke to the proposed lighting for the athletic fields, voicing concern that the light would be directed into area homes.

Mr. Ahnell advised that the proposed intersection improvements should help alleviate traffic backups but also acknowledged that the reconfiguration of the school, which is outside the purview of the City, would increase traffic on NW 8 Street. Regarding the lighting for the athletic fields, Mr. Ahnell explained that directional spotlights were being considered; these lights would not spill beyond the ball fields.

Motion was made by Council Member Haynie, seconded by Deputy Mayor Whelchel, to continue the public hearing on Resolution No. 77-2005 to the regular Council meeting of May 24, 2005. Motion carried unanimously on a voice vote; Mayor Abrams, Deputy Mayor Whelchel, Council Members Baronoff, Hager and Haynie voting yes.

6. Ordinance No. 4853 (Continued from the 4/12/05 meeting. Requires four votes for adoption.)

An ordinance of the City of Boca Raton amending the Future Land Use Map of the Comprehensive Plan by redesignating certain property consisting of 1.23 acres, more or less, located at 300 West Yamato Road (NW 51st Street), as more specifically described herein, from RL (Residential Low) 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-03-05 SC/ZC/SPA)

7. Ordinance No. 4854 (Continued from the 4/12/05 meeting.)

An ordinance of the City of Boca Raton relating to rezoning; providing for the rezoning of a parcel of land consisting of 1.23 acres, more or less, located at 300 Yamato Road (NW 51st Street), as described more particularly herein, from R-1-D (Single Family Residential) to B-1 (Local Business); providing for the appropriate revisions of the zoning district map; providing for severability; providing for repealer; providing an effective date (UC-03-05 SC/ZC/SPA)

8. Ordinance No. 4855 (Continued from the 4/12/05 meeting.)

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)

9. Ordinance No. 4856 (Continued from the 4/12/05 meeting.)

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)

Under ex-parte disclosures, Council Member Haynie advised that she had spoken with Chuck Schwaderer. Mayor Abrams advised that he had spoken with Jeff Evans and Bill Coke.

He then explained that Ordinance Nos. 4853, 4854, 4855, and 4856, related to the original proposal brought forward by the applicant, which would be referred to as "Plan A," based on the testimony given at the April 12, 2005 meeting, the general consensus was that Plan A was not acceptable. Mayor Abrams stated that the question tonight was whether a new proposal, referred to as "Plan B," could be accepted at this time as an amendment to Plan A.

Planning and Zoning Director Carmen Annunziato was asked to outline the position of the City and the Development Services Department with regard to Plan B. Mr. Annunziato explained that staff received a new plan submission for the Yamato Commons project on April 22, 2005. The new plan would provide for two 5,000 square foot office buildings, approximately 22.5 feet in height, with 45 parking spaces. Staff's preliminary review determined that there is a need for a technical deviation. Consequently, staff was not prepared to render a recommendation on Plan B at this time.

Mayor Abrams referred to a letter from Jeff Evans that was received by the City today. He questioned whether staff had an opportunity to read the letter and whether that letter altered staff's position. Mr. Ahnell explained that the City's Traffic Engineer could address the traffic issue; however that did not alter staff's opinion on the project, as the project had been only preliminarily reviewed at this time.

City Traffic Engineer T. Douglas Hess advised that the letter from Mr. Evans did not change staff's position. He then provided a comparison between Plan A and Plan B. In Plan B, Mr. Hess explained that the new parking configuration included dead-end parking aisles, approximately 100 feet in length, with a turnaround parking space at each end. Staff's opinion, upon preliminary review, was that this would require a technical deviation to Chapter 23 of the City Code, as onsite circulation would not be provided. In addition, the turnaround spaces were not practical; details were provided.

Responding to Council, the City Attorney advised that the City's Traffic Engineer had provided Council with an expert judgment, and the technical deviation requirement, as acknowledged by the applicant, required additional noticing.

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

Council's consensus was that, since Plan B contained technical deviation problems and the new plan had not been reviewed, a vote would be taken on Plan A, as presented at the April 12, 2005 meeting.

Motion was made by Deputy Mayor Whelchel, seconded by Council Member Hager, to deny Ordinance Nos. 4853, 4854, 4855, & 4856, thereby rejecting Plan A. Motion carried unanimously; Mayor Abrams, Deputy Mayor Whelchel, Council Members Baronoff, Hager and Haynie voting yes.

10. Ordinance No. 4873

An ordinance of the City of Boca Raton providing for the vacation and abandonment of a portion of an unimproved alley right-of-way, located between S.E. 14th and S.E. 15th Streets, east of Dixie Highway, as more specifically described herein; providing conditions for vacation and abandonment; providing for severability; providing for repealer; providing an effective date (AB-04-04)

11. Resolution No. 78-2005

A resolution of the City of Boca Raton granting approval for a Planned Unit Development with a master plan for the proposed Mizner Townhomes Planned Unit Development, subject to conditions; providing for severability; providing for repealer; providing an effective date (PUD-05-01/SPA/SUB)

12. Resolution No. 79-2005

A resolution of the City of Boca Raton granting tentative plat approval to the proposed Mizner Townhomes Subdivision Plat, subject to conditions; providing for severability; providing for repealer; providing an effective date (SUB-05-01/PUD/SPA)

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

Planning and Zoning Director Carmen Annunziato gave the PowerPoint presentation. Location and surrounding roadways and structures were identified. The site plan was then reviewed, containing Buildings A,B,C,D, and E; pedestrian access and vehicular access was also outlined. A total of 26, three-story, three-bedroom townhouse units were proposed, 15 units per acre. Building A is 46 feet in height; the remaining buildings are 47 feet in height. Parking and open space requirements were also delineated. It was noted that an existing 16-unit, two-story apartment building would be demolished to construct the proposed project. Responding to a question from yesterday's workshop, Mr. Annunziato advised that, according to the applicant, the leases for the apartments are not being renewed, but no one is being forced out. Attention was then focused on proposed modifications to the R4 zoning district setbacks, as outlined in a table. The applicant was also proposing modifications to the required perimeter landscape setbacks; details were provided. The Planning and Zoning Board, the Environmental Advisory Board, and the Parks and Recreation Board recommended approval; conditions for the approval were

incorporated into the ordinance and resolutions. Regarding the tentative plat, Mr. Annunziato explained that it was a standard tentative plat, providing for lots, common areas, and roadways. Since Council was familiar with the alley abandonment criteria, the consensus was no presentation was necessary. Therefore, Mr. Annunziato advised that staff recommended approval of the petitions and concluded his presentation. He and Lynn Bodor, the City's Property Specialist/Appraiser, answered questions from Council, related to the alley abandonment.

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

Motion was made by Council Member Haynie, seconded by Council Member Baronoff, to adopt Ordinance No. 4873. Motion carried unanimously; Mayor Abrams, Deputy Mayor Whelchel, Council Members Baronoff, Hager and Haynie voting yes.

Motion was made by Deputy Mayor Whelchel, seconded by Council Member Baronoff, to adopt Resolution Nos. 78-2005 and 79-2005. Motion carried unanimously; Mayor Abrams, Deputy Mayor Whelchel, Council Members Baronoff, Hager and Haynie voting yes.

13. Resolution No. 80-2005

A resolution of the City of Boca Raton granting an extension of an exemption pursuant to Section 23-61(2)(d)5. and/or 6., Code of Ordinances, for undeveloped land in the Arvida Park of Commerce and for undeveloped adjacent properties as more particularly described herein; providing for severability; providing for repealer; providing an effective date (SC-05-04)

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

The City's Property Specialist/Appraiser, Lynn Bodor, gave the presentation. A history was given on the initial vesting, which provided for exemption from consistency and concurrency of the adopted Comprehensive Plan for undeveloped lands located in the Arvida Park of Commerce (APOC) and undeveloped adjacent properties. The vesting would expire in May 2005; provisions exist whereby the applicant may request a five-year extension. Upon determination of the appropriateness of the extension by Council, the extension may be granted; qualifications for, and information relating to, exemptions were then reviewed. Background information was provided on Phases I and II of the (APOC) Master Plan. The vested area of land that qualified for an extension of exemption was identified, as were those sections of APOC and adjacent properties not included in the vesting letter but that qualified for an extension of the exemption. Ms. Bodor concluded her presentation by stating that staff recommended approval of the five-year extension from May 2005 to May 2010.

Attorney Charles Siemens, spoke on behalf of his clients, thanking City staff for their assistance in this matter. Seeing no one else come forward to speak, the public hearing was closed.

Motion was made by Council Member Haynie, seconded by Council Member Hager, to adopt Resolution No. 80-2005. Motion carried unanimously; Mayor Abrams, Deputy Mayor Whelchel, Council Members Baronoff, Hager and Haynie voting yes.

14. Resolution No. 81-2005

A resolution of the City of Boca Raton approving an amended and restated agreement with the Florida Atlantic Research and Development Authority; authorizing the Mayor and City Clerk to execute the amended and restated agreement; providing for severability; providing for repealer; providing an effective date (SC-04-01)

Mayor Abrams advised that this was a quasi-judicial matter; the City Clerk administered the oath to those who indicated they wished to speak on this petition. Under ex-parte communication disclosures, Deputy Mayor Whelchel advised that she spoke with Tom Head; Council Members Haynie and Baronoff advised that they spoke with Mr. Ellington and Mr. Head.

Planning and Zoning Director Carmen Annunziato gave the PowerPoint presentation, advising that staff had been working on this agreement for approximately two years. The original agreement dated back to 1993; this updated agreement was necessary in order to incorporate new land and new language. It was noted that an expansion of 180,000 square feet was being requested, which would bring the total square footage to 630,000 for the FAU Research and Development Park. Mr. Annunziato advised that the new agreement would, among other provisions: 1) clarify that buildings are subject to ad valorem taxation, 2) require all parties occupying space to secure a City Occupational License, 3) give the City a role in the approval of uses at the Research Park, 4) clarify the role of the City regarding issuance of building permits and inspections, 5) provide that new developments are to be tested for concurrency and on-site circulation, and 6) require improvements to FAU Boulevard and its intersection with Spanish River Boulevard. Mr. Annunziato advised that staff recommended approval and concluded his presentation.

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 Resolution No. 81-2005. Motion carried unanimously; Mayor Abrams, Deputy Mayor Whelchel, Council Members Baronoff, Hager and Haynie voting yes.

REGULAR BUSINESS – PART III – REGULAR PUBLIC HEARINGS:

15. Ordinance No. 4871 (First of two required public hearings. No vote will be taken.)

An ordinance of the City of Boca Raton amending Sections 28-977 and 978, Code of Ordinances, pertaining to permitted and conditional uses in the Light Industrial Research Park zoning district; providing for severability; providing for repealer; providing for codification; providing for an effective date (AM-05-01)

Development Services Director Jorge Camejo gave the presentation. He explained that the above item would provide for two scenarios, 1) a permitted use opportunity for production studios wherein no audience participation is involved, and 2) should audience participation be involved, a conditional use process would be followed. Staff recommended approval; a second public hearing was required before a vote could be taken in regard to this item.

No one else came forward to speak. This matter was continued to the next regular Council meeting.

16. Ordinance No. 4872 (Revised 5/10/05)

An ordinance of the City of Boca Raton amending the Fiscal Year 2004-2005 budget through the Second Quarterly Budget Amendment; providing for severability; providing for repealer; providing an effective date

Office of Management and Budget Director Linda Davidson gave the presentation. She reviewed Sections 1 through 4 of the proposed ordinance, which related to additional revenues and expenditures in the General Fund, the Debt Service Fund, the Greater Boca Raton Beach & Park District Fund, and the Capital Improvements Program Fund, respectively; details were provided. Ms. Davidson advised that the total of additional revenues and expenditures was \$21,985,900 and then concluded her presentation. She then answered questions from Council and advised that the City is taking steps to prepare for hurricane season.

Motion was made by Deputy Mayor Whelchel, seconded by Council Member Hager, to adopt Ordinance No. 4872, as revised. Motion carried unanimously; Mayor Abrams, Deputy Mayor Whelchel, Council Members Baronoff, Hager and Haynie voting yes.

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

There were no items for consideration.

REGULAR BUSINESS – PART V - INTRODUCTION OF ORDINANCES:

17. Ordinance No. 4874

An ordinance of the City of Boca Raton providing for the vacation and abandonment of a portion of a Non-Access Easement, located at 1200 Yamato Road, as more specifically described herein; providing conditions for vacation and abandonment; providing for severability; providing for repealer; providing an effective date (EA-04-07)

Council Member Haynie introduced the ordinance.

REGULAR BUSINESS - PART VI - PUBLIC REQUESTS:

Rich Hersh voiced opposition to Resolution No. 87-2005 and asked Council to reconsider same. He objected to the City's Police Department providing assistance for the Organization of American States (OAS) meeting in Ft. Lauderdale.

Debra Nash-Utterback, who spoke before Council at yesterday's workshop meeting on behalf of the Boca Raton Charter School, again requested Council's support in obtaining a delay in the demolition of the old J.C. Mitchell Elementary School buildings. Larry Sehres, a local architect, spoke to the suitability of the buildings in question.

Elliot Fish, president and partner of AED Now!, encouraged Council to bring back the proposed Automatic External Defibrillator (AED) ordinance and offered his services in terms of modifying same and providing education in the use of AEDs.

Responding to Council in regard to the charter school issue, Mr. Ahnell recommended that staff prepare a letter for the Mayor's signature, requesting that the School Board not demolish any buildings, prior to hearing a presentation from the Boca Raton Charter School. The signed letter would be forwarded to the School Board, in an attempt to place this matter on their agenda. Council had no objections to the recommendation.

REGULAR BUSINESS - PART VII- RESOLUTIONS AND OTHER BUSINESS:

There were no items for consideration.

QUASI-JUDICIAL PUBLIC HEARING – APPEAL OF BOARD DECISION:

18. Resolution No. 85-2005

A resolution of the City Council of the City of Boca Raton granting the appeal of U.S. Epperson, Inc., authorizing the modification of Condition No. 12 of Planning and Zoning Board Resolution No. 05-04 at 2501 North Military Trail; providing for severability; providing for repealer; providing an effective date

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

Planning and Zoning Director Carmen Annunziato gave the PowerPoint presentation, advising that this was an appeal by U.S. Epperson of a condition placed upon the approval by the Planning and Zoning Board; U.S. Epperson is more commonly known as Lynn Insurance Company. The site plan was then reviewed in detail. The applicant agreed to dedicate a right-of-way easement, as part of the site plan approval, for a right-turn lane on southbound Military Trail to provide for a turn to the west onto NW 24 Street. At the Planning and Zoning Board meeting, attention focused on whether, and to what extent, the applicant was responsible for not only dedicating the turn lane but constructing it as well. Consequently, the Board incorporated a Condition 12 into the approval, which provided that U.S. Epperson was

responsible for dedication and construction of the turn lane. Mr. Annunziato explained that staff reviewed this issue and recommended that the appeal be granted, since this was not a concurrency requirement on the part of the applicant. In addition, the applicant agreed to dedicate the right-of-way for the turn lane in the form of an easement. Mr. Annunziato concluded his presentation and answered questions from Council.

Responding to Council, City Traffic Engineer T. Douglas Hess explained that the right-turn lane is not required either by concurrency or City Code. Since the easement would be in place, with the right-of-way to provide for the lane, either the City or a future developer would be required to construct the turn lane. Mr. Ahnell added that a number of projects were in line, any one of which could trigger the need for a right-turn lane improvement; that future developer would fund the improvement and would be able to seek credit from the County for a portion of the cost as well.

Attorney Charles Siemens, representing U.S. Epperson, answered questions from Council and voice support of the appeal.

Bill Fairman, representing the Planning and Zoning Board, advised that the Board's decision was based on testimony provided by staff. He explained that traffic currently backs up past Butts Road during peak hours. In addition, the applicant proposed to have all traffic from this project empty onto Corporate Boulevard NW, since Butts Road is a collector road. Consequently, the Board imposed this additional condition on the applicant.

Mindy Powers, President of the Boca Bath & Tennis Homeowners Association, addressed the issue of landscaping, saying it would directly and potentially negatively impact their community. She explained that an approximate 200-foot stretch of Butts Road, which directly faces Boca Bath & Tennis, was not going to be landscaped. She advised that a visible buffer was needed between the community and a significant commercial property and voiced concern that if Boca Bath & Tennis was excluded from the process, they would not be able to preserve and protect their interests and rights. Ms. Powers asked that a condition be added to the site plan approval for additional landscaping to act as a buffer for the community.

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

Mr. Annunziato responded to questions from Council related to landscaping possibilities and appeals of Community Appearance Board (CAB) decisions. Following discussion, Council determined that a process is currently in place; applications must be submitted for this project, which is required to be reviewed by the Community Appearance Board. The landscaping issue would fall within the purview of the CAB, whose decision could be appealed to Council by an aggrieved party.

Motion was made by Deputy Mayor Whelchel, seconded by Council Member Hager, to adopt Resolution No. 85-2005. Motion carried unanimously; Mayor Abrams, Deputy Mayor Whelchel, Council Members Baronoff, Hager and Haynie voting yes.

PUBLIC HEARING – REQUEST FOR REDUCTION IN CODE ENFORCEMENT LIEN:

19. Resolution No. 86-2005

A resolution of the City of Boca Raton granting the application of Joseph E. Marinacci Jr. and Judy A. Marinacci for a reduction in the amount of the code enforcement lien imposed in Special Master Case Number 00-4311; providing for severability; providing for repealer; providing an effective date

Code Compliance Supervisor Ken Masslone gave the presentation, explaining that an exterior door and frame was replaced without a permit. He provided background information regarding the violation and stated that the lien totaled \$13,200.

Joe Marinacci, the property owner, stated he was not aware that a permit was required to replace the door and did not know that a code violation existed. Upon learning that a permit was required and that a fine equal to triple the original permit fee was levied, Mr. Marinacci obtained the necessary paperwork and paid the \$105 fine. When he applied for a second mortgage, Mr. Marinacci became aware of the lien for the first time. Consequently, he was before Council tonight to request a reduction.

Motion was made by Council Member Hager, seconded by Council Member Baronoff, to adopt Resolution No. 86-2005 and reduce the lien to \$0. Motion carried unanimously; Mayor Abrams, Deputy Mayor Wheelchel, Council Members Baronoff, Hager and Haynie voting yes.

19.a Resolution No. 94-2005

A resolution of the City of Boca Raton granting the application of Albert Schulz for a release of the code enforcement liens imposed in Code Enforcement Case Number 96-461 based upon certain conditions; providing for severability; providing for repealer; providing an effective date

The City Attorney referred to the materials distributed at yesterday's workshop meeting and then gave a brief presentation, advising that Mr. Schulz was prepared to sell the property and vacate the premises; details were provided.

Attorney Ken Lemoine, representing Mr. Schulz, indicated that a contract for the property in question had been signed; he asked that Council reduce the amount of the liens on the property that the sale might go through. Mr. Lemoine then provided additional information to Council, as requested.

Motion was made by Council Member Baronoff, seconded by Council Member Hager, to adopt Resolution No. 94-2005, as revised. Motion carried unanimously; Mayor Abrams, Deputy Mayor Wheelchel, Council Members Baronoff, Hager and Haynie voting yes.

CITY MANAGER RECOMMENDATIONS AND REPORTS:

20. Summer Meeting Schedule

Following brief discussion, Council's consensus was to cancel the July 11, 2005 Workshop Meeting and the July 12, 2005 Regular City Council Meeting.

Automatic External Defibrillator (AED) Program Update

Mr. Ahnell advised that Fire/Rescue Services is in contact with management at Town Center Mall at Boca Raton and the Chamber of Commerce to resolve issues associated with the AED Program. In addition, staff is working with condominium associations to place the AEDs that remain in City inventory. He added that, once the aforementioned issues are resolved, the AED ordinance would be brought forward again for Council's consideration.

Downtown Library Transaction

The City Manager asked for, and received, direction from Council to declare two City-owned parcels of land as surplus property for the purpose of acquiring additional land for the downtown library site. One parcel is generally located at the northwest corner of N.W. Second Avenue and Glades Road (the old water plant site); the second parcel is generally located at the northwest corner of Military Trail and Clint Moore Road (property located at the Fire Station 6 site). Council confirmed with the City Manager that the public hearing process would be followed with regard to this transaction, and anyone else interested in bidding on this property was welcome to do so, with the understanding that the City is attempting to acquire a downtown library site. The properties would be posted for sale and advertised accordingly.

Boca Raton Inlet Update

Mr. Ahnell referred to yesterday's workshop meeting and advised that, with the assistance and support of Congressman Clay Shaw, meetings are being proposed/scheduled with the Department of Environmental Protection (DEP) and the Army Corps of Engineers. In addition, two letters are being prepared for the Mayor's signature, outlining the condition of the Inlet due to the hurricanes, and requesting that a "Notice

to Proceed” be issued to the City to dredge the shoal, as a public safety issue exists; these letters would be addressed to the DEP and the Army Corps of Engineers. The City Manager added that the City’s engineers and consultants are currently conducting studies to obtain information on the shoal, itself, and to establish the impacts of dredging on the area in terms of depth, mass, templates, how much sand is actually there, and the capacity of the beaches to hold more sand. Depth soundings are also being taken and the City is working with the Coast Guard to determine where to place appropriate signage to mark the ebb tide shoal. The State and Federal Legislatures, the Marine Advisory Board (MAB), and the individuals who spoke at yesterday’s workshop meeting will be copied on all City correspondence, relating to the Inlet. Responding to Council, Mr. Ahnell spoke to the issue of surfers in the Inlet, the jurisdiction of the City in connection with the Inlet, and signage. Mr. Ahnell then advised that since the navigation conditions of the Inlet fall under the purview of the MAB, a letter to the MAB is being prepared requesting that body to alert the City should they agree, in their expert opinion as members of the boating community, that the Inlet has become too dangerous to remain open. Additional information was provided in regard to permits, past and present, obtained for the Inlet.

CITY ATTORNEY REPORTS:

Regulation of SPAM

In response to a request made at yesterday’s workshop, the City Attorney distributed a memo, dated May 10, 2005, to Council, regarding regulation of SPAM, i.e. the unsolicited commercial email messages that are received by Internet users. Essentially, she advised that the City is preempted from regulating SPAM by the “CAN-SPAM Act,” also known as the Controlling the Assault of Non-Solicited Pornography and Marketings Act of 2003; additional details were provided.

MAYOR AND COUNCIL MEMBER REPORTS:

Council Member Haynie asked that Representative Adam Hasner and Senator Jeff Atwater (Mayor Abrams added Representative Ellyn Bogdanoff) be invited to a future Council meeting in order to provide a legislative update. She also asked that a letter be sent to Palm Beach County, requesting an accounting of the expenditure of the City’s road impact fees and encouraging the County to construct a right-turn lane on Military Trail with those dollars, as contemplated earlier this evening during the public hearing on Resolution No. 85-2005.

Council Member Baronoff advised that people he has spoken with are supportive of having a “signature event” take place in the City, for branding purposes, and suggested this event might be included on a future CRA agenda and calendared accordingly. He also requested an update on the proposed streamlining of the permit process; Mr. Ahnell advised that the City would soon be entering into a contract with a consultant for review of the permitting process, with the expectation that the review would be completed by the time of the budget approval process. Mr. Baronoff then asked Mayor Abrams to extend his best wishes tomorrow at the dedication of the new Don Estridge High-Tech Middle School, as he would not be in attendance.

Council Member Hager referred to Kinko’s, located on Federal Highway, saying that it was difficult to exit the back of that establishment, due to a tree in the traffic calming feature obstructing visibility; the City Manager is to follow up.

Deputy Mayor Whelchel supported having the CRA take a more active role in moving forward with regard to the downtown. She then referred to the Yamato Commons project and opined that it was unfair to have people believe that, if a proposed development is unpopular, the solution is to ask the City to purchase it for a pocket park.

Mayor Abrams referred to an article in Newsweek magazine, which reported on the top 500 public schools in the country, saying that Spanish River High School was included in that number; out of 27,000 public schools, Spanish River High School ranked 410.

ADJOURNMENT:

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

The regular meeting of the City Council of the City of Boca Raton adjourned at approximately 9:10 p.m. on Tuesday, May 10, 2005.

Steven L. Abrams, Mayor

ATTEST:

Sharma Carannante, City Clerk