

MINUTES OF THE REGULAR MEETING
CITY COUNCIL
CITY OF BOCA RATON, FLORIDA
TUESDAY, OCTOBER 11, 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 R. Baronoff
Council Member Bill Hager
Council Member Susan Haynie

Also attending the meeting were:

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

AMENDMENTS TO THE AGENDA:

There were no amendments to the agenda.

MINUTES:

Minutes of the Regular Workshop Meeting of September 26, 2005
Minutes of the Final Budget Meeting of September 26, 2005
Minutes of the Regular Meeting of September 27, 2005

Motion was made by Council Member Hager, seconded by Council Member Haynie, 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/RECOGNITIONS/AWARDS:

National Red Ribbon Week – October 23-31, 2005

On behalf of the City of Boca Raton, Mayor Abrams presented the proclamation to Police Chief Andrew Scott and Sgt. Eric Lawrence.

REGULAR BUSINESS - PART I:

1. Appointments to the following boards:

There were no positions advertised.

2. Responses to Workshop Information Requests:

The City Manager advised that answers to questions from yesterday's workshop meeting would be covered in tonight's presentations.

3. Consent Agenda:

Mayor Abrams provided the public with an opportunity to comment on any Consent Agenda item; no one came forward to speak.

Motion was made by Deputy Mayor Whelchel, seconded by Council Member Hager, to adopt the Consent Agenda, minus Item 3.b.2., which would be considered separately immediately following the Consent Agenda. Motion carried unanimously on a voice vote; Mayor Abrams, Deputy Mayor Whelchel, Council Members Baronoff, Hager and Haynie voting yes.

a. Intergovernmental Agreements

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| 1) | Network Infrastructure Upgrades
Requested by City Manager
IBM Direct, Hewlett-Packard Company,
Pomeroy, Insight Public Sector, Presidio,
CompUSA, Prosys Information Systems,
PC Universe, Champion Solutions Group,
Software House International | \$442,800 |
| 2) | Personal Computer and
Printer Replacement Program
Requested by City Manager
IBM Direct, Hewlett-Packard Company,
Pomeroy, Insight Public Sector, Presidio,
CompUSA, Prosys Information Systems, PC
Universe, Champion Solutions Group | \$421,000 |
| 3) | Laptop Replacement Program
Requested by City Manager
IBM Direct, Insight Public Sector,
Prosys Information Systems, CompUSA,
PC Universe | \$350,000 |
| 4) | Library Books and Audio Visual Material
Requested by Recreation Services
Baker & Taylor, Baker & Taylor Entertainment,
Book Wholesalers, Inc., Ebsco Subscription
Services, Gale Group, Pro Quest
Information and Learning | \$319,900 |
| 5) | Fire Hydrants
Requested by Utility Services
Ferguson Underground | \$88,720 |

- b. Sole Source
 - 1) Personal Recruitment Software Maintenance
Requested by City Manager
Automatic Data Processing, Inc. \$26,807

- c. Resolution No. 182-2005
A resolution of the City of Boca Raton waiving the Payment in Lieu of Taxes for the Boca Raton Housing Authority for fiscal year ending September 30, 2006; providing for severability; providing for repealer; providing an effective date

- d. Resolution No. 183-2005
A resolution of the City of Boca Raton authorizing the City Manager to execute Work Order No. 1 with Stanley Consultants, Inc., for the purpose of preparing detailed construction drawings for NW 4th Avenue and Palmetto Park Road intersection improvements; providing for severability; providing for repealer; providing an effective date

- e. Resolution No. 184-2005
A resolution of the City of Boca Raton amending rates of fare for taxicabs; adopting a maximum fee schedule to include an Interim Fuel Surcharge; providing for severability; providing for repealer; providing an effective date

- f. Resolution No. 185-2005
A resolution of the City of Boca Raton supporting the beach and coastal management programs of the Florida Department of Environmental Protection (“State”), subject to the City’s regulatory authority and the Code of Ordinances; advising the State that the City will have the ability to provide the local funding share necessary to implement any State beach and coastal management program in which the City elects to participate; authorizing the City Manager to forward a long-term beach funding plan to the State; providing for the repeal of Resolution No. 150-2004; providing for severability; providing for repealer; providing an effective date

- g. Resolution No. 186-2005
A resolution of the City of Boca Raton authorizing the City Manager to execute Work Order No. 4 with Harvard Jolly Clees Toppe Architects, Professional Association, for the purpose of providing professional construction administration services for the Spanish River Library; providing for severability; providing for repealer; providing an effective date

- h. Receive and File –Employee Election Certification
Certification of the election of Mary Louise Yeager to a position on the Civil Service Board, for a term to expire November 1, 2008.

- i. Receive and File Board Minutes – October 11, 2005
 - 1) A1A Landscape Task Force
August 31, 2005
 - 2) Builder’s Board of Adjustment and Appeals
January 18, 2005

- 3) Community Appearance Board
September 13, 2005
- 4) Community Relations Board
June 20, 2005
- 5) Downtown Visions Committee
June 8, 2005
- 6) Education Advisory Board
August 22, 2005
- 7) Financial Advisory Board
August 15, 2005
- 8) Historic Preservation Board
August 16, 2005
- 9) Library Advisory Board
August 24, 2005
- 10) Special Master
July 27, 2005

3.b.2. Public Safety Software Maintenance
Requested by City Manager
SunGard HTE Inc. \$183,089

Mayor Abrams recused himself from the vote, advising that his law firm was retained by SunGard.

Motion was made by Council Member Hager, seconded by Council Member Haynie, to approve Item 3.b.2. Motion carried 4-0 on a voice vote; Deputy Mayor Whelchel, Council Members Baronoff, Hager and Haynie voting yes.

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

Mayor Abrams provided the public with an opportunity to comment on the Quasi-Judicial Consent Agenda; no one came forward to speak.

Motion was made by Council Member Hager, seconded by Deputy Mayor Whelchel, to approve the Quasi-Judicial Consent Agenda. Motion carried unanimously on a voice vote; Mayor Abrams, Deputy Mayor Whelchel, Council Members Baronoff, Hager and Haynie voting yes.

4. Resolution No. 181-2005

A resolution of the City of Boca Raton granting tentative plat approval for Boca Village Plat Two (a replat of all of parcel 1 of the Boca Village Master Plat) Subdivision Plat, subject to conditions; providing for severability; providing for repealer; providing an effective date (SUB-05-04)

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

5. Resolution No. 178-2005

A resolution of the City of Boca Raton making findings of fact and conclusions of law pertaining to Boca Technology Center, a Development of Regional Impact, and constituting this resolution as an amendment to the original Development Order by the City of Boca Raton in compliance with Section 380.06, Florida Statutes; providing for severability; providing for repealer; providing an effective date (SC-05-06)

Mayor Abrams advised that quasi-judicial procedure would be followed for this public hearing; the Assistant City Clerk administered the oath to those who indicated they wished to speak on this matter.

Development Services Senior Planner Jim Bell gave the PowerPoint presentation. He advised that the changes proposed in this DRI would provide for approximately three and a half acres to be used for an amateur recreational use, specifically, an LA Fitness facility. Location, total acreage, zoning, and land use designation were provided. This NOPC would allow for: 1) a reduction in the overall total Office/Industrial square footage for the DRI from 923,400 square feet to 902,400 square feet, and 2) a modification to the Land Use Conversion Table in the Development Order. Mr. Bell explained that this conversion was now possible, based on a new Palm Beach County standard for traffic concurrency, which looks at PM peak hours; the original conversion table did not provide for this methodology. In summary, the Office/Industrial threshold on the conversion table would increase from 476,000 square feet to 497,600 square feet; the amount of new retail would increase the square footage from 100,000 to 145,000; and the amount of Office/Industrial to be converted would be 21,000 square feet of Office to 45,000 square feet of Retail.

Mr. Bell then reviewed information regarding trip generations, advising that a reduction in AM and PM peak hour trips was expected, as was an increase of approximately 3,000 new external daily trips. However, the traffic impacts of the DRI would not increase over those previously reviewed and approved in the DRI; additional details were provided and conditions to mitigate the increase in daily trips were reviewed. Mr. Bell also provided information related to the proposed amateur recreational use. The appropriate agencies evaluated this NOPC and had no objections to the proposed changes; the Planning and Zoning Board also reviewed this application and recommended approval with the conditions as proposed. Mr. Bell concluded his presentation and answered questions from Council.

Jim Brindell, the attorney representing the applicant, spoke in support of the resolution. 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. 178-2005. Motion carried unanimously; Mayor Abrams, Deputy Mayor Whelchel, Council Members Baronoff, Hager and Haynie voting yes.

REGULAR BUSINESS – PART III – REGULAR PUBLIC HEARINGS:

6. Ordinance No. 4901

An ordinance of the City of Boca Raton approving the assignment and transfer of control of cable television franchises from Adelphia Communications Corporation to Time Warner Cable, Inc., and then to Comcast Corporation, or their respective subsidiaries, subject to certain conditions; providing for severability; providing for repealer; providing an effective date

Deputy City Manager George Brown gave the PowerPoint presentation, explaining that three current cable franchises would be transferred from Adelphia to Time Warner and from Time Warner to Comcast, subject to the Adelphia bankruptcy proceedings. He then reviewed the conditions found in the transfer ordinance, which included, but were not limited to, negotiations to renew franchises, maintaining access channels in the City, maintaining bonds and insurance, and compliance with City Code. Mr. Brown referred to this morning's workshop meeting and read the proposed amendment into the record, which

would, in general, require the franchisee to take all necessary steps to correct any technical problems and comply with FCC rules and industry standards for broadcast. He advised that the amendment was prepared by the City's outside counsel, Gary Resnick; it was also reviewed and concurred with by both Adelphia and Comcast. Mr. Brown stated that the ordinance provides that the transfer is to be accepted by Adelphia and Comcast within 20 days. The franchise renewal process will begin informally with Comcast as soon as possible and completed by October 1, 2006. After that, the City will renew the franchise with Comcast. Mr. Brown concluded his presentation and answered questions from Council.

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

Motion was made by Council Member Hager, seconded by Deputy Mayor Whelchel, to adopt Ordinance No. 4901, with the amendment prepared by the City's outside counsel, Gary Resnick. Motion carried unanimously; Mayor Abrams, Deputy Mayor Whelchel, Council Members Baronoff, Hager and Haynie voting yes.

7. Ordinance No. 4902

An ordinance of the City of Boca Raton amending Section 28-1354, Code of Ordinances, pertaining to front porches; providing for severability; providing for repealer; providing for codification; providing an effective date (AM-05-03)

Planning and Zoning Director Carmen Annunziato gave the PowerPoint presentation, saying that the purpose of the amendment was to allow front porches to be constructed at the second-floor level of a two-story single-family home, if a front porch is proposed on the first floor; additional details were provided regarding language and Council's original decision in 2002 to allow front porches to encroach into the front yard. He advised that the Community Appearance Board, the Planning and Zoning Board, and Development Services Department staff all recommended approval of the ordinance.

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

Motion was made by Council Member Hager, seconded by Council Member Haynie, to adopt Ordinance No. 4902. 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:

8. Ordinance No. 4861 (Title revised 9/30/05)

An ordinance of the City of Boca Raton authorizing the Mayor and City Clerk to execute two (2) Purchase and Sale Agreements with ~~Glades Rox Corp.~~ Glades/Rox, LLC, one for the disposition of two (2) parcels, and one for the acquisition of another parcel; authorizing the Mayor and City Clerk, or the City Manager, to execute all documents provided for or contemplated by the Purchase and Sale Agreements, and to take any actions required for the implementation of the Purchase and Sale Agreements; providing for severability; providing for repealer; providing an effective date (SC-04-14 / SC-04-15)

The ordinance was introduced by Deputy Mayor Whelchel.

9. Ordinance No. 4862

An ordinance of the City of Boca Raton amending the Future Land Use Map of the Comprehensive Plan by redesignating certain property consisting of 9.7 acres, more or less, located at 600 N.W. Boca Raton Boulevard, as more specifically described herein, from IG (General Industrial) to RM (Medium Residential); providing for the appropriate revisions to the Future Land Use Map; providing for severability; providing for repealer; providing an effective date (SC-04-10)

The ordinance was introduced by Council Member Hager.

10. Ordinance No. 4863

An ordinance of the City of Boca Raton relating to rezoning; providing for the rezoning of a parcel of land consisting of 9.7 acres, more or less, located at 600 N.W. Boca Raton Boulevard, as more specifically described herein, from M1 (Light Industrial) to R-3 (Multiple-Family); providing for the appropriate revisions to the zoning district map; providing for severability; providing for repealer; providing an effective date (ZC-04-04)

The ordinance was introduced by Council Member Haynie.

11. Ordinance No. 4864

An ordinance of the City of Boca Raton providing for the vacation and abandonment of a portion of N.W. 1st Avenue between N.W. 4th Street and N.W. 7th Street, as more specifically described herein; providing conditions for vacation and abandonment; providing for severability; providing for repealer; providing an effective date (AB-04-03)

The ordinance was introduced by Deputy Mayor Whelchel.

12. Ordinance No. 4869

An ordinance of the City of Boca Raton providing for the vacation and abandonment of a public utility easement, located at 600 N.W. Boca Raton Boulevard, as more specifically described herein; providing conditions for vacation and abandonment; providing for severability; providing for repealer; providing an effective date (EA-04-06)

The ordinance was introduced by Council Member Baronoff.

13. Ordinance No. 4865

An ordinance of the City of Boca Raton amending the Future Land Use Map of the Comprehensive Plan by redesignating certain property consisting of 3.18 acres, more or less, located at 1301 N.W. Boca Raton Boulevard, as more specifically described herein, from PI (Institutional) to C (Commercial); providing for the appropriate revisions to the Future Land Use Map; providing for severability; providing for repealer; providing an effective date (SC-04-11)

The ordinance was introduced by Council Member Haynie.

14. Ordinance No. 4866

An ordinance of the City of Boca Raton relating to rezoning; providing for the rezoning of a parcel of land consisting of 3.18 acres, more or less, located at 1301 N.W. Boca Raton Boulevard, as more specifically described herein, from PL (Public Land) to B-2 (Community Business); providing for the appropriate revisions to the zoning district map; providing for severability; providing for repealer; providing an effective date (ZC-04-05)

The ordinance was introduced by Council Member Hager.

15. Ordinance No. 4870

An ordinance of the City of Boca Raton providing for the vacation and abandonment of a public utility easement, located at 1301 N.W. Boca Raton Boulevard, as more specifically described herein; providing conditions for vacation and abandonment; providing for severability; providing for repealer; providing an effective date (EA-04-08)

The ordinance was introduced by Deputy Mayor Whelchel.

16. Ordinance No. 4867

An ordinance of the City of Boca Raton amending the Future Land Use Map of the Comprehensive Plan by redesignating certain property consisting of 4.27 acres, more or less, located at the northwest corner of Clint Moore Road and Military Trail, as more specifically described herein, from RM (Medium Residential) to C (Commercial); providing for the appropriate revisions to the Future Land Use Map; providing for severability; providing for repealer; providing an effective date (SC-04-17)

The ordinance was introduced by Council Member Hager.

17. Ordinance No. 4868

An ordinance of the City of Boca Raton relating to rezoning; providing for the rezoning of a parcel of land consisting of 4.27 acres, more or less, located at the northwest corner of Clint Moore Road and Military Trail, as more specifically described herein, from R-3-F/PUD (Multiple Family Residential/Planned Unit Development) to B-2 (Community Business); providing for the appropriate revisions to the zoning district map; providing for severability; providing for repealer; providing an effective date (ZC-04-06)

The ordinance was introduced by Council Member Haynie.

REGULAR BUSINESS - PART VI - PUBLIC REQUESTS:

Mr. Robert Ard, a resident of Mizner Park, reported on loud music playing at the restaurants in Mizner Park until approximately 2:00 a.m. on Thursday, Friday, and Saturday nights. The City Manager is to have Code Enforcement follow up.

REGULAR BUSINESS - PART VII- RESOLUTIONS AND OTHER BUSINESS:

There were no items for consideration.

CITY MANAGER RECOMMENDATIONS AND REPORTS:

Mr. Ahnell touched on the following items, advising that staff recommendations to Council would be forthcoming shortly: 1) the Automatic External Defibrillator {AED} Ordinance, 2) the building process, 3) LIRP options regarding what constitutes "corporate headquarters," 4) merchandising of items with the City's logos, and 5) fire assessment fees.

CITY ATTORNEY REPORTS:

The City Attorney had nothing to report at this time.

MAYOR AND COUNCIL MEMBER REPORTS:

Council Member Haynie referred to an email she received regarding the status of the North Boca Village project; staff was awaiting a letter from the County regarding traffic performance standards before scheduling this item for consideration. Ms. Haynie asked whether it was policy not to schedule this item for hearing until the traffic issue is resolved. Mr. Ahnell advised that this project was on the agenda for the Planning and Zoning (P&Z) Board meeting of October 20, 2005. Staff had advised the applicant that today was the deadline for submitting all paperwork; apparently, the applicant did not yet have the traffic concurrency report from the County. Consequently, they were notified that their project was taken off the P&Z agenda. Once this issue is resolved with the County and the traffic concurrency information is obtained, the project can be scheduled for the next available P&Z meeting. Mr. Ahnell advised that, as a matter of policy, staff never brings an item before P&Z without a complete package.

Ms. Haynie then mentioned the North Federal Highway Corridor Study, questioning whether the traffic performance standards for the project referred to above are based on the findings of that study in relation to the capacity of Federal Highway and Dixie Highway; Mr. Ahnell advised that the corridor study is a separate issue. Ms. Haynie confirmed with Mr. Ahnell that these are two separate and concurrent issues, both of which are under the County's jurisdiction.

Deputy Mayor Whelchel also referred to the emails received in regard to this matter; she mentioned the Caldwell Theater and stated that everyone was interested in continuing to move forward. Responding to Ms. Whelchel, Planning and Zoning Director Carmen Annunziato advised that a plan was submitted for the Caldwell Theater; however, it was based on zoning regulations that do not exist. A site plan and variance applications have been submitted that would shape the site plan into an approvable form that could fit into the overall master plan proposed for the redevelopment of Levitz Plaza. Mr. Annunziato advised that the City was moving forward with the North Boca Village project and, in fact, two items were scheduled for the next P&Z Board meeting. Mr. Ahnell confirmed with Mr. Annunziato that the Caldwell portion could move forward separately even if something else was "stalled." Ms. Haynie confirmed with Mr. Annunziato that the City's zoning category and Comprehensive Plan amendment were on the next agenda for the P&Z Board; it was only the Village plan that was pulled, due to the issue with the County.

Council Member Baronoff suggested that discussion of the downtown pedestrian spine be included in regular Council meetings and requested an update on same. Mr. Ahnell reported that both he and staff had met with the larger property owners in the spine area. He advised that the larger property owners could bring about a consolidation of all affected property owners much more easily than the City could; private parties are currently working behind the scenes on agreements and once consolidation is achieved, the project could then move forward. Deputy Mayor Whelchel also commented on the spine and making the downtown more pedestrian-friendly, opining that more consistency was needed in setting CRA meetings to make it happen; Mr. Baronoff concurred and provided additional commentary relating to CRA meetings.

Mr. Baronoff reported that he spoke with representatives from SCORE, an organization comprised of retired business executives that help others to start businesses and/or assist with troubled businesses, in regard to marketing City merchandise. They volunteered to help the City create a business plan/marketing strategy to determine the best way to market this merchandise; proceeds would be earmarked for the non-profit organizations. Contact information was provided to the City Manager.

Deputy Mayor Whelchel spoke to the issue of workforce housing, stating that a policy needed to be established as quickly as possible regarding new residential condo development. She suggested obtaining copies of policies already established in other cities and adapting same to meet the City's needs. The City Manager explained that staff has met with the Chamber of Commerce on this issue and another meeting is scheduled next week to finalize the concepts discussed, which would then be brought before Council. He advised that staff has been working with the Chamber's recommendations and proposed ordinance changes in order to craft appropriate policy; however, during those meetings, discussion has also focused on what other cities are doing to resolve the workforce housing issue.

Mayor Abrams referred to a bill that was introduced in the Florida Legislature, imposing criminal penalties for spamming. He had previously asked the City Manager to determine how this proposed legislation might be enforced; a memo from Police Chief Andrew Scott had been provided. Mayor Abrams advised that the bill did not mandate that the City investigate spam operators; it simply imposed penalties if someone was arrested for violating the Statute. Mayor Abrams opined that, should this bill pass, pressure would be put on cities to pursue the spammers. He recommended support of the bill, if it was accompanied by an appropriate funding source, since a proper investigation could run approximately \$400,000 for investigators and equipment, according to Chief Scott's memo.

ADJOURNMENT:

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

The regular meeting of the City Council of the City of Boca Raton adjourned at approximately 7:03 p.m. on Tuesday, October 11, 2005.

Steven L. Abrams, Mayor

ATTEST:

Sharma Carannante, City Clerk