

MINUTES OF THE REGULAR MEETING
CITY COUNCIL
CITY OF BOCA RATON, FLORIDA
TUESDAY, AUGUST 22, 2006
6:00 PM

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

INVOCATION:

Council Member Arts gave the invocation.

PLEDGE OF ALLEGIANCE TO THE FLAG:

ROLL CALL:

Mayor Steven L. Abrams
Deputy Mayor Susan Welchel
Council Member M. J. Mike Arts
Council Member Peter R. Baronoff
Council Member Bill Hager

Also attending the meeting were:

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

AMENDMENTS TO THE AGENDA:

There were no amendments to the agenda.

MINUTES:

Minutes of the Special Meeting of August 4, 2006
Minutes of the Regular Workshop Meeting of August 7, 2006
Minutes of the Regular Meeting of August 8, 2006

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

PROCLAMATIONS/RECOGNITIONS/AWARDS:

There were no proclamations, recognitions, or awards.

REGULAR BUSINESS - PART I:

1. Appointments to the following boards:

- a. Community Relations Board – (1) one student vacancy.

There were no applicants; the position will be readvertised.

- b. Financial Advisory Board – (2) two vacancies, due to term expirations of Christina A. Hutchison and David Birkman, whose terms expire 08/26/06.

David Birkman expressed interest in retaining his position on the Board.

Motion was made by Council Member Arts, seconded by Deputy Mayor Whelchel, to reappoint Christina A. Hutchison and David Birkman to the Financial Advisory Board. Motion carried unanimously on a voice vote; Mayor Abrams, Deputy Mayor Whelchel, Council Members Arts, Baronoff and Hager voting yes.

Ms. Hutchison and Mr. Birkman were reappointed.

- c. Telecommunications Advisory Board – (2) vacancies, due to term expirations of Frederick H. Kleber and Dale M. Gregory, whose terms expire 09/08/06.

Council Member Baronoff nominated Dale Gregory and Lawrence Gabriel; Deputy Mayor Whelchel nominated Frederick Kleber. Nominations were then closed without objection. In the voting: Mayor Abrams and Deputy Mayor Whelchel voted for Mr. Gregory and Mr. Kleber; Council Members Arts, Baronoff and Hager voted for Mr. Gregory and Mr. Gabriel.

Mr. Gregory was reappointed, and Mr. Gabriel was appointed, to the Telecommunications Advisory Board.

- d. Special Master (Magistrate) – (2) two year term / Supplemental Position

Appointment was postponed to a future Council meeting, pending research by the City Attorney in regard to procedural issues.

2. Responses to Workshop Information Requests:

The City Manager referred to a question tendered at yesterday's workshop meeting regarding the annual caseload for Special Masters and advised that in the last year, there were 2,286 total violations issued. Of that, the Special Masters heard 69 cases.

3. Consent Agenda:

Mayor Abrams provided an opportunity for the public 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 approve the Consent Agenda. Motion carried unanimously; Mayor Abrams, Deputy Mayor Whelchel, Council Members Arts, Baronoff and Hager voting yes.

- a. Sealed Bids
 - 1) South Beach Park Walkway
Requested by Recreation Services
Hartzell Construction Inc. \$94,540
 - 2) Blazing Star Nature Preserve
Requested by Recreation Services
Florida Blacktop, Inc. \$374,994
- b. Competitive Sealed Proposal
 - 1) Mizner Park Property Maintenance
Requested by Recreation Services
Rouse Property Management, Inc. \$579,646
- c. Intergovernmental Agreement
 - 1) Lift Station Repairs
Requested by Utility Services
W. Jackson & Sons Construction Co. \$458,200
- d. Emergency
 - 1) Repair of the 42" Ocean Outfall Pipe
Requested by Utility Services
Lanzo Construction Co., Florida \$116,765
- e. Resolution No. 117-2006
A resolution of the City of Boca Raton amending Section 10 of Resolution 147-2003; extending the existence of the North Federal Highway Steering Committee; providing for severability; providing for repealer; providing an effective date
- f. Resolution No. 118-2006
A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute Local Agency Program Supplemental Agreement Number 3 for Boca Raton ATMS Implementation (Contract Number AJ311, FIN408198-2-58-01 & 02) with the Florida Department of Transportation for the purpose of (1) opening construction phase, (2) transferring \$250,000 design funds to construction and (3) incorporating \$1,410,000 of high priority project construction funds; providing for severability; providing for repealer; providing an effective date
- g. Resolution No. 119-2006
A resolution of the City of Boca Raton authorizing the City Manager to execute Work Order No. 6 with Camp Dresser & McKee Inc. for the purpose of providing professional engineering services for the rehabilitation of the Lime Softening Facility at the Water Treatment Facility; providing for severability; providing for repealer; providing an effective date

h. Resolution No. 120-2006

A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute the First Amendment to Agreement with Gray-Calhoun and Associates, Inc. for the purpose of approving an assignment of the rights and responsibilities under the contract from Gray-Calhoun and Associates, Inc., to Vanus Inc.; providing for severability; providing for repealer; providing an effective date

i. Resolution No. 121-2006

A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute the First Amendment to an Agreement with Kaufman Lynn, Inc. General Contractors for the purpose of amending the Guaranteed Maximum Price (GMP); providing for severability; providing for repealer; providing an effective date

j. Resolution No. 123-2006

A resolution of the City of Boca Raton supporting further study of the construction of a new interchange on Florida's Turnpike in Boca Raton; providing for severability; providing for repealer; providing an effective date

k. Resolution No. 124-2006

A resolution of the City of Boca Raton authorizing the City Manager to execute Work Order No. 3 with Pierce Goodwin Alexander & Linville, Inc. for the purpose of providing construction administration for the hardening and renovation of the 6500 Building; providing for severability; providing for repealer; providing an effective date

l. Board Resignations

- 1) Resignation of Wilma Greenfield from the Elder Affairs Advisory Board
- 2) Resignation of Robert J. Daniels from the General Employees Pension Board
- 3) Resignation of Mary Lou Yeager from the Civil Service Board
- 4) Resignation of Warren Adams from the Pearl City Blue Ribbon Committee

m. Receive and File Board Minutes – August 22, 2006

- 1) Community Appearance Board
July 25, 2006
- 2) Downtown Visions Committee
January 18, 2006
- 3) Elder Affairs Advisory Board
July 5, 2006
- 4) Executive Employees' Retirement Plan Board
April 17, 2006
- 5) Historic Preservation Board
May 10, 2006 (workshop)
May 16, 2006
- 6) Planning and Zoning Board
June 22, 2006

- 7) Police and Firefighters' Pension Board
May 25, 2006

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

4. Resolution No. 122-2006

A resolution of the City of Boca Raton accepting and approving the final plat known as the 1800 North Military Trail subdivision plat, and authorizing the Mayor and City Clerk to execute the plat; providing for severability; providing for repealer; providing an effective date (SUB 04-08)

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

5. Resolution No. 115-2006

A resolution of the City of Boca Raton granting conditional use approval for a 3,019 square foot Pei-Wei Asian Diner restaurant on a parcel of land located at 1900 NE 5th Avenue, as described more particularly herein; granting a technical deviation for off-street parking; providing for severability; providing for repealer; providing an effective date (CA-06-05)

Mayor Abrams advised that quasi-judicial procedure would be followed; the City Clerk administered the oath to those who indicated they wished to speak. There were no ex parte disclosures.

Development Services Senior Planner Jim Bell gave the PowerPoint presentation. Acreage, zoning, land use designation, and surrounding roadways were identified. The proposed restaurant would locate in the bay currently occupied by Jennifer's Convertibles furniture retail store in the Fifth Avenue Shops shopping center. The site plan and the floor plan were then reviewed. The customer service area would be 1,050 square feet; a retail area, which would be used for take-out, would be 69 square feet. The petitioner also proposed to enclose a vestibule and a second-floor mezzanine area. With these alterations, the total square footage of the shopping center would actually be decreased. Information related to access and landscaping and pathways was provided. Mr. Bell then addressed the technical deviation related to parking, advising that the applicant was requesting a reduction of 212 parking spaces; he indicated that justification for the requested technical deviation has been reviewed and accepted by staff. The Planning & Zoning Board reviewed the petition and unanimously recommended approval with modifications to Conditions 3 and 5 to allow installation of site improvements to the parking lot prior to issuance of the Certificate of Occupancy, instead of prior to building permit issuance. Mr. Bell concluded his presentation, advising that staff recommended approval, and then answered questions from Council.

Charles Siemon, representing the petitioner, spoke in support of the project and answered questions from Council regarding the parking. Seeing no one else come forward to speak, the public hearing was closed.

Motion was made by Council Member Hager, seconded by Deputy Mayor Whelchel, to adopt Resolution No. 115-2006. Motion carried unanimously; Mayor Abrams, Deputy Mayor Whelchel, Council Members Arts, Baronoff, and Hager voting yes.

6. Resolution No. 116-2006

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; as more particularly described herein; granting a technical deviation for off-street parking; providing for severability; providing for repealer; providing an effective date (SC-06-10)

Mayor Abrams advised that quasi-judicial procedure would be followed; the City Clerk administered the oath to those who indicated they wished to speak. There were no ex parte disclosures.

Development Services Senior Planner Jim Bell gave the PowerPoint presentation. Location, acreage, County land use designation, and County zoning information were provided. Mr. Bell explained that this annexed area would retain its County zoning and future land use designations until the City amends its Comprehensive Plan; details were provided. The proposed expansion would encompass just over 200,000 square feet and provide for four components: 1) a minor expansion of the space occupied by TGI Friday's, which would be demolished in favor of a new restaurant, the Grand Lux Café, and addition of an outdoor seating area for Legal Seafoods; 2) expansion of the existing Macy's store; 3) inclusion of a new Lifestyle Retail Center; and 4) future expansion of approximately 23,000 square feet in an area yet to be defined. Mr. Bell focused on the proposed Lifestyle Retail Center, the main element of the expansion, and then turned attention to the technical deviation, which would allow for a reduction of 896 required parking spaces.

The petitioner's justification for the technical deviation included utilization of recommendations from the Urban Land Institute (ULI) regarding shopping center parking spaces and implementation of a Traffic Demand Management (TDM) plan, which included: construction of a new 5-bus transit transfer station with a dedicated easement that could accommodate 9 bus bays; alternative transportation improvements; a TDM plan applicable to the entire site; a bike path along Butts Road; an on-site shuttle circulator system; and a contribution towards a new shuttle bus route serving Tri-Rail to Town Center. Mr. Bell then spoke to a recommendation made by the City's Traffic Engineer regarding installation of a right turn lane on Town Center Road at Military Trail; details were provided. Based on the data submitted, staff supported the technical deviation.

Mr. Bell advised that the Planning and Zoning Board reviewed the project and recommended approval with the conditions suggested by staff, including a new condition (#11) to provide for a continuous covered walkway over the proposed bus transit transfer station. Staff also recommended approval. Mr. Bell then noted that one letter of objection from Boca Financial Center, related to the technical deviation, had been received and then made himself available for questions.

Russell Devick, the attorney for the petitioner, gave a PowerPoint presentation and then confirmed with the City Manager that assistance from the City would be forthcoming to secure impact fee credits for non-site roadway improvements from the County. Mr. Devick referred to Condition 20, regarding dedication of a right-of-way on Glades Road, advising that his client was agreeable as long as this did not affect Floor Area Ratio (FAR) landscaping or open space requirements. Last of all, he referenced Condition 19 and advised that, in lieu of the beautification of the right-of-way, a contribution of \$20,000 would be made to the Beautification Fund.

Richard McFarland, the attorney representing Herb Kahlert, who owns Boca Financial Center, advised that the objections related to the parking deviation have been satisfied and they now fully support the project.

Seeing no one else come forward to speak, the public hearing was closed; Council then tendered additional questions to staff.

Motion was made by Council Member Arts, seconded by Deputy Mayor Whelchel, to adopt Resolution No. 116-2006. Motion carried unanimously; Mayor Abrams, Deputy Mayor Whelchel, Council Members Arts, Baronoff, and Hager voting yes.

REGULAR BUSINESS – PART III – REGULAR PUBLIC HEARINGS:

7. Ordinance No. 4946 (*Transmittal public hearing – first of two required public hearings.*)

An ordinance of the City of Boca Raton amending the housing element of the Comprehensive Plan to support the provision of workforce housing; providing for severability; providing for repealer; providing an effective date (SC-06-05)

The City Manager referred to yesterday's workshop meeting and explained that, per Council's direction, staff would take the information provided at the special meeting of August 4, 2006 and combine it with this ordinance, which would then be brought forward at a later date. He then answered questions from Council.

Mayor Abrams provided an opportunity for any member of the public to comment on the ordinance; no one came forward to speak.

Motion was made by Council Member Hager, seconded by Deputy Mayor Whelchel, to postpone consideration of Ordinance No. 4946 to a future date. Motion carried unanimously on a voice vote; Mayor Abrams, Deputy Mayor Whelchel, Council Members Arts, Baronoff, and Hager voting yes.

8. Ordinance No. 4951 (*Transmittal public hearing – first of two required public hearings.*)

An ordinance of the City of Boca Raton amending the Future Land Use Element of the Comprehensive Plan; amending Policy LU.1.1.2: to provide for an intensity standard for neighborhood retail uses within the Residential High Future Land Use category; adding Objective LU.1.14.0 to promote the redevelopment of the East Palmetto Park Road Corridor as a seaside village; adding Policy LU.1.14.1 to permit neighborhood retail uses in the High Density Residential Future Land Use category located in the East Palmetto Park Road Corridor and make appropriate amendments to the land development regulations; providing for severability; providing for repealer; providing an effective date (SC-06-07)

9. Ordinance No. 4952 (*First of two required public hearings.*)

An ordinance of the City of Boca Raton, Florida, providing for neighborhood retail as a conditional use within the R-5 zoning district adjacent to Palmetto Park Road east of the Intracoastal Waterway; providing for appropriate revisions to the sign regulations in the R-5 zoning district; providing for severability; providing for repealer; providing for codification; providing an effective date (AM-05-07)

A contemporaneous public hearing was conducted for Ordinance Nos. 4951 and 4952. The City Clerk administered the oath to those who indicated they wished to speak.

Development Services Senior Planner Jennifer Simon gave the PowerPoint presentation, advising that the purpose of the two amendments was to provide immediate and long-range planning for the East Palmetto Park Road corridor, defined as the area east of the Intracoastal Waterway to State Road A1A, including those properties fronting on East Palmetto Park Road. The proposed amendments would also provide policy language in support of the inclusion of neighborhood accessory retail in the high-density residential land use category where those uses will enhance the character of the building and the surrounding neighborhood.

Background information was provided in regard to the East Palmetto Park Road corridor, with emphasis placed on issues associated with redevelopment. Ms. Simon advised that due to these issues, only one property is being redeveloped, specifically, 1 North Ocean Boulevard, which is a residential condominium; background information on that particular site was also provided. To address these issues, a 2-day workshop was held earlier this year, hosted by the Florida Public Officials Design Institute at Abacoa,

resulting in a report comprised of suggested recommendations for redevelopment of the subject area; Ms. Simon explained that staff views this report as a foundation for planning the area's redevelopment.

It was revealed that the property owners of 1 North Ocean Boulevard met with staff and voiced a desire to include a small neighborhood retail component in the residential building. Consequently, should Council and the public wish to see a retail use at this corner of the beach area, the opportunity has presented itself. There followed a detailed review of the proposed Comprehensive Plan Amendments (Objective LU.1.14.0 and Policy LU.1.14.1), the proposed amended Comprehensive Plan Policy (Policy LU.1.1.2), and the proposed Code Amendment (Section 24-80, Section 28-2, and Section 28-638). Ms. Simon concluded her presentation and provided additional information to Council as requested. Council confirmed with Ms. Simon that the ordinance would re-introduce a retail use on the north corner of the 1 North Ocean Boulevard property.

Pam Oldfield, President of Riviera Homeowners Association, voiced concern that if this R-5 zoning were approved, a precedent would be set wherein many other R-5 zonings would be approved; she advised that this is not what homeowners in the community had in mind when they provided input at the workshop. She also questioned what would comprise the retail component, indicating that a coffee shop was very different from an establishment such as Hooters. Consequently, she asked that consideration of the ordinances be postponed to provide affected homeowners with an opportunity to review this issue. The City Attorney explained that this was a transmittal hearing to determine whether the ordinance would be sent to the Department of Community Affairs (DCA) for review. An adoption hearing would be scheduled at a later date; details were provided.

Charles Siemon, the attorney representing Opus South, the owner of 1 North Ocean Boulevard, asked that the ordinance be transmitted to the DCA. He spoke to the revitalization of the corridor, opining that retail use would be beneficial to residents of the building and the neighborhood. He then answered questions from Council. In general, Council members voiced concern that the retail issue wasn't brought forward in the extensive public hearings held previously when they initially considered approval of the 1 North Ocean Boulevard project, noting that the public hearings were well attended at that time by affected residents.

Motion was made by Council Member Baronoff, seconded by Council Member Hager, to transmit Ordinance No. 4951 to the Department of Community Affairs for review. Motion carried unanimously; Mayor Abrams, Deputy Mayor Whelchel, Council Members Arts, Baronoff, and Hager voting yes.

Ordinance No. 4952 requires a second public hearing, which will be scheduled contemporaneously with the final public hearing for Ordinance No. 4951.

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

There were no items for consideration.

REGULAR BUSINESS – PART V - INTRODUCTION OF ORDINANCES:

10. Ordinance No. 4955

An ordinance of the City of Boca Raton amending the Fiscal Year 2005-2006 Budget through the Third Quarterly Budget Amendment; providing for severability; providing for repealer; providing an effective date

The ordinance was introduced by Council Member Hager.

11. Ordinance No. 4956

An ordinance of the City of Boca Raton authorizing the imposition and collection of Fire Services assessments for parcels within the City deriving a special benefit; providing certain definitions relevant to Fire Services Assessments; establishing a procedure for the imposition of Fire Services Assessments; providing that Fire Services Assessments constitute a lien on assessed property upon adoption of an assessment roll; providing that a perfected Fire Services Assessment lien shall be equal in rank and dignity with the liens of all State, County, District, or Municipal taxes and assessments and superior in dignity to all other prior liens, mortgages, titles, and claims; authorizing the imposition of interim assessments; providing a procedure for the collection of Fire Services Assessments; providing a mechanism for the imposition of assessments on government property; providing for severability; providing for repealer; providing an effective date

The ordinance was introduced by Council Member Baronoff.

REGULAR BUSINESS - PART VI - PUBLIC REQUESTS:

Silvestro Sotiradis advised that he had previously submitted a petition in opposition to a proposed right turn lane on SW 12th Avenue into Addison Mizner Elementary School; details were provided.

David Allcamp spoke in support of the proposed turn lane.

The City Manager was directed to review the subject petition. Mr. Sotiradis and his neighbors were asked to meet with the City's Traffic Engineer to discuss the matter; Mr. Sotiradis agreed and was advised that City staff would be in contact with him.

REGULAR BUSINESS - PART VII- RESOLUTIONS AND OTHER BUSINESS:

There were no items for consideration.

CITY MANAGER RECOMMENDATIONS AND REPORTS:

Torrey Pines

The City Manager reported on the County Commission meeting, which took place earlier today, advising that the Commissioners directed County staff to continue negotiations with the City and Torrey Pines in order to reach an agreement. He mentioned that Burnham Institute would be making a decision tomorrow as to where to relocate; that could have an impact on Torrey Pines as well. Much discussion followed; Mr. Ahnell advised that, if an agreement could be worked out, he would bring it back to Council for consideration.

Train Horns

The City Manager advised that, effective September 20, 2006, at 12:01 a.m., a train horn ban would go into effect for all train horns on the CSX tracks in the City of Boca Raton. Responding to Council, Mr. Ahnell provided background information as to how this ban finally came about.

Fire Assessment Fee

The final public hearing in regard to this fee would take place at the tentative budget meeting scheduled for September 11, 2006; notices have been mailed out. Mr. Ahnell added that an updated newsletter explaining property taxes was also sent out and should be arriving in mailboxes very soon.

CITY ATTORNEY REPORTS:

The City Attorney had nothing to report at this time.

MAYOR AND COUNCIL MEMBER REPORTS:

Council Member Arts referred to property tax portability and the proposed bed tax increase, stating that millions of dollars are being paid by South County to help pay for a parking structure that would benefit not only a hotel near the West Palm Beach Convention Center, but the convention center itself, which is at the other end of the County. He asked how this should be addressed. The City Manager advised that the property tax portability issue could be included in a resolution expected in November, which outlines matters to be addressed by the City's State and Federal lobbyists; details were provided. He also spoke to a task force, created by the Governor, to address property tax portability and the fiscal impacts to cities and counties. Regarding the increase in the bed tax, which the County is to consider on September 12, staff is to contact local hotels to determine their position. Should they be opposed to same, the City could join with them in opposition.

Council Member Baronoff advised that he would host a branding workshop in September and asked the City Manager to set up a date for the workshop. Mr. Baronoff also stated that an outline or timetable of events related to the pedestrian spine would be provided at the next CRA meeting on September 11, 2006. Last of all, he expressed gratification that the items regarding commercial solid waste collection had been pulled from the agenda and advocated freedom of choice, as long as the hauler of choice follows City guidelines and regulations. The City Manager explained that staff would research the institution of a franchise fee, instead of an exclusive franchise agreement, and bring back that information to Council for consideration.

Deputy Mayor Whelchel referred to the poor sound quality of the County Commission meetings on Channel 20, advising that the City had contacted Adelphia to no avail. On the issue of the pedestrian spine, Ms. Whelchel advocated initiating workshops to define "pedestrian-friendly environment" and address any issues that come forward.

ADJOURNMENT:

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

The regular meeting of the City Council of the City of Boca Raton adjourned at approximately 8:05 p.m. on Tuesday, August 22, 2006.

Steven L. Abrams, Mayor

ATTEST:

Sharma Carannante, City Clerk