

MINUTES OF THE REGULAR MEETING
CITY COUNCIL
CITY OF BOCA RATON, FLORIDA
TUESDAY, FEBRUARY 26, 2002
6:00 PM

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

INVOCATION:

Council Member Glass gave the invocation.

PLEDGE OF ALLEGIANCE TO THE FLAG:

ROLL CALL:

Mayor Steven L. Abrams
Deputy Mayor Carol G. Hanson (entered the meeting at approximately 6:10 p.m.)
Council Member Dave Freudenberg
Council Member Bill Glass
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:

Motion was made by Council Member Glass, seconded by Council Member Haynie, to amend the agenda to add Resolution Nos. 38-2002, 39-2002 and 40-2002 as Item Nos. 9, 10, and 11, respectively, under, "Regular Business – Part VI – Resolutions And Other Business." Motion carried 4-0 on a voice vote; Mayor Abrams, Council Members Freudenberg, Glass and Haynie voting yes.

PROCLAMATIONS/RECOGNITIONS:

Red Cross Month – March 2002
The proclamation was received by Ruth Fiegel.

PRESENTATIONS:

Literacy Coalition of Palm Beach County – Library Services Manager Catherine O'Connell

Ms. O'Connell presented the Mayor and Council Members with copies of the book entitled, "Fahrenheit 451," saying that all libraries within Palm Beach County are encouraging people to read this book, citing its timeless appeal with particular regard to civil rights.

MINUTES:

Minutes of the Regular Workshop Meeting of February 11, 2002
Minutes of the Regular Meeting of February 12, 2002

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

REGULAR BUSINESS - PART I:

1. Appointments to the following boards:

- a. Boca Raton Housing Authority – (1) vacancy due to resignation of Veronica Hart. Term expires 11/14/04.

Debbie Prehn came forward to interview.

Council Member Haynie nominated Debbie Prehn; Deputy Mayor Hanson nominated Janis R. Ehlers. The nominations were then closed without objection.

In the voting, Mayor Abrams, Council Members Freudenberg, Glass and Haynie voted for Debbie Prehn. Deputy Mayor Hanson voted for Janis R. Ehlers.

Debbie Prehn was appointed.

- b. Education Advisory Board – (1) vacancy due to resignation of Judy Myers Anderson. Term expires 07/28/03.

Fred Schwartz and Linda St. John-Hunter came forward to interview.

Deputy Mayor Hanson nominated Linda St. John-Hunter; Council Member Freudenberg nominated Anita Candig. Nominations were then closed without objection.

In the voting, Mayor Abrams and Council Member Freudenberg voted for Anita Candig. Deputy Mayor Hanson, Council Members Glass and Haynie voted for Linda St. John-Hunter.

Linda St. John-Hunter was appointed.

- c. Marine Advisory Board – (2) vacancies due to term expirations of Gene Folden (Recreational Boater) and Barry Lehman (Single Family Homeowner-adjacent to Inland Waterway). Terms expire 03/20/02.

The Council considered the position to be held by a “single family homeowner-adjacent to inland waterway” first. Council Member Glass nominated Gene Folden; Council Member Freudenberg nominated Barry S. Chesler. Nominations were then closed without objection.

In the voting, Mayor Abrams, Council Members Glass and Haynie voted for Gene Folden. Deputy Mayor Hanson and Council Member Freudenberg voted for Barry S. Chesler.

Gene Folden was appointed to the position of “Single Family Homeowner-adjacent to Inland Waterway.”

The Council then considered the position to be held by a recreational boater. Deputy Mayor Hanson nominated Will Mercier; Council Member Glass nominated Barry Lehman; Council Member Freudenberg nominated Barry S. Chesler. Nominations were then closed without objection.

In the voting, Mayor Abrams and Council Member Glass voted for Barry Lehman. Deputy Mayor Hanson and Council Member Haynie voted for Will Mercier. Council Member Freudenberg voted for Barry S. Chesler. Due to the tie vote, Council Member Freudenberg advised that he would change his vote in support of Will Mercier.

Will Mercier was appointed to the position of “Recreational Boater.”

2. Responses to Workshop Information Requests: The City Manager reviewed the following:

(Consent Agenda Item No. 3.b.1 – Mizner Park Property Maintenance) A memo with attachment was provided outlining the areas in Mizner Park, which the City is responsible for maintaining.

(Response regarding a fence at Boca Raton Elementary School at the Florida East Coast (FEC) Railroad) A memo was provided stating that the approved site plan includes a six-foot tall fence to be installed at the FEC right-of-way, to the east of the proposed landscape berm.

(Response regarding Personnel Rules and Regulations) At Deputy Mayor Hanson’s request, a copy of the Personnel Rules and Regulations was provided, along with a copy of Ordinance No. 4616, which amended those policies.

(Response regarding sober house legislation) A memo with attachments was provided stating that House Bill 545 and Senate Bill 682 are moving quickly through the legislative review process. The Senate version has completed the process. Mayor Abrams mentioned that the House version was completed today.

3. Consent Agenda:

Carl Jacobs spoke during the public hearing, commenting on the maintenance at Mizner Park, fire hydrants, and Resolution No. 32-2002, which relates to Work Order No. 2 for Nutting Engineers of Florida, Inc., to provide testing services for the new membrane plant addition to the water treatment plant. The City Manager provided additional information to Mr. Jacobs as requested.

Motion was made by Council Member Glass, seconded by Council Member Haynie, to approve the Consent Agenda minus Item Nos. 3.h. and 3.j. Motion carried unanimously; Mayor Abrams, Deputy Mayor Hanson, Council Members Freudenberg, Glass and Haynie voting yes.

(These items were considered separately under, “Regular Business – Part VI – Resolutions And Other Business.”)

a. Sealed Bid

1)	Resource Recovery Services Requested by Recreation Services, Municipal Services Atlas-Lox Road, Inc	\$119,348
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b. Sealed Renewal

1)	RFP No. 2001-023 Mizner Park Property Maintenance Requested by Recreation Services Codina Real Estate Management, Inc.	\$487,129
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c. Intergovernmental Agreements

1)	Landscaping for Enhanced Speed Humps Requested by Recreation Services Sunquest Nursery of South Florida, Inc.	\$80,000
2)	Pocket Parks Requested by Recreation Services Recreational Design & Construction, Inc.	\$1,103,100
3)	Fire Hydrants Requested by Utility Service Ferguson Underground	\$80,000

- 4) NE 2nd Street Mini-Traffic Circles
Requested by Municipal Services
Weekley Asphalt Paving Inc. \$60,325
- 5) Vertical Precision Aerial Photography
Requested by City Manager
BAE Systems ADR Inc. \$40,048

d. Sole Source

- 1) Open Software Solutions, inc. Software Maintenance
Requested by Police Services
Open Software Solutions, Inc. \$127,825
- 2) Vacuum Filter Repair Parts
Requested by Utility Service
Baker Process \$38,800

e. Resolution No. 10-2002

A resolution of the City of Boca Raton authorizing the Mayor and the City Clerk to execute an agreement with Palm Beach County for the purpose of development of Golden Fig Park; providing for severability; providing for repealer; providing an effective date

f. Resolution No. 32-2002

A resolution of the City of Boca Raton authorizing the City Manager to execute Work Order No. 2 with Nutting Engineers of Florida, Inc. for the purpose of providing certain professional services in connection with soil and concrete testing services for the construction of the new membrane plant addition to the water treatment plant; providing for severability; providing for repealer; providing an effective date

g. Resolution No. 33-2002

A resolution of the City of Boca Raton accepting and approving an Easement Deed from Byram Hill Realty, Inc. over certain land located at N.E. 74th Street and N. Federal Highway (US 1); providing for severability; providing for repealer; providing an effective date

i. Resolution No. 36-2002

A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute an Interlocal Agreement with the School Board of Palm Beach County related to Boca Raton Elementary School; providing for severability; providing for repealer; providing an effective date

k. Receive and File Board Minutes – February 26, 2002

- 1) Community Appearance Board
January 15, 2002
January 22, 2002
- 2) Education Advisory Board
January 14, 2002
- 3) Physically and Mentally Challenged Board
January 3, 2002

- 4) Planning and Zoning Board
January 3, 2002
January 17, 2002
- 5) Police & Firefighters' Pension Board
December 19, 2001
- 6) Telecommunications Advisory Board
January 7, 2002

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

There were no quasi-judicial public hearings.

REGULAR BUSINESS – PART III – REGULAR PUBLIC HEARINGS:

4. Ordinance No. 4632

An ordinance of the City of Boca Raton amending Section 2-68, Code of Ordinances, to specify that decisions of the Civil Service Board shall require majority vote, provided that in the case of a tie vote the appeal will be denied and the action of the City will be upheld, and to delete the requirement for scheduling appeals at a specific time; providing for severability; providing for repealer; providing for codification; providing an effective date

The City Attorney explained that this ordinance would amend the Code section relating to the powers and duties of the Board, more specifically, in the event of a tie vote. The text would clarify that decisions relating to appeals shall require a majority vote. Should a tie vote occur, the appeal would be denied and the action of the City would be upheld. Ms. Frieser provided additional information relating to the authority of the Board. The City Attorney then addressed the issue of the meeting schedule, stating that the City Clerk had requested deletion of language setting a specific monthly meeting day. The Board meets on an as-needed basis on a date when a quorum can be reached.

Motion was made by Council Member Haynie, seconded by Council Member Glass, to adopt Ordinance No. 4632. Motion carried unanimously; Mayor Abrams, Deputy Mayor Hanson, Council Members Freudenberg, Glass and Haynie voting yes.

5. Ordinance No. 4633

An ordinance of the City of Boca Raton amending the Procurement Code to provide a local preference for contracts of at least \$3,000 but not more than \$24,999, to be awarded pursuant to small purchase procedures; providing for severability; providing for repealer; providing for codification; providing an effective date

Council Member Glass gave a brief presentation, explaining that this was an amended version of an earlier draft ordinance relating to the Procurement Code. One change included a contract decrease from approximately \$100,000 to \$24,999. Also, no monetary reward would be given. He opined that this ordinance would support local businesses and be good for the economy.

Council Member Haynie recused herself on the basis that she is a small business owner.

Much discussion followed focusing on the issue of residents who may have businesses outside the City and non-residents who have businesses inside the City. Attention was also given to how contracts would be awarded and whether that would increase staff's workload.

During the public hearing, Carl Jacobs spoke in opposition, stating that this ordinance would result in unfair competition and give away tax dollars unfairly.

Motion was made by Council Member Haynie, seconded by Council Member Glass, to adopt Ordinance No. 4633. Motion failed on a 2-2 vote; Council Members Freudenberg and Glass voting yes. Mayor Abrams and Deputy Mayor Hanson voted no.

REGULAR BUSINESS – PART IV - INTRODUCTION OF ORDINANCES:

6. Ordinance No. 4634

An ordinance of the City of Boca Raton amending Article 1, Section 1, and Article 10 of the Personnel Rules and Regulations to provide that the following positions shall be in the unclassified service and that persons appointed to the following positions shall be at will employees: Department Heads appointed on or before January 23, 1979 and Division Heads appointed on or before November 24, 1987; providing for severability; providing for repealer; providing an effective date

The ordinance was introduced by Council Member Freudenberg.

7. Ordinance No. 4635

An ordinance of the City of Boca Raton amending Section 8-27, Code of Ordinances, to require nonprofit religious, nonprofit charitable and nonprofit educational institutions to obtain a Certificate of Use prior to occupying a building; amending Section 8-47, Code of Ordinances, to correct certain references therein; providing for severability; providing for repealer; providing for codification; providing an effective date; providing for publication

The ordinance was introduced by Council Member Haynie.

8. Ordinance No. 4636

An ordinance of the City of Boca Raton amending Section 10-66, Code of Ordinances, Fans and air conditioners, to provide that the City Manager or designee shall administer air conditioner noise regulations and to establish noise regulations for emergency generators in residential districts; providing for severability; providing for repealer; providing for codification; providing an effective date

The ordinance was introduced by Deputy Mayor Hanson.

REGULAR BUSINESS - PART V - PUBLIC REQUESTS:

Charlie Mae Brown, President of the Martin Luther King, Jr. Foundation, appealed to Council to have the City pay off the remaining \$60,000 debt on the memorial as the Foundation has been unable to do so.

JoAnn Landon spoke to the issue of the Boca Raton Airport and the Part 150 Noise Study, stating that Friday is the deadline for submitting information to the Federal Aviation Authority (FAA) in Orlando. She voiced concern that the FAA is unaware of all the development occurring in east Boca and suggested this data be compiled and forwarded to them.

Suzanne Terwilliger, Len Pedvis, Rudy Bongiorno, Ira Rosenberg, Amy Gutman, and Paul Appelbaum all spoke in opposition to Florida Power & Light's (FPL's) proposed overhead transmission lines, citing health hazards and aesthetics, and asked for Council's support.

Tony Newbold, an FPL representative, explained that FPL was in the process of meeting with the City Manager to address concerns voiced by citizens. He spoke to the issues of long-range planning and, particularly, notifying residents of impending construction. Mr. Newbold stated that FPL notified the City and the County in June/July 2001 that construction would be forthcoming. However, he clarified for Mr. Ahnell that the summer meeting did not include any information regarding a specific route for transmission lines, as an area had not yet been defined at that time. During the course of discussion, it was noted that the Public Service Commission is the authority over Florida Power & Light.

Richard Rice also spoke in opposition to FPL's proposed plan, stating that FPL should pay whatever is necessary to install underground lines.

REGULAR BUSINESS - PART VI - RESOLUTIONS AND OTHER BUSINESS:

9. Resolution No. 38-2002

A resolution of the City of Boca Raton strongly recommending that Florida Power and Light reopen the process for consideration and reconsideration of the proposed route of the proposed new electric transmission line within the City, consider alternative routes other than the proposed location, study and consider the impacts of any and all routes on adjacent residential communities, and solicit and consider input from the City and all affected residential homeowners associations prior to making a final selection of a route for the proposed electric transmission line; providing for severability; providing for repealer; providing an effective date

The City Attorney gave a brief presentation, explaining that this resolution was drafted at Council Member Freudenberg's request. She explained that the text was drafted as broadly as possible to cover concerns that have been raised and then read Section 1 of the resolution into the record. Ms. Frieser concluded by stating that copies of the resolution would be forwarded to the County Commission and Florida Power & Light. Discussion followed resulting in several amendments.

Motion was made by Council Member Freudenberg, seconded by Deputy Mayor Hanson, to adopt Resolution No. 38-2002.

Motion was made by Mayor Abrams, seconded by Council Member Haynie, to amend Resolution No. 38-2002, to reflect additional language generally consistent with the following: Page 2, Line 16, "(including undergrounding of transmission lines)," Page 2, Lines 17 & 18, "and at least three public schools," and Page 2, Line 22, "Public Service Commission and the." Motion carried unanimously on a voice vote; Mayor Abrams, Deputy Mayor Hanson, Council Members Freudenberg, Glass and Haynie voting yes.

The vote on the main motion to adopt Resolution No. 38-2002, as amended, carried unanimously; Mayor Abrams, Deputy Mayor Hanson, Council Members Freudenberg, Glass and Haynie voting yes.

10. Resolution No. 39-2002

A resolution of the City of Boca Raton requesting that the 2002 Florida Legislature continue to fund beach renourishment projects, make permitting of beach renourishment projects easier, and give special consideration to beach renourishment projects for areas downdrift from inlets; providing for severability; providing for repealer; providing an effective date

The City Manager explained that this resolution was drafted at the request of Council Member Glass in response to a request from Representative Jeff Atwater.

Motion was made by Council Member Glass, seconded by Deputy Mayor Hanson, to adopt Resolution No. 39-2002.

Motion was made by Deputy Mayor Hanson, seconded by Mayor Abrams, to amend Section 4 of Resolution No. 39-2002, to forward copies of the resolution to the Governor, the President of the Senate and the Speaker of the House, in addition to the parties already listed. Motion carried unanimously on a voice vote; Mayor Abrams, Deputy Mayor Hanson, Council Members Freudenberg, Glass and Haynie voting yes.

The vote on the main motion to adopt Resolution No. 39-2002, as amended, carried unanimously; Mayor Abrams, Deputy Mayor Hanson, Council Members Freudenberg, Glass and Haynie voting yes.

11. Resolution No. 40-2002

A resolution of the City of Boca Raton requesting that the 2002 Florida Legislature support the Citizens Property Insurance Corporation as proposed in House Bill 1361; providing for severability; providing for repealer; providing an effective date

The City Manager stated that this resolution was brought forward at the request of Council Member Glass. Passage of this resolution would result in improved customer service, tax savings, and a reduction of property, or windstorm, insurance costs to the taxpayers of the State of Florida.

Motion was made by Council Member Glass, seconded by Deputy Mayor Hanson, to adopt Resolution No. 40-2002.

Motion was made by Deputy Mayor Hanson, seconded by Council Member Glass, to amend Section 2 of Resolution No. 40-2002, to forward copies of the resolution to the Governor, the President of the Senate and the Speaker of the House, in addition to the parties already listed. Motion carried unanimously on a voice vote; Mayor Abrams, Deputy Mayor Hanson, Council Members Freudenberg, Glass and Haynie voting yes.

The vote on the main motion to adopt Resolution No. 40-2002, as amended, carried unanimously; Mayor Abrams, Deputy Mayor Hanson, Council Members Freudenberg, Glass and Haynie voting yes.

3.h. Resolution No. 35-2002

A resolution of the City of Boca Raton approving and accepting the final plat known as the Boca Raton Hotel and Club, Residential Hotel Replat subdivision plat, and authorizing the Mayor and City Clerk to execute the plat; providing for severability; providing for repealer; providing an effective date (PUD 99-01)

The City Manager explained that this resolution relates to submerged land located at the main portion of the Boca Raton Resort & Club and stated it is in no way connected to the issue of the Boca Beach Club.

Motion was made by Council Member Freudenberg, seconded by Council Member Glass, to adopt Resolution No. 35-2002. Motion carried 4-1; Mayor Abrams, Council Members Freudenberg, Glass and Haynie voting yes. Deputy Mayor Hanson voted no.

3.j. Resolution No. 37-2002

A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute a Third Amendment to the Agreement between the City of Boca Raton and the Boca Raton Community Redevelopment Agency for the purpose of providing services and support to the Boca Raton Community Redevelopment Agency; providing for severability; providing for repealer; providing an effective date

The City Manager explained that this resolution would extend the reimbursement agreement the City has with the Community Redevelopment Agency (CRA) through the life of the bonds, which expire in 2018. The City would be reimbursed by the CRA for providing services and funding.

The City Attorney remarked that a typographical error had been corrected. Therefore, the resolution before Council represented the revised version.

Carl Jacobs spoke in opposition to the resolution, specifically the length of the agreement, expressing concern that it would restrict actions of future Agency members.

Motion was made by Council Member Freudenberg, seconded by Council Member Haynie, to adopt Resolution No. 37-2002, as revised 2/26/02. Motion carried 4-1; Mayor Abrams, Council Members Freudenberg, Glass and Haynie voting yes. Deputy Mayor Hanson voted no.

CITY MANAGER RECOMMENDATIONS AND REPORTS:

Mr. Ahnell reported that, regarding Resolution No. 207-2001, which was adopted November 14, 2001, one page of the back-up material relating to job classifications was inadvertently included from the prior year. That page has been replaced with the correct information for the current year. The City Manager requested that Council approve the resolution as revised.

Motion was made by Council Member Freudenberg, seconded by Mayor Abrams, to approve Resolution No. 207-2001, as revised. Motion carried unanimously on a voice vote; Mayor Abrams, Deputy Mayor Hanson, Council Members Freudenberg, Glass and Haynie voting yes.

Mr. Ahnell mentioned that "Meet Me Downtown" would be taking place next weekend, March 2nd and 3rd. He stated that the Chamber of Commerce had applied for, and received, a beverage permit. He then explained that Federal Highway would be closed from Palmetto Park Road north to Mizner Boulevard. Barricades will be placed on the road the night before.

CITY ATTORNEY REPORTS:

The City Attorney advised Council that she had been approached by the City of Sunny Isles Beach in Dade County to assist them in legal review of their new land development regulations. Ms. Frieser explained that this is a short-term project, which she would perform on her own time, barring any objections from Council. Council had no objections.

MAYOR AND COUNCIL MEMBER REPORTS:

Council Member Haynie requested a copy of the City's franchise agreement with Florida Power and Light to determine what rights and privileges the City has under that agreement. Responding to Ms. Haynie, the City Attorney explained that she would research all avenues available to the City and report back to the Council. Ms. Frieser also stated that, should she discover an option requiring immediate action by the Council prior to the March meeting, she would contact Council to set up a special meeting. Council Member Freudenberg and Deputy Mayor Hanson suggested that Ms. Frieser contact Commissioners McCarty and Aaronson and work in conjunction with them on this issue. The City Manager explained that staff was endeavoring to meet with FPL this week.

Council Member Haynie asked for a copy of the resolution from 1979, which approved the original Boca Beach Club. The City Manager stated that a complete packet containing all material relating to the Boca Beach Club is being prepared and will be provided.

Deputy Mayor Hanson questioned whether Council had interest in paying the \$60,000 debt for the Martin Luther King, Jr. Memorial. While all Council members expressed support of the memorial, it was determined that several matters need to be reviewed before any financial assistance might be rendered, such as pledges that were not honored, "gratis" services that are now being charged, and the precise amount of the debt. The City Manager will research the matter and bring these financial issues to the Council's next meeting.

Deputy Mayor Hanson referenced the Part 150 Noise Study, and stated that, according to a letter from resident Scot Menke, the Federal Aviation Administration has not seen commentary from the City. Ms. Hanson voiced concern since the deadline for submitting comments is Friday, March 1, 2002. The City Manager explained that an official response was sent to the FAA quite some time ago, and he would confirm with them tomorrow that they have received same.

ADJOURNMENT: The meeting adjourned at approximately 8:25 p.m. on Tuesday, February 26, 2002.

Steven L. Abrams, Mayor

ATTEST:

Sharma Carannante, City Clerk