

MINUTES OF THE REGULAR MEETING  
CITY COUNCIL  
Florida Atlantic University (Main Campus)  
Barry and Florence Freidberg Lifelong Learning Center  
777 Glades Road, Boca Raton, FL  
TUESDAY, MARCH 19, 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  
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 Mayor Abrams, seconded by Council Member Freudenberg, to amend the agenda to add Ordinance No. 4640 under "Regular Business – Part IV – Introduction of Ordinances," to add Settlement of Workers' Compensation Case under "Regular Business – Part VI – Resolutions and Other Business," to move Consent Agenda Item No. 3.o. for consideration under "Regular Business – Part VI – Resolutions and Other Business," to add a presentation honoring outgoing Council Member Bill Glass under "Presentations," and to add Public Comment related to Resolution Nos. 45-2002, 46-2002, and 47-2002 (Boca Raton Resort & Club petition) after "Proclamations/Recognitions." Motion carried unanimously on a voice vote; Mayor Abrams, Deputy Mayor Hanson, Council Members Freudenberg, Glass and Haynie voting yes.*

**PROCLAMATIONS/RECOGNITIONS:**

There were no proclamations or recognitions.

**PUBLIC COMMENT ON RESOLUTION NOS. 45-2002, 46-2002, & 47-2002:**

Mayor Abrams opened the floor for comment on the above resolutions regarding the Boca Raton Resort & Club petition. Seeing no one come forward to speak, Mayor Abrams closed this public comment portion of the agenda and moved to the next item.

## **PRESENTATIONS:**

Mayor Abrams presented outgoing Council Member Bill Glass with a plaque from the City in appreciation for his years of service on the Council. Ron Peasley also presented Mr. Glass with a plaque on behalf of East Boca Village in recognition of his service to the community.

## **MINUTES:**

Minutes of the Regular Workshop Meeting of February 25, 2002  
Minutes of the Regular Meeting of February 26, 2002

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

## **REGULAR BUSINESS - PART I:**

### 1. Appointments to the following boards:

- a. Builders' Board of Adjustment and Appeals – (1) one vacancy due to complete the term of Lee Walker. Term expires 02/15/04.

There were no applicants.

- b. Citizens' Pedestrian & Bikeway Advisory Board – (1) one vacancy due to resignation of Constance Scott. Term expires 01/12/04.

Mark Traveis came forward to interview.

Deputy Mayor Hanson nominated Anita Pearson; Council Member Freudenberg nominated Mark Traveis. The nominations were then closed without objection.

In the voting, Mayor Abrams, Deputy Mayor Hanson, Council Members Glass and Haynie voted for Anita Pearson. Council Member Freudenberg voted for Mark Traveis.

Anita Pearson was appointed.

- c. General Employees' Pension Board – (1) vacancy due to term expiration of David E. Norris. Term expires 03/29/02.

Council Member Freudenberg nominated Robert Daniels; Deputy Mayor Hanson nominated David E. Norris. The nominations were then closed without objection.

In the voting, Mayor Abrams, Council Members Freudenberg and Haynie voted for Robert Daniels. Deputy Mayor Hanson and Council Member Bill Glass voted for David E. Norris.

Robert Daniels was appointed.

- d. Planning & Zoning Board – (2) vacancies due to term expirations of Joanne Morrison and William E. Fairman. Terms expire 03/31/02.

*Motion was made by Deputy Mayor Hanson, seconded by Council Member Haynie, to reappoint Joanne Morrison and William E. Fairman to the board. Motion carried unanimously; Mayor Abrams, Deputy Mayor Hanson, Council Members Freudenberg, Glass and Haynie voting yes.*

Joanne Morrison and William E. Fairman were reappointed.

- e. Police & Fire Pension Board – (2) vacancies due to term expirations of Richard Robinson and John D. Girard. Terms expire 03/29/02.

*Motion was made by Council Member Glass, seconded by Deputy Mayor Hanson, to reappoint Richard Robinson and John D. Girard to the board. Motion carried unanimously; Mayor Abrams, Deputy Mayor Hanson, Council Members Freudenberg, Glass and Haynie voting yes.*

- f. Telecommunications Advisory Board – (1) vacancy due to resignation of Jose F. Gonzalez-Heres. Term expires 09/08/02.

Mark Traveis and Catherine Hartman interviewed for the position.

Deputy Mayor Hanson nominated Catherine Hartman; Mayor Abrams nominated Arnold Granet. The nominations were then closed without objection.

In the voting, Mayor Abrams, Council Members Freudenberg and Haynie voted for Arnold Granet. Deputy Mayor Hanson and Council Member Bill Glass voted for Catherine Hartman.

Arnold Granet was appointed.

- g. Zoning Board of Adjustment – (2) vacancies due to term expirations of John P. von Stetten and Steve Utrecht. Terms expire 04/10/02.

Deputy Mayor Hanson nominated Steve Utrecht and Alfred Gladstone; Council Member Glass nominated John P. von Stetten. The nominations were then closed without objection.

In the voting, Mayor Abrams, Council Members Freudenberg, Glass and Haynie voted for John P. von Stetton and Steve Utrecht. Deputy Mayor Hanson voted for Alfred Gladstone and Steve Utrecht.

John P. von Stetten and Steve Utrecht were reappointed.

## 2. Responses to Workshop Information Requests:

(Consent Agenda Item No. 3.a.1. – Palmetto Park Road Beautification/Irrigation Alternate) A memo was provided. Mr. Ahnell explained that an alternate bid, recommended by staff, was presented and provided for controllers that could be connected to the City's computerized irrigation system. The cost includes the purchase of two controllers. This project was purposely bid both ways to determine price differential.

(Consent Agenda Item No. 3.a.2. – Supply & Installation of Three Phase Uninterruptible Power System {UPS} Replacement) A memo was provided. Mr. Ahnell stated that the power outage, which took place at the Utility Services Complex on December 2, 2001, was not due to the UPS devices. Existing UPS electronics have been, and are currently being, replaced as needed, primarily due to age.

(Consent Agenda Item No. 3.b.1. – Submersible Wastewater Pumps/Response regarding Lift Station Maintenance Costs) Two memos were provided. Mr. Ahnell explained that the City has 236 wastewater lift stations. Of those, 127 are submersible stations; their pumps are submersed in the wet well. The other stations are older can-type lift stations. Additional information including pump replacement costs and maintenance costs over the last several years, were outlined in the memos.

(Consent Agenda Item No. 3.m. – Resolution No. 51-2002/Vessel {Boater} Registration Fee) A memo with attachments was provided. Mr. Ahnell stated that the City does not require said fee from residents and is prohibited by statute from levying same. Funds are collected through the State and distributed back to the County after a \$1 Statutory Contribution for each vessel is disbursed to the Save the Manatee Trust Fund. The County has typically received \$250,000 annually from vessel registration fees; a list of all vessel registrations for the City has been requested and will be distributed upon receipt. Mr. Ahnell then explained that money is disbursed from the County by resolution through the Florida Boating Improvement Program (FBIP); funding is obtained through a grant, which must be applied for by the City.

The City did apply for a grant to replace the dock at Spanish River Park last year; it was denied. Another grant application will be submitted again in order to partially fund the dock through the FBIP.

(Consent Agenda Item No. 3.o – Resolution No. 53-2002/Agreement with PMG Associates, Inc. for annexation study) Mr. Ahnell advised that this matter would be reviewed later in the agenda.

(Regular Agenda Item No. 7 – Ordinance No. 4634/Management Staff) A memo with attachment was provided, outlining Division and Department Heads within the City staff.

(Response relating to Alternate Permitting Agreements) Mr. Ahnell advised that this matter would be reviewed later in the agenda.

(Canvassing Board Certification of Election Results) Mr. Ahnell advised that this matter would be reviewed later in the agenda.

3. Consent Agenda:

*Motion was made by Deputy Mayor Hanson, seconded by Council Member Glass, to approve the Consent Agenda minus Item No. 3.o. Motion carried unanimously; Mayor Abrams, Deputy Mayor Hanson, Council Members Freudenberg, Glass and Haynie voting yes.*

a. Sealed Bids

- |    |   |           |
|----|---|-----------|
| 1) | Palmetto Park Road Beautification<br>Requested by Recreation Services<br>B & A Construction Services Group, Inc.                                      | \$352,463 |
| 2) | Supply & Installation of Three Phase<br>Uninterruptible Power System Replacement<br>Requested by Utility Service<br>Power & Systems Innovations, Inc. | \$68,250  |

b. Sealed Renewal

- |    |  |           |
|----|--|-----------|
| 1) | Submersible Wastewater Pumps<br>Requested by Utility Service<br>A. Guthrie & Associates, Ellis K. Phelps & Company,<br>Condo Electric & Industrial Supply, Inc.<br>and Southeastern Pump | \$200,000 |
|----|--|-----------|

c. Competitive Sealed Proposal Renewal

- |    |   |          |
|----|---|----------|
| 1) | Independence Day Fireworks<br>Requested by Recreation Services<br>Zambelli Fireworks Internationale | \$27,000 |
|----|---|----------|

d. Change Order

- |    |  |          |
|----|--|----------|
| 1) | Red Reef Park Renovations and Additions,<br>Change Order #2<br>Requested by Recreation Services<br>PRM Engineering and Contracting, Inc. | \$37,822 |
|----|--|----------|

e. Intergovernmental Agreement

- |    |  |           |
|----|--|-----------|
| 1) | Repairs & Maintenance of Stormwater Pipe Lining<br>Requested by Municipal Services<br>Lanzo Lining | \$120,000 |
|----|--|-----------|

f. Sole Source

- 1) Taser Stun Guns  
Requested by Police Services  
DGG Taser, Inc. \$61,194

g. Resolution No. 42-2002

A resolution of the City of Boca Raton amending Resolution No. 252-89, which established a limited Interlocal Governmental Loan Program for the purpose of providing funds to finance the cost of qualifying projects within the City and within other governmental units in the State of Florida, to redesignate the representatives of the City on the First Florida Governmental Financial Commission; providing for severability; providing for repealer; providing an effective date

h. Resolution No. 43-2002

A resolution of the City of Boca Raton approving and accepting an Easement Deed from SLH Development, Inc., over certain lands located at 1200 South Rogers Circle; providing for severability; providing for repealer; providing an effective date

i. Resolution No. 44-2002

A resolution of the City of Boca Raton authorizing the City Manager to apply for a grant from the U.S. Department of Justice for a Bulletproof Vest Partnership Grant; authorizing the acceptance of said grant, if awarded; authorizing and directing the City Manager to comply with the terms and conditions of said grant, if awarded; providing for severability; providing for repealer; providing an effective date

j. Resolution No. 48-2002

A resolution of the City of Boca Raton authorizing the City Manager to execute Work Order No. 7 with Williams, Hatfield & Stoner, Inc., for the purpose of providing professional engineering services for stormwater management designs for the Old Floresta and Boca Raton Heights Subdivisions; providing for severability; providing for repealer; providing an effective date

k. Resolution No. 49-2002

A resolution of the City of Boca Raton authorizing the City Manager to execute Work Order No. 1 with Bridge Design Associates, Inc., for the purpose of providing professional engineering services for utility crossings on bridges in the Royal Palm Yacht & Country Club Subdivision; providing for severability; providing for repealer; providing an effective date

l. Resolution No. 50-2002

A resolution of the City of Boca Raton authorizing the City Manager to execute Work Order No. 9 with Williams, Hatfield & Stoner, Inc., for the purpose of providing professional engineering services for compliance with National Pollutant Discharge Elimination System Permit Year 5; providing for severability; providing for repealer; providing an effective date

m. Resolution No. 51-2002

A resolution of the City of Boca Raton authorizing the City Manager to apply for a grant from Florida Inland Navigation District Waterways Assistance Program for a police vessel dockage facility; authorizing the acceptance of said grant, if awarded; providing that the City will comply with the terms and conditions of said grant, if awarded; providing for severability; providing for repealer; providing an effective date

n. Resolution No. 52-2002

A resolution of the City of Boca Raton authorizing the Mayor and the City Clerk to execute an agreement with Grant Thornton LLP for the purpose of providing internal audit services; providing for severability; providing for repealer; providing an effective date

p. Employee Election Certifications

- 1) Certification of the election of John Reilly as the general employees' representative on the General Employees' Pension Board for the term to expire on March 29, 2005, and the election of Nicole Gasparri as the general employees' representative on the General Employees' Pension Board for the term to expire on March 29, 2004.
- 2) Certification of the election of Chris Somers as a police services' trustee on the Police and Firefighters' Pension Board for the term to expire on March 29, 2004.
- 3) Certification of the election of Mike Gergora as the fire-rescue services' representative on the Police and Firefighters' Pension Board for the term to expire on March 29, 2004.

q. Board Resignation

- 1) Resignation of Paul Rockwell from the Citizens' Pedestrian and Bikeway Advisory Board

r. Receive and File Board Orders

- 1) Special Master
  - a) SM(G) Case No. 00-307
  - b) SM(G) Case No. 01-3341
  - c) SM(G) Case No. 1-3579
  - d) SM(G) Case No. 1-5091
  - e) SM(G) Case No. 1-5224
  - f) SM(G) Case No. 1-5231

s. Receive and File Board Minutes – March 19, 2002

- 1) Citizens' Pedestrian and Bikeway Advisory Board  
January 14, 2002
- 2) Code Enforcement Board  
November 20, 2001
- 3) Community Appearance Board  
January 29, 2002  
February 5, 2002  
February 12, 2002
- 4) Downtown Visions Committee  
December 11, 2001

- 5) Education Advisory Board  
January 28, 2002
- 6) Financial Advisory Board  
January 22, 2002
- 7) General Employees' Pension Board  
January 9, 2002  
February 6, 2002
- 8) Library Advisory Board  
January 16, 2002
- 9) Marine Advisory Board  
January 9, 2002
- 10) Off-Street Parking Committee  
October 18, 2001
- 11) Parks and Recreation  
January 8, 2002
- 12) Special Master  
November 28, 2001  
January 9, 2002
- 13) Zoning Board of Adjustment  
October 1, 2001

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

Resolution Nos. 45-2002, 46-2002, and 47-2002 were withdrawn from consideration at the petitioner's request. Therefore, no quasi-judicial public hearings took place on these items.

4. Resolution No. 45-2002

A resolution of the City of Boca Raton granting a variance pursuant to the City of Boca Raton Coastal Construction Control Line Setback Ordinance for the Boca Raton Resort and Club located at 900 South Ocean Boulevard; repealing Resolution No. 44-82; providing for severability; providing for repealer; providing an effective date (SC-01-11)

5. Resolution No. 46-2002

A resolution of the City of Boca Raton granting conditional use approval for the Boca Beach Club on a parcel of land located at 900 South Ocean Boulevard; amending all prior approvals affecting said site to be consistent with the conditional use approval granted pursuant to this resolution; amending Resolution No. 121-76 (a conditional use approval); amending Resolution No. 324-78 (a conditional use approval) to delete all conditions; acknowledging the expiration of Resolution No. 72-96 (a conditional use approval); providing for severability; providing for repealer; providing an effective date (CA-01-06)

6. Resolution No. 47-2002

A resolution of the City of Boca Raton granting Planned Unit Development Master Plan Approval of the proposed Boca Beach Club Planned Unit Development; providing for modification of building setbacks; providing for severability; providing for repealer; providing an effective date (PUD-01-02)

**REGULAR BUSINESS – PART III – REGULAR PUBLIC HEARINGS:**

7. 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 City Manager gave the presentation, explaining that 57 positions within the City were identified as being Department Heads or Division Heads. Of those, three Division Heads are affected by this ordinance since they were appointed before November 24, 1987. Mr. Ahnell stated that this ordinance would equalize all Department and Division Heads by categorizing them as at-will employees.

Mayor Abrams opened the public hearing on Ordinance No. 4634. Seeing no one come forward, the public hearing was then closed.

*Motion was made by Deputy Mayor Hanson, seconded by Council Member Glass, to adopt Ordinance No. 4634. Motion carried unanimously; Mayor Abrams, Deputy Mayor Hanson, Council Members Freudenberg, Glass and Haynie voting yes.*

8. 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

Manager of Administrative Services for Development Services, Ruby Childers, gave the presentation. She explained that Chapter 8 of the City Code provides definitions for businesses but does not currently include nonprofit entities in those definitions, which are necessary for the Certificate of Use program. Since more churches are locating in retail centers and warehouses, changes in use intensity are taking place. As a result, zoning and health/safety regulations are affected; parking is also an issue in some cases. Staff contacted other municipalities and discovered that those cities utilizing a Certificate of Use program have included nonprofit uses in their definitions to maintain consistency in code enforcement. Ms. Childers estimated that, should this ordinance pass, approximately 150 currently existing nonprofit entities could be brought into compliance within a year. Expected revenue from items such as application fees would be approximately \$11,000 annually. Ms. Childers concluded by stating that staff recommended approval and then answered questions from Council. Attention focused on application fees and processing and how existing organizations would be phased into code compliance.

Mayor Abrams opened the public hearing on Ordinance No. 4635. Seeing no one come forward, the public hearing was then closed.

*Motion was made by Council Member Glass, seconded by Deputy Mayor Hanson, to adopt Ordinance No. 4635. Motion carried unanimously; Mayor Abrams, Deputy Mayor Hanson, Council Members Freudenberg, Glass and Haynie voting yes*

9. 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

Planning and Zoning Director Carmen Annunziato gave the presentation, explaining that this ordinance provides the regulatory framework for emergency generators. The criteria for emergency generators is as follows: 1) they are exempt from the noise regulatory framework in place at the time of an outage, 2) noise shall not, in any event, exceed 72 decibels in residential districts, 3) emergency generators may be tested for 30 minutes per week between 11:00 a.m. and 5:00 p.m., Monday through Saturday, and 4) no testing of emergency generators in any residential district is permitted on Sundays or City holidays. Mr. Annunziato detailed one revision to the ordinance found on Page 2, Line 25, clarifying that the testing period of 30 minutes must be utilized all at one time and not spread out over several days during the week. In conclusion, he stated the Planning and Zoning Board and staff recommended approval.

Mayor Abrams opened the public hearing on Ordinance No. 4636.

Carl Jacobs questioned whether this ordinance would address the issue of exhaust fumes from generators. Mr. Annunziato explained that the generators previously reviewed are self-contained; there should be no problem with exhaust fumes. He also stated that performance criteria relating to fumes currently exists in the code.

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

*Motion was made by Council Member Glass, seconded by Deputy Mayor Hanson, to adopt Ordinance No. 4635, as revised. Motion carried unanimously; Mayor Abrams, Deputy Mayor Hanson, Council Members Freudenberg, Glass and Haynie voting yes*

#### **REGULAR BUSINESS – PART IV - INTRODUCTION OF ORDINANCES:**

10. Ordinance No. 4637

An ordinance of the City of Boca Raton relating to the height of buildings and nonresidential building heights in single-family residential districts; amending Section 28-2, Code of Ordinances, Definitions, "height of building" to include "height of structures"; amending Section 28-340 "conditional uses", and Section 28-342, "building height", Code of Ordinances, to require conditional use approval for nonresidential buildings and structures (including without limitation public utility poles) in excess of fifty feet in height in single-family residential zoning districts and to provide supplemental standards for such conditional uses; providing for severability; providing for repealer; providing for codification; providing an effective date

The ordinance was introduced by Council Member Freudenberg.

11. Ordinance No. 4638

An ordinance of the City of Boca Raton relating to Transportation Demand Management ("TDM"); creating a new Division 8 of Chapter 23, Article IV, Code of Ordinances; requiring developments of a specified size to obtain approval of, and to implement, a TDM plan; providing for scope of Division 8; providing for definitions; providing for application for TDM plan approval; providing for contents of application; providing for TDM plan approval; providing for modification of TDM plan approval; providing for exempt developments, enlargement and renovation; providing for fee in lieu of participation, which fee in lieu of participation shall be paid instead of obtaining approval of, and implementing, a TDM plan; providing for severability; providing for repealer; providing for codification; providing an effective date

The ordinance was introduced by Council Member Haynie.

12. Ordinance No. 4639

An ordinance of the City of Boca Raton amending Section 23-161 through Section 23-164, Code of Ordinances; amending Section 25-251 and Section 25-252, Code of Ordinances; amending Section 28-1646, Section 28-1647, Section 28-1648, Section 28-1653, Section 28-1654 and Section 28-1655, Code of Ordinances, to require certain new development, redevelopment, and additions to, and renovations of existing developments to provide safe and convenient bicycle

and pedestrian facilities, to provide adequate bicycle parking facilities, and to optimize the comfort and safety of pedestrians and bicyclists; amending said code provisions, where necessary, to provide for consistency with the Americans with Disabilities Act; amending sidewalk and bikeway policies and standards to allow the City to install sidewalks in existing subdivisions and assess the cost thereof against abutting properties, providing for severability; providing for repealer; providing for codification; providing an effective date (AM-01-07)

The ordinance was introduced by Council Member Glass.

12.a. Ordinance No. 4640

An ordinance of the City of Boca Raton authorizing the Mayor and City Council to execute a sale and purchase agreement with the School Board of Palm Beach County for the purpose of the disposition of one parcel ("Disposition Parcel") and acquisition of another parcel ("Acquisition Parcel"), both parcels located generally south of N.W. 40<sup>th</sup> Street and east of Military Trail in the City of Boca Raton, Florida; the Acquisition Parcel consists of approximately 0.5 acre and the Disposition Parcel consists of approximately 12 acres; authorizing the Mayor and City Clerk, or the City Manager, to execute any documents provided for or contemplated by the Agreement, and to take any actions required for the implementation of the Agreement; providing for severability; providing for repealer; providing an effective date

The ordinance was introduced by Deputy Mayor Hanson.

**REGULAR BUSINESS - PART V - PUBLIC REQUESTS:**

Robert Hagerty suggested that bonds levied for political signage during campaigns be raised to \$400. If, 14 days after Election Day, the signs were not removed, the City would retain the money. Of those funds retained, he suggested 50% could be disbursed to the Police Athletic League (PAL).

**REGULAR BUSINESS - PART VI - RESOLUTIONS AND OTHER BUSINESS:**

12.b. Settlement of Workers' Compensation Case

Michael Chiapperini - Municipal Services/Sanitation Division

Risk Manager Pam Gardner gave the presentation, explaining that mediation has taken place. The City's outside counsel for workers' compensation attended this mediation, along with Ms. Gardner; counsel recommends settlement.

*Motion was made by Deputy Mayor Hanson, seconded by Council Member Glass to accept the City Manager's recommendation for settlement. Motion carried unanimously; Mayor Abrams, Deputy Mayor Hanson, Council Members Freudenberg, Glass and Haynie voting yes.*

3.o Resolution No. 53-2002

A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute an agreement with PMG Associates, Inc. for the purpose of providing an annexation study; providing for severability; providing for repealer; providing an effective date

The City Manager gave the presentation, explaining that this resolution was the result of Council's direction to obtain a consultant to study annexation of the City's reserve area. The reserve area was divided into four parts identified as the Town Center Area, North Area, South Area, and Central Area. The cost to complete the study of all four areas would be \$50,000. If each area were to be examined individually, the costs would be as follows: Town Center Area - \$27,500; North Area - \$37,700; South Area - \$37,700; Central Area - \$37,700. Mr. Ahnell expressed that, from a monetary standpoint, if Council desired to evaluate more than one area, it would be more cost efficient to commission a study of the entire Reserve area. He then answered questions from Council. Mr. Ahnell clarified with Council that the Town Center Area would not include any residential neighborhoods.

Mayor Abrams then opened the public hearing on Resolution No. 53-2002.

Nick Kalman who lives in the Vinings II community, expressed his desire to be annexed into the City.

Sally Stewart and Marilyn Martin, City residents, voiced opposition to annexation and asked that Council not waste money on a study.

*Motion was made by Council Member Freudenberg, seconded by Mayor Abrams, to adopt Resolution No. 53-2002.*

*Motion was made by Council Member Haynie, seconded by Council Member Glass, to amend Resolution No. 53-2002, to limit the annexation study to the Town Center Area only. Motion carried 3-2; Mayor Abrams, Council Members Glass and Haynie voting yes. Deputy Mayor Hanson and Council Member Freudenberg voted no.*

*Motion was made by Mayor Abrams, seconded by Council Member Freudenberg, to amend Resolution No. 53-2002, to include the North and Central Areas in the annexation study. Motion failed 2-3; Mayor Abrams and Council Member Freudenberg voting yes. Deputy Mayor Hanson, Council Members Glass and Haynie voted no.*

*The vote on the main motion to adopt Resolution No. 53-2002, as amended, carried 3-2; Mayor Abrams, Council Members Freudenberg and Haynie voting yes. Deputy Mayor Hanson and Council Member Glass voted no.*

#### **CITY MANAGER RECOMMENDATIONS AND REPORTS:**

13. Request for Reduction in Code Enforcement Lien  
7461 N. Federal Highway – Leonardo Da Munchies (Tenant)  
Boca Valley Plaza  
Code Enforcement Board Case #01-1095

Inspection and Compliance Supervisor Ken Massalone explained that a request for a reduction in the total lien amount had been received by his office. The City's cost for processing the case was calculated at \$336.98, based on staff time and mailing costs. Mr. Massalone then provided background information, stating that the tenant, Leonardo Da Munchies, was in violation of code, due to signs erected at the store location without the required permits. The continued violation resulted in a fine of \$10,200. Mr. Massalone then answered questions from Council.

Mark Rothenberg, an attorney with Bercow & Radell, representing the property management company, Terranova Corporation, stated that the violation was not in dispute. He explained that his client attempted to work with the tenant and made numerous requests to the tenant to remove the signs and bring the location into compliance. The tenant was eventually evicted and has filed for bankruptcy. Mr. Rothenberg explained that there are no other liens or violations on this property and asked that Council either release the lien or reduce it to the amount of the administrative costs, which is \$336.98. He then answered questions from Council.

*Motion was made by Council Member Glass, seconded by Mayor Abrams, to reduce the lien to \$5,000. Motion carried 3-2 on a voice vote; Mayor Abrams, Council Members Glass and Haynie voting yes; Deputy Mayor Hanson and Council Member Freudenberg voted no.*

#### **Alternate Permitting Agreement**

The City Manager referenced the Royal Palm Plaza petition heard by the CRA at yesterday's meeting, and provided copies of a proposed alternate permitting agreement in order to resolve the technical matter relating to the utility easements. Mr. Ahnell explained that he is authorized by the City Code to execute this type of agreement and asked for a motion reflecting Council's direction to move forward with the agreement. Mr. Ahnell then referred to his memo, dated March 19, 2002, to Council, outlining three other alternate permitting agreements, signed by him as the City Manager, for JPI Residential at First Union Plaza; Boca Raton Community Hospital at Oaks Plaza; and Parkwood Properties Corporation at Palmetto

Place Apartments. Mr. Ahnell provided additional details on these agreements and then answered questions from Council.

*Motion was made by Council Member Glass, seconded by Mayor Abrams, directing the City Manager to implement the alternate permitting agreement with respect to Royal Palm Plaza. Motion carried 3-2; Mayor Abrams, Council Members Freudenberg and Glass voting yes. Deputy Mayor Hanson and Council Member Haynie voted no.*

#### Sober House Legislation

Mr. Ahnell stated that both the House and Senate Bills have passed. Council suggested that a letter be addressed to Governor Bush, urging him to sign off on this legislation. Mr. Ahnell is to provide additional details to Council.

#### Pinelands Project

The City Manager was pleased to report that all water pipe replacement work has been completed; staff is currently working on re-sodding the area. Mr. Ahnell stated that the Utility Services Department had done an outstanding job, finishing the project sooner than expected and at a lower cost than that required by a private contractor.

#### Certification of Election Results

Mr. Ahnell stated that the March 12, 2002 election results had been certified by the City of Boca Raton Canvassing Board. Copies of the certification were provided to Council for review.

#### Maps – Citrus Canker

The City Manager explained that maps are being prepared, outlining those areas within the City, which may potentially be affected by the Citrus Canker Eradication Program. Those maps will be distributed to Council.

#### Council Member Glass

Mr. Ahnell proffered thanks to Council Member Glass for his service to the City, stating that it was a pleasure to work with him.

#### **CITY ATTORNEY REPORTS:**

The City Attorney distributed a memo with attachments to Council, dated March 19, 2002, relating to an update on the Citrus Canker Eradication Program Rule Challenge. Ms. Frieser explained that the 1900-foot radius rule has been signed into law by the Governor. Therefore, the administrative proceeding challenging this rule has been rendered moot. A civil action will be filed shortly, challenging the new statute on federal and state constitutional grounds. The leading agency on the initial challenge has approached the City Attorney to determine whether the City of Boca Raton desires to participate in this new action. Ms. Frieser explained that this new proceeding is a significant and more difficult challenge than the prior one; she then asked Council for direction. Council members indicated their intent to join the new suit.

Ms. Frieser concluded her report by wishing Council Member Glass well and stating that it was a pleasure working with him.

#### **MAYOR AND COUNCIL MEMBER REPORTS:**

Council Member Haynie requested the status of the airport bill. Council Member Freudenberg replied that it was still in committee.

Deputy Mayor Hanson gave accolades to Officer Lori Croy and Detective Robert Flechaus, nominees at the Palm Beach Post Distinguished Law Officer Awards & Dinner, which took place Thursday. Detective Flechaus won the award for crime solution. Mayor Abrams followed up by stating that Detective Flechaus and Brett Lea, of Fire/Rescue Services, were also honored by the 100 Club.

Deputy Mayor Hanson asked that copies of the 2001 DDRI Travel Mode Survey be distributed to the Planning and Zoning Board.

Deputy Mayor Hanson mentioned that the City of Weston had passed an ordinance relating to campaign financing; she requested a copy of same.

Deputy Mayor Hanson asked for a list of the names and addresses of the people who spoke at the CRA meeting yesterday, including a notation as to which of those people are City residents.

Mayor Abrams requested that a copy of the TDM ordinance be distributed to those who participated in the Transportation Survey.

All members bid farewell to Mr. Glass and wished him well in his future endeavors.

Mayor Abrams closed by thanking FAU for allowing the City to utilize the Barry and Florence Freidberg Lifelong Learning Center for tonight's meeting.

**ADJOURNMENT:**

The regular meeting of the City Council of the City of Boca Raton adjourned at approximately 8:20 p.m. on Tuesday, March 19, 2002.

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Steven L. Abrams, Mayor

ATTEST:

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Sharma Carannante, City Clerk