

MINUTES OF THE REGULAR MEETING  
CITY COUNCIL  
CITY OF BOCA RATON, FLORIDA  
TUESDAY, APRIL 23, 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 Freudenberg gave the invocation.

**PLEDGE OF ALLEGIANCE TO THE FLAG:**

**ROLL CALL:**

Mayor Steven L. Abrams  
Deputy Mayor Susan Haynie  
Council Member Dave Freudenberg  
Council Member Bill Hager  
Council Member Carol Hanson

**AMENDMENTS TO THE AGENDA:**

*Motion was made by Deputy Mayor Haynie, seconded by Council Member Hager, to amend the agenda to add the minutes of the Organizational Meeting of April 1, 2002, and the minutes of the Special Workshop Meeting of April 17, 2002, under "Minutes;" to add Resolution No. 77-2002 to the Consent Agenda; and to add a report on CPR Day under, "Awards/Recognitions." Motion carried unanimously on a voice vote; Mayor Abrams, Deputy Mayor Haynie, Council Members Freudenberg, Hager and Hanson voting yes.*

**PROCLAMATIONS:**

National Volunteer Week – April 21 through 27, 2002

The proclamation was accepted by the City's Volunteer Coordinator, Mary Jane Graff.

Arbor Day – April 26, 2002

The proclamation was accepted by the City's Environmental Officers, Dawn Sinka and Nora Fosman.

**AWARDS/RECOGNITIONS:**

CPR Day

Fire-Rescue Services Chief Bruce Silk reported on the success of the Second Annual CPR Day that was held last Saturday. The goal of training over 1,000 participants was achieved. Chief Silk expressed appreciation to the instructors and volunteers who took part.

**MINUTES:**

Minutes of the Regular Workshop Meeting of April 8, 2002  
Minutes of the Regular Meeting of April 9, 2002  
Minutes of the Organizational Meeting of April 1, 2002  
Minutes of the Special Workshop Meeting of April 17, 2002.

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

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

### 1. Appointments to the following boards:

- a. Environmental Advisory Board – (3) vacancies due to term expirations of Elisabeth Hoffman, Andrew M. Gross, and Gary E. Eichler. Terms expire 04/30/02.

No one came forward to interview.

*Motion was made by Council Member Hanson, seconded by Deputy Mayor Haynie, to re-appoint Elisabeth Hoffman and Andrew M. Gross to the board. Motion carried unanimously on a voice vote; Mayor Abrams, Deputy Mayor Haynie, Council Members Freudenberg, Hager and Hanson voting yes.*

Elisabeth Hoffman and Andrew M. Gross were re-appointed.

### 2. Responses to Workshop Information Requests:

(Consent Agenda Item 3.b.4. – Sodium Hypochlorite) A memo was provided. On-site hypochlorite generators are currently being installed, which will allow the City to produce its own chlorine substitute (disinfectant). Until they are functional, the City must purchase sodium hypochlorite in order to disinfect the water. At the last Council meeting, salt was purchased for use as part of the on-site generation of sodium hypochlorite, which will take place once the generators are operational.

(Consent Agenda Item 3.b.5. – Speed Monitoring Awareness Radar Trailer) A memo was provided. The trailer utilizes a 115-volt battery with a solar-powered panel, which is used as a backup; it extends the life of the battery.

(Consent Agenda Item 3.h. – Resolution No. 70-2002 / Work Order No. 7 with Camp, Dresser & McKee Inc. for engineering services related to the Wellfield Rehab and Improvement Project) A memo was provided. Six work orders with Camp, Dresser & McKee (CDM) were outlined, including costs. The seventh work order was before Council tonight. Mr. Ahnell explained that CDM was retained in 1998 to oversee the reverse osmosis plant in terms of design and construction.

(Consent Agenda Item 3.i. – Resolution No. 71-2002 / Grant from the EPA to develop a vulnerability assessment relating to the City's water system) A memo was provided. A number of security improvements have already been made, due to the events of September 11, 2001. However, the EPA now requires all plants serving more than 100,000 people to conduct a security audit. This grant funding is needed to meet that requirement. Should additional changes need to be made, they will be addressed immediately.

(Consent Agenda Item 3.j. – Resolution No. 72-2002 / Third Amendment to the Agreement with the DEP for reimbursable funding of beach renourishment) A memo was provided. The DEP criteria require that all public parking be identified within a quarter mile of the beach areas to be renourished. South Inlet Park has 80 spaces; Via Cabana on the west side of A1A has 14 spaces; Osceola Drive on the west side of A1A has 25 spaces; over 100 spaces are available at the Deerfield Beach Pier.

(Consent Agenda Item 3.p. – Resolution No. 77-2002 / Grant application from the FDOT for the TEA-21) A memo was provided. It was explained that grants applied for with the MPO would help fund the crosswalk on Glades Road in Pearl City; TEA-21 dollars will also be sought. Another grant the City will apply for is "Help Keep Palm Beach County Beautiful." These are the outside funding sources for the Pearl City Master Plan infrastructure work.

### 3. Consent Agenda:

Carl Jacobs spoke on Item No. 3.h., Resolution No. 70-2002, relating to the Wellfield Rehab and Improvement Project. Mr. Jacobs questioned the scope of the work order Mr. Ahnell responded that the contract awarded in January for the 22 wellfields was for the actual rehabilitation work. CDM will test the

quality and quantity of the water after the rehab has taken place. In addition, they will provide inspections and oversee the project.

Mr. Jacobs then referenced Item No. 3.i., Resolution No. 71-2002, relating to the grant from the Environmental Protection Agency (EPA) to develop emergency operations plans for the City's water system. He questioned how much this grant would be and why the City was requesting it. Mr. Ahnell explained that the grant award is for \$115,000. As security audits are now being required by the EPA, they are making these grants available to those municipalities serving over 100,000 people. Mr. Ahnell concluded by stating that the City had conducted a security audit in September; any issues that might be raised have already been addressed. However, should any new issues arise, the City will address them immediately.

Mayor Abrams noted that Item No. 3.l., Resolution No. 74-2002, had been revised due to a scrivener's error.

*Motion was made by Council Member Freudenberg, seconded by Council Member Hanson, to approve the Consent Agenda minus Item Nos. 3.e, 3.g., & 3.n., which were considered separately under "Regular Business – Part VI – Resolutions and Other Business," and with revised Resolution No. 74-2002. Motion carried unanimously; Mayor Abrams, Deputy Mayor Haynie, Council Members Freudenberg, Hager and Hanson voting yes.*

a. Sealed Renewals

- |    |  |          |
|----|--|----------|
| 1) | Welding Services<br>Requested by Municipal Services, Recreation Services<br>Slim's Welding Inc.                | \$62,000 |
| 2) | Maintenance and Testing of<br>5000 & 480 Volt Equipment<br>Requested by Utility Services<br>Electro-Test, Inc. | \$40,825 |

b. Intergovernmental Agreements

- |    |  |           |
|----|--|-----------|
| 1) | Personal Computer Support Services<br>Requested by City Manager<br>Teksystems  | \$50,000  |
| 2) | Road Construction Materials<br>Requested by Municipal Services,<br>Recreation Services and Utility Services<br>Austin Tupler Trucking, Conrad Yelvington Distributor Inc.<br>and Hardrives of Delray | \$43,020  |
| 3) | Space Saver Evidence Storage Filing System (New)<br>Requested by Police Services<br>United Business Systems  | \$28,529  |
| 4) | Sodium Hypochlorite<br>Requested by Utility Service<br>Jones Chemical, Inc.  | \$289,089 |
| 5) | Speed Monitoring Awareness Radar Trailer (New)<br>Requested by Police Service<br>Kustom Signals  | \$28,412  |

- c. Sole Source
- 1) Access Control System  
Requested by Municipal Services  
Johnson Controls, Inc. \$68,287
- d. Resolution No. 66-2002
- A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute the First Amendment to the Agreement with Nutting Engineers of Florida, Inc. for the purpose of extending said Agreement until December 31, 2002; providing for severability; providing for repealer; providing an effective date
- f. Resolution No. 68-2002
- A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute an Agreement with the Florida Department of Environmental Protection for the purpose of providing reimbursement to the City for costs which will be incurred for the design and construction of the Spanish River Park Boat Dock and related amenities; providing for severability; providing for repealer; providing an effective date
- h. Resolution No. 70-2002
- A resolution of the City of Boca Raton authorizing the City Manager to execute Work Order No. 7 with Camp Dresser & McKee Inc. for the purpose of providing professional engineering services for the Wellfield Rehabilitation and Improvement Project; providing for severability; providing for repealer; providing an effective date
- i. Resolution No. 71-2002
- A resolution of the City of Boca Raton authorizing the City Manager to apply for a grant from the Environmental Protection Agency (EPA) to develop a vulnerability assessment, emergency operations plans, and security enhancement planning for the City's water system; 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. 72-2002
- A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute the Third Amendment to the Agreement with the Department of Environmental Protection for the purpose of reimbursable funding for engineering, permitting, design and construction of beach renourishment projects; providing for severability; providing for repealer; providing an effective date
- k. Resolution No. 73-2002
- A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute an Agreement with the State of Florida, Department of Environmental Protection, for the purpose of reimbursable funding for engineering, design and construction of the Central Beach Renourishment Project; providing for severability; providing for repealer; providing an effective date
- l. Resolution No. 74-2002
- A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute an Agreement with Architects Design Group, Inc. to provide a Facilities Space Study; providing for severability; providing for repealer; providing an effective date

m. Resolution No. 75-2002

A resolution of the City of Boca Raton authorizing the City Manager to execute Work Order No. 1 with Architects Design Group, Inc. for the purpose of providing consultant services for a Facilities Space Study of City Hall and Police Services buildings; providing for severability; providing for repealer; providing an effective date

o. Receive and File Board Minutes – April 23, 2002

- 1) Community Appearance Board  
March 19, 2002
- 2) Education Advisory Board  
February 25, 2002
- 3) Off Street Parking Committee  
February 21, 2002
- 4) Parks and Recreation  
March 5, 2002  
March 14, 2002 (Public Hearing)
- 5) Pearl City Blue Ribbon Committee  
January 24, 2002
- 6) Physically and Mentally Challenged Board  
March 7, 2002
- 7) Planning and Zoning Board  
February 21, 2002  
March 14, 2002
- 8) Police and Firefighters' Pension Board  
February 20, 2002
- 9) Special Master  
January 23, 2002  
March 13, 2002

p. Resolution No. 77-2002

A resolution of the City of Boca Raton authorizing the City Manager to apply for grants from the Florida Department of Transportation for the Transportation Efficiency Act for the 21<sup>st</sup> Century (TEA-21); authorizing the acceptance of said grants, if awarded; authorizing the expenditure of matching funds for said grants, 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

**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. 4637 (Second of two required public hearings.)

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

Planning and Zoning Director Carmen Annunziato gave the presentation. He stated that the Planning & Zoning Board reviewed this ordinance and recommended it unanimously. He then outlined the proposed changes to the land development code. The first amendment relates to definitions and would clarify that “height of building” equates to “height of structure,” which includes public utility poles in excess of 50 feet in single-family districts. The second amendment proposes that non-residential buildings and structures, including public utility poles in excess of 50 feet in height, be listed as a conditional use in single-family districts. The last amendment proposes adding a new paragraph relating to non-residential buildings and structures in excess of 50 feet, which would require conditional use approval from the Council after review/recommendation by the Community Appearance Board and subject to the standards provided in this proposed ordinance and the conditional use approval standards provided in Code Section 28-102. Mr. Annunziato then answered questions from Council.

Discussion ensued regarding the architectural feature (cell tower), which may be added to the Camino Real Community Church. Mr. Annunziato provided a brief history of that application up to today’s date.

The City Attorney then distributed the second revision of Ordinance No. 4637, explaining that the term, “architectural,” has been deleted on Page 1, Line 14; Page 3, Line 12; and Page 4, Line 6. In this way, the language was clarified to read, “features” and “structures.” Page 4, Section 6 is a new provision relating to utility poles, which the City Attorney read into the record. Ms. Frieser explained this provision in detail. She stated that should a judge determine that the ordinance could not apply with respect to the franchise agreement and the City’s rights-of-way, it would not mean that the ordinance could not apply in all other areas. Ms. Frieser concluded by explaining that this language was added in anticipation of litigation to address a particular technical argument regarding the City’s existing franchise agreement. The City Attorney provided additional information to Council as requested.

Jean Howard, the attorney for Florida Power & Light, spoke in opposition to the ordinance, stating that the City has no jurisdiction in this matter and called the ordinance “arbitrary, capricious and unreasonable.” She then addressed the new Section 6 and provided a legal opinion. The City Attorney subsequently rebutted Ms. Howard’s characterization of the ordinance.

Peter Greenblatt and Richard Coffin spoke in support of the ordinance and voiced opposition to FPL and its proposed transmission lines.

Karen Roselli, an attorney representing Sprint PCS, expressed concern over how this ordinance might affect the proposed cell tower at the Camino Real Community Church. The City Attorney responded that her office would work with Sprint, and Sprint’s attorneys, to resolve this issue as a separate factual matter.

David Anderson, describing himself as the de facto leader of several neighbors of the Church, voiced support of the ordinance. Carl Jacobs also stated his support.

*Motion was made by Council Member Freudenberg, seconded by Deputy Mayor Haynie, to adopt Ordinance No. 4637, as revised (second revision).*

At Council’s request, Mr. Annunziato provided additional information regarding the Church’s petition.

*The vote on the main motion for Ordinance No. 4637, as revised (second revision) carried unanimously; Mayor Abrams, Deputy Mayor Haynie, Council Members Freudenberg, Hager and Hanson voting yes.*

5. Ordinance No. 4641

An ordinance of the City of Boca Raton authorizing the sale of a parcel of land consisting of approximately 2.48 acres and located between N.W. 15<sup>th</sup> Avenue and Interstate 95 at the Boca Raton Community High School; providing for severability; providing for repealer; providing an effective date (SC-01-16)

Property Specialist Appraiser Lynn Bodor made the presentation, explaining that the School Board wished to purchase a portion of the Lake Worth Drainage District (LWDD) L-46 Canal at the abovementioned location for incorporation into the approved plan for the expansion of Boca Raton Community High School. The sale of this property is a condition of that approval. Staff contacted the LWDD, the City's Civil Engineer, and the Directors of Parks and Recreation and Utility Services; they all support the proposal. However, Utility Services has requested that an easement be retained over the entire area as water and sewer mains are located in the canal right-of-way. In addition, installation of communications facilities are expected in the future. According to Code Section 13-63 (3), the School Board may purchase this parcel for less than fair market value. Since the School Board has committed more than \$40 million to the expansion of the high school, staff recommends approval and a payment of \$0, conditioned upon retaining a full-width easement. Ms. Bodor concluded by stating that the Planning & Zoning Board unanimously recommended approval; she then answered questions from Council.

No one wished to speak at the public hearing.

*Motion was made by Deputy Mayor Haynie, seconded by Council Member Hanson, to adopt Ordinance No. 4641. Motion carried on a 4-0 vote; Mayor Abrams, Deputy Mayor Haynie, Council Members Freudenberg and Hanson voting yes. Council Member Hager was not present for the vote.*

6. Ordinance No. 4642

An ordinance of the City of Boca Raton providing for the vacation and abandonment of platted utility easements, located at N.W. 15<sup>th</sup> and 16<sup>th</sup> Streets and N.W. 15<sup>th</sup> Avenue in Country Club Village Section E, as more specifically described herein; providing conditions for vacation and abandonment; providing for severability; providing for repealer; providing an effective date (E-01-EA-07)

Ms. Bodor provided the exact location of the easements in question and stated that, collectively, they comprise 23,793 square feet or .51 acre. This parcel is also proposed for incorporation into the approved plan for the expansion of Boca Raton Community High School. The sale of this property is a condition of that approval. All franchise utility companies, the City's Civil Engineer, and the Director of Utility Services were contacted; they all support the proposal. However, conditions were imposed, and all utility work is to be performed at the petitioner's expense. Staff recommends approval based on the following conditions: 1) removal or fill of existing City water mains after new mains are installed with review by the Public Works Review Committee (PWRC), 2) removal and relocation of FPL facilities, and 3) all conditions of approval shall be satisfied on or before the date of final plat approval for Boca Raton Community High School.

No one wished to speak at the public hearing.

*Motion was made by Council Member Hanson, seconded by Deputy Mayor Haynie, to adopt Ordinance No. 4642. Motion carried unanimously; Mayor Abrams, Deputy Mayor Haynie, Council Members Freudenberg, Hager and Hanson voting yes.*

7. Ordinance No. 4643

An ordinance of the City of Boca Raton providing for the vacation and abandonment of a portion of N.W. 16<sup>th</sup> Street, located between N.W. 15<sup>th</sup> Avenue and Boca Raton Community High School, as more specifically described herein; providing conditions for vacation and abandonment; providing for severability; providing for repealer; providing an effective date (AB-01-03)

Ms. Bodor presented the final petition from the School Board, stating that N.W. 16<sup>th</sup> Street is also proposed for incorporation into the approved expansion plan for Boca Raton Community High School. Again, the approval for that plan is subject to this abandonment. All franchise utility companies, the City's Civil Engineer, and the Director of Utility Services were contacted; they all support the proposal. However, the City has sewer mains in the right-of-way and has requested that they be abandoned with the exception of a small section at the easternmost end of N.W. 16th Street; this will require an easement. Construction of a sewer manhole has also been requested. FPL has asked for the removal and relocation of its facilities. All utility work will be performed at the petitioner's expense. Ms. Bodor then explained that as part of this project, the petitioner would dedicate to the City an approximate 21,000 square-foot turn-lane on N.W. 15<sup>th</sup> Avenue. In this way, the City would be provided with alternate right-of-way as compensation for the abandonment in keeping with Code Section 25-36(3). The Planning and Zoning Board unanimously recommended approval of this petition. Staff recommends approval with the conditions stated in the ordinance.

No one wished to speak at the public hearing.

*Motion was made by Council Member Hanson, seconded by Council Member Hager, to adopt Ordinance No. 4643. Motion carried unanimously; Mayor Abrams, Deputy Mayor Haynie, Council Members Freudenberg, Hager and Hanson voting yes.*

8. Ordinance No. 4644

An ordinance of the City of Boca Raton providing for the vacation and abandonment of a portion of a platted utility easement, located at 7898 North Federal Highway, as more specifically described herein; providing for severability; providing for repealer; providing an effective date (E-00-EA-11)

Ms. Bodor stated that the petitioner was requesting abandonment of one foot of a five-foot platted utility easement located at Leader's Casual Furniture Showroom, 7898 N. Federal Highway. The current owner purchased the property in 2000 and discovered that the existing building, completed in 1981, encroached one foot into the utility easement. According to the applicant's 2000 survey, the original survey was incorrect. All franchise utility companies and the Directors of Utility Services and Municipal Services were contacted; they all support the proposal. No conditions have been imposed and no code violations have been found. Staff recommended approval. Ms. Bodor then answered questions from Council.

No one wished to speak at the public hearing.

*Motion was made by Deputy Mayor Haynie, seconded by Council Member Hanson, to adopt Ordinance No. 4644. Motion carried unanimously; Mayor Abrams, Deputy Mayor Haynie, Council Members Freudenberg, Hager and Hanson voting yes.*

9. Ordinance No. 4645

An ordinance of the City of Boca Raton providing for the vacation and abandonment of a portion of George A. Long Alley located between S.E. 5<sup>th</sup> and S.E. 6<sup>th</sup> Streets, west of Federal Highway in the Downtown Development of Regional Impact, as more specifically described herein; providing conditions for vacation and abandonment; providing for severability; providing for repealer; providing an effective date (AB-00-05CRP)

Ms. Bodor explained that the petitioner has requested abandonment of a 4,760 square-foot portion of the alley for incorporation into the approved 555/595 South Federal Highway project. Abandonment of the alley is a condition of that approval. All franchise utility companies, the City's Civil Engineer, and the Director of Utility Services were contacted; they all support the proposal. Conditions were imposed; all utility work will be completed at the petitioner's expense. Ms. Bodor then spoke to the issues of fire flow testing and the 25-foot radial returns, which were raised by Council at the workshop. She also provided additional information related to the easement. In conclusion, staff recommended approval with the following conditions: 1) payment of \$2,094.00 to the City, which represents the value of the public right-of-way, 2) recording of a Unity of Title, 3) removal of existing City water and sewer mains with new easements as required, 4) underground relocation of BellSouth, Adelphia, and FPL facilities, 5)

reimbursement to the City should the final cost for utility relocation be less than the credited estimated cost, and 6) all conditions of approval shall be satisfied on or before the expiration date of IDA #CRP-00-04.

Paul Slattery, the architect for this project, spoke in support of the ordinance during the public hearing and provided a brief update on the project.

*Motion was made by Council Member Hager, seconded by Deputy Mayor Haynie, to adopt Ordinance No. 4645. Motion carried on a 3-2 vote; Deputy Mayor Haynie, Council Members Freudenberg and Hager voting yes. Mayor Abrams and Council Member Hanson voted no.*

10. Ordinance No. 4646

An ordinance of the City of Boca Raton providing for the vacation and abandonment of portions of platted utility easements, located at 300 South Federal Highway, as more specifically described herein; providing conditions for vacation and abandonment; providing for severability; providing for repealer; providing an effective date (E-02-EA-01)

Ms. Bodor stated that the petitioner has requested this abandonment as portions of those utility easements interfere with the proposed amended site plan for Royal Palm Plaza. The easements total 8,514 square feet or 0.20 acre. Staff contacted all franchise utility companies and the Directors of Utility Services and Municipal Services; they all support the proposal. However, conditions were imposed by Utility Services, FPL, and Florida Public Utilities requiring that the petitioner relocate selected facilities and grant easements over same, at the petitioner's expense. Code enforcement was contacted and no code issues were found. In conclusion, staff recommends approval with the utility relocation conditions as outlined in the ordinance. Ms. Bodor then answered questions from Council.

Wendy Larsen, the attorney representing the petitioner, provided assurances that the aforementioned conditions are being met by her client.

*Motion was made by Mayor Abrams, seconded by Council Member Hager, to adopt Ordinance No. 4646. Motion carried 3-2; Mayor Abrams, Council Members Freudenberg and Hager voting yes. Deputy Mayor Haynie and Council Member Hanson voted no.*

11. Ordinance No. 4647

An ordinance of the City of Boca Raton amending Section 19-92(2), Code of Ordinances, which provides that no building permit shall be required for repairs to an existing permitted fence or wall at an existing detached single-family residence which do not exceed \$1,000.00 in total cost, to clarify that work that includes a change of the building materials, width, height or location of a fence or wall shall not be considered a "repair" to the fence or wall, and shall require a building permit; providing for severability; providing for repealer; providing for codification; providing an effective date

Development Services Director Jorge Camejo gave the presentation, saying that this ordinance provides clarification of the Code in regard to fences. He explained that a homeowner would be able to repair and/or replace sections of an existing fence, for example, provided that the location and the materials used are consistent with the originally approved plans. Mr. Camejo went on to say that the repairs must be consistent with the City's building permitting regulations since a fence is a regulated structure pursuant to the Florida Building Code. Mr. Camejo then answered questions from Council. Mayor Abrams confirmed that this ordinance would not allow a homeowner to extend or repair an existing fence without going through the permitting process.

No one wished to speak at the public hearing.

*Motion was made by Mayor Abrams, seconded by Deputy Mayor Haynie, to adopt Ordinance No. 4647. Motion carried unanimously; Mayor Abrams, Deputy Mayor Haynie, Council Members Freudenberg, Hager and Hanson voting yes.*

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

12. Ordinance No. 4648

An ordinance of the City of Boca Raton amending the Fiscal Year 2001-2002 budget through the Second Quarterly Budget Amendment; providing for severability; providing for repealer; providing an effective date

The ordinance was introduced by Council Member Freudenberg.

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

No one came forward to speak.

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

3.e. Resolution No. 67-2002

A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute a Revocable License Agreement with Bibletown Community Church, Inc. for the maintenance and operation of a parking area in City right-of-way located within the Beulah Heights Subdivision; providing for severability; providing for repealer; providing an effective date

*Motion was made by Council Member Freudenberg, seconded by Deputy Mayor Haynie, to adopt Resolution No. 67-2002. Motion carried on a 4-1 vote; Mayor Abrams, Deputy Mayor Haynie, Council Members Freudenberg and Hager voted yes. Council Member Hanson voted no.*

3.g. Resolution No. 69-2002

A resolution of the City of Boca Raton accepting and approving the final plat known as the Boca Grand Subdivision Plat, and authorizing the Mayor and City Clerk to execute the plat; providing for severability; providing for repealer; providing an effective date (SUB 00-07CRP)

*Motion was made by Deputy Mayor Haynie, seconded by Council Member Hager, to adopt Resolution No. 69-2002. Motion carried on a 4-1 vote; Mayor Abrams, Deputy Mayor Haynie, Council Members Freudenberg and Hager voted yes. Council Member Hanson voted no.*

3.n. Resolution No. 76-2002

A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute a contract with The Beacon Group, Inc. for the procurement of flood, property and windstorm coverages/insurance, as needed, providing for severability; providing for repealer; providing an effective date

*Motion was made by Council Member Hager, seconded by Deputy Mayor Haynie, to adopt Resolution No. 76-2002. Motion carried on a 4-1 vote; Mayor Abrams, Deputy Mayor Haynie, Council Members Freudenberg and Hager voted yes. Council Member Hanson voted no.*

**APPEAL OF ZONING BOARD OF ADJUSTMENT DECISION:**

13. Helena Howe  
1357 N.W. 6<sup>th</sup> Street  
Rear Yard Setback Variance – Case No. BA-02-02

Planning and Zoning Director Carmen Annunziato gave the presentation. He explained that the Code requires a rear yard setback of 25 feet. The proposed site plan calls for a two-story addition to the house that would encroach 10 feet into the setback, leaving a 15-foot rear yard setback. The Zoning Board of

Adjustment held a public hearing for approval and subsequently voted 0-7 to deny the request. Staff also recommended denial.

Steven Utrecht, Chairman of the Zoning Board of Adjustment, explained that the Board did not feel that a hardship had been proven, as required by the Code. In addition, the Board felt that the scope and magnitude of the improvement was also a concern, as the Code requires that, once a hardship has been determined to exist, the variance should be minimal.

John Howe distributed copies of the site plan and the floor plan for review by Council. He explained that he and his family needed more living space; 50% of his lot is setback. The existing two-bedroom, two-bath home comprises approximately 1,000 square feet. The proposed plan calls for an addition of 870 square feet on the first floor. Mr. Howe expressed that the average size of a three-bedroom home is 2,700 square feet. With his setback, he stated that he could only use 1,800 square feet. Mr. Howe then stated that he was willing to work with the City as he and his family like the neighborhood and the school and wish to stay in the same location. Mr. Howe then answered questions from Council.

During discussion, it was made clear that 1,000 square feet was proposed for the second floor. Consequently, over 1,800 square feet of living space was proposed, in addition to the garage. A question also arose relating to the current setback for the garage, which appeared to be 23 square feet according to the survey. In general, Council felt that, based on the information presented, a new design, either for an addition or a new house, would be in order.

*Motion was made by Council Member Freudenberg, seconded by Deputy Mayor Haynie, to uphold the decision of the Zoning Board of Adjustment. Motion carried unanimously; Mayor Abrams, Deputy Mayor Haynie, Council Members Freudenberg, Hager and Hanson voting yes.*

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

##### 14. Summer Meeting Schedule

The City Manager sought concurrence from Council regarding cancellation of one of the summer meetings. No action was taken at this time, but was considered again under Council Member Reports.

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

##### Airport Authority

The City Attorney stated that if there was no objection, she intends to schedule an Executive Session so that she might update Council on pending litigation with the Airport Authority and Premier LLC and to deliberate on future strategies. The date is to be confirmed later. Ms. Frieser clarified that there is no settlement proposal at this time. Premier LLC has taken certain actions, which now changes the potential liability of the City. Therefore, the City's litigation position should be reassessed.

*Motion was made by Council Member Hanson, seconded by Deputy Mayor Haynie, to authorize the City Attorney to schedule the requested Executive Session. Motion carried unanimously; Mayor Abrams, Deputy Mayor Haynie, Council Members Freudenberg, Hager and Hanson voting yes.*

##### Citrus Canker Update

The joint litigation in which the City has partnered with Broward County et al is still pending.

Ms. Frieser stated that a request was received today asking the City to join a private action in Palm Beach County. Since a motion is pending to determine the jurisdictional limits of Judge Fleet, a Broward County judge, in the joint litigation previously mentioned, Ms. Frieser advised Council not to take any action until that motion has been resolved.

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

Council Member Freudenberg returned to the issue of City Council's summer schedule and advocated canceling the first meetings in August.

*Motion was made by Council Member Freudenberg, seconded by Council Member Hanson, to cancel the August 12, 2002 City Council Workshop Meeting and the August 13, 2002 City Council Regular Meeting. Motion carried 4-1 on a voice vote; Deputy Mayor Haynie, Council Members Freudenberg, Hager and Hanson voting yes. Mayor Abrams voted no.*

Council Member Freudenberg asked whether the issue relating to rented parking space at Boca Bayou for a City fire truck had been resolved. Mr. Ahnell explained that the attorney for the Boca Bayou Association clearly stated in a memo that the Association, not Harbor Homes, has the right to rent space to the City. Therefore, there were no improprieties on the part of the City.

Deputy Mayor Haynie commented that the Jefferson project behind the First Union Bank is nearing completion and stated that the contractor has destroyed the median on Camino Real. She confirmed with Mr. Ahnell that the contractor is responsible for restoring the median. He explained that staff is addressing this issue.

Deputy Mayor Haynie referenced the traffic study of the downtown area, which should be completed by this summer, and requested at least partial information from the consultant. Ms. Haynie stressed that this data would be very helpful when discussing traffic issues during the Transportation Demand Management (TDM) workshop, which she will be overseeing.

Council Member Hanson questioned the City Attorney as to how defensible the City's position is in relation to the proposed FPL transmission lines. Ms. Frieser replied that this is a very complex matter. It would be difficult to determine defensibility without first reviewing all the materials and legal paperwork that would be forthcoming should litigation be initiated. In all likelihood, outside counsel would handle any full-scale litigation that might be brought forward.

Council Member Hanson referred to the County Commission meeting, which took place today, and the suggestion that was made to use County employees to assist with elections. She suggested that City employees might be utilized in the same manner.

Council Member Hanson asked the City Attorney to determine whether the constitutional amendment on casino gambling has been withdrawn. Ms. Frieser is to follow up.

Mayor Abrams voiced concern that there are not enough hurricane shelters available. He requested that staff bring forward recommendations on existing and future facilities, which may be used as shelters, based on whether these buildings are deemed structurally strong enough to withstand hurricanes in general. Council Member Hanson suggested that the T-Rex site would be a good choice for a shelter. Deputy Mayor Haynie also mentioned that newly constructed schools, such as the new Boca Raton High School, could be used.

**ADJOURNMENT:**

The regular meeting of the City Council of the City of Boca Raton adjourned at approximately 9:00 p.m. on Tuesday, April 23, 2002.

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Steven L. Abrams, Mayor

ATTEST:

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Sharma Carannante, City Clerk