

MINUTES OF THE REGULAR MEETING
CITY COUNCIL
CITY OF BOCA RATON, FLORIDA
WEDNESDAY, OCTOBER 13, 2004
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
Council Member Dave Freudenberg
Council Member Susan Haynie
Council Member Susan Whelchel

Deputy Mayor Bill Hager was absent (excused).

Also attending the meeting were:

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

AMENDMENTS TO THE AGENDA:

There were no amendments to the agenda.

MINUTES:

Minutes of the Special Meeting of September 27, 2004 (Final Budget Public Hearing)
Minutes of the Special Meeting of September 27, 2004 (Hurricane Frances)
Minutes of the Regular Workshop Meeting of September 27, 2004
Minutes of the Regular Meeting of September 28, 2004

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

PROCLAMATIONS:

National Red Ribbon Celebration – October 23 through October 31, 2004
Police Chief Andrew Scott accepted the proclamation.

South Florida Commuter Services Vision Award
Randy Whitfield, Executive Director of the Metropolitan Planning Organization, presented this award to Council Member Haynie.

REGULAR BUSINESS - PART I:

1. Appointments to the following boards:

- a) Marine Advisory Board – (1) one vacancy, due to the resignation of D. Archibald (Condo-adjacent Inland Waterway), whose term expires 3/20/06.

Motion was made by Council Member Whelchel, seconded by Council Member Freudenberg, to appoint Art Grossman. Motion carried on a 4-0 voice vote; Mayor Abrams, Council Members Freudenberg, Haynie and Whelchel voting yes.

Art Grossman was appointed to the Marine Advisory Board.

2. Responses to Workshop Information Requests:

(Consent Agenda Item 3.a.3. – Spanish River Boulevard Widening – Phase II) A memo was provided. The City Manager stated that this project does not include the bridge widening; the bridge widening is in the Florida Department of Transportation’s work plan for fiscal year 2007/2008.

3. Consent Agenda:

Motion was made by Council Member Whelchel, seconded by Council Member Haynie, to approve the Consent Agenda. Motion carried 4-0; Mayor Abrams, Council Members Freudenberg, Haynie and Whelchel voting yes.

a. Sealed Bids

- 1) Industrial Suppliers, Miscellaneous Hardware, Paint, Lumber and Small Hand Tools
Requested by City Wide
Bestway Industrial Supply, Deerfield Builders Supply, Erin Electrical Supply, Home Depot, Home Depot Supply, MAB Paint Company, MSC Manhattan Supply Company, Sewell Hardware, Sherwin William Paint Company, and W.W. Grainger \$250,000
- 2) Life Guard Tower #1
Requested by Recreation Services
Coastal Contracting and Development \$50,000
- 3) Spanish River Boulevard Widening - Phase II
Requested by Municipal Services
B&B Underground Contractors, Inc. \$6,845,529

b. Intergovernmental Agreement

- 1) Library Books and Audio Visual Material
Requested by Recreation Services/Library
Baker & Taylor, Baker & Taylor Entertainment, Book Wholesalers, Inc., Ebsco Subscription Services, Gale Group, and Pro Quest Information and Learning \$302,506

c. Resolution No. 180-2004

A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute a contract for construction of required improvements with Tuscan Village of Boca Raton, Inc., for the purpose of ensuring timely and complete construction of subdivision improvements to Tuscan Village; providing for severability; providing for repealer; providing an effective date

d. Resolution No. 181-2004

A resolution of the City of Boca Raton accepting and approving the final plat known as the Tuscan Village subdivision plat, and authorizing the Mayor and City Clerk to execute the plat; providing for severability; providing for repealer; providing an effective date (UC-03-04)

e. Receive and File Board Orders

- 1) Special Master
 - a) SM(C) Case No. 04-0000784
 - b) SM(C) Case No. 04-00001525

f. Receive and File Board Minutes – October 13, 2004

- 1) Community Appearance Board
 - August 17, 2004
 - August 24, 2004
 - August 31, 2004
 - September 14, 2004
- 2) Community Relations Board
 - August 16, 2004
- 3) Environmental Advisory Board
 - July 29, 2004
- 4) Financial Advisory Board
 - August 16, 2004
 - August 30, 2004
- 5) Pearl City Blue Ribbon Committee
 - May 27, 2004
 - June 24, 2004
- 6) Planning and Zoning Board
 - July 22, 2004
 - August 5, 2004

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

4. Resolution No. 170-2004

A resolution of the City of Boca Raton granting approval for the proposed Gardens at Memorial Park master plan, subject to conditions; providing for severability; providing for repealer; providing an effective date (SC-04-02)

5. Resolution No. 171-2004

A resolution of the City of Boca Raton granting tentative plat approval to the proposed Gardens at Memorial Park subdivision plat, subject to conditions; providing for severability; providing for repealer; providing an effective date (SUB-04-01)

The City Clerk administered the oath to those persons who indicated they may wish to speak on the petitions. Planner Daryl Johnson made the PowerPoint presentation. Mr. Johnson reviewed the history of approvals for the mausoleum site and the current petition. Location, acreage, zoning, and land use designation were provided. The proposed Master Plan outlines Phases 4 through 9 that are scheduled to be completed by 2012. The Master Plan identifies the location of seven buildings, several accessory structures, and a reconfigured parking lot. The existing lake will be reconfigured; the size of the retention area represents a change to the Master Plan and the existing site conditions. The proposed plat provides for a buffer area, a lake, a driveway, building areas, utility easements and for the dedication of right-of-way for a right turn lane into the Pope John Paul High School campus, which is south of the site. The proposed tentative plat is consistent with the proposed Master Plan and Code requirements. The Planning and Zoning Board recommended approval with the condition that prohibits any other activity on the site. The Development Services Department concurs with this recommendation and recommends approval of the master plan and the tentative plat.

The public hearing was opened. Seeing no one come forward to speak, the public hearing was closed.

Motion was made by Council Member Whelchel, seconded by Council Member Haynie, to adopt Resolution No. 170-2004. Motion carried 4-0; Mayor Abrams, Council Members Freudenberg, Haynie and Whelchel voting yes.

Motion was made by Council Member Whelchel, seconded by Council Member Haynie, to adopt Resolution No. 171-2004. Motion carried 4-0; Mayor Abrams, Council Members Freudenberg, Haynie and Whelchel voting yes.

6. Ordinance No. 4810 (Four votes required for adoption.)

An ordinance of the City of Boca Raton amending the Future Land Use Map of the Comprehensive Plan by redesignating certain property consisting of 1.23 acres, more or less, located at 300 West Yamato Road (NW 51st Street), as more specifically described herein, from RL (Residential Low) to C (Commercial); providing for the appropriate revisions of the Future Land Use Map; providing for severability; providing for repealer; providing an effective date (UC-03-05 SC/ZC/SPA)

7. Ordinance No. 4811

An ordinance of the City of Boca Raton relating to rezoning; providing for the rezoning of a parcel of land consisting of 1.23 acres, more or less, located at 300 West Yamato Road (NW 51st Street), as described more particularly herein, from R-1-D (Single Family Residential) to B-1 (Local Business); providing for the appropriate revisions of the zoning district map; providing for severability; providing for repealer; providing an effective date (UC-03-05 SC/ZC/SPA)

8. Ordinance No. 4814

An ordinance of the City of Boca Raton providing for the vacation and abandonment of an anchor easement, located at 382 Yamato Road, as more specifically described herein; providing conditions for vacation and abandonment; providing for severability; providing for repealer; providing an effective date (EA-03-12)

9. Ordinance No. 4815

An ordinance of the City of Boca Raton providing for the vacation and abandonment of a utility easement, located at 300 and 316 Yamato Road, as more specifically described herein; providing conditions for vacation and abandonment; providing for severability; providing for repealer; providing an effective date (EA-03-13)

Mayor Abrams advised that a letter requesting a continuance had been received from the applicant. No one voiced an objection to a continuance.

The public hearing on Ordinance Nos. 4810, 4811, 4814 and 4815 was opened; no one came forward to speak.

Motion was made by Council Member Haynie, seconded by Council Member Whelchel, to continue the public hearing until October 26, 2004. Motion carried 4-0 on a voice vote; Mayor Abrams, Council Members Freudenberg, Haynie and Whelchel voting yes.

REGULAR BUSINESS – PART III – REGULAR PUBLIC HEARINGS:

10. Ordinance No. 4813

An ordinance of the City of Boca Raton providing for the vacation and abandonment of the non-vehicular access line of the Mizner Park Plat, as more specifically described herein; providing for severability; providing for repealer; providing an effective date (EA-04-05)

Property Specialist/Appraiser Lynn Bodor made the PowerPoint presentation. Ms. Bodor advised that the non-vehicular access line was dedicated for the purposes of control and jurisdiction over access rights. Access is already controlled through the site plan approval/amendment process and because it is in conflict with some of the site plan permitted drop-off points and driveways at Mizner Park. Staff recommends approval. The Municipal Services Department and the Utility Services Department have no objection.

The public hearing was opened and then closed as no one wished to speak.

Motion was made by Council Member Haynie, seconded by Council Member Whelchel, to adopt Ordinance No. 4813. Motion carried 4-0; Mayor Abrams, Council Members Freudenberg, Haynie and Whelchel voting yes.

11. Ordinance No. 4816

An ordinance of the City of Boca Raton providing for the vacation and abandonment of portions of public utility easements, located at 1330 North Military Trail in the Fairfield Gardens Plat, as more specifically described herein; providing conditions for vacation and abandonment; providing for severability; providing for repealer; providing an effective date (EA-04-01)

Property Specialist/Appraiser Lynn Bodor made the PowerPoint presentation. She noted that the Fairfield Gardens townhouse project and plat were approved by City Council in July 2003. Following those approvals and the recordation of the plat, the developer made architectural improvements to the buildings that caused two of them to encroach slightly into portions of the newly platted easements. The petitioner is now seeking abandonment of the encroachment area. The Utility Services and Municipal Services

Departments and the franchised utility companies were in agreement, subject to securing new easement areas. Staff recommends approval subject to the conditions contained within the ordinance.

The public hearing was opened and then closed as no one wished to speak.

Motion was made by Council Member Whelchel, seconded by Council Member Haynie, to adopt Ordinance No. 4816. Motion carried 4-0; Mayor Abrams, Council Members Freudenberg, Haynie and Whelchel voting yes.

12. Ordinance No. 4817

An ordinance of the City of Boca Raton amending Ordinance No. 4296 relating to the use of excise tax upon public services and the collection and depositing of such funds; providing for severability; providing for repealer; providing an effective date

Office of Management and Budget Director Linda Davidson made the presentation. This ordinance amends Ordinance No. 4296 relating to the collection and deposit of public service taxes. An ordinance was adopted in 1996 that increased the City's public service taxes from 8.5% to 10%. Ordinance No. 4817 provides that effective October 1, 2004 the additional 1.5% of public service taxes will be deposited in the City's general fund. The collection of the taxes only through the term of the Mizner Park Bonds has been removed. The amended and restated interlocal agreement between the City and the Boca Raton Community Redevelopment Agency pledging the City's existing 8.5% public service taxes remains in place and is unchanged by this proposed ordinance.

The public hearing was opened and then closed as no one wished to speak.

Motion was made by Council Member Haynie, seconded by Council Member Freudenberg, to adopt Ordinance No. 4816. Motion carried 4-0; Mayor Abrams, Council Members Freudenberg, Haynie and Whelchel voting yes.

REGULAR BUSINESS – PART V - INTRODUCTION OF ORDINANCES:

There were no ordinances for introduction.

REGULAR BUSINESS - PART VI - PUBLIC REQUESTS:

Earl Starkoff, Commissioner-elect of the Greater Boca Raton Beach and Park District and a member of the City's Parks and Recreation Board inquired if the appraisals for the properties related to the pending purchase and sale agreements with Glades/Rox were available for public review. The City Manager responded in the affirmative. In response to a query regarding when appraisals may not be a public record, the City Attorney advised there is an exemption with respect to land acquisitions for the purpose of allowing the City to negotiate without revealing the appraised value; it is a limited exemption whereby the document becomes public thirty days before the public hearing to complete the transaction. However, the appraisals related to the pending Glades/Rox transaction have always been available for review. The City Manager advised that once details are finalized, review by the Parks and Recreation Board will be scheduled.

REGULAR BUSINESS - PART VII- RESOLUTIONS AND OTHER BUSINESS:

There was no business to consider.

CITY MANAGER RECOMMENDATIONS AND REPORTS:

13. Hurricane Related Expenditures

The City Manager referred to the provided memorandum that lists the expenses accumulated to date for Hurricane Frances; these are expenses that have either been made or estimates that the staff is confident

are accurate. Staff is still accessing expenses related to beach erosion, inlet damage, damage to the Mizner Park area and other park facilities. The listed expenses, which total approximately \$5.5 million, include emergency generators, diesel and unleaded fuel, debris removal and monitoring, and overtime and personnel costs. Total expenses for Hurricane Frances are estimated at \$10 million; FEMA is reimbursing 90% of eligible costs. Mayor Abrams reported on a meeting this morning with Congressman Shaw, the City's consultant on beach renourishment projects, and Municipal Services Director Robert DiChristopher. He noted that the City may be able to take advantage of the fact that time remains on the permit granted for the recent beach renourishment project, thereby reducing costs. The Mayor added that Congressman Shaw is intervening on the City's behalf to see if appropriations for beach renourishment could be available through FEMA. Costs related to Hurricane Jeanne will be reported at a later date.

CITY ATTORNEY REPORTS:

The City Attorney had no reports.

MAYOR AND COUNCIL MEMBER REPORTS:

Council Member Freudenberg provided a photograph of a Roseate Spoonbill, an endangered bird, which he said he spotted in the area of the Spanish River Library site; he suggested the City might want to explore establishing a marshy area for wading birds at that location. Mr. Freudenberg also noted that the "citrus eradicators" were in his neighborhood.

Council Member Haynie mentioned the Village of Wellington's litigation with the County regarding voluntary annexations and their request for support from other municipalities. She inquired as to what the City's role could or would be. The City Attorney confirmed that the Village of Wellington, with the City of Delray Beach, has filed a complaint and a request for emergency injunction. Ms. Frieser provided a brief explanation of the complaint and the plaintiff's efforts. She further advised that her office is assessing the complaint and the arguments made therein; a recommendation as to what, if any, action the City should take may be brought forward at the next meeting.

At Council Member Whelchel's request, Council approved a donation of \$2,000 to the Boca Raton Philharmonic Symphonia; the funds will come from the Recreation Services' budget. This donation will help fund a concert on October 24th; all proceeds are earmarked for the Sun-Sentinel Children's Fund and a hurricane relief fund. Ms. Whelchel also proposed a public meeting with representatives from Adelphia to address quality of service, subscriber rates, and infrastructure issues. There was no objection to scheduling a meeting. The Assistant City Manager commented on the pending master cable services regulatory ordinance. The City Attorney commented on Adelphia's bankruptcy status.

Mayor Abrams commented on the Community and Education Partnership's response to questions that were asked by the K-12 Task Force regarding the proposed school construction half-cent sales tax referendum; Ms. Whelchel advised that the Task Force will bring forward a recommendation at the next Council meeting. He also noted the October 5th meeting that he and the City Manager had with Rod Macon, Regional Manager for FPL. Hardening of utility poles, elimination of wooden poles, and better tree pruning were among the topics discussed, as was FPL's plans to improve pre-hurricane and post-hurricane communications. The City Manager noted that legislation may be adopted that would determine power restoration protocol, i.e. who gets power restored first. Additionally, Mayor Abrams advised that several City restaurants would be participating in the Restaurant Association's "Dine-out Day" on October 14; part of the proceeds are designated for hurricane relief. He encouraged residents to participate in this fundraising endeavor.

ADJOURNMENT:

Motion was made by Council Member Whelchel, seconded by Council Member Freudenberg, to adjourn the meeting. Motion carried 4-0 on a voice vote; Mayor Abrams, Council Members Freudenberg, Haynie and Whelchel voting yes.

The regular meeting of the City Council of the City of Boca Raton adjourned at approximately 7:07 p.m. on Wednesday, October 13, 2004.

Steven L. Abrams, Mayor

ATTEST:

Sharma Carannante, City Clerk