

MINUTES OF THE REGULAR WORKSHOP MEETING
CITY COUNCIL
BOCA RATON, FLORIDA
MONDAY, MAY 9, 2005
1:30 PM

The regular workshop meeting of the City Council of the City of Boca Raton, Florida was called to order by Deputy Mayor Whelchel at 1:30 p.m.

ATTENDING THE MEETING WERE:

Mayor Steven Abrams (arrived at 3:12 p.m.)
Deputy Mayor Susan Whelchel
Council Member Peter Baronoff
Council Member Bill Hager (arrived at 1:34 p.m.)
Council Member Susan Haynie

Also attending the meeting were:

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

PROCLAMATIONS:

The Boys & Girls Club of Boca Raton Golf Classic Day – May 20, 2005

Brian Duffy accepted the proclamation, presented by Deputy Mayor Whelchel, on behalf of The Boys & Girls Club of Boca Raton.

1. BOARD INTERVIEWS:

- a. Airport Authority – two (2) vacancies due to term expirations of Bruce Benefield (resident east of I-95), and Helen Nerod (resident west of I-95) whose terms expire 06/01/05.

Kristen Hughes expressed interest in the position for “resident west of I-95.” Steve Dworkin came forward to interview for the Airport Authority in the category of “resident east of I-95.”

2. PUBLIC REQUESTS:

Boca Raton Charter School

Debra Nash-Utterback spoke on behalf of Boca Raton Charter School and spoke on their endeavor to locate an appropriate facility for their school. She provided information regarding, but not limited to, the proposed number of children to be served, programs offered, and concurrency. Ms. Utterback requested Council's support in their attempt, which to-date has been unsuccessful, to locate their facility in some of the J.C. Mitchell Elementary School buildings that are slated for demolition on May 20. She provided details on their efforts, which she said included verbal support from Attorney General Charlie Crist to halt the demolition until the Boca Raton Charter School's proposal can be considered by the Palm Beach County School Board; they have requested to be on the School Board's next agenda. Noting the approaching demolition date, Ms. Utterback asked that Council write a letter to Attorney General Crist, requesting his intervention to delay the demolition until this matter is resolved. Following discussion, Council's consensus was that the City Manager should contact Dr. Johnson to obtain the status of this issue and, simultaneously, prepare a letter from the Mayor to the Attorney General, requesting that he look into the matter.

Boca Raton Inlet

Art Grossman, Rick Redeker, Bill Fenner, Al Townsend, Iris Dyen, Tony Coutler, Andrew Cuba, Norm Engel, Tarina Rasmussen, Jim Wallace, Ron Harrison, Diane Saelinger, Rob Linegart, Melissa Saelinger, Frank Burnside, and Gene Folden voiced concern over the conditions at the Boca Raton Inlet and asked Council for immediate help in mitigating same.

Responding to citizens and Council, the City Manager explained that the Army Corp of Engineers would not extend the City's permits; consequently, the City had to begin the permitting process over again, in order to take care of the shoal, which is actually outside the Boca Raton Inlet. In the last two weeks, approval was obtained to extend the permits; however, the soonest the City could act is the end of turtle season, which is in November. In addition, the estimated cost to take care of the shoal is \$1 million and there must be a way to fund same, possibly through the budget process. Mr. Ahnell advised that the City understands the problems connected with the inlet but, given State and Federal regulations, the City was very restricted in taking action on this matter.

Mr. Ahnell also explained that when the City did the Central Beach project, which placed sand to the north of the inlet, the City attempted to get a permit to take the weir out further and move the sand further offshore; the environmentalists and the State would not approve the permit. He then explained that the sand placed north of the inlet never had a chance to settle, due to the two large storms last year, and clarified again that the City is bound by environmental, State, and Federal agencies with regard to this issue and cannot act independently; the City must follow the law.

Mr. Ahnell added that, approximately two years ago, the City cut a 15-foot channel through the area. It stayed clear for a time, however, due to the sand placed north of the inlet and the storm flow, it's now filled in. He added that the agencies in charge of issuing permits for these projects have different priorities; their priority is protection of the beaches, turtles, sea urchins, and other sea life – not opening up inlets or renourishing beaches. Consequently, conflicts are unintentionally set up with boaters, as the various agencies try to keep the inlets clean and satisfy the environmental issues that currently exist today.

Council Member Haynie asked the City Manager for a report on the existing conditions of the inlet and an action plan to provide safety. She also suggested enlisting the help of the citizens present to go to the agencies and lobby for assistance. Mr. Ahnell explained that, right now, the authorities that govern the area, which is not within the City, would not give the City a permit to do the work before next fall. The City is aware of the problems and will continue to lobby the agencies. Council Member Baronoff suggested that residents contact the media to encourage the agencies to act. While the City Manager was not advocating closure of the Inlet, Mr. Ahnell advised that if the State and Federal authorities wouldn't let the City move forward with the dredging, it may have to be closed if it is deemed too hazardous to navigate.

Carl Jacobs voiced opposition to privatizing the City's sanitation service, stating that he was pleased with the service currently being provided.

Tarina Rasmussen, President of the Boca Harbor Association and a member of the North Federal Highway Steering Committee, opined that there is a lack of parks on the east side of the North Federal Highway corridor, specifically noting a parcel of land by Appleby Street that is for sale. The City Manager advised that the City of Highland Beach owns that parcel and also one other; however, they may be reconsidering selling. He added that, should Highland Beach choose to sell either or both of the parcels, they would probably be sold as commercial property for a significant amount of money. Mr. Ahnell provided information whereby the feasibility of potential pocket park sites are evaluated.

3. REVIEW OF REGULAR AGENDA ITEMS:

- a. Questions relating to the agenda.

(Consent Agenda Item No. 4.c.d. – Resolution No. 83-2005 / Contract with One North Ocean LLC for subdivision improvements to the Meridian at One North Ocean) Council Member Haynie referred to a proposed traffic calming project in the neighborhood affected by this development and the money escrowed for that purpose. The money came from the satisfaction of a code enforcement lien on the building then at One North Ocean Boulevard. The City Manager will follow-up on the status of the traffic calming project.

(Consent Agenda Item No. 4.g. – Resolution No. 90-2005 / Agreement with the Solid Waste Authority of Palm Beach County for the purpose of recycling biosolids) Council Member Haynie questioned who the participants are, why so few were involved in this program, and how the dollar amount was calculated. The City Manager explained that the allocation cost is based on the existing amount of sludge produced and the city's expected

growth. Regarding participation, Mr. Ahnell stated that a number of smaller cities, and some counties, have not yet addressed this issue but will have to do so in the near future. He advised that any sludge left over after filtering the waste products must be transported farther away, due to environmental concerns; details were provided. He added that additional capacity was being built into this plan; as smaller cities come on board, they can use the facility as well, but the City of Boca Raton would get benefit of the reduced cost because the City participated in the program up front.

(Consent Agenda Item No. 4.d. – Resolution No. 87-2005 / Mutual Aid Agreement with the City of Ft. Lauderdale for combined operational assistance and voluntary cooperation) Council Member Hager referred to the upcoming OAS meeting in Ft. Lauderdale and, citing the cost to the City of Ft. Lauderdale to host this meeting, questioned whether the City of Boca Raton, by lending resources and manpower, would be subsidizing this event. The City Manager explained that, in this case, Ft. Lauderdale wanted a separate agreement in order to have more control over staffing. However, it was noted that the City does have a mutual aid agreement with Ft. Lauderdale, which would have compelled the City to provide assistance, if Ft. Lauderdale had chosen to seek assistance through that means; such assistance is given on a quid pro quo basis.

(Consent Agenda Item No.4.i. – Resolution No. 92-2005 / Renewal of, and amendments to, the Agreement with Grant Thornton LLP for the purpose of providing internal audit services) In response to a query from Council Member Hager, the City Manager confirmed that the the City has retained internal auditors for about 10 years; these auditors focused on studies regarding management and efficiency of operations. The recommendation of the external auditor was to have the internal auditors focus on traditional auditing functions. This contract changes the focus of the work for the City’s existing internal auditors; details were provided.

- b. Ordinance Nos. 4853, 4854, 4855, and 4856, (*Regular Agenda Item Nos. 6 - 9*), relating to the proposed development, located at 300 West Yamato Road (NW 51st Street), and known as Yamato Commons

Planning and Zoning Director Carmen Annunziato explained that the public hearing scheduled for tomorrow night was continued from the regular Council meeting of April 12, 2005. He gave a brief overview of the ordinances, which provided requests for an amendment to the Future Land Use Map of the Comprehensive Plan, a rezoning from residential to commercial, a site plan approval, and two ordinances for easement abandonments. The applicant re-submitted a new site plan on April 22, 2005, reflecting two 5,000 square foot professional office buildings, which staff was currently reviewing for compliance. Issues that need further review by staff include on-site circulation, fire lane location and tree planting. Mr. Annunziato noted that the City’s traffic engineer has determined that the new plan requires a technical deviation for on-site circulation. In addition, staff was asked to address to what extent the required front yard setback could be amended by a replat; the attorney’s office advised that it cannot. Furthermore, the applicant’s lenders advised that they would not abide by any replat; they wished to see an ordinance.

Mr. Annunziato compared the prior plan with the plan submitted on April 22, 2005, which is still subject to review by staff. He stated that they are very similar; however, the new plan contains lower heights, less square footage, and fewer parking spaces. Attention then focused on the technical deviation. Mr. Annunziato advised that the applicant was proposing a “turnaround” at the ends of each of the parking bays on the east and west. The City’s traffic engineer determined that because those spaces are closest to the buildings, people will park in the turnaround spaces and cars would be trapped in the parking lot with no way to exit. Consequently, the traffic engineer advised that a technical deviation or a modification of the site plan to provide two driveways onto Yamato Road is required. Mr. Annunziato concluded his comments by stating that staff was not yet ready to render a recommendation on the new plan. The City Manager confirmed with Mr. Annunziato that Council’s consideration tomorrow night would be on the existing or old plan, since the new plan had not been fully reviewed by staff. The modifications to the site plan would require a new legal notice.

- c. Ordinance No. 4873 and Resolution Nos. 78-2005 and 79-2005 (*Regular Agenda Item Nos. 10 – 12*), relating to the proposed development known as Mizner Townhomes.

Planning and Zoning Director Carmen Annunziato gave the presentation, explaining that the applicant was requesting approval for site plans, Planned Unit Development master plan approval, and tentative

plat approval to construct a 26-unit project, consisting of three-story, three-bedroom townhouses. Zoning and land use designation was reviewed. Currently, an alley separates the properties fronting on SE 14 and SE 15 Streets; the applicant is requesting abandonment of the alley. Location and surrounding roadways were then identified. The site contains a 16-unit building to be demolished as part of this plan; the property along 15 Street is vacant. Surrounding land uses were reviewed, as was the proposed site plan; details, including but not limited to, pedestrian access, vehicular access, parking spaces, building height, and open space was provided. The Planning and Zoning Board, the Environmental Advisory Board, and the Parks and Recreation Board reviewed this project. All boards recommended approval; conditions were incorporated into the resolutions and ordinance. Mr. Annunziato added that the applicant agreed to contribute \$40,000 to the City's median beautification fund. In conclusion, staff reviewed this project, found it to be in compliance with City Code, and recommended approval. Council questioned whether the residents currently living in the building to be demolished had been notified of same; Mr. Annunziato is to follow up. Council also noted, with pleasure, that the petitioner was voluntarily undergrounding the utilities.

- d. Resolution No. 81-2005 (Regular Agenda Item No. 14), approving an amended and restated agreement with the Florida Atlantic Research and Development Authority.

Planning and Zoning Director Carmen Annunziato gave the presentation, explaining that approximately two years ago, the City and the Research and Development Authority entered into discussion regarding expansion of the Research Park. He mentioned an FAU master plan amendment, which included approximately 16 acres for the purpose of Research Park development; the current agreement dates to 1993 and must be brought up to date to incorporate the additional acreage and to identify additional provisions. Background data and information was then given with regard to the expansion; at this time, approximately 92% of the Research Park has been developed under the original agreement. The expansion requested is for an additional 180,000 square feet on 16 acres, which would bring the total development area to 630,000 square feet.

Mr. Annunziato then outlined six provisions to be added to the amended and restated agreement; details were provided. He advised that staff reviewed the proposed agreement and recommended same. Responding to Council, Mr. Annunziato spoke to the TRAC process (Technology Review, Advisory, and Innovation Process), with regard to uses within the development park. Council voiced concern over businesses currently on site (and, possibly, future tenants) that are not connected with the R & D (Research & Development) use. The City Manager advised that it is the responsibility of the Research & Development Authority and potential tenants to convince the City and the TRAC Committee that the potential tenant(s) are doing viable research and development work; details were provided. Mr. Ahnell stated that FAU and the Research & Development Authority have indicated that the type of tenants they are seeing now, really are research and development tenants.

4. FUTURE AGENDA MATTERS/ITEMS OF COUNCIL/PUBLIC CONCERN:

There were no items for consideration.

5. CITY MANAGER REPORTS:

- a. Summer Meeting Schedule

The City Manager asked that Council Members bring their summer meeting schedules with them for discussion tomorrow night. Mayor Abrams advised that a suggestion was made to cancel the second June meeting; additional discussion followed regarding other dates.

6. CITY ATTORNEY REPORTS:

The City Attorney distributed a memo, dated May 9, 2005, with attachments, regarding a request for reduction of code enforcement liens on the Schulz property, located at 600 W. Palmetto Park Road. Ms. Frieser suggested that this item be added to the agenda tomorrow night and advised that, in her cover memo, she recommended collecting the out-of-pocket expenses incurred by the City and the excess amount be released. She then provided additional information to Council as requested.

7. MAYOR AND COUNCIL MEMBER REQUESTS AND REPORTS:

Deputy Mayor Whelchel referred to comments made by the public earlier in regard to the inlet and encouraged Council to garner support for same. Responding to Ms. Whelchel in regard to the Boca Raton Charter School issue, Mr. Ahnell advised that the City would contact the Palm Beach County School Board to determine their official position, while simultaneously preparing a draft letter for the Mayor's signature to Attorney General Charles Crist, which would be brought forward for Council's consideration tomorrow night. Ms. Whelchel then asked the City Manager for an update on the status of Boca Raton Middle School and the City's efforts to have the School Board construct the turn lane. Mr. Ahnell advised that staff planned to ask for a continuance on that item tomorrow night. He explained that the City and the School Board had reached a verbal agreement and the City drafted documents outlining same. Essentially, the agreement was that the School Board would install the turn lane at Boca Middle School along with the intersection improvements that are part of the school construction project; the City would reimburse them for the cost. He further explained that although this approach would be the most expedient and cost effective, the School Board has changed their position and advised they would not install the turn lane. Therefore, as a more logical approach, the City is proposing to install the intersection improvements for the School Board to coincide with the turn lane construction; the School Board would reimburse their portion of the cost. The agreement will be revised to reflect this change.

Council Member Hager referred to the recent goal setting sessions and the resultant policy issues regarding the downtown development district, which is within the purview of the CRA, and suggested that a citizens' task force, consisting of residents, business owners, developers, and property owners, be created to advise the CRA on these matters. Following discussion, it was agreed that Council would first identify the issues and achieve consensus on same and then decide what type of committee, if any, would be created. The City Manager was asked to bring forward options with regard to the issues to be focused on and how to provide as broad a mix of people as possible, should a committee(s) be needed.

Council Member Baronoff asked that new owners of the cartoon museum building be scheduled to speak at the next CRA meeting. He also suggested that other entities be scheduled to come before the CRA to engage in dialogue at other meetings, advising that a performing arts group would like to speak with the CRA. Mr. Baronoff then requested an update on the financial education process for City taxpayers. Mr. Ahnell advised that staff has started working on it; the educational flyer is expected to be mailed out near the end of June. Meetings with the Chamber of Commerce, homeowners associations, and other interested parties would then be scheduled accordingly.

Council Member Haynie mentioned the proposed reduction of liens on the Schulz property, saying she has had reports from boaters of debris in the canal. She asked that the City verify whether there is debris in the canal and, if so, include a condition in the resolution that it be cleaned out. Ms. Haynie referred to the front page of the Sun-Sentinel, which stated that the city with the most spammers in the world is Boca Raton, and asked whether there was anything, legislatively, that the Council could do about it. It was agreed that the City Attorney would prepare a report for tomorrow night regarding what, if anything, the City can do about this matter.

Mayor Abrams referred to the Yamato Commons proposal and questioned how Council should proceed, knowing Council's views on the original plan and knowing that a new plan exists. The City Attorney advised that the public hearing was continued on the original plan; Council could give input on the new plan but could not make an official determination on the new plan because that application had not been noticed nor was it before Council. Ms. Frieser added that the applicant was aware that when a plan is changed to the extent that it is no longer consistent with the notice that was effectuated based on the original submission, a ruling would not be forthcoming. Consequently, the applicant could have filed an amended plan to be processed and brought before Council; however, the applicant chose not to do that. Following discussion, Mr. Annunziato was directed to advise the applicant that Council must consider the original, existing plan.

The regular workshop meeting of the City Council of the City of Boca Raton, Florida, adjourned at approximately 3:58 p.m. on Monday, May 9, 2005.

Vanessa Hines, Assistant City Clerk