

MINUTES OF THE REGULAR MEETING  
CITY COUNCIL  
CITY OF BOCA RATON, FLORIDA  
TUESDAY, JULY 9, 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:**

Deputy Mayor Haynie 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:**

There were no amendments to the agenda.

**PROCLAMATIONS:**

There were no proclamations.

**AWARDS/RECOGNITIONS:**

There were no awards/recognition.

**MINUTES:**

Minutes of the Regular Workshop Meeting of June 24, 2002  
Minutes of the Regular Meeting of June 25, 2002

*Motion was made by Council Member Freudenberg, seconded by Council Member Hager, 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. Education Advisory Board – (2) vacancies, due to term expirations of Cynthia R. Kamen and William Buchanan, whose terms expire 07/28/02.

Council Member Hager nominated Cynthia Kamen and Anita Candig; Mayor Abrams nominated Matthew Nellis. Nominations were then closed without objection.

In the voting: Mayor Abrams, Deputy Mayor Haynie and Council Member Hanson voted for Cynthia Kamen and Matthew Nellis. Council Members Freudenberg and Hager voted for Cynthia Kamen and Anita Candig.

Cynthia Kamen was reappointed; Matthew Nellis was appointed.

- b. Parks and Recreation Board – (4) vacancies, due to term expirations of Joseph Good, Gordon J. Gilbert, Peter W. Boylan, and Edward D. Adams, Jr., whose terms expire 07/31/02.

*Motion was made by Council Member Hanson, seconded by Deputy Mayor Haynie, to reappoint Joseph Good, Gordon Gilbert, Peter Boylan, and Edward Adams, Jr. Motion carried unanimously on a voice vote; Mayor Abrams, Deputy Mayor Haynie, Council Members Freudenberg, Hager and Hanson voting yes.*

Joseph Good, Gordon Gilbert, Peter Boylan, and Edward Adams, Jr. were reappointed.

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

(Consent Agenda Item 3.a.1. – Bulk Quicklime) A memo was provided explaining that the prior vendor was Dravo Lime Company of Saginaw, Alabama. The company was purchased by Carmeuse Lime and Stone, also based in Saginaw, Alabama; they have the same mailing address. As a matter of general information, the product is transported to South Florida via railroad cars and trucks.

(Consent Agenda Item 3.f. – Resolution No. 106-2002 / Consulting services for Gumbo Limbo Environmental Center) A memo was provided. The Environmentally Sensitive Lands Development project does not utilize much space at Gumbo Limbo at the present time. The proposed planning study would assess Gumbo Limbo's current/future projects and development, resulting in a more appropriate allocation of space for future needs.

(Consent Agenda Item 3.g. – Resolution No. 107-2002 / Palm Beach County Hazardous Materials Emergency Response Service) A memo was provided stating that the City has participated in this service since 1999 and has received \$150,000 each year for a total revenue of \$600,000. Mr. Ahnell mentioned that the County has proposed to increase the annual amount received by the City to \$175,000.

(Response to Inquiry - Mammograms) A memo was provided explaining that when the City was self-insured, the employee did not need a referral to obtain a mammogram but was required to make a \$10 co-payment. Now that the City is insured by CIGNA, a referral is required from the primary care physician or gynecologist but a co-payment is not required.

### 3. Consent Agenda:

*Motion was made by Council Member Hager, seconded by Council Member Hanson, to approve the Consent Agenda. Motion carried 5-0; Mayor Abrams, Deputy Mayor Haynie, Council Members Freudenberg, Hager and Hanson voting yes.*

- a. Sealed Bid
  - 1) Bulk Quicklime  
Requested by Utility Services  
Carause Lime & Stone \$1,200,855
  
- b. Sealed Renewals
  - 1) Irrigation Supplies  
Requested by Recreation Services  
Hughes Supply, Boynton Pump and Irrigation Supply,  
Hector Turf, and Professional Pump Corp. DBA  
Professional Supply \$168,200
  
- c. Intergovernmental
  - 1) Vehicle (Replacement)  
Requested by Municipal Services  
Don Reid Ford \$45,335
  - 2) Shade Structures for Gumbo Limbo Environmental Complex  
Requested by Recreation Services  
Superior Park Systems, Inc. \$49,840
  
- d. Change Order
  - 1) Gasoline and Diesel Fuel  
Requested by Municipal Services  
BV Oil Company, Lank Oil Company, Petroleum Traders Inc.  
and Port Consolidated Inc. \$50,000

e. Resolution No. 96-2002

A resolution of the City of Boca Raton relating to the levy of special assessments against the lands and real estate within the Downtown Special Assessment District of the City specifically benefited by certain capital improvements; accepting and publishing a preliminary assessment roll; providing for a public hearing, at which the City Council shall act as an equalizing board; providing for the giving of notice to all affected property owners; providing for severability; providing for repealer; providing an effective date

f. Resolution No. 106-2002

A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute an agreement with Eskew + A Professional Corporation for the purpose of providing professional consulting services for the Gumbo Limbo Environmental Center; providing for severability; providing for repealer; providing an effective date

g. Resolution No. 107-2002

A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute the First Amendment to Agreement with Palm Beach County for the purpose of funding of hazardous materials emergency response services; providing for severability; providing for repealer; providing an effective date

h. Resolution No. 108-2002

A resolution of the City of Boca Raton granting tentative plat approval to the proposed Replat of a Portion of Peninsula Corporate Center Plat subdivision plat, subject to conditions; providing for severability; providing for repealer; providing an effective date (SUB-98-03R2)

i. Resolution No. 109-2002

A resolution of the City of Boca Raton approving and accepting an Amended Easement Deed from Ocean Portfolio Properties II, L.L.C. over certain lands located at 601 South Federal Highway; providing for severability; providing for repealer; providing an effective date

j. Resolution No. 110-2002

A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute a revocable license agreement with Preusse Homes, Inc. for the purpose of placement of landscaping and trees in City right-of-way; providing for severability; providing for repealer; providing an effective date

k. Resolution No. 111-2002

A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute the First Amendment to Agreement with Northern Palm Beach County Improvement District; providing for severability; providing for repealer; providing an effective date

l. Resolution No. 112-2002

A resolution of the City of Boca Raton approving and accepting an Easement Deed from the School Board of Palm Beach County, over certain lands located at 103 S.W. 1<sup>st</sup> Avenue; providing for severability; providing for repealer; providing an effective date

m. Receive and File Board Minutes – July 9 2002

- 1) Community Appearance Board  
May 21, 2002  
May 28, 2002  
June 4, 2002  
June 11, 2002
- 2) Environmental Advisory Board  
March 21, 2002
- 3) Library Advisory Board  
May 15, 2002
- 4) Marine Advisory Board  
May 8, 2002
- 5) Physically and Mentally challenged Board  
May 2, 2002
- 6) Zoning Board of Adjustment  
May 9, 2002

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

There were no quasi-judicial public hearings.

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

### 4. Resolution No. 105-2002

A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute a Campus Development Agreement between the Florida Board of Education, acting for the benefit of Florida Atlantic University, and the City of Boca Raton, for the purpose of implementation of the concurrency requirements of Chapter 240, Florida Statutes, and the mitigation of proposed Florida Atlantic University campus development impacts during the period ending December 31, 2010; providing for severability; providing for repealer; providing an effective date

Development Services Director Jorge Camejo gave the PowerPoint presentation, explaining that this was the first of two required public hearings. He explained that the Campus Development Agreement (CDA) is the statutory vehicle used to assess the concurrency impacts of a university on a local community. This process allows the impacts to be translated into a dollar figure, which represents the anticipated impacts of the development, based on the master plan. Mr. Camejo then reviewed the direction given by the Council at the Special Meeting of October 29, 2001, and assured members that those requested actions had been completed. Highlights of the master plan were delineated including the 15,000-seat arena, the 42,000-seat stadium (which is not included in this 10-year plan), the 17-acre research park expansion, and two new access points onto NW 5<sup>th</sup> Avenue. The total concurrency mitigation proposed in the CDA is \$9,372,094, which is comprised of traffic and fire/rescue impacts. In closing comments, Mr. Camejo stated that the level of development is directly connected to the concurrency amount. Therefore, should the money given to the City by FAU be less than the \$9 million figure, then the level of development will also be less. In conclusion, staff recommended approval. Mr. Camejo then answered questions from Council.

Mayor Abrams voiced that keeping the City apprised of the developments taking place at FAU would be beneficial to both parties; he suggested a courtesy letter from FAU outlining developments would be favorably received. Deputy Mayor Haynie noted that two figures were listed in the back-up material for the total concurrency amount to be tendered to the City and asked for clarification as to which amount is correct.

No one wished to speak at the public hearing. Pursuant to the statutory requirement, the City Attorney advised that the second public hearing on this resolution is scheduled for Tuesday, July 23, 2002.

### 5. Ordinance No. 4661

An ordinance of the City of Boca Raton amending Section 2-153, Code of Ordinances; modifying the qualifications for membership on the Community Relations Board to allow students in grade 12 to serve on the Board; providing for severability; providing for repealer; providing for codification; providing an effective date

The City Manager explained that the ordinance would essentially modify the membership of the Community Relations Board by allowing student members to serve through Grade 12, instead of incurring automatic termination upon completion of Grade 11.

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. 4661. Motion carried unanimously; Mayor Abrams, Deputy Mayor Haynie, Council Members Freudenberg, Hager, and Hanson voting yes.*

6. Ordinance No. 4662

An ordinance of the City of Boca Raton amending Section 13-73, Code of Ordinances; providing that all agreements for the sale or purchase of property by the City shall contain a clause whereby the purchaser or seller affirms that neither: (A) the purchaser or seller, nor (B) any current or former officer (if corporation), partner (if partnership) or equivalent authorized person (if other type of legal entity) of the purchaser or seller, has been convicted of a public entity crime, as defined in Section 287.133, Fla. Stat.; providing that all solicitation of responses involving a sale or purchase of property by the City shall inform potential responders of this requirement; providing for severability; providing for repealer; providing for codification; providing an effective date

The City Attorney distributed updated copies of the ordinance, which contained revised language on page 3, lines 11 through 13. This language would provide conformity with the policy that was adopted for the CRA. During discussion, Council Member Freudenberg voiced concern that this legislation might unfairly penalize corporations for the actions of a former officer and preclude the City from ever doing business with that entity. Consequently, he requested a time limit be imposed; a three-year limit was suggested.

No one wished to speak at the public hearing.

*Motion was made by Council Member Hanson, seconded by Council Member Haynie, to adopt Ordinance No. 4662, as revised.*

*Motion was made by Council Member Freudenberg, seconded by Mayor Abrams, to amend Ordinance No. 4662, page 2, lines 14, 21, & 26, to include language generally consistent with the following: after "...former officer" adding "(within the last three years)..." Motion carried 4-1; Mayor Abrams, Deputy Mayor Haynie, Council Members Freudenberg and Hager voting yes. Council Member Hanson voted no.*

*The vote on the main motion to adopt Ordinance No. 4662, as revised and amended, carried unanimously; Mayor Abrams, Deputy Mayor Haynie, Council Members Freudenberg, Hager, and Hanson voting yes.*

7. Ordinance No. 4663

An ordinance of the City of Boca Raton authorizing the Mayor and City Clerk to execute a sale and purchase agreement with Palm Beach County for the purpose of the disposition of a parcel of land consisting of approximately 77.84 acres located generally North of N.W. 40<sup>th</sup> Street and East of Military Trail in the City of Boca Raton, Florida; 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

a. Resolution No. 113-2002

A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute an Interlocal Agreement ("Agreement") with Palm Beach County related to the use of property purchased by the County from the City for environmental purposes, as more particularly described in the Agreement, establishing restrictions on the use of the property and providing for the City's right to repurchase the property under certain conditions; providing for severability; providing for repealer; providing an effective date

Assistant City Manager George Brown gave the presentation, detailing the location of the site, the sale price, and how that price was calculated. He explained that Resolution No. 113-2002 was an adjunct to the ordinance and referred Council to the revised interlocal agreement, stating that this agreement would restrict the use of the land to environmental preservation, protection, mitigation, and maintenance. Mr. Brown then referred to the management plan, which is included in the agreement, and explained that this

plan would take effect within 24 months of the transaction. Several items were reviewed including: 1) the County's options for funding this acquisition, 2) the intent of the County and the City to exchange conservation easements to protect the land should funding from the Florida Communities Trust not be forthcoming, and 3) the City's right to repurchase the property under certain circumstances. Responding to questions raised at yesterday's workshop, Mr. Brown provided detailed information relating to the "Florida Forever" program, which replaced the "Preservation 2000" program. It was noted that the paragraph in the agreement relating to "Right of First Refusal" was stricken as being redundant, since the City and County had reached agreement regarding conservation easements. In conclusion, staff recommended approval of the ordinance, as revised, and the resolution, as revised. Mr. Brown acknowledged the assistance and cooperation of all parties involved in bringing this matter to conclusion and 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. 4663, as revised. Motion carried unanimously; Mayor Abrams, Deputy Mayor Haynie, Council Members Freudenberg, Hager, and Hanson voting yes.*

*Motion was made by Council Member Hanson, seconded by Council Member Freudenberg, to adopt Resolution No. 113-2002, as revised. Motion carried unanimously; Mayor Abrams, Deputy Mayor Haynie, Council Members Freudenberg, Hager, and Hanson voting yes.*

Responding to Council, the City Attorney provided clarification relating to "Right of First Refusal."

#### **REGULAR BUSINESS – PART IV – SETTLEMENTS**

8. Settlement of Workers' Compensation Case  
Ronald Mackie, Utility Services Department

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

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

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

9. Ordinance No. 4664

An ordinance of the City of Boca Raton providing for the vacation and abandonment of a Utility Easement, an Ingress/Egress and Utility Easement, and Limited Access Easements, located at Peninsula Corporate Center, as more specifically described herein; providing conditions for vacation and abandonment; providing for severability; providing for repealer; providing an effective date (E-01-EA-01)

The ordinance was introduced by Deputy Mayor Haynie.

10. Ordinance No. 4665

An ordinance of the City of Boca Raton creating new Subsection 17-6(5), Code of Ordinances, and amending Section 7-40(11), Code of Ordinances; establishing permitting and other requirements for connections to fire hydrants owned by the City or connected to the City water system ("Fire Hydrants"); establishing restrictions on the use of fire hydrants; providing for severability; providing for repealer; providing for codification; providing an effective date

The ordinance was introduced by Council Member Hanson.

11. Ordinance No. 4666

An ordinance of the City of Boca Raton creating a new Article V, Chapter 10, Code of Ordinances, related to vacant and unoccupied dwellings and buildings ("Vacant Buildings"); requiring a boarding certificate for securing vacant buildings; prohibiting vacant buildings from being maintained in certain conditions; providing that buildings for which a boarding certificate has been issued and whose doors, windows or other openings are secured by boarding shall, upon expiration or non-renewal of such boarding certificate, be in violation of this ordinance and shall be subject to code enforcement proceedings; providing standards for securing vacant buildings; providing for enforcement by the Special Master; providing for severability; providing for repealer; providing for codification; providing an effective date

The ordinance was introduced by Council Member Hanson.

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

No one came forward to speak.

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

There was no other business for consideration.

**CITY MANAGER RECOMMENDATIONS AND REPORTS:**

The City Manager had nothing to report at this time.

**CITY ATTORNEY REPORTS:**

Ms. Frieser reported that she drafted a letter on July 1, 2002, to Chris Wheeler, the local attorney representing Florida Power & Light (FPL), and requested a detailed response to the questions raised by Council regarding the status of the transmission lines, data that had been collected, etc. The City Attorney stated she had just received a response from Mr. Wheeler, confirming FPL's desire to work with the City to resolve these matters. She distributed copies of same to Council and read the letter into the record. Ms. Frieser stated she was optimistic that the information requested by Council would be forthcoming shortly, at which time she would distribute same in order that Council might deliberate on FPL's answers. She then answered questions from Council.

**MAYOR AND COUNCIL MEMBER REPORTS:**

Council Member Freudenberg reported that he had received a letter from a constituent who had been without cable service for six days, despite repeated calls to Adelphia. Mr. Freudenberg referred the matter to Assistant City Manager George Brown this morning; by early afternoon, the issue had been resolved. Mr. Freudenberg extended kudos to Mr. Brown for his quick and efficient response.

Council Member Freudenberg responded to issues brought forward at the last Council meeting relating to the International Museum of Cartoon Art. Regarding a \$2.5 million offer tendered by Attorney Wendy Larsen on behalf of cultural groups interested in the International Museum of Cartoon Art site, Mr.

Freudenberg explained that Mort Walker had not met with Ms. Larsen, nor had he ever received that offer. Mr. Freudenberg then referenced the CRA meeting of 6/25/01, saying that he had provided an update on the Cartoon Museum at that time. In addition, Keith O'Donnell, representing Codina Management, had presented information relating to the Cartoon Museum at the CRA meeting of 11/13/01. At that meeting, the Lynn University proposal was discussed at length. No new information has been forthcoming since then.

Deputy Mayor Haynie requested an update on the possible appeal of the Community Appearance Board's (CAB) decision to grant the permit for the cell tower at the Camino Real Community Church. The City Attorney advised that she had corresponded with, and spoken to, Claudette Morency, who is expected to file a notice of appeal as required by City Code. Upon receipt of the appeal, the issue will be brought before the Council for review. Responding to an inquiry from Ms. Haynie, Ms. Frieser explained that two issues would need to be resolved at that point: 1) whether the CAB had provided due process, as would be expected in a judicial forum, and 2) whether substantial evidence existed to support the decision made by the CAB. Ms. Frieser then touched on additional administrative issues relating to whether an appeal is properly and timely filed, etc.

Deputy Mayor Haynie asked for an update on the citrus canker issue. The City Attorney stated that she had just received the Order relating to the appeal and had briefly perused it. It appears as though certain issues may bypass the district court level and go directly to the Supreme Court. Responding to Mayor Abrams, Ms. Frieser explained that Judge Fleet would not make the decision as to whether the appeal would bypass the Fourth District. Procedurally, the Fourth District would make a recommendation that the issue be heard by the Supreme Court; the Supreme Court would then decide whether to accept the recommendation and hear the issue. Ms. Frieser explained that she needed additional time to review the Order in greater detail before providing more information.

Council Member Hager complimented the City Manager on his work performance, stating that he is doing a fine job for the City of Boca Raton.

Council Member Hanson requested a copy of the 2001 Florida election laws.

Council Member Hanson commented on the length of the Community Appearance Board (CAB) agendas. Ms. Frieser responded that her office is working with the CAB on several procedural issues including quasi-judicial items and streamlining of the Board's bylaws. Ms. Hanson asked that when an item is postponed, the minutes reflect the reason for the postponement; Ms. Frieser explained that the CAB was previously notified of this request.

Council Member Hanson responded to Council Member Freudenberg's comments relating to the International Museum of Cartoon Art.

Mayor Abrams reported that he had received a letter from members of the Historical Society requesting Sister City status for a city in Italy, namely Alba. Mr. Abrams explained that, in his response letter, he would suggest that Historical Society members work with the Chamber of Commerce, since the Chamber funds the Sister City project. Consequently, if there is a request to expand the program, the Chamber should make the formal proposal to the Council. Council Members agreed with the suggested content of the letter.

**ADJOURNMENT:**

The regular meeting of the City Council of the City of Boca Raton adjourned at approximately 7:16 p.m. on Tuesday, July 9, 2002.

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Steven L. Abrams, Mayor

ATTEST:

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Sharma Carannante, City Clerk