

MINUTES OF THE REGULAR MEETING
CITY COUNCIL
CITY OF BOCA RATON, FLORIDA
TUESDAY, JULY 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 Resolution No. 124-2002, and an update on the FPL issue, as Item Nos. 8.a. and 8.b. under, "Regular Business – Part VI – Resolutions and Other Business." Motion carried unanimously on a voice vote; Mayor Abrams, Deputy Mayor Haynie, Council Members Freudenberg, Hager and Hanson voting yes.

PROCLAMATIONS:

National Night Out – August 6, 2002

Members of the Boca Raton Police Department and Crime Watch, including McGruff the Crime Dog, accepted the proclamation.

AWARDS/RECOGNITIONS:

Good Neighbor Award – Community Relations Board

Winnie and Pat Hyndman were the recipients of the first place award; the second place award was accepted by Matt Miclette.

MINUTES:

Minutes of the Regular Workshop Meeting of July 8, 2002
Minutes of the Regular Meeting of July 9, 2002

Motion was made by Council Member Hanson, 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. Aviation Advisory Committee – one (1) vacancy, 2-year term.

Robert DuKate interviewed for the position.

1) Resolution 120-2002

A resolution of the City of Boca Raton confirming the appointment to the Aviation Advisory Committee of the Boca Raton Airport Authority, subject to the limitations of authority contained herein; providing for severability; providing for repealer; providing an effective date

The City Attorney explained that the resolution confirms the appointment and defines the parameters of authority of the appointee.

Mayor Abrams provided an opportunity for the public to speak on the resolution; no one came forward.

Motion was made by Deputy Mayor Haynie, seconded by Council Member Freudenberg, to adopt Resolution No. 120-2002.

Motion was made by Council Member Hager, seconded by Council Member Freudenberg, to appoint Robert DuKate. Motion carried unanimously on a voice vote; Mayor Abrams, Deputy Mayor Haynie, Council Members Freudenberg, Hager and Hanson voting yes.

Robert DuKate was appointed.

Motion was made by Deputy Mayor Haynie, seconded by Council Member Hanson, to amend Page 1, Line 18, of Resolution No. 120-2002 to add the name, "Robert DuKate." Motion carried unanimously on a voice vote; Mayor Abrams, Deputy Mayor Haynie, Council Members Freudenberg, Hager and Hanson voting yes.

The vote on the main motion to adopt Resolution No. 120-2002, as amended, carried unanimously; Mayor Abrams, Deputy Mayor Haynie, Council Members Freudenberg, Hager and Hanson voting yes.

- b. Builders' Board of Adjustment and Appeals – one (1) vacancy for a general contractor. Term expires 02/15/04.

There were no applicants.

- c. Community Relations Board – one (1) vacancy, due to resignation of Kathleen M. O'Leary, whose term expires 07/25/02.

Motion was made by Council Member Freudenberg, seconded by Deputy Mayor Haynie, to appoint Lynda Leixner. Motion carried unanimously on a voice vote; Mayor Abrams, Deputy Mayor Haynie, Council Members Freudenberg, Hager and Hanson voting yes.

Lynda Leixner was appointed.

- d. Financial Advisory Board – three (3) vacancies, due to term expirations of Arnold M. Straus, Charles F. Edris, and Andrew John Vissicchio, Jr., whose terms expire 08/26/02.

David Birkman came forward to interview.

Council Member Freudenberg nominated Arnold Straus, Robert O'Brien, and Andrew Vissicchio, Jr.; Mayor Abrams nominated Charles Edris. Nominations were then closed without objection.

In the voting, Mayor Abrams, Deputy Mayor Haynie, Council Members Hager and Hanson voted for Charles Edris, Arnold Straus, and Andrew Vissicchio, Jr. Council Member Freudenberg voted for Charles Edris, Arnold Straus, and Robert O'Brien.

Charles Edris, Arnold Straus, and Andrew Vissicchio, Jr. were reappointed.

- e. Library Advisory Board – two (2) vacancies, due to term expirations of Florence L. Mangus and Kathleen M. Murdoch, whose terms expire 08/10/02.

Motion was made by Deputy Mayor Haynie, seconded Council Member Freudenberg, to reappoint Florence Mangus and Kathleen Murdoch. Motion carried unanimously on a voice vote; Mayor Abrams, Deputy Mayor Haynie, Council Members Freudenberg, Hager and Hanson voting yes.

Florence Mangus and Kathleen Murdoch were reappointed.

- f. Pearl City Blue Ribbon Committee – one (1) vacancy, due to resignation of Marian Nease, (Housing Authority representative). Term expires 02/13/04.

Motion was made by Deputy Mayor Haynie, seconded Council Member Hanson, to appoint Deborah Prehn. Motion carried unanimously on a voice vote; Mayor Abrams, Deputy Mayor Haynie, Council Members Freudenberg, Hager and Hanson voting yes.

Deborah Prehn was appointed.

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

(Consent Agenda Item 3.c.1. – Portable Gas Chromatograph & Mass Spectrometer Unit) A memo was provided explaining that this equipment would allow for on-site analysis of volatile organic compounds. Additional material was included relating to the durability and reliability of the equipment. Mr. Ahnell noted that the Mayor had forwarded a notice from the White House regarding the viability of equipment used to test for anthrax. He explained that the equipment referred to in the memo is different from this equipment.

(Consent Agenda Item 3.e. – Resolution No. 118-2002 / CDBG 1999-2000 Annual Consolidated Action Plan) A memo was provided stating that staff would work with the City's federal lobbyists to reverse the recent prohibition denying funding to Family Self-Sufficiency Program clients for education, training, transportation, and child-care expenses.

(Agenda Item 10 – Appeal of CAB Decision / Permit #02-2415, Sprint PCS) A memo was provided. Mr. Ahnell explained that this item would be covered later in the meeting.

(Photos of Trees cut by FPL) Pictures were provided of trees lining Jog and Yamato Roads, which had been cut by FPL crews. Mr. Ahnell stated that these pictures would be reviewed later in the meeting.

3. Consent Agenda:

Motion was made by Council Member Freudenberg, seconded by Council Member Hanson, to approve the Consent Agenda minus Item Nos. 3.c. and 3.d., which would be considered separately as Item Nos. 10.a. and 10.b. after "Appeal of Board Decisions." Motion carried unanimously; Mayor Abrams, Deputy Mayor Haynie, Council Members Freudenberg, Hager and Hanson voting yes.

a. Sealed Bids

- | | | |
|----|--|-----------|
| 1) | Florida Power & Light Duct Bank & Power Substation Yard
Requested by Utility Services
Danella Construction | \$141,863 |
| 2) | Swim & Racquet Center Pool Resurfacing
Requested by Recreation Services
Pamper Pool Service, Inc. | \$81,965 |

b. Intergovernmental

- | | | |
|----|--|----------|
| 1) | Phone Mail Software & Hardware
Requested by City Manager
Siemens Information and Communications Networks, Inc. | \$27,216 |
|----|--|----------|

e. Resolution No. 118-2002

A resolution of the City of Boca Raton authorizing the amendment of the Community Development Block Grant 1999-2000 Annual Consolidated Action Plan; authorizing the City Manager to execute the certification; providing for severability; providing for repealer; providing an effective date

f. Resolution No. 119-2002

A resolution of the City of Boca Raton authorizing the City Manager to apply for a grant from the U.S. Department of Justice, Bureau of Justice Assistance, Office of Justice Programs, Local Law Enforcement Block Grant Program; authorizing the acceptance of said grant, if awarded; authorizing the expenditure of matching funds for 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

g. Resolution No. 121-2002

A resolution of the City of Boca Raton authorizing the submission of an Annual Consolidated Action Plan for Program Year 2002-03 to the U.S. Department of Housing and Urban Development; designating the City Manager as Chief Executive Officer for the purpose of said program; authorizing the City Manager to execute the certifications; providing for severability; providing for repealer; providing an effective date

h. Resolution No. 122-2002

A resolution of the City of Boca Raton accepting and approving the final plat known as the Boca Technology Center Plat 1 subdivision plat, and authorizing the Mayor and City Clerk to execute the plat; providing for severability; providing for repealer; providing an effective date (SUB 00-05)

i. Board Resignation

- 1) Resignation of Alexander Martone from the Boca Raton Advisory Board for the Physically and Mentally Challenged

j. Receive and File Board Minutes – July 23, 2002

- 1) Citizen's Pedestrian and Bikeway Advisory Board
June 10, 2002
- 2) Code Enforcement Board
February 19, 2002
- 3) Community Appearance Board
June 18, 2002
- 4) Parks and Recreation Board
June 4, 2002
- 5) Pearl City Blue Ribbon Committee
May 23, 2002
- 6) Police and Firefighters' Pension Board
May 15, 2002 (Investment Committee)
May 15, 2002
- 7) Special Master
May 8, 2002
- 8) Telecommunications Advisory Board
June 3, 2002

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

4. Resolution No. 116-2002

A resolution of the City of Boca Raton granting conditional use approval for an administration building at Florence Fuller Child Development Center on a parcel of land located at 200 NE 14th Street, as described more particularly herein; providing for severability; providing for repealer; providing an effective date (CA 02-03)

The City Attorney explained the quasi-judicial procedures that would govern the public hearing. The City Clerk administered the oath to those who planned to speak on the petition.

Under ex-parte disclosures, Mayor Abrams, Deputy Mayor Haynie, and Council Members Freudenberg and Hager stated that they had spoken with Al Travasos, President of the Florence Fuller Child Development Center Board.

Ruby Childers, Administrative Services Manager for Development Services, gave the PowerPoint presentation. She explained that the applicant was proposing to add a 5,683 square foot administration building to the existing site. Zoning information was provided and the exact location was outlined in relation to nearby roads and neighborhoods. Ms. Childers then detailed a brief history of the Florence Fuller Child Development Center.

Referring to questions raised at yesterday's workshop, Ms. Childers explained that the four mahogany trees that are to be removed were planted by the City in Hughes Park on a portion of Florence Fuller's leased property. Additional trees planted on the leased property will be removed as well to ensure

adequate fire access as required by the Fire/Rescue Department. Mitigation for these trees would be provided by Recreation Services, once the Hughes Park modification plan received final approval. Ms. Childers then provided information relating to three trees reflected in the survey but not currently on-site.

Construction of the new building would not require additional personnel nor would it increase the number of children served. While this building would provide office space, a boardroom, teacher's lounge, and storage areas, no additional parking would be needed. A technical deviation for parking, as well as a nonconcurrent parking agreement for offsite parking were previously adopted. The Planning and Zoning Board reviewed the petition and unanimously recommended approval. Staff also recommended approval, subject to several conditions, as outlined in the resolution. Ms. Childers then answered questions from Council.

Al Travassos spoke in support of the resolution during the public hearing. Responding to Council, he explained that transferring staff to this new building would allow for reorganization of the current building to provide for an infirmary.

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

Motion was made by Council Member Hanson, seconded by Deputy Mayor Haynie, to adopt Resolution No. 116-2002. Motion carried unanimously; Mayor Abrams, Deputy Mayor Haynie, Council Members Freudenberg, Hager and Hanson voting yes.

REGULAR BUSINESS – PART III – REGULAR PUBLIC HEARINGS:

5. 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

Jorge Camejo, Director of Development Services, gave the PowerPoint presentation. He advised this was the second of two required public hearings. He explained briefly that this Campus Development Agreement is the statutory vehicle by which the City is compensated for "fair-share concurrency impacts" faced by the City, due to development of the FAU campus. Mr. Camejo stated that the total mitigation fee, comprised of Transportation Systems and Fire/Rescue Services impacts, is \$9,832,094. It was noted that this is an updated figure, which includes costs to provide two campus entry points from NW 5th Avenue.

Should this agreement be approved, it is anticipated that it will be considered by the Florida Board of Education (FBOE) at its August 27 and 28, 2002 meeting. Should the FBOE approve the agreement, the State would submit a check to the City in approximately 90 days.

Mr. Camejo responded in the affirmative when queried as to whether or not FAU would be amenable to an informal review of their campus developments by the City. He stated that via the Town/Gown Committee, a cooperative working relationship has been established. In conclusion, staff recommended approval.

Helen O'Grady, Keith Camara, Keith Christiansen, and Elizabeth Hoffman spoke in opposition to the resolution. In particular, they objected to future traffic impacts that would be created by the two bridges to be constructed to provide additional access to the FAU campus, via NW 5th Avenue. Ms. O'Grady also felt the fact that her neighborhood was still on septic tanks, not the sanitary sewer system, was an issue. Mayor Abrams responded to Mrs. O'Grady's reference to recent media coverage of biological testing done in the 1940's when the FAU Campus and surrounding area was a U.S. Army Base. He stated that inquiries by Senator Nelson and other members of Congress indicate that the testing left no

environmental hazards; Senator Nelson is still seeking further details and confirming documentation from the Department of Defense. Carl Jacobs confirmed with the City Manager that there is sufficient sewer capacity at the FAU campus.

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

Mr. Camejo and the City Manager provided additional information to Council as requested.

Motion was made by Council Member Freudenberg, seconded by Council Member Hager, to adopt Resolution No. 105-2002. Motion carried unanimously; Mayor Abrams, Deputy Mayor Haynie, Council Members Freudenberg, Hager and Hanson voting yes.

6. 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)

Lynn Bodor, Development Services Property Specialist/Appraiser, gave the PowerPoint presentation. She explained that replatting of the northern section of Peninsula Corporate Center would necessitate the elimination of portions of existing interior roadways to facilitate the future site plans. While these roadways are private, there are overlapping ingress/egress, utility and access easements that are dedicated to the City and must be abandoned. Ms. Bodor then provided details relating to acreage and square footage. Utility and Municipal Services were contacted in regard to this petition, as were all the franchised utility companies; all entities voiced support for the proposal. However, Utility Services stated that there is City water and sewer facilities in the easements, which must be relocated at the Petitioner's expense, with new easements granted over the relocated facilities. Florida Power and Light also requested a new easement, which has been granted. Code Enforcement was contacted; no code violations/liens have been found on the property. In conclusion, staff recommended approval, subject to the utility relocation condition as listed in the ordinance.

James Wolf, representing the National Council on Compensation Insurance (NCCI), which is located in Peninsula Corporate Center, stated that NCCI did not oppose the vacation of the easements, but wished clarification that a condition of approval include CarrAmerica's obligation to obtain final approval and construct an alternate connector road.

Jim Conn of Keith and Schnars, representing CarrAmerica, confirmed that the tentative plat has been approved, which does require road relocation. While the final plat is not recorded, CarrAmerica has put up the bond and all the permits to construct the road, which they fully intend to do.

Ms. Bodor clarified that the final plat, which includes the alternate roadway, had not yet been approved. However, language in the ordinance provided that all conditions of approval must be satisfied prior to final plat approval.

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

Motion was made by Council Member Hanson, seconded by Council Member Hager, to adopt Ordinance No. 4664.

Motion was made by Deputy Mayor Haynie, seconded by Council Member Hager, to amend Page 2, Line 16 of Ordinance No. 4664 to include language generally consistent with the following: (3) All conditions of approval contained herein and in the development order approving the tentative plat shall be satisfied prior to final plat approval....." Motion carried unanimously on a voice vote; Mayor Abrams, Deputy Mayor Haynie, Council Members Freudenberg, Hager and Hanson voting yes.

The vote on the main motion to adopt Ordinance No. 4664, as amended, carried unanimously; Mayor Abrams, Deputy Mayor Haynie, Council Members Freudenberg, Hager and Hanson voting yes.

7. 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

Utility Services Director Mike Woika gave the presentation. He explained that this ordinance would specifically require a permit, a meter, a backflow prevention device, an external valve, and use of a hydrant wrench when connecting to City fire hydrants. Responding to questions raised at yesterday's workshop, Mr. Woika stated that notification relating to fire hydrant permits would be given to Utility Services, Financial Services, Municipal Services, Fire/Rescue, and the Building Division. This will facilitate monitoring of the fire hydrants when work crews are in the area. Mr. Woika then answered questions from Council.

Carl Jacobs spoke in support of the ordinance at the public hearing. Seeing no one else come forward, the public hearing was closed.

Motion was made by Deputy Mayor Haynie, seconded by Council Member Hanson, to adopt Ordinance No. 4665. Motion carried unanimously; Mayor Abrams, Deputy Mayor Haynie, Council Members Freudenberg, Hager and Hanson voting yes.

REGULAR BUSINESS – PART IV - INTRODUCTION OF ORDINANCES:

There were no ordinances for introduction.

REGULAR BUSINESS - PART V - PUBLIC REQUESTS:

Carl Jacobs spoke on the issue of septic tanks and the costs involved in replacing them. He suggested that the City might wish to follow the example of Broward County by paying to provide sewer lines to the property line; property owners would then pay to bring the lines to the house.

REGULAR BUSINESS - PART VI - RESOLUTIONS AND OTHER BUSINESS:

8. Resolution No. 123-2002

A resolution of the City of Boca Raton repealing Resolution No. 113-2002; 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

The City Attorney referenced her memo, with attachments, to the Mayor and City Council, dated July 16, 2002, regarding the interlocal agreement between the City and the County for the purchase of approximately 77 acres of land for environmental purposes. Upon review of the document approved by Council, the County requested four revisions to the agreement, which Ms. Frieser outlined in her memo. Ms. Frieser explained that, since the County had not adopted the agreement, it would be easier to simply approve a new resolution instead of creating an amendment. She pointed out that this new resolution would repeal Resolution No. 113-2002 and referred to language to that effect found on Page 2, Lines 6 and 7 of the proposed resolution.

Ms. Frieser provided additional information and clarification to Council as requested. She then referenced the sale and purchase agreement between the City and the County. Pursuant to that agreement, a final survey is being prepared by the County. Once that survey is completed, the final legal description will be available. The above resolution contains the current legal description on file. Ms. Frieser asked Council for authorization to attach the final legal description, when available, to Resolution No. 123-2002 as Exhibit A. There were no objections to the request.

Motion was made by Council Member Hager, seconded by Deputy Mayor Haynie, to adopt Resolution No.123-2002. Motion carried unanimously; Mayor Abrams, Deputy Mayor Haynie, Council Members Freudenberg, Hager and Hanson voting yes.

8.a. Resolution No. 124-2002

A resolution of the City of Boca Raton finding Adelphia Communication Corporation's failure to maintain and/or replace required performance bonds will constitute a default of current cable television franchise agreements; providing for severability; providing for repealer; providing an effective date

The City Attorney explained the City had received notice that the performance bonds were to be cancelled for two franchise agreements; these surety bonds were issued by Hanover Insurance. A hearing was to take place today in bankruptcy court, whereby Hanover was to request approval to move forward and cancel the bonds; that hearing was postponed to July 31, 2002. Ms. Frieser explained that it is unclear as to whether Hanover Insurance may legally cancel the bonds without bankruptcy court approval.

Currently, Adelphia has stated that progress has been made in replacing the bonds; they do not intend to let the bonds expire. However, the City has received no concrete confirmation to that effect. Therefore, this resolution was being brought forward to protect the City's interests. Specifically, this resolution would allow for a finding that a default has occurred, should the bonds not be replaced. Consequently, a demand could be made on the surety bonds. She did advise that it is not completely clear that the surety company would honor that demand, however, she thought it prudent to be in a position to pursue all available remedies. Ms. Frieser was hopeful that the bonds would be replaced by Friday, July 26, 2002, in which case, there would be no default. The City Attorney then answered questions from Council. Ms. Frieser clarified that the actions allowed by this resolution relate only to the default requirement and are separate and apart from revocation or suspension of the franchise.

Motion was made by Council Member Hager, seconded by Deputy Mayor Haynie, to adopt Resolution No. 124-2002. Motion carried unanimously; Mayor Abrams, Deputy Mayor Haynie, Council Members Freudenberg, Hager and Hanson voting yes.

8.b. An update on the issue of the FPL transmission line route was provided.

The City Manager stated that representatives from Florida Power and Light (FPL) and Woodfield Country Club were available this evening to answer questions. He then explained that the City had met with both groups today. Essentially, Woodfield residents maintained their opposition to any overhead lines on Yamato Road. FPL's position is that they would provide landscaping in the median as mitigation. In addition, FPL maintained that their analysis was objective, and the best route for these power lines had been chosen. FPL was not willing to pay for undergrounding the project. It was noted that, due to FPL's construction schedule, even if another entity paid to underground the lines, the overhead lines would be installed first; the undergrounding would have to take place at a later date. Mr. Ahnell stated that, at the conclusion of the meeting, it was suggested that FPL look at alternate routes as opposed to using Yamato Road.

Attorney Christopher Wheeler and Dan Hronec, representing FPL, answered questions relating to two alternate routes and why they could not be used.

Ron Singer, who was a member of the citizens' advisory panel to FPL, voiced his support of FPL's choice of route as the best one possible.

Much discussion focused on a controversial 8/10 of a mile strip of land along Yamato Road, which FPL maintains is zoned for commercial use. At Mayor Abrams' suggestion, City staff and FPL representatives will jointly travel the disputed 8/10 of a mile tomorrow, in order to resolve the issue.

Richard Coffin, President of the Woodfield Country Club Homeowners Association, and Peter Greenblatt, a resident of Woodfield Country Club, both spoke in opposition to FPL's proposed route.

Council Member Freudenberg brought forward the issue of the many trees along Jog and Yamato Roads, which were improperly pruned by FPL in order to obtain line clearance. Council reviewed the provided photographs.

In response, Mr. Wheeler referenced FPL's letter to the City Manager, dated July 23, 2002, regarding the tree cutting, and stated that the cutting had been stopped pending investigation to address the City's concerns.

APPEAL OF BOARD DECISIONS:

9. Community Appearance Board – Permit No. 02-2182
Meilus Muscular Therapy
4799 N. Federal Highway

Jorge Camejo, Director of Development Services, gave the presentation. He explained that this was an appeal of the Community Appearance Board's (CAB) decision to deny a permit for a sign. Using the overhead, Mr. Camejo provided pictures of the property and existing signage on nearby properties. He stated that, specifically, installation of the sign on the façade was at issue. The applicant wished to use a "cabinet mount" form of installation, which would hide the electrical equipment needed to accommodate the sign without the applicant having to penetrate the wall of the structure. The CAB had previously approved the mounting of the sign directly to the parapet wall; the electrical "cabinet" would be installed behind the wall. Mr. Camejo then provided additional details relating to the applicant's concerns.

The Mayor reminded those present that this was a quasi-judicial procedure; those who wished to speak must be sworn in. The City Clerk administered the oath to those who planned to speak on the petition.

Grant Thornbrough, Chairman of the Community Appearance Board, explained the reasoning behind the CAB's decision, stating that the requested modification to install the sign with the cabinet behind it would be inconsistent with other signage in the area.

Bruce Capsuto, the attorney representing the applicant, stated that, originally, his client did obtain approval to install the sign without the cabinet. However, it was later discovered that the roof membrane of the building would be in direct alignment with the installation of the cabinet. The possibility of leakage became a concern, due to the number of penetration holes needed to mount the sign. Therefore, the request was made to install the sign without the cabinet. Mr. Capsuto then answered questions from Council. Discussion occurred regarding options.

Motion was made by Council Member Hager, seconded by Council Member Freudenberg, to remand the petition back to the Community Appearance Board. Motion carried unanimously; Mayor Abrams, Deputy Mayor Haynie, Council Members Freudenberg, Hager and Hanson voting yes.

10. Community Appearance Board – Permit No. 02-2415
Sprint PCS
1551 W. Camino Real
(Claudette Morency)

The City Attorney explained that this was an appeal, filed by a resident, Claudette Morency, to overturn the decision of the Community Appearance Board (CAB). She then outlined the procedure to take place during this quasi-judicial hearing and stated that Council was to deliberate on whether the CAB provided due process, followed the essential requirements of law, and made a decision based on the substantial, competent evidence in the record.

The Court Reporter in attendance advised she had been retained by Sprint PCS.

The City Clerk administered the oath to those who planned to speak on the appeal.

Carmen Annunziato, Planning and Zoning Director, gave the PowerPoint presentation and explained that this was an appeal of a CAB decision to permit construction of a church steeple/antenna support structure at the Camino Real Community Church. The party bringing forward the appeal is a resident, Claudette Morency, living in the neighborhood near where the church is located. While Ms. Morency raised questions regarding Robert's Rules of Procedure and code-related issues, Mr. Annunziato would be addressing only the issues related to the City Code.

Mr. Annunziato explained the Planning and Zoning Board's involvement in this case and outlined the sequence of events leading to the CAB's approval of the structure. Responding to questions raised at yesterday's workshop as to why this item did not come before Council, he referred to Code Section 28-1640 and read Paragraph (1) into the record. The definitions of "telecommunications facilities," "tower," and "antenna support structure," were given and comparisons were made between the three. Mr. Annunziato then provided a timeline of events from the date when the permit for the steeple was originally submitted to Development Services in October 2001 to its final approval by the CAB in June 2002 by a vote of 5-1. Mr. Annunziato responded to Council's inquiry as to whether this scenario could occur again in the future. Per Council's request, he also provided information regarding the heights of flagpoles located at Don King's property along I-95 in Deerfield Beach; they are approximately 150 feet in height.

The City Attorney clarified that Mr. Annunziato was responding to questions tendered at yesterday's workshop as they relate to the City's regulatory scheme and the City Code. However, the City's regulatory scheme is not the issue. When deliberating on the appeal, focus must be given to the determination made by the CAB regarding the application to add an architectural feature to the existing church.

Mr. Annunziato and the City Attorney answered questions from Council as requested. Ms. Frieser distributed a map to Council and provided clarification regarding the term, "affected person." She also outlined four factors, which set forth standing requirements in these matters. Those items were read into the record and much discussion followed.

Grant Thornbrough, Chairman of the CAB, stated that the applicant complied with many changes to the plans, as requested by the CAB. The applicant also provided the CAB with a survey of several steeples in the area, which showed that the steeple in question would not be the highest in the vicinity. Mr. Thornbrough then answered questions from Council.

Claudette Morency cited Ordinance 4420, saying that it was circumvented. She stated she was appealing this ruling for three reasons: 1) lack of authority by the CAB to approve a telecommunications antenna, 2) improper parliamentary procedures at the June 11, 2002, CAB meeting, and 3) the inappropriateness of a 99.5-foot tower, containing commercial equipment, in a district zoned "residential." Ms. Morency requested that the current permit be revoked and the petitioner be required to follow proper procedure and re-apply. She submitted copies of a letter from a local realtor, Mark Lenson of Lenson Realty, Inc., which she read into the record, in support of her arguments. Ms. Morency then answered questions from Council.

Karen Roselli, the attorney representing Sprint PCS and Camino Real Community Church, provided extensive rebuttals to Ms. Morency's arguments. She then answered questions from Council.

Julio Dumas, speaking on behalf of Sprint PCS, provided a map of the area in question and answered inquiries from Council.

During the public hearing, David Anderson, Carl Jacobs, Robert Ross, and Patricia Ann Martinez-Cococchi spoke in opposition to the steeple/cell tower; Pastor David Seabrooke, James McCallum, and Andrea Franzone spoke in support.

Ms. Roselli and Mr. Dumas addressed issues brought forward by the public and rebutted same. Ms. Morency then rebutted comments made by Ms. Roselli.

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

Motion was made by Council Member Hager, seconded by Mayor Abrams, to deny the appeal. Motion carried 3-2; Mayor Abrams, Council Members Hager and Hanson voting yes. Deputy Mayor Haynie and Council Member Freudenberg voted no.

ITEMS REMOVED FROM THE CONSENT AGENDA FOR SEPARATE CONSIDERATION

10.a. Sole Source

- | | |
|--|-----------|
| 1) Portable Gas Chromatograph & Mass Spectrometer Unit
Requested by Fire Rescue Services
Inficon | \$122,865 |
|--|-----------|

Council Member Freudenberg explained that he wished to postpone consideration of this procurement recommendation that he might have the opportunity to review the back-up material in more detail.

Motion was made by Council Member Freudenberg, seconded by Deputy Mayor Haynie, to postpone consideration of Item 3.c. until the regularly scheduled meeting of August 27, 2002. Motion carried unanimously; Mayor Abrams, Deputy Mayor Haynie, Council Members Freudenberg, Hager and Hanson voting yes.

10.b. Resolution No. 117-2002

A resolution of the City of Boca Raton granting tentative plat approval to the proposed Michelle's Plat subdivision plat, subject to conditions; providing for severability; providing for repealer; providing an effective date (SUB-02-01CRP)

Mayor Abrams expressed that he and Council Member Hanson were united in their opposition to a previous incarnation of this issue as it relates to abandonments, which is why Ms. Hanson asked that the item be pulled from the Consent Agenda.

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

Cartoon Museum

Mayor Abrams explained that the discussion this evening would relate primarily to the proposal made by the County at yesterday's workshop. He suggested that direction might be given to the City Manager to work with the County in developing a cultural concept for the County's bond referendum in lieu of any other proposals.

Motion was made by Mayor Abrams, seconded by Deputy Mayor Haynie, to direct the City Manager to work with the County to develop a cultural concept in connection with the recreational and cultural bond referendum, which the County is proposing to put on the November ballot. Motion carried unanimously; Mayor Abrams, Deputy Mayor Haynie, Council Members Freudenberg, Hager and Hanson voting yes.

While some members of Council expressed opposition to abandoning all other proposals, it did not appear that additional action would be taken in regard to them at present. Mayor Abrams confirmed with Council that no direction would be given to the City Manager to move forward with any other proposals at this time. Responding to Council, the City Attorney spoke to the issue of "public purpose."

CITY MANAGER RECOMMENDATIONS AND REPORTS:

11. Millage Notification to the Property Appraiser and Tax Collector

The City Manager explained that this was to set the City's proposed millage rate for Fiscal Year 2002-2003. The proposed operating millage is 3.15 mills per \$1,000; the debt service millage is .3885 per \$1,000. He stated the rollback rate is 2.9511 per \$1,000. The current year proposed rate, as a percentage change of rollback rate, is 6.74%. The date scheduled for the tentative budget hearing is September 4, 2002, at 7:00 p.m. in the Council Chamber at City Hall, 201 West Palmetto Park Road, Boca Raton, Florida 33432.

Motion was made by Council Member Hanson, seconded by Council Member Hager, to set the proposed millage for the City as stated by the City Manager. Motion carried unanimously; Mayor Abrams, Deputy Mayor Haynie, Council Members Freudenberg, Hager and Hanson voting yes.

12. Annual Executive Performance Evaluation

Motion was made by Mayor Abrams, seconded by Council Member Freudenberg, to approve a seven-percent (7%) pay increase for the City Manager. Motion carried 4-1; Mayor Abrams, Deputy Mayor Haynie, Council Members Freudenberg and Hager voting yes. Council Member Hanson voted no.

CITY ATTORNEY REPORTS:

13. Annual Executive Performance Evaluation

Motion was made by Mayor Abrams, seconded by Council Member Freudenberg, to approve a seven-percent (7%) pay increase for the City Attorney. Motion carried 4-1; Mayor Abrams, Deputy Mayor Haynie, Council Members Freudenberg and Hager voting yes. Council Member Hanson voted no.

MAYOR AND COUNCIL MEMBER REPORTS:

Council Member Hanson asked the City Manager to follow up on a citizen's request to use and care for property located at NW 38th Street and NW 4th Avenue. Mr. Ahnell explained that, while the City's original intent was to sell the property, he would follow up on the issue.

Council Member Hanson questioned whether Macy's had been contacted to replace Jacobson's in Mizner Park. Mr. Ahnell responded that the City has not contacted anyone in this regard; Codina Management will be marketing the space.

Deputy Mayor Haynie questioned when the annexation study would be forthcoming for consideration. Mr. Ahnell stated that the study is expected by August or September.

ADJOURNMENT:

Motion was made by Council Member Freudenberg, seconded by Council Member Hanson, to adjourn the meeting. Motion carried unanimously; Mayor Abrams, Deputy Mayor Haynie, Council Members Freudenberg, Hager and Hanson voting yes.

The regular meeting of the City Council of the City of Boca Raton adjourned at approximately 11:40 p.m. on August 23, 2002.

Steven L. Abrams, Mayor

ATTEST:

Sharma Carannante, City Clerk