

MINUTES OF THE REGULAR MEETING
CITY COUNCIL
CITY OF BOCA RATON, FLORIDA
TUESDAY, DECEMBER 10, 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

Also attending the meeting were:

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

AMENDMENTS TO THE AGENDA:

Motion was made by Council Member Hanson, seconded by Council Member Hager, to amend the agenda to add Resolution No. 209-2002 to the Consent Agenda. Motion carried unanimously on a voice vote; Mayor Abrams, Deputy Mayor Haynie, Council Members Freudenberg, Hager and Hanson voting yes.

Motion was made by Council Member Hager, seconded by Council Member Hanson, to amend the agenda to consider Ordinance No.4682 as the first item of business under, "REGULAR BUSINESS – PART III – REGULAR PUBLIC HEARINGS" after the Consent Agenda. Motion carried unanimously on a voice vote; Mayor Abrams, Deputy Mayor Haynie, Council Members Freudenberg, Hager and Hanson voting yes.

PROCLAMATIONS/PRESENTATIONS:

Presentation of Holiday Ornament - Boca Raton Garden Club

Rita Robinson of the Boca Raton Garden Club presented the annual holiday ornament to Mayor Abrams, who accepted same on behalf of the City.

MINUTES:

Minutes of the Regular Workshop Meeting of November 25, 2002
Minutes of the Regular Meeting of November 26, 2002

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

REGULAR BUSINESS - PART I:

1. Appointments to the following boards:

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

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

Joseph Sullivan was appointed.

- b. Citizens Pedestrian and Bikeway Advisory Board – two (2) vacancies, due to term expirations of Jeffrey Hamilton and Ed Rowan, whose terms expire 01/12/03.

Motion was made by Deputy Mayor Haynie, seconded by Council Member Hanson, to appoint Ed Rowan and Jason Mankoff to the board. Motion carried unanimously on a voice vote; Mayor Abrams, Deputy Mayor Haynie, Council Members Freudenberg, Hager and Hanson voting yes.

Ed Rowan was reappointed; Jason Mankoff was appointed.

- c. Community Relations Board – one (1) vacancy, due to resignation of Barbara Fabricant, whose term expires 07/25/03.

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

Leslie Scheper was appointed.

- d. Education Advisory Board – one (1) vacancy, due to resignation of Deborah Nash, whose term expires 07/28/03.

Council Member Hanson nominated Yuri Konnikov; Mayor Abrams nominated Madeleine Siegel. Nominations were then closed without objection.

In the voting: Deputy Mayor Haynie and Council Member Hanson voted for Yuri Konnikov. Mayor Abrams and Council Members Freudenberg and Hager voted for Madeleine Siegel.

Madeleine Siegel was appointed.

2. Responses to Workshop Information Requests:

(Consent Agenda Item 3.c.2. – Fence Installation (New) Intergovernmental Agreement) A memo was provided. The City Manager stated that, although this is a new project, the same bid is being used again, as the terms are not changing in regard to price or conditions.

(Consent Agenda Items 3.h. and 3.i. – Resolution Nos. 207-2002 and 208-2002/ State and Federal Legislative and Funding Priorities) Mr. Ahnell explained that these responses would be reviewed in the presentation given later in the evening.

3. Consent Agenda:

Motion was made by Council Member Freudenberg, seconded by Council Member Hager, to approve the Consent Agenda minus Item Nos. 3.h. and 3.i, Resolution Nos. 207-2002 and 208-2002, which would be considered separately under "Regular Business – Part VI – Resolutions and Other Business." Motion carried unanimously; Mayor Abrams, Deputy Mayor Haynie, Council Members Freudenberg, Hager and Hanson voting yes.

a. Sealed Bid

- | | |
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| 1) Polymer
Requested by Utility Services
Transworld Chemical | \$146,028 |
|--|-----------|

b. Sealed Bid Renewal

- | | |
|---|----------|
| 1) Landscape Maintenance Services
for the Municipal Services Complex
Requested by Recreation Services
Complete Property Services | \$27,928 |
|---|----------|

c. Intergovernmental Agreement

- | | |
|---|-----------|
| 1) Carbon Dioxide
Requested by Utility Services
Praxair, Inc. | \$89,100. |
| 2) Fence Installation (New)
Requested by Recreation Services
Anything in Fence, Inc. | \$46,224 |
| 3) Fire Hoses (Replacement)
Requested by Fire Rescue Services
Elite Fire and Safety, Inc. | \$31,495 |

d. Sole Source

- | | |
|---|-------------|
| 1) Radio Controlled Irrigation Equipment (New)
Requested by Recreation Services
Contemporary Controls and Communication, Inc. | \$303,100 |
| 2) 800 MHz Radios (New)
Requested by Fire Rescue
Motorola, Inc. | \$42,728 |
| 3) Membrane Elements
Requested by Utility Services
Hyddranautics | \$4,577,582 |

e. Resolution No. 204-2002

A resolution of the City of Boca Raton authorizing the City Manager to execute Work Order No. 6 with Keith and Schnars, P.A., for the purpose of providing professional engineering services for the widening of Yamato Road from four lanes to six lanes between Jog Road and Military Trail; providing for severability; providing for repealer; providing an effective date

f. Resolution No. 205-2002

A resolution of the City of Boca Raton canceling the first workshop and regular meetings in March 2003; scheduling the organizational meeting for March 31, 2003; rescheduling the second workshop and regular meetings in May 2003; rescheduling the first workshop and regular meetings in October 2003; rescheduling the first regular meeting in November 2003; canceling the second workshop and regular meetings in December 2003; providing for severability; providing for repealer; providing an effective date

g. Resolution No. 206-2002 (As revised)

A resolution of the City of Boca Raton authorizing the City Manager to execute Work Order No. 6 with Robert G. Currie Partnership, Inc. for the purpose of providing professional architectural and engineering services for the Boca Raton Fire-Rescue Facilities; providing for severability; providing for repealer; providing an effective date

j. Resignations

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

k. Receive and File Board Orders

- 1) Special Master
 - a) SM (C) Case No. 02-00000013
 - b) SM (G) Case No. 02-00001552
 - c) SM (G) Case No. 02-00001610
 - d) SM (G) Case No. 02-00002784

l. Receive and File Board Minutes – December 10, 2002

- 1) Citizens' Pedestrian and Bikeway Advisory Board
October 21, 2002
- 2) Community Appearance Board
November 5, 2002
- 3) Education Advisory Board
October 28, 2002
- 4) General Employees' Pension Board
September 25, 2002
October 2, 2002
- 5) Library Advisory Board
October 16, 2002
- 6) Marine Advisory Board
October 9, 2002
- 7) Parks and Recreation
October 1, 2002
- 8) Pearl City Blue Ribbon Committee
October 24, 2002
- 9) Physically and Mentally Challenged Board
October 3, 2002

- 10) Planning and Zoning Board
September 19, 2002
October 17, 2002
- 11) Special Master
October 9, 2002
- 12) Telecommunications Advisory Board
October 7, 2002
- 13) Zoning Board of Adjustment
July 24, 2002

m. Resolution No. 209-2002

A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute an agreement with Wantman Group, Inc. for the purpose of providing engineering services for the Pearl City Citizens Master Plan Improvements; terminating Work Order No. 02-1 with Post, Buckley, Schuh & Jernigan, Inc.; providing for severability; providing for repealer; providing an effective date

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

There were no quasi-judicial public hearings.

REGULAR BUSINESS – PART III – REGULAR PUBLIC HEARINGS:

7. Ordinance No. 4682 (*Transmittal public hearing - first of two required public hearings*)

An ordinance of the City of Boca Raton amending the Future Land Use Map of the Comprehensive Plan by redesignating certain property consisting of 21.582 acres, more or less, located at 550 NW Spanish River Boulevard, as more specifically described herein, from RL (Residential Low) to RH (Residential High); providing for the appropriate revisions of the Future Land Use Map; providing for severability; providing for repealer; providing an effective date (UC-01-03SC)

Development Services Senior Planner Jennifer Simon gave the PowerPoint presentation on the above ordinance, explaining that this was the first of two required public hearings. She stated that Universal Conditional Approval was being sought, which included a Comprehensive Plan Future Land Use Change, a rezoning, site plan approval, Planned Unit Development (PUD) Master Plan Approval, and tentative plat approval to construct 227 townhouses. Ms. Simon explained that Council would need to decide tonight whether the Comprehensive Land amendment should be transmitted to the Department of Community Affairs (DCA) for State review. The second and final public hearing, tentatively scheduled for Spring 2003, would take into consideration the requested rezoning, PUD Master Plan, and the tentative plat proposal.

Ms. Simon outlined the size and location of the subject property and its current zoning designation. She then outlined the changes proposed by the petitioner, which included rezoning the property to PUD/R4 (Planned Unit Development with an underlying R-4 zoning district) and changing the Future Land Use map designation to RH (Residential-High) to accommodate the construction of 227, three-story townhouses, referred to as the Villas at Spanish River. In order to develop the site, the petitioner proposed to re-align NW 5th Avenue to allow the road to continue north at NW 35th Street to Spanish River Boulevard and construct a cul-de-sac at either Spanish River Boulevard or NW 35th Street; the location had yet to be determined. Ms. Simon then spoke in support of the road realignment and provided details relating to same. Entranceways, an internal sidewalk system, sidewalks connecting with the El Rio Trail, perimeter setbacks, a 40' buffer (for those sides of the development directly abutting the single-family neighborhood), open space, recreational amenities, and parking spaces were reviewed. Ms. Simon noted

that the proposed townhouses would be 33 feet in height, contain two-car garages, and have balconies on the second floor.

A traffic impact study revealed a net increase of 909 daily trips under the current zoning; peak hour traffic was also expected to increase. A concurrency analysis of Spanish River Boulevard found that by 2004, the level of service (LOS) for Spanish River Boulevard from Military Trail to FAU Boulevard was projected to fail. Consequently, phasing of the project would be coordinated with the widening of Spanish River Boulevard expected in late 2003. An analysis was then conducted to determine impacts on roadway links in the long-range 20- to 25-year plan, based on the proposed rezoning, and showed that, again, Spanish River Boulevard from Military Trail to FAU Boulevard was projected to fail, even with the widening of Spanish River Boulevard.

Ms. Simon explained that the proposed townhouses would be approximately 1,500 feet from the airport. She then touched on airport zoning, noise zone intensity, and allowable land uses within the vicinity of the airport, as reflected in the City Code. While the noise zones do not restrict land development, they provide sound level reduction measures for certain buildings. Ms. Simon then provided details on noise DNL (Day/Night Levels), noise contour maps, and noise zones, as recently approved by the Federal Aviation Administration. She explained that currently half of the proposed townhouses fall within the 65 to 70 DNL; the tennis courts fall within the 70 to 75 DNL. By 2006, the contour lines of the map would expand to include approximately 60% of the townhouses within the 65 to 70 DNL. Guidelines for residential land uses, as mandated by the Part 150 Noise Study, were reviewed. The study stated that residential uses within the 65 DNL or higher are not compatible and should be prohibited. However, if the community decides that the residential use should be allowed, measures to achieve noise level reductions of 25 decibels should be considered.

In June 2002, the Airport Authority held a public hearing on the proposed Villas at Spanish River and unanimously approved a resolution stating that the development is incompatible with the airport. Their findings were based on the Part 150 Study; details of those findings were provided.

Ms. Simon stated that a review to determine consistency, compatibility, and concurrency, found that the proposed Amendment was inconsistent with the Goals, Objectives and Policies of the Comprehensive Plan of the City of Boca Raton. In support of staff's conclusion, she provided extensive detail, including Goal TRAN.2.0.0, Policy TRAN.1.1.6, and Code Section 23-62, and specifics relating to density and incompatibility with existing and future land uses. Required building setbacks, perimeter landscaping setbacks, and the purpose behind the PUD regulations were also reviewed; in respect to this last item, staff concluded that the project met the intent of the PUD Code. Ms. Simon then spoke to the issue of the tentative plat.

The Parks and Recreation Board reviewed the petition and recommended a fee in lieu of land dedication in the amount of \$243,600. The Palm Beach School Board reviewed the development and determined that public school facilities would be available to meet the projected student population. The Environmental Advisory Board recommended approval of the PUD Master Plan with conditions, which were included in the accompanying resolution and the ordinance. The Planning and Zoning Board recommended denial of the Comprehensive Plan Future Land Use change, the rezoning, the Planned Unit Development Master Plan and the tentative plat; the Board also voted to deny the proposed site plan.

In conclusion, staff found that, while the proposed Comprehensive Plan Amendment met the concurrency standards of the Comprehensive Plan, subject to the phasing of the development with the widening of Spanish River Boulevard, the proposed change to the Future Land Use Map was inconsistent with the Goals, Objectives and Policies of the Comprehensive Plan with regard to development in close proximity to the airport. In addition, the proposed change in land use and zoning from Low Density Residential to High Density Residential was incompatible with the surrounding existing and future land uses. However, the proposed realignment of NW 5th Avenue would serve as a public benefit and staff commended the petitioner for incorporating the design and financing into the proposed project. The benefits of realignment were then detailed. Ms. Simon concluded her presentation by stating that this high density development would be adjacent to well-established single-family neighborhoods on the north, east and south sides; staff found no indication of the need for a change from low density to high density residential; a high

density residential development would not provide an appropriate transition of residential land uses; and the proposed high density residential development was inconsistent with the existing character of the area and might harm the stability of the surrounding neighborhoods. Therefore, staff recommended denial of the proposed project. Should Council approve the Universal Conditional Approval, staff recommended that approval be conditioned upon compliance with the conditions listed in the accompanying resolution and ordinance. Ms. Simon focused attention on Condition 14(f) of the ordinance, which provided clarification regarding the realignment of NW 5th Avenue and then answered questions from Council.

Michael Weiner, the attorney for the petitioner, reviewed the five requests being made of the City and began a PowerPoint presentation. He then introduced four members of his team, each of whom spoke in support of the proposed project, within his area of expertise. Chris Brown, a former director of the Delray Beach Community Redevelopment Agency, focused on building issues and explained that people living in townhouses are typically non-complainers, work in the professional market, and have more of an interior lifestyle. In addition, the townhouses would act as a buffer to the single-family residences nearby. Arnold Ramus, a traffic consultant, spoke to the issue of the realignment of NW 5th Avenue to Spanish River Boulevard. Stanley Dunn, an acoustical consultant, stated that the property is not under the flight path; also, non-scheduled noisy aircraft coming into the airport was minimal. Joe Price, a real estate appraiser, spoke to the issue of increased property values, saying that the location of the townhouses was not detrimental and would, in fact, increase value; he cited the townhouse developments Fairfield, Sabal Gardens, and San Remo as examples. During the course of the presentation, Mr. Weiner explained that his client had reduced the number of proposed townhouses from 227 to 202. Mr. Weiner and his team then answered questions from Council. Attention centered on noise issues, and the possibility of the City being sued by potential townhouse residents over same. Mr. Weiner explained that each contract would include a disclosure statement regarding airport noise. Avigation easements were also discussed.

The City Attorney distributed a handout detailing several proposed revisions. These revisions, suggested by Mr. Freudenberg, included a change in zoning from residential high to residential medium; a requirement to provide a copy of the Part 150 Noise Study to potential homeowners and notice to potential homeowners regarding the proximity of the airport; installation of translucent windows on the 2nd floor, based on what direction the side of the building is facing; and modification of the site plan.

Mayor Abrams announced that, anyone wishing to be contacted by the Department of Community Affairs (DCA) regarding the date of publication of the DCA's Notice of Intent, should add his or her name and address to the list provided, in addition to completing the comment card to speak during the public hearing tonight.

Airport Authority Counsel Pat Barry reviewed the reasons that the Authority found the development incompatible with the airport. Helen O'Grady, Marlene and Dale Semple, James Constable, and Sally Stewart opposed the development. Robert Lake, Peter and Victoria Ross, Robert Livingston, Christine Minitelli, Mark Nessler, Lawrence Davis, Debra Murwin, Susan Christenson, Cecelia Stengro, Keith Christenson, Keith Camara, and Robert Stengro spoke in favor, particularly in support of the realignment of NW 5th Avenue. Ketih Christenson submitted a letter in support from neighbors Sandra and Mark Jamison. In addition, Mr. Christenson submitted a petition in support of the project, and Michael Strange stated that his support was contingent on the listed conditions.

Pat Barry, representing the airport, stated that, based on the new information coming forward this evening regarding the reduction in the number of townhouses and the density change from residential high to residential medium, they were more comfortable with the project. He and Airport Director Ken Day provided additional information to Council as requested.

Michael Weiner provided closing comments relating to noise and traffic in support of the petition.

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

Motion was made by Council Member Hager, seconded by Deputy Mayor Haynie, to approve the transmittal of Ordinance No. 4682, as revised, to the Department of Community Affairs.

Motion was made by Council Member Freudenberg, seconded by Deputy Mayor Haynie, to include a new condition using language generally consistent with the following: "Prior to issuance of the first building permit, the property owner shall execute and record an avigation easement in favor of the City, the Airport Authority and any other applicable governmental entity in form approved by the City Attorney's office with respect to all of the property proposed for development hereunder." Motion carried unanimously on a voice vote; Mayor Abrams, Deputy Mayor Haynie, Council Members Freudenberg, Hager and Hanson voting yes.

The motion to adopt Ordinance No. 4682, as revised and amended, carried on a 4-1 vote; Mayor Abrams, Deputy Mayor Haynie, Council Members Freudenberg and Hager voting yes. Council Member Hanson voted no.

The meeting recessed at 9:00 p.m. and reconvened at 9:10 p.m.

4. Ordinance No. 4674

An ordinance of the City of Boca Raton clarifying requirements for traffic engineering studies, updating driveway design standards relating to driveways and off-street parking facilities; amending Section 23-35, Code of Ordinances, relating to traffic engineering studies; amending Section 23-187, Code of Ordinances, to update roadway definitions; amending Section 23-190, Code of Ordinances, to provide separate driveway design standards for downtown and suburban developments, to clarify design requirements, and to modify technical deviation requirements; amending Section 23-191, Code of Ordinances, to consolidate access management standards into one section and provide consistency with State and County access management standards; amending Section 23-192, Code of Ordinances, to provide consistency with Palm Tran bus shelter design standards; amending Sections 28-1646 and 28-1655, Code of Ordinances, to provide parking requirements for fast food restaurants and to allow mixed use developments to submit a shared parking study; amending 28-1659, Code of Ordinances, to modify technical deviation requirements; providing for severability; providing for repealer; providing for codification; providing an effective date

Transportation Planning Engineer Luana Deans gave the PowerPoint presentation, providing background information as to why this ordinance was proposed. Specifically, the intent is to incorporate frequently approved deviations into the code and, at the same time, strengthen technical deviation requirements; consistency with other governmental agencies was also an objective. Ms. Deans spoke to the issues of traffic impact analyses, driveways, off-street parking, and turn lanes, and provided clarification of the proposed revisions and the reasoning behind same; current and proposed criteria were also reviewed. Information on current and proposed parking requirements for fast food restaurants were then outlined, and examples were provided.

Ms. Deans stated that the proposed revisions to the technical deviations sections of Chapters 23 and 28 would provide consistency between the two chapters; requirements for meeting technical deviation standards and the obligation to mail public notices to all property owners within 500 feet would be incorporated. It was noted that Chapter 28 focuses primarily on parking technical deviation requirements.

Ms. Deans explained that the Downtown Visions Committee, the Planning and Zoning Board, and the Off-Street Parking Committee had reviewed the ordinance; all entities recommended approval. The Fire-Rescue Department, requested an amendment, which would provide that the City's traffic engineer, the fire chief, or the fire chief's designee may require that the driveway design exceed the minimum standards. In conclusion, staff recommended approval, stating that the ordinance would update the City Code by minimizing technical deviation requests, strengthening the technical deviation sections, providing a fast-food restaurant parking rate, and providing more consistency with other governmental agencies. Ms. Deans provided additional information to Council, regarding mixed-use and shared parking, and responded to questions raised at yesterday's workshop.

No one wished to speak at the public hearing.

The City Attorney confirmed with Council that Page 8, Lines 15 through 19, of the ordinance were amended using language generally consistent with the following: " The city's traffic engineer, fire chief or the fire chief's designee may require that the driveway design exceed the minimum standards based on the characteristics of the land use, safety, traffic analyses or accepted traffic engineering practices."

Motion was made by Council Member Hager, seconded by Deputy Mayor Haynie, to adopt Ordinance No. 4674, as revised. Motion carried unanimously; Mayor Abrams, Deputy Mayor Haynie, Council Members Freudenberg, Hager and Hanson voting yes.

5. Ordinance No. 4680

An ordinance of the City of Boca Raton relating to environmental protection; amending Section 20-2, Code of Ordinances, updating the listed species definition; adopting a new Boca Raton Species of Local Concern; providing for severability; providing for repealer; providing for codification; providing an effective date

Development Services Environmental Officer Dawn Sinka gave the PowerPoint presentation, saying that the proposed ordinance would provide an updated definition for Listed Species (species threatened with extinction) and would adopt a revised List of Local Concern. The current definition is awkward to read and still recognizes the Florida Game and Freshwater Fish Commission, which had been replaced by the Florida Fish and Wildlife Conservation Commission.

The Boca Raton List of Local Concern was last updated ten years ago, using a report that is now 16 years old. Professional opinion regarding many of the listed species has changed and 43 of the original species on the local list are no longer considered, by the State, as being in danger of extinction. A new list has been compiled, based on the professional opinions and direct field observations of three local plant experts. The new list contains 86 species; 25 species were removed as they are not found in Boca Raton, and 14 species have been added. The list was reviewed by Recreation Services and the Environmental Office and represents the collective opinion of all those involved. In addition, the Environmental Advisory Board and the Planning and Zoning Board recommended approval of the ordinance. Ms. Sinka concluded her presentation by stating that staff also recommended approval. She then answered questions from Council.

JoAnn Landon spoke in support of the ordinance. Seeing no one else come forward, the public hearing was closed.

Motion was made by Council Member Hager, seconded by Council Member Hanson, to adopt Ordinance No. 4680. Motion carried unanimously; Mayor Abrams, Deputy Mayor Haynie, Council Members Freudenberg, Hager and Hanson voting yes.

6. Ordinance No. 4681

An ordinance of the City of Boca Raton relating to the protection of sea turtles; amending Section 23-242, Code of Ordinances, relating to beach area outdoor lighting restrictions; providing for severability; providing for repealer; providing for codification; providing an effective date

Development Services Environmental Officer Dawn Sinka gave the PowerPoint presentation, stating that the proposed ordinance would make the City's beach lighting code consistent with Subsection 9.1.C.3 of the Palm Beach County Unified Land Development Code (ULDC); municipalities receiving County funds for shore protection projects must have equally or more stringent sea turtle protection than ULDC guidelines. Boca Raton has almost five miles of coastline property, half of which is in the City's park system. The beaches are an important nesting location for sea turtles. To keep the beaches functioning as a nursery, certain types of artificial light must be reduced and/or eliminated from reaching the beach. Ms. Sinka then outlined the City's current sea turtle protection program. Adoption of the ordinance would strengthen the City's commitment to the preservation of sea turtles and continue to prohibit visibility of artificial light from the beaches, which confuses young turtle hatchlings. Protection of the turtles would also be expanded to the entire dark portion of the day, sunset to sunrise and throughout the nesting

period from March 1 through October 31. A new section has been added to require all new, renovated and redeveloped properties in close proximity of the beach to submit lighting plans for review by staff and the Community Appearance Board with the specific purpose of protecting the hatchlings.

Recreation Services and Palm Beach County Environmental Resources Management reviewed this ordinance; the Environmental Advisory Board and the Planning and Zoning Board recommended approval. Ms. Sinka concluded her presentation and answered questions from Council.

JoAnn Landon spoke in support of the ordinance. Seeing no one else come forward, the public hearing was closed.

Motion was made by Council Member Hager, seconded by Council Member Hanson, to adopt Ordinance No. 4681. Motion carried unanimously; Mayor Abrams, Deputy Mayor Haynie, Council Members Freudenberg, Hager and Hanson voting yes.

REGULAR BUSINESS – PART IV - INTRODUCTION OF ORDINANCES:

8. Ordinance No. 4684

An ordinance of the City of Boca Raton, Florida, authorizing the issuance of not exceeding \$17,500,000 general obligation bonds, in one or more series, of the City of Boca Raton, Florida; authorizing the use of the proceeds therefrom for the purposes described in Resolution No. 115-2002; providing the form and terms of the bonds; providing for the payment of the bonds from a tax on all taxable property in the City of Boca Raton; providing for the rights, remedies and security of the holders of the bonds; providing for certain other matters deemed necessary and proper in connection with the issuance of the bonds; and providing for an effective date

Council Member Freudenberg introduced the ordinance.

REGULAR BUSINESS - PART V - PUBLIC REQUESTS:

Emil Danciu stated that his committee would continue to garner signatures in support of placing a referendum on the March 2003 ballot to repeal the three resolutions relating to the Boca Beach Club, despite the City Attorney's legal position that this is not a proper subject for referendum.

Anthony Barr, also a member of the committee to repeal the Boca Beach Club resolutions, stated his admiration of Mr. Danciu. He also voiced opposition to the proposed annexation.

Albert Nelson, chairman of the board of Tri-County Humane Society, provided an update on the Tri-County shelter, saying that a triple-wide mobile home had been donated and would be used as an isolation ward for sick animals. In addition, electrical service at the building had been updated, the kennel area is to be roofed and enclosed, construction of a pavilion for older dogs was expected, and the pet cemetery was being upgraded.

Marta Batmasian spoke to the issue of fundraising for the Tri-County Humane Society and outlined a schedule of proposed events. She then requested monetary consideration by the City during the next budget process.

Sally Stewart questioned whether the annexation issue would be placed on the March 2003 ballot. Mr. Ahnell replied that the City was still in the research process; it was doubtful that the fact-finding mission would be completed in time to place the annexation question on the ballot, should the City decide to move in that direction.

REGULAR BUSINESS - PART VI- RESOLUTIONS AND OTHER BUSINESS:

9. Resolution No. 203-2002

A resolution of the City of Boca Raton, Florida; to be adopted in connection with the proposed issuance of general obligation bonds in the aggregate principal amount of not exceeding \$19,800,000 for the purpose of financing the construction, equipping and furnishing of two (2) libraries in the City of Boca Raton, Florida for the purpose of maintaining adequate library facilities in the City of Boca Raton, Florida; calling for a bond referendum of the qualified electors of the City of Boca Raton, Florida to be held on March 11, 2003, as to whether general obligation bonds for such purpose should be issued; providing for severability; providing for repealer; providing an effective date

Manager of Library Services Catherine O'Connell gave the PowerPoint presentation, saying that a Citywide survey had determined that certain library services and facilities were considered very important by residents. Those items included space for children, more space for materials, quiet study areas, programs for children and teens, and computers for Internet access. Based on this information, consultants for the City recommended building a new downtown library on the current site or a nearby site, which would be comprised of approximately 50,000 square feet, two or more floors and expandable by 20-25,000 square feet. The consultants also recommended that a western library be constructed to serve residents living west of I-95. The suggested site would be the Boca Technology Center property; the one-floor building would be approximately 28,500 square feet and expandable by 10,000 square feet. Ms. O'Connell then outlined the capital costs and stated that a general obligation bond of \$19.8 million would be necessary to accomplish the above. The annual cost of the bond, using a \$200,000 homestead property, would be approximately \$25. Additional operating costs were then reviewed. Ms. O'Connell concluded her presentation by requesting approval of the resolution, which would call for a bond referendum on March 11, 2003 for the approval of \$19,800,000 in general obligation bonds to be issued to finance the construction, furnishings and materials for two libraries. The actual ballot language was discussed. Ms. O'Connell then answered questions from Council.

Kathleen Murdoch, a member of the Library Advisory Board, spoke in support of the resolution. Seeing no one else come forward, the public hearing was closed.

Motion was made by Deputy Mayor Haynie, seconded by Council Member Hager, to adopt Resolution No. 203-2002, as revised.

*Motion was made by Mayor Abrams, seconded by Council Member Hanson, to revise the wording in the shaded area found on Page 4, Lines 18 and 19, by changing the word, "facility" to "library," and to change, "in replacement of," with "replacing," to read, "...and furnishing of a new **library** in the western part of the City and a new **library replacing** the City's existing downtown **library** to maintain..." 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. 203-2002, as revised and amended, carried unanimously; Mayor Abrams, Deputy Mayor Haynie, Council Members Freudenberg, Hager and Hanson voting yes.

3.h. Resolution No. 207-2002

A resolution of the City of Boca Raton approving the City's Year 2003 State legislative and funding priorities; providing for severability; providing for repealer; providing an effective date

Assistant City Manager George Brown gave the presentation. He stated that, based on yesterday's comments at the workshop meeting, the list of State priorities were amended to include: 1) support for the Regional Transportation Authority and funding for its programs, 2) opposition to legalization of expansion of casino gambling, and 3) opposition to funding for the proposed "bullet train." Council discussion followed.

No one wished to speak at the public hearing.

Motion was made by Mayor Abrams, seconded by Council Member Hanson, to adopt Resolution No. 207-2002, as revised.

Motion was made by Mayor Abrams, seconded by Council Member Hanson, to amend Resolution No. 207-2002 to change the wording of the third priority listed above to read, "support for a ballot question to repeal the proposed "bullet train."" Motion carried unanimously on a voice vote; Mayor Abrams, Deputy Mayor Haynie, Council Members Freudenberg, Hager and Hanson voting yes.

Motion was made by Mayor Abrams, seconded by Council Member Hager, to amend Resolution No. 207-2002 to seek funding to extend the turtle lighting program in Boca Raton. Motion carried unanimously on a voice vote; Mayor Abrams, Deputy Mayor Haynie, Council Members Freudenberg, Hager and Hanson voting yes.

Motion was made by Mayor Abrams, seconded by Council Member Hanson, to amend Resolution No. 207-2002 to modify the priority to seek "continued support of the Growth Management Act," by adding, "provided, however, seeking repeal of Section 163.3167(12) Florida Statutes, which prohibits an initiative or referendum process in regard to a development order." 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. 207-2002, as revised and amended, carried unanimously; Mayor Abrams, Deputy Mayor Haynie, Council Members Freudenberg, Hager and Hanson voting yes.

3.i. Resolution No. 208-2002

A resolution of the City of Boca Raton approving the City's Year 2003 Federal legislative and funding priorities; providing for severability; providing for repealer; providing an effective date

Assistant City Manager George Brown gave the presentation. He referenced three particular grants identified by Council Member Hanson at yesterday's workshop and explained that the City may or may not apply for same, depending on the City's needs. Therefore, a more general priority was added that the City's lobbyists and legislators should support Federal grant funding pursued by the City. The City Manager added that the three grants suggested by Council Member Hanson were referred to the Housing Authority. He then clarified that it would be cumbersome to identify all possible grants in the list of priorities; consequently, a "blanket" priority was thought to be more appropriate.

No one wished to speak at the public hearing.

Motion was made by Council Member Freudenberg, seconded by Deputy Mayor Haynie, to adopt Resolution No. 208-2002, as revised.

Motion was made by Council Member Freudenberg, seconded by Council Member Hager, to amend Resolution No. 208-2002 to add to the list of priorities a ban on Stage 1 and Stage 2 aircraft, weighing less than 75,000 pounds, at general aviation airports. Motion carried unanimously; Mayor Abrams, Deputy Mayor Haynie, Council Members Freudenberg, Hager and Hanson voting yes.

The main motion to adopt Resolution No. 208-2002, as revised and amended, carried unanimously; Mayor Abrams, Deputy Mayor Haynie, Council Members Freudenberg, Hager and Hanson voting yes.

CITY MANAGER RECOMMENDATIONS AND REPORTS:

10. Request for Reduction in Code Enforcement Lien
4800 NW 2nd Avenue – Investments Limited
Special Master Case #01-2744

Inspections and Compliance Supervisor Ken Massalone gave the presentation, saying that the violation pertained to inoperable and/or wrecked vehicles illegally being stored at a commercial property, located at 4800 NW 2nd Avenue. Code Enforcement responded to a complaint and subsequently issued a violation notice, which was received by the owner on August 16, 2001. In October 2001, the Special Master issued an Order of Enforcement, which authorized a fine of \$500 per day for each day that the violation continued past the timeframe for compliance, which was January 3, 2002. On April 24, 2002, the case came before the Special Master again for a certification of fine, since the violation recurred for a documented 12 days. A \$7,000 fine was imposed and a lien was placed against the property. Mr. Massalone outlined the costs incurred by staff, due to this violation, which totaled \$337.70, and then answered questions from Council.

Robert M. Kesten, the attorney representing Investments Limited, stated that the area in question was located at the backside of the property and not in public view. He explained that there had been no reoccurrence of the violation since April 24, 2002, and his clients are having the property monitored. Mr. Kesten reminded Council that the businesses were comprised of an auto body shop, an auto repair shop and a towing service; therefore, cars will be found on said property without licenses. Since the fines would be transferred to the tenants, the owners were requesting a reduction or abatement of the \$7,000 fine. Mr. Kesten then answered questions from Council.

No action was taken; therefore, the fine remains in effect.

L-49 Canal and the Lake Worth Drainage District (LWDD)

Assistant City Manager George Brown provided an update regarding LWDD's plan to clear the L-49 Canal of foliage between SW 15th and SW 12th Avenues. Staff met with LWDD representatives on December 9, 2002. As a result of the meeting, an agreement was reached whereby the LWDD agreed to modify its clearing plan. Mr. Brown then highlighted key points of the agreement. Staff recommended that Council approve the City Manager's execution of the document, upon acceptance and approval of same by the LWDD Board of Supervisors.

Motion to Extend the Meeting

Motion was made by Mayor Abrams, seconded by Deputy Mayor Haynie, to extend the meeting beyond 11:00 p.m. Motion carried 3-2; Mayor Abrams, Deputy Mayor Haynie and Council Member Hanson voted yes. Council Members Freudenberg and Hager voted no.

Continuing the discussion regarding the LWDD, Mr. Brown responded to a query by Deputy Mayor Haynie regarding the possible "de-annexation" of the City by the LWDD in relation to the L-49 Canal, explaining that the City and LWDD intended to move forward with an interlocal agreement, which would set forth policies and procedures regarding this type of clearing in order to avoid initiating Conflict Resolution Procedures in the future.

The City Manager was directed to sign the proposed letter of agreement, outlining stipulations agreed to by the City and LWDD, in order to close the dispute process.

Happy Holidays

The City Manager wished everyone a happy and healthy holiday season.

CITY ATTORNEY REPORTS:

Happy Holidays

The City Attorney wished everyone a happy and healthy holiday season.

Executive Session

Ms. Frieser reminded those present of the Executive Session scheduled for Thursday, December 12, 2002.

Resolution No. 202-2002

The City Attorney referenced the property at 6500 N. Congress Avenue, stating that, as of today, the City is in possession of the building, which is to be used as a training facility for police and fire-rescue services.

MAYOR AND COUNCIL MEMBER REPORTS:

Council Member Hanson requested an update on the building located at A1A and Palmetto Park Road. Mr. Ahnell explained that the owners have submitted the necessary documents to begin renovations. However, to date, he was unaware of any progress and/or proposed projects for that property.

Council Member Hanson referred to the proposed Spanish Villas project (Ordinance 4682), which was reviewed this evening, and questioned the impact on the neighborhood should the cul-de-sac be constructed at the southern end of the property. Mr. Ahnell stated that the City could support having the cul-de-sac built at either end. However, the neighborhood's preference was to construct it at NW 5th Avenue and Spanish River Boulevard since doing so would eliminate cut-through traffic. Mr. Ahnell confirmed to Council that some of the monies received as a result of the FAU Campus Development Agreement could be used for widening of NW 5th Avenue in the next few years.

Deputy Mayor Haynie reminded those present of the City's Holiday Street Parade, scheduled for tomorrow night. She also mentioned that the Boca Raton Pilots Association would hold its 2nd Annual Holiday Gift and Toy Drop at the airport on Saturday.

Council Member Freudenberg spoke to the issue of the pet cemetery at the Tri-County Humane Society, saying that dollars, earmarked for perpetual care, are available in a separate City account. Mr. Freudenberg's motion to provide a monthly stipend to the Humane Society to assist in maintaining the property was seconded. However, upon further discussion, Council agreed to table this motion pending additional investigation.

Mayor Abrams referred to a letter he received from the Office of Student Development and Activities at Florida Atlantic University, requesting the City's support for a grant application called, "Upward Bound," available through the U.S. Dept of Education; this is a tutoring and support service program for local high school students. Council agreed that the Mayor should send a response letter, which would include referral information regarding the Chamber of Commerce.

ADJOURNMENT:

Motion was made by Council Member Hanson, seconded by Council Member Hager, to adjourn the meeting. Motion carried unanimously on a voice vote; 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 11:15 p.m. on Tuesday, December 10, 2002.

Steven L. Abrams, Mayor

ATTEST:

Sharma Carannante, City Clerk