

MINUTES OF THE REGULAR MEETING
CITY COUNCIL
CITY OF BOCA RATON, FLORIDA
TUESDAY, APRIL 8, 2003
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 Whelchel
Council Member Dave Freudenberg
Council Member Bill Hager
Council Member Susan Haynie

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 Deputy Mayor Whelchel, seconded by Council Member Hager, to amend the agenda to add Resolution No. 69-2003 for consideration under "Regular Business - Part VII - Resolutions and Other Business" and to add Resolution Nos. 68-2003 and 70-2003 to the Consent Agenda. Motion carried unanimously on a voice vote; Mayor Abrams, Deputy Mayor Whelchel, Council Members Freudenberg, Hager and Haynie voting yes.

Motion was made by Deputy Mayor Whelchel, seconded by Council Member Hager, to amend the agenda to add Report on Meeting Between Boca Bath & Tennis Residents and Florida Power & Light under "Responses to Workshop Information Requests." Motion carried unanimously on a voice vote; Mayor Abrams, Deputy Mayor Whelchel, Council Members Freudenberg, Hager and Haynie voting yes

PROCLAMATIONS/PRESENTATIONS:

Representatives of the Palm Beach County School Readiness Coalition, Inc. (SRC) presented a plaque to the City in appreciation of financial support received.

Assistant Police Chief Patrick McCutcheon and Fire Chief Bruce Silk accepted the proclamation declaring the week of April 13 through April 19, 2003 National Telecommunicators Week. The telecommunicators who were present came forward to be recognized.

AWARDS/RECOGNITIONS:

There were no awards or recognitions.

MINUTES:

Minutes of the Regular Workshop Meeting of March 24, 2003
Minutes of the Regular Meeting of March 25, 2003
Minutes of the Organizational Meeting of March 31, 2003

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

REGULAR BUSINESS - PART I:

1. Appointments to the following boards:

- a. Advisory Board for the Physically and Mentally Challenged – five (5) vacancies due to term expirations of Mary C. Lavallo, Gladys M. Wilde, Margarita T. Castellon, and Lee F. Glynn, and resignation of Grace Pertile; all terms expire 04/23/03.

There were no applicants. The positions will be re-advertised.

- b. Planning & Zoning Board – two (2) vacancies; one (1) vacancy due to term expiration of Lawrence M. Sehres, whose term expired 03/31/03; and one (1) vacancy due to resignation of Joanne Morrison, whose term expires 03/31/05.

Jorge Garcia, Lawrence Sehres, and Steve Utrecht expressed interest in serving.

The position for the term expiring 3/31/06 was considered first. Council Member Hager nominated Jorge Garcia and Steve Utrecht. Council Member Haynie nominated Lawrence Sehres. Nominations were then closed without objection.

In the voting: Mayor Abrams and Deputy Mayor Whelchel voted for Steve Utrecht. Council Members Freudenberg and Haynie voted for Lawrence Sehres. Council Member Hager voted for Jorge Garcia. As no one received a majority of the votes, Mayor Abrams asked if anyone wished to change their vote. Council Member Hager then changed his vote to Steve Utrecht.

Mr. Utrecht was appointed to the term expiring 3/31/06.

The position for the term expiring 3/31/05 was considered next. Council Member Haynie nominated Lawrence Sehres; Council Member Hager nominated Jorge Garcia. Nominations were then closed without objection.

In the voting: Mayor Abrams, Deputy Mayor Whelchel and Council Member Hager voted for Jorge Garcia. Council Members Freudenberg and Haynie voted for Lawrence Sehres.

Mr. Garcia was appointed to the term expiring 3/31/05.

2. Responses to Workshop Information Requests:

Report on Meeting Between Boca Bath & Tennis Residents and Florida Power & Light

Barbara Hill, representing the Boca Bath & Tennis Homeowners Association, reported on the results of the Association's meeting last night with FPL representative Tony Newbold. She said Mr. Newbold explained that FPL, at the direction of Council, considered alternative routes to the one previously selected. According to Mr. Newbold, FPL did not reconsider the original 14 alternative routes, nor did they use the same criteria when selecting this latest route. She added that FPL could not provide information regarding the number of homes affected nor the costs involved. It was also noted that, although requested to do so prior to this meeting, FPL did not bring any informational material relating to the recent route selection, or the prior route selection. She advised Mr. Newbold also denied providing

information to the newspapers regarding the number of home affected by this new route. Therefore, Ms. Hill wished to go on record to refute the information reported by the newspapers relating to the number of affected homes, stating that those numbers were not substantiated by FPL.

Workshop Responses

There was no additional material to distribute or review relating to workshop information requests, since Mr. Ahnell answered all questions at yesterday's meeting. It was noted that any additional requests for information relating to agenda items would be covered in tonight's presentations.

3. Consent Agenda:

During the public hearing, Scot Menke thanked Council for bringing forward the resolution regarding Addison Mizner Elementary School and asked for Council's continued support on the issue of school concurrency.

Motion was made by Council Member Haynie, seconded by Council Member Hager, to approve the Consent Agenda as amended. Motion carried unanimously; Mayor Abrams, Deputy Mayor Whelchel, Council Members Freudenberg, Hager and Haynie voting yes.

a. Sealed Bids

- | | | |
|----|--|----------|
| 1) | Hurricane Shutters
Requested by Municipal Services
Folding Shutter Corporation | \$61,140 |
| 2) | Maintenance and Testing of 5000 & 480 Volt
Equipment - Renewal
Requested by Utility Services
Electro-Test, Inc. | \$35,500 |

b. Intergovernmental Agreements

- | | | |
|----|--|----------|
| 1) | Vehicle (New)
Requested by Municipal Services
Alan Jay Chevrolet, Inc. | \$35,896 |
| 2) | Light Bars and Sirens
Requested by Municipal Services
Law Enforcement Supply Company | \$30,507 |

c. Sole Source

- | | | |
|----|--|----------|
| 1) | Access Control System
Requested by Fire Rescue Services
Johnson Controls, Inc. | \$40,725 |
|----|--|----------|

d. Resolution No. 59-2003

A resolution of the City of Boca Raton authorizing the City Manager to execute Work Order No. 1 with The Land Stewardship Company for the purpose of providing professional design services for upgrades and modifications to Meadows Park Pool; providing for severability; providing for repealer; providing an effective date

e. Resolution No. 60-2003

A resolution of the City of Boca Raton approving and accepting an Easement Deed from Jefferson at Camino Real, L.P., over certain lands located at 33 East Camino Real; providing for severability; providing for repealer; providing an effective date

f. Resolution No. 61-2003

A resolution of the City of Boca Raton authorizing the City Manager to apply for a grant from the Federal Emergency Management Agency for equipment to implement a comprehensive fire ground safety 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. 62-2003

A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute a Joint Project Participation Agreement with Palm Beach County for the purpose of funding certain water, electrical and sanitary sewer utility adjustments and improvements during the construction of Clint Moore Road from State Road 7 to Jog Road; providing for severability; providing for repealer; providing an effective date

h. Resolution No. 63-2003

A resolution of the City of Boca Raton authorizing the City Manager to execute Work Order No. 11 with Williams, Hatfield & Stoner, Inc., for the purpose of providing professional engineering services for compliance with the National Pollutant Discharge Elimination System Permit; providing for severability; providing for repealer; providing an effective date

i. Resolution No. 64-2003

A resolution of the City of Boca Raton authorizing the City Manager to apply for a grant from the Federal Emergency Management Agency for the purchase of equipment, supplies, and printing of materials for the Community Emergency Response Team; authorizing the acceptance of 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

j. Resignations

Resignation of Linda St. John-Hunter from the Educational Advisory Board

k. Receive and File Board Minutes – April 8, 2003

- 1) Citizen's Pedestrian and Bikeway Advisory Board
February 10, 2003
- 2) Community Appearance Board
February 4, 2003
February 25, 2003
March 4, 2003
- 3) Downtown Visions Committee
January 9, 2003

- 4) General Employees' Pension Board
February 12, 2003
- 5) Historic Preservation Board
February 18, 2003
- 6) Library Advisory Board
February 19, 2003
- 7) Physically and Mentally Challenged Board
February 6, 2003
- 8) Police & Firefighters' Pension Board
February 19, 2003
- 9) Special Master
November 27, 2002
February 12, 2003
- 10) Zoning Board of Adjustment
November 14, 2002

I. Resolution No. 68-2003

A resolution of the City of Boca Raton authorizing the Mayor and City Clerk to execute the Second Amendment to Agreement with Advanced Data Processing, Inc. for the purpose of providing emergency medical transportation billing services; providing for severability; providing for repealer; providing an effective date

m. Resolution No. 70-2003

A resolution of the City of Boca Raton requesting that the School Board of Palm Beach County amend its Five-Year Capital Facilities Plan to include construction necessary to provide additional classroom seats at Addison Mizner Elementary School; providing for severability; providing for repealer; providing an effective date

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

4. Ordinance No. 4682 (Revised 4/8/03) (Second 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 RM (Residential Medium); providing for the appropriate revisions of the Future Land Use Map; providing for severability; providing for repealer; providing an effective date (UC-01-03SC)

5. Ordinance No. 4683 (Revised 4/8/03) (Quasi-judicial)

An ordinance of the City of Boca Raton relating to rezoning; providing for the rezoning of a parcel of land consisting of 21.582 acres, more or less, located at 550 Spanish River Boulevard, as described more particularly herein, from R1D (Single Family Residential) to PUD/R-3 (Planned Unit Development/Multifamily Residential District); providing for the appropriate revisions of the Zoning District Map; providing for severability; providing for repealer; providing an effective date (UC-01-03ZC)

6. Resolution No. 44-2003 (*Quasi-judicial*)

A resolution of the City of Boca Raton granting planned unit development master plan approval of the proposed Villas at Spanish River Planned Unit Development, subject to conditions; providing for severability; providing for repealer; providing an effective date (UC-01-03PUD)

7. Resolution No. 45-2003

A resolution of the City of Boca Raton granting tentative plat approval to the proposed Villas at Spanish River Planned Unit Development Plat, subject to conditions; providing for severability; providing for repealer; providing an effective date (UC-01-03SUB)

Mayor Abrams advised that there would be one public hearing on these related petitions but separate votes would be taken on each. The City Attorney reviewed the quasi-judicial procedures that would govern the public hearings. The City Clerk administered the oath to those who indicated they wished to speak on the petitions. Under ex-parte disclosures, Mayor Abrams stated that he spoke with Dale Semple. Council Member Haynie stated that she spoke with Joseph Good. Deputy Mayor Whelchel stated she spoke with Merle Stromberger. Council Member Freudenberg's ex-parte disclosures included Keith Christensen, Keith Cramerer, Anthony Pugliese, Merle Stromberger, Peter Ross, members of the Spanish River Homeowners Association, Larry Rayman, Pat Barry, Phil Modder, and Helen O'Grady.

Senior Planner Jennifer Simon reiterated the presentation given at yesterday's workshop and provided additional information related to traffic impacts, such as the realignment of NW 5th Avenue, which staff agreed would provide for a better design. Additional detail was provided regarding trip generations, peak-hour traffic, and the projected level-of-service (LOS) for Spanish River Boulevard from Military Trail to FAU Boulevard, which is expected to fail. Ms. Simon then presented issues related to Boca Raton Airport, including proximity of the proposed townhomes to the runway, current day-night noise levels (DNL), and the projected DNL for this property. It was noted that the Boca Raton Airport Authority found this development to be incompatible with the airport.

Ms. Simon spoke to the issue of the proposed change to the Future Land Use Element of the Comprehensive Plan, stating that staff reviewed the petition for consistency, compatibility, and concurrency. A general review indicated that this proposed change would be inconsistent and incompatible with the City's Comprehensive Plan. She then provided information in support of this finding. It was noted that the petition did meet the concurrency requirement.

The Planned Unit Development (PUD) Master Plan and the required re-platting were reviewed. Details relating to same and information regarding the favorable findings of the appropriate review boards were provided. The Planning and Zoning Board reviewed the request for Universal Conditional Approval and recommended denial. Subsequently, Council reviewed the petition in December 2002 and voted to transmit same, with a reduction to the number of townhomes, to the Department of Community Affairs (DCA). In addition to the reduction in units, the petitioner also agreed to the following: 1) to provide a copy of the Federal Aviation Administration Part 150 Noise Study Update (Part 150 Study) to any prospective resident prior to the execution of any sales contract, 2) to require that the property owner and all subsequent owners include a notice identifying the proximity of the airport to the subject property in all sales contracts, and 3) to record an avigation easement in favor of the City, the Airport Authority, and any other applicable governmental entity.

On March 6, 2003, the DCA completed its review of the amendment to the proposed land use change and did not recommend approval, due to a problem with consistency, and cited Chapter 163 of the Florida Statutes and Rules 9J-5 and 9J-11 of the Florida Administrative Code.

Ms. Simon concluded her presentation by stating that staff recommended denial of the amendments. However, should Council approve these applications, staff recommended that approval be conditioned upon compliance with the accompanying resolutions and ordinance. She then answered questions from Council, as did Douglas Hess, the City's Traffic Engineer.

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 planning consultant, 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. Joe Cuschieri, an acoustical consultant, stated that the property is not under the flight path; also, non-scheduled noisy aircraft coming into the airport was minimal. He also spoke to the measures to be instituted for noise-level reduction. Joe Price, a real estate appraiser, spoke to the issue of increased property values in Boca Raton, saying that the location of the townhouses was not detrimental and would, in fact, increase value. Mr. Weiner then provided closing remarks in support of the applications.

During the public hearing, Susan Christensen, Andrew Cassus, Robert Livingston, Mark Nessler, Mike Strange, Bill Murwin, Lawrence Davis, Robert Stangro, Grant Linker, Christine Minitelli, Robert Lake, Charlie Helton, Paula Winker, Debbie Murwin, Betty Livingston, Victoria Ross, Peter Ross, and Keith Christensen spoke in support of the petitions. Dale Semple, Marlene Semple, Helen O'Grady, Diane King, Herman Hammer, and Earl Hingson spoke in opposition.

Michael Weiner again reiterated his closing remarks in support of the applications.

Motion was made by Council Member Freudenberg, seconded by Council Member Hager, to adopt Ordinance No. 4682, second revised 4/8/03.

The City Attorney asked for clarification regarding Condition #3 relating to inclusion of the notice in future sales contracts. Henry Frick, general counsel for the Pugliese company, requested that the condition be revised so that the obligation to provide notice to a purchaser applied only to the first sale of the townhome. Ms. Frieser then referred to Page 7, Section (3) of the ordinance and distributed a revision to this condition, proposed by the petitioner and supported by the City Attorney. She clarified that this revision referred to a School Board notice and had nothing to do with the notice relating to noise. She then read the new Condition #3 into the record: "The property owner and all subsequent owners of the property shall include the notice set forth in (2) in all sales contracts regarding the property or any portion thereof provided, however, the foregoing notice requirement shall be fully satisfied with respect to each lot upon the first conveyance of the lot with a completed residence."

Motion was made by Council Member Freudenberg, seconded by Council Member Haynie, to amend Ordinance No. 4682, second revised 4/8/03, to include the new Condition #3 as recited by the City Attorney.

Motion was made by Council Member Hager, seconded by Council Member Haynie, to amend the amendment (Condition #3) to read: "...notice requirement relating to schools shall be fully satisfied...." Motion carried unanimously on a voice vote; Mayor Abrams, Deputy Mayor Whelchel, Council Members Freudenberg, Hager and Haynie voting yes.

The vote on the amendment to the amendment (Condition #3) carried unanimously on a voice vote; Mayor Abrams, Deputy Mayor Whelchel, Council Members Freudenberg, Hager and Haynie voting yes.

The vote on the main motion to adopt Ordinance No. 4682, second revised 4/8/03, as amended, carried unanimously; Mayor Abrams, Deputy Mayor Whelchel, Council Members Freudenberg, Hager and Haynie voting yes.

Motion was made by Council Member Hager, seconded by Council Member Haynie, to adopt Ordinance No. 4683, as revised 4/8/03. Motion carried unanimously; Mayor Abrams, Deputy Mayor Whelchel, Council Members Freudenberg, Hager and Haynie voting yes.

Motion was made by Council Member Haynie, seconded by Council Member Hager, to adopt Resolution No. 44-2003.

Motion was made by Council Member Haynie, seconded by Council Member Hager, to amend Resolution No. 44-2003 to include the same amendment in its entirety (Condition #3) as was adopted for Ordinance No. 4682. Motion carried unanimously on a voice vote; Mayor Abrams, Deputy Mayor Whelchel, Council Members Freudenberg, Hager and Haynie voting yes.

The vote on the main motion to adopt Resolution No. 44-2003, as amended, carried unanimously; Mayor Abrams, Deputy Mayor Whelchel, Council Members Freudenberg, Hager and Haynie voting yes.

Motion was made by Council Member Haynie, seconded by Council Member Hager, to adopt Resolution No. 45-2003. Motion carried unanimously; Mayor Abrams, Deputy Mayor Whelchel, Council Members Freudenberg, Hager and Haynie voting yes.

The meeting recessed at approximately 9:05 p.m. and reconvened at approximately 9:10 p.m.

8. Ordinance No. 4695 (Revised 4/8/03) (Second of two required public hearings)

An ordinance of the City of Boca Raton amending Article XII, Division 2, Code of Ordinances, to add a new Section 28-985 to create a new conditional use to be known as a conditional intermodal node use (a use promoting the movement of people by modes of travel other than the automobile), and certain subordinate conditional uses contained in a conditional intermodal node, in the light industrial research park (LIRP) zoning district; establishing land development regulations for a conditional intermodal node use; providing for severability; providing for repealer; providing for codification; providing an effective date

9. Resolution No. 57-2003 (Quasi-judicial)

A resolution of the City of Boca Raton granting conditional use approval and conditional intermodal node master plan approval for the Boca Raton Tri-Rail Station, Boca Technology Center, on a parcel of land located at 680 Yamato Road, as described more particularly herein; providing for severability; providing for repealer; providing an effective date (CA-03-03)

10. Resolution No. 65-2003 (Quasi-judicial)

A resolution of the City of the City of Boca Raton granting the appeal of the Tri-County Commuter Rail Authority; granting site plan approval for Phase 1 of the Boca Raton Tri-Rail Station, subject to conditions (SPA-03-03); providing for severability; providing for repealer; providing an effective date

The City Attorney reviewed the quasi-judicial procedures that would govern the public hearings. The City Clerk administered the oath to those who indicated they wished to speak on the petitions. Under ex-parte disclosures, Deputy Mayor Whelchel stated that she had spoken with Wendy Larsen.

Senior Planner Jennifer Simon gave three separate and consecutive PowerPoint presentations on the above petitions.

Regarding Ordinance No. 4695, Ms. Simon stated that this was the second and final hearing on the petition to amend the Code to create a new section entitled, "Conditional Intermodal Node." She then reiterated the presentation given at yesterday's workshop. She explained that the ordinance before Council this evening was the final version, which included the modifications proposed by the Planning and Zoning Board, the petitioner for the Tri-Rail station, and staff. As Council had reviewed this ordinance on a number of occasions, Ms. Simon provided a summary, highlighting the content of the ordinance. The table outlined specific requirements for conditional intermodal nodes and accessory transit-oriented retail personal service uses, which provided regulations relating to size, setbacks and location, height and

parking. Ms. Simon concluded her presentation on Ordinance No. 4695 by stating that staff recommended approval.

Regarding Resolution No. 57-2003, Ms. Simon provided the precise location of the property in question and stated that the Tri-Rail station site encompassed a total of 9.95 acres; zoning information was also outlined. The proposed master plan for the Tri-Rail station, comprised of two phases of development, was delineated. The first phase consisted of the construction of an additional access point from Yamato Road into the site, the station platform, covered walkway, entry plaza, parking, and bus and taxi drop-off areas. The second phase of the master plan would consist of 20,000 square feet of retail and 40,000 square feet of office development. It was noted that the retail component would require a modification to the approved Development Order for the Boca Technology Center DRI. As a result, the retail portion would require a subsequent action by Council to determine whether a substantial deviation is required. Additional details related to the access point from Yamato Road were provided; since this "right in – right out" access driveway was not a part of the originally approved Boca Tech DRI, it would also require a subsequent action by Council. Ms. Simon detailed information related to easements and stated that relocation of the gopher tortoise and conservation easement must be accomplished before the building permit may be issued for Phase I; this proposed relocation would also require subsequent action by Council. Planning and Zoning reviewed the petition and recommended approval with conditions, which were incorporated into the resolution. In conclusion, staff also recommended approval.

Regarding Resolution No. 65-2003, Ms. Simon explained that Wendy Larsen, the authorized agent for the proposed Tri-Rail station, had petitioned for an appeal of the Planning and Zoning (P & Z) Board decision rendered March 20, 2003, which granted site plan approval for Phase I of the Tri-Rail station. This site plan was originally approved by the P & Z Board with conditions that were consistent with the proposed intermodal node ordinance. Several sections of the ordinance have changed, thereby rendering the site plan approval inconsistent with the ordinance. Ms. Larsen requested that the appeal be granted and approval given for the Tri-Rail station, subject to the following conditions: 1) parking to be provided in accordance with the formula recommended by staff and as provided by Ordinance No. 4695, 2) transit retail to be provided in accordance with the staff recommended amendments to Ordinance No. 4695, 3) Conditions 2 and 3 to be modified to add the following language at the end of both conditions: "...or pursuant to any other lawful means under the provisions of Chapter 380;" 4) the deletion of Condition 8, and 5) amending of Condition 13 to add: "The City Engineer may approve the connection as an intermediate driveway if the petitioner has submitted projected driveway volumes which justify that design." In response, staff prepared Resolution No. 65-2003, granting the appeal with the following modifications: 1) modification of Conditions 2 and 3, relating to the provisions of Chapter 380, Florida Statutes, 2) modification of Condition 8 to require a concurrency determination for the accessory transit-oriented retail portion of the project only, 3) creation of a new Condition 9 that allows for an additional 10,000 square feet of retail, provided specific conditions are met, and 4) Condition 13 (which now corresponds to Condition 14 due to modifications to the resolution) has not been modified and remains the same. Ms. Simon then concluded her presentation.

The public hearings on the three petitions were conducted contemporaneously. Charles Siemon, the attorney representing Tri-Rail, stated that this project would make a difference in traffic. He added that his client had no problem with the site plan and emphasized that the transit-oriented retail component was a fundamental part of the economics and the function of the facility. Mr. Siemon provided additional concluding remarks in support of the project.

Motion was made by Council Member Haynie, seconded by Deputy Mayor Whelchel, to adopt Ordinance No. 4695, as revised. Motion carried unanimously; Mayor Abrams, Deputy Mayor Whelchel, Council Members Freudenberg, Hager and Haynie voting yes.

Motion was made by Council Member Hager, seconded by Council Member Haynie, to adopt Resolution No. 57-2003, as revised. Motion carried unanimously; Mayor Abrams, Deputy Mayor Whelchel, Council Members Freudenberg, Hager and Haynie voting yes.

Motion was made by Council Member Haynie, seconded by Council Member Hager, to adopt Resolution No. 65-2003, as revised. Motion carried unanimously; Mayor Abrams, Deputy Mayor Whelchel, Council Members Freudenberg, Hager and Haynie voting yes.

REGULAR BUSINESS – PART III – REGULAR PUBLIC HEARINGS:

11. Ordinance No. 4693 (Revised 4/8/03) (Continued from 3/25/03)

An ordinance of the City of Boca Raton, Florida, authorizing the negotiation of a loan in an aggregate amount not to exceed \$3,000,000 from the First Florida Governmental Financing Commission; approving the refinancing of a prior loan made by the Commission to the City; approving the execution and delivery of a loan agreement with the First Florida Governmental Financing Commission; approving the execution and delivery of an Escrow Deposit Agreement; approving the execution of and delivery of a Continuing Disclosure Certificate; providing certain other matters in connection with the making of such loan; and providing an effective date

Financial Services Director Mervyn Timberlake gave the Powerpoint presentation. He explained that a 1993 bond issue would be refinanced with the First Florida Governmental Commission. This is the second time these particular bonds would be refunded. The bonds were originally issued in 1990. In 1993, the City undertook an advance refunding; this year, since the bonds are callable on July 1, 2003, the City is allowed to perform a current refinancing. The bonds were issued for \$5,300,000 for downtown transportation projects. Prior and current interest rates were then reviewed. Mr. Timberlake explained that refinancing of the bonds would result in savings of over \$255,000 over the life of the bonds; the Transportation Fund would pay the debt service on the bonds. Projected Debt Service Savings were outlined and additional information was provided. Mr. Timberlake noted that this ordinance also includes a very detailed revised, loan agreement. This financing would represent new money for Sarasota and Hollywood; the refinancing would occur for Broward County and Boca Raton. The closing is expected during the week of April 29; the underwriter would be selected this Friday. Mr. Timberlake stated that bond counsel was present this evening to answer any questions regarding the loan agreement, since that document had experienced many revisions.

No one wished to speak at the public hearing.

The City Attorney clarified that 1) the ordinance now contains a revised loan agreement (revised 3/27/03), and 2) the motion includes additional revisions to the agreement, which were distributed to Council yesterday. She also noted that the ordinance contained the prior meeting date of March 24, 2003 and would need to be revised to April 8, 2003. Prior to the vote on Ordinance No. 4693, Mayor Abrams confirmed with Council that the motion would include the revisions noted above.

Motion was made by Council Member Freudenberg, seconded by Council Member Hager, to adopt Ordinance No. 4693, as revised. Motion carried unanimously; Mayor Abrams, Deputy Mayor Whelchel, Council Members Freudenberg, Hager and Haynie voting yes.

12. Ordinance No. 4694

An ordinance of the City of Boca Raton providing for the vacation and abandonment of a utility easement, located at 777 and 829 Bailey Street, as more specifically described herein; providing conditions for vacation and abandonment; providing for severability; providing for repealer; providing an effective date (E-02-EA-06)

Property Appraiser/Specialist Lynn Bodor gave the PowerPoint presentation. She explained that the applicant had petitioned to abandon portions of a 5-foot wide platted utility easement, which would conflict with the proposed construction of two new homes on the north side of Bailey Street, east of Federal Highway. The proposed abandonment area comprises approximately 883 square feet. An aerial photograph was provided for Council's review. Ms. Bodor stated that the Directors of Utility and Municipal Services and all affected franchised utility companies had been contacted; they all support the abandonment. However, Florida Power & Light and BellSouth imposed conditions that the petitioner, at

his/her sole expense, must relocate their utilities and grant easements over the relocated utilities. Code Enforcement was also contacted; no code violations were found. In conclusion, staff recommended approval, subject to the relocation condition as outlined in the ordinance.

No one wished to speak at the public hearing.

Motion was made by Council Member Freudenberg, seconded by Council Member Hager, to adopt Ordinance No. 4694. Motion carried unanimously; Mayor Abrams, Deputy Mayor Whelchel, Council Members Freudenberg, Hager and Haynie voting yes.

13. Ordinance No. 4696

An ordinance of the City of Boca Raton amending Section 8-46, Code of Ordinances, to increase the occupational license tax rates therein; providing for severability; providing for repealer; providing for codification; providing an effective date

Development Services Manager of Administrative Services Ruby Childers gave the PowerPoint presentation. She explained that this ordinance proposed a 5% increase in the occupational license tax and that a super-majority vote would be needed to adopt the ordinance. Ms. Childers provided background information regarding license classifications and the ability of the City to initiate increases as allowed by Florida Statutes. It was noted that, while other cities have increased taxes since 1995 on as many as four occasions, the City of Boca Raton has increased taxes only once - in Fiscal Year 2000. Flat tax rates were also compared with other municipalities. Of those cities surveyed, results showed that Boca Raton has the lowest minimum and maximum tax rate; additional details were provided.

The proposed increase would raise the majority of licensed tax amounts from \$105 to \$110, rounded to the nearest dollar, and result in an estimated \$48,000 in additional revenue. The Financial Advisory Board reviewed the ordinance and unanimously recommended approval. In summary, staff also recommended approval. Ms. Childers concluded her presentation and answered questions from Council.

No one wished to speak at the public hearing.

Motion was made by Council Member Hager, seconded by Deputy Mayor Whelchel, to adopt Ordinance No. 4696. Motion failed 3-2; Deputy Mayor Whelchel, Council Members Hager and Haynie voting yes. Mayor Abrams and Council Member Freudenberg voting no.

14. Ordinance No. 4697

An ordinance of the City of Boca Raton authorizing the sale of a parcel of land consisting of approximately 0.38 acre and located at 4300 and 4370 N.W. 2nd Avenue; providing for severability; providing for repealer; providing an effective date (SC-02-20)

Property Appraiser/Specialist Lynn Bodor gave the PowerPoint presentation. She stated that the petitioner wished to purchase two parcels of City-owned land, located on the east side of Boca Raton Boulevard between Spanish River Boulevard and N.W. 45th Street. Ms. Bodor provided background history on the land and explained that the size of the site is 16,728 square feet in an irregular configuration and would support only one dwelling unit. The petitioner owns the property north of the site. In December 2002, an independent appraisal valued the property at \$22,000; consequently, the petitioner signed an agreement for that amount and submitted a 10% deposit.

All appropriate City departments were contacted. Recreation Services reviewed the request in accordance with the City's Comprehensive Plan and found that the property is located in Planning Area 5, which lacks public park acreage. In October 1998, the Parks and Recreation Board identified the site and an ideal location for shaded green space. Currently, the site is part of a pocket park, which has been sodded and planted with trees. Consequently, Recreation Services recommended that the land not be sold. In addition, the Planning and Zoning Board has also recommended denial of the petition.

Ms. Bodor noted that a second agreement and deposit had been submitted to the City by Oak Circle Condo Association, which abuts the property in question from the east. She concluded her presentation by stating that staff recommended denial of the petition, based on the recommendation of Recreation Services and then answered questions from Council.

The applicant, James Muro, explained that he wished to purchase the property in order to provide adequate parking for a handicap-accessible van.

Skip Jackman came forward to oppose the sale, stating that the land should remain as a park.

Motion was made by Council Member Freudenberg, seconded by Council Member Hager, to adopt Ordinance No. 4694. Motion failed unanimously; Mayor Abrams, Deputy Mayor Whelchel, Council Members Freudenberg, Hager and Haynie voting no.

Council confirmed with Planning and Zoning Director Carmen Annunziato that it was possible to initiate a license agreement for parking in order to accommodate Mr. Muro's needs without the City selling the land.

15. Ordinance No. 4698

An ordinance of the City of Boca Raton authorizing the sale of a parcel of land consisting of approximately 0.17 acre and located at 3743 N.W. 4th Avenue; providing for severability; providing for repealer; providing an effective date (SC-02-19)

Property Appraiser/Specialist Lynn Bodor gave the PowerPoint presentation saying that the petitioner wished to purchase the site, located on the west side of N.W. 4th Avenue and south of N.W. 38th Street. She then provided background information on the land, stating that it was too small for development under its R-1-D zoning. However, a variance was obtained in May 2002, which turned the parcel into a developable site. In November 2002, two independent appraisals valued the site at an average of \$41,450. The petitioner, who lives north of the site and has maintained same since 1992, has applied to purchase the property for \$42,000. An agreement has been signed and a 10% deposit has been submitted.

All appropriate City departments were contacted; there were no objections to the sale. In addition, the Planning and Zoning Board unanimously recommended the petition. In conclusion, staff recommended approval of the purchase for not less than \$42,000.

No one wished to speak at the public hearing.

Motion was made by Council Member Hager, seconded by Council Member Haynie, to adopt Ordinance No. 4698. Motion carried unanimously; Mayor Abrams, Deputy Mayor Whelchel, Council Members Freudenberg, Hager and Haynie voting yes.

16. Ordinance No. 4700

An ordinance of the City of Boca Raton creating a uniform procedure for appointment of legal counsel for City boards; amending Section 2-447, Code of Ordinances, to provide that the City Attorney shall appoint attorneys as board counsel for City boards and set compensation for such counsel; amending the Code of Ordinances to repeal the existing provisions for appointment of board counsel for the Builders' Board of Adjustment and Appeals, the Code Enforcement Board, the Zoning Board of Adjustment, and the Civil Service Board (as set forth in Article 16, Section 2(G) of the Personnel Rules and Regulations); providing for severability; providing for repealer; providing an effective date

The City Attorney gave a brief presentation, explaining that this ordinance represented an "administration clean-up." Specifically, the ordinance would centralize the appointment of board counsel through the City

Attorney's office in order to effect a more consistent and uniform procedure than what is currently in existence. Ms. Frieser then answered questions from Council.

No one wished to speak at the public hearing.

Motion was made by Council Member Hager, seconded by Council Member Haynie, to adopt Ordinance No. 4700. Motion carried unanimously; Mayor Abrams, Deputy Mayor Whelchel, Council Members Freudenberg, Hager and Haynie voting yes.

17. Ordinance No. 4701 (Revised 4/8/03)

An ordinance of the City of Boca Raton relating to Substance Abuse Treatment Facilities; amending Section 28-2, Code of Ordinances, to revise the definition of Substance Abuse Treatment Facilities; amending Section 28-197, Code of Ordinances, to modify the time period for compliance with Ordinance No. 4649 applicable to a facility that existed as of May 29, 2002; providing for severability; providing for repealer; providing for codification; providing an effective date

The City Attorney explained that passage of this ordinance would serve two functions: 1) to clarify, consolidate and refine the definition of Substance Abuse Treatment Facilities, and 2) to delay enforcement of the ordinance, due to current, ongoing litigation, until resolution of that litigation. Ms. Frieser provided details regarding same. She also stated that, since it appears there will be no change in the opposing party's position in this litigation until after the case is resolved, their ability to claim damages in connection with this lawsuit would be significantly reduced; this is another goal to be achieved by this ordinance. Ms. Frieser then answered questions from Council.

No one wished to speak at the public hearing.

Motion was made by Deputy Mayor Whelchel, seconded by Council Member Hager, to adopt Ordinance No. 4701, as revised. Motion carried 4-0; Mayor Abrams, Deputy Mayor Whelchel, Council Members Hager and Haynie voting yes. Council Member Freudenberg was not present for the vote.

REGULAR BUSINESS – PART IV – REGULAR PUBLIC HEARINGS/SETTLEMENTS:

There were no items for consideration.

REGULAR BUSINESS – PART V - INTRODUCTION OF ORDINANCES:

18. Ordinance No. 4702

An ordinance of the City of Boca Raton relating to conditional approvals pursuant to Article VI, Chapter 23, Code of Ordinances ("conditional approvals"); providing for the automatic expiration of certain conditional approvals, including but not limited to conditional approvals which grant a residential future land use element map designation for residential zoning, for developments for which building permits have not been sought or obtained; providing for severability; providing for repealer; providing for codification; providing an effective date

The ordinance was introduced by Council Member Haynie.

REGULAR BUSINESS - PART VI - PUBLIC REQUESTS:

No one came forward to speak.

REGULAR BUSINESS - PART VII- RESOLUTIONS AND OTHER BUSINESS:

19. Resolution No. 69-2003

A resolution of the City of Boca Raton requesting that the 2003 Florida Legislature enact Senate Bill 686 and House Bill 121, which bills redesignate the Tri-County Commuter Rail Authority as the South Florida Regional Transportation Authority ("Authority"); revise the powers and duties of the Authority regarding planning and operating a transit system, and authorize the levy of an annual license user fee upon registration or renewal of registration of motor vehicles to be used for Authority purposes; providing for severability; providing for repealer; providing an effective date

Council Member Freudenberg explained that he was bringing forward this resolution at the request of the Metropolitan Planning Organization (MPO). This resolution requests that the Florida Legislature enact legislation that would redesignate the Tri-County Commuter Rail Authority as the South Florida Regional Transportation Authority (RTA) and provide for a funding mechanism for the counties that would then make it possible to apply for federal funds. The resolution supports a nominal tax (\$2 annually on license plate fees), which is expected to raise approximately \$8 million for the RTA. Mr. Freudenberg stated that the RTA is imperative for the Tri-County area; alternate funding could only come from road construction budgets, which would impair other projects.

Motion was made by Council Member Freudenberg, seconded by Council Member Haynie, to adopt Resolution No. 69-2003.

Motion was made by Mayor Abrams, seconded by Council Member Freudenberg, to amend Resolution No. 69-2003, using language generally consistent with the following: on Page 2, Line 2, to read, "...transit system, and authorize at the option of the affected Counties the levy of a \$2 annual license" and Page 2, Line 3, to read, "...Authority purposes, including relieving traffic congestion, now therefore...." Motion carried unanimously; Mayor Abrams, Deputy Mayor Whelchel, Council Members Freudenberg, Hager and Haynie voting yes.

The vote on the main motion, as amended, carried unanimously; Mayor Abrams, Deputy Mayor Whelchel, Council Members Freudenberg, Hager and Haynie voting yes.

QUASI-JUDICIAL PUBLIC HEARING/APPEAL OF BOARD DECISION:

There were no items for consideration.

CITY MANAGER RECOMMENDATIONS AND REPORTS:

The City Manager had nothing to report at this time.

CITY ATTORNEY REPORTS:

The City Attorney had nothing to report at this time.

MAYOR AND COUNCIL MEMBER REPORTS:

Council Member Haynie referenced comments made by citizens at the public hearing this evening and requested that staff re-examine the median cuts on Spanish River Boulevard to address those concerns. Council Member Freudenberg added that residents in the same Spanish River neighborhood said there was currently a problem with off-road vehicles accessing undeveloped property at Spanish River Boulevard, west of 5th Avenue. Prior to the road construction, a guardrail had provided an impediment to these vehicles. Mr. Freudenberg questioned whether the guardrail had been re-installed. Mr. Ahnell responded to both items, explaining that staff is currently reviewing the median openings on Spanish River Boulevard and the guardrail has been ordered.

Council Member Haynie mentioned the warrant study being conducted for the area at NW 9th Court and NW 13th Street, and asked for an update on same.

Deputy Mayor Whelchel expressed that she was in agreement that the traffic concerns of the Spanish River neighborhoods need to be addressed.

Council Member Hager expressed excitement that the Central Beach Renourishment project was moving forward in an effort to preserve the beach, which is an important asset to the City. He also expressed appreciation to Mayor Abrams for his leadership in this matter.

Mayor Abrams commented positively on Fire-Rescue Services donation drive, which is being conducted County-wide with other fire departments, to collect "care package" items for the U.S. troops overseas. To date, approximately two tons of items have been sent to the military, and the donation drive is still underway. He noted appropriate items. Mayor Abrams thanked those citizens who've participated and Fire-Rescue for coordinating the effort.

Council Member Freudenberg voiced condolences to the family and friends of Dr. William Welhaf, the Medical Director for Boca Raton Fire-Rescue Services, who recently passed away.

ADJOURNMENT:

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

The regular meeting of the City Council of the City of Boca Raton adjourned at approximately 10:40 p.m. on Tuesday, April 8, 2003.

Steven L. Abrams, Mayor

ATTEST:

Sharma Carannante, City Clerk