

MINUTES OF THE REGULAR WORKSHOP MEETING
CITY COUNCIL
BOCA RATON, FLORIDA
MONDAY, APRIL 7, 2003
1:00 PM

The regular workshop meeting of the City Council of the City of Boca Raton, Florida was called to order by Mayor Abrams at 1:00 p.m.

ATTENDING THE MEETING WERE:

Mayor Steven 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

1. BOARD INTERVIEWS:

- 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.

No one came forward to interview.

- 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.

Alfred Gladstone, Lawrence M. Sehres and Steve Utrecht interviewed for the positions.

Addison Mizner Elementary School

Fred Schwartz, a representative of the PTA and the School Advisory Council from Addison Mizner Elementary School spoke to the issue of the Interlocal School Concurrency Agreement and the three options that would bring Addison Mizner into compliance. He asked for Council's support for Option 3, which proposes the school to accommodate the existing population by adding permanent housing in place of portables. John Holland, also a representative of the PTA and the School Advisory Council, concurred with Mr. Schwartz and provided data in support of why it was the best option. Mr. Holland concluded his remarks by referencing Resolution No. 209-2000, which opposed changing boundary lines, and asked that Council pass a resolution asking the School Board to bring Addison Mizner into compliance by adding classrooms.

Mr. Schwartz and Mr. Holland answered questions from Council. Mayor Abrams asked the City Attorney to prepare a resolution for consideration tomorrow night showing City's support for building additional classrooms at Addison Mizner Elementary School. Ms. Haynie received confirmation that room exists on the grounds at Addison Mizner to build the suggested classrooms.

Florida Power & Light

Christopher Wheeler, the attorney representing FPL, provided opening comments related to FPL's search for alternate power line routes, as requested by Council several months ago. He then introduced Rod Macon, Regional Manager for FPL, to provide additional information on the newly proposed route.

Mr. Rod Macon gave a PowerPoint presentation on the proposed alternate route and provided an overview of same. It would extend from the Rainberry substation from 441 to Palmetto Park Road to Military Trail, up the west side to the north side of Butts Road, following Butts Road until crossing over Military Trail, then up the east

side of Military Trail to the vicinity of Clint Moore Road. The route then jogs a bit to the Marymount substation and finally ends at the Yamato substation. Mr. Macon reviewed the proposed route in conjunction with existing lines and gave details as to how improvements could be made. He stated that FPL was considering two alternatives, which would provide improvement opportunities: 1) the transmission line inside Boca Bath & Tennis would be removed and collocated with a new line along Butts Road, and 2) an existing transmission line would be eliminated and a new one constructed along the CSX railroad corridor. Those alternatives require authorizations from either the Lake Worth Drainage District or the entity that has jurisdiction over that segment of the CSX corridor.

Mayor Abrams stated that neither the City nor the residents received advance notice of these new plans. Mr. Macon acknowledged that and apologized for same, saying that FPL would be in contact with affected residents soon. He then answered questions from Council, which touched on improved communication with the City and residents, specifically, Paradise Palms and Boca Bath & Tennis; the aesthetic and health benefits of removing existing lines and constructing new ones; the types of poles to be used; the possibility of undergrounding the lines; and the probability of obtaining authorization for installation of these new lines along the railway corridor. Regarding the placement of lines along Boca Bath & Tennis, it was suggested that they be installed on the south side of Butts Road instead of the north side. Mr. Macon stated that a tree canopy exists on the south side, which might be a problem.

John Mulhall, the attorney representing Boca Bath & Tennis Homeowners Association, voiced that his client had not been consulted in regard to this new route. There was also concern that all other possibilities are "off the table."

Barbara Hill, President of the Board of Directors of Boca Bath & Tennis Homeowners Association, voiced opposition to the new route. She stated that residents were not informed prior to Thursday, when they read about the proposed route in the newspaper.

Craig Zobel, representing Paradise Palms Homeowners Association, concurred with comments already made and expressed concern that the CSX Railroad route might not be feasible. He was concerned that more study was needed and that the Florida Department of Transportation, who he states has jurisdiction over the railway corridor, had not yet been contacted. Mr. Zobel asked Council to have FPL study the CSX option more intimately in order to avoid a "default" to the new route that is depicted in FPL's presentation as the "red" route.

Chuck Luciano, President of The Preserve Homeowners Association and a realtor, voiced concern over decreasing property values, due to the proposed route, and frustration at the lack of notice by FPL. He also noted that the proposed lines would run along the east side of his community.

Karen Posner, 6535 NW 40 Ct, explained that she lived along the original route and stated that she fought against it because three schools would be affected: Calusa Elementary, Omni Middle School, and Spanish River High School. Ms. Posner suggested that Council put a referendum question before the voters and ask Boca Raton residents to underground all lines in the City.

Marie Moran suggested that tall power lines would be a hazard to low-flying planes.

Ken Ellis stated that the new route would transmit approximately 230,000 volts. He questioned the amount of voltage currently being transmitted on the existing line and asked for clarification regarding whether both the existing and proposed lines would be collocated to the CSX corridor, if permission could be obtained to do so. Mr. Macon replied that the current line transmits 138,000 volts and disclosed that existing transmission lines, depicted as the "yellow route" in the presentation, are the only lines that FPL would seek to move to the railway corridor; the "red route" would remain as depicted.

Ron Lakey, a FPL shareholder and a resident of Boca Bath & Tennis, said he requested public records relating to FPL from Council Member Freudenberg, who had not had time to obtain same for the meeting today. He asked that City Council request that FPL make all records on deliberations regarding a route for the new transmission lines available to either the Council or the Public Service Commission so that they would become public documents.

Bobbi Miller questioned why FPL could not consider running the line along 441 to Clint Moore and then to Yamato and up Congress behind Costco.

Tom Mersh, a resident of Boca Bath & Tennis, voiced surprise over the new route, saying no one knew about it. He was concerned over the effect these transmission lines might have on the large number of children living in Boca Bath & Tennis. He urged consideration of other alternatives.

Mayor Abrams stated he heard about the new route only last week and echoed disappointment regarding FPL's lack of communication. He urged FPL to meet with all affected homeowners and asked the City Manager to appoint a member of his staff as a liaison in this matter. He then explained that, currently, there is a request from FPL to introduce an ordinance related to the current fifty-foot height restriction, but Council contemplates no action in that regard at this time.

Craig Zobel suggested the City require several different proposals from FPL for consideration. Mayor Abrams explained that, while the City has some leverage, state law traditionally favors utility companies.

A recess was taken at 2:30 p.m.; the meeting reconvened at approximately 2:40 p.m.

2. PUBLIC REQUESTS:

John Stetz again spoke in support of constructing breakwaters, stating that the City's current beach renourishment efforts are simply taking care of the symptoms of erosion – not the disease. He stated that breakwaters also provide a good habitat for marine life.

3. REVIEW OF REGULAR AGENDA ITEMS:

a. Questions relating to the agenda.

(Consent Agenda Item 3.a.1. – Hurricane Shutters) Council Member Haynie mentioned that the newly acquired building at 6500 Congress Avenue would be hardened to hurricane standards and questioned whether the City or the County would have operational jurisdiction over the building as a shelter. Mr. Ahnell confirmed that the City would harden the structure and stated that its use would be at the City's discretion.

(Consent Agenda Item 3.d. – Resolution No. 59-2003 / Work Order No. 1 with The Land Stewardship Company relating to Meadows Park Pool) Council Member Haynie questioned when the pool would be shut down. Mr. Ahnell is to follow up. Deputy Mayor Whelchel commented that having the pool shut down in the summer would be inconvenient. Mr. Ahnell explained that, during a closure, the City would shift programs to other facilities and, in general, do whatever is necessary to ensure that there is no interruption in swim programs.

(Consent Agenda Item 3.f. – Resolution No. 61-2003 / Grant application to the Federal Emergency Management Agency for equipment to implement a fire ground safety program) Council Member Hager questioned what type of track record the City had in successfully obtaining grants. Mr. Ahnell replied that the City has been generally successful.

(Agenda Item 13 – Ordinance No. 4696 / Code amendment to increase the occupational license tax rates) Council Member Hager questioned whether the City's underlying costs were included in this request for an increase. Mayor Abrams mentioned that a workshop presentation was forthcoming, which would provide an opportunity to obtain answers.

Mayor Abrams explained that there are possible additions to tomorrow night's agenda: a resolution regarding funding of a Regional Transportation Authority that is being brought forward by Council Member Freudenberg; and a resolution approving a second amendment to the agreement with Advanced Data Processing.

Mayor Abrams asked if the two cases regarding sale of city-owned property were conducted as quasi-judicial hearings at the Planning and Zoning Board. Ms. Frieser is to follow up.

- b. Ordinance Nos. 4682 & 4683, Resolution Nos. 44-2003 & 45-2003 (*Regular Agenda Items 4 – 7*), which relate to petitions for certain property at 550 Spanish River Boulevard and the proposed Villas at Spanish River Planned Unit Development.

Development Services Senior Planner Jennifer Simon gave the PowerPoint presentation, explaining that tomorrow night would constitute the second and final hearing on the petition for conditional use approval. She stated that this approval includes an amendment to the future land use element of the comprehensive plan, a rezoning, site plan approval, PUD master plan approval, and tentative plat approval to build 202 3-story townhouses at 550 Spanish River Blvd. Ms. Simon gave a synopsis of the last public hearing, held December 10, 2002, which resulted in approval for transmittal of the amendment with the condition that the units be reduced from 227 to 202, effectively modifying the zoning designation and the future land use category from Residential High to Residential Medium. Location, acreage and current zoning for the property in question was provided. Ms. Simon then detailed the petitioner's proposed changes regarding zoning and land use. In order to develop the townhomes as proposed, referred to as the Villas of Spanish River, the petitioner proposed to re-align the existing NW 5th avenue at 35th Street and create a cul-de-sac at either Spanish River Boulevard or NW 35th Street. The realigned NW 5th Avenue would extend through the center of the development, dividing the site into two east and west sections. To complete the construction, the petitioner must purchase an existing vacant lot, Parcel U, generally located at the entrance of the El Rio Trail near NW 35 Street, and construct all necessary roadway improvements. The townhomes would be 33 feet in height, include balconies on the second floor, and two-car garages.

Ms. Simon provided the recommendations of all of the City boards that were required to review the various aspects of the petitions; recommended conditions were incorporated into the legislation, as appropriate. It was noted that the Boca Raton Airport Authority reviewed the project and unanimously approved a resolution, which found the development incompatible with the airport. The Authority subsequently reviewed information brought forward after the first (transmittal) public hearing, which was conducted in December 2002, and reaffirmed its position in January 2003. Ms. Simon also provided results of the review conducted by the Planning & Zoning Board, whose members ultimately recommended denial of the application. On March 6, 2003, the Florida Department of Community Affairs (DCA) completed its review of the amendment to the proposed land use change and did not recommend approval; Ms. Simon provided details relating to same. She explained that staff did not recommend the proposed project as revised, citing inconsistency with the Comprehensive Plan and the close proximity to the airport. Additional factors supporting staff's conclusion were outlined. Ms. Simon stated that, should Council choose to approve the applications, staff recommended that the approval be conditioned upon compliance with conditions stated in the accompanying resolution and ordinances. It was noted that Condition 32, regarding avigation easements, was revised; Ms. Simon read same into the record. She concluded her presentation and answered questions from Council.

Due to technical difficulties with the PowerPoint presentation for Ordinance No. 4695 & Resolution 57-2003 (Agenda Item c.), the agenda was reordered and the presentation on Ordinance No. 4696 (Agenda Item d.) was considered next.

- d. Ordinance No. 4696 (*Regular Agenda Item 13*), which would amend the Code of Ordinances to increase the occupational license tax.

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 FY 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 license 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. Staff also recommended approval. Ms. Childers concluded her presentation and answered questions from Council.

- c. Ordinance No. 4695 & Resolution 57-2003 (Regular Agenda Items 8 & 9), which relate to establishment of a Tri-Rail station at Boca Technology Center.

Development Services Senior Planner Jennifer Simon gave the PowerPoint presentation, explaining that the second and final hearing would be conducted tomorrow night on the petition to amend the Code to create a new section entitled, "Conditional Intermodal Node," within the LIRP zoning district. The amendment is being processed in conjunction with an application for a conditional intermodal node master plan and site plan for a new Boca Raton Tri-Rail Station to be located within the Boca Technology Center Development of Regional Impact. The amendment was originally proposed by Tri-Rail and was introduced by Council on February 25, 2003. Staff was subsequently directed to review the ordinance, propose modifications, and forward the ordinance to the Planning and Zoning Board (P&Z Board) for the March 20, 2003 public hearing. The Planning and Zoning Board reviewed the introduced ordinance and the modified staff version of the ordinance. The P&Z Board voted to approve the modified staff version with two changes: (1) modify (5)(b) to read: "In the aggregate, accessory transit oriented retail/personal service uses within a node shall not exceed 10,000 square feet..." instead of 20,000 square feet, and (2) delete (5)(h), which allows parking for accessory transit oriented retail/personal services uses to be provided at a rate of 15% of the number of required parking spaces, per Code.

On March 25, 2003, Council held the first of two public hearings on the proposed Code amendment, reviewing both the introduced ordinance and the staff-modified version with the reduction of square footage; the second change regarding deletion of Section (5)(h), as noted above, was not supported by Council. Additional language to the staff-modified ordinance was suggested. In addition, the petitioner requested that Council consider the elimination of a "private dedicated street" mentioned in the staff-modified ordinance. Ultimately, staff was directed to incorporate these changes into the staff-modified ordinance for consideration at the April 8, 2003 meeting. Based on advice from the City Attorney's office, staff again revised Section (5)(b), relating to the square footage, and read same into the record.

Ms. Simon directed attention to the slides presented and stated that the purpose of the conditional intermodal node is to foster the development of facilities that promote the movement of people by modes of travel other than the private automobile. She then reviewed the specific requirements for conditional intermodal nodes; permitted uses in conditional intermodal nodes were reviewed as well. A definition of accessory transit oriented retail/personal services uses followed and special standards for same were outlined. Ms. Simon concluded her presentation by stating that staff recommended approval.

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

There were no items for consideration.

5. CITY MANAGER REPORTS:

L-49 Canal Vegetation Removal

A memorandum from Assistant City Manager George Brown, dated April 6, 2003, regarding the above, was distributed to Council for review. Mr. Ahnell explained that in November, the City notified the Lake Worth Drainage District (LWDD) that conflict resolution procedures, pursuant to Florida Statutes, would be instituted in regard to the clearing of the L-49 Canal, located between SW 15th and SW 12th Avenues. The City and the LWDD subsequently met and reached an agreement on a mutually acceptable clearing plan; Mr. Ahnell outlined the details of same and then answered questions from Council. Responding to Council, Mr. Ahnell explained that staff would monitor any work being done by the LWDD, which was expected to begin today.

6. CITY ATTORNEY REPORTS:

The City Attorney had nothing to report at this time.

7. MAYOR AND COUNCIL MEMBER REQUESTS AND REPORTS:

Deputy Mayor Whelchel confirmed that a resolution would be brought forward tomorrow night relating to Addison Mizner Elementary School. On the subject of FPL, Ms. Whelchel concurred with Mr. Hager's earlier statement regarding Mayor Abrams taking the lead to ensure effective communication between FPL, the City, and the residents. She also suggested that the City might wish to evaluate the cost of undergrounding the transmission lines. Mr. Ahnell explained that staff has information regarding the cost of undergrounding; he is to provide this information to Council Member Whelchel.

Council Member Hager gave thanks to the residents that came forward to be heard on the FPL and school concurrency issues.

Council Member Haynie questioned whether there was an update on the citrus canker issue. The City Attorney said there was nothing to report at this time. All briefs have been filed with the Florida Supreme Court and the City is awaiting the Court's decision on the request for stay. She added that the Court did expedite the briefing schedule – an indication that the Court is sensitive to the timing, no date has yet been set for a decision. Ms. Frieser voiced hope that a decision would be forthcoming sooner rather than later.

Ms. Haynie referenced an informal citrus canker meeting, which took place last week, and then questioned whether a citrus canker meeting at the South County Center tomorrow night had been called by the Department of Agriculture (DOA). Mr. Ahnell explained that the DOA had sanctioned tomorrow's meeting.

Council Member Haynie requested an update on the Ambers Restaurant, Renzos and Kingsbridge Square, observing that progress has not been made in bringing those properties into compliance with Code. Consequently, she stated she is inclined to bring forward the "eyesore" ordinance she once contemplated. Mr. Ahnell stated that the structure at One North Ocean has been declared an unsafe structure. The City is trying to get the new owners to demolish the building; an update was expected soon. Mr. Ahnell explained that information on those properties would be forthcoming in the Friday packet.

Council Member Freudenberg reported on the MPO meeting, which he and Council Member Haynie attended. He explained that the Regional Transportation Authority (RTA) needs funding. The counties proposed a \$2 tax on license plates; however, that suggestion was not supported by the legislators in Tallahassee. Consequently, Mr. Freudenberg advised he is bringing forward a resolution tomorrow night urging the legislators to let the counties decide how to fund the RTA.

Mr. Freudenberg focused on the FPL transmission line issue and referenced their analysis, reiterating that he considered it to be flawed. He maintained that he only had a passive role in the selection of the alternate route; he did not promote any one specific area.

Mayor Abrams reiterated that the City Manager would appoint a staff liaison to oversee the FPL matter and stated that he would assist in any way possible.

Mayor Abrams then reported that the City of Boca Raton was the recipient of two Communicator Awards, a national competition whereby those in the communications field are recognized by their peers for outstanding achievements. One award was in the video category, specifically, the Boca Heat video focusing on hurricane awareness. The second award related to the Fall 2002 newsletter, which received Honorable Mention. He congratulated fire-rescue staff and the City's video producer/multimedia specialists for bringing credit to the City of Boca Raton.

The regular workshop meeting of the City Council of the City of Boca Raton, Florida, adjourned at approximately 4:00 p.m. on Monday, April 7, 2003.

Vanessa Hines, Assistant City Clerk

