

City of Delray Beach

Regular Commission Meeting

AGENDA RESULTS



RULES FOR PUBLIC PARTICIPATION

Monday, March 5, 2007

Regular Meeting 6:00 p.m.
Public Hearings 7:00 p.m.
Commission Chambers
Delray Beach City Hall

1. PUBLIC COMMENT: The public is encouraged to offer comments with the order of presentation being as follows: City Staff, public comments, Commission discussion and official action. City Commission meetings are business meetings and the right to limit discussion rests with the Commission. **Generally, remarks by an individual will be limited to three minutes or less.** The Mayor or presiding officer has discretion to adjust the amount of time allocated.

- A.** Public Hearings: Any citizen is entitled to speak on items under this section.
- B.** Comments and Inquiries on Non-Agenda Items from the Public: Any citizen is entitled to be heard concerning any matter within the scope of jurisdiction of the Commission under this section. The Commission may withhold comment or direct the City Manager to take action on requests or comments.
- C.** Regular Agenda and First Reading Items: Public input on agendaed items, other than those that are specifically set for a formal public hearing, shall be allowed when agreed by consensus of the City Commission.

2. SIGN IN SHEET: Prior to the start of the Commission Meeting, individuals wishing to address public hearing or non-agendaed items should sign in on the sheet located on the right side of the dais. If you are not able to do so prior to the start of the meeting, you may still address the Commission on an appropriate item. The primary purpose of the sign-in sheet is to assist staff with record keeping. Therefore, when you come up to the podium to speak, please complete the sign-in sheet if you have not already done so.

3. ADDRESSING THE COMMISSION: At the appropriate time, please step up to the podium and state your name and address for the record. All comments must be addressed to the Commission as a body and not to individuals. Any person making impertinent or slanderous remarks or who becomes boisterous while addressing the Commission shall be barred by the presiding officer from speaking further, unless permission to continue or again address the Commission is granted by a majority vote of the Commission members present.

APPELLATE PROCEDURES

Please be advised that if a person decides to appeal any decision made by the City Commission with respect to any matter considered at this meeting, such person will need to ensure that a verbatim record includes the testimony and evidence upon which the appeal is based. The City neither provides nor prepares such record.

100 NW 1st Avenue
Delray Beach, Florida 33444

Phone: (561) 243-7000
Fax: (561) 243-3774

The City will furnish auxiliary aids and services to afford an individual with a disability an opportunity to participate in and enjoy the benefits of a service, program, or activity conducted by the City. Contact Doug Smith at 243-7010, 24 hours prior to the event in order for the City to accommodate your request. Adaptive listening devices are available for meetings in the Commission Chambers.

1. **ROLL CALL.**
2. **INVOCATION.**
3. **PLEDGE OF ALLEGIANCE TO THE FLAG.**
4. **AGENDA APPROVAL.** (Mayor noted Item 8J, Grant Agreement/Palm Beach County Tourist Development Council was added to the Consent Agenda by addendum; Additional Information (Board Order) for Item 9.A, Conditional Use Modification Request/Delray Beach Club; Additional Information (Board Order) for Item 9.B. Waiver Request/Delray Beach Club; Item 10.C, Ordinance No. 79-06, was postponed due to a request from the applicant; Revised information (Cannery Row Purchase and Sale Agreement and the Declaration of Covenants and Restrictions) for Item 10.D and this item was removed from the agenda; and Item 8.H, Review of Appealable Land Development Board Actions was moved to Item 9.A.1 under the regular agenda; Approved as amended, 5-0)
5. **APPROVAL OF MINUTES:**
 - February 20, 2007 – Regular Meeting (Approved, 5-0)
6. **PROCLAMATIONS:**
 - A. Recognizing Fair Housing Month – April 2007
 - B. Recognizing Sigma Gamma Rho Sorority Youth Day – March 10, 2007
7. **PRESENTATIONS:**
 - A. NONE
8. **CONSENT AGENDA:** City Manager Recommends Approval. (Approved as amended, 5-0)
 - A. **ACCEPTANCE OF EASEMENT DEED/4999 WEST ATLANTIC AVENUE:**
Approve and accept an easement deed for a proposed 10' x 30' bus shelter easement located at 4999 West Atlantic Avenue (Walgreens).
 - B. **RESOLUTION NO. 17-07/ABANDONMENT OF AN ALLEYWAY:**
Approve Resolution No. 17-07 vacating and abandoning a 16' x 422.28' portion of the right-of-way of an existing north/south alleyway lying within Block 76 of the plat of the Town of Linton, located north of East Atlantic Avenue, between NE 1st Avenue and Pineapple Grove Way (NE 2nd Avenue).
 - C. **FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT) AGREEMENTS/RESOLUTION NO. 16-07 AND RESOLUTION NO. 19-07:**
Approve Resolution No. 16-07 and Resolution No. 19-07 authorizing the Joint Participation Agreement (JPA) and a Maintenance Memorandum of Agreement (MOA) with the Florida Department of Transportation (FDOT) for the installation and maintenance of landscaping at the intersection of the I-95 interchange and West Atlantic Avenue.

- D. **RESOLUTION NO. 18-07:** Approve Resolution No. 18-07 assessing costs for abatement action required to remove nuisances on fifteen (15) properties throughout the City.
- E. **HAMLET RESIDENTS ASSOCIATION/TRAFFIC ENFORCEMENT AGREEMENT:** Approve a traffic enforcement agreement between the City and the Hamlet Residents Association allowing the Delray Beach Police Department to enforce local and state traffic laws on its property.
- F. **HOUSING REHABILITATION GRANT/CONTRACT AWARD:** Approve one (1) Housing Rehabilitation grant/contract award through the Community Development Division in the amount of \$31,127.25 to Ray Graeve & Sons Construction for 125 SW 10th Avenue. Funding is available from 118-1963-554-49.19 (Community Development Fund/Housing Rehabilitation).
- G. **CONTRACT ADDITION (C.O. NO. 1)/BLOCK 64 DRAINAGE AND WATER MAIN IMPROVEMENT PROJECT/CHAZ EQUIPMENT COMPANY, INC.:** Approve Contract Addition (C.O. No. 1) to the Block 64 Drainage and Water Main Improvements Project in the amount of \$49,000.00 to Chaz Equipment Company, Inc. for the installation of a sanitary sewer main on SW 3rd Street. Funding is available from 442-5178-536-63.51 (Water/Sewer Renewal & Replacement Fund/Other Improvements/Water Mains).
- H. **(MOVED TO ITEM 9.A.1 ON THE REGULAR AGENDA).**
- I. **AWARD OF BIDS AND CONTRACTS:**
1. Bid award to Conco Horticultural, Inc. in the amount of \$87,818.00 for the installation of trees and palms at the City Cemetery. Funding is available from 001-4131-572-46.50 (General Fund/City Hall/Cemetery Tree Replacement).
 2. Contract award to Don Hillman, Inc. in the amount of \$18,760.41 for replacing the radiator on the 800KW generator at the Water Treatment Plant. Funding is available from 441-5143-536-46.20 (Water/Sewer Fund/Equipment Maintenance).
 3. Contract award to Knight Electric, Co., Inc. in the amount of \$18,500.00 for installation of one (1) 200-amp, single phase electrical service, including materials and labor for temporary Fire Station #4. Funding is available from 334-6112-522-62.88 (General Construction Fund/Fire Station #4).
 4. Purchase award to Duval Ford in the amount of \$119,549.00, via the Florida Sheriff's Association Contract #06-14-0821 for the purchase of one (1) Ford F-150 4x2 1/2 ton pick-up and four (4) Ford F-250 3/4 ton pick-up trucks for the Parks and Recreation Department. Funding is available from 001-4138-572-64.20 (General Funds/Automotive) and 119-4144-572-64.20 (Beautification Trust Fund/Automotive).

- J. **GRANT AGREEMENT/PALM BEACH COUNTY TOURIST DEVELOPMENT COUNCIL:** Approve a grant agreement between the City and the Palm Beach County Tourist Development Council in the amount of \$35,000.00 for the FED Cup.

9. **REGULAR AGENDA:**

- A.1 **REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:** Accept the actions and decisions made by the Land Development Boards for the period February 20, 2007 through March 2, 2007. (First motion to appeal Item No. 1 under the Historic Preservation Board items to the March 20, 2007 Regular Commission Meeting; Approved 4-0. Second motion to receive and file the rest of the report; Approved 4-0. Mayor Perlman declared a Conflict of Interest, passed the gavel to Vice-Mayor Ellis and left dais)
- A. **CONDITIONAL USE MODIFICATION REQUEST/DELRAY BEACH CLUB:** Consider a conditional use modification request for the Delray Beach Club to allow the operation of a private club with attendant recreational, dining, and related accessory facilities in the RM (Multiple Family – Medium Density Residential) district, located on the east side of South Ocean Boulevard (State Road A-1-A), south of Linton Boulevard (2001 South Ocean Boulevard). (*Quasi-Judicial Hearing*) (Motion to adopt Board Order as presented; Approved, 5-0)
- B. **WAIVER REQUEST/DELRAY BEACH CLUB:** Consider a request for waiver of Land Development Regulations (LDR) Section 4.6.9(F)(3)(e)(i), “Special Provisions”, to allow one (1) handicap parking space versus the two (2) handicap parking spaces adjacent to a valet queue area for the Delray Beach Club. (*Quasi-Judicial Hearing*) (Motion to adopt Board Order as presented; Approved, 5-0)
- C. **REQUEST FOR IN-LIEU PARKING SPACE/325 PINEAPPLE GROVE WAY:** Consider a request from 325 Pineapple Grove Way (N.E. 2nd Avenue) for the purchase of one (1) in-lieu parking space in the amount of \$7,800.00. (*Quasi-Judicial Hearing*) (Motion to adopt Board Order as presented; Approved, 5-0)
- D. **REQUEST FOR IN-LIEU PARKING SPACE/SAKI ROOM (FKA BOB’S FAMOUS BAR AND POWERS LOUNGE):** Consider a request from the Saki Room (fka Bob’s Famous Bar and Powers Lounge) for the purchase of one (1) in-lieu parking space in the amount of \$15,600.00. Saki Room (fka Bob’s Famous Bar and Powers Lounge) is located at 217 East Atlantic Avenue. (*Quasi-Judicial Hearing*) (Motion to adopt Board Order as presented; Approved, 5-0)
- E. **REQUEST FOR FUNDING/COMMUNITY NEIGHBORHOOD HELPING, INC.:** Consider approval of a request from Community Neighborhood Helping, Inc. to provide \$12,500.00 in seed money, which will be reimbursed to the City through a Palm Beach County grant, for the Glory Awards 2007 to be held on May 4, 2007. Funding is available from 001-1111-511-48.10 (City Commission/Special Events). (Approved, 5-0)

- F. **REQUEST FOR FINANCIAL SUPPORT/S.D. SPADY ELEMENTARY MONTESSORI MAGNET SCHOOL:** Consider a request from S.D. Spady Elementary Montessori Magnet School for financial support to send five students selected from S.D. Spady Elementary Chorus to perform in Chicago, Illinois with the 2007 Organization of American Kodaly Educators National Honor Choir on March 20, 2007. Funding is available from the Miscellaneous Grant Funding Contingency. (Motion to approve contribution of \$1,500.00; Approved, 5-0)
- G. **REVISED/PLAYERS INTERNATIONAL MANAGEMENT, INC. (PIM) AGREEMENT:** Consider approval of the revised agreement with Players International Management, Inc. (PIM) extending the term of the agreement from 2011 to 2012, providing renewal for two (2) additional five (5) year terms upon consent of both parties, and authorizing payment by the City of an extra \$75,000.00 per year for an extra event in the month of July. (Approved, 5-0)
- H. **QUIET TITLE/232 NW 8TH AVENUE AND 315 SW 3RD STREET:** Consider authorization to Quiet Title two (2) properties located at 232 NW 8th Avenue and 315 SW 3rd Street that are being transferred to the Community Land Trust for affordable housing. (Approved, 5-0)
- I. **APPOINTMENT OF OUTSIDE COUNSEL/JERROD MILLER, ET AL V. DARREN COGONI, ET AL CASE:** Consider approval of outside counsels, Fred Gelston, Esq., and Jerry Barry, Esq. for the Jerrod Miller, et al v. Darren Cogoni, et al case. (Approved, 5-0)
- J. **PARTIAL RELEASE OF EASEMENT/BLOCK 77 DEVELOPMENT GROUP, LC:** Consider approval of a request from the Block 77 Development Group, LC for a Partial Release of Easement regarding the placement of a sales trailer behind Worthing Park. (Motion to approve partial release of easement; Approved, 3-2; Commissioner Ellis and Mayor Perlman dissenting)
- K. **APPOINTMENT TO THE CODE ENFORCEMENT BOARD:** Appoint one (1) regular member to the Code Enforcement Board for an unexpired term ending January 14, 2010. Based upon the rotation system, the appointment will be made by Commissioner Levinson (Seat #3). (Appointed Susan Kay and approved 5-0)
- L. **APPOINTMENT TO THE HISTORIC PRESERVATION BOARD:** Appoint one (1) regular member to the Historic Preservation Board for an unexpired term ending August 31, 2008. Based upon the rotation system, the appointment will be made by Mayor Perlman (Seat #5). (Appointed Keith Snider and approved 5-0)
- M. **APPOINTMENTS TO THE NUISANCE ABATEMENT BOARD:** Appoint one (1) alternate member and four (4) regular members to the Nuisance Abatement Board for two (2) year terms ending March 31, 2009. Based upon the rotation system, the appointments will be made by Commissioner Montague (Seat #4), Mayor Perlman (Seat #5), Commissioner Ellis (Seat #1), Commissioner Fetzer (Seat #2) and Commissioner Levinson (Seat #3). (Appointed Leonard Epstien and approved 5-0; Appointed Philip Friedman and approved, 5-0; Appointed Kenneth Kaltman and approved, 5-0; Appointed Todd L'Herrou and approved, 5-0; and Appointed Arline Sherman and approved, 5-0)

10. **PUBLIC HEARINGS:**

- A. **ORDINANCE NO. 59-06 (FIRST READING/FIRST PUBLIC HEARING):** Privately sponsored Future Land Use Map amendment (small-scale) from CF (Community Facilities) to LD (Low Density Residential 0-5 du/ac) for an 8.274 acre portion of the Christ the King Monastery of St. Clare and rezoning from CF (Community Facilities) to R-1-AA (Single Family Residential) and associated reduction of lot frontage and lot width requirements for proposed Lots 17 and 22 within the subdivision at Christ the King Monastery of St. Clare, Inc., located at the southeast corner of Sherwood Boulevard and Sutton Place. If passed, a second public hearing will be scheduled for March 20, 2007. (Approved, 5-0)
- B. **ORDINANCE NO. 68-06 (FIRST READING/FIRST PUBLIC HEARING):** City initiated amendments to multiple sections of the Land Development Regulations (LDR) Section 1.4.3, "Enforcement", Section 1.4.4, "Penalty", Section 2.2.6, "The Historic Preservation Board", Section 2.4.6, "Procedures for Obtaining Permits and Approvals", Section 3.2.4, "Standards for Specific Areas or Purposes", Section 4.1.4, "Use of Lots of Record", Section 4.3.3, "Special Requirements for Specific Uses", Section 4.4.17, "Residential Office District", Section 4.4.24, "Old School Square Historic Arts District", Section 4.5.1, "Historic Preservation Sites and Districts", and Appendix "A", Definitions, as recommended after a comprehensive review of the Delray Beach Historic Preservation Design guidelines. If passed, a second public hearing will be scheduled for March 20, 2007. (Approved, 3-2; Commissioner Montague and Commissioner Fetzer dissenting)
- C. **ORDINANCE NO. 79-06:** Privately initiated rezoning from GC (General Commercial) to AC (Automotive Commercial) for a 6.28 acre property (formerly the Ralph Buick Dealership), located at the northeast corner of South Federal Highway and Fladell's Way. (*Quasi-Judicial Hearing*) (POSTPONED due to a request from the applicant)
- D. **DEVELOPER'S AGREEMENT/CANNERY ROW, LLC:** Consider approval of a development agreement with Cannery Row, LLC regarding the purchase and use of the Community Facility Property and the dedication of the Park Property located in the Cannery Row Development. (REMOVED)
- E. **ORDINANCE NO. 6-07 (SECOND READING/SECOND PUBLIC HEARING):** City initiated amendment to the Land Development Regulations (LDR) Section 4.4.13, "Central Business (CBD) District," Subsection (F), "Development Standards," relating to the Downtown Delray Beach Design Guidelines. (Approved, 5-0)
- F. **ORDINANCE NO. 8-07 (FIRST READING/FIRST PUBLIC HEARING):** City initiated amendment to the Land Development Regulations Article 4.5 (Overlay and Environmental Management Districts), Section 4.4.9 GC (General Commercial District) and Section 4.4.12 PC (Planned Commercial District) to accommodate redevelopment at the intersection of West Atlantic Avenue and Military Trail. If passed, a second public hearing will be scheduled for March 20, 2007. (Approved, 5-0)

- G. **ORDINANCE NO. 7-07:** An ordinance amending Chapter 33, “Police and Fire Departments”, Subheading “Pensions”, of the Code of Ordinances by amending Section 33.66, “Finances and Fund Management”, revising investment provisions. (Approved, 5-0)

11. **COMMENTS AND INQUIRIES ON NON-AGENDA ITEMS FROM THE PUBLIC- IMMEDIATELY FOLLOWING PUBLIC HEARINGS.**

- A. City Manager's response to prior public comments and inquiries.
- B. From the Public.

12. **FIRST READINGS:**

- A. **ORDINANCE NO. 9-07:** Rezoning of a 0.78 acre parcel of land from GC (General Commercial) to AC (Automotive Commercial) for Delray Cycle, located on the east side of Dixie Highway, between Gulf Stream Boulevard and NE 23rd Street. If passed, a public hearing will be scheduled for March 20, 2007. (Approved, 5-0)
- B. **ORDINANCE NO. 10-07:** Privately initiated amendment to the Land Development Regulations to establish an overlay district for family workforce housing within the MIC (Mixed Industrial and Commercial) zoning district for the Depot Road Property. If passed, a public hearing will be scheduled for March 20, 2007. (Approved, 5-0)
- C. **ORDINANCE NO. 11-07:** Privately initiated amendments to the Land Development Regulations, Article 4.7, “Family Workforce Housing,” Section 4.7.2, “Applicability,” to allow payment of a fee to the Delray Beach Community Land Trust in lieu of providing Workforce Housing units on site in order to qualify for increased height or density in the CBD (Central Business District). If passed, a public hearing will be scheduled for March 20, 2007. (Approved, 5-0)
- D. **ORDINANCE NO. 12-07:** City initiated amendment to the Land Development Regulations (LDR), enacting Section 2.4.11, “Developer’s Agreements”, to allow the City to enter into Developer’s Agreements, when it is in the best interest of the City. If passed, a public hearing will be scheduled for March 20, 2007. (Approved, 5-0)
- E. **ORDINANCE NO. 13-07:** City initiated amendment to the Land Development Regulations (LDR) Section 8.5.1, “Establishment of Public Arts Program”, Subsection 8.5.1(C), “Ownership and Maintenance”, and Section 8.5.2, “Public Art Advisory Board”, to provide clarification as to the use of funds for the Public Arts Program. If passed, a public hearing will be scheduled for March 20, 2007. (Approved, 5-0)

13. COMMENTS AND INQUIRIES ON NON-AGENDA ITEMS.

- A. City Manager
- B. City Attorney
- C. City Commission

POSTED: MARCH 2, 2007

****** Meeting adjourned at 9:06 p.m. ******