

# City of Delray Beach

## Regular Commission Meeting

\*\*\*AGENDA RESULTS\*\*\*



### RULES FOR PUBLIC PARTICIPATION

Tuesday, September 4, 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.

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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 Revised Board Order for Item 9.C., Appeal of Site Plan Review and Appearance Board Decision/Kentucky Fried Chicken and Item 8.B., Acceptance of Right-Of-Way Deed/238 SE 7<sup>th</sup> Avenue was moved to the Regular Agenda as Item 9.A.A.; Approved as amended, 5-0)
5. **APPROVAL OF MINUTES:**
  - August 21, 2007 – Regular Meeting (Approved, 5-0)
  - August 28, 2007 – Special/Workshop Meeting (Approved, 5-0)
6. **PROCLAMATIONS:**
  - A. National Sickle Cell Awareness Month – September 2007
7. **PRESENTATIONS:**
  - A. Employee Suggestion Award to Fire-Rescue Lieutenant David Brassard – Fire Department
  - B. Gateway Feature Update – Community Redevelopment Agency (CRA)
8. **CONSENT AGENDA:** City Manager Recommends Approval. (Approved as amended, 5-0)
  - A. **FINAL BOUNDARY PLAT APPROVAL/SEAGATE HOTEL ON ATLANTIC AVENUE:** Approve the final boundary plat for the Seagate Hotel on Atlantic Avenue Plat, located on the south side of East Atlantic Avenue between Venetian Drive and Gleason Street.
  - B. **(MOVED TO ITEM 9.A.A. ON THE REGULAR AGENDA)**
  - C. **CONTRACT CLOSEOUT (C.O. NO. 1/FINAL)/WEST CONSTRUCTION, INC.:** Approve a Contract Closeout (C. O. No. 1/Final) in the amount of a \$10,105.00 decrease and final payment in the amount of \$13,295.70 to West Construction, Inc. for the completion of the Rosemont Park Project. Funding is available from 334-4131-572-65.89 (General Construction Fund/Neighborhood – S.W. 6<sup>th</sup> Street – Rosemont) and 441-5161-536-65.89 (Water/Sewer Fund/Other Improvements/Neighborhood Park/S.W. 6<sup>th</sup> Street – Rosemont).

- D. **CONTRACT ADDITION (C.O. NO. 5)/CHAZ EQUIPMENT COMPANY, INC./BLOCK 64 DRAINAGE AND WATER MAIN IMPROVEMENTS PROJECT:** Approve a Contract Addition (C.O. No. 5) in the amount of \$9,875.00 to Chaz Equipment Company, Inc. for the addition of swales along the west side of S.W. 1<sup>st</sup> Avenue between S.W. 3<sup>rd</sup> Street and S.W. 4<sup>th</sup> Street for the Block 64 Drainage and Water Main Improvements Project. Funding is available from 448-5461-538-65.33 (Storm Water Utility Fund/Other Improvements/Block 64 Improvements).
- E. **RESOLUTION NO. 49-07:** Approve Resolution No. 49-07 assessing costs for abatement action required to remove nuisances on six (6) properties throughout the City.
- F. **TROMBONE MAST ARM AGREEMENT/PALM BEACH COUNTY:** Approve an agreement between the City and Palm Beach County for the installation of the trombone mast arms at the intersection of West Atlantic Avenue and S.W./N.W. 12<sup>th</sup> Avenue. Palm Beach County will reimburse the City in the amount of \$250,000.00 for the installation of the trombone mast arms.
- G. **INTERLOCAL AGREEMENT/COMMUNITY REDEVELOPMENT AGENCY (CRA):** Approve an interlocal agreement between the City and Community Redevelopment Agency for work performed by the City Attorney's Office.
- H. **SPECIAL EVENT REQUEST/ART & JAZZ ON THE AVENUE:** Approve a special event request for the Art & Jazz on the Avenue scheduled for October 18, 2007 from 6:00 p.m. to 10:00 p.m.; granting a temporary use permit per LDR Section 2.4.6(F) for the closure of Atlantic Avenue from Swinton Avenue to the west side of N.E./S.E. 7<sup>th</sup> Avenue, Railroad Avenue from Atlantic Avenue north to the north side of the east/west alley, and to the alleys north and south of Atlantic Avenue on N.E./S.E. 1<sup>st</sup> Avenue, N.E./S.E. 2<sup>nd</sup> Avenue, S.E. 3<sup>rd</sup> Avenue, N.E./S.E. 4<sup>th</sup> Avenue, and to authorize staff support for security and traffic control, EMS assistance, banner hanging and removal, barricade set-up/removal, trash removal and clean up, and the sponsor will pay the City 20% for all costs over \$1,000 plus the full cost of barricade rental and trash boxes; contingent upon the conditions listed in the staff report, the sponsor providing a hold harmless agreement and certificate of liability insurance one (1) week prior to the event.
- I. **SPECIAL EVENT REQUEST/HOWARD ALAN 13<sup>th</sup> ANNUAL DOWNTOWN DELRAY BEACH CRAFT FESTIVAL:** Approve a special event request for the 13<sup>th</sup> Annual Downtown Delray Beach Craft Festival sponsored by Howard Alan Events, Ltd. to be held from 10:00 a.m. until 5:00 p.m. on September 22, 2007 - September 23, 2007, granting a temporary use permit per LDR Section 2.4.6(F) for the closure of N.E. 2<sup>nd</sup> Avenue from the alley just north of Atlantic Avenue to approximately 400 feet north of N.E. 3<sup>rd</sup> Street, to utilize City Hall parking lot for vendor parking, authorize staff support for police traffic control and security, barricading and Fire Inspector with the sponsor paying all overtime costs; contingent upon receipt of an executed Hold Harmless Agreement.

- J. **ACCEPTANCE OF RIGHT-OF-WAY DEED/346 AND 352 N.W. 7<sup>TH</sup> AVENUE:** Approve and accept a right-of-way deed between the City and Delray Beach Community Land Trust, Inc. for 25 feet in association with the construction of two (2) single family homes addressed as 346 and 352 N.W. 7<sup>th</sup> Avenue, for eligible homebuyers approved by the Delray Beach Community Land Trust, Inc.
- K. **SECOND AMENDMENT/INTERLOCAL AGREEMENT/PALM BEACH COUNTY:** Approve a Second Amendment to the Interlocal Agreement with Palm Beach County that provides additional support to the Delray Beach Weed and Seed “seeding” efforts; Palm Beach County will provide additional funding in the amount of \$100,000.00.
- L. **REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:** Accept the actions and decisions made by the Land Development Boards for the period August 20, 2007 through August 31, 2007.
- M. **AWARD OF BIDS AND CONTRACTS:**
1. Purchase award to Duval Ford in the amount of \$23,413.00 via the Florida Sheriff’s Association Contract #06-14-0821 for the purchase of one (1) 2008 Ford Crown Victoria Police Interceptor for the Police Department. Funding is available from 501-3312-591-64.20 (Central Garage Fund/Automotive).
  2. Purchase award to Emergency Vehicle Supply (EVS) in the amount of \$39,791.60 as a sole provider for the custom installation package to be installed on five (5) City vehicles. Funding is available from 501-3312-591-64.20 (Central Garage Fund/Automotive).
  3. Contract award to Brang Construction, Inc. in the amount of \$559,303.00 for the construction of Bexley Trail Community Park Improvements Project. Funding is available 380-4150-572-63.24 (2004 G.O. Bond/Bexley Park) and 441-5161-536-63.24 (Water/Sewer Fund/Bexley Park).

9. **REGULAR AGENDA:**

- A.A. **ACCEPTANCE OF RIGHT-OF-WAY DEED/238 SE 7<sup>TH</sup> AVENUE:** Approve and accept a right-of-way deed between the City and Dan Dietrich for five (5) feet, for S.E. 7<sup>th</sup> Avenue in association with the development of 238 S.E. 7<sup>th</sup> Avenue, located on the west side of S.E. 7<sup>th</sup> Avenue between S.E. 2<sup>nd</sup> Street and S.E. 3<sup>rd</sup> Street, within the Marina Historic District. (Commissioner Eliopoulos filed a Conflict of Interest and left dais; Approved, 4-0)

- A. **CONDITIONAL USE REQUEST/VILLAGE SQUARE:** Consider a conditional use request to allow a density in excess of 12 units per acre (18.04 du/ac is proposed) in the Southwest Area Neighborhood Overlay District in accordance with the provision of the City's Family Workforce Housing Ordinance for the Village Square (fka Carver Estates), a 332 unit residential development, located on the east side of Auburn Avenue and S.W. 13<sup>th</sup> Avenue between S.W. 7<sup>th</sup> Street and S.W. 10<sup>th</sup> Street. *(Quasi-Judicial Hearing)* (Motion to adopt Board Order as presented; Approved, 5-0. Commissioner Eliopoulos returned to dais)
- B. **WAIVER REQUESTS AND INTERNAL ADJUSTMENT REQUEST/VILLAGE SQUARE:** Consider an internal adjustment to the Land Development Regulations (LDR) Section 4.4.6(F)(3)(c) for side street, and front setbacks and two (2) waiver requests to the Land Development Regulations (LDR) Section 6.1.2(C)(3)(a) "Paving Widths" to reduce the required minimum paving width for an interior road from 24' to 22' and Section 4.6.9(D)(2) "Provisions for Ingress and Egress" to waive the requirement that adequate maneuvering area shall be provided for a vehicle to enter and exit the parking area onto the street in a forward manner. The waiver requests are in conjunction with the Village Square, a proposed 332 unit residential development located on the east side of Auburn Avenue and S.W. 13<sup>th</sup> Avenue between S.W. 7<sup>th</sup> Street and S.W. 10<sup>th</sup> Street. *(Quasi-Judicial Hearing)* (Motion to adopt Board Order as presented; Approved, 5-0)
- C. **APPEAL OF SITE PLAN REVIEW AND APPEARANCE BOARD DECISION/KENTUCKY FRIED CHICKEN:** Consider an appeal of the Site Plan Review and Appearance Board's decision regarding signage for Kentucky Fried Chicken, located at 360 Linton Boulevard. *(Quasi-Judicial Hearing)* (Motion to adopt Board Order as presented; Approved, 5-0)
- D. **SPECIAL EVENT POLICIES AND PROCEDURES:** Approve the amended Special Event Policies and Procedures with an effective date of October 1, 2007. (Motion to approve; Approved, 5-0)
- E. **SPECIAL EVENT REQUEST/RUN FOR MIRACLES/MILAGRO CENTER:** Consider approval and endorsement of the 2<sup>nd</sup> Annual Run for Miracles sponsored by the Milagro Center to be held on January 6, 2008 from 7:30 a.m. to approximately 10:30 a.m., to grant a temporary use permit per LDR Section 2.4.6(F) for the closure and use of A-1-A from Casuarina to George Bush Boulevard and Anchor Park from 5:00 a.m. to approximately 10:30 a.m., and authorize staff support for traffic control, barricade set-up/removal, trash removal and clean up, use of half of small stage, and waiver of parking meter fees for Sandoway, Ingraham, and Anchor Park as well as along Atlantic Avenue from Venetian Drive to A-1-A from 8:00 a.m. until approximately 11:00 a.m.; contingent upon receipt of a certificate of liability insurance and an executed Hold Harmless Agreement. (Motion to approve; Approved, 5-0)

- F. **CALL TO ARTISTS/DEL IDA NEIGHBORHOOD PARK:** Consider approval of a request to allow the Public Art Advisory Board to advertise a call to artists for an art project in the Del Ida Neighborhood Park. The proposed art will be ecologically and environmentally friendly. Funding is available from the Public Arts Program fund. (Motion to approve; Approved, 5-0)
- G. **RESOLUTION NO. 48-07:** Consider approval of Resolution No. 48-07 authorizing the issuance of Water and Sewer Bonds (Series 2007) in the aggregate amount of \$9,000,000.00 and authorizing the sale of such bonds to Branch Banking and Trust at a rate of 4.410% for a term of 15 years with no penalty for early pre-payment. (Motion to approve; Approved, 5-0)
- H. **SETTLEMENT OFFER/NUANCE SEME V. THE CITY:** Consider a Settlement Offer in the amount of \$72,000.00 in Nuance Seme v. the City. Staff recommendation is acceptance subject to the receipt of the appropriate releases. (Motion to approve; Approved, 5-0)
- I. **APPOINTMENT TO THE HISTORIC PRESERVATION BOARD:** Appoint one (1) regular member to the Historic Preservation Board to serve a two (2) year term ending August 31, 2009. Based upon the rotation system, the appointment will be made by Commissioner Fetzer (Seat #2). (Appointed Jan Kucera-Winney and approved, 5-0)
- J. **APPOINTMENT TO THE SITE PLAN REVIEW AND APPEARANCE BOARD:** Appoint one (1) regular member to serve an unexpired term ending August 31, 2008. Based upon the rotation system, the appointment will be made by Commissioner Montague (Seat #4). (Appointed Johnny Kincaide and approved, 5-0)

10. **PUBLIC HEARINGS:**

- A. **RESOLUTION NO. 50-07 (TENTATIVE MILLAGE LEVY):** A resolution tentatively levying a tax on all properties within the City of Delray Beach for operation and maintenance and for payment of principal and interest on bonded indebtedness for FY 2008. (Motion to approve; Approved, 5-0)
- B. **RESOLUTION NO. 51-07 (TENTATIVE MILLAGE LEVY/DDA):** A resolution tentatively levying a tax on all properties within the Downtown Development Authority Taxing District of the City of Delray Beach for FY 2008. (Approved, 5-0)
- C. **RESOLUTION NO. 52-07 (TENTATIVE BUDGET ADOPTION FOR FY 2008):** A resolution tentatively making appropriations of sums of money for all necessary expenditures of the City of Delray Beach for the period October 1, 2007 through September 30, 2008. (Approved, 5-0)
- D. **ORDINANCE NO. 34-07 (FIRST READING/FIRST PUBLIC HEARING):** Privately initiated amendment to the Land Development Regulations (LDR), Section 4.4.13, "Central Business District", to permit the use of parking lifts. If passed, a second public hearing will be scheduled for September 18, 2007. (Commissioner Eliopoulos filed a Conflict of Interest and left dais; Approved, 4-0)

- E. **ORDINANCE NO. 35-07 (FIRST READING/FIRST PUBLIC HEARING):** City initiated amendment to the Land Development Regulations (LDR) Section 4.4.13(G)(1), "Central Business District (CBD)", to clarify parking requirements for hotels and motels in the Central Core Area. If passed, a second public hearing will be scheduled for September 18, 2007. (Approved, 5-0. Commissioner Eliopoulos returned to dais)
- F. **ORDINANCE NO. 33-07:** An ordinance amending Chapter 96, "Fire Safety and Emergency Services", Section 96.66, "Emergency Medical Transportation Fees", Subsection 96.66(A) of the Code of Ordinances to adjust the fee schedule for emergency medical transportation in accordance with the National Ambulance Fee Schedule. (Approved, 5-0)
- G. **ORDINANCE NO. 32-07:** An ordinance amending Chapter 35, "Employee Policies and Benefits", Subheading "Retirement Plan", of the Code of Ordinances by amending Section 35.097, "Retirement Income; Basis, Amount and Payment", providing up to one (1) additional year of credited service for certain employees who elect to terminate City employment and retire on or before September 30, 2007. (Approved, 5-0)
- H. **ORDINANCE NO. 26-07:** City initiated amendment to the Land Development Regulations (LDR) enacting Section 2.4.7(G), "Requests for Reasonable Accommodation", to provide procedures for handling and processing requests for accommodation from the Land Development Regulations. (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. 39-07:** An ordinance amending Chapter 52, "Water" of the City Code of Ordinances by amending Section 52.34, "Water Rates", to provide for changes in residential, nonresidential, and irrigation rates for FY 2008. If passed, a public hearing will be scheduled for September 18, 2007. (Approved, 5-0)
- B. **ORDINANCE NO. 40-07:** An ordinance amending Chapter 53, "Sanitary Sewers", of the City Code of Ordinances by amending Section 53.130, "User Charges; Wholesale Sewer Rates; Calculation of Sewer Surcharge", to provide for increased sewer rates. If passed, a public hearing will be scheduled for September 18, 2007. (Approved, 5-0)
- C. **ORDINANCE NO. 41-07:** An ordinance amending Chapter 51, "Garbage and Trash", of the City Code of Ordinances by amending Section 51.70, "Regular Charges Levied", to provide for increasing contracted garbage, trash, recycling, vegetation, and bulk waste collection service rates by 2.6% for FY 2008. If passed, a public hearing will be scheduled for September 18, 2007. (Approved, 5-0)

- D. **ORDINANCE NO. 42-07:** An ordinance amending Chapter 50, “Utilities Generally: Public Service Tax”, Section 50.15, “Levy of Tax”, to provide for an increase of the public service taxes for electricity, fuel oil and gas. If passed, a public hearing will be scheduled for September 18, 2007. (Approved, 5-0)
- E. **ORDINANCE NO. 36-07:** City initiated amendment to the Land Development Regulations (LDR) Section 2.2.3, “The Site Plan Review And Appearance Board”, Subsection (D), “Duties, Powers and Responsibilities”, and Section 2.2.4, “The Board of Adjustment”, Subsection (D), “Duties, Powers and Responsibilities”, to provide for a method for appeals; amending Section 2.4.8, “Processing Schedules”, in order to provide 30 days for review of beach property plans in accordance with the beach property owners design manual; amending Section 4.4.3, “Single Family Residential (R-1) Districts”, Subsections (A), “Purpose and Intent”, (E), “Review and Approval Process”, (F), “Development Standards”, and (G), “Supplemental District Regulations”, and amending Section 4.5.13, “North Beach/Seagate and Ocean Neighborhood Overlay Districts”, to provide that visual compatibility may be regulated in accordance with the “Beach Property Owners Design Manual” for North Beach and Seagate Neighborhoods. If passed, a public hearing will be scheduled for September 18, 2007. (Approved, 5-0)
- F. **ORDINANCE NO. 37-07:** City initiated amendment to the Land Development Regulations (LDR) Appendix “A”, “Definitions”, by enacting definitions for “adult material”, “specified anatomical areas” and “specified sexual activities”. If passed, a public hearing will be scheduled for September 18, 2007. (Approved, 5-0)
- G. **ORDINANCE NO. 43-07:** An ordinance amending Chapter 59, “Reclaimed Water”, of the Code of Ordinances by amending Section 59.06, “Use of Reclaimed Water within the City of Delray Beach Utility Service Area”, to provide that all customers shall connect to the Reclaimed Water System; amending Section 59.09, “Fees, Rates and Charges”, to increase the wholesale rate; and amending Section 59.13, “Approved Uses of Reclaimed Water”, to provide for hours of use for irrigation. If passed, a public hearing will be scheduled for September 18, 2007. (Approved, 5-0)
- H. **ORDINANCE NO. 44-07:** Consideration of an amendment to the Land Development Regulations (LDR), Section 2.4.3(K)(1) “Development Applications” reducing the development application fee for variances before the Historic Preservation Board. If passed, a public hearing will be scheduled for September 18, 2007. (Approved, 5-0)

13. **COMMENTS AND INQUIRIES ON NON-AGENDA ITEMS.**

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

**POSTED: AUGUST 31, 2007**

*\*\*\*\*\* Meeting adjourned at 8:31 p.m. \*\*\*\*\**