

City of Delray Beach

Regular Commission Meeting



RULES FOR PUBLIC PARTICIPATION

Tuesday, March 18, 2008

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.**
5. **APPROVAL OF MINUTES:**
 - March 3, 2008 – Regular Meeting
 - March 13, 2008 – Special/Workshop Meeting
6. **PROCLAMATIONS:**
 - A. Delray Medical Center Day – March 18, 2008
 - B. Commending multiple medal winners - Delray Beach 2008 Senior Games
 - C. Child Abuse Prevention Month – April 2008
7. **PRESENTATIONS:**
 - A. NONE
8. **CONSENT AGENDA:** City Manager Recommends Approval.
 - A. **FINAL SUBDIVISION PLAT APPROVAL/OCEAN TERRACES OF DELRAY:** Approve a final subdivision plat for Ocean Terraces of Delray, a six (6) lot townhouse development, located on the west side of Palm Trail, approximately 180' north of Bond Way.
 - B. **ACCEPTANCE OF EASEMENT DEED/CONGRESS PARK OWNER'S ASSOCIATION, INC.:** Approve and accept an easement deed between the City and Congress Park Owner's Association, Inc. for the installation of water and sewer mains outside the property lines of the Alta Congress Development.
 - C. **CHANGE ORDER NO. 1/CHAZ EQUIPMENT COMPANY, INC/WEST ATLANTIC AVENUE WATER MAIN PROJECT:** Approve Change Order No. 1 in the amount of \$30,057.50 to Chaz Equipment Company, Inc. for modifications to the asphalt trench restoration as required by the Florida Department of Transportation (FDOT) for the West Atlantic Water Main Project. Funding is available from 441-5161-536-65.24 (Water/Sewer Fund/Other Improvements/W. Atlantic Ave. Phase III).

- D. **SERVICE AUTHORIZATION NO. 07-04/MATHEWS CONSULTING, INC./AREAS 11 AND 12 RECLAIMED WATER SYSTEMS:** Approve Service Authorization No. 07-04 in the amount of \$32,087.00 to Mathews Consulting, Inc. for professional engineering services in the design of Areas 11 and 12 Reclaimed Water Systems. Funding is available from 441-5181-536-65.96 (Water/Sewer Fund/Other Improvements/Reclaimed Water Transmission).
- E. **SERVICE AUTHORIZATION NO. 07-05/MATHEWS CONSULTING, INC./ALTERNATIVE WATER SUPPLY GRANT APPLICATION:** Approve Service Authorization No. 07-05 in the amount of \$5,034.00 to Mathews Consulting, Inc. for preparation and submittal of an Alternative Water Supply Grant application to the South Florida Water Management District (SFWMD). Funding is available from 441-5181-536-31.90 (Water/Sewer Fund/Professional Services/Other Professional Services).
- F. **RESOLUTION NO. 09-08/FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT)/MAINTENANCE MEMORANDUM OF AGREEMENT (MMAO):** Approve and adopt Resolution No. 09-08 authorizing execution of a Maintenance Memorandum of Agreement (MMAO) with the Florida Department of Transportation (FDOT) for the installation of public art and landscaping under the Atlantic Avenue Bridge.
- G. **DEVELOPER REIMBURSEMENT AGREEMENT/ALTA CONGRESS OWNER, LLC:** Approve and authorize the Mayor to execute the Developer Reimbursement Agreement between the City and Alta Congress Owner, LLC for reimbursement in the amount of \$16,550.00 to cover the costs of increased capacity of the proposed sanitary system to handle future development. Funding is available from 442-5178-536.83-01 (Water/Sewer Renewal and Replacement Fund/Other Grants and Aids).
- H. **RESOLUTION NO. 08-08/ABANDONMENT OF RIGHT-OF-WAY:** Approve and adopt Resolution No. 08-08 abandoning a 0.29 acre portion of Old Germantown Road ROW in conjunction with a proposed plat for a mixed-use residential and medical office development named Midtown Delray, located at the southwest corner of Linton Boulevard and Old Germantown Road, west of Park Access Road.
- I. **RESOLUTION NO. 11-08/FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT)/MAINTENANCE MEMORANDUM OF AGREEMENT (MMAO):** Approve and adopt Resolution No. 11-08 authorizing execution of a Maintenance Memorandum of Agreement (MMAO) with the Florida Department of Transportation (FDOT) for the City requested improvements for Sunshine Neighborhood Park located at S.W. 15th Avenue and S.W. 2nd Street.
- J. **RESCIND BID AWARD/STUART AND SHELBY DEVELOPMENT/135 N.W. 5TH AVENUE REHABILITATION PROJECT:** Approve rescinding the original bid award to Stuart and Shelby Development in the amount of \$554,323.00 for the rehabilitation of 135 N.W. 5th Avenue and authorize staff to re-bid the project.

- K. **REQUEST FOR SUBORDINATION/ELAINE COLEMAN:** Authorize and approve the City transferring its mortgage position from second to first and grant a waiver of the current subordination policy to allow Elaine Coleman to refinance her mortgage.
- L. **INVESTMENT POLICY FOR THE GENERAL EMPLOYEES PENSION BOARD:** Consider approval of the revision to the City of Delray Beach General Employees Retirement Plan Pension Fund Investment Policy.
- M. **AMENDMENT NO. 1/AGREEMENT/LEGAL SERVICES/HEARING OFFICER:** Approve Amendment No. 1 for renewal of the agreement between the City and David W. Schmidt for provision of legal services to the City as a Hearing Officer, extending the term for an additional two (2) years. Funding is available from 001-2741-524-34.90 (General Fund/Other Contractual Services).
- N. **SPECIAL EVENT REQUEST/AVDA 5K WALK/RUN:** Approve a special event request to endorse the 11th Annual Aid to Victims of Domestic Abuse, Inc. (AVDA) 5K Walk/Run to be held on Sunday, October 11, 2008 from 7:30 a.m. until approximately noon, with set up at 5:00 a.m., to grant a temporary use permit per LDR Section 2.4.6(F) for the use of Anchor Park and the City right-of-way along Ocean Boulevard from Casurina to George Bush Boulevard, to waive parking meter fees in Anchor Park and Sandoway lots, and to authorize staff assistance for providing traffic control, barricading, signage, trash pick up and removal, and set up and use of half of the small stage; contingent on the sponsor providing the required liability insurance and hold harmless agreement.
- O. **REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:** Accept the actions and decisions made by the Land Development Boards for the period March 3, 2008 through March 14, 2008.
- P. **AWARD OF BIDS AND CONTRACTS:**
1. Bid award to West Construction, Inc. in the amount of \$267,454.11 for the construction on S.W. 2nd Avenue Streetscape/Infrastructure Improvements. Funding is available from 334-3162-541-65.87 (General Construction Fund/Capital Outlay/S.W. 2nd Avenue-S.W. 1st Street/West Atlantic) and 448-5461-538-65.87 (Stormwater Utility Fund/Capital Outlay/S.W. 2nd Avenue-S.W. 1st Street/West Atlantic).
 2. Contract award to Chaz Equipment Company, Inc. in the amount of \$39,525.00 for emergency repair of a deteriorated sanitary sewer manhole and connecting line segments on Bluebird Lane in the Country Manors Community. Funding is available from 442-5178-536-63.51 (Water and Sewer Renewal and Replacement Fund/Improvements Other/Sewer Mains).

3. Contract award to Hulett Environmental Services in the total estimated amount of \$1,213.00 per housing unit for exterminating services for FY 2007 - 2008 and FY 2008 - 2009 to provide termite inspections and treatment for households participating in the City's Housing Rehabilitation Program. Funding is available from 118-1960-554-49.19 (Community Development Fund/Housing Rehabilitation).
4. Contract award to Tierra Consulting Group for lead based paint testing services for FY 2007 - 2008 and FY 2008 - 2009 as needed for households built prior to 1978 participating in the City's Housing Rehabilitation Program. Funding is available from 118-1960-554-49.19 and 118-1963-554-49.19 (Community Development Fund/Housing Rehabilitation).
5. Contract award to Shenandoah Construction in the amount of \$24,705.00 for the stormwater collection system maintenance as required by the City's National Pollutant Discharge Elimination System (NPDES) permit. Funding is available from 448-5461-538-46.90 (Stormwater Utility Fund/Beautification Maintenance).
6. Purchase award to Fort Lauderdale Harley Davidson via the Florida Sheriff's Association Contract #07-15-0827; Specification #1 for the purchase of three (3) 2008 Harley Davidson Road King Florida Highway Patrol (FLHP) motorcycles for the Police Department. Funding is available from 501-3312-591-64.20 (Central Garage Fund/Automotive).
7. Purchase award to HTE in the amount of \$35,310.00 for the installation of the Click2Gov Business Tax Receipts program and software to provide a web-based on-line enhanced level of customer services. Funding is available from 001-2721-524-66.10 and 001-1311-512-66.10 (General Fund/Software).
8. Purchase award to multiple vendors in the total cost of \$360,408.00 for the purchase of twenty-one (21) 2008 replacement/additional cars, trucks, lawn mowers, utility vehicles and an asphalt roller for various departments. Funding is available from 119-4144-572-64.20 (Beautification Trust Fund/Automotive) and 501-3312-591-64-20.

9. **REGULAR AGENDA:**

- A. **APPEAL OF SITE PLAN REVIEW AND APPEARANCE BOARD DECISION/DELRAY MAZDA:** Consider an appeal of the Site Plan Review and Appearance Board's decision regarding the denial of a waiver request to Land Development Regulations (LDR) Section 4.4.10(G)(5)(B), "Use and Operating Restrictions", to allow an elevated vehicle display within the showroom of Delray Mazda, located at 700 N.E. 6th Avenue. *(Quasi-Judicial Hearing)*

- B. **APPEAL OF SITE PLAN REVIEW AND APPEARANCE BOARD DECISION/OFFICE DEPOT/CVS PHARMACY BUILDING:** Consider an appeal of the Site Plan Review and Appearance Board’s decision regarding the approval of the special request to reduce the parking spaces by 62 spaces from (155 parking spaces required to the 93 parking spaces provided), for Office Depot/CVS Pharmacy, located at N.E. 6th Avenue. *(Quasi-Judicial Hearing)*

- C. **WAIVER REQUESTS/OFFICE DEPOT/CVS PHARMACY BUILDING DEVELOPMENT PROPOSAL:** Consider three (3) waiver requests to waive Land Development Regulations (LDR) Sections 4.6.14 (A)(1) and (2), “Visibility at Intersections”, to reduce the required visibility triangle on the south side of the intersection of the driveway to N.E. 5th Avenue from 20’ to 15’; and to reduce the required visibility triangles at the intersections of N.E. 5th Avenue and N.E. 8th Street and at N.E. 6th Avenue and N.E. 7th Street from 40’ to 30’. *(Quasi-Judicial Hearing)*

- D. **PRELIMINARY AND FINAL PLAT/MIDTOWN DELRAY:** Consider approval of a preliminary plat and certification of a final plat for a 9.85 acre mixed-use development containing 116 fee-simple townhouse lots and 29,571 square feet of medical office space to be platted as Midtown Delray, located at the southwest corner of Linton Boulevard and Old Germantown Road, west of Park Access Road. *(Quasi-Judicial Hearing)*

- E. **LEASE AGREEMENT/PALM BEACH COUNTY/NEW HEAD START FACILITY:** Consider approval of the Lease Agreement between the City and Palm Beach County for the new Head Start Facility to be located on a portion of the Catherine Strong Park lands.

10. **PUBLIC HEARINGS:**

- A. **ORDINANCE NO. 13-08 (FIRST READING/FIRST PUBLIC HEARING):** City initiated amendment to the Land Development Regulations (LDR) Section 4.6.7, “Signs”, Subsection 4.6.7 (H), “Exempt Signs”, in order to include “Sponsorship Signs”, as a new category of “Temporary Signs”. If passed, a public hearing will be scheduled for April 1, 2008.

- B. **ORDINANCE NO. 11-08:** An ordinance adopting the Community Redevelopment Agency (CRA) Plan Amendment.

- C. **ORDINANCE NO. 12-08:** An ordinance amending Chapter 110, “Local Business Taxes Generally”, Section 110.15, "Local Business Tax Schedule", of the City Code of Ordinances to provide for a five (5) percent increase in all business tax fees.

- D. **ORDINANCE NO. 06-08:** Consideration of a City initiated amendment to the Land Development Regulations (LDR) Section 6.2.1(D), “Street and Alley Construction Standards”, to provide updated standards regarding street and alley construction.

- E. **ORDINANCE NO. 14-08:** An ordinance amending Chapter 96, “Fire Safety and Emergency Services”, Section 96.16, “Certain Codes Adopted By Reference”, of the Code of Ordinances by repealing Subsection (B)(5).

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. 08-08:** An ordinance repealing, in its entirety, Chapter 57, “Right-of-Way Application Process For Communications Facilities”, of the Code of Ordinances and enacting a new Chapter 57, “Communications Facilities in Public Rights-of-Way”, to provide the terms and conditions for the erecting, constructing, and maintaining of a communications facility in the City’s public right-of-way for the provision of communications service. If passed, a public hearing will be scheduled for April 1, 2008.
- B. **ORDINANCE NO. 15-08:** An ordinance amending Chapter 33, “Police and Fire Departments”, Subheading “Pensions”, of the Code of Ordinances by amending Section 33.62, “Benefit Amounts and Eligibility”. If passed, a public hearing will be scheduled for April 1, 2008.
- C. **ORDINANCE NO. 16-08:** An ordinance amending Chapter 35, “Employees Policies and Benefits”, Subheading “Retirement Plan”, of the Code of Ordinances by amending Section 35.097, “Retirement Income; Basis, Amount, and Payment”. If passed, a public hearing will be scheduled for April 1, 2008.
- D. **ORDINANCE NO. 18-08:** An ordinance amending Chapter 33, “Police and Fire Departments”, Subheading “Pensions”, of the Code of Ordinances by amending Section 33.65, “Administration”, to allow the Mayor to designate the Assistant City Manager to serve on the Board of Trustees in lieu of the Mayor; and amending Section 33.685, “Deferred Retirement Option Plan”, to provide for payment of DROP benefits in monthly installments at the member’s election. If passed, a public hearing will be scheduled for April 1, 2008.

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

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

POSTED: MARCH 14, 2008