

# City of Delray Beach

## Regular Commission Meeting

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



### RULES FOR PUBLIC PARTICIPATION

Monday, June 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.

100 NW 1st Avenue  
Delray Beach, Florida 33444

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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.** (Commissioner Montague absent)
2. **INVOCATION.**
3. **PLEDGE OF ALLEGIANCE TO THE FLAG.**
4. **AGENDA APPROVAL.** (Mayor noted Item 8.I, Subdivision Improvement Agreement/Cannery Row, LLC, was moved to Item 9.A.A. under the Regular Agenda and Item 8.V.1, Bid Award/Conco Horticultural, Inc. was moved to Item 9.A.A.A. under the Regular Agenda; Approved as amended,4-0)
5. **APPROVAL OF MINUTES:**
  - May 15, 2007 – Regular Meeting (Approved, 4-0)
6. **PROCLAMATIONS:**
  - A. National Clean Beaches Week – June 29 - July 5, 2007
  - B. Parks and Recreation Month – July 2007
  - C. Recognizing and Commending **Ed Noon, Mike Gaylord, Conor Gorman, Luigi Pratt and Scott Moore** - Ocean Rescue Division
  - D. National HIV Testing Day – June 27, 2007
7. **PRESENTATIONS:**
  - A. NONE
8. **CONSENT AGENDA:** City Manager Recommends Approval. (Approved as amended, 4-0)
  - A. **FINAL BOUNDARY PLAT APPROVAL/MORSE DELRAY TOYOTA RE-PLAT:** Approve the final boundary plat for the Morse Delray Toyota Re-Plat, located between US 1 and Old Dixie Highway, just north and south of LaMat Avenue.
  - B. **ACCEPTANCE OF EASEMENT DEED/4999 WEST ATLANTIC AVENUE:** Approve and accept an easement deed for the installation of a fire hydrant to serve the proposed new Walgreens located at the northeast corner of West Atlantic Avenue and Military Trail (Store #5489).
  - C. **ACCEPTANCE OF RIGHT-OF-WAY DEDICATION/334 N.E. 3<sup>rd</sup> AVENUE:** Approve and accept a right-of-way deed between the City and Kilbourne & Zeitz, Inc., for the property located at 334 N.E. 3<sup>rd</sup> Avenue.
  - D. **HOLD HARMLESS AGREEMENT/855 SOUTH OCEAN BOULEVARD:** Approve and accept a hold harmless agreement between the City and Mark Timothy, Inc. to allow the property owner to connect to the utilities on the Florida Department of Transportation (FDOT) right-of-way, located at 855 South Ocean Boulevard.

- E. **HOLD HARMLESS AGREEMENT/SEAGATE HOTEL:** Approve and accept a hold harmless agreement between the City and HHC Atlantic, LLC associated with the Seagate Hotel project for the installation and maintenance of the wall mounted light fixtures that extend within the Atlantic Avenue right-of-way, located on the south side of East Atlantic Avenue, between Venetian Drive and Gleason Street.
- F. **CONTRACT ADDITION (C.O. NO. 4)/CHAZ EQUIPMENT COMPANY, INC.:** Approve a Contract Addition (C.O. No. 4) in the amount of \$410,227.80 to Chaz Equipment Company, Inc. for the additional work required for the S.E./N.E. 1<sup>st</sup> Street One Way Pair Project. Funding is available from 448-5461-538-65.88 (Storm Water Utility Fund/Other Improvements/S.E./N.E. 1<sup>st</sup> Street One Way Pair) and 334-3162-541-65.88 (General Construction Fund/Capital Outlay/S.E./N.E. 1<sup>st</sup> Street One Way Pair).
- G. **SERVICE AUTHORIZATION NO. 9/KIMLEY-HORN AND ASSOCIATES, INC.:** Approve Service Authorization No. 9 in the amount of \$22,500.00 to Kimley-Horn and Associates, Inc. for the design process of the temporary modifications to US 1 between S.E. 10<sup>th</sup> Street and George Bush Boulevard. Funding is available from 334-4141-572-65.99 (General Construction Fund/S.E./N.E. 5<sup>th</sup> and 6<sup>th</sup> Avenues) after transfer from the Community Redevelopment Agency (CRA).
- H. **INTERLOCAL AGREEMENT/PALM BEACH COUNTY:** Approve and authorize an interlocal agreement between the City and Palm Beach County for the transfer of Barwick Road jurisdictional responsibility from Palm Beach County including the payment of \$134,000.00 to the City for resurfacing and the installation of a traffic separator at the intersection of Barwick Road and West Atlantic Avenue.
- I. **(MOVED TO ITEM 9.A.A. ON THE REGULAR AGENDA).**
- J. **EARLY HISTORY OF DELRAY BEACH/ZION STUDY CIRCLE:** Approve and authorize the adoption of the Early History of Delray Beach and its use and dissemination; and approve the use of the City of Delray Beach Logo on the Early History Timeline.
- K. **SPECIAL EVENT REQUEST/ART & JAZZ:** Approve a request to endorse the Art & Jazz on the Avenue scheduled for June 28, 2007 from 6:00 p.m. to 10:00 p.m.; to grant 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 Drive from Atlantic Avenue north to the north side of the east/west alley and to the alleys north and south of Atlantic 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 the Tennis Center parking lot; and authorize staff support for security and traffic control, EMS assistance, banner hanging and removal, barricade set up and removal, trash removal and clean up.
- L. **SPECIAL EVENT REQUEST/PRO-MOTIONS SPORTS MARKETING VOLLEYBALL TOURNAMENT:** Approve a request from Pro-Motions Sports Marketing to host a Volleyball Tournament to be held at the municipal beach on June 23 and 24, 2007.

- M. **AGREEMENT/PALM BEACH COUNTY/NEIGHBORHOOD RESOURCE CENTER (NRC) SHUTTERING PROJECT:** Approve an agreement between the City and Palm Beach County regarding the implementation of the Neighborhood Resource Center (NRC) Shuttering Project through the Disaster Recovery Initiative (DRI) Program.
- N. **AGREEMENT/PALM BEACH COUNTY/EXTENSION OF MANGO DRIVE AND S.W. 7<sup>th</sup> AVENUE:** Approve an agreement between the City and Palm Beach County regarding the implementation of the extension of Mango Drive and S.W. 7<sup>th</sup> Avenue through the Disaster Recovery Initiative (DRI) Program.
- O. **AGREEMENT/CORDOBA CONSTRUCTION/AMERICAN LEGION HALL:** Approve an agreement between the City, Cordoba Construction and the American Legion Hall for the re-roofing project at 196 N.W. 8<sup>th</sup> Avenue. The City shall pay Cordoba Construction \$16,900.00 for the re-roofing project. Funding is available from 118-1963-554-49.19 (Community Development Fund/Housing Rehabilitation).
- P. **ROADWAY TRANSFER AGREEMENT/FLORIDA DEPARTMENT OF TRANSPORTATION:** Approve an agreement between the City and the Florida Department of Transportation (FDOT) that provides for FDOT to transfer Depot Road from N.W. 2<sup>nd</sup> Avenue to Lake Ida to the City; and that the City shall accept the responsibility for the operation and maintenance of the road.
- Q. **RECONFIGURATION PLANNING PHASE AGREEMENT/MOTOROLA:** Approve an agreement between the City and Motorola that Motorola shall start the reconfiguration planning phase of relocating the City's public safety communications system from its existing channels, in the 800 MHz range, to other licensed channels not located in the 800 MHz range.
- R. **RECONFIGURATION PLANNING PHASE AGREEMENT/NEXTEL:** Approve an agreement between the City and Nextel that Nextel shall fund the reconfiguration planning phase of relocating the City's public safety communications system from its existing channels, in the 800 MHz range, to other licensed channels not located in the 800 MHz range.
- S. **DISTRIBUTION OF FY 2008 JUSTICE ASSISTANCE GRANT FUND:** Approve the distribution of FY 2008 Justice Assistance Grant funds (JAG) formerly known as Byrne funds in the amount of \$564,568.00 as recommended by the Criminal Justice Commission; and authorize the Mayor to send a letter agreeing to the allocation of these funds.

T. **MULTIPLE AGREEMENTS/BLOCK 77 DEVELOPMENT GROUP, L.C./TRANSFER OF THE BLOCK 69 PARKING GARAGE:** Approve the following agreements related to the transfer of the Block 69 Parking Garage to the City from the Block 77 Development Group, L.C.: Limited Parking License Agreement, Indemnification and Hold Harmless Agreement, Assignment and Assumption of Parking Space Lease, Agreement Between Adjoining Landowners, Memorandum of Understanding, Third Amendment to Parking Space Lease, Memorandum of Lease, Second Amendment to Release of Parking Easement, Guaranty Agreement, Sump Pump Installation Warranty Agreement and Mutual Estoppel Certificate.

U. **REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:** Accept the actions and decisions made by the Land Development Boards for the period May 14, 2007 through June 1, 2007.

V. **AWARD OF BIDS AND CONTRACTS:**

1. **(MOVED TO ITEM 9.A.A.A. ON THE REGULAR AGENDA).**
2. Purchase award to Dell Incorporated in the amount of \$448,086.02 per State Contract No. 250-000-03-01 for the purchase of the SAN Mirroring with VMware Virtualization Solution. Funding is available from 334-6111-521-64.11 (General Construction Fund/Computer Equipment).
3. Purchase award to Emergency Vehicle Supply LLC in the amount of \$79,483.20 for the purchase of equipment for ten (10) police vehicles added to the fleet earlier this year. Funding is available from 001-2117-521-64.20, 001-2119-521-64.20 (General Fund/Automotive) and 001-2219-521-521-46.31, 001-2121-521-46.31 (General Fund/Vehicle Maintenance/Other).
4. Purchase award to Fisher Scientific Company of Tampa in the amount of \$49,123.20 for the purchase of 119 Fire Fighter Rescue Escape Devices (FFRED) to be mounted on our existing self contained breathing apparatus for the Fire-Rescue Department. Funding is available from 115-2311-522-49.90 (Special Projects Fund/Other Current Charges).

9. **REGULAR AGENDA:**

A.A. **SUBDIVISION IMPROVEMENT AGREEMENT/CANNERY ROW, LLC:** Approve and authorize a Subdivision Improvement Agreement between the City and Cannery Row, LLC for improvements to the intersection of N.E. 1<sup>st</sup> Avenue and N.E. 3<sup>rd</sup> Street. Cannery Row, LLC shall pay the City in the amount of \$5,625.00 for the improvements to the intersection. (Commissioner Eliopoulos filed a Conflict of Interest and left dais; Approved, 3-0)

A.A.A. **BID AWARD/CONCO HORTICULTURAL, INC.:** Consider a bid award to Conco Horticultural, Inc., in the amount of \$50,050.00 for the removal of seven (7) Royal Palm Tree Stumps and the purchase of eight (8) 30' Royal Palms for Old School Square and along Seabreeze Avenue. Funding is available from 119-4144-572-46.40 (Beautification Trust Fund/Parks and Recreation) (Approved, 4-0)

- A. **APPEAL OF THE HISTORIC PRESERVATION BOARD'S DECISION/706 SOUTHEAST 2<sup>ND</sup> STREET:** Appeal of the Historic Preservation Board's decision approving a Certificate of Appropriateness (COA) for construction of a new single-family residence at 706 Southeast 2<sup>nd</sup> Street, located in the Marina Historic District. *(Quasi-Judicial Hearing)* (Motion to adopt Board Order as presented; Approved, 3-1, Mayor Ellis dissenting.)
- B. **WAIVER REQUEST/LAST RESORT SALOON:** Consider a request for waiver of Land Development Regulations (LDR) Section 2.4.7(B)(1)(b)(i) "Special Power to the City Commission", and Section 4.3.3(V)(2)(a) "Prohibitions by Frequency", to waive the prohibition against seeking a waiver for use of land or structures regulations and to allow a reduction in the required separation distance from 750 feet to 200 feet when measured from lot line to lot line for the Last Resort Saloon, Inc., a proposed stand alone bar to be located within the Pelican Harbor Shoppes. *(Quasi-Judicial Hearing)* (Motion to approve Board Order as presented; Approved, 4-0)
- C. **WAIVER REQUEST/HAMMOCK HOUSE:** Consider a request for waiver of Land Development Regulations (LDR) Section 1.3.8(B) "Reconstruction Necessitated by Acts of God", which requires applicants seeking building permits to submit within one (1) year of the date on which the "Act of God" event occurred and that all reconstruction be completed within three (3) years from the date of the event for the Hammock House located at 1000 N.E. 9<sup>th</sup> Avenue. *(Quasi-Judicial Hearing)* (Motion to adopt Board Order as presented with conditions to submit building permit within one (1) year from the date of June 4, 2007 and work to be completed within three years from the date of June 4, 2007. Approved 4-0.)
- D. **RESOLUTION NO. 35-07/S.W. 8<sup>th</sup> AVENUE:** Approve Resolution No. 35-07 declaring the necessity for public improvements for the S.W. 8<sup>th</sup> Avenue area and directing the establishment of a special assessment district to defray a part of the expense for the construction of a road. (Approved, 4-0)
- E. **SPECIAL EVENT REQUEST/PALM BEACH FIESTAS PATRONALES AND BUSINESS EXPO:** Consider approval of a special event request to endorse the 2<sup>nd</sup> Palm Beach Fiestas Patronales and Business Expo sponsored by the Puerto Rican/Hispanic Chamber of Commerce for Palm Beach proposed to be held on August 3, 2007 and August 4, 2007 subject to the conditions outlined in the staff report. (Consensus of the Commission to omit recommendation No.5. Motion to approve; Approved, 4-0)

10. **PUBLIC HEARINGS:**

- A. **ORDINANCE NO. 21-07 (FIRST READING/FIRST PUBLIC HEARING):** Community Redevelopment Agency (CRA) initiated amendment to the Land Development Regulations (LDR), amending Section 4.4.13, "Central Business District (CBD)," Subsection 4.4.13(H)(1), to provide an exemption to the prohibition of office uses on the ground floor of buildings on East Atlantic Avenue. If passed, a second public hearing will be scheduled for June 19, 2007. (Approved, 4-0)

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. 20-07:** City initiated amendment to the Land Development Regulations (LDR), amending Section 4.4.25, "Special Activities District (SAD)", Subsection 4.4.25(C) to shift the authority for approval of site plans, landscape plans, and architectural elevations from the Planning and Zoning Board to the Site Plan Review and Appearance Board for projects located in the Special Activities District (SAD). If passed, a public hearing will be scheduled for June 19, 2007. (Approved, 4-0)

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

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

**POSTED: JUNE 1, 2007**

***\*\*\*\*\* Meeting adjourned at 8:32 p.m. \*\*\*\*\****