

City of Delray Beach

Regular Commission Meeting

AGENDA RESULTS



RULES FOR PUBLIC PARTICIPATION

Tuesday, March 20, 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.** (Commissioner Ellis absent)
2. **INVOCATION.**
3. **PLEDGE OF ALLEGIANCE TO THE FLAG.**
4. **AGENDA APPROVAL.**
5. **APPROVAL OF MINUTES:** (Mayor noted Item 9.C, Agreement/WiFi Services/Delray Beach Wi-Fi, Inc., was removed from the regular agenda due to a request from applicant.; Additional Information for Item 9.D, Capital Project Financing Needs and Item 9.H, Official Municipal Election Results was added to the regular agenda by Addendum; Approved as amended, 4-0)
 - March 5, 2007 – Regular Meeting (Approved, 4-0)
 - March 15, 2007 – Special/Workshop Meeting (Approved, 4-0)
6. **PROCLAMATIONS:**
 - A. Water Conservation Month – April 2007
 - B. Commending multiple medal winners - Delray Beach 2007 Senior Games
 - C. Recognizing and Commending the **Delray Rocks Football & Cheerleading Squads**
 - D. Recognizing and commending **Melissa Kaminiecki – Administration/Recreation Division** - Parks and Recreation Department Employee of the Year for 2006; **Greg Okonski – Ocean Rescue Division** and **Margaret Johnson – Parks Maintenance Division** as Parks and Recreation Top Employees of the Year for 2006.
7. **PRESENTATIONS:**
 - A. Zion Study Circle – Susan Ruby
8. **CONSENT AGENDA:** City Manager Recommends Approval. (Approved, 4-0)
 - A. **ACCEPTANCE OF EASEMENT DEED/BBC, LLC:** Accept an easement deed with for a five foot sidewalk easement along the north side of the 1100 Block of NW 1st Street.
 - B. **RESOLUTION NO. 22-07/FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT)/OLD GERMANTOWN ROAD SIDEWALKS:** Approve and adopt Resolution No. 22-07 authorizing execution of a Joint Participation Agreement (JPA) with the Florida Department of Transportation (FDOT) for the installation of sidewalks on Old Germantown Road between Linton Boulevard and Homewood Boulevard.

- C. **SERVICE AUTHORIZATION NO. 10/MATHEWS CONSULTING, INC.:** Approve Service Authorization No. 10 to Mathews Consulting, Inc. in the amount of \$39,320.00 for professional services for updating the computerized hydraulic model of the water distribution system. Funding is available from 441-5181-536-31.90 (Water/Sewer Fund/Other Professional Services).
- D. **AGREEMENT/MARLIN ENGINEERING:** Approve an agreement with Marlin Engineering in the amount of \$20,981.94 to provide professional services for the presentation of a Quiet Zone Study for the CSX Railroad five (5) public and four (4) private crossings of record within Delray Beach. Funding is available from 001-2911-519-31.30 (General Fund/Engineering/Architect).
- E. **INTERLOCAL AGREEMENT/PALM BEACH COUNTY/TROMBONE STYLE MAST ARMS/SR A1A AND EAST ATLANTIC AVENUE:** Approve an Interlocal Agreement with Palm Beach County for reimbursement in the amount of \$46,500.00 for the installation of trombone style mast arms at the intersection of SR A1A and East Atlantic Avenue.
- F. **SPECIAL EVENT REQUEST/EASTER SUNRISE SERVICE:** Approve a request to endorse the Easter Sunrise Service to be held on April 8, 2007, to grant a temporary use permit per LDR Section 2.4.6(F) for the closure of South Ocean Boulevard from Atlantic Avenue to Miramar from 6:00 a.m. to 7:30 a.m., grant the use of the pavilion, authorize staff support for traffic control, barricading and EMS presence.
- G. **AGREEMENT/DELRAY BEACH HOUSING AUTHORITY:** Approve an agreement between the City and the Delray Beach Housing Authority (DBHA) granting the City permission to access the Carver Estates property in order to demolish the buildings and clear the site.
- H. **AMENDMENT/COMMUNITY DEVELOPMENT DIVISION PROGRAM DESCRIPTION MANUAL:** Approve a request to amend the Community Development Division Program Description Manual which specifies the standard operating procedures for Federal, State and Local program administration under the Department of Community Improvement, Community Development.
- I. **REQUEST TO EXCEED HOUSING REHABILITATION GRANT LIMIT:** Approve a request to exceed the housing rehab Community Development Block Grant (CDBG) limit of \$35,000.00 in order to address unforeseen health and safety concerns for one (1) housing rehabilitation grant located at 102 SW 8th Avenue. Funding is available from 118-1963-554-49.19 (Community Development Fund/Housing Rehabilitation).

- J. **CONSTRUCTION CONTRACT/HARTZELL CONSTRUCTION, INC.:** Approve a construction contract with Hartzell Construction, Inc., in the amount of \$98,796.00 for the construction of concrete sidewalks, clearing and grubbing, and sodding swales along SW 4th Street, SW 11th Avenue and SW 10th Avenue. Funding is available from 118-1965-554-63.11 (Community Development Fund/Bikepaths/Sidewalks).
- K. **RESOLUTION NO. 24-07:** Approve Resolution No. 24-07 regarding the expenditure of money in support of the proposed amendments to the Palm Beach County Charter.
- L. **AGREEMENT/SERVICE AUTHORIZATION NO. 1/GLATTING JACKSON KERCHER ANGLIN, INC.:** Approve an agreement and Service Authorization No. 1 with Glattling Jackson Kercher Anglin, Inc. for professional consulting services in conjunction with the Old School Square Cultural Arts Center Expansion Project. The proposed fees for Phase 1 total \$128,500.00. Funding is available from 334-4151-572-63.59 (Improvements Other/Old School Square Park Improvements).
- M. **SERVICE AUTHORIZATION NO. 6/COASTAL PLANNING & ENGINEERING, INC.:** Approve Service Authorization No. 6 to Coastal Planning & Engineering, Inc., in the amount of \$26,750.00 for consulting services in developing plans, specifications and providing construction services at the Atlantic Dunes Boardwalk Project. Funding is available from 334-4170-572-63.48 (General Construction Fund/Atlantic Dunes Boardwalk).
- N. **GUARANTEED MAXIMUM PRICE (GMP)/WESTERN/SENIOR COMMUNITY CENTER/WEITZ COMPANY:** Approve Phase II of the Guaranteed Maximum Price (GMP) in the amount of \$10,123,650.00 to The Weitz Company for the Western/Senior Community Center Project. Funding is available from 380-4150-572-62.58 (2004 G.O. Bond/Western/Senior Community Center).
- O. **FDOT UTILITY PERMIT & HOLD HARMLESS AGREEMENT/WALGREENS STORE NO. 5489:** Authorize the City to act as the utility permit applicant for connecting a fire hydrant to an existing water main in the Florida Department of Transportation (FDOT) right-of-way, located at the intersection of West Atlantic Avenue and Military Trail and approve a hold harmless agreement with the developer (Rockwell Development).
- P. **VIDEO PRODUCTION AGREEMENT/DELRAY YOUTH VOCATIONAL CHARTER SCHOOL:** Approve and ratify an agreement with the International City Management Association (ICMA) for the preparation of a video about the Delray Youth Vocational Charter School and authorize the City Manager to execute the attached contract for video production.
- Q. **REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:** Accept the actions and decisions made by the Land Development Boards for the period March 5, 2007 through March 16, 2007.

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

1. Bid award to Roof Painting by Hartzell, Inc. in the amount of \$24,990.00 for painting interior offices in the Police Department. Funding is available from 001-2111-521-46.10 (General Fund/Building Maintenance).
2. Purchase awards to Duval Ford in the amount of \$158,891.00 for the purchase of eight (8) vehicles; and to Classic Chevrolet in the amount of \$25,316.00 for the purchase of two (2) vehicles; via the Sheriff's Association Contract for various departments within the City. Funding is available from 501-3312-591-64.20 (Central Garage Fund/Automotive).
3. Purchase award to Integrian in the amount of \$27,870.00 for the purchase of six (6) digital in-car audio/visual recording systems for the Police Department. Funding is available from 001-2117-521-64.90, 001-2119-521-64.90 and 001-2121-521-64.90 (General Fund/Other Machinery/Equipment).
4. Purchase award to Tactical Products Group in the amount of \$50,180.00 for the purchase of ballistic vests and plates (bulletproof vests) for the Police Department. Funding is available from 115-2132-521-52.27 (Operating Supplies/Equipment <\$750) and 115-2132-521-64.90 (Operating Supplies/Other Machinery/Equipment).
5. Contract award to Linetech, Inc. in the amount of \$20,989.00 for the installation of 2" water and sewer for the Temporary Fire Station No. 4 facilities located at Barwick Road Baptist Church. Piggybacking on City of Boynton Beach Bid # 02-2821-07/JA. Funding is available from 442-5178-536-63.90 (W&S Renewal & Replacement Fund/Other Improvements).
6. Contract award to Kilbourne & Sons, Inc. in the amount of \$21,688.20 for construction of a paved staging area for Temporary Fire Station No. 4 trailer office space. Funding is available from 334-6112-522-49.90 (General Construction Fund/Other Current Charges).

9. **REGULAR AGENDA:**

- A. **APPEAL OF THE HISTORIC PRESERVATION BOARD'S DECISION/20 NORTH SWINTON AVENUE:** Appeal of the Historic Preservation Board's decision regarding the relocation of a structure to 20 North Swinton Avenue located in the Old School Square Historic District. *(Quasi-Judicial Hearing)* (Mayor Perlman declared a Conflict of Interest, passed the gavel to Deputy Vice Mayor Fetzer and left the dais. Appeal failed; Historic Preservation Board's Decision upheld.)

- B. **CONDITIONAL USE EXTENSION REQUEST/MIRAFLORES DEVELOPMENT:** Consider an extension request to allow for a residential development with height in excess of 48 feet (58'-4" proposed) and to allow for a density in excess of 30 units per acre (38.8 du/ac proposed) within the Central Business District (CBD), for the Miraflores Development located on the east side of SE 1st Avenue approximately 76.5 feet south of SE 1st Street. *(Quasi-Judicial Hearing)*
(Motion to approve board order as set forth; Approved, 4-0)
- C. **AGREEMENT/WIFI SERVICES/DELRAY BEACH WI-FI, INC.:** Consider approval of an agreement between the City and Delray Beach WI-FI, Inc. for construction of a wi-fi system through out the entire City. *(REMOVED from the agenda due to a request from applicant)*
- D. **CAPITAL PROJECT FINANCING NEEDS:** Consider approval of the processing of FY 2007 Utility Tax Bond Issues and provide guidance on either a negotiated sale with our local underwriting firm or an Internet competitive bid sale. *(Motion to proceed with bond issue and a negotiated agreement with a broker for terms and conditions. Approved 3-1; Mayor Perlman dissenting)*
- E. **RESOLUTION NO. 23-07/FLORIDA DEPARTMENT OF TRANSPORTATION:** Consider approval of Resolution No. 23-07 requesting the Florida Department of Transportation (FDOT) to consider alternative designs to allow the construction of a sidewalk as well as landscaping between the proposed sidewalk and existing walls located along SR A1A in the City limits of Delray Beach. *(Approved, 4-0)*
- F. **APPOINTMENT TO THE CIVIL SERVICE BOARD:** Appoint one (1) regular member to the Civil Service Board for a two (2) year term ending April 1, 2009. Based upon the rotation system, the appointment will be made by Commissioner Montague (Seat #4). *(Appointed Eric Luckman and approved, 4-0)*
- G. **APPOINTMENT TO THE CODE ENFORCEMENT BOARD:** Appoint one (1) alternate 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 Montague (Seat #4). *(Appointed George Thacker and approved, 4-0)*
- H. **OFFICIAL MUNICIPAL ELECTION RESULTS:** Canvass the returns, and declare the official results of the March 13, 2007 First Nonpartisan Election. *(Approved, 4-0)*

10. **PUBLIC HEARINGS:**

- A. **ORDINANCE NO. 59-06 (SECOND READING/SECOND 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 8.27 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. *(Quasi-Judicial Hearing)* (Approved, 4-0)
- B. **ORDINANCE NO. 68-06 (SECOND READING/SECOND 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. *(Motion to approve Ordinance No. 68-06 on second reading; DENIED, 3-1. Mayor Perlman dissenting)*
- C. **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. *(Commissioner Levinson away from dais; Approved, 3-0)*
- 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. *(Approved, 3-0)*
- E. **ORDINANCE NO. 9-07:** Rezoning of a 0.78 acre parcel of land from GC (General Commercial) to Automotive Commercial for Delray Cycle, located on the east side of Dixie Highway, approximately 1,250 feet south of Gulf Stream Boulevard. *(Quasi-Judicial Hearing)* (Approved, 3-0; Commissioner Levinson returned to dais and Commissioner Montague stepped away from dais)
1. **CONDITIONAL USE REQUEST/DELRAY CYCLE:** Consider a request to establish a full service vehicle repair facility in conjunction with the sale of motorcycles and motorcycle accessories within the AC (Automotive Commercial) District on a 0.78 acre site located at 2455 N. Old Dixie Highway, approximately 1,250 feet south of Gulf Stream Boulevard. *(Quasi-Judicial Hearing)* *(Motion to adopt board order as set forth; Approved, 3-0)*

- F. **ORDINANCE NO. 10-07:** Privately initiated amendment to the Land Development Regulations (LDR), Section 4.4.19, “Mixed Industrial and Commercial District”, Section 4.5.15, “The I-95/CSX Railroad Corridor Overlay District”; and Article 4.7, “Family Workforce Housing”, to provide regulations associated with the creation of a new Workforce Housing Overlay District. (Approved, 4-0; Commissioner Montague returned to dais)
- G. **RESOLUTION NO. 20-07 (FIRST READING/FIRST PUBLIC HEARING):** Consider approval and adoption of Resolution No. 20-07 designating the area within the boundaries of the Carver Square Redevelopment area of the Community Redevelopment Agency (CRA) as a Brownfield Area for rehabilitative purposes. If passed, a second public hearing will be scheduled for April 10, 2007. (Mayor Perlman declared a Conflict of Interest, passed the gavel to Deputy Vice Mayor Fetzer and left the dais. Approved, 3-0)
- H. **ORDINANCE NO. 11-07:** Privately initiated amendments to the Land Development Regulations (LDR), 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). (Approved, 3-0)
- I. **ORDINANCE NO. 8-07 (SECOND READING/SECOND PUBLIC HEARING):** City initiated amendment to the Land Development Regulations (LDR) Article 4.5 “Overlay and Environmental Management Districts”, Section 4.4.9, “General Commercial District” and Section 4.4.12, “Planned Commercial District”, to accommodate redevelopment at the intersection of West Atlantic Avenue and Military Trail. (Approved, 4-0; Mayor Perlman returned to dais)
- J. **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. (Approved, 3-0; Commissioner Montague away from dais)
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. NONE

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

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

POSTED: MARCH 16, 2007

****** Meeting adjourned at 11:07 p.m. ******