

City of Delray Beach

Regular Commission Meeting

AGENDA RESULTS



RULES FOR PUBLIC PARTICIPATION

Tuesday, October 16, 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 Fetzer absent)
2. **INVOCATION.**
3. **PLEDGE OF ALLEGIANCE TO THE FLAG.**
4. **AGENDA APPROVAL.** (Mayor noted the addition of Item 7.E., Presentation of Ceremonial Check from the South Florida Water Management District (SFWMD) for the Alternative Water Supply (AWS) Grant was added to the agenda under Presentations by addendum; Item 9.F. Designation of Voting Delegate/National League of Cities Annual Business Meeting/Congress of Cities was added to the Regular Agenda by addendum; Additional Information for Item 12.B, Ordinance No. 45-07; Item 8.D., Grant Applications/Florida Department of State/Division of Historical Resources was moved to the Regular Agenda as Item 9.A.A.; Request for Postponement of Item 10.E. to a date certain of November 20, 2007, Regular Commission Meeting; Item 8.B., Renewal of Lease Agreement/Delray Beach Historical Society/Cason Cottage Property was moved to the Regular Agenda as Item 9.A.A.A; Item 8.L.1., Purchase Award/Ten-8 Fire Equipment, Inc. of Bradenton, Florida/Pierce Manufacturing, Inc., was moved to the Regular Agenda as Item 9.A.A.A.A.; and Item 8.L.2, Purchase Award/Hall-Mark Fire Apparatus of Ocala, Florida was moved to the Regular Agenda as Item 9.A.A.A.A.A.; Approved as amended, 4-0)
5. **APPROVAL OF MINUTES:**
 - October 2, 2007 – Regular Meeting (Approved, 4-0)
 - October 9, 2007 – Special/Workshop Meeting (Approved, 4-0)
6. **PROCLAMATIONS:**
 - A. Family Literacy Month – November 2007
 - B. National Hospice and Palliative Care Month – November 2007
7. **PRESENTATIONS:**
 - A. S.P.I.R.I.T. (Service, Performance, Integrity, Responsibility, Innovation, Teamwork) Committee Presentation
 - B. Recognizing and Commending Jorge L. Delgado, Jr., Specialist E-4 for his Service and Commitment to the United States Army
 - C. “Spotlight on Education” – Darlene Kostrub, Executive Director of Palm Beach County Literacy Coalition
 - D. Downtown Marketing Cooperative Holiday Season Plans
 - E. Presentation of Ceremonial Check from the South Florida Water Management District (SFWMD) for the Alternative Water Supply (AWS) grant – Dick Hasko, Director of Environmental Services

8. **CONSENT AGENDA:** City Manager Recommends Approval. (Approved as amended, 4-0)
- A. **AMENDMENT NO. 1/HISTORIC FACADE ARCHITECTURAL CONTROL AND REDEVELOPMENT EASEMENT:** Approve Amendment No. 1 to the Historic Facade Architectural Control and Redevelopment Easement Agreement between the City and the Community Redevelopment Agency (CRA) providing that additional structures may be placed on the Cason Cottage property (Bungalow or Lavender Shutter Building) with the permission of the Community Redevelopment Agency (CRA) in order to allow for the placement of the Hunt House on the property.
- B. **(MOVED TO ITEM 9.A.A.A. ON THE REGULAR AGENDA).**
- C. **RESOLUTION NO. 59-07:** Approve Resolution No. 59-07 supporting the Carver Estates Revitalization Hope VI Grant application developed by the Delray Beach Housing Authority.
- D. **(MOVED TO ITEM 9.A.A. ON THE REGULAR AGENDA).**
- E. **COASTAL PLANNING & ENGINEERING/BEACH RENOURISHMENT:** Approve and authorize Coastal Planning & Engineering to proceed with the Two (2) Year Post Construction Physical Monitoring for the Beach Renourishment Project in the amount of \$44,249.00. Funding is available from 332-4164-572-31.30 (Beach Restoration Fund/Engineering/Architect).
- F. **EXTENDED WARRANTY/ZOLL MEDICAL CORPORATION:** Approve a one (1) year extended warranty in the amount of \$18,648.00 to Zoll Medical Corporation for fourteen (14) 12-Lead Defibrillator Monitors M Series Units. Funding is available from 001-2315-526-46.20 (General Fund/Equipment Maintenance).
- G. **ANNUAL PROJECT HOLIDAY/YOU ARE NOT ALONE ORGANIZATION:** Approve a request to endorse the 2nd Annual Project Holiday sponsored by the You Are Not Alone Organization and authorize City and staff support to assist with mailing packages to armed services personnel.
- H. **SPECIAL EVENT REQUEST/HOLIDAY PAGEANT PARADE:** Approve and endorse the Annual Holiday Pageant Parade co-sponsored by the Parks and Recreation Department and the Chamber of Commerce to be held on December 8, 2007 beginning at approximately 6:00 p.m., granting a temporary use permit per LDR Section 2.4.6(F) for the closure and use of Atlantic Avenue from Gleason Street and Andrews Avenue to N.W. 1st Avenue for parade route; Miramar, Lowery, Gleason and Andrews for parade set up from approximately 4:00 p.m. to 6:00 p.m.; and authorize staff support for traffic control and security, EMS assistance, barricade set-up/removal, trash removal/clean up, and processing of the FDOT permit.

- I. **SPECIAL EVENT REQUEST/ HOLIDAY TREE LIGHTING/ART & JAZZ ON THE AVENUE:** Approve and endorse the Holiday Tree Lighting and Art & Jazz on the Avenue scheduled for November 29, 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 N.E./S.E. 7th Avenue; to the alley north of Atlantic Avenue on N.E. 1st Avenue, N.E. 2nd Avenue, Railroad Way, and N.E. 4th Avenue; from Atlantic Avenue to the alley south on S.E. 1st Avenue, S.E. 2nd Avenue and S.E. 4th Avenue; and authorize staff support for security and traffic control, banner hanging/removal, barricade set-up/removal, trash removal, clean up assistance, and use/set up of the new City stage.

- J. **HOUSING REHABILITATION GRANT/CONTRACT AWARDS:** Approve two (2) Housing Rehabilitation grant/contract awards through the Community Development Division in the amount of \$31,862.25 to Cordoba Construction Co. Inc., and in the amount of \$33,967.50 to Ray Graeve and Sons Construction. Funding is available from 118-1924-551-49.19 (State Housing Initiatives Partnership (SHIP) Program/Housing Rehabilitation) and 118-1963-554-49.19 (Community Development Fund/Housing Rehabilitation).

- K. **REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:** Accept the actions and decisions made by the Land Development Boards for the period October 1, 2007 through October 12, 2007.

- L. **AWARD OF BIDS AND CONTRACTS:**
 - 1. **(MOVED TO ITEM 9.A.A.A.A. ON THE REGULAR AGENDA).**
 - 2. **(MOVED TO ITEM 9.A.A.A.A.A. ON THE REGULAR AGENDA).**
 - 3. Purchase award to American Traffic Products and Services in the amount of \$20,455.70 for the City's yearly supply of signs and sign supplies. Funding is available from 001-3141-541-52.20 (General Fund/General Operating Supplies).

9. **REGULAR AGENDA:**

- A.A. **GRANT APPLICATIONS/FLORIDA DEPARTMENT OF STATE/DIVISION OF HISTORICAL RESOURCES:** Authorize staff to submit two (2) grant applications to the Florida Department of State, Division of Historical Resources for funding in the amount of \$25,000.00 to resurvey four (4) historic districts (Del-Ida Park, Nassau Park, Old School Square and West Settlers Historic Districts) and purchase ten (10) State Historical Markers. *(Approved, 4-0)*

- A.A.A. **RENEWAL OF LEASE AGREEMENT/DELRAY BEACH HISTORICAL SOCIETY/CASON COTTAGE PROPERTY:** Approve the renewal of the lease agreement between the City and the Delray Beach Historical Society for the Cason Cottage Property. *(Approved, 4-0)*

- A.A.A.A. **PURCHASE AWARD/TEN-8 FIRE EQUIPMENT, INC. OF BRADENTON, FLORIDA/PIERCE MANUFACTURING, INC.:** Purchase award to Ten-8 Fire Equipment, Inc. of Bradenton, Florida/Pierce Manufacturing, Inc. in the amount of \$469,778.00 for the purchase of one (1) Pierce Manufacturing, Inc. Custom Heavy Duty Pumper for the Fire Department. Funding is available from 501-3312-591-64.25 (Central Garage Fund/Heavy Equipment). (Approved, 4-0)
- A.A.A.A.A. **PURCHASE AWARD/HALL-MARK APPARATUS OF OCALA, FLORIDA:** Purchase award to Hall-Mark Fire Apparatus of Ocala, Florida in the amount of \$214,741.37 via the Florida Sheriff's Association, Bid #05-06-0823 for one (1) 2008 Custom Rescue Transport Unit for the Fire Department. Funding is available from 501-3312-591-64.25 (Central Garage Fund/Heavy Equipment). (Approved, 4-0)
- A. **REQUEST FOR IN-LIEU PARKING SPACES/ONNEN DISASTER AND RECOVERY CENTER:** Consider a request from the Onnen Disaster and Recovery Center for the purchase of three (3) in-lieu parking spaces in the amount of \$46,800.00 to accommodate a proposed 4-story mixed use building containing 9,361 square feet of office space and one (1) residential unit on the fourth floor. The Onnen Disaster and Recovery Center is located at 234 N.E. 4th Avenue. (*Quasi-Judicial Hearing*) (Motion to approve the Board Order as presented; Approved, 4-0)
- B. **AGREEMENT/HORSE DRAWN CARRIAGES, INC.:** Consider approval of an agreement between the City and Horse Drawn Carriages, Inc. to provide horse and carriage rides along Atlantic Avenue and N.E. 2nd Avenue as specified from November 1, 2007 through May 30, 2008. (Approved, 4-0)
- C. **REJECTION OF BIDS/DELRAY BEACH SWIM AND TENNIS CENTER WEST PARKING LOT PROJECT:** Consider rejection of all bids received for the Delray Beach Swim and Tennis Center West Parking Lot Project; and authorize staff to re-advertise for competitive bids. (Approved, 4-0)
- D. **APPOINTMENT TO THE DELRAY BEACH HOUSING AUTHORITY:** Appoint one (1) regular member to the Delray Beach Housing Authority for a four (4) year term ending October 27, 2011. Based upon the rotation system, the appointment will be made by Mayor Ellis (Seat #5). (DEFERRED until November 6, 2007 Regular Commission Meeting)
- E. **APPOINTMENTS TO THE NEIGHBORHOOD ADVISORY COUNCIL:** Appoint four (4) regular members to the Neighborhood Advisory Council for Zone 1, Zone 2, Zone 3 and Zone 4 to serve three (3) year terms ending August 31, 2010 and one (1) At Large Representative to serve a three (3) year term ending August 31, 2010. Based upon the rotation system, the appointments will be made by Commissioner McDuffie (Seat #3), Commissioner Montague (Seat #4), Mayor Ellis (Seat #5), Commissioner Eliopoulos (Seat #1) and Commissioner Fetzer (Seat #2). (Appointed Gaston Joseph and approved, 4-0; appointed Jennifer Witt and approved, 4-0; appointed Linda Laurence Leib and approved, 4-0; appointed Harold Van Arnem and approved 4-0; Commissioner Fetzers' appointment was deferred until November 6, 2007)

- F. **DESIGNATION OF VOTING DELEGATE/NATIONAL LEAGUE OF CITIES ANNUAL BUSINESS MEETING/CONGRESS OF CITIES:** Consider designating a voting delegate and an alternate to the National League of Cities Annual Business Meeting/Congress of Cities to be held at the Ernest N. Morial Convention Center in New Orleans, Louisiana on November 17, 2007. (Motion to appoint Commissioner McDuffie as the voting delegate; Approved, 4-0)

10. **PUBLIC HEARINGS:**

- A. **ORDINANCE NO. 46-07 (FIRST READING/FIRST PUBLIC HEARING):** Consideration of a modification of the Blood's Grove Special Activities District (S.A.D) Ordinance No. 51-95, in conjunction with a new mixed-use development known as Midtown Delray containing 116 townhouse units (of which 32 units are subject to the family workforce housing ordinance) and 29,571 square feet of medical offices to be located at the southwest corner of Linton Boulevard and Old Germantown Road (4600 Linton Boulevard). If passed, a quasi judicial public hearing will be scheduled for November 6, 2007. (Approved, 4-0)
- B. **CONTRACT FOR SALE AND PURCHASE/CONDOMINIUM UNITS 1-9/ OLD SCHOOL SQUARE PARKING GARAGE PROPERTY/FAMILY GOURMET MARKETS, LLC:** Consider approval of a contract to sell City owned property, condominium units 1-9, located on the first floor of the Old School Square Parking Garage at the southwest corner of N.E. 2nd Avenue and N.E. 1st Street, and Contract for Sale and Purchase between the City and Family Gourmet Food Markets, LLC in the amount of \$3,600,000.00. (Motion to direct City Attorney to negotiate a contract with Family Gourmet Food Markets, LLC for Item 10.C; Approved, 3-1)
- C. **CONTRACT FOR SALE AND PURCHASE/CONDOMINIUM UNITS 5-9/ OLD SCHOOL SQUARE PARKING GARAGE PROPERTY/FAMILY GOURMET MARKETS, LLC:** Consider approval of a contract to sell City owned property, condominium units 5-9, excluding the western four (4) units. The property is located on the first floor of the Old School Square Parking Garage at the southwest corner of N.E. 2nd Avenue and N.E. 1st Street, and Contract for Sale and Purchase between the City and Family Gourmet Food Markets, LLC in the amount of \$2,347,499.20. (Motion to direct City Attorney to negotiate a contract with Family Gourmet Food Markets, LLC for Item 10.C; Approved, 3-1)
- D. **CONTRACT FOR SALE AND PURCHASE/FIVE (5) CONDOMINIUM UNITS/OLD SCHOOL SQUARE PARKING GARAGE PROPERTY/DAVINCI CANDLE, LLC:** Consider approval of a contract to sell City owned property, five (5) condominium units, excluding the western four (4) units. The property is located on the first floor of the Old School Square Parking Garage at the southwest corner of N.E. 2nd Avenue and N.E. 1st Street, and Contract for Sale and Purchase between the City and Davinci Candle, LLC in the amount of \$2,244,600.00. (Motion to direct City Attorney to negotiate a contract with Family Gourmet Food Markets, LLC for Item 10.C; Approved, 3-1)

- E. **ORDINANCE NO. 31-07 (SECOND READING/SECOND PUBLIC HEARING):** Privately initiated amendment to the Land Development Regulations amending Section 4.4.24, “Old School Square Historic Arts District (OSSHAD)”, Subsection 4.4.24(B), “Principal Uses and Structures”, to include an additional property that is allowed the permitted uses of the Central Business District (CBD) Zoning District; amending Subsection 4.4.24(F), “Development Standards”, to include an additional property in the Old School Square Historic Arts District (OSSHAD) that is subject to the standards of the Central Business District (CBD) Zoning District. (Motion to **POSTPONE** to a date certain of November 20, 2007 Regular Commission Meeting; Approved, 4-0)

- F. **ORDINANCE NO. 48-07:** An ordinance amending Chapter 37, “Delray Beach Code Enforcement,” of the Code of Ordinances by amending Section 37.45, “Supplemental Code Enforcement Procedures”, Subsection 37.45(L), “Recovery of Unpaid Civil Penalties; Unpaid Penalty to Constitute a Lien; Foreclosure”, to provide for the placement of liens due to unpaid citations. (Approved, 4-0)

- G. **ORDINANCE NO. 47-07:** City initiated amendment to the Land Development Regulations (LDR), amending Section 1.4.1, “Interpretation of Land Development Regulations”, Article 2.2, “General Provisions”, Sections 2.2.1, 2.2.4, 2.4.3, 7.1.3, 7.8.9, 7.8.12, 7.8.14, 7.8.15, 7.8.16, 7.8.17, 7.8.18, 7.8.19, 7.8.20, 7.8.21, and 7.8.22 and repealing Section 2.25 and 7.8.13 to substitute “Board of Adjustment” for “Board of Construction Appeals”. (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. 51-07:** An ordinance amending Chapter 92, “Boats and Boating”, by amending Section 92.33, “Dockage Rate”, of the Code of Ordinances to clarify the dockage rate charged for the City Marina. If passed, a public hearing will be scheduled for November 6, 2007. (Approved, 4-0)

- B. **ORDINANCE NO. 45-07:** An ordinance amending Section 37.45, “Supplemental Code Enforcement Procedures”, Subsection (Q), “Civil Penalties”, to provide for citations for noise violations of motor vehicles and motorcycles; amending Chapter 70, “Traffic Regulations”, “General Provisions”, by amending Section 70.02, “Truck and Trailer Prohibition On Certain Portions Of Atlantic Avenue”, in order to prohibit motorcycles on certain portions of Atlantic Avenue; amending Chapter 99, “Noise Control”, by amending Section 99.02, “Definitions”, to provide updated definitions; by amending Section 99.04, “Loud and Unnecessary Noises Enumerated; Exceptions”, to change the name to “Loud and Raucous Noises Enumerated; Exemptions”, by amending Subsection (A), “Certain Acts Declared Unlawful”, and (1)(a) and (14), “Motor Vehicles Operating On A Public Right-Of-Way”, to add “Motorcycles”, “Mufflers”, and “Rapid Throttle Advance”, in order to provide a cap for all motorcycle exhaust noise and require EPA noise labels. If passed, a second public hearing will be scheduled for November 6, 2007. (First motion to approve Option 1; Approved, 4-0. Second motion to approve Option 2; **DENIED**, 4-0)

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

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

POSTED: OCTOBER 12, 2007

******** Meeting adjourned at 9:52 p.m. ********