

City of Delray Beach

Regular Commission Meeting

*****AGENDA RESULTS*****



RULES FOR PUBLIC PARTICIPATION

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.

Tuesday, April 6, 2010

Regular Meeting 6:00 p.m.
Public Hearings 7:00 p.m.
Commission Chambers
Delray Beach City Hall

- 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

Phone: (561) 243-7000
Fax: (561) 243-3774

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 McDuffie noted Item 8.L., Acceptance of Donation/Andre Fladell, was moved to the Regular Agenda as Item 9.A.A.; Item 8.A., Hold Harmless Agreement/Leonard J. Rodriguez, was moved to the Regular Agenda as Item 9.A.A.A.; Item 8.B., Service Authorization No. 07-14/Mathews Consulting, Inc./Mangrove Park Boat Ramp, was moved to the Regular Agenda as Item 9.A.A.A.A.; Item 8.C., Service Authorization No. 07-15/Mathews Consulting, Inc./S.W. 12th Avenue/Auburn Avenue/S.W. 14th Avenue, was moved to the Regular Agenda as Item 9.A.A.A.A.A.; Item 8.E., Consulting Service Authorization with AECOM Technical Services, Inc./Worthington Park, was moved to the Regular Agenda as Item 9.A.A.A.A.A.A.; Approved as amended, 5-0).
5. **APPROVAL OF MINUTES:**
 - A. March 11, 2010 – Special/Workshop Meeting (Approved, 5-0)
 - B. March 16, 2010 – Regular Meeting (Approved, 5-0)
 - C. March 25, 2010 – Annual Organizational Meeting (Approved, 5-0)
6. **PROCLAMATIONS:**
 - A. National Public Safety Telecommunicators Week – April 11-17, 2010
 - B. Arbor Day/Earth Day – April 24, 2010
7. **PRESENTATIONS:**
 - A. 21st Annual Delaire/Delray Citizens for Delray Police Charity Golf Tournament Presentation to Police and Fire-Rescue - Perry DonFrancisco
8. **CONSENT AGENDA:** City Manager Recommends Approval. (Approved as amended, 5-0)
 - A. **(MOVED TO ITEM 9.A.A.A. ON THE REGULAR AGENDA)**
 - B. **(MOVED TO ITEM 9.A.A.A.A. ON THE REGULAR AGENDA)**
 - C. **(MOVED TO ITEM 9.A.A.A.A.A. ON THE REGULAR AGENDA)**
 - D. **CONSULTING SERVICE AUTHORIZATION/KIMLEY-HORN AND ASSOCIATES, INC.:** Approve a Consulting Service Authorization with Kimley-Horn and Associates, Inc. in the amount of \$23,900.00 for soil vapor monitoring of landfill gases at the Robert P. Miller Park athletic facilities. Funding is available from 334-4173-572-63.90 (General Construction Fund: Improvements Other/Other Improvements).

- E. **(MOVED TO ITEM 9.A.A.A.A.A. ON THE REGULAR AGENDA)**
- F. **RESOLUTION NO. 15-10:** Approve Resolution No. 15-10 amending Resolution No. 24-09 which created the Green Task Force in order to change the name to Delray Beach Green Implementation Advancement Board.
- G. **DISASTER RECOVERY INITIATIVE (DRI)/HOUSING REHABILITATION GRANT/CONTRACT AWARDS:** Approve one (1) Housing Rehabilitation grant award to the lowest responsive bidder for the project located at 1502 S.W. 3rd Court to CJ Contracting, LLC., in the amount of \$33,412.55; and a revised award amount of \$40,315.90 to Haywood Construction and waiver to exceed the maximum \$40,000.00 grant award for 228 S.W. 1st Avenue for housing rehabilitation under the Disaster Recovery Initiative (DRI) Program. Funding is available from 118-1960-554-49.19 (Neighborhood Services/Other Current Charges/Housing Rehabilitation).
- H. **HOUSING REHABILITATION GRANT/BID AWARD:** Approve one (1) Housing Rehabilitation Grant bid award through the Community Development Division in the amount of \$29,427.28 to Citywide Construction Services, Inc. (110 S.W. 7th Avenue). Funding is available from 118-1924-554-49.19 (Neighborhood Services: Other Current Charges/Housing Rehabilitation).
- I. **INDEPENDENT CONTRACTOR AGREEMENT: HOWARD SCOTT LUNSFORD:** Approve an Independent Contractor Agreement between the City and Howard Scott Lunsford to conduct background investigations for prospective candidates for police officer and non-sworn police employment. Funding is available from 001-2111-521-31.90 (General Fund: Law Enforcement/Professional Services/Other Professional Services).
- J. **FUNDING REQUEST/FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT):** Authorize staff to request funding from the Florida Department of Transportation (FDOT) in the amount of \$34,041.00 to continue the implementation of a D.U.I. Enforcement program.
- K. **AGREEMENT/HEALTH CAREER INSTITUTE (HCI):** Approve an agreement with Health Career Institute (HCI) for the City to provide a clinical training site for EMT and paramedic students.
- L. **(MOVED TO ITEM 9.A.A. ON THE REGULAR AGENDA)**
- M. **GOOGLE FIBER FOR COMMUNITIES:** Approve authorization for the City's submission of an application for the Google Fiber for Communities project.

N. **SPECIAL EVENT REQUEST/13th ANNUAL DOWNTOWN DELRAY CRAFT FESTIVAL:** Approve a special event request to endorse the 13th Annual Downtown Delray Craft Festival sponsored by Howard Alan Events, Ltd. to be held May 29 - 30, 2010 from 10:00 a.m. to 5:00 p.m., to grant a temporary use permit per LDR Section 2.4.6(F) for the closure and use of N.W. 3rd Avenue from Atlantic Avenue north to the south entrance of Atlantic Grove and the Tennis Center parking lot and to provide staff support for traffic control and security, barricading and fire inspection services.

O. **REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:** Accept the actions and decisions made by the Land Development Boards for the period March 15, 2010 through April 2, 2010.

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

1. Bid award to Berg Demolition, Inc. in the amount of \$28,235.00 for the demolition of five (5) structures. Funding is available from 118-1965-554-34.35 (Neighborhood Services: Other Contractual Service/Unsafe Bldgs/Structures).
2. Approval of emergency contract award to EIMCO Water Technologies in the amount of \$28,980.00 for removing and rebuilding the worm drive unit assembly on Clarifier #4 at the Water Treatment Plant (WTP). Funding is available from 441-5122-536-34.90 (Water and Sewer Fund/Other Contractual Services).
3. Purchase award to Bartow Chevrolet in the amount of \$18,108.00 for replacement of one (1) 2010 Chevrolet Express 2500 Cargo Van with options and extended warranty. Funding is available from 501-3312-591-64.20 (Garage Fund: Machinery/Equipment/Automotive).
4. Purchase award to CDW-Government, Inc. in the amount of \$63,690.69 for ten (10) Panasonic digital in-car visual recording systems. Funding is available from 334-2111-521-64.90 (General Construction Fund: Machinery/Equipment/Other Machinery/Equipment) and 001-2115-521-64.20 (General Fund: Machinery/Equipment/Automotive).

9. **REGULAR AGENDA:**

AA. **ACCEPTANCE OF DONATION/ANDRE FLADELL:** Authorize approval to accept a donation from Dr. Andre Fladell for the purchase of a Menorah. (Approved, 5-0)

AAA. **HOLD HARMLESS AGREEMENT/LEONARDO J. RODRIGUEZ:** Approve a Hold Harmless Agreement with Leonardo J. Rodriguez for installation of patio in the City's right-of-way for the property located at 14897 Whatley Road. (Motion to approve; Denied, 3-2. Commissioner Frankel and Commissioner Gray dissenting)

AAAA. **SERVICE AUTHORIZATION NO. 07-14/MATHEWS CONSULTING, INC./MANGROVE PARK BOAT RAMP:** Approve Service Authorization No. 07-14 to Mathews Consulting, Inc. in the amount of \$36,414.30 for performance of engineering design, construction document preparation, permit acquisition and bidding/negotiation services for the reconstruction of the boat ramps at Mangrove Park. Funding is available from 334-4174-572-63.90 (General Construction Fund: Improvements Other/Other Improvements). (Motion to approve; Approved, 3-2; Commissioner Eliopoulos and Commissioner Frankel dissenting)

AAAAA. **SERVICE AUTHORIZATION NO. 07-15/MATHEWS CONSULTING, INC./S.W. 12TH AVENUE/AUBURN AVENUE/S.W. 14TH AVENUE:** Approve Service Authorization No. 07-15 to Mathews Consulting, Inc. in the amount of \$116,617.00 for the design of S.W. 12th Avenue/Auburn Avenue/S.W. 14th Avenue improvements. Funding is available from 334-3162-541-68.04 (General Construction Fund: Other Improvement/S.W. 12th Avenue/Auburn/14th Avenue). (Motion to approve; Approved, 5-0)

AAAAAA. **CONSULTING SERVICE AUTHORIZATION WITH AECOM TECHNICAL SERVICES, INC./WORTHING PARK:** Approve a Consulting Service Authorization with AECOM Technical Services, Inc. in the amount of \$44,980.00 for the design of Worthing Park. Funding is available from 334-4151-572-68.19 (General Construction Fund: Other Improvement/Worthing Park Improvement). (Motion to approve; Approved, 5-0)

A. **WAIVER REQUEST/THE OFFICE RESTAURANT:** Consider a waiver request to Land Development Regulations (LDR) Section 4.4.13 (F)(4) "Development Standards", to allow encroachment into the required 5' setback (0' setback proposed) for buildings located in the CBD (Central Business District) along Atlantic Avenue for The Office Restaurant located at 201 and 203 East Atlantic Avenue. (*Quasi-Judicial Hearing*) (Motion to adopt Board Order as presented; Approved, 5-0)

B. **WAIVER REQUEST/MOUNT OLIVE MISSIONARY BAPTIST CHURCH:** Consider a waiver request to Land Development Regulations (LDR) Section 4.6.9 (D)(3)(c)(1), "Stacking Distance", to reduce the required stacking distance from 20' to 14.2' and 15.5' for Mount Olive Missionary Baptist Church parking lot located on the east side of N.W. 5th Avenue south of N.W. 1st Street. (*Quasi-Judicial Hearing*) (Motion to adopt Board Order as presented; Approved, 5-0)

C. **CONDITIONAL USE REQUEST/250 NORTH CONGRESS AVENUE:** Consider a conditional use request to allow establishment of an automobile body and repair shop in Bays A and B of an existing warehouse building located in the Mixed Industrial and Commercial (MIC) zoning district at 250 North Congress Avenue. (*Quasi-Judicial Hearing*) (Motion to adopt Board Order as presented; Approved, 5-0)

- D. **APPEAL/HISTORIC PRESERVATION BOARD ACTION/14 SOUTH SWINTON AVENUE:** Consider an appeal of the Historic Preservation Board's decision regarding a Certificate of Appropriateness associated with the installation of a free-standing sign on a contributing property located at 14 South Swinton Avenue. *(Quasi-Judicial Hearing)* **(This item is now moot as the business has relocated to 4801 Linton Boulevard).** (Motion to **WITHDRAW** this appeal; Approved, 5-0)
- E. **CONTRACTOR AGREEMENT & LEASE AGREEMENT- EMPLOYEE HEALTH AND WELLNESS CENTER:** Consider approval of a Contractor Agreement with CareHere, LLC., to provide medical staff and services in the Employee Health and Wellness Center; and a Lease Agreement with Pineapple Grove Professional Center to secure an operating space for the facility. (First Motion to approve Agreement with CareHere; Approved, 5-0. Second Motion to approve lease agreement as amended; Approved, 5-0)
- F. **FUNDING ALTERNATIVES FOR ROBERT P. MILLER PARK: LITTLE FENWAY CONCESSION BUILDING:** Provide direction regarding funding alternatives for replacement of the Little Fenway Concession Building at Robert P. Miller Park. (Commission directed staff to speak with the architect regarding value engineering and to work on this with the lowest bidder to try to get costs down)
- G. **SPECIAL EVENT REQUEST/CHILLOUNGE NIGHT:** Consider approval of Chillounge Night sponsored by Design O' Fresco Corporation proposed to be held on Friday, May 21, 2010 from 6:30 p.m. to 11:30 p.m. on the Old School Square Park site, to grant a temporary use permit per LDR Section 2.4.6(F) for the use of park and portions of N.E. 1st Avenue, to provide staff support for traffic control and security, EMS services, barricading, trash removal, event signage and a fireworks show; contingent upon staff's recommended conditions being met. (Motion to approve; Approved, 5-0)
- H. **APPOINTMENT TO THE BOARD OF ADJUSTMENT:** Appoint one (1) regular member to the Board of Adjustment to serve an unexpired term ending August 31, 2010. Based on the rotation system, the appointment will be made by Commissioner Frankel (Seat #3). (Appointed Bryce Newell and approved, 5-0)
- I. **APPOINTMENT TO THE NEIGHBORHOOD ADVISORY COUNCIL:** Appoint one (1) student member to the Neighborhood Advisory Council to serve an unexpired term ending July 31, 2010. Based upon the rotation system, the appointment will be made by Mayor McDuffie (Seat #5). (Appointed Diana Ciuca and approved, 5-0)
- J. **APPOINTMENT TO THE POLICE ADVISORY BOARD:** Appoint one (1) regular member to the Police Advisory Board to serve an unexpired term ending July 31, 2011. Based upon the rotation system, the appointment will be made by Commissioner Fetzer (Seat #2). (Commissioner Fetzer's appointment was DEFERRED to the April 20, 2010 Regular Commission Meeting)

10. **PUBLIC HEARINGS:**

- A. **RESOLUTION NO. 13-10/CONTRACT FOR SALE AND PURCHASE/HSBC BANK USA/616 S.W. 9th STREET:** Consider approval of Resolution No. 13-10 authorizing the City to purchase a foreclosed property located at 616 S.W. 9th Street, to be utilized for affordable housing purposes; and approve a Contract for Sale and Purchase between the City and HSBC Bank USA in the amount of \$90,000.00. (Approved, 5-0)
- B. **RESOLUTION NO. 14-10/CONTRACT FOR SALE AND PURCHASE/WELLS FARGO/5288 N.W. 5th COURT:** Consider approval of Resolution No. 14-10 authorizing the City to purchase a foreclosed property located at 5288 N.W. 5th Court, to be utilized for affordable housing purposes; and approve a Contract for Sale and Purchase between the City and Wells Fargo in the amount of \$130,000.00. **(STAFF HAS REQUESTED THIS ITEM BE REMOVED AS THE PROPERTY IS NO LONGER AVAILABLE)** (Motion to REMOVE; 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. 08-10:** Consider a city-initiated amendment to the Land Development Regulations (LDR) Section 4.6.14, "Visibility at Intersections", Section 5.3.1, "Streets" (rights-of-way), Section 6.1.2, "Streets and Alleys", Section 6.1.3, "Sidewalks", and Section 6.1.4, "Driveways and Points of Access", to update current development standards to better reflect the City's efforts to encourage multiple modes of transportation as well as providing a more reasonable and consistent application of sight visibility. If passed, a public hearing will be held on April 20, 2010. (Approved, 5-0)

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

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

POSTED: APRIL 2, 2010

******* Meeting adjourned at 9:20 p.m. *******