

MAY 15, 2007

A Regular Meeting of the City Commission of the City of Delray Beach, Florida, was called to order by Mayor Rita Ellis in the Commission Chambers at City Hall at 6:07 p.m., Tuesday, May 15, 2007.

1. Roll call showed:

Present - Commissioner Gary Eliopoulos
Commissioner Fred Fetzer
Commissioner Woodie McDuffie
Commissioner Brenda Montague
Mayor Rita Ellis

Absent - None

Also present were - David T. Harden, City Manager
Robert A. Barcinski, Assistant City Manager
Susan A. Ruby, City Attorney
Chevelle D. Nubin, City Clerk

2. The opening prayer was delivered by Rabbi Chaim Wender with Temple Sinai.

3. The Pledge of Allegiance to the flag of the United States of America was given.

4. **AGENDA APPROVAL.**

Mayor Ellis stated there is additional information for **Item 8.P., Proposed Budget Submission/Children's Service Council (CSC)/Beacon Center at Village Academy, Item 9.A., Appeal of the Historic Preservation Board's Decision/706 Southeast 2nd Street, Item 9.K, Special Event Request/4th of July and Item 9.L., Housing Rehabilitation Grant/Contract Award.**

Mayor Ellis stated **Item 9.C., Service Authorization No. 6/Spatial Focus, Inc.,** has been withdrawn from the Agenda.

The City Attorney stated she spoke with Amy Alvarez, Historic Preservation Planner regarding **Item 9.A., Appeal of the Historic Preservation Board's Decision/706 S.E. 2nd Street,** and staff has not had the chance to consider it. Therefore, the City Attorney recommended postponing **Item 9.A.** until the next regular meeting of the City Commission (June 4, 2007).

Mrs. Montague moved to approve the Agenda as amended, seconded by Mr. Fetzer. Upon roll call the Commission voted as follows: Mr. Fetzer – Yes; Mr. McDuffie – Yes; Mrs. Montague – Yes; Mayor Ellis – Yes; Mr. Eliopoulos – Yes. Said motion passed with a 5 to 0 vote.

5. APPROVAL OF MINUTES:

Mr. Eliopoulos moved to approve the Minutes of the Regular Meeting of May 1, 2007, seconded by Mr. McDuffie. Upon roll call the Commission voted as follows: Mr. McDuffie – Yes; Mrs. Montague – Yes; Mayor Ellis – Yes; Mr. Eliopoulos – Yes; Mr. Fetzer – Yes. Said motion passed with a 5 to 0 vote.

Mrs. Montague moved to approve the Minutes of the Special/Workshop Meeting of May 8, 2007, seconded by Mr. McDuffie. Upon roll call the Commission voted as follows: Mrs. Montague – Yes; Mayor Ellis – Yes; Mr. Eliopoulos – Yes; Mr. Fetzer – Yes; Mr. McDuffie – Yes. Said motion passed with a 5 to 0 vote.

6. PROCLAMATIONS:

6.A. Recognizing Student Ambassadors: Lindsay Brandt, Whittaker Bullard, Jake Gittelmacher, Tyler Kennedy, Joanna Luo, William O'Connor and Alice Wang

Mayor Ellis read and presented a proclamation hereby recognizing the following individuals as student ambassadors:

**LINDSAY BRANDT
WHITTAKER BULLARD
JAKE GITTELMACHER
TYLER KENNEDY
JOANNA LUO
WILLIAM O'CONNOR
ALICE WANG**

6.B. National Safe Boating Week – May 19 – 25, 2007

Mayor Ellis read and presented a proclamation to Tom Rutherford from the Boca Raton Coast Guard Auxiliary hereby proclaiming May 19-25, 2007 as National Safe Boating Week in Delray Beach. Mr. Rutherford came forward to accept the proclamation and gave a few brief comments.

7. PRESENTATIONS:

7.A. Historic Preservation Board Awards Recognition

John Miller, Chairman of the Historic Preservation Board (HPB), presented the HPB Recognition Awards to the following recipients:

RENOVATION/REHABILITATION

137 NW 1st Avenue

Old School Square Historic District

- Jude Endres, Property Owner
- Phoenix Architecture, Architects
- Joe Pike, P.E. of EnviroDesign Associates, Inc., Project Engineer

144 NW 3rd Avenue

West Settlers Historic District

- Kim French, Property Owner

226 North Swinton Avenue

Old School Square Historic District

- Francis & Elizabeth Rozzo, Property Owners
- Roger Cope, Architect

129 SE 7th Avenue

Marina Historic District

- Sean Murray, Property Owner
- Michelle Balfourt of Balfourt Finnvoid Architecture, Inc., Architect

NEW CONSTRUCTION

111-113 NW 1st Avenue

Old School Square Historic District

- Jessica Linehan, Property Owner
- Shane Ames, Architect
- Michael J. Petrow & Associates, Inc., Landscape Design

136 NE 1st Avenue

Old School Square Historic District

- Mr. & Mrs. Bruce Ferrara, Property Owners
- Everett Jenner, Architect
- Tony Keller, Project Developer
- Dan Carter of Carter & Associates, Landscape Design

PAT CAYCE ACHIEVEMENT AWARD FOR EXCELLENCE IN PRESERVATION

204 Dixie Boulevard, Independence Title Del-Ida Park Historic District

- Ronald Platt, Esq., Property Owner
- Roger Cope, Architect
- Gerald Church, P.E., Project Engineer
A. Grant Thornbrough and Associates,
Landscape Design

7.B.

“Spotlight on Education” – Janet Meeks and Dr. Debbie Kaiser

Janet Meeks, Education Coordinator, stated the spotlight is on our very own Delray Beach Education Board and the Pop-Up Book Project. Mrs. Meeks introduced Dr. Debbie Kaiser and Dr. Sandra Tobias. Mrs. Meeks commented about the fundraising for the project and stated they have raised approximately \$64,000.00. Staff is in the process of hiring a marketing firm to help sell the books and they are hoping to pre-sell 5,000 before the books come in around the early part of October.

Roger Culbertson, Designer of the Pop-up Book, displayed an example of the Pop-Up Book and stated the book has six pop-up spreads each dealing with a different aspect of life in Delray Beach.

Mrs. Meeks stated there will be one last fundraiser held at Buster's Bar and Grill on Monday, June 18, 2007 and they are looking for celebrity bar tenders if anyone would like to participate. Also, Mrs. Meeks invited everyone to join the Education Board on Monday, May 21, 2007 at 4:00 p.m. at the Delray Beach Library because the Delray Beach Education Board will be receiving a grant to support the City's summer camp program.

8. **CONSENT AGENDA:** City Manager Recommends Approval.

8.A. **REQUEST FOR SIDEWALK DEFERRAL/1202 CARISSA ROAD:**
Approve a request to defer the installation of a sidewalk in front of 1202 Carissa Road.

8.B. **CONTRACT CLOSEOUT (C.O. NO. 1)/REP & ASSOCIATES, INC.:** Approve a Contract Closeout (C. O. No. 1) in the amount of \$5,322.00 to REP & Associates, Inc. for the water damage remediation at Fire Stations No. 1, 2, 3 and 5. Funding is available from 001-2311-522-46.10 (General Fund/Building Maintenance).

8.C. **SERVICE AUTHORIZATION NO. 04-13/MATHEWS CONSULTING, INC.:** Approve Service Authorization No. 04-13 in the amount of \$69,611.00 to Mathews Consulting, Inc. for the design of improvements along S.W. 2nd Avenue from S.W. 1st Street to West Atlantic Avenue. Funding is available from 334-3162-541-65.87 (General Construction Fund/S.W. 2nd Avenue/S.W. 1st Street/West Atlantic Avenue) and 448-5461-538-65.87 (Stormwater Utility Fund/S.W. 2nd Avenue/S.W. 1st Street/West Atlantic Avenue).

8.D. **SERVICE AUTHORIZATION NO. 6/SPATIAL FOCUS, INC.:**
Approve Service Authorization No. 6 to Spatial Focus, Inc. in the amount of \$29,400.00 for developing a plan to unify various utility data sets used in mapping and work order processes for managing the City's utility services. Funding is available from 448-5411-538-31.90 (Stormwater Utility Fund/Other Professional Services) and 442-5178-536-63.51 (Water/Sewer Renewal and Replacement Fund/Sewer Mains).

8.E. **ALTERNATIVE WATER SUPPLY GRANT APPLICATION/SOUTH FLORIDA WATER MANAGEMENT DISTRICT (SFWMD):** Approve and authorize the Mayor to execute an application for an alternative water supply (AWS) grant from South Florida Water Management District (SFWMD) in the amount of \$480,000 (40% of the cost of construction) to provide supplemental funding for the expansion of the Area 4 reclaimed water transmission system, which will extend the reclaimed water irrigation service to the Del Aire Country Club.

8.F. **AGREEMENT/NEW INNOVATIONS/SUMMER ENRICHMENT PROGRAM:** Approve an agreement between the City and New Innovations for a Summer Enrichment Program. Funding is available from 001-4105-572-34.90 (General Fund/Other Contractual Services).

8.G. **GRANT APPLICATION/PALM BEACH COUNTY INVASIVE VEGETATION REMOVAL PUBLIC LANDS GRANT PROGRAM:** Approve a request to apply for a \$50,000.00 matching grant from the Palm Beach County Public Lands Grant Program for the removal of invasive non-native vegetation at Leon Weekes Environmental Preserve.

8.H. BASELINE BUDGET SUBMISSION/CHILDREN'S SERVICES COUNCIL OUT OF SCHOOL PROGRAM: Approve authorizing staff to submit the baseline budget funding request for Fiscal Year 2007/2008 to the Children's Services Council of Palm Beach County in the amount of \$314,825.00 for the Out of School Program, which includes After School, Holiday/Spring Camp, One Day Camps and Summer Camp.

8.I. AMENDMENT NO. 1/INTERLOCAL AGREEMENT/COMMUNITY REDEVELOPMENT AGENCY (CRA)/REG ARCHITECTS, INC: Approve Amendment No. 1 to the Interlocal Agreement between the City and the Community Redevelopment Agency (CRA) which provides that the City shall agree to pay one half (1/2) of the cost to the CRA in an amount not to exceed \$7,500.00 for additional work to be performed by REG Architects, Inc. on the historic preservation guidelines.

8.J. ADDITIONAL FUNDING/HOMETOWN CONNECTION NEWSLETTER: Approve and authorize additional funding in the amount of \$3,500.00 to Pollock Communications and in the amount of \$13,700.00 to CM Graphics for the production of the Hometown Connection Newsletter for the remainder of FY 2006-2007. Funding is available from 001-1316-512-34.90 (General Fund/Other Contractual Services) and 001-1316-512-47.10 (General Fund/Printing/Binding Services).

8.K. SPECIAL EVENT REQUEST/4th OF JULY: Approve a special event request to endorse the 4th of July Celebration to be held from noon until 12:00 midnight, including a temporary use permit per LDR Section 2.4.6(F) for the closure of Atlantic Avenue from the east side of N.E./S.E. 6th Avenue to Ocean Boulevard, and from the south side of Thomas Street to the north side of Miramar on Ocean Boulevard; and to authorize staff support for security, traffic control, barricading, signage, clean up and trash removal, stage set up and use.

8.L. HOUSING REHABILITATION GRANT/CONTRACT AWARD: Approve a Housing Rehabilitation grant/contract award through the Community Development Division in the amount of \$31,484.25 to Ray Graeve & Sons Construction, LLC for 421 S.W. 15th Avenue. Funding is available from 118-1924-554-49.19 (Community Development Fund/Housing Rehabilitation).

8.M. REQUEST TO INCREASE HOUSING REHABILITATION GRANT AMOUNT: Approve a request to increase the original grant amount of \$30,303.00 to \$33,903.00 in order to address lead based paint abatement for one (1) Housing Rehabilitation project, located at 704 SW 8th Court. Funding is available from 118-1963-554-49.19 (Community Development Fund/Housing Rehabilitation).

8.N. COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) SUB-RECIPIENT FUNDING AGREEMENT/BLACKTIP REEF RESTAURANT: Approve and authorize the execution of the funding agreement with sub-recipient, Blacktip Reef Restaurant, under the 2006-2007 Community Development Block Grant (CDBG) Program.

8.O. REQUEST TO AMEND THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) ANNUAL ACTION PLAN (FY 2006 - 2007): Approve a request to amend the FY 2006-2007 Community Development Block Grant (CDBG) Annual Action Plan to include \$35,000.00 in funding Public Facilities and Improvements in order to make necessary roof repairs to the Caring Kitchen facility.

8.P. PROPOSED BUDGET SUBMISSION/CHILDREN'S SERVICE COUNCIL (CSC)/BEACON CENTER AT VILLAGE ACADEMY: Approve authorizing staff to submit the proposed budget funding request for Fiscal Year 2007/2008 to the Children's Service Council of Palm Beach County in the amount of \$827,149.00 for the program and services associated with the Beacon Center at Village Academy.

8.Q. REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS: Accept the actions and decisions made by the Land Development Boards for the period April 30, 2007 through May 11, 2007.

8.R. AWARD OF BIDS AND CONTRACTS:

- 1.** Purchase award to Delta Petroleum & Industrial, Inc. in the amount of \$20,979.00 for the purchase of four (4) fuel dispensers for the Public Works Division and the Police Department fuel sites. Funding is available from 501-3311-591-64.90 (Central Garage Fund/Other Machinery/Equipment).
- 2.** Purchase award to Devland Site Development, Inc. in the amount of \$98,000.00 for hauling and reusing the lime sludge from the Water Treatment Plant. Funding is available from 441-5122-536-34.90 (Water/Sewer Fund/Other Contractual Services).
- 3.** Purchase award to E.H. Wachs Company in the amount of \$39,500.00 for the purchase of a new Trailer Mounted Hydraulic Valve Exerciser for the Water/Sewer Network Division of Public Utilities. Funding is available from 441-5161-536-64.90 (Water/Sewer Fund/Other Machinery/Equipment).
- 4.** Purchase award to M & W Distributing, Inc. in the amount of \$21,597.00 for the purchase of a Special Events Response Vehicle (SERV) with Advanced Life Support (ALS) capabilities for the Fire Department. Funding is available from 001-2315-526-64.90 (General Fund/Other Machinery/Equipment).
- 5.** Purchase award to Zoll Medical Corporation in the amount of \$25,184.00 for a Zoll E Series Lead ECG Monitor/Defibrillator with pacing capabilities, SA02 monitoring, Wave form Capnography and Non-Invasive Blood Pressure monitoring capabilities for the Fire Department. Funding is available from

001-2315-526-64.90 (General Fund/Other Machinery/Equipment).

6. Purchase awards to Industrial Divers Corporation in the amount of \$34,203.00 to perform the underwater installation of four (4) tideflex check valves at 345 SE 7th Avenue at the Intracoastal Waterway and Atlantic Avenue; and Mitchell Valve Products in the amount of \$28,298.00 for providing the tideflex check valves. Funding is available from 448-5416-538-46.90 (Stormwater Utility Fund/Other Repair/Maintenance Costs).
7. Bid award to ConServ Building Services in the amount of \$78,852.00 for a three (3) year contract for HVAC Chillers and Tracer Units for City Hall and the Delray Beach Public Library. Funding is available from 001-3431-519-46.10 (General Fund/Building Maintenance).

Mrs. Montague moved to approve the Agenda as amended, seconded by Mr. Fetzer. Upon roll call the Commission voted as follows: Mayor Ellis – Yes; Mr. Eliopoulos – Yes; Mr. Fetzer – Yes; Mr. McDuffie – Yes; Mrs. Montague – Yes. Said motion passed with a 5 to 0 vote.

9. REGULAR AGENDA:

9.A. THIS ITEM HAS BEEN POSTPONED TO THE NEXT REGULAR COMMISSION MEETING.

9.B. APPEAL OF THE PLANNING AND ZONING DIRECTOR'S INTERPRETATION/PINEAPPLE GROVE WAY CORPORATE CENTER:
Consider an appeal of the Planning and Zoning Director's interpretation that a variance is required to allow a generator greater than 4' 6" in the side street for the property located at Pineapple Grove Corporate Center (101 N.E. 2nd Street). (*Quasi-Judicial Hearing*)

Mayor Ellis read into the record the City of Delray Beach procedures for a Quasi-Judicial Hearing for this item and all subsequent Quasi-Judicial items.

Chevelle D. Nubin, City Clerk, swore in those individuals who wished to give testimony on this item.

Paul Dorling, Director of Planning and Zoning, entered the Planning and Zoning Department project file #2006-089 into the record.

Mayor Ellis asked the Commission to disclose their ex parte communications.

Mr. Eliopoulos stated he met with the applicant to see the actual location of the generator on the plan. Mr. Fetzer stated he met with the applicant and Michael Weiner (Attorney). Mr. McDuffie stated he met with the applicant, the agent, Michael

Weiner (Attorney) and reviewed the plans. Mrs. Montague stated she met with Michael Weiner (Attorney) and the applicant. Mrs. Ellis stated had a telephone call with Mr. Weiner and the applicant.

Paul Dorling, Director of Planning and Zoning, entered the Planning and Zoning Department project file #2006-089 into the record.

Mr. Dorling stated in 2005 a generator for Pineapple Grove Corporate Center and was installed in the City right-of-way of N.E. 3rd Avenue adjacent to the FEC Railroad and was done without a permit. The property was then cited on December 12, 2005 for this action. A Class I Site Plan Modification to allow the generator to remain in the right-of-way was submitted on December 19, 2005. It was later determined that its location in the right-of-way was not acceptable and the applicant submitted a revised plan relocating the generator onto their property within the side street setback area. In May 2006, the LDR's were modified to allow structures including generators to be in the setbacks; however, they were limited to 4 feet 6 inches. As this generator exceeds the maximum height the applicant was informed that a variance to allow the proposed generator in the setback was required.

Michael Weiner, Attorney with Weiner & Aronson, P.A., 102 North Swinton Avenue, Delray Beach (representing Pineapple Grove Properties, Ltd., the owner of the property), stated during 2004 the applicant submitted to all the appropriate departments plans and drawings for the renovation of Creations of Delray Beach. He stated the generator was approved pursuant to the plans and drawings. After installation, there was dispute as to whether or not a separate building permit might be required or whether or not this was located in the right-of-way. He stated this was despite that fact that the plans and drawings had been approved with a full disclosure of the generators location, size, and specifications. Mr. Weiner stated as an accommodation to the City and because the applicant felt uncomfortable that this was located in a public right-of-way, a Class I Site Plan Modification was submitted in December 2005. After the hurricanes, new regulations were passed (May 2006) controlling the location and size of the generators. He stated that new ordinance came an entire year after the installation of the generator and six months after the application in December 2005 for the Class I Site Plan Modification. Mr. Weiner stated the applicant is willing to move the generator 18 inches closer to the building and this with the appropriate waivers would allow for screening, landscaping, and would get it out of the public right-of-way. Mr. Weiner stated they feel strongly that they have met the burden of proof that is necessary for the City to allow the Commission to vote in favor of the appellant's position.

Mayor Ellis stated if anyone from the public would like to speak in favor or in opposition of the appeal, to please come forward at this time. There being no one who wished to address the Commission regarding the appeal, the public hearing was closed.

There was no cross-examination.

The following individuals gave a brief rebuttal:

Paul Dorling stated Mr. Weiner knows very well that the generator was placed in the right-of-way and the property is clear and the structure was and is in the right-of-way. Mr. Dorling stated the applicant was cited almost immediately after it was discovered (December 12, 2005) and the applicant has decided to stall the process in an attempt to get his illegal location of this facility legitimized. Mr. Dorling stated it is his understanding that there is a code enforcement action against the applicant and the Class I submittal is in reaction to it. Mr. Dorling stated the City is not likely to be approving facilities which are in its own right-of-way. Mr. Dorling stated there was not a site plan modification and this has not been legally approved. Lastly, Mr. Dorling expressed concern over Mr. Weiner's comments about there being no permits for generators. However, several months ago there was an amendment before the Commission that exempted generators from the permitting process and the associated fees when talking about gas stations and hurricane issues. Mr. Dorling stated it is very clear that a permit is required and in some cases the City allows and provides some relief from that permitting process and its associated fees.

Mr. Weiner stated the Planning Department is upset that a generator was built according to plans in a particular location. Mr. Weiner stated Mr. Dorling discussed the timing and noted that the plans are dated 2004. Mr. Weiner stated the catch was December 2005 twelve months later. He stated a mistake was made otherwise this would have occurred much earlier and would have been caught before it was installed. Mr. Weiner stated something went wrong and noted the important thing is when a citizen relies on something, submits it and it goes wrong, as between the two parties the citizen is more innocent. Mr. Weiner stated the applicant is the more innocent party right now and the Class I Site Plan Modification is not really before the Commission except to say whether the May 2006 rules apply or do not apply. Mr. Weiner stated the May 2006 ordinances do not apply because the applicant is going by the December 2004 plans. He stated the easy solution is for the Commission to decide in favor of the appellant, the May 2006 rules do not apply, the Class I Site Plan goes forward, the applicant moves the generator back 18 inches and properly landscape it. Mr. Weiner stated this is required by the law and equitable estoppel.

Mayor Ellis inquired about the size of the generator. Mr. Weiner stated the generator is 350 kw and noted that the generator is built on a pad which is approximately 6-8 feet in size but the pad itself is another 3-4 feet. Mayor Ellis commented about the generator being visible from the railroad tracks and asked if it is visible from side streets. Mr. Weiner stated if one were to stand at the very throat of this street you may be able to see the generator. He stated in the Class I Site Plan Modification there would be a triangular type area that would be to the south of the generator that could be landscaped so that the visibility on the south end of the street would be cut significantly.

Mr. Eliopoulos asked if this is considered the side of this building and not the rear. In response, Mr. Dorling stated this is a side street setback and the street between the railroad tracks and the generator is to be improved as part of the redevelopment of the Creations site.

Brief discussion between staff and the Commission followed.

Mr. Weiner and Mrs. Montague briefly discussed the landscaping. She stated she would like to ensure that the landscaping is maintained and suggested that this be made a condition of approval. Mr. Weiner stated they will keep the landscaping in the appropriate condition it should be in and landscape it according to whatever the Class I Site Plan Modification requirements are.

The City Attorney briefly reviewed the Board Order with the Commission who made findings according to their consensus (attached hereto is a copy and made an official part of the minutes).

Mr. McDuffie moved to approve the Board Order thereby approving the appeal subject to the condition that appropriate landscaping from both the north and south ends is put in and maintained; and that the generator is moved back a minimum of 18 inches outside the right-of-way, seconded by Mrs. Montague. Upon roll call the Commission voted as follows: Mr. Eliopoulos – Yes; Mr. Fetzer – Yes; Mr. McDuffie – Yes; Mrs. Montague – Yes; Mayor Ellis – Yes. Said motion passed with a 5 to 0 vote.

9.C. THIS ITEM HAS BEEN WITHDRAWN FROM THE AGENDA.

At this point, the time being 7:20 p.m., the Commission moved to the duly advertised Public Hearings portion of the Agenda.

10. PUBLIC HEARINGS:

10.A. ORDINANCE NO. 16-07: Future Land Use Map amendment (small-scale) from CC (Commercial Core) in part and OMU (Other Mixed Use) in part to OS (Open Space) and rezoning from CBD (Central Business District) in part and OSSHAD (Old School Square Historic Arts District) in part to OSR (Open Space and Recreation) for a proposed Urban Park adjacent to Old School Square, located approximately 180 feet north of East Atlantic Avenue, between N.E. 1st Avenue and Pineapple Grove Way (N.E. 2nd Avenue). (*Quasi-Judicial Hearing*)

The caption of Ordinance No. 16-07 is as follows:

AN ORDINANCE OF THE CITY COMMISSION OF
THE CITY OF DELRAY BEACH, FLORIDA,
AMENDING THE FUTURE LAND USE MAP
DESIGNATION AS CONTAINED IN THE
COMPREHENSIVE PLAN FROM CC (COMMERCIAL

CORE) IN PART AND OMU (OTHER MIXED USE) IN PART; TO OS (OPEN SPACE); ELECTING TO PROCEED UNDER THE SINGLE HEARING ADOPTION PROCESS FOR SMALL SCALE LAND USE PLAN AMENDMENTS; AND REZONING AND PLACING LAND PRESENTLY ZONED CBD (CENTRAL BUSINESS DISTRICT) IN PART AND OSSHAD (OLD SCHOOL SQUARE HISTORIC ARTS DISTRICT) IN PART TO OSR (OPEN SPACE AND RECREATION) DISTRICT; SAID LAND BEING A PARCEL OF LAND LOCATED APPROXIMATELY 180 FEET NORTH OF EAST ATLANTIC AVENUE, BETWEEN NE 1ST AVENUE AND PINEAPPLE GROVE WAY (NE 2ND AVENUE), AS MORE PARTICULARLY DESCRIBED HEREIN; AMENDING "ZONING MAP OF DELRAY BEACH, FLORIDA, MARCH 2006"; PROVIDING A GENERAL REPEALER CLAUSE, A SAVING CLAUSE, AND AN EFFECTIVE DATE.

(The official copy of Ordinance No. 16-07 is on file in the City Clerk's office.)

The City Attorney read the caption of the ordinance. A public hearing was held having been legally advertised in compliance with the laws of the State of Florida and the Charter of the City of Delray Beach, Florida.

Chevelle D. Nubin, City Clerk, swore in those individuals who wished to give testimony on this item.

Mayor Ellis asked the Commission to disclose their ex parte communications. The Commission had no ex parte communications to disclose.

Paul Dorling, Director of Planning and Zoning, entered the Planning and Zoning project file #2007-148 into the record.

Mr. Dorling stated this is a City-initiated small scale amendment from CC (Commercial Core) in part and OMU (Other Mixed Use) in part to OS (Open Space) and Rezoning from CBD (Central Business District) in part and OSSHAD (Old School Square Historic Arts District) to OSR (Open Space and Recreation) for a proposed Urban Park adjacent to Old School Square. The subject property contains approximately 1.34 acres and consists of Lots 4, 5, 10 and 11 and portion of Lots 3, 6, 9 and 12, Block 76, Town of Delray. Additionally, the 16 foot north/south alley which bisected the property has been abandoned and will be included in this rezoning and land use action. The property currently accommodates a public parking lot and an office building. In August 2000, the Old School Square Master Plan was adopted which included the construction of a new parking garage facility with retail facing Pineapple Grove Way and N.E. 1st Street.

At its meeting of April 16, 2007, the Planning and Zoning Board held a public hearing in conjunction with the request. The Board voted 5-0 to recommend approval of the Future Land Use Map amendment and rezoning.

Mayor Ellis declared the public hearing open.

Michael Weiner, Attorney with Weiner & Aronson, P.A., 102 North Swinton Avenue, Delray Beach (representing Billy Himmelrich), stated Mr. Himmelrich's property is zoned CBD (Central Business District) and noted this is a commercial zone. Mr. Weiner stated all uses within the CBD can continue to be done even if this is changed to OS (Open Space) and OSR (Open Space and Recreation). He pointed out that the OSR zoning allows for cemeteries as a permitted use and feels this should be cleaned up in the zoning code.

There being no one else from the public who wished to address the Commission regarding Ordinance No. 16-07, the public hearing was closed.

Mr. Eliopoulos moved to adopt Ordinance No. 16-07 on Second and FINAL Reading, seconded by Mrs. Montague. Upon roll call the Commission voted as follows: Mr. Fetzer – Yes; Mr. McDuffie – Yes; Mrs. Montague – Yes; Mayor Ellis – Yes; Mr. Eliopoulos – Yes. Said motion passed with a 5 to 0 vote.

10.B. ORDINANCE NO. 18-07: City-initiated amendment to the Land Development Regulations (LDR), amending Section 6.1.2 "Streets and Alleys", Subsection 6.1.2(A), "Improvement Obligations", to correct a reference to an LDR Section that has been relocated elsewhere in the code.

The caption of Ordinance No. 18-07 is as follows:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF ORDINANCES, BY AMENDING SECTION 6.1.2, "STREETS AND ALLEYS", SUBSECTION 6.1.2(A), "IMPROVEMENT OBLIGATIONS", TO CORRECT THE REFERENCE TO AN LDR SECTION THAT HAS BEEN RELOCATED ELSEWHERE IN THE CODE; PROVIDING A SAVING CLAUSE, A GENERAL REPEALER CLAUSE, AND AN EFFECTIVE DATE.

(The official copy of Ordinance No. 18-07 is on file in the City Clerk's office.)

The City Attorney read the caption of the ordinance. A public hearing was held having been legally advertised in compliance with the laws of the State of Florida and the Charter of the City of Delray Beach, Florida.

Paul Dorling, Director of Planning and Zoning, stated this is a City-initiated amendment to the LDR's to correct a reference to an LDR section that has been relocated elsewhere in the code. This section deals with the responsibility for off-site improvements to streets and alleys.

At its meeting of April 16, 2007, the Planning and Zoning Board considered the text amendment and recommended approval on a 4 to 0 vote (Pike stepped down).

Mayor Ellis declared the public hearing open. There being no one from the public who wished to give testimony on this item, the public hearing was closed.

Mr. McDuffie moved to adopt Ordinance No. 18-07 on Second and FINAL Reading, seconded by Mr. Fetzer. Upon roll call the Commission voted as follows: Mr. McDuffie – Yes; Mrs. Montague – Yes; Mayor Ellis – Yes; Mr. Eliopoulos – Yes; Mr. Fetzer – Yes. Said motion passed with a 5 to 0 vote.

10.C. **ORDINANCE NO. 19-07:** An ordinance amending Chapter 33, "Police and Fire Departments", Subheading "Pensions", of the Code of Ordinances of the City of Delray Beach, Florida, by amending Section 33.687, "Early Retirement Incentive", which allows the City to open early retirement windows for police or fire instead of opening an early retirement window for both.

The caption of Ordinance No. 19-07 is as follows:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING CHAPTER 33, "POLICE AND FIRE DEPARTMENTS", SUBHEADING "PENSIONS", OF THE CODE OF ORDINANCES OF THE CITY OF DELRAY BEACH, FLORIDA, BY AMENDING SECTION 33.687, "EARLY RETIREMENT INCENTIVE"; PROVIDING A GENERAL REPEALER CLAUSE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

(The official copy of Ordinance No. 19-07 is on file in the City Clerk's office.)

The City Attorney read the caption of the ordinance. A public hearing was held having been legally advertised in compliance with the laws of the State of Florida and the Charter of the City of Delray Beach, Florida.

The City Attorney stated this allows the early retirement window to be open for Police by itself or Fire-Rescue by itself or both together.

Mayor Ellis declared the public hearing open. There being no one from the public who wished to address the Commission regarding Ordinance No. 19-07, the public hearing was closed.

Mrs. Montague moved to adopt Ordinance No. 19-07 on Second and FINAL Reading, seconded by Mr. McDuffie. Upon roll call the Commission voted as follows: Mrs. Montague – Yes; Mayor Ellis – Yes; Mr. Eliopoulos – Yes; Mr. Fetzer – Yes; Mr. McDuffie – Yes. Said motion passed with a 5 to 0 vote.

10.D. RESOLUTION NO. 34-07/CONTRACT FOR SALE AND PURCHASE OF PROPERTY/PROPERTIES UNLIMITED GROUP, INC./COMMUNITY REDEVELOPMENT AGENCY/INTERLOCAL AGREEMENT/144 SW 11th AVENUE: Consider approval of Resolution No. 34-07 authorizing the City to purchase vacant property, located at 144 SW 11th Avenue, which shall be used for the construction of additional parking spaces for the Neighborhood Resource Center; and approve Contract for Sale and Purchase between the City and the Properties Unlimited Group, Inc. in the amount of \$120,000.00; and approve an Interlocal Agreement between the City and the Community Redevelopment Agency (CRA) providing that the CRA shall fund the City purchase in the amount of \$120,000.00 for the vacant property, located at 144 SW 11th Avenue.

The caption of Resolution No. 34-07 is as follows:

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AUTHORIZING THE CITY TO PURCHASE FROM PROPERTIES UNLIMITED GROUP INC. ("OWNER") CERTAIN REAL PROPERTY IN PALM BEACH COUNTY, FLORIDA, AS DESCRIBED HEREIN, HEREBY INCORPORATING AND ACCEPTING THE CONTRACT STATING THE TERMS AND CONDITIONS FOR THE SALE AND PURCHASE BETWEEN THE OWNER AND THE CITY OF DELRAY BEACH, FLORIDA.

(The official copy of Resolution No. 34-07 is on file in the City Clerk's office.)

A public hearing was held having been legally advertised in compliance with the laws of the State of Florida and the Charter of the City of Delray Beach, Florida.

The City Attorney stated this is Resolution No. 34-07 and it contains a contract for sale and purchase for property adjacent to the Neighborhood Resource Center (NRC) to be used for parking purposes and it also references an Interlocal Agreement wherein the Community Redevelopment Agency (CRA) will pay the \$120,000.00 as the City acquires the property. The City Attorney stated this request is for the Commission

to approve both the Interlocal Agreement and the Contract for Sale and Purchase.

Mayor Ellis declared the public hearing open. There being no one from the public who wished to address the Commission regarding Resolution No. 34-07, the public hearing was closed.

Mr. Fetzer moved to approve Resolution No. 34-07, seconded by Mr. Eliopoulos. Upon roll call the Commission voted as follows: Mayor Ellis – Yes; Mr. Eliopoulos – Yes; Mr. Fetzer – Yes; Mr. McDuffie – Yes; Mrs. Montague – Yes. Said motion passed with a 5 to 0 vote.

At this point, the time being 7:31 p.m., the Commission moved to **Item 11, Comments and Inquiries on Non-Agenda Items from the City Manager and the Public.**

11.A. City Manager's response to prior public comments and inquiries.

None.

11.B. From the Public.

11.B.1. Pauline Moody, 609 S.W. 8th Avenue, Delray Beach, expressed concern over the debris from the revitalization that has not been cleaned up in the community in particular by the library and the courthouse. She inquired as to who would be responsible for cleaning up the debris and asked if this is going to be done first before the City allows more buildings to be constructed.

Mayor Ellis stated it would appear that this would be the responsibility of the builder and the developer of those projects to see that the sites are cleaned up. She stated Ms. Moody will receive a response from the City Manager in reference to her concern.

11.B.2. John Bennett, 137 Seabreeze Avenue, Delray Beach, on behalf of the Milton Myers Post #65 of the American Legion, invited the Commission to the upcoming Memorial Day ceremonies. These ceremonies will commence on behalf of the American Legion Post at 9:30 a.m. at the Delray Beach Municipal Cemetery. He also noted that the Veterans of Foreign Wars will have their ceremonies at Veteran's Park at 11:00 a.m. Mr. Bennett extended an invitation to the Commission. He stated among those that will be honored are Marvin W. Milton, Loney Myers, Harry Fish, Harry Oller, George H. Reiley, Howell Jones, Ben F. McIntosh, Bradley O'Neal, Benjamin F. Jetton, Shelton Lamb, Jr., Logan McNeal, Alfred F. Priest, Charles L. Vreeland, John Jupinko, and Arthur R. Sprott, Jr. all of Delray Beach who went off to fight their country's wars and did not return alive.

11.B.3. Alice Finst, 707 Place Tavant, Delray Beach, thanked the City Manager for taking care of the two burnt out buildings (one adjacent to the La France Hotel and the other one behind the Marines Way garage on Lake Ida Road). Mrs. Finst stated she is

glad to see that something was done to level those properties and improve the appearance of the two neighborhoods.

12. FIRST READINGS:

12.A. NONE.

At this point, the time being 7:38 p.m., the Commission moved back to **Item 9.D. of the Regular Agenda.**

9.D. MARKETING/SELLING CITY RETAIL SPACES/OLD SCHOOL SQUARE GARAGE: Presentations for three (3) proposals which include Coastal Commercial Group, LLC, Bathurst Laymon Realty Group and Re/max on the sale of the retail space in the Old School Square garage.

The City Attorney stated there will be presentations given by three (3) entities that have shown interest in being a broker for retail space under the City garage.

Bill Bathurst, Bathurst Laymon Realty Group, Inc., stated the image of the branding of this building is going to be the tenants within and it is very important in this signature building that we pursue the right type of tenant mix. He stated Bathurst Laymon Realty Group, Inc. is locally owned and are attuned to the local needs. He stated they do not have any competing projects in the area so this would be their primary focus. Mr. Bathurst stated they are members of the Palm Beach, Broward, and Miami Realtors Associations. He stated this property represents a unique opportunity for the City in that this will be a very vibrant area. Mr. Bathurst stated now is the time to be strategic about what we are placing in this important district.

Joseph Scarbone, speaking on behalf of Joe LaViola with RE/MAX, stated within the last 1 ½ years he personally sold approximately \$17 million in properties in the downtown Delray area (one being the Sopra building as well as the Rotelli building on Atlantic Avenue) and is very familiar with the rent rates and the market prices that are occurring right now in the downtown Delray area. Mr. Scarbone stated he manages many properties with national tenants (i.e. Pier 1, Starbucks, etc.). He stated because of the market rates with the banks the cap rates are changing and feels we need to find investors who can afford to buy pieces of property like this. Mr. Scarbone stated finding the proper tenant is very important and at the same time having a good cap rate for an investor. He stated RE/MAX does a lot of advertisement (i.e. photos, commercials, etc.). Mr. Scarbone stated he is very familiar with the rent rates and the market prices that are occurring right now in the downtown Delray area.

Ingrid Kennemer, Coastal Commercial Group, LLC, briefly reviewed her credentials. She stated she works closely with the Delray Beach Chamber of Commerce and has sold and represented over 300 transactions in downtown Delray Beach since 1996 which comes to over \$100,000,000.00 in transactions. She stated she sold and represented 16 sales on Atlantic Avenue in her history here. Ms. Kennemer

briefly reviewed the current projects she has sold. She stated her marketing strategy would include preparing competitive analyses and providing updates, would recommend sale prices in terms of the City, brokerage and community outreach, recommended signage, print and direct mail advertising and internet exposure. Ms. Kennemer stated she is deeply involved in the Delray Beach community, has experience with mixed-use sales and marketing, she understands local ordinances and codes, she consults with the Community Redevelopment Agency (CRA) on the real estate market in Delray Beach on a regular basis and has a history of working on this project with the City Manager's office and the City Attorney's office. Ms. Kennemer stated she has a proven track record of marketing sale and leasing on properties in Delray Beach since 1996.

At this point, the City Attorney stated staff wanted the Commission to hear the three presentations and no vote is required at this time. Staff would like to get further direction down the road when we learn more about where we are in the process. The City Attorney stated the City of Delray Beach is currently going out for appraisals.

9.E. SPECIAL EVENT REQUEST/BAHAMIAN CULTURAL FEST:
Consider a special event request to endorse the 1st Bahamian Cultural Fest sponsored by Ebenezer Wesleyan Methodist Church proposed to be held on Saturday, July 14, 2007 from 11:00 a.m. to 7:00 p.m., on the grounds of Old School Square; authorize staff support for security, traffic control, barricading, trash removal and clean up and EMS assistance; contingent upon sponsor providing a hold harmless agreement.

Robert A. Barcinski, Assistant City Manager, stated this is a request for Commission to endorse the 1st Bahamian Cultural Fest sponsored by Ebenezer Wesleyan Methodist Church proposed to be held on Saturday, July 14, 2007 from 11:00 a.m. to 7:00 p.m. on the grounds of Old School Square. Staff recommends approval of the event as requested contingent on receipt of the standard Hold Harmless Agreement and the Certificate of Liability Insurance. Mr. Barcinski stated generally the City does not require EMS service on-site unless there are over 2,000 people at any one time. He feels for this event the City may be able to forego that and it would reduce the City's cost by approximately \$1,300.00.

Mrs. Montague asked if this is a local group. In response, Mr. Barcinski stated that this is a request from Ebenezer Wesleyan Methodist Church.

Mr. Eliopoulos asked how staff decides on the qualifications. In response, Mr. Barcinski stated the City has a policy and procedure for special events. Mr. Barcinski stated the way the policy is written the first two years of an event are at no charge and after that one does not pay on the first \$1,000.00 and the percentage goes up based on the years to a maximum of 40% of the cost after five years.

Mr. Barcinski stated this is a free event and no alcohol will be served.

Mayor Ellis asked if there is going to be fencing around Old School Square. In response, Mr. Barcinski stated there will be no fencing and this is a free event with no alcohol.

Mrs. Montague moved to approve the special event request for the First Bahamian Cultural Fest to be held on Saturday, July 14, 2007 from 11:00 a.m. to 7:00 p.m. and staff support as requested by staff and forego the EMS service, seconded by Mr. Fetzer. Upon roll call the Commission voted as follows: Mr. Eliopoulos – Yes; Mr. Fetzer – Yes; Mr. McDuffie – Yes; Mrs. Montague – Yes; Mayor Ellis – Yes. Said motion passed with a 5 to 0 vote.

9.F. SPECIAL EVENT REQUEST/INTERNATIONAL DISTANCE/ TRIATHLON: Consider a special event request for a new event, the “International Distance Triathlon” sponsored by Exclusive Sports Marketing, Inc. proposed to be held on Saturday, July 21, 2007 from 5:00 a.m. to approximately noon, and to grant a temporary use permit per LDR Section 2.4.6(F) for the closure of Atlantic Avenue from the west side of A-1-A to the east side of Salina from noon, Friday, July 20, 2007 to approximately 5:00 p.m., Saturday, July 21, 2007 for the transition area; authorize staff support for traffic control, barricading, and EMS assistance. Staff recommends denial.

Robert A. Barcinski, Assistant City Manager, stated this is another new event request entitled “International Distance Triathlon” sponsored by Exclusive Sports Marketing, Inc. proposed to be held on Saturday, July 21, 2007 from 5:00 a.m. until approximately noon. Commission is requested to grant a temporary use permit for the closure of Atlantic Avenue from the west side of A-1-A to the east side of Salina Avenue beginning on Friday, July 20, 2007 from noon until approximately 5:00 p.m. on Saturday, July 21, 2007 for the transition area, provide police support for traffic control and security, on-site EMS assistance for transport if needed and barricade assistance. The event sponsor has also verbally requested that all police overtime costs be waived. Mr. Barcinski stated the estimated City overtime costs are \$6,460.00 without lifeguard support and \$7,660.00 with City lifeguard support. Per the event policies and procedures, for a first year intermediate event sponsored by a for profit organization, the event sponsor would be required to pay the City approximately \$2,730.00.

Mr. Barcinski stated the following concerns were expressed by Department Heads: (1) approval of a new event with an uncertain budget outlook in future years, (2) The closure of this section of Atlantic Avenue for over a day with a need to block off parking spaces early on Friday, (3) Waiving or reduction of payments to the City, (4) concern of qualifications and certifications of the private lifeguard company, (5) ability of the event sponsor to obtain approval from other cities through which the bike ride race would go through. Mr. Barcinski stated the biggest concern was certifications of their lifeguard team (both EMS and lifeguard). He stated the Beach Superintendent noted that the paperwork is really for pools and lakes and water parks but not open water rescue and lifeguard service. Also, during this time, a group of the City’s lifeguards will be going to national competition. Therefore, the staffing will be lower during this time. In addition, there was a concern because the bike ride is going through many other cities

and whether or not they will be able to get all those approvals.

Mrs. Montague asked if this group is local. Mr. Barcinski stated the group is from Boca Raton.

Mr. Fetzer moved to approve the Special Event request for the "International Distance Triathlon" sponsored by Exclusive Sports Marketing, Inc. on Saturday, July 21, 2007 from 5:00 a.m. to noon, seconded by Mr. McDuffie. Upon roll call the Commission voted as follows: Mr. Fetzer – No; Mr. McDuffie – No; Mrs. Montague – No; Mayor Ellis – No; Mr. Eliopoulos – No. Said motion was **DENIED** with a 5 to 0 vote.

9.G. CM AT RISK PRECONSTRUCTION SERVICES/FIRE STATION #4 REPLACEMENT PROJECT: Consider a recommendation to reject the preconstruction services proposal by Catalfumo Construction and authorize staff to proceed with a design/bid/build construction delivery method for Fire Station #4 Replacement Project.

The City Manager stated at the Workshop meeting there was discussion about the use of the Construction Manager at Risk process for this project. Both the architect and staff felt that we would not receive much benefit using a Construction Manager at Risk and recommended that we not do that and use the design/bid/build construction approach. The City Manager stated this approach is being used for the Environmental Services building and staff has not had any problems and noted this is very successful. Staff recommends that the City follow this approach and save that money.

Richard Hasko, Director of Environmental Services, stated as part of the City's consultant scope of services in the consulting contract staff has construction administration services.

Mr. Eliopoulos stated he feels there are some things staff can present to the Blue Ribbon Task Force on Friday.

Mrs. Montague moved to approve the CM proposal by Catalfumo Construction, seconded by Mr. Fetzer. Upon roll call the Commission voted as follows: Mr. McDuffie – No; Mrs. Montague – No; Mayor Ellis – No; Mr. Eliopoulos – No; Mr. Fetzer – No. Said motion was **DENIED** with a 5 to 0 vote.

9.H. CAPITAL IMPROVEMENT FINANCING ALTERNATIVES/SAN MIRRORING SOLUTION: Consider a request to transfer \$2,094,486.00 from the Insurance Reserve Fund to the General Construction Fund to provide funding for the construction of the new 3000 square feet Information Technology (IT) Building, City Hall Renovations and the purchase of SAN Data Storage Package.

The City Manager stated this was discussed at the Workshop meeting last week and staff is requesting approval from the Commission to transfer \$2,094,486.00 from the Insurance Fund prior year surplus to the General Construction fund. He stated this will leave approximately \$4,000,000.00 in the Insurance Fund Reserve and staff feels this is adequate.

Mr. McDuffie concurred with comments expressed by Mr. Eliopoulos.

Mr. Fetzer moved to approve to transfer the money for the SAN Data Storage Unit and postpone decisions on items one (1) Hurricane-Hardened IT Building and (3) City Hall Renovations, seconded by Mr. Eliopoulos. Upon roll call the Commission voted as follows: Mr. McDuffie – Yes; Mrs. Montague – Yes; Mayor Ellis – Yes; Mr. Eliopoulos – Yes; Mr. Fetzer – Yes. Said motion passed with a 5 to 0 vote.

9.I. DISCUSSION/FIRST REGULAR COMMISSION MEETING IN JUNE 2007: Discussion regarding the rescheduling of the June 5, 2007 Regular Commission meeting.

Mayor Ellis stated the Commission will be attending a conference entitled “Transforming Local Government” in Bellevue, Washington which starts on Wednesday, June 6, 2007 and trying to get there after a Commission meeting on Tuesday evening is impossible. Mrs. Montague noted she will not be able to attend the meeting on Monday evening because she will already be out of town. Therefore, it was the consensus of the Commission to change the Regular City Commission meeting from Tuesday, June 5, 2007 to Monday, June 4, 2007.

Mr. McDuffie moved to approve to change the Regular City Commission meeting date to Monday, June 4, 2007, seconded by Mr. Eliopoulos. Upon roll call the Commission voted as follows: Mrs. Montague – Yes; Mayor Ellis – Yes; Mr. Eliopoulos – Yes; Mr. Fetzer – Yes; Mr. McDuffie – Yes. Said motion passed with a 5 to 0 vote.

9.J. APPOINTMENT TO THE CIVIL SERVICE BOARD: Appoint one (1) alternate member to the Civil Service Board for an unexpired term ending July 1, 2008. Based upon the rotation system, the appointment will be made by Mayor Ellis (Seat #5).

Mayor Ellis stated she would like to appoint Diane Franco as an alternate member to the Civil Service Board for an unexpired term ending July 1, 2008. Mr. Eliopoulos so moved, seconded by Mr. McDuffie. Upon roll call the Commission voted as follows: Mayor Ellis – Yes; Mr. Eliopoulos – Yes; Mr. Fetzer – Yes; Mr. McDuffie – Yes; Mrs. Montague – Yes. Said motion passed with a 5 to 0 vote.

9.K. APPOINTMENT TO THE DOWNTOWN DEVELOPMENT AUTHORITY: Appoint one (1) regular member to the Downtown Development Authority for an unexpired term ending July 1, 2009. Based upon the rotation system, the appointment will be made by Commissioner Montague (Seat #4).

Mrs. Montague moved to appoint David Cook as a regular member to the Downtown Development Authority for an unexpired term ending July 1, 2009, seconded by Mr. McDuffie. Upon roll call the Commission voted as follows: Mr. Eliopoulos – Yes; Mr. Fetzer – Yes; Mr. McDuffie – Yes; Mrs. Montague – Yes; Mayor Ellis – Yes. Said motion passed with a 5 to 0 vote.

9.L. APPOINTMENT TO THE PLANNING AND ZONING BOARD:
Appoint one (1) regular member to the Planning and Zoning Board for an unexpired term ending August 31, 2008. Based upon the rotation system, the appointment will be made by Mayor Ellis (Seat #5).

Mayor Ellis stated she would like to appoint Cary Glickstein as a regular member to the Planning and Zoning Board for an unexpired term ending August 31, 2008. Mr. McDuffie so moved, seconded by Mrs. Montague. Upon roll call the Commission voted as follows: Mr. Fetzer – Yes; Mr. McDuffie – Yes; Mrs. Montague – Yes; Mayor Ellis – Yes; Mr. Eliopoulos – Yes. Said motion passed with a 5 to 0 vote.

9.M. PALM BEACH/TREASURE COAST 2-1-1 FUNDING REQUEST:
Consider a request for funding in the amount of \$5,000.00 from Palm Beach/Treasure Coast 2-1-1.

The City Manager stated staff received this request from Palm Beach Treasure Coast 2-1-1 for funding from the City. He stated it appears the only other city that is providing funding is the City of Boca Raton otherwise they receive funding from the State, Palm Beach County, United Way, and some other non-profits. The City Manager stated it is difficult to make a judgment as to the priority of funding for an organization like this in the middle of the year. He stated this really needs to be looked at during the budget process and staff has sent them an application package for funding next year for consideration. The City Manager stated he would recommend *not* approving this funding request at this time and may consider them next year; however, he noted with the budget cuts the City is looking at staff will be looking at cutting back on this type of funding rather than adding new ones.

Mr. Fetzer moved to approve the Palm Beach Treasure Coast 2-1-1-funding request, seconded by Mr. McDuffie. Upon roll call the Commission voted as follows: Mr. McDuffie – No; Mrs. Montague – No; Mayor Ellis – No; Mr. Eliopoulos – No; Mr. Fetzer – No. Said motion was **DENIED** with a 5 to 0 vote.

12. FIRST READINGS:

NONE.

At this point, the Commission moved to **Item 13, Comments and Inquiries on Non-Agenda Items from the Commission.**

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

13.A. **City Manager**

The City Manager stated effective Wednesday, May 16, 2007, the City of Delray Beach is going to Phase III water use restrictions. He stated this means the surcharge will go to 45% for water use over 15,000 gallons.

Secondly, the City Manager distributed a handout regarding the financing alternatives and stated this replaces the handout the Commission received last week. The City Manager stated he recommends Option #6B.

13.B. **City Attorney**

The City Attorney had no comments or inquiries on non-agenda items.

13.C. **City Commission**

13.C.1. **Mr. Fetzer**

Mr. Fetzer commented on an award he accepted on behalf of the City along with the City Manager and Lula Butler, Community Improvement Director. He stated the award was given to the City of Delray Beach by an organization called "Towards a More Perfect Union". Mr. Fetzer stated Delray Beach was the one city named as award recipient from the things we have done with the study circles and the community unity issues.

Secondly, he stated the Commission has received emails recommending that we send a letter to Governor Charlie Crist opposing the cable franchise bill. Mr. Fetzer stated he supports the legislation because he feels it is pro-consumer and gives consumers more of a choice. Therefore, Mr. Fetzer stated he will not be sending a letter to Governor Crist.

13.C.2. **Mr. Eliopoulos**

Mr. Eliopoulos commented about the Bond Issue and feels the Commission received beneficial information from the Workshop meeting. He stated he understands we must move forward on things that are essential that we need to fund. Mr. Eliopoulos stated he feels we should be looking at the stakeholders and finding out what they could live with for the moment and what they cannot. He stated he realizes that the Commission does have obligations with the original bond. He stated the Blue Ribbon Task Force can review these kinds of things. Mr. Eliopoulos commented about matching grants but would like to know what the operational costs are due to the fact that the City gets the money but there is still more money that has to be thrown in. He commented about the maintenance of the City's buildings and stated when he looks at Fire Station #4 and what could be spent on this building; he feels there are other fire stations that we

need to maintain. Mr. Eliopoulos stated there are things that should be implemented in our buildings that the City does not have the money for. He expressed concern that the City is throwing away money that we are just going to have to spend again. Mr. Eliopoulos stated he is still a little wary on some of the things the City is spending money on.

Secondly, he stated he concurs with comments expressed by Commissioner Fetzer regarding the cable franchise bill.

Mr. Eliopoulos stated there was a Workshop meeting regarding the historic guidelines on Friday, May 11, 2007. He stated the people who attended were hoping that there would be another meeting. He noted at this meeting four sites were given throughout the district and everyone tried to apply the guidelines to it.

The City Manager stated Mr. Dorling is hoping to have the later part of the meeting transcribed and staff will work with the City Attorney's office regarding any changes that might come out of that and then staff will take this to the Community Redevelopment Agency (CRA).

13.C.3. Mr. McDuffie

Mr. McDuffie stated he had the opportunity to attend the Police Awards Banquet and it was a great evening. He stated the camaraderie that was displayed between the police force at the banquet was heartwarming. Mr. McDuffie suggested that staff send Chief Schroeder a debt of gratitude because there is a great group of people in the Police Department.

He commented about the Town Hall Gang Meeting that State Representative Maria Sachs has set up on Friday, May 18, 2007 at Florida Atlantic University (FAU). Mr. McDuffie stated at the Palm Beach Community College they asked the City to add one sworn officer to a liaison to this county-wide gang task force. He stated it is expenses like this that are for the public safety and well being of our citizens. Mr. McDuffie stated the projects are all great projects and hopes that we are able to accomplish every one of them. He stated when things get to the point where he feels more comfortable that the funding is out there and we are able to do that without laying staff members off and cutting public safety then, he will be happy to see these things done.

Lastly, Mr. McDuffie stated he spoke to the President of the company regarding the Capital Improvement Planning Software who would enjoy coming to Delray Beach to speak to the Commission.

The City Manager stated staff is generating reports on capital projects and have seen a need to change it. He stated if this can all be tied together in one software package this would be great. The City Manager stated he gave the material to Doug Smith, Assistant City Manager to work with Environmental Services in trying to put this

together. The City Manager stated if someone is available that can come talk to the City, staff would be glad to talk with them.

13.C.4. **Mrs. Montague**

Mrs. Montague stated as staff approaches the new budget process, she suggested that the City review the City's policies regarding the special events (i.e. the number of events and the quality of events). Also, she stated she would like to establish some minimum standards for new events.

13.C.5. **Mayor Ellis**

Mayor Ellis commented on the Police Department Annual Awards Banquet for officers with 25 years of service and stated it was a great event. She stated it makes her so proud when you see the quality and professionalism of the police department.

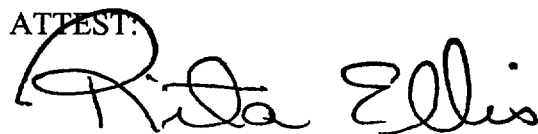
Secondly, she stated the Commission received a letter from Addie Greene regarding a Palm Beach County Homeless Advisory Board. Mrs. Greene is looking for someone to serve on this Board and asked the Commission to give this some thought and contact Mr. Harden's office if they are interesting in serving.

Mayor Ellis stated she will not be able to attend the symposium that State Representative Maria Sachs is having because she is having a medical procedure done. Mrs. Montague and Commissioner McDuffie stated they will be attending the symposium. Mrs. Ellis encouraged the Commission to make appointments with the State Legislature before they go back to special session to talk about the issues. She stated the League is talking about a meeting after the special session to inform them of what happened and she expects by that time everyone will know what happened. She encouraged the Commission to get an appointment before the special session and touch base with the people who are going to be making some tough decisions about the future of Delray Beach and not take this lightly.

There being no further business, Mayor Ellis declared the meeting adjourned at 9:00 p.m.



City Clerk

ATTEST:


MAYOR

The undersigned is the City Clerk of the City of Delray Beach, Florida, and the information provided herein is the Minutes of the Regular City Commission Meeting held on May 15, 2007, which Minutes were formally approved and adopted by the City Commission on June 4, 2007.



City Clerk

NOTE TO READER:

If the Minutes you have received are not completed as indicated above, this means they are not the official Minutes of the City Commission. They will become the official Minutes only after review and approval which may involve some amendments, additions or deletions as set forth above.

IN THE CITY COMMISSION
CHAMBERS OF THE CITY OF
DELRAY BEACH, FLORIDA

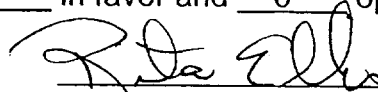
**ORDER OF THE CITY COMMISSION
OF THE CITY OF DELRAY BEACH, FLORIDA**

1. This appeal of the Planning and Zoning Director's interpretation that a variance is required to allow a generator greater than 4'6" in the side street setback for property located at Pineapple Grove Corporate Center (101 NE 2nd Street) has come before the City Commission on May 15, 2007.

2. The Appellants, Appellee and City staff presented documentary evidence and testimony to the City Commission pertaining to the appeal of the Planning and Zoning Director's interpretation that a variance is required to allow a generator greater than 4'6" in the side street setback. All of the evidence is part of the record in this case.

3. The City Commission finds there is ample and competent substantial evidence to support its findings in the record submitted and adopts the facts contained in the record including but not limited to the staff reports, testimony of experts and other competent witnesses supporting these findings.

4. Based on the entire record before it, the City Commission approves X denies ___ the appeal upon the conditions that landscaping shall be required to screen the generator. The generator shall be moved at least 18" closer to the building and located out of the public right-of-way. The City Commission hereby adopts this Order this 15th day of May, 2007, by a vote of 5 in favor and 0 opposed.



Rita Ellis, Mayor

ATTEST:



Chevelle Nubin
City Clerk

Item 9.B



MARVIN W. MILTON

LONEY MYERS

HARRY FISH

HARRY OLLER

GEORGE H. REILEY

HOWELL JONES

BEN F. McINTOSH

BRADLEY O'NEAL

BENJAMIN F. JETTON

SHELTON LAMB, JR.

LOGAN McNEAL

ALFRED F. PRIEST

CHARLES L. VREELAND

JOHN JUPINKO

ARTHUR R. SPROTT, JR.

ended in by John Bennett - Item 11. B - 5/15/07