

City of Delray Beach

Regular Commission Meeting

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



RULES FOR PUBLIC PARTICIPATION

Tuesday, October 18, 2011

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.**
2. **INVOCATION.**
3. **PLEDGE OF ALLEGIANCE TO THE FLAG.**
4. **AGENDA APPROVAL.** (Mayor McDuffie noted Item 7.A., USA Netball Association, Inc. Tournament - Carole Hokrein, was added to the Presentations as an addendum; the applicant requested that Item 9.C., Consideration of an Appeal/Historic Preservation Board's Decision/Class III Site Plan Modification and Item 9.C.1., Consideration of an Appeal/Historic Preservation Board's Decision/Waiver Request be postponed; Item 9.F. Bid Award/Randolph and Dewdney Construction, Inc. was added to the Regular Agenda as an addendum. Approved as amended, 5-0).
5. **APPROVAL OF MINUTES:**
 - A. September 13, 2011 – Workshop Meeting (Approved, 5-0)
 - B. October 4, 2011 – Regular Meeting (Approved, 5-0)
6. **PROCLAMATIONS:**
 - A. None
7. **PRESENTATIONS:**
 - A. USA Netball Association, Inc. Tournament - Carole Hokrein (**ADDENDUM**)
8. **CONSENT AGENDA:** City Manager Recommends Approval. (Approved as amended, 5-0)
 - A. **REQUEST FOR SIDEWALK DEFERRAL/1001 LEWIS COVE:** Approve a request to defer the installation of sidewalk along Lewis Cove for property located at 1001 Lewis Cove.
 - B. **REQUEST FOR SIDEWALK DEFERRAL/975 BANYAN DRIVE:** Approve a request to defer the installation of a sidewalk along Banyan Drive for property located at 975 Banyan Drive.
 - C. **FINAL SUBDIVISION PLAT APPROVAL/LITTLE WOOD ESTATES:** Approve the final subdivision plat for Little Wood Estates, located at the south end of N.W. 1st Avenue, between Woods Lane and Trinity Lutheran Church.
 - D. **AMENDMENT NO. 1 TO THE AGREEMENT/PALM BEACH COUNTY:** Approve Amendment No. 1 to the Agreement with Palm Beach County to extend the deadline to October 21, 2012 for completing improvements comprising the Auburn Avenue project.

- E. **INTERLOCAL AGREEMENT/PALM BEACH COUNTY DROWNING PREVENTION COALITION (DPC):** Approve an Interlocal Agreement with Palm Beach County for payment of swimming lesson fees not to exceed \$50.00 per class for the Learn to Swim Program at Pompey Park and the Delray Swim and Tennis Center through the Drowning Prevention Coalition of Palm Beach County.
- F. **HOUSING REHABILITATION GRANT/CONTRACT AWARD:** Award one (1) Housing Rehabilitation contract through the Community Development Block Grant (CDBG) and Residential Construction Mitigation Program (RCMP) to the lowest responsive bidder for 316 N.W. 6th Avenue to Raymond Graeve & Sons Construction, Inc. in the amount of \$28,090.46. Funding is available from 118-1963-554-49.19 (Neighborhood Services: Other Current Charges/Housing Rehabilitation) and 118-1936-554-49.19 (Neighborhood Services: Other Current Charges/Housing Rehabilitation).
- G. **HOUSING REHABILITATION GRANT/CONTRACT AWARD:** Award one (1) Housing Rehabilitation contract to the selected contractor for Neighborhood Stabilization Program, All Phase Roofing & Construction, in the amount of \$39,018.00 for 212 N.W. 14th Avenue. Funding is available from 118-1935-554-62.12 (Neighborhood Services: Capital Outlay/Acquisition Rehabilitation).
- H. **CHANGE FUNDING SOURCE FROM DISASTER RECOVERY INITIATIVE (DRI) TO COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG)/HOUSING REHABILITATION CONTRACT AWARD:** Approval to change the funding source from Disaster Recovery Initiative (DRI) to Community Development Block Grant (CDBG) for the Housing Rehabilitation contract award for 354 N.W. 6th Avenue; and approval to exceed the maximum housing rehabilitation cost, established at \$37,000.00 for an individual property under the Department's approved Policies and Procedures to accommodate the total bid award of \$37,875.95. Funding is available from 118-1963-554-49.19 (Neighborhood Services: Other Current Charges/Housing Rehabilitation).
- I. **GRANT APPLICATION: WALMART - HOLIDAY TOY PROGRAM:** Provide authorization for submission of a grant application to Walmart in the amount of \$5,000.00 to support a Holiday Toy program for disadvantaged youth in collaboration with local Law Enforcement Officers.
- J. **SPECIAL EVENT REQUEST/HOLIDAY PAGEANT PARADE:** Approve a special event request to endorse the Annual Holiday Pageant Parade co-sponsored by the Parks and Recreation Department and the Chamber of Commerce to be held on December 10, 2011 beginning at approximately 6:00 p.m. to 9:00 p.m., grant a temporary use permit per LDR Section 2.4.6(F) for the closure and use of Atlantic Avenue from A-1-A to N.W. 5th Avenue for the parade route and set up from approximately 4:00 p.m. to 6:00 p.m., and approve staff support for traffic control, security, EMS assistance, barricading, trash removal, clean up, and event signage.

- K. **SPECIAL EVENT REQUEST/HOWARD ALAN 23RD ANNUAL DELRAY BEACH FESTIVAL OF THE ARTS:** Approve a special event request for the 23rd Annual Delray Beach Festival of the Arts sponsored by Howard Alan Events, Ltd. to be held on January 21-22, 2012 from 10:00 a.m. to 5:00 p.m., granting a temporary use permit per LDR Section 2.4.6(F) for use of City rights-of-way on Atlantic Avenue from the east side of N.E. 6th Avenue to Bronson, and the Gladiola lot (S.E. 6th Avenue) for vendor parking; authorize staff support for security and traffic control, barricade assistance, EMS assistance, fire inspection services, and permit an event sign to be erected on Atlantic Avenue just east of I-95 fourteen (14) days prior to the event with the sponsor paying all overtime costs.
- L. **REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:** Accept the actions and decisions made by the Land Development Boards for the period October 3, 2011 through October 14, 2011.
- M. **AWARD OF BIDS AND CONTRACTS:**
1. Bid award to LV Superior Landscaping, Inc. in the estimated annual amount of \$33,049.36 for landscape maintenance of Stormwater Retention Areas. Funding is available from 448-5416-538.34-90 (Stormwater Utility Fund: Other Operating/Other Contractual Services).
 2. Bid awards to LV Superior Landscaping, Inc. in the amount of \$19,696.94 for Landscape Maintenance of Lake Ida Road Medians, South Federal Highway and Congress Avenue. Funding is available from 119-4144-572-46.40 (Beautification Trust Fund: Repair & Maintenance Services/Beautification Maintenance).
 3. Contract award to Intercounty Engineering, Inc. in the amount of \$237,142.00 for construction of a water main upgrade on S.W. 10th Avenue from S.W. 2nd Street to West Atlantic Avenue. Funding is available from 442-5178-536-68.76 (Water & Sewer Renewal & Replacement Fund: Improvements Other/S.W. 10th Avenue Water Main).
 4. Contract award to Line-Tec, Inc. in the amount of \$70,681.00 for relocating water services as part of the Osceola Neighborhood Redevelopment Plan. Funding is available from 442-5178-536-65.85 (Water & Sewer Renewal & Replacement Fund: Other Improvements; Osceola Park).
 5. Purchase award to Airgas in the amount of \$107,000.00 for delivery of Liquid Carbon Dioxide (CO2) to be ordered "as needed". Funding is available from 441-5122-536-52.21 (Water and Sewer Fund: Operating Supplies/Chemicals).
 6. Purchase award to Otto Waste Systems, as a sole source provider, in the amount of \$50,000.00 for purchase of hot stamped garbage carts, lids and wheels to be ordered "as needed". Funding is available from 433-3711-534-49.35 (Sanitation Fund: Other Current Charges/Cart Renewal & Replacement).
 7. Purchase award to Dumont Company, Inc. in the amount of \$51,200.00 for the purchase and delivery of Sodium Hypochlorite on an "as needed" basis to remote booster station locations. Funding is available from 441-5123-536-52.21 (Water and Sewer Fund: Operating Supplies/Chemicals).

8. Purchase award to CDW-Government in the amount of \$346,873.44 and to Emergency Vehicle Supply (EVS) in the amount of \$23,460 for the purchase and installation of sixty-eight (68) In-Car video systems in police vehicles. Funding is available from 334-2111-521-64.90 (General Construction Fund: Machinery/Equipment/Other Machinery/Equipment) and 115-2112-521-64.90 (Special Projects Fund: Machinery/Equipment/Other Machinery/Equipment).

9. **REGULAR AGENDA:**

- A. **CONDITIONAL USE REQUEST/THE ELECTRIC EXPERIENCE:** Consider a conditional use request to allow the sale of Segways and Segway tours along designated routes for The Electric Experience located at 1047 East Atlantic Avenue. *(Quasi-Judicial Hearing)* (Motion to adopt board order as presented; Approved, 5-0)
- B. **WAIVER REQUESTS/BOUERI MIXED-USE BUILDING:** Consider approval of six (6) waiver requests to Land Development Regulations (LDR) Section 4.4.13(F)(3) and Section 4.4.13(F)(4), “Principle Uses and Structures Permitted”, regarding the required building frontage and front setback along S.E. 1st Avenue and along S.E. 1st Street; Land Development Regulations (LDR) Section 4.6.18 (B)(14)(iv)(2), “Windows and Doors”, to reduce the required 75% transparency surface to 49% in the building elevation along S.E. 1st Avenue and to 43% along S.E. 1st Street; Land Development Regulations (LDR) Section 5.3.1(D)(3), “Corner Clip”, to reduce the required corner clip at the intersection of S.E. 1st Street and S.E. 1st Avenue from 20’ by 20’ to 12’-11” by 12’-11””; Land Development Regulations (LDR) Section 6.1.3(b), “Additional Paving”, to reduce the required 8’ wide sidewalk along S.E. 1st Avenue and S.E. 1st Street to 5’ for Boueri Mixed-use Building, located at 104 S.E. 1st Street. *(Quasi-Judicial Hearing)* (Motion to adopt board order as presented; Approved, 5-0)
- C. **CONSIDERATION OF AN APPEAL/HISTORIC PRESERVATION BOARD’S DECISION/CLASS III SITE PLAN MODIFICATION:** Consider an appeal of the Historic Preservation Board’s denial of the Class III site plan modification request for 85 S.E. 6th Avenue. *(Quasi-Judicial Hearing)* **POSTPONED**
1. **CONSIDERATION OF AN APPEAL/ HISTORIC PRESERVATION BOARD’S DECISION/ WAIVER REQUEST:** Consider a waiver request to Land Development Regulations (LDR) Section 4.5.1(E)(3)(b)(2), “Parking”, for six required parking spaces for 85 S.E. 6th Avenue. *(Quasi-Judicial Hearing)* **POSTPONED**
- D. **REQUEST TO CHALLENGE THE FUNDING MECHANISM PERTAINING TO PALM BEACH COUNTY’S INSPECTOR GENERAL PROGRAM:** Request authorization to allow the City Attorney to join Delray Beach with other municipalities in a lawsuit challenging the funding mechanism pertaining to Palm Beach County’s Inspector General Program. (Motion to approve; Approved, 5-0)

E. **SPECIAL EVENT REQUEST/TWILIGHT BICYCLE RACE AND WELLNESS FESTIVAL:** Consider approval and endorsement of a new event, Delray Beach Twilight Bicycle Race and Wellness Festival, sponsored by RAC Event Productions/Swaggerolls to be held on March 9, 2012 from 9:00 a.m. to 11:00 p.m., and March 10, 2012 from 8:00 a.m. to 11:00 p.m.; grant a temporary use permit per LDR Section 2.4.6(F) for closure and use of Atlantic Avenue from Swinton to Railroad Way, Railroad Way from Atlantic to N.E. 1st Street, N.E. 1st Street from Railroad Way to Swinton and N.E. 1st Avenue from Old School Square grounds to Atlantic from approximately 4:00 p.m. to 10:00 p.m. on Saturday, March 10, 2012 for the bike races; and authorize staff support for traffic control and security, EMS assistance, trash removal and cleanup, trash boxes and event signage; contingent upon receipt of a non-refundable deposit in the amount of \$2,000.00, copies of signed rental agreements with Old School Square and the City for use of Old School Square Park, receipt of a signed and notarized Hold Harmless Agreement and receipt of a Certificate of Event Liability and Alcohol Liability Insurance by the dates outlined in the staff report. (Motion to approve subject to conditions; Approved, 5-0)

F. **BID AWARD/RANDOLPH AND DEWDNEY CONSTRUCTION, INC.:** Consider approval of a bid award to Randolph and Dewdney Construction, Inc., in the amount of \$456,710.00 for renovations to the Pompey Park Concession Stand. Funding is available from 334-4127-572-62.10 (General Construction Fund/ Pompey Park Concession Stand). (ADDENDUM) (Motion to approve subject to entering into an Interlocal Agreement with the Community Redevelopment Agency (CRA) for funding up to \$200,000; Approved, 4-1. Commissioner Frankel dissenting)

10. **PUBLIC HEARINGS:**

A. **ORDINANCE NO. 36-11 (SECOND READING/SECOND PUBLIC HEARING):** Consider a privately initiated amendment to the Land Development Regulations (LDR) Section 4.4.9. (B), “Principle Uses and Structures Permitted”, and Section 4.4.13 (B), “Principal Uses and Structures Permitted”, to clarify that bicycles with an electric helper motor are the only motorized equipment permitted in the “rental of sporting goods and equipment” use category. (Motion to approve; Approved, 5-0)

B. **ORDINANCE NO. 39-11:** Consider an amendment to the Code of Ordinance Section 72.02, “Definitions,” to conform to the State Statute definition of a bicycle and to place further limitations on motorized bicycles. (Motion to approve; Approved, 5-0)

C. **RESOLUTION NO. 43-11/ CONTRACT FOR SALE AND PURCHASE/2216 N.E. 3RD AVENUE:** Consider approval of Resolution No. 46-11, a contract for sale and purchase, authorizing the City to transfer Neighborhood Stabilization Program property located at 2216 N.E. 3rd Avenue to the Delray Beach Community Land Trust for the amount of \$10.00. (Motion to approve; Approved, 5-0)

- D. **RESOLUTION NO. 44-11/ CONTRACT FOR SALE AND PURCHASE/310 SOUTHRIDGE ROAD:** Consider approval of Resolution No. 44-11, a contract for sale and purchase, authorizing the City to transfer Neighborhood Stabilization Program property located at 310 Southridge Road to the Delray Beach Community Land Trust for the amount of \$10.00. (Motion to approve; Approved, 5-0)
- E. **RESOLUTION NO. 45-11/ CONTRACT FOR SALE AND PURCHASE/518 S.W. 9TH COURT:** Consider approval of Resolution No. 45-11, a contract for sale and purchase, authorizing the City to transfer Neighborhood Stabilization Program property located at 518 S.W. 9th Court to the Delray Beach Housing Group, Inc. for the amount of \$10.00. (Motion to approve; Approved, 5-0)
- F. **RESOLUTION NO. 46-11/ CONTRACT FOR SALE AND PURCHASE/1505 S.W. 3RD COURT:** Consider approval of Resolution No. 46-11, a contract for sale and purchase, authorizing the City to transfer Neighborhood Stabilization Program property located at 1505 S.W. 3rd Court to the Delray Beach Housing Group, Inc. for the amount of \$10.00. (Motion to approve; 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. 37-11:** Consider a city initiated amendment to the Land Development Regulations (LDR) Section 4.5.3, "Flood Damage Control Districts", Subsection (D) "Construction Standards", to modify the section while maintaining compliance with State Statutes. If passed, a public hearing will be held on November 1, 2011. (Motion to REMOVE from agenda; Approved, 5-0)
- B. **ORDINANCE NO. 38-11:** Consider an annexation (via the provisions of the executed Agreement for Water Service and Consent to Annexation) with initial City zoning of CF (Community Facilities) for Lago Vista, located at the southeast corner of Linton Boulevard and the LWDD E-3 Canal. If passed, a public hearing will be held on November 1, 2011. (Motion to approve; Approved, 5-0)
13. **COMMENTS AND INQUIRIES ON NON-AGENDA ITEMS.**
- A. City Manager
- B. City Attorney
- C. City Commission

POSTED: OCTOBER 14, 2011

******* Meeting adjourned at 7:57 p.m. *******