

# City of Delray Beach

## Regular Commission Meeting

**\*\*\*AGENDA RESULTS\*\*\***



### **RULES FOR PUBLIC PARTICIPATION**

Tuesday, January 6, 2009

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.

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.** (Mayor Ellis and Commissioner Fetzer absent)
2. **INVOCATION.**
3. **PLEDGE OF ALLEGIANCE TO THE FLAG.**
4. **AGENDA APPROVAL.** (Vice Mayor McDuffie noted a revised Board Order for Item 9.A., Waiver Request/S.W. 14<sup>th</sup> Avenue; Item 9.B., Waiver Request/Pugliese Office Building, was requested by applicant to be postponed; Revised Board Order for Item 9.C., Waiver Request/Worthing Place; Item 9.C., Waiver Request/Worthing Place was postponed; Item 8.C., Supplemental Consulting Services Agreement/Glatting Jackson Kercher Anglin, Inc./Old School Square Park was moved to the Regular Agenda as Item 9.A.A.; Item 8.E., Contract Closeout (C.O. No. 1/Final)/West Construction, Inc., was moved to the Regular Agenda as Item 9.A.A.A.; Item 8.G., Resolution No. 01-09/Alternative Water Supply Grant/South Florida Water Management District (SFWMD) was moved to the Regular Agenda as Item 9.A.A.A.A. Approved as amended, 3-0).
5. **APPROVAL OF MINUTES:**
  - A. December 2, 2008 – Regular Meeting (Approved, 3-0)
  - B. December 9, 2008 – Regular Meeting (Approved, 3-0)
6. **PROCLAMATIONS:**
  - A. Martin Luther King, Jr. Day – January 19, 2009
  - B. Recognizing and Commending the **Delray Rocks Football and Cheerleading Squads**
7. **PRESENTATIONS:**
  - A. None
8. **CONSENT AGENDA:** City Manager Recommends Approval. (Approved as amended, 3-0)
  - A. **WATER AND SANITARY SEWER EASEMENT AGREEMENT/WALMART:**  
Approve an easement agreement for water and sanitary sewer lines associated with the renovation of the Walmart store located at 16205 S. Military Trail.
  - B. **HOLD HARMLESS AGREEMENT/NEW CENTURY LINTON ONE, LLC:**  
Approve and authorize execution of a Hold Harmless Agreement between the City and New Century Linton One, LLC for improvements placed within a utility easement located at 500 Linton Boulevard.
  - C. **(MOVED TO ITEM 9.A.A. ON THE REGULAR AGENDA)**

- D. **REIMBURSEMENT/FLORIDA EAST COAST RAILROAD (FEC)/S.E. 10<sup>TH</sup> STREET:** Approve a request to reimburse Florida East Coast Railroad (FEC) in the amount of \$36,743.81 for the reconstruction of the S.E. 10<sup>th</sup> Street crossing. Funding is available in 334-3162-541-46.90 (General Construction Fund/Repair & Maint. Services/Other Repair/Maint. Costs).
- E. **(MOVED TO ITEM 9.A.A.A. ON THE REGULAR AGENDA)**
- F. **CONTRACT ADDITION (C.O. NO. 1)/DELTA PETROLEUM & INDUSTRIAL, INC.:** Approve a Contract Addition (C.O. No. 1) in the amount of \$15,229.00 to Delta Petroleum & Industrial, Inc. for connecting the recently installed emergency generator at the Police Department to the existing underground diesel tank. Funding is available from 334-6112-522-64.90 (General Construction Fund/Machinery/Equipment/Other Machinery/Equipment).
- G. **(MOVED TO ITEM 9.A.A.A.A. ON THE REGULAR AGENDA)**
- H. **AMENDMENT NO. 2 TO AGREEMENT WITH PALM BEACH COUNTY/EXTENSION OF MANGO DRIVE AND S. W. 7<sup>TH</sup> AVENUE:** Approve Amendment No. 2 to the Agreement between the City and Palm Beach County to extend the deadline to May 31, 2009 for the extension of Mango Drive and S.W. 7<sup>th</sup> Avenue through the Disaster Recovery Initiative (DRI) Program.
- I. **COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) SUB-RECIPIENT FUNDING AGREEMENT/ACHIEVEMENT CENTERS FOR CHILDREN AND FAMILIES:** Approve and authorize the execution of the funding agreement with one (1) sub-recipient (Community Childcare Center d/b/a Achievement Centers for Children and Families) under the Community Development Block Grant (CDBG) program for FY 2008-2009 Annual Action Plan, with the total funding in an amount not to exceed \$80,000.00. Funding is available from 118-1966-554-82.09 (Neighborhood Services/Aid to Private Organ./Child Care Center).
- J. **COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) SUB-RECIPIENT FUNDING AGREEMENT/FAIR HOUSING CENTER OF THE GREATER PALM BEACHES:** Approve and authorize the execution of the funding agreement with one (1) sub-recipient (Fair Housing Center of the Greater Palm Beaches, Inc.) under the Community Development Block Grant (CDBG) program for FY 2008-2009 Annual Action Plan, with total funding in an amount not to exceed \$5,000.00. Funding is available from 118-1961-554-49.17 (Neighborhood Services/Other Current Charges/Promotion of Fair Housing).
- K. **COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) SUB-RECIPIENT FUNDING AGREEMENT/URBAN LEAGUE OF PALM BEACH COUNTY:** Approve and authorize the execution of a funding agreement with one (1) sub-recipient (the Urban League of Palm Beach County, Inc.) under the CDBG program for FY 2008-2009, with total funding in an amount not to exceed \$6,500.00. Funding is available from 118-1966-554-83.01 (Community Development Fund/Other Grants and Aids).

- L. **FUNDING AGREEMENT/PALM BEACH COUNTY/DELRAY DIVAS STEP TEAMS AND DELRAY DIAMONDS AND PEARLS DANCE TEAM:**  
Approve and accept an agreement between the City and Palm Beach County for the Recreation Assistance Program (RAP) District 7 to reimburse the City in an amount not to exceed \$5,000.00 for the Delray Divas Step Teams and Delray Diamonds and Pearls Dance Team for eligible expenses incurred between January 1 and October 1, 2009.
- M. **PALM BEACH COUNTY EMERGENCY MEDICAL SERVICES GRANT:**  
Approve and accept a Palm Beach County Emergency Medical Services (EMS) Grant in the amount of \$43,880.00; and authorize staff to submit a letter of confirmation to the Palm Beach County Division of Emergency Management to officially accept the grant award and the State and County grant requirements.
- N. **SPECIAL EVENT REQUEST/HOWARD ALAN 12<sup>th</sup> ANNUAL WINTER STREET CRAFT FESTIVAL:** Approve a special event request to endorse the 12<sup>th</sup> Annual Delray Beach Winter Street Craft Festival to be held on February 28 and March 1, 2009 from 10:00 a.m. - 5:00 p.m.; including a temporary use permit per LDR Section 2.4.6(F) for use of N.E./S.E. 4<sup>th</sup> Avenue, one block north/south of Atlantic Avenue as well as the north end of Hand's parking lot for vendor parking; and to authorize staff support for security and traffic control with the event sponsor paying all overtime costs, and to permit an event sign to be erected on Atlantic Avenue just east of I-95, 10 days prior to the event.
- O. **SPECIAL EVENT REQUEST/ART & JAZZ ON THE AVENUE:** Approve a special event request to endorse the Art & Jazz on the Avenue scheduled for January 29, 2009 from 6:00 p.m. to 10:00 p.m., to grant a temporary use permit per LDR Section 2.4.6(F) for the closure of Atlantic Avenue from Swinton Avenue to the west side of N.E./S.E. 7<sup>th</sup> Avenue, Railroad Avenue from Atlantic Avenue north to the north side of the east/west alley, and to the alleys north and south of Atlantic on N.E./S.E. 1<sup>st</sup> Avenue, N.E./S.E. 2<sup>nd</sup> Avenue, S.E. 3<sup>rd</sup> Avenue, N.E./S.E. 4<sup>th</sup> Avenue; and to authorize staff support for security and traffic control, banner hanging and removal, barricade set up and removal, trash removal and clean up; contingent on the receipt of an updated certificate of liability insurance.
- P. **REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:**  
Accept the actions and decisions made by the Land Development Boards for the period December 8, 2008 through January 2, 2009.
- Q. **AWARD OF BIDS AND CONTRACTS:**
1. Purchase award to Petroleum Traders Corporation in the amount of \$375,000.00 for the purchase and delivery of gasoline and SMF Energy Corporation in the amount of \$200,000.00 for the purchase and delivery of diesel fuel (Ultra Low Sulfur No. 2), via the Florida State Contract #405-000-04-1. Funding is available from 501-3311-591-52.51 (Garage Fund/Operating Supplies/CG Inventory-Fuel).

9. **REGULAR AGENDA:**

- A.A. **SUPPLEMENTAL CONSULTING SERVICES AGREEMENT/GLATTING JACKSON KERCHER ANGLIN, INC./OLD SCHOOL SQUARE PARK:** Approve a Supplemental Consulting Services Agreement with Glatting Jackson Kercher Anglin, Inc., in an amount not to exceed \$23,700 for supplemental consulting services requested by staff relative to the Old School Square Park project. Funding is available from 334-4151-572-63.59 (General Construction Fund/Improvements Other/Old School Square Park Improvements). (Motion to **POSTPONE** to the January 13, 2009 Workshop; Approved, 3-0)
- A.A.A. **CONTRACT CLOSEOUT (C.O. NO. 1/FINAL)/WEST CONSTRUCTION, INC./FIRE-RESCUE STATION NO. 4:** Approve a Contract Closeout (C.O. No. 1/Final) in the amount of \$47,824.24 and final payment in the amount of \$119,613.74 to West Construction, Inc. for completion of Fire Station No. 4. Funding is available from 334-6112-522-62.88 (General Construction Fund/Buildings/Fire Station No. 4). (Approved, 3-0)
- A.A.A.A. **RESOLUTION NO. 01-09/ALTERNATIVE WATER SUPPLY GRANT/SOUTH FLORIDA WATER MANAGEMENT DISTRICT (SFWMD):** Approve and adopt Resolution No. 01-09 authorizing execution of an Alternative Water Supply Grant Agreement with the South Florida Water Management District (SFWMD) for funding in the amount of \$1,118,000.00 for the construction of the Area 11 Reclaimed Water System Project- Phase A. (Approved, 3-0)
- A. **WAIVER REQUEST/S.W. 14<sup>th</sup> AVENUE:** Consider a waiver request to Land Development Regulations (LDR) Section 6.1.2(A)(2)(a), “Streets and Alleys”, to allow a Certificate of Occupancy to be issued prior to completion of alleyway improvements for seventeen (17) single family homes located adjacent to S.W. 14<sup>th</sup> Avenue between S.W. 1<sup>st</sup> and 2<sup>nd</sup> Streets. (*Quasi-Judicial Hearing*) (Motion to adopt Board Order as presented; Approved, 3-0)
- B. **WAIVER REQUEST/PUGLIESE OFFICE BUILDING:** Consider a request for waiver of Land Development Regulations (LDR) Section 4.6.7(E)(7), “Design Standards Matrix”, for a sign on the Pugliese Office Building located at 101 Pugliese Way. (*Quasi-Judicial Hearing*) (**POSTPONED** to January 20, 2009 Regular City Commission Meeting; Approved, 3-0)
- C. **WAIVER REQUEST/WORTHING PLACE:** Consider a request to waive Land Development Regulations (LDR) Section 4.3.3(OO)(1)(f), “Generators”, to allow generators to operate the full capacity of the equipment being served for a reduced period not less than forty-eight (48) hours for the property located south of Atlantic Avenue immediately south of Worthing Park, between S.E 1<sup>st</sup> and 2<sup>nd</sup> Avenues. (*Quasi-Judicial Hearing*) (**POSTPONED** to January 20, 2009 Regular City Commission Meeting; Approved, 3-0)

- D. **REQUEST FOR IN-LIEU PARKING SPACES/TASTE RESTAURANT:**  
 Consider a request from Taste Restaurant for the purchase of eight (8) in-lieu parking spaces in the amount of \$62,400.00. Taste Restaurant is located at 169-171 N.E. 2<sup>nd</sup> Avenue. *(Quasi-Judicial Hearing) (Motion to adopt Board Order as presented; Approved, 3-0)*
- E. **WAIVER REQUEST FOR IN-LIEU PARKING FEES/HAMMAD SHOPPES:**  
 Consider a waiver request from Hammad Shoppes to waive in-lieu parking fees in the amount of \$16,000.00 for the purchase of four (4) parking spaces. Hammad Shoppes is located at 139 N.W. 5<sup>th</sup> Avenue. *(Quasi-Judicial Hearing) (Motion to adopt Board Order as presented; Approved, 3-0)*
- F. **CONTRACT ADDITION (C.O. NO. 1)/BSA CORPORATION/CITY HALL NORTH WING RENOVATIONS:** Consider a Contract Addition (C.O. No. 1) in the amount of \$8,115.00 to BSA Corporation for City Hall North Wing to add Break Room Renovations. Funding is available from 334-6112-519-62.86 (General Construction Fund/City Hall –North Wing & Chamber). *(Approved, 3-0)*
- G. **GENERAL RULES OF PROCEDURE OF THE CODE ENFORCEMENT BOARD:** Approve the revised Code Enforcement Board Rules which change Article VI, Paragraph 2 to provide that each party will have up to 20 minutes to present their case; Citizen Participants or their representatives may speak up to three (3) minutes regarding the violation; and cross examination and rebuttal shall last no longer than two (2) minutes. *(Approved, 3-0)*
- H. **APPOINTMENT TO THE NEIGHBORHOOD ADVISORY COUNCIL:**  
 Appoint one (1) regular 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 Ellis (Seat #5). *(Mayor Ellis appointment deferred to January 20, 2009)*
- I. **APPOINTMENTS TO THE CODE ENFORCEMENT BOARD:** Appoint three (3) regular members to the Code Enforcement Board for three (3) year terms ending January 14, 2012. Based upon the rotation system, the appointments will be made by Commissioner Eliopoulos (Seat #1), Commissioner Fetzer (Seat #2), and Commissioner McDuffie (Seat #3). *(Appointed Robert Marks and approved, 3-0; and appointed Mark Behar and approved, 3-0. Commissioner Fetzer's appointment deferred to January 20, 2009.)*

10. **PUBLIC HEARINGS:**

- A. **RESOLUTION NO. 02-09 AUTHORIZING PURCHASE AND SALE OF REAL PROPERTY/COMMUNITY REDEVELOPMENT AGENCY (CRA)/MOUNT OLIVE MISSIONARY BAPTIST CHURCH:** Consider approval of Resolution No. 02-09 authorizing the CRA to sell property located at 429 N.W. 1<sup>st</sup> Street to Mount Olive Missionary Baptist Church for \$1,000.00 with the Community Redevelopment Agency receiving a perpetual parking easement over Mount Olive Missionary Baptist Church's thirty-five (35) space parking lot located on N.W. 5<sup>th</sup> Avenue. (Approved, 3-0)
- B. **ORDINANCE NO. 01-09 (FIRST READING/FIRST PUBLIC HEARING):** City initiated amendments to the Land Development Regulations (LDR) Section 4.3.3, "Special Requirements for Specific Uses", Subsection (A), "Self-Service Storage Facilities (SSSF)" and Subsection (J), "Gasoline Station", to revise and/or clarify parking requirements for these uses; Section 4.4.13, "Central Business (CBD) District", Section 4.4.17, "Residential Office (RO) District", Section 4.4.24, "Old School Square Historic Arts District (OSSHAD)", Section 4.4.28, "Central Business District-Railroad Corridor (CBD-RC)", and Section 4.4.29, "Mixed Residential, Office and Commercial (MROC) District", to change the parking requirements for business and professional offices within these zoning districts and to expand the area subject to special parking requirements within the CBD zoning district; amending Section 4.6.9, "Off-Street Parking Regulations", to modify how fractions are rounded, to change the parking requirements for business and professional offices and to clarify the parking requirements for other uses; amending Appendix "A", "Definitions", to enact new definitions for "Gross Floor Area" and "Net Floor Area". If passed, a second public hearing will be held on January 20, 2009. (Approved, 3-0)
- C. **ORDINANCE NO. 56-08:** Consider a City-initiated amendment amending the Land Development Regulations (LDR) of the Code of Ordinances, by amending Section 2.4.3, "Submission Requirements", Subsection (K), "Fees", Sub-subsection (1), "Development Applications", in order to provide fees for requests for a change of historic designation or classification, and ad valorem tax exemption applications. (Approved, 3-0)

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. 03-09:** City initiated amendment to the Land Development Regulations (LDR) Section 8.5.1, "Establishment of Public Arts Program," to provide that the City may contribute funds through the Public Arts Program to other entities in order to help fund public art. If passed, a public hearing will be held on January 20, 2009. (Approved, 3-0)

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

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

POSTED: JANUARY 2, 2009

***\*\*\*\*\* Meeting adjourned at 8:21 p.m. \*\*\*\*\****