

City of Delray Beach

Regular Commission Meeting



RULES FOR PUBLIC PARTICIPATION

Tuesday, September 6, 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.**
5. **APPROVAL OF MINUTES:**
 - A. August 2, 2011 – Regular Meeting
 - B. August 16, 2011 – Regular Meeting
6. **PROCLAMATIONS:**
 - A. None
7. **PRESENTATIONS:**
 - A. Keep Palm Beach County Beautiful Grant – Marjorie Ferrer
 - B. **RESOLUTION NO. 31-11:** Approve Resolution No. 31-11 recognizing and commending Vivian Mitchell for 30 years of dedicated service to the City of Delray Beach.
8. **CONSENT AGENDA:** City Manager Recommends Approval.
 - A. **ACCEPTANCE OF A WATER UTILITY EASEMENT DEED/DELRAY MOTORS, INC.:** Approve and accept a water utility easement deed for Delray Motors, Inc. for Delray Chrysler Jeep Dodge, located at 2102 South Federal Highway.
 - B. **FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION (FDEP) PERMIT FEES:** Approve payment of permit fees in the amount of \$23,561.41 for the upcoming Beach Renourishment fill event tentatively scheduled for March, 2012. Funding is available from 332-4164-572-31.30 (Beach Restoration Fund: Professional Services/Engineering/Architectural).
 - C. **REQUEST FOR SIDEWALK DEFERRAL/738 SEASAGE DRIVE:** Approve a request to defer the installation of a sidewalk along Seasage Drive for a proposed single family residence located at 738 Seasage Drive.
 - D. **MODIFICATIONS TO THE CONTRACTOR PREQUALIFICATION PROCEDURE AND APPLICATION PROCESS:** Approve modifications to the Contractor Prequalification Procedure and Application process.

- E. **CONTRACT CLOSEOUT (C.O. NO. 1/FINAL)/VILA AND SON LANDSCAPE CORPORATION:** Approve a Contract Closeout (Change Order No. 1/Final) in the amount of a \$92,897.68 decrease and final payment in the amount of \$27,971.60 to Vila and Son Landscape Corporation for completion of the Atlantic Avenue Median Landscape Beautification Project. Funding is available 334-3162-541-61.15(General Construction Fund: Capital Outlay/Improvements-Medians).
- F. **AMENDMENT NO. 1 TO THE ELEVATOR MAINTENANCE SERVICE CONTRACT/ORACLE ELEVATOR COMPANY:** Approve Amendment No. 1 to the Elevator Maintenance Service Contract with Oracle Elevator Company providing for the addition of the elevator at Miller Park. Funding is available from 001-4121-572-34.90 (General Fund: Other Contractual Service).
- G. **AMENDMENT NO. 1 TO THE AGREEMENT (CHANGE ORDER NO. 1)/SOUTHLAND PAINTING CORPORATION:** Approve Amendment No. 1 to the Agreement (Change Order No. 1) to Southland Painting Corporation in the amount of \$28,935.00 for the additional rehabilitation work of Clarifier #4 at the Water Treatment Plant. Funding is available from 442-5178-536-46.90 (Water & Sewer & Replacement Fund: Repair & Maintenance Service/Other Repair/Maintenance Cost).
- H. **AMENDMENT NO. 1 TO THE JOINT PARTICIPATION AGREEMENT, FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT): GATEWAY FEATURE:** Approve Amendment No. 1 to the Joint Participation Agreements with the Florida Department of Transportation (FDOT) for the proposed landscaping along Atlantic Avenue (SR 806) from I-95 to N.W./S.W. 12th Avenue.
- I. **INTERLOCAL AGREEMENT/PALM BEACH COUNTY FOR S.W. 12TH AVENUE/AUBURN AVENUE/S.W. 14TH AVENUE:** Approve an Interlocal Agreement with Palm Beach County for reimbursement to the City in the amount of \$1,000,000.00 for costs associated with improvements along S.W. 12th Avenue/Auburn Avenue/S.W. 14th Avenue from S.W. 10th Street to West Atlantic Avenue.
- J. **DISASTER RECOVERY INITIATIVE (DRI)/HOUSING REHABILITATION CONTRACT AWARD:** Approve one Housing Rehabilitation contract award for 354 N.W. 6th Avenue to South Florida Construction Services, Inc., the lowest responsive bidder, in the amount of \$37,875.95 for housing rehabilitation under the Disaster Recovery Initiative (DRI) Program. Funding is available from 118-1960-554-49.19 (Neighborhood Services: Other Current Charges/Housing Rehabilitation).
- K. **FOURTH AMENDMENT TO DISASTER RECOVERY INITIATIVE AGREEMENT (DRI2)/PALM BEACH COUNTY:** Approve a fourth Amendment to the agreement between the City and Palm Beach County for the Disaster Recovery Initiative Housing Rehabilitation Program (DRI2) Program as proposed.

- L. **ANNUAL PROJECT HOLIDAY/YOU ARE NOT ALONE ORGANIZATION:** Approve a request for city support and assistance for the 6th Annual Project Holiday sponsored by the You Are Not Alone Organization, which provides packages to armed services personnel.
- M. **AMENDMENT NO. 1 TO THE LEASE AGREEMENT/DELRAY BEACH LIBRARY ASSOCIATION, INC.:** Approve Amendment No. 1 to the Lease Agreement with Delray Beach Library Association, Inc.
- N. **SUBLEASE AGREEMENT/DELRAY BEACH LIBRARY ASSOCIATION, INC./BUZZ AGENCY, LLC.:** Approve a Sublease Agreement between the Delray Beach Library Association, Inc. and the Buzz Agency, LLC. for twenty-six (26) months with two (2) two (2) year optional renewals.
- O. **INTERLOCAL AGREEMENT/PALM BEACH COUNTY DEPARTMENT OF ENVIRONMENTAL RESOURCES MANAGEMENT:** Approve an Interlocal Agreement with Palm Beach County to provide for a fair share contribution by the City for funding of the administration of the County Department of Environmental Resources Management (DERM) Wellfield Protection Program.
- P. **CONTRACT ADDITION (CHANGE ORDER NO. 2)/BRANG CONSTRUCTION INC.:** Approve a Contract Addition (Change Order No. 2) to Brang Construction, Inc. in the amount of \$8,900.00 for two (2) additional decorative columns for the Martin Luther King Jr. Drive Beautification Project. Funding is available from Contract's Unforeseen Conditions Allowance and from 334-4141-572-68.57 (General Construction Fund: Other Improvement/Cultural Loop/MLK Drive Phase I).
- Q. **ADDITIONAL SCOPE/FOSTER MARINE CONTRACTORS, INC.:** Approve additional scope with Foster Marine Contractors, Inc. for work to relocate ten (10) sewer cleanouts for the S.W. 12th Avenue/Auburn/S.W. 14th Avenue Project to be paid from the Unforeseen Conditions Allowance.
- R. **RESOLUTION NO. 33-11/BUDGET AMENDMENT:** Approve Resolution No. 33-11 amending Resolution No. 55-10 and Resolution No. 25-11 which made appropriations of sums of money for all necessary expenditures of the City of Delray Beach for FY 2010/2011, by setting forth the anticipated revenues and expenditures for the operating funds of the City for FY 2010/2011.
- S. **EXTENSION OF THE INSURANCE AGENT/BROKER SERVICE AGREEMENT/THE PLASTRIDGE AGENCY, INC.:** Approve an extension of the Insurance Agent/Broker Service Agreement with The Plastridge Agency, Inc. for an additional one year period beginning 10/1/11. Funding is available from 551-1575-591-45.11(Insurance Fund/Insurance/General Liability Premiums), 551-1575-591-45.31 (Insurance Fund/Insurance/Package Policy Premium), and 551-1575-591-4532 (Insurance Fund/Insurance/Package Policy Premiums, Excess Workers' Comp Premium)

1. **PROPOSED RENEWAL OF PROPERTY AND CASUALTY INSURANCE/THE PLASTRIDGE AGENCY, INC.:** Approve a proposed renewal of the City's major property and casualty insurance programs, including workers' compensation, for the period October 1, 2011 thru September 30, 2012. Funding is available from 551-1575-591-45.11 (Insurance Fund/Insurance/General Liability Premiums), 551-1575-591-45.31 (Insurance Fund; Insurance Package Policy Premium), and 551-1575-591-45.32 (Insurance Fund; Insurance Package Policy Premiums, Excess Workers' Comp Premium).

- T. **EXTENSION OF CONSULTING AGREEMENT/GALLAGHER BENEFIT SERVICES, INC.:** Approve an extension of the Consulting Agreement with Gallagher Benefit Services, Inc. in the expected amount of \$114,654.00 for employee benefits management consulting services. Funding is available from 551-1575-591-45.20 (Insurance Fund: Insurance/Claims Handling Costs).

- U. **STATE HOMELAND SECURITY GRANT AGREEMENT:** Approve an Agreement with the Florida Department of Financial Services in the amount \$53,716.00 to accept the 2010 Domestic Preparedness Grant from the State Homeland Security Grant Program to sustain equipment and training for hazardous materials incidents and incidents involving weapons of mass destruction.

- V. **MEMORANDUM OF UNDERSTANDING/DEPARTMENT OF HIGHWAY SAFETY:** Approve a Memorandum of Understanding with the Department of Highway Safety to provide the Police Department access to D.A.V.I.D. (Driver and Vehicle Information Database) which allows searches of driver license records and vehicles to aid law enforcement in investigations.

- W. **GRANT APPLICATION; 2011 ASSISTANCE TO FIREFIGHTERS:** Authorize submission of a grant application to the Federal Emergency Management Agency for the 2011 Assistance to Firefighters Grant.

- X. **GRANT AWARD/RECOVERY ACT EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG):** Approve and accept the FY 2011 Recovery Act Edward Byrne Memorial Justice Assistance Grant (JAG) award in the amount of \$53,503.00 which will provide funding to support the Holiday Robbery Task Force.

- Y. **BOND COUNSEL SERVICE/ GREENBERG, TRAURIG, LLP/STEVEN D. SANFORD:** Appoint Steven D. Sanford of Greenberg, Traurig, LLP as bond counsel for two (2) proposed water and sewer re-financings.

- Z. **FINANCIAL ADVISORY SERVICES/JAY GLOVER:** Appoint Jay Glover, Public Financial Management, to act as financial advisor for two (2) proposed water and sewer re-financings.

- AA. **RESOLUTION NO. 37-11:** Approve Resolution No. 37-11 assessing costs for abatement action required to remove nuisances on five (5) properties throughout the City.

- BB. **SPECIAL EVENT REQUEST/12TH ANNUAL DOWNTOWN DELRAY BEACH THANKSGIVING WEEKEND ART FESTIVAL:** Approve a special event request for the 12th Annual Downtown Delray Beach Thanksgiving Weekend Art Festival to be held on November 26-27, 2011 from 10:00 a.m. until 5:00 p.m., to grant a temporary use permit per LDR Section 2.4.6(F) for the use of N.E. 2nd Avenue from the alley just north of Atlantic Avenue to approximately 400 feet north of N.E. 3rd Street, leaving an access lane to the City Walk parking garage, and to authorize staff support for traffic control, security, and Fire Inspector with the sponsor paying all overtime costs.
- CC. **REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:** Accept the actions and decisions made by the Land Development Boards for the period August 15, 2011 through September 2, 2011.
- DD. **AWARD OF BIDS AND CONTRACTS:**
1. Purchase award to Kuhn Flooring Gallery I LLC., in the amount of \$28,030.00 for the replacement of floor covering at Fire Headquarters Station No. 1 including removal of old floor covering, labor and materials. Funding is available from 001-2311-522-46.10 (General Fund: Repair & Maintenance Services/Building Maintenance).
 2. Purchase award to Innovyze in the amount of \$27,000.00 for the purchase of a Water Modeling program, "InfoWater Suite 8.1". Funding is available from 441-5123-536-66.10 (Water and Sewer Fund: Books/Publications/Software).
 3. Contract award to Foster Marine Contractors, Inc. in the amount of \$46,800.00 for the annual Lift Station Rehabilitation program. Funding is available from 442-5178-536-68.15 (Water & Sewer Renewal & Replacement Fund: Improvements Other/Lift Station Rehabilitation).
 4. Contract award to Odums Sod, Inc. in the amount of \$16,500.00 for 100,000 square feet of sod for the S.W. 3rd Street and 6th Ave Water Main Upgrade Project. Funding is available from 442-5178-536-68.62 (W & S Renewal & Replacement Fund: Improvements Other/S.W. 3rd Street & 6th Avenue WM Upgrade).
 5. Purchase award to Motorola in the amount of \$18,316.46 for four (4) Motorola APX6000 portable radios in an effort to maintain equipment quality and service readiness. Funding is available 001-2315-526-64.90 (General Fund: Machinery/Equipment/ Other Machinery/Equipment).
 6. Purchase award to Bergeron Sand, Rock & Aggregate, Inc. in the amount of \$16,500.00 for 1,000 tons of limerock, to be installed by the City's in-house construction crew, for the S.W. 3rd Street and 6th Avenue Water Main Upgrade Project. Funding is available from 442-5178-536-68.62 (W & S Renewal & Replacement Fund: Improvements Other/S.W. 3rd Street & 6th Avenue WM Upgrade).

9. **REGULAR AGENDA:**

- A. **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: Building).
- B. **SETTLEMENT OFFER IN DOMINICK DIVENCENZO V. CITY OF DELRAY BEACH:** Consider a Settlement Offer in the total amount of \$25,000.00 in Dominick DiVencenzo v. City of Delray Beach.
- C. **SPECIAL EVENT REQUEST/13th ANNUAL GARLIC FESTIVAL:** Consider approval of a special event request for the 13th Annual Garlic Festival to be held February 10-12, 2012, and grant a temporary use permit per LDR Section 2.4.6(F) for use of City rights-of-way to include N.E. 1st Avenue from Atlantic to the grass area at Old School Square, Swinton Avenue from Atlantic to N.E. 1st Street and Old School Square Park, from 6:00 a.m., February 10 through midnight, February 12, 2012 and use of the Old School Square Parking Garage, CRA parking lots in Block 60, City Hall north lot, City Attorney lot and the County Parking Garage, and authorize staff support for traffic control and security, EMS assistance, barricading, banner hanging, signage preparation and installation, use of a City generator, and waiver of the two (2) hour parking limit in the downtown area during the event subject to the conditions listed in the staff report.
- D. **COMMISSION LIAISON APPOINTMENTS/SEAT #2:** Reassignment of City Commission Seat #2 Liaison Appointments to various Advisory Boards and outside agencies.
- E. **APPOINTMENT TO THE HISTORIC PRESERVATION BOARD:** Appoint one (1) regular member to serve a two (2) year term ending August 31, 2013 to the Historic Preservation Board. Based upon the rotation system, the appointment will be made by Commissioner Gray (Seat #4).
- F. **APPOINTMENTS TO THE CODE ENFORCEMENT BOARD:** Appoint one (1) regular member and one (1) alternate member to the Code of Enforcement Board to serve unexpired terms ending January 14, 2013. Based upon the rotation system, the appointments will be made by Mayor McDuffie (Seat #5) and Commissioner Carney (Seat #1).
- G. **APPOINTMENT TO THE BOARD OF ADJUSTMENT:** Appoint one (1) regular member to the Board of Adjustment to serve an unexpired term ending August 31, 2012. Based upon the rotation system, the appointment will be made by Commissioner Carney (Seat #1).
- H. **APPOINTMENT TO THE NEIGHBORHOOD ADVISORY COUNCIL:** Appoint one (1) regular member for Zone 2 to the Neighborhood Advisory Council to serve a three (3) year term ending July 31, 2014. Based upon the rotation system, the appointment will be made by Commissioner Carney (Seat #1).

- I. **APPOINTMENT TO THE FINANCIAL REVIEW BOARD:** Appoint one (1) alternate member to the Financial Review Board to serve an unexpired term ending July 31, 2013. Based upon the rotation system, the appointment will be made by Commissioner Alperin (Seat #2).
- J. **APPOINTMENT TO THE POLICE ADVISORY BOARD:** Appoint one (1) regular member to the Police Advisory Board to serve an unexpired term ending July 31, 2012. Based upon the rotation system, the appointment will be made by Commissioner Gray (Seat #4).
- K. **APPOINTMENT TO THE KIDS AND COPS COMMITTEE:** Appoint one (1) At-Large-Representative to the Kids and Cops Committee to serve a two (2) year term ending July 31, 2013. Based upon the rotation system, the appointment will be made by Commissioner Gray (Seat #4).

10. **PUBLIC HEARINGS:**

- A. **RESOLUTION NO. 34-11 (TENTATIVE MILLAGE LEVY):** A resolution tentatively levying a tax on all properties within the City of Delray Beach for operation and maintenance and for payment of principal and interest on bonded indebtedness for FY 2012.
- B. **RESOLUTION NO. 35-11 (TENTATIVE MILLAGE LEVY/DDA):** A resolution tentatively levying a tax of one mill on all properties within the Downtown Development Authority Taxing District of the City of Delray Beach for FY 2012.
- C. **RESOLUTION NO. 36-11 (TENTATIVE BUDGET ADOPTION FOR FY 2012):** A resolution tentatively making appropriations of sums of money for all necessary expenditures of the City of Delray Beach for the period October 1, 2011 through September 30, 2012.

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. 29-11:** Consider a city-initiated amendment to the Land Development Regulations (LDR) Section 4.4.13 "Central Business (CBD) District", Subsection (G), "Supplemental District Regulations" and Section 4.4.24, "Old School Square Historic Arts District (OSSHAD)", Subsection (G), "Supplemental District Regulations" to clarify the parking requirements for restaurants. If passed, a public hearing will be held on September 20, 2011.

- B. **ORDINANCE NO. 27-11:** Consider amendments to the Community Redevelopment Agency (CRA) Plan. If passed, a public hearing will be held on September 20, 2011.
- C. **ORDINANCE NO. 28-11:** Consider an ordinance which provides definitions for fraud, waste, abuse, misconduct and mismanagement related to the Palm Beach County Inspector General. If passed, a public hearing will be held on September 20, 2011.
- D. **ORDINANCE NO. 30-11:** Consider an Ordinance amending Chapter 96, “Fire Safety and Emergency Services”, of the Code of Ordinances, by amending Section 96.16, “Certain Codes Adopted by Reference”, to promote clarity, conciseness, and a common sense methodology. If passed, a public hearing will be held on September 20, 2011.
- E. **ORDINANCE NO. 31-11:** Consider an amendment to Chapter 35, “Employee Policies and Benefits”, Section 35.089, “Definitions”, to revise the definition of “Normal Retirement Date”. If passed, a public hearing will be held on September 20, 2011.
- F. **ORDINANCE NO. 26-11:** Consider a city-initiated amendment to the Land Development Regulations (LDR), to amend Article 2.2, “Establishment of Boards Having Responsibilities for Land Development Regulations”, and to amend Section 4.4.6, “Medium Density Residential (RM)”, to provide for housekeeping corrections to outdated references. If passed, a public hearing will be held on September 20, 2011.
- G. **ORDINANCE NO. 33-11:** Consider an amendment Amending Chapter 91, “Animals”, Section 91.03, “Trapping, Hunting Birds”; Chapter 95, “Emergency Management”, Section 95.05, “Declaration of a State Of Emergency”, and Section 95.09, “Police Emergencies”; Chapter 96, “Fire Safety and Emergency Services”, Section 96.25, “Discharge Or Use of Fireworks, Pyrotechnic Devices and Special Effects”; Chapter 101, “Parks, Beaches and Recreation”, Section 101.20, “Firearms and Weapons; Fireworks”, Section 101.36, “Additional Rules Applying to Parks, Recreational Facilities and the Municipal Beach”, Subsection 101.36(D), “Safety Hazards”, and Subsection 101.36(E), “Nuisances at Parks, Recreational Facilities and Municipal Beach Sites”; and Chapter 132, “Offenses Against Public Peace and Safety”, by repealing Section 132.02, “Disturbing the Peace; Public Places”, of the Code Of Ordinances, to conform with regulations set forth in House Bill 45 amending Section 790.33, Florida Statutes and to otherwise comply with State and Federal Statutes. If passed, a public hearing will be held on September 20, 2011.

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

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

POSTED: SEPTEMBER 2, 2011