

AUGUST 7, 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 6:03 p.m., Tuesday, August 7, 2007.

1. Roll call showed:

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

Absent - Commissioner Woodie McDuffie

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

2. The opening prayer was delivered by Reverend Sharon Austin with Cason United Methodist Church.

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

4. **AGENDA APPROVAL.**

Mayor Ellis noted the addition of **Item 9.H., Nominations for the Florida Cities of Excellence Awards Program** to the Regular Agenda by addendum.

Mayor Ellis stated **Item 10.A., Text Amendment 10.A.1(e)** has been withdrawn. There is also additional information for **Item 9.E., Special Event Request/Community Revival and Back to School Event.**

Mr. Eliopoulos requested that **Item 8.N.1., Purchase Award/Orkin Pest Control** of the Consent Agenda be moved to the Regular Agenda as **Item 9.A.A.**

Mr. Fetzer moved to approve the Agenda as amended, seconded by Mrs. Montague. Upon roll call the Commission voted as follows: Mr. Fetzer – Yes; Mrs. Montague – Yes; Mayor Ellis – Yes; Mr. Eliopoulos – Yes. Said motion passed with a 4 to 0 vote.

5. APPROVAL OF MINUTES:

Mrs. Montague moved to approve the Minutes of the Regular Meeting of July 24, 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. Said motion passed with a 4 to 0 vote.

Mr. Eliopoulos moved to approve the Minutes of the Special Meeting of July 31, 2007, seconded by Mrs. Montague. Upon roll call the Commission voted as follows: Mayor Ellis – Yes; Mr. Eliopoulos – Yes; Mr. Fetzer – Yes; Mrs. Montague – Yes. Said motion passed with a 4 to 0 vote.

6. PROCLAMATIONS:

6.A. NONE

7. PRESENTATIONS:

7.A. NONE

8. CONSENT AGENDA: City Manager Recommends Approval.

8.A. RATIFICATION OF THE SOUTH CENTRAL REGIONAL WASTEWATER TREATMENT AND DISPOSAL BOARD ACTIONS: Approve and ratify the action of the South Central Regional Wastewater Treatment and Disposal Board at their Quarterly Annual Meeting of July 19, 2007.

8.B. CHANGE ORDER NO. 3/BLOCK 64 DRAINAGE AND WATER MAIN IMPROVEMENT PROJECT/CHAZ EQUIPMENT COMPANY, INC.: Approve Change Order No. 3 in the amount \$20,000.00 to Chaz Equipment Company, Inc. for the connection of eight (8) properties to an 8” water main on Swinton Avenue for the Block 64 Drainage and Water Main Improvements Project. Funding is available from 442-5178-536-65.33 (Water/Sewer Renewal & Replacement Fund/Block 64 Improvements).

8.C. CONTRACT CLOSEOUT (C.O. NO. 6/FINAL)/DURACLEAN, INC.: Approve a Contract Closeout (C.O. No. 6/Final) in the amount of \$46,815.98 and final payment in the amount of \$49,825.98 to Duraclean, Inc. for the completion of the water damage remediation at Fire Stations No. 1, 2, 3 and 5. Funding is available from 001-2311-522-46.10 (Fire Department/General Fund/Building Maintenance).

8.D. CONTRACT CLOSEOUT (C.O. NO. 2/FINAL)/NEEDHAM ROOFING, INC.: Approve a Contract Closeout (C.O. No. 2/Final) in the amount of a \$19,452.00 decrease and final payment in the amount of \$28,506.00 to Needham Roofing, Inc. for completion of the Pompey Park Center Re-Roofing Project. Funding is available from 334-4172-572-46.10 (General Construction Fund/Building Maintenance).

8.E. CONTRACT REVISION AND RENEWAL/CONSULTING AGREEMENT/URBAN DESIGN STUDIO, LLC: Approve the renewal of a revised consulting agreement with Urban Design Studio, LLC for Beach Overlay District review services. The review fee will increase from \$750.00 to \$850.00 and the contract period is from August 10, 2007 through August 9, 2008.

8.F. INTERLOCAL AGREEMENT/COMMUNITY REDEVELOPMENT AGENCY (CRA)/135 NW 5TH AVENUE: Approve an Interlocal Agreement between the City and the Community Redevelopment Agency (CRA) for the management and funding of the construction/rehabilitation of 135 NW 5th Avenue by the City.

8.G. AMENDMENT/SUB-RECIPIENT HOUSING PARTNERSHIP AGREEMENT/DELRAY BEACH COMMUNITY LAND TRUST, INC.: Approve an amendment to the Sub-Recipient Housing Partnership Agreement between the City and the Delray Beach Community Land Trust, Inc. for the purposes of subsidizing the costs associated with affordable housing units within the Community Land Trust.

8.H. FLORIDA RECREATION DEVELOPMENT ASSISTANCE PROGRAM (FRDAP) GRANTS FY 2008/DELRAY BEACH FAMILY RECREATION AND FITNESS CENTER/MILLER PARK: Approve a request to apply for grants from the Florida Recreation Development Assistance Program (FRDAP) in the amount of \$90,000 for the Delray Beach Family Recreation and Fitness Center for playground equipment, fencing, walkways and drinking fountains, etc., and in the amount of \$200,000 for renovations to Miller Park.

8.I. RESOLUTION NO. 45-07: Approve Resolution No. 45-07 naming the Western/Senior Community Center the "Delray Beach Family Recreation and Fitness Center".

The caption of Resolution No. 45-07 is as follows:

A RESOLUTION OF THE CITY COMMISSION OF
THE CITY OF DELRAY BEACH, FLORIDA,
NAMING THE WESTERN/SENIOR COMMUNITY
CENTER THE "DELRAY BEACH FAMILY
RECREATION AND FITNESS CENTER".

(The official copy of Resolution No. 45-07 is on file at the City Clerk's office.)

8.J. ADDITIONAL AUDIT FEES/CALER, DONTEN, LEVINE, DRUKER, PORTER & VEIL, P.A.: Approve the payment of additional Audit Fees for FY 2006 in the amount of \$35,906.00 to Caler, Donten, Levine, Druker, Porter & Veil, P.A. for additional audit services. Funding is available from multiple accounts.

8.K. AMENDMENT NO. 1 TO INTERLOCAL AGREEMENT/PALM BEACH WORKFORCE DEVELOPMENT CONSORTIUM: Approve Amendment No. 1 to the Interlocal Agreement creating the Palm Beach County Workforce

Development Consortium.

8.L. CONTRACT ADDITION (C.O. NO. 4/BLOCK 64 ALLEY IMPROVEMENT PROJECT/CHAZ EQUIPMENT COMPANY, INC.): Approve a Contract Addition (C.O. No. 4) in the amount of \$77,525.00 to Chaz Equipment Company for the emergency sewer main repairs on SW 7th Avenue related to the Block 64 Alley Improvement Project. Funding is available from 442-5178-536.46.90 (Water/Sewer Renewal and Replacement Fund/Other Repair/Maintenance Costs).

8.M. REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS: Accept the actions and decisions made by the Land Development Boards for the period from July 23, 2007 through August 3, 2007.

8.N. AWARD OF BIDS AND CONTRACTS:

- 1. THIS ITEM HAS BEEN MOVED TO THE REGULAR AGENDA AS ITEM 9.A.A.**
- 2.** Purchase award to CDW-Government in the amount of \$29,995.00 for seven (7) replacement laptops for the Delray Beach Police Department. Funding is available from 334-2111-521-64.11 (General Construction Fund/Computer Equipment).

Mrs. Montague moved to approve the Consent Agenda as amended, seconded by Mr. Eliopoulos. Upon roll call the Commission voted as follows: Mr. Eliopoulos – Yes; Mr. Fetzer – Yes; Mrs. Montague – Yes; Mayor Ellis – Yes. Said motion passed with a 4 to 0 vote.

9. REGULAR AGENDA:

9.A.A. PURCHASE AWARD/ORKIN PEST CONTROL: Purchase award to Orkin Pest Control in the amount of \$19,975.00 for a tent fumigation of City Hall for the eradication of termite infestation. Funding is available from 001-1802-512-34.20 (General Fund/Pest Control Services).

Richard Hasko, Director of Environmental Services, stated staff discovered some dry wood termite infestation. He stated initially in the City Manager's office and conference room and staff called in to have some investigation done and it was reported back that the termites were scattered all over the building. Mr. Hasko stated the recommendation was to tent the building to get rid of them. The three quotes were obtained (Orkin Pest Control, Terminix, and Nozzle Nolen, Inc.). The lowest quote was from Orkin for \$19,975.00.

Mr. Eliopoulos stated the reason he requested that this item be removed from the Consent Agenda to the Regular Agenda for discussion is because in early 2000 he had some issues with Orkin Pest Control but his main concern is with the contracts. He stated the contracts are not enforceable and they contain so many clauses that there is

no way the City will be able to go back to them and get anything for it. Mr. Eliopoulos stated with drywood termites this happens over a long period of time and discussed with the City Manager and Mr. Hasko that there are options where they can do spot treatments. Mr. Eliopoulos is proposing to do a thorough treatment whereas they will chemically treat all the wood in the building (i.e. structure). He stated this makes it become preventative and noted when a building is tented all this is doing is killing the live infestation at that moment and nothing preventative is being done.

Mr. Eliopoulos suggested that this item be tabled so that some of the contracts can be reviewed to see how the City can be protected and maybe see some other considerations. He stated he is confident that with drywood termites City Hall will not have any structural damage. Mr. Eliopoulos reiterated that he would like to table this item so that the City Attorney can do further research on the background of Orkin Pest Control.

Mrs. Montague suggested as the City Attorney is researching preventative maintenance versus killing everything now to also look at Orkin's warranty information.

Mr. Fetzer moved to table, seconded by Mrs. Montague. Upon roll call the Commission voted as follows: Mr. Fetzer – Yes; Mrs. Montague – Yes; Mayor Ellis – Yes; Mr. Eliopoulos – Yes. Said motion passed with a 4 to 0 vote.

9.A. PUBLIC COMMENTS/FY 2008 PROPOSED BUDGET: The City Commission will hear public comments, if any, regarding the FY 2008 Proposed Budget at this time.

Mayor Ellis declared the public hearing open.

Carole Cohen, 920 N.W. 23rd Lane, Delray Beach, urged the Commission to not cut funding to the Delray Beach Library. She stated they moved from Fairfield County, Connecticut where they have a gorgeous library. However, Mrs. Cohen stated the library in Fairfield cannot compare to the City of Delray Beach Public Library.

There being no one else from the public who wished to address the Commission regarding the 2008 Proposed Budget, the public hearing was closed.

9.B. WAIVER REQUEST TO ALLOW A TEMPORARY MODULAR BUILDING/DELRAY MAZDA: Consider a waiver request to allow the installation of a 653 square foot temporary modular building for the Delray Mazda Automotive Dealership located at the southeast corner of South Federal Highway and Tropic Boulevard (2001 South Federal Highway). (*Quasi-Judicial Hearing*)

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

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 Department project file #2007-258 into the record.

Mr. Dorling stated this petition is to allow for the installation of a 653 square foot temporary modular building for the Delray Mazda automotive dealership as a customer service waiting area during the reconstruction of the showroom/office building that was gutted during hurricane Wilma. The required findings to this are outlined in LDR Section 2.4.7(B)(5), prior to granting a waiver, the approving body must make a finding that granting the waiver: (a) shall not adversely affect the neighboring area; (b) shall not significantly diminish the provision of public facilities, (c) shall not create an unsafe situation and (d) does not result in the grant of a special privilege for another applicant or owner. Mr. Dorling stated in the applicant's request they did not indicate the anticipated length of time. Therefore, staff has attached the condition of approval: (1) the temporary use permit shall not be effective until the issuance of a permit for the permanent improvements (i.e. construction of the showroom), (2) that the Temporary Use Permit be valid for no more than two years from the date of issuance, (3) that the modular building be removed from the property and the area restored to a parking area pursuant to the site plan of record concurrent with the issuance of a Certificate of Occupancy for the showroom/offices. Staff recommends approval.

Jessica Serota, 975 Cypress Drive, Delray Beach, works for Van Dale Custom Homes & Pools Corporation (building the Mazda dealership), stated they need the trailers so they can house people for service because when they drop their cars off they will get the valet service and will be able to walk right into the trailer which is right next to the service area.

There was no cross-examination or rebuttal.

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. Eliopoulos moved to adopt the Board Order as presented, seconded by Mrs. Montague. Upon roll call the Commission voted as follows: Mrs. Montague – Yes; Mayor Ellis – Yes; Mr. Eliopoulos – Yes; Mr. Fetzer – Yes. Said motion passed with a 4 to 0 vote.

9.C. DELRAY BEACH MARINA RATES: Consider approval of a proposed rate increase to \$.60 per foot per day for non-lived aboard and \$.70 per foot per day for live-aboard; increase of late fee from \$25.00 to \$50.00 and removal of the option of paying the minimum when boat is not in slip.

Joe Weldon, Director of Parks and Recreation, stated at the July 17, 2007 Workshop meeting he made a presentation concerning the raising of the Marina Rates to increase from \$.60 per foot per day for non-live-aboards and \$.70 per foot per day for live-aboards; and to increase the late fee from \$25.00 to \$50.00 and removal of the option of paying the minimum when the boat is not in the slip. Mr. Weldon stated staff is also following up on Mayor Ellis' request to see what it would cost to do the infrastructures for the direct metering of electric and water.

Mrs. Montague asked if there are any other amenities that might be considered that we do not provide that maybe some of the other marinas provide. In response, Mr. Weldon stated when staff performed the survey they cross-referenced what amenities they provide and the City of Delray Beach is pretty much in line with other marinas. He stated fuel was one issue and noted there was a request from one of the residents to see if we can allow boats in there to re-fuel the boats in the slip because it is a lot cheaper. Mr. Weldon stated staff can look into this; however, even though it is diesel fuel it is a big safety concern for the City of Delray Beach and there is a possibility of an accident. Mrs. Ellis asked if the diesel fuel comes in by truck or boat. In response, Mr. Weldon stated the diesel fuel comes in by truck.

Mrs. Montague inquired about the City's maintenance of the marina. Mr. Weldon stated in his opinion the City's maintenance is excellent.

Mayor Ellis stated she heard from a couple of people who feel living in the marina is the best thing that could possibly happen to them and their only comment was about the pump out. She stated frequently people do not know how to use it so they said there were problems with the pump out not working. Mayor Ellis stated she was informed that if this happens during the week it is fixed right away but on the weekends it is not. Mayor Ellis stated they did comment that most marinas now have pump out at the slip for each boat as opposed to one main pump out. Mr. Weldon stated staff can look into this when they review some of the other costs. Mr. Weldon stated with regard to the pump out because quarters are put into it some people try to break into it.

The City Manager stated staff has received some requests that since the majority of the marina residents are out-of-town during the summer and asked that this be deferred until they return. He stated since this is not a General Fund item if the Commission wishes to defer it until November or December it will not create any financial problem and this would give the residents an opportunity to be heard on this issue. Mrs. Montague asked when the residents are usually back. Mr. Weldon stated usually the City starts their license agreements in October so this could cause a few problems. Mr. Weldon made reference to the survey and stated in his opinion the marina are rates are in line and if anything are still at the low end of what other marinas charge.

Mayor Ellis stated one of the people she heard from called around and said even with the City's increase she could not find anything any cheaper. She stated with the 300 people on the City's waiting list who want a slip at this marina tells the City that we have a great marina. However, Mayor Ellis stated she understands that they would not want a rate increase. Mayor Ellis stated people have every opportunity to call or

email the Commission. She noted there are 24 slips and 11 who are actually living on board and recommends that the City move forward with taking care of this action.

Mrs. Montague stated she supports the increase taking effect October 1, 2007 but also with a timely response on the request regarding the amenities with some of the improvements. Mr. Weldon stated he will be meeting with the City Manager next week about this.

Mr. Fetzer asked what kind of notification has been given to the existing marina residents about this. The City Attorney stated they have licenses that expire.

Brief discussion between Mr. Weldon and the Commission continued.

Mr. Eliopoulos moved to approve the Delray Beach Marina rate increase, late fee and removal of the option of paying the minimum when boat is not in slip, seconded by Mrs. Montague. Upon roll call the Commission voted as follows: Mayor Ellis – Yes; Mr. Eliopoulos – Yes; Mr. Fetzer – Yes; Mrs. Montague – Yes. Said motion passed with a 4 to 0 vote.

9.D. PROPOSAL FOR eCivis GRANT NETWORK SERVICES: Consider approval and authorize the Mayor to execute an agreement in the amount of \$29,000 with eCivis for their Grant Network Services.

Doug Smith, Assistant City Manager, stated eCivis is a company that offers a grant search tool that is web based. Staff had the opportunity to try it out and some of the key advantages of the system are that the system allows for searches to be established for specific types of grants, they maintain a library of previously funded applications for at least some of their items in their system, and one of the most beneficial things is their search tool which allows you to search as like with any other search engine within their grants database with key words and categories, etc. Mr. Smith stated the nice feature is once a customized grant is set up for example funding for a street project, once the search criteria is set up you can have the system send you an email alert any time a new grant comes out that may fall within that criteria. Mr. Smith stated you also get email alerts on new grants in general. He stated there are also grants from Foundations which are ones the City may not typically hear about and these might provide some good potential funding sources. If the City of Delray Beach elected to pay an additional fee, the City could offer this up to 25 users with some of the non-profit groups in the community and this might be a way to help obtain some funding for the programs they have going on.

Mrs. Montague moved to approve and authorize the Mayor to execute a one-year agreement with eCivis for Grant Network Services in the amount of \$29,000.00, seconded by Mr. Eliopoulos. Upon roll call the Commission voted as follows: Mr. Eliopoulos – Yes; Mr. Fetzer – Yes; Mrs. Montague – Yes; Mayor Ellis – Yes. Said motion passed with a 4 to 0 vote.

9.E. SPECIAL EVENT REQUEST/COMMUNITY REVIVAL AND BACK TO SCHOOL EVENT:

Consider approval of a special event request for a new event, the "Community Revival and Back to School Event" sponsored by One Love-One Community Foundation, Inc. proposed to be held on August 17 – 19, 2007; from 8:00 p.m. to midnight on August 17, 2007, from 11:00 a.m. to 6:00 p.m. on August 18, 2007 and August 19, 2007; and authorize staff support for security, signage, EMS assistance, site clean up and trash removal, use of the new large stage, waiver of stage rental fees and trash box costs, the City to contribute funds in the amount of \$1,700.00 and provide the insurance for the event, contingent upon sponsor providing a hold harmless agreement, certificate of liability insurance one (1) week prior to the event and contingent upon the conditions listed in the staff report.

Robert A. Barcinski, Assistant City Manager, stated the Commission is requested to approve a special event request sponsored by One Love-One Community Foundation, Inc. to hold a "Community Revival and Back to School Event" at Pompey Park on August 17-19, 2007 from 8:00 p.m. to midnight on Friday, August 17th from 11:00 a.m. to 6:00 p.m. on Saturday and Sunday, August 18th and 19th, to provide staff support for security, EMS assistance, clean up including trash boxes and liners at no cost and use of the new large stage waiving rental fees. In addition, the request includes a \$1,700.00 cash contribution to help defray costs for some of the kid games and they would like the City to assume the insurance for the event. Mr. Barcinski stated the submittal time for a special event is sixty (60) days and this one was submitted thirty (30) days prior to the event. In the past, the City has been lenient on the timeframes especially for new events.

The estimated overtime costs for this event are \$5,000.00, event signage \$250.00, trash boxes \$120.00, and new stage rental cost of \$1,597.00. Based on current Event Policies and Procedures there would be no charge for staff overtime and after the Fire-Rescue Department reviewed this they do not feel they need to be there and they are not recommending on-site EMS service.

The event sponsor has also requested a \$1,700.00 cash contribution, as well as the City assuming the event liability. The estimate for event liability insurance is about \$1,000.00.

Staff recommends consideration of the special event request and staff support as requested except for EMS services with the following exceptions and conditions: (1) deny request to waive staff rental fees and trash box costs, (2) deny funding request, (3) deny request for the City to assume event liability, (4) require receipt of Certificate of Liability Insurance and Hold Harmless Agreement one (1) week prior to the event. Staff recommends not approving the cash contribution because there is no funding in the Commission event budget and this could set a precedent for other events and the City has never assumed the liability insurance.

Mrs. Montague expressed concern over the issue of waiving the Certificate of Liability Insurance. She stated she checked with the County and for an event the first thing that is asked for is a Certificate of Liability Insurance. Mrs.

Montague stated she does not support this and asked how the event sponsor would be able to hold this event if they do not have the Certificate of Liability Insurance. Mr. Barcinski stated the event sponsor would not be able to hold the event and they would have to go to the insurance company and obtain a Certificate of Liability Insurance and turn it into the City one week prior to the event.

Mrs. Montague moved to approve per staff recommendations and no cash contribution to cover the costs, seconded by Mr. Eliopoulos. Upon roll call the Commission voted as follows: Mr. Fetzer – Yes; Mrs. Montague – Yes; Mayor Ellis – Yes; Mr. Eliopoulos – Yes. Said motion passed with a 4 to 0 vote.

9.F. APPOINTMENTS TO THE EDUCATION BOARD: Appoint two (2) regular members to the Education Board for two (2) year terms ending July 31, 2009 and (1) one regular member to serve an unexpired term ending July 31, 2008. Based upon the rotation system, the appointments will be made by Commissioner Eliopoulos (Seat #1) and Commissioner Fetzer (Seat #2).

Mr. Eliopoulos moved to reappoint Adam Davis as a regular member to the Education Board for a two (2) year term ending July 31, 2009, seconded by Mrs. Montague. Upon roll call the Commission voted as follows: Mrs. Montague – Yes; Mayor Ellis – Yes; Mr. Eliopoulos – Yes; Mr. Fetzer – Yes. Said motion passed with a 4 to 0 vote.

Mr. Eliopoulos moved to reappoint Susan Sikich as a regular member to the Education Board for a two (2) year term ending July 31, 2009, seconded by Mr. Fetzer. Upon roll call the Commission voted as follows: Mayor Ellis – Yes; Mr. Eliopoulos – Yes; Mr. Fetzer – Yes; Mrs. Montague – Yes. Said motion passed with a 4 to 0 vote.

Mr. Fetzer moved to appoint Kenneth Zeno as a regular member to the Education Board for an unexpired term ending July 31, 2008, seconded by Mrs. Montague. Upon roll call the Commission voted as follows: Mr. Eliopoulos – Yes; Mr. Fetzer – Yes; Mrs. Montague – Yes; Mayor Ellis – Yes. Said motion passed with a 4 to 0 vote.

9.G. APPOINTMENTS TO THE PUBLIC ART ADVISORY BOARD: Appoint two (2) regular members to the Public Art Advisory Board to serve two (2) year terms ending August 2, 2009. Based upon the rotation system, the appointments will be made by Commissioner Eliopoulos (Seat #1) and Commissioner Montague (Seat #4).

Mr. Eliopoulos moved to reappoint Patricia Truscello as a regular member to the Public Art Advisory Board for a two (2) year term ending August 2, 2009, seconded by Mrs. Montague. Upon roll call the Commission voted as follows: Mr. Fetzer – Yes; Mrs. Montague – Yes; Mayor Ellis – Yes; Mr. Eliopoulos – Yes. Said motion passed with a 4 to 0 vote.

Mrs. Montague moved to appoint Robert Currie as a regular member to the Public Art Advisory Board for a two (2) year term ending August 2, 2009, seconded by Mr. Fetzer. Upon roll call the Commission voted as follows: Mrs. Montague – Yes; Mayor Ellis – Yes; Mr. Eliopoulos – Yes; Mr. Fetzer – Yes. Said motion passed with a 4 to 0 vote.

9.H. NOMINATION FOR THE FLORIDA CITIES OF EXCELLENCE AWARDS PROGRAM: Consider approval of nominations for the 2007 Florida Cities of Excellence Awards for Ashley Wintemute for the City Employee of the Year Award and the City of Delray Beach for the City of Excellence Award.

Doug Smith, Assistant City Manager, stated this item is before the Commission for approval of nominations for the 2007 Florida Cities of Excellence Awards through the Florida League of Cities. These are awards the City of Delray Beach has applied for in different categories over the last number of years. Staff is proposing that the City Commission consider nominations for: (1) Ashley Wintemute (who was just named the Delray Beach SPIRIT Employee of the Year for the City Employee of the Year Award and (2) submit the City of Delray Beach for the Florida City of Excellence Award. Mr. Smith noted that in the City's administrative policy for the SPIRIT Awards there is a section that states the winner of the SPIRIT Employee of the Year Award would be put forth as a nominee for the Florida League of Cities Award.

Mrs. Montague moved to approve the nominations for the 2007 Florida Cities of Excellence Awards for Ashley Wintemute for the City Employee of the Year Award and the City of Delray Beach for the City of Excellence Award, seconded by Mr. Fetzer. Upon roll call the Commission voted as follows: Mayor Ellis – Yes; Mr. Eliopoulos – Yes; Mr. Fetzer – Yes; Mrs. Montague – Yes. Said motion passed with a 4 to 0 vote.

At this point, the time being 6:55 p.m., the Commission moved to **Item 12, First Readings** portion of the Agenda.

12. FIRST READINGS:

12.A. ORDINANCE NO. 29-07: An ordinance replacing an existing Florida Power and Light Company (FPL) Franchise Agreement that is set to expire in 2011. If passed, a public hearing will be scheduled for August 21, 2007.

The caption of Ordinance No. 29-07 is as follows:

AN ORDINANCE GRANTING TO FLORIDA POWER & LIGHT COMPANY, ITS SUCCESSORS AND ASSIGNS, AN ELECTRIC FRANCHISE, IMPOSING PROVISIONS AND CONDITIONS RELATING THERETO, PROVIDING FOR MONTHLY PAYMENTS TO THE CITY OF DELRAY BEACH, AND PROVIDING FOR AN EFFECTIVE DATE.

(The official copy of Ordinance No. 29-07 is on file in the City Clerk's office.)

The City Attorney read the caption of the ordinance.

Don Kiselewski, representative with Florida, Power & Light Company, stated he is present to answer any questions the Commission may have.

The new FPL franchise if approved by the City Commission will have a thirty (30) year duration (to 2037). The ordinance provides for a revised and simplified franchise fee calculation methodology. The fee contained in the ordinance is 5.9% with no offset for property taxes paid. The current ordinance provides for a 6% fee with the property tax offset.

Mr. Fetzter moved to approve Ordinance No. 29-07 on FIRST Reading, seconded by Mr. Eliopoulos. Upon roll call the Commission voted as follows: Mr. Eliopoulos – Yes; Mr. Fetzter – Yes; Mrs. Montague – Yes; Mayor Ellis – Yes. Said motion passed with a 4 to 0 vote.

12.B. ORDINANCE NO. 30-07: An ordinance amending Chapter 117, "Landlord Permits", of the Code of Ordinances by amending Section 117.2, "Permit Fees", to provide for an increase in the Landlord Permit fee from \$30.00 per unit to \$50.00 per unit. If passed, a public hearing will be scheduled for August 21, 2007.

The caption of Ordinance No. 30-07 is as follows:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING CHAPTER 117, "LANDLORD PERMITS" OF THE CODE OF ORDINANCES BY AMENDING SECTION 117.02, "PERMIT FEES", TO PROVIDE FOR AND INCREASE IN THE LANDLORD PERMIT FEE; PROVIDING A SAVING CLAUSE, A GENERAL REPEALER CLAUSE, AND AN EFFECTIVE DATE.

(The official copy of Ordinance No. 30-07 is on file in the City Clerk's office.)

The City Attorney read the caption of the ordinance.

Prior to the vote, Mrs. Montague expressed concern with the landlord permit fee increasing from \$30.00 to \$50.00. Lula Butler, Director of Community Improvement, stated staff performed a survey of other municipalities that have a similar fee and Delray Beach was much lower. The average is between \$90.00 and \$110.00 and therefore increasing the fee to \$50.00 puts the City at the median range. Also, Mrs.

Butler stated the City of Delray Beach has a rental inspector position that does the random inspections, monthly workshops and training. Therefore, Mrs. Butler stated the City of Delray Beach offers something for the dollars that are being collected.

Mr. Fetzer moved to approve Ordinance No. 30-07 on FIRST Reading, seconded by Mr. Eliopoulos. Upon roll call the Commission voted as follows: Mr. Fetzer – Yes; Mrs. Montague – Yes; Mayor Ellis – Yes; Mr. Eliopoulos – Yes. Said motion passed with a 4 to 0 vote.

10. PUBLIC HEARINGS:

10.A. ORDINANCE NO. 22-07 (FIRST READING/TRANSMITTAL HEARING FOR COMPREHENSIVE PLAN AMENDMENT 2007-2): Consider on first reading an ordinance adopting Comprehensive Plan Amendment 2007-2 and associated Future Land Use Map (FLUM) amendments, and authorize transmittal to the State Department of Community Affairs. Amendment 2007-2 includes:

The caption of Ordinance No. 22-07 is as follows:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, ADOPTING COMPREHENSIVE PLAN AMENDMENT 2007-2, PURSUANT TO THE PROVISIONS OF THE “LOCAL GOVERNMENT COMPREHENSIVE PLANNING AND LAND DEVELOPMENT REGULATION ACT”, FLORIDA STATUTES SECTION 163.3161 THROUGH 163.3243, INCLUSIVE; ALL AS MORE PARTICULARLY DESCRIBED IN EXHIBIT “A” EXCEPT WITH THE WITHDRAWAL OF SECTION 5 ON PAGE 9 ENTITLED “COMPREHENSIVE PLAN AMENDMENT 2007-2” AND INCORPORATED HEREIN BY REFERENCE; PROVIDING A SAVING CLAUSE, A GENERAL REPEALER CLAUSE, AND AN EFFECTIVE DATE.

(The official copy of Ordinance No. 22-07 is on file in the City Clerk’s office.)

1. Text Amendments:

- a.** Future Land Use Element – Modification of the description of the GC (General Commercial) Future Land Use designation to increase the allowable percentage of building area devoted to residential use from 15% to 75% at a maximum density of 30 units per acre within the Four Corners Overlay District, subject to the provision of workforce housing.

- b.** Future Land Use Element - Modification of Policy A-7.2 to include the provision of workforce housing in the Four Corners Overlay District.
- c.** Future Land Use Element – Modification of the description of the TRN (Transitional) Future Land Use designation to allow for increased residential density up to 24 units per acre within the Carver Estates Overlay District, subject to the provision of workforce housing.
- d.** Future Land Use Element – Expansion of the Southwest Neighborhood Area Overlay District to include properties located ½ block on either side of SW 12th Avenue, between SW 2nd Street and SW 3rd Street. This overlay district allows a maximum density of 24 units per acre, subject to the provision of workforce housing.
- e.** Future Land Use Element – Modification of the description of the GC (General Commercial) Future Land Use designation to increase the maximum density on properties lying within the Four Corners Overlay District which are not located at the intersection of Atlantic Avenue and Military Trail and which have less than 160 feet of direct frontage on Atlantic Avenue to 50 units per acre. Residential development on these properties may comprise up to 100% of the total building area and shall not be subject to the requirement to provide workforce housing.
- f.** Future Land Use Element – Modification of the description of the Medium Density Residential Future Land Use designation to accommodate expansion of the Carver Estates Overlay Area to include the south portion of the Auburn Trace Development. This area is currently located within the Infill Workforce Housing Area which allows up to 18 units per acre, subject to the provision of workforce housing. Within the Carver Estates Overlay Area, the maximum density will increase to 24 units per area.

2. Future Land Use Map Amendments:

- a. City initiated Future Land Use Map amendment for approximately 3.9 acres, located ½ block on either side of SW 12th Avenue, between SW 2nd Street and SW 3rd Street, from LD (Residential Low Density 0-5 du/ac) to MD (Residential Medium Density 5-12 du/ac).

Mayor Ellis stated text amendment 10.A.1.e. dealing with the four corners has been withdrawn. The City Attorney stated this will be deleted from page 9 of the attached report and eliminated from Section 5 dealing with the four corners.

Ron Hoggard, AICP, Principal Planner entered the Planning and Zoning Department project file #2007-243 and #2007-244 into the record.

Ron Hoggard, AICP, Principal Planner, stated this is Comprehensive Plan Amendment 2007-2 on July 10, 2007. The amendment is the same as when it was initiated except for the omission of text amendment #5 page 9. The amendment includes one (1) City-initiated Future Land Use Map Amendment, four (4) City-initiated Text Amendments, and one (1) Privately-initiated Text Amendment. Mr. Hoggard briefly reviewed the text amendments and the Future Land Use Map Amendments.

Mayor Ellis declared the public hearing open.

Pauline Moody, 609 S.W. 8th Avenue, Delray Beach, stated she lives near Auburn Trace and down the street from where the homes were built on the garbage dump (Carver Square). She stated there are big problems at the other end of her street. Ms. Moody stated it seems like the City will have the same problem with building because the land has not been modified and she feels that the land should be taken care of first then assess how many homes will be built. She stated she has lived in the area a long time and has seen what it was like before. Ms. Moody urged the Commission to not allow any more building until the problem with the land is resolved.

Michael Weiner, 102 North Swinton Avenue, Delray Beach, representing Auburn Trace, stated he believes Ms. Moody was talking about the City initiated amendment concerning the property which is further to the south. Mr. Weiner reassured Ms. Moody that this is a first step and that nothing actually happens until the Comprehensive Plan comes back for the Commission to see again and after that, there are many steps including zonings, site plans, building permits, and environmental reports that have to be done.

Glen Reoyo, 134 S.W. 12th Avenue, Delray Beach, since this is being changed from low density to medium density he would like to know what is planned for this area (i.e. an apartment complex, rental property, a condominium, or townhomes). Mr. Reoyo feels this will bring more traffic to the area and he would like to know what is going to be built before the Commission votes on this.

Mrs. Montague stated if she understands Ms. Moody correctly, she is talking about Carver Estates being there right now and she is concerned about removing that and preparing that property in order for new development to come in. Ms. Moody responded that when land is going to be redeveloped you have to move what is broken down by making sure the land is leveled and surveyed before starting to build on it.

Lula Butler, Director of Community Improvement, stated she believes Ms. Moody is talking about Carver Square and Carver Square properties have been acquired by the Community Redevelopment Agency (CRA). The demolition permits are in and staff is processing those now. Mrs. Butler stated those homes will be demolished and the land will be mitigated and noted they will take everything out that is there and will put

back good soil before they rebuild a new subdivision. She stated in the lands that is before the Commission this evening staff does not have any record of those being former garbage sites. Mrs. Butler stated the Codes have changed and noted when Carver Square was built the City did not require soil borings so there was no requirement to demonstrate that you had good soil but now there is.

Mrs. Montague stated there is a communication issue here and she suggested that the Delray Beach Housing Authority and Auburn Trace educate the community so they understand what is happening. Mrs. Montague suggested that Ms. Moody meet with Mrs. Butler and Mr. Weiner to address her specific questions.

There being no one else from the public who wished to address the Commission regarding Ordinance No. 22-07, the public hearing was closed.

Mr. Fetzer moved to approve Ordinance No. 22-07 (First Reading/Transmittal Hearing) as amended withdrawing Section 5 on page 9, seconded by Mrs. Montague. Upon roll call the Commission voted as follows: Mrs. Montague – Yes; Mayor Ellis – Yes; Mr. Eliopoulos – Yes; Mr. Fetzer – Yes. Said motion passed with a 4 to 0 vote.

10.B. **RESOLUTION NO. 44-07:** Approve and adopt Resolution No. 44-07 setting forth an inventory list of properties to be used for affordable housing in accordance with Section 166.0451 of the Florida Statutes.

The caption of Resolution No. 44-07 is as follows:

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, SETTING FORTH AN INVENTORY LIST OF PROPERTY TO BE USED FOR AFFORDABLE HOUSING IN ACCORDANCE WITH SECTION 166.0451 OF THE FLORIDA STATUTES.

(The official copy of Resolution No. 44-07 is on file in the City Clerk's office.)

The City Attorney stated this is a resolution that is required by Florida Statutes for municipalities to list lands that they know that they own that is appropriate for affordable housing located on 133 Road South and Barwick Road.

Mayor Ellis declared the public hearing open. There being no one from the public who wished to address the Commission, the public hearing was closed.

Mrs. Montague moved to approve Resolution No. 44-07, seconded by Mr. Eliopoulos. Upon roll call the Commission voted as follows: Mayor Ellis – Yes; Mr. Eliopoulos – Yes; Mr. Fetzer – Yes; Mrs. Montague – Yes. Said motion passed with a 4 to 0 vote.

10.C. ORDINANCE NO. 24-07: City initiated amendment to the Land Development Regulations (LDR) Section 4.3.4, "Base District Development Standards", Subsection 4.3.4(K), "Development Standards Matrix", and Section 4.4.6, "Medium Density Residential (RM) District", Subsection 4.4.6(A), "Purpose and Intent", to add references to the Carver Estates Overlay District and the Infill Workforce Housing Area. **(POSTPONED TO AUGUST 21, 2007 DUE TO FURTHER ADVERTISING)**

The caption of Ordinance No. 24-07 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 4.3.4, "BASE DISTRICT DEVELOPMENT STANDARDS", SUBSECTION 4.3.4(K), "DEVELOPMENT STANDARDS MATRIX", AND SECTION 4.4.6, "MEDIUM DENSITY RESIDENTIAL (RM) DISTRICT", SUBSECTION 4.4.6(A), "PURPOSE AND INTENT", TO ADD REFERENCES TO THE CARVER ESTATES OVERLAY DISTRICT AND INFILL WORKFORCE HOUSING AREA; PROVIDING A SAVING CLAUSE, A GENERAL REPEALER CLAUSE, AND AN EFFECTIVE DATE.

(The official copy of Ordinance No. 24-07 is on file in the City Clerk's office.)

Mr. Fetzer moved to postpone **Item 10.C. - Item 10.G. (Ordinance Nos. 24-07, 25-07, 26-07, 27-07, and 28-07)** to the City Commission meeting of August 21, 2007, seconded by Mrs. Montague. Upon roll call the Commission voted as follows: Mr. Eliopoulos – Yes; Mr. Fetzer – Yes; Mrs. Montague – Yes; Mayor Ellis – Yes. Said motion passed with a 4 to 0 vote.

10.D. POSTPONED TO AUGUST 21, 2007 DUE TO FURTHER ADVERTISING

10.E. POSTPONED TO AUGUST 21, 2007 DUE TO FURTHER ADVERTISING

10.F. POSTPONED TO AUGUST 21, 2007 DUE TO FURTHER ADVERTISING

10.G. POSTPONED TO AUGUST 21, 2007 DUE TO FURTHER ADVERTISING

At this point, the Commission moved to **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.

The City Manager had no response to prior public comments and inquiries.

11.B. From the Public.

11.B.1. Nancy Hurd, CEO of the Achievement Centers for Children & Families (ACCF) (lives at 17 N.W. 15th Street, Delray Beach), stated she emailed the Commission earlier this week in response to the proposed cut that may affect the Achievement Centers for Children and Families. She stated they are in partnership with the City of Delray Beach for over seven hundred (700) of the neediest children in this community. She stated the priority child is the abused, abandoned and neglected child or those that are at high risk for that to happen. Mrs. Hurd stated they have received \$25,000.00 under the charitable and the benevolent line items, and noted this is earmarked for that particular high priority child (usually the babies at the center on the north campus). She stated all of the children are considered at high risk for academic failures, or for the lure of the streets that they would be in, if it was not for the safe haven that the Achievement Centers for Children and Families provided. Mrs. Hurd stated the City's contribution, spread among all the children, amounts to approximately \$36.00 annually a year. She urged the Commission to weigh the benefit and value that this agency brings to the community and their investment of returning over \$3 million worth of direct services to the children. Mrs. Hurd urged the Commission to keep the funding of \$25,000.00 in the budget.

11.B.2. Robert Ganger, Florida Coalition for Preservation, stated approximately a month and a half ago he came before the Commission and discussed the Urban Land Institute Study that he was trying to promote prior to the time the developer walked out on Briny Breezes. At the time, the purpose of doing an Urban Land Institute Study was to bring some sense into the dialogue, and to allow the neighboring communities to participate in the ultimate decision of the fate of Briny Breezes. Mr. Ganger stated at the time, they were strongly opposed to the plan that Ocean Land Development had which left Briny Breezes dangling. As the Florida Coalition for Preservation, they would like the opportunity to sponsor an Urban Land Institute Study to help bring some sense as to what could happen in that community and turn it into something that all of its neighbors would be pleased to have as a part of the neighborhood. Mr. Ganger felt Mayor Bennett needs help from his neighbors to give Briny Breezes residents some idea of what the real land value is in a redevelopment mode, and then to help guide developers who might come in and make proposals to have something that the communities on either side (north and south) would accept. He stated he may be coming back to the Commission over the next several weeks or months to ask for the support of the people of Delray Beach, to their neighbors, to figure out what is best for everyone.

Secondly, Mr. Ganger stated the Delray Beach Historical Society is going to move the Hunt House one way or another and turn it into a research center that will make the entire community proud.

11.B.3. **Pauline Moody, 609 S.W. 8th Avenue, Delray Beach,** commented about Nancy Hurd's comments regarding abused children. Ms. Moody discussed some of her personal issues in her life and felt that one can rise above abusive situations. She stated there is a lot that she has changed in her life and noted she is learning, but slowly. Ms. Moody urged the Commission to work with her in the right situation.

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

13.A. **City Manager**

The City Manager stated the City has received a request from the Palm Beach County Caucus of Black Elected Officials and noted they are having their Gala in September. They have asked the City of Delray Beach to support the event. He stated last year the City purchased a one half (1/2) page ad. The cost of the ad this year will be approximately \$300.00, and the City also purchased two individual tickets. The City Manager stated if the Commission wishes to do the same thing for this year's event then he needs direction from the Commission to proceed. The City Manager noted that the event will be held at the Breakers Hotel this year.

It was the consensus of the Commission to support this event.

Secondly, the City Manager stated he obtained a copy of the letter that Nancy Hurd sent to the Commission and if this amount is added back in, he recommends that it be reduced by fifteen (15%) as was done by the other non-profits which were kept.

After brief discussion, it was the consensus of the Commission to put the non-profit Achievement Centers for Children and Families back into the budget at \$25,000.00.

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 stated he received an email from Mr. Bill Morris regarding some additional support that his company is willing to do to help with the City's special events. He was very pleased to see Mr. Morris and his company taking a more aggressive roll in funding some of these things.

Secondly, he stated he really enjoyed the Annual S.P.I.R.I.T. (Service, Performance, Responsible, Integrity, Innovative, and Teamwork) Awards Banquet and apologized for having to leave early so he missed part of the awards. Mr. Fetzer stated it was a great event.

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

Mr. Eliopoulos echoed comments expressed by Mr. Fetzer regarding the S.P.I.R.I.T. Banquet. He stated everyone had a great time and he hopes the City can continue the tradition.

Secondly, he commented about a Workshop today regarding the Historic Guidelines.

13.C.3. **Mrs. Montague**

Mrs. Montague commented about the Roots Event. She was a judge for the ribs.

Secondly, she stated the S.P.I.R.I.T. Awards Banquet was wonderful. Mrs. Montague stated the participation, enthusiasm, the gratefulness from the employees and the recognition awards was great to see.

Mrs. Montague stated it has been a wonderful week.

13.C.4. **Mayor Ellis**

Mayor Ellis commented about the Roots Event and the judging of the ribs. She stated the event was well attended by families, vendors, etc. However, she commented about the rap group that performed, and stated the language was totally unacceptable for a family event. Mayor Ellis stated the language was offensive and certainly not appropriate for a family event that the City would have at one of its pristine parks. Mayor Ellis stated whatever needs to be done to address the issue needs to be done (i.e. perhaps groups should be screened). She stated aside from that, the rest of the event was exceptional and well organized.

Secondly, she stated the City is raising some rates at the marina and at different venues. Mayor Ellis stated what we are finding is that we have not addressed these rates in way too long a period of time. She stated the City needs to take a look at the fee schedules more frequently than what we are doing now. She suggested looking into this so we have increases that are smaller in nature and more palatable to the people that the fees affect, so we are not going such a long period of time without addressing the increases. Mayor Ellis stated costs increase every year, and as a business person, she knows you have to look at it every year. She stated based on what the fee is, maybe we can determine how frequently it needs to be addressed and make a determination so these long stretches do not go by.

Mayor Ellis commented about the Office Depot Backpack Event which will be held tomorrow (August 8, 2007). She stated Office Depot gave the Mayor's office five hundred (500) backpacks to distribute. The After School Program was not on Office Depot's list and therefore the backpacks will be distributed to the children who attend the After School Program. She stated this is a wonderful program and the children are able to start school with school supplies and a backpack that they may not have otherwise had the opportunity to do. Mayor Ellis stated this is very much appreciated.

There being no further business, Mayor Ellis declared the meeting adjourned at 7:51 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 August 7, 2007, which Minutes were formally approved and adopted by the City Commission on August 21, 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
WAIVER REQUESTED BY DELRAY MAZDA**

1. This waiver request came before the City Commission on August 7, 2007.
2. The City staff, applicant, and other persons have presented documentary evidence and testimony to the City Commission pertaining to the waiver request for Delray Mazda. All of the evidence is part of the record in this case.
3. Temporary Use Permit: Section 2.4.6(F)(1) provides that no temporary use shall be allowed except as provided in Subsection (F) or as otherwise provided for in these Regulations. (See, LDR Section 2.4.6(F) attached hereto). The applicant has requested a temporary use permit to construct a temporary modular building to provide a clean and safe area for their customers to wait while the vehicles are being repaired during the construction of a showroom/office area.
4. Waivers: Pursuant to LDR Section 2.4.7(B)(5), prior to granting a waiver, the approving body shall make a finding that the granting of the waiver:
 - (a) shall not adversely affect the neighboring area;
 - (b) shall not significantly diminish the provision of public facilities;
 - (c) shall not create an unsafe situation; and
 - (d) does not result in the grant of a special privilege in that the same waiver would be granted under similar circumstances on other property for another applicant or owner.

Should the waiver be granted for the temporary modular building subject to the conditional uses listed below?

1. The Temporary Use Permit shall not be effective until the issuance of a permit for the permanent improvements (i.e. construction of the showroom).
2. That the Temporary Use Permit be valid for no more than two years from the date of issuance.

Item 9.B.

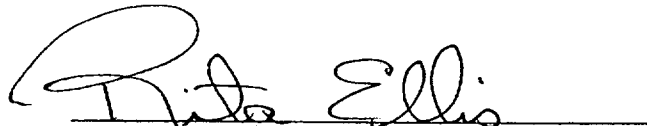
3. That the modular building be removed from the property and the area restored to a parking area pursuant to the site plan of record concurrent with the issuance of a Certificate of Occupancy for the showroom/offices.

Yes 4 No 0

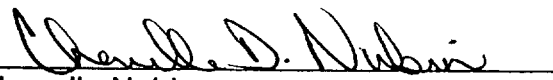
5. The City Commission has applied the Comprehensive Plan and LDR requirements in existence at the time the original site plan was submitted.

6. 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 which supports the findings set forth in this Order.

7. Based on the entire record before it, the City Commission approves X denies the waiver requests subject to the conditions set forth herein and hereby adopts this Order this 7th day of August, 2007, by a vote of 4 in favor and 0 opposed.


Rita Ellis, Mayor

ATTEST:


Chevelle Nubin
City Clerk