

# City of Delray Beach

## Regular Commission Meeting

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



### RULES FOR PUBLIC PARTICIPATION

Tuesday, July 24, 2007

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.** (Commissioner Eliopoulos absent)
2. **INVOCATION.**
3. **PLEDGE OF ALLEGIANCE TO THE FLAG.**
4. **AGENDA APPROVAL.** (Mayor noted Item 8.M.4, Purchase Award/Duval Ford was added to the agenda by Addendum; Revised information for Item 9.J, Seacrest Soccer Complex Preconstruction Services Proposal/The Weitz Company; Revised information for Item 9.K., Miller Park Preconstruction Services Proposal/The Weitz Company; Items 9.I, Federal Lobbying Contracts/Alcalde and Fay/Artemis Strategies; 9.J and 9.K, were moved to after Item 9.L., Proposed Millage Rate, on the Regular Agenda; Approved as amended, 4-0)
5. **APPROVAL OF MINUTES:**
  - July 10, 2007 – Regular Meeting (Approved, 4-0)
  - July 17, 2007 – Special/Workshop Meeting (Approved, 4-0)
6. **PROCLAMATIONS:**
  - A. Florida Water Professional Week – August 6 – 10, 2007
  - B. Arthur J. Kobacker
7. **PRESENTATIONS:**
  - A. New Tax Plan – House Representative Maria Sachs
  - B. S.P.I.R.I.T. (Service, Performance, Integrity, Responsibility, Innovation, Teamwork) Committee Quarterly Awards Presentation
8. **CONSENT AGENDA:** City Manager Recommends Approval. (Approved as amended, 4-0)
  - A. **CHANGE ORDER NO. 1 (C.O. NO. 1)/ROSSO PAVING & DRAINAGE, INC.:** Approve Change Order No. 1 (C.O. No. 1) in the amount of \$38,729.50 to Rosso Paving & Drainage, Inc. for the emergency removal of a 6” water main and connection to an adjacent 12” water main, required to maintain flow for the NE 4<sup>th</sup> Street Improvement Project. Funding is available from 442-5178-536-63.50 (Water/Sewer Renewal & Replacement Fund/Water Mains).
  - B. **CONTRACT CLOSEOUT (C.O. NO. 2/FINAL)/ASPHALT CONSULTANTS, INC.:** Approve a Contract Closeout (C. O. No. 2/Final) in the amount of a \$131,407.97 decrease and final payment in the amount of \$126,741.90 to Asphalt Consultants, Inc. for completion of the Country Club Acres Infrastructure Improvements Project. Funding is available from 441-5161-536-65.86 (Water/Sewer Fund/Country Club Acres).

- C. **SERVICE AUTHORIZATION NO. 07-01/MATHEWS CONSULTING, INC.:**  
 Approve Service Authorization No. 07-01 in the amount of \$37,500.00 to Mathews Consulting, Inc. for professional engineering services related to the Lakeview Golf Course Irrigation with Reclaimed Water Project. Funding is available from 441-5181-536-31.90 (Water/Sewer Fund/Other Professional Services).
- D. **PALM BEACH COUNTY MATCHING GRANT/ARTIST AGREEMENT/KNOWLES PARK SCULPTURE PROJECT:** Approve and authorize a “Public Art Improves Our Community” matching grant agreement with Palm Beach County and an agreement with Artist Mr. John Clement for a proposed sculpture that will be located at Knowles Park. The Matching Grant Program is a 50% match and Palm Beach County will reimburse the City in the amount of \$25,000.00. Funding is available from the Public Arts Program.
- E. **RESOLUTION NO. 43-07/FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT)/LANDSCAPE MAINTENANCE MEMORANDUM OF AGREEMENT (MMA):** Approve and adopt Resolution No. 43-07 authorizing execution of a Landscape Maintenance Memorandum of Agreement (MOA) with the Florida Department of Transportation (FDOT) for the medians on Atlantic Avenue between Military Trail to McNab Avenue (just west of the I-95 overpass).
- F. **AMENDMENT NO. 1/INTERLOCAL AGREEMENT/ COMMUNITY REDEVELOPMENT AGENCY (CRA)/BUS SHELTERS:** Approve Amendment No. 1 to the Interlocal Agreement between the City and Community Redevelopment Agency (CRA) for reimbursement for the purchase, delivery and installation of a minimum of fifteen (15) bus shelters in the Community Redevelopment area.
- G. **SPECIAL EVENT REQUEST/ART & JAZZ:** Approve a special event request to endorse the Art & Jazz on the Avenue scheduled for August 16, 2007 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 NE/SE 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 NE/SE 1<sup>st</sup> Avenue, NE/SE 2<sup>nd</sup> Avenue, SE 3<sup>rd</sup> Avenue, NE/SE 4<sup>th</sup> Avenue, and the Tennis Center Parking lot; and to authorize staff support for security and traffic control, EMS assistance, banner hanging and removal, barricade set up and removal, trash removal and clean up.
- H. **FLORIDA RECREATION DEVELOPMENT ASSISTANCE PROGRAM (FRDAP) GRANTS/BEXLEY TRAIL COMMUNITY AND EAGLE PARKS:**  
 Approve agreements between the City and the Florida Department of Environmental Protection for reimbursable grants from the Florida Recreation Development Assistance Program (FRDAP) in the amount of \$200,000.00 for Bexley Trail Community Park and in the amount of \$200,000.00 for Eagle Park for the development of both parks.

- I. **HOUSING REHABILITATION GRANT/CONTRACT AWARDS:** Approve two (2) Housing Rehabilitation grant/contract awards through the Community Development Division in the amount of \$34,345.50 to Brigcon Consulting Services, and in the amount of \$35,474.25 to South Florida Construction. Funding is available from 118-1924-551-49.19 (State Housing Initiatives Partnership (SHIP) Program/Housing Rehabilitation) and 118-1963-554-49.19 (Community Development Fund/Housing Rehabilitation).
- J. **SUBORDINATION AGREEMENT FOR COMMUNITY DEVELOPMENT FUNDING RECIPIENT:** Authorize and approve subordination of the City's second mortgage in the amount of \$25,775.00 to allow the applicant to secure new financing.
- K. **AMENDMENT/CDBG CONSOLIDATED ANNUAL PERFORMANCE AND APPRAISAL REPORT (CAPER):** Approve an amendment to the Community Development Block Grant (CDBG) Consolidated Annual Performance and Appraisal Report (CAPER) for FY 2005-2006 as required by the U.S. Department of Housing and Urban Development.
- L. **REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:** Accept the actions and decisions made by the Land Development Boards for the period July 9, 2007 through July 20, 2007.
- M. **AWARD OF BIDS AND CONTRACTS:**
1. Contract award to Berg Demolition, Inc. in the amount of \$21,887.00 for the demolition of the existing Fire Station No. 4. Funding is available from 334-6112-522-62.88 (General Construction Fund/Fire Station No. 4).
  2. Contract renewal with G&K Services in an estimated annual cost of \$63,350.00 for the rental of uniforms for City employees via the City of Vero Beach Bid #97-41. Funding is available from various departmental budgets.
  3. Purchase award to Regal Foodservice Equipment in the amount of \$22,287.00 for the purchase of one (1) two compartment rectangular walk-in refrigerator for the Delray Beach Golf Club Restaurant. Funding is available from 445-4761-572-63.90 (Delray Beach Municipal Golf Course Fund/Other Improvements).
  4. Purchase award to Duval Ford in the amount of \$46,826.00 via the Florida Sheriff's Association Contract #06-14-0821 for the purchase of two (2) 2008 Ford Crown Victoria Police Interceptors for the Police Department. Funding is available from 501-3312-591-64.20 (Central Garage Fund/Automotive).

9. **REGULAR AGENDA:**

- A. **WAIVER REQUEST/BOYS FARMERS MARKET:** Consider a waiver request to the Land Development Regulations (LDR) Section 4.6.5(C), “Height Restrictions”, which allows a maximum height of 8 feet (10 feet proposed) for walls located in the rear yard for the Boys Farmers Market located at 14378 Military Trail. *(Quasi-Judicial Hearing)* (Motion to approve Board Order as presented; Approved, 4-0)
- B. **REQUEST TO EXTEND VALET QUEUE/CAFFE LUNA ROSA:** Consider a request from Caffe Luna Rosa to extend the operating hours of its Valet Parking Queue to start at 10:00 a.m. on weekdays and 9:00 a.m. on weekends. (Motion to approve the request subject to staff recommendations; Approved, 4-0)
- C. **SPECIAL EVENT REQUEST/9<sup>th</sup> ANNUAL GARLIC FESTIVAL:** Consider approval of a special event request for the 9<sup>th</sup> Annual Garlic Festival to be held on the grounds of Old School Square on February 8 -10, 2008, and to grant a temporary use permit per LDR’s Section 2.4.6(F) for use of City rights-of-way (NE 1<sup>st</sup> Avenue from Atlantic to the grass area at Old School Square, Swinton Avenue from Atlantic to NE 1<sup>st</sup> Street, the southwest section of the Old School Square parking lot) from 6:00 a.m., February 7 through midnight February 10, 2008; use of the Old School Square Parking Garage, the City Attorney lot and the County Parking Garage for event parking, and authorize staff support for traffic control and security, EMS assistance, barricading, banner hanging, signage preparation and installation and clean up and trash removal, contingent upon the conditions listed in the staff report. (Motion to approve event subject to staff recommendations; Approved, 4-0)
- D. **SPECIAL EVENT REQUEST/PALM BEACH COUNTY FIREFIGHTER AND PARAMEDIC CHILI COOK-OFF:** Consider approval of a special event request for the 11<sup>th</sup> Annual Palm Beach County Firefighter and Paramedic Chili Cook-Off (first time held in Delray Beach) sponsored by the Professional Firefighters Paramedics Benevolent Fund, Inc., proposed to be held on October 20, 2007 from 11:00 a.m. to 11:00 p.m., and authorize staff support for traffic control and security, EMS assistance, site clean up and trash removal, event signage; use of the Old School Square Parking Garage, City Attorney lot, County Courthouse Garage and Library Lots and Parking lots in Block 60; contingent upon sponsor providing the certificate of event liability insurance and certificate of alcohol liability insurance ten (10) days before the event, a copy of the rental agreement with Old School Square ten (10) days prior to the event; event sponsors will pay 100% of the City costs, and that the City man and collect parking fees if charged for the City lots and County lots required for use. (Motion to approve event subject to staff recommendations; Approved, 4-0)

- E. **RESOLUTION NO. 42-07/30<sup>th</sup> ANNUAL ROOTS CULTURAL FESTIVAL FAMILY DAY IN POMPEY PARK:** Consider approval of Resolution No. 42-07 supporting and endorsing the 30<sup>th</sup> Annual Roots Cultural Festival. This year's events include the Academic Olympics being held on July 28, 2007 from 9:00 a.m. to 5:00 p.m. at Pompey Park, Family Fun Day on August 4, 2007 from 9:00 a.m. to 8:00 p.m. at Pompey Park, Parade on August 10, 2007 starting at 6:30 p.m., Prayer Breakfast on August 11, 2007 from 7:00 a.m. to 10:00 a.m. at Pompey Park, the Festival being held at Old School Square on August 10, 2007 from 6:45 p.m. to 11:00 p.m. and August 11, 2007, 11:00 a.m. to 11:00 p.m. and the Gospel Fest August 12, 2007 from noon until 8:00 p.m., and grant a temporary use permit per LDR Section 2.4.6(F) for the use of City facilities, rights-of-way and parking lots, and to authorize staff support for security, traffic control, EMS assistance, barricading, banners on the event site and event signage to be posted ten (10) days prior to the event, and cleanup and trash removal, waiver of Pompey Park rental fees and Pompey Park staff overtime contingent upon sponsor providing a hold harmless agreement, certificate of event liability insurance, and certificate of alcohol liability insurance. (Motion to approve Resolution No. 39-07 and the event subject to staff recommendations; Approved, 4-0)
- F. **PROTEST TO DEBRIS CONTRACT AWARDS/BAMACO, INC.:** Consider a request to allow Bamaco, Inc. the opportunity to present their objection to the selection awards and provide direction regarding whether to add Bamaco, Inc. back to the list of qualified contractors to receive an awarded contract. (Motion to add Bamaco, Inc. as an additional contractor for debris removal; Approved, 4-0)
- G. **CLAIM OF ROY MICHAEL MERCADO AGAINST THE CITY OF DELRAY BEACH:** Consider a Settlement Offer in the Claim of Roy Michael Mercado against the City of Delray Beach. Staff recommendation is settlement. (Motion to approve Settlement Offer of \$16,000; Approved, 3-0. Commissioner Fetzer left dais)
- H. **SETTLEMENT OFFER IN KRISTOPHER BAYNE v. CITY OF DELRAY BEACH:** Consider a Settlement Offer in the total amount of \$19,900.00 in Kristopher Bayne v. City of Delray Beach. Staff recommendation is acceptance. (Approved, 3-0)
- I. **PROPOSED MILLAGE RATE:** Consider approval of a *proposed* millage rate for FY 2008, and set the budget review and adoption schedule. (POSTPONED until the July 31, 2007 Special Commission Meeting; Commissioner Fetzer returned to dais)
- J. **FEDERAL LOBBYING CONTRACTS/ALCALDE AND FAY/ARTEMIS STRATEGIES:** Provide direction regarding whether to send a notice of cancellation to Alcalde and Fay and Artemis Strategies for federal lobbying services. (Motion to send a 30 day notice of cancellation to Alcalde and Fay and Artemis Strategies, Approved, 4-0)

- K. **SEACREST SOCCER COMPLEX PRECONSTRUCTION SERVICES PROPOSAL/THE WEITZ COMPANY:** Consider a request to approve and authorize the preconstruction services for the Seacrest Soccer Complex (formerly called Atlantic Soccer Complex) proposal and related agreement associated with the Construction Management at Risk Service contract. The scope of services is listed in Article 2.1 of the agreement and the total fee for this phase is \$25,012.00. This represents approximately 0.75% of the current estimated project construction cost of \$3,300,000. Funding is available from 380-4150-572-63.49 (2004 G.O. Bond/Soccer Complex). (Motion to approve as amended, Approved, 4-0)
- L. **MILLER PARK PRECONSTRUCTION SERVICES PROPOSAL/THE WEITZ COMPANY:** Consider a request to approve and authorize the preconstruction services for the Miller Park proposal and related agreement associated with the Construction Management at Risk Service contract. The scope of services is listed in Article 2.1 of the agreement and the total fee for this phase is \$30,345.00. This represents approximately 0.05% of the current estimated project construction cost of \$5,700,000. Funding is available from 334-4151-572-63.81 (General Construction Fund/Other Parks-Citywide). (Motion to approve as amended, Approved, 4-0)
- M. **DISCUSSION/VIDEO STREAMING:** Discussion regarding Commission Meeting Video Streaming and public comments. (Motion to not edit Public Comments and to video stream the meeting live, Approved, 4-0)
- N. **APPOINTMENTS TO THE EDUCATION BOARD:** Appoint six (6) regular members to the Education Board for two (2) year terms ending July 31, 2009. Based upon the rotation system, the appointments will be made by Commissioner Eliopoulos (Seat #1), Commissioner Fetzer (Seat #2), Commissioner McDuffie (Seat #3), Commissioner Montague (Seat #4), Mayor Ellis (Seat #5) and Commissioner Eliopoulos (Seat #1). (Appointed Marlo Belkin and approved, 4-0; appointed Catherine DeMatto and approved, 4-0; appointed Perry Stokes and approved, 4-0; appointed Sandra Tobias and approved, 4-0; Commissioner Eliopoulos' appointments were deferred to the August 7, 2007 Regular Commission Meeting)
- O. **APPOINTMENTS TO THE PUBLIC ART ADVISORY BOARD:** Appoint four (4) 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), Commissioner Fetzer (Seat #2), Commissioner McDuffie (Seat #3), and Commissioner Montague (Seat #4). (Appointed Carolyn Pendelton-Parker and approved, 4-0; appointed Kevin Rouse and approved, 4-0; Commissioner Eliopoulos' and Commissioner Montague's appointments were deferred to the August 7, 2007 Regular Commission Meeting)
10. **PUBLIC HEARINGS:**
- A. **PROPOSED CAPITAL IMPROVEMENT (CIP) PROGRAM BUDGET FOR FY 2008 - 2012:** Presentation on the proposed Capital Improvement (CIP) Program Budget for FY 2008 – 2012. (Consensus of the Commission to proceed with the \$25 million bond)

- B. **RESOLUTION NO. 41-07:** Approve Resolution No. 41-07 establishing a budget for the Stormwater Utility System, establishing the rates for FY 2008 Stormwater Management Assessments, and certifying and adopting the Stormwater Assessment Roll. (Approved, 4-0)
  - C. **ORDINANCE NO. 23-07:** City initiated text amendment to the Land Development Regulations (LDR) Section 4.6.9(E)(3), “In Lieu Fee”, and Section 4.6.9(E)(4) “Public Parking Fee”, establishing an expiration period and clarifying the payment amount due. (Approved, 4-0)
  - D. **RESOLUTION NO. 39-07/SALE AND PURCHASE AGREEMENT/CANNERY ROW, LLC:** Consider approval of Resolution No. 39-07 authorizing the City to purchase certain real property within Palm Beach County, and approve the Purchase and Sale Agreement between the City and Cannery Row LLC in the amount of \$530,000.00. (Approved, 4-0)
  - E. **COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) ANNUAL ACTION PLAN (FY 2007 - 2008):** Consider approval of the Community Development Block Grant (CDBG) Annual Action Plan required by the Housing & Urban Development (HUD) Department of the United States for utilization of federal grant funds. (Approved, 4-0)
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. 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. If passed, a public hearing will be scheduled for August 7, 2007. (Approved, 4-0)
  - B. **ORDINANCE NO. 25-07:** City initiated amendment to the Land Development Regulations (LDR) Section 2.4.2, “Notice Requirements”, and Section 2.4.3(K), “Fees”, to provide for an increase in the Development Applications, Plan Check Fees and Building Permit Fees. If passed, a public hearing will be scheduled for August 7, 2007. (Approved, 4-0)

- C. **ORDINANCE NO. 26-07:** City initiated amendment to the Land Development Regulations (LDR) enacting Section 2.4.7(G), “Requests for Reasonable Accommodation”, to provide procedures for handling and processing requests for accommodation from the City’s Code. If passed, a public hearing will be scheduled for August 7, 2007. (Approved, 4-0)
- D. **ORDINANCE NO. 27-07:** City initiated amendment to the Land Development Regulations (LDR) amending Section 4.4.13, “Central Business District (CBD)”, Subsection 4.4.13(D), “Conditional Uses and Structures Allowed”, to clarify the maximum allowed residential density in the West Atlantic Avenue Neighborhood. If passed, a public hearing will be scheduled for August 7, 2007. (Approved, 4-0)
- E. **ORDINANCE NO. 28-07:** City initiated text amendment to Chapter 71, “Parking Regulations” of the Code of Ordinances, by amending Section 71.058, “Cost of Parking or Standing Vehicles in Certain Metered Spaces”, regarding the increase of Parking Meter Fees, east of the Intracoastal Waterway from \$0.75 to \$1.00 per hour. If passed, a public hearing will be scheduled for August 7, 2007. (Approved, 4-0)
  - 1. **EXTEND PARKING METER TIMES:** Consider approval of extending parking meter times to 8:00 p.m. on Ocean Boulevard and requiring payment at metered spaces located in Orange Grove, Ingraham Avenue, Gleason, Atlantic Dunes Park, Anchor Park and Sandoway Park parking lots at all times the lots are open. (Motion to extend parking meter times to 8:00 p.m. on Ocean Boulevard and to charge at all the times that the lots are opened; Approved, 4-0)

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

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

**POSTED: JULY 20, 2007**

***\*\*\*\*\* Meeting adjourned at 10:00 p.m. \*\*\*\*\****