

City of Delray Beach

Regular Commission Meeting

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



RULES FOR PUBLIC PARTICIPATION

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.

Tuesday, April 5, 2011

Regular Meeting 6:00 p.m.
Public Hearings 7:00 p.m.
Commission Chambers
Delray Beach City Hall

- A.** Public Hearings: Any citizen is entitled to speak on items under this section.
- B.** Comments and Inquiries on Non-Agenda Items from the Public: Any citizen is entitled to be heard concerning any matter within the scope of jurisdiction of the Commission under this section. The Commission may withhold comment or direct the City Manager to take action on requests or comments.
- C.** Regular Agenda and First Reading Items: Public input on agendaed items, other than those that are specifically set for a formal public hearing, shall be allowed when agreed by consensus of the City Commission.

2. SIGN IN SHEET: Prior to the start of the Commission Meeting, individuals wishing to address public hearing or non-agendaed items should sign in on the sheet located on the right side of the dais. If you are not able to do so prior to the start of the meeting, you may still address the Commission on an appropriate item. The primary purpose of the sign-in sheet is to assist staff with record keeping. Therefore, when you come up to the podium to speak, please complete the sign-in sheet if you have not already done so.

3. ADDRESSING THE COMMISSION: At the appropriate time, please step up to the podium and state your name and address for the record. All comments must be addressed to the Commission as a body and not to individuals. Any person making impertinent or slanderous remarks or who becomes boisterous while addressing the Commission shall be barred by the presiding officer from speaking further, unless permission to continue or again address the Commission is granted by a majority vote of the Commission members present.

APPELLATE PROCEDURES

Please be advised that if a person decides to appeal any decision made by the City Commission with respect to any matter considered at this meeting, such person will need to ensure that a verbatim record includes the testimony and evidence upon which the appeal is based. The City neither provides nor prepares such record.

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The City will furnish auxiliary aids and services to afford an individual with a disability an opportunity to participate in and enjoy the benefits of a service, program, or activity conducted by the City. Contact Doug Smith at 243-7010, 24 hours prior to the event in order for the City to accommodate your request. Adaptive listening devices are available for meetings in the Commission Chambers.

1. **ROLL CALL.**
2. **INVOCATION.**
3. **PLEDGE OF ALLEGIANCE TO THE FLAG.**
4. **AGENDA APPROVAL.** (Mayor McDuffie noted Item 8.H., Extension of Agreement with Quality Transport Services, Inc./Downtown Roundabout Shuttle System, was moved to the Regular Agenda as Item 9.A.A.A.A.A.; Item 8.J.5., Review of Appealable Land Development Board Actions, Site Plan Review and Appearance Board (SPRAB), was moved to the Regular Agenda as Item 9.A.A.; Item 8.J.6. Review of the Appealable Land Development Board Actions, Site Plan Review and Appearance Board (SPRAB), was moved to the Regular Agenda as 9.A.A.A.; Item 8.K.2., Contract Award/SCS Engineers, was moved to the Regular Agenda as Item 9.A.AA.A; the applicant requested Item 9.C., Consideration of an Appeal/The Electric Experience, be withdrawn from the agenda. Approved as amended, 5-0).
5. **APPROVAL OF MINUTES:**
 - A. March 15, 2011 – Regular Meeting (Approved, 5-0)
 - B. March 31, 2011 – Annual Organizational Meeting (Approved, 5-0)
6. **PROCLAMATIONS:**
 - A. Recognizing and Commending Frances Strainge Carter
 - B. Recognizing and Commending the Delray Divas Step Dance Teams
 - C. National Financial Literacy Month –April 2011
 - D. Earth Month – April 2011
7. **PRESENTATIONS:**
 - A. 22nd Annual Delaire/Delray Citizens for Delray Police Charity Golf Tournament Presentation to Police and Fire-Rescue - Perry DonFrancisco
 - B. Beach Area Master Plan – Beach Property Owners’ Association (BPOA)
 - C. Delray Beach Municipal Marina Designation as a *Clean Marina*
 - D. Advanced Life Support (ALS) Team Championship Plaque
8. **CONSENT AGENDA:** City Manager Recommends Approval. (Approved as amended, 5-0)
 - A. **REQUEST FOR SIDEWALK DEFERRAL/302 N.E. 7th AVENUE:** Approve a request to defer the installation of a sidewalk along N.E. 3rd Street for the property located at 302 N.E. 7th Avenue.

- B. **ACCEPTANCE OF RIGHT-OF-WAY DEEDS/TOTTERDALE TOWING SERVICE:** Approve and accept two (2) right-of-way deeds associated with Totterdale Towing Service located on the northeast corner of N.W. 18th Avenue and Marty Fladell Drive at 101 N.W. 18th Avenue.
- C. **RESOLUTION NO. 11-11/ABANDONMENT OF A UTILITY EASEMENT:** Approve abandonment of a 10' x 106' utility easement located on the property at 1020 South Vista Del Mar Drive.
- D. **AGENCY ACCESS AGREEMENT: GULFSTREAM POLICE DEPARTMENT-SUNGARD PUBLIC SECTOR, INC.:** Approve an Agency Access Agreement with Gulfstream Police Department and SunGard Public Sector, Inc. to allow limited right to use the software provided by SunGard which will provide updated dispatching services for the Gulfstream Police Department.
- E. **DISASTER RECOVERY INITIATIVE (DRI)/HOUSING REHABILITATION CONTRACT AWARD:** Approve one (1) Housing Rehabilitation contract award for 124 S.W. 8th Court to Abisset Corporation, the lowest responsive bidder, in the amount of \$25,504.71 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).
- F. **NPDES THIRD TERM PERMIT INTERLOCAL AGREEMENT:** Approve the National Pollutant Discharge Elimination System (NPDES) Third Term Permit Interlocal agreement between the City and the Northern Palm Beach County Improvement District (NPBCID).
- G. **INTERNATIONAL COUNCIL FOR LOCAL ENVIRONMENTAL INITIATIVES (ICLEI) USA GRANT APPLICATION:** Authorize staff to submit an International Council for Local Environmental Initiatives (ICLEI) USA grant application, for the Green Business Challenge project.
- H. **(MOVED TO ITEM 9.A.A.A.A. ON THE REGULAR AGENDA)**
- I. **SPECIAL EVENT REQUEST/ART AND JAZZ ON THE AVENUE:** Approve a special event request to endorse Art and Jazz on the Avenue to be held on May 19, 2011 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 to the west side of E. 7th Avenue, Railroad Avenue from Atlantic north to the north side of the east/west alley, and to the alleys north and south of Atlantic on E. 1st Avenue, E. 2nd Avenue, S.E. 3rd Avenue, and E. 4th Avenue; to authorize staff support for security, traffic control, banner hanging and removal, barricade set up and removal, trash removal and clean up and EMS assistance, with payment of costs to the City per Special Event Policies and Procedures.
- J. **(MOVED TO ITEM 9.A.A. AND ITEM 9.A.A.A. ON THE REGULAR AGENDA)**

K. **AWARD OF BIDS AND CONTRACTS:**

1. Bid award to Garber Chevrolet in the amount of \$22,510.00 for one (1) 2011 Chevrolet Impala with options for the Police Department. Funding is available from 501-3312-591-64.20 (Garage Fund: Machinery/Equipment/Automotive).
2. **(MOVED TO ITEM 9.A.A.A. ON THE REGULAR AGENDA)**
3. Purchase award to Dell in the amount of \$21,896.96 for a Native SAS Tape Drive for the City's data backup system. Funding is available from 334-6112-519-64.11 (General Construction Fund: Machinery/Equipment/Computer Equipment).
4. Purchase award to CDW-G in the amount of \$37,574.75 for the Imprivata Software package to comply with FDLE security requirements which pertain to the Department's implementation of the new SunGard/OSSI Public Safety Software System; contingent upon approval of the final agreement by the City Attorney. Funding will come from the Federal Forfeiture account 115-2112-521-66.10 and will not be taken from General Revenue).
5. Purchase award to Garber Chevrolet in the amount of \$18,909.00 for one (1) Chevy 2500 Van for the Crime Scene Unit. Funding is available from 001-2115-521-64.20 (General Fund: Machinery/Equipment/Automotive).
(ADDENDUM)

9. **REGULAR AGENDA:**

- AA. **REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:**
Accept the actions and decisions made by the Land Development Boards for the period March 14, 2011 through April 1, 2011. ***(Motion to appeal and move SPRAB Item 8.J.5., Burgerfi, to the April 21, 2011 Regular Meeting. Approved, 5-0)***
- AAA. **REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:**
Accept the actions and decisions made by the Land Development Boards for the period March 14, 2011 through April 1, 2011. ***(Motion to appeal and move SPRAB Item 8.J.6., Boston's Restaurant, to the April 21, 2011 Regular Meeting. Approved, 5-0)***
- AAAA. Contract award to SCS Engineers in the amount of \$25,742.00 for preparation of construction documents and specifications for the installation of improvements and equipment for mitigation of combustible gases at the Robert P. Miller Park facilities. Funding is available from 334-4173-572-63.90 (General Construction Fund: Improvements Other/Other Improvements). ***(Motion to approve; Approved, 5-0)***

- AAAAA. **EXTENSION OF AN AGREEMENT WITH QUALITY TRANSPORT SERVICES, INC./DOWNTOWN ROUNDABOUT SHUTTLE SYSTEM:** Approve Extension of the Agreement with Quality Transport Services, Inc. for six (6) months to operate the Downtown Roundabout Shuttle System. Funding is available from 001-3151-545-34.90 (General Fund: Operation Expenses – Misc/Other Contractual Services). *(Motion to approve; Approved, 5-0)*
- A. **WAIVER REQUEST/GERMAN AUTO WORLD:** Consider a request to waive Land Development Regulations (LDR) Section 6.1.2(C)(3)(a), “Paving Widths”, to allow 20.5’ where a 24’ minimum pavement width is required for German Auto World located at 2165 West Atlantic Avenue. *(Quasi-Judicial Hearing) (Motion to adopt board order as presented; Approved, 5-0)*
- B. **WAIVER REQUEST/ATLANTIC OCEAN CLUB:** Consider approval of a waiver request to Land Development Regulations (LDR) 4.3.4(H)(4), “Structures Allowed in Setbacks”, to allow a statue and pedestal to be located within the building setback for Atlantic Ocean Club (f/k/a Bob’s Famous Bar) located at 217 & 219 East Atlantic Avenue. *(Quasi-Judicial Hearing) (Motion to adopt board order as presented; Approved, 5-0)*
- C. **CONSIDERATION OF AN APPEAL/THE ELECTRIC EXPERIENCE:** Consider an appeal from the Director of Planning & Zoning's administrative interpretation of Land Development Regulations (LDR) Section 4.4.13, “Central Business District (CBD)”, which denied motorized bicycles as an allowed use for The Electric Experience, located at 1047 East Atlantic Avenue. *(Quasi Judicial Hearing) (WITHDRAWN)*
- D. **CONSIDERATION OF AN APPEAL/ANYTHING AND EVERYTHING AUTO, INC.:** Consider an appeal of an administrative interpretation by the Director of Planning & Zoning for Anything and Everything Auto, Inc. located at 1865 Dr. Andre’s Way. *(Quasi-Judicial Hearing) (Motion to adopt board order as presented; Approved, 5-0)*
- E. **REQUEST FOR AN IN-LIEU OF PARKING SPACE/CHAMPAGNE WISHES INVESTMENTS, INC.:** Consider a request from Champagne Wishes Investments, Inc. for the purchase of one (1) in-lieu of parking space in the amount of \$18,200.00 to accommodate an expansion of use. Champagne Wishes Investments, Inc. is located at 900 East Atlantic Avenue, Unit 17. *(Quasi-Judicial Hearing) (Motion to adopt board order as presented; Approved, 5-0)*
- F. **WAIVER REQUEST/THE BACK ROOM:** Consider a request to waive Land Development Regulations (LDR) Section 4.3.3(V)(3)(a), “Prohibition by Proximity (Schools and Churches)”, to allow the establishment of a stand-alone bar in a building within 300’ of a school for The Back Room located at 2222 W. Atlantic Avenue. *(Quasi-Judicial Hearing) (Motion to adopt board order as presented; Approved, 5-0)*

- G. **CONTRACT AWARD/AMERISTAR PARKING SOLUTIONS:** Consider approval of a contract award to Ameristar Parking Solutions in the amount of \$87,913.80 for management of the parking facilities. Funding is available from 001-3151-545-34.90 (General Fund: Operation Expenses – Misc/Other Contractual Services). (Motion to approve; Approved, 5-0)
- H. **BID AWARD/VILA AND SONS LANDSCAPING CORPORATION:** Consider approval of a bid award to Vila and Sons Landscaping Corporation, third lowest bidder, in the estimated annual amount of \$37,847.44 for landscape maintenance of Stormwater Retention Areas. Funding is available from 448-5416-538-34.90 (Stormwater Utility Fund: Other Operating/Other Contractual Service). (Motion to approve; Approved, 5-0)
- I. **BID AWARD: MULTIPLE VENDORS/AUTOMOTIVE PARTS:** Consider approval of multiple bid awards in the estimated amount of \$103,202.43 for the purchase of automotive parts stocked in the Purchasing Warehouse. Some awards are to second and third low bidders. Funding is available from 501-3311-591-52.50 (Garage Fund: Operating Supplies/External Parts). (Motion to approve; Approved, 5-0)
- J. **APPOINTMENT OF OUTSIDE COUNSEL FOR RICHARD WEINSTEIN, PERSONAL REPRESENTATIVE OF THE ESTATE OF JASON WEINSTEIN, DECEASED v. CITY OF DELRAY BEACH:** Consider approval to appoint Fred Gelston, P.A. as outside counsel in the case of Richard Weinstein, as Personal Representative of the Estate of Jason Weinstein, Deceased v. City of Delray Beach at the rate of \$140.00 per hour. (Motion to approve; Approved, 5-0)
- K. **REJECTION OF ALL BIDS/FLEET TIRE BAY ROOF:** Consider a request to reject all bids and re-advertise Bid #2011-08 for re-roofing the Fleet Tire Bay. (Motion to reject all bids and re-advertise Bid #2011-08; Approved, 5-0)
- L. **APPOINTMENT OF COMMUNITY REDEVELOPMENT AGENCY VICE CHAIR:** Appoint a Vice Chair for the Community Redevelopment Agency. (Appointed Peter Arts and approved 5-0)
- M. **APPOINTMENT TO THE COMMUNITY REDEVELOPMENT AGENCY:** Appoint one (1) regular member to the Community Redevelopment Agency (CRA) to serve an unexpired term ending July 1, 2011. Based upon the rotation system, the appointment will be made by Commissioner Frankel (Seat #3). (Appointed Brian Cheslack and approved, 5-0)
- N. **APPOINTMENT TO THE CODE ENFORCEMENT BOARD:** Appoint one (1) alternate member to the Code Enforcement Board to serve an unexpired term ending January 14, 2013. Based upon the rotation system, the appointments will be made by Mayor McDuffie (Seat #5). (Appointed Jason Dollard and approved, 5-0)

- O. **APPOINTMENTS TO THE GREEN IMPLEMENTATION ADVANCEMENT BOARD:** Appoint two (2) regular members to the Green Implementation Advancement Board to serve unexpired terms ending July 31, 2011. Based upon the rotation system, the appointments will be made by Commissioner Gray (Seat #4) and Mayor McDuffie (Seat #5). (Appointed Stephanie (Chloe) Bedenbaugh and approved 5-0. Mayor McDuffie's appointment was **DEFERRED** to the April 21, 2011 Regular Commission Meeting)
- P. **APPOINTMENT TO THE CIVIL SERVICE BOARD:** Appoint one (1) regular member to the Civil Service Board to serve a two (2) year term ending April 1, 2013. Based upon the rotation system, the appointment will be made by Commissioner Fetzer (Seat #2). (Appointed Larry Zalkin and approved, 5-0)
- Q. **APPOINTMENTS TO THE FINANCIAL REVIEW BOARD:** Appoint two (2) regular members to the Financial Review Board to serve unexpired terms ending July 31, 2011 and one (1) alternate member to serve an unexpired term ending July 31, 2011. Based upon the rotation system, the appointments will be made by Commissioner Gray (Seat #4), Commissioner Fetzer (Seat #2) and Commissioner Frankel (Seat #3). (Appointed John Hallahan and approved, 5-0; Appointed Jeff Ritter and approved 5-0; Appointed Alexander Simon and approved 5-0)
- R. **APPOINTMENT TO THE PARKING MANAGEMENT ADVISORY BOARD:** Appoint one (1) Citizen-at-Large Representative to the Parking Management Advisory Board to serve an unexpired term ending July 31, 2011. Based upon the rotation system, the appointment will be made by Commissioner Frankel (Seat #3). (Appointed Brain Rosen and approved, 5-0)
- S. **APPOINTMENT TO THE POLICE AND FIREFIGHTERS RETIREMENT SYSTEM BOARD OF TRUSTEES:** Appoint one (1) regular member to the Police and Firefighters Retirement System Board of Trustees for a two (2) year term ending April 22, 2013. Based upon the rotation system, the appointment will be made by Mayor McDuffie (Seat #5). (Mayor McDuffie's appointment was **DEFERRED** to the April 21, 2011 Regular Commission Meeting)
10. **PUBLIC HEARINGS:**
- A. **ORDINANCE NO. 06-11:** A Privately initiated Future Land Use Map amendment from (Medium Density Residential 5-12du/ac) to GC (General Commercial) and rezoning from RM (Medium Density Residential) to AC (Automotive Commercial) for a 0.287 acre parcel located immediately east of the existing Presidential Auto Leasing and Sales at the southeast corner of South Federal Highway and Avenue "L". (Approved, 5-0)
- B. **ORDINANCE NO. 05-11:** Consider amending Chapter 132, "Offenses Against Public Peace And Safety", by enacting Section 132.10, "Electric Personal Assistive Mobility Devices, (EPAMDS)", to regulate the use of such devices on city streets and sidewalks. (Approved, 5-0)

- C. **ORDINANCE NO. 04-11 (SECOND READING/SECOND PUBLIC HEARING)**: Privately initiated amendment to the Land Development Regulations (LDR) Section 4.4.13, “Central Business District”, Subsection (D), “Conditional Uses and Structures Allowed”, to add “Escorted Segway Tours” as a conditional use and amending Section 4.3.3, “Special Requirements for Specific Uses”, to enact a new Subsection (ZZZZ), “Segway Tours and Segway Sales”, to provide for specific requirements for the establishment and operation of such uses; and amending Appendix “A”, “Definitions”. (Approved, 5-0)
- D. **ORDINANCE NO. 10-11 (SECOND READING/SECOND PUBLIC HEARING)**: Consider amending the Land Development Regulations (LDR) by repealing Section 4.3.3(d), “Residential and Non-Residential Licensed Service Provider Facilities” in its entirety; amending Sections 4.4.2, “Rural Residential (RR) Zone District”, 4.4.3, “Single Family Residential (R-1) Districts”, 4.4.5, “Low Density Residential (RL) District”, 4.4.6, “Medium Density Residential (RM) District”, 4.4.7, “Planned Residential Development (PRD) District”, 4.4.17, “Residential Office (RO) District”, 4.4.24, “Old School Square Historic Arts District (OSSHAD)”, 4.4.29, “Mixed Residential Office and Commercial (MROC) District”, to include residential licensed service provider facilities among the list of permitted uses in these zoning districts; amending Sections 4.4.6, “Medium Density Residential (RM) District”; 4.4.9, “General Commercial District” (GC), 4.4.13, “Central Business District (CBD), 4.4.16, “Professional and Office District”, 4.4.17, “Residential Office (RO) District”; and 4.4.24, “Old School Square Historic Arts District (OSSHAD)”; to clarify that residential licensed service provider facilities and nursing homes are allowed where other residential uses are allowed in these zoning districts; amending Appendix “A”, “Definitions”, in order to provide updated definitions of “Residential Licensed Service Provider” and “Non-Residential Licensed Service Provider”. (Approved, 5-0)
- E. **ORDINANCE NO. 09-11 (SECOND READING/SECOND PUBLIC HEARING)**: Consider amending the Land Development Regulations (LDR) by amending Sections 4.4.12, “Planned Commercial (PC) District; 4.4.15, “Planned Office Center (POC) District”, 4.4.21, “Community Facilities (CF) District”; enacting a new Section 4.5.18, “Medical Arts Overlay District”, to provide for the creation and implementation of the Medical Arts Overlay District; and amending Appendix “A”, “Definitions”, of the Land Development Regulations (LDR) to define “Institutional Uses”. (Approved, 5-0)
- F. **ORDINANCE NO. 11-11**: Consider a city-initiated amendment to Land Development Regulations (LDR) Appendix “A”, “Definitions”, to provide a revised definition for Medical Office. (Approved, 5-0)
11. **COMMENTS AND INQUIRIES ON NON-AGENDA ITEMS FROM THE PUBLIC- IMMEDIATELY FOLLOWING PUBLIC HEARINGS.**
- A. City Manager's response to prior public comments and inquiries.
- B. From the Public.

12. **FIRST READINGS:**

- A. **ORDINANCE NO. 13-11:** Consider a city-initiated amendment to the Land Development Regulations (LDRs) Section 4.6.9(E)(3), "In-Lieu Fee", modifying the in-lieu fee assessed within the Pineapple Grove Main Street (expansion) Area. If passed, a public hearing will be passed on April 21, 2011. (Approved, 5-0)
- B. **ORDINANCE NO. 14-11:** Consider a city-initiated amendment to the Land Development Regulations (LDRs) Section 7.9.11, "Boatlifts", to clarify setback requirements. If passed, a public hearing will be held on April 21, 2011. (Approved, 5-0)
- C. **ORDINANCE NO. 15-11:** Consider amending Chapter 33, "Police and Fire-Rescue Departments"; amending Section 33.62, "Benefit Amounts and Eligibility", Subsection (E), "Disability Retirement Provisions", Sub-Subsection (5), "Disability Retirement Benefits", to increase the minimum service incurred disability benefit for firefighters; and amending Section 33.64, "Contributions", Subsection (A), "Member Contributions", to increase member contributions for firefighters. If passed, a public hearing will be held on April 21, 2011. (Approved, 5-0)

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

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

POSTED: APRIL 1, 2011

******* Meeting adjourned at 9:56 p.m. *******