

City of Delray Beach

Regular Commission Meeting

AGENDA RESULTS



RULES FOR PUBLIC PARTICIPATION

Tuesday, June 17, 2008

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

1. PUBLIC COMMENT: The public is encouraged to offer comments with the order of presentation being as follows: City Staff, public comments, Commission discussion and official action. City Commission meetings are business meetings and the right to limit discussion rests with the Commission. **Generally, remarks by an individual will be limited to three minutes or less.** The Mayor or presiding officer has discretion to adjust the amount of time allocated.

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

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

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

APPELLATE PROCEDURES

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

100 NW 1st Avenue
Delray Beach, Florida 33444

Phone: (561) 243-7000
Fax: (561) 243-3774

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

1. **ROLL CALL.** (Commissioner Eliopoulos absent)
2. **INVOCATION.**
3. **PLEDGE OF ALLEGIANCE TO THE FLAG.**
4. **AGENDA APPROVAL.** (Mayor noted Item 9.M., Hiring of Outside Counsel in the Case of Stacey Lewis v. Chris McMurray and City of Delray Beach was added to the Regular Agenda by addendum; Item 9.N., Hiring of Outside Counsel in the Case of Robert Hauptfuhrer v. City of Delray Beach, et al was added to the Regular Agenda by addendum and Item 10.B., Ordinance No. 17-08 (First Reading/Transmittal Hearing for Comprehensive Plan Amendment 2008-1) was postponed to the July 15, 2008 Regular Meeting; Approved as amended, 4-0)
5. **APPROVAL OF MINUTES:**
 - A. NONE
6. **PROCLAMATIONS:**
 - A. NONE
7. **PRESENTATIONS:**
 - A. Special Recognition Awards – Sasha Bernard and Michael Dunbar
8. **CONSENT AGENDA:** City Manager Recommends Approval. (Approved as amended, 4-0)
 - A. **REQUEST FOR SIDEWALK DEFERRAL/245 N.E. 8th AVENUE:** Approve a request to defer the installation of a sidewalk in front of 245 N.E. 8th Avenue.
 - B. **CHANGE ORDER (C.O. 1)/WEST CONSTRUCTION, INC./S.W. 2ND AVENUE STREETSCAPE PROJECT:** Approve a Change Order (C.O. No. 1) in the amount of \$17,943.38 to West Construction, Inc. for additional work required to correct a drainage deficiency for the S.W. 2nd Avenue Streetscape Project. Funding is available from 448-5461-538-65.87 (Storm Water Utility Fund/Other Improvements/SW 2nd Av-SW 1st St to West Atlantic Avenue).
 - C. **AGREEMENT/CSX TRANSPORTATION, INC.:** Approve an agreement with CSX Transportation, Inc. in an estimated amount of \$7,000.00 for preliminary engineering to extend the length of the gate arms at S.W. 10th Street and Lake Ida Road to meet Federal Railroad Administration (FRA) Quiet Zone requirements. Funding is available from 001-2911-519-31.30 (General Fund/Professional Engineering/Architectural Services).

- D. **PALM BEACH COUNTY GRANT/EMERGENCY MEDICAL SERVICES/RESOLUTION NO. 19-08:** Approve the application for a non-matching grant to the Palm Beach County Department of Emergency Medical Services in an estimated amount of \$43,932.00 to purchase four (4) GlideScope Rangers; and approve Resolution No. 19-08.
- E. **PALM BEACH COUNTY GRANT/EMERGENCY MEDICAL SERVICES/RESOLUTION NO. 21-08:** Approve the application for a non-matching grant to the Palm Beach County Department of Emergency Medical Services in an estimated amount of \$15,000.00 to purchase four (4) Masimo RAD 57-C carbon monoxide detectors; and approve Resolution No. 21-08.
- F. **GRANT APPLICATION/LAW ENFORCEMENT GRANTS PROGRAM/TARGET:** Authorize staff to submit a law enforcement grant application to Target for funding in the amount of \$4,500.00 to purchase 50 textbooks for the Police Department's Criminal Justice Academy at Atlantic Community High School.
- G. **GRANT APPLICATION/EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) FOR FY 2008:** Approve a grant application for the Edward Byrne Memorial Justice Assistance Grant (JAG) in the amount of \$21,228.00 which will provide funding for the Police Department's Holiday Task Force Overtime.
- H. **FREQUENCY RECONFIGURATION AGREEMENT/NEXTEL:** Approve an agreement between the City and Nextel which provides that Nextel shall fund the frequency reconfiguration to relocate the City's public safety communications system from its existing channels in the 800 MHz range to other licensed channels not located in the 800 MHz range.
- I. **FREQUENCY RECONFIGURATION IMPLEMENTATION PHASE AGREEMENT/MOTOROLA:** Approve an agreement between the City and Motorola which provides that Motorola shall perform the frequency reconfiguration to relocate the City's public safety communications system from its existing channels in the 800 MHz range to other licensed channels not located in the 800 MHz range.
- J. **SPECIAL EVENT REQUEST/PRO-MOTIONS SPORTS MARKETING VOLLEYBALL TOURNAMENT:** Approve a request from Pro-Motions Sports Marketing to host a Volleyball Tournament to be held at the municipal beach adjacent to Sandoway Park on June 21 and 22, 2008 contingent upon receipt of a revised insurance certificate.
- K. **SPECIAL EVENT REQUEST/SPADY LIVING HERITAGE DAY:** Approve a special event request to endorse the 3rd Annual Spady Heritage Day to be held on September 6, 2008 from 10:00 a.m. to 10:00 p.m., to grant a temporary use permit per LDR's Section 2.4.6(F) for the closure of N.W. 5th Avenue from Martin Luther King Blvd. to N.W. 1st Street; to authorize staff support for security, clean up, City generator use, barricading; set up/use of the new large mobile stage with event signage to be put up no earlier than ten (10) days prior to the event; contingent upon receipt of a proper certificate of liability insurance and a hold harmless agreement.

- L. **SPECIAL EVENT REQUEST/ART AND JAZZ ON THE AVENUE:** Approve a special event request to endorse the next Art and Jazz on the Avenue to be held on August 14, 2008 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 N.E./S.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 N.E./S.E. 1st Avenue, N.E./S.E. 2nd Avenue, S.E. 3rd Avenue, N.E./S.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; contingent upon receipt of a hold harmless agreement.
- M. **GENERAL RULES OF PROCEDURE OF THE CODE ENFORCEMENT BOARD:** Approve the revised Code Enforcement Board Rules to include the Quasi-Judicial Procedures, and to provide that the order of business at hearings shall be set by the Board.
- N. **SERVICE AUTHORIZATION NO. 3.2/KIMLEY-HORN AND ASSOCIATES, INC.:** Approve Service Authorization No. 3.2 in the amount of \$29,620.00 to Kimley-Horn and Associates, Inc. for provision of supplemental consultant services Tasks 1.0 and 2.0 for the Miller Park Improvement Project. Funding is available from 334-4173-572-63.90 (General Construction Fund/Improvements Other/Other Improvements).
- O. **AMENDMENT NO. 1/MATCH POINT, INC.:** Consider approval of Amendment No. 1 to the agreement between the City and Match Point, Inc. to allow the Chris Evert Charity Event to be held in the months of November and December without being in violation of the Match Point Agreement.
- P. **PROPOSED CHANGE TO CREATIVE CITY COLLABORATIVE CULTURAL PLAN:** Consider a proposed change submitted by Old School Square to the Creative City Collaborative recommendations to the Cultural Plan.
- Q. **REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:** Accept the actions and decisions made by the Land Development Boards for the period June 2, 2008 through June 13, 2008.
- R. **AWARD OF BIDS AND CONTRACTS:**
1. Bid award to various vendors at an estimated annual cost of \$240,203.50 for pipe fittings and accessories for Construction, Water/Sewer and the City's Warehouse. Funding is available from various departmental operating budgets and construction projects.
 2. Bid award to Jani King Commercial Cleaning Services in the amount of \$36,120.00 for janitorial services at the Delray Beach Golf Course. Funding is available from 445-4711-572-34.90 (Delray Beach Municipal Golf Course/Other Contractual Service/Other Contractual Service).

3. Contract award to Total Golf Construction, Inc. in the amount of \$276,129.00 for the Lakeview Golf Course Greens Renovation Project. Funding is available from 441-5181-536-65.96 (Water/Sewer Fund/Other Improvements/Reclaim Water Transmission).

9. **REGULAR AGENDA:**

- A. **WAIVER REQUEST/114 N.E. 1ST AVENUE:** Consider a request to waive Land Development Regulations (LDR) Sections 4.3.3(Q), “Guest Cottage”, to permit a guest cottage to exceed the required 700 square feet and contain 787 square feet, for the property located at 114 N.E. 1st Avenue within the Old School Square Historic District. *(Quasi-Judicial Hearing)* (Motion to approve the Board Order as presented; Approved, 4-0)
- B. **CHRIS EVERT PRO-CELEBRITY TENNIS CLASSIC:** Consider approval of an agreement between the City and Chris Evert Charities, Inc. for the Chris Evert Pro-Celebrity Tennis Classic to be held at the Delray Beach Tennis Center for the years 2008 through 2012; the City will contribute to Chris Evert Charities, Inc. \$43,600.00 in 2008, increasing to \$49,000.00 in 2012, with half of the payment going to the Drug Abuse Foundation. Funding is available from 001-4210-575-55.43 (General Fund/Chris Evert Classic Tournament). (Approved, 4-0)
- C. **INTERLOCAL AGREEMENT/COMMUNITY REDEVELOPMENT AGENCY (CRA)/REMOVAL OF UNDEGROUND TANK:** Consider approval of an Interlocal Agreement between the City and the Community Redevelopment Agency (CRA) for the removal of an underground tank on the City-owned parking lot behind the old library. The Community Redevelopment Agency (CRA) has agreed to pay up to \$20,000.00 for removal and remediation; and if the amount exceeds \$20,000.00 the City and the CRA may renegotiate the cost, or the City may convey the property to the CRA at their request, or the City may cancel the Tri-Party Interlocal Agreement which requires the City to convey the property. (Approved, 4-0)
- D. **CONTRACT AWARD/NUTTING ENVIRONMENTAL OF FLORIDA, INC.:** Consider approval of a contract award to Nutting Environmental of Florida, Inc. in the amount of \$13,660.00 for the removal and disposal of one 1250 gallon underground storage tank located at the former City of Delray Beach Library Parking Lot. Funding for this expense will be provided by the Community Redevelopment Agency (CRA). (Approved, 4-0)
- E. **BID AWARD/MANUFACTURERS APPLIED RENOVATION SYSTEMS, INC./POMPEY PARK BLEACHER REPAIR:** Consider approval of a bid award to Manufacturers Applied Renovation Systems, Inc. second low bidder, in the amount of \$53,672.00 for repair and service of bleachers for Pompey Park. Funding is available from 334-4127-572-46.15 (General Construction Fund/Repair & Maintenance Services/Improvement-Other Repair & Maintenance). (Motion to **POSTPONE** to the July 1, 2008 Regular Meeting Approved, 4-0)

- F. **PROPOSED CONTRACT/EVERGREEN SOLUTIONS, LLC:** Consider approval of a proposed Consulting Service Agreement with Evergreen Solutions, LLC to conduct a Compensation and Classification Study in the amount of \$18,000.00. Funding is available from 001-1311-512-34.90 (General Fund/Human Resources/Other Contractual Services). (Approved, 4-0)
- G. **PROPOSAL FOR SETTLEMENT OFFER IN PEGGY USEM v. CITY OF DELRAY BEACH:** Consider a Settlement Offer in the amount of \$45,000.00. Staff recommends denial of the Settlement Offer; and approval of a counteroffer in the total amount of \$19,500.00 in Peggy Usem v. City of Delray Beach. (Motion to approve the counteroffer; Approved, 4-0)
- H. **APPOINTMENT TO THE COMMUNITY REDEVELOPMENT AGENCY:** Appoint one (1) regular member to the Community Redevelopment Agency (CRA) to serve a four (4) year term ending July 1, 2012. Based upon the rotation system, the appointment will be made by Commissioner Eliopoulos (Seat #1). (Commissioner Eliopoulos' regular appointment was deferred until the July 1, 2008 Regular Meeting)
- I. **APPOINTMENTS TO THE CODE ENFORCEMENT BOARD:** Appoint two (2) alternate members to the Code Enforcement Board to serve unexpired terms ending January 14, 2010. Based upon the rotation system, the appointments will be made by Commissioner Montague (Seat #4) and Mayor Ellis (Seat #5). (Appointed Albert Richwagen and approved, 4-0; and appointed Shannon Dawson and approved, 4-0)
- J. **APPOINTMENTS TO THE AFFORDABLE HOUSING ADVISORY COMMITTEE:** Appoint five (5) regular members to the Affordable Housing Advisory Committee to serve one (1) year terms ending June 17, 2009, and six (6) regular members to serve (2) years terms ending June 17, 2010. 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), and Mayor Ellis (Seat #5). (Commissioner Eliopoulos' regular appointments were deferred until the July 1, 2008 Regular Meeting; appointed Wanda Gadson and approved, 4-0; appointed William Hatcher and appointed, 4-0; appointed Dorothy Ellington and approved, 4-0; appointed Connie Staundinger and approved, 4-0; appointed Alberta McCarthy and approved, 4-0; appointed Charles Halberg and approved, 4-0; appointed Carmelita Smith and approved, 4-0; and appointed Sandra Weatherspoon and approved, 4-0)
- K. **APPOINTMENTS TO THE CIVIL SERVICE BOARD:** Appoint two (2) regular members and one (1) alternate member to the Civil Service Board to serve two (2) year terms ending July 1, 2010. Based upon the rotation system, the appointments will be made by Commissioner Fetzer (Seat #2), Commissioner McDuffie (Seat #3) and Commissioner Montague (Seat #4). (Appointed Sidney Grossman (regular) and approved, 4-0; appointed Emily Dobard (regular) and approved, 4-0; and appointed Elaine Calabrese (alternate) and approved, 4-0)

- L. **APPOINTMENT TO THE POLICE ADVISORY BOARD:** Appoint one (1) regular member to the Police Advisory Board to serve an unexpired term ending December 13, 2008. Based upon the rotation system, the appointment will be made by Commissioner Fetzer (Seat #2). (Commissioner Fetzer's regular appointment was deferred until the July 1, 2008 Regular Meeting)
- M. **HIRING OF OUTSIDE COUNSEL IN THE CASE OF STACEY LEWIS V. CHRIS MCMURRAY AND CITY OF DELRAY BEACH:** Consider hiring Attorney Fred Gelston to act as outside trial counsel in the case of Stacey Lewis v. Chris McMurray and the City of Delray Beach. (ADDENDUM) (Approved, 4-0)
- N. **HIRING OF OUTSIDE COUNSEL IN THE CASE OF ROBERT HAUPTFUHRER V. CITY OF DELRAY BEACH, ET AL:** Consider hiring Attorney Fred Gelston to act as outside counsel in the case of Robert Hauptfuhrer v. City of Delray Beach, et al. (ADDENDUM) (Approved, 4-0)

10. **PUBLIC HEARINGS:**

- A. **ORDINANCE NO. 24-08 (SECOND READING/SECOND PUBLIC HEARING):** A City initiated amendment to the Land Development Regulations (LDR) amending Article 4.3, "District Regulations, General Provisions", by amending Section 4.4.3, "Single Family Residential (R-1) District", Subsection (F) "Development Standards", to provide standards for the Lake Ida Neighborhood Overlay District"; Article 4.5, "Overlay and Environmental Management Districts", by enacting a new Section 4.5.16, "Lake Ida Neighborhood Overlay District", to create a new overlay district for the Lake Ida Neighborhood; and amending Appendix "A" "Definitions", to enact a new definition for "Floor Area Ratio". The boundaries of the proposed overlay district are generally described as N.W. 22nd Street on the north, Swinton Avenue to the east, Lake Ida Road to the south, and Interstate 95 on the west for the Single Family Residential properties that are zoned R-1-AA , R-1-AAA , and R-1-AAAB. (Approved, 4-0)
- B. **ORDINANCE NO. 17-08 (FIRST READING/TRANSMITTAL HEARING FOR COMPREHENSIVE PLAN AMENDMENT 2008-1):** Consider on first reading an ordinance adopting Comprehensive Plan Amendment 2008-1 and associated Future Land Use Map (FLUM) amendments, and authorize transmittal to the State Department of Community Affairs. Amendment 2008-1 includes: (Motion to POSTPONE to the July 15, 2008 Regular Meeting; Approved, 4-0)

A. Text Amendments:

- i. Update Introduction and support data throughout all the Elements of the Comprehensive Plan as appropriate to reflect current conditions; update all maps as appropriate to reflect current city boundaries; update all maps and tables as appropriate; and, update the Goals, Objectives and Policies as required to modify partially completed or eliminate completed initiatives and to incorporate appropriate changes to goals and objectives gleaned from the EAR public hearing processes.

- ii. Future Land Use Element - Update existing land use and population data, including supporting maps and tables.
- iii. Future Land Use Element -Update vacant land analysis.
- iv. Future Land Use Element-Update Redevelopment Analysis section to reflect completion of all Redevelopment Plans.
- v. Future Land Use Element - Update descriptions for all land use categories to include intensities and densities.
- vi. Future Land Use Element - Add new policies to achieve an appropriate mix of uses, direct resources to infrastructure improvements downtown, and explore additional downtown open space opportunities.
- vii. Future Land Use Element - Add policies to affirm the City's continued commitment to workforce housing.
- viii. Future Land Use Element - Add policies to develop design guidelines for the North Federal Highway area and evaluate the need for guidelines in the Congress Avenue Corridor and Four Corners Area.
- ix. Future Land Use Element - Amendment to the Land Use Designation/Zoning Matrix table to add SAD, OS and OSR zoning districts to be consistent with additional Future Land Use categories.
- x. Transportation Element -Add new policy to designate the railroad parking lot, north of East Atlantic Avenue as a potential railroad stop for future passenger service on the FEC Railroad.
- xi. Housing Element -Update Affordable Housing section to reflect new City initiatives.
- xii. Housing Element Add new policies to affirm the City's continued commitment to workforce housing.
- xiii. Public Schools Facilities Element - Update element to reflect changes related to the second amendment to the Interlocal Agreement.

B. Future Land Use Amendments Map:

- i. City initiated Future Land Use Map amendment from County INST/18 (Institutional, with an underlying High Residential 18 units per acre) to City CF (Community Facilities) for Fair Oaks Center, located approximately 650 feet south of Linton Boulevard, and on the east side of LWDD E-3 Canal.

- C. **ORDINANCE NO. 26-08 (SECOND READING/SECOND PUBLIC HEARING):** City initiated amendment to the Land Development Regulations (LDR) amending Section 4.3.3, “Special Requirements for Specific Uses”, Subsection (S), “Telecommunications Towers and Antennas”, Paragraph (2), “Freestanding Telecommunication Towers” to add Barwick Park and Lakeview Golf Course properties to allow monopoles. (Approved, 4-0)
 - D. **ORDINANCE NO. 25-08 (SECOND READING/SECOND PUBLIC HEARING):** City initiated amendment to the Land Development Regulations (LDR) amending Section 4.7.8, “Resale and Subsequent Rentals of Affordable Units”, to expand the circumstances in which title may be transferred without restriction. (Approved, 4-0)
 - E. **ORDINANCE NO. 27-08 (SECOND READING/SECOND PUBLIC HEARING):** City initiated amendment to the Land Development Regulations (LDR) amending Section 4.6.6, “Commercial and Industrial Uses to Operate Within A Building”, Subsection “A”, “Intent”, in order to clarify that all commercial and industrial uses shall conduct business inside regardless of zoning district. (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. 29-08:** An ordinance amending Chapter 117, “Landlord Permits”, by amending Section 117.99, “Penalty”, to provide for a waiver of the triple fees upon good cause shown to the Code Enforcement Board. If passed, a public hearing will be scheduled for July 1, 2008. (DENIED, 4-0)
13. **COMMENTS AND INQUIRIES ON NON-AGENDA ITEMS.**
- A. City Manager
 - B. City Attorney
 - C. City Commission

POSTED: JUNE 13, 2008

******* Meeting adjourned at 9:13 p.m. *******