

# City of Delray Beach

## Regular Commission Meeting

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



### **RULES FOR PUBLIC PARTICIPATION**

Tuesday, October 5, 2010

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

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

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

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

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

### **APPELLATE PROCEDURES**

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

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

1. **ROLL CALL.**
2. **INVOCATION.**
3. **PLEDGE OF ALLEGIANCE TO THE FLAG.**
4. **AGENDA APPROVAL.** (Mayor McDuffie noted Item 6.A., Florida City Government Week, was postponed; Item 6.B. Healthy Mouth Healthy Body Day was postponed; Item 8.P., Special Event Request/Holiday Pageant Parade, was moved to the Regular Agenda as Item 9.A.A; Item 8. Q., Review of Appealable Land Development Board Actions, Site Plan Review and Appearance Board (SPRAB) Item #2, was moved to the Regular Agenda as Item 9.A.A.A.; Applicant requested Item 9.A., Appeal of the Site Plan Review and Appearance Board's Decision/New Century Courtyards, be **WITHDRAWN**. Approved as amended, 5-0)
5. **APPROVAL OF MINUTES:**
  - A. September 13, 2010 – Workshop Meeting (Approved, 5-0)
  - B. September 13, 2010 – Special Meeting (Approved, 5-0)
  - C. September 20, 2010 – Workshop Meeting (Approved, 5-0)
  - D. September 20, 2010 – Impasse Hearing (Approved, 5-0)
  - E. September 21, 2010 – Regular Meeting (Approved, 5-0)
6. **PROCLAMATIONS:**
  - A. Florida City Government Week – October 17-23, 2010
  - B. Healthy Mouth Healthy Body Day – October 27, 2010
7. **PRESENTATIONS:**
  - A. None
8. **CONSENT AGENDA:** City Manager Recommends Approval. (Approved as amended, 5-0)
  - A. **RESOLUTION NO. 56-10 (TAX EXEMPTION REQUEST FOR ELIGIBLE IMPROVEMENTS/220 NORTH DIXIE BOULEVARD):** Approve a tax exemption request for eligible improvements to the property located at 220 North Dixie Boulevard within the Del Ida Park Historic District; and approve Resolution No. 56-10.
  - B. **ACCEPTANCE OF A RIGHT-OF-WAY DEED AND HOLD HARMLESS AGREEMENT/215 N.E. 5<sup>TH</sup> AVENUE:** Approve and accept a right-of-way deed for a two foot additional alley right-of-way and a Hold Harmless Agreement for a landscape island associated Krystal Kleen Coin Laundry located at 215 N.E. 5<sup>th</sup> Avenue.

- C. **RESOLUTION NO. 57-10: ABANDONMENT OF RIGHT-OF-WAY FOR DELRAY ELEVEN:** Approve Resolution No. 57-10 abandoning a portion of a 16' north-south alley within Block 11, Osceola Park, located midway between S.E. 7<sup>th</sup> Street and S.E. 6<sup>th</sup> Street, for Delray Eleven.
1. **ACCEPTANCE OF AN EASEMENT DEED/DELRAY ELEVEN:**  
Approve and accept a 16' water and sewer easement deed within Block 11, Osceola Park, located midway between S.E. 7<sup>th</sup> Street and S.E. 6<sup>th</sup> Street, for Delray Eleven.
- D. **CONTRACT CLOSEOUT (CHANGE ORDER NO. 2/FINAL)/ H & J CONTRACTING, INC.:** Approve a Contract Closeout (Change Order No. 2/Final) in the amount of a \$2,565.03 decrease and final payment amount of \$45,460.00 to H & J Contracting, Inc. for the completion of Old School Square Park Phase I Project. Funding is available from 334-4151-572-63.59 (General Construction Fund: Improvements Other/Old School Square Park Improvements), 441-5161-536-63.90 (Water/Sewer Fund: Other Improvements) and 448-5461-538-63.90 (Storm Water Utility Fund: Other Improvements).
- E. **CONTRACT CLOSEOUT (FINAL PAYMENT)/THE GUARANTEE COMPANY OF NORTH AMERICA:** Approve a Contract Closeout and Final Payment in the amount of \$135,623.24 to The Guarantee Company of North America; the surety for H & D Construction Company, Inc., for the S.W. 14<sup>th</sup> Avenue Roadway, Alleys & Drainage Improvements project. Funding is available from 334-3162-541-68.05 (General Construction Fund: Other Improvement/S.W. 14<sup>th</sup> Alley Improvements), 448-5461-538-68.25 (Storm Water Utility Fund: Other Improvement/S.W. 14<sup>th</sup> Avenue- S.W. 2<sup>nd</sup> to S.W. 1<sup>st</sup>) and 101-1969-541-68.25 (ARRA Economic Stimulus FD: Other Improvement/S.W. 14<sup>th</sup> Avenue- S.W. 2<sup>nd</sup> to S.W. 1<sup>st</sup>).
- F. **RESOLUTION NO. 58-10:** Approve Resolution No. 58-10 assessing costs for abatement action required to remove nuisances on eight (8) properties throughout the City.
- G. **RESOLUTION NO. 59-10:** Approve Resolution No. 59-10 supporting the *Let's Move* campaign.
- H. **INTERLOCAL AGREEMENT/COMMUNITY REDEVELOPMENT AGENCY FOR FUNDING OF CONSTRUCTION/PROFESSIONAL SERVICES:** Approve an Interlocal Agreement with the Community Redevelopment Agency (CRA) for the funding of construction costs and professional services for certain projects as listed on Exhibit "A" attached to the Agreement for FY 10/11.
- I. **AMENDMENT TO THE LICENSED USER AGREEMENT/TICKETMASTER L.L.C.:** Approve an Amended Licensed User Agreement between the City and Ticketmaster L.L.C. for the resale of tickets for events at the Tennis Stadium.

- J. **ANNUAL PROGRESS REPORT/FLOODPLAIN MANAGEMENT AND MITIGATION PLAN:** Approve the Annual Progress Report on the Floodplain Management and Mitigation Plan for submittal to the Insurance Services Offices.
- K. **SERVICE AUTHORIZATION/GIL VALDES, INC./HOME INSPECTION PROFESSIONAL SERVICES VENDOR: NEIGHBORHOOD STABILIZATION PROGRAM (NSP):** Approve a Service Authorization with the vendor Gil Valdes, Inc., to increase funds in the amount of \$15,000.00 for Home Inspection Professional Services to continue activities required under the Neighborhood Stabilization Program (NSP) contingent on approval by the Florida Department of Community Affairs. Funding is available from 118-1935-554-49.14 (Neighborhood Services: Other Current Charges/Acquisition Rehabilitation) and 118-1934-554-49.14 (Neighborhood Services: Other Current Charges/Acquisition Rehabilitation).
- L. **D.U.I. GRANT AWARD/FLORIDA DEPARTMENT OF TRANSPORTATION:** Approve acceptance of a grant award from the Florida Department of Transportation (FDOT) in the amount of \$33,523.00 for funding for the Police Department's Driving Under the Influence (D.U.I.) program. Funding is available from 001-2115-521-12.10 (General Fund: Regular Salaries/Wages).
- M. **GRANT AWARD/DEPARTMENT OF ENERGY/ LOCAL ENERGY ASSURANCE PLAN (LEAP):** Approve and accept the Local Energy Assurance Plan (LEAP) grant from the Department of Energy in the amount of \$130,000.00 which will provide funding for energy assurance planning and training.
- N. **FIRST AMENDMENT TO THE DECLARATION OF RESERVED RIGHTS AND AGREEMENT NOT TO ENCUMBER N.E. 7TH AVENUE RELATED TO THE ATLANTIC PLAZA PROJECT:** Approve the First Amendment to the Declaration of Reserved Rights and Agreement not to Encumber N.E. 7<sup>th</sup> Avenue regarding the abandonment and relocation of N.E. 7<sup>th</sup> Avenue between N.E. 1<sup>st</sup> Street and East Atlantic Avenue to extend the time frame to obtain site plan certification by a period of six months.
- O. **SPECIAL EVENT REQUEST/HALLOWEEN PARADE:** Approve a special event request to allow the Annual Halloween Parade sponsored by the Noontime Kiwanis Club to be held on October 30, 2010 from 1:30 p.m. until approximately 2:30 p.m., including temporary use permit per LDR Section 2.4.6(F) for the rolling closure of Atlantic Avenue from N.E. 2nd Avenue to Veterans Park, and staff support for traffic control, security, and barricading; contingent on the receipt of the Certificate of Liability Insurance and a signed and notarized Hold Harmless Agreement by October 25, 2010.

P. **(MOVED TO ITEM 9.A.A. ON THE REGULAR AGENDA)**

Q. **(MOVED TO ITEM 9.A.A.A. ON THE REGULAR AGENDA)**

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

1. Contract award to Ovivo USA, LLC in the amount of \$46,639.00 for removing and rebuilding the drive motor assembly on Clarifier #1 at the Water Treatment Plant. Funding is available from 442-5178-536-64.90 (Water & Sewer Renewal & Replacement Fund: Other Machinery/Equipment).
2. Purchase award to Cartegraph Systems, Inc. in the amount of \$33,650.00 for licensing, installation and training for the WORKdirector work order module of the Cartegraph asset management system. Funding is available from 441-5161-536-66.10 (Water & Sewer Fund: Books/Publications/Software).
3. Purchase award to GameTime, a Playcore Company in the amount of \$77,992.19 for purchase and installation of a playground system at the Delray Beach Family Recreation & Fitness Center site. Funding is available from 334-4184-572-68.44 (General Construction Fund: Other Improvement/Family Recreation Playground Area).

9. **REGULAR AGENDA:**

AA. **SPECIAL EVENT REQUEST/HOLIDAY PAGEANT PARADE:** Approve a special event request to endorse the Annual Holiday Pageant Parade co-sponsored by the Parks and Recreation Department and the Chamber of Commerce to be held on December 11, 2010 beginning at approximately 6:00 p.m. to 9:00 p.m., granting a temporary use permit per LDR Section 2.4.6(F) for the closure and use of Atlantic Avenue from Gleason Street to N.W. 1st Avenue for the parade route and Lowery, Andrews and Atlantic for parade set up from approximately 4:00 p.m. to 6:00 p.m.. Commission is also requested to provide staff support for traffic control, security, EMS assistance, barricading, trash removal, clean up, event signage and processing of the FDOT street closure permit. (Approved as amended, 5-0)

AAA. **REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:** Accept the actions and decisions made by the Land Development Boards for the period September 20, 2010 through October 1, 2010. (Commissioner Eliopoulos filed a Conflict of Interest for the Site Plan Review Appearance Board Item #2 and left the dais. Motion to approve; Approved, 4-0)

A. **APPEAL OF THE SITE PLAN REVIEW AND APPEARANCE BOARD'S DECISION/ NEW CENTURY COURTYARDS:** Consideration of an appeal regarding the Site Plan Review and Appearance Board's decision approving New Century Courtyards located on the west side of South Federal Highway, 320' south of S.E. 10th Street. (*Quasi-Judicial Hearing*) (*The applicant has withdrawn this item*) (WITHDRAWN)

- B. **WAIVER REQUEST/928 SEASAGE DRIVE:** Consider a waiver request to reduce the sight visibility triangle requirement from ten feet (10') to two feet (2') for a clear line of sight between three feet (3') and six feet (6') within the area formed along both sides of the driveway intersecting the property line at 928 Seasage Drive, a proposed new single family residence within the North Beach/Seagate Overlay District. *(Quasi-Judicial Hearing)* (Motion to adopt board order as presented; Approved, 5-0)
- C. **TEMPORARY PARKING LOT/36 S.E. 2nd AVENUE:** Consider approval of a temporary parking lot at 36 S.E. 2nd Avenue, located on the west side of S.E. 2nd Avenue, between East Atlantic Avenue and S.E. 1st Street.. *(Quasi-Judicial Hearing)* (Motion to approve subject to conditions; Approved, 5-0)
- D. **CERTIFICATE OF APPROPRIATENESS AND SITE PLAN EXTENSION REQUEST/WAIVER REQUEST/36 S.E. 1st AVENUE:** Consider a request to extend the certificate of appropriateness and site plan for twenty-four (24) months and a waiver request to Land Development Regulations (LDR) Section 4.5.1(E)(8)(a)3.a, "Upper Story Height" to allow an increase of the maximum upper story height from twelve feet (12') to fourteen feet (14') for the property located at 36 S.E. 1st Avenue. *(Quasi-Judicial Hearing)* (Motion to adopt board order as presented with conditions; Approved, 5-0)
- E. **WAIVER REQUEST/511 SOUTH OCEAN BOULEVARD:** Consider a waiver request to reduce the required sight visibility triangle from 10' to 4'2" for a clear line of sight between three feet (3') and six feet (6') in the area formed along both sides of the driveway intersecting the property line at 511 South Ocean Boulevard for a proposed new single family residence within the Ocean Overlay District. *(Quasi-Judicial Hearing)* (Motion to adopt board order as presented; Approved, 5-0)
- F. **WAIVER REQUESTS/57 S.W. 5<sup>TH</sup> AVENUE PUBLIC PARKING LOT:** Consider three waiver requests: to allow 23 feet where 24 feet minimum aisle width is required, to allow zero feet (0') to three feet, four and one half inches (3' 4½") landscape buffer where five feet (5') is required, and to allow seven feet (7') where twenty feet (20') of stacking is required for 57 S.W. 5<sup>th</sup> Avenue Public Parking Lot. *(Quasi-Judicial Hearing)* (Motion to adopt board order as presented; Approved, 5-0)
- G. **CONDITIONAL USE REQUEST/GERMAN AUTO WORLD, INC.:** Consider a conditional use request to allow establishment of an automobile body, paint and repair shop for German Auto World, Inc. to occupy 9,075 sq. ft. of a multiple tenant building fronting on West Atlantic Avenue and a 4,848 sq. ft. existing warehouse building located in the rear, at 2175 West Atlantic Avenue. *(Quasi-Judicial Hearing)* (Motion to adopt board order as presented; Approved, 5-0)
- H. **REQUEST TO INSTALL A NATIVITY CRÈCHE AT CHRISTMAS TREE SITE:** Consider approval of a request to install a Nativity Crèche in the vicinity of the Christmas tree at Old School Square. (Motion to approve; Approved, 5-0)
- I. **PARKS AND RECREATION FEES:** Consider approval to change facility and field fees for Parks and Recreation for FY 2010-2011. (Motion to approve; Approved, 5-0)

- J. **OFFER AN EARLY RETIREMENT INCENTIVE FOR MEMBERS OF THE GENERAL EMPLOYEE'S PENSION PLAN:** Consider approval to offer the early retirement incentive to members of General Employees Pension Plan. (Motion to approve; Approved, 5-0)
- K. **APPOINTMENT TO THE DELRAY BEACH HOUSING AUTHORITY:** Appoint one (1) regular member to the Delray Beach Housing Authority for an unexpired term ending March 6, 2014. Based upon the rotation system, the recommendation for appointment will be made by Commissioner Frankel (Seat #3). (Appointed Guarn Sims and approved, 5-0)
- L. **APPOINTMENT TO THE HISTORIC PRESERVATION BOARD:** Appoint one (1) regular member to the Historic Preservation Board to serve an unexpired term ending August 31, 2012. Based upon the rotation system, the appointment will be made by Mayor McDuffie (Seat #5). (Appointed Annette Smith and approved, 5-0)

10. **PUBLIC HEARINGS:**

- A. **ORDINANCE NO. 23-10 (SECOND READING/SECOND PUBLIC HEARING):** Consider a city initiated amendment to the Land Development Regulations Section 4.3.3 "Special Requirements for Specific Uses", to enact a new Subsection (KKK) establishing regulations for Live/Work Units; amending Section 4.4.12 "Planned Commercial District", Subsection (D) "Conditional Uses and Structures Allowed", Section 4.4.13 "Central Business District", Subsection (D) "Conditional Uses and Structures Allowed"; Section 4.4.29 "Mixed Residential, Office and Commercial", Subsection (E) "Conditional Uses and Structures Allowed" to allow Live/Work units as a conditional use; and amending Appendix "A" "Definitions" to provide a revised definition for "Live/Work Unit". (Motion to approve; Approved, 5-0)

- B. **ORDINANCE NO. 25-10 (FIRST READING/FIRST PUBLIC HEARING):**  
Consider a city initiated amendment to the Land Development Regulations (LDR) by amending Section 4.3.3, “Special Requirements For Specific Uses”, Subsection (T), “Family Day Care” and enacting a new Subsection (TT), “Large Family Child Care Home”; amending Subsection (C), “Accessory Uses and Structures Permitted” and Subsection (D), “Conditional Uses and Structures Allowed” of Section 4.4.3, “Single Family Residential (R-1) Districts”, Section 4.4.5, “Low Density Residential (RL) District”, Section 4.4.6, “Medium Density Residential (RM) District”, Section 4.4.7, “Planned Residential Development (PRD) District”, Section 4.4.9, “General Commercial (GC) District”, Section 4.4.13, “Central Business (CBD) District”, Section 4.4.17, “Residential Office (RO) District”, and Section 4.4.24, “Old School Square Historic Arts District (OSSHAD)”; amending Section 4.4.9, “General Commercial (GC) District”, Subsection (G), “Supplemental Regulations”, Sub-subsection (3), Four Corners Overlay District; amending Section 4.4.29, “Mixed Residential, Office and Commercial (MROC) District”, Subsection (C), “Accessory Uses and Structures Permitted” and Subsection (E), “Conditional Uses and Structures Allowed”, in order to update the Land Development Regulations (LDR) to comport with changes in state law; amending Appendix A, “Definitions”, to revise the definitions of “Child Care Facility” and “Family Day Care Facilities” and enacting a new definition, “Large Family Child Care Home”. If passed, a second public hearing will be held on October 19, 2010. (Motion to approve; Approved, 5-0)
- C. **ORDINANCE NO. 35-10 (FIRST READING/FIRST PUBLIC HEARING):**  
Consider a city initiated amendment to Land Development Regulations (LDR) replacing several references to “Medicines and Prescriptions”, “Drugs and Medicine” and “Drug Store” with the term “Pharmacies”. If passed, a second public hearing will be held on October 19, 2010. (Motion to approve; Approved, 5-0)
- D. **ORDINANCE NO. 36-10 (FIRST READING/FIRST PUBLIC HEARING):**  
Consider a city initiated amendment to the Land Development Regulations (LDR) Section 4.3.3 (LLLL), “Pharmacies”, to add the term “Medical Clinics” under applicability and to change the category title to “Medical, Professional, Business Offices and Medical Clinics”. If passed, a second public hearing will be held on October 19, 2010. (Motion to approve; Approved, 5-0)
- E. **ORDINANCE NO. 31-10:** Consider approval of an ordinance amending Chapter 35, “Employee Policies and Benefits”, by amending Section 35.014, “Preferential Bonus Points”, in order to update the City’s Code. (Motion to approve; Approved, 5-0)

- F. **ORDINANCE NO. 33-10:** Consider approval of an ordinance amending Chapter 35, “Employee Policies and Benefits”, Section 35.089, “Definitions”, to provide revised definitions of “Final Monthly Compensation” and “Normal Retirement Date”; amending Section 35.095, “Contributions of Participant and City”, Subsection (A), “Participant’s Contribution Account”, to provide for a change in the contribution amount; amending Section 35.097, “Retirement Income; Basis, Amount, and Payment”, Subsection (A), “Normal Retirement Income”, to change the normal form of retirement to life annuity; amending Subsection (C), “Disability Retirement and Retirement Income”, Paragraph (5), Subparagraph (A), “Monthly Income Payable”, Sub-subparagraph (1), “Service-Connected Disability”, to modify disability average monthly earnings; amending Subsection (D), “Benefits Other Than on Retirement”, Paragraph (2), “Benefit Payable in the Event of Participating Employee’s Death On or Before the Normal Retirement Date”, Subparagraph (A), “Death Benefit--Service-Connected Death”, to modify the monthly income General Employees Pension. (Motion to approve; 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. 34-10:** Consider a city initiated amendment to the Land Development Regulations (LDR) Section 2.4.7(G), “Requests for Accommodation” procedures. If passed, a public hearing will be held on October 19, 2010. (Approved 5-0)
- B. **ORDINANCE NO. 37-10:** Consider a city initiated amendment to the Land Development Regulations (LDR) Section 6.3.3., “Sidewalk Café”, amending the regulations. If passed, a public hearing will be held on October 19, 2010. (Consensus of the Commission to **TABLE** this item to the October 19, 2010 Regular Meeting)

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

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

POSTED: OCTOBER 1, 2010

**\*\*\*\*\* Meeting adjourned at 8:43 p.m. \*\*\*\*\***