

# 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, March 17, 2009

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 Ellis noted Item 6.C., Recognizing and Commending Atlantic High School Girls Basketball Team, was postponed to the April 7, 2009 Commission Meeting; Item 10.E., Resolution No. 14-09 Amendment No. 1 to Contract for Sale and Purchase/Community Land Trust/315 S.W. 3<sup>rd</sup> Avenue was requested to be postponed; Item 9.N., Discussion of Tennis Tournament Operational and Management Practices and Policies, was requested to be moved to the Regular Agenda as Item 9.A.A.; Item 8.B., Contract Addition (Change Order No. 1)/JW Cheatham, LLC., was moved to the Regular Agenda as Item 9.A.A.A.; Item 8.C., Service Authorization No. 07-08.2/Mathews Consulting, Inc., was moved to the Regular Agenda as Item 9.A.A.A.A.; Staff requested to pull Item 9.B., Resolution No. 12-09 (Resolution of Necessity/Douglas Avenue Special Assessment District); Item 8.D., Service Authorization No. 07-10/Mathews Consulting, Inc., was moved to the Regular Agenda as Item 9.A.A.A.A.A., Item 8.H., Fourth Amendment to Parking Space Lease Agreement/Oxford Business Corporation, was moved to the Regular Agenda as Item 9.A.A.A.A.A.A.; Item L., Review of Appealable Land Development Board Actions (SPRAB Item D) was moved to the Regular Agenda as 9.A.A.A.A.A.A. Approved as amended, 5-0).
5. **APPROVAL OF MINUTES:**
  - A. February 17, 2009 – Regular Meeting (Approved, 5-0)
  - B. March 3, 2009 – Regular Meeting (Approved, 5-0)
6. **PROCLAMATIONS:**
  - A. Recognizing and Commending **William and Nicholas Burckhard**
  - B. Commending multiple medal winners - **Delray Beach 2009 Senior Games**
  - C. Recognizing and Commending **Atlantic High School Girls Basketball Team**
  - D. Water Conservation Month – April 2009
7. **PRESENTATIONS:**
  - A. None
8. **CONSENT AGENDA:** City Manager Recommends Approval. (Approved as amended, 5-0)
  - A. **REQUEST FOR SIDEWALK DEFERRAL/1005 RHODES VILLA AVENUE:**  
Approve a request to defer the installation of a sidewalk in front of 1005 Rhodes Villa Avenue.
  - B. **(MOVED TO ITEM 9.A.A.A. ON THE REGULAR AGENDA)**
  - C. **(MOVED TO ITEM 9.A.A.A.A. ON THE REGULAR AGENDA)**

- D. **(MOVED TO ITEM 9.A.A.A.A.A. ON THE REGULAR AGENDA)**
- E. **PHASE 2 PARTICIPATING AGENCY DESIGNATION /FLORIDA DEPARTMENT OF TRANSPORTATION/SOUTH FLORIDA EAST COAST CORRIDOR TRANSIT ANALYSIS STUDY:** Approve and authorize the execution of an agreement with Florida Department of Transportation for the City to participate in Phase 2 of the South Florida East Coast Corridor Transit (SFECCT) Analysis Study.
- F. **HOUSING REHABILITATION GRANT/CONTRACT AWARD:** Approve one (1) Housing Rehabilitation Grant contract award through the Community Development Division in the amount of \$24,564.75 to Jemstone Construction Group, Inc. (310 N.W. 12<sup>th</sup> Avenue). Funding is available from 118-1963-554-49.19 (Neighborhood Services/Other Current Charges/Housing Rehabilitation).
- G. **AMENDMENT NO. 1 TO THE INTERLOCAL AGREEMENT/COMMUNITY REDEVELOPMENT AGENCY/CURB APPEAL RESIDENTIAL IMPROVEMENT PROGRAM:** Approve Amendment No. 1 to the Interlocal Agreement between the City and the Community Redevelopment Agency (CRA) in the amount of \$50,000.00 for FY 2008 – 2009 to fund the implementation the Curb Appeal Residential Improvement Program within the CRA area.
- H. **(MOVED TO ITEM 9.A.A.A.A.A. ON THE REGULAR AGENDA)**
- I. **RATIFICATION OF APPOINTMENTS TO THE KIDS AND COPS COMMITTEE:** Approve and ratify certain appointments to the Kids and Cops Committee for terms ending November 30, 2009.
- J. **SPECIAL EVENT REQUEST/EASTER SUNRISE SERVICE:** Approve a request for an Easter Sunrise Service to be held on April 12, 2009, granting a temporary use permit per LDR Section 2.4.6(F) for the closure of South Ocean Boulevard from Atlantic Avenue to Miramar from 6:00 a.m. to 7:30 a.m., grant the use of the pavilion, authorize staff support for traffic control, barricading and EMS presence.
- K. **SPECIAL EVENT REQUEST/AVDA 5K WALK/RUN:** Approve a special event request to endorse the 12<sup>th</sup> Annual Aid to Victims of Domestic Abuse, Inc. (AVDA) 5K Walk/Run to be held on Saturday, October 10, 2009 from 7:30 a.m. until approximately noon, with set up at 5:00 a.m., to grant a temporary use permit per LDR Section 2.4.6(F) for the use of Anchor Park and the City right-of-way along Ocean Boulevard from Casuarina to George Bush Boulevard, to waive parking meter fees in Anchor Park and Sandoway lots, and to authorize staff assistance for providing traffic control, barricading, signage, trash pick up and removal, and set up and use of half of the small stage; contingent on the sponsor providing the required liability insurance and hold harmless agreement.
- L. **(MOVED TO ITEM 9.A.A.A.A.A.A. ON THE REGULAR AGENDA)**

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

1. Contract award to Technical Inspections, Inc., in the amount of \$16,650.00 for the rehabilitation of Lift Station #18. Funding is available from 442-5178-536-68.15 (Water and Sewer Renewal and Replacement/Lift Station Rehabilitation).
2. Purchase award to Florida Bullet, Inc. in the amount of \$18,300.00 for the purchase of ammunition in preparation for next year's training and firearms qualifications for the Police Department. Funding is available from 001-2115-521-521-52.19 (General Fund/Operating Supplies/SWAT Expenditures).

9. **REGULAR AGENDA:**

A.A. **DISCUSSION OF TENNIS TOURNAMENT OPERATIONAL AND MANAGEMENT PRACTICES AND POLICIES** (Motion to **POSTPONE** until April 7, 2009; Approved, 5-0)

A.A.A. **CONTRACT ADDITION (CHANGE ORDER NO. 1)/JW CHEATHAM, LLC.** Approve a Contract Addition (Change Order No. 1) in the amount of \$34,020.00 to JW Cheatham, LLC. for extending S.W. 7<sup>th</sup> Avenue to SW 4th Street. Funding is available from 118-1960-554-68.27 (Neighborhood Services/Other Improvement/ Mango Dr/Reigle Dr & S.W. 7<sup>th</sup>). (Motion to approve; Approved, 4-1. Commissioner Bernard dissenting)

A.A.A.A. **SERVICE AUTHORIZATION NO. 07-08.2/MATHEWS CONSULTING, INC.** Approve Service Authorization No. 07-08.2 in the amount of \$12,843.00 to Mathews Consulting, Inc. for professional engineering services in the design of Area 11A of the Reclaimed Water System. Funding is available from 441-5181-536-65.96 (Water & Sewer Fund/Other Improvements/Reclaimed Water Transmission). (Motion to approve; Approved, 4-1. Commissioner Bernard dissenting)

A.A.A.A.A. **SERVICE AUTHORIZATION NO. 07-10/MATHEWS CONSULTING, INC.** Approve Service Authorization No. 07-10 in the amount of \$49,221.00 to Mathews Consulting, Inc. for professional construction management services for the construction of the Area 11A Reclaimed Water Transmission system and Distribution system serving the Barrier Island. Funding is available from 441-5181-536-65.96 (Water & Sewer Fund/Other Improvements/Reclaimed Water Transmission). (Motion to approve; Approved, 5-0)

A.A.A.A.A.A. **FOURTH AMENDMENT TO PARKING SPACE LEASE AGREEMENT/OXFORD BUSINESS CORPORATION:** Approve the Fourth Amendment to Parking Space Lease Agreement with Oxford Business Corporation to include insurance provisions and clarify the tenant's share of expenses. Commissioner Eliopoulos declared a Conflict of Interest and left dais. Motion to approve; Approved, 4-0)

A.A.A.A.A.A.A. **REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:** Accept the actions and decisions made by the Land Development Boards for the period March 2, 2009 through March 13, 2009. (Commissioner Eliopoulos motioned to appeal Item 8.L.D. (SPRAB Item/Atlantic Plaza II); Approved, 5-0)

- A. **PARKING LICENSE AGREEMENT/CUT 432:** Consider approval of a parking license agreement with Cut 432 to establish a parking valet queue on the west side of S.E. 4<sup>th</sup> Avenue south of Atlantic Avenue. (Approved, 5-0)
- B. **RESOLUTION NO. 12-09 (RESOLUTION OF NECESSITY/DOUGLAS AVENUE SPECIAL ASSESSMENT DISTRICT):** Consider approval of a resolution declaring the necessity for public improvements for the Douglas Avenue area, and directing the establishment of a special assessment district to defray a part of the expense for such improvements. (POSTPONED)
- C. **RESOLUTION NO. 13-09 (SETTING PUBLIC HEARING DATE FOR S.W. 8<sup>th</sup> AVENUE SPECIAL ASSESSMENT DISTRICT):** Consider approval of a resolution setting the public hearing date for consideration of the S.W. 8<sup>th</sup> Avenue Special Assessment District final assessment roll. (Motion to set the Public Hearing date for May 5, 2009; Approved 4-1. Commissioner Bernard dissenting)
- D. **THE PLASTRIDGE AGENCY, INC./CANCEL/REWRITE OF PROPERTY AND CASUALTY INSURANCE:** Consider a proposal to cancel and rewrite major property and casualty insurance policies for the City for the period April 1, 2009 thru September 30, 2010. Funding is available from 551-1575-591-45.30 (Insurance Fund/Insurance/ Boiler & Mach Premium), 551-1575-591-45.31 (Insurance Fund/Insurance/Package Policy Premium), 551-1575-591-45.33 (Insurance Fund/Insurance/Excess Property Premium) and 551-1575-591-45.34 (Insurance Fund/Insurance/ Fidelity/Performance Bond). (Motion to approve subject to staff recommendations; Approved, 5-0)
- E. **APPOINTMENT OF OUTSIDE COUNSEL/KARLECKE v. CITY OF DELRAY BEACH:** Consider approval to appoint Fred Gelston, Esq., as outside counsel in the case of Steven Karlecke v. City of Delray Beach. (Approved, 5-0)
- F. **APPOINTMENT TO THE CODE ENFORCEMENT BOARD:** Appoint one (1) alternate member to the Code Enforcement Board to serve an unexpired term ending January 14, 2010. Based upon the rotation system, the appointment will be made by Mayor Ellis (Seat #5). (DEFERRED to the April 7, 2009 Regular Commission Meeting)
- G. **APPOINTMENT TO THE DELRAY BEACH HOUSING AUTHORITY:** Appoint one (1) regular member to the Delray Beach Housing Authority to serve an unexpired term ending July 14, 2010. Based upon the rotation system, the appointment recommendation will be made by Mayor Ellis (Seat #5). (DEFERRED to the April 7, 2009 Regular Commission Meeting)

- H. **APPOINTMENTS TO THE NUISANCE ABATEMENT BOARD:** Appoint three (3) regular members and two (2) alternate members to the Nuisance Abatement Board for two (2) year terms ending July 31, 2011. Based upon the rotation system, the appointments will be made by Commissioner Eliopoulos (Seat #1), Commissioner Fetzner (Seat #2), Commissioner McDuffie (Seat #3), Commissioner Bernard (Seat #4) and Mayor Ellis (Seat #5). (Appointed Annie Adkins-Roof and approved 5-0; appointed Leonard Esptien and approved 5-0; appointed Philip Friedman and approved 5-0 and appointed Arline Sherman and approved 5-0. Mayor Ellis' appointment **DEFERRED** to the April 7, 2009 Regular Commission Meeting)
- I. **APPOINTMENT TO THE BOARD OF ADJUSTMENT:** Appoint one (1) alternate member to the Board of Adjustment to serve an unexpired term ending August 31, 2009. Based upon the rotation system, the appointment will be made by Commissioner Eliopoulos (Seat #1). (Appointed Jason Feldman and approved 5-0)
- J. **APPOINTMENT TO THE POLICE & FIREFIGHTERS RETIREMENT SYSTEM BOARD OF TRUSTEES:** Appoint one (1) regular member to the Police & Firefighters Retirement System Board of Trustees to serve a two (2) year term ending on April 22, 2011. Based upon the rotation system, the appointment will be made by Mayor Ellis (Seat #5). (**DEFERRED** to the April 7, 2009 Regular Commission Meeting)
- K. **APPOINTMENT TO THE CIVIL SERVICE BOARD:** Appoint one (1) regular member to the Civil Service Board to a two (2) year term ending April 1, 2011. Based upon the rotation system, the appointment will be made by Mayor Ellis (Seat #5). (**DEFERRED** to the April 7, 2009 Regular Commission Meeting)
- L. **CONTRACT AWARD/FLORIDA HIGHWAY PRODUCTS:** Contract award to Florida Highway Products, Inc. in the amount of \$196,292.85 for microsurface paving of existing city roads. Funding is available from 334-3162-541-61.17 (General Construction Fund/Capital Outlay/Street Reconstruction. (Motion to approve with caveat to reprioritize paving on Atlantic Avenue from Swinton Avenue to 5<sup>th</sup> Avenue. Approved, 5-0)
- M. **FIRE STATION NO. 2/TEMPORARY STAFFING:** Approve the redeployment of personnel assigned to Fire Station No. 2. (Approved, 5-0)
- N. **(MOVED TO ITEM 9.A.A. ON THE REGULAR AGENDA)**
10. **PUBLIC HEARINGS:**
- A. **ORDINANCE NO. 10-09:** Consider an ordinance which modifies the Marina Historic District boundaries to remove twelve (12) properties as recommended by the Marina Historic District resurvey. (Approved, 5-0)
- B. **ORDINANCE NO. 13-09 (FIRST READING/FIRST PUBLIC HEARING):** Consideration of an ordinance, providing for acceptance of the resurvey report of Nassau Street Historic District including extending the period of significance to 1964 and reclassifying five (5) properties from non-contributing to contributing. If passed, a second public hearing will be held on April 7, 2009. (Approved, 5-0)

- C. **AMENDMENT TO COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) ANNUAL ACTION PLAN (FY 2007- 2008):** Approve an Amendment to the Community Development Block Grant (CDBG) FY 2007-2008 Annual Action Plan to include \$100,000.00 toward funding Public Facilities and Improvements located within the CDBG target area. Funding is available from 118-1963-554-49.19 (Neighborhood Services/Other Current Charges/Housing Rehabilitation). (Approved, 5-0)
  
- D. **ORDINANCE NO. 12-09:** Consider a city initiated ordinance amending Section 112.28, “Disconnection of Alarm System”, to provide for a limited response to alarm systems; amending Section 112.29, “Appeal” to remove all references to disconnecting; repealing Sections 112.30, “Failure to Disconnect or Unauthorized Reconnection of Alarm System” and 112.31, “Reconnection of Alarm Systems” in their entirety; and Amending Section 112.51, “Enforcement through Code Enforcement Board”, to provide for enforcement through civil citation. (Approved, 5-0)
  
- E. **RESOLUTION NO. 14-09 AMENDMENT NO. 1 TO CONTRACT FOR SALE AND PURCHASE/COMMUNITY LAND TRUST/315 S.W. 3<sup>rd</sup> AVENUE:** Consider approval of Resolution No. 14-09 authorizing the City to transfer/sell City owned property, located at 315 S.W. 3<sup>rd</sup> Avenue, to be utilized for affordable housing purposes; and approve Amendment No. 1 to Contract for Sale and Purchase between the City and the Delray Beach Community Land Trust, Inc. in the amount of \$10.00. **(APPLICANT HAS REQUESTED THIS ITEM BE POSTPONED).**
  
- 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. None
  
- 13. **COMMENTS AND INQUIRIES ON NON-AGENDA ITEMS.**
  - A. City Manager
  - B. City Attorney
  - C. City Commission

POSTED: MARCH 13, 2009

**\*\*\*\*\* Meeting adjourned at 8:20 p.m. \*\*\*\*\***