

# City of Delray Beach

## Regular Commission Meeting

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



### RULES FOR PUBLIC PARTICIPATION

Tuesday, November 17, 2009

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 there was revised information on the dais for Item 8.D., First Amendment to the Interlocal Agreement/Palm Beach County/Delray Beach Housing Authority for Carver Estates/Auburn Avenue; Additional information was on the dais for Item. 8.F., Amendment No. 2 to the Agreement with GovDeals, Inc.: Revised information was on the dais for Item 9.A., Conditional Use Extension Request/Atlantic Shores; Item 9.E., was added to the Regular Agenda by addendum; Item 8.A., Service Authorization No. 07-12/Mathews Consulting, Inc., was moved to the Regular Agenda as Item 9.A.A.; Item 8.B., Rescind Public Art Component/Art and Jazz on the Avenue/Summer Nights on the Avenue, was moved to the Regular Agenda as Item 9.A.A.A. Approved as amended, 5-0).
5. **APPROVAL OF MINUTES:**
  - A. November 3, 2009 – Regular Meeting (Approved, 5-0)
  - B. November 10, 2009 – Workshop Meeting (Approved, 5-0)
6. **PROCLAMATIONS:**
  - A. Recognizing and Commending **Trinity Lutheran Varsity Football Team**
7. **PRESENTATIONS:**
  - A. City of Delray Beach Residents Academy Certificates – Janet Meeks
8. **CONSENT AGENDA:** City Manager Recommends Approval. (Approved as amended, 5-0)
  - A. **(MOVED TO ITEM 9.A.A. ON THE REGULAR AGENDA)**
  - B. **(MOVED TO ITEM 9.A.A.A. ON THE REGULAR AGENDA)**
  - C. **AMENDMENT TO THE INTERLOCAL AGREEMENT/PALM BEACH COUNTY:** Approve an Amendment to the Interlocal Agreement between the City and Palm Beach County extending the time of completion to January 30, 2010 for installation of trombone signal mast arms at the intersection West 12th Avenue and West Atlantic Avenue. Palm Beach County will reimburse the City in the amount of \$250,000.00 for costs associated with this project.

- D. **FIRST AMENDMENT TO THE INTERLOCAL AGREEMENT/PALM BEACH COUNTY/DELRAY BEACH HOUSING AUTHORITY FOR CARVER ESTATES/AUBURN AVENUE:** Approve a First Amendment to the Interlocal Agreement between Palm Beach County, the City and Delray Beach Housing Authority (DBHA) for improvements on S.W. 12th Avenue/Auburn Avenue/S.W. 14th Avenue from S.W. 10th Street to West Atlantic Avenue, which provides for reimbursing the City \$1,000,000.00 for the costs associated with the improvements along this corridor.
- E. **LANDSCAPE MAINTENANCE AGREEMENT/415 ENFIELD ROAD:** Approve and accept a landscape maintenance agreement with Kathy Laxson providing for the installation of hedges in the City's right-of-way to effectively screen the proposed shadow-box fence at 415 Enfield Road.
- F. **AMENDMENT NO. 2 TO THE AGREEMENT WITH GOVDEALS, INC.:** Approve Amendment No. 2 to the Agreement with GovDeals, Inc. to extend the agreement an additional twenty-four (24) months.
- G. **EXTENDED WARRANTY AND MAINTENANCE/ZOLL MEDICAL CORPORATION:** Approve a one (1) year extended warranty and maintenance in the amount of \$22,052.00 to Zoll Medical Corporation for sixteen (16) Zoll Defibrillator Units. Funding is available from 001-2315-526-46.20 (General Fund/Repair & Maintenance Services/Equipment Maintenance).
- H. **CONSENT TO ASSIGNMENT/T-MOBILE TO MOBILITIE INVESTMENTS II, LLC.:** Approve the Consent to Assignment to transfer a City lease agreement from T-Mobile to Mobilitie Investments II, LLC for the cell tower at Barwick Park.
- I. **RATIFICATION OF APPOINTMENT TO THE PARKING MANAGEMENT ADVISORY BOARD:** Approve and ratify the appointment of Ms. Diane Franco to the Parking Management Advisory Board for a term ending July 31, 2010.
- J. **RATIFICATION OF APPOINTMENTS/KIDS AND COPS COMMITTEE:** Approve and ratify the current appointees to the Kids and Cops Committee for two (2) year terms ending November 30, 2011.
- K. **SPECIAL EVENT REQUEST/KIDS DAY AT THE TREE:** Approve and endorse Kids Day at the Tree scheduled for December 12, 2009 from 10:00 a.m. to 4:00 p.m.; granting a temporary use permit per LDR Section 2.4.6.(F) for the closure and use of N.E. 1st Avenue from Atlantic Avenue to the alley north of Atlantic; and authorize staff support for traffic control and security, barricading, trash clean up, fire inspection and use of a City portable generator; contingent on the receipt of the Certificate of Liability Insurance.

- L. **SPECIAL EVENT REQUEST/12TH ANNUAL FIRST NIGHT 2010:** Approve a special event request to endorse the 12th Annual First Night 2010 event on December 31, 2009 from 4:00 p.m. to midnight, granting a temporary use permit per LDR Section 2.4.6(F) for the use of City rights-of-way and facilities as requested, and to authorize staff support for traffic control and security, site cleanup and trash removal, barricade set up and removal, signage construction and installation and EMS services.
- M. **SPECIAL EVENT REQUEST/HOWARD ALAN 21st ANNIVERSARY DELRAY BEACH FESTIVAL OF THE ARTS:** Approve a special event request for the 21st Anniversary Delray Beach Festival of the Arts sponsored by Howard Alan Events, Ltd. to be held on January 16-17, 2010 from 10:00 a.m. to 5:00 p.m., granting a temporary use permit per LDR Section 2.4.6(F) for use of City rights-of-way on Atlantic Avenue from the east side of N.E. 6th Avenue to Bronson, and the Gladiola lot (S.E. 6th Avenue) for vendor parking; authorize staff support for security and traffic control, barricade assistance, EMS assistance, and permit an event sign to be erected on Atlantic Avenue just east of I-95 fourteen (14) days prior to the event with the sponsor paying all overtime costs.
- N. **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 January 28, 2010 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, and S.W. 5th Avenue from S.W. 1st Street to about 1/2 block north; to authorize staff support for security, traffic control, EMS assistance, banner hanging and removal, barricade set up and removal, and trash removal and clean up; contingent upon receipt of an updated Certificate of Liability Insurance.
- O. **SPECIAL EVENT REQUEST/11th ANNUAL GARLIC FESTIVAL:** Approve a special event request for the 11th Annual Garlic Festival to be held on February 12-14, 2010, and to grant a temporary use permit per LDR Section 2.4.6(F) for use of City rights-of-way to include N.E. 1st Avenue from Atlantic to the grass area at Old School Square, Swinton Avenue from Atlantic to N.E. 1st Street and Old School Square Park, from 6:00 a.m., February 12 through midnight, February 14, 2009 and use of the Old School Square Parking Garage and the City Attorney lot for event parking, and authorize staff support for traffic control and security, EMS assistance, barricading, banner hanging, signage preparation and installation, site clean up and trash removal, and waiver of the two (2) hour parking limit in the downtown area during the event subject to the conditions listed in the staff report recommendation.

P. **SPECIAL EVENT REQUEST/42ND ANNUAL SAINT PATRICK'S DAY PARADE:** Approve a special event request for the 42nd Annual St. Patrick's Day Parade and Party on Saturday, March 13, 2010, beginning with setup at 11:00 a.m., parade starting at 2:00 p.m. and ending at approximately 4:00 p.m., and a event at Old School Square from 11:00 a.m. to 7:00 p.m.; to grant a temporary use permit per LDR's Section 2.4.6(F) for the use of Atlantic Avenue from Venetian Drive to N.W. 1st Avenue for the parade and Venetian Drive and Gleason Street for staging of parade entries; and to approve staff support for traffic control and security, barricading, trash removal, EMS assistance, use of half of the small stage and to allow event signage to be put up fourteen (14) days prior to the event; contingent upon receipt of the required certificate of liability insurance by March 3, 2010.

Q. **SPECIAL EVENT REQUEST/SAVOR THE AVENUE:** Approve and endorse Savor the Avenue, sponsored by Florida Table Magazine and supported by the Downtown Marketing Cooperative, to be held on March 18, 2010 from 5:30 p.m. to 8:30 p.m.; to grant a temporary use permit per LDR Section 2.4.6(F) for closure and use of Atlantic Avenue from Swinton to the west side of N.E./S.E. 5th Avenue; and to authorize staff support for traffic control and security, barricading, use of a City owned portable generator and banner hanging with banners to be hung no sooner than 14 days prior to the event; contingent upon receipt of a certificate of event and alcohol liability insurance and an executed Hold Harmless Agreement by March 8, 2010.

R. **REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:** Accept the actions and decisions made by the Land Development Boards for the period November 2, 2009 through November 13, 2009.

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

1. Contract award to Stanley Convergent Security Solutions, Inc. in the amount of \$22,261.00 for the installation of Phase II of the security/fire monitoring system at the Water Treatment Plant. Funding is available from 442-5178-536-64.90 (Water and Sewer Renewal Replacement Fund/Machinery/Equipment/Other Machinery/Equipment).
2. Contract award to Chaz Equipment Company, Inc. in the amount of \$29,500.00 for emergency repair of the 36" Raw Water Main at the intersection of S.W. 7th Street and S.W. 15th Avenue. Funding is available from 442-5178-536-63.50 (Water & Sewer Renewal and Replacement Fund/Improvements Other/Water Mains).

9. **REGULAR AGENDA:**

AA. **SERVICE AUTHORIZATION NO. 07-12/MATHEWS CONSULTING, INC.:** Approve Service Authorization No. 07-12 in the amount of \$78,322.00 to Mathews Consulting, Inc. for performance of a water system audit to identify sources of unaccounted for water in the City's system. Funding is available from 441-5161-536-34.90 (Water & Sewer Fund/Other Contractual Services). (Approved, 5-0)

- AAA. **RESCIND PUBLIC ART COMPONENT/ART AND JAZZ ON THE AVENUE/SUMMER NIGHTS ON THE AVENUE:** Approve rescinding approval of a Public Art component for six (6) Art and Jazz on the Avenue and six (6) Summer Nights on the Avenue events in the amount of \$10,000.00. (Approved, 5-0)
- A. **CONDITIONAL USE EXTENSION REQUEST/ATLANTIC SHORES:** Consider a request to extend for two years the conditional use for increasing the building height to a maximum of 60' and allowing more than 30 dwelling units per acre (41.30 du/ac) for Atlantic Shores, located on the west side of the S.E. 2nd Avenue, approximately 80' south of S.E. 1st Street. (*Quasi-Judicial Hearing*) (Motion to adopt Board Order as presented with Condition "A"; Approved, 5-0)
- B. **WAIVER REQUESTS AND PLAT APPROVAL/HAPPY TOGETHER PLAT:** Consider a request to waive the minimum lot width and frontage requirements for one lot and approve the final plat for creation of a two-lot subdivision known as "Happy Together Plat" located at the northwest corner of N.W. 9<sup>th</sup> Street and N.W. 4<sup>th</sup> Avenue. (*Quasi-Judicial Hearing*) (Commissioner Eliopoulos declared a conflict of interest and left the dais. Motion to adopt Board Order as presented; Approved, 4-0)
- C. **SERVICE AUTHORIZATION NO. 07-05/KIMLEY-HORN AND ASSOCIATES, INC.:** Approve Service Authorization No. 07-05 in the amount of \$1,136,485.00 for the design of the Federal Highway Enhancements Project. Funding will be provided by Community Redevelopment Agency and 334-3162-541-68.52 (General Construction Fund/Other Improvement/Federal Highway Beautification). (Approved, 5-0)
- D. **APPOINTMENTS TO THE KIDS AND COPS COMMITTEE:** Appoint three (3) At Large Representatives and one (1) Citizen At Large Representative to the Kids and Cops Committee to serve two (2) year terms ending July 31, 2011. Based upon the rotation system, the appointments will be made by Commissioner Gray (Seat #4), Mayor McDuffie (Seat #5), Commissioner Eliopoulos (Seat #1) and Commissioner Fetzer (Seat #2). (Appointed Jennifer Buce and approved, 5-0; appointed Cory Cassidy and approved, 5-0; appointed Officer Francis Moschette and approved, 5-0 and appointed Phyllis Willingham and approved, 5-0)
- E. **RESOLUTION NO. 61-09:** Consider approval of Resolution No. 61-09 in order to show the City's support for saving the Tri-Rail. (*Addendum*) (Approved, 5-0)
10. **PUBLIC HEARINGS:**
- A. **ORDINANCE NO. 58-09:** Consider a privately-initiated rezoning from AC (Automotive Commercial) to GC (General Commercial) for a 1.73 acre parcel of land located at 1900 North Federal Highway, formerly known as Motorsport of Delray. (*Quasi-Judicial Hearing*) (Approved, 5-0)

- B. **AMENDMENT TO THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) ANNUAL ACTION PLAN (FY 2007 - 2008):** Consider approval to amend the CDBG Annual Action Plan (FY 2007-2008) to include \$70,000.00 toward funding Public Facilities and Improvements located within the CDBG target areas. Funding is available from 118-1963—554-49.19 (Neighborhood Services/Other Current Charges/Housing Rehabilitation). (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. 59-09:** Consider a CRA-initiated ordinance modifying the Community Redevelopment Plan; finding that the modifications conform to the Community Redevelopment Act of 1969, as amended; finding that the modifications are consistent with the City's Comprehensive Plan, and making further findings pursuant to applicable requirements of Florida Statute 163.360. If passed, a public hearing will be held on December 1, 2009. (Approved, 5-0)
- B. **ORDINANCE NO. 60-09:** Consider a city-initiated amendment to the Land Development Regulations that will create the Chatelaine Local Government Neighborhood Improvement District. If passed a public hearing will be held on December 1, 2009. (Approved, 5-0)

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

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

POSTED: NOVEMBER 13, 2009

***\*\*\*\*\* Meeting adjourned at 8:06 p.m. \*\*\*\*\****