

# City of Delray Beach

## Regular Commission Meeting

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



### **RULES FOR PUBLIC PARTICIPATION**

Tuesday, April 7, 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 Item 8.C., Florida Division of Emergency Management Agreement Modification/Old School Square Window Replacement, was moved to the Regular Agenda as Item 9.A.A.; Item 8.J., Lease Agreement/School Board of Palm Beach County/Hilltopper Stadium, was moved to the Regular Agenda as Item 9.A.A.A.; Item 8.O.2, Bid Award/All Phase Roofing, Inc., was moved to the Regular Agenda as Item 9.A.A.A.A. Approved as amended, 5-0)
5. **APPROVAL OF MINUTES:**
  - A. March 12, 2009 – Special/Workshop Meeting (Approved, 5-0)
  - B. March 17, 2009 – Regular Meeting (Approved, 5-0)
  - C. March 23, 2009 – Special Meeting (Approved, 5-0)
  - D. March 26, 2009 – Annual Organizational Meeting (Approved, 5-0)
6. **PROCLAMATIONS:**
  - A. Recognizing and Commending **Atlantic High School Girls Basketball Team**
  - B. Fair Housing America Month – April 2009
  - C. National Public Safety Telecommunicators Week – April 12-18, 2009
7. **PRESENTATIONS:**
  - A. Special Recognition Award – Thomas Lynch
  - B. Matchpoint Presentation – Mark Baron
8. **CONSENT AGENDA:** City Manager Recommends Approval. (Approved as amended, 5-0)
  - A. **ACCEPTANCE OF EASEMENT DEED AND SIDEWALK DEFERRAL/1001 HARBOR DRIVE:** Approve and accept an easement deed to accommodate a future location for a deferred sidewalk and approve a request to defer the installation of a sidewalk along 1001 Harbor Drive.
  - B. **REQUEST FOR SIDEWALK DEFERRAL/LAMAT AVENUE:** Approve a request to defer the installation of a sidewalk along LaMat Avenue.
  - C. **(MOVED TO ITEM 9.A.A. ON THE REGULAR AGENDA)**

- D. **INTERLOCAL AGREEMENT/COMMUNITY REDEVELOPMENT AGENCY (CRA)/FUNDING THE FORECLOSURE PROGRAM:** Approve an Interlocal Agreement between the City and Community Redevelopment Agency (CRA) for Funding the Foreclosure Program in Partnership with the City's Neighborhood Stabilization Program.
- E. **GRANT APPLICATION/EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) FOR FY 2009:** Approve a grant application for the Edward Byrne Memorial Justice Assistance Grant (JAG) in the amount of \$289,582.00 which will provide funding for the Police Department's Holiday Robbery Task Force, vehicle purchases and repair/reconfiguration of a driving simulator.
- F. **GRANT APPLICATION/DEPARTMENT OF JUSTICE/COPS HIRING RECOVERY PROGRAM (CHRP):** Approve a grant application to the Department of Justice for the COPS Hiring Recovery Program in the amount of \$1,360,164.00 which will provide funding for six (6) sworn police officer positions for three (3) years.
- G. **GRANT APPLICATION/FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT)/AGGRESSIVE DRIVING:** Provide authorization for submission of a grant application to the Florida Department of Transportation (FDOT) in the amount of \$73,097.00 for implementation of an aggressive driving/speed enforcement program.
- H. **D.U.I. GRANT APPLICATION/FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT):** Provide authorization for staff to submit a grant application to the Florida Department of Transportation in the amount of \$88,822.00 for implementation of a Driving Under the Influence (D.U.I.) Enforcement program. The grant covers 50% of the salary for the DUI Enforcement Officer. Funding is available from 001-2115-521-12.10 (General Fund/Regular Salaries/Wages).
- I. **PURCHASE AWARD/AHURA SCIENTIFIC, INC.:** Authorize a purchase award in the amount of \$69,874.05 to Ahura Scientific, Inc. for two materials monitors under the State Homeland Security Grant Program with pricing from GSA Contract No. GS-07F-6099R subject to approval of terms and conditions by the City Attorney's Office. Funding is available from 001-2315-526-64.90 (General Fund/Other Machinery/Equipment) and 001-2315-526-46.20 (General Fund/Equipment Maintenance).
- J. **(MOVED TO ITEM 9.A.A.A. ON THE REGULAR AGENDA)**
- K. **FEDERAL GRANT REQUEST/NATIONAL OCEANIC & ATMOSPHERIC ADMINISTRATION (NOAA):** Provide authorization for submittal of a federal grant request in the amount of \$687,147.00 to NOAA to fund coastal dune habitat restoration of the City's three mile coastal pioneer and strand/scrub zone and repair and restoration of the maritime hammock ecosystem in the five acre Atlantic Dunes Park.

L. **FEDERAL GRANT/PALM BEACH COUNTY CRIMINAL JUSTICE COMMISSION/BRYNE/JAG:** Provide after the fact approval for submission of a Letter of Inquiry in the amount of \$100,000.00 to the Palm Beach County Criminal Justice Commission for Delray Beach Coalition of Community Renewal/Weed and Seed initiatives.

M. **SPECIAL EVENT REQUEST/ART AND JAZZ ON THE AVENUE/BED RACE:** Approve a special event request for the Art and Jazz on the Avenue and the Bed Race to be held on May 7, 2009, 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. 7<sup>th</sup> Avenue, to the alleys north and south of Atlantic on N.E./S.E. 1<sup>st</sup> Avenue, N.E./S.E. 2<sup>nd</sup> Avenue, S.E. 3<sup>rd</sup> Avenue, N.E./S.E. 4<sup>th</sup> Avenue, and N.E. 2<sup>nd</sup> Avenue from N.E. 2<sup>nd</sup> Street to N.E. 3<sup>rd</sup> Street and to authorize stage rental and staff support for security and traffic control, EMS assistance, banner hanging and removal, barricade set up and removal, trash removal and clean up; contingent upon receipt of a hold harmless agreement.

N. **REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:** Accept the actions and decisions made by the Land Development Boards for the period March 16, 2009 through April 3, 2009.

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

1. Bid award to Intercounty Engineering, Inc. in the amount of \$518,099.00 for construction of the Area 11A Reclaimed Water System Contract 2. Funding is available from 441-5181-536-65.96 (Water & Sewer Fund/Other Improvements/Reclaimed Water Transmission).
2. **(MOVED TO ITEM 9.A.A.A. ON THE REGULAR AGENDA).**
3. Purchase award to Duval Ford in the amount of \$24,543.00 for the replacement of one (1) 2009 Ford Crown Victoria Police Interceptor with options. Funding is available from 501-3312-591-64.20 (Garage Fund/Machinery/Equipment/Automotive).

9. **REGULAR AGENDA:**

A.A. **FLORIDA DIVISION OF EMERGENCY MANAGEMENT AGREEMENT MODIFICATION/OLD SCHOOL SQUARE WINDOW REPLACEMENT:** Approve and authorize the Mayor to execute a modification to the agreement with the Florida Division of Emergency Management for the installation of 227 impact resistant glass windows at Old School Square. (Approved, 5-0)

A.A.A. **LEASE AGREEMENT/SCHOOL BOARD OF PALM BEACH COUNTY/HILLTOPPER STADIUM:** Approve a Lease Agreement with the School Board of Palm Beach County for use of the Hilltopper Stadium. (Approved, 5-0)

A.A.A.A. Bid award to All Phase Roofing, Inc. in the amount of \$21,010.00 for the partial re-roofing of Fire Rescue Station No. 5. Funding is available from 001-2311-522-46.10 (General Fund/Repair & Maint. Services/Building Maintenance). (Approved, 5-0)

A. **APPEAL/SITE PLAN REVIEW AND APPEARANCE BOARD ACTIONS/ATLANTIC PLAZA II:** Consideration of an appeal regarding the Site Plan Review and Appearance Board's decisions regarding the Atlantic Plaza II development. (*Quasi-Judicial Hearing*) (Motion to adopt Board Order as presented; Approved, 5-0)

1. **WAIVER REQUESTS/ATLANTIC PLAZA II:** Consider eight (8) waiver requests in conjunction with the Atlantic Plaza II project located on the north side of East Atlantic Avenue, between N.E. 6<sup>th</sup> Avenue and Veteran's Park. (*Quasi-Judicial Hearing*) (Motion to adopt Board Order as presented; Approved, 5-0)

B. **REQUEST FOR IN-LIEU PARKING SPACES/LINDA BEAN'S PERFECT MAINE ROLL:** Consider a request from Linda Bean's Perfect Maine Roll for the purchase of four (4) in-lieu parking spaces in the amount of \$62,400.00 to accommodate a conversion of use from retail to restaurant. Linda Bean's Perfect Maine Roll is located at 200 East Atlantic Avenue. (*Quasi-Judicial Hearing*) (Motion to adopt Board order as presented; Approved, 5-0)

C. **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. (Motion to approve; Approved, 4-1. Commissioner Bernard dissenting)

D. **CHANGE ORDER NO. 1/ROSSO PAVING & DRAINAGE, INC./HOMWOOD BOULEVARD BICYCLE LANES ROAD WIDENING:** Consider approval of Change Order No. 1 in the amount of a \$29,885.80 to Rosso Paving and Drainage, Inc. for adjusting the centerline of Homewood Boulevard for the Homewood Boulevard Bicycle Lanes Road Widening. Funding is available from 334-3162-541-68.46 (General Construction Fund/Other Improvement/Homewood Blvd Bikepaths). (Motion to approve; Approved, 4-1. Commissioner Eliopoulos dissenting)

E. **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 Commissioner Eliopoulos (Seat #1) (Appointed Gerald Franciosa and approved 5-0)

- F. **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 Commissioner Eliopoulos (Seat #1). (Appointed Shelly Weil and approved 5-0)
- G. **APPOINTMENT TO THE HISTORIC PRESERVATION BOARD:** Appoint one (1) regular member to the Historic Preservation Board to serve an unexpired term ending August 31, 2010. Based upon the rotation system, the appointment will be made by Commissioner Eliopoulos (Seat #1). (Appointed Jason Feldman and approved 5-0)
- H. **APPOINTMENT TO THE NUISANCE ABATEMENT BOARD:** Appoint one (1) alternate member to the Nuisance Abatement Board for a two (2) year term ending July 31, 2011. Based upon the rotation system, the appointment will be made by Commissioner Eliopoulos (Seat #1). (Appointed Linda Laurance Leib and approved 5-0)
- I. **APPOINTMENT TO THE CIVIL SERVICE BOARD:** Appoint one (1) regular member to the Civil Service Board for a two (2) year term ending April 1, 2011. Based upon the rotation system, the appointment will be made by Commissioner Eliopoulos (Seat #1). (Appointed Eric Luckman and approved 5-0)

10. **PUBLIC HEARINGS:**

- A. **ORDINANCE NO. 13-09 (SECOND READING/SECOND 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. (Approved, 5-0)
- B. **ORDINANCE NO. 18-09 (FIRST READING/FIRST PUBLIC HEARING):** Consider an ordinance amending the Land Development Regulations (LDR) of the Code of Ordinances, by amending Section 4.4.29, "Mixed Residential, Office and Commercial (MROC) District", Subsection 4.4.29(E), "Conditional Uses and Structures Allowed", to allow educational facilities, training centers and vocational schools as a conditional use within this zoning district; and amending Subsection 4.4.29(H) to specify parking requirements for educational facilities, training centers and vocational schools within the MROC Zoning District. If passed, a second public hearing will be held on April 21, 2009. (Approved, 5-0)
- C. **WAIVER OF BIDDING REQUIREMENTS/PIPE LINING OF THE 16" INTRACOASTAL CROSSING:** Consider approval of waiving the requirements of Chapter 36, "Bidding Requirements and Procedures", for the pipe lining of the 16" Intracoastal Crossing. (Motion to adopt Board Order as presented, Approved, 5-0)

1. **CONTRACT AWARD/ INSITUFORM TECHNOLOGIES, INC.:**  
Consider approval of a contract award in the amount of \$164,303.00 for lining the abandoned 16” force main under the Intracoastal Waterway and a waiver of the City bonding requirement. The pipe will be used as a reclaimed water transmission main to the barrier island as part of the Area 11A Reclaimed Water System. Funding is available from 441-5181-536-65.96 (Water and Sewer Fund/Other Improvements/Reclaimed Water Transmission). *(Motion to approve Contract Award; Denied, 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. 11-09:** Consider an ordinance rezoning and placing land presently zoned POC (Planned Office Center) District in part, MH (Mobile Home) District in part, and R-1-A (Single Family Residential) District in part, to PC (Planned Commercial) District; said land being located on the west side of South Federal Highway, approximately 320 feet south of S.E. 10th Street and north of the Plaza at Delray, as more particularly described herein; amending "Zoning Map of Delray Beach, Florida, April 2007. If passed, a public hearing will be held on April 21, 2009. *(Approved, 5-0)*
- B. **ORDINANCE NO. 19-09:** Consider a City-initiated amendment to Land Development Regulations (LDR) Article 8.2, “The Downtown Development Authority”, to address the 2003 revisions to the “Delray Beach Downtown Development Authority Act” (HB 299); and to modify the DDA boundary description (Appendix B) and map to include the expanded DDA area between Swinton Avenue and I-95. If passed, a public hearing will be held on April 21, 2009. *(Approved, 5-0)*

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

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

POSTED: APRIL 3, 2009

***\*\*\*\*\* Meeting adjourned at 10:04 p.m. \*\*\*\*\****