

City of Delray Beach

Regular Commission Meeting

*****AGENDA RESULTS*****



RULES FOR PUBLIC PARTICIPATION

Tuesday, September 21, 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 8.C., Interlocal Agreement and Multiparty Agreement: Community Redevelopment Agency/School Board of Palm Beach County, was moved to the Regular Agenda as Item 9.A.A; Item 8. L., Review of Appealable Land Development Board Actions, Historic Preservation Board (HPB) Item #2, was moved to the Regular Agenda as Item 9.A.A.A.; Applicant requested Item 9.B., Appeal of the Site Plan Review and Appearance Board's Decision/New Century Courtyards, be postponed to the October 5, 2010 Regular Meeting; Applicant requested Item 9.D., Request to Install a Nativity Crèche at Christmas Tree Site, be postponed to the October 5, 2010 Regular Meeting; Additional information is on the dais for Item 9.H., Amendment No. 3 to the Agreement/Pompey Park Booster Club; Applicant requested Item 10.B., Ordinance No. 24-10, be **WITHDRAWN**; Staff requested Item 10.G., Ordinance No. 23-10 (Second Reading/Second Public Hearing), be postponed to the October 5, 2010 Regular Meeting. Approved as amended, 5-0)
5. **APPROVAL OF MINUTES:**
 - A. August 10, 2010 – Special/Workshop Meeting (Approved, 5-0)
 - B. August 24, 2010 – Special/Workshop Meeting (Approved, 5-0)
 - C. August 31, 2010 – Workshop Meeting (Approved, 5-0)
 - D. September 7, 2010 – Regular Meeting (Approved, 5-0)
6. **PROCLAMATIONS:**
 - A. Lights on Afterschool Day – October 21, 2010
7. **PRESENTATIONS:**
 - A. **RESOLUTION NO. 43-10:** Approve Resolution No. 43-10 recognizing and commending Milton Willingham for 30 years of dedicated service to the City of Delray Beach. (Approved, 5-0)
8. **CONSENT AGENDA:** City Manager Recommends Approval. (Approved as amended, 5-0)
 - A. **HOLD HARMLESS AGREEMENT/TOTTERDALE INDUSTRIAL:** Approve acceptance of a Hold Harmless Agreement for Totterdale Industrial, located at 101 N.W. 18th Avenue.
 - B. **RESOLUTION NO. 52-10: ABANDONMENT OF A DRAINAGE EASEMENT/THE HARTMAN HOUSE:** Approve Resolution No. 52-10 abandoning a 10' x 32' drainage easement located in the northwest corner of the The Hartman House property at 302 N.E. 7th Avenue.

- C. **(MOVED TO ITEM 9.A.A. ON THE REGULAR AGENDA)**
- D. **HOUSING REHABILITATION GRANT/CONTRACT AWARDS:** Approve two (2) Housing Rehabilitation Grant contract awards through the Community Development Division to the lowest responsive bidders for the following projects: 814 S.W. 4th Avenue to Built Solid Construction, LLC in amount of \$32,087.45 and 613 S.W. 6th Street to Ray Graeve & Sons Construction, Inc. in the amount of \$32,066.86. Funding is available from 118-1963-554-49.19 (Neighborhood Services: Other Current Charges/Housing Rehabilitation).
- E. **AMENDED AND RESTATED AGREEMENTS/NEIGHBORHOOD STABILIZATION PROGRAM (NSP) PLAN/FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS:** Approve Amended and Restated Agreements with the Delray Beach Community Land Trust, Delray Beach Community Development Corporation and Delray Beach Housing Authority for Rental and Homebuyer Disposition Services for the Neighborhood Stabilization Program in regards to RFQ 12-2010 NS.
- F. **SPECIAL EVENT REQUEST/MAD DOG VOLLEYBALL TOURNAMENT/EXCLUSIVE SPORTS MARKETING EVENT:** Approve a request from Exclusive Sports Marketing Event to hold the Mad Dog Volleyball Tournament on the beach adjacent to Anchor Park on Saturday, September 25-26, 2010 from 9:00 a.m. - 5:00 p.m.; with setup on Friday, September 24, 2010, between the 9:00 a.m. -3:00 p.m.
- G. **THE PLASTRIDGE AGENCY, INC./RENEWAL OF PROPERTY AND CASUALTY INSURANCE:** Approve a proposed a renewal of the City major property and casualty, including workers' compensation, insurance programs for the period October 1, 2010 thru September 30, 2011. Funding is available from 551-1575-591-45.11(Insurance Fund/Insurance/General Liability Premiums), 551-1575-591-45.31 (Insurance Fund/Insurance/Package Policy Premium), and 551-1575-591-4532 (Insurance Fund/Insurance/Package Policy Premiums, Excess Workers' Comp Premium).
- H. **CONSULTING AGREEMENT RENEWAL/GALLAGHER BENEFIT SERVICES, INC.:** Approve a Consulting Agreement renewal with Gallagher Benefit Services, Inc. in the amount of \$110,000.00 for employee benefits management consulting services. Funding is available from 551-1576-591-31.90 (Insurance Fund: Professional Services/Other Professional Services).
- I. **INTERLOCAL AGREEMENT: COMMUNITY REDEVELOPMENT AGENCY, SPONSORSHIP OF TENNIS TOURNAMENTS:** Approve an Interlocal Agreement with the Community Redevelopment Agency (CRA) for sponsorship of City tennis tournaments for FY 2010-2011.

- J. **SPECIAL EVENT REQUEST/13th ANNUAL BED RACE:** Approve a special event request for the 13th Annual Bed Race to be held on October 29, 2010, from 5:00 p.m. to 7:30 p.m., to grant a temporary use permit per LDR Section 2.4.6(F) for the closure of N.E. 2nd Avenue between N.E. 1st Street and N.E. 2nd Street, and to authorize staff support for traffic control and security, EMS assistance, trash removal and clean up, barricading, use and set up of half of the small stage, and preparation and installation of event signage; contingent upon receipt of a hold harmless agreement.
- K. **SPECIAL EVENT REQUEST/24th ANNUAL TURKEY TROT:** Approve a special event request to allow the 24th Annual Turkey Trot to be held on Saturday, November 20, 2010 from 7:30 a.m. until approximately 9:00 a.m., including a temporary use permit per LDR Section 2.4.6(F) for the closure and use of A-1-A from Casuarina to George Bush Boulevard from 5:00 a.m. to approximately 10:00 a.m., and authorize staff support for traffic control, barricading, clean up, use of half of small stage, event signage and waiver of parking meter fees for Sandoway, Ingraham, and Anchor Park and along Atlantic Avenue from Venetian to A-1-A from 6:00 a.m. until approximately 10:00 a.m.
- L. **(MOVED TO ITEM 9.A.A.A. ON THE REGULAR AGENDA)**
- M. **AWARD OF BIDS AND CONTRACTS:**
1. Bid award to multiple vendors in the estimated annual amount of \$210,000.00 for the purchase of chemicals and fertilizers for the City on an “as needed basis”. Funding is available from 001-4511-539-52.21 (General Fund: Operating Supplies/Chemicals), 001-4511-539-52.26 (General Fund: Operating Supplies/Gardening Supplies), 119-4144-572-52.21 (Beautification Trust Fund: Operating Supplies/Chemicals), 445-4714-572-52.26 (D B Municipal Golf Course: Operating Supplies/Gardening Supplies) and 446-4714-572-52.26 (Lakeview Golf Course: Operating Supplies/Gardening Supplies).
 2. Contract award to Mancil’s Tractor Service in the amount of \$20,755.86 for the construction of S.E. 2nd Avenue Sidewalk Improvement Project. Funding is available from 334-3162-541-62.52 (General Construction Fund: Capital Outlay/S.E. 2nd Avenue).
 3. Purchase award to Otto Waste Systems in the amount of \$60,000.00 for the purchase of hot stamped garbage carts with lids and wheels to be ordered as needed. Funding is available from 433-3711-534-49.35 (Sanitation Fund/Cart Renewal and Replacement).
 4. Purchase award to TriTech Emergency Medical Systems, Inc. in the amount of \$31,456.00 plus travel expenses for Emergency Medical Billing Software to restore in-house Emergency Medical billing by the Fire-Rescue Department. Funding is available from 334-2311-522-66.10 (General Construction Fund: Books/Publications/Software).

9. **REGULAR AGENDA:**

- AA. **INTERLOCAL AGREEMENT AND MULTIPARTY AGREEMENT: COMMUNITY REDEVELOPMENT AGENCY/ SCHOOL BOARD OF PALM BEACH COUNTY:** Approve an Interlocal Agreement and Multiparty Agreement between the City, Community Redevelopment Agency and the School Board of Palm Beach County for the Eagle Nest Program Project #2 associated with the Atlantic Community High School (ACHS) Career Academy. (Commissioner Eliopoulos filed a Conflict of Interest and left the dais. Motion to approve; Approved, 4-0)
- AAA. **REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:** Accept the actions and decisions made by the Land Development Boards for the period September 6, 2010 through September 17, 2010. (Commissioner Eliopoulos filed a Conflict of Interest for the Historic Preservation Board Item #2 and left the dais. Motion to approve; Approved, 4-0)
- A. **TEMPORARY USE PERMIT AND WAIVER REQUEST/DELRAY BEACH MARRIOTT:** Consider a request for a temporary use permit and waiver request to locate a temporary pre-fabricated modular kitchen on upper level of the parking garage associated with Delray Beach Marriott located at 10 North Ocean Boulevard. (*Quasi-Judicial Hearing*) (Commissioner Eliopoulos filed a Conflict of Interest and left the dais. First Motion to adopt board order as presented, Approved, 4-0. Second Motion to approve temporary use permit; Approved, 4-0)
- B. **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 regarding 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 requested this item be postponed to the October 5, 2010 Regular Meeting.*) (**POSTPONED**)
- C. **SERVICE AUTHORIZATION NO. 07-04 /MOCK, ROOS & ASSOCIATES:** Approve Service Authorization No. 07-04 with Mock, Roos & Associates in the amount of \$64,030.00 for the design of the N.W. 12th Avenue-Atlantic Avenue to Martin Luther King Jr. Drive project. Funding is available from 334-3162-541-68.60 (General Construction Fund: Other Improvement/N.W. 12th Avenue-Atlantic to MLK) and 448-5461-538.68-60 (Storm Water Utility Fund: Other Improvement/N.W. 12th Avenue-Atlantic to MLK). (Motion to approve; Approved, 5-0)
- D. **REQUEST TO INSTALL A NATIVITY CRÈCHE AT CHRISTMAS TREE SITE:** Consider a request to install a Nativity Crèche in the vicinity of the Christmas tree at Old School Square. (**POSTPONED**)
- E. **APPOINTMENT TO THE NUISANCE ABATEMENT BOARD:** Appoint one (1) alternate member to serve on the Nuisance Abatement Board for an unexpired term ending July 31, 2011. Based upon the rotation system, the appointment will be made by Commissioner Gray (Seat # 4). (Appointed Patricia Conlon and approved, 5-0)

- F. **APPOINTMENT TO THE FINANCIAL REVIEW BOARD:** Appoint one (1) alternate member to the Financial Review Board to serve an unexpired term ending July 31, 2011. Based on the rotation system, the appointments will be made by Commissioner Fetzner (Seat #2). (Appointed Harvey Starin and approved, 5-0)
- G. **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). (Commissioner Frankel's appointment was **DEFERRED** to the October 5, 2010 Regular Commission Meeting)
- H. **AMENDMENT NO. 3 TO THE AGREEMENT/POMPEY PARK BOOSTER CLUB:** Consider Amendment No. 3 to the Agreement with the Pompey Park Booster Club to extend the term of the agreement to September 30, 2011. (Motion to approve Amendment No. 3 to the Agreement with Pompey Park Booster Club; **DENIED**, 5-0)
10. **PUBLIC HEARINGS:**
- A. **ORDINANCE NO. 27-10:** Consider a city initiated amendment to Appendix "A", "Definitions" of the Land Development Regulations (LDR) to revise the definition of "Pharmacy". (Motion to approve; Approved, 5-0)
- B. **ORDINANCE NO. 24-10:** Consider a privately initiated rezoning from AC (Automotive Commercial) and RM (Multiple Family Residential - Medium Density) to GC (General Commercial) and OS (Open Space) for property located at the northeast corner of Federal Highway and Fladell's Way (2501 South Federal Highway). (*Quasi-Judicial Hearing*) (*The applicant has withdrawn this item*) (**WITHDRAWN by applicant**)
- C. **RESOLUTION NO. 53-10 (FINAL MILLAGE LEVY):** A resolution levying a tax on all properties within the City of Delray Beach for operation and maintenance and for payment of principal and interest on bonded indebtedness for FY 2011. (Motion to approve; Approved, 5-0)
- D. **RESOLUTION NO. 54-10 (MILLAGE LEVY/DDA):** A resolution levying a tax on all properties within the Downtown Development Authority Taxing District of the City of Delray Beach for FY 2011. (Motion to approve; Approved, 5-0)
- E. **RESOLUTION NO. 55-10 (BUDGET ADOPTION FOR FY 2011):** A resolution making appropriations of sums of money for all necessary expenditures of the City of Delray Beach for the period October 1, 2010 through September 30, 2011. (Approved, 5-0)

1. **APPROVAL OF FIVE YEAR CAPITAL IMPROVEMENT PLAN:**
Accept the Planning and Zoning Board's finding that the proposed Five Year Capital Improvement Plan and FY 2010-11 through FY 2014-15 Capital Improvement Budget are consistent with the Comprehensive Plan, and approve same. (Approved, 5-0)
- F. **ORDINANCE NO. 32-10:** An ordinance amending Chapter 51, "Garbage and Trash", of the City Code of Ordinances by amending Section 51.70, "Regular Charges Levied", to provide for decreased residential and modified commercial collection service rates for FY 2011. (Approved, 5-0)
- G. **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". *(Staff requested this item be postponed to the October 5, 2010 Regular Meeting to comply with public hearing advertising requirements).* (POSTPONED)
- H. **ORDINANCE NO. 29-10:** Consider an ordinance amending Chapter 110, "Local Business Taxes Generally", of the Code of Ordinances by amending Section 110.15, "Local Business Tax Schedule", in order to include "Pharmacies" among the categories of businesses requiring a Local Business Tax Receipt. (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. 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. If passed, a public hearing will be held on October 5, 2010. (Approved, 5-0)

- B. **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. If passed, a public hearing will be held on October 5, 2010. (Approved, 5-0)

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

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

POSTED: SEPTEMBER 17, 2010

******* Meeting adjourned at 7:34 p.m. *******