

City of Delray Beach

Regular Commission Meeting

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



RULES FOR PUBLIC PARTICIPATION

Monday, November 03, 2008

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 Ellis noted Board Order is on the dais for Item 9.B., Waiver Request/Marriot Hotel; Item 9.F., Appeal/Site Plan Review and Appearance Board/Boston's Restaurant, was requested to be postponed; Item 10.B., Development Agreement/Vista Del Mar, L.L.C., was requested to be postponed; Item 8.L.B, Review of Appealable Land Development Board Actions/SPRAB Item Marriott Residence Inn, was moved to the Regular Agenda as Item 9.A.A.A.; Item 9.E., Appointment to the Neighborhood Advisory Council, was tabled; Additional information on the dais for Item 9.G., Request/Green Market Relocation; Item 8.I., Initiation of Comprehensive Plan Amendment 2009-1, was moved to the Regular Agenda as Item 9.A.A.; Item 8.M.1. Contract Award to West Construction, was moved to the Regular Agenda as Item 9.A.A.A.A., Approved as amended, 5-0).
5. **APPROVAL OF MINUTES:**
 - A. October 21, 2008 – Regular Meeting (Approved, 5-0)
6. **PROCLAMATIONS:**
 - A. NONE
7. **PRESENTATIONS:**
 - A. Junior Tennis Tournament – Ivan Baron
 - B. Carolyn Gholston – Multi-Cultural Festival
8. **CONSENT AGENDA:** City Manager Recommends Approval. (Approved as amended, 5-0)
 - A. **FINAL PLAT APPROVAL/REGIONS BANK:** Approve a final plat for Regions Bank, located at 555 S.E. 9th Street.
 - B. **RESOLUTION NO. 54-08 (TAX EXEMPTION REQUEST FOR ELIGIBLE IMPROVEMENTS/1104 NASSAU STREET):** Approve a tax exemption request for eligible improvements to the property located at 1104 Nassau Street within the Nassau Park Historic District; and approve Resolution No. 54-08.
 - C. **ACCEPTANCE OF RIGHT-OF-WAY DEDICATION/COMMUNITY REDEVELOPMENT AGENCY (CRA)/S.W. 14th AVENUE PROPERTIES:** Approve and accept a right-of-way deed between the City and the Community Redevelopment Agency (CRA) for dedication of additional right-of-way for the alley parallel to and on the west side of S.W. 14th Avenue between S.W. 1st and 2nd Streets.

- D. **CONTRACT CLOSEOUT (C.O. NO. 2/FINAL)/TOTAL QUALITY CONSTRUCTION SERVICES, INC.:** Approve a Contract Closeout (Change Order No. 2/Final) in the amount of \$2,842.24 and final payment in the amount of \$24,006.05 to Total Quality Construction Services, Inc. for the completion of the Delray Swim and Tennis Center West Parking Lot Project. Funding is available from 117-4133-572-65.57 (Recreation Impact Fee FD/Capital Outlay/Swim & Tennis Parking Lot).
- E. **CONTRACT CLOSEOUT/FINAL PAYMENT/McCABE BROTHERS CONSTRUCTION, INC.:** Approve a Contract Closeout and final payment in the amount of \$3,401.56 to McCabe Brothers Construction, Inc. for completion of the Police Briefing Room and Report Room Renovation Project. Funding is available from 334-2111-521-46.10 (General Construction Fund/Building Maintenance).
- F. **AMENDMENT NO. 1 TO THE INTERLOCAL AGREEMENT/PALM BEACH COUNTY/LINTON BOULEVARD BRIDGE TENDER HOUSE:** Approve Amendment No. 1 to the Interlocal Agreement between the City and Palm Beach County extending the completion time for the façade renovations to the Linton Boulevard Bridge Tender House.
- G. **FIRST AMENDMENT TO INTERLOCAL AGREEMENT/PALM BEACH COUNTY SHERIFF'S OFFICE:** Approve the First Amendment to the Interlocal Agreement between the City and the Palm Beach County Sheriff's Office for Urban Area Security Initiative (UASI) Grant Program extending the contract period to June 30, 2009.
- H. **AMENDMENT NO. 1 TO THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG)/TED CENTER AGREEMENT:** Approve Amendment No. 1 to the Community Development Block Grant (CDBG) Agreement between the City, the Delray Beach Community Redevelopment Agency (CRA) and The Center for Technology, Enterprise and Development, Inc. (TED Center) extending the contract period to September 30, 2009. Funding is available from 118-1966-554-83.01 (Community Development Fund/Other Grants and Aids).
- I. **(MOVED TO ITEM 9.A.A. ON THE REGULAR AGENDA)**
- J. **RESOLUTION NO. 57-08:** Approve and adopt Resolution No. 57-08 supporting an amendment to Florida's Constitution to require the Florida Legislature to operate under the Florida Sunshine Laws.
- K. **SPECIAL EVENT REQUEST/FIRST NIGHT 2009:** Approve a special event request to endorse the 11th Annual First Night 2009 event on December 31, 2008 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.
- L. **(MOVED TO ITEM 9.A.A.A. ON THE REGULAR AGENDA)**

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

1. **(MOVED TO ITEM 9.A.A.A. ON THE REGULAR AGENDA)**
2. Purchase award to Praxair, Inc. in an estimated cost of \$100,000.00 for the purchase and delivery of Liquid Carbon Dioxide (CO2) for the Water Treatment Plant from October 2008 through September 30, 2009. Funding is available from 441-5122-536-52.21 (Water/Sewer Fund/Chemicals).
3. Purchase award to PVS Technologies, Inc. in the amount of \$200,000.00 for the purchase and delivery of liquid and dry Ferric Chloride for the Water Treatment Plant as needed for the period of November 2008 through September 30, 2009. Funding is available from 441-5122-536-52.21 (Water/Sewer Fund/Chemicals).
4. 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).
5. Contract award to Air Duct Aseptics in the amount of \$29,600.00 for mold remediation services at the Police Department. Funding is available from 334-6112-521-46.10 (General Construction Fund/Repair & Maintenance Services/Building Maintenance).

9. **REGULAR AGENDA:**

A.A. **INITIATION OF COMPREHENSIVE PLAN AMENDMENT 2009-1:**
Formally initiate Comprehensive Plan Amendment 2009-1 pursuant to Section 9.2.1 of the Land Development Regulations. (Motion to approve; Approved, 5-0)

A.A.A. **REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:**
Accept the actions and decisions made by the Land Development Boards for the period October 20, 2008 through October 31, 2008. (Commissioner Eliopoulos filed a Conflict of Interest and left the dais for Site Plan Review and Appearance Board (SPRAB) Item B. Motion to approve item as declared by Commissioner Eliopoulos; Approved, 4-0. Motion to receive and file rest of report; Approved, 4-0)

A.A.A.A. Contract award to West Construction, Inc. in the amount of \$5,436,917.00 for the Miller Park Improvements Project. Funding is available from 334-4173-572-63.90 (General Construction Fund/Other Improvements). (Motion to approve; Approved, 5-0)

A. **WAIVER REQUEST/321 N.W. 1st AVENUE:** Consider a waiver request to Land Development Regulations (LDR) Section 4.6.9(C)(2)(a), to permit two (2) parking spaces within the required front setback line, for the property located at 321 N.W. 1st Avenue. (*Quasi-Judicial Hearing*) (Motion to adopt Board Order as presented; Approved, 5-0)

- B. **WAIVER REQUEST/MARRIOTT HOTEL:** Consider three (3) waiver requests to Land Development Regulations (LDR) Sections 4.4.13(F)(1)(a), “Height”, 4.6.14(A)(1) and 4.6.14(A)(2), “Visibility at Intersections”, associated with the Class IV site plan modification for the Delray Marriott Expansion, located at the northwest corner of State Road A-1-A and East Atlantic Avenue. **(Quasi-Judicial Hearing)** (Motion to adopt Board Order as presented; Approved, 5-0)
- C. **APPEAL OF HISTORIC PRESERVATION BOARD DECISION/610 NORTH OCEAN BOULEVARD:** Consider an appeal of the Historic Preservation Board’s denial of a Certificate of Appropriateness (COA) for an accessory structure (treehouse) located in front of 610 North Ocean Boulevard, Fontaine Fox Historic Site. **(Quasi-Judicial Hearing)** (Motion to adopt Board Order as presented; Approved, 5-0).
- D. **REJECTION OF BIDS REGARDING THE TOWING RFP AND AUTHORIZATION TO REBID:** Approve the rejection of all bids received for the wrecker/towing services RFP #2009-02 and authority to rebid the wrecker/towing RFP. (Motion to approve; Approved, 5-0)
- E. **APPOINTMENT TO THE NEIGHBORHOOD ADVISORY COUNCIL:** Appoint one (1) student member to the Neighborhood Advisory Council to serve a partial term ending July 31, 2009. Based upon the rotation system, the appointment will be made by Mayor Ellis (Seat #5). **(TABLED)**
- F. **APPEAL/SITE PLAN REVIEW AND APPEARANCE BOARD ACTIONS/BOSTON’S RESTAURANT:** Consideration of an appeal regarding the Site Plan Review and Appearance Board’s approval of a Class V Site Plan for a Hotel located at 64 S. Ocean Boulevard. **(BECAUSE OF THE COURT’S ORDER DATED JULY 11, 2006, THERE WILL BE NO PUBLIC COMMENT ON THIS ITEM)** (Commissioner Eliopoulos declared a Conflict of Interest. **POSTPONED** until December 2, 2008 Regular Commission Meeting)
- G. **REQUEST/GREEN MARKET RELOCATION:** Consider approval of a request from the Historic Delray Green Market to relocate to Old School Square surface lot (Block 76) for the remaining of this season which ends May 16, 2009. (Motion to approve; Approved, 5-0)
10. **PUBLIC HEARINGS:**
- A. **RESOLUTION NO. 50-08:** Approve Resolution No. 50-08 authorizing the indebtedness by the Delray Beach Community Redevelopment Agency (CRA) in an aggregate principal amount not to exceed \$500,000.00 to pay the cost of Brownfields cleanup activities and costs of issuance, and approve an Interlocal agreement with the South Florida Regional Planning Council. (Approved, 5-0)

- B. **DEVELOPMENT AGREEMENT/VISTA DEL MAR, L.L.C. (FIRST PUBLIC HEARING):** Consider a development agreement with Vista Del Mar, L.L.C. and associated Class V Site Plan for the property located at 64 South Ocean Boulevard. (Commissioner Eliopoulos declared a Conflict of Interest. **POSTPONED** until December 2, 2008 Regular Commission Meeting at 7:00 p.m.)
- C. **ORDINANCE NO. 51-08 (FIRST READING/FIRST PUBLIC HEARING):** An ordinance amending Land Development Regulations (LDR) Section 4.3.4, “Base District Development Standards”, Subsection (J), "Height", Paragraph (4), “Increases to Height Regulations”, Subparagraphs (b) (ii), (iii) and (iv), “Allowances”; to clarify the workforce housing requirements regarding height increases. If passed, a second public hearing will be scheduled for November 18, 2008. (Approved, 5-0)
- D. **ORDINANCE NO. 52-08 (FIRST READING/FIRST PUBLIC HEARING):** An ordinance amending the Land Development Regulations, Section 4.4.13, “Central Business (CBD) District”, Subsection (I), “ Performance Standards”; to provide additional options regarding Workforce Housing; Article 4.7, “Family/Workforce Housing”, Section 4.7, “Findings” Subsection (I), to provide regulations regarding increased height and density; Section 4.7.1, “Definitions”, to provide a definition of “Workforce Housing Trust Fund”; Section 4.7.2, “Applicability”, Paragraphs 4.7.2 B. and C. to provide additional options regarding workforce housing; Section 4.7.3, “Provision of Workforce Housing Units”, to allow workforce housing in additional locations; Section 4.7.4, “Density Bonus Program for the Southwest Neighborhood Overlay District, the Carver Estates Overlay District and the Infill Workforce Housing Area”, Paragraph E. to provide for contributions to the Delray Beach Workforce Housing Trust Fund; and Section 4.7.6, “Rental Housing Units”, to provide clarification regarding moderate income requirements. If passed, a second public hearing will be scheduled for November 18, 2008. (Approved, 5-0)
- E. **ORDINANCE NO. 41-08 (SECOND READING/SECOND PUBLIC HEARING):** City initiated amendment to the Land Development Regulations (LDR) Section 2.4.3, “Submission Requirements”, Subsection 2.4.3(B), “Standard Plan Items” and Subsection 2.4.3(M), “Credentials for Preparation of Certain Submission Items”; Amending Section 4.6.8, “Lighting”, to revise and clarify requirements for on-site lighting. (Approved, 5-0)
- F. **ORDINANCE NO. 48-08:** An ordinance amending Chapter 96, "Fire Safety and Emergency Services", Section 96.66, "Emergency Medical Transportation Fees", of the Code of Ordinances to adjust the fee schedule for emergency medical transportation in accordance with the National Ambulance Fee Schedule. (Approved, 5-0)
- G. **ORDINANCE NO. 49-08:** An ordinance amending Chapter 71, “Parking Regulations”, of the Code of Ordinances by amending Section 71.060, "Parking Meter Permits”, to provide for a change in fees charged for parking permits. (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. 50-08:** Consideration of a proposed ordinance by enacting a new Chapter 74, "Civil Traffic Enforcement", of the Code of Ordinances, by enacting new Sections 74.01 through 74.16, providing for "Intent", "Use of Image Capture Technologies", "Definitions", "Adherence to Red Light Traffic Control Signals", "Violation", "Review of Recorded Images", "Notice of Violation/ Infraction", "Vehicle Owner Responsibilities", "Appeal to Hearing Officer", "Vehicle Owner Affidavit of Non-responsibility", "Penalty", "Administrative Charges", "Collection of Fines", "Exceptions", "Appeal of Order", and "Enforcement", to provide for the use of a code enforcement mechanism for intersection safety. If passed, a public hearing will be scheduled for November 18, 2008. (Approved, 5-0)
- B. **ORDINANCE NO. 53-08:** Consideration of a proposed amendment to the Community Redevelopment Plan amending Section 3.11, "Required Findings", to provide for sponsorship of City tennis tournaments. If passed, a public hearing will be scheduled for November 18, 2008. (Approved, 5-0)

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

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

POSTED: OCTOBER 31, 2008

******* Meeting adjourned at 8:45 p.m. *******