

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.

Thursday, January 3, 2008

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.** (Commissioner Montague absent)
2. **INVOCATION.**
3. **PLEDGE OF ALLEGIANCE TO THE FLAG.**
4. **AGENDA APPROVAL.** (Mayor noted Item 12.A., Ordinance No. 03-08 was moved to Public Hearings as Item 10.D., First Reading/First Public Hearing; Item 12.D., Ordinance No. 04-08 was moved to Public Hearings as Item 10. E., First Reading/First Public Hearing; Item 8.B., Ratification of A Sidewalk Easement, Sidewalk Construction and Maintenance Agreement/Block 77 Development Group, was moved to the Regular Agenda as Item 9.A.A.; Item 8.A., Agreement/Langton Associates, Inc./Grant Writing Services, was moved to the Regular Agenda as Item 9.A.A.A.; and Item 8.N.2., Contract Award/All-Rite Paving Contractors, Inc., was moved to the Regular Agenda as Item 9.A.A.A.A.; Approved as amended, 4-0)
5. **APPROVAL OF MINUTES:**
 - December 11, 2007 – Regular Meeting (Approved, 4-0)
 - December 18, 2007 – Special Meeting (Approved, 4-0)
6. **PROCLAMATIONS:**
 - A. Calling for the First-Non-Partisan Election to be held on March 11, 2008
7. **PRESENTATIONS:**
 - A. “Spotlight on Neighborhoods” – Arthur Brown, Chair of Neighborhood Advisory Council
8. **CONSENT AGENDA:** City Manager Recommends Approval. (Approved as amended, 4-0)
 - A. (MOVED TO ITEM 9.A.A.A. ON THE REGULAR AGENDA)
 - B. (MOVED TO ITEM 9.A.A. ON THE REGULAR AGENDA)
 - C. **AUTHORIZATION FOR SUPERVISOR OF ELECTIONS TO HANDLE/ CANVASS ABSENTEE/PROVISIONAL BALLOTS AND REPRESENT THE CITY AT LOGIC AND ACCURACY TESTS FOR THE FIRST NON-PARTISAN ELECTION:** Authorize the Palm Beach County Supervisor of Elections to handle and canvass the City’s absentee and provisional ballots for the March 11, 2008 First Non-Partisan Election, and represent the City at the requisite Logic and Accuracy tests.
 - D. **AGREEMENT/PALM BEACH COUNTY/DISASTER RECOVERY INITIATIVE (DRI) PROGRAM:** Approve an agreement between the City and Palm Beach County for funding in the amount of \$980,000.00 for the implementation of the Housing Rehabilitation Program funded under the Disaster Recovery Initiative (DRI) Program.

- E. **AGREEMENT/PALM BEACH COUNTY/DELRAY BEACH ROCKS YOUTH ORGANIZATION:** Approve an agreement between the City and Palm Beach County Recreation Assistance Program (RAP) District 7 for funding in an amount not to exceed \$3,000.00 to help offset costs for the Delray Beach Rocks Youth Organization trip to the Sports Network Football Championships, which was held on November 21 – 27, 2007 in Daytona Beach, Florida.
- F. **INTERLOCAL AGREEMENT/COMMUNITY REDEVELOPMENT AGENCY/CURB APPEAL PROGRAM:** Approve an agreement between the City and the Community Redevelopment Agency (CRA) in the amount of \$50,000.00 for FY 2007 – 2008 for the implementation of the Curb Appeal Program within the CRA area.
- G. **INTERLOCAL AGREEMENT/COMMUNITY REDEVELOPMENT AGENCY/135 NW 5th AVENUE:** Approve an agreement between the City and Community Redevelopment Agency (CRA) for management and funding of the construction/rehabilitation of the CRA owned mixed-use building located at 135 NW 5th Avenue. The CRA will cover the full cost of the rehabilitation work and the City will be paid an administrative fee for handling the project equal to two percent (2%) of the total job cost, not to exceed \$20,000.00.
- H. **SPECIAL EVENT REQUEST/DELRAY AFFAIR:** Approve a special event request from the Chamber of Commerce to endorse the 46th Annual Delray Affair to be held on March 28 – 30, 2008; including a temporary use permit per LDR Section 2.4.6 (F) for use of City property and rights-of-way as required, to waive LDR Section 4.6.7 (E)(3)(c) to allow signage to be installed more than one (1) week prior to the event, banner hanging within the site area, vendor permits to be assigned and approved by the Chamber of Commerce, this is the only event to be held on the above-mentioned dates in the City, to allow reserved parking for entertainment and exhibitors as requested; contingent upon receipt of a certificate of general liability insurance, liquor liability insurance, and a hold harmless agreement.
- I. **SPECIAL EVENT REQUEST/HOWARD ALAN 11th ANNUAL WINTER STREET CRAFT FESTIVAL:** Approve a special event request to endorse the 11th Annual Delray Beach Winter Street Craft Festival to be held on February 23 - 24, 2008 from 10:00 a.m. - 5:00 p.m.; including a temporary use permit per LDR Section 2.4.6(F) for use of NE/SE 4th Avenue, one block north/south of Atlantic Avenue as well as the north end of Hand's parking lot for vendor parking; and to authorize staff support for security and traffic control with the event sponsor paying all overtime costs, and to permit an event sign to be erected on Atlantic Avenue just east of I-95, 10 days prior to the event per City Code contingent upon receipt of a hold harmless agreement.

- J. **SPECIAL EVENT REQUEST/3rd ANNUAL LYMPHOMATHON 5K WALK:**
Approve a special event request to endorse the 3rd Annual Lymphomathon 5K Walk to be held on Sunday, March 2, 2008 from 7:30 a.m. until approximately 10:00 a.m., with set up at 5:30 a.m., to grant a temporary use permit per LDR Section 2.4.6(F) for the use of Anchor Park and the sidewalks along A-1-A, to authorize staff support for traffic control and to waive parking fees in the Anchor Park lot from 7:00 a.m. to approximately 10:00 a.m., authorize staff assistance for providing traffic control, barricading, signage, clean up and stage set up and use; contingent on the sponsor providing the required liability insurance.
- K. **RENEWAL/RAILROAD LIABILITY INSURANCE POLICY:** Approve a request to renew the current Railroad Liability Insurance Policy required by the City as outlined in the contract with Florida East Coast (FEC) Railroad.
- L. **RESOLUTION NO. 01-08:** Approve Resolution No. 01-08 urging members of the Florida Legislature to support municipal issues during the 2008 Legislative Session.
- M. **REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:**
Accept the actions and decisions made by the Land Development Boards for the period December 10, 2007 through December 28, 2007.
- N. **AWARD OF BIDS AND CONTRACTS:**
1. Bid award to Devland Site Development, Inc., in the amount of \$164,700.00 for hauling and disposal of lime sludge from the Water Treatment Plant. Funding is available from 441-5122-536-34.90 (Water and Sewer Fund/Other Contractual Services).
 2. **(MOVED TO ITEM 9.A.A.A.A. ON THE REGULAR AGENDA)**
 3. Contract award to Rosso Paving & Drainage, Inc. in the amount of \$266,920.00 for the Rainberry Woods Neighborhood Improvements Project. Funding is available from 334-6130-541-63.20 (General Construction Fund/Landscaping/Beautification).
 4. Purchase award to Insituform Technologies, Inc. in the amount of \$149,429.50 for the annual Sanitary Sewer Main Rehabilitation Program piggybacking on Manatee County, Florida (RFP #04-3794 FL). Funding is available from 442-5178-536-63.51 (Water/Sewer Renewal and Replacement/Sewer Mains).
 5. Lease award to American Honda Finance in the amount of \$16,140.00 annually over a three (3) year period for five (5) vehicles for the Police Department. Funding is available from 001-2115-521-44.40 (General Fund/Vehicles).

9. **REGULAR AGENDA:**

- A.A. **RATIFICATION OF A SIDEWALK EASEMENT, SIDEWALK CONSTRUCTION AND MAINTENANCE AGREEMENT/BLOCK 77 DEVELOPMENT GROUP:** Approve and ratify a sidewalk easement, sidewalk construction and maintenance agreement allowing Block 77 Development Group to construct and maintain a sidewalk over a small portion of City property located on the south side of Worthing Park; and the proposed sidewalk easement area starting at SE 2nd Avenue and extending approximately 140' west along the south side of Worthing Park). (Commissioner Eliopoulos filed a Conflict of Interest and left dais; Approved, 3-0)
- A.A.A. **AGREEMENT/LANGTON ASSOCIATES, INC./GRANT WRITING SERVICES:** Consider approval of a Consulting Agreement between the City and Langton Associates in the amount of \$2,500.00 per month for grant writing services. Funding is available from 001-1111-511-34.90 (General Fund/Other Contractual Services). (Approved as amended, 4-0. Commissioner Eliopoulos returned to dais)
- A.A.A.A. **CONTRACT AWARD/ALL-RITE PAVING CONTRACTORS, INC.:** Contract award to All-Rite Paving Contractors, Inc. in the amount of \$113,500.00 for the S.W. 8th Avenue Roadway Improvements Project. Funding is available from 334-3162-541-65.34 (General Construction Fund/SW 8th Avenue-SW 11th Street-SW 10th) and 448-5461-538-65.34 (Stormwater Utility Fund/SW 8th Avenue-SW 11th Street-SW 10th). (Approved, 4-0)
- A. **RECONSIDERATION OF ONE CONDITION OF THE CONDITIONAL USE APPROVAL/EBENEZER WESLEYAN METHODIST CHURCH:** Consider an amendment of a condition required within the conditional use approval for Ebenezer Wesleyan Methodist Church. (*Quasi-Judicial Hearing*) (Motion to adopt Board Order as presented; Approved, 4-0)
- B. **WAIVER REQUEST/La CIGALE RESTAURANT:** Consider a request for waiver of Land Development Regulations (LDR) Sections 4.6.7 (H)(3)(a)(2), "Flags", pursuant to the request by the agent for the La Cigale Restaurant, located at 253 SE 5th Avenue. (*Quasi-Judicial Hearing*) (Motion to adopt Board Order as presented; Approved, 4-0)
- C. **RATIFICATION OF COLLECTIVE BARGAINING AGREEMENT & MEMORANDUM OF AGREEMENT/POLICE BENEVOLENT ASSOCIATION:** Ratify and approve the Collective Bargaining Agreement and Memorandum of Agreement between the City and the Police Benevolent Association (Police Officers and Sergeants) from the date of ratification through September 30, 2008. (Approved, 4-0)
- D. **PROPOSALS/VIRTUAL TOURS:** Consider proposals from Sound Investments by J.W., Inc. d/b/a Pro DVD Makers and the City's Information Technology Department (IT) regarding the Virtual Tours on the City's website. (Consensus of the Commission to place this item on the January 8, 2008 Special/Workshop Meeting)

- E. **CHANGE ORDER NO. 2/WEST CONSTRUCTION, INC:** Approve a Change Order No. 2 in the amount of \$30,711.85 to West Construction, Inc. for design changes and increase in length of the seawall at the Boat Ramp as a result of structural review, for the Mangrove Park Project. Funding is available from 334-4174-572-63.90 (General Construction Fund/Intracoastal Park/Other Improvements). (Approved, 4-0)
- F. **APPOINTMENTS TO THE BUDGET TASK FORCE:** Appoint seven (7) regular members and two (2) alternate members to the Budget Task Force for six (6) month terms. Based upon the rotation system, the appointments will be made by Commissioner Eliopoulos (Seat #1), Commissioner Fetzer (Seat #2), Commissioner McDuffie (Seat #3), Commissioner Montague (Seat #4) and Mayor Ellis (Seat #5). (Appointed Howard Ellingsworth and approved, 4-0; appointed Vincent Dole and approved, 4-0; appointed Alexander Simon and approved, 4-0; appointed Peter Arts and approved, 4-0; appointed Todd L'Herrou and approved, 4-0; appointed Franklin Wheat and approved, 4-0. Commissioner Montague's alternate and regular appointments and Commissioner McDuffie's regular appointment was deferred until the January 15, 2008 Regular Meeting)
- G. **APPOINTMENT TO THE CODE ENFORCEMENT BOARD:** Appoint one (1) regular member to the Code Enforcement Board for a three (3) year term ending January 14, 2011. Based upon the rotation system, the appointment will be made by Commissioner Eliopoulos (Seat #1). (Appointed Kelli Freeman and approved, 4-0)
- H. **APPOINTMENTS TO THE EDUCATION BOARD:** Appoint one (1) regular member to the Education Board for an unexpired term ending July 31, 2009 and two (2) student members to serve partial terms ending July 31, 2009 and July 31, 2008. Based upon the rotation system, the appointments will be made by Commissioner McDuffie (Seat #3), Commissioner Montague (Seat #4), and Mayor Ellis (Seat #5). (Appointed Peter Raycroft and approved, 4-0; and appointed Sara Mejia, approved, 4-0. Commissioner Montague's appointment was deferred until the January 15, 2008 Regular Meeting)
- I. **APPOINTMENTS TO THE GREEN TASK FORCE:** Appoint seven (7) regular members to the Green Task Force for six (6) month terms. Based upon the rotation system, the appointments will be made by Commissioner Eliopoulos (Seat #1), Commissioner Fetzer (Seat #2), Commissioner McDuffie (Seat #3), Commissioner Montague (Seat #4) and Mayor Ellis (Seat #5). (Appointed Nancy Schneider and approved, 4-0; appointed Ana DeMelo and approved, 4-0; appointed Karla Vaillancourt and approved, 4-0; appointed Joseph Snider and approved, 4-0; appointed Dan Sloan and approved, 4-0; and approved John Koenig and approved, 4-0. Commissioner Montague's appointment was deferred until the January 15, 2008 Regular Meeting)
- J. **APPOINTMENT TO THE PARKING MANAGEMENT ADVISORY BOARD:** Appoint one (1) regular member to the Parking Management Advisory Board for a two (2) year term ending January 31, 2010. Based upon the rotation system, the appointment will be made by Mayor Ellis (Seat #5). (Appointed Alan Kornblau and approved, 4-0)

- K. **APPOINTMENTS TO THE POLICE ADVISORY BOARD:** Appoint five (5) regular members and one (1) student member to the Police Advisory Board for two (2) year terms ending December 13, 2009. Based upon the rotation system, the appointments will be made by Commissioner Eliopoulos (Seat #1), Commissioner Fetzner (Seat #2), Commissioner McDuffie (Seat #3), Commissioner Montague (Seat #4) and Mayor Ellis (Seat #5). (Appointed Shelly Weil and approved, 4-0; appointed Joseph Ferrer and approved, 4-0; appointed Joseph Ingram and approved, 4-0; appointed Vanessa Francois and approved, 4-0; and appointed Walter Earley and approved, 4-0. Commissioner Montague's appointment was deferred until the January 15, 2008 Regular Meeting)

10. **PUBLIC HEARINGS:**

- A. **ORDINANCE NO. 38-07 (FIRST READING/FIRST PUBLIC HEARING):** City initiated amendments to the Land Development Regulations (LDR) which intend to clarify the current regulations, provide parameters, and define compatible development within the City's five (5) historic districts and individually designated properties. If passed, a second public hearing will be scheduled for January 15, 2008. (Motion to continue Ordinance No. 38-07 (First Reading/First Public Hearing) to a date certain of January 15, 2008; Approved, 4-0)
- B. **ORDINANCE NO. 55-07 (FIRST READING/FIRST PUBLIC HEARING):** City initiated amendments to the Land Development Regulations (LDR) amending Section 1.4.3, "Enforcement"; Section 1.4.4, "Penalty", providing that neglect shall constitute a nuisance and providing for enforcement and penalties; Section 2.2.6(C), "Meeting and Quorum", providing for voting, 2.2.6(D), "Duties and Responsibilities", providing for express authority for the Historic Preservation Board to apply the Historic Compatibility Regulations; Section 4.5.1(E), "Development Standards", Subsection 4.5.1(E)(6), "Demolition", and 4.5.1(F), "Restrictions on Demolitions", providing requirements for the application and approval for demolition. If passed, a second public hearing will be scheduled for January 15, 2008. (Approved, 4-0)
- C. **ORDINANCE NO. 57-07 (SECOND READING/SECOND PUBLIC HEARING):** City initiated amendment to Land Development Regulations (LDR) Section 4.4.24(B)(12), "Principal Uses and Structures", which specifies the accessory uses and structures permitted in the Old School Square Historic Arts District (OSSHAD), to add all of the accessory uses that are also currently permitted in the Central Business District (CBD). (Approved, 4-0)
- D. **ORDINANCE NO. 03-08 (FIRST READING/FIRST PUBLIC HEARING):** Privately initiated amendment to the Land Development Regulations (LDR) Article 4.7 "Family/Workforce Housing", to expand the Carver Estates Overlay District. If passed, a public hearing will be scheduled for January 15, 2008. (Approved, 4-0)
- E. **ORDINANCE NO. 04-08 (FIRST READING/FIRST PUBLIC HEARING):** City initiated amendment to the Land Development Regulations (LDR) to clarify that residential uses within the Mixed Industrial and Commercial (MIC) zoning district are permitted only within the I-95/CSX Railroad Corridor Overlay District. If passed, a public hearing will be scheduled for January 15, 2008. (Approved, 4-0)

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. **(MOVED TO ITEM 10.D. UNDER PUBLIC HEARINGS)**
- B. **ORDINANCE NO. 02-08:** City initiated amendment to the Land Development Regulations (LDR) to reduce the duration over which a single parcel must be vacant for its development to qualify as in-fill development. If passed, a public hearing will be scheduled for January 15, 2008. *(Motion to **TABLE** Ordinance No. 02-08; Approved, 4-0)*
- C. **ORDINANCE NO. 01-08:** City initiated amendment to the Land Development Regulations (LDR) Section 2.4.3 "Submission Requirements" to specify the required scales to which various components of development plans must be prepared. If passed, a public hearing will be scheduled for January 15, 2008. *(Approved, 4-0)*
- D. **(MOVED TO ITEM 10.E. UNDER PUBLIC HEARINGS)**

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

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

POSTED: DECEMBER 28, 2007

******** Meeting adjourned at 10:08 p.m. ********