

City of Delray Beach

Regular Commission Meeting

AGENDA RESULTS



RULES FOR PUBLIC PARTICIPATION

Tuesday, September 18, 2007

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.** (Commissioner McDuffie absent)
2. **INVOCATION.**
3. **PLEDGE OF ALLEGIANCE TO THE FLAG.**
4. **AGENDA APPROVAL.** (Mayor noted the Swearing-In Ceremony of Fire-Rescue Chief David James was added to the agenda under Presentations as Item 7.B.; Item 8.B., Contract Addition (C.O. No. 1)/West Construction, Inc. was moved to the Regular Agenda as Item 9.A.A.; Item 8.D., Service Authorization No. 07-01/Kimley-Horn and Associates, Inc., was moved to the Regular Agenda as Item 9.A.A.A.; Item 8.E., Request for Sidewalk Deferral/1108 Coconut Row was moved to the Regular Agenda as Item 9.A.A.A.A.; and Item 8.P, Service Authorization No. 14.4/Currie Sowards Aguila Architects was moved to the Regular Agenda as Item 9.A.A.A.A.A.; Approved as amended, 4-0)
5. **APPROVAL OF MINUTES:**
 - September 4, 2007 – Regular Meeting (Approved, 4-0)
 - September 11, 2007 – Special/Workshop Meeting (Approved, 4-0)
6. **PROCLAMATIONS:**
 - A. Spady Living Heritage Day – September 22, 2007
 - B. Walk Our Children to School Day – October 2, 2007
 - C. Fire Prevention Week – October 7 - 13, 2007
 - D. Discover Afterschool Day – October 18, 2007
 - E. Character Counts Week – October 21 – 27, 2007
7. **PRESENTATIONS:**
 - A. Sister Cities of Delray Beach, Inc. Youth Ambassadors
 - B. Swearing-In Ceremony of Fire-Rescue Chief David James
8. **CONSENT AGENDA:** City Manager Recommends Approval. (Approved as amended, 4-0)
 - A. **CHANGE ORDER NO. 2/ENCO, LLC:** Approve Change Order No. 2 in the amount \$29,641.00 to ENCO, LLC for the replacement of the Atlantic Dunes Lifeguard Tower. Funding is available from 551-1575-591-45.50 (Business Insurance Fund/Property Claims).
 - B. **(MOVED TO ITEM 9.A.A. ON THE REGULAR AGENDA)**
 - C. **CONTRACT CLOSEOUT (C.O. NO. 2/FINAL)/ROSSO PAVING & DRAINAGE, INC.:** Approve a Contract Closeout (C.O. No. 2/Final) in the amount of a \$57,275.46 decrease and final payment in the amount of \$21,425.89 to Rosso Paving & Drainage, Inc. for completion of the N.E. 4th Street Improvement Project. Funding is available from 448-5461-538-65.31 (Storm Water Utility Fund/Other Improvements/N.E. 4th St.-N.E. 5th Avenue to N.E. 6th Avenue).

- D. (MOVED TO ITEM 9.A.A.A. ON THE REGULAR AGENDA)
- E. (MOVED TO ITEM 9.A.A.A.A. ON THE REGULAR AGENDA)
- F. AMENDMENT TO BID AWARD/HATCHER CONSTRUCTION AND DEVELOPMENT, INC./133 N.W. 5TH AVENUE: Approve an amendment to the bid award between the City, Community Redevelopment Agency (CRA) and Hatcher Development and Construction for the renovation of 133 N.W. 5th Avenue. The amendment to the bid award shall add necessary changes to the original scope of work and allow for exterior improvements totaling \$149,510.45. The Community Redevelopment Agency contribution will increase from \$19,138.00 to a total of \$168,648.45, subject to the Community Redevelopment Agency (CRA) Board approval at their September 20, 2007 meeting.
- G. EXTENSION TO THE MAINTENANCE AND SUPPORT AGREEMENT/MOTOROLA, INC.: Approve an extension to the agreement between the City of Delray Beach and Motorola, Inc. for the maintenance and support of the Police Department's field computer applications that will also include the Premier Message switch software, the Premier MDC client licenses, the TalkThru software and licenses, and the CAD interface. Funding is available from 001-2113-521-46.90 (General Fund/Other Repair & Maintenance Costs).
- H. INTERLOCAL AGREEMENTS/PALM BEACH COUNTY PUBLIC LANDS GRANT PROGRAM/ORCHARD VIEW PARK AIR POTATO REMOVAL/LEON WEEKS ENVIRONMENTAL PRESERVE: Approve the interlocal agreements between the City and Palm Beach County for reimbursable grants from the Palm Beach County 2007 Public Lands Grant in the amount of \$5,100.00 for Orchard View Park Air Potato Removal and in the amount of \$5,000.00 for eradication of prohibited invasive non-native vegetation at Leon Weekes Environmental Preserve.
- I. INTERLOCAL AGREEMENT/PALM BEACH COUNTY/DROWNING PREVENTION COALITION: Approve an Interlocal Agreement with Palm Beach County for reimbursement of swimming lessons not to exceed \$50.00 per child for the Learn to Swim Program at Pompey Park and the Delray Swim/Tennis Center through the Drowning Prevention Coalition of Palm Beach County.
- J. GRANT AWARD/EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) FOR FY 2007: Accept the Edward Byrne Memorial Justice Assistance Grant (JAG) in the amount of \$60,576.00 which will provide funding for the Police Department's Holiday Task Force Overtime.

- K. **SPECIAL EVENT REQUEST/8TH ANNUAL DOWNTOWN DELRAY BEACH THANKSGIVING WEEKEND ART FESTIVAL:** Approve a special event request for the 8th Annual Downtown Delray Beach Thanksgiving Weekend Art Festival to be held on November 24, 2007 through November 25, 2007 from 10:00 a.m. until 5:00 p.m., to grant a temporary use permit per LDR Section 2.4.6(F) for the use of N.E. 2nd Avenue from the alley just north of Atlantic Avenue to approximately 400 feet north of N.E. 3rd Street, to utilize the City Hall parking lot for vendor parking, and to authorize staff support for traffic control, barricading, security and Fire Inspector with the sponsor paying all overtime costs, contingent upon receipt of an executed hold harmless agreement.
- L. **SPECIAL EVENT REQUEST/21ST ANNUAL TURKEY TROT:** Approve a special event request to allow the 21st Annual Turkey Trot to be held on Saturday, November 17, 2007 from 5:00 a.m. until approximately 9:00 a.m., including 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, barricade set-up/removal, trash removal and clean up, use of half of small stage, and waiver of parking meter fees for Sandoway, Ingraham, and Anchor Park as well as along Atlantic Avenue from Venetian to A-1-A from 7:00 a.m. until approximately 10:00 a.m.
- M. **2007-2008 AGREEMENT/CHILDREN'S SERVICES COUNCIL/BEACON CENTER AT VILLAGE ACADEMY ELEMENTARY SCHOOL:** Approve an agreement between the City of Delray Beach and Children's Services Council (CSC) in the amount of \$769,009.00 for programs and services carried out under the Beacon Center at Village Academy Elementary School for FY 2007/2008.
- N. **AGREEMENT/CHILDREN'S SERVICES COUNCIL OUT OF SCHOOL PROGRAM:** Approve an agreement between the City of Delray Beach and Children's Services Council (CSC) for a reimbursable amount up to \$314,825.00 for the Parks and Recreation Out-of-School Youth Recreation/Enrichment Programs, which includes After School, Holiday/Spring Camp, One Day Camps and Summer Camp.
- O. **FLORIDA LEAGUE OF CITIES AND FLORIDA LEAGUE OF MAYORS/GREEN CITY ACTION ACCORD:** Authorize the Mayor to sign the "Mayors' Green City Action Accord" resolutions adopted by the Florida League of Cities and the Florida League of Mayors.
- P. **(MOVED TO ITEM 9.A.A.A.A. ON THE REGULAR AGENDA)**
- Q. **REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:** Accept the actions and decisions made by the Land Development Boards for the period September 3, 2007 through September 14, 2007.

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

1. Contract award to GC Works, Inc. in the amount of \$133,093.40 for the construction of Sunshine Neighborhood Park. Funding is available from 334-4151-572-68.39 (General Construction Fund/Sunshine Park).
2. Contract award to West Construction, Inc. in the amount of \$458,932.60 for the Lindell Boulevard Traffic Calming Project. Funding is available from 334-3162-541-65.78 (General Construction Fund/Traffic Calm-Lindell Blvd).
3. Purchase award to Argo Uniform in the amount of \$34,053.00 for the purchase of replacement uniforms for the Police Department. Funding is available from 001-2111-521-52.22, 001-2113-521-52.22, 001-2115-521-52.22, 001-2117-521-52.22, 001-2119-521-52.22 and 001-2121-521-52.22 (General Fund/Uniforms/Linen Service).
4. Purchase award to Dell Marketing, Inc. in the amount of \$58,376.00 for the purchase of twenty (20) laptops and seventeen (17) docking stations and to SunGard H.T.E in the amount of \$16,725.00 for the purchase of fifteen (15) licenses for the Fire-Rescue Department. Funding is available from 334-6112-522-64.90 (General Construction Fund/Other Machinery/Equipment).
5. Bid award to Carlson-Moore Construction in the amount of \$160,780.80 for box seat replacement of 1,272 box seats with cup holders at the Tennis Stadium. Funding is available from 001-4210-575-63.90 (General Fund/Other Improvements).

9. **REGULAR AGENDA:**

A.A. **CONTRACT ADDITION (C.O. NO. 1)/WEST CONSTRUCTION, INC:** Approve a Contract Addition (C. O. No. 1) in the amount of \$206,269.25 to West Construction, Inc. for the removal and replacement of a seawall and the redesign of a parapet wall due to actual site conditions, which could not be determined during preconstruction site evaluations due to the restrictions that were placed on entering the mangroves, for the Mangrove Park Project. Funding is available from 334-4174-572-63.90 (General Construction Fund/Intracoastal Park/Other Improvements). (Motion to approve; Approved, 4-0)

A.A.A.A.A. **SERVICE AUTHORIZATION 14.4/CURRIE SOWARDS AGUILA ARCHITECTS:** Approve Service Authorization No. 14.4 in the amount of \$32,750.00 to Currie Sowards Aguila Architects for additional design and construction administration services for the redesign of a site retaining wall and the design of a new sea wall, due to actual site conditions, for the Mangrove Park Project. Funding is available from 334-4174-572-63.90 (General Construction Fund/Intracoastal Park/Other Improvements). (Motion to approve; Approved, 4-0)

- A.A.A. **SERVICE AUTHORIZATION NO. 07-01/KIMLEY-HORN AND ASSOCIATES, INC.:** Approve Service Authorization No. 07-01 in the amount of \$85,000.00 to Kimley-Horn and Associates, Inc. for completion of construction plans for implementation of the Florida Department of Transportation (FDOT) approved temporary modifications to US 1 between S.E. 10th Street and George Bush Boulevard. Funding is available from 334-4141-572-65.99 (General Construction Fund/S.E./N.E. 5th and 6th Avenues) after transfer from the Community Redevelopment Agency (CRA). (Motion to approve; Approved, 4-0)

- A.A.A.A. **REQUEST FOR SIDEWALK DEFERRAL/1108 COCONUT ROW:** Approve a request to defer the installation of a sidewalk in front of 1108 Coconut Row. (Commissioner Eliopoulos filed a Conflict of Interest and left dais; Approved, 3-0)

- A. **RENEWAL/LIABILITY, WORKERS' COMPENSATION AND PRIMARY PROPERTY INSURANCE PROGRAMS:** Consider renewal of the City's liability, workers' compensation and primary property insurance programs effective October 1, 2007. (Motion to approve per staff recommendations; Approved, 4-0. Commissioner Eliopoulos returned to dais)

- B. **WAIVER REQUEST/744 SEASAGE DRIVE:** Consider a request for a sidewalk waiver associated with the demolition of an existing home and construction of a new single family residence located at 744 Seasage Drive, within the Beach Overlay District. (*Quasi-Judicial Hearing*) (First Motion to adopt Board Order as presented; Approved, 4-0. Second Motion to approve Sidewalk Deferral; Approved, 4-0)

- C. **WAIVER REQUEST/MAROONE CHRYSLER JEEP DODGE DEALERSHIP:** Consider a request for waiver to allow the installation of a 1,400 square foot temporary office trailer for the Maroone, Chrysler, Jeep, Dodge automotive dealership as a temporary sales office for the employees and a customer waiting area to be utilized during the construction of the new showroom/office building. (*Quasi-Judicial Hearing*) (Motion to adopt Board Order as presented; Approved, 4-0)

- D. **FINAL SUBDIVISION PLAT/HIBISCUS LAKE ESTATES:** Approve the subdivision plat for the Hibiscus Lake Estates and associated waivers to Land Development Regulations (LDR) Section 6.1.3(B)(2) "Sidewalk", and Section 6.1.2(C) "Pavement Width", for a 4-lot single family subdivision located south of Hibiscus Lane, east of Lake Ida. (*Quasi-Judicial Hearing*) (Motion to adopt Board Order as presented; Approved, 4-0)

- E. **AMENDMENT NO. 1/IN-LIEU OF PARKING FEE AGREEMENT/CITYWALK:** Consider approval of an addendum to the In-Lieu Parking Fee Agreement between the City and Citywalk at Pineapple Grove to reduce the number of in-lieu spaces to four (4) spaces instead of six (6) spaces. Citywalk is located at 200 N.E. 2nd Avenue (Pineapple Grove Way). (Commissioner Eliopoulos declared a Conflict of Interest and left dais. Motion to approve; Approved, 3-0)

- F. **REQUEST TO ADVANCE COUNTY FUNDING/ROOTS CULTURAL FESTIVAL, INC.:** Consider approval of an agreement between the City and Palm Beach County to provide advance funding in the amount of \$10,000, for Roots Cultural Festival, Inc. which will be reimbursed to the City through Palm Beach County grants. (Approved, 4-0. Commissioner Eliopoulos returned to dais)
- G. **AGREEMENTS/COMMUNITY CHILD CARE CENTER/CHILDREN'S CASE MANAGEMENT ORGANIZATION:** Consider approval of the agreements between the City of Delray Beach and the Community Child Care Center (CCCC) and the Children's Case Management Organization (CCMO) as the non-profit providers of services at the Village Academy Beacon Center for FY 2007/2008, pursuant to the City's contract with the Children's Services Council of Palm Beach County (CSC). (Motion to approve; Approved, 4-0)
- H. **PARKING LICENSE AGREEMENT/BOCA PARKING SYSTEMS:** Consider approval of a parking license agreement with Boca Parking Systems for the utilization of 40 parking spaces in the Federspiel Garage seven (7) days per week between the hours of 6:00 p.m. and 2:00 a.m. at a rate of \$40.00 per space, per month. (Motion to approve; Approved, 4-0)
- I. **CITY ATTORNEY EVALUATION.** (Motion to approve 3.0% increase; Approved, 4-0)
- J. **CITY MANAGER EVALUATION.** (First Motion to approve 3.0% increase. 2 to 2 vote; No Action. Second Motion to approve a 2.0% increase. 2 to 2 vote; No Action)
10. **PUBLIC HEARINGS:**
- A. **RESOLUTION NO. 53-07 (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 2008. (Approved, 4-0)
- B. **RESOLUTION NO. 54-07 (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 2008. (Approved, 4-0)
- C. **RESOLUTION NO. 55-07 (BUDGET ADOPTION FOR FY 2008):** A resolution making appropriations of sums of money for all necessary expenditures of the City of Delray Beach for the period October 1, 2007 through September 30, 2008. (Approved, 4-0)
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 2008 Capital Improvement Budget are consistent with the Comprehensive Plan, and approve same. (Approved, 4-0)
- D. **ORDINANCE NO. 39-07:** An ordinance amending Chapter 52, "Water" of the City Code of Ordinances by amending Section 52.34, "Water Rates", to provide for changes in residential, nonresidential, and irrigation rates for FY 2008. (Approved, 4-0)

- E. **ORDINANCE NO. 40-07:** An ordinance amending Chapter 53, “Sanitary Sewers”, of the City Code of Ordinances by amending Section 53.130, “User Charges; Wholesale Sewer Rates; Calculation of Sewer Surcharge”, to provide for increased sewer rates. (Approved, 4-0)
- F. **ORDINANCE NO. 41-07:** 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 increasing contracted garbage, trash, recycling, vegetation, and bulk waste collection service rates by 2.6% for FY 2008. (Approved, 4-0)
- G. **ORDINANCE NO. 34-07 (SECOND READING/SECOND PUBLIC HEARING):** Privately initiated amendment to the Land Development Regulations (LDR), Section 4.4.13, “Central Business District”, and Section 4.6.9, “Off-Street Parking Regulations”, to permit the use of parking lifts. (Approved, 4-0)
- H. **ORDINANCE NO. 35-07 (SECOND READING/SECOND PUBLIC HEARING):** City initiated amendment to the Land Development Regulations (LDR) Section 4.4.13(G)(1), “Central Business District (CBD)”, to modify parking requirements for hotels and motels in the original Downtown Development Area in the Central Business District. (Approved, 4-0)
- I. **ORDINANCE NO. 42-07:** An ordinance amending Chapter 50, “Utilities Generally: Public Service Tax”, Section 50.15, “Levy of Tax”, to provide for an increase of the public service taxes for electricity, fuel oil and gas. (Approved, 4-0)
- J. **ORDINANCE NO. 36-07:** City initiated amendment to the Land Development Regulations (LDR) Section 2.2.3, “The Site Plan Review And Appearance Board”, Subsection (D), “Duties, Powers and Responsibilities”, and Section 2.2.4, “The Board of Adjustment”, Subsection (D), “Duties, Powers and Responsibilities”, to provide for a method for appeals; amending Section 2.4.8, “Processing Schedules”, in order to provide 30 days for review of beach property plans in accordance with the beach property owners design manual; amending Section 4.4.3, “Single Family Residential (R-1) Districts”, Subsections (A), “Purpose and Intent”, (E), “Review and Approval Process”, (F), “Development Standards”, and (G), “Supplemental District Regulations”, and amending Section 4.5.13, “North Beach/Seagate and Ocean Neighborhood Overlay Districts”, to provide that visual compatibility may be regulated in accordance with the “Beach Property Owners Design Manual” for North Beach and Seagate Neighborhoods. (Approved, 4-0)
- K. **ORDINANCE NO. 37-07:** City initiated amendment to the Land Development Regulations (LDR) Appendix “A”, “Definitions”, by enacting definitions for “adult material”, “specified anatomical areas” and “specified sexual activities”. (Approved, 4-0)

- L. **ORDINANCE NO. 43-07:** An ordinance amending Chapter 59, “Reclaimed Water”, of the Code of Ordinances by amending Section 59.06, “Use of Reclaimed Water within the City of Delray Beach Utility Service Area”, to provide that all customers shall connect to the Reclaimed Water System; amending Section 59.09, “Fees, Rates and Charges”, to increase the wholesale rate; and amending Section 59.13, “Approved Uses of Reclaimed Water”, to provide for hours of use for irrigation. (Approved, 4-0)

- M. **ORDINANCE NO. 44-07:** City initiated amendment to the Land Development Regulations (LDR), Section 2.4.3(K)(1) “Development Applications” reducing the development application fee for variances before the Historic Preservation Board. (Approved, 4-0)

- N. **RESOLUTION NO. 56-07/INTERLOCAL AGREEMENT FOR SALE AND PURCHASE OF REAL PROPERTY/COMMUNITY REDEVELOPMENT AGENCY/133 N.W. 5th AVENUE:** Consider approval of Resolution No. 56-07 authorizing the City to purchase property, located at 133 N.W. 5th Avenue, to provide land to be used in conjunction with the Community Land Trust affordable residential housing; and approve Interlocal Agreement for Sale and Purchase of Real Property between the City and the Community Redevelopment Agency (CRA) in the amount of \$10.00 for the transfer of the property located at 133 N.W. 5th Avenue to the City. (Approved, 4-0)

- O. **RESOLUTION NO. 57-07/INTERLOCAL AGREEMENT FOR SALE AND PURCHASE OF REAL PROPERTY/COMMUNITY REDEVELOPMENT AGENCY/LAFRANCE HOTEL/140 N.W. 4th AVENUE:** Consider approval of Resolution No. 56-07 authorizing the City to purchase property, located at 140 N.W. 4th Avenue, to provide land to be used in conjunction with the Community Land Trust affordable residential housing; and approve Interlocal Agreement for Sale and Purchase of Real Property between the City and the Community Redevelopment Agency (CRA) in the amount of \$10.00 for the transfer of the LaFrance Hotel property located at 140 N.W. 4th Avenue to the City. (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. NONE.

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

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

POSTED: SEPTEMBER 14, 2007

****** Meeting adjourned at 10:22 p.m. ******