

# City of Delray Beach

## Regular Commission Meeting

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



### **RULES FOR PUBLIC PARTICIPATION**

Tuesday, June 2, 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.

100 NW 1st Avenue  
Delray Beach, Florida 33444

Phone: (561) 243-7000  
Fax: (561) 243-3774

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., Resolution No. 17-09, was moved to the Regular Agenda as Item 9.A.A. Approved as amended, 5-0)
5. **APPROVAL OF MINUTES:**
  - A. May 19, 2009 – Regular Meeting (Approved, 5-0)
  - B. May 26, 2009 – Workshop Meeting (Approved, 5-0)
6. **PROCLAMATIONS:**
  - A. Recognizing **Artist in Residence** – Michiko Kurisu
  - B. 2010 Census Complete Count Committee
7. **PRESENTATIONS:**
  - A. 20<sup>th</sup> Annual Delaire/Delray Citizens for Delray Police Charity Golf Tournament Presentation to Police and Fire-Rescue - Perry DonFrancisco
  - B. Presentation by Match Point, Inc. and Players International Management (**Addendum**)
8. **CONSENT AGENDA:** City Manager Recommends Approval. (Approved as amended, 5-0)
  - A. **CONTRACT CLOSEOUT (C.O. NO. 1/FINAL)/GREEN CONSTRUCTION TECHNOLOGIES, INC./2008 SWALES PROJECT:** Approve a Contract Closeout (Change Order No. 1/Final) in the amount of a \$34,492.13 decrease and final payment in the amount of \$6,704.70 to Green Construction Technologies, Inc. for completion of the 2008 Swales Project. Funding is available from 448-5461-538-65.41 (Storm Water Utility Fund/Other Improvements/Swale Reconstruction).
  - B. **CHANGE ORDER NO. 2/ROSSO PAVING & DRAINAGE, INC./HOMWOOD BOULEVARD BICYCLE LANES ROAD WIDENING:** Approve of Change Order No. 2 to Rosso Paving and Drainage, Inc. for additional work required to relocate a sidewalk for the Homewood Boulevard Bicycle Lanes Project.
  - C. **(MOVED TO ITEM 9.A.A. ON THE REGULAR AGENDA)**
  - D. **RESOLUTION NO. 24-09:** Approve Resolution No. 24-09 establishing a Green Task Force to make recommendations to the City Commission regarding environmental sustainability and ideas to implement the recommendations.

- E. **COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) AMENDMENT TO ANNUAL ACTION PLAN (FY 2008 - 2009):** Approve an amendment to FY 2008-2009 Annual Action Plan to include \$156,617.00 towards funding Public Facilities and Improvements located within the CDBG target area.
- F. **BULLETPROOF VEST GRANT/DEPARTMENT OF JUSTICE:** Authorize staff to submit an application to the Department of Justice for funding in the amount of \$2,170.12 for 8 vests for the Bulletproof Vest Program. Funding is available from 001-2115-521-52.27 (General Fund/Operating Supplies/Equipment < \$1,000).
- G. **LETTER OF SUPPORT/JUSTICE ASSISTANCE GRANT (JAG) FUND:** Approve the Mayor's submission of a letter in support of the Countywide Justice Assistance Grant funds (JAG) for FY 2010 funding allocations.
- H. **SPECIAL EVENT REQUESTS/ART AND JAZZ ON THE AVENUE:** Approve special event requests to endorse Art and Jazz on the Avenue to be held on June 25, 2009 and August 20, 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, Railroad Avenue from Atlantic north to the north side of the east/west alley, and 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.W. 5<sup>th</sup> Avenue from the north side of the Fire Station to N.W. 2<sup>nd</sup> Street, and S.W. 5<sup>th</sup> Avenue from Atlantic to SW 1<sup>st</sup> Street; to authorize staff support for security, traffic control, banner hanging and removal, barricade set up and removal, trash removal and clean up and EMS assistance; contingent upon receipt of a hold harmless agreement.
- I. **REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:** Accept the actions and decisions made by the Land Development Boards for the period May 18, 2009 through May 29, 2009.
- J. **AWARD OF BIDS AND CONTRACTS:**

- 1. None

9. **REGULAR AGENDA:**

- A.A. **RESOLUTION NO. 17-09:** Approve Resolution No. 17-09 assessing costs for abatement action required to remove nuisances on nine (9) properties throughout the City. (Commissioner Bernard filed a Conflict of Interest and left the dais. Approved, 4-0)
- A. **CONDITIONAL USE REQUEST/LIFE SKILLS CENTER:** Consider a conditional use request to allow the expansion of the Life Skills Center into three (3) vacant bays adjacent to the previously approved Life Skills facility for the property located within the Lake Ida Shopping Center at the southwest corner of Lake Ida Road and Congress Avenue. (*Quasi-Judicial Hearing*) (Motion to adopt board order as presented; Approved, 4-1. Commissioner Frankel dissenting)

1. **WAIVER REQUESTS/LIFE SKILLS CENTER:** Consider two (2) waiver requests to Land Development Regulations (LDR) Section, 4.3.3 (HHH) (3), "Outdoor Area", to reduce the minimum outdoor play area required from 75 square feet per student to 33.33 square feet; and Land Development Regulations (LDR) Section, 4.3.3. (HHH)(6), "Private Schools and Other Similar Education Facilities", to exceed the maximum number of students from 100 to allow up to 165 students for the property located within the Lake Ida Shopping Center at the southwest corner of Lake Ida Road and Congress Avenue. *(Quasi-Judicial Hearing)* (Motion to adopt board order as presented, Approved, 4-1; Commissioner Frankel dissenting)
  
- B. **BID PROTEST/BID AWARD/OCEANSIDE BEACH SERVICE, INC.:** Consider bid protests filed by Oceanside Beach Service, Inc. and Boucher Brothers, regarding beach equipment rental concession; Request for Proposal (RFP) No. 2009-18 and consider awarding the bid to Oceanside Beach Service, Inc. *(Quasi-Judicial Hearing)* (Motion to adopt board order as presented; Approved, 5-0)
  
- C. **AGREEMENT/COMPUTERWORX, INC.:** Consider approval of a Consulting Agreement between the City and ComputerWorx, Inc., for computer software development for the Green Task Force online bulletin board meetings. *(Consensus of the Commission for staff go back to ComputerWorx, Inc. regarding the agreement)*
  
- D. **AMENDMENT NO. 2/MATCH POINT, INC.:** Consider approval of Amendment No. 2 to the amended and restated agreement between the City and Match Point, Inc. which provides that the City shall be a Co-Title Sponsor for the ATP Champions Tour, which shall be held concurrently with the ATP World Tour. *(Consensus of the Commission to have the Budget Force Task Force review the agreement and for staff to bring the recommendations back to them)*
  
10. **PUBLIC HEARINGS:**
  - A. **WAIVER REQUEST/PALM TERRACES:** Consider a request to waive Land Development Regulations (LDR) Section 1.3.8 (B), "Reconstruction Necessitated by Act of God", which requires applicants seeking building permits to submit within one (1) year of the date on which the "Act of God" event occurred and that all reconstruction be completed within three (3) years from the date of the event for Palm Terraces, located at 1000 Palm Trail. *(Quasi-Judicial Hearing)* (Motion to adopt board order as presented, Approved, 4-1; Commissioner Fetzer dissenting)
  
  - B. **RESOLUTION NO. 21-09:** Consider approval of Resolution No. 21-09 authorizing the City to sell property that the City acquired from Palm Beach County for unpaid taxes located at 46 N.W. 12<sup>th</sup> Avenue, Delray Beach, Florida, to Ginette Louis for affordable housing purposes. *(Motion to approve Resolution No. 21-09; Approved, 5-0)*

1. **SELECTION OF EAGLE NEST HOMEBUYER:** Approve homebuyer Ginette Louis for the Eagle Nest property located at 46 N.W. 12<sup>th</sup> Avenue and approve \$75,000.00 in SHIP down payment assistance funds for the home purchase. Funding will be available from 118-1924-554-49.20 (Neighborhood Services/Other Current Charges/Homeowner Subsidy). (Approved, 5-0)
  
- C. **RESOLUTION NO. 23-09:** Consider approval of a resolution for the certification and adoption of the preliminary assessment roll for the Douglas Avenue special assessment district. (Motion to approve Resolution No. 23-09, Denied, 4-1; Commissioner Eliopoulos dissenting)
  
- D. **ORDINANCE NO. 16-09 (SECOND READING/SECOND PUBLIC HEARING):** Consider an ordinance accepting the recommendations contained within the Old School Square Historic District Resurvey Report including extending the Period of Significance to 1965 and reclassifying 23 properties from non-contributing to contributing. (Motion to approve Ordinance No. 16-09; Denied, 5-0)
  
- E. **ORDINANCE NO. 17-09 (SECOND READING/SECOND PUBLIC HEARING):** Consider an ordinance accepting the recommendations contained within the West Settlers Historic District Resurvey Report including extending the Period of Significance to 1970, and reclassifying 7 properties from non-contributing to contributing and amending the Land Development Regulations to amend the boundaries of the West Settlers Historic District to provide for the removal of the Atlantic Grove Development. (Motion to approve Ordinance No. 17-09 (Version 2); Approved, 5-0)
  
- F. **ORDINANCE NO. 27-09 (FIRST READING/FIRST PUBLIC HEARING):** Consider a city-initiated amendment to the Land Development Regulations (LDR) Appendix "A" "Definitions", to provide an updated definition of "Family". If passed, a second public hearing will be held on July 7, 2009. (Motion to approve Ordinance No. 27-09, Approved, 3-2; Commissioner Bernard and Mayor McDuffie dissenting)
  
- G. **ORDINANCE NO. 28-09 (FIRST READING/FIRST PUBLIC HEARING):** Consider a city initiated amendment to the Land Development Regulations (LDR), Section 4.3.3, "Special Requirements for Specific Uses", Subsection (I) "Community Residential Homes and Group Homes", to update the section to comport with changes in State Law. If passed, a second public hearing will be held on July 7, 2009. (Motion to approve Ordinance No. 28-09; Approved, 5-0)
  
- H. **ORDINANCE NO. 29-09 (FIRST READING/FIRST PUBLIC HEARING):** Consider a city-initiated amendment to the Land Development Regulations (LDR) by amending Section 4.3.3, "Special Requirements for Specific Uses", by enacting a new Subsection 4.3.3(ZZZ), "Transient Residential Uses", in order to establish prohibitions, exemptions/exceptions, waivers and penalties; amending Section 4.4.6, "Medium Density Residential (RM) District, to provide that "Transient Residential Uses", shall be allowed as permitted uses; and, amending Appendix "A," "Definitions", to provide for a definition of "Transient Residential Uses". If passed, a second public hearing will be held on July 7, 2009. (Motion to approve Ordinance No. 29-09; Approved, 5-0)

- I. **ORDINANCE NO. 30-09 (FIRST READING/FIRST PUBLIC HEARING):**  
Consider a city initiated amendment to Chapter 117 of the Code of Ordinances, “Landlord Permits”, Section 117.01, “Permit Required”, to clarify when a permit is required; Section 117.03, “Approval of Application”, to provide additional requirements; Section 117.04, “Appeals”, by renaming it “Denial or Revocation of Permit Application; Appeals”, Section 117.05 “Inspection”, to provide for inspection with a warrant; enacting a new Section 117.06 “Tenant/Occupant Eviction”, to ensure notice and due process rights are followed or alternate housing is provided; and, enacting a new Section 117.07 “Severability”, to provide for severability. If passed, a second public hearing will be held on July 7, 2009. (Motion to approve Ordinance No. 30-09 with added language as suggested by the City Attorney; 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 31-09:** Consider a city-initiated amendment to Chapter 35, "Employees Policies and Benefits", subheading "Retirement Plan", of the Code of Ordinances of the City of Delray Beach, Florida, by amending Section 35.097, “Retirement Income; Basis, Amount, and Payment”; amending Section 35.100, “Beneficiaries; Contingencies”. If passed, a public hearing will be held on June 16, 2009. (Approved, 5-0)

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

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

POSTED: MAY 29, 2009

***\*\*\*\*\* Meeting adjourned at 1:48 a.m. \*\*\*\*\****