

NOVEMBER 20, 2007

A Regular Meeting of the City Commission of the City of Delray Beach, Florida, was called to order by Vice Mayor Fetzer in the Commission Chambers at City Hall at 6:04 p.m., Tuesday, November 20, 2007.

1. Roll call showed:

Present - Commissioner Gary Eliopoulos
Commissioner Fred Fetzer
Commissioner Woodie McDuffie
Commissioner Brenda Montague

Absent - Mayor Rita Ellis

Also present were - David T. Harden, City Manager
Robert A. Barcinski, Assistant City Manager
Susan A. Ruby, City Attorney
Terrill Barton, Assistant City Attorney
Chevelle D. Nubin, City Clerk

2. The opening prayer was delivered by Reverend Kathleen Gannon of St. Paul's Episcopal Church.

3. The Pledge of Allegiance to the flag of the United States of America was given.

At this point, Vice Mayor Fetzer stated he is present in place of Mayor Ellis and informed everyone that Mayor Ellis was involved in an automobile accident earlier this week. Mr. Fetzer stated someone apparently ran a red light and hit her. She suffered a concussion and a lot of bruises and is now home and recovering very well. Vice Mayor Fetzer asked everyone to keep Mayor Ellis in their prayers and she hopes to be back very soon.

4. **AGENDA APPROVAL.**

Vice Mayor Fetzer stated there is a correction to Item 8.U.3. and it should read contract award to BG Group, LLC and funding is available from CDBG Sub-Grant Agreement No. 07DB-3V-10-60-01-Z07.

Also, Vice Mayor Fetzer stated there is an Appeal/Site Plan Review and Appearance Board Actions for Mid-Town Delray that was added to the Agenda by addendum.

The City Attorney stated Item 10.A. and Item 10.A.1. deals with the Midtown Project and also deals with the appeal. She stated there has been a request to postpone that to December 4, 2007 and that will come before the Commission as the caption is read. The City Attorney stated the other postponements are Item 10.C. that deals with the Old School Square Historic Arts District (Ordinance No. 31-07) to February 19, 2008. The City Attorney stated Item 10.D., Ordinance No. 22-07 has been advertised appropriately but she just wanted to make sure that the Agenda properly reflects sub-items under text amendments (roman numeral vi, vii, viii and ix). The City Attorney stated there has been a request to postpone Item 10.E., Ordinance No. 55-07 (First Reading/First Public Hearing) to December 4, 2007 as the Planning and Zoning Board tabled this item until their December 3, 2007 meeting.

The City Attorney requested that **Item 8.O., Encroachment Agreement/Fence Installation Agreement/Royal Atlantic/Bob Federspiel Garage** be moved from the Consent Agenda to the Regular Agenda as **Item 9.A.A.**

Mr. McDuffie moved to approve the Agenda as amended, seconded by Mrs. Montague. Upon roll call the Commission voted as follows: Mrs. Montague – Yes; Mr. Eliopoulos – Yes; Vice Mayor Fetzer – Yes; Mr. McDuffie – Yes. Said motion passed with a 4 to 0 vote.

5. APPROVAL OF MINUTES:

Mrs. Montague moved to approve the Minutes of the Workshop Meeting of November 13, 2007, seconded by Mr. Eliopoulos. Upon roll call the Commission voted as follows: Mr. Eliopoulos – Yes; Vice Mayor Fetzer – Yes; Mr. McDuffie – Yes; Mrs. Montague – Yes. Said motion passed with a 4 to 0 vote.

6. PROCLAMATIONS:

6.A. NONE

7. PRESENTATIONS:

7.A. Florida Department of Transportation (FDOT) Project Engineer Eiseman and Russo on the progress of SR A-1-A RRR Project

Randal Krejcarek, City Engineer, introduced James (Sandy) Daniel, Project Engineer with Eiseman and Russo for the A-1-A RRR Project.

Sandie Daniel, Project Engineer with Eiseman and Russo, briefly updated the Commission on the status of the SR A-1-A RRR Project and what will be happening in the near future. Mr. Daniel stated they have been handling the A-1-A corridor for Florida Department of Transportation (FDOT) from the Palm Beach County line north to the Town of Palm Beach. He stated they started in May/June 2007 through Delray Beach and they will be restricting their operations from this point forward until after season is

over. Mr. Daniels stated the work adjacent to the beach and the parking areas is being paved and should be completed tomorrow. He stated on the corner of Atlantic and A-1-A and that should be completed around Tuesday or Wednesday of next week and then they will be out of there until after season as well. The area from Linton Boulevard north where the widening has started is going to be left as it is until after Easter. Mr. Daniel thanked Randal Krejcarek, the Engineering Department and the Public Works Division for being so helpful with the utility relocations and getting things out of the way. Mr. Daniel left business cards with the City Clerk for the Commission for contact purposes.

Mrs. Montague asked when work would resume. In response, Mr. Daniel stated work will resume right after Easter.

7.B. Government Finance Officers Association - Certificate of Achievement for Excellence in Financial Reporting

Vice Mayor Fetzer read the following statement into the record: "The Certificate of Achievement for Excellence in Financial Reporting has been awarded to the City of Delray Beach for the Government Finance Officers Association for the United States and Canada for its Comprehensive Annual Financial Report (CAFR). The Certificate of Achievement is the highest form of recognition in the area of governmental accounting and financial reporting and its attainment represents a significant accomplishment by a government and its management. An award of financial reporting achievement has been awarded to an individual or departmental agency designated by the government as primarily responsible for preparing this report." Vice Mayor Fetzer stated this has been presented to Milena L. Walinski, CGFO, Assistant Finance Director and the CAFR has been judged by an impartial panel to meet the high standards of the program including demonstrating a constructive spirit of full disclosure to clearly communicate its financial story and motivate potential users and user groups to read the CAFR. This is a non-profit professional association serving approximately 16,000 government finance professionals with offices in Chicago and Washington, D.C.

Joseph Safford, Finance Director, stated this is the annual financial report of the City of Delray Beach and the Finance Department has received this Certificate of Achievement for Excellence in Financial Reporting from this national organization for 24 consecutive years. He stated the reason that it is important is because it shows third parties that the Finance Department follows all the standards that are established by the Government Finance Officers Association and its related agencies. For example, Mr. Safford stated the City Manager, City Commission, Bond holders, Bond rating agencies, the City's external auditors can rely on the City's report that it is accurate and that it follows the standards of this organization. Mr. Safford, on behalf of the Finance Department, thanked the City Commission.

8. CONSENT AGENDA: City Manager Recommends Approval.

8.A. ACCEPTANCE OF A RIGHT-OF-WAY DEED/SIDEWALK EASEMENT AND SIDEWALK DEFERRAL REQUEST/1015 NASSAU STREET:

Approve and accept a right-of-way deed for a 5.6 foot right-of-way, a 5 foot sidewalk easement and a sidewalk deferral request for 1015 Nassau Street, located within the Nassau Street Historic District.

8.B. PALM BEACH COUNTY EMERGENCY MEDICAL SERVICES GRANT: Approve and accept the Palm Beach County Emergency Medical Services (EMS) Grant in the amount of \$46,340.000 from the EMS County Grant Award; and authorize staff to submit a letter of confirmation to the Palm Beach County Division of Emergency Management to officially accept the grant award and the State and County grant requirements.

8.C. AGREEMENT/GULFSTREAM GOODWILL INDUSTRIES: Approve an agreement between the City and Gulfstream Goodwill Industries for funding and acceptance of funds in the amount of \$70,730.00 to provide services to ex-offenders returning to targeted neighborhoods within the City of Delray Beach.

8.D. POLICE AND FIRE COMMUNICATIONS AGREEMENT/TOWN OF GULF STREAM, FLORIDA: Approve a Police and Fire Communications Agreement between the City and the Town of Gulf Stream, Florida in the amount of \$42,970.00 per year for the use of the Delray Beach Police Department's police and fire dispatching and communications services.

8.E. AGREEMENT/PENN CREDIT CORPORATION: Approve an agreement between the City and Penn Credit Corporation to provide professional collection services for delinquent parking tickets. Penn Credit Corporation's fee will be eighteen percent (18%) of the collections.

8.F. FIRST AMENDMENT/INTERCONNECT AGREEMENT/PALM BEACH COUNTY: Approve an Amendment to the Interconnect Agreement between the City and Palm Beach County that provides for an extra interconnect at Ferndale Drive and Military Trail; revises the fees for water charges; and revises the remedies each party shall have against the other party.

8.G. AMENDMENT NO. 1/INTERLOCAL AGREEMENT/COMMUNITY REDEVELOPMENT AGENCY/CLEAN AND SAFE PROGRAM: Approve Amendment No. 1 to the Interlocal Agreement between the City and the Community Redevelopment Agency (CRA), which modifies the language in Paragraph Four (4) to change the date by which the City shall provide a quarterly report to the CRA Executive Director no later than ten (10) days after the end of each quarter.

8.H. AMENDMENT NO. 1/INTERLOCAL AGREEMENT/COMMUNITY REDEVELOPMENT AGENCY/CONSTRUCTION/PROFESSIONAL SERVICES: Approve Amendment No. 1 to the Interlocal Agreement between the City and the Community Redevelopment Agency (CRA) for funding construction/professional services for FY 2007/2008, to

include the S.W. 12th Avenue/Auburn Avenue Beautification Project.

8.I. AMENDMENT NO. 1/LEASE AGREEMENT FOR BOY SCOUT HUT/PIONEER BOYS ASSOCIATION, INC.: Approve Amendment No. 1 to the Lease Agreement between the City and the Pioneer Boys Association, Inc., providing that the leased area only encompasses the area directly under the Boy Scout Hut, and that the scouts shall only be required to provide "participants insurance" as obtained through the National Boy Scouts of America.

8.J. AMENDMENT NO. 2 TO THE BID AWARD/HATCHER CONSTRUCTION AND DEVELOPMENT, INC./133 N.W. 5TH AVENUE: Approve Amendment No. 2 to the bid award between the City, Community Redevelopment Agency (CRA) and Hatcher Development and Construction to provide for exterior improvements at 133 N.W. 5th Avenue.

8.K. WAIVER OF BID IRREGULARITY/135 N.W. 5TH AVENUE: Approve a request to waive an irregularity in the bid process for 135 N.W. 5th Avenue, in which an error was identified in the bid documents previously submitted by Stuart and Shelby Development.

1. BID AWARD/STUART AND SHELBY DEVELOPMENT: Approve a bid award to Stuart and Shelby Development in the amount of \$554,323.00 for the rehabilitation of 135 N.W. 5th Avenue. Funding is available from 118-1930-554-49.19 (Community Development Fund/Housing Rehabilitation).

8.L. HOUSING REHABILITATION GRANT/CONTRACT AWARD: Approve one (1) Housing Rehabilitation grant/contract award through the Community Development Division in the amount of \$36,524.25 to South Florida Construction Services. Funding is available from 118-1924-554-49.19 (State Housing Initiatives Partnership (SHIP) Program/Housing Rehabilitation).

8.M. SUB-RECIPIENT AGREEMENT/COMMUNITY LAND TRUST, INC. (CLT): Approve a Sub-Recipient Agreement between the City and the Community Land Trust, Inc. (CLT) for the purposes of subsidizing the costs associated with affordable housing units and management of affordable rental properties with the CLT.

8.N. UPDATE THE NEIGHBORHOOD SERVICES PROGRAM DESCRIPTION MANUAL: Approve an update to the Neighborhood Services Division Program Description Manual, which specifies the standard operating procedures for Federal, State and Local programs administered under the Department of Community Improvement, Neighborhood Services Division.

8.O. THIS ITEM HAS BEEN MOVED TO THE REGULAR AGENDA AS ITEM 9.A.A.

8.P. RESOLUTION NO. 67-07: Approve and adopt Resolution No. 67-07 establishing a Green Task Force.

The caption of Resolution No. 67-07 is as follows:

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH FLORIDA, CREATING THE GREEN TASK FORCE TO MAKE RECOMMENDATIONS TO THE CITY COMMISSION REGARDING ENVIRONMENTAL SUSTAINABILITY; PROVIDING AN EFFECTIVE DATE.

(The official copy of Resolution No. 67-07 is on file in the City Clerk's office.)

8.Q. SPECIAL EVENT REQUEST/FIRST NIGHT 2008: Approve a special event request to endorse the 10th Annual First Night 2008 event on December 31, 2007 from 4:00 p.m. to midnight, granting a temporary use permit per LDR Section 2.4.6(F) for the use and street closures of City rights-of-way and facilities as requested, to authorize staff support for security and traffic control, signage construction and installation, barricade set-up/removal, trash removal and clean up, EMS services, and use/set-up of new City stage as needed at no charge.

8.R. SERVICE AUTHORIZATION NO. 01-32/AVIROM & ASSOCIATES, INC.: Approve Service Authorization No. 01-32 in the amount of \$16,956.00 to Avirom & Associates, Inc. for the survey on Homewood Boulevard from the south right-of-way of Atlantic Avenue to the south right-of-way of Lawson Boulevard. Funding is available from 334-3162-541-68.46 (General Construction Fund/Homewood Bikepaths).

8.S. ACTUARIAL SERVICES/GABRIEL ROEDER SMITH AND COMPANY (GRS): Consider approval of a four (4) year contract with Gabriel Roeder Smith & Company (GRS) in the amount of \$29,000.00 for actuarial services relating to GASB 45 Other Post Employment Benefits (OPEB). Funding is available from 551-1571-591-34.90 (Business Insurance Fund/Other Contractual Services).

8.T. REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS: Accept the actions and decisions made by the Land Development Boards for the period November 5, 2007 through November 16, 2007.

8.U. AWARD OF BIDS AND CONTRACTS:

- 1.** Purchase award to Duval Ford in the amount of \$24,055.00 via the Florida Sheriff's Association Contract #07-15-0827, Specification #1 for the purchase of one (1) 2008 Ford Crown Victoria Police Interceptor with options and warranty for the Police Department.

Funding is available from 501-3312-591-64.20 (Central Garage Fund/Automotive).

2. Contract award to Industrial Divers Corporation in the amount of \$69,192.00 for the purchase and installation of Tide Flex Check Valves of various sizes at eight (8) storm water outfall locations in the Intracoastal Waterway. Funding is available from 448-5416-538-46.90 (Stormwater Utility Fund/Other Repair/Maintenance Costs).
3. Contract award to BG Group LLC in the amount of \$801,436.00 for the demolition of Carver Estates. Funding is available from CDBG Sub-Grant Agreement No. 07DB-3V-10-60-01-Z07.

Mr. Eliopoulos moved to approve the Consent Agenda as amended, seconded by Mr. McDuffie. Upon roll call the Commission voted as follows: Vice Mayor Fetzer – Yes; Mr. McDuffie – Yes; Mrs. Montague – Yes; Mr. Eliopoulos – Yes. Said motion passed with a 4 to 0 vote.

9. REGULAR AGENDA:

9.A.A. ENCROACHMENT AGREEMENT/FENCE INSTALLATION AGREEMENT/ROYAL ATLANTIC/BOB FEDERSPIEL GARAGE: Approve an agreement between the City and Ocean City Place, LLC providing that the City is released from any claim regarding any issue pertaining to the encroachment of chemical grout located adjacent to the north face of the Bob Federspiel Garage building; and approve a fence installation agreement allowing Royal Atlantic to install at its own cost a louvered fence on the top floor of the Bob Federspiel Garage Building.

The City Attorney stated there are two agreements; one is the Encroachment Agreement and the other is a Fence Installation Agreement. Each agreement is dependent on each other and the Encroachment Agreement deals with some issues of grouting chemical grout on each other's property and the Royal Atlantic property agreed to not bring any claim against the City of Delray Beach for any encroachments that might be there during that construction. The City Attorney stated the City did not construct the garage; however, we assumed the ownership of the garage after its construction. Also, the City Attorney stated the Fence Installation Agreement is something that they want to do at the top of the Federspiel Garage. Staff has been working with them and from talking with one of the Commissioners today she believes there are still some issues regarding a couple of the drawings. The City Attorney stated staff has had indications that the plan would not affect the Core Slabs, Inc. warranty but staff wants to ensure everyone is looking at the right drawings and that everyone is on the same page about how it is going to be installed and what affect that will have.

The City Attorney recommended that the Commission approve the agreements subject to the City Attorney approving the attachments and making sure the warranty is effective.

Mr. Eliopoulos moved to approve the Encroachment Agreement and Fence Installation Agreement subject to the City Attorney approving the attachments and making sure the warranty is effective, seconded by Mrs. Montague. Upon roll call the Commission voted as follows: Mr. McDuffie – Yes; Mrs. Montague – Yes; Mr. Eliopoulos – Yes; Vice Mayor Fetzer – Yes. Said motion passed with a 4 to 0 vote.

9.A. AGREEMENT/DELRAY BEACH HISTORICAL SOCIETY, INC.: Consider approval of an agreement between the City and the Delray Beach Historical Society, Inc. for funding in an amount not to exceed \$175,000.00 for the Hunt House Rehabilitation and Construction of an Archival Storage Facility.

Terrill Barton, Assistant City Attorney, stated this is a funding agreement where the City of Delray Beach is proposing to give the Delray Beach Historical Society a minimum amount of \$125,000.00 and a maximum amount of \$175,000.00 for the rehabilitation of the Hunt House which is a historic home that has been relocated to the Cason Cottage property. She stated the agreement gives the Delray Beach Historical Society approximately until November 2008 to rehabilitate the structure and all costs are on a reimbursable basis with the receipts and invoices to be turned in to the City's finance department and reviewed before payment is made.

The City Attorney stated only those reasonable costs that are the City's sole discretion deemed reasonable will be reimbursed. There is an agreement that provides for insurance and also a performance bond. Ms. Barton stated the Delray Beach Historical Society is in the process of trying to obtain the performance bond and they have provided the City with all insurance to date except for the builder's risk which they are in the process of obtaining as well.

Mrs. Montague moved to approve the agreement between the City of Delray Beach and the Delray Beach Historical Society, Inc. for funding in the amount *not* to exceed \$175,000.00 for the Hunt House Rehabilitation and Construction of an Archival Storage Facility, seconded by Mr. McDuffie. Upon roll call the Commission voted as follows: Mrs. Montague – Yes; Mr. Eliopoulos – Yes; Vice Mayor Fetzer – Yes; Mr. McDuffie – Yes. Said motion passed with a 4 to 0 vote.

9.B. TENNIS CENTER CONSULTING AGREEMENT/JCD SPORTS GROUP, INC.: Consider approval of a consulting agreement with JCD Sports Group, Inc. in the amount of \$125,071.20 for the period of December 1, 2007 through November 30, 2012. Funding is available from 001-4210-575-34.90 (Tennis Center Special Events/Other Contractual Services).

Robert A. Barcinski, Assistant City Manager, stated this is a proposed five (5) year agreement with JCD Sports Group, Inc. for the Tennis Center Consulting Agreement. Services provided under this agreement include pursuing and attracting events to the Stadium, assisting in negotiating Stadium use agreements and overseeing and managing events held at the Stadium. This is a proposed five (5) year agreement with a fee increase for each year. Staff recommends approval.

Mr. Eliopoulos moved to approve the Tennis Center Consulting Agreement with JCD Sports Group, Inc. in the amount of \$125,071.20 for the period of December 1, 2007 through November 30, 2012, seconded by Mrs. Montague. Upon roll call the Commission voted as follows: Mr. Eliopoulos – Yes; Vice Mayor Fetzer – Yes; Mr. McDuffie – Yes; Mrs. Montague – Yes. Said motion passed with a 4 to 0 vote.

9.C. DISCUSSION/2008 ANNUAL TOWN HALL MEETING: Provide direction regarding the schedule for the 2008 Annual Town Hall Meeting.

Vice Mayor Fetzer stated the Town Hall Meeting is scheduled for January 29, 2008, which is the Presidential Preference Primary and also the State of Florida Reform Referendum on the latest tax bill proposal. He asked if staff is considering changing this date.

The City Manager stated there are several options. He stated the Commission can leave it on this date because most likely the election returns will not come in until it is finished anyway. Or, the Commission could cancel the meeting. Staff looked at moving the Annual Town Hall Meeting to Thursday, January 31, 2008; however, Old School Square is not available either on Thursday, January 31, 2008 or Thursday, January 24, 2008. The City Manager stated Old School Square is available on Wednesday, January 30, 2008 otherwise it would have to be in February and he feels that would be late for what the City would like to accomplish.

After brief discussion, it was the consensus of the City Commission to move the Annual Town Hall Meeting to Wednesday, January 30, 2008 and to also do the same roundtable format as last year.

Mrs. Montague stated she would like to make sure that the 2008 Annual Town Hall Meeting is advertised as early as possible so that the entire community is aware of it and so that it will give them the opportunity to get involved this year.

9.D. SETTLEMENT OFFER IN ANNA CHANDLER v. CITY OF DELRAY BEACH ET AL: Consider a Settlement Offer in the total amount of \$200,000.00 in Anna Chandler v. City of Delray Beach, et al. Staff recommends denial of this settlement offer.

The City Attorney stated this item and the next item deal with cases filed regarding the activities of Linda Marks and set forth the cause of action for negligence, retention, and supervision. The settlement offer is a proposal of settlement in the case of Anna Chandler and is \$200,000.00. Staff recommends denial of the settlement offer.

Mrs. Montague moved to approve the settlement offer in Anna Chandler v. City of Delray Beach, et al, seconded by Mr. McDuffie. Upon roll call the Commission voted as follows: Vice Mayor Fetzer – No; Mr. McDuffie – No; Mrs. Montague – No; Mr. Eliopoulos – No. Said motion was **DENIED** with a 4 to 0 vote.

9.E. SETTLEMENT OFFER IN WILLIAM LANAGAN v. CITY OF DELRAY BEACH ET AL: Consider a Settlement Offer in the total amount of \$100,000.00 in William Lanagan v. City of Delray Beach, et al. Staff recommends denial of this settlement offer.

The City Attorney stated this is a settlement offer in William Lanagan v. City of Delray Beach, et al and there is a proposal for settlement in the amount of \$100,000.00. Staff recommends denial of the settlement offer.

Mr. Eliopoulos moved to approve the settlement offer in William Lanagan v. City of Delray Beach, et al, seconded by Mr. McDuffie. Upon roll call the Commission voted as follows: Mr. McDuffie – No; Mrs. Montague – No; Mr. Eliopoulos – No; Vice Mayor Fetzer – No. Said motion was **DENIED** with a 4 to vote.

9.F. APPOINTMENT TO THE DOWNTOWN DEVELOPMENT AUTHORITY: Appoint one (1) regular member to the Downtown Development Authority (DDA) to serve an unexpired term ending July 1, 2008. Based upon the rotation system, the appointment will be made by Commissioner Eliopoulos (Seat #1).

Mr. Eliopoulos stated he would like to defer his appointment to the next regular City Commission Meeting of December 4, 2007.

9.G. APPOINTMENT TO THE NEIGHBORHOOD ADVISORY COUNCIL: Appoint one (1) regular member from Zone 1 to the Neighborhood Advisory Council to serve an unexpired term ending October 31, 2008. Based upon the rotation system, the appointment will be made by Commissioner McDuffie (Seat #3).

Mr. McDuffie stated he would like to defer his appointment to the next regular City Commission Meeting of December 4, 2007.

At this point, the time being 6:34 p.m., the Commission moved to **Item 12, First Readings.**

12. FIRST READINGS:

12.A. ORDINANCE NO. 56-07: An ordinance amending Chapter 32, "Departments, Boards and Commissions", of the Code of Ordinances of the City of Delray Beach, Florida, by amending Section 32.41, "Composition; Terms; Appointment", to clarify the composition of the Kids and Cops Committee. If passed, a second public hearing will be scheduled for December 4, 2007.

The caption of Ordinance No. 56-07 is as follows:

AN ORDINANCE OF THE CITY COMMISSION OF
THE CITY OF DELRAY BEACH, FLORIDA,
AMENDING CHAPTER 32, "DEPARTMENTS,
BOARDS AND COMMISSIONS", OF THE CODE OF

ORDINANCES OF THE CITY OF DELRAY BEACH
BY AMENDING SECTION 32.41, "COMPOSITION;
TERMS; APPOINTMENT", TO CLARIFY THE
COMPOSITION OF MEMBERS ON THE KIDS AND
COPS COMMITTEE; PROVIDING A GENERAL
REPEALER CLAUSE, A SAVING CLAUSE, AND
AN EFFECTIVE DATE.

(The official copy of Ordinance No. 56-07 is on file in the City Clerk's
office.)

The City Attorney read the caption of the ordinance.

Mr. McDuffie moved to approve Ordinance No. 56-07, seconded by Mr.
Eliopoulos. Upon roll call the Commission voted as follows: Mrs. Montague – Yes; Mr.
Eliopoulos – Yes; Vice Mayor Fetzer – Yes; Mr. McDuffie – Yes. Said motion passed
with a 4 to 0 vote.

At this point, the time being 6:36 p.m., the Commission moved to **Item
13, Comments and Inquiries on Non-Agenda items from the City Commission.**

13. COMMENTS AND INQUIRIES ON NON-AGENDA ITEMS.

13.A. City Manager

The City Manager stated staff sent flowers to Mayor Ellis this afternoon
on behalf of the City Commission. He stated Mayor Ellis called and stated she very
much appreciated the flowers and they cheered her up.

13.B. City Attorney

The City Attorney wished everyone a "Happy Thanksgiving".

13.C. City Commission

13.C.1. Mr. McDuffie

Mr. McDuffie stated there are several activities that are going to go on in
the community over the Thanksgiving holidays. He stated he, his wife, and daughter are
going to participate in the Spady serving and fold the seats down in the expedition and
deliver meals. Mr. McDuffie encouraged the rest of the Commission if they have the
time to get involved as well. He stated there are some very wonderful things that go on
to help people less fortunate than ourselves this time of year. Mr. McDuffie stated there
are some great people who volunteer and arrange things such as this. He stated we have
wonderful people in this community who volunteer and make it work. Mr. McDuffie
feels these people should all be appreciated.

13.C.2. **Mrs. Montague**

Mrs. Montague stated this week of course is all about Thanksgiving and noted that the entire Commission has been to numerous events throughout the last 1-2 weeks. She stated she and Commissioner McDuffie were at Office Depot yesterday morning and Office Depot has delivered 2,400 turkeys. She stated the City of Delray Beach is proud and happy to have them consider the City as a partner in this. Mrs. Montague stated Mary Wong oversees the entire operation and she has been doing this for seven years and it is making a lot of families happy who otherwise would not be able to enjoy Thanksgiving.

Secondly, Mrs. Montague stated she was a participant in the Out-of-School Program Thanksgiving Feast which is done through the Parks and Recreation Department. She stated they visited three sites and she was a judge. The top participants were the Community Center, Pompey Park, and Pine Grove Elementary School and Pine Grove came in first place, the Community Center came in second place, and Pompey Park came in third place. Mrs. Montague commented about the children's handmade project and gave it to the City Clerk for Mayor Ellis. Mrs. Montague read an essay written by one of the children.

Mrs. Montague stated there are a number of organizations that people can be a part of during the Thanksgiving holiday if they have some free time and noted that people can give the City Clerk's office a telephone call because they can provide the public with the organizations that can use help.

13.C.3. **Mr. Eliopoulos**

Mr. Eliopoulos commented about the Pension Board and asked the City Manager if we are at the point of appointing someone since the Mayor was not attending the meetings. The City Manager stated this requires an ordinance amendment and staff has been debating about who to put in her place.

Vice Mayor Fetzer commented that he understands that the Pension Board is not governed under the same rules as some of the other City advisory boards. The City Manager stated the Pension Board can make their own rules for the most part and noted that there was an issue about a member being absent and they really have to make their own rules about that. Vice Mayor Fetzer asked if the Pension Board has been advised about that. The City Attorney stated she has talked to their lawyer and believes the Mayor was going to talk to their lawyer as well. The City Attorney stated they were hoping that by just contacting one of the members they would start showing up and noted she will check on the status of this.

Mr. Eliopoulos asked what the status is for Joe Weldon's position and his replacement. The City Manager stated the City has received numerous applicants and the application period has closed. Staff is starting to work through those applications and

— expects at this point, because of the holidays, it will be January 2008 before an appointment is made.

Mr. Eliopoulos commented about the City going green and distributed some information regarding a solar tube which is a lighting system. He stated this is a system that basically uses natural lighting. Mr. Eliopoulos stated in the event it is a cloudy day and clouds come over it there is a sensor that actually turns back on the fluorescent fixture so you have a constant lighting level of 50 foot candles. He stated should the cloud go past and it is sunny again, the fluorescent turns off and once again natural light comes in. He stated he discussed this with the City Manager and noted that a lot of these things the City is going to be discussing with green, especially the buildings, there is always a cost associated with it. He stated you have to look at the turnaround with something like this as well.

Secondly, he wished everyone a safe and happy Thanksgiving.

13.C.4. Vice Mayor Fetzer

— Vice Mayor Fetzer stated with regard to the Green Task Force that the City has formed with the item on the Consent Agenda, there was a resolution approving that from a prior discussion. He stated the City of Delray Beach is one of the first cities in Palm Beach County to do something like this and he is very encouraged that we are taking this initiative to try and bring some good talented people in the community to work on these issues. Vice Mayor Fetzer stated he sent an email to the City Manager regarding some good nominees and concurred with his recommendation that the Commission follow their normal appointment process of rotating those appointments through the Commission if that is agreeable to the Commissioners. The City Commission concurred with Vice Mayor Fetzer. Vice Mayor Fetzer stated this is the procedure that the City Commission will follow and commented that the City will receive nominations through the City Clerk's office and then the Commission will make the appointments on a rotation basis (seven seats allocated for the Green Task Force). He stated he is looking forward to seeing what comes out of that group.

Secondly, Vice Mayor Fetzer wished everyone a "Happy Thanksgiving".

11.B. From the Public.

— **11.B.1. Jayne King, 3400 Place Valencay, Delray Beach (speaking on behalf of the Sierra Club and the Homeowners' League of Chatelaine)**, thanked the City Commission for forming the Green Task Force and for also inviting the public to the park. She stated the Sierra Club would like to give input that it would be good that whatever the park that there is a sustainability factor in all that. She stated there was also input about eliminating the cars having to go from Swinton Avenue to Federal Highway to help cut back on the amount of pollution and the noise factor with the motorcycles and the cars. Ms. King commented about the Cool Cities Program and stated the Steering Committee had its kick-off on March 28, 2007 and is happy that there is some forward

movement regarding this. As President of Chatelaine, Ms. King stated it has been approximately ten years in the process in Chatelaine for getting the projects completed. She stated she has the Neighborhood Plan from the Strategic Task Team which was approved in March 2005 and she is finding that they are still collecting more things. Ms. King feels that the City has wasted money on redoing the signs, trees, and wasting the water for not timing the sprinklers. She stated Chatelaine has to now re-do the signs and they have been given dates and deadlines that have not been met. Ms. King urged the Commission to expedite and finish this project because in her opinion it has taken too long to complete. Also, Ms. King stated she would like to make an appointment with Commissioner McDuffie to discuss this issue.

11.A. City Manager's response to prior public comments and inquiries.

The City Manager stated at the last meeting Mr. Mark Fields expressed concern about a couple of things. One of Mr. Fields concerns was dogs on the beach. The City Manager stated Mr. Fields has talked to the City's beach officers as well as the Lieutenant over in that area about dogs. The City Manager stated Mr. Fields is actually not complaining about the dogs being on the beach but he is complaining about the dogs being on the sidewalk and grass area west of the sand dune fence which is not illegal. Mr. Fields has been informed of this by the officers. The officers have had no concerns about the dogs in this area and have been diligent about finding and citing offenders who actually take their dogs onto the beach. Mr. Fields also expressed concern about halfway houses and sober houses. The City Manager stated as the Commission is very much aware, individuals recovering from drug and alcohol addiction are protected as disabled individuals under the Americans with Disabilities Act and Fair Housing Laws and cannot be discriminated against based on status. The City Manager stated Mr. Fields should report any crimes to the Police Department regardless of the offenders' status and staff has sent him a letter to that affect.

At this point, Vice Mayor Fetzer explained that there is a Public Hearing scheduled to begin at 7:00 p.m. and at the end of the Public Hearings the Commission is going to have a Closed Attorney/Client Session regarding the case of: Kenneth Miller, et al v. Darren Cogoni, et al. After that, the Commission will reconvene in the Commission Chambers and discuss a settlement. At this point, Vice Mayor Fetzer reopened the public comments.

11.B.2. Van Church, Service Employees International Union (SEIU), stated he is the new Political Director of the new larger local union. He stated the union that represented these workers was called Local 1227 and that union has merged with two other unions; one headquartered in Orlando and one in Pinellas County. Mr. Church stated he met with the City Manager a few weeks ago and understands that they have been bargaining on their current contract since September. He stated he is hoping for some movement on the contract and noted it is his job as Political Director of the Local to get the people in this area more politically involved.

At this point, the time being 6:55 p.m., Vice Mayor Fetzer called a recess until 7:00 p.m.

At this point, the time being 7:00 p.m., the Commission moved to the duly advertised Public Hearings portion of the Agenda.

10. PUBLIC HEARINGS:

10.A. ORDINANCE NO. 46-07 (SECOND READING/SECOND PUBLIC HEARING): Consideration of a rezoning request to allow a modification of the Blood's Grove Special Activities District (S.A.D.), Zoning Ordinance No. 51-95, in conjunction with a new mixed-use development known as Midtown Delray containing 116 townhouse units (of which 32 units are subject to the family workforce housing ordinance) and 29,571 square feet of medical offices to be located at the southwest corner of Linton Boulevard and Old Germantown Road (4600 Linton Boulevard). (*Quasi-Judicial Hearing*) (*A Request was received to postpone this item*)

The caption of Ordinance No. 46-07 is as follows:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF ORDINANCES, AMENDING SECTION 4.4.25(G), "S.A.D.s," TO ADD SUBSECTION (9) MIDTOWN DELRAY TO THE LIST OF APPROVED S.A.D.s; AMENDING ORDINANCE NO. 51-95 BY REPEALING SECTIONS RELATED TO THE BLOOD'S COMMERCIAL PROJECT MASTER PLAN AND PROVIDING FOR REVISED REGULATIONS GOVERNING THIS SPECIAL ACTIVITIES DISTRICT; PROVIDING A GENERAL REPEALER CLAUSE, A SAVING CLAUSE, AND AN EFFECTIVE DATE.

(The official copy of Ordinance No. 46-07 is on file in the City Clerk's office.)

The City Attorney read the caption of the ordinance. A public hearing was held having been legally advertised in compliance with the laws of the State of Florida and the Charter of the City of Delray Beach, Florida.

The City Attorney stated there has been a request from the applicant for a postponement to December 4, 2007.

Mrs. Montague moved to *postpone Ordinance No. 46-07 (Second Reading/Second Public Hearing) to a date certain of December 4, 2007 at 7:00 p.m.,*

seconded by Mr. McDuffie. Upon roll call the Commission voted as follows: Mr. Eliopoulos – Yes; Vice Mayor Fetzer – Yes; Mr. McDuffie – Yes; Mrs. Montague – Yes. Said motion passed with a 4 to 0 vote.

10.A.1. APPEAL/SITE PLAN REVIEW AND APPEARANCE BOARD ACTIONS/MIDTOWN DELRAY: Consideration of an appeal regarding the Site Plan Review and Appearance Board's approval of the site plan, landscape plan and architectural elevations associated with the construction of a proposed 116-unit townhouse development and 29,571 square foot medical office building known as Midtown Delray, located at 4600 Linton Boulevard.

The City Attorney stated this is the appeal taken by the City Commission of the site plan.

Mr. McDuffie moved to *postpone the appeal regarding the Site Plan Review and Appearance Board's approval of the site plan to a date certain of December 4, 2007 at 7:00 p.m.*, seconded by Mrs. Montague. Upon roll call the Commission voted as follows: Vice Mayor Fetzer – Yes; Mr. McDuffie – Yes; Mrs. Montague – Yes; Mr. Eliopoulos – Yes. Said motion passed with a 4 to 0 vote.

10.B. ORDINANCE NO. 52-07: Consideration of a rezoning from R-1-A (Single Family Residential) to CF (Community Facilities) for 345 N.W. 5th Avenue to accommodate offices associated with the Achievement Centers for Children and Families, located at 555 N.W. 4th Street.

The caption of Ordinance No. 52-07 is as follows:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, REZONING AND PLACING LAND PRESENTLY ZONED R-1-A (SINGLE FAMILY RESIDENTIAL) DISTRICT TO CF (COMMUNITY FACILITIES) DISTRICT; SAID LAND BEING A PARCEL LOCATED AT THE SOUTHEAST CORNER OF NW 5TH AVENUE AND NW 4TH STREET, AS MORE PARTICULARLY DESCRIBED HEREIN; AMENDING "ZONING MAP OF DELRAY BEACH, FLORIDA, APRIL 2007"; PROVIDING A GENERAL REPEALER CLAUSE, A SAVING CLAUSE, AND AN EFFECTIVE DATE.

(The official copy of Ordinance No. 52-07 is on file in the City Clerk's office.)

The City Attorney read the caption of the ordinance. A public hearing was held having been legally advertised in compliance with the laws of the State of Florida and the Charter of the City of Delray Beach, Florida.

Mark McDonnell, Assistant Planning and Zoning Director, stated this is privately initiated from R-1-A (Single Family Residential) to CF (Community Facilities) which is the current location of the Achievement Centers for Children and Families, located at 555 N.W. 4th Street. There is currently a 1,200 square foot single family dwelling (three bedroom two baths). The current zoning does not allow administrative offices and the change in zoning to CF would allow the administrative offices for three upper level management employees with the Achievement Center.

Mr. McDonnell stated this application has been reviewed by the Planning and Zoning Board and the Board recommended approval and the Community Redevelopment Agency (CRA) recommended approval. Staff recommends approval.

The City Attorney noted that there will be a Quasi-Judicial Public Hearing at the next regular meeting.

Vice Mayor Fetzer declared the public hearing open. There being no one from the public who wished to address the Commission regarding Ordinance No. 52-07, the public hearing was closed.

Mr. McDuffie moved to adopt Ordinance No. 52-07 on Second and FINAL Reading, seconded by Mr. Eliopoulos. Upon roll call the Commission voted as follows: Mr. McDuffie – Yes; Mrs. Montague – Yes; Mr. Eliopoulos – Yes; Vice Mayor Fetzer – Yes. Said motion passed with a 4 to 0 vote.

10.C. ORDINANCE NO. 31-07 (SECOND READING/SECOND PUBLIC HEARING): Privately initiated amendment to the Land Development Regulations amending Section 4.4.24, "Old School Square Historic Arts District (OSSHAD)", Subsection 4.4.24(B), "Principal Uses and Structures", to include an additional property that is allowed the permitted uses of the Central Business District (CBD) Zoning District; amending Subsection 4.4.24(F), "Development Standards", to include an additional property in the Old School Square Historic Arts District (OSSHAD) that is subject to the standards of the Central Business District (CBD) Zoning District.

The caption of Ordinance No. 31-07 is as follows:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CITY OF DELRAY BEACH, FLORIDA, BY AMENDING SECTION 4.4.24, "OLD SCHOOL SQUARE HISTORIC ARTS DISTRICT (OSSHAD)", SUBSECTION 4.4.24(B), "PRINCIPAL USES AND STRUCTURES" TO INCLUDE AN ADDITIONAL PROPERTY THAT IS ALLOWED THE PERMITTED USES OF THE CBD ZONING DISTRICT; AMENDING SUBSECTION 4.4.24(F), "DEVELOPMENT STANDARDS", TO INCLUDE AN ADDITIONAL PROPERTY IN THE OSSHAD DISTRICT THAT IS

SUBJECT TO THE STANDARDS OF THE CBD ZONING DISTRICT; PROVIDING A SAVING CLAUSE, A GENERAL REPEALER CLAUSE, AND AN EFFECTIVE DATE.

(The official copy of Ordinance No. 31-07 is on file in the City Clerk's office.)

The City Attorney read the caption of the ordinance. A public hearing was held having been legally advertised in compliance with the laws of the State of Florida and the Charter of the City of Delray Beach, Florida.

The City Attorney stated there has been a request from the applicant to postpone this item for another public hearing on Tuesday, February 19, 2008 at 7:00 p.m.

Mrs. Montague moved to *postpone Ordinance No. 31-07 to a date certain of February 19, 2008 at 7:00 p.m.*, seconded by Mr. Eliopoulos. Upon roll call the Commission voted as follows: Mrs. Montague – Yes; Mr. Eliopoulos – Yes; Vice Mayor Fetzer – Yes; Mr. McDuffie – Yes. Said motion passed with a 4 to 0 vote.

10.D. ORDINANCE NO. 22-07 (SECOND READING/ADOPTION HEARING FOR COMPREHENSIVE PLAN AMENDMENT 2007-2): Consider on second reading an ordinance adopting Comprehensive Plan Amendment 2007-2 and associated Future Land Use Map (FLUM) amendments. Amendment 2007-2 includes:

The caption of Ordinance No. 22-07 is as follows:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, ADOPTING COMPREHENSIVE PLAN AMENDMENT 2007-2, PURSUANT TO THE PROVISIONS OF THE "LOCAL GOVERNMENT COMPREHENSIVE PLANNING AND LAND DEVELOPMENT REGULATION ACT", FLORIDA STATUTES SECTION 163.3161 THROUGH 163.3243, INCLUSIVE; ALL AS MORE PARTICULARLY DESCRIBED IN EXHIBIT "A" ENTITLED "COMPREHENSIVE PLAN AMENDMENT 2007-2" AND INCORPORATED HEREIN BY REFERENCE; PROVIDING A SAVING CLAUSE, A GENERAL REPEALER CLAUSE, AND AN EFFECTIVE DATE.

(The official copy of Ordinance No. 22-07 is on file in the City Clerk's office.)

1. Text Amendments:

- (i) Future Land Use Element – Modification of the description of the GC (General Commercial) Future Land Use designation to increase the allowable percentage of building area devoted to residential use from 15% to 75% at a maximum density of 30 units per acre within the Four Corners Overlay District, subject to the provision of workforce housing.
- (ii) Future Land Use Element - Modification of Policy A-7.2 to include the provision of workforce housing in the Four Corners Overlay District.
- (iii) Future Land Use Element – Modification of the description of the TRN (Transitional) Future Land Use designation to allow for increased residential density up to 24 units per acre within the Carver Estates Overlay District, subject to the provision of workforce housing.
- (iv) Future Land Use Element – Expansion of the Southwest Neighborhood Area Overlay District to include properties located ½ block on either side of SW 12th Avenue, between SW 2nd Street and SW 3rd Street. This overlay district allows a maximum density of 24 units per acre, subject to the provision of workforce housing.
- (v) Future Land Use Element – Modification of the description of the Medium Density Residential Future Land Use designation to accommodate expansion of the Carver Estates Overlay Area to include the south portion of the Auburn Trace Development. This area is currently located within the Infill Workforce Housing Area which allows up to 18 units per acre, subject to the provision of workforce housing. Within the Carver Estates Overlay Area, the maximum density will increase to 24 units per area.
- (vi) Capital Improvement Element – Modification of Table CI-CIP (5-Year Capital Improvements Schedule for Projects > \$25,000) to reflect adoption of the FY 2007-2011 Capital Improvement Program.
- (vii) Capital Improvement Element – Modification of Table SD-CIP, School District of Palm Beach County Capital Improvement Schedule.
- (viii) Capital Improvement Element – Modification of Policy A-3.7 to reflect a change in one of the timeframes in the Palm Beach County School District's Capital Improvement Schedule (Table SD-CIP) from six years to five years.

- (ix) Capital Improvement Element – Modification of Policy A-8.3 to reflect changes in the format of the Palm Beach County School District’s Capital Improvement Schedule (Table SD-CIP).

2. Future Land Use Map Amendment:

- a. City initiated Future Land Use Map amendment for approximately 3.9 acres, located ½ block on either side of SW 12th Avenue, between S.W. 2nd Street and S.W. 3rd Street, from LD (Residential Low Density 0-5 du/ac) to MD (Residential Medium Density 5-12 du/ac).

The City Attorney read the caption of the ordinance. A public hearing was held having been legally advertised in compliance with the laws of the State of Florida and the Charter of the City of Delray Beach, Florida.

Ron Hoggard, AICP, Principal Planner, stated the Commission first saw Comprehensive Plan Amendment 2007-2 at the August 7, 2007 meeting at which time the Commission recommended approval on first reading and it was then forwarded to the Department of Community Affairs (DCA) for their review. At that time, the amendment had one City initiated Future Land Use Map Amendment, four City initiated text amendments, and one privately initiated text amendment. Mr. Hoggard stated DCA reviewed the amendment and did not issue an Objections, Recommendations, and Comments (ORC) Report this year. Mr. Hoggard stated since this was submitted to the State, staff made four additional City initiated text amendments and those were the additions noted by the City Attorney earlier in the meeting. Those are related to the Capital Improvement Element; one deals with the table CIP which is the City’s five year Capital Improvement schedule, the second addition was the Palm Beach County School District’s Capital Improvement Schedule and per the agreement the City has to put their schedule into the Comprehensive Plan each year; modification of Capital Improvement Element Policy A-3.7 which references the School Board’s Capital Improvement Schedule (the School Board amended their schedule this year and instead of being six years they are now five years and the Policy is being amended to reflect the five year); modification of Capital Improvement Element Policy A-8.3 also refers to that same table and for the same issue. Those are the changes that are being added since the Commission saw it last so we now have eight (8) text amendments that are City initiated and the one (1) privately initiated text amendment.

Mr. Hoggard briefly reviewed the Text Amendments and the Future Land Use Map Amendments.

Mr. Hoggard stated this was recommended for approval by the Community Redevelopment Agency (CRA) and the Planning and Zoning Board. Staff recommends approval.

Mr. Hoggard entered the Planning and Zoning Department project file #2007-243 and #2007-244 into the record.

Vice Mayor Fetzer declared the public hearing open.

Alan Klasfield (owns two pieces of property inside the thatched area), stated the property was under contract and he was told earlier this week they would not be able to close. Mr. Klasfield stated he is not sure if this is going to close in a timely fashion and wanted to make the Commission aware of this.

Alice Finst, 707 Place Tavant, Delray Beach, clarified that they are talking about the intersection at Atlantic Avenue and Military Trail and stated there is residential along there. She stated with regard to the changes in the Carver Overlay and in the Southwest Area Overlay District (Text Amendments 4 & 5) she is concerned that they are getting 24 units per acre and out west they are getting 30 units per acre. Mrs. Finst asked why they are getting additional density when in town it is not being given. She asked how many units extra can people expect in this acreage if you go from what was originally planned up to 30 units per acre.

Mr. Hoggard stated this is in the general commercial category and staff is not talking about the residential parcels. The areas that are 24 units per acre closer into the downtown and the southwest area are on smaller parcels and this is to allow for larger aggregate properties. He stated it will be mixed use development; the residential with the non-residential development.

Mr. Hoggard stated the City is not getting any new units yet until someone comes in with a proposal and staff does not know what the mixture is going to be on the number of units. He stated currently you can have 12 units per acre in the GC (General Commercial) and the change is going from 12 to 30 units per acre but not all of this property is going to be residential. Staff did an analysis on the total number of units that are possible. Mr. Hoggard stated the residential for the proposal under the current one could do 745 multi-family units and 863 if you developed all the property at the maximum of 30 units per acre. Mrs. Finst urged the Commission to look at more than just the acreage and she expressed concern over the living conditions of those people who are going to be impacted by this. She stated she feels it is unfair that the City is doing this to people out west of town when the City has set a standard for the people in town for something else.

Jayne King, 3400 Place Valencay, Delray Beach, with this increased density asked if there will some sort of compensation for Palm Tran and increased amount of frequency of the buses that will be running as a result of the additional density and because of the workforce housing. She stated it probably will not be the case that the people who are living there will be actually working there. Ms. King asked if there is any kind of consideration for some kind of a transit and not a negative impact of the cars.

There being no one else from the public who wished to address the Commission regarding Ordinance No. 22-07, the public hearing was closed.

Mr. Hoggard explained that staff did not look specifically at a Palm Tran issue. He stated when the projects are submitted for site plan approval then these issues are reviewed at that time (i.e bus stop locations, etc.). Mr. Hoggard stated this is just on the planning stage for making the land use applicable.

Mr. McDuffie stated when some members of the Commission were on the Planning and Zoning Board before becoming members of the Commission, they were looking at places in Delray Beach to put Class "A" office space because there was virtually none and no available spaces for it and also be able to build business space. He stated the two areas they chose were the Congress Corridor and the Four Corners Corridor not necessarily to attract massive amounts of residential but to give ourselves some Class "A" office space and a large enough area to attract some quality businesses in there who could be able to pay our citizens enough money to buy a home and live here in the City of Delray Beach.

Mr. Eliopoulos concurred with comments expressed by Commissioner Duffie and stated it is a lot harder to do a good mixed use project and get that balance and the density does have to be increased to make it work.

Mrs. Montague stated this has been part of a series of plans that have been created and supported by previous Commissions. She stated this has been going on for a number of years and the current Commission is at a point now where they can make their Comprehensive Plan changes. Mrs. Montague stated this is going to be developing for a number of years and this is just the next step in that process.

Mr. Eliopoulos moved to adopt Ordinance No. 22-07 on Second and FINAL Reading, seconded by Mrs. Montague. Upon roll call the Commission voted as follows: Mr. Eliopoulos – Yes; Vice Mayor Fetzer – Yes; Mr. McDuffie – Yes; Mrs. Montague – Yes. Said motion passed with a 4 to 0 vote.

10.E. ORDINANCE NO. 55-07 (FIRST READING/FIRST PUBLIC HEARING): City initiated amendment to the Land Development Regulations (LDR) amending Section 1.4.3(D), "Enforcement"; Section 1.4.4(A), "Penalty"; Section 1.4.4(D), "Penalty"; Section 4.5.1(F)(6), "Demolition"; and Section 4.5.1(F), "Restrictions on Demolitions", providing regulations regarding the issuance of code violation notices and the neglect and demolition of historic structures. If passed, a second public hearing will be scheduled for December 4, 2007.

The caption of Ordinance No. 55-07 is as follows:

AN ORDINANCE OF THE CITY COMMISSION OF
THE CITY OF DELRAY BEACH, FLORIDA,
AMENDING THE LAND DEVELOPMENT

REGULATIONS OF THE CITY OF DELRAY BEACH BY AMENDING SECTIONS 1.4.3, "ENFORCEMENT" AND 1.4.4, "PENALTY", PROVIDING THAT NEGLECT SHALL CONSTITUTE A NUISANCE AND PROVIDING FOR ENFORCEMENT AND PENALTIES; AMENDING SECTION 2.2.6, "THE HISTORIC PRESERVATION BOARD", SUBSECTION 2.2.6(C), "MEETING AND QUORUM", PROVIDING FOR VOTING; AND AMENDING SUBSECTION 2.2.6(D), "DUTIES AND RESPONSIBILITIES", PROVIDING FOR EXPRESS AUTHORITY FOR THE HISTORIC PRESERVATION BOARD TO APPLY THE HISTORIC COMPATIBILITY REGULATIONS; SUBSECTION 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; PROVIDING A SAVINGS CLAUSE, A GENERAL REPEALER CLAUSE AND AN EFFECTIVE DATE.

(The official copy of Ordinance No. 55-07 is on file in the City Clerk's office.)

The City Attorney read the caption of the ordinance. A public hearing was held having been legally advertised in compliance with the laws of the State of Florida and the Charter of the City of Delray Beach, Florida.

The City Attorney stated this ordinance was scheduled for a first reading/first public hearing and there has been a request to postpone this item to December 4, 2007 at 7:00 p.m. because the Planning and Zoning Board tabled this item and the Board would like to discuss this further at their meeting on December 3, 2007.

Mr. McDuffie moved to *postpone Ordinance No. 55-07 (First Reading/First Public Hearing) to a date certain of December 4, 2007 at 7:00 p.m.*, seconded by Mr. Eliopoulos. Upon roll call the Commission voted as follows: Vice Mayor Fetzer – Yes; Mr. McDuffie – Yes; Mrs. Montague – Yes; Mr. Eliopoulos – Yes. Said motion passed with a 4 to 0 vote.

10.F. ORDINANCE NO. 54-07: City initiated rezoning from R-1-A (Single Family Residential) District to RM (Medium Density Residential) District for approximately 3.9 acres, located ½ block on either side of S.W. 12th Avenue, between S.W. 2nd Street and S.W. 3rd Street.

The caption of Ordinance No. 54-07 is as follows:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, REZONING AND PLACING LAND PRESENTLY ZONED R-1-A (SINGLE FAMILY RESIDENTIAL) DISTRICT TO RM (MEDIUM DENSITY RESIDENTIAL) DISTRICT; SAID LAND LOCATED ON THE EAST AND WEST SIDES OF SW 12TH AVENUE, BETWEEN SW 2ND STREET AND SW 3RD STREET, AS MORE PARTICULARLY DESCRIBED HEREIN; AMENDING "ZONING MAP OF DELRAY BEACH, FLORIDA, APRIL 2007"; PROVIDING A GENERAL REPEALER CLAUSE, A SAVING CLAUSE, AND AN EFFECTIVE DATE.

(The official copy of Ordinance No. 54-07 is on file in the City Clerk's office.)

The City Attorney read the caption of the ordinance. A public hearing was held having been legally advertised in compliance with the laws of the State of Florida and the Charter of the City of Delray Beach, Florida.

Vice Mayor Fetzer declared the public hearing open. There being no one from the public who wished to address the Commission regarding Ordinance No. 54-07, the public hearing was closed.

Ron Hoggard, AICP, Principal Planner, stated this is to go along with the Comprehensive Plan Amendment to go from LD (Low Density Residential, 0-5 units/acre) to MD (Medium Density Residential, 5-12 units/acre). This is to rezone the R-1-A (Single Family Residential) property to RM (Medium Density Residential).

Mr. Hoggard stated at its meeting of July 12, 2007, the Community Redevelopment Agency (CRA) reviewed the rezoning and the Board recommended approval; at its meeting of July 16, 2007, the Planning and Zoning Board reviewed the rezoning and recommended approval. Staff recommends approval.

Mr. Hoggard entered the Planning and Zoning Department project file #2007-243 and #2007-244 into the record.

Mr. McDuffie moved to adopt Ordinance No. 54-07 on Second and FINAL Reading, seconded by Mrs. Montague. Upon roll call the Commission voted as follows: Mr. McDuffie – Yes; Mrs. Montague – Yes; Mr. Eliopoulos – Yes; Vice Mayor Fetzer – Yes. Said motion passed with a 4 to 0 vote.

At this point, the time being 7:33 p.m., the Commission moved back to **Item 11, Public Comments on Non-Agenda Items.**

11.B.3. Matthew Grabham, 350 S.E. 7th Avenue, Delray Beach (Marina Historic District), stated he was present at the Planning and Zoning Board Meeting and noted as part of the discussion a comment came from staff suggesting that the survey in the Marina District is being done by residents of the district with some kind of background in the subject matter. He stated he believes this is a conflict of interest and would like to seek some clarification and hopes that it is an independent professional firm that would conduct such a survey. He stated he was the only one present at the meeting who explained the implications of the ordinance before the Planning and Zoning Board and they understood it enough to where they chose to table the ordinance. Mr. Grabham stated the Board did not get that explanation from anyone else and if he had not been present at the Planning and Zoning Board Meeting the Commission would have been voting on it this evening. He stated this is a terrible detriment to the historic districts and expressed concern that long-term damage could be caused to the prospects and to the future of Delray Beach as a result of these changes going through without everyone getting their fair chance to contribute.

At this point, the time being 7:36 p.m., the Commission adjourned for the **Closed Attorney/Client Session.**

14. CLOSED ATTORNEY/CLIENT SESSION pursuant to F.S. 286.011(8)
re: the case of:

Kenneth Miller, et al. v. Darren Cogoni, et al
Case No. 07-80249-CIV-Middlebrooks

Attendees: Mayor Rita Ellis - Absent
Commissioner Gary P. Eliopoulos
Commissioner Fred B. Fetzer
Commissioner Woodie McDuffie
Commissioner Brenda B. Montague
City Manager David Harden
City Attorney Susan Ruby
Police Legal Advisor Cathy Kozol - Absent
Attorney Fred Gelston
A certified court reporter

Purpose: Discuss settlement negotiations and strategy related to litigation expenditures in the above case.

The City Attorney stated the purpose of this closed door session in the case of *Kenneth Miller versus Darren Cogoni, et al* is to seek advice regarding settlement negotiations and strategy related to litigation expenditures.

The City Attorney read the following statement into the record as required by law: "The City of Delray Beach has scheduled a closed attorney-client session pursuant to Florida Statutes §286.011(8) in the case of *Kenneth Miller, et al v. Darren Cogoni, et al*, Case No. 07-80249-CIV-Middlebrooks. The estimated length of the closed

session shall be 20 minutes. The following persons will be attending: Commissioners Gary Eliopoulos, Vice Mayor Fred Fetzer, Woodie McDuffie, and Brenda Montague, City Manager David Harden, City Attorney Susan Ruby, Attorney Fred Gelston and a certified court report." The City Attorney noted that Mayor Rita Ellis and Police Legal Advisor Cathy Kozol are both absent.

At this point, the time being 8:01 p.m., the Commission reconvened the meeting.

15. SETTLEMENT OF:
Kenneth Miller, et al. v. Darren Cogoni, et al
Case No. 07-80249-CIV-Middlebrooks

The City Attorney stated the City Commission previously approved a settlement; however, this is a new motion to also approve the settlement subject to obtaining an appropriate Hold Harmless Agreement from the other law firm (Willie Gary) and also releases from the personal representative on behalf of all the survivors and himself.

Mr. McDuffie moved to approve the settlement in the Kenneth Miller, et al v Darren Cogoni, et al subject to the City Attorney obtaining an appropriate Hold Harmless Agreement from the Willie Gary law firm and also releases from the personal representative on behalf of all the survivors and himself, seconded by Mrs. Montague. Upon roll call the Commission voted as follows: Mrs. Montague – Yes; Mr. Eliopoulos – Yes; Vice Mayor Fetzer – Yes; Mr. McDuffie – Yes. Said motion passed with a 4 to 0 vote.

At this point, the City Manager stated Police Chief Schroeder prepared a Parent/Teacher Guide to Gang Recognition and distributed copies to the City Commission.

There being no further business, Vice Mayor Fetzer declared the meeting adjourned at 8:03 p.m.



City Clerk

ATTEST:


MAYOR

The undersigned is the City Clerk of the City of Delray Beach, Florida, and the information provided herein is the Minutes of the Regular City Commission Meeting held on November 20, 2007, which Minutes were formally approved and adopted by the City Commission on December 11, 2007.



City Clerk

NOTE TO READER:

If the Minutes you have received are not completed as indicated above, this means they are not the official Minutes of the City Commission. They will become the official Minutes only after review and approval which may involve some amendments, additions or deletions as set forth above.