

# City of Delray Beach

## Regular Commission Meeting

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



### **RULES FOR PUBLIC PARTICIPATION**

Tuesday, January 3, 2012

Regular Meeting 6:00 p.m.  
Public Hearings 7:00 p.m.  
Commission Chambers  
Delray Beach City Hall

**1. PUBLIC COMMENT:** The public is encouraged to offer comments with the order of presentation being as follows: City Staff, public comments, Commission discussion and official action. City Commission meetings are business meetings and the right to limit discussion rests with the Commission. **Generally, remarks by an individual will be limited to three minutes or less.** The Mayor or presiding officer has discretion to adjust the amount of time allocated.

- A.** Public Hearings: Any citizen is entitled to speak on items under this section.
- B.** Comments and Inquiries on Non-Agenda Items from the Public: Any citizen is entitled to be heard concerning any matter within the scope of jurisdiction of the Commission under this section. The Commission may withhold comment or direct the City Manager to take action on requests or comments.
- C.** Regular Agenda and First Reading Items: Public input on agendaed items, other than those that are specifically set for a formal public hearing, shall be allowed when agreed by consensus of the City Commission.

**2. SIGN IN SHEET:** Prior to the start of the Commission Meeting, individuals wishing to address public hearing or non-agendaed items should sign in on the sheet located on the right side of the dais. If you are not able to do so prior to the start of the meeting, you may still address the Commission on an appropriate item. The primary purpose of the sign-in sheet is to assist staff with record keeping. Therefore, when you come up to the podium to speak, please complete the sign-in sheet if you have not already done so.

**3. ADDRESSING THE COMMISSION:** At the appropriate time, please step up to the podium and state your name and address for the record. All comments must be addressed to the Commission as a body and not to individuals. Any person making impertinent or slanderous remarks or who becomes boisterous while addressing the Commission shall be barred by the presiding officer from speaking further, unless permission to continue or again address the Commission is granted by a majority vote of the Commission members present.

### **APPELLATE PROCEDURES**

Please be advised that if a person decides to appeal any decision made by the City Commission with respect to any matter considered at this meeting, such person will need to ensure that a verbatim record includes the testimony and evidence upon which the appeal is based. The City neither provides nor prepares such record.

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The City will furnish auxiliary aids and services to afford an individual with a disability an opportunity to participate in and enjoy the benefits of a service, program, or activity conducted by the City. Contact Doug Smith at 243-7010, 24 hours prior to the event in order for the City to accommodate your request. Adaptive listening devices are available for meetings in the Commission Chambers.

1. **ROLL CALL.**
2. **INVOCATION.**
3. **PLEDGE OF ALLEGIANCE TO THE FLAG.**
4. **AGENDA APPROVAL.** (Mayor McDuffie noted Item 8.E., Agreements for Consulting Engineering Services/Wantman Group, Inc. Mathews Consulting, Inc., was moved to the Regular Agenda as Item 9.A.A.; Item 8.N.1., Purchase Award/Municipal Lighting Systems, was moved to the Regular Agenda as Item 9.A.A.A. Approved as amended, 5-0)
5. **APPROVAL OF MINUTES:**
  - A. December 6, 2011 – Regular Meeting (Approved, 5-0)
  - B. December 13, 2011 – Regular Meeting (Approved, 5-0)
6. **PROCLAMATIONS:**
  - A. Martin Luther King, Jr. Day – January 16, 2012
  - B. Calling for the First Non-Partisan Election to be held on March 13, 2012
7. **PRESENTATIONS:**
  - A. Government Finance Officers Association Award – Certificate of Achievement for Excellence in Financial Reporting
  - B. Recognizing and commending sponsors who helped make the 25th Annual Turkey Trot 5K Run and Health Walk a success
  - C. Waste Management Proposal Presentation
8. **CONSENT AGENDA:** City Manager Recommends Approval. (Approved as amended, 5-0)
  - A. **RESOLUTION NO. 01-12:** Approve Resolution No. 01-12 regarding the March 13, 2012 First Nonpartisan and Special Election.
  - B. **RIGHT-OF-WAY DEED ACCEPTANCE/DELRAY BEACH HOUSING AUTHORITY:** Accept a right-of-way deed for the dedication of 50' of land for Auburn Avenue from the Delray Beach Housing Authority in association with the Village Square Redevelopment project.

- C. **CHANGE ORDER NO. 4/FOSTER MARINE CONTRACTORS, INC.:** Approve Change Order No. 4 to Foster Marine Contractors, Inc. in the amount of \$10,646.40, for additional sod required due to sod quantity shortages; and a contract time extension of fourteen (14) days; for the S.W. 12th Avenue/Auburn Avenue/S.W. 14th Avenue project. Funding is available from 334-3162-541-68.04 (General Construction Fund/Other Improvement/S.W. 12th Avenue/Auburn/S.W. 14th Avenue).
- D. **SERVICE AUTHORIZATION NO. 06-12/CURRIE SOWARDS AGUILA ARCHITECTS:** Approve Service Authorization No. 06-12 with Currie Sowards Aguila Architects in the amount of \$44,300.00 for consulting services required in conjunction with a storm hardening project for Fire Rescue Headquarters (Fire Station No. 1). Funding is available from 334-6112-519-62.10 (General Construction Fund: Capital Outlay/Buildings).
- E. **(MOVED TO ITEM 9.A.A. ON THE REGULAR AGENDA)**
- F. **HOUSING REHABILITATION GRANT/CONTRACT AWARD:** Award one (1) Housing Rehabilitation contract through the Community Development Block Grant (CDBG) and Residential Construction Mitigation Program (RCMP) to the lowest responsive bidder, Citywide Construction Services, Inc., for 218 S.W. 13th Avenue in the amount of \$24,011.77. Funding is available from 118-1963-554-49.19 (Neighborhood Services: Other Current Charges/Housing Rehabilitation) and 118-1936-554-49.19 (Neighborhood Services: Other Current Charges/Housing Rehabilitation).
- G. **COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) SUB-RECIPIENT FUNDING AGREEMENT/ACHIEVEMENT CENTERS FOR CHILDREN AND FAMILIES:** Approve and authorize execution of a Sub-Recipient Funding Agreement with Achievement Centers for Children and Families under the Community Development Block Grant (CDBG) program for FY 2011-2012, with total funding in the amount of \$72,540.00. Funding is available from 118-1966-554-82.09 (Neighborhood Services: Aid to Private Organizations/Child Care Center).
- H. **COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) SUB-RECIPIENT FUNDING AGREEMENT/FAIR HOUSING CENTER OF THE GREATER PALM BEACHES, INC.:** Approve and authorize execution of a Sub-Recipient Funding Agreement with the Fair Housing Center of the Greater Palm Beaches, Inc. under the Community Development Block Grant (CDBG) program for FY 2011-2012, with total funding in the amount of \$6,000.00. Funding is available from 118-1966-554-82.12 (Neighborhood Services: Aid to Private Organization/Fair Housing Center).

- I. **AMENDMENT TO THE THIRD ADDENDUM TO THE CONTRACT FOR SALE AND PURCHASE/2216 N.E. 3<sup>RD</sup> AVENUE:** Approve an Amendment to the Third Addendum to the Contract to sell/transfer one (1) NSP property to the Delray Beach Community Land Trust (DBCLT) for the benefit and resale of the unit to a household with an income less than one-hundred twenty percent (120%) of Area Median Income (AMI) as determined by HUD.
- J. **REVISED WORKFORCE HOUSING COVENANT/BAMFOUR, LLC/DKB REALTY INVESTMENT, INC./MATHIAS DEVELOPMENT:** Approve the revised Workforce Housing Covenant as proposed between the City and Bamfour, LLC, DKB Realty Investment, Inc. and Mathias Development, Inc.
- K. **RATIFICATION OF APPOINTMENT TO THE KIDS AND COPS COMMITTEE:** Approve and ratify the appointment of Mr. Adrian Ralkauskas, Police Department Representative, for an unexpired term ending November 11, 2013.
- L. **REQUEST TO WAIVE FEES FOR STAFF AND USE OF POMPEY PARK FACILITIES FOR THE DR. MARTIN LUTHER KING, JR. HOLIDAY CELEBRATION:** Approve a request to waive field permit and facility rental fees and provide staff support at Pompey Park on January 14, 2012 from 8:00 a.m.–12:00 p.m., and January 16, 2012 from 11:00 a.m.–5:00 p.m., for the Dr. Martin Luther King, Jr. Holiday Celebration.
- M. **REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:** Accept the actions and decisions made by the Land Development Boards for the period December 12, 2011 through December 30, 2011.
- N. **AWARD OF BIDS AND CONTRACTS:**
  - 1. **(MOVED TO ITEM 9.A.A.A. ON THE REGULAR AGENDA)**

9. **REGULAR AGENDA:**

- A.A. **AGREEMENTS FOR CONSULTING ENGINEERING SERVICES/WANTMAN GROUP, INC./MATHEWS CONSULTING, INC.:** Approve Agreements with Wantman Group, Inc. and Mathews Consulting, Inc. for consulting engineering services for capital improvement projects contained in the City's Capital Improvement Program (CIP). Project #12-057. (Motion to **POSTPONE** to the **January 17, 2012 Regular Meeting**)
- A.A.A. Purchase award to Municipal Lighting Systems in the amount of \$83,160.00 for the purchase of sixty (60) LED light fixtures that are Buy America Compliant, to install on the decorative street light poles along West Atlantic Avenue. Funding is available from 101-6352-519-46.95 (ARRA Economic Stimulus FD: Repair & Maintenance Services/West Atlantic Avenue Street Lights). (Motion to **approve**; **Approved, 5-0**)

- A. **APPEAL OF AN ADMINISTRATIVE INTERPRETATION/BOSTON'S RESTAURANT:** Consider the appeal of an administrative interpretation by the Director of Planning and Zoning that a conditional use approval is required for the outdoor entertainment component to be located on the Boston's Restaurant expansion area located at 40 South Ocean Boulevard. *(Quasi-Judicial Hearing)* (Motion to adopt board order which deny the appeal; Approved, 5-0)
- B. **AMENDMENT NO. 1 TO THE AGREEMENT/PLAYERS INTERNATIONAL MANAGEMENT, INC. (PIM):** Consider approval of Amendment No. 1 to the Agreement with Players International Management, Inc. (PIM) to extend the term of the Agreement as well as modify when the events may be held. (Motion to approve per staff recommendations; Approved, 5-0)
- C. **SPECIAL EVENT REQUEST/VIVA SOUTH FLORIDA:** Consider approval and endorsement of a new event, Viva South Florida, produced by Pegasus Entertainment proposed to be held on the grounds of Old School Square and Old School Square Park from noon to 11:00 p.m. on September 14-15, 2012 and from noon to 8:00 p.m. on September 16, 2012; to grant a temporary use permit per LDR Section 2.4.6(F) for the use of City rights-of-way to include N.E. 1st Avenue from the north side of the Old School Square grounds to south of the garage entrance and Swinton Avenue from Atlantic Avenue to approximately the southernmost driveway entrance to the Crest Theatre; and to authorize staff support for traffic control and security, Fire/EMS services, site cleanup and trash removal, electrician assistance, barricading assistance, event signage, trash boxes, and use of a City generator; contingent upon the conditions of approval listed in the staff report. (Motion to approve; Approved, 5-0)
- D. **REQUEST FOR QUALIFICATIONS (RFQ) RESPONSES FOR ARCHITECTURAL CONSULTING SERVICES/CAPITAL IMPROVEMENT PROJECTS (CIP):** Consider approval of the Architectural Consulting Services RFQ (RFQ# 2012-05) responses short list and authorization to negotiate contracts with each of the five (5) companies on the short list. Project #12-056. (Motion to approve; Approved, 4-1. Commissioner Alperin dissenting)
- E. **APPOINTMENT OF OUTSIDE COUNSEL TO ASSIST IN REVIEW OF ORDINANCES REGARDING TRANSIENT HOUSING:** Consider a request to appoint outside counsel to assist the City Attorney's Office in the drafting, review and defense of ordinances concerning transient residential use as well as reasonable accommodation procedures. (Motion to approve; Approved, 5-0)
- F. **OFFER OF SETTLEMENT IN PATRICIA MILEY V. CITY OF DELRAY BEACH:** Consider an Offer of Settlement in the total amount of \$9.5 million in Patricia Miley v. City of Delray Beach. Staff recommends denial. (Motion to deny; Approved, 5-0)

- G. **APPOINTMENT OF OUTSIDE COUNSEL FOR PATRICIA MILEY v. CITY OF DELRAY BEACH:** Consider approval to appoint Kent Pratt, Esq. as outside counsel in the case of Patricia Miley v. City of Delray Beach at the rate of \$140.00 per hour. (Motion to approve; Approved, 5-0)
- H. **OFFER OF SETTLEMENT IN ANDREA WALLACE ET, AL. V. CITY OF DELRAY BEACH:** Consider an Offer of Settlement in the total amount of \$40,000.00 in Andrea Wallace *et, al.* v. City of Delray Beach. Staff recommends denial. (Motion to deny; Approved, 5-0)
- I. **APPOINTMENTS TO THE CODE ENFORCEMENT BOARD:** Appoint three (3) regular members to the Code Enforcement Board to serve three (3) year terms ending January 14, 2015. Based upon the rotation system, the appointments will be made by Commissioner Frankel (Seat #3), Commissioner Gray (Seat#4) and Mayor McDuffie (Seat #5). (Appointed David Boone and approved, 5-0; appointed Kurt Lehmann and approved, 5-0; appointed Stephanie Sugar and approved 5-0)
- J. **APPOINTMENT TO THE EDUCATION BOARD:** Appoint one (1) regular member to the Education Board to serve an unexpired term ending July 31, 2013. Based upon the rotation system, the appointment will be made by Commissioner Carney (Seat #1). Commissioner Carney's appointment was **DEFERRED** to the January 17, 2012 Regular Commission Meeting)
- K. **APPOINTMENTS TO THE FINANCIAL REVIEW BOARD:** Appoint one (1) regular member to serve an unexpired term ending July 31, 2012 and one (1) alternate member to serve an unexpired term ending July 31, 2013 to the Financial Review Board. Based upon the rotation system, the appointments will be made by Commissioner Gray (Seat #4) and Mayor McDuffie (Seat #5). (Appointed Warren Trilling and approved 5-0. Commissioner Gray's appointment was **DEFERRED** to the January 17, 2012 Regular Commission Meeting)
- L. **APPOINTMENT TO THE KIDS AND COPS COMMITTEE:** Appoint one (1) At-Large-Representative to the Kids and Cops Committee to serve an unexpired term ending July 31, 2013. Based upon the rotation system, the appointment will be made by Commissioner Alperin (Seat #2). (Appointed Jennifer Aracri and approved 5-0)
- M. **APPOINTMENT TO THE SITE PLAN REVIEW AND APPEARANCE BOARD:** Appoint one (1) regular member to the Site Plan Review and Appearance Board to serve an unexpired term ending August 31, 2013. Based upon the rotation system, the appointment will be made by Commissioner Alperin (Seat #2). (Appointed Alice Finst and approved 5-0)

10. **PUBLIC HEARINGS:**

- A. **ORDINANCE NO. 44-11:** Consider an ordinance amending the Charter of the City of Delray Beach by amending Article III, “Legislative”, Section 3.02, “City Commission: Composition, Eligibility, Election, and Terms” and Section 3.09, “Term Limits”; amending Article V, “Elections”, Section 5.02, “Types of Elections”; to provide for a change in the length of a term from a two (2) year term to a three (3) year term; providing for a referendum election to be held on March 13, 2012. (Motion to continue as a First Reading on the January 10, 2011 Special/Workshop Meeting; Approved, 5-0)
- B. **ORDINANCE NO. 50-11:** Consider an amendment to Chapter 34, “Elections”, by amending Section 34.16, “Filing of Nominating Petitions”, to modify the number of registered voters required to sign a petition to grant eligibility of a candidate to qualify to run for office. (Motion to approve; Approved 4-1. Commissioner Carney dissenting).
- C. **ORDINANCE NO. 47-11 (SECOND READING/SECOND PUBLIC HEARING):** City-initiated amendment to the Land Development Regulations (LDR) Sections 4.4.6 “Medium Density Residential (RM) District”, 4.4.9 “General Commercial (GC) district”, 4.4.12 Planned Commercial (PC) District, 4.4.13 “Central Business (CBD) District” and Section 4.4.28 Central Business District–Railroad Corridor, in order to provide that assisted living facilities will be allowed in the same manner as multiple family residential developments with respect to the number of units and density. (Motion to approve; 4-0. Commissioner Carney stepped away from the dais)
- D. **ORDINANCE NO. 48-11 (SECOND READING/SECOND PUBLIC HEARING):** Consider a city-initiated amendment to Land Development Regulations (LDR) Section 4.3.3, “Special Requirements for Specific Uses”, by enacting a new Subsection 4.3.3 (AAAA), “Simulated Gambling Devices”, in order to prohibit use of same and to enact a new definition of, “Simulated Gambling Devices”. (Motion to approve; 5-0)
- E. **ORDINANCE NO. 45-11:** Consider a city-initiated amendment to Land Development Regulations (LDR) Section 4.4.9, “General Commercial (GC) District”, Subsection (G), “Supplemental District Regulations”, Sub-subsection (3), “Four Corners Overlay District”, to correct outdated references. (Motion to approve; Approved, 5-0)
- F. **ORDINANCE NO. 46-11:** Consider an Ordinance amending Chapter 113, "Alcoholic Beverages", Section 113.02, “Prohibition of Consumption or Possession of Open Containers of Alcoholic Beverages in Public Places”. (Motion to approve; 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. 02-12:** Consider an amendment to Chapter 96, “Fire Safety and Emergency Services”, by amending 96.16, “Certain Codes Adopted by Reference”, to comply with the State of Florida’s updated changes in the Fire Prevention Code Standards. If passed, a public hearing will be held on January 17, 2012. (*Motion to approve; Approved, 5-0*)

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

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

POSTED: DECEMBER 30, 2011

***\*\*\*\*\* Meeting adjourned at 9:59 p.m. \*\*\*\*\****