

City of Delray Beach

Regular Commission Meeting

*****AGENDA RESULTS*****



RULES FOR PUBLIC PARTICIPATION

Tuesday, December 2, 2008

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 Ellis noted Item 9.E., Appeal/Site Plan Review and Appearance Board/Boston's Restaurant was requested to be postponed; Item 10.A., Development Agreement/Vista Del Mar, L.L.C., was requested to be postponed; Approved as amended, 5-0).
5. **APPROVAL OF MINUTES:**
 - A. November 18, 2008 – Regular Meeting (Approved, 5-0)
6. **PROCLAMATIONS:**
 - A. None
7. **PRESENTATIONS:**
 - A. "Spotlight on Education" – Lena Wallace, Principal, Carver Middle School
8. **CONSENT AGENDA:** City Manager Recommends Approval. (Approved, 5-0)
 - A. **HOLD HARMLESS AGREEMENT/708 S.E. 3rd STREET:** Approve and authorize execution of a Hold Harmless Agreement between the City and W. Malone Schooler for the installation of a circular paver driveway in the public right-of-way. The property is located at 708 S.E. 3rd Street.
 - B. **CONTRACT CLOSEOUT (C.O. NO. 3/FINAL)/WEST CONSTRUCTION, INC./MANGROVE PARK:** Approve Contract Closeout (Change Order No. 3/Final) in the deduct amount of \$116,833.17 and final payment in the amount of \$139,433.87 to West Construction, Inc. for the completion of Mangrove Park. Funding is available from 334-4174-572-63.90 (General Construction Fund/Intracoastal Park/Other Improvements).
 - C. **TERMINATION OF AGREEMENT/CHILDREN'S SERVICES COUNCIL:** Approve termination of the agreement with the Children's Services Council for funding our After School Program; and accept a final 25% reimbursement funding from Children's Services Council for the first quarter, October 1, 2008 through December 31, 2008, in the amount of \$74,854.00.
 - D. **AMENDMENT NO. 1 TO THE DISASTER RECOVERY INITIATIVE AGREEMENT/PALM BEACH COUNTY:** Approve Amendment No. 1 to the agreement between the City and Palm Beach County for Disaster Recovery Initiative (DRI) funding to extend the deadline to August 15, 2009 for completion of housing rehabilitation projects for income-eligible residents who suffered damages from Hurricane Wilma and allow for salary reimbursement.

E. **REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:**
Accept the actions and decisions made by the Land Development Boards for the period November 17, 2008 through November 26, 2008.

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

1. Purchase award to CrossMatch Technologies in the amount of \$30,532.76 for the purchase of a Live Scan finger print system for the Police Department. Funding is available from 334-2111-521-66.10 (General Construction Fund/Books/Publications/Software).
2. Purchase award to Devland Site Development, Inc. in the amount of \$219,000.00 for sludge removal and disposal. Funding is available from 441-5122-536-34.90 (Water and Sewer Services/Other Contractual Services).
3. Purchase award to DGG Taser in the amount of \$23,405.20 for the purchase of twenty-five (25) tasers and related parts for the Police Department. Funding is available from 001-2111-521-52.27 (General Fund/Operating Supplies/Equipment <\$1,000) and 115-2112-521-64.90 (Special Projects Fund/Machinery/Equipment/Other Machinery/Equipment).
4. Purchase award to Promium, LLC in the amount of \$ 24,860.00 purchase of a Laboratory Information Management System (LIMS) for the Environmental Services Compliance Laboratory at the Water Treatment Plant. Funding is available from 441-5161-536-66.10 (Water and Sewer Fund/Books/Publications/Software).

9. **REGULAR AGENDA:**

- A. **SERVICE AUTHORIZATION NO. 07-01/MOCK, ROOS & ASSOCIATES:**
Consider approval of Service Authorization No. 07-01 to Mock, Roos & Associates in the amount of \$72,090.00 for design of the Intracoastal Waterway Educational Passive Park. Funding is available from 119-4151-572-68.35 (Beautification Trust Fund/Other Improvements/Intracoastal Waterway Educational Passive Park). (Motion to approve; Denied, 4-1. Commissioner McDuffie dissenting)
- B. **DEL IDA PARK/LANDSCAPING ARTIST IN RESIDENCY PROJECT:**
Consider approval of an agreement with Lois Brezinski in the amount of \$40,000.00 for the "Landscaping Artist in Residency Project" at Del Ida Community Park. Funding is available from 115-1702-579.63-90 (Special Projects Fund/Capital Outlay/Other Improvements). (Approved, 5-0)
- C. **AFFORDABLE HOUSING ADVISORY COMMITTEE REPORT:** Consider approval of the Affordable Housing Advisory Committee (AHAC) Report. (Motion to approve report with the exclusion of the 50% reduction in building permit fees and that they remain at 100%; Approved, 5-0)

- D. **NFL YOUTH FOOTBALL FUND GRASSROOTS PROGRAM GRANT/HILLTOPPER STADIUM:** Consider a request to provide matching funds in the amount of \$96,184.00 and authorize submitting a applications for two (2) grants in an amount up to \$50,000.00 each offered by the NFL Youth Football Fund Grassroots Program to replace bleachers, install a new pump for irrigation and re-sod the Hilltopper Stadium at the Old Atlantic School site. (Approved 5-0)
 - E. **APPEAL/SITE PLAN REVIEW AND APPEARANCE BOARD ACTIONS/BOSTON'S RESTAURANT:** Consideration of an appeal regarding the Site Plan Review and Appearance Board's approval of a Class V Site Plan for a Hotel located at 64 South Ocean Boulevard. ***(BECAUSE OF THE COURT'S ORDER DATED JULY 11, 2006, THERE WILL BE NO PUBLIC COMMENT ON THIS ITEM). (APPLICANT HAS REQUESTED POSTPONEMENT TO JANUARY 6, 2009 REGULAR MEETING)*** (Commissioner Eliopoulos declared a Conflict of Interest and left dais. Motion to **POSTPONE** until December 9, 2008 Regular Commission Meeting; Approved, 4-0)
10. **PUBLIC HEARINGS:**
- A. **DEVELOPMENT AGREEMENT/VISTA DEL MAR, L.L.C. (FIRST PUBLIC HEARING):** Consider a development agreement with Vista Del Mar, L.L.C. and associated Class V Site Plan for the property located at 64 South Ocean Boulevard. ***(APPLICANT HAS REQUESTED POSTPONEMENT TO JANUARY 6, 2009 REGULAR MEETING)*** (Commissioner Eliopoulos declared a Conflict of Interest and left dais. Motion to **POSTPONE** until December 9, 2008 Regular Commission Meeting; Approved, 4-0)
 - B. **AMENDMENT TO THE DEVELOPER'S AGREEMENT/CANNERY ROW, LLC:** Consider approval of the amendment to the Cannery Row Developer's Agreement to provide that the park land dedication condition has been satisfied. (Commissioner Eliopoulos declared a Conflict of Interest and left dais. Approved, 4-0)
11. **COMMENTS AND INQUIRIES ON NON-AGENDA ITEMS FROM THE PUBLIC- IMMEDIATELY FOLLOWING PUBLIC HEARINGS.**
- A. City Manager's response to prior public comments and inquiries.
 - B. From the Public.
12. **FIRST READINGS:**
- A. None
13. **COMMENTS AND INQUIRIES ON NON-AGENDA ITEMS.**
- A. City Manager
 - B. City Attorney
 - C. City Commission

14. **CLOSED ATTORNEY/CLIENT SESSION** pursuant to F.S. 286.011(8) in the cases of: Frank McKinney, et al. v. City of Delray Beach Case No. 502006CA011110XXXXMC; Village By the Sea, LLC, et al. v. City of Delray Beach, Case No. 502003CA)10252XXOCAI; Frank McKinney v. City of Delray Beach, Case No. 502003CA001062XXCTAY.

Attendees: Mayor Rita Ellis
Commissioner Gary P. Eliopoulos
Commissioner Fred B. Fetzer
Commissioner Woodie McDuffie
Commissioner Mackenson Bernard
City Manager David Harden
City Attorney Susan Ruby
Assistant City Attorney Terrill Pyburn
A certified court reporter

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

15. **CONSIDERATION OF A SETTLEMENT AGREEMENT:** Consideration of a Settlement Agreement subsequent in the cases of Frank McKinney, et al. v. City of Delray Beach Case No. 502006CA011110XXXXMC; Village By the Sea, LLC, et al. v. City of Delray Beach, Case No. 502003CA)10252XXOCAI; Frank McKinney v. City of Delray Beach, Case No. 502003CA001062XXCTAY. (Motion to approve settlement agreement subject to changes, Approved, 5-0)

POSTED: NOVEMBER 26, 2008

******** Meeting adjourned at 7:35 p.m. ********