

City of Delray Beach

Regular Commission Meeting

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



RULES FOR PUBLIC PARTICIPATION

Tuesday, September 16, 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.** (Mayor Ellis absent)
2. **INVOCATION.**
3. **PLEDGE OF ALLEGIANCE TO THE FLAG.**
4. **AGENDA APPROVAL.** (Susan Ruby, City Attorney, recommended Item 10.H., Development Agreement/Vista Del Mar, LLC. be postponed to the October 7, 2008 Commission Meeting at 7:00 p.m.; Vice Mayor McDuffie noted Item 8.O., Service Authorization No. 07-08/Mathews Consulting, Inc., was moved to the Regular Agenda as Item 9.A.A.; and Item 8.P.B., Review of Appealable Land Development Board Actions, was moved to the Regular Agenda as Item 9.A.A.A.; Approved as amended, 4-0).
5. **APPROVAL OF MINUTES:**
 - A. September 3, 2008 – Regular Meeting (Approved, 4-0)
6. **PROCLAMATIONS:**
 - A. Character Counts! Month – October 2008
7. **PRESENTATIONS:**
 - A. None
8. **CONSENT AGENDA:** City Manager Recommends Approval. (Approved as amended, 4-0)
 - A. **RESOLUTION NO. 45-08 (TAX EXEMPTION REQUEST FOR ELIGIBLE IMPROVEMENTS/515 NORTH SWINTON AVENUE):** Approve a tax exemption request for eligible improvements to 515 North Swinton Avenue, located in the Del Ida Park Historic District; and approve Resolution No. 45-08.
 - B. **RESOLUTION NO. 46-08 (TAX EXEMPTION REQUEST FOR ELIGIBLE IMPROVEMENTS/214 S.E. 7th AVENUE):** Approve a tax exemption request for eligible improvements to 214 S.E. 7th Avenue, located in the Marina Historic District; and approve Resolution No. 46-08.
 - C. **FINAL SUBDIVISION PLAT APPROVAL/ALTA CONGRESS REPLAT:**
Approve the replat of Tract A-1 and a portion of Tracts A, B, F, and E-2, Congress Park, for Alta Congress located along the west side of Congress Avenue between S.W. 10th Street and West Atlantic Avenue.
 - D. **WATER EASEMENT DEED/CONGRESS PARK BUSINESS CENTER:**
Approve and accept an exclusive 12-foot water easement deed for the relocation of an existing fire hydrant for Congress Park Business Center located at 420 South Congress Avenue.

- E. **CONTRACT CLOSEOUT (C.O. NO. 1/FINAL)/TOTAL GOLF CONSTRUCTION/LAKEVIEW GOLF COURSE GREENS RENOVATION PROJECT:** Approve Contract Closeout (Change Order No. 1/Final) in the amount of \$4,285.41 decrease and final payment in the amount of \$27,184.36 to Total Golf Construction, Inc. for the completion of the Lakeview Municipal Golf Course Greens Renovation Project. Funding is available from 441-5181-536-65.96 (Water/Sewer Fund/Other Improvements/Reclaimed Water Transmission) and 446-4761-572-63.20 (Lakeview Golf Course/Improvements Other/Landscaping/Beautification).
- F. **AGREEMENT/CHILDREN'S SERVICES COUNCIL OUT OF SCHOOL PROGRAM:** Approve an agreement between the City of Delray Beach and Children's Services Council (CSC) for a reimbursable amount up to \$299,417.00 for the Parks and Recreation Out-of-School Youth Recreation/Enrichment Programs, which includes After School, Holiday/Spring Camp, One Day Camps and Summer Camp.
- G. **AGREEMENT/CHILDREN'S SERVICES COUNCIL/BEACON CENTER AT VILLAGE ACADEMY ELEMENTARY SCHOOL:** Approve an agreement between the City of Delray Beach and Children's Services Council (CSC) in the amount of \$777,305.00 for programs and services carried out under the Beacon Center at Village Academy Elementary School for FY 2008/2009.
- H. **DISASTER RECOVERY INITIATIVE (DRI)/HOUSING REHABILITATION GRANT/CONTRACT AWARDS:** Approve four (4) Housing Rehabilitation grant awards to the lowest responsive bidders for the following projects: 826 S.W. 4th Avenue to South Florida Construction Services in the amount of \$18,453.75; 1208 N.W. 2nd Avenue to Ray Graeve & Sons Construction in the amount of \$21,887.25; 1332 Lee Street to Cordoba Construction in the amount of \$29,772.75 and 131 N.W. 11th Avenue to Cordoba Construction in the amount of \$22,039.50; and approve a waiver to the Neighborhood Services Division's approved Policies and Procedures that limits bid awards to be within ten percent (10%) of the in-house estimate for 1208 NW 2nd Avenue, 1332 Lee Street, and 131 NW 11th Avenue. Funding is available from 118-1960-554-49.19 (Neighborhood Services/Other Current Charges/Housing Rehabilitation).
- I. **INTERLOCAL AGREEMENT/COMMUNITY REDEVELOPMENT AGENCY/CLEAN AND SAFE PROGRAM:** Approve an Interlocal Agreement between the City and the Community Redevelopment Agency (CRA) in the amount of \$985,000.00 for funding for the Clean and Safe Program for FY 2008/2009.
- J. **INTERLOCAL AGREEMENT/COMMUNITY REDEVELOPMENT AGENCY/CONSTRUCTION/PROFESSIONAL SERVICES:** Approve the Interlocal Agreement between the City and the Community Redevelopment Agency (CRA) for funding construction/professional services for certain projects as listed on Exhibit "A" attached to the Agreement for FY 2008/2009.

- K. **SPECIAL EVENT REQUEST/ART AND JAZZ ON THE AVENUE:** Approve a special event request to endorse the next Art and Jazz on the Avenue to be held on October 23, 2008 from 6:00 p.m. to 10:00 p.m., to grant a temporary use permit per LDR Section 2.4.6(F) for the closure of Atlantic Avenue from Swinton to the west side of N.E./S.E. 7th Avenue, Railroad Avenue from Atlantic north to the north side of the east/west alley, and to the alleys north and south of Atlantic on N.E./S.E. 1st Avenue, N.E./S.E. 2nd Avenue, S.E. 3rd Avenue, N.E./S.E. 4th Avenue; to authorize staff support for security, traffic control, banner hanging and removal, barricade set up and removal, trash removal and clean up and EMS assistance; contingent upon receipt of a hold harmless agreement.
- L. **SPECIAL EVENT REQUEST/HOWARD ALAN 2nd ANNUAL DOWNTOWN DELRAY BEACH NEW YEAR'S CRAFT FESTIVAL:** Approve a special event request to endorse the 2nd Annual Downtown Delray Beach New Year's Craft Festival sponsored by Howard Alan Events, Ltd. to be held from 10:00 a.m. to 5:00 p.m. on December 27, 2008 - December 28, 2008, granting a temporary use permit per LDR Section 2.4.6(F) for the closure of N.W. 3rd Avenue from Atlantic Avenue north to the south entrance of Atlantic Grove and the Tennis Center parking lot, authorize staff support for traffic control, barricading, fire inspector services and authorize event signage to be installed ten (10) days prior to event with the sponsor paying all overtime costs; contingent upon receipt of an executed Hold Harmless Agreement.
- M. **AMENDMENT NO. 2 TO LEASE AGREEMENT/EXPANDING AND PRESERVING OUR CULTURAL HERITAGE, INC. (EPOCH):** Consider approval of Amendment No. 2 to a lease agreement with Expanding and Preserving Our Cultural Heritage, Inc. (EPOCH) to add Munnings Cottage.
- N. **HISTORIC FACADE ARCHITECTURAL CONTROL AND REDEVELOPMENT EASEMENT AGREEMENT/EXPANDING AND PRESERVING OUR CULTURAL HERITAGE, INC. (EPOCH)/COMMUNITY REDEVELOPMENT AGENCY (CRA):** Approve a historic facade architectural control and redevelopment easement agreement between the City, Expanding and Preserving Our Cultural Heritage, Inc. (EPOCH) and Community Redevelopment Agency (CRA), which provides that the Community Redevelopment Agency (CRA) will give \$75,000.00 for renovation of the Munnings Cottage located at 154-170 N.W. 5th Avenue.
- O. **(MOVED TO ITEM 9.A.A. ON THE REGULAR AGENDA)**
- P. **(MOVED TO ITEM 9.A.A.A. ON THE REGULAR AGENDA)**
- Q. **AWARD OF BIDS AND CONTRACTS:**
1. Contract award to Sewah Studios in the amount of \$19,200.00 for the purchase of ten (10) State Historical Markers. Funding is available from 001-2511-515-31.90 (General Fund/Professional Services/Other Professional Services).

9. **REGULAR AGENDA:**

- AA. **SERVICE AUTHORIZATION NO. 07-08/MATHEWS CONSULTING, INC.:**
Approve Service Authorization No. 07-08 in the amount of \$249,831.00 to Mathews Consulting, Inc. for professional engineering services in the design of Area 11A of the Reclaimed Water System. Funding is available from 441-5181-536-65.96 (Water & Sewer Fund/Other Improvements/Reclaimed Water Transmission). (Approved, 4-0)
- AAA. **REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:**
Accept the actions and decisions made by the Land Development Boards for the period September 1, 2008 through September 12, 2008. (Approved, 4-0)
- A. **WAIVER REQUEST/WAKSMACKI PROPERTY:** Consider a waiver request to Land Development Regulations (LDR) 4.5.1(E)(8)(j)(2), "Scale of a Building", which requires that for buildings deeper than fifty percent (50%) of the lot depth, a portion of each side façade, greater than one story, be setback a minimum of 5 additional feet from the side setback line, for the property located at 338 N.E. 1st Avenue, Old School Square Historic District. (*Quasi-Judicial Hearing*) (Motion to adopt Board Order as presented; Approved, 4-0)
- B. **RESOLUTION NO. 47-08/TD BANK/OLD SCHOOL SQUARE PARKING GARAGE PROJECT:** Consider approval of Resolution No. 47-08 and a request authorizing TD Bank as the provider of a \$3,000,000.00 taxable line of credit for the purpose of refunding the City for upfront of a portion of the cost of construction of the Old School Square Parking Garage Project. (Motion to approve; Approved, 4-0)
- C. **REQUEST TO REDUCE VALET QUEUE/CAFFE LUNA ROSA:** Consider a request from Caffe Luna Rosa to reduce its monthly valet parking queue fee from \$165.00 to \$125.00 per space, per month. (Motion to approve; Approved, 3-1; Commissioner Bernard dissenting)
- D. **AUTHORIZATION TO HIRE OUTSIDE COUNSEL/APPEALS IN CASES REFERENCING LINDA MARKS:** Consider authorizing the City to hire Gaunt, Pratt, Radford, Methe & Rockenbach, P.A., to handle all appeals in cases referencing Linda Marks at the rate of \$225.00 per hour. (Motion to approve; Approved, 4-0)
- E. **SETTLEMENT OFFER IN JUDITH KARP v. CITY OF DELRAY BEACH:**
Consider a Settlement Offer in the total amount of \$100,000.00 in Judith Karp v. City of Delray Beach. Staff recommends denial. (First motion to approve settlement offer; DENIED, 4-0. Second motion to file an offer of judgment in the amount of \$9,000.00; Approved, 4-0)
- F. **APPOINTMENT TO THE EDUCATION BOARD:** Appoint one (1) student member to the Education Board to serve an unexpired term ending July 31, 2009. Based upon the rotation system, the appointment will be made by Commissioner Fetzer (Seat #2). (Appointed Margaret Henderson (student) and approved, 4-0)

10. **PUBLIC HEARINGS:**

- A. **RESOLUTION NO. 42-08 (MILLAGE LEVY):** A resolution levying a tax on all properties within the City of Delray Beach for operation and maintenance and for payment of principal and interest on bonded indebtedness for FY 2009. (Approved, 4-0)
- B. **RESOLUTION NO. 43-08 (MILLAGE LEVY/DDA):** A resolution levying a tax on all properties within the Downtown Development Authority Taxing District of the City of Delray Beach for FY 2009. (Approved, 4-0)
- C. **RESOLUTION NO. 44-08 (BUDGET ADOPTION FOR FY 2009):** A resolution making appropriations of sums of money for all necessary expenditures of the City of Delray Beach for the period October 1, 2008 through September 30, 2009. (Approved, 4-0)
1. **APPROVAL OF FIVE YEAR CAPITAL IMPROVEMENT PLAN:** Accept the Planning and Zoning Board's finding that the proposed Five Year Capital Improvement Plan and FY 2009 Capital Improvement Budget are consistent with the Comprehensive Plan, and approve same. (Approved, 4-0)
- D. **ORDINANCE NO. 42-08:** An ordinance amending Chapter 52, "Water" of the City Code of Ordinances by amending Section 52.34, "Water Rates", to provide for increased residential, nonresidential, and irrigation rates for FY 2009. (Approved, 4-0)
- E. **ORDINANCE NO. 43-08:** An ordinance amending Chapter 53, "Sanitary Sewers", of the City Code of Ordinances by amending Section 53.130, "User Charges; Wholesale Sewer Rates; Calculation of Sewer Surcharge", to provide for increased sewer rates for FY 2009. (Approved, 4-0)
- F. **ORDINANCE NO. 44-08:** An ordinance amending Chapter 51, "Garbage and Trash", of the City Code of Ordinances by amending Section 51.70, "Regular Charges Levied", to provide for increasing contracted garbage, trash, recycling, vegetation, and bulk waste collection service rates for FY 2009. (Approved, 4-0)
- G. **ORDINANCE NO. 45-08:** An ordinance amending Chapter 92, "Boats and Boating," of the Code of Ordinances by amending Subsection 92.33, "Dockage Rates", to provide for a change in the rate structure and the addition of application and daily docking fees. (Approved, 4-0)
1. **RESOLUTION NO. 38-08:** Consider approval and adoption of Resolution No. 38-08 regarding Marina fees, regulations and rules for the Delray Beach City Marina. (Approved, 4-0)
- H. **DEVELOPMENT AGREEMENT/VISTA DEL MAR, L.L.C.:** 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. (*Quasi-Judicial Hearing*) (Commissioner Eliopoulos filed a Conflict of Interest and left dais; Motion to **POSTPONE** until October 7, 2008 at 7:00 p.m. Commission Regular Meeting; Approved, 3-0)

- I. **ORDINANCE NO. 09-08 (SECOND READING/SECOND PUBLIC HEARING):** City initiated amendments to the Land Development Regulations (LDR) amending Article 4.5, “Overlay and Environmental Management Districts”, Section 4.5.1, “Historic Preservation Sites and Districts”, enacting a new Subsection 4.5.1(N), “Criteria for Change of Historic Designation and/or Classification”, and a new Subsection 4.5.1(O), “Procedures for Change of Historic Designation and/or Classification”, in order to provide criteria and a method for a change of historic designation and/or classification. (Commissioner Eliopoulos filed a Conflict of Interest and left dais; First motion to approve Version 5; Approved 3-0. Second motion to approve Version 4; Denied, 3-0)
- J. **ORDINANCE NO. 30-08 (SECOND READING/SECOND PUBLIC HEARING):** City initiated amendments to the Land Development Regulations (LDR) Section 2.2.6, “The Historic Preservation Board”, Subsection (D), “Duties, Powers, and Responsibilities”, to provide consistency with the requirements listed in other sections in the Land Development Regulations, Amending Section 4.5.1, “Historic Preservation Sites and Districts” Subsection (D), “Review and Approval Procedures”, (E), “Development Standards”, (F), “Restrictions on Demolitions”, (H), “Undue Economic Hardship” and (I), “Historic Preservation Board to Act on Site Plans, Landscape Plans, and Architectural Elevations”, to require that relocation of a structure not occur until a building permit has been issued for the associated Redevelopment Plans. (Approved, 4-0; Commission Eliopoulos returned to dais)
- K. **ORDINANCE NO. 35-08 (SECOND READING/SECOND PUBLIC HEARING):** City initiated amendment to the Land Development Regulations (LDR) amending Section 4.6.19(D), “Preservation and Promotion of Existing Plant Communities”; amending Section 4.6.19(E), “Tree Removal and Land Clearing Permits”, amending Appendix “A”, “Definitions”, to clarify the regulations governing the “Tree Trust Fund”. (Approved, 4-0)
- L. **ORDINANCE NO. 38-08 (SECOND READING/SECOND PUBLIC HEARING):** City initiated amendments to the Land Development Regulations (LDR) for Section 2.4.3, “Submission Requirements”, Subsection (K) “Fees” to provide fees for extension requests; Section 2.4.4 “General Procedures Pertaining to Approval of Land Use and Development Applications”, Subsections (D), “Establishment of Project Approvals”, (E), “Expiration of Approvals”, and (F), “Extensions”, to provide for the expiration and extension of time for Class I-V Site Plan Modifications and Certificates of Appropriateness. (***THE CAPTION FOR THIS ORDINANCE WAS CHANGED AFTER FIRST READING TO ADD A REFERENCE TO "EXPIRATION AND EXTENSION OF TIME FOR CLASS I - V SITE PLANS"***). (Approved, 4-0)

11. **COMMENTS AND INQUIRIES ON NON-AGENDA ITEMS FROM THE PUBLIC- IMMEDIATELY FOLLOWING PUBLIC HEARINGS.**

- A. City Manager's response to prior public comments and inquiries.
- B. From the Public.

12. **FIRST READINGS:**

- A. None

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

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

POSTED: SEPTEMBER 12, 2008

******** Meeting adjourned at 9:31 p.m. ********