

City of Delray Beach

Regular Commission Meeting

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



RULES FOR PUBLIC PARTICIPATION

Tuesday, April 21, 2009

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

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

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

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

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

APPELLATE PROCEDURES

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

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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.N., Letter of Support/South Florida Regional Transportation Authority, was added to the agenda by addendum; Item 8.E., Rescind and Re-Award Contract/Florida Highway Products (FHP), Inc., was moved to the Regular Agenda as Item 9.A.A.; Item 8.D., Agreement/Wallace Roberts & Todd, LLC, was moved to the Regular Agenda as Item 9.A.A.A.; Item 8.L., Special Event Request/Delray Beach Film Festival, was moved to the Regular Agenda as Item 9.A.A.A.A.. Approved as amended, 5-0)
5. **APPROVAL OF MINUTES:**
 - A. April 7, 2009 – Regular Meeting (Approved, 5-0)
6. **PROCLAMATIONS:**
 - A. Teenage Safe Driving Awareness Week – April 20-25, 2009
 - B. Elks Lodge #1770 – 60th Anniversary
 - C. The Plastridge Insurance Agency – 90th Anniversary
 - D. Silver Star Banner Day – May 1, 2009
 - E. Municipal Clerk’s Week – May 3-9, 2009
 - F. National Preservation Month – May 2009
7. **PRESENTATIONS:**
 - A. S.P.I.R.I.T. (Service, Performance, Integrity, Responsibility, Innovation, Teamwork) Committee Quarterly Employee Awards Presentation
 - B. City of Delray Beach Residents Academy Certificates – Janet Meeks
 - C. Economic Stimulus Grant Update – Lisa King, Langton Associates
 - D. “Spotlight on Neighborhoods” – Joseph Kamarata, Chair of Neighborhood Advisory Council
8. **CONSENT AGENDA:** City Manager Recommends Approval. (Approved as amended, 5-0)
 - A. **FINAL BOUNDARY PLAT APPROVAL/MORSE-LAMAT:** Approve the final boundary plat for Morse- Lamat, located at Delray Toyota on South Federal Highway between Avenue "F" and Lamat Avenue.
 - B. **ACCEPTANCE OF RIGHT-OF-WAY DEED, SIDEWALK EASEMENT AND SIDEWALK DEFERRAL/1026 NASSAU STREET:** Approve and accept a right-of-way deed, sidewalk easement and deferral agreement regarding installation of a sidewalk for the property located at 1026 Nassau Street.

- C. **CONTRACT CLOSEOUT (C.O. NO. 1/FINAL)/EXPERTECH NETWORK INSTALLATION (US), INC.:** Approve Contract Closeout (Change Order No. 1/Final) in the deduct amount of \$197,481.43 and final payment in the amount of \$75,935.20 to Expertech Network Installation (US), Inc. for completion of the Area 4 Reclaimed Water System Project. Residual funds would revert to 441-5181-536-65.96 (Water/Sewer Fund/Other Improvements/Reclaimed Water Transmission).
- D. **(MOVED TO ITEM 9.A.A. ON THE REGULAR AGENDA)**
- E. **(MOVED TO ITEM 9.A.A. ON THE REGULAR AGENDA)**
- F. **RESOLUTION NO. 18-09 (SETTING PUBLIC HEARING DATE FOR DOUGLAS AVENUE SPECIAL ASSESSMENT DISTRICT):** Approve a resolution setting the public hearing date as June 2, 2009 for the establishment of the Douglas Avenue Special Assessment District, and providing for the mailing and publication of required notices.
- G. **RESOLUTION NO. 19-09:** Approve Resolution No. 19-09 supporting inclusion of the Intercity Rail Component of the Florida East Coast (FEC) Corridor project as part of Florida's economic stimulus plan.
- H. **PARTICIPATION AGREEMENT/BA MERCHANT SERVICES LLC AND BANK OF AMERICA, N.A.:** Approve a Participation Agreement between BA Merchant Services. LLC, Bank of America, N.A., and the City which is further bound by an Electronic Payments Receipt System Provider Contract between the State of Florida Department of Financial Services and Bank of America and BA Merchant Services LLC.
- I. **AMENDMENT NO. 1 TO THE SUB-RECIPIENT HOUSING PARTNERSHIP AGREEMENT/DELRAY BEACH COMMUNITY LAND TRUST, INC.:** Approve Amendment No. 1 to the Sub-Recipient Housing Partnership Agreement between the City and the Delray Beach Community Land Trust (CLT), Inc. for the purposes of subsidizing the costs associated with affordable housing units within the Community Land Trust.
- J. **GRANT APPLICATION/LAW ENFORCEMENT GRANTS PROGRAM/TARGET:** Authorize staff to submit a law enforcement grant application to Target for funding in the amount of \$3,500.00 to support the Department's "Carver Kids of Character Karate Program," for the purchase of replacement uniforms for the youth, to pay for tournament fees, and for other miscellaneous supplies.

K. **SPECIAL EVENT REQUEST/ASIAN FOOD FAIR AND CULTURAL SHOW:** Approve a special event request to allow the 6th Annual Asian Food Fair and Cultural Show sponsored by the Bangladesh Association of Florida, to be held on May 9 - 10, 2009 from 11:30 a.m. until 11:00 p.m. on the grounds of Old School Square and in the Old School Square parking lot, granting a temporary use permit per LDR Section 2.4.6(F) for the closure and use of the Old School Square surface parking lot and a portion of NE 1st Avenue, to authorize staff support for traffic control and security, site clean up and trash removal, EMS assistance, event signage and assistance with banner hanging; contingent upon receipt of a certificate of liability insurance from the amusement ride operator prior to the event and receipt of the state inspection certificate for amusement rides prior to operating any such rides.

L. **(MOVED TO ITEM 9.A.A.A. ON THE REGULAR AGENDA)**

M. **REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:** Accept the actions and decisions made by the Land Development Boards for the period April 6, 2009 through April 17, 2009.

N. **LETTER OF SUPPORT/SOUTH FLORIDA REGIONAL TRANSPORTATION AUTHORITY:** Approve and authorize the Mayor to sign a letter of support for the South Florida Regional Transportation Authority's (SFRTA) effort to achieve a dedicated source of funding. *(Addendum)*

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

1. Bid award to Groundskeepers, Inc. in the amount of \$35,400.00 for the landscape maintenance of three (3) baseball fields at Pompey Park. Funding is available from 001-4131-572-34.90 (General Fund/Other Contractual Services).
2. Bid award to Downrite Engineering Corp. in the amount of \$1,189,051.25 for construction of Area 11A Reclaimed Water System Contract 3. Funding is available from 441-5181-536-65.96 (Water and Sewer Fund/other Improvements/Reclaim Water Transmission).
3. Purchase award to Wal-Mart in the amount of \$19,968.45 for the purchase of 557 Cosco Scenera 5-Point Convertible car seats for the Child Passenger Safety Program-New Parents. Funding is available from 115-2311-522-49.90 (Special Projects Fund/Other Current Charges).

9. **REGULAR AGENDA:**

A.A. **RECIND AND RE-AWARD CONTRACT/FLORIDA HIGHWAY PRODUCTS (FHP), INC.:** Consider approval to rescind the contract award to Florida Highway Products (FHP), Inc. and then re-award the contract in the amount of \$195,150.54 to Florida Highway Products (FHP), Inc. for microsurfacing of existing City. *(Motion to rescind previous contract award; Approved, 5-0. Motion to award contract to Florida Highway Products, Inc.; Approved, 5-0)*

- A.A.A. **AGREEMENT/WALLACE ROBERTS & TODD, LLC:** Approve an agreement between the City and Wallace Roberts & Todd, LLC (WRT) in the amount of \$45,083.00 for the Veterans Park Master Site Plan. Funding is available from 334-4126-572-31.90 (General Construction Fund/Professional Services/Other Professional Services) (Motion to **TABLE**; Approved, 5-0)
- A.A.A.A. **SPECIAL EVENT REQUEST/DELRAY BEACH FILM FESTIVAL:** Approve a request to endorse the 4th Annual Delray Beach Film Festival proposed to be held from May 19-24, 2009; to grant a temporary use permit per LDR's Section 2.4.6(F) for the partial closure of S.E. 1st Avenue on May 21, 2009 from 9:30 p.m. to midnight, for a street party, the use of the south end of the Municipal Beach east of Anchor Park on May 23, 2009 from 7:00 a.m. to 1:00 p.m., for a surfing contest, and the use of Veterans Park on May 23, 2009 from 10:00 a.m. to 5:00 p.m., for a children's event, and to authorize staff life guard support, provision of event signage, and banner hanging; contingent upon receipt of a certificate of event liability insurance and liquor liability insurance by May 8, 2009, receipt of an executed copy of a rental agreement with Old School Square by May 4, 2009, and receipt of a signed hold harmless agreement by May 8, 2009. (Motion to approve subject to staff recommendations and receiving monies due to Old School Square by May 10, 2009; Approved, 5-0)
- A. **CONDITIONAL USE EXTENSION REQUEST/HISTORIC SOUTH SWINTON AVENUE AND SUNDY HOUSE:** Consider a request to extend the conditional use for the Historic South Swinton Avenue and Sundy House expansion, encompassing portions of City Blocks #61, 62 and 70 lying on the east and west sides of South Swinton Avenue, south of West Atlantic Avenue. (*Quasi-Judicial Hearing*) (Motion to adopt Board Order as presented; Approved, 4-1. Commissioner Bernard dissenting)
- B. **WAIVER REQUESTS/PINEAPPLE GROVE PARKING LOT:** Consider a request to waive Land Development Regulation (LDR) Section 4.6.9(D)(2), "Provisions for Ingress and Egress," which requires that a vehicle must be able to enter and exit the parking area onto a street in a forward manner. (*Quasi-Judicial Hearing*) (Motion to adopt Board Order as presented; Approved, 5-0)
- C. **SPECIAL EVENT REQUEST/HAITIAN FLAG DAY EVENT:** Consider approval of a special event request for the Haitian Flag Day Celebration sponsored by Helping Hands Mission Organization, Inc. on May 24, 2009 from 2:00 p.m. until 10:00 p.m., to grant a temporary use permit per LDR's Section 2.4.6.(F) for the parade route, use of Merritt Park; and to authorize staff support for security and traffic control, trash removal and clean up, barricading, event signage, and stage use; contingent upon the following conditions: small stage use rather than large stage, no EMS service on-site, event producer to pay 100% of City costs, receipt of a certificate of liability insurance and hold harmless agreement 10 days prior to the event. (Motion to approve per staff conditions; Approved, 5-0)

- D. **AGREEMENT/ALBERTA & ASSOCIATES CONSULTING:** Consider approval of an Agreement between the City and Alberta & Associates Consulting in an amount not to exceed \$85,000.00 to coordinate and implement the R.A.C.E. Relations Initiative in accordance with the goals and objectives adopted by the City Commission. (Approved, 5-0)
- E. **INTERLOCAL AGREEMENT/TOWN OF GULF STREAM/FIRE RESCUE SERVICES:** Consider approval of an Interlocal Agreement with the Town of Gulf Stream for Fire-Rescue Services. (Motion to **POSTPONE** until the May 12, 2009 Workshop meeting for discussion and item will be brought back to Commission at the May 19, 2009 Regular City Commission Meeting. Approved, 5-0)
- F. **WAIVER OF BONDING REQUIREMENTS FOR PIPE LINING OF THE 16" INTRACOASTAL CROSSING:** Consider waiving the performance and payment bond requirements as stipulated under the Purchasing section (PUR-16) of the Administrative Policies and Procedures Manual for the pipe lining of the abandoned 16" Intracoastal Crossing. (Approved, 5-0)
- G. **CHANGE ORDER NO. 2/WEST CONSTRUCTION, INC./MILLER PARK IMPROVEMENTS:** Consider approval of Change Order No. 2 in the amount of \$164,456.00 to West Construction, Inc. for removal and disposal of unsuitable materials excavated at the site for the Miller Park Improvements. Funding is available from 448-5461-538-63.90 (Stormwater Utility Fund/Improvements Other/Other Improvements). (Approved, 5-0)

10. **PUBLIC HEARINGS:**

- A. **ORDINANCE NO. 18-09 (SECOND READING/SECOND PUBLIC HEARING):** Consider an ordinance amending the Land Development Regulations (LDR) of the Code of Ordinances, by amending Section 4.4.29, "Mixed Residential, Office and Commercial (MROC) District", Subsection 4.4.29(E), "Conditional Uses and Structures Allowed", to allow educational facilities, training centers and vocational schools as a conditional use within this zoning district; and amending Subsection 4.4.29(H) to specify parking requirements for educational facilities, training centers and vocational schools within the MROC Zoning District. (Approved, 5-0)
- B. **ORDINANCE NO. 54-08 (SECOND READING/ADOPTION HEARING FOR COMPREHENSIVE PLAN AMENDMENT 2009-1):** Consider on second reading an ordinance adopting Comprehensive Plan Amendment 2009-1 and associated Future Land Use Map (FLUM) amendments, and authorize transmittal to the State Department of Community Affairs. Amendment 2009-1 includes: (Approved, 5-0)

A. Text Amendments:

- i. Future Land Use Element – Modification of the description of the GC (General Commercial) Future Land Use designation to increase maximum density for residential uses from 12 units per acre to 22 units per acre and decrease the maximum intensity for non-residential uses

from an FAR of 3.0 to 0.75, within the proposed Silver Terrace Courtyards Overlay District.

- ii. Future Land Use Element – Modification of the description the CMU (Congress Avenue Mixed-Use) Future Land Use designation to include provisions for the creation of a Regional Activity Center on the Office Depot property.
- iii. Future Land Use Element – add an objective and policies to support the creation of a Regional Activity Center at the Office Depot property on Congress Avenue.

B. Future Land Use Map Amendment:

Future Land Use Map amendment from TRN (Transitional) to GC (General Commercial) for an approximate 6.15 acre parcel of land known as the Floranda Mobile Home Park, located on the west side of South Federal Highway, approximately 660 feet south of SE 10th Street and north of the Plaza at Delray.

- C. **ORDINANCE NO. 11-09:** Consider an ordinance rezoning and placing land presently zoned POC (Planned Office Center) District in part, MH (Mobile Home) District in part, and R-1-A (Single Family Residential) District in part, to PC (Planned Commercial) District; said land being located on the west side of South Federal Highway, approximately 320 feet south of S.E. 10th Street and north of the Plaza at Delray, as more particularly described herein; amending "Zoning Map of Delray Beach, Florida, April 2007. (*Quasi-Judicial Hearing*) (Approved, 5-0)
- D. **ORDINANCE NO. 19-09:** Consider a City-initiated amendment to Land Development Regulations (LDR) Article 8.2, "The Downtown Development Authority", to address the 2003 revisions to the "Delray Beach Downtown Development Authority Act" (HB 299); and to modify the DDA boundary description (Appendix B) and map to include the expanded DDA area between Swinton Avenue and I-95. (Approved, 5-0)
- E. **RESOLUTION NO. 14-09/AMENDMENT NO. 1 TO CONTRACT FOR SALE AND PURCHASE OF PROPERTY/COMMUNITY LAND TRUST:** Consider approval of Resolution No. 14-09 authorizing the City to transfer/sell City owned property, located at 315 S.W. 3rd Avenue, to be utilized for affordable housing purposes; and approve Amendment No. 1 to Contract for Sale and Purchase between the City and the Delray Beach Community Land Trust, Inc. amending the legal description of the real property. (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. 20-09:** Consider an ordinance amending Chapter 33, Article IV "City Police and Firefighters Retirement System," at Section 33.63, "Optional Forms of Benefits," to provide for a "Pop-Up" feature as an optional form of retirement benefit upon the election of a plan member; providing for severability; providing for inclusion in the City Code. If passed, a second public hearing will be held May 5, 2009. (Approved, 5-0)
- B. **ORDINANCE NO. 21-09:** Consider an ordinance amending Chapter 33, "Police and Fire Departments", subheading "Pensions", of the Code of Ordinances of the City of Delray Beach, Florida, by amending Section 33.65, "Administration", to provide for a City Commissioner to serve as an appointed member of the Board of Trustees. If passed, a public hearing will be held on May 5, 2009. (Approved, 5-0)
- C. **ORDINANCE NO. 22-09:** An ordinance amending Chapter 35, "Employee Policies and Benefits", Subheading "Retirement Plan", of the Code of Ordinances by amending Section 35.105, "Administration by Retirement Committee", to amend the committee membership. If passed, a public hearing will be held on May 5, 2009. (Approved, 5-0)

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

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

POSTED: APRIL 17, 2009

******* Meeting adjourned at 9:32 p.m. *******