

City of Delray Beach

Regular Commission Meeting

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



RULES FOR PUBLIC PARTICIPATION

Tuesday, August 18, 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 9.P., Cancellation of Contract to Ground Keepers, Inc./Award of New Contract to Sports Turf One, Inc., was added to the agenda by addendum; Item 9.Q., Interlocal Agreement/Town of Gulf Stream/Building Permit and Inspection Services, was added to the agenda by addendum; an updated Exhibit A is on the dais for Item 9.L., Appointments to Site Plan Review Appearance Board; Item 8.L.1, Bid Award to H.A. Contracting Corporation was moved to the Regular Agenda as Item 9.A.A.; Item 8.B., Hold Harmless Agreements/Harbour House Homeowners. Approved as amended, 5-0).
5. **APPROVAL OF MINUTES:**
 - A. August 4, 2009 – Regular Meeting (Approved, 5-0)
 - B. August 11, 2009 Special/Workshop Meeting (Approved, 5-0)
6. **PROCLAMATIONS:**
 - A. None
7. **PRESENTATIONS:**
 - A. None
8. **CONSENT AGENDA:** City Manager Recommends Approval. (Approved as amended, 5-0)
 - A. **RESOLUTION NO. 34-09:** Approve Resolution No. 34-09 to support the application for a 2010 Distinctive Destination designation.
 - B. **HOLD HARMLESS AGREEMENTS/HARBOUR HOUSE HOMEOWNERS ASSOCIATION:** Approve and authorize Hold Harmless Agreements between the City and four (4) property owners that make up the Harbour House Homeowners Association, for the installation of a removable fence within a public utility easement located on the north side of N.E. 1st Street abutting the west bank of the Intracoastal Waterway.
 - C. **DEVELOPER AGREEMENT/SANDS TERRACE CONDOMINIUM:** Approve a Developer Agreement between the City and Maria Robles, the owner of Sands Terrace Condominiums in an amount not to exceed \$25,840.00 for water main upgrade from 2" to 8" in accordance with the City's water main upgrade master plan. Funding is available from 442-5178-536-83.01 (Water and Sewer Renewal & Replacement Fund/Other Grants & Aids).

- D. **MEMORANDUM OF UNDERSTANDING/FLORIDA DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES:** Approve a Memorandum of Understanding with the Florida Department of Highway Safety and Motor Vehicles to give the Delray Beach Police Department electronic access to the Driver and Vehicle Information Database (D.A.V.I.D.) which allows searches for driver's license and vehicle records to aid to law enforcement in investigations.
- E. **EMERGENCY SERVICES AGREEMENT/BOYNTON BEACH FIRE RESCUE:** Authorize the Mayor to execute the revised Emergency Services Agreement for Mutual Assistance and Automatic Aid between the City and Boynton Beach Fire-Rescue.
- F. **EMERGENCY SERVICES AGREEMENT/BOCA RATON FIRE RESCUE:** Authorize the Mayor to execute the revised Emergency Services Agreement for Mutual Assistance and Automatic Aid between the City and Boca Raton Fire-Rescue.
- G. **ADDENDUM NO. 1 TO THE AGREEMENT/PENN CREDIT CORPORATION:** Approve Addendum No. 1 to the Agreement between the City and Penn Credit Corporation to modify the commission fee, increase the number of days before parking ticket accounts are turned over to them for collection and allows for collection of other delinquent accounts, including EMS transport fees.
- H. **FLORIDA RECREATION DEVELOPMENT ASSISTANCE PROGRAM (FRDAP) GRANT/REDESIGN POMPEY POOL/ATLANTIC DUNES NATURE TRAIL:** Approve and authorize submission of grant applications to the Florida Recreation Development Assistance Program (FRDAP) for a redesign of the Pompey Park Pool and the Atlantic Dunes Educational Nature Trail.
- I. **SERVICE AUTHORIZATION NO. 07-03/GLATTING JACKSON KERCHER ANGLIN:** Approve Service Authorization No. 07-03 in an amount not to exceed \$35,600.00 to Glattling Jackson Kercher Anglin for the provision of limited construction administration services in conjunction with the construction of Phase I of the Old School Square Park Improvements. Funding is available from 334-4151-572-63.59 (General Construction Fund/Improvements Other/Old School Square-Park Improvements).
- J. **SPECIAL EVENT REQUESTS/ART AND JAZZ ON THE AVENUE:** Approve a special event request to endorse Art and Jazz on the Avenue to be held on October 22, 2009 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 and NW 5th Avenue from Atlantic to NW 2nd Street and SW 5th Avenue from Atlantic to SW 1st Street; 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; with fees subject to the City special event policy in effect at the time of the event.

K. **REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:**
Accept the actions and decisions made by the Land Development Boards for the period August 3, 2009 through August 14, 2009.

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

1. **(MOVED TO ITEM 9.A.A. ON THE REGULAR AGENDA)**
2. Bid award to Oracle Elevator in the amount of \$783.00 per month for servicing the elevators in city owned buildings. Funding will be provided from various departmental maintenance accounts.
3. Purchase award to Dionex Corporation in the amount of \$36,311.02 for an Ion Chromatograph (IC) Analytical Instrument for the Environmental Service Compliance Laboratory located at the Water Treatment Plant. Funding is available from 442-5178-536-64.90 (W & S Renewal & Replmt Fund, Machinery & Equipment/Other Machinery & Equipment).
4. Purchase award to Hub City Ford, Inc. in the amount of \$23,744.00 for the purchase of one (1) replacement 2010 Ford Sport Trac 4X4 mid-size SUV with options for the Ocean Rescue Division. Funding is available from 501-3312-591-64.20 (Garage Fund/Machinery & Equipment/Automotive).

9. **REGULAR AGENDA:**

AA. Bid award to H.A. Contracting Corporation in the amount of \$489,787.00 for the Old School Square window replacement project. Funding is available from 334-4151-572-46.08 (General Construction Fund/Repair and Maintenance Services/OSS Window Replacement) *(Approved 5-0)*

A. **CONDITIONAL USE EXTENSION REQUEST/VILLAGE SQUARE:**
Consider a conditional use extension request for Village Square, located on the east side of Auburn Avenue and S.W. 13th Avenue between S.W. 7th Street and S.W. 10th Street. *(Quasi-Judicial Hearing) (Commissioner Bernard declared a conflict of interest and left the dais. Motion to adopt Board Order as presented; Approved, 4-0)*

B. **FISCAL YEAR 2009/2010 CAPITAL IMPROVEMENT PROJECT (CIP) PRESENTATION**

C. **SPECIAL EVENT AND MISCELLANEOUS GRANT FUNDING RECOMMENDATIONS/GRANTS COMMITTEE:** Provide direction regarding the Grants Committee recommendations for funding of requests from the Commission Special Event line item and Miscellaneous Grant division for Fiscal Year 2009/2010. *(Motion to approve; Approved, 4-1. Commissioner Frankel dissenting)*

D. **FACILITY AND PAVILION RENTAL FEE CHANGES:** Consider changes to fees for Parks and Recreation facility, pavilion and field rentals. *(Approved, 5-0)*

- E. **RESOLUTION NO. 36-09/ADDENDUM TO LEASE PURCHASE AGREEMENT/SUNTRUST LEASING CORPORATION:** Consider approval of an addendum to the Lease Purchase Agreement between the City and SunTrust Leasing Corporation in the principal amount of \$392,000.00, including Resolution No. 36-09, to finance the purchase of 82 Club Car golf carts and equipment and other miscellaneous costs relative to the Parking Meter Project for a four (4) year term. (Approved, 5-0)
- F. **US 1 MODIFICATION/5th AVENUE AT DELRAY:** Authorize staff to provide 5th Avenue of Delray with the ultimate design cross section for the 100 Block of NE 5th Avenue and have the development construct the proposed improvements along the east side of US 1 between N.E. 1st Street and N.E. 2nd Street. (Approved, 5-0)
- G. **VOLUNTARY CONTRIBUTIONS FOR CULTURE AND THE ARTS/CREATIVE CITY COLLABORATIVE:** Consider approval to allow the Creative City Collaborative to transfer the gross amount of funds collected through the Voluntary Contribution to Cultural Facilities and Arts Program to the Creative City Collaborative account. (Approved, 5-0)
- H. **SPECIAL EVENT REQUEST/THE SOUPER RACE:** Consider approval of a new special event, “The Souper Race, ” a 5K Walk/Run to be produced by People to People International Delray Beach Student Chapter, proposed to be held on October 18, 2009 from 7:30 a.m. to 10:30 a.m.; to grant a temporary use permit per LDR’s Section 2.4.6(F) for the use of Anchor Park and the City right-of-way along Ocean Boulevard from Casuarina to George Bush Boulevard, to waive parking meter fees in Anchor Park and Sandoway lots, and to authorize staff support for traffic control, security, barricading, use of the small stage and trash boxes; contingent on the receipt of a Certificate of Liability Insurance and an executed Hold Harmless Agreement two (2) weeks before the event. (Approved, 5-0)
- I. **REQUEST TO ADVANCE COUNTY FUNDING/ROOTS CULTURAL FESTIVAL, INC.:** Consider approval of a request to provide advance funding in the amount of \$5,000.00 to Roots Cultural Festival, Inc. which will be reimbursed to the City by a Palm Beach County grant and approval of the Advance Funding for County Grants agreement between the City and Roots Cultural Festival, Inc. Funding from 001-1111-511-48.10 (General Fund/Promotional Activities/Special Events). (Motion to approve, subject to receiving copies of invoices to be paid. Approved, 5-0)
- J. **RESOLUTION NO. 35-09/BUDGET AMENDMENT:** Consider approval of Resolution No. 35-09 amending Resolution No. 44-08 adopted September 16, 2008, and Resolution No. 26-09 adopted June 16, 2009 which made appropriations for necessary expenditures of the City for the FY 2008/2009, by setting forth the anticipated revenues and expenditures for the operating funds of the City for the fiscal year 2008/2009. (Approved, 5-0)

- K. **APPOINTMENTS TO THE PLANNING & ZONING BOARD:** Appoint three (3) regular members to the Planning & Zoning Board for two (2) year terms ending August 31, 2011. Based upon the rotation system, the appointments will be made by Mayor McDuffie (Seat #5), Commissioner Eliopoulos (Seat #1) and Commissioner Fetzer (Seat #2). (Appointed Alson Jacquet and approved, 5-0; appointed Connor Lynch and approved, 5-0 and appointed John Miller and approved, 5-0)
- L. **APPOINTMENTS TO THE SITE PLAN REVIEW & APPEARANCE BOARD:** Appoint two (2) regular members to the Site Plan Review & Appearance Board for two (2) year terms ending August 31, 2011. Based upon the rotation system, the appointments will be made by Mayor McDuffie (Seat #5) and Commissioner Eliopoulos (Seat #1). (Appointed George Brewer and approved, 5-0 and appointed Scott Porten and approved, 5-0)
- M. **APPOINTMENTS TO THE BOARD OF ADJUSTMENT:** Appoint two (2) regular members and two (2) alternate members to the Board of Adjustment to serve two (2) year terms ending August 31, 2011. Based upon the rotation system, the appointments will be made by Commissioner Fetzer (Seat #2), Commissioner Frankel (Seat #3), Commissioner Bernard (Seat #4) and Mayor McDuffie (Seat #5). (Appointed Sigurdur Hardester and approved, 5-0; appointed Bryce Newell as an alternate member and approved, 5-0; appointed Mel Pollack as an alternate member and approved, 5-0 and appointed Jess Sowards and approved, 5-0)
- N. **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 July 31, 2011. Based upon the rotation system, the appointment will be made by Commissioner Frankel (Seat #3). (Appointed Sal Cherk and approved 5-0)
- O. **APPOINTMENT TO THE NUISANCE ABATEMENT BOARD:** Appoint one (1) alternate member to the Nuisance Abatement Board to serve an unexpired term ending July 31, 2011. Based upon the rotation system, the appointment will be made by Commissioner Bernard (Seat #4). (Appointed Wendy Smith and approved 5-0)
- P. **CANCELLATION OF CONTRACT TO GROUND KEEPERS, INC./AWARD OF NEW CONTRACT TO SPORTS TURF ONE, INC.:** Consider approval to cancel a contract award to Ground Keepers, Inc., for Landscape Maintenance of three (3) baseball fields at Pompey Park (Bid #2009-16), and authorize staff to award the contract to the next eligible bidder, Sports Turf One, Inc. in the estimated amount of \$35,000.00 for the balance of the contract. Funding is available from 001-4131-572-34.90 (General Fund/Other Contractual Services). (ADDENDUM) (Motion to approve cancellation and approve new contract award to Sports Turf One, Inc.; Approved, 5-0)
- Q. **INTERLOCAL AGREEMENT/TOWN OF GULF STREAM/BUILDING PERMIT AND INSPECTION SERVICES:** Consider approval of an Interlocal Agreement with the Town of Gulf Stream to provide Building Permit and Inspection Services. (ADDENDUM) (Approved, 5-0)

10. **PUBLIC HEARINGS:**

- A. **PUBLIC COMMENTS/FY 2010 PROPOSED BUDGET:** The City Commission will hear public comments, if any, regarding the FY 2010 Proposed Budget at this time.
- B. **ORDINANCE NO. 34-09 (SECOND READING/SECOND PUBLIC HEARING):** Consider a city-initiated amendment to Land Development Regulations (LDR) Section 5.3.2, "Park Land Dedication", Subsection (C), "Impact Fee Required", to clarify requirements regarding impact fees for single family and all other types of development. (Approved, 5-0)
- C. **ORDINANCE NO. 38-09 (SECOND READING/SECOND PUBLIC HEARING):** Consider a privately-initiated amendment to the Land Development Regulations (LDR) Section 4.4.12, "Planned Commercial (PC) District", Subsection (D), "Conditional Uses and Structures Allowed", and Subsection (G), "Supplemental District Regulations", to provide regulations for the Silver Terrace Courtyards Overlay District; enacting Section 4.5.17, "Silver Terrace Courtyards Overlay District", to define the overlay district; amending Sections 4.7.1, "Definitions", Section 4.7.2, "Applicability", and Section 4.7.5, "Density Bonus Program for the Southwest 10th Street and I-95/CSX Railroad Corridor Overlay Districts", to provide for the creation of a new Workforce Housing Overlay District; amending Section 4.7.9, "General Provisions", Subsection "o", to modify the provisions allowing non-eligible occupants to occupy workforce housing rental units under certain conditions. (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. 42-09:** Consider a city-initiated amendment to Chapter 71, "Parking Regulations", Section 71.006, "Surcharge on Parking Fines"; to provide for an increase in the surcharge on parking fines to fund the school crossing guard program. If passed, a public hearing will be held on September 10, 2009. (Approved, 5-0)

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

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

POSTED: AUGUST 14, 2009

******** Meeting adjourned at 8:13 p.m. ********