

City of Delray Beach

Regular Commission Meeting

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



RULES FOR PUBLIC PARTICIPATION

Tuesday, March 15, 2011

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.** (Commissioner Fetzer and Commissioner Gray absent)
2. **INVOCATION.**
3. **PLEDGE OF ALLEGIANCE TO THE FLAG.**
4. **AGENDA APPROVAL.** (Mayor McDuffie noted Item 8.Q.4., Purchase Award/Sensus Metering Systems, was **REMOVED** due to a request by staff; Item 9.D., Renewal of Property and Casualty Insurance Broker's Contract, was **REMOVED** due to a request by staff; Item 9.A., Consideration of an Appeal/The Electric Experience was **POSTPONED** due to a request by the applicant. Approved as amended, 3-0).
5. **APPROVAL OF MINUTES:**
 - A. March 1, 2011 – Regular Meeting (Approved, 3-0)
 - B. March 8, 2011 – Workshop Meeting (Approved, 3-0)
6. **PROCLAMATIONS:**
 - A. Water Conservation Month – April 2011
 - B. Fair Housing America Month – April 2011
7. **PRESENTATIONS:**
 - A. None
8. **CONSENT AGENDA:** City Manager Recommends Approval. (Approved as amended, 3-0)
 - A. **REQUEST FOR SIDEWALK DEFERRAL/1011 SEAGATE DRIVE:** Approve a request to defer the installation of a sidewalk along Seagate Drive for the property located at 1011 Seagate Drive.
 - B. **SERVICE AUTHORIZATION NO. 07-15.2/MATHEWS CONSULTING, INC.:** Approve Service Authorization No. 07-15.2 with Mathews Consulting, Inc. in the amount of \$4,767.00 for the design of S.W. 12th Avenue/Auburn Avenue/S.W. 14th Avenue Improvements Project. Funding is available from 334-3162-541-68.04 (General Construction Fund: Other Improvement/S.W. 12th Avenue/Auburn/14th Avenue).
 - C. **SERVICE AUTHORIZATION NO. 07-13.2 /MATHEWS CONSULTING, INC./ RECLAIMED WATER EXPANSION – AREA 11B:** Approve Service Authorization No. 07-13.2 with Mathews Consulting, Inc. in the amount of \$14,972.00 for construction management and inspection services relating to the Area 11B Reclaimed Water System project. Funding is available from 441-5181-536-65.96 (Water and Sewer Fund: Other Improvements/Reclaim Water Transmission).

- D. **PAYMENT OF INVOICE/ CITY OF BOCA RATON:** Approve payment to the City of Boca Raton in the amount of \$25,988.85 for water used through our interconnect during emergency repair of the 36” Raw Water Main at S.W. 10th Street and 15th Avenue. Funding is from 441-5122-536-34.90 (Water & Sewer Fund: Other Contractual Services).
- E. **CONTRACT CONTINGENCY EXPENDITURE/B & O CONSTRUCTORS, INC./HISTORIC SUSAN B. WILLIAMS HOUSE:** Approve a Contract Contingency Expenditure with B & O Constructors, Inc. in the amount of \$2,643.11 for the Historic Susan B. Williams House project. Funding is available from the contract contingency allowance.
- F. **INDEPENDENT CONTRACTOR AGREEMENT/ROBERT BRAND:** Approve renewal of an Independent Contractor Agreement between the City and Robert Brand to conduct background investigations for prospective candidates for police officer and non-sworn police employment. Funding is available from 001-2111-521-34.90 (General Fund: Other Contractual Services).
- G. **INDEPENDENT CONTRACTOR AGREEMENT/HOWARD SCOTT LUNSFORD:** Approve renewal of an Independent Contractor Agreement between the City and Howard Scott Lunsford to conduct background investigations for prospective candidates for police officer and non-sworn police employment. Funding is available from 001-2111-521-34.90 (General Fund: Law Enforcement/Professional Services/Other Professional Services).
- H. **D.U.I. GRANT APPLICATION/FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT):** Provide authorization to submit a grant application to the Florida Department of Transportation in the amount of \$22,352.00 to continue the implementation of a Driving Under the Influence (D.U.I.) Enforcement program. Matching funds to be available from various Police Department accounts.
- I. **FUNDING AGREEMENT/DELRAY YOUTH VOCATIONAL CHARTER SCHOOL:** Approve a Funding Agreement with Delray Youth Vocational Charter School in the amount of \$15,000.00 for two (2) Social Workers to provide counseling services under the Weed & Seed Program (now known as the Coalition for Community Renewal). Funding is available from 101-2137-521-83.01 (ARRA Economic Stimulus FD: Other Grants & Aids).
- J. **FUNDING AGREEMENT/CHILDREN LEARNING AFTER SCHOOL SESSIONS (C.L.A.S.S.):** Approve a Funding Agreement between the City and Children Learning After School Sessions (C.L.A.S.S.) in the amount of \$15,000.00 to provide academic enrichment to local students under the Weed & Seed Program (now known as the Coalition for Community Renewal). Funding is available from 101-2137-521-83.01 (ARRA Economic Stimulus FD: Other Grants & Aids).

- K. **FUNDING AGREEMENT/GULFSTREAM GOODWILL INDUSTRIES:**
Approve a Funding Agreement between the City and Gulfstream Goodwill Industries in the amount of \$44,160.00 to support ex-offenders returning to targeted neighborhoods within the City under the Weed & Seed Program (now known as the Coalition for Community Renewal).Funding is available from 101-2137-521-83.01 (ARRA Economic Stimulus FD: Other Grants & Aids).
- L. **RESOLUTION NO. 10-11:** Approve Resolution No. 10-11 assessing costs for abatement action required to remove nuisances on 20 properties throughout the City.
- M. **SECOND AMENDMENT TO THE DECLARATION OF RESERVED RIGHTS AND AGREEMENT NOT TO ENCUMBER N.E. 7TH AVENUE RELATED TO THE ATLANTIC PLAZA PROJECT:** Approve the Second Amendment to the Declaration of Reserved Rights and Agreement not to Encumber N.E. 7th Avenue regarding the abandonment and relocation of N.E. 7th Avenue between N.E. 1st Street and East Atlantic Avenue to extend the time to obtain site plan certification by ninety days.
- N. **WORKFORCE HOUSING COVENANT WITH ALTA CONGRESS OWNER, LLC.:** Approve a Workforce Housing Covenant between the City and Alta Congress Owner, LLC., developer of the Alta Congress development.
- O. **SERVICE AUTHORIZATION NO. 17.1/SPATIAL FOCUS, INC.:** Approve Service Authorization No. 17.1 with Spatial Focus, Inc. in the amount of \$4,250.00 for technical assistance related to the SunGard Public Safety software project. Funding is available from 334-2111-521-31.90 (General Construction Fund: Professional Services/Other Professional Services).
- P. **REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:**
Accept the actions and decisions made by the Land Development Boards for the period February 28, 2011 through March 11, 2011.
- Q. **AWARD OF BIDS AND CONTRACTS:**
1. Bid award to All Phase Roofing & Construction, Inc. in the amount of \$101,493.00 for the following three (3) NSP Housing Rehabilitation projects through the Community Development Division: 2707 S.W. 2nd Street, 518 S.W. 9th Court and 310 Southridge Road. Funding is available from 118-1934-554-62.12 (Neighborhood Services: Capital Outlay/Acquisition Rehabilitation) and 118-1935-554-62.12 (Neighborhood Services: Capital Outlay/Acquisition Rehabilitation).
 2. Purchase award to Americas Generators in the amount of \$54,642.00 for a 200 kilowatt backup generator. Funding is available from 442-5178-536-64.90 (Water and Sewer Renewal & Replacement Fund: Machinery/Equipment/Other Machinery/Equipment).

3. Purchase award to Florida Bullet, Inc. in the amount of \$71,405.20 for the purchase of ammunition. Funding is available from 001-2111-521-52.20 (General Fund: Operating Supplies/General Operation Supplies) and 001-2115-521-52.19 (General Fund: Operating Supplies/SWAT Expenditures).
4. Purchase award to Sensus Metering Systems in the amount of \$241,500.00 for 2,000 small water meters. Funding is available from 442-5178-536-61.81 (Water & Sewer Renewal & Replacement Fund: Land/Water Meter Replacement Program). **(REMOVED)**

9. **REGULAR AGENDA:**

- A. **CONSIDERATION OF AN APPEAL/THE ELECTRIC EXPERIENCE:**
Consider an appeal from an administrative interpretation by the Director of Planning & Zoning of Land Development Regulations (LDR) Section 4.4.13, "Central Business District (CBD)", to consider motorized bicycles as an allowed use for The Electric Experience, located at 1047 East Atlantic Avenue. *(Quasi Judicial Hearing)*
(POSTPONED to April 5, 2011 Regular Meeting)
- B. **RECONSIDERATION OF CREATIVE CITY COLLABORATIVE (CCC) REQUEST TO WAIVE COSTS:** Reconsider a request from the Creative City Collaborative to waive reimbursement to the City for printing and mailing costs, estimated to be \$4,170.00 for three (3) quarters, to include a solicitation in utility bills for voluntary donations to cultural programs. *(Motion to approve request to waive costs with the City to receive half of the proceeds until we get back half of what it cost Creative City Collaborative to do the mailings; Approved, 3-0)*
- C. **GRANT AGREEMENT WITH PALM BEACH COUNTY & EXPANDING AND PRESERVING OUR CULTURAL HERITAGE, INC. (EPOCH); C. SPENCER POMPEY AMPHITHEATER:** Consider a Grant Agreement between Palm Beach County, the City, and EPOCH; and a commitment to provide supplemental funding in the amount of \$310,000.00 for redesign and construction of the proposed C. Spencer Pompey Amphitheater on the Spady Cultural Heritage Museum grounds. Funding to be programmed in the 2011/2012 Capital Improvement Plan. *(Motion to TABLE; Approved, 3-0)*
1. **AMENDMENT NO 3 TO THE LEASE AGREEMENT/SPADY CULTURAL MUSEUM:** Consider approval of Amendment No. 3 to the Lease Agreement with Expanding and Preserving Our Cultural Heritage, Inc. (EPOCH) regarding the Spady House Multicultural Museum Properties; contingent upon approval of the Grant Agreement with Palm Beach County. *(Motion to TABLE; Approved, 3-0)*
- D. **RENEWAL OF PROPERTY AND CASUALTY INSURANCE BROKER'S CONTRACT:** Consider whether to renew our current contract for insurance broker services. **(REMOVED)**

- E. **SERVICE AUTHORIZATION NO. 07-21/MATHEWS CONSULTING, INC./AUTOMATIC METER READ SYSTEM (AMR), EVALUATION:** Consider approval of Service Authorization No. 07-21 to Mathews Consulting, Inc. in the amount of \$65,612.00 for professional services in conducting a Water Meter Automatic Meter Read (AMR) System Evaluation. Funding is available from 441-5181-536-31.90 (Water and Sewer Fund: Professional Services/Other Professional Services). (Motion to **TABLE**; Approved, 3-0)

- F. **APPOINTMENT TO THE GREEN IMPLEMENTATION ADVANCEMENT BOARD:** Appoint one (1) regular member to the Green Implementation Advancement Board to serve an unexpired term ending July 31, 2011. Based upon the rotation system, the appointment will be made by Commissioner Gray (Seat #4). (Commissioner Gray's appointment was **DEFERRED** to the April 5, 2011 Regular Commission Meeting)

- G. **APPOINTMENT TO THE CIVIL SERVICE BOARD:** Appoint one (1) regular member to the Civil Service Board to serve a two (2) year term ending April 1, 2013. Based upon the rotation system, the appointment will be made by Commissioner Fetzer (Seat #2). (Commissioner Fetzer's appointment was **DEFERRED** to the April 5, 2011 Regular Commission Meeting)

- H. **APPOINTMENTS TO THE FINANCIAL REVIEW BOARD:** Appoint two (2) regular members to the Financial Review Board to serve unexpired terms ending July 31, 2011 and one (1) regular member to serve an unexpired term ending July 31, 2012. Based upon the rotation system, the appointments will be made by Commissioner Gray (Seat #4), Mayor McDuffie (Seat #5) and Commissioner Eliopoulos (Seat #1). (Appointed Peter Arts and approved, 3-0; Appointed Martin Cherry and approved 3-0. Commissioner Gray's appointment was **DEFERRED** to the April 5, 2011 Regular Commission Meeting)

10. **PUBLIC HEARINGS:**

- A. **ORDINANCE NO. 04-11 (FIRST READING/FIRST PUBLIC HEARING):** Privately initiated amendment to the Land Development Regulations (LDR) Section 4.4.13, "Central Business District", Subsection (D), "Conditional Uses and Structures Allowed", to add "Escorted Segway Tours" as a conditional use and amending Section 4.3.3, "Special Requirements for Specific Uses", to enact a new Subsection (ZZZZ), "Segway Tours and Segway Sales", to provide specific requirements for establishment and operation of such uses; and amending Appendix "A", "Definitions". If passed, a second public hearing will be held on April 5, 2011. (Motion to approve; Approved, 3-0)

- B. **ORDINANCE NO. 09-11 (FIRST READING/FIRST PUBLIC HEARING):**
 Consider amending the Land Development Regulations (LDR) by amending Sections 4.4.12, “Planned Commercial (PC) District; 4.4.15, “Planned Office Center (POC) District”, 4.4.21, “Community Facilities (CF) District”; enacting a new Section 4.5.18, “Medical Arts Overlay District”, to provide for the creation and implementation of the Medical Arts Overlay District; and amending Appendix “A”, “Definitions”, of the Land Development Regulations (LDR) to define “Institutional Uses”. If passed, a second public hearing will be held on April 5, 2011. (Motion to approve; Approved, 3-0)
- C. **ORDINANCE NO. 10-11 (FIRST READING/FIRST PUBLIC HEARING):**
 Consider amending the Land Development Regulations (LDR) by repealing Section 4.3.3(d), “Residential and Non-Residential Licensed Service Provider Facilities” in its entirety; amending Sections 4.4.2 “Rural Residential (RR) Zone District”, 4.4.3 “Single Family Residential (R-1) Districts”, 4.4.5 “Low Density Residential (RL) District”, 4.4.6 “Medium Density Residential (RM) District”, 4.4.7 “Planned Residential Development (PRD) District”, 4.4.17 “Residential Office (RO) District”, 4.4.24 “Old School Square Historic Arts District (OSSHAD)”, 4.4.29 “Mixed Residential Office and Commercial (MROC) District”, to include residential licensed service provider facilities as permitted uses in these zoning districts; amending Sections 4.4.6 “Medium Density Residential (RM) District”; 4.4.9 “General Commercial District” (GC), 4.4.13 “Central Business District (CBD), 4.4.16 “Professional and Office District”, 4.4.17 “Residential Office (RO) District” and 4.4.24 “Old School Square Historic Arts District (OSSHAD)”; to clarify that residential licensed service provider facilities and nursing homes are allowed where other residential uses are allowed in these zoning districts; amending Appendix “A” , “Definitions”, in order to provide updated definitions of “Residential Licensed Service Provider” and “Non-Residential Licensed Service Provider”. If passed, a second public hearing will be held on April 5, 2011. (Motion to approve; Approved, 3-0)
- D. **ORDINANCE NO. 07-11:** Consider repealing Ordinance No. 40-10 regarding proposed revisions to the Charter of the City of Delray Beach. (Motion to approve; Approved, 3-0)
- E. **ORDINANCE NO. 08-11:** Consider approval to amend Chapter 112, “Alarm Systems”, by amending Sections 112.20, “Application For Alarm Registration; Reporting Changes To Required Information; Renewal”, and 112.21, “Alarm Registration Required; Penalty For Failure To Register”, to provide that renewals shall be filed by May 1st each year and to clarify registration requirements for fire alarms. (Motion to approve; Approved, 3-0)

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. 05-11:** Consider amending Chapter 132, “Offenses Against Public Peace And Safety”, by enacting Section 132.10, “Electric Personal Assistive Mobility Devices, (EPAMDS)”, to regulate the use of such devices on city streets and sidewalks. If passed, a public hearing will be held on April 5, 2011. (Approved, 3-0)
- B. **ORDINANCE NO. 06-11:** Privately initiated Future Land Use Map amendment from (Medium Density Residential 5-12du/ac) to GC (General Commercial) and rezoning from RM (Medium Density Residential) to AC (Automotive Commercial) for a 0.22 acre parcel located immediately east of the existing Presidential Auto Leasing and Sales, located at the southeast corner of South Federal Highway and Avenue “L”. If passed, a public hearing will be held on April 5, 2011. (Approved, 3-0)
- C. **ORDINANCE NO. 11-11:** Consider a city-initiated amendment to Land Development Regulations (LDR) Appendix “A”, “Definitions”, to provide a revised definition for Medical Office. If passed, a public hearing will be held on April 5, 2011. (Approved, 3-0)

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

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

POSTED: MARCH 11, 2011

******** Meeting adjourned at 8:06 p.m. ********