

City of Delray Beach

Regular Commission Meeting

****AGENDA RESULTS****



RULES FOR PUBLIC PARTICIPATION

Tuesday, June 21, 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.**
2. **INVOCATION.**
3. **PLEDGE OF ALLEGIANCE TO THE FLAG.**
4. **AGENDA APPROVAL.** (Mayor McDuffie noted Item 8.N.1., Bid Award/Randolph and Dewdney Construction, Inc., was **REMOVED** from the agenda due to a request from staff; Item 9.Q., Service Authorization No. 07-15.3/Mathews Consulting, Inc., was added to the Regular Agenda by addendum. Approved as amended, 5-0)
5. **APPROVAL OF MINUTES:**
 - A. June 7, 2011 – Regular Meeting (Approved, 5-0)
6. **PROCLAMATIONS:**
 - A. 100 Days of Centennial Celebrations – July 2, 2011-October 9, 2011
 - B. Parks and Recreation Month – July 2011
7. **PRESENTATIONS:**
 - A. **RESOLUTION NO. 24-11:** Approve Resolution No. 24-11 recognizing and commending Patsy Fox for 30 years of dedicated service to the City of Delray Beach. (Approved, 5-0)
8. **CONSENT AGENDA:** City Manager Recommends Approval. (Approved as amended, 5-0)
 - A. **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 Lowson Boulevard and West Atlantic Avenue.
 - B. **LANDSCAPE MAINTENANCE AGREEMENT/KCMCL PINEAPPLE GROVE LTD.:** Approve a Landscape Maintenance Agreement with KCMCL Pineapple Grove Ltd., for landscaping within the adjacent rights-of-way associated with the Hyatt Place project located at Pineapple Grove Way (N.E. 2nd Avenue), N.E. 1st Street, and N.E. 1st Avenue.
 - C. **AMENDMENT NO. 1 TO THE INTERLOCAL AGREEMENT; COMMUNITY REDEVELOPMENT AGENCY (CRA) FOR FUNDING OF CONSTRUCTION & PROFESSIONAL SERVICES:** Approve Amendment No. 1 to the Interlocal Agreement with the Community Redevelopment Agency (CRA) for the funding of construction costs and professional services for certain projects as listed on Exhibit “A” attached to the Agreement for FY 10/11.

- D. **INTERLOCAL AGREEMENT/COMMUNITY REDEVELOPMENT AGENCY (CRA)/SHUTTLE BUS SERVICE:** Approve an Interlocal Agreement with the Community Redevelopment Agency (CRA) for the funding of the shuttle bus service through September 30, 2011.
- E. **GRANT APPLICATION/EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG):** Authorize staff to submit an application for funding in the amount of \$53,503.00 through the U.S. Department of Justice Edward Byrne Memorial Justice Assistance Grant (JAG) program which will support the Holiday Robbery Task Force, which reduces crime during the Holiday season.
- F. **THIRD AMENDMENT TO THE DECLARATION OF RESERVED RIGHTS AND AGREEMENT NOT TO ENCUMBER N.E. 7th AVENUE RELATED TO THE ATLANTIC PLAZA PROJECT:** Approve the Third 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 frame to obtain site plan certification by a period of ninety days.
- G. **LANDSCAPE MAINTENANCE AGREEMENT/CDS DELRAY REDEVELOPMENT, LLC./CDR ATLANTIC PLAZA, LTD:** Approve a Landscape Maintenance Agreement with CDS Delray Redevelopment, LLC., and CDR Atlantic Plaza, Ltd. regarding the Atlantic Plaza development located on the north side of Atlantic Avenue between Veterans Park and northbound Federal Highway.
- H. **PROFESSIONAL SERVICES VENDOR LIST/NEIGHBORHOOD STABILIZATION PROGRAM (NSP):** Approve the list of vendors for Professional Services required to carry out activities under the Neighborhood Stabilization Program (NSP), contingent on the list being approved by the Florida Department of Community Affairs. Funding is available from 118-1935-554-34.90 (Neighborhood Services: Other Contractual Service).
- I. **RESOLUTION NO. 23-11:** Approve Resolution No. 23-11 assessing costs for abatement action required to remove nuisances on six (6) properties throughout the City.
- J. **CONSULTING SERVICE AUTHORIZATION NO. 07-05.1/KIMLEY-HORN AND ASSOCIATES, INC.:** Approve Consulting Service Authorization No. 07-05.1 to Kimley-Horn and Associates, Inc. in the amount of \$113,400.00 for design of the Federal Highway Enhancements. Funding is available from 334-3162-541-68.52 (General Construction Fund: Other Improvements/Federal Highway Beautification), 442-5178-536-68.52 (W & S Renewal & Replacement Fund: Improvements Other/Federal Highway Beautification) and 448-5461-538-68.52 (Storm Water Utility Fund: Other Improvements/Federal Highway Beautification).

- K. **CITY OF DELRAY BEACH SUB-RECIPIENT 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 a Social Worker to provide counseling services under the Weed & Seed Program (now known as the Coalition for Community Renewal).
- L. **SPECIAL EVENT REQUEST/ART AND JAZZ ON THE AVENUE:** Approve a special event request to endorse Art and Jazz on the Avenue to be held on August 18, 2011 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. 6th 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, and N.E./S.E. 4th Avenue; to authorize staff support for security and traffic control, banner hanging and removal, barricade set up and removal, trash removal and clean up and EMS assistance.
- M. **REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:** Accept the actions and decisions made by the Land Development Boards for the period June 6, 2011 through June 17, 2011.
- N. **AWARD OF BIDS AND CONTRACTS:**
1. Bid award to Randolph and Dewdney Construction, Inc. in the amount of \$456,710.00 for renovations to the Pompey Park Concession Stand. Funding is available from 334-4127-572-62.10 (General Construction Fund: Building).
(REMOVED)
 2. Purchase award to CDW-Government, Inc. in the amount of \$69,440.78 for replacement data switches and cables to be installed throughout the Environmental Services Department Complex. Funding is available from 442-5178-536-62.45 (W & S Renewal & Replacement Fund: Buildings/Data Cabling).
 3. Purchase award to Kubota Tractor Corporation in the amount of \$18,493.80 for a replacement tractor for the Delray Beach Municipal Golf Course. Funding is available from 445-4761-572-64.90 (D B Municipal Golf Course: Machinery/Equipment: Other Machinery/Equipment).
 4. Emergency blanket purchase award to Airgas in the amount of \$23,400.00 for the bulk delivery of liquid carbon dioxide (CO₂) as needed. Funding is available from 441-5122-536.52-21(Water & Sewer Fund: Operating Supplies/Chemicals).

9. **REGULAR AGENDA:**

- A. **WAIVER REQUESTS/202 NORTH SWINTON AVENUE:** Consider approval of three (3) waiver requests to Section 4.6.9(D)(2)(b), to reduce the minimum required combined depth of alley and parking spaces from 42' to 38'6"; Section 4.6.9(D)(2)(b), to reduce the required parking space width from 10' to 9' and Section 4.6.9(D)(3)(a-b), to reduce the required driveway width from 24' to 18' at the point of access from North Swinton Avenue associated with the Class V site plan modification for 202 North Swinton Avenue. *(Quasi- Judicial Hearing)* (Motion to adopt board order as presented; Approved, 5-0)
- B. **WAIVER REQUESTS/130 S.E. 7th AVENUE:** Consider three (3) waiver requests associated with the Certificate of Appropriateness for 130 S.E. 7th Avenue including waivers to Land Development Regulations (LDR) Section 4.6.14(C), "Sight Visibility: Intersections", to permit a fence measuring 4' in height within the sight visibility triangle at the rear of the property, where a maximum height of 3' is permitted; Section 4.5.1(E)(3)(a)1.c., "Fences and Walls", to permit an arbor measuring 9' in height within the front setback, where a maximum height of 4' is permitted; and Section 4.5.1(E)(3)(b)1., "Parking", to permit the location of a circular driveway at the front of the property, whereas the parking should be adjacent to the building or in the rear. *(Quasi- Judicial Hearing)* (Motion to adopt board order as presented; Approved, 5-0)
- C. **REQUEST FOR IN-LIEU PARKING SPACES/JHB FLORIDA PROPERTIES, LLC:** Consider a request from JHB Florida Properties, LLC for the purchase of two (2) in-lieu parking spaces in the amount of \$31,200.00 for Burger Place, located at 12 S.E. 5th Avenue. *(Quasi-Judicial Hearing)* (Motion to adopt board order as presented; Approved, 5-0)
- D. **PARKING LICENSE AGREEMENT/MAX'S HARVEST:** Consider approval of a parking license agreement with Max's Harvest to establish a parking valet queue on the 100 block of N.E. 2nd Avenue. (Motion to approve with language as stated by City Attorney; Approved, 5-0)
- E. **DESIGNATION OF VOTING DELEGATE:** Designate the City's voting delegate to the Florida League of Cities' 85th Annual Conference to be held at World Center Marriot in Orlando, Florida on August 11-13, 2011. (Motion to designate Vice-Mayor Gray as voting delegate; Approved, 5-0)
- F. **EXTENSION OF MANAGEMENT AGREEMENT/BCJE, INC./DUBIN AND ASSOCIATES:** Consider a request to extend the Management Agreement with BJCE, Inc. for the Municipal and Lakeview Golf Courses and with Dubin and Associates for the Tennis Facilities for four (4) years in return for a 10% reduction in current management fees. (Motion to approve; Approved, 5-0)
- G. **CONTRACT/MORRISON-WILLOUGHBY:** Consider a license contract between the City and Morrison-Willoughby allowing the sale of bottled water on the Municipal Beach. Staff recommends denial. (Motion to approve; Denied, 5-0)

- H. **PROPOSAL/CENTER FOR PRIORITY BASED BUDGETING:** Consider a proposal to facilitate the further development and implementation of our priority based budgeting process. (Motion to approve; Approved, 5-0)
- I. **SETTLEMENT OFFER IN ANDERSON OHMAN V. CITY OF DELRAY BEACH:** Consider a Settlement Offer in the total amount of \$20,000.00 in Anderson Ohman v. City of Delray Beach. Staff recommends approval. (Motion to approve; Approved, 5-0)
- J. **RESOLUTION NO. 25-11/MID YEAR BUDGET AMENDMENT:** Consider approval of Resolution No. 25-11 amending Resolution No. 55-10 adopted September 21, 2010, which made appropriations of sums of money for all necessary expenditures of the City of Delray Beach for the FY 2010/2011, by setting forth the anticipated revenues and expenditures for the operating funds of the City for FY 2010/2011. (Motion to approve; Approved, 5-0)
- K. **APPOINTMENT TO THE COMMUNITY REDEVELOPMENT AGENCY:** Appoint one (1) regular member to the Community Redevelopment Agency (CRA) to serve a four (4) year term ending July 1, 2015. Based upon the rotation system, the appointment will be made by Commissioner Gray (Seat #4). (Appointed Annette Gray and approved, 5-0)
- L. **APPOINTMENTS TO THE DOWNTOWN DEVELOPMENT AUTHORITY:** Appoint four (4) regular members to the Downtown Development Authority (DDA) to serve three (3) year terms ending July 1, 2014. Based upon the rotation system, the appointments will be made by Commissioner Gray (Seat #4), Mayor McDuffie (Seat #5), Commissioner Carney (Seat #1) and Commissioner Fetzer (Seat #2). (Appointed Diane Franco and approved, 5-0; appointed Albert Richwagen and approved, 5-0; Appointed Nancy Stewart-Franczak and approved, 5-0. Commissioner Carney's appointment was **DEFERRED** to the July 5, 2011 Regular Commission Meeting)
- M. **APPOINTMENTS TO THE FINANCIAL REVIEW BOARD:** Appoint three (3) regular members and (2) alternate members to the Financial Review Board for two (2) year terms ending July 31, 2013. Based upon the rotation system, the appointments will be made by Commissioner Gray (Seat #4), Mayor McDuffie (Seat #5), Commissioner Carney (Seat #1), Commissioner Fetzer (Seat #2) and Commissioner Frankel (Seat #3). (Appointed Anthony Cottone and approved, 5-0; appointed John Hallahan and approved, 5-0; Appointed Jeff Ritter and approved, 5-0; Appointed Christina Morrison Pierce and approved, 5-0. Commissioner Fetzer's appointment was **DEFERRED** to the July 5, 2011 Regular Commission Meeting)

- N. **APPOINTMENTS TO THE GREEN IMPLEMENTATION ADVANCEMENT BOARD:** Appoint three (3) regular members and two (2) alternate members to the Green Implementation Advancement Board to serve two (2) year terms ending July 31, 2013. Based upon the rotation system, the appointments will be made by Commissioner Fetzer (Seat #2), Commissioner Frankel (Seat #3), Commissioner Gray (Seat #4), Mayor McDuffie (Seat #5) and Commissioner Carney (Seat #1). (Appointed Stephanie “Chloe” Bedenbaugh and approved, 5-0; appointed David Hawke and approved, 5-0; Appointed Michael Marcus and approved, 5-0; Appointed Yalmaz Siddiqui and approved, 5-0. Commissioner Carney’s appointment was **DEFERRED** to the July 5, 2011 Regular Commission Meeting)
- O. **APPOINTMENTS TO THE EDUCATION BOARD:** Appoint six (6) regular members and one (1) student member to the Education Board to serve two (2) year terms ending July 31, 2013. Based upon the rotation system, the appointments will be made by Commissioner Carney (Seat #1), Commissioner Fetzer (Seat #2), Commissioner Frankel (Seat #3), Commissioner Gray (Seat #4), Mayor McDuffie (Seat #5), Commissioner Carney (Seat #1) and Commissioner Fetzer (Seat #2). (Appointed Madison Aracri and approved, 5-0; appointed Lydia Carreiro and approved, 5-0; Appointed Myra Leavy Bazemore and approved, 5-0; Appointed Isabel Make and approved, 5-0. Commissioner Fetzer’s and Commissioner Carney’s appointments were **DEFERRED** to the July 5, 2011 Regular Commission Meeting)
- P. **APPOINTMENTS TO THE POLICE ADVISORY BOARD:** Appoint one (1) regular member to serve an unexpired term ending July 31, 2012, five (5) regular members to serve two (2) year terms ending July 31, 2013 and one (1) student member to a serve two (2) year term ending July 31, 2013 to the Police Advisory Board. Based upon the rotation system, the appointments will be made by Commissioner Gray (Seat #4), Mayor McDuffie (Seat #5), Commissioner Carney (Seat #1), Commissioner Fetzer (Seat #2), Commissioner Frankel (Seat #3), Commissioner Gray (Seat #4) and Mayor McDuffie (Seat #5). (Appointed Lee Cohen and approved, 5-0; appointed Catherine DeMatto and approved, 5-0; Appointed DeAnna Longo and approved, 5-0; Appointed Matthew Monahan and approved, 5-0; Appointed Elisha Porter and approved, 5-0; Appointed Shelly Weil and approved, 5-0. Motion to reconsider Commissioner Fetzer’s appointment of Matthew Hartley and approved, 5-0. Commissioner Fetzer’s appointments was **DEFERRED** to the July 5, 2011 Regular Commission Meeting)
- Q. **SERVICE AUTHORIZATION NO. 07-15.3/MATHEWS CONSULTING, INC.:** Consider approval of Service Authorization No. 07-15.3 with Mathews Consulting, Inc., in the amount of \$21,858.00 for construction administration and additional design for S.W. 12th Avenue/Auburn Avenue/S.W. 14th Avenue Improvements. Funding is available from 334-3162-541-68.04 (General Construction Fund: Other Improvement/S.W. 12th Avenue/Auburn/14th Avenue). (**ADDENDUM**) (Motion to approve; Approved, 5-0)

10. **PUBLIC HEARINGS:**

- A. **ORDINANCE NO. 18-11:** Consider amending Chapter 132, “Offenses Against Public Peace And Safety”, by amending Section 132.09, “Skateboarding and the Like Prohibited”, to provide that skateboarding shall be prohibited in City-owned parking garages. (Motion to approve; Approved, 5-0)
- B. **ORDINANCE NO. 19-11:** Consider amending Chapter 96, “Fire Safety and Emergency Services”, and amending Section 96.16, “Certain Codes Adopted by Reference”, to clarify the requirements for installing automatic fire sprinklers in buildings which are reconstructed or rehabilitated. (Motion to approve; 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. None

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

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

POSTED: JUNE 17, 2011

******** Meeting adjourned at 8:09 p.m. ********