

**JANUARY 15, 2008**

A Regular Meeting of the City Commission of the City of Delray Beach, Florida, was called to order by Vice Mayor Fetzer in the Commission Chambers at City Hall at 6:00 p.m., Tuesday, January 15, 2008.

**1.** Roll call showed:

Present - Commissioner Gary Eliopoulos  
Vice Mayor Fred Fetzer  
Commissioner Woodie McDuffie  
Commissioner Brenda Montague

Absent - Mayor Rita Ellis

Also present were - David T. Harden, City Manager  
Brian Shutt, Assistant City Attorney  
Chevelle D. Nubin, City Clerk

**2.** The opening prayer was delivered by Reverend Nancy Norman with Unity of Delray Beach.

**3.** The Pledge of Allegiance to the flag of the United States of America was given.

**4.** **AGENDA APPROVAL.**

Mr. Eliopoulos requested that **Item 8.I., Hold Harmless Agreement/Delray Club, Inc.** of the Consent Agenda be moved to the Regular Agenda as **Item 9.A.A.**

The City Manager stated staff provided additional information to the City Commission late regarding **Item 9.G., Community Workforce Housing Innovation Program (CWHIP) Agreement for Villages at Delray.** He stated he has discussed this with Representatives of Auburn Development Group and they agree the best way to handle this would be to postpone it and schedule a Special Meeting next Tuesday (January 22, 2008) so that everyone has the opportunity to review this thoroughly.

Mrs. Montague moved to postpone **Item 9.G., Community Workforce Housing Innovation Program (CWHIP) Agreement for Villages at Delray** to the Special Meeting of January 22, 2008, seconded by Mr. McDuffie. Upon roll call the Commission voted as follows: Mr. Fetzer – Yes; Mr. McDuffie – Yes; Mrs. Montague – Yes; Mr. Eliopoulos – Yes. Said motion passed with a 4 to 0 vote.

Vice Mayor Fetzer stated **Item 10.E, Ordinance No. 02-08** has been tabled.

Mr. McDuffie moved to approve the Agenda as amended, seconded by Mr. Eliopoulos. Upon roll call the Commission voted as follows: Mr. McDuffie – Yes; Mrs. Montague – Yes; Mr. Eliopoulos – Yes; Vice Mayor Fetzer – Yes. Said motion passed with a 4 to 0 vote.

**5. APPROVAL OF MINUTES:**

Mrs. Montague moved to approve the Minutes of the Special Meeting of January 8, 2008, seconded by Mr. McDuffie. Upon roll call the Commission voted as follows: Mrs. Montague – Yes; Mr. Eliopoulos – Yes; Vice Mayor Fetzer – Yes; Mr. McDuffie – Yes. Said motion passed with a 4 to 0 vote.

**6. PROCLAMATIONS:**

**6.A. Recognizing Black History Month – February 2008**

Vice Mayor Fetzer read and presented a proclamation hereby proclaiming the month of February 2008 as Black History Month. Lula Butler, Director of Community Improvement Department came forward to accept the proclamation.

**6.B. Recognizing 2-1-1 Awareness Week – February 11 – 18, 2008**

Vice Mayor Fetzer read and presented a proclamation to Patrice Schroeder, Community Relations Specialist with 2-1-1 hereby proclaiming the week of February 11, 2008-February 17, 2008 as 2-1-1 Awareness Week in the City of Delray Beach, Florida. Mrs. Schroeder came forward to accept the proclamation and gave a few brief comments.

**7. PRESENTATIONS:**

**7.A. S.P.I.R.I.T. (Service, Performance, Integrity, Responsibility, Innovation, Teamwork) Committee Employee Awards Presentation**

Alberta Gaum-Rickard, Project Coordinator along with Vice Mayor Fetzer presented a quarterly S.P.I.R.I.T. award to Mr. Ben Soto, Safety Specialist for his total commitment, above and beyond his normal duties to make a safer and more pleasant work environment within the City.

Juan Manzano, Interim Environmental Compliance Manager along with Vice Mayor Fetzer presented a quarterly S.P.I.R.I.T. award to Fire Station #3 A-shift those individuals being: Lieutenant Richard Bush, Driver Engineer Dale Fagan, Firefighter/Paramedic Jack McKessy, Firefighter/Paramedic Joe Falcone, Firefighter/Paramedic Chris Muller, Firefighter /Paramedic Chris Hutchinson, and Firefighter/Paramedic Christine McCrady organized a collection drive within the Fire-

Rescue Department to assist a family during the holiday season. While treating the patient for a cardiac event in November, the crew lead by Lieutenant Richard Bush, came upon an unusual family situation occurring within the residence. It was noted that the patient and his spouse had just recently taken in their deceased daughter's children. The children ranged in age from infant to teenagers.

Samantha Roland along with Vice Mayor Fetzer presented a quarterly S.P.I.R.I.T. award to Willie Ceasar, Recreation Supervisor at the 505 Teen Center/Parks & Recreation for going above and beyond by taking the initiative on his own time to put together a toy give-a-way for children for Christmas at the Teen Center and contributed 20 pairs of shoes from his own pocket.

**7.B. Special Recognition Award – Reeve Bright**

Vice Mayor Fetzer presented Mr. Reeve Bright with a Special Recognition Award for his outstanding contributions regarding the Annual Boat Parade.

Commissioner Montague stated Reeve and Anne Bright have been citizens in Delray Beach for many years and recognized both for their many achievements. Mr. Bright came forward to accept the Special Recognition Award and gave a few brief comments.

**7.C. Presentation regarding the Florida Recreation Development Assistance Program (FRDAP) Grants/Bexley Trail Community and Eagle Parks - Representative Maria Sachs**

Maria Sachs, State Representative, stated many years ago a man by the name of Robert Watson, Sr. was in his late 40's when he took over as General Manager of a small company which manufactured meat slicers and simple tabulators. She stated he had a vision that he could invent a machine that would actually store information and he followed this vision. Ms. Sachs stated the company was International Business Machines (IBM). She stated she feels a similar vision that Mayor Ellis and Vice Mayor Fetzer has when it comes to Delray Beach because of their vision and the way they take care of the parks and its citizens. Ms. Sachs presented the Commission with a check for Eagle Park in the amount of \$200,000.00 and a check for Bexley Trail Community Park in the amount of \$200,000.00. She stated she is very proud to have her office in the City of Delray Beach and appreciates all the good work the Commission does for the people.

**7.D. MLK Drive Beautification Project – Alberta McCarthy**

Alberta McCarthy (former Commissioner) gave a brief PowerPoint presentation of the Martin Luther King Drive Beautification Project. Ms. McCarthy stated the Capital Improvement Project (CIP) had a budget of \$300,000.00 and \$75,000.00 came from the Community Redevelopment Agency (CRA) and \$96,000.00 was allocated from Commissioner Addie Greene making it a total of \$471,000.00 for this Community Improvement Project. She introduced the Committee members made up of Delray Beach citizens. Ms. McCarthy stated the first organizational meeting was held

July 17, 2006. She stated Martin Luther King Drive used to be N.W. 2<sup>nd</sup> Street and goes from I-95 east to the Intracoastal.

**7.E. Site Plan Review and Appearance Board (SPRAB) Awards**

Jose Aguila (Chair), Connor Lynch (Vice Chair), Mark Gregory (Second Vice Chair), and Andrew Youngross presented this item.

**New Commercial Development category: Santa Fe Salon**

- Van Armem Properties, Inc., (Owner/Developer)
- George Brewer, Brewer Architecture, Inc. (Architect)
- Michael Fay, (Landscape Architect)

**New Residential Development category: Gramercy Square**

- Northstar Homes, Scott Worley, (Developer)
- Marc Wiener, AIA, (Architect)
- Leo Urban, Urban Associates, Inc., (Landscape Architect)
- Miller Land Planning Consultants, Inc., (Consultant)

**New Downtown Residential Development category: Terraces at Delray**

- Grenadier Development, (Owner/Developer)
- The Evans Group, (Architect)
- Enviroscope Land Planning & Landscape Architecture, (Landscape Architect)

**Exterior Renovations category: La Cigale Restaurant**

- La Cigale Restaurant, Legacy Bank (Owner)
- Roger Cope, (Architect)
- Carter and Associates, Landscape Architects, Inc.

**New Public Buildings category: City of Delray Beach ESD Building**

- Richard Hasko, Director of Environmental Services, City of Delray Beach (Owner)
- Currie Sowards Aguila Architects
- Jerry Turner of Florida, Inc. (Landscape Architect)

**Wall Signage category: Blacktip Reef**

- Gregory McManaman, (Owner)
- Claudio Camilucci of Camilucci Signs (Designer)

**8. CONSENT AGENDA: City Manager Recommends Approval.**

**8.A. ACCEPTANCE OF EASEMENT DEED/YACHT CLUB AT DELRAY BEACH:** Approve and accept an easement deed for the installation of a public sidewalk to be constructed in front of an existing City lift station and adjacent to MacFarlane Drive.

**8.B. REQUEST FOR SIDEWALK DEFERRAL/418 NORTH OCEAN BOULEVARD:** Approve a request to defer the installation of a sidewalk in front of 418 North Ocean Boulevard.

**8.C. CONTRACT CLOSEOUT (C.O. NO. 1/FINAL)/HARTZELL CONSTRUCTION, INC.:** Approve a Contract Closeout (C.O. No. 1) in the amount of a \$15,568.50 decrease and a final payment in the amount of \$4,161.37 to Hartzell Construction, Inc. for the completion of the Community Improvement Sidewalk Project. Funding is available from 118-1965-554-63.11 (Community Development Fund/Bikepaths/Sidewalks).

**8.D. SERVICE AUTHORIZATION NO. 8/SPATIAL FOCUS, INC.:** Approve Service Authorization No. 8 in the amount of \$19,025.00 to Spatial Focus, Inc. for assistance in developing a prototype software application for creating the annual Capital Improvement Program. Funding is available from 448-5411-538-31.90 (Stormwater Utility Fund/Other Professional Services) and 442-5178-536-31.90 (Water/Sewer Renewal and Replacement Fund/Other Professional Services).

**8.E. SERVICE AUTHORIZATION 14.5/CURRIE SOWARDS AGUILA ARCHITECTS:** Approve Service Authorization No. 14.5 in the amount of \$3,750.00 to Currie Sowards Aguila Architects for supplemental consulting services resulting from site revisions to the Mangrove Park Project as required by the South Florida Water Management District (SFWMD). Funding is available from 334-4174-572-63.90 (General Construction Fund/Intracoastal Park/Other Improvements).

**8.F. SERVICE AUTHORIZATION NO. 07-03/MATHEWS CONSULTING, INC.:** Approve Service Authorization No. 07-03 in the amount of \$27,763.00 to Mathews Consulting, Inc. for a surface water management study of the S.W. Area. Funding is available from 448-5411-538-31.30 (Stormwater Utility Fund/Engineering/Architect).

**8.G. AGREEMENT/ERDMAN ANTHONY AND ASSOCIATES, INC.:** Approve an agreement between the City and Erdman Anthony and Associates, Inc. in the amount of \$38,200.00 for the design of trombone mast arm signals at the intersection of S.W. 2<sup>nd</sup> Avenue and West Atlantic Avenue. Funding is available from 334-3162-541-65.87 (General Construction Fund/Capital Outlay/S.W. 2<sup>nd</sup> Avenue-S.W. 1<sup>st</sup> Street-West Atlantic Avenue).

**8.H. RESOLUTION NO. 02-08/FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT)/COMMUNITY REDEVELOPMENT AGENCY (CRA):** Approve and adopt Resolution No. 02-08 authorizing execution of a Locally Funded Agreement (LFA) with the Florida Department of Transportation (FDOT) and approve a Memorandum of Agreement (MOA) with FDOT and the State Department of Financial Services, Division of Treasury for funding in the amount of \$1,596,848.26 for improvements along Atlantic Avenue between N.W. 12<sup>th</sup> Avenue and SR A-1-A. Of this cost, \$1,500,000 will be paid by the Community Redevelopment Agency (CRA).

The caption of Resolution No. 02-08 is as follows:

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, APPROVING THE LOCALLY FUNDED AGREEMENT FOR THE CONSTRUCTION AND FUNDING OF DRAINAGE, SIGNALIZATION, LIGHTING AND LANDSCAPE ENHANCEMENTS ALONG ATLANTIC AVENUE BETWEEN NW 12 AVENUE AND A1A AND AUTHORIZING THE EXECUTION OF THE AGREEMENT.

(The official copy of Resolution No. 02-08 is on file in the City Clerk's office.)

**8.I. THIS ITEM HAS BEEN MOVED TO THE REGULAR AGENDA AS ITEM 9.A.A.**

**8.J. FUNDING ACCOUNT CHANGE/BARWICK ROAD CURBING AND SWALE PROJECT:** Approve an account funding change from the General Construction Fund/Other Improvements/Barwick Road Sidewalks (334-3162-541-68.02) to the Stormwater Utility Fund/Barwick Road (448-5461-538-65.36) for the work awarded to Chaz Equipment Company, Inc. under a Contract Addition (C.O. No. 6) for the Block 64 Alley Improvement Project.

**8.K. PURCHASE AWARD/HARTZELL CONSTRUCTION, INC.:** Approve a purchase award in the amount of \$32,480.00 for Hartzell Construction, Inc. to paint the hallways on the first and second floor of the Police Department. Funding is available from 001-2111-521-46.10 (General Fund/Building Maintenance).

**8.L. VOLUNTEER PROGRAM HANDBOOK/PARKS AND RECREATION DEPARTMENT:** Approve a request to implement a new Volunteer Program Handbook to be utilized by the Parks and Recreation Department.

**8.M. MEMORANDUM OF UNDERSTANDING/ADDENDUM TO OPEN ROADS POLICY/FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT):** Approve a Memorandum of Understanding and an Addendum to the Open Roads Policy with the Florida Department of Transportation (FDOT) regarding the development of a Traffic Incident Management Team (TIM) Strategic Plan.

**8.N. ADDENDUM NO. 1 TO CONSULTING AGREEMENT/LANGTON ASSOCIATES, INC./GRANT WRITING SERVICES:** Approve Addendum No. 1 to the Consulting Agreement between the City and Langton Associates, Inc. to include the language to provide for the period November 1, 2006 through December 31, 2007, in order to cover the lapse as the term of the agreement approved at the January 3, 2008 Regular Commission meeting does not begin until January 1, 2008.

**8.O. AMENDMENT NO. 1 TO THE AGREEMENT/PALM BEACH COUNTY:** Approve Amendment No. 1 to the agreement between the City and Palm Beach County for the Disaster Recovery Initiative (DRI) regarding the demolition of Carver Estates extending the deadline for completion to July 31, 2008.

**8.P. AMENDMENT NO. 1 TO THE AGREEMENT/PALM BEACH COUNTY/NEIGHBORHOOD RESOURCE CENTER (NRC) SHUTTERING PROJECT:** Approve Amendment No. 1 to the agreement between the City and Palm Beach County for the Neighborhood Resource Center (NRC) Shuttering Project through the Disaster Recovery Initiative (DRI) Program to extend the deadline for completion to March 15, 2008.

**8.Q. SPECIAL EVENT REQUEST/SAINT PATRICK'S DAY PARADE:** Approve a special event request to conduct the 40<sup>th</sup> Annual St. Patrick's Day Parade on Saturday, March 15, 2008, beginning with setup at 11:00 a.m., parade starting at 1:00 p.m. and ending at approximately 2:30 p.m., and to grant a temporary use permit per LDR's Section 2.4.6(F) for the use of Atlantic Avenue from Venetian Drive to N.W. 1<sup>st</sup> Avenue for the parade and Venetian Drive and Gleason Street for staging of parade entries and the Old School Square surface parking lot from 11:00 a.m. to 7:30 p.m.; and to approve staff support for traffic control and security, barricading, EMS assistance, trash removal, assistance in obtaining the FDOT permit and to allow event signage to be put up no earlier than March 7, 2008; contingent on the receipt of a hold harmless agreement and receipt of the certificate of liability insurance.

**8.R. CANCELLATION/INTERLOCAL AGREEMENTS/COMMUNITY REDEVELOPMENT AGENCY/LA FRANCE HOTEL AND 133 N.W. 5<sup>TH</sup> AVENUE:** Approve the cancellation of the Interlocal Agreements between the City and the Community Redevelopment Agency (CRA) for the purchase and sale of the La France Hotel and 133 N.W. 5<sup>th</sup> Avenue properties.

**8.S. CONTRACT RENEWAL/ACCURATE PARKING, INC.:** Approve renewal of a contract with Accurate Parking, Inc. for staffing of the Old School Square, Bob Federspiel and the South County Courthouse Garages on weekend evenings (Thursdays, Fridays and Saturdays) and special events. Funding is available from 001-3151-545-34.90 (General Fund/Other Contractual Services).

**8.T. REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:** Accept the actions and decisions made by the Land Development Boards for the period January 3, 2008 through January 11, 2008.

**8.U. AWARD OF BIDS AND CONTRACTS:**

- 1.** Contract award to Chaz Equipment Company, Inc. in the amount of \$47,950.00 for the emergency repair of a collapsed sanitary sewer main along A-1-A, south of Lewis Cove. Funding is available from 442-5178-536-63.51 (Stormwater Utility Fund/Sewer Mains).
- 2.** Purchase award to Stryker in the amount of \$46,340.00 for the purchase of five (5) Stryker Model 6500 Power-Pro Ambulance Patient Stretchers for the Fire-Rescue Department. Funding is available from 001-2315-526-64.90 (General Fund/Other Machinery/Equipment).

Mr. Eliopoulos moved to approve the Consent Agenda as amended, seconded by Mr. McDuffie. Upon roll call the Commission voted as follows: Mr. Eliopoulos – Yes; Vice Mayor Fetzer – Yes; Mr. McDuffie – Yes; Mrs. Montague – Yes. Said motion passed with a 4 to 0 vote.

**9. REGULAR AGENDA:**

**9.A.A. HOLD HARMLESS AGREEMENT/DELRAY CLUB, INC.:** Approve and authorize a Hold Harmless Agreement between the City and Delray Club, Inc. for the work performed within the State right-of-way. The Delray Club, Inc. is located at 2001 South Ocean Boulevard.

Commissioner Eliopoulos declared a conflict of interest and stepped down from the dais.

Mr. McDuffie moved to approve Item 9.A.A. (formerly 8.I.), seconded by Mrs. Montague. Upon roll call the Commission voted as follows: Vice Mayor Fetzer – Yes; Mr. McDuffie – Yes; Mrs. Montague – Yes. Said motion passed with a 3 to 0 vote.

**9.A. WAIVER REQUESTS/508 S.E. 3<sup>rd</sup> AVENUE:** Consider a waiver request to Land Development Regulations (LDR) Section 4.3.4(K), “Development Standards Matrix” to reduce the lot frontage, lot width, and lot size for one of two proposed single family lots, located at the northwest corner of S.E. 6<sup>th</sup> Street and S.E. 3<sup>rd</sup> Avenue (508 S.E. 3<sup>rd</sup> Avenue). (*Quasi-Judicial Hearing*)

Vice Mayor Fetzer read into the record the City of Delray Beach procedures for a Quasi-Judicial Hearing for this item and all subsequent Quasi-Judicial Hearings.

Chevelle D. Nubin, City Clerk, swore in those individuals who wished to give testimony on this item.

Vice Mayor Fetzer asked the Commission to disclose their ex parte communications. The Commission had no ex parte communications to disclose.

Paul Dorling, Director of Planning and Zoning, entered the Planning and Zoning project file #2008-042 into the record.

Mr. Dorling stated this is a waiver request to reduce the lot frontage, lot width, and lot size for one of the two proposed single family lots located at the northwest corner of S.E. 6<sup>th</sup> Street and S.E. 3<sup>rd</sup> Avenue. The property is made up of portions of 4 lots and is L-shaped. The owner wishes to demolish all structures, create two lots and build two single family homes on each of the newly created lots. It is also noted that the current lot configuration (“L-shape”) is unlike any other lot in this block of Osceola Park or throughout the balance of the neighborhood.

Mr. Dorling stated required findings need to be made with respect to LDR Section 4.3.4(K)(Development Standards Matrix) and the Commission would be granting a reduction based upon on positive findings with respect to LDR Section 2.4.7(B)(5) and LDR Section 4.3.1(D).

At its meeting of January 4, 2008, the DSMG (Development Services Management Group) reviewed the request and recommended approval. He stated there are two conditions: (1) that a survey is filed with the Engineering Department showing the reconfiguration of the lots, and (2) that a Unity of Title be executed between the two newly created lots and remain in place until all structures are demolished, at which time said Unity of Title shall be released upon consent of the City’s Chief Building Official.

**Jason Mankoff, Attorney with Weiner & Aronson, P.A., 102 North Swinton Avenue, Delray Beach (representing the Applicant),** commended Scott Zubek, Senior Planner, for compiling such a well prepared staff report. Mr. Mankoff stated he is available for any questions the Commission may have and agrees with the

conditions.

Vice Mayor Fetzer stated if anyone from the public would like to address the Commission regarding the waiver request, to please come forward at this time. There being no one from the public who wished to address the Commission regarding the waiver request, the public hearing was closed.

There was no cross-examination or rebuttal.

Brian Shutt, Assistant City Attorney, briefly reviewed the Board Order with the Commission who made findings according to their consensus (attached hereto is a copy and made an official part of the minutes).

Mrs. Montague moved to adopt the Board Order (approving the waiver requests) as presented, seconded by Mr. Eliopoulos. Upon roll call the Commission voted as follows: Mr. McDuffie – Yes; Mrs. Montague – Yes; Mr. Eliopoulos – Yes; Vice Mayor Fetzer – Yes. Said motion passed with a 4 to 0 vote.

**9.B. REQUEST FOR IN-LIEU PARKING SPACES/WAIVER REQUEST/ TAVERNA EROS:** Consider a request from Taverna Eros for the purchase of four (4) in-lieu parking spaces in the amount of \$62,400.00 to accommodate the creation of an outdoor dining area in the parking area immediately adjacent to the west side of the building and fronting Atlantic Avenue; and an associated waiver request to Land Development Regulations (LDR) Section 4.6.9(E)(B), “In-Lieu Fee”, which prohibits the purchase of in-lieu spaces to accommodate an expansion of use when the expansion eliminates existing parking spaces. The Taverna Eros is located at 8 East Atlantic Avenue. (*Quasi-Judicial Hearing*)

Chevelle D. Nubin, City Clerk, swore in those individuals who wished to give testimony on this item.

Scott Aronson, Parking Management Specialist, stated Taverna Eros is located at 8 East Atlantic Avenue and this is a proposed site plan. This is a request for four (4) in-lieu of parking spaces and noted that the parking spaces in Area 2 are \$15,600 per space. The request is to create an outdoor dining area in the parking lot owned by the applicant to the west of the restaurant located adjacent to Atlantic Avenue. The construction of this area is going to require the elimination of four (4) parking spaces and the relocation of the ADA compliant handicapped parking space. Mr. Aronson stated the recent modifications to the in-lieu of parking policies do not permit an expansion of use where it eliminates existing parking spaces due to the current value of real estate in the downtown. It is a good investment to pay \$15,000 for a parking space when height limitations allow you to go four stories up and this is why this was written into the Code. In this particular case, the Comprehensive Plan and the Downtown Master Plan called for the elimination of inappropriate uses and the development of outdoor dining areas in the downtown. None of the in-lieu parking spaces requested is required for the outdoor dining area, as it will be classified as a Sidewalk Café so the additional square footage

does not require parking in and of itself so the request for the four (4) spaces is only for the elimination of the parking spaces that it eliminates to create the floor area. The total cost for the four (4) parking spaces is \$62,400 and will be paid in full upon issuance of a building permit.

**Francisco Perez-Azua, Architect**, stated this is the only surface parking lot left on Atlantic Avenue (with the exception of Atlantic Plaza) between Swinton Avenue and the Intracoastal. He stated the Master Plan called for the elimination of surface parking lots. Mr. Perez-Azua stated they are only eliminating four spaces which is the minimum and leaving a total of nine spaces on the side and with the construction of the two new parking garages they feel it is a good asset. He stated there are a series of restaurants on the street and it is a very crowded sidewalk. He stated they received a lot of feedback from the Boards and it was the Downtown Development Authority who suggested that they did not want to see tables over the property line as a sidewalk café because the sidewalk café is being replaced by these. Mr. Perez-Azua stated the applicant has agreed to this and noted that the entire sidewalk will be open for traffic flow. He stated it is currently all asphalt to the walls and they are proposing to put a landscape buffer around that and a tree in the middle to create shade. He feels this will be an improvement to Atlantic Avenue.

Vice Mayor Fetzer stated if anyone from the public would like to speak in favor or in opposition of the request for in-lieu parking spaces and the in-lieu parking request, to please come forward at this time.

There was no cross-examination and no rebuttal.

Brian Shutt, Assistant City Attorney, briefly reviewed the Board Order with the Commission who made findings according to their consensus (attached hereto is a copy and made an official part of the minutes).

Mr. McDuffie moved to adopt the Board Order (approving the waiver and the in-lieu parking fee request) as presented, seconded by Mrs. Montague. Upon roll call the Commission voted as follows: Mrs. Montague – Yes; Mr. Eliopoulos – Yes; Vice Mayor Fetzer – Yes; Mr. McDuffie – Yes. Said motion passed with a 4 to 0 vote.

At this point, the time being 7:05 p.m., the Commission moved to the duly advertised Public Hearings portion of the Agenda.

**10. PUBLIC HEARINGS:**

**10.A. ORDINANCE NO. 38-07 (FIRST READING/FIRST PUBLIC HEARING):** City initiated amendments to the Land Development Regulations (LDR) which intend to clarify the current regulations, provide parameters, and define compatible development within the City's five (5) historic districts and individually designated properties. If passed, a second public hearing will be scheduled for February 5, 2008.

The caption of Ordinance No. 38-07 is as follows:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CITY OF DELRAY BEACH BY AMENDING SECTION 2.4.6, "PROCEDURES FOR OBTAINING PERMITS", SUBSECTION 2.4.6(H), "CERTIFICATE OF APPROPRIATENESS FOR HISTORIC STRUCTURES, SITES, AND IN HISTORIC DISTRICTS", PROVIDING CLARIFICATION OF THE REQUIREMENTS AND PROCEDURES FOR OBTAINING A CERTIFICATE OF APPROPRIATENESS; AMENDING SECTION 3.2.4, "STANDARDS FOR SPECIFIC AREAS OR PURPOSES", SUBSECTION 3.2.4(E), "HISTORIC DISTRICTS AND SITES", PROVIDING FOR AND INCORPORATING THE DELRAY BEACH HISTORIC PRESERVATION DESIGN GUIDELINES AND THE SECRETARY OF THE INTERIOR'S STANDARDS FOR REHABILITATION; AMENDING SECTION 4.1.4, "USE OF LOTS OF RECORD", TO PROVIDE FOR VARIANCES; AMENDING SECTION 4.3.3, "SPECIAL REQUIREMENTS FOR SPECIFIC USES", SUBSECTION 4.3.3(Q), "GUEST COTTAGE", TO PROVIDE THAT HEIGHT SHALL NOT EXCEED THAT OF THE MAIN STRUCTURE IN HISTORIC DISTRICTS; AMENDING SECTION 4.4.17, "RESIDENTIAL OFFICE (RO) DISTRICT", SUBSECTIONS 4.4.17(A), "PURPOSE AND INTENT", AND 4.4.17(G), "SUPPLEMENTAL DISTRICT REGULATIONS", PROVIDING PARKING REQUIREMENTS FOR CONVERSION OF RESIDENTIAL STRUCTURES INTO OFFICE USE IN HISTORIC DISTRICTS; AMENDING SECTION 4.4.24, "OLD SCHOOL SQUARE HISTORIC ARTS DISTRICT (OSSHAD)", SUBSECTIONS 4.4.24(D), "CONDITIONAL USES AND STRUCTURES ALLOWED" AND 4.4.24(H), "SPECIAL DISTRICT REGULATIONS", CLARIFYING THAT PARKING LOTS NOT ASSOCIATED WITH A USE MUST BE PUBLIC AND CLARIFYING SPECIAL DISTRICT REGULATIONS; AMENDING SECTION 4.5.1, "HISTORIC PRESERVATION SITES AND DISTRICTS", SUBSECTIONS 4.5.1(B), "CRITERIA FOR DESIGNATION OF HISTORIC SITES OR

DISTRICTS”, 4.5.1(E), “DEVELOPMENT STANDARDS”, AND 4.5.1(L), “DESIGNATION OF HISTORIC DISTRICTS”, BY CLARIFYING THE APPLICATION OF DEVELOPMENT STANDARDS WITH RESPECT TO USE, ZONING DISTRICT AND HISTORIC CLASSIFICATION; AND AMENDING APPENDIX “A”, “DEFINITIONS”, TO PROVIDE A NEW DEFINITION FOR “HARDSCAPE”, AND TO PROVIDE AMENDED DEFINITIONS RELATED TO HISTORIC PRESERVATION; PROVIDING A SAVINGS CLAUSE, A GENERAL REPEALER CLAUSE AND AN EFFECTIVE DATE.

(The official copy of Ordinance No. 38-07 is on file in the City Clerk’s office.)

The Assistant City Attorney read the caption of the ordinance. A public hearing was held having been legally advertised in compliance with the laws of the State of Florida and the Charter of the City of Delray Beach, Florida.

Paul Dorling, Director of Planning and Zoning, stated this was reviewed by the City Commission at their January 3, 2008 meeting and there was significant discussion about two areas of the proposed ordinance those being: (1) average floor areas and (2) floor area ratios. He stated the direction from Commission was that they wanted those sections removed from the “Visual Compatibility Standards” of the Code. Mr. Dorling stated this has been done and the ordinance before the Commission reflects such. He stated regulatory tools that are now part of this ordinance are limited to some building height plane which forces the second story back on a structure and there are also some regulations which require some mandatory offsets on the side and front setbacks and then some references to first floor maximum height. He stated there are also two “Visual Compatibility Incentives” for all residential development applications. One relates to encouraging open space (balconies, overlooks and open railings) are provided on the first or second floors, with a separation provided between floors on the front and/or sides. Second, up to 25% of the front elevation may extend into the “Building Height Plane” (BHP) provided that at least 25% of the front elevation remains one-story. The width of the portion extended into the “BHP” may not exceed a width of eighteen feet (18’).

At its meeting of December 10, 2007, the Downtown Development Authority (DDA) reviewed the ordinance and recommended approval; at its meeting of December 12, 2007, the West Atlantic Redevelopment Coalition (WARC) reviewed the amendments and recommended approval; at its meeting of December 13, 2007, the Community Redevelopment Agency (CRA) reviewed the amendments and recommended approval; at its meeting of December 3, 2007, the Planning and Zoning Board considered the amendments at its meeting of December 3, 2007 and continued the item. On December 17, 2007, the Planning and Zoning Board recommended approval with a 5 to 0 vote; at its meeting of December 6, 2007, the Historic Preservation Board (HPB)

considered the amendments and continued the item. At its meeting of December 19, 2007, the Board recommended approval of the ordinance by a 4 to 1 vote.

Vice Mayor Fetzer stated the Commission had also discussed changing the boundaries in the Marina District and that is not a part of this ordinance. Mr. Dorling stated this is correct and noted that there was some discussion and consensus by the Commission that this be taken out of the ordinance. Mr. Dorling stated it was not likely that staff could get it done as part of this ordinance but the City Attorney's office is looking into several options and staff will come back to the Commission with those recommendations.

Mr. McDuffie stated if this is approved on first reading and we re-district prior to the second reading, is staff going to amend this ordinance between the first and second reading. In response, Mr. Dorling stated staff believes this will take a little more time and staff needs to check into the method to do that. He stated staff does not see this happening between first and second reading.

Mrs. Montague commented about the re-districting and the timeframe. The City Manager stated the Commission will need to discuss this with the City Attorney.

Vice Mayor Fetzer declared the public hearing open.

Ellen Key, 321 S.E. 7<sup>th</sup> Avenue, Delray Beach, stated there are volunteers who are gathering information for the survey and they are not really experienced qualified people to be gathering these facts. She stated some of these people are also involved in lawsuits with the City and she feels the information is perceptually tainted. Ms. Key stated this discounts the entire survey and does not feel it should be done.

Claudia Willis, 160 Marine Way, Delray Beach, confirmed with staff that what was removed from the ordinance was Item 8.M. (lot coverage) and 8.N. (number of stories).

Matt Grabham, 350 S.E. 7<sup>th</sup> Avenue, Delray Beach, stated the historic districts deserve full thorough independent professional surveys and they should be done in a timely manner. He stated if the City cannot get funding from the State to do them in that timely manner we should find the funds ourselves to do those surveys. Mr. Grabham reiterated that the surveys should be done by independent professional qualified people and does not feel that anyone else other than that should be involved in determining the status of buildings or a district. He stated millions of dollars in peoples' home values are at stake and any adjustments to the district should be treated as a serious matter.

There being no one else from the public who wished to address the Commission regarding Ordinance No. 38-07, the public hearing was closed.

Vice Mayor Fetzer stated at the December 11, 2007 City Commission Meeting there was concern expressed by a couple of Commissioners about the way these surveys were being done. Since that time, the City Manager sent a memorandum to Mr. Grabham and copied the Commission explaining exactly what was being done in these surveys. The City Manager stated most of what is being done is the collection of documents and the documents will speak for themselves. He stated it all has to be given to a professional in this field that will review them and come to Delray Beach and make recommendations.

Mr. Dorling stated there will be no conclusions reached by people that are collecting the data and this will be run by a professional and those decisions will be made and reviewed at that time.

Mr. McDuffie stated he felt it was past time for us to be waiting on State grants and that we needed to move ahead with these surveys, pay for the surveys to be done, and adequately get the inventory and information that the Commission needs to finalize these Historic Preservation Guidelines.

The City Manager stated his understanding of the Commission's direction on the surveys was that we should hear in February about whether or not the City will be receiving State money and if we receive it fine but if not then we would immediately proceed to search for City funds. Also, the City Manager stated we would not allow the availability or non-availability of State funds to hold us up in any way.

Mrs. Montague stated there is a concern here and within the community about the source of the information gathering but it is going to be an independent source that is going to review everything. She would like to clarify that there will be an independent person coming in for the other four districts and asked what the timeframe will be for this.

The City Manager stated once staff knows whether we need our own money or whether we have State money then at that point the City can put out an Request for Proposal (RFP) and have things ready to go as soon as the money is available.

Mrs. Montague inquired about the six month timeframe once the process starts to complete it and have the data presented. Mr. Dorling stated staff and the Commission talked about the money being available in June and the surveys being completed towards the end of the year. Mr. Dorling stated there is a possibility for the Marina District which is further along to be done much sooner because the data has been collected and then it would be reviewed by an independent person. The other four districts actually need the data collection done after June 2008 and finalized by the end of the year. Mrs. Montague stated this is something that the Commission has unanimously agreed to move forward with and any source that we can utilize to help augment what this commitment is they are doing. Mrs. Montague explained that this is why they have the delay of four weeks to see if the City receives the grant money. Mrs. Montague stated if the City does not receive the grant money then the funding will come from the

City's budget.

Mr. Eliopoulos stated he was one of the Commissioners that made a comment with regard to the data that was being collected and he appreciates the City Manager responding to the email that was sent out explaining what was done. However, Mr. Eliopoulos concurs with the public to put this on hold and wait until we have the experts. Mr. Eliopoulos stated he appreciates the individuals who have volunteered their time and that should be recognized. However, he stated due to the tension that has been building in the Marina District he feels it would be more appropriate that we handle it and that we go with professionals.

The City Manager stated he would recommend that the Commission vote on this because this would mean the City would have to spend \$15,000.00.

Mr. Eliopoulos asked how the individuals were selected. Mr. Dorling stated the Committee (5 individuals) volunteered to collect the data and they are made up of architects and interested parties that have a passion for it.

The City Manager stated it may be possible that there would be volunteers to do the other four districts.

Brief discussion between the City Manager and the Commission followed.

Mr. McDuffie stated he wants to make sure that everyone believes in the studies that have been done. He suggested that the City put this item out to bid (all 5 districts) and if the winning bidder will accept the documentation that has been gathered by the volunteers as being adequate, complete, and accurate, to make this a portion of the bid specifications. And, if they feel they do not have adequate, complete, and accurate information then they can gather their own.

Mr. McDuffie moved to approve that the City bid the surveys and instruct the bidders to review the documentation that has been gathered by the volunteers and determine if it is accurate and adequate for them to proceed if so to bid the project using the information that has already been gathered and if they feel it is not accurate and adequate for them to bid the project with them gathering information once again, seconded by Mr. Eliopoulos. Upon roll call the Commission voted as follows: Mr. Eliopoulos – Yes; Vice Mayor Fetzer – Yes; Mr. McDuffie – Yes; Mrs. Montague – Yes. Said motion passed with a 4 to 0 vote.

Mr. Eliopoulos moved to adopt Ordinance No. 38-07 on First Reading/First Public Hearing, seconded by Mr. McDuffie. Upon roll call the Commission voted as follows: Vice Mayor Fetzer – Yes; Mr. McDuffie – Yes; Mrs. Montague – Yes; Mr. Eliopoulos – Yes. Said motion passed with a 4 to 0 vote.

**10.B. ORDINANCE NO. 55-07 (SECOND READING/SECOND PUBLIC HEARING):** City initiated amendments to the Land Development Regulations (LDR) amending Section 1.4.3, "Enforcement"; Section 1.4.4, "Penalty", providing that neglect shall constitute a nuisance and providing for enforcement and penalties; Section 2.2.6(C), "Meeting and Quorum", providing for voting, 2.2.6(D), "Duties and Responsibilities", providing for express authority for the Historic Preservation Board to apply the Historic Compatibility Regulations; Section 4.5.1(E), "Development Standards", Subsection 4.5.1(E)(6), "Demolition", and 4.5.1(F), "Restrictions on Demolitions", providing requirements for the application and approval for demolition.

The caption of Ordinance No. 55-07 is as follows:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CITY OF DELRAY BEACH BY AMENDING SECTIONS 1.4.3, "ENFORCEMENT" AND 1.4.4, "PENALTY", PROVIDING THAT NEGLECT SHALL CONSTITUTE A NUISANCE AND PROVIDING FOR ENFORCEMENT AND PENALTIES; AMENDING SECTION 2.2.6, "THE HISTORIC PRESERVATION BOARD", SUBSECTION 2.2.6(C), "MEETING AND QUORUM", PROVIDING FOR VOTING; AND AMENDING SUBSECTION 2.2.6(D), "DUTIES AND RESPONSIBILITIES", PROVIDING FOR EXPRESS AUTHORITY FOR THE HISTORIC PRESERVATION BOARD TO APPLY THE HISTORIC COMPATIBILITY REGULATIONS; SUBSECTION 4.5.1(E), "DEVELOPMENT STANDARDS", SUBSECTION 4.5.1(E)(6), "DEMOLITION", AND 4.5.1(F), "RESTRICTIONS ON DEMOLITIONS", PROVIDING REQUIREMENTS FOR THE APPLICATION AND APPROVAL FOR DEMOLITION; PROVIDING A SAVING CLAUSE, A GENERAL REPEALER CLAUSE AND AN EFFECTIVE DATE.

(The official copy of Ordinance No. 55-07 is on file in the City Clerk's office.)

The Assistant City Attorney read the caption of the ordinance. A public hearing was held having been legally advertised in compliance with the laws of the State of Florida and the Charter of the City of Delray Beach, Florida.

Paul Dorling, Director of Planning and Zoning, stated this ordinance provides that the neglected individual structure or structures located within a historic district will constitute a nuisance violation and there are civil citations and fines associated with that process. He stated it also provides criteria for applications for demolition and requires a submittal of information relating to the state of disrepair, the soundness of the property, costs of repair, values as vacant land and values upon restoration. This information has typically been requested from applicants with their first review of the Historic Preservation Board (HPB) and it is just codified here as information that is necessary to make that decision. It also requires that demolition not take place until a building permit for new development is issued.

At its meeting of November 7, 2007, the Pineapple Grove Main Street (PGMS) Committee reviewed the subject amendments and recommended approval; at its meeting of November 7, 2007, the Historic Preservation Board (HPB) considered the subject amendments and recommended approval by a vote of 5-2 (Lake and Kucera-Winney dissenting); at its meeting of November 8, 2007, the Community Redevelopment Agency (CRA) considered the subject amendments and recommended approval; at its meeting of November 12, 2007, the Downtown Development Authority (DDA) considered the subject amendments at their November 12, 2007 meeting and recommended approval. The Planning and Zoning Board considered the subject amendments at its meeting of November 19, 2007. The item was tabled to the Special Meeting of December 3, 2007, over concerns relating to the requirements to submit a complete redevelopment proposal with all demolition requests of both contributing and non-contributing structures. At the meeting of December 3, 2007, the Planning and Zoning Board considered the subject amendments for a second time.

Mrs. Montague moved to adopt Ordinance No. 55-07 on Second Reading/Second Public Hearing, seconded by Mr. McDuffie. Upon roll call the Commission voted as follows: Mr. McDuffie – Yes; Mrs. Montague – Yes; Mr. Eliopoulos – Yes; Vice Mayor Fetzer – Yes. Said motion passed with a 4 to 0 vote.

**10.C. ORDINANCE NO. 03-08 (SECOND READING/SECOND PUBLIC HEARING):** Privately initiated amendment to the Land Development Regulations (LDR) Article 4.7 “Family/Workforce Housing”, to expand the Carver Estates Overlay District.

The caption of Ordinance No. 03-08 is as follows:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF ORDINANCES, BY AMENDING ARTICLE 4.7, “FAMILY/WORKFORCE HOUSING”, SECTION 4.7.1, “DEFINITIONS”, BY REPEALING SUBSECTION 4.7.1(C), “CARVER ESTATES OVERLAY DISTRICT” AND ENACTING A

NEW SUBSECTION 4.7.1(C), "CARVER ESTATES OVERLAY DISTRICT", AND AMENDING SUBSECTION 4.7.1(L), "INFILL WORKFORCE HOUSING AREA", BY REPEALING MAP 2 AND ENACTING A NEW MAP 2, TO PROVIDE FOR EXPANSION OF THE CARVER ESTATES OVERLAY DISTRICT; PROVIDING A SAVING CLAUSE, A GENERAL REPEALER CLAUSE, AND AN EFFECTIVE DATE.

(The official copy of Ordinance No. 03-08 is on file in the City Clerk's office.)

The Assistant City Attorney read the caption of the ordinance. A public hearing was held having been legally advertised in compliance with the laws of the State of Florida and the Charter of the City of Delray Beach, Florida.

Paul Dorling, Director of Planning and Zoning, stated this is to increase the maximum density for the Carver Estates Overlay District from 12 units to 24 units per acre. As part of Comprehensive Plan Amendment 2007-2 this Overlay District was established along with an infill workforce housing area. The Infill Workforce Housing Area has a maximum of 18 units to the acre. Mr. Dorling stated it takes this property out of the infill workforce housing area and places it in the Carver Estates Overlay District and there is a map change between those two areas.

At its meeting of December 17, 2007, the Planning and Zoning Board considered the text amendment and recommended approval with a 5 to 0 vote.

Vice Mayor Fetzer declared the public hearing open. There being no one from the public who wished to address the Commission regarding Ordinance No. 03-08, the public hearing was closed.

Mr. McDuffie moved to adopt Ordinance No. 03-08 on Second Reading/Second Public Hearing, seconded by Mr. Eliopoulos. Upon roll call the Commission voted as follows: Mrs. Montague – Yes; Mr. Eliopoulos – Yes; Vice Mayor Fetzer – Yes; Mr. McDuffie – Yes. Said motion passed with a 4 to 0 vote.

**10.D. ORDINANCE NO. 04-08 (SECOND READING/SECOND PUBLIC HEARING):** City initiated amendment to the Land Development Regulations (LDR) to clarify that residential uses within the Mixed Industrial and Commercial (MIC) zoning district are permitted only within the I-95/CSX Railroad Corridor Overlay District.

The caption of Ordinance No. 04-08 is as follows:

AN ORDINANCE OF THE CITY COMMISSION OF  
THE CITY OF DELRAY BEACH, FLORIDA,  
AMENDING THE LAND DEVELOPMENT

REGULATIONS OF THE CODE OF ORDINANCES, BY AMENDING SECTION 4.4.19, "MIXED INDUSTRIAL AND COMMERCIAL (MIC) DISTRICT", SUBSECTION 4.4.19(A), "PURPOSE AND INTENT", TO CLARIFY THAT RESIDENTIAL USES ARE PERMITTED ONLY WITHIN THE I-95/CSX RAILROAD CORRIDOR OVERLAY DISTRICT; PROVIDING A SAVING CLAUSE, A GENERAL REPEALER CLAUSE, AND AN EFFECTIVE DATE.

(The official copy of Ordinance No. 04-08 is on file in the Clerk's office.)

The Assistant City Attorney read the caption of the ordinance. A public hearing was held having been legally advertised in compliance with the laws of the State of Florida and the Charter of the City of Delray Beach, Florida.

Paul Dorling, Director of Planning and Zoning, stated on March 20, 2007, the City Commission adopted Ordinance No. 10-07, which expanded the workforce housing program to include an additional Overlay District at I-95/CSX Railroad Corridor Overlay District, located west of I-95 east of the tracks on Depot Road south of Lake Ida Road. The ordinance included modification of the "Purpose and Intent" section of the MIC zoning district to add residential uses within the district. However, since adoption of the amendment, there has been some confusion as to where residential uses may be located within the zoning district. The purpose for the amendment is to clarify that they are permitted only within the I-95/CSX Railroad Corridor Overlay District.

At its meeting of December 17, 2007, the Planning and Zoning Board considered the text amendment and recommended approval with a 5 to 0 vote.

Vice Mayor Fetzer declared the public hearing open. There being no one from the public who wished to address the Commission regarding Ordinance No. 04-08, the public hearing was closed.

Mr. Eliopoulos moved to adopt Ordinance No. 04-08 on Second Reading/Second Public Hearing, seconded by Mrs. Montague. Upon roll call the Commission voted as follows: Mr. Eliopoulos – Yes; Vice Mayor Fetzer – Yes; Mr. McDuffie – Yes; Mrs. Montague – Yes. Said motion passed with a 4 to 0 vote.

**10.E. THIS ORDINANCE HAS BEEN TABLED.**

**10.F. ORDINANCE NO. 01-08:** City initiated amendment to the Land Development Regulations (LDR) Section 2.4.3 "Submission Requirements" to specify the required scales to which various components of development plans must be prepared.

The caption of Ordinance No. 01-08 is as follows:

AN ORDINANCE OF THE CITY COMMISSION OF  
THE CITY OF DELRAY BEACH, FLORIDA,

AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF ORDINANCES, BY AMENDING SECTION 2.4.3, "SUBMISSION REQUIREMENTS", SUBSECTIONS (A), "STANDARD APPLICATION ITEMS", (B), "STANDARD PLAN ITEMS", (D), "PRELIMINARY ENGINEERING PLANS", AND (H), "SUBMISSION (PLATTING) ITEMS" TO PROVIDE FOR UPDATED SUBMISSION REQUIREMENTS PERTAINING TO ENGINEERING ITEMS; PROVIDING A SAVING CLAUSE, A GENERAL REPEALER CLAUSE, AND AN EFFECTIVE DATE.

(The official copy of Ordinance No. 01-08 is on file in the City Clerk's office.)

The Assistant City Attorney read the caption of the ordinance. A public hearing was held having been legally advertised in compliance with the laws of the State of Florida and the Charter of the City of Delray Beach, Florida.

Paul Dorling, Director of Planning and Zoning, stated this identifies the required scales and expands the type of scales that can be used for plans and requires that all plans be consistent between each other. He stated preliminary and final plats will not have 1" = 10' (in addition to 1" = 20' and 1" = 30') as an acceptable scale. Preliminary engineering plans must be prepared on sheets dimensioned at 24" x 36", and vicinity maps will now be required to be prepared at a legible scale and include sufficient landmarks to allow quick identification of the proposed project's location. Mr. Dorling stated he spoke with the City Engineer regarding the definition of sufficient landmarks and he indicated that this could be limited to the identification of major arterials and the streets where the project is located in a manner that staff can clearly ascertain where this project is. Staff recommends approval at this time.

Vice Mayor Fetzer declared the public hearing open.

**David Hawke, Hawke & Associates Architects**, stated many of their drawings and submissions have to go to Lake Worth Drainage District, South Florida Water Management, the County as well as other reviewing agencies. Mr. Hawke stated if the City places limits on the scales they would have difficulty presenting their projects in having to re-do drawings at different scales for different approving agencies. Also, he stated the Department of Health has requirements as well.

There being no one else from the public who wished to address the Commission regarding Ordinance No. 01-08, the public hearing was closed.

Mrs. Montague inquired about Mr. Hawke's concerns and asked if this is an issue. In response, Mr. Dorling stated he is not aware of any conflict between the scales and the requirements of the other agencies. Mr. Dorling stated the Code now

requires 1" = 20' and 1" = 30' and this is adding an additional option of 1" = 10' so that it makes it more flexible. Mr. Dorling stated staff is giving the architects an additional option not mandating that they submit their drawings under a certain scale.

Mr. Eliopoulos moved to adopt Ordinance No. 01-08 on Second and FINAL Reading, seconded by Mr. McDuffie. Upon roll call the Commission voted as follows: Vice Mayor Fetzer – Yes; Mr. McDuffie – Yes; Mrs. Montague – Yes; Mr. Eliopoulos – Yes. Said motion passed with a 4 to 0 vote.

At this point, the Commission moved to **Item 11, Comments and Inquiries on Non-Agenda Items from the City Manager and the Public.**

**11.A. City Manager's response to prior public comments and inquiries.**

The City Manager had no response to prior public comments and inquiries.

**11.B. From the Public.**

None.

At this point, the time being 7:45 p.m., the Commission moved to **Item 9.C. of the Regular Agenda.**

**9.C. REQUEST FOR VALET PARKING SPACES/CITY LIMITS:**  
Consider a request from City Limits to reserve the use of six (6) parking spaces in the Railroad Parking Lot to provide valet parking services to accommodate a private party.

Scott Aronson, Parking Management Specialist, stated this is a request from City Limits for six (6) valet parking spaces. On February 9, 2008, City Limits will be hosting a private party at their establishment. City Limits is located at 19 N.E. 3<sup>rd</sup> Avenue in the Railroad Parking Lot. In September 2006, City Limits was approved for a valet queue in the Railroad Lot utilizing the same six (6) spaces it intends to use for the party. Although due to a lack of interest by customers, City Limits opted not to renew its valet parking license agreement in 2007, the MacMillan Law firm still leases them their two (2) parking lots across the street on N.E. 4<sup>th</sup> Avenue.

Mrs. Montague moved to approve the request from City Limits to reserve the use of six (6) parking spaces in the Railroad Parking Lot to provide valet parking services to accommodate a private party, seconded by Mr. McDuffie. Upon roll call the Commission voted as follows: Mr. McDuffie – Yes; Mrs. Montague – Yes; Mr. Eliopoulos – Yes; Vice Mayor Fetzer – Yes. Said motion passed with a 4 to 0 vote.

At this point, the time being 7:47 p.m., the Commission moved to **Item 9.E. of the Regular Agenda.**

**9.E. LICENSE AGREEMENT/EASTER SUNRISE SERVICE:** Approve a license agreement with St. John Primitive Baptist Church for the use of the Tennis Stadium and Tennis Center site for an Easter Sunrise Service to be held on Sunday, March 23, 2008 from 6:00 a.m. to 9:00 a.m.; and waiver of the site rental fee, contingent on the receipt of a hold harmless agreement and receipt of the certificate of liability insurance.

Robert A. Barcinski, Assistant City Manager, stated this item is to approve a license agreement with St. John Primitive Baptist Church for the use of the Tennis Stadium and Tennis Center site for an Easter Sunrise Service to be held on Sunday, March 23, 2008 from 6:00 a.m. to 9:00 a.m. The City has also been requested to waive the site rental charge and other City costs. Staff recommends approval of the license agreement with the waiver of the \$3,000.00 rental fee, but not the City's hard costs (i.e. utilities, clean-up costs, JCD Sports Group staff time approximately \$2,000.00) and contingent upon the hold harmless agreements.

Mr. McDuffie moved to approve the License Agreement between the City of Delray Beach and St. John Primitive Baptist Church for an Easter Sunrise Service to be held in the Tennis Stadium on March 23, 2008 from 6:00 a.m. to 9:00 a.m. and waiver of the site rental fee; contingent on the receipt of a Hold Harmless Agreement and Certificate of Liability Insurance, seconded by Mr. Eliopoulos. Upon roll call the Commission voted as follows: Mrs. Montague – Yes; Mr. Eliopoulos – Yes; Vice Mayor Fetzer – Yes; Mr. McDuffie – Yes. Said motion passed with a 4 to 0 vote.

**9.D. FY 2008 PERFORMANCE MEASURES/GOLF COURSES AND TENNIS FACILITIES:** Consider approval of proposed performance measures for FY 2008 for the Municipal Golf Course, Lakeview Golf Course, and Tennis Facilities.

Robert A. Barcinski, Assistant City Manager, stated Commission is being requested to review and approve the performance measures proposed for Fiscal Year 2008 for the Municipal Golf Course, Lakeview and the Tennis Facilities. Per the City's agreement dated September 28, 2004, JCD Sports Group is eligible for up to a 15% bonus of the base payment per year based on approved performance measures. Staff has included a bonus point provision for tasks completed that exceed contract expectations such as clean up after a hurricane. Staff recommends approval as proposed.

Mr. Eliopoulos moved to approve the proposed performance measures for Fiscal Year 2008 for the Municipal Golf Course, Lakeview Golf Course and the Tennis Facilities, seconded by Mrs. Montague. Upon roll call the Commission voted as follows: Mr. Eliopoulos – Yes; Vice Mayor Fetzer – Yes; Mr. McDuffie – Yes; Mrs. Montague – Yes. Said motion passed with a 4 to 0 vote.

**9.F. SETTLEMENT OFFER IN GISLAINE DOMESTOIRE v. CITY OF DELRAY BEACH:** Consider a Settlement Offer in the total amount of \$13,000.00 in Gislaine Domestoire v. City of Delray Beach. Staff recommends approval subject to the receipt of the appropriate releases.

Brian Shutt, Assistant City Attorney, stated this is a settlement offer in the case of Gislaine Domestoire v. the City of Delray Beach. This case arises out of an auto accident on August 5, 2005 in which the Plaintiff was stopped at the intersection of Congress Avenue and Lake Ida Road when her vehicle was struck on the passenger side by a City vehicle. The settlement amount is \$13,000.00 inclusive of attorney's fees and costs.

Mr. McDuffie moved to approve the Settlement Offer in Gislaine Domestoire v. the City of Delray Beach in the total amount of \$13,000.00, seconded by Mrs. Montague. Upon roll call the Commission voted as follows: Vice Mayor Fetzer – Yes; Mr. McDuffie – Yes; Mrs. Montague – Yes; Mr. Eliopoulos – Yes. Said motion passed with a 4 to 0 vote.

**9.G. THIS ITEM HAS BEEN DELETED FROM THE AGENDA AND DEFERRED TO THE SPECIAL MEETING OF JANUARY 22, 2008.**

**9.H. APPOINTMENTS TO THE BUDGET TASK FORCE COMMITTEE:** Appoint one (1) regular member and two (2) alternate members to the Budget Task Force for a six (6) month term. Based upon the rotation system, the appointments will be made by Commissioner Montague (Seat #4) and Commissioner McDuffie (Seat #3).

Mrs. Montague moved to appoint Steven Janssen to the Budget Task Force as a regular member for a six (6) month term, seconded by Mr. Eliopoulos. Upon roll call the Commission voted as follows: Mr. McDuffie – Yes; Mrs. Montague – Yes; Mr. Eliopoulos – Yes; Vice Mayor Fetzer – Yes. Said motion passed with a 4 to 0 vote.

Mr. McDuffie moved to appoint Robert Moore to the Budget Task Force as an alternate member for a six (6) month term, seconded by Mrs. Montague. Upon roll call the Commission voted as follows: Mrs. Montague – Yes; Mr. Eliopoulos – Yes; Vice Mayor Fetzer – Yes; Mr. McDuffie – Yes. Said motion passed with a 4 to 0 vote.

Mrs. Montague moved to appoint Jim Smith to the Budget Task Force as an alternate member for a six (6) month term, seconded by Mr. Eliopoulos. Upon roll call the Commission voted as follows: Mr. Eliopoulos – Yes; Vice Mayor Fetzer – Yes; Mr. McDuffie – Yes; Mrs. Montague – Yes. Said motion passed with a 4 to 0 vote.

**9.I. APPOINTMENT TO THE GREEN TASK FORCE:** Appoint one (1) regular member to the Green Task Force for a six (6) month term. Based upon the rotation system, the appointment will be made by Commissioner Montague (Seat #4).

Mrs. Montague moved to appoint Yalmaz Siddiqui to the Green Task Force as a regular member for a six (6) month term, seconded by Mr. McDuffie. Upon roll call the Commission voted as follows: Vice Mayor Fetzer – Yes; Mr. McDuffie – Yes; Mrs. Montague – Yes; Mr. Eliopoulos – Yes. Said motion passed with a 4 to 0 vote.

**9.J. APPOINTMENT TO THE CODE ENFORCEMENT BOARD:**

Appoint one (1) alternate member to the Code Enforcement Board to serve an unexpired term ending January 14, 2010. Based upon the rotation system, the appointment will be made by Commissioner Fetzer (Seat #2).

Vice Mayor Fetzer moved to appoint Mackenson Bernard to the Code Enforcement Board as an alternate member to serve an unexpired term ending January 14, 2010, seconded by Mr. Eliopoulos. Upon roll call the Commission voted as follows: Mr. McDuffie – Yes; Mrs. Montague – Yes; Mr. Eliopoulos – Yes; Vice Mayor Fetzer – Yes. Said motion passed with a 4 to 0 vote.

**9.K. APPOINTMENT TO THE EDUCATION BOARD:** Appoint one (1) student member to serve a partial term ending July 31, 2009. Based upon the rotation system, the appointment will be made by Commissioner Montague (Seat #4).

Mrs. Montague moved to appoint Keren Eckstein to the Education Board as a student member to serve a partial term ending July 31, 2009, seconded by Mr. McDuffie. Upon roll call the Commission voted as follows: Mrs. Montague – Yes; Mr. Eliopoulos – Yes; Vice Mayor Fetzer – Yes; Mr. McDuffie – Yes. Said motion passed with a 4 to 0 vote.

**9.L. APPOINTMENTS TO THE PARKING MANAGEMENT ADVISORY BOARD:** Appoint three (3) regular members to the Parking Management Advisory Board to serve two (2) year terms ending January 31, 2010. Based upon the rotation system, the appointments will be made by Commissioner Fetzer (Seat #2), Commissioner McDuffie (Seat #3) and Commissioner Montague (Seat #4).

Vice Mayor Fetzer stated he wished to appoint Bonnie Beer to the Parking Management Advisory Board as a regular member. Mrs. Montague so moved, seconded by Mr. McDuffie. Upon roll call the Commission voted as follows: Mr. Eliopoulos – Yes; Vice Mayor Fetzer – Yes; Mr. McDuffie – Yes; Mrs. Montague – Yes. Said motion passed with a 4 to 0 vote.

Mr. McDuffie moved to appoint Mark Denkler to the Parking Management Advisory Board as a regular member to serve a two (2) year term ending January 31, 2010, seconded by Mr. Eliopoulos. Upon roll call the Commission voted as follows: Vice Mayor Fetzer – Yes; Mr. McDuffie – Yes; Mrs. Montague – Yes; Mr. Eliopoulos – Yes. Said motion passed with a 4 to 0 vote.

Mrs. Montague moved to appoint Cecelia Boone to the Parking Management Advisory Board as a regular member to serve a two (2) year term ending January 31, 2010, seconded by Mr. McDuffie. Upon roll call the Commission voted as follows: Mr. McDuffie – Yes; Mrs. Montague – Yes; Mr. Eliopoulos – Yes; Vice Mayor Fetzer – Yes. Said motion passed with a 4 to 0 vote.

**9.M. APPOINTMENT TO THE POLICE ADVISORY BOARD:** Appoint one (1) regular member to the Police Advisory Board to serve a two (2) year term ending December 13, 2009. Based upon the rotation system, the appointment will be made by Commissioner Montague (Seat #4).

Mrs. Montague moved to appoint Sinam Al-Khafaji to the Police Advisory Board as a regular member to serve a two (2) year term ending December 13, 2009, seconded by Mr. Eliopoulos. Upon roll call the Commission voted as follows: Mrs. Montague – Yes; Mr. Eliopoulos – Yes; Vice Mayor Fetzer – Yes; Mr. McDuffie – Yes. Said motion passed with a 4 to 0 vote.

**12. FIRST READINGS:**

**12.A. NONE.**

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

**13.A. City Manager**

The City Manager stated with regard to the Palm Beach County League of Cities Board Meeting, there is an animal control ordinance that the County Commission will be considering about the voluntary spade and neutering that will charge a higher fee if you do not have your pet spade or neutered unless you are a hobby breeder. The League Board considered the ordinance and agreed to support it. The City Manager stated the ordinance will be Countywide in its application but individual cities have the option to opt out if they choose to do so. The Board also agreed to file an amicus brief in the West Palm Beach case over the construction of their new City Hall facilities.

He stated the Florida League of Cities Action Day this year falls on the fourth Wednesday in March 2008 (03/26/08).

The City Manager stated he worked on a memorandum regarding the fiscal constraints the City is now facing. He thought it would be interesting and informative to look back and see how the City staffing has changed during his tenure as City Manager. The City Manager stated he compared the staffing in 1990 with the staffing today and commented that the City's population in that time period has gone up about 36%; the City's total staffing has gone up 24%; General Fund staffing has increased 21% and is broken down by department. The City Manager stated he will send an email and hard copy to the City Commission and noted that almost all the growth has been in direct line departments those being Parks and Recreation, Police & Fire Department (primarily), and Environmental Services. The City Manager stated the City's supporting administrative staff is basically the same or a little smaller even though the City has grown. The City Manager stated this is something worth discussing with people who may feel that the City is overstaffed because in his opinion, the City is not overstaffed.

**13.B.**            **City Attorney**

Brian Shutt, Assistant City Attorney, had no comments or inquiries on non-agenda items.

**13.C.**            **City Commission**

**13.C.1.**         **Mr. Eliopoulos**

Mr. Eliopoulos stated he received a comment at his School Advisory Committee Meeting last night regarding the shop on Atlantic Avenue displaying ladies lingerie. He does not necessarily have an issue about what he saw but it definitely made him aware of what could happen and asked whether the City has something in place to prohibit something like that.

Secondly, he commented about the New England Patriots football game.

**13.C.2.**         **Mr. McDuffie**

Mr. McDuffie stated a couple of months ago he tuned in to the City's local PBS Station (Channel 42) and caught the beginning of the Bowfire Concert which blew him away. He stated when Channel 42 went to their fundraiser there was Joe Gillie and the Old School Square staff so he called in and bought tickets. Mr. McDuffie stated the concert was almost a marriage of Riverdance with stringed instruments because they dance, sing, and play simultaneously. Mr. McDuffie stated this is another example of the entertainment and the quality job that staff around the City provides. Mr. McDuffie stated Old School Square should be proud and noted the attendance was approximately 1,000 or more. He stated this was a magnificent performance and noted that he and Commissioner Montague were recognized by Joe Gillie and because of that, after the performance a lady who was seated in front of him asked if there was any way to get the performance moved to London. In addition, the couple seated beside him was from Dade County. Mr. McDuffie stated many people were touched from many different locations. He stated this is just another example of a fantastic job by Old School Square.

Secondly, he stated at the Commission Workshop Meeting Commissioner Fetzer had asked him about the Little League. Mr. McDuffie stated he is 95% certain that we will have one Little League for this coming season. He stated people are working together so well and those involved in youth sports have wanted this for quite some time. Mr. McDuffie commended the Presidents, Boards, and Directors of both Leagues; however, they still need some financial help to bridge the gap between the player fees and the two organizations. He stated initially the gap was \$70 per player and has now been narrowed down a bit. Mr. McDuffie stated he spoke to the City Manager today about the potential of infield removable signage and he would like to see the City pursue this. He stated there is a limitation fundraising of one sponsor per team and that does not cover the fee to play the game.

**13.C.3.**        **Mrs. Montague**

Mrs. Montague reminded everyone that Dr. Martin Luther King, Jr.'s Birthday is Monday, January 21, 2008 and noted there is a number of celebrations right here in Delray Beach and she is hoping everyone is available to attend. She stated she has participated in the past and the celebrations are both moving and inspirational. Mrs. Montague stated there is a processional at Mt. Olive on Sunday, a breakfast at the Spady Museum on Monday morning at 8:00 a.m., and the March is in the afternoon.

**13.C.4.**        **Vice Mayor Fetzer**

Vice Mayor Fetzer stated with regard to comments expressed by Commissioner McDuffie regarding the Little Leagues, he feels this would be a good story to report on because these are Little Leagues that have operated separately for fifty (50) years and to bring these Leagues together is a wonderful example of community unity.

Mr. McDuffie stated this would be a great human interest story and this is going to be a positive thing for the City and the residents. Mr. McDuffie stated he and the City Manager were talking about a T-Ball Group that the City is currently sponsoring right now which is part of Delray American and there may be some funding available from that. He stated they are looking to do the outfield vinyl coated canvass signs to put on the inside of the outfield fence. Mr. McDuffie stated anything the City can do with regard to some modification of the sign ordinance to be able to deal with signage would be helpful. He stated this would eliminate the one-to-one sponsorship and noted that the League is going to field 38 teams. Mr. McDuffie stated this is limited to 38 sponsors and the sponsors will not fund it without substantial contributions from the players and their parents. He stated as a part of the Little League Charter no player can be refused entrance for lack of the ability to pay.

There being no further business, Mayor Ellis declared the meeting adjourned at 8:11 p.m.

  
\_\_\_\_\_  
City Clerk

ATTEST:

  
\_\_\_\_\_  
MAYOR

The undersigned is the City Clerk of the City of Delray Beach, Florida, and the information provided herein is the Minutes of the Regular City Commission Meeting held on January 15, 2008, which Minutes were formally approved and adopted by the City Commission on February 5, 2008.

  
\_\_\_\_\_  
City Clerk

**NOTE TO READER:**

If the Minutes you have received are not completed as indicated above, this means they are not the official Minutes of the City Commission. They will become the official Minutes only after review and approval which may involve some amendments, additions or deletions as set forth above.