

City of Delray Beach

Regular Commission Meeting



RULES FOR PUBLIC PARTICIPATION

Tuesday, August 5, 2008

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.**
5. **APPROVAL OF MINUTES:**
 - A. July 15, 2008 – Regular Meeting
 - B. July 22, 2008 – Special/Workshop Meeting
 - C. July 29, 2008 – Special Meeting
6. **PROCLAMATIONS:**
 - A. Florida Water Professional Week – August 4-8, 2008
 - B. Fire Fighter Appreciation Month – August 2008
7. **PRESENTATIONS:**
 - A. Solid Waste Authority Recycling Program Award Presentation
 - B. **RESOLUTION NO. 22-08:** Approve Resolution No. 22-08 recognizing and commending **Ellen Wickert** for 35 years of dedicated service to the City of Delray Beach.
 - C. Plaque presentation to **Chief Schroeder**
8. **CONSENT AGENDA:** City Manager Recommends Approval.
 - A. **REQUEST FOR SIDEWALK DEFERRAL/590 S. OCEAN BOULEVARD:**
Approve a request to defer the installation of a sidewalk along Bucida Road for property located at 590 South Ocean Boulevard.
 - B. **ACCEPTANCE OF RIGHT-OF-WAY DEDICATION/135 N.E. 1ST AVENUE:**
Approve and accept a right-of-way deed between the City and Maria C. Robles, associated with the improvements at 135 N.E. 1st Avenue, located at the southeast corner of N.E. 1st Avenue and N.E. 2nd Street, within the Old School Square Historic District.
 - C. **ACCEPTANCE OF WATER EASEMENT DEED/5TH AVENUE AT DELRAY BUILDING:** Approve and accept a water easement deed for installation of a fire hydrant on the west side of N.E. 5th Avenue for the 5th Avenue at Delray Building.

- D. **CONTRACT CLOSEOUT (C.O. NO. 1/FINAL)/WEST CONSTRUCTION INC./ENVIRONMENTAL SERVICES ADMINISTRATION FACILITY:** Approve a Contract Closeout (C.O. No. 1/Final) in the amount of a \$92,025.93 decrease, and final payment in the amount of \$74,201.17 to West Construction Inc. for the completion of the Environmental Services Administration Facility. Funding is available from 441-5161-536-62.32 (Water/Sewer Fund/Buildings/ESD Building Expansion and 334-6111-519-62.32 (General Construction Fund/Capital Outlay/ESD Building Expansion).
- E. **CONTRACT CLOSEOUT (C.O. NO. 1/FINAL)/RANDOLPH & DEWDNEY CONSTRUCTION, INC./FIRE STATION NO. 1 WIND RETROFIT:** Approve a Contract Closeout (C.O. No. 1/Final) in the amount of a \$10,000.00 decrease and final payment in the amount of \$6,937.87 to Randolph & Dewdney Construction Inc. for the completion of the Fire Station #1 Wind Retrofit. Funding is available from 334-2311-522-62.87 (General Construction Fund/Buildings/Storm Hardening).
- F. **CONTRACT ADDITION/GLATTING JACKSON KERCHER ANGLIN/OLD SCHOOL SQUARE PARK EXPANSION PROJECT:** Approve a Contract Addition in an amount not to exceed \$25,000.00 to Glatting Jackson Kercher Anglin for additional planning consulting services in conjunction with the Old School Square Park Expansion Project. Funding is available from 334-4151-572-63.59 (General Construction Fund/Improvements Other/Old School Square Park-Park Improvements).
- G. **FLORIDA DIVISION OF EMERGENCY MANAGEMENT/OLD SCHOOL SQUARE WINDOW REPLACEMENT:** Approve and authorize the Mayor to execute an agreement with the Florida Division of Emergency Management for the installation of 227 impact resistant glass windows at Old School Square. Funding is available from 334-6112-519-46.90 (General Construction Fund/Other Repair/Maintenance Costs).
- H. **COMMERCIAL/INDUSTRIAL DEMAND REDUCTION RIDER AGREEMENT/FLORIDA POWER & LIGHT COMPANY/POLICE DEPARTMENT:** Approve a Commercial/Industrial Demand Reduction Rider Agreement between the City and Florida Power & Light Company, to allow the City to save approximately \$4,742.00 on the annual cost of electricity for the Police Department.
- I. **ACCOUNT NUMBER CORRECTION/CSX TRANSPORTATION, INC.:** Approve an account number correction for an agreement with CSX Transportation, Inc. in an estimated amount of \$7,000.00 for preliminary engineering to extend the length of the gate arms at S.W. 10th Street and Lake Ida Road to meet Federal Railroad Administration (FRA) Quiet Zone requirements. Funding is available from 334-3162-541-31.30 (General Construction Fund/Professional Services/Engineering/Architectural Services).

- J. **ACCOUNT NUMBER APPROVAL/BID AWARD/STUART AND SHELBY DEVELOPMENT-GULFSTREAM ROOFING/135 N.W. 5th AVENUE:**
Approval of an account number to a bid award with Stuart and Shelby Development-Gulfstream Roofing in the amount of \$610,723.00 for the rehabilitation of 135 N.W. 5th Avenue by the Community Redevelopment Agency (CRA). Funding is available from 118-1930-554-49.19 (Community Development Fund/Housing Rehabilitation).
- K. **SUB-RECIPIENT HOUSING PARTNERSHIP AGREEMENT/DELRAY BEACH COMMUNITY LAND TRUST, INC.:** Approve the Sub-Recipient Housing Partnership Agreement between the City and the Delray Beach Community Land Trust, Inc. for the purposes of subsidizing the costs associated with affordable housing units within the Community Land Trust.
- L. **AMENDED AGREEMENT/GULFSTREAM GOODWILL INDUSTRIES:**
Approve an amended agreement between the City and Gulfstream Goodwill Industries for funding and acceptance of funds reducing the award amount from \$70,730.00 to \$46,730.00 for providing services to ex-offenders returning to targeted neighborhoods within the City of Delray Beach.
- M. **MOTOROLA SERVICE AGREEMENT:** Approve a service agreement between the City and Motorola in the amount of \$122,960.88 providing that Motorola will service the City's portable radios and the equipment used for the City's dispatch system FY 2009. Funding is available from various FY 08-09 departmental budgets.
- N. **RATIFICATION OF APPOINTMENTS TO THE PARKING MANAGEMENT ADVISORY BOARD:** Approve and ratify the reappointments of Mr. Peter Arts, Community Redevelopment Agency Representative (alternate member) and Mr. David Cook, Chamber of Commerce Representative (regular member) to the Parking Management Advisory Board for terms ending July 31, 2010.
- O. **RESOLUTION NO. 30-08:** Approve Resolution No. 30-08 assessing costs for abatement action required for the demolition of an unsafe structure located at 509 Curlew Road.
- P. **INTERLOCAL AGREEMENT/PALM BEACH COUNTY:** Approve an Interlocal Agreement between the City and Palm Beach County for increased patrol of the waterways for manatee protection. Palm Beach County will reimburse the City in the amount of \$82.50 per hour of patrolling for this project.
- Q. **HOUSING REHABILITATION GRANT/CONTRACT AWARD:** Approve a request for increased funding in the amount of \$605.75 for a total of \$37,130.00 for a housing rehabilitation project located at 712 S.W. 8th Court. Funding is available from 118-1924-554-49.20 (Neighborhood Services/Other Current Charges/Homeowner Subsidy).

- R. **AMENDMENT NO. 2 TO INTERLOCAL AGREEMENT/PALM BEACH WORKFORCE DEVELOPMENT CONSORTIUM:** Approve Amendment No. 2 to the Interlocal Agreement creating the Palm Beach County Workforce Development Consortium, allowing the consortium to provide direct services.
- S. **AMENDMENT NO. 1 TO MUNICIPAL GOLF COURSE MANAGEMENT AGREEMENT/BJCE, INC.:** Approve Amendment No. 1 to the Municipal Golf Club and Lakeview Golf Club management agreement between the City and BJCE, Inc. dated October 1, 2004 extending the contract to September 30, 2012.
- T. **AMENDMENT NO. 1 TO THE TENNIS CENTER MANAGEMENT AGREEMENT/DUBIN AND ASSOCIATES:** Approve Amendment No. 1 for the Delray Beach Municipal Tennis Center and Delray Swim and Tennis Club management agreement between the City and Dubin and Associates, Inc. dated October 1, 2004, extending the contract to September 30, 2012.
- U. **PARKING LICENSE AGREEMENT/THE AVENUE BAR & GRILL d/b/a 32 EAST:** Consider approval of a parking license agreement with The Avenue Bar & Grill d/b/a 32 East which amends the language in Paragraph 16, "Assignment" to provide that the agreement may be assigned with the express written consent of the City Manager or his/her designee; and also combines the agreements entered into on April 1, 2007 and April 1, 2008 to provide for one complete agreement.
- V. **LETTER OF AGREEMENT WITH THE ANTI-DEFAMATION LEAGUE (ADL)/DIVERSITY MAP PROJECT:** Approve a letter of agreement with the Anti-Defamation League (ADL) for funding in the amount of \$5,000.00 in order to proceed with the Diversity Map Project.
- W. **SPECIAL EVENT REQUEST/14TH ANNUAL DOWNTOWN DELRAY CRAFT FESTIVAL:** Approve a special event request to endorse the 14th Annual Downtown Delray Craft Festival sponsored by Howard Alan Events, Ltd. to be held October 11-12, 2008 from 10:00 a.m. to 5:00 p.m., to grant a temporary use permit per LDR Section 2.4.6(F) for the closure and use of N.E. 2nd Avenue from the alley just north of Atlantic Avenue to approximately 400 feet north of N.E. 3rd Street, to utilize City Hall parking lot for vendor parking, to authorize staff support for traffic control and security; contingent on the receipt of a hold harmless agreement and the certificate of liability insurance.
- X. **SPECIAL EVENT REQUEST/9TH ANNUAL DOWNTOWN DELRAY BEACH THANKSGIVING WEEKEND ART FESTIVAL:** Approve a special event request for the 9th Annual Downtown Delray Beach Thanksgiving Weekend Art Festival to be held on November 29, 2008 through November 30, 2008 from 10:00 a.m. until 5:00 p.m., to grant a temporary use permit per LDR Section 2.4.6(F) for the use of N.E. 2nd Avenue from the alley just north of Atlantic Avenue to approximately 400 feet north of N.E. 3rd Street, to utilize the City Hall parking lot for vendor parking, and to authorize staff support for traffic control, barricading, security, and Fire Inspector with the sponsor paying all overtime costs, contingent upon receipt of an executed hold harmless agreement and certificate of liability insurance.

Y. **REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:**
Accept the actions and decisions made by the Land Development Boards for the period July 14, 2008 through August 1, 2008.

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

1. Bid award to BSA Corporation in the amount of \$25,000.00 for the replacement of 5,400 1" x 1/4" bolts at the Tennis Stadium with stainless steel bolts. Funding is available from 334-4145-572-46.90 (General Construction Fund/Other Repair/Maintenance Costs).
2. Contract Award to J.W. Chetham, LLC. in the amount of \$215,396.00 for construction of the Environmental Services Department new entrance. Funding is available from 441-5161-536-68.24 (Water & Sewer Fund/ESD-Access Rd/Property Ln).
3. Purchase award to Agilent Technologies in the amount of \$17,950.50 for the purchase of a Gas Chromatography Mass Spectrophotometer Analytical Instrument Upgrade for the Water Treatment Plant's Compliance Lab. Funding is available from 442-5178-536-64.90 (Water & Sewer Renewal & Replacement Fund/Other Machinery and Equipment).
4. Purchase award to Digital Patroller in the amount of \$48,625.00 for ten (10) digital in-car audio/visual recording systems for the Police Department. Funding is available from 334-2111-521-64.90 (General Construction Fund/Other Machinery/Equipment).
5. Purchase award to Florida Bullet in the amount of \$32,026.10 for the purchase of ammunition in preparation for next year's training and firearms qualifications for the Police Department. Funding is available from 001-2111-521-52.20 (General Fund/General Operating Supplies).
6. Purchase award to Mainline Supply Company in the amount of \$42,767.20 for various piping materials to be installed by the City's in-house construction crew for the Palm Trail Neighborhood Water Main Improvement Project. Funding is available from 442-5178-536-65.73 (Water & Sewer Renewal & Replacement Fund/Other Improvements/Palm Trail Neighborhood).
7. Purchase award to Fluid Conservation Systems in the amount of \$21,630.00 for water main leak detection equipment. Funding is available from 442-5178-536-65.73 (Water & Sewer Renewal & Replacement Fund/Repair & Maintenance Service/Other Repair/Maintenance Cost).

9. **REGULAR AGENDA:**

- A. **WAIVER REQUEST/CEMEX/RINKER:** Consider a waiver request for Cemex/Rinker, located at 1700 West Atlantic Avenue, from Code of Ordinances Section 54.06 (b)(2), which requires that total above ground fuel storage shall be less than 40,000 gallons and that no one above ground fuel tank be larger than 6,000 gallons at a site (15,000 gallons proposed). (*Quasi-Judicial Hearing*)

- B. **REQUEST FOR IN-LIEU PARKING SPACES/HAMMAD SHOPPES:** Consider a request from Hammad Shoppes for the purchase of four (4) in-lieu parking spaces in the amount of \$16,000.00 to accommodate the construction of additional interior floor area. Hammad Shoppes is located at 139 N.W. 5th Avenue. (*Quasi-Judicial Hearing*)
- C. **CONDITIONAL USE REQUEST/CHURCH OF GOD OF DELRAY BEACH:** Consider a conditional use request to allow the conversion of a two-story duplex residence to accommodate eight (8) meeting rooms for the Church of God of Delray Beach, located at 410 S.W. 2nd Street. (*Quasi-Judicial Hearing*)
- D. **REVISIONS TO RISK MANAGEMENT POLICY:** Consider approval of a revision to the Risk Management Policy regarding Bodily Injury, Property Damage & Worker's Compensation Claims and Litigation and Settlement Authority.
- E. **APPOINTMENT OF PERSON TO FILL UNEXPIRED TERM OF COMMISSIONER MONTAGUE:** Appoint a person to fill the unexpired term of Commissioner Montague (Seat #4) until the March 10, 2009 Municipal Election.
- F. **REQUEST TO ADVANCE COUNTY FUNDING/ROOTS CULTURAL FESTIVAL, INC.:** Consider approval of an agreement between the City and Palm Beach County to provide advance funding in the amount of \$10,000, for Roots Cultural Festival, Inc. which will be reimbursed to the City through Palm Beach County grants. Funding is available from 001-1111-511-48.10 (General Fund/Special Events).
- G. **APPOINTMENTS TO THE PLANNING & ZONING BOARD:** Appoint four (4) regular members to the Planning & Zoning Board to serve a two (2) year term ending August 31, 2010. Based upon the rotation system, the appointments will be made by Mayor Ellis (Seat #5), Commissioner Eliopoulos (Seat #1), Commissioner Fetzer (Seat #2), and Commissioner McDuffie (Seat #3).
- H. **APPOINTMENTS TO THE HISTORIC PRESERVATION BOARD:** Appoint five (5) regular members to the Historic Preservation Board. Based upon the rotation system, the appointments will be made by Mayor Ellis (Seat #5), Commissioner Eliopoulos (Seat #1), Commissioner Fetzer (Seat #2), Commissioner McDuffie (Seat #3) and Mayor Ellis (Seat #5).
- I. **APPOINTMENT TO THE DOWNTOWN DEVELOPMENT AUTHORITY:** Appoint one (1) regular member to the Downtown Development Authority (DDA) to serve a three (3) year term ending July 1, 2011. Based upon the rotation system, the appointment will be made by Commissioner McDuffie (Seat #3).
- J. **APPOINTMENT TO THE EDUCATION BOARD:** Appoint one (1) regular member to the Education Board to serve an unexpired term ending July 31, 2009. Based upon the rotation system, the appointment will be made by Commissioner Eliopoulos (Seat #1).

- K. **APPOINTMENT TO THE BUDGET TASK FORCE:** Appoint one (1) regular member to the Budget Task Force to serve a one (1) year term ending July 31, 2009. Based upon the rotation system, the appointment will be made by Mayor Ellis (Seat #5).
- L. **APPOINTMENT TO THE PUBLIC EMPLOYEES RELATIONS COMMISSION:** Appoint one (1) alternate member to the Public Employees Relations Commission to serve an unexpired term ending August 31, 2010. Based upon the rotation system, the appointment will be made by Commissioner McDuffie (Seat #3).

10. **PUBLIC HEARINGS:**

- A. **ORDINANCE NO. 28-08:** Privately initiated amendment to the Land Development Regulations (LDR), by amending Section 2.2.6(D), "Duties, Powers, And Responsibilities"; Section 4.5.1(J), "Historic Preservation Board To Act On Variance Requests", to provide that appeals of decisions of the Historic Preservation Board regarding variances shall be to the City Commission.
- B. **ORDINANCE NO. 31-08:** An ordinance amending Chapter 51, "Garbage and Trash" of the Code of Ordinances by amending Section 51.01, "Definitions", Section 51.16, "Exceptions in Certain Areas and for Certain Types of Collection Services", Section 51.19, "Industrial and Hazardous Waste Disposal", Section 51.20, "Building Materials", Section 51.35, "Containers Required for Residential and Commercial Sites", Section 51.37, "Use of Other Units and Containers", to clarify certain definitions and terms regarding recycling and roll-off containers to provide that they are consistent with State Law and the City's Franchise Agreement; amending Section 51.45, "Construction and Demolition Sites", to provide for the Non-Exclusive Collection Of Construction and Demolition Debris and to provide for regulations governing such collection.
- C. **ORDINANCE NO. 36-08 (FIRST READING/FIRST PUBLIC HEARING):** City initiated amendment to the Land Development Regulations (LDR) by amending Section 1.3.8 "Reconstruction Necessitated by an Act of God", Subsection (A) to provide for the ability to rebuild the pre-existing square footage as an additional circumstance in the event of destruction by an act of God . If passed, a second public hearing will be held on August 19, 2008.
- D. **ORDINANCE NO. 33-08 (FIRST READING/FIRST PUBLIC HEARING):** City initiated amendment to the Land Development Regulations (LDR) Section 4.5.9, "The Southwest Neighborhood Overlay District", Subsection 4.5.9(A), "Defined" and Article 4.7 "Family/Workforce Housing", Section 4.7.1, "Definitions", Subsection 4.7.1(p), "Southwest Neighborhood Overlay District," to modify the description and provide for expansion of the Southwest Neighborhood Overlay District. If passed, a second public hearing will be held on August 19, 2008.

- E. **ORDINANCE NO. 32-08:** An ordinance amending Chapter 35, “Employee Policies and Benefits”, Subheading “Retirement Plan”, of the Code of Ordinances by amending Section 35.097, “Retirement Income; Basis, Amount and Payment”, providing up to one (1) additional year of credited service for certain employees who elect to terminate City employment and retire on or before September 30, 2008.

- F. **ORDINANCE NO. 34-08 (FIRST READING/FIRST PUBLIC HEARING):** City initiated amendment to the Land Development Regulations (LDR) amending Section 4.6.7, “Signs”, Subsection (H), "Exempt Signs", Sub-subsection (10), “Temporary Signs”, to clarify when temporary non-commercial signs placed on the public right-of-way or on private property require the owner’s permission. If passed, a second public hearing will be held on August 19, 2008.

- G. **RESOLUTION NO. 27-08/CONTRACT FOR SALE AND PURCHASE OF PROPERTY/COMMUNITY LAND TRUST:** Consider approval of Resolution No. 27-08 authorizing the City to transfer/sell City owned property, located at 315 S.W. 3rd Avenue, to be utilized for affordable housing purposes; and approve Contract for Sale and Purchase between the City and the Delray Beach Community Land Trust, Inc. in the amount of \$10.00.

- H. **ORDINANCE NO. 35-08 (FIRST READING/FIRST PUBLIC HEARING):** City initiated amendment to the Land Development Regulations (LDR) amending Appendix “A”, “Definitions”, to provide clarification of the regulation pertaining to “Tree Trust Fund.” If passed, a second public hearing will be held on August 19, 2008. ***(ALTHOUGH THIS ORDINANCE HAS BEEN ADVERTISED, IT HAS BEEN WITHDRAWN)***

- 12. **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: AUGUST 1, 2008