

# City of Delray Beach

## Regular Commission Meeting

**\*\*\*AGENDA RESULTS\*\*\***



### **RULES FOR PUBLIC PARTICIPATION**

**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.

Tuesday, January 20, 2009

Regular Meeting 6:00 p.m.  
Public Hearings 7:00 p.m.  
Commission Chambers  
Delray Beach City Hall

- 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.** (Mayor Ellis and Commissioner McDuffie absent)
2. **INVOCATION.**
3. **PLEDGE OF ALLEGIANCE TO THE FLAG.**
4. **AGENDA APPROVAL.** (Deputy Vice Mayor Eliopoulos noted Item 8.B., Final Subdivision Plat Approval/Centres Delray Beach was moved to the Regular Agenda as Item 9.A.A.; Item 8.K., Temporary Parking Use Termination/Pineapple Grove, Ltd., was postponed; Item 8.P.1., Contract Award to Conserv Building Services was moved to the Regular Agenda as Item 9.A.A.A.; City Attorney stated a bid protest has been filed for Item 8.P.3., Contract award to Beck's Towing & Recovery, Inc.; Item 9.B., Waiver Request/Worthing Place, was postponed; Item 9.D., Old School Square Park Phase One Final Design/Glatting Jackson Kercher Anglin, Inc., was postponed; Item 9.E., Red Light Camera Vendor Selection was postponed. Approved as amended, 3-0).
5. **APPROVAL OF MINUTES:**
  - A. January 6, 2009 – Regular Meeting (Approved, 3-0)
6. **PROCLAMATIONS:**
  - A. None
7. **PRESENTATIONS:**
  - A. S.P.I.R.I.T. (Service, Performance, Integrity, Responsibility, Innovation, Teamwork) Committee Quarterly Awards Presentation
  - B. Zion Study Circle Group—Shelly Weil
8. **CONSENT AGENDA:** City Manager Recommends Approval. (Approved as amended, 3-0)
  - A. **RATIFICATION OF INTERLOCAL AGREEMENT AND APPROVAL OF TEMPORARY CONSTRUCTION EASEMENT/CITY OF BOYNTON BEACH/SOUTH CENTRAL REGIONAL WASTEWATER TREATMENT AND DISPOSAL BOARD:** Approve and ratify an Interlocal Agreement between the South Central Regional Wastewater Treatment and Disposal Board (SCRWTDDB) and the City of Boynton Beach which allows for construction and transferring ownership of a regional force main; and approve a Temporary Construction Easement between the City and the City of Boynton Beach.
  - B. **(MOVED TO ITEM 9.A.A. ON THE REGULAR AGENDA)**
  - C. **RESOLUTION NO. 09-09/ABANDONMENT OF RIGHT-OF-WAY:** Approve and adopt Resolution No. 09-09 abandoning a portion of the N.E. 6<sup>th</sup> Avenue (northbound Federal Highway) right-of-way in conjunction with the Centres Delray Beach plat (CVS Pharmacy site), located at the northwest corner of N.E. 7<sup>th</sup> Street and N.E. 6<sup>th</sup> Avenue.

- D. **STREET LIGHTING AGREEMENT/FLORIDA POWER & LIGHT COMPANY:** Approve and authorize the execution of a Street Lighting Agreement with Florida Power & Light Company (FPL) in the amount of \$26,954.83 for the removal of twenty-four (24) concrete light poles on Atlantic Avenue between S.W. 12th Avenue and S.W. 6th Avenue. Funding provided by the Community Redevelopment Agency (CRA).
- E. **CONTRACTOR PREQUALIFICATION PROCEDURE:** Approve the implementation of a Contractor Prequalification Procedure which would require contractors to become prequalified with the City before they would be allowed to submit bids on certain types of construction projects.
- F. **GRANT AGREEMENT AND AMENDMENT NO. 1 TO QUALITY TRANSPORT AGREEMENT/DOWNTOWN ROUNDABOUT SHUTTLE:** Approve and authorize the Mayor to execute a Grant Agreement with Palm Beach County for the acceptance of funds in an amount not to exceed \$90,000.00 over a three (3) year period; and to execute Amendment No. 1 to the Agreement with Quality Transport Services, Inc. for expansion of the Downtown Roundabout Shuttle Route 1A.
- G. **MEMORANDUM OF UNDERSTANDING/PALM BEACH COUNTY/LAW ENFORCEMENT EXCHANGE:** Approve a Memorandum of Understanding with law enforcement agencies in Palm Beach County who participate in an information sharing initiative known as the Law Enforcement Exchange (LEX).
- H. **AMENDMENT NO. 2/TRI-PARTY OPERATING AGREEMENT/MIRACLE LEAGUE FIELD:** Approve Amendment No. 2 to the Tri-Party Operating Agreement between the City, Miracle League of Delray Beach, Inc. and Anthony V. Pugliese, III, to extend the term to complete construction from two (2) years to four (4) years from the execution of the Agreement.
- I. **REIMBURSEMENT AGREEMENT/MIRACLE LEAGUE OF DELRAY BEACH, INC.:** Approve a Reimbursement Agreement between the City and Miracle League of Delray Beach, Inc. in the amount of \$250,000.00 for construction costs of the Miracle League Field.
- J. **ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING CHOICE/DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT:** Approve the Analysis of Impediments to Fair Housing Choice (AI) required by the United States Housing & Urban Development Department (HUD) for utilization of federal grant funds.
- K. **TEMPORARY PARKING USE TERMINATION/PINEAPPLE GROVE, LTD.:** Authorize submitting notification to Pineapple Grove, LTD., owners of the vacant property located at 105-115 N.E. 1st Street, that the City has vacated the property and will no longer use it for temporary parking.

- L. **DONATION/COMMUNITY NEIGHBORHOOD HELPING, INC.:** Approve the donation of two (2) used City Crown Victoria cars to Community Neighborhood Helping, Inc.
- M. **ACCEPTANCE OF RIGHT-OF-WAY DEDICATION/S.W. 7<sup>TH</sup> AVENUE:** Approve and accept a right-of-way deed between the City and Carolyn Young, for property located along the east side of S.W. 7<sup>th</sup> Avenue.
- N. **SPECIAL EVENT REQUEST/4<sup>TH</sup> ANNUAL LYMPHOMATHON 5K WALK:** Approve a special event request to endorse the 4<sup>th</sup> Annual Lymphomathon 5K Walk to be held on Saturday, March 28, 2009 beginning at 5:30 a.m., for set up, until approximately 10:00 a.m., to grant a temporary use permit per LDR Section 2.4.6(F) for the use of Anchor Park and the sidewalks along A-1-A, to authorize staff support for traffic control and to waive parking fees in the Anchor Park lot from 7:00 a.m. to approximately 10:00 a.m.; contingent upon the receipt of a hold harmless agreement and certificate of event liability insurance.
- O. **REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:** Accept the actions and decisions made by the Land Development Boards for the period January 5, 2009 through January 16, 2009.
- P. **AWARD OF BIDS AND CONTRACTS:**
  - 1. **(MOVED TO ITEM 9.A.A.A. ON THE REGULAR AGENDA)**
  - 2. Contract award to Pristine Water Solutions in an estimated amount of \$110,000.00 for the remainder of FY 08-09 for the purchase and delivery of Poly Phosphate at \$1.29 per pound. Funding is available from 441-5122-536-52.21 (Water and Sewer Fund/Operating Supplies/Chemicals).
  - 3. Contract award to Beck's Towing & Recovery, Inc. with annual franchise fees to be paid to the City in the amount of \$162,400.00 for wrecker/towing services for the Police Department. **(Bid Protest has been filed)**

9. **REGULAR AGENDA:**

- A.A. **FINAL SUBDIVISION PLAT APPROVAL/CENTRES DELRAY BEACH:** Approve a final subdivision plat for Centres Delray Beach, a two (2) lot retail site associated with a proposed CVS Pharmacy Development, located between N.E. 6<sup>th</sup> Avenue (northbound Federal Highway) and N.E. 5<sup>th</sup> Avenue (southbound Federal Highway), south of N.E. 8<sup>th</sup> Street (George Bush Boulevard). **(Approved, 3-0)**
- AA.A. Contract award to ConServ Building Services in the amount of \$46,894.00 for City Hall HVAC Systems repair. Funding is available from 334-6112-519-64.90 (General Construction Fund/Other Machinery/Equipment). **(Approved, 3-0)**

- A. **WAIVER REQUEST/PUGLIESE OFFICE BUILDING:** Consider a request for waiver of Land Development Regulations (LDR) Section 4.6.7(E)(7), “Design Standards Matrix”, for signs on the Pugliese Office Building located at 101 Pugliese Way. *(Quasi-Judicial Hearing)* (Motion to adopt Board Order as presented; Approved, 3-0)
- B. **WAIVER REQUEST/WORTHING PLACE:** Consider a request to waive Land Development Regulations (LDR) Section 4.3.3(OO)(1)(f), “Generators”, to allow generators to operate the full capacity of the equipment being served for a reduced period not less than forty-eight (48) hours for the property located south of Atlantic Avenue immediately south of Worthing Park, between S.E. 1<sup>st</sup> and 2<sup>nd</sup> Avenues. *(Quasi-Judicial Hearing)* (POSTPONED to February 3, 2009 Regular City Commission Meeting; Approved, 3-0)
- C. **SITE PLAN EXTENSION REQUEST/ROBOTIC SPACE SAVERS:** Consider a request to extend the site plan with SAD (Special Activities District) approval to construct a self-storage facility for Robotic Space Savers, located on the southwest corner of Military Trail and Conklin Drive. *(Quasi-Judicial Hearing)* (Motion to adopt Board Order as presented; Approved, 3-0)
- D. **OLD SCHOOL SQUARE PARK PHASE ONE FINAL DESIGN/GLATTING JACKSON KERCHER ANGLIN, INC.:** Consider approval of a proposal from Glattig Jackson Kercher Anglin Inc. in the amount of \$140,700.00 for professional services related to the final design of the Old School Square Park Phase One project. Funding is available from 334-4151-572-63.59 (General Construction Fund/Improvements Other/Old School Square-Park Improvements). (POSTPONED to February 3, 2009 Regular City Commission Meeting; Approved, 3-0)
- E. **RED LIGHT CAMERA VENDOR SELECTION:** Provide direction regarding Red Light Camera Vendor Selection. (POSTPONED to February 3, 2009 Regular City Commission Meeting; Approved, 3-0)
- F. **SETTLEMENT OFFER IN SHARMAR FRANKLYN v. CITY OF DELRAY BEACH:** Consider a Settlement Offer in the total amount of \$17,500.00 in Sharmar Franklyn v. City of Delray Beach. Staff recommends approval subject to the receipt of the appropriate releases. (Approved, 3-0)
- G. **SPECIAL MEETING DATE/INDEPENDENT REVIEW PERSON:** Setting a special meeting date for the selection of a person to conduct independent review of City bonding procedures, practices and communication practices. (Motion to have Special Meeting at 5:30 p.m. on January 27, 2009, 3-0)
- H. **APPOINTMENT TO THE CODE ENFORCEMENT BOARD:** Appoint one (1) regular member to the Code Enforcement Board for a three (3) year term ending January 14, 2012. Based upon the rotation system, the appointment will be made by Commissioner Fetzler (Seat #2). (Appointed Albert Richwagen and approved, 3-0)

I. **APPOINTMENT TO THE NEIGHBORHOOD ADVISORY COUNCIL:**  
Appoint one (1) regular member to the Neighborhood Advisory Council to serve an unexpired term ending July 31, 2010. Based upon the rotation system, the appointment will be made by Mayor Ellis (Seat #5). (Commissioner Eliopoulos' appointment deferred to February 3, 2009)

J. **APPOINTMENTS TO THE PARKING MANAGEMENT ADVISORY BOARD:** Appoint two (2) Citizens-at-Large Representatives to the Parking Management Advisory Board to serve two (2) year terms ending July 31, 2011. Based upon the rotation system, the appointments will be made by Commissioner Eliopoulos (Seat #1) and Commissioner Fetzer (Seat #2). (Commissioner Fetzer's appointment deferred to February 3, 2009)

10. **PUBLIC HEARINGS:**

A. **ORDINANCE NO. 01-09 (SECOND READING/SECOND PUBLIC HEARING):** City initiated amendments to the Land Development Regulations (LDR) Section 4.3.3, "Special Requirements for Specific Uses", Subsection (A), "Self-Service Storage Facilities (SSSF)" and Subsection (J), "Gasoline Station", to revise and/or clarify parking requirements for these uses; Section 4.4.13, "Central Business (CBD) District", Section 4.4.17, "Residential Office (RO) District", Section 4.4.24, "Old School Square Historic Arts District (OSSHAD)", Section 4.4.28, "Central Business District-Railroad Corridor (CBD-RC)", and Section 4.4.29, "Mixed Residential, Office and Commercial (MROC) District", to change the parking requirements for business and professional offices within these zoning districts and to expand the area subject to special parking requirements within the CBD zoning district; amending Section 4.6.9, "Off-Street Parking Regulations", to modify how fractions are rounded, to change the parking requirements for business and professional offices and to clarify the parking requirements for other uses; amending Appendix "A", "Definitions", to enact new definitions for "Gross Floor Area" and "Net Floor Area". (Approved, 3-0)

B. **ORDINANCE NO. 02-09 (FIRST READING/FIRST PUBLIC HEARING):** Privately initiated amendment to the Land Development Regulations (LDR) Section 4.7, "Family/Workforce Housing", by enacting a new Subsection 4.7.9(o), to allow non-eligible occupants to occupy workforce housing units under certain conditions. If passed, a second public hearing will be held on February 3, 2009. (Approved with Recommendation No. 2, Approved, 3-0)

C. **ORDINANCE NO. 03-09:** City initiated amendment to the Land Development Regulations (LDR) Section 8.5.1, "Establishment of Public Arts Program," to provide that the City may contribute funds through the Public Arts Program to other entities in order to help fund public art. (Approved, 3-0)

11. **COMMENTS AND INQUIRIES ON NON-AGENDA ITEMS FROM THE PUBLIC- IMMEDIATELY FOLLOWING PUBLIC HEARINGS.**

- A. City Manager's response to prior public comments and inquiries.
- B. From the Public.

12. **FIRST READINGS:**

- A. **ORDINANCE NO. 04-09:** City initiated ordinance amending Chapter 32, "Departments, Boards and Commissions", Section 32.09, "Expiration of Terms; Commencement of Terms", in order to substitute "Board of Adjustment" for "Board of Construction Appeals" and to update the references to other Boards. If passed, a public hearing will be held on February 3, 2009. (Approved, 3-0)
- B. **ORDINANCE NO. 05-09:** City initiated ordinance amending Ordinance No. 43-03 in order to include a new study regarding retail-only adult entertainment establishments in the legislative history of the ordinance. If passed, a public hearing will be held on February 3, 2009. (Approved, 3-0)

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

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

POSTED: JANUARY 16, 2009

**\*\*\*\*\* Meeting adjourned at 7:24 p.m. \*\*\*\*\***