

City of Delray Beach

Regular Commission Meeting

AGENDA RESULTS



RULES FOR PUBLIC PARTICIPATION

Tuesday, May 6, 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.** (Mayor Ellis and Commissioner McDuffie absent)
2. **INVOCATION.**
3. **PLEDGE OF ALLEGIANCE TO THE FLAG.**
4. **AGENDA APPROVAL.** (Vice Mayor noted a Title change for Item 8.J., Bid Award/Stuart and Shelby Development-Gulfstream Roofing/135 N.W. 5th Avenue; Additional information (Board Order) for Item 9.C., Conditional Use Request/Villages Parc; Additional information (Board Order) for Item 9.D., Reconsideration of Special Action Request/Office Depot/CVS Pharmacy Building and this item was postponed to the June 3, 2008 Regular Commission Meeting; Item 8.F., Old School Square Park Expansion Phase One Master Site Plan/Glatting Jackson Kercher Anglin, Inc., was moved to the Regular Agenda as Item 9.A.A.; Item 9.D., Reconsideration of Special Action Request/Office Depot/CVS Pharmacy Building was postponed due to a request from applicant to the June 3, 2008 Regular Commission Meeting and Item 9.E., Waiver Requests/Office Depot/CVS Pharmacy Building Developmental Proposal was postponed due to a request from applicant to the June 3, 2008 Regular Commission Meeting; Approved as amended, 3-0)
5. **APPROVAL OF MINUTES:**
 - April 15, 2008 – Regular Meeting (Approved, 3-0)
6. **PROCLAMATIONS:**
 - A. Recognizing and commending **Melissa Backus – Administration/Recreation Division** - Parks and Recreation Department Employee of the Year for 2007; **Luigi Pratt – Ocean Rescue Division and Dexter Hazel – Parks Maintenance Division** as Parks and Recreation Top Employees of the Year for 2007.
 - B. Recognizing Delray Intracoastal Cruise Tours – Joe & Kerry Reardon
 - C. Emergency Medical Services Week – May 18-24, 2008
 - D. Therapy Dog Awareness Day – May 10, 2008
 - E. P.A.N.D.O.R.A.'s Neuroendocrineimmune Disorders Awareness Day - May 12, 2008
7. **PRESENTATIONS:**
 - A. S.P.I.R.I.T. (Service, Performance, Integrity, Responsibility, Innovation, Teamwork) Committee Employee Awards Presentation
 - B. Special Recognition Award –Level 5 Fitness and Conditioning
 - C. Special Recognition Award – Dot Bast
 - D. Historic Preservation Board Awards Recognition

8. **CONSENT AGENDA:** City Manager Recommends Approval. (Approved as amended, 3-0)
- A. **RATIFICATION OF THE SOUTH CENTRAL REGIONAL WASTEWATER TREATMENT AND DISPOSAL BOARD ACTION:** Approve and ratify the action of the South Central Regional Wastewater Treatment and Disposal Board at their Quarter Annual Meeting of April 17, 2008.
 - B. **REQUEST FOR SIDEWALK DEFERRAL/501 PALM TRAIL:** Approve a request to defer the installation of a sidewalk for 501 Palm Trail.
 - C. **EASEMENT AGREEMENT/FLORIDA POWER & LIGHT/SEACREST SOCCER COMPLEX:** Approve an easement agreement between the City and Florida Power & Light, to grant access to the property described in “Exhibit A” for a pad mounted transformer for the Seacrest Soccer Complex.
 - D. **EASEMENT AGREEMENT/FLORIDA POWER & LIGHT/FIRE STATION NO. 4:** Approve an easement agreement between the City and Florida Power & Light, to grant access to the property described in “Exhibit A” for a pad mounted transformer for Fire Station No. 4.
 - E. **HOLD HARMLESS AGREEMENT/DEPOT INDUSTRIAL CENTER, LLC/HISTORIC DEPOT SQUARE:** Approve and authorize a Hold Harmless Agreement between the City and Depot Industrial Center, LLC., for work to be performed within the State right-of-way.
 - F. **(MOVED TO ITEM 9.A.A. ON THE REGULAR AGENDA)**
 - G. **RESOLUTION NO. 14-08/REIMBURSEMENT RESOLUTION:** Approve and adopt Resolution No. 14-08 which allows the City to be reimbursed from future borrowing for expenses relative to parking meter equipment.
 - H. **SPECIAL EVENT REQUEST/2008 EXCLUSIVE SPORTS MARKETING VOLLEYBALL TOURNAMENT:** Approve a request from Exclusive Sports Marketing for the 2008 Exclusive Sports Marketing Volleyball Tournaments to be held at the municipal beach on May 17 to May 18, 2008 and July 19 to July 20, 2008.
 - I. **AMENDMENT NO. 1/INTERLOCAL AGREEMENT/COMMUNITY REDEVELOPMENT AGENCY/135 N.W. 5th AVENUE:** Approve Amendment No. 1 to the Interlocal Agreement between the City and the Community Redevelopment Agency (CRA) for construction/renovations to 135 N.W. 5th Avenue.
 - J. **BID AWARD/STUART AND SHELBY DEVELOPMENT-GULFSTREAM ROOFING/135 N.W. 5th AVENUE:** Approve a bid award to Stuart and Shelby Development/Gulfstream Roofing in the amount of \$610,723.00 for the rehabilitation of 135 N.W. 5th Avenue contingent upon approval by the Community Redevelopment Agency (CRA).

- K. **PROPOSED BUDGET SUBMISSION/CHILDREN'S SERVICE COUNCIL (CSC)/BEACON CENTER AT VILLAGE ACADEMY:** Authorize staff to submit the proposed budget funding request for Fiscal Year 2008/2009 to the Children's Service Council of Palm Beach County in the amount of \$807,460.00 for the program and services associated with the Beacon Center at Village Academy.
- L. **SPECIAL EVENT REQUEST/ART AND JAZZ ON THE AVENUE:** Approve a special event request for the Art and Jazz on the Avenue to be held on June 26, 2008, from 6:00 p.m. to 10:00 p.m., granting a temporary use permit per LDR Section 2.4.6(F) for the closure of Atlantic Avenue from Swinton to the west side of NE/SE 7th Avenue, Railroad Avenue from Atlantic north to north side of the east/west alley, and to the alleys north and south of Atlantic on NE/SE 1st Avenue, NE/SE 2nd Avenue, SE 3rd Avenue, NE/SE 4th Avenue, and the Tennis Center Parking lot and to authorize staff support for security and traffic control, EMS assistance, banner hanging and removal, barricade set up and removal, trash removal and clean up; contingent upon receipt of a hold harmless agreement.
- M. **REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:** Accept the actions and decisions made by the Land Development Boards for the period April 14, 2008 through May 2, 2008.
- N. **AWARD OF BIDS AND CONTRACTS:**
1. Bid award to Ron Bell Roofing, Inc. in the amount of \$37,200.00 for the re-roofing of Fire Station No. 3. Funding is available from 334-6112-522-46.15 (General Construction Fund/Roof Repair-Fire Station).
 2. Bid award to Ron Bell Roofing, Inc. in the amount of \$95,900.00 for the re-roofing of the former engineering office space. Funding is available from 442-5178-536.62-10 (Water & Sewer Renewal & Replacement Fund/Buildings/Buildings).
 3. Rescind contract award to APC Systems in the amount of \$302,610.00 and award contract to North Star Technical Services, Inc. in the amount of \$227,500.00 for the purchase and installation of specialty equipment for the new Information Technology (IT) Building under Florida State Contract #250-000-03-1 Funding is available from 334-6112-519-62.85 (General Construction Fund/Capital Outlay/City Hall Exp-IT Building).
 4. Purchase award to AT&T Business, in the amount of \$50,515.29 for software/hardware upgrades to the Nortel Option 11C PBX System located in both the Police Department and City Hall. Funding is available from 001-1802-512-66.10 (General Fund/Books & Publication/Software), 001-1802-512-64.11 (General Fund/Machinery & Equipment/Computer Equipment), 001-2111-521-66.10 (General Fund/Police/Books & Publication/Software) and 001-211-521-64.11 (General Fund/Police/Machinery & Equipment/Computer Equipment).

9. **REGULAR AGENDA:**

- A.A. **SERVICE AUTHORIZATION NO. 07-01/MOCK, ROOS & ASSOCIATES:** Approve Service Authorization No. 07-01 to Mock, Roos & Associates in the amount of \$95,000.00 for the final design permitting and bidding of the Intracoastal Waterway Educational Passive Park. Funding is available from 119-4151-572-68.35 (Beautification Trust Fund/Other Improvements/ Intracoastal Waterway Educational Passive Park). (Motion to **TABLE**; Approved, 3-0)
- A. **WAIVER REQUEST/ED MORSE CADILLAC:** Consider a request for waiver of Land Development Regulations (LDR), Section 2.4.6(F), “Temporary Use Permit”, allowing the installation of a 1,728 square foot temporary modular building for Ed Morse Cadillac located at 2300 South Federal Highway. (*Quasi-Judicial Hearing*) (Motion to adopt Board Order as presented; Approved, 3-0)
- B. **WAIVER REQUEST/DELRAY MAZDA:** Consider a request for waiver of Land Development Regulations (LDR), Section 4.6.7(E)(7), “Sign Design Standards”, allowing two (2) flat wall signs on the west elevation of the Delray Mazda property located at 2001 South Federal Highway. (*Quasi-Judicial Hearing*) (Motion to adopt Board Order as presented; Approved, 3-0)
- C. **CONDITIONAL USE EXTENSION REQUEST/VILLAGE PARC:** Consider a request to extend the conditional use allowing an increase in the residential density in excess of 12 dwelling units per acre (17.8 proposed) pursuant to Land Development Regulations (LDR) Section 4.7, “Family/Workforce Housing”, associated with the construction of a stand alone residential development containing 104 townhome units. (*Quasi-Judicial Hearing*) (Motion to adopt Board Order as presented; Approved, 3-0)
- D. **RECONSIDERATION OF SPECIAL ACTION REQUEST/OFFICE DEPOT/CVS PHARMACY BUILDING:** Consider a request for reconsideration to reduce the parking spaces required pursuant to Land Development Regulations (LDR) Section 4.6.9(C)(3)(A), “Requirements for Commercial Uses”, by 56 spaces (from the 155 parking spaces required to the 99 spaces provided), for the Office Depot – CVS Building located at 700 N.E. 6th Avenue. (*Quasi-Judicial Hearing*) (Motion to **POSTPONE** Items 9.D. and 9.E. to the June 3, 2008 Regular Commission Meeting; Approved, 3-0)
- E. **WAIVER REQUESTS/OFFICE DEPOT/CVS PHARMACY BUILDING DEVELOPMENT PROPOSAL:** Consider three (3) waiver requests to waive Land Development Regulations (LDR) Sections 4.6.14 (A)(1) and (2), “Visibility at Intersections”, to reduce the required visibility triangle on the south side of the intersection of the driveway to N.E. 5th Avenue from 20’ to 15’; and to reduce the required visibility triangles at the intersections of N.E. 5th Avenue and N.E. 8th Street and at N.E. 6th Avenue and N.E. 7th Street from 40’ to 30’. (*Quasi-Judicial Hearing*) (Motion to **POSTPONE** Items 9.D. and 9.E. to the June 3, 2008 Regular Commission Meeting; Approved, 3-0)

- F. **OLD SCHOOL SQUARE PARK EXPANSION PHASE ONE MASTER SITE PLAN/GLATTING JACKSON KERCHER ANGLIN, INC.:** Consider approval for Glattig Jackson Kercher Anglin Inc. to proceed with design of the Old School Square Park Expansion Phase One based on the proposed master site plan. (Motion to **POSTPONE** until the May 13, 2008 Special/Workshop Meeting; Approved, 3-0)
- G. **RESOLUTION NO. 16-08/MID YEAR BUDGET AMENDMENT:** Consider approval of Resolution No. 16-08 amending Resolution No. 55-07 adopted September 18, 2007, which made appropriations of sums of money for all necessary expenditures of the City of Delray Beach for the FY 2007/2008, by setting forth the anticipated revenues and expenditures for the operating funds of the City for FY 2007/2008. (Approved 3-0)
- H. **PROPOSED AMENDMENT/IN-LIEU PUBLIC PARKING FEES:** Consider whether to proceed with a City initiated amendment to the Land Development Regulations (LDR) Sections 4.6.9(E)(3) and (4) to increase current in-lieu and public parking fees, pursuant to LDR Section 2.4.5(M)(5). The associated map, LDR Section 4.6.9(E)(3)(b), would also be amended to reflect the increased fees. (Consensus of the Commission to bring this back in six (6) months)
- I. **AGREEMENT/WIFI SERVICES/E-PATH COMMUNICATIONS OF DELRAY BEACH:** Consider approval to terminate the contract with E-Path Communications of Delray Beach in accordance with contract requirements and to seek an immediate termination upon obtaining a waiver of contractual requirements if possible. (Motion to terminate the contract with E-Path Communications of Delray Beach; Approved, 3-0)
- J. **SETTLEMENT OFFER IN ROBERT HAUPTFUHRER v. CITY OF DELRAY BEACH:** Consider a Settlement Offer in the total amount of \$25,000.00 in Robert Hauptfuhrer v. City of Delray Beach. Staff recommends approval subject to the receipt of the appropriate releases. (Motion to approve; Approved 3-0)
- K. **OFFER OF JUDGEMENT IN HEATHER LEITCH v. CITY OF DELRAY BEACH:** Consider an Offer of Judgment for the total amount of \$100,000.00 in Heather Leitch v. City of Delray Beach. Staff recommends denial. (Motion to approve; **DENIED**, 3-0)
- L. **AUTHORIZATION TO OPT OUT OF A CLASS ACTION LAWSUIT/ADDISON AND PETIT V. CITY OF TAMPA:** Consider a request for authorization to opt out of a Class Action Lawsuit entitled, Addison and Petit v. City of Tampa. (Motion to approve; Approve 3-0)
- M. **APPOINTMENT TO THE BOARD OF ADJUSTMENT:** Appoint one (1) alternate member to the Board of Adjustment to serve an unexpired term ending August 31, 2009. Based upon the rotation system, the appointment will be made by Mayor Ellis (Seat #5). (**DEFERRED** to the May 20, 2008 Regular Commission Meeting)

- N. **APPOINTMENT TO THE DELRAY BEACH HOUSING AUTHORITY:**
 Appoint one (1) regular member to the Delray Beach Housing Authority for an unexpired term ending July 14, 2010. Based upon the rotation system, the recommendation for appointment will be made by Commissioner Eliopoulos (Seat #1).
(Appointed Russell Yeager and approved, 3-0)
- O. **APPOINTMENT TO THE PARKING MANAGEMENT ADVISORY BOARD:** Appoint one (1) regular member to the Parking Management Advisory Board to serve an unexpired term ending January 31, 2010. Based upon the rotation system, the appointment will be made by Commissioner Eliopoulos (Seat #1).
(Appointed John Gergen and approved, 3-0)
10. **PUBLIC HEARINGS:**
- A. **ORDINANCE NO. 17-08 (FIRST READING/TRANSMITTAL HEARING FOR COMPREHENSIVE PLAN AMENDMENT 2008-1):** Consider on first reading an ordinance adopting Comprehensive Plan Amendment 2008-1 and associated Future Land Use Map (FLUM) amendments, and authorize transmittal to the State Department of Community Affairs. Amendment 2008-1 includes the Text Amendment and Future Land Use Map Amendment. ***(THIS ORDINANCE IS REQUESTED TO BE POSTPONED TO COME BACK AS A PUBLIC HEARING ON MAY 20, 2008)*** *(POSTPONED to the May 20, 2008 Regular Meeting; Approved, 3-0)*
- B. **ORDINANCE NO. 31-07 (SECOND READING/SECOND PUBLIC HEARING):** Privately initiated amendment to the Land Development Regulations amending Section 4.4.24, “Old School Square Historic Arts District (OSSHAD)”, Subsection 4.4.24(B), “Principal Uses and Structures”, to include an additional property that is allowed the permitted uses of the Central Business District (CBD) Zoning District; amending Subsection 4.4.24(F), “Development Standards”, to include an additional property in the Old School Square Historic Arts District (OSSHAD) that is subject to the standards of the Central Business District (CBD) Zoning District. ***(APPLICANT HAS REQUESTED POSTPONEMENT TO JUNE 3, 2008 REGULAR MEETING)***. *(POSTPONED due to a request from applicant to the June 3, 2008 Regular Meeting; 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. 08-08:** An ordinance repealing, in its entirety, Chapter 57, "Right-of-Way Application Process For Communications Facilities", of the Code of Ordinances and enacting a new Chapter 57, "Communications Facilities in Public Rights-of-Way", to provide the terms and conditions for the erecting, constructing, and maintaining of a communications facility in the City's public right-of-way for the provision of communications service. If passed, a public hearing will be scheduled for May 20, 2008. (Approved, 3-0)
- B. **ORDINANCE NO. 21-08:** An ordinance amending Chapter 36, "Finance; City Property Transactions", Section 36.01, "Compliance With Standard Practice Instructions", by providing that bidding for Community Development Block Grant projects shall be included as an exception from the Standard Practice Instruction. If passed, a public hearing will be scheduled for May 20, 2008. (Approved, 3-0)

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

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

POSTED: MAY 2, 2008

******* Meeting adjourned at 8:20 p.m. *******