

City of Delray Beach

Regular Commission Meeting

*****AGENDA RESULTS*****



RULES FOR PUBLIC PARTICIPATION

Tuesday, August 3, 2010

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

1. PUBLIC COMMENT: The public is encouraged to offer comments with the order of presentation being as follows: City Staff, public comments, Commission discussion and official action. City Commission meetings are business meetings and the right to limit discussion rests with the Commission. **Generally, remarks by an individual will be limited to three minutes or less.** The Mayor or presiding officer has discretion to adjust the amount of time allocated.

- A.** Public Hearings: Any citizen is entitled to speak on items under this section.
- B.** Comments and Inquiries on Non-Agenda Items from the Public: Any citizen is entitled to be heard concerning any matter within the scope of jurisdiction of the Commission under this section. The Commission may withhold comment or direct the City Manager to take action on requests or comments.
- C.** Regular Agenda and First Reading Items: Public input on agendaed items, other than those that are specifically set for a formal public hearing, shall be allowed when agreed by consensus of the City Commission.

2. SIGN IN SHEET: Prior to the start of the Commission Meeting, individuals wishing to address public hearing or non-agendaed items should sign in on the sheet located on the right side of the dais. If you are not able to do so prior to the start of the meeting, you may still address the Commission on an appropriate item. The primary purpose of the sign-in sheet is to assist staff with record keeping. Therefore, when you come up to the podium to speak, please complete the sign-in sheet if you have not already done so.

3. ADDRESSING THE COMMISSION: At the appropriate time, please step up to the podium and state your name and address for the record. All comments must be addressed to the Commission as a body and not to individuals. Any person making impertinent or slanderous remarks or who becomes boisterous while addressing the Commission shall be barred by the presiding officer from speaking further, unless permission to continue or again address the Commission is granted by a majority vote of the Commission members present.

APPELLATE PROCEDURES

Please be advised that if a person decides to appeal any decision made by the City Commission with respect to any matter considered at this meeting, such person will need to ensure that a verbatim record includes the testimony and evidence upon which the appeal is based. The City neither provides nor prepares such record.

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The City will furnish auxiliary aids and services to afford an individual with a disability an opportunity to participate in and enjoy the benefits of a service, program, or activity conducted by the City. Contact Doug Smith at 243-7010, 24 hours prior to the event in order for the City to accommodate your request. Adaptive listening devices are available for meetings in the Commission Chambers.

1. **ROLL CALL.**
2. **INVOCATION.**
3. **PLEDGE OF ALLEGIANCE TO THE FLAG.**
4. **AGENDA APPROVAL.** (Mayor McDuffie noted Item 8.B., Initiation of Comprehensive Plan Amendment 2010-1, was moved to the Regular Agenda as Item 9.A.A; Item 8.I.A(f), Future Land Use Element, was moved to the Regular Agenda as Item 9.A.A.A.; Item 8.I.C., Future Land Use Map Amendment, was moved to the Regular Agenda as Item 9.A.A.A.A.; Item 8.J.1., Contract Award to Danvers Consulting and Research Firm, was moved to the Regular Agenda as Item 9.A.A.A.A.A.; Approved as amended, 5-0)
5. **APPROVAL OF MINUTES:**
 - A. July 13, 2010 – Special/Workshop Meeting (Approved, 5-0)
 - B. July 20, 2010 – Regular Meeting (Approved, 5-0)
6. **PROCLAMATIONS:**
 - A. None
7. **PRESENTATIONS:**
 - A. 24th Annual Delray Citizens for Delray Police Scholarship Presentation - Perry DonFrancisco
8. **CONSENT AGENDA:** City Manager Recommends Approval. (Approved as amended, 5-0)
 - A. **RATIFICATION OF SOUTH CENTRAL REGIONAL WASTEWATER TREATMENT AND DISPOSAL BOARD ACTIONS:** Approve and ratify actions of the South Central Regional Wastewater Treatment and Disposal Board at their Quarterly Meeting of July 15, 2010.
 - B. **(MOVED TO ITEM 9.A.A. ON THE REGULAR AGENDA)**
 - C. **RESOLUTION NO. 40-10:** Approve Resolution No. 40-10 supporting the Beach Renourishment Project.
 - D. **CONTRACT CLOSEOUT (CHANGE ORDER NO. 1/FINAL)/ MANCIL'S TRACTOR SERVICE, INC.:** Approve a Contract Closeout (C.O. No. 1/Final) in the amount of a \$13,286.59 decrease and final payment in the amount of \$1,042.20 to Mancil's Tractor Service, Inc., for completion of the Barwick Road Sidewalk Project #2009-033. Funding is available from 334-3162-541-63.11 (General Construction Fund: Improvement Buildings-Bikepaths-Sidewalks).

- E. **DISASTER RECOVERY INITIATIVE (DRI)/HOUSING REHABILITATION GRANT/CONTRACT AWARDS:** Approve two (2) Housing Rehabilitation grant awards for projects located at 336 S.W. 8th Avenue to CJ Contracting, LLC, in the amount of \$20,931.55 and 303 S.W. 2nd Avenue to David Thyng, LLC, in the amount of \$32,987.10, the lowest responsive bidders, for housing rehabilitation under the Disaster Recovery Initiative (DRI) Program. Funding is available from 118-1960-554-49.19 (Neighborhood Services/Other Current Charges/Housing Rehabilitation).
- F. **PROPOSED MILLAGE RATE/DOWNTOWN DEVELOPMENT AUTHORITY:** Accept the Downtown Development Authority's *proposed* millage rate for FY 2011.
- G. **INTERLOCAL AGREEMENT/PALM BEACH COUNTY/SHARED USE OF COUNTY FIBER NETWORK:** Approve an Interlocal Agreement between the City and Palm Beach County for shared use of the County's Fiber Network. Funding to be available in the FY 2010-11 budget.
- H. **SPECIAL EVENT REQUEST/SUMMER NIGHTS ON THE AVENUE:** Approve a special event request for the Summer Nights on the Avenue to be held from 7:00 p.m. to 10:00 p.m. on September 3, 2010; granting a temporary use permit per LDR Section 2.4.6(F) for the closure of A1A from south of Atlantic Avenue to the southern boundary of Boston's on the Beach and approve staff support for security, traffic control and barricading.
- I. **REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:** Accept the actions and decisions made by the Land Development Boards for the period July 19, 2010 through July 30, 2010. **(MOVED TO ITEM 9.A.A.A. and 9.A.A.A.A. ON THE REGULAR AGENDA)**
- J. **AWARD OF BIDS AND CONTRACTS:**
1. **(MOVED TO ITEM 9.A.A.A.A.A. ON THE REGULAR AGENDA)**
9. **REGULAR AGENDA:**
- AA. **INITIATION OF COMPREHENSIVE PLAN AMENDMENT 2010-1:** Formally initiate additional items for inclusion in Comprehensive Plan Amendment 2010-1 pursuant to Section 9.2.1 of the Land Development Regulations. *(Commissioner Eliopoulos filed a Conflict of Interest and left the dais. Motion to approve; Approved 4-0)*
- AAA. Future Land Use Element – Modification of the description of the GC (General Commercial) Future Land Use designation to identify specific uses and intensities (FARs) for development within a proposed overlay district for the Lintco property on the north side of Linton Boulevard, west of SW 4th Avenue. *(Commissioner Eliopoulos filed Conflict of Interest and left dais. Motion to approve; Approved, 4-0)*

- AAAA. Recommended approval (6 to 0), of a Future Land Use Map amendment from MD (Medium Density Residential 5-12 du/ac) to GC (General Commercial) and rezoning from RM (Medium Density Residential) to GC (General Commercial) for Lintco Development, located at the northwest corner of Linton Boulevard and SW 4th Avenue. (Commissioner Eliopoulos filed Conflict of Interest and left dais. Motion to approve; Approved, 4-0)
- AAAAA. Contract award to Danvers Consultation and Research Firm in the amount of \$30,000.00 for a city wide street light audit to verify historic Florida, Power and Light (FPL) billings and to identify potential credits due to the city. Funding is available from 001-3142-541-31.90 (General Fund/Street Lighting/Other Professional Services). (Motion to table until the August 10, 2010 Special/Workshop Meeting; Approved, 5-0)
- A. **CONDITIONAL USE REQUEST/NEW CENTURY COURTYARDS:** Consider a conditional use request to allow a residential density of up to 22 dwelling units per acre (22 dwelling units per acre proposed) for a proposed mixed use development known as New Century Courtyards at Delray Beach, located on the west side of South Federal Highway, approximately 320 feet south of S.E. 10th Street and north of the Plaza at Delray. (*Quasi-Judicial Hearing*) (Motion to adopt board order as presented; Approved, 5-0)
- B. **PROPOSED MILLAGE RATE:** Consider approval of a *proposed* millage rate for FY 2011, and set the budget review and adoption schedule. (First Motion to set proposed millage rate at 7.59 mils. This motion died for lack of a second. Second Motion to set proposed millage rate at 7.41 mils; Approved, 4-1. Commissioner Frankel dissenting)
- C. **BID AWARD/CONSERV BUILDING, INC.:** Consider approval of a bid award to ConServ Building, Inc., third lowest bidder, in the amount of \$83,688.00 for a three (3) year maintenance and service contract for HVAC Chiller and Tracer Units located at City Hall and the Library beginning in FY 2010/2011. Funding to be available from 001-1802-512-46.20 (General Fund: Repair and Maintenance Service/Equipment Maintenance). (Motion to approve; Approved, 5-0)
- D. **DISSOLUTION OF BOCA RATON AVIATION ADVISORY COMMITTEE:** Commission direction regarding the proposed dissolution of the Boca Raton Aviation Advisory Committee. (Motion to keep committee in place and not to disband it; Approved, 5-0)
- E. **SETTLEMENT OFFER IN JOSEPH MITCHELL v. CITY OF DELRAY BEACH:** Consider a Settlement Offer in the total amount of \$17,500.00 in Joseph Mitchell v. City of Delray Beach. Staff recommends approval. (Motion to approve subject to appropriate releases; Approved, 5-0)
- F. **APPOINTMENT OF OUTSIDE COUNSEL/DAVID RICKS v. CITY OF DELRAY BEACH:** Consider approval to appoint Carson & Adkins, P.A. as outside counsel in the case of David Ricks v. City of Delray Beach at the rate of \$215.00 per hour. (Motion to approve; Approved, 5-0)

- G. **APPOINTMENT TO THE FINANCIAL REVIEW BOARD:** Appoint one (1) alternate member to the Financial Review Board to serve an unexpired term ending July 31, 2011. Based upon the rotation system, the appointment will be made by Commissioner Eliopoulos (Seat #1). (Appointed Cheryl Shaffner and approved, 5-0)
- H. **APPOINTMENT TO THE POLICE ADVISORY BOARD:** Appoint one (1) student member to the Police Advisory Board to serve a two (2) year term ending on July 31, 2012. Based upon the rotation system, the appointment will be made by Mayor McDuffie (Seat #5). (Appointed Brittany Smith and approved, 5-0)
- I. **APPOINTMENT TO THE EDUCATION BOARD:** Appoint one (1) regular member to the Education Board to serve a two year term ending July 31, 2012. Based upon the rotation system, the appointment will be made by Mayor McDuffie (Seat #5). (Mayor McDuffie deferred his appointment to the August 17, 2010 Regular Commission Meeting)
- J. **APPOINTMENT TO THE NEIGHBORHOOD ADVISORY COUNCIL:** Appoint one (1) student member to the Neighborhood Advisory Council to serve a one (1) year term ending July 31, 2011. Based upon the rotation system, the appointment will be made by Commissioner Fetzer (Seat #2). (Appointed Diane Ciuca and approved, 5-0)
10. **PUBLIC HEARINGS:**
- A. **PUBLIC COMMENTS/FY 2011 PROPOSED BUDGET:** The City Commission will hear public comments, if any, regarding the FY 2011 Proposed Budget at this time.
- B. **ORDINANCE NO. 12-10:** Consider a city initiated amendment to Appendix "A", "Definitions" of the Land Development Regulations (LDR) to revise the definition of "Pharmacy". (Staff has requested the item be postponed until the August 17, 2010 City Commission Meeting) (Motion to **POSTPONE**; Approved, 5-0)
- C. **ORDINANCE NO. 17-10: (FIRST READING/TRANSMITTAL HEARING FOR COMPREHENSIVE PLAN AMENDMENT 2010-1):** Consider on first reading an ordinance adopting Comprehensive Plan Amendment 2010-1 and associated Future Land Use Map (FLUM) amendments, and authorize transmittal to the State Department of Community Affairs. (Staff recommends that the City Commission postpone action on this item until August 17, 2010) (Motion to **POSTPONE**; Approved, 5-0)
- D. **ORDINANCE NO. 22-10:** An ordinance amending Chapter 51, "Garbage and Trash", of the Code of Ordinances in order to clarify certain terms and to provide consistency between the solid waste franchise agreement and City ordinances. (Motion to approve; Approved, 5-0)

1. **AMENDMENT NO. 4/WASTE MANAGEMENT FRANCHISE AGREEMENT:** Consider approval of Amendment No. 4 to the Waste Management Franchise Agreement. (First Motion to table this item to September 7, 2010; **Denied**, 3-2. Commissioner Eliopoulos and Commissioner Fetzer dissenting. Second Motion to approve Amendment No. 4; **Approved**, 3-2. Commissioner Eliopoulos and Commissioner Fetzer dissenting)

- E. **COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FIVE YEAR CONSOLIDATED PLAN FY 2010-2015 AND CONSOLIDATED ANNUAL ACTION PLAN FY 2010 - 2011:** Consider approval of the CDBG Five Year Consolidated Plan FY 2010-2015 and Consolidated Annual Action Plan FY 2010-11 as required by the United States Housing & Urban Development Department (HUD) for utilization of federal grant funds. (Motion to approve; **Approved**, 5-0)

- F. **RESOLUTION NO. 37-10/CONTRACT FOR SALE AND PURCHASE/2 S.W. 5TH AVENUE:** Consider approval of Resolution No. 37-10, a Contract for Sale and Purchase between the City and Community Redevelopment Agency (CRA) for the property located at 2 S.W. 5th Avenue in the amount of \$10.00. (Motion to approve; **Approved**, 5-0)
 1. **INTERLOCAL AGREEMENT/COMMUNITY REDEVELOPMENT AGENCY (CRA):** Consider approval of an Interlocal Agreement with the Community Redevelopment Agency (CRA) regarding West Atlantic Avenue Public Plaza (2 S.W. 5th Avenue); contingent upon approval of Resolution 37-10 and the Contract for Sale and Purchase. (Motion to approve; **Approved**, 5-0)

11. **COMMENTS AND INQUIRIES ON NON-AGENDA ITEMS FROM THE PUBLIC- IMMEDIATELY FOLLOWING PUBLIC HEARINGS.**
 - A. City Manager's response to prior public comments and inquiries.
 - B. From the Public.

12. **FIRST READINGS:**
 - A. None.

13. **COMMENTS AND INQUIRIES ON NON-AGENDA ITEMS.**
 - A. City Manager
 - B. City Attorney
 - C. City Commission

POSTED: JULY 30, 2010

******* Meeting adjourned at 9:00 p.m. *******

08/03/2010