

# City of Delray Beach

## Regular Commission Meeting

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



### RULES FOR PUBLIC PARTICIPATION

Tuesday, April 17, 2007

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 Randolph at 243-7127, 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 Fetzer absent)
2. **INVOCATION.**
3. **PLEDGE OF ALLEGIANCE TO THE FLAG.**
4. **AGENDA APPROVAL.** (Deputy Vice Mayor Montague noted Additional Information for Item 8.D, Agreement/Wi-Fi Services/Delray Beach Wi-Fi, Inc., which was moved to Item 9.A.A. under the Regular Agenda; Additional Information for Item 9.C, Waiver Request/Pineapple Grove Arts District; Revised Information for Item 9.D., Resolution No. 28-07 (State Housing Initiatives Partnership (SHIP) Local Housing Assistance Plan); Item 8.M, Palm Beach County/Matching Grant Application/Knowles Park Sculpture Project was moved to Item 9.A.A.A. under the Regular Agenda; Item 8.I., Interlocal Agreement/Palm Beach County/Miracle League Funding, was moved to Item 9.A.A.A.A. under the Regular Agenda; Approved as amended, 3-0)
5. **APPROVAL OF MINUTES:**
  - March 20, 2007 – Regular Meeting (Approved, 3-0)
  - April 3, 2007 – Regular Meeting (Approved, 3-0)
  - April 10, 2007 – Workshop Meeting (Approved, 3-0)
6. **PROCLAMATIONS:**
  - A. Municipal Clerk’s Week – April 29 - May 5, 2007
7. **PRESENTATIONS:**
  - A. 18th Annual Delaire/Delray Citizens for Delray Police Charity Golf Tournament Presentation to Police and Fire-Rescue - Perry DonFrancisco
  - B. City of Delray Beach Residents’ Academy Certificates – Janet Meeks
8. **CONSENT AGENDA:** City Manager Recommends Approval. (Approved as amended, 3-0)
  - A. **RESOLUTION NO. 27-07:** Approve Resolution No. 27-07 assessing costs for abatement action required for the emergency board-up of unsafe structures located at 106 & 108 NW 10<sup>th</sup> Avenue, 1127 Miramar Drive and 4869 Pineview Circle.
  - B. **HOLD HARMLESS AND LANDSCAPE MAINTENANCE AGREEMENT/OCEAN TERRACE TOWNHOMES:** Approve and accept a hold harmless and landscape maintenance agreement associated with the Ocean Terrace Townhomes project for the installation and maintenance of all irrigation, located on the west side of Palm Trail approximately 172 feet north of Bond Way.

- C. **AMENDMENT NO. 2/SERVICE AUTHORIZATION NO. 23/MATHEWS CONSULTING, INC.:** Approve Amendment No. 2 to Service Authorization No. 23 to Mathews Consulting, Inc. in the amount of \$28,068.00 for professional engineering services related to Homeowner's (HOA's) and property owner's connection to the Reclaimed Water Areas 2 & 3 Transmission Main Project. Funding is available from 441-5181-536-31.90 (Water/Sewer Fund/Other Professional Services).
- D. **(MOVED TO ITEM 9.A.A. ON THE REGULAR AGENDA).**
- E. **AGREEMENT/PALM BEACH COUNTY:** Approve an agreement between the City and Palm Beach County in order for the City to implement the Disaster Recovery Initiative (DRI) funding in connection with the demolition of Carver Estates.
- F. **HOUSING REHABILITATION GRANT/CONTRACT AWARDS:** Approve two (2) Housing Rehabilitation grant/contract awards through the Community Development Division in the amount of \$31,962.00 to I.Q. Construction, Inc. for 612 SW 9<sup>th</sup> Street and in the amount of \$27,919.50 to South Florida Construction for 32 SW 14<sup>th</sup> Avenue. Funding is available from 118-1963-554-49.19 (Community Development Fund/Housing Rehabilitation).
- G. **SUBORDINATION AGREEMENT FOR COMMUNITY DEVELOPMENT FUNDING RECIPIENT:** Authorize and approve subordination of the City's second mortgage in the amount of \$17,094.00 to allow the applicant to secure new financing.
- H. **INTERLOCAL AGREEMENT/PALM BEACH COUNTY SHERIFF'S OFFICE:** Approve an interlocal agreement between the City and the Palm Beach County Sheriff's Office for Urban Area Security Initiative (UASI) which will provide \$13,500.00 to the Delray Beach Police Department for a Viking Dry Suite and Emergency Trailer/Equipment.
- I. **(MOVED TO ITEM 9.A.A.A. ON THE REGULAR AGENDA).**
- J. **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 May 10, 2007, from 6:00 p.m. to 10:00 p.m., granting a temporary use permit per LDR Section 2.4.6(F) for street closure of Atlantic Avenue, from Swinton to the west side of N.E./S.E. 7<sup>th</sup> Avenue, Railroad Drive from Atlantic Avenue north to the north side of the east/west alley, and to the alleys north and south of Atlantic Avenue on N.E./S.E. 1<sup>st</sup> Avenue, N.E./S.E. 2<sup>nd</sup> Avenue, S.E. 3<sup>rd</sup> Avenue, N.E./S.E. 4<sup>th</sup> Avenue, and the Tennis Center parking lot; authorize staff support for security and traffic control, banner hanging and removal, barricade set up and removal, trash removal and clean up, and EMS assistance.

- K. **SPECIAL EVENT REQUEST/BED RACE:** Approve a special event request to allow the 10<sup>th</sup> Annual Bed Race and Street Dance to be held on May 18, 2007 from 5:30 p.m. until 10:00 p.m., granting a temporary use permit per LDR Section 2.4.6(F) for the use and closure of N.E. 2<sup>nd</sup> Avenue between N.E. 1<sup>st</sup> Street and N.E. 2<sup>nd</sup> Street, and N.E. 2<sup>nd</sup> Street east and west of N.E. 2<sup>nd</sup> Avenue to the alleys; authorize staff support for security and traffic control, barricading, use and set up of the small stage, and preparation and installation of event signage, and EMS assistance; contingent on the receipt of a hold harmless agreement and receipt of the certificate of liability insurance.
  
- L. **FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT)/JOINT PARTICIPATION AGREEMENT:** Approve A Joint Participation Agreement with the Florida Department of Transportation (FDOT) for the adjustment of the City owned and maintained utilities within the US 1 corridor between the C-15 Canal and Tropic Boulevard; the City will be required to pay the Florida Department of Transportation (FDOT) an estimated cost of \$18,483.20. Funding will be programmed to the FY 2007 – 2008 Capital Improvement Plan.
  
- M. **(MOVED TO ITEM 9.A.A.A. ON THE REGULAR AGENDA).**
  
- N. **RESOLUTION NO. 29-07/FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT)/LANDSCAPING COSTS:** Approve and adopt Resolution No. 29-07 authorizing execution of a Locally Funded Agreement (LFA) with the Florida Department of Transportation (FDOT) for funding in the amount of \$11,000.00 to offset irrigation and landscaping costs for the South Federal Highway Road Reconstruction Project, between the C-15 Canal and Tropic Boulevard.
  
- O. **REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:** Accept the actions and decisions made by the Land Development Boards for the period April 2, 2007 through April 13, 2007.
  
- P. **AWARD OF BIDS AND CONTRACTS:**
  - 1. Purchase award to Duval Ford in the amount of \$17,895.00 via the Florida Sheriff's Association Contract #06-14-0821 for the purchase of one (1) Ford F-250 Pick-up Truck. Funding is available from 501-3312-591-64.20 (Central Garage Fund/Automotive).

9. **REGULAR AGENDA:**

- A.A. **AGREEMENT/WIFI SERVICES/DELRAY BEACH WI-FI, INC.:** Approve an agreement between the City and Delray Beach WI-FI, Inc. for construction of a wi-fi system through out the entire City. (Motion to **POSTPONE** to May 1, 2007 Commission Meeting; Approved, 3-0)

- A.A.A. **PALM BEACH COUNTY/MATCHING GRANT APPLICATION/KNOWLES PARK SCULPTURE PROJECT:** Approve a Palm Beach County Public Art Improves Our Community Matching Grant Application for a proposed sculpture at Knowles Park, subject to receiving a grant from Palm Beach County. The Matching Grant Program is a 50% match and Palm Beach County will reimburse the City in an amount of \$25,000.00. Funding is available from the Public Arts Program. (Approved, 3-0)
- A.A.A.A. **INTERLOCAL AGREEMENT/PALM BEACH COUNTY/MIRACLE LEAGUE FUNDING:** Approve an interlocal agreement between the City and Palm Beach County for funding not to exceed \$250,000.00 from the 2002 Recreation and Cultural Facilities Bond for the Miracle League diamond at Miller Park. (Approve subject to conditions; Approved, 3-0)
- A. **APPEAL OF THE HISTORIC PRESERVATION BOARD'S DECISION/238 SOUTHEAST 7<sup>TH</sup> AVENUE:** Appeal of the Historic Preservation Board's decision approving a COA for construction of a two-story garage/guest suite addition at 238 Southeast 7<sup>th</sup> Avenue, located in the Marina Historic District. (*Quasi-Judicial Hearing*) (Commissioner Eliopoulos filed a Conflict of Interest. DEFERRED until May 1, 2007 Commission Meeting)
- B. **APPEAL OF THE HISTORIC PRESERVATION BOARD'S DECISION/706 SOUTHEAST 2<sup>ND</sup> STREET:** Appeal of the Historic Preservation Board's decision approving a COA for construction of a new single-family residence at 706 Southeast 2<sup>nd</sup> Street, located in the Marina Historic District. (*Quasi-Judicial Hearing*) (Motion to DEFER to May 1, 2007 Commission Meeting; Approved, 3-0.)
- C. **WAIVER REQUEST/PINEAPPLE GROVE ARTS DISTRICT:** Consider a request for waivers of Land Development Regulations (LDR) Sections 4.6.7(J)(1)(a) and (J)(2), "Banners and Wind Signs", prohibiting the use of banners as signs and off-premise signs, pursuant to the request by the agent for the Pineapple Grove Arts District. (*Quasi-Judicial Hearing*) (Motion to approve Board Order as set forth; Approved, 3-0)
- D. **RESOLUTION NO. 28-07 (STATE HOUSING INITIATIVES PARTNERSHIP (SHIP) LOCAL HOUSING ASSISTANCE PLAN):** Consider approval of Resolution No. 28-07 adopting the Local Housing Assistance Plan for Fiscal Years 2007-2010 pursuant to the State Housing Initiatives Partnership (SHIP) Program. (Approved, 3-0)
- E. **MARKETING/SELLING CITY RETAIL SPACES/OLD SCHOOL SQUARE GARAGE:** Discussion regarding three (3) proposals from Coastal Commercial Group, LLC, Bathurst Laymon Realty Group and Re/max on the sale of the retail space in the Old School Square garage. (Consensus of the Commission to see presentations of the three (3) proposals)

- F. **FIRST ANNUAL S.P.I.R.I.T. AWARDS BANQUET:** Provide direction regarding the First Annual S.P.I.R.I.T. Awards Banquet. (Consensus of the Commission to proceed with Benvenuto's)
- G. **AUTHORIZATION TO FILE A COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF AND/OR PETITION FOR GUARDIANSHIP OF A MINOR/ANTHONY HARRIS, FORMER CITY EMPLOYEE:** Consider a request authorizing the City to file a Complaint for Declaratory and Injunctive Relief and/or Petition for Guardianship of a Minor in the Circuit Court of Palm Beach County regarding the death benefit due under the General Employees Pension Plan as a result of the death of Anthony Harris, former City Employee. (Approved, 3-0)
- H. **APPOINTMENT TO THE BOARD OF ADJUSTMENT:** Appoint one (1) alternate member to the Board of Adjustment for an unexpired term ending August 31, 2007. Based upon the rotation system, the appointment will be made by Commissioner Fetzer (Seat #2). (DEFERRED to the May 1, 2007 Commission Meeting)
- I. **APPOINTMENT TO THE PLANNING AND ZONING BOARD:** Appoint one (1) regular member to the Planning and Zoning Board for an unexpired term ending August 31, 2007. Based upon the rotation system, the appointment will be made by Commissioner Montague (Seat #4). (Appointed Francisco Perez-Azua and approved 3-0)
- J. **APPOINTMENT TO THE POLICE AND FIREFIGHTERS RETIREMENT SYSTEM BOARD OF TRUSTEES:** Appoint one (1) regular member to the Police and Firefighters Retirement System Board of Trustees for a two (2) year term ending April 22, 2009. Based upon the rotation system, the appointment will be made by Commissioner Fetzer (Seat #2). (DEFERRED to the May 1, 2007 Commission Meeting)
10. **PUBLIC HEARINGS:**
- A. **DEVELOPER'S AGREEMENT/CANNERY ROW, LLC:** Consider approval of a development agreement with Cannery Row, LLC regarding the purchase and use of the Community Facility Property and the dedication of the Park Property located in the Cannery Row Development. (Commissioner Eliopoulos filed a Conflict of Interest. DEFERRED until May 1, 2007 Commission Meeting)
- B. **ORDINANCE NO. 15-07:** An ordinance amending Chapter 35, "Employee Policies and Benefits", Subheading "Retirement Plan", of the Code of Ordinances of the City of Delray Beach, Florida, by amending Section 35.097, "Retirement Income; Basis, Amount, and Payment", to provide an alternative method for purchasing the optional enhanced multiplier for periods of prior city employment. (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. 14-07:** City initiated amendments to the Land Development Regulations Subsections 4.6.7(H)(8), “Residential”, to provide additional clarification regarding residential real estate signs, (H)(9), “Window Signs”, to provide clarification regarding size of signs, and (H)(10), “Temporary Signs”, to prohibit temporary non-commercial signs in public rights of way contiguous to public property, and where allowed, to provide time limits for removal. If passed, a second public hearing will be scheduled for May 1, 2007. (Approved, 3-0)
- B. **ORDINANCE NO. 17-07:** An ordinance amending Chapter 35, “Employee Policies and Benefits”, Subheading “Retirement Plan”, of the Code of Ordinances of the City of Delray Beach, Florida, by amending Section 35.097, “Retirement Income; Basis, Amount, and Payment”, providing for direct rollovers to an individual retirement account by a non-spouse beneficiary. If passed, a second public hearing will be scheduled for May 1, 2007. (Approved, 3-0)

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

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

**POSTED: April 13, 2007**

**\*\*\*\*\* Meeting adjourned at 7:40 p.m. \*\*\*\*\***