

City of Delray Beach

Regular Commission Meeting



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, October 7, 2008

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.**
2. **INVOCATION.**
3. **PLEDGE OF ALLEGIANCE TO THE FLAG.**
4. **AGENDA APPROVAL.**
5. **APPROVAL OF MINUTES:**
 - A. August 28, 2008 – Impasse Hearing
 - B. September 9, 2008 – Workshop Meeting
 - C. September 16, 2008 – Regular Meeting
6. **PROCLAMATIONS:**
 - A. Recognizing and Commending **Theodoshia J. West**
 - B. Florida City Government Week – October 19-25, 2008
7. **PRESENTATIONS:**
 - A. Let Us Vote - Palm Beach County Charter Amendment - Jamie Titcomb
8. **CONSENT AGENDA:** City Manager Recommends Approval.
 - A. **ACCEPTANCE OF AN EASEMENT DEED/PINES OF DELRAY WEST HOMEOWNERS ASSOCIATION:** Approve and accept an easement deed for reclaimed water service with the Pines of Delray West Homeowners Association.
 - B. **ACCEPTANCE OF AN EASEMENT DEED/1145 EAST ATLANTIC AVENUE:** Approve and accept a three (3') foot sidewalk easement deed between the City and the Marriott Residence Inn to allow installation of a sidewalk along Seabreeze Avenue.
 - C. **ACCEPTANCE OF A PERMANENT TRAFFIC SIGNAL EASEMENT AGREEMENT/PALM BEACH COUNTY:** Approve and accept a Permanent Traffic Signal Easement Agreement with Palm Beach County granting access to construct mast arms at the intersection, operate, and maintain overhead and underground electric facilities including wires, poles, guys, cables, conduits, and appurtenant equipment for the Atlantic Avenue at S.W. 2nd Avenue Signal Replacement Project.

- D. **CONTRACT CLOSEOUT (C.O. NO. 2/FINAL)/THE WEITZ COMPANY:** Approve a Contract Closeout (Change Order No. 2/Final) in the amount of a \$878,750.75 decrease and final payment in the amount of \$62,878.81 to The Weitz Company, for completion of the Seacrest Soccer Complex. Funding is available from 380-4150-572-63.49 (2004 G.O. Bond/Improvements Other/Soccer Complex).
- E. **AMENDMENT NO. 1 TO SERVICE AUTHORIZATION NO. 39/DAVID MILLER & ASSOCIATES/LINTON BOULEVARD BRIDGE TENDER HOUSE:** Approve Amendment No. 1 to Service Authorization No. 39 in the amount of \$5,250.00 to David Miller & Associates for Construction Administration Services regarding the façade renovations to the Linton Boulevard Bridge Tender House. Funding is available from 334-3162-541-46.05 (General Construction Fund/Repair & Maintenance Services/Linton Blvd Tender House).
- F. **SUB-RECIPIENT FUNDING AGREEMENTS/ACHIEVEMENT CENTERS FOR CHILDREN AND FAMILIES/FAMILIES FIRST OF PALM BEACH COUNTY:** Approve and authorize the execution of funding agreements with two (2) sub-recipients (Community Child Care Center d/b/a Achievement Centers for Children and Families and Children’s Case Management Organization d/b/a Families First of Palm Beach County) for the Village Academy Beacon Center program for FY 2008-2009, with the total funding in the amount of \$829,305.00 from the City and Children’s Services Council of Palm Beach County.
- G. **THIRD AMENDMENT/INTERLOCAL AGREEMENT/PALM BEACH COUNTY:** Approve a Third Amendment to the Interlocal Agreement with Palm Beach County Criminal Justice Commission for additional funding in an amount not to exceed \$100,000.00 for additional services for the period October 1, 2008 through September 30, 2009.
- H. **MEMORANDUM OF UNDERSTANDING/FLORIDA DEPARTMENT OF FINANCIAL SERVICES:** Approve a Memorandum of Understanding with the Florida Department of Financial Services; and accept the 2007-2010 Domestic Preparedness Grant from the State Homeland Security Grant Program in the amount of \$118,411.00 for equipment, maintenance of equipment, and training courses related to Homeland Security.
- I. **AGREEMENT/PALM BEACH COMMUNITY COLLEGE:** Approve an agreement with Palm Beach Community College for the education and training of students in the Paramedic and EMT programs.
- J. **RESOLUTION NO. 52-08/FLORIDA DEPARTMENT OF TRANSPORTATION(FDOT)/JOINT PARTICIPATION AGREEMENT:** Approve Resolution 52-08 authorizing execution of a Joint Participation Agreement (JPA) with the Florida Department of Transportation (FDOT) for reimbursement of costs for the installation of sidewalks along S.W. 29th Street /S.W. 22nd Avenue and bus shelters in various locations. (General Construction Fund/Other Improvement/S.W. 29thSt-S.W. 22nd Ave Sidewalk.

- K. **HIGHWAY SAFETY FUNDS SUBGRANT AGREEMENT/STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT):** Approve a Highway Safety Funds Subgrant Agreement with the State of Florida Department of Transportation (FDOT) for acceptance of a grant in the amount of \$30,000.00 for the Child Passenger Safety Program. This is a 100% reimbursable federal grant award that does not require a local cash match.
- L. **SPECIAL EVENT REQUEST/HALLOWEEN PARADE:** Approve a special event request to allow the Annual Halloween Parade sponsored by the Noontime Kiwanis Club to be held on October 25, 2008 from 1:30 p.m. until approximately 2:15 p.m., including temporary use permit per LDR Section 2.4.6(F) for the rolling closure of Atlantic Avenue from N.E. 1st Avenue to Veterans Park, staff support for traffic control security, and barricading; contingent upon the receipt of a revised certificate of insurance.
- M. **SPECIAL EVENT REQUEST/22nd ANNUAL TURKEY TROT:** Approve a special event request to allow the 22nd Annual Turkey Trot to be held on Saturday, November 22, 2008 from 5:00 a.m. until approximately 9:00 a.m., including a temporary use permit per LDR Section 2.4.6(F) for the closure and use of A-1-A from Casuarina to George Bush Boulevard from 5:00 a.m. to approximately 10:00 a.m., and authorize staff support for traffic control, barricade set-up/removal, trash removal and clean up, use of half of small stage, and waiver of parking meter fees for Sandoway, Ingraham, and Anchor Park as well as along Atlantic Avenue from Venetian to A-1-A from 7:00 a.m. until approximately 10:00 a.m.
- N. **SPECIAL EVENT REQUEST/HOLIDAY TREE LIGHTING/ART & JAZZ ON THE AVENUE:** Approve and endorse the Holiday Tree Lighting and Art & Jazz on the Avenue scheduled for December 4, 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 Avenue to N.E./S.E. 7th Avenue; to the alley north of Atlantic Avenue on N.E. 1st Avenue, N.E. 2nd Avenue, Railroad Way, and N.E. 4th Avenue; from Atlantic Avenue to the alley south on S.E. 1st Avenue, S.E. 2nd Avenue and S.E. 4th Avenue; and authorize staff support for security and traffic control, banner hanging/removal, barricade set-up/removal, trash removal, clean up assistance, and use/set up of the large City stage.
- O. **SPECIAL EVENT REQUEST/HOLIDAY PAGEANT PARADE:** Approve a special event request to endorse the Annual Holiday Pageant Parade co-sponsored by the Parks and Recreation Department and the Chamber of Commerce to be held on December 13, 2008 beginning at approximately 6:00 p.m. to 9:00 p.m., granting a temporary use permit per LDR Section 2.4.6(F) for the closure and use of Atlantic Avenue from Gleason Street and Andrews Avenue to N.W. 1st Avenue for parade route; Miramar, Lowery, Gleason and Andrews for parade set up from approximately 4:00 p.m. to 6:00 p.m.; and authorize staff support for traffic control and security, EMS assistance, barricade set-up/removal, trash removal/clean up.

- P. **SPECIAL EVENT REQUEST/KIDS DAY AT THE TREE:** Approve and endorse Kids Day at the Tree scheduled for December 13, 2008 from 10:00 a.m. to 4:00 p.m.; granting a temporary use permit per LDR Section 2.4.6.(F) for the closure and use of N.E. 1st Avenue from Atlantic Avenue to the alley north of Atlantic; and authorize staff support for traffic control and security, barricade set-up/removal, trash removal/clean up assistance and use of the City's portable generator; contingent on the receipt of the Certificate of Liability Insurance and Hold Harmless Agreement.
- Q. **SPECIAL EVENT REQUEST/HOWARD ALAN 20th ANNIVERSARY DELRAY BEACH FESTIVAL OF THE ARTS:** Approve a special event request for the 20th Anniversary Delray Beach Festival of the Arts sponsored by Howard Alan Events, Ltd. to be held on January 17 and 18, 2009 from 10:00 a.m. to 5:00 p.m., granting a temporary use permit per LDR Section 2.4.6(F) for use of City rights-of-way on Atlantic Avenue from the east side of N.E. 6th Avenue to Bronson and the Gladiola lot (S.E. 6th Avenue) for parking; authorize staff support for security and traffic control, barricading, EMS assistance, and permit an event sign to be erected on Atlantic Avenue just east of I-95 ten (10) days prior to the event with the sponsor paying all overtime costs.
- R. **REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:** Accept the actions and decisions made by the Land Development Boards for the period September 15, 2008 through October 3, 2008.
- S. **AWARD OF BIDS AND CONTRACTS:**
1. Contract award to The Signal Group, Inc. in the amount of \$329,299.54 for the construction of Trombone Mast Arm Signals at the intersection of S.R. 806 W. Atlantic Avenue and S.W. 2nd Avenue. Funding is available from 334-3162-541-68.58 (General Construction Fund/Other Improvements/S.W. 2nd Avenue at Atlantic Signalization).
 2. Contract award to Chaz Equipment in the amount of \$35,485.00 for the emergency repair of a sanitary sewer main along S.W. 7th Avenue, south of Atlantic Avenue. Funding is available from 442-5178-536-63.51 (Water/Sewer Renewal and Replacement Fund/Sewer Mains).
 3. Contract award to EIMCO Water Technologies in the amount of \$224,000.00 for rebuilding two (2) vacuum drum filter units at the Water Treatment Plant as part of the Vacuum Drum Filter Rehabilitation project. Funding is available from 442-5178-536-68.54 (Water/Sewer Renewal and Replacement Fund/Improvements Other/WTP-Vacuum Drum Filter Rehab).
 4. Contract award to Technical Inspections, Inc. in the amount of \$28,447.00 for the emergency repair of sanitary Lift Station #56-A, located in the Hamlet Subdivision off of West Atlantic Avenue. Funding is available from 442-5178-536-68.15 (Water/Sewer Renewal and Replacement Fund/Improvements Other/Lift Station Rehabilitation).

5. Contract award to Delta Petroleum and Industrial, Inc. in the amount of \$21,810.00 for upgrading the underground fuel piping at the Police Department's fueling station. Funding is available from 334-2111-521-64.90 (General Construction Fund/Other Machinery/Equipment).

9. **REGULAR AGENDA:**

- A. **WAIVER REQUEST/200 MARINE WAY:** Consider a request to waive Land Development Regulations (LDR) Section 4.5.1(E)(3)(a)(1.) (c.), "Appurtenances," to allow a fence (arbor) taller than four feet (4') to be located within the side street setback for 200 Marine Way. *(Quasi-Judicial Hearing)*
- B. **WAIVER REQUESTS/HOPE WALK FOUNDATION, LLC:** Consider a request for two (2) waivers to Land Development Regulations (LDR) Section 4.6.16(H)(3)(d), "New Multiple Family, Commercial and Industrial Development," to reduce the landscape strip along the north and east property line from five (5') to three (3') feet on the north property line, and approximately one (1') foot on the east property line, adjacent to the railroad; and to Section 6.1.3(D)(1) to reduce the required driveway width from 24' to 12' along the north property line and to at least 22' at the rear of the property, perpendicular to the parking for the property located at 701 N.E. 3rd Avenue. *(Quasi-Judicial Hearing)*
- C. **CONDITIONAL USE EXTENSION REQUEST/EBENEZER WESLEYAN METHODIST CHURCH:** Consider a request to extend the conditional use for construction of a new 6,575 sq. ft sanctuary, at the northwest corner of S.W. 6th Avenue and S.W. 2nd Street and an off-site parking lot at the northeast corner of S.W. 6th Avenue and S.W. 2nd Street for Ebenezer Wesleyan Methodist Church. *(Quasi-Judicial Hearing)*
- D. **RESOLUTION NO. 51-08 (RESOLUTION OF NECESSITY OSCEOLA PARK)/OSCEOLA PARK SPECIAL ASSESSMENT DISTRICT:** Consider approval of a resolution declaring the necessity for public improvements for the Osceola Park neighborhoods, and directing the establishment of a special assessment district to defray a part of the expense for such improvements.
- E. **SCULPTURE NAME SELECTION/KNOWLES PARK SCULPTURE PROJECT:** Consider approval of a name for John Clement's Sculpture at Knowles Park from the two final selections chosen from the Public Art Advisory Board's naming contest.
- F. **REQUEST ATTORNEY GENERAL'S OPINION/DELRAY BEACH COMMUNITY LAND TRUST (CLT):** Consider a request to seek an Attorney General's Opinion as to whether the Sunshine Law and Public Records Law would apply to the Delray Beach Community Land Trust (CLT).

- G. **CONTRACT AWARD/O.T. SERVICES INC.:** Consider a contract award to O.T. Services Inc., second low bidder, for annual custodial services and other requested janitorial services for City buildings in the amount of \$118,116.00 per year for Group A services and prices as submitted for Group B through D services. Funding is available from various departmental operating budgets for FY 2008/2009.
- H. **SETTLEMENT OFFER IN CHARLES AND NORMA POWELL v. CITY OF DELRAY BEACH:** Consider Settlement Offers in Charles and Norma Powell v. City of Delray Beach.
- I. **MOTION TO RESCIND WAIVER REQUEST FOR ST. GEORGE SUITES ORDER:** Consider a Motion to Rescind the Waiver Request for St. George Suites Order dated September 3, 2008.
- J. **APPOINTMENT TO THE BOARD OF ADJUSTMENT:** Appoint one (1) alternate member to the Board of Adjustment to serve an unexpired term ending on August 31, 2009. Based upon the rotation system, the appointment will be made by Mayor Ellis (Seat #5).
- K. **APPOINTMENTS TO THE NEIGHBORHOOD ADVISORY COUNCIL:** Appoint three (3) regular members (one member each for Zones 1, 5, & 6) and an At Large Representative to the Neighborhood Advisory Council for three (3) year terms ending July 31, 2011. 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).

10. **PUBLIC HEARINGS:**

- A. **APPEAL/SITE PLAN REVIEW AND APPEARANCE BOARD ACTIONS/BOSTON'S RESTAURANT:** Consideration of an appeal regarding the Site Plan Review and Appearance Board's approval of a Class V Site Plan for a Hotel located at 64 S. Ocean Boulevard. ***(BECAUSE OF THE COURT'S ORDER DATED JULY 11, 2006, THERE WILL BE NO PUBLIC COMMENT ON THIS ITEM. THIS ITEM IS NOT A PUBLIC HEARING, BUT IT MUST BE HEARD PRIOR TO ITEM 10.B)***
- B. **DEVELOPMENT AGREEMENT/VISTA DEL MAR, L.L.C.:** Consider a development agreement with Vista Del Mar, L.L.C. and associated Class V Site Plan for the property located at 64 South Ocean Boulevard.
- C. **WAIVER REQUEST/KITEBOARDING:** Consider a request for waiver of the requirements of Section 101.34, "Surfing, Scuba Diving and Jet Skis", of the Code of Ordinances of the City pertaining to prohibition of kiteboarding and other related uses within 300 feet of the Municipal Beach and Section 101.25, Commercial Enterprises; Sale or Rental of Goods or Services", to allow such uses for a special event. ***(Quasi-Judicial Hearing)***

1. **SPECIAL EVENT REQUEST/BEST OF THE BEST KITEBOARDING COMPETITION:** Approve a special event request to endorse the Best of the Best Kiteboarding Competition sponsored by Best Kiteboarding to be held on December 6, 2008 from 8:00 a.m. to 4:00 a.m. and December 7, 2008 from 9:00 a.m. to 2:30 p.m. on the municipal beach, granting a temporary use permit per LDR Section 2.4.6(F) for the use of the municipal beach and Anchor Park and to authorize staff support for lifeguard assistance, EMS assistance, trash pick up and use of the small City stage; and to consider a request to reserve the Anchor Park lot and allow the producer to charge \$5.00 per car ; contingent receipt of a Certificate of Liability Insurance and Hold Harmless Agreement ten (10) days prior to the event and receipt of a letter of approval from the Seagate Club property owners.

- D. **ORDINANCE NO. 41-08 (FIRST READING/FIRST PUBLIC HEARING):** City initiated amendment to the Land Development Regulations (LDR) Section 2.4.3, "Submission Requirements", Subsection 2.4.3(B), "Standard Plan Items" and Subsection 2.4.3(M), "Credentials for Preparation of Certain Submission Items"; Amending Section 4.6.8, "Lighting", to revise and clarify requirements for on-site lighting. If passed, a second public hearing will be held on October 21, 2008.

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. 46-08:** City initiated rezoning from RM (Residential Medium Density) in part and OSR (Open Space Recreation) in part to CF (Community Facilities) for a 3.64 acre parcel located on the south side of SW 6th Street, west of Auburn Avenue and east of Catherine Strong Park. If passed, a second public hearing will be held on October 21, 2008.
- B. **ORDINANCE NO. 47-08:** Approve Ordinance No. 47-08 amending Chapter 52, "Water" of the Code of Ordinances by enacting Section 52.06, "Prima Facie Evidence of Violation of Section 52.05", and by amending Section 52.99, "Penalty", to clarify what will be considered evidence of tampering with a water meter and the penalty that may be imposed. If passed, a public hearing will be scheduled for October 21, 2008.

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

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

POSTED: OCTOBER 3, 2008