

City of Delray Beach

Regular Commission Meeting

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



RULES FOR PUBLIC PARTICIPATION

Tuesday, September 7, 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.P., Rejection of Bids/Professional Services Vendor List/Neighborhood Stabilization Program (NSP), was moved to the Regular Agenda as Item 9.A.A; Item 8.T., Review of Appealable Land Development Board Actions, Site Plan Review and Appearance Board (SPRAB) Item #5, was moved to the Regular Agenda as Item 9.A.A.A; Approved as amended, 5-0).
5. **APPROVAL OF MINUTES:**
 - A. August 17, 2010 – Regular Meeting (Approved, 5-0)
6. **PROCLAMATIONS:**
 - A. Recognizing Boys and Girls Club Day for Kids
 - B. Recognizing and Commending the **Delray Beach Ocean Rescue Competition Team**
7. **PRESENTATIONS:**
 - A. **RESOLUTION NO. 44-10:** Approve Resolution No. 44-10 recognizing and commending Geoffrey Cooper for 30 years of dedicated service to the City of Delray Beach. (Approved, 5-0)
 - B. **RESOLUTION NO. 45-10:** Approve Resolution No. 45-10 recognizing and commending Thomas Tustin for 30 years of dedicated service to the City of Delray Beach. (Approved, 5-0)
 - C. Presentation to Major Joseph Bernadel of Toussaint L ‘Overture International School, Inc. on behalf of Frank McKinney and the City of Delray Beach regarding the Haiti earthquake relief efforts. (***ADDENDUM***)
8. **CONSENT AGENDA:** City Manager Recommends Approval. (Approved as amended, 5-0)
 - A. **RESOLUTION NO. 48-10 (TAX EXEMPTION REQUEST FOR ELIGIBLE IMPROVEMENTS/124 NORTH SWINTON):** Approve a tax exemption request for eligible improvements to the property located at 124 North Swinton Avenue within the Old School Square Historic District; and approve Resolution No. 48-10.
 - B. **HOLD HARMLESS AGREEMENT/3594 ENSIGN CIRCLE:** Approve a Hold Harmless Agreement between the City and Monster Polymers, Inc. for 3594 Ensign Circle associated with the encroachment of the outdoor barbeque cooking center within the platted utility easement.

- C. **RESOLUTION NO. 46-10/REIMBURSEMENT RESOLUTION:** Approve and adopt Resolution No. 46-10 which allows the City to be reimbursed from future borrowing for expenses relative to Fire and Police hardware and software from a proposed Lease Purchase Agreement.
- D. **CONTRACT CLOSEOUT (CHANGE ORDER NO. 2/FINAL)/HARDRIVES, INC.:** Approve a Contract Closeout (Change Order No. 2/Final) in the amount of a \$5,430.15 decrease and final payment amount of \$5,120.16 to Hardrives, Inc. for the completion of the Douglas Avenue Improvements. Funding is available from 441-5161-536-68.28 (Water/Sewer Fund/Improvements Other/Douglas Ave) and 118-1965-554-61.91 (Neighborhood Services: Capital Outlay/Infrastructure).
- E. **SERVICE AUTHORIZATION NO. 07-04.3 (AMENDMENT NO. 3)/KIMLEY-HORN AND ASSOCIATES, INC./MARTIN LUTHER KING JR. DRIVE BEAUTIFICATION PROJECT:** Approve Service Authorization No. 07-04.3 in the amount of \$7,770.00 with Kimley-Horn and Associates, Inc. for professional services in designing a reclaimed water transmission and distribution system for the Martin Luther King Jr. Drive Beautification Project. Funding is available from 441-5181-536-65.96 (Water and Sewer Fund/Other Improvements/Reclaimed Water Transmission).
- F. **SERVICE AUTHORIZATION AMENDMENT NO. 07-15.1/MATHEWS CONSULTING, INC.:** Approve Service Authorization Amendment No. 07-15.1 in the amount of \$39,070.00 with Mathews Consulting, Inc. for the design of S.W. 12th Avenue/Auburn Avenue/S.W. 14th Avenue Improvements. Funding is available from 334-3162-541-68.04 (General Construction Fund: Other Improvement/S.W. 12th Avenue/Auburn/14th Avenue).
- G. **STAFFING FOR ADEQUATE FIRE AND EMERGENCY RESPONSE (SAFER)/ GRANT APPLICATION/DEPARTMENT OF HOMELAND SECURITY:** Provide authorization for the submittal of a Staffing for Adequate Fire and Emergency Response grant application in the amount of \$595,982.00 to hire four (4) additional Firefighter/Paramedics to complete the staffing at Fire Station No. 2.
- H. **EXTENSION OF VALET PARKING QUEUES LICENSE AGREEMENTS:** Approve an extension of all Valet Parking License Agreements, on a month to month basis, under the current terms and conditions, to allow for review of the program as it relates to the findings of the Parking Study.
- I. **ACCEPTANCE OF THE PARKING MANAGEMENT PLAN:** Accept the Parking Management Plan recently completed by Kimley Horn and direct staff to work with the Parking Management Advisory Board (PMAB) in its implementation.
- J. **REVISION TO THE NEIGHBORHOOD STABILIZATION PROGRAM (NSP) PLAN/FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS:** Approve a revision to the Neighborhood Stabilization Program Plan budget to reallocate disposition line item funds to the acquisition line item funds at the request of the Florida Department of Community Affairs.

- K. **AGREEMENT/BUCKY DENT'S BASEBALL SCHOOL:** Approve an Agreement between the City and Bucky Dent's Baseball School in the amount of \$115,200.00 to provide field maintenance services for Robert P. Miller Park and Currie Commons Park. Funding to be available from 001-4131-572-34.90 (General Fund/Other Contractual Service).
- L. **DONATION/PLUMOSA SCHOOL OF THE ARTS:** Approve a donation of approximately 1,000 square feet of brick pavers to Plumosa School of the Arts for use in a Commemorative Brick Pathway leading up to the Performing Arts Auditorium.
- M. **GRANT AWARD/RECOVERY ACT EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG):** Approve and accept the FY 2010-2011 Recovery Act Edward Byrne Memorial Justice Assistance Grant (JAG) award in the amount of \$66,560.00 which will provide funding to support the Holiday Robbery Task Force.
- N. **EXTENSION TO THE MAINTENANCE AND SUPPORT AGREEMENT/MOTOROLA, INC.:** Approve an extension to the Maintenance and Support Agreement between the City and Motorola, Inc. in the amount of \$128,241.84 for Police, Fire, and other City Departments' radio system maintenance. Funding is available from various accounts.
- O. **ADOPTION OF BEACH MASTER PLAN:** Approve adoption of the Beach Master Plan.
- P. **(MOVED TO ITEM 9.A.A. ON THE REGULAR AGENDA)**
- Q. **REVISIONS TO SPECIAL EVENT POLICIES AND PROCEDURES:** Approve the revisions and changes to Special Event Policies and Procedures with an effective date of October 1, 2010.
- R. **ALTERNATIVE WATER SUPPLY GRANT ACKNOWLEDGEMENT/SOUTH FLORIDA WATER MANAGEMENT DISTRICT (SFWMD):** Approve and authorize the Mayor to execute an acknowledgement required to apply to the South Florida Water Management District (SFWMD) for an alternative water supply grant to supplement funding for the construction of the Area 11B reclaimed water system project on the barrier island.
- S. **SPECIAL EVENT REQUEST/11TH ANNUAL DOWNTOWN DELRAY BEACH THANKSGIVING WEEKEND ART FESTIVAL:** Approve a special event request for the 11th Annual Downtown Delray Beach Thanksgiving Weekend Art Festival to be held on November 27-28, 2010 from 10:00 a.m. until 5:00 p.m., to grant a temporary use permit per LDR Section 2.4.6(F) for use of NE 2nd Avenue from the alley just north of Atlantic Avenue to approximately 300 feet south of NE 3rd Street, to utilize City Hall parking lot for vendor parking, and to authorize staff support for traffic control, security, and Fire Inspector with the sponsor paying all overtime costs.
- T. **(MOVED TO ITEM 9.A.A.A. ON THE REGULAR AGENDA)**

U. **AWARD OF BIDS AND CONTRACTS:**

1. Contract award to Kelly Janitorial System, Inc. in the amount of \$26,254.32 for annual janitorial services at the Delray Beach Municipal Golf Course. Funding is available from 445-4711-572-34.90 (Delray Beach Municipal Golf Course/Other Contractual Service).
2. Contract award to Action Labor Management, LLC d/b/a/Staffing Connection to perform crossing guard services for schools located within the City's jurisdiction for a period of three (3) years with the option to renew up to an additional two (2) years. Funding is available from 001-2115-521-34.90 (General Fund/Other Contractual Services).
3. Bid award to MWI Pumps in the amount of \$16,237.00 for the rebuild of storm water pump at the Atlantic Avenue Storm Water Pump Station. Funding is available from 448-5461-538-46.90 (Storm Water Utility Fund: Repair & Maintenance Service/Other Repair/Maintenance Cost).
4. Bid award to Florida Spectrum Environmental Services, Inc., the lowest responsive bidder, in the amount of \$29,000.00 for the annual contract for Supplemental Laboratory Analysis for Water, Wastewater, etc. for the Water Treatment Plant lab for fiscal year 2010/2011. Funding is available from 441-5124-536-34.90 (Water and Sewer Fund/Other Contractual Services).
5. Purchase award to Dell Computer Corporation in the amount of \$16,732.57 for eight (8) workstations for the SunGard Public Software Project. Funding is available is from 334-2111-521-64.11 (General Construction Fund: Machinery/Equipment/Computer Equipment).
6. Purchase award to EJ Ward, Inc., in the amount of \$50,785.00 for the replacement automated fuel management and inventory system, including hardware and software for the Fleet Maintenance Division. Funding is available from 501-3311-591-64.90 (Garage Fund: Machinery/Equipment/Other Machinery/Equipment).

9. **REGULAR AGENDA:**

AA. **REJECTION OF BIDS/PROFESSIONAL SERVICES VENDOR LIST/NEIGHBORHOOD STABILIZATION PROGRAM (NSP):** Approval to reject all bids submitted in response to the invitation to bid on four (4) NSP Housing Rehabilitation projects, and authorize staff to issue an amended Request for Qualifications (RFQ) to solicit additional contractor participation in the NSP Housing Rehabilitation program component.). (Motion to approve; Approved, 5-0)

AAA. **REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:** Accept the actions and decisions made by the Land Development Boards for the period August 16, 2010 through September 3, 2010. (Motion to appeal Site Plan Review and Appearance Board (SPRAB) Item #5 to the September 21, 2010 Regular Commission Meeting; Approved, 5-0)

- A. **WAIVER REQUESTS/150 N.E. 1ST AVENUE/OLD SCHOOL SQUARE HISTORIC DISTRICT:** Consider three (3) waiver requests to Land Development Regulations (LDR) Section 4.6.16(H)(3)(d), “New Multiple Family, Commercial, and Industrial Development”, Section 4.6.14(B)(6), “Sight Visibility Triangle Measurements”, and Section 4.6.9(D)(4)(c-d), “Maneuvering Area, Aisle Width, Space Width”, for the property located at 150 N.E. 1st Avenue (within the Old School Square Historic District). *(Quasi-Judicial Hearing)* (Motion to adopt board order as presented; Approved, 5-0)
- B. **RESOLUTION NO. 47-10 (TAX EXEMPTION REQUEST FOR ELIGIBLE IMPROVEMENTS/702 S.E. 2ND STREET):** Consider approval of a tax exemption request for eligible improvements to the property located at 702 S.E. 2nd Street (f/k/a 200 Marine Way) within the Marina Historic District; and approve Resolution No. 47-10. (Commissioner Eliopoulos filed a Conflict of Interest and left the dais. Motion to approve Resolution No. 47-10; Approved, 4-0)
- C. **AMENDMENT NO. 1 TO THE AGREEMENT/A & A ASSOCIATES:** Consider approval of Amendment No. 1 to the Agreement with A & A Associate in the amount of \$22,620.00 for security service at Pompey Park from October 1, 2010 to September 30, 2011. Funding is available from 001-4127-572-31.90 (General Fund: Professional Services/Other Professional Services). (Motion to approve; Approved, 5-0)
- D. **ACCEPTANCE OF A DONATED SCULPTURE/WILLIAM DEBILZAN:** Consider approval to accept a donated sculpture from Artist William Debilzan to be located in Worthing Park. (Motion to approve; Approved, 5-0)
- E. **PARKS AND RECREATION FEES:** Consider approval to change facility and field fees for Parks and Recreation for FY 2010-2011. (Staff will bring item back to Commission after further review)
- F. **SETTLEMENT OFFER IN THE ESTATE OF DAVID BILLADEAU v. CITY OF DELRAY BEACH:** Consider a Settlement Offer in the total amount of \$100,000.00 in Estate of David Billadeau v. City of Delray Beach. Staff recommends approval. (Motion to approve; Approved, 5-0)
- G. **APPOINTMENT TO THE PLANNING & ZONING BOARD:** Appoint one (1) regular member to the Planning & Zoning Board to serve a two (2) year term ending August 31, 2012. Based upon the rotation system, the appointment will be made by Commissioner Frankel (Seat #3). (Appointed Craig Spodak and approved, 5-0)
- H. **APPOINTMENTS TO THE SITE PLAN REVIEW & APPEARANCE BOARD:** Appoint two (2) regular members to the Site Plan Review & Appearance Board to serve two (2) year terms ending August 31, 2012. Based upon the rotation system, the appointments will be made by Commissioner Frankel (Seat #3) and Commissioner Eliopoulos (Seat #1). (Appointed Roger DeCapito and approved, 5-0; and appointed Nick Sadowsky and approved, 5-0)

- I. **APPOINTMENT TO THE HISTORIC PRESERVATION BOARD:** Appoint one (1) regular member to the Historic Preservation Board to serve a two (2) year term ending August 31, 2012. Based upon the rotation system, the appointment will be made by Commissioner Frankel (Seat #3). (Appointed Pearl Markfield Elrod and approved, 4-1; Commissioner Fetzer dissenting)
- J. **APPOINTMENT TO THE BOARD OF ADJUSTMENT:** Appoint one (1) regular member to the Board of Adjustment to serve a two (2) year term ending August 31, 2012. Based upon the rotation system, the appointment will be made by Commissioner Fetzer (Seat #2). (Appointed Mel Pollack and approved, 5-0)
- K. **APPOINTMENTS TO THE NUISANCE ABATEMENT BOARD:** Appoint one (1) regular member and one (1) alternate member to serve on the Nuisance Abatement Board for unexpired terms ending July 31, 2011. Based upon the rotation system, the appointments will be made by Commissioner Frankel (Seat #3) and Commissioner Gray (Seat # 4). (Appointed Nayda Cottone-Ovadia and approved, 5-0. Commissioner Gray's appointment **DEFERRED** to September 21, 2010).
10. **PUBLIC HEARINGS:**
- A. **ORDINANCE NO. 23-10 (FIRST READING/FIRST PUBLIC HEARING):** City initiated amendment to the Land Development Regulations Section 4.3.3 "Special Requirements for Specific Uses", to enact a new Subsection (KKK) establishing regulations for Live/Work Units; amending Section 4.4.12 "Planned Commercial District", Subsection (D) "Conditional Uses and Structures Allowed", Section 4.4.13 "Central Business District", Subsection (D) "Conditional Uses and Structures Allowed"; Section 4.4.29 "Mixed Residential, Office and Commercial", Subsection (E) "Conditional Uses and Structures Allowed" to allow Live/Work units as a conditional use; and amending Appendix "A" "Definitions" to provide a revised definition for "Live/Work Unit". If passed, a second reading and second public hearing will be held on September 21, 2010. (Motion to approve; Approved, 5-0)
- B. **ORDINANCE NO. 27-10:** 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 September 21, 2010 City Commission Meeting*) (Motion to **POSTPONE**; Approved, 5-0)
- C. **ORDINANCE NO. 26-10:** An ordinance amending Chapter 34, "Elections", of the Code of Ordinances, by amending Sections 34.16 and 34.17 to increase the fee for filing petitions from \$25 to \$50. (Motion to approve; Approved, 5-0)
- D. **ORDINANCE NO. 28-10:** An ordinance amending Chapter 101, "Parks, Beaches and Recreation", by amending Section 101.35(F), "Storing Boats", to modify the rate structure for storing sailboats on the beach. (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. **ORDINANCE NO. 24-10:** Privately initiated rezoning from AC (Automotive Commercial) and RM (Multiple Family Residential - Medium Density) to GC (General Commercial) and OS (Open Space) for property located at the northeast corner of Federal Highway and Fladell's Way (2501 South Federal Highway). If passed, a public hearing will be held on September 21, 2010. (Motion to approve; Approved, 5-0)
- B. **ORDINANCE NO. 29-10:** An ordinance amending Chapter 110, "Local Business Taxes Generally", of the Code of Ordinances by amending Section 110.15, "Local Business Tax Schedule", in order to include "Pharmacies" among the categories of businesses requiring a Local Business Tax Receipt. If passed, a public hearing will be held on September 21, 2010. (Motion to approve; Approved, 5-0)
- C. **ORDINANCE NO. 32-10:** An ordinance amending Chapter 51, "Garbage and Trash", of the City Code of Ordinances by amending Section 51.70, "Regular Charges Levied", to provide for decreased residential and modified commercial collection service rates for FY 2011. If passed, a public hearing will be held on September 21, 2010. (Motion to approve; Approved, 5-0)

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

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

POSTED: SEPTEMBER 3, 2010

******* Meeting adjourned at 7:51 p.m. *******