

City of Delray Beach

Regular Commission Meeting

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



RULES FOR PUBLIC PARTICIPATION

Tuesday, December 9, 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.**
2. **INVOCATION.**
3. **PLEDGE OF ALLEGIANCE TO THE FLAG.**
4. **AGENDA APPROVAL.** (Mayor Ellis noted Item 8.P., Payment for Additional Services/Kimley-Horn and Associates, Inc./Seacrest Soccer Complex, was added to Consent Agenda by addendum and moved to the Regular Agenda as Item 9.A.A.; Item 8.A., Acceptance of Water and Sewer Easement Deed/Village at Delray, was moved to the Regular Agenda as Item 9.A.A.A.; Item 9.G., Appeal/Site Plan Review and Appearance Board/Boston's Restaurant, was postponed to a date certain of February 3, 2009; Item 10.F. Development Agreement/Vista Del Mar, L.L.C., was postponed to a date certain of February 3, 2009 at 7:00 p.m. Approved as amended, 5-0).
5. **APPROVAL OF MINUTES:**
 - A. None
6. **PROCLAMATIONS:**
 - A. Calling for the First-Non-Partisan Election to be held on March 10, 2009
7. **PRESENTATIONS:**
 - A. "Outstanding Achievement in Law Enforcement" Award Presentation – International Association of Chiefs of Police
 - B. Recognizing Adopt-A-Park Program Volunteers
 - C. Preserve America Community Designation
8. **CONSENT AGENDA:** City Manager Recommends Approval. (Approved as amended, 5-0)
 - A. **(MOVED TO ITEM 9.A.A.A. ON THE REGULAR AGENDA)**
 - B. **ACCEPTANCE OF AN EASEMENT DEED/DELAIRE COUNTRY CLUB:** Approve and accept an easement deed for reclaimed water service with the Delaire Country Club.
 - C. **CONTRACT CLOSEOUT (C.O. NO. 1/FINAL)/ROSSO PAVING AND DRAINAGE, INC./RAINBERRY WOODS NEIGHBORHOOD IMPROVEMENTS PROJECT:** Approve a Contract Closeout (C.O. No. 1/Final) in the amount of \$43,378.00 decrease and final payment in the amount of \$11,177.10 to Rosso Paving and Drainage, Inc. for the completion of the Rainberry Woods Neighborhood Improvements Project. Funding is available from 334-6130-541-63.20 (General Construction Fund/Neighborhood Enhancements/Improvements other than Building Landscaping/Beautification).

- D. **AMENDMENT NO. 3.3 TO SERVICE AUTHORIZATION/KIMLEY-HORN AND ASSOCIATES, INC./MILLER PARK IMPROVEMENTS:** Approve Amendment No. 3.3 to Service Authorization No. 3.0 in the amount of \$65,248.00 to Kimley-Horn and Associates, Inc., for Construction Administration Services regarding the Miller Park Improvements. Funding is available from 334-4173-572-63.90 (General Construction Fund/Other Improvements).
- E. **PRESERVE AMERICA LOGO:** Approve a request authorizing the Mayor to execute a letter regarding use of the Preserve America Logo.
- F. **AMENDMENT NO. 1 TO INTERLOCAL AGREEMENT/COMMUNITY REDEVELOPMENT AGENCY (CRA) CONSTRUCTION/PROFESSIONAL SERVICES:** Approve Amendment No. 1 modifying Exhibit "A" to the Interlocal Agreement between the City and the Community Redevelopment Agency (CRA) for funding construction/professional services for certain projects.
- G. **AMENDMENT NO. 2 TO DOWNTOWN MARKETING CO-OPERATIVE AGREEMENT:** Approve Amendment No. 2 to the Downtown Marketing Co-operative Agreement with the City, Community Redevelopment Agency, Downtown Development Authority and the Chamber of Commerce to extend the term until December 31, 2011 and set forth the responsibilities of the parties.
- H. **AUTHORIZATION FOR THE SUPERVISOR OF ELECTIONS TO HANDLE/CANVASS ABSENTEE/PROVISIONAL BALLOTS AND REPRESENT THE CITY AT LOGIC & ACCURACY TESTS FOR THE FIRST NON-PARTISAN ELECTION:** Authorize the Palm Beach County Supervisor of Elections to handle and canvass the City's absentee and provisional ballots for the March 10, 2009 First Non-Partisan Election, and represent the City at the requisite Logic and Accuracy tests.
- I. **FY 2007-2008 CONSOLIDATED ANNUAL PERFORMANCE AND EVALUATION REPORT (CAPER):** Approve the Consolidated Annual Performance and Evaluation Report required by the United States Housing & Urban Development Agency (HUD) for utilization of federal grant funds for Fiscal Year 2007-2008.
- J. **RESOLUTION NO. 61-08/AMENDMENT TO LOCAL HOUSING ASSISTANCE PLAN (LHAP):** Approve and adopt Resolution No. 61-08, an amendment to the Local Housing Assistance Plan (LHAP) as required by the City's State Housing Initiatives Partnership (SHIP) Program authorizing and directing the Mayor to execute any necessary documents and certifications needed by the State; authorizing the submission of the Local Housing Assistance Plan for review and approval by the Florida Housing Finance Corporation; and providing an effective date for Fiscal Years 2007-2010.

- K. **RATE AGREEMENT/FAMILY CENTRAL, INC:** Approve a rate agreement between the City of Delray Beach and Family Central, Inc., to provide reimbursable funding from the Continue to Care Afterschool (CCA) Program and the Early Learning Coalition (ELC) for ninety-eight (98) childcare slots in the Parks and Recreation Afterschool Program.
- L. **FUNDING AGREEMENT/GULFSTREAM GOODWILL INDUSTRIES:** Approve a Funding Agreement between the City and Gulfstream Goodwill Industries in the amount of \$37,000.00 to support ex-offenders returning to targeted neighborhoods within the City of Delray Beach. Funding is available from 115-2126-521-83.01 (Special Projects Fund/Other Grants and Aid).
- M. **AGREEMENT/SAVION HOLDINGS, LLC:** Consider approval of an agreement with Savion Holdings, LLC., to obtain a Certificate of Occupancy for Building 1 of the Latitude Delray project.
- N. **SERVICE AUTHORIZATION NO. 07-02/MOCK-ROOS AND ASSOCIATES, INC. /BLOCK 19 AND 20 ALLEY IMPROVEMENTS:** Approve Service Authorization No. 07-02 in the amount of \$25,000.00 to Mock and Roos Associates, Inc. for the design of Block 19 and Block 20 Alley Improvements. Funding will be provided by the Community Redevelopment Agency (CRA).
- O. **REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:** Accept the actions and decisions made by the Land Development Boards for the period December 1, 2008 through December 5, 2008.
- P. **(MOVED TO ITEM 9.A.A. ON THE REGULAR AGENDA)**
- Q. **AWARD OF BIDS AND CONTRACTS:**
 - 1. Purchase award to Metron-Farnier, LLC. in the amount of \$30,942.00 for the purchase of 25 refurbished 3” Spectrum 175G Water Meters at a unit cost of \$963.00 each and three (3) – 6” water meters at \$2,289.00 each. Funding is available from 442-5178-536-61.81 (Water/Sewer Renewal & Replacement Fund/Water Meter Replacement Program).

9. **REGULAR AGENDA:**

- A.A. **PAYMENT FOR ADDITIONAL SERVICES/KIMLEY-HORN AND ASSOCIATES, INC./SEACREST SOCCER COMPLEX:** Approve a payment in the total amount of \$5,876.36 to Kimley-Horn and Associates, Inc. for additional services required to complete the Seacrest Soccer Complex Project at the old Atlantic High School site. Funding is available from 380-4150-572-63.49 (Parks & Recreation Bond Fund/Soccer Complex). **(ADDENDUM)** (Approved, 5-0)

- A.A.A. **ACCEPTANCE OF WATER AND SEWER EASEMENT DEEDS/VILLAGE AT DELRAY:** Approve and accept three (3) easement deeds from Village at Delray over existing water, sewer and force main lines within the proposed development of Village at Delray located along the east side of Auburn Avenue just south of S.W. 4th Street. (Commissioner Bernard declared a Conflict of Interest and left dais. Approved, 4-0)
- A. **CONDITIONAL USE REQUEST/ATLANTIC PLAZA II:** Consider a conditional use request to allow a building height in excess of forty-eight feet (48') and to accommodate a proposed building height of sixty feet (60') for three of the six buildings within Atlantic Plaza II, a proposed mixed-use development, located between N.E. 6th Avenue and Veterans Park and between East Atlantic Avenue and N.E. 1st Street. (*Quasi-Judicial Hearing*). (Motion to adopt Board Order as presented; Approved, 5-0)
- B. **RESOLUTION NO. 55-08/GAI CONSULTANTS, INC./MARINA HISTORIC DISTRICT:** Consider approval of the resurvey of the Marina Historic District conducted by GAI Consultants, Inc. and acknowledging the findings and recommendations made in the Final Report; and adopt Resolution No. 55-08. (Commissioner Eliopoulos declared a conflict of Interest and left the dais. Motion to approve Resolution No. 55-08 (Alternate 2); Approved, 3-1. Commissioner Bernard dissenting)
- C. **BONUS PAYMENT TO JCD SPORTS GROUP, INC.:** Consider approval of FY 2007 - 2008 bonus payment to JCD Sports Group, Inc. for both golf operations in the amount of \$12,994.50 and for Tennis Center operations in the amount of \$3,102.00. Funding is available from 445-4711-572-34.90 (Delray Beach Municipal Golf Course Fund/Other Professional Services), 446-4711-572-34.90 (Lakeview Golf Course/Other Professional Services), 001-4215-575-34.90 (General Fund/Tennis Operations/Tennis Center/Other Professional Services) and 001-4210-575-34.90 (General Fund/Tennis Operations/Stadium/Other Professional Services). (Motion to approve per staff recommendations. Approved, 5-0)
- D. **SETTLEMENT AGREEMENT IN SIMBARI v. CITY OF DELRAY BEACH:** Consider approval of a settlement agreement between the City and Simbari and several claimants regarding a collision between a Delray Beach Police Officer and five additional vehicles at the intersection of Lake Ida Road and Congress Avenue on August 23, 2007. (Motion to approve Settlement Agreement as per December 4, 2008 memo, subject to receiving appropriate releases; Approved, 5-0)
- E. **PUBLIC UTILITY EASEMENT AGREEMENT/CITY OF BOYNTON BEACH/REGIONAL FORCE MAIN:** Consider approval of a Public Utility Easement Agreement with the City of Boynton Beach to allow an easement over a portion of the property located at 1025 Mission Hill Road in order to install a regional force main. (Approved, 5-0)

- F. **APPOINTMENTS TO THE POLICE ADVISORY BOARD:** Appoint six (6) regular members and one (1) student member to the Police Advisory Board to serve two (2) year terms ending July 31, 2010. Based upon the rotation system, the appointments will be made by Mayor Ellis (Seat #5), Commissioner Eliopoulos (Seat #1), Commissioner Fetzer (Seat #2), Commissioner McDuffie (Seat #3), Commissioner Bernard (Seat #4), Mayor Ellis (Seat #5) and Commissioner Eliopoulos (Seat #1). (Appointed Annette Annechild and approved, 5-0; appointed Joshua Bressler and approved, 5-0; appointed Jose Herrera and approved, 5-0; appointed John Jackson and approved, 5-0; appointed student member Grace Maybee and approved, 5-0; appointed Samuel Menard and approved, 5-0; and appointed Jimmy Weatherspoon and approved, 5-0)
- G. **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 South Ocean Boulevard. ***(BECAUSE OF THE COURT'S ORDER DATED JULY 11, 2006, THERE WILL BE NO PUBLIC COMMENT ON THIS ITEM).*** (Commissioner Eliopoulos declared a Conflict of Interest and left dais. Motion to **POSTPONE** until February 3, 2009 Regular Commission Meeting; Approved, 4-0)

10. **PUBLIC HEARINGS:**

- A. **RESOLUTION NO. 60-08:** Consider Resolution No. 60-08 adopting the final assessment roll, Osceola Park Special Assessment District. (Motion to approve Resolution No. 60-08; **DENIED**, 5-0. Consensus to review and recalculate the services and resurvey the neighborhood)
- B. **ORDINANCE NO. 17-08 (SECOND READING/ADOPTION HEARING FOR COMPREHENSIVE PLAN AMENDMENT 2008-1):** Consider on second 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: (Approved, 5-0)

A. **Text Amendments:**

- i. Update Introduction and support data throughout all the Elements of the Comprehensive Plan as appropriate to reflect current conditions; update all maps as appropriate to reflect current city boundaries; update all maps and tables as appropriate; and, update the Goals, Objectives and Policies as required to modify partially completed or eliminate completed initiatives and to incorporate appropriate changes to goals and objectives gleaned from the EAR public hearing processes.
- ii. Future Land Use Element - Update existing land use and population data, including supporting maps and tables.
- iii. Future Land Use Element - Update vacant land analysis.

- iv. Future Land Use Element - Update Redevelopment Analysis section to reflect completion of all Redevelopment Plans.
- v. Future Land Use Element - Update descriptions for all land use categories to include intensities and densities.
- vi. Future Land Use Element - Add new policies to achieve an appropriate mix of uses, direct resources to infrastructure improvements downtown, and explore additional downtown open space opportunities.
- vii. Future Land Use Element - Add policies to affirm the City's continued commitment to workforce housing.
- viii. Future Land Use Element - Add policies to develop design guidelines for the North Federal Highway area and evaluate the need for guidelines in the Congress Avenue Corridor and Four Corners Area.
- ix. Future Land Use Element - Amendment to the Land Use Designation/Zoning Matrix table to add SAD, OS and OSR zoning districts to be consistent with additional Future Land Use categories.
- x. Transportation Element - Add new policy to designate the railroad parking lot, north of East Atlantic Avenue as a potential railroad stop for future passenger service on the FEC Railroad.
- xi. Housing Element - Update Affordable Housing section to reflect new City initiatives.
- xii. Housing Element Add new policies to affirm the City's continued commitment to workforce housing.
- xiii. Public Schools Facilities Element - Update element to reflect changes related to the second amendment to the Interlocal Agreement.

B. Future Land Use Map Amendments:

- i. City initiated Future Land Use Map amendment from County INST/18 (Institutional, with an underlying High Residential 18 units per acre) to City CF (Community Facilities) for Fair Oaks Center, located approximately 650 feet south of Linton Boulevard, and on the east side of LWDD E-3 Canal.

- C. **ORDINANCE NO. 54-08 (FIRST READING/TRANSMITTAL HEARING FOR COMPREHENSIVE PLAN AMENDMENT 2009-1)**: Consider on first reading an ordinance adopting Comprehensive Plan Amendment 2009-1 and associated Future Land Use Map (FLUM) amendments, and authorize transmittal to the State Department of Community Affairs. Amendment 2009-1 includes: (Motion to approve with Text Amendment (A-i) maximum density being 22 units per acre and with a workforce component of 20% moderate income; Approved, 5-0)

A. Text Amendments:

- i. Future Land Use Element – Modification of the description of the GC (General Commercial) Future Land Use designation to increase maximum density for residential uses from 12 units per acre to 25 units per acre and decrease the maximum intensity for non-residential uses from an FAR of 3.0 to 0.75, within the proposed Silver Terrace Courtyards Overlay District.
- ii. Future Land Use Element – Modification of the description the CMU (Congress Avenue Mixed-Use) Future Land Use designation to include provisions for the creation of a Regional Activity Center on the Office Depot property.
- iii. Future Land Use Element – add an objective and policies to support the creation of a Regional Activity Center at the Office Depot property on Congress Avenue.

B. Future Land Use Map Amendment:

Future Land Use Map amendment from TRN (Transitional) to GC (General Commercial) for an approximate 6.15 acre parcel of land known as the Floranda Mobile Home Park, located on the west side of South Federal Highway, approximately 660 feet south of SE 10th Street and north of the Plaza at Delray.

- D. **ORDINANCE NO. 37-08:** Adoption hearing for Comprehensive Plan Amendment 2008-WSP1, regarding the Water Supply Facilities Work Plan. (Approved, 5-0)
- E. **ORDINANCE NO. 55-08:** Consider a City initiated annexation (via provisions of an executed Water Service Agreement and Consent to Annexation) with initial zoning of CF (Community Facilities) for Fair Oaks Hospital, located approximately 650 feet south of Linton Boulevard, and on the east side of Lake Worth Drainage District E-3 Canal. (Approved, 5-0)

- F. **DEVELOPMENT AGREEMENT/VISTA DEL MAR, L.L.C. (FIRST PUBLIC HEARING):** 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. (Commissioner Eliopoulos declared a Conflict of Interest and left dais. Motion to **POSTPONE** until February 3, 2009 and February 17, 2009 Regular Commission Meeting; Approved, 4-0)
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. 56-08:** Consider a City-initiated amendment amending the Land Development Regulations (LDR) of the Code of Ordinances, by amending Section 2.4.3, "Submission Requirements", Subsection (K), "Fees", Sub-subsection (1), "Development Applications", in order to provide fees for requests for a change of historic designation or classification, and ad valorem tax exemption applications. If passed a public hearing will be held on January 6, 2009. (Approved, 5-0)
13. **COMMENTS AND INQUIRIES ON NON-AGENDA ITEMS.**
- A. City Manager
- B. City Attorney
- C. City Commission

POSTED: DECEMBER 5, 2008