

# City of Delray Beach

## Regular Commission Meeting



### RULES FOR PUBLIC PARTICIPATION

Tuesday, September 20, 2011

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.**
5. **APPROVAL OF MINUTES:**
  - A. August 30, 2011 – Workshop Meeting
  - B. September 6, 2011 – Regular Meeting
6. **PROCLAMATIONS:**
  - A. None
7. **PRESENTATIONS:**
  - A. **RESOLUTION NO. 31-11:** Approve Resolution No. 31-11 recognizing and commending Vivian Mitchell for 30 years of dedicated service to the City of Delray Beach.
  - B. Saint Patrick's Day Presentation – Nancy Stewart-Franczak
  - C. International City/County Management Association Video - City of Delray Beach and School District of Palm Beach County Partnership
8. **CONSENT AGENDA:** City Manager Recommends Approval.
  - A. **REQUEST FOR SIDEWALK DEFERRAL/1005 BUCIDA ROAD:** Approve a request to defer the installation of a sidewalk along Bucida Road and Seasage Drive for property located at 1005 Bucida Road.
  - B. **ADDITIONAL SCOPE/FOSTER MARINE CONTRACTORS, INC./S.W. 12<sup>TH</sup> AVENUE/AUBURN/S.W. 14<sup>TH</sup> AVENUE PROJECT:** Approve additional scope with Foster Marine Contractors, Inc. in the amount of \$24,710.41 for relocation of twelve (12) sewer laterals from S.W. 2<sup>nd</sup> Street to 3<sup>rd</sup> Street, two (2) additional street light poles and 72 LF of concrete ribbon. Funding is available in the contract's Unforeseen Conditions Allowance for the S.W. 12<sup>th</sup> Avenue/Auburn Avenue/ S.W. 14<sup>th</sup> Avenue Project.

- C. **SERVICE AUTHORIZATION NO. 07-04.2/MOCK, ROOS & ASSOCIATES:** Approve Service Authorization No. 07-04.2 with Mock, Roos & Associates in the amount of \$24,072.50 for adding more alley design to the N.W. 12<sup>th</sup> Avenue-Atlantic to Martin Luther King Jr. Drive Project. Funding is available from 334-3162-541-68.60 (General Construction Fund: Other Improvement/N.W. 12th Avenue- Atlantic/MLK) and 448-5461-538-68.60 (Storm Water Utility Fund: Other Improvement/N.W. 12th Avenue-Atlantic/MLK).
- D. **CHANGE ORDER NO. 1/BRANG CONSTRUCTION, INC.:** Approve Change Order No. 1 (C.O. No. 1) with Brang Construction, Inc. in the amount of \$1,548.30 for additional excavation and flatwork required at Bus Stop No. 8 to meet ADA requirements for the ARRA Bus Shelters Project and for a contract time extension of fourteen (14) days. Funding will be provided through the Contract's Contingency Allowance.
- E. **SITE DEDICATION/FLORIDA INLAND NAVIGATION DISTRICT (F.I.N.D)/FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION:** Approve a site dedication with the Florida Fish and Wildlife Conservation Commission and the Florida Inland Navigation District (F.I.N.D) regarding the modifications to the Mangrove Park boat ramps, as required by the grant agreement with both agencies.
- F. **AMENDMENT NO. 4 TO THE AGREEMENT/QUALITY TRANSPORT SERVICES, INC./DOWNTOWN ROUNDABOUT SHUTTLE SYSTEM:** Approve Amendment No. 4 to the Agreement with Quality Transport Services, Inc. to extend the agreement under the same terms and conditions currently in place.
- G. **REQUEST TO ATTEND THE CHICK-FIL-A LEADERCAST WORKSHOP:** Approve a request for Dot Bast, Training and Development Manager, to attend the Chick-Fil-A Leadercast Workshop sponsored by Giant Impact.
- H. **RESOLUTION NO. 38-11:** Approve Resolution No. 38-11 to authorize the sale of Delray Beach Water and Sewer Revenue Refunding Bonds, Series 2011A.
- I. **PARKS AND RECREATION FEE CHANGES:** Approval of the proposed Parks and Recreation Fee Changes for FY 11/12.
- J. **HOUSING REHABILITATION GRANT/CONTRACT AWARD:** Award one (1) Housing Rehabilitation contract award through the Community Development Division to the lowest responsive bidder for 2561 Bessie Street to Built Solid Construction, LLC in the amount of \$33,628.10. Funding is available from 118-1963-554-49.19 (Neighborhood Services: Other Current Charges/Housing Rehabilitation).
- K. **WORKFORCE HOUSING COVENANT AGREEMENT/FLORANDA MHP, LLC./ NEW CENTURY EXECUTIVE QUARTERS, LLC.:** Approve a Workforce Housing Covenant Agreement between the City of Delray Beach and the Floranda MHP, LLC and New Century Executive Quarters, pursuant to the requirements under Section 4.7 of the Land Development Regulations.

- L. **D.U.I. GRANT AWARD/FLORIDA DEPARTMENT OF TRANSPORTATION:** Approve accepting a grant award from the Florida Department of Transportation (FDOT) in the amount of \$22,352.00 for funding the Police Department's Driving Under the Influence (D.U.I.) program. Funding is available for the local match from various budgetary accounts.
- M. **MAINTENANCE AGREEMENT/CONTROL COMMUNICATIONS, INC.:** Approve a Maintenance Agreement with Control Communications, Inc. in the amount of \$25,296.00 for maintenance of the XTS3000 portable radios used by police officers. Funding is available from 001-2111-521-46.20 (General Fund: Repair & Maintenance Services/Equipment Maintenance).
- N. **INTERLOCAL AGREEMENT/COMMUNITY REDEVELOPMENT AGENCY FOR FUNDING OF CONSTRUCTION/PROFESSIONAL SERVICES:** Approve an Interlocal Agreement with the Community Redevelopment Agency (CRA) for the funding of construction costs and professional services for certain projects as listed on Exhibit "A" attached to the Agreement for FY 2011-2012.
- O. **INTERLOCAL AGREEMENT: COMMUNITY REDEVELOPMENT AGENCY, SPONSORSHIP OF TENNIS TOURNAMENTS:** Approve an Interlocal Agreement with the Community Redevelopment Agency (CRA) for sponsorship of City tennis tournaments for FY 2011-2012.
- P. **INTERLOCAL AGREEMENT: COMMUNITY REDEVELOPMENT AGENCY/STREETSCAPE BEAUTIFICATION LANDSCAPE MAINTENANCE:** Approve an Interlocal Agreement with the Community Redevelopment Agency (CRA) for Streetscape Beautification Landscape Maintenance.
- Q. **INTERLOCAL AGREEMENT: COMMUNITY REDEVELOPMENT AGENCY (CRA)/HOUSING REHAB INSPECTOR POSITION:** Approve an Interlocal Agreement with the Community Redevelopment Agency (CRA) to fund 50% of the Housing Rehab Inspector Position in the Neighborhood Services Division of the Community Improvement Department.
- R. **FOURTH AMENDMENT TO THE DECLARATION OF RESERVED RIGHTS AND AGREEMENT NOT TO ENCUMBER N.E. 7<sup>TH</sup> AVENUE RELATED TO THE ATLANTIC PLAZA PROJECT:** Approve the Fourth Amendment to the Declaration of Reserved Rights and Agreement not to Encumber N.E. 7<sup>th</sup> Avenue regarding the abandonment and relocation of N.E. 7<sup>th</sup> Avenue between N.E. 1<sup>st</sup> Street and East Atlantic Avenue, to extend the time frame to obtain site plan certification by 180 days.

- S. **SPECIAL EVENT REQUEST/44<sup>TH</sup> ANNUAL ST. PATRICK'S DAY PARADE AND PARTY:** Approve a special event request for the 44<sup>th</sup> Annual St. Patrick's Day Parade and Party on Saturday, March 17, 2012, beginning with setup at 11:30 a.m., parade starting at 2:00 p.m. and ending at approximately 4:00 p.m., and an event at Old School Square from 11:00 a.m. to 7:00 p.m.; to grant a temporary use permit per LDR Section 2.4.6(F) for the use of Atlantic Avenue from A-1-A to N.W. 5<sup>th</sup> Avenue for the parade, Atlantic Avenue from A-1-A to the bridge with overflow on East Drive to Lowry Street and Gleason Street for staging of parade entries; that Atlantic Avenue from N.E./S.E. 5<sup>th</sup> Avenue to Swinton be closed until 6:00 p.m.; and to approve staff support for traffic control and security, barricading, EMS assistance, use of the small stage and to allow event signage to be put up to be put up on March 1, 2012; contingent upon receipt of the Certificate of Liability Insurance and Alcohol Liability Insurance, Temporary Liquor License and Signed Agreement with Old School Square by the dates outlined in the staff report.
- T. **SPECIAL EVENT REQUEST/FREE FRIDAY NIGHT CONCERT:** Approve a special event request to endorse the Free Friday Night Concert to be held on October 14, 2011 from 7:00 p.m. to 11:00 p.m., on the grounds of Old School Square and in part of Old School Square Park; to authorize staff support for security, fire inspector, electrician, event signage and trash boxes; contingent upon receipt of a Certification of Event Liability and Alcohol Liability Insurance and a Hold Harmless Agreement.
- U. **SPECIAL EVENT REQUEST/ON THE AVE:** Approve a special event request to endorse On the Ave to be held on October 6, 2011 from 6:30 p.m. to 10:30 p.m., to grant a temporary use permit per LDR Section 2.4.6(F) for the closure of Atlantic Avenue from Swinton to the west side of N.E./S.E. 6<sup>th</sup> Avenue, Railroad Avenue from Atlantic north to the north side of the east/west alley, and to the alleys north and south of Atlantic 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, and N.E./S.E. 4<sup>th</sup> Avenue; to authorize staff support for security and traffic control, EMS assistance and fire inspection, banner hanging and removal, event signage, barricade set up and removal, and trash removal and clean up.
- V. **REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:** Accept the actions and decisions made by the Land Development Boards for the period September 5, 2011 through September 16, 2011.
- W. **AWARD OF BIDS AND CONTRACTS:**
1. Bid award to Intercounty Engineering, Inc. in the amount of \$285,475.00 for the Lawson Boulevard Force Main Replacement project. Funding is available from 442-5178-536-68.74 (Water & Sewer Renewal & Replacement Fund: Improvements Other/Lawson Blvd FM).

9. **REGULAR AGENDA:**

- A. **WAIVER REQUESTS/HYATT PLACE HOTEL:** Consider two (2) waiver requests to Land Development Regulations (LDR) Section 4.3.3(V)(2)(a), which requires that not more than one stand-alone bar be located within any one block, nor within seven hundred and fifty (750) feet of another stand-alone bar measured from lot line to lot line in a straight line and Section 4.3.3(V)(2)(c)(1), which allows a written request to establish a stand-alone bar to be valid for a period not to exceed six (6) months for the Hyatt Place Hotel located along N.E. 1<sup>st</sup> Avenue. (*Quasi-Judicial Hearing*)
- B. **REQUEST FOR IN-LIEU PARKING AGREEMENT/PINEAPPLE GROVE INVESTMENT GROUP, LLC:** Consider a request from Pineapple Grove Investment Group, Inc. for the purchase of six (6) in-lieu parking spaces in the amount of \$93,600 and a waiver to Land Development Regulations (LDR) Section 4.6.9(E)(3), "In-Lieu Fee", to exceed the 30% limit of spaces that may be purchased through the In-Lieu of Parking program for converting the former Ace Pump location to restaurant use, located at 9 N.E. 2<sup>nd</sup> Avenue. (*Quasi-Judicial Hearing*)
- C. **REQUEST FOR IN-LIEU PARKING AGREEMENT AND WAIVER/BEOJ, LLC:** Consider a request from BEOJ, LLC. for the purchase of eight (8) in-lieu parking spaces in the amount of \$124,800 and a waiver to Land Development Regulations (LDR) Section 4.6.9(E)(3), "In-Lieu Fee", to exceed the 30% limit of spaces that may be purchased through the In-Lieu of Parking program for conversion of the former VFW (Veterans of Foreign Wars) building to restaurant use, located at 5 S.E. 2<sup>nd</sup> Avenue. (*Quasi-Judicial Hearing*)
- D. **DELRAY BEACH MARINA RATES:** Consider approval of a proposed rate increase for the per foot rate from \$16.00 per month to \$18.00 per month for the Delray Beach Marina.
- E. **BID AWARD/ RANDOLPH AND DEWDNEY CONSTRUCTION, INC.:** Consider approval of a bid award to Randolph and Dewdney Construction, Inc. in the amount of \$456,710.00 for renovations to the Pompey Park Concession Stand. Funding is available from 334-4127-572-62.10 (General Construction Fund: Building).
- F. **CONSULTING SERVICE AUTHORIZATIONS/PALM BEACH COUNTY PUBLIC ART ADMINISTRATION/PUBLIC ART CONSULTING SERVICE:** Consider Consulting Service Authorizations with Elayna Toby Singer, Palm Beach County Public Art Administrator to provide administrative support for several public art projects throughout the City. Funding is available from 115-1702-579-31.90 (Special Projects Fund: Professional Services/Other Professional Services).
1. **SERVICE AUTHORIZATION NO. 2/DEBILZAN PUBLIC ART LOAN TO THE CITY OF DELRAY BEACH:** Consider Service Authorization No. 2 with Elayna Toby Singer, Palm Beach County Public Art Administrator, to facilitate artist, City Staff and PAAB in art design/material approval, fabrication, installation of artwork located at Worthing Park.

2. **SERVICE AUTHORIZATION NO. 3 (AMENDMENT NO. 1)/ UPDATE PUBLIC ART MASTER PLAN:** Consider Service Authorization No. 3 (Amendment No. 1) with Elayna Toby Singer, Palm Beach County Public Art Administrator to address Public Art priorities, assess policies and procedures, to facilitate meetings between Staff Liaison/Public Art Advisory Board and City Staff involved in Public Art Projects/CRA staff/Creative City Collaborative, and to provide a Summary Report.
  3. **SERVICE AUTHORIZATION NO. 4 /BOY SCOUT SCULPTURE:** Consider Service Authorization No. 4 with Elayna Toby Singer, Palm Beach County Public Art Administrator to facilitate Artist, City Staff and PAAB in art design/material approval of base, foundation and installation of donated sculpture.
  4. **SERVICE AUTHORIZATION NO. 5/ BUS SHELTER CENTENNIAL ART CONTEST:** Consider Service Authorization No. 5 with Elayna Toby Singer, Palm Beach County Public Art Administrator to coordinate with local schools for contestants, facilitate Artist, City Staff and PAAB in art design/material approval, fabrication, and installation of bus shelter artwork.
- G. **BID AWARD/SPORTS TURF ONE, INC.:** Consider approval of a bid award in the amount of \$77,148.00 to Sports Turf One, Inc., the third lowest responsive bidder, for annual maintenance at Seacrest Soccer Complex and Hilltopper Stadium. Funding is available from 001-4131-572-34.90 (General Fund: Other Contractual Service).
- H. **APPOINTMENT TO THE CODE ENFORCEMENT BOARD:** Appoint one (1) alternate member to the Code of Enforcement Board to serve an unexpired term ending January 14, 2013. Based upon the rotation system, the appointment will be made by Commissioner Carney (Seat #1).
- I. **APPOINTMENT TO THE BOARD OF ADJUSTMENT:** Appoint one (1) regular member to the Board of Adjustment to serve an unexpired term ending August 31, 2012. Based upon the rotation system, the appointment will be made by Commissioner Carney (Seat #1).
- J. **APPOINTMENT TO THE POLICE ADVISORY BOARD:** Appoint one (1) regular member to the Police Advisory Board to serve an unexpired term ending July 31, 2012. Based upon the rotation system, the appointment will be made by Mayor McDuffie (Seat #5).
- K. **PARTICIPATION AGREEMENT/TODAY IN AMERICA:** Consider approval of a Participation Agreement with Today In America, in the amount of \$19,800.00 for production and national airing of a five minute segment highlighting Delray Beach. Funding is available in the FY 2012 budget from 001-6311-559-82.01 (General Fund: Aid to Private Organizations/Economic Development Support). ***(ADDENDUM)***

10. **PUBLIC HEARINGS:**

- A. **RESOLUTION NO. 40-11 (FINAL MILLAGE LEVY):** A resolution levying a tax on all properties within the City of Delray Beach for operation and maintenance and for payment of principal and interest on bonded indebtedness for FY 2012.
- B. **RESOLUTION NO. 41-11 (MILLAGE LEVY/DDA):** A resolution levying a tax on all properties within the Downtown Development Authority Taxing District of the City of Delray Beach for FY 2012.
- C. **RESOLUTION NO. 42-11 (BUDGET ADOPTION FOR FY 2012):** A resolution making appropriations of sums of money for all necessary expenditures of the City of Delray Beach for the period October 1, 2011 through September 30, 2012.
  - 1. **APPROVAL OF FIVE YEAR CAPITAL IMPROVEMENT PLAN:**  
Accept the Planning and Zoning Board's finding that the proposed Five Year Capital Improvement Plan for FY 2011-12 through FY 2015-16 and FY 2012 Capital Improvement Budget are consistent with the Comprehensive Plan.
- D. **ORDINANCE NO. 29-11:** Consider a city-initiated amendment to the Land Development Regulations (LDR) Section 4.4.13, "Central Business (CBD) District", Subsection (G), "Supplemental District Regulations", and Section 4.4.24, "Old School Square Historic Arts District (OSSHAD)", Subsection (G), "Supplemental District Regulations", to clarify the parking requirements for restaurants.
- E. **ORDINANCE NO. 27-11:** Consider amendments to the Community Redevelopment Agency (CRA) Plan.
- F. **ORDINANCE NO. 28-11:** Consider an ordinance which provides definitions for fraud, waste, abuse, misconduct and mismanagement related to the Palm Beach County Inspector General.
- G. **ORDINANCE NO. 30-11:** Consider an ordinance amending Chapter 96, "Fire Safety and Emergency Services", of the Code of Ordinances, by amending Section 96.16, "Certain Codes Adopted by Reference", to promote clarity, conciseness, and a common sense methodology.
- H. **ORDINANCE NO. 31-11:** Consider an amendment to Chapter 35, "Employee Policies and Benefits", Section 35.089, "Definitions", to revise the definition of "Normal Retirement Date".
- I. **ORDINANCE NO. 26-11:** Consider a city-initiated amendment to the Land Development Regulations (LDR) to amend Article 2.2, "Establishment of Boards Having Responsibilities for Land Development Regulations", and to amend Section 4.4.6, "Medium Density Residential (RM)", to provide for housekeeping corrections to outdated references.

- J. **ORDINANCE NO. 33-11:** Consider an amendment Amending Chapter 91, “Animals”, Section 91.03, “Trapping, Hunting Birds”; Chapter 95, “Emergency Management”, Section 95.05, “Declaration of a State Of Emergency”, and Section 95.09, “Police Emergencies”; Chapter 96, “Fire Safety and Emergency Services”, Section 96.25, “Discharge Or Use of Fireworks, Pyrotechnic Devices and Special Effects”; Chapter 101, “Parks, Beaches and Recreation”, Section 101.20, “Firearms and Weapons; Fireworks”, Section 101.36, “Additional Rules Applying to Parks, Recreational Facilities and the Municipal Beach”, Subsection 101.36(D), “Safety Hazards”, and Subsection 101.36(E), “Nuisances at Parks, Recreational Facilities and Municipal Beach Sites”; and Chapter 132, “Offenses Against Public Peace and Safety”, by repealing Section 132.02, “Disturbing the Peace; Public Places”, of the Code Of Ordinances, to conform with regulations set forth in House Bill 45 amending Section 790.33, Florida Statutes and to otherwise comply with State and Federal Statute.

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. 32-11:** 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 increased residential and commercial collection service rates for FY 2012. If passed, a public hearing will be held on October 4, 2011.
- B. **ORDINANCE NO. 34-11:** Approve an increase of the parking meter fees from \$1.25 to \$1.50 per hour in all metered parking spaces, an increase to the cost of the annual beach parking permit from \$80.00 to \$90.00 per year, and creation of a new permit classification of Senior Beach Parking Permit at a cost of \$95.00 per year. If passed, a public hearing will be held on October 4, 2011.
- C. **ORDINANCE NO. 35-11:** Approve an ordinance amending Chapter 92, "Boats and Boating", by amending Section 92.15, "Docking License for Excursion Boat Operations", Subsection (E), "Short-Term Agreement", to modify the permit fee; and by amending subsection (G), "Use of Docks at Veterans Park", to increase the mooring time for excursion boats at Veterans Park. If passed, a public hearing will be held on October 4, 2011.

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

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

POSTED: SEPTEMBER 16, 2011