

City of Delray Beach

Regular Commission Meeting

****AGENDA RESULTS****



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, July 5, 2011

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.** Commissioner Fetzer was absent.
2. **INVOCATION.**
3. **PLEDGE OF ALLEGIANCE TO THE FLAG.**
4. **AGENDA APPROVAL.** (Mayor McDuffie noted Item 9.D., Reconsideration of a Vote for a Community Redevelopment Agency Board Appointment, was **POSTPONED**; Item 9.G., Appointment to the Financial Review Board, was **POSTPONED**; additional information for Item 9.K., Appointments to the Nuisance Abatement Board, was on the dais. Approved as amended with Item 9.D., Reconsideration of a Vote for a Community Redevelopment Agency Board Appointment, remaining on the agenda, 4-0).
5. **APPROVAL OF MINUTES:**
 - A. June 21, 2011 – Regular Meeting (Approved, 4-0)
6. **PROCLAMATIONS:**
 - A. None
7. **PRESENTATIONS:**
 - A. None
8. **CONSENT AGENDA:** City Manager Recommends Approval. (Approved, 4-0)
 - A. **REQUEST FOR SIDEWALK DEFERRAL/114 N.W. 16th STREET:** Approve a request to defer the installation of a sidewalk along N.W. 16th Street and N.W. 2nd Avenue for the property located at 114 N.W. 16th Street.
 - B. **RESOLUTION NO. 26-11/ABANDONMENT OF SIDEWALK EASEMENT/HYATT PLACE:** Approve Resolution No. 26-11 to abandon a 5'x 55' sidewalk easement located on the property at 115 N.E. 1st Street associated with Hyatt Place development.
 - C. **EASEMENT AGREEMENT/FLORIDA POWER & LIGHT/POMPEY PARK CONCESSION STAND PROJECT:** Approve an easement agreement between the City and Florida Power & Light (FPL) regarding a pad mounted transformer and associated underground electrical utilities for the Pompey Park Concession Stand Project.
 - D. **MINOR SUBDIVISION PLAT APPROVAL/HYATT PLACE:** Approve a minor subdivision plat for 104 N.E. 2nd Avenue Plat (a/k/a Hyatt Place) located on the north side of N.E. 1st Street, between Pineapple Grove Way and N.E. 1st Avenue.

- E. **SUSTAINABLE COMMUNITIES GRANT CONSORTIUM AGREEMENT:** Approve a Consortium agreement to provide support to various agencies, organizations, governments and individuals to complete work on a Regional Sustainable Communities Initiative funded under a sustainability grant from US Department of Housing and Urban Development.
- F. **DEVELOPER'S AGREEMENT/GRANITE WORTHING, LC:** Approve a Developer's Agreement with Granite Worthing, LC. in the amount of \$12,535.00 for funding of the re-design of Worthing Park.
1. **SERVICE AUTHORIZATION NO. 07-05.1/AECOM:** Approve Service Authorization No. 07-05.1 with AECOM in the amount of \$12,535.00 for funding of the re-design of Worthing Park; contingent upon approval of the Developer's Agreement. Funding is available from 117-4133-572-68.19 (Recreation Impact Fee FD: Other Improvement/Worthing Park Improvement).
- G. **FINAL SUBDIVISION PLAT APPROVAL/FRANKLIN AT DELRAY BEACH:** Approve the Final Subdivision Plat for Franklin at Delray Beach, located on the west side of Federal Highway, approximately 320 feet south of S.E. 10th Street and north of the Plaza at Delray.
- H. **MODIFICATION #2 TO SUBGRANT AGREEMENT/NEIGHBORHOOD STABILIZATION PROGRAM:** Approve Modification #2 to the Neighborhood Stabilization Program (NSP) Subgrant Agreement to extend the contract date to February 4, 2012, pursuant to direction from the Department of Community Affairs.
- I. **FUNDING AGREEMENT/COMMUNITY REDEVELOPMENT AGENCY (CRA)/ECONOMIC DEVELOPMENT DIRECTOR POSITION:** Approve a Funding Agreement with the Community Redevelopment Agency (CRA) regarding the funding of the Economic Development Director position.
- J. **INITIATION OF COMPREHENSIVE PLAN AMENDMENT 2011-1:** Formally initiate Comprehensive Plan amendment 2011-1 pursuant to Section 9.2.1 of the Land Development Regulations.
- K. **AGREEMENT/EZLINKS GOLF, INC. /MUNICIPAL GOLF COURSE AND LAKEVIEW GOLF COURSE:** Approve an Agreement with EZLinks Golf, Inc. to provide the City with Point of Sale computer systems and other services for the Municipal Golf Course and Lakeview Golf Course.
- L. **SUBDIVISION IMPROVEMENT AGREEMENT/KCMCL PINEAPPLE GROVE, LLC:** Approve a Subdivision Improvement Agreement with KCMCL Pineapple Grove, LLC for the Hyatt Place at Pineapple Grove, to pay \$7,500.00.00 of improvements to the intersection of N.E. 1st Avenue and N.E. 1st Street to the City.

- M. **AGREEMENT/DEB PETROLEUM COMPANY, INC.:** Approve an Agreement with DEB Petroleum Company, Inc. for provision to the City of an emergency backup supply of diesel and unleaded fuel from the gas station at 380 W. Linton Boulevard as necessary during disaster response activities.
- N. **AGREEMENT/DEB PETROLEUM 2, INC.:** Approve an Agreement with DEB Petroleum Company 2, Inc. for provision to the City of an emergency backup supply of diesel and unleaded fuel from the gas station at 2100 W. Linton Boulevard as necessary during disaster response activities.
- O. **REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:** Accept the actions and decisions made by the Land Development Boards for the period June 22, 2011 through July 1, 2011.
- P. **AWARD OF BIDS AND CONTRACTS:**
 - 1. Contract award to All Phase Roofing and Construction in the amount of \$16,922.00 for re-roofing of the Fleet Maintenance tire bay roof. Funding is available from 334-3351-591-46.10 (General Construction Fund: Repair & Maintenance Services/Building Maintenance).

9. **REGULAR AGENDA:**

- A. **CONDITIONAL USE REQUEST/MILAGRO CENTER:** Consider a conditional use request for Milagro Center to allow the establishment of a child care center to operate within a portion of the existing 7,500 square foot clubhouse facility at the Village at Delray multiple family residential development located at 695 Auburn Avenue. *(Quasi-Judicial Hearing)* (Motion to adopt board order as presented; Approved, 4-0)
- B. **WAIVER REQUESTS/BUGERFI RESTAURANT:** Consider waiver requests to Land Development Regulations (LDR) Section 4.6.7(J)(3), “Roof Signs”, to allow a sign to be placed above the roofline and Land Development Regulations (LDR) Section 4.6.7(E)(7), “Design Standards Matrix”, to allow a sign to be placed on an elevation that does not face a dedicated street frontage for BurgerFi Restaurant located at 6 South Ocean Blvd. *(Quasi-Judicial Hearing)* (Motion to adopt board order as presented; Approved, 3-1. Commissioner Frankel dissenting)
- C. **TRANSFER OF PUBLIC ART BOARD FUNDS/INSTALLATION OF EAGLE SCOUT STATUE:** Consider approval to transfer money from the Public Art Board funds to pay for installation of the Eagle Scout Statue at Old School Square Park. Funding is available from 115-1702-579-31.90 (Special Projects Fund: Professional Services/Other Professional Services). (Motion to **TABLE**; Approved, 4-0)

- D. **RECONSIDERATION OF A VOTE FOR A COMMUNITY REDEVELOPMENT AGENCY BOARD APPOINTMENT:** Consider a request to reconsider the vote for an appointment made to the Community Redevelopment Agency Board at the June 21, 2011 Regular Commission Meeting. (Motion to reconsider Commissioner Gray's appointment to the Community Redevelopment Agency Board; Denied, 4-0)
- E. **APPOINTMENT TO THE CODE ENFORCEMENT BOARD:** Appoint one (1) regular member to the Code Enforcement Board for an unexpired term ending January 14, 2012. Based upon the rotation system, the appointment will be made by Commissioner Frankel (Seat #3). (Appointed Kurt Lehmann and approved, 4-0)
- F. **APPOINTMENT TO THE DOWNTOWN DEVELOPMENT AUTHORITY:** Appoint one (1) regular member to the Downtown Development Authority (DDA) to serve a three (3) year term ending July 1, 2014. Based upon the rotation system, the appointment will be made by Commissioner Carney (Seat #1). (Appointed Ryan Boylston and approved, 4-0)
- G. **APPOINTMENT TO THE FINANCIAL REVIEW BOARD:** Appoint one (1) alternate member to the Financial Review Board to serve a (2) year term ending July 31, 2013. Based upon the rotation system, the appointment will be made by Commissioner Fetzer (Seat #2). (POSTPONED)
- H. **APPOINTMENT TO THE GREEN IMPLEMENTATION ADVANCEMENT BOARD:** Appoint one (1) regular member to the Green Implementation Advancement Board to serve a two (2) year term ending July 31, 2013. Based upon the rotation system, the appointment will be made by Commissioner Carney (Seat #1). (Appointed Jeff Benavides and approved, 4-0)
- I. **APPOINTMENTS TO THE EDUCATION BOARD:** Appoint three (3) regular members to the Education Board to serve a two (2) year term ending July 31, 2013. Based upon the rotation system, the appointments will be made by Commissioner Fetzer (Seat #2), Commissioner Carney (Seat #1) and Commissioner Fetzer (Seat #2). (Motion to reconsider appointment of Ora Sorensen; Approved, 4-0. Appointed LeaAnne DeRigne and approved, 4-0. Commissioner Fetzer's two (2) appointments was deferred to the July 19, 2011 Regular Commission Meeting)
- J. **APPOINTMENTS TO THE POLICE ADVISORY BOARD:** Appoint one (1) regular member to serve a two (2) year term ending July 31, 2013 and one (1) regular member to serve an unexpired term ending July 31, 2012 to the Police Advisory Board. Based upon the rotation system, the appointments will be made by Commissioner Fetzer (Seat #2) and Commissioner Carney (Seat #1). (Commissioner Fetzer's and Commissioner Carney's appointments were DEFERRED to the July 19, 2011 Regular Commission Meeting)

- K. **APPOINTMENTS TO THE NUISANCE ABATEMENT BOARD:** Appoint three (3) regular members and one (1) alternate member to the Nuisance Abatement Board to serve two (2) year terms ending on July 31, 2013. Based upon the rotation system, the appointments will be made by Mayor McDuffie (Seat #5), Commissioner Carney (Seat #1), Commissioner Fetzer (Seat #2) and Commissioner Frankel (Seat #3). (Appointed Greta Britt and approved, 4-0; Appointed Patricia Conlon and approved 4-0; Appointed Theresa DiPerna and approved, 4-0. Commissioner Fetzer's appointment was deferred to the July 19, 2011 Regular Meeting)
- L. **APPOINTMENTS TO THE PUBLIC ART ADVISORY BOARD:** Appoint three (3) regular members to the Public Art Advisory Board to serve a two (2) year term ending July 31, 2013. Based upon the rotation system, the appointments will be made by Commissioner Carney (Seat #1), Commissioner Fetzer (Seat #2) and Commissioner Frankel (Seat #3). (Appointed Mary Minioka and approved, 4-0; Appointed Ora Sorenson and approved 4-0. Commissioner Fetzer's appointment was deferred to the July 19, 2011 Regular Meeting)
10. **PUBLIC HEARINGS:**
- A. **ORDINANCE NO. 22-11 (FIRST READING/FIRST PUBLIC HEARING):** City-initiated amendment to the Land Development Regulations (LDR) Section 4.6.9, "Off Street Parking Regulations", Subsection 4.6.9(C), "Number of Parking Spaces Required", and Appendix "A", "Definitions", by adding the definition of call centers and providing for specific parking requirements for call centers. If passed, a second public hearing will be held on July 19, 2011. (Motion to approve; Approved, 4-0)
- B. **DEVELOPMENT AGREEMENT/CDS DELRAY REDEVELOPMENT, LLC/CDR ATLANTIC PLAZA, LTD.:** Consider approval of a Development Agreement with CDS Delray Redevelopment, LLC. and CDR Atlantic Plaza, LTD. regarding the Atlantic Plaza Project. (Motion to approve to move to the July 19, 2011 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. 20-11:** 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. If passed, a public hearing will be held on July 19, 2011. (Motion to approve; Approved, 4-0)

- B. **ORDINANCE NO. 21-11:** City-initiated amendment to the Land Development Regulations (LDR) to clarify the applicability of the payment of in-lieu of parking program. If passed, a public hearing will be held on July 19, 2011. (Motion to approve; Approved, 4-0)
- C. **ORDINANCE NO. 23-11:** City-initiated amendment to the Land Development Regulations (LDR) Section 2.4.3(K), “Fees”, Subsection 2.4.3(K)(1), “Development Applications”, to provide for an increase in fees. If passed, a public hearing will be held on July 19, 2011. (Motion to approve; Approved, 4-0)

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

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

POSTED: JULY 1, 2011

******** Meeting adjourned at 10:25 p.m. ********