

City of Delray Beach

Regular Commission Meeting

****AGENDA RESULTS****



RULES FOR PUBLIC PARTICIPATION

Tuesday, November 15, 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.** (Mayor McDuffie noted that the applicant requested that Item 9.B., Consideration of an Appeal/Historic Preservation Board's Decision/Class III Site Plan Modification and Item 9.B.1., Consideration of an Appeal/Historic Preservation Board's Decision/Waiver Request be postponed. Approved as amended, 5-0)
5. **APPROVAL OF MINUTES:**
 - A. November 1, 2011 – Regular Meeting (Approved, 5-0)
6. **PROCLAMATIONS:**
 - A. America Recycles Day – November 15, 2011
 - B. St. Paul African Methodist Episcopal Church 114th Anniversary
7. **PRESENTATIONS:**
 - A. Florida Association of City Clerks (FACC) Second Vice President – Lori McWilliams presentation to City Clerk, Chevelle D. Nubin
8. **CONSENT AGENDA:** City Manager Recommends Approval. (Approved as amended, 5-0)
 - A. **RESOLUTION NO. 53-11: ABANDONMENT OF UTILITY EASEMENT; MIDTOWN DELRAY:** Approve Resolution No. 53-11 to abandon a 12' wide utility easement located within the plat for Midtown Delray property (formerly Blood's Grove Orchard) for a water main formerly serving the Hammock Reserve development to the south.
 - B. **CHANGE ORDER NO. 2/FOSTER MARINE CONTRACTORS, INC.:** Approve Change Order No. 2 to Foster Marine Contractors, Inc. in the amount of \$13,647.50 for an adjustment in contract quantities due to roadway slope adjustment to facilitate drainage; and overbuild to an existing asphalt driveway to match the new sidewalk grade; and a contract time extension of seven (7) days; for the S.W. 12th Avenue/Auburn/S.W. 14th Avenue Project. Funding is available from 448-5461-538-68.04 (Storm Water Utility Fund: Other Improvement/S.W. 12th Avenue/Auburn/S.W. 14th Avenue).

- C. **CONTRACT CLOSEOUT (CHANGE ORDER NO. 3/FINAL)/BRANG CONSTRUCTION, INC.:** Approve a Contract Closeout (C.O. No. 3/Final) with Brang Construction, Inc. in the amount of an \$18,556.10 decrease and final payment in the amount of \$62,142.20; which includes \$18,123.08 for additional asphalt overlay required to complete the Martin Luther King Jr. Drive Beautification Project. Funding is available from 380-4150-572-63.28 (2004 G.O. Bond: Improvements Other/Pompey Park/Community Center), 334-4141-572-68.57 (General Construction Fund: Other Improvement/Cultural Loop/MLK Drive Phase 1) and 441-5181-536-65.96 (Water and Sewer Fund: Other Improvements/Reclaimed Water Transmission).
- D. **TRI-PARTY AGREEMENT: FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT)/CSX TRANSPORTATION, INC. (CSXT)/CITY OF DELRAY BEACH:** Approve a Tri-Party Agreement between the Florida Department of Transportation, CSX Transportation, Inc. (CSXT) and the City of Delray Beach in the amount of \$203,633.00 to reimburse CSXT for reconstruction of the S.W. 10th Street railroad crossing. Funding is available from 334-3162-541-46.90 (General Construction Fund: Repair & Maintenance Services/Other Repair/Maintenance Costs).
- E. **IMPLEMENTATION OF A VALET PARKING SERVICE IN THE OLD SCHOOL SQUARE GARAGE:** Approve implementation of a valet parking service in the Old School Square Parking Garage.
- F. **HOUSING REHABILITATION GRANT/CONTRACT AWARD:** Re-award one (1) Housing Rehabilitation contract in the amount of \$28,839.31 for 316 N.W. 6th Avenue through the Community Development Block Grant (CDBG) and Residential Construction Mitigation Program (RCMP) to Built Solid Construction the second lowest responsive bidder, due to the low bidder's withdrawal request. Funding is available from 118-1963-554-49.19 (Neighborhood Services: Other Current Charges/Housing Rehabilitation) and 118-1936-554-49.19 (Neighborhood Services: Other Current Charges/Housing Rehabilitation).
- G. **LANDSCAPE MAINTENANCE AGREEMENT/921 SOUTH OCEAN BOULEVARD, LLC:** Approve Landscape Maintenance Agreement with 921 South Ocean Boulevard, LLC to provide for the installation of new shrubs and groundcovers within the unpaved right-of-way in front of the property located at 921 South Ocean Boulevard.
- H. **LICENSE AGREEMENT/ZGS DELRAY, LLC.:** Approve a License Agreement with ZGS Delray, LLC. for use of public parking spaces adjacent to N.E. 3rd Avenue for a limited period of time.
- I. **REQUEST TO INSTALL BUS SHELTER ART/PUBLIC ART ADVISORY BOARD:** Approve a request to install art work in three (3) bus shelters located at: 1) Carver Middle School at the intersection of Barwick and West Atlantic; 2) N.E. 1st Street in the 200 Block and 3) Linton Boulevard just east of Military Trail on the south side. Funding is available from 115-1702-579-31.90 (Special Projects Fund (Public Art): Professional Services/Other Professional Services).

- J. **VOTE PROCESSING EQUIPMENT USE AND ELECTIONS SERVICES AGREEMENT:** Approve a Vote Processing Equipment Use and Election Services Agreement between the Palm Beach County Supervisor of Elections and the City for conducting municipal elections.
- K. **RESOLUTION NO. 52-11:** Approve Resolution No. 52-11 assessing costs for abatement action required to remove nuisances on twelve (12) properties throughout the City of Delray Beach.
- L. **SPECIAL EVENT REQUEST/14TH ANNUAL FIRST NIGHT 2012:** Approve a special event request to endorse the 14th Annual First Night 2012 event on December 31, 2011 from 4:00 p.m. to midnight, grant a temporary use permit per LDR Section 2.4.6(F) for the use of City rights-of-way and facilities as requested, and authorize generator use and staff support for traffic control and security, site cleanup and trash removal, barricade set up and removal, banner hanging, signage construction and installation, and EMS services.
- M. **SPECIAL EVENT REQUEST/SAVOR THE AVENUE:** Approve and endorse Savor the Avenue, sponsored by Boca Raton and Delray Beach Magazine and supported by the Downtown Development Authority, to be held on March 29, 2012 from 5:30 p.m. to 8:30 p.m.; grant a temporary use permit per LDR Section 2.4.6(F) for closure and use of Atlantic Avenue from Swinton to the west side of NE/SE 5th Avenue from 2 p.m. until 10:00 p.m.; and authorize staff support for traffic control and security, EMS assistance, Fire inspection, barricading, trash boxes, use of a City-owned portable generator and banner hanging with banners to be hung no sooner than 14 days prior to the event; contingent upon receipt of a certificate of event and alcohol liability insurance and an executed hold harmless agreement by March 15, 2012.
- N. **REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:** Accept the actions and decisions made by the Land Development Boards for the period October 31, 2011 through November 11, 2011.
- O. **AWARD OF BIDS AND CONTRACTS:**
1. Contract award to Murray Logan Construction, Inc. in the amount of \$16,992.00 for proposed drainage work on Lewis Cove. Funding is available from 448-5461-538-46.90 (Storm Water Utility Fund: Repair and Maintenance Service/Other Repair/Maintenance Cost).
 2. Purchase award to Intercounty Engineering, Inc. in the amount of \$50,000.00 for the Sanitary Sewer Manhole Rehabilitation Program. Funding is available from 442-5178-536-63.82 (Water & Sewer Renewal & Replacement Fund: Improvements Other/Sanitary Sewer MH Rehab).
 3. Purchase award to PVS Technologies, Inc. in the amount of \$259,000.00 for purchase and delivery of liquid ferric chloride "as needed". Funding is available from 441-5122-536-52.21 (Water and Sewer Fund: Operating Supplies/Chemicals).

9. **REGULAR AGENDA:**

- A. **PROPOSAL/DELRAY BEACH PRESERVATION TRUST/CENTENNIAL TIME CAPSULE:** Consider approval of a proposal from the Delray Beach Preservation Trust to install a 100-Year Time Capsule in the City Hall lobby in recognition of the Delray Beach Centennial. (Motion to approve; Approved, 5-0)
- B. **CONSIDERATION OF AN APPEAL/HISTORIC PRESERVATION BOARD'S DECISION/CLASS III SITE PLAN MODIFICATION:** Consider an appeal of the Historic Preservation Board's denial of the Class III site plan modification request for 85 S.E. 6th Avenue. (*Quasi-Judicial Hearing*) (POSTPONED)
1. **CONSIDERATION OF AN APPEAL OF THE HISTORIC PRESERVATION BOARD'S DECISION ON A WAIVER REQUEST:** Consider a request to overturn denial of a waiver to Land Development Regulations (LDR) Section 4.5.1(E)(3)(b)(2), "Parking", for six required parking spaces for 85 S.E. 6th Avenue. (*Quasi-Judicial Hearing*) (POSTPONED)
- C. **SPECIAL EVENT REQUEST/FASHION ON THE AVENUE:** Consider approval of a special event request for Fashion on the Avenue, sponsored by Luxe Partners, Inc. and supported by the Downtown Development Authority, to be held on January 26, 2012, from 8:00 p.m. to 9:30 p.m.; granting of a temporary use permit per LDR Section 2.4.6(F) for closure and use of Atlantic Avenue from Swinton to the west side of N.E./S.E. 5th Avenue from 4:00 p.m. until 11:00 p.m. and use of the Hands lot for crew and models; and authorization of staff support for traffic control and security, barricading, use of a City-owned portable generator and banner hanging; contingent upon receipt of a certificate of liability insurance and an executed hold harmless agreement by January 12, 2012. (Motion to approve; Approved, 5-0)
- D. **APPOINTMENT TO THE GREEN IMPLEMENTATION ADVANCEMENT BOARD:** Appoint one (1) regular member to the Green Implementation Advancement Board to serve an unexpired term ending July 31, 2012. Based upon the rotation system, the appointment will be made by Commissioner Gray (Seat# 4). (Appointed Isabelle Alarie and approved, 5-0)
- E. **APPOINTMENT TO THE EDUCATION BOARD:** Appoint one (1) regular member to the Education Board to serve an unexpired term ending July 31, 2012. Based upon the rotation system, the appointment will be made by Commissioner Gray (Seat #4). (Appointed Angela Burns and approved, 5-0)

10. **PUBLIC HEARINGS:**

- A. **RESOLUTION NO. 49-11:** Consider approval of Resolution No. 49-11 allowing for a fire assessment fee, if adopted, to be collected for a portion of fiscal year 2012, and to be placed on the property tax bill for the fiscal year beginning October 1, 2012. (Motion to approve; Approved, 5-0)

- B. **ORDINANCE NO. 37-11:** Consider a city initiated amendment to the Land Development Regulations (LDR) Section 4.5.3, “Flood Damage Control Districts”, Subsection (D), “Construction Standards”, to modify the section while maintaining compliance with State Statutes. (Motion to approve; Approved, 5-0)
- C. **ORDINANCE NO. 40-11:** Consider a city initiated amendment to the Land Development Regulations (LDR) Section 4.6.9(E)(3), “In-Lieu Fee”, to clarify that the maximum percentage of in-lieu spaces applies only to new developments and the expansion of existing developments. (Motion to approve; Approved, 4-1. Commissioner Frankel dissenting)
- D. **ORDINANCE NO. 41-11:** Consider a city initiated amendment to the Land Development Regulations (LDR) Section 2.4.6(F), “Temporary Use Permit”, to clarify the approval authority for uses under a tent. (Motion to approve; Approved, 5-0)
- E. **ORDINANCE NO. 42-11:** Consider an amendment to Chapter 33, “Police and Fire-Rescue Departments”, Section 33.64, “Contributions”, Subsection (A), “Member Contributions”, to increase employee contributions by 3% for police officers in compliance with the new terms of our Collective Bargaining Agreement. (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. 43-11:** Consider amending Ordinance No. 70-89 which revises Section 1, “Designation”, and Section 2, “Requirements of Designation” of Ordinance 70-89, and an amendment to Land Development Regulations (LDR) Section 4.5.1(K)(2), “Designation of Historic Sites”, to provide for a revised legal description of the Fontaine Fox Designation. If passed, a public hearing will be held on December 6, 2011. (Motion to approve; Approved, 5-0)

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

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

POSTED: NOVEMBER 11, 2011

******** Meeting adjourned at 7:33 p.m. ********