

JANUARY 16, 2007

A Regular Meeting of the City Commission of the City of Delray Beach, Florida, was called to order by Mayor Jeff Perlman in the Commission Chambers at City Hall at 6:00 p.m., Tuesday, January 16, 2007.

1. Roll call showed:

Present - Commissioner Rita Ellis
Commissioner Fred Fetzer
Commissioner Jon Levinson
Mayor Jeff Perlman

Absent - Commissioner Brenda Montague

Also present were - David T. Harden, City Manager
Robert A. Barcinski, Assistant City Manager
Susan A. Ruby, City Attorney
Brian Shutt, Assistant City Attorney
Chevelle D. Nubin, City Clerk

2. The opening prayer was delivered by Reverend Nancy Norman from Unity Church of Delray Beach.

3. The Pledge of Allegiance to the flag of the United States of America was given.

4. **AGENDA APPROVAL.**

Mayor Perlman stated he would like to move **Item 8.L.B., Review and Appealable Land Development Board Actions (Santa Fe Salon)** of the Consent Agenda to the Regular Agenda as **Item 9.A.1.**

He announced that there are several public hearings to add this evening and stated these will be read quickly and placed on the February 6, 2007 Agenda. Mayor Perlman stated this will be for **Item 10.F., Ordinance No. 71-06**, **Item 10.G., Ordinance No. 70-06**, and **Item 10.H., Ordinance No. 69-06**.

The City Attorney stated **Item 10.D., Ordinance No. 3-07** and **Item 10.E., Ordinance No. 4-07** will be continued to February 6, 2007 as well.

Mayor Perlman stated he would like to add **Item 7.D., Special Recognition Award for Boston's on the Beach**.

Mrs. Ellis moved to approve the Agenda as amended, seconded by Mr. Fetzer. Upon roll call the Commission voted as follows: Mr. Fetzer – Yes; Mr. Levinson – Yes; Mayor Perlman – Yes; Mrs. Ellis – Yes. Said motion passed with a 4 to 0 vote.

5. APPROVAL OF MINUTES:

Mrs. Ellis moved to approve the Minutes of the Regular Meeting of December 12, 2006, seconded by Mr. Fetzter. Upon roll call the Commission voted as follows: Mr. Levinson – Yes; Mayor Perlman – Yes; Mrs. Ellis – Yes; Mr. Fetzter – Yes. Said motion passed with a 4 to 0 vote.

Mr. Fetzter moved to approve the Minutes of the Regular Meeting of January 2, 2007, seconded by Mrs. Ellis. Upon roll call the Commission voted as follows: Mayor Perlman – Yes; Mrs. Ellis – Yes; Mr. Fetzter – Yes; Mr. Levinson – Yes. Said motion passed with a 4 to 0 vote.

Mrs. Ellis moved to approve the Minutes of the Workshop Meeting of January 9, 2007, seconded by Mr. Fetzter. Upon roll call the Commission voted as follows: Mayor Perlman – Yes; Mrs. Ellis – Yes; Mr. Fetzter – Yes; Mr. Levinson – Yes. Said motion passed with a 4 to 0 vote.

6. PROCLAMATIONS:

6.A. Recognizing Black History Month – February 2007

Mayor Perlman read and presented a proclamation hereby proclaiming the month of February 2007 as Black History Month. Lula Butler, Director of Community Improvement, came forward to accept the proclamation.

7. PRESENTATIONS:

7.A. Recognizing and Commending City Attorney Susan Ruby for 20 years of dedicated service to the City of Delray Beach

Mayor Perlman stated he had worked with the City Attorney for almost seven years and she has been an excellent source of counsel. Mayor Perlman presented the City Attorney with a plaque. Susan Ruby, City Attorney, stated it has been a pleasure to have worked for the City of Delray Beach and she has worked with many great people.

7.B. Project Holiday – Delores Rangel

Delores Rangel, Administrative Assistant, stated her daughter Melissa Rangel has been in the Air Force and has completed three tours successfully and is currently training to go back to Iraq. Mrs. Rangel stated Project Holiday was launched on October 18, 2006 and ended November 10, 2006 and there were over 40 volunteers who helped with the packing of the care packages sent to military men and women currently serving overseas in conjunction with the City of Delray Beach, Forgotten Soldiers Outreach, Inc. and the You are Not Alone Organization. She stated over 278 care packages were sent with much needed items and letters from local schools and the Parks and Recreation Afterschool Program were also included. Mrs. Rangel stated of the 278 packages seven of them are recipients from the City of Delray Beach. She stated the

City of Delray Beach received emails and great responses from the soldiers who received the packages. The City of Delray Beach received over \$3,000.00 in cash and checks which was used to purchase calling cards that were included in the care packages and it is estimated that over \$8,000.00 in merchandise from City departments as well as the community at large. She stated the response was overwhelming and numerous calls were received applauding the City's effort in this endeavor. Mrs. Rangel thanked Brenda Montague who initiated this project, the Commission and the Mayor for their support. In addition, Mrs. Rangel thanked former Commissioner Alberta McCarthy who is the founder of "You Are Not Alone" which is the support group for local military families of our troops. Mrs. Rangel stated the group meets once a month to share news and friendship. Mrs. Rangel gave a special thanks to Mr. Robert Barcinski, Assistant City Manager and Ivan Ladizinsky, Public Information Officer, and everyone who helped to make this project a success.

At this point, Mrs. Rangel played a DVD for the Commission from News Channel 5 regarding the Project Holiday. In addition, Mrs. Rangel and Mayor Perlman presented special recognition awards to individuals of the community.

7.C. 2006 Digital Cities Survey Award - Information Technology Division

Joseph Safford, Finance Director, stated the National League of Cities partners with the Center for Digital Government. The Center for Digital Government is an institute that conducts research on best practices on local government. Mr. Safford stated they partnered in conducting an annual survey on information technology centers around the United States since the year 2000. The annual study survey examines how city governments are utilizing digital technology to better serve their citizens and streamline the operations of their governments. The City of Delray Beach received a first place award for cities with less than 75,000 in population. Mr. Safford stated the City of Delray Beach was honored in a Special Awards Ceremony conducted by the center for digital government in Reno, Nevada on December 7, 2006. He stated this is the City's second consecutive year receiving the first place award. Mr. Safford congratulated Guy Buzzelli, Chief Information Officer, and the entire staff of the Information Technology Division for this performance achievement.

Mayor Perlman stated this is a very prestigious award and noted in 2000 the City of Delray Beach did not have a consolidated website. He feels the City of Delray Beach has come a long way in the past seven years and now we are getting national recognition. Mayor Perlman stated he was contacted today by an internet company that is going to be locating in Delray Beach. He stated one of the reasons they are here and what they would like to do in terms of their marketing is tie themselves to the Digital Cities Survey winner.

Mayor Perlman presented the 2006 Digital Cities Survey Award to Guy Buzzelli, Chief Information Officer/Information Technology. Mr. Buzzelli came forward to accept the 2006 Digital Cities Survey Award.

7.D. Special Recognition Award – Boston’s on the Beach

Mayor Perlman stated this is a Special Recognition Award for Boston’s on the Beach which generously catered the Holiday Employee Luncheon this year. He noted the award will be sent to them.

8. CONSENT AGENDA: City Manager Recommends Approval.

8.A. RESOLUTION NO. 3-07: Approve Resolution No. 3-07 assessing costs for abatement action necessary to remove junked and/or abandoned vehicles from two (2) properties throughout the City.

The caption of Resolution No. 3-07 is as follows:

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, PURSUANT TO CHAPTER 90 OF THE CODE OF ORDINANCES OF THE CITY OF DELRAY BEACH, ASSESSING COSTS FOR ABATING NUISANCES BY REMOVING JUNKED AND/OR ABANDONED VEHICLES WITHIN THE CITY OF DELRAY BEACH; SETTING OUT ACTUAL COSTS INCURRED BY THE CITY TO ACCOMPLISH SUCH ABATEMENT AND LEVYING SAID COSTS; PROVIDING FOR AN EFFECTIVE DATE AND FOR A DUE DATE AND INTEREST ON ASSESSMENTS; PROVIDING FOR THE RECORDING OF THIS RESOLUTION, AND DECLARING SAID LEVY TO BE A LIEN UPON THE SUBJECT PROPERTY FOR UNPAID ASSESSMENTS; PROVIDING FOR THE MAILING OF NOTICE OF LIEN.

(The official copy of Resolution No. 3-07 is on file in the City Clerk's office.)

8.B. CONTRACT ADDITION (C.O. NO. 2)/DURACLEAN, INC: Approve a Contract Addition (C. O. No. 2) between the City and Duraclean, Inc. in the amount of \$17,677.78 for the water damage & microbial remediation work at Fire Stations No. 1, 2, 3 and 5. Funding is available from 001-2311-522-46.10 (Fire Department/General Fund/Building Maintenance).

8.C. SERVICE AUTHORIZATION NO. 3.2/WALTERS ZACKRIA ASSOCIATES: Approve Service Authorization No. 3.2 (Amendment No. 2 to Service Authorization No. 3) to Walters Zackria Associates in the amount of \$150,000.00 for performing construction administration, engineering inspections, post construction services and traffic improvements design/permitting services related to the construction of the Western/Senior/Community Center Project. Funding is available from 380-4150-572-62.58 (2004 G.O. Bond/Parks & Recreation/Western/Senior Center).

8.D. LANDSCAPE MAINTENANCE AGREEMENT/LENNAR HOMES, INC.: Approve and accept a landscape maintenance agreement with Lennar Homes, Inc. to place certain landscaping in the City's right-of-way along Swinton Avenue south of SW 10th Street and adjacent to the FEC railroad, in conjunction with the Villages at Swinton Square Project.

8.E. PURCHASE ORDER INCREASE/TANNER INDUSTRIES, INC.: Approve an increase of \$1,589.00 to purchase order #637490, Tanner Industries, Inc., for the freight charges for delivery of the 1,000 gallon tank for the storage of anhydrous ammonia to be located at the Water Treatment Plant. Funding is available from 441-5122-536-64.90 (Water/Sewer Fund/Other Repair/Maintenance Costs).

8.F. HTE HARDWARE/SOFTWARE MODULE: Approve and authorize Information Technology (IT) to proceed with the acquisition of the HTE software in the amount of \$49,190.00 and Selectron software in the estimated amount of \$6,000.00 to be utilized for project tracking in the Planning and Zoning and Engineering Departments. Funding is available from 001-2511-515-66.10 (General Fund/Software).

8.G. SPONSORSHIP SALES AGENT AGREEMENT/LEVERAGE AGENCY, LLC: Approve a Sponsorship Sales Agent Agreement between the City and Leverage Agency, LLC in the amount of \$4,000.00 per month of which \$2,000.00 shall be credited for commission earned; to help sell five (5) sponsorships allotted to the City for the FED Cup event. The City shall pay Leverage Agency, LLC a commission in the sum of twenty percent (20%) of any cash sponsorships it receives. Funding is available from 001-4210-575-55.44 (General Fund/Other Events).

8.H. RATIFICATION OF THE SISTER CITIES BOARD OF DIRECTORS FOR 2007: Approve and ratify the proposed slate of Directors for the Sister Cities Committee for 2007.

8.I. SPECIAL EVENT REQUEST/HOWARD ALAN 10th ANNUAL WINTER STREET CRAFT FESTIVAL: Approve a special event request to endorse the 10th Annual Delray Beach Winter Street Craft Festival to be held on February 24 - 25, 2007 from 10:00 a.m. - 5:00 p.m.; including a temporary use permit per LDR Section 2.4.6(F) for use of NE/SE 4th Avenue, one block north/south of Atlantic Avenue as well as the north end of Hand's parking lot for vendor parking; and to authorize staff support for security and traffic control with the event sponsor paying all overtime costs, and to permit an event sign to be erected on Atlantic Avenue just east of I-95, 10 days prior to the event per City Code.

8.J. STREET CLOSURE APPROVAL/RUN 4 PUN II: Approve a request for closure of Railroad Way from 9:00 a.m. - 4:00 p.m. on February 10, 2007 for the Run 4 Pun II fundraising event from Atlantic Avenue to NE 1st Street.

8.K. HOUSING REHABILITATION GRANT/CONTRACT AWARDS:
Approve Housing Rehabilitation grant/contract awards through the Community Development Division in the amount of \$27,693.75 to Alpha South Construction, Inc. (321 Roosevelt Avenue) and \$28,665.00 to Craftsman Plus, Inc. (217 SW 2nd Avenue). Funding is available from 118-1924-554-49.19 (Community Development Fund/Housing Rehabilitation).

8.L. THIS ITEM HAS BEEN MOVED TO THE REGULAR AGENDA AS ITEM 9.A.1.

8.M. AWARD OF BIDS AND CONTRACTS:

- 1.** Contract award to Hector Tours in the amount of \$26,600.00 for two (2) bus rentals and driver services for the College Tour traveling from Delray to various college cities located in Texas, Louisiana, and Tennessee. Funding is available from 001-4127-572-48.10 (General Fund/Special Events) and 115-4930-572-56.18 (Pompey Park Special Events/Other Special Events).
- 2.** Contract award to Roof Painting by Hartzell, Inc. in the amount of \$22,664.41 for the painting and restoration of the exterior/interior of the concession building at Currie Commons Park. Funding is available from 001-4131-572-46.10 (General Fund/Building Maintenance).
- 3.** Bid award to Pro Courts in the amount of \$18,800.00 for resurfacing seven (7) hard courts and court repair with a three (3) coat color system at the Delray Beach Tennis Center. Funding is available from 001-4215-575-46.90 (General Fund/Other Repair/Maintenance Costs).
- 4.** Bid award to Superior Landscaping & Lawn Services, Inc., in the amount of \$54,411.16 for the irrigation and landscape improvements for the four (4) medians on Congress Avenue, south of Linton Boulevard. Funding is available from 119-4151-572-63.20 (Beautification Trust Fund/Landscaping/ Beautification).

Mrs. Ellis moved to approve the Consent Agenda as amended, seconded by Mr. Fetzer. Upon roll call the Commission voted as follows: Mrs. Ellis – Yes; Mr. Fetzer – Yes; Mr. Levinson – Yes; Mayor Perlman – Yes. Said motion passed with a 4 to 0 vote.

9. REGULAR AGENDA:

9.A.1. REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS: Accept the actions and decisions made by the Land Development Boards for the period January 2, 2007 through January 12, 2007.

Mayor Perlman stated he pulled Item 8.L.B. because he received a call from staff that SPRAB took out some of the Engineering specifications that staff felt was very important to the project.

Mrs. Ellis moved to appeal Item 8.L.B. (Santa Fe Salon) to the February 6, 2007 City Commission meeting, seconded by Mr. Fetzer. Upon roll call the Commission voted as follows: Mr. Fetzer – Yes; Mr. Levinson – Yes; Mayor Perlman – Yes; Mrs. Ellis – Yes. Said motion passed with 4 to 0 vote.

9.A. REQUEST FOR IN-LIEU PARKING SPACES/BOB'S FAMOUS BAR (FKA POWERS LOUNGE): Consider a request from Bob's Famous Bar (fka Powers Lounge) for the purchase of six (6) in-lieu parking spaces in the amount of \$93,600.00. Bob's Famous Bar (fka Powers Lounge) is located at 217 East Atlantic Avenue. (*Quasi-Judicial Hearing*)

Mayor Perlman read into the record the City of Delray Beach procedures for a Quasi-Judicial Hearing for this item and all subsequent Quasi-Judicial items.

Chevelle D. Nubin, City Clerk, swore in those individuals who wished to give testimony on this item.

Mayor Perlman asked the Commission to disclose their ex parte communications. The Commission had no ex parte communications to disclose.

Scott Aronson, Parking Management Specialist, stated Bob's Famous Bar (f/k/a Powers Lounge) has submitted an in-lieu of parking request and is located at 217 East Atlantic Avenue. The request is for six (6) in-lieu parking spaces. The request is predicated upon a Class III Site Plan modification being approved to construct a rooftop deck for the restaurant. The proposed deck area is 999 square feet, which pursuant to LDR's Section 4.4.13(G)(1)(d) will require six (6) additional parking spaces. The applicant is seeking to purchase six (6) in-lieu spaces at a cost of \$15,600 per space, totaling 93,600 to be paid via an In-Lieu of Parking Fee Agreement in accordance with LDR Section 4.6.9(E)(3)(d). Comprehensive Plan Policy C-4.1 of the Future Land Use Element encourages rehabilitation and revitalization within the Central Business District (CBD) through a number of incentives, one of which is the accommodation of parking needs through innovative actions. The in-lieu of parking fee program provides such an incentive and therefore is consistent with the Comprehensive Plan.

Staff has a concern that the request is for 100% of the required spaces. Additionally, the Class IV site plan modification of 2001 was approved with two (2) in-lieu parking spaces.

At its meeting of December 19, 2006, the Parking Management Advisory Board (PMAB) unanimously recommended approval of the applicant's request; at its meeting of January 8, 2007, the Downtown Development Authority (DDA) unanimously recommended approval of the applicant's request; and at its meeting of January 11, 2007, the Community Redevelopment Agency (CRA) considered this request and the action

will be reported to the City Commission.

Bob Currie, Architect with Currie, Sowards, Aguila Architects, 134 N.E. 1st Avenue, Delray Beach, stated this is a two-story building and the applicant is proposing a roof-top garden.

Mayor Perlman stated if anyone from the public would like to speak in favor or in opposition of the in-lieu request, to please come forward at this time. There being no one from the public who wished to address the Commission regarding the request for in-lieu parking spaces, the public hearing was closed.

Mr. Aronson stated the bar (rooftop deck) needs to be in association with the restaurant and noted there is a City ordinance which does not allow stand alone bars within fifty (50) feet of each other. He stated this bar is associated with the restaurant and must meet the criteria of all City codes with respect to how the bar is operated in conjunction with the restaurant.

The City Attorney stated in order for the Commission to grant the six (6) in-lieu spaces the applicant would have to have an approved site plan.

The City Attorney briefly reviewed the Board Order with the Commission who made findings according to their consensus (attached hereto is a copy and made an official part of the minutes).

Mr. Fetzer moved to approve the Board Order as set forth, seconded by Mrs. Ellis. Upon roll call the Commission voted as follows: Mr. Levinson – Yes; Mayor Perlman – Yes; Mrs. Ellis – Yes; Mr. Fetzer – Yes. Said motion passed with a 4 to 0 vote.

9.B. CONDITIONAL USE EXTENSION REQUEST/CITYSCAPE:
Consider an extension request for a conditional use approval to allow a building height in excess of 48 feet (57'6" approved) for Cityscape, located at the northwest corner of NE 5th Avenue and NE 3rd Street and is bordered to the west by the FEC Railroad. (*Quasi-Judicial Hearing*)

Chevelle D. Nubin, City Clerk, swore in those individuals who wished to give testimony on this item.

Mayor Perlman asked the Commission to disclose their ex parte communications. The Commission had no ex parte communications to disclose.

At this point, Mr. Levinson stepped away from the dais.

Paul Dorling, Director of Planning and Zoning, entered the Planning and Zoning Department project file #2005-030 into the record.

Mr. Dorling stated the action requested of the City Commission is granting an extension of a conditional use approval to allow a building height in excess of 48 feet (57 feet 6 inches approved) for Cityscape. The property is 2.5 acres and is located at the northwest corner of N.E. 5th Avenue and N.E. 3rd Street. The property is 2.5 acres and currently contains the Scobee Ireland Potter Funeral Home and two additional structures occupied the site, the 704 square foot Native Florida Gallery (f/k/a Dee's Alterations) built in 1922, and a 1,253 square foot single family home built in 1921.

The development proposal involves demolition of the funeral home, relocation of the remaining two structures, and construction of a mixed use development which will include 28,133 square feet of retail floor area, 6,800 square feet of restaurant on the ground floor and 75 condominium units on the upper floors. The retail and residential uses will wrap around a three level parking garage which will provide 301 parking spaces.

On February 1, 2005, the proposed development received Conditional Use approval from the City Commission. On April 5, 2006, the Site Plan Review and Appearance Board (SPRAB) unanimously approved a Class V site plan, landscape plan and architectural elevations. It is noted that the development proposal was developed and approved utilizing the Downtown Design Guidelines. The approved conditional use is valid for 2 years and expires on February 1, 2009.

Scott Porten, Applicant, Porten Russell, LLC, stated he is present this evening for any questions the Commission have.

Mayor Perlman stated anyone from the public who wished to address the Commission regarding the Conditional Use Extension Request, to please come forward at this time. There being no one from the public who wished to address the Commission regarding the Conditional Use Extension Request, the public hearing was closed.

The City Attorney briefly reviewed the Board Order with the Commission who made findings according to their consensus (attached hereto is a copy and made an official part of the minutes).

It was the consensus of the Commission to approve the Conditional Use Extension until February 1, 2009.

Mrs. Ellis moved to approve the Board Order as set forth, seconded by Mr. Fetzer. Upon roll call the Commission voted as follows: Mayor Perlman – Yes; Mrs. Ellis – Yes; Mr. Fetzer – Yes. Said motion passed with a 3 to 0 vote.

9.C. CALL TO ARTISTS/CITY HALL AND KNOWLES PARK ART PROJECTS: Consider a request to grant approval for two (2) Call to Artists to be issued for the City Hall and Knowles Park Art Projects; each with a proposed budget of \$50,000.00.

At this point, Mr. Levinson returned to the dais.

Mrs. Ellis moved to grant approval for two (2) Call to Artists to be issued for the City Hall and Knowles Park Art Projects, seconded by Mr. Fetzer. Upon roll call the Commission voted as follows: Mrs. Ellis – Yes; Mr. Fetzer – Yes; Mr. Levinson – Yes; Mayor Perlman – Yes. Said motion passed with a 4 to 0 vote.

9.D. FIRST AMENDMENT TO LEASE AGREEMENT/NEW CINGULAR WIRELESS PCS, LLC: Consider the First Amendment to the lease agreement with New Cingular Wireless, PCS, LLC requesting language changes in paragraph 2 and providing for an increased monthly rental fee from \$1,700.00 to \$1,800.00 per month for the use of the Police Department radio tower.

Brian Shutt, Assistant City Attorney, stated on December 5, 2006, the City Commission approved an amendment with Cingular Wireless.

Mrs. Ellis asked if the City has the right to terminate the agreement. In response, Mr. Shutt stated in the agreement the City does not have the right to terminate unless New Cingular Wireless breaches the contract in some way. However, Mr. Shutt stated the contract is still valid until 2031.

Amanda Solomon, Telecommunications Systems Manager, expressed concern with the terms and the rent.

Mrs. Ellis moved to approve the First Amendment to the lease agreement with New Cingular Wireless, seconded by Mr. Fetzer. Upon roll call the Commission voted as follows: Mr. Fetzer – No; Mr. Levinson – No; Mayor Perlman – No; Mrs. Ellis – No. Said motion to approve was **DENIED** with a 4 to 0 vote.

At this point, the time being 7:00 p.m., the Commission moved to the duly advertised Public Hearings portion of the Agenda.

10. PUBLIC HEARINGS:

10.A. ORDINANCE NO. 59-06 (FIRST READING/FIRST PUBLIC HEARING): Privately sponsored Future Land Use Map amendment (small-scale) from CF (Community Facilities) to LD (Low Density Residential 0-5 du/ac) for a 9.00 acre portion of the Christ the King Monastery of St. Clare and rezoning from CF (Community Facilities) to R-1-AA (Single Family Residential) and associated reduction of lot frontage and lot width requirements for proposed lots 20 and 25 within the subdivision at Christ the King Monastery of St. Clare, Inc., located at the southeast corner of Sherwood Boulevard and Sutton Place. If passed, a public hearing will be scheduled for February 6, 2007.

The caption of Ordinance No. 59 -06 is as follows:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING THE FUTURE LAND USE MAP DESIGNATION AS CONTAINED IN THE COMPREHENSIVE PLAN FROM CF (COMMUNITY FACILITIES); TO LD (LOW DENSITY RESIDENTIAL 0-5 DU/AC); ELECTING TO PROCEED UNDER THE SINGLE HEARING ADOPTION PROCESS FOR SMALL SCALE LAND USE PLAN AMENDMENTS; AND REZONING AND PLACING LAND PRESENTLY ZONED CF (COMMUNITY FACILITIES) TO R-1-AA (SINGLE FAMILY RESIDENTIAL) DISTRICT; PROVIDING FOR A MODIFICATION OF MINIMUM LOT REQUIREMENTS AND SETBACKS FOR CERTAIN LOTS; SAID LAND BEING A PARCEL OF LAND LOCATED 125 FEET SOUTH OF SHERWOOD BOULEVARD, APPROXIMATELY 650 FEET EAST OF MILITARY TRAIL, AS MORE PARTICULARLY DESCRIBED HEREIN; AMENDING "ZONING MAP OF DELRAY BEACH, FLORIDA, MARCH 2006"; PROVIDING A GENERAL REPEALER CLAUSE, A SAVING CLAUSE, AND AN EFFECTIVE DATE.

(The official copy of Ordinance No. 59-06 is on file in the City Clerk's office.)

The City Attorney read the caption of the ordinance. A public hearing was held having been legally advertised in compliance with the laws of the State of Florida and the Charter of the City of Delray Beach, Florida.

The City Attorney stated this ordinance is a first public hearing and the quasi-judicial hearing which consists of all the testimony and evidence is on the second reading.

Paul Dorling, Director of Planning and Zoning, stated the proposal involves 9.00 acres of a 10.98 acre site Christ the King Monastery of St. Clare which was originally constructed in the late 1960's as a monastery for the Poor Clare Nuns. Currently, the property is zoned R-1-AAA-B and the proposal is to change the land use from CF to LD (Low Density Residential 0-5 du/ac) from CF (Community Facilities) to R-1-AA for this particular piece.

At its meeting of October 16, 2006, the Planning and Zoning Board held a public hearing to consider the request for Future Land Use Map amendment (small-scale) from CF (Community Facilities) to LD (Low Density Residential 0-5 du/ac) and a rezoning from CF (Community Facilities) to R-1-AA (Single Family Residential) for the subject property. As part of this, there is a request to create two lots that do not meet the

minimum requirements. Staff recommends approval with the caveat that the conditions in Section 6 be applied as they relate to compatibility with the adjacent neighborhood.

Mayor Perlman stated this is a first reading and first public hearing. If the ordinance passes this evening, there will be a full quasi-judicial process and testimony on February 6, 2007.

Mayor Perlman stated if anyone from the public would like to speak in favor or in opposition of the request, to please come forward at this time.

The City Attorney stated anything that is said this evening will be part of the record and all these comments will be transferred for the record for the quasi-judicial hearing. There have been some things that have been entered into the record so everyone can look at the record and see some letters from Michael Weiner and other experts have been entered into the record. All the testimony and all the records will be included in the second hearing record.

Brian Link, who lives approximately 300 feet from the proposed land use/zoning change and in close proximity to the waiver that is being proposed, stated he would like to be recognized in the effective party under Florida Statute 167. He stated he followed the rules of the quasi-judicial process and submitted a letter to the City Attorney. He received a letter back from the City Attorney recommending that he be given party status. Mr. Link stated the letter stated that decision would be made by the City Commission on January 2, 2007. In terms of process, Mr. Link stated the procedures do not describe what happens and asked if there is going to be a formal binding and when will this occur. The City Attorney stated it actually occurs at the time of the quasi-judicial hearing. Mr. Link expressed concern that the ordinance does not satisfy Florida Statute 166.041 which deals with procedures of adoption of ordinances and resolutions. He also expressed concern over other process issues that involve the ordinances and how the public hearings are being run and some of the comments apply to the Planning and Zoning hearing. Mr. Link stated they intend to show that the ordinance is not consistent with the Goals, Objectives and Policies of the Comprehensive Plan. He stated he intends to show that concurrency has not been demonstrated, zoning is not compatible with the Comprehensive Plan, and a demonstrated need has not been shown.

Michael Weiner, Attorney with Weiner & Aronson, P.A., 102 North Swinton Avenue, Delray Beach, representing the Applicant, stated knowing there is going to be a full quasi-judicial hearing he reserves all rights.

There being no one else from the public who wished to address the Commission regarding Ordinance No. 59-06, the public hearing was closed.

Mrs. Ellis moved to approve Ordinance No. 59-06 (First Reading/First Public Hearing), seconded by Mr. Fetzer. Upon roll call the Commission voted as follows: Mr. Levinson – Yes; Mayor Perlman – Yes; Mrs. Ellis – Yes; Mr. Fetzer – Yes. Said motion passed with a 4 to 0 vote.

10.B. ORDINANCE NO. 83-06: Future Land Use Map amendment (small-scale) from TRN (Transitional) to GC (General Commercial) and rezoning from NC (Neighborhood Commercial) to GC (General Commercial) for three (3) parcels, totaling 0.843 acres, located at 2703, 2709 & 2715 South Federal Highway. (*Quasi-Judicial Hearing*)

The caption of Ordinance No. 83-06 is as follows:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING THE FUTURE LAND USE MAP DESIGNATION AS CONTAINED IN THE COMPREHENSIVE PLAN FROM TRN (TRANSITIONAL); TO GC (GENERAL COMMERCIAL) ELECTING TO PROCEED UNDER THE SINGLE HEARING ADOPTION PROCESS FOR SMALL SCALE LAND USE PLAN AMENDMENTS; AND REZONING AND PLACING LAND PRESENTLY ZONED NC (NEIGHBORHOOD COMMERCIAL) TO GC (GENERAL COMMERCIAL) DISTRICT; SAID LAND BEING A PARCEL OF LAND LOCATED ON THE EAST SIDE OF SOUTH FEDERAL HIGHWAY, BETWEEN AVENUE "G" AND LA-MAT AVENUE, AS MORE PARTICULARLY DESCRIBED HEREIN; AMENDING "ZONING MAP OF DELRAY BEACH, FLORIDA, MARCH 2006"; PROVIDING A GENERAL REPEALER CLAUSE, A SAVING CLAUSE, AND AN EFFECTIVE DATE.

(The official copy of Ordinance No. 83-06 is on file in the City Clerk's office.)

The City Attorney read the caption of the ordinance. A public hearing and quasi-judicial hearing was held having been legally advertised in compliance with the laws of the State of Florida and the Charter of the City of Delray Beach, Florida.

Chevelle D. Nubin, City Clerk, swore in those individuals who wished to give testimony on this item.

Mayor Perlman asked the Commission to disclose their ex parte communications. The Commission had no ex parte communications to disclose.

Paul Dorling, Director of Planning and Zoning, entered the Planning and Zoning Department project file #2007-031.

Mr. Dorling stated the request is for approval of a Future Land Use Map amendment from TRN (Transitional) to GC (General Commercial) and a zoning change from NC (Neighborhood Commercial) to GC (General Commercial) for three individual and contiguous properties. The three lots total 0.843 acres or 36,721 square feet. Currently, these properties contain a pawn shop, tobacco shop and a sign shop owned by NPC Holdings, LLC. Although there are some residential uses east of these properties, they are bordered on the north, south and west sides by commercial uses predominantly dominated by auto related uses. The proposed changes seek to apply a land use and zoning designation which is more consistent with the prevailing commercial uses.

At its meeting of December 18, 2006, the Planning and Zoning Board held a public hearing in conjunction with the request. There was no public testimony in support of or in opposition to the proposal. After discussing the proposal, the Board voted 6-0 to recommend approval of the rezoning and Future Land Use Map amendment.

Michael Carbone, NPC Holdings, LLC, stated he is present this evening and is available to answer any questions the Commission may have.

Mayor Perlman stated if anyone from the public would like to speak in favor or in opposition of the request, to please come forward at this time. There being no one from the public who wished to address the Commission regarding Ordinance No. 83-06, the public hearing was closed.

Mrs. Ellis moved to adopt Ordinance No. 83-06 on Second and FINAL Reading, seconded by Mr. Fetzer. Upon roll call the Commission voted as follows: Mayor Perlman – Yes; Mrs. Ellis – Yes; Mr. Fetzer – Yes; Mr. Levinson – Yes. Said motion passed with a 4 to 0 vote.

10.C. ORDINANCE NO. 1-07: Rezoning from RM (Medium Density Residential) to CF (Community Facilities) for the expansion of the Neighborhood Resource Center for the proposed Community Land Trust Office, located at 145 SW 12th Avenue, on the northeast corner of SW 12th Avenue and SW 2nd Street. (*Quasi-Judicial Hearing*)

The caption of Ordinance No. 1-07 is as follows:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, REZONING AND PLACING LAND PRESENTLY ZONED RM (MEDIUM DENSITY RESIDENTIAL) DISTRICT TO CF (COMMUNITY FACILITIES) DISTRICT; SAID LAND BEING A PARCEL LOCATED AT THE NORTHEAST CORNER OF SW 12TH AVENUE AND SW 2ND STREET, AS MORE PARTICULARLY DESCRIBED HEREIN; AMENDING "ZONING MAP OF DELRAY BEACH, FLORIDA, MARCH 2006"; PROVIDING A

GENERAL REPEALER CLAUSE, A SAVING
CLAUSE, AND AN EFFECTIVE DATE.

(The official copy of Ordinance No. 1-07 is on file in the City Clerk's office.)

The City Attorney read the caption of the ordinance. A public hearing and quasi-judicial hearing was held having been legally advertised in compliance with the laws of the State of Florida and the Charter of the City of Delray Beach, Florida.

Chevelle D. Nubin, City Clerk, swore in those individuals who wished to give testimony on this item.

Mayor Perlman asked the Commission to disclose their ex parte communications. The Commission had no ex parte communications to disclose.

Paul Dorling, Director of Planning and Zoning, entered the Planning and Zoning Department project file #2007-033 into the record.

Mr. Dorling stated the request is for approval of a zoning change from RM (Medium Density Residential) to CF (Community Facilities) for Lot 12, Block 6 Atlantic Gardens Delray Subdivision to accommodate the City of Delray Beach Community Land Trust (CLT) office.

The RM zoning district does not allow community centers as either a principal or conditional use, thus a rezoning application is being requested to change the existing zoning designation from RM (Medium Density Residential) to CF (Community Facilities). Immediately to the north of this parcel is the city owned Neighborhood Resource Center. The proposed change seeks to apply a zoning designation which is more consistent with the adjacent use and complements the needs of the neighborhood.

At its meeting of December 18, 2006, the Planning and Zoning Board held a public hearing in conjunction with the request. There was no public testimony in support of or in opposition to the proposal. After discussing the proposal, the Board voted 6-0 to recommend approval of the rezoning.

Mayor Perlman declared a conflict of interest, passed the gavel to Vice Mayor Ellis, and stepped down from the dais.

Vice Mayor Ellis stated if anyone from the public would like to speak in favor or in opposition of Ordinance No. 1-07, to please come forward at this time. There being no one from the public who wished to address the Commission regarding Ordinance No. 1-07, the public hearing was closed.

Mr. Fetzer moved to adopt Ordinance No. 1-07 on Second and FINAL Reading, seconded by Mr. Levinson. Upon roll call the Commission voted as follows: Vice Mayor Ellis – Yes; Mr. Fetzer – Yes; Mr. Levinson – Yes. Said motion passed with

a 3 to 0 vote.

10.D. ORDINANCE NO. 3-07: Future Land Use Map amendment (small-scale) from County LR-1 (Low Density Residential 1 du/ac) to City LD (Low Density Residential 0-5 du/ac) and rezoning from County AR (Agricultural Residential) to City R-1-AA (Single Family Residential) for a 0.72 acre property located at 2200 Lake Drive. *(Quasi-Judicial Hearing)*

The caption of Ordinance No. 3-07 is as follows:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING THE FUTURE LAND USE MAP DESIGNATION AS CONTAINED IN THE COMPREHENSIVE PLAN FROM COUNTY LR-1 (LOW RESIDENTIAL 1 DU/AC); TO LD (LOW DENSITY RESIDENTIAL 0-5 DU/AC); ELECTING TO PROCEED UNDER THE SINGLE HEARING ADOPTION PROCESS FOR SMALL SCALE LAND USE PLAN AMENDMENTS; AND REZONING AND PLACING LAND PRESENTLY ZONED COUNTY AR (AGRICULTURAL RESIDENTIAL) TO R-1-AA (SINGLE FAMILY RESIDENTIAL) DISTRICT; SAID LAND BEING A PARCEL OF LAND LOCATED AT THE NORTHWEST CORNER OF LAKE DRIVE AND NW 22ND STREET, AS MORE PARTICULARLY DESCRIBED HEREIN; AMENDING "ZONING MAP OF DELRAY BEACH, FLORIDA, MARCH 2006"; PROVIDING A GENERAL REPEALER CLAUSE, A SAVING CLAUSE, AND AN EFFECTIVE DATE.

(The official copy of Ordinance No. 3-07 is on file in the City Clerk's office.)

The City Attorney read the caption of the ordinance.

Mr. Fetzer moved to approve to continue Ordinance No. 3-07 to a date certain of February 6, 2007 at 7:00 p.m., seconded by Mrs. Ellis. Upon roll call the Commission voted as follows: Mr. Fetzer – Yes; Mr. Levinson – Yes; Mayor Perlman – Yes; Mrs. Ellis – Yes. Said motion passed with a 4 to 0 vote.

10.E. ORDINANCE NO. 4-07: Future Land Use Map amendment (small-scale) from County LR-3 (Low Density Residential 3 du/ac) to City TRN (Transitional) and rezoning from CG/SE (Commercial General/Special Exception) to City zoning of SAD (Special Activities District) for a 0.99 acre property, to be known as Robotic Space Savers located at the southwest corner of Conklin Drive and Military Trail. *(Quasi-*

Judicial Hearing)

The caption of Ordinance No. 4-07 is as follows:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING THE FUTURE LAND USE MAP DESIGNATION AS CONTAINED IN THE COMPREHENSIVE PLAN FROM COUNTY LR-3 (LOW RESIDENTIAL – 3 DU/AC); TO TRN (TRANSITIONAL), ELECTING TO PROCEED UNDER THE SINGLE HEARING ADOPTION PROCESS FOR SMALL SCALE LAND USE PLAN AMENDMENTS; AND REZONING AND PLACING LAND PRESENTLY ZONED COUNTY CG/SE (COMMERCIAL GENERAL/SPECIAL EXCEPTION) TO SPECIAL ACTIVITIES DISTRICT (SAD) DISTRICT; SAID LAND BEING A PARCEL OF LAND LOCATED AT THE SOUTHWEST CORNER OF CONKLIN DRIVE AND MILITARY TRAIL, AS MORE PARTICULARLY DESCRIBED HEREIN; AMENDING "ZONING MAP OF DELRAY BEACH, FLORIDA, MARCH 2006"; PROVIDING A GENERAL REPEALER CLAUSE, A SAVING CLAUSE, AND AN EFFECTIVE DATE.

(The official copy of Ordinance No. 4-07 is on file in the City Clerk's office.)

The City Attorney read the caption of the ordinance.

Mrs. Ellis moved to approve to continue Ordinance No. 4-07 to a date certain of February 6, 2007 at 7:00 p.m., seconded by Mr. Fetzer. Upon roll call the Commission voted as follows: Mr. Levinson – Yes; Mayor Perlman – Yes; Mrs. Ellis – Yes; Mr. Fetzer – Yes. Said motion passed with a 4 to 0 vote.

10.F. **ORDINANCE NO. 71-06:** Privately initiated rezoning from I (Industrial) to MIC (Mixed Industrial and Commercial) for an 8.8 acres property located along Depot Road, north of the Old Train Station, between the CSX Railroad and I-95. (*Quasi-Judicial Hearing*) **This ordinance to be continued to a date certain of February 6, 2007.**

The caption of Ordinance No. 71-06 is as follows:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, REZONING AND PLACING LAND PRESENTLY

ZONED I (INDUSTRIAL) DISTRICT TO MIC (MIXED INDUSTRIAL AND COMMERCIAL) DISTRICT; SAID LAND BEING A PARCEL LOCATED NORTH OF THE OLD TRAIN STATION, BETWEEN THE CSX RAILROAD AND 1-95, AS MORE PARTICULARLY DESCRIBED HEREIN; AMENDING "ZONING MAP OF DELRAY BEACH, FLORIDA, MARCH 2006"; PROVIDING A GENERAL REPEALER CLAUSE, A SAVING CLAUSE, AND AN EFFECTIVE DATE.

(The official copy of Ordinance No. 71-06 is on file in the City Clerk's office.)

The City Attorney read the caption of the ordinance.

Mr. Fetzer moved to approve to continue Ordinance No. 71-06 to a date certain of February 6, 2007 at 7:00 p.m., seconded by Mrs. Ellis. Upon roll call the Commission voted as follows: Mayor Perlman – Yes; Mrs. Ellis – Yes; Mr. Fetzer – Yes; Mr. Levinson – Yes. Said motion passed with a 4 to 0 vote.

10.G. ORDINANCE NO. 70-06: City initiated annexation and rezoning from County AR (Agricultural Residential) to City RM-8 (Residential Medium Density 5-8 du/ac) for a 3.18 acres parcel located on the south side of 133rd Road South, 640' west of Barwick Road approximately 1,400 feet north of Lake Ida Road. (*Quasi-Judicial Hearing*) **This ordinance to be continued to a date certain of February 6, 2007.**

The caption of Ordinance No: 70-06 is as follows:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, ANNEXING TO THE CITY OF DELRAY BEACH, A PARCEL OF LAND LOCATED ON THE SOUTH SIDE OF 133RD ROAD, 640 FEET WEST OF BARWICK ROAD, AND APPROXIMATELY 1,400 FEET NORTH OF LAKE IDA ROAD, AS THE SAME IS MORE PARTICULARLY DESCRIBED HEREIN, WHICH LAND IS CONTIGUOUS TO THE EXISTING MUNICIPAL LIMITS; REDEFINING THE BOUNDARIES OF THE CITY TO INCLUDE SAID LAND; PROVIDING FOR THE RIGHTS AND OBLIGATIONS OF SAID LAND; PROVIDING FOR THE ZONING THEREOF TO RM-8 (MEDIUM DENSITY RESIDENTIAL - 8 UNITS PER ACRE); PROVIDING A GENERAL REPEALER CLAUSE, A SAVING CLAUSE, AND AN EFFECTIVE DATE.

(The official copy of Ordinance No. 70-06 is on file in the City Clerk's office.)

The City Attorney read the caption of the ordinance.

Mrs. Ellis move to approve to continue Ordinance No. 70-06 to a date certain of February 6, 2007 at 7:00 p.m., seconded by Mr. Fetzer. Upon roll call the Commission voted as follows: Mrs. Ellis – Yes; Mr. Fetzer – Yes; Mr. Levinson – Yes; Mayor Perlman – Yes. Said motion passed with a 4 to 0 vote.

10.H. ORDINANCE NO. 69-06 (SECOND READING/SECOND PUBLIC HEARING): City initiated rezoning from GC (General Commercial) in part and AC (Automotive Commercial) in part to CBD (Central Business District) for the North Federal Highway Area and including 700 & 707 NE 6th Avenue (former O.C. Taylor dealership) with a combined total of 23.2 acres, located between NE 4th Street and George Bush Boulevard and extending from the FEC Railroad to approximately ½ block east of NE 6th Avenue. (*Quasi-Judicial Hearing*) **This ordinance to be continued to a date certain of February 6, 2007.**

The caption of Ordinance No. 69-06 is as follows:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, REZONING AND PLACING LAND PRESENTLY ZONED AC (AUTOMOTIVE COMMERCIAL) DISTRICT IN PART AND GC (GENERAL COMMERCIAL) DISTRICT IN PART TO CBD (CENTRAL BUSINESS) DISTRICT; SAID LAND BEING PARCELS OF LAND GENERALLY LOCATED BETWEEN NE 4TH STREET AND GEORGE BUSH BOULEVARD AND EXTENDING FROM THE FEC RAILROAD TO APPROXIMATELY ½ BLOCK EAST OF NE 6TH AVENUE, AS MORE PARTICULARLY DESCRIBED HEREIN; AMENDING "ZONING MAP OF DELRAY BEACH, FLORIDA, MARCH 2006"; PROVIDING A GENERAL REPEALER CLAUSE, A SAVING CLAUSE, AND AN EFFECTIVE DATE.

(The official copy of Ordinance No. 69-06 is on file in the City Clerk's office.)

The City Attorney read the caption of the ordinance.

Mr. Fetzer moved to approve to continue Ordinance No. 69-06 to a date certain of February 6, 2007 at 7:00 p.m., seconded by Mrs. Ellis. Upon roll call the Commission voted as follows: Mr. Fetzer – Yes; Mr. Levinson – Yes; Mayor Perlman –

Yes; Mrs. Ellis – Yes. Said motion passed with a 5 to 0 vote.

At this point, the time being 7:22 p.m., the Commission moved to **Item 11, Comments and Inquiries on Non-Agenda Items from the City Manager and the Public.**

11.A. City Manager's response to prior public comments and inquiries.

The City Manager had no response to prior public comments and inquiries.

11.B. From the Public.

None.

9.E. APPOINTMENTS TO THE CODE ENFORCEMENT BOARD:
Appoint one (1) regular member and one (1) alternate member to the Code Enforcement Board for three (3) year terms ending January 14, 2010. Based upon the rotation system, the appointments will be made by Commissioner Levinson (Seat #3), and Commissioner Ellis (Seat #1).

Mr. Levinson moved to appoint Matthew Hartley as a regular member to the Code Enforcement Board for a three (3) year term ending January 14, 2010, seconded by Mrs. Ellis. Upon roll call the Commission voted as follows: Mr. Levinson – Yes; Mayor Perlman – Yes; Mrs. Ellis – Yes; Mr. Fetzer – Yes. Said motion passed with a 4 to 0 vote.

Mrs. Ellis moved to reappoint Glenn Schuster as an alternate member to the Code Enforcement Board for a three (3) year term ending January 14, 2010, seconded by Mr. Levinson. Upon roll call the Commission voted as follows: Mayor Perlman – Yes; Mrs. Ellis – Yes; Mr. Fetzer – Yes; Mr. Levinson – Yes. Said motion passed with a 4 to 0 vote.

9.F. BID AWARD/ACCURATE EVENT SERVICES: Consider approval of a bid award to *second lowest bidder*, Accurate Event Services in the amount of \$37,587.00 for private security services for the International Tennis Tournament. Funding is available from 001-4210-575-55.40 (General Fund/Tennis Tournament).

Robert A. Barcinski, Assistant City Manager, stated this is a request for the Commission to approve a bid award to Accurate Event Services in the amount of \$37,587.00 (*second lowest bidder*) for private security services for the International Tennis Tournament. He stated proposals were sent to five firms and the City received two. The difference between the two proposals is \$204.00. Mr. Barcinski stated staff recommends awarding the bid to Accurate Event Services primarily because of their experience.

Mrs. Ellis moved to approve a bid award to Accurate Event Services (*second lowest bidder*) in the amount of \$37,587.00 for private security services for the International Tennis Tournament, seconded by Mr. Fetzer. Upon roll call the Commission voted as follows: Mrs. Ellis – Yes; Mr. Fetzer – Yes; Mr. Levinson – Yes; Mayor Perlman – Yes. Said motion passed with a 4 to 0 vote.

9.G. GRANICUS, INC./VIDEO/AUDIO STREAMING: Consider authorizing the City Attorney to draft and the Mayor to execute an agreement with Granicus, Inc. in the total amount of \$44,500.00 for video streaming of the City Commission Regular meetings and audio streaming of the Emergency Radio Station. Funding is available from 001-1411-512-66.10 (General Fund/Software), 001-1411-512-64.11 (General Fund/Computer Equipment) and 001-1411-512-46.90 (General Fund/Other Repair/Maintenance Costs) after budget transfer.

Chevelle D. Nubin, City Clerk, gave a brief overview of the video streaming.

Mr. Fetzer moved to approve to authorize the City Attorney to draft and the Mayor to execute an agreement with Granicus, Inc. in the total amount of \$44,500.00 for video streaming of the City Commission regular meetings and audio streaming of the Emergency Radio Station, seconded by Mrs. Ellis. Upon roll call the Commission voted as follows: Mr. Fetzer – Yes; Mr. Levinson – Yes; Mayor Perlman – Yes; Mrs. Ellis – Yes. Said motion passed with a 4 to 0 vote.

9.H. BID AWARDS/MULTIPLE VENDORS: Consider approval of multiple bid awards in the estimated annual cost of \$187,000.00 for the purchase of chemicals and fertilizers for the Parks and Recreation Department, Delray Beach Municipal Golf Course and Lakeview Golf Course. Some of the recommended bid awards are not to the lowest bidder. Funding is available from various departments (Parks and Recreation operating budget, Delray Beach Municipal Golf Course budget and Lakeview Golf Course operating budget).

The City Manager stated the low bidder was for quantities that the City cannot handle and this is why staff is recommending a bidder other than the low bidder.

Mrs. Ellis moved to approve the multiple bid awards in the estimated annual cost of \$187,000.00 for the purchase of chemicals and fertilizers for the Parks and Recreation Department, Delray Beach Municipal Golf Course and Lakeview Golf Course, seconded by Mr. Fetzer. Upon roll call the Commission voted as follows: Mr. Levinson – Yes; Mayor Perlman – Yes; Mrs. Ellis – Yes; Mr. Fetzer – Yes. Said motion passed with a 4 to 0 vote.

12. FIRST READINGS:

12.A. NONE

13. COMMENTS AND INQUIRIES ON NON-AGENDA ITEMS.

13.A. City Manager

The City Manager stated at the League of Cities last Board meeting there was discussion about the fact that the next general membership meeting falls during the Florida League of Cities Legislative Action Days. He stated this will count as the general membership meeting in March and encourage people to go up for the Florida League of Cities Legislative Action Day which is March 28, 2007. They also decided to send a bus for both Palm Beach County Days and the Legislative Action Days.

Secondly, he stated the Installation Gala for the League this year will tentatively be held at the Ritz Carlton on the third Saturday. The City Manager stated the Ritz Carlton is leasing some space from the City of Lantana and they have indicated that they will be out by that date. The City Manager reiterated that this is tentative and staff will have to see how it works out.

The City Manager stated he had previously informed the City Commission of some organizational changes and noted that he, Doug Smith, and Robert Barcinski have been reviewing the organization and how they might modify it to help improve the way the City operates. The City Clerk and the Public Information Officer (PIO) will report to Assistant City Manager Doug Smith and some responsibilities of the Assistant City Manager Robert Barcinski are going to be shifted to department heads in order to relieve Mr. Barcinski from some of the event work.

13.B. City Attorney

The City Attorney thanked the City Commission for the 20 year recognition award for the years of service to the City of Delray Beach.

Secondly, she reported that the R.A.C.E. study group has met again and stated they are continuing to meet.

13.C. City Commission

13.C.1. Mr. Fetzer

Mr. Fetzer stated he saw emails today regarding some criminal activity in the Lake Ida area. He stated there are some perceptions of crime levels that are not accurate and asked if the Commission has any suggestions of what can be done. Mr. Fetzer suggested that staff publicize the Police Department website so people can be better informed (i.e. crime stats, etc.) He stated his particular neighborhood has perceptions of criminal activity that in his opinion are not truly accurate.

Mayor Perlman stated he spoke to Chief Schroeder today and the email that went out stated that there were nine burglaries in one day. There have actually been four burglaries since November 1st until today. The Chief responded to the homeowners'

association immediately and he will attend their February meeting. Mayor Perlman stated when people hear of these things the sooner we can engage the Police Department in getting out the accurate information the better off we are. Mayor Perlman stated there is a rumor control hotline on the City's website but does not know if people utilize this on the website. He feels the best thing we can do is to put the Chief in the loop to get the information out.

13.C.2. **Mrs. Ellis**

Mrs. Ellis stated people have to protect their things as well as they can. She stated people who have alarms do not always set them. Mrs. Ellis stated there are some things that people do that prevent these crimes of opportunity. She stated that people need to report suspicious activity and citizens can step forward in many ways to help the police and the community.

She stated the Martin Luther King Breakfast was a great way to bring the community together to honor a terrific man. Mrs. Ellis stated Mayor Perlman's comments were pertinent to the occasion and it was nice to see everyone there.

13.C.3. **Mr. Levinson**

Mr. Levinson briefly commented about the crimes of opportunity and stated he received an email from Mr. Mike Cruz. Mr. Levinson stated he suggested to Mr. Cruz that people go online to the Police Department's website where they can obtain the current crime stats.

Secondly, Mr. Levinson stated he has had several lengthy conversations with Mr. Bill James who is the individual from the Governor's office responsible for the drug policy.

Mr. Levinson inquired about the status of the process review. He asked for an update for the Planning and Zoning Department and the Community Improvement Department. The City Manager stated the Commission should receive a complete report very shortly.

He stated he is disappointed regarding the newspaper about County Commissioner Mary McCarty's distribution of the \$3 million which was taken away from the Cartoon Museum. Her office indicated that Delray Beach had a meeting (City Manager and Mayor Perlman) to request \$500,000. Commissioner McCarty agreed to do this but asked that a letter be sent. Mr. Levinson stated no letter was sent and therefore the City of Delray Beach will not receive any funding.

Mr. Levinson stated there was an article about a generator pack (people who run the sewer system) between Boca Raton and the City of Delray Beach and asked if there is an opportunity for the City of Delray Beach to sign deals like this where communities might choose to put in their own generators for lift stations, etc.

He stated he too enjoyed Martin Luther King Day and commented about the events. Mr. Levinson expressed concerns that in looking at many of the leaders in our community that work on Martin Luther King Day the majority of them are older. Mr. Levinson stated he is hopeful that the City can solicit younger people to take their place in the future,

Lastly, Mr. Levinson commented about an article regarding Carver Estates and noted there was a glowing editorial about what a wonderful job the Delray Beach Housing Authority did to properly relocate people in a tough market, obtained vouchers and moving assistance, and food. Mr. Levinson congratulated the Delray Beach Housing Authority and stated he had lunch with Gary Rosen and Dorothy Ellington regarding the Community Land Trust (CLT). Mr. Levinson stated they got some responsibilities worked out and he feels this will allow us and them to work much closer in the future. He reported the Delray Beach Housing Authority is very close to signing their agreement with Auburn Development.

13.C.4. Mayor Perlman

Mayor Perlman stated the Martin Luther King (MLK) Breakfast was great and stated it was nice to see Spady and Old School Square working together. He stated Perry Stokes did a wonderful job and noted that his mother was one of the first African-American businesswomen in town who owned a fish market. Mayor Perlman stated Mr. Stokes is working with young men at Carver Middle School and teaching them everything from academics to etiquette.

Secondly, he announced that Patsy Westall's mom passed away and asked the Commission to express their condolences to her.

Mayor Perlman stated he received a few telephone calls today based on the story that ran today about the Boynton Beach Community Redevelopment Agency giving money for gang prevention. He stated the Delray Beach Community Redevelopment Agency (CRA) has been contributing to the cause of providing community policing and assistance in public safety. Mayor Perlman stated he is a firm believer that the answer is not more programs but is really about parenting and personal responsibility. Mayor Perlman stated Lula Butler, Director of Community Improvement, is talking about having meetings with the CSC to expand the Beacon Center to a second Beacon Center. He feels these are the types of things we should be investing in and stated during the MLK Breakfast they said that government needs to be accountable and there is a role for government to do this. However, Mayor Perlman stated the home and the community need to meet the City more than half way.

The City Manager stated Chief Schroeder had a very good meeting at Bump Mitchell's church regarding a program called "Stop the Violence" that the church is working on. The City Manager stated there were approximately 40 people in attendance and he was encouraged with the turnout and the discussion. The City Manager stated the City of Delray Beach has a lot of programs in place for teenagers

where some of the neighboring cities do not offer as much. He feels that this could be why Delray Beach has not had the same level of gang activity as some of the neighboring cities have experienced.

Mayor Perlman stated there is a downtown property owner who has had his buildings tagged pretty substantially approximately a week ago and almost solved his own case and he cultivated some other kids and they recognized the tagging. He stated this child is from Tropic Isle and is a "gang wanna-be" and has been putting graffiti on the stop signs, etc. in Tropic Isle. Mayor Perlman stated Bass Creek is getting hit and the issues there are very real. He stated the Police Department is working on this.

There being no further business, Mayor Perlman declared the meeting adjourned at 7:55 p.m.



City Clerk

ATTEST:



MAYOR

The undersigned is the City Clerk of the City of Delray Beach, Florida, and the information provided herein is the Minutes of the Regular City Commission Meeting held on January 16, 2007, which Minutes were formally approved and adopted by the City Commission on February 6, 2007.



City Clerk

NOTE TO READER:

If the Minutes you have received are not completed as indicated above, this means they are not the official Minutes of the City Commission. They will become the official Minutes only after review and approval which may involve some amendments, additions or deletions as set forth above.

IN THE CITY COMMISSION
CHAMBERS OF THE CITY OF
DELRAY BEACH, FLORIDA

IN LIEU PARKING FEE REQUEST FOR BOB'S FAMOUS BAR

**ORDER OF THE CITY COMMISSION
OF THE CITY OF DELRAY BEACH, FLORIDA**

1. This in lieu parking fee request has come before the City Commission on January 16, 2007.

2. The Applicant and City staff presented documentary evidence and testimony to the City Commission pertaining to the in lieu parking fee request for Bob's Famous Bar for six (6) in-lieu parking spaces. All of the evidence is a part of the record in this case. Required findings are made in accordance with Subsection I.

I. IN LIEU PARKING FEE:

Pursuant to LDR Section 4.6.9(E)(3), when additional parking is required due to expansions of use to an existing building and it is impossible or inappropriate to provide such parking the City Commission may approve the payment of an in lieu fee rather than provide the required parking. In the case of expansions of use, no existing parking spaces may be eliminated.

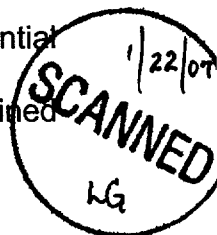
Does the In Lieu Parking Fee request meet the requirements of LDR Section 4.6.9(E)(3) and the conditions, if any, listed below?

Subject to an approved site plan.

Yes 4 No 0

3. The City Commission hereby finds that the In Lieu Parking Fee Request meets the requirements of 4.6.9(E)(3) of the Land Development Regulations, with the conditions listed above, and the City Commission has applied the Comprehensive Plan and finds that its determinations set forth in this Order are consistent with the Comprehensive Plan and Land Development Regulations.

4. The City Commission finds there is ample and competent substantial evidence to support its findings in the record submitted and adopts the facts contained



in the record including but not limited to the staff reports, testimony of experts and other competent witnesses supporting these findings.

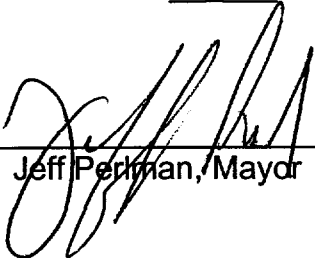
5. Based on the entire record before it, the City Commission approves X denies _____ the in lieu parking fee request as set forth above.

6. Based on the entire record before it, the City Commission hereby adopts this Order this 16th day of January, 2007, by a vote of 4 in favor and 0 opposed.

ATTEST:



Chevelle Nubin, City Clerk



Jeff Perlman, Mayor

IN THE CITY COMMISSION
CHAMBERS OF THE CITY OF
DELRAY BEACH, FLORIDA

**EXTENSION REQUEST FOR CONDITIONAL USE APPROVAL GRANTED TO THE
CITYSCAPE DEVELOPMENT FOR HEIGHT**

**ORDER OF THE CITY COMMISSION
OF THE CITY OF DELRAY BEACH, FLORIDA**

1. The above named conditional use extension request has come before the City Commission on January 16, 2007.

2. This conditional use extension request comports with the future land use element, is concurrent with the Comprehensive Plan and is consistent with the goals, policies and objectives of the City's Comprehensive Plan.

3. The Applicant and City staff presented documentary evidence and testimony to the City Commission pertaining to the conditional use extension request for the Cityscape Development. All of the evidence is a part of the record in this case. Required findings are made in accordance with LDR Section 2.4.4(F)(1) and (F)(3).

4. Section 2.4.4(F)(1) requires certain preliminary requirements to be met, such as:

A written request submitted at least 45 days prior to the expiration date;

The request must set forth the basis and reason for the extension;

The request must be considered by the same body that granted the approval;

The extension, if granted, shall be for a term of 18 months unless otherwise stated.

Have the preliminary requirements of Section 2.4.4(F)(1) been met?

Yes 3 No 0

5. In making a determination under LDR Section 2.4.4(F)(3) the Commission shall consider the following:

(a) The project shall be evaluated pursuant to the land development regulations in effect at the time of consideration of the extension request and shall comply with such current requirements;

(b) Additional submittal information including a new application and copies of previously submittal material may be required;



(c) The granting body must make findings pursuant to 2.4.4(B);

(d) The granting body may impose additional conditions of approval pursuant to 2.4.4(C) to insure compliance with any applicable changes to regulations or changes in circumstances which have occurred since the previous approval.

Have the requirements of Section 2.4.4(F)(3) been met?

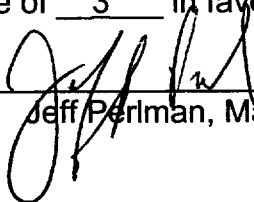
Yes 3 No 0

6. The comments and notes set forth in the staff report are hereby incorporated herein.

7. The City Commission has applied the LDR requirements in existence at the time the conditional use extension request was submitted.


8. The City Commission finds there is ample and competent substantial evidence to support its findings in the record submitted and adopts the facts contained in the record including but not limited to the staff reports, testimony of experts and other competent witnesses supporting these findings.

9. Based on the entire record before it, the City Commission approves X denies the conditional use extension request to allow the previous conditional use approval to be valid until February 1, 2009. The City Commission hereby adopts this Order this 16th day of January, 2007, by a vote of 3 in favor and 0 opposed.



Jeff Perlman, Mayor

ATTEST:



Chevelle Nubin
City Clerk

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

JT NAME—FIRST NAME—MIDDLE NAME Perlman, Jeffrey L.		NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE Delray Beach City Commission	
MAILING ADDRESS 971 Delray Lakes Drive		THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF:	
CITY Delray Beach	COUNTY Palm Beach	<input checked="" type="checkbox"/> CITY	<input type="checkbox"/> COUNTY
DATE ON WHICH VOTE OCCURRED 1/16/07		NAME OF POLITICAL SUBDIVISION: City of Delray Beach	
		MY POSITION IS: <input checked="" type="checkbox"/> ELECTIVE <input type="checkbox"/> APPOINTIVE	

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies equally to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing the reverse side and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which inures to his or her special private gain or loss. Each elected or appointed local officer also is prohibited from knowingly voting on a measure which inures to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent organization or subsidiary of a corporate principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you otherwise may participate in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on other side)

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Jeffrey Perlman, hereby disclose that on January 16, 20 07:

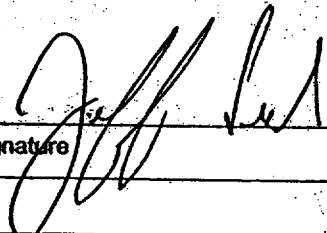
(a) A measure came or will come before my agency which (check one)

- Inured to my special private gain or loss;
- Inured to the special gain or loss of my business associate, _____
- Inured to the special gain or loss of my relative, Diane Colonna
- Inured to the special gain or loss of _____, by whom I am retained; or
- Inured to the special gain or loss of _____, which is the parent organization or subsidiary of a principal which has retained me.

The measure before my agency and the nature of my conflicting interest in the measure is as follows:

Diane Colonna, my wife, is the Executive Director of the Community Redevelopment Agency (CRA). I have voting conflict on items that directly affect the CRA.

Date Filed 1/16/07

Signature 

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A PENALTY NOT TO EXCEED \$10,000.