

City of Delray Beach

Regular Commission Meeting

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



RULES FOR PUBLIC PARTICIPATION

Tuesday, July 6, 2010

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 Item 8.K., Initiation of Comprehensive Plan Amendment 2010-1, was moved to the Regular Agenda as Item 9.A.A; Item 8.Y.2., Contract award to Brang Construction, Inc., was moved to the Regular Agenda as Item 9.A.A.A.; Item 8.Q., Amendment to the School Readiness Child Care Service Agreement/Family Central, Inc., was moved to the Regular Agenda as Item 9.A.A.A.A.; Item 8.T., Amendment No. 1 to the Interlocal Agreement; Community Redevelopment Agency; Construction/Professional Services, was moved to the Regular Agenda as Item 9.A.A.A.A.A.; Item 8.C., Contract Closeout (Change Order No. 10)/West Construction, Inc., was moved to the Regular Agenda as Item 9.A.A.A.A.A.A.; Approved as amended, 5-0)
5. **APPROVAL OF MINUTES:**
 - A. June 8, 2010 – Special/Workshop Meeting (Approved, 5-0)
 - B. June 15, 2010 – Regular Meeting (Approved, 5-0)
6. **PROCLAMATIONS:**
 - A. None
7. **PRESENTATIONS:**
 - A. None
8. **CONSENT AGENDA:** City Manager Recommends Approval. (Approved as amended, 5-0)
 - A. **RESOLUTION NO. 34-10/LOCAL MITIGATION STRATEGY PLAN:** Approve Resolution No. 34-10, thereby adopting the 2009 revised Palm Beach County Unified Local Mitigation Strategy Plan.
 - B. **RESOLUTION NO. 38-10/FLORIDA FISH AND WILDLIFE COMMISSION:** Provide authorization for the City Manager to apply for a grant in the amount of \$102,500.00 with the Florida Fish and Wildlife Commission for funding reconstruction of the Mangrove Park Boat Ramp.
 - C. **(MOVED TO ITEM 9.A.A.A.A.A. ON THE REGULAR AGENDA)**

- D. **ACCOUNT NUMBER CORRECTION/SERVICE AUTHORIZATION NO. 07-16/MATHEWS CONSULTING INC.: AUBURN AVENUE IMPROVEMENTS:** Approve an account number correction for Service Authorization No. 07-16 to Mathews Consulting, Inc. in the amount of \$113,244.00 for design of Auburn Avenue Improvements. Funding is available from 334-3162-541-68.65 (General Construction Fund: Other Improvement/Auburn Avenue Improvement) and 448-5461-538-68.65 (Storm Water Utility Fund: Other Improvement/Auburn Avenue Improvements).
- E. **SERVICE AUTHORIZATION NO. 07-04.2/KIMLEY-HORN AND ASSOCIATES, INC.; CULTURAL LOOP/MARTIN LUTHER KING DRIVE BIDDING AND CONSTRUCTION SERVICES:** Approve Service Authorization No. 07-04.2 in the amount of \$11,800.00 with Kimley-Horn and Associates, Inc. for the Landscape, Electrical and Construction Administration and Bidding Services of the Cultural Loop/Martin Luther King Drive Project #2004-056. Funding is available from 334-4141-572-68.57 (General Construction Fund: Other Improvement/Cultural Loop/MLK Drive Phase I).
- F. **REQUEST TO REDUCE VALET QUEUE/CAFFE LUNA ROSA:** Approve a request from Caffe Luna Rosa to reduce the operating hours of its Valet Parking Queue to start at 11:00 a.m. on weekdays, 10:00 a.m. on Saturdays and 9:00 a.m. on Sundays.
- G. **ABANDONMENT OF AN UTILITY EASEMENT AND A DRAINAGE EASEMENT: DELAIRE COUNTRY CLUB:** Approve abandonment of an existing 10' x 345' utility easement, and a 12' x 297' drainage easement in conjunction with renovations to the Delaire Country Club's club house located at 4645 White Cedar Lane.
- H. **ACCEPTANCE OF A DRAINAGE EASEMENT DEED/DELAIRE COUNTRY CLUB:** Approve acceptance of a 12' x 297' replacement drainage easement in conjunction with the renovations to the Delaire Country Club's club house located at 4645 White Cedar Lane.
- I. **INITIATION OF ANNEXATION/THE MARKETPLACE OF DELRAY:** Approve the initiation of annexation via the provisions of the executed water service agreement and consent to annexation, with initial zoning of PC (Planned Commercial) for The Marketplace of Delray, located at the northwest corner of Military Trail and West Atlantic Avenue.
- J. **INITIATION OF ANNEXATION/LOTS 5 - 7, BREEZY ACRES:** Approve initiation of the annexation via the provisions of executed water service agreements and consent to annexation, with initial zoning of R-1-AAA (Single Family Residential) of Lots 5-7, Breezy Acres, located on the east side of Markland Lane, 491 feet south of West Atlantic Avenue.
- K. **(MOVED TO ITEM 9.A.A. ON THE REGULAR AGENDA)**

- L. **ACCEPTANCE OF A RIGHT-OF-WAY DEED/METS MANAGEMENT OF PALM BEACH, INC.:** Approve acceptance of a 2' right-of-way deed with Mets Management of Palm Beach, Inc., associated with the Café Mola located on the east side of N.E. 2nd Avenue, at 165 N.E. 2nd Avenue.
- M. **REVISION TO THE NEIGHBORHOOD STABILIZATION PROGRAM (NSP) PLAN/FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS:** Approve a Revision to the Neighborhood Stabilization Program Plan to reallocate budgeted funds to assist with the obligation of program dollars at the request of Florida Department of Community Affairs; and approve a revision to the NSP Housing Assistance Plan Chapter III Subsection 2.11, "Change Orders".
- N. **GRANT APPLICATION/FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS/NEIGHBORHOOD STABILIZATION PROGRAM (NSP):** Authorize staff to submit a grant application through the Florida Department of Community Affairs for additional funding for the Neighborhood Stabilization Program (NSP) to purchase foreclosed or abandoned homes for rehabilitation, resale and redevelopment.
- O. **RESOLUTION NO. 35-10/AMENDMENT TO LOCAL HOUSING ASSISTANCE PLAN (LHAP):** Approve and adopt Resolution No. 35-10, an amendment to City's State Housing Initiatives Partnership (SHIP) Program, Local Housing Assistance Plan (LHAP) for Fiscal Years 2010-2013.
- P. **MULTIPLE BID AWARDS/NEIGHBORHOOD STABILIZATION PROGRAM (NSP)/RENTAL AND HOMEBUYER DISPOSITION SERVICES PROVIDER(S) PER RFP 12-20NS:** Approve multiple bid awards for Rental and Homebuyer Disposition Services for the Neighborhood Stabilization Program with regard to RFQ 12-2010NS to carry out activities under the Neighborhood Stabilization Program (NSP), contingent on the list being approved by the Florida Department of Community Affairs. Funding is available from 118-1935-554-34.90 (Neighborhood Services/Other Contractual Services).
- Q. **(MOVED TO ITEM 9.A.A.A.A. ON THE REGULAR AGENDA)**
- R. **AMENDMENT TO THE CONTINUE-TO-CARE AFTERSCHOOL SERVICE AGREEMENT/FAMILY CENTRAL, INC.:** Approve an Amendment to the Continue-to-Care Afterschool Service Agreement between Family Central Inc., and the City of Delray Beach to remove Pine Grove Elementary School as a subsidized location.
- S. **AMENDMENT NO. 2 TO THE AGREEMENT/MAE VOLEN SENIOR CENTER, INC.:** Approve Amendment No. 2 to the Agreement with Mae Volen Senior Center, Inc. to extend the contract term for operation of the Alzheimer's Day Care facility for an additional three (3) years.
- T. **(MOVED TO ITEM 9.A.A.A.A.A. ON THE REGULAR AGENDA)**

- U. **INTERLOCAL AGREEMENT: CITY OF BOCA RATON/CITY OF BOYNTON BEACH/CITY OF DELRAY BEACH:** Approve an Interlocal Agreement between the City of Boca Raton, City of Boynton Beach and the City of Delray Beach to allow the parties to pre-screen their DNA sample evidence in a shared Biology Processing Lab (BPL).
- V. **AGREEMENT: COMMAND SECURITY CORPORATION:** Approve an agreement with Command Security Corporation to provide complete administration for all the non-City sponsored Police off-duty details and receive a portion of the payment for the details from the outside vendors.
- W. **SPECIAL EVENT REQUEST/SPADY LIVING HERITAGE DAY:** Approve a special event request to endorse the 5th Annual Spady Heritage Day to be held on August 21, 2010 from noon to 10:00 p.m., to grant a temporary use permit per LDR Section 2.4.6(F) for the closure of N.W. 5th Avenue from Atlantic Avenue to N.W. 1st Street and S.W. 5th Avenue from Atlantic Avenue to S.W. 1st Street; to authorize staff support for security, clean up, barricading, City generator use, set up and use of the large mobile stage, and event signage and banners; contingent upon the receipt of a Certificate of Liability Insurance and a hold harmless agreement ten (10) days prior to the event.
- X. **REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:** Accept the actions and decisions made by the Land Development Boards for the period June 14, 2010 through July 2, 2010.
- Y. **AWARD OF BIDS AND CONTRACTS:**
1. Contract award to Brang Construction, Inc. in the amount of \$79,960.00 for construction of phase II improvements to the Fire Apparatus Repair Bay Facility. Funding is available from 501-3312-591-62.10 (Garage Fund: Capital Outlay – Building/Building).
 2. **(MOVED TO ITEM 9.A.A.A. ON THE REGULAR AGENDA)**
 3. Contract award to Rosso Paving & Drainage, Inc. in the amount of \$66,397.40 for the construction of new sidewalks along S.W. 7th Street and S.W. 10th Street. Funding is available from 118-1965-554-63.f11 (Neighborhood Services: Improvements-Other/Bikepaths/Sidewalks).
 4. Bid award to Rosso Paving & Drainage, Inc. in the amount of \$58,996.00 for the construction of Dixie US-1 Connector (N.E. 22nd Lane). Funding is available from 334-3162-541-63.83 (General Construction Fund: Improvements Other than Buildings/Dixie Highway – US 1 Connector).
 5. Purchase award to East Coast Underwater Repair, Inc. in the amount of \$26,560.00 for the installation of five (5) additional Tideflex Check Valves. Funding is available from 448-5416-538-46.90 (Storm Water Utility Fund: Repair and Maintenance Service/Other Repair/Maintenance Cost).

6. Purchase award to Pat's Pump & Blower in the amount of \$179,250.00 for a 2010 Allianz Johnston RT655 Street Sweeper. Funding is available from 448-5461-538-64.20 (Storm Water Utility Fund: Machinery /Equipment/Heavy Equipment).

9. **REGULAR AGENDA:**

- AA. **INITIATION OF COMPREHENSIVE PLAN AMENDMENT 2010-1:** Formally initiate Comprehensive Plan Amendment 2010-1 pursuant to Section 9.2.1 of the Land Development Regulations. (Commissioner Eliopoulos filed a Conflict of Interest and left the dais. Motion to approve; Approved 4-0)

- AAA. Contract award to Brang Construction, Inc. in the amount of \$9,488.79 for completion of required modifications to the proposed X-ray room for the City's Health & Wellness Center. Funding is available from 551-1577-591-46.10 (Insurance Fund: Repair and Maintenance Services/Building Maintenance). (Approved, 5-0)

- AAAA. **AMENDMENT TO THE SCHOOL READINESS CHILD CARE SERVICE AGREEMENT/FAMILY CENTRAL, INC.:** Approve an Amendment to the School Readiness Child Care Service Agreement between the City and Family Central, Inc., to remove Pine Grove Elementary School as a subsidized location. (Approved, 5-0)

- AAAAA. **AMENDMENT NO. 1 TO THE INTERLOCAL AGREEMENT; COMMUNITY REDEVELOPMENT AGENCY; CONSTRUCTION/PROFESSIONAL SERVICES:** Approve Amendment No. 1 to the Interlocal Agreement between the City and the Community Redevelopment Agency (CRA) for funding construction/professional services for certain projects as listed on Exhibit "A" attached to the Agreement for FY 2009/2010. (Approved, 5-0)

- AAAAAA. **CONTRACT CLOSEOUT (CHANGE ORDER NO. 10)/WEST CONSTRUCTION, INC.:** Approve a Contract Closeout (C.O. No. 10) in the amount of a \$14,767.04 decrease and final payment in the amount of \$176,510.20 to West Construction, Inc. for completion of the Miller Park Improvements. Funding is available from 334-4173-572-63.90 (General Construction Fund: Improvements Other/Other Improvements). (Approved, 5-0)

- A. **CONDITIONAL USE REQUEST/CVS STORE:** Consider a conditional use request to establish a 24 hour late night business for CVS Store, located at 700 N.E. 6th Avenue. (Quasi-Judicial Hearing) (Motion to TABLE until a date certain of July 20, 2010 City Commission Meeting. Approved, 4-1; Commissioner Fetzer dissenting)

- B. **WAIVER REQUESTS/TEMPORARY USE PERMIT/DELAIRE COUNTRY CLUB:** Consider a request for a temporary use permit and two (2) waiver requests to allow the use of a structural tent to house the dining facilities at Delaire Country Club for a period not to exceed 18 months, and to allow the increase in the maximum size of the temporary structure from 10' x 12' to 82' x 66' for clubhouse renovations associated with Delaire Country Club located at 4645 White Cedar Lane. (*Quasi-Judicial Hearing*) (Motion to adopt the board order as presented; Approved, 5-0)
- C. **APPOINTMENTS TO THE FINANCIAL REVIEW BOARD:** Appoint four (4) regular members to the Financial Review Board to serve two (2) year terms ending July 31, 2012. Based on the rotation system, the appointments will be made by Commissioner Fetzer (Seat #2), Commissioner Frankel (Seat #3), Commissioner Gray (Seat #4) and Mayor McDuffie (Seat #5). (Appointed Rosalie Blood and approved, 5-0; appointed Howard Ellingsworth and approved, 5-0. Commissioner Frankel's and Commissioner Gray's appointments were **DEFERRED** to the July 20, 2010 Regular Commission Meeting)
- D. **APPOINTMENT TO THE COMMUNITY REDEVELOPMENT AGENCY:** Appoint one (1) regular member to the Community Redevelopment Agency (CRA) to serve a four (4) year term ending July 1, 2014. Based upon the rotation system, the appointment will be made by Commissioner Fetzer (Seat #2). (Appointed Howard Lewis and approved, 5-0)
- E. **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, 2013. Based upon the rotation system, the appointment will be made by Commissioner Frankel (Seat #3). (Appointed Seabron Smith and approved, 5-0)
- F. **APPOINTMENTS TO THE DELRAY BEACH HOUSING AUTHORITY:** Appoint three (3) regular members to the Delray Beach Housing Authority for a four (4) year term ending July 14, 2014. Based upon the rotation system, the appointments recommendations will be made by Mayor McDuffie (Seat #5), Commissioner Eliopoulos (Seat #1) and Commissioner Fetzer (Seat #2). (Appointed Choli Aronson and approved, 5-0; appointed Sylvia Morris and approved, 5-0; appointed Shelly Weil and approved, 5-0)
- G. **APPOINTMENTS TO THE CIVIL SERVICE BOARD:** Appoint two (2) regular members and one (1) alternate member to the Civil Service Board for a two (2) year term ending July 31, 2012. Based upon the rotation system, the appointments will be made by Commissioner Fetzer (Seat #2), Commissioner Frankel (Seat #3) and Commissioner Gray (Seat #4). (Appointed Carol Anderson and approved, 5-0; appointed Carol Clark and approved, 5-0; appointed Sidney Grossman and approved, 5-0)
- H. **APPOINTMENT TO THE NUISANCE ABATEMENT BOARD:** Appoint one (1) alternate member to the Nuisance Abatement Board for an unexpired term ending July 31, 2011. Based upon the rotation system, the appointment will be made by Commissioner Eliopoulos (Seat #1). (Appointed Barry Tunick and approved, 5-0)

- I. **APPOINTMENT TO THE PUBLIC EMPLOYEES RELATIONS COMMISSION:** Appoint one (1) alternate member to the Public Employees Relations Commission for a four (4) year term ending June 30, 2014. Based upon the rotation system, the appointment will be made by Commissioner Fetzer (Seat #2). (Appointed Jeffrey Ruthizer and approved, 5-0)

10. **PUBLIC HEARINGS:**

- A. **COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) ANNUAL ACTION PLAN (FY 2010 - 2011):** Consider approval of the Community Development Block Grant (CDBG) Annual Action Plan required by the United States Housing & Urban Development Department (HUD) for utilization of federal grant funds. (*Staff has requested the item be postponed until the August 3, 2010 City Commission Meeting*) (Motion to **POSTPONE**; Approved, 5-0)
- B. **ORDINANCE NO. 09-10 (FIRST READING/FIRST PUBLIC HEARING):** City initiated amendments to the Land Development Regulations (LDR), to clarify the "medical office" use by adding this use to multiple zoning districts by amending Article 4.4, "Base Zoning District", Section 4.4.9, "General Commercial District", Subsection (B), "Principal Uses and Structures Permitted"; Section 4.4.13, "Central Business District", Subsection (B), "Principal Uses and Structures Permitted"; Section 4.4.15, "Planned Office Center District", Subsection (B), "Principal Uses and Structures Permitted"; Section 4.4.16, "Professional and Office District", Subsection (B), "Principal Uses and Structures Permitted"; Section 4.4.17, "Residential Office District", Subsections (B), "Principal Uses and Structures Permitted", and (G), "Supplemental District Regulations"; amending Appendix "A", "Definitions", to enact revised or new definitions for "Medical Clinics", "Medical Laboratory", and "Professional Offices". If passed, a second public hearing will be held on July 20, 2010. (Approved, 5-0)
- C. **ORDINANCE NO. 11-10 (FIRST READING/FIRST PUBLIC HEARING):** Consider a city initiated amendment to the Land Development Regulations (LDR), Article 4.3, "District Regulations, General Provisions", Section 4.3.3, "Special Requirements for Specific Uses", Subsection (Q), "Guest Cottage", and Subsection (Y), "Bed and Breakfast Inns", to clarify and amend bed and breakfast inn use requirements; amending Article 4.4, "Base Zoning District", Section 4.4.6, "Medium Density Residential (RM) District", Subsection (D), "Conditional Uses and Structures Allowed", to add bed and breakfast inn as a conditional use; amending Section 4.4.13, "Central Business (CBD) District", Subsection (B), "Principal Uses and Structures Permitted", and Subsection (D), "Conditional Uses and Structures Allowed"; Section 4.4.17, "Residential Office (RO) District", Subsection (D), "Conditional Uses and Structures Allowed"; and Section 4.4.24, "Old School Square Historic Arts District", Subsection (B), "Principal Uses and Structures", to clarify bed and breakfast inn uses; amending Appendix "A", "Definitions", to enact revised definitions for "Bed and Breakfast Inn", and "Guest Cottage". If passed, a second public hearing will be held on July 20, 2010. (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. 12-10:** Consider a city initiated amendment to Appendix "A", "Definitions" of the Land Development Regulations (LDR) to revise the definition of "Pharmacy. If passed, a public hearing will be held on July 20, 2010. (Approved, 5-0)
- B. **ORDINANCE NO. 15-10:** Consider a city initiated amendment to the Land Development Regulations (LDR) Section 6.1.10, "Water System", to eliminate a fire protection provision that conflicts with the Florida Fire Prevention Code. If passed, a public hearing will be held on July 20, 2010. (Approved, 5-0)
- C. **ORDINANCE NO. 16-10:** Consider approval of an historic designation and individual listing on the Local Register of Historic Places for The Harvel House, to be located at 186 N.W. 5th Avenue. If passed, a public hearing will be scheduled on July 20, 2010. (Approved, 5-0)
- D. **ORDINANCE NO. 21-10:** Consider an amendment to Chapter 32 "Departments, Boards and Commissions", by amending Section 32.66, "Meetings", to provide for quarterly meetings of the Police Advisory Board. If passed, a public hearing will be held on July 20, 2010. (Approved, 5-0)

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

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

POSTED: JULY 2, 2010

******** Meeting adjourned at 8:05 p.m. ********