

# City of Delray Beach

## Regular Commission Meeting

**\*\*\*AGENDA RESULTS\*\*\***



### **RULES FOR PUBLIC PARTICIPATION**

Tuesday, December 14, 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.G., Special Event Request/2<sup>nd</sup> Annual Chillounge Night, was moved to the Regular Agenda as Item 9.A.A.; Item 8.J.D, Review of Appealable Land Development Board Actions, Site Plan Review and Appearance Board (SPRAB), was moved to the Regular Agenda as Item 9.A.A.A.; Item 8.K.1., Contract Award/Chaz Equipment Company, Inc., was moved to the Regular Agenda as Item 9.A.A.A.A. Approved as amended, 5-0)
5. **APPROVAL OF MINUTES:**
  - A. November 30, 2010 – Special Meeting (Approved, 5-0)
6. **PROCLAMATIONS:**
  - A. Calling for the First Non-Partisan Election to be held on March 8, 2011
7. **PRESENTATIONS:**
  - A. Accreditation Award for the Parks and Recreation Department
8. **CONSENT AGENDA:** City Manager Recommends Approval. (Approved as amended, 5-0)
  - A. **CONTRACT CLOSEOUT (FINAL PAYMENT)/RSI OF FLORIDA, INC.:** Approve a Contract Closeout (Final Payment) in the amount of \$6,329.00 to RSI of Florida, Inc. for completion of the WTP Administrative Building Re-Roof. Funding is available from 442-5178-536-62.10 (W & S Renewal & Replacement Project: Buildings).
  - B. **CONTRACT CLOSEOUT (CHANGE ORDER NO. 4; FINAL) H.A. CONTRACTING, CORP.:** Approve a Contract Closeout (C.O. No. 4; Final) in the amount of a \$10,000.00 decrease and final payment in the amount of \$51,964.60 to H.A. Contracting Corp., for completion of the Old School Square Window Hardening. Funding is available from 334-4151-572-46.08 (General Construction Fund: Repair & Maintenance Services/OSS Window Replacement).
  - C. **HOUSING REHABILITATION BID AWARDS FOR NEIGHBORHOOD STABILIZATION PROGRAM (NSP):** Award two (2) NSP Housing Rehabilitation projects through the Community Development Division to CJ Contracting, LLC. in the amount of \$88,200.00 for the following projects: 5175 N.W. 6th Street and 530 N.W. 47th Avenue. Funding is available from 118-1935-554-62.12 (Neighborhood Services: Capital Outlay/Acquisition Rehabilitation).

- D. **TRI-PARTY AGREEMENT FOR THE TED CENTER:** Approve a Tri-Party Agreement between the Community Redevelopment Agency (CRA), City of Delray Beach and TED Center in the amount of \$7,500.00 through the Community Development Block Grant (CDBG) program for FY 2010-2011. Funding is available from 118-1966-554-83.01 (Neighborhood Services: Other Grants and Aids).
- E. **ACCEPTANCE OF A RIGHT-OF-WAY DEED/46 S.W. 9TH AVENUE:** Approve and accept a right-of-way deed from the Community Redevelopment Agency providing for a 2-foot dedication of right-of-way for the alley parallel to S.W. 9th Avenue at 46 S.W. 9th Avenue.
- F. **VOTE PROCESSING EQUIPMENT USE AND ELECTIONS SERVICES AGREEMENT:** Approve a Vote Processing Equipment Use and Election Services Agreement between the Palm Beach County Supervisor of Elections and the City for conducting municipal elections.
- G. **(MOVED TO ITEM 9.A.A. ON THE REGULAR AGENDA)**
- H. **SPECIAL EVENT REQUEST/SAVOR THE AVENUE:** Approve and endorse Savor the Avenue, sponsored by Florida Table Magazine and supported by the Downtown Development Authority, to be held on March 24, 2011 from 5:30 p.m. to 8:30 p.m.; to grant a temporary use permit per LDR Section 2.4.6(F) for closure and use of Atlantic Avenue from Swinton to the west side of N.E./S.E. 5th Avenue from 2 p.m. until 10:00 p.m.; and to authorize staff support for security, barricading, use of a City owned portable generator and banner hanging with banners to be hung no sooner than 14 days prior to the event; contingent upon receipt of a certificate of event and alcohol liability insurance and an executed Hold Harmless Agreement by March 10, 2011.
- I. **CONSULTING AGREEMENT/LANGTON ASSOCIATES, INC.:** Approve a Consulting Agreement with Langton Associates, Inc. for grant consulting services. Funding is available in 001-1111-511-34.90 (Operating Expenses-Misc/Other Contractual Service).
- J. **(MOVED TO ITEM 9.A.A.A. ON THE REGULAR AGENDA)**
- K. **AWARD OF BIDS AND CONTRACTS:**
1. **(MOVED TO ITEM 9.A.A.A.A. ON THE REGULAR AGENDA)**
  2. Purchase award to Action Target in the amount of \$53,293.00 for modifications to the firing range which will replace the backstop and upgrade areas demonstrating wear. Funding is available from 334-2111-521-46.90 (General Construction Fund: Repair & Maintenance Services/Other Repair/Maintenance Costs) and 115-2112-521-49.90 (Special Projects Fund: Other Current Charges).

9. **REGULAR AGENDA:**

- AA. **SPECIAL EVENT REQUEST/2nd ANNUAL CHILLOUNGE NIGHT:** Approve a special event request for the 2nd Annual Chillounge Night sponsored by Design O' Fresco Corporation proposed to be held on Saturday, February 5, 2011 from 6:00 p.m. to 11:00 p.m. on the Old School Square Park site, to grant a temporary use permit per LDR Section 2.4.6(F) for portions of N.E. 1st Avenue, to provide staff support for traffic control and security, EMS services, barricading, trash removal, event signage and a fireworks show; contingent upon the conditions of approval listed in the staff report. (Motion to approve; Approved, 5-0)
- AAA. **REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:** Accept the actions and decisions made by the Land Development Boards for the period December 6, 2010 through December 10, 2010. (Commissioner Eliopoulos filed a Conflict of Interest for the Site Plan Review Appearance Board Item D and left the dais. Motion to approve; Approved, 4-0)
- AAAA. Contract award to Chaz Equipment Company, Inc. in the amount of \$29,310.00 for the rehabilitation of Building Lift Station #50's wet well. Funding is available from 442-5178-536-68.53 (W & S Renewal & Replacement Fund/Improvements Other/Wet Well Rehabilitation Building LS). (Motion to approve; Approved, 5-0)
- A. **WAIVER REQUEST/338 N.E. 1<sup>ST</sup> AVENUE:** Consider approval of a waiver request to Land Development Regulations (LDR) Section 4.5.1(E)(9)(a), "Open Air Spaces", to allow an encroachment into the building height plane for 338 N.E. 1<sup>st</sup> Avenue. (*Quasi-Judicial Hearing*) (Motion to adopt board order as presented; Approved, 5-0)
- B. **BONUS PAYMENT TO JCD SPORTS GROUP, INC.:** Consider approval of FY 2009/2010 bonus payments to JCD Sports Group, Inc. for both golf operations in the amount of \$14,316.00 and for Tennis Center operations in the amount of \$6,345.00. Funding is available from 445-4711-572-34.90 (Delray Beach Municipal Golf Course Fund/Other Contractual Service), 446-4711-572-34.90 (Lakeview Golf Course/Other Contractual Service), 001-4215-575-34.90 (General Fund/Operating Expenses- Miscellaneous/Other Contractual Service) and 001-4210-575-34.90 (General Fund: Operating Expenses-Misc/Other Contractual Service). (Motion to approve; Approved, 5-0)
- C. **ALTERNATE SITE PLAN APPROVAL FOR THE 4th ANNUAL DOWNTOWN DELRAY BEACH CRAFT FESTIVAL:** Consider approval to rescind the approved site plan for the 4th Annual Downtown Delray Beach Craft Festival being held on December 26-27, 2010, and approve an alternate plan. (Motion to approve; Approved, 5-0)

- D. **OFFER OF SETTLEMENT: ERIC J. GRUBER v. OLD SCHOOL SQUARE & CITY OF DELRAY BEACH:** Consider an offer from Eric J. Gruber to settle his complaint against Old School Square, Inc. and the City of Delray Beach. (Motion to deny offer of settlement; Approved, 5-0)
- E. **SETTLEMENT AGREEMENT: TIMOTHY CULANE v. CITY OF DELRAY BEACH:** Consider a settlement agreement in the amount of \$20,000.00 in the claim of Timothy Culhane against the City of Delray Beach. (Motion to approve, subject to appropriate releases; Approved, 5-0)
- F. **APPOINTMENT TO THE BOCA RATON AVIATION ADVISORY COMMITTEE:** Appoint one (1) regular member to the Boca Raton Aviation Advisory Committee to serve a two (2) year term ending May 31, 2012. Based upon the rotation system, the appointment will be made by Commissioner Fetzer (Seat #2). (Appointed Barry Gauch and approved, 5-0)
- G. **APPOINTMENT TO THE FINANCIAL REVIEW BOARD:** Appoint one (1) alternate member to the Financial Review Board to serve an unexpired term ending July 31, 2011. Based upon the rotation system, the appointment will be made by Commissioner Frankel (Seat #3). (Appointed Laura Reines and approved, 5-0)

10. **PUBLIC HEARINGS:**

- A. **ORDINANCE NO. 18-10:** Consider approval of a city-initiated annexation (via the provisions of the executed Agreement for Water Service and Consent to Annexation) for the Marketplace of Delray, located at the northwest corner of West Atlantic Avenue and Military Trail. (Motion to approve; Approved, 5-0)
- B. **ORDINANCE NO. 43-10 (SECOND READING/SECOND PUBLIC HEARING):** City initiated rezoning from County CG (General Commercial) to City PC (Planned Commercial) for the Marketplace of Delray, located at the northwest corner of West Atlantic Avenue and Military Trail. (*Quasi-Judicial Hearing*) (Motion to approve; Approved, 5-0)
- C. **ORDINANCE NO. 20-10:** Consider approval of a privately initiated rezoning from RM (Medium Density Residential) to GC (General Commercial) for Lintco Development, located at the northwest corner of Linton Boulevard and S.W. 4<sup>th</sup> Avenue. (*Quasi-Judicial Hearing*) (Commissioner Eliopoulos filed a Conflict of Interest and left the dais. Motion to approve; Approved, 4-0)

- D. **ORDINANCE NO. 17-10: (SECOND READING/ADOPTION HEARING FOR COMPREHENSIVE PLAN AMENDMENT 2010-1)**: Consider approval and adoption of Comprehensive Plan amendment 2010-1 including the following text changes. (Commissioner Eliopoulos filed a Conflict of Interest and left the dais. Motion to approve; Approved, 4-0)

A. Text Amendments:

- i. City-initiated: Capital Improvement Element - Update the City's Five-Year Capital Improvements Schedule (Table CI-CIP) to reflect adoption of the FY2011-FY2015 Capital Improvements Program.
- ii. City-initiated: Capital Improvement Element - Update the City's Reclaimed Water Capital Improvement Schedule (Table RW-CIP) to reflect adoption of the FY2011-FY2015 Capital Improvements Program.
- iii. City-initiated: Capital Improvement Element - Update the Palm Beach County School District's Capital Improvement Schedule (Table SD-CIP) to reflect adoption of its FY2011-FY2015 Capital Improvements Program.
- iv. City-initiated: Capital Improvement Element - Update the General Fund Revenue and Expenditure 5-Year Forecast Table.
- v. City-initiated: Capital Improvement Element - Update the Pledgeable Revenue Matrix Table.
- vi. City initiated: Capital Improvement Element - Update the Debt Summary Table.
- vii. City-initiated: Conservation Element - Modification of Objective E-1 and Policy E-1.1, dealing with the Green Task Force, to reflect new name (Green Implementation Advancement Board) and expanded Board purpose.
- viii. City-initiated: Future Land Use Element - Modification of Policy A-1.4 to extend the time frame for completion of a study on economic development issues from FY08/09 to FY11/12.
- ix. City-initiated: Future Land Use Element - Modification of Policy A-1.10 to extend the time frame for evaluating the need for establishing design guidelines for the Congress Avenue Corridor and the Four Corners Overlay District from FY08/09 to FY10/11.
- x. City-initiated: Future Land Use Element - Modification of Policy A-1.11 to extend the time to develop a marketing plan to attract new business and promote redevelopment of the Congress Avenue corridor from FY08/09 to FY10/11.
- xi. City-initiated: Future Land Use Element - Modification of Policy A-2.5 to extend the time frame for analysis of the Land Development Regulations, dealing with nonconforming uses, from FY08/09 to FY11/12.

- xii. City-initiated: Future Land Use Element - Modification of Policy C-1.4 to extend the time frame for evaluating the need for establishing design guidelines for the North Federal Highway corridor from FY08/09 to FY10/11.
- xiii. City-initiated: Future Land Use Element - Modification of Policy C-1.12 to extend the time frame for completion of a Redevelopment Plan for the South Federal Highway from FY08/09 to FY10/11.
- xiv. City-initiated: Future Land Use Element - Modification of Policy C-1.13 to extend the time frame for completion of a Redevelopment Plan for Linton Boulevard, from I-95 to Federal Highway, from FY08/09 to FY10/11.
- xv. Privately-initiated: Future Land Use Element - Modification of the description of the GC (General Commercial) Future Land Use designation to identify specific uses and intensities (FARs) for development within a proposed overlay district for the Lintco property on the north side of Linton Boulevard, west of S.W. 4th Avenue.
- xvi. Privately initiated: Future Land Use Element - Modification of the description of the GC (General Commercial) Future Land Use designation to identify specific uses and intensities (FARs) for development within a proposed overlay district for Waterford located east of I-95, south of Linton Boulevard.
- xvii. City-initiated: Housing Element - Deletion of Policy B-3.3 (Completed).
- xviii. City-initiated: Transportation Element - Modification of Policy A-1.8 to extend the time frame for investigation of the feasibility of implementing an impact fee or other system for assessment of new development to fund operation of the downtown roundabout shuttle service from FY08/09 to FY10/11.
- xix. City-initiated: Transportation Element - Modification of Objective A-8 to extend the time frame for development of a program to encourage street trees for green linkages from FY08/09 to FY10/11.
- xx. City-initiated: Transportation Element - Modification of Policy D-2.4 to extend the time frame for adoption of a bicycle network plan for the city from FY09/10 to FY11/12.
- xxi. City-initiated: Transportation Element - Modification of Policy D-3.1 to extend the time frame for completion of surveys and analysis to determine the issues and needs for employer based TDM activities, including but not limited to ride sharing, van pooling, and flexible work hours, from FY09/10 to FY10/11.
- xxii. City-initiated: Transportation Element - Modification of Policy D-3.5 to extend the time frame to determine the operational feasibility and grant funding requirements necessary to provide shuttle service to meet and greet all trains at the station from FY08/09 to FY10/11.

B. Future Land Use Map Amendments:

- i. City initiated Future Land Use Map amendment from County Commercial High with an underlying residential of 8 units per acre (CH/8) to City GC (General Commercial), for the **Marketplace of Delray**, located at the northwest corner of West Atlantic Avenue and Military Trail.
- ii. Privately initiated Future Land Use Map amendment from MD (Medium Density Residential 5-12 du/ac) to GC (General Commercial) for **Lintco Development**, located at the northwest corner of Linton Boulevard and S.W. 4<sup>th</sup> Avenue.
- iii. Privately initiated Future Land Use Map Amendment from TRN (Transitional) to GC (General Commercial) for a 4.58 acre parcel located within **Waterford**, located between I-95 and Lindell Boulevard, south of Linton Boulevard and north of Audubon Boulevard.

E. **CONSOLIDATED ANNUAL PERFORMANCE AND APPRAISAL REPORT (CAPER):** Consider approval of the 2009-2010 Consolidated Annual Performance and Evaluation Report required by the United States Department of Housing & Urban Development (HUD) for utilization of federal grant funds. (Motion to approve; Approved, 5-0)

F. **RESOLUTION NO. 65-10/CONTRACT FOR THE SALE OF PROPERTY/3740 LANCEWOOD PLACE:** Consider approval of Resolution No. 65-10 authorizing the City to sell Neighborhood Stabilization Program property to Lana Ritz in the amount of \$212,000.00 and provide subsidy up to \$50,000.00 secured by promissory note and second mortgage located at 3740 Lancewood Place. (Motion to approve; Approved, 5-0)

G. **RESOLUTION NO. 66-10: TRANSFER OF PROPERTY AT 3619 AVENUE MONTRESSOR:** Consider approval of Resolution No. 66-10 authorizing the City to transfer property located at 3619 Avenue Montessor to the Community Land Trust (CLT) for affordable housing. (Motion to approve; Approved, 5-0)

11. **COMMENTS AND INQUIRIES ON NON-AGENDA ITEMS FROM THE PUBLIC- IMMEDIATELY FOLLOWING PUBLIC HEARINGS.**

- A. City Manager's response to prior public comments and inquiries.
- B. From the Public.

12. **FIRST READINGS:**

- A. None

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

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

POSTED: DECEMBER 10, 2010

***\*\*\*\*\* Meeting adjourned at 7:59 p.m. \*\*\*\*\****