

City of Delray Beach

Regular Commission Meeting



RULES FOR PUBLIC PARTICIPATION

1. PUBLIC COMMENT: The public is encouraged to offer comments with the order of presentation being as follows: City Staff, public comments, Commission discussion and official action. City Commission meetings are business meetings and the right to limit discussion rests with the Commission. **Generally, remarks by an individual will be limited to three minutes or less.** The Mayor or presiding officer has discretion to adjust the amount of time allocated.

Tuesday, August 17, 2010

Regular Meeting 6:00 p.m.
Public Hearings 7:00 p.m.
Commission Chambers
Delray Beach City Hall

- A.** Public Hearings: Any citizen is entitled to speak on items under this section.
- B.** Comments and Inquiries on Non-Agenda Items from the Public: Any citizen is entitled to be heard concerning any matter within the scope of jurisdiction of the Commission under this section. The Commission may withhold comment or direct the City Manager to take action on requests or comments.
- C.** Regular Agenda and First Reading Items: Public input on agendaed items, other than those that are specifically set for a formal public hearing, shall be allowed when agreed by consensus of the City Commission.

2. SIGN IN SHEET: Prior to the start of the Commission Meeting, individuals wishing to address public hearing or non-agendaed items should sign in on the sheet located on the right side of the dais. If you are not able to do so prior to the start of the meeting, you may still address the Commission on an appropriate item. The primary purpose of the sign-in sheet is to assist staff with record keeping. Therefore, when you come up to the podium to speak, please complete the sign-in sheet if you have not already done so.

3. ADDRESSING THE COMMISSION: At the appropriate time, please step up to the podium and state your name and address for the record. All comments must be addressed to the Commission as a body and not to individuals. Any person making impertinent or slanderous remarks or who becomes boisterous while addressing the Commission shall be barred by the presiding officer from speaking further, unless permission to continue or again address the Commission is granted by a majority vote of the Commission members present.

APPELLATE PROCEDURES

Please be advised that if a person decides to appeal any decision made by the City Commission with respect to any matter considered at this meeting, such person will need to ensure that a verbatim record includes the testimony and evidence upon which the appeal is based. The City neither provides nor prepares such record.

100 NW 1st Avenue
Delray Beach, Florida 33444

Phone: (561) 243-7000
Fax: (561) 243-3774

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.**
5. **APPROVAL OF MINUTES:**
 - A. August 2, 2010 – Workshop Meeting
 - B. August 3, 2010 – Regular Meeting
6. **PROCLAMATIONS:**
 - A. Fire Fighter Appreciation Month – August 2010
7. **PRESENTATIONS:**
 - A. Presentation of an American Flag to the City – Officer Ryan Lowry
8. **CONSENT AGENDA:** City Manager Recommends Approval.
 - A. **RESOLUTION NO. 41-10:** Approve Resolution No. 41-10 to support the application for a 2011 Distinctive Destination designation.
 - B. **RATIFICATION OF APPOINTMENTS TO THE PARKING MANAGEMENT ADVISORY BOARD:** Approve and ratify the appointments of Mr. William Morse, Chamber of Commerce Representative; Ms. Veronica Covington, Community Redevelopment Agency Representative; and Mr. Fran Marincola and Ms. Diane Franco, Planning and Zoning Board Representative and Alternate Representative, respectively, for terms ending July 31, 2012.
 - C. **DOWNTOWN MARKETING CO-OPERATIVE AGREEMENT AND APPROVAL OF A NEW AGREEMENT:** Rescind the old Downtown Marketing Cooperative Agreement dated June 1, 2010 and approve a new Downtown Marketing Cooperative Agreement, subject to approval by the respective Boards of the Downtown Marketing Cooperative members.
 - D. **ANNUAL PROJECT HOLIDAY/YOU ARE NOT ALONE ORGANIZATION:** Approve a request for city support and assistance for the 5th Annual Project Holiday sponsored by the You Are Not Alone Organization, which provides packages to armed services personnel.
 - E. **RESOLUTION NO. 42-10/AMENDMENT TO LOCAL HOUSING ASSISTANCE PLAN (LHAP):** Approve and adopt Resolution No. 42-10, an amendment to City's State Housing Initiatives Partnership (SHIP) Program, Local Housing Assistance Plan (LHAP) for Fiscal Years 2010-2013.

- F. **COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG)/SUB RECIPIENT FUNDING AGREEMENT/NICO OF DELRAY BEACH, INC.:** Authorize execution of a sub-recipient funding agreement with NICO of Delray Beach, Inc., under the CDBG program for FY 2009-2010. Funding is available from 118-1966-554-83.01 (Neighborhood Services/Other Grants and Aids).
- G. **SPECIAL EVENT REQUEST/16th ANNUAL DOWNTOWN DELRAY CRAFT FESTIVAL:** Approve a special event request to endorse the 16th Annual Downtown Delray Craft Festival sponsored by Howard Alan Events, Ltd. to be held October 2 and October 3, 2010 from 10:00 a.m. to 5:00 p.m., to grant a temporary use permit per LDR Section 2.4.6(F) for use of NE 4th Avenue from Atlantic Avenue to NE 1st Street and from Atlantic Avenue to SE 1st Street to utilize the north end of the Hand's Parking Lot for vendor parking and to provide staff support for traffic control, security and fire inspection services.
- H. **AGREEMENT/DANVERS CONSULTATION AND RESEARCH FIRM:** Consider approval of a modification to the agreement between the city and Danvers Consultation and Research Firm for performance of a citywide street light audit.
- I. **SPECIAL EVENT REQUEST/ART AND JAZZ ON THE AVENUE:** Approve a special event request to endorse Art and Jazz on the Avenue to be held on October 21, 2010 from 6:00 p.m. to 10:00 p.m., to grant a temporary use permit per LDR Section 2.4.6(F) for the closure of Atlantic Avenue from Swinton to the west side of N.E./S.E. 7th Avenue, Railroad Avenue from Atlantic north to the north side of the east/west alley, and to the alleys north and south of Atlantic on N.E./S.E. 1st Avenue, N.E./S.E. 2nd Avenue, S.E. 3rd Avenue, and N.E./S.E. 4th; to authorize staff support for security, traffic control, banner hanging and removal, barricade set up and removal, trash removal and clean up and EMS assistance, with payment of costs to the City per the agreement between the City and the Downtown Marketing Cooperative.
- J. **FY 2011 TENNIS RATES/TENNIS FACILITIES:** Approve the proposed maximum rates for the Tennis Facilities.
- K. **FY 2011 GOLF RATES/LAKEVIEW GOLF COURSE:** Approve the proposed maximum rates for the Lakeview Golf Course.
- L. **FY 2011 GOLF RATES/DELRAY BEACH MUNICIPAL GOLF COURSE:** Approve the proposed maximum rates for the Delray Beach Municipal Golf Course.
- M. **AMENDMENT NO. 1/MIRACLE LEAGUE FIELD:** Approve a change to the previously approved Amendment No. 1 to the Agreement between the City and Palm Beach County for the Miracle League Field to provide a time extension to October 31, 2010.
- N. **AMENDMENT NO. 1/SUNGARD PUBLIC SECTOR, INC.:** Approve Amendment No. 1 to the Agreement (language revisions) with SunGard Public Sector, Inc. for the Public Safety Software System.

- O. **LETTER OF SUPPORT/PACE PROGRAM:** Authorize the mayor to execute a letter supporting the Property Assessed Clean Energy (PACE) program.
- P. **AGREEMENT/UNITED STATES DEPARTMENT OF JUSTICE, DRUG ENFORCEMENT ADMINISTRATION (DEA):** Approve and accept a State and Local Task Force Agreement between the City and the United States Department of Justice, Drug Enforcement Administration (DEA), to reimburse the Delray Beach Police Department for overtime up to \$17,202.25 subject to availability of funds.
- Q. **SUB RECIPIENT AGREEMENT/FLORIDA DEPARTMENT OF FINANCIAL SERVICES:** Approve a Sub-recipient Agreement for the Fire-Rescue Department with the Florida Department of Financial Services; and accept the 2009-2010 Domestic Preparedness Grant from the State Homeland Security Grant Program in the amount of \$72,545.00 for equipment, maintenance of equipment, and training courses related to Homeland Security.
- R. **TRANSPORTATION INVESTMENT GENERATING ECONOMIC RECOVERY II (TIGER II) GRANT:** Authorize staff to submit a Transportation Investment Generating Economic Recovery II (TIGER II) grant application, and for the Mayor to sign a letter indicating that the City will abide by Federal wage rates.
- S. **MEMORANDUM OF AGREEMENT/AREA AGENCY ON AGING/PALM BEACH TREASURE COAST, INC.:** Approve and authorize the Mayor to execute a Memorandum of Agreement for the City to partner with the Area Agency on Aging/Palm Beach Treasure Coast, Inc. for the Senior Immunization Outreach Project.
- T. **REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:** Accept the actions and decisions made by the Land Development Boards for the period August 2, 2010 through August 13, 2010.
- U. **AWARD OF BIDS AND CONTRACTS:**
1. Purchase award to Fast-Dry Courts in the total amount of \$65,760.00 for court maintenance, fence installation, fence repair; and the purchase and installation of two (2) portable canopies for the Delray Beach Tennis Center and Delray Beach Swim and Tennis Club. Funding is available from 001-4215-575-63.90 (General Fund/Tennis Center/Other Improvements) and 334-4145-572-46.90 (General Construction Fund/Tennis Center/Other Repair & Maintenance Costs).
 2. Contract award to Chaz Equipment Company in the amount of \$564,985.00 for the construction of SW 12th Avenue Alleys - Phase 1 (Project #2007-013). Funding is available from 334-3162-541-68.49 for \$400,485.00 (General Construction Fund/Other Improvement/12th/Auburn Alley Improvements) and 448-5461-538-68.38 for \$164,500.00 (Other Improvements/SW 12 Avenue Phase 1 Alley).
 3. Purchase award to Dell in the amount of \$63,189.25 for additional disk storage space for the City's data network. Funding is available from 334-6111-519-64.11 (Machinery Equipment/Computer Equipment).

4. Purchase award to PC Mall Gov in the amount of \$17,596.86 for Catalyst 2960 switch replacements with required cables as part of the City's cabling and switch upgrade project. Funding is available from 334-3162-545-62.45 (General Construction Fund/Capital Outlay/Data Cabling).
5. Contract award to Brang Construction, Inc. in the amount of \$844,890.00 for the construction of Phase 1 of the Martin Luther King, Jr. (MLK) Drive Beautification Project #2004-056. Funding is available from 380-4150-572-63.28 (Improvements Other/ Pompey Park Community Center) and 334-4141-572-68.57 (Other Improvement/Cultural Loop/MLK Drive).
6. Purchase award to Channels Innovations Corporation in the amount of \$24,983.00 for one (1) Mako Air Compressor for the Fire-Rescue Department. Funding is available from 001-2315-526-64-90 (General Fund/Machinery Equipment/Other Machinery/Equipment).
7. Purchase award to Zoll Medical Corporation in the amount of \$33,275.60 for two (2) Zoll Medical Auto Pulse Non-Invasive Cardiac Support Pumps for the Fire-Rescue Department. Funding is available from 001-2315-526-64.90 (General Fund: Machinery/Equipment/Other Machinery/Equipment).
8. Purchase award to ProfitStars in the amount of \$19,999.00 for RemitPlus software, hardware, license and maintenance fees with annual software license and maintenance fees of \$2,660.00 to automate the processing of the City's utility lockbox payments; contingent upon approval by the City Attorney of an agreement with ProfitStars. Funding is available from 441-5112-536-66.10 (Books Publication/Software), 441-5112-536-64.12 (Machinery Equipment/Office Equipment), 441-5112-536-54.30 (Books/Publications/Subscriptions/Memberships/Training/Education Costs), 441-5112-536-46.90 (Repair & Maintenance Service/Other Repair/Maintenance Cost), and 441-5112-536-49.90 (Other Current Charges).
9. Award of Request for Proposals #2010-10 to Randall L. Wolff, M.D. in the annual amount of \$26,850.00 for EMS Medical Director for the Delray Beach Fire Rescue Department. Funding is available from 001-2315-526-31.90 (General Fund/Other Professional Services).

9. **REGULAR AGENDA:**

- A. **FISCAL YEAR 2011-2015 CAPITAL IMPROVEMENT PROGRAM (CIP) PRESENTATION**
- B. **GENERAL FUND FEE REVIEW:** Review and consider changes to various departmental fees.

- C. **SPECIAL EVENT PERMIT REQUEST/DADA'S TENTH ANNIVERSARY:** Consider a special event permit request for DaDa's 10th Anniversary to be held September 4, 2010 from 4:00 p.m. to 2:00 a.m., to grant a temporary use permit per LDR Section 2.4.6(F) for use and closure of NW 1st Street from Swinton to NW 1st Avenue, to approve staff support for security, barricading, cleanup; and approve set up and use of the large city stage; contingent upon the conditions listed in the staff report.
- D. **MOTION TO VACATE:** Consider authorizing the City Attorney's Office to file a Motion to Vacate the arbitration award in the Michael Brown arbitration matter to the Fifteenth Judicial Circuit.
- E. **APPOINTMENTS TO THE PLANNING & ZONING BOARD:** Appoint four (4) regular members to the Planning & Zoning Board to serve two (2) year terms ending August 31, 2012. Based upon the rotation system, the appointments will be made by Commissioner Frankel (Seat #3), Commissioner Gray (Seat #4), Mayor McDuffie (Seat #5) and Commissioner Eliopoulos (Seat #1).
- F. **APPOINTMENTS TO THE SITE PLAN REVIEW & APPEARANCE BOARD:** Appoint five (5) regular members to the Site Plan Review & Appearance Board to serve two (2) year terms ending August 31, 2012. Based upon the rotation system, the appointments will be made by Commissioner Frankel (Seat #3), Commissioner Gray (Seat #4), Mayor McDuffie (Seat #5), Commissioner Eliopoulos (Seat #1) and Commissioner Fetzer (Seat #2).
- G. **APPOINTMENTS TO THE HISTORIC PRESERVATION BOARD:** Appoint four (4) regular members to the Historic Preservation Board to serve two (2) year terms ending August 31, 2012. Based upon the rotation system, the appointments will be made by Commissioner Eliopoulos (Seat #1), Commissioner Fetzer (Seat #2), Commissioner Frankel (Seat #3) and Commissioner Gray (Seat #4).
- H. **APPOINTMENTS TO THE BOARD OF ADJUSTMENT:** Appoint three (3) regular members to the Board of Adjustment to serve two (2) year terms ending August 31, 2012. Based upon the rotation system, the appointments will be made by Mayor McDuffie (Seat #5), Commissioner Eliopoulos (Seat #1) and Commissioner Fetzer (Seat #2).
- I. **APPOINTMENT TO THE EDUCATION BOARD:** Appoint one (1) regular member to the Education Board to serve a two year term ending July 31, 2012. Based upon the rotation system, the appointment will be made by Mayor McDuffie (Seat #5).
- J. **APPOINTMENT TO THE NUISANCE ABATEMENT BOARD:** Appoint one (1) regular member to the Nuisance Abatement Board to serve a two (2) year term ending July 31, 2012. Based upon the rotation system, the appointment will be made by Commissioner Fetzer (Seat #2).

10. **PUBLIC HEARINGS:**

- A. **PUBLIC COMMENTS/FY 2011 PROPOSED BUDGET:** The City Commission will hear public comments, if any, regarding the FY 2011 Proposed Budget at this time.
- B. **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”.
- C. **ORDINANCE NO. 17-10: (FIRST READING/TRANSMITTAL HEARING FOR COMPREHENSIVE PLAN AMENDMENT 2010-1):** Consider on first reading an ordinance adopting Comprehensive Plan Amendment 2010-1 and associated Future Land Use Map (FLUM) amendments, and authorize transmittal to the State Department of Community Affairs.

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 FY2010-FY2014 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 FY2010-FY2014 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 FY2010-FY2014 Capital Improvements Program.
- iv. City-initiated: Conservation Element - Modification of Policy E-1.1, dealing with the Green Task Force, to reflect new name (Green Implementation Advancement Board) and new Board purpose.
- v. 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.
- vi. 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.
- vii. 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.

- viii. 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.
- ix. 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.
- x. 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.
- xi. 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.
- xii. 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 SW 4th Avenue.
- xiii. City-initiated: Housing Element - Deletion of Policy B-3.3 (Completed).
- xiv. 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.
- xv. 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.
- xvi. 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.
- xvii. 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.

- xviii. 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.
- xix. City-initiated: Capital Improvement Element - Update the General Fund Revenue and Expenditure 5-Year Forecast Table.
- xx. City-initiated: Capital Improvement Element - Update the Pledgeable Revenue Matrix Table.
- xxi. City initiated: Capital Improvement Element - Update the Debt Summary Table.
- xxii. 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.

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. Future Land Use Map amendment County Medium Density Residential 5 units per acre (MR-5) to City LD (Low Density Residential 0-5 du/ac) for Lots 5 thru 7, Breezy Acres subdivision, located on the east side of Markland Lane, 491 feet south of West Atlantic Avenue.
- iii. 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 SW 4th Avenue.
- iv. Privately initiated Future Land Use Map amendment from TRN (Transitional) to GC (General Commercial) for a 4.58 acre parcel located within Waterford, east of I-95, south of Linton Boulevard.

- D. **ORDINANCE NO. 23-10 (FIRST READING/FIRST PUBLIC HEARING):**
 City initiated amendment to the Land Development Regulations Section 4.3.3 “Special Requirements for Specific Uses”, Subsection (KKK) to enact regulations for Live/Work Units; amending Section 4.4.12 “Planned Commercial District”, Subsection (D) “Conditional Uses and Structures Allowed”, Section 4.4.13 “Central Business District”, Subsection (D) “Conditional Uses and Structures Allowed”; Section 4.4.29 “Mixed Residential, Office and Commercial”, Subsection (E) “Conditional Uses and Structures Allowed” to allow Live/Work units as a conditional use; and amending Appendix “A” “Definitions” to provide a revised definition for “Live/Work Unit”. If passed, a second reading second public hearing will be held on September 7, 2010.
- E. **COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROPOSED AMENDMENT TO YEAR 4/ FY 2008-2009 ACTION PLAN:** Consider approval of the CDBG Proposed Amendment to Year 4 for FY 2008-2009 Action Plan as required by the United States Housing & Urban Development Department (HUD) for utilization of federal grant funds.
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. 27-10:** 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 September 7, 2010.
- B. **ORDINANCE NO. 26-10:** An ordinance amending Chapter 34, “Elections”, of the Code of Ordinances, by amending Sections 34.16 and 34.17 to increase the fee for filing petitions from \$25 to \$50. If passed, a public hearing will be held on September 7, 2010.
- C. **ORDINANCE NO. 28-10:** An ordinance amending Chapter 101, "Parks, Beaches and Recreation", by amending Section 101.35(F), "Storing Boats", to modify the rate structure for storing sailboats on the beach. If passed, a public hearing will be held on September 7, 2010.
13. **COMMENTS AND INQUIRIES ON NON-AGENDA ITEMS.**
- A. City Manager
- B. City Attorney
- C. City Commission

POSTED: AUGUST 13, 2010