

City of Delray Beach

Regular Commission Meeting

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



RULES FOR PUBLIC PARTICIPATION

Tuesday, December 1, 2009

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.

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.** (Mayor McDuffie noted there was additional information on the dais for Item 9.C., Request for Valet Queue/Tramonti Restaurant; Additional information was on the dais for Item. 9.E., Revised Proposal/Old School Square Retail Space Garage; and Item 9.I., Employee Recognition for FY 2009 Budget Surplus was added to the Regular Agenda by addendum; Approved as amended, 5-0)
5. **APPROVAL OF MINUTES:**
 - A. November 17, 2009 – Regular Commission Meeting (Approved, 5-0)
6. **PROCLAMATIONS:**
 - A. None
7. **PRESENTATIONS:**
 - A. Mayor's Literacy Initiative - Delray Beach Get Caught Reading
8. **CONSENT AGENDA:** City Manager Recommends Approval. (Approved, 5-0)
 - A. **RATIFICATION OF THE SOUTH CENTRAL REGIONAL WASTEWATER TREATMENT AND DISPOSAL BOARD ACTION:** Ratify approval of the revised Industrial Waste and Pretreatment Agreement by the South Central Regional Wastewater Treatment and Disposal Board at their Quarter- Annual Meeting of October 15, 2009.
 - B. **TRANSFER OF OUTSIDE COUNCIL/GAUNT, PRATT, RADFORD, METHE & ROCKENBACH, P.A./APPEALS IN CASES REFERENCING LINDA MARKS:** Approve authorization to transfer the appointment of the firm Gaunt, Pratt, Radford, Methe & Rockenbach, P.A. for legal services in conjunction with the appeal of the cases involving Linda Marks to the firm of Methe & Rockenbach, P.A.
 - C. **SERVICE AUTHORIZATION NO. 07-13/MATHEWS CONSULTING, INC.:** Approve Service Authorization No. 07-13 in the amount of \$178,642.00 to Mathews Consulting, Inc. for professional engineering services related to the design of the Area 11B Reclaimed Water System and other needed water and sewer improvements in the same streets. Funding is available from 441-5181-536-65.96 (Water and Sewer Fund/Other Improvements/Reclaim Water Transmission).

- D. **AMENDMENT NO. 2 TO THE AGREEMENT/LEGAL SERVICES/HEARING OFFICER:** Approve an amendment extending for two years the agreement between the City and David W. Schmidt for providing legal services to the City as a Hearing Officer.
- E. **DISASTER RECOVERY INITIATIVE (DRI)/HOUSING REHABILITATION GRANT/GRANT AWARD:** Approve one (1) Housing Rehabilitation grant award to the lowest responsive bidder for 133 S.W. 8th Avenue, David J. Thyng, LLC., in the amount of \$19,551.38. Funding is available from 118-1960-554-49.19 (Neighborhood Services/Other Current Charges/Housing Rehabilitation).
- F. **COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) SUB-RECIPIENT FUNDING AGREEMENT/URBAN LEAGUE OF PALM BEACH COUNTY:** Approve and authorize execution of a sub-recipient funding agreement with the Urban League of Palm Beach County, Inc. under the Community Development Block Grant (CDBG) program for FY 2009-2010, with total funding in the amount of \$6,500.00. Funding is available from 118-1966-554-83.01 (Neighborhood Services/Other Grants and Aids).
- G. **COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) SUB-RECIPIENT FUNDING AGREEMENT/FAIR HOUSING CENTER OF THE GREATER PALM BEACHES:** Approve and authorize execution of a sub-recipient funding agreement with Fair Housing Center of the Greater Palm Beaches under the Community Development Block Grant (CDBG) program for FY 2009-2010, with total funding in the amount of \$7,000.00. Funding is available from 118-1961-554-49.17 (Neighborhood Services/Other Current Charges/Promotion of Fair Housing).
- H. **REVISION/HURRICANE HOUSING ASSISTANCE PLAN (HHAP):** Approve a technical revision to the Hurricane Housing Recovery (HHR) Program, Hurricane Housing Assistance Plan (HHAP) for Fiscal Years 2005-2008.
- I. **AMENDMENT NO. 2 TO THE POMPEY PARK BOOSTER CLUB AGREEMENT:** Approve and authorize Amendment No. 2 to the Agreement with Pompey Park Booster Club, Inc. to extend the agreement for an additional one (1) year term.
- J. **SPECIAL EVENT REQUEST/13TH ANNUAL DOWNTOWN DELRAY CRAFT FESTIVAL:** Approve a special event request to endorse the 13th Annual Downtown Delray Craft Festival sponsored by Howard Alan Events, Ltd. to be held February 27-28, 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 the closure and use of N.W. 3rd Avenue from Atlantic Avenue north to the south entrance of Atlantic Grove and the Tennis Center parking lot, authorize staff support for security and traffic control, barricade assistance, EMS assistance, and permit an event sign to be erected on Atlantic Avenue just east of I-95 fourteen (14) days prior to the event with the sponsor paying all overtime costs.

K. **REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:**
Accept the actions and decisions made by the Land Development Boards for the period November 16, 2009 through November 25, 2009.

L. **AWARD OF BIDS AND CONTRACTS:**

1. Bid award to DaCosta Enterprises, Inc. in the amount of \$33,697.00 for construction of a Barwick Road Sidewalk. Funding is available from 334-3162-541-63.11 (General Construction Fund/Improvement Other Than Buildings/Bikepaths/Sidewalks).
2. Contract award to Insituform Technologies, Inc. in the amount of \$61,436.40 for rehabilitation of a sewer segment on S.E. 2nd Street, from S.E. 3rd Avenue to east of S.E. 6th Avenue, as part of the annual Sanitary Sewer Main Rehabilitation program. Funding is available from 442-5178-536-63.51 (Water and Sewer Renewal and Replacement Fund/Improvements Other/Sewer Mains).
3. Purchase award to Otto Waste Systems in the amount of \$30,000.00 for the purchase of hot stamped garbage carts with lids and wheels to be ordered as needed. Funding is available from 433-3711-534-49.35 (Sanitation Fund/Cart Renewal and Replacement).

9. **REGULAR AGENDA:**

- A. **WAIVER REQUEST/MELLOW MUSHROOM:** Consideration of a waiver to LDR section 4.6.9(e)(3)(d), to allow Mellow Mushroom to enter into an In-Lieu Parking Fee Agreement with the City to pay the \$109,200 in-lieu parking fee in four (4) installments of 25% each with first payment due at signing, instead of three (3) installments with 50% due at signing and two subsequent 25% payments. Mellow Mushroom restaurant is located at 25 S.E. 6th Avenue. *(Quasi-Judicial Hearing)*
(Motion to adopt Board Order as presented; Approved, 5-0)
- B. **REQUEST FOR VALET QUEUE/THE SEAGATE ON ATLANTIC:** Consider a request from The Seagate on Atlantic to establish a parking valet queue to be located on the south side of the 1000 block of East Atlantic Avenue. *(Motion to approve; Approved, 3-2. Commissioner Gray and Commissioner Frankel dissenting).*
- C. **REQUEST FOR VALET QUEUE/TRAMONTI RESTAURANT:** Consider a request from LSMS, Inc., owner of Tramonti Restaurant, to establish a parking valet queue to be located on the north side of the 100 block of East Atlantic Avenue. *(Commissioner Eliopoulos declared a conflict of interest and left the dais. Motion to approve; DENIED, 4-0).*

- D. **SPECIAL EVENT REQUEST/DELRAY AFFAIR:** Consider approval of a special event request from the Chamber of Commerce for the 48th Annual Delray Affair to be held on April 9–11, 2010; including a temporary use permit per LDR Section 2.4.6 (F) for use of City property and rights-of-way as required, waiver of LDR Section 4.6.7 (E)(3)(c) to allow signage to be installed more than one (1) week prior to the event, banner hanging within the site area, vendor permits to be assigned and approved by the Chamber of Commerce, to not allow any other event to be held on the above-mentioned dates in the City, to allow reserved parking for entertainment and exhibitors as requested; contingent upon receipt of a certificate of general liability insurance, liquor liability insurance, and a hold harmless agreement. (Commissioner Eliopoulos return to the dais. Motion to approve per staff recommendations with the condition of street closure starting at 12:00 midnight on Thursday; Approved, 5-0).
- E. **REVISED PROPOSAL/OLD SCHOOL SQUARE RETAIL SPACE GARAGE:** Consider a revised proposal from Thomas Kinsloe regarding the Old School Square garage retail space. (Consensus of the Commission for staff to continue with the direction of the Community Redevelopment Agency (CRA)).
- F. **REQUEST FOR QUALIFICATIONS (RFQ)/VETERANS PARK/WORTHING PARK:** Consider approving the Review Committee’s rankings of responses to Requests for Qualifications (RFQ) for the Veterans Park Master Plan and Worthing Park design; and authorizing staff to enter into negotiations with the top ranked firm for each project. (Motion to approve, Approved, 5-0).
- G. **SERVICE AUTHORIZATION NO. 06-08/CURRIE SOWARDS AGUILA ARCHITECTS:** Approve Service Authorization No. 06-08 in the amount of \$26,750.00 to Currie Sowards Aguila Architects for professional design services regarding replacement of the concession stand and press box building at Little Fenway. Funding is available from 334-4173-572-63.90 (General Construction Fund/Improvements Other/Other Improvements). (Motion to **POSTPONE** until December 8, 2009 Regular Commission Meeting; Approved, 5-0)
- H. **APPOINTMENT TO THE PARKING MANAGEMENT ADVISORY BOARD:** Appoint one (1) Citizen-At-Large Representative to the Parking Management Advisory Board to serve an unexpired term ending July 31, 2011. Based upon the rotation system, the appointment will be made by Mayor McDuffie (Seat #5). (Appointed Bruce Gimmy and approved, 5-0)
- I. **EMPLOYEE RECOGNITION FOR FY 2009 BUDGET SURPLUS:** Consider approval to recognize employee efforts for the FY 2009 budget surplus by providing all full-time employees an extra day off on December 23, and all Civil Service employees a net Christmas bonus of \$250.00. (*Addendum*) (Motion to give all employees an extra day off on December 23, 2009; Approved, 5-0)

10. **PUBLIC HEARINGS:**

- A. **RESOLUTION NO. 59-09:** Consider a resolution electing to use a uniform method of collecting fire assessments, if levied, on the property tax bill. (Approved, 5-0).
- B. **ORDINANCE NO. 60-09:** Consider a city-initiated amendment to the Land Development Regulations that will create the Chatelaine Local Government Neighborhood Improvement District. (Motion to **POSTPONE** until December 8, 2009 Regular Commission Meeting at 7:00 p.m.; Approved, 5-0)
- C. **ORDINANCE NO. 59-09:** Consider a CRA-initiated ordinance modifying the Community Redevelopment Plan; finding that the modifications conform to the Community Redevelopment Act of 1969, as amended; finding that the modifications are consistent with the City's Comprehensive Plan, and making further findings pursuant to applicable requirements of Florida Statute 163.360. (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: NOVEMBER 25, 2009