

City of Delray Beach

Regular Commission Meeting

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



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, February 2, 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.** (Mayor McDuffie noted Item 7.C., Economic Stimulus Grant Update – Lisa King, Langton Associates, Inc., was added to Presentations by addendum; Item 8.A., Request for Sidewalk Deferral/453 N.W. 9th Street was moved to the Regular Agenda as Item 9.A.A; Item 8.F., Interlocal Agreement/Palm Beach County/Art in Public Places/Tennis Center was moved to the Regular Agenda as Item 9.A.A.A.; Item 8.I., Independent Contractor Agreement/Robert Brand was moved to the Regular Agenda as Item 9.A.A.A.A.; Item 8.K., Review of Appealable Land Development Board Actions, Site Plan Review and Appearance Board (SPRAB) Item #3 was moved to the February 16, 2010 Commission Meeting; Item 8.L.5. Purchase Award to Applied Simulation Technologies was moved to the Regular Agenda as Item 9.A.A.A.A.A. Approved as amended, 5-0).
5. **APPROVAL OF MINUTES:**
 - A. January 12, 2010 – Special/Workshop Meeting (Approved, 5-0)
 - B. January 19, 2010 – Regular Meeting (Approved, 5-0)
 - C. January 26, 2010 – Special Meeting (Approved, 5-0)
6. **PROCLAMATIONS:**
 - A. Recognizing 2-1-1 Awareness Week – February 11 – 17, 2010
7. **PRESENTATIONS:**
 - A. Government Finance Officers Association - Certificate of Achievement for Excellence in Financial Reporting
 - B. Presentation of Proposed Elevations and Floor Plan for the new Little Fenway Park Concession Building
 - C. Economic Stimulus Grant Update – Lisa King, Langton Associates, Inc. (*Addendum*)
8. **CONSENT AGENDA:** City Manager Recommends Approval. (Approved as amended, 5-0)
 - A. **(MOVED TO ITEM 9.A.A. ON THE REGULAR AGENDA).**
 - B. **REQUEST FOR SIDEWALK DEFERRAL/1127 MIRAMAR DRIVE:** Approve a request to defer the installation of a sidewalk along Miramar Drive for 1127 Miramar Drive.

- C. **HOLD HARMLESS AGREEMENT/AUBURN TRACE LTD/VILLAGE AT DELRAY:** Approve and authorize a Hold Harmless Agreement between the City and Auburn Trace Ltd. to install a guardhouse within the boundaries of a 40-foot utility easement at the entrance to the Village at Delray project located at 695 Auburn Avenue.
- D. **ACCEPTANCE OF RIGHT-OF-WAY DEEDS/COMMUNITY REDEVELOPMENT AGENCY (CRA)/ALLEYWAYS IN BLOCKS 19 AND 20:** Approve and accept two (2) right-of-way deeds from the CRA for alleyways in Blocks 19 and 20.
- E. **CONTRACT CLOSEOUT (C.O. NO. 2/FINAL) DOWNRITE ENGINEERING CORP.:** Approve a Contract Closeout (Change Order No. 2/Final) in the amount of a \$247,399.30 decrease and final payment in the amount of \$31,004.32 to Downrite Engineering Corp. for completion of the Area 11A Reclaimed Water System (Contract 3) Project. Funding is available from 441-5181-536-65.96 (Water/Sewer Fund/Other Improvements/Reclaimed Water Transmission).
- F. **(MOVED TO ITEM 9.A.A.A. ON THE REGULAR AGENDA).**
- G. **SPECIAL EVENT REQUEST/EAST END VOLLEYBALL/ANNUAL BEACH VOLLEYBALL TOURNAMENT:** Approve a request from East End Volleyball to hold the Annual Beach Volleyball Tournament on the beach adjacent to Anchor Park on Saturday, March 20, 2010 from 9:00 a.m. - 7:00 p.m., and Sunday, March 21, 2010 from 9:30 a.m. - 6:00 p.m.
- H. **MEMORANDUM OF UNDERSTANDING/PALM BEACH COUNTY/MULTI-AGENCY TASK FORCE:** Approve a Memorandum of Understanding with the Palm Beach County Sheriff's Office for participation in the multi-agency narcotics task force to address narcotics activity within Palm Beach County.
- I. **(MOVED TO ITEM 9.A.A.A.A. ON THE REGULAR AGENDA).**
- J. **FY 2010 PROPOSED PERFORMANCE MEASURES/GOLF COURSES AND TENNIS FACILITIES:** Approve proposed performance measures for FY 2010 for the Municipal Golf Course, Lakeview Golf Course, and Tennis Facilities.
- K. **REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:** Accept the actions and decisions made by the Land Development Boards for the period January 19, 2010 through January 29, 2010.
- L. **AWARD OF BIDS AND CONTRACTS:**
1. Contract award to Chaz Equipment Company, Inc. in the amount of \$28,675.00 for the emergency repair of a deteriorated sanitary sewer manhole on Highpoint Drive (Highpoint Subdivision). Funding is available from 442-5178-536-46.90 (Water & Sewer Renewal & Replacement Fund/Repair & Maintenance Service/Other Repair/Maintenance Cost).

2. Purchase award to Line-Tec, Inc. in the amount of \$95,589.00 via the City of Boynton Beach, Bid #023-2821-09/JA for installing reclaimed water meters and connecting customers on the Barrier Island to the Reclaimed Water system. Funding is available from 441-5161-536-49.23 (Water and Sewer Fund/ Reclaimed Water Distribution System).
3. Purchase award to Sensus Meters in the amount of \$14,183.00 for the purchase of “dual port” radio read devices required in connecting customers on the Barrier Island to the Reclaimed Water system. Funding is available from 441-5161-536-49.23 (Water and Sewer Fund/ Reclaimed Water Distribution System).
4. Purchase award to Scriptlogic Corp. in the amount of \$37,255.00 for the purchase of archiving exchange software (Quest Archive Manager) for the City’s email data network. Funding is available from 334-6111-519.66-10 (General Construction Fund: Books- Publications-Software).
5. **(MOVED TO ITEM 9.A.A.A.A. ON THE REGULAR AGENDA).**

9. **REGULAR AGENDA:**

- AA. **REQUEST FOR SIDEWALK DEFERRAL/453 N.W. 9th STREET:** Approve a request to defer the installation of a sidewalk along N.W. 9th Street for 453 N.W. 9th Street. (Commissioner Eliopoulos filed a Conflict of Interest and left the dais. Approved, 4-0).
- AAA. **INTERLOCAL AGREEMENT/PALM BEACH COUNTY/ART IN PUBLIC PLACES/TENNIS CENTER:** Approve an Interlocal Agreement with Palm Beach County to contract services with its Art in Public Places program to manage the Delray Beach Tennis Center Public Art Project, in coordination with the City of Delray Beach’s staff and Public Art Advisory Board (PAAB). Funding is available from 115-1702-579-31.90 (Special Projects Fund/Professional Services/Other Professional Services). (Approved, 5-0).
- AAAA. **INDEPENDENT CONTRACTOR AGREEMENT/ROBERT BRAND:** Approve an Independent Contractor Agreement between the City and Robert Brand to conduct background investigations for prospective candidates for police officer and non-sworn police employment. Funding is available from 001-2111-521-13.10 (General Fund/Other Salaries/Wages/Part-time). (Approved, 5-0).
- AAAAA. Purchase award to Applied Simulation Technologies in the amount of \$44,900.00 to reconfigure two (2) Driving Simulators. Funding is available from 101-2136-521-34.90 (ARRA Economic Stimulus FD/Other Contractual Services) and 112-2172-521-52.20 (Law Enforcement Trust FD/Operating Supplies/General Operation Supplies). (Approved, 5-0).

- A. **WAIVER REQUEST/WAL-MART CENTER:** Consider a waiver request to Land Development Regulations (LDR) Section 4.6.9(D)(4)(b), “Wheel Stops”, to allow an alternative (concrete bollards) to wheel stops in twenty-two (22) handicap accessible spaces for the Wal-Mart Center located at 16205 South Military Trail. *(Quasi-Judicial Hearing)* (Motion to adopt board order as presented; Approved, 3-2. Commissioner Eliopoulos and Commissioner Gray dissenting).
- B. **WAIVER REQUEST/PNC BANK:** Consider a waiver request to Land Development Regulations (LDR) Section 4.6.18(B)(13)(b), “Outbuildings and Shopping Centers”, for architectural elevation changes to allow blue awnings in place of black and white striped awnings for the PNC Bank Outbuilding located within the New Century Commons. *(Quasi-Judicial Hearing)* (Motion to adopt board order as presented; Approved, 5-0).
- C. **CONDITIONAL USE REQUEST/S.D. SPADY MUSEUM AND CULTURAL ARTS CENTER:** Consider a request for conditional use to allow an outdoor amphitheater at the S.D. Spady Museum and Cultural Arts Complex, located on the west side of N.W. 5th Avenue, between N.W. 1st and 2nd Street, within the Central Business District (CBD) zoning district. *(Quasi-Judicial Hearing)* (Motion to adopt board order as presented; Approved, 5-0).
- D. **WAIVER REQUEST/CUT 432:** Consider a waiver request to Land Development Regulations (LDR) Section 4.4.13(F)(4)(a)(2), “Front Setbacks”, to allow a zero (0”) setback where a five foot (5”) setback is required, for construction of a covered sidewalk café on the south side of East Atlantic Avenue for Cut 432 located at 432 East Atlantic Avenue. *(Quasi-Judicial Hearing)* (Motion to adopt board order as presented; Approved, 5-0).
- E. **CONDITIONAL USE REQUEST/H & M AUTO BODY, INC.:** Consider a request for conditional use to allow the establishment of an automobile paint and body shop (body repair and refurbishing of vehicles) known as H & M Auto Body, Inc., within the Tenth Street Park of Commerce located at 1100 S.W. 10th Street. *(Quasi-Judicial Hearing)* (Motion to adopt board order as presented; Approved, 5-0).
- F. **CONDITIONAL USE REQUEST/PUTT’N AROUND DELRAY BEACH:** Consider a request for conditional use to allow a miniature golf course known as Putt’n Around Delray Beach located on the west side of N.E. 5th Avenue, between N.E. 3rd Street and N.E. 4th Street. *(Quasi-Judicial Hearing)* (Commissioner Eliopoulos filed a Conflict of Interest and left the dais. Motion to adopt the board order as presented; Approved, 4-0).
- G. **WAIVER REQUEST/VILLAGE ARTS MART:** Consider a waiver request associated with the approval of a temporary use permit for an Arts Mart at 113 & 115 N.E. 4th Avenue. *(Quasi-Judicial Hearing)* (Motion to adopt board order as presented; Approved, 4-1. Commissioner Frankel dissenting).

- H. **REPLACEMENT OF TREES REMOVED BY THE OFFICE:** Provide direction on the replacement trees and potential violation fines for the unauthorized removal of three (3) city-owned Japanese Fern Trees located at the N.E. corner of Atlantic Avenue and N.E. 2nd Avenue. (Consensus of Commission to support staff's recommendation of Option #1).
- I. **AUTHORIZATION TO FILE APPEAL/CITY OF DELRAY BEACH V. BOARD OF TRUSTEES OF THE CITY OF DELRAY BEACH POLICE OFFICERS AND FIREFIGHTERS RETIREMENT SYSTEM:** Consider a request for authorization to file an appeal to the Fourth District Court of Appeals in the case of the City of Delray Beach v. Board of Trustees of the City of Delray Beach Police Officers and Firefighters Retirement System. (Approved, 4-1; Commissioner Frankel dissenting).
- J. **APPOINTMENT TO THE GREEN TASK FORCE:** Appoint one (1) regular member to the Green Task Force to serve an unexpired term ending July 31, 2011. Based upon the rotation system, the appointment will be made by Mayor McDuffie (Seat #5). (Mayor McDuffie's appointment was **DEFERRED** to the February 16, 2010 Regular Commission Meeting).
- K. **APPOINTMENT TO THE SITE PLAN REVIEW & APPEARANCE BOARD:** Appoint one (1) regular member to the Site Plan Review & Appearance Board to serve an unexpired term ending August 31, 2010. Based upon the rotation system, the appointment will be made by Commissioner Fetzer (Seat #2). (Appointed Svetlana Bogdanovic and approved, 5-0).
10. **PUBLIC HEARINGS:**
- A. **ORDINANCE NO. 04-10:** Consider modification of the Blood's Grove SAD (Special Activities District) Ordinance No. 46-07, in conjunction with a change to add an additional 1,088 sq. ft. to an existing 29,780 sq. ft. medical office building to total 30,868 sq. ft. for the Midtown Medical Building, located at the southwest corner of Linton Boulevard and Old Germantown Road (4600 Linton Boulevard). (*Quasi-Judicial Hearing*) (*The applicant has requested the ordinance be TABLED until the February 16, 2010 City Commission Meeting*) (**WITHDRAWN** due to a request from the applicant).
- B. **ORDINANCE NO. 06-10:** Consider an ordinance amending Section 53.064, "Prevention of Accidental Discharges", by removing any reference to above ground storage tanks from this section. (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: JANUARY 29, 2010

******** Meeting adjourned at 9:15 p.m. ********