

# City of Delray Beach

## Regular Commission Meeting



### RULES FOR PUBLIC PARTICIPATION

Tuesday, February 20, 2007

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

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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.**
5. **APPROVAL OF MINUTES:**
  - January 30, 2007 – Roundtable Meeting
  - February 6, 2007 – Regular Meeting
  - February 13, 2007 – Special/Workshop Meeting
6. **PROCLAMATIONS:**
  - A. Recognizing American Red Cross Month – March 2007
  - B. Recognizing and Commending Alpha Xi Delta Sorority and Sigma Phi Epsilon Fraternity
  - C. Government Finance Officers Association - Certificate of Achievement for Excellence in Financial Reporting
7. **PRESENTATIONS:**
  - A. Special Recognition Awards – Tom Murphy
  - B. International Tennis Tournament – Mark Baron
8. **CONSENT AGENDA:** City Manager Recommends Approval.
  - A. **ACCEPTANCE OF RIGHT-OF-WAY DEED/214 SE 7<sup>th</sup> AVENUE:** Approve and accept a right-of-way deed for five feet (5') for SE 7<sup>th</sup> Avenue associated with the development of 214 SE 7<sup>th</sup> Avenue, located on the west side of SE 7<sup>th</sup> Avenue between SE 2<sup>nd</sup> Street and SE 3<sup>rd</sup> Street, within the Marina Historic District.
  - B. **ACCEPTANCE OF RIGHT-OF-WAY DEED/1104 NASSAU STREET:** Approve and accept a right-of-way deed for 1104 Nassau Street.
  - C. **REQUEST FOR SIDEWALK DEFERRAL/1104 NASSAU STREET:** Approve a request to defer the installation of a sidewalk for the Nassau Street and Gleason Street frontage of 1104 Nassau Street.
  - D. **REQUEST FOR SIDEWALK DEFERRAL/1248 SEASPRAY AVENUE:** Approve a request to defer the installation of a sidewalk in front of 1248 Seaspray Avenue.

- E. **ACCEPTANCE OF EASEMENT DEED/502 NORTH OCEAN BOULEVARD:** Approve and accept a proposed 12 foot sewer easement at 502 North Ocean Boulevard.
- F. **LANDSCAPE MAINTENANCE AGREEMENT/SEAGATE BEACH CLUB:** Approve and accept a landscape maintenance agreement for landscaping to be located within the Ocean Boulevard right-of-way located at the Seagate Beach Club.
- G. **TRI-PARTY PARKING AGREEMENT/SEAGATE BEACH CLUB:** Approve and accept a tri-party parking agreement between the City, the Seagate Beach Club and the Seagate Residences, located at the southeast and southwest corners of Ocean Boulevard and Casuarina Road.
- H. **CHANGE ORDER NO. 1/FINAL (CONTRACT CLOSEOUT)/B.K. MARINE CONSTRUCTION, INC.:** Approve Change Order No. 1/Final (Contract Closeout) in the amount of a \$6,875.00 decrease and final payment in the amount of \$2,937.00 to B.K. Marine Construction, Inc. for completion of the City Marina & Veterans Park Dock Project. Funding is available from 551-1575-591-45.50 (Business Insurance Fund/Property Claims).
- I. **CHANGE ORDER NO. 1/FINAL (CONTRACT CLOSEOUT)/WELLING CONSTRUCTION, INC.:** Approve Change Order No. 1/Final (Contract Closeout) in the amount of a \$6,186.80 decrease and final payment in the amount of \$16,744.80 to Welling Construction, Inc. for the LaHacienda Gardens Park Project. Funding is available from 334-4131-572-68.12 (General Construction Fund/Neighborhood Parks-LaHacienda).
- J. **CHANGE ORDER NO. 3/DURACLEAN D/B/A THE PRINCIPLE GROUP, LLC:** Approve Change Order No. 3 in the amount of \$36,600.25 to Duraclean d/b/a The Principle Group, LLC for additional water damage and microbial remediation at the Municipal Golf Course Clubhouse. Funding is available from 551-1575-591-45.50 (Business Insurance Fund/Property Claims).
- K. **SUPPLEMENT NO. 2/SERVICE AUTHORIZATION NO. 2/CH2M HILL, INC.** Approve Supplement No. 2 to Service Authorization No. 2 in the amount of \$27,300.00 to CH2M Hill, Inc. for limited construction administration services regarding the Pompey Park Building Improvements. Funding is available from 380-4150-572-62.61 (2004 G.O. Bond/Pompey Park Building Improvements).
- L. **BLOCK 64 DRAINAGE AND WATER MAIN IMPROVEMENT PROJECT/CHAZ EQUIPMENT COMPANY:** Approve a construction contract in the amount of \$415,957.00 with Chaz Equipment Company for the construction of the Block 64 Drainage and Water Main Improvements Project. The funding is available from 442-5178-536-65.33 (Water/Sewer Renewal and Replacement Fund/Block 64 Improvements) and 448-5461-538-65.33 (Stormwater Utility Fund/Block 64 Improvements).

- M. **AMENDMENT NO. 2/CHRIS EVERT CHARITIES, INC. AGREEMENT:**  
 Approve Amendment No. 2 to the agreement between the City and Chris Evert Charities, Inc. to provide for the date of the Event (November 2-4, 2007) and the due date for certain payments made by the City to Chris Evert Charities; and provide that the City will not hold a major tennis event 30 days prior to or after the Chris Evert Event.
- N. **TERMINATE CONTRACT FOR SALE AND PURCHASE/COMMUNITY LAND TRUST, INC./802 SW 3<sup>RD</sup> STREET:** Approve an agreement to terminate the contract for sale and purchase between the City and the Delray Beach Community Land Trust, Inc. for the property located at 802 SW 3<sup>rd</sup> Street.
- O. **ACCEPTANCE OF COUNTY DEEDS/232 NW 8<sup>TH</sup> AVENUE/315 SW 3<sup>RD</sup> STREET:** Accept two (2) proposed county deeds between the City and Palm Beach County for two (2) properties located at 232 NW 8<sup>th</sup> Avenue and 315 SW 3<sup>rd</sup> Street.
- P. **AGREEMENT/HATCHER CONSTRUCTION AND DEVELOPMENT, INC.:** Approve an agreement between the City and Hatcher Construction and Development, Inc. in the amount of \$16,535.00 for the renovations to the Neighborhood Resource Center (NRC) Phase II located at 145 NW 12<sup>th</sup> Avenue. Funding is available from 118-1965-554-63.42 (Community Development Fund/Neighborhood Resource Center).
- Q. **COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) SUB-RECIPIENT FUNDING AGREEMENT:** Approve and authorize the execution of the funding agreement with The Center for Technology, Enterprise and Development, Inc. (T.E.D. Center) under the Community Development Block Grant (CDBG) program for FY 2006-2007 in partnership with the Community Redevelopment Agency (CRA), with the total funding in the amount of \$60,000.00 from various accounts within the CDBG fund.
- R. **HOUSING REHABILITATION GRANT/CONTRACT AWARDS:** Approve three Housing Rehabilitation grant/contract awards through the Community Development Division in the amount of \$47,433.75 to Craftsman Plus, Inc. (501 SW 7<sup>th</sup> Avenue and 113 SW 13<sup>th</sup> Avenue), and in the amount of \$27,384.00 to South Florida Construction Services, Inc. (1316 Prospect Street). Funding is available from 118-1963-554-49.19 (Community Development Fund/Housing Rehabilitation).
- S. **SUBORDINATION AGREEMENT FOR COMMUNITY DEVELOPMENT FUNDING RECIPIENT:** Authorize and approve subordination of the City's second mortgage in the amount of \$17,094.00 to allow the applicant to secure new financing.
- T. **SPECIAL EVENT REQUEST/EAST END VOLLEYBALL TOURNAMENT:**  
 Approve a request from East End Volleyball for the East End Volleyball Tournament to be held at the municipal beach on March 24 and 25, 2007.

- U. **RATIFICATION OF THE OLD SCHOOL SQUARE BOARD OF DIRECTORS FOR 2007:** Approve and ratify the proposed slate of Directors for the Old School Square Board for 2007.
- V. **RESOLUTION NO. 13-07/FIRST AMENDMENT AND EXTENSION/MEMORANDUM OF AGREEMENT/SOUTH FLORIDA URBAN SEARCH AND RESCUE TASK FORCE:** Approve Resolution No. 13-07 and the First Amendment and Extension to the South Florida Urban Search and Rescue Task Force Memorandum of Agreement for the City's continued participation in the South Florida Urban Search and Rescue Task Force extending the time for expiration of the original agreement from December 31, 2005 until Federal Emergency Management Agency (FEMA) develops a new Memorandum of Agreement or until terminated by any party upon thirty (30) days notice.
- W. **RESOLUTION NO. 15-07:** Approve Resolution No. 15-07 declaring opposition to House Bill 529 known as the "Consumer Choice Act of 2007", and urging the Governor and the Palm Beach County Legislative Delegation to oppose the bill.
- X. **REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:** Accept the actions and decisions made by the Land Development Boards for the period February 5, 2007 through February 16, 2007.
- Y. **AWARD OF BIDS AND CONTRACTS:**
  - 1. Purchase award to Americas Generators in the amount of \$101,059.38 for the purchase of a 565KW unit to replace the under capacity generator at the Police Department. Funding is available from 334-6112-522-64.90 (General Construction Fund/Other Machinery/Equipment).
  - 2. Purchase award to Wesco Turf Supply, Inc. in the amount \$15,698.09 for the purchase of one (1) Model #30361 Toro Groundsmaster 7200 Heavy Duty Zero Turn Mower with 72" Recycler Deck via the Florida State Contract #515-630-06-1 for the Parks and Recreation Department. Funding is available from 001-4138-572-64.90 (General Fund/Other Machinery/Equipment).

9. **REGULAR AGENDA:**

- A. **WAIVER REQUEST/1248 SEASPRAY AVENUE:** Consider a request for waiver of Land Development Regulations (LDR) Section 4.1.4(C), "Use of Lots of Record", regarding minimum lot dimension requirements for 1248 Seaspray Avenue. (*Quasi-Judicial Hearing*)
- B. **SPECIAL EVENT REQUEST/DELRAY AFFAIR:** Consider approval of a special event request from the Chamber of Commerce to endorse the 45<sup>th</sup> Delray Affair to be held on April 13-15, 2007, contingent upon the staff recommended conditions, receipt of a certificate of general liability insurance, liquor liability insurance, and a hold harmless agreement.

- C. **CM AT RISK CONTRACT/SOCCER COMPLEX/MILLER PARK PROJECT/FIRE STATION #4 REPLACEMENT PROJECT:** Consider approval of the Review Committee's rankings of the Request For Proposals (RFP's) for the Construction Manager (CM) At Risk Contract for construction of the Soccer Complex/Miller Park and Fire Station #4 Replacement Project and authorize staff to proceed with contract negotiations with the top ranked firms, The Weitz Company, for the Soccer Complex/Miller Park Project and with Catalfumo Construction for the Fire Station #4 Replacement Project.
- D. **CITY V. GOVERNMENT TECHNOLOGY RESOURCES, INC. AND INNOPRISE SOFTWARE, INC.:** Consider approval to file a voluntary dismissal, with Government Technology Resources, Inc. (GTR) and Innoprise Software, Inc. bearing its own attorney's fees and costs in this lawsuit.
- E. **AGREEMENT/ALCALDE AND FAY:** Consider approval of an agreement with Alcalde and Fay for federal lobbying services.
- F. **AGREEMENT/ARTEMIS STRATEGIES:** Consider approval of an agreement with Artemis Strategies for federal lobbying services.
- G. **APPOINTMENT TO THE BOARD OF ADJUSTMENT:** Appoint one (1) alternate member to the Board of Adjustment for an unexpired term ending August 31, 2007. Based upon the rotation system, the appointment will be made by Commissioner Fetzer (Seat #2).
- H. **APPOINTMENT TO THE BOARD OF CONSTRUCTION APPEALS:** Appoint one (1) regular member to the Board of Construction Appeals to serve a two (2) year term ending August 31, 2008. Based upon the rotation system, the appointment will be made by Commissioner Montague (Seat #4).
- I. **APPOINTMENT TO THE COMMUNITY REDEVELOPMENT AGENCY:** Appoint one (1) regular member to the Community Redevelopment Agency (CRA) to serve an unexpired term ending July 1, 2009. Based upon the rotation system, the appointment will be made by Commissioner Montague (Seat #4).
- J. **APPOINTMENT TO THE EDUCATION BOARD:** Appoint one (1) regular member to the Education Board to serve an unexpired term ending July 31, 2007. Based upon the rotation system, the appointment will be made by Mayor Perlman (Seat #5).
- K. **APPOINTMENT TO THE HISTORIC PRESERVATION BOARD:** Appoint one (1) regular member to the Historic Preservation Board to serve an unexpired term ending August 31, 2008. Based upon the rotation system, the appointment will be made by Mayor Perlman (Seat #5).

L. **APPOINTMENT TO THE NEIGHBORHOOD ADVISORY COUNCIL:**  
Appoint one (1) regular member to the Neighborhood Advisory Council to serve an unexpired term ending October 31, 2008. Based upon the rotation system, the appointment will be made by Commission Ellis (Seat #1).

M. **REQUEST SAINT PAUL'S EPISCOPAL CHURCH/ TALLAHASSEE BOY'S CHOIR CONCERT:** Consider a request for the City to be a presenter of the Tallahassee Boy's Choir Concert, assist in marketing and promoting the concert and consider a cash contribution of no more than \$2,500.00. The concert will held at Saint Paul's Episcopal Church on February 25, 2007 at 4:00 p.m.

10. **PUBLIC HEARINGS:**

A. **ORDINANCE NO. 71-06:** Privately initiated rezoning from I (Industrial) in part and OS (Open Space) in part to MIC (Mixed Industrial and Commercial) for a 10.7 acre property located along Depot Road north of the Old Train Station, between the CSX Railroad and I-95. (*Quasi-Judicial Hearing*)

B. **ORDINANCE NO. 5-07 (SECOND READING/SECOND PUBLIC HEARING):** City initiated rezoning from MIC (Mixed Industrial and Commercial), PCC (Planned Commerce Center), POC (Planned Office Center), PC (Planned Commercial), and CF (Community Facilities) to MROC (Mixed Residential Office and Commercial) for the area bounded by West Atlantic Avenue on the north, the C-15 canal to the south, I-95 transportation corridor on the east and Congress Avenue on the west together with the Congress Park, Congress Park South and the Office Depot complexes, located just west of Congress Avenue. (*Quasi-Judicial Hearing*)

C. **ORDINANCE NO. 2-07:** Privately initiated amendments to the Land Development Regulations (LDR), Article 4.7, "Family Workforce Housing," Section 4.7.9 "General Provisions," to allow one (1) bedroom units in the Workforce Housing Program.

D. **ORDINANCE NO. 6-07 (FIRST READING/FIRST PUBLIC HEARING):** City initiated amendment to Land Development Regulations (LDR) Section 4.4.13, "Central Business (CBD) District," Subsection (F), "Development Standards," relating to the Downtown Delray Beach Design Guidelines. If passed, a second public hearing will be scheduled for March 5, 2007.

E. **WAIVER OF BIDDING REQUIREMENTS/CITY HALL RENOVATION PROJECT:** Consider approval of waiving the requirements contained in Chapter 36, "Finance; City Property Transactions", of the Code of Ordinances, for the City Hall Interior Renovation Phase I Project.

1. **CONTRACT AWARD/BSA CORPORATION:** Consider approval of a contract award to BSA Corporation in the amount of \$533,000.00 for the City Hall Interior Renovation Phase I Project. Funding is available from 334-6112-519-62.86 (General Construction Fund/City Hall/North Wing & Chambers).

F. **RESOLUTION NO. 11-07/CONTRACT FOR SALE AND PURCHASE OF PROPERTY/SCHOOL BOARD OF PALM BEACH COUNTY:** Consider approval of Resolution No. 11-07 authorizing the City to purchase an additional 1.18 acres of property, located at 2501 Seacrest Boulevard from the Palm Beach County School Board; and approve the Contract for Sale and Purchase between the City and School Board of Palm Beach County in the amount of \$132,750.00.

1. **AMENDMENT NO. 3/INTERLOCAL AGREEMENT/SCHOOL BOARD OF PALM BEACH COUNTY:** Approve Amendment No. 3 to the Interlocal Agreement between the City and the School Board of Palm Beach County, for the Purchase and Construction of a Soccer Complex in order to allow the City to purchase an additional 1.18 acres of property from the School Board of Palm Beach County for construction of a Press Box Concession Stand.

G. **RESOLUTION NO. 12-07/CONTRACT FOR SALE AND PURCHASE OF PROPERTY/JEAN LOUIS SAINT FORT AND JOSETTE SAINT FORT/802 SW 3<sup>RD</sup> STREET:** Consider approval of Resolution No. 12-07 authorizing the City to transfer/sell City owned property, located at 802 SW 3<sup>rd</sup> Street, to be utilized for housing purposes as part of the Carver Square Relocation Project; and approve Contract for Sale and Purchase between the City and Jean Louis Saint Fort and Josette Saint Fort in the amount of \$40,000.00.

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. 7-07:** An ordinance amending Chapter 33, "Police and Fire Departments", Subheading "Pensions", of the Code of Ordinances by amending Section 33.66, "Finances and Fund Management", revising investment provisions.

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

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

**POSTED: FEBRUARY 16, 2007**