

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, July 7, 2009

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.

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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.N.3., Purchase Award to Camalucci Signs, was moved to the Regular Agenda as Item 9.A.A.; Item 8.A., Service Authorization No. 03-04/Kimley-Horn Associates was moved to the Regular Agenda as Item 9.A.A.A. Approved as amended, 5-0)
5. **APPROVAL OF MINUTES:**
 - A. June 2, 2009 – Regular Meeting (Approved, 5-0)
 - B. June 9, 2009 – Special/Workshop Meeting (Approved, 5-0)
6. **PROCLAMATIONS:**
 - A. None
7. **PRESENTATIONS:**
 - A. Life Saving Award Presentation recognizing and commending **Luca Carucci, David D' Eugenio** and **Paramedic Brian Pollack**
 - B. Senator Chris Smith – Legislative Update
8. **CONSENT AGENDA:** City Manager Recommends Approval. (Approved as amended, 5-0)
 - A. **(MOVED TO ITEM 9.A.A.A. ON THE REGULAR AGENDA)**
 - B. **AMENDMENT NO. 1/FLORIDA PUBLIC UTILITIES COMPANY HURRICANE DISASTER AGREEMENT:** Approve Amendment No. 1 to the Hurricane Disaster Agreement between the City of Delray Beach and Florida Public Utilities Company regarding procedures to be followed in the event of hurricane disaster.
 - C. **LANDSCAPE MAINTENANCE AGREEMENT/PINEAPPLE GROVE CORPORATE CENTER:** Approve and accept a Landscape Maintenance Agreement for landscaping within the right-of-way of N.E. 3rd Avenue located at 101 N.E. 2nd Avenue at the Pineapple Grove Corporate Center (a/k/a Creations Office Building).

- D. **PROJECT AGREEMENT/FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION/CLEAN VESSEL ACT GRANT PROGRAM:** Approve a Project Agreement between Florida Department of Environmental Protection and the City of Delray Beach for the Clean Vessel Act Grant Program for the purchase and installation of a pumpout system with sewer connection located at the Municipal Marina. Funding is available from 426-4311-575-64.90 (City Marina Fund/Other Machinery/Equipment).
- E. **COMMUNITY DEVELOPMENT BLOCK GRANT/HOUSING REHABILITATION GRANTS:** Approve two (2) Housing Rehabilitation grant awards to the lowest responsive bidder for the following projects: 318 Washington Avenue to IQ Construction, Inc., in the amount of \$17,812.89 and 123 N.W. 6th Avenue to CJ Contracting, LLC., in the amount of \$38,422.86; and waive the Neighborhood Services Division's approved Policies and Procedures that limits bid award to be within 10% of the in-house estimate and waives the \$37,000.00 maximum grant award established for housing rehabilitation under the Community Block Grant Program. Funding is available from 118-1963-554-49.19 (Neighborhood Services/Other Current Charges/Housing Rehabilitation).
- F. **RESOLUTION NO. 28-09/MAINTENANCE MEMORANDUM OF AGREEMENT/FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT):** Approve Resolution No. 28-09 authorizing the Mayor to execute Amendment No. 1 to the Maintenance Memorandum of Agreement dated February 24, 2004 with the Florida Department of Transportation (FDOT) for additional landscape and/or hardscape improvements within the right-of-way of State Road 5.
- G. **NEIGHBORHOOD STABILIZATION PROGRAM 2 (NSP2) APPLICATION SUBMITTAL:** Authorize staff to submit an application through the competitive process for funding under the Neighborhood Stabilization Program 2 (NSP2), under the American Recovery and Reinvestment Act (RRA) 2009. Staff is proposing to apply under the Delray Beach/Boynton Beach Consortium for a funding allocation in the amount of \$20,000,000.00.
- H. **GRANT APPLICATION/EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) FOR FY 2009:** Authorize staff to submit an application for funding in the amount of \$70,375.00 through the U.S. Department of Justice's Edward Byrne Memorial Justice Assistance Grant (JAG) Program's 2009 local solicitation (CFDA# 16.738) to support the salary of an officer to staff the Department's Criminal Justice Academy at Atlantic High School.
- I. **AMENDMENT TO THE RATE AGREEMENT/FAMILY CENTRAL, INC.:** Approve an Amendment to the Rate Agreement between Family Central Inc., and the City of Delray Beach to extend the term through and including September 30, 2009.

- J. **SPECIAL EVENT REQUEST/SPADY LIVING HERITAGE DAY:** Approve a special event request to endorse the 4th Annual Spady Heritage Day to be held on August 22, 2009 from 10:00 a.m. to 10:00 p.m., to grant a temporary use permit per LDR's Section 2.4.6(F) for the closure of N.W. 5th Avenue from Martin Luther King, Jr. Boulevard to N.W. 1st Street; to authorize staff support for security, clean up, barricading, City generator use, set up and use of the large mobile stage and small stage, and event signage; contingent upon the receipt of a hold harmless agreement ten (10) days prior to the event.
- K. **SPECIAL EVENT REQUEST/MUSICFEST @ THE PAVILLION:** Approve a special event request for MusicFest @ the Pavilion to be held on July 31, 2009 from 7:00 p.m. to 11:00 p.m., on the grounds of Old School Square; and authorize staff support for traffic control and security, event signage, clean up, barricading and Fire inspection services; contingent upon receipt of a certificate of event and liquor liability insurance.
- L. **SPECIAL EVENT REQUEST/HAITIAN CULTURAL FESTIVAL:** Approve a special event request to allow the Annual Haitian Cultural Festival to be held on September 12, 2009 from 3:00 p.m. until 11:00 p.m. on the grounds of Old School Square; and authorize staff support for traffic control and security, event signage, and Fire inspection services; contingent upon receipt of a certificate of liability insurance and hold harmless agreement by September 1, 2009; and contingent on obtaining a Health Department inspection.
- M. **REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:** Accept the actions and decisions made by the Land Development Boards for the period June 15, 2009 through July 2, 2009.
- N. **AWARD OF BIDS AND CONTRACTS:**
1. Bid award to BSA Corporation in the amount of \$77,947.00 for renovations to the Community Center Locker Rooms which includes the base bid plus alternates A, B and C. Funding is available from 334-4125-572-46.10 (General Construction Fund/Repair & Maintenance Services/Building Maintenance).
 2. Contract award to Technical Inspections, Inc. in the amount of \$82,285.00 for the rehabilitation of Lift Station No. 1 as part of an annual program for Wet Well Rehabilitation of building Lift Stations. Funding is available from 442-5178-536-68.53 (Water & Sewer Renewal & Replacement Fund/Improvements Other/Wet Well Rehabilitation Building LS).
 3. **(MOVED TO ITEM 9.A.A. ON THE REGULAR AGENDA)**
 4. Purchase award to Club Car in the amount of \$131,420.00 for the purchase of 82 Club Car DS model golf carts for the Municipal Golf Course. Funding is available through a lease purchase, which will be bid at a future date.

9. **REGULAR AGENDA:**

A.A. Purchase award to Camalucci Signs in the amount of \$28,526.00 for two (2) illuminated directional signs to be prefabricated and installed for directing traffic to the entrance to the Old School Square Garage. Funding is available from 334-3162-541-63.90 (General Construction Fund/Improvement Other Than Buildings/Other Improvements). (Approved, 5-0)

A.A.A. **SERVICE AUTHORIZATION NO. 03-04/KIMLEY HORN ASSOCIATES:** Approve Service Authorization No. 03-04 in the amount of \$33,000.00 to Kimley-Horn Associates for preparation of a waste relocation plan, combustible gas evaluation and final summary report for the relocation of landfill debris within the footprint of the former landfill site within Miller Park. Funding is available from 334-4173-572-63.90 (General Construction Fund/Improvements Other/Other Improvements). (Approved, 5-0)

A. **WAIVER REQUEST/WEST ATLANTIC PUBLIC PLAZA:** Consider a request for waiver of Land Development Regulations (LDR) Section 4.6.14(A)(2), "Visibility at Intersections," which requires a 40-foot visibility triangle at the intersection of two (2) public rights-of-way. The property is located at the southwest corner of West Atlantic Avenue and S.W. 5th Avenue. (*Quasi-Judicial Hearing*) (Motion to adopt Board Order as presented; Approved, 5-0)

B. **CHANGE ORDER NO. 4/WEST CONSTRUCTION, INC./MILLER PARK IMPROVEMENTS:** Consider approval of Change Order No. 4 in the amount of \$95,069.04 to West Construction, Inc., for the excavation required to bury the unsuitable materials onsite; to include compaction and placement of the unsuitable materials for the Miller Park Improvements. Funding is available from 334-4173-572-63.90 (General Construction/Miller Park/Other Improvements). (Approved, 5-0)

C. **CONSULTING SERVICE AUTHORIZATION/CURRIE SOWARDS AGUILA ARCHITECTS/FIRE STATION NO. 3:** Consider approval of a Consulting Service Authorization to Currie Sowards Aguila Architects in the amount of \$25,000.00 for design activities adequate to accommodate the City's application for a Fire Station Construction Grant (SCG) under the American Recovery and Reinvestment Act (ARRA) for the reconstruction of Fire Station No. 3. Funding is available from 334-2311-522-31.30 (General Construction Fund/Professional Services/Engineering/Architect). (Motion to approve; Approved, 3-2. Commissioner Eliopoulos and Commissioner Fetzer dissenting)

D. **INTERLOCAL AGREEMENT/TOWN OF GULF STREAM/FIRE-RESCUE SERVICES:** Consider approval of an Interlocal Agreement with the Town of Gulf Stream for Fire-Rescue Services. (Motion to approve; Approved, 4-1. Commissioner Frankel dissenting)

E. **REQUIREMENT TO CHANGE BUDGET HEARING DATES:** Consider approval to change the first budget public hearing date, currently scheduled for September 8, 2009, to September 10, 2009. (Approved, 5-0)

- F. **FISCAL YEAR 2009-2010 BUDGET DEVELOPMENT STATUS REPORT**
- G. **DESIGNATION OF VOTING DELEGATE:** Designate the voting delegate to the Florida League of Cities' 83rd Annual Conference to be held at the Marriott World Center in Orlando, Florida on August 13-15, 2009. (Motion to appoint Commissioner Frankel; Approved, 5-0)
- H. **AGREEMENT/IMG WORLDWIDE, INC.:** Consider approval of an Agreement between IMG Worldwide Inc., and the City of Delray Beach which provide for the sale of sponsorships for two (2) Match Point events and the sale of the naming rights for the Tennis Center. (Approved, 5-0)
- I. **SPECIAL EVENT REQUEST/6TH ANNUAL FAMILY FUN DAY AT POMPEY PARK:** Consider approval of a special event request for the 6th Annual Family Fun Day at Pompey Park produced by the Parks and Recreation Department; and authorize staff support for security, trash removal and clean up assistance, trash boxes, use of the large City stage, City generator use, and preparation and installation of event signage; with the condition that the event is held for one (1) day on July 25, 2009 from 4:00 p.m. to 9:00 p.m. (Motion to approve event from 4:00 p.m. to 11:00 p.m.; Approved, 5-0)
- J. **APPOINTMENT TO THE DOWNTOWN DEVELOPMENT AUTHORITY:** Appoint one (1) regular member to the Downtown Development Authority (DDA) to serve a three (3) year term ending July 1, 2012. Based upon the rotation system, the appointment will be made by Commissioner Eliopoulos (Seat #1). (Appointed David Cook and approved, 5-0)
- K. **APPOINTMENT TO THE DELRAY BEACH HOUSING AUTHORITY:** Appoint one (1) regular member to the Delray Beach Housing Authority to serve a four (4) year term ending July 14, 2013. Based upon the rotation system, the appointment will be made by Commissioner Frankel (Seat #3). (Appointed Shelly Petrolia and approved, 5-0)
- L. **APPOINTMENTS TO THE EDUCATION BOARD:** Appoint six (6) regular members to the Education Board for two (2) year terms ending July 31, 2011. Based upon the rotation system, the appointments will be made by Commissioner Frankel (Seat #3), Commissioner Bernard (Seat #4), Mayor McDuffie (Seat #5), Commissioner Eliopoulos (Seat #1), Commissioner Fetzer (Seat #2) and Commissioner Frankel (Seat #3). (Appointed Theodore Berman and approved, 5-0; appointed Melanee Blankstein and approved, 5-0; appointed Catherine DeMatto and approved, 5-0; appointed Peter Raycroft and approved, 5-0; appointed Perry Stokes and approved, 5-0 and appointed Sandra Tobias and approved, 5-0)

- M. **APPOINTMENTS TO THE POLICE ADVISORY BOARD:** Appoint one (1) regular member to serve an unexpired term ending July 31, 2010 and two (2) regular members to the Police Advisory Board for two (2) year terms ending July 31, 2011. Based upon the rotation system, the appointments will be made by Commissioner Frankel (Seat #3) for one (1) regular member to serve an unexpired term, Commissioner Bernard (Seat #4) and Mayor McDuffie (Seat #5) for two (2) regular members to serve two (2) year terms. (Appointed Regine Celestin and approved 5-0; appointed Jason Dollard and approved 5-0 and appointed Victor Kirson and approved 5-0)
- N. **APPOINTMENTS TO THE PUBLIC ART ADVISORY BOARD:** Appoint four (4) regular members to the Public Art Advisory Board to serve two (2) year terms ending July 31, 2011. Based upon the rotation system, the appointments will be made by Commissioner Frankel (Seat #3), Commissioner Bernard (Seat #4), Mayor McDuffie (Seat #5) and Commissioner Eliopoulos (Seat #1). (Appointed Robert Currie and approved, 5-0; appointed Annette Gray and approved, 5-0 and appointed Sharon Kosoff and approved, 5-0. Mayor McDuffie's appointment **DEFERRED** to the July 21, 2009 Regular Commission Meeting)
- O. **RESOLUTION NO. 30-09:** Consider adoption of Resolution No. 30-09 urging the Boards of the City's pension funds to operate consistent with the "Protecting Florida's Investment Act". (ADDENDUM) (Approved, 5-0)

10. **PUBLIC HEARINGS:**

- A. **ORDINANCE NO. 27-09 (SECOND READING/SECOND PUBLIC HEARING):** Consider a city-initiated amendment to the Land Development Regulations (LDR) Appendix "A", "Definitions", to provide an updated definition of "Family". (Approved, 5-0)
- B. **ORDINANCE NO. 28-09 (SECOND READING/SECOND PUBLIC HEARING):** Consider a city-initiated amendment to the Land Development Regulations (LDR), Section 4.3.3, "Special Requirements for Specific Uses", Subsection (I), "Community Residential Homes and Group Homes", to update the section to comport with changes in State Law. (Approved, 5-0)
- C. **ORDINANCE NO. 29-09 (SECOND READING/SECOND PUBLIC HEARING):** Consider a city-initiated amendment to the Land Development Regulations (LDR) by amending Section 4.3.3, "Special Requirements for Specific Uses", by enacting a new Subsection 4.3.3(ZZZ), "Transient Residential Uses", in order to establish prohibitions, exemptions/exceptions, waivers and penalties; amending Section 4.4.6, "Medium Density Residential (RM) District", to provide that "Transient Residential Uses", shall be allowed as permitted uses; and, amending Appendix "A," "Definitions", to provide for a definition of "Transient Residential Uses". (Approved, 5-0)

- D. **ORDINANCE NO. 30-09 (SECOND READING/SECOND PUBLIC HEARING)**: Consider a city-initiated amendment to Chapter 117 of the Code of Ordinances, “Landlord Permits”, Section 117.01, “Permit Required”, to clarify when a permit is required; Section 117.03, “Approval of Application”, to provide additional requirements; Section 117.04, “Appeals”, by renaming it “Denial or Revocation of Permit Application; Appeals”, Section 117.05 “Inspection”, to provide for inspection with a warrant; enacting a new Section 117.06 “Tenant/Occupant Eviction”, to ensure notice and due process rights are followed or alternate housing is provided; and, enacting a new Section 117.07 “Severability”, to provide for severability. (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. **ORDINANCE NO. 37-09:** Consider an ordinance amending Chapter 101, “Parks, Beaches, and Recreation”, by enacting a new Section 101.37, “Shark Fishing”, to prohibit shark fishing within three hundred feet of the municipal beach. If passed, a public hearing will be held on July 21, 2009. (Approved, 5-0)

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

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

POSTED: JULY 2, 2009

******** Meeting adjourned at 10:34 p.m. ********