

# City of Delray Beach

## Regular Commission Meeting

\*\*\*AGENDA RESULTS\*\*\*



### RULES FOR PUBLIC PARTICIPATION

Tuesday, June 3, 2008

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.

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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 noted the correct account number for Item 8.F., Contract Closeout (C.O. No. 1/Final) to Brang Construction, Inc. is 380-4150-572-63.24 (2004 G.O. Bond/Improvements Other/ Bexley Park) and 441-5161-536-63.24 (Water/Sewer Fund/Improvements Other/Bexley Park); Revised memo for Item 8.M., Request for Change Commission Meeting/Budget Hearing Dates; Revised memo for Item 9.B., Consideration of Special Action Request/Office Depot/CVS Pharmacy Building; Additional information for Item 9.I., Appointment to the Code Enforcement Board; Additional information for item 10.B., Ordinance No. 24-08; Approved as amended, 5-0).
5. **APPROVAL OF MINUTES:**
  - A. May 20, 2008 – Regular Meeting (Approved, 5-0)
6. **PROCLAMATIONS:**
  - A. Recognizing Israel Scout “Tzofim” Friendship Caravan Golan
  - B. National Clean Beaches Week – June 30 - July 6, 2008
7. **PRESENTATIONS:**
  - A. My Safe Florida Home Program Presentation
8. **CONSENT AGENDA:** City Manager Recommends Approval. (Approved as amended, 5-0)
  - A. **ACCEPTANCE OF RIGHT-OF-WAY DEDICATION/124 S.W. 5<sup>th</sup> AVENUE:**  
Approve and accept a right-of-way deed between the City and Lorenzo and Priscilla Miller, for the property located at 124 S.W. 5<sup>th</sup> Avenue.
  - B. **ACCEPTANCE OF RIGHT-OF-WAY DEDICATION/355 S.E. 5<sup>th</sup> AVENUE:**  
Approve and accept a right-of-way deed between the City and Rita Dew, for property located at 355 S.E. 5<sup>th</sup> Avenue.
  - C. **ACCEPTANCE OF RIGHT-OF-WAY DEDICATION/1215 N.E. 8<sup>th</sup> AVENUE:**  
Approve and accept a right-of-way deed between the City and Vladmir Runtov, for property located at 1215 N.E. 8<sup>th</sup> Avenue.
  - D. **ACCEPTANCE OF EASEMENT DEED/PEDIATRICS BY THE SEA:**  
Approve and accept an easement deed for the installation of a sidewalk associated with Class IV site plan modification for Pediatrics by the Sea, located at the northeast corner of S.E. 5th Avenue and S.E. 3rd Street.

- E. **CONTRACT CLOSEOUT (C.O. NO. 2/FINAL)/CATALFUMO CONSTRUCTION LTD./OLD SCHOOL SQUARE PARKING GARAGE PROJECT:** Approve a Contract Closeout (C.O. No. 2/Final) in the amount of \$7,360,881.18 decrease and final payment in the amount of \$101,688.19 to Catalfumo Construction Ltd. for the completion of the Old School Square Parking Garage Project. Funding is available from 380-4150-572-63.29 (2004 G.O. Bond/Improvements Other/Old School Square Parking Garage).
- F. **CONTRACT CLOSEOUT (C.O. NO. 1/FINAL)/BRANG CONSTRUCTION, INC./BEXLEY TRAIL COMMUNITY PARK IMPROVEMENTS PROJECT:** Approve a Contract Closeout (C.O. No. 1/Final) in the amount of \$29,898.00 decrease and final payment in the amount of \$33,424.82 to Brang Construction, Inc. for the completion of the Bexley Trail Community Park Improvements Project. Funding is available from 380-4150-572-63.24 (2004 G.O. Bond/Improvements Other/Bexley Park) and 441-5161-536-63.24 (Water/Sewer Fund/Improvements Other/Bexley Park).
- G. **SERVICE AUTHORIZATION NO. 07-06/MATHEWS CONSULTING, INC./S.W. 12<sup>th</sup> AVENUE ALLEYS –PHASE I:** Approve Service Authorization No. 07-06 in the amount of \$97,655.00 to Mathews Consulting, Inc. for preparation of plans and bid documents for the construction of seven alleys and drainage improvements along S.W. 12<sup>th</sup> Avenue. Funding is available from 334-3162-541-68.49 (General Construction Fund/Other Improvement/S.W. 12<sup>th</sup>/Auburn Alley Improvement).
- H. **INTERLOCAL AGREEMENT/PALM BEACH COUNTY/DECORATIVE STREET LIGHTS:** Approve an Interlocal Agreement between the City and Palm Beach County for reimbursement in an amount not to exceed \$100,000.00 to cover documented costs of improvements associated with the installation of decorative street lights along Martin Luther King Jr. (MLK) Drive/N.W. 2<sup>nd</sup> Street from N.W. 4<sup>th</sup> Avenue to N.W. 5<sup>th</sup> Avenue.
- I. **RESOLUTION NO. 17-08/SOUTH FLORIDA WATER MANAGEMENT DISTRICT (SFWMD)/20 YEAR WATER SUPPLY PLAN:** Approve and adopt Resolution No. 17-08 committing to the Lower East Coast Regional Water Supply Plan as adopted by the South Florida Water Management District.
- J. **AMENDMENT NO. 1 TO THE AGREEMENT/ARTIST FOR ATLANTIC BRIDGE UNDERPASS PROJECT:** Approve Amendment No. 1 to the agreement between the City and artist, Michiko Kurisu to increase funding in the amount of \$20,020.00 for the Atlantic Avenue Bridge Underpass at Veteran’s Park Project. Funding is available from 115-1702-579-31.90 (Special Projects Fund/Professional Services/Other Professional Services).
- K. **CALL TO ARTISTS/DEL IDA COMMUNITY PARK:** Consider approval of a request to allow the Public Art Advisory Board to advertise a call to artists “Landscaping Artist in Residency Project” in the Del Ida Community Park. Funding is available from 115-1702-579-31.90 (Special Projects Fund/Professional Services/Other Professional Services).

L. **RESOLUTION NO. 18-08/AFFORDABLE HOUSING ADVISORY COMMITTEE:** Approve and adopt Resolution No. 18-08 amending Resolution No. 12-08, which created an Affordable Housing Advisory Committee in order to provide broader membership eligibility.

M. **REQUEST TO CHANGE COMMISSION MEETING/BUDGET HEARING DATES:** Approve and authorize staff to change the two (2) Commission Meeting/Budget Hearing dates in September to September 3, 2008 (Wednesday) and September 16, 2008 (Tuesday).

N. **REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:** Accept the actions and decisions made by the Land Development Boards for the period May 19, 2008 through May 30, 2008.

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

1. Contract award to H & J Contracting, Inc. in the amount of \$139,500.00 for excavating and expanding the existing pond near the 14<sup>th</sup> tee on Lakeview Golf Course. Funding is available from 441-5181-536-65.96 (Water & Sewer Fund/Other Improvements/Reclaimed Water Transmission).
2. Purchase award to Vermeer Southeast Sales in the amount of \$19,722.00 for the purchase of one (1) Yanmar Excavator, model VIO-17 for the Parks and Recreation Department. Funding is available from 119-4144-572-64.90 (Beautification Trust Fund/Machinery Equipment/Other Machinery/Equipment).
3. Purchase award to Wal-Mart in the amount of \$29,989.20 for the purchase of 670 Evenflo Discovery Infant Car Seats for the Child Passenger Safety Program. Funding is available from 001-2315-526-52.20 (General Fund/Operating Supplies/General Operating Supplies).

9. **REGULAR AGENDA:**

A. **APPEAL OF HISTORIC PRESERVATION BOARD DECISION/36 S.E. 1<sup>ST</sup> AVENUE:** Consider an appeal of the Historic Preservation Board's decision regarding the Certification of Appropriateness (COA), Class V Site Plan Application, and associated waiver request for the new construction of a two-story office building located at 36 S.E. 1<sup>st</sup> Avenue, Old School Square Historic District. *(Quasi-Judicial Hearing)* **(APPLICANT HAS REQUESTED POSTPONEMENT TO AUGUST 5, 2008 REGULAR MEETING).** (Motion to **POSTPONE** to the August 5, 2008 Regular Meeting; Approved, 5-0)

- B. **CONSIDERATION OF SPECIAL ACTION REQUEST/OFFICE DEPOT/CVS PHARMACY BUILDINGS:** Consider a request for consideration to reduce the parking spaces required pursuant to Land Development Regulations (LDR) Section 4.6.9(C)(3)(A), “Requirements for Commercial Uses”, by 56 spaces (from the 155 parking spaces required to the 99 spaces provided), for the Office Depot – CVS Buildings located at 700 N.E. 6<sup>th</sup> Avenue. *(Quasi-Judicial Hearing)* (Motion to deny the Special Action Request of the waiver; Approved, 5-0)
- C. **WAIVER REQUESTS/OFFICE DEPOT/CVS PHARMACY BUILDINGS DEVELOPMENT PROPOSAL:** Consider three (3) waiver requests to waive Land Development Regulations (LDR) Sections 4.6.14(A)(1) and (2), “Visibility at Intersections”, to reduce the required visibility triangle on the south side of the intersection of the driveway to N.E. 5<sup>th</sup> Avenue from 20’ to 15’; and to reduce the required visibility triangles at the intersections of N.E. 5<sup>th</sup> Avenue and N.E. 8<sup>th</sup> Street and at N.E. 6<sup>th</sup> Avenue and N.E. 7<sup>th</sup> Street from 40’ to 30’. *(Quasi-Judicial Hearing)* (Motion to adopt Board Order as presented; Approved, 5-0)
- D. **WAIVER REQUEST/IBM SOUTHEAST EMPLOYEES FEDERAL CREDIT UNION:** Consider a waiver request to waive Land Development Regulations (LDR) Sections 4.6.8(B)(3)(c), “Illumination Levels and Uniformity”, to allow illumination levels greater than 4 foot candles within the parking areas for the IBM Southeast Employees Federal Credit Union located within the Delray Park of Commerce at the northeast corner of Congress Avenue and Lake Ida Road (1000 N.W. 17<sup>th</sup> Avenue). *(Quasi-Judicial Hearing)* (Motion to adopt Board Order as presented; Approved, 5-0)
- E. **IN-LIEU PARKING FEE AGREEMENT/TAVERNA EROS:** Consider a request to approve an In-Lieu Parking Fee Payment Agreement in the amount of \$62,400.00 for the in-lieu spaces recently approved for Taverna Eros located at 8 East Atlantic Avenue. (Motion to approve; Approved, 5-0)
- F. **BIDDING SCOPE/MILLER PARK:** Consider approval of a proposed a limited scope of improvements for Miller Park to be identified as the base bid in bid documents to be advertised for competitive bids with add alternate items as presented. (Motion to approve; Approved, 5-0)
- G. **SETTLEMENT OFFER IN ROBERT HAUPTFUHRER v. CITY OF DELRAY BEACH:** Consider a Settlement Offer in the total amount of \$726,300.00 in Robert Hauptfuhrer v. City of Delray Beach. Staff recommends denial. (Motion to approve; **DENIED**, 4-0. Commissioner Montague left the dais.)
- H. **SETTLEMENT OFFER IN ROBERT GROCHMAL v. CITY OF DELRAY BEACH:** Consider a Settlement Offer in the total amount of \$12,500.00 in Robert Grochmal v. City of Delray Beach. Staff recommends approval. (Motion to approve; Approved, 5-0. Commissioner Montague returned to the dais.)

- I. **APPOINTMENT TO THE CODE ENFORCEMENT BOARD:** Appoint one (1) regular member to the Code Enforcement Board to serve an unexpired term ending January 14, 2010. Based upon the rotation system, the appointment will be made by Commissioner McDuffie (Seat #3). (Appointed George Thacker and approved, 5-0)
- J. **APPOINTMENT TO THE POLICE AND FIREFIGHTERS RETIREMENT SYSTEM BOARD OF TRUSTEES:** Appoint one (1) regular member to the Police and Firefighters Retirement System Board of Trustees for a two (2) year term ending June 30, 2010. Based upon the rotation system, the appointment will be made by Commissioner Montague (Seat #4). (Appointed Adam Frankel and approved, 5-0)
10. **PUBLIC HEARINGS:**
- A. **ORDINANCE NO. 31-07 (SECOND READING/SECOND PUBLIC HEARING):** Privately initiated amendment to the Land Development Regulations amending Section 4.4.24, “Old School Square Historic Arts District (OSSHAD)”, Subsection 4.4.24(B), “Principal Uses and Structures”, to include an additional property that is allowed the permitted uses of the Central Business District (CBD) Zoning District; amending Subsection 4.4.24(F), “Development Standards”, to include an additional property in the Old School Square Historic Arts District (OSSHAD) that is subject to the standards of the Central Business District (CBD) Zoning District. **(APPLICANT HAS REQUESTED POSTPONEMENT TO AUGUST 19, 2008 REGULAR MEETING)** (Motion to **POSTPONE** to the August 19, 2008 Regular Meeting; Approved, 5-0)
- B. **ORDINANCE NO. 24-08 (FIRST READING/FIRST PUBLIC HEARING):** City initiated amendment to the Land Development Regulations (LDR) amending Article 4.3, “District Regulations, General Provisions”, by amending Section 4.3.3, “Single Family Residential (R-1) District”, by amending Subsection (F) “Development Standards”, to provide development standards for the Lake Ida Neighborhood Overlay District”; Article 4.5, “Overlay and Environmental Management Districts”, by enacting a new Section 4.5.16, “Lake Ida Neighborhood Overlay District”, to create a new overlay district for the Lake Ida Neighborhood; amending Appendix “A” “Definitions”, to enact a new definition for “Floor Area Ratio”. The boundaries of the proposed overlay district are generally described as N.W. 22<sup>nd</sup> Street on the north, Swinton Avenue to the east, Lake Ida Road to the south, and Interstate 95 on the west for the properties that are zoned R-1-AA (Single Family Residential, R-1-AAA (Single Family Residential, and R-1-AAAB (Single Family Residential). If passed, a second public hearing will be scheduled for June 17, 2008. (Approved as amended per staff recommendations, Approved, 5-0)
- C. **ORDINANCE NO. 26-08 (FIRST READING/FIRST PUBLIC HEARING):** City initiated amendment to the Land Development Regulations (LDR) amending Section 4.3.3, “Special Requirements for Specific Uses”, Subsection (S), “Telecommunications Towers and Antennas”, Subsection (2), “Freestanding Telecommunication Towers” to add Barwick Park and Lakeview Golf Course properties to allow monopoles. If passed, a second public hearing will be scheduled for June 17, 2008. (Approved, 5-0)

- D. **ORDINANCE NO. 25-08 (FIRST READING/FIRST PUBLIC HEARING):**  
City initiated amendment to the Land Development Regulations (LDR) amending Section 4.7.8, “Resale and Subsequent Rentals of Affordable Units”, to expand the circumstances in which title may be transferred without restriction. If passed, a second public hearing will be scheduled for June 17, 2008. (Approved, 5-0)
  - E. **ORDINANCE NO. 27-08 (FIRST READING/FIRST PUBLIC HEARING):**  
City initiated amendment to the Land Development Regulations (LDR) amending Section 4.6.6, “Commercial and Industrial Uses to Operate Within A Building”, Subsection “A”, “Intent”, in order to clarify that all commercial and industrial uses shall conduct business inside regardless of zoning district. If passed, a second public hearing will be scheduled for June 17, 2008. (Approved, 5-0)
  - F. **ORDINANCE NO. 08-08:** An ordinance repealing, in its entirety, Chapter 57, “Right-of-Way Application Process For Communications Facilities”, of the Code of Ordinances and enacting a new Chapter 57, “Communications Facilities in Public Right-of-Way”, to provide the terms and conditions for the erecting, constructing, and maintaining of a communications facility in the City’s public right-of-way for the provision of communications service. (Approved, 5-0)
  - G. **ORDINANCE NO. 21-08:** An ordinance amending Chapter 36, “Finance; City Property Transactions”, Section 36.01, “Compliance With Standard Practice Instructions”, by providing that bidding for Community Development Block Grant projects shall be included as an exception from the Standard Practice Instruction. (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: MAY 30, 2008

***\*\*\*\*\* Meeting adjourned at 11:21 p.m. \*\*\*\*\****