

City of Delray Beach

Regular Commission Meeting

AGENDA RESULTS



RULES FOR PUBLIC PARTICIPATION

Tuesday, May 1, 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

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 Randolph at 243-7127, 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 Item 8.F, Resolution No. 32-07, was moved to Item 9.A.A.A. under the Regular Agenda; Item 7.E., Palm Beach Workforce Development Consortium Presentation was added to Presentations by addendum; Item 8.M., Fire Act Grant Application for FY 2007/2008 was added to Consent Agenda by addendum; Item 9.A.A., Special Event Request/Haitian Flag Day Event was added to the Regular Agenda by addendum; Approved as amended,5-0)
5. **APPROVAL OF MINUTES:**
 - April 17, 2007 – Regular Meeting (Approved, 5-0)
6. **PROCLAMATIONS:**
 - A. National Day of Prayer – May 3, 2007
 - B. Haitian Heritage Month (Haitian Flag Day) – May 2007
 - C. National Preservation Month – May 2007
7. **PRESENTATIONS:**
 - A. **RESOLUTION NO. 31-07:** Recognizing and commending **Robert Moreland** for 30 years of dedicated service to the City of Delray Beach (Approved, 5-0)
 - B. Commuter Challenge Presentation – Sabrina Kirkpatrick, South Florida Commuter Services
 - C. S.P.I.R.I.T. (Service, Performance, Integrity, Responsibility, Innovation, Teamwork) Committee Employee Awards Presentation
 - D. Asian Food Fair and Cultural Show Presentation – Rana Hoque and Zahir
 - E. Palm Beach Workforce Development Consortium Presentation
8. **CONSENT AGENDA:** City Manager Recommends Approval. (Approved as amended, 5-0)
 - A. **CONTRACT CLOSEOUT (C.O. NO. 1/FINAL)/CHAZ EQUIPMENT COMPANY, INC.:** Approve a Contract Closeout (C.O. No. 1/Final) in the amount of a \$131,966.50 decrease and final payment in the amount of \$102,493.85 to Chaz Equipment Company, Inc. for the completion of the Seasage Drive, Melaleuca Road, and Oleander Lane Drainage Infrastructure Improvements Project. Funding is available from 448-5461-538-65.35 (Stormwater Utility Fund/Seasage/Melaleuca/Oleander).

- B. **SERVICE AUTHORIZATION NO. 12/MATHEWS CONSULTING, INC.:** Approve Service Authorization No. 12 in the amount of \$63,251.00 to Mathews Consulting, Inc., for professional services related to the Congress Avenue Corridor Infrastructure Capacity Study Project. Funding is available from 441-5181-536-31.90 (Water/Sewer Fund/Other Professional Services).
- C. **TRANSPORTATION ENHANCEMENT APPLICATION:** Approve and authorize staff to submit two (2) applications for the Year 2007 Transportation Enhancement Application Cycle for FY 2012-2013 funding.
- D. **IN-LIEU OF PARKING FEE PAYMENT AGREEMENT/LEMONGRASS RESTAURANT:** Consider a request from the landlord of Lemongrass Restaurant to enter into an in-lieu of parking fee payment agreement for two (2) in-lieu of parking spaces. Lemongrass Restaurant is located at 420 East Atlantic Avenue.
- E. **IN-LIEU OF PARKING FEE PAYMENT AGREEMENT/MELLOW MUSHROOM (FKA VITTORIO'S) RESTAURANT:** Consider a request from Mellow Mushroom Restaurant to enter into an in-lieu of parking fee payment agreement for seven (7) in-lieu of parking spaces. Mellow Mushroom Restaurant is located at 25 Southeast 6th Avenue.
- F. **(MOVED TO ITEM 9.A.A.A. ON THE REGULAR AGENDA).**
- G. **SPECIAL EVENT REQUEST/10TH ANNUAL DOWNTOWN DELRAY CRAFT FESTIVAL:** Approve a special event request to endorse the 10th Annual Downtown Delray Craft Festival sponsored by Howard Alan Events, Ltd. proposed to be held May 26 and May 27, 2007 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, to provide staff support for traffic control and security, barricading and fire inspection services.
- H. **AGREEMENTS/GENERAL CIVIL ENGINEERING CONSULTING SERVICES:** Approve and authorize the Mayor to execute agreements with Kimley-Horn & Associates, Mathews Consulting, Mock-Roos & Associates and the Wantman Group for Engineering Consulting Services for two (2) years, with the right to renew for three one year renewals; subject to review and approval by the City Attorney.
- I. **EXTENSION/GALLAGHER BASSETT SERVICES CONTRACT:** Approve a one (1) year extension to the Gallagher Bassett Services Contract for the period of October 1, 2007 to October 1, 2008.
- J. **FIRST AMENDMENT/INTERLOCAL AGREEMENT/PALM BEACH COUNTY:** Approve a First Amendment to the Interlocal Agreement with Palm Beach County Criminal Justice Commission to extend the current agreement for an additional five (5) months until September 30, 2007; and Palm Beach County will provide additional funding in the amount of \$50,000.00 in support of the City of Delray Beach Weed and Seed "seeding" efforts.

K. **REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:**
Accept the actions and decisions made by the Land Development Boards for the period April 16, 2007 through April 27, 2007.

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

1. Bid award to All Florida Rust and Water, Inc. at an estimated annual cost of \$34,000.00 for anti-rust chemicals for the City Irrigation System. Funding is available from 119-4144-572-52.21 (Beautification Trust Fund/Chemicals).

M. **FIRE ACT GRANT APPLICATION FOR FY 2007/2008:** Approve a Fire Act Grant Application in the amount of \$87,148.00 for funding to purchase new All Terrain Vehicles (ATV's) and associated EMS equipment for the Fire-Rescue Department. If the grant is awarded a 20% match in the amount of \$21,786.00 from the City will be required (FY 2007/2008 Budget).

9. **REGULAR AGENDA:**

A.A.A. **RESOLUTION NO. 32-07:** Approve Resolution No. 32-07 declaring an official intent with respect to reimbursement of temporary advances made for capital expenditures to be made from subsequent borrowings. The City will be reimbursing expenses relative to various parks, the Old School Square Parking Garage, a new Environmental Services Building and the Intracoastal Park from a Utility Tax Bond Issue. (Approved, 5-0)

A.A. **SPECIAL EVENT REQUEST/HAITIAN FLAG DAY EVENT:** Approve a special event request to endorse the Haitian Flag Day Celebration sponsored by Toussaint L'Ouverture High School on May 18, 2007 from 3:00 p.m. until 8:00 p.m., in the parking lot adjacent to the school site; authorize staff support for security, traffic control, barricading, trash removal and clean up, use and set up of small stage; and contingent upon sponsor providing a hold harmless agreement. (Motion to approve as recommended by staff with the use of the large stage; Approved, 5-0)

A. **APPEAL OF THE HISTORIC PRESERVATION BOARD'S DECISION/238 SOUTHEAST 7TH AVENUE:** Appeal of the Historic Preservation Board's decision approving a Certificate of Appropriateness (COA) for construction of a two-story garage/guest suite addition at 238 Southeast 7th Avenue, located in the Marina Historic District. (*Quasi-Judicial Hearing*) (Commissioner Eliopoulos filed a Conflict of Interest and left dais. Motion to adopt board order as presented; Approved, 4-0)

B. **APPEAL OF THE HISTORIC PRESERVATION BOARD'S DECISION/706 SOUTHEAST 2ND STREET:** Appeal of the Historic Preservation Board's decision approving a Certificate of Appropriateness (COA) for construction of a new single-family residence at 706 Southeast 2nd Street, located in the Marina Historic District. (*Quasi-Judicial Hearing*) (Motion to continue to May 15, 2007 Regular Commission Meeting. Approved, 4-1; Mayor Ellis dissenting.)

- C. **CONDITIONAL USE REQUEST/SUNDY HOUSE:** Consider a request to allow the establishment of a residential-type inn on Blocks 61 and 70 and the expansion of the Sundy House residential-type inn, located on the east and west sides of South Swinton Avenue, south of Atlantic Avenue. Eleven (11) units currently exist on this site. The proposal adds three (3) new units at the Sundy House, fifty-four (54) units on Block 61 (north of Sundy House), and sixteen (16) units on Block 70 (east of Sundy House) for a combined total of eighty-seven (84) residential-type inn units. *(Quasi-Judicial Hearing)* (Motion to approve Board Order as set forth; Approved, 5-0)
- D. **REQUEST FOR IN-LIEU PARKING SPACES/177 PINEAPPLE GROVE WAY:** Consider a request from the owner of 177 Pineapple Grove Way for the purchase of three (3) in-lieu parking spaces in the amount of \$23,400.00 to enable the owner to market the property for restaurant use. The subject property is located at 177 Pineapple Grove Way. *(Quasi-Judicial Hearing)* (Motion to adopt Board Order as amended; Approved, 5-0)
- E. **CONDITIONAL USE EXTENSION/EBENEZER WESLEYAN METHODIST CHURCH:** Consider a conditional use extension request for Ebenezer Wesleyan Methodist Church to allow the construction of a new church facility, located on east and west sides of S.W. 6th Avenue, north of S.W. 2nd Street. *(Quasi-Judicial Hearing)* (Motion to adopt Board Order as set forth; Approved, 5-0)
- F. **WAIVER REQUEST/FIRE STATION #4:** Consider a request for waiver to increase the maximum driveway width from 36 feet to 58 feet 5 inches for the Fire Station #4 Project, located at the northeast corner of Lake Ida Road and Barwick Road. *(Quasi-Judicial Hearing)* (Motion to adopt Board Order as set forth; Approved, 5-0)
- G. **RESOLUTION NO. 30-07/MID YEAR BUDGET AMENDMENT:** Consider approval of Resolution No. 30-07 amending Resolution No. 62-06 adopted September 19, 2006, which made appropriations of sums of money for all necessary expenditures of the City of Delray Beach for the FY 2006/2007, by setting forth the anticipated revenues and expenditures for the operating funds of the City for FY 2006/2007. (Motion to approve Resolution No. 30-07 amending Exhibit "A" to drop the \$174,875 for Fire-Rescue with the Police Department issue to be readdressed. Approved, 5-0)
- H. **CLAIM PAYMENT/WEEDLING RESIDENCE (1055 DEL HARBOUR DRIVE):** Consider a request to authorize Gallagher Bassett Services to make a claim payment of no greater than the City's statutory sovereign immunity limit of \$100,000.00 for water damage to the Weedling residence located at 1055 Del Harbour Drive. (Approved, 5-0)
- I. **SETTLEMENT OFFER IN CLARENCE RODOCKER AND LYNN WARWICK v. CITY OF DELRAY BEACH:** Consider a Settlement Offer in the total amount of \$19,000.00 in Clarence Rodocker and Lynn Warwick v. City of Delray Beach. Staff recommends approval subject to execution of general releases by each claimant. (Motion to approve the settlement offer in the total amount of \$19,000 subject to execution of general releases by each claimant. Approved, 5-0)

- J. **AGREEMENT/WIFI SERVICES/DELRAY BEACH WI-FI, INC.:** Approve an agreement between the City and Delray Beach WI-FI, Inc. (Commissioner McDuffie away from dais; Approved, 4-0)
- K. **APPOINTMENT TO THE PLANNING AND ZONING BOARD:** Appoint one (1) regular member to the Planning and Zoning Board for an unexpired term ending August 31, 2008. Based upon the rotation system, the appointment will be made by Mayor Ellis (Seat #5). (DEFERRED to the May 15, 2007 Commission Meeting)
- L. **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 Fetzner (Seat #2). (Appointed Jess Sowards and approved, 5-0)
- M. **APPOINTMENT TO THE BOARD OF CONSTRUCTION APPEALS:** Appoint one (1) regular member to the Board of Construction Appeals for an unexpired term ending August 31, 2007. Based upon the rotation system, the appointment will be made by Commissioner Eliopoulos (Seat #1). (Appointed Steven Wallace and approved, 5-0)
- N. **APPOINTMENT TO THE PARKING MANAGEMENT ADVISORY BOARD:** Appoint one (1) regular member to the Parking Management Advisory Board for an unexpired term ending January 31, 2008. Based upon the rotation system, the appointment will be made by Commissioner Montague (Seat #4). (Appointed Bonnie Beer and approved, 5-0)
- O. **APPOINTMENT TO THE CIVIL SERVICE BOARD:** Appoint one (1) alternate member to the Civil Service Board for an unexpired term ending July 1, 2008. Based upon the rotation system, the appointment will be made by Mayor Ellis (Seat #5). (DEFERRED to the May 15, 2007 Commission Meeting)
- P. **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 April 22, 2009. Based upon the rotation system, the appointment will be made by Commissioner Fetzner (Seat #2). (Appointed Melvin Sacharow and approved, 5-0)
- Q. **BID AWARD/PANTROPIC POWER, INC.:** Consider approval of a bid award to Pantropic Power, Inc., *second low bidder*, in the amount of \$186,000.00 for the purchase of a new 1,000 KW standby generator for the Water Treatment Plant and Beyel Brothers Inc. in the amount of \$14,452.50 for providing the crane service associated with the installation of this new generator. Funding is available 442-5178-536-64.90 (Water/Sewer Renewal and Replacement Fund/Other Machinery/Equipment). (Approved, 5-0)

10. **PUBLIC HEARINGS:**

- A. **DEVELOPER'S AGREEMENT/CANNERY ROW, LLC:** Consider approval of a developer's agreement with Cannery Row, LLC regarding the purchase and use of the Community Facility Property and the dedication of the Park Property located at the S.E. corner of the project in the Cannery Row Development. (Commissioner Eliopoulos filed a Conflict of Interest and left dais; Approved, 4-0)
- B. **ORDINANCE NO. 14-07:** City initiated amendments to the Land Development Regulations Subsections 4.6.7(H)(8), "Residential", to provide additional clarification regarding residential real estate signs; (H)(9), "Window Signs", to provide clarification regarding size of signs; and (H)(10), "Temporary Signs", to prohibit temporary non-commercial signs in public rights of way contiguous to public property, and where allowed, to provide time limits for removal. (Approved, 5-0)
- C. **ORDINANCE NO. 17-07:** An ordinance amending Chapter 35, "Employee Policies and Benefits", Subheading "Retirement Plan", of the Code of Ordinances of the City of Delray Beach, Florida, by amending Section 35.097, "Retirement Income; Basis, Amount, and Payment", providing for direct rollovers to an individual retirement account by a non-spouse beneficiary. (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. 16-07:** Future Land Use Map amendment (small-scale) from CC (Commercial Core) in part and OMU (Other Mixed Use) in part to OS (Open Space) and rezoning from CBD (Central Business District) in part and OSSHAD (Old School Square Historic Arts District) in part to OSR (Open Space and Recreation) for a proposed Urban Park adjacent to Old School Square, located approximately 180 feet north of East Atlantic Avenue, between N.E. 1st Avenue and Pineapple Grove Way (N.E. 2nd Avenue). If passed, a second public hearing will be scheduled for May 15, 2007. (Approved, 5-0)
- B. **ORDINANCE NO. 18-07:** City-initiated amendment to the Land Development Regulations (LDR), amending Section 6.1.2 "Streets and Alleys," Subsection 6.1.2(A), "Improvement Obligations," to correct a reference to an LDR Section that has been relocated elsewhere in the code. If passed, a second public hearing will be scheduled for May 15, 2007. (Approved, 5-0)

- C. **ORDINANCE NO. 19-07:** An ordinance amending Chapter 33, “Police and Fire Departments”, Subheading “Pensions”, of the Code of Ordinances of the City of Delray Beach, Florida, by amending Section 33.687, “Early Retirement Incentive”, which allows the City to open early retirement windows for police or fire instead of opening an early retirement window for both. If passed, a second public hearing will be scheduled for May 15, 2007. (Approved, 5-0)

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

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

POSTED: April 27, 2007

******** Meeting adjourned at 12:11 a.m. ********