

# City of Delray Beach

## Regular Commission Meeting

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



### **RULES FOR PUBLIC PARTICIPATION**

Tuesday, October 4, 2011

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 McDuffie noted Item 8.J., Amendment No. 1 to the Interlocal Agreement/Town of Gulf Stream was moved to the Regular Agenda as Item 9.A.A.; Item 9.G., Ratification of Collective Bargaining Agreement/PBA Police Lieutenants was added to the Regular Agenda as an addendum; Item 9.H. Ratification of Collective Bargaining Agreement/PBA Police Officers and Sergeants was added to the Regular Agenda as an addendum. Approved as amended, 5-0)
5. **APPROVAL OF MINUTES:**
  - A. September 20, 2011 – Regular Meeting (Approved, 5-0)
6. **PROCLAMATIONS:**
  - A. Recognizing and Commending **Bishop Leonard Nathan Quince, Jr.**
  - B. Florida City Government Month – October 2011
7. **PRESENTATIONS:**
  - A. **RESOLUTION NO. 47-11:** Approve Resolution No. 47-11 recognizing and commending Benjamin Leonard for over 30 years of dedicated service to the City of Delray Beach (Approved, 5-0)
  - B. 2012 All-America City Award – Campaign for Reading Readiness
  - C. Economic Development Director – Vincent Nolan
8. **CONSENT AGENDA:** City Manager Recommends Approval. (Approved as amended, 5-0)
  - A. **RESOLUTION NO. 50-11:** Approve Resolution No. 50-11 to abandon an alleyway within Block 11, running from S.E. 7th Street some 303 feet toward S.E. 6th Street, between S.E. 5th Avenue and S.E. 6th Avenue.
  - B. **CHANGE ORDER NO. 1/INTERCOUNTY ENGINEERING, INC.:** Approve Change Order No. 1 (C.O. No. 1) with Intercounty Engineering, Inc. for an extension to the contract of seven (7) days for the Osceola Park Water Main Phase 2 Project and the amount of \$18,321.82 to be paid out of the Contract's Utility Allowance for additional scope requirements.

- C. **CHANGE ORDER NO. 1/SPEARHEAD DEVELOPMENT GROUP, INC.:** Approve Change Order No. 1 with Spearhead Development Group, Inc. in the amount of \$24,118.80 for additional scope needed for driveway reconstruction to meet ADA requirements; and for a contract time extension of thirty (30) days for the Community Improvement Sidewalks Project. Funding is available from 118-1965-554-63.11 (Neighborhood Services: Improvements-Other/Bikepaths/Sidewalks).
- D. **CONTRACT AWARD/FOSTER MARINE CONTRACTORS, INC.:** Approve a contract award to Foster Marine Contractors, Inc. in the amount \$1,156,896.00 for the construction of the Auburn Avenue Improvement Project. Funding is available from 334-3162-541-68.65 (General Construction Fund: Other Improvement/Auburn Avenue Improvements) and 442-5178-536-68.50 (Water & Sewer Renewal & Replacement Fund: Improvements Other/WM - S.W. 12th & 13th Avenue).
1. **CHANGE ORDER NO. 1/FOSTER MARINE CONTRACTORS, INC.:** Approve Change Order No. 1 with Foster Marine Contractors, Inc. to update certain documents as required for federally funded projects in the contract.
- E. **SERVICE AUTHORIZATION NO. 07-05.2/AECOM TECHNICAL SERVICES, INC.:** Approve Service Authorization No. 07-05.2 to AECOM Technical Services, Inc. in the amount of \$20,260.00 for the construction phase of Worthing Park. Funding is available from 117-4133-572-68.19 (Recreation Impact Fee FD: Other Improvement/Worthing Park Improvement).
- F. **CHANGE ORDER NO. 1/FOSTER MARINE CONTRACTORS, INC./S.W. 12TH AVENUE/S.W. 14TH AVENUE/AUBURN AVENUE:** Approve Change Order No. 1 with Foster Marine Contractors, Inc. in the amount of \$16,907.80 for relocation of an additional twenty-eight (28) sewer cleanouts with funding available from 442-5178-536-68.04 (Water & Sewer & Replacement Fund: Improvements Other/S.W. 12th Avenue-Auburn-14th Avenue), and approve \$1,400 for removal of two (2) inlets to be paid out of the contract's Unforeseen Conditions Allowance.
- G. **REJECTION OF ALL BIDS/PAVEMENT ASSESSMENT PROJECT:** Approve a recommendation to reject all bids received for the City's Pavement Assessment Project and authorize staff to rebid the project with a modified scope.
- H. **RESOLUTION NO. 51-11:** Approve Resolution No. 51-11 assessing costs for abatement action required to remove nuisances on twelve (12) properties throughout the City of Delray Beach.
- I. **HOUSING REHABILITATION GRANT/CONTRACT AWARD:** Award one (1) Housing Rehabilitation contract through the State Housing Initiative Program (SHIP) to the lowest responsive bidder for 336 S.W. 11th Avenue to Built Solid Construction, LLC in the amount of \$32,637.64. Funding is available from 118-1924-554-49.19 (Neighborhood Services: Other Current Charges/Housing Rehabilitation).

- J. **SPECIAL EVENT REQUEST/14<sup>TH</sup> ANNUAL BED RACE:** Approve a special event request for the 14th Annual Bed Race, sponsored by the Delray Beach Marketing Cooperative proposed to be held on October 28, 2011 from 5:30 p.m. until 8:00 p.m., granting a temporary use permit per LDR Section 2.4.6.(F) for the use and closure of N.E. 2nd Avenue from Atlantic Avenue to N.E. 1st Street from 2:00 p.m. to 9:00 p.m.; authorize staff support for traffic control and security, EMS assistance, trash removal and clean up, barricading, use and set up of half of the small stage, and preparation and installation of event signage; contingent upon receipt of a Certificate of Liquor Liability Insurance and a copy of the Temporary Liquor License as stated in the staff report.
- K. **SPECIAL EVENT REQUEST/HALLOWEEN PARADE:** Approve a special event request for the Annual Halloween Parade sponsored by the Noontime Kiwanis Club to be held on October 29, 2011 from 1:30 p.m. until approximately 2:30 p.m., including temporary use permit per LDR Section 2.4.6(F) for the rolling closure of Atlantic Avenue from N.E. 2nd Avenue to Veterans Park, and staff support for traffic control and security; contingent upon receipt of the Certificate of Liability Insurance and a signed and notarized Hold Harmless Agreement by October 24, 2011.
- L. **SPECIAL EVENT REQUEST/25<sup>TH</sup> ANNUAL TURKEY TROT:** Approve a special event request to allow the 25th Annual Turkey Trot to be held on Saturday, November 19, 2011 from 7:00 a.m. until approximately 9:00 a.m., including a temporary use permit per LDR Section 2.4.6(F) for the closure and use of A-1-A from Casuarina to George Bush Boulevard from 5:00 a.m. to approximately 10:00 a.m., and authorize staff support for traffic control, barricading, clean up, use of half of small stage, event signage and waiver of parking meter fees for Sandoway, Ingraham, and Anchor Parking Lots and along Atlantic Avenue from Venetian to A-1-A from 6:00 a.m. until approximately 10:00 a.m.
- M. **REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:** Accept the actions and decisions made by the Land Development Boards for the period September 19, 2011 through September 30, 2011.
- N. **AWARD OF BIDS AND CONTRACTS:**
1. Bid award to multiple vendors in the annual estimated amount of \$210,000.00 for the purchase of Chemicals and Fertilizers through the Co-Op annual contract on an “as needed basis” for FY 2011/2012. Funding is available from 001-4511-539-52.21 (General Fund: Operating Supplies/Chemicals), 001-4511-539-52.26 (General Fund: Operating Supplies/Gardening Supplies), 119-4144-572-52.21 (Beautification Trust Fund: Operating Supplies/Chemicals), 445-4714-572-52.26 (D B Municipal Golf Course: Operating Supplies/Gardening Supplies), 446-4714-572-52.26 (Lakeview Golf Course: Operating Supplies/Gardening Supplies).
  2. Bid award to West Construction, Inc. in the amount of \$197,156.00 for modifications to Worthing Park. Funding is available from 117-4133-572-68.19 (Recreation Impact Fee FD: Other Improvement/Worthing Park Improvement).

3. Contract award to Baker's Transport Services (BTS) in an amount not to exceed \$300,000.00 for hauling and disposal of liquid lime slurry from the Water Treatment Plant. Funding is available from 441-5122-536-34-90 (Water and Sewer Fund: Other Contractual Services).
4. Contract award to Line-Tec, Inc. in the amount of \$98,638.00 for installing 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: Other Current Charges/OB/Reclaim Water Distribution System).
5. Contract award to Line-Tec, Inc. in the amount of \$205,000.00 for three projects: Water Service Relocations, Water Meter Replacements-Contract Services and Fire Hydrant Flow Testing. Funding is available from 442-5178-536-49.33 (Water and Sewer Renewal & Replacement Fund: Other Current Charges/OB/ Water Service Relocation), 442-5178-536-52.34 (Water and Sewer Renewal & Replacement Fund: Operating Supplies/Water Meter Replacement Contract Service) and 441-5123-536-34.90 (Water and Sewer Fund: Other Contractual Services).
6. Contract award to Rosso Paving and Drainage, Inc. in the amount of \$92,699.00 for construction of drainage improvements on Palm Trail. Funding is available from 448-5461-538-68.69 (Storm Water Utility Fund: Other Improvement/Palm Trail Drainage).
7. Purchase award to Sensus USA, Inc. in an amount not to exceed \$500,000.00 for small water meters. Funding is available from 442-5178-536-61.81 (Water & Sewer Renewal & Replacement Fund: Land/Water Meter Replacement Program).

9. **REGULAR AGENDA:**

- AA. **AMENDMENT NO. 1 TO THE INTERLOCAL AGREEMENT/TOWN OF GULF STREAM:** Approve Amendment No. 1 to the Interlocal Agreement with the Town of Gulf Stream to provide for an increase in the fee paid to the City based upon the Town's annexation of additional property. (Motion to approve; Approved, 4-1. Commissioner Frankel dissenting)
- A. **WAIVER REQUEST/DECK 84:** Consider a waiver request to Land Development Regulations (LDR) Section 4.4.13 (F)(4)(a)(2), "Front Setbacks", to reduce the required front setback from five feet (5') to eight inches (8"), to allow for the installation of a support column and knee wall associated with new sliding glass doors in the same location as existing windows for Deck 84 located at 840 East Atlantic Avenue. (*Quasi-Judicial Hearing*) (Motion to adopt board order as presented; Approved, 5-0)

- B. **CONSIDERATION OF AN APPEAL/HISTORIC PRESERVATION BOARD'S DECISION/CLASS III SITE PLAN MODIFICATION:** Consider an appeal of the Historic Preservation Board's denial of the Class III site plan modification request for 85 S.E. 6<sup>th</sup> Avenue. (*Quasi-Judicial Hearing*) (Motion to **TABLE**; Approved, 5-0)
1. **CONSIDERATION OF AN APPEAL/ HISTORIC PRESERVATION BOARD'S DECISION/ WAIVER REQUEST:** Consider a waiver request to Land Development Regulations (LDR) Section 4.5.1(E)(3)(b)(2), "Parking", for six required parking spaces for 85 S.E. 6<sup>th</sup> Avenue. (*Quasi-Judicial Hearing*) (Motion to **TABLE**; Approved, 5-0)
- C. **CONDITIONAL USE REQUEST/EGLISE DE DIEU PRIMITIVE DE LA NOUVELLE JERUSALEM, INC.:** Consider approval of a conditional use request to allow conversion of an existing 3,335 sq. ft. duplex residential structure at 614 Martin Luther King Jr. Drive to a church for Eglise De Dieu Primitive De La Nouvelle Jerusalem, Inc., with an associated off-site parking lot located on the west side of N.W. 6<sup>th</sup> Avenue, approximately 165 feet south of Martin Luther King Jr. Drive. (*Quasi-Judicial Hearing*) (The first motion to **TABLE** failed for lack of a second. The second motion to **TABLE** to allow the applicant and staff to work together; Denied, 3-2. Commissioner Carney and Mayor McDuffie dissenting. The third motion to adopt board order as presented; Approved, 3-2. Commissioner Carney and Mayor McDuffie dissenting)
1. **WAIVER REQUEST/EGLISE DE DIEU PRIMITIVE DE LA NOUVELLE JERUSALEM, INC.:** Consider a waiver request to Land Development Regulations (LDR) Section 4.6.9.E.5 (a) (1), "Off Site Parking", to increase the maximum acceptable pedestrian path distance to three hundred twenty-two feet (322') for an off-site parking lot for Eglise De Dieu Primitive De La Nouvelle Jerusalem Church located at 614 Martin Luther King Jr. Drive. (*Quasi-Judicial Hearing*) (**WITHDRAWN BY APPLICANT**)
- D. **GARAGE PARKING SPACE LICENSE AGREEMENT/GLOBAL PARKING SOLUTIONS:** Consider approval of a parking license agreement with Global Parking Solutions for the utilization of 40 parking spaces in the Federspiel Garage seven (7) days per week between the hours of 6:00 p.m. and 2:00 a.m. at a rate of \$40.00 per space, per month. (Motion to approve license agreement with the change to extend to March 31, 2012. Approved, 5-0)
- E. **APPOINTMENT TO THE BOARD OF ADJUSTMENT:** Appoint one (1) alternate member to the Board of Adjustment to serve an unexpired term ending August 31, 2013. Based upon the rotation system, the recommendation/appointment will be made by Commissioner Alperin (Seat #2). (Appointed Kenneth Nordt and approved, 5-0)

- F. **APPOINTMENTS TO THE DELRAY BEACH HOUSING AUTHORITY:**  
Appoint one (1) regular member to serve an unexpired term ending July 14, 2014 and one (1) regular member to serve a four (4) year term ending October 27, 2015 to the Delray Beach Housing Authority. Based on the rotation system, the appointments will be made by Commissioner Gray (Seat #4) and Mayor McDuffie (Seat #5). (Appointed Christel Silver and approved, 5-0)
- G. **RATIFICATION OF COLLECTIVE BARGAINING AGREEMENT/ PBA POLICE LIEUTENANTS:** Consider ratification of the Collective Bargaining Agreement with the Police Benevolent Association (PBA)/Police Lieutenants. (ADDENDUM) (Motion to approve; Approved, 5-0)
- H. **RATIFICATION OF COLLECTIVE BARGAINING AGREEMENT/PBA POLICE OFFICERS AND SERGEANTS:** Consider ratification of the Collective Bargaining Agreement with the Police Benevolent Association (PBA)/Police Officers and Sergeants. (ADDENDUM) (Motion to approve; Approved, 5-0)

10. **PUBLIC HEARINGS:**

- A. **ORDINANCE NO. 36-11 (FIRST READING/FIRST PUBLIC HEARING):**  
Consider a privately initiated amendment to the Land Development Regulations (LDR) Section 4.4.9. (B), "Principal Uses and Structures Permitted", and Section 4.4.13 (B), "Principal Uses and Structures Permitted", to clarify that bicycles with an electric helper motorize are the only motorized equipment permitted in the "rental of sporting goods and equipment" use category. If passed, a second public hearing will be held on October 18, 2011. (Motion to approve; Approved, 5-0)
- B. **ORDINANCE NO. 32-11:** An ordinance amending Chapter 51, "Garbage and Trash", of the City Code of Ordinances by amending Section 51.70, "Regular Charges Levied", to provide for increased residential and commercial collection service rates for FY 2012. (Motion to approve; Approved, 5-0)
- C. **ORDINANCE NO. 34-11:** Approve an increase of the parking meter fees from \$1.25 to \$1.50 per hour in all metered parking spaces, an increase to the cost of the annual beach parking permit from \$80.00 to \$90.00 per year, and creation of a new permit classification of Senior Beach Parking Permit at a cost of \$95.00 per year. (Motion to approve; Approved, 5-0)
- D. **ORDINANCE NO. 35-11:** Approve an ordinance amending Chapter 92, "Boats and Boating", by amending Section 92.15, "Docking License for Excursion Boat Operations", Subsection (E), "Short-Term Agreement", to modify the permit fee; and by amending subsection (G), "Use of Docks at Veterans Park", to increase the mooring time for excursion boats at Veterans Park. (Motion to approve; Approved, 5-0)

- E. **RESOLUTION NO. 48-11/CONTRACT FOR SALE AND PURCHASE/133 S.W. 12<sup>TH</sup> AVENUE:** Consider approval of Resolution No. 48-11, which incorporates a Contract for Sale and Purchase between the City and the Community Redevelopment Agency (CRA) for a vacant lot located at 133 S.W. 12<sup>th</sup> Avenue in the amount of \$10.00. (Motion to approve; Approved, 5-0)

1. **INTERLOCAL AGREEMENT/COMMUNITY REDEVELOPMENT AGENCY (CRA):** Consider approval of an Interlocal Agreement with the Community Redevelopment Agency (CRA) to transfer property to the City and pay some design and construction costs of a new structure to be located at 133 S.W. 12th Avenue to expand the Neighborhood Resource Center; contingent upon approval of Resolution 48-11 and the Contract for Sale and Purchase. (Motion to approve; 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. 39-11:** Consider an amendment to the Code of Ordinance Section 72.02, "Definitions," to conform to the State Statute definition of a bicycle and to place further limitations on motorized bicycles. If passed, a public hearing will be held on October 18, 2011. (Motion to approve; Approved, 5-0)

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

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

POSTED: SEPTEMBER 30, 2011

***\*\*\*\*\* Meeting adjourned at 10:09 p.m. \*\*\*\*\****