

# City of Delray Beach

## Regular Commission Meeting



### RULES FOR PUBLIC PARTICIPATION

**Thursday, September 10, 2009**

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.**
5. **APPROVAL OF MINUTES:**
  - A. August 18, 2009 – Regular Meeting
  - B. August 25, 2009 – Workshop Meeting
  - C. September 1, 2009– Special/Workshop Meeting
6. **PROCLAMATIONS:**
  - A. Recognizing Boys and Girls Club Day for Kids
7. **PRESENTATIONS:**
  - A. Special Recognition Award – Budget Task Force
8. **CONSENT AGENDA:** City Manager Recommends Approval.
  - A. **REQUEST FOR SIDEWALK DEFERRAL/1028 VISTA DEL MAR DRIVE:** Approve a request to defer the installation of a sidewalk along Vista Del Mar Drive for the property located at 1028 Vista Del Mar Drive.
  - B. **ACCEPTANCE OF RIGHT-OF-WAY DEED, SIDEWALK EASEMENT AND SIDEWALK DEFERRAL/1023 NASSAU STREET:** Approve and accept a right-of-way deed, sidewalk easement and sidewalk deferral agreement for the property located at 1023 Nassau Street.
  - C. **ACCEPTANCE OF RIGHT-OF-WAY DEED/CARVER SQUARE POCKET PARK:** Approve and accept a right-of-way deed with the Community Redevelopment Agency associated with the Carver Square Pocket Park, located at the northeast corner of S.W. 3<sup>rd</sup> Street and S.W. 7<sup>th</sup> Avenue.
  - D. **ACCEPTANCE OF RIGHT-OF-WAY DEED/WEST ATLANTIC PUBLIC PLAZA:** Acceptance of a right-of-way deed associated with the West Atlantic Public Plaza, located at the southwest corner of West Atlantic Avenue and S.W. 5<sup>th</sup> Avenue.

- E. **GRANT APPLICATION/DEPARTMENT OF TRANSPORTATION (DOT)/TRANSPORTATION INVESTMENT GENERATING ECONOMIC RECOVERY (TIGER):** Authorize staff to submit a grant application to the U.S. Department of Transportation for the Transportation Investment Generating Economic Recovery (TIGER) grant under the American Recovery and Reinvestment Act (ARRA) for the US 1 and the MLK Drive Beautification projects and approve submittal of a letter indicating that the City will abide by Federal wage rates.
- F. **FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT)/JOINT PARTICIPATION AGREEMENT/BUS SHELTERS:** Approve and authorize the execution of a Joint Participation Agreement (JPA) with the Florida Department of Transportation (FDOT) to reimburse 50% of the \$200,000.00 costs related to the installation of twelve (12) bus shelters in various locations throughout the City. Funding is available from 334-3162-544-65.70 (General Construction Fund/Other Improvements/Transit Stop Bus Shelters).
- G. **AMENDMENT NO. 1 TO THE AGREEMENT/H & D CONSTRUCTION CO., INC.:** Approve Amendment No. 1 to the Construction Contract with H & D Construction Co., Inc. for compliance with additional provisions as required by the Community Development Block Grant-Recovery ARRA Federal Economic Stimulus Grant for the construction of S.W. 14th Avenue Roadway, Alleys, & Drainage Improvements Project. Funding is available from 101-1969-541-68.25 (ARRA Economic Stimulus FD/Other Improvement/S.W. 14<sup>th</sup> Avenue-S.W. 2<sup>nd</sup> to S.W. 1<sup>st</sup> Street) and 334-3162-541-68.05 (General Construction Fund/Other Improvement/S.W. 14<sup>th</sup> Alley Improvement).
- H. **CHANGE ORDER NO. 1/WEEKLEY ASPHALT:** Approve Change Order No. 1 in the amount of \$25,968.50 to Weekley Asphalt Paving, Inc. for additional work requiring milling and overlaying for the Atlantic Avenue Narrowing Project. Funding will be provided by the Community Redevelopment Agency and is available in 334-4141-572-68.17 (General Construction Fund/Other Improvement/Gateway Miniparks @ I-95).
- I. **CONTRACT ADDITION (C.O. NO. 1)/DOWNRITE ENGINEERING CORP.:** Approve Contract Addition (Change Order No. 1) to Downrite Engineering Corp. for additional work consisting of the installation of a 6" PVC Water Main along Luke Lane for Area 11A Reclaimed Water System (Contract 3) Project. Funding is available from the current contract Undefined Underground Allowance; therefore, no additional funding is needed.
- J. **CONTRACT CLOSEOUT (C.O. NO. 2/FINAL)/CLOSE CONSTRUCTION, INC.:** Approve a Contract Closeout (Change Order No. 2/Final) in the amount of a \$80,000.00 decrease and final payment in the amount of \$27,676.35 to Close Construction, Inc. for the completion of the Area 11A Reclaimed Water In-Line Booster Pump Station (Contract 1) project. Funding is available from 441-5181-536-65.96 (Water/Sewer Fund/Other Improvements/Reclaimed Water Transmission).

- K. **CONTRACT CLOSEOUT (C.O. NO. 2/FINAL)/INTERCOUNTY ENGINEERING, INC.:** Approve Contract Closeout (Change Order No. 2/Final) in the amount of a \$16,678.84 decrease and final payment in the amount of \$25,071.01 to Intercounty Engineering, Inc. for the completion of the Area 11A Reclaimed Water System (Contract 2). Funding is available from 441-5181-536-65.96 (Water/Sewer Fund/Other Improvements/Reclaimed Water Transmission).
- L. **HOLD HARMLESS AGREEMENT/BRYCE NEWELL:** Approve and authorize a Hold Harmless Agreement between the City and property owner Bryce Newell for the installation of removable fence within the public-right-of-way for the property located at 103 N.W. 3<sup>rd</sup> Avenue.
- M. **TEMPORARY CONSTRUCTION EASEMENT AGREEMENT/EASEMENT AGREEMENT/OLD SCHOOL SQUARE PARK:** Approve a Temporary Construction Easement Agreement and an Easement Agreement for the improvement of certain areas located at the south end of the Old School Square park area and the placement of landscaping in certain areas.
- N. **AMENDMENT NO. 2 TO THE DISASTER RECOVERY INITIATIVE AGREEMENT/PALM BEACH COUNTY:** Approve Amendment No. 2 to the agreement between the City and Palm Beach County for the Disaster Recovery Initiative (DRI) Program to complete twenty-four (24) housing rehabilitation projects for income-eligible residents who suffered damages from Hurricane Wilma, extending the deadline for completion to February 15, 2010.
- O. **INTERLOCAL AGREEMENT/SOLID WASTE AUTHORITY OF PALM BEACH COUNTY:** Approve an Interlocal Agreement between the City and Solid Waste Authority of Palm Beach County for the delivery of municipal solid waste to designated facilities and for a municipal revenue-sharing recycling program.
- P. **MEMORANDUM OF UNDERSTANDING/STATE HOMELAND SECURITY GRANT:** Approve a Memorandum of Understanding with the Florida Department of Financial Services; and accept the 2008-2009 Domestic Preparedness Grant from the State Homeland Security Grant Program in the amount of \$54,885.00 for sustainment and maintenance of equipment.
- Q. **GRANT AWARD/DEPARTMENT OF JUSTICE/COPS HIRING RECOVERY PROGRAM (CHRP):** Accept a grant award from the Department of Justice for the COPS Hiring Recovery Program in the amount of \$1,360,164.00 to fund six (6) sworn police officer positions for three (3) years.
- R. **GRANT AWARD/RECOVERY ACT EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG):** Approve and accept the Recovery Act Edward Byrne Memorial Justice Assistance Grant (JAG) award in the amount of \$289,582.00 which will provide funding to support the Holiday Robbery Task Force, purchase police vehicles, and repair/reconfigure a donated driving simulator.

- S. **GRANT AWARD/EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) FOR FY 2009:** Approve and accept an award of 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 annual solicitation (CFDA# 16.738) to support the salary of an officer to staff the Department's Criminal Justice Academy at Atlantic High School.
- T. **RESOLUTION NO. 40-09 /BUDGET AMENDMENT:** Consider approval of Resolution No. 40-09 amending Resolution No. 44-08 adopted September 16, 2008, and Resolution No. 26-09 adopted June 16, 2009 and Resolution No. 35-09 adopted August 18, 2009 which made appropriations for necessary expenditures of the City for the FY 2008/2009, by setting forth the anticipated revenues and expenditures for the operating funds of the City for the fiscal year 2008/2009.
- U. **AMENDMENT NO. 1 TO THE AGREEMENT WITH GOVDEALS, INC.:** Approve Amendment No. 1 to the Agreement with GovDeals, Inc. to include Fire Department equipment and Environmental Services Department fleet vehicles to be sold by the GovDeals.com internet site.
- V. **RATIFICATION OF APPOINTMENTS TO THE PARKING MANAGEMENT ADVISORY BOARD:** Approve and ratify the appointment of Mr. Herman Stevens, Community Redevelopment Agency Representative; and Mr. Joseph Pike and Ms. Deborah Dowd, Planning and Zoning Board Representative and Alternate Representative, for terms ending July 31, 2011, and July 31, 2010.
- W. **AMENDMENT NO. 1 TO THE LEASE AGREEMENT/VERIZON WIRELESS:** Approve Amendment No. 1 to the Lease Agreement with Verizon Wireless for use of the City's generator as an alternate power source for the Verizon antenna on the Police Department radio tower.
- X. **ADDITIONAL FUNDING/HOMETOWN CONNECTION NEWSLETTER:** Approve and authorize additional funding in the amount of \$1,500.00 to CM Graphics to support the cost of printing and mailing the final edition of the Hometown Connection Newsletter for FY 2008-2009. Funding is available from 001-1316-512-47.10 (General Fund/Printing & Binding/Printing/Binding Services).
- Y. **SPECIAL EVENT REQUEST/10<sup>TH</sup> ANNUAL DOWNTOWN DELRAY BEACH THANKSGIVING WEEKEND ART FESTIVAL:** Approve a special event request for the 10<sup>th</sup> Annual Downtown Delray Beach Thanksgiving Weekend Art Festival to be held on November 28-29, 2009 from 10:00 a.m. until 5:00 p.m., to grant a temporary use permit per LDR Section 2.4.6(F) for the use of N.E. 2<sup>nd</sup> Avenue from the alley just north of Atlantic Avenue to approximately 400 feet north of N.E. 3<sup>rd</sup> Street, to utilize the City Hall parking lot for vendor parking, and to authorize staff support for traffic control, security, and Fire Inspector with the sponsor paying all overtime costs.

Z. **RESOLUTION NO. 41-09:** Approve and adopt Resolution No. 41-09 to request the Governor and Florida Legislature to provide appropriate emphasis in legislation and to fund research and infrastructure installation that will lead to and provide for a permanent solution to beach erosion.

AA. **REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:**  
Accept the actions and decisions made by the Land Development Boards for the period August 17, 2009 through September 4, 2009.

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

1. Contract Award to Associated Consulting Professionals in the amount of \$350.00 maximum per unit for lead based paint testing and/or risk assessments as needed by households built prior to 1978 participating in the City's housing rehabilitation program. Funding is available from 118-1960-554-49.19 (Neighborhood Services/Other Current Charges/Housing Rehabilitation) and 118-1963-554-49.19 (Neighborhood Services/Other Current Charges/Housing Rehabilitation).
2. Contract Award to Tidwell Plumbing, Inc. in the amount of \$18,000.00 for the installation of a Peristaltic Pump and twelve (12) remote pumping centers at the Municipal Marina. Funding is available from 426-4311-575-64.90 (City Marina Fund/Machinery/Equipment/Other Machinery Equipment).
3. Purchase award to Florida Bullet, Inc. in the amount of \$68,384.25 for the purchase of ammunition. Funding is available from 001-2111-521-52.20 (General Fund/Operating Supplies/General Operation Supplies) 001-2115-521-52.19 (General Fund/Operating Supplies/SWAT Expenditures).
4. Purchase Award to Mainline Supply Co. in the amount of \$32,298.91 for various piping materials to be installed by the City's in-house construction crew for the S.W. 6<sup>th</sup> Street Water Main Improvements. Funding is available from 442-5178-536-68.51 (Water/Sewer Renewal & Replacement Fund/Other Improvements/Water Main-S.W. 6<sup>th</sup> Avenue).

9. **REGULAR AGENDA:**

A. **WAIVER REQUESTS/PINEAPPLE GROVE LIMITED:** Consider two (2) waiver requests associated with the Class IV site plan modification for Pineapple Grove Limited located on the north side of N.E. 1<sup>st</sup> Street between Pineapple Grove Way and N.E. 1<sup>st</sup> Avenue. (*Quasi-Judicial Hearing*)

B. **APPEAL/SITE PLAN REVIEW APPEARANCE BOARD ACTION/CVS/PHARMACY:** Consideration of an appeal regarding the Site Plan Review and Appearance Board's decision to reduce the number of wall signs proposed for the CVS/pharmacy from four (4) to two (2), pursuant to Land Development Regulation (LDR) Section 2.4.7(E), "Appeals". The project is located at 700 N.E. 6<sup>th</sup> Avenue. (*Quasi-Judicial Hearing*)

- C. **REQUEST FOR IN-LIEU PARKING SPACES/PINEAPPLE GROVE LTD:** Consider a request from Pineapple Grove Ltd, for the purchase of four (4) in-lieu parking spaces in the amount of \$31,200.00. Pineapple Grove Ltd is located at the intersection of N.E. 1<sup>st</sup> Street between N.E. 1<sup>st</sup> and N.E. 2<sup>nd</sup> Avenues. (*Quasi-Judicial Hearing*)
- D. **FY 2010 TENNIS RATES/TENNIS FACILITIES:** Consider approval of the proposed maximum rates for the Tennis Facilities.
- E. **FY 2010 GOLF RATES/LAKEVIEW GOLF COURSE:** Consider approval of the proposed maximum rates for the Lakeview Golf Course.
- F. **FY 2010 GOLF RATES/DELRAY BEACH MUNICIPAL GOLF COURSE:** Consider approval of the proposed maximum rates for the Delray Beach Municipal Golf Course.
- G. **GOVERNMENT SERVICES GROUP, INC./FIRE SERVICE ASSESSMENT:** Consider a proposal from Government Services Group, Inc. to conduct the necessary study to establish the legal basis for a Fire Service Assessment.
- H. **BID PROTEST/BID AWARD/JOHNSON DAVIS, INC.:** Consider a bid protest from David Foote Environmental Construction, Inc. and consider a bid award to Johnson Davis, Inc. in the amount of \$422,175.00 for Osceola Park Improvements. Funding is available from 442-5178-536-65.85 (Water & Sewer Renewal and Replacement Fund/Other Improvements/Osceola Park) and 448-5461-538-65.85 (Storm Water Utility Fund/Other Improvements/Osceola Park).
- I. **APPOINTMENT OF PERSON TO FILL UNEXPIRED TERM OF COMMISSIONER BERNARD:** Appoint a person to fill the unexpired term of Commissioner Bernard (Seat #4) until the March 9, 2010 Municipal Election.
- J. **APPOINTMENT TO THE HISTORIC PRESERVATION BOARD:** Appoint one (1) regular member to the Historic Preservation Board for an unexpired term ending August 31, 2010. Based upon the rotation system, the appointment will be made by Mayor McDuffie (Seat #5).
- K. **APPOINTMENT TO THE POLICE ADVISORY BOARD:** Appoint one (1) student member to the Police Advisory Board to serve an unexpired term ending July 31, 2010. Based upon the rotation system, the appointment will be made by Commissioner Eliopoulos (Seat #1).
10. **PUBLIC HEARINGS:**
- A. **RESOLUTION NO. 37-09 (TENTATIVE MILLAGE LEVY):** A resolution tentatively levying a tax on all properties within the City of Delray Beach for operation and maintenance and for payment of principal and interest on bonded indebtedness for FY 2010.

- B. **RESOLUTION NO. 39-09 (TENTATIVE BUDGET ADOPTION FOR FY 2010):** A resolution tentatively making appropriations of sums of money for all necessary expenditures of the City of Delray Beach for the period October 1, 2009 through September 30, 2010.
  - C. **RESOLUTION NO. 38-09 (TENTATIVE MILLAGE LEVY/DDA):** A resolution tentatively levying a tax on all properties within the Downtown Development Authority Taxing District of the City of Delray Beach for FY 2010.
  - D. **ORDINANCE NO. 42-09:** Consider a city-initiated amendment to Chapter 71, "Parking Regulations", Section 71.006, "Surcharge on Parking Fines"; to provide for an increase in the surcharge on parking fines to fund the school crossing guard program.
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. 39-09:** Consider a privately-initiated amendment to Land Development Regulations (LDR) Section 4.3.4., "Base District Development Standards", Subsection (H)(6), "Special Setbacks", to modify the area where the thirty-foot special combination setback must be provided. If passed, a second public hearing will be held on September 22, 2009.
  - B. **ORDINANCE NO. 45-09:** 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 decreased residential and commercial collection service rates for FY 2010. If passed, a public hearing will be scheduled for September 22, 2009.
  - C. **ORDINANCE NO. 46-09:** Consider a city initiated amendment to Chapter 71, "Parking Regulations" of the Code of Ordinances by amending Section 71.058, "Cost of Parking or Standing Vehicles in Certain Metered Spaces", to provide for the meter fee charged and listing the parking lots affected; and by enacting Subsection 71.065, "Parking Garages", to provide for the regulation of public parking garages. If passed, a public hearing will be scheduled for September 22, 2009.
  - D. **ORDINANCE NO 47-09:** Consider a city-initiated amendment to Chapter 92, "Boats and Boating", by amending Section 92.32, "License Agreement for Boat Dockage", and Section 92.33, "Dockage Rates and Fees", to clarify certain language in the license agreement and to modify certain rate structures. If passed, a public hearing will be scheduled for September 22, 2009.

- E. **ORDINANCE NO. 48-09:** Consider a city-initiated amendment to Chapter 117, “Landlord Permits” of the Code of Ordinance by amending Section 117.02, “Permit Fees”, to provide for an increase in the Landlord Permit fee from \$50 per unit to \$60 per unit effective October 1, 2009. If passed, a public hearing will be scheduled for September 22, 2009.
- F. **ORDINANCE NO. 49-09:** Consider a city-initiated ordinance amending Chapter 96, “Fire Safety and Emergency Services”, of the Code of Ordinances by amending Section 96.66. “Emergency Medical Transportation Fees”, Subsection 96.66(A), to adjust the fee schedule for emergency medical transportation in accordance with the National Ambulance Fee Schedule. If passed, a public hearing will be scheduled for September 22, 2009. (*ADDENDUM*)

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

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

POSTED: SEPTEMBER 4, 2009