

# City of Delray Beach

## Regular Commission Meeting

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



### **RULES FOR PUBLIC PARTICIPATION**

Tuesday, July 20, 2010

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.** (Mayor McDuffie absent)
2. **INVOCATION.**
3. **PLEDGE OF ALLEGIANCE TO THE FLAG.**
4. **AGENDA APPROVAL.** (Approved, 4-0)
5. **APPROVAL OF MINUTES:**
  - A. July 6, 2010 – Regular Meeting (Approved, 4-0)
6. **PROCLAMATIONS:**
  - A. City of Tennis Beach Week – July 19-26, 2010 (*ADDENDUM*)
7. **PRESENTATIONS:**
  - A. Presentation by Student Ambassadors: Chelsea Brandt, Sofia Ellingsworth, Matthew Feldman, Matthew Kondziela, Jacqueline Lowell, Danielle Trubow and Robert Weil
  - B. S.P.I.R.I.T. (Service, Performance, Integrity, Responsibility, Innovation, Teamwork) Committee Quarterly Awards Presentation)
8. **CONSENT AGENDA:** City Manager Recommends Approval. (Approved as amended, 4-0)
  - A. **ACCEPTANCE OF SIDEWALK EASEMENT DEED AND SIDEWALK DEFERRAL /1110 HARBOR DRIVE:** Approve and accept a 5' foot sidewalk easement deed and deferral agreement regarding installation of a sidewalk for the property located at 1110 Harbor Drive.
  - B. **ACCEPTANCE OF SIDEWALK EASEMENT/ SIDEWALK DEFERRAL/ DRAINAGE EASEMENT AND HOLD HARMLESS AGREEMENT/ 1102 NORTH VISTA DEL MAR DRIVE:** Approve and accept a 5' drainage easement, 5' sidewalk easement, sidewalk deferral agreement, and hold harmless agreement for improvements placed within a utility easement for the property located at 1102 North Vista Del Mar Drive.
  - C. **AMENDMENT NO. 1 TO THE SERVICE AUTHORIZATION/COASTAL PLANNING & ENGINEERING, INC./BEACH RENOURISHMENT PROJECT:** Approve Amendment 1 to the Service Authorization to modify the scope of work for Task 3 for preliminary engineering and technical engineering tasks for the Beach Renourishment project.

- D. **CONTRACT CLOSEOUT (CHANGE ORDER NO. 1/FINAL)/JOHNSON DAVIS, INC.:** Approve a Contract Closeout (C.O. No. 1/Final) in the amount of a \$34,851.56 decrease and final payment in the amount of \$19,366.17 to Johnson Davis, Inc. for completion of the Phase 1 Osceola Park Improvements Project #2004-003. Funding is available from 442-5178-536-65.85 (Water/Sewer Renewal & Replacement Fund/Other Improvements/Osceola Park).
- E. **AMENDMENT TO INTERLOCAL AGREEMENT; PALM BEACH COUNTY; MIRACLE LEAGUE FUNDING:** Approve an amendment to the interlocal agreement between the City and Palm Beach County for funding for the Miracle League Field at Robert P. Miller Park to include the Miracle League Concession Building.
- F. **DONATION/BETHESDA MEMORIAL HOSPITAL:** Approve and accept a donation from Bethesda Memorial Hospital (BMH) in the amount of \$9,500.00 for the purchase of equipment to implement Bluetooth Technology and Telemetry for wireless electrocardiogram transmission during patient transports to their facility.
- G. **FLORIDA HIGHWAY PRODUCTS, INC./2010 STREET RESURFACING PROJECT:** Approve execution of a contract with the Florida Highway Products, Inc. in the amount of \$258,421.52 for micro-surface paving of City streets contingent upon the City receiving payment and performance bonds and a certificate of insurance from Florida Highway Products, Inc. Funding is available from 334-3162-541-61.17 (General Construction Fund/Capital Outlay/Street Reconstruction); 442-5178-536-63.51 (Water/Sewer Fund/Other Improvements/Reclaimed Water Transmission); and 118-1965-554-61.91 (Neighborhood Services/Capital Outlay/Infrastructure).
- H. **SPECIAL EVENT REQUEST/SUMMER NIGHTS ON THE AVENUE:** Approve a special event request for the Summer Nights on the Avenue to be held from 7:00 p.m. to 10:00 p.m. on August 27, 2010; granting a temporary use permit per LDR Section 2.4.6(F) for the closure of Atlantic Avenue from N.E./S.E. 5<sup>th</sup> Avenue to N.E./S.E. 6<sup>th</sup> Avenue; and authorize staff support for security and traffic control and barricading.
- I. **SPECIAL EVENT REQUESTS/ART AND JAZZ ON THE AVENUE:** Approve special event request to endorse Art and Jazz on the Avenue to be held on August 19, 2010 from 6:00 p.m. to 10:00 p.m., to grant a temporary use permit per LDR Section 2.4.6(F) for the closure of Atlantic Avenue from Swinton to the west side of N.E./S.E. 7th Avenue, Railroad Avenue from Atlantic north to the north side of the east/west alley, and to the alleys north and south of Atlantic on N.E./S.E. 1st Avenue, N.E./S.E. 2nd Avenue, S.E. 3rd Avenue, and N.E./S.E. 4th Avenue; to authorize staff support for security, traffic control, banner hanging and removal, barricade set up and removal, trash removal and clean up and EMS assistance, with payment of costs to the City per the agreement between the City and the Downtown Marketing Cooperative.

J. **REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:**  
Accept the actions and decisions made by the Land Development Boards for the period July 6, 2010 through July 16, 2010.

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

1. Contract award to Gruber Hall, Inc. in the amount of \$40,103.00 for provision of all labor, equipment and materials for retrofitting/replacing three (3) existing doors at the Old School Square (OSS) Crest Theater and Gymnasium buildings for hurricane protection. Funding is available from 334-4151-572-46.08 (General Construction Fund: Repair & Maintenance Services/OSS Window Replacement).
2. Purchase award to Municipal Equipment Company, LLC in the amount of \$56,378.40 for twenty-six (26) sets of Firefighting Personnel Protective Equipment (bunker gear). Funding is available from 001-2315-526-52.22 (General Fund: Operating Supplies/Uniforms/Linen Service).
3. Purchase award to Pantropic Power, Inc. in the amount of \$108,470.00 for purchase of a 600kw emergency standby generator for the Water Treatment Plant's South Pump Station. Funding is available from 442-5178-536-64.90 (Water and Sewer Renewal and Replacement Fund/ Other Machinery and Equipment).
4. Purchase Award to Martin Fence Company in the amount of \$19,218.42 for perimeter fencing at Hilltopper Stadium. Funding is available from account 334-4151-572-46.90 (Other Repair/Maintenance Costs).

9. **REGULAR AGENDA:**

- A. **CONDITIONAL USE REQUEST/CVS STORE:** Consider a conditional use request to establish a 24 hour late night business for the CVS Store located at 700 N.E. 6<sup>th</sup> Avenue. *(Quasi-Judicial Hearing)* (Motion to adopt the board order as presented; Approved, 4-0)
- B. **AMENDMENT TO AGREEMENT/PALM BEACH COUNTY; DISASTER RECOVERY INITIATIVE PHASE II:** Approve an Agreement between the City and Palm Beach County for \$800,000 for implementation of the Housing Rehabilitation Program funded under the Disaster Recovery Initiative (DRI) Phase II. (Motion to approve; Approved, 4-0)
- C. **HOUSING REHABILITATION GRANTS/NEIGHBORHOOD STABILIZATION PROGRAM:** Consider approval of five (5) Neighborhood Stabilization Program (NSP) Housing Rehabilitation Grants in the amount of \$252,734.98 to be awarded to selected general contractors for acquired NSP properties. (Motion to approve; Approved, 4-0)

- D. **POLICE DEPARTMENT WORKLOAD, STAFFING AND DEPLOYMENT STUDY PROPOSAL:** Consider a proposal from ICMA Consulting Services for a workload, staffing and deployment study for the Police Department. (Motion to approve; Approved, 4-0)
- E. **SUBLEASE AGREEMENT: COMMUNITY REDEVELOPMENT AGENCY AND PUPPETRY ARTS CENTER:** Consider approval of a Sub-Lease Agreement between the Community Redevelopment Agency and the Puppetry Arts Center of the Palm Beaches to sublease approximately 5,000 square feet on the 1<sup>st</sup> floor of the Old School Square Parking Garage for 2 years beginning October 1, 2010. (Motion to approve; Approved, 4-0)
- F. **APPOINTMENTS TO THE FINANCIAL REVIEW BOARD:** Appoint two (2) regular members to the Financial Review Board to serve two (2) year terms ending July 31, 2012 and one (1) alternate member to serve an unexpired term ending July 31, 2011. Based on the rotation system, the appointments will be made by Commissioner Frankel (Seat #3), Commissioner Gray (Seat #4) and Mayor McDuffie (Seat #5). (Appointed Luise Piane and approved, 4-0; and appointed Barbara Trevino and approved, 4-0. Mayor McDuffie's appointment deferred to August 3, 2010.)
- G. **APPOINTMENTS TO THE POLICE ADVISORY BOARD:** Appoint six (6) regular members and one (1) student member to the Police Advisory Board to serve two (2) year terms ending on July 31, 2012. Based upon the rotation system, the appointments will be made by Commissioner Frankel (Seat #3), Commissioner Gray (Seat #4), Mayor McDuffie (Seat #5), Commissioner Eliopoulos (Seat #1), Commissioner Fetzer (Seat #2), Commissioner Frankel (Seat #3) and Commissioner Gray (Seat #4). (Appointed Brian Smith and approved, 4-0; appointed Ellen Major Hanna and approved, 4-0; appointed Carl Forrest and approved, 4-0; appointed Jeff Ritter and approved, 4-0; appointed Victor Kirson and approved, 4-0; and appointed Edith Thompson and approved, 4-0. Mayor McDuffie's appointment deferred to August 3, 2010.)
- H. **APPOINTMENTS TO THE EDUCATION BOARD:** Appoint five (5) regular members to the Education Board to serve two year terms ending July 31, 2012 and one (1) student member to serve a one (1) year term ending July 31, 2011. Based upon the rotation system, the appointments will be made by Commissioner Fetzer (Seat #2), Commissioner Frankel (Seat #3), Commissioner Gray (Seat #4), Mayor McDuffie (Seat #5), Commissioner Eliopoulos (Seat #1) and Commissioner Fetzer (Seat #2). (Appointed Debra Kaiser and approved, 4-0; appointed Kenneth Zeno and approved, 4-0; appointed Sandra Weatherspoon and approved, 4-0; appointed Derline Pierre-Louis and approved, 4-0; and appointed Luke Eliopoulos as student member and approved, 4-0. Mayor McDuffie's appointment deferred to August 3, 2010.)

- I. **APPOINTMENTS TO THE GREEN IMPLEMENTATION ADVANCEMENT BOARD:** Appoint four (4) regular members to the Green Implementation Advancement Board to serve two (2) year terms ending on July 31, 2012. Based upon the rotation system, the appointments will be made by Commissioner Eliopoulos (Seat #1), Commissioner Fetzer (Seat #2), Commissioner Frankel (Seat #3) and Commissioner Gray (Seat #4). (Appointed Laura Reines and approved, 4-0; appointed Ana DeMelo and approved, 4-0; appointed Rita Johnson and approved, 4-0; and appointed Jayne King and approved, 4-0.)
- J. **APPOINTMENTS TO THE PUBLIC ART ADVISORY BOARD:** Appoint three (3) regular members to the Public Art Advisory Board to serve two (2) year terms ending July 31, 2012 and one (1) regular member to serve an unexpired term ending July 31, 2011. Based upon the rotation system, the appointments will be made by Commissioner Eliopoulos (Seat #1), Commissioner Fetzer (Seat #2), Commissioner Frankel (Seat #3) and Commissioner Gray (Seat # 4). (Appointed Dana Donaty and approved, 4-0; appointed Rich McGloin and approved, 4-0; appointed Sandi Franciosa and approved, 4-0; and appointed Michiko Kurisu and approved, 4-0.)
- K. **APPOINTMENT TO THE NEIGHBORHOOD ADVISORY COUNCIL:** Appoint one (1) regular member from Zone 1 to the Neighborhood Advisory Council to serve a three (3) year term ending July 31, 2013 and appoint one (1) student member to serve a one (1) year term ending July 31, 2011. Based upon the rotation system, the appointment will be made by Commissioner Eliopoulos (Seat #1) and Commissioner Fetzer (Seat #2). (Appointed Harriet Meltzer and approved, 4-0. Commissioner Fetzer's appointment deferred to August 3, 2010.)
- L. **RECONSIDERATION/WAIVER OF RENTAL FEES REQUEST/ROOTS CULTURAL FESTIVAL, INC.:** Reconsider the request for waiver of rental fees for the Youth Basketball Tournament to be held July 23-25, 2010, at Pompey Park and the Community Center and for the Prayer Breakfast/Health Fair proposed to be held at Pompey Park on August 14, 2010. (ADDENDUM) (First Motion to reconsider the waiver request; Approved, 4-0. Second Motion to approve the waiver request; Approved, 4-0)
10. **PUBLIC HEARINGS:**
- A. **ORDINANCE NO. 12-10:** Consider a city initiated amendment to Appendix "A", "Definitions" of the Land Development Regulations (LDR) to revise the definition of "Pharmacy". (Motion to postpone; Approved, 4-0)
- B. **RESOLUTION NO. 36-10:** Consider approval of Resolution No. 36-10 establishing a budget for the Stormwater Utility System, establishing the rates for FY 2011 Stormwater Management Assessments, and certifying and adopting the Stormwater Assessment Roll. (Motion to approve; Approved, 4-0)
- C. **ORDINANCE NO. 16-10:** Consider a historic designation and individual listing on the Local Register of Historic Places for The Harvel House, to be located at 186 N.W. 5<sup>th</sup> Avenue. (Motion to approve; Approved, 4-0)

1. **WAIVER REQUESTS/THE HARVEL HOUSE:** Consider approval of waiver requests to Land Development Regulations (LDR) Section 4.5.1(E)(6)“Relocation”, and 4.4.13(F), “Development Standards”, associated with the relocation of “The Harvel House” to 186 N.W. 5<sup>th</sup> Avenue. (*Quasi Judicial Hearing*) (Motion to adopt board order as presented; Approved, 4-0)
  
- D. **ORDINANCE NO. 09-10 (SECOND READING/SECOND PUBLIC HEARING):** City initiated amendments to the Land Development Regulations (LDR), Article 4.4, “Base Zoning District”, Section 4.4.9, “General Commercial District”, Subsection (B), “Principal Uses and Structures Permitted”; Section 4.4.13, “Central Business District”, Subsection (B), “Principal Uses and Structures Permitted”; Section 4.4.15, “Planned Office Center District”, Subsection (B), “Principal Uses and Structures Permitted”; Section 4.4.16, “Professional and Office District”, Subsection (B), “Principal Uses and Structures Permitted”; Section 4.4.17, “Residential Office District”, Subsections (B), “Principal Uses and Structures Permitted”, and (G), “Supplemental District Regulations”; amending Appendix “A”, “Definitions”, to enact revised or new definitions for “Medical Clinics”, “Medical Laboratory”, and “Professional Offices”. (Motion to approve; Approved, 4-0)
  
- E. **ORDINANCE NO. 11-10 (SECOND READING/SECOND PUBLIC HEARING):** Consider a city initiated amendment to the Land Development Regulations (LDR), Article 4.3, “District Regulations, General Provisions”, Section 4.3.3, “Special Requirements for Specific Uses”, Subsection (Q), “Guest Cottage”, and Subsection (Y), “Bed and Breakfast Inns”, to clarify and amend bed and breakfast inn use requirements; amending Article 4.4, “Base Zoning District”, Section 4.4.6, “Medium Density Residential (RM) District”, Subsection (D), “Conditional Uses and Structures Allowed”, to add bed and breakfast inn as a conditional use; amending Section 4.4.13, “Central Business (CBD) District”, Subsection (B), “Principal Uses and Structures Permitted”, and Subsection (D), “Conditional Uses and Structures Allowed”; Section 4.4.17, “Residential Office (RO) District”, Subsection (D), “Conditional Uses and Structures Allowed”; and Section 4.4.24, “Old School Square Historic Arts District”, Subsection (B), “Principal Uses and Structures”, to clarify bed and breakfast inn uses; amending Appendix “A”, “Definitions”, to enact revised definitions for “Bed and Breakfast Inn”, and “Guest Cottage”. (Motion to approve; Approved, 4-0)
  
- F. **ORDINANCE NO. 15-10:** Consider a city initiated amendment to the Land Development Regulations (LDR) Section 6.1.10, “Water System”, to eliminate a Fire Protection Provision that conflicts with the Florida Fire Prevention Code. (Motion to approve; Approved, 4-0)
  
- G. **ORDINANCE NO. 21-10:** Consider an amendment to Chapter 32 “Departments, Boards and Commissions”, by amending Section 32.66, “Meetings”, to provide for quarterly meetings of the Police Advisory Board. (Motion to approve; Approved, 4-0)

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. 22-10:** An ordinance amending Chapter 51, "Garbage and Trash", of the Code of Ordinances in order to clarify certain terms and to provide consistency between the solid waste franchise agreement and City ordinances. If passed, a public hearing will be scheduled on August 3, 2010. (Motion to approve; Approved, 4-0)

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

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

POSTED: JULY 16, 2010

***\*\*\*\*\* Meeting adjourned at 8:15 p.m. \*\*\*\*\****