

# City of Delray Beach

## Regular Commission Meeting



### RULES FOR PUBLIC PARTICIPATION

**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.

Wednesday, September 3, 2008

Regular Meeting 6:00 p.m.  
Public Hearings 7:00 p.m.  
Commission Chambers  
Delray Beach City Hall

- 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 19, 2008 – Regular Meeting
  - B. August 26, 2008 –Workshop Meeting
6. **PROCLAMATIONS:**
  - A. Hand’s Office Supply 75<sup>th</sup> Anniversary
  - B. Spady Living Heritage Day – September 6, 2008
7. **PRESENTATIONS:**
  - A. None
8. **CONSENT AGENDA:** City Manager Recommends Approval.
  - A. **REQUEST FOR SIDEWALK DEFERRAL/1140 BAUHINIA ROAD:** Approve a request to defer the installation of a sidewalk along Bauhinia Road and Seagate Drive for property located at 1140 Bauhinia Road.
  - B. **RESOLUTION NO. 36-08/ABANDONMENT OF A WATER EASEMENT/UNITED STOR-ALL CENTER (FKA DELRAY BEACH EXTRA CLOSET):** Approve Resolution 36-08 vacating and abandoning a 12-foot water easement within United Stor-All Center (fka Delray Beach Extra Closet) located at 14216 Military Trail.
  - C. **CONTRACT CLOSEOUT (C.O. NO. 2/FINAL)/WEST CONSTRUCTION, INC.:** Approve Contract Closeout (Change Order No. 2/Final) in the amount of \$1,870.24 decrease and final payment in the amount of \$32,078.68 to West Construction, Inc. for completion of the S.W. 2<sup>nd</sup> Avenue Streetscape/Infrastructure Improvements Project. Funding is available from 334-3162-541-65.87 (General Construction Fund/Capital Outlay/S.W. 2<sup>nd</sup> Ave – S.W. 1<sup>st</sup> St to W Atlantic) and 448-5461-538-65.87 (Storm Water Utility Fund/Other Improvements/S.W. 2<sup>nd</sup> Ave – S.W. 1<sup>st</sup> St to W.Atlantic).
  - D. **FINAL SUBDIVISION PLAT APPROVAL/PARADISE BANK:** Approve a final subdivision plat for Paradise Bank, located on the northeast corner of North Federal Highway and South Lake Avenue.

- E. **CLEARBROOK PARK HOMEOWNERS ASSOCIATION/TRAFFIC ENFORCEMENT AGREEMENT:** Approve a traffic enforcement agreement between the City and the Clearbrook Park Homeowners Association allowing the Delray Beach Police Department to enforce local and state traffic laws on its property.
- F. **PROJECT AGREEMENT AMENDMENT/FLORIDA INLAND NAVIGATIONAL DISTRICT (F.I.N.D)/MANGROVE PARK (AKA DELRAY INTRACOASTAL PARK):** Approve a Project Agreement Amendment between the City and Florida Inland Navigational District (F.I.N.D.) to extend the completion time for a one (1) year period ending September 1, 2009 for Mangrove Park (aka Delray Intracoastal Park) (MSA 650) Project #PB-DB-06-117.
- G. **HISTORIC PRESERVATION GRANT AWARD AGREEMENT/HISTORIC MARKERS:** Approve and authorize the Mayor to execute the Historic Preservation Grant in Aid agreement for the purchase of five (5) State Historical Markers to be located within the City's five (5) designated historic districts.
- H. **SERVICE AUTHORIZATION 4.0/COASTAL PLANNING AND ENGINEERING, INC./THREE YEAR POST CONSTRUCTION MONITORING OF THE BEACH NOURISHMENT PROJECT:** Approve Service Authorization 4.0 for Coastal Planning and Engineering, Inc. for the Three Year Post Construction Monitoring of the beach nourishment project.
- I. **RESOLUTION NO. 37-08:** Approve and adopt Resolution No. 37-08 providing support for the City's beach renourishment project and a funding commitment to provide for the local match through an Interlocal Agreement with Palm Beach County.
- J. **INTERNSHIPS/ASSIST IN POPULATING INTERNATIONAL COUNCIL FOR LOCAL ENVIRONMENTAL INITIATIVES (ICLEI) DATABASE:** Approve a request to secure one (1) or two (2) interns to assist in populating the International Council for Local Environment Initiatives (ICLEI) database which will be used as the City's baseline when forecasting projected greenhouse gas emission reduction. There is no cost to the city to secure the intern(s) since they will be receiving college credit.
- K. **AGREEMENT/POMPEY PARK BOOSTER CLUB, INC./AUTHORIZATION TO APPLY FOR 501(c)(3) STATUS:** Approve and authorize an agreement with Pompey Park Booster Club, Inc. providing that the City will have the right to audit the Booster Club at any time and the Booster Club shall be required to provide a monthly report to the City showing all monies collected; and authorize the City to apply for 501(c)(3) status on behalf of the Booster Club.

- L. **INTERLOCAL AGREEMENT/PALM BEACH COUNTY/DROWNING PREVENTION COALITION (DPC):** Approve an Interlocal Agreement with Palm Beach County for reimbursement of swimming lessons not to exceed \$50.00 per class for the Learn to Swim Program at Pompey Park and the Delray Swim & Tennis Center through the Drowning Prevention Coalition of Palm Beach County.
- M. **PARKING LICENSE AGREEMENT/THE BLUE FISH:** Approve a parking license agreement with The Blue Fish which amends the language in Paragraph 16, "Assignment", to provide that the agreement may be assigned with the express written consent of the City Manager or his/her designee; and also combines the agreement entered into on April 1, 2008.
- N. **AMENDMENT NO. 1 TO RENEWAL LEASE AGREEMENT/DELRAY BEACH HISTORICAL SOCIETY/CASON COTTAGE PROPERTY:** Approve Amendment No. 1 to the Renewal Lease Agreement dated October 19, 2007 between the City and the Delray Beach Historical Society for the Cason Cottage Property which provides that seventeen (17) parking spaces, including three (3) handicapped spaces, shall be provided for public parking purposes.
- O. **INTERLOCAL AGREEMENT/PALM BEACH COUNTY/DELRAY BEACH HOUSING AUTHORITY FOR CARVER ESTATES/AUBURN AVENUE:** Approve an Interlocal Agreement between Palm Beach County, the City and Delray Beach Housing Authority (DBHA) for a County grant of \$1,000,000.00 for infrastructure within the City's right-of-way and subsequent City maintenance.
- P. **INTERLOCAL AGREEMENT/COMMUNITY REDEVELOPMENT AGENCY (CRA)/PLANNING AND OTHER SERVICES:** Approve an Interlocal Agreement between the City and the Community Redevelopment Agency (CRA) in an amount up to \$110,000.00 per year for planning and other services related to the formation and implementation of neighborhood plans, mapping and graphic services, computer network services and shared use of a Parking Management Specialist.
- Q. **INTERLOCAL AGREEMENT/COMMUNITY REDEVELOPMENT AGENCY/PLAN REVIEWER II:** Approve an Interlocal Agreement between the City and the Community Redevelopment Agency (CRA) in an amount up to \$72,600.00 per year for a Plan Reviewer II position in the Community Improvement Department for the prioritization of CRA projects for plan review and permit approval.
- R. **INTERLOCAL AGREEMENT/COMMUNITY REDEVELOPMENT AGENCY/NEIGHBORHOOD PLANNER:** Approve an Interlocal Agreement between the City and the Community Redevelopment Agency (CRA) for funding up to \$34,410.00 per year for a Neighborhood Planner position to be assigned to the Neighborhood Resource Center to serve as a liaison between the CRA and the Community Land Trust (CLT) outreach services. The CRA shall contribute 50% of the cost of this position.

- S. **INTERLOCAL AGREEMENT/COMMUNITY REDEVELOPMENT AGENCY/IN-HOUSE PROJECT MANAGEMENT SERVICES:** Approve an Interlocal Agreement between the City and the Community Redevelopment Agency (CRA) in the amount of \$87,900.00 for funding of the in-house Project Management Services position in the Environmental Services Department/Engineering Division. The Project Manager position manages certain projects located in the Community Redevelopment Agency (CRA) district.
- T. **SERVICE AUTHORIZATION NO. 07-07/MATHEWS CONSULTING, INC.:** Approve Service Authorization No. 07-07 in the amount of \$81,959.00 to Mathews Consulting, Inc. for the design of 14th Avenue Roadway, Alleys, and Drainage Improvements. Funding is available from 334-3162-541-68.05 (General Construction Fund/Other Improvements/S.W. 14th Alley Improvements).
- U. **FIRST AMENDMENT TO AGREEMENT/PALM BEACH COUNTY/DELRAY ROCKS FOOTBALL AND CHEERLEADING ORGANIZATION TRIP:** Approve the First Amendment to Palm Beach County Recreation Assistance Program Funding Agreement between the City and Palm Beach County in an amount not to exceed \$3,000.00 to assist with the cost of the Delray Rocks Youth Organization football and cheerleading trip.
- V. **PROPOSED SEVERANCE PACKAGE:** Approve the proposed severance package as discussed at the August 26, 2008 Workshop Meeting.
- W. **AGREEMENT/ANNE M. GANNON, TAX COLLECTOR FOR PALM BEACH COUNTY:** Approve an agreement between the City and Anne M. Gannon as Tax Collector for Palm Beach County to provide billing and collection services on the tax bills for our storm water utility for a one percent (1%) fee.
- X. **REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:** Accept the actions and decisions made by the Land Development Boards for the period August 18, 2008 through August 29, 2008.
- Y. **AWARD OF BIDS AND CONTRACTS:**
1. Bid award to Oceanside Beach Service, Inc. for the rental of Beach Cabanas and Beach Equipment at the City of Delray Municipal Beach. The contractor shall pay the City a flat rate of \$12,345.67 per month plus sales tax.
  2. Purchase award to Ten-8 Fire Equipment, Inc. in the amount of \$389,944.50 for the purchase of one (1) 2009 Pierce 100' Platform on Velocity Chassis through St. John's County RFP #07-53. Funding is available from 501-3312-591-64.25 (Garage Fund/Machinery Equipment/Heavy Equipment).

9. **REGULAR AGENDA:**

- A. **CONDITIONAL USE REQUEST/XF MARTIAL ARTS:** Consider a conditional use request to allow the establishment of an instructional martial arts facility within a 2,565 square foot tenant bay for XF Martial Arts, located at 2875 South Congress Avenue in the Delray Corporate Center. *(Quasi-Judicial Hearing)*
- B. **WAIVER REQUEST/ST. GEORGE SUITES/AUXILLARY POWER GENERATOR:** Consider a request for waiver of Land Development Regulations (LDR) Sections 4.3.3(OO), “Multifamily Residential Buildings Equipped with Elevators”, which requires that all new multifamily residential buildings (including hotels and motels) equipped with public elevators shall provide auxiliary power generators for all interior corridor lighting and exit signs and at least one (1) public elevator. *(Quasi-Judicial Hearing)*
- C. **CONTRACT AWARDS/PROPERTY & CASUALTY INSURANCE COVERAGE:** Consider approval of the contract award through RFP #2008-48 to Employers Mutual, Inc. for broker services and Gallagher Bassett Services Inc. for Third Party Claims Administrator (TPA) services for property and casualty insurance coverage for the period of October 1, 2008 through September 31, 2011.
- D. **NOTE, MORTGAGE MODIFICATION AND SUBORDINATION AGREEMENT/AUBURN TRACE, LTD:** Consider approval of a Note, Mortgage Modification and Subordination Agreement between the City and Auburn Trace, Ltd which includes, in writing, the previously agreed upon terms to forgive one million dollars of the UDAG loan if paid by 2010, and the payment of the Land Note to the City in the amount of \$276,432.00 upon execution of the modification and however, adds a Subordination Agreement; providing that the City will be moved from second place behind the Orion Bank Mortgage to fourth place behind two loans from Orion Bank and behind the Small Business Loan.
- E. **GRANTS FUNDING FOR NON-PROFIT AGENCIES:** Consider grant funding for non-profit agencies for FY 2008-2009.
- F. **APPOINTMENTS TO THE BOARD OF ADJUSTMENT:** Appoint one (1) regular member to the Board of Adjustment to serve a two (2) year term ending on August 31, 2010 and one (1) alternate member to serve an unexpired term ending August 31, 2009. Based upon the rotation system, the appointments will be made by Commissioner McDuffie (Seat #3) and Commissioner Bernard (Seat #4).
- G. **APPOINTMENTS TO THE POLICE ADVISORY BOARD:** Appoint one (1) regular member and one (1) student member to serve an unexpired term ending on July 31, 2009. Based upon the rotation system the appointments will be made by Commissioner Bernard (Seat #4) and Commissioner McDuffie (Seat #3).

10. **PUBLIC HEARINGS:**

- A. **RESOLUTION NO. 39-08 (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 2009.
- B. **RESOLUTION NO. 40-08 (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 2009.
- C. **RESOLUTION NO. 41-08 (TENTATIVE BUDGET ADOPTION FOR FY 2009):** A resolution tentatively making appropriations of sums of money for all necessary expenditures of the City of Delray Beach for the period October 1, 2008 through September 30, 2009.
- D. **RESOLUTION NO. 32-08/CONTRACT FOR SALE AND PURCHASE OF PROPERTY/COMMUNITY REDEVELOPMENT AGENCY:** Consider approval of Resolution No. 32-08 authorizing the City to transfer/sell City owned property, located at N.W. 2<sup>nd</sup> Street, to be utilized for affordable housing purposes; and approve Contract for Sale and Purchase between the City and the Delray Beach Community Redevelopment Agency in the amount of \$10.00.
- E. **ORDINANCE NO. 37-08:** Transmittal hearing for Comprehensive Plan Amendment 2008-WSP1, regarding the Water Supply Facilities Work Plan.
- F. **ORDINANCE NO. 09-08 (FIRST READING/FIRST PUBLIC HEARING):** City initiated amendments to the Land Development Regulations (LDR) amending Article 4.5, "Overlay and Environmental Management Districts", Section 4.5.1, "Historic Preservation Sites and Districts", enacting a new Subsection 4.5.1(N), "Criteria for Change of Historic Designation and/or Classification", and a new Subsection 4.5.1(O), "Procedures for Change of Historic Designation and/or Classification", in order to provide criteria and a method for a change of historic designation and/or classification. If passed, a second public hearing will be scheduled for September 16, 2008.
- G. **ORDINANCE NO. 30-08 (FIRST READING/FIRST PUBLIC HEARING):** City initiated amendments to the Land Development Regulations (LDR) Section 2.2.6, "The Historic Preservation Board", Subsection (D), "Duties, Powers, and Responsibilities", to provide consistency with the requirements listed in other sections in the Land Development Regulations (LDR), amending Section 4.5.1, "Historic Preservation Sites and Districts", Subsection (D), "Review And Approval Procedures", (E), "Development Standards", (F), "Restrictions on Demolitions", (H), "Undue Economic Hardship", and (I), "Historic Preservation Board to act on Site Plans, Landscape Plans, and Architectural Elevations", to require that relocation of a structure not occur until the building permit for the redevelopment plans have been issued. If passed, a second public hearing will be scheduled for September 16, 2008.

- H. **ORDINANCE NO. 41-08 (FIRST READING/FIRST PUBLIC HEARING):**  
 City initiated amendment to the Land Development Regulations (LDR) Section 2.4.3(B) “Standard Plan Items”, Section 2.4.3(M) “Credentials for Preparation of Certain Submission Items” and Section 4.6.8 “Lighting” to provide for new lighting standards. ***(THIS ORDINANCE IS REQUESTED TO BE POSTPONED)***
- I. **ORDINANCE NO. 35-08 (FIRST READING/FIRST PUBLIC HEARING):**  
 City initiated amendment to the Land Development Regulations (LDR) amending Section 4.6.19(D), “Preservation and Promotion of Existing Plant Communities”; Section 4.6.19(E), “Tree Removal and Land Clearing Permits”, and Appendix “A”, “Definitions”, to clarify the regulations governing the “Tree Trust Fund.” If passed, a second public hearing will be held on September 16, 2008.
- J. **ORDINANCE NO. 38-08 (FIRST READING/FIRST PUBLIC HEARING):**  
 City initiated amendments to the Land Development Regulations (LDR) for Section 2.4.3, “Submission Requirements”, Subsection (K) “Fees” to provide fees for extension requests; Section 2.4.4 “General Procedures Pertaining to Approval of Land Use and Development Applications”, Subsections (D), “Establishment of Project Approvals”, (E), “Expiration of Approvals”, and (F), “Extensions”, to provide for the expiration and extension of time for Class I - V Site Plan Modifications and Certificates of Appropriateness. If passed, a second public hearing will be held on September 16, 2008.
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. 42-08:** An ordinance amending Chapter 52, “Water” of the City Code of Ordinances by amending Section 52.34, “Water Rates”, to provide for a 5% increase in residential, nonresidential, and irrigation rates for FY 2009. If passed, a public hearing will be scheduled for September 16, 2008.
- B. **ORDINANCE NO. 43-08:** An ordinance amending Chapter 53, “Sanitary Sewers”, of the City Code of Ordinances by amending Section 53.130, “User Charges; Wholesale Sewer Rates; Calculation of Sewer Surcharge”, to provide for increased sewer rates for FY 2009. If passed, a public hearing will be scheduled for September 16, 2008.
- C. **ORDINANCE NO. 44-08:** 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 increasing contracted garbage, trash, recycling, vegetation, and bulk waste collection service rates for FY 2009. If passed, a public hearing will be scheduled for September 16, 2008.

- D. **ORDINANCE NO. 45-08:** An ordinance amending Chapter 92, “Boats and Boating,” of the Code of Ordinances by amending Subsection 92.33, “Dockage Rates”, to provide for a change in the rate structure and the addition of application and daily docking fees. If passed, a public hearing will be held on September 16, 2008.

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

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

POSTED: AUGUST 29, 2008