

City of Delray Beach

Regular Commission Meeting

AGENDA RESULTS



RULES FOR PUBLIC PARTICIPATION

Tuesday, November 20, 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.

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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 Ellis absent)
2. **INVOCATION.**
3. **PLEDGE OF ALLEGIANCE TO THE FLAG.**
4. **AGENDA APPROVAL.** (Vice Mayor Fetzer noted Additional Information for Item 9.A., Agreement/Delray Beach Historical Society, Inc.; Item 10.A.1., Appeal/Site Plan and Review Board Actions/Midtown Delray was added to Public Hearings by addendum; Additional Information for Item 10.C, Ordinance No. 31-07 (Second Reading/Second Public Hearing); Correction to the funding account for Item 8.U.3., Contract Award/BG Group, Inc.; Additional Text Amendments were added to Item 10.D., Ordinance No. 22-07 (Second Reading/Adoption Hearing for Comprehensive Plan Amendment 2007-2); Item 10.E., Ordinance No. 55-07 (First Reading/First Public Hearing) was postponed to the December 4, 2007 Commission Meeting due to a request from the applicant; and Item 8.O., Encroachment Agreement/Fence Installation Agreement/Royal Atlantic/Bob Federspiel Garage was moved to Item 9.A.A. under the Regular Agenda; Approved as amended, 4-0)
5. **APPROVAL OF MINUTES:**
 - November 13, 2007 – Workshop Meeting (Approved, 4-0)
6. **PROCLAMATIONS:**
 - A. NONE
7. **PRESENTATIONS:**
 - A. Florida Department of Transportation (FDOT) Project Engineer Eiseman and Russo on the progress of SR A-1-A RRR Project
 - B. Government Finance Officers Association - Certificate of Achievement for Excellence in Financial Reporting
8. **CONSENT AGENDA:** City Manager Recommends Approval. (Approved as amended, 4-0)
 - A. **ACCEPTANCE OF A RIGHT-OF-WAY DEED/SIDEWALK EASEMENT AND SIDEWALK DEFERRAL REQUEST/1015 NASSAU STREET:** Approve and accept a right-of-way deed for a 5.6 foot right-of-way, a 5 foot sidewalk easement and a sidewalk deferral request for 1015 Nassau Street, located within the Nassau Street Historic District.
 - B. **PALM BEACH COUNTY EMERGENCY MEDICAL SERVICES GRANT:** Approve and accept the Palm Beach County Emergency Medical Services (EMS) Grant in the amount of \$46,340.000 from the EMS County Grant Award; and authorize staff to submit a letter of confirmation to the Palm Beach County Division of Emergency Management to officially accept the grant award and the State and County grant requirements.

- C. **AGREEMENT/GULFSTREAM GOODWILL INDUSTRIES:** Approve an agreement between the City and Gulfstream Goodwill Industries for funding and acceptance of funds in the amount of \$70,730.00 to provide services to ex-offenders returning to targeted neighborhoods within the City of Delray Beach.
- D. **POLICE AND FIRE COMMUNICATIONS AGREEMENT/TOWN OF GULF STREAM, FLORIDA:** Approve a Police and Fire Communications Agreement between the City and the Town of Gulf Stream, Florida in the amount of \$42,970.00 per year for the use of the Delray Beach Police Department's police and fire dispatching and communications services.
- E. **AGREEMENT/PENN CREDIT CORPORATION:** Approve an agreement between the City and Penn Credit Corporation to provide professional collection services for delinquent parking tickets. Penn Credit Corporation's fee will be eighteen percent (18%) of the collections.
- F. **FIRST AMENDMENT/INTERCONNECT AGREEMENT/PALM BEACH COUNTY:** Approve an Amendment to the Interconnect Agreement between the City and Palm Beach County that provides for an extra interconnect at Ferndale Drive and Military Trail; revises the fees for water charges; and revises the remedies each party shall have against the other party.
- G. **AMENDMENT NO. 1/INTERLOCAL AGREEMENT/COMMUNITY REDEVELOPMENT AGENCY/CLEAN AND SAFE PROGRAM:** Approve Amendment No. 1 to the Interlocal Agreement between the City and the Community Redevelopment Agency (CRA), which modifies the language in Paragraph Four (4) to change the date by which the City shall provide a quarterly report to the CRA Executive Director to no later than ten (10) days after the end of each quarter.
- H. **AMENDMENT NO. 1/INTERLOCAL AGREEMENT/COMMUNITY REDEVELOPMENT AGENCY/CONSTRUCTION/PROFESSIONAL SERVICES:** Approve Amendment No. 1 to the Interlocal Agreement between the City and the Community Redevelopment Agency (CRA) for funding construction/professional services for FY 2007/2008, to include the S.W. 12th Avenue/Auburn Avenue Beautification Project.
- I. **AMENDMENT NO. 1/LEASE AGREEMENT FOR BOY SCOUT HUT/PIIONEER BOYS ASSOCIATION, INC.:** Approve Amendment No. 1 to the Lease Agreement between the City and the Pioneer Boys Association, Inc., providing that the leased area only encompasses the area directly under the Boy Scout Hut, and that the scouts shall only be required to provide "participants insurance" as obtained through the National Boy Scouts of America.
- J. **AMENDMENT NO. 2 TO THE BID AWARD/HATCHER CONSTRUCTION AND DEVELOPMENT, INC./133 N.W. 5TH AVENUE:** Approve Amendment No. 2 to the bid award between the City, Community Redevelopment Agency (CRA) and Hatcher Development and Construction to provide for exterior improvements at 133 N.W. 5th Avenue.

- K. **WAIVER OF BID IRREGULARITY/135 N.W. 5TH AVENUE:** Approve a request to waive an irregularity in the bid process for 135 N.W. 5th Avenue, in which an error was identified in the bid documents previously submitted by Stuart and Shelby Development.
1. **BID AWARD/STUART AND SHELBY DEVELOPMENT:** Approve a bid award to Stuart and Shelby Development in the amount of \$554,323.00 for the rehabilitation of 135 N.W. 5th Avenue. Funding is available from 118-1930-554-49.19 (Community Development Fund/Housing Rehabilitation).
- L. **HOUSING REHABILITATION GRANT/CONTRACT AWARD:** Approve one (1) Housing Rehabilitation grant/contract award through the Neighborhood Services Division in the amount of \$36,524.25 to South Florida Construction Services. Funding is available from 118-1924-554-49.19 (State Housing Initiatives Partnership (SHIP) Program/Housing Rehabilitation).
- M. **SUB-RECIPIENT AGREEMENT/COMMUNITY LAND TRUST, INC. (CLT):** Approve a Sub-Recipient Agreement between the City and the Community Land Trust, Inc. (CLT) for the purposes of subsidizing the costs associated with affordable housing units and management of affordable rental properties with the CLT.
- N. **UPDATE THE NEIGHBORHOOD SERVICES PROGRAM DESCRIPTION MANUAL:** Approve an update to the Neighborhood Services Division Program Description Manual, which specifies the standard operating procedures for Federal, State and Local programs administered under the Department of Community Improvement, Neighborhood Services Division.
- O. **(MOVED TO ITEM 9.A.A. ON THE REGULAR AGENDA).**
- P. **RESOLUTION NO. 67-07:** Approve and adopt Resolution No. 67-07 establishing a Green Task Force.
- Q. **SPECIAL EVENT REQUEST/FIRST NIGHT 2008:** Approve a special event request to endorse the 10th Annual First Night 2008 event on December 31, 2007 from 4:00 p.m. to midnight, granting a temporary use permit per LDR Section 2.4.6(F) for the use and street closures of City rights-of-way and facilities as requested, to authorize staff support for security and traffic control, signage construction and installation, barricade set-up/removal, trash removal and clean up, EMS services, and use/set-up of the new City stage as needed at no charge.
- R. **SERVICE AUTHORIZATION NO. 01-32/AVIROM & ASSOCIATES, INC.:** Approve Service Authorization No. 01-32 in the amount of \$16,956.00 to Avirom & Associates, Inc. for the survey on Homewood Boulevard from the south right-of-way of Atlantic Avenue to the south right-of-way of Lowson Boulevard. Funding is available from 334-3162-541-68.46 (General Construction Fund/Homewood Bikepaths).

S. **ACTUARIAL SERVICES/GABRIEL ROEDER SMITH AND COMPANY (GRS):** Consider approval of a four (4) year contract with Gabriel Roeder Smith & Company (GRS) in the amount of \$29,000.00 for actuarial services relating to GASB 45 Other Post Employment Benefits (OPEB). Funding is available from 551-1571-591-34.90 (Business Insurance Fund/Other Contractual Services).

T. **REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:** Accept the actions and decisions made by the Land Development Boards for the period November 5, 2007 through November 16, 2007.

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

1. Purchase award to Duval Ford in the amount of \$24,055.00 via the Florida Sheriff's Association Contract #07-15-0827, Specification #1 for the purchase of one (1) 2008 Ford Crown Victoria Police Interceptor with options and warranty for the Police Department. Funding is available from 501-3312-591-64.20 (Central Garage Fund/Automotive).
2. Contract award to Industrial Divers Corporation in the amount of \$69,192.00 for the purchase and installation of Tide Flex Check Valves of various sizes at eight (8) storm water outfall locations in the Intracoastal Waterway. Funding is available from 448-5416-538-46.90 (Stormwater Utility Fund/Other Repair/Maintenance Costs).
3. Contract award to BG Group LLC in the amount of \$801,436.00 for the demolition of Carver Estates. Funding is available from CDBG Sub-Grant Agreement No. 07DB-3V-10-60-01-Z07.

9. **REGULAR AGENDA:**

A.A. **ENCROACHMENT AGREEMENT/FENCE INSTALLATION AGREEMENT/ROYAL ATLANTIC/BOB FEDERSPIEL GARAGE:** Approve an agreement between the City and Ocean City Place, LLC providing that the City is released from any claim regarding any issue pertaining to the encroachment of chemical grout located adjacent to the north face of the Bob Federspiel Garage building; and approve a fence installation agreement allowing Royal Atlantic to install at its own cost a louvered fence on the top floor of the Bob Federspiel Garage Building. (Approved, 4-0)

A. **AGREEMENT/DELRAY BEACH HISTORICAL SOCIETY, INC.:** Consider approval of an agreement between the City and the Delray Beach Historical Society, Inc. for funding in an amount not to exceed \$175,000.00 for the Hunt House Rehabilitation and Construction of an Archival Storage Facility. (Motion to approve; Approved, 4-0)

- B. **TENNIS CENTER CONSULTING AGREEMENT/JCD SPORTS GROUP, INC.:** Consider approval of a consulting agreement with JCD Sports Group, Inc. in the amount of \$125,071.20 for the period of December 1, 2007 through November 30, 2012. Funding is available from 001-4210-575-34.90 (Tennis Center Special Events/Other Contractual Services). (Motion to approve; Approved, 4-0)
- C. **DISCUSSION/2008 ANNUAL TOWN HALL MEETING:** Provide direction regarding the schedule for the 2008 Annual Town Hall Meeting. (Consensus of the Commission to move the 2008 Annual Town Hall Meeting to January 30, 2008 and to do the Roundtable format)
- D. **SETTLEMENT OFFER IN ANNA CHANDLER v. CITY OF DELRAY BEACH ET AL:** Consider a Settlement Offer in the total amount of \$200,000.00 in Anna Chandler v. City of Delray Beach, et al. Staff recommends denial of this settlement offer. (Motion to approve settlement; DENIED, 4-0)
- E. **SETTLEMENT OFFER IN WILLIAM LANAGAN v. CITY OF DELRAY BEACH ET AL:** Consider a Settlement Offer in the total amount of \$100,000.00 in William Lanagan v. City of Delray Beach, et al. Staff recommends denial of this settlement offer. (Motion to approve settlement; DENIED, 4-0)
- F. **APPOINTMENT TO THE DOWNTOWN DEVELOPMENT AUTHORITY:** Appoint one (1) regular member to the Downtown Development Authority (DDA) to serve an unexpired term ending July 1, 2008. Based upon the rotation system, the appointment will be made by Commissioner Eliopoulos (Seat #1). (DEFERRED until the December 4, 2007 Regular Commission Meeting)
- G. **APPOINTMENT TO THE NEIGHBORHOOD ADVISORY COUNCIL:** Appoint one (1) regular member from Zone 1 to the Neighborhood Advisory Council to serve an unexpired term ending October 31, 2008. Based upon the rotation system, the appointment will be made by Commissioner McDuffie (Seat #3). (DEFERRED until the December 4, 2007 Regular Commission Meeting)
10. **PUBLIC HEARINGS:**
- A. **ORDINANCE NO. 46-07 (SECOND READING/SECOND PUBLIC HEARING):** Consideration of a rezoning request to allow a modification of the Blood's Grove Special Activities District (S.A.D.), Zoning Ordinance No. 51-95, in conjunction with a new mixed-use development known as Midtown Delray containing 116 townhouse units (of which 32 units are subject to the family workforce housing ordinance) and 29,571 square feet of medical offices to be located at the southwest corner of Linton Boulevard and Old Germantown Road (4600 Linton Boulevard). (*Quasi-Judicial Hearing*) (*A Request was received to postpone this item*) (Motion to POSTPONE to a date certain of December 4, 2007 Regular Commission Meeting; Approved, 4-0)

1. **APPEAL/SITE PLAN REVIEW AND APPEARANCE BOARD ACTIONS/MIDTOWN DELRAY:** Consideration of an appeal regarding the Site Plan Review and Appearance Board’s approval of the site plan, landscape plan and architectural elevations associated with the construction of a proposed 116-unit townhouse development and 29,571 square foot medical office building known as Midtown Delray, located at 4600 Linton Boulevard. (Motion to **POSTPONE** to a date certain of December 4, 2007 Regular Commission Meeting; Approved, 4-0)

- B. **ORDINANCE NO. 52-07:** Consideration of a rezoning from R-1-A (Single Family Residential) to CF (Community Facilities) for 345 N.W. 5th Avenue to accommodate offices associated with the Achievement Centers for Children and Families, located at 555 N.W. 4th Street. (Approved, 4-0)

- C. **ORDINANCE NO. 31-07 (SECOND READING/SECOND PUBLIC HEARING):** Privately initiated amendment to the Land Development Regulations amending Section 4.4.24, “Old School Square Historic Arts District (OSSHAD)”, Subsection 4.4.24(B), “Principal Uses and Structures”, to include an additional property that is allowed the permitted uses of the Central Business District (CBD) Zoning District; amending Subsection 4.4.24(F), “Development Standards”, to include an additional property in the Old School Square Historic Arts District (OSSHAD) that is subject to the standards of the Central Business District (CBD) Zoning District. (Motion to **POSTPONE** for 90 days to a date certain of February 19, 2008 Regular Commission Meeting; Approved, 4-0)

- D. **ORDINANCE NO. 22-07 (SECOND READING/ADOPTION HEARING FOR COMPREHENSIVE PLAN AMENDMENT 2007-2):** Consider on second reading an ordinance adopting Comprehensive Plan Amendment 2007-2 and associated Future Land Use Map (FLUM) amendments. Amendment 2007-2 includes:
 1. **Text Amendments:**
 - (i) Future Land Use Element – Modification of the description of the GC (General Commercial) Future Land Use designation to increase the allowable percentage of building area devoted to residential use from 15% to 75% at a maximum density of 30 units per acre within the Four Corners Overlay District, subject to the provision of workforce housing.
 - (ii) Future Land Use Element - Modification of Policy A-7.2 to include the provision of workforce housing in the Four Corners Overlay District.
 - (iii) Future Land Use Element – Modification of the description of the TRN (Transitional) Future Land Use designation to allow for increased residential density up to 24 units per acre within the Carver Estates Overlay District, subject to the provision of workforce housing.

- (iv) Future Land Use Element – Expansion of the Southwest Neighborhood Area Overlay District to include properties located ½ block on either side of SW 12th Avenue, between SW 2nd Street and SW 3rd Street. This overlay district allows a maximum density of 24 units per acre, subject to the provision of workforce housing.
- (v) Future Land Use Element – Modification of the description of the Medium Density Residential Future Land Use designation to accommodate expansion of the Carver Estates Overlay Area to include the south portion of the Auburn Trace Development. This area is currently located within the Infill Workforce Housing Area which allows up to 18 units per acre, subject to the provision of workforce housing. Within the Carver Estates Overlay Area, the maximum density will increase to 24 units per area.
- (vi) Capital Improvement Element – Modification of Table CI-CIP (5-Year Capital Improvements Schedule for Projects > \$25,000) to reflect adoption of the FY 2007-2011 Capital Improvement Program.
- (vii) Capital Improvement Element – Modification of Table SD-CIP, School District of Palm Beach County Capital Improvement Schedule.
- (viii) Capital Improvement Element – Modification of Policy A-3.7 to reflect a change in one of the timeframes in the Palm Beach County School District’s Capital Improvement Schedule (Table SD-CIP) from six years to five years.
- (ix) Capital Improvement Element – Modification of Policy A-8.3 to reflect changes in the format of the Palm Beach County School District’s Capital Improvement Schedule (Table SD-CIP).

2. Future Land Use Map Amendment:

- a. City initiated Future Land Use Map amendment for approximately 3.9 acres, located ½ block on either side of SW 12th Avenue, between S.W. 2nd Street and S.W. 3rd Street, from LD (Residential Low Density 0-5 du/ac) to MD (Residential Medium Density 5-12 du/ac). (Approved, 4-0)

E. **ORDINANCE NO. 55-07 (FIRST READING/FIRST PUBLIC HEARING):**

City initiated amendment to the Land Development Regulations (LDR) amending Section 1.4.3(D), “Enforcement”; Section 1.4.4(A), “Penalty”; Section 1.4.4(D), “Penalty”; Section 4.5.1(F)(9), “Demolition”; and Section 4.5.1(F), “Restrictions on Demolitions”, providing regulations regarding the issuance of code violation notices and the neglect and demolition of historic structures. If passed, a second public hearing will be scheduled for December 4, 2007. (Motion to **POSTPONE** to a date certain of December 4, 2007 Regular Commission Meeting; Approved, 4-0)

- F. **ORDINANCE NO. 54-07:** City initiated rezoning from R-1-A (Single Family Residential) District to RM (Medium Density Residential) District for approximately 3.9 acres, located ½ block on either side of S.W. 12th Avenue, between S.W. 2nd Street and S.W. 3rd Street. (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. 56-07:** An ordinance amending Chapter 32, “Departments, Boards and Commissions”, of the Code of Ordinances of the City of Delray Beach, Florida, by amending Section 32.41, “Composition; Terms; Appointment”, to clarify the composition of the Kids and Cops Committee. If passed, a second public hearing will be scheduled for December 4, 2007. (Approved, 4-0)

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

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

14. **CLOSED ATTORNEY/CLIENT SESSION** pursuant to F.S. 286.011(8) re: the case of: Kenneth Miller, et al. v. Darren Cogoni, et al
Case No. 07-80249-CIV-Middlebrooks

Attendees: Mayor Rita Ellis
Commissioner Gary P. Eliopoulos
Commissioner Fred B. Fetzer
Commissioner Woodie McDuffie
Commissioner Brenda B. Montague
City Manager David Harden
City Attorney Susan Ruby
Police Legal Advisor Cathy Kozol
Attorney Fred Gelston
A certified court reporter

Purpose: Discuss settlement negotiations and strategy related to litigation expenditures in the above case.

15. **SETTLEMENT OF:**

Kenneth Miller, et al. v. Darren Cogoni, et al
Case No. 07-80249-CIV-Middlebrooks (Motion to approve the settlement with Kenneth Miller, et al. v. Darren Cogoni, et al., subject to obtaining appropriate hold harmless agreements from the Willie Gary Law Firm and complete releases from all personal representatives on behalf of all survivors; Approved, 4-0)

POSTED: NOVEMBER 16, 2007

****** Meeting adjourned at 8:03 p.m. ******