

# City of Delray Beach

## Regular Commission Meeting

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



### RULES FOR PUBLIC PARTICIPATION

Tuesday, December 11, 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.

100 NW 1st Avenue  
Delray Beach, Florida 33444

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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 noted Item 8.S.6., Bid Award/Ron Bell, Inc. was added to the Consent Agenda by addendum; Item 9.U., Purchase Award/MWI Corporation was added to the Regular Agenda by addendum; Item 9.A., Appeal of Site Plan Review and Appearance Board Decision/Pediatrics By The Sea and Item 9.B., Waiver Requests/Pediatrics By The Sea were conducted as one hearing; Items 9.H., Waiver Request/Spady Cultural Complex and 9.I., Conditional Use Extension Request/Spady Cultural Complex were conducted as one hearing; Items 10.A., Ordinance No. 46-07; 10.A.1. Appeal/Site Plan Review and Appearance Board Actions/Midtown Delray and 10.A.2., Waiver Requests/Midtown Delray were conducted as one hearing; Approved as amended, 5-0)
5. **APPROVAL OF MINUTES:**
  - November 6, 2007 – Regular Meeting (Approved, 5-0)
  - November 20, 2007 – Regular Meeting (Approved, 5-0)
6. **PROCLAMATIONS:**
  - A. Martin Luther King, Jr. Day – January 21, 2008
7. **PRESENTATIONS:**
  - A. **RESOLUTION NO. 68-07:** Recognizing and Commending **Captain Mark S. Davis** for 30 years of dedicated service to the City of Delray Beach
  - B. City of Delray Beach Residents’ Academy Certificates – Janet Meeks
  - C. Chief’s Achievement Award for the Delray Beach Police Department Dive Team – Chief Schroeder
8. **CONSENT AGENDA:** City Manager Recommends Approval. (Approved as amended, 5-0)
  - A. **RATIFICATION OF THE APPOINTMENTS TO THE KIDS AND COPS COMMITTEE:** Approve and ratify certain appointments to the Kids and Cops Committee to serve two (2) year terms ending November 30, 2009.
  - B. **RESOLUTION NO. 69-07/ALTERNATIVE WATER SUPPLY GRANT/SOUTH FLORIDA WATER MANAGEMENT DISTRICT (SFWMD):** Approve and adopt Resolution No. 69-07 authorizing execution of an Alternative Water Supply Grant Agreement with the South Florida Water Management District (SFWMD) for funding in the amount of \$619,700.00 for the construction of the Area 4 Reclaimed Water Transmission System Project.

- C. **RATE ADJUSTMENTS/AMENDMENT NO. 6/DAVID MILLER AND ASSOCIATES, INC.:** Approve Amendment No. 6 to David Miller and Associates, Inc. Architectural Services Agreement Section VII(A)(2)(a) to adjust the hourly rates by five percent (5%).
- D. **STATE HOUSING INITIATIVE PARTNERSHIP (SHIP) ALLOCATION FOR FY 2007-2008 RECAPTURED FUNDS:** Approve and authorize the City to allocate the recaptured funds for FY 2007-2008 for the purchase of existing and/or construction of new single family homes, townhouses and condominiums in partnership with a participating Community Development Corporation (CDC) and/or eligible non-profit organizations. Funding is available from 118-1924-554-49.20 (State Housing Initiatives Partnership).
- E. **AMENDMENT/MEMORANDUM OF AGREEMENT (MOA)/ NEIGHBORHOOD RESOURCE CENTER/UNITED WAY PROSPERITY CENTER:** Approve an amendment to the Memorandum of Agreement (MOA) with the United Way of Palm Beach County (UWPBC) for the Prosperity Center at the Neighborhood Resource Center providing that the City will fund a one (1) time grant in the amount of \$22,000.00 in support of the Prosperity Center Manager position for FY 2007/2008.
- F. **AMENDMENT TO AGREEMENT/ACHIEVEMENT CENTERS FOR CHILDREN AND FAMILIES:** Approve an Amendment to the agreement between the City and the Achievement Centers for Children and Families (ACCF), to include funding in the amount of \$52,000.00 for the teen program provided through the Parks and Recreation Department for FY 2007/2008. Funding is available from 001-4111-572-83.01 (General Fund/Other Grants and Aids).
- G. **REQUEST FOR SIDEWALK DEFERRAL/1516 LAKE DRIVE:** Approve a request to defer the installation of a sidewalk in front of 1516 Lake Drive.
- H. **FINAL SUBDIVISION PLAT APPROVAL/OLD SCHOOL SQUARE PARKING GARAGE AND PARK SITE PLAT:** Approve the subdivision plat for the Old School Square Parking Garage and Park Site Plat, located in Block 76 and bounded by an alley on the south, N.E. 1<sup>st</sup> Avenue on the west, N.E. 1<sup>st</sup> Street on the north and Pineapple Grove Way (N.E. 2<sup>nd</sup> Avenue on the east).
- I. **SERVICE AUTHORIZATION NO. 04-01.5/CH2M HILL, INC.:** Approve Service Authorization No. 04-01.5 (Amendment 5 to Service Authorization No. 1) to CH2M Hill, Inc. in the amount of \$12,211.00 for professional engineering services in identifying pre-treatment options for removing contaminants from the Aquifer Storage and Recovery Well. Funding is available from 442-5178-536-46.90 (Water/Sewer Renewal & Replacement Fund/Other Repair & Maintenance Costs).
- J. **CDBG CONSOLIDATED ANNUAL PERFORMANCE AND EVALUATION REPORT (CAPER):** Approve the Community Development Block Grant (CDBG) Consolidated Annual Performance and Evaluation Report (CAPER) for FY 2006-2007 as required by the U.S. Department of Housing and Urban Development.

- K. **HOUSING REHABILITATION GRANT/CONTRACT AWARD:** Approve a Housing Rehabilitation grant/contract award to Master Contractors, Inc. in the amount of \$21,614.25. Funding is available from 118-1963-554-49.19 (Community Development Fund/Housing Rehabilitation); and approve a waiver request to the Neighborhood Services Division's approved Policies and Procedures that limits bid awards to be within ten percent (10%) of the in-house estimate.
- L. **COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) SUB-RECIPIENT FUNDING AGREEMENT/URBAN LEAGUE OF PALM BEACH COUNTY:** Approve and authorize the execution of a funding agreement with one (1) sub-recipient (the Urban League of Palm Beach County, Inc.) under the Community Development Block Grant (CDBG) program for FY 2007-2008, with the total funding in the amount of \$7,410.00. Funding is available from 118-1966-554-83.01 (Community Development Fund/Other Grants and Aids).
- M. **COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) SUB-RECIPIENT FUNDING AGREEMENT/ACHIEVEMENT CENTERS FOR CHILDREN AND FAMILIES:** Approve and authorize the execution of a funding agreement with one (1) sub-recipient (Community Child Care Center d/b/a Achievement Centers for Children and Families) under the Community Development Block Grant (CDBG) program for FY 2007-2008, with the total funding in the amount of \$75,000.00. Funding is available from 118-1966-554-83.01 (Community Development Fund/Community Child Care Center).
- N. **RESOLUTION NO. 70-07/FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT)/LANDSCAPE IMPROVEMENTS:** Approve a Memorandum of Agreement (MOA) with the Florida Department of Transportation (FDOT) for the maintenance of landscaping along SR 806 (E/W Atlantic Avenue) from S.W./N.W. 12<sup>th</sup> Avenue to SR A1A; and approve Resolution No. 70-07.
- O. **SPECIAL EVENT REQUEST/ART & JAZZ ON THE AVENUE:** Approve a special event request for the Art & Jazz on the Avenue scheduled for January 17, 2008 from 6:00 p.m. to 10:00 p.m.; granting a temporary use permit per LDR Section 2.4.6(F) for the closure of Atlantic Avenue from Swinton Avenue to the west side of N.E./S.E. 7<sup>th</sup> Avenue, Railroad Avenue from Atlantic north to north side of the east/west alley, and to the alleys north and south of Atlantic on N.E./S.E. 1<sup>st</sup> Avenue, N.E./S.E. 2<sup>nd</sup> Avenue, S.E. 3<sup>rd</sup> Avenue, N.E./S.E. 4<sup>th</sup> Avenue, and authorize staff support for security and traffic control, banner hanging/removal, barricade set-up/removal, trash removal, clean up assistance, and with payment of costs to the City per the agreement between the City and the Downtown Marketing Cooperative.
- P. **CONTRACT RENEWAL/HB ACTUARIAL SERVICES, INC.:** Approve renewal of an agreement with HB Actuarial Services, Inc. in the amount of \$12,000.00 for professional services related to property and casualty insurance. Funding is available from 551-1575-591-31.90 (Business Insurance Fund/Other Professional Services).

Q. **REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:**  
Accept the actions and decisions made by the Land Development Boards for the period from November 19, 2007 through November 30, 2007.

R. **REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:**  
Accept the actions and decisions made by the Land Development Boards for the period from December 3, 2007 through December 7, 2007.

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

1. Contract award to RSI of Florida in the amount of \$174,993.00 for the Fire Station No. 2 Re-Roofing Project. Funding is available from 334-6112-522-46.15 (General Construction Fund/Roof Repair-Fire Station).
2. Contract award to Total Quality Construction Services, Inc. in the amount of \$156,727.74 for the construction of the west parking lot at the Delray Beach Swim and Tennis Center. Funding is available from 117-4133-572-65.57 (Recreation Impact Fee Fund/Swim and Tennis Parking Lot).
3. Purchase award to The Armored Group, LLC in the amount of \$96,335.00 for the purchase of a new SWAT truck for the Delray Beach Police Department. Funding is available from 501-3312-591-64.20 (Central Garage Fund/Automotive).
4. Purchase award to Chaz Equipment Inc. in the amount of \$50,000.00 for Sanitary Sewer Manhole Rehabilitation under the terms and conditions of the current annual contract. Funding is available from 442-5178-536-63.82 (Water/Sewer Renewal & Replacement Fund/Sanitary Sewer Manhole Rehabilitation).
5. Purchase award to Line-Tec, Inc. in the amount of \$25,000.00 for the Water Service Relocations. Funding is available from 442-5178-536-65.17 (Water/Sewer Renewal & Replacement Fund/Water Service Relocations).
6. Bid award to Ron Bell, Inc., the *lowest bidder*, in the amount of \$20,780.00 for the replacement of the roof over the living quarters at Fire Station No. 5. Funding is available from 001-2311-522-46.10 (General Fund/Building Maintenance).  
**(Addendum)**

9. **REGULAR AGENDA:**

A. **APPEAL OF SITE PLAN REVIEW AND APPEARANCE BOARD DECISION/PEDIATRICS BY THE SEA:** Consider an appeal of the Site Plan Review and Appearance Board's decision regarding the building elevations associated with the Class IV site plan modification for Pediatrics By The Sea, located at 285 S.E. 5<sup>th</sup> Avenue. *(Quasi-Judicial Hearing)* (Motion to adopt Board Order as presented; Approved, 5-0)

- B. **WAIVER REQUESTS/PEDIATRICS BY THE SEA:** Consider a request for waivers associated with the Class IV Site Plan Modification for Pediatrics By The Sea located at the northeast corner of S.E. 5<sup>th</sup> Avenue and S.E. 3<sup>rd</sup> Street (285 S.E. 5<sup>th</sup> Avenue). *(Quasi-Judicial Hearing)* (Motion to adopt Board Order as presented; Approved, 5-0)
- C. **WAIVER REQUESTS/ONNEN DISASTER AND RECOVERY CENTER:** Consider a request for waivers associated with the Class IV site plan modification for Onnen Disaster and Recovery Center, located at 234 N.E. 4<sup>th</sup> Avenue. *(Quasi-Judicial Hearing)* (Motion to adopt Board Order as presented; Approved, 5-0)
- D. **CONDITIONAL USE REQUEST/WAL-MART:** Consider a conditional use request to allow the establishment of a 24-hour or late night business for Wal-Mart, located on the west side of Military Trail, approximately 650 feet south of Linton Boulevard (16205 South Military Trail). *(Quasi-Judicial Hearing)* (Motion to adopt Board Order as presented; Approved, 4-1. Commissioner Eliopoulos dissenting.)
- E. **CONDITIONAL USE EXTENSION REQUEST/ATLANTIC SHORES:** Consider a conditional use extension request to increase the building height to a maximum of 60 feet and to allow an increase above 30 dwelling units per acre (41.30 du/ac) for Atlantic Shores, a proposed residential development pursuant to Land Development Regulations (LDR) Section 2.4.4.(F)(1) and (2), “Extensions”. Atlantic Shores is located on the west side of S.E. 2<sup>nd</sup> Avenue, approximately 80 feet south of S.E. 1<sup>st</sup> Street. *(Quasi-Judicial Hearing)* (Motion to adopt Board Order as presented; Approved, 5-0)
- F. **WAIVER REQUESTS/HAMMAD SHOPPES:** Consider two (2) waiver requests associated with the Class III Site Plan Modification for the property located at 139 N.W. 5<sup>th</sup> Avenue, Hammad Shoppes, West Settlers Historic District. *(Quasi-Judicial Hearing)* (Motion to adopt Board Order as presented; Approved, 5-0)
- G. **WAIVER REQUESTS/COMMUNITY LAND TRUST, INC.:** Consider a request for waivers of Land Development Regulations (LDR) Section 4.1.4(D), “Use of Lots of Record,” and Section 4.7.12, “Other Incentives”, governing the use of 40 foot lots under the Workforce Housing Ordinance for four (4) parcels submitted for permitting by the Community Land Trust, Inc. The properties are located at 313 S.E. 5<sup>th</sup> Street, 317 S.E. 5<sup>th</sup> Street, 46 N.W. 11<sup>th</sup> Avenue and 48 N.W. 11<sup>th</sup> Avenue. *(Quasi-Judicial Hearing)* (Motion to adopt Board Order as presented; Approved, 5-0)
- H. **WAIVER REQUEST/SPADY CULTURAL COMPLEX:** Consider a waiver request associated with the Class IV Site Plan Modification for the property located at 154 -170 N.W. 5<sup>th</sup> Avenue, Susan Williams House and Spady Cultural Complex, located within the West Settlers Historic District. *(Quasi-Judicial Hearing)* (Motion to adopt Board Order as presented; Approved, 5-0)

- I. **CONDITIONAL USE EXTENSION REQUEST/SPADY CULTURAL COMPLEX:** Consider a conditional use extension request for 154 - 170 N.W. 5<sup>th</sup> Avenue, Susan Williams House and Spady Cultural Complex, located within the West Settlers Historic District. *(Quasi-Judicial Hearing)* (Motion to adopt Board Order as presented; Approved, 5-0)
- J. **BONUS PAYMENT TO JCD SPORTS GROUP, INC.:** Consider approval of FY 2006 - 2007 bonus payment to JCD Sports Group for both golf operations in the amount of \$12,206.25 and for Tennis Center operations in the amount of \$3,795.00. Funding is available from 445-4711-572-34.90 (Delray Beach Municipal Golf Course Fund/Other Contractual Services), 446-4711-572-34.90 (Lakeview Golf Course/Other Contractual Services), 001-4215-575-34.90 (General Fund/Tennis Operations/Tennis Center/Other Contractual Services) and 001-4210-575-34.90 (General Fund/Tennis Operations/Stadium/Other Contractual Services). (Motion to approve bonus payment to JCD Sports Group as recommended by staff; Approved, 5-0)
- K. **SPECIAL EVENT PERMIT REQUEST/BOWFIRE CONCERT/OLD SCHOOL SQUARE:** Consider approval of a permit request for the Bowfire Concert sponsored by Old School Square proposed from 8:00 p.m. to 10:00 p.m. on January 11, 2008, at Old School Square; authorize staff support for security and traffic control, trash pick up and removal, barricade assistance, trash boxes, provide 4'x 4' event signage; authorize reserved parking in the Old School Square Parking Garage; contingent on the receipt of a hold harmless agreement and receipt of the certificate of liability insurance. (Motion to approve subject to staff recommendations; Approved, 5-0)
- L. **SPECIAL EVENT PERMIT REQUEST/HERE AND NOW CONCERT (THE LEGACY OF LUTHER VANDROSS)/OLD SCHOOL SQUARE:** Consider approval of a permit request for the Here and Now: The Legacy of Luther Vandross Concert sponsored by Old School Square proposed from 8:00 p.m. to 10:00 p.m. on January 31, 2008, at Old School Square; authorize staff support for security and traffic control, trash pick up and removal, barricade assistance, trash boxes, provide 4'x 4' event signage; authorize reserved parking in the Old School Square Parking Garage; contingent on the receipt of a hold harmless agreement and receipt of the certificate of liability insurance. (Motion to approve subject to staff recommendations; Approved, 5-0)
- M. **AUTHORIZATION TO FILE COMPLAINT FOR INJUNCTIVE RELIEF/LYDIA R. SMILEY:** Consider a request authorizing the City to file a Complaint for Injunctive Relief against Lydia R. Smiley for failing to comply with Section 91.02(A) of the Code of Ordinances pertaining to keeping poultry on residential property when it is prohibited. (Motion to authorize the City to file a Complaint for Injunctive Relief; Approved, 5-0)
- N. **APPEAL OF FEMA FUNDING DETERMINATION FOR HURRICANE FRANCES:** Consider a request authorizing the City to appeal the decision made by FEMA through their audit process, that the City received approximately \$495,000.00 in funds that was an overpayment from FEMA. (Motion to authorize the City to file an appeal; Approved, 5-0)

- O. **SETTLEMENT OFFER/QUIET TITLE ACTION/CHARLES POWELL V. THE CITY:** Consider approval of a Settlement Offer in the amount of \$485.85 in the Quiet Title Action of Charles Powell v. the City. Staff recommends approval subject to the receipt of the appropriate releases. (Motion to approve settlement offer as recommended; Approved, 5-0)
- P. **RESOLUTION NO. 71-07:** Consideration of Resolution No. 71-07 regarding the City pursuing measures to become a “Green Local Government” using the Green Local Government Standard developed by the Florida Green Building Coalition. (Motion to approve Resolution No. 71-07; Approved, 5-0)
- Q. **U.S. 1 CORRIDOR/TEMPORARY IMPROVEMENTS:** Consider approval of the implementation of the proposed temporary improvements along SE/NE 5<sup>th</sup> Avenue and SE/NE 6<sup>th</sup> Avenue between SE 10<sup>th</sup> Street and George Bush Boulevard. Cost of temporary installation not to exceed \$670,000.00. Funding will be provided by the Community Redevelopment Agency (CRA). (First motion to approve implementation of the temporary improvements; Approved, 4-1. Commissioner Fetzer dissenting. Second motion to continue the commission meeting past 11:00 p.m.; Approved, 5-0)
- R. **APPOINTMENTS TO THE KIDS AND COPS COMMITTEE:** Appoint three (3) regular members to the Kids and Cops Committee to serve two (2) year terms ending November 30, 2009. Based upon the rotation system, the appointments will be made by Mayor Ellis (Seat #5), Commissioner Eliopoulos (Seat #1) and Commissioner Fetzer (Seat #2). (Appointed Jennifer Buce and approved, 4-0; appointed Cory Cassidy and approved, 4-0; and appointed Officer Francis Moschette and approved, 4-0. Commissioner McDuffie away from dais)
- S. **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). (Appointed Diane Franco and approved, 4-0. Commissioner McDuffie away from dais)
- T. **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). (Appointed Ria Santos and approved, 5-0. Commissioner McDuffie returned to dais)
- U. **PURCHASE AWARD/MWI CORPORATION:** Consider approval of a purchase award to MWI Corporation in the amount of \$46,692.00 for a replacement storm water pump at the Thomas Street Pump Station. Funding is available from 448-5461-538-68.18 (Stormwater Utility Fund/Storm Water Pump St Rehab). (Addendum) (Motion to approve; Approved, 5-0)

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)* (Motion to approve Ordinance No. 46-07; Approved, 5-0)
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. *(Quasi-Judicial Hearing)* (Motion to adopt Board Order as presented; Approved, 5-0)
2. **WAIVER REQUESTS/MIDTOWN DELRAY:** Consider approval of two (2) waiver requests associated with Ordinance No. 46-07. *(Quasi-Judicial Hearing)* (Motion to adopt Board Order as presented; Approved, 5-0)
- B. **ORDINANCE NO. 55-07 (FIRST READING/FIRST PUBLIC HEARING):** City initiated amendments to the Land Development Regulations (LDR) amending Section 1.4.3, "Enforcement"; Section 1.4.4, "Penalty", providing that neglect shall constitute a nuisance and providing for enforcement and penalties; Section 2.2.6(C), "Meeting and Quorum", providing for voting, 2.2.6(D), "Duties and Responsibilities", providing for express authority for the Historic Preservation Board to apply the Historic Compatibility Regulations; Section 4.5.1(E), "Development Standards", Subsection 4.5.1(E)(6), "Demolition", and 4.5.1(F), "Restrictions on Demolitions", providing requirements for the application and approval for demolition. If passed, a second public hearing will be scheduled for January 3, 2008. (Motion to **POSTPONE** Ordinance No. 55-07 on First Reading to January 3, 2008 Regular Commission. Commissioner McDuffie away from dais; Approved, 4-0)
- C. **ORDINANCE NO. 57-07 (FIRST READING/FIRST PUBLIC HEARING):** City initiated amendment to Land Development Regulations (LDR) Section 4.4.24 (B)(12), "Principal Uses and Structures", which specifies the accessory uses and structures permitted in the Old School Square Historic Arts District (OSSHAD), to add all of the accessory uses that are also currently permitted in the Central Business District (CBD). If passed, a second public hearing will be scheduled for January 3, 2008. (Motion to approve Ordinance No. 57-07 on First Reading; Approved, 4-0. Commissioner McDuffie returned to dais and Commissioner Montague away from dais)

D. **ORDINANCE NO. 38-07 (FIRST READING/FIRST PUBLIC HEARING):**  
City initiated amendments to the Land Development Regulations (LDR) which intend to clarify the current regulations, provide parameters, and define compatible development within the historic districts. The amendments intend to provide an objective way of providing compatible new development within the City's five (5) historic districts. If passed, a second public hearing will be scheduled for January 3, 2008. *(This ordinance was TABLED by the Planning and Zoning Board at their December 3, 2007 meeting.)* (Motion to **TABLE** Ordinance No. 38-07; Approved, 4-0. Commissioner Montague away from dais)

E. **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. (Motion to approve Ordinance No. 56-07; Approved, 5-0. Commissioner Montague returned to dais)

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. NONE

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:  
Del Boca Vista, LLC, et al. v. City of Delray Beach  
Case No. 07-80452-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  
Assistant City Attorney Terrill Pyburn  
A certified court reporter

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

15. **SETTLEMENT OF:**  
Del Boca Vista, LLC, et al. v. City of Delray Beach  
Case No. 07-80452-CIV-Middlebrooks (City Commission provided direction to the City Attorney)

POSTED: DECEMBER 7, 2007

***\*\*\*\*\* Meeting adjourned at 12:13 a.m. \*\*\*\*\****