

City of Delray Beach

Regular Commission Meeting

AGENDA RESULTS



RULES FOR PUBLIC PARTICIPATION

Tuesday, November 6, 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.**
2. **INVOCATION.**
3. **PLEDGE OF ALLEGIANCE TO THE FLAG.**
4. **AGENDA APPROVAL.** (Mayor noted Item 7.E., Resolution No. 66-07 was added to the agenda under Presentations by addendum; Item 9.L., Guaranteed Maximum Price (GMP)/Seacrest Soccer Complex/Weitz Company was added to the agenda under the Regular Agenda by addendum; Revised Ordinance for Item 10.B.; Revised Ordinance for Item 10.A.; Item 8.Q. Bulleted Item 3, Site Plan Review and Appearance Board Actions/Midtown Delray was moved to the Public Hearings as Item 10.A.1., Item 8.Q.6. Site Plan Review and Appearance Board Actions/Block 69 Office was moved to the Regular Agenda as Item 9.A.A., Item 8.F., Resolution No. 63-07 was moved to the Regular Agenda as Item 9.A.A.A.; Item 8.O., First Night Banner Project was moved to the Regular Agenda as Item 9.A.A.A.A.; and Item 10.C., Ordinance No. 53-07 (First Reading/First Public Hearing) was withdrawn due to a request from the applicant; Approved as amended, 5-0)
5. **APPROVAL OF MINUTES:**
 - October 16, 2007 – Regular Meeting (Approved, 5-0)
6. **PROCLAMATIONS:**
 - A. NONE
7. **PRESENTATIONS:**
 - A. Carolyn Gholston – Multi-Cultural Festival
 - B. Special Recognition Award – Arianna Harrington of Atlantic High School – Winner of the 2007 Sister Cities International Showcase of Young Artists
 - C. Roy F. Kenzie Award – Diana Colonna, Executive Director of Community Redevelopment Agency
 - D. MuniAgenda Presentation – Chevelle D. Nubin, City Clerk
 - E. Resolution No. 66-07 recognizing the Delray Beach Police Department for their first ever reaccreditation from the Commission for Florida Law Enforcement Accreditation, Inc
8. **CONSENT AGENDA:** City Manager Recommends Approval. (Approved as amended, 5-0)
 - A. **ACCEPTANCE OF A RIGHT-OF-WAY DEED/SIDEWALK EASEMENT AND SIDEWALK DEFERRAL REQUEST/1119 NASSAU STREET:** Approve and accept a right-of-way deed for a 5’6” right-of-way dedication along Nassau Street, and accept a 5’ sidewalk easement and a sidewalk deferral request for 1119 Nassau Street.

- B. **CONTRACT ADDITION (C.O. NO. 6)/BLOCK 64 ALLEY IMPROVEMENT PROJECT/CHAZ EQUIPMENT COMPANY, INC.:** Approve a Contract Addition (C.O. No. 6) in the amount of \$49,952.50 to Chaz Equipment Company to add Barwick Road sidewalks to the Block 64 Alley Improvement Project. Funding is available from 334-3162-541-68.02 (General Construction Fund/Other Improvements/Barwick Road Sidewalks).
- C. **CHANGE ORDER NO. 1/OLD SCHOOL SQUARE PARKING GARAGE/CATALFUMO CONSTRUCTION, LTD:** Approve Change Order No. 1 to Catalfumo Construction, LTD for a 35 day extension to complete the Old School Square Parking Garage Project.
- D. **RESOLUTION NO. 60-07:** Approve Resolution No. 60-07 assessing costs for abatement action required for the emergency board-up of an unsafe structure located at 1314 S.W. 22nd Avenue.
- E. **RESOLUTION NO. 61-07 (TAX EXEMPTION REQUEST FOR ELIGIBLE IMPROVEMENTS/226 NORTH SWINTON AVENUE):** Approve a tax exemption request for eligible improvements to 226 North Swinton Avenue, located in the Old School Square Historic District; and approve Resolution No. 61-07.
- F. **(MOVED TO ITEM 9.A.A.A. ON THE REGULAR AGENDA).**
- G. **RESOLUTION NO. 62-07:** Approve Resolution No. 62-07 assessing costs for abatement action required for the emergency board-up of an unsafe structure located at 5116 Pineview Circle.
- H. **AMENDMENT NO. 1/INTERLOCAL AGREEMENT/MULTIPLE AGREEMENT/EAGLE'S NEST PROGRAM AT ATLANTIC HIGH SCHOOL CAREER ACADEMY:** Approve Amendment No. 1 to the Interlocal Agreement and Multiple Party Agreement between the City, Palm Beach County School Board, Community Redevelopment Agency and the Chamber of Commerce for the Eagle's Nest Program at Atlantic High School Career Academy (known as the Eagle's Nest Interlocal Agreement) providing an extension of time until June 30, 2008 to complete construction.
- I. **TERMINATE AGREEMENT/SOUND INVESTMENTS BY J.W. INC./PRO DVD MAKERS:** Approve and authorize the City to terminate the agreement with Sound Investments by J.W., Inc. d/b/a Pro DVD Makers due to budgetary constraints.
- J. **AMENDMENT NO. 1/DOWNTOWN MARKETING COOPERATIVE AGREEMENT:** Approve Amendment No. 1 to the Downtown Marketing Cooperative Agreement with the City, Community Redevelopment Agency, Downtown Development Authority, and the Chamber of Commerce to reduce the City's contribution and change the percentage the Downtown Marketing Cooperative (DMC), will pay the City for DMC events.

- K. **SUBGRANT HIGHWAY SAFETY FUNDS AWARD AGREEMENT/STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT):** Approve and authorize the Mayor to execute a Subgrant Highway Safety Funds Award Agreement with the State of Florida Department of Transportation (FDOT) for acceptance of a grant in the amount of \$58,000.00 for the Child Passenger Safety Program. This is a 100% reimbursable federal grant award that does not require a local cash match.
- L. **SPECIAL EVENT REQUEST/HOWARD ALAN 19th ANNUAL DOWNTOWN ART FESTIVAL:** Approve a special event request for the 19th Annual Downtown Art Festival sponsored by Howard Alan Events, Ltd. to be held on January 19 and 20, 2008 from 10:00 a.m. to 5:00 p.m., granting a temporary use permit per LDR Section 2.4.6(F) for use of City rights-of-way on Atlantic Avenue from the east side of N.E. 6th Avenue to Bronson and the Gladiola lot (N.E. 6th Avenue) for parking; authorize staff to apply for the FDOT street closure permit; authorize staff support for security and traffic control, barricading, EMS assistance, and permit an event sign to be erected on Atlantic Avenue just east of I-95 ten (10) days prior to the event with the sponsor paying all overtime costs.
- M. **ACCEPTANCE OF AN EASEMENT DEED/UNITED STOR-ALL CENTER (FKA DELRAY BEACH EXTRA CLOSET):** Approve and accept a new 12-foot water easement deed at United Stor-All Center (FKA Delray Beach Extra Closet) located at 14216 Military Trail.
- N. **ACCEPTANCE OF RIGHT-OF-WAY DEDICATION/MELLOW MUSHROOM:** Approve and accept a right-of-way deed between the City and Mellow Mushroom located at 25 S.E. 6th Avenue.
- O. **(MOVED TO ITEM 9.A.A.A.A. ON THE REGULAR AGENDA).**
- P. **FLORIDA DEPARTMENT OF ELDER AFFAIRS GRANT/MULTISERVICE SENIOR CENTER/THE DELRAY BEACH FAMILY RECREATION AND FITNESS CENTER:** Approve a request to apply for a grant in the amount of \$2,000,000.00 from the Florida Department of Elder Affairs for the construction of a Multiservice Senior Center at the Delray Beach Family Recreation and Fitness Center.
- Q. **REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:** Accept the actions and decisions made by the Land Development Boards for the period October 15, 2007 through November 2, 2007.
- R. **AWARD OF BIDS AND CONTRACTS:**
1. Bid award to multiple vendors for the purchase of road construction materials for the City via a Co-op Bid in an estimated annual cost of \$350,000.00. Funding is available from various departments operating expense budgets and capital project accounts.

2. Purchase award to Bennett Fire Products Company, Inc. in the amount of \$74,632.80 for the purchase of forty (40) sets of bunker gear which includes the jacket, trouser, suspender and boots for the Fire-Rescue Department. Funding is available from 001-2311-522-52.22, 001-2313-522-52.22, 001-2315-526-52.22, and 001-2317-522-52.22 (General Fund/Uniforms/Linen Services).
3. Purchase award to Otto Waste Systems in the amount of \$60,000.00 for the purchase of hot stamped garbage carts with lids and wheels to be ordered as needed. Funding is available from 433-3711-534-49.35 (Sanitation Fund/Cart Renewal and Replacement).
4. Purchase award to Poolsure of South Florida in the amount of \$56,750.00 for the purchase and delivery of Sodium Hypochlorite to four (4) locations in small quantities due to truck accessibility and Calcium Hypochlorite 3” PPG tablets. Funding is available from 441-5123-536-52.21 (Water/Sewer Fund/Chemicals).
5. Purchase award to PVS Technologies, Inc. in the amount of \$210,000.00 for the purchase and delivery of liquid and dry Ferric Chloride for the Water Treatment Plant as needed for the remainder of 2007 through September 30, 2008. Funding is available from 441-5122-536-52.21 (Water/Sewer Fund/Chemicals).
6. Purchase award to Praxair Inc. in an estimated cost of \$60,000.00 for the purchase and delivery of Liquid Carbon Dioxide (Co2) for the Water Treatment Plant from October 2007 through September 30, 2008. Funding is available from 441-5122-536.52.21 (Water/Sewer Fund/Chemicals).
7. Contract award to Briggs Golf Construction, Inc. in the amount of \$96,780.00 for the reconstruction of the Pompey Park Major League Field No. 1 Project. Funding is available from 334-4127-572-63.90 (General Construction Fund/Other Improvements).
8. Purchase award to Special Products Group in the amount of \$31,115.55 for a weapons light system and to Precision Ammunition in the amount of \$43,803.55 for the purchase of ammunition for the Delray Beach Police Department. Funding is available from 334-2111-521-52.20 (General Construction Fund/General Operating Supplies).
9. Purchase award to POM Incorporated in the amount of \$93,492.50 for the purchase of 250 single head electronic parking meters and to Digital Payment Technologies in the amount of \$159,553.05 for the purchase of 15 pay by space multi space parking meters to be installed on-street and in the parking lots east of the Intracoastal Waterway. Funding is available from 334-3162-545-64.90 (General Construction Fund/Other Machinery/Equipment), pending budget transfer.

9. **REGULAR AGENDA:**

- A.A. **SITE PLAN REVIEW AND APPEARANCE BOARD ACTIONS/BLOCK 69 OFFICE:** Approved with conditions (5-), a Class V site plan, landscape plan, architectural elevation plan and a Certificate of Appropriateness for Block 69 Office, a proposed three-story structure containing covered parking and office use. (Approved, 4-0)
- A.A.A. **RESOLUTION NO. 63-07:** Approve Resolution No. 63-07 appointing a Budget Task Force to review the City's budget and make recommendations regarding same (Approved, 5-0)
- A.A.A.A. **FIRST NIGHT BANNER PROJECT:** Approve funding for supplies for the First Night Banner Art Project. Funding is not to exceed \$3,500.00. Funding is available from the Public Arts Account). (Approved, 5-0)
- A. **WAIVER REQUESTS/BLOCK 69 OFFICE BUILDING:** Consideration of waiver requests associated with the Class V Site Plan for 30 S.E. 1st Avenue (aka Block 69 Office Building), within the Old School Square Historic District located on the west side of S.E. 1st Avenue and Between East Atlantic Avenue and S.E. 1st Street. (*Quasi-Judicial Hearing*) (Commissioner Eliopoulos filed a Conflict of Interest and left dais. Motion to adopt Board Order as presented; Approved, 4-0)
- B. **BLOCK 69 OFFICE BUILDING/PARKING FEE REQUEST:** Consider a parking fee request from the Block 69 Office Building for the purchase of four (4) public parking spaces at a cost of \$72,000.00 to accommodate the construction of a three (3) story office building containing 7,325 square feet of office spaces located at 30 S.E. 1st Avenue. (*Quasi-Judicial Hearing*) (Commissioner Eliopoulos filed a Conflict of Interest and left dais. Motion to adopt Board Order as presented; Approved, 4-0)
- C. **WAIVER REQUEST/MODERN CHIROPRACTIC:** Consider a request from Modern Chiropractic for waiver of Land Development Regulations (LDR) Section 4.6.7(J)(2), "Off -Premise Signs", to allow tenant wall sign to extend into the sign area of the adjacent bay, Saba Trucking. (*Quasi-Judicial Hearing*) (Motion to adopt Board Order as presented; Approved, 5-0. Commissioner Eliopoulos returned to dais)
- D. **WAIVER REQUESTS/ALTA CONGRESS PROJECT:** Consider two (2) waiver requests of Land Development Regulations (LDR) Section 4.7.9(c)(i), "Workforce Housing General Provisions", and Section 4.6.9(D)(4)(d), "Standard Aisle Width", associated with the Class V Site Plan application for the Alta Congress Project located on the west side of Congress Avenue approximately 1,620 feet south of Atlantic Avenue. (*Quasi-Judicial Hearing*) (Motion to adopt Board Order as presented; Approved, 5-0)
- E. **BID AWARD/WEST CONSTRUCTION, INC.:** Consider approval of a bid award to *second lowest bidder*, West Construction, Inc., in the amount of \$2,392,275.00 for the construction of Fire Station No. 4. Funding is available from 334-6112-522-62.88 (General Construction Fund/Fire Station No. 4). (Approved, 5-0)

- F. **INFORMATION TECHNOLOGY (IT) BUILDING/CITY HALL NORTH WING PROJECTS:** Provide direction regarding proposals for the new Information Technology (IT) Building and the City Hall North Wing remodeling Projects. (Motion to move forward with the construction of the Information Technology (IT) Building and City Hall North Wing Remodeling Project; Approved, 4-1. Commissioner Eliopoulos dissenting)
- G. **CONTRACT AWARD/PRISTINE WATER SOLUTIONS:** Consider approval of a contract award to *second lowest bidder*, Pristine Water Solutions, in an estimated annual cost of \$96,894.00 for the purchase of Poly Phosphate at \$0.769 per pound for the Water Treatment Plant as needed. Funding is available from 441-5122-536-52.21 (Water/Sewer Fund/Chemicals). (Approved, 5-0)
- H. **RESOLUTION NO. 64-07:** Consider approval of Resolution No. 64-07 supporting a Plumosa Elementary School Kindergarten through Eighth Grade Fine Arts Magnet Program on the Seacrest Site (Old Atlantic High School). (Approved, 5-0)
- I. **RESOLUTION NO. 65-07:** Consider approval of Resolution No. 65-07 which provides that the City will install temporary features along US Highway 1 to reduce the two (2) one-way streets from three (3) to two (2) lanes between S.E. 10th Street and George Bush Boulevard. (Approved, 5-0)
- J. **APPOINTMENT TO THE DELRAY BEACH HOUSING AUTHORITY:** Appoint one (1) regular member to the Delray Beach Housing Authority for a four (4) year term ending October 27, 2011. Based upon the rotation system, the appointment will be made by Mayor Ellis (Seat #5). (Appointed Christel Silver and approved, 5-0)
- K. **APPOINTMENT TO THE NEIGHBORHOOD ADVISORY COUNCIL:** Appoint one (1) At Large Representative to the Neighborhood Advisory Council to serve a three (3) year term ending August 31, 2010. Based upon the rotation system, the appointment will be made by Commissioner Fetzer (Seat #2). (Appointed Pamela Williams and approved, 5-0)
- L. **GUARANTEED MAXIMUM PRICE (GMP)/SEACREST SOCCER COMPLEX/WEITZ COMPANY:** Provide direction and approval regarding the Guaranteed Maximum Price (GMP) in the amount of \$2,999,723.00 to the Weitz Company for the construction activities associated with the Seacrest Soccer Complex Project. Funding is available from 380-4150-572-63.49 (2004 G.O. Bond) (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)*
- A.1. **SITE PLAN REVIEW AND APPEARANCE BOARD ACTIONS/MIDTOWN DELRAY:** Recommended approval with conditions (4 to 2), Andrew Youngross and Jose Aguila dissenting), of a Class V site plan, landscape plan and architectural elevations associated with the construction of a 116-unit townhouse development (of which 32 units are subject to the family workforce housing ordinance) and 29,571 square feet of medical offices for Midtown Delray, located at 4600 Linton Boulevard). *(Motion to appeal the Site Plan Review and Appearance Board conditions and move the Second Reading of Ordinance No. 46-07 to a date certain of November 20, 2007 Regular Commission Meeting; Approved, 5-0)*
- B. **ORDINANCE NO. 45-07:** An ordinance amending Section 37.45, "Supplemental Code Enforcement Procedures", Subsection (Q), "Civil Penalties", to provide for citations for noise violations of motor vehicles and motorcycles; amending Chapter 99, "Noise Control", by amending Section 99.02, "Definitions", to provide updated definitions; by amending Section 99.04, "Loud and Unnecessary Noises Enumerated; Exceptions", to change the name to "Loud and Raucous Noises Enumerated; Exemptions", by amending Subsection (A), "Certain Acts Declared Unlawful", and (1)(a) and (14), "Motor Vehicles Operating On A Public Right-Of-Way", to add "Motorcycles", "Mufflers", and "Rapid Throttle Advance", in order to provide a cap for all motorcycle exhaust noise and require EPA noise labels. *(Motion to TABLE; Approved, 5-0)*
- C. **ORDINANCE NO. 53-07 (FIRST READING/FIRST PUBLIC HEARING):** Privately initiated amendment to the Land Development Regulations Section 4.4.13, "Central Business District (CBD)," Subsection 4.4.13(D), "Conditional Uses and Structures Allowed," and Subsection 4.4.13(H), "Special Regulations," Article 4.3 "District Regulations, General Provisions," Subsection 4.3.3, "Special Requirements for Specific Uses," and to add automobile boutique as a conditional use subject to the provisions of Section 4.3.3, "Special Requirements for Specific Uses", and Appendix "A" Definitions to add automobile boutique as a conditional use in the Central Business District. If passed, a second public hearing will be scheduled for November 20, 2007. *(Motion to approve; DENIED, 5-0)*
- D. **ORDINANCE NO. 51-07:** An ordinance amending Chapter 92, "Boats and Boating", by amending Section 92.33, "Dockage Rate", of the Code of Ordinances to clarify the dockage rate charged for the City Marina. *(Approved, 5-0)*

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. 52-07:** Consideration of a rezoning from R-1-A (Single Family Residential) to CF (Community Facilities) for 345 N.E. 5th Avenue to accommodate offices associated with the Achievement Centers for Children and Families, located at 555 N.E. 4th Street. If passed, a second public hearing will be scheduled for November 20, 2007. (Approved, 5-0)
- B. **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 a ½ block on either side of S.W. 12th Avenue, between S.W. 2nd Street and S.W. 3rd Street. If passed, a second public hearing will be scheduled for November 20, 2007. (Approved, 5-0)

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

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

POSTED: NOVEMBER 2, 2007

******** Meeting adjourned at 10:26 p.m. ********