

OCTOBER 19, 2010

A Regular Meeting of the City Commission of the City of Delray Beach, Florida, was called to order by Mayor Nelson S. McDuffie in the Commission Chambers at City Hall at 6:00 p.m., Tuesday, October 19, 2010.

1. Roll call showed:

Present - Commissioner Gary P. Eliopoulos
Commissioner Fred B. Fetzer
Commissioner Adam Frankel
Commissioner Angeleta E. Gray
Mayor Nelson S. McDuffie

Absent - David T. Harden, City Manager

Also present were - Robert A. Barcinski, Acting City Manager
Brian Shutt, City Attorney
Chevelle D. Nubin, City Clerk

2. The opening prayer was delivered by Rabbi Barry Silver with Congregation L'Dor VaDor.

3. The Pledge of Allegiance to the flag of the United States of America was given.

At this point, Mayor McDuffie announced that this is Florida City Government Week and tonight we have our young Commissioners, Mayors, and City Managers from Carver Middle School joining the City Commission at the dais.

4. **AGENDA APPROVAL.**

Mayor McDuffie stated **Item 9.D., Appeal Denial of Special Event Permit/WRMF No Snow Ball Event, Item 9.E., Special Event Request/Howard Alan 4th Annual Downtown Delray Beach New Year's Craft Festival and Item 9.F., Special Event Permit and Waiver/Supercar Experience** have been withdrawn and will be back on the next agenda.

For the record, Mr. Eliopoulos stated for **Item 8.A., Request for Sidewalk Deferral/510 Seasage Drive**, he is actually the architect on a different project with this contractor; however, he does not believe there is any conflict.

Mrs. Gray moved to approve the Agenda as amended, seconded by Mr. Frankel. Upon roll call the Commission voted as follows: Mr. Fetzer – Yes; Mr. Frankel – Yes; Mrs. Gray – Yes; Mayor McDuffie – Yes; Mr. Eliopoulos – Yes. Said motion passed with a 5 to 0 vote.

5. APPROVAL OF MINUTES:

Mr. Frankel moved to approve the Minutes of the Regular Meeting of October 5, 2010, seconded by Mrs. Gray. Upon roll call the Commission voted as follows: Mr. Frankel – Yes; Mrs. Gray – Yes; Mayor McDuffie – Yes; Mr. Eliopoulos – Yes; Mr. Fetzer – Yes. Said motion passed with a 5 to 0 vote.

6. PROCLAMATIONS:

6.A. Florida City Government Week – October 17-23, 2010

Janet Meeks, Education Coordinator, stated for the last two weeks they celebrated Florida City Government Week at Carver Middle School. Mrs. Meeks stated part of the requirement was to provide a photo, a campaign slogan, and their platform on which they would run on. On Tuesday, they took in their voting box and had a mock election and then all their peers voted for them and the students are now sitting in the seat of the seat they won that day. Mrs. Meeks stated this will now be the morning program Carver Student Council so they will help the Early Morning Program make decisions on the parties and the program pieces that they are going to do for the year. Mrs. Meeks stated they deliberated with the help of Doug Smith and Rich Reade and they talked about Urban Farming and whether or not they should change the City ordinance to allow a chicken farm in residential neighborhoods.

Lena Wallace, Principal of Carver Middle School, thanked the City of Delray Beach for their support of the students and the Early Morning Program.

Mayor McDuffie read and presented a proclamation hereby proclaiming the week of October 17-23, 2010 as Florida City Government Week to Lena Wallace, Principal of Carver Middle School.

6.B. Healthy Mouth Healthy Body Day – October 27, 2010

Mayor McDuffie read and presented a proclamation hereby proclaiming October 27, 2010 as Healthy Mouth Healthy Body Day. Debora Kerr from the Florida Public Health Institute and Cathy Cabanzon from the Oral Health Coalition came forward to accept the proclamation and gave a few brief comments.

6.C. Families Reading Together Month – November 2010

Mayor McDuffie read and presented a proclamation hereby proclaiming November 2010 as Delray Beach Families Reading Together Month to Janet Meeks, Education Coordinator.

7. PRESENTATIONS:

7.A. None

8. CONSENT AGENDA: City Manager Recommends Approval.

8.A. REQUEST FOR SIDEWALK DEFERRAL/ 510 SEASAGE DRIVE: Approve a request to defer the installation of a sidewalk for the property located at 510 Seasage Drive.

8.B. REQUEST FOR SIDEWALK DEFERRAL/ 928 SEASAGE DRIVE: Approve a request to defer the installation of a sidewalk along Seasage Drive for the property located at 928 Seasage Drive.

8.C. REQUEST FOR SIDEWALK DEFERRAL/1126 ISLAND DRIVE: Approve a request to defer the installation of a sidewalk adjacent to the right-of-way along Island Drive for the property located at 1126 Island Drive.

8.D. PROJECT AGREEMENT /F.I.N.D./MANGROVE PARK BOAT RAMP: Approve a project agreement with the Florida Inland Navigation District (F.I.N.D.) in the amount of \$85,740.00 to provide funding for reconstruction of the Mangrove Park boat ramp.

8.E. AMENDMENT TO PARKING LICENSE AGREEMENT/CAFFE LUNA ROSA: Approve a request from Caffé Luna Rosa to amend their Public Parking Lot License Agreement for the Gleason Lot, to limit utilization of the 20 spaces to Monday through Friday and apply the appropriate pro-ration, reducing the cost to \$21.40 per space per month; contingent upon approval of the amendment document by the City Attorney's office.

8.F. AMENDMENT NO. 1 TO THE INTERLOCAL AGREEMENT WITH THE COMMUNITY REDEVELOPMENT AGENCY FOR A NEIGHBORHOOD STABILIZATION PROGRAM (NSP): Approve Amendment No. 1 to the Interlocal Agreement with the Community Redevelopment Agency for funding a foreclosure program in partnership with the Neighborhood Stabilization Program (NSP) to amend the benefits and extend the terms of the agreement to September 30, 2012.

8.G. PROFESSIONAL SERVICES VENDOR LIST/NEIGHBORHOOD STABILIZATION PROGRAM (NSP): Approve the list of additional vendors for Professional Services required to carry out activities under the Neighborhood Stabilization Program (NSP) contingent on the list being approved by the Florida Department of Community Affairs.

8.H. AMENDMENT NO. 3 TO THE DISASTER RECOVERY INITIATIVE AGREEMENT/PALM BEACH COUNTY: Approve Amendment No. 3 to the agreement between the City and Palm Beach County for the Disaster Recovery Initiative (DRI) Program to complete twenty-four (24) housing rehabilitation projects for income-eligible residents who suffered damages from Hurricane Wilma, extending the deadline for completion to September 16, 2011.

8.I. **RESOLUTION NO. 60-10:** Approve Resolution No. 60-10 to support continuation of an annual levy of 0.25 mills for school operational purposes for the next four fiscal years beginning July 1, 2011 and ending June 30, 2015.

The caption of Resolution No. 60-10 is as follows:

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, EXPRESSING SUPPORT FOR CONTINUATION OF AN ANNUAL LEVY OF 0.25 MILLS FOR SCHOOL OPERATIONAL PURPOSES FOR THE NEXT FOUR FISCAL YEARS BEGINNING JULY 1, 2011 AND ENDING JUNE 15, 2015; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE.

(The official copy of Resolution No. 60-10 is on file in the City Clerk's office.)

8.J. **RATIFICATION OF APPOINTMENT TO THE PARKING MANAGEMENT ADVISORY BOARD:** Approve and ratify the appointment of Mr. Mark Krall, Planning & Zoning Board Representative, for an unexpired term ending July 31, 2011.

8.K. **SERVICE ARRANGEMENT AGREEMENT/ AT & T FLORIDA:** Approve a Contract Service Arrangement Agreement with AT&T for Centrex Service, Business lines, MegaLink Circuit and Primary Rate ISDN's in the amount of \$119,733.72 annually. Funding is available from various departmental accounts.

8.L. **REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:** Accept the actions and decisions made by the Land Development Boards for the period October 4, 2010 through October 15, 2010.

8.M. **AWARD OF BIDS AND CONTRACTS:**

- 1.** Contract award to Baker's Transport Services (BTS) in an amount not to exceed \$200,000.00 for hauling and disposal of liquid lime slurry from the Water Treatment Plant (WTP). Funding is available from 441-5122-536-34.90 (Water and Sewer Fund: Other Contractual Services).
- 2.** Purchase award to American Traffic Products & Services (ATPS) in the amount of \$18,929.50 for aluminum sign blanks and galvanized posts for sign fabrication as replacement stock for the City's sign shop. Funding is available from 001-3141-541-52.20 (General Fund: Operating Supplies/General Operating Supplies).

3. Purchase award to Carus Corporation at an estimated cost of \$120,000.00 for the purchase and delivery of poly phosphate "as needed" per bid #2009-12. Funding is available from 441-5122-536-52.21 (Water and Sewer Fund: Operating Supplies/Chemicals).
4. Purchase award to Chemical Lime Company of Alabama, Inc. in the estimated annual cost of \$800,000.00 for the purchase of bulk quicklime via Boynton Beach Co-op Bid #005-2821-09/JA. Funding is available from 441-5122-536-52.21 (Water and Sewer Fund: Operating Supplies/Chemicals).
5. Purchase award to Line-Tec, Inc. in the net amount of \$122,100.00 for annual Water Service Relocations (PN 11-05), Water Meter Replacements (11-050), and Fire Hydrant Flow Testing via the City of Boynton Beach Bid #033-2821-10/JA. Funding is available from 442-5178-536-49.33 (Water & Sewer Renewal & Replacement Fund: Other Current Charges/OB/Water Service Relocation), 442-5178-536-61.81 (Water & Sewer Renewal & Replacement Fund: Land/Water Meter Replacement Program) and 441-5123-536-34.90 (Water and Sewer Fund: Other Contractual Services).
6. Purchase award to Tanner Industries, Inc. in the annual estimated amount of \$35,000.00 for the purchase and delivery of anhydrous ammonia "as needed" via City of Port Orange, Florida Bid # B10-16. Funding is available from 441-5122-536.52.21 (Water and Sewer Fund: Operating Supplies/Chemicals).
7. Purchase award to Praxair, Inc. in the amount of \$130,000.00 for the purchase and delivery of liquid carbon dioxide (CO₂) as needed from Praxair, Inc. via City of West Palm Beach Agreement and Amendment No. 1. Funding is available from 441-5122-536-52.21 (Water and Sewer Fund: Operating Supplies/Chemicals).
8. Purchase award to Poolsure of South Florida in the estimated annual amount of \$51,400.00 for the purchase and delivery of Sodium Hypochlorite. Funding is available from 441-5123-536-52.21 (Water and Sewer Fund: Operating Supplies/Chemicals).
9. Purchase award to Devland Site Development, Inc. in the amount of \$180,000.00 for sludge removal and disposal "as needed". Funding is available from 441-5122-536-34.90 (Water and Sewer Fund: Other Contractual Services).
10. Purchase award to Sentry Industries in the amount of \$260,000.00 for the purchase and delivery of Sodium Hypochlorite "as needed". Funding is available from 441-5122-536-52.21 (Water and Sewer Fund: Operating Supplies/Chemicals).

- 11.** Purchase award to PVS Technologies, Inc. in the amount of \$250,000.00 for the purchase and delivery of liquid ferric chloride "as needed". Funding is available from 441-5122-536-52.21 (Water and Sewer Fund: Operating Supplies/Chemicals).
- 12.** Purchase award to Zoll Medical Corporation in the amount of \$23,519.50 for warranty and maintenance of seventeen (17) Zoll Defibrillators. Funding is available from 001-2315-526-46.20 (General Fund: Repair & Maintenance Services/Equipment Maintenance).

Mr. Eliopoulos moved to approve the Consent Agenda, seconded by Mr. Frankel. Upon roll call the Commission voted as follows: Mrs. Gray – Yes; Mayor McDuffie – Yes; Mr. Eliopoulos – Yes; Mr. Fetzer – Yes; Mr. Frankel – Yes. Said motion passed with a 5 to 0 vote.

9. REGULAR AGENDA:

**9.A. RATIFICATION OF COLLECTIVE BARGAINING
AGREEMENT/SERVICE EMPLOYEES INTERNATIONAL UNION (SEIU):**

Consider ratification of the Collective Bargaining Agreement with the Service Employees International Union (SEIU).

Bruce Koeser, Director of Human Resources, stated this item before the City Commission is the ratification of the Collective Bargaining Agreement with the Service Employees International Union (SEIU). Mr. Koeser stated this is a three year labor agreement that has been ratified by the SEIU by a vote of 48 to 41 and it includes major provision changes, changes to pension, and also some changes to overtime (Article 9). Mr. Koeser stated staff recommends ratification of this Collective Bargaining Agreement with the SEIU and appreciates the negotiation teams and the cooperation of the union as well.

Mr. Frankel moved to approve the Ratification of the Collective Bargaining Agreement with the Service Employees International Union (SEIU), seconded by Mrs. Gray. Upon roll call the Commission voted as follows: Mayor McDuffie – Yes; Mr. Eliopoulos – Yes; Mr. Fetzer – Yes; Mr. Frankel – Yes; Mrs. Gray – Yes. Said motion passed with a 5 to 0 vote.

**9.B. CONDITIONAL USE EXTENSION REQUEST/EBENEZER
WESLEYAN METHODIST CHURCH:**

Consider a request to extend the conditional use approval for construction of a new 6,575 sq. ft. sanctuary, at the northwest corner of S.W. 6th Avenue and S.W. 2nd Street and construction of an off-site parking lot at the northeast corner of S.W. 6th Avenue and S.W. 2nd Street for Ebenezer Wesleyan Methodist Church located at 201 S.W. 6th Avenue. (*Quasi- Judicial Hearing*)

Mayor McDuffie read the City of Delray Beach procedures for a Quasi-Judicial Hearing into the record for this item and all subsequent Quasi-Judicial items.

Chevelle D. Nubin, City Clerk, swore in those individuals who wished to give testimony on this item.

Mayor McDuffie asked the Commission to disclose their ex parte communications. The Commission had no ex parte communications to disclose.

Paul Dorling, AICP, Director of Planning and Zoning, entered the Planning and Zoning Department project file #2005-100 into the record.

Mr. Dorling stated this is a conditional use extension request associated with a new 6,575 square foot sanctuary for Ebenezer Wesleyan Methodist Church located at the northwest corner of S.W. 6th Avenue and S.W. 2nd Street and construction of an off-site parking lot at the northeast corner of S.W. 6th Avenue and S.W. 2nd Street. This extension request is being processed pursuant to LDR Section 2.4.4(F)(1) (Extensions), which requires a review of the application as it relates to the new LDRs if in fact it has not been constructed. Mr. Dorling stated there has been no development activity on this and the conditional use was originally approved on May 3, 2005, and was extended by the City Commission on May 7, 2007, and again on October 7, 2008. He stated there was a related site plan which was also approved on October 11, 2006 and extended on October 15, 2008. If the conditional use is approved by the City Commission, there will be a Site Plan Review and Appearance Board request for extension of the related site plan at a later meeting. Staff looked at this as it relates to the new LDRs and there are no changes in the land development regulations which would affect this application. The applicant has provided some justification for the extension request. Because of the economy and the situations that the applicant has identified, staff feels that another extension should be allowed. Mr. Dorling stated if a further request is requested then staff's recommendation would be different because he believes four is significant.

R.L. Howard, Sr., Pastor of the Ebenezer Wesleyan Methodist Church (applicant), stated they initially applied for the conditional use and they wish to construct a new church to properly house their congregation. Pastor Howard stated they applied for commercial real estate along with three financial institutions in Delray Beach and their requests have been denied. He stated there has been a decline in attendance and offerings which is because of a decline in income. Pastor Howard stated they have placed "For Sale" signs on the property and they are trying to raise additional capital.

There was no cross examination or rebuttal.

Mayor McDuffie stated if anyone from the public would like to speak in favor or in opposition of the conditional use extension request, to please come forward at this time. There being no one from the public who wished to address the Commission regarding the conditional use extension request, the public hearing was closed.

The City Attorney briefly reviewed the Board Order with the Commission who made findings according to their consensus (attached hereto is a copy and made an official part of the minutes).

Mr. Eliopoulos moved to adopt the Board Order subject to the seven conditions listed in Exhibit "A" (valid through May 3, 2012), seconded by Mrs. Gray. Upon roll call the Commission voted as follows: Mr. Eliopoulos – Yes; Mr. Fetzer – Yes; Mr. Frankel – Yes; Mrs. Gray – Yes; Mayor McDuffie – Yes. Said motion passed with a 5 to 0 vote.

9.C. WAIVER REQUEST/909 SOUTH OCEAN BOULEVARD: Consider a waiver request to reduce the required sight visibility triangle from 10' to 2' for a clear line of sight between 3' and 6' in the area formed along both sides of the driveway intersecting the property line at 909 South Ocean Boulevard. (*Quasi-Judicial Hearing*)

Chevelle D. Nubin, City Clerk, swore in those individuals who wished to give testimony on this item.

Mayor McDuffie asked the Commission to disclose their ex parte communications. The Commission had no ex parte communications to disclose.

Paul Dorling, AICP, Director of Planning and Zoning, entered the Planning and Zoning Department project file #2010-158 (for Item 9.C. and Item 9.C.1.) into the record.

Mr. Dorling stated this is a waiver request to the site visibility triangle from 10 feet to 2 feet and the LDRs require that within that 10 foot area that a clear site distance be maintained between 3 feet and 6 feet. This applies to a property that is going to be constructed at 909 South Ocean Boulevard. Mr. Dorling stated the required findings of LDR Section 2.4.7(B)(5) are found in the staff report.

There was no applicant present to speak.

Mayor McDuffie stated if anyone from the public would like to speak in favor or in opposition of the waiver request, to please come forward at this time.

Lillian Stajnbaher, 2714 Florida Boulevard, Delray Beach, FL 33483, inquired about the condition of this waiver and asked if there will be an alternative site triangle near the entryway so there will not be obstruction and a danger to the public or to the people coming and going from this property. Mr. Dorling stated it is clear and those site visibility triangles will be far exceeded in each of these locations.

There being no one else from the public who wished to address the Commission regarding the waiver request, the public hearing was closed.

The City Attorney briefly reviewed the Board Order with the Commission who made findings according to their consensus (attached hereto is a copy and made an official part of the minutes).

Mrs. Gray moved to adopt the Board Order, seconded by Mr. Frankel. Upon roll call the Commission voted as follows: Mr. Fetzer – Yes; Mr. Frankel – Yes; Mrs. Gray – Yes; Mayor McDuffie – Yes; Mr. Eliopoulos – Yes. Said motion passed with a 5 to 0 vote.

9.C.1. REQUEST FOR SIDEWALK DEFERRAL/909 SOUTH OCEAN BOULEVARD: Consider approval of a request to defer the installation of a sidewalk along South Ocean Boulevard for the property located at 909 South Ocean Boulevard.

Paul Dorling, AICP, Director of Planning and Zoning, stated this is a request to defer the installation of sidewalk on the north side of South Ocean Boulevard. There is a sidewalk on the west side of South Ocean Boulevard and there is none on the east side. Mr. Dorling stated this deferral would defer that construction to a time when the sidewalks are requested by the city. This agreement obligates the owner to pay for that if the city requests it in the future. Mr. Dorling stated given the current condition it would not make any sense to put the sidewalk in now and there is a commitment from the owner to put the sidewalk in if and when we need it. Staff recommends approval.

Mr. Fetzer moved to approve the request to defer the installation of a sidewalk along South Ocean Boulevard for the property located at 909 South Ocean Boulevard, seconded by Mrs. Gray. Upon roll call the Commission voted as follows: Mr. Frankel – Yes; Mrs. Gray – Yes; Mayor McDuffie – Yes; Mr. Eliopoulos – Yes; Mr. Fetzer – Yes. Said motion passed with a 5 to 0 vote.

9.D. THIS ITEM HAS BEEN WITHDRAWN FROM THE AGENDA.

9.E. THIS ITEM HAS BEEN WITHDRAWN FROM THE AGENDA.

9.F. THIS ITEM HAS BEEN WITHDRAWN FROM THE AGENDA.

9.G. AMENDED SPECIAL EVENT REQUEST/13th ANNUAL BED RACE: Consider approval of the 13th Annual Bed Race, as amended, proposed to be held on October 29, 2010 from 5:00 p.m. until 11:00 p.m., granting a temporary use permit per LDR Section 2.4.6.(F) for the use and closure of NE 2nd Avenue from Atlantic Avenue to NE 2nd Street; authorize staff support for traffic control and security, EMS assistance, trash removal and clean up, barricading, use and set up of half of the small stage, and preparation and installation of event signage; contingent on the sponsor providing a Hold Harmless Agreement and a Certificate of Liquor Liability Insurance within 5 days of the event.

Robert A. Barcinski, Acting City Manager, stated last month the Commission approved the 13th Annual Bed Race alone and noted this is an amendment to that approval for the 13th Annual Bed Race for October 29, 2010 from 5:00 p.m. until 11:00 p.m. closing N.E. 2nd Avenue from Atlantic Avenue to N.E. 2nd Street providing staff support as requested, installation of event signage, and set up of half of the small stage. Mr. Barcinski stated this amendment is a partnership and the Downtown Marketing Cooperative (DMC) is the main sponsor. Mr. Barcinski stated they are adding to the bed race with an event called Oktoberween and there will be some activities on the grounds of Old School Square such as a beer tent and entertainment to enhance the Bed Race. Mr. Barcinski stated this particular partnership will be giving some money to the DMC to help offset their costs. He stated originally that was going to be a separate event but today staff had some issues with Kidsfest and the Halloween parade on Saturday so they withdrew that date and they are working together for Friday night. Staff recommends approval of the event.

Mr. Frankel moved to approve the Amended Special Event Request of the 13th Annual Bed Race, seconded by Mr. Eliopoulos. Upon roll call the Commission voted as follows: Mrs. Gray – Yes; Mayor McDuffie – Yes; Mr. Eliopoulos – Yes; Mr. Fetzer – Yes; Mr. Frankel – Yes. Said motion passed with a 5 to 0 vote.

9.H. APPOINTMENTS TO THE NEIGHBORHOOD ADVISORY COUNCIL: Appoint two (2) regular members (one member each for Zones 3 and 4) to the Neighborhood Advisory Council for three (3) year terms ending July 31, 2013. Based upon the rotation system, the appointments will be made by Mayor McDuffie (Seat #5) and Commissioner Eliopoulos (Seat #1).

Mayor McDuffie stated he wished to defer his appointment until the next regular meeting of November 2, 2010.

Mr. Eliopoulos moved to appoint Suzanne Donohue (Zone 4) as a regular member to the Neighborhood Advisory Council to serve a three (3) year term ending July 31, 2013, seconded by Mr. Frankel. Upon roll call the Commission voted as follows: Mayor McDuffie – Yes; Mr. Eliopoulos – Yes; Mr. Fetzer – Yes; Mr. Frankel – Yes; Mrs. Gray – Yes. Said motion passed with a 5 to 0 vote.

9.I. APPOINTMENT TO THE BOARD OF ADJUSTMENT: Appoint one (1) alternate member to the Board of Adjustment for an unexpired term ending August 31, 2011. Based upon the rotation system, the appointment will be made by Commissioner Frankel (Seat #3).

Mr. Frankel moved to appoint Allen Kilik as an alternate member to the Board of Adjustment for an unexpired term ending August 31, 2011, seconded by Mrs. Gray. Upon roll call the Commission voted as follows: Mr. Eliopoulos – Yes; Mr. Fetzer – Yes; Mr. Frankel – Yes; Mrs. Gray – Yes; Mayor McDuffie – Yes. Said motion passed with a 5 to 0 vote.

9.J. **APPOINTMENT TO THE EDUCATION BOARD:** Appoint one (1) regular member to the Education Board for an unexpired term ending July 31, 2012. Based upon the rotation system, the appointment will be made by Commissioner Frankel (Seat #3).

Mr. Frankel moved to appoint Amanda Orndorff as a regular member to the Education Board for an unexpired term ending July 31, 2012, seconded by Mr. Eliopoulos. Upon roll call the Commission voted as follows: Mr. Fetzer – Yes; Mr. Frankel – Yes; Mrs. Gray – Yes; Mayor McDuffie – Yes; Mr. Eliopoulos – Yes. Said motion passed with a 5 to 0 vote.

9.K. **APPOINTMENTS TO THE POLICE ADVISORY BOARD:** Appoint one (1) regular member to the Police Advisory Board to serve an unexpired term ending July 31, 2012 and one (1) student member to serve an unexpired term ending July 31, 2011. Based upon the rotation system, the appointments will be made by Commissioner Eliopoulos (Seat #1) for one (1) regular member and Commissioner Fetzer (Seat #2) for one (1) student member.

Mr. Eliopoulos moved to appoint Jennifer Morris as a regular member to the Police Advisory Board to serve an unexpired term ending July 31, 2012, seconded by Mrs. Gray. Upon roll call the Commission voted as follows: Mr. Frankel – Yes; Mrs. Gray – Yes; Mayor McDuffie – Yes; Mr. Eliopoulos – Yes; Mr. Fetzer – Yes. Said motion passed with a 5 to 0 vote.

Mr. Fetzer moved to appoint Joseph Elisma as a student member to the Police Advisory Board to serve an unexpired term ending July 31, 2011, seconded by Mr. Frankel. Upon roll call the Commission voted as follows: Mrs. Gray – Yes; Mayor McDuffie – Yes; Mr. Eliopoulos – Yes; Mr. Fetzer – Yes; Mr. Frankel – Yes. Said motion passed with a 5 to 0 vote.

At this point, the Commission moved to **Item 11, Comments and Inquiries on Non-Agenda Items from the City Manager and the Public.**

11.A. **City Manager's response to prior public comments and inquiries.**

Robert Barcinski, Acting City Manager, had no response to prior public comments or inquiries.

11.B. **From the Public.**

11.B.1. **Pablo Del Real, 521 Southridge Road, Delray Beach, FL 33444,** stated his understanding is that Community Improvement will be scheduling discussion on potentially legalizing backyard chickens for a City Commission Workshop Meeting before the end of the year. Mr. Del Real stated this is not just about chickens but this is about urban gardening. Mr. Del Real stated the average food item in the United States travels about 1,500 miles from farm to market and the average American meal contains

five ingredients from another country. He stated the other vulnerability is with regard to economics and when we are paying strangers to produce our food we are sending money out of the community and a lot of that money does not come back.

11.B.2. Lillian Stajnbaher, 2714 Florida Boulevard, Delray Beach, FL 33483, read a brief statement into the record regarding food safety and security.

11.B.3. Clifford Wright, 3930 Lawson Boulevard, Delray Beach, FL 33445, commented about the Auburn Trace project and thanked the City Commission for getting the report to him. Mr. Wright stated the Mentoring Program is a good program.

Mr. Frankel briefly responded to Mr. Wright's comments.

At this point, the time being 7:05 p.m., the Commission moved to the duly advertised Public Hearings portion of the Agenda.

10. PUBLIC HEARINGS:

10.A. ORDINANCE NO. 25-10 (SECOND READING/SECOND PUBLIC HEARING): Consider a city initiated amendment to the Land Development Regulations (LDR) by amending Section 4.3.3, "Special Requirements For Specific Uses", Subsection (T), "Family Day Care" and enacting a new Subsection (TT), "Large Family Child Care Home"; amending Subsection (C), "Accessory Uses and Structures Permitted" and Subsection (D), "Conditional Uses and Structures Allowed" of Section 4.4.3, "Single Family Residential (R-1) Districts", Section 4.4.5, "Low Density Residential (RL) District", Section 4.4.6, "Medium Density Residential (RM) District", Section 4.4.7, "Planned Residential Development (PRD) District", Section 4.4.9, "General Commercial (GC) District", Section 4.4.13, "Central Business (CBD) District", Section 4.4.17, "Residential Office (RO) District", and Section 4.4.24, "Old School Square Historic Arts District (OSSHAD)"; amending Section 4.4.9, "General Commercial (GC) District", Subsection (G), "Supplemental Regulations", Sub-subsection (3), Four Corners Overlay District; amending Section 4.4.29, "Mixed Residential, Office and Commercial (MROC) District", Subsection (C), "Accessory Uses and Structures Permitted" and Subsection (E), "Conditional Uses and Structures Allowed", in order to update the Land Development Regulations (LDR) to comport with changes in state law; amending Appendix A, "Definitions", to revise the definitions of "Child Care Facility" and "Family Day Care Facilities" and enacting a new definition, "Large Family Child Care Home".

The caption of Ordinance No. 25-10 is as follows:

AN ORDINANCE OF THE CITY COMMISSION OF
THE CITY OF DELRAY BEACH, FLORIDA,
AMENDING THE LAND DEVELOPMENT
REGULATIONS BY AMENDING SECTION 4.3.3,
"SPECIAL REQUIREMENTS FOR SPECIFIC USES",
SUBSECTION (T), "FAMILY DAY CARE" AND

ENACTING A NEW SUBSECTION (TT), "LARGE FAMILY CHILD CARE HOME"; AMENDING SUBSECTION (C), "ACCESSORY USES AND STRUCTURES PERMITTED" AND SUBSECTION (D), "CONDITIONAL USES AND STRUCTURES ALLOWED" OF SECTION 4.4.3, "SINGLE FAMILY RESIDENTIAL (R-1) DISTRICTS", SECTION 4.4.5, "LOW DENSITY RESIDENTIAL (RL) DISTRICT", SECTION 4.4.6, "MEDIUM DENSITY RESIDENTIAL (RM) DISTRICT", SECTION 4.4.7, "PLANNED RESIDENTIAL DEVELOPMENT (PRD) DISTRICT", SECTION 4.4.9, "GENERAL COMMERCIAL (GC) DISTRICT", SECTION 4.4.13, "CENTRAL BUSINESS (CBD) DISTRICT", SECTION 4.4.17, "RESIDENTIAL OFFICE (RO) DISTRICT", AND SECTION 4.4.24, "OLD SCHOOL SQUARE HISTORIC ARTS DISTRICT (OSSHAD)"; AMENDING SECTION 4.4.9, "GENERAL COMMERCIAL (GC) DISTRICT", SUBSECTION (G), "SUPPLEMENTAL REGULATIONS", SUBSUBSECTION (3), FOUR CORNERS OVERLAY DISTRICT; AMENDING SECTION 4.4.29, "MIXED RESIDENTIAL, OFFICE AND COMMERCIAL (MROC) DISTRICT", SUBSECTION (C), "ACCESSORY USES AND STRUCTURES PERMITTED" AND SUBSECTION (E), "CONDITIONAL USES AND STRUCTURES ALLOWED", IN ORDER TO UPDATE THE LAND DEVELOPMENT REGULATIONS TO COMPORT WITH CHANGES IN STATE LAW; AMENDING APPENDIX "A", "DEFINITIONS", TO REVISE THE DEFINITIONS OF "CHILD CARE FACILITY" AND "FAMILY DAY CARE FACILITIES" AND ENACTING A NEW DEFINITION "LARGE FAMILY CHILD CARE HOME"; PROVIDING A SAVING CLAUSE, A GENERAL REPEALER CLAUSE AND AN EFFECTIVE DATE.

(The official copy of Ordinance No. 25-10 is on file in the City Clerk's office.)

The City Attorney read the caption of the ordinance. A public hearing was held having been legally advertised in compliance with the laws of the State of Florida and the Charter of the City of Delray Beach, Florida.

Paul Dorling, AICP, Director of Planning and Zoning, stated this is a city-initiated LDR amendment to add Large Family Child Care Homes as a conditional use within the following zoning districts: (1) R-1 Single Family Residential, (2) RL -

Residential Low Density, (3) RM – Medium Density Residential, (4) PRD – Planned Unit Development, (5) GC – General Commercial, (6) CBD – Central Business District, (7) CBD – RC – Central Business District-Railroad Corridor, (8) RO – Residential Office, (9) OSSHAD – Old School Square Historic Arts District, and (10) MROC – Mixed Residential Office and Commercial. Mr. Dorling stated this ordinance also provides some changes to the Family Day Care Homes allowing an increase from five (5) to six (6) and all these comport with State law that has recently been passed specifically HB 1045 specific to Palm Beach County. The LDR defines criteria which would regulate the Large Family Child Care Homes and those regulations would be the same as those that currently apply to the larger child care facilities and includes dedicated drop off areas, play areas, etc.

At its meeting of October 5, 2010, the City Commission considered this ordinance on first reading and recommended approval at that time.

Mayor McDuffie declared the public hearing open.

Alice Finst, 707 Place Tavant, Delray Beach, FL 33445, asked what created the need to do this. Mr. Dorling stated HB 1045 that said in Palm Beach County that this was to be a use that was to be established and accommodated in local zoning codes. Mrs. Finst asked if this could happen in her neighborhood. Mr. Dorling stated the R-1 category is R-1-AB, R-1-A, R-1-AA, and R-1-AAA. He stated it would have to meet the specific regulations which in many cases cannot be accommodated in a normal single-family setting. Mr. Dorling stated a play area needs to be provided, drop-off areas need to be provided, etc. Mrs. Finst asked if there is a minimum size requirement. Mr. Dorling stated there is no minimum size requirement. Mrs. Finst expressed concern that a 1,500 square foot house could become a large family child care home. Mr. Dorling stated this could happen if it met the special criteria in the ordinance. Mrs. Finst inquired about the special criteria.

Mayor McDuffie asked that staff provide Mrs. Finst with the special criteria in writing.

Amanda Wallace, 3401 Avenue Villandry, Delray Beach, FL 33445, stated there is criteria that has to be met and everyone does not meet that criteria and does not want to do large family child care.

There being no one else from the public who wished to address the Commission regarding Ordinance No. 25-10, the public hearing was closed.

Mr. Dorling stated currently in single family districts you are allowed to have up to five (5) which has been expanded to six (6) as a permitted use and there is no additional criteria you have to meet. In addition, Mr. Dorling stated in most of these same districts you are allowed to do a full child care facility which would be a lot greater in most cases than 12 units to the acre as a conditional use. Mr. Dorling stated what is being proposed is that you be allowed to do something in-between but as a conditional

use which would require the same kind of review and then is going to be subject to that same criteria that would be applied to larger child care facilities which are allowed as a conditional use within these districts now.

Mr. Eliopoulos moved to adopt Ordinance No. 25-10 on Second Reading/Second Public Hearing, seconded by Mrs. Gray. Upon roll call the Commission voted as follows: Mayor McDuffie – Yes; Mr. Eliopoulos – Yes; Mr. Fetzer – Yes; Mr. Frankel – Yes; Mrs. Gray – Yes. Said motion passed with a 5 to 0 vote.

10.B. ORDINANCE NO. 35-10 (SECOND READING/SECOND PUBLIC HEARING): Consider a city initiated amendment to Land Development Regulations (LDR) replacing several references to “Medicines and Prescriptions”, “Drugs and Medicine” and “Drug Store” with the term “Pharmacies”.

The caption of Ordinance No. 35-10 is as follows:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CITY OF DELRAY BEACH, BY AMENDING SECTION 4.4.9, “GENERAL COMMERCIAL (GC) DISTRICT”, SUBSECTION (B), “PRINCIPAL USES AND STRUCTURES PERMITTED”, SECTION 4.4.11, “NEIGHBORHOOD COMMERCIAL (NC) DISTRICT”, SUBSECTION (B), “PRINCIPAL USES AND STRUCTURES PERMITTED”, SECTION 4.4.13, “CENTRAL BUSINESS (CBD) DISTRICT”, SECTION (B), “PRINCIPAL USES AND STRUCTURES PERMITTED”; SECTION 4.4.24, “OLD SCHOOL SQUARE HISTORIC ARTS DISTRICT (OSSHAD)”, SUBSECTION (B), “PRINCIPAL USES AND STRUCTURES”; AND SECTION 4.4.29, “MIXED RESIDENTIAL, OFFICE AND COMMERCIAL (MROC) DISTRICT”, SUBSECTION (B), “PRINCIPAL USES AND STRUCTURES PERMITTED”, TO PROVIDE A CONSISTENT REFERENCE TO PHARMACIES; PROVIDING A SAVING CLAUSE, A GENERAL REPEALER CLAUSE, AND AN EFFECTIVE DATE.

(The official copy of Ordinance No. 35-10 is on file in the City Clerk’s office.)

The City Attorney read the caption of the ordinance. A public hearing was held having been legally advertised in compliance with the laws of the State of Florida and the Charter of the City of Delray Beach, Florida.

Paul Dorling, AICP, Director of Planning and Zoning, stated this is to provide a consistent reference to the term pharmacies and right now in only one zoning district do we actually call out the specific use of pharmacy. Mr. Dorling stated other zoning districts call it "Medicines and Prescriptions", "Drugs and Medicine", and "Drug Store". Mr. Dorling stated staff is concerned that the exact term "Pharmacy" is only used in one district and specific regulations that the Commission just passed related to pharmacies would not apply to these other categories. Therefore, Mr. Dorling stated staff is modifying those categories to make it clear that they all are pharmacies and subject to the regulations which the Commission provided in previous ordinances as it relates to the ability to do things and not things as it relates to pill mills.

At its meeting of September 20, 2010, the Planning and Zoning Board voted 7 to 0 to recommend approval and at its meeting of October 5, 2010, the City Commission considered this ordinance on first reading and recommended approval at that time.

Mayor McDuffie declared the public hearing open. There being no one from the public who wished to address the Commission regarding Ordinance No. 35-10, the public hearing was closed.

Mr. Fetzer moved to adopt Ordinance No. 35-10 on Second Reading/Second Public Hearing, seconded by Mr. Frankel. Upon roll call the Commission voted as follows: Mr. Eliopoulos – Yes; Mr. Fetzer – Yes; Mr. Frankel – Yes; Mrs. Gray – Yes; Mayor McDuffie – Yes. Said motion passed with a 5 to 0 vote.

10.C. ORDINANCE NO. 36-10 (SECOND READING/SECOND PUBLIC HEARING): Consider a city initiated amendment to the Land Development Regulations (LDR) Section 4.3.3 (LLLL), "Pharmacies", to add the term "Medical Clinics" under applicability and to change the category title to "Medical, Professional, Business Offices and Medical Clinics".

The caption of Ordinance No. 36-10 is as follows:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CITY OF DELRAY BEACH, BY AMENDING SECTION 4.3.3, "SPECIAL REQUIREMENTS FOR SPECIFIC USES", SUBSECTION (LLLL), "MEDICAL OFFICES", TO INCLUDE MEDICAL CLINICS; PROVIDING A SAVING CLAUSE, A GENERAL REPEALER CLAUSE, AND AN EFFECTIVE DATE.

(The official copy of Ordinance No. 36-10 is on file in the City Clerk's office.)

The City Attorney read the caption of the ordinance. A public hearing was held having been legally advertised in compliance with the laws of the State of Florida and the Charter of the City of Delray Beach, Florida.

Paul Dorling, AICP, stated this adds the category of "Medical Clinics" to the LDRs which contains specific restrictions that now currently only apply to Medical Offices, and Professional and Business Offices.

At its meeting of September 20, 2010, the Planning and Zoning Board considered this item and recommended approval with a 7 to 0 vote and at its meeting of October 5, 2010, the City Commission considered this ordinance on first reading and recommended approval at that time.

Mayor McDuffie declared the public hearing open. There being no one from the public who wished to address the Commission regarding Ordinance No. 36-10, the public hearing was closed.

Mr. Frankel moved to adopt Ordinance No. 36-10 on Second Reading/Second Public Hearing, seconded by Mrs. Gray. Upon roll call the Commission voted as follows: Mr. Fetzner – Yes; Mr. Frankel – Yes; Mrs. Gray – Yes; Mayor McDuffie – Yes; Mr. Eliopoulos – Yes. Said motion passed with a 5 to 0 vote.

10.D. ORDINANCE NO. 34-10: Consider a city initiated amendment to the Land Development Regulations (LDR) Section 2.4.7(G), "Requests for Accommodation" procedures.

The caption of Ordinance No. 34-10 is as follows:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CITY OF DELRAY BEACH, BY AMENDING SECTION 2.4.7, "PROCEDURES FOR OBTAINING RELIEF FROM COMPLIANCE WITH PORTIONS OF LAND DEVELOPMENT REGULATIONS", BY AMENDING SUBSECTION (G), "REQUESTS FOR ACCOMMODATION", SUB-SUBSECTION (5), "NOTICE OF PROPOSED DECISION", TO CLARIFY THE PROCEDURE REGARDING REASONABLE ACCOMMODATION REQUESTS; PROVIDING A SAVING CLAUSE, A GENERAL REPEALER CLAUSE, AND AN EFFECTIVE DATE.

(The official copy of Ordinance No. 34-10 is on file in the City Clerk's office.)

The City Attorney read the caption of the ordinance. A public hearing was held having been legally advertised in compliance with the laws of the State of Florida and the Charter of the City of Delray Beach, Florida.

Paul Dorling, AICP, Director of Planning and Zoning, stated this is to clarify the procedures regarding reasonable accommodation requests. Mr. Dorling stated the current language requires notice and public hearing to receive comments from the public as it relates to reasonable accommodation requests. Mr. Dorling stated the intent of the reasonable accommodation request itself is to make sure that we do not impose an inordinate burden on persons with disabilities and since a public hearing would not be required under similar circumstances, staff recommends that this additional step be removed from the requirements.

At its meeting of September 20, 2010, the Planning and Zoning Board considered this ordinance and recommended approval with a 7 to 0 vote and at its meeting of October 5, 2010, the City Commission considered this ordinance on first reading and recommended approval at that time.

Mayor McDuffie declared the public hearing open. There being no one from the public who wished to address the Commission regarding Ordinance No. 34-10, the public hearing was closed.

Mr. Eliopoulos moved to adopt Ordinance No. 34-10 on Second Reading/Second Public Hearing, seconded by Mrs. Gray. Upon roll call the Commission voted as follows: Mr. Frankel – Yes; Mrs. Gray – Yes; Mayor McDuffie – Yes; Mr. Eliopoulos – Yes; Mr. Fetzer – Yes. Said motion passed with a 5 to 0 vote.

At this point, the time being 7:21 p.m., the Commission moved to **Item 12, First Readings.**

12. **FIRST READINGS:**

12.A. **ORDINANCE NO. 37-10:** Consider a city initiated amendment to the Land Development Regulations (LDR) Section 6.3.3., “Sidewalk Café”, amending the regulations. If passed, a public hearing will be held on November 2, 2010.

The caption of Ordinance No. 37-10 is as follows:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CITY OF DELRAY BEACH, BY AMENDING SECTION 6.3.3, “SIDEWALK CAFÉ”; TO PROVIDE CLARIFICATION ON SIDEWALK CAFÉS; PROVIDING A SAVING CLAUSE, A GENERAL REPEALER CLAUSE, AND AN EFFECTIVE DATE.

(The official copy of Ordinance No. 37-10 is on file in the City Clerk's office.)

The City Attorney read the caption of the ordinance.

Paul Dorling, AICP, Director of Planning and Zoning, stated this is to modify and provide additional clarification to the regulations that would apply to sidewalk cafés and it will provide additional clarification as to where sidewalk cafés can locate, what businesses can utilize sidewalk cafés and will provide for minimum setbacks from vehicular travel lanes as well as outlining certain operational functions that are prohibited within the sidewalk café area. In summary, the ordinance clarifies that retail businesses with food sales as an accessory use are not eligible for sidewalk café permits; prohibits food prep, trash receptacle, and cash registers in the sidewalk café area; expands the area where sidewalk cafés can occur to include areas adjacent to public spaces and areas between the side street and the building in addition to the current language which allows the use only in areas between the front of the building and the street; increases the application, permit and penalty fees associated with the use; includes aesthetic changes including a requirement that street furniture associated with the café use be of a quality design, materials and workmanship that will enhance the visual and aesthetic quality of the urban environment; it also requires a two foot setback for tables and associated chairs when they are located immediately adjacent to a vehicular travel lane. Mr. Dorling stated the ordinance provides an exception that when this area is immediately adjacent to on-street parking this minimum setback would not apply.

At its meeting of September 23, 2010, the Community Redevelopment Agency recommended approval of the initial ordinance but felt the fee increase was too large and should be limited from 50% to 30%. Staff does not agree with their recommendation and therefore did not incorporate that into the ordinance. At its meeting of September 20, 2010, the Planning and Zoning Board reviewed the ordinance and recommended approval with a 7 to 0 vote with the condition that (1) markers be placed that are both permanent and visible to mark the 5-foot wide area referred to in the ordinance and (2) that staff is to advise applicants to provide public safety measures as part of their application. At its meeting of October 6, 2010, the Pineapple Grove Main Street Committee reviewed the ordinance and they expressed concern about the increase in the fee and they recommended approval and that the fee should be limited to 30%. Staff agrees with some of the proposed changes but do not agree with others and the ones staff agrees with are in the ordinance.

Mr. Frankel inquired about the fee increase. Mr. Dorling stated this fee is going from \$3.00 a square foot to \$4.50 a square foot (a 50% increase). Mr. Frankel stated should this ordinance pass would the current sidewalk cafés be grandfathered in. Mr. Dorling stated any that have renewed they would be able to live out the term of their renewal. Mr. Dorling stated if there are some that are newly established they would be subject to a new fee or any that have not paid or that are late in that renewal they would be subject to a new fee. Mr. Frankel thanked staff for addressing the changes particularly for some of the safety things.

Mr. Eliopoulos asked if there is some way to do markers to delineate the area. Lula Butler, Director of Community Improvement, stated staff did try this at one time and it became problematic. Mrs. Butler stated staff looked at other cities to see how they do it and found that no one used the markers because the problem is anytime you want to remove the brick or put something in there it became problematic for safety reasons and restaurants change in size from time to time. Mrs. Butler stated a big issue is enforcement but staff has met with the Clean and Safe Team and they have the authority to issue civil violation notices.

Mrs. Gray stated staff did a great job.

Mayor McDuffie stated this is a great move in the right direction.

Mr. Frankel moved to approve Ordinance No. 37-10 on FIRST Reading, seconded by Mrs. Gray. Upon roll call the Commission voted as follows: Mrs. Gray – Yes; Mayor McDuffie – Yes; Mr. Eliopoulos – Yes; Mr. Fetzer – Yes; Mr. Frankel – Yes. Said motion passed with a 5 to 0 vote.

At this point, the Commission moved to **Item 13, Comments and Inquiries on Non-Agenda Items from the City Manager, the City Attorney, and the City Commission.**

13. COMMENTS AND INQUIRIES ON NON-AGENDA ITEMS.

13.A. City Manager

Robert A. Barcinski, Acting City Manager, had no comments or inquiries on non-agenda items.

13.B. City Attorney

The City Attorney had no comments or inquiries on non-agenda items.

13.C. City Commission

13.C.1. Mr. Fetzer

Mr. Fetzer commented about the Novus Agenda (previously known as MuniAgenda) and stated he finds the change in format unusable. Mr. Fetzer stated he is not sure if it is something he needs training on and asked what can be done about this.

Chevelle Nubin, City Clerk, stated previously the City did have MuniAgenda but the technical support had to be changed over to Novusolutions, Inc. which is the original maker of the software and they had an upgrade. Ms. Nubin stated staff has been working on this for approximately three weeks and noted there are some issues with the software and they are working on it.

Ms. Nubin stated staff is trying to clarify this a little better where we have the public link <http://agendas.MyDelrayBeach.com> which is what the Commission normally gets the email about on Fridays telling them how to go in and use it which is the same link for the public but what staff is trying to do now is have separate link for the City Commission called <http://itwebapp\BoardView>. Ms. Nubin stated staff hopes to get this resolved for the Commission by this week or the early part of next. Ms. Nubin stated the page looks different so instead of being able to select "next week" or "last month" like normally now you have to always select "next month". She stated then a broad calendar range comes up for 30 days; however, once you select "next month" and then select whichever meeting it is (i.e. Regular Commission Meeting) and instead of the HTML version and the PDF appearing on the same side you have the HTML on the left and the PDF version on the right. Ms. Nubin stated once you click on that paper icon then the agenda pops open and appears the way it used to. Ms. Nubin stated staff does realize that the attachments are taking a little bit longer to open up and the IT Department and Novus is working on this and staff hopes this is resolved by the next regular meeting.

13.C.2. Mr. Eliopoulos

Mr. Eliopoulos commented about Joe Safford's retirement party and stated it is always good to honor one of our employees that has given so many years of dedication to the City of Delray Beach.

Secondly, Mr. Eliopoulos commented about the Delray Beach Historical Society and asked what the status is. Robert Barcinski, Acting City Manager, stated staff is hoping to bring something to the Commission for their consideration on November 2, 2010.

Mr. Eliopoulos stated Florida Magazine recognized Atlantic Avenue as the Best Main Street.

Mr. Eliopoulos apologized for not attending the Employee Service Awards on Friday, October 15, 2010 and stated this was a milestone for several employees.

Lastly, Mr. Eliopoulos stated someone approached him and commented about how they jog very early in the morning in the city and they are amazed to see our city employees out there keeping it clean. He stated it is good to hear people are seeing how well our city is being cleaned.

Mr. Barcinski stated the Clean and Safe Green Team work Wednesday-Sunday 4:30 a.m. through 12:30 p.m. cleaning up litter before the morning businesses open.

13.C.3. **Mrs. Gray**

Mrs. Gray stated she attended the Palm Beach County Black Elected Officials Gala this weekend with Mayor McDuffie. She stated this was a fundraiser for college students and over 500 people were in attendance.

Secondly, Mrs. Gray stated she attended the Rotary Fundraiser and Mayor McDuffie did a great job. She stated the place was packed and it was great to see the two cities come together for a worthy cause.

Lastly, Mrs. Gray commented on the on-the-job training for the Villages at Delray project (Auburn Group) and stated those 12 young men do live in our community and she has seen them working there on several occasions. Mrs. Gray stated this is such a great program and suggested that we consider it and look at it as being one of the models.

13.C.4. **Mr. Frankel**

Mr. Frankel apologized for missing several great events Wednesday-Saturday while he was out of town and stated he will also be out of town Halloween weekend.

13.C.5. **Mayor McDuffie**

Mayor McDuffie stated Senator Elect Maria Sachs had a meeting with him and wanted to offer her support for the city and let us know that this is still her favorite place. He stated Maria Sachs has to move her office out of town because of the new boundaries that she has.

Secondly, Mayor McDuffie stated he had a very nice lunch with Bill Wood.

Mayor McDuffie stated Joe Safford's retirement party was fun and noted Joe spent a great part of his life working for the City of Delray Beach. Mayor McDuffie stated hopefully the City will find someone to fill those shoes and move the City in the right direction.

He stated he received a complaint from the Pines of Delray North about the cost of waste pickup and hauling issues. Mayor McDuffie stated he asked the City to put some staff members together and he called Butch Carter from Waste Management and they had a meeting with three of their Board members, and the City Manager, Lula Butler, and Mayor McDuffie. Mayor McDuffie stated they were sizing their containers for their summertime low and in the wintertime Waste Management had to come in three times a month to pickup and the third pickup was costing them a lot of money. Mayor McDuffie stated Waste Management worked it out so that they would size their pickup containers for wintertime and cut back from 3 pickups to 2 and it is going to save them

quite a bit of money. Mayor McDuffie stated it was a really good meeting and they wanted to know about mattresses, refrigerators, etc. and Mrs. Butler was kind enough to work with them on what kind of structure they needed to do that so that Waste Management would also pick that up and get that out of there as well.

Mayor McDuffie commented about the Bartending Challenge at Duffy's and stated they raised nearly \$5,000.00 for youth literacy.

Mayor McDuffie stated he had some residents approach him about helping the City fund the Beach Master Plan by putting on a performance in town called "Delray's Got Talent". He stated this is a great idea and they are willing to support it financially and asked staff to talk to Old School Square to see if they can give the City a break on the space and whether or not the space is available at the time that they are thinking about having it. Mayor McDuffie stated he would like to invite these residents to attend a Workshop Meeting to discuss their ideas.

Mayor McDuffie stated he attended the Palm Beach County Black Elected Officials Gala with Commissioner Gray and noted that the band was awesome.

Mayor McDuffie stated yesterday he met with two ladies who are in the health and nutrition business who want to make Delray Beach a healthier place and they are going to meet with him every other week and teach him how to be healthy.

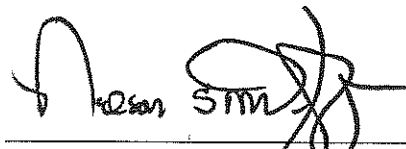
Lastly, Mayor McDuffie announced that Murray Kalish's wife passed away.

There being no further business, Mayor McDuffie declared the meeting adjourned at 7:40 p.m.



City Clerk

ATTEST:



MAYOR

The undersigned is the City Clerk of the City of Delray Beach, Florida, and the information provided herein is the Minutes of the Regular City Commission Meeting held on October 19, 2010, which Minutes were formally approved and adopted by the City Commission on November 2, 2010.



City Clerk

NOTE TO READER:

If the Minutes you have received are not completed as indicated above, this means they are not the official Minutes of the City Commission. They will become the official Minutes only after review and approval which may involve some amendments, additions or deletions as set forth above.



IN THE CITY COMMISSION
CHAMBERS OF THE CITY OF
DELRAY BEACH, FLORIDA

**TWENTY-FOUR MONTH EXTENSION REQUEST FOR
CONDITIONAL USE APPROVAL GRANTED TO
EBENEZER WESLEYAN METHODIST CHURCH LOCATED ON THE
EAST AND WEST SIDES OF SW 6TH AVENUE NORTH OF SW 2ND STREET**

**ORDER OF THE CITY COMMISSION
OF THE CITY OF DELRAY BEACH, FLORIDA**

1. The above named twenty-four month conditional use extension request has come before the City Commission on October 19, 2010.

2. This conditional use extension request comports with the future land use element, is concurrent with the Comprehensive Plan and is consistent with the goals, policies and objectives of the City's Comprehensive Plan.

3. The Applicant and City staff presented documentary evidence and testimony to the City Commission pertaining to the conditional use extension request for the Ebenezer Wesleyan Methodist Church. All of the evidence is a part of the record in this case. Required findings are made in accordance with LDR Section 2.4.4(F)(1) and (F)(3).

4. Section 2.4.4(F)(1) requires certain preliminary requirements to be met, such as:

A written request submitted at least 45 days prior to the expiration date;

The request must set forth the basis and reason for the extension;

The request must be considered by the same body that granted the approval;

The extension, if granted, shall be for a term of 18 months unless otherwise stated.

Have the preliminary requirements of Section 2.4.4(F)(1) been met?

Yes No

5. Pursuant to LDR Section 2.4.4(F)(3), when the project has not commenced construction, or construction has not been deemed substantial, the Commission shall consider the following regarding the diligence and good faith of the Developer:

- (a) The project shall be evaluated pursuant to the Land Development Regulations in effect at the time of consideration of the extension request and shall comply with such current requirements;
- (b) Additional submittal information including a new application and copies of previously submittal material may be required;
- (c) The granting body must make findings pursuant to 2.4.4(B); and
- (d) The granting body may impose additional conditions of approval pursuant to 2.4.4(C) to insure compliance with any applicable changes to regulations or changes in circumstances which have occurred since the previous approval.

Have the requirements of Section 2.4.4(F)(3) been met?

Yes ✓ No

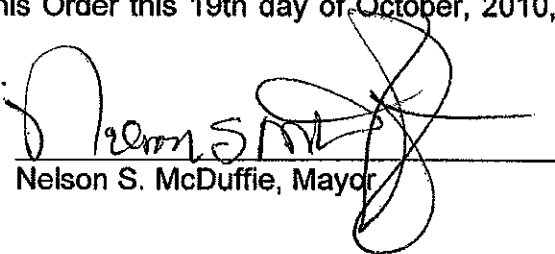
6. The comments and notes set forth in the staff report are hereby incorporated herein.

7. The City Commission has applied the Comprehensive Plan and LDR requirements in existence at the time the original site plan was submitted and finds that its determinations set forth in this Order are consistent with the Comprehensive Plan.


8. The City Commission finds there is ample and competent substantial evidence to support its findings in the record submitted and adopts the facts contained in the record including but not limited to the staff reports, testimony of experts and other competent witnesses supporting these findings.

10. Based on the entire record before it, the City Commission approves ✓
denies _____ the conditional use extension request to allow the previous conditional use
approvals to be valid until May 3, 2012 subject to the conditions listed in Exhibit "A":

The City Commission hereby adopts this Order this 19th day of October, 2010,
by a vote of 5 in favor and 0 opposed.



Nelson S. McDuffie, Mayor

ATTEST:


Chevelle Nubin
City Clerk

EXHIBIT "A"

Conditions for Ebenezer Wesleyan Methodist Church

1. That a site plan be submitted that is in general conformance with the sketch plan and addresses the concerns and technical items contained within this report and attached as Appendix A.
2. That the seating capacity is limited to 213 people.
3. That the existing church facility be retained as a support facility to the Ebenezer Wesleyan Methodist Church.
4. That the existing overhead distribution and proposed service utility liens are placed under ground.
5. That one (1) tree be planted every twenty-five (25) feet to form a solid tree line and a continuous hedge 4 ½ feet in height at the time of installation be installed within the landscape perimeter buffer areas adjacent to the residential use areas i.e. north and west sides for the main sanctuary site and east and north sides for the off-site parking areas.
6. That driveway stacking modifications be made to the northeast driveway by eliminating one parking space on the south side of the driveway, eliminating one space on the north side and converting the handicap space to a regular space.
7. The recorded Unity of Title does not include a portion of the west site. A revised Unity of Title between the off-site parking area and the main site shall be recorded.

IN THE CITY COMMISSION
CHAMBERS OF THE CITY OF
DELRAY BEACH, FLORIDA

**WAIVER REQUEST RELATING TO THE SIGHT VISIBILITY
TRIANGLE ASSOCIATED WITH THE CONSTRUCTION OF
A NEW SINGLE FAMILY RESIDENCE AT 909 S. OCEAN BLVD.**

**ORDER OF THE CITY COMMISSION
OF THE CITY OF DELRAY BEACH, FLORIDA**

1. This waiver request to reduce the clear line of sight requirement pertaining to the sight visibility triangle associated with the construction of a new single family residence at 909 S. Ocean Blvd. has come before the City Commission on October 19, 2010.

2. The Applicant and City staff presented documentary evidence and testimony to the City Commission pertaining to the waiver request. All of the evidence is a part of the record in this case. Required findings are made in accordance with Subsection I.

I. WAIVER TO SIGHT VISIBILITY TRIANGLE:

LDR Section 4.6.14(B)(1) provides a requirement for a ten foot (10') sight visibility triangle. The Applicant is requesting to reduce the requirement for a ten foot (10') sight visibility triangle from ten feet (10') to two feet (2'), stating as justification, "The purpose and intent of these triangles is to provide sufficient view corridors for safe interaction of vehicles and pedestrians at intersections. As the intersection of the drive and the road is thirty four feet (34') west of the property line in this case, site triangles at the property line serve no purpose. We believe there is justification to grant the waiver as the purpose and intent as written in the LDR's is fulfilled."

Pursuant to LDR Section 2.4.7(B)(5), prior to granting a waiver, the approving body shall make a finding that the granting of the waiver:

- (a) Shall not adversely affect the neighboring area;
- (b) Shall not significantly diminish the provision of public facilities;
- (c) Shall not create an unsafe situation; and,
- (d) Does not result in the grant of a special privilege in that the same waiver would be granted under similar circumstances on other property for another applicant or owner.

Does the waiver request to reduce the requirement for a ten foot (10') sight visibility triangle from ten feet (10') to two feet (2'), meet all of the requirements of 2.4.7(B)(5)?

Yes ✓ No

3. The City Commission has applied the Comprehensive Plan and LDR requirements in existence at the time the original development application was submitted and finds that its determinations set forth in this Order are consistent with the Comprehensive Plan.

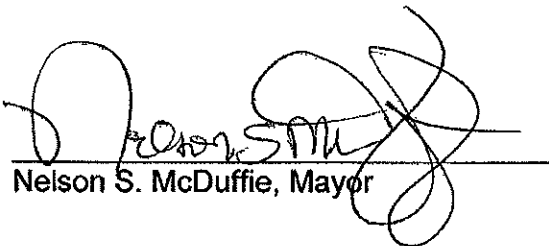
4. The City Commission finds there is ample and competent substantial evidence to support its findings in the record submitted and adopts the facts contained in the record including but not limited to the staff reports, testimony of experts and other competent witnesses supporting these findings.

5. Based on the entire record before it, the City Commission approves ✓ denies the waiver request to LDR Section 4.6.14(B)(1).

6. Based on the entire record before it, the City Commission hereby adopts this Order this 19th day of October, 2010, by a vote of 5 in favor and 0 opposed.

ATTEST:


Chevelle Nubin, City Clerk


Nelson S. McDuffie, Mayor