

JUNE 7, 2011

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, June 7, 2011.

1. Roll call showed:

Present - Commissioner Tom Carney
Commissioner Fred B. Fetzer
Commissioner Adam Frankel
Commissioner Angeleta E. Gray
Mayor Nelson S. McDuffie

Absent - None

Also present were - David T. Harden, City Manager
Brian Shutt, City Attorney
Chevelle D. Nubin, City Clerk

2. The opening prayer was delivered by Reverend Linda Mobley with Cason United Methodist Church.

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

4. **AGENDA APPROVAL.**

Mr. Carney moved to approve the Agenda, seconded by Mrs. Gray. Upon roll call the Commission voted as follows: Mr. Fetzer – Yes; Mr. Frankel – Yes; Mrs. Gray – Yes; Mayor McDuffie – Yes; Mr. Carney – 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 May 17, 2011, seconded by Mrs. Gray. Upon roll call the Commission voted as follows: Mr. Frankel – Yes; Mrs. Gray – Yes; Mayor McDuffie – Yes; Mr. Carney – Yes; Mr. Fetzer – Yes. Said motion passed with a 5 to 0 vote.

6. **PROCLAMATIONS:**

6.A. **Recognizing and Commending Dr. Virgil C. Norris**

Mayor McDuffie read the proclamation and noted it will be mailed.

7. PRESENTATIONS:

7.A. RESOLUTION NO. 22-11: Approve Resolution No. 22-11 recognizing and commending Margaret Johnson-Graham for 30 years of dedicated service to the City of Delray Beach.

The caption of Resolution No. 22-11 is as follows:

A RESOLUTION OF THE CITY COMMISSION OF
THE CITY OF DELRAY BEACH, FLORIDA,
RECOGNIZING AND COMMENDING MARGARET
JOHNSON-GRAHAM FOR THIRTY YEARS OF
DEDICATED SERVICE TO THE CITY OF DELRAY
BEACH.

(The official copy of Resolution No. 22-11 is on file in the City Clerk's office.)

Mr. Frankel moved to approve Resolution No. 22-11, seconded by Mrs. Gray. Upon roll call the Commission voted as follows: Mrs. Gray – Yes; Mayor McDuffie – Yes; Mr. Carney – Yes; Mr. Fetzer – Yes; Mr. Frankel – Yes. Said motion passed with a 5 to 0 vote.

7.B. Update on the Legislative Session – Representative Lori Berman

Representative Lori Berman distributed the newsletter on the Legislative Session and stated the new law for pill mills requires a mandate that pain clinics have to register and receive a license from the Department of Health, requires distributors to report data to the Department of Health, and they have to refuse to distribute to persons with criminal backgrounds. This will reduce the pill mill operational capacities and provide law enforcement with stronger tools to fight the pain pill epidemic and the Bill amended the database by prohibiting donations from pharmaceutical manufacturers to support it. Representative Berman stated there was a movement to appeal the Red Light Camera Bill but instead it did not pass so the Red Light Camera Bill as it exists still is in effect. She stated \$83.00 out of \$158.00 traffic infraction goes to the State Department of Revenue and local government retains \$75.00. Representative Lori Berman stated between July 1, 2010 and March 2011 approximately \$10.4 million was retained by local governments that have installed traffic infraction detectors. Ms. Berman stated they passed a 300 page piece of legislation regarding growth management. She stated concurrency is not required under the new law; it is optional which means when the City approves a development they do not have to approve roads, schools or parks. Representative Berman stated House Bill 45 preempts local government from enacting laws that impinge on a person's ability to own Firearms and ammunition; House Bill 93 - local government cannot require convenience stores and other businesses to install security cameras; House Bill 407 prohibits local governments from having a Building Inspector look at anything other than what they were called out to inspect; House Bill

7215 prohibits local government from regulating the sale of fertilizer unless it was done before July 1, 2011. Representative Berman stated this year was a challenging session for everyone in Tallahassee. She stated two Bills passed; the Lake Worth Drainage District local Bill gives the Drainage District authority to issue bonds and with that bonding power the goal is to build a reservoir and enter into interlocal agreements with the city to sell the water from the reservoir.

Mayor McDuffie thanked Representative Berman for the open door policy and for the dialogue the Commission has been able to have. He stated hopefully they will have a better session next year.

8. **CONSENT AGENDA:** City Manager Recommends Approval.

8.A. **RATIFICATION OF SOUTH CENTRAL REGIONAL WASTEWATER TREATMENT AND DISPOSAL BOARD ACTIONS:** Approve and ratify actions of the South Central Regional Wastewater Treatment and Disposal Board at their Quarterly Meeting of May 5, 2011.

8.B. **RESOLUTION NO. 16-11 (TAX EXEMPTION REQUEST FOR ELIGIBLE IMPROVEMENTS/114 N.E. 1ST AVENUE):** Approve a tax exemption request for eligible improvements to the property located at 114 N.E. 1st Avenue within the Old School Square Historic District; and approve Resolution No. 16-11.

The caption of Resolution No. 16-11 is as follows:

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, GRANTING AN AD VALOREM TAX EXEMPTION TO ROGER COPE, TRUSTEE, FOR THE HISTORIC REHABILITATION OF THE PROPERTY LOCATED AT 114 NE 1ST AVENUE, AS FURTHER DESCRIBED HEREIN; DETERMINING THAT THE COMPLETED IMPROVEMENTS ARE CONSISTENT WITH LAND DEVELOPMENT REGULATION (LDR) SECTION 4.5.1(M)(5); PROVIDING AN EFFECTIVE DATE.

(The official copy of Resolution No. 16-11 is on file in the City Clerk's office.)

8.C. **RESOLUTION NO. 17-11 (TAX EXEMPTION REQUEST FOR ELIGIBLE IMPROVEMENTS/138 N.E. 1ST AVENUE):** Approve a tax exemption for improvements to the property located at 138 N.E. 1st Avenue within the Old School Square Historic District; and approve Resolution No. 17-11.

The caption of Resolution No. 17-11 is as follows:

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, GRANTING AN AD VALOREM TAX EXEMPTION TO OWEN G. AND MARY JO CISCO FOR THE HISTORIC REHABILITATION OF THE PROPERTY LOCATED AT 138 NE 1ST AVENUE, AS FURTHER DESCRIBED HEREIN; DETERMINING THAT THE COMPLETED IMPROVEMENTS ARE CONSISTENT WITH LAND DEVELOPMENT REGULATION (LDR) SECTION 4.5.1(M)(5); PROVIDING AN EFFECTIVE DATE.

(The official copy of Resolution No. 17-11 is on file in the City Clerk's office.)

8.D. GRANT AGREEMENT/FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION: Approve a Grant Agreement with the Florida Fish and Wildlife Conservation Commission to provide funding in the amount of \$102,500.00 for the reconstruction of the Mangrove Park Boat Ramp.

8.E. CONTRACT CLOSEOUT (CHANGE ORDER NO. 2/FINAL)/CHAZ EQUIPMENT COMPANY, INC.: Approve a Contract Closeout (C.O. No. 2/Final) in the amount of a \$41,130.83 decrease and final payment in the amount of \$63,756.42 to Chaz Equipment Company, Inc. for the completion of the S.W. 12th Avenue Alleys Phase I Project. Funding is available from 334-3162-541-68.49 (General Construction Fund/Other Improvement/S.W. 12th Avenue Phase I Alley) and 448-5461-538-68.38 (Storm Water Utility Fund/Other Improvement/S.W. 12th Avenue Phase I Alley).

8.F. AGREEMENT/HIT AFTER HIT, INC.: Approve an agreement with Hit After Hit, Inc. to create an Ultimate Performer singing competition at Pompey Park.

8.G. NEIGHBORHOOD STABILIZATION PROGRAM (NSP) EXTENSION OF AUTHORIZATION: Provide authorization to extend the City Manager and /or his designees to sign purchase agreements for the acquisition of properties under the NSP initiative until September 30, 2013.

8.H. COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG)/HOUSING REHABILITATION CONTRACT AWARDS: Approve two (2) Housing Rehabilitation contract awards for 108 N.W. 8th Avenue and 215 N.W. 6th Avenue to Built Solid Construction, LLC., the lowest responsive bidder, in the amount of \$54,512.47 for housing rehabilitation grants under the Community Development Block Grant (CDBG). Funding is available from 118-1963-554-49.19 (Neighborhood Services: Other Current Charges/Housing Rehabilitation).

8.I. FIFTH AMENDMENT TO THE INTERLOCAL AGREEMENT/PALM BEACH COUNTY: Approve the Fifth Amendment to the Interlocal Agreement with Palm Beach County in the amount of \$50,000.00 supporting

Weed and Seed "seeding" efforts.

8.J. SCHOOL READINESS CHILD CARE SERVICE AGREEMENT/FAMILY CENTRAL, INC.: Approve a School Readiness Child Care Service Agreement between the City and Family Central, Inc., to provide subsidized child care funding for the Afterschool Program.

8.K. AFTERSCHOOL PROGRAM SERVICE AGREEMENT/FAMILY CENTRAL, INC.: Approve an Afterschool Program Service Agreement between the City and Family Central, Inc., to continue reimbursable funding through the Continue to Care-Afterschool Scholarship program for the Afterschool Program located at Pompey Park and the Community Center.

8.L. RENEWAL OF AGREEMENT/PALM BEACH STATE COLLEGE: Approve renewing an Agreement with Palm Beach State College to provide education and training to students in the Paramedic and EMT program for Delray Beach Fire Rescue.

8.M. CHANGES TO THE GENERAL EMPLOYEES INVESTMENT POLICY GUIDELINES: Approve changes to the General Employees Investment Policy Guidelines.

8.N. RATIFICATION OF APPOINTMENT TO THE KIDS AND COPS COMMITTEE: Approve and ratify the appointment of Ms. Nicole Guerriero, Police Department Representative, for an unexpired term ending November 30, 2011.

8.O. RESOLUTION NO. 21-11: Approve Resolution No. 21-11 assessing costs for abatement action required to remove nuisances on four (4) properties throughout the City.

The caption of Resolution No. 21-11 is as follows:

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, PURSUANT TO CHAPTER 100 OF THE CODE OF ORDINANCES OF THE CITY OF DELRAY BEACH, ASSESSING COSTS FOR ABATING NUISANCES UPON CERTAIN LAND(S) LOCATED WITHIN THE CITY OF DELRAY BEACH AND PROVIDING THAT A NOTICE OF LIEN SHALL ACCOMPANY THE NOTICE OF ASSESSMENT; SETTING OUT ACTUAL COSTS INCURRED BY THE CITY TO ACCOMPLISH SUCH ABATEMENT AND LEVYING THE COST OF SUCH ABATEMENT OF NUISANCES; PROVIDING FOR AN EFFECTIVE DATE AND FOR A DUE DATE AND INTEREST ON ASSESSMENTS; PROVIDING FOR THE RECORDING OF THIS RESOLUTION, AND

DECLARING SAID LEVY TO BE A LIEN UPON
THE SUBJECT PROPERTY FOR UNPAID
ASSESSMENTS.

(The official copy of Resolution No. 21-11 is on file in the City Clerk's office.)

8.P. NAME CHANGE AMENDMENT FOR PROFESSIONAL SERVICES CONTRACT/ATKINS NORTH AMERICA, INC: Approve a Name Change Amendment for Professional Services Contract from Post, Buckley, Schuh & Jernigan, Inc. (PBS & J, Inc.) to Atkins North America, Inc.

8.Q. REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS: Accept the actions and decisions made by the Land Development Boards for the period May 16, 2011 through June 5, 2011.

8.R. AWARD OF BIDS AND CONTRACTS:

- 1.** Bid award to Pro Courts in the amount of \$23,222.50 for fence repair at the Tennis Center and at the Delray Beach Swim and Tennis Club. Funding is available from 334-4145-572-46.90 (General Construction Fund: Repair & Maintenance Services/Other Repair/Maintenance Costs).
- 2.** Bid award to Pro Courts in the amount of \$35,040.00 for resurfacing courts five (5) through eight (8) and installing approximately 340 linear feet of channel drains along the north side of courts five (5) through eight (8) and north side of court nine (9) at the Tennis Center. Funding is available from 334-4145-572-46.90 (General Construction Fund: Repair & Maintenance Services/Other Repair/Maintenance Costs).
- 3.** Purchase award to Municipal Equipment Company, LLC. in the amount of \$55,201.25 for twenty-five (25) replacement sets of firefighting personal protective equipment. Funding is available from 001-2315-526-52.18 (General Fund: Operating Supplies/Bunker Gear).
- 4.** Purchase award to Hector Turf in the amount of \$16,664.26 for the purchase of one (1) Toro Groundmaster 7200 with 62" Recycler Kit for Utilities Maintenance. Funding is available from 441-5143-536-64.90 (Water and Sewer Fund: Machinery/Equipment/Other Machinery/Equipment).
- 5.** Purchase award to Ag-Tronix in the amount of \$49,395.92 to continue computerization of irrigation systems to the remainder of the parks, medians and public facilities. Funding is available from 119-4151-572-64.90 (Beautification Trust Fund: Machinery/Equipment/Other Machinery/Equipment).

6. Purchase award to Sports Turf One, Inc. in the amount of \$62,742.45 for resodding Hilltopper Stadium. Funding is available from 001-4131-572-34.90 (General Fund: Other Contractual Service).
7. Purchase award to Stop-Tech in the amount of \$27,417.00 for sixty (60) Stop Stick kits, storage units, and an on-site "train-the-trainer" course for implementation. Funding is available from 334-2111-521-52.27 (General Construction Fund: Operating Supplies/Equipment <\$1,000).

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

9. **REGULAR AGENDA:**

9.A. **CONDITIONAL USE REQUEST/MOTION AUTO CARE:** Consider a conditional use request to allow the establishment of an automobile repair shop with detailing services for Motion Auto Care, to occupy a tenant bay within a multi-tenant industrial building, located at 1208 Georgia Street. (*Quasi-Judicial Hearing*)

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

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. Mr. Frankel and Mrs. Gray stated they had no ex parte communications to disclose. Mayor McDuffie stated he had a conversation with the applicant in his office discussing the things that they wanted to do with this particular property and he informed them that they were on the right track but that they needed to go through the Planning and Zoning Board which they have done. Mr. Carney and Mr. Fetzer stated they had no ex parte communications to disclose.

Mark McDonnell, Assistant Planning Director, entered the Planning and Zoning Department project file #2011-101 into the record.

Mr. McDonnell stated this is a request for a Conditional Use for Motion Auto Care located at 1208 Georgia Street. The applicant is proposing to occupy one of the bays in this building in the Wallace Drive redevelopment area north of Linton Boulevard on the west side of Wallace Drive. Mr. McDonnell stated the proposed auto repair use will occupy one bay 1,250 square feet within this building and is allowed as a conditional use within that zoning district. Mr. McDonnell stated the Wallace Drive

Redevelopment Plan was adopted by the City Commission on January 6, 2004. Mr. McDonnell stated the study that was done stated that "most of the structures with the exception of the newer facilities in the area are poorly maintained and the existing auto repair and vehicular storage uses are having a negative impact on the entire area." The Wallace Drive Redevelopment Plan goes further to state "additional automobile repair uses should be discouraged and that the most appropriate use for the area are manufacturing, fabrication or mixed industrial/commercial uses that generate employment opportunities within the City." Mr. McDonnell stated the current request is for Bay 3 and is in direct conflict with the provisions of the Wallace Drive Redevelopment Plan.

At its meeting of May 16, 2011, the Planning and Zoning Board held a public hearing for the conditional use request and after significant discussion, the Board felt approval of this conditional use for one bay was minor in impact and moved a recommendation of approval on a unanimous vote of 5 to 0, by adopting the findings of fact and law contained in the staff report. Staff recommends denial of the conditional use request to establish an automobile repair and detailing service known as Motion Auto Care.

Ms. Gray asked what the percentage of vacancies is. Mr. McDonnell stated an inventory was done and most of spaces are occupied by Napa Truck Parts. Ms. Gray stated if the Commission denies this how long would it be before we start renovating that area. Mr. McDonnell stated this will be driven by the market.

Shane Johnson, 8480 Winnepesaukee Way, Lake Worth, FL 33467 (co-owner of Motion Auto Care with his father), stated his father worked for Saturn for over 19 years and was laid off and they had a dream to open up their own shop to service the community of Delray. He stated he attended Gulf Stream school from K-8th grade, American Heritage, and Delray summer camp. Mr. Johnson stated they plan on being a part of the success of the City of Delray Beach to help restructure this property so that the citizens of Delray Beach can get top quality services.

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

There was no cross-examination or rebuttal.

Mr. Carney stated he drove out to the site today and walked around the neighborhood. He stated he does not believe this impacts the Wallace Drive Redevelopment Plan because where it is situated and the other types of activity that surround it, he does not see it as introducing anymore of a negative into the area that is already there. However, Mr. Carney expressed concern over the parking on the street and he would like to see some type understanding with the applicant that if this were approved that they would have those cars within the compound itself behind the buffering

that has been provided. Mr. Carney stated he understands that it is contradictory to the Wallace Drive Redevelopment Plan but in this case he does not think that this affects the overall theme of that Plan which is to develop this area.

Mr. Fetzer concurred with comments expressed by Commissioner Carney. Mr. Fetzer stated this is a small bay operation and believes we need to support our small business people in doing something like this in our community. He supports the Planning and Zoning Board vote and therefore supports the conditional use request.

Mr. Frankel stated he respects staff's recommendation. Mr. Frankel commended Mr. Johnson for his presentation and supports the conditional use.

Mayor McDuffie commented about the boats, trucks and vehicles on the street and asked if any of this is illegal. Mr. McDonnell stated the work that is being done on the boats out in the yard is not allowed nor is parking the boats in the right-of-way. Mr. McDonnell stated this applicant does not need Code Enforcement attention; there are a number of users in that building with a number of code issues. Mayor McDuffie stated he is looking at this as 1,250 feet of a 17,500 square foot building and does not think they are going to destroy the neighborhood in these 1,250 square feet. Mayor McDuffie stated this is a time when we are looking at economic development in our community and feels if we can put people back to work in Delray he feels this is what we should do. Mayor McDuffie commended staff for the things that they have done and stated in the redevelopment we need to take a look at all of this; however, he feels the redevelopment is a while off.

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

9.B. FUNDING AGREEMENT/COMMUNITY REDEVELOPMENT AGENCY (CRA)/ECONOMIC DEVELOPMENT DIRECTOR: Provide direction as to whether a new Economic Development Director should be hired, and if so what organization that position should be part of and how it would relate to the City as a whole.

Mayor McDuffie stated some people have requested to speak on this item and it is Commission discretion as to whether to allow this people to speak. It was the consensus of the Commission to allow the following individuals to speak:

Margie Walden, 6103 Caladium Road, Delray Beach, FL 33484 (Executive Vice President of the Alliance of Delray representing 81 condo and HOA communities from the Everglades to the ocean compromised of 100,000 residents), stated the Alliance fully supports the Community Redevelopment Agency (CRA) and the City working together to fund an Economic Development Director position. Ms. Walden read a brief statement into the record.

Gregg B. Weiss, Chairman of the Chamber of Commerce, 64 S.E. 5th Avenue, Delray Beach, FL 33483 (speaking on behalf of the Chamber's Economic Development Committee (EDC)), stated they realize that sustainability of a healthy business community relies on many things such as strategic planning and investment, community partnerships, and strong leadership dedicated to the notion that a diversified thriving business community is essential to the long-term viability of Delray Beach. Mr. Weiss stated the EDC believe it is a great benefit to Delray Beach with the hire of a full-time Economic Development Director and that the position be housed at the Delray Beach CRA office. Mr. Weiss stated on behalf of the Economic Development Committee at the Chamber of Commerce, they endorse this continued partnership between the CRA, the City, and the hiring of this position.

Diane Colonna, Executive Director of the CRA, briefly summarized some of the accomplishments in the past year of the Economic Development Director. Ms. Colonna stated the position has worked very well at the CRA and hopes the City will participate in the funding because it is important that this person be able to market and promote the areas outside the CRA district.

Christina Morrison Pearce, 2000 South Ocean Boulevard #307, Delray Beach, FL 33483, stated there are other areas in the city besides the CRA district that really need attention right now and urged the Commission to consider this.

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

Mr. Frankel stated he sent an email to the City Manager today about asking how many businesses the Economic Development Director brought to the City. Ms. Colonna stated these past two years were some of the toughest economic times they have been through. Ms. Colonna stated they have had some new businesses come into downtown with some of the business assistance programs; however, she does not have an exact number. She stated they laid the ground work by creating these tools and promoting Delray Beach. Ms. Colonna stated there has been competition with Boca when looking at the larger employers there is so much vacant office space there that even when the Business Development Board has brought companies a lot of them have tended to go to existing vacant space there. Ms. Colonna stated recently the CRA has been working with two hotels on the incentive programs that they have and jobs will be created with those.

Mr. Frankel stated the City has a very difficult budget and he is not so sure that the money being spent has paid off.

Mrs. Gray asked what percentage the City contributed to the Economic Development Director position. The City Manager stated the City contributed twenty-five percent (\$20,000-\$25,000). Mrs. Gray stated she supports an Economic Development Director and would like to see this person concentrate on the four corners and other areas on Congress Avenue as well. Also, Mrs. Gray stated she would like the Commission to be able to participate in the hiring of the next Economic Development Director. Mrs. Gray asked if the CRA has asked the Chamber of Commerce to participate in any way. Ms. Colonna stated the Chamber has provided support in terms of meeting space, the website, and the director works very close with the Chamber's Economic Development Committee so there is a lot of support and ideas coming from that. Ms. Colonna stated she, Lula Butler, and Bill Wood conducted the interviews to select the person for this position in the past.

Mrs. Gray asked who this person would be reporting to. The City Manager stated if the Commission gives direction to move forward he recommends that we review the job description and the agreement between the CRA to address some of the issues with Diane Colonna's involvement in the hiring process, the reporting, and how the areas outside the CRA district would be handled.

The City Manager stated the City is running a deficit this year because of the delay in getting labor contracts negotiated. Therefore, the City Manager recommends not funding this position until the new budget year starting October 1st. Ms. Gray asked if the Commission approves this how soon would that person come on board and would the CRA be able to afford funding that position until that time. Ms. Colonna stated she does not believe this would be a problem and would like to hire someone soon.

Mr. Carney stated we need to do something sooner rather than later in addressing the economic incentives within the CRA district but other parts of the city such as the Congress Avenue corridor. Mr. Carney supports an Economic Development Director and stated the focus of the position needs to be as much outside of what is in the CRA district as it is outside the district in particular the Congress Avenue Corridor which needs a lot of attention.

Mr. Fetzer supports the position of an Economic Development Director and stated we need to invest in bringing a diverse business climate to Delray Beach. He too agrees that we need to focus on other areas of the city other than the CRA district. Mr. Fetzer strongly supports this and stated we need to be forward with it.

The City Manager stated one of the things Mr. Perez-Azua did was to step up the City's involvement with the Business Development Board and over long-term that will pay dividends.

Mayor McDuffie stated many organizations such as the Sports Commission, the Tourism Development Council and everyone else in the West Palm Beach area was working on bringing businesses and people to Palm Beach County. He stated we need to continue to do and feels this is an important position for the City of Delray Beach. Mayor McDuffie stated we need to find someone with that expertise and trained in business development and there should be a reporting component that the Commission receives feedback on a regular basis from what is going on so they can inform the stakeholders (i.e. Chamber, CRA, and City) in this job. Mayor McDuffie stated he would like to make sure that the Commission is a large part of the selection of this person.

It was the consensus of the Commission to direct the City Attorney to make the following changes to the agreement: (1) the City involved in the hiring of this person, (2) direction in the agreement regarding the outside areas outside the CRA boundaries that this person can look at, (3) funding will not begin until October 1st, (4) reporting component from this person to the City on a timely basis and that staff get with the CRA and bring it back for the next regular meeting of June 21, 2011.

Mr. Frankel stated he would support someone with specialized knowledge in business.

Mayor McDuffie he believes that to be critical because over the past two years he has had the opportunity to sit with people who solely do corporate site selection.

Mrs. Gray stated that the City start looking at creating incentives for the Congress Avenue corridor.

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

11.B. From the Public.

11.B.1. Matthew Sclier, 18 Grove Way, Delray Beach, FL 33444, distributed photos of Riviera Beach and stated the City of Riviera Beach issues tickets for anyone that violates the noise ordinance. Mr. Sclier stated he spoke to the Delray Beach Police Chief who stated he was all for it but the problem is enforcing this law. Mr. Sclier stated if extra police are needed to enforce this he will put his money up to pay for the salary for two days of police written against tickets that they will issue and feels those tickets will exceed their salaries. He urged the City Commission to come up with a resolution to this issue.

At this point, the time being 7:04 p.m., the Commission moved to the duly advertised Public Hearings portion of the Agenda.

10. PUBLIC HEARINGS:

10.A. ORDINANCE NO. 12-11 (SECOND READING/SECOND PUBLIC HEARING): Consider a city initiated amendment to the Land Development Regulations (LDR) Article 4.4 to add community gardens as a principal use and an accessory use, amending Section 4.3.3, "Special Requirements for Specific Uses", to establish specific regulations pertaining to the development of community gardens.

The caption of Ordinance No. 12-11 is as follows:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS BY ENACTING A NEW SECTION 4.3.3(D), "COMMUNITY GARDENS", TO PROVIDE STANDARDS FOR SAME; AMENDING SECTIONS 4.4.3, "SINGLE FAMILY RESIDENTIAL (R-1) DISTRICTS", SUBSECTION (B), "PRINCIPAL USES AND STRUCTURES PERMITTED", 4.4.5, "LOW DENSITY RESIDENTIAL (RL) DISTRICT", SUBSECTIONS (B), "PRINCIPAL USES AND STRUCTURES PERMITTED" AND (C), "ACCESSORY USES AND STRUCTURES PERMITTED", 4.4.6, "MEDIUM DENSITY RESIDENTIAL (RM) DISTRICT", SUBSECTIONS (B), "PRINCIPAL USES AND STRUCTURES PERMITTED" AND (C), "ACCESSORY USES AND STRUCTURES PERMITTED"; TO ADD COMMUNITY GARDENS TO THE LIST OF PERMITTED USES, AND AS ACCESSORY USES TO AN APPROVED MULTI-FAMILY DEVELOPMENT; PROVIDING A SAVING CLAUSE, A GENERAL REPEALER CLAUSE, AND AN EFFECTIVE DATE.

(The official copy of Ordinance No. 12-11 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.

Lula Butler, Director of Community Improvement, stated this ordinance is a city-initiated amendment to the LDRs to add community gardens as a principal use and accessory use and to establish specific regulations pertaining to the development of community gardens. Mrs. Butler stated staff proposes that community gardens be located in R-1 Single Family Residential Districts, RL Low Density Residential District, and RM Medium Density Residential District and the ordinance contains both general rules and

specific rules governing the use of community gardens. Mrs. Butler briefly reviewed the general rules and stated all community gardens require administrative approval through the Community Improvement Department or the Planning and Zoning Department if they are associated with a multi-family development. Mrs. Butler stated this item has been before the West Atlantic Avenue Redevelopment Coalition (WARC), the Community Redevelopment Agency (CRA), and the Planning and Zoning Board.

Mayor McDuffie declared the public hearing open.

Michael Stevenson, representing the Southwest Community Garden, stated for several years he grew fruits and vegetables at home and provided them to neighbors and quickly his yard became too small and the idea of producing enough things for his neighbors was overwhelming. Mr. Stevenson stated also while working the Southwest Neighborhood Alliance they discussed the issue of how difficult it is to get the people in his neighborhood out so they could start their neighborhood associations and thus his idea for the Southwest Community Garden. He stated once they started the community garden they identified several things: (1) educate youth and families about how to grow foods and items in our community, (2) educate the neighbors about nutrition and its important role, (3) speak to the youth about multi-cultural diversity, (4) educate neighbors how important food plays in religion, and other cultures and how they use herbs and spices. Mr. Stevenson stated there is a section in the ordinance that included prohibiting of use of synthetic products and that community gardens must be organic. Mr. Stevenson stated the goal of the Southwest Neighborhood Garden is to produce nutritious and wholesome vegetables for the people in his neighborhood and they do not charge them. Mr. Stevenson stated some of the products they grow at their community garden they will take and sell at other venues such as the green market, etc. He stated they rely on donations and fundraisers. Mr. Stevenson stated he sent an email approximately one month ago inviting the City Commission to see the community garden.

Mr. Carney asked Mr. Stevenson about his concern regarding the ordinance is that pesticides are not organic. Mr. Stevenson stated not only is the pesticide not organic but fertilizing the other synthetic products that they have to use in order to produce a high volume food item are not organic.

Pablo Del Real, 521 Southridge Road, Delray Beach, FL 33444, inquired about the 10 foot setbacks from the interior property lines. Mr. Del Real asked if there is a similar ordinance regulating a garden in someone's home. Mrs. Butler stated generally people with gardens do not plant them in their setback areas and the intent of it is so that it does not encroach upon residential units that are adjacent to them.

Jayne King, 3400 Place Valencay, Delray Beach, FL 33445, stated she is on the Green Implementation Advisory Board and one of the recommendations of the Board was to have community gardens. Ms. King stated she feels it is important to have community gardens and with regard to the organic fertilizers and pesticides she believes there are products that would not be harmful with the runoff and the other kinds of

harmful chemical affects. Ms. King urged the Commission to support the ordinance.

There being no one else from the public who wished to address the Commission regarding Ordinance No. 12-11, the public hearing was closed.

Mrs. Gray thanked staff for drafting this ordinance and she is glad to see the community garden. She asked if there is a way to find out about the pesticides without it being so costly. Mrs. Butler stated the City can possibly provide some technical assistance with what might be appropriate and affordable.

Mayor McDuffie stated we have spent so much time and money in this city trying to get clean and green that synthesized pesticides, etc. are not something that we would like to see placed in our community.

Mr. Carney stated there is a difference between synthetic pesticides and if the issue is whether or not they are concerned about them creating an environmental issue he completely agrees. However, Mr. Carney stated because it is synthetic does not necessarily mean that it creates an environmental issue.

Mrs. Gray asked Mr. Stevenson to work with staff to come up with a list of products that would be feasible for both. Mr. Stevenson stated he would be more than happy to work with staff.

Mr. Carney moved to adopt Ordinance No. 12-11 on Second and FINAL Reading, seconded by Mrs. Gray. Upon roll call the Commission voted as follows: Mr. Fetzer – Yes; Mr. Frankel – Yes; Mrs. Gray – Yes; Mayor McDuffie – Yes; Mr. Carney – Yes. Said motion passed with a 5 to 0 vote.

At this point, the time being 7:23 p.m., the Commission moved to **Item 11.A., City Manager's response to prior public comments and inquiries.**

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

None.

At this point, the time being 7:23 p.m., the Commission moved back to **Item 9.C. of the Regular Agenda.**

9.C. CONTRACT AWARD/INTERCOUNTY ENGINEERING, INC.: Consider approval of a contract award to Intercounty Engineering, Inc. in the amount of \$816,492.50 for the construction of Osceola Park Water Main Phase II Project. Funding is available from 442-5178-536-65.85 (W&S Renewal & Replacement Fund: Other Improvements/Osceola Park).

Richard Hasko, Director of Environmental Services, stated this item is a recommendation by staff for award of a construction contract to Intercounty Engineering, Inc. for the construction of the Osceola Park Water Main Phase II Project in the amount of \$816,492.50. Mr. Hasko stated Intercounty Engineering, Inc. was the low bidder on this project and the reason this is on the regular agenda is because there was one irregularity in Intercounty's bid. He stated there was a requirement in the bid submittal package for the contractor's to provide copies of their prequalification certification by the city and Intercounty's administrative staff had inadvertently left that piece of paper out. Mr. Hasko stated Intercounty Engineering is prequalified in the city and they were awarded the bid for the Area 11B Reclaimed Water Project on the barrier island. Staff's concern was whether or not Intercounty had the staff and the resources to construct them both concurrently in independent timeframes which is why staff requested the verification in the backup. Mr. Hasko stated they have informed the city that they have the staff, resources, and equipment to do that. He stated based on Commission's ability to waive irregularities in bids as specified in the bid documents staff recommends this bid award to Intercounty Engineering, Inc.

Mr. Frankel moved to approve the contract award to Intercounty Engineering, Inc. in the amount of \$816,492.50 including the waiver of the irregularity in the bid, seconded by Mr. Carney. Upon roll call the Commission voted as follows: Mr. Frankel – Yes; Mrs. Gray – Yes; Mayor McDuffie – Yes; Mr. Carney – Yes; Mr. Fetzer – Yes. Said motion passed with a 5 to 0 vote.

9.D. APPOINTMENT TO THE FINANCIAL REVIEW BOARD: Appoint one (1) alternate member to the Financial Review Board to serve an unexpired term ending July 31, 2011. Based upon the rotation system, the appointment will be made by Mayor McDuffie (Seat #5).

Mayor McDuffie stated he wished to appoint Andrew Youngross as an alternate member to the Financial Review Board to serve an unexpired term ending July 31, 2011. Mr. Frankel so moved, seconded by Mrs. Gray. Upon roll call the Commission voted as follows: Mrs. Gray – Yes; Mayor McDuffie – Yes; Mr. Carney – Yes; Mr. Fetzer – Yes; Mr. Frankel – Yes. Said motion passed with a 5 to 0 vote.

9.E. APPOINTMENT TO THE BOARD OF ADJUSTMENT: Appoint one (1) alternate member to the Board of Adjustment to serve an unexpired term ending August 31, 2011. Based upon the rotation system, the appointment will be made by Mayor McDuffie (Seat #5).

Mayor McDuffie stated he wished to appoint Michael Park as an alternate member to the Board of Adjustment to serve an unexpired term ending August 31, 2011. Mrs. Gray so moved, seconded by Mr. Frankel. Upon roll call the Commission voted as follows: Mayor McDuffie – Yes; Mr. Carney – Yes; Mr. Fetzer – Yes; Mr. Frankel – Yes; Mrs. Gray – Yes. Said motion passed with a 5 to 0 vote.

At this point, the time being 7:26 p.m., the Commission moved to **Item 12, First Readings.**

12. **FIRST READINGS:**

12.A. **ORDINANCE NO. 18-11:** Consider amending Chapter 132, “Offenses Against Public Peace And Safety”, by amending Section 132.09, “Skateboarding and the Like Prohibited”, to provide certain areas in which skateboarding shall be prohibited. If passed, a public hearing will be held on June 21, 2011.

The caption of Ordinance No. 18-11 is as follows:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING CHAPTER 132, “OFFENSES AGAINST PUBLIC PEACE AND SAFETY”, OF THE CODE OF ORDINANCES OF THE CITY OF DELRAY BEACH, FLORIDA, BY AMENDING SECTION 132.09, “SKATEBOARDING AND THE LIKE PROHIBITED”, TO PROVIDE CERTAIN AREAS IN WHICH SKATEBOARDING SHALL BE PROHIBITED; PROVIDING A GENERAL REPEALER CLAUSE, A SAVING CLAUSE, AND AN EFFECTIVE DATE.

(The official copy of Ordinance No. 18-11 is on file in the City Clerk’s office.)

The City Attorney read the caption of the ordinance.

Cathy Kozol, Assistant City Attorney/Police Legal Advisor, stated this ordinance prohibits skateboarding in the garages (Old School Square Garage and the Robert W. Federspiel Parking Garage) within the City.

Mr. Carney moved to approve Ordinance No. 18-11 on FIRST Reading, seconded by Mr. Frankel. Upon roll call the Commission voted as follows: Mr. Carney – Yes; Mr. Fetzer – Yes; Mr. Frankel – Yes; Mrs. Gray – Yes; Mayor McDuffie – Yes. Said motion passed with a 5 to 0 vote.

12.B. **ORDINANCE NO. 19-11:** Consider amending Chapter 96, “Fire Safety and Emergency Services”, and amending Section 96.16, “Certain Codes Adopted by Reference”, to clarify the requirements for reconstruction. If passed, a public hearing will be held on June 21, 2011.

The caption of Ordinance No. 19-11 is as follows:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING CHAPTER 96, “FIRE SAFETY AND EMERGENCY SERVICES”, OF THE CODE OF ORDINANCES OF THE CITY OF DELRAY BEACH,

FLORIDA, BY AMENDING SECTION 96.16, "CERTAIN CODES ADOPTED BY REFERENCE", TO CLARIFY THE REQUIREMENTS FOR RECONSTRUCTION; PROVIDING A GENERAL REPEALER CLAUSE, A SAVING CLAUSE, AND AN EFFECTIVE DATE.

(The official copy of Ordinance No. 19-11 is on file in the City Clerk's office.)

The City Attorney read the caption of the ordinance.

Richard Hasko, Director of Environmental Services, stated this ordinance came to staff's attention as they were going through the permitting process for the Pompey Park concession stand. Mr. Hasko stated staff ran into some permitting issues with fire safety and after staff researched the ordinance they realized that unlike many of the City's ordinances there was nothing in the ordinance that addressed redevelopment or rehabilitation. He stated many of the City's ordinances do address that in terms of thresholds for some of these requirements based on a percentage of the structure that is being rehabbed. Mr. Hasko stated staff discussed this with Fire-Rescue and they agreed that it would make sense to have that threshold in this ordinance for minor expansions and rehabilitations of structures such as Pompey Park concession stand.

Mrs. Gray moved to approve Ordinance No. 19-11 on FIRST Reading, 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. Carney – 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.**

13. COMMENTS AND INQUIRIES ON NON-AGENDA ITEMS.

13.A. City Manager

The City Manager commented about the Agreement with Gulf Stream and stated the City has the block data for the 2010 Census.

Secondly, the City Manager stated the conference last week was excellent. He stated there were numerous ideas about saving the City money and improving the way we do things.

13.B. City Attorney

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

13.C. **City Commission**

13.C.1. **Mr. Fetzer**

Mr. Fetzer commented about the studies the City has underway with ICMA on the Police and Fire staffing and asked about the status. The City Manager stated staff has the data analysis for both Police and Fire and staff has had the on-site visits and is waiting for the draft report. The City Manager stated staff should have those reports within the next couple of weeks.

Secondly, Mr. Fetzer stated with regard to next year's budget what timeline is the Commission looking at as far as Commission involvement and discussions. The City Manager stated pursuant to the Charter the City Commission should have the budget by the first meeting in July.

13.C.2. **Mr. Carney**

Mr. Carney commented about the telephone calls he received related to the fire service the City is currently providing to Gulf Stream. He stated he wants to make sure in the analysis that we include the wiggle room that when they do develop the Sea Horse site (which is going to add additional residential dwelling units) staff does not have to go back a second time. Mr. Carey stated part of that annexation includes their desire to develop the Sea Horse site and he wants to make sure that we include that number at some later date in terms of what we would additionally charge them.

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

Mrs. Gray stated she attended the FCCMA (Florida City and County Management Association) Conference last week with the City Manager and staff. She stated this was a great conference and is looking forward to some new ideas and cost savings that staff is going to bring forth to the Commission.

Secondly, Mrs. Gray stated under the Consent Agenda this evening the Commission approved the grant dollars for the reconstruction project at Mangrove Park and she congratulated staff for a great job.

Mrs. Gray thanked Abby Murrell, Acting Recreation Supervisor II/Pompey Park, and staff for doing a wonderful job with cleaning up Pompey Park and bringing in new programs.

Lastly, Mrs. Gray congratulated the Village Academy 2011 graduating class for being the first class to graduate.

13.C.4. Mr. Frankel

Mr. Frankel stated when the Commission discussed the Gulf Stream issue several months ago he was the only dissenting vote because he did not feel they were paying enough and now with this annexation he really does not feel they are paying enough.

Secondly, Mr. Frankel stated he was at Spot Coffee and they had A-Frame signs and some City employees removed these signs and put them in their work vehicle without telling anyone.

Mr. Frankel stated it was great having Lieutenant Governor Jennifer Carroll here.

Mr. Frankel stated it was great to see so many community leaders at the opening of the Auburn project (Villages of Delray). He stated Mayor McDuffie gave a great speech and he is happy with what they are doing.

Mr. Frankel complimented Commissioner Gray on her best bartending at the Brandon Flowers event. He stated this was a very nice charity event for XPE Sports.

Lastly, Mr. Frankel stated "Dine Out for the Cause" will be the first event for the library for the summer and will be held Thursday, June 9, 2011 at Buddha Sky Bar.

13.C.5. Mayor McDuffie

Mayor McDuffie stated he attended several graduations (i.e. Atlantic High School, S.D. Spady, and the Delray Youth Vocational Charter School). He stated the Delray Youth Vocational Charter School is in desperate financial trouble.

There being no further business, Mayor McDuffie declared the meeting adjourned at 7:41 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 June 7, 2011, which Minutes were formally approved and adopted by the City Commission on June 21, 2011.



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

**CONDITIONAL USE REQUEST TO ESTABLISH A
1,250 SQ. FT. AUTO REPAIR AND DETAILING BUSINESS
("MOTION AUTO CARE") AT 1208 GEORGIA STREET, BAY #3**

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

1. This conditional use request has come before the City Commission on June 7, 2011. The conditional use request is to establish a 1,250 sq. ft. auto repair and detailing business at 1208 Georgia Street, Bay #3.

2. The City staff, applicant, and other persons have presented documentary evidence and testimony to the City Commission pertaining to the conditional use request of Motion Auto Care. All of the evidence is a part of the record in this case. Required findings are made in Sections I and II below.

I. COMPREHENSIVE PLAN

A. **FUTURE LAND USE MAP:** The use or structures must be allowed in the zone district and the zoning district must be consistent with the land use designation.

The subject property has a CMR (Commerce) Future Land Use Map (FLUM) designation and is zoned MIC (Mixed Industrial and Commercial). The MIC Zoning is consistent with the CMR land use designation. The proposal is to operate an auto repair and detailing service within Bay #3 located in the southwest portion of the building. Pursuant to LDR Section 4.4.19(D)(1)(c), within the MIC Zone district automotive paint, body, and repairs shops is allowed as a conditional use.

Are the requirements of the Future Land Use Map met?

Yes ✓ No

B. **Concurrency:** Facilities which are provided by, or through, the City shall be provided to new development concurrent with issuance of a Certificate of Occupancy. These facilities shall be provided pursuant to levels of service established within the Comprehensive Plan.

Are the concurrency requirements met with respect to water, sewer, drainage, streets and traffic, parks, open space, solid waste and schools?

Yes No

C. Consistency: Compliance with performance standards set forth in Chapter Three and required findings in LDR Section 2.4.5(E) (5) for the Conditional Use request shall be the basis upon which a finding of overall consistency is to be made. Other objectives and policies found in the adopted Comprehensive Plan may be used in making a finding of overall consistency.

A review of the Objectives and Policies of the adopted Comprehensive Plan was conducted and no applicable Objectives or Policies were found.

Are the consistency requirements met such that the proposed project is complementary to and compatible with adjacent land uses and the beneficial aspects of the project outweigh the negative impact of identified points of conflict?

Yes No

II. LDR REQUIREMENTS

A. Section 2.4.5(E)(5) requires certain findings: The conditional use will not:

1. Have a significantly detrimental effect upon the stability of the neighborhood within which it will be located;
2. Hinder development or redevelopment of nearby properties.

Are the requirements of Section 2.4.5(E)(5) met?

Yes No

B. LDR Section 4.6.9 (Parking): Pursuant to LDR Section 4.6.9(C)(5)(a), general industrial uses (manufacturing, assembly, attendant offices) shall provide parking at a rate of 3 spaces per 1,000 sq. ft. of floor area devoted to such uses and 1 space per 1,000 sq. ft. of floor area devoted to storage and warehouse. In addition, general commercial uses (retail) and vehicle repair uses shall provide 4.5 spaces per 1,000 square feet of gross floor area [ref. LDR Sections 4.6.9(C)(3)a) & (5)(b)].

The MIC zone district allows a mix of industrial, office, and limited retail uses. The subject parcel was developed in the County and was subject to their development standards when it was originally developed. Palm Beach County parking requirements for IL (Light Industrial) manufacturing and processing required a ratio of 2 spaces per

1,000 sq. ft. for the first 10,000 sq. ft.; plus 1 space per 1,000 sq. ft. over 10,000 sq. ft. ($10,000 \times 2/1000 = 20$ and $6,000 \times 1 = 6,000 = 6$) for a total of 26 parking spaces. It is noted that 36 parking spaces are currently being provided which equated to a surplus of 10 spaces.

As the subject property was established as Light Industrial manufacturing only the difference in parking between the manufacturing (2 spaces per 1,000 sq. ft.) and auto repair (4.5/1,000) parking ratios needs to be provided with this conversion. Therefore, the number of vested manufacturing processing parking spaces is 2.5 spaces ($1,250 \times 2/1,000 = 2.5$). Accordingly, the proposed 1,250 sq. ft. auto repair use requires 5.62 parking spaces ($1,250 \times 4.5/1,000 = 5.62$). A total of 3 parking spaces are required for the conversion from manufacturing to auto repair ($5.62 - 2.5 = 3.12$). These three (3) parking spaces required for the conversion are accounted for within the existing surplus of 10 spaces, and thus, the surplus parking will be reduced from ten (10) to seven (7) parking spaces.

Are the requirements of Section 4.6.9 met?

Yes ✓ No

3. The City Commission has applied the Comprehensive Plan and LDR requirements in existence at the time the conditional use application was submitted.

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 and testimony of witnesses supporting these findings.

5. Based on the entire record before it, the City Commission approves ✓ denies the conditional use application and hereby adopts this Order this 7th day of June 2011, by a vote of 5 in favor and 0 opposed.



Nelson S. McDuffie, Mayor

ATTEST:



Chevelle Nubin
City Clerk