

City of Delray Beach

Regular Commission Meeting

*****AGENDA RESULTS*****



RULES FOR PUBLIC PARTICIPATION

Tuesday, October 6, 2009

Regular Meeting 6:00 p.m.
Public Hearings 7:00 p.m.
Commission Chambers
Delray Beach City Hall

1. PUBLIC COMMENT: The public is encouraged to offer comments with the order of presentation being as follows: City Staff, public comments, Commission discussion and official action. City Commission meetings are business meetings and the right to limit discussion rests with the Commission. **Generally, remarks by an individual will be limited to three minutes or less.** The Mayor or presiding officer has discretion to adjust the amount of time allocated.

- A.** Public Hearings: Any citizen is entitled to speak on items under this section.
- B.** Comments and Inquiries on Non-Agenda Items from the Public: Any citizen is entitled to be heard concerning any matter within the scope of jurisdiction of the Commission under this section. The Commission may withhold comment or direct the City Manager to take action on requests or comments.
- C.** Regular Agenda and First Reading Items: Public input on agendaed items, other than those that are specifically set for a formal public hearing, shall be allowed when agreed by consensus of the City Commission.

2. SIGN IN SHEET: Prior to the start of the Commission Meeting, individuals wishing to address public hearing or non-agendaed items should sign in on the sheet located on the right side of the dais. If you are not able to do so prior to the start of the meeting, you may still address the Commission on an appropriate item. The primary purpose of the sign-in sheet is to assist staff with record keeping. Therefore, when you come up to the podium to speak, please complete the sign-in sheet if you have not already done so.

3. ADDRESSING THE COMMISSION: At the appropriate time, please step up to the podium and state your name and address for the record. All comments must be addressed to the Commission as a body and not to individuals. Any person making impertinent or slanderous remarks or who becomes boisterous while addressing the Commission shall be barred by the presiding officer from speaking further, unless permission to continue or again address the Commission is granted by a majority vote of the Commission members present.

APPELLATE PROCEDURES

Please be advised that if a person decides to appeal any decision made by the City Commission with respect to any matter considered at this meeting, such person will need to ensure that a verbatim record includes the testimony and evidence upon which the appeal is based. The City neither provides nor prepares such record.

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The City will furnish auxiliary aids and services to afford an individual with a disability an opportunity to participate in and enjoy the benefits of a service, program, or activity conducted by the City. Contact Doug Smith at 243-7010, 24 hours prior to the event in order for the City to accommodate your request. Adaptive listening devices are available for meetings in the Commission Chambers.

1. **ROLL CALL.**
2. **INVOCATION.**
3. **PLEDGE OF ALLEGIANCE TO THE FLAG.**
4. **AGENDA APPROVAL.** (Mayor McDuffie noted additional information is on the dais for Item 9.A., Conditional Use Request/Village at Delray; Item 7.D., 2009 Voice for the People Award was added to Presentations by addendum; Item 8.G., Agreement/Linto, Inc., Commissioner Eliopoulos disclosed that Ocean Properties is his client. Approved as amended, 5-0).
5. **APPROVAL OF MINUTES:**
 - A. September 15, 2009 – Special/Workshop Meeting (Approved, 5-0)
 - B. September 22, 2009 – Regular Commission Meeting (Approved, 5-0)
6. **PROCLAMATIONS:**
 - A. Florida City Government Week – October 18-24, 2009
7. **PRESENTATIONS:**
 - A. **RESOLUTION NO. 44-09:** Approve Resolution No. 44-09 Recognizing and commending Bernard Parker for 30 years of dedicated service to the City of Delray Beach. (Approved, 5-0)
 - B. **RESOLUTION NO. 45-09:** Approve Resolution No. 45-09 Recognizing and commending Charles Stravino for 30 years of dedicated service to the City of Delray Beach. (Approved, 5-0)
 - C. **RESOLUTION NO. 46-09:** Approve Resolution No. 46-09 Recognizing and commending James Dalton for 30 years of dedicated service to the City of Delray Beach. (Approved, 5-0)
 - D. 2009 Voice of the People Award – Mr. David T. Harden, City Manager (***Addendum***)
8. **CONSENT AGENDA:** City Manager Recommends Approval. (Approved, 5-0)
 - A. **RESOLUTION NO. 53-09/ABANDONMENT OF UTILITY EASEMENT/WAL-MART STORES, INC.:** Approve Resolution No. 53-09 to abandon a 12' x 367' utility easement behind the Wal-Mart Stores, Inc., to accommodate expansion of the enclosed loading dock and reconfiguration of the semi-trailer loading area at the northwest corner of the building located at 16205 South Military Trail.

- B. **INTERLOCAL AGREEMENT/PALM BEACH COUNTY/DROWNING PREVENTION COALITION (DPC):** Approve an Interlocal Agreement with Palm Beach County for payment of swimming lesson fees not to exceed \$50.00 per class for the Learn to Swim Program at Pompey Park and the Delray Swim & Tennis Center through the Drowning Prevention Coalition of Palm Beach County.
- C. **SUB-GRANT AGREEMENT/FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS/NEIGHBORHOOD STABILIZATION PROGRAM:** Approve a Sub-grant Agreement between the City and the Florida Department of Community Affairs to implement Neighborhood Stabilization Program (NSP1) funding.
- D. **AMENDMENT MARINA RULES AND REGULATIONS:** Approve an amendment to Marina Rules and Regulations to provide a minimum boat length of 30 feet and maximum of 55 feet for boats docked at the Municipal Marina.
- E. **AGREEMENT/DELRAY HARBOR CLUB ASSOCIATION, INC.:** Approve an Agreement with Delray Harbor Club Association, Inc. to allow the Harbor Club to moor a boat adjacent to the northern side of their seawall adjacent to Knowles Park.
- F. **RESOLUTION NO. 55-09:** Approve Resolution No. 55-09 establishing the Budget Review Committee to review the City's budget, systems and procedures, technology improvements or related materials and concepts and make recommendations regarding same.
- G. **AGREEMENT/LINTCO, INC.:** Approve an agreement between the City and Lintco, Inc. for use of Lintco Property as a parking lot for the next Fire Station Open House Health and Wellness event to be held on November 14, 2009 at Fire Station #3, subject to the City insuring Lintco against any liability claims.
- H. **AGREEMENT/COMMERCE BANK, N.A.:** Approve an agreement between the City and Commerce Bank, N.A., for ControlPay Advanced (CPA), an accounts payable solution that will replace paper checks with electronic payments through the Visa Network.
- I. **ANNUAL PROJECT HOLIDAY/YOU ARE NOT ALONE ORGANIZATION:** Approve a request for city support and assistance for the 4th Annual Project Holiday sponsored by the You Are Not Alone Organization, which provides packages to armed services personnel.
- J. **SPECIAL EVENT REQUEST/23rd ANNUAL TURKEY TROT:** Approve a special event request to allow the 23rd Annual Turkey Trot to be held on Saturday, November 21, 2009 from 7:30 a.m. until approximately 9:00 a.m., including a temporary use permit per LDR Section 2.4.6(F) for the closure and use of A-1-A from Casuarina to George Bush Boulevard from 5:00 a.m. to approximately 10:00 a.m., and authorize staff support for traffic control, barricading, trash removal and clean up, use of half of small stage, and waiver of parking meter fees for Sandoway, Ingraham, and Anchor Park and along Atlantic Avenue from Venetian to A-1-A from 6:00 a.m. until approximately 10:00 a.m.

K. **REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:**
Accept the actions and decisions made by the Land Development Boards for the period September 21, 2009 through October 2, 2009.

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

1. Bid award to Tree Huggers Landscaping & Nursery, LLC. in the amount of \$18,047.00 for landscape maintenance of George Bush Boulevard/N.E. 8th Street and West Atlantic Avenue. Funding is available from 119-4144-572-46.40 (Beautification Trust Fund/Repair & Maintenance Services/Beautification Maintenance).
2. Contract award to Baker's Transport Service (BTS) in the 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).

9. **REGULAR AGENDA:**

A. **CONDITIONAL USE REQUEST/VILLAGE AT DELRAY:** Consider a conditional use request for Village at Delray, to allow a density in excess of 12 units per acre (17.4 du/ac is proposed) in accordance with the provision of the City's Family Workforce Housing Ordinance for the Village at Delray, a 192-unit residential development located on the east side of Auburn Avenue south of S.W. 4th Street. *(Quasi-Judicial Hearing) (Motion to approve the Conditional Use Request; Approved 3-2. Commissioner Fetzer and Commissioner Eliopoulos dissenting)*

1. **WAIVER REQUEST/VILLAGE AT DELRAY:** Consider a waiver request to LDR Section 4.6.9(D)(2), "Provisions for Ingress and Egress", which requires that vehicles must enter and exit parking spaces onto the street in a forward manner on travel ways exceeding 200 Average Daily Trips (ADT). *(Quasi-Judicial Hearing) (Motion to approve Waiver Request; Approved, 4-1. Commissioner Eliopoulos dissenting)*

B. **DIRECTION REGARDING OLD SCHOOL SQUARE GARAGE RETAIL SPACE:** Provide direction regarding the options for the Old School Square garage retail space. *(Consensus of the Commission for staff to speak with the Community Redevelopment Agency (CRA) and bring the item back to the Commission)*

C. **COMMISSION APPOINTMENT /ALTERNATE TO INTERGOVERNMENTAL COORDINATION ISSUES FORUM:** Appoint a Commissioner as an Alternate Member of the Intergovernmental Coordination Issues Forum. *(Commissioner Angeleta Gray will serve as the alternate Commission Liaison)*

- D. **APPOINTMENT TO THE COMMUNITY REDEVELOPMENT AGENCY:**
Appoint one (1) regular member to the Community Redevelopment Agency (CRA) to serve an unexpired term ending July 1, 2013. Based upon the rotation system, the appointment will be made by Commissioner Eliopoulos (Seat #1). (Appointed Cathy Balestriere and approved, 5-0)
- E. **APPOINTMENTS TO THE NEIGHBORHOOD ADVISORY COUNCIL:**
Appoint five (5) regular members (one member each for Zones 3, 4, 5 & 6) and an At Large Representative to the Neighborhood Advisory Council for three (3) year terms ending July 31, 2012. Based upon the rotation system, the appointments will be made by Commissioner Gray (Seat #4), Mayor McDuffie (Seat #5), Commissioner Eliopoulos (Seat #1), Commissioner Fetzer (Seat #2) and Commissioner Frankel (Seat #3). (Appointed Shirl Fields and approved, 5-0; appointed Matthew Hartley and approved, 5-0; appointed Joseph Kamarata and approved, 5-0; and appointed Margherita Downey and approved, 5-0. Commissioner Fetzer deferred his appointment for Zone 4 to October 20, 2009)
- F. **APPOINTMENT TO THE EDUCATION BOARD:** Appoint one (1) regular member to the Education Board to serve an unexpired term ending July 31, 2011. Based upon the rotation system, the appointment will be made by Commissioner Eliopoulos (Seat #1). (Appointed Lydia Carreiro and approved, 5-0)
- G. **APPOINTMENT TO THE BOCA RATON AVIATION ADVISORY COMMITTEE:** Appoint one (1) regular member to the Boca Raton Aviation Advisory Committee to serve an unexpired term ending May 31, 2010. Based upon the rotation system, the appointment will be made by Commissioner Eliopoulos (Seat #1). (Appointed David Boone and approved, 5-0)

10. **PUBLIC HEARINGS:**

- A. **ORDINANCE NO. 15-09 (FIRST READING/FIRST PUBLIC HEARING):**
Consider an ordinance providing for the acceptance of the resurvey report of Del-Ida Park Historic District including extension of the period of significance and reclassification of properties from non-contributing to contributing. If passed, a second public hearing will be held on October 20, 2009. (Approved, 5-0)
- B. **ORDINANCE NO. 41-09 (FIRST READING/FIRST PUBLIC HEARING):**
Consider a city initiated amendment to the Land Development Regulations (LDR) Section 4.4.9(G)(3)(e)1.a, "Lot Coverage and Open Space", to allow the internal parking lot landscape areas to be credited towards the required 25% open space requirement within the Four Corners Overlay District. If passed, a second public hearing will be held on October 20, 2009. (Approved, 5-0)

- C. **ORDINANCE NO. 50-09 (FIRST READING/FIRST PUBLIC HEARING):**
Consider a city initiated amendment to the Land Development Regulations (LDR) Section 4.3.3, “Special Requirements for Specific Uses”, by enacting Subsection (LLLL), “Medical Offices”, to provide clarification regarding dispensing of narcotic drugs, and amending Appendix “A”, to provide for definitions related to the regulation of medical offices. If passed, a second public hearing will be held on October 20, 2009. (Approved, 5-0)

- D. **ORDINANCE NO. 53-09 (FIRST READING/FIRST PUBLIC HEARING):**
Consider a city initiated amendment to the Land Development Regulations (LDR) Section 4.6.7, “Signs”, Subsection 4.6.7(H)(10)(b), “Sponsorship Signs”, providing and clarifying related standards. If passed, a second public hearing will be held on October 20, 2009. (Approved, 5-0)

- E. **ORDINANCE NO. 55-09:** Consider a city-initiated ordinance amending Chapter 96, “Fire Safety and Emergency Services”, of the Code of Ordinances by amending Section 96.11, “Fire Safety Community Education”, to provide for various fees for Fire Safety Community Education. (Approved, 5-0)
 - 1. **RESOLUTION NO. 54-09:** Consider approval of Resolution No. 54-09 establishing fees for various Fire Safety Community Education Services. (Approved, 5-0)

11. **COMMENTS AND INQUIRIES ON NON-AGENDA ITEMS FROM THE PUBLIC- IMMEDIATELY FOLLOWING PUBLIC HEARINGS.**

- A. City Manager's response to prior public comments and inquiries.
- B. From the Public.

12. **FIRST READINGS:**

- A. **ORDINANCE NO. 43-09:** An ordinance amending Chapter 52, “Water” of the City Code of Ordinances by amending Section 52.34, “Water Rates”, to provide for an adjustment in residential, nonresidential, and irrigation rates for FY 2010. If passed, a public hearing will be scheduled for October 20, 2009. (Approved, 5-0)

- B. **ORDINANCE NO. 44-09:** An ordinance amending Chapter 59, “Reclaimed Water”, of the City Code of Ordinances by amending Section 59.09, “Fees, Rates and Charges”, to provide for a retail customer increasing block rate structure for reclaimed water. If passed, a public hearing will be scheduled for October 20, 2009. (Approved, 5-0)

- C. **ORDINANCE NO. 51-09:** Consider a city initiated amendment to the Land Development Regulations (LDR) amending Section 2.4.3, “Submission Requirements”, Subsection (K), “Fees”, to provide for the establishment of new fees and increases to certain existing fees related to permitting and plan review. If passed, a public hearing will be scheduled for October 20, 2009. (Approved, 5-0)

- D. **ORDINANCE NO. 52-09:** Consideration an ordinance authorizing the creation of local government Neighborhood Improvement Districts pursuant to Florida Statute 163.506. If passed, a public hearing will be scheduled for October 20, 2009. (Approved, 5-0)
- E. **ORDINANCE NO. 56-09:** Consider a city initiated amendment to the Land Development Regulations (LDR) Section 6.3.3, "Sidewalk Cafe", Subsection (A), "Permit and Fees", to clarify the cost of sidewalk café permits and to enact late renewal fee charge. If passed, a public hearing will be scheduled for October 20, 2009. (Approved, 5-0)
- F. **ORDINANCE NO. 57-09:** Consider a city-initiated amendment to Chapter 113, "Alcoholic Beverages", of the Code of Ordinances by amending Section 113.15, "Hours of Sale and Consumption; Exemption", to eliminate the current restriction for the consumption of alcohol on premises on Sunday morning. If passed, a public hearing will be scheduled for October 20, 2009. (Approved, 5-0)

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

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

POSTED: OCTOBER 2, 2009

******** Meeting adjourned at 11:04 p.m. ********