

# City of Delray Beach

## Regular Commission Meeting

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



### RULES FOR PUBLIC PARTICIPATION

Tuesday, April 1, 2008  
Regular Meeting 6:00 p.m.  
Public Hearings 7:00 p.m.  
Commission Chambers  
Delray Beach City Hall

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

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

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

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

### APPELLATE PROCEDURES

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

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

1. **ROLL CALL.**
2. **INVOCATION.**
3. **PLEDGE OF ALLEGIANCE TO THE FLAG.**
4. **AGENDA APPROVAL.** (Mayor noted Additional information (Memo) for Item 9.A., South County Administrative Complex Redevelopment Plan Direction; Additional information (Board Order) for Item 9.B., Conditional Use Request/Villages at Delray, Item 9.C., Appeal of Historic Preservation Board Decision/36 S.E. 1<sup>st</sup> Avenue was postponed due to applicant request; Item 9.E., Preliminary and Final Plat/Midtown Delray was postponed to the April 15, 2008 Regular Meeting; and Item 9.D., Reconsideration of Special Action Request/Office Depot/CVS Pharmacy Building was added to the Regular Agenda by addendum, Approved as amended, 5-0)
5. **APPROVAL OF MINUTES:**
  - March 18, 2008 – Regular Meeting (Approved, 5-0)
  - March 27, 2008 – Annual Organizational Meeting (Approved, 5-0)
6. **PROCLAMATIONS:**
  - A. Young Child Week – April 13-19, 2008
  - B. Housing America Month – April 2008
  - C. Library Appreciation Month – April 2008
  - D. Water Conservation Month – April 2008
7. **PRESENTATIONS:**
  - A. 19th Annual Delaire/Delray Citizens for Delray Police Charity Golf Tournament Presentation to Police and Fire-Rescue - Perry DonFrancisco.
  - B. **RESOLUTION NO. 13-08:** Approve Resolution No. 13-08 Recognizing and commending **Barbara Flynn** for 30 years of dedicated service to the City of Delray Beach. (Approved, 5-0)
  - C. “Neighborhood Pride Grant” – Neighborhood Services Division.
8. **CONSENT AGENDA:** City Manager Recommends Approval. (Approved as amended, 5-0)
  - A. **ACCEPTANCE OF EASEMENT DEED/EBENEZER WESLEYAN METHODIST CHURCH:** Approve and accept an easement deed from Ebenezer Wesleyan Methodist Church to accommodate the existing overhead power lines that traverse the property, located on the east and west side of S.W. 6<sup>th</sup> Avenue, north of S.W. 2<sup>nd</sup> Street.

- B. **SERVICE AUTHORIZATION NO. 01-23.1/HELLER-WEAVER AND SHEREMETA, INC.:** Approve a Service Authorization to Heller-Weaver and Sheremeta, Inc. in the amount of \$6,500.00 for supplemental survey work related to preparation of condominium documents for the retail space on the first level of the Old School Square Parking Garage. Funding is available from 380-4150-572-63.29 (G.O. Bond/Old School Square Parking Garage).
- C. **SERVICE AUTHORIZATION NO. 32.2/DAVID MILLER AND ASSOCIATES, P.A.:** Approve Service Authorization No. 32.2 to David Miller and Associates, P.A. in the amount of \$10,000.00 for construction administration services regarding both the new Information Technology Building and North Wing City Hall Renovations Phase IV and V. Funding is available from 334-6112-519-62.85 (General Construction Fund/City Hall Exp IT Building) and 334-6112-519-62.86 (General Construction Fund/City Hall-N Wing Chamber).
- D. **LOCAL AGENCY PROGRAM AGREEMENT (LAP)/FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT)/BIKE LANES:** Approve a Local Agency Program (LAP) Agreement with the Florida Department of Transportation (FDOT) for the installation of bike lanes along Homewood Boulevard between Lawson and West Atlantic. Costs will be paid from a Federal Enhancement Grant of \$500,000.00 plus approximately \$98,000.00 in City funds. Funding is available from 334-3162-541-68.46 (General Construction Fund/Other Improvement/Homewood Boulevard Bikepaths).
- E. **RESOLUTION NO. 12-08:** Approve and adopt Resolution No. 12-08 establishing an Affordable Housing Advisory Committee as required by state statute to recommend incentives for affordable housing.
- F. **FIRE ACT GRANT APPLICATION FOR FY 2008/2009:** Approve a Fire Act Grant Application in the amount of \$203,000.00 for the purchase of five (5) exhaust removal systems for five (5) of the Fire Stations. Funding for match funds available from 115-2311-522-64.90 (Special Projects Fund/Machinery Equipment/Other Mach/Equipment).
- G. **SECOND AMENDMENT/2002 PALM BEACH COUNTY RECREATION AND CULTURAL FACILITIES BOND/INTRACOASTAL WATERWAY PARK:** Approve a Second Amendment to the Interlocal Agreement between Palm Beach County and the City of Delray Beach to extend the project completion date to December 31, 2008 for the Delray Intracoastal Park (Mangrove Park).

- H. **SPECIAL EVENT REQUEST/ART AND JAZZ ON THE AVENUE:**  
Approve a special event request for the Art and Jazz on the Avenue to be held on May 8, 2008, from 6:00 p.m. to 10:00 p.m., granting a temporary use permit per LDR Section 2.4.6(F) for the closure of Atlantic Avenue from Swinton to the west side of NE/SE 7<sup>th</sup> Avenue, Railroad Avenue from Atlantic north to north side of the east/west alley, and to the alleys north and south of Atlantic on NE/SE 1<sup>st</sup> Avenue, NE/SE 2<sup>nd</sup> Avenue, SE 3<sup>rd</sup> Avenue, NE/SE 4<sup>th</sup> Avenue, and the Tennis Center Parking lot and to authorize staff support for security and traffic control, EMS assistance, banner hanging and removal, barricade set up and removal, trash removal and clean up; contingent upon receipt of a hold harmless agreement.
- I. **SPECIAL EVENT REQUEST/DELRAY BEACH FILM FESTIVAL:** Approve a request to endorse the 3<sup>rd</sup> Annual Delray Beach Film Festival proposed to be held from May 6 through May 11, 2008; to grant a temporary use permit per LDR Section 2.4.6(F) for the closure of N.W. 1<sup>st</sup> Street on May 6, 2008 from 9:00 p.m. – midnight, for the event party at DaDa's; to approve the reservation of thirty (30) tee times at the Municipal Golf Course on May 8, 2008 beginning at 9:00 a.m. for a golf outing; to approve the use of the south end of the beach on May 10, 2008 from 8:00 a.m. to noon for a surfing demonstration and contest; to approve the use of Worthing Park to show films on the wall of the Blue Fish Restaurant; to authorize the street closure, event signage, and staff support for barricading for traffic control; contingent on the receipt of a hold harmless agreement, certificate of liability insurance and an executed copy of a rental agreement with Old School Square.
- J. **REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:**  
Accept the actions and decisions made by the Land Development Boards for the period March 17, 2008 through March 28, 2008.
- K. **AWARD OF BIDS AND CONTRACTS:**
1. Bid award to Complete Property Services of South Florida, Inc. in the annual estimated amount of \$43,274.00 for landscape maintenance of Stormwater Retention Areas and Improved Water Retention Areas. Funding is available from 448-5416-538-34.90 (Stormwater Utility Fund/Other Contractual Services).
  2. Bid award to Southland Painting Corporation in the amount of \$65,640.00 for sandblasting, paint preparation, and painting of internal steel components of Clarifier No. 2 at the Water Treatment Plant as part of the Clarifier Rehabilitation Project. Funding is available from 442-5178-536-64.90 (Water/Sewer Renewal and Replacement Fund/Other Machinery and Equipment).
  3. Purchase award to Contract Connection, Inc., in the amount of \$19,933.15 for the purchase of seven (7) Shelter/Benches for replacement of benches located on the sea wall at Veteran's Park. Funding is available from 001-4131-572-63.40 (General Fund/Improvements Other/Recreational Improvements).

4. Purchase award to Duval Ford in the amount of \$121,325.00 for the purchase of five (5) 2008 Ford Crown Victoria Police Interceptors with options and warranty via the Florida Sheriff's Association Contract #07-15-0827, Specification #1 and to Emergency Vehicle Supply in the amount \$43,156.71 for the police car preparation package. Funding is available from 501-3312-591-64.20 (Central Garage Fund/Automotive).
5. Purchase award to Insight Public Sector in the amount of \$35,759.00 for the purchase of seven (7) Vista laptops for the Fire-Rescue Department. Funding is available from 334-6112-522-64.90 (General Construction Fund/Machinery Equipment/Other Machinery/Equipment).
6. Purchase award to On-Site Equipment, d/b/a Triptow Enterprises in the amount of \$18,287.00 for the purchase of an upgraded replacement wheel alignment machine with the attachments for the City garage. Funding is available from 501-3311-591-64.90 (Central Garage Fund/Machinery/Equipment/Other Machinery/Equipment).
7. Contract award to EIMCO Water Technologies in the amount of \$88,812.00 for removing and rebuilding the drive motor assembly on Clarifier No. 2 at the Water Treatment Plant Project. Funding is available from 442-5178-536-64.90 (Water/Sewer Renewal and Replacement Fund/Other Machinery and Equipment).
8. Contract award to Randolph & Dewdney Construction, Inc. in the amount of \$97,536.00 for the demolition and renovation of the City of Delray Beach Engineering Division former offices. Funding is available from 442-5178-536-62.10 (W & S Renewal & Replacement Fund/Buildings).

9. **REGULAR AGENDA:**

- A. **SOUTH COUNTY ADMINISTRATIVE COMPLEX REDEVELOPMENT PLAN DIRECTION:** Provide direction regarding a response to Palm Beach County on action items for the South County Administrative Complex Redevelopment Plan. (Motion to accept the City Manager's recommendations including higher density development; Approved, 5-0)
- B. **CONDITIONAL USE REQUEST/VILLAGES AT DELRAY:** Consider a conditional use request to allow a density in excess of 12 units per acre (24 dwelling units per acre is proposed) in accordance with the provisions of the City's Family Workforce Housing Ordinance for the Villages at Delray, (formerly a portion of Auburn Trace), a 264 unit residential development located on the east side of Auburn Avenue, south of S.W. 4<sup>th</sup> Street. (*Quasi-Judicial Hearing*) (Motion to adopt Board Order as presented; Approved, 5-0)

- C. **APPEAL OF HISTORIC PRESERVATION BOARD DECISION/36 S.E. 1<sup>ST</sup> AVENUE:** Consider an appeal of the Historic Preservation Board’s decision regarding the Certification of Appropriateness (COA), Class V Site Plan Application, and associated waiver and variance requests for the new construction of a two-story office building located at 36 S.E. 1<sup>st</sup> Avenue. *(Quasi-Judicial Hearing) (POSTPONED due to a request from the applicant)*
- D. **CONDITIONAL USE REQUEST/CHEZ MIKA RESTAURANT:** Consider a conditional use request to establish a 24-hour or late night business for Chez Mika Restaurant, located at 1005 South Congress Avenue in the Sherwood Plaza. *(Quasi-Judicial Hearing) (Motion to adopt Board Order as presented; Approved, 5-0)*
1. **WAIVER REQUEST/CHEZ MIKA RESTAURANT:** Consider a waiver request to Land Development Regulations (LDR) Section 4.6.8, “Lighting”, to exceed the maximum 4.0 foot candle allowance for the Chez Mika Restaurant, located at 1005 South Congress Avenue in the Sherwood Plaza. *(Quasi-Judicial Hearing) (Motion to adopt Board Order as presented; Approved, 5-0)*
- E. **PRELIMINARY AND FINAL PLAT/MIDTOWN DELRAY:** Consider approval of a preliminary plat and certification of a final plat for a 9.85 acre mixed-use development containing 116 fee-simple townhouse lots and 29,571 square feet of medical office space to be platted as Midtown Delray, located at the southwest corner of Linton Boulevard and Old Germantown Road, west of Park Access Road. *(Quasi-Judicial Hearing) THIS ITEM IS REQUESTED TO BE POSTPONED - REVISIONS TO THE FINAL PLAT ARE NOT YET FINALIZED. (POSTPONED to the April 15, 2008 Regular Meeting)*
- F. **SPONSORSHIP REQUEST/S.D. SPADY CULTURAL HERITAGE MUSEUM ANNUAL GALA:** Consider a request from S.D. Spady Cultural Heritage Museum to provide a table sponsorship in the amount of \$1,250.00 for the Annual Gala, Dancing with the Stars “Spady Style”, to be held on April 19, 2008. Funding could be transferred from 001-6111-519-99.03 (General Fund/Manager’s Contingency). *(Consensus of the Commission to pay for their own table for the Annual Gala)*
- G. **APPOINTMENT TO THE BOARD OF ADJUSTMENT:** Appoint one (1) alternate member to the Board of Adjustment to serve an unexpired term ending August 31, 2009. Based upon the rotation system, the appointment will be made by Commissioner Montague (Seat #4). *(Appointed Patricia Neyra as regular member and approved 5-0)*
- H. **RECONSIDERATION OF SPECIAL ACTION REQUEST/OFFICE DEPOT/CVS PHARMACY BUILDING:** Consider a request for reconsideration of the City Commission action to overturn the Site Plan Review and Appearance Board’s approval of the special action request for the Office Depot/CVS Pharmacy, located at N.E. 6<sup>th</sup> Avenue. **(ADDENDUM)** *(Motion to move to reconsider after review by the Site Plan Review and Appearance Board)*

10. **PUBLIC HEARINGS:**

- A. **ORDINANCE NO. 13-08 (SECOND READING/SECOND PUBLIC HEARING):** City initiated amendment to the Land Development Regulations (LDR) Section 4.6.7, “Signs”, Subsection 4.6.7 (H), “Exempt Signs”, in order to include “Sponsorship Signs”, as a new category of “Temporary Signs”. (Approved, 5-0)
- B. **ORDINANCE NO. 20-08 (FIRST READING/FIRST PUBLIC HEARING):** City initiated amendment to the Land Development Regulations (LDR) pertaining to Assisted Living Facilities, Continuing Care Facilities and Nursing Homes. If passed, a public hearing will be scheduled for April 15, 2008. (Approved, 5-0)
- C. **ORDINANCE NO. 15-08:** An ordinance amending Chapter 33, “Police and Fire Departments”, Subheading “Pensions”, of the Code of Ordinances by amending Section 33.62, “Benefit Amounts and Eligibility”, to set maximum benefits as required by Section 415 of the Internal Revenue Code. (Approved, 5-0)
- D. **ORDINANCE NO. 16-08:** An ordinance amending Chapter 35, “Employees Policies and Benefits”, Subheading “Retirement Plan”, of the Code of Ordinances by amending Section 35.097, “Retirement Income; Basis, Amount, and Payment”, to set maximum benefits as required by Section 415 of the Internal Revenue Code. (Approved, 5-0)
- E. **ORDINANCE NO. 18-08:** An ordinance amending Chapter 33, “Police and Fire Departments”, Subheading “Pensions”, of the Code of Ordinances by amending Section 33.65, “Administration”, to allow the Mayor to designate the Assistant City Manager to serve on the Board of Trustees in lieu of the Mayor; and amending Section 33.685, “Deferred Retirement Option Plan”, to provide for payment of DROP benefits in monthly installments at the member’s election. (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. 22-08:** Consideration of a privately sponsored rezoning from GC (General Commercial) to AC (Automotive Commercial) for a 6.28 acre parcel located on the east side of Federal Highway (a.k.a. The Ralph Buick Dealership). If passed, a public hearing will be scheduled for April 15, 2008. (Commissioner Eliopoulos declared Conflict of Interest and left the dais. Approved, 4-0)

13. COMMENTS AND INQUIRIES ON NON-AGENDA ITEMS.

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

**POSTED: MARCH 28, 2008**

*\*\*\*\*\* Meeting adjourned at 8:58 p.m. \*\*\*\*\**