

# City of Delray Beach

## Regular Commission Meeting

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



### **RULES FOR PUBLIC PARTICIPATION**

**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.

Tuesday, May 19, 2009

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

- 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.

100 NW 1st Avenue  
Delray Beach, Florida 33444

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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 Item 6.A., Recognizing Student Ambassadors, was postponed due to a request from David Schmidt; Staff requested Item 8.D., Selection of Eagle Nest Homebuyer, be postponed; Staff has requested that Item 10.D., Resolution No. 21-09, be postponed; Item 8.H.D., Boy's Farmers Market, was moved to the Regular Agenda as Item 9.A.A.. Approved as amended, 5-0)
5. **APPROVAL OF MINUTES:**
  - A. May 5, 2009 – Regular Meeting (Approved, 5-0)
  - B. May 12, 2009 – Special/Workshop Meeting (Approved, 5-0)
6. **PROCLAMATIONS:**
  - A. Recognizing Student Ambassadors: Chelsea Brandt, Sofia Ellingsworth, Matthew Feldman, Matthew Kondziela, Jacqueline Lowell, Danielle Trubow and Robert Weil
7. **PRESENTATIONS:**
  - A. None
8. **CONSENT AGENDA:** City Manager Recommends Approval. (Approved as amended, 5-0)
  - A. **AGREEMENT/NUTTING ENGINEERS OF FLORIDA, INC.:** Approve an Agreement with Nutting Engineers of Florida, Inc., in the amount of \$16,465.00 for performing testing of construction materials for the Area 11A Reclaimed Water System Contract 3. Funding is available from 441-5181-536-65.96 (Water and Sewer Fund/Other Improvements/Reclaim Water Transmission).
  - B. **AMENDMENT NO. 2 TO THE VENDOR AGREEMENT/ERDMAN ANTHONY AND ASSOCIATES, INC.:** Approve and authorize the Mayor to execute Amendment No. 2 to the Vendor Agreement with Erdman Anthony and Associates, Inc. in the amount of \$2,400.00 for the construction administration services of the mast arm signals at the intersection of S.W. 2<sup>nd</sup> Avenue and West Atlantic Avenue. Funding is available from 334-3162-541-65.88 (General Construction Fund/Capital Outlay/S.E. -N.E. 1st Street One-Way Pair).
  - C. **RESOLUTION NO. 22-09:** Approve Resolution No. 22-09 supporting the establishment of a Sister Schools Program to be administered by Sister Cities of Delray Beach, Inc.

- D. **SELECTION OF EAGLE NEST HOMEBUYER:** Approve homebuyer Ginette Louis for the Eagle Nest property located at 46 N.W. 12<sup>th</sup> Avenue and approve of \$75,000.00 in SHIP down payment assistance funds for the home purchase. Funding will be available from 118-1924-554-49.20 (Neighborhood Services/Other Current Charges/Homeowner Subsidy).
- E. **EASEMENT DEED AGREEMENT/MIDTOWN DELRAY:** Approve an easement agreement for a water line at the Medical Building at the Midtown Delray Phase I project, located at 4800 Linton Boulevard.
- F. **AMENDMENT NO. 1 TO THE AGREEMENT/FLORIDA HIGHWAY PRODUCTS, INC.:** Approve and authorize the Mayor to execute Amendment No. 1 to the Agreement with Florida Highway Products Inc. (FHP) in the amount of \$38,738.30 for microsurface paving of existing City streets. Funding is available from 118-1965-554-63.11 (Neighborhood Services/Improvements-Other/Bikepaths/Sidewalks).
- G. **SPECIAL EVENT REQUEST/4<sup>th</sup> OF JULY FESTIVITIES:** Approve a special event request for the 4<sup>th</sup> of July Festivities, including granting a temporary use permit per LDR Section 2.4.6(F) for the closure of Atlantic Avenue from the east side of N.E./S.E. 7<sup>th</sup> Avenue to Ocean Boulevard, and from the south side of Thomas Street to the north side of Miramar on Ocean Boulevard from noon to approximately midnight; to waive Code of Ordinances Sections 101.25 “Commercial Enterprises” and 101.32 “Assemblies” to allow assembly on the beach and vendors; to allow all beach parking lots to remain open to approximately midnight; and to approve staff support for security and traffic control, street barricading and banner hanging, new large stage and small stage set up and use, EMS support, use of City generator, signage, and clean up and trash removal.
- H. **(MOVED TO ITEM 9.A.A. ON THE REGULAR AGENDA)**
- I. **AWARD OF BIDS AND CONTRACTS:**
1. Bid award to Atlantic Refrigeration in the estimated annual amount of \$27,040.00 for the annual contract for air conditioning services and repairs for various City buildings. Funding to be provided from various departmental budgets.
  2. Contract award to McCabe Brothers Construction in the amount of \$46,410.00 for renovations to the Atlantic Dunes Park Restroom Building. Funding is available from 334-4170-572-46.07 (General Construction Fund/Repair & Maintenance Services/Atlantic Dunes RR Renovation) and 334-4170-572-63.48 (General Construction Fund/Improvements Other/Atlantic Dunes Boardwalk).
  3. Contract award to Weekley Asphalt Paving, Inc. in the amount of \$99,475.27 for the Narrowing of Atlantic Avenue Project. Funding is available in 334-4141-572-68.17 (General Construction Fund/Other Improvement/Gateway Miniparks@ I-95).

4. Purchase award to Container System & Equipment Co., Inc. in the amount of \$31,102.00 for the purchase of one (1) Wayne Super Series 6yd rear loader trash compactor. Funding is available from 501-3312-591-64.21 (Garage Fund/Machinery/Equipment/Vehicle Restoration).

9. **REGULAR AGENDA:**

- A.A. **REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:** Accept the actions and decisions made by the Land Development Boards for the period May 4, 2009 through May 15, 2009. (Commissioner Eliopoulos filed a Conflict of Interest for Site Plan Review and Appearance Board (SPRAB) Item D. Motion to approve; Approved, 4-0)
- A. **REQUEST FOR IN-LIEU PARKING SPACE/CUT 432 STEAKHOUSE RESTAURANT:** Consider a request from Cut 432 Steakhouse Restaurant, located at 432 East Atlantic Avenue for the purchase of two (2) in-lieu parking spaces at a cost of \$31,200, to accommodate an expansion/conversion of use. (*Quasi-Judicial Hearing*) (Motion to adopt Board Order as presented; Approved, 5-0)
- B. **REQUEST FOR IN-LIEU PARKING SPACE/GREAT AMERICAN BEAUTY OFFICE AND SHOWROOM:** Consider a request from Great American Beauty Office and Showroom located at 124 North Swinton Avenue for the purchase of four (4) in-lieu parking spaces at a cost of \$31,200.00. (*Quasi-Judicial Hearing*) (Motion to adopt Board Order as presented; Approved, 5-0)
- C. **US 1 MODIFICATION/FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT):** Authorize staff to proceed with design of permanent modifications to US 1 between SE 10<sup>th</sup> Street and George Bush Boulevard; and authorize the Mayor to write a letter to the Florida Department of Transportation (FDOT) requesting that FDOT enter into an agreement with the City to obligate FDOT's S.E.-N.E. 6<sup>th</sup> Avenue Resurface, Restore and Rehabilitate (RRR) funding to the City for implementation. (Approved, 5-0)
- D. **GREEN TASK FORCE FINAL REPORT:** Review staff recommendations concerning the Green Task Force Report and provide direction regarding implementation. (Consensus of the Commission to implement a permanent Green Task Board)
- E. **RED LIGHT CAMERA VENDOR SELECTION:** Consider the selection of American Traffic Solutions (ATS) for the Red Light Camera Project (RFP 2009-27) and provide direction to staff to negotiate a contract with ATS. (Motion to approve subject to an appropriate agreement; Approved, 5-0)
- F. **APPOINTMENT OF THE CITY ATTORNEY:** Consider appointment of the City Attorney and terms of employment. (Motion to promote Assistant City Attorney Brian Shutt to City Attorney upon Susan Ruby vacating the position; Approved, 5-0)

- G. **APPOINTMENT TO THE DELRAY BEACH HOUSING AUTHORITY:** Appoint one (1) regular member to the Delray Beach Housing Authority for an unexpired term ending July 14, 2010. Based upon the rotation system, the recommendation for appointment will be made by Commissioner Fetzer (Seat #2). *(Appointed Choli Aronson and approved, 5-0)*
- H. **APPOINTMENT TO THE POLICE ADVISORY BOARD:** Appoint one (1) regular member to the Police Advisory Board to serve an unexpired term ending July 31, 2010. Based upon the rotation system, the appointment will be made by Commissioner Fetzer (Seat #2). *(Appointed Catherine DeMatto and approved, 5-0)*
- I. **APPOINTMENTS TO THE AFFORDABLE HOUSING ADVISORY COMMITTEE:** Appoint four (4) regular members to the Affordable Housing Advisory Committee to serve two (2) year terms ending July 31, 2011. Based upon the rotation system, the appointments will be made by Commissioner Fetzer (Seat #2), Commissioner Frankel (Seat #3), Commissioner Bernard (Seat #4) and Mayor McDuffie (Seat #5). *(Appointed Perry Rohan and approved, 5-0; appointed Dorothy Ellington and approved, 5-0; appointed Alan Weitz and approved, 5-0; and appointed Connie Staundinger and approved, 5-0).*

10. **PUBLIC HEARINGS:**

- A. **ORDINANCE NO. 14-09:** Consider a City initiated annexation (via Agreement for Water Service), small-scale Future Land Use Map (FLUM) Amendment from County MR-5 (Medium Density Residential 5 units per acre) to City LD (Low Density Residential 0-5 du/ac) and rezoning from County AR (Agricultural Residential) to City R-1-AAA (Single Family Residential) for 13415 Barwick Road. *(Quasi- Judicial Hearing) (Approved, 5-0)*
- B. **ORDINANCE NO. 16-09 (SECOND READING/SECOND PUBLIC HEARING):** Consider an ordinance accepting the recommendations contained within the Old School Square Historic District Resurvey Report including extending the Period of Significance to 1965 and reclassifying 23 properties from non-contributing to contributing. *(STAFF IS REQUESTING THAT THIS ITEM BE POSTPONED) (POSTPONED to June 2, 2009 Regular Meeting; Approved, 5-0)*
- C. **ORDINANCE NO. 17-09 (SECOND READING/SECOND PUBLIC HEARING):** Consider an ordinance accepting the recommendations contained within the West Settlers Historic District Resurvey Report including extending the Period of Significance to 1970, and reclassifying 7 properties from non-contributing to contributing and amending the Land Development Regulations to amend the boundaries of the West Settlers Historic District to provide for the removal of the Atlantic Grove Development. *(POSTPONED to the June 2, 2009 Regular Meeting; Approved, 5-0)*

- D. **RESOLUTION NO. 21-09:** Consider approval of Resolution No. 21-09 authorizing the City to sell property that the City acquired from Palm Beach County for unpaid taxes located at 46 NW 12th Avenue, Delray Beach, Florida, to Ginette Louis for affordable housing purposes. (POSTPONED to the June 2, 2009 Regular Meeting; Approved, 5-0)
  - E. **ORDINANCE NO. 23-09:** Consider a City-initiated amendment to the Land Development Regulations (LDR), amending Article 2.2, “Establishment of Boards Having Responsibilities for Land Development Regulations”, Sections 2.2.6, “The Historic Preservation Board”, 2.4.3, “Submission Requirements”, 2.4.4, “General Procedures Pertaining to Approval of Land Use and Development Applications” 2.4.5, “Procedures for Obtaining Development Approvals”; to provide master development plan approval authority to the Historic Preservation Board, with associated fees and processes. (Approved, 5-0)
  - F. **ORDINANCE NO. 24-09:** Consider a City-initiated amendment to the Land Development Regulations (LDR), amending Section 2.4.4, “General Procedures Pertaining to Approval of Land Use and Development Applications”, Subsection 2.4.4(F)(4), “Litigation Preventing Construction”, to provide consistency with approval durations throughout the LDR. (Approved, 5-0)
  - G. **ORDINANCE NO. 25-09:** Consider a City-initiated amendment to the Land Development Regulations (LDR) Section 4.4.3, “Single Family Residential (R-1) District”, Subsections 4.4.3(F) and 4.4.3(G) to provide development standards and supplemental regulations to encourage the redevelopment of the Carver Square Brownfield Area. (Approved, 5-0)
  - H. **ORDINANCE NO. 26-09:** Consider an ordinance amending Chapter 71, "Parking Regulations", to allow the City to add certain costs of collection fees to any unpaid balance owed the City. (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. None

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

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

**POSTED: MAY 15, 2009**

***\*\*\*\*\* Meeting adjourned at 9:37 p.m. \*\*\*\*\****

***\*\*\*\*\* Meeting adjourned at 9:32 p.m. \*\*\*\*\****