

City of Delray Beach

Regular Commission Meeting

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



RULES FOR PUBLIC PARTICIPATION

Tuesday, October 20, 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 stated there was a correction to the account number for Item 8.B., Agreement/Florida Department of Environmental Protection (DEP), and the item was moved to the Regular Agenda as Item 9.A.A; Item 8.E., D.U.I. Grant Award/Florida Department of Transportation, was moved to the Regular Agenda as Item 9.A.A.A., Item 8.I., Agreement/Green Meadows Horse & Carriage, was moved to the Regular Agenda as Item 9.A.A.A.A. Approved as amended, 5-0).
5. **APPROVAL OF MINUTES:**
 - A. None
6. **PROCLAMATIONS:**
 - A. Families Reading Together Month – November 2009
7. **PRESENTATIONS:**
 - A. **RESOLUTION NO. 57-09:** Approve Resolution No. 57-09 Recognizing and commending Rene Gonzalez for 30 years of dedicated service to the City of Delray Beach. (Approved, 5-0)
 - B. Presentation of the Submittals from the Chamber of Commerce Contest to Generate City Revenue
8. **CONSENT AGENDA:** City Manager Recommends Approval. (Approved as amended, 5-0)
 - A. **RESOLUTION NO. 52-09 (TAX EXEMPTION REQUEST FOR ELIGIBLE IMPROVEMENTS/212 SEABREEZE AVENUE):** Approve a tax exemption request for eligible improvements to 212 Seabreeze Avenue, and approve Resolution No. 52-09.
 - B. **(MOVED TO ITEM 9.A.A. ON THE REGULAR AGENDA)**
 - C. **AMENDMENT TO INTERLOCAL AGREEMENT/PALM BEACH COUNTY:** Approve an Amendment to the Interlocal Agreement between the City and Palm Beach County to provide additional law enforcement services on the Intracoastal Waterway during manatee season.

- D. **TRANSFER OF APPOINTMENT FOR LEGAL SERVICE/LEWIS, LONGMAN AND WALKER, P.A./FUMERO LAW GROUP, P.A./SOUTH FLORIDA WATER MANAGEMENT DISTRICT RULE CHALLENGES:** Approve authorization to transfer the appointment of the firm of Lewis Longman & Walker, P.A., for legal services in conjunction with the South Florida Water Management District (SFWMD) proposal for permanent year round water restrictions, to the Fumero Law Group, PA.
- E. **(MOVED TO ITEM 9.A.A.A. ON THE REGULAR AGENDA)**
- F. **GRANT APPLICATION/FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA):** Provide authorization for submission of a grant application to the Federal Emergency Management Agency (FEMA) in the amount of \$26,069.00 for the 2009 Fire Prevention and Safety Grant.
- G. **GRANT AWARD/ARRA - ENERGY EFFICIENCY & CONSERVATION BLOCK GRANT (EECBG):** Approve and accept the ARRA - Energy Efficiency & Conservation Block Grant (EECBG) award in the amount of \$638,500.00 which will provide funding to support the installation of energy efficient retrofits (i.e., programmable thermostats, motion detectors and T-8 lighting and ballasts) within all City facilities, Pompey Park outdoor athletic field lighting, Fire Station #1 Solar Energy System and to fund a Sustainability Officer position for one year.
- H. **RESOLUTION NO. 56-09/BUDGET AMENDMENT:** Approval of Resolution No. 56-09 amending Resolution No. 49-09 adopted September 22, 2009 which made appropriations for necessary expenditures of the City for the FY 2009/2010, by setting forth the anticipated revenues and expenditures for the operating funds of the City for the fiscal year 2009/2010.
- I. **(MOVED TO ITEM 9.A.A.A.A. ON THE REGULAR AGENDA)**
- J. **SPECIAL EVENT REQUEST/RUN FOR MIRACLES/MILAGRO CENTER:** Approve and endorse the 4th Annual Run for Miracles sponsored by the Milagro Center to be held on February 6, 2010 from 7:30 a.m. to approximately 10:30 a.m., grant a temporary use permit per LDR Section 2.4.6(F) for the closure of A-1-A from Casuarina to George Bush Boulevard and Anchor Park from 5:00 a.m. to approximately 10:30 a.m., and authorize staff support for traffic control, barricading and clean up, use of half of the small stage, and a waiver of parking meter fees for Sandoway, Ingraham, and Anchor Park as well as along Atlantic Avenue from Venetian Drive to A-1-A from 8:00 a.m. until approximately 11:00 a.m.; contingent upon receipt of an executed hold harmless agreement.
- K. **REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:** Accept the actions and decisions made by the Land Development Boards for the period October 5, 2009 through October 16, 2009.

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

1. Contract award to Chaz Equipment Co., Inc. in the amount of \$99,255.00 for installing a 24-inch valve on the South Central Regional Wastewater Treatment Plant's (SCRWWTP) outfall pipe. Funding is available from 441-5181-536-65.96 (Water and Sewer Fund/Other Improvements/Reclaim Water Transmission).
2. Purchase award to American Traffic Products & Service (ATPS) in the amount of \$18,380.30 for aluminum sign blanks and galvanized posts as replacements for the City's sign shop. Funding is available from 001-3141-541-52.20 (General Fund/Operating Supplies/General Operational Supplies).
3. Purchase award to Carus Corporation in an estimated annual cost of \$120,000.00 for Fiscal Year 2009-2010 for the purchase of Poly Phosphate at \$1.42 per pound for the Water Treatment Plant. Funding is available from 441-5122-536-52.21 (Water and Sewer Fund/Operating Supplies/Chemicals).
4. Purchase award to Chaz Equipment Co., Inc. in the amount of \$50,000.00 for Sanitary Sewer Manhole Rehabilitation projects. Funding is available from 442-5178-536-63.82 (Water and Sewer Renewal & Replacement Fund/Sanitary Sewer Manhole Rehabilitation).
5. Purchase award to Chemical Lime Company of Alabama, Inc. in the estimated amount of \$720,000.00 for the purchase of bulk quicklime. Funding is available from 441-5122-536-52.21 (Water and Sewer Fund/Operating Supplies/Chemicals).
6. Purchase award to Poolsure of South Florida in the estimated annual amount of \$51,200.00 for the purchase and delivery of Sodium Hypochlorite. Funding is available from 441-5123-536-52.21 (Water/Sewer Fund/Chemicals).
7. Purchase award to PVS Technologies, Inc. in the amount of \$260,000.00 for the purchase and delivery of liquid and dry Ferric Chloride for the Water Treatment Plant as needed for the period of November 2009 through September 30, 2010. Funding is available from 441-5122-536-52.21 (Water and Sewer Fund/Operating Supplies/Chemicals).
8. Purchase award to Commercial Energy Specialist in the amount of \$16,100.00 for briquettes (chlorine) for the Pompey Park Pool and Delray Swim Club. Funding is available from 001-4135-572-52.21 (General Fund/Operating Supplies/Chemicals).

9. **REGULAR AGENDA:**

- AA. **AGREEMENT/FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION (DEP):** Approve a proposed settlement agreement with the Florida Department of Environmental Protection to accept the settlement offer resolving the incident of June 2, 2009 involving the release of wastewater. Funding is available from 441-5161-536-64.90 (Water and Sewer Fund/Machinery/Equipment/Other Machinery/Equipment). (Approved, 5-0)

- AAA. **D.U.I. GRANT AWARD/FLORIDA DEPARTMENT OF TRANSPORTATION:** Approve acceptance of a grant award from the Florida Department of Transportation (FDOT) in the amount of \$87,058.00 for funding for the Police Department's Driving Under the Influence (D.U.I.) program. Funding is available from 001-2115-521-12.10 (General Fund/Regular Salaries). (Commissioner Frankel filed a Conflict of Interest and left the dais. Approved, 4-0)
- AAAA. **AGREEMENT/GREEN MEADOWS HORSE & CARRIAGE:** Approve an agreement between the City and Green Meadows Horse & Carriage to provide horse and carriage rides along Atlantic Avenue and N.E. 2nd Avenue as specified from November 17, 2009 through April 3, 2010; contingent on the receipt of a certificate of liability insurance. (Motion to approve; Approved, 4-1. Commissioner Frankel dissenting)
- A. **REQUEST FOR IN-LIEU PARKING SPACE/ATLANTIC ANTIQUE MALL:** Consider a request from Atlantic Antique Mall, located at 506 East Atlantic Avenue for the purchase of three (3) in-lieu parking spaces at a cost of \$46,800.00, to accommodate a conversion of use. (*Quasi-Judicial Hearing*) (Motion to adopt Board Order as presented; Approved, 5-0)
- B. **INTERLOCAL AGREEMENT/PALM BEACH COUNTY:** Consider approval of an Interlocal Agreement between the City and Palm Beach County regarding a grant of \$1,000,000.00 for infrastructure in the City's right-of-way in the S.W. 12th Avenue and S.W. 10th Street area. (Approved, 5-0)
- C. **PROPOSAL FOR SETTLEMENT IN ROBERT HAUPTFUHRER v. CITY OF DELRAY BEACH, et al.:** Consider a Proposal for Settlement in the amount of \$35,000.00 in Robert Hauptfuhrer v. City of Delray Beach, *et al.* Staff recommends approval of the proposal for settlement. (Motion to approve settlement amount of \$35,000; Approved, 5-0)
- D. **DESIGNATION OF VOTING DELEGATE/NATIONAL LEAGUE OF CITIES ANNUAL BUSINESS MEETING:** Designate the voting delegate to the National League of Cities' Annual Business Meeting to be held in San Antonio, Texas on November 14, 2009. (Consensus of Commission to not designate a voting delegate due to no one from the Commission attending the National League of Cities Business Meeting)
- E. **FUNDING CONTRIBUTION/PALM BEACH COUNTY/THE SCHOOL DISTRICT/PALM BEACH COUNTY LEAGUE OF CITIES:** Consider a request from Palm Beach County, the School District, and the Palm Beach County League of Cities for support of a Wellness Campaign. (Motion to approve; DENIED, 5-0)
- F. **APPOINTMENT TO THE NEIGHBORHOOD ADVISORY COUNCIL:** Appoint one (1) regular member for Zone 4 to the Neighborhood Advisory Council for an unexpired term ending July 31, 2012. Based upon the rotation system, the appointment will be made by Commissioner Fetzer (Seat #2). (Appointed Isabel Make and approved, 5-0)

- G. **APPOINTMENTS TO THE BUDGET REVIEW COMMITTEE:** Appoint seven (7) regular and two (2) alternate members to the Budget Review Committee to serve terms ending July 31, 2010 and July 31, 2011. Based on the rotation system the appointments will be made by Commissioner Eliopoulos (Seat #1), Commissioner Fetzer (Seat #2), Commissioner Frankel (Seat #3), Commissioner Gray (Seat #4), Mayor McDuffie (Seat #5), Commissioner Eliopoulos (Seat #1), Commissioner Fetzer (Seat #2), Commissioner Frankel (Seat #3) and Commissioner Gray (Seat #4). (Appointed Howard Ellingsworth and approved, 5-0; appointed Todd L'Herrou and approved, 5-0; appointed Robert Moore and approved, 5-0; appointed Yvonne Walker and approved, 5-0; appointed John Warner and approved, 5-0; appointed Rosalie Blood and approved 5-0. Commissioner Gray's two (2) appointments and Commissioner Fetzer's second appointment were **DEFERRED** to the November 3, 2009 Regular Commission Meeting)

10. **PUBLIC HEARINGS:**

- A. **ORDINANCE NO. 15-09 (SECOND READING/SECOND 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. (Approved, 5-0)
- B. **ORDINANCE NO. 41-09 (SECOND READING/SECOND 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 design landscape requirements to be credited towards the required 25% open space requirement within the Four Corners Overlay District. (Approved, 5-0)
- C. **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. (Motion to approve; Approved, 4-1. Commissioner Eliopoulos dissenting)
- D. **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. (Approved, 5-0)
- E. **ORDINANCE NO. 50-09 (SECOND READING/SECOND 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 (LLL), "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. (Approved, 5-0)

- F. **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. *(Approved, 5-0)*
 - G. **ORDINANCE NO. 52-09:** Consideration an ordinance authorizing the creation of local government Neighborhood Improvement Districts pursuant to Florida Statute 163.506. *(Approved, 5-0)*
 - H. **ORDINANCE NO. 53-09 (SECOND READING/SECOND 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. *(Approved, 5-0)*
 - I. **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 a late renewal fee charge. *(Approved, 5-0)*
 - J. **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. *(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: OCTOBER 16, 2009

******** Meeting adjourned at 8:10 p.m. ********