

# City of Delray Beach

## Regular Commission Meeting

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



### RULES FOR PUBLIC PARTICIPATION

Tuesday, January 2, 2007

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.

100 NW 1st Avenue  
Delray Beach, Florida 33444

Phone: (561) 243-7000  
Fax: (561) 243-3774

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.** (Commissioner Ellis absent)
2. **INVOCATION.**
3. **PLEDGE OF ALLEGIANCE TO THE FLAG.**
4. **AGENDA APPROVAL.** (Mayor noted a Revised Resolution for Item 8.L, Resolution No. 1-07 (State Housing Initiatives Partnership (SHIP) Local Housing Assistance Plan and this item was moved to Item 9.L under the Regular Agenda; Item 9.A, Conditional Use Modification Request/Delray Beach Club was postponed due to a request from the applicant; Additional Information (Board Order) for Item 9.B, Waiver Requests/Cannery Row; Item 8.D, Change Order No. 7/Final (Contract Closeout)/Asphalt Consultants, Inc., was moved to Item 9.H under the Regular Agenda; Item 8.F, Change Order No. 6/Final (Contract Closeout)/Chaz Equipment, Inc., was moved to Item 9.I under the Regular Agenda; Item 8.G, Change Order No. 1/(Contract Addition)/Rosso Paving & Drainage, Inc., was moved to Item 9.J under the Regular Agenda; Item 8.H., Change Order No. 3/Final (Contract Closeout)/West Construction, Inc., was moved to Item 9.K under the Regular Agenda; Approved as amended, 4-0)
5. **APPROVAL OF MINUTES:**
  - November 21, 2006 – Regular Meeting (Approved, 4-0)
  - December 5, 2006 – Regular Meeting (Approved, 4-0)
6. **PROCLAMATIONS:**
  - A. Calling for the First-Non-Partisan Election to be held on March 13, 2007
7. **PRESENTATIONS:**
  - A. NONE
8. **CONSENT AGENDA:** City Manager Recommends Approval. (Approved as amended, 4-0)
  - A. **AMENDMENT/EASEMENT AGREEMENT/PORTEN CUSTOM HOMES, L.C.:** Approve an amendment to the easement agreement between the City and Porten Custom Homes, L.C., to allow a portion of the pool and deck to extend into the easement area, located on the northwest corner of N.E. 1<sup>st</sup> Street and the Intracoastal Waterway.
  - B. **REQUEST FOR SIDEWALK DEFERRAL/1516 PINE LANE:** Approve a request to defer the installation of a sidewalk in front of 1516 Pine Lane. Staff recommends approval.
  - C. **RESOLUTION NO. 2-07:** Approve Resolution No. 2-07 urging members of the Florida Legislature to support municipal issues during the 2007 Legislative Session.

- D. **(MOVED TO ITEM 9.H ON THE REGULAR AGENDA).**
- E. **CHANGE ORDER NOS. 3 & 4 (CONTRACT CLOSEOUT)/FINAL PAYMENT/BSA CORPORATION/DELRAY BEACH PUBLIC LIBRARY:** Approve Change Order No. 3/Final in the amount of \$245,655.56, and Change Order No. 4/Final in the amount of a \$233,455.00 decrease and final payment in the amount of \$76,118.25 to BSA Corporation for the construction of the new Delray Beach Public Library; and approve a return of refund in the amount of \$79,909.58 to the Delray Beach Public Library. Funding is available from 334-3552-571-62.10 (General Construction Fund/Buildings).
- F. **(MOVED TO ITEM 9.I ON THE REGULAR AGENDA).**
- G. **(MOVED TO ITEM 9.J ON THE REGULAR AGENDA).**
- H. **(MOVED TO ITEM 9.K ON THE REGULAR AGENDA).**
- I. **GUARANTEED MAXIMUM PRICE (GMP)/WESTERN/SENIOR COMMUNITY CENTER/WEITZ COMPANY:** Approve the Guaranteed Maximum Price (GMP) in the amount of \$640,957.00 to Weitz Company for the construction of Phase 1 (Site Work) including pond dredging, underground utilities and site grading for the Western/Senior Community Center Project. Funding is available from 380-4150-572-62.58 (2004 G.O. Bond/Western Community Center).
- J. **AUTHORIZATION FOR SUPERVISOR OF ELECTIONS TO HANDLE/CANVASS ABSENTEE AND PROVISIONAL BALLOTS AND REPRESENT THE CITY AT LOGIC AND ACCURACY TESTS FOR THE FIRST NON-PARTISAN ELECTION:** Authorize the Palm Beach County Supervisor of Elections to handle and canvass the City's absentee and provisional ballots for the March 13, 2007 First Non-Partisan Election, and represent the City at the requisite Logic and Accuracy tests.
- K. **MEMORANDUM OF UNDERSTANDING/FLORIDA DEPARTMENT OF FINANCIAL SERVICES:** Approve a Memorandum of Understanding with the Florida Department of Financial Services; and accept the 2007 Domestic Preparedness Grant from the State Homeland Security Grant Program in the amount of \$38,412.00 for equipment, maintenance of equipment, and training courses related to Homeland Security.
- L. **(MOVED TO ITEM 9.L ON THE REGULAR AGENDA).**
- M. **AGREEMENT/COMMAND SECURITY CORPORATION:** Approve an agreement between the City and Command Security Corporation to administer the non-city sponsored off-duty police detail, including requests for services, scheduling work and confirming completion along with maintaining logs and completing 1099s for the individual officers; and Command Security will pay the City \$7,500.00 per year for administrative personnel involved in administration of the off-duty police details.

- N. **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 January 18, 2007, from 6:00 p.m. to 10:00 p.m., granting a temporary use permit per LDR Section 2.4.6(F) for street closure of Atlantic Avenue, from Swinton to N.E./S.E. 7<sup>th</sup> Avenue, the alley north of Atlantic Avenue between N.E. 2<sup>nd</sup> Avenue and Railroad Way, Railroad Way from Atlantic to the alley just north of Atlantic Avenue, N.E. 2<sup>nd</sup> Avenue from Atlantic Avenue to the alley and the Tennis Center parking lot; authorize staff support for security and traffic control, barricading and EMS assistance.
- O. **SPECIAL EVENT REQUEST/ASIAN FOOD FAIR AND CULTURAL SHOW:** Consider approval of a special event request to allow the 4<sup>th</sup> Annual Asian Food Fair and Cultural Show sponsored by the Bangladesh Association of Florida, to be held on March 24-25, 2007 from 10:00 a.m. until 10:00 p.m. on the grounds of Old School Square and in the Old School Square parking lot, granting a temporary use permit per LDR Section 2.4.6(F) for street closure of the southwest section of Old School Square parking lot and City Hall parking lots; authorize staff support for security and traffic control, barricading, EMS assistance and event signage.
- P. **SPECIAL EVENT REQUEST/CINCO DE MAYO FIESTA:** Approve a special event request to allow the 9<sup>th</sup> Annual Cinco De Mayo Fiesta to be held Saturday, May 5, 2007, from 1:00 p.m. until 11:00 p.m. at Old School Square, granting a temporary use permit per LDR Section 2.4.6(F) for use of City parking lots at City Hall; authorize staff support for security and traffic control, barricading, and also approve staff request to use the South County Courthouse parking garage with the event sponsor paying the costs to operate the garage from 12:00 p.m. to 5:00 p.m. and light tower costs; contingent on the receipt of a hold harmless agreement and receipt of the certificate of liability insurance and liquor liability insurance.
- Q. **COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) SUB-RECIPIENT FUNDING AGREEMENT:** Approve and authorize the execution of the funding agreement with one (1) sub-recipient (Fair Housing Center of the Greater Palm Beaches, Inc.) under the Community Development Block Grant (CDBG) program for FY 2006-2007 Annual Action Plan, with the total funding in the amount of \$5,000.00 from various accounts within the CDBG fund.
- R. **ADDENDUM/CONTRACT FOR SALE AND PURCHASE OF PROPERTY/DELRAY BEACH COMMUNITY LAND TRUST, INC.:** Approve an addendum to the Contract for Sale and Purchase of Property with the Delray Beach Community Land Trust, Inc. extending the closing date to June 29, 2007 for the property located at 802 S.W. 3<sup>rd</sup> Street.
- S. **FLORIDA EAST COAST RAILWAY COMPANY (FEC) CROSSING LICENSE AGREEMENTS/REAL ESTATE LEASE FOR (4) PARCELS OF LAND:** Approve the license agreements with the Florida East Coast Railway Company (FEC) in the amount of \$9,000.00 each year for use of the N.E. 1<sup>st</sup> Street and S.E. 1<sup>st</sup> Street railroad crossings; and approve the Real Estate Lease in the amount of \$9,800.00 for the four (4) parcels of land (Parcels A, B, E and F).

- T. **RATIFICATION OF APPOINTMENTS/KIDS AND COPS COMMITTEE:**  
Approve and ratify the appointments of Shirley Santiago and Paul DeDominoco to the Kids and Cops Committee for unexpired terms ending November 30, 2007.
- U. **VILLAGE OF WELLINGTON AND THE CITY OF DELRAY BEACH v. PALM BEACH COUNTY:** Authorization to join in the appeal of the Village of Wellington and the City of Delray Beach, et al. v. Palm Beach County regarding any appeal filed to the Supreme Court of Florida.
- V. **REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:**  
Accept the actions and decisions made by the Land Development Boards for the period December 11, 2006 through December 29, 2006.
- W. **AWARD OF BIDS AND CONTRACTS:**

1. NONE

9. **REGULAR AGENDA:**

- A. **CONDITIONAL USE MODIFICATION REQUEST/DELRAY BEACH CLUB:** Consider a conditional use modification request associated with a two-story building addition with 1,549 square feet of new storage area in the basement, and 2,012 square feet of dining area on the ground level to replace the previously covered patio terrace for the Delray Beach Club, located on the east side of State Road A-1-A (Ocean Boulevard), approximately 900 feet south of Linton Boulevard (2001 South Ocean Boulevard). *(Quasi-Judicial Hearing)* **(POSTPONED due to the request of the applicant)**
- B. **WAIVER REQUESTS/CANNERY ROW:** Consider a request for waivers of Land Development Regulations (LDR) Section 4.6.18 (B)(14)(v)(2), “Buildings within the Downtown Area; Miscellaneous; Wall Colors” and Section 4.6.18(B)(14)(v)(3), “Buildings within the Downtown Area; Miscellaneous; Appurtenances”, associated with the Class V Site Plan for Cannery Row, located at the southwest corner of N.E. 2<sup>nd</sup> Avenue and N.E. 4<sup>th</sup> Street (Pineapple Grove Way). *(Quasi-Judicial Hearing)* **(Motion to approve Board Order as set forth; Approved, 4-0)**
- C. **INTERLOCAL AGREEMENT/COMMUNITY REDEVELOPMENT AGENCY:** Consider approval of an Interlocal Agreement between the City and the Community Redevelopment Agency (CRA) for the funding of construction and professional services for FY 2006 – 2007 City projects. **(Mayor Perlman filed Conflict of Interest, passed the gavel to Deputy Vice Mayor Fetzer and left the dais; Approved, 3-0)**

- D. **AGREEMENT/HURRICANE HOUSING RECOVERY PROGRAM (HHRP):** Consider approval of an agreement between the City, Community Redevelopment Agency (CRA) and Hatcher Development and Construction in the amount of \$519,138.00 for the rehabilitation of 133 N.W. 5<sup>th</sup> Avenue. The bid award is being contested. Funding is available from 118-1932-554-49.19 (Community Development Fund/Housing Rehabilitation). (Mayor Perlman filed Conflict of Interest, passed the gavel to Deputy Vice Mayor Fetzer and left the dais; Approved, 3-0)
- E. **APPOINTMENTS TO THE CODE ENFORCEMENT BOARD:** Appoint three (3) regular members and two (2) alternate members to the Code Enforcement Board for three (3) year terms ending January 14, 2010. Based upon the rotation system, the appointments will be made by Commissioner Levinson (Seat #3), Commission Montague (Seat #4), Mayor Perlman (Seat #5), Commissioner Ellis (Seat #1) and Commissioner Fetzer (Seat #2). (Commissioner Levinson deferred his appointment and Commission Ellis' appointment delayed to January 16, 2007 Commission Meeting. Appointed Stanley Brodka and approved, 4-0; Appointed David Hawke and approved, 4-0; and Appointed Susan Kay and approved, 4-0)
- F. **APPOINTMENTS TO THE PARKING MANAGEMENT ADVISORY BOARD:** Appoint two (2) Citizen-at-Large Representatives to the Parking Management Advisory Board for two (2) year terms ending January 31, 2009. Based upon the rotation system, the appointments will be made by Commissioner Fetzer (Seat #2) and Commissioner Levinson (Seat #3). (Appointed Nancy Schneider and approved 4-0; and Appointed Troy Wheat and approved, 4-0)
- G. **AGREEMENT/PAUL CONSULTING, INC.:** Consider authorizing the City Attorney to draft and the Mayor to execute an agreement with Paul Consulting, Inc. in the amount of \$38,700.00 via State Contract #973-561-06-1 for the administrative services, installation and implementation, including technical support and upgrades, of the MuniAgenda (paperless) Software. Funding is available from 001-1411-512-66.10 (General Fund/Software) and 001-1411-512-46.90 (General Fund/Other Repair/Maintenance Costs). (Approved, 4-0)
- H. **CHANGE ORDER NO. 7/FINAL (CONTRACT CLOSEOUT)/ASPHALT CONSULTANTS, INC.:** Approve Change Order No. 7/Final (Contract Closeout) in the amount of \$141,650.69 and final payment in the amount of \$146,349.71 to Asphalt Consultants, Inc. for completion of the N.W./S.W. 5<sup>th</sup> Avenue Improvements Project. Funding is available from 334-3162-541-65.83 (General Construction Fund/Capital/NW/SW 5<sup>th</sup> Avenue – SW 1<sup>st</sup> to NW). (Approved, 4-0)
- I. **CHANGE ORDER NO. 6/FINAL (CONTRACT CLOSEOUT)/CHAZ EQUIPMENT, INC.:** Approve Change Order No. 6/Final (Contract Closeout) in the amount of \$6,276.90 and final payment in the amount of \$51,787.76 to Chaz Equipment Company, Inc. for completion of the Swinton Avenue Beautification Project. Funding is available from 119-4151-572-60.69 (Beautification Fund/Capital Outlay/Improvements Other) and 448-5461-538-63.90 (Storm Water Utility Fund/Other Improvements). (Approved, 4-0)

- J. **CHANGE ORDER NO. 1/(CONTRACT ADDITION)/ROSSO PAVING & DRAINAGE, INC.:** Approve Change Order No. 1/(Contract Addition) in the amount of \$34,815.00 to Rosso Paving & Drainage, Inc. for additional work required for the parallel parking spaces on Coral Trace Boulevard, and a contract extension of thirty-five (35) days to the Eagle Park Project. Funding is available from 380-4150-572-63.23 (2004 G.O. Bond/Other Improvements/Neighborhood Parks). (Approved, 4-0)
- K. **CHANGE ORDER NO. 3/FINAL (CONTRACT CLOSEOUT)/WEST CONSTRUCTION, INC.:** Approve Change Order No. 3/Final (Contract Closeout) in the amount of a \$33,167.70 decrease and final payment in the amount of \$42,834.38 to West Construction, Inc. for completion of the Mike Machek Boy Scout Hut Park Project. Funding is available from 380-4150-572-63.25 (2004 G.O. Bond Fund/Boy Scout Hut Project). (Approved, 4-0)
- L. **RESOLUTION NO. 1-07 (STATE HOUSING INITIATIVES PARTNERSHIP (SHIP) LOCAL HOUSING ASSISTANCE PLAN):** Approve Resolution No. 1-07 adopting the amended Local Housing Assistance Plan for Fiscal Years 2004-2007 pursuant to Title 67-37 of the Florida Administrative Code. (Motion to approve original Resolution No. 1-07; Approved, 3-1; Commissioner Montague dissenting)

10. **PUBLIC HEARINGS:**

- A. **ORDINANCE NO. 59-06 (FIRST READING/FIRST PUBLIC HEARING):** Privately sponsored Future Land Use Map amendment (small-scale) from CF (Community Facilities) to LD (Low Density Residential 0-5 du/ac) for a 9.00 acre portion of the Christ the King Monastery of St. Clare and rezoning from CF (Community Facilities) to R-1-AA (Single Family Residential).
  - 1. Request to reduce the minimum lot frontage and lot width requirements for Lots 20 and 25 within the proposed subdivision at Christ the King Monastery of St. Clare, Inc., located at the southeast corner of Sherwood Boulevard and Sutton Place.  
(Motion to continue this item to January 16, 2007 Commission Meeting; Approved, 4-0)
- B. **ORDINANCE NO. 78-06 (SECOND READING/SECOND PUBLIC HEARING):** City initiated amendment to the Land Development Regulations (LDR) repealing Section 4.6.7, "Signs", in its entirety and enacting a new Section 4.6.7, "Signs", in order to provide a single, combined and updated sign code; and amending Appendix "A", "Definitions", to provide updated definitions relating to signs. (Approved, 4-0)
- C. **ORDINANCE NO. 79-06:** Privately initiated rezoning from GC (General Commercial) to AC (Automotive Commercial) for a 6.28 acre property (formerly the Ralph Buick Dealership), located at the northeast corner of South Federal Highway and Fladell's Way. (*Quasi-Judicial Hearing*) (Motion to continue to February 6, 2007 Commission Meeting; Approved, 4-0)

- D. **ORDINANCE NO. 82-06:** City initiated amendment to the Land Development Regulations (LDR) amending Section 4.3.3(I), “Community Residential Homes and Group Homes” to provide that a Type 1 group home shall not be located within 1,000 feet of another Type 1 group home or a community residential home. (Approved, 4-0)
- E. **ORDINANCE NO. 80-06:** Amendment to the Land Development Regulations (LDR) Section 2.4.5 “Procedures for Obtaining Development Approvals” and Section 2.4.3(K) “Fees” to create an application process for in-lieu of parking and public parking fee requests. (Approved, 4-0)
- F. **ORDINANCE NO. 81-06:** City initiated amendment to the Land Development Regulations (LDR) amending Section 1.3.8, “Reconstruction Necessitated by An Act of God”, to add provisions for the reconstruction of lawful nonconforming commercial structures damaged or destroyed by an Act of God. (Approved, 4-0)

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. 83-06:** Future Land Use Map amendment (small-scale) from TRN (Transitional) to GC (General Commercial) and rezoning from NC (Neighborhood Commercial) to GC (General Commercial) for three (3) parcels, totaling 0.843 acres, located at 2703, 2709 & 2715 South Federal Highway. If passed, a public hearing will be scheduled for January 16, 2007. (Approved, 4-0)
- B. **ORDINANCE NO. 1-07:** Rezoning from RM (Medium Density Residential) to CF (Community Facilities) for the proposed Community Land Trust Office, located at 145 S.W. 12<sup>th</sup> Avenue, on the northeast corner of S.W. 12<sup>th</sup> Avenue and S.W. 2<sup>nd</sup> Street. If passed, a public hearing will be scheduled for January 16, 2007. (Approved, 4-0)
- C. **ORDINANCE NO. 3-07:** Future Land Use Map amendment (small-scale) from County LR-1 (Low Density Residential 1 du/ac) to City LD (Low Density Residential 0-5 du/ac) and rezoning from County AR (Agricultural Residential) to City R-1-AA (Single Family Residential) for a 0.72 acre property located at 2200 Lake Drive. If passed, a public hearing will be scheduled for January 16, 2007. (Approved, 4-0)
- D. **ORDINANCE NO. 4-07:** Future Land Use Map amendment (small-scale) from County LR-3 (Low Density Residential 3 du/ac) to City TRN (Transitional) and rezoning from CG/SE (Commercial General/Special Exception) to City zoning of SAD (Special Activities District) for a 0.99 acre property, to be known as Robotic Space Savers located at the southwest corner of Conklin Drive and Military Trail. If passed, a public hearing will be scheduled for January 16, 2007. (Approved, 4-0)

13. COMMENTS AND INQUIRIES ON NON-AGENDA ITEMS.

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

POSTED: DECEMBER 28, 2006

***\*\*\*\*\* Meeting adjourned at 7:52 p.m. \*\*\*\*\****