

# 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, August 4, 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.

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.

100 NW 1st Avenue  
Delray Beach, Florida 33444

Phone: (561) 243-7000  
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1. **ROLL CALL.**
2. **INVOCATION.**
3. **PLEDGE OF ALLEGIANCE TO THE FLAG.**
4. **AGENDA APPROVAL.** (Mayor McDuffie noted Item 8.M., Developer's Agreement/Cannery Row, LLC was moved to the Regular Agenda as Item 9.A.A. Approved as amended, 5-0).
5. **APPROVAL OF MINUTES:**
  - A. July 7, 2009 – Regular Meeting (Approved, 5-0)
  - B. July 14, 2009 – Special Workshop Meeting (Approved, 5-0)
  - C. July 21, 2009 – Regular Meeting (Approved, 5-0)
6. **PROCLAMATIONS:**
  - A. None
7. **PRESENTATIONS:**
  - A. None
8. **CONSENT AGENDA:** City Manager Recommends Approval. (Approved as amended, 5-0)
  - A. **RATIFICATION OF THE SOUTH CENTRAL REGIONAL WASTEWATER TREATMENT AND DISPOSAL BOARD ACTIONS:** Approve and ratify the actions of the South Central Regional Wastewater Treatment and Disposal Board at their Quarter- Annual Meeting of July 16, 2009.
  - B. **RESOLUTION NO. 33-09:** Approve Resolution No. 33-09 supporting the Beach Renourishment Project.
  - C. **SERVICE AUTHORIZATION NO. 5/COASTAL PLANNING & ENGINEERING, INC./BEACH RENOURISHMENT PROJECT:** Approve Service Authorization No. 5 for Coastal Planning & Engineering, Inc. to proceed with the preliminary engineering and geotechnical engineering tasks for the Beach Renourishment Project, at a cost not to exceed \$428,412.00. Funding is available from 332-4164-572-31.30 (Beach Restoration Fund/Professional Services/Engineering/Architectural).
  - D. **ACCEPTANCE OF RIGHT-OF-WAY DEED/TASTE RESTAURANT:** Approve and accept a right-of-way deed associated with the Taste Restaurant located at 169 and 171 Pineapple Grove Way (N.E. 2<sup>nd</sup> Avenue).

08/04/2009

- E. **ACCEPTANCE OF RIGHT-OF-WAY DEDICATION/251 DIXIE BOULEVARD:** Approve and accept a right-of-way deed associated with the approved mixed-use development for property located at 251 Dixie Boulevard within the Del-Ida Park Historic District.
- F. **DISASTER RECOVERY INITIATIVE (DRI)/HOUSING REHABILITATION GRANT/CONTRACT AWARDS:** Approve two (2) Housing Rehabilitation grant awards to the lowest responsive bidders for the following projects: 918 S.W. 3<sup>rd</sup> Court to Haywood Construction in the amount of \$36,441.10 and 926 S.W. 11<sup>th</sup> Terrace to Jemstone Construction Group in the amount of \$28,828.28. Funding is available from 118-1960-554-49.19 (Neighborhood Services/Other Current Charges/Housing Rehabilitation).
- G. **ANTI-DISPLACEMENT AND RELOCATION POLICY:** Approve and adopt an anti-displacement and relocation policy to be used in conjunction with the City's community development programs.
- H. **SECOND ADDENDUM TO THE INTERLOCAL AGREEMENT/PALM BEACH COUNTY SHERIFF'S OFFICE:** Approve a Second Addendum to the Interlocal Agreement between the City and the Palm Beach County Sheriff's Office for the Urban Area Security Initiative (UASI) Grant which will extend the grant period to December 31, 2009.
- I. **AGREEMENT/UNITED STATES DEPARTMENT OF JUSTICE, DRUG ENFORCEMENT ADMINISTRATION (DEA):** Approve and accept a State and Local Task Force Agreement between the City and the United States Department of Justice, Drug Enforcement Administration (DEA), to reimburse the Delray Beach Police Department for overtime up to \$16,903.25 subject to availability of funds.
- J. **MEMORANDUM OF UNDERSTANDING/PALM BEACH COUNTY MULTI-AGENCY VIOLENT CRIMES TASK FORCE/CRITICAL INCIDENT PROTOCOL:** Approve a Memorandum of Understanding with the Palm Beach County Multi-Agency Violent Crimes Task Force (VCTF) and a Memorandum of Understanding for the VCTF Critical Incident Protocol to update the City's signatory to the agreement.
- K. **LETTER OF SUPPORT/JUSTICE ASSISTANCE GRANT (JAG) FUND:** Approve the Mayor's submission of a letter in support of the Countywide Justice Assistance Grant funds (JAG) funding allocations for FY 2010.
- L. **PROPOSED MILLAGE RATE/DOWNTOWN DEVELOPMENT AUTHORITY:** Approve the Downtown Development Authority's *proposed* millage rate for FY 2010.
- M. **(MOVED TO ITEM 9.A.A. ON THE REGULAR AGENDA).**

- N. **SPECIAL EVENT REQUEST/15<sup>TH</sup> ANNUAL DOWNTOWN DELRAY CRAFT FESTIVAL:** Approve a special event request to endorse the 15<sup>th</sup> Annual Downtown Delray Craft Festival sponsored by Howard Alan Events, Ltd. to be held on October 3 – 4, 2009 from 10:00 a.m. until 5:00 p.m., to grant a temporary use permit per LDR Section 2.4.6(F) for use of N.E. 4<sup>th</sup> Avenue from Atlantic Avenue to N.E. 1<sup>st</sup> Street and from Atlantic Avenue to S.E. 1<sup>st</sup> Street, to utilize the Hands parking lot for vendor parking, to authorize staff support for traffic control and security.
- O. **SPECIAL EVENT REQUEST/4<sup>th</sup> ANNUAL WALK FOR LUPUS NOW:** Approve a special event request to endorse the 4<sup>th</sup> Annual Walk for Lupus Now sponsored by the Lupus Foundation of America Southeast Florida Chapter proposed to be held October 31, 2009 from 8:00 a.m. until noon, with set up to begin at 6:00 a.m., including granting a temporary use permit per LDR Section 2.4.6(F) for use of Anchor Park as a staging area and the use of sidewalks along A1A from Casurina to the north end of the beach, to waive parking fees in Anchor Park, to authorize staff support for security and traffic control, barricading, clean up and trash removal, use and set up of the small stage, and special event signage; contingent on sponsor providing a hold harmless agreement and a certificate of event liability insurance no later than two (2) weeks before the event; the event sponsor being responsible for site clean up; and signage installation occurring no earlier than ten (10) days prior to the event with banners allowed only on the stage and in Anchor Park.
- P. **REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:**  
Accept the actions and decisions made by the Land Development Boards for the period July 20, 2009 through July 31, 2009.
- Q. **AWARD OF BIDS AND CONTRACTS:**
1. Bid award to multiple vendors in the estimated annual amount of \$186,500.00 for the purchase of chemicals and fertilizers for the City. Funding is available from 001-4511-539-52.26 (General Fund/Operating Supplies/Gardening Supplies), 119-4144-572-52.21 (Beautification Trust Fund/Operating Supplies/Chemicals), 001-4131-572-52.21 (General Fund/Operating Supplies/Chemicals), 445-4714-572-52.26 (D.B. Municipal Golf Course/Operating Supplies/Gardening Supplies), and 446-4714-572-52.26 (Lakeview Golf Course/Operating Supplies/Gardening Supplies).
  2. Contract award to Baker's Transport Service (BTS) in the amount not to exceed \$27,000.00 for hauling and disposal of liquid lime slurry from the Water Treatment Plant (WTP) an additional sixty (60) days through the end of the fiscal year. Funding is available from 441-5122-536-34.90 (Water and Sewer Fund/Other Contractual Services).
  3. Contract award to Chaz Equipment Company in the amount of \$47,770.00 for the emergency repair of sanitary sewer mains at Lift Station #24, along S.W. 6<sup>th</sup> Avenue at the intersection with S.W. 8<sup>th</sup> Court (816 S.W. 6<sup>th</sup> Avenue). Funding is available from 442-5178-536-63.51 (Water/Sewer Renewal and Replacement Fund/Sewer Mains).

9. **REGULAR AGENDA:**

- AA. **DEVELOPER'S AGREEMENT/CANNERY ROW, LLC:** Approve a finding that the Cannery Row developer is in compliance with the terms of the Developer's Agreement, executed May 8, 2007. (Commissioner Eliopoulos declared a Conflict of Interest and left dais. Approved, 4-0)
- A. **WAIVER REQUEST/DELRAY BEACH CLUB APARTMENTS:** Consider a request for waiver of Land Development Regulations (LDR) Section 4.6.9(D)(3)(c)(2), "Stacking Distance", to allow a reduction in the required stacking distance from 100' to 70' feet and 100' to 66' for Delray Beach Club Apartments, located at 2000 South Ocean Boulevard. (*Quasi-Judicial Hearing*) (Motion to **TABLE**; Approved, 5-0)
- B. **CONDITIONAL USE REQUEST/CAFÉ AU PLAY:** Consider a conditional use request to allow a recreational establishment with attendant café known as Café Au Play to be located on Parcel "B" of the South Delray Shopping Center at 3003 South Federal Highway. (*Quasi-Judicial Hearing*) (Motion to approve the Board Order as presented; Approved, 5-0)
- C. **CONDITIONAL USE REQUEST/KAPLAN UNIVERSITY AND INSTRUCTIONAL CENTER:** Consider a conditional use request to establish Kaplan University in the Mixed Residential Office and Commercial (MROC) zoning district within the Delray Corporate Center located at 3333 South Congress Avenue. (*Quasi-Judicial Hearing*) (Motion to approve the Board Order as presented; Approved, 5-0)
- D. **REQUEST FOR IN-LIEU PARKING SPACES/BELUGA RESTAURANT AND WINE BAR, INC.:** Consider a request from Beluga Restaurant and Wine Bar, Inc., for purchase of three (3) in-lieu parking spaces in the amount of \$46,800.00. Beluga Restaurant and Wine Bar, Inc. is located at 44 S.E. 2<sup>nd</sup> Avenue. (*Quasi-Judicial Hearing*) (Motion to approve the Board Order as presented; Approved, 5-0)
- E. **RENEWAL/VALET PARKING LICENSE AGREEMENTS:** Consider renewal terms for all Valet Parking License Agreements from April 1, 2009 through March 31, 2010. (Motion to approve agreements at an additional \$10.00 per space with the exception of Cut 432; Approved, 5-0)
- F. **PURCHASE AWARD/CARUS CORPORATION:** Consider approval of a purchase award to Carus Corporation in an estimated annual cost of \$29,820.00 for the purchase of Poly Phosphate at \$1.42 per pound for the Water Treatment Plant as needed. Funding is available from 441-5122-536-52.21 (Water/Sewer Fund/Chemicals). (Approved, 5-0)
- G. **COMMISSION RULES OF PROCEDURE:** Consider changing the Commission Rules of Procedure regarding time limits for Commission meetings, to require a majority of the Commission to approve an extension for each hour after 11:00 PM. (Approve, 4-0. Commissioner Fetzer stepped away from the dais)

- H. **APPOINTMENT OF OUTSIDE COUNSEL/HEATHER LEITCH v. CITY OF DELRAY BEACH:** Consider approval to appoint Kara Rockenback, Esq. as co-counsel in the Appellate Case of Heather Leitch v. City of Delray Beach at the rate of \$225.00 per hour. (Approved, 5-0)
- I. **APPOINTMENTS TO THE EDUCATION BOARD:** Appoint two (2) student members to the Education Board to serve a two (2) year term ending July 31, 2011 and a one (1) year term ending July 31, 2010. Based upon the rotation system, the appointments will be made by Commissioner Bernard (Seat #4) and Mayor McDuffie (Seat #5). (Appointed John Paul Caruso as a student member and approved, 5-0; and appointed Nathaniel Ellis as a student member and approved, 5-0)
- J. **APPOINTMENTS TO THE HISTORIC PRESERVATION BOARD:** Appoint three (3) regular members to the Historic Preservation Board to serve two (2) year terms ending August 31, 2011. Based upon the rotation system, the appointments will be made by Commissioner Fetzer (Seat #2), Commissioner Frankel (Seat #3) and Commissioner Bernard (Seat #4). (Appointed Rhonda Sexton and approved, 5-0; appointed Dan Sloan and approved, 5-0; and appointed Pamela Reeder and approved, 5-0)
- K. **APPOINTMENTS TO THE GREEN TASK FORCE:** Appoint seven (7) regular and two (2) alternate members to the Green Task Force to serve terms ending July 31, 2010 or 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 Bernard (Seat #4), Mayor McDuffie (Seat #5), Commissioner Eliopoulos (Seat #1), Commissioner Fetzer (Seat #2), Commissioner Frankel (Seat #3) and Commissioner Bernard (Seat #4). (Appointed Edward Bispham as an alternate member and approved, 5-0; appointed Matthew O'Connell as an alternate member and approved, 5-0; appointed Ana DeMelo and approved, 5-0; appointed David Hawke and approved, 5-0; appointed Rita Johnson and approved, 5-0; appointed Jayne King and approved, 5-0; appointed Suzanne Schenkel and approved, 5-0; appointed Nancy Schneider and approved, 5-0; and appointed Yalmaz Siddiqui and approved, 5-0)
10. **PUBLIC HEARINGS:**
- A. **PUBLIC COMMENTS/FY 2010 PROPOSED BUDGET:** The City Commission will hear public comments, if any, regarding the FY 2010 Proposed Budget at this time.

- B. **ORDINANCE NO. 38-09 (FIRST READING/FIRST PUBLIC HEARING):** Consider a privately-initiated amendment to the Land Development Regulations (LDR) Section 4.4.12, "Planned Commercial (PC) District", Subsection (D), "Conditional Uses and Structures Allowed", and Subsection (G), "Supplemental District Regulations", to provide regulations for the Silver Terrace Courtyards Overlay District; enacting Section 4.5.17, "Silver Terrace Courtyards Overlay District", to define the overlay district; amending Sections 4.7.1, "Definitions", Section 4.7.2, "Applicability", and Section 4.7.5, "Density Bonus Program for the Southwest 10<sup>th</sup> Street and I-95/CSX Railroad Corridor Overlay Districts", to provide for the creation of a new Workforce Housing Overlay District; amending Section 4.7.9, "General Provisions", Subsection "o", to modify the provisions allowing non-eligible occupants to occupy workforce housing rental units under certain conditions. If passed a second public hearing will be held on August 18, 2009. (Approved, 5-0)
- C. **ORDINANCE NO. 35-09 (SECOND READING/SECOND PUBLIC HEARING):** Consider a city initiated amendment to Land Development Regulations (LDR) Section 4.6.9, "Off-Street Parking Requirements", Subsection (C), "Number of Parking Spaces Required", Sub-subsection (8), "Multiple Uses", Paragraph (A), "Shared Parking", to allow the utilization of the shared parking calculations table for mixed-use developments when there is no residential use. (Approved, 5-0)
- D. **ORDINANCE NO. 33-09 (SECOND READING/SECOND PUBLIC HEARING):** Consider a city-initiated amendment to the Land Development Regulations (LDR) 2.4.3(K), "Fees", Sub-subsection (1), "Development Applications", Sub-subsection (3), "Permit Fees", to provide for an increase in such fees. (Approved, 5-0)
- E. **ORDINANCE NO. 32-09 (SECOND READING/SECOND PUBLIC HEARING):** Consider a city-initiated amendment to the Land Development Regulations (LDR) Section 4.4.13(B)(3), "Principle Uses and Structures Permitted", to clarify that "Public Open Space/Plaza", is a principal (permitted) use within the Central Business District (CBD). (Approved, 5-0)
- F. **ORDINANCE NO. 36-09 (SECOND READING/SECOND PUBLIC HEARING):** Consider a city-initiated amendment to Land Development Regulations (LDR) Section 4.3.4(K), "Development Standard Matrix", pertaining to setback requirements in the Residential Office District (RO). (Approved, 5-0)
- G. **ORDINANCE NO. 34-09 (FIRST READING/FIRST PUBLIC HEARING):** Consider a city-initiated amendment to Land Development Regulations (LDR) Section 5.3.2, "Park Land Dedication", Subsection (C), "Impact Fee Required", to clarify requirements regarding impact fees for single family and all other types of development. If passed a second public hearing will be held on August 18, 2009. (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: JULY 31, 2009

***\*\*\*\*\* Meeting adjourned at 8:46 p.m. \*\*\*\*\****