

**JULY 10, 2007**

A Regular Meeting of the City Commission of the City of Delray Beach, Florida, was called to order by Mayor Rita Ellis in the Commission Chambers at City Hall at 6:02 p.m., Tuesday, July 10, 2007.

**1.** Roll call showed:

Present - Commissioner Gary Eliopoulos  
Commissioner Fred Fetzer  
Commissioner Woodie McDuffie  
Commissioner Brenda Montague  
Mayor Rita Ellis

Absent - None

Also present were - David T. Harden, City Manager  
Robert A. Barcinski, Assistant City Manager  
Susan A. Ruby, City Attorney  
Chevelle D. Nubin, City Clerk

**2.** The opening prayer was delivered by Reverend Nancy McCarthy with St. Paul Episcopal Church.

**3.** The Pledge of Allegiance to the flag of the United States of America was given.

**4.** **AGENDA APPROVAL.**

Mayor Ellis stated there is revised funding information for **Item 8.E., Motorola Service Agreement** and a revised **Item 8.K., Grant Award/Edward Byrne Memorial Justice Assistance Grant (JAG) for Fiscal Year 2007.**

Mrs. Montague moved to approve the Agenda as amended, seconded by Mr. McDuffie. Upon roll call the Commission voted as follows: Mr. Fetzer – Yes; Mr. McDuffie – Yes; Mrs. Montague – Yes; Mayor Ellis – Yes; Mr. Eliopoulos – Yes. Said motion passed with a 5 to 0 vote.

**5.** **APPROVAL OF MINUTES:**

Mr. McDuffie moved to approve the Minutes of the Regular Meeting of June 19, 2007, seconded by Mr. Fetzer. Upon roll call the Commission voted as follows: Mr. McDuffie – Yes; Mrs. Montague – Yes; Mayor Ellis – Yes; Mr. Eliopoulos – Yes; Mr. Fetzer – Yes. Said motion passed with a 5 to 0 vote.

07/10/07

**6. PROCLAMATIONS:**

**6.A. NONE**

**7. PRESENTATIONS:**

**7.A. NONE**

**8. CONSENT AGENDA:** City Manager Recommends Approval.

**8.A. CONTRACT CLOSEOUT (C.O. NO. 2/FINAL)/ASPHALT CONSULTANTS, INC.:** Approve a Contract Closeout (C. O. No. 2/Final) in the amount of a \$50,094.75 decrease and final payment in the amount of \$33,578.47 to Asphalt Consultants, Inc. for completion of the Chatelaine Subdivision and NE 14<sup>th</sup> Street Traffic Calming Projects. Funding is available from 334-6130-541-63.89 (General Construction Fund/Neighborhood Enhancement).

**8.B. SERVICE AUTHORIZATION NO. 04-04/KIMLEY-HORN AND ASSOCIATES, INC.:** Approve Service Authorization No. 04-04 in the amount of \$34,100.00 to Kimley-Horn and Associates, Inc. for additional professional consulting services required for all work associated with modifying the construction documents related to the Seacrest Soccer Complex Project (formally called Atlantic Soccer Complex). Funding is available from 380-4150-572-63.49 (2004 G.O. Bond/Soccer Complex).

**8.C. REJECTION OF BIDS/DELRAY BEACH SWIM AND TENNIS WEST PARKING LOT PROJECT:** Approve a request to reject all bids received for the Delray Beach Swim and Tennis Center West Parking Lot Project due to the apparent low bidder, Landmark Construction, not following addendum number 1; and the second bidder, West Construction, Inc. mobilization pay item exceeds more than 5% of the contract price.

**8.D. RESOLUTION NO. 40-07/FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT)/SUNSHINE PARK MAINTENANCE MEMORANDUM OF AGREEMENT (MMOA):** Approve and adopt Resolution No. 40-07 authorizing execution of a Maintenance Memorandum of Agreement (MMOA) with the Florida Department of Transportation (FDOT) for maintenance of the landscaping along the east side of the I-95 (SR 9) wall abutting Sunshine Park, subject to the addition of language stating that the City shall indemnify FDOT in amounts not to exceed those set forth in Florida Statute 768.28.

The caption of Resolution No. 40-07 is as follows:

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE A MAINTENANCE

MEMORANDUM OF AGREEMENT WITH THE STATE OF  
FLORIDA DEPARTMENT OF TRANSPORTATION FOR  
MAINTENANCE BY THE CITY OF A PORTION OF I-95 (SR  
9) LOCATED WITHIN THE CITY OF DELRAY BEACH;  
PROVIDING FOR CONFLICTS; PROVIDING AN EFFECTIVE  
DATE

(The official copy of Resolution No. 40-07 is on file at the City Clerk's  
office.)

**8.E. MOTOROLA SERVICE AGREEMENT:** Approve a service agreement between the City and Motorola in the amount of \$120,319.32 providing that Motorola will service the City's portable radios and the equipment used for the City's dispatch system. Funding is available from 001-2111-521-46.20 (General Fund/Equipment Maintenance).

**8.F. CONSULTING AGREEMENT/BRIDGES, MARSH & ASSOCIATES, INC.** Approve a consulting agreement between the City and Bridges, Marsh & Associates, Inc. in an amount not to exceed \$20,500.00 to provide design, bid and inspection services for the replacement of the Tennis Stadium box seats. Funding to come from the City Manager's Contingency Fund.

**8.G. AMENDMENT NO. 3/CLINICAL SERVICE UNIT AGREEMENT/DR. RANDALL L. WOLFF:** Approve Amendment No. 3 to the Clinical Service Unit Agreement between the City and Dr. Randall L. Wolff for the renewal of the same for an additional three (3) years.

**8.H. INTERLOCAL AGREEMENT/SOLID WASTE AUTHORITY (SWA) PALM BEACH COUNTY/DISASTER DEBRIS MANAGEMENT:** Approve an interlocal agreement between the City and Solid Waste Authority (SWA) of Palm Beach County allowing the City to dispose of disaster debris at the Solid Waste Authority debris management sites provided it complies with the requirements of the SWA.

**8.I. RESOLUTION NO. 38-07:** Approve Resolution No. 38-07 setting a public hearing date for August 21, 2007 regarding the establishment of the SW 8<sup>th</sup> Avenue Special Assessment District.

The caption of Resolution No. 38-07 reads as follows:

A RESOLUTION OF THE CITY COMMISSION OF THE  
CITY OF DELRAY BEACH, FLORIDA, SETTING A  
PUBLIC HEARING DATE FOR THE PUBLIC  
HEARING REGARDING THE CONSIDERATION OF  
THE SW 8<sup>TH</sup> AVENUE SPECIAL ASSESSMENT  
DISTRICT; PROVIDING FOR THE MAILING AND  
PUBLICATION OF NOTICE REGARDING THE

PUBLIC HEARING; PROVIDING AN EFFECTIVE DATE.

(The official copy of Resolution No. 38-07 is on file at the City Clerk's office.)

**8.J. RECREATION ASSISTANCE GRANT/PAYMENT/DELRAY BEACH FILM FESTIVAL:** Approve a grant agreement between the City and Palm Beach County in the amount of \$6,000.00 to help offset the rental costs at Old School Square for the Delray Beach Film Festival 2007; and authorize payment in an amount not to exceed \$6,000.00 for the Old School Square rental invoice.

**8.K. GRANT AWARD/EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) FOR FY 2007:** Approve and accept the Edward Byrne Memorial Justice Assistance Grant (JAG) award in the amount of \$60,576.00 which will provide funding for the Police Department's Holiday Task Force Overtime.

**8.L. AGREEMENT/HAYWOOD CONSTRUCTION/AMERICAN LEGION HALL/CARING KITCHEN RE-ROOFING PROJECT:** Approve rescinding the original bid award in the amount of \$16,900.00 from Cordoba Construction; and authorize the approval of an agreement between the City, American Legion Hall and Haywood Construction (lowest responsive bidder) in the amount of \$18,250.00 for the re-roofing project at 196 NW 8<sup>th</sup> Avenue (Caring Kitchen). The City shall pay Haywood Construction in the amount of \$18,500.00 for the re-roofing project. Funding is available from 118-1963-554-49.19 (Community Development Fund/Housing Rehabilitation).

**8.M. AMENDMENT TO SOUTH PALM BEACH COUNTY PUBLIC SAFETY COMMUNICATIONS COOPERATIVE/PALM BEACH COUNTY AGREEMENT:** Approve an amendment to the interlocal agreement between the South Palm Beach County Public Safety Communications Cooperative and Palm Beach County for use of a portion of the County's 800 MHz Trunked Radio System (Smart Zone Controller). The City will agree to continue to pay Palm Beach County in the sum of \$836.66 per month, which enables the City to use the Smart Zone Controller. Funding is available from 001-2111-521-46.20 (General Fund/Equipment Maintenance).

**8.N. INITIATION OF COMPREHENSIVE PLAN AMENDMENT 2007-2:** Formally initiate Comprehensive Plan Amendment 2007-2 pursuant to Section 9.2.1 of the Land Development Regulations.

**8.O. REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:** Accept the actions and decisions made by the Land Development Boards for the period June 18, 2007 through July 6, 2007.

**8.P.**

**AWARD OF BIDS AND CONTRACTS:**

**1.** Bid award to Complete Property Services in an annual estimated cost of \$18,755.00 for the landscape maintenance of South Federal Highway and Congress Avenue. Funding is available from 119-4144-572-46.40 (Beautification Trust Fund/Beautification Maintenance).

**2.** Contract award to Chaz Equipment Company, Inc., in the amount of \$16,500.00 for the emergency repairs to Lift Station 58-A, located in the Spanish Wells Subdivision. Funding is available from 442-5178-536-68.15 (Water/Sewer Renewal and Replacement Fund/Lift Station Rehabilitation).

**3.** Purchase award to Stokes Mechanical Contractor, Inc., in the amount of \$47,100.00 for the purchase of a rooftop air conditioning system for the Police Department. Funding is available from 334-6112-522-64.90 (General Construction Fund/Other Machinery/Equipment).

**4.** Purchase award to Jade Communications Incorporated in the amount of \$46,623.10 for the purchase of cabling for the new ESD building. Funding is available from 441-5111-536-62.45 (Water/Sewer Fund/Data Cabling).

**5.** Purchase award to Duval Ford in the amount of \$22,290.00 for one (1) 2007 Ford F-250 SD 4x2 Pick-Up Truck for the Parks Maintenance Division and to Alan Jay Import Center in the amount of \$23,552.00 for one (1) 2007 Toyota Prius Hybrid for Community Improvement via the Florida Sheriff's Association Contract #06-14-0821. Funding is available from 501-3312-591-64.20 (Central Garage Fund/Automotive).

**6.** Purchase award to Sensus Metering Systems in the amount of \$90,000.00 for the purchase of seven-hundred (700) additional radio-read transceivers for the City's water meters and radio-read upgrades. Funding is available from 442-5178-536-52.31 (Water/Sewer Renewal and Replacement Fund/Water Meter Replacement Under \$750).

Mr. Fetzer moved to approve the Consent Agenda as amended, seconded by Mr. Eliopoulos. Upon roll call the Commission voted as follows: Mrs. Montague – Yes; Mayor Ellis – Yes; Mr. Eliopoulos – Yes; Mr. Fetzer – Yes; Mr. McDuffie – Yes. Said motion passed with a 5 to 0 vote.

**9.**

**REGULAR AGENDA:**

**9.A.**

**WAIVER REQUEST/321 PINEAPPLE GROVE WAY:** Consider a waiver request to the Land Development Regulations (LDR) Section 4.6.8(B)(3)(c), "Illumination Levels and Uniformity", which allows an illumination of up to 4-foot candles within the parking area; LDR Section 4.6.14(A)(1), "Visibility at Intersections", which requires a 20-foot visibility triangle at the intersection of an accessway and the public right-of-way line; and LDR Section 4.6.16(H)(3)(a), "New Multiple Family,

Commercial, and Industrial Development”, which requires a 5-foot perimeter landscape strip along the alley for St. George Suites, located on the east side of Pineapple Grove Way and 410 feet south of NE 4<sup>th</sup> Street (321 Pineapple Grove Way). (*Quasi-Judicial Hearing*)

Mayor Ellis read into the record the City of Delray Beach procedures for a Quasi-Judicial Hearing for this item and subsequent Quasi-Judicial items.

Chevelle D. Nubin, City Clerk, swore in those individuals who wished to give testimony on this item.

Mayor Ellis asked the Commission to disclose their ex parte communications. The Commission had no ex parte communications to disclose.

Paul Dorling, Director of Planning and Zoning, entered the Planning and Zoning Department project file #2007-077 into the file.

Mr. Dorling stated this item is regarding three waivers: (1) LDR Section 4.6.8(B)(3)(c), which allows an illumination of up to 4 foot candles within the parking area; LDR Section 4.6.14(A)(1) which requires a 20-foot visibility triangle at the intersection of an accessway and the public right-of-way line; and LDR Section 4.6.16(H)(3)(a). The staff report goes into the support of each of the three waivers. Mr. Dorling stated the average foot candles for the building (parking garage) is four foot candles and there are some sections that are proposed at eight foot candles and are all screened from view under the building. Therefore, staff does not see any issue with granting the waiver. With regard to the site visibility triangles, one relates to the site visibility triangle off N.E. 2<sup>nd</sup> Avenue (one-way situation into the facility) so there is no issue with the site visibility along N.E. 2<sup>nd</sup> Avenue. Mr. Dorling stated along the alley there is reduction requested from 20 feet to 10 feet and given the low traffic volumes and the small parking lot staff does not see any issues with this waiver request. He stated the last is a 5 foot perimeter landscape strip which is required along the alley. Mr. Dorling stated each of these waivers was recommended for approval when it came before the Site Plan Review and Appearance Board (SPRAB). Staff recommends approval of all three waivers.

**Jason Mankoff, Attorney with Weiner & Aronson, P.A., 102 North Swinton Avenue, Delray Beach,** (representing the applicant), agrees with the Planning and Zoning staff report.

There was no cross-examination or rebuttal.

The City Attorney briefly reviewed the Board Order with the Commission who made findings according to their consensus (attached hereto is a copy and made an official part of the minutes).

Mrs. Montague moved to adopt the Board Order as presented, seconded by Mr. McDuffie. Upon roll call the Commission voted as follows: Mayor Ellis – Yes; Mr. Eliopoulos – Yes; Mr. Fetzer – Yes; Mr. McDuffie – Yes; Mrs. Montague – Yes. Said motion passed with a 5 to 0 vote.

**9.B. REQUEST FOR WAIVER/NEW URBAN COMMUNITIES:**  
Consider a request for waiver of Land Development Regulations (LDR), Section 4.6.7(J)(2), governing off-premise signs from Tim Hernandez, owner of New Urban Communities and the developer of the CODA Project located in the 100 block of SW 1<sup>st</sup> Avenue and SW 2<sup>nd</sup> Avenue. (*Quasi-Judicial Hearing*)

Chevelle D. Nubin, City Clerk, swore in those individuals who wished to give testimony on this item.

Mayor Ellis asked the Commission to disclose their ex parte communications. The Commission had no ex parte communications to disclose.

Lula Butler, Director of Community Improvement, stated this item is consideration of a waiver to LDR Section 4.6.7(J)(2) governing off-premise signs, pursuant to the request by Tim Hernandez, owner of New Urban Communities and the developer of the CODA project located in the 100 block of S.W. 1<sup>st</sup> Street and 2<sup>nd</sup> Avenues. Mrs. Butler stated CODA is a mixed-use development under construction one block south of West Atlantic Avenue and the agent is requesting to erect a temporary free-standing sign at the corners of West Atlantic Avenue and S.W. 1<sup>st</sup> Street and S.W. 2<sup>nd</sup> Avenue. She stated LDR Section 4.6.7(J)(2) states that signs placed on property other than the location that is advertised, is considered an off-premise sign and therefore prohibited. However, Mr. Hernandez had stated his hardship that the CODA project is the first new development in the S.W. neighborhood, approved under the workforce ordinance and they are struggling to generate awareness since the construction activity to the Courthouse expansion is a deterrent to traffic in the immediate vicinity. LDR Section 2.4.7(B)(5) allows the City Commission to grant waivers to this code, which governs signs, providing the Commission shall make a finding of fact based on one of the following: (1) the granting of a waiver shall not adversely affect the neighboring area, (2) shall not significantly diminish the provision of public facilities, (3) shall not create an unsafe situation, and (4) does not result in the granting of a special privilege in that the same waiver would be granted under similar circumstances on other property for another applicant or owner. Staff recommends approval of this waiver request for a 90-day period because they do believe that the owner has put forth a hardship that has been documented.

**Tim Hernandez, New Urban Communities (Applicant), 398 N.E. 6<sup>th</sup> Avenue, Delray Beach**, stated the market is slow and they have been blocked by the Courthouse. He asked the Commission to consider approving the waiver request until the end of December versus a 90-day period.

Mayor Ellis stated if anyone from the public would like to speak in favor or in opposition of the request, to please come forward at this time. No one from the public came forward to speak in favor or in opposition of the request.

Mrs. Butler stated staff has no objection to Mr. Hernandez's request to extend it until the end of the year.

Brief discussion followed between Mrs. Montague and Mr. Hernandez.

The City Attorney briefly reviewed the Board Order with the Commission who made findings according to their consensus (attached hereto is a copy and made an official part of the minutes).

Mr. Eliopoulos moved to adopt the Board Order allowing the sign until December 31, 2007, seconded by Mr. Fetzer. Upon roll call the Commission voted as follows: Mr. Eliopoulos – Yes; Mr. Fetzer – Yes; Mr. McDuffie – Yes; Mrs. Montague – Yes; Mayor Ellis – Yes. Said motion passed with a 5 to 0 vote.

**9.C. AMENDMENT TO LEASE AGREEMENT/PIONEER BOYS ASSOCIATION:** Consider a revision to the lease agreement between the City and Pioneer Boys Association, Inc. changing the description of the leased property and revising Paragraph 7 to require only the participants insurance as provided through the National Boy Scouts of America.

The City Manager stated several months ago Representative Richard Machek approached the City of Delray Beach about amending the lease agreement with Pioneer Boys Association for the Boy Scout Hut. He stated the Boy Scout Hut used to be located where City Hall is now. The City Manager stated when City Hall was built the City built the Boy Scout Hut and used that money to build it in its present location with some other money they raised in the community.

The City Manager stated the Boy Scout Hut would continue to own the building and lease the land underneath it.

It was the consensus of the Commission to have the lease agreement redrafted to incorporate the changes recommended by the City Manager that the ground being leased would be described as the ground that is actually under the building and the insurance paragraph would be changed to only require what the National organization requires for all their participants. The City Manager stated this will be brought back to the Commission to approve the revised lease document.

**9.D. SPECIAL EVENT REQUEST/SPADY LIVING HERITAGE DAY:** Consider approval of a special event request to endorse the 2<sup>nd</sup> Annual Spady Heritage Day to be held on September 22, 2007 from 10:00 a.m. to 10:00 p.m., to grant a temporary use permit per LDR Section 2.4.6(F) for the closure of NW 5<sup>th</sup> Avenue from Martin Luther King Blvd to NW 1<sup>st</sup> Street, and authorize staff support for security, clean up, barricading, set up/use of the new large mobile stage with event signage no earlier

than ten (10) days prior to the event; contingent upon receipt of certificate of liability insurance, a hold harmless agreement and full payment of stage rental cost.

Robert A. Barcinski, Assistant City Manager, stated this request is before the Commission to consider endorsing the 2<sup>nd</sup> Annual Spady Heritage Day to be held on September 22, 2007 from 10:00 a.m. to 10:00 p.m. to grant a temporary use permit per LDR's Section 2.4.6(F) for the closure of N.W. 5<sup>th</sup> Avenue from Martin Luther King Boulevard to N.W. 1<sup>st</sup> Street and provide staff support for security, clean up, barricading, stage use and signage. The estimated overtime cost is \$1,520.00, the stage rental is \$1,597.50 and the signage costs are estimated at \$250.00. Per event policies and procedures, this is a second year event and there will be no charges for the overtime. However, the City's administrative policy requires payment of the rental of the new stage and noted they had requested a waiver. Mr. Barcinski stated staff recommends that it would be the decision of the City Commission whether or not to waive this. Staff recommends approval of the event, the temporary use permit for the closure of N.W. 5<sup>th</sup> Avenue, staff support for security, clean up, barricading, stage use and event signage to be put up no earlier than ten (10) days prior to the event contingent on the receipt of a Certificate of Liability Insurance and a Hold Harmless Agreement and full payment of stage rental cost.

Mr. Barcinski stated with regard to Haitian Flag Day the City rented a stage and paid for that because it was less expensive than the staff time. He stated staff may have to go with the small stage because they may not be able to get the large stage.

Mr. Fetzer asked when the Commission and staff will discuss the special events. In response, Mr. Barcinski stated he will be bringing some ideas to the Commission at the Workshop meeting next week.

Mayor Ellis stated the new stage is really great.

Mr. McDuffie moved to approve subject to staff's recommendations, seconded by Mrs. Montague. Upon roll call the Commission voted as follows: Mr. Fetzer – Yes; Mr. McDuffie – Yes; Mrs. Montague – Yes; Mayor Ellis – Yes; Mr. Eliopoulos – Yes. Said motion passed with a 5 to 0 vote.

**9.E.** **BUDGET PRESENTATION FOR FY 2008:** Presentation regarding the FY 2008 Budget.

The City Manager stated the City Commission has been given the operating budget document for fiscal year 2008. The budget presents a budget plan for fiscal year 2008 and the budget plan presents a financial plan to guide the City through that fiscal year. He stated this year he required all departments to prepare an 85% budget and he met with the departments to rank the budgets and the Commission has been given a copy of the ranking list. The City Manager stated the operating budget is based on the legislation adopted by the State Legislature in June with the roll back of 9% below the roll back rate. The proposed millage at that rate would be 6.5783 or \$6.57 per thousand

dollars of evaluation.

The City Manager stated staff is proposing that we have a Special Public Hearing on the Capital Budget on July 24, 2007 with all of the Capital Budget items and help determine relative priorities of those and what funding sources should be used for those capital items. This year there was a 3.6% increase in the City's assessed values and he noted that the local economy has slowed dramatically. He stated this reduction was the result of the legislature passing House Bill 1b that required City's and County's to cut their taxes based on a formula tied to their past taxing performance for the past five years. Those jurisdictions that have increased the most on a per capita basis were required to reduce taxes the most. Legislation also placed a cap on future property taxes by tying in changes in the tax rate to personal income growth and made provisions that allow local governments to override the cap by super majority or unanimous vote depending on the extent to which you might choose to override. In January 2008, residents will be asked to vote on a constitutional amendment to replace "Save Our Homes" with a "Super Exemption".

Brief discussion regarding the budget continued between the Commission and the City Manager.

The City Manager stated there are currently things the City does not charge for that the City could charge for and fees that staff could increase. Staff will be looking at all of those options over the next month. The City Manager stated by the end of the month the City will need to decide what kind of millage to tell the property appraiser to put on his notice to the taxpayers. The City Manager stated that the Commission could meet again on Tuesday, July 31, 2007 to make that final decision if need be. The City Manager stated the City's practice has been to have budget work sessions primarily in August and noted he and the Finance Director are available to go over any budgets in detail.

Mrs. Montague inquired about \$1.3 million in salary freezes and asked if this includes the overall freeze or is this excluding the classifications in that figure. The City Manager stated this amount is assuming there is a total freeze without increasing anything. He stated he would not recommend this because he feels there are some classifications that need to be increased in order for the City to continue to be able to attract quality people and this would decrease the \$1.3 million figure. Mrs. Montague inquired about the increase to the landlord permits and business taxes and how soon this would be implemented. The City Manager stated the business taxes require an ordinance and noted that the increases could take effect October 1, 2007 (fiscal year 2007/2008). The City Manager stated the City is allowed to increase business taxes every other year by 5% and the last time this was increased was two years ago.

Mr. Fetzer stated by July 31<sup>st</sup> the Commission has to set a preliminary millage rate and once that is set they cannot go back before the end of September and set a higher rate but can only go lower. The City Manager stated once the preliminary rate is set it can be lowered; however, it is very difficult to increase it. Mr. Fetzer commented

that to go above the 6.58 mills the City would not be meeting the state mandate of a 9% reduction. The City Manager stated the Commission would be overriding this which they are allowed to do.

With regard to the garage parking, the City Manager suggested to not charge during the business day; however, starting at 5:00 p.m. there would be a charge for using the garage. If this does not bring the City the revenue to break even then something different would need to be done. The Parking Management Board has endorsed increasing the meter charge from .75 an hour to \$1.00 an hour.

Mrs. Montague inquired about the cost of the shuttle service. The City Manager stated the City is splitting the cost 50/50 and the revenue budget was showing the revenue for the Community Redevelopment Agency's (CRA) half but because the shuttle is beyond the cut off point staff had to take the expense out and the revenue out. The City Manager stated if the City is able to fund its share of it, he is certain the CRA will continue their share as well.

Mr. Eliopoulos suggested introducing some advertising to offset some of the City's costs on the shuttle and perhaps look into the design and have it be more like an old fashioned trolley car. The City Manager stated right now there is reluctance to promote the free shuttle because it might not survive the budget cuts. Staff would like to work with tri-rail and other people to get it used. Mr. Aronson stated the shuttle service is costing approximately \$350,000.00.

Mr. McDuffie asked if staff has entertained the possibility of offering early retirement packages rather than eliminating existing positions. The City Manager stated the City has repeatedly tried to emphasize to the employees that the City intends to do everything possible to avoid actually laying anyone off. This is why the City has restricted hiring at this point so that vacant positions can be held open that people may be moved to. The City Manager stated there is a list of everyone who is eligible to retire and the early retirement window in the Fire Department is currently open and noted he will not open the window for Police because of the number of vacancies they have. He stated the General Employees do not have as great an incentive as Police and Fire do to retire. Therefore, the City Manager suggested that the City offer one additional year of credited service for the General Employees. He stated there would be savings in salary because you're retiring senior people and at the same time opening up some positions to avoid having to lay anyone off.

Mr. Eliopoulos stated Delray Beach has been known for having a lot of events and inquired whether or not the City will be going to the stakeholders to get their input.

The City Manager stated there is a lot of overtime in Public Works and Parks and Recreation for special events which is not funded in this recommended budget. The City Manager stated either another source of funds will have to be sought or the sponsors of the event are going to have to pick up a larger share of the overtime costs.

The City Manager stated the question is how much does the Commission wish to subsidize to have the event?

With regard to the salary freezes, Mr. Eliopoulos stated with things being tough financially all around there are not a lot of opportunities to go elsewhere and he would like to give some consideration to this and does not want it thrown out for the fact that the City may lose people. He stated if everyone sees that it is for a temporary basis then they may be willing to consider this.

At this point, the Commission moved to **Item 11, Comments and Inquiries on Non-Agenda Items.**

**11.B.1. Jim Smith, 1225 South Ocean Boulevard, Delray Beach, speaking as the Chairman of S.A.F.E. (Safety As Floridians Expect)**, asked the Commission to consider requesting the Florida Department of Transportation (FDOT) to add a sidewalk extension in the existing right-of-way on the west side of A-1-A from Thomas Street to Beach Road. Mr. Smith read into the record a brief statement regarding the sidewalk extension. Mr. Smith stated in less than two months FDOT will begin construction on A-1-A (September 1<sup>st</sup> is the start date). Mr. Smith stated if FDOT's state gasoline tax revenues are not spent in Delray, they will be spent somewhere else in Florida. In addition, Mr. Smith stated if the sidewalk is not built for free now and the City decides that they need it later, the sidewalk will likely cost Delray Beach residents \$100,000.00 or more. He urged the Commission to direct the City Manager to contact FDOT and request the sidewalk extension.

**11.B.2. Matthew Grabham, 350 S.E. 7<sup>th</sup> Avenue, Delray Beach**, asked whether any funds have been budgeted towards matching funds to the Florida State Bureau of Historic Preservation for re-surveying the historic districts within the city. Currently, he stated only one out of the five districts is being fully surveyed since the districts were created and they are supposed to be updated every five years. Paul Dorling, Director of Planning and Zoning, stated the Planning and Zoning Department has included the four remaining districts in the budget. Mr. Grabham stated he attended the workshop with the architects regarding the current Land Development Regulations and asked when this will come before the Boards or the City Commission. In response, Mr. Dorling stated this is being distributed next week for recommendations.

At this point, the time being 7:23 p.m., the Commission moved to **Item 9.F.**

**9.F. FIRE STATION NO. 4/DEMOLITION:** Provide direction regarding demolition of the recently vacated Fire Station No. 4 building.

Richard Hasko, Director of Environmental Services, stated this is a request for direction and a recommendation from staff relative to the existing fire station #4 structure. The fire fighters have now vacated the structure operating out of the temporary facility on Barwick Road. He stated at the May 8, 2007 Workshop meeting, the

Commission reviewed this project along with other capital projects and there was discussion among the Commission whether it was feasible or whether there was some level of cost effectiveness to rehabilitate the structure rather than replace it. Staff's recommendation is that the most cost effective course long-term is to go ahead and demolish the structure and replace it.

Mrs. Montague moved to approve to demolish Fire Station No. 4 building, seconded by Mr. Fetzer. Upon roll call the Commission voted as follows: Mr. McDuffie – Yes; Mrs. Montague – Yes; Mayor Ellis – Yes; Mr. Eliopoulos – No; Mr. Fetzer – Yes. Said motion passed with a 4 to 1 vote, Commissioner Eliopoulos dissenting.

**9.G. SEACREST SOCCER COMPLEX PRECONSTRUCTION SERVICES PROPOSAL/THE WEITZ COMPANY:** Consider a request to approve and authorize the preconstruction services for the Seacrest Soccer Complex (formally called Atlantic Soccer Complex) proposal and related agreement associated with the Construction Management at Risk Service contract. The scope of services is listed in Article 2.1 of the agreement and the total fee for this phase is \$25,012.00. This represents approximately 0.75% of the current estimated project construction cost of \$3,300,000. Funding is available from 380-4150-572-63.49 (2004 G.O. Bond/Soccer Complex).

Richard Hasko, Director of Environmental Services, stated at the May 8, 2007 Workshop meeting when the individual capital projects were reviewed there was discussion about the soccer complex as well as Miller Park. The consensus of the Commission at that point was that they wanted to proceed with the projects and there is still the issue of how much funding the Commission is going to approve. He stated this is for pre-construction services only and is that piece of the construction management contract that gives the constructability input and the contractors input into the design of the facility. Mr. Hasko stated if that schedule is something that the Commission does not feel strongly about in terms of the associated costs of always maintaining it that is another decision the Commission will have to make as well.

Mr. Eliopoulos stated he would be okay with continuing the re-design looking at the building whether it is one-story or two-story but he would like to go to the stakeholders about this to see what they can live with right now. He stated he is not prepared to give everything this way the Commission can start looking at things before rushing too much into some of the things they will be spending money on.

The City Manager stated he understands staff has cost estimates from the designers and asked if this contract will give the City some cost estimates from the construction manager. In response, Mr. Hasko stated with the pre-construction services there will be points in time (50% & 90% plans) where we will get the estimated guaranteed maximum price from the construction manager. The City Manager stated at that point if staff has the construction manager's estimates for costs of different components of the project the City will be in a better position to go to the soccer league for example and let them know the project costs too much and can they do without this or

that.

Mrs. Montague stated she would like to defer this item because she would like to review the revised addition of the capital budget before she starts making decisions on individual projects. She stated she will be able to get a much clearer direction in a week or two when she actually gets the opportunity to review the capital budget. Mr. Hasko stated particularly on the soccer complex, staff discussed at the Workshop that they had some activities that were ongoing at that point in time on these projects. He stated at whatever point in time a decision is made about this there is money invested in this at this point by the CM.

Mr. McDuffie concurred with Mrs. Montague that it would be prudent to wait a week or two on this item and Item 9.H. so that everyone will have a better handle on what they want to spend and what debt service is available.

The City Manager asked if staff waits until July 24<sup>th</sup>, will it have any appreciable effect on their schedule. Mr. Hasko stated it will not really effect the schedule.

Mr. Eliopoulos moved to postpone **Item 9.G. and Item 9.H.** to the City Commission meeting of July 24, 2007, seconded by Mr. Fetzer. Upon roll call the Commission voted as follows: Mrs. Montague – Yes; Mayor Ellis – Yes; Mr. Eliopoulos – Yes; Mr. Fetzer – Yes; Mr. McDuffie – Yes. Said motion passed with a 5 to 0 vote.

**9.H. MILLER PARK PRECONSTRUCTION SERVICES PROPOSAL/THE WEITZ COMPANY:** Consider a request to approve and authorize the preconstruction services for the Miller Park proposal and related agreement associated with the Construction Management at Risk Service contract. The scope of services is listed in Article 2.1 of the agreement and the total fee for this phase is \$30,345.00. This represents approximately 0.06% of the current estimated project construction cost of \$5,500,000. Funding is available from 380-4150-572-63.32 (2004 G.O. Bond/Neighborhood Parks).

**9.I. 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 appointment will be made by Commissioner Montague (Seat #4).

Mrs. Montague moved to appoint Sylvia Morris as a regular member to the Delray Beach Housing Authority for an unexpired term ending July 14, 2010, seconded by Mr. Fetzer. Upon roll call the Commission voted as follows: Mayor Ellis – Yes; Mr. Eliopoulos – Yes; Mr. Fetzer – Yes; Mr. McDuffie – Yes; Mrs. Montague – Yes. Said motion passed with a 5 to 0 vote.

**9.J. APPOINTMENT TO THE GENERAL EMPLOYEES RETIREMENT FUND COMMITTEE:** Appoint one (1) regular member to the General Employees Retirement Fund Committee to serve an indefinite term. Based upon the rotation system, the appointment will be made by Commissioner Montague (Seat #4).

Mrs. Montague moved to appoint Evan Turk to the General Employees Retirement Fund Committee, seconded by Mr. McDuffie. Upon roll call the Commission voted as follows: Mr. Eliopoulos – Yes; Mr. Fetzler – Yes; Mr. McDuffie – Yes; Mrs. Montague – Yes; Mayor Ellis – Yes. Said motion passed with a 5 to 0 vote.

**9.K. APPOINTMENT TO THE PALM BEACH COUNTY HOMELESS ADVISORY BOARD:** Consider approval of the appointment of Mayor Ellis to the Palm Beach County Homeless Advisory Board and the appointment of Commissioner Montague as the alternate to the Board.

Mr. McDuffie moved to appoint Mayor Ellis to the Palm Beach County Homeless Advisory Board with Commissioner Montague as the alternate to the Board, seconded by Mr. Eliopoulos. Upon roll call the Commission voted as follows: Mr. Fetzler – Yes; Mr. McDuffie – Yes; Mrs. Montague – Yes; Mayor Ellis – Yes; Mr. Eliopoulos – Yes. Said motion passed with a 5 to 0 vote.

Mayor Ellis stated the original memo received indicated that they were having a meeting prior to this Commission meeting and that was postponed as there were three slots that still have not been filled. She stated the two remaining are Boca Raton and Highland Beach and she will keep the Commission posted on what the schedule turns out to be.

**9.L. DESIGNATION OF VOTING DELEGATE/FLORIDA LEAGUE OF CITIES ANNUAL CONFERENCE:** Designate the voting delegate to the Florida League of Cities' 81<sup>st</sup> Annual Conference to be held at the Marriott World Center in Orlando, Florida on August 16 - 18, 2007.

Mrs. Montague moved to appoint Commissioner Fetzler as voting delegate to the Florida League of Cities' 81<sup>st</sup> Annual Conference to be held at the Marriott World Center in Orlando, Florida on August 16-18, 2007, seconded by Mr. McDuffie. Upon roll call the Commission voted as follows: Mr. McDuffie – Yes; Mrs. Montague – Yes; Mayor Ellis – Yes; Mr. Eliopoulos – Yes; Mr. Fetzler – Yes. Said motion passed with a 5 to 0 vote.

**10. PUBLIC HEARINGS:**

**10.A. NONE**

At this point, the time being 7:43 p.m., the Commission moved to **Item 12, First Readings.**

**12. FIRST READINGS:**

**12.A. ORDINANCE NO. 23-07:** City initiated text amendment to the Land Development Regulations (LDR) Section 4.6.9(E)(3), "In Lieu Fee", and Section 4.6.9(E)(4) "Public Parking Fee", establishing an expiration period and clarifying the payment amount due. If passed, a public hearing will be scheduled for July 24, 2007.

The caption of Ordinance No. 23-07 is as follows:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF ORDINANCES, BY AMENDING SECTION 4.6.9(E), "LOCATION OF PARKING SPACES", SUBSECTION 4.6.9(E)(3), "IN-LIEU FEE", AND SUBSECTION 4.6.9(E)(4), "PUBLIC PARKING FEE" TO PROVIDE A TIME PERIOD IN WHICH A REQUEST FOR IN LIEU OR PUBLIC PARKING FEES SHALL BE VALID AND THE CHARGE FOR SUCH FEES; PROVIDING A SAVING CLAUSE, A GENERAL REPEALER CLAUSE, AND AN EFFECTIVE DATE.

(The official copy of Ordinance No. 23-07 is on file in the City Clerk's office.)

The City Attorney read the caption of the ordinance.

Scott Aronson, Parking Management Specialist, stated Ordinance No. 23-07 amends Ordinance #80-06 which was adopted on January 2, 2007 created an application process allowing in-lieu parking fee requests to be submitted independently of a site plan modification. He stated it was a developer friendly ordinance so that people would not have to incur huge costs in plans and hiring professionals to find out whether or not they could have an in-lieu of parking fee approved and then move forward with their project. During one of the first requests for an in-lieu fee, 177 Pineapple Grove Way, there was a concern that property owners could potentially "bank" in-lieu spaces at the prevailing rate and not necessarily use them. To address the concern, the Commission approved the two (2) year expiration period with the caveat that fees be paid at the prevailing rate at the time the fees are required for the associated site plan. Staff advised the Commission that they would be seeing an ordinance that would codify those regulations and therefore Ordinance No. 23-07 is before the Commission this evening.

Mr. Eliopoulos moved to approve Ordinance No. 23-07 on FIRST Reading, seconded by Mrs. Montague. Upon roll call the Commission voted as follows: Mrs. Montague – Yes; Mayor Ellis – Yes; Mr. Eliopoulos – Yes; Mr. Fetzer – Yes; Mr. McDuffie – Yes. Said motion passed with a 5 to 0 vote.

At this point, the Commission moved to **Item 13, Comments and Inquiries on Non-Agenda Items.**

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

**13.A. City Manager**

The City Manager stated with regard to the League of Cities General Membership Meeting, the County has completed a Post-Disaster Redevelopment Plan and they will be asking cities to adopt it. He stated the Post-Disaster Redevelopment Plan is posted on the League of Cities website. The City Manager stated several appointments were approved those being: Maury Jacobson (South Palm Beach Mayor) was appointed to the Palm Tran Advisory Board, David Levy (Palm Beach Gardens) was appointed to the Regional Hazardous Materials Oversight Committee and the Impact Fee Review Committee appointments were Jeffrey Neftell (Town of Juno Beach Town Manager), Robert "Phil" Gottlieb (South Palm Beach) and Matty Mattioli (Royal Palm Beach).

**13.B. City Attorney**

The City Attorney stated the 4<sup>th</sup> of July was great.

**13.C. City Commission**

**13.C.1. Mr. McDuffie**

Mr. McDuffie stated he attended the St. Paul AME 110<sup>th</sup> Anniversary of their Men's Club. He stated it was a great day and well attended. Mr. McDuffie stated it was especially a good day for him because it lifted his spirits because it was the day before his son was to ship out to go back to the Persian Gulf.

Secondly, he stated he spoke to the Florida League of Cities today and asked if they had yet taken a position on the City of Weston Mayor's lawsuit and they have not.

Mr. McDuffie suggested that the City of Delray Beach create a Request for Proposal (RFP) for State lobbying.

**13.C.2. Mrs. Montague**

Mrs. Montague had no comments or inquiries on non-agenda items.

**13.C.3. Mr. Fetzer**

Mr. Fetzer stated he has been following some of the events with regard to the City of Boynton Beach Community Redevelopment Agency (CRA) and stated he is proud of the editorial which commented on the success of Delray's CRA. Mr. Fetzer

stated they credited the success of Delray's CRA to professionalism and the lack of involvement with politics. He stated he supports the job that Delray's CRA is doing and not having to resort to things like Boynton Beach is doing where the City Commission is taking over the CRA.

Secondly, he stated he was targeted as a commissioner that got flooded with emails about a proposal to open part of the beach area to dogs.

Mr. Fetzer asked the City Manager for an update on the two-way pairs. The City Manager stated it is his understanding that the target date for completion for the two-way pairs is September.

**13.C.4.**      **Mr. Eliopoulos**

Mr. Eliopoulos stated he met with the City Manager about the renovation of the north portion of the Building Department and the IT building. Mr. Eliopoulos stated he requested a list of what we could use the money for and commented that if the priority is to renovate Planning and Zoning and this is the only thing the money can be used for, then that's one thing. However, Mr. Eliopoulos stated he would feel more comfortable having a list and if the money can be used to fix another building, then he would like to encourage doing this.

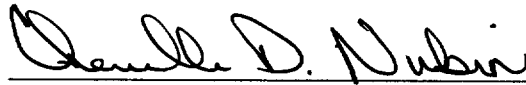
Secondly, he stated he met with Florida Tax Watch which is an outside organization that reviews City budgets. Mr. Eliopoulos stated this is a non-profit organization and they cannot be paid to review anything through the City or the CRA but this is something that would go through the Chamber of Commerce. He stated they will be meeting with the Chamber of Commerce to see if they would consider the Florida Tax Watch coming in to give the City of Delray Beach a proposal. Mr. Eliopoulos stated he is not on board with regard to the situation that the State of Florida is in because it is not equitable; however, he does feel something needs to be done. Mr. Eliopoulos stated staff needs to become more creative and suggested throwing out the ways things have been done for the last twenty years and come up with ways to make it better.

**13.C.5.**      **Mayor Ellis**

Mayor Ellis stated the City needed to do better with the property taxes and needed to look more closely at what the money was being spent on. However, she commented about the memo from the Legislature which referenced the four items that the State Legislature has come up with and equated those back to the Florida Constitution and she feels what they have done is unconstitutional. Mayor Ellis stated she believes something has to be done about property taxes but she does not feel that a roll back is tax reform. She stated the City is going to do its best to reach a consensus to come up with a millage rate that citizens can live with.

Secondly, she stated the fireworks were the best ever.

There being no further business, Mayor Ellis declared the meeting adjourned at 8:06 p.m.



City Clerk

ATTEST:



MAYOR

The undersigned is the City Clerk of the City of Delray Beach, Florida, and the information provided herein is the Minutes of the Regular City Commission Meeting held on July 10, 2007, which Minutes were formally approved and adopted by the City Commission on July 24, 2007.



City Clerk

**NOTE TO READER:**

If the Minutes you have received are not completed as indicated above, this means they are not the official Minutes of the City Commission. They will become the official Minutes only after review and approval which may involve some amendments, additions or deletions as set forth above.

IN THE CITY COMMISSION  
CHAMBERS OF THE CITY OF  
DELRAY BEACH, FLORIDA

**WAIVER REQUEST FOR 321 PINEAPPLE GROVE WAY**

**ORDER OF THE CITY COMMISSION  
OF THE CITY OF DELRAY BEACH, FLORIDA**

1. This waiver request has come before the City Commission on July 10, 2007.

2. The Applicant and City staff presented documentary evidence and testimony to the City Commission pertaining to the waiver requests for 321 Pineapple Grove Way. All of the evidence is a part of the record in this case. Required findings are made in accordance with Subsection I.

**I. WAIVERS:**

A. **Lighting:** Pursuant to LDR Section 4.6.8(B)(3)(c), the maximum allowed illumination for the parking garage of the development is 4 foot candles. The proposed photometric plan exceeds these illumination standards with a proposed maximum illumination of 8.3 foot candles. The applicant is seeking relief from that requirement via this waiver request.

Pursuant to LDR Section 2.4.7(B)(5), prior to granting a waiver, the approving body shall make a finding that the granting of the waiver:

- (a) Shall not adversely affect the neighboring area;
- (b) Shall not significantly diminish the provision of public facilities;
- (c) Shall not create an unsafe situation; and,
- (d) Does not result in the grant of a special privilege in that the same waiver would be granted under similar circumstances on other property for another applicant or owner.

Would the waiver of Section 4.6.8(B)(3)(c) comply with the requirements of 2.4.7(B)(5)?

Yes   5   No   0  

**B. Visibility at Intersections:**

Pursuant to LDR Section 4.6.14(A)(1), 20-foot visibility triangles are required at the intersection of a public right-of-way and a private driveway. The building encroaches into the visibility triangles on both sides of the drive aisle at the entrance from Pineapple Grove Way and the exit to the alley.

Pursuant to LDR Section 2.4.7(B)(5), prior to granting a waiver, the approving body shall make a finding that the granting of the waiver:

- (a) Shall not adversely affect the neighboring area;
- (b) Shall not significantly diminish the provision of public facilities;
- (c) Shall not create an unsafe situation; and,
- (d) Does not result in the grant of a special privilege in that the same waiver would be granted under similar circumstances on other property for another applicant or owner.

Would the waiver of Section 4.6.14(A)(1) comply with the requirements of 2.4.7(B)(5)?

Yes   5   No   0  

**C. Perimeter Landscape Strip:**

Pursuant to LDR Section 4.6.16(H)(3)(a), a 5-foot landscape strip is required between the eastern-most angled parking space and the east property line and the proposed landscape strip is 1-foot 10 inches.

Pursuant to LDR Section 2.4.7(B)(5), prior to granting a waiver, the approving body shall make a finding that the granting of the waiver:

- (a) Shall not adversely affect the neighboring area;
- (b) Shall not significantly diminish the provision of public facilities;
- (c) Shall not create an unsafe situation; and,
- (d) Does not result in the grant of a special privilege in that the same waiver would be granted under similar circumstances on other property for another applicant or owner.

Would the waiver of Section 4.6.16(H)(3)(a) comply with the requirements of 2.4.7(B)(5)?

Yes   5   No   0  

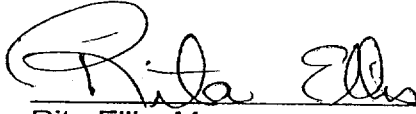
3. The City Commission has applied the Comprehensive Plan and LDR requirements in existence at the time the original development application was submitted and finds that its determinations set forth in this Order are consistent with the Comprehensive Plan.

4. The City Commission finds there is ample and competent substantial evidence to support its findings in the record submitted and adopts the facts contained in the record including but not limited to the staff reports, testimony of experts and other competent witnesses supporting these findings.

5. Based on the entire record before it, the City Commission approves X denies      the waiver requests to LDR Sections 4.6.8(B)(3)(c), 4.6.14(A)(1), and 4.6.16(H)(3)(a).

6. Based on the entire record before it, the City Commission hereby adopts this Order this 10th day of July, 2007, by a vote of   5   in favor and   0   opposed.

ATTEST:

  
Rita Ellis, Mayor

~~Janet Whipple, Acting City Clerk~~  
for: Chevelle Nubin, City Clerk 07/12/2007

IN THE CITY COMMISSION  
CHAMBERS OF THE CITY OF  
DELRAY BEACH, FLORIDA

**WAIVER REQUEST FOR THE CODA PROJECT**

**ORDER OF THE CITY COMMISSION  
OF THE CITY OF DELRAY BEACH, FLORIDA**

1. These waiver requests have come before the City Commission on July 10, 2007.

2. The Applicant and City staff presented documentary evidence and testimony to the City Commission pertaining to the waiver request for the Coda project. All of the evidence is a part of the record in this case. Required findings are made in accordance with Subsection I.

**I. WAIVER:**

LDR Section 4.6.7(J)(2) provides that signs placed on property other than the location that is advertised, is considered an off-premise sign, and therefore, prohibited. The Applicant has requested a waiver from this requirement.

Pursuant to LDR Section 2.4.7(B)(5), prior to granting a waiver, the approving body shall make a finding that the granting of the waiver:

- (a) Shall not adversely affect the neighboring area;
- (b) Shall not significantly diminish the provision of public facilities;
- (c) Shall not create an unsafe situation; and,
- (d) Does not result in the grant of a special privilege in that the same waiver would be granted under similar circumstances on other property for another applicant or owner.

Does the waiver request meet all the requirements of 2.4.7(B)(5) for a period not to exceed December 31, 2007?

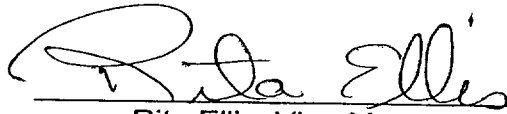
Yes   5   No   0  

3. The City Commission has applied the Comprehensive Plan and LDR requirements in existence at the time the original development application was submitted and finds that its determinations set forth in this Order are consistent with the Comprehensive Plan.

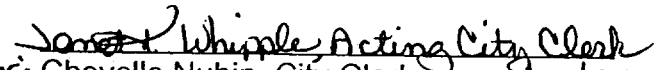
4. The City Commission finds there is ample and competent substantial evidence to support its findings in the record submitted and adopts the facts contained in the record including but not limited to the staff reports, testimony of experts and other competent witnesses supporting these findings.

5. Based on the entire record before it, the City Commission approves X denies \_\_\_\_\_ the waiver request to LDR Section 4.6.7(J)(2) until December 31, 2007.

6. Based on the entire record before it, the City Commission hereby adopts this Order this 10th day of July, 2007, by a vote of 5 in favor and 0 opposed.

  
\_\_\_\_\_  
Rita Ellis, Vice-Mayor

ATTEST:

  
For: ~~Chevelle Nubin~~, Acting City Clerk  
Chevelle Nubin, City Clerk 07/12/2007