

City of Delray Beach

Regular Commission Meeting

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



RULES FOR PUBLIC PARTICIPATION

Tuesday, November 2, 2010

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

1. PUBLIC COMMENT: The public is encouraged to offer comments with the order of presentation being as follows: City Staff, public comments, Commission discussion and official action. City Commission meetings are business meetings and the right to limit discussion rests with the Commission. **Generally, remarks by an individual will be limited to three minutes or less.** The Mayor or presiding officer has discretion to adjust the amount of time allocated.

- A.** Public Hearings: Any citizen is entitled to speak on items under this section.
- B.** Comments and Inquiries on Non-Agenda Items from the Public: Any citizen is entitled to be heard concerning any matter within the scope of jurisdiction of the Commission under this section. The Commission may withhold comment or direct the City Manager to take action on requests or comments.
- C.** Regular Agenda and First Reading Items: Public input on agendaed items, other than those that are specifically set for a formal public hearing, shall be allowed when agreed by consensus of the City Commission.

2. SIGN IN SHEET: Prior to the start of the Commission Meeting, individuals wishing to address public hearing or non-agendaed items should sign in on the sheet located on the right side of the dais. If you are not able to do so prior to the start of the meeting, you may still address the Commission on an appropriate item. The primary purpose of the sign-in sheet is to assist staff with record keeping. Therefore, when you come up to the podium to speak, please complete the sign-in sheet if you have not already done so.

3. ADDRESSING THE COMMISSION: At the appropriate time, please step up to the podium and state your name and address for the record. All comments must be addressed to the Commission as a body and not to individuals. Any person making impertinent or slanderous remarks or who becomes boisterous while addressing the Commission shall be barred by the presiding officer from speaking further, unless permission to continue or again address the Commission is granted by a majority vote of the Commission members present.

APPELLATE PROCEDURES

Please be advised that if a person decides to appeal any decision made by the City Commission with respect to any matter considered at this meeting, such person will need to ensure that a verbatim record includes the testimony and evidence upon which the appeal is based. The City neither provides nor prepares such record.

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The City will furnish auxiliary aids and services to afford an individual with a disability an opportunity to participate in and enjoy the benefits of a service, program, or activity conducted by the City. Contact Doug Smith at 243-7010, 24 hours prior to the event in order for the City to accommodate your request. Adaptive listening devices are available for meetings in the Commission Chambers.

1. **ROLL CALL.**
2. **INVOCATION.**
3. **PLEDGE OF ALLEGIANCE TO THE FLAG.**
4. **AGENDA APPROVAL.** (Mayor McDuffie noted Item 8.C., Change Order No. 1 (Contract Addition)/Brang Construction, Inc., was moved to the Regular Agenda as Item 9.A.A; 8.K.1., Contract Award/Chaz Equipment Environmental Services, Inc., was **REMOVED** and Item 8.K.2. Purchase Award/Chaz Equipment Environmental Services, Inc., was **REMOVED**; Approved as amended, 5-0)
5. **APPROVAL OF MINUTES:**
 - A. October 12, 2010 – Special/Workshop Meeting (Approved, 5-0)
 - B. October 19, 2010 – 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. **REQUEST FOR SIDEWALK DEFERRAL/511 SOUTH OCEAN BOULEVARD:** Approve a request to defer the installation of a sidewalk for the property located at 511 South Ocean Boulevard.
 - B. **REQUEST FOR SIDEWALK DEFERRAL/125 SEABREEZE AVENUE:** Approve a request to defer the installation of a sidewalk for the property at 125 Seabreeze Avenue.
 - C. **(MOVED TO ITEM 9.A.A. ON THE REGULAR AGENDA)**
 - D. **RESOLUTION NO. 64-10:** Approve Resolution No. 64-10 supporting the Department of Transportation's South Florida East Coast Corridor project from Jupiter to Miami.
 - E. **FOURTH AMENDMENT TO THE INTERLOCAL AGREEMENT/PALM BEACH COUNTY:** Approve the Fourth Amendment to the Interlocal Agreement with Palm Beach County in the amount of \$98,897.00 supporting Weed and Seed "seeding" efforts.

- F. **AMENDMENT TO THE INTERLOCAL AGREEMENT/PALM BEACH COUNTY/MARTIN LUTHER KING DRIVE:** Approve an Amendment to the Interlocal Agreement with Palm Beach County to extend the date for final invoice submission to December 31, 2011; and allow full access and cooperation with the Inspector General to City records for installation of decorative street lights along Martin Luther King Jr. (MLK) Drive.
- G. **RATIFICATION OF APPOINTMENT TO THE PARKING MANAGEMENT ADVISORY BOARD:** Approve and ratify the appointment of Ms. Margie Walden, West Atlantic Redevelopment Coalition Representative, for an unexpired term ending July 31, 2012.
- H. **SPECIAL EVENT REQUEST/TREE LIGHTING AND MENORAH LIGHTING/ART AND JAZZ ON THE AVENUE:** Approve a special event request to endorse the Tree Lighting, Menorah Lighting and Art & Jazz on the Avenue to be held on December 2, 2010 from 5:00 p.m. to 10:00 p.m., to grant a temporary use permit per LDR Section 2.4.6(F) for the closure of Atlantic Avenue from Swinton to NE/SE 7th Avenue, and to the alley north of Atlantic Avenue on NE 1st Avenue, NE 2nd Avenue, Railroad Way, and NE 4th Avenue and from Atlantic to the alley south on SE 1st Avenue, SE 2nd Avenue, SE 3rd Avenue and SE 4th Avenue; to authorize staff support for security, traffic control, banner hanging and removal, barricade set up and removal, trash removal, clean up, EMS assistance and use of the large City stage; contingent upon receipt of the Hold Harmless Agreement.
- I. **SPECIAL EVENT REQUEST/HOWARD ALAN 22nd ANNUAL DELRAY BEACH FESTIVAL OF THE ARTS:** Approve a special event request for the 22nd Annual Delray Beach Festival of the Arts sponsored by Howard Alan Events, Ltd. to be held on January 15-16, 2011 from 10:00 a.m. to 5:00 p.m., granting a temporary use permit per LDR Section 2.4.6(F) for use of City rights-of-way on Atlantic Avenue from the east side of N.E. 6th Avenue to Bronson, and the Gladiola lot (S.E. 6th Avenue) for vendor parking; authorize staff support for security and traffic control, barricade assistance, EMS assistance, and permit an event sign to be erected on Atlantic Avenue just east of I-95 fourteen (14) days prior to the event with the sponsor paying all overtime costs.
- J. **REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:** Accept the actions and decisions made by the Land Development Boards for the period October 18, 2010 through October 29, 2010.
- K. **AWARD OF BIDS AND CONTRACTS:**
1. Contract award to Chaz Equipment Environmental Services, Inc. in the amount of \$26,176.00 for the Rehabilitation of Lift Station #50's wet well. Funding is available from 442-5178-536-68.53 (Water and Sewer Renewal & Replacement Fund: Improvements other/Wet Well Rehabilitation Building Lift Station).

2. Purchase award to Chaz Equipment Environmental Services, Inc. in the amount of \$50,000.00 for Sanitary Sewer Manhole Rehabilitation program under the terms and conditions of the current annual contract. Funding is available from 442-5178-536-63.82 (Water & Sewer Renewal & Replacement Fund: Improvements Other /Sanitary Sewer MH Rehab).
3. Purchase award in the amount of \$39,259.70 to DGG Taser to replace forty-six (46) Tasers. Funding is available from 001-2111-521-52.27 (General Fund: Operating Supplies/Equipment < \$1,000).

9. **REGULAR AGENDA:**

- AA. **CHANGE ORDER NO. 1 (CONTRACT ADDITION)/BRANG CONSTRUCTION, INC.:** Approve Change Order No. 1 (Contract Addition) in the amount of \$653,303.08 to Brang Construction, Inc., and a contract extension of 62 calendar days for installation of a reclaimed water transmission and distribution system along the Martin Luther King Jr. Drive Beautification project. Funding is available from 441-5181-536-65.96 (Water and Sewer Fund: Other Improvements/Reclaimed Water Transmission). (Motion to approve; Approved, 5-0)
- A. **CONSIDERATION OF AN APPEAL/125 SEABREEZE AVENUE:** Consider an appeal of an administrative interpretation by the Director of Planning & Zoning that a proposed single family residence within the North Beach Overlay District at 125 Seabreeze Avenue is a two story building. (*Quasi-Judicial Hearing*) (Motion to adopt board order as presented; Approved, 4-1. Commissioner Gray dissenting)
- B. **CONDITIONAL USE REQUEST/THE HARTMAN HOUSE:** Consider approval to allow the establishment of a bed and breakfast inn within the Medium Density Residential (RM) zoning district for the property located at 302 N.E. 7th Avenue, Individually Designated on the Local Register of Historic Places as The Hartman House. (*Quasi-Judicial Hearing*) (Motion to adopt board order as presented; Approved, 5-0)
- C. **REQUEST FOR IN-LIEU PARKING SPACE/BRIGHT HORIZONS d/b/a 32 EAST:** Consider a request from Bright Horizons d/b/a 32 East for the purchase of one (1) in-lieu parking space in the amount of \$15,600.00. Thirty-Two East is located at 32 East Atlantic Avenue. (*Quasi-Judicial Hearing*) ((First Motion to adopt board order as presented; Approved, 5-0. Second Motion to approve agreement; Approved, 5-0)
- D. **CONSIDER APPROVAL OF CHANGES TO SPECIAL EVENTS POLICIES AND PROCEDURES:** Consider approval of proposed changes to the Special Events Policies and Procedures with an immediate effective date. (Motion to approve; Approved, 5-0)

- E. **SPECIAL EVENT REQUEST/HOWARD ALAN 4th ANNUAL DOWNTOWN DELRAY BEACH NEW YEAR'S CRAFT FESTIVAL:** Consider approval of a special event request to endorse the 4th Annual Downtown Delray Beach New Year's Craft Festival sponsored by Howard Alan Events, Ltd. to be held from 10:00 a.m. to 5:00 p.m. on December 26-27, 2010, granting a temporary use permit per LDR Section 2.4.6(F) for the closure of N.E. 2nd Avenue from the alley just north of Atlantic Avenue north to approximately 400' north of N.E. 3rd Street, to authorize staff support for traffic control, barricade inspection, and fire inspector services; to permit an event sign on Atlantic Avenue just east of I-95 fourteen (14) days prior to the event with the sponsor paying all overtime costs; and to grant an appeal from Section III (G) of the Event Policies and Procedures to allow this event. (Motion to approve event as requested; Approved, 5-0)
- F. **AMENDMENT NO. 3 TO THE RENEWAL LEASE AGREEMENT/DELRAY BEACH HISTORICAL SOCIETY:** Consider approval of Amendment No. 3 to the Renewal Lease Agreement with the Delray Beach Historical Society for Cason Cottage and a one (1) year operating grant request. (Motion to approve; Approved, 5-0)
- G. **APPOINTMENT TO THE POLICE ADVISORY BOARD:** Appoint one (1) regular member to the Police Advisory Board for an unexpired term ending July 31, 2012. Based upon the rotation system, the appointment will be made by Commissioner Frankel (Seat #3). (Commissioner Frankel deferred his appointment to the November 16, 2010 Regular Commission Meeting)
- H. **APPOINTMENTS TO THE NEIGHBORHOOD ADVISORY COUNCIL:** Appoint one (1) regular member (for Zone 3) to the Neighborhood Advisory Council to serve a three (3) year term ending July 31, 2013 and one (1) regular member (for Zone 1) to serve an unexpired term ending July 31, 2013. Based upon the rotation system, the appointments will be made by Mayor McDuffie (Seat #5) and Commissioner Fetzer (Seat #2). (Appointed Linda Laurence-Lieb and approved, 5-0. Commissioner Fetzer deferred his appointment to the November 16, 2010 Regular Commission Meeting)
10. **PUBLIC HEARINGS:**
- A. **ORDINANCE NO. 37-10:** Consider a city initiated amendment to the Land Development Regulations (LDR) Section 6.3.3., "Sidewalk Café", amending the regulations. (Motion to approve; 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. **ORDINANCE NO. 38-10:** Consider amending Chapter 33, “Police and Fire-Rescue Departments”, Section 33.65, “Administration”, to modify the board member designations for Fire Chief and Police Chief. If passed, a public hearing will be held on November 16, 2010. (Motion to approve; DENIED, 3-2. Commissioner Gray and Commissioner Frankel dissenting)

- B. **ORDINANCE NO. 40-10:** Consider calling for a referendum on proposed revisions to the Charter of the City of Delray Beach to amend Article III, “Legislative”, Section 3.02, “City Commission: Composition, Eligibility, Election, and Terms”; and amend Article V, “Elections”, Section 5.02, “Types of Elections”; to provide for a change in the length of a term from a two (2) year term to a three (3) year term; providing for a referendum election to be held on March 8, 2011. If passed, a public hearing will be held on November 16, 2010. (Motion to approve; Approved, 3-2. Commissioner Eliopoulos and Commissioner Fetzer dissenting)

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

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

POSTED: OCTOBER 29, 2010

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