

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, July 21, 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.

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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.** (Commissioner Bernard absent)
2. **INVOCATION.**
3. **PLEDGE OF ALLEGIANCE TO THE FLAG.**
4. **AGENDA APPROVAL.** (Mayor McDuffie noted Item 9.H., Filling Unexpired Term of Commissioner Bernard, was added to the agenda by addendum; Item 9.I., Revised Purchase and Sale Agreement/ Eagles Nest Property, was added to the agenda by addendum; Item 8.L.1, Contract Award to Kimley-Horn was moved to the Regular Agenda as Item 9.A.A.; Item 8.C., Change Order No. 5/West Construction, Inc., Miller Park Improvements Project was moved to the Regular Agenda as Item 9.A.A.A. Approved as amended, 4-0)
5. **APPROVAL OF MINUTES:**
 - A. June 16, 2009 – Regular Meeting (Approved, 4-0)
6. **PROCLAMATIONS:**
 - A. Firefighter Appreciation Month –August 2009
7. **PRESENTATIONS:**
 - A. S.P.I.R.I.T. (Service, Performance, Integrity, Responsibility, Innovation, Teamwork) Committee Quarterly Awards Presentation
8. **CONSENT AGENDA:** City Manager Recommends Approval. (Approved as amended, 4-0)
 - A. **WATER AND SEWER UTILITY EASEMENT AGREEMENT/SCHOOL BOARD OF PALM BEACH COUNTY:** Approve and accept a 12-foot water and sewer utility easement agreement with the School Board of Palm Beach County for water and sewer lines associated with the new Plumosa Elementary School located at the old Atlantic High School site (2501 Seacrest Boulevard).
 - B. **EASEMENT AGREEMENT/FLORIDA POWER & LIGHT/MILLER PARK IMPROVEMENTS PROJECT:** Approve an easement agreement between the City and Florida Power & Light (FPL) for a pad mounted transformer and associated underground electrical utilities for the Miller Park Improvements Project.
 - C. **(MOVED TO ITEM 9.A.A.A. ON THE REGULAR AGENDA)**
 - D. **PUBLIC ART ADVISORY BOARD/BUS SHELTER ART CONTEST:** Approve art work selected by the Public Art Advisory Board from the Bus Shelter Art Contest to be installed at four (4) bus shelters located at: North Swinton Avenue and N.E. 5th Street, N.W. 5th Avenue just north of West Atlantic Avenue, S.E. 6th Avenue just south of East Atlantic Avenue and N.E. 1st Street between N.E. 4th and N.E. 5th Avenue.

- E. **CALL TO ARTIST/LATERAL RUNWAY/TENNIS CENTER:** Approve a request to allow the Public Art Advisory Board to advertise a Call to Artists, “Lateral Runway”, for an area along the north side of West Atlantic Avenue in front of the Delray Beach Tennis Center.
- F. **ACCEPTANCE OF RIGHT-OF-WAY DEED/COMMUNITY REDEVELOPMENT AGENCY (CRA)/PINEAPPLE GROVE PARKING LOT:** Approve and accept a right-of-way deed between the City and the CRA associated with the Pineapple Grove Parking Lot located on the east side of N.E. 3rd Avenue, 357 feet south of N.E. 4th Street (353 N.E. 3rd Avenue).
- G. **RESOLUTION NO. 31-09/AMENDMENT TO LOCAL HOUSING ASSISTANCE PLAN (LHAP):** Approve and adopt Resolution No. 31-09, an amendment to City’s State Housing Initiatives Partnership (SHIP) Program, Local Housing Assistance Plan (LHAP) for Fiscal Years 2007-2010 to include the Florida Homebuyer Opportunity Program Strategy.
- H. **DISASTER RECOVERY INITIATIVE (DRI)/HOUSING REHABILITATION GRANT/CONTRACT AWARD:** Approve one (1) Housing Rehabilitation grant award to the lowest responsive bidder for 613 S.W. 9th Court to Cordoba Construction in the amount of \$32,035.96. Funding is available from 118-1960-554-49.19 (Neighborhood Services/Other Current Charges/Housing Rehabilitation).
- I. **EMERGENCY SERVICES AGREEMENT/PALM BEACH COUNTY FIRE RESCUE:** Authorize the Mayor to execute the revised Emergency Services Agreement for Mutual Assistance and Automatic Aid between the City and Palm Beach County Fire-Rescue.
- J. **CONTRACT CLOSEOUT (CHANGE ORDER NO. 3/FINAL)/J.W. CHEATHAM, LLC/MANGO DRIVE/REIGLE AVENUE/S.W. 7TH AVENUE:** Approve Contract Closeout (Change Order No. 3/Final) in the deduct amount of \$22,044.40 and final payment in the amount of \$16,686.35 for the completion of the Mango Drive/Reigle Avenue/S.W. 7th Avenue Road Reconstruction Project. Funding is available from 118-1960-554-68.27 (Neighborhood Services/Other Improvement/Mango Drive/Reigle Drive & S.W. 7th).
- K. **REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:** Accept the actions and decisions made by the Land Development Boards for the period July 6, 2009 through July 17, 2009.
- L. **AWARD OF BIDS AND CONTRACTS:**
1. **(MOVED TO ITEM 9.A.A. ON THE REGULAR AGENDA)**
 2. Purchase award to The Dumont Company in the estimated annual amount of \$53,650.00 as needed for Hydrofluosilicic Acid for the Water Treatment Plant. Funding is available from 441-5122-536-52.21 (Water and Sewer Fund/Operating Supplies/Chemicals).

3. Purchase award to Emergency Vehicle Supply (EVS) in the amount of \$82,428.03 for the purchase and installation of ten (10) police vehicle equipment packages for the Police Department. Funding is available from 501-3312-591-64.20 (Garage Fund/Machinery/Equipment/Automotive) and 001-2115-521-64.20 (General Fund/Machinery Equipment/Automotive).
4. Purchase award to Hub City Ford, Inc. in the amount of \$28,098.00 for the purchase of one (1) replacement 2010 Ford Escape Hybrid compact SUV with options for the Environmental Services Department. Funding is available from 501-3312-591-64.20 (Garage Fund/Machinery/Equipment/Automotive).
5. Purchase award to KECO Pump and Equipment in the amount of \$38,410.00 for the purchase of one (1) Peristaltic Pump, twelve (12) remote pumping centers with hose rack, and one (1) monitoring system. Funding is available from 426-4311-575-64.90 (City Marina Fund/Machinery/Equipment/other Machinery/Equipment).

9. **REGULAR AGENDA:**

- AA. Contract award to Kimley-Horn in the amount of \$98,500.00 to provide consulting services in accordance with Bid #2009-025 to perform a parking management study. Funding is available from 001-3151-545-34.90 (General Fund/Operating Expenses – Misc/Other Contractual Service). (Approved, 3-1. Commissioner Frankel dissenting)
- AAA. **CHANGE ORDER NO. 5/WEST CONSTRUCTION, INC./MILLER PARK IMPROVEMENTS:** Approve Change Order No. 5 to West Construction, Inc., in the amount of \$10,178.73 with an eight (8) day extension of time to complete the project for additional work required to lower a Florida Power & Light (FPL) primary feeder line; remove seagrape trees and fencing, re-grade, and then replace fence for the Miller Park Improvements Project. Funding to be paid out of the Contractor's Video, Utility and Unforeseen Conditions Allowance. (Approved, 4-0)
- A. **PUBLIC ART COMPONENT/ART AND JAZZ ON THE AVENUE/SUMMER NIGHTS ON THE AVENUE:** Consider approval of a Public Art component at six (6) Art and Jazz on the Avenue and six (6) Summer Nights on the Avenue events in the amount of \$10,000.00. Funding is available from the Public Arts Program. (Approved, 3-1. Commissioner Fetzer dissenting)
- B. **RESCIND CONSULTING AGREEMENT/COMPUTERWORX, INC.:** Consider approval to rescind a Consulting Agreement between the City and Computerworx, Inc., for computer software development for online bulletin board meetings. (Approved, 4-0)

1. **REQUEST FOR PROPOSAL (RFP)/ONLINE BULLETIN BOARD SOFTWARE:** Provide direction regarding whether or not to pursue a second RFP for computer software development for online bulletin board meetings. (Consensus of Commission for staff to research this further with Information Technology and have staff bring information back to Commission for further direction)
 - C. **RESOLUTION NO. 32-09:** Consider approval of Resolution No. 32-09 amending Resolution No. 24-09 which provides for additional board members and alternates for the Green Task Force Board. (Approved, 4-0)
 - D. **PUBLIC SAFETY SOFTWARE/REQUEST FOR PROPOSALS:** Consider authorization for staff to issue Request for Proposal #2010-05 for procurement of a Public Safety Software System. (Motion to authorize staff to issue RFP #2010-05; Approved, 4-0)
 - E. **PROPOSED MILLAGE RATE:** Consider approval of a *proposed* millage rate for FY 2010, and set the budget review and adoption schedule. (Motion to go with the rollback rate (as allowed by Amendment 1) of 7.3833; Approved, 3-1. Commissioner Fetzer dissenting)
 - F. **APPOINTMENT TO THE PUBLIC ART ADVISORY BOARD:** Appoint one (1) regular member to the Public Art Advisory Board to serve a two (2) year term ending July 31, 2011. Based upon the rotation system, the appointment will be made by Mayor McDuffie (Seat #5). (Appointed Mary Minieka and approved, 4-0)
 - G. **APPOINTMENT TO THE DOWNTOWN DEVELOPMENT AUTHORITY:** Appoint one (1) regular member to the Downtown Development Authority to serve an unexpired term ending July 1, 2010. Based upon the rotation system, the appointment will be made by Commissioner Fetzer (Seat #2). (Appointed Seabron Smith and approved, 4-0)
 - H. **FILLING UNEXPIRED TERM OF COMMISSIONER BERNARD:** Consider the process for filling the unexpired term of Commissioner Mackenson Bernard. (ADDENDUM) (Motion approve process as outlined; Approved, 4-0)
 - I. **REVISED PURCHASE AND SALE AGREEMENT/EAGLES NEST PROPERTY:** Consider approval of the Revised Purchase and Sale agreement between the City of Delray Beach and Ginette Louis for purchase of the Eagles Nest property located at 46 N.W. 12th Avenue. (ADDENDUM) (Approved, 4-0)
10. **PUBLIC HEARINGS:**
- A. **COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) ANNUAL ACTION PLAN (FY 2009 - 2010):** Consider approval of the Community Development Block Grant (CDBG) Annual Action Plan required by the United States Housing & Urban Development Department (HUD) for utilization of federal grant funds. (Approved, 4-0)

- B. **RESOLUTION NO. 29-09:** Consider approval of Resolution No. 29-09 establishing a budget for the Stormwater Utility System, establishing the rates for FY 2010 Stormwater Management Assessments, and certifying and adopting the Stormwater Assessment Roll. (Approved, 4-0)
 - C. **ORDINANCE NO. 37-09:** Consider an ordinance amending Chapter 101, “Parks, Beaches, and Recreation”, by enacting a new Section 101.37, “Shark Fishing”, to prohibit shark fishing within three hundred feet of the municipal beach. (Motion to approve Ordinance No. 37-09 as amended, 4-0)
 - D. **ORDINANCE NO. 32-09 (FIRST READING/FIRST PUBLIC HEARING):** Consider a city-initiated amendment to the Land Development Regulations (LDR) to 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). If passed, a second public hearing will be held on August 4, 2009. (Approved, 4-0)
 - E. **ORDINANCE NO. 33-09 (FIRST READING/FIRST 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. If passed, a second public hearing will be held on August 4, 2009. (Motion to approve Ordinance No. 33-09 as amended; Approved, 3-1. Commissioner Frankel dissenting)
 - F. **ORDINANCE NO. 35-09 (FIRST READING/FIRST 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. If passed, a second public hearing will be held on August 4, 2009. (Approved, 4-0)
 - G. **ORDINANCE NO. 36-09 (FIRST READING/FIRST 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). If passed, a second public hearing will be held on August 4, 2009. (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. None

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

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

POSTED: JULY 17, 2009

******** Meeting adjourned at 10:18 p.m. ********