

MINUTES OF THE PLANNING AND ZONING BOARD
PUBLIC HEARING/REGULAR MEETING

CITY OF DELRAY BEACH
DELRAY BEACH, FLORIDA

MEETING DATE: September 19, 2011

LOCATION: CITY COMMISSION CHAMBERS

MEMBERS PRESENT: Mark Krall, Cary Glickstein, Craig Spodak, Al Jacquet, Clifford Durden
Connor Lynch and Gerry Franciosa

MEMBERS ABSENT:

STAFF PRESENT: Mark McDonnell, Terrill Pyburn, and Denise Valek

I. CALL TO ORDER:

The meeting was called to order by Vice Chairman Jacquet at 6:05 p.m. Upon roll call it was determined that a quorum was present.

CHANGE TO AGENDA:

Motion made by Mr. Krall, seconded by Mr. Glickstein, and approved 7 to 0 that Item V.A. has been postponed per the request of the applicant, and will be presented at the October 17, 2011 meeting.

II. ELECTION OF OFFICERS:

Motion made by Mr. Lynch, seconded by Mr. Krall, and approved 5 to 2 (Mr. Franciosa, and Mr. Durden dissented) to nominate Mr. Glickstein as Chair.

Motion made by Mr. Krall, seconded by Mr. Durden, and approved 7 to 0 to nominate Mr. Jacquet as Vice-Chair.

Motion made by Dr. Spodak, seconded by Mr. Glickstein and approved 7 to 0 to nominate Mr. Lynch as Second Vice-Chair.

III. MINUTES

Motion made by Mr. Lynch, seconded by Mr. Durden and approved 7 to 0 to approve the Minutes of June 20, 2011 and August 15, 2011 as written.

IV. COMMENTS FROM THE PUBLIC: None

V. LAND USE ITEMS

A. Final Subdivision Plat for Block 11, a proposed commercial development, located on the south side of SE 6th Street between SE 5th Avenue (southbound Federal Highway) and SE 6th Avenue (northbound Federal Highway). Quasi-Judicial Hearing

THE ABOVE ITEM HAS BEEN POSTPONED PER THE APPLICANT'S REQUEST
AND WILL COME BEFORE THE BOARD AT THE OCTOBER 17, 2011 MEETING

VI. PUBLIC HEARING ITEMS

A. Conditional use request to allow the sale of Segways and Segway tours along designated routes for The Electric Experience located at 1047 East Atlantic Avenue.
Quasi-Judicial Hearing

Ex-parte Communications: None

Mr. McDonnell entered project file no. 2011-186 into the record.

The property consists of Lots 3, 4, 5, 6, 7 and the south half of Lot 8, Block 156 of the Seabreeze Park subdivision and is 0.44 acres in area. The property contains two commercial structures that were constructed in 1961 and 1951.

A new conditional use application has been submitted for a Segway tours and sales facility. The applicant has submitted tour route maps that indicate the tours will be operated solely on the barrier island. The hours of operation will be 9:00 a.m. to 6:00 p.m. Monday through Sunday. This conditional use is limited to tours and does not allow for individual rental of Segway machines for utilization by the public that is not associated with a guided tour as described and limited in the City's Code of Ordinances Chapter 132.10(c). Individual rentals would be considered rental of motorized sporting goods, which is not allowed in the CBD zoning district. This conditional use application is now before the Board for consideration.

The proposed use will have minimal impact on the neighborhood given the proposed routes and few overlaps associated with the approved routes of the Segway Tours of Delray Beach. The applicant has indicated that Segway training will occur within the parking area on the north side of the property and within the tenant space. The training within the parking area is more problematic than the Segway Tours of Delray site given the easy accessibility for customers. Thus, the frequency of vehicles entering and exiting the property will be much greater, which will increase the interaction between vehicles and Segways. Based on this, a condition of approval is attached that Segway training not block driveways and parking spaces. Further, the conditional use request allows tours only subject to criteria outlined in Code of Ordinances Chapter 132.10(c) and not the individual rental of Segways, which is not allowed in the CBD zoning district. The proposed use is consistent with the objectives and policies of the Comprehensive Plan and Chapter 3 of the LDRs. Positive findings can be made with respect to LDR Section 2.4.5(E)(5), regarding compatibility of the proposed development with the surrounding properties.

Review By Others:

The Community Redevelopment Agency (CRA) reviewed the conditional use request and recommended approval at their September 8, 2011 meeting.

The Downtown Development Authority (DDA) reviewed the conditional use request and recommended approval at three September 12, 2011 meeting.

Courtesy Notices:

Courtesy notices have been provided to the following homeowner's associations and interested parties, which have requested notice of developments in their areas:

- Neighborhood Advisory Council

- Delray Citizen's Coalition
- Beach Property's Owners Association

Public Notice:

Formal public notice has been provided to property owners within a 500' radius of the subject property. Any letters of objection and support to the conditional uses will be presented at the Planning and Zoning Board meeting.

Public Comments: None

Board Discussion:

Mr. Durden inquired if this recommendation has anything to do with the time in terms of whether those times are Ok or not. Mr. McDonnell advised they are limited by the code. Mr. Durden inquired about the safety issue, and how does this relate to item VI. B.? Mr. McDonnell advised Item VI. B. relates to bicycles. The Segways are a separate issue and have a separate ordinance.

Mr. Glickstein inquired by definition they kind of operate the same. Mr. McDonnell advised they will be doing tours. We have to make it specific because City Commission let them but the State of Florida code has been amended how they define bicycles and they include one that is motorized up to a certain speed. The tours would be the same.

Mr. Durden inquired if it is motorized how can you stop one and not the other? They are different in nature but the same in operation. Mr. McDonnell advised we are eventually going to allow both. We already allow Segways. This is a different application and different use, it is not a Segway. Mr. Durden asked for a clearer understanding of the difference.

Mr. Jacquet advised it should not be interchangeable in the wording. Is there any clarification that these two should not be mistaken for each other? Mr. McDonnell advised we have a definition for the long name for the Segway and it is not the same as for the bicycles. A Segway is not a bicycle.

Mr. Lynch inquired if we were being consistent and I thought there was some issue with the other tour we approved being on Atlantic Avenue. Mr. McDonnell advised it was the alley north of the Marriott on A1A. Mr. Lynch wants to make sure we were being consistent. My concern are the inconsistencies, I don't want to tell them tonight that they can do it. I don't want to do something for one and not the other.

Mr. Glickstein inquired how they would get to Nassau Street. Mr. Pyburn advised the Ordinance is attached with Exhibit A, No. (18) explains it. Mr. Lynch advised he does not have a problem with crossing Atlantic Avenue, but we pushed back on that for the other people. Dr. Spodak advised we specifically mentioned it to that applicant they cannot operate on Atlantic Avenue. Mr. Glickstein advised he thought the same went for the beach area as well. They are crossing from Nassau Street which is a very congested area near Boston's.

Board discussion ensued relative to the route, if the residents along the route were notified, if they were allowed on Atlantic Avenue, and the duration of the tours.

Applicant:

David Schmidt, Esquire, advised they did not do a presentation because they did not have any objections to staff's recommendations. A Segway is electrically powered. A bicycle is human powered. This item is just to rent electric bicycles. Segways under the FL Statute have limited access to Atlantic Avenue and have to cross the bridge. My client's route does not go on Atlantic Avenue. All we want to do is cross Atlantic Avenue to go from the north side to the south side. The south side of A1A under the ordinance allows to have Segway tours on the north and west side of A1A north of Miramar.

Public Comments:

Ms. Cecelia Dempsey, 50 East Road, (member of the Barr Terrace Condominium Association Board) advised she had concerns because of the congestion that occurs daily in front of their building. A lot of it has to do with the bridge going up. There is always a lot of congestion during tourist season especially on the sidewalk in front of our building on the north side of Atlantic. There is a lot of pedestrian traffic, including people with strollers, and senior citizens. Adding Segway tours will create more congestion and problems.

Richard Schmidt, Esquire, advised he will address the safety concerns. That is one thing the City Commission took into consideration when the ordinance was crafted. Before they go on tours they have to train the people. My clients tried to take into account some of their concerns with pedestrian activity. They are going on the streets that are not on Atlantic Avenue. The potential impact is going to be minimal. We will be operating on streets north and south and east and west.

Mr. Glickstein inquired where the training area would be located. Mr. Schmidt advised in the parking lot behind Nina Raynor and the antique store. Mr. Glickstein inquired by approving that use for training are we usurping the lease for quiet enjoyment in that building. You have a for-profit business operating on public right-of-way that is benefitting private ownership of properties. The people do not know this is coming to the area. The homeowners are going to say we don't want those tours parking in front of our home. It is bizarre that we are approving routes in the beach area.

Ms. Pyburn advised a portion of the ordinance was attached as Exhibit A. Mr. Glickstein advised it is a mess. Everyone on this Board is aware that we need businesses in Delray Beach. What if this creates a mess, how does the City police it or stop it. The Beach Property Owners Association (BPOA) did not notify these people. I don't think the BPOA understands what is happening here. If these people knew what was coming they would be here tonight. Mr. Lynch advised he would expect a heavy backlash as well.

Mr. Schmidt advised he was at all the City Commission hearings, and the BPOA said they were not opposed to them on the east side. They are concerned that they want to operate the tours on the east side of the Intracoastal. They acknowledged there was a challenge of the Segways and people on the east side. The Commission felt otherwise.

Mr. Glickstein advised that assumes they were shown this route and we are not going to operate on A1A we are going to do it in this neighborhood. Ms. Pyburn advised the

ordinance has the streets that are prohibited. Mr. Jacquet inquired about no (18) of the ordinance. Ms. Pyburn advised it does say they can traverse the area. Mr. Jacquet advised his biggest concern is the fact the residents did not get noticed. Planning and Zoning's decision does not rest on what the public thinks. Our duty is not to decide what the public thinks it is strictly to the law. If we have something that is contradictory let's bring it to the table. Let's not waste our time with this discussion.

Mr. Glickstein advised the Segways are a done deal and they are operating in the City. Ms. Pyburn advised Mr. Glickstein was correct. Mr. Glickstein advised it sounds like there is wiggle room.

Mr. Schmidt advised this is a conditional use and the route is part of the conditional use approval. If there are problems in the future they can be readdressed. Mr. Glickstein asked Mr. Schmidt to clarify that. Mr. Schmidt advised he did not think there was an expiration on conditional uses. As long as they operate a Segway tour it can't be revoked. It can be reviewed due to safety.

Mr. Jacquet advised we can make that recommendation to the Commission that the proper notices be given. Mr. Schmidt advised this ordinance requires notices be sent to people within 500 feet of this property. Ms. Pyburn advised the agenda is posted in advance of the Planning and Zoning meeting and the City Commission meetings. Mr. Lynch advised part of the concern is the majority of those were the residents of the two largest condominiums next door and that probably did not know it would be in front of their house. Mr. Glickstein inquired when you sent the notices was the map attached. Mr. Lynch advised part of our concern is we feel this will be a bigger issue once you start driving past people's houses.

Mr. Schmidt advised any time you have a conditional use is there some legitimate public safety concern it is always open to be readdressed. Ms. Pyburn advised if they do not comply there are always code enforcement procedures that could be implemented as well. Mr. Lynch advised I think it would be good for everyone along the path to get notice. This affects a lot more than a typical business. Mr. Glickstein inquired if they gave out notices for the other tour that was approved. Mr. McDonnell advised there are three routes approved for the Segway Tours of Delray Beach. Mr. Lynch advised there was a historic tour. Mr. McDonnell advised they would have but were opposed to that. They are limited to where the ordinance and the conditional use approval allow them to operate. Dr. Spodak inquired what would their recourse be. Mr. Glickstein advised generally speaking, people are not assuming there are going to be 9 tours of 9 people going down the street. None of the single family homeowners have received notice.

Mr. Lynch advised we can tailor a motion that helps them get through this. When they go to City Commission meetings if the people we feel would be opposed to this get noticed they can go to Commission meetings.

Mr. Schmidt advised it is not in the ordinance and it would be expensive to notice everyone along that route. Application fees are \$5,000.00. We are proposing the streets that were approved by City Commission.

Mr. Jacquet advised we are spending a lot of time on this, and we don't need to if we want to make a recommendation to City Commission. I asked a specific question for

the residents being notified along the route. Staff advised the owners receive notification is located within 500 feet of the place of business (i.e., the store).

Mr. Franciosa inquired if the public got notification that they will be in the parking lot practicing. Mr. Glickstein advised the property owner is not the tenant. Mr. Schmidt advised my client pointed out to me most of the training is immediately adjacent to the back side of the building and not in the parking area. We have no objection to the condition that the parking lot be used primarily for parking. They don't want people in the parking lot. Mr. Franciosa advised at the City Commission meeting they said something about training indoors. You have to be outside to learn how to use them. Mr. Schmidt advised the training is confined to the west end of the parking lot. People coming in will ingress and egress on the west side. Most of the training occurs in that area and there is a breezeway. Mr. Franciosa advised he would be concerned about the people being aware that it is going to happen. Mr. Schmidt advised you can address it with the owner of the building. Mr. McDonnell advised the notification would say there was a conditional use and they would have to come in and look at the files. Dr. Spodak questioned what really is in effect in the public right-of-way. I am concerned about the notification process and the safety issues. When I ride my bike on the west side of A1A there is a lot of congestion. Mr. Lynch agreed with what Dr. Spodak said. Mr. Lynch inquired about the portion of the code that Ms. Pyburn pointed out that dealt with walking the area. Ms. Pyburn advised it is explained in No. (1) of the ordinance.

Mr. Jacquet inquired if they were riding Segways on Atlantic Avenue. Mr. Schmidt advised to be able to make connections north to south they would stay on the sidewalk. They would have to get off the machines and walk to get to the intersection and walk across the street and they could then ride. Mr. Jacquet inquired how easy is it to walk a Segway. Mr. Schmidt advised it seems very easy from my observation. Mr. Glickstein advised he thinks it slipped between the cracks and they did not grasp where they could not operate they did not realize the breadth of where they could operate. Mr. Jacquet advised he disagrees as this is a public right-of-way. When people purchased their homes they did not expect that. I mentioned last time we have something like this we should send notices along the route where the tours will go. Mr. Glickstein advised along the lines of what Mr. Jacquet brought up if there was a way to craft the ordinance. If it becomes a public nuisance then the conditional use is subject to revocation. Ms. Pyburn advised public safety is measurable and they will be subject to the noise ordinance. There are certain things that some people may consider to be a nuisance.

Mr. Durden questioned if I hired a taxi driver to take me on a tour of a public street is that illegal? Ms. Pyburn advised she does not believe so and without more specifics it is hard to answer that. The answer is no. Mr. Durden inquired if that is the case what is the problem with the Segways. Mr. Lynch advised if you had 9 taxis a day, it is the quantity. Mr. Durden advised to him that is discrimination. Certain people live on certain streets and they have expectations. Mr. Lynch advised there are certain streets that are one way, very small, and the visibility is not great.

Dr. Spodak advised his concern is that it is a for profit business benefitting the ability to make money using a public right-of-way. My other concern is that there are narrow sidewalks. Mr. Glickstein advised looking at this map, why is this tour operating on Thomas and Seasage and by the condominiums on the north side of Atlantic. There is

no reason to make that loop. Why not go down Seabreeze which is a small street. Mr. Schmidt advised there is less traffic on Seabreeze.

Board discussion ensued relative to the routes they will take in order to stay off Atlantic Avenue as much as possible.

Motion:

Motion made by Mr. Lynch, seconded by Mr. Krall, and approved 6 to 1 (Dr. Spodak dissented) to move a recommendation of approval of the conditional use request to allow a Segway Tours and Segway Sales for The Electric Experience, by adopting the findings of fact and law contained in the staff report, and finding that the request, and approval thereof, is consistent with the Comprehensive Plan and meets criteria set forth in Sections 2.4.5(E)(5) and Chapter 3 of the Land Development Regulations, subject to the following conditions:

1. That a note be added to the plans that indicate that the parking area will be accessible at all times for the use it was intended (i.e. vehicle parking).
 2. That the business is limited to no more than nine tours each day.
 3. That the tour guides are prohibited from amplifying voice or music while operating tours.
 4. That tours will be conducted in compliance with Chapter 132.10(c) of the City Code of Ordinances.
 5. That the section noted on the map on Atlantic Avenue that the Segways be walked.
 6. Eliminate East Road Lowry west of Seabreeze as well as all of the section of Vista Del Mar Drive. Add back in Lowry east of Seabreeze and Andrews from Lowry south of Thomas.
 7. Businesses using the parking lot at the main facility for Segways or other owners or renters in that area sharing the parking lot should be notified prior to the Commission meeting that the training will take place in their shared parking lot and explaining details and location of this activity.
- B. Privately initiated amendment to the Land Development Regulations Section 4.4.9 "General Commercial" Subsection 4.4.9(B) "Principal Uses" and Structures Permitted" and Section 4.4.13 "Central Business District" Subsection 4.4.13(B) "Principal Uses and Structures" to clarify that electric helper motorized bicycles are the only motorized equipment permitted in the "rental of sporting goods and equipment" use category.

Mr. McDonnell entered the project file into the record.

The item before the Board is that of making a recommendation to the City Commission regarding a privately-initiated text amendment to LDR Section 4.4.9(B)(4)(a) [General Commercial District] and 4.4.13(B)(3)(a) [Central Business District]. The amendment will clarify that "electric-helper motorized bicycles" are the only motorized equipment permitted in the "rental of sporting goods and equipment" use category. A corresponding City-initiated Code of Ordinances amendment is being made to modify the definition of "bicycle" to include bicycles that have electric-helper motors. This associated Code of Ordinances amendment will proceed directly to City Commission.

Pursuant to Section 1.1.6(A), an amendment to the Land Development Regulations may not be made until a recommendation is obtained from the Planning and Zoning Board.

The City has received a privately-initiated LDR text amendment to clarify that “electric-helper motorized bicycles” are the only motorized equipment permitted in the “rental of sporting goods and equipment” use category in the GC and CBD zoning districts. The primary customers of these devices will likely be tourists and visitors. Thus, allowing the rental of such devices may enhance the image of Delray Beach as a destination for this market. A positive finding can be made with respect to LDR Section 2.4.5(M) (5).

Review By Others:

The Community Redevelopment Agency (CRA) reviewed the conditional use request and recommended approval at their September 8, 2011 meeting.

The Downtown Development Authority (DDA) reviewed the conditional use request and recommended approval at their September 12, 2011 meeting.

Letters of objection and support, if any, will be presented at the Planning and Zoning Board meeting.

Public Comments: None

Board Discussion:

Mr. Jacquet inquired basically where we are renting sporting goods and equipment, we are now clarifying that we are only going to have motorized bicycles and nothing else can be motorized. Is this only for sporting goods stores? Mr. Lynch advised they could do both. Mr. Jacquet inquired if this basically allowed the electricity of Segways to be the only ones in the City. Mr. McDonnell advised this is expanding the use you will allow. Mr. Jacquet inquired if we are taking other measures to allow Segways for a particular type of business. We are bringing in Segways and not limiting them and keeping them out of sporting goods stores. Is this discretionary?

Dr. Spodak inquired if you are asking to allow opening up another store that rents Segways. Mr. Lynch advised not without a Conditional Use. Mr. Schmidt advised under this ordinance the only rental of Segways after a tour and a Conditional Use a similar rental is not allowed.

Ms. Pyburn advised they took a category of use and added an additional conditional use to that. All that is before you is the inclusion of that. Mr. Schmidt advised there are a couple of potential problems, namely, the definition of bicycle. If you allow the rental of bicycles now there has been a change in the Statutes. I don't think you can stop my client. If you read all the backup it was Planning and Zoning to prohibit any motorized rental. I know there has been a big concern by staff with moped and scooter rentals. This is tightening things up to conform with State statutes.

Mr. Jacquet advised there was no mention of safety. Dr. Spodak advised they look and behave just like a normal bicycle. Mr. Jacquet advised his concern was having motorized vehicles on the sidewalk. When this was brought up to City Commission were motorized bicycles allowed. Ms. Pyburn advised motorized vehicles are not allowed on sidewalks. They are categorized as motor vehicles and they have to follow traffic laws. The City is following the State law. Mr. Lynch advised people drive on sidewalks now and the current applicant should not be penalized for what has been

done in the past. Mr. Jacquet advised he does not believe this is in line with our Comprehensive Plan. There are safety issues, and I don't think I can support this right now.

Mr. Franciosa inquired how many bikes are we talking about. Mr. Gordon advised there are four bikes. Dr. Spodak advised the City has always had an idea to have a more pedestrian experience. If you can get people away from cars, I think we can get people moving from A to B without using cars – it is in the Comprehensive Plan. Mr. Lynch asked would you give them a bike rack and a lock. Mr. Durden advised “A rose by any other name is still a rose”. Segways or motorized bicycles.

Motion:

Motion made by Mr. Lynch, seconded by Mr. Franciosa, and approved 6 to 1 (Mr. Jacquet dissented) to move a recommendation of approval to the City Commission of the text amendment to clarify that “electric-helper motorized bicycles” are the only motorized equipment permitted in the “rental of sporting goods and equipment” use category in the GC zoning district [LDR Section 4.4.9(B)(4)(a)] and CBD zoning district [4.4.13(B)(3)(a)], by adopting the findings of fact and law contained in the Staff Report and finding that the request is consistent with the Comprehensive Plan and meets the criteria set forth in LDR Section 2.4.5(M)(5).

C. City initiated amendment to the Land Development Regulations Section 4.5.3, “Flood Damage Control Districts”.

Mr. McDonnell entered the project into the file.

Courtesy Notices

Courtesy notices were provided to the following civic associations:

- Neighborhood Advisory Council
- Delray Citizen's Coalition

The item before the Board is to make a recommendation to the City Commission regarding a city-initiated amendment to the Land Development Regulations (LDRs) that amends provisions in the Flood Damage Control Districts. These concerns were brought to our attending by Mr. Phil Etchison in the Building Department and Ms. Tracy Lutchmansingh in the Engineering Department.

Board Discussion:

Dr. Spodak inquired are you stating this is permitted now and we are bound by the State. Mr. McDonnell advised the flood plain law allowed us to go 12 inches above the base. It was not mandated but we initially were told it was. Mr. Lynch inquired how long ago. Mr. McDonnell advised three months ago. It was attempted in January and we are taking it back to where it was. Mr. Durden asked what document advised you it was required. Mr. McDonnell advised it was a former employee that gave us misinformation. Our Acting Chief Building Official retrieved the code out to make sure it was consistent to clean up the process of some situations that has arisen. Mr. Durden inquired if someone thought it was necessary to require the 12 inch increase. They purposely thought to protect the person who built the house and had the flood situation. Was there an alternative that to build a house in a flood area to have an

alternative. Mr. McDonnell advised we do not require it. Mr. Lynch advised there are some issues where they have to handle their own drainage.

Motion:

Motion made by Mr. Krall, seconded by Mr. Durden, and approved 7 to 0 to move to recommend approval of the amendment to Land Development Regulations, Section 4.5.3, Flood Damage Control Districts, Subsection (D) Construction Standards, by adopting the findings of fact and law contained in the staff report, and finding that the text amendment and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in LDR Section 2.4.5(M).

VII. PLANNING AND IMPLEMENTATION ITEMS

- A. Consideration of a finding that the proposed Five Year Capital Improvement Plan for FY 2011-12 through FY 2015-16 and FY 2012 Capital Improvement Budget are consistent with the Comprehensive Plan.
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Mr. McDonnell entered the project into the record.

The Capital Improvement Plan is reviewed each year by the Capital Improvement Committee consisting of the City Manager, Assistant City Manager, Finance Director, City Engineer, Planning & Zoning Director and Environmental Services Director. Proposed projects are prioritized within three categories, Critical Items (must be satisfied within the current year), Mandatory Items (should be satisfied within one year) and desirable items (should be satisfied in a time frame greater than one year) and then budgeted accordingly within the overall 5-year program. As the CIP is compared to the Comprehensive Plan, there should be consistency with regard to the list of projects, cost estimates, and time frames.

Public Comments: None

Board Comments:

Mr. Durden inquired about reclaimed water in area 12A. Ms. Pyburn advised that is reclaimed water on the barrier islands. Mr. Lynch advised it was held up because of the costs to add new pipes to get to certain neighborhoods. The one main line is irreplaceable. In the southwest area they are out on Congress Avenue. Mr. Durden inquired if there was any residential area getting the reclaimed water. Mr. Glickstein advised the beach area has it. Ms. Pyburn advised you have to pay to tap into it. Mr. Glickstein advised the beach area has it from Atlantic Avenue to George Bush Boulevard. Mr. Lynch inquired what was the cost. Mr. Glickstein advised it was on a separate meter that measures the water usage. Mr. Durden inquired where are the plans for extending that process to other areas in the City. Ms. Pyburn advised at the water treatment plant.

Mr. Durden inquired about the golf course debt service. Ms. Pyburn advised it is a bond debt service which is the payment on the loan. Mr. Krall advised they did that in the late 1990s. They were contemplating privatizing it. They decided the City wanted to take it back and they did financing under the premise they were going to run it on and on. Mr. Durden asked what the figures represented. Ms. Pyburn advised it is the interest on the loan.

Motion:

Motion made by Mr. Krall, seconded by Mr. Lynch, and approved 7 to 0 to make a finding that the proposed Five Year Capital Improvement Plan for FY 2011-12 through FY 2015-16 and the FY 2012 Capital Improvement Budget are consistent with the Comprehensive Plan.

VIII. REPORTS AND COMMENTS:

A. Board Members

The Board discussed the following topics related to Segway Tours and Electric Bicycle Tours:

- Safety issues: because these devices are intended to be used on both the sidewalk and in the street there are many safety concerns. I would hate to wait until someone is injured to try to mitigate some of this exposure. Also, the fact that people are supposed to walk them on certain sections of Atlantic Avenue as well as the enforcement of these items.
- Locations: where the City will and will not allow tours and rentals (the list of areas not allowed currently is quite small and random).
- Notification: because touring is a new thing, maybe consider notification of all property owners within 500 feet of the main location as it stands now, but then also notify all residential property owners adjacent to the tour route. We feel there may be quite a few people unhappy when tours start on their quiet streets. If this proves too costly for the applicant or there are other issues, maybe the City could consider a charette or some other means to get feedback on this topic.
- Change in Notification Procedure: When notification is given currently, I feel there is an issue that the tour map is not included with it and the area that will be used for training is not included (especially for other tenants or owners who share the parking lot at that location). I feel many people likely disregard the notice because they are not aware of the route of the tours and feel it will likely not impact them.
- For Profit using Public Space: This is one of the only "for profit" businesses that I am aware of that uses public right of way or public property to make money, especially without some sort of lease or payment to the City. This needs to be looked at as well because it could become a larger issue or cause issues down the road.

Parking Management Advisory Board (PMAB)

Mr. Krall advised they will be meeting on September 27, 2011.

B. Staff

Meeting Dates for October

Commission Meetings:

Tuesday, October 4, 2011, City Commission Regular Meeting, 6:00 p.m., City Commission Chambers

Tuesday, October 18, 2011, City Commission Regular Meeting, 6:00 p.m., City Commission Chambers

Planning and Zoning Board Meeting:

Monday, October 17, 2011, Planning and Zoning Board Regular Meeting, 6:00 p.m., City Commission Chambers:

1. Conditional use request to allow within the MROC (Mixed Residential, Office and Commercial) district the use of a drive-through facility for the Delray Community Pharmacy, to be located at the southeast corner of Linton Boulevard and Congress Avenue.
2. Amendment to the Land Development Regulations Appendix "A" Definitions modifying the definition of restaurants.
3. Amendment to the Land Development Regulations Appendix "A" Definitions to add a definition for deli.
4. Amendment to the Land Development Regulations adjusting the limitations for in-lieu parking.
5. Amendment to the Land Development Regulations to define the spatial arrangement of uses in mixed-use developments.
6. Amendment to the Land Development Regulations regarding the undergrounding of utilities.
7. Amendment to the Land Development Regulations Section 2.4.6 (F) "Temporary Use Permit", to clarify the approval authority for uses under a tent.
8. Amendment to the Land Development Regulations Section 4.5.1 pertaining to Historic Preservation.

VIII. ADJOURN

The meeting adjourned at 8:45 p.m.

The undersigned is the Secretary of the Planning and Zoning Board and the information provided herein is the Minutes of the meeting of said body for September 19, 2011 which was formally adopted and approved by the Board on October 17, 2011.

Denise A. Valek

Denise A. Valek, Executive Assistant

If the Minutes that you have received are not completed as indicated above, then this means that these are not the official Minutes. They will become so after review and approval, which may involve some changes.