

**JULY 1, 2014**

A Regular Meeting of the City Commission of the City of Delray Beach, Florida, was called to order by Mayor Cary Glickstein in the Commission Chambers at City Hall at 6:00 p.m., Tuesday, July 1, 2014.

**1.** Roll call showed:

Present - Vice Mayor Shelly Petrolia  
Commissioner Alson Jacquet  
Commissioner Adam Frankel  
Deputy Vice Mayor Jordana Jarjura  
Mayor Cary Glickstein

Absent - None

Also present were - Terry Stewart, Interim City Manager  
Janice Rustin, Acting City Attorney  
Chevelle D. Nubin, City Clerk

**2.** The opening prayer was delivered by Chaplain Anthony Cuseo.

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

At this point, Mayor Glickstein stated last week marked the passing of former Mayor Mr. Leon Weekes who was a 45-year civic minded resident of Delray Beach and was a member of this City Commission for twelve years serving his last four years as Mayor. Mayor Glickstein stated he was true gentleman and a remarkable man who exemplified public and community service throughout his adult life. Mayor Glickstein stated he would like to honor Mr. Weekes tonight by reading a poem into the record that was read by his granddaughter at his memorial service followed by a moment of silence.

**4.** **APPROVAL OF MINUTES:**

None.

**5.** **PRESENTATIONS:**

**5.A.** **RESOLUTION NO. 30-14:** Approve Resolution No. 30-14 recognizing and commending Jasmin Allen for 30 years of dedicated service to the City of Delray Beach.

The caption of Resolution No. 30-14 is as follows:

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, RECOGNIZING AND COMMENDING **JASMIN ALLEN** FOR THIRTY YEARS OF SERVICE TO THE CITY OF DELRAY BEACH.

(The official copy of Resolution No. 30-14 is on file in the City Clerk's office.)

Mayor Glickstein moved to approve Resolution No. 30-14, seconded by Vice Mayor Petrolia. Upon roll call the Commission voted as follows: Mr. Jacquet – Yes; Mr. Frankel – Yes; Deputy Vice Mayor Jarjura – Yes; Mayor Glickstein – Yes; Vice Mayor Petrolia – Yes. Said motion passed with a 5 to 0 vote.

Jasmin Allen, Planner, gave a few brief comments.

Mark McDonnell, AICP, Assistant Director of Planning and Zoning, gave a few brief comments.

**5.B. Update on the Legislative Session – Senator Maria Sachs**

Senator Maria Sachs stated this year in Tallahassee she has been able to bring more money home for the city than any other time in the last ten (10) years specifically with regard to our cultural places of interest. She stated the City received \$150,000 from the state for the Delray Beach Center for the Arts and received \$240,000 from the state for Old School Square. Ms. Sachs stated they have funded Florida Atlantic University's (FAU) medical school and last week she was at the first graduating class with 46 interns at three hospitals in this area. She stated they received \$89.3 billion dollars for our schools and she realizes that education is important to everyone. Ms. Sachs stated she will continue to do as much as she can and the most important thing is to bring money back home.

At this point, the Commission moved to **Comments and Inquiries on Agenda and Non-Agenda Items from the City Manager and the Public Immediately Following Presentations.**

**6.A. City Manager's response to prior public comments and inquiries.**

Terry Stewart, Interim City Manager, stated last week he presented the City Commission with a weekly report to keep them as up-to-date as possible as to what is going on.

With regard to a previous comment expressed by Mr. Mohammed about an issue that he had with FP&L and a line that was close to a building that he was going to construct and he had to eventually put the line underground, Mr. Stewart stated no one was hurt but this man is the contractor and architect on record on that site and he felt it should have been the City's responsibility to inform him of what he needed to do from a construction perspective. Mr. Stewart stated staff sees no responsibility on the City's part in this regard whatsoever.

With regard to Mr. Frankel's comments regarding an acquaintance of his being aggressively approached by a panhandler, Mr. Stewart stated asked the Police Department to initiate some actions to help mitigate the impacts of that. In addition, Mr. Stewart stated the Police Department is working with the Caring Kitchen to develop an educational card with the panhandling ordinance on the front side of the cards and a list of ministries on the back of the cards to help encourage people to go there for assistance.

With regard to the issue of food trucks, Mr. Stewart stated a staff committee has been established to consider a proposed ordinance on food trucks. The first Committee Meeting is on Thursday, June 26, 2014 with discussion centered on the review of the existing ordinances from other municipalities. Mr. Stewart stated the staff committee had a discussion on regulations, approval process, fees, etc. and setting a timeline for a draft ordinance to be ready for public discussion.

With regard to taxi stands, Mr. Stewart stated at the November 12, 2013 City Commission Workshop meeting, Community Improvement and the Police Department gave a presentation regarding Vehicles for Hire. Mr. Stewart stated the presentation was recommending acceptance of an ordinance already used by Palm Beach County. He stated although taxi stands were not covered in the original 2010 Parking Management Study conducted by Kimley-Horn, staff believes the use of taxi stands are important and should be incorporated into the Parking Management Implementation Plan that will be presented at an upcoming City Commission meeting which is to be determined.

Mr. Stewart stated with regard to the issue of advertising, staff conducted a comparison between the Palm Beach Post and Sun-Sentinel newspaper regarding circulation statistics, cost per column inch, and a number of other issues. Mr. Stewart stated staff found that the Sun-Sentinel has the higher circulation stats and is priced lower than the Palm Beach Post per column inch and for in-column line ads. The Sun-Sentinel also offers a discount in ¼ page ads as well and publication deadlines are similar for both newspapers.

Mr. Stewart stated Deputy Vice Mayor Jarjura spoke about a possible temporary pilot program regarding the food trucks.

With regard to the recommendations made about green initiatives in the CBD (Central Business District) Land Development Regulations (LDRs), Mr. Stewart stated Mr. John Morgan, Sustainability Officer is meeting with Mr. Dana Little and the Planning staff the week of July 3<sup>rd</sup> regarding incorporating these green initiatives into the proposed LDRs and for the CBD.

With regard to a concern expressed by Vice Mayor Petrolia regarding the deteriorating condition of Veteran's Park, Mr. Stewart stated one of the biggest problems with the deterioration has to do with the playgrounds.

Mr. Stewart stated the Commission awarded the contract for services on a Micro-Lending Program to the Center for Enterprise Opportunity formerly known as the Business Loan Fund of the Palm Beaches. Mr. Stewart stated on April 30, 2014 the City and the City Attorney on June 18, 2014 worked together to finalize a formal agreement, scope of services, and implementation of the program. He stated this will be placed on the July 15, 2014 City Commission Agenda.

With regard to Mayor Glickstein's concern about the two-bin system of recycling and the desire to move to a single stream recycling, Mr. Stewart stated the City is including that language in the RFP; however, the current circumstances are that the Solid Waste Authority (SWA) for Palm Beach County does not have a single-stream recycling ability. Mr. Stewart stated staff will ensure that the language is in the RFP so that when it becomes available on the County's part, the City will not have to amend its contract but would be able to go right into that. Mr. Stewart asked the City Commission if they would like staff to continue to have a dialogue with the County the possibility of moving to a single stream.

Lastly, Mr. Stewart stated the Commission asked staff to take a look at the Uber and how it might impact the City and whether or not there is something we can do to prepare for that. Janice Rustin, Acting City Attorney, stated to date Jacksonville has passed some legislation that allows it to operate in the City. Ms. Rustin stated because the City operates under the Palm Beach County's Vehicle for Hire ordinance, the City of Delray Beach would have to work closely with Palm Beach County in on we would enforce, protect, or allow Uber transportation in the City of Delray Beach.

## **6.B. From the Public.**

**6.B.1. K.C. Traylor, Palm City, Florida, "Not" All Aboard Florida,** stated Delray Beach was award Best of Road Most Fun Small Town in America and urged the Commission to help fight to keep it that way. Mr. Traylor stated this not just about 32 high-speed trains owned by Fortress Investment Group but it is also about real estate developments and more importantly more freight. She stated what All Aboard Florida does not tell us is that Florida East Coast Railway (FECR) also owned by Fortress will greatly benefit from the double tracking for All Aboard Florida. Ms. Traylor stated Port Everglades is celebrating its grand opening in July and it will increase FECR's available inter-modal capacity from 100,000 to 450,000 lifts per year.

She expressed concern that more freight will be coming through Delray Beach. Ms. Traylor urged the Commission to unite with 30 other communities and organizations in opposition to this issue.

**6.B.2. Charles Bonfield, 220 MacFarlane Drive #S-1203, Delray Beach, FL 33483, President of S.A.F.E. (Safety As Floridians Expect),** recognized and commended the City Commission for sponsoring the six (6) lectures on Smart Urban Planning. Mr. Bonfield stated he worked for a Danish Company in Copenhagen, Denmark and noted that at a main street in Copenhagen there are traffic signals for bicycles as well as vehicles. He stated this trend is now happening in many towns in the U.S. Mr. Bonfield stated that the average annual distance driven per person per year has decreased from 9,314 miles in 2004 to 8,484 miles in 2012 (approximately 1,000 miles per person decrease). He stated the number of people who bike, walk, or take public transportation to work outstrips the growth and drivers. From 2002-2012 increase in bicycle commuters increased by 86%; the increase for walkers was almost 25%; the increase in public transportation was 13.7%. Mr. Bonfield stated there must be wide sidewalks and bike lanes throughout the city for residents to use to help encourage walking and the use of bicycles in an effort to make Delray Beach a desirable city.

**6.B.3. Jim Smith, 1225 South Ocean Boulevard, Delray Beach, FL 33483, Chairman of S.A.F.E. (Safety As Floridians Expect),** stated for local, state, and federal government public safety is #1 and is more than just Police and Fire protection; it includes pro-bike safety as well. Mr. Smith stated in 2013 there were 45% more crashes in Delray than there were the year before. Mr. Smith asked when the ped signals on Atlantic Avenue and 4<sup>th</sup> Avenue intersections will be ADA compliant. He expressed concern over what the city is doing to educate motorists and bicyclists about sharing the road. Mr. Smith urged the Commission to add a Ped/Bike Coordinator position this year and stated this was the #1 recommendation of the Delray Beach Ped/Bike Task Team in 2003. He stated it was subsequently adopted by the City Commission; however, it has never been implemented. Mr. Smith stated S.A.F.E. has identified two (2) possible funding sources for a Ped/Bike Coordinator and requested that a copy be included in the official record of the meeting.

**6.B.4. Alan Schlossberg, 200 MacFarlane Drive #N-502, Delray Beach, FL 33483,** congratulated Mayor Glickstein and the City Commission for the outstanding job that they do. Mr. Schlossberg read a brief statement into the record regarding All Aboard Florida. Mr. Schlossberg urged the Commission to place this on an Agenda for public discussion.

**6.B.5. Dr. Victor Kirson, D.D.S., 2050 Alta Meadows Lane #2110, Delray Beach, FL 33444 (President of the Board of Directors of Tierra Verde at Delray Beach and Member of the Alliance),** thanked Commissioner Frankel for suggesting a negotiated settlement with regard to Louie Chapman. Dr. Kirson stated after Commissioner Jacquet came back from his trip to Haiti he started working on a negotiated settlement with the City Attorney and thanked Commissioner Jacquet for his effort.

Dr. Kirson stated there is now a plan that protects both the City and Mr. Chapman.

**6.B.6. Ari Whiteman, 5091 Washington Road, Delray Beach, FL 33484,** thanked Mr. Stewart for coming to Delray Beach.

Secondly, Mr. Whiteman stated Ronald Gilinsky has attended several meetings urging the City Commission to give the Police Department their raises and finish contract negotiations for the PBA.

**6.B.7. Pauline Moody, 609 S.W. 8<sup>th</sup> Avenue, Delray Beach, FL 33444,** she urged the City Commission to *not* vote on Item 9.E., Settlement Offer by Louie Chapman, Jr. so that the entire City Commission can go back and re-look at everything together because she feels that it is not appropriate for only Commissioner Jacquet and Commissioner Frankel to negotiate.

Secondly, Ms. Moody gave a few brief comments about the Police contract.

**6.B.8. Alan Costillo, 3557 Lakeview Drive, Delray Beach, FL 33445 (owner of Big Al Steak's) speaking as the Board Chairman of the Downtown Delray Beach Restaurant Association,** expressed concern over potential changes to the food truck ordinance in Delray Beach.

**6.B.9. Reggie Cox, 715 N.W. 2<sup>nd</sup> Street, Delray Beach, FL 33444,** commented about the settlement proposal for Mr. Louie Chapman, Jr. and applauds the City Commission for their leadership as a whole in trying to move forward on this item and for addressing the issue as a body. Mr. Cox urged the Commission that in going forward that the process be inclusive of the community.

**6.B.10. Rick Burgess, 4834 South Classical Boulevard, Delray Beach, FL 33445,** thanked the City Commission for the job that they do and thanked Senator Maria Sachs for making a presentation and being a Delray resident making an economic impact in the restaurants. Mr. Burgess shared the following quote: "To change a political system the majority of the thinking citizens must unite, speak with one voice, and stand firm on one leg."

**6.B.11. Chris Boldin, Pastor of the House of God Church, 329 S.W. 5<sup>th</sup> Avenue, Delray Beach, FL 33444,** stated the City has not been without struggles along cultural lines and there has been a lot of hard work and dedication to bridge the divides. Pastor Boldin stated when dealing with struggles he urged the City Commission to strike a tone of decency in dealing with these matters and understands that the City Commission must conduct all of its work under the Sunshine Law. Pastor Boldin stated the City cannot afford setbacks in the progress that has been made and he is glad to see a proposal that works for the city as well as for Mr. Chapman. Pastor Boldin stated he the City Commission approves the proposed settlement offer from Mr. Chapman tonight it will be one of those things that continues to help the city move forward.

**7. AGENDA APPROVAL:**

Vice Mayor Petrolia requested that **Item 8.A., Resolution No. 25-14** and **Item 8.A.1., Acceptance of a Water Easement Deed/S.W. 7<sup>th</sup> Street** be moved from the Consent Agenda to the Regular Agenda as **Item 9.A.A.** In addition, Vice Mayor Petrolia requested that **Item 8.D., Amendment No. 1 to the Agreement for State Professional Lobbying Services/Ballard Partners** be moved from the Consent Agenda to the Regular Agenda as **Item 9.B.B.** and **Item 8.E., Amendment No. 2 to the Agreement for Professional Lobbying Services/Becker & Poliakoff** be moved from the Consent Agenda to the Regular Agenda as **Item 9.C.C.**

Janice Rustin, Acting City Attorney, stated the City Attorney's office requests the postponement of **Item 10.D., Ordinance No. 29-14** to do further research and seek more clarity on the definitions regarding the constitutional requirements.

Vice Mayor Petrolia moved to approve the Agenda as amended, seconded by Mr. Frankel. Upon roll call the Commission voted as follows: Mr. Frankel – Yes; Deputy Vice Mayor Jarjura – Yes; Mayor Glickstein – Yes; Vice Mayor Petrolia – Yes; Mr. Jacquet – Yes. Said motion passed with a 5 to 0 vote.

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

**8.A. THIS ITEM HAS BEEN MOVED TO THE REGULAR AGENDA AS ITEM 9.A.A.**

**8.A.1. THIS ITEM HAS BEEN MOVED TO THE REGULAR AGENDA AS ITEM 9.A.A.**

**8.B. INCREASE SPENDING CAP/RECHTIEN INTERNATIONAL TRUCKS:** Approval to increase the spending cap for Rechten International Trucks to \$80,000.00 for the purchase of parts and repairs for the City's Fire Rescue Ambulance vehicles, as a sole source vendor. This purchase award is in compliance with Code of Ordinances, Chapter 36, Section 36.02 (C)(6)(a) and (b), "Sole Source and City Standard". Funding is available from 501-3311-591-52.50 (Garage Fund: Operating Supplies/External Supplies) and 501-3311-591-52.52 (Garage Fund: Operating Supplies/C.G. – Outside Service).

**8.C. RESOLUTION NO. 32-14/NAMING OF PUBLIC FACILITY REVEREND J.W.H. THOMAS, JR. PARK:** Approve Resolution No. 32-14; recognizing Reverend J.W.H. Thomas, Jr., by naming the S.W. 9<sup>th</sup> Avenue and S.W. 1<sup>st</sup> Street pocket park in Delray Beach, Florida, the "Reverend J.W.H. Thomas, Jr." Park.

The caption of Resolution No. 32-14 is as follows:

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, RECOGNIZING REVEREND J.W.H. THOMAS, JR. BY NAMING THE SW 9TH AVENUE AND SW 1<sup>ST</sup> STREET POCKET PARK IN DELRAY BEACH, FLORIDA, THE "REVEREND J.W.H. THOMAS, JR. PARK; PROVIDING AN EFFECTIVE DATE .

(The official copy of Resolution No. 32-14 is on file in the City Clerk's office.)

**8.D. AMENDMENT NO. 1 TO THE AGREEMENT FOR STATE PROFESSIONAL LOBBYING SERVICES/BALLARD PARTNERS:** Approve Amendment No. 1 to the Agreement for State Professional Lobbying Services with Ballard Partners to renew the term of the contract for one (1) year. This renewal is in compliance with Code of Ordinances, Chapter 36, Section 36.07(A)(3), "Renewals".

**8.E. AMENDMENT NO. 2 TO THE AGREEMENT FOR PROFESSIONAL LOBBYING SERVICES/BECKER & POLIAKOFF:** Approve Amendment No. 2 to the Agreement for Federal Professional Lobbying Services with Becker & Poliakoff to renew the term of the contract for one (1) year. This renewal is in compliance with Code of Ordinances, Chapter 36, Section 36.07(A)(3), "Renewals". Funding is available from 001-1111-511-34.90 (General Fund: Operating Expenses-Miscellaneous/Other Contractual Services).

**8.F. PROCLAMATIONS:**

- 1.** Olympics Day – June 23, 2014
- 1.** Park & Recreation Month – July 2014
- 2.** Discrimination Free Zone

**8.G. REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:** Accept the actions and decisions made by the Land Development Boards for the period June 16, 2014 through June 27, 2014.

**8.H. AWARD OF BIDS AND CONTRACTS:**

- 1.** Bid award to Layne In-liner in the amount of \$24,740.00 to rehabilitate deteriorating storm drainage pipes for the properties located at 939 Evergreen Drive and 1036 Seasage Drive. This award is in compliance with Code of Ordinances, Chapter 36, Section 36.03(B), "Multiple Acquisitions from Vendor Exceeding \$25,000 in Any Fiscal Year". Funding is available from 448-5461-538-46.90 (Storm Water Utility Fund: Repair & Maintenance Service/Other Repair/Maintenance Cost).



2. Contract award to Sullivan Electric and Pump, Inc., in an amount not to exceed \$90,000.00 for repair and rehabilitation of submersible wastewater pumps and/or irrigation pumps. This award is in compliance with Code of Ordinances, Chapter 36, Section 36.03 (B) "Multiple Acquisitions from a Vendor Exceeding \$25,000.00 in Any Fiscal Year". Funding is available from 441-5144-536-46.20 (Water and Sewer Fund: Repair and Maintenance Service/Equipment Maintenance).
3. Purchase award to Southeastern Pump Corporation in an annual amount not to exceed \$83,000.00 for the purchase and supply of submersible wastewater pumps for Wastewater Lift Stations. This award is in compliance with Code of Ordinances, Chapter 36, Section 36.03 (B), "Multiple Acquisitions from a Vendor Exceeding \$25,000.00 in Any Fiscal Year". In addition, request approval of purchases and supplies of submersible wastewater pumps through Southeastern Pump Corporation as "Sole Source" and "City Standard", in compliance with Code of Ordinances, Chapter 36, Section 36.02 (C)(6)(a) and (b), "Sole Source and City Standard". Funding is available from 441-5144-536-46.20 (Water and Sewer Fund: Repair and Maintenance Service/Equipment Maintenance).

Mr. Frankel moved to approve the Consent Agenda as amended, seconded by Vice Mayor Petrolia. Upon roll call the Commission voted as follows: Deputy Vice Mayor Jarjura – Yes; Mayor Glickstein – Yes; Vice Mayor Petrolia – Yes; Mr. Jacquet – Yes; Mr. Frankel – Yes. Said motion passed with a 5 to 0 vote.

2.                    **REGULAR AGENDA:**

9.A.A.            **RESOLUTION NO. 25-14:** Approve Resolution No. 25-14; abandonment of a 50' wide by 140.72' long portion of S.W. 2<sup>nd</sup> Avenue, lying south of S.W. 7<sup>th</sup> Street within the Nichols First Addition and Nichols Second Addition Plats.

The caption of Resolution No. 25-14 is as follows:

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, VACATING AND ABANDONING A PORTION OF THE SW 2ND AVENUE ROAD RIGHT-OF-WAY, AS MORE PARTICULARLY DESCRIBED HEREIN, BUT RESERVING AND RETAINING TO THE CITY A GENERAL UTILITY EASEMENT FOR PUBLIC AND PRIVATE UTILITIES OVER A PORTION OF THE ABANDONMENT AREA, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING A REVERTER CLAUSE AND AN EFFECTIVE DATE.

(The official copy of Resolution No. 25-14 is on file in the City Clerk's office.)

**9.A.A. ACCEPTANCE OF A WATER EASEMENT DEED/S.W. 7<sup>TH</sup> STREET:** Approve acceptance of a 12' wide Water Easement Deed between the City and Beverley and Edward L. Forbes to accommodate an existing water main located on the western side of the road right-of-way for the property located at 206 S.W. 7<sup>th</sup> Street.

Dana Little, Director of Planning and Zoning, stated the proposed amendment consists of the S.W. 2<sup>nd</sup> Avenue right-of-way located south of S.W. 7<sup>th</sup> Street. The portion of the right-of-way is dedicated by the plats at the Nichols First Addition to Delray Beach. Mr. Little stated the area to be abandoned is approximately 50 feet wide by 141 feet deep. Mr. Little stated the right-of-way contains existing utilities but it is unpaved so it does not provide access to adjacent properties to accommodate existing utilities.

At its meeting of May 19, 2014, the Planning and Zoning Board reviewed the abandonment and the Board recommended approval with a vote of 6 to 1 to abandon the right-of-way. Staff recommends that the alley be abandoned with 25 feet going to either property on either side.

With the lack of green spaces and pocket parks, Vice Mayor Petrolia stated this is a great opportunity to be able to get those spaces in order to be able to make these pocket parks instead of giving them away to homeowners on either side. She stated this would also be a perfect site for a community garden and could also be developed into different areas these could actually be future spots for where land is being aggregated. Vice Mayor Petrolia stated this makes no sense unless there is a purpose or a benefit to the people and she sees none. Vice Mayor Petrolia stated she does not support it and would like the Commission to consider any future sites like this as being potential future pocket parks or gardens for the community.

Mr. Little stated going forward staff is going to look at these with greater scrutiny.

The Interim City Manager stated staff understands the issues and he believes it is appropriate to ask a question about the general things that might inure to a community if a property does go back and noted each site has a specific matter. Furthermore, the Interim City Manager stated then staff would take those and weigh those things against the benefit of pocket parks, community gardens, etc. He stated those properties originally belonged to those property owners; the City has a right-of-way and allowable use for that so that is why the properties go back to them. The Interim City Manager stated the City needs to understand where the value is for us and that every applicant is dealt with in an equitable fashion.

Mayor Glickstein stated in terms of Commissioner Petrolia's point in terms of some of the procedures the City is trying to incorporate as a check-off list between departments. Mayor Glickstein asked the Engineering staff to comment on the easement aspect of this as to whether or not this is time sensitive.

After brief discussion between Mayor Glickstein and the Interim City Manager, the Interim City Manager recommended that the Commission pull this item and initiate further investigation.

Vice Mayor Petrolia asked the Interim City Manager to find out in that community who the leaders are and if there is any interest in that with respect to the other concern.

Prior to the vote, brief discussion continued between staff, the City Commission and the Interim City Manager.

Brief discussion followed between Mr. Little and Commissioner Jacquet.

The Interim City Manager stated this item was pulled at the last meeting and there was a question raised earlier this week about whether or not it was appropriate for a pocket park and that is one of the reasons why it was recorded that staff discuss this so it should not be surprise to anyone. In addition, Vice Mayor Petrolia stated it was discussed at the Planning and Zoning Board meeting as well.

Vice Mayor Petrolia moved to *delay* the decision on **Item 9.A.A. (formerly Item 8.A. and Item 8.A.1.)**, seconded by Deputy Vice Mayor Jarjura. Upon roll call the Commission voted as follows: Mayor Glickstein – Yes; Vice Mayor Petrolia – Yes; Mr. Jacquet – No; Mr. Frankel – No; Deputy Vice Mayor Jarjura – Yes. Said motion passed with a 3 to 2 vote, Commissioner Jacquet and Commissioner Frankel dissenting.

At this point, the time being 7:04 p.m., the Commission moved to the duly advertised Public Hearings portion of the Agenda.

## **10. PUBLIC HEARINGS:**

**10.A. ORDINANCE NO. 07-14 (SECOND READING/SECOND PUBLIC HEARING):** Consider a privately-initiated amendment to the Future Land Use Element of the Comprehensive Plan, modifying the description of the General Commercial (GC) Future Land Use designation, and Policy A-7.2 of the Future Land Use Element, to allow an increase in density to a maximum of 24 units per acre, and establish a maximum Floor Area Ratio (FAR) of 0.75 for lands zoned General Commercial (GC) which are located within the Infill Workforce Housing Overlay District.

The caption of Ordinance No. 07-14 is as follows:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, ADOPTING A COMPREHENSIVE PLAN AMENDMENT, PURSUANT TO THE PROVISIONS OF THE "COMMUNITY PLANNING ACT", FLORIDA STATUTES SECTIONS 163.3161 THROUGH 163.3248, INCLUSIVE; ALL AS MORE PARTICULARLY DESCRIBED IN EXHIBIT "A" ENTITLED "DELRAY PRESERVE COMPREHENSIVE PLAN AMENDMENT", AND INCORPORATED HEREIN BY REFERENCE; PROVIDING A SAVING CLAUSE, A GENERAL REPEALER CLAUSE, AND AN EFFECTIVE DATE.

(The official copy of Ordinance No. 07-14 is on file in the City Clerk's office.)

The Acting City Attorney read the caption of the ordinance. A public hearing was held having been legally advertised in compliance with the laws of the State of Florida and the Charter of the City of Delray Beach, Florida.

Mayor Glickstein asked the Commission to disclose their ex parte communications. Mr. Frankel stated he has received emails and they are all on the City server. Deputy Vice Mayor Jarjura stated she had emails from the residents opposing it, the attorney for the developer, and from S.A.F.E. Mayor Glickstein stated he has received emails from residents, the applicant and S.A.F.E. and all are on the City server. Vice Mayor Petrolia stated she too received emails from residents, the applicant and S.A.F.E. which are all on the City server. Mr. Jacquet stated he has received emails from the applicant, spoke to Mr. Morris and Jim Smith from S.A.F.E.

Mr. Frankel stated it is his understanding that the applicant would be able to go forward based on the email he received this afternoon at 22 units per acre. Mr. Frankel stated he supports 22 units per acre.

Mr. Jacquet stated he can see both sides of the argument.

Mayor Glickstein stated he has studied this property extensively in an attempt to balance what is a lot of neighborhood concern but there is also a need for growth along that section of Federal Highway. He stated part of the reason that area has been challenged is that there are very long and narrow deep properties on the east side of Federal Highway and very shallow properties sandwiched between Federal Highway and the tracks and a high school occupies a large piece of that which is part of the reason why the City has not been unable to generate the critical mass needed to support the commercial enterprises that have come and gone in that area. He stated part of the solution is people.

Mayor Glickstein commented about The Franklin development application and stated while he and Commissioner Jacquet were on the Planning and Zoning Board he recalls similar complaints from a combination of both single-family and multi-family neighborhoods. He is not discounting the impacts of the density; he does think that staff and boards are up to the challenge of mitigating those impacts and accepting nothing less than superior architecture and site planning. Mayor Glickstein stated he supports a Comp Plan Amendment for the 22 units per acre and hopes that this developer or a subsequent developer will incorporate the reduction that he is supporting into eliminating all of the 4<sup>th</sup> floor units (at least in the southern buildings) and he would be looking to SPRAB to seek those design enhancements along with other meaningful litigation measures. He stated the area needs clarity and the property needs to be developed. Mayor Glickstein stated that is a suitable density given what has been done in this town under similar circumstances.

Vice Mayor Petrolia expressed concern over the road being thirty (30) feet on that northern portion and that it is going to impact the city; she stated once the 22 feet is passed that is what is going to be built there and will be built either with a greater intensity or lesser intensity.

Mayor Glickstein stated the architecture of The Franklin is interesting; however, the architecture that he has seen from the current developer relative to this plan is *not* compelling.

Deputy Vice Mayor Jarjura stated it is hard to visually to be able to see what the impact will be with going from 18 to 24 units per acre; she commented about a lesser quality development at 18 units per acre versus a higher quality development at 24 units per acre. Deputy Vice Mayor Jarjura stated she supports higher quality development because it would have higher rents and a higher quality of residents living next door to her. She stated as much as some residents on a certain street in this area are opposed to this, there are residents in that area that do like this and she feels a compromise works for everybody.

Mr. Jacquet stated based on the comments tonight and what he has heard about this property they develop it and do quality building which he feels the city needs in that area.

For clarification, Mayor Glickstein stated with respect to his previous comment it was directed not to the applicant but to the current land owner who is a public developer.

Mr. Frankel moved to approve Ordinance No. 07-14 to allow an increase in density to a maximum of 22 units per acre and establish a maximum Floor Area Ratio (FAR) of 0.75 for lands zoned General Commercial (GC) which is located within the Infill Workforce Housing Overlay District, seconded by Mr. Jacquet. Upon roll call the Commission voted as follows: Vice Mayor Petrolia – No; Mr. Jacquet – Yes; Mr. Frankel – Yes; Deputy Vice Mayor Jarjura – Yes; Mayor Glickstein – Yes.

Said motion passed with a 4 to 1 vote, Vice Mayor Petrolia dissenting.

**10.B. ORDINANCE NO. 08-14 (SECOND READING/SECOND PUBLIC HEARING):** Consider privately-initiated amendments to the Land Development Regulations (LDR) Sections 4.4.9, "General Commercial", Subsection 4.4.9 (C), "Conditional Uses", to allow a density up to a maximum of twenty-four (24) units per acre within the Infill Workforce Housing Area; creating Subsection 4.4.9(G)(5), "Infill Workforce Housing Overlay District" to establish a maximum Floor Area Ratio (FAR) of 0.75; amending Article 4.7, "Family/Workforce Housing", Section 4.7.1, "Definitions", Subsection 4.7.1.1, "Infill Workforce Housing Area" and Section 4.7.4(g), to specify the maximum allowable density of 24 units per acre within the General Commercial zoning district. (*Quasi-Judicial Hearing*)

The caption of Ordinance No. 08-14 is as follows:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS, BY AMENDING SECTION 4.4.9, "GENERAL COMMERCIAL (GC) DISTRICT", SUBSECTION (D), "CONDITIONAL USES AND STRUCTURES ALLOWED", TO INCREASE DENSITY IN THE INFILL WORKFORCE HOUSING AREA TO A MAXIMUM OF 24 UNITS PER ACRE; AMENDING SUBSECTION (G), "SUPPLEMENTAL DISTRICT REGULATIONS", TO ADD "INFILL WORKFORCE HOUSING OVERLAY DISTRICT", TO PROVIDE AN FAR OF 0.75; AMENDING ARTICLE 4.7, "FAMILY WORKFORCE HOUSING", SUBSECTION 4.7.1, "DEFINITIONS", SUBSECTION (I), "INFILL WORKFORCE HOUSING AREA" TO AMEND MAPS TO INCREASE THE DENSITY IN THE GENERAL COMMERCIAL (GC) ZONING DISTRICT; PROVIDING A SAVING CLAUSE, A GENERAL REPEALER CLAUSE, AND AN EFFECTIVE DATE.

(The official copy of Ordinance No. 07-14 is on file in the City Clerk's office.)

The Acting City Attorney read the caption of the ordinance. A public hearing was held having been legally advertised in compliance with the laws of the State of Florida and the Charter of the City of Delray Beach, Florida.

Mayor Glickstein read the City of Delray Beach Quasi-Judicial rules into the record for this item and all subsequent Quasi-Judicial items.

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

Mayor Glickstein asked the Commission to disclose their ex parte communications. The Commission stated their ex parte communications are the same ex parte communications that were disclosed at the June 3, 2014 meeting when this item was a first reading/first public hearing.

Mark McDonnell, AICP, Assistant Director of Planning and Zoning, entered the Planning and Zoning Department project file 2014-073 into the record.

Mr. McDonnell stated this is privately initiated to allow a density up to a maximum of 22 units per acre in the Infill Workforce Housing Area and amends other sections in the LDRs that further support 22 units per acre and the FAR (Floor Area Ratio) of 0.75. He stated this was considered by the City Commission on June 3, 2014 (first reading/first public hearing).

**Scott Backman, representing the applicant,** stated he is present for any questions the Commission may have.

Mayor Glickstein stated if anyone from the public would like to speak in favor or in opposition of Ordinance No. 08-14, to come forward at this time.

Janice Rustin, Acting City Attorney, stated Mr. Kevin Osborn has party status and is allowed ten (10) minutes to speak.

**Kevin Osborn, 612 Allen Avenue, Delray Beach, FL 33483,** gave a brief PowerPoint presentation and expressed concern over the increased density. Mr. Osborn stated the City Commission is supporting one developer and he feels the homeowners and residents of the area who are opposed to this increase have been ignored. He stated there is a difference of 40 apartments with this increased density and noted this property has already gone from 12 to 18 units per acre (18 units per acre in his opinion is sufficient). He feels 22 units per acre is not responsible development and urged the Commission to stop supporting density increases.

**James Ingram, 620 Allen Avenue, Delray Beach, FL 33483,** stated he attended a previous meeting where this was discussed and thought the density was approved at 21 units per acre. Mr. Ingram stated the developer has said he they cannot do the project at 21 units per acre and asked what changed between that meeting and now. He stated when he purchased his property it was 12 units per acre; in 2006 it was increased to 18 units per acre.

**Cynthia Taylor, 611 Allen Avenue, Delray Beach, FL 33483,** expressed her opposition and disappointment to this project. Ms. Taylor stated there was a study paid by taxpayers to access the property and it was recommended at 12 units per acre; in 2006, it was changed to 18 units per acre and now 24 units per acre and the final decision

tonight 22 units per acre. Ms. Taylor expressed concern over the corridor and stated entering downtown Delray Beach to the north there is no distinguishing entrance. She stated there is the possibility of this project being a 4-story apartment complex and this will set a precedent for other things to be built.

**Dr. Victor Kirson, D.D.S., 2050 Alta Meadows Lane #2110, Delray Beach, FL 33444 (President of the Board of Directors of Tierra Verde at Delray Beach and Member of the Alliance)**, expressed concern over the increased density and the 200 rental units. In his opinion, Dr. Kirson stated that by increasing the density the City is perpetuating the problems.

**Jim Smith, 1225 South Ocean Boulevard, Delray Beach, FL 33483 (Chairman of S.A.F.E.)**, gave a few brief comments about the developer and stated S.A.F.E. would like to reduce the number of car trips per day. Mr. Smith stated this project had a gross density of 23 units per acre; the actual net density is 20.2 units per acre. He stated there will be less traffic coming out of this project (Delray Preserve) than there is at The Franklin. Mr. Smith briefly discussed the incentives the developer is offering and stated S.A.F.E. supports this project.

At this point, there being no one else from the public who wished to address the Commission regarding Ordinance No. 08-14, the public hearing was closed.

Mayor Glickstein stated this decision was not made with a great deal of analysis and the site is a problematic site to develop which is the reason why it sits in an economy today coupled with a scarcity of multifamily zoned properties. Mayor Glickstein stated the current development would not be built as it is entitled because the commercial has struggled in that corridor since he has lived here and feels until there are more people in that corridor it is going to continue to struggle. He stated the density is appropriate and he would rather see residential uses than commercial uses to support the existing commercial enterprises rather than create more to compete with them.

Vice Mayor Petrolia stated she appreciates the comments from the public in bringing to her attention that this was a property that was originally at 12 units per acre and was moved up to 18 units per acre. Vice Mayor Petrolia stated she thought it was going from 18 to 24 and believed it was something that was warranted at that time. She stated knowing that it was going from 12 to 18 units per acre that was enough to give the transition. Vice Mayor Petrolia stated she understands the site is problematic but feels there will be issues in the future when the Commission makes these adjustments.

Mr. Frankel moved to adopt Ordinance No. 8-14 on Second and FINAL Reading with the amendment maximum allowable density of 22 units per acre, seconded by Deputy Vice Mayor Jarjura. Upon roll call the Commission voted as follows: Mr. Jacquet – Yes; Mr. Frankel – Yes; Deputy Vice Mayor Jarjura – Yes; Mayor Glickstein – Yes; Vice Mayor Petrolia – No. Said motion passed with a 4 to 1 vote, Vice Mayor Petrolia dissenting.



**10.C. ORDINANCE NO. 09-14 (SECOND READING/SECOND PUBLIC HEARING):** Consider a privately-initiated amendment to the Land Development Regulations (LDR) Section 4.4.24(B)(C)(F) "Old School Square Historic Arts District: Principal Uses and Structures, Accessory Uses and Structures Permitted, Development Standards", to include Lots 16-18, Block 69, Lots 11-12, the North half of Lot 13, and Lots 23-25 Block 70, Town of Delray, to the list of lots within the Old School Square Historic Arts District (OSSHAD) zoning district that can be developed pursuant to the development standards and uses of the Central Business District (CBD) zoning district. *(Quasi-Judicial Hearing)*

The caption of Ordinance No. 09-14 is as follows:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CITY OF DELRAY BEACH, FLORIDA, BY AMENDING SECTION 4.4.24, "OLD SCHOOL SQUARE HISTORIC ARTS DISTRICT (OSSHAD)", SUBSECTION 4.4.24(B), "PRINCIPAL USES AND STRUCTURES" TO INCLUDE ADDITIONAL PROPERTIES THAT ARE ALLOWED THE PERMITTED USES OF THE CBD ZONING DISTRICT; AMENDING SECTION 4.4.24, "OLD SCHOOL SQUARE HISTORIC ARTS DISTRICT (OSSHAD)", SUBSECTION 4.4.24(C), "ACCESSORY USES AND STRUCTURES PERMITTED" TO INCLUDE ADDITIONAL PROPERTIES THAT ARE ALLOWED THE ACCESSORY USES OF THE CBD ZONING DISTRICT; AMENDING SUBSECTION 4.4.24(F), "DEVELOPMENT STANDARDS", TO INCLUDE ADDITIONAL PROPERTIES IN THE OSSHAD DISTRICT THAT ARE SUBJECT TO THE STANDARDS OF THE CBD ZONING DISTRICT; PROVIDING A SAVING CLAUSE, A GENERAL REPEALER CLAUSE, AND AN EFFECTIVE DATE.

(The official copy of Ordinance No. 09-14 is on file in the City Clerk's office.)

The City Attorney read the caption of the ordinance. A public hearing was held having been legally advertised in compliance with the laws of the State of Florida and the Charter of the City of Delray Beach, Florida.

Mayor Glickstein asked the Commission to disclose their ex parte communications. Mr. Frankel stated he received emails that are on the City server.

Deputy Vice Mayor Jarjura stated she heard this before the Planning and Zoning Board February 24, 2014, multiple emails which are on the City server, she had a meeting with Carolyn Patton, Gail Clark, Roger Cope, Donna Sloan, met with the developer (Steve Michael) on the February 24, 2014 and spoke to the developer yesterday by phone and sent him a follow up text message this morning with questions and his historical preservation expert responded to by email which is on the City server, and she had multiple meetings with City staff, conversations, and also meetings; also, Deputy Vice Mayor Jarjura she had a meeting on an unrelated topic but this came up with the Historic Preservation Society with Mr. Ellingsworth, Mr. Cook, and a number of other members that were present. Mayor Glickstein stated he has received numerous emails which on are all on the City server. Vice Mayor Petrolia stated she too has received numerous emails as well and met with the developer several months ago. Mr. Jacquet stated he has spoken to the developer and his team and spoke with Jim Smith as well. In addition, Mr. Jacquet state he had a meeting in Lake Worth with the developer and there are a number of people there; however, Mr. Jacquet stated the ones he spoke to concerning this project was Mr. Michael and Mr. John Zurdy (Architect for the Project). Mr. Jacquet stated he also had a meeting on an unrelated topic but this came up with the Historic Preservation Society with Mr. Ellingsworth, Mr. Cook, and a number of other members that were present.

Dana Little, Planning and Zoning Director, entered the Planning and Zoning Department project file #2014-165 into the record.

Mr. Little stated this is privately initiated and it is to amend the LDR to include six lots in the OSSHAD (Old School Square Historic Arts District) into the Central Business District Overlay. The properties are located at 36, 48, 104 and 122 S.E. 1<sup>st</sup> Avenue and 14 and 18 S.E. 1<sup>st</sup> Street. For clarification, Mr. Little stated there is the Old School Square Historic District (OSSHAD) which is the *district boundaries* and then the Old School Square Historic Arts District (OSSHAD) is the *zoning* district. He stated the Old School Square Historic District runs from Lake Ida Road to the north to S.E. 2<sup>nd</sup> Street and from west 1<sup>st</sup> over to east 1<sup>st</sup> Avenue and it goes out to bid-block to the east of that. Mr. Little stated the district was first identified and laid out in 1988 and at the time there were three zoning districts within the historic boundaries; 1991 the zoning map was changed to create the OSSHAD and at that time the original CBD Overlay properties were created; in 2000, the CBD Overlay was expanded by Ordinance No. 47-99 for the primary purpose of constructing the Block 69 parking garage (a/k/a Federspiel Garage); in 2005 it was modified again (an additional 34.75 feet in Block 75 to accommodate the Pineapple Grove limited mixed use project. Mr. Little briefly reviewed the general location of the property and stated there are a total of six (6) parcels five (5) structures four (4) of them contributing; the total parcel area is 1.29 acres for the six (6) parcels. Mr. Little stated there are two errors in the staff report; one is the map that identifies contributing structures there was an omission of the small contributing structure on the corner lot and the applicant pointed out a mathematical error that there is 1.29 acres and that if this was approved as the CBD Overlay the net result would be potentially 38 dwelling units and not the 56 that was calculated in the staff report.

Mr. Little stated on February 13, 2014, the consensus of the CRA was to oppose the amendment; on February 15, 2014, the Planning and Zoning Board motion to approve the amendment failed on a 3 to 2 vote; however, it failed on a 3 to 2 vote; on February 19, 2014 the Historic Preservation Board voted 4 to 1 in support of the LDR amendment in opposition of staff's recommendation; and, the CRA reconsidered the item and voted 3 to 2 in support of the amendment because the applicant did not have the chance to speak at the previous meeting; on June 17, 2014, the City Commission voted 3 to 2 in support of the amendment. Mr. Little stated if the ordinance is approved future building modifications, renovations, new construction, demolitions and relocations within the CBD Overlay will still be heard by the Historic Preservation Board. Mr. Little stated in the event if this is adopted and the Historic Preservation Board does not approve a request within the CBD Overlay, appeals would be heard by the City Commission as with some waiver requests. Staff encourages development south of Atlantic Avenue; however, staff's concern is over scale, massing of amendment, and what would be allowed in taking what is left south of the district further from where it stands today. Staff recommends denial of the privately initiated amendment to the LDRs Section 4.4.24 allowing for the permitting uses of CBD in the CBD Overlay.

**Steve Michael, 310 S.E. 1<sup>st</sup> Street, Delray Beach, FL 33483, Developer,** read a brief statement into the record.

**John Zurdy, Architect for the project,** gave a brief PowerPoint presentation and explained the project.

Mayor Glickstein stated if anyone from the public would like to speak in favor or in opposition of Ordinance No. 09-14, to step forward at this time.

**Virginia Snyder, 200 South Swinton Avenue, Delray Beach, FL 33444,** briefly spoke about Delray's history.

**Carolyn Patton, 1020 Tamarind Road, Delray Beach, FL 33483 (President of the Marina Historic District Property Owners' Association),** strongly opposes the proposed project for the Overlay District and expressed concern over the precedent this would set. She briefly commented about properties owned and developed by Mr. Thomas Worrell and reviewed the incentives that the City currently has in place one which is in process. Ms. Patton displayed photos of hotels and entered handouts into the record.

**Lars Heldre, 111 S.E. 1<sup>st</sup> Avenue #200, Delray Beach, FL 33444 (lives in a townhouse in The Mark downtown and owns 15 condos there), real estate broker,** stated since May 2012 no other company had sold more condos in downtown Delray than his company Superior Florida Reality. Mr. Heldre stated he supports historic buildings; however, he suggested that something be put in on S.E. 1<sup>st</sup> Avenue to make the area more esthetically pleasing.

**Gail-Lee McDermott, 721 S.E. 3<sup>rd</sup> Avenue, Delray Beach, FL 33483 (Osceola Park)**, stated she attended the first meeting regarding this issue and agreed with every word that everyone said on this issue from the public to the City Commission. Ms. Gail-Lee McDermott stated she has no knowledge if HPB, the Delray Beach Historical Society, or the City through Code Enforcement made any effort to confront the property owners who allow buildings to become derelict and members of those historic organizations do not frequent that area. She urged everyone to allow a potential project to bring this area to what it can be with empathy, sensitivity to historic preservation, and the CBD.

**Lauren Keller**, read a letter into the record from Diane Allerdycce (resident at 506 S.E. 3<sup>rd</sup> Avenue, Delray Beach, FL 33483) who urged the Commission to vote in favor of the LDR text amendment because she strongly supports the development plans of Hudson Holdings.

**Linda Oxford, 148 Coconut Road, Delray Beach, FL 33444**, stated she is not anti-development and agrees that this property has fallen into disrepair but she feels it is due to the developer's onus over the years not maintaining the property. She stated it is the City's responsibility to see that all properties are maintained. However, Ms. Oxford stated this area needs development but not a hotel of that height and that it should be built to the current regulations.

**Ann Margo Cannon, 2015 Ingraham Avenue, Apt. #6, Delray Beach, FL 33483 (Founding member of Preservation Generation, Board of Governors of the Historical Society of Palm Beach County, member of the Delray Beach Historical Society and advisor to the Delray Beach Preservation Trust)**, displayed photographs regarding preservation in progress specifically about battling blight in Delray Beach's historic districts.

**Arti Whiteman, 5091 Washington Road, Delray Beach, FL 33484**, strongly suggested that the Commission consider delaying the vote for the next ninety (90) days so everyone can collaborate and speak with the developer and make some changes to this project.

**Judy Craig, 306 N.E. 8<sup>th</sup> Avenue, Delray Beach, FL 33483**, stated she would like to see something done in this area. Ms. Craig urged the Commission to protect the other historic districts and feels it is not acceptable to allow this house to just sit for so many years.

**Charlene Farrington Jones, 314 N.W. 2<sup>nd</sup> Avenue, Delray Beach, FL (Director of the Spady Cultural Heritage Museum)**, read a brief statement into the record. Ms. Jones urged the Commission to protect the five (5) historic districts and urged the Commission to *not* support the proposed project.

**Kim Goodyear, Venetian Drive, Delray Beach, FL 33483 (resident and President of Worrell Properties)**, stated they have tried to bring a sustainable business into this area and invested millions to accomplish this without any return. Ms. Goodyear expressed her disappointment that City efforts and investments have been made in the north end of OSSHAD and not the south end. She commented about an attempted break in with a new tenant and feels whatever the City has been doing over the past 15 years is not working for the south side.

**Kevin Warner, 248 Venetian Drive, Delray Beach, FL 33483**, Mr. Warner made reference to the 2010/2025 offered by the City Commission and its executive team and stated there were six (6) Vision 2025 guiding principles identified and quoted Principle "D" into the record. In addition, Mr. Warner read into the record Goals for 2015 (Goal #4 and Objective). In addition, Mr. Warner stated a year ago the Visions 2020 report came out and one of the four (4) answers was citywide neighborhood improvement. Mr. Warner stated he strongly supports and feels that this area needs something besides vacant buildings.

**Bob Ganger, 1443 North Ocean Boulevard, Gulf Stream, FL 33483 (Vice Mayor of Gulf Stream)**, briefly spoke about the proposed about this item and stated he concurs with a previous speaker to table this item for 90 days and understand how this developer is going to revitalize the district and then make the decision as to whether the Overlay is a critical factor in making it happen.

**Nancy Stewart, Executive Director at Delray Beach Arts, Inc., 227 South Swinton Avenue, Delray Beach, FL 33444**, stated when she purchased her home 17 years ago she was hoping it would not take very long to be like the north side of Atlantic Avenue. Ms. Stewart stated she recently found needles in her yard and strongly supports something being done on the south side of Atlantic Avenue.

**Sarah Martin, lives in downtown Lake Worth in a house built in 1924 and also grew up in a home that was over 100 years old**, stated she has an appreciation of historic value and has worked with the Delray Beach CRA, the City of Delray Beach and the Delray Beach Chamber of Commerce to promote Delray Beach as a tourism destination and produced all the City's large scale events. Ms. Martin stated she fully supports this project because it has been done very responsibly and the developer has worked with many organizations taking a lot of feedback. In addition, Ms. Martin stated the developer is also being responsible when it comes to what can be preserved at this point.

**Eileen Burns, resident of Boynton Beach, FL**, stated she works in Delray and spends a lot of her time in Delray. Ms. Burns briefly spoke about a situation where she was walking along S.E. 1<sup>st</sup> Street during the day and was confronted by a group of men and she quickly changed directions to Atlantic Avenue where she walked the rest of the corridor. Ms. Burns stated safety in this area is a huge concern and expressed concern about what could be happening at night in those buildings.

She stated the City needs to do something for the families and children who live in this area to help prevent people who are hanging out in those buildings (i.e. drug addicts) that should not be there. Ms. Burns stated Hudson Holdings is handling things responsibly and she supports giving someone a chance to redevelop this area.

**Garrick Edwards, 1201 North Swinton Avenue, Delray Beach, FL 33444 (One of the Partners and Developers of the Swinton Social across from the Sundry House),** stated one of the things that attracted him to this area was the sense of community and because people are passionate about their area and the preservation of history. Mr. Edwards stated he met with Steve Michael with Hudson Holdings and although they have no connection their passion for developing the area is the same. Mr. Edwards stated preserving the history and integrity of Delray Beach is key and both groups understand this.

**Tyler Sheer, 44 East Atlantic Avenue, Delray Beach, FL 33444, stated he runs a small shop on the corner of S.E. 1<sup>st</sup> Avenue and Atlantic Avenue,** and fully supports the project. He stated this project is a great idea and a great way to bring people into the area.

**Alicia Burncran, representing Beth Eddy, Aerospace Marketing Group, 123 South Swinton Avenue, Delray Beach, FL 33444,** expressed concern over how uncomfortable and unsafe it is working in the area where this business is located. She stated her employer purchased this property thinking it was going to go up in value; they would like to see the area become more commercialized and the half-way houses gone. In her opinion, Ms. Burncran stated she feels the half-way houses should not be in close proximity of downtown where individuals from these houses can walk and get a drink and asked how this is improving sober lifestyle. Ms. Burncran stated she no longer walks two blocks from her office to Atlantic Avenue and always has a male colleague escort her. She stated yesterday she opened the front door to go home at the close of business day and immediately there are men walking by hollering inappropriate comments.

**Chuck Ridley, 210 N.W. 2<sup>nd</sup> Avenue, Delray Beach, FL 33444,** gave a few brief comments about preserving history and growth. Mr. Ridley stated there are many working class families who need to see Delray grow and see jobs come here. He commented about the leadership and stated the City needs to be more forward.

**Dorcus Lucien, 229 S.E. 2<sup>nd</sup> Avenue, Delray Beach, FL 33444 (has worked in the community for the past 24 years),** supports the project because it will create new jobs in the community and she urged the City Commission to approve this project.

**Albert Jerome, 229 S.E. 2<sup>nd</sup> Avenue, Delray Beach, FL 33444 (owns a grocery store at this location)**, stated the area south of Atlantic Avenue is dead and supports this project because he believes it will create new jobs for people in the community. He distributed a flyer to the City Commission inviting them to attend an event in the Haitian community.

**Joann Peart, 107 N.W. 9<sup>th</sup> Street, Delray Beach, FL 33444 (Delray Beach Preservation Trust)**, read a brief statement into the record. She urged the City Commission to keep Delray charming, keep the visitors coming, and keep historic preservation as the guiding principal of city planning.

**Claudia Willis, 160 Marine Way, Delray Beach, FL 33483**, stated the applicant keep showing Swinton Social as blight and the owner of the project tonight as stating that they are fully permitted and going forward but she feels this is a misconception. In her opinion, Ms. Willis stated this is not about zoning, but it is about one owner not taking care of his property and urged the City Commission to enforce the laws to save the historic districts.

**Elizabeth Akus, lives on Atlantic Avenue, Delray Beach, FL, speaking on behalf of the historic homes on South Swinton Avenue and S.E. 1<sup>st</sup> Street in the OSSHAD**, stated she understands that this area has become an eyesore but these homes were once owned by families and well maintained. However, she stated these homes were purchased by developer Tom Worrell in late 1997/early 1998 and his promises of restoring these homes and making them into small businesses never materialized and have been neglected for over 16 years and is in a state of disrepair. She urged the City Commission to take a stand preserve these historical homes and the history of Delray Beach.

**Alexander "Sandy" Simon, 220 MacFarlane Drive, Delray Beach, FL 33483 (stated he was born on S.E. 1<sup>st</sup> Avenue)**, briefly spoke about property in Georgia he developed (urban and residential development) and spoke about when he lived in Savannah, Georgia when developers came into town where 150 year old homes with Savannah brick being torn down to make way for an I-Hop and 7-Eleven. Mr. Simon stated the Historical Society stopped it because at the time they did not allow any buildings over the height of the City Hall and 2,700 homes were restored. Mr. Simon urged the City Commission to do something with this area, but not necessarily CBD. Furthermore, Mr. Simon stated Delray Beach has been unique since it was first settled and supports street trees, parks, shops, homes and ownership. He does not support tearing down or moving the Cathcart House because what makes it historical is where it is.

**Jim Knight, 10 S.E. 1<sup>st</sup> Avenue, 2<sup>nd</sup> Floor, Delray Beach, FL 33444 (The Knight Group)**, distributed handouts and stated he has canvassed the area. He stated history can be presented to all the new people coming here so they can see what has happened in the past.

Mr. Knight stated it is important that this area get cleaned up because hotels create a lot of jobs and encouraged the City Commission to move this project forward tonight.

**Angie Kenyon, 333-337 South Swinton Avenue, Delray Beach, FL 33444,** stated she is in the midst of developing two single family homes modern two-stories one of which she will be living in and expressed concern over her safety as a single female. Ms. Kenyon supports developing this project because she stated it will help to create jobs, cleaning up the area, creating additional Police in the area, more lighting, more activity and a cleaner nicer neighborhood.

**Gayle Clark, 823 N.E. 1<sup>st</sup> Court, Delray Beach, FL 33483,** stated if the City Commission passes the Overlay District tonight there will be nothing left of the historic district.

**Juliette Young, born and raised in Delray Beach,** stated she is a Palm Beach County approved School Board vendor and has brought her students to Delray for local events and parades and when they reach Swinton Avenue the parents take the children from her. She has seen many changes over the years and is familiar with what has worked and what has not worked. Ms. Young stated the areas west of Swinton Avenue south of Atlantic Avenue need the work of Hudson holdings to help vitalize the area so that the area can be something everyone is proud of. Ms. Young urged the City Commission that when making decisions to keep the future of the City and children in mind.

There being no one else from the public who wished to give testimony on this Ordinance No. 09-14, the public comment was closed.

Mr. Little had no cross-examination.

The applicant had no cross-examination.

Mr. Little had no rebuttal.

**Mr. Wes Blackman, Historic Preservation Planner, (distributed his credentials at the last meeting),** read a brief statement into the record and stated the subject property is 1.29 acres; the OSSHAD has 64 acres (2% of the total or .73% of the total historic district acreage in Delray Beach. Mr. Blackman stated there was an announcement through social media that said the project was proposing 56 units per acre but that was based on an incorrect staff report. He stated the correct number is around 38/36 units per acre.

Vice Mayor Petrolia stated when the Federspiel Garage was annexed had language within its text amendment that stated it was a non-precedent setting. Mr. Little stated the language of it not setting a precedent was from the minutes of the Planning and Zoning Board meeting at the time. Mr. Little stated that language is not in the text amendment that is in the code nor is it in the ordinance.



He stated that is based upon testimony that was given during the Planning and Zoning Board meeting at that time for the garage.

Deputy Vice Mayor Jarjura asked for clarification about this item. Mr. Little stated this item is an amendment to the LDRs that would take the six (6) parcels in question and include them in the list of parcels already listed in the LDRs of as part of the OSSHAD CBD Overlay. Brief discussion between Deputy Vice Mayor Jarjura and Mr. Little continued. Deputy Vice Mayor Jarjura asked what the process would be if the applicant seeks to relocate and restore these four (4) contributing structures post this text amendment tonight what is the process he would have to go through. In response, Mr. Little stated they would need to go to the Historic Preservation Board (HPB) and get approval and if they did not get approval from HPB they could then appeal to the City Commission. Deputy Vice Mayor Jarjura and Mr. Little reviewed the guidelines for demolition of a historic property. For the record, Deputy Vice Mayor Jarjura asked Mr. Michael why he is seeking this text amendment. Mr. Michael stated he is seeking the text amendment is for a use as a hotel and it is not an available use under OSSHAD. Deputy Vice Mayor Jarjura asked Mr. Michael to advise what his plans are for the four (4) contributing structures. Mr. Michael stated they would try to save those houses and relocate them and they do not have a relocation plan yet; however, they spoke to some organizations about donating the home to an organization or to move it within the proposed site plan. Mr. Michael clarified that he is not the owner who let this fall into disrepair for the past 15-16 years and he is willing to reduce it from six (6) parcels to four (4) parcels cutting off the two southernmost parcels.

Mr. Jacquet inquired about the 3.5 contributing structures and stated it is either preserve or develop. Mr. Michael stated his intent is to restore those structures and relocate them within the site plan or find a suitable location within the neighborhood to donate it to a useful organization.

Deputy Vice Mayor Jarjura confirmed with Mr. Little that any plan would have to go before the Historic Preservation Board (HPB) for their approval.

Mayor Glickstein asked the applicant what he feels would *not* make it intact. Mr. Blackman stated his conclusion for it being an intact historic district and national register eligible would be the high percentage of contributing properties which are 119-139 total structures within the district. Mayor Glickstein asked what happens when this number is reduced. In his opinion, Mr. Blackman stated it dilutes the quality of the district by 3.5 structures and it is a de minimis decrease.

Brief discussion between Mayor Glickstein and Mr. Little followed regarding the city having some precedent in relocating structures and the precedent of the Overlay zoning. Mr. Little stated the decision to allow these parcels to go under the rules of the CBD Overlay is not tied to any greater concept or plan and the degree of protection and certainty that whatever will come will be as consistent as the current regulations allow. Mr. Little stated if given the option of moving a historic resource or demolishing it, he stated you would want to move it and restore it preferably within the district.

He stated with this amendment there is no guarantee that those homes will be saved. Mr. Little stated the message to carry forward is that if the amendment is approved, that there is a strong position from the City Commission that the expectation in the future as it goes forward to the HPB for approvals or site plan review is that every effort is made to preserve the structures and preserve the character of the district.

Mayor Glickstein asked if a boutique hotel Residence Inn can be constructed under the existing zoning. Mr. Little stated it is allowed as a conditional use up to that density; the number of leasable or rentable rooms per acre.

For clarification, Deputy Vice Mayor Jarjura stated the Residence Inn is allowed as a conditional use. Mr. Little stated this would be allowed as a conditional use in the OSSHAD and it would have to go before the Planning and Zoning Board and the City Commission for approval to get the Residence Inn.

Brief discussion between Mayor Glickstein and Mr. Little followed.

John Zurdy stated the size of the hotel needs to have 80 units plus for it to be self-sustaining in that regard on its own and to create an entity that will actual sustain itself.

Mr. Frankel stated there has been some reference to some social media posts and stated he was very disappointed by some of the remarks which he finds very offensive made to Commissioner Jacquet and Deputy Vice Mayor Jarjura. Mr. Frankel supports improvements being done to this area.

Deputy Vice Mayor Jarjura stated she was apprehensive about speaking with the developer because of some of the allegations that were raised in the emails. For the record, Deputy Vice Mayor Jarjura stated she never received any campaign contribution from this developer or his representatives and noted she met with the developer when she was on the Planning and Zoning Board. She stated the minutes from the February 24, 2014 are not available but the audio is available and explained she denied the application not because she did not support it but that she did not have enough information and found it startling why the Historic Preservation Board would approve this 4 to 1. In addition, Deputy Vice Mayor Jarjura asked the developer's attorney on three separate occasions to meet with the Historic Preservation Trust who felt they did not have enough information and there was a lot of mis-information out there. Deputy Vice Mayor stated she asked the developer's attorney to table this and defer it and he chose to push the vote. Therefore, Deputy Vice Mayor Jarjura stated because she did not have enough information she denied it not because she did not believe in the merits of this project.

Vice Mayor Petrolia read a brief statement into the record and stated this decision should be based on the sound principles and the interest of a city looking forward and determining whether or not the City's past is important enough to protect for the future.

Vice Mayor Petrolia stated overwhelmingly the citizens seem to be in support of preserving the historic district over the current plan redevelopment. She stated this is not an anti-development issue; it is a pro-preservation, work within the laws on the books support and respects our city movement. Vice Mayor Petrolia stated this city does not support it, the people overwhelmingly do not support this, the Planning and Zoning Board did not support this, and the CRA did not support it but then in an unprecedented decision allowed for a revote to overturn their original decision. Vice Mayor Petrolia stated she does not support it and urged the rest of the Commission to consider everything that has been presented to them and not support this text amendment because she feels it will forever change and alter the Old School Square Historic Arts District.

Mr. Jacquet stated he supported this on first reading and he supports it as well this evening. He commented about "cyber bullies" who voice their opinions online but they do not always have the facts. Mr. Jacquet stated he is very concerned about this and he no longer reads anything that they write. He stated they are talking about a little over 1.25% with respect to contributing structures in the city. Mr. Jacquet stated he think that if the structures can be preserved they should be. Mr. Jacquet stated it *allows* for certain development and commented when he walks or rides his bike in that neighborhood, talks to residents in that neighborhood and sees where that neighborhood could be and where it is now he feels something needs to be done to energize the area. He stated the Commission is not proving a project but they are approving a text amendment to allow certain development.

Mayor Glickstein echoed comments expressed by Deputy Vice Mayor Jarjura with regard to social media and found the comments to be outrageous. Mayor Glickstein stated he does not support the Overlay to CBD and concurred with Commissioner Jacquet that the Commission is being asked to approve what would be the highest intensity allowed in the city with no assurance of anything. He stated there is no geographical or physical uniqueness to this location that would distinguish it from any other and feels it would set a dangerous precedent for the other historic districts. Mayor Glickstein stated this is self-imposed blight and the blight throughout the city is a confluence of many factors, but it is *not* the zoning ordinance; it is neglect, financial resources and disregard for the laws and responsibilities. Mayor Glickstein suggested that if the rest of the Commission is not going to support him on denying this that they support an SAD (Special Activities District) which would require the developer to come back before this Commission with his plan. Mayor Glickstein stated that way there is certainty because the Commission would see the precise development plan which would include possible preservation of these historic structures or if they are relocated where they are being relocated to. Mayor Glickstein stated there is certainty as to what they are doing instead of just talk. Mayor Glickstein urged the Commission to deny the CBD Overlay and support an SAD (Special Activities District) with attached conditions to this development.

Brief discussion followed between Mr. Little and the City Commission.

Mr. Jacquet moved to adopt Ordinance No. 09-14 with the amendment to remove the two (2) proposed properties south of the east/west alley in Block 70 on Second Reading/Second Public Hearing, seconded Mr. Frankel. Upon roll call the Commission voted as follows: Mr. Frankel – Yes; Deputy Vice Mayor Jarjura – Yes; Mayor Glickstein – No; Vice Mayor Petrolia – No; Mr. Jacquet – Yes. Said motion passed with a 3 to 2 vote, Mayor Glickstein and Vice Mayor Petrolia dissenting.

**10.D. THIS ITEM HAS BEEN POSTPONED FOR FURTHER RESEARCH.**

At this point, Mayor Glickstein asked if the Downtown Development Authority was notified about this item.

**10.E. RESOLUTION NO. 31-14: QUIT CLAIM DEED WITH THE COMMUNITY REDEVELOPMENT AGENCY (CRA):** Consider approval of Resolution No. 31-14; authorizing a Quit Claim Deed between the City and the Community Redevelopment Agency (CRA) for two small parcels of land located at the existing sidewalk on S.E. 4<sup>th</sup> Avenue adjacent to the old library site and the expanded alley and parking area on the north side of the old library site, in order for them to be properly dedicated as public right-of-way.

The caption of Resolution No. 31-14 is as follows:

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AUTHORIZING THE CITY TO TRANSFER TO THE COMMUNITY REDEVELOPMENT AGENCY (CRA) CERTAIN REAL PROPERTY IN PALM BEACH COUNTY, FLORIDA, AS DESCRIBED HEREIN, HEREBY INCORPORATING THE CONTRACTS STATING THE TERMS BETWEEN THE CITY OF DELRAY BEACH AND THE COMMUNITY REDEVELOPMENT AGENCY DATED FEBRUARY 14, 2008 AND MARCH 8, 2013.

(The official copy of Resolution No. 31-14 is on file in the City Clerk's office.)

The City Attorney read the caption of the resolution. A public hearing was held having been legally advertised in compliance with the laws of the State of Florida and the Charter of the City of Delray Beach, Florida.

At this point, Mayor Glickstein commented about an email and stated the Downtown Development Authority (DDA) indicated that they were not notified about this item.

Jeff Costello, Assistant Director of the CRA, stated this is a corrective action and is not a land use action that the DDA or any other advisory board but is a conveyance of property from the City of Delray Beach to the CRA. Mr. Costello stated the corrective goes back to 2004 when initially there was land exchange between the City and the CRA with the old library site and the CRA acquired the property on West Atlantic Avenue to rebuild the library; however, this small piece of land was not included. Mr. Costello stated the library was transferred in 2004 and in 2008 the public parking lot and the Chamber of Commerce building was conveyed to the CRA. He made reference to the survey and stated the north five (5) feet of those parking spaces are *not* on CRA property; the majority of those spaces are on CRA property (8 parking spaces). He referred to the survey and stated the yellow highlighted area that would be dedicated as part of the replat for the development and the blue area would be incorporated into the project site. According to the site plan, Mr. Costello stated the north five (5) feet of that blue area is a paver brick sidewalk and the balance will contain a building at this point. He stated they are currently going through the conditional use and site plan process and according to the discussion the developer will be making revisions to those plans.

Mayor Glickstein stated the suggestion in the email he received was that this action was going to be eliminating public parking. Mr. Costello stated the Tri-Party Agreement (2004) was the understanding that the public parking would be incorporated into the redevelopment of the old library site, public parking lot and the Chamber of Commerce site. Mr. Costello stated in 2013 the CRA did a new Tri-Party Agreement was enter into with the City and it was agreed that the RFP would include a provision that fifty (50) public parking spaces would be provided within the development or within 300 feet of the new development. He stated the developer that was selected was fifty (50) parking spaces within the garage.

Mayor Glickstein declared the public hearing open.

**Hannah George Connell, Abilena Properties, Inc., 1 S.E. 4<sup>th</sup> Avenue, Delray Beach, FL 33444 (tenants are Kilwin's Huber's, Green Owl, Second Time Around, the Cupcake Shop, George's Shoe Repair, etc.),** stated these are thriving businesses and they have worked hard to keep those businesses there despite ten (10) years of a vacant library and a recession. Ms. Connell stated these businesses represent a big part of what people like in Delray Beach and feels those eight (8) parking spaces are vital of those businesses. She stated it is those quick convenient off-street parking spaces that allow people to get in and out quickly that need to do quick business downtown. Ms. Connell urged the CRA leave these eight (8) parking spaces and not give them away.

There being no one else who wished to address the Commission regarding the Quit Claim Deed between the City and the CRA, the public hearing was closed.

Mayor Glickstein asked if this property provided notice with respect to the RFP. In response, Mr. Costello stated the RFP's do not require public notice; however, the CRA posted the RFP on Facebook and other websites.

Mr. Costello stated this Commission Chambers was full when this item came before the CRA Board, business owners, within the downtown area as well as community members throughout Delray Beach. Mr. Costello stated he met with Dr. George, Mr. Falcon (Owner the property where Big Al's is located) and the property manager for the property owned by Batmasian with regard to the relocation of the dumpsters. The CRA will provide the enclosures and the necessary improvements to the property. Mr. Costello stated whatever improvements are necessary to the property the CRA will accommodate the enclosures.

Vice Mayor Petrolia stated if the Commission chooses not to do this then they are only talking about a half of the parking space between what is and what is not going to be annexed. Mr. Costello stated there was a land exchange where the CRA acquired property and contributed to the redevelopment of the library financially which was part of the agreement between the City and the CRA.

Mayor Glickstein stated the northern boundary of the RFP is the southern boundary of the blue line. Mr. Costello stated it was an issue that this portion was all dedicated right-of-way; however, the City retained ownership and the City does not dedicated right-of-way even though it is utilized for public right-of-way.

Deputy Vice Mayor Jarjura expressed concern over this item and stated it was her understanding that this was a scrivener's error.

Janice Rustin, Acting City Attorney, stated as explained by Mr. Costello the CRA assumed that all of this had been dedicated as right-of-way but when the survey and title work was completed it was discovered that it not been dedicated. Ms. Rustin stated rather than the City dedicating it by deed to the public, the best way is to do that by the plat. Therefore, the City gave the small "L" shape strip back to the CRA so they could dedicate it as part of their plat; when they dedicated part of it was found that the blue strip was not going back to the public it was originally intended part of the original Purchase and Sale Agreement and the yellow portion is still intended to be public right-of-way but they want this on the plat as opposed to be deed.

Mr. Frankel moved to approve Resolution No. 31-14, seconded by Mr. Jacquet. Upon roll call the Commission voted as follows: Deputy Vice Mayor Jarjura – Yes; Mayor Glickstein – Yes; Vice Mayor Petrolia – Yes; Mr. Jacquet – Yes; Mr. Frankel – Yes. Said motion passed with a 5 to 0 vote.

Deputy Vice Mayor Jarjura moved to continue the meeting past 11:00 p.m., seconded by Vice Mayor Petrolia. Upon roll call the Commission voted as follows: Mayor Glickstein – Yes; Vice Mayor Petrolia – Yes; Mr. Jacquet – No; Mr. Frankel – No; Deputy Vice Mayor Jarjura – Yes. Said motion passed with a 3 to 2 vote, Mr. Jacquet and Mr. Frankel dissenting.

At this point, Mr. Jacquet left the dais at 11:00 p.m. and returned at 11:10 p.m.

**10.F. AMENDMENT TO THE DEVELOPMENT AGREEMENT AND PURCHASE AND SALE AGREEMENT/CANNERY ROW, LLC:** Consider approval of an Amendment to the Development Agreement and Purchase and Sale Agreement with Cannery Row, LLC., which provides that instead of the City having the option to purchase a shell of a building on Lot 12 of the Cannery Row Plat for \$530,000.00, the developer will give the City the property labeled Proposed Tract "O" on the plat for park purposes.

Mayor Glickstein declared a conflict of interest and recused himself and passed the gavel to Vice Mayor Petrolia.

Janice Rustin, Acting City Attorney, stated on October 3, 2006 the City Commission approved Ordinance No. 47-06, which provided that the developer of the Cannery Row Project would have the option not to provide the requisite commercial uses fronting on the west side of N.E. 2<sup>nd</sup> Avenue between N.E. 3<sup>rd</sup> Street and N.E. 4<sup>th</sup> Street so long as the developer entered into a developer's agreement acceptable to the City. The Developer's Agreement dated May 8, 2007 provided that the City would waive the required impact fee set forth in LDR Section 5.3.2(c) (park and recreational facility impact fee) for all of the units of the project in exchange for the receipt by the City of the dedicated land. The impact fees under Section 5.3.2(c) would total approximately \$41,500.00. The Developer's Agreement further provided that the developer would convey the unit (which is the only shell of the structure, containing approximately 3,000 square feet) to be constructed on Lot 12 to the City for the price set forth in the Purchase and Sale Agreement. Ms. Rustin stated under the Purchase and Sale Agreement date July 31, 2007, the developer would convey the unit to the City for the actual costs incurred by the developer, that cost would not exceed \$530,000.00. The Purchase and Sale Agreement also provided that the conveyance was scheduled to take place after the City issued a Certificate of Occupancy for the unit. In accordance with the purchase and sale agreement the City would become a member of the Homeowners' Association and would be responsible for all HOA fees except for fees relating to certain common area facilities that would not be used by the City. Pursuant to the proposed Amendment to the Development Agreement and Purchase and Sale Agreement, the developer has agreed to provide the property to the City known as Tract "O" on the Plat without any structure on it to be used as a public park for ten dollars (\$10.00). In addition, the developer has agreed to install irrigation, landscaping, and paver bricks on the property with the Homeowner's Association to provide for all maintenance of the property, except that the City shall be responsible for all future utility costs.

**John Metzger, 505 South Flagler Drive, West Palm Beach, FL 33405, McDonald Hopkins Law Firm representing the developer Cannery Row,** stated they have an existing development agreement and the developer is ready to build the building and it is time for the City to make a decision of which of its options it wants to choose. The option are as follows: (1) have the developer build a community center for cost up to a total cost of \$530,000.00 (2) the City buy Lot 12 only as a public park with \$200,000.00 in its existing configuration and (3) the City can waive the option and terminate it in which event the developer can build a residential townhome on Lot 12

instead. Mr. Metzger stated they are offering a fourth alternative: (4) replat Lot 12 to the configuration attached which would be a pocket park which would mirror the pocket park that exists on the northeast corner of the site and the developer would sell the reconfigured Tract "O" to the City for \$10.00. This will save the City \$200,000.00; the developer would still landscape the park similar to Tract "O" and the developer would have the homeowners' association maintain the park at its expense. The City's only expense would be to provide the utilities, water and electric.

Deputy Vice Mayor Jarjura asked if the park is going to be on the southeast corner. Mr. Metzger stated on the plat Lot 12 is where the Deputy Vice Mayor Jarjura inquired about the park and whether there is going to be green space.

**Gary Eliopoulos, Architect with GE Architecture, Inc., 205 George Bush Boulevard, Delray Beach, FL 33444**, stated it will be open space and it is possible the developer will work with Pineapple Grove not only for a pocket park but also the northeast portion of the site is being used for artwork and sculptures on display. Deputy Vice Mayor Jarjura confirmed with Mr. Eliopoulos that the developer is going to be paying for all the maintenance costs of the park.

Vice Mayor Petrolia declared the public hearing open.

**Steve Blum, 115 Venetian Drive #C, Delray Beach, FL 33843 (Antilles Homeowners' Association)**, expressed concern that the open space for Cannery Row that will be made into a park and will be utilized by only the residents who live there. Mr. Blum asked if he will be able to park his car there and walk around the park.

**Alice Finst, 707 Place Tavant, Delray Beach, FL 33445**, stated several months ago there was discussion about entry features that was supposed to go on one of these corners. Ms. Finst stated she went to the Property Appraiser's website trying to figure out where this broken down building (mentioned in the Agenda backup) is and urged the Commission to defer it until there is something to look at.

There being no one else from the public who wished to address the Commission regarding the Amendment to the Development Agreement and Purchase and Sale Agreement/Cannery Row, LLC, the public hearing was closed.

Mr. Frankel commented that in the memorandum the City Attorney's office recommends "City Commission Discretion" and asked for an explanation. Mr. Frankel inquired about the DSMG (Development Service Management Group). The Interim City Manager stated DSMG is a group made up of upper department managers that look at certain requests that are made for people "No Stop Signs". The Interim City Manager stated he has been attending the DSMG meetings in order to help him better and quicker understand the city as a whole. Furthermore, the Interim City Manager stated the discussions that go on are factual, to the point and helpful in providing a clear direction on issues of that nature. The Interim City Manager stated he cannot comment on this particular item because it is not one that came up when he was at the meeting.



Mr. Warner stated the City is avoiding making a multi-hundred thousand dollar payment associated with an agreement that was made in 2007 that no longer makes sense either for the city or the developer. Mr. Warner stated the alternative that is available now is to take a park (have written development with the developer who also represents the homeowners association and that the homeowners' association will maintain the park in all respects with the exception of the utilities. Mr. Warner stated there are two (2) utilities; one in the irrigation system which will be built by the developer and the second potential for utility is electricity although to his knowledge there are no plans to put more electricity in the park. He stated he does not know what the tax consequences are if there are any and the Parks and Recreation Director is also looking forward to having this park.

The Interim City Manager stated there are three (3) options: (1) that the City buy the lot, (2) have them build on the lot up to \$530,000.00 (3) turn the property back over to the project owners. He stated there is now a fourth alternative that instead of having to pay the City \$200,000.00 or \$500,000.00 for a bid the developer will give it to the City for \$10.00 and put brick pavers and landscape it. The Interim City Manager stated the park is still available to the general public as a pocket park.

Deputy Vice Mayor Jarjura stated either the City spends \$530,000.00 to build another building or the City spends \$10.00 and gets a dedicated public park that the City owns and someone else maintains.

Mr. Frankel stated he cannot support this tonight; however, if the Commission votes to table for information as to why the recommendation is "City Commission discretion" he can support in the future.

Mr. Jacquet expressed concern over the City Attorney's office recommendation of "City Commission discretion." Mr. Jacquet suggested that to table this item to get the response from staff.

Vice Mayor Petrolia stated she concurs with comments expressed by Deputy Vice Mayor Jarjura and right now the City is looking at either having a pocket park or having nothing or the City gets a pocket park for \$10.00.

Janice Rustin, Acting City Attorney, stated the only unique issue about this that she heard from Ms. Pyburn is it was the Mayor's item and perhaps is the reason she put the recommendation as "City Commission discretion."

Mr. Jacquet moved to table Item 10.F., seconded by Mr. Frankel. Upon roll call the Commission voted as follows: Vice Mayor Petrolia – Yes; Mr. Jacquet – Yes; Mr. Frankel – Yes; Deputy Vice Mayor Jarjura – Yes. Said motion passed with a 4 to 0 vote.

Mr. Jacquet moved to approve to move **Item 9.E., Settlement Offer by Louie Chapman, Jr. to be heard before Item 9.B.B. and 9.C.C.**, seconded by Vice Mayor Petrolia. Upon roll call the Commission voted as follows: Mr. Jacquet – Yes; Mr. Frankel – Yes; Deputy Vice Mayor Jarjura – Yes; Mayor Glickstein – Yes; Vice Mayor Petrolia – Yes. Said motion passed with a 5 to 0 vote.

At this point, the Commission moved to **Item 9.E., Settlement Offer by Louie Chapman, Jr.**

**9.E. SETTLEMENT OFFER BY LOUIE CHAPMAN, JR.:** Consider approval of a proposed settlement offer by Mr. Louie Chapman, Jr., to settle his employment claims.

Janice Rustin, Acting City Attorney, stated this is a settlement offer by Mr. Louie Chapman, Jr. to settle his employment claims against the City of Delray Beach. Ms. Rustin stated Mr. Chapman has proffered for his resignation to be effective July 15, 2014 and has agreed to release the City from any federal, state, and municipal claims against him in exchange of payment by the City in equivalent of twenty (20) weeks' salary (\$61,544.00) as well as \$5,538.96 as payment for nine (9) accrued vacation days as well as \$3,680.00 of reimbursed contributions made to Mr. Chapman to the City's General Employees' Pension Fund. She stated both parties will execute a mutual release of liability agreement containing non-disparagement clauses. Furthermore, Ms. Rustin stated the City Commission must agree that no Commissioner individually or collectively will instigate any federal, state, or local agencies to conduct any investigation into Mr. Chapman's conduct or performance while City Manager going forward from the effective date of the Release. Also, the City Commission must agree to terminate Mr. Chapman's suspension and substitute a written letter of reprimand in his personnel file.

For the record, Mr. Jacquet stated he has never communicated with Mr. Chapman nor has he communicated with his attorney or anyone; however, Mr. Jacquet stated he had been in constant communication with Ms. Pyburn, former Acting City Attorney and she relayed all the comments he had. Mr. Jacquet stated there is a solution on the table and asked the Commission to support this request because he feels this is moving forward.

Vice Mayor Petrolia read a brief statement into the record regarding Mr. Chapman's proposed settlement offer. Vice Mayor Petrolia stated she supports an internal audit for the City going forward because this will ensure the new City Manager Mr. Stewart or any successor to not inherit any issues from the past. Vice Mayor Petrolia stated she would like a good bill of health from an outside agency so that everyone can feel confident of City operations. Vice Mayor Petrolia stated she does not support the settlement offer by Mr. Chapman.

Deputy Vice Mayor Jarjura stated from a personal perspective she concurs with comments expressed by Vice Mayor Petrolia it offends her that the City Commission is being extorted to settle with someone when there is clear and convincing evidence for a just cause termination.

Deputy Vice Mayor stated while she does not believe Mr. Chapman has any grounds to fight this she feels he will fight this and the City will have to expend attorney's fees in defending it. From a business perspective, Deputy Vice Mayor Jarjura stated she is struggling with whether to cut her losses now, let the City move on and heal, and move forward with filling a City Manager position. Deputy Vice Mayor Jarjura stated she does not feel we have a right to say that they will not work with collectively or instigate any investigations because if the Commission is required by law and something is brought to their attention she feels the Commission has a fiduciary duty as an attorney and as a public official. Deputy Vice Mayor Jarjura requested that language be added "that unless required by law in good faith efforts." With respect to the disparagement clauses, Deputy Vice Mayor Jarjura stated she does not want to put the City in a position where they risk and wants the Commission to realize how tight that requirement is for the City Commission. Deputy Vice Mayor Jarjura stated she does not agree to *revoke* his suspension; however, she agrees to the *termination* of Mr. Chapman's suspension and a letter of written reprimand be placed in his personnel file citing to the Inspector General's report.

Mr. Frankel gave a few brief comments about the initial hiring of Mr. Chapman and stated he had many concerns when that process occurred. Mr. Frankel stated he believes Mr. Chapman has some grounds for litigation but does not know if he will take that route or not. Mr. Frankel stated he feels it is time that the City moves forward with this.

Mayor Glickstein stated he did a lot in his view to privately and publicly support somebody that did not have a lot of support coming in and endorsed and promoted him without knowing the first thing about him but he felt in this role required. Mayor Glickstein commented about the breach of trust that he experienced and the payout. Mayor Glickstein stated the City has done a huge amount of work in replacing department heads that left for various reasons and feels the City has never been in a better position in terms of the credentials and the experience we have. He stated what is missing now is a person that can inspire leadership and inspire people to value public service in a way that they may have not done before. Mayor Glickstein stated it is in the best interest of the city to get past this and move forward with a national search with a true executive placement firm to find the best possible City Manager. Mayor Glickstein stated regarding the suspension he would not agree to anything that would not attach the IG's report attached. Mayor Glickstein stated while he does not have a problem with agreeing not initiating anything, he feels the Commission can agree to not cooperating with any ongoing investigation now or in the future.

Janice Rustin, Acting City Attorney, briefly highlighted the proposed settlement language and that the City would revoke Mr. Chapman's suspension and substitute it with reprimand and this has been changed to "the City will *terminate* his suspension" rather than revoke it.

Ms. Rustin stated two (2) Commissioners would like to have the IG report attached to the written reprimand; however, Mr. Chapman's attorney is not agreeing to that and he has drafted a written reprimand and has referred to the OIG report by number but is opposed to attaching it to the written reprimand. With regard to Deputy Vice Mayor Jarjura's comments regarding the language to act in good faith and the specific provision is that "the employee agrees not to instigate any investigations and that language has been changed to "the employee agrees to act in good faith not to instigate any investigations unless required by law." Ms. Rustin stated language has also been added that "Mr. Chapman will not accrue any benefits while on his severance package." Ms. Rustin stated Deputy Vice Mayor Jarjura wanted to make this agreement voidable if Mr. Chapman was charged with a crime that occurred during the course and scope of his employment. Ms. Rustin stated the language would have to read "the agreement would be voided if Mr. Chapman was convicted of a crime within the 20 weeks."

After brief discussion, it was the consensus of the Commission that the OIG report be given a number rather than attaching it to a written reprimand and if Mr. Chapman is convicted of a crime that occurred during the course and scope of his employment the contract becomes null and void. Ms. Rustin stated it is subject to the final provision by Deputy Vice Mayor Jarjura that if Mr. Chapman does not agree to it to that term.

Mayor Glickstein stated he does not want to incentivize further delay on this and asked the Acting City Attorney to present the counter-offer and if it is denied then the City would pay Mr. Chapman the equivalent of eighteen (18) weeks' salary *not* twenty (20).

Ms. Rustin stated staff will get item on the July 15, 2014 City Commission Agenda.

Prior to the vote, Ms. Rustin stated if Mr. Chapman agrees to the counteroffer it would have to come back before the City Commission for the final approval.

Mr. Frankel moved to approve Deputy Vice Mayor Jarjura's suggestion to extend the counteroffer for Mr. Chapman's review and if that counteroffer is denied then the City would pay Mr. Chapman the equivalent of eighteen (18) weeks' salary, seconded by Mr. Jacquet. Upon roll call the Commission voted as follows: Mr. Frankel – Yes; Deputy Vice Mayor Jarjura – Yes; Mayor Glickstein – Yes; Vice Mayor Petrolia – No; Mr. Jacquet – Yes. Said motion passed with a 4 to 1 vote, Vice Mayor Petrolia dissenting.

At this point, the time being 11:55 p.m., the Commission moved to **Item 9.C.C.**

**9.C.C. AMENDMENT NO. 2 TO THE AGREEMENT FOR PROFESSIONAL LOBBYING SERVICES/BECKER & POLIAKOFF:** Approve Amendment No. 2 to the Agreement for Federal Professional Lobbying Services with Becker & Poliakoff to renew the term of the contract for one (1) year. This renewal is in compliance with Code of Ordinances, Chapter 36, Section 36.07(A)(3), "Renewals". Funding is available from 001-1111-511-34.90 (General Fund: Operating Expenses-Miscellaneous/Other Contractual Services).

Janice Rustin, Acting City Attorney, stated this is Amendment No. 2 to the agreement between the City of Delray Beach and Becker & Poliakoff for Federal professional lobbying services scheduled to start on July 17, 2014. Ms. Rustin stated this amendment renews the contract for one (1) year and the contract allows up to three (3) renewals for one (1) year pursuant to the City's purchasing order on renewals and it has to be ratified by the City Commission. She stated Mr. Poliakoff provided a report earlier today as requested by Deputy Vice Mayor Jarjura.

Vice Mayor Petrolia stated she felt it important for the Commission to discuss this if they are moving forward and she did not have the opportunity that everyone else did.

Neil Schiller, Federal Lobbyist, stated they met with members of Congress, Congresswoman Frankel, Representative Deutch, and Representative Murphy, a team of three (3) lobbyists in Washington, D.C. that along with Terrill Pyburn have become experts in this field, and have met with Mayor Glickstein multiple times with members of Congress. Mr. Schiller stated they are trying to get a Task Force to Delray Beach where they bring Mayors from all the affected cities and representatives from Department of Justice and HUD so they can almost have a Sober Home Summit. Mr. Schiller stated they are trying to bring more awareness to the issue and seek some administrative changes or tweaks to the Fair Housing Law that will allow the City to start regulating sober homes.

Brief discussion between Vice Mayor Petrolia and Mr. Schiller continued.

With regard to Vice Mayor Petrolia's comment that this is the second time Mr. Schiller is before the Commission, Mayor Glickstein clarified that this is the *first* time that he is here. Mayor Glickstein stated he has been very impressed with the work ethic and follow-up by which Mr. Schiller, his partners, and D.C. have communicated with him and Ms. Pyburn.

Prior to the vote, Mr. Jacquet echoed comments of Mayor Glickstein and thanked Mr. Schiller for his presence in the city and applauds him for all the work he is doing. Mr. Jacquet stated he has had the privilege of working around a number of lobbyists in Tallahassee, here, and in Washington, D.C., and he understands the process.

Deputy Vice Mayor Jarjura stated she never would expect something of this magnitude to be accomplished in one legislative session. She stated her issue was from a process standpoint that she did not know why she was approving an extension without getting any backup as to the performance on the contract that she was extending. Deputy Vice Mayor Jarjura stated it was more of staff issue rather than a performance issue.

Mr. Frankel moved to approve **Item 9.C.C. (formerly Item 8.E.)**, seconded by Vice Mayor Petrolia. Upon roll call the Commission voted as follows: Deputy Vice Mayor Jarjura – Yes; Mayor Glickstein – Yes; Vice Mayor Petrolia – Yes; Mr. Jacquet – Yes; Mr. Frankel – Yes. Said motion passed with a 5 to 0 vote.

Vice Mayor Petrolia moved to continue the meeting past 12 o'clock midnight, seconded by Deputy Vice Mayor Jarjura. Upon roll call the Commission voted as follows: Mayor Glickstein – Yes; Vice Mayor Petrolia – Yes; Mr. Jacquet – No; Mr. Frankel – No; Deputy Vice Mayor Jarjura – Yes. Said motion passed with a 3 to 2 vote, Commissioner Jacquet and Commissioner Frankel dissenting.

At this point, the time being 12:03 p.m., Commissioner Jacquet left the meeting.

**9.B.B. AMENDMENT NO. 1 TO THE AGREEMENT FOR STATE PROFESSIONAL LOBBYING SERVICES/BALLARD PARTNERS:** Approve Amendment No. 1 to the Agreement for State Professional Lobbying Services with Ballard Partners to renew the term of the contract for one (1) year. This renewal is in compliance with Code of Ordinances, Chapter 36, Section 36.07(A)(3), "Renewals".

Janice Rustin, Acting City Attorney, stated this item is Amendment No. 1 to the agreement for State professional lobbying services with Ballard Partners. Ms. Rustin stated Mr. Joe McCann has been a very strong leader on this and has communicative with the City Attorney's office and Ms. Pyburn. Ms. Rustin provided the City Manager and the Commission with a report that arrived today at 5:45 p.m. Ms. Rustin stated Mr. McCann is requesting to renew his agreement for one (1) and the contract provides for three (3) one-year renewals.

Mayor Glickstein stated Mr. McCann has been accessible and communicative with him.

Deputy Vice Mayor Jarjura stated she feels the Commission should have received this information much sooner.

Mr. Frankel moved to approve **Item 9.B.B. (formerly Item 8.D.)**, seconded by Vice Mayor Petrolia. Upon roll call the Commission voted as follows: Vice Mayor Petrolia – Yes; Mr. Frankel – Yes; Deputy Vice Mayor Jarjura – Yes; Mayor Glickstein – Yes. Said motion passed with a 4 to 0 vote.

**9.A. WAIVER REQUEST/701 NORTH OCEAN BOULEVARD:** Consider approval of a waiver request to Land Development Regulations (LDR) Section 4.6.5 (C), "Height Restrictions", to allow the increased wall height from 6' to 7' in the required front yard setback areas for a single family residence located at 701 North Ocean Boulevard. (*Quasi-Judicial Hearing*)

Mayor Glickstein 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 for consideration to a waiver to LDR Section 4.6.5(C) to allow the increase of a height of a wall from six (6) feet to seven (7) feet and the property is located at 701 North Ocean Boulevard. The house was purchased in 2011 by the current owner who is now renovating the structure. Mrs. Butler stated along the north portion of the property is an existing pedestrian access easement to the beach. The applicant wishes to construct an eight (8) wall for safety and privacy. Mrs. Butler stated staff recommends approval of the waiver to LDR Section 4.6.5(C) to allow the increase wall height from six (6) to seven (7) feet in the required front yard setback areas for a single family residence located at 701 North Ocean Boulevard.

**Gary Eliopoulos, 205 George Bush Boulevard, Delray Beach, FL 33444 (GE Architecture, Inc.),** supports staff's recommendation.

Mayor Glickstein clarified that this is a seven (7) foot wall on the north and the front.

Vice Mayor Petrolia asked why they are doing the seven (7) foot wall on the front. Mr. Eliopoulos stated the owner purchased the property with this access easement but never realized that there would be transient housing on the Oceanside so her concern was the house for sale that has access could become something else and therefore she is requesting extra privacy. Vice Mayor Petrolia expressed concern over this setting a precedent.

Brief discussion between Mr. Eliopoulos and the Vice Mayor Petrolia followed.

Mayor Glickstein stated if anyone from the public would like to speak in favor or in opposition of this item, to come forward at this time. There being no one from the public who wished to address the Commission regarding the waiver, the public comment was closed.

There was no cross-examination or rebuttal.

Mr. Frankel moved to adopt the Board Order approving the waiver request, seconded by Vice Mayor Petrolia. Upon roll call the Commission voted as follows: Mr. Frankel – Yes; Deputy Vice Mayor Jarjura – Yes; Mayor Glickstein – Yes; Vice Mayor Petrolia – Yes. Said motion passed with a 4 to 0 vote.

**9.B. AMENDMENT NO. 2 TO THE WORKFORCE HOUSING COVENANT/CITY OF DELRAY BEACH AND SP5 WOOD MIDTOWN DELRAY, LLC.:** Consider Amendment No. 2 to the Workforce Housing Covenant, as proposed between the City of Delray Beach and SP5 Wood Midtown Delray, LLC.

Lula Butler, Director of Community Improvement, stated the developer (Midtown) has requested the proposed language be added to the Workforce Housing agreement between the City of Delray Beach and Midtown dated June 14, 2012 and Amendment No. 1 dated April 10, 2014, "Notwithstanding anything to the contrary contained herein, the rents that may be charged by Developer need not be less than those rents calculated in accordance with the terms hereof based on the rental rates described in Section 1.11 and Section 2.3.1 that existed in June 2012 or, if greater than those in existence in June 2012, those with respect to any year subsequent to 2012. The intent is to recognize and provide a rent floor (a rent floor having been recognized and provided by the Internal Revenue Code and the Housing Economic Recovery Act). The rent limit and household income in 2012 shall initially serve as the floor. Developer never need use rent limits or household incomes that are lower than the greater of that used in 2012 or in any year subsequent to 2012." Staff recommends denial of this request because they believe that the Adjusted Median Income (AMI) is the industry standard for continued affordability of housing units offered to low-moderate income households.

Mayor Glickstein strongly encouraged staff to remain with the standardized practice that the City has.

Vice Mayor Petrolia stated she agrees with comments expressed by Mayor Glickstein.

Deputy Vice Mayor Jarjura stated she agrees with comments expressed by Mayor Glickstein.

Vice Mayor Petrolia moved to approve staff's recommendation to *deny* Amendment No. 2 to the Workforce Housing Covenant as proposed between the City of Delray Beach and SP5 Wood Midtown Delray, LLC, seconded by Deputy Vice Mayor Jarjura. Upon roll call the Commission voted as follows: Deputy Vice Mayor Jarjura – Yes; Mayor Glickstein – Yes; Vice Mayor Petrolia – Yes; Mr. Frankel – Yes. Said motion to approve staff's recommendation to *DENY* passed with a 4 to 0 vote.

**9.C. AMENDMENT NO. 3 TO THE WORKFORCE HOUSING COVENANT/CITY OF DELRAY BEACH AND ALTA CONGRESS, OWNER LLC.:** Consider Amendment No. 3 to the Workforce Housing Covenant, as proposed between the City of Delray Beach and Alta Congress, Owner LLC.



Vice Mayor Petrolia moved to approve staff's recommendation to *deny* Amendment No. 3 to the Workforce Housing Covenant as proposed between the City of Delray Beach and Alta Congress, Owner LLC, seconded by Deputy Vice Mayor Jarjura. Upon roll call the Commission voted as follows: Mayor Glickstein – Yes; Vice Mayor Petrolia – Yes; Mr. Frankel – Yes; Deputy Vice Mayor Jarjura – Yes. Said motion to approve staff's recommendation to **DENY** passed with a 4 to 0 vote.

**9.D. DISCUSSION OF PROPOSED TRAFFIC PATTERN MODIFICATION/ SOFA BUILDING #1/ SOFA BUILDING #2:** Provide direction regarding proposed traffic pattern modification for SOFA Building #1 and SOFA Building #2.

Victor Majtenyi, Deputy Director of Public Utilities, stated this item is the traffic modification for the construction of SOFA #1 and SOFA #2 which will become a road closure on S.E. 3<sup>rd</sup> Avenue on the east side of the tracks and on the west side is a partial block closure. Therefore, Mr. Majtenyi stated these need to come before the City Commission because these are road closures.

**Annmarie Mia Lonergan, Kaufman Lynn Construction, Project Manager for these two sites,** gave a brief overview of the project and stated the two structures are located on S.E. 3<sup>rd</sup> Avenue, Bldg. #1 and S.E. 2<sup>nd</sup> Avenue is Bldg. #2. Ms. Lonergan stated they plan on building these two structures concurrently; however, Bldg. #1 has three existing structures on it that have to be demolished first. She stated their goal and what they have achieved through their sites utilization study and the different cranes that they are going to use to construct this 4-story apartment complex, is to leave the continuous sidewalks on S.E. 2<sup>nd</sup> Street, S.E. 3<sup>rd</sup> Avenue and S.E. 1<sup>st</sup> Street with the ADA and crosswalks open (these will not be impacted). Ms. Lonergan stated they will provide a perimeter fence with two gates along the S.E. 3<sup>rd</sup> Avenue area and they will direct their trade contractors, vendors, and suppliers to come from the south up Federal Highway to S.E. 2<sup>nd</sup> Street; they will head west and go onto the site. She stated after the first lift they have to bring a crane on site because they have to construct this building from the east to the west and then from the south to the north. At this point, Ms. Lonergan stated there will be more construction workers coming on site and they will be directed to park only on the street provided access parking lot; they do not anticipate any nighttime operations. Ms. Lonergan stated they are requesting the City's assistance in obtaining an MOT for six (6) months to close down S.E. 3<sup>rd</sup> Avenue (sidewalks will remain open) and this way they can bring out their crane and redirect the traffic for the site down S.E. 3<sup>rd</sup> Avenue but shut it down to vehicular traffic northbound and southbound lanes then the crane is brought out and will continue construction of the building, they bring all their lifts on site, then demobilize the crane and the fence is brought back and reopen S.E. 3<sup>rd</sup> Avenue. She stated while Bldg. #1 is being constructed and completed Bldg. #2 is just west of Bldg. #1 and is an even tighter site and she requested an MOT for Bldg. #2 for twelve (12) months. In addition, Ms. Lonergan stated they would like to close down the back alleyway and the *front* of this site.

She noted that there is a sidewalk but it stops halfway through and there is a driveway to the north and no sidewalk to the south at all so pedestrians would have to walk around the block if they are in a wheelchair. Ms. Lonergan stated the trucks with supplies will be directed to come from the south and *not* along the Atlantic Avenue corridor (come up to the west, deliver to the back alleyway, come back around head back down S.E.. 2<sup>nd</sup> Street, and then head south again). Ms. Lonergan reiterated that they do not anticipate any nighttime operations; however, if they do they would notify everyone in a timely manner. She stated once this is completed they will finish out the interior, hardscape, sidewalk, parallel parking and street, is anticipated to be completed at the time of the CO (Certificate of Occupancy).

Mayor Glickstein inquired as to whether or not there has been any dialog with staff and developers in terms of their timing because he feels there could potentially be a situation where the entire area south of Atlantic Avenue could be shut down. Mayor Glickstein stated these projects have been approved for several months and he appreciates the thoroughness in this report and with respect to this request he believes this is the only way and safe way to do this; however, he suggested that staff be proactive immediately because you could potentially be shutting down quite a bit of that area with the size of these projects.

Mr. Frankel moved to approve the proposed traffic pattern modification for SOFA Building #1 and SOFA Building #2, seconded by Vice Mayor Petrolia. Upon roll call the Commission voted as follows: Vice Mayor Petrolia – Yes; Mr. Frankel – Yes; Deputy Vice Mayor Jarjura – Yes; Mayor Glickstein – Yes. Said motion passed with a 4 to 0 vote.

**9.F. APPOINTMENT OF AN ACTING CITY ATTORNEY:** Appoint an Acting City Attorney upon the resignation of Ms. Terrill Pyburn.

Mr. Frankel moved to appoint Janice Rustin, Acting City Attorney, seconded by Deputy Vice Mayor Jarjura. Upon roll call the Commission voted as follows: Mr. Frankel – Yes; Deputy Vice Mayor Jarjura – Yes; Mayor Glickstein – Yes; Vice Mayor Petrolia – Yes. Said motion passed with a 4 to 0 vote.

**9.G. NOMINATION FOR APPOINTMENT TO THE HISTORIC PRESERVATION BOARD:** Nominate one (1) regular member for appointment to the Historic Preservation Board to serve an unexpired term ending August 31, 2015. Based on the rotation system, the nomination for appointment will be made by Mayor Glickstein (Seat #5).

Mayor Glickstein moved to nominate Andrea Sherman to the Historic Preservation Board as a regular member to serve an unexpired term ending August 31, 2015, seconded by Vice Mayor Petrolia. Upon roll call the Commission voted as follows: Deputy Vice Mayor Jarjura – Yes; Mayor Glickstein – Yes; Vice Mayor Petrolia – Yes; Mr. Frankel – Yes. Said motion passed with a 4 to 0 vote.

**9.H. NOMINATION FOR APPOINTMENT TO THE DOWNTOWN DEVELOPMENT AUTHORITY (DDA):** Nominate one (1) regular member for appointment to the Downtown Development Authority (DDA) to serve a three (3) year term ending July 1, 2017. Based on the rotation system, the nomination for appointment will be made by Mayor Glickstein (Seat #5).

Mayor Glickstein moved to nominate Albert Richwagen (incumbent) to the Downtown Development Authority (DDA) to serve a three (3) year term ending July 1, 2017, seconded by Mr. Frankel. Upon roll call the Commission voted as follows: Mayor Glickstein – Yes; Vice Mayor Petrolia – Yes; Mr. Frankel – Yes; Deputy Vice Mayor Jarjura – Yes. Said motion passed with a 4 to 0 vote.

**9.I. NOMINATIONS FOR APPOINTMENT TO THE CIVIL SERVICE BOARD:** Nominate two (2) regular members and one (1) alternate member for appointment to the Civil Service Board to serve two (2) year terms ending July 1, 2016. Based on the rotation system, the nominations for appointment will be made by Commissioner Petrolia (Seat #1), Commissioner Jacquet (Seat #2) and Commissioner Frankel (Seat #3).

Vice Mayor Petrolia stated she would like to defer her appointment to the next regular meeting of July 15, 2014.

Due to his absence, Commissioner Jacquet's appointment has been deferred to the next regular meeting of July 15, 2014.

Mr. Frankel moved to nominate Carol Clark (incumbent) to the Civil Service Board as a regular member to serve a two (2) year term ending July 1, 2016, seconded by Vice Mayor Petrolia. Upon roll call the Commission voted as follows: Vice Mayor Petrolia – Yes; Mr. Frankel – Yes; Deputy Vice Mayor Jarjura – Yes; Mayor Glickstein – Yes. Said motion passed with a 4 to 0 vote.

**9.J. NOMINATIONS FOR APPOINTMENT TO THE PUBLIC ART ADVISORY BOARD:** Nominate three (3) regular members to serve two (2) year terms ending July 31, 2016 and one (1) regular member to serve an unexpired term ending July 31, 2015 to the Public Art Advisory Board. Based on the rotation system, the nominations for appointment will be made by Mayor Glickstein (Seat #5), Commissioner Petrolia (Seat #1), Commissioner Jacquet (Seat #2) and Commissioner Frankel (Seat #3).

Mayor Glickstein moved to nominate Carolyn Pendelton-Parker (incumbent) to the Public Art Advisory Board (PAAB) as a regular member to serve an expired term ending July 31, 2016, seconded by Mr. Frankel. Upon roll call the Commission voted as follows: Mr. Frankel – Yes; Deputy Vice Mayor Jarjura – Yes; Mayor Glickstein – Yes; Vice Mayor Petrolia – Yes. Said motion passed with a 4 to 0 vote.

Vice Mayor Petrolia moved to nominate Kevin Rouse (incumbent) to the Public Art Advisory Board (PAAB) as a regular member to serve a two (2) year term ending July 31, 2015, seconded by Mr. Frankel. Upon roll call the Commission voted as follows: Deputy Vice Mayor Jarjura – Yes; Mayor Glickstein – Yes; Vice Mayor Petrolia – Yes; Mr. Frankel – Yes. Said motion passed with a 4 to 0 vote.

Due to his absence, Commissioner Jacquet's nomination has been deferred to the next regular meeting of July 15, 2014.

Mr. Frankel moved to nominate Sharon Koskoff (incumbent) to the Public Art Advisory Board (PAAB) as a regular member to serve a two (2) year term ending July 31, 2015, seconded by Vice Mayor Petrolia – Yes. Upon roll call the Commission voted as follows: Mayor Glickstein – Yes; Vice Mayor Petrolia – Yes; Mr. Frankel – Yes; Deputy Vice Mayor Jarjura – Yes. Said motion passed with a 4 to 0 vote.

**9.K. NOMINATIONS FOR APPOINTMENT TO THE EDUCATION BOARD:** Nominate two (2) regular members to serve two year terms ending July 31, 2016 and one (1) regular member to serve an unexpired term ending July 31, 2016 to the Education Board. Based on the rotation system, the nominations for appointment will be made by Commissioner Petrolia (Seat #1), Commissioner Jacquet (Seat #2) and Commissioner Frankel (Seat #3).

Vice Mayor Petrolia moved to nominate Angela Burns (incumbent) to the Education Board as a regular member to serve an unexpired term ending July 31, 2016, seconded by Mr. Frankel. Upon roll call the Commission voted as follows: Vice Mayor Petrolia – Yes; Mr. Frankel – Yes; Deputy Vice Mayor Jarjura – Yes; Mayor Glickstein – Yes. Said motion passed with a 4 to 0 vote.

Mr. Frankel moved to nominate Lisa Paolo to the Education Board as a regular member to serve an unexpired term ending July 31, 2016, seconded by Deputy Vice Mayor Jarjura. Upon roll call the Commission voted as follows: Mr. Frankel – Yes; Deputy Vice Mayor Jarjura – Yes; Mayor Glickstein – Yes; Vice Mayor Petrolia – Yes. Said motion passed with a 4 to 0 vote.

**9.L. NOMINATION FOR APPOINTMENT TO THE DELRAY BEACH HOUSING AUTHORITY:** Nominate three (3) regular members for appointment to the Delray Beach Housing Authority to serve four (4) year terms ending July 1, 2018. Based on the rotation system, the nominations for appointment will be made by Mayor Glickstein (Seat #5), Commissioner Petrolia (Seat #1) and Commissioner Jacquet (Seat #2).

Mayor Glickstein moved to nominate Choli Aronson (incumbent) to the Delray Beach Housing Authority (DBHA) as a regular member to serve a four (4) year term ending July 1, 2018, seconded by Vice Mayor Petrolia. Upon roll call the Commission voted as follows: Deputy Vice Mayor Jarjura – Yes; Mayor Glickstein – Yes; Vice Mayor Petrolia – Yes; Mr. Frankel – Yes. Said motion passed with a 4 to 0 vote.

Vice Mayor Petrolia moved to appoint Marcia Beam (incumbent) to the Delray Beach Housing Authority (DBHA) as a regular member to serve a four (4) year term ending July 1, 2018, seconded by Deputy Vice Mayor Jarjura. Upon roll call the Commission voted as follows: Mayor Glickstein – Yes; Vice Mayor Petrolia – Yes; Mr. Frankel – Yes; Deputy Vice Mayor Jarjura – Yes. Said motion passed with a 4 to 0 vote.

Due to his absence, Commissioner Jacquet's nomination has been deferred to the next regular meeting of July 15, 2014.

**9.M. NOMINATION FOR APPOINTMENT OF A CHAIRPERSON AND VICE CHAIRPERSON TO THE COMMUNITY REDEVELOPMENT AGENCY (CRA) BOARD:** Recommend appointment of a Chairperson and Vice Chairperson to the Community Redevelopment Agency (CRA) Board.

Vice Mayor Petrolia moved to nominate Herman Stevens as Chairperson to the Community Redevelopment Agency (CRA), seconded by Deputy Vice Mayor Jarjura. Upon roll call the Commission voted as follows: Vice Mayor Petrolia – Yes; Mr. Frankel – Yes; Deputy Vice Mayor Jarjura – Yes; Mayor Glickstein – Yes. Said motion passed with a 4 to 0 vote.

Vice Mayor Petrolia moved to nominate Annette Gray as Vice Chairperson to the Community Redevelopment Agency (CRA), seconded by Mr. Frankel. Upon roll call the Commission voted as follows: Mr. Frankel – Yes; Deputy Vice Mayor Jarjura – Yes; Mayor Glickstein – Yes; Vice Mayor Petrolia – Yes. Said motion passed with a 4 to 0 vote.

**11. FIRST READINGS:**

A. None

At this point, the time being 12:33 a.m., the Commission moved to **Item 12, Comments and Inquiries on Non-Agenda Items.**

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

**12.A. City Manager**

Terry Stewart, Interim City Manager, stated he received a telephone call today from the Office of Inspector General (OIG) that they are going to undertake another investigation of the City of Delray Beach's Purchasing policies and procedures.

**12.B.**            **City Attorney**

Janice Rustin, Acting City Attorney, thanked the City Commission for appointing her Acting City Attorney. Ms. Rustin stated she will be out of the office on Thursday, July 3, 2014 and Monday, July 7, 2014 but will be available by email.

**12.C.**            **City Commission**

**12.C.1.**        **Mr. Frankel**

None.

**12.C.3.**        **Deputy Vice Mayor Jarjura**

None.

**12.C.4.**        **Vice Mayor Petrolia**

None.

**12.C.5.**        **Mayor Glickstein**

Mayor Glickstein stated he has asked a few times for status of contract negotiations. He stated he asked the City Manager to get back to the Commission regarding the status of this. Terry Stewart, Interim City Manager, stated it would be helpful to have a SHADE meeting to update the City Commission on this issue. Mayor Glickstein requested that this be included in the weekly report from Human Resources.

Secondly, Mayor Glickstein stated the issue of Veteran's Day he would like this resolved whether it either needs to come back before the Commission or if it is something the Interim City Manager can handle at his level. The Interim City Manager stated if the Commission would like to give employees Veteran's Day off as a paid holiday this has to be bargained and employees have to agree to it. Therefore, the Interim City Manager stated he will make a recommendation to the City Commission.

With regard to the City Manager, Mayor Glickstein stated assuming the City reaches a settlement; he would like to have a consensus of how the Commission is going to move forward. Mayor Glickstein stated he had a discussion with Interim City Attorney Pyburn and requested that the City engage a Professional Executive Search Firm. Mayor Glickstein stated Ms. Pyburn provided him with the name of someone from Tallahassee that specializes in City Manager's and City Attorney's and because this is professional services it does not require an RFQ or an RFP. Mayor Glickstein stated he would like to be prepared when and if that settlement agreement is signed that staff report back to the Commission with recommendations after vetting who is out there. Mayor Glickstein stated the only reason to settle is to close that chapter and move forward with the hiring of a permanent City Manager and he would like to expedite this.

It was the consensus of the City Commission to engage a Professional Executive Search Firm for the hiring of a new City Manager. Deputy Vice Mayor Jarjura stated that some options regarding a head hunter is placed on the July 15, 2014 Agenda. Mr. Frankel suggested that cost also be included.

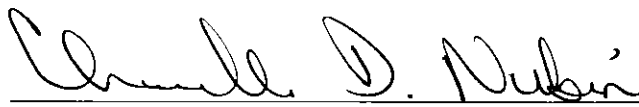
There being no further business, Mayor Glickstein declared the meeting adjourned at 12:42 a.m.

  
\_\_\_\_\_  
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 1, 2014, which Minutes were formally approved and adopted by the City Commission on December 9, 2014.

  
\_\_\_\_\_  
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

**FINAL SUBDIVISION PLAT APPROVAL AND  
WAIVER REQUEST FOR 701 NORTH OCEAN BLVD.**

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

1. The waiver request regarding 701 North Ocean Blvd. has come before the City Commission on July 1, 2014.

2. The Applicant and City staff presented documentary evidence and testimony to the City Commission pertaining to the waiver request and plat approval for 701 North Ocean Blvd. All of the evidence is a part of the record in this case.

I. **Waiver:** 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.

Pursuant to LDR Section 4.6.5(C), "Height Restrictions", Walls, fences, or hedges located in a required front yard or street side yard shall not exceed six feet (6') in wall height. Walls, fences, or hedges located in a required interior side or rear yard shall not exceed eight feet (8') in height.

The subject property is located in the R-1AAA Single Family Zoning District and is situated in the North Beach Overlay District which requires a front yard setback of thirty-five feet (35'). The proposed seven foot (7') fence is generally situated along the west and north property line with additional fencing being proposed south of the driveway area. All the seven foot (7') fencing being proposed is located in the front yard setback where six feet (6') is allowed by code.

**Should the waiver to Section 4.6.5(C) to allow an increased fence height in front yard setback from 6' to 7' be granted?**

Yes ✓

No

3. The City Commission has applied the Comprehensive Plan and LDR requirements in existence at the time the original plat was submitted.

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 which supports the findings set forth in this Order.

5. Based on the entire record before it, the City Commission approves ✓ denies \_\_\_\_\_ the waiver requests and plat approval and hereby adopts this Order this 1<sup>st</sup> day of July, 2014, by a vote of 4 in favor and 0 opposed.

ATTEST:

  
Chevelle Nubin, City Clerk

  
Cary D. Glickstein, Mayor

# **FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS**

LAST NAME—FIRST NAME—MIDDLE NAME Glickstein, Cary D.		NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE Delray Beach City Commission
MAILING ADDRESS 1118 Waterway Lane, Delray Beach, 33483		THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF:
CITY Delray Beach	COUNTY Palm Beach	<input checked="" type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY
DATE ON WHICH VOTE OCCURRED 7/1/2014		NAME OF POLITICAL SUBDIVISION: City of Delray Beach
		MY POSITION IS: <input checked="" type="checkbox"/> ELECTIVE <input type="checkbox"/> APPOINTEE

## **WHO MUST FILE FORM 8B**

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing and filing the form.

## **INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES**

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which would inure to his or her special private gain or loss. Each elected or appointed local officer also **MUST ABSTAIN** from knowingly voting on a measure which would inure to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent, subsidiary, or sibling organization of a principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies (CRAs) under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

\* \* \* \* \*

### **ELECTED OFFICERS:**

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

**PRIOR TO THE VOTE BEING TAKEN** by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

**WITHIN 15 DAYS AFTER THE VOTE OCCURS** by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

\* \* \* \* \*

### **APPOINTED OFFICERS:**

Although you must abstain from voting in the situations described above, you are not prohibited by Section 112.3143 from otherwise participating in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

**IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:**

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on page 2)

### APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

#### IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

### DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Cary D. Glickstein, hereby disclose that on July 1, 20 14 :

(a) A measure came or will come before my agency which (check one or more)

- ☒ inured to my special private gain or loss;
- ☐ inured to the special gain or loss of my business associate, \_\_\_\_\_ ;
- ☐ inured to the special gain or loss of my relative, \_\_\_\_\_ ;
- ☐ inured to the special gain or loss of \_\_\_\_\_, by  
whom I am retained; or
- ☐ inured to the special gain or loss of \_\_\_\_\_, which  
is the parent subsidiary, or sibling organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

Several years ago, my company sold the land that is the subject matter of this agenda item to an unrelated buyer. Neither I nor any officer or director of my company had any prior, continuing or subsequent affiliation with that buyer. With that being said, I am concerned that there may be a perceived conflict of interest and for that reason I must abstain from voting.

If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

7/1/2014

Date Filed

Signature 

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.