

Regular Meeting at 4:00 PM



City of Delray Beach

Draft Meeting Minutes

City Commission

Mayor Shelly Petrolia
Vice Mayor Adam Frankel
Deputy Vice Mayor Juli Casale
Commissioner Ryan Boylston
Commissioner Shirley Ervin Johnson

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Delray Beach City Hall or Watch on YouTube:
Tuesday, August 16, 2022

4:00 PM

https://www.youtube.com/channel/UCc2j0JhnR8Hx0Hj13RhCJag/videos?view=2&live_view=501

1. ROLL CALL

The Regular City Commission Meeting was called to order at 4:05 p.m.

The roll call was taken by Katerri Johnson, City Clerk, and the following were present:

Present: 5 Vice-Mayor Adam Frankel, Deputy Vice Mayor Juli Casale, Mayor Shelly Petrolia, Commissioner Shirley Ervin Johnson, and Commissioner Ryan Boylston

Others present were:

Terrence Moore, City Manager
Lynn Gelin, City Attorney

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. AGENDA APPROVAL

3.A. Additions, Deletions, Substitutions

Commissioner Shirley Ervin Johnson requested 6.C. be pulled for discussion. It became 7.A.A. on the regular agenda.

City Attorney Lynn Gelin requested 6.F. be pulled for discussion. It became 7.B.B. on the regular agenda.

Commissioner Boylston motioned to approve the agenda as amended. Deputy Vice Mayor Casale seconded the motion. The motion was carried by the following vote:

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YES: 5 Mayor Petrolia, Vice Mayor Frankel, Deputy Vice Mayor Casale, Commissioner Boylston, Commissioner Johnson

APPROVED AS AMENDED

4. PRESENTATIONS:

- 4.A. 22-983** **RESOLUTION NO. 118-22:** A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, RECOGNIZING AND COMMENDING JAVARO SIMS, POLICE CHIEF, FOR THIRTY YEARS OF SERVICE TO THE CITY OF DELRAY BEACH.
- Recommendation:** Motion to approve Resolution No.118-22 honoring Police Chief Javaro Sims for 30 years of service.
- Sponsors:** Human Resources Department
- Attachments:** [Agenda Cover Report](#)
[118.22 Resolution Javaro Sims 30 years of service](#)

Mr. Duane D'Andrea, Director Human Resources, described the resolution. Mayor Petrolia read Resolution No. 118-22 into the record. Chief Sims expressed his appreciation and shared thoughts on his tenure. Mr. D'Andrea presented Chief Sims with a plaque and a copy of the resolution.

- 4.B. 22-895** ***PRESENTING PARKS & RECREATION AND PUBLIC WORKS WITH TEAM OF THE MONTH FOR JULY 2022.***
- Recommendation:** Motion to present Parks & Recreation and Public Works with Team of the Month for July 2022.
- Sponsors:** Human Resources Department
- Attachments:** [Agenda Cover Report](#)
[Parks and Recreation and Public Works](#)
[Parks & Recreation and Public Works](#)
[Public Works Team](#)

Ms. Lashay King, Human Resources Generalist, recognized Parks & Recreation as Team of the Month for July 2022. Deputy Vice Mayor Casale explained why she nominated Parks & Recreation. Ms. King presented individual certificates to the team.

Lieutenant Michael Debree recognized Public Works as the second Team of the Month for July 2022. Ms. King presented a plaque and individual certificates to the team.

5. COMMENTS AND INQUIRIES ON AGENDA AND NON-AGENDA ITEMS FROM THE PUBLIC- IMMEDIATELY FOLLOWING PRESENTATIONS:

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

Mr. Moore communicated that the Department of Neighborhood and Community services is working

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with the Office of the City Attorney to develop modified ordinance provisions. He added the Department of Neighborhood and Community Services is also working to include resources for the upcoming fiscal year to secure the services of a vendor who specializes in tracking and reporting vacation rentals.

5.A.1. 22-981 *Follow-Up Clarity and Direction Concerning Summer Camp and After Care Programs at Pompey Park*

Sponsors: City Manager Department

Mr. Prentice Mobley, Recreation Supervisor, provided an update on the Out of School Program and Summer Camp. He summarized the benefits, 2019-2022 program participation, location, program fees, and challenges.

Discussion ensued about program fees, location, and other local children utilizing the facilities.

5.A.2. 22-979 *Completion Of Crest Theater Building Renovation Program*

Sponsors: City Manager Department

Ms. Missie Barletto, Director of Public Works, provided an update on the project. She provided visuals of the current conditions, summarized the progress, and outlined the proposed schedule. Contract negotiations are ongoing with the goal of construction completion in August 2023. She noted unknowns include new permit timeline and lead time for specialty equipment, lights, and other materials.

Mayor Petrolia inquired about a shorter timeline for the project completion.

Further discussion ensued.

Mayor Petrolia spoke on new signage for Old School Square.

5.B. From the Public

Montre Bennett, 323 NW 2nd Avenue, Delray Beach, spoke Old School Square. He also shared additional thoughts on the agenda.

Nancy Channin, 200 NE 2nd Avenue, Delray Beach, spoke about signage at the early voting site.

Rob Long, 2962 Calabria Way, Delray Beach, expressed his appreciation for the opportunity to serve on various Delray Beach boards but shared his concerns on his blocked nomination for the Historic Preservation Board.

Angie Gray, Delray Beach, thanked Mr. Mobley and encouraged the Commission to move forward with utilizing the second building for the Out of School Program.

Laura Simon, Downtown Development Authority, provided updates including announcing the new DDA Executive Committee members and Restaurant Month.

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Mayor Petrolia provided additional comments about the inaccurate statements regarding the City's water.

Seeing no one else present for public comment, Mayor Petrolia closed public comments.

6. CONSENT AGENDA: City Manager Recommends Approval

Vice Mayor Frankel motioned to approve the Consent Agenda as amended. Deputy Vice Mayor Casale seconded the motion. The motion was carried by the following vote:

YES: 5 Mayor Petrolia, Vice Mayor Frankel, Deputy Vice Mayor Casale, Commissioner Boylston, Commissioner Johnson

6.A. 22-1045 CITY COMMISSION MEETING MINUTES

Recommendation: Motion to approve meeting minutes as listed below:

July 12, 2022 Budget Workshop Meeting Minutes
August 9, 2022 Special Meeting - Attorney Client Session Meeting

Minutes

Sponsors: City Clerk Department

Attachments: [Agenda Cover Report](#)

[July 12 2022 Budget Workshop Commission Meeting Minutes - Draft](#)

[August 9, 2022 Special Meeting Attorney Client Session](#)

6.B. 22-1012 APPROVAL OF RESOLUTION NO. 115-22 AUTHORIZING THE CITY OF DELRAY BEACH TO ENTER INTO A CONTRACT AGREEMENT WITH THE STATE OF FLORIDA FOR USE OF THE LEGISLATIVE APPROPRIATION OF \$100,000 TOWARD COSTS FOR THE CATHERINE STRONG IMPROVEMENT PROJECT FOR THE PURCHASE AND INSTALLATION OF A PLAYGROUND PAVILION

Recommendation: Motion to approve Resolution No. 115-22 to enter into a contract agreement with the State of Florida to receive reimbursement funding for a playground pavilion at Catherine Strong Park.

Sponsors: Parks & Recreation Department

Attachments: [Agenda Cover Report](#)

[RES no 115-22 CatherineStrong Park not signed](#)

[Legal Review Catherine Strong Improvement Project](#)

Moved to the Regular Agenda.

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- 6.C. 22-1013** *APPROVAL OF RESOLUTION NO. 116-22 AUTHORIZING THE CITY OF DELRAY BEACH TO ENTER INTO A CONTRACT AGREEMENT WITH THE STATE OF FLORIDA FOR USE OF THE LEGISLATIVE APPROPRIATION OF \$935,000 TOWARD COSTS FOR THE POMPEY PARK IMPROVEMENT PROJECT WHICH INCLUDES MEP ENGINEERING AND PERMITTING, RESURFACING OF THE POOL, IMPROVEMENTS OF THE PARKING LOT, PURCHASE AND INSTALLATION OF COMMERCIAL KITCHEN EQUIPMENT, POOL EQUIPMENT, AND A PAVILION*

Recommendation: Motion to approve Resolution No. 116-22 to enter into a contract agreement with the State of Florida to receive reimbursement funding for Pompey Park improvements which include MEP engineering and permitting, resurfacing of the pool, improvements to the parking lots, purchase and installation of commercial kitchen equipment, pool equipment, and a pavilion.

Sponsors: Parks & Recreation Department

Attachments: [Agenda Cover Report](#)

[Legal Review Pompey Park Legislative Appropriation Res 116-22](#)

[RES no 116-22 Pompey Park](#)

- 6.D. 22-998** *APPROVAL OF ADDENDUM TO PARTICIPATION AGREEMENT WITH BANK OF AMERICA TO ADD ECOMMERCE PAYMENT PLATFORM FOR THE DEVELOPMENT SERVICES DEPARTMENT IN THE AMOUNT OF \$5,600*

Recommendation: Motion to approve Addendum to Participation Agreement with Bank of America to add eCommerce Payment Platform for the Development Services Department in the amount of \$5,600 (\$1,400 per year) and authorize the City Manager to exercise renewal options, in the amounts below, contingent upon appropriation of funds.

Sponsors: IT Department and Purchasing Department

Attachments: [Agenda Cover Report](#)

[Master Contract](#)

[Participation Agreement](#)

[Addendum - Vendor Executed \(Original signature\)](#)

[Addendum - Vendor Executed \(Digital Signature\)](#)

[Legal Review Checklist](#)

- 6.E. 22-948** *APPROVAL OF AMENDMENT NO. 1 AUTHORIZING A PRICE ADJUSTMENT AND APPROVAL OF RENEWAL AND INCREASING THE CONTRACT VALUE WITH DEV-LAND DEMOLITION & SITE, INC.*

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FOR LIME SLUDGE REMOVAL AND DISPOSAL IN THE TOTAL ESTIMATED RENEWAL VALUE OF \$544,200 THROUGH OCTOBER 14, 2024 (\$272,250 PER YEAR).

Recommendation:

Motion to approve Amendment No. 1 to authorize a price adjustment, and approval of renewal and increase the contract value with Dev-Land Demolition & Site, Inc. for Lime Sludge removal and disposal in the total estimated renewal value of \$544,200 (\$272,250 per year) through October 14, 2024.

Sponsors: Utilities Department and Purchasing Department

Attachments: [Agenda Cover Report](#)

[Amd #1. ITB 2019-033 Dev-Land Demoliton Site Inc for Lime Sludge Removal and Disposal vendor executed.pdf](#)
[Legal Review Checklist Dev-land.pdf](#)

Moved to the Regular Agenda.

6.F. 22-1099 *APPROVE THE RESTRICTIVE COVENANT MASTER AGREEMENT BETWEEN THE CITY OF DELRAY BEACH AND PULTE HOME COMPANY, LLC, PURSUANT TO THE REQUIREMENTS UNDER SECTION 4.7 OF THE LAND DEVELOPMENT REGULATIONS*

Recommendation: Motion to Approve the Restrictive Covenant Master Agreement between the City of Delray Beach and Pulte Home Company, LLC, pursuant to the requirements under Section 4.7 of the Land Development Regulations.

Sponsors: City Attorney Department

Attachments: [Agenda Cover Report](#)

[Carver Square City of Delray Beach WFH Covenant 7-22-22 LG rev 7-27-2022 rev 8-1-2022 \(clean\) rev 8-3-2022 lq](#)

6.G. 22-1059 *APPROVAL OF RESOLUTION NO. 131-22 FOR AN AGREEMENT WITH CBRE, INC. FOR TENANT BROKER AND REAL ESTATE CONSULTANCY SERVICES*

Recommendation: Motion to approve Resolution No. 131-22 approving an agreement with CBRE, Inc. For tenant broker and real estate consulting services and authorize the City Manager to approve renewal options, in the amounts below, contingent on appropriations of funds.

Attachments: [Legal Review Checklist](#)

[Resolution No. 131-22](#)

[CBRE response for Delray Beach - Municipal Complex August 2022](#)

[P2022-072 CBRE Consulting Services Agreement lq rev](#)

6.H. PROCLAMATIONS:

6.H.1. 22-987 *120TH ANNIVERSARY OF THE GFWC WOMAN'S CLUB OF DELRAY*

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BEACH

Sponsors: City Manager Department

Attachments: [Delray Woman's Club](#)

6.H.2. 22-1043 OBSERVANCE OF LABOR DAY PROCLAMATION

Recommendation: Motion to observe September 5, 2022 as National Labor Day.

Sponsors: City Clerk Department

Attachments: [National Labor Day](#)

6.I. REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:

6.I.1. 22-1057 REPORT OF APPEALABLE LAND USE ITEMS FROM JULY 07, THROUGH AUGUST 05, 2022.

Recommendation: By motion, receive and file this report.

Sponsors: Development Services Department

Attachments: [Agenda Cover Report](#)

[Appealable Items Map](#)

[Item A: 219 N Swinton Avenue](#)

[Item B: 10 N Ocean Blvd](#)

[Item C: 712 NE 8th Avenue](#)

[Item D: 314 NE 3rd Avenue](#)

[Item E: Parks at Delray](#)

[Item F: Delray Square - Hobby Lobby](#)

6.J. AWARD OF BIDS AND CONTRACTS:

6.J.1. 22-1003 APPROVAL OF RESOLUTION NO. 79-22 TO AWARD AN AGREEMENT WITH HINTERLAND GROUP, INC. FOR SANITARY SEWER REHABILITATION; UTILIZING PALM BEACH COUNTY WATER UTILITY DEPARTMENT (WUD) PROJECT NO. 21-060 IN THE NOT-TO-EXCEED ESTIMATED AMOUNT OF -\$1,140,000 (\$380,000 PER YEAR).

Recommendation: Motion to approve Resolution 79-22 to award an Agreement with

Hinterland Group, Inc., for sanitary sewer rehabilitation, in the estimated amount of \$1,140,000 (approximately \$380,000 per year) through June 6, 2025, utilizing the Palm Beach County WUD Project No. 21-060; and authorize the City Manager to approve renewal options, in the amounts below, contingent upon the appropriation of funds.

Sponsors: Purchasing Department and Utilities Department

Attachments: [Agenda Cover Report](#)

[Legal Review Checklist kwb 7.27.22.pdf](#)

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[Resolution 79-22.pdf](#)

[Hinterland MSA vendor executed.pdf](#)

6.J.2. 22-943

APPROVAL OF RESOLUTION NO. 113-22 TO AWARD AN AGREEMENT WITH TANNER INDUSTRIES, INC. FOR THE PURCHASE AND DELIVERY OF ANHYDROUS AMMONIA UTILIZING MANATEE COUNTY SOLICITATION NO. 22-R078535SB IN THE NOT-TO-EXCEED ESTIMATED AMOUNT OF \$348,000 (APPROXIMATELY \$69,600 PER YEAR).

Recommendation: Motion to Resolution No. 113-22 to award an Agreement with Tanner Industries, Inc. for purchase and delivery of Anhydrous Ammonia utilizing Manatee County Solicitation #22-R078535SB in an amount not to exceed \$348,000 and authorize the City Manager to approval renewal options, in the amounts below, contingent upon the appropriation of funds.

Sponsors: Purchasing Department and Utilities Department

Attachments: [Agenda Cover Report](#)

[Legal Review Checklist MSA with Tanner Industries Inc piggyback](#)
[Manatee County for Anhydrous Ammonia.pdf](#)
[Res 113-22 MSA with Tanner Industries for water and wastewater](#)
[treatment chemicals Manatee County piggyback.pdf](#)
[MSA with Tanner Industries for water and wastewater treatment](#)
[chemicals vendor executed.pdf](#)

6.J.3. 22-1029

APPROVAL OF RESOLUTION NO. 121-22 TO AWARD AN AGREEMENT TO KRONOS INCORPORATED FOR TIME AND ATTENDANCE SOLUTION AND SERVICES; UTILIZING COBB COUNTY BOARD OF COMMISSIONERS, ON BEHALF OF THE U.S. COMMUNITIES GOVERNMENT PURCHASING ALLIANCE SOLICITATION NO. 18-6390 - \$137,798

Recommendation: Motion to approve Resolution No. 121-22 to award an Agreement to Kronos Incorporated for time and attendance solution and services for effective workforce management in the estimated amount of \$137,798 through March 17, 2023, utilizing existing contract prices provided to the

Cobb County Board of Commissioners (Cobb County), on behalf of the U.S. Communities Government Purchasing Alliance, now known as Omnia Partners, pursuant to its Solicitation No. 18-6390 and authorize the City Manager to approve renewal options, in the amounts below, contingent on appropriations of funds.

Sponsors: Purchasing Department and IT Department

Attachments: [Agenda Cover Report](#)

[MSA P2022-070 Agreement -Kronos -US Communities Piggyback](#)
[Cobb County Kronos - executed by the vendor and notarized](#)
[MSA P2022-070 Agreement -Kronos -US Communities Piggyback](#)

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[Cobb County](#)

[MSA P2022-070 Agreement -Kronos -US Communities Piggyback](#)

[Cobb County Ex A](#)

[Res 121-22 - Kronos Incorporated Cobb County Piggyback Management Solutions](#)

[Legal Review Checklist MSA with Kronos - workforce management systems - piggyback Cobb County](#)

7. REGULAR AGENDA:

7.A.A. 22-1013 APPROVAL OF RESOLUTION NO. 116-22 AUTHORIZING THE CITY OF DELRAY BEACH TO ENTER INTO A CONTRACT AGREEMENT WITH THE STATE OF FLORIDA FOR USE OF THE LEGISLATIVE APPROPRIATION OF \$935,000 TOWARD COSTS FOR THE POMPEY PARK IMPROVEMENT PROJECT WHICH INCLUDES MEP ENGINEERING AND PERMITTING, RESURFACING OF THE POOL, IMPROVEMENTS OF THE PARKING LOT, PURCHASE AND INSTALLATION OF COMMERCIAL KITCHEN EQUIPMENT, POOL EQUIPMENT, AND A PAVILION

Recommendation: Motion to approve Resolution No. 116-22 to enter into a contract agreement with the State of Florida to receive reimbursement funding for Pompey Park improvements which include MEP engineering and permitting, resurfacing of the pool, improvements to the parking lots, purchase and installation of commercial kitchen equipment, pool equipment, and a pavilion.

Sponsors: Parks & Recreation Department

Attachments: [Agenda Cover Report](#)

[Legal Review Pompey Park Legislative Appropriation Res 116-22](#)

[RES no 116-22 Pompey Park](#)

Commissioner Johnson inquired how long the funds would be available.

Mr. Samuel Metott, Director of Parks and Recreation, explained the procedure and next steps. The grant funds are available for three years.

Further discussed ensued about funding.

Commissioner Johnson motioned to approve Resolution No. 116 22. Vice Mayor Frankel seconded the motion. The motion was carried by the following vote:

YES: 5 Mayor Petrolia, Vice Mayor Frankel, Deputy Vice Mayor Casale, Commissioner Boylston, Commissioner Johnson

APPROVED

6.F. 22-1099 APPROVE THE RESTRICTIVE COVENANT MASTER AGREEMENT

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BETWEEN THE CITY OF DELRAY BEACH AND PULTE HOME COMPANY, LLC, PURSUANT TO THE REQUIREMENTS UNDER SECTION 4.7 OF THE LAND DEVELOPMENT REGULATIONS

Recommendation: Motion to Approve the Restrictive Covenant Master Agreement between the City of Delray Beach and Pulte Home Company, LLC, pursuant to the requirements under Section 4.7 of the Land Development Regulations.

Sponsors: City Attorney Department

Attachments: [Agenda Cover Report](#)

[Carver Square City of Delray Beach WFH Covenant 7-22-22 LG rev 7-27-2022 rev 8-1-2022 \(clean\) rev 8-3-2022 lq](#)

Ms. Gelin noted she received the signed contract from Pulte, but it included an addition. The Covenant does not go into effect unless the Palm Beach County Covenant expires. She explained the qualifier language added by Pulte.

Commissioner Boylston motioned to approve, as amended. Deputy Vice Mayor Casale seconded the motion. The motion was carried by the following vote:

YES: 5 Mayor Petrolia, Vice Mayor Frankel, Deputy Vice Mayor Casale, Commissioner Boylston, Commissioner Johnson

APPROVED

7.A. 22-1039 *RESOLUTION NO. 127-22: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, APPROVING A WAIVER REQUEST TO SECTION 4.4.13(D)(2)(a), TABLE 4.4.13(C), AND SECTION 4.4.13(E)(2) OF THE LAND DEVELOPMENT REGULATIONS, APPROVING A FRONT SETBACK OF ZERO INCHES TO SEVEN FEET, NINE INCHES AND A STREETSCAPE WIDTH OF 10 FEET FOR THE PROPERTY LOCATED AT 325 EAST ATLANTIC AVENUE, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES (QUASI JUDICIAL).*

Recommendation: Review and consider Resolution No. 127-22.

Sponsors: Development Services Department

Attachments: [Agenda Cover Report](#)

[Res. No. 127-22 325 Shoppes on Atlantic Waivers](#)

[325 Shoppes on Atlantic Ave: SPRAB Staff Report](#)

[325 Shoppes on Atlantic Ave: Waiver Request Letter](#)

[325 Shoppes on Atlantic Ave: Front Rendering](#)

[325 Shoppes on Atlantic Ave: Existing Conditions-Exhibit](#)

[325 Shoppes on Atlantic Ave: Detailed Existing Cond. Exhibit](#)

[325 Shoppes on Atlantic Ave: Proposed Exhibit](#)

[325 Shoppes on Atlantic Ave: Streetscape Sections](#)

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[325 Shoppes on Atlantic Ave: Pre-1974 Photo](#)

[325 Shoppes on Atlantic Ave: DDA Review](#)

[Res. No. 127-22 legal review](#)

Mayor Petrolia read the Quasi-Judicial rules into the record and asked those who wish to give testimony to stand and be sworn in. City Clerk Katerri Johnson swore in all those who wished to give testimony on Item 7A Resolution No. 127-22. Mayor Petrolia asked if there were any Ex-Parte Communications for Resolution No. 127-22 by the City Commission.

The following was disclosed:

Vice Mayor Frankel – spoke with Commissioner Eliopoulos and received an email Caroline Delafield

Deputy Vice Mayor Casale – emails on the City server and spoke to Commissioner Eliopoulos

Commissioner Johnson – emails on the City server

Commissioner Boylston – emails on the City server and spoke with Mr. Cohen

Mayor Petrolia – none

Ms. Anthea Gianniotis, Development Services Director, read File No. 2022-131 into the record.

Mr. Steve Cohen, 1140 Bauhinia Road, Delray Beach provided a historical overview of his projects.

Mr. Gary Eliopoulos, 1045 East Atlantic Avenue, Delray Beach, representing GE Architects, Inc. reviewed the proposed project. He reviewed the elevations, site plan, survey, aerials, and floor plan.

Ms. Gianniotis addressed the requested waivers.

Public Comments:

Laura Simon, Downtown Development Authority, stated the DDA believe it is beneficial and recommended approval.

Nichole Fontaine, 6959 NW 3rd, Boca Raton said she is leasing the property for Mr. Cohen. She shared feedback from potential tenants.

David Emhovich, 1830 Lake Drive, Delray Beach spoke on modernizing Delray Beach and the project enhancing the City. He said Delray Beach is missing good retail.

Mayor Petrolia closed public comments.

Mayor Petrolia asked if there were any cross-examinations or rebuttals.

Ms. Gianniotis said there are two upcoming waivers requesting arcades. She expressed concern about removing arcades and energy calculations.

Mr. Eliopoulos stated that the arcade on this project doesn't work because of the proportions.

Further discussion ensued.

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Commissioner Boylston made a motion to approve Resolution No. 127-22. It was seconded by Commissioner Johnson. The motion carried as follows:

YES: 5 Mayor Petrolia, Vice Mayor Frankel, Deputy Vice Mayor Casale, Commissioner Boylston, Commissioner Johnson

APPROVED

7.B. 22-1005 *APPROVAL OF RESOLUTION NO. 114-22, A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA DECLARING THE COMMISSION'S OFFICIAL INTENT TO SEEK REIMBURSEMENT FOR CERTAIN PAST AND FUTURE CAPITAL EXPENDITURES FOR CAPITAL PROJECTS RELATING TO THE CITY'S COMBINED PUBLIC UTILITY SYSTEM FROM THE PROCEEDS OF ITS NOT TO EXCEED \$150,000,000 WATER AND SEWER REVENUE BONDS ISSUED FROM TIME TO TIME; PROVIDING AN EFFECTIVE DATE AND FOR OTHER PURPOSES.*

Recommendation:

Sponsors: Finance Department

Attachments: [Agenda Cover Report](#)

[WS Reimbursement Resolution - Delray Beach final LG REV](#)

[Simple Legal Review Approval 114-22](#)

Mr. Hugh Dunkley, Finance Director, provided background on Resolution No. 114-22. It is a requirement of the IRS that if expenditures are incurred prior to the issuance of the debt, a formal declaration of intent that the expenditures be reimbursed out of the proceeds of the bonds. He clarified this is only a declaration of intent.

Mayor Petrolia noted additional requirements from EPA. She added that the City is going to be joining a class action lawsuit.

Further discussion ensued about funding and grant opportunities.

Deputy Vice Mayor Casale made a motion to approve Resolution No. 114-22. It was seconded by Vice Mayor Frankel. The motion carried as follows:

YES: 5 Mayor Petrolia, Vice Mayor Frankel, Deputy Vice Mayor Casale, Commissioner Boylston, Commissioner Johnson

APPROVED

8. PUBLIC HEARINGS/SECOND READINGS:

8.A. 22-1007 *ORDINANCE NO. 21-22 AN ORDINANCE OF THE CITY COMMISSION*

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OF THE CITY OF DELRAY BEACH, FLORIDA, REZONING SEVEN PARCELS OF LAND MEASURING APPROXIMATELY 4.3882 ACRES LOCATED ON THE EAST SIDE OF NORTH FEDERAL HIGHWAY, NORTH OF DELMAR WAY AND SOUTH OF GULFSTREAM BOULEVARD, WITH ADDRESSES OF 2419, 2507, 2515, 2519, 2601, 2605, AND 2613 NORTH FEDERAL HIGHWAY, FROM GENERAL COMMERCIAL TO AUTOMOTIVE COMMERCIAL AS MORE PARTICULARLY DESCRIBED HEREIN; AMENDING THE "CITY OF DELRAY BEACH, ZONING MAP, JULY 6, 2021"; PROVIDING A CONFLICTS CLAUSE AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES. (SECOND READING/PUBLIC HEARING)

Recommendation: Review and consider Ordinance No. 21-22, a privately initiated rezoning request from General Commercial (GC) to Automotive Commercial (AC) for seven parcels, totaling +/- 4.3882 acres, located on the east side of North Federal Highway between Delmar Way and Gulfstream Boulevard.

Sponsors: Development Services Department

Attachments: [Agenda Cover Report](#)

[2419-2613 N Federal Hwy - Ord 21-22 leg rev \(WB\)](#)

[2419-2613 N Federal Hwy - PZB Report](#)

[2419-2613 N Federal Hwy - Existing and Proposed Zoning](#)

[2419-2613 N Federal Hwy - Applicant Justification Statement](#)

[2419-2613 N Federal Hwy - Traffic Statement](#)

[2419-2613 N Federal Hwy - Legal Review Form - Ord 21-22](#)

Ms. Gelin read Ordinance No. 21-22 into the record.

Ms. Bonnie Miskel, with Dunay, Miskel, and Backman, located at 14 SE 4th Street, Boca Raton was present on behalf of the applicant. She presented the property overview, future land use designation, existing and proposed zoning, compatibility with the Comprehensive Plan, and rezoning criteria.

Ms. Anthea Gianniotis said the challenge is not the Federal corridor but the transition of abutting neighbors and the impact. She said AC is a preferred zoning implementation of the GC land use so there is no conflict. The Comprehensive Plan contains a policy that outlines no further rezoning of any additional land west of I-95 to AC. She summarized additional local dealerships. Various complaints have included horns beeping in garages, car wash noise, and car alarms. She reviewed LDR Section 3.2.2, Standards for Rezoning. On June 20, 2022, the Planning and Zoning Board voted 6-1 to recommend approval. On July 19, 2022, the City Commission voted 5-0 approval on 1st Reading.

Public Comments:

Mr. Trey Lazaro, Gulf Stream Town Attorney, acknowledged Gulf Stream Mayor and City Manager, both in attendance. He reviewed the four dealerships on Federal Highway that abut residential areas. He argued the strategy location should not be located in the requested area.

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Rob Canfield, 2770 Cardinal Circle, Gulf Stream said the applicant did not seek out the HOA and hampered communications. He reviewed the concerns about the applicant's August 11, 2022 letter including buffering, building height, noise pollution, and trash pickup. He requested a denial of the request.

Ingrid Kennemer, 760 SW 5th Avenue, Delray Beach spoke about both the North and the South Federal Highway Development Plans. She said they have learned the impacts of automotive use against residential.

Sam Pearlman, 800 Tangerine Way, Delray Beach said he is vehemently opposed to the project. He expressed concern about noise and light pollution. He requested a denial or deferral of the request.

Shana Ostrowitz, 800 Tangerine Way, Delray Beach spoke about the negative impact as an abutting neighbor. She expressed concern about noise, light pollution, delivery time, and trash pickup. She stated code enforcement is unable to stop the issues. She requested a denial of the request.

Malcolm Murphy, 815 Tangerine Way, Delray Beach stated he is the Chair of the Gulf Stream ARPB. He stated the project is a large and imposing business and said the noise and light will adversely impact the lives of the single-family homes.

Mayor Petrolia closed public comments.

Commissioner Boylston stated they are proud of car dealerships in Delray Beach. He stated he is not in favor of rezoning unless circumstances change regarding the footprint.

Vice Mayor Frankel asked about the June 20, 2022, Planning and Zoning vote. Staff provided an explanation. Ms. Gelin said the only thing before Commission is a rezoning request. Ms. Alexis Rosenberg, Senior Planner, shared additional comments from the Planning and Zoning meeting. She said the Planning and Zoning Board discussed the impacts of what could be developed under GC uses versus AC uses.

Commissioner Johnson said she is in favor of the applicant.

Mayor Petrolia stated she has similar concerns as Deputy Vice Mayor Casale. She noted they receive complaints from an auto dealership the Commission approved in the past. She stated she will not support it.

Commissioner Boylston made a motion to deny Resolution No. 21-22. It was seconded by Deputy Vice Mayor Casale. The motion carried as follows:

YES: 4 Mayor Petrolia, Vice Mayor Frankel, Deputy Vice Mayor Casale, Commissioner Boylston

NO: 1 Commissioner Johnson dissented

DENIED ON SECOND READING

8.B. 22-926 *ORDINANCE NO. 23-22: AN ORDINANCE OF THE CITY COMMISSION*

Regular Meeting at 4:00 PM

OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CITY OF DELRAY BEACH CODE OF ORDINANCES, BY AMENDING CHAPTER 4, "ZONING REGULATIONS," ARTICLE 4.3, "DISTRICT REGULATIONS, GENERAL PROVISIONS," SECTION 4.3.3, "SPECIAL REQUIREMENTS FOR SPECIFIC USES," RENAMING AND UPDATING SUBSECTION (K), "HOME OCCUPATIONS" AND REPEALING SUBSECTION (KK), "HOME TUTORIAL SERVICES," TO BRING REGULATIONS GOVERNING HOME-BASED BUSINESSES INTO COMPLIANCE WITH CB/HB 403, WHICH AMENDS S. 559.955, F.S. TO LIMIT THE POWER OF MUNICIPAL GOVERNMENTS TO REGULATE SUCH USE; AMENDING ARTICLE 4.4, "BASE ZONING DISTRICT," SECTION 4.4.1, "AGRICULTURE ZONE DISTRICT (A)," SECTION 4.4.2, "RURAL RESIDENTIAL (RR) DISTRICT," SECTION 4.4.3, "SINGLE FAMILY RESIDENTIAL (R-1) DISTRICTS," SECTION 4.4.5, "LOW DENSITY RESIDENTIAL (RL) DISTRICT," SECTION 4.4.6, "MEDIUM DENSITY RESIDENTIAL (RM) DISTRICT," SECTION 4.4.7, "PLANNED RESIDENTIAL DEVELOPMENT (PRD) DISTRICT," SECTION 4.4.13, "CENTRAL BUSINESS (CBD) DISTRICT," SECTION 4.4.17, "RESIDENTIAL OFFICE (RO) DISTRICT, AND SECTION 4.4.24, "OLD SCHOOL SQUARE HISTORIC ARTS DISTRICT (OSSHAD)," TO UPDATE THE TERMINOLOGY RELATED TO HOME-BASED BUSINESSES; AND AMENDING ARTICLE 4.6, "SUPPLEMENTAL DISTRICT REGULATIONS," SECTION 4.6.7, "SIGNS," TABLE 4.6.7(A), "SIGN STANDARDS PER ZONING DISTRICT," TO MODIFY SIGN SIZE REGULATIONS FOR SINGLE FAMILY RESIDENTIAL DISTRICTS; PROVIDING A CONFLICTS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AUTHORITY TO CODIFY; AND PROVIDING AN EFFECTIVE DATE. (SECOND READING)

Recommendation: Consider Ordinance No. 23-22, a City-initiated amendment to the Land Development Regulations (LDR) to bring regulations governing home-based business into compliance with S. 559.955, F.S. that restricts the power of municipal governments to regulate home-based businesses.

Sponsors: Development Services Department

Attachments: [Agenda Cover Report](#)

[Ordinance No. 23-22](#)

[Home-based Businesses: PZB Staff Report](#)

[Home-based Businesses: HB 403 Bill Text](#)

[Home-based Businesses: HB 403 Bill Summary](#)

[Legal Review](#)

Ms. Gelin read Ordinance No. 23-22 into the record.

Regular Meeting at 4:00 PM

Ms. Gianniotis stated it is a City-initiative amendment based on a change to Florida statutes. She reviewed what the City can still regulate for home-based businesses. If it meets the criteria, it can be considered a home occupation. If it does not, it does not belong in a residential zoning district. The proposed amendment language was reviewed. On June 20, 2022, the Planning and Zoning Board voted 5-2 to recommend approval. She noted the Board universally expressed concern at the intrusion of the State of Florida into the home rule authority of local governments.

Public Comments:

No one came forth to speak, Mayor Petrolia closed public comments.

Vice Mayor Frankel made a motion to approve Ordinance No. 23-22. It was seconded by Commissioner Boylston. The motion carried as follows:

YES: 5 Mayor Petrolia, Vice Mayor Frankel, Deputy Vice Mayor Casale, Commissioner Boylston, Commissioner Johnson

APPROVED ON SECOND READING

8.C. 22-1032 *ORDINANCE NO. 25-22: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING CHAPTER 101, "PARKS, BEACHES, AND RECREATION", OF THE CODE OF ORDINANCES OF THE CITY OF DELRAY BEACH, SECTION 101.36, "ADDITIONAL RULES APPLYING TO PARKS, RECREATIONAL FACILITIES, AND THE MUNICIPAL BEACH", BY AMENDING SUBSECTION (H) "SMOKING" TO PROHIBIT SMOKING CERTAIN TOBACCO PRODUCTS ON THE MUNICIPAL BEACH AND IN PUBLIC PARKS, PROVIDING A CONFLICTS CLAUSE AND SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES. (SECOND READING)*

Recommendation: Motion to Approve Ordinance No. 25-22.

Sponsors: City Attorney Department

Attachments: [Agenda Cover Report](#)

[Ordinance 25-22](#)

[CS-HB 105](#)

Ms. Gelin read Ordinance No. 25-22 into the record. She stated is to be in conformity with HB 105.

Public Comments:

No one came forth to speak, Mayor Petrolia closed public comments.

Vice Mayor Frankel made a motion to approve Ordinance No. 25-22. It was seconded by Deputy Vice Mayor Casale. The motion carried as follows:

YES: 5 Mayor Petrolia, Vice Mayor Frankel, Deputy Vice Mayor Casale, Commissioner Boylston, Commissioner Johnson

Regular Meeting at 4:00 PM

APPROVED ON SECOND READING

9. FIRST READINGS:

- 9.A. 22-1058** *ORDINANCE NO. 29-22: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING CHAPTER 32, "DEPARTMENTS, BOARDS AND COMMISSIONS" OF THE CODE OF ORDINANCES OF THE CITY OF DELRAY BEACH, FLORIDA, BY AMENDING SECTION 32.15, "DEFINITIONS," TO REVISE THE DEFINITIONS OF CITY BOARD AND MEMBER AND TO CREATE A NEW DEFINITION FOR INADEQUATE ATTENDANCE; BY AMENDING SECTION 32.17, "REMOVAL OF CITY BOARD MEMBERS" TO CLARIFY THE BASES FOR REMOVAL OF CITY BOARD MEMBERS; BY AMENDING SECTION 32.18, "PROCEDURE," TO CLARIFY THE PROCEDURE FOR REMOVAL OF A CITY BOARD MEMBER; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE, AND AUTHORITY TO CODIFY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES. (FIRST READING)*

Recommendation: Motion to approve Ordinance No. 29-22.

Sponsors: City Attorney Department

Attachments: [Agenda Cover Report](#)

[Ordinance Abandonment of Office \(003\) lq 7-5-2022](#)

Ms. Gelin read Ordinance No. 29-22 into the record.

Deputy Vice Mayor Casale. made a motion to approve Ordinance No. 25-22. It was seconded by Commissioner Boylston. The motion carried as follows:

YES: 5 Mayor Petrolia, Vice Mayor Frankel, Deputy Vice Mayor Casale, Commissioner Boylston, Commissioner Johnson

APPROVED ON FIRST READING

- 9.B. 22-1113** *ORDINANCE NO. 31-22: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, REPEALING CHAPTER 133, "OFFENSES AGAINST PERSONS", SECTION 133.02, "PROHIBITION OF CONVERSION THERAPY ON MINORS", PROVIDING THAT EACH AND EVERY OTHER SECTION AND SUBSECTION OF CHAPTER 133 SHALL REMAIN IN FULL FORCE AND EFFECT AS PREVIOUSLY ADOPTED; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE, AND AUTHORITY TO CODIFY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES. (FIRST READING)*

Recommendation: Motion to approve Ordinance 31-22.

Sponsors: City Attorney Department

Attachments: [Agenda Cover Report](#)

[Repeal of Conversion Therapy on Minors](#)

Regular Meeting at 4:00 PM

Otto v. City of Boca Raton No. 19-10604 (11th Cir

Ms. Gelin read Ordinance No. 31-22 into the record.

Commissioner Boylston made a motion to approve Ordinance No. 31-22. It was seconded by Deputy Vice Mayor Casale. The motion carried as follows:

YES: 5 Mayor Petrolia, Vice Mayor Frankel, Deputy Vice Mayor Casale, Commissioner Boylston, Commissioner Johnson

APPROVED ON FIRST READING

10. COMMENTS AND INQUIRIES ON NON-AGENDA ITEMS:

A. City Manager

Mr. Moore had no additional comments.

B. City Attorney

Ms. Gelin asked the Commission if they would like to bring forth a resolution for Ordinance No. 31-22. Consensus was reached to bring forth a resolution.

Ms. Gelin acknowledged a letter received by Sachs, Sax, Caplan regarding the quasi-judicial item previously heard. She noted a speaker during the Delray Central item represented himself as the President of the HOA, but the HOA clarified he is not the President and cannot represent the HOA.

Discussion ensued about perjury.

C. City Commission

Deputy Vice Mayor Casale had not comments.

Commissioner Boylston stated Park and Recreation had had a lot piled on them and to consider that during the budget discussions. He supports the suggestion of election signs. He asked for staff to clarify the general timeline of the Atlantic Historic overlay.

Further discussion about election signs.

Commissioner Johnson stated there is no teeth in the Code. She asked for Consensus to utilize a Special Magistrate for all Code matters.

Ms. Gelin explained the City's hybrid system. She recommended moving from the Code Board and utilizing a Special Magistrate. Consensus was reached to place the item on a future agenda.

11. ADJOURNMENT

With no further business to discuss, Mayor Petrolia adjourned the Regular City Commission Meeting at 7:43 p.m.

[Minutes by TBaclawski Prototype-Inc.]