

City of Delray Beach

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www.mydelraybeach.com



Minutes - Draft

Tuesday, December 5, 2017

6:00 PM

Regular Meeting at 6:00 PM

Delray Beach City Hall

City Commission

Mayor Cary Glickstein

Vice Mayor Jim Chard

Deputy Vice Mayor Shirley Ervin Johnson

Commissioner Shelly Petrolia

Commissioner Mitchell Katz

1. ROLL CALL

Mayor Glickstein called the meeting to order at 6:00 p.m.

City Commission members in attendance were:

Vice Mayor Chard
Mayor Glickstein
Deputy Vice Mayor Johnson
Commissioner Katz
Commissioner Petrolia

Also in attendance were:

City Manager Mark Lauzier
City Attorney Max Lohman
City Clerk Katerri Johnson

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. AGENDA APPROVAL

Commissioner Katz made a motion to approved the agenda as amended. It was seconded by Commissioner Petrolia. The motion carried 5-0.

4. PRESENTATIONS:

- 4.A. [17-917](#) Presenting adam whiting , police officer, with Employee of the Month for december 2017.

Recommendation: Motion to approve Adam Whiting as Employee of the Month for December 2017.

Sponsors: Human Resources Department

Attachments: [Adam Whiting Nomination Form](#)

Chief Goldman and Human Resources Director Leibowitz made the presentation to Adam Whiting as employee of the month. He noted that many police officers did a lot behind the scenes, including Officer Whiting.

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

Steve Blum noted that the pavillion on A1A was not holding up well in terms of the integrity of the structure. He stated that there were twelve lights on the pavilion all rusted out. Mr. Blum stated that the lowest bidder should not always get the City's jobs.

Christine Gardain, a twenty-year resident of Delray Beach, stated that she picked up trash voluntarily on the same route (Seagate to Atlantic Dunes Park) four days per week. Ms. Gardain noted that many dog owners did not keep their dogs on a leash at the beach. She inquired what the City intended to do about this matter. Mayor Glickstein said that the disrespect for laws on the beach were out of control. He noted that effective tomorrow, no dogs would be allowed on the beach. Mr. Lauzier said he would meet with Mr. Coleman to discuss the use of code officers to enforce existing codes with warnings and citations. Mr. Lauzier also noted that he would meet with Mr. Lohman to discuss the legalities related to controlling dogs on the beach.

Howard Barr, Jr., Pastor of the historic Saint Paul Church, said he was a little hurt and disappointed by the condition of a piece of land located at 43 NW 11th Avenue, adjoining his church. He noted that this lot was in very poor conditions. Pastor Barr said that the property looked horrible. Mayor Glickstein said that this matter would be taken care of.

Maxine Cheesman said she was running for circuit court judge. She invited any interested persons to stop and see her outside of the Commission Chamber if they had any questions or just wanted to meet with her.

Liz Bold said that she and her family resided on Nassau Street. Ms. Bold said that one of her neighbors had three adult children, one of which was a special forces Marine, who was killed last year in Afghanistan. She suggested that the City Commission consider having the pavilion at the end of Nassau Street and A1A be named in the gentleman's honor. She also said that the pavilion could serve as a memorial for all of the men and women who gave their lives for this country. Ms. Bold said that she was willing to assist in any way to move this project forward.

Albert Richwagen said he was interested in item 6B on this evening's agenda regarding licensing for surf instruction on the beach. Mr. Richwagen expressed concern that the present vendor was advertising his business alongside the City's Ocean Rescue name. Mr. Richwagen said that all dogs within Palm Beach County, have to be on a leash when outside, with the exception of properly documented service dogs.

Mark Denkler expressed concern about the timing for the street closure for the Christmas street lighting ceremony. He also noted that he had to shut down his store at 1:00 p.m. due to the street closure.

Mayor Glickstein said he was disappointed to see bricks and mortar stores were blocked by temporary stands, owned by itinerant vendors.

Commissioner Petrolia suggested allowing businesses to stay open as

long as possible for the holiday parade. Mayor Glickstein said that the city's objective was to have quality, rather than a quantity, of City events.

Alan Slosberg said that parking meters were a bad idea. He noted that Ken McNamee had stated that the City had delinquent parking fines of over \$1 million. Mr. Slosberg said that parking meters were equivalent to a tax on property owners. He suggested that the City get rid of collection agencies. Alternatively, he said that the City should commence the use of "boots" on scofflaw vehicles, as an incentive for people to pay fines.

Alice Finst said that she could remember when the ocean had crossed A1A. She said that the City had done a very good job of installing the dunes. Ms. Finst inquired whether it would be possible to see the beach and ocean from A1A.

Judy Bird Miller, 18 NW 12th Avenue, said that City staff mowing the grass at a local park also used to mow an area near her home. She said that City staff had recently stopped mowing this area. Mayor Glickstein said that City staff would look into the matter and get back in touch with her.

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

5.B. From the Public

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Glickstein said that City staff would look into the matter and get back in touch with Ms. Bird Miller.

6. CONSENT AGENDA: City Manager Recommends Approval

Motion made by Commissioner Petrolia, seconded by Vice Mayor Chard, to adopt the consent agenda as amended, with exception of items 6B and 6C. The motion passed unanimously (5-0).

6.A. [17-927](#) APPROVAL OF MINUTES

Recommendation: Motion to approve several meeting minutes:

September 5, 2017 Emergency City Commission/Policy Group Meeting Minutes
September 13, 2017 Special Meeting Minutes

Sponsors: City Clerk Department

Attachments: [September 5, 2017 Meeting Minutes Draft](#)
[September 13, 2017 Meeting Minutes Draft](#)

6.B. [17-902](#) REVOCABLE LICENSE AGREEMENT - WAVES SURF ACADEMY

Recommendation: Motion to approve the revocable license agreement between the City of Delray Beach and Waves Surf Academy for a period from January 1, 2018 through September 30, 2019 at a total annual compensation to the City of Delray Beach in the amount of \$8500, payable in quarterly installments.

Sponsors: Parks & Recreation Department

Attachments: [Revocable License Agmt with Waves Surfing Academy 2017\(signed\)](#)
[Legal Review Checklist Waves revocable license agt](#)
[cityofdelraybeachwaves2017-2018 camp dates](#)

This became Item 7.B.B. on the Regular Agenda.

Commissioner Petrolia inquired whether it would be possible for City staff to draft an RFP for this service. Ms. Fisher stated that City staff would move ahead with this process. Mayor Glickstein suggested that Parks and Recreation look at this as a Parks and Recreation activity. He suggested that Ms. Fisher come back with a proposal that best serves the community. There was consensus.

6.C. [17-909](#) SOLID WASTE AND RECYCLING COLLECTION FRANCHISE AGREEMENT AMENDMENT #1

Recommendation: Motion to amend the Solid Waste and Recycling Collection Franchise Agreement dated March 9, 2015 to correct inconsistency.

Sponsors: Community Improvement

Attachments: [Legal Review Checklist Amendment #1 to Franchise Agreement for Collection of solid waste .pdf](#)
[Amendment #1 to Franchise Agreement for Solid Waste ver 3.pdf](#)

This item became 7.A.A. on the Regular Agenda.

After discussion, Commissioner Petrolia made a motion to approve the amendment. It was seconded by Commissioner Katz. The motion was passed unanimously with a vote of (5-0).

6.D. PROCLAMATIONS:

6.D.1. None

6.E. [17-904](#) REPORT OF APPEALABLE LAND USE ITEMS FROM OCTOBER 23, 2017 THROUGH OCTOBER 27, 2017

Recommendation: By motion, receive and file this report

Sponsors: Planning & Zoning Department

Attachments: [City Commission Map 12-5-17.pdf](#)
[A - 885 SE 6th Avenue.pdf](#)

6.F. AWARD OF BIDS AND CONTRACTS:

6.F.1. [17-873](#) APPROVAL OF AN AGREEMENT WITH ECO ADVISORS, LLC FOR INDOOR AIR QUALITY AND INFECTIOUS DISEASE SERVICES FOR FACILITIES MAINTENANCE USING THE SCHOOL DISTRICT OF PALM BEACH COUNTY, FLORIDA CONTRACT 15C-006A.

Recommendation: Motion to approve an agreement with Eco Advisors, LLC for Indoor Air Quality and Infectious Disease Services for use at various buildings within the City of Delray Beach (City), in an annual not to exceed amount of \$50,000, using The School District of Palm Beach County, Florida Contract 15C-006A, subject to annual renewals by the School District.

Sponsors: Environmental Services Department

Attachments: [Agreement executed by vendor](#)
[Eco letter of award](#)
[15C-006A](#)
[SDPBC Rates 051215 \(061815-061717\)](#)
[Legal Review Checklist for Indoor Air Quality and Infectious Disease Services](#)

6.F.2. [17-884](#) APPROVAL OF AN AGREEMENT WITH J & J, INC. DBA EAGLE PAINTING FOR INDUSTRIAL PAINTING SERVICES FOR FACILITIES MAINTENANCE USING THE CITY FORT LAUDERDALE CONTRACT

NO. 453-11613

Recommendation: Motion to approve an agreement with J & J, Inc. d/b/a Eagle Painting (Contractor) for Industrial Painting Services for use at various buildings within the City of Delray Beach (City), in an annual not to exceed amount of \$50,000, using The City of Fort Lauderdale Contract 453-11613, subject to annual renewals by the City of Fort Lauderdale.

Sponsors: Environmental Services Department

Attachments: [11613IndustrialPaintingSer](#)
[Ft. Laud. Commission Agenda Memo 15-1148 \(1\)](#)
[Original Agreement with City of Ft. Lauderdale](#)
[Renewal confirmation Email from Ft. Lauderdale](#)
[Legal Review Checklist form v. 3master services agreement eagle painting](#)
[Agreement executed by vendor](#)

6.F.3. [17-938](#) APPROVAL TO RENEW A PURCHASE ORDER WITH HAWKINS, INC. DBA THE DUMONT COMPANY FOR HYDROFLUOROSILICIC ACID FOR WATER TREATMENT IN A NOT-TO-EXCEED AMOUNT OF \$53,000

Recommendation: Approve renewal of a purchase award to Hawkins, Inc. d/b/a The Dumont Company for hydrofluorosilicic acid for water treatment in a not-to-exceed amount of \$53,000.

Sponsors: Utilities Department

Attachments: [Renewal Letter](#)
[Bid 2016-015 Furnish and Delivery of Hydrofluosilicic Acid](#)
[Legislation Text - 15-245](#)

7. REGULAR AGENDA:

7.A. [17-905](#) USE OF A UNIQUE ARCHITECTURAL STYLE, "TROPICAL MODERNISM" FOR THE GROVE BEACH HOTEL LOCATED AT 233-279 NE 2ND AVENUE. (QUASI-JUDICIAL HEARING)

Recommendation: Motion to Approve with conditions a departure from the seven approved architectural styles in the Central Business District (CBD) Architectural Design Guidelines for the use of "Tropical Modernism," for the Grove Beach Hotel located at 233-279 NE 2nd Avenue, pursuant to LDR Section 4.4.13(F)(3)(c), subject to the following conditions:

1. Vines, or similar landscape material, approved by the Senior Landscape Planner will be specified for the building walls with corrugated perforated metal panels.
2. The rooftop garden is required as an integral part of the

architecture.

3. Art and sculpture will be integrated throughout the project - at a minimum one sculpture within each of the two proposed civic spaces and art as presented on the elevation of the north façade of the civic space.

Sponsors: Planning & Zoning Department

Attachments: [Grove Beach Hotel Arch Only CC STAFF REPORT](#)
[Tropical Modernism Applicant Narrative](#)
[Corrugated Metal Facade Examples](#)
[CC Order Request for Tropical Modernism GBH](#)

Mayor Glickstein reviewed the terms of the quasi-judicial process. Mayor Glickstein and each of the Commissioners disclosed their ex parte communications relative to this project.

Jose Gonzalez, representing the applicant, made a brief presentation relative to the proposed project. Mark Yavinsky, the applicant, said he was available to answer any questions.

Tim Simmons, Director of Planning and Zoning, made staff's detailed presentation. He reviewed Tropical MMr. Simmons continued by providing a detailed overview of the proposed project design elements. Following his presentation, Mr. Simmons responded to questions from the Mayor and City Commission.

Bob Currie, Chair of the Design Committee, said that the City had a design charrette and drafted a master plan for Pineapple Grove. He commended City staff for bringing vitality back to this area. Mr. Currie said that the Design Committee favored the proposed hotel.

Nancy Chanin said she lived across the street from the proposed hotel. Ms. Chanin said she had concerns about maintaining the character of the Pineapple Grove section of the City. Finally, Ms. Chanin stated that she also had concerns about traffic relative to the proposed hotel.

Peter Arts, Chairman of the Downtown Development Authority, said the Board was supportive of the project in general, excepting the proposed underground parking.

Ari Whiteman said he saw a lot of benefits from the proposed project. He said if Fire Chief deJesus was satisfied with the width of the alley behind the hotel, he would also be satisfied.

There were no additional public comments. There was no cross examination of citizens or City staff.

Mr. Gonzalez rebutted staff's comments regarding certain design elements for the proposed hotel.

Mr. Yalinsky said there was no intention to park cars in the front setback. Mr. Yalinsky and Mr. Gonzalez reviewed the proposed options for vehicles and pedestrians. Mr. Gonzalez said that the applicant was proposing an improvement to the width of the alleyway to sixteen feet, getting rid of the current restrictions.

Mr. Simmons said the civic space requirement had been met to the minimum standard by the applicant. He said the alleyway came down to accommodating the Fire Department's twenty foot right-of-way requirement.

Fire Chief Neal deJesus said the Fire Department's request was for a twenty-foot alleyway due to the fact that the building was a total height of five stories, and the greatest height fire ground apparatus could reach was a maximum of three stories. He said that the department's aerials could reach the fourth or fifth story of buildings. Chief deJesus reiterated that a minimum of twenty feet was required for the Fire Department's needs. He noted that Chief Anderson, the Fire Marshal, was available to answer any questions from the Mayor and City Commission.

Deputy Vice Mayor Johnson expressed concern that the City was turning into an architectural hodge podge. She inquired how vegetation would grow on a metal type structure. Mayor Glickstein said the City Commission had spent a lot of time and effort relative to establishing the architectural style. Mayor Glickstein said he favored the proposed architecture.

Mr. Lohman read a board order regarding architectural style into the record of the meeting. Commissioner Katz moved, seconded by Vice Mayor Chard, to approve the board order as presented. The motion was approved 4-1, with Deputy Vice Mayor Johnson voting no.

7.B. [17-939](#)

WAIVER REQUESTS OF THE LAND DEVELOPMENT REGULATIONS RELATED TO VALET PARKING/DROP-OFF AND SETBACKS FOR THE GROVE BEACH HOTEL LOCATED AT 233-279 NE 2ND AVENUE.
(QUASI-JUDICIAL HEARING)

Recommendation: Motion to Deny waivers to LDR Sections 4.4.13(D)(2)(a)(5), 4.4.13(I)(3)(a) and (b)(6), and LDR Section 4.6.9(D)(3)(a) related to a proposed valet drop-off on NE 2nd Avenue.

Motion to Approve waivers from LDR Section 4.4.13(D)(2)(a) related to a proposed parking structure with the following conditions:

1. All portions of the garage granted the waiver are fully underground.

2. The waiver does not apply to portions of the parking garage access ramps proposed in the rear setback that are wholly or partially above grade.

Sponsors: Planning & Zoning Department

Attachments: [GBH-Waiver Request Valet Drop Off](#)
[THE RAY GBH RequestForWaiver-Setback](#)
[Grove Beach Hotel Waivers CC STAFF REPORT](#)
[CC Order Waiver Requests for GBH](#)
[Auto-turn Analysis](#)
[GBH-Images](#)
[GBH-plans](#)

Mayor Glickstein said that the City Commission was only considering waivers for items 2, 3, 5 and 6. Mr. Lohman noted that applicant had requested the withdrawal of items one and four for this board order. Mr. Simmons responded to questions from the Mayor and City Commissioners regarding the four proposed requested waivers regarding ramp and setback issues.

Relative to board order number 2, request for waiver setback, the order was approved by a vote of 4-1, with Deputy Vice Mayor Johnson voting no.

Relative to board order number 3, regarding general hotel waivers, the order was approved unanimously (5-0).

Relative to board order number 5, auto-turn analysis, the order was approved by a vote of 3-2 with Mayor Glickstein and Deputy Vice Mayor Johnson voting no.

Relative to board order number 6, hotel images, the order was approved by a vote of 3-2, with Mayor Glickstein and Deputy Vice Mayor Johnson voting no.

A motion was made by Commissioner Katz and seconded by Vice Mayor Chard to approve the board orders as a whole for the item. The motion was adopted unanimously (5-0).

7.C. [17-906](#)

APPEAL OF THE CITY ENGINEER'S DENIAL OF THE REQUEST FOR A REDUCTION IN THE ULTIMATE RIGHT-OF-WAY OF 20 FEET FOR AN ALLEY AND THE REQUIRED PAVING WIDTH OF 20 FEET FOR AN ALLEY AS REQUIRED BY LAND DEVELOPMENT REGULATION SECTIONS 5.3.1 and 6.1.2 FOR THE GROVE BEACH HOTEL PROJECT (QUASI-JUDICIAL HEARING)

Recommendation: Motion to deny the appeal for the reduction in the ultimate right-of-way of 20 feet for an alley for an alley as required by the Land Development Regulations based upon the findings and evidence presented.

Motion to deny the appeal for reduction in the required paving width of 20 feet for an alley as required by the Land Development Regulations based upon the findings and evidence presented.

Sponsors: Planning & Zoning Department

Attachments: [CC Order CE Appeal GBH11.07.17](#)
[5.3.1 - 6.1.2 LDRs Excerpts - Grove Beach](#)
[Chief Anderson Email - Pavement Width](#)
[Grove Beach 2017-11-02 - SITE PERMIT SET_sm](#)
[Menin the Ray Response to C 41 and Eng C 5&9](#)
[Grove TAC review03 11-16-17 - City Engineer](#)

Chief deJesus said that a minimum width of 20 feet was required in pavement width to accommodate fire apparatus. Mr. Lohman read the board order into the record of the meeting. The motion to approve the board order was made by Commissioner Petrolia and seconded by Vice Mayor Chard. The motion was adopted unanimously (5-0).

7.D. [17-903](#) AWARD OF AN AGREEMENT TO WANNEMACHER JENSEN ARCHITECTS, INC. FOR POMPEY PARK COMMUNITY CENTER & CAMPUS PRE-DESIGN STUDY & MASTER PLAN SERVICES IN A NOT-TO-EXCEED AMOUNT OF \$727,200.

Recommendation: Motion to award an Agreement to Wannemacher Jensen Architects, Inc. for Pompey Park Community Center & Campus Pre-Design Study & Master Plan Services in a total amount not to exceed \$727,200.

Sponsors: Parks & Recreation Department

Attachments: [Executed Agreement - Wannemacher Jensen Architects Inc.](#)
[Legal Review Checklist form v. 3 pompey park study](#)
[Wannemacher Jensen Architects, Inc. reduced](#)
[2017-069 Scoring Summary](#)
[Proposal - Wannemacher Jensen Architects, Inc.](#)
[Memo - Award Recommendation](#)

Parks and Recreation Director Suzanne Fischer made a brief staff presentation. She responded to questions from the Mayor and City Commissioners.

Commissioner Katz moved, seconded by Vice Mayor Chard, to approve the agreement as presented. The motion was adopted unanimously (5-0).

8. PUBLIC HEARINGS:

- 8.A. [17-928](#) Amendment to the Code of Ordinances Relating to General Employee Retirement Plan to Comply with State and Federal Law (SECOND READING)

Recommendation: Motion to approve Ordinance No. 45-17.

Sponsors: City Attorney Department

Attachments: [Ord 45-17 Delray Beach General Employees' Retirement Plan Revision 11.14.17 - Final](#)

Mr. Lohman read Ordinance 45-17 into the record of the meeting. Commissioner Katz, seconded by Commissioner Petrolia, to adopt Ordinance 45-17 as presented. The motion was adopted unanimously (5-0).

9. FIRST READINGS:

- 9.A. None

10. COMMENTS AND INQUIRIES ON NON-AGENDA ITEMS:**10.A. City Manager**

Mr. Lauzier stated that staff had to charge enforcement and inspection fees to recover the City's costs, at a minimum. Commissioner Petrolia commented that she did not want to see 90% reductions in fees unless individuals were in a dire situation. Mr. Lohman stated that he had been working very closely with the City Manager and Assistant City Manager regarding amendments to the policies and procedures. Mr. Lohman also stated that the Assistant City Attorneys would have a much larger role in handling Code Board cases in the future. Mr. Lohman stated that he would be serving as the City's Special Magistrate.

10.B. City Attorney

Mr. Lohman had no additional comments, other than his previous reference to serving as Special Magistrate.

10.C. City Commission

Commissioner Katz

- Suggested that the City Commission allow the Caring Kitchen to put out a directional sign during the 2-hour lunch time.
- He also gave kudos to the Police Department for the directing of traffic after the Atlantic High School football game.

Deputy Vice Mayor Johnson

- Announced that Santa's visit to Pompey Park would take place on December 13th at 6:00 p.m.

Commissioner Petrolia

- Noted that the boat parade will take place on December 8, 2017, with the parade passing George Bush
- Bush Boulevard at 7:15 p.m. and Atlantic Avenue at 7:30 p.m.
- Stated that the Christmas tree lighting was wonderful. Expressed hope that the City's tree might be recognized by national publications or organizations.
- Noted that she would be attending the climate summit conference later this week.
- Stated that she had a great sitdown with Marjorie Waldon about establishing a potential City site for Pickleball.
- Requested a schedule of alleyway clean-ups.

Vice Mayor Chard

- Gave the members of the City Commission potential ideas about what other local cities were doing with roof top restaurants.
- Stated that the application from the Palm Beach County Foundation had a deadline of December 7, 2017.
- He noted that the initial remediation for the Lake Ida parcel would be \$35,000.00. Ms. Gardner-Young commented that this might be a timing issue. Mayor Glickstein inquired about the amount of the grant. Ms. Gardner-Young said it was \$35,000.00. She stated that the City needed to be cautious about getting the site. Commissioner Petrolia commented that someone else wanted to purchase the site. Vice Mayor Chard stated that there had been a lot of staff turnover throughout the foundation grant process. Mr. Lauzier said he would report back to the City Commission on the City's application, possibly for more than \$35,000.00.
- Requested that next week's City Commission agenda be modified to add the RFP for the train station.

Mayor Glickstein

- Thanked everyone who volunteered for the 12th Annual Project Holiday event for Veterans.

- Stated that there was a great deal of positive feedback regarding the City's new Christmas tree.
- Requested an update from Mr. Lohman regarding the tennis tournament lawsuit. Mr. Lohman said he would be pleased to update the Mayor and City Commission in the near future.
- Stated that the City Commission had prioritized to bring a Publix Supermarket to put a grocery into West Atlantic "hole in the donut" area. He said this was the CRA's third opportunity to bring a grocery store into our downtown.

Mr. Lohman inquired whether the City Commission desired to have Mr. Mandel make a presentation at next week's meeting or would the City Commission be equally satisfied with a memorandum update. Mayor Glickstein said he preferred an in-person update, if possible.

There being no further business to discuss, the meeting stood adjourned at 10:52 p.m.