

## **MARCH 31, 2015**

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, March 31, 2015.

**1.** Roll call showed:

Present - Vice Mayor Shelly Petrolia  
Deputy Vice Mayor Alson Jacquet  
Commissioner Mitch Katz  
Commissioner Jordana Jarjura  
Mayor Cary Glickstein

Absent - None

Also present were - Donald B. Cooper, City Manager  
Noel Pfeffer, City Attorney  
Chevelle D. Nubin, City Clerk

**2.** **INVOCATION:**

The invocation was delivered by Reverend Anthony Cuseo.

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

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

Vice Mayor Petrolia moved to approve the Minutes of the Special Meeting of March 12, 2015, seconded by Ms. Jarjura. Upon roll call the Commission voted as follows: Deputy Vice Mayor Jacquet – Yes; Mr. Katz – Yes; Ms. Jarjura – Yes; Mayor Glickstein – Yes; Vice Mayor Petrolia – Yes. Said motion passed with a 5 to 0 vote.

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

**5.A.** **Spotlight on Education - Orchard View Elementary School**

Kathleen DePuma, Principal of Orchard View Elementary School, gave a brief PowerPoint presentation regarding the goals and objectives for Orchard View Elementary School. Ms. DePuma stated there are approximately 650 students; most of the students are bused to Orchard View which brings diversity to the school. The school is currently graded a “C” by the State and they are working very hard to make the improvements necessary.

Mayor Glickstein thanked Ms. DePuma for her positive attitude and optimism. Mayor Glickstein stated if there is anyone that has spare time that might be interested in mentoring that speaks a second language, and that are retired, or are looking for something to do, Orchard View (or another school in the community) may be the place to serve the community.

Deputy Vice Mayor Jacquet stated he attends Career Day every year at Orchard View Elementary School and thanked Ms. DePuma for the work that she does. Deputy Vice Mayor Jacquet encouraged everyone in the city that speaks a second language (i.e. Spanish or Creole) to visit the children.

**5.B. Sister Cities – David Schmidt, President of Delray Beach Sister Cities Committee**

David Schmidt, President of Delray Beach Sister Cities, gave a brief PowerPoint presentation regarding the history of Sister Cities in Delray Beach, how the organization is structured, and an overview of the general selection process for a potential Sister City. In addition, Mr. Schmidt stated he would like to recommend how to proceed with the potential relationship with Acquin, Haiti.

Deputy Vice Mayor Jacquet stated he was elected in March 2012 and by May 2012 that conversation was out there about looking into a Sister City for Haiti. Brief discussion followed by Deputy Vice Mayor Jacquet and Mr. Schmidt.

Mr. Katz moved to approve the consideration of Resolution No. 16-15 to the Regular Agenda as **Item 9.A.A.**, seconded by Vice Mayor Petrolia. Upon roll call the Commission voted as follows: Mr. Katz – Yes; Ms. Jarjura – Yes; Mayor Glickstein – Yes; Vice Mayor Petrolia – Yes; Deputy Vice Mayor Jacquet – Yes. Said motion passed with a 5 to 0 vote.

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.**

The City Manager announced that there will be a Town Hall gathering on Tuesday, April 7, 2015 at Northern Trust Bank, and this is part of a second of a series of Town Hall gatherings that will be held each month. The City Manager stated additional information is available on the City's website ([www.mydelraybeach.com](http://www.mydelraybeach.com)) and he urged everyone to take a look at it.

Secondly, with respect to the reference to the signage regarding, "No Left Turns" on Atlantic Avenue, the City Manager stated this will be discussed at the April 14<sup>th</sup> Workshop meeting at which time staff expects direction from the City Commission.

With regard to previous comments expressed by Ms. Moody concerning the condition of the streets, the City Manager stated he believes the City should and could do more to maintain the streets based upon budgetary constraints and subject to the three (3) year work plan, staff will endeavor to try and improve that into the future.

With regard to Mr. Chard's previous comments concerning the Lake Ida parcel, the City Manager stated staff will discuss this at the April 14<sup>th</sup> Workshop meeting. The City Manager stated he has been in contact with the County Administrator Mr. Levy concerning the donation and he has another meeting scheduled with Mr. Levy to formalize the Letter of Intent.

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

**6.B.1. Steve Blum, 115 Venetian Drive, Delray Beach, FL 33483,** stated Mr. Blum stated for many years Delray citizens were limited to speaking on Non-Agenda items *only*. Mr. Blum encouraged everyone to remember that Commissioner Frankel and former Mayor Tom Carney helped change the City's rule on public participation.

**6.B.2. Gary L. Fishman, 3504 Diane Drive, Boynton Beach, FL 33435 (Acting President of the Diane Drive Neighborhood Association and the surrounding neighborhoods),** read a brief statement into the record and stated his neighborhood would be in the pathway if the access to the park would happen. Mr. Fishman stated connecting to Lake Ida Park with a bridge and Caloosa Park with a tunnel would be catastrophic for them.

**6.B.3. Pauline Moody, 609 S.W. 8<sup>th</sup> Avenue, Delray Beach, FL 33444,** commented about the Sister Cities for Haiti and stated that everyone needs to focus on what is happening in Delray Beach.

**6.B.4. Major Joe Bernadel, Retired from the United States Army and Founder and Chief Operating Officer for the Toussaint L'Ouverture, 301 S.W. 12<sup>th</sup> Avenue, Delray Beach, FL 33444,** stated there is some compelling aspects of the administrative value of what David Schmidt is proposing but this is an initiative that several leaders of the community have been pushing for quite a while. Major Bernadel stated there are several leaders of the community that are working together with David Schmidt so they can achieve the same result. Major Bernadel stated the Haitian community makes a significant contribution every day to the quality of life in Delray Beach and there is a tremendous value in the work they plan to do together as a city between Haiti and Delray Beach.

**6.B.5. Dan DeCarlo, 9960 Pineapple Tree Drive, Boynton Beach, FL 33436 (President of Boynton Beach Sister Cities Committee),** stated he contacted Sister Cities International and asked them the process regarding the cities in Haiti or anywhere in the world. Mr. DeCarlo stated he was informed that there is no special list to get on, but it is just a matter of cities in either the U.S. or in another country who contact the Sister Cities International who may have a Sister City and thus then they are put on the list. He stated if another city from another country wants to be a Sister City particularly

in South Florida they believe it is a good thing. Secondly, Mr. DeCarlo stated when they began the Sister City Program in Boynton Beach 15 years ago in Shofu, China it was made after he made one visit to China and they did not go through any due diligence or six months of study; they just knew it was important. Mr. DeCarlo stated everything about Sister Cities is about relationships and that is the key that makes it work.

**6.B.6. Leslie Barbot, Consulate Agent with the Haitian Government,** stated being a foreigner in the U.S. there is a relationship that can be built from this and Sister Cities is not only based on color, race, or gender but the relationship is based on gain, trade and tourism. Mr. Barbot stated the relationship is also built on trust and it is a march forward the Consulate General is in Miami and they are coming here every second Tuesday every month to provide consulate services (i.e. passports, archives, etc.) to the citizens in Delray Beach.

**6.B.7. Lakmichand Kalra, 3842 South Lake Drive, Boynton Beach, FL 33435 (lived here for over 30 years),** commented about the 4.8 acre lot that the City of Delray Beach is considering buying from the County with the goal of creating a park and connecting bikeways. Mr. Kalra stated this parcel is bound by water on two sides, I-95, and his property. He stated the City would need to construct a bridge connecting his property to Lake Ida Park as well as a tunnel under I-95. Mr. Kalra stated the County Parks Department has stated that they are against building a bridge because of the large cost as well as concern that it would make law enforcement more difficult. He urged the City Commission to take into consideration the residents perspective as well as the taxpayers' dollars. Mr. Kalra stated the neighborhood is against building the park because they are concerned that it will bring noise, traffic and crime to a safe neighborhood. Mr. Kalra stated the County has put the condition of sale that there needs to be a land access through his property and he will not give access; if the private road were to become public the property value would drop. Mr. Kalra asked how much is the actual cost of building a park including a bridge and expressed concern over how the City can justify building a park in this location when the neighborhood is against it.

At this point, Mayor Glickstein at 7:00 p.m. the Commission would normally start Public Hearings; however, with the consensus of the Commission he suggested that the Commission get through the public comment and agenda approval.

Mr. Katz moved to approve to push the Public Hearings back until the conclusion of public comment and agenda approval, seconded by Ms. Jarjura. Upon roll call the Commission voted as follows: Ms. Jarjura – Yes; Mayor Glickstein – Yes; Vice Mayor Petrolia – Yes; Deputy Vice Mayor Jacquet – Yes; Mr. Katz – Yes. Said motion passed with a 5 to 0 vote.

**6.B.8. Ted Marshall, 718 Burgundy O, Delray Beach, FL,** stated Delray Beach has a rich community of several different immigrant communities and he is learning Creole. Mr. Marshall stated within these ninety (90) days he is going to work diligently with Commissioner Jacquet to make sure that all the paperwork he needs to make this happen for Aquin (if this is going to be the city) and have those updates at the next two

meetings so that the City Commission can know exactly what is taking place. Mr. Marshall reassured Commissioner Jacquet they are going to have a Haitian City within the Sister City Board. He stated this is going to take continued effort from not only the Haitian community but from everyone that wants Delray Beach to be recognized as an important entity to education, trade and culture.

Deputy Vice Mayor Jacquet thanked Mr. Marshall for his comments and stated this is an issue that the community has brought to him even before his election so as an elected official he took it upon himself to bring it to the table. He wants to make sure that this is not an Al Jacquet issue; this is a Delray Beach Sister Cities issue.

**6.B.9. Jim Smith, 1225 South Ocean Boulevard, Delray Beach, FL 33483,** welcomed Commissioner Katz and recognized Environmental Services Director Randal Krejcarek for asking the City's Sustainability Officer John Morgan and City Engineer Issac Kovner to attend the annual BPOA meeting last week concerning their rising flood insurance bill and the no parking test that will be taking place soon on the barrier island. Mr. Smith stated S.A.F.E. is hopeful that the City and the CRA will include remedies in next year's CIP to fill in the sidewalk gaps, add new sidewalks, and improve street lighting. Mr. Smith commended Morgan and Kovner's job performances in the short time they have been employed by the city and gave kudos to Interim Community Improvement Director Michael Coleman for the fast action concerning a new sidewalk café pedestrian clearance space ordinance. Mr. Smith stated S.A.F.E. is requesting that the City Commission to consider permitting the sidewalk cafes to use the entire sidewalk space and the retail shops as well whenever the street in front is closed to vehicular traffic; pedestrians can use the street instead and this would offset the loss of tables for the cafes that will be losing a few tables and be able to adjust to the revised LDRs at the same time.

**6.B.10. Ken MacNamee, 1049 Del Haven Drive, Delray Beach, FL 33483,** distributed a handout from the Police and Fire 2014 Audit and stated this is not the Police and Fire Retirement System Pension Plan but is the taxpayers' pension plan. Mr. MacNamee stated this has been going on for seven (7) years and it has not been corrected or addressed.

**6.B.11. Alexander Simon, 220 MacFarlane Drive, Delray Beach, FL 33483,** congratulated Mayor Glickstein, Commissioner Katz, Vice Mayor Petrolia and Ms. Jarjura and urged them to continue their efforts to sustain the city's way of life. Mr. Simon stated he is a native of Delray Beach and is a great believer of the uniqueness of this town. He stated he believes the entire Commission has IIIP (Intelligence, Independence, Integrity, and Passion) for the "Village by the Sea" Delray Beach.

**6.B.12. Mike Novatka, Oceanside Beach Services,** stated everything was running smooth with his business until the last few months when inspectors came out to inspect the operation of his business. Mr. Novatka stated he been operating since 2002; however, he stated now there is allegations regarding the service being provided. He stated Ms. Davis provided him with reports since the end of January 2015 and the reports

are mostly incident free. Mr. Novatka stated he wants to be in Delray and continue his contract with the City.

**6.B.13. Chuck Ridley, 210 N.W. 2<sup>nd</sup> Avenue, Delray Beach, FL 33444,** stated he hopes a resolution will send a clear message that Delray Beach is supporting a Sister City relationship with Haiti. Mr. Ridley stated if a resolution cannot be done, then he urged the City Commission to send a strong message to inspire anyone willing to get behind this project and make it work.

**6.B.14. Nancy MacManus, 138 Marine Way, Delray Beach, FL 33483,** congratulated Commissioner Katz and Mayor Glickstein with respect to the election and recognized Vice Mayor Petrolia as well. Ms. MacManus asked why there is not a bus indentation for a bus to pull over on Federal Highway south of the Mellow Mushroom and urged the City Commission to go see the traffic backup when the buses come. In addition, Ms. MacManus stated she cannot get out of S.E. 1<sup>st</sup> Street due to the traffic backup and urged the City to look into this.

**6.B.15. Patrick Halliday, 1071 Delray Lakes Drive, Delray Beach, FL 33444 (speaking on behalf of HPD),** welcomed and congratulated Commissioner Katz as well as Mayor Glickstein with respect to election. Mr. Halliday stated HPD is all about preserving the community for more walkable, bikeable, livable city and now the focus is on *acquiring* the Lake Ida property as opposed to it being sold for development. He stated everyone can work together on the details as to what may happen to this parcel so that it is beneficial to entire community and so everyone will have the ability to walk and bike.

**6.B.16. Mary Carstarphen, 619 S.W. 7<sup>th</sup> Avenue, Delray Beach, FL 33444 (Education at South Tech Academy teaching Cosmetology),** thanked newly elected Commissioner Katz who came into her classroom yesterday and assisted her with her students for mock interviews. Ms. Carstarphen stated she reached out to Mr. Katz in his pursuit as Commissioner and extended an invite to him and he graciously accepted. In addition, last year she asked Commissioner Jacquet to be a part of her panelist and thanked him as well. Ms. Carstarphen urged the entire City Commission to reach out to the entire community and be consistent regardless of someone's background, where they are from, what street they live on, the cars they drive, or the homes they live in.

**6.B.17. Mona Wolpe, lived in Delray Beach in 1985 and opened a medical practice and now currently lives in Boynton Beach but is closing on a house in Delray Beach,** stated she has been coming to the beach for the last four (4) years and commended Oceanside Beach Services, Inc. for taking great care of the beach.

**6.B.18. Christina Morrison, 2809 Florida Boulevard, Delray Beach, FL 33483,** Oceanside Beach Services does a great job and they serve many of the beach towns. She commented that cigarette butts are a problem everywhere. Ms. Morrison stated there are a lot people that use the beach that do not use the Oceanside Services.

**6.B.19. Michael Field, 75 Venetian Drive, Delray Beach, FL 33483,** briefly spoke in support of Oceanside Beach Services and he has utilized Oceanside Beach Services for 12 years. Mr. Field stated Oceanside Beach Services are professional, supportive and very helpful.

**6.B.20. Beverly Boone, 65 Palm Square, Delray Beach, FL 33483,** briefly spoke in support of Oceanside Beach Services and has used their services since 2006. Ms. Boone stated in 2006/2007 when Mr. Perlman was Mayor the City Commission at the time voted on an ordinance for “No smoking on the beach” however it is not enforced; she noted that the prime reason for doing that at the time was to help with the cigarette butt problem on the beach.

**6.B.21. Peter Humanik, 704 N.E. 5<sup>th</sup> Street, Delray Beach, FL 33483,** asked why **Item 8.A., Acceptance of right-of-way deed 249 Plaza** and **Item 9.I., Reimbursement Agreement/HHC Seagate Hamlet, LLC: Hamlet Seagate Subdivision** are not Quasi-Judicial hearings.

Secondly, Mr. Humanik stated everyone would like to see a relationship with Haiti. However, Mr. Humanik stated you cannot get a volunteer group and instruct them to do things unless you have an environment that is not confrontational.

Mr. Humanik stated there are issues when you go to the beach (i.e. cigarette butts, etc.) and the beach service company cannot enforce anything; however, the lifeguards and beach patrol that could call someone to enforce things.

Lastly, Mr. Humanik wished the entire Commission good luck in this new term.

**6.B.22. Jeanne Romer, 2717 Carnation Court, Delray Beach, FL 33445 (volunteer at Delray Beach Visitor’s Center),** stated if the City loses this beach service contract it could have a financial impact and that many people who use Oceanside Beach Services also go to the restaurants and the shops. In addition, Ms. Romer expressed concern over people who are extremely disabled and cannot sit in little beach chairs and then get up. She commended Oceanside Beach Services and stated she is in contact with thousands of visitors’ every year who rave about the services and the Visitor’s Center has never complained about the beach service nor have any of the local people ever complained about the beach service.

**6.B.23. Todd L’Herrou, 830 Kokomo Key Lane, Delray Beach, FL 33483 (member of the Sister Cities Board),** supports a Sister Cities Committee for Haiti and stated it is important that Delray Beach build that relationship. Mr. L’Herrou stated it is important that everyone follow an appropriate process and he supports the city that the community has selected and that Commissioner Al Jacquet has brought forward. Mr. L’Herrou stated he would like confirmation that they have community support because there are other members that are willing to join him on being on that committee to help make sure that relationship happens.

**6.B.24.** **Cindi Freeburn, 371 East Mallory Circle, Delray Beach, FL 33483,** congratulated those members of the Commission that are newly elected and re-elected. She stated it is her understanding that the city is not looking to eliminate beach service but consider a different beach service company because of some of the lack of contractual issues in the contract that are not being fulfilled. She confirmed with the City Manager that although the City has an ordinance prohibiting smoking on the beach and the State law supersedes that ordinance. She recommended that the City stipulate a designated area of the beach for smoking and then hold whomever the beach services are accountable. Ms. Freeburn stated she does not use the service; however, she has not seen the raking of the beach.

Secondly, with respect to dogs on the beach, Ms. Freeburn stated it would be prudent to establish a dog beach that is monitored, patrolled and cleaned.

## **7.** **AGENDA APPROVAL.**

The City Attorney requested that the Commission defer and remove **Item 9.H., Amendment No. 1 to Triparty Interlocal Agreement/Community Redevelopment Agency and the Greater Delray Beach Chamber of Commerce/Old Library Site and Chamber Relocation.** The City Attorney stated he would like to review the item to confirm that the notice requirements for this item are adequate.

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

Mayor Glickstein moved to approve to move **Item 8.F., Revocable License Agreement for Veterans Park/Excursion Boats,** to the Regular Agenda as **Item 9.B.B.**

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

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

**8.A.** **ACCEPTANCE OF RIGHT-OF-WAY DEED/249 PLAZA:** Approve a right-of-way deed agreement for a four foot (4') right-of-way dedication along the west side of the existing sixteen foot (16') rear alley for 249 Plaza located at 247 S.E. 6<sup>th</sup> Avenue.

**8.B.** **SERVICE AUTHORIZATION NO. 12-03.1 (AMENDMENT NO. 1)/**



**CALVIN, GIORDANO AND ASSOCIATES, INC:** Approve Service Authorization No. 12-03.1 (Amendment No. 1) with Calvin, Giordano and Associates, Inc. in the amount of \$5,786.19 to provide professional engineering services (RFQ No. 2012-06) for the design of 90-degree back out parking spaces at the alleyway on the west side of 342 N.E. 3<sup>rd</sup> Avenue (Project #11-024). This is in compliance with Chapter 36 of the Code of Ordinance, Section 36.06(A)(1), "Change Orders Beyond Scope of Work". Funding is available from 334-3162-541-68.72 (General Construction Fund: Other Improvement/N.E. 3<sup>rd</sup> Streetscape).

**8.C. AMENDMENT NO. 2 TO SURVEYING CONSULTING SERVICE AGREEMENTS:** Approve Amendment No. 2 to the Surveying Consulting Service Agreements (RFQ 2012-07) with Avirom & Associates, Inc., Caulfield & Wheeler, Inc., Wantman Group, Inc., and Dennis J. Leavy & Associates, Inc. to extend the original agreements until April 2016. This recommendation is in compliance with Code of Ordinances, Chapter 36, Section 36.02(C)(3), "Professional Services" and Section 36.07(A)(3), "City Commission Approved Contracts, Renewal".

**8.D. EXECUTION OF THE RECEIPT AND RELEASE FORM ACKNOWLEDGING THE CITY AS A BENEFICIARY OF THE IRVING LIEBERMAN TRUST:** Approval to execute a Receipt and Release Form for the Irving Lieberman Trust that acknowledges the acceptance of property from Janet Fleishman and Neal Lieberman as Successor Trustees of the Irving Lieberman Trust in the amount of \$15,000.00.

**8.E. REVOCABLE LICENSE AGREEMENT/DELRAY STUDENTS FIRST, INC./CATHERINE STRONG PARK:** Approve a Revocable License Agreement with Delray Students First, Inc. for the use of one classroom (Classroom #3) to tutor and mentor children ages 5 to 16 years old, at Catherine Strong Park for one (1) year with an option for one additional year renewal.

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

**8.G. MEMORANDUM OF UNDERSTANDING/BROWARD COUNTY SHERIFF'S OFFICE: SOUTH FLORIDA INTERNET CRIMES AGAINST CHILDREN:** Approve a Memorandum of Understanding between Delray Beach Police Department and the Broward County Sheriff's Office which is designed to combat crimes and exploitation against children through the use of computers, computer technology, cell phones and the internet.

**8.H. MEMORANDUM OF UNDERSTANDING/PALM BEACH COUNTY: CHILD ABUSE PROTECTIVE INVESTIGATIONS PROTOCOL:** Approve a Memorandum of Understanding with Palm Beach County Child Abuse Protective Investigations Protocol for cooperation, collaboration and the sharing of appropriate information by agencies within this jurisdiction.

**8.I. LEASE AGREEMENT/SENATOR MARIA SACHS DISTRICT**

**OFFICE:** Approval of a retroactive two-year lease agreement between the City and Florida State Senator Maria Sachs from January 1, 2015 to December 31, 2016.

**8.J. PROCLAMATIONS:**

- 1.** Earth Day – April 25, 2015

**8.K. REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:** Accept the actions and decisions made by the Land Development Boards for the period February 23, 2015 through March 6, 2015.

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

- 1.** Bid award to L.V. Superior Landscaping, Inc. (Bid No. 2015-20) in the amount of \$46,022.00 for landscape maintenance services for Lake Ida, Lake Ida Medians, Congress Avenue to Military Trail, George Bush Boulevard (N.E. 8<sup>th</sup> Street), and West Atlantic Avenue from Swinton to I-95. This recommendation is in compliance with Code of Ordinances, Chapter 36, Section 36.02(A)(1), “Competitive Bids”. Funding is available from 119-4144-572-46.40 (Beautification Trust Fund: Repair & Maintenance Services/Beautification Maintenance).
- 2.** Bid award to Synovia Solutions, LLC. (Bid No. 2015-29) the *lowest responsive bidder*, in an annual amount not to exceed \$29,000.00 for vehicle fleet global position monitoring systems for 109 city vehicles. This is in compliance with the Code of Ordinances, Chapter 36, Section 36.02(A)(1), “Sealed Competitive Method”. Funding is available from various departmental budgets.

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

At this point, the time being 7:42 p.m., the Commission moved to the duly advertised Public Hearings portion of the Agenda.

**10. PUBLIC HEARINGS:**

**10.A. ORDINANCE NO. 05-15 (SECOND READING):** Consider an amendment to Title VII, “Traffic Code” of the Code of Ordinances creating a new Section 71.031, titled “Parking in the Marina Historic District”; establishing a Restricted Parking Zone that restricts On-Street parking to residents; establishing the procedure for residents to obtain a permit for On-Street parking; setting permit fees and establishing penalties.

The caption of Ordinance No. 05-15 is as follows:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, CREATING A NEW SECTION 71.031 TITLED "PARKING IN THE MARINA HISTORIC DISTRICT"; ESTABLISHING A RESTRICTED PARKING ZONE THAT RESTRICTS ON-STREET PARKING TO RESIDENTS; ESTABLISHING THE PROCEDURE FOR RESIDENTS TO OBTAIN A PERMIT FOR ONSTREET PARKING; SETTING PERMIT FEES; ESTABLISHING PENALTIES; PROVIDING A SAVING CLAUSE, A GENERAL REPEALER CLAUSE, AND AN EFFECTIVE DATE.

(The official copy of Ordinance No. 05-15 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.

**Victor Majtenyi, Deputy Director of Public Utilities,** stated there is a change to Section 2.B.4, page 4 of the ordinance Short-term Parking Permits and the phrase "Except for City Marina boat residents" was added as a result of direction that staff received at the first reading.

Mayor Glickstein declared the public hearing open.

**Cindi Freeburn, 371 East Mallory Circle, Delray Beach, FL 33483,** asked why this is being done in advance of a more comprehensive parking plan that has to do with residents and the ability to park downtown especially during season.

**Carolyn Patton, President of the Marina Historic District Homeowners' Association,** congratulated Mayor Glickstein, Vice Mayor Petrolia and Commissioner Katz. Ms. Patton spoke about the Marina Historic District and they have taken incredible care in creating Delray's First Pilot Resident Only Parking Plan for the Marina Historic District. She stated with the leadership of Mayor Glickstein and the Commission, Randal Krejcarek and Issac Kovner they have taken an official vote of the homeowners (76% in favor). In addition, Ms. Patton stated they have met with department heads from Engineering, Community Improvement, Fire-Rescue Department, Police Department, Parking Management Department, and the City Manager's office as well as meeting several times with the entire neighborhood. Ms. Patton urged the Commission to not add requested changes by one boat slip renter because these changes would increase the number of guest passes allowed and the *permanent* resident stickers (not the guest stickers) will allow Police to see which cars belong in the neighborhood. Ms. Patton stated additional guest stickers would defeat safety in the neighborhood. She

stated the ordinance on first reading is very equitable because any resident or boat owner can get two (2) permanent stickers and one (1) guest pass. She feels this is a positive move for the neighborhood.

Andy Katz, speaking for the Beach Property Owners Association, stated good luck to both continuing and new Commissioners. Mr. Katz stated he is in favor of the Marina Historic District Policy. Mr. Katz commended Randal Krejcarek and Isaac Kovner for working very hard in good faith to establish a good policy. Mr. Katz stated they look forward to a Pilot Program that was chosen for Nassau Street (10 feet narrower than would allow parallel parking) and then a round table discussion as a follow-up of that Pilot Program so the citizens can decide what is the best policy chosen from various city policies. Mr. Katz stated different areas require different solutions. He urged the Commission to support the Marina District Policy.

**Pauline Moody, 609 S.W. 8<sup>th</sup> Avenue, Delray Beach, FL**, feels instead of that way they could park in their own yard and they could park in their own yard and would not be on the street. She stated there are sections of the city where homeowners are developed over time and they have never had driveways and have been on the beach for decades, she feels before we can restrict here, then she feels the city should look at working with them to put a driveway in so you can park out of the street and your guests can park in your driveway. Ms. Moody stated we cannot make everyone who does have a driveway pay for something someone else does not have.

**Ron Nobili, 159 Marine Way, Slip #15, Delray Beach, FL 33483 (member of the discriminated class of residents living within the Marina Historic District impacted by Ordinance No. 05-15)**, briefly spoke about equality and stated a number of on-street parking spaces to affected residents should not be predicated on how many vehicles a stakeholder possesses. Mr. Nobili stated the discriminated class consists of widows, widowers, never married snowbirds especially City marina seasonal live-aboards, and divorcees (those mostly not possessing a second vehicle in Florida consequently unable to utilize a third available on-street parking space as those with a second vehicle are able to). Mr. Nobili expressed concern that a discriminatory practice is not necessary to achieve the desired results and he suggested a more equitable and legally sound ordinance.

**Peter Humanik, 704 N.E. 5<sup>th</sup> Street, Delray Beach, FL 33483**, stated he supports the Pilot Program for the parking in the Marina Historic District until the City comes up with a more comprehensive parking plan. Also, Mr. Humanik thanked the City for pro-rating the parking permits.

**Allen Zeller, 126 Marine Way, Delray Beach, FL 33483 (Vice President of the Marina Historic District Homeowners' Association)**, congratulated Mayor Glickstein and the Commissioners on their elections and stated he knows they will continue to do an excellent job. Mr. Zeller stated they have been working on this parking program for approximately three (3) years; it has been under study, review, consideration, and under analysis for this entire period of time. Mr. Zeller stated they have had numerous meetings with the Commissioners, Police and Fire-Rescue Departments,

Randal Krejcarek, Lula Butler, and Planning staff. Mr. Zeller urged the City Commission to approve this parking program as it has been presented. For the record, with respect to Mr. Nobili's comments that there has been some type of discriminatory practice with regard to the parking program, Mr. Zeller stated he disputes that and noted there has been no discriminatory practice in the vetting and the review process, and he urged the City Commission to adopt this parking program.

**Beverly Boone, 65 Palm Square, Delray Beach, FL 33483,** commented about how her life is better after having the implementation of the Pilot Program and urged the City Commission to approve Ordinance No. 05-15. Ms. Boone stated she does not have drunks coming from the bars on Atlantic Avenue down her street dropping cups and beer bottles, she knows who lives in her neighborhood because the cars parking there are people who have permits, and feels that one (1) guest pass per family is sufficient.

There being no one else from the public who wished to address the Commission regarding Ordinance No. 05-15, the public hearing was closed.

The City Attorney stated the following language was added on page 4, Section 2.B.4., "Short-Term Parking Permits: Except for City Marina boat residents".

Vice Mayor Petrolia asked if there is anything that would cause the City entering into a legal issue with respect to discrimination with respect to this ordinance. The City Attorney stated the ordinance is legally defensible.

Ms. Jarjura stated Mr. Nobili is the *only* person who has continued to complain and the *only* live-aboard and marine lessee that has continued to complain about this. For clarification, Ms. Jarjura stated the City is giving more than what is required under Mr. Nobil's current boat lease where he is only permitted one (1) residential permit and under this new ordinance he is getting more than what he was given under the boat lease.

Vice Mayor Petrolia stated she has sat with several of the meeting with the groups and this has been a long, hard, and arduous journey that has brought everyone to this point. She stated this is a different situation than many of the other communities because they could not get to their cars. Vice Mayor Petrolia stated to give peace and quiet to a neighborhood that once was that, she feels it is good that it is going in this direction and it will show us the ways that are working and not working in order to be able to bring it to some other areas as well.

Commissioner Katz stated he understands Mr. Nobili's concerns, however, he does not feel his approach or wording should be used. Commissioner Katz stated he also agrees with Ms. Freeburn's comments that the City needs a comprehensive plan, but in any comprehensive plan you have to start somewhere and he believes this is a good start.

Mr. Katz stated this is a good start and he supports moving forward.

Mayor Glickstein commended Mr. Zeller for his tenacity and also thanked the residents and staff. For clarification, Mayor Glickstein stated this is no longer a pilot program, but this is an ordinance if it passes tonight. He stated this is a great starting point for the BPOA (or whoever is going to champion this to the beach area) because he feels the beach area is the next area that needs this desperately.

Vice Mayor Petrolia moved to adopt Ordinance No. 05-15 on Second and FINAL Reading, seconded by Mr. Katz. Upon roll call the Commission voted as follows: Mr. Katz – Yes; Ms. Jarjura – Yes; Mayor Glickstein – Yes; Vice Mayor Petrolia – Yes; Deputy Vice Mayor Jacquet – Yes. Said motion passed with a 5 to 0 vote.

**10.B. ORDINANCE NO. 08-15 (SECOND READING):** Consider an amendment to the Code of Ordinances of the City of Delray Beach, Florida, by amending Chapter 71, “Parking Regulations”; amending Section 71.060, “Parking Meter Permits”, Subsection (E); allowing for prorating of the cost of Annual Parking Permits And Senior Beach Permits after April 1 of each year.

The caption of Ordinance No. 08-15 is as follows:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING THE CODE OF ORDINANCES OF DELRAY BEACH, FLORIDA, BY AMENDING CHAPTER 71, “PARKING REGULATIONS”; AMENDING SECTION 71.060, “PARKING METER PERMITS”, SUBSECTION (E); ALLOWING FOR PRORATING OF THE COST OF ANNUAL PARKING PERMITS AND SENIOR BEACH PERMITS AFTER APRIL 1 OF EACH YEAR; PROVIDING A SAVING CLAUSE, A GENERAL REPEALER CLAUSE, AND AN EFFECTIVE DATE.

(The official copy of Ordinance No. 08-15 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 declared the public hearing open. There being no one from the public who wished to address the Commission regarding Ordinance No. 08-15, the public hearing was closed.

Deputy Vice Mayor Jacquet commented about the prorated price of \$45.00 for a regular permit from October thru April. After brief discussion by the Commission, it was noted that half-price is being purchased on off-season (beginning

April 1st).

Ms. Jarjura moved to adopt Ordinance No. 08-15 on Second and FINAL Reading, seconded by Vice Mayor Petrolia. Upon roll call the Commission voted as follows: Ms. Jarjura – Yes; Mayor Glickstein – Yes; Vice Mayor Petrolia – Yes; Deputy Vice Mayor Jacquet – Yes; Mr. Katz – Yes. Said motion passed with a 5 to 0 vote.

**9. REGULAR AGENDA:**

**9.A.A. RESOLUTION NO. 16-15/SISTER CITIES/HAITI:** Approve  
Resolution No. 16-15 regarding a Sister City in Haiti.

The caption of Resolution No. 16-15 is as follows:

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, EXTENDING AN INVITATION TO THE CITY OF AQUINAS, HAITI TO BECOME A SISTER CITY AND INVITING THE PEOPLE OF AQUINAS, HAITI TO PARTICIPATE IN SAID PROGRAM; PROVIDING A SAVING CLAUSE AND AN EFFECTIVE DATE.

(The official copy of Resolution No. 16-15 is on file in the City Clerk's office.)

Mr. Katz asked if there is a way to lessen the 90-day timeframe.

Deputy Vice Mayor Jacquet stated if this Commission wants to establish their relationship in Haiti, then the vote tonight needs to be in the affirmative and then they will work it out.

Mr. Schmidt stated when he considered the work plan his initial thought was sixty (60) days and from past experience he knows how slowly these things work particularly when you are trying to communicate with another country or there may be some language barriers. Mr. Schmidt stated thirty (30) days may be too soon.

Ms. Jarjura stated there were a lot of members from the Haitian community that spoke at the March meeting in support of a Sister City with Aquinas. Ms. Jarjura stated the resolution just says that the Commission is in support of this exchange so she does not see whether the Commission passes the resolution now (before the 90-day work plan or after). Mr. Schmidt stated typically the resolution is done in preparation of signing the agreement to make the relationship formal and all the due diligence has been done before that. However, Mr. Schmidt stated he hopes that the people that are going to step up and help are committed to it.

Mayor Glickstein stated he supports this resolution and asked that Mr. Schmidt come back in July after ninety (90) days on whether or not the

Community/committee interest that hopefully is there actually steps up.

Mr. Schmidt stated that in looking at the minutes from the October meeting, in addition to Commissioner Jacquet there were only four (4) other people there; if there are 8, 10, 12, or 100 people that interested that Commissioner Jacquet knows that want to be potential committee members, Mr. Schmidt asked that their names and contact information so that they can get a meeting with all those people who have expressed an interest in serving on the committee. Mr. Schmidt stated the committee will need to understand that whatever funding is going to be necessary for the program that it is going to fall on them to raise the money and to look at the list to see who wants to help in the different areas. Mr. Schmidt stated he feels that there will be a couple of meetings before the actual working committee is in a position to select a Chair and move forward. In addition, Mr. Schmidt stated he would like to open it up to anyone in the community not just the Haitian community.

Mr. Katz moved to approve Resolution No. 16-15, seconded by Vice Mayor Petrolia. Upon roll call the Commission voted as follows: Mayor Glickstein – Yes; Vice Mayor Petrolia – Yes; Deputy Vice Mayor Jacquet – Yes; Mr. Katz – Yes; Ms. Jarjura – Yes. Said motion passed with a 5 to 0 vote.

**9.B.B. REVOCABLE LICENSE AGREEMENT FOR VETERANS PARK/EXCURSION BOATS:** Approve a Revocable License Agreement as to form; provide authorization for the Director of Parks and Recreation to execute Revocable License Agreements for “Excursion Boats” to operate a charter at Veterans Park located at 802 N.E. 1<sup>st</sup> Street.

Mayor Glickstein stated he asked staff how much revenue the City receives from this and it was \$3,600.00. He stated these boats occupy a prime piece of real estate and ties up the bridge repeatedly while they turn and dock. Mayor Glickstein inquired about why this does not go out for an RFP. Suzanne Davis, Director of Parks and Recreation stated this is *not* Lady Atlantic; this is the one day permit for the boats that come in that occasionally do wedding receptions, etc.

Mayor Glickstein inquired about the larger boats that dock (i.e. Lady Atlantic). Alberta Gaum-Rickard stated the City currently has an agreement which expires next year. Mayor Glickstein asked the City Manager to get the Commission information as to what type of agreement (contract or RFP) and how it was entered into.

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

**9.A. CONSIDERATION OF AN APPEAL/SITE PLAN REVIEW AND APPEARANCE BOARD’S (SPRAB) DECISION/ THE CARING KITCHEN:** Consider an appeal of a decision of the Site Plan Review and Appearance Board’s approval of the Class III site plan modification for The Caring Kitchen located at



196 N.W. 8<sup>th</sup> Avenue. (*Quasi-Judicial Hearing*)

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 swore in those individuals who wished to give testimony on this item.

Mayor Glickstein asked the Commission to disclose their ex parte communications. Mr. Katz stated he met with the appellant and the Caring Kitchen. Ms. Jarjura stated she spoke with Mr. Reggie Cox on the telephone and he sent her an email, and she did a site visit herself. Vice Mayor Petrolia stated Mr. Reggie Cox called her but she was not able to return the call; however, she did a site visit and spoke with April. Mayor Glickstein stated he spoke with Mr. Reggie Cox. Deputy Vice Mayor Jacquet stated he spoke to resident Dr. Deborah Wright.

Mark McDonnell, Assistant Planning Director, entered the Planning and Zoning Department project file #2014-215.

Mr. McDonnell stated this item is an appeal by a citizen against the January 28, 2015 SPRAB approval of an addition to an existing facility known as the Caring Kitchen. The location of this property is at the S.W. corner of N.W. 8<sup>th</sup> Avenue and Martin Luther King Boulevard; the address is 196 N.W. 8<sup>th</sup> Avenue. Mr. McDonnell stated the property is zoned CF (Community Facilities) and it is owned by the City of Delray Beach and is leased to American Legion Post #188 and it is then subleased to Christian Reaching Out to Society (C.R.O.S.) Ministries (applicant). Mr. McDonnell stated the use is a community kitchen social service facility which is a permitted use in the community facilities district. Mr. McDonnell stated the site plan modification request is to allow the construction of a 165 square foot building addition and the existing building measures 3,061 square feet. He stated there are two men's restrooms and two women's restrooms and it will be converted to one men's room and it will introduce a shower for the men and keep one of the women's restrooms and the other portion of that will introduce a shower for women. There is a new storage area and a washer and dryer is being added so that the volunteers can wash at the facility rather than washing at their homes. He stated these new restrooms would only be accessed from the interior and they would be made Americans with Disability Act (ADA) compliant. Mr. McDonnell stated the minimum parking established by SPRAB at seventeen (17) spaces and the applicant stated they only needed twelve (12) spaces and that was based on the number of volunteers they indicated they had; however, the regulations should be based on the grade shift and that would have been seventeen (17) spaces with nineteen (19) provided. He stated SPRAB found that it met the parking requirement. Mr. McDonnell stated there were some crime prevention through Environmental Design comments presented by the Police Department and those comments were shared with SPRAB and included in their record. In addition, Mr. McDonnell stated there was public testimony presented including by tonight's appellant (appellant's letter included in the packet and staff discussed with him by telephone yesterday). Mr. McDonnell stated the appellant's primary concerns were that the parking data that was presented by the applicant was

faulty and that the surrounding community wanted the opportunity to discuss the negative impacts generated by the facility, and they wanted SPRAB to table the item. Mr. McDonnell stated the Planning and Zoning Department staff recommends City Commission discretion.

**Gary Eliopoulos, GE Architecture, 205 George Bush Boulevard, Delray Beach, FL 33483 (architect)**, congratulated the newly elected Commission and welcomed the newest member Commissioner Katz. Mr. Eliopoulos stated what is being proposed is to build bathrooms that are ADA compliant. He stated this will not have an impact on the neighborhood and will not require more parking.

**April Hazamy Program Director of the Caring Kitchen**, stated access to the showers will only be from the inside of the building and will be regimentally scheduled. Ms. Hazamy stated they sub-lease from the American Legion and they lease from the City and any improvement on this property would not only benefit their clients and the people of the community, but the city property as well.

As a matter of procedure, the City Attorney stated the appellant has not asked for party status, had that occurred, the party who has party status may have as much as ten (10) minutes to speak. Since that has not occurred the appellant would only have three (3) minutes to speak; however, the City Commission rules do provide for discretion should they choose to enlarge that period of time.

At this point, Deputy Vice Mayor Jacquet moved to allow the appellant to speak for six (6) minutes, seconded by Mr. Katz. Upon roll call the Commission voted as follows: Deputy Vice Mayor Jacquet – Yes; Mr. Katz – Yes; Ms. Jarjura – Yes; Mayor Glickstein – Yes; Vice Mayor Petrolia – Yes. Said motion passed with a 5 to 0 vote.

**Reginald Cox, 715 N.W. 2<sup>nd</sup> Street, Delray Beach, FL 33444 (appellant)**, congratulated the newly elected Commission.

Secondly, Mr. Cox stated the Notice from the City to the neighborhood association was received two (2) days prior to the meeting, the parking data which he believes was flawed, the proposed changes do not comply with LDR Section 2.4.5(G)(5) and the Future Land Use Map Designation (FLUM). Mr. Cox stated this was established as a food pantry and tolerated by the neighborhood since 1997 (which they are not against); however, the applicant mentioned that this proposal includes programs and facilities. Mr. Cox stated the Police Department has indicated that the addition of a shower and laundry to a kitchen facility will increase medical and theft calls, and disturbances to the neighborhood. In addition, Mr. Cox stated the proposal has a negative impact on the adjacent neighborhoods and an addition would only jeopardize the stability of the neighborhood. Mr. Cox stated the Northwest Neighborhood at-large requests that this project be denied and encourage the applicant to find an alternative location for expansion.

**Dr. Deborah Wright, 815 N.W. 2<sup>nd</sup> Street, Delray Beach, FL 33444 (directly in front of the Caring Kitchen)**, stated there are other places that the city can

find for this place to operate (i.e. Crossroads). Dr. Wright expressed concern over the increased crime in her neighborhood since the Caring Kitchen has been there. She suggested that the facility be relocated (possibly by the Police Department) so that it can be monitored better.

**Pamé Williams, President of the Paradise Heights Homeowners' Association,** read a brief statement into the record and urged the Commission to deny the addition and consider *relocating* the facility. Ms. Williams suggested that the Caring Kitchen be moved to Congress and Lake Ida Road (Northwest corner). She stated there was a meeting where they discussed that there will be different services offered at the facility (i.e. application for food stamps and bill assistance) and this is bringing in more traffic which was previously done at one time at the Neighborhood Resource Center. Ms. Williams stated the facility is for a great cause; however, it is the *impact* the facility is having on those surrounding neighbors.

**Charles Ridley, 210 N.W. 2<sup>nd</sup> Avenue, Delray Beach, FL 33444,** stated this is not an issue of an expanded use, but is an issue of co-existing in a neighborhood. Mr. Ridley stated they wanted to see a comprehensive discussion between the residents and the leadership of the Caring Kitchen that got by-passed by process. In his opinion, Mr. Ridley stated when the residents showed up at the SPRAB meeting, he feels this should have indicated a red flag to leadership. He stated everyone has to figure out how to co-exist or has the operation of the Caring Kitchen outgrown but can be accommodated on that site.

**Willie James McCray, 129 N.W. 14<sup>th</sup> Avenue, Delray Beach, FL 33444 (graduate of Carver High School),** congratulated the newly elected Commissioners.

Secondly, he stated the Caring Kitchen is a necessity and he urged the Commission to go to the Caring Kitchen and see what is really happening and see how people like himself are benefitting from the Caring Kitchen.

**Anthony Bacchus, 340 S.W. 6<sup>th</sup> Avenue, Delray Beach, FL 33444 (works in Delray Beach),** stated this is an opportunity to help those people who utilize the Caring Kitchen to grow and do things right. Mr. Bacchus stated he concurs that there is a parking problem, but he urged everyone to work together to rectify any problems in the surrounding area, and help those people so that they can co-exist.

**Michael Harrison, resident of Delray Beach for 58 years,** stated he agrees that parking is a problem and he feels that everyone needs to work together to get things worked out.

**Evelyn Dobson, 130 N.W. 3<sup>rd</sup> Avenue, Delray Beach, FL 33444, (works next to the Neighborhood Resource Center where a large portion of C.R.O.S. Ministries comes from that building),** stated the facility has outgrown itself and they can do more than what is provided if they had the space to do it.

**Theresa Facciuto, 7290 Kinghurst Drive, Apr. #504, Delray Beach, FL 33446 (volunteer at the Caring Kitchen),** stated the renovation of these bathrooms is

something that the community has failed to speak up about. In her opinion, Ms. Facciuto stated some of the issues should have been addressed when there was a small incident or as the situation grew. She stated this is a dwelling and they are making the same request as any other establishment. Ms. Facciuto stated that the Caring Kitchen is a lifeline for many individuals.

**Jim Margolis, 129 Euclid Boulevard, Lantana, FL 33462, lives in Lantana and Bronx (volunteer at the Caring Kitchen).** stated he volunteers 2-3 mornings a week from 9:00 a.m. until 1:00 p.m. In his opinion, Mr. Margolis stated the bathrooms will enhance the property for the city and enhance the situation for the people who do need to use it.

**Ruth Mageria, Executive Director of C.R.O.S. (Christians Reaching Out to Ministries).** stated the Caring Kitchen is a hot meal program and they have grown in services. Ms. Mageria stated because the need is great and they are open to discussing with the community in how they can move forward.

There being no one else from the public who wished to give testimony on this item, the public comment was closed.

There was no cross-examination.

Staff gave the following rebuttal:

Mr. McDonnell stated staff is required to send out courtesy notices when the Agenda is posted; staff sent these notices out on January 22, 2015 and the meeting was on January 28, 2015. Mr. McDonnell stated there were three (3) additional neighborhoods further west and those notices went out the next day on January 23, 2015. He stated with respect to the parking, it was suggested that they freshen up the stripes. Mr. McDonnell stated with respect to LDR Section 2.4.5(G), that was an assertion that this Class III was a significant change from the original plan; he stated one fixture is being removed and putting in a shower in both the men's and ladies room so staff did not believe that was a significant change in the use of the property. Mr. McDonnell stated there is a need for this facility has increased; the Crime Prevention Through Environmental Design (CPTED) the concerns from the Police Department were shared and SPRAB did add that condition of approval with regard to the CCTV (camera security device); staff suggested that more trash receptacles be placed on the property to help alleviate some of the trash that people are finding in their ficus hedges; Pete Anuar, Senior Landscape Planner would be doing the design but this would have to go to the CRA for approval.

Gary Eliopoulos stated there is a clear distinction between what they are proposing and what the issues are.

Ms. Jarjura stated she wants to make sure the city is in compliance with the lease and the provision, and briefly reviewed the lease terms. She also commented about the responsibilities of the lessor and the lessee. Ms. Jarjura stated she is uncomfortable with voting on a modification when she does not know if it is contrary to a

recorded lease and whether or not the city has been enforcing that lease. Ms. Jarjura stated she wants to make sure that they are being respectful of all people's property rights and complying with all laws and regulations before she votes on this.

The City Attorney stated he will have to evaluate this with respect to the lease and noted that on December 9, 2014, the City Commission authorized C.R.O.S. Ministries to pursue the site plan modification application; the City Attorney stated the City Commission authorized that solely in as a fee owner not in their regulatory capacity.

Vice Mayor Petrolia stated she wholeheartedly agrees with comments expressed by Ms. Jarjura. She noted that there is an absolute need for this community and stated it is not just about the people that are being served at the Caring Kitchen, but they are taking hundreds of meals to people across the city that do not have the access of either coming to the facility or eating. Vice Mayor Petrolia expressed concern over making a decision tonight because there are too many questions left unanswered.

Deputy Vice Mayor Jacquet stated everyone understands the need for the service the Caring Kitchen provides in the community, but the stakeholders also care about the safety of their neighborhood. Deputy Vice Mayor Jacquet suggested that the City look at other options for relocating the Caring Kitchen and urged the stakeholders and the Caring Kitchen to work together because they are both integral parts of the community.

Mr. Katz suggested that everyone make an investment with the stakeholders, community, and the non-profits. Ms. Hazamy stated the facility would need to be in walking distance because the bulk of their clients walk.

Mayor Glickstein stated the use is not actually something that this Commission is looking at tonight, but what they are looking at is whether or not the Site Plan Review and Appearance Board decision which was appealed whether the Commission is going to affirm it, repeal it, or table it for further consideration. Mayor Glickstein stated he is not in favor of this and feels there has been a miscommunication with respect to the showers.

Vice Mayor Petrolia stated if there are no showers and the two (2) bathrooms are going to be updated to ADA standards with the intent that the Commission will be looking at alternatives as well. Ms. Hamazy stated that they would have to speak to the people who gave them the grant.

Deputy Vice Mayor Jacquet moved to approve to continue this item to a date certain of April 21, 2015, seconded by Mr. Katz. Upon roll call the Commission voted as follows: Mr. Katz – Yes; Ms. Jarjura – Yes; Mayor Glickstein – Yes; Vice Mayor Petrolia – Yes; Deputy Vice Mayor Jacquet – Yes. Said motion passed with a 5 to 0 vote.

**9.B. CONDITIONAL USE EXTENSION REQUEST/DELRAY MEDICAL CENTER:** Consider approval of a conditional use extension request to allow an eighteen (18) month extension until October 10, 2016 for the project associated

with Delray Medical Center located at 5270 Linton Boulevard. (*Quasi-Judicial Hearing*)

Mayor Glickstein asked the Commission to disclose their ex parte communications. Ms. Jarjura, Vice Mayor Petrolia, and Deputy Vice Mayor Jacquet stated they had no ex parte communications to disclose. Mayor Glickstein stated he received an email today from the CEO of the hospital explaining the reason for the conditional use extension.

Mark McDonnell, Assistant Planning and Zoning Director, entered the Planning and Zoning Department project file #2013-075 into the record.

Mr. McDonnell recognized Scott Pape, Principal Planner in the Planning and Zoning Department who is the Project Manager for this item and is present for any questions.

Mr. McDonnell stated this is a conditional use extension request for the Delray Medical Center and on March 19, 2013 the City Commission approved a conditional use to increase the height for a proposal at the Delray Medical Center from forty-eight (48') feet to fifty-eight (58') feet that was proposed. On April 10, 2013, the Site Plan Review and Appearance Board (SPRAB) approved the corresponding site plan. Since that time, the applicant in their justification statement say that they have been studying way-finding, wellness, stress-free environments through their design and while doing that they decided to make a design adjustment to their originally approved plan. Mr. McDonnell stated the applicant still had approval for the conditional use for the height; however, they redesigned the one wing for the bed tower into two (2) wings. He stated they made application for that on September 9, 2014, went to SPRAB on January 28, 2015, and because they had the recent modification approved, they would not be able to begin construction and have 25%. McDonnell explained that the conditional use recently expired because the Commission meetings were moved (no fault of the applicant). Mr. McDonnell stated there are thirty-seven (37) conditions listed in the staff report; however, only two (2) need to be applied to this conditional use. Mr. McDonnell stated when the City Commission approved the conditional use in 2013 there were only three (3) conditions: (1) site plan that City Commission saw that would go forward to SPRAB, (2) a community (Country Lake) to the south who expressed concern over a lack of a buffer and the City Commission made sure that the southern buffer be enhanced, and (3) that they look at Florida Green Building or LEED Certification status for the building addition. Mr. McDonnell stated the first condition has been met; the other two conditions are **#28** and **#36**. Staff recommends that the City Commission extend this approval with **only condition #28**, That a minimum of two additional techniques are included in the project design that address sustainability issues and consider achieving third-party green building or LEED certification, and **condition #36**, That the Ficus hedge be replaced with a new hedge species along the south side of the property, and the buffer be enhanced with additional trees to address the City Commission condition of approval.

**Colleen Walter, Urban Design Kilday Studios, speaking on behalf of Delray Medical Center,** stated they believe that the redesign is much more practical and aesthetically pleasing for the hospital and SPRAB indicated the same when they

reapproved it in January. Ms. Walter urged the City Commission to support the eighteen (18) month extension so that the hospital can move forward and complete the project.

There being no one from the public who wished to give testimony in support or in opposition of the conditional use extension request, the public comment was closed.

There was no rebuttal or cross-examination.

Mayor Glickstein stated Delray Medical Center is the largest employer in the city and they do a great job. In addition, Mayor Glickstein stated the changes are positive as was described both for them and the city.

The City Attorney briefly reviewed the Board Order with the Commission who made findings according to their consensus (attached hereto is a copy and made an official part of the minutes).

Mr. Katz moved to adopt the Board Order, seconded by Ms. Jarjura. Upon roll call the Commission voted as follows: Ms. Jarjura – Yes; Mayor Glickstein – Yes; Vice Mayor Petrolia – Yes; Deputy Vice Mayor Jacquet – Yes; Mr. Katz – Yes. Said motion passed with a 5 to 0 vote.

**9.C. SIDEWALK DEFERRAL/21 GROVE WAY:** Consider a request from the property owner of 21 Grove Way for a sidewalk deferral and require the installation of a sidewalk in accordance with the approved permit. (*Quasi-Judicial Hearing*)

Mayor Glickstein asked the Commission to disclose their ex parte communications. The Commission had no ex parte communications to disclose.

Victor Majtenyi, Deputy Director of Public Utilities, stated this is a sidewalk deferral for 21 Grove Way. Mr. Majtenyi stated the sidewalk is part of a building permit for a residence on 21 Grove Way and the subject property came in for permit in 2014; subsequent to that in September 2014 the Commission had a Workshop meeting to discuss the sidewalk deferral program and at that time the Commission decided that the option would be the in-lieu fee for deferrals. Mr. Majtenyi stated subsequent to that in January of this year, the applicant submitted a deferral request and it was determined by the Development Services Management Group (DSMG) meeting that the sidewalk should be installed. He stated there are sidewalks in the area on Grove Way and NW 12<sup>th</sup> Street, and on the north side wrapping around; on the south side of 12<sup>th</sup> Street. Staff feels that the sidewalk connection in front of the subject property would be important to make connectivity out to Swinton Avenue and therefore staff supports that the sidewalk be installed and noted the applicant is not in favor of the in-lieu fee.

**Angelo Bianco, 919 Seasage Drive, Delray Beach, FL 33483,** stated in his opinion there was a little confusion with the process and clarified that he is requesting that the Commission consider a sidewalk deferral.

Mayor Glickstein asked if there is anyone from the public who would like to speak in favor or in opposition of the sidewalk deferral.

**Christina Morrison, 2809 Florida Boulevard #207, Delray Beach, FL 33483,** asked that when the entire street already has deferrals then get them all together and have all the sidewalks put in at once.

There being no one else from the public who wished to give testimony on this item, the public comment was closed.

There was no cross-examination or rebuttal.

Ms. Jarjura stated she recalls that the Commission already said that if they were in for building permit prior to the change and Commission direction in September that they were going to be allowing them to go in. The City Attorney stated the City Commission evidenced that by payment for the application for the deferral.

Mayor Glickstein asked if the building permit was submitted and the application fee paid prior to that date. Victor Majtenyi, Deputy Director of Public Utilities, stated the applicant submitted an application for a sidewalk deferral on January 15, 2015; the building permit was submitted in March 2014.

The City Attorney briefly reviewed the Board Order with the Commission who made findings according to their consensus (attached hereto is a copy and made an official part of the minutes).

Vice Mayor Petrolia moved to adopt the Board Order, seconded by Ms. Jarjura. Upon roll call the Commission voted as follows: Mayor Glickstein – Yes; Vice Mayor Petrolia – Yes; Deputy Vice Mayor Jacquet – Yes; Mr. Katz – Yes; Ms. Jarjura – Yes. Said motion passed with a 5 to 0 vote.

At this point, the time being 10:24 p.m., Mayor Glickstein left the dais and passed the gavel to Vice Mayor Petrolia.

**9.D. SERVICE AUTHORIZATION NO. 12-16/ MATHEWS CONSULTING, INC./TROPIC PALMS WATER MAIN (WM) PROJECT – PHASE 2:** Consider approval of Service Authorization No. 12-16 with Mathews Consulting, Inc. in the amount of \$89,925.00 for professional design services (RFQ #2012-06) related to the Tropic Palms Water Main Project No. 15-022. This is in compliance with Chapter 36 Section 36.02(C)(3), “Professional Services” and Section 36.03(B), “Multiple acquisitions from Vendor Exceeding \$25,000.00 in any Fiscal Year”. Funding is available from account #442-5178-536-68.97 (Water and Sewer Renewal Replacement Fund: Renewal and Replacement Project/Physical Environment/Improvements Other/ Tropic Palms Water Main).

Victor Majtenyi, Deputy Director of Public Utilities, stated this is a service authorization to Matthews Consulting, Inc. in the amount of \$89,925.00 to upgrade and replace the City’s two inch water mains to eight inch water mains. Mr.



Majtenyi stated this is for design services to install approximately 5,000 linear feet of water main and this is in the original scope of services of the original RFQ that was approved under the design services for this group of consultants. He stated the consulting services agreement was approved in 2012 and renews in 2014. Mr. Majtenyi stated Amendment No. 2 was executed in January 2015 extending the agreement through January 2016; he stated there is a two-year original term and then they have three one-year terms after that for a total of five (5) years.

For the record, Ms. Jarjura confirmed that this is within the original RFQ and the scope of services (also for Item 9.E.).

Mr. Katz moved to approve Service Authorization No. 12-16 in the amount of \$89,925.00, seconded by Ms. Jarjura. Upon roll call the Commission voted as follows: Vice Mayor Petrolia – Yes; Deputy Vice Mayor Jacquet – Yes; Mr. Katz – Yes; Ms. Jarjura – Yes. Said motion passed with a 4 to 0 vote.

**9.E. SERVICE AUTHORIZATION NO. 12-06/ WANTMAN GROUP INC./PHASE 2 - N.E. 2<sup>ND</sup> AVENUE/SEACREST BEAUTIFICATION PROJECT:** Consider approval of Service Authorization (S.A. No. 12-06) with Wantman Group, Inc. for the design of N.E. 2<sup>nd</sup> Avenue and Seacrest Beautification Project (P/N 14-071) Phase 2, in the amount of \$106,607.88. Funding is available from account 334-3162-541-68.78 (General Construction Fund: Public Works/Streets, Alleys, Sidewalks/ Other Improvements/ N.E. 2<sup>nd</sup> Avenue/ Seacrest Beautification).

At this point, Mayor Glickstein returned to the dais and resumed the gavel.

Victor Majtenyi, Deputy Director of Public Utilities, stated this is a consulting agreement in the amount of \$106,607.88 with Wantman Group, Inc. for the beautification of N.E. 2<sup>nd</sup> Avenue from George Bush Boulevard to N.W. 13<sup>th</sup> Street. The improvements will include five foot (5') sidewalks, bike lanes, travel lane reduction to ten (10') feet, irrigation, and landscaping. Mr. Majtenyi stated this is within the services and scope of the design consultants and the original RFQ issued in 2012 that has been renewed subsequent to that.

Mr. Katz moved to approve Service Authorization (SA) #12-06 with Wantman Group, Inc. for the design of N.E. 2<sup>nd</sup> Avenue/Seacrest Phase 2, seconded by Ms. Jarjura. Upon roll call the Commission voted as follows: Deputy Vice Mayor Jacquet – Yes; Mr. Katz – Yes; Ms. Jarjura – Yes; Mayor Glickstein – Yes; Vice Mayor Petrolia – Yes. Said motion passed with a 5 to 0 vote.

**9.F. AMENDMENT NO. 1 TO LOAN PURCHASE AGREEMENT WITH IBERIABANK/AUBURN TRACE APARTMENTS:** Consider approval of amendment No. 1 with Iberiabank for a further price reduction to the City's purchase price of the Mortgage Note for the Auburn Trace Apartments; and extend the closing date until May 29, 2015.

The City Attorney stated this is Amendment No. 1 to the Loan Purchase Agreement and the purpose of this amendment is to further reduce the purchase price of

the Mortgage Note to the City of Delray Beach by an additional \$64,000.00 and it also provides for a time extension until May 15, 2015 for Iberiabank to get FDIC approval of the Loan Purchase and extend the closing date until May 29, 2015.

Vice Mayor Petrolia inquired about the extension and asked if Iberiabank needs this extension. The City Attorney stated the City has negotiated a below market value for the purchase of the Mortgage Note and that requires FDIC approval and normally it is routine, but because the City is paying less than market value, they asked for a little extra time to get that through the process.

Vice Mayor Petrolia moved to approve Amendment No. 1 to Loan Purchase Agreement with Iberiabank which provides for a further price reduction to the City's purchase price of the Mortgage Note (which requires Iberiabank to obtain FDIC approval) and extends the closing date until May 29, 2015, seconded by Mr. Katz. Upon roll call the Commission voted as follows: Mr. Katz – Yes; Ms. Jarjura – Yes; Mayor Glickstein – Yes; Vice Mayor Petrolia – Yes; Deputy Vice Mayor Jacquet – Yes. Said motion passed with a 5 to 0 vote.

**9.G. APPROVAL OF FY 2014/2015 SPENDING IN EXCESS OF \$25,000.00/ ALLEN, NORTON & BLUE FOR FEES/ SPECIAL LABOR COUNSEL:** Consider approval of spending in excess of \$25,000.00 for special counsel labor services to Allen, Norton & Blue for fiscal year 2014/2015. This recommendation is in compliance with Code of Ordinances Chapter 36, Section 36.03(B), and "Multiple Acquisitions from Vendor Exceeding Twenty-Five Thousand Dollars (\$25,000.00) in Any Fiscal Year".

The City Attorney stated this firm currently serves as the City's general labor counsel services and the City of Delray Beach has used them for labor negotiations with Police, Police Sergeants, Police Lieutenants, firefighters, and some general labor questions. The City Attorney recommends that the City use this firm to get through this cycle and once the City has successfully has collective bargaining agreements with each of these units, later this year he will prepare an RFP and test the marketplace and see what availability of labor counsel may be; however, to get through that cycle he is going to exceed the \$25,000 thus the reason for this request.

For the record, Ms. Jarjura confirmed with the City Attorney that he will consider issuing an RFP for general labor counsel services afterwards and that he will be monitoring the invoices of this law firm since she has had issues with their invoices on other items in the past.

Mr. Katz stated he feels this gives the law firm an incentive to move the process along faster knowing that the City is going to spend the \$30,000.00 either way, but they do it by dragging out these negotiations with the firefighters, police, and employees to bill. The City Attorney stated he has a preference for a fixed fee where it is appropriate, but he does not feel that is the case here. The City Attorney stated there are so many players with respect to concluding the successful negotiation of collective bargaining agreements he does not feel the blame should fall on labor counsel. The City

Attorney stated it is his job to manage special counsel and if he ever suspects that someone is providing legal services because they are trying to get the full budgeted amount or to do more work the Commission needs to criticize them and him for failing to manage them. The City Attorney stated the City switched the principal lawyer with respect to labor counsel and to his credit he has been responsive and always makes himself available. Mr. Katz urged the City Attorney to do this in a timely manner and manage this closer than the last negotiation was managed.

Vice Mayor Petrolia expressed concern that we are still with this firm after what they cost this city in the past.

The City Attorney gave the Commission a brief update and stated last week after three negotiating sessions, the City concluded negotiations with the Police Lieutenants and they have ratified. The City Attorney stated he anticipates that the collective bargaining agreement will be before the Commission the last meeting in April. The City Attorney stated the City has had several meetings with the firefighters and they are not as far along as he expected they might be because, notwithstanding the agreement the City made with the police, they have counter proposed a very different scenario for wage and pension. The City Attorney stated if he needs guidance or direction he will come back to the Commission. With respect to counsel, the City Attorney stated there is one more labor agreement (SEIU) but that meeting was cancelled and noted that he is not using labor counsel for the SEIU labor agreement because it will be done in-house (City Attorney Noel Pfeffer and Assistant City Attorney Michael Dutko).

Ms. Jarjura moved to approve **Item 9.G.**, seconded by Mr. Katz. Upon roll call the Commission voted as follows: Ms. Jarjura – Yes; Mayor Glickstein – Yes; Vice Mayor Petrolia – No; Deputy Vice Mayor Jacquet – Yes; Mr. Katz – Yes. Said motion passed with a 4 to 1 vote, Vice Mayor Petrolia dissenting.

**9.H. THIS ITEM HAS BEEN REMOVED FROM THE AGENDA.**

**9.I. REIMBURSEMENT AGREEMENT/HHC SEAGATE HAMLET, LLC: HAMLET SEAGATE SUBDIVISION:** Consider approval to reimburse HHC Seagate Hamlet, LLC for fifty percent (50%) of the actual cost in an amount not to exceed \$110,000.00 for engineering services and construction cost associated with rebuilding the road and canal, as well as, repairing the culvert and associated drainage associated with the property located at 3600 Hamlet Drive.

Victor Majtenyi, Deputy Director of Public Utilities, stated this is a reimbursement agreement with the reimbursement costs of 50% for the total engineering and construction costs associated with the project (not to exceed \$110,000.00). Mr. Majtenyi stated out West on Forest Road off Lowson Boulevard, into The Hamlet their second entrance which is actually their entrance to their maintenance areas. He stated on January 9, 2014, there were over 12 inches of rain in a very short period of time and the washout created many issues. Mr. Majtenyi stated the run-off from the city streets impacted the road crossing and it was determined by staff and the developer reviewing the estimated costs to rebuild the roadway and canal, repairs to the culvert, and

installation of drainage pipe and structures. Mr. Majtenyi stated there is a reclaimed crossing and a water service there so staff believes that there is a public purpose benefit in what this request is for. For clarification, Mr. Majtenyi stated the actual costs came in about \$164,000.00 so the applicant will only pay actual costs of approximately \$82,000.00.

Vice Mayor Petrolia asked if the City had to do this themselves, would HHC Seagate Hamlet, LLC have been paying 50% of it. Mr. Majtenyi stated the City would probably have had some kind of cost sharing because they own the road, but the City has the utilities in that roadway and drainage structures.

Vice Mayor Petrolia moved to approve the reimbursement to HHC Seagate Hamlet, LLC for fifty percent (50%) of the actual costs for engineering services and construction costs associated with the project not to exceed \$110,000.00 per the Developer Reimbursement Agreement; however, the actual costs came in at \$164,810.00 with the City's share being approximately \$82,405.00 (50% of the actual costs) and HHC Seagate Hamlet, LLC share being approximately \$82,405.00 (50% of the actual costs), seconded by Mr. Katz. Upon roll call the Commission voted as follows: Mayor Glickstein – Yes; Vice Mayor Petrolia – Yes; Deputy Vice Mayor Jacquet – Yes; Mr. Katz – Yes; Ms. Jarjura – Yes. Said motion passed with a 5 to 0 vote.

At this point, the Commission move to **Item 11, First Readings.**

**11. FIRST READINGS:**

**11.A. ORDINANCE NO. 10-15 (FIRST READING):** Consider an amendment to Chapter 33, "Police and Fire Rescue Departments", Section 33.60, "Definitions"; Section 33.62, "Benefit Amount and Eligibility", and Section 33.689, "Retirement Benefit Enhancement"; to conform the Code to the terms of the new Collective Bargaining Agreement. If passed, a public hearing will be held *tentatively* on April 21, 2015.

The caption of Ordinance No. 10-15 is as follows:

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF DELRAY BEACH, FLORIDA, BY AMENDING CHAPTER 33 "POLICE AND FIRE-RESCUE DEPARTMENTS" AT TITLE 3 "PENSIONS," BY AMENDING SECTION 33.60, DEFINITIONS; AMENDING SECTION 33.62, BENEFIT AMOUNTS AND ELIGIBILITY; AMENDING SECTION 33.689, RETIREMENT BENEFIT ENHANCEMENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

(The official copy of Ordinance No. 10-15 is on file in the City Clerk's office.)

The City Attorney read the caption of the ordinance and stated this is the first phase of the terms and condition of the recently approved Collective Bargaining Agreement (CBA) with the Police and Sergeants. The City Attorney stated he has had this ordinance available for a few weeks and he was delaying it because he was hopeful that he could move this forward in more comprehensive fashion as a result of successful negotiations with the firefighters because not only could he make the appropriate changes to the wage and pension ordinance, he could also include changes that would reconstitute the Police and Fire Pension Board. The City Attorney stated it is important to implement those wage and pension issues in the Collective Bargaining Agreement as soon as possible. The City Attorney stated this ordinance implements all of the terms *except for the withdrawal from 185*; if for some reason either at Impasse or there is a great delay with respect to the firefighters, it is possible to pull out the Police piece (this piece is very complicated because of some State laws) and, if it is necessary, staff will do that. However, the City Attorney stated he would like to wait another month or two to see if there is any progress.

Vice Mayor Petrolia stated she had asked the City Attorney if in fact there was anything other than the City Commission that would require any kind of approval in order to be able to withdraw from the 175/185. The City Attorney stated under State Statute there is no impediment; however, by ordinance, we specifically have terms with respect to the benefits under 185/175 and it is subject to collective bargaining. The City Attorney reiterated that it is not a State Statute restriction, but the City is restricted because we previously enacted an ordinance with respect to 175 and that is the impediment. The City Attorney stated by ordinance the City has stated that they will get benefits under 175. The City Attorney stated if the City provided those benefits by ordinance, the City needs to: (1) amend that ordinance, (2) because the City has given that benefit, it then becomes a bargainable issue, and the City Attorney needs to deal with it as part of the Collective Bargaining Agreement (CBA) process.

Mr. Katz stated the 1% COLA was mentioned in Tier 2 and Tier 3 but not in Tier 4. For clarification, the City Attorney stated every tier gets the 1% COLA.

Vice Mayor Petrolia moved to approve Ordinance No. 10-15 on FIRST Reading, seconded by Ms. Jarjura. Upon roll call the Commission voted as follows: Vice Mayor Petrolia – Yes; Deputy Vice Mayor Jacquet – Yes; Mr. Katz – Yes; Ms. Jarjura – Yes; Mayor Glickstein – Yes. Said motion passed with a 5 to 0 vote.

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

### **A. City Manager**

#### **1. Termination of Contract with Oceanside Beach Services, Inc.**

At this point, Ms. Jarjura declared a conflict of interest and recused herself from the dais; the firm that she joined in October one of her law partners has a longstanding representation of a competing beach equipment vendor and she cannot participate in this discussion or vote on any item.

The City Manager stated he is seeking direction from the City Commission concerning this contract as he does not have the authority to terminate the contract; however, he has provided a notice of breach to the contractor based upon two (2) observations by the City staff concerning performance failures (i.e. rates and fees, and the failure to rake or to clean debris twice a day based upon observation by city staff). The City Manager stated there has been a delay in his response and Mr. Novatka and he has assured him he will comply with the requirements of the contract and there has been an improvement in performance since this was originally sent out; however, there was a delay in the response to the City. The City Manager stated if there is decision to terminate the contract it will have to be scheduled as a regular agenda item. The City Manager stated since it is at the end of season and it is going to take some time to re-bid this contract, that Oceanside Beach Services, Inc. be allowed one more chance and if they do not comply that subject to the City Attorney's opinion that that City Commission can begin to take action based upon a 30-day notice provision.

Mr. Katz stated yesterday he received a book of emails telling him how great Oceanside Beach Services, Inc. is; however, it should not take the City Manager placing and an Agenda item on the Agenda to get a response from a vendor. Mr. Katz stated when the City Manager informs any vendor that he wants to meet with them and wants them to live up to their contract the City expects this type of action right away. Mr. Katz stated had the City Manager's first request to comply been met the Commission would not be speaking about this. Mr. Katz stated he supports giving the vendor one more chance knowing that the City Manager has full authority that the second he feels that any vendor is not meeting their obligation of the contract that he will take some action. Mr. Katz suggested that an apology from Oceanside Beach Services, Inc. (or whichever vendor) to their customers for asking them to come speak on something that they should never had to do is in order and an apology to the City Manager for not responding right away.

Vice Mayor Petrolia stated she has a problem giving the vendor another chance because she feels they should have taken the opportunity then. Vice Mayor Petrolia stated this is not about whether they are providing great beach service for the people, but they are not living up to the contract. Vice Mayor Petrolia asked if the City has anyone (i.e. another vendor) lined up to take over. The City Manager stated the City would have to re-bid the project and to his knowledge the City does not have a second vendor to step in. Vice Mayor Petrolia stated the timing is good now for the City to start looking to have another vendor in line because of the vendor's history has been an issue from the very beginning.

Mr. Katz concurs with comments Vice Mayor Petrolia that there should be vendors lined up ready to go because the City is giving them the last notice. Mr. Katz

stated any vendor in that situation could pack up overnight and the City needs to be prepared.

Deputy Vice Mayor Jacquet concurs with the City Manager's recommendation that of some people have concerns with the particular vendor or the way things are going then it is okay for the City to look at what can be done in the future but at the same time to do it abruptly is not wise.

Mayor Glickstein stated under the City Manager's scenario he would have City Commission direction that he would not have to bring this back to the Commission but just unilaterally terminate the contract. The City Manager stated that is alternative and defers to the City Attorney. Mayor Glickstein stated he understands that there are many satisfied customers and it is an important issue. However, Mayor Glickstein stated the City Commission was very clear that it was a service initiative and a revenue initiative. Mayor Glickstein stated it appears that we have satisfied the service but the City has a vendor who has demonstrated that he is going to be very cavalier about the contractual requirements. Mayor Glickstein stated according to the City Manager's memorandum dated February 17, 2015 a letter was sent to Michael Novatka of Oceanside Beach Services, Inc. indicating that they were in breach of contract and needed to provide the City within fourteen (14) days a plan of compliance which is a lenient standard which Oceanside failed to meet and were unresponsive to the City Manager. Mayor Glickstein stated given that it is season now, his recommendation is if there is a monetary or non-monetary breach that service is terminated and the City Commission has the ability to replace them pre-RFP with another provider on an emergency basis if needed. Mayor Glickstein requested that the inspection of that service *not* coming indirectly from a private citizen but that it come from the City. Mayor Glickstein Oceanside is blaming the City Commission and City administration for asking him to comply with his contract.

**Michael Weiner, Attorney with Weiner, Lynne & Thompson, P.A., 10 S.E. 1<sup>st</sup> Avenue, Delray Beach, FL 33444,** speaking on behalf of Oceanside Beach Services, Inc., stated he made a telephone call to the City Manager within the fourteen (14) day period; the actual notice to the City to place this on the Agenda occurred before the end of the fourteen (14) day period.

The City Attorney stated the discussion of performance issues is relevant and this contract has termination for breach upon twenty (20) days' notice and the termination for convenience at the sole discretion of the City Commission upon thirty (30) days' notice. The City Attorney recommended that pursuant to the termination for convenience because this is a non-agenda item and no action or direction can be taken and should the City Commission elect to terminate the agreement for any reason, it would need to come back to the City Commission as a regular Agenda item and with some follow-up to some of the other vendors that could just step in within a thirty (30) day period of time and take over. The City Attorney stated the City Commission would waive the Code and put a vendor in for some increment time such as putting out an RFP.

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

None.

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

**12.C.1.**        **Commissioner Katz**

Mr. Katz stated he would like the City Manager to look into potential annexation of small pockets of land east of Military Trail. Mr. Katz stated one particular pocket that the city could start with where homeowners have approached him who would like to be part of the city because this could be potential revenue for the city.

Secondly, Mr. Katz stated he would like to see a discussion about All Aboard Florida soon.

Mr. Katz suggested that every meeting which takes place in the City Commission Chambers be video streamed so that anyone at home can watch those meetings and understand the process. The City Manager stated staff is already looking into this.

Mr. Katz stated when he served on the Education Board he worked a lot with Janet Meeks, Education Liaison and the 3<sup>rd</sup> Grade Reading Campaign. He stated next year Delray Beach is close to becoming a third time All-America City. Mr. Katz stated if the Commission wishes to pursue to make sure Ms. Meeks receives the support that she needs in order to go through this application process.

With respect to a dog beach, Mr. Katz stated when the Commission discussed this the last time they wanted to see what Boca Raton was going to do with their plan and trial period and it is his understanding is their trial is working very well. Mr. Katz suggested that Delray Beach look at Boca's Plan and find an area on our beach and potentially have a legal place to come.

Mr. Katz stated in the last two weeks in looking at some communities residents have requested him to look at where if you saw these situations going on in a community and they are not being cited. He expressed concern that neighborhoods are being treated differently based on their income bracket. Mr. Katz stated Code Enforcement should provide equal protection citywide.

**12.C.2.**        **Ms. Jarjura**

None.

**12.C.3.**        **Vice Mayor Petrolia**

Vice Mayor Petrolia stated she is glad Mr. Katz is here.



**12.C.4. Deputy Vice Mayor Jacquet**

Deputy Vice Mayor Jacquet stated approximately a year ago the Commission discussed having a few of the City Commission Workshop meetings somewhere in the community. He stated it is important and feels the Commission should find a way to meet west of I-95 for one City Commission meeting and invite all the neighborhoods. Deputy Vice Mayor Jacquet urged staff to look into this.

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

Mayor Glickstein stated with regard to bus indentation turnoff and urged staff to look now before laying the asphalt. He asked the City Manager to have Engineering go through the design again to see if there are any other areas that buses do not have a pull out area that are problematic.

Secondly, Mayor Glickstein stated he would like to see a Congress Avenue Task Force and asked former Mayor Jeff Perlman who was involved in the legislation/ordinances that created the Overlay District for Congress Avenue to convene a task force and get that started. Mayor Glickstein suggested that the City get the commercial property owners on Congress Avenue and the County involved.

Mayor Glickstein stated he understands that staff has certain policies when certain MOT Plans will come before the Commission based on duration and directed the City Manager to encourage staff to view these applications in context with what other improvements that are going on. For example, he specifically commented about the lane closure on westbound Atlantic Avenue converging on the construction at Atlantic Avenue and US-1. Mayor Glickstein stated it is not just where it is but when it is happening and what else is happening.

Mayor Glickstein stated the George Bush Bridge used to open at opposite quarter hours from the Atlantic Avenue Bridge so that people could time where they were, either going East or West. He stated when the George Bush Bridge went under construction a few years ago, that policy stopped. Mayor Glickstein gave direction to the City Manager to get that back in place.

With regard to the All Aboard Florida issue, Mayor Glickstein stated to his knowledge no City or County south of Martin County has passed any resolution against All Aboard Florida with the exception of Fort Lauderdale that passed a somewhat muted resolution dealing with the marine industry in terms of bridge openings and closings. Mayor Glickstein stated there is no city more impacted by All Aboard Florida than Delray Beach and noted there are twelve (12) crossings. He stated he has not received any clarity as to what they are doing at all of those crossings relative to quiet zones. Mayor Glickstein stated if the City were getting some assurance that we would be getting commuter rail service on that double track and suggested that staff start a conversation about getting something for the City as opposed to just quiet zones in

some locations which they are doing throughout Palm Beach, Dade, and Broward County. The City Manager stated staff will put together a report.

Mayor Glickstein inquired about the schedule for the Comprehensive Plan for parking. The City Manager stated the Comprehensive Plan on parking is schedule for May.

There being no further business, Mayor Glickstein declared the meeting adjourned at 11:19 p.m.

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City Clerk

ATTEST:

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M A Y O R

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 March 31, 2015, which Minutes were formally approved and adopted by the City Commission on \_\_\_\_\_.

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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.