

City of Delray Beach

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Minutes - Draft

Tuesday, May 7, 2019

4:00 PM

Regular Meeting at 4:00 PM

Delray Beach City Hall

City Commission

*Mayor Shelly Petrolia
Vice Mayor Shirley Ervin Johnson
Deputy Vice Mayor Bill Bathurst
Commissioner Adam Frankel
Commissioner Ryan Boylston*

1. ROLL CALL

Mayor Petrolia called the Regular City Commissin Meeting to order at 4:00 p.m.

The roll call was taken by the City Clerk.

The following were in attendance:

Mayor Shelly Petrolia
Commissioner Adam Frankel (via skype)
Vice Mayor Shirley Ervin Johnson
Deputy Vice Mayor Bill Bathurst
Commissioner Ryan Boylston

Others present were:

Neal de Jesus, Interim City Manager
Lynn Gelin, City Attorney
Katerri Johnson, City Clerk

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. AGENDA APPROVAL

The City Attorney requested that **Item 6.N.1.G.** be moved to the Regular Agenda as **Item 7.B.B.**

Commissioner Boylston moved to approve the agenda as amended. It was seconded by Deputy Vice Mayor Bathurst. A roll call vote was taken and all were in favor. The motion carried 5-0.
approved as amended

4. PRESENTATIONS:

4.A. 19-342 Presenting Stephanie Craney, Firefighter, with Employee of the Month for May 2019.

Recommendation: Motion to present Stephanie Craney, Fire Fighter, with Employee of the Month for May 2019.

Sponsors: Human Resources Department

Attachments: [Agenda Cover Report](#)

[Stephanie Craney Nomination Form](#)

Duane D'Andre, Human Resources Director, introduced Assistant Fire Chief Keith Tomey.

Keith Tomey, Assistant Fire Chief, recognized firefighter Stephanie Craney for her hard work with helping plan the St. Patrick's Day Parade.

Stephanie Craney came forward to accept the Employee of the Month Award for May 2019 and thanked the City Commission for the recognition.

On behalf of the City Commission, Mr. D'Andre presented Stephanie Craney with a plaque and a certificate for 8 hours of time off with pay.

4.B. [19-396](#) RESOLUTION NO. 83-19 RECOGNIZING PHILIP DORFMAN FOR 30 YEARS OF SERVICE

Recommendation: Motion to Approve Resolution No. 83-19 honoring Philip Dorfman for 30 years of service.

Sponsors: Human Resources Department

Attachments: [Agenda Cover Report](#)

[Resolution 83.19 Philip Dorfman 5.7.19](#)

Mayor Petrolia read Resolution No. 83-19 into the record recognizing and commanding Phillip Dorfman for 30 years of service to the City of Delray Beach.

Phillip Dorfman came forward to accept the resolution and thanked the City Commission for the recognition.

Javaro Sims, Police Chief, recognized and commended Phillip Dorfman, Police Department for 30 years of service to the City of Delray Beach.

On behalf of the City Commission, Duane D'Andre, Human Resources Director, presented Phillip Dorfman with a plaque.

4.C. [19-415](#) RESOLUTION NO. 89-19 RECOGNIZING SUSAN MALONEY FOR 30 YEARS OF SERVICE

Recommendation: Motion to approve resolution No. 89-19 honoring Susan Maloney for 30 years of service.

Sponsors: Human Resources Department

Attachments: [Agenda Cover Report](#)

[Resolution 89-19 Susan Maloney 5.7.19](#)

Mayor Petrolia read Resolution No. 89-19 into the record recognizing and commanding Susan Maloney for 30 years of service to the City of Delray Beach.

Katerri Johnson, City Clerk, gave a few brief comments recognizing and commending Susan Maloney for 30 years of service to the City of Delray Beach.

Duane D'Andre, Human Resources Director, presented Susan Maloney with a plaque and resolution.

Susan Maloney, Administrative Assistant, gave a few brief comments and thanked the City Commission for the recognition.

4.D. [19-411](#) LEGISLATIVE POST SESSION UPDATE WITH STATE SENATOR LORI BERMAN

Attachments: [Agenda Cover Report](#)

State Senator Lori Berman gave a brief presentation regarding the Legislative Post Session Update.

4.E. [19-472](#) 2019 We ♥ Small Biz Month Presentation and Proclamation

Recommendation: Presentation and Proclaim May 2019 as "We ♥ Small Biz" Month in Delray Beach, Florida

Sponsors: Economic Development Department

Attachments: [Agenda Cover Report](#)

[Proclamation - 2019 We Heart Small Biz Month](#)

Joan Goodrich, Economic Development Director, gave a brief presentation regarding the 2019 We Heart Small Biz update.

4.F. Internal Auditor's Report

4.F.1. None

Commissioner Boylston left the dais at 5:15 p.m. and returned at 5:16 p.m.

Deputy Vice Mayor Bathurst left the dais at 5:17 p.m. and returned at 5:18 p.m.

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

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

None.

5.B. From the Public

Pauline Moody, living temporarily in Boynton Beach, commented about a few legal issues the City is having within a two week span. She expressed concern over children being dragged into politics. Ms. Moody commented about several Police Officers retiring. Ms. Moody expressed her disappointment with the Legislation regarding the limitations on cancer and she feels that all cancers should be covered no matter what the type. She stated this is not fair to firefighters and police officers and feels this needs to be changed.

Yvonne Odom, stated she is a stage 4 lung cancer survivor from second-hand smoke. Ms. Odom stated there is a State law about the 25 feet distance requirement that you have to be from a door of a hotel or restaurant from where smokers stand. She urged the City to look into this to make sure the establishments in the downtown are enforcing the rule about the 25 feet distance requirement.

Timothy Boydkins, stated he is battling crime trying to get kids to stop doing things and commented about the accusations that Mayor Petrolia used the City funds inappropriately. He urged the City Commission to call a Special Meeting to evaluate the situation as was done for former City Manager Mark Lauzier and if a mistake was made that the same judgment be used that is used against other employees.

The City Attorney stated in reference to the comments ("the whistleblower account") that were just made by Mr. Timothy Boykins, the City is filing a motion to dismiss this account by May 28th, 2019, the basis being is it is without merit and unfounded since the City's Personnel Policies permit the use of a "P" card for family members so long as money is refunded in a reasonable amount of time, which was done in this case.

Nicholas Coppola, 3930 Lowson Boulevard, Delray Beach, serves on the City's Code Enforcement Board, Treasurer of the Sherwood Park Civic Association, and a board member of the HOA where he owns property, stated this year marks the 50th year anniversary of the Stonewall Protest that launched the Gay Civil Rights Movement. Mr. Coppola requested that the City of Delray proclaim June as the lesbian, gay, bisexual, and transgender (LGBT) Pride Month. In 2015, Delray Beach unanimously voted to enact an LGBT inclusive Civil Rights ordinance prohibiting discrimination and in 2016, Delray Beach banned conversion therapy.

Rodolfo Plancate, Palm Beach Tenants Union and Rainberry Woods Neighborhood Consol, stated his purpose is to help working class and immigrant residents to communicate civic and political issues to the community, make recommendations to City government with respect to the communities needs and its views on policies and issues, and give

direction on neighborhood projects. He urged the City to work with the Palm Beach Tenants Union instead of issuing Code Enforcement fines. Mr. Plancate thanked Commissioner Boylston and Deputy Vice Mayor Bathurst for reaching out to them. He stated the Palm Beach Tenants Union started a petition to remove the current HOA board members from the responsibilities for violating the homeowners' association.

Gerard Harris, 307 S.W. 9th Court, Delray Beach, stated he came to Delray Beach from New York City to change his life and went from sleeping on a park bench to a business owner. Mr. Harris stated he got arrested in 2005 by a police officer and in 2008 he sought this individual to thank him because without that arrest he would not have been the man that he is today. Mr. Harris thanked Mr. Michael Coleman for his support. Mr. Harris stated his latest business, Tom's Place World Famous Barbeque will be in the Boynton Beach food court June 1, 2019.

James Quillian, 925 S.E. 2nd Avenue, Delray Beach (Osceola Park), commented about the City redoing the LDRs specifically areas surrounding his neighborhood and parts of his neighborhood. Mr. Quillian commented about the improvements slated for his neighborhood, however, they keep getting postponed. He stated changes to the LDRs and changes to zoning would greatly affect his neighborhood in a negative way because improvements still have to be made. Mr. Quillian stated there is not a communication problem between himself and Planning and Zoning; however, in his opinion, there is a communication problem between the City Commissioners and the Community Redevelopment Agency (CRA). Mr. Quillian stated residents as a whole do not know yet that the improvements to the Oseola Park Neighborhood are going to be postponed.

Alice Finst, 707 Place Tavant, Delray Beach, expressed concern over the start time of the City Commission meetings (4:00 p.m. for regular meetings and 3:30 p.m. for workshop meetings) and since these meetings usually extend far beyond the dinner hours, she inquired if food is going to be delivered.

Michael Wind, 1540 N.W. 8th Avenue, Delray Beach, stated the Delray Beach Police Department is of the utmost importance and two years ago Delray Beach was 20% below average for Florida. Mr. Wind stated the Police Department is underpaid and should be paid the same as the City of Boca Raton, and noted that Delray Beach does not have enough Police Officers. Mr. Wind stated he did a Google search and found that there are over 14,000 businesses in Delray Beach and another speaker commented that there are 4,800 businesses. Therefore, he stated this means that two-thirds of the businesses do not contribute to the town of Delray Beach.

Mr. Wind stated he notified the FBI and the United States Postal Service (USPS) because they investigate those crimes. He explained that this is why the town is always short on money for everyone and reiterated that the Police Department has to be number one.

Joy Howell, 1 N.W. 25th Street, Delray Beach, thanked the City Commission for a future Workshop Meeting the City Commission will have on the Comprehensive Plan. Ms. Howell stated two important elements that will be discussed tonight are the (1) mobility element and (2) the neighborhood districts and corridor element. She urged the City Commission to look into these elements.

Chuck Ridley, 210 N.W. 2nd Avenue, Delray Beach, acknowledged a Civil Rights icon in the audience and the remainder of his time he spent in silent protest. Mr. Ridley urged the City Commission to adopt The Set Transformation Plan and requested that the time of the meetings be moved back to 6:00 p.m. so that working people can be present.

Ernestine Holliday, 40 N.W. 9th Avenue, Delray Beach, stood in silent protest with a sign urging the City to adopt The Set Transformation Plan and change the meeting time back so that it works for working people.

George & Lottie Williams, 131 N.W. 4th Avenue, Delray Beach, stated they are offended over the start time of City Commission meetings being rescheduled from 6:00 p.m. to 4:00 p.m. because they feels it leaves out a lot of people. Mr. Williams urged the City Commission to change the City Commission meetings back to 6:00 p.m. to accommodate the community.

Kevin Ballard, Delray Beach native, expressed concern over those people who do not get off work until 4:00 p.m., 5:00 p.m., or later can't have input about their city and be heard if they cannot be present for the meetings. Mr. Ballard urged the City Commission to change the City Commission meeting times back to 6:00 p.m. instead of 4:00 p.m.

Reggie Cox, 715 MLK Drive, Delray Beach, stated he is standing in silent protest against changing the City Commission meetings from 6:00 p.m. to 4:00 p.m., against changing the CRA meetings from 1:30 p.m. to 11:00 a.m., and going from two CRA meetings a month and a workshop to one meeting. In his opinion, Mr. Cox stated this is in an attempt to silence the people's voice and participation. In addition, the sign Mr. Cox held urged the City Commission to adopt The Set Transformation Plan.

Travis Angston sp? (did not sign in), 108 N.W. 8th Avenue, Delray Beach, stood in silent protest with a sign urging the City Commission to adopt The Set Transformation Plan and change the meeting time back to 6:00 p.m. so

that it works for working people.

Andrew Ramsey, 301 S.W. 10th Street, Delray Beach, stated he and other residents came as a group and asked for representation, a voice, and transparency. Mr. Ramsey commented about the time changes to the CRA meetings and the City Commission meetings, and the adoption of The Set Transportation Plan. He also stood in silent protest for the remainder of his 3 minutes.

Belinda Wright-Johnson, 307 S.W. 9th Court, Delray Beach, stated she is a recovering addict and commented about the arresting officer and Delray Beach saving her life.

Alan Schlossberg, 200 McFarlane Drive, Delray Beach, commented about over development and stated there is debris in the Intracoastal coming from the garage that is being built for the Atlantic Crossing project and he feels the garage being so close to the Intracoastal is going to be problematic. Mr. Schlossberg suggested that the City place a moratorium on development east of Swinton Avenue and that the City do a Comprehensive Assessment so that the City will know what it is going to need in terms of infrastructure, Fire-Rescue Department, Police Department, staff, water, sewer, garbage, etc.

Aleia Stillwell, 715 N.W. 2nd Street, Delray Beach, graduate of Florida International University (FIU), urged the City Commission to listen to the public and encouraged everyone to be polite.

Tom Carney, 135 N.E. 5th Avenue, Delray Beach, thanked the City Commission for their service and expressed concern over the accusations made against Mayor Petrolia and he supports her in this. Secondly, Mr. Carney stated he feels that the City Commission meetings should be at 6:00 p.m. instead of 4:00 p.m.

6. CONSENT AGENDA: City Manager Recommends Approval

Vice Mayor Johnson moved to approve the Consent Agenda as amended. It was seconded by Deputy Vice Mayor Bathurst. A roll call vote was taken and all were in favor. The motion carried 5-0.
approved as amended

6.A. 19-499

CITY COMMISSION MINUTES

April 2, 2019 City Commission Regular Meeting Minutes
April 9, 2019 City Commission Workshop Meeting Minutes
April 9, 2019 City Commission Special Meeting Minutes

April 15, 2019 City Commission Special Meeting (Closed Attorney/Client Session) Minutes

Sponsors: City Clerk Department and Maloney

Attachments: [Agenda Cover Report](#)

[April 2, 2019 City Commission Regular Minutes](#)

[April 9, 2019 City Commission Workshop Minutes](#)

[April 9, 2019 City Commission Special Minutes](#)

[April 15, 2019 Special \(Closed Attorney Client Session\) Minutes](#)

approved

6.B. [19-205](#) APPROVAL OF RESOLUTION NO. 87-19 TO AWARD AN AGREEMENT WITH EARTHLY DESIGNS AND RESOURCES INC. DBA MOBILE LAWN SERVICE FOR STORMWATER RETENTION AREAS AND LANDSCAPE MAINTENANCE, AND TO AUTHORIZE THE CITY MANAGER TO APPROVE AND EXECUTE AGREEMENT RENEWAL OPTIONS - \$97,906.

Recommendation: Motion to approve Resolution No. 87-19 and to award an agreement with Earthly Designs and Resources Inc. DBA Mobile Lawn Service for stormwater retention areas and landscaping maintenance for a total agreement value not-to-exceed \$97,906 and authorize the City Manager to approve renewal options, in the same amounts, contingent upon appropriation of funds.

Sponsors: Purchasing Department

Attachments: [Agenda Cover Report](#)

[2019-004 Agreement](#)

[Resolution 87-19](#)

[Legal Review Checklist Earthly Designs and Resources Storm Water Retention Maintenance](#)

approved

6.C. [19-371](#) APPROVAL OF RESOLUTION NO 75-19 TO AWARD AN AGREEMENT WITH CONTINENTAL CONSTRUCTION FOR ALLEY CONSTRUCTION IN BLOCK 63 AND NW 5TH ALLEYS, MLK-LAKE IDA ROAD PURSUANT TO ITBC NO. 2019-005 - \$519,442.

Recommendation: Motion to adopt Resolution No. 75-19 to award an agreement with Continental Construction USA for alley construction in Blocks 63 and NW 5th Alleys- \$519,442.

Sponsors: Purchasing Department

Attachments: [Agenda Cover Report](#)[Legal Review Checklist 2019-005 Block 63 NW 5th Ave Alleys](#)[Continental Construction](#)[Resolution for ITB 2019-005 Block 63](#)[2019-005 ITBC Block 63 and NW 5th Avenue Alleys MLK to Lake Ida](#)[Road](#)[Excel Tabulation for Bid 2019-005](#)[ITBC 2019-005 Block 63 Agreement](#)

approved

6.D. [19-393](#) THIRD AMENDMENT TO THE INTERLOCAL AGREEMENT WITH PALM BEACH COUNTY FOR FIBER TRANSPORTATION

Recommendation: Motion to Approve the modification to the Interlocal Agreement (Agreement) between the City of Delray Beach (City) and Palm Beach County which allows Palm Beach County to provide, and the City of Delray Beach to use, leased Multi-Protocol Label Switching (MPLS) and transport fiber between the City and the Disaster Recovery site at the Northwest Regional Data Center in Tallahassee, Florida. Item #3, Exhibit A, Section N of this agreement terminates the previous 5Gb data connection with the GoRACK Data Center in Jacksonville, Florida and increases the internet connection at City Hall from 50Mb to 1Gb.

Sponsors: IT Department and Marese

Attachments: [Agenda Cover Report](#)[Legal Review Checklist form v. 5 3d Amend to ILA between city and pbc re internet](#)[City of Delray Beach R2014-1963 agreement and first amendment](#)[Second Amendment \(2\)](#)[City of Delray Beach 3rd Amendment to R2013-0308](#)

approved

6.E. [19-395](#) RESOLUTION NO. 82-19 TO APPROVE FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT) LOCAL AGENCY PROGRAM (LAP) SUPPLEMENTAL AGREEMENT NO. 6 (TIME EXTENSION REQUEST) FOR THE NE 2ND AVE. / SEACREST BEAUTIFICATION PROJECT PHASE 0.

Recommendation: Motion to approve Resolution No. 82-19 to approve FDOT LAP Supplemental Agreement No. 6 for a time extension to the completion date of the original LAP agreement for NE 2nd Ave / Seacrest Beautification project Phase 0 (PN 11-067).

Sponsors: Public Works Department and Kovner

Attachments: [Agenda Cover Report](#)

[82-19 Resolution for ILAP Agreement to extend deadline for Seacrest](#)

[Beautification](#)

[FDOT Supplemental Agreement 6 031419](#)

[Legal Review Checklist LAP Supplemental Agreement re Seacrest](#)

[Beautification Project](#)

approved

6.F. [19-416](#) INTERLOCAL AGREEMENT BETWEEN THE CITY AND CRA FOR FY 2018-19 CURB APPEAL RESIDENTIAL IMPROVEMENT PROGRAM

Recommendation: Motion to Approve the Interlocal Agreement between the CRA and City for the Curb Appeal Residential Improvement Program.

Sponsors: Community Improvement and Mesidort

Attachments: [Agenda Cover Report](#)

[Legal Review Checklist ILA with CRA for Curb Appeal and Rock the Block Programs](#)

[Exhibit A - 2018-19 - ILA - Curb Appeal Program Event February 122019](#)

[Agenda Cover Report ILA Curb Appeal Program Event 2122019](#)

approved

6.G. [19-474](#) FIRST AMENDMENT TO THE INTERLOCAL AGREEMENT BETWEEN THE CITY OF DELRAY BEACH AND THE DELRAY BEACH COMMUNITY REDEVELOPMENT AGENCY FOR FUNDING CONSTRUCTION/PROFESSIONAL SERVICES FOR FISCAL YEAR 2018/19

Recommendation: Approve the First Amendment to the Interlocal Agreement between the City of Delray Beach (City) and the Delray Beach Community Redevelopment Agency (CRA) to fund Fiscal Year 2018-19 Capital Projects as described in Exhibit A of the attached agreement, subject to approval of the City and CRA budgets for Fiscal Year 2018/19. This amendment adds funding for the construction of the mast arm at the intersection of S. Swinton Avenue and S. 1st Street and for completion of a sidewalk project in the SW Neighborhood.

Sponsors: Public Works Department

Attachments: [Agenda Cover Report](#)

[1st Amend ILA Construction](#)

approved

6.H. [19-482](#) APPROVAL OF RESOLUTION NO. 106-19 APPROVING AMENDMENT # 7 TO THE AGREEMENT BETWEEN THE CITY OF DELRAY BEACH AND SUPERION, LLC (FORMER SUNGARD PUBLIC SECTOR, INC.)

Recommendation: Motion to approve seventh amendment to the agreement between the City of Delray Beach and Superion, LLC (Former Sungard Public Sector, Inc.)

to acquire professional services for server data migration in the amount not to exceed \$20,000

Attachments: [Agenda Cover Report](#)

[Resolution 106-19 Approval of Amendment 7 with Superion LLC to obtain professional services for server data migration](#)
[Amendment No 7 with Superion - Vendor Executed 4-26-2019](#)

[Legal Review Checklist form v. 5 Superion Amendment # 7](#)

[Superion Delray Beach PD Sole Source Letter 04.29.19 SIGNED](#)

[Delray Beach Police \(PS\), FL - Server Migration Quote](#)

approved

6.I. [19-488](#)

FINAL (MAJOR) REPLAT OF PORTIONS OF LOTS 15 AND 16, MODEL LAND COMPANY'S SUBDIVISION OF SECTION 20, TOWNSHIP 46 SOUTH, RANGE 43 EAST, PLAT BOOK 1, PAGE 4, ALSO KNOW AS AUTONATION COLLISION CENTER-DELRAY BEACH

Recommendation: Motion to approve the Final Plat for the AutoNation Collision Center-Delray Beach by adopting the findings of fact and law contained in the staff report, and finding that the request is consistent with the Comprehensive Plan and meets criteria set forth in the Land Development Regulations Section 2.4.5(J)(Major Subdivisions), Section 3.2.3 (Standards for Plat Actions) and Section 3.1.1 (Required Findings).

Attachments: [Agenda Cover Report](#)

[Autonation Location Map](#)

[Autonation Plat](#)

[Autonation Plat PZ Staff Report](#)

[Autonation-Site Plan](#)

approved

6.J. [19-475](#)

APPROVAL OF RESOLUTION NO. 94-19 FOR INDUSTRIAL PAINTING SERVICES FROM J & J, INC. DBA EAGLE PAINTING UTILITZING THE CITY FORT LAUDERDALE CONTRACT NO. 12194-593 - \$100,000

Recommendation: Motion to approve Resolution No.94-19 for Industrial Painting Services from J & J, Inc. d/b/a Eagle Painting utilizing The City of Fort Lauderdale Contract No. 12194-593 - \$100,000 and authorize the City Manager to approve renewal options, in the amounts below, contingent upon appropriation of funds.

Sponsors: Public Works Department

Attachments: [Agenda Cover Report](#)

[Legal Review Checklist Eagle Painting](#)

[94-19 - Reso for Eagle Painting Piggyback](#)

[J & J, Inc. dba Eagle Painting Agreement](#)

approved

6.K. [19-502](#) PROPOSED SETTLEMENT IN PALM BEACH COUNTY CASE NO. 50-2017-CA-011349-XXXX-MB

Recommendation: The City Attorney recommends denial of the settlement offer for the reasons discussed in the confidential memorandum previously distributed to the City Commission dated April 29, 2019.

Sponsors: City Attorney Department and Inglese

Attachments: [Agenda Cover Report](#)

The City Commission approved denial of the proposed settlement offer as recommended by the City Attorney.
approved

6.L. [19-501](#) GRANT APPLICATION / DEPARTMENT OF JUSTICE BULLETPROOF VEST PARTNERSHIP

Recommendation: Motion to approve application to the Department of Justice's Bulletproof Vest Partnership program. If approved, this initiative would provide for the 50% of the cost of the bulletproof vest purchased for our Police officers, up to the amount not to exceed \$38,000.00

Attachments: [Agenda Cover Report](#)

approved

6.M. PROCLAMATIONS:

6.M.1 [19-431](#) NATIONAL SAFE BOATING WEEK PROCLAMATION

Recommendation: Approval of a proclamation for National Safe Boating Week.

Attachments: [Agenda Cover Report](#)

[National Safe Boating Week Proclamation 2018](#)

approved

6.M.2. [19-476](#) INFRASTRUCTURE WEEK PROCLAMATION

Recommendation: Motion to proclaim May 13, 2019 - May 20, 2019 as National Infrastructure Week.

Attachments: [Agenda Cover Report](#)

[Infrastructure Week](#)

approved

6.M.3. [19-477](#) FLORIDA WATER REUSE WEEK PROCLAMATION

Recommendation: Motion to proclaim May 14-18, 2019 as Florida Water Reuse Week

Attachments: [Agenda Cover Report](#)

[Fla Water Reuse 2019](#)

approved

6.M.4. [19-483](#) OBSERVANCE OF MEMORIAL DAY

Recommendation: Motion to Observe Memorial Day on May 27, 2019 in the City of Delray Beach.

Attachments: [Agenda Cover Report](#)

[Memorial Day Observance](#)

approved

6.M.5. [19-486](#) OBSERVANCE OF HAITIAN HERITAGE MONTH

Recommendation:

Proclaim the month of May as Haitian Heritage Month.

Attachments: [Agenda Cover Report](#)

[Haitian Heritage Month](#)

approved

6.M.6. [19-487](#) MUNICIPAL CLERKS WEEK PROCLAMATION

Recommendation:

Recognizing all municipal clerks around the country and declaring May 5 - 11, 2019 as Municipal Clerks Week in the City of Delray Beach.

Attachments: [Agenda Cover Report](#)

[Municipal Clerks Week Proclamation](#)

approved

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

6.N.1. [19-473](#) REPORT OF APPEALABLE LAND USE ITEMS FROM MARCH 11, 2019, THROUGH APRIL 5, 2019.

Recommendation: By motion, receive and file this report.

Sponsors: Development Services Department

Attachments: [Agenda Cover Report](#)
[Appealable Items Map](#)
[A - 2201 N. Federal Hwy. - Gunther Volvo](#)
[B - 123 E. Atlantic Avenue](#)
[C - 2700 Ponce De Leon - Imperial Villas](#)
[D - 214 NE 4th St. - Townhomes at 214 4th](#)
[E - 502 E. Atlantic Ave.](#)
[F - 777 S. Congress Avenue - Collier Club](#)
[G - 215 NE 7th Ave.](#)
[H - 32 E. Atlantic Ave.](#)

Item 6.N.1.G. - 215 N.E. 7th Avenue has been moved to the regular agenda as Item 7.B.B.
approved

6.O. AWARD OF BIDS AND CONTRACTS:

6.O.1. [19-457](#)

APPROVAL OF RESOLUTION NO. 78-19 TO AWARD A SOLE SOURCE AGREEMENT WITH TREKKER TRACTOR, LLC FOR SCHWARZE PARTS AND SERVICE - \$30,000

Recommendation: Motion to approve Resolution No. 78-19 to award a sole source agreement with Trekker Tractor, LLC for Schwarze parts and service in an estimated cost of \$30,000 and authorize the City Manager to approve renewal options, in the same amounts, contingent upon appropriation of funds.

Sponsors: Public Works Department - Fleet Division

Attachments: [Agenda Cover Report](#)
[SS2019-008 Agreement, vendor executed](#)
[Res 78-19 Trekker Agreement re Schwarze parts service \(CA Rev\)](#)
[Legal Review Checklist Trekker Tractor re Schwarze OEM equipment - sole source](#)
[Approved Schwarze OEM Sole Source Justification, Trekker](#)

approved

7. REGULAR AGENDA:

7.A. [19-379](#)

RESOLUTION NO. 70-19: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, PROVIDING FOR THE ABANDONMENT OF INTEREST OF A SOUTHWEST PORTION OF THE HUNGERFORD CANAL TOTALING APPROXIMATELY THREE THOUSAND EIGHT HUNDRED AND FORTY-NINE (3,849) SQUARE FEET, LOCATED PERPENDICULAR TO THE C-15 CANAL, ABUTTING THE SOUTH PROPERTY LINE OF LOT 14, AS RECORDED IN THE REPLAT OF TROPIC PALM PLAT NO. 2, BOOK 33, PAGES 144

THROUGH 146 OF THE OFFICIAL RECORDS OF PALM BEACH COUNTY.

Recommendation: Motion to approve Resolution No. 70-19 formally abandoning the City's interest of upland area located at the southwest corner of the Hungerford canal, perpendicular to the C-15 canal, abutting the south property line of Lot 14 (1300 Cormorant Road), as recorded in the replat of Tropic Palm Plat No. 2, Book 33, Pages 144 through 146 of the Official Records of Palm Beach County, Florida, and as more particularly described in exhibit "A".

Sponsors: Development Services Department

Attachments: [Agenda Cover Report](#)

[Location Map](#)

[Resolution 70-19 - 1300 Cormorant Abandonment w. easement](#)

[Exhibit A - Sketch and Legal description w. easement - 04-12-19](#)

[1300 Cormorant Rd - P&Z Staff Report](#)

[1300 Cormorant Rd - Title Opinion](#)

[1300 Cormorant Rd - Title Opinion2](#)

[Affidavit Res. #70-19 Notice of Abandonment of Interest 3-14-19](#)

[Letters of no objection from Neighbors from the applicant](#)

[Easement Deed 1300 Cormorant \(002\)](#)

[Exhibit A -Sketch and Legal - For Private Easement](#)

Tim Stillings, Development Services Director, entered the Planning and Zoning Board project file #2019-110 into the record.

Ron Feiner, Attorney with Coker & Feiner, 1404 S. Andrews Avenue, Boca Raton, representing Robin and Milena Bird, gave a brief presentation regarding the abandonment request. Mr. Feiner stated when they did the legal descriptions and the coordination of the Tropic Palms replat, they left part of the property in this lot and thus the reason they are seeking the abandonment of that property. Mr. Feiner stated they agree with the staff report.

Mr. Stillings stated this is the abandonment of interest for a portion (SW corner) of the Hungerford Canal (Upland/dry area) and at the rear of 1300 Cormorant Road in the Tropic Palm neighborhood and is approximately 3,849 square feet. He reviewed the abandonment findings. At its meeting of March 25, 2019, the Planning and Zoning Board recommended approval 5-0. Staff recommends approval based upon the findings presented.

Interim City Manager de Jesus made a few brief comments.

For clarification, Mr. Feiner stated this is not an easement and the City owns the property. Mr. Feiner stated they are requesting to abandon it and if it becomes abandoned and they grant the City an easement, then the maintenance responsibility for the landscaping and mowing becomes the applicant's responsibility. If the City decides not to grant the easement, then it is the City's responsibility because it is the City's property. Also, Mr. Feiner stated there are currently no plans in the utilities, engineering, Comprehensive Plan, the Public Works improvement part of the City's budget, or anything to do anything with this property except for the 12 inch drainage pipe that is there now.

Deputy Vice Mayor Bathurst inquired about this.

Mr. Stillings explained that this is public right-of-way for public use and at the time that the City abandons its interest for public use, it reverts to the private property owner.

Deputy Vice Mayor Bathurst asked as the City moves forward with plans in the future, how does this affect what the City is trying to do with any plans they have?

Mr. Stillings stated if the seawall is installed privately, it would be the maintenance responsibility of that private property owner, not the City.

Commissioner Boylston noted that currently there is not a utility easement for what is underground between the two lots.

Mr. Feiner stated if the City wanted to maintain the drainage pipe now, they would have to do that from the canal and they are giving an exchange for the abandonment. Mr. Feiner stated they are granting the City an easement where there is easy access within the community to do that.

Commissioner Boylston stated he supports staff's recommendation.

Vice Mayor Johnson stated she does not support abandoning City property without there being a valid reason and she does not consider this to be a valid reason. She stated the City does not have to have the easement because the City has access to it from the canal.

Commissioner Frankel stated he supports staff's recommendation.

Deputy Vice Mayor Bathurst stated he is against abandoning this.

A brief discussion by the City Commission followed.

Interim City Manager de Jesus stated Mr. Stillings mentioned that the City would be seeking the other half of the easement from the neighbor in the future at the last meeting. Mr. Feiner advised the City Commission that the City does not need that easement and that his client was going to give the City the entire eight feet. For clarification, Mr. Feiner stated it is six feet and apologized for mis-speaking at the last meeting.

A brief discussion between Interim City Manager de Jesus, Mr. Stillings, and Mr. Feiner ensued.

The City Attorney gave a few brief comments.

Vice Mayor Johnson moved to **deny** Resolution No. 70-19. It was seconded by Deputy Vice Mayor Bathurst. A roll call vote was taken and the motion **to deny** was approved with a vote of 3-2, Commissioner Frankel and Commissioner Boylston dissenting.
denied

7.B. [19-446](#) APPEAL OF THE SITE PLAN REVIEW AND APPEARANCE BOARD (SPRAB) FINAL ACTION ON A CLASS V SITE PLAN, INTERNAL ADJUSTMENT, LANDSCAPE PLAN, AND ARCHITECTURAL ELEVATIONS FOR A THREE TOWNHOME DEVELOPMENT LOCATED AT 215 NE 7TH AVENUE. (QUASI-JUDICAL HEARING)

Recommendation: Motion to Approve the Class V Site Plan , Internal Adjustment, Landscape Plan, and the revised Architectural Elevations for the three townhomes located at 215 NE 7th Avenue.

Sponsors: Development Services Department

Attachments: [Agenda Cover Report](#)

[215 NE 7th Avenue Board Order](#)

[215 NE 7th Avenue SPRAB Report February 27](#)

[215 NE 7th Avenue - architectural elevations 2/27/2019](#)

[215 NE 7th Avenue Approved archtiectural elevations on March 27, 2019](#)

[215 NE 7th Avenue Justification Internal Adjustment](#)

[215 NE 7th Ave Survey](#)

[215 NE 7th Avenue SITE PLAN](#)

[215 NE 7th Avenue ELEVATION](#)

[215 NE 7th Avenue Landscape Plans](#)

Mayor Petrolia read the City of Delray Beach Quasi-Judicial rules into the record.

The City Clerk swore in those individuals who wished to give testimony on

this item.

Mayor Petrolia asked the City Commission to disclose their ex parte communications. Mayor Petrolia stated she spoke with Attorney Tom Carney this morning. The rest of the City Commission stated they had no ex parte communications.

Tim Stillings, Development Services Director, entered the project file #2019-001 into the record.

Brian Grossberg, Azure Development, 290 S.E. 6th Avenue, Delray Beach, stated the proposed development is for 215 N.E. 7th Avenue and gave a brief overview of the proposed use. Mr. Grossberg explained the rationale for the proposed use and briefly reviewed the LDR Section 4.4.6(i) Performance Standards. He stated they are looking to build 8 units per acre instead of the maximum of 12 units per acre. Mr. Grossberg reviewed the approval status. Mr. Grossberg reviewed the architectural changes from the first Site Plan Review and Appearance Board (SPRAB) meeting to second SPRAB meeting.

Tim Stillings, Development Services Director, gave a brief presentation of the project. Mr. Stillings explained with respect to density, the density calculation is taken before the dedication (pre-dedication of the overall property) and for setbacks it is post-dedication and noted that 5 feet was taken up in that additional 25% that would have come from the rear. In addition, Mr. Stillings explained that a duplex which is one less unit than this proposal is permitted to be at a 15 foot setback in the rear versus a 25 foot setback which these three units were. The Site Plan Review and Appearance Board (SPRAB) staff recommended approval of the site plan with the internal adjustment, the landscape plan, and the architectural elevations that came back in March. Mr. Stillings suggested that if the City Commission is accepting the changes presented for the landscape plan tonight to include that in the motion because that is not in the material that was in the agenda packet.

Mayor Petrolia stated if anyone from the public would like to address the City Commission, to come forward. There being no one from the public who wished to address the City Commission, Mayor Petrolia closed the public comments.

There was no cross-examination or rebuttal.

Mayor Petrolia inquired about the setbacks. Mr. Stillings stated there is a 15 foot setback on the rear for a duplex and for a single family home in an RM (Medium Density Residential) district would also fall under the 15 foot

rear setback; with respect to multi-family of three or more units, then 25 feet is the rear setback. Mayor Petrolia expressed concern over this backing up to single family homes and stated originally this was single family homes backing up to single family homes.

A brief discussion between Mr. Stillings and Mayor Petrolia ensued.

Vice Mayor Johnson stated she is not in favor of this project because she feels it will add more congestion to a street that is already overly congested with cars parked on it, bicyclists, and pedestrians.

Deputy Vice Mayor Bathurst commented about urban planning and stated he does not want to see only garages while walking down the street.

Commissioner Boylston stated there are 2-3 projects that look very similar to this on N.E. 7th Avenue and he supports the appeal.

The City Attorney briefly reviewed the Board Order with the City Commission.

Deputy Vice Mayor Bathurst moved **to deny the appeal** of the Site Plan Review and Appearance Board (SPRAB) Final Action on a Class V Site Plan, Internal Adjustment, Landscape Plan, and Architectural Elevations for a three townhome development. It was seconded by Commissioner Boylston. A roll call vote was taken and the motion **to deny the appeal** carried a vote of 4-1, with Commissioner Boylston dissenting.

Vice Mayor Johnson left the dais at 6:05 p.m. and she returned to the dais at 6:10 p.m.

7.C. 19-480 **ALWAYS DELRAY COMPREHENSIVE PLAN UPDATE: PRESENTATION OF THE MOBILITY ELEMENT AND THE NEIGHBORHOODS, DISTRICTS, AND CORRIDORS ELEMENT**

Recommendation: Provide comment and direction regarding the proposed Mobility Element and Neighborhoods, Districts, and Corridors Element of the Always Delray Comprehensive Plan.

Sponsors: Development Services Department

Attachments: [Agenda Cover Report](#)

[MBL GOPs](#)

[MBL DIA](#)

[MBL Maps](#)

[MBL PZB Staff Report](#)

[Current Transportation Element](#)

[NDC GOPs](#)

[NDC DIA](#)

[NDC Maps](#)

[NDC PZB Staff Report](#)

[Current Future Land Use Element](#)

Tim Stillings, Development Services Director, gave a brief presentation and stated staff is requesting direction on two elements (i.e. mobility and neighborhoods, districts, and corridors element). Mr. Stillings stated staff will come back at a later date for transmittal for a hearing, then staff will send it to the State and bring it back after their review for adoption. Mr. Stillings pointed out that staff will be making a change to the bicycle map and noted that staff will be changing the colors on Swinton Avenue and Lowson Boulevard.

8. PUBLIC HEARINGS:

8.A. None

9. FIRST READINGS:

9.A. None

10. COMMENTS AND INQUIRIES ON NON-AGENDA ITEMS:

10.A. City Manager

Interim City Manager de Jesus stated staff will work with the County regarding school flashing signs by Spady Elementary School. In addition, Interim City Manager de Jesus stated he will ask Police Chief Sims to make sure there are motor units assigned there to do some enforcement as well.

10.B. City Attorney

The City Attorney requested a Shade Meeting to continue discussions regarding the preparation of a counter-offer in the case against the City of Delray Beach vs. Match Point, Inc. Case No. 502016CA002812 in the Commission Chambers on Wednesday, May 15, 2019 at 5:00 p.m.

and the attendees will be Mayor Petrolia, Vice Mayor Johnson, Deputy Vice Mayor Bathurst, Commissioner Boylston, Commissioner Frankel, Interim City Manager Neal de Jesus, Lynn Gelin, Special Counsel John R. Herin, Jr. and a certified court reporter.

Commissioner Boylston moved to approve holding a Special Meeting on May 15, 2019 at 5:00 p.m. It was seconded by Vice Mayor Johnson. A roll call vote was taken and all were in favor. Said motion carried with a 5-0 vote.

Secondly, the City Attorney commented about the DHBH (Billy Himmelrich lawsuit) and the City's motion to dismiss. Furthermore, the City Attorney stated that they filed a motion for rehearing and the City of Delray Beach will be filing a response to it and she will keep the City Commission aprised.

Lastly, The City Attorney stated a lot of the findings that the City Commission has to make with a Board Order can appear to be inconsistent because you have to go through each one of them. She stated although somebody might not like a project, there may be something that the City Commission should vote "yes" for because the condition or the finding should have been met. The City Attorney stated the resolution is going to be similar to what the City does for the agreements and will be recorded, have a number assigned to it, and much cleaner. In addition, the City Attorney stated all the findings are going to be on the resolution and it will be a motion to "approve" or a motion to "deny". The City Attorney stated it will be one document that gets recorded and the City Commission will not have to go through every finding. She noted that this will be implemented at the next meeting.

10.C. City Commission

Commissioner Frankel suggested that the City look into having a school flashing light at Spady Elementary School for the safety of the students (Commissioner Frankel signed off skype at 7:19 p.m.).

Vice Mayor Johnson thanked everyone for their prayers and good wishes during her journey to recovery from surgery. She acknowledged and thanked Mayor Petrolia and the City Commission for the beautiful roses and gift cards.

Commissioner Boylston stated last week was a great week for Delray Beach and noted that they had the chance to attend the Grand Opening for 4-Kids (headquarters are in Delray Beach), the Plastic Planet event,

Plastridge 100 years in business event, and the Haitian Festival.

Secondly, Commissioner Boylston commented about downtowns have gone smoke-free by enforcing the 25-foot rule from one building to another. In addition, Commissioner Boylston stated Disney World just went completely smoke-free at all of their parks.

Commissioner Boylston stated he supports Pride Month.

Commissioner Boylston commented about the resident James Quillian who spoke about the Osceola Park Neighborhood Project and suggested that staff inform the Osceola Park Neighborhood that the City Commission has put this project at the top of their priority list.

Commissioner Boylston stated The Set Transformation Plan is going to be on a Workshop Meeting and he commented about whether or not other plans are going to be adopted in the future.

With respect to the City Commission meeting times, Commissioner Boylston stated there are an even amount of people that are positive about the 4:00 p.m. meeting time who have expressed concern that they are not here until 10:00 p.m at night.

Commissioner Boylston stated he has received several photos and telephone calls regarding the Atlantic Crossing Project.

With respect to the Atlantic Crossing Project, Interim City Manager de Jesus stated staff met with the contractor to find out what his permitted discharge was and what they found was that the retention buoy was not attached properly which was letting some of the sediments out. In addition, Interim City Manager de Jesus stated staff contacted South Florida Water Management District who permits it and Durham who is responsible for the enforcement and compliance portion have both been at the site speaking with the contractor and have required the contractor to replace and reattach the retainment buoy and is monitoring his discharge. Interim City Manager de Jesus stated the City does not have any enforcement authority over that; only the permitting agency and Durham does, and they are communicating with staff on a regular basis.

Vice Mayor Johnson stated she missed everyone while she was recovering from surgery and apologized for not being able to attend the Annual Strategic Planning Workshop Meeting (Goal Setting).

Deputy Vice Mayor Bathurst stated the Goal Setting Meeting was great.

He suggested that there be a graphic or chart in the Commission Chambers listing the top ten priorities or that it be placed online. Deputy Vice Mayor Bathurst emphasized to be open and transparent and communicate to the public what is in the Plan.

Secondly, Deputy Vice Mayor Bathurst commented about the school flashing light on Lake Ida Road by Spady Elementary which is 20 mph, but the speed limit goes back up by Trinity Lutheran School. He stated all children should be treated the same and suggested that the school zones should be looked into.

Deputy Vice Mayor Bathurst commented about people texting while driving. He suggested that Delray Beach come up with a campaign (i.e. "Chill Out, You're in Delray...put your phone down") and help the safety of City. He concurred with comments expressed by Commissioner Boylston regarding eliminating smoking in the downtown.

Deputy Vice Mayor Bathurst commented about the Swinton Avenue District and the Overlay, and stated the City is going to continue to get developments like what was on the agenda this evening. He commented that we as a City need to tell people what it is that we want because we know that the LDRs will allow certain things; however, the City Commission is going to be put in a situation where they will consistently have to turn down projects. Deputy Vice Mayor Bathurst stated however this can be done through the LDRs or the Comprehensive Plan, the City needs to get in front of that to push the message across because he expressed concern over the City Commission being put in a situation of having to turn things down versus approving something that the community is looking for.

Lastly, Deputy Vice Mayor Bathurst commented about the Census and suggested that the City put it out there for people who may be interested in working for the Census to help the town. He stated the count has to be as accurate as possible because an inaccurate account lowers the dollars for the City.

Mayor Petrolia stated Michael Coleman and his staff has been working on this for the last 3 months.

With respect to texting while driving, Mayor Petrolia stated she received a telephone call from a constituent who made a suggestion about using our mobile signages and letting people know the City will be enforcing no texting and driving. Mayor Petrolia stated this can be done in a fun way as Deputy Vice Mayor Bathurst suggested and the electronic

billboard can be utilized to get the message across.

Deputy Vice Mayor Bathurst stated the State or AT&T might come up with a campaign that the City may want to embrace or do its own.

Mayor Petrolia stated she supports Gay Pride Month and opens up the welcome mat that we are an inclusive City.

Mayor Petrolia supports eliminating the smoking in the downtown.

Mayor Petrolia stated Haitian Cultural Day was fantastic and well attended.

Mayor Petrolia stated on behalf of the City of Delray Beach, she received an award from the Daughter of Zion Church for Delray Beach participating in a food drive with them.

Mayor Petrolia stated the Plastic Planet Meeting was very successful and well attended.

Lastly, Mayor Petrolia commented about the time change of the meetings to 4:00 p.m. She stated according to the Facebook posts, she is getting blamed for it and she wants people to understand although she did not vote to support the time change, it was a group decision. Mayor Petrolia stated the City Commission is in agreement as a group and she is willing to support it now because there are more people attending the 4:00 p.m. meetings than the later meetings.

The City Attorney stated with respect to the smoking downtown, the City may be pre-empted; however, she will do more research on this topic.

Interim City Manager de Jesus stated with respect to no texting and driving, the signage will not be an issue. He stated when this was passed in Georgia, they needed an additional 30,000 Police Officers to enforce the texting. He stated Ms. Gardner-Young has confirmed that Lake Ida Road is a County managed road and she has sent an email to the supervisor requesting a meeting.

There being no further business to discuss, Mayor Petrolia adjourned the regular meeting at 7:39 p.m.