

APRIL 21, 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, April 21, 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. The opening prayer was delivered by Chaplain Anthony Cuseo.

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

Mayor Glickstein thanked his colleagues, City staff, and the public for their sympathy and support with respect to the loss of his father and stated it meant a lot to him and his family.

At this point, Mayor Glickstein stated on December 17, 2014 Officer Rodner Guillaume who responded to a child neglect call regarding a concern that there was no food in the home. Officer Guillaume provided the family with food and returned to the residence to provide the family with Christmas gifts. On behalf of the City Commission, Mayor Glickstein thanked Officer Guillaume for his outstanding actions and professionalism.

4. **APPROVAL OF MINUTES:**

Vice Mayor Petrolia moved to approve the minutes of the Workshop Meeting of April 14, 2015, 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.

5. PRESENTATIONS:

5.A. Recognizing and commending Charles Landford Hanna

Mayor Glickstein read a proclamation hereby recognizing and commending Charles Landford Hanna. Marie Hanna came forward to accept the proclamation and gave a few brief comments.

5.B. Spotlight on Education – Morikami Park Elementary School

The Morikami Park Elementary School Sunshine Chorus (led by Mrs. Michelle King) came forward and sang a song for the Commission.

Mrs. Stacey Quinones, Principal of Morikami Park Elementary School, gave a brief presentation on her goals and accomplishments for Morikami Park Elementary School.

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.

With regard to previous comments concerning the Lake Ida property, the City Manager stated staff met with Palm Beach County Commissioners at which time they approved the sale of the Lake Ida piece to the City of Delray Beach to be completed within a 60-90 day period.

Secondly, with regard to Ms. Moody's concern about the incident at the Caring Kitchen, the City Manager stated a report was delivered to the City Commission and the Caring Kitchen item is on the Agenda tonight.

With regard to Ms. Byron's concerns about parking on Nassau Street, the City Manager stated this issue will be addressed at the City Commission Workshop meeting in May 2015.

With regard to Mr. Klein's concern about the Barwick Road pedestrian openings, the City Manager stated there is a change order on the Consent Agenda tonight in the amount of \$5,300.00.

In response to All Aboard Florida, the City Manager stated he has a meeting with representatives from All Aboard Florida and once he has that meeting he will report back to the Commission as to its results.

With regard to previous concerns raised by citizens concerning the condition of Atlantic Avenue, more specifically the cleanliness of the sidewalks, the City

Manager stated staff is presently seeking quotations to power wash the entire sidewalk which has not been cleaned for several years and once that is done the City will put it on a regular rotation.

In response to public comments from the April 18, 2015 Workshop meeting, the City Manager stated use of Community Service Officers to move traffic was addressed by the Chief of Police and is not recommended; however, improved signage on Atlantic Avenue will be discussed as part of the parking plan.

The City Manager stated the issue of no commercial traffic after 11:30 a.m. has not been examined and he expects that would create a significant hardship to a number of businesses in the Central Business District (CBD) and likely to create substantial opposition.

6.B. From the Public.

6.B.1. Steve Blum, 115 Venetian Drive, Delray Beach, FL 33483, stated about three (3) weeks ago he spoke about the change in what people could speak on and that they could speak on agenda items. Mr. Blum stated he had mentioned about the Mayor at the time came on board and one of the Commissioners came on board and you think then everything went right in line and everything was changed. However, Mr. Blum stated a lot of homework went into making that decision. Mr. Blum stated staff polled almost forty (40) municipalities in South Florida and around the state to see what they did and what their viewpoints were on that issue to make sure they were doing the right thing. Mr. Blum recognized and commended Chevelle Nubin, City Clerk for checking all forty (40) municipalities, did the homework, made up a chart, and spent a lot of time finding out what could be done in South Florida and what Delray could do to better themselves.

6.B.2. Dr. Victor Kirson, D.D.S., 2050 Alta Meadows Lane #2110, Delray Beach, FL 33444 (President of the Board of Directors of Tierra Verde at Delray Beach and Member of the Alliance), thanked Mr. Noel Pfeffer for the outstanding job he did last night at the Planning and Zoning meeting regarding the Atlantic Crossing hearing. Dr. Kirson stated Mr. Pfeffer was professional, factual, and he kept aboard on what they were to decide on. He made reference to previous comments made by Commissioner Jarjura to Louie Chapman and the Mayor's speech on the LDRs. Dr. Kirson stated a while ago he asked for a \$1.00 tax per beer and he was informed that only Tallahassee could do that and last week he asked for a tourist tax and it seems that metropolitan areas cannot do that. Dr. Kirson stated Commissioner Jarjura went over joint efforts by economic incentives available outside of taxing authorities. Dr. Kirson stated with the 1,000 units going up with the Atlantic Crossing project he suggested that developer for Atlantic Crossing Project Mr. Carl DeSantis in conjunction with the City help pay for the cost of four (4) police officers and traffic control.

6.B.3. Bob Ganger, Florida Coalition, echoed comments expressed by Dr. Kirson regarding the City Attorney's statement last night at the Planning and Zoning Board meeting regarding Atlantic Crossing. In his opinion, Mr. Ganger stated the

Planning and Zoning Board meeting was not a productive meeting and he expressed concern that the citizens do not believe that the developer is living up to his commitments particularly with the traffic situation. Mr. Ganger expressed concern that two Commissioners (none of whom are sitting on the dais now) indicated in public that they had not read the traffic study as part of the appeal for losing the road and not having an ingress or egress into the garage. Mr. Ganger stated he is very concerned with how a road got taken away (Atlantic Court) and no one can explain how that happened. He stated the developer, the citizens, and the City has to come together and make this work for everyone.

6.B.4. Patrick Halliday, 1071 Delray Lakes Drive, Delray Beach, FL 33444 (speaking on behalf of HPD), thanked the City Commission and everyone for all their hard work and stated he attended a Palm Beach County Commission meeting this morning and spoke on behalf of Lake Ida. Mr. Halliday stated it was a wonderful experience to see that although the County would make money on selling the property (i.e. taxes and purchase price) that they listened to the citizens and felt that moving towards saving the green space and giving back to the community was most important. Mr. Halliday stated he looks forward to coming up with a program to name the park.

6.B.5. Peter Humanik, 704 N.E. 5th Street, Delray Beach, FL 33483, thanked the City for the power washing of the Atlantic Avenue sidewalks and stated the proration of the parking is popular.

Secondly, Mr. Humanik stated with respect to the discussion of Atlantic Crossing at the Planning and Zoning Board meeting and commended the Vice Chair Chris Davey for voting “no”. Mr. Humanik stated 200 people were present at the Planning and Zoning Board meeting at 10:00 p.m. and 90% were not happy with not having a street.

6.B.6. Jim Smith, 1225 South Ocean Boulevard, Delray Beach, FL 33483 (Chairman of S.A.F.E.), stated it is time for closure for the Atlantic Crossings project and feels it has dragged on much too long. Mr. Smith stated the developer has been working on this for 5-6 years and have reached out to every neighborhood and noted that Palm Tran is getting the street closed; the historic district is getting traffic calming; the City is receiving \$500,000 to redo the Lake Ida park; \$150,000 or more for a trolley; \$250,000 for a traffic signal; and a right turn lane. Mr. Smith stated there are no problems with the Atlantic Crossing site except the ingress/egress from Federal Highway to their parking lot and back. He stated that street will function just the way that it used to function to get people in and to get people out.

6.B.7. Pauline Moody, 609 S.W. 8th Avenue, Delray Beach, FL 33444, stated she submitted the Police report for the last incident at the Caring Kitchen and entered the “No Contact Order”.

Secondly, Ms. Moody commented about the Atlantic Crossing project and stated that there is no money in the budget for the maintenance upkeep in the downtown

area. She asked why the City is allowing developers to build projects yet there is no money for the maintenance upkeep once these projects are built. Ms. Moody stated the City cannot keep building downtown because there are not adequate roads to get to what is being built. She urged the Commission to place a moratorium on all this development.

6.B.8. Ron Nobili, 159 Marine Way, Boat Slip #15, Delray Beach, FL 33444, extended his condolences to Mayor Glickstein on the passing of his father and read a brief statement into the record.

6.A. None

7. AGENDA APPROVAL.

The City Manager stated **Item 8.C., Resolution 19-15/Local Agency Program (LAP) Supplemental Agreement with Florida Department of Transportation (FDOT)/Federal Highway Beautification Project** which refers to \$70,940.00; however, in the backup memo page 1, paragraph 4 has \$70,490.00.

Secondly, the City Attorney requested that the Commission defer Item 10.A., Ordinance No. 10-15 Second Reading of the Police ordinance; prior to the adoption of that ordinance, the City must have and file the actuarial impact statement with the Division of Retirement that was ordered in early April. The City Attorney stated it has not become available as of this date, therefore, he requests that the Commission defer this to a subsequent meeting until they obtain that written report.

Ms. Jarjura requested that **Item 8.A., Final Subdivision Plat/150 Oceanside** be moved to the Regular Agenda as **Item 9.A.A. and Item 8.H., Contract Extension/Beck's Towing & Recovery, Inc.,** be moved to the Regular Agenda as **Item 9.B.B.**

Ms. Jarjura moved to approve the Agenda as amended, 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.

8. CONSENT AGENDA: City Manager Recommends Approval.

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

8.B. ACCEPTANCE OF RIGHT-OF-WAY DEEDS/DELRAY MODERN, LLC: Motion to Accept right-of-way deeds for five (5) feet of right-of-way dedication for the property located at 318-320 N.E. 7th Avenue and 326-330 N.E. 7th Avenue.

8.C. RESOLUTION NO. 19-15/LOCAL AGENCY PROGRAM (LAP) SUPPLEMENTAL AGREEMENT WITH FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT)/ FEDERAL HIGHWAY BEAUTIFICATION PROJECT: Motion to Approve Resolution No. 19-15, authorizing the increase in

funding for the Local Agency Program (LAP) Agreement with the State of Florida Department of Transportation (FDOT) via a supplemental agreement to provide additional funding in the amount of \$70,940.00 for the department's participation in extension of a bike lane along Northbound Federal Highway and additional traffic related to Federal Highway Beautification Project (P/N 2009-011).

The caption of Resolution No. 19-15 is as follows:

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AUTHORIZING THE PROPER CITY OFFICIALS TO INCREASE FUNDING FOR THE LOCAL AGENCY PROGRAM (LAP) AGREEMENT WITH THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION VIA A SUPPLEMENTAL AGREEMENT TO PROVIDE ADDITIONAL FUNDING IN THE AMOUNT OF \$70,940.00 FOR THE DEPARTMENT'S PARTICIPATION IN EXTENSION OF A BIKE LANE ALONG NORTHBOUND US 1 AND ADDITIONAL TRAFFIC SIGNS WITHIN IN THE CITY OF DELRAY BEACH.

(The official copy of Resolution No. 19-15 is on file in the City Clerk's office.)

8.D. SIDEWALK IN-LIEU FEE/712 N.E. 3RD STREET: Motion to Approve a request from the property owner of 712 N.E. 3rd Street to pay a fee in-lieu of sidewalk installation.

8.E. CHANGE ORDER NO. 1/ SOUTHEAST GUARDRAIL AND ATTENUATORS (SGA)/BARWICK ROAD GUARDRAIL: Motion to Approve Change Order No. 1 to Southeast Guardrail and Attenuators in the amount of \$5,300.00 via a contract from Palm Beach County (Project No. 2014-051) for the installation of two (2) additional openings in the Barwick Road Guardrail. This is in compliance with the Code of Ordinances, Chapter 36, Section 36.06(A)(1), "Change Orders, Beyond the Scope of Work". Funding is available from 334-3162-541-65.36 (General Construction Fund: Capital Outlay/ Barwick Road).

8.F. CONTRACT CLOSEOUT (CHANGE ORDER NO. 1/FINAL) ARBOR TREE & LAND, INC.: Motion to Approve Contract Closeout (Change Order No. 1/Final) in the amount of \$31,836.95 decrease and final payment in the amount of \$4,565.40 to Arbor Tree & Land, Inc. (Bid No. 2014-21) for completion of the Drainage Swales FY13 Project No. 13-043. This is in compliance with the Code of Ordinances, Chapter 36, Section 36.06(A)(2), "Change Orders; Within the Scope of Work".

8.G. CONTRACT CLOSEOUT (CHANGE ORDER NO. 1/FINAL) B & B UNDERGROUND CONTRACTORS, INC.: Motion to Approve Contract Closeout (Change Order No. 1/Final) in the amount of \$727,866.00 decrease and final payment in the amount of \$32,204.62 to B&B Underground Contractors, Inc. (Bid No. 2014-17) for completion of the Delray Shores Water Main Project No. 13-028. This is in compliance with the Code of Ordinances, Chapter 36, Section 36.06(A)(2), "Change Orders; Within the Scope of Work".

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

8.I. MUTUAL AID AGREEMENT/MULTI-AGENCY TRANSPORTATION THEFT TASK FORCE: Motion to Approve a Mutual Aid Agreement between the Florida Department of Law Enforcement, Delray Beach Police Department and multiple agencies throughout Broward, Miami-Dade, and Palm Beach Counties to combat racketeering activity, theft and related criminal violations.

8.J. PROCLAMATIONS:

- 1.** Florida Water Professionals Month – April 2015
- 2.** Administrative Professionals Week – April 19 – 25, 2015
- 3.** Municipal Clerks Week – May 3-9, 2015
- 4.** National Day of Prayer – May 7, 2015

8.K. REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS: Motion to Accept the actions and decisions made by the Land Development Boards for the period March 30, 2015 through April 10, 2015.

8.L. AWARD OF BIDS AND CONTRACTS:

- 1.** Motion to Approve a Bid Award to Image Janitorial Services, Inc. (Bid No. 2015-13) in the amount of \$32,640.00 for janitorial services at the Municipal Golf Course. This is in compliance with the Code of Ordinances, Chapter 36, Section 36.02(A), "Sealed Competitive Method". Funding is available from 445-4711-572-34.90 (Delray Beach Municipal Golf Course: Other Contractual Service).

Ms. Jarjura moved to approve the Consent Agenda as amended, 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. FINAL SUBDIVISION PLAT/150 OCEANSIDE: Motion to Approve the certification of a final subdivision plat for 150 Oceanside, a proposed 6-unit townhouse development, located at the southwest corner of Thomas Street and Andrews Avenue.

Ms. Jarjura stated for a final subdivision plat and the quasi-judicial rules to be waived and for it to be placed on the Consent Agenda that staff needs an affirmative statement from the applicant concurring with the staff report.

Richard Jones, speaking on behalf of the applicant, stated the applicant concurs with any conditions in the staff report with regard to the plat.

The City Attorney stated the Commission can approve subject to receipt of a signed statement being delivered to the planner.

Ms. Jarjura moved to approve the Final Subdivision Plat for 150 Oceanside, subject to a receipt of a signed statement from the applicant being delivered to the planner, 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. CONTRACT EXTENSION/BECK'S TOWING & RECOVERY, INC.: Motion to Approve a six-month contract extension with Beck's Towing & Recovery, Inc. for wrecker/towing services for the Police Department. Funding is available from account 001-2115-521-52.23 (General Fund: Police/Law Enforcement/Operating Supplies/Investigative Expenses).

Ms. Jarjura asked what the projected fiscal year budget will be for fiscal year 2014/2015 with this ninety (90) day extension.

Kristina Maricic, Administrative Officer/Police Department, stated according to what the Police Department has currently spent for the six (6) months in the current fiscal year, she can only estimate that there will not be an increase that will put it over \$25,000. Ms. Maricic stated staff is working on the new RFP for the wrecker/towing services and they will not know which vendor will bid on that.

Vice Mayor Petrolia commented that this was originally extended for three (3) months and now staff is requesting to extend this for an *additional* six (6) months. Vice Mayor Petrolia inquired about the delay and asked why the City would need an additional six (6) months to get an RFP out for a towing contract. Ms. Maricic stated the delay was because of the turnover in staff and because they wanted to include everyone in the city that is using the towing services. The City Manager stated he believes this timeframe can be shortened; however, he believes they have asked for six (6) months in an abundance of caution.

Deputy Vice Mayor Jacquet moved to approve a six (6) month contract award extension to Beck's Towing & Recovery, Inc., seconded by Mr. Katz. Upon roll call the Commission voted as follows: Vice Mayor Petrolia – No; Deputy Vice Mayor Jacquet – Yes; Mr. Katz – Yes; Ms. Jarjura – No; Mayor Glickstein – Yes. Said motion passed with a 3 to 2 vote, Vice Mayor Petrolia and Ms. Jarjura dissenting.

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. 8th 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 Nubin, City Clerk, swore in those individuals who wished to give testimony on this item and all subsequent Quasi-Judicial items.

Mayor Glickstein asked the Commission to disclose their ex parte communications. Mr. Katz stated he has the same ex parte communications he disclosed previously when the Caring Kitchen was before the City Commission for discussion and he spoke to the applicant as well as the appellant. Ms. Jarjura stated she has the same ex parte communications she disclosed previously when the Caring Kitchen was before the City Commission and she also spoke to Reggie Cox, Jocelyn Patrick, City staff, and she received an email from the Caring Kitchen this week. Mayor Glickstein stated he has the same ex parte communications he disclosed previously when the Caring Kitchen was before the City Commission for discussion, and he received a few emails from the Caring Kitchen and Mr. Reggie Cox. Vice Mayor Petrolia stated she has the same ex parte communications she disclosed when the Caring Kitchen was previously before the City Commission in addition to Mr. Reggie Cox. Deputy Vice Mayor Jacquet stated he has the same ex parte communications he disclosed previously when the Caring Kitchen was before the City Commission for discussion.

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

Mr. McDonnell presented this item to the Commission.

Mayor Glickstein stated if anyone from the public would like to give testimony on this item, to come forward at this time.

The following individuals from the public gave a few brief comments:

Marie Washington, Deborah Wright, Shirley Johnson, Pame Williams, Reggie Cox, Chuck Ridley, Ruth McGuerrier, Pauline Moody, and Maxine Dupont.

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

Juanita Bryant, Director of the Caring Kitchen, stated they are going to withdraw the application because they want to work with the task force to come up with a resolution.

After lengthy discussion, Mayor Glickstein stated he supports the idea of a task force moving forward so that when the facility study is ready or when there is some preliminary information, they can see about relocating the Caring Kitchen. Mayor Glickstein stated by everyone working together, they can help to find a solution for the relocation of the Caring Kitchen where it is further removed from the impacts that it has on families, children, schools, and people who are in single-family home communities that move there with an expectation of quiet enjoyment of their neighborhoods.

No action taken; the applicant withdrew their application because they would like to work with the task force to come to a resolution.

At this point, Ms. Jarjura complimented the City Manager and staff on his memorandum and staff report.

9.B. TEMPORARY USE PERMIT AND WAIVER FOR A MODULAR KITCHEN/ HARBOUR'S EDGE: Consider approval of a request for waiver to Land Development Regulations Section (LDR) 2.4.6(F), "Procedures for Obtaining Permits and Approvals", and a temporary use permit to allow a modular kitchen during building renovations for Harbour's Edge located at 401 East Linton Boulevard. (*Quasi-Judicial Hearing*)

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

Mark McDonnell, Assistant Director of Planning and Zoning, entered the Planning and Zoning Department project file #2015-124 into the record and gave a brief presentation. The site plan was reviewed by SPRAB staff recommends approval subject to the conditions listed in the staff report.

Richard Jones, Applicant, gave a brief presentation.

Todd Anthony, 401 East Linton Boulevard, Delray Beach, FL (Architect), speaking on behalf of their client Lifespace Communities, Inc. and Harbours Edge, stated the temporary kitchen trailer is for the residents of both the north and south tower (independent living residence) which will be on site approximately 6-8 months and is completely enclosed and not visible from any of the public right-of-ways.

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

There was no cross-examination or rebuttal.

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 Board Order, 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.C. CONDITIONAL USE REQUESTS FOR HEIGHT AND DENSITY AND ONE BEDROOM UNIT MIX WAIVER FOR THE METROPOLITAN AND WAIVER REQUEST: Consider approval of a conditional use request to allow an increase in density in excess of thirty (30) units per acre (51.67 units per acre proposed) and to allow the building height to exceed 48 feet (57' proposed); and a waiver request to Land Development Regulations (LDR) Section 4.7.9(i), "General Provisions", to allow an increase in the percentage of one-bedroom units from the maximum allowed 30% to up to 50% for The Metropolitan, a proposed mixed-use development located at the northeast corner of S.E. 3rd Avenue and S.E. 1st Street. (*Quasi-Judicial Hearing*)

Mayor Glickstein asked the Commission to disclose their ex parte communications. Mr. Katz stated he met with the applicant and his representatives. Ms. Jarjura stated she had a conference call with the applicant and his representatives and staff. Ms. Jarjura noted anything else is on the City's server. Mayor Glickstein stated he received an email from the applicant's attorney. Vice Mayor Petrolia stated she met with the applicant and their representatives. Deputy Vice Mayor Jacquet stated he met with the applicant and his representative's attorney.

Mark McDonnell, Assistant Director of Planning and Zoning, entered the Planning and Zoning Department project file #2014-250 into the record. For the record, Mr. McDonnell stated this development application was submitted prior to this Commission's establishment of "zoning in progress" that was in place while the new development regulations were being processed for the Central Business District (CBD). Therefore, Mr. McDonnell stated this proposal was reviewed in accordance with the regulations that were in place at that time. Mr. McDonnell gave a brief presentation. Staff recommends approval of height and density and stated with respect to the conditional use for height (condition #1.a.) the applicant may discuss in greater detail how they plan to meet their workforce housing requirement for this development.

Richard Jones, Richard Jones Architecture, Applicant, gave a brief presentation and stated they are being reviewed under the applicable LDRs in effect on September 19, 2014. Mr. Jones stated this is the *last residential conditional use request for height and density in the downtown core*. Mr. Jones stated the conditional use for increased density from thirty (30) units to the acre to 51.6 units to the acre will result in 21 additional "for sale" condo units; the conditional use for height will result in 57 feet tall structure where structures of 48 to 60 feet are considered under the LDRs in affect at the time of this submission.

Henry Handler, Weiss, Handler and Cornwell, P.A., 2255 Glades Road, Boca Raton, FL 33431, representing the applicant and for the record the developer preserves its rights under Section 4.7.2.(B) it has a right to build either onsite, offsite, or to make a monetary contribution in-lieu. Mr. Handler stated their suggestion with regard to the mix LDR Section 4.7.9(C) “the developer shall endeavor to provide workforce housing units that include unit types in the same proportion.” Mr. Handler stated their proposal to staff was to allocate the five (5) workforce housing (2 would be a two-bedroom; 2 would be a single bedroom and 1 would be one-bedroom with a den) if they elect to construct the workforce on-site that would be the configuration.

Mayor Glickstein stated if anyone from the public would like to speak in favor or in opposition of this item, to come forward at this time.

The following individuals from the public spoke:

Jim Smith, James Quillian, Kevin Warner, Peter DeRosa, Chuck Ridley, Todd Wilson, a business owner, Arie Whiteman, Dr. Victor Kirson, and Kevin Homer.

There was no cross-examination.

Mr. McDonnell had no rebuttal.

Mr. Jones gave a brief rebuttal.

Brief discussion by the Commission followed.

Mr. Katz stated he likes this project, however, he would like a commitment on record that some of the workforce housing is going to be provided onsite.

Vice Mayor Petrolia concurs with comments expressed by Mr. Katz. In her opinion, Vice Mayor Petrolia stated it is *not* acceptable to allow for additional increases in density if we are not going to be putting the workforce housing where people can afford to live that may not be to otherwise. Vice Mayor Petrolia stated when the Commission was going through the three (3) choices; the option was chosen at the time of the presentation and that is why there was never a discussion prior to this entire situation with SOFA and what is about to happen with Atlantic Crossing. Vice Mayor Petrolia stated she will not approve this unless it is in writing and that in the future she will not support an agreement unless she knows what option is being exercised tonight.

Deputy Vice Mayor Jacquet stated this is a beautiful project and supports the density, however, the intent behind the workforce housing rules is to have those individuals who are Police Officers and teachers to *live* in that area. Deputy Vice Mayor Jacquet stated he does not support to build workforce housing off-site nor does he support a monetary contribution. Deputy Vice Mayor Jacquet expressed concern over the workforce housing and stated he cannot support this if the applicant cannot make this work to have those people *living* in the project.

Ms. Jarjura briefly highlighted some of the design elements and complimented the developer and the architect for their work. Ms. Jarjura asked if the fitness center is private or open to the public. Mr. Jones stated the fitness center will be open to the public through membership. Ms. Jarjura asked under the old code how many studios the applicant would be permitted to do. Mr. Jones stated under the old code it was one-bedroom studios aggregate combined; there was no distinction. Ms. Jarjura stated from a national perspective it is better to have workforce housing units mixed in with regularly priced market units because you want to create mixed income household areas. Ms. Jarjura stated this was something that the Commission was offering to the developers at their option and she stated there is language missing from the Code as to when this requirement should be committed to and is it at the time of conditional use approval or development entitlement approval. With respect to workforce housing, Ms. Jarjura stated that the condo association fees could make or break whether or not someone could live there. Ms. Jarjura stated these are larger policy decisions that the Commission needs to discuss.

Mayor Glickstein stated the City is required to add the workforce component if an applicant requested additional height or density. Ms. Jarjura suggested that the Commission also discuss why the City does not require the workforce component for regular site plan approvals because she feels the City is now losing a significant mechanism for the City to provide for mixed income housing opportunities for the CBD.

Mayor Glickstein concurs with his colleagues that this project is well thought out. Mayor Glickstein stated coming before the Commission next week is going to be the second part of the LDR work that Treasure Coast was doing that the City is also requiring architectural authenticity. Mayor Glickstein stated he supports the conditional use and asked that Mr. Jones speak with SPRAB. Mayor Glickstein stated SPRAB likes the art deco brand, however, SPRAB wanted to see it carried out throughout the building. Mayor Glickstein commented about workforce housing (basic fundamental information) and stated this should be a cumulative running total with every staff report because it is critical to the decision making body.

Mr. Handler stated they are unable to make a commitment that diverges from the language of LDR Section 4.7.2(B) of the City Code that allows the developer to meet the requirement at his election pursuant to other provisions of the Code. In addition, Mr. Handler stated it is unlike City's Code provision LDR Section 2.4.5(1) that with respect to an option on parking, in-lieu of parking or public parking fee requests, that has to be approved at the City Commission level and therefore there is no option available to the developer in the approval process. Mr. Handler stated the City Commission is taking away what is preserved in the Code which is an "election" for the developer to make which has been historically been made by other projects under the prior Code and economic reasons.

The City Attorney stated he does not agree with Mr. Handler's position. Brief discussion between the City Attorney and the Commission followed.

Vice Mayor Petrolia stated she did not know that this option was extending beyond what was given to the Commission as a presentation. Vice Mayor Petrolia stated if the applicant can assure that there will be workforce housing (five units) in this building then the Commission should not approve this.

Brief discussion by the City Commission continued.

At this point, the time being 8:55 p.m., Mr. Handler requested a five minute recess to discuss with the City Commission.

At this point, the time being 9:06 p.m., the City Commission reconvened the meeting.

For clarification, Mr. Handler asked if his client is being asked to make a definitive decision right now as to whether or not workforce housing will be included as a condition on the property or not.

The City Attorney stated Mr. Handler asked for a five minute recess as a result of the City Commission's discussion; that recess was granted and the City Commission has now reconvened.

Chevelle Nubin, City Clerk, swore in Ms. Evelyn Dobson with the Delray Beach Community Land Trust (DBCLT).

Evelyn Dobson, Delray Beach Community Land Trust (DBCLT), stated the original intent of the workforce housing was to stabilize the housing and other areas of Delray Beach (northeast section, southeast section southwest, and northwest section). Ms. Dobson stated if a developer chose not to provide the workforce housing unit because he wanted to benefit from his profit, he could elect to contribute the money to the CDC or the CLT to build a single family home off-site. Ms. Dobson stated the monies would be in a revolving pool once the home was sold and another home was built. Or, the developer could use his own land elsewhere to provide single family homes for sale.

Mayor Glickstein asked if the CLT has seen any of the money. The City Manager stated he would have to research to see if the money has been disbursed over the last two (2) years.

After a brief discussion, Mr. Handler stated he is prepared to offer as a condition of approval to construct five (5) single family units off-site or six (6) in a combined multi-family unit under the Code and they will not take the election of paying money.

The City Commission agreed that their preference would be the construction of five (5) single family units off-site.

The City Attorney stated the applicant would have to commit to minimum criteria of a 3 bedroom/2 bath single family home and proceeds of the sale are

to be paid to the Delray Beach Community Land Trust (DBCLT) for their affordable housing purposes. Mr. Handler stated the applicant agrees to five (5) bedroom 3 bedroom 2 bath single family homes.

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).

The City Attorney stated the way to memorialize the workforce housing obligations is he will prepare a Workforce Housing Covenant which is recorded and has duration of forty (40) years.

Deputy Vice Mayor Jacquet moved to approve to direct the City Attorney to prepare a Workforce Housing Covenant in the standard form of the City and in addition to specifically include a Workforce Housing requirement of five (5) single family homes having a minimum of three (3) bedroom/two (2) bathroom single family homes and that the sale proceeds from the homes to be paid at closing to the Delray Beach Community Land Trust (DBCLT); and, that the developer and the Delray Beach Community Land Trust (DBCLT) agree to mutually work together to find a suitable location for the construction of the five (5) homes, seconded by Vice Mayor Petrolia. Upon roll call the Commission voted as follows: Mr. Katz – No; Ms. Jarjura – Yes; Mayor Glickstein – Yes; Vice Mayor Petrolia – Yes; Deputy Vice Mayor Jacquet – Yes. Said motion passed with a 4 to 1 vote, Mr. Katz dissenting.

9.D. WAIVER REQUEST FOR OVERHEAD DOORS FACING A RIGHT-OF-WAY FOR JTS WOODWORKING: Consider approval of a waiver to Land Development Regulations (LDR) Section 4.4.19(H)(3), “Special Regulations”, pertaining to overhead doors facing a right-of-way for JTS Woodworking located at 71 N.W. 18th Avenue. (*Quasi-Judicial Hearing*)

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

Mark McDonnell, Assistant Director of Planning and Zoning, entered the Planning and Zoning Department project file #2014-226 into the record.

Troy Ammons, Architect, 1907 N.E. 4th Street, Deerfield Beach, FL, representing the owner of JTS Woodworking, gave a few brief comments about the aesthetics of the building.

There was no cross-examination or rebuttal.

Mr. Katz stated having industrial use with a good aesthetic look is going to help bring more industrial into the area.

Vice Mayor Petrolia stated she is happy with it.

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 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.E. RATIFICATION OF COLLECTIVE BARGAINING AGREEMENT/PALM BEACH COUNTY POLICE BENEVOLENT ASSOCIATION, INC. (PBA): Motion to ratify the Collective Bargaining Agreement between the City of Delray Beach and the Palm Beach County Police Benevolent Association, Inc. (PBA) for the period of October 1, 2014 through September 30, 2017.

Shirley McKennon, Director of Human Resources, presented this item to the Commission and briefly reviewed the highlights of the agreement.

Gary Ferreri, PBA, acknowledged and commended the City Attorney for his hard work with respect to the negotiations.

Mayor Glickstein commended Mr. Ferreri and the City Attorney for their efforts.

Vice Mayor Petrolia asked how this agreement differs from the agreement that was ratified on December 23, 2016. Ms. McKennon stated this is for a different collective bargaining unit (i.e. Police Lieutenants).

Ms. Jarjura moved to approve the Collective Bargaining Agreement between the City of Delray Beach and the Palm Beach County Police Benevolent Association, Inc. (PBA) for the period of October 1, 2014 through September 30, 2017, 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.

9.F. SERVICE AUTHORIZATION NO. 12-07/WANTMAN GROUP, INC.: Motion to Approve Service Authorization No. 12-07 with Wantman Group, Inc. in the amount of \$65,321.70 to provide professional design services (RFQ No. 2012-06) related to the Lewis Cove Road Drainage Project No. 14-065. This is in compliance with the Code of Ordinances, Chapter 36, Section 36.02(C)(3), “Professional Services”. Funding is available from 448-5461-538-31.30 (Storm Water Utility Fund: Professional Services/Engineering/Architect).

Randal Krejcarek, Director of Environmental Services, presented this item to the Commission.

Vice Mayor Petrolia moved to approve Service Authorization No. 12-07 with Wantman Group, Inc. in the amount of \$65,321.70 for professional design services,

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.

9.G. PURCHASE AWARD/SOUTHERN SEWER EQUIPMENT SALES/SCHWARZE STREET SWEEPER: Motion to Approve the purchase of one Schwarze Street Sweeper from Southern Sewer Equipment Sales in the amount of \$222,605.10 through the Florida Sheriff's Contract No. 14-12-0904. This recommendation is in compliance with the Code of Ordinances, Chapter 36, Section 36.02(C)(7), "Utilization of Other Governmental Entities' Contracts". Funding is available from 501-3312-591.64-20 (Garage Fund: Vehicle Replacement/ Machinery/Equipment/Automotive).

Randal Krejcarek, Director of Environmental Services, presented this item to the Commission. Mr. Krejcarek stated the City currently has two (2) street sweepers; one is not working and is not repairable and the other one is reaching the end of its useful life.

At this point, Ms. Jarjura stated with respect to this item and the next item, she would prefer in the staff reports from now on when the City is piggybacking that staff goes through the elements (i.e. 7.A., B, and C) and respond to them. Mr. Krejcarek stated staff will make sure this is done going forward.

Ms. Jarjura moved to approve the purchase award approve the purchase of one (1) Schwarze Street Sweeper from Southern Sewer through the Florida Sheriff's Contract #14-12-0904 in the amount of \$222,605.10 in accordance with Code of Ordinance, Section 36.02, (C) (7) Utilization of Other Governmental Entities Contracts., 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.

9.H. PURCHASE AWARD/ STROBES-R-US: Motion to Approve a purchase award to Strobes-R-U's in the amount of \$86,820.00 using Broward Sheriff's Office Contract No. 13104030, which is effective August 12, 2013 through August 11, 2015 for fourteen (14) vehicles to be equipped for police service. This is in compliance with the Code of Ordinances, Chapter 36, Section 36.02(C)(7)(a), "Utilization of Other Governmental Entities' Contracts". Funding is available from account 501-3312-591-64.20 (Garage Fund: Vehicle Replacements/ Intra-governmental Services/ Machinery/ Equipment/ Automotive).

Randal Krejcarek, Director of Environmental Services, presented this item to the Commission.

Deputy Vice Mayor Jacquet moved to approve the purchase and installation of Police Lights and Equipment for fourteen (14) police vehicles, in the amount of \$86,820.00 from Strobes-R-U's through the Broward Sheriff's Contract #13104030 in accordance with Code of Ordinance, Section 36.02 (C)(7) Utilization of Other Governmental Entities Contract, 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.

9.I. RETROACTIVE APPROVAL OF SPECIALIZED WATER TREATMENT PLANT SPENDING GREATER THAN \$25,000.00 AND ADVANCED AUTHORIZATION OF FUTURE SPENDING LIMIT: Motion to Approve retroactive acquisitions of repairs and maintenance to specialty equipment at the City's water treatment plant from Southland Controls, Inc. in the amount of \$38,746.02; and motion to approve advanced FY 2015 expenditures not to exceed \$65,000.00 with Southland Controls, Inc. and Water Treatment and Controls, Co. for work related to repairs and maintenance to specialty equipment at the Water Treatment Plant. This recommendation is in compliance with the Code of Ordinances, Chapter 36, Section 36.03(B), "Multiple Acquisitions from Vendor Exceeding Twenty-Five Thousand Dollars (\$25,000.00) in Any Fiscal Year".

Randal Krejcarek, Director of Environmental Services, presented this item to the Commission.

Vice Mayor Petrolia moved to approve in advance FY 2015 acquisitions of repairs and maintenance to specialty equipment at the City's water treatment plant from Southland Controls, Inc. and Water Treatment and Controls Co. so that total fiscal year spending will not exceed \$65,000, and further finds that such acquisitions are in compliance with code section 36.03(B) *Multiple acquisitions from vendor exceeding \$25,000 in any Fiscal Year*, provided that each transaction meets all other applicable provisions of the code including separate Commission approval for any individual transaction at \$25,000 or above, seconded by Deputy Vice Mayor Jacquet. 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.J. RETROACTIVE APPROVAL OF AGREEMENT/COMMUNITY CHILD CARE CENTER OF DELRAY BEACH/OUT-OF SCHOOL PROGRAMS AT VILLAGE ACADEMY AND PINE GROVE ELEMENTARY SCHOOL: Motion for Retroactive Approval of the agreement with Community Child Care Center of Delray Beach, Inc., for funding and operating the Out-of-School Services Programs at Village Academy and Pine Grove Elementary School; and consider approval of the Grant Agreement with Community Child Care Center of Delray Beach, Inc. for Out-of-School Services Programs at Village Academy and Pine Grove Elementary School.

Janet Meeks, Education Coordinator, presented this item to the Commission.

Mayor Glickstein commended Stephanie and Janet for the great job they are doing with these programs.

Ms. Meeks stated for Pine Grove Elementary they started with a summer camp program and it is now a year-round program with approximately 250 students being serviced and this would be the first summer for Orchard View Elementary.

Vice Mayor Petrolia asked if there was any funding given to the City from SWS (new trash/waste hauler). Michael Coleman, Director of Community Improvement, stated SWS made a pledge of \$2,500 for the Washington trip for Pine Grove Elementary School which will go into effect June 1st.

Mr. Jarjura commended the Achievement Center for the services it provides (i.e. before care/after care facility, services they provide to parents in terms of education, etc.) stated she supports the expansion of it.

Ms. Jarjura moved to approve the Funding Agreement between the City of Delray Beach and the Community Child Care Center of Delray Beach, Inc., for Out-of-School Services Programs at Pine Grove Elementary, 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.

9.K. WORKFORCE HOUSING COVENANT BETWEEN THE CITY OF DELRAY BEACH, CDS DELRAY REDEVELOPMENT, LLC, CDR ATLANTIC PLAZA, LTD, AND CDS FREECORE LLC. FOR ATLANTIC CROSSING:
Motion to Approve a Workforce Housing Covenant between the City of Delray Beach and CDS Delray Redevelopment, LLC, CDR Atlantic Plaza, LTD, and CDS Freecore LLC., pursuant to the requirements under Section 4.7 of the Land Development Regulations.

Michael Coleman, Director of Community Improvement, presented this item to the Commission and stated Atlantic Crossing is looking for approval for twenty-five (25) units under the workforce housing covenant. Mr. Coleman explained that there are three (3) options: (1) on-site, (2) off-site, and (3) monetary contribution and they chose nineteen (19) units on-site all rentals, six (6) units they would like to make a monetary contribution of \$960,000.00 (\$160,000.00 per unit), and within the units on-site they are looking to build seven (7) two-bedroom units and twelve (12) one-bedroom units. The units will be disbursed throughout the on-site property.

At this point, Mayor Glickstein stated for the next meeting he requested that the City Manager provide to the Commission a summary on every project that received conditional use approval; and, if there was not workforce housing built on site, he would like to see an accounting of that funding from approval to date for the last ten (10) years.

Mr. Katz expressed concern why this is coming before the City Commission now and not with the development agreement later. The City Attorney stated the Workforce Housing Covenant is a requirement of the site plan certification. Mr. Katz stated nowhere he has seen where the City Commission has approved giving

away that tract where the workforce housing was approved is the current plan which is on the City's website which shows Atlantic Court in there. Mr. Katz stated he is uncomfortable approving the map because he has only seen SPRAB approve it, but it is his understanding that the City Commission has never voted to approve a site plan that looks like the site plan before them now. Mr. Katz stated on November 2013 the motion was to deny. Mr. Katz stated the plat shows a street there and now there is not a street. Therefore, Mr. Katz expressed concern that the City approves this tonight, are they conveying that street right now. Mr. Katz stated he does not believe the City has conveyed that land without any compensation (even accidentally) he feels they should fix that possible mistake; he suggested that the City obtain outside counsel.

Mayor Glickstein asked if the workforce housing approval can be bifurcated from the site plan. The City Attorney stated the way to correct this to replace the site plan with a legal description (i.e. a boundary survey/the four corners of that property). Mr. Katz stated he would support this.

The City Attorney stated the workforce housing was initially approved in connection with the conditional use modification request.

Brief discussion between the City Attorney and the City Commission ensued.

Vice Mayor Petrolia asked why this is coming before the City Commission now.

The City Attorney stated this is a condition of site plan certification and the developer is trying to satisfy its requirements so that it can move forward with the site plan certification. The City Attorney stated this is a covenant requiring workforce housing and it can be made neutral with respect to the issue of the abandonment of the road (Atlantic Court) by providing a generic legal description of the development.

Vice Mayor Petrolia stated she supports obtaining outside counsel opinion and have it looked at before the City Commission starts signing more documents.

The City Attorney suggested that the City Commission move approval of the Workforce Housing Covenant but specifically reserve any rights they may have with respect to the site plan approval process and that by approving this Workforce Housing Covenant the City Commission is not waiving their right to assert whatever rights they may have with respect to the prior site plan approval.

Mayor Glickstein stated it is not tied to this site plan but it is tied to whatever density was approved in that conditional use and it is tied to the four corners of the property; it is *not* tied to any specific site plan; and, that the City is not waiving any rights it may otherwise have in contesting the existing site plan when it comes before the City Commission in connection with a final plat.

Deputy Vice Mayor Jacquet moved to **table Item 9.K.** until after the next item, 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.L. DISCUSSION REGARDING THE POLICE ADVISORY BOARD:
Staff will discuss the history and future direction of the Police Advisory Board.

Jeffrey Goldman, Police Chief, presented this item to the Commission and provided a brief overview of the history of the Police Advisory Board (PAB).

After brief discussion, it was the consensus of the City Commission to continue with the board and give Chief Goldman direction to rewrite the qualifications of the board members to serve on the Police Advisory Board and have a reach out to different parts of the community so that the City is geographically represented.

Mr. Katz moved to approve the Workforce Housing Covenant, replacing Exhibit “A” with a written legal description of the development (no site plan no sketch); the approval by the City specifically reserves any rights the City may have with respect to site plan certification and the prior site plan approval; and, approval of this Workforce Housing Covenant shall not be construed as a waiver of any rights of the City, that the Workforce Housing obligations shall be as stated in the Workforce Housing Covenant or alternatively in the event the developer either elects to or is required to proceed with the previously approved site plan, in such event the developer shall provide the same proportion of workforce housing units pursuant to the LDRs (Land Development Regulations), seconded by Ms. Jarjura. Upon roll call the Commission voted as follows: Deputy Vice Mayor Jacquet – Yes; Mr. Katz – Yes; Ms. Jarjura – Yes; Mr. Katz – Yes; Ms. Jarjura – Yes; Mayor Glickstein – Yes; Vice Mayor Petrolia – No. Said motion passed with a 4 to 1 vote, Vice Mayor Petrolia dissenting.

At this point, the time being 10:27 p.m., the Commission returned to **Item 9.K.**

Mr. Katz moved to approve the Workforce Housing Covenant, replacing Exhibit “A” with a written legal description of the development (no site plan no sketch); the approval by the City specifically reserves any rights the City may have with respect to site plan certification and the prior site plan approval; and, approval of this Workforce Housing Covenant shall not be construed as a waiver of any rights of the City, that the Workforce Housing obligations shall be as stated in the Workforce Housing Covenant or alternatively in the event the developer either elects to or is required to proceed with the previously approved site plan, in such event the developer shall provide the same proportion of workforce housing units pursuant to the LDRs, seconded by Ms. Jarjura. Upon roll call the Commission voted as follows: Deputy Vice Mayor Jacquet – Yes; Mr. Katz – Yes; Ms. Jarjura – Yes; Mr. Katz – Yes; Ms. Jarjura – Yes; Mayor Glickstein – Yes; Vice Mayor Petrolia – No. Said motion passed with a 4 to 1 vote, Vice Mayor Petrolia dissenting.

10. PUBLIC HEARINGS:

10.A. THIS ITEM HAS BEEN DEFERRED.

11. FIRST READINGS:

11.A. ORDINANCE NO. 11-15 (FIRST READING): Motion to Approve an amendment to Chapter 36, "Acquisition of Goods and Services and Disposal Of City Property"; amending Section 36.02, "Method of Acquisition," Subsection (A), "Sealed Competitive Method"; Creating Section 36.14, "Local Business Preference"; Establishing a Local Business Preference In The Acquisition of Goods And Services; Providing Definitions and Certification Requirements for same; Providing for Exclusions from and Waiver of Local Business Preference; Providing a Saving Clause, a General Repealer Clause, and an effective date. If passed, a public hearing will be held on May 5, 2015.

The caption of Ordinance No. 11-15 is as follows:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE CITY OF DELRAY BEACH, FLORIDA, BY AMENDING CHAPTER 36, "ACQUISITION OF GOODS AND SERVICES AND DISPOSAL OF CITY PROPERTY"; AMENDING SECTION 36.02, "METHOD OF ACQUISITION," SUBSECTION (A), "SEALED COMPETITIVE METHOD"; CREATING SECTION 36.14, "LOCAL BUSINESS PREFERENCE"; ESTABLISHING A LOCAL BUSINESS PREFERENCE IN THE ACQUISITION OF GOODS AND SERVICES; PROVIDING DEFINITIONS AND CERTIFICATION REQUIREMENTS FOR SAME; PROVIDING FOR EXCLUSIONS FROM AND WAIVER OF LOCAL BUSINESS PREFERENCE; PROVIDING A SAVING CLAUSE, A GENERAL REPEALER CLAUSE, AND AN EFFECTIVE DATE.

(The official copy of Ordinance No. 11-15 is on file in the City Clerk's office.)

The City Attorney read the caption of the ordinance.

Holly Vath, Chief Purchasing Officer, presented this item to the Commission.

Ms. Jarjura stated she applauds this program because when she came into office it was surprising to her that the City of Delray Beach which has such a strong local business community did not have a Small Business Preference Program. In addition, Ms. Jarjura stated in trying to create a minority or woman owned business program there are certain thresholds to meet by case law under strict scrutiny. She stated WARC has communicated on February 27, 2015 some recommendations and are providing her with some examples of other cities and counties that have instituted different ways that we can encourage and provide economic incentive to our local businesses. Ms. Jarjura stated she supports this ordinance going forward because she feels this is a landmark ordinance in the history of this city. However, Ms. Jarjura stated she would like to also direct the City Manager to do on a more accelerate basis some minor changes or tweaks to *internal* processes that do not require a code amendment or an ordinance that would also further the encouragement of Local Small Business Preference Program. For example, Ms. Jarjura stated restructuring internal pay processes and practices to expedite timely invoice approval and to enforce contract provisions that require a contractor to promptly pay their respective small subcontractors, and developing a structure system of accountability where it comes to tracking and reporting.

Ms. Vath stated as part of the certification process staff can add a survey to some of the City's required documents (i.e. quarterly, yearly, or bi-yearly reports) in an effort to obtain additional data because this would provide certain demographic information.

Brief discussion followed by Vice Mayor Petrolia and staff regarding the 5% standard.

Vice Mayor Petrolia stated she is happy to see this moving forward and is in full support inclusive of the addition to *internal* processes that do not require a code amendment or an ordinance that would also further the encouragement of Local Small Business Preference Program (i.e. restructuring internal pay processes and practices to expedite timely invoice approval/payment and to enforce contract provisions that require a contractor to promptly pay their respective small subcontractors), and data collection and developing a structure system of accountability where it comes to tracking and reporting.

After brief discussion, it was the consensus of the Commission restructuring internal pay process and the data collection.

Mayor Glickstein commended Commissioner Jarjura for championing this issue from the start through fruition.

Ms. Jarjura moved to approve Ordinance No. 11-15, 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.

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

12.A. **City Manager**

None.

12.B. **City Attorney**

The City Attorney stated he would like to bring a subsequent agenda item with respect to this issue of special counsel on Atlantic Crossing and the status on the Atlantic Avenue core. The City Attorney stated this issue has become volatile and controversial this issue has become and by obtaining an outside opinion it might take a volatile situation and it may help the situation. The City Attorney stated for the next meeting he can frame the legal question that the City Commission would ask counsel and that the question be done as a fixed fee basis. The City Attorney stated he is prepared to recommend to the City Commission several counsel that have that expertise in land use and could render that opinion and the City Charter provides that the City Commission select that counsel.

Mayor Glickstein stated he supports special counsel for the Atlantic Crossing project for the reasons stated by the City Attorney. In addition, Mayor Glickstein stated he finds it appalling the way that the public has maligned the City Attorney's character because they have a difference of opinion.

Ms. Jarjura stated at first she was not in support of it because she felt that it was opinion shopping and noted that the City Attorney was not part of this city when this project came aboard and some of the allegations that are being lodged against him when he was not here when the site plan was approved. Deputy Vice Mayor Jarjura stated if the City Commission is going to move forward with an opinion letter she would hope that the City would seek a land use counsel and to render an opinion she also would like a flat fee because she does not want this to go on forever or be a huge expense.

Mayor Glickstein suggested narrowing the scope to a land use litigator not someone who does rezoning and platting.

For clarification, Mr. Katz stated his request for special counsel is nothing personal towards the City Attorney but it is just a second opinion.

Mayor Glickstein stated this is more about the steps that were taken, the disclosures that were made, and the notice that was made and whether there is a distinction between a public right-of-way and a private road with public access for purposes of notice and abandonment.

Vice Mayor Petrolia stated she too supports the City obtaining special counsel for the Atlantic Crossing project because she feels it will also provide cover for this Commission going forward.

The City Attorney stated he will come back to the City Commission with his proposal and a definitive recommendation at the next meeting.

12.C. **City Commission**

12.C.1. **Deputy Vice Mayor Jacquet**

Deputy Vice Mayor Jacquet asked if a Planning and Zoning Director has been hired yet. The City Manager stated he is in the process of interviewing this week and if that process goes as expected he hopes to make an offer to somebody on Friday. Deputy Vice Mayor Jacquet asked how many candidates he is interviewing and if he interviews them alone. The City Manager stated he has interviewed three (3) candidates and they have gone through a selection committee.

Ms. Jarjura asked how many candidates applied for the Planning and Zoning Director position. The City Manager stated there were over 100 which was called down to 100 and then called to 5 then to 3. The City Manager stated from 5 to 3 for interview staff did a very active recruitment and tried to get people to apply for the position.

12.C.2. **Vice Mayor Petrolia**

Vice Mayor Petrolia stated there are numerous violations throughout the city that Code Enforcement needs to address immediately. She stated Commissioner Jarjura discussed at one time that there should be some way that these departments pay for themselves and Code Enforcement is one of those. Vice Mayor Petrolia reiterated that Code Enforcement needs to start issuing fines to everyone who is violation because it is going to pay for the positions.

Secondly, Vice Mayor Petrolia stated with respect to the Police and Fire Pension Board and the City has the ability to get off the 175/185. She stated the City is losing money on a daily basis on that board. The City Attorney stated this is a very technical complex area of law and noted he will ask Mr. Linn for a definitive opinion on this and that the Commission has it by the next meeting to discuss.

Vice Mayor Petrolia stated she would like to see the garbage cart refund and some of the developments that have come on board late that also need to be looked at.

Vice Mayor Petrolia requested that a survey be sent to the residents that are paying this 1% to see if they are happy with it or not happy with it.

Vice Mayor Petrolia commented about the City Attorney and City Manager's performance evaluations. The City Attorney stated according to the Rules of Procedure, the City Attorney's performance evaluation is due in May and the City Manager's performance evaluation is due on his one year anniversary (Hire Date: January 5, 2015).

With regard to the decision made at the County Commission meeting about the Lake Ida parcel, Vice Mayor Petrolia stated the vote was 6 to 1 vote in favor. Vice Mayor Petrolia stated it is Earth Day tomorrow and she feels it goes in sync with that. She stated this entire situation that unfolded explains how incredibly special the people who live here are and noted that people came up and gave money to the City. Vice Mayor Petrolia stated there is no other city that she knows of with standing room only at a Planning and Zoning Board meeting that has that kind of passion. She commented about the letters from the public with personal attacks and stated she agrees that they are awful. However, Vice Mayor Petrolia stated the people are interested and passionate so she never takes it personal. She stated these people are very special and it is not that people do not want the Atlantic Crossing project, they just want the project to work and they do not want it to ruin this beloved town. Vice Mayor Petrolia stated the Lake Ida parcel was just one of those situations where it let her know what kind of people the city has here and she is proud of them.

Lastly, Vice Mayor Petrolia wished the City Clerk a very Happy Birthday.

12.C.3. Commissioner Jarjura

Ms. Jarjura stated tomorrow is Earth Day and Mayor Glickstein and Vice Mayor Petrolia has talked about Styrofoam.

Secondly, Ms. Jarjura commented about the Lake Ida decision and stated it is a great testament to the positive and amazing people that make up the community. Furthermore, Ms. Jarjura commended those individuals who spent countless energy and time advocating for this position and thanked the Palm Beach County Commissioners who went against contrary to the staff recommendation and supported the City Commission's request to purchase the property with Mr. Levy and the other residents' money and Commissioner Fitzpatrick with Boynton Beach.

Ms. Jarjura stated she has discussed with the City Manager about Delray Beach being a host for a half marathon event here in the city and goes to her previous comments about rebranding as beyond food and beverage. Ms. Jarjura stated when trying to attract businesses and families they look at different quality of life. She stated these regional, statewide and national races bring a different element to the city. Ms. Jarjura stated to get on the race calendar staff needs to start planning now because it takes approximately 8-9 months and with the completion of Federal Highway she can envision utilizing that as part of the track. Ms. Jarjura stated she connected John Morgan with some national race sponsors that would be interested in potentially looking in Delray Beach.

Ms. Jarjura complimented the Federal Highway Beautification Project and the trees are impressive.

Lastly, Ms. Jarjura wished the City Clerk a very Happy Birthday.

12.C.4. Commissioner Katz

Commissioner Katz thanked the Woman's Club of Delray Beach for inviting him to participate in their "Real Men Bake" fundraiser event. He stated yesterday there were storm warnings and from his understanding the Commission Chambers was filled with people who are passionate about their city. Commissioner Katz stated this non-profit event was a success and many people attended.

Secondly, with respect to the Lake Ida parcel and Earth Day, Commissioner Katz stated the County Commission had the opportunity today to leave a legacy with Delray Beach. Commissioner Katz stated today he explained to his children about Earth Day and showed them the Lake Ida parcel that has been saved and the green space. Commissioner Katz stated it was a teachable moment and tomorrow his son is going to bring this up on Google maps and show his class. Commissioner Katz thanked the citizens for showing up in force and showing the County Commission that citizens want this.

Commissioner Katz stated with the budget process coming up and evaluations with previous City Manager's a lot of times employees were not being evaluated so they did not know how to improve, etc. He stated the previous City Manager was directed to come up with some good evaluation processes for employees. Commissioner Katz asked if that ever take place and are employees being evaluated on a regular basis so that they can improve so they can get merit opportunities if applicable for their position. He asked if can have a form that the Commission can keep so that he can keep track throughout the year.

For the record, Commissioner Katz gave a brief explanation as to why he voted "no" on the workforce housing for Item 9.C. (The Metropolitan). He stated fundamentally the workforce housing system is flawed and he voted against it because he is not comfortable with not giving those people in the workforce housing that are single and do not want to have families an option.

Commissioner Katz requested an update from the City Manager with regard to the Code Enforcement issues in certain areas of the city and whether something is being done.

With regard to Mayor Glickstein's comments about people that are passionate and taking things personal, Commissioner Katz stated in his short time in office he has received has plenty of hate mail because he made a suggestion at the meeting of March 31, 2015 to explore some annexation areas throughout the city.

Commissioner Katz stated he has answered every person that has emailed him whether negative or positive. He stated the City Commission wants to know if it is a mutually good benefit for an area to be a part of this city or not. Commissioner Katz stated if someone is not willing to pay Delray's millage rate then the city either needs to lower the millage or improve its services. He stated all the negative emails has come from Kingsland; however, three (3) streets south of Bexley Park has been positive feedback and feels if the City takes a small tract and it all works out for their mutually benefit, then that is a good selling point to larger tracts that can help expand the city's base.

Lastly, Commissioner Katz stated he had a request to the Police and Fire Pension Board. The City Manager stated he is working on this.

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

Mayor Glickstein suggested with regard to Commissioner Katz's comments about the annexation issue that the Commission be cognizant of the choice of words they are using on the dais.

Secondly, Mayor Glickstein stated he attended the Volunteer Lunch today and noted the City has over 400 volunteers for the Police Department and feels there is no reason why the City cannot get 10-15 working for Code Enforcement. Mayor Glickstein stated they can walk up and down Atlantic Avenue and write violations because what the City currently has in place is not working. He stated like the procurement issues, Code Enforcement problems has been festering since the day he got here and there has been nothing that has changed where we are. Mayor Glickstein stated so many things are not getting corrected even after the Commission has given direction to do so.

Ms. Jarjura stated even things that the City Commission has articulated as priorities whether it is historic resources or outdoor dining deviations those are not getting Code violations.

Mayor Glickstein stated the City passed an ordinance restricting tables and chairs on Atlantic Avenue and a new restaurant opened directly across the street from The Office and put tables and chairs across from each other. He expressed concern that it is everything from landlord tenant permits, sober homes, etc. and emphasized that this has to be prioritized. The City Manager stated he does not believe the City can put Code Enforcement on a fee based schedule based upon fines; they can generate revenue but we cannot budget for it. Mayor Glickstein stated to the Commission goal of diversifying revenue that is diversifying revenue and solving problems and the City is not doing either.

Mayor Glickstein stated the City cannot stop commercial trucks on Atlantic Avenue for the reasons stated; however, the City can keep construction traffic off that street.

Mayor Glickstein stated the workforce housing issue needs to be modified to be Commission discretion and that the applicant has to commit to one of those three (3) options and that there is conditional use approval.

Lastly, Mayor Glickstein stated Vice Mayor Petrolia is correct about the comments and personal attacks from the public directed toward the City Commission; however, he stated that he takes personal offense when he sees these comments from the public directed toward City staff and feels it is uncalled-for.

There being no further business, Mayor Glickstein declared the meeting adjourned at 11:13 p.m.

City Clerk

ATTEST:

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 April 21, 2015, which Minutes were formally approved and adopted by the City Commission on _____.

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.