

JUNE 3, 2014

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, June 3, 2014.

1. Roll call showed:

Present - Vice Mayor Shelly Petrolia
Commissioner Alson Jacquet
Commissioner Adam Frankel
Deputy Vice Mayor Jordana Jarjura
Mayor Cary Glickstein

Absent - None

Also present were - Robert A. Barcinski, Acting City Manager
Terrill Pyburn, Interim 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.

4. **APPROVAL OF MINUTES:**

Vice Mayor Petrolia moved to approve the Minutes of the Special/Workshop Meeting of February 11, 2014 Special/Workshop Meeting, seconded by Mr. Frankel. Upon roll call the Commission voted as follows: Mr. Jacquet – Yes; Mr. Frankel – Yes; Deputy Vice Mayor Jarjura – Yes; Mayor Glickstein – Yes; Vice Mayor Petrolia – Yes. Said motion passed with a 5 to 0 vote.

Vice Mayor Petrolia moved to approve the Minutes of the Regular Meeting of April 16, 2014, seconded by Mr. Frankel. Upon roll call the Commission voted as follows: Mr. Frankel – Yes; Deputy Vice Mayor Jarjura – Yes; Mayor Glickstein – Yes; Vice Mayor Petrolia – Yes; Mr. Jacquet – Yes. Said motion passed with a 5 to 0 vote.

5. **PRESENTATIONS:**

5.A. **Recognizing Student Ambassadors: Julie Duca, Alexandra Edoff, Christian Hoffman, Luna Jean, Kelli McCourt, Teagan Murphy and Leah Stephens**

David Schmidt, speaking on behalf of the Board of Sister Cities of Delray Beach, introduced the following student ambassadors: **Julie Duca, Alexandra Edoff, Christian Hoffman, Luna Jean, Kelli McCourt, Teagan Murphy and Leah Stephens** who will be leaving on Friday to travel to Sister City Miyazu, Japan, where the students will be doing home stays and having an opportunity to attend a high school there for a few days before traveling onto Kyoto, Japan. Mr. Schmidt thanked the City Commission for their support and the proclamation.

Mayor Glickstein read a proclamation hereby recognizing **Julie Duca, Alexandra Edoff, Christian Hoffman, Luna Jean, Kellie McCourt, Teagan Murphy, and Leah Stephens** as Student Ambassadors representing the City of Delray Beach.

5.B. RESOLUTION NO. 26-14: Approve Resolution No. 26-14 recognizing and commending Hal Knabb, Paramedic Captain, for 30 years of dedicated service to the City of Delray Beach.

The caption of Resolution No. 26-14 is as follows:

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, RECOGNIZING AND COMMENDING **BENJAMIN H. KNABB** FOR THIRTY YEARS OF DEDICATED SERVICE TO THE CITY OF DELRAY BEACH.

(The official copy of Resolution No. 26-14 is on file in the City Clerk's office.)

Danielle Connor, Fire Chief, gave a few brief comments.

Mayor Glickstein read Resolution No. 26-14 recognizing and commending Hal Knabb, Paramedic Captain, for thirty (30) years of dedicated service to the City of Delray Beach.

Mayor Glickstein moved to approve Resolution No. 26-14, seconded by Mr. Frankel. Upon roll call the Commission voted as follows: Deputy Vice Mayor Jarjura – Yes; Mayor Glickstein – Yes; Vice Mayor Petrolia – Yes; Mr. Jacquet – Yes; Mr. Frankel – Yes. Said motion passed with a 5 to 0 vote.

5.C. RESOLUTION NO. 28-14: Approve Resolution No. 28-14 recognizing and commending Mr. Robert A. Barcinski, Acting City Manager, for his dedicated service to the City of Delray Beach.

The caption of Resolution No. 28-14 is as follows:

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, RECOGNIZING AND COMMENDING **ROBERT A. BARCINSKI** FOR MORE THAN TWENTY-NINE YEARS OF

DEDICATED SERVICE TO THE CITY OF DELRAY
BEACH.

(The official copy of Resolution No. 28-14 is on file in the City Clerk's office.)

Mayor Glickstein read Resolution No. 28-14 recognizing and commending Mr. Robert A. Barcinski, Acting City Manager, for more than twenty-nine (29) years of dedicated service to the City of Delray Beach.

Mr. Jacquet moved to approve Resolution No. 28-14, seconded by Vice Mayor Petrolia. Upon roll call the Commission voted as follows: Mayor Glickstein – Yes; Vice Mayor Petrolia – Yes; Mr. Jacquet – Yes; Mr. Frankel – Yes; Deputy Vice Mayor Jarjura – Yes. Said motion passed with a 5 to 0 vote.

5.D. Florida City and County Management Association – Presentation to Mr. Robert A. Barcinski

George Brown, Deputy City Manager, for the City of Boca Raton, 201 West Palmetto Park Road, Boca Raton, FL 33432, stated the Florida City and County Management Association of Professional Association for Local Government, Managers in the State of Florida including Assistants, Deputies, etc. and Mr. Barcinski has been a member since at least when he came to Delray Beach. Mr. Brown stated the City of Delray Beach has been very fortunate to have had Mr. Barcinski because he has been stability during transitions over the years and he returns a telephone call within 20 minutes of it being placed.

Mr. Brown read a resolution into the record honoring Robert A. Barcinski for his service to the Florida City and County Management Association while serving as Assistant City Manager for the City of Delray Beach.

Mr. Barcinski gave a few brief comments and thanked Mr. Brown and the Florida City and County Management Association for this wonderful honor.

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 a previous concern expressed by Mr. Blum about stop signs at Venetian Drive and Gleason Street, Robert A. Barcinski, Acting City Manager, stated the three-way stop signs at the intersection of Atlantic Avenue and Gleason Street are now in effect and existing signalization arms at Atlantic Avenue and Gleason Street have been removed. Mr. Barcinski stated there will be Police presence at this intersection to monitor it and three-way stop signs at the intersection of Atlantic Avenue and Venetian are pending activation.

Secondly, with regard to a previous concern expressed by Mr. Katz about the Barwick Road issue, Mr. Barcinski stated he is still collecting information on this from staff before giving a report.

With regard to a previous concern expressed by Mr. Warner as it related to the CRA and the Gateway Project, Mr. Barcinski stated the Gateway feature was a major project included in the 2002 Downtown Master Plan. During the numerous public meetings held during the Plan's creation the community strongly expressed the need for a significant feature that would identify West Atlantic Avenue and I-95. Mr. Barcinski stated the goal was to eventually ease the history of Swinton Avenue being a divide between East and West Atlantic Avenue. He stated throughout the recession the CRA's budget presentation and Commission Workshops the Commission repeatedly emphasized the importance of completing this project. With regard CRA support of the Spady Museum, the CRA has been providing operating dollars to this museum since 2000/2001 totaling approximately \$1.6 million over the past 14 years. In addition, the CRA has provided more than \$1,028,000 for capital improvements to this organization.

6.B. From the Public.

6.B.1. Kevin Warner, 248 Venetian Drive, Delray Beach, FL 33483, stated he was on the Steering Committee of the Downtown Master Plan and he was a very strong part of the Gateway Plan. Mr. Warner stated no one ever mentioned \$1 million and he expressed concern that there needed to be a little bit of prudence among the CRA staff because the Board refused to put its foot down and say we need to have accountability. Mr. Warner stated he concurs but maintains that the CRA staff led by the Director needs to be firmer about how tax dollars are spent. Mr. Warner stated he would much rather see the City spend the \$6, \$7, or \$8 million in tax revenues that the CRA receives that way there will not be money going to a private property owner on A-1-A to help renovate his building because in his opinion the beach is not a blighted community. Mr. Warner urged the City Commission to have a discussion with the CRA Director and ask for some accountability about what the CRA does.

Secondly, Mr. Warner wished Mr. Barcinski the best of luck in his retirement.

6.B.2. Neil Schiller, Becker & Poliakoff, P.A., 625 North Flagler Drive 7th Floor, West Palm Beach, FL 33401 (represents Ameristar), stated Ameristar has been the incumbent parking vendor since the last term and has been in Delray Beach since 2002. Mr. Schiller stated Ameristar lost the bid by a combined total of seven (7) points and those seven (7) points came primarily on price. Mr. Schiller stated the first ranked firm Republic was low in how much they were charging the city per valet hours; they are at \$8.33 per hour. He stated the five (5) other parking vendors bid from \$13.00-\$14.88 per hour. Mr. Schiller stated parking is an important issue in the City of Delray Beach and there are many guests and residents using the parking garage and valet service and feels they are almost like ambassadors to the city; Mr. Schiller suggested that the City pay them well because that is the first impression of the city and stated the Palm Beach

County minimum wage is \$11.02 per hour and if price was not a factor Ameristar Parking Solutions vastly was superior ranked by staff (188 points) and the second ranked firm Double Park, LLC would have been at 157 points and Republic Parking Systems would have been 150 points. Mr. Schiller read a sentence into the record from the RFP and urged the City to award the contract to Ameristar.

6.B.3. Kevin Homer, 319 S.E. 3rd Avenue, Delray Beach, FL 33483, concurs with comments expressed by Mr. Schiller about the parking and traffic congestion. Mr. Homer stated valet is both the first and last point of entry into this area for many people. He expressed concern about this out-of-state company coming in with a bid with more than \$50,000 less than the lowest cost bid. He stated the valet attendants make their money from their employers and if it is not from their employers sometimes it comes in the form of theft. Mr. Homer expressed concern over the possibility of turnover and failure within that company but more importantly for the downtown area. Mr. Homer urged the Commission to approve Ameristar's proposal.

6.B.4. Jason Dollard, 295 N.E. 5th Avenue #31, Delray Beach, FL 33483, stated he has owned a business in Delray Beach for approximately seven (7) years and has lived here for ten (10). He stated the parking situation is a big deal for rest of the people that come into town west Delray, Fort Lauderdale, Boca Raton, or Boynton Beach. In his opinion, Mr. Dollard stated we need someone in this town who knows the parking situation, who knows the people in the city, and who knows and has experience on how to deal with problems that arise. He stated Republic Parking Systems, Inc. is a Tennessee based business with no experience in this town. Mr. Dollard stated with projects that are going to be coming in the future, the City needs people that are going to find solutions to these problems. He stated in the response the staff themselves acknowledges that there is going to be a higher than usual turnover in the valet position with this new company considering that they only have one person and their Republic's bid is \$40,000 less than the next lowest bid and all the other bids are within \$10,000-\$15,000 of one another.

6.B.5. David Harden, 516 North Swinton Avenue, Delray Beach, FL 33444, read a brief statement into the record regarding Waste Management. Mr. Harden entered his statement and agenda backup memos into the record.

6.B.6. Pauline Moody, 609 S.W. 8th Avenue, Delray Beach, FL 33444, briefly commented about the recommendation for the termination of the City Manager and the 90-day suspension and feels it is an insult to taxpayers that the City Manager is not here but is getting paid. Ms. Moody commented about Mr. Chapman's character and in her opinion she feels that the Commission should not judge a man that was only hired one year ago.

6.B.7. Wally Bice, District Manager for Republic Parking Systems, Inc., stated Republic Parking Systems, Inc. has been in business for 49 years and run parking facilities across the country (89 cities). Mr. Bice stated they are currently in Jacksonville, Tallahassee, and Pensacola and their largest valet contract is Texas Medical Center in

Houston where they park 1,500 cars a day. He stated Republic knows how to run a valet, a garage, and a service lot.

6.B.8. K.C. Traylor, Palm City, Florida, read a brief statement into the record about the All Aboard Florida Project. Ms. Taylor encouraged everyone to visit the following websites to obtain more information: floridanotallaboard.com or follow them on Facebook floridanotallaboard.com and join over 14,000 other people that have signed their petition against All Aboard Florida barreling through the towns.

6.8.9. Jon England, President of Ameristar Parking Solutions, stated he started his parking career in Delray Beach in 2002. Mr. England stated the maximum billable hours per the RFP per hour per are 339 hours and out of those 339 hours 207 hours are dedicated to the valet parking portion of the contract; annually it breaks down to 17,628 projected billable hours. Mr. England stated if Republic was to pay the parking manager, the overnight porter, the cashiers, and the valets at a rate of \$9.00 per hour their payroll costs are at \$158,652. Mr. England stated if you factor in the workers compensation rates and the taxes that they are going to have to pay for those employees it comes out to \$31,730 bringing the total to \$190,382 (\$4,000 from what their bid is). He stated this does not include insurance, bonding, training, uniforms, or the cost of doing business outside of that. Mr. England stated Ameristar Parking Solutions is fairly priced and prides themselves on paying their employees more money so they can provide good service.

6.8.10. Dr. Alan Costillo, 450 East Atlantic Avenue, Delray Beach, FL 33483 (owner of Big Al's Steaks in downtown Delray Beach), thanked Mayor Glickstein and the City Commission for allowing him to express his concerns about the food vendor issues in city events last year. In addition, Dr. Costello thanked Mayor Glickstein for suggesting the formation of the committee and stated the Events Committee was formed by the City Manager's office. Dr. Costillo stated the Events Committee had four (4) meetings all under the direction of Assistant City Manager Robert Barcinski who did a phenomenal job. Dr. Costillo stated the other result of this committee was the formation of the Downtown Delray Beach Restaurant Association (DDBRA). Dr. Costillo stated they meet once a month and those that are interested can contact him directly or go to the web at www.ddbra.org.

6.B.11. Mitchell Katz, 4569 Danson Way, Delray Beach, FL 33445 (President of Bexley Park, member of the Education Board, and a member of the PTA at Banyan Creek Elementary School), stated about six (6) months ago Mayor Glickstein sent a letter to D.R. Horton c/o Law Firm Becker & Poliakoff, P.A., and was ignored. Mr. Katz stated Bexley Park was a housing project in conjunction with D.R. Horton and Delray Beach yet now Becker & Poliakoff wants the respect of the Commission. Mr. Katz expressed concern that Becker & Poliakoff, P.A. did not show any respect to at least have a meeting with the Mayor and the Commission. In addition, Mr. Katz stated to this date, Becker & Poliakoff, P.A. have refused to meet with the Bexley Park Homeowners' Association and try to remedy a problem.

6.B.12. Christina Morrison, 2809 Florida Boulevard #207, Delray Beach, FL 33483 (speaking as a resident and taxpayer), stated she finds it disheartening that several department managers and key staff members approximately 250 plus years of institutional knowledge have left the city management operations over the last 12 months. She stated some of these key people are near retirement age which is more understandable than many of the young minds that have left the city. Ms. Morrison expressed concern that when the Interim City Attorney leaves the city she will take another 12½ years of institutional knowledge with her. Ms. Morrison stated everyone in leadership throughout the County from key representatives and legislators in Tallahassee have indicated that Ms. Pyburn is an expert and is a rising star. Ms. Morrison stated when highly functional professionals can no longer function in the workplace she feels this should be an indicator that there is a problem. She urged the Commission to address the issues before bringing another key person that reports directly to the City Commission into this work environment.

6.B.13. Melanie Langford, 1036 Seasage Drive, Delray Beach, FL 33483, distributed photos of her property and stated there is a drainage pipe that had collapsed between her home and the neighbors. Ms. Langford stated this has been going on for over a year and the City has filled in the hole 5-6 times but expressed concern that it could damage the foundations of both homes. In addition, Ms. Langford stated there is also exposed wiring. She stated City staff indicated that they were directed to get bids because the work is very specialized. Ms. Langford stated that the sidewalk is also beginning to collapse beside the home as well. She also requested gas and made a deposit 4 months ago but the gas company is reluctant to put gas in until they know what is happening with this issue.

7. AGENDA APPROVAL.

The Interim City Attorney requested that **Item 8.D.1., Proclamation Calling for the Special/Referendum Election to be held on August 26, 2014,** be moved to **First Readings** as **Item 11.C.2.**

The Interim City Attorney requested that **Item 10.C., Ordinance No. 09-14** be postponed to a date certain of June 17, 2014 for a First Reading/First Public Hearing and a Second Reading/Second Public Hearing for July 1, 2014.

Also, the Interim City Attorney requested that the public hearing for **Item 10.G., Ordinance No. 18-14** be postponed until June 17, 2014.

At this point, Mr. Frankel stated he has to be somewhere at sundown due to the Jewish holiday and asked if there is anything of necessity that has to be moved up on the Agenda.

Mr. Frankel moved to approve the Agenda as amended, seconded by Vice Mayor Petrolia. Upon roll call the Commission voted as follows: Vice Mayor Petrolia – Yes; Mr. Jacquet – Yes; Mr. Frankel – Yes; Deputy Vice Mayor Jarjura – Yes; Mayor

Glickstein – Yes. Said motion passed with a 5 to 0 vote.

8. CONSENT AGENDA: City Manager Recommends Approval.

8.A. SERVICE AUTHORIZATION NO. 12-10/KIMLEY-HORN AND ASSOCIATES, INC.: Approve Service Authorization No. 12-10 with Kimley-Horn and Associates, Inc. in the net amount of \$54,916.50 for performing professional services (RFQ #2012-06) related to the Water Supply Plan Update. This recommendation is in compliance with Ordinance No. 29-13, Section 36.02(C)(3), "Methods of Acquisition: Direct Acquisition Method, Professional Services". Funding is available from 442-5178-536-31.30 (Water and Sewer Renewal and Replacement Fund: Professional Services/Engineering Architect).

8.B. CHANGE ORDER NO. 1/MANCIL'S TRACTOR SERVICE: Approve Change Order No. 1 (C.O.1) in the amount of \$27,516.55, to Mancil's Tractor Service for additional drainage scope for the N.E. 1st Avenue Improvements Project #12-042. This recommendation is in compliance with Ordinance No. 29-13, Section 36.06(A)(1) "Change Orders: City Commission Approved Contracts, Beyond the Scope of Work". Funding is available from 448-5461-538-68.84 (Storm Water Utility Fund: Other Improvement/N.E. 1st Avenue Improvements).

8.C. HOUSING REHABILITATION GRANT/ CONTRACT AWARD: Award one (1) Housing Rehabilitation contract through the Neighborhood Stabilization Program (NSP) to the lowest responsive bidder, CJ Contracting LLC., in the amount of \$33,600.00 under Bid #06-2014NS for 417 S.W. 15th Terrace. This recommendation is in compliance with Ordinance No. 29-13, Section 36.02,(A)(2), "Methods of Acquisition: Sealed Competitive Method, Request for Proposals, Requests for Qualifications, Requests for Letters of Interest". Funding is available from 118-1934-554-62.12 (Neighborhood Services: Capital Outlay/Acquisition Rehabilitation).

8.D. PROCLAMATIONS:

1. THIS ITEM HAS BEEN MOVED TO ITEM 11.C.2.

2. Summer Learning Day – June 20, 2014

8.E. REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS: Accept the actions and decisions made by the Land Development Boards for the period May 19, 2014 through May 30, 2014.

8.F. AWARD OF BIDS AND CONTRACTS:

None.

Vice Mayor Petrolia moved to approve the Agenda as amended, seconded by Mr. Frankel. Upon roll call the Commission voted as follows: Mr. Jacquet – Yes; Mr. Frankel – Yes; Deputy Vice Mayor Jarjura – Yes; Mayor Glickstein – Yes; Vice Mayor

Petrolia – Yes. Said motion passed with a 5 to 0 vote.

At this point, the time being 7:00 p.m., the Commission moved to the duly advertised Public Hearings portion of the Agenda.

10.A. TERMINATION OF THE CURRENT CITY MANAGER PURSUANT TO DELRAY BEACH CHARTER, ARTICLE IV, SECTION 4.02(B)

Mayor Glickstein read a brief statement into the record.

Mayor Glickstein stated if anyone from the public would like to speak in favor or in opposition of the termination of the current City Manager, to step forward at this time.

Yvonne Odom, 3905 Lowson Boulevard, Delray Beach, FL 33445, stated it should take four (4) votes to terminate the City Manager according to the City's current Charter. Mrs. Odom stated she recalls several years ago when this was changed to three (3) votes because there was a popular City Manager who some of the citizens wanted fired. At that time, this went to referendum and the voters approved a super majority and she feels that this is how it should remain. She expressed concern that the City is now asking the voters again to change it back to three (3) votes to terminate the City Manager. In her opinion, Mrs. Odom stated the position of City Manager should not be a political position.

Zack Straghn, 26 S.W. 5th Avenue, Delray Beach, FL 33444, asked the City Commission to research their hearts and make sure there is no animosity against the City Manager. Mr. Straghn stated there is a higher power that will be the final judge.

Clifford Durden, 702 Chatelaine Boulevard East, Delray Beach, FL 33445, stated perception is very important and he expressed concern over the way the situation was handled by the City Commission with regard to the City Manager. Mr. Durden stated the City Commission can address the issue without humiliating an individual and feels they can do what they need to do as far as the law is concerned.

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), stated he concurs with comments expressed by Mr. Durden that the matter is to terminate the City Manager. He stated Mr. Chapman came from a city of less than 17,000 to a city of 62,000 and cannot under any circumstances be qualified and he believes that is what we have seen. In his opinion, Dr. Kirson stated because the City Commission had their own reasons for hiring Mr. Chapman, he feels the City Manager should be terminated and bought out.

Alan Schlossberg, 200 MacFarlane Drive N-502, Delray Beach, FL 33483, stated City Manager Chapman had humiliated himself by his behavior. Mr. Schlossberg stated the facts are clear and well documented by the Office of Inspector General (OIG). Mr. Schlossberg stated at the May 13, 2014 City Commission meeting he

counted six (6) times that City Manager Chapman was derelict in his duties and responsibilities wherein any one of those infractions was a basis for terminating him. Mr. Schlossberg stated he has spent over 30 years as a manager and a Director of Regional Operations for the City of New York and if City Manager Chapman was under his watch, City Manager Chapman would have been terminated on the first act of insubordination. Mr. Schlossberg stated Mr. Chapman lied to the City Commission on more than one occasion, he lied under oath to the Inspector General investigators, he lied to City staff, he lied to the citizens of Delray Beach, and worst of all he continues to lie to himself. Mr. Schlossberg stated Mr. Chapman now claims he should be paid for two years' worth of salary. Mr. Schlossberg urged the City Commission to terminate City Manager Chapman as soon as possible.

Ed McCall, 36 Palm Square, Delray Beach, FL 33445, stated if the City Commission votes to keep City Manager Chapman the City Commission is condoning unethical behavior, cover up tactics, ignoring set policy and procedures, backroom deals, unprofessional standards, etc. Mr. McCall commented that there are no repercussions, penalties, or no one to answer to. Mr. McCall urged the City Commission to vote for truth and professionalism or the City is sending a message that we are still open to secretive and questionable behavior in City business.

Mitchell Katz, 4569 Danson Way, Delray Beach, FL 33445, stated the City Commission has an easy decision to make and that is to terminate the City Manager. Mr. Katz stated in his profession it is tough to fire people but it is the easiest because you have to make the right decision for your corporation, city, or organization. Mr. Katz stated if the City Commission does not fire the City Manager then they will be sending a message that they are condoning that behavior. He feels that the City Manager lost the trust of the City Commission. Therefore, Mr. Katz stated he supports the termination of City Manager Chapman and the City should figure out a way that Mrs. Butler can gracefully retire from the City and leave on a positive note.

Cindi Freeburn, 371 East Mallory Circle, Delray Beach, FL 33483, briefly spoke about trust. She stated some of the Commission that was elected in recent years many of the taxpayers supported the Commission because of their promise to the residents that this City would begin to conduct business differently and that we would hold our processes, procedures, and people to a higher level of accountability. Ms. Freeburn stated the voters have to trust that the people they elect to sit on the dais have the best interest of the residents and moral integrity behind the decisions that they make. Ms. Freeburn stated in any of the companies for which she ever worked if you conducted yourself in the manner which the City Manager conducted himself, you would be terminated. As a taxpayer, Ms. Freeburn urged the City Commission to terminate City Manager Chapman without pay and stated she expects this out of all five Commissioners.

There being no one else from the public who wished to speak regarding the termination of the current City Manager, the public comment was closed.

With regard to comments expressed by Mr. Durden, Deputy Vice Mayor Jarjura stated the Commission had a 2½ hour hearing where they clearly laid out the

issues and the violations of the City Manager's employment contract; she feels due process was afforded to the City Manager. Deputy Vice Mayor Jarjura stated it was not an attempt to humiliate the City Manager but to show all the deviations and the reasons that support a just cause termination. Deputy Vice Mayor Jarjura stated having someone that gave testimony under oath on three separate occasions to a government investigative agency and gave false statements is something that she will not be able to recover from. Deputy Vice Mayor Jarjura stated the only person she has to rely on to communicate with is the City Manager per the City's Charter and she is supposed to get information that is on the agenda that she is supposed to set policy on and vote on but she cannot trust what he has to say. With regard to the City Manager's paid suspension, Deputy Vice Mayor Jarjura stated this is required by the City Manager's contract and the law. Deputy Vice Mayor Jarjura expressed concern that the City Manager gave her one explanation while he gave another City Commissioner different information and asked how the City Commission is supposed to make an educated decision on what to vote on if they do not have the same exact facts provided to them. She stated trust is a huge issue and to his own admissions as to whether or not he bothers to read an entire line of a five line email before making an approval on something. Deputy Vice Mayor stated the trust is broken and the City Manager perjured himself and should be charged with the perjury; however, there is an issue with the witness and the City cannot follow through with those charges. Deputy Vice Mayor stated the five (5) Commissioners should be united on this issue because in her opinion the City Manager is holding the City Commission hostage while the City pays him to sit home for lying to the City Commission, the taxpayers, the residents, and an investigative agency.

Mr. Frankel thanked the Interim City Attorney and City Clerk for properly noticing this hearing under Public Hearings where the public was afforded three (3) minutes. Mr. Frankel stated this is unlike the special meeting on May 13, 2014. With regard to Auburn Trace, Mr. Frankel stated under the Local Rules II.A.7. at the request of three (3) Commissioners that was allowed and he feels the City Manager acted okay in that. Mr. Frankel commented about Mr. Katz's comments about the bus only applying to one (1) person and asked why it does not apply to two (2) people. Mr. Frankel stated it was stated in public comments that he should not have brought up the letter that was provided to the City Commission on the dais from Mr. Berg; however, Mr. Frankel stated that is pertinent information. With regard to lying and perjury, Mr. Frankel stated when he was questioned he was put under oath and was questioned after taking that oath. Mr. Frankel stated at this time he is to assume the City Manager was lying and committed a perjury as believed, then this is a matter for the State Attorney's office review and to his knowledge it has not been done yet. Mr. Frankel stated one of a few reasons a member of the City Commission can be removed is it has to be a conviction of a felony. Mr. Frankel stated he was one of the dissenting votes from hiring Mr. Chapman initially although he is not ready to cast a vote to terminate him tonight. However, Mr. Frankel stated he recognizes the fact that there would not be a working relationship with the majority of this City Commission. Mr. Frankel stated he feels there should be some sort of negotiations. For the record, Mr. Frankel stated he received an anonymous letter today about Mr. Chapman's character and things going on at City Hall. Mr. Frankel stated he is going to maintain his "no" vote tonight; however, with the hopes that there is a negotiation that could be done to cut ties and go forward.

Mr. Jacquet stated he was not present the last time this issue was discussed because he was on a mission's trip in Haiti which was a phenomenal experience. He stated this is not the first time this issue has come up. Mr. Jacquet stated Mrs. Odom commented that this should not be a politicized position; however, it is highly political. Mr. Jacquet stated it is obvious that the City Manager has done some things that are bad and the OIG Report was disturbing with answers that were misleading and considered to be less than truthful. Mr. Jacquet expressed concern that the City Manager has been humiliated on the dais during public meetings. Mr. Jacquet stated there is a respect that the City Commission is supposed to have among one another and he feels it is lacking. In his opinion, Mr. Jacquet stated the problem is the culture that the City Commission has created that has caused them to not be able to work with others and has caused staff to come before the Commission and present. Mr. Jacquet stated the culture needs to change because he feels that is where the real problem is. Mr. Jacquet stated according to the OIG Report some kind of corrective action was necessary; however, suspending him might not have been the ideal but it was a good step. He expressed concern that Commission did not vote to terminate the City Manager at a previous meeting because he feels this has become too political.

Vice Mayor Petrolia stated she does not feel that the Commission would have had that vote because if the Commission would have had that vote at that time then the Commission would have had that vote tonight. She stated nothing has changed between that point and this point. Vice Mayor Petrolia gave examples of a continuous elevation of things that the City Commission was trying to direct Mr. Chapman to do that he was failing at. Vice Mayor Petrolia stated she had several issues with Mr. Chapman starting with the beach cabana contract which went on for five (5) months, then Auburn Trace which she feels the City Manager had a responsibility to the taxpayers not to allow that item on the Agenda and feels Mr. Chapman should have waited for a full Commission to be present, the garbage cans went on for several months (July 2013 to November, to December, to January 2014) when it surfaced again, and she noted it all came to a head with the OIG Report. Vice Mayor Petrolia stated she cannot support the top ranking person who she has to rely on for truthful information if she cannot trust him.

Deputy Vice Mayor Jarjura responded to Commissioner Jacquet's comments that this has turned into a political decision and the City Commission should have made the decision that night. She stated as Commissioner Frankel pointed out the Commission could not make it that night because the Commission had to comply with process and it had to be noticed. Deputy Vice Mayor Jarjura stated she does not understand Mr. Jacquet's comments with regard to this turning into a political decision if you look solely at the facts. With regard to comments expressed by Ms. Freeburn, Deputy Vice Mayor Jarjura stated if one of your employees lied to you and then an investigator came in to look at a situation and they lied to the investigator, there is no way that you would not terminate them in a business setting and the only reason you would keep this person around is for political reasons. Deputy Vice Mayor Jarjura stated it is political to keep an employee employed that has by his own admissions not performed to his duties assuming he is telling the truth. Deputy Vice Mayor Jarjura asked did the City Manager do his job, did he deviate from his job, did he give information to one Commissioner that was different from information that he gave to another Commissioner,

did he give false statements of fact under oath on three (3) separate occasions; those are the facts and these should be the only things the City Commission should be looking at. Deputy Vice Mayor Jarjura reiterated that the Commission should be looking at what are the facts of needing a "just cause termination" and the facts do decisively. Deputy Vice Mayor Jarjura stated everyone keeps talking that there is a hostile work environment and suggested that the Commission start getting the positions appointed that they have the direct authority to do (i.e. City Manager and City Attorney) so that the City Manager can then start appointing the positions underneath them.

With regard to Mr. Durden's comment about the humiliation, Mayor Glickstein stated the City Commission has to conduct itself in public and as a Commission they cannot meet with Mr. Chapman other than in a public setting and thus the reason it was done in the way it was done. Mayor Glickstein stated had his performance evaluation occurred it would have been done in the same format. In terms of the humiliation, Mayor Glickstein stated what he read into the record was sworn testimony; Mayor Glickstein stated those were not his words but Mr. Chapman's words that he read back to Mr. Chapman. Mayor Glickstein stated the highest form of disrespect is dishonesty and if someone lies to him that is also humiliating and it was the third time that Mr. Chapman had personally lied to him. In terms of this being political, Mayor Glickstein stated he agrees with Deputy Vice Mayor Jarjura that unless the OIG is now a political office it is difficult for him to understand where the political part of this is. Mayor Glickstein stated the City Manager is paid \$160,000 plus a year during the point at which he did these "egregious acts" and he is the highest administrative leader in this city and should be held to a very high standard. Mayor Glickstein stated he does not believe the residents and voters of this town would penalize any elected official for their being not willing to work with somebody who by an objective investigative agency has been deemed dishonest and has also deemed knowingly violating city law. Mayor Glickstein stated we are in an accountability crisis in this country and in an accountability crisis right now on the dais by not taking the action that is needed to terminate the City Manager for good cause and move this City on with a new City Manager.

Mr. Frankel stated he takes into consideration that three (3) of his colleagues cannot work with the City Manager and he does not feel that he could support to terminate the City Manager this evening but would approve of someone negotiating with the City Manager's attorney because he does not want to leave the City open for any litigation.

Brief discussion by the Commission followed regarding the 90-day suspension.

The Interim City Attorney stated the motion that was made was a 90-day suspension pending further investigation by the Office of Inspector General (OIG) for a different situation.

Vice Mayor Petrolia stated it is not that politics is playing a role but rather that it is being inserted here because she believes this way it slows the Commission down and makes it look like the Commission is not able to do things or agree.

For clarification, the Interim City Attorney stated she has spoken to each Commissioner and they are all up-to-date on any potential negotiations with regard to Mr. Chapman's attorney and there is no information that any of the Commission has not received. With regards to any pending investigation, the Interim City Attorney stated she has as much information as the City Commission at this time because it is confidential. The Interim City Attorney stated Mr. Chapman is currently being investigated by the OIG.

Vice Mayor Petrolia moved to *terminate* the current City Manager pursuant to City of Delray Beach Charter Article IV Section 4.02(b) for cause, seconded by Deputy Vice Mayor Jarjura. Upon roll call the Commission voted as follows: Mr. Frankel – No; Deputy Vice Mayor Jarjura – Yes; Mayor Glickstein – Yes; Vice Mayor Petrolia – Yes; Mr. Jacquet – No. Said motion to terminate **FAILED** with a 3 to 2 vote, Commissioner Jacquet and Commissioner Frankel dissenting.

10.B. ORDINANCE NO. 08-14 (FIRST READING/FIRST PUBLIC HEARING): Consider privately-initiated amendments to the Land Development Regulations (LDR) Sections 4.4.9, "General Commercial", Subsection 4.4.9 (C), "Conditional Uses", to allow a density up to a maximum of twenty-four (24) units per acre within the Infill Workforce Housing Area; creating Subsection 4.4.9(G)(5), "Infill Workforce Housing Overlay District" to establish a maximum Floor Area Ratio (FAR) of 0.75; amending Article 4.7, "Family/Workforce Housing", Section 4.7.1, "Definitions", Subsection 4.7.1.1, "Infill Workforce Housing Area" and Section 4.7.4(g), to specify the maximum allowable density of 24 units per acre within the General Commercial zoning district. If passed, a public hearing will be held on June 17, 2014. (*Quasi-Judicial Hearing*)

The caption of Ordinance No. 08-14 is as follows:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS, BY AMENDING SECTION 4.4.9, "GENERAL COMMERCIAL (GC) DISTRICT", SUBSECTION (D), "CONDITIONAL USES AND STRUCTURES ALLOWED", TO INCREASE DENSITY IN THE INFILL WORKFORCE HOUSING AREA TO A MAXIMUM OF 24 UNITS PER ACRE; AMENDING SUBSECTION (G), "SUPPLEMENTAL DISTRICT REGULATIONS", TO ADD "INFILL WORKFORCE HOUSING OVERLAY DISTRICT", TO PROVIDE AN FAR OF 0.75; AMENDING ARTICLE 4.7, "FAMILY WORKFORCE HOUSING", SUBSECTION 4.7.1, "DEFINITIONS", SUBSECTION (I), "INFILL WORKFORCE HOUSING AREA" TO AMEND MAPS TO INCREASE THE DENSITY IN THE GENERAL COMMERCIAL (GC) ZONING DISTRICT; PROVIDING

A SAVING CLAUSE, A GENERAL REPEALER
CLAUSE, AND AN EFFECTIVE DATE.

(The official copy of Ordinance No. 08-14 is on file in the City Clerk's office.)

The Interim City Attorney read the caption of the ordinance. A public hearing was held having been legally advertised in compliance with the laws of the State of Florida and the Charter of the City of Delray Beach, Florida.

Mayor Glickstein asked the Commission to disclose their ex parte communications. Mr. Frankel stated he met with Ms. Miskel and her assistant. Deputy Vice Mayor Jarjura stated she heard this at the February 25, 2014 Planning and Zoning Board meeting and she previously met and spoke to some residents when she served on the Planning and Zoning Board, and she met with Ms. Miskel. Mr. Jacquet stated he has no ex parte communications to disclose. Vice Mayor Petrolia stated she spoke with Ms. Bonnie Miskel and her assistant. Mayor Glickstein stated he has had no subsequent ex parte communications prior to identifying ex parte communications when the Comprehensive Plan Amendment came before the City Commission.

Mayor Glickstein stated there is one (1) request for party status that the Commission must rule on. He stated in order to obtain status as a party an owner of property located within 500 feet of the subject property must make a written request to the City's Planning and Zoning Department three (3) or more business days prior to the hearing that satisfies certain criteria. Decisions as to party status shall be made by the Commission at the hearing. The Interim City Attorney has advised of one (1) party requesting party status. Mr. Kevin Osborn has satisfied all LDR requirements for party status in that the request was timely filed and it satisfies Quasi-Judicial rules and content and the party's address is confirmed to be within 500 feet of the subject property.

Mayor Glickstein moved to approve party status for Mr. Kevin Osborn, seconded by Mr. Frankel. Upon roll call the Commission voted as follows: Deputy Vice Mayor Jarjura – Yes; Mayor Glickstein – Yes; Vice Mayor Petrolia – Yes; Mr. Jacquet – Yes; Mr. Frankel – Yes. Said motion passed with a 5 to 0 vote.

Mark McDonnell, AICP, Interim Director of Planning and Zoning, entered the Planning and Zoning Department project file #2014-073 into the record.

Mr. McDonnell stated the City Commission considered an amendment to the Comprehensive Plan on April 16, 2014 to increase the residential density on the property from the currently allowed 18 units per acre to the proposed 24 units per acre. Mr. McDonnell stated along with the reduction in the FAR (Floor Area Ratio) from the current 3.0 to 0.75. He stated the City Commission approved that text amendment to the Comprehensive Plan with a vote of 4 to 1. Staff forwarded the Comp Plan Amendment to the State Department of Economic Opportunity. On May 23, 2014, Mr. McDonnell stated the City received a Letter of No Objection to the text amendment to the Comp Plan. Mr. McDonnell stated this current LDR text amendment is being processed to

reflect the Comp Plan Amendment that the Commission recently voted on to approve and it will increase the density from 18 to 24 units per acre, reduce the FAR from 3.0 to 0.75, and will revise the applicable maps in the Workforce Housing section to specify that the GC (General Commercial) property of which this is the *only* one that is the candidate property would go from 18 to 24 units per acre. Mr. McDonnell stated the rest of the infill housing would remain at 18 units per acre for all RM (Medium Density) zoned properties.

At its meeting of February 13, 2014, the Community Redevelopment Agency (CRA) recommended approval of this text amendment; at its meeting of February 25, 2014, the Planning and Zoning Board made a recommendation to approve it but it failed on a vote of 2 to 3 (Jarjura, Davey and Durden dissenting; Shutt and Pierre-Louis absent). Mr. McDonnell stated letters of objection and support were included in the City Commission backup and staff received letters up throughout today and those have been forwarded to the City Clerk's office. Furthermore, Mr. McDonnell stated late this afternoon staff received a Letter of Objection from Mr. Mark Crosley, Executive Director of the Florida Inland Navigation District (FIND) to the design of the project which is not before the Commission. Mr. McDonnell stated the letter expressed concern about the access and the agreement that is on the property to provide a continuous 30 foot access which can be relocated; however, the letter addresses concern with back out parking. Mr. McDonnell stated F.I.N.D. uses that accessway to do their dredging and their concerns are that there would be conflicts between automobiles, pedestrians, and children going back and forth through that accessway. Mr. McDonnell stated the amendment before the Commission now is a text amendment to the LDRs and that comment would be more timely when the conditional use is before the Planning and Zoning Board and ultimately before the City Commission. Staff recommends approval and if approved by the State the Comp Plan and the LDR Text Amendment would be coming to the Commission at its meeting of June 17, 2014 for second and final reading.

Bonnie Miskel, Attorney representing the applicant, Siegel, Lipman, Dunay, Shepard & Miskel, LLP, 5355 Town Center Rd Ste. #801 The Plaza, Boca Raton, FL 33486, stated the Comprehensive Plan Text Amendment that came before the City Commission in April was not site specific; it was a Comp Plan Text Amendment. Ms. Miskel stated it was an amendment to the commercial category in the infill and at this property is the only property that happens to be so designated. However, in the future someone can amend their land use to commercial and the same rules would apply. Ms. Miskel stated although they would have loved to have had their plan before the Commission and to have the conditional use run concurrent with these applications, they were not allowed to do so. Ms. Miskel stated they received a letter back from the Department of Economic Opportunity that they have no objection to the City's transmittal, that transmittal enables the City to consider changes to the City's LDRs. She stated what is before the City Commission is a change to the City's regulations that would make those regulations consistent with what the City transmitted to the State.

Mayor Glickstein stated if anyone from the public would like to speak in favor or in opposition of Ordinance No. 08-14, to step forward at this time.

Kevin Osborn, 621 Allen Avenue, Delray Beach, FL 33483, stated many of people in the community left the hearing on the Comp Plan feeling that the decision had already been made prior to them coming in and that their comments did not matter and that all the Commission heard was remarks about traffic. Mr. Osborn stated he did his own research and further investigation to try to provide the Commission with additional information because he feels the information previously provided to the Commission was not a complete picture. Mr. Osborn stated residents object to the density increase from 18 to 24 units per acre because he does not believe that the developer has provided adequate justification for the need to increase the density not on an economic basis, not on complimentary for the surrounding areas, it does not meet the land use requirements for consistency, and it does not improve concurrency. Mr. Osborn gave a brief PowerPoint presentation. Mr. Osborn urged the Commission to *not* approve this as he feels it is not necessary.

Mayor Glickstein stated this meeting is now open for public comment limited to three (3) minutes per person; six (6) minutes if the person represents six (6) or more persons in attendance at the meeting who have yielded their time to the represented speaker.

Dennis Popaaca, 612 Allen Avenue, Delray Beach, FL 33483, stated he understands density increases around downtown to promote business; however, he does not feel there is any reason to increase the density.

McCall Credle-Rosenthal, 817 Lake Avenue North, Delray Beach, FL (La Hacienda development), stated she concurs with comments expressed by Kevin Osborn and feels the word "blighted" had come up in a study that Mr. McDonnell had submitted at a Planning and Zoning Board meeting when she opposed this project before. Ms. Credle-Rosenthal stated their neighborhood is not blighted and residents have worked very hard at developing their neighborhoods. She stated these will be 205 rental units and she feels these people have no vested interest in the community. Ms. Credle-Rosenthal urged the Commission to help make this gateway of Federal Highway more desirable and charming.

Jim Smith, 1225 South Ocean Boulevard, Delray Beach, FL 33483
Chairman of S.A.F.E. (Safety As Floridians Expect), stated S.A.F.E. shares the concerns of the neighbors and at least one City Commissioner who expressed concern at a previous meeting about maintaining this project at 18 units per acre. Mr. Smith urged the Commission to allow the residents to work with the developer. He stated people feel that they are adding cost to the project but they are in fact making it a better project by adding marketable revenues to the project by making it a better project for motorists, pedestrians, and bicyclists.

Cynthia Taylor, 611 Allen Avenue, Delray Beach, FL 33483, stated this is a very important issue to her and her neighbors. Ms. Taylor stated when she was here last time this was discussed there were so many good points that were made. She stated there had been a study to look at this area and as a result 18 units were recommended. In her opinion, Ms. Taylor feels this is political issue and stated she is very proud of where

she lives. She urged the Commission to see what the impact of the traffic will be on her dead-end street.

Judy Craig, 306 N.E. 8th Avenue, Delray Beach, FL 33483 (realtor), disagrees with comments expressed by Mr. Smith. Ms. Craig stated the project does not fit and this is about density. In addition, Ms. Craig stated the fact is that it is rentals and not homeownership and it does make a difference if you have homes that are owned and people have a vested interest in their community rather than someone who is passing through for a year or two.

Sabrina Caruana, 619 Allen Avenue, Delray Beach, FL 33483, stated as a realtor she expressed concerns over the increased density and 4-story apartment buildings. She stated the last sale on her block was \$340,000 and this is not a blighted area. Ms. Caruana stated she is *strongly* opposed to this and concurs with comments expressed by Kevin Osborn. Also, Ms. Caruana stated that 18 units are more than enough.

Mark Crosley, 1314 Marcinski Road, Jupiter, FL 33477-9498 (Executive Director of Florida Inland Navigation District), stated they own the property that is east of this property and noted they will be at subsequent meetings and they are working with the developers. Mr. Crosley stated they have an access issue for their property and urged the Commission that any actions they take to allow flexibility for that development to work with them with regard to the access issues.

There being no one else from the public who wished to address the public, the public comment was closed.

The following individuals gave a brief cross-examination which is limited to two (2) minutes per witness:

Mr. McDonnell stated with regard to where the terminology of "blighted" came from, the North Federal Highway Redevelopment Plan was adopted several years ago prior to his employment which was 2005. He stated this may be dated information; however, staff has to base their review and comments on currently adopted studies.

Ms. Miskel cross-examined Mark McDonnell.

Ms. Miskel stated if this site gets developed is it an increase in traffic from what was previously approved or from the commercial that could be built.

Mr. McDonnell answered "no" to Ms. Miskel's cross-examination.

For clarification, Deputy Vice Mayor Jarjura stated from what was previously approved as well; not the commercial. Mr. McDonnell stated from Village Park that goes back to 2006 and he is not comfortable making a statement with respect to that, however, Mr. McDonnell stated based on the 3.0 and the 18 units per acre the traffic is 17,000 plus more than what is being proposed now. Ms. Miskel stated at the transmittal hearing they provided a traffic engineer generated document (John Donaldson

is the Licensed Traffic Engineer in the State of Florida) and that information provided a comparison of the traffic that would be generated by the proposed project versus the traffic that would be generated by the Village Park project. Ms. Miskel stated the proposed project is substantially less from the current commercial designation and commercial zoning.

Mr. Osborn stated the numbers he pulled were from the Delray Preserve justification on traffic and waste and in 2006 developer justification. Mr. Osborn stated if you compare them there is an increase in traffic from the Village Park to the current increase in Solid Waste from the Village Park to the current. Mr. Osborn asked if staff has been able to validate that. Mr. McDonnell stated he would have to look in the file to verify that. Mr. Osborn requested staff validate the numbers that in 2006 it is 18 units per acre and the current 24 units per acre.

The following individuals gave brief rebuttals:

Mr. McDonnell stated he had no rebuttal.

Ms. Miskel stated Mr. Osborn testified that the applicant had not done an economic issue, a compatibility issue, that they were not improving concurrency, and that the area was not blighted. Ms. Miskel stated the "blight" information came from the City's staff report and was not something that was generated by the applicant in the transmittal hearing meeting. Ms. Miskel stated that came from the City's Comprehensive Plan as well as the City's study. Therefore, Ms. Miskel stated the City's document of record that are regulating everything that is done in the City is saying that; Ms. Miskel stated they did not it came from the City's Comprehensive Plan as well as the Study. Ms. Miskel stated as it relates to concurrency they provided a report generated by a licensed traffic engineer that said by cutting the FAR from 3.0 to 0.75 from a commercial perspective with a slight up from the density the City was still significantly under the commercial classification. She stated it was not just a residential project it had non-residential in the front and non-residential in the back and that project generated more traffic which came out of the Village Park Report which she does not have with her today because it is not pertinent to this conversation but wanted to clarify this for the record because the statements are erroneous. Ms. Miskel commented about compatibility and noted that the automobile dealership to the north of this site and that is not a compatible use to the residential to the south. Ms. Miskel stated the only thing the Commission should be considering is whether this land development regulation change is consistent with what the City is proposing in the Comprehensive Text Amendment and noted that it makes it consistent.

Mr. Osborn stated the term "blighted" may be dated; however, it is still being used as justification. He stated the term "blighted" needs to be removed from the justification because the area is no longer blighted. Ms. Osborn stated if he is going to be next to a commercial piece of property he would like to be next to a Volvo Dealership where there is no big buildings, where a few cars are coming on Saturday, no noise, and if hedges are put there is no light. Mr. Osborn stated he cut and pasted from the developer's traffic table their justification regarding the daily trips and it shows a savings

of 17,275 and they are comparing that against the 3.0 FAR which is the million square feet that everyone agrees is not appropriate. Mr. Osborn made reference to the Village Park Study and the number of average daily trips.

Mr. Jacquet stated he believes this meets the requirements; however, based on the neighbors' concerns with respect to the density he would have like to have seen a little more working together because S.A.F.E. has been a guiding light when it comes to dense developments especially near the downtown and Federal Highway. He stated with respect to dense projects there are concerns about traffic/cars and S.A.F.E. has suggested how to alleviate some of those concerns. Mr. Jacquet stated the requirements have been met as set forth.

Vice Mayor Petrolia expressed concern over the community supporting this and even though she considers this as a non-blighted area as well she is taking into consideration the dealership to the north, the transitional nature of the parcel of land, and making the decision in that direction. She stated it would be great if there could be less density on that particular piece of property. Vice Mayor Petrolia expressed concern about the drive that is on the side and the need for 30 feet to have coming and going and whether or not there was going to be enough space for the property to handle the traffic that would be coming and going from the eastern section of land.

At this point, Deputy Vice Mayor Jarjura disclosed for the record that her mother lives in Old Palm Grove. She complimented Mr. Osborn on his presentation. Deputy Vice Mayor Jarjura expressed concern over the City's Code in terms of the review process. Deputy Vice Mayor Jarjura stated in terms of what is before the City Commission tonight she is comfortable with what has been presented; however, she requested that Mr. McDonnell look at the information that Mr. Osborn raised before this comes before the Commission again.

Mayor Glickstein stated the Commission has discussed on numerous occasions about the disjointed nature of the way the Commission reviews projects and the immediate impacts to neighborhoods bear the brunt of a dysfunctional code. In terms of procedurally, Mayor Glickstein inquired if this Commission will be looking at conditional use for both height and density.

Mike Covelli, Covelli Design Associates, Inc., 2295 NW Corporate Boulevard # 213, Boca Raton, FL 33431, Planner for the project, stated this is a unique situation that in this particular case we do not need a conditional use for density or height. Mr. Covelli stated this is only to allow a stand-alone residential development in a commercial district. For clarification, Mayor Glickstein stated the Commission is not going to be revisiting this. Mayor Glickstein stated he does not support this because he does not feel it is fair to the residents just because they are on the border of the city.

Deputy Vice Mayor Jarjura stated when the previous plan is referring to the blighted area it was the conditions of that property at that time and there are certain parts of that area that are blighted and there are a lot of very nice expensive and well maintained areas but there are properties in that area that are blighted (i.e. motel). She

stated the Swap Shop has been vacant and it is zoned commercial and it is adjacent to commercial; she stated it is a transitional location because it goes from single family homes to some townhomes. She stated an apartment is another residential use that transitions to the commercial use to the north. Deputy Vice Mayor Jarjura stated she is not treating this differently because it is at the end of the City's border, but because of the location of the property and its current use and zoning. She expressed concern in terms of the easement and that is going to be addressed. Deputy Vice Mayor Jarjura stated she would have hoped that some of the residents' issues would have been resolved prior to coming before the City Commission.

Ms. Miskel stated they had a very positive meeting with the Kokomo Key Board and they gave suggestions one of which includes a peanut at the main entryway which will force the traffic to go right so it does not conflict with the opening that is immediately in front of the Swap Shop. Ms. Miskel stated she would be happy to work with Mr. Osborn's community if they have some forum that they will allow them to sit down and negotiate in.

Mr. Jacquet expressed concern over the communication with the neighbors and ironing out the kinks. Based on the new information he is provided, Mr. Jacquet stated he supports on *first reading only* just to move this forward.

Mayor Glickstein stated he feels transitional is appropriate but he would have liked to have seen this in other places that he considers more comparable where the Commission has approved lower densities. Mayor Glickstein encouraged the applicant to look at ways to refine this between first and second reading.

Mr. Jacquet moved to approve Ordinance No. 8-14 on First Reading/First Public Hearing, seconded by Vice Mayor Petrolia. Upon roll call the Commission voted as follows: Mayor Glickstein – No; Vice Mayor Petrolia – Yes; Mr. Jacquet – Yes; Deputy Vice Mayor Jarjura – Yes. Said motion passed with a 3 to 1 vote, Mayor Glickstein dissenting.

At this point, the time being 8:30 p.m., Commissioner Frankel left the dais.

10.C. ORDINANCE NO. 09-14 (FIRST READING/FIRST PUBLIC HEARING) Consider a privately-initiated amendment to the Land Development Regulations (LDR) to Section 4.4.24(B)(C)(F) "Old School Square Historic Arts District: Principal Uses and Structures, Accessory Uses and Structures Permitted, Development Standards", to include Lots 16-18, Block 69, Lots 11-12, the North half of Lot 13, and Lots 23-25 Block 70, Town of Delray, to the list of lots within the Old School Square Historic Arts District (OSSHAD) zoning district that can be developed pursuant to the development standards and uses of the Central Business District (CBD) zoning district. If passed, a public hearing will be held on June 17, 2014. *(Quasi-Judicial Hearing)* ***(STAFF HAS REQUESTED THE ITEM BE POSTPONED UNTIL THE JUNE 17, 2014 REGULAR CITY COMMISSION MEETING)***

At this point, the time being 9:03 p.m., Commissioner Jacquet left the dais.

10.D. ORDINANCE NO. 16-14: Consider approval to correct a scrivener's error within the legal description of Ordinance No. 19-94, pertaining to the annexation of the former Delray Swap Shop, located at 2001 North Federal Highway. (*Quasi-Judicial Hearing*)

The caption of Ordinance No. 16-14 is as follows:

AN ORDINANCE OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING ORDINANCE NO. 19-94 TO CORRECT A SCRIVENER'S ERROR IN THE LEGAL DESCRIPTION OF THE LAND ANNEXED INTO THE CITY LOCATED AT 2001 NORTH FEDERAL HIGHWAY AND BEING MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR SEVERABILITY; PROVIDING A GENERAL REPEALER CLAUSE, A SAVING CLAUSE, AND AN EFFECTIVE DATE.

(The official copy of Ordinance No. 16-14 is on file in the City Clerk's office.)

The Interim City Attorney read the caption of the ordinance. A public hearing was held having been legally advertised in compliance with the laws of the State of Florida and the Charter of the City of Delray Beach, Florida.

Mayor Glickstein asked the Commission to disclose their ex parte communications. The Commission had no ex parte communications to disclose. Deputy Vice Mayor Jarjura stated she heard this when it went before the Planning and Zoning Board.

Mark McDonnell, AICP, Interim Director of Planning and Zoning, entered the Planning and Zoning Department 2014-152 into the record.

Mr. McDonnell stated this ordinance is to correct a scrivener's error in the legal description. He stated this is located at 2001 North Federal Highway and during the due diligence of the applicant for Delray Preserve a scrivener's error was discovered on an annexed parcel of land. Mr. McDonnell stated the review of the staff reports and maps show that it was the clear intent of the City to annex the entire piece. He stated the Palm Beach County Appraiser's Office has assigned parcel numbers for all the properties and the property owner has been paying taxes on this piece of property all these years. Mr. McDonnell stated this was further supported when it was annexed into the city by the Palm Beach County Land Use Attorney recognizing that from their perspective this is part of the City of Delray Beach. Staff recommends approval.

Bonnie Miskel, Siegel, Lipman, Dunay, Shepard & Miskel, LLP, 5355 Town Center Rd Ste. #801 The Plaza, Boca Raton, FL 33486, Attorney representing the applicant, stated when these annexations came in they used property appraiser's legal description instead of a full legal. Ms. Miskel stated this ordinance and the next ordinance are for clarification.

Mayor Glickstein declared the public hearing open. There being no one else from the public who wished to address the Commission regarding Ordinance No. 16-14, the public hearing was closed.

Vice Mayor Petrolia moved to adopt Ordinance No. 16-14 on Second and FINAL Reading, seconded by Deputy Vice Mayor Jarjura. Upon roll call the Commission voted as follows: Vice Mayor Petrolia – Yes; Deputy Vice Mayor Jarjura – Yes; Mayor Glickstein – Yes. Said motion passed with a 3 to 0 vote.

10.E. ORDINANCE NO. 15-14: Consider approval to correct a scrivener's error within the legal description of Ordinance No. 18-94, pertaining to the annexation of 2101 North Federal Highway. (*Quasi-Judicial Hearing*)

The caption of Ordinance No. 15-14 is as follows:

AN ORDINANCE OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING ORDINANCE NO. 18-94 TO CORRECT A SCRIVENER'S ERROR IN THE LEGAL DESCRIPTION OF THE LAND ANNEXED INTO THE CITY LOCATED AT 2101 NORTH FEDERAL HIGHWAY, AND BEING MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR SEVERABILITY; PROVIDING A GENERAL REPEALER CLAUSE, A SAVING CLAUSE, AND AN EFFECTIVE DATE.

(The official copy of Ordinance No. 15-14 is on file in the City Clerk's office.)

The Interim City Attorney read the caption of the ordinance. A public hearing was held having been legally advertised in compliance with the laws of the State of Florida and the Charter of the City of Delray Beach, Florida.

Mayor Glickstein asked the Commission to disclose their ex parte communications. The Commission stated they had the same ex parte communications as they did on First Reading.

Mark McDonnell, AICP, Interim Director of Planning and Zoning, entered the Planning and Zoning Department project file into the record.

Mr. McDonnell stated this is also a corrective ordinance. He stated there is a piece of land that measures .09 acres that was not annexed into the city. Mr.

McDonnell stated the intent was to annex the entire property into the city; Palm Beach County Property Appraiser shows the entire area on their documents; property owners have been paying taxes on the entire area all these years. The City Commission approved this ordinance on first reading on May 6, 2014 and staff recommends approval on second and final reading.

Mayor Glickstein declared the public hearing open. There being no one else from the public who wished to address the Commission regarding Ordinance No. 15-14, the public hearing was closed.

Vice Mayor Petrolia moved to adopt Ordinance No. 15-14 on Second and FINAL Reading, seconded by Deputy Vice Mayor Jarjura. Upon roll call the Commission voted as follows: Deputy Vice Mayor Jarjura – Yes; Mayor Glickstein – Yes; Vice Mayor Petrolia – Yes. Said motion passed with a 3 to 0 vote.

10.F. **ORDINANCE NO. 14-14:** Consider an amendment to Chapter 101, “Parks, Beaches, and Recreation”, by amending Section 101.37, “Shark Fishing”, to prohibit shark fishing within three hundred feet (300’) north and south of the Municipal Beach and within three hundred feet (300’) north and south of Atlantic Dunes.

The caption of Ordinance No. 14-14 is as follows:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING CHAPTER 101, “PARKS, BEACHES, AND RECREATION”, BY AMENDING SECTION 101.37, “SHARK FISHING”, TO PROHIBIT SHARK FISHING WITHIN THREE HUNDRED FEET (300’) NORTH AND SOUTH OF THE MUNICIPAL BEACH AND WITHIN THREE HUNDRED FEET (300’) NORTH AND SOUTH OF ATLANTIC DUNES; PROVIDING A GENERAL REPEALER CLAUSE, A SAVING CLAUSE AND AN EFFECTIVE DATE.

(The official copy of Ordinance No. 14-14 is on file in the City Clerk’s office.)

The Interim City Attorney read the caption of the ordinance and clarified that this ordinance was prepared by the City Attorney’s office in relation to a complaint that was submitted in the form of a letter from a local attorney who stated that he felt that the *existing* ordinance that the City had which prohibited shark fishing from any beach within the City limits was too broad and too expansive. The Interim City Attorney stated staff has clarified the ordinance to limit the shark fishing prohibition at the municipal beach and Atlantic Dunes Park.

A public hearing was held having been legally advertised in compliance with the laws of the State of Florida and the Charter of the City of Delray Beach, Florida.

Mayor Glickstein declared the public hearing open.

Zack Miller, 2200 North Conference Drive, Boca Raton, FL 33486, stated the City of Delray Beach tried to pass the ban in 2009/2010 and it was deemed unconstitutional under the Florida Constitutional Laws Article 10 Section 11. Mr. Miller commented about the interview with Mayor Glickstein yesterday on the news and he said it was not as much of a public safety issue as it was about littering. Mr. Miller stated there has never been any statistical proof to prove that shark attacks happen in places where shark fishing occurs. Mr. Miller stated other counties and cities have tried to ban shark fishing; he stated Volusia County is the shark attack capital of the world and they are not allowed to shark fish there. Mr. Miller stated there has been one attack in Delray Beach in the last sixty (60) years. He stated for the most part shark fishing occurs at nighttime and inside the guarded hours it should not be allowed but outside the guarded hours between dusk and dawn should be legal. Mr. Miller asked that City staff explain where the municipal beach boundaries are. Mr. Miller stated he is opposed to this ordinance.

Josh (last name unknown), 4100 Singer Island, stated he would like to see this ordinance repealed; however, he requested that the City work with them. He stated after watching the news he saw that Mayor Glickstein was concerned over people leaving shark bait on the beach than the actual fishing so believes it is more of a concern in his mind of littering than fishing. He concurred with comments expressed by Mr. Miller and urged the Commission to make the Police Department aware of the new boundaries.

Tom Carney, 828 Eastview Avenue, Delray Beach, FL 33483, stated there was an issue related to the enforceability and feels the City needs to be careful about regulating things on beaches where it does not have jurisdiction. He stated he is opposed to shark fishing from the beach. Mr. Carney stated the City is forcing people to beaches which are not the municipal beach (i.e. behind people's homes). Mr. Carney urged the Commission to better define what is meant by shark fishing before they pass an ordinance which the City may or may not be able to enforce; and, if there is an ordinance the City has to be able to enforce it.

Louis (last name unknown), 16610 S.W. 68th Terrace, Miami, FL, stated he takes his children fishing and noted as a parent he would rather his kids go out fishing than go to a nightclub or bar. He expressed concern over losing these things for young adults and kids and what will happen when their rights are taken away and cannot fish and they are limited to where they can go. He stated the best time you can spend with family and friends is fishing especially in today's world where so much of the focus is on iPads and iPhones.

There being no one else from the public who wished to address the Commission regarding Ordinance No. 14-14, the public hearing was closed.

Mayor Glickstein stated he cannot edit what the press used but public safety was the paramount issue; littering was brought up by another Commissioner at the last meeting as a result of complaints that there have been shark carcasses left on the beach and anyone subscribing to good fishing practices would know not to leave that on the beach. Mayor Glickstein stated he concurs with comments expressed by the last public speaker in terms of surfcasting and noted he has been doing this since he was a child and takes his own children as well. Mayor Glickstein stated the City is not doing anything restricting fishing; however, as pointed out by the Interim City Attorney, the City of Delray Beach had an ordinance that prohibited shark fishing anywhere within the City limits and instead of prohibiting shark fishing citywide this ordinance defines where it can actually be done. Mayor Glickstein stated he supports this ordinance because the fact that we have not had a shark attack in Delray Beach is good news; however, he has been out early in the morning before dusk where guys are rowing or paddling out half an Amberjack (fish) 100 yards out and people are still swimming in the water. Mayor Glickstein stated the City is being responsible in restricting this away from the public beaches in areas less frequented by swimmers. He reiterated that the City cannot prohibit shark fishing citywide but that the City is providing areas by which responsible fishermen can do what they want to do; just further away from where the City has the most people using the public beaches.

The Interim City Attorney stated with respect to municipal boundaries, there are legal descriptions that are provided for in Chapter 101 of the City Code. The Interim City Attorney stated the boundaries are generally Casuarina Road to the south before the Seagate and to the north approximately 50 yards north of the north lifeguard tower where the sidewalk ends before private property. Also, Atlantic Dunes Park is just north of Linton Boulevard.

Brief discussion between Deputy Vice Mayor Jarjura and the Interim City Attorney followed regarding the enforcement. The Interim City Attorney explained that Code Enforcement has some extended hours but to the extent that it is happening beyond their hours then it would be the Police Department that would have to enforce it.

Vice Mayor Petrolia stated if it is a State Law that you can go to any beach and fish off of it she asked why these men would come all the way from Miami to fish on Delray Beach. He stated the Police do not let them fish there.

The Interim City Attorney stated the same State Law applies statewide.

Mayor Glickstein stated access to the beach is very easy.

Vice Mayor Petrolia moved to adopt Ordinance No. 14-14 on Second and FINAL Reading, seconded by Deputy Vice Mayor Jarjura. Upon roll call the Commission voted as follows: Mayor Glickstein – Yes; Vice Mayor Petrolia – Yes; Deputy Vice Mayor Jarjura – Yes. Said motion was passed with a 3 to 0 vote.

At this point, Mayor Glickstein stated in terms of outlining where those boundaries are to the extent the City can, where the municipal beach is as a defined term, would be helpful. The Interim City Attorney stated she will ask the Planning and Zoning Department for that capability to do that and staff will have a response at the next meeting.

10.G. ORDINANCE NO. 18-14: Consider an amendment to Chapter 110, "Local Business Taxes Generally", by amending Section 110.15, "Local Business Tax Schedule", to eliminate outdated business classifications and to provide for an increase in the local business tax schedule. *(STAFF HAS REQUESTED THE ITEM BE POSTPONED UNTIL THE JUNE 17, 2014 REGULAR CITY COMMISSION MEETING TO MEET ADVERTISEMENT REQUIREMENTS)*

9. REGULAR AGENDA:

9.A. CONDITIONAL USE REQUEST/DEPOT SQUARE
APARTMENTS: Consider a conditional use request to Land Development Regulations (LDR) Section 4.4.19(D)(1)(f), "Mixed Industrial and Commercial District: Conditional Uses and Structures Allowed, Multiple Family Residential Development up to a maximum of twenty-four (24) units per acre", to allow the construction of 284 residential apartment units (23.01 du/ac) within nine (9) three-story buildings for Depot Square Apartments (f/k/a Historic Depot Square), located north of West Atlantic Avenue, between I-95 and CSX Railroad, and accessed via Depot Road. *(Quasi-Judicial Hearing)*

Mayor Glickstein read the City of Delray Beach Quasi-Judicial rules into the record for this item and all subsequent Quasi-Judicial items.

Chevelle D. Nubin, City Clerk swore in those individuals who wished to address the Commission.

Mayor Glickstein asked the Commission to disclose their ex parte communications. Mr. Jacquet and Mr. Frankel were not present. Deputy Vice Mayor Jarjura, Vice Mayor Petrolia, and Mayor Glickstein stated they had no ex parte communications to disclose.

Mark McDonnell, AICP, Interim Director of Planning and Zoning, entered the Planning and Zoning Department #2014-024 into the record.

Mr. McDonnell stated this is a conditional use required to allow up to 24 dwelling units per acre and the proposed density is 23.01. There are 650 parking spaces; the Future Land Use Map (FLUM) designation is Commerce and the zoning is MIC (Mixed Industrial Commercial) and is the I-95 CSX Railroad Corridor Overlay District. Mr. McDonnell stated proposed on the plan are seven (7) three-story buildings; there are 77 one-bedroom, 162 two-bedroom, and 45 three-bedroom units. He stated there is also a 7,500 square foot clubhouse with a variety of impressive amenities for the future

residents. Mr. McDonnell stated they are proposing to relocate Depot Road to the west side of the property from its current location so it will run along the railroad track. He stated the conditional use requires 71 workforce housing units so they would be required for this development. Mr. McDonnell noted that when this project first came in there were a couple of internal adjustments that were required and the applicant did not want to come to the Commission with that request because it would not have complied with the LDRs and that is one of the items that is required for the Commission to support this application. Mr. McDonnell stated in order to eliminate that internal adjustment that was required the applicant removed twelve (12) of the propose units from the design.

The Planning and Zoning Board recommended approval of this project. The performance standards that the City Commission needs to consider are traffic circulation and calming. Mr. McDonnell briefly reviewed the Performance Standards for Density Increase. Mr. McDonnell stated the applicant has worked very well with S.A.F.E. and on February 21, 2014, the Planning and Zoning Board reviewed the application and made a recommendation to approve this application and conditions #1-#6 were supported and added conditions #7-#17. Mr. McDonnell stated there is an incorrect figure in the staff report; the cost to install the bike path is divided by 3 instead of 9. Mr. McDonnell stated when staff redid the calculation there is actually have a 2,777 surplus so there is no longer a concern. Mr. McDonnell stated staff would like to re-introduce Planning and Zoning Board condition #7 (page 5) back into the list of the Commission's conditions. Therefore, Mr. McDonnell stated staff supports the submittal of \$25,000 and asked the City Commission if they would like to bear the cost of the ongoing maintenance over time for that because it is not on the subject property. He stated it is going to be along the I-95 off-ramp and connect to Atlantic Avenue. Staff feels this is a good circulation amenity to allow bicyclists and pedestrians to access Atlantic Avenue and recommends approval subject to the condition.

Charlie Putnam, 4722 N.W. 2nd Avenue, Boca Raton, FL 33431 (applicant), introduced Architect Richard Jones.

Richard Jones, Richard Jones Architecture, 10 S.E. 1st Avenue, Ste. "A", Delray Beach, FL 33444, gave a brief PowerPoint presentation regarding the project.

Kevin Osborn, 621 Allen Avenue, Delray Beach, FL 33483, stated he supports the project.

Charles Bonfield, 220 MacFarlane Drive, Delray Beach, FL 33483, President of S.A.F.E. (Safety As Floridians Expect), stated S.A.F.E. supports the project and urged the City Commission to approve.

Jim Smith, 1225 South Ocean Boulevard, Delray Beach, FL 33483, Chairman of Safety As Floridians Expect (S.A.F.E.), Chairman of S.A.F.E., briefly explained the shared-use pathway and stated S.A.F.E. supports the project.

There was no cross-examination or rebuttal from staff.

For clarification, Mr. Putnam stated the only issue they had was how they were going to handle the funding of the pathway extension from their project out to Atlantic Avenue. Mr. Putnam stated the developer is proposing to put \$25,000 into an account to fund that extension from their property to Atlantic Avenue and was an agreement the developer made with S.A.F.E. but that was changed in a previous version of the conditions. However, Mr. Putnam stated they are back to that point. Mr. Putnam stated it is a voluntary contribution and they have enjoyed working with S.A.F.E.

The Interim City Attorney stated rather than have the City Commission work out the details of an escrow account that the City is voluntarily offering to enter into a developer's agreement with them while the City works out the details.

Vice Mayor Petrolia expressed concern over putting residential in this area (between I-95 and the train tracks) because she feels it is less desirable.

Mayor Glickstein stated in contrast to the other project where it was not a function of use but how it fit in he feels that the developer should be commended for doing it because this area needs something. Furthermore, Mayor Glickstein stated the apartments will do well there and it is a trend that is sustainable. He stated this is what should go there given where the density in his opinion should go. Mayor Glickstein stated waiting for an industrial/commercial use with access what is there is never going to happen which is why it is vacant and blighted now. Mayor Glickstein stated the developer is willing to commit substantial capital to develop an area that sorely needs it. He stated with regard to the demographic trends across this country, high intensity residential next to train stations and next to highways is where we are headed. Therefore, Mayor Glickstein stated he appreciates the effort and fully supports the project.

Deputy Vice Mayor Jarjura stated she concurs with comments expressed by Mayor Glickstein.

Brief discussion between Mayor Glickstein and Vice Mayor Petrolia continued.

Mr. Jones stated if looking at the trends up and down I-95 apartments are being built directly to the south of the new Palm Beach Mall Outlets. He stated the shells are very visible. Mr. Jones stated there is student housing being built at FAU's campus and the work is being started along I-95. Mr. Jones stated they added insulated glass windows to the units which is part of the conditional of approval so there are no sound issues; he stated on the site plan the majority of the buildings are turned ninety degrees to I-95 for that reason and are turned toward green spaces in the center and the clubhouse is also designed with a private courtyard feel. Mr. Jones stated what this community could be with people coming to Delray Beach via train, a trolley stop at the round-a-bout; a Palm Tran stop. He stated this makes a lot of sense for all the reasons Mayor Glickstein and Deputy Vice Mayor Jarjura had said. Mr. Jones stated this will be a wonderful

community and it offers tremendous potential. Mr. Jones stated for Class "A" rental apartments with a good design, good planning, and smart density it makes sense.

Deputy Vice Mayor Jarjura stated for a city to be successful we have to have mixed income housing opportunities to service all the needs of the residents.

Mayor Glickstein and Deputy Vice Mayor Jarjura both agreed that this will help to set a precedent of what they consider good development.

For the record, Vice Mayor Petrolia stated that she believes that this is a project that is going to be one of those the City is going to look back on and go "great project...wrong location."

Deputy Vice Mayor Jarjura moved to approve the conditional use request for Depot Square Apartments, seconded by Vice Mayor Petrolia. Upon roll call the Commission voted as follows: Vice Mayor Petrolia – Yes; Deputy Vice Mayor Jarjura – Yes; Mayor Glickstein – Yes. Said motion passed with a 3 to 0 vote.

9.B. BID AWARD TO REPUBLIC PARKING SYSTEMS: Consider approval of a Bid Award in the amount of \$194,733.24 to Republic Parking Systems to manage the City's Old School Square and Federspiel Parking garages. This recommendation is in compliance with Ordinance No. 29-13, Section 36.02(A)(2), "Methods of Acquisition: Sealed Competitive Method, Requests for Proposals, Requests for Qualifications, Requests for Letters of Interest". Funding is available from 001-3151-545.34-90 (General Fund: Operator Expenses- Miscellaneous/Other Contractual Services).

Randal Krejcarek, Director of Environmental Services, stated this item is approval of an agreement with Republic Parking Systems for the Parking Management contract. Mr. Krejcarek stated the contract is a one-year agreement which includes a 90-day probationary period the first three (3) months. He stated staff had a conversation with Republic with the hourly rate of the valet service that they quoted and staff informed them that the tips for the valet service are *not* to be solicited. Mr. Krejcarek stated staff asked Republic if they would be interested in withdrawing but Republic indicated to the City that they are going to make it work. Mr. Krejcarek stated there is no re-negotiation of rates and once the City is under contract it is in the contract with regard to rates. Mr. Krejcarek stated during the January Workshop when staff presented the Comprehensive Parking Program part of that program included the additional Building Maintenance staff that could be doing that on a more regular basis. Mr. Krejcarek stated the other concern was why is the City expending funds and paying a company to manage the parking garage versus telling someone to manage it and pay the City. He stated in both cases the City is still paying somebody to manage the parking garage. Mr. Krejcarek stated based on revenues it is a cash business he does not believe the City will not see an increase in revenue from year after year. He stated in January staff also discussed meters in the garage so that would do away with any cash collection. Mr. Krejcarek stated any complaints or issues that go wrong in the garage go to Scott Aronson, Parking Management Specialist 24/7.

Vice Mayor Petrolia asked why did the City not consider this as a revenue generating situation unlike the beach cabana contract where the City actually goes out to bid and asked companies to come to the City and tell us how much they are willing to give the City on an annual basis for these two garages so that the City is just stepping away and receiving the money rather than having to employ, etc. She asked why staff is taking the more labor intensive approach. Mr. Krejcarek stated when the City collects the money we know we are getting the revenue upfront. Mr. Krejcarek stated the City's goal is to get the meters in the garage.

Mayor Glickstein asked how staff sees this changing as the City implements this program. Mr. Krejcarek stated staff sees the use of the garage going up because the fee-based parking program will manage the parking and the City is encouraging people to utilize the garage because in theory the fee at the garage should be less than anywhere else. Mr. Krejcarek stated at that point the City would be managing the garage internally. Mr. Krejcarek stated if the City implemented something else the hours would be cut back or adjusted somehow; when staff gets to the point of implementation they can see what is required of the vendor.

Scott Aronson, Parking Management Specialist, stated the RFP does speak to the City's intent of putting a fee based program in place and it is stated that at that time the employees' functions would change and they would be utilized for assisting customers with the new system. Mr. Krejcarek stated it does not matter what type of automated system the City puts in, the City will still need personnel there to assist at some level.

Brief discussion between the City Commission and staff continued.

Deputy Vice Mayor Jarjura stated what they are supposed to charge. Mr. Krejcarek stated the difference is the hourly rate for the valet service. Deputy Vice Mayor Jarjura stated she wants to make sure that in the contract that the vendors understand what scope of services the valet is supposed to be providing for that price. Mr. Krejcarek stated this is all spelled out in the RFP. Deputy Vice Mayor Jarjura stated the other vendors raise a good point in terms of the grouping of the price.

The Interim City Attorney stated her recommendation is that the Commission either reject all and rebid or accept the recommendation of staff in accordance with City Code.

Mayor Glickstein stated if the City has a quality RFP then we have to respect the integrity of the process. Mayor Glickstein stated going forward we need to look at the city as the single largest economic driver in the city and to the extent we can keep business local that money stays in the local economy. He stated this would send the wrong message to undo this at this point.

Deputy Vice Mayor Jarjura stated since the day she was elected she requested from City Manager Chapman a Local Small Business Preference Program and out of all the municipalities that she practices in, she finds it odd that Delray Beach does

not have something like that here. Deputy Vice Mayor Jarjura stated Acting City Manager Barcinski started on this from a week ago.

Vice Mayor Petrolia moved to approve to accept the bid award for Republic Parking Systems, seconded by Deputy Vice Mayor Jarjura. Upon roll call the Commission voted as follows: Deputy Vice Mayor Jarjura – Yes; Mayor Glickstein – Yes; Vice Mayor Petrolia – Yes. Said motion passed with a 3 to 0 vote.

9.C. COMPENSATION OF ACTING CITY MANAGER: Consider approval of an 8.75% increase in salary for the Acting City Manager.

Mayor Glickstein stated consider increasing the Acting City Manager's pay from the current amount to that of the suspended City Manager's salary which equates to an 8.75% increase. This salary increase would be effective from May 14, 2014 through June 13, 2014. On June 14, 2014 Mr. Barcinski's salary would revert back to the current rate so there would be no positive or negative impact on his or the city's retirement payout or benefits. Mayor Glickstein stated Mr. Barcinski is not only doing what he was doing already but also doing quite a bit in terms of what the City Manager was doing.

Deputy Vice Mayor Jarjura stated she supports the salary increase for the Acting City Manager.

Vice Mayor Petrolia stated she supports the salary increase for the Acting City Manager as well.

Vice Mayor Petrolia moved to approve increasing compensation for the Acting City Manager, seconded by Deputy Vice Mayor Jarjura. Upon roll call the Commission voted as follows: Mayor Glickstein – Yes; Vice Mayor Petrolia – Yes; Deputy Vice Mayor Jarjura – Yes. Said motion passed with a 3 to 0 vote.

9.D. DIRECTION/SELECTION OF INTERIM CITY MANAGER: Consideration and discussion regarding the selection of an Interim City Manager.

Robert A. Barcinski, Acting City Manager, stated this item is for discussion and direction on how the Commission would like to proceed in the selection of an Interim City Manager from the time he retires or shortly thereafter through the suspension time of the current City Manager Mr. Louie Chapman, Jr.

Mr. Barcinski stated his last day in the office is Friday, June 13, 2014 but he is technically here through Monday, June 16, 2014.

After brief discussion, Vice Mayor Petrolia moved to approve to select Mr. Terry Stewart as Interim City Manager and direct negotiations at the Acting City Manager's salary, seconded by Deputy Vice Mayor Jarjura. Upon roll call the Commission voted as follows: Vice Mayor Petrolia – Yes; Deputy Vice Mayor Jarjura – Yes; Mayor Glickstein – Yes. Said motion passed with a 3 to 0 vote.

9.E. NOMINATION FOR APPOINTMENT TO THE GREEN IMPLEMENTATION ADVANCEMENT BOARD: Nominate one (1) alternate member for appointment to the Green Implementation Advancement Board to serve an unexpired term ending July 31, 2015. Based on the rotation system, the nomination for appointment will be made by Deputy Vice Mayor Jarjura (Seat #4).

Deputy Vice Mayor Jarjura moved to nominate Frederick Kaub to the Green Implementation Advancement Board to serve an unexpired term ending July 31, 2015, seconded by Vice Mayor Petrolia. Upon roll call the Commission voted as follows: Deputy Vice Mayor Jarjura – Yes; Mayor Glickstein – Yes; Vice Mayor Petrolia – Yes. Said motion passed with a 3 to 0 vote.

Vice Mayor Petrolia moved to approve to extend the meeting past 11:00 p.m., seconded by Deputy Vice Mayor Jarjura. Upon roll call the Commission voted as follows: Mayor Glickstein – Yes; Vice Mayor Petrolia – Yes; Deputy Vice Mayor Jarjura – Yes. Said motion passed with a 3 to 0 vote.

At this point, the time being 10:59 p.m., the Commission moved to **Item 11, First Readings.**

11. FIRST READINGS:

11.A. ORDINANCE NO. 01-14: Consider a privately-initiated Future Land Use Map (FLUM) amendment for Seagate Country Club Villas which includes three undeveloped parcels of land: Parcels 3 and 4 from OS (Open Space) to LD (Residential Low Density 0-5 units/acre) and Parcel 8, from LD (Residential Low Density 0-5 units/acre) to OS (Open Space), located on the north side of Greensward Lane, east of Hamlet Drive within the Seagate Country Club the Hamlet. If passed, a public hearing will be held on June 17, 2014.

The caption of Ordinance No. 01-14 is as follows:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA ADOPTING A SMALL-SCALE FUTURE LAND USE MAP AMENDMENT FOR THREE PARCELS OF LAND IDENTIFIED AS PARCELS 3, 4 AND 8 ALL LOCATED ON THE NORTH SIDE OF GREENSWARD LANE, EAST OF HAMLET DRIVE, WITHIN THE SEAGATE COUNTRY CLUB AT THE HAMLET, AS MORE PARTICULARLY DESCRIBED HEREIN, FROM OS (OPEN SPACE) TO LD (LOW DENSITY RESIDENTIAL 0-5 DU/AC) FOR PARCELS 3 AND 4; AND FROM LD (LOW DENSITY RESIDENTIAL 0-5 DU/AC) TO OS (OPEN SPACE) FOR PARCEL 8, PURSUANT TO THE PROVISIONS OF THE "COMMUNITY PLANNING ACT", FLORIDA STATUTES SECTION 163.3187,

PROVIDING A GENERAL REPEALER CLAUSE, A
SAVING CLAUSE, AND AN EFFECTIVE DATE.

(The official copy of Ordinance No. 01-14 is on file in the City Clerk's
office.)

The Interim City Attorney read the caption of the ordinance.

Vice Mayor Petrolia moved to approve Ordinance No. 01-14 on FIRST
Reading, seconded by Deputy Vice Mayor Jarjura. Upon roll call the Commission voted
as follows: Vice Mayor Petrolia – Yes; Deputy Vice Mayor Jarjura – Yes; Mayor
Glickstein – Yes. Said motion passed with a 3 to 0 vote.

11.B. ORDINANCE NO. 12-14: Consider a privately-initiated request for
rezoning Seagate Country Club Villas which includes three undeveloped parcels of land:
Parcels 3 and 4 from OSR (Open Space & Recreation) to R-1-A (Single Family
Residential) and Parcel 8 from R-1-A (Single Family Residential) to OSR (Open Space &
Recreation), all located on the north side of Greensward Lane, east of Hamlet Drive
within the Seagate Country Club the Hamlet. If passed, a public hearing will be held on
June 17, 2014.

The caption of Ordinance No. 12-14 is as follows:

AN ORDINANCE OF THE CITY COMMISSION OF
THE CITY OF DELRAY BEACH, FLORIDA,
REZONING THREE PARCELS OF LAND IDENTIFIED
AS PARCELS 3, 4, AND 8 ALL LOCATED ON THE
NORTH SIDE OF GREENSWARD LANE, EAST OF
HAMLET DRIVE WITHIN THE SEAGATE COUNTRY
CLUB AT THE HAMLET, AS MORE PARTICULARLY
DESCRIBED HEREIN AND PLACING LAND
PRESENTLY ZONED OSR (OPEN SPACE AND
RECREATION) DISTRICT TO R-1-A (SINGLE
FAMILY RESIDENTIAL) DISTRICT FOR PARCELS 3
AND 4; AND FROM R-1-A (SINGLE FAMILY
RESIDENTIAL) DISTRICT TO OSR (OPEN SPACE
AND RECREATION) DISTRICT FOR PARCEL
8;AMENDING "ZONING MAP OF DELRAY BEACH,
FLORIDA, 2012"; PROVIDING A GENERAL
REPEALER CLAUSE, A SAVING CLAUSE, AND AN
EFFECTIVE DATE.

(The official copy of Ordinance No. 12-14 is on file in the City Clerk's
office.)

The Interim City Attorney read the caption of the ordinance.

Vice Mayor Petrolia moved to approve Ordinance No. 12-14 on FIRST Reading, seconded by Deputy Vice Mayor Jarjura. Upon roll call the Commission voted as follows: Deputy Vice Mayor Jarjura – Yes; Mayor Glickstein – Yes; Vice Mayor Petrolia – Yes. Said motion passed with a 3 to 0 vote.

11.C. ORDINANCE NO. 17-14: Consider a Charter revision by amending Section 4.02, “Appointment; Removal; Compensation”; to provide clarification regarding Subsection 4.02(B), “Removal”; providing for a referendum on August 26, 2014. If passed, a public hearing will be held on June 17, 2014.

The caption of Ordinance No. 17-14 is as follows:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, PROVIDING FOR CHARTER REVISIONS BY AMENDING SECTION 4.02, “APPOINTMENT; REMOVAL; COMPENSATION”; TO PROVIDE CLARIFICATION REGARDING SUBSECTION 4.02(B), “REMOVAL”; PROVIDING FOR A REFERENDUM ON AUGUST 26, 2014; PROVIDING A SAVINGS CLAUSE; GENERAL REPEALER CLAUSE; AND AN EFFECTIVE DATE.

(The official copy of Ordinance No. 17-14 is on file in the City Clerk’s office.)

The Interim City Attorney read the caption of the ordinance and stated if passed there is an associated resolution and proclamation that goes with it.

Mayor Glickstein pointed out that this concept is not new. He stated a Committee was appointed to review Charter Amendments by the previous Commission none of which the three (3) Commissioners present now were sitting on. Mayor Glickstein stated what the Commission is proposing this evening is one of those recommendations. The City Commission approved all the other proposed changes but did not approve this one. Mayor Glickstein stated there is not a city in Palm Beach County that has this rule and there is no company that he is aware of that operates where the Senior Executives cannot be removed unless there is a super majority of a board. Mayor Glickstein stated it served its purpose at its time and he fully supports this ordinance.

Vice Mayor Petrolia stated the people have made a decision going from 3 to 4 and the City is not making that choice for them but instead the City is putting it back out there to allow the voters to make that decision again.

Deputy Vice Mayor Jarjura stated the number of communications (emails and telephone calls) has been overwhelmingly in support of the amendment being on the

ballot.

Vice Mayor Petrolia moved to approve Ordinance No. 17-14 on FIRST Reading, seconded by Deputy Vice Mayor Jarjura. Upon roll call the Commission voted as follows: Mayor Glickstein – Yes; Vice Mayor Petrolia – Yes; Deputy Vice Mayor Jarjura – Yes. Said motion passed with a 3 to 0 vote.

11.C.1. **RESOLUTION NO. 27-14:** Approve Resolution No. 27-14 regarding the August 26, 2014 Special/Referendum Election.

The caption of Resolution No. 27-14 is as follows:

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, CALLING FOR A SPECIAL ELECTION TO BE HELD ON TUESDAY, AUGUST 26, 2014; ALL ELECTIONS SHALL BE HELD WITHIN THE MUNICIPAL BOUNDARIES OF THE CITY BETWEEN THE HOURS OF 7:00 AM UNTIL 7:00 PM; THE SPECIAL ELECTION SHALL PROVIDE FOR A REFERENDUM ON THE CHARTER CHANGE PRESENTED IN ORDINANCE NO. 17-14; PROVIDING THE TIME, MANNER AND MEANS OF HOLDING SAID ELECTIONS, PROVIDING A SAVING CLAUSE AND AN EFFECTIVE DATE.

(The official copy of Resolution No. 27-14 is on file in the City Clerk's office.)

The Interim City Attorney read the caption of the resolution.

Vice Mayor Petrolia moved to approve Resolution No. 27-14, seconded by Deputy Vice Mayor Jarjura. Upon roll call the Commission voted as follows: Vice Mayor Petrolia – Yes; Deputy Vice Mayor Jarjura – Yes; Mayor Glickstein – Yes. Said motion passed with a 3 to 0 vote.

11.C.2. **PROCLAMATIONS:**

1. Calling for the Special/Referendum Election to be held on Tuesday, August 26, 2014

The Interim City Attorney read a proclamation into the record calling for the Special/Referendum to be held on August 26, 2014 between the hours of 7:00 a.m. and 7:00 p.m.

Vice Mayor Petrolia moved to approve the Proclamation, seconded by Deputy Vice Mayor Jarjura. Upon roll call the Commission voted as follows: Deputy

Vice Mayor Jarjura – Yes; Mayor Glickstein – Yes; Vice Mayor Petrolia – Yes. Said motion passed with a 3 to 0 vote.

At this point, Mayor Glickstein stated given the tight timetable they are on he wants to make sure that there is nothing else that the City needs to do in connection with this issue that with the ordinance first reading the resolution and proclamation that the only condition precedent to this being on the ballot at this point is a majority vote at a public hearing on the next City Commission meeting. The Interim City Attorney confirmed that this will be a public hearing on June 17, 2014.

11.D. **ORDINANCE NO. 20-14:** Consider an amendment to Chapter 117, "Landlord Permits", of the Code of Ordinances, by amending Section 117.02, "Permit Fees", to provide for an increase in the landlord permit fee; providing a saving clause, a general repealer clause, and an effective date. If passed, a public hearing will be held on June 17, 2014.

The caption of Ordinance No. 20-14 is as follows:

AN ORDINANCE OF THE CITY COMMISSION OF
THE CITY OF DELRAY BEACH, FLORIDA,
AMENDING CHAPTER 117, "LANDLORD PERMITS",
OF THE CODE OF ORDINANCES, BY AMENDING
SECTION 117.02, "PERMIT FEES", TO PROVIDE FOR
AN INCREASE IN THE LANDLORD PERMIT FEE;
PROVIDING A SAVING CLAUSE, A GENERAL
REPEALER CLAUSE, AND AN EFFECTIVE DATE.

(The official copy of Ordinance No. 20-14 is on file in the City Clerk's office.)

The Interim City Attorney read the caption of the ordinance.

Lula Butler, Director of Community Improvement, stated staff is proposing to go from \$60.00 to \$75.00. Mrs. Butler stated the last time the City proposed an increase was 2009 and the permit fee went from \$50.00 to \$60.00. The City started initially with this program starting at \$15.00 to \$30.00 and then from \$30.00 to \$50.00. She stated the going average should be about \$100.00; however, staff is proposing to increase the permit fee in increments. Mrs. Butler stated that raising the fee will bring the City of Delray Beach to a more equitable rate with other municipalities and ensure we are able to continue providing the education and technical assistance programs designed to achieve the City's goal of quality neighborhoods.

Mayor Glickstein asked if someone who is approved for a reasonable accommodation is also required to get a landlord permit. Mrs. Butler stated they are required to get a landlord permit as well as long as they do not have the DCA license that

exempts them. For clarification, the Interim City Attorney stated it depends what they are requesting an accommodation from.

Vice Mayor Petrolia asked what this is going to do to increase the bottom line to the City. Mrs. Butler stated it is going to add about \$100,000.00 to the City's revenues.

Deputy Vice Mayor Jarjura stated if the permit fee went from \$60.00 to \$100.00 the City's revenues would be \$400,000.00. Mrs. Butler stated this is correct but would be quite a large increase at one time because it is very impacting to some people. Mrs. Butler stated some cities require landlords to also obtain a business tax receipt and suggested that this be reviewed.

Vice Mayor Petrolia moved to approve Ordinance No. 20-14 on FIRST Reading, seconded by Deputy Vice Mayor Jarjura. Upon roll call the Commission voted as follows: Mayor Glickstein – Yes; Vice Mayor Petrolia – Yes; Deputy Vice Mayor Jarjura – Yes. Said motion passed with a 3 to 0 vote.

12. COMMENTS AND INQUIRIES ON NON-AGENDA ITEMS.

12.A. City Manager

Robert A. Barcinski, Acting City Manager, stated Deputy Vice Mayor Jarjura had asked Mr. Chapman for a memo on how the city can implement a Small Business Program and to look into the County disparity study. He stated the Assistant City Manager Francine Ramaglia is working on this study and staff will have some discussion at the Workshop.

Secondly, with regard to the second parking garage, Mr. Barcinski stated April 2, 2013, the City Commission approved a service authorization with Kimley-Horn who prepared conceptual lot layouts for this proposed parking garage. Mr. Barcinski gave the Commission a brief update as to the history of this and stated the City is in the process of engaging a consultant to complete a parking facility pro forma.

With regard to the appearance of the beach, Mr. Barcinski stated staff will forward a copy of the Beach Area Master Plan to the Commission. He stated there was a group comprised of the members of the Beach Property Owners' Association (BPOA), Delray Parks and Recreation, Environmental Services Department (ESD), and the Downtown Development Authority (DDA), to address the priority areas. Mr. Barcinski stated this funding is available. He stated the next areas to be addressed are the showers beginning at the pavilion and moving systematically north and south one shower at a time. Mr. Barcinski stated Mr. Bob Currie is developing architectural plans for north and south shelters, etc. Mr. Barcinski stated equipment for the shelter may be provided through a private foundation.

With regard to the sidewalks downtown, Mr. Barcinski stated Clean and Safe Unit does work at 12:30 a.m. every day. Mr. Barcinski stated the City has a private contractor that is hired to do pressure cleaning primarily from Swinton Avenue to Federal Highway under the garbage cans and benches once a month east of that every quarter and west of Swinton Avenue once a year based on the Commission. He stated the sidewalk café restaurants are responsible for pressure cleaning their areas. The City received a little extra money from the CRA so the City assigned the contractor to get the critical areas where there was gum or other issues.

With regard to a comment expressed by Commissioner Frankel about e-cigarettes, Mr. Barcinski stated the Commission received an email from Janice Rustin, Assistant City Attorney regarding this.

Mr. Barcinski stated Commissioner Frankel requested information about the lifeguards and this information was forward to the City Commission. In addition, Mr. Barcinski stated other information from the Chief Financial Officer (CFO) was forwarded to the City Commission.

Mr. Barcinski commented about Randal Krejcarek's email regarding Shadywoods and stated there are going to be sections cut out and replaced. Mr. Barcinski stated overall the resurfacing did not meet all the criteria.

Lastly, Mr. Barcinski thanked the City Commission for the recognition and consideration for the compensation.

12.B. **City Attorney**

With regard to the e-cigarettes, the Interim City Attorney stated staff will be looking for direction from the Commission about drafting an ordinance.

Secondly, the Interim City Attorney stated there is a Special Meeting item on Thursday, June 12, 2014 with regard to the Fire-Rescue transfer. The Interim City Attorney stated one of the Commissioners has requested whether or not it is possible to have the meeting at 5:00 p.m. instead of 6:00 p.m. She stated all the stakeholders are available at 5:00 p.m.

It was the consensus of the City Commission that the Special Meeting item be held on Thursday, June 12, 2014 at 5:00 p.m. with regard to the Fire-Rescue transfer.

12.C. **City Commission**

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

Deputy Vice Mayor Jarjura stated she has no comments.

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

Vice Mayor Petrolia stated she has not had the opportunity to work with Mr. Barcinski any long period of time or be on any of the same boards; however, in a very short time period she has been nothing but impressed because Mr. Barcinski responds expeditiously to requests. For clarification, Vice Mayor Petrolia stated many people were very concerned about whether or not the Commission was doing anything to go forward knowing that Mr. Barcinski was going to be retiring and the moment Mr. Barcinski became the Acting City Manager that was the first thing he approached the City Commission on. Vice Mayor Petrolia stated Mr. Barcinski is such an incredible asset to the city and wished him a wonderful retirement.

Secondly, Vice Mayor Petrolia stated she was accepted into the Class IV of the Good Government Initiative and she will begin coursework in August-November.

12.C.4. **Mayor Glickstein**

Mayor Glickstein stated his path has crossed with Mr. Barcinski serving on various boards and being involved in large organizations. Mayor Glickstein stated it is remarkable for him personally that he has never heard a comment from anybody about Mr. Barcinski that is anything but positive and feels Mr. Barcinski is the most positive can do person that he has ever met.

Secondly, Mayor Glickstein read an email into the record regarding Veteran's Day and requested that staff look into incorporating Veteran's Day as a paid holiday for the City going forward. Mayor Glickstein stated Memorial Day and Veteran's Day are two very distinct holidays and are honoring two very distinct groups of people.

Mayor Glickstein stated with regard to the e-cigarettes he would like to see something come forward sometime in August/September.

Mayor Glickstein stated the City needs to have a policy on food trucks (i.e. Salt Water Brewery) on what the City is going to do or not going to do. He requested that there be a discussion about this on an upcoming agenda (i.e. Workshop if staff feels it is appropriate) and he would like to have a policy in place before the next season.

Lastly, Mayor Glickstein stated he would like an update on Auburn Trace and he would like to see the City's alternatives.

There being no further business, Mayor Glickstein declared the meeting adjourned at 11:26 p.m.


City Clerk

ATTEST:


MAYOR

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 June 3, 2014, which Minutes were formally approved and adopted by the City Commission on August 5, 2014.


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.

IN THE CITY COMMISSION
CHAMBERS OF THE CITY OF
DELRAY BEACH, FLORIDA

CONDITIONAL USE REQUEST FOR DEPOT SQUARE APARTMENTS

**ORDER OF THE CITY COMMISSION
OF THE CITY OF DELRAY BEACH, FLORIDA**

1. This conditional use request to increase the density to allow a 284-unit multiple family residential development up to 24 units per acre in the MIC zoning district for Depot Square Apartments has come before the City Commission on June 3, 2014.

2. The Applicant and City staff presented documentary evidence and testimony to the City Commission pertaining to the conditional use request for Depot Square Apartments located between the CSX railroad and Interstate 95 rights-of-way, south of Lake Ida Road. All of the evidence is a part of the record in this case. Required findings are made in accordance with Subsections I and II.

I. COMPREHENSIVE PLAN

a. **Comprehensive Plan - Future Land Use Element Objective A-1:** This objective requires that the property shall be developed or redeveloped as it pertains to height, in a manner so that the future use and intensity is appropriate in terms of soil, topographic, and other applicable physical considerations, is complementary to adjacent land uses, and fulfills remaining land use needs.

Is the Future Land Use Element Objective A-1 met?

Yes ✓ No

b. **Future Land Use Map:** The resulting use of land or structures must be allowed in the zoning district within which the land is situated and said zoning must be consistent with the applicable land use designation as shown on the Future Land Use Map. The subject property has a Future Land Use Map designation of CMR (Commerce) and is zoned MIC (Mixed Industrial and Commercial).

Is the project's proposed location consistent with the Future Land Use Map?

Yes ☒ No ☐

c. **Concurrency:** Facilities which are provided by, or through, the City shall be provided to new development concurrent with issuance of a Certificate of Occupancy. These facilities shall be provided pursuant to levels of service established within the Comprehensive Plan.

Concurrency as defined pursuant to Objective B-2 of the Land Use Element of the Comprehensive Plan must be met and a determination made that the public facility needs of the requested land use and/or development application will not exceed the ability of the City to fund and provide, or to require the provision of, needed capital improvements for the following areas:

Are the concurrency requirements met with respect to water, sewer, drainage, streets and traffic, parks, open space, solid waste and schools?

Yes ☒ No ☐

d. **Consistency:** Will the granting of the conditional use be consistent with and further the goals and policies of the Comprehensive Plan?

Yes ☒ No ☐

II. LDR REQUIREMENTS:

a. **LDR Section 2.4.5(E) Required Findings: (Conditional Use):** Pursuant to Section 2.4.5(E)(5), in addition to provisions of Chapter 3, the conditional use will not:

1. Have a significantly detrimental effect upon the stability of the neighborhood within which it will be located;

2. Hinder development or redevelopment of nearby properties.

Are Section 2.4.5(E)(5) requirements met?

Yes ☒ No ☐

b. **Increase in Density.** Pursuant to LDR Section 4.4.19(A), residential uses may be permitted as a conditional use within the I-95/CSX Railroad Corridor Overlay District, provided at least 25% of the units are workforce housing units which comply with the provisions of Article 4.7, "Family/Workforce Housing." The maximum density is twenty-four (24) units per acre. The actual density will be based upon the development's ability to achieve the performance standards of Section 4.4.6(l).

LDR Section 4.4.6(l)- Performance Standards: These standards shall apply to all site plans approved subsequent to October 7, 1997, and for modifications to existing developments which involve the creation of additional residential units.

In order to increase a project density beyond six (6) units per acre, the approving body must make a finding that the development substantially complies with the performance standards listed in this section. The intent of the standards is to mitigate the impacts of the additional density both internal and external to the site. The extent to which a project meets the standards will determine the number of units per acre that will be permitted. For example, if a project meets or exceeds all of the standards, and is otherwise consistent with applicable standards and policies of the City's Comprehensive Plan and Land Development Regulations, the maximum density is permitted. Projects which only partially achieve these standards will be permitted a correspondingly lower density. The performance standards are as follows:

- (a) *The traffic circulation system is designed to control speed and reduce volumes on the interior and exterior street network. This can be accomplished through the use of traffic calming devices; street networks consisting of loops and short segments; multiple entrances and exits into the development; and similar measures that are intended to minimize through traffic and keep speeds within the development at or below 20 m.p.h.*
- (b) *Buildings are placed throughout the development in a manner that reduces the overall massing, and provides a feeling of open space.*
- (c) *Where immediately adjacent to residential zoning districts having a lower density, building setbacks and landscape materials along those adjacent property lines are increased beyond the required minimums in order to provide a meaningful buffer to those lower density areas. Building setbacks are increased by at least 25% of the required minimum; at least one tree per 30 linear feet (or fraction thereof) is provided; trees exceed*

the required height at time of planting by 25% or more; and a hedge, wall or fence is provided as a visual buffer between the properties.

- (d) *The development offers a varied streetscape and building design. For example, setbacks are staggered and offset, with varying roof heights (for multi-family buildings, the planes of the facades are offset to add interest and distinguish individual units). Building elevations incorporate diversity in window and door shapes and locations; features such as balconies, arches, porches, courtyards; and design elements such as shutters, window mullions, quoins, decorative tiles, etc.*
- (e) *A number of different unit types, sizes and floor plans are available within the development in order to accommodate households of various ages and sizes. Multi-family housing will at a minimum have a mix of one, two and three bedroom units with varying floor plans. Single family housing (attached and detached) will at a minimum offer a mix of three and four bedroom units with varying floor plans.*
- (f) *The development is designed to preserve and enhance existing natural areas and/or water bodies. Where no such areas exist, new areas, which provide open space and native habitat, are created and incorporated into the project.*
- (g) *The project provides a convenient and extensive bicycle/pedestrian network, and access to available transit.*

Does the development substantially comply with the performance standards provided in Section 4.4.6(l)?

Yes ✓ No

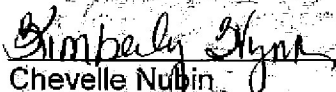
3. The comments and notes set forth in the staff report are hereby incorporated herein.

4. The City Commission has applied the Comprehensive Plan and LDR requirements in existence at the time the conditional use request was submitted.

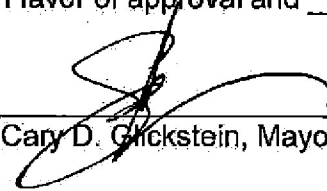
5. The City Commission finds there is ample and competent substantial evidence to support its findings in the record submitted and adopts the facts contained in the record including but not limited to the staff reports, testimony of experts and other competent witnesses supporting these findings.

6. Based on the entire record before it, the City Commission approves ✓
denies _____ the conditional use request set forth above subject to the conditions set
forth in Exhibit A, attached hereto and made a part hereof, and hereby adopts this order
this 3rd day of June, 2014, by a vote of 3 in favor of approval and 0 opposed.

ATTEST:



Chevelle Nubin
City Clerk



Cary D. Glickstein, Mayor

EXHIBIT A

TO THE CONDITIONAL USE REQUEST FOR DEPOT SQUARE APARTMENTS

1. Approval of a site plan by SPRAB that is in general conformance to the submitted sketch plan and addresses the "Exhibit "A" - Technical Items" attached in the staff report.
2. That written verification be provided from the Palm Beach County Traffic Division that the project complies with its design criteria.
3. That a revised traffic study is submitted that reflects the reduction of units to 284 residences and that a finding of concurrency be provided from the Palm Beach County Traffic Engineering Division.
4. That a detail of how the stucco siding be included on the building elevation plans and that it demonstrates a historically correct level and smooth stucco siding be applied utilizing an "L" bracket.
5. That a bus shelter be provided near the intersection of Lake Ida Road and Depot Road.
6. The applicant and City staff shall work with each other to finalize a developer's agreement prior to issuance of the building permit which incorporates items stated in SAFE letter pertaining to the \$25,000 to be escrowed into an account for the eight (8) foot wide shared use path. The location of the path shall be worked out with FDOT.
7. That Depot Square Apartments will build an 8 foot wide shared pathway along the west side of Depot Road starting at the intersection of Depot Road and Lake Ida Road and continue until it crosses to the east side of Depot Road. The pathway will then continue along the east side of Depot Road until it terminates at the northern end of the Historic Train Depot site (City of Delray Beach site). This termination point is shown on Depot Square Apartment site plan sheet SP-1.1.
8. That provisions are made for the inside, safe and secure storage for a minimum of 74 bicycles for the residents of Depot Square Apartments in an approximate 30' x 35' area labeled "Bicycle Storage" on the site plan.
9. That a wall in each unit is reinforced so that a bike rack or racks can be quickly and easily installed by the on-site maintenance staff. Keep wall-mounted bike racks on site and ready for in-unit installation at the request of residents.
10. That 2 electrical vehicle charging stations are provided on site.

11. That permanent display space is provided within the Clubhouse where each resident can access transportation information. At a minimum this display will contain; inform and route and schedule information for Palm Tran, Tri-Rail, the Delray Roundabout; the Downtowner; as well as new or substitute providers (such as Tri-Rail Coastal Link); info on how to start a carpool and vanpool; details of the emergency ride home program; and, Tri-Rail Bicycle Locker Program Application Forms.
12. That a minimum 5-foot wide interior sidewalk is provided.
13. That the site plan shows the actual open space inclusive of the usable open space that is being shown on the detention area.
14. That the applicant is encouraged to explore alternative sound attenuation including but not limited to insulated glass in the windows facing the I95 and the CSX Railroad only prior the building permit being issued.
15. That the driveway at the northeast corner of the property be examined by the City Engineer to determine the safest and best use of that ingress/egress.
16. That the following information be provided at each calendar year to SAFE and the City for the first 5 years following receipt of a Certificate of Occupancy:
 - a. The number of stored bicycles at calendar year end.

