

City of Delray Beach

100 NW 1st Avenue - Delray Beach, Florida 33444

Phone: (561) 243-7000 - Fax: (561) 243-3774

www.mydelraybeach.com



Regular Commission Meeting

Regular Meeting at 4:00 PM

Tuesday, October 15, 2019

Commission Chambers
Delray Beach City Hall

City Commission

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

RULES FOR PUBLIC PARTICIPATION

PUBLIC COMMENT: City Commission meetings are business meetings and the right to limit discussion rests with the Commission. **Generally, remarks by an individual will be limited to three minutes or less.** The Mayor, presiding officer or a consensus of the City Commission has discretion to adjust the amount of time allocated.

Public comment shall be allowed as follows:

- A.** Comments and Inquiries on Non-Agenda and Agenda Items (excluding public hearing or quasi-judicial hearing items) from the Public: Any citizen is entitled to be heard concerning any matter within the scope of jurisdiction of the Commission under this section. The Commission may withhold comment or direct the City Manager to take action on requests or comments.
- B.** Public Hearings/Quasi-Judicial Hearings: Any citizen is entitled to speak on items under these sections at the time these items are heard by the Commission.
- C.** All persons desiring to do a presentation on agenda or non-agenda items that are on a portable flash drive device or a CD/DVD, must provide their media to the City Clerk no later than 12:00 p.m. one day prior to the meeting where they wish to present.

SIGN IN SHEET: Prior to the start of the Commission Meeting, individuals wishing to address the Commission should sign in on the sheet located on the right side of the dais. If you are not able to do so prior to the start of the meeting, you may still address the Commission. The primary purpose of the sign-in sheet is to assist staff with record keeping. Therefore, when you come up to the to speak, please complete the sign-in sheet if you have not already done so.

ADDRESSING THE COMMISSION: At the appropriate time, please step up to the lectern and state your name and address for the record. All comments must be addressed to the Commission as a body and not to individuals. Any person making impertinent or slanderous remarks or who becomes boisterous while addressing the Commission shall be barred by the presiding officer from speaking further, unless permission to continue or again address the Commission is granted by a majority vote of the Commission members present.

APPELLATE PROCEDURES

Please be advised that if a person decides to appeal any decision made by the City Commission with respect to any matter considered at this meeting, such person will need to ensure that a verbatim record includes the testimony and evidence upon which the appeal is based. The City neither provides nor prepares such record.

1. ROLL CALL**2. PLEDGE OF ALLEGIANCE TO THE FLAG****3. AGENDA APPROVAL****4. PRESENTATIONS:****4.A. PRESENTING JAMES WINTEMUTE, FLEET COORDINATOR, WITH EMPLOYEE OF THE MONTH FOR OCTOBER 2019**

Recommendation: Motion to present James Wintemute, Fleet Coordinator, with Employee of the Month for October 2019.

Sponsors: Human Resources Department

Attachments: [Agenda Cover Report](#)
[Wintemute Nomination Form](#)

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

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

B. From the Public

6. CONSENT AGENDA: City Manager Recommends Approval**6.A. RETROACTIVE APPROVAL OF AMENDMENT NO. 1 WITH CRAIG B. KUSHNIR D.O., LLC FOR MEDICAL DIRECTOR SERVICES (RFP 2016-078L) - \$25,300**

Recommendation: Motion to retroactively approve Amendment No. 1 with Craig B. Kushnir D.O., LLC . for Medical Director Services (RFP 2016-078L) in the estimated annual amount of \$25,300 and to authorize the City Manager to exercise any and all renewal options, in the amounts below, contingent upon the appropriation of funds.

Sponsors: Purchasing Department

Attachments: [Agenda Cover Report](#)
[Legal Review Checklist form v. 6 Amend No 1 MEdical Servies agreement](#)
[Amendment No. 1 - Medical Director Services](#)

6.B. RETROACTIVE APPROVAL OF AMENDMENT NO. 3 WITH BALLARD PARTNERS, INC. FOR STATE LEGISLATIVE LOBBYIST SERVICES (RFP 2015-076) - \$60,000

Recommendation: Motion to retroactively approve Amendment No. 3 with Ballard Partners, Inc. for State Legislative Lobbyist Services (RFP 2015-076) in the estimated amount of \$60,000 for the agreement and to authorize the City Manager to exercise any and all renewal options, in the amounts below, contingent upon appropriation of funds.

Sponsors: City Manager Department

Attachments: [Agenda Cover Report](#)
[Legal Review Checklist form v. 6 Ballard Amend No 3](#)
[2015-76 Amendment No. 3](#)

6.C. APPROVAL OF AMENDMENT NO. 3 TO THE SOLID WASTE AND RECYCLING COLLECTION FRANCHISE AGREEMENT BETWEEN THE CITY OF DELRAY BEACH AND WASTE MANAGEMENT INC. OF FLORIDA

Recommendation: Motion to Approve Amendment No. 3 to the Solid Waste and Recycling Collection Agreement dated March 9, 2015, between the City of Delray Beach and Southern Waste Systems, LLC and assigned to Waste Management Inc. of Florida on December 14, 2015.

Sponsors: Community Improvement

Attachments: [Agenda Cover Report](#)
[ATTACHMENT 1 - Legal Review Checklist Amendment #3 to Waste Management](#)
[ATTACHMENT 2 - 2014-37 - Waste Management Agreement Amendment No. 3](#)
[ATTACHMENT 3 - Exhibit 13 to Amendment No 3 of Waste Management Agreement](#)

6.D. INTERLOCAL AGREEMENT BETWEEN PALM BEACH COUNTY FIRST RESPONDER AGENCIES

Recommendation: Motion to approve the Interlocal Agreement between Palm Beach County First Responder Agencies, which provides for inter-agency communications as required under the Marjory Stoneman Douglas Act.

Sponsors: Police Department

Attachments: [Agenda Cover Report](#)
[Legal Review Checklist LW review](#)
[Interlocal Agreement between PB County and First Responder Agencies](#)

6.E. APPROVAL OF GRANT APPLICATION AND AWARD/FDOT/OCCUPANT PROTECTION/CHILD PASSENGER SAFETY

Recommendation: Motion to approve application and award of the Florida Department of Transportation (FDOT) FY 19/20 Occupant Protection/Child Passenger Safety program grant.

Sponsors: Police Department

Attachments: [Agenda Cover Report](#)
[M2HVE-20-20-06 - Draft Application Occupant 2019](#)
[Part V](#)

6.F. APPROVE AND EXECUTE TWO CONSENT TO EASEMENT AGREEMENTS TO USE ARMY CORPS OF ENGINEERS RIGHTS-OF-WAY TO NEWLY CONSTRUCT, USE, MAINTAIN, REPAIR AND REMOVE, TWO WATER UTILITY LINES UNDER THE INTRACOASTAL WATERWAY (ICWW) FOR SUBAQUEOUS WATERMAIN PROJECT. (PROJECT #17-156)

Recommendation: Approve and execute two consent to easement agreements to use Army Corps of Engineers rights-of-way to newly construct, use, maintain, repair and remove two water utility lines under the Intracoastal Waterway for the Subaqueous Watermain Project.

Sponsors: Public Works Department - Programs & Project Management

Attachments: [Agenda Cover Report](#)
[Legal Review - Consent to Easement Army](#)
[USACE Consent to Easement 0083](#)
[USACE Consent to Easement 0082](#)

6.G. ALTERNATIVE WATER SUPPLY AND WATER CONSERVATION GRANT APPLICATIONS THROUGH SFWMD FOR THREE CITY OF DELRAY BEACH PROJECTS; WATER CONSERVATION EDUCATION PROGRAM; AUTOMATIC WATER LINE FLUSHER PROGRAM; AND THE CONSTRUCTION OF RECLAIMED WATER MAINS WITHIN THE SW NEIGHBORHOOD IMPROVEMENTS PROJECT, ALONG SW 4TH ST, INCLUDING SW 6TH ST, SW 7TH AVE, AND SW 3RD COURT

Recommendation: Staff is requesting retroactive approval from Commission for submittal of Alternative Water Supply (AWS) and water conservation grant applications to the South Florida Water Management District (District). Three (3) qualifying City of Delray Beach projects were submitted to the District on August 16, 2019 for funding consideration.

Sponsors: Utilities Department

Attachments: [Agenda Cover Report](#)
[19-0816 SFWMD Grant Funding-FY 2019-20 APPROVAL by ICM for Submittal](#)
[Delray AWS Application fillable 8-16-19](#)
[Delray WaterConservation Application 8-16-19](#)
[Delray WaterConservation Application AutomaticFlushers 8-16-19](#)

6.H. PROCLAMATIONS:**6.H.1. PROCLAMATION FOR FLORIDA CITY GOVERNMENT WEEK**

Recommendation: Motion to proclaim October 21 - 27, 2019 as Florida City Government Week.

Sponsors: City Clerk Department

Attachments: [Agenda Cover Report](#)
[Proclamation FLORIDA CITY GOVERNMENT WEEK 2019](#)

6.I. REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:**6.I.1. REPORT OF APPEALABLE LAND USE ITEMS FROM SEPTEMBER 2, 2019, THROUGH SEPTEMBER 27, 2019.**

Recommendation: By motion, receive and file this report.

Sponsors: Development Services Department

Attachments: [Agenda Cover Report](#)
[Appealable Items Map 10.15.19](#)
[A - 98 SE 6th Avenue - Appealable Report](#)

6.J. AWARD OF BIDS AND CONTRACTS:**6.J.1. APPROVAL OF RESOLUTION NO. 129-19 TO AWARD AN AGREEMENT TO DEV-LAND DEMOLITION & SITE, INC. FOR LIME SLUDGE REMOVAL AND DISPOSAL - \$915,750**

Recommendation: Motion to approve Resolution No. 129-19 to award an agreement to Dev-Land Demolition & Site, Inc. for lime sludge removal and disposal in an amount of \$915,750, and authorize the City Manager to approve renewal options, contingent upon appropriation of funds, in the amounts shown below.

Sponsors: Purchasing Department

Attachments: [Agenda Cover Report](#)
[Legal Review Checklist form v. 5 Dev Land](#)
[ITB 2019-033 Tabulation Sheet](#)
[Res 121-19 for DevLand ITB](#)
[Agreement Dev Land Agreement](#)

7. REGULAR AGENDA:

7.A. APPEAL OF THE SITE PLAN REVIEW AND APPEARANCE BOARD (SPRAB) FINAL ACTION ON A CLASS IV SITE PLAN, LANDSCAPE PLAN, AND ARCHITECTURAL ELEVATIONS FOR BUDDHA SKYBAR LOCATED AT 217 E. ATLANTIC AVENUE. (QUASI-JUDICIAL HEARING)

Recommendation: Review and consider a Class IV Site Plan modification, Landscape Plan, and the Architectural Elevations application for Buddha Skybar located at 217 E. Atlantic Avenue.

Sponsors: Development Services Department

Attachments: [Agenda Cover Report](#)
[Buddha Skybar CLIV Site Plan Mod. - Location Map](#)
[Buddha Skybar CLIV Site Plan Mod. - SPRAB Staff Report](#)
[Buddha Skybar CLIV Site Plan Mod. - Plans](#)
[Buddha Skybar CLIV Site Plan Mod. - Color Elevations](#)
[Buddha Skybar CLIV Site Plan Mod. - Renderings](#)
[Buddha Skybar CLIV Site Plan Mod. - Site Photos](#)

7.B. APPEAL OF THE HISTORIC PRESERVATION BOARD (HPB) DENIAL OF A CERTIFICATE OF APPROPRIATENESS (2018-211) AND VARIANCE REQUESTS (2018-212) ASSOCIATED WITH THE SINGLE-FAMILY RESIDENCE LOCATED AT 415 NORTH SWINTON AVENUE, DEL-IDA PARK HISTORIC DISTRICT. (QUASI-JUDICIAL HEARING)

Recommendation: Review and consider an appeal of a Certificate of Appropriateness (2018-211) and Variance (2018- 212) requests associated with the single-family residence located at 415 North Swinton Avenue, Del-Ida Park Historic District, pursuant to LDR Section 2.4.6(H) and 2.4.7(A). Specifically, the requests include: demolition of a portion of the contributing structure, construction of a new 1,215 sq. ft. addition & new 220 sq. ft. carport, construction of a new swimming pool decking & fencing.

Sponsors: Development Services Department

Attachments: [Agenda Cover Report](#)
[Applicant Justification Statements-415 Swinton Avenue-2019-08-07](#)
[Photos-415 North Swinton Avenue-2019-08-07](#)
[Architectural Plans-415 N Swinton Avenue-2019-08-07](#)
[2019-08-07-HPB Staff Report-415 N Swinton Ave](#)
[2019-08-20-Applicant Appeal Letter-415 N. Swinton Ave](#)

7.C. WAIVER REQUEST TO INCREASE THE WIDTH OF THE BUILDING FRONTING A STREET (NW 1st AVENUE) FROM THE MAXIMUM ALLOWABLE OF 60' TO 63'- 8" FOR PROPERTY LOCATED AT 131 NW 1st AVENUE IN THE OLD SCHOOL SQUARE HISTORIC DISTRICT (QUASI-JUDICIAL HEARING)

Recommendation: Review and consider a Waiver to increase the maximum width of a building fronting a street (NW 1st Avenue) from the maximum allowable of 60' to 63' 8" for property located at 131 NW 1st Avenue in the Old School Square Historic District.

Sponsors: Development Services Department

Attachments: [Agenda Cover Report](#)
[Waiver-131 NW 1st Ave- 2019-10-15](#)
[Waiver Graphic-131 NW 1st Avenue-2019-10-15](#)
[Plans-131 NW 1st Ave- 2019-10-15](#)

7.D. PUBLIC ART ADVISORY BOARD - REQUEST FOR APPROVAL FOR ARTIST CONTRACT, LOCATION, AND INSTALLATION - RISE UP AGAINST RISING SEAS MURAL

Recommendation: 1. Motion to contract with Renda Writer (artist) in the amount of \$2400 to produce the Rise Up Against Rising Seas mural, in collaboration with the Delray Beach Green Implementation Advisory Board for the 2019 Climate and Art Festival. (Contract: ATTACHMENT A)
2. Motion to approve the location for the installation of the Rise Up Against Rising Seas mural inside the Federspiel Garage on the inside east facing wall as noted in the attached picture (Attachment B - Mural Rendering and Proposed Location).

Sponsors: Parks & Recreation Department

Attachments: [Agenda Cover Report](#)
[ATTACHMENT A: Agreement for Public Artwork - Renda Writer Rise Mural - sig](#)
[ATTACHMENT B: Mural rendering and proposed location](#)
[ATTACHMENT C - RISE-POSTER_v04 \(1\)](#)
[ATTACHMENT D: PAAB Minutes July 2019](#)
[ATTACHMENT E - 8.12.2019 PZ Letter - Federspiel Mural COA](#)
[ATTACHMENT F: HPB - Climate and art Mural Application HPB](#)
[ATTACHMENT: G - HPB Staff Report-22 SE 1st Avenue-2019-09-04](#)
[ATTACHMENT H: Legal Review Checklist - Brian Renda for Public Artwork](#)

7.E. PROPOSAL TO REPURPOSE ONE LANE OF TWO-LANE ROADWAY IN THE HOMEWOOD BOULEVARD ROAD PROJECT TO PROVIDE FOR BICYCLE AND PEDESTRIAN MOBILITY IMPROVEMENTS

Recommendation: Motion to approve lane repurposing to provide sidewalks and bicycle lanes on Homewood Boulevard between Linton Boulevard and Lowson Boulevard.

Sponsors: Public Works Department - Programs & Project Management

Attachments: [Agenda Cover Report](#)
[SA_MemoHomewoodBlvdLaneRepurpose_2019-08-29-merged \(1\)](#)
[HomewoodLaneRepurposing_CODB-Commission_2019-10-15](#)

7.F. INTERNAL AUDITOR'S MERIT INCREASE

Recommendation: Motion to consider the City Auditor's performance and salary review.

Sponsors: Human Resources Department

Attachments: [Agenda Cover Report](#)

7.G. MAYOR AND COMMISSIONER COMPENSATION INCREASE

Recommendation: Motion to approve compensation increase for the Delray Beach Mayor and Commissioners to be considered by voters at the next election.

Sponsors: City Clerk Department

Attachments: [Agenda Cover Report](#)
[Mayors & Commissioners Salary Analysis 2019](#)

7.H. NORTHWEST/SOUTHWEST ADVISORY BOARD NOMINATIONS FOR APPOINTMENT

Recommendation: Motion to approve nomination for appointment of five (5) members to serve on the Northwest/Southwest Advisory Board. Three (3) members to serve a one (1) year term ending in 2020 and two (2) members to serve a two (2) year term ending in 2021.

Sponsors: City Clerk Department

Attachments: [Agenda Cover Report](#)
[Exhibit A 10152019](#)
[NWSW Applications](#)

7.I. CODE ENFORCEMENT BOARD NOMINATIONS FOR APPOINTMENT

Recommendation: Motion to approve nominations for appointment for one (1) regular member to serve an unexpired term ending January 14, 2020; one (1) regular member to serve an unexpired term ending January 14, 2021; and one (1) alternate member to serve an unexpired term ending January 14, 2022.

Sponsors: City Clerk Department

Attachments: [Agenda Cover Report](#)
[10012019 Exhibit A](#)
[Member List](#)
[Attendance](#)
[Code Enforcement Applications](#)

8. PUBLIC HEARINGS:

8.A. ORDINANCE NO. 30-19: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA ADOPTING A SMALL SCALE FUTURE LAND USE MAP AMENDMENT RE-DESIGNATING LAND APPROXIMATELY 0.957± ACRES IN SIZE FROM MEDIUM DENSITY (MD) TO COMMERCIAL CORE (CC), PURSUANT TO SECTION 163.3187, FLORIDA STATUTES, FOR THE PROPERTIES LOCATED AT 36 SOUTHWEST 6TH AVENUE, 40 SOUTHWEST 6TH AVENUE, 46 SOUTHWEST 6TH AVENUE, 48 SOUTHWEST 6TH AVENUE, 41 SOUTHWEST 7TH AVENUE, AND 37 SOUTHWEST 7TH AVENUE, AS MORE PARTICULARLY DESCRIBED HEREIN, PROVIDING A CONFLICTS CLAUSE, AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES. (SECOND READING)

Recommendation: Review and Consider Ordinance No. 30-19 on Second Reading.

Sponsors: Development Services Department

Attachments: [Agenda Cover Report](#)
[Ordinance No. 30-19](#)
[Ordinance No. 30-19 Current FLUM](#)
[Ordinance No. 30-19 Proposed FLUM](#)
[PZB Staff Report Frog Alley-BH3](#)

- 8.B.** ORDINANCE NO. 31-19: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CITY OF DELRAY BEACH BY REZONING AND RE-DESIGNATING LAND PRESENTLY ZONED MULTIPLE FAMILY RESIDENTIAL - MEDIUM DENSITY (RM) DISTRICT TO CENTRAL BUSINESS (CBD) DISTRICT, WITHIN THE WEST ATLANTIC NEIGHBORHOOD SUB-DISTRICT; FOR THE PROPERTIES LOCATED AT 36 SOUTHWEST 6TH AVENUE, 40 SOUTHWEST 6TH AVENUE, 46 SOUTHWEST 6TH AVENUE, 48 SOUTHWEST 6TH AVENUE, 41 SOUTHWEST 7TH AVENUE, AND 37 SOUTHWEST 7TH AVENUE, AS MORE PARTICULARLY DESCRIBED HEREIN; AMENDING "CITY OF DELRAY BEACH, ZONING MAP, JUNE 29, 2017" AND FURTHER AMENDING THE WEST ATLANTIC NEIGHBORHOOD SUB-DISTRICT AND REGULATING MAPS IN SECTION 4.4.13, LAND DEVELOPMENT REGULATIONS ACCORDINGLY; PROVIDING A CONFLICTS CLAUSE, AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES. (SECOND READING)

Recommendation: Review and Consider Ordinance No. 31-19 on Second Reading.

Sponsors: Development Services Department

Attachments: [Agenda Cover Report](#)
[Ordinance No. 31-19](#)
[Ordinance No. 31-19 Current Zoning](#)
[Proposed Zoning_090519](#)
[Proposed W Atlantic Regulating Plan 100319](#)
[Ordinance No. 31-19 PZB Staff Report](#)

9. FIRST READINGS:

- 9.A.** ORDINANCE NO. 39-19: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING CHAPTER 99 “NOISE CONTROL” OF THE CODE OF ORDINANCES OF THE CITY OF DELRAY BEACH, BY ADOPTING NEW REGULATIONS DEFINING “EXCESSIVE, LOUD AND UNNECESSARY NOISE,” “NOISE DISTURBANCE,” “PLAINLY AUDIBLE” AND OTHER RELATED TERMS; PROHIBITING AND REGULATING ACTIVITIES THAT CREATE A NOISE DISTURBANCE AND “EXCESSIVE, LOUD AND UNNECESSARY NOISE”; DEFINING AND REGULATING “EXCESSIVE, LOUD AND UNNECESSARY NOISE”; ESTABLISHING CRITERIA FOR DETERMINING WHEN A NOISE DISTURBANCE OCCURS; PROVIDING FOR THE ENFORCEMENT OF CHAPTER 99; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE, AND AUTHORITY TO CODIFY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES. (FIRST READING)

Recommendation: Motion to approve Ordinance 39-19 amending Chapter 99 “Noise Control” of the Code of Ordinances of the City of Delray Beach, by adopting new regulations.

Sponsors: City Attorney Department

Attachments: [Agenda Cover Report](#)
[Ordinance 39-19](#)

10. COMMENTS AND INQUIRIES ON NON-AGENDA ITEMS:

A. City Manager

B. City Attorney

C. City Commission