

City of Delray Beach

Regular Commission Meeting

*****AGENDA RESULTS*****



Monday, April 6, 2015

Regular Meeting 6:00 p.m.
Public Hearings 7:00 p.m.
Commission Chambers
Delray Beach City Hall

RULES FOR PUBLIC PARTICIPATION

1. 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.** Citizens that request to do a presentation that is 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.

2. 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 podium to speak, please complete the sign-in sheet if you have not already done so.

3. ADDRESSING THE COMMISSION: At the appropriate time, please step up to the podium 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.

The City will furnish auxiliary aids and services to afford an individual with a disability an opportunity to participate in and enjoy the benefits of a service, program, or activity conducted by the City. Contact the City Manager at 243-7010, 24 hours prior to the event in order for the City to accommodate your request. Adaptive listening devices are available for meetings in the Commission Chambers.

100 NW 1st Avenue • Delray Beach, Florida 33444

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1. **ROLL CALL.** (Deputy Vice-Mayor Jacquet arrived at 6:04 p.m.
Commissioner Jarjura arrived at 6:11 p.m.)
2. **INVOCATION.**
3. **PLEDGE OF ALLEGIANCE TO THE FLAG.**
4. **APPROVAL OF MINUTES:**
 - A. October 21, 2014 – Regular Meeting (Approved, 3-0)
 - B. November 4, 2014 – Regular Meeting (Approved, 3-0)
 - C. March 31, 2015 – Annual Organizational Meeting (Approved, 3-0)
5. **PRESENTATIONS:**
 - A. S.P.I.R.I.T. (Service, Performance, Integrity, Responsibility, Innovation, Teamwork)
Committee Quarterly Awards Presentation
6. **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
7. **AGENDA APPROVAL.** (Mayor Glickstein noted that Item 8.A., Resolution No. 18-15/Abandonment of a Portion of Enfield Road Right-of-Way, was moved to the Regular Agenda as Item 9.A.A.; Item 9.B., Street Lighting Agreement/Florida Power and Light Company (FPL)/ Federal Highway Beautification Project No. 2009-009, there was revised information presented; Item 9.K., Resolution No. 20-15/JCD Sports Group, Inc; Delray Beach Tennis Center, the City Manager noted a correction in the agenda cover memo: the dates of the contract should be December 1, 2014 through September 30, 2016. Approved as amended, 5-0)
8. **CONSENT AGENDA:** City Manager Recommends Approval. (Approved as amended, 5-0)
 - A. **(MOVED TO REGULAR AGENDA AS ITEM 9.A.A.)**
 - B. **HOLD HARMLESS AGREEMENT/JM TODO LLC./ 2645 N. FEDERAL HIGHWAY:** Approve a Hold Harmless Agreement with JM Todo LLC., related to the property located at 2645 North Federal Highway.
 - C. **AMENDED AND RESTATED LANDSCAPE MAINTENANCE AGREEMENT/ F.P. DINO & ASSOCIATES, INC.:** Approve an Amended and Restated Landscape Maintenance Agreement with F.P. Dino & Associates, Inc. to incorporate maintenance of a portion of the drainage system in the City's right-of-way, adjacent to the Tropic Cay Townhouse Development; and the previously approved landscaped maintenance area located at 2601-2617 Frederick Boulevard.

- D. **RATIFICATION OF EMERGENCY CHANGE ORDER/HINTERLAND GROUP, INC./DOTTEREL ROAD SEWER REPAIRS:** Approve ratification of an Emergency Change Order in the amount of \$25,940.00 to Hinterland Group, Inc. for performing sanitary sewer repairs along Dotterel Road, west of Lindell Boulevard utilizing pricing under the active Palm Beach County contract. This is in compliance with the Code of Ordinances, Chapter 36, Section 36.02(C)(5), "Emergency Acquisitions" and Section 36.02(C)(7), "Utilization of Other Governmental Entities' Contracts". Funding is to be paid out of the Contract's Undefined General Allowance.
- E. **EASEMENT DRAINAGE DEED/PALM TRAIL ENCLAVE, LLC./PALM TRAIL LOT B, LLC:** Approve a 6-foot easement drainage deed with Palm Trail Enclave, LLC. for the property located at 1745 Palm Trail; and a 6-foot easement drainage deed with Palm Trail Lot B, LLC. for the property located at 1785 Palm Trail.
- F. **RETROACTIVE APPROVAL OF AGREEMENT/STEVE PROCKO PRODUCTIONS, LLC./USE OF TENNIS CENTER:** Approve retroactive agreement with Steve Procko Productions, LLC., for use of the Tennis Center on March 20, 2015 for the filming of a television commercial.
- G. **RETROACTIVE APPROVAL OF AGREEMENT/ACRES AND COMPANY, LLC./USE OF TENNIS CENTER:** Approve retroactive agreement with Acres and Company, LLC., for use of the Tennis Center on March 5-6, 2015 for the filming of a television commercial.
- H. **RETROACTIVE APPROVAL OF AGREEMENT/SPUR PRODUCTIONS, INC./USE OF TENNIS CENTER AND STADIUM:** Approve retroactive agreement with Spur Productions, Inc., for use of the Tennis Center and Stadium on March 5-6, 2015 for the filming of a television commercial.
- I. **RETROACTIVE APPROVAL OF AGREEMENT/IMPERIAL WOODPECKER/USE OF ANCHOR PARK:** Approve retroactive agreement with Imperial Woodpecker for use of Anchor Park, Anchor Park Parking Lot, and the Municipal Beach Volleyball court on March 4, 2015 for the filming of a television commercial.
- J. **REQUEST TO ATTEND FLORIDA CITY AND COUNTY MANAGEMENT ASSOCIATION (FCCMA) 2015 ANNUAL CONFERENCE:** Approve a request for City Manager Donald B. Cooper, to attend the Florida City and County Management Association (FCCMA) 2015 Annual Conference sponsored by the Florida League of Cities on May 27-30, 2015 in Orlando, Florida; and authorize the payment of travel expenses in the amount of \$1,394.04.
- K. **RESOLUTION NO. 23-15:** Approve Resolution No. 23-15; supporting Senate Bill 246 sponsored by Florida State Senator for District 34 Maria Sachs that amends Chapter 316, Section 305, Florida Statutes to include enhanced penalties for texting while driving violations when committed in a School Zone or School Crossing and removes the requirement that specified provisions be enforced as a Secondary Action by a Law Enforcement Agency.

L. **PROCLAMATIONS:**

1. Paralyzed Veterans of America Awareness Month – April 2015
2. Water Conservation Month – April 2015

M. **REVIEW OF APPEALABLE LAND DEVELOPMENT BOARD ACTIONS:**

Accept the actions and decisions made by the Land Development Boards for the period March 9, 2015 through March 27, 2015.

N. **AWARD OF BIDS AND CONTRACTS:**

1. Bid award to Republic Construction Corporation (Bid No. 2015-17) in the amount of \$47,010.00 for replacement of the North and South Ocean Boulevard Beach Gazebos. This recommendation is in compliance with the Code of Ordinances, Chapter 36, Section 36.02(A)(1), “Competitive Bids”. Funding is available from 334-4141-572-68.83 (General Construction Fund/Parks & Recreation/Beach Pavilion).

9. **REGULAR AGENDA:**

A.A. **RESOLUTION NO. 18-15/ABANDONMENT OF A PORTION OF ENFIELD ROAD RIGHT-OF-WAY:** Approve Resolution No. 18-15; abandonment of a portion of an unimproved area of the Enfield Road right-of-way located west of the intersection of N.W. 4th Avenue and Enfield Road. (Motion to approve subject to the City Attorney’s recommendations; Approved, 5-0)

A. **SERVICE AUTHORIZATION NO. 12-06/DENNIS J. LEAVY & ASSOCIATES, INC./SURVEY OF N.E. 7TH AVENUE ALLEY:** Consider approval of Service Authorization No. 12-06 with Dennis J. Leavy & Associates, Inc. in the amount of \$5,530.00 for the survey of N.E. 7th Avenue Alley Improvements (Project No. 2015-035). This is in compliance with the Code of Ordinances, Chapter 36, Section 36.03(B), “Multiple Acquisitions From Vendor Exceeding Twenty-Five Thousand Dollars (\$25,000.00) in Any Fiscal Year” and Section 36.06(A)(3), “Extension of Completion of Dates”. Funding is available from 448-5461-538-63.90 (Storm Water Utility Fund: Physical Environment/Flood Control/Other Improvement). (Motion to approve; Approved, 5-0)

B. **STREET LIGHTING AGREEMENT/ FLORIDA POWER AND LIGHT COMPANY (FPL)/ FEDERAL HIGHWAY BEAUTIFICATION PROJECT NO. 2009-009:** Consider approval to execute a Street Lighting Agreement with Florida Power and Light Company (FPL) in the amount of \$63,805.80 for the removal of existing cobra head street lights and poles in conjunction with the Federal Highway Beautification Project No. 2009-009. Funding is available from account 334-3162-541-68.52 (Construction Fund: Public Works/Road and Street Facilities/Other Improvements/Federal Highway Beautification). (Motion to approve; Approved, 5-0)

- C. **CONTRACT AWARD/ DEVLAND DEMOLITION AND SITE, INC./ LIME SLUDGE REMOVAL AND DISPOSAL:** Consider a contract award to Devland Demolition and Site, Inc. for Lime Sludge Removal and Disposal from the Water Treatment Plant at a unit cost of \$5.97/cubic yard, at an estimated annual cost not to exceed \$210,000.00. This recommendation is in compliance with the Code of Ordinances, Chapter 36, Section 36.02(A)(1), "Competitive Bids". Funding is available from account 441-5122-536-34.90 (Water and Sewer Fund: Water Treatment and Storage/Other Contractual Services). (Motion to approve; Approved, 5-0)
- D. **SIDEWALK AND PARALLEL PARKING CLOSURE/ CANNERY ROW DELRAY BEACH:** Consider approval to close the existing sidewalks and parallel parking to pedestrian traffic along N.E. 1st Avenue, N.E. 3rd Street, and N.E. 2nd Avenue for a period of six (6) months for construction of the Cannery Row Delray Beach Phase II. (Mayor Glickstein declared a conflict of interest, passed the gavel to Vice-Mayor Petrolia and left the dais. Motion to approve; Approved, 4-0)
- E. **BID AWARD/DP DEVELOPMENT OF THE TREASURE COAST, LLC/ OSCEOLA PARK ALLEYS PHASE 2, PINEAPPLE GROVE DRAINAGE AND LIME LANE IMPROVEMENTS:** Consider approval of a bid award to DP Development of the Treasure Coast, LLC., in the amount of \$303,720.00 for the following projects: 1) Osceola Park Alleys Phase II 2) Pineapple Grove Drainage and 3) Lime Lane Improvement Projects. This is in compliance with the Code of Ordinances, Chapter 36, Section 36.02(A), "Sealed Competitive Method". Funding is available from 334-3162-541-65.85 (General Construction Fund: Public Works/Transportation/Capital Outlay/Osceola Park) and 448-5461-65.85 (Storm Water Utility Fund: Physical Environment/Other Improvements/Osceola Park). (Mayor Glickstein returned to the dais. Motion to approve; Approved, 5-0)
- F. **PURCHASE AWARD/MULTIPLE VENDORS FOR THE PURCHASE OF 18 VEHICLES:** Consider purchase award to various vendors to purchase fourteen (14) cars and trucks using Florida Sheriff's Contract No. 14-22-09-04; and four (4) cars from Garber Chevrolet using Florida State Contract No. 25100000-15-010. This is in compliance with the Code of Ordinances, Chapter 36, Section 36.02(C)(7)(a), "Utilization of Other Governmental Entities' Contracts". Funding is available from account 501-3312-591-64.20 (Garage Fund: Vehicle Replacements/Intra-governmental Services/Machinery/Equipment/Automotive). (Motion to approve; Approved, 5-0)
- G. **RESOLUTION NO. 21-15/REIMBURSEMENT AGREEMENT/ PALM TRAIL ENCLAVE, LLC/ 1745 PALM TRAIL NORTH:** Consider approval of Resolution No. 21-15; allowing a third party to obtain written quotations for the cost of material and labor for the installation of a drainage pipe for a portion of the Palm Trail/Allen Avenue drainage project, in an amount not to exceed \$24,900.00, which will be reimbursed by the City; declaring by a four-fifths affirmative vote that the City's written quotations method of procurement for this portion of the drainage project is not in the best interests of the City for the property located at 1745 Palm Trail North. Funding is available from account 448-5461-538-68.55 (Storm Water Utility Fund: Capital/Physical Environment/Flood Control/Other Improvement/Allen Drive Drainage). (Deputy Vice-Mayor Jacquet left the dais. Motion to approve; Approved, 4-0)

- H. **WORKFORCE HOUSING OPTIONS/SOFA DISTRICT LOFTS:** Consider approval of the available options for the Sofa District Lofts mixed use development to satisfy the workforce housing requirement by providing the units onsite, providing a monetary contribution, or delivery of offsite units; a combination of these three options is permissible. (Deputy Vice-Mayor Jacquet returned to the dais. Motion to approve subject to the City Attorney's review of the record that there was no representation made and that there was no Commission approval based on that representation; Approved, 5-0)
- I. **AMENDMENT NO. 1 TO THE PARKING LICENSE AGREEMENT/LSMS, INC. D/B/A TRAMONTI RESTAURANT:** Consider approval of Amendment No. 1 to the Parking License Agreement with LSMS, Inc. d/b/a Tramonti Restaurant to expand hours of its valet queue operation to provide daytime valet parking services while increasing valet queue spaces to \$141.94 per space per month located 111 East Atlantic Avenue. (Motion to defer; Approved, 5-0)
- J. **BID AWARD/ EARTHLY DESIGN & RESOURCES, INC. D/B/A MOBILE LAWN SERVICE/ LANDSCAPE MAINTENANCE:** Consider bid award (Bid No. 2015-28) to Earthly Designs & Resources, Inc. d/b/a Mobile Lawn Service in the amount of \$58,200.00 for landscape maintenance along Congress Avenue North to Lake Ida; Homewood Boulevard, Linton Boulevard, and three medians on Military Trail. This recommendation is in compliance with the Code of Ordinances, Chapter 36, Section (A), "Acquisitions of Twenty-Five Thousand Dollars (\$25,000.00) or Greater". Funding is available from 119-4144-572-46.40 (Beautification Trust Fund: Repair & Maintenance Services: Beautification Maintenance). (Motion to approve; Approved, 5-0)
- K. **RESOLUTION NO. 20-15/JCD SPORTS GROUP, INC; DELRAY BEACH TENNIS CENTER:** Motion to adopt Resolution No. 20-15 by four-fifths vote, declaring that the City's sealed competitive method or written quotations procurement method is not in the best interests of the City, and to approve a retroactive contract for the period of December 1, 2014 through September 30, 2016 in the annual amount of \$27,609.24 between the City of Delray Beach and JCD Sport Group, Inc. for tennis management services for the Delray Beach Tennis Center. (Motion to approve; Approved, 5-0)
- L. **PARTICIPATION IN APPEAL OF CIRCUIT COURT DECISION TOWN OF GULFSTREAM, ET.AL V. PALM BEACH COUNTY – OFFICE OF THE INSPECTOR GENERAL (OIG) FUNDING LITIGATION:** Provide direction on whether or not to participate in an appeal of Circuit Court decision of the Town Gulfstream, *et al* v. Palm Beach County – Office of the Inspector General (OIG) Funding Litigation. (Motion to direct the City Attorney to file a notice of withdrawal of pending action; Approved, 5-0)
- M. **AMENDMENT TO A SETTLEMENT AGREEMENT AND CONSENT ORDER/CARON FOUNDATION OF FLORIDA, INC.:** Motion to approve amending the Settlement Agreement and Consent Order with Caron Foundation of Florida, Inc. to require Caron to pay an annual sum equal to the amount of public school board taxes in lieu of providing in-kind services, specifically, substance abuse training and education. (Motion to approve; Approved, 5-0)

- N. **NOMINATION FOR APPOINTMENT TO THE PUBLIC ART ADVISORY BOARD:** Nomination for appointment of one (1) regular member to serve on the Public Art Advisory Board to serve an unexpired term ending July 31, 2016. Based on the rotation system, the nomination for appointment will be made by Mayor Glickstein (Seat #5). (Appointed Steven Blackwood and approved 5-0)
- O. **NOMINATIONS FOR APPOINTMENT TO THE POLICE ADVISORY BOARD:** Nominations for appointment of one (1) regular member to serve on the Police Advisory Board to serve an unexpired term ending July 31, 2017; and for three (3) regular members to serve unexpired terms ending July 31, 2016. Based on the rotation system, the nominations for appointment will be made by Commissioner Katz (Seat #3) for one (1) regular member to serve an unexpired term ending July 31, 2017. Commissioner Jarjura (Seat #4), Mayor Glickstein (Seat #5) and Commissioner Petrolia (Seat #1) will make nominations for three (3) regular members to serve unexpired terms ending July 31, 2016. (Motion to defer any appointments to the Police Advisory Board; Approved, 5-0)
10. **PUBLIC HEARINGS:**
- A. None
11. **FIRST READINGS:**
- A. None
12. **COMMENTS AND INQUIRIES ON NON-AGENDA ITEMS.**
- A. City Manager
B. City Attorney
C. City Commission

POSTED: April 3, 2015

*****Meeting adjourned at 8:48 p.m.*****