

# **City of Delray Beach**

*100 NW 1st Avenue - Delray Beach, Florida 33444*

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

*www.mydelraybeach.com*



## **Minutes - Draft**

**Tuesday, October 3, 2017**

**6:00 PM**

**Regular Meeting at 6:00 PM**

**Delray Beach City Hall**

## **City Commission**

Mayor Cary Glickstein

Vice Mayor Jim Chard

Deputy Vice Mayor Shirley Ervin Johnson

Commissioner Shelly Petrolia

Commissioner Mitchell Katz

**1. ROLL CALL**

Mayor Glickstein called the meeting to order at 6:00 pm.

Commissioners in attendance were:

Mayor Glickstein  
Vice Mayor Chard  
Deputy Vice Mayor Johnson  
Commissioner Katz  
Commissioner Petrolia

Also in attendance were:

Interim City Manager, Neal deJesus  
City Attorney, R. Max Lohman  
City Clerk, Katerri Johnson

**2. PLEDGE OF ALLEGIANCE TO THE FLAG****3. AGENDA APPROVAL**

Neither Interim City Manager deJesus or City Attorney Lohman had any changes to the agenda.

There were no changes to the agenda by the Mayor or City Commissioners.

**4. PRESENTATIONS:****5. COMMENTS AND INQUIRIES ON AGENDA AND NON-AGENDA ITEMS FROM THE PUBLIC- IMMEDIATELY FOLLOWING PRESENTATIONS:****5.A. City Manager's response to prior public comments and inquiries**

Interim City Manager deJesus had no comments or issues.

**5.B. From the Public**

Lily Parker said that a neighbor had put up a fence in mid-February which encroached into a portion of her back yard, including her telephone junction box. Ms. Parker requested assistance from City staff to resolve this matter. Mayor Glickstein noted that Community Improvement Director Michael Coleman would be pleased to assist Ms. Parker with her concerns.

Pauline Moody expressed concern about the conduct of some City

employees.

Eric Franklin said that the City's utility billing system was out of date. He also said bulk pick up had been outside of his home for two to three weeks. He said that any contractor could pick up all the bulk in a faster amount of time.

Megan, representing Delray Yacht Cruises, said she would appreciate any assistance the City could provide her with parking problems experienced by her patrons.

## **6. CONSENT AGENDA: City Manager Recommends Approval**

Commissioner Katz requested removal of item 6k for discussion.

Commissioner Katz made a motion to approve the Consent Agenda. It was seconded Commissioner Petrolia agenda as amended. A roll call vote was taken. The motion was adopted unanimously (5-0).

### **6.A. [17-757](#) APPROVAL OF MINUTES**

**Recommendation:** Motion to Approve various sets of minutes as listed below.

**Sponsors:** City Clerk Department

**Attachments:** [June 21, 2016 Regular Meeting Minutes - Draft](#)  
[July 5, 2016 Regular Meeting Minutes - Draft](#)  
[October 18, 2016 Regular Meeting Minutes - Draft](#)  
[November 9, 2016 Workshop Meeting - Goal Setting Session Minutes - Draft](#)

### **6.B. [17-716](#) APPROVAL OF AMENDMENT NO. 1 WITH RIGHT CHOICE VENDING FOR VENDING MACHINE SERVICES**

**Recommendation:** Motion to Approve Amendment No. 1 to the Agreement with Right Choice Vending for vending machine services.

**Sponsors:** Parks & Recreation Department and Purchasing Department

**Attachments:** [Legal Review Checklist form v. 3 Right Choice Vending Amendment](#)  
[Right Choice Vending Amend No 1 CA rev](#)  
[EXHIBIT A \(updated\)](#)

approved

### **6.C. [17-704](#) RESOLUTION NO. 70-17: LOCAL AGENCY PROGRAM AGREEMENT WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION FOR THE**

NE 2ND AVENUE / SEACREST BEAUTIFICATION PHASE 2 (NE 13TH STREET TO NE 22ND STREET) PROJECT.

**Recommendation:** Motion to adopt Resolution No. 70-17; and consider approval to execute the Local Agency Program (LAP) Agreement with the Florida Department of Transportation (FDOT) for the funding of the NE 2nd Avenue Beautification Phase 2 (Project No. 16-032).

**Sponsors:** Environmental Services Department

**Attachments:** [LOCATION MAP](#)

[Legal Review Checklist FDOT LAP NE 2nd ave](#)

[LAP agt](#)

[Exhibit A](#)

[Exhibit B](#)

[Exhibit C](#)

[Exhibit E](#)

[Exhibit F](#)

[Exhibit 1](#)

[Resolution 70-17 LAP Agt - FDOT](#)

approved

- 6.D. [17-772](#) APPROVING AMENDMENT #2 TO THE VALET PARKING LICENSE AGREEMENT WITH THE AVENUE BAR & GRILL, INC, D/B/A 32 EAST PROVIDING VALET PARKING SERVICES TO EXTEND FOR ONE YEAR THE LICENSE TO PROVIDE VALET PARKING SERVICES IN THE CENTRAL BUSINESS DISTRICT OF THE CITY OF DELRAY BEACH (CITY)

**Recommendation:** Motion to retroactively approve Amendment #2 to the Valet Parking License Agreements with The Avenue Bar & Grill, Inc, D/B/A 32 East providing valet parking services to extend the license from October 1, 2017 until September 30, 2018.

**Sponsors:** Environmental Services Department

**Attachments:** [Amendment no. 2 to parking license agt with 32 east.docx](#)

[32 East.pdf](#)

approved

- 6.E. [17-777](#) APPROVING AMENDMENT #2 TO THE VALET PARKING LICENSE AGREEMENT WITH CAFFE LUNA ROSA TO EXTEND FOR ONE YEAR THE LICENSE TO PROVIDE VALET PARKING SERVICES IN THE CENTRAL BUSINESS DISTRICT OF THE CITY OF DELRAY BEACH

(CITY)

**Recommendation:** Motion to retroactively approve Amendment #2 to the Valet Parking License Agreements with Caffè Luna Rosa to extend the license from October 1, 2017 until September 30, 2018.

**Sponsors:** Environmental Services Department

**Attachments:** [Amendment no. 2 to parking license agt with Cafe Luna Rosa.docx](#)  
[Caffe Luna Rosa original.pdf](#)

approved

- 6.F. [17-778](#) APPROVING AMENDMENT #2 TO THE VALET PARKING LICENSE AGREEMENT WITH CUT 42 LLC TO EXTEND FOR ONE YEAR THE LICENSE TO PROVIDE VALET PARKING SERVICES IN THE CENTRAL BUSINESS DISTRICT OF THE CITY OF DELRAY BEACH (CITY)

**Recommendation:** Motion to retroactively approve Amendment #2 to the Valet Parking License Agreements with Cut 42 LLC to extend the license from October 1, 2017 to September 30, 2018.

**Sponsors:** Environmental Services Department

**Attachments:** [Amendment no. 2 to parking license agt with Cut 432.docx](#)  
[CUT 432.pdf](#)

approved

- 6.G. [17-779](#) APPROVING AMENDMENT #2 TO THE VALET PARKING LICENSE AGREEMENT WITH DELRAY TACO, LTD, TO EXTEND FOR ONE YEAR THE LICENSE TO PROVIDE VALET PARKING SERVICES IN THE CENTRAL BUSINESS DISTRICT OF THE CITY OF DELRAY BEACH (CITY)

**Recommendation:** Motion to retroactively approve Amendment #2 to the Valet Parking License Agreements with Delray Taco, LTD, to extend the license from October 1, 2017 to September 30, 2018.

**Sponsors:** Environmental Services Department

**Attachments:** [Amendment no. 2 to parking license agt with Delray Taco.docx](#)  
[Roccos Tacos.pdf](#)

approved

- 6.H. [17-780](#) APPROVING AMENDMENT #2 TO THE VALET PARKING LICENSE AGREEMENT WITH 169 NE 2nd, LLC, D/B/A MAX'S HARVEST TO EXTEND FOR ONE YEAR THE LICENSE TO PROVIDE VALET

PARKING SERVICES IN THE CENTRAL BUSINESS DISTRICT OF THE CITY OF DELRAY BEACH (CITY)

**Recommendation:** Motion to retroactively approve Amendment #2 to the Valet Parking License Agreement with 169 NE 2nd, LLC, D/B/A Max's Harvest, to extend the license from October 1, 2017 to September 30, 2018.

**Sponsors:** Environmental Services Department

**Attachments:** [Amendment no. 2 to parking license agt with Max's harvest.docx](#)  
[Maxs Harvest](#)

approved

- 6.I. [17-781](#) APPROVING AMENDMENT #2 TO THE VALET PARKING LICENSE AGREEMENT WITH TAVERNA OPA, LLC, TO EXTEND FOR ONE YEAR THE LICENSE TO PROVIDE VALET PARKING SERVICES IN THE CENTRAL BUSINESS DISTRICT OF THE CITY OF DELRAY BEACH (CITY)

**Recommendation:** Motion to retroactively approve Amendment #2 to the Valet Parking License Agreement with Taverna Opa, LLC, to extend the license from October 1, 2017 to September 30, 2018.

**Sponsors:** Environmental Services Department

**Attachments:** [Amendment no. 2 to parking license agt with Taverna Opa.docx](#)  
[Taverna Opa.pdf](#)

approved

- 6.J. [17-782](#) APPROVING AMENDMENT #2 TO THE VALET PARKING LICENSE AGREEMENT WITH LSMS, INC, D/B/A TRAMONTI TO EXTEND FOR ONE YEAR THE LICENSE TO PROVIDE VALET PARKING SERVICES IN THE CENTRAL BUSINESS DISTRICT OF THE CITY OF DELRAY BEACH (CITY)

**Recommendation:** Motion to retroactively approve Amendment #2 to the Valet Parking License Agreement with LSMS, Inc., D/B/A Tramonti, to extend the license from October 1, 2017 to September 30, 2018.

**Attachments:** [Amendment no. 2 to parking license agt with Tramonti.docx](#)  
[LSMS INC dba TRAMONTI'S VALET AGREEMENT.pdf](#)

approved

- 6.K. [17-791](#) TERMINATION OF THE AGREEMENT FOR DATA CENTER COLOCATION AND FIBER TRANSPORT SERVICES WITH GORACK,

LLC

**Recommendation:** Motion to terminate the Agreement for data center colocation and fiber transport services with GoRack, LLC, in Jacksonville, Florida, effective November 5, 2017.

**Sponsors:** IT Department

**Attachments:** [Agenda Item - GoRack DR Site Cancellation](#)  
[GO RACK LLC Agreement](#)

Information Technology Director Mickey Baker made a brief presentation regarding the recommended change in vendor. There was a roll call vote. Commissioner Petrolia moved, seconded by Commissioner Katz to approve staff's recommendation of the new vendor. The motion was adopted unanimously (5-0).  
**approved**

**6.L.     [17-759](#)     INTERLOCAL AGREEMENT FOR LICENSE PLATE RECOGNITION  
DATA SHARING**

**Recommendation:** Motion to Approve an Agreement between the City of Delray Beach Police Department and the Town of Highland Beach Police Department to share access to their respective License Plate Recognition Camera System (LPR) data for law enforcement purposes.

**Sponsors:** Police Department

**Attachments:** [Interlocal Agreement for License Plate Recognition Data Sharing](#)  
[Legal checklist](#)

**approved**

**6.M.     [17-783](#)     PROPOSED OFFER OF SETTLEMENT IN THE CASE OF PHYLLIS  
SMITH V. CITY OF DELRAY BEACH**

**Recommendation:** Motion to deny the settlement offer for the reasons discussed in the confidential memorandum previously distributed to the City Commission.

**Sponsors:** City Attorney Department

**approved**

**6.N. PROCLAMATIONS:**

6.N.1. None

**6.O. AWARD OF BIDS AND CONTRACTS:**

- 6.O.1. [17-744](#) AWARD OF AN AGREEMENT TO BAXTER & WOODMAN, INC. DBA MATHEWS CONSULTING, A BAXTER & WOODMAN COMPANY FOR CONSTRUCTION ENGINEERING AND INSPECTION SERVICES FOR AREA 12C RECLAIMED WATER, PROJECT 16-024 IN A NOT-TO-EXCEED AMOUNT OF \$275,025.

**Recommendation:** Motion to Award an Agreement to Baxter & Woodman, Inc. DBA Mathews Consulting, a Baxter & Woodman Company, in the amount not-to-exceed \$275,025 for Construction Engineering and Inspection (CEI) Services related to the construction of the Area 12C Reclaimed Water System Expansion Project, consisting of reclaimed water mains, potable water mains, sewer mains and storm water improvements along Lewis Cove, Brooks Lane, White Drive, Rhodes Villa Avenue, Del Haven Drive and S.R. A.1.A (from Linton Boulevard to Casuarina Road) in a not-to-exceed amount of \$275,025.

**Sponsors:** Purchasing Department and Environmental Services Department

**Attachments:** [Mathews Consulting, a Baxter and Woodman Company Submittal](#)  
[2017-042 RFQ Document \(Final\) per Addendum No. 2](#)  
[2017-042 Scoring Summary](#)  
[Agreement RFQ 2017-042](#)  
[Legal Review Checklist form v. 3 mathews reclaimed water](#)  
[Project Location Map](#)

approved

- 6.O.2. [17-808](#) AWARD OF AN AGREEMENT TO FLORIDA CDI, LLC FOR THE 100' CHRISTMAS TREE AND NORTH POLE VILLAGE ASSEMBLY AND DISASSEMBLY IN AN ANNUAL NOT-TO-EXCEED AMOUNT OF \$121,700.

**Recommendation:** Motion to Award a five-year agreement to Florida CDI, LLC for the 100' Christmas Tree and North Pole Village Assembly and Disassembly in an annual not-to-exceed amount of \$121,700 (Project No. 17-062) and authorize City Manager to exercise renewal options.

**Sponsors:** Purchasing Department and Environmental Services Department

**Attachments:** [ITB 2017-058 - Final](#)  
[Florida CDI LLC Christmas Designers - ITB 2017-058](#)  
[ITB 2017-058 Tabulation Sheet](#)  
[Final Agreement - Florida CDI LLC \(002\) CAO rev \(2\).docx](#)  
[Exhibits 1-11](#)  
[Addendum 1 \(Rev 1\) Final](#)  
[Addendum 2](#)



approved

## 7. REGULAR AGENDA:

- 7.A. [17-747](#) REQUEST FOR A WAIVER TO LDR SECTION 4.6.7(E)(7) TO ALLOW A WALL SIGN ON THE WEST ELEVATION WHICH DOES NOT FACE A DEDICATED STREET FRONTAGE FOR CUBESMART SELF-STORAGE LOCATED AT 3185 S. CONGRESS AVENUE. (QUASI-JUDICIAL HEARING)

**Recommendation:** Motion to Approve the waiver request to LDR Section 4.6.7(E)(7) for CubeSmart located at 3185 S. Congress Avenue, as presented.

**Sponsors:** Planning & Zoning Department

**Attachments:** [Justification letter](#)  
[Sign One, Two, and Three](#)  
[Sign Three - Requested Waiver](#)  
[3185 S. Congress Board Order](#)

Mr. Stillings made introductory comments. Carlos Lorenzo, representing the applicant, Cubesmart/K&L made a brief presentation regarding a request for a wayfaring sign on the west elevation of the subject building. There were no public comments. Mr. Stillings said that City staff recommended approval of the applicant's request. Mr. Lorenzo responded to questions from the Mayor and City Commissioners.

Mr. Lohman read the board order into the meeting record. The order was accepted by the Mayor and City Commission as drafted. Commissioner Petrolia moved, seconded by Commissioner Katz, to approve staff's recommendation to allow a wall sign on the west elevation not facing a street elevation. The motion was approved unanimously (5-0).  
approved

## 8. PUBLIC HEARINGS:

- 8.A. [17-793](#) ORDINANCE NO. 22-17: AMENDING CHAPTER 10 OF THE LAND DEVELOPMENT REGULATIONS TO UPDATE THE FLOOD INSURANCE STUDY DATE AND FLOOD INSURANCE RATE MAPS. (SECOND READING)

**Recommendation:** Motion to Approve Ordinance No. 22-17, amending Chapter 10 of the Land Development Regulations, "Flood Damage Control Districts and Coastal Construction" Section 10.1.2, "Applicability"; Paragraph (C), "Basis for Establishing Flood Hazard Areas", to update the Flood Insurance Study Date and Flood Insurance Rate Maps.

**Sponsors:** Planning & Zoning Department

**Attachments:** [Ordinance No. 22-17 amending Flood Hazard Areas of the LDRs](#)  
[PZ Staff Report Ord 22-17 Flood Hazard Areas](#)

Mr. Lohman read the title of the ordinance into the meeting record. There were no public comments. Commissioner Petrolia moved, seconded by Vice Mayor Chard, to approve Ordinance 22-17. A roll call vote was taken. The motion was adopted unanimously (5-0).  
**adopted**

**8.B.**     [17-794](#)     ORDINANCE NO. 29-17: SANITATION RATES FOR FY2018 (SECOND READING)

**Recommendation:** Motion to consider an amendment to the City Code of Ordinances, Chapter 51, "GARBAGE AND TRASH", Section 51.70, "REGULAR CHARGES LEVIED", to provide for new residential and commercial collection service rates for fiscal year 2018.

**Sponsors:** Finance Department

**Attachments:** [SWS Delray Franchise Agreement FINAL-2-20-15 \(3\)](#)  
[Assignment of Exclusive Franchise Agreement 12-14-15](#)  
[WM Acknowledgement Letter for Delray Beach 10-01-17 A](#)  
[FINAL City of Delray Beach CPI Adj to Waste Collection Eff October 2017](#)  
[Ord 29-17 Solid Waste Collection Fees - CityAtty Rev](#)  
[Res 65-17 Solid Waste Charges and Fees](#)

Mr. Lohman read the title of the ordinance into the meeting record.. Commissioner Petrolia moved, seconded by Commissioner Katz, to adopt Ordinance 29-17. The motion was adopted unanimously (5-0).  
**adopted**

**8.B.1.**     [17-795](#)     RESOLUTION NO. 65-17: SANITATION RATES FOR FY2018

**Sponsors:** Finance Department

**Attachments:** [Res 65-17 Solid Waste Charges and Fees](#)

Commissioner Katz moved, seconded by Commissioner Katz, to approve Resolution 65-17. A roll call vote was taken. The motion was adopted unanimously (5-0).  
**approved**

☐ **PURSUANT TO CHAPTER 166.041(3)(B), F.S., ORDINANCE 22-17 AND ORDINANCE 29-17 ARE DEEMED EMERGENCY ORDINANCES.**

8.C.     [17-785](#)       RESOLUTION NO. 71-17 TERMINATION OF 2011 ATLANTIC  
CROSSING DEVELOPMENT AGREEMENT

**Recommendation:** Motion to approve Termination of 2011 Atlantic Crossing Development Agreement.

Announce October 19, 2017 at 6:00 p.m. as the date for the second public hearing and consideration of Resolution No. 71-17 to terminate the Development Agreement.

**Sponsors:** City Attorney Department

**Attachments:**   [Resolution 71-17](#)  
                          [Termination of Development t Agreement](#)  
                          [Executed Development Agreement](#)  
                          [Settlement Addendum Executed](#)

Included with Item 10b below.

**9. FIRST READINGS:**

9.A. None

**10. COMMENTS AND INQUIRIES ON NON-AGENDA ITEMS:**

**10.A. City Manager**

Mr. deJesus noted that the Delray Beach Community Redevelopment was requesting a joint meeting with the City Commission during the month of November. There was City Commission agreement to hold the joint meeting on November 14th between 5:00 and 6:00 p.m.

**10.B. City Attorney**

Mr. Lohman noted that both parties to the Atlantic Crossing developer's agreement were required to execute termination of the agreement by Resolution 71-17. There were no public comments. Mr. Lohman noted that consideration for second hearing for this matter would take place at 6:00 p.m. on October 17, 2017. Commissioner Katz moved, seconded by Vice Mayor Chard, to authorize execution of the termination agreement. The motion was adopted unanimously (5-0).

Mr. Lohman requested City Commission consensus relative to continuation of bike lane litigation. There was agreement by the City Commission for Mr. Lohman to proceed with this matter.

**10.C. City Commission**

Vice Mayor Chard inquired about plans for City Manager candidates for next Monday evening. Mr. deJesus said that the event would be held at the Delray Beach Golf Club between 5:00 and 7:30 p.m., with City department heads, members of CRA Board and all other advisory boards and other interested parties invited. Vice Mayor Chard inquired whether candidates would be given a tour of the City. Mr. deJesus said that City staff could provide tours if requested.

Vice Mayor Chard inquired about the status of full cost recovery. Mr. deJesus said that City staff was working diligently to review and change the policy as soon as practical.

Vice Mayor Chard said that he had recently walked the west side highway in New York. He said it was amazing to see all of the public/private partnerships in the City. Vice Mayor Chard stated that nearly every building in this area had a rooftop garden, restaurant or bar.

Commissioner Petrolia noted that she had attended the books and barbeque event last weekend. She also said that it was wonderful to see the removal of storm debris from neighborhoods around the City. Commissioner Petrolia noted that she had the opportunity to attend last Monday night's open house at Atlantic Community High School. She said that the teachers were wonderful and the facility was very impressive. Commissioner Petrolia had changed from lecturing in the past to collaboration in the present.

Deputy Vice Mayor Johnson said that she would be going on a short vacation. Deputy Vice Mayor Johnson also stated that she had some concerns about things she had recently heard about. She expressed concern about staff's ability to respond to public records requests. Deputy Vice Mayor Johnson stated that she was excited about the prospect of hiring a new City Manager. She said it would be a lot of hard work to choose one of the two final candidates.

Commissioner Petrolia noted that the Delray Reads program was coming up on November 3rd. She also noted that registration was open to sign up for a school.

Commissioner Katz thanked the CRA for sending a letter to the Mayor indicating that the Executive Director would provide a monthly report to the City Commission. He requested that this matter be calendared on future City Commission meetings.

Commissioner Katz inquired about the possibility of designating parking spaces or making parking permits available to the Lady Atlantic Yacht. Commissioner Petrolia noted that the Community Center at Veteran's Park provided parking passes for the rear view mirror. Commissioner Petrolia said she would be interested in trying to find a solution to the present parking problem. Stating that the Lady Atlantic was iconic in Delray Beach, parking was essential to its operation. Following discussion between the City Commission and City staff, there was consensus for City staff to move forward with the least burdensome approach to staff, involving the usage of parking spaces.

Mayor Glickstein thanked the Delray Beach Historical Society for bringing Harvey Oyer III as a speaker at Old School Square last week. Vice Mayor Chard noted that a number of organizations, the DDA, Old School Square, Chamber of Commerce and Rotary worked together to make Mr. Oyer's appearance possible.

Mayor Glickstein requested that Mr. Lohman and his staff look into ways to make it more difficult to make home rentals into "party houses". Mr. Lohman said that he and his staff would explore this matter in detail.

Commissioner Katz thanked all of the City's first responders for their assistance in ensuring the safety of both the residents of, and visitors to, the City. Mr. deJesus noted that some members of the Police Department would be graduating as certified medics this Friday. Mayor Glickstein gave credit to Mr. deJesus for educating the City Commission about public safety issues. Mr. deJesus noted the importance of being prepared to respond to attacks.

Mr. deJesus said that the City Clerk had an item for the City Commission's consideration. Ms. Johnson said that the Palm Beach County Supervisor of Elections was requesting a change in the absentee ballot period from January 30th to February 13th, to December 4th to December 18th. She noted that some other cities had already made the change. Mr. Lohman said that he would work with Ms. Johnson to draft an ordinance for City Commission consideration at a future City Commission meeting.

There being no further business, the meeting stood adjourned at 7:49 p.m.